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U.S. Congress

CONGRESSIONAL RECORD:

CONTAINING

THE PROCEEDINGS AND DEBATES

OF THE

SIXTY-THIRD CONGRESS, SECOND SESSION.

VOLUME LI.

WASHINGTON
1914

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VOLUME LI, PART XIII.

CONGRESSIONAL RECORD,

SIXTY-THIRD CONGRESS, SECOND SESSION.

SENATE.

WEDNESDAY, *July 22, 1914.*

The Senate met at 12 o'clock m.

Rev. J. L. Kibler, D. D., of the city of Washington, offered the following prayer:

O God, our heavenly Father, with sincere devotion we renew our petitions unto Thee. We thank Thee for the exalted privilege. Thou delightest in the cry of the humble. Give ear therefore, O Lord, unto our prayer. Attend to the voice of our supplications. May we realize our dependence upon Thee. May we not presume upon our own sufficiency. May we hearken unto that wisdom and power that cometh from the Lord, for "in the Lord Jehovah is everlasting strength." Regard, therefore, our effort to draw near to Thee this day, and uphold us with the right hand of Thy righteousness. We ask it for Jesus' sake. Amen.

The VICE PRESIDENT. The Secretary will read the Journal of the preceding session.

Mr. GALLINGER. Pending the reading of the Journal, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hollis	Page	Sutherland
Borah	Hughes	Perkins	Swanson
Bryan	Jones	Poindexter	Thomas
Burton	Kenyon	Ransdell	Thornton
Camden	Kern	Shafroth	Walsh
Catron	Lane	Sheppard	Weeks
Chamberlain	Lea, Tenn.	Shively	West
Chilton	Martin, Va.	Simmons	White
Clark, Wyo.	Martine, N. J.	Smith, Ga.	Works
Clarke, Ark.	Nelson	Smith, Mich..	
Culberson	Norris	Smoot	
Gallinger	Overman	Sterling	

Mr. CHILTON. I wish to announce the necessary absence of the Senator from New Mexico [Mr. FALL]. I will let this announcement stand for the day.

Mr. PAGE. I desire to announce the necessary absence of my colleague [Mr. DILLINGHAM]. I will state that he is paired with the Senator from Maryland [Mr. SMITH]. I will let this announcement stand for the day.

The VICE PRESIDENT. Forty-five Senators have answered to the roll call. There is not a quorum present.

Mr. GRONNA, Mr. REED, Mr. STONE, Mr. VARDAMAN, and Mr. TILLMAN entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty Senators have answered to the roll call. There is a quorum present. The Secretary will read the Journal of the proceedings of the preceding session.

The Secretary proceeded to read the Journal of yesterday's proceedings.

Mr. SIMMONS. I ask unanimous consent that the further reading of the Journal be dispensed with.

Mr. GALLINGER. I object.

The VICE PRESIDENT. There is objection. The Secretary will proceed with the reading.

The Secretary resumed and concluded the reading of the Journal of yesterday's proceedings, and it was approved.

NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO. (S. DOC. NO. 555).

Mr. REED. Mr. President, I ask unanimous consent to have printed in the RECORD the correspondence passed between the President and the Attorney General, and also certain correspondence with Mr. Hustis, president of the New York, New Haven & Hartford Railroad Co., touching upon the efforts that have been made to adjust the difficulties of that company and to induce it to conform to the law and the final expression of determination to proceed civilly and criminally against those who have been responsible for the mismanagement and looting of that great interest.

I am sending to the desk copies which have been furnished me by the Attorney General in order that they may appear in the RECORD. They have already been printed in part in the public press, and I ask that they be printed in the RECORD, and that they be made a public document in order that we may have them for circulation.

Mr. President, I take this occasion to say that I congratulate the President and the Attorney General in the warmest possible terms for their course of conduct in handling this difficult question and for the patience they have hitherto observed, and I especially congratulate them and the country upon the fact that we are to have the question tried out in court and the law of the country enforced against great lawbreakers.

I am glad, sir, that notice has been served in this way upon the great corporations which exist in violation of our laws that the patience of the Government is exhausted. I am glad that the Government of the United States is at last prepared to show its teeth, and I hope and confidently believe that a policy thus happily inaugurated will be carried on and that at the end we shall be able to say no guilty man has escaped.

I congratulate the Attorney General and the President upon the determined and forceful policy they are about to inaugurate.

There being no objection, the matter referred to was ordered to be printed as a document and to be printed in the RECORD, as follows:

NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.

THE WHITE HOUSE,
Washington, July 21, 1914.

MY DEAR MR. ATTORNEY GENERAL: I have your letter of to-day, inclosing a copy of your letter of July 9 to Mr. J. H. Hustis, president of the New York, New Haven & Hartford Railroad Co., which together disclose the failure of the directors of the New York, New Haven & Hartford Railroad Co. to comply with the terms of the settlement proposed by them and accepted by us in the matter of their railroad holdings. Their final decision in this matter causes me the deepest surprise and regret. Their failure, upon so slight a pretext, to carry out an agreement deliberately and solemnly entered into, and which was manifestly in the common interest, is to me inexplicable and entirely without justification.

You have been kind enough to keep me fully informed of every step the department took in this matter, and the action of the department has throughout met with my entire approval. It was just, reasonable, and efficient. It should have resulted in avoiding what must now be done.

In the circumstances the course you propose is the only one the Government can pursue. I therefore request and direct that a proceeding in equity be filed, seeking the dissolution of the unlawful monopoly of transportation facilities in New England now sought to be maintained by the New York, New Haven & Hartford Railroad Co., and that the criminal aspects of the case be laid before a grand jury.

With much regard, sincerely, yours,

(Signed) WOODROW WILSON.

Hon. J. C. MCREYNOLDS,
Attorney General.

DEPARTMENT OF JUSTICE,
Washington, D. C., July 21, 1914.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: Some days since I reported to you that the board of directors of the New Haven Railroad had advised me that they would not carry into effect the approved proposals made by them last winter for bringing the affairs of that company into harmony with the Federal statutes.

Following your direction, I wrote to the president of the company on July 9 expressing your views and my own in opposition to the position assumed by the board. A copy of that letter is attached hereto.

Saturday last I received a request to confer with a committee composed of members of the board on yesterday—Monday. They came here, and we discussed the situation. I emphasized the position of the Government, as outlined in my letter of July 9, and energetically called attention to the results which would necessarily follow adherence to the position taken by them. They refused, however, to admit any obligation to conform to the Massachusetts enactment, and firmly declined to carry into effect their own proposals for an adjustment.

During the past year you have been constantly in touch with my actions in respect of the New Haven road, and you have been good enough to express satisfaction therewith. It seems, however, not inappropriate again to remind you of some aspects of the general situation.

Prior to 1908 the attention of the Department of Justice was called to the unlawful combinations and monopolies in which the New Haven Railroad was the principal party; and in May of that year a proceeding under the Sherman law was instituted, wherein the Government sought to correct certain of the existing evils. This suit was dismissed June 26, 1909. Thereafter the monopoly proceeded to strengthen its hold upon the carriers of New England.

By the time your administration began the New Haven and the Boston & Maine Railroad had been reduced to the unfortunate condition now unhappily too well known; their securities, widely distributed among small investors, had shrunken enormously in value; and the commerce and industries of all New England were under severe strain.

Directly after assuming this office, being convinced that the situation demanded a thorough investigation by capable counsel, I retained Mr. T. W. Gregory, well known to you, and whose ability, industry, and integrity are unimpeachable. In due time he reported the result of his researches, and I instructed him to prepare for filing, at the earliest possible moment, a proceeding in equity to prevent further violations of the law. Before this could be accomplished the railroad company selected a new chief officer, and he earnestly asked to enter upon negotiations with me looking toward an adjustment without the necessity of suit. You have been familiar with the outcome; and, as the terms of the plan agreed on were published, they became generally known.

Because of the important consequences involved directly to New England and mediately to the rest of the Union it seemed most important, first, to accomplish, if possible, a restoration of lawful conditions in the transportation facilities of that section with the least possible further distress to impoverished investors and unsettled industries, and I have acted accordingly.

The criminal aspects of the case have been kept constantly in mind, much data bearing thereon was collected months ago, and care has been exercised to permit nothing which might interfere with proper prosecutions at the appropriate time. We have not held out the slightest hope that parties guilty of criminal violations of the law would escape.

In April and May last there being indication that the Interstate Commerce Commission, by examining them, might immunize certain central figures in the unlawful arrangement, it was asked carefully to consider the effect of such action. Nevertheless, Mellen and perhaps others flagrantly culpable were put upon the stand, and any criminal prosecution hereafter instituted probably will be embarrassed by a claim of immunity interposed in their behalf.

With the utmost patience and an intense desire to enforce the law in such way as to bring no unnecessary hardship upon New England

or the unfortunate holders of the railroad securities, we have sought to compel a restoration of lawful conditions; but, as I believe, without proper justification the board of directors resolutely decline to proceed under an approved arrangement adequate to that end and altogether fair.

I am of the opinion, therefore, that the time is at hand when we should file a proceeding in equity, seeking the dissolution of the unlawful monopoly of transportation facilities in New England, and that the criminal aspects of the case should be laid before a grand jury.

If these suggestions meet with your approval, I will immediately give the necessary directions.

Faithfully, yours,

(Signed) J. C. MCREYNOLDS,
Attorney General.

Inclosure.

—

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., July 9, 1914.

Mr. J. H. HUSTIS,
President the New York, New Haven & Hartford Railroad Co., New Haven, Conn.

MY DEAR SIR: Permit me to reply to your letter of July 8, inclosing copies of resolutions adopted by the directors of the New Haven Railroad Co. on June 25 and July 8, respectively. I also have a letter of July 6 from your counsel, Mr. Moorefield Storey, of Boston.

In effect these communications announce that because the statute, recently passed by the Massachusetts Legislature, granting power to the New Haven Railroad Co. to dispose of its interest in the majority stock of the Boston & Maine Railroad reserves to that Commonwealth the right at any time hereafter to purchase such stock at a fair valuation, to be ascertained by legal processes, your directors feel at liberty to abandon any further effort to comply with the solemn proposals which they heretofore made to me, and which were approved as adequate to bring the affairs of that company into compliance with the law.

I emphatically object to the course proposed, and submit that it is without justification.

Their action raises a question of very large public importance, demanding serious consideration, and if persisted in your company, its officers and directors, must accept the sole responsibility for the inevitable consequences.

Shortly after the present administration entered upon its duties I employed special counsel and set on foot an investigation of the affairs of the New Haven Railroad for the purpose of ascertaining the exact conditions. In due time, it developed that the antitrust laws were being violated, and I accordingly directed the preparation of a bill to restrain and prevent further infractions. Before this could be written and filed, and about the 1st of September last, there was a change in the management of your road. Shortly thereafter its accredited representatives came here, sought an interview with me, expressed a sincere desire to comply with the law, and pointed out the evil consequences which they thought would fall upon all New England if suit were instituted. They were especially anxious to obtain time, and led me to believe that they were acting in the utmost good faith. I withheld the suit, and much time and labor were expended in negotiating the details of an adjustment. In working these out, information and suggestions were received from many sources, and the utmost liberality was exercised in a sincere effort to solve a great problem, so that the law might be fairly complied with and substantial competition in transportation in New England be reestablished—all with the smallest possible immediate damage to the industrial and financial situation.

The plan finally evolved was accepted with practical unanimity both by the directors and stockholders of your road. The disposition by the New Haven road of its interest in the stock of the Boston & Maine was an essential.

In the year 1909, in order to enable the New Haven Railroad to control the Boston & Maine, the Massachusetts Legislature created the Boston Railroad Holding Co., giving it authority to hold stock in the latter road and at the same time authorized the former road to own the stock of the holding company. The act expressly provided that the holding company should not sell its Boston & Maine stock, nor should the New Haven road sell the stock of the holding company without the consent of the legislature; and, further, that the State should have the right to purchase the stock of the holding company at a price to be fixed in a prescribed way.

The agreement which your company has with me provides that it will ask the governor of Massachusetts to propose to the legislature "to amend the charter of the Boston Railroad Holding Co., removing the prohibition against the sale of the Boston & Maine stock now owned by the holding company."

In due time the governor did make this request, and, responding thereto, the legislature passed an act removing the prohibition and authorizing the disposition of the stock.

A further provision declares "this stock may at any time be taken or purchased by the Commonwealth of Massachusetts at the fair value thereof in accordance with law," and requires this to be stamped upon the certificates themselves."

It must be remembered that ever since 1909 the Commonwealth has had the right to purchase the New Haven Holding Co. stock at a valuation to be determined in substantially the same way as is now provided in respect of the Boston & Maine stock; and therefore the New Haven's interest in the Boston & Maine Railroad is not subjected by the recent statute to any restrictions more burdensome than those imposed upon it when the New Haven was authorized to acquire it.

Obviously, it is now within the power of the New Haven Railroad to carry out the agreement and understanding which its representatives made with me, and thereby to remove all question of good faith and prevent all of the calamitous results to the public interest which they so earnestly represented would follow the institution of a suit by the Government.

Your counsel, referring to the Boston & Maine stock, now in effect owned by the New Haven, says that the recent enactment "retains the control by Massachusetts over the stock to such an extent as to make it unmarketable," and upon this ground it is sought to justify the action which your directors propose to take.

Manifestly the only possible deleterious effect of the control retained by the Commonwealth over the Boston & Maine stock would be upon its selling price. The New Haven, in effect, now owns $22,000,000 of this stock, worth in the market about 35 cents on the dollar, a total value of less than $8,000,000.

How seriously the retained control would affect the fair value can only be a matter of speculation; it certainly would not destroy it, if, indeed, the result would be deleterious at all. All the real property, for example, within the State of Massachusetts is subject to be taken by the Commonwealth, and yet its value is not impaired.

If your directors adhere to the position which they have taken, the plain result will be that, because they think it may be impossible to procure for the $22,000,000 of Boston & Maine stock as much as might be obtained under different circumstances, they are willing to throw aside the agreement solemnly made with me and to subject the whole of New England to the consequences of the litigation which must necessarily follow. If they bring this result about, then the public must know where the responsibility lies and draw its own conclusions concerning the motives which have impelled.

The President directs me to say that he is not yet ready to believe that those who control the New Haven Railroad, in order to secure some possible increase in the selling price of $22,000,000 of stock, now offered at about one-third of its face value, are willing to turn away from a solemn agreement with the Government, made after long and careful consideration, and thereby subject the interests of both New England and the Nation at large to the consequences of prolonged and unnecessary litigation. And he thinks, accordingly, that your board of directors should give this matter serious reconsideration.

Faithfully, yours,

(Signed) J. C. MCREYNOLDS,
Attorney General.

ADDITIONAL DISTRICT JUDGE FOR CALIFORNIA.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 485) to amend section 1 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, which were, on page 2, line 1, to strike out "the district of Maryland," and, on page 2, line 8, after "*Provided*," to strike out all down to "That," in line 12.

Mr. WORKS. I move that the Senate concur in the amendments of the House of Representatives.

The VICE PRESIDENT. The question is on the motion of the Senator from California.

Mr. SUTHERLAND. I desire to ask the Senator from California what is the object of the bill?

Mr. WORKS. It provides for an additional district judge in California.

Mr. SUTHERLAND. What is the effect of the House amendments?

Mr. WORKS. The effect of the House amendments is to strike out the provision respecting the district of Maryland and simply provide for one district judge in California.

Mr. SHAFROTH. I ask that the bill be read, so that we may know what we are doing.

Mr. WORKS. Mr. President——

The VICE PRESIDENT. The Secretary will read the bill.

Mr. WORKS. I think I can state to the Senator from Colorado what the effect of the House amendments will be.

Mr. SHAFROTH. I do not understand what the bill is to which amendments have been made by the House of Representatives.

Mr. WORKS. It is simply a bill providing for an additional district judge in California.

Mr. SHAFROTH. Very well.

The VICE PRESIDENT. The question is on the motion of the Senator from California to concur in the amendments made by the House of Representatives to the bill.

The motion was agreed to.

AFFAIRS IN MEXICO.

Mr. MARTINE of New Jersey. Mr. President, I desire to give expression to a few thoughts. The events of the past few days as occurring in Mexico are of momentous consequence not only to Mexico, but to the people of America and the civilized world.

On the 27th of August last the President, while addressing the Congress on the Mexican situation, said:

> The steady pressure of a moral force will before many days break the barriers of pride and prejudice down, and we shall triumph as Mexico's friends sooner than we could triumph as her enemies—and how much more handsomely and with how much higher and finer satisfaction of conscience and honor.

A very strong sentiment in this body and in the country endeavored to hold up to ridicule this policy of the President. Had the policy of the President's critics prevailed, bloody battles would have been fought; an army of 250,000 or 300,000 would this day be camping on Mexican soil; thousands of America's brave sons would this moment be sleeping in Mexican graves; thousands of widows and thousands of heartbroken mothers and fathers would be mourning their depleted hearthstones through the death of their loved ones; millions of debt would have been added to our already heavy burden. Surely, Mr. President, this much-ridiculed policy of "watchful waiting" has brought to Mexico and to America manifold and untold blessings. The words "watchful waiting" have passed into a proverb. In after years, when hate and prejudice shall have been allayed and the green sward shall have covered the graves of both brave American and Mexican men, then will the names of Wilson and Bryan be acclaimed, as will be the policy

of "watchful waiting," as marking a glorious epoch in the history of this great Nation.

RESURVEY OF ALASKAN COAST.

Mr. JONES. Mr. President, the other day when the conference report on the sundry civil appropriation bill was under consideration I urged some reasons why the amendment covering an increase in the appropriation for dragging operations in Alaska should be adopted. That matter, of course, has been finally disposed of so far as the sundry civil bill is concerned; but I have here a telegram from one of the leading shipping interests on the Pacific coast, setting out the importance of this matter, and I hope we shall be able to get some consideration of this matter in a subsequent bill. The telegram is from Mr. H. F. Alexander, president of the Pacific Alaska Navigation Co., and I ask that it may be read.

The VICE PRESIDENT. Without objection, it will be so ordered.

The Secretary read as follows:

[Telegram.]

TACOMA, WASH., *July 21.*

Hon. WESLEY L. JONES,
United States Senate, Washington, D. C.:

Note by press dispatches this morning conferees on sundry civil bill have assented to striking out appropriation for wire-drag apparatus, urgently required for Alaskan waters. In the name of humanity urgently request you use your influence restore item reading for surveys and resurveys of coast of Pacific Ocean under jurisdiction of United States, page 144, lines 4 to 6, inclusive, to the sum of $225,000, as Senate passed it, in order that this wire-drag apparatus may be supplied. If Congress could but realize the safeguard this means to human lives and with increasing travel to Alaska the absolute necessity of it, there would be no question of unanimous favorable action.

H. F. ALEXANDER,
President Pacific Alaska Navigation Co.

Mr. JONES. I also ask that similar telegrams which have been received from the Chamber of Commerce of Seattle and from Hon. J. C. Ford, head of the great shipping interests there, may be noted in the RECORD.

The VICE PRESIDENT. In the absence of objection, it will be so ordered.

The telegrams are as follows:

[Telegram.]

SEATTLE, WASH., *July 21, 1914.*

Hon. WESLEY L. JONES,
United States Senate, Washington, D. C.:

We have requested Portland and San Francisco Chambers to appeal to Oregon and California Senators and Congressmen for restoration coast-survey item in sundry civil bill providing for wire-drag apparatus; we have also wired every Member of Washington delegation. Elimination of item places Government in position continuous gross criminal negligence in such instances as steamer *State of California* disaster.

SEATTLE CHAMBER OF COMMERCE.

[Telegram.]

SEATTLE, WASH., *July 21, 1914.*

Hon. WESLEY L. JONES,
United States Senate, Washington, D. C.:

We urge in the name of humanity that you use every possible influence you can bring to bear to secure approval Secretary of Commerce estimate of resurveys of Alaskan coast, particularly wire drag. If this necessary precaution is longer neglected additional loss of life sure to ensue.

J. C. FORD.

Mr. CHAMBERLAIN. Mr. President, I desire to state, in connection with the telegrams just presented by the Senator from Washington [Mr. JONES], that I have received a great many communications of a like tenor. I will not ask to have them inserted in the RECORD, for I think some of them are from the same parties as those received by the Senator from Washington. The commercial bodies of Portland, Oreg., and others who are interested in the shipping interests on the Pacific coast have wired me stating the necessity for this appropriation for the preservation of human life in Alaskan waters.

Mr. LANE. Mr. President, I wish to state, for the information of the Senate, that there is a peculiar condition which exists in connection with this matter, which, if it were understood by Congress, I think there would be no difficulty in securing the appropriation desired.

Some of the mountains in Alaska run up to sharp points, different from any other mountains which I have ever seen. They run up to a point as fine as is possible, apparently; indeed, they are called "saw-tooth" mountains. The inland passage to Alaska is a tortuous channel, and when steamers loaded with freight and passengers have to work their way through it in the fog they do so by sounding the whistle, and judge of their location by the echo from the rocks which surround them. The fog comes down impenetrably, and as I have said vessels have to work their way through a tortuous channel, such as that shown by the map which hangs here on the wall of the Chamber showing the channel of the Mississippi River. They have no bearings whatever; there are but few lighthouses. By reading the log and sounding the whistle the pilot, if he is accustomed to the channel, can tell by the echo about where he is. Sticking up in those channels in places are pinnacle-pointed rocks. You can not discover them with a sounding lead; there would not be one chance in a thousand that you would ever drop the sounding lead down on top of one of them, for they come to a point, but by placing a drag under the water they could be located and buoys placed over them.

Owing to the fact that the Government has never charted that channel and marked these rocks properly, many accidents have occurred in those waters and a number of steamers have gone down. When they do go down they sink in water that is from 200 to 300 feet deep and icy cold, for the glaciers keep dropping loose chunks of ice and icebergs into the water and keep it so cold that a human being can exist in it only for a short time, and one can not swim ashore as he might be able to do in warmer water. Even with a life preserver one would soon lose his life in that cold water.

The only proper method of picking up these rocks and marking them is that which the fishermen use, of hauling a drag along behind a steamer at a certain depth and locating them and placing a buoy over them. This is a vastly important matter. A number of vessels—I do not know how many, but quite a number—have been wrecked there and some are being wrecked every year, and many people lose their lives. It will not cost much to perform this work, and it would be a proper expenditure; it is one of the best items in that bill.

Mr. STONE. How much is appropriated?

Mr. LANE. I do not remember the exact amount, but it is not much.

Mr. MARTIN of Virginia. Mr. President——

Mr. LANE. The Senator from Virginia can probably tell.

Mr. MARTIN of Virginia. Mr. President, I merely want to call the Senator's attention to the fact that this matter has been before both Houses of Congress and has been finally disposed of by both of them. I agree with all the Senator says, but we were unable to accomplish what we wanted, and, as I have said, the matter has been settled, both branches having acted upon it.

Mr. LANE. And refused to grant the appropriation?

Mr. MARTIN of Virginia. They have refused to give the amount requested for this purpose.

Mr. LANE. How much was it?

Mr. MARTIN of Virginia. About $150,000, as I recall.

Mr. LANE. It was something like that.

Mr. MARTIN of Virginia. It ought to have been appropriated, I think, but the matter has been settled.

Mr. LANE. It is very unfortunate that both Houses of Congress should have refused to grant an appropriation for so good a purpose.

Mr. MARTIN of Virginia. I agree with the Senator, but they did do it.

Mr. STONE. Well, there is this consolation about it, I will say to the Senator from Oregon——

Mr. POINDEXTER. Mr. President, the Senator from Missouri asked how much it cost to make this survey, I believe.

Mr. STONE. I asked how much the appropriation was.

Mr. POINDEXTER. There was no appropriation at all. So far as I have been able to ascertain, the lowest amount estimated by the department for this purpose was $18,000. I will ask that the Secretary read the bill which I have introduced here pertaining to this subject.

Mr. STONE. I understand, according to the statement of the chairman of the Committee on Appropriations, that the matter has been disposed of. I was going to say to the Senator from Oregon that there would be this consolation following the failure of this appropriation, that, if the spirit of liberality in erecting monuments and memorial tablets which has prevailed here of late continues, after a disaster in these waters and a large number of men, women, and children have been drowned, he might probably get $200,000 appropriated for a monument.

Mr. JONES. Mr. President, I want to state to the Senator that thirty-odd lives were lost in these waters about a year ago.

Mr. THOMAS. I call for the regular order.

The VICE PRESIDENT. The regular order has been called for. The regular order is the presentation of petitions and memorials.

Mr. POINDEXTER. Mr. President, I have a statement in connection with the same subject which has just been discussed which might properly be introduced under the head of petitions and memorials, but as it has in substance already been introduced by my colleague, I will not do so. I should like, however, in that connection, to say a word in answer to the Senator from Missouri.

Mr. STONE. I have not said anything to answer.

Mr. POINDEXTER. This is not by any means a matter that is disposed of. It is true that a similar matter was disposed of in the sundry civil appropriation bill, but consideration will be asked for other bills dealing with this question. I desire to emphasize for the benefit of the members of the Appropriations Committee the facts which have been stated this morning in order that they may consider them in connection with another bill which I hope will be acted on as early as possible.

PETITIONS AND MEMORIALS.

Mr. THORNTON. I present petitions signed by a large number of citizens of Louisiana, and forwarded to me by R. W. Parmele, president of the Louisiana Conference of the Seventh-day Adventists, held at New Orleans, La., praying for national prohibition. I ask that the petitions be referred to the Committee on the Judiciary.

Mr. BURTON. I have a brief telegram, relating to the granting of exclusive agencies by manufacturers and jobbers, which I ask to have printed in the RECORD without reading.

There being no objection, the telegram was referred to the Committee on the Judiciary and ordered to be printed in the RECORD, as follows:

[Telegram.]

CLEVELAND, OHIO, *July 21, 1914.*

Hon. T. E. BURTON,
United States Senate, Washington, D. C.:

We understand that the Clayton antitrust bill includes clauses relating to trade contracts in regard to granting exclusive agencies by manufacturers and jobbers to retail dealers. Also provisions restricting trade discounts and special arrangements to secure cooperation on sale of manufactured articles by the dealer. Such arrangements have been proved by long experience advantageous and necessary, and any changes such as this bill provides would be radical and disturbing to every business community. We earnestly solicit your aid in opposition to such clauses in the bill as affect present conditions, which are satisfactory to manufacturers, dealers, and consumers.

THE HALE & HOLMES CO.

Mr. SUTHERLAND presented a petition of sundry citizens of Provo, Utah, praying that in the event of war the Second United States Volunteer Cavalry be reenlisted, which was referred to the Committee on Military Affairs.

Mr. NELSON presented memorials of sundry citizens of Minnesota, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. CHAMBERLAIN presented a petition of sundry citizens of Oregon, praying for the enactment of the so-called antitrust legislation, which was referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Oregon, praying for the enactment of legislation to provide a literacy test for immigrants to this country, which was ordered to lie on the table.

Mr. GALLINGER presented petitions of sundry citizens of Manchester, Lebanon, and Penacook, in the State of New Hampshire, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented the petition of H. W. Sullivan, of Berlin, N. H., and a petition of Milford Branch, Granite Cutters' International Association of America, of New Hampshire, praying for the enactment of the so-called antitrust legislation, which were referred to the Committee on the Judiciary.

Mr. BURLEIGH presented petitions of the congregation of the Methodist Episcopal Church of Berwick, Me., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SHIVELY presented a petition of the Indiana Christian Endeavor Union and a petition of the congregation of the Fort Wayne Baptist Association, of Kendallville, Ind., praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented the memorials of Edward H. Meyer, Sanford Reed, Joseph V. Ford, and 47 other citizens of Allen, Hancock, and Vanderburg Counties; of Fritz Meinberg, T. R. Hunt, and 5 other citizens of Marion and Allen Counties; and of George Baker and 2 other citizens of Lawrenceburg, all in the State of Indiana, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of the Chamber of Commerce of Kokomo, Ind., praying for the adoption of a 1-cent letter postage, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Ladies' Aid Society of the Presbyterian Church, of Michigan City, Ind., and a petition of the city council of Hammond, Ind., praying for the enactment of legislation to provide pensions for civil-service employees, which were referred to the Committee on Civil Service and Retrenchment.

REPORTS OF COMMITTEE ON PUBLIC LANDS.

Mr. WORKS, from the Committee on Public Lands, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (S. 5990) to authorize the sale and issuance of patent for certain land to William G. Kerckhoff (Rept. No. 701); and

A bill (H. R. 16476) authorizing the Secretary of the Interior to issue patent to the city of Susanville, in Lassen County, Cal., for certain lands, and for other purposes (Rept. No. 700).

VOTES OF TARIFF LAW OF 1913 (S. DOC. NO. 556).

Mr. CHILTON. On July 15 the Senator from North Carolina [Mr. SIMMONS] presented and had referred to the Committee on Printing for action a statement of the yea-and-nay votes taken in the Senate on all amendments to the bill (H. R. 3321) to reduce tariff duties and to provide revenue for the Government, and for other purposes, approved October 3, 1913. I am directed by the committee to report a resolution, for which I ask present consideration.

The resolution (S. Res. 429) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the statement prepared in the office of the Secretary of the Senate, entitled "Yea-and-nay votes in the Senate on the Underwood-Simmons Tariff Act," approved October 3, 1913, and submitted by Mr. Simmons on July 15, 1914, be printed as a Senate document, and that 5,000 additional copies be printed for the use of the Senate folding room.

Mr. JONES. Mr. President, as I understand, the document referred to will go to the folding room, and will then be apportioned among Senators?

Mr. CHILTON. Yes, sir.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

LOCATION OF DEPOSITS OF PHOSPHATE ROCK.

Mr. SMOOT. From the Committee on Public Lands I report back favorably with an amendment the bill (S. 6106) validating locations of deposits of phosphate rock heretofore made in good faith under the placer-mining laws of the United States, and I submit a report (No. 699) thereon. This is a department bill, and it is desired to get it to the House and have it acted upon at the earliest possible date. It proposes to validate certain locations on the public lands, and I ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. GALLINGER. Let the bill be read.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill had been reported from the Committee on Public Lands with an amendment, on line 3, after the word "lands," to strike out the words "supposed to contain" and insert "containing," so as to make the bill read:

Be it enacted, etc., That where public lands containing deposits of phosphate rock have heretofore been located in good faith under the placer-mining laws of the United States, such locations shall be valid and may be perfected under the provisions of said placer-mining laws, and such locations shall give title and possession to such deposits. This act shall apply to such locations heretofore patented: *Provided*, That this act shall not apply to any locations made subsequent to the withdrawal of such lands from location, nor shall it apply to lands included in an adverse or conflicting lode location unless such adverse or conflicting location is abandoned.

Mr. BURTON. I should like to ask why the words "supposed to contain" are stricken out and the word "containing" substituted? Does it mean that there must be an actual investigation and discovery?

Mr. SMOOT. There must be before a patent can be issued; and the department called attention to the matter this morning in a letter recommending that the word "containing" be used, in conformity with all the other requirements of the mining laws.

Mr. BURTON. That is in accordance with the general mining laws, is it?

Mr. SMOOT. It is in accordance with the general mining laws.

The amendment was agreed to.

The bill was reported to the Senate as amended, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SMOOT:

A bill (S. 6143) granting a pension to William Bell (with accompanying papers); to the Committee on Pensions.

By Mr. WEEKS:

A bill (S. 6144) to increase the limit of cost for the erection of a building or buildings on the site of the immigration station at Boston, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. CHAMBERLAIN:

A bill (S. 6145) granting an increase of pension to Charles T. Blumenrother (with accompanying papers); to the Committee on Pensions.

By Mr. LIPPITT:

A bill (S. 6146) granting an increase of pension to Maria J. Mahon; to the Committee on Pensions.

By Mr. NORRIS:

A bill (S. 6147) to amend section 20 of an act to regulate commerce, approved February 4, 1887, as amended, to provide for certain penalties, and for other purposes; to the Committee on Interstate Commerce.

By Mr. CATRON:

A bill (S. 6148) to authorize the payment of $2,000 to the widow of the late Tranquilino Luna, in full for his contest expenses in the contested election case of Manzanares against Luna; to the Committee on Claims.

By Mr. BURLEIGH:

A bill (S. 6149) granting an increase of pension to Jerome B. Wood; to the Committee on Pensions.

OMNIBUS CLAIMS BILL.

Mr. WHITE submitted an amendment intended to be proposed by him to the omnibus claims bill, which was ordered to lie on the table and to be printed.

FEDERAL TRADE COMMISSION.

Mr. HOLLIS. I ask to have printed in the RECORD, without reading, an editorial from the Omaha World-Herald bearing on the Federal trade commission bill.

Mr. SMITH of Michigan. What was the request of the Senator from New Hampshire?

The VICE PRESIDENT. That an editorial from the Omaha World-Herald on the trade commission bill be printed in the RECORD. Is there objection?

Mr. SMITH of Michigan. I object.

The VICE PRESIDENT. Objection is made.

THE TARIFF.

Mr. THOMAS. Mr. President, I ask unanimous consent to have printed in the RECORD, without reading, an editorial from the New York Evening Post of July 21, entitled "Snap judgment on the tariff."

The VICE PRESIDENT. Is there any objection? The Chair hears none, and the editorial will be printed in the RECORD.

The editorial referred to is as follows:

SNAP JUDGMENT ON THE TARIFF.

"The foregoing figures," says the Sun, "indicate that the period has probably been entered upon in which it can no longer be said by administration apologists that the workings of the revised tariff have yet to be determined." The figures referred to are those of the total exports and imports for "the last quarter of the fiscal year ended June 30 last, compared with the corresponding quarter in the preceding year." These show that the imports for the three months in 1914 were $83,000,000 greater than in 1913, while the exports were $77,000,000 less than in 1913. Why the lowering of the tariff should have caused this decline in exports is a mystery we shall not attempt to enter into; but it is a quite legitimate hypothesis that it may have caused the increase of imports, since that is the natural working of a reduction of import duties. But it is not our purpose to go into the question of causation; what we wish to examine is the value of the comparison itself, even as making a prima facie case.

When we speak of a prima facie case, we mean the case presented by a bare citation of gross figures, without analysis of component items, and without even the most rudimentary consideration of the facts behind the figures. Even from this standpoint it ought to be evident to anybody that has handled statistics at all that the comparison of two successive years is quite worthless in the absence of reference to preceding years. Now, in this matter of exports, it is true that the figures for the April-June quarter of 1914 fall $76,000,000 below those for 1913; but the figures for the quarter in 1913 were not only exceptional, but broke all previous records by $65,000,000 and all records except one by the enormous amount of $105,000,000. Up to 1913, when the figure for the quarter was $558,000,000, the record had been $493,000,000, in 1912; the next highest figure was $453,000,000, in 1911. Now, the exports for the quarter in 1914 were $482,000,000, which is $29,000,000 higher than the 1911 figure, and only $11,000,000—or 2¼ per cent—lower than the high mark made in 1912. Is this a showing which—even on the face of the figures, not to speak of a real investigation of the question—is so fatally damaging that it can "no longer be said" that the "workings of the revised tariff have yet to be determined"?

Not only for a month, and not only for a quarter, but for whole years, the fluctuations of imports and exports are so great that any attempt to jump at broad conclusions from a single instance of the kind is utterly wild. "There is certainly a singular coincidence," says the Sun, "between the effectiveness of tariff revision and the phenomena of the country's foreign and domestic trade unless there is a connection between them." Our nimble-witted contemporary can hardly have been serious in saying this. Figures quite as striking as this coincidence which it affects to regard as so "singular" are dotted all over the figures of trade. In 1901 exports for the April-June quarter were $348,000,000; in 1902 they fell to $301,000,000; and they remained more than $40,000,000 below the 1901 figures in 1903 and 1904. Our "favorable" balance of trade, after having stood near the half-billion mark every fiscal year from 1898 to 1908, inclusive, and having been $666,000,000 in the last-named year, suddenly dropped to $351,000,000 in 1909 and fell to $188,000,000 in 1910. As for the most recent figures, those which the Sun regards as so significant, nothing would be easier than to give them the opposite twist. We might regard the figures for June, taken by itself, as showing that the new tariff is just beginning to get its hand in. We might say that we have had to take time to reap the fruits of cheap imports in the shape of the ability to compete in exports, and that the June figures show it. For, while April exports fell $17,000,000 below 1912, and May exports likewise were $14,000,000 short of 1912, in June they have been $20,000,000 ahead of 1902, and have made a high record for the month of June, with the single exception of 1913, which was only $6,000,000 ahead of 1914. Does not this show that precisely that thing is happening which President Wilson so absolutely foretold a few weeks ago—that we are on the eve of the biggest boom the country has ever known? No; it does not; but it shows it quite as well as some other figures show some other things.

So much for the face value of the figures; it happens, fortunately, that a comparison going just a little further back reduces that face value to just about zero. But if it had not so happened, there would still be no conclusiveness in them—no; not even a reasonable amount of probable significance. For even if the figures really showed an unusual state of facts, it would still be idle to draw any important inference from them. Even if the statistics did show—as they do not—how the new tariff has been working in the past three months, it would still be the height of rashness to judge of its lasting results from so brief an experience. Certainly it is not the direct effect of lowered duties to check exports; and if it were granted that this result had indirectly followed, a natural presumption would be that this is a mere phenomenon of the transition period—that it is due not to the tariff being low, but to disturbances produced by the change. This presumption might, indeed, be false; but surely it would require more than the trifling period of time under consideration to establish the contrary. Joseph Chamberlain, it will be remembered, fell into a deep pit, out of which his party was never able to extricate itself, through being too quick on the trigger with statistics; and likewise in a year or two the figures of American foreign trade may make conclusions drawn from those of the last three months look particularly foolish.

ADDRESS BY HON. CHARLES RICHARDSON.

Mr. JONES. Mr. President, in connection with matters which are going into the RECORD, I have here an address by Hon. Charles Richardson, of Tacoma, Wash., entitled "Some New Problems in Law and Finance," delivered before the State Bankers' Association at Walla Walla, Wash., which I ask may be printed in the RECORD.

Mr. GALLINGER. Mr. President, I have not been much of an objector, but in looking over the RECORD, at a meeting of the Appropriations Committee, and estimating the salary that a certain gentleman will receive who indexes the RECORD, we were rather startled. We have never had so many pages of the RECORD before at any session of Congress, and Heaven only knows how many we will have if we continue to publish everything that is written and said all over the country.

I will ask the Senator from Washington if it would not suit his purpose if he had the address which he desires printed in the RECORD referred to the Committee on Printing, with a view to having it printed as a Senate document?

Mr. JONES. No, Mr. President; it would not, because, so far as I am concerned, I would much prefer to have these matters printed in the RECORD, where I can get them when I want them, than to have them printed as documents, where I can not find them when I want them. Such matters as I ask to have printed in the RECORD are matters which I think really ought to be printed there, and I want them to be printed there, so that I can get them when I want to refer to them. That is my only reason for asking that this address be printed in the RECORD. I myself would much rather have anything I want printed put into the RECORD than to have it printed as a document, in which form I never can find it when I want it.

Mr. GALLINGER. Mr. President, I had supposed—of course I am old fashioned—that the RECORD had some significance, and that it was a record of the proceedings of this body and of the other House. I have my desk full of material on various topics that I should like to put into the RECORD, some of it most illuminating, but I do not feel like asking to have it printed in the RECORD, because, as I have suggested, the RECORD has now reached enormous proportions. I will ask the Senator from Virginia if he remembers how many pages we have up to date of what we call the CONGRESSIONAL RECORD? The question was raised at a meeting of the committee of conference.

Mr. SMOOT. Thirteen thousand six hundred and ten pages up to date.

Mr. GALLINGER. Thirteen thousand six hundred and ten pages to date. It can readily be seen where we are drifting if we encumber the RECORD with everything that we individually should like to see printed in it.

The VICE PRESIDENT. Is there objection to the request of the Senator from Washington?

Mr. GALLINGER. Mr. President, I do not object.

Mr. SMOOT. Mr. President, I am not going to object to the request of the Senator from Washington, but I simply want to call the attention of the Senate to one matter. As has been stated, for this session we have now in the RECORD 13,610 printed pages. I wish to say that some little while ago I made a computation, so far as the Senate proceedings are concerned, and about 40 per cent of all that is printed in the RECORD as the proceedings of the Senate is made up of outside matter, and I think it ought to be stopped; but I felt that I did not want to object here every morning to newspaper articles and editorials and clippings from every magazine in the country going into the RECORD. It certainly ought to cease, however. We pay $1.20 a page to the indexer of the RECORD, and, as I say, we now have 13,610 pages of the RECORD.

Mr. OVERMAN. Mr. President, if the Senator will yield, I will object. I will say to the Senator from Washington that I shall not object to having the matter printed as a public document, but I do object to printing an address of somebody else in the RECORD.

Mr. JONES. Mr. President, if the Senator has objected, I do not care to have this matter printed as a public document. When the subject comes up for discussion on the trust bills I shall read this address into the RECORD, because it is an address that is much more entertaining and much more interesting and much more instructive than some addresses that get into the RECORD otherwise.

I do not ask very often to have matters put in the RECORD. I do not believe in cumbering the RECORD with everything that comes along; but once in a while, when I find a matter that I think is very interesting and rather instructive, I sometimes want to put it in the RECORD, so as to have it preserved where it can be gotten at.

I do not, of course, object to the Senator's objecting, but I will get the address in the RECORD in time.

Mr. SMOOT. Mr. President, I did not conclude what I started to say just a moment ago. If Senators have noticed, there are very few public documents authorized printed by the House of Representatives. I believe the Senate authorizes 25 to 1 of the House; and it has now become the general practice if a Member of the House wants anything printed as a public document he comes to the Senate and asks some Senator to request that it be printed as a public document.

When the statement is made up at the close of the year I want to call the attention of the Senate to the fact that the House will be able to point to this session of the Senate as being the most extravagant one in the history of the Senate in printing public documents and outside matter in the RECORD; and it will show that the amount of public documents ordered printed by the Senate will be, I think, twenty-five times as many as the documents ordered printed by the House.

I think we ought to take notice of this and be a little careful as to what we order printed from now on.

GENERAL DEFICIENCY APPROPRIATIONS (S. DOC. NO. 554).

Mr. MARTIN of Virginia. I present the report of the committee of conference on the disagreeing votes of the two Houses on the general deficiency bill and move its adoption.

The VICE PRESIDENT. The Secretary will read the report.

The Secretary read the conference report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 62, 101, 117, 119, 120, 125, 128, 129, 130, 131, 132, 133, 134, 138, 139, 144, 145, 146, 147, and 150.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 121, 122, 123, 124, 126, 127, 135, 140, 141, 142, 143, 148, 151, 152, 153, 154, 155, 156, and 157, and agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows: In line 2 of the amendment strike out the word "continuation" and insert the word "commencement"; and the Senate agree to the same.

Amendment numbered 118: That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$4,393.51"; and the Senate agree to the same.

Amendment numbered 136: That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment as follows: On page 29 of the bill, after line 7, insert the word "Senate," and in lieu of the matter inserted by said Senate amendment insert the following:

"For employees of the Committee on Expenditures in the Department of Labor from July 1, 1914, to June 30, 1915, both dates inclusive, as follows: Clerk, $2,220; assistant clerk, $1,440; messenger, $1,200; in all, $4,860."

And the Senate agree to the same.

Amendment numbered 137: That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"The Secretary of the Senate is authorized and directed to pay from the appropriations for salaries to clerks, messengers, and others in the service of the Senate, for the fiscal year 1913, the following: To James M. Porter, at the rate of $2,000 per annum, from March 26 to April 6, 1913, and Nettie K. De Freitas, at the rate of $1,200 per annum, from March 26 to April 14, 1913, as clerk and stenographer, respectively, to Senator Sherman."

And the Senate agree to the same.

Amendment numbered 149: That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "To reimburse the official reporters of debates for moneys actually and necessarily expended by them to June 30, 1914, $3,000."

And the Senate agree to the same.

Amendment numbered 158: The committee of conference have been unable to agree on the amendment of the Senate numbered 158.

THOMAS S. MARTIN,
N. P. BRYAN,
J. H. GALLINGER,
Managers on the part of the Senate.

JOHN J. FITZGERALD,
T. U. SISSON,
FREDK. H. GILLETT,
Managers on the part of the House.

Mr. CHILTON. Mr. President, I wish to ask the chairman of the committee whether or not the amendment appropriating $20,000 for the construction of an elevator and for the improvement of the public building at Martinsburg, W. Va., was stricken out by the conference committee, or whether it is retained in the bill?

Mr. MARTIN of Virginia. Mr. President, the Senate receded from that amendment. It was not estimated for, and the department stated if they had the money they could not expend it. They did not desire it and could not expend it in the next year if they had it.

Although the Senate had put in the appropriation, and we insisted upon retaining it in the bill, it can be readily understood by the Senate and by the Senator from West Virginia that it was impossible for the Senate conferees to maintain an item in the bill when the department stated that they did not need it, had not estimated for it, and could not expend it if we appropriated it. Under those circumstances the Senate receded.

Mr. CHILTON. Mr. President, the Senator from Virginia is mistaken as to the facts, and the department is mistaken in its statement.

Mr. MARTIN of Virginia. Mr. President, if the Senator will allow me—well, the Senator can go ahead and get through, but he is absolutely mistaken in his statement.

Mr. CHILTON. Mr. President, two years ago the Congress of the United States authorized this public work at Martinsburg, and the department was authorized and instructed to contract for it under, an authorization that the expenditure should be $20,000. Not only that, but there was an estimate for it at the time, and the specific authority of the Congress of the United States to do the work. All of that was laid before the Appropriations Committee, and upon the strength of that the point of order against the item was not made when I presented the amendment in the Senate.

I do not like the excuse that a department of the Government is not ready to carry out the will of Congress. Congress has a

right, if it thinks that the public business requires it, and the situation is such regarding this public building as to require it, to say that this public work shall be done; and it does not sound well to me, standing in my place here, to have a department of the Government say that it can not use or will not use an appropriation made by the Congress of the United States.

I do not want to criticize the Senator from Virginia nor the other conferees upon the part of the Senate. They are friends of mine, and they are certainly conscientious, good public servants. I am sure they did what they thought was best; but I am just tired of being bulldozed about these little matters.

I ask that this matter go over, Mr. President. We might just as well fight it out here and now as anywhere. I ask that the matter go over, in order that I may investigate the facts; and if we have to make a fight now with one of these departments as to whether Congress shall say or it shall say whether or not this shall be done, I am prepared to make the fight.

The Congress of the United States two years ago said that this work should be done. It is much more needed than a great deal of other work appropriated for by this bill. It is about the only thing I have in the bill, and it is for a work that is needed. This public building in my State needs an elevator. I have convinced the Congress of this fact. I do not propose to have a head of a department here say that it shall not be done when the Congress of the United States says it wants it done.

I am going to ask that the matter go over, so that I can make an investigation; and, if necessary, I propose to fight this conference report until the rights of West Virginia shall be respected.

I ask that the conference report go over and be printed. Meanwhile I can ascertain why it is that a work estimated for nearly two years ago and authorized by act of Congress in March, 1913, can not be done now, if Congress shall order it done and appropriate the money.

Mr. MARTIN of Virginia. My motion is before the Senate, and of course it can not go over unless the Senate so decide. The Senate will have to vote on the proposition. If they desire to reject the conference report, of course they can do so.

Mr. CLARK of Wyoming. It is an astonishing statement that we can not dispose of a conference report except by voting upon it here and now. It was my purpose to ask that the conference report be printed for the information of the Senate. We have no information whatever from the reading of the report as to what there is in it.

Mr. MARTIN of Virginia. If the Senator wants any information on any item in the bill, I shall be very glad to give it to him.

Mr. CLARK of Wyoming. But we can not tell anything about the items in the bill. The amendments are simply numbered, and there are a hundred of them.

Mr. MARTIN of Virginia. If there is any item in which the Senator is interested——

Mr. CLARK of Wyoming. I ask that the report may be printed for the information of the Senate.

Mr. MARTIN of Virginia. The Chair can rule on the matter. I move the adoption of the report. It is in order, and it is a privileged motion, and there is no way to carry it over except the will of the Senate.

Mr. CLARK of Wyoming. Mr. President, I for one can not understand the state of mind by which the chairman of the Appropriations Committee refuses general information upon a bill of this character. Here are a hundred or more amendments, and they are precipitated into the Senate without a moment's notice. We do not know what they are. We have not had time to examine them. I do not know of a single thing in the bill in which I am personally interested, but I do object to this method of procedure, which rams it down the throat of the Senate without investigation and without an opportunity to see and know what we are doing here. We have time for other things, and we certainly have time for this.

The VICE PRESIDENT. This is the rule of the Senate, beyond any question of doubt:

RULE XXVII.

The presentation of reports of committees of conference shall always be in order, except when the Journal is being read or a question of order or a motion to adjourn is pending or while the Senate is dividing; and when received the question of proceeding to the consideration of the report, if raised, shall be immediately put, and shall be determined without debate.

The Chair believes both the Senator from West Virginia and the Senator from Wyoming are raising the question whether the Senate will proceed to the consideration of the report; and the Chair accordingly rules that the question to be put now, and to be determined without debate, is, Will the Senate proceed to the consideration of the conference report?

Mr. MARTIN of Virginia. The ruling is absolutely satisfactory to me.

The VICE PRESIDENT. The question is, Will the Senate proceed to the consideration of the conference report? [Putting the question.] By the sound the noes seem to have it.

Mr. MARTIN of Virginia. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CATRON (when his name was called). I transfer my pair with the senior Senator from Oklahoma [Mr. OWEN] to the senior Senator from Illinois [Mr. SHERMAN] and will vote. I vote "nay."

Mr. CHAMBERLAIN (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. In his absence, I withhold my vote.

Mr. CHILTON (when his name was called). I have a general pair with the senior Senator from New Mexico [Mr. FALL], but under the terms of it I have a right to vote, and I vote "nay."

Mr. CULBERSON (when his name was called). I have a general pair with the Senator from Delaware [Mr. DU PONT]. In his absence I withhold my vote.

Mr. GALLINGER (when his name was called). I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. In his absence I withhold my vote.

Mr. GRONNA (when his name was called). I have a general pair with the senior Senator from Maine [Mr. JOHNSON]. I transfer that pair to my colleague, the senior Senator from North Dakota [Mr. MCCUMBER], and vote. I vote "nay."

Mr. SIMMONS (when his name was called). I transfer my pair with the junior Senator from Minnesota [Mr. CLAPP] to the junior Senator from South Carolina [Mr. SMITH] and vote "yea."

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. In his absence I withhold my vote.

Mr. TILLMAN (when his name was called). I transfer my pair with the Senator from West Virginia [Mr. GOFF] to the Senator from Nevada [Mr. NEWLANDS] and vote "yea."

Mr. JONES (when Mr. TOWNSEND's name was called). The junior Senator from Michigan [Mr. TOWNSEND] is absent. He is paired with the junior Senator from Arkansas [Mr. ROBINSON]. I will let this announcement stand for the day.

Mr. WALSH (when his name was called). I have a general pair with the Senator from Rhode Island [Mr. LIPPITT]. I transfer that pair to the Senator from Ohio [Mr. POMERENE] and vote. I vote "yea."

Mr. CLARK of Wyoming (when Mr. WARREN's name was called). My colleague [Mr. WARREN] is unavoidably detained from the Senate. He is paired with the Senator from Florida [Mr. FLETCHER]. I desire this announcement to stand for subsequent roll calls to-day.

The roll call was concluded.

Mr. THOMAS. I transfer my pair with the senior Senator from New York [Mr. ROOT] to the senior Senator from Nebraska [Mr. HITCHCOCK] and vote "nay."

Mr. SMITH of Georgia (after having voted in the affirmative). I have a general pair with the senior Senator from Massachusetts [Mr. LODGE], and I withdraw my vote.

Mr. HOLLIS (after having voted in the affirmative). I am still paired with the junior Senator from Maine [Mr. BURLEIGH]. I transfer that pair to the junior Senator from Illinois [Mr. LEWIS] and allow my vote to stand.

Mr. GALLINGER. I was requested to announce a pair between the Senator from Pennsylvania [Mr. PENROSE] and the Senator from Mississippi [Mr. WILLIAMS], and also between the Senator from Wisconsin [Mr. STEPHENSON] and the Senator from Oklahoma [Mr. GORE].

Mr. KENYON. I desire to announce the absence of the Senator from Wisconsin [Mr. LA FOLLETTE] on account of sickness. I desire to have this announcement stand for the day.

Mr. COLT (after having voted in the negative). Has the Senator from Delaware [Mr. SAULSBURY] voted?

The VICE PRESIDENT. He has not.

Mr. COLT. I have a general pair with that Senator, and therefore withdraw my vote.

The result was announced—yeas 27, nays 23, as follows:

YEAS—27.

Bankhead	Lee, Md.	Shafroth	Stone
Bryan	Martin, Va.	Sheppard	Swanson
Hollis	Nelson	Shields	Thornton
Hughes	Overman	Shively	Tillman
James	Perkins	Simmons	Walsh
Kern	Pittman	Smith, Ariz.	West
Lea, Tenn.	Ransdell	Smoot	

NAYS—23.

Ashurst	Clark, Wyo.	Martine, N. J.	Sutherland
Bristow	Crawford	Norris	Thomas
Burton	Gronna	Page	Vardaman
Camden	Jones	Poindexter	Weeks
Catron	Kenyon	Smith, Mich.	Works
Chilton	Lane	Sterling	

NOT VOTING—46.

Borah	Fall	McLean	Sherman
Brady	Fletcher	Myers	Smith, Ga.
Brandegee	Gallinger	Newlands	Smith, Md.
Burleigh	Goff	O'Gorman	Smith, S. C.
Chamberlain	Gore	Oliver	Stephenson
Clapp	Hitchcock	Owen	Thompson
Clarke, Ark.	Jonnson	Penrose	Townsend
Colt	La Follette	Pomerene	Warren
Culberson	Lewis	Reed	White
Cummins	Lippitt	Robinson	Williams
Dillingham	Lodge	Root	
du Pont	McCumber	Saulsbury	

So the motion of Mr. MARTIN of Virginia was agreed to.

The VICE PRESIDENT. The conference report is before the Senate. The Senator from Virginia moves that the Senate concur in the report.

Mr. MARTIN of Virginia. Mr. President, in view of the large number of votes that have been cast against the consideration of the report to-day, I am willing that it shall go over. I will say that I pursued the usual course. I have never had before the Senate since I have been chairman of the Committee on Appropriations an appropriation bill which has as little of controversy in it, and it never entered my mind that there was any occasion for delay or that anyone would think there was any occasion for delay in this matter. We all know that these bills have been delayed here, through legislation pending, until it is far past the time when they are usually passed. I pursued the course that has been adopted on every other appropriation bill that I have handled before the Senate at this session.

I had not the slightest idea that there was any occasion for delay or for printing the report. The only objection was made by the Senator from West Virginia [Mr. CHILTON], and I could not conceive that it was possible that the Senate wanted a delay in order to investigate a little item for a public building in West Virginia, where, the department states, they did not desire it and had not estimated for it, and that if the money was given them they could not expend it in the current year. It was left out on that statement of fact from the department. But in view of the large vote in favor of postponing the report I ask unanimous consent that it may be printed and go over. It is of course a matter of no interest to me personally. The only interest I had was to facilitate the business of the Senate, and it is entirely immaterial to me whether the report is considered to-morrow, or next week, or at any other time. The Senator from Wyoming talked as though I were trying to ram it down the throats of people. I thought it was a thing that the Senate wanted. I had no idea of forcing anything on anybody, and I do not desire to do it now.

I ask unanimous consent that the report may go over and be printed, and I will call it up when I think the Senate is ready for it. I have no desire to hurry it at all. I am perfectly willing that it shall go over and be printed.

Mr. CLARK of Wyoming. Mr. President, of course I withdraw the statement that the Senator attributes to me. I have no idea that the Senator had any such intention whatever as to use undue haste or to muzzle in any way the deliberations of this body. But it occurred to me, Mr. President, that when a request is made for the printing of a conference report in order that each Senator for himself and at his leisure may look over and see what consideration has been given to the various amendments it has been universally conceded that that should be done and that the report should lie over one day for that purpose.

The Senator says that all he is interested in is the dispatch of the public business. I wish to say to the Senator that I have no disposition to delay the public business, and I will call his attention to the fact that there has been no undue delay in regard to this bill. The bill was passed by the House of Representatives July 15, less than one week ago. It was passed with amendments by the Senate July 18, and it was not delayed more than two hours in its passage by the Senate, and we now have the conference report dealing with 150 or 160 amendments.

It was with no desire to delay but with a desire that every Member of the Senate who is interested in particular amendments or who is interested in the general bill might have an opportunity to discover what has become of the 150 amendments of the Senate that I asked to have the report printed. I thought then and I think now that it was a reasonable request.

The VICE PRESIDENT. Without objection, the report will go over and be printed.

PROPOSED ANTITRUST LEGISLATION.

Mr. CULBERSON. From the Committee on the Judiciary I report back favorably with amendments the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, and I submit a report (No. 698) thereon.

The VICE PRESIDENT. The bill will be placed on the calendar.

INDIAN APPROPRIATIONS.

Mr. ASHURST. I present a conference report on the Indian appropriation bill. I will not request that it be read. It is very lengthy. I ask that it be printed.

The VICE PRESIDENT. Is there objection?

Mr. GALLINGER. I think it ought to be read. It must be read, indeed, at some time.

Mr. ASHURST. Very well.

The VICE PRESIDENT. The report will be read.

The Secretary proceeded to read the report, and was interrupted by,

Mr. WALSH. Mr. President, a parliamentary inquiry. Is it in order to move that the further reading of the report be dispensed with?

The VICE PRESIDENT. That can be done only by unanimous consent.

Mr. WALSH. I then ask unanimous consent that the further reading of the report be dispensed with. It is quite obvious that no information is given to the Senate by the reading of the report.

Mr. GALLINGER. I asked that the report should be read. I object to the request.

The VICE PRESIDENT. The Secretary will proceed with the reading of the report.

The Secretary resumed and concluded the reading of the conference report (S. Doc. No. 553), which is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12579) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 18, 21, 30, 31, 33, 40, 43, 44, 47, 51, 52, 54, 55, 57, 60, 74, 75, 76, 77, 78, 79, 80, 87, 89, 90, 91, 93, 95, 96, 101, 102, 103, 107, 109, 110, 112, 113, 114, 115, 119, 127, 133, 135, 137, 142, 143, 146, 151, 153, 157, 164, 166, and 167.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 8, 9, 10, 11, 14, 15, 17, 20, 26, 34, 36, 42, 45, 49, 56, 61, 62, 63, 67, 83, 84, 85, 86, 94, 111, 117, 118, 120, 121, 124, 128, 129, 130, 141, 148, 150, 156, 158, 165, and 168, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the matter proposed insert the following:

"For the survey, resurvey, classification, and allotment of lands in severalty under the provisions of the act of February 8, 1887 (24 Stat. L., p. 388), entitled 'An act to provide for the allotment of lands in severalty to Indians,' and under any other act or acts providing for the survey or allotment of Indian lands, $150,000, to be repaid proportionately out of any Indian moneys held in trust or otherwise by the United States and available by law for such reimbursable purposes, and to remain available until expended: *Provided*, That hereafter no part of said sum shall be used for the survey, resurvey, classification, or allotment of any land in severalty on the public domain to any Indian, whether of the Navajo or other tribes, within the State of New Mexico and the State of Arizona, who was not residing upon the public domain prior to June 30, 1914: *Provided further*, That the surveys shall be made in accordance with the provisions for the survey and resurveys of public lands, including traveling expenses and per diem allowances in lieu of subsistence to those employed thereon."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: In line 15 of the proposed amendment, after the word "project," strike out the period, insert a colon, and add the following: "*Provided further*, That in addition

to what is herein required there shall be submitted to Congress on the first Monday in December, 1914, as to the Uintah, Shoshone, Flathead, Blackfeet, and Fort Peck reclamation projects, a report showing the status of the water rights of the Indians and the method of financing said projects, together with such other information as the Secretary of the Interior may deem necessary for a full and complete understanding of all the facts and conditions in connection therewith"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: In lieu of the matter proposed insert the following: "$300,000: *Provided*, That not to exceed $3,500 of the amount herein appropriated may be expended for the purchase of improvements on land to be deeded to the Government by the school board of district No. 57, State of Idaho"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows: In lieu of the matter stricken out insert the following: "*Provided further*, That not to exceed $100,000 of the amount herein appropriated may be expended in the erection and equipment of hospitals for the use of Indians; and no hospital shall be constructed at a cost to exceed $15,000, including equipment"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: In line 1 of the amendment proposed, after the word "including," insert the word "for"; in line 2 of the amendment proposed, after the word "children," insert the words "not to exceed $40,000"; in lieu of the sum proposed insert "$1,550,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$440,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$450,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "*Provided*, That after the passage of this act, no part of the sum hereby appropriated shall be used for the maintenance of to exceed three permanent warehouses in the Indian Service"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: In line 3 of the amendment proposed, after the word "confinement," insert the words "on an Indian reservation or at an Indian school"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$135,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows: In line 5 of the amendment, after the word "the," strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior"; in line 22 of the amendment, strike out the figures "$10" and insert in lieu the figures "$15"; in line 28 of the amendment, after the word "the," strike out down to and including the word "compel," in line 23, and insert in lieu thereof the following: "authority delegated to judges of the United States courts by section 4908 of the Revised Statutes is hereby conferred upon the Secretary of the Interior to require"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$600,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "*And provided also*, That not to exceed $75,000 of the amount herein appropriated shall be expended on any one reservation or for the benefit of any one tribe of Indians"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows: Strike out all of the proposed amendment and in lieu thereof, on page 6 of the bill, line 25, after the word "schools," strike out the period, insert a colon, and add the following: "*And provided further*, That $50,000 of the amount herein appropriated, in addition to any other funds available for that purpose, shall be used to provide school facilities for the children of the Papago Tribe of Indians in Arizona"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows: In line 9 of the amendment proposed, after the word "have," insert the following: "approved the plans of said bridge and"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$25,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows: In line 3 of the amendment proposed, after the figures "$20,000," strike out the words "to be immediately available and"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment as follows: In line 4 of the proposed amendment, after the word "the," strike out the words "San Carlos and," and in line 5 of the proposed amendment, after the word "Indian," strike out the word "Reservations" and insert in lieu thereof the word "Reservation"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$108,125"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$118,125"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment as follows: In lieu of the amendment insert the following: "$20,500; for repairs and improvement, $3,600; in all, $24,100"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$25,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment as follows: In line 4 of the proposed amendment, after the word "improvements," strike out the figures "$13,500" and insert the figures "$11,000"; in line 5 of the proposed amendment, after the word "equipment," strike out the figures "$30,000" and insert in lieu thereof the figures "$25,000"; in line 5 of the amendment, after the word "all," strike out the figures "$171,250" and insert in lieu thereof the figures "$163,750"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: In line 4 of the proposed amendment, after the word "improvements," strike out the figures "$6,000" and insert in lieu thereof the figures "$5,000"; in line 5 of the proposed amendment, after the word "equipment," strike out the figures "$25,000" and insert in lieu thereof the figures "$20,000"; in line 6 of the proposed amendment, after the word "all," strike out the figures "$91,450" and insert in lieu thereof the figures "$85,450"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment as follows: Strike out all of the amendment proposed and in lieu thereof insert the following:

"For the payment of high-school teachers at the White Earth Indian School, Minnesota, for instruction of children of the Chippewa Indians in the State of Minnesota, $4,000, or so much thereof as may be necessary, the said sum to be reimbursable and to be used under rules to be prescribed by the Secretary of the Interior: *Provided*, That not to exceed $1,000 of this sum may be used to continue the education of boys appointed under the provisions of the act of Congress entitled 'An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914,' approved June 30, 1913."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with

an amendment as follows: In lieu of the sum proposed insert "$205,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$40,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment as follows: In line 2 of the proposed amendment, after the word "That," strike out all down to and including the word "necessary" in line 3 and insert in lieu thereof the following: "not to exceed $5,000 of the amount herein appropriated"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment as follows: In line 5 of the proposed amendment, after the word "by," strike out the word "a"; in line 6 of the proposed amendment, after the word "deed," strike out all down to and including the word "therein" in line 8, and insert in lieu thereof the following: "with a condition that the children of the Chippewa Indians of Minnesota shall have the privilege of attending at all times the school maintained therein on the same basis as white children attend the said school"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment as follows: In lieu of the matter proposed insert the following: "*Provided*, That any persons who were residing upon said land on January 1, 1914, shall not be required to remove therefrom except upon terms approved by the Secretary of the Interior"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment as follows: In line 9 of the proposed amendment, after the word "the," strike out the words "duly elected"; in line 12, after the word "thirteen," strike out the balance of the matter proposed; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to approve the assessments, together with maps showing right of way and definite location of proposed drainage ditches made under the laws of the State of Minnesota upon the tribal and allotted lands of the Fond du Lac Indian Reservation, Minn., in Carlton County judicial ditch No. 1. That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to pay the amount assessed against said allotted and tribal lands. There is hereby appropriated out of any money in the Treasury not otherwise appropriated the sum of $13,080, to be reimbursable from any funds belonging to the individual allottees or their heirs or from any funds belonging to the tribe subject to be prorated, in the discretion of the Secretary of the Interior. That the Secretary of the Interior be, and he is hereby, authorized to approve deeds for right of way from such said allottees or their heirs as may be necessary to permit the construction and maintenance of said drainage ditch upon the payment of adequate damages therefor: *Provided*, That no patent in fee shall be issued for any tract of land under the terms of this paragraph until the United States shall have been wholly reimbursed for all assessments paid or to be paid on such tract under the terms hereof. That the Secretary of the Interior is hereby authorized to do and perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions hereof into force and effect."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In line 4 of the amendment proposed, after the word "tribe," strike out the words "to be"; in line 5 of the amendment proposed, after the word "Minnesota," strike out the words "the second Tuesday"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"There is hereby appropriated the sum of $25,000, out of any money in the Treasury not otherwise appropriated, or so much thereof as may be necessary, for the purpose of purchasing cattle for the benefit of the Northern Cheyenne Indians: *Provided*, That said sum shall be expended under conditions to be prescribed by the Secretary of the Interior for its repayment to the United States on or before June 30, 1925: *Provided further*, That the Secretary of the Interior shall submit to Congress annually on the first Monday in December a detailed statement as to the expenditure of this fund."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"SEC. 10. For support and education of 375 Indian pupils at the Indian school at Genoa, Nebr., including pay of superintendent, $60,000; for general repairs and improvements, $4,500; for new laundry building and equipment, $4,000; for repairs and addition to hospital, $4,000; dairy barn, $6,000; for lavatory annex, $2,500; for industrial building for girls, $4,000; in all, $85,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$8,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$58,100"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In line 4 of the proposed amendment strike out the figures "$8,000" and insert in lieu thereof the figures "$5,000"; in line 5, strike out the figures "$30,000" and insert in lieu thereof the figures "$25,000"; and in line 6, strike out the figures "$106,600" and insert in lieu thereof the figures "$98,600"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In line 3 of the proposed amendment strike out the figures "$60,250" and insert in lieu thereof the figures "$59,550"; in line 4 of the amendment strike out the figures "$7,000" and insert in lieu thereof the figures "$6,000"; and in line 5 of the amendment strike out the figures "$72,850" and insert in lieu thereof the figures "$71,150"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"That the Secretary of the Interior is hereby authorized, within his discretion, to grant and convey to the Bismarck Water Supply Co., a corporation organized and existing under the laws of the State of West Virginia, an easement or right of way for use for a pumping station and for other necessary buildings, railroad tracks, mains, water pipes, and wells on lands appertaining to the Indian school, Bismarck, N. Dak., and now occupied by said Bismarck Water Supply Co., for the purpose of pumping water from the Missouri River to its reservoir and to supply its patrons with water, such grant to be made upon such conditions as the Secretary of the Interior shall prescribe, and such easement to continue so long as used for the aforesaid purposes."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment as follows: In line 4 of the amendment proposed strike out the figures "$6,000" and insert in lieu thereof the figures "$5,000"; and in line 5 of the amendment proposed strike out the figures "$8,000" and insert the figures "$6,000"; and in line 5 of the amendment proposed strike out the figures "$82,500" and insert in lieu thereof the figures "$79,500"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"For support and education of 200 Indian pupils at the Indian school, Wahpeton, N. Dak., and pay of superintendent, $35,200; for general repairs and improvements, $3,000; for extension of power plant, improvement of water system, and addition to power plant, $15,000; in all, $53,200."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment as follows: In lieu of the matter proposed insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized to withdraw from the Treasury of the United States,

not to exceed the sum of $100,000, or so much thereof as may be necessary, of the principal sum on deposit to the credit of the Indians on the Standing Rock Indian Reservation, in North Dakota and South Dakota, for the purpose of purchasing cattle for the use of said Indians to enable them to become self-supporting: *Provided*, That said sum shall be expended under conditions to be prescribed by the Secretary of the Interior for its repayment and placed into the Treasury to the credit of the said tribe on or before June 30, 1925: *Provided further*, That the Secretary of the Interior shall submit to Congress annually on the first Monday in December a detailed statement as to the expenditure of this fund."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized to contract for water rights for the irrigation of not to exceed 600 acres of land in the Fort Sill Indian School Reservation in the State of Oklahoma, within the proposed Lawton reclamation project for the irrigation of not to exceed 2,500 acres of Indian and private lands, upon the same terms and conditions as those prescribed for the acquisition of water rights for other lands to be irrigated by said project: *Provided*, That operation and maintenance charges shall not be assessed against said Indian land prior to the completion of the lateral system so as to provide for actual delivery of water thereto, and the project shall include lateral construction for the Indian lands down to each legal subdivision thereof equal in area to the size of the farm unit for lands in private ownership within said project."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$175,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment as follows: In line 1 of the amendment, after the word "effective," strike out the words "July 1" and insert in lieu thereof the words "September 1"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "$15,000: *Provided*, That $8,000 of this amount may be used for the purchase of additional land, not to exceed 80 acres"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment as follows: After the figures "$50,000," in line 1 of the amendment, strike out the colon and insert a period; strike out the proviso in lines 1, 2, 3, 4, and 5 of the amendment; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment as follows: In line 1 of the proposed amendment strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior"; in line 25 of the proposed amendment, after the word "lands," strike out the period, insert a colon, and add the following: "*Provided further*, That any contract or contracts made by the Creek Nation, or any individual member thereof, with any attorney or attorneys providing for the payment of any amount for services in connection with the Creek equalization, shall be void and have no force or effect unless the same shall have been executed and approved in accordance with the law in existence at the time of the making of such contract with relation to contracts with Indians: *And provided further*, That the money paid to allottees as provided herein shall be exempt from any lien for attorneys' fees or other debt contracted prior to the passage of this act"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment as follows: In line 7 of the amendment proposed, after the word "thereon," strike out the colon and the following: "*Provided*, That $10,000 of the amount above appropriated shall be immediately available"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment as follows: Strike out the first two words of the proposed amendment, "*And provided*," and insert in lieu thereof the word "*Provided*"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment as follows: In line 5 of the proposed amendment, after the word "session," strike out the period, insert a colon, and add the following: "*Provided*, That when so enrolled there shall be paid to each and every such person out of the funds in the Treasury of the United States to the credit of the respective tribe with which such person is enrolled the following sums in lieu of an allotment of land: To each such person placed on the Creek rolls the sum of $800; to each such person placed on the Choctaw, Chickasaw, Cherokee, and Seminole rolls, a sum equal to twice the appraised value of the allotment of such tribe as fixed by the Commission to the Five Civilized Tribes for allotment purposes: *Provided further*, That in cases where such enrolled members, or their heirs, are Indians who by reason of their degree of Indian blood belong to the restricted class, the Secretary of the Interior may, in his discretion, withhold such payments and use the same for the benefit of such restricted Indians: *And provided further*, That the Secretary of the Interior is authorized, under such rules and regulations as he may prescribe, to determine whether any attorney or attorneys have actually rendered services of value to any of the persons herein enrolled, and to allow compensation therefor, including proper and necessary expenses incurred in connection with services rendered, in such amounts as he may deem proper, and to pay the amount so fixed and found to be due such attorney or attorneys and deduct the same from the amount paid to the person enrolled as herein authorized, by and with his consent and approval: *Provided*, That before payment is made to any attorney or attorneys there shall be filed a receipt in full of all claims or demands on the part of such attorney or attorneys in such form as may be prescribed by the Secretary of the Interior"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment as follows: In line 1 of the proposed amendment, strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert, on page 31, line 2, as a separate paragraph, the following:

"The Secretary of the Interior is authorized in his discretion to grant a further extension or extensions of time on the payments described in the act entitled 'An act authorizing the Secretary of the Interior to subdivide and extend the deferred payments of settlers in the Kiowa-Comanche and Apache ceded lands in Oklahoma,' approved April 27, 1912: *Provided*, That accrued and unpaid interest shall be treated as principal: *Provided further*, That no payment shall be deferred beyond the time prescribed in the act herein cited, and no forfeiture of entry shall be declared except for fraud."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "for addition to assembly hall, $10,000; in all, $124,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment as follows: In line 7 of the proposed amendment, after the figures "$10,000," strike out all down to and including the word "available," in line 8; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$37,500"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment as follows: In lieu of the matter proposed by this amendment insert the following:

"The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, within his discretion, the sum of $300,000 of the principal funds to the credit of the Confederated Bands of Ute Indians, and to expend the sum of $100,000 of said amount for the benefit of the Navajo Springs Band of said Indians, in Colorado, and the sum of $200,000 of said amount for the Uintah, White River, and Uncompahgre Bands of Ute Indians, in Utah, which sums shall be charged to said bands; and the Secretary of the Interior is also authorized to withdraw from the Treasury the accrued interest to and including June 30, 1914, on the funds of the said Confederated

Bands of Ute Indians appropriated under the act of March 4, 1913 (37 Stat. L., p. 934), and to expend or distribute the same for the purpose of promoting civilization and self-support among the said Indians, under such regulations as the Secretary of the Interior may prescribe: *Provided*, That the said Secretary of the Interior shall report to Congress on the first Monday in December, 1915, a detailed statement as to all moneys expended as provided for herein."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"To enable the Secretary of the Interior to protect the north abutment of the bridge at Myton, on the Uintah Indian Reservation, Utah, from high water, $200."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert "$5,000; in all, $41,670"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment as follows: In line 1 of the proposed amendment, after the word "building," strike out the figures "$15,000" and insert in lieu thereof the figures "$10,000"; in line 2 of the proposed amendment, after the word "all," strike out the figures "$64,450" and insert in lieu thereof the figures "$59,450"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment as follows: In line 29 of the amendment proposed, after the word "patent," strike out the period and insert a colon and the following: "*Provided further*, That any land disposed of hereunder shall be subject to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country until otherwise provided by Congress"; and in line 31 of the amendment proposed, after the word "timber," strike out the words "on all unallotted lands" and insert the following: "on all lands allotted under the provisions of this act"; and in line 46 of the amendment proposed, after the word "said," strike out the word "tribal"; and in line 48 of the amendment proposed strike out the word "unallotted" and, after the word "Band," insert the following: "entitled to allotment hereunder" and a comma; and at the end of the said amendment, after the word "prescribe," strike out the period and insert a colon and the following: "*Provided*, That no sawmill shall be constructed at a cost to exceed $5,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment as follows: In line 21 of the proposed amendment, after the word "necessary," strike out all down to and including the word "act," in line 29; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment as follows: In line 17 of the proposed amendment, after the word "issue," insert the word "trust," and in line 18, after the word "patents," insert the following: "as provided by the act of February 8, 1887, entitled 'An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes'"; and the Senate agree to the same.

The committee of conference have been unable to agree on the amendments of the Senate numbered 23, 37, 81, 82, 139, and 155.

HENRY F. ASHURST,
MOSES E. CLAPP,
Managers on the part of the Senate.
JOHN H. STEPHENS,
C. D. CARTER,
CHARLES H. BURKE,
Managers on the part of the House.

The VICE PRESIDENT. The report will lie over and be printed. Morning business is closed.

PENSIONS AND INCREASE OF PENSIONS.

Mr. SHIVELY. I ask unanimous consent that the Senate proceed to the consideration of private pension bills on the calendar. There are only a few, and they are all House bills.

The VICE PRESIDENT. Is there any objection?

Mr. SIMMONS. Mr. President, I shall not object, as I understand there are only three or four of these bills, and there is likely to be no debate, and they will probably take only a few minutes. If that turns out to be the situation, I shall not object.

Mr. SMOOT. I will say that there are only four of the bills. They are Orders of Business Nos. 553, 558, 564, and 567.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 15959) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The bill had been reported from the Committee on Pensions, with amendments.

The first amendment of the Committee on Pensions was, on page 2, line 10, before the words "per month." to strike out "$12" and insert "$20," so as to make the clause read:

The name of Frederick M. Ottmar, late of Company C, Forty-ninth Regiment Iowa Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

The amendment was agreed to.

The next amendment was, on page 3, line 5, before the word "Volunteer," to strike out "Colored," so as to make the clause read:

The name of Emily Patterson, dependent mother of George W. Patterson, late of Company L, Eighth Regiment United States Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 3, after line 6, to strike out:

The name of Elizabeth Fisk, widow of Quincy A. Fisk, late of Company B, First Regiment Indiana Foot Volunteers, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 4, line 4, before the word "additional," to insert "per month"; and, in line 5, before the word "minor," to strike out "four" and insert "the," so as to make the clause read:

The name of Ofa Johnson, widow of Bedford D. Johnson, late of Companies A and C, First Regiment Tennessee Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of each of the minor children of the said Bedford D. Johnson until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 4, after line 17, to strike out:

The name of Rutherford B. H. Kinback, late of Company E, Thirteenth Regiment Pennsylvania Volunteer Infantry, War with Spain, and pay him a pension at the rate of $17 per month.

The amendment was agreed to.

The next amendment was, on page 5, after line 4, to strike out:

The name of Martha Rebecca Young (insane), helpless child of Benjamin H. Young, deceased, who served in Capt. Broadnax's company, Alabama Volunteers, Creek War, and pay to her duly appointed guardian a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 5, line 12, after the word "Mexico." to insert "and widow of Wesley Markwood, alias Samuel Walker, late of Company A, First Regiment Missouri Volunteer Light Artillery,", and in line 15, before the words "per month." to strike out "$20" and insert "$12," so as to make the clause read:

The name of Ida E. Markwood, former widow of John W. Hendley, late of the United States Navy, War with Mexico, and widow of Wesley Markwood, alias Samuel Walker, late of Company A, First Regiment Missouri Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 6, after line 3, to strike out:

The name of Charles H. Bascombe, late musician, Band, First Regiment Rhode Island Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 6, line 11, before the words "per month," to strike out "$20" and insert "$12," so as to make the clause read:

The name of Susan C. Masters, former widow of George D. Williamson, late of Company C, First Regiment Mississippi Volunteer Rifles, War with Mexico, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 6, line 19, after the words "per month." to strike out "for" and insert "on account of," and in line 20, before the word "minor," to strike out "three," so as to make the clause read:

The name of Kathryn M. Denoyer, widow of Frank M. Denoyer, late of Company G, First Regiment Illinois Volunteer Infantry, War with

Spain, and pay her a pension at the rate of $12 per month, and $2 additional per month on account of each of the minor children of the said Frank M. Denoyer until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 7, line 2, after the word "hundred," to insert "and," so as to make the clause read:

The name of Julian C. McClure, late of Company E, One hundred and sixty-first Regiment Indiana Volunteer Infantry, War with Spain, and pay him a pension at the rate of $30 per month.

The amendment was agreed to.

The next amendment was, on page 8, line 1, before the words "per month," to strike out "$24" and insert "$12," so as to make the clause read:

The name of John Beloney, late of Company M, Ninth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 8, line 9, after the word "additional," to strike out "for" and insert "on account of"; in line 10, before the word "minor," to strike out "two"; and in line 11, after the word "they," to strike out "shall have arrived at" and insert "reach," so as to make the clause read:

The name of Dorcas Irene Stewart, widow of Ralph J. Stewart, late of Company A, Eighth Regiment Ohio Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of each of the minor children of said Ralph J. Stewart until they reach the age of 16 years.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. SHIVELY. Order of Busineses No. 558 is next.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 16234) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

The bill had been reported from the Committee on Pensions with amendments.

The first amendment of the Committee on Pensions was, on page 2, after line 2, to strike out:

The name of Mary A. Brown, former widow of Tully McIntire, late of the United States Navy, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 6, line 20, after the words "per month," to insert "such pension to cease upon proof that the soldier is still living," so as to make the clause read:

The name of Annie Green, widow of James H. Green, late of Company C, One hundred and eighteenth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month, such pension to cease upon proof that the soldier is still living.

The amendment was agreed to.

The next amendment was, on page 7, line 13, after the word "late," to strike out "contract" and insert "acting assistant," and in line 14, after the word "surgeon," to strike out "Third Army Corps" and insert "United States Army," so as to make the clause read:

The name of David M. Murray, late acting assistant surgeon, United States Army, and pay him a pension at the rate of $24 per month.

The amendment was agreed to.

Mr. SHIVELY. On page 8, I move to strike out lines 15, 16, 17, and 18, referring to Rufus M. Patterson. The soldier is deceased.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 8, beginning with line 15, it is proposed to strike out:

The name of Rufus M. Patterson, late of Company L, Sixth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 10, line 16, after the word "Cavalry," to insert "and sergeant major Twenty-fifth Indiana Infantry," so as to make the clause read:

The name of William Jones, late of Company G, Tenth Regiment Indiana Volunteer Cavalry, and sergeant major Twenty-fifth Indiana Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 10, line 24, before the word "widow," to strike out "former," so as to make the clause read:

The name of Emeline Collins, widow of William J. Collins, late of Company A, Eighth Regiment Indiana Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 14, line 21, before the name "Daffner," to strike out "Barnard" and insert "Bernard," so as to make the clause read:

The name of Bernard Daffner, late of Thirteenth Independent Battery, New York Light Artillery, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 16, line 6, after the word "Volunteer," to strike out "Infantry" and insert "Cavalry," so as to make the clause read:

The name of Francis S. Altman, late of Company M, Fourteenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 16, line 9, after the word "late," to strike out "of Company," so as to make the clause read:

The name of David Tarver, late unassigned, One hundred and forty-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 17, line 7, after the name "Joseph," to strike out "Macklo" and insert "Mackle," so as to make the clause read:

The name of Mary J. Neary, former widow of Joseph Mackle, late adjutant, Fifteenth Regiment Kansas Cavalry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 18, line 5, after the word "Company," to strike out the letter "B" and insert the letter "H," so as to make the clause read:

The name of William McCracken, late of Company H, Third Regiment New York Provisional Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 19, line 11, after the word "Volunteer," to strike out "Infantry" and insert "Cavalry," so as to make the clause read:

The name of James T. Lott, late of Company F, Eighth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 21, after line 4, to strike out:

The name of John G. Purington, late of Company B, First Regiment New Hampshire Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 22, after line 11, to strike out:

The name of James A. Hillhouse, late of Capt. William F. Roper's Company A, Seventy-sixth Regiment Missouri Enrolled Militia, and pay him a pension at the rate of $24 per month.

The amendment was agreed to.

The next amendment was, on page 23, line 8, before the word "Regiment," to strike out "Twelfth" and insert "Second," so as to make the clause read:

The name of Marion N. Purdy, late of Company E, Second Regiment Minnesota Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 23, line 19, after the words "name of," to strike out "Matthew S. Kinskern" and insert "Mathew L. Kniskern," so as to make the clause read:

The name of Mathew L. Kniskern, late of Company I, Seventy-second Regiment New York Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 24, after line 2, to strike out:

The name of Richard Riggs, late of Company B, Twenty-fifth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 24, line 10, before the words "per month," to strike out "$24" and insert "$20," so as to make the clause read:

The name of Similde E. Forbes, widow of Seloftus D. Forbes, late of Company I, First Regiment Wisconsin Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 24, after line 22, to strike out:

The name of Tillie Bucklin, widow of Andrew J. Bucklin, late of Company C, Fifteenth Regiment United States Infantry, and pay him a pension at the rate of $12 per month.

Mr. SMOOT. I ask that the Senate disagree to that amendment, relative to Tillie Bucklin.

Mr. SHIVELY. I am favorable to that action.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was rejected.

Mr. SMOOT. Now I offer another amendment on the same item. On page 25, line 1, I move to strike out the word "him" and to insert in lieu thereof the word "her."

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 25, line 1, after the word "pay," it is proposed to strike out the word "him" and to insert in lieu thereof the word "her."

The amendment was agreed to.

The next amendment of the Committee on Pensions was, on page 25, line 23, after the name "George," to strike out the initial "W" and insert "H," and, on page 26, line 1, after the word "Volunteer," to strike out "Infantry" and insert "Cavalry," so as to make the clause read:

The name of Alwilda Wheeler, widow of George H. Wheeler, late of Company H, Eleventh Regiment Kentucky Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 26, line 8, before the word "Regiment," to strike out "Fifth" and insert "Fourteenth," so as to make the clause read:

The name of William Marshall, late of Company F, Fourteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 27, line 3, after the name "James," to strike out "Rauhn (insane), Helen Rauhn (guardian" and insert "Rouhan," so as to make the clause read:

The name of James Rouhan, late of Company A, First Regiment Vermont Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 28, line 19, after the word "Volunteer," to strike out "Infantry" and insert "Heavy Artillery," so as to make the clause read:

The name of Mollie Thomason, widow of John W. Thomason, late of Company F, First Regiment Indiana Volunteer Heavy Artillery, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 29, line 8, before the words "per month," to strike out "$24" and insert "$20," so as to make the clause read:

The name of Lydia E. Davis, widow of Lewis P. Davis, late of Company C, Twenty-second Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 30, line 4, after the word "Company," to strike out the letter "G" and insert the letter "E," so as to make the clause read:

The name of Augusta H. Wilson, helpless and dependent child of Marcus G. Wilson, late of Company E, One hundred and forty-fourth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 30, after line 6, to strike out:

The name of Carrie M. Peters, widow of Samuel S. Peters, late of Company H, One hundred and thirty-third Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 31, line 5, after the word "pay," to strike out "to" and insert "them"; and, in the same line, after the word "each," to strike out "for and during the period of her natural life," so as to make the clause read:

The names of Agnes Mann and Mary Mann, helpless and dependent children of Mark Mann, late of Company I, Seventeenth Regiment Iowa Volunteer Infantry, and pay them each a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 31, line 20, before the name "Arentsen," to strike out the name "Regine" and insert "Regina," so as to make the clause read:

The name of Regina Arentsen, widow of Andrew J. Arentsen, late of Company E, Seventh Regiment Kansas Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 32, line 3, after the name "Spitler," to strike out "(insane)," so as to make the clause read:

The name of Darius Spitler, late of Company C, One hundred and sixty-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 33, line 4, after the word "Volunteer," to strike out "Cavalry" and insert "Infantry," so as to make the clause read:

The name of Frederick M. Halbritter, late of Company E, Fifteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 33, after line 22, to strike out:

The name of Frances M. Dumenil, former widow of James A. Riley, late of Company K, Ninth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 35, after line 18, to strike out:

The name of Morton B. Fitts, late of Company C, One hundred and thirty-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 36, after line 14, to strike out:

The name of Roxiana Wells, former widow of Edmund S. Wells, late of Company B, Second Regiment Minnesota Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 37, line 17, before the word "Regiment," to strike out "Sixtieth" and insert "Sixth," so as to make the clause read:

The name of Clara Jane Priest, helpless and dependent child of Peter Priest, late of Company B, Sixth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 37, line 19, after the word "Company," to strike out the letter "D" and insert the letter "G," so as to make the clause read:

The name of Edward Welling, late of Company G, Second Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 37, line 24, after the word "Volunteer," to strike out "Cavalry" and insert "Light Artillery," so as to make the clause read:

The name of Robert R. Moore, late of Company M, First Regiment Michigan Volunteer Light Artillery, and pay him a pension at the rate of $27 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 39, line 15, before the name "Davis," to strike out "Russell" and insert "Russel," so as to make the clause read:

The name of Russel Davis, late of Company C, Fourteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 41, line 5, before the words "per month," to strike out "$30" and insert "$40," so as to make the clause read:

The name of Albert G. Daugherty, late of Company G, Sixteenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 41, line 11, before the word "widow," to strike out "Vaughan" and insert "Vaughn," and in line 12, before the word "late," to strike out "Vaughan" and insert "Vaughn," so as to make the clause read:

The name of Sarah E. Vaughn, widow of Francis J. Vaughn, late of Company L, Fourth Regiment Provisional Enrolled Missouri Militia, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 43, after line 20, to strike out:

The name of Harriet E. Hall, dependent mother of Albert A. Hall, late of Company M, Thirty-first Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 44, line 6, after the word "Volunteer," to strike out "Cavalry" and insert "Infantry," so as to make the clause read:

The name of Henry Brandenburgh, late of Company E, Forty-seventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 44, line 23, before the words "per month," to strike out "$24" and insert "$20," so as to make the clause read:

The name of Charlotte Mahaney, widow of Lloyd Mahaney, late of Company G, Second Regiment (Potomac Home Brigade) Maryland Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 49, line 10, after the name "Joseph," to strike out the initial "E" and insert the initial "R," so as to make the clause read:

The name of Charlott E. Coplan, former widow of Joseph R. Stanley, late of Company G, Forty-seventh Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

Mr. SHIVELY. On page 49, line 9, the word "Charlott" should be spelled with an "e," instead of "Charlott." The letter "e" should be added to the name.

The VICE PRESIDENT. Shall the initial "E." stand, too—"Charlotte E." or "Charlotte"?

Mr. SHIVELY. The initial "E." is to remain, but "Charlotte" is to be spelled with a final "e."

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to add an "e" to the word "Charlott," on page 49, line 9.

The amendment was agreed to.

The next amendment was, on page 51, after line 6, to strike out:

The name of Joseph G. McNutt, late of Company H, Second Regiment New York Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The VICE PRESIDENT. The morning hour having expired, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 13811) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

Mr. SIMMONS. I ask that the unfinished business be temporarily laid aside until the pension bills are concluded.

Mr. SHIVELY. There are only two left.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The bill (H. R. 16345) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Pensions with amendments.

The first amendment was, on page 2, after line 4, to strike out:

The name of Johanna F. Weand, widow of Albert Weand, musician, late of Company F, Forty-seventh Regiment United States Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month and $2 additional on account of the minor child of said Albert Weand until it reaches the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 2, after line 10, to strike out:

The name of Albert G. Jenkins, late of Company H, First Regiment Tennessee Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 4, line 4, before the words "per month," to strike out "$8" and insert "$12," so as to make the clause read:

The name of Lawrence Dempsey, late of Company B, Twenty-second Regiment United States Infantry, Regular Establishment, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 4, line 11, before the word "Infantry," to strike out "Volunteer"; in line 12, after the word "additional," to strike out "for" and insert "on account of"; and in line 13, before the word "minor," to strike out "three," so as to make the clause read:

The name of Carrie Crane, widow of Frank Crane, late of Company G, Twelfth Regiment United States Infantry, War with Spain, and pay her a pension at the rate of $12 per month and $2 per month additional on account of each of the minor children of said Frank Crane until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 5, line 4, before the word "additional," to insert "per month"; in line 5, before the word "each," to strike out "for" and insert "on account of"; and in the same line, before the word "minor," to strike out "five," so as to make the clause read:

The name of Hester A. Milbee, widow of Joseph B. Milbee, late of Company A, Second Regiment West Virginia Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month and $2 per month additional on account of each of the minor children of the said Joseph B. Milbee until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 5, line 23, before the word "additional," to insert the words "per month," and in line 25, before the word "reaches," to strike out "it" and insert "he," so as to make the clause read:

The name of Katherine Hempen, widow of Henry Hempen, late of Company C, Fifth Regiment United States Infantry, Regular Establishment, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of the minor child of the said Henry Hempen until he reaches the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 6, line 9, after the word "account," to insert "of each," and in the same line, before the word "minor," to strike out "three," so as to make the clause read:

The name of Emma J. Schneider, widow of Bernard J. Schneider, late of Company K, Fourth Regiment Ohio Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of each of the minor children of the said Bernard J. Schneider until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 7, after line 3, to strike out:

The name of Charles H. Raymond, late of Company M, First Regiment Wisconsin Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 7, line 11, before the word "Infantry," to strike out "Volunteer," so as to make the clause read:

The name of William H. Shipman, late of Company E, Seventh Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 8, after line 10, to strike out:

The name of Edward East, late of Company M, Second Regiment Mississippi Volunteer Infantry, War with Spain, and pay him a pension at the rate of $17 per month.

The amendment was agreed to.

The next amendment was, on page 9, line 16, before the name "John," to strike out "Captain," and in the same line, after the word "late," to strike out "of" and insert "captain," so as to make the clause read:

The name of Sophie M. Walker, widow of John G. Walker, late captain Company I, — Regiment United States Mounted Riflemen, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The bill (H. R. 17482) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to the widows of such soldiers and sailors, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Pensions with amendments.

The first amendment was, on page 2, line 20, after the word "additional," to strike out "for" and insert "on account of," and in line 21, before the word "minor," to strike out "three," so as to make the clause read:

The name of Myrtle May Hoffman, widow of Werner L. Hoffman, late of United States Marine Corps, War with Spain, and pay her a pension at the rate of $12 per month and $2 per month additional on account of each of the minor children of the said Werner L. Hoffman until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 3, line 9, after the words "per month," to strike out "for" and insert "additional on account of," and in line 10, before the word "minor," to strike out "two," so as to make the clause read:

The name of Jicie B. Smith, widow of Thomas Smith, late of Company C, Thirty-eighth Regiment United States Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month and $2 per month additional on account of each of the minor children of the said Thomas Smith until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 3, after line 23, to strike out:

The name of Sarah A. Shinkle, widow of Eugene M. Shinkle, late of Company I, First Regiment Ohio Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month and $2 per month additional for each of the three minor children of the said Eugene M. Shinkle until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 4, after line 4, to strike out:

The name of Susan I. Keene, widow of James D. G. Keene, late of Company E, Fourth Regiment United States Cavalry, Regular Establishment, and pay her a pension at the rate of $20 per month and $2 per month additional for one minor child of the said James D. G. Keene until it reaches the age of 16 years in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 4, line 21, before the word "Infantry," to strike out "Volunteer"; in line 22, after the word "additional," to strike out "for" and insert "on account of"; and in line 23, before the word "minor," to strike out "two," so as to make the clause read:

The name of Nellie S. Burns, widow of Michael J. Burns, late of Company G, Third Regiment United States Infantry, War with Spain, and pay her a pension at the rate of $12 per month and $2 per month additional on account of each of the minor children of the said Michael J. Burns until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 6, line 10, before the words "per month," to strike out "$30" and insert "$40," so as to make the clause read:

The name of Effie H. Woodruff, widow of Carle A. Woodruff, late of Light Battery F, Second Regiment United States Artillery, Regular Establishment, and pay her a pension at the rate of $40 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 6, line 15, after the words "per month," to strike out "for" and insert "additional on account of," and in line 16, before the word "minor," to strike out "two," so as to make the clause read:

The name of Anna Lefevre, widow of Fred F. Lefevre, late of Company I, Thirty-second Regiment United States Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month and $2 per month additional on account of each of the minor children of the said Fred F. Lefevre until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 7, line 11, after the word "additional," to strike out "for each of the minor" and insert "on account of each of said," and in line 12, after the word "children," to strike out "of the said Warren R. Barlow," so as to make the clause read:

The names of Winnie M. Barlow, Annie A. Barlow, and Niles B. Barlow, minor children of Warren R. Barlow, late unassigned, United States Infantry, War with Spain, and pay them a pension at the rate of $12 per month and $2 per month additional on account of each of said children until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 7, after line 17, to strike out:

The name of Cornelia B. Williams, widow of Harry R. Williams, late captain Company A, Ninth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month and $2 per month additional for each of the two minor children of the said Harry R. Williams until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 8, line 4, before the word "captain," to strike out "who served as a" and insert "late"; in line 6, after the words "per month," to insert "in lieu of that she is now receiving"; in line 8, before the word "minor," to strike out "two"; and, in line 9, after the word "years," to strike out "in lieu of that she is now receiving," so as to make the clause read:

The name of Elizabeth M. Robinson, widow of Edward W. Robinson, late captain in the Thirteenth Regiment United States Cavalry, Regular Establishment, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving and $2 per month additional on account of each of the minor children of the said Edward W. Robinson until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 8, line 12, after the word "Cavalry," to strike out "Regular Establishment," so as to make the clause read:

The name of Alfred L. Runyan, late of Company M, Nineteenth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 8, line 25, before the word "reaches," to strike out "it" and insert "she," so as to make the clause read:

The name of Josephine Gallenne, widow of Jean B. D. Gallenne, late of Company M, Seventh Regiment United States Cavalry, Regular Establishment, and pay her a pension at the rate of $12 per month and $2 per month additional on account of the minor child of the said Jean B. D. Gallenne until she reaches the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 10, line 17, before the word "mother," to insert "dependent," and, in line 19, after the word "Infantry," to insert "War with Spain," so as to make the clause read:

The name of Joanna C. Roper, dependent mother of David C. Roper, late of Company D, Tenth Regiment United States Infantry, War with Spain, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 11, line 11, before the word "minor," to strike out "one" and insert "the," and, in line 12, before the word "reaches," to strike out "it" and insert "he," so as to make the clause read:

The name of Mary E. Andrews, widow of William B. Andrews, late of Company M, First Maryland Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of the minor child of the said William B. Andrews until he reaches the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 12, line 3, after the word "additional," to strike out "for" and insert "on account of," and in the same line, before the word "minor," to strike out "four," so as to make the clause read:

The name of Annie O. Hutson, widow of Thomas O. Hutson, late contract surgeon, United States Army, Regular Establishment, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving, and $2 per month additional on account of each of the minor children of the said Thomas O. Hutson until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 12, line 7, before the word "Company," to strike out "who served in the War with Mexico in" and insert "late of," and in line 8, after the word "Volunteers," to insert "War with Mexico," so as to make the clause read:

The name of Josephus Shackelford, late of Company D, Anderson's Battalion Mississippi Volunteers, War with Mexico, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 12, after line 22, to strike out:

The name of Victoria A. Davis, widow of Avery E. Davis, late of Company G, Fifth Regiment Ohio Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of each of the two minor children of the said Avery E. Davis until they reach the age of 16 years.

The amendment was agreed to.

The next amendment was, on page 13, line 11, after the words "United States Navy," to insert "War with Spain," so as to make the clause read:

The name of James H. Lacy, late of the United States Navy, War with Spain, and pay him a pension at the rate of $20 per month.

The amendment was agreed to.

The next amendment was, on page 13, line 15, after the word "Infantry," to insert "War with Spain," so as to make the clause read:

The name of Theodore T. Simon, late of Company H, Thirteenth Regiment Minnesota Volunteer Infantry, War with Spain, and pay him a pension at the rate of $17 per month.

The amendment was agreed to.

The next amendment was, on page 13, line 20, before the word "Infantry," to insert "Volunteer"; in the same line, after the word "Infantry," to insert "War with Spain"; and in line 21, after the words "per month," to insert "and $2 per month additional on account of each of the minor children of the said William T. Woods, until they reach the age of 18 years," so as to make the clause read:

The name of Catherine Woods, widow of William T. Woods, late of Company G, Second Regiment New York Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month and $2 per month additional on account of each of the minor children of the said William T. Woods until they reach the age of 16 years.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

HILO, HAWAII, STREET RAILWAY.

Mr. SHAFROTH. Mr. President, there is a bill on the calendar which I have reported from the Committee on the Pacific Islands and Porto Rico with relation merely to the extension of a franchise for a street railway that passes Government land. The present franchise expires on the 1st day of August, and something must be done before that time in order to let them operate. They have expended $15,000 there, and they will forfeit $5,000 if the franchise is not extended for two years. It is a simple bill; it has passed the House; it has been recommended by the department and recommended by the governor of Hawaii; and it seems to me that it ought to pass without any question. I ask unanimous consent for the consideration of House bill 8660.

The VICE PRESIDENT. Is there objection?

Mr. RANSDELL. I shall not object to the consideration of this bill under the statement made by the Senator from Colorado, but I wish to announce that I shall object to any other bills. I am anxious to have the river and harbor bill proceeded with.

Mr. BORAH. As I understand the Senator from Louisiana, he is willing to let this bill pass, but he will object to all others.

Mr. RANSDELL. Yes, sir. I knew nothing about this bill before the Senator from Colorado rose, but under the statement which he made I think it presents a very strong case. However, I shall be compelled to object to others in order that we may proceed with the river and harbor bill.

Mr. BORAH. I am not going to object to the bill. I merely wish that the Senator would extend his mercy a little.

The VICE PRESIDENT. Is there objection to the consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 8660) to amend section 4 of an act entitled "An act granting a franchise for the construction, maintenance, and operation of a street railway system in the district of South Hilo, county of Hawaii, Territory of Hawaii," approved August 1, 1912.

It proposes to amend section 4 of the act so that the first paragraph of subsection (e) thereof shall read as follows:

(e) The construction of the railway shall be commenced, and at least the sum of $20,000 shall have been expended or contracted to be expended within four years after the passage of this act by the Congress of the United States, and at least 2 miles shall be completed, equipped, and ready for the transportation of passengers within two years after such commencement.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RIVER AND HARBOR APPROPRIATIONS.

Mr. BURTON. Mr. President, I will occupy the floor, if no one on the other side among the advocates of the bill desires to proceed.

Mr. SIMMONS. I will say to the Senator I think it is the general desire that he shall occupy the floor until he has concluded his remarks.

Mr. BURTON. I wish again, Mr. President——

The PRESIDING OFFICER (Mr. BRYAN in the chair). The Chair calls the attention of the Senator from North Carolina to the fact that the river and harbor bill was temporarily laid aside for the consideration of the pension bills, and it has not been again laid before the Senate.

Mr. SIMMONS. I ask that the unfinished business be again laid before the Senate and proceeded with.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 13811) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

Mr. BURTON. Mr. President, yesterday at the close of my remarks I was dwelling upon the harbors of the country. I desire, in the first place, to point out the difference in the results achieved by harbor improvements and those gained by river improvements and to make the statement that, in a general way, appropriations for harbors have been profitable, have promoted the commerce of the country, and have not been subject to the criticisms which can be visited upon the improvements of rivers.

At the top of column 2, page 12423, of the RECORD, a list is given of the harbors of the United States on which more than $5,000,000 has been expended, in the relative order of their commerce for the last year for which figures are available. I regret that it is not possible to make this statement more satisfactory. There exists, first, the difficulty of obtaining accurate facts as to traffic, and the question is still further complicated by the existence of subsidiary and subordinate channels in or near to the main body of many harbors. For instance, in the port of New York we have the Hudson River, the East River, and the channels in the east side of the bay; we have also Newtown Creek, in Brooklyn, and a very large number of smaller channels, which are virtually portions of the port of New York.

In Boston, in addition to the main harbor, there is Chelsea Creek, also the Mystic and Malden Rivers, the Fort Point Channel, and the Neponset River, with others, perhaps, near at hand which are essentially a portion of the harbor.

The question is still further complicated when we come to consider the expenditures upon these various improvements. A part of the expense for New York City is the harbor proper, including the approaches to the city; a part is for the Bay Ridge and Red Hook Channels; a part for East River and Hell Gate, between New York City and Brooklyn; a small amount for the improvement of the Hudson River between New York and New Jersey, the city of New York on the one side and the cities of Jersey City and Hoboken on the other.

The difficulty of giving any accurate classification is illustrated by the necessity for using eight footnotes in explaining conditions pertaining to 15 harbors. I can not claim that this table is absolutely accurate, but I think it is as nearly correct as any statistics which have been prepared.

Yesterday I took up the three harbors having the largest tonnage traffic, New York City, Duluth-Superior, and Philadelphia. In this connection it is appropriate to say that there are divers standards to determine the importance of a port. One would be the value of the exports and imports or of the receipts and shipments. Another, particularly pertinent to foreign trade, would be the proportions between foreign and domestic trade. Still another would be the net tonnage of boats entering and clearing. The fourth, and the one which is generally accepted as the most perfect standard of the prominence of a port, is the quantity of freight or tonnage received and shipped.

There are obvious reasons why this fourth standard or rule should be adopted. The test of a port, the necessity for depth and provision for vessels of considerable size, all these are determined by the quantity of freight handled more than by any other consideration, and thus a port which receives great quantities of coarse material of low value we put ahead of one which receives a smaller amount of freight, though of much higher value. I may say that this has been the generally accepted rule, because it determines more nearly than anything else the facilities which should be afforded for the entrance of boats for anchorage space and for wharfage. This is true, though, that a hundred tons of iron ore may be less valuable than a single ton of silk or some expensive fabric.

Passing by these first three harbors, the next two of importance in the United States, judged by their tonnage, are Buffalo and Cleveland. It is a significant fact and a sufficient proof of the supreme importance of the Great Lakes in our inland navigation, and indeed in our commercial life, that out of the five ports in the United States having the greatest amount of traffic three are on the Great Lakes—Duluth-Superior, Buffalo, and Cleveland. They are included in the same list of five with New York City and Philadelphia, and if we select ports having a tonnage of 10,000,000 or more, there are six in number, and three of those are on the Great Lakes, the sixth in rank being the port of Baltimore.

On the Great Lakes, at least in these two ports, there is a somewhat different rule as to the division of improvements. The Government furnishes a channel from deep water of the lake to the mouth of a creek or river which is utilized for an inland harbor. Beginning in deep water, jetties or piers are constructed, extending from the lake usually to a point approximately the same as the original shore line, but in view of the extensions out into the water, which have occurred in the large cities, these piers now extend inland somewhat beyond the original water line.

Inside of that point the cities of Buffalo and Cleveland take care of their own harbors, and in that inside portion of the harbor created by Buffalo Creek in the city of Buffalo and by Cuyahoga River in the city of Cleveland, the major part of the freight traffic is handled.

It should also be said of these two ports that the Federal Government has constructed at both cities elaborate breakwaters outside in Lake Erie within which boats may go for shelter and for anchorage, and incidentally, the construction

of the breakwaters makes available very valuable dock lands on the water front inside the area protected by them.

I am not familiar with the amounts expended by the city of Buffalo upon Buffalo Creek. I recall that some years ago the Rivers and Harbors Committee of the House discovered that the city was not only paying the full expense of its inner harbor but was paying for the expense of dredging between the piers through which the channel from the lake reaches the interior portion. The injustice was so marked that this was corrected, and the Federal Government has undertaken the cost of this expenditure for dredging between the piers.

In the city of Cleveland approximately $3,500,000 has been expended by the municipality for the improvement of this inner harbor, though it is a kind of work which, in many other cities and many other ports, is paid for by the Federal Government.

The city of Buffalo has a tonnage of 17,923,766 tons; the city of Cleveland a tonnage of 14,296,078 tons. In both cases it must be said that the traffic is made up very largely of iron ore and of coal and other similar coarse material. Nevertheless these two harbors are crowded with boats every day during the navigation season of approximately eight months or somewhat less, and only with the utmost difficulty are facilities afforded for anchorage and for wharf room.

This is in a measure remedied by the most perfect loading and unloading machinery to be found anywhere in the world. The ore boats can discharge their cargoes in four or five hours. They are then able to take on a cargo of coal in even less time and go upon their way. If it were not for this equipment for handling traffic the congestion in these two harbors would be intolerable. But as a result of that the average stay of a boat in port is less in the lake harbors than in any other ports of the world.

Mr. KENYON. Mr. President, I should like to ask the Senator how these harbors and ports compare with those of other countries. Has the Senator discussed that or does he intend to discuss it?

I observe there are only three of the majority party here, but I shall not call for a quorum.

Mr. BURTON. Oh, no.

Mr. KENYON. I know the Senator wants to proceed and I will not make the demand.

Mr. BURTON. I could discuss that now, but I should prefer, however, to finish the description of the harbors of the United States, and if I then forget it the Senator will kindly call it to my attention.

Mr. KENYON. I wish to correct my statement. I observe that there is one of the majority on that side in the chair, making four, but I will not call for a quorum.

Mr. BURTON. I should prefer that the Senator would not make that call.

The next harbor in line, the sixth in the United States, is that of Baltimore. The improvement of this harbor has consisted largely in dredging the Patapsco River. The harbor is of three divisions—the main portion, southwest Baltimore or Spring Garden, and Curtis Bay. This is another one of the harbors reached by a river. It is made available by dredging in a bay, and in counting the expense for the harbor it seems fair to include the dredging of bay or river channels leading to the wharves. The main portion of the harbor requires dredging 20 miles to deep water in Chesapeake Bay—11 miles in Patapsco River and 9 miles in the bay—and also dredging for some 4½ miles in Chesapeake Bay near its outlet to the sea, about 150 miles from Baltimore. The depth required here is 35 feet. The tide is slight, only a foot or a foot and a half; but in view of the ease with which boats can pass through the river to the wharves, the draft of boats which can enter Baltimore is very nearly as much as the depth of the river. This is not true in many other harbors and in other streams. The disturbance by waves is such that, in addition to the usual depth, an allowance of some feet is necessary for the element of safety.

As I have already mentioned, as a subsidiary portion of this harbor, there is also southwest Baltimore or Spring Garden, with a draft of 27 feet and a harbor 2 miles long and a half a mile wide. Provision was made for this during the last decade, and one reason was that the available wharf room in Baltimore proper was so largely consumed. There is also Curtis Bay, a tidal estuary of the Patapsco River about 6 miles southeast of Baltimore Harbor, with an ordinary draft of 30 feet, and the length of the improved section is 2½ miles.

I seem to have made one unfortunate omission. I am not sure that the amount expended upon it is $5,000,000, but in the importance of their harbor Norfolk and Newport News assume a very important place. The traffic in these harbors is growing rapidly, and they possess excellent natural facilities for all purposes of traffic. Those harbors are omitted here because the total expenditures for the two have not reached $5,000,000. However, in any enumeration of ports in the United States those two must be prominently mentioned.

The next harbor in the order of traffic on which $5,000,000 or more has been expended is Portland, which is reached by the Columbia and Willamette Rivers. The figures given in this table do not quite correctly describe the total traffic; they include more than the traffic of the harbor of Portland. There is a very considerable amount of logging and of other traffic in the Columbia River below the mouth of the Willamette which does not go down to the mouth of the river. The expense of this channel, however, looms very large. It is perhaps the third in cost in the United States, exceeded only by New York City and Philadelphia. The total amount expended upon it to date is $15,525,789.

The next harbor in order of importance is New Orleans. Until within less than 10 years the port of New Orleans, 114 miles from the mouth of the Mississippi River, was reached by boats passing through the South Pass. This was under a plan devised by Capt. Eads many years ago. There are three exits, if you may call them such, of the Mississippi River, and, correspondingly, three entrances from the Gulf—Southeast Pass or Pass a Loutre, South Pass, and Southwest Pass. An elaborate examination was made a short time prior to the year 1900, and the decision was reached that the best of the three for obtaining access to the deep water of the Mississippi behind the passes, and through it to New Orleans, was by the Southwest Pass; that the disadvantages of the South Pass were so considerable that it was desirable to abandon it and to depend entirely upon the Southwest Pass. In pursuance thereto the improvement was undertaken, and it has been prosecuted at great expense. The total expense of these two passes—and there are other expenses not included here, and which are not given in the statement to which I have referred in the RECORD—has been $10,357,288. The total traffic is 4,279,947 tons, which is, however, of a very valuable character.

The next harbor in the importance of its traffic is Galveston, improved at an expense of $9,932,834, with a traffic of 4,117,524 tons. It should be borne in mind, however, that this traffic is made up very largely of two great staples—corn and wheat; that in the last year the value of the exports from the harbor of Galveston was second only to those from New York City; and that there is also this encouraging feature of the port, that the value of its exports is rapidly increasing.

There are few harbors in the United States which have conferred a greater benefit upon the country than Galveston. There was a great region to the west of New Orleans absolutely without any well-developed port. There were divers harbors, but either channels were insufficient or other handicaps prevented their general use. Beginning in the year 1890 an improvement was made at Galveston, and it has justified every dollar of its expense. It has added to the price of wheat in that region west of the Missouri, extending north as far as to include Nebraska. It has not only afforded competition in routes under which grain can be sent either to the Atlantic seaboard or to the Gulf, but has proven that from localities which found their market in the East grain can be sent to the Gulf and then shipped abroad at less expense than if shipped by way of New York or other Atlantic seaports. Roughly speaking, when you reach the Missouri River you are on the dividing line; it is a question whether it is more profitable to ship from Kansas City or Omaha to the Gulf or to the Atlantic seaboard; but with a grain field located west of the Missouri River the advantage is naturally in shipping to the Gulf. On the other hand, when the grain field is located east of the Missouri River, generally speaking, it is advantageous to ship to the Atlantic seaboard. This generalization is perhaps subject to some limitations, but that remains the general fact, and very largely the reason for this situation is the development of the port of Galveston.

Mr. GALLINGER. Mr. President, will the Senator from Ohio yield to me?

Mr. BURTON. Yes.

Mr. GALLINGER. Mr. President, it is evident that this bill can not be passed without Democratic votes. There are only two Democrats on the other side of the Chamber, two on this side, and one in the chair. I make the point that there is no quorum present.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Burton	Clarke, Ark.	Jones
Bankhead	Camden	Colt	Kern
Borah	Catron	Crawford	Lane
Brady	Chamberlain	Gallinger	Lea, Tenn.
Brandegee	Chilton	Hughes	Lewis
Bryan	Clark, Wyo.	James	Martine, N. J.

Nelson	Saulsbury	Smith, Mich.	Thornton
Norris	Shafroth	Smoot	Tillman
Overman	Sheppard	Stone	Vardaman
Page	Shively	Sutherland	West
Perkins	Simmons	Thomas	White
Ransdell	Smith, Ga.	Thompson	

The PRESIDING OFFICER (Mr. WEST in the chair). Forty-seven Senators have answered to their names. There is not a quorum present. The Secretary will call the names of absent Senators.

The Secretary called the names of the absent Senators, and Mr. POMERENE responded to his name when called.

Mr. SMITH of Arizona entered the Chamber and answered to his name.

The PRESIDING OFFICER. Forty-nine Senators have answered to their names. A quorum of the Senate is present.

Mr. BURTON. Mr. President, the draft of water which can be utilized by boats to Galveston is 30 feet, with an insignificant tide of from 1 to 2 feet; indeed, in the portion some 4½ miles in length leading from the outer bar to the anchorage there is a depth varying from 30 to 33 feet. For a long time traffic in this harbor was carried on a draft of 25 feet and less, but Congress, with the most assiduous care, has provided for a necessary increased depth to take care of the growing commerce of the port.

It must be said that there have been some expenditures on this harbor which can hardly meet with general approval. No one will complain of the construction of the jetties so as to provide a channel from deep water in the Gulf, or of bringing that deep channel to the anchorage grounds; but a considerable sum of money has been expended for dredging a channel, part of the way 1,200 feet wide, up to what is called Fifty-first Street, and then still farther from Fifty-first to Fifty-seventh Streets 1,000 feet in width. This is immediately adjacent to private property, and does not commend itself as a wise rule for the expenditure of public money. There should be a clearly defined distinction between the money spent by municipalities and individuals on the one hand and by the General Government on the other. The dividing line would naturally be placed at a point near the water front of the city. No one would object to bringing deep water from the sea outside through channels to a point near the city, but when it is necessary to excavate so that wharves can be constructed and boats handled adjacent to them the expenditure is less justifiable.

There is, however, one point in connection with this harbor that must be taken into consideration and that is the misfortune of almost unprecedented magnitude which befell that municipality in the year 1900, which exhausted its taxing power, hampered its growth, and justified an exception in this case. So this channel has been extended along the water front near to the wharves, although those wharves are constructed and owned by a private corporation or by railroad companies as a part of their terminals.

In connection with Galveston Harbor there is a channel to what is called Texas City on the mainland, another to Port Bolivar, and another, 58½ miles in length, to the city of Houston, the last mentioned part of the way through open water and part of the way through a narrow stream.

I may say in this connection that in the great State of Texas there is at present a very limited supply of harbors. There is one located on the boundary line between Texas and Louisiana at Sabine Pass, and one at Port Arthur, both of which are located in the State of Texas. Then there is Galveston; there is another at the mouth of the Brazos—Velasco—which, however, is very little developed; and an attempt is being made to develop still another at Aransas Pass. Up to date this has not met with very great success in the handling of traffic, although a very considerable amount of money has been appropriated for it. It is evident that if a harbor can be developed at Aransas Pass, that should be done, as otherwise it is necessary for those in the westerly half of the State of Texas to carry freight across the State of Texas for very long distances in order to reach a suitable port.

The next port on which more than $5,000,000 has been expended, in the order of its commercial importance, is the port of Savannah, having a traffic of 3,120,676 tons. There has been expended upon the harbor and the river leading to it, up to June 30, 1913, the date to which all these figures are given, the sum of $10,456,747. In proportion to its traffic Savannah has been one of the most expensive of our ports. It has been necessary to provide a channel from a point outside the bar, 26 miles from the city of Savannah, to the wharves of the city; that channel has also been extended to the waterworks, 2 miles above the city, and there is a project under way for its partial extension still farther.

I must say, in passing, that the improvement along in front of the wharves of the city would more naturally be undertaken by the city itself. On the other hand, this port in its exports has shown perhaps the greatest percentage of increase in the last three years, an increase amounting to as much as 100 per cent.

It may be interesting to note the increase in the exports of several of our leading ports in order that we may ascertain to what extent these harbors are beneficial to the trade of the country. The value of the exports from the port of New York between the 30th of June, 1909, and the 30th of June, 1912, a period of three years, increased from $607,000,000 to $817,000,000. The exports from the port of Galveston increased from $189,000,000 to $285,000,000, an increase of from 55 to 60 per cent, and in money of nearly a hundred million dollars.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from North Carolina?

Mr. BURTON. Certainly.

Mr. SIMMONS. Mr. President, the Senator from Ohio has for a long time been discussing various harbors. He is taking them up one by one in the order of their commercial importance, and he has given the Senate, as he always does, a very interesting history of the different harbors; but I have not up to this time heard the Senator criticize anything in this bill pertaining to the several harbors about which he has been speaking.

The Senator has given us assurances heretofore that he is not filibustering in connection with this legislation. Does the Senator propose, after he has finished this history of the different harbors, to point out to the Senate wherein this bill appropriates money with reference to these harbors improperly or wherein this bill omits to make proper appropriation for these harbors?

Mr. BURTON. I think it will be comparatively easy, Mr. President, to show some defects in our system, and I shall try to do that if I am not interrupted. On the other hand——

Mr. SIMMONS. Will the Senator allow me to ask him another question?

The PRESIDING OFFICER. Does the Senator from Ohio yield further?

Mr. BURTON. Yes; certainly.

Mr. SIMMONS. Does the Senator complain of any of the appropriations made in this bill for any of the harbors which he has been discussing?

Mr. BURTON. I have already criticized the appropriations for a portion of the harbor at Galveston, and if the Senator from North Carolina had followed my remarks he would have noticed that I also made a criticism as to the port of Savannah, which was this: I maintain that the proper place for the Government to stop in bringing a channel to a city is at the lower limit of that city, and then let the city dredge in front of its wharves at municipal expense.

Mr. SIMMONS. That is a general criticism. Does the Senator complain that this bill carries for those harbors any appropriation that is not a proper provision for the improvement or the maintenance of an improvement in those harbors?

Mr. BURTON. It does, as I recall, both for improvement and maintenance. Not only is provision made for a channel to the waterworks of Savannah, 2 miles above the city, but also to a locality beyond that, as I understand it. This is referred to in the report on page 533.

Mr. SIMMONS. To what harbor is the Senator referring?

Mr. BURTON. The harbor of Savannah. I am quite sure that in about the year 1912 provision was made in the bill for carrying the channel still further up the river. I read from page 535:

> The river and harbor act approved July 25, 1912, extended the existing project in accordance with plan printed in House Document No. 563, Sixty-second Congress, second session, so as to provide for improving the Savannah River from the upper limits of the present project.

Which is 2 miles above the city already—

> to the foot of Kings Island by the excavation of a channel 21 feet in depth at mean low water, and 300 feet in width, at an estimated cost of $140,000. * * *
>
> The expenditures to June 30, 1913, under the 21-foot project of July 25, 1912, amounted to $49,927.82, all of which was for the accomplishment of the project. The outstanding liabilities were $20,136.94.

I am not absolutely certain whether there is a project for part of that expenditure in this bill, but at any rate there must be some provision for its maintenance. Indeed, there is still another provision here which I should like to examine, referred to in another House document, No. 290, Sixty-first Congress, first session.

Mr. President, I speak of that as an objection to the form of river and harbor appropriations which we have been making,

but I wish to go further than that in discussing this bill. It is time for us to review this whole subject. I have sought to sever here the best of the bill, that which is least objectionable. I shall make some criticisms upon the way in which this money has been expended, but then I wish to paint the other side of the picture, the appropriations which are being made, in many instances of equal amounts, that are almost thrown away.

I do not believe the Senator from North Carolina or any other advocate of this bill desires that it shall be condemned as altogether bad, and I do not see that I should be criticized or questioned for endeavoring to call attention to the items that are worthy of approval and selecting them from the many errors which abound in this vitiated bill.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from North Carolina?

Mr. BURTON. Certainly.

Mr. SIMMONS. I understood the Senator had referred to quite a number of harbors in his discussion. In response to my inquiry if he had a criticism to make of anything in this bill in reference to those harbors, he specified the harbor of Savannah. I do not find in the bill anything with reference to the harbor of Savannah except the following:

For maintenance, $250,000; completing improvement in accordance with the report submitted in House Document No. 200, Sixty-third Congress, first session, and subject to the conditions set forth in said document, $154,000.

Does the Senator criticize that particular item in the bill?

Mr. BURTON. It is subject to criticism if part of this amount is expended for improving the portion above the city and above the waterworks.

Mr. SIMMONS. Is the Senator aware of the fact—I think it is a fact—that this appropriation is not for improvement above the city?

Mr. BURTON. But it is for maintenance of the harbor as adopted by the different projects, first taking the river up to the city 2 miles above the waterworks, and then up to Kings Island. I do not know how far above that is.

Mr. SIMMONS. Has the Senator examined that item? I am advised, and I think it is true, that this is for the improvement of the harbor up to the city; and I understood the Senator had approved that character of appropriations, especially with reference to the important harbors of the country.

Mr. BURTON. Oh, I think so; to a point near the lower portion of the city. I should say that so far an improvement was justifiable, and the criticism I am making is not of the most serious nature. One of the worst instances in this connection that happened during the last decade was in regard to Richmond and the James River. There was a constant conflict between the general improvement of the river, bringing the channel up to the city, and one for dredging—and it was rock dredging, too—just in front of wharves in the city. A hasty examination of this provision in the act of 1913 does not make clear to me just what the improvement was which we provided for in that year.

Next, I wish to consider the harbor of Boston; and in commenting upon this it is evident that these traffic figures do not do it justice. Some six or eight years ago it was suggested to persons coming here from Boston that it would be well for them to transmit to us more accurate figures of the freight handled in that harbor, and the promise was made that it would be done; but I do not find in the reports any complete statistics on this subject. They seem to have followed, in a measure, the custom in many European cities of giving special prominence to foreign commerce, and neglecting for the most part the domestic commerce. On that harbor the sum of $11,176,774.74 has been expended.

The next is the harbor of Mobile.

Mr. KENYON. Mr. President, I should like to ask the Senator a question before he leaves Boston Harbor. Has there not been some plan of cooperation there between the Government and the State and the municipality?

Mr. BURTON. On a small scale only; for instance, in the Neponset River, I believe, which is a part; but in the case of the general channels out through President Roads, and so forth, and even these up the Mystic and Malden Rivers, the Federal Government has paid the expense. There have, however, been an exceptional number of instances of cooperation in Europe. There is a place for criticism, too——

Mr. KENYON. I had understood that either the municipal government or the State had expended a large sum of money there.

Mr. BURTON. The State has expended a very large sum of money in building wharves and terminals—the State or the city, I do not know which it is.

Mr. KENYON. But not in improving the harbor?

Mr. BURTON. But not in dredging the channels, unless it be near or next to the wharves or terminals.

Mr. KENYON. Is a part of the ownership of the shore there in the city?

Mr. BURTON. I think so; though I am not certain about that.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from New Hampshire?

Mr. BURTON. I do.

Mr. GALLINGER. I just caught an observation by the Senator from Ohio in reference to the fact that most of these improvements were made in the interest of foreign commerce rather than domestic commerce. Did I understand the Senator correctly?

Mr. BURTON. I should hardly say that.

Mr. GALLINGER. That would be true of the harbor of Galveston, would it not?

Mr. BURTON. It is for a very salutary purpose, to provide channels so that our commerce may be carried on with foreign countries.

Mr. GALLINGER. Yes.

Mr. BURTON. I could give the Senator some figures on that subject, showing that there is very little traffic coming into Galveston Harbor. The imports are very small. For instance, in the fiscal year ending June 30, 1912, the imports were $4,309,758. The exports were $218,146,097; so that the exports were 53 times as great as the imports. I think that is probably the largest disproportion of any port in the country.

Mr. GALLINGER. I have understood that to be so. If I remember correctly, we have spent on Galveston Harbor and waterways in the immediate vicinity something like sixteen or seventeen million dollars.

Mr. BURTON. Including the Houston Channel, the Texas City Channel, Port Bolivar, and all, it would be not far from that amount.

Mr. GALLINGER. Now, may I ask the Senator to repeat what the exports are from that port?

Mr. BURTON. Two hundred and eighteen million one hundred and forty-six thousand and ninety-seven dollars in 1912.

Mr. GALLINGER. And, Mr. President, that enormous exportation of American goods was carried from Galveston exclusively in foreign ships, with the exception of one American schooner.

Mr. BURTON. I think so.

Mr. GALLINGER. We have an American schooner going out of Galveston carrying the Stars and Stripes at its masthead; and all the rest of that enormous commerce is carried abroad in foreign ships.

Mr. BURTON. Of course this is true, to answer further the question of the Senator from New Hampshire. So far as our domestic shipping is concerned, it would hardly be necessary to provide the same depth and width as for the foreign ships, the great ships that are engaged in the trans-Atlantic trade, but the two are so associated that no one can divide them. In improving a harbor, naturally and necessarily provision would be made both for the domestic commerce and for the foreign commerce.

Mr. GALLINGER. I will ask the Senator from Ohio if it is not a fact that all this extreme depth that we have been compelled to appropriate for in the various harbors of the country has been for the accommodation of foreign ships rather than for American ships?

Mr. BURTON. I should say perhaps that is true; yes. If, however, this traffic were carried in American ships—that is, the traffic to Europe—you would have to have the same sized channels. Presumably we would have just as good ships as they have. We would take advantage of modern economies by building big boats, with ample draft and beam; and I have always regarded the fact that they belonged for the most part to foreigners as incidental rather than otherwise. That, I think, ought not to stand in the way of our improving our harbors, because suppose every foreign flag should be kept out and the freight should be carried by our own ships, we would wish ample depth and ample channels and all proper facilities just as we now provide them.

Mr. GALLINGER. Mr. President, I quite agree with the Senator on that point. What I wanted to emphasize was the fact that we have not any American ships, and we are spending $100,000,000 in this bill, directly and indirectly, to improve our waterways when our ships have been blotted from the oceans of the world. I see no evidence of Congress being willing to make any appropriation to rehabilitate the American merchant marine. That is the point I had in mind.

Mr. RANSDELL. Mr. President, if I may be permitted just one suggestion, while I should like to see American ships carrying our commerce, I think the Senator from Ohio will agree with me that this wonderful commerce from Galveston Harbor, which he applauds so highly, as I understand, has been very beneficial to Americans. I remember that when they were agitating for the improvement of Galveston Harbor the people of the State of Kansas were among its strongest advocates, saying that a deep harbor at Galveston would enable them to get their grain to Europe very much cheaper than they possibly could in any other way; and I remember a recent statement from one of the owners of the biggest ship line in Boston, saying that the deepening of the channel to 35 feet had reduced the freight charge there on trans-Atlantic commerce fully 50 per cent. So the American people get the benefit of these deeper channels and harbors, even if the goods are not carried in American bottoms.

Mr. KENYON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. BURTON. I yield to the Senator.

Mr. KENYON. The discussion seems to have reached rather an interesting point at this time——

Mr. BURTON. I should like to finish a matter I have in mind before the Senator calls for a quorum.

Mr. KENYON. I observe that there are only seven of the majority party present. It seems to me there should be a larger attendance.

Mr. BURTON. I should like the Senator to postpone that for a little while.

Mr. KENYON. Of course I will defer to the wishes of the Senator from Ohio.

Mr. BURTON. I notice, in looking over the figures here, that there is a wide variance between those which I have read in the hearing of the Senate from the report of the Chief of Engineers, volume 1, page 767, and those given in the Statistical Abstract. It shows that if anyone wishes to have his nerves racked there is no more certain or immediate way to accomplish it than by trying to obtain accurate statistics. In the report of the engineers, on page 767, the total value of exports from the port of Galveston, in 1911–12 is given as $285,864,831. In the Statistical Abstract, on page 766, it is given as $218,146,097.

Let me give the amounts again, side by side. In the report of the engineers it is $285,864,831. In the Statistical Abstract it is $218,146,097. There is a difference of $67,000,000 between the two tables. I should presume that the figures as given in the Statistical Abstract were correct; but in any event the figures make Galveston the second exporting harbor of the United States.

I will run briefly through the others, showing the exports from the different harbors.

Mr. BURTON. New Orleans, $144,000,000 in 1908–9; $149,000,000 in 1911–12.

Philadelphia, $84,000,000 in 1908–9; $69,000,000 in 1911–12.

Boston, $76,000,000 in 1908–9; $69,000,000 in 1911–12.

Baltimore, $77,000,000 in 1908–9; $92,000,000 in 1911–12.

Savannah, $50,900,156 in 1908–9; $104,286,925 in 1911–12.

These figures show that the percentage of increase in that port has been greater than in any of the large ports of the country.

The next harbor, to which I have already made brief reference, is Mobile Bay and Harbor, 2,210,486 tons.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from North Carolina?

Mr. BURTON. Certainly.

Mr. SIMMONS. The Senator, before his attention was diverted, was discussing Boston Harbor.

Mr. BURTON. Yes.

Mr. SIMMONS. I should like to ask the Senator a question before he leaves Boston Harbor. I shall not disturb the Senator again in this connection, and I would not do so now, but I think the impression of some is that the Senator in discussing these harbors is inferentially criticizing something in the bill with respect to these harbors. That probably grows out of the idea that the Senator would not be discussing these harbors unless he were doing so with some pertinence toward the bill.

Mr. BURTON. Let me correct the Senator from North Carolina in that respect. He, of course, in the utmost good faith, has misapprehended the course of my remarks. I do say that certain appropriations in connection with these harbors do deserve criticism, and before I am through I intend to point out in what regard they are subject to criticism, rather by the expression of general principles which should be observed than by criticism of any specific harbor, but I earnestly desire to go into the whole subject. If the harbors are free from criticism—and I think, for the most part, our policy in that regard has been free from criticism—why, let us know it. This discussion has in view a reform, an improvement in our river and harbor legislation; and if there is something that we had better indorse and leave as it stands, I feel that I ought to state it.

Mr. SIMMONS. Mr. President, I wish to inquire of the Senator whether he has any objection to the two provisions in the bill with reference to Boston Harbor. I find two, and only two, in the bill. One is:

Improving harbor at Boston, Mass.: For maintenance, $200,000.

The other is:

Improving Boston Harbor, Mass., in accordance with the report submitted in House Document No. 931, Sixty-third Congress, second session, $400,000: *Provided*, That no part of this appropriation shall be used for the purchase of a dredge.

I wish to ask the Senator if he disapproves of those items, and whether, as a matter of fact, and as a member of the committee, he has not expressly approved them?

Mr. BURTON. To go into the secrets of the committee room, I expressed the opinion that Boston was a very important harbor, but I thought the appropriation with a view to a depth of 40 and 45 feet even for a portion of the channel would create a precedent that might cause claims from other harbors of similar rank. Part of that appropriation was with a view to obtaining a depth of 45 feet. One of the engineer officers gave as a reason for it that in the outer portion of the channel, next to the ocean, there were sometimes very rough seas, the bottom of the channel was rocky, and a ship coming in from outside in case of storm, if it were a ship of heavy draft, such as 35 feet, or something of that kind, might be pounded against the bottom or side of the channel.

While I feel that Boston is a very important port, it does seem to me that this is a little in advance of what we are doing in other cities. Baltimore has only 35 feet. Philadelphia has only 35 feet in prospective. The tide at Baltimore is perhaps 18 inches. The tide at Philadelphia is 5½ or 6 feet. The tide at Boston is from 9 to 9½ feet. If you give to that port a channel of 40 feet, part of the way 45 feet, what is the precedent you are establishing for these others of equal rank? Indeed, might not New York say, "Our port is altogether the leading one of the country. We have but 40 feet, with about 6 feet of tide; and should Boston have 40 and 45 feet when she has 9 feet of tide?" The reason given for the proposed improvement has a certain amount of validity, namely, the danger arising from heavy seas and the rocky bottom.

Mr. RANSDELL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Louisiana?

Mr. BURTON. Yes.

Mr. RANSDELL. I do not want an erroneous impression to exist about this great harbor at Boston. The impression which I got, and which I think anyone will get who reads the report of the engineers, is that they contemplated only a clear depth of 35 feet at Boston. Their reason for advocating this increased depth was that there are very heavy seas in that harbor, and there is a very hard bottom—if I mistake not, a granite bottom—and they said that there must be a very considerable depth under the vessel in order to insure it against danger; whereas, as we all know, the New York channel, while it is 40 feet deep, has a sandy bottom and no big seas. So at Baltimore there is a sandy bottom, if I understand correctly, and there are no big seas.

The situation is different at Boston. The committee did not intend to establish a precedent of a 45-foot channel at Boston. At least, I did not; and I do not think the engineers intended anything of the kind.

Mr. BURTON. Here is the language of the report, Document No. 931, Sixty-third Congress, second session. It clearly recommends 40 and 45 feet, and all that relates to the special reason for it—and it is to an extent a special reason—is this:

Taking into account the low tides at certain times, the effect of the winds upon the water surface, the presence of ledge rock on the bottom, and the necessity for ample clearance for deep-draft vessels, he (the district officer) reaches the conclusion that the inner channel from the navy yard to President Roads should be given a depth of 40 feet at mean low water over a width of 600 feet covering the southerly half of the present 1,200-foot channel. This work is estimated to cost $2,300,000. For the outer or Broad Sound Channel he recommends a depth of 45 feet in the rock section and a nominal depth of 40 feet where the material can be dredged, this channel to be 900 feet wide and to be located along the southeasterly side of the present 35-foot cut, with a slight bend to the eastward at the entrance opposite Finns Ledge. The cost of this channel is estimated at $985,000.

His total recommendation was $3,845,000. Now, next is the report of the board, paragraph 3, on page 3:

These reports have been referred, as required by law, to the Board of Engineers for Rivers and Harbors, and attention is invited to its report herewith, dated April 22, 1914. * * * For reasons fully explained the board considers it inadvisable to enlarge the present inner channels of Boston Harbor at this time, but it is of opinion that the general project for the harbor should be modified by providing a channel between President Roads and the sea, on the lines recommended by the district officer, 900 feet wide except at the outer end, where it is widened to 1,100 feet, 40 feet deep in general, but 45 feet deep through rock, and the building of a dredging plant, at a total estimated cost of $1,545,000.

No one understands—I certainly did not understand—that it was for the whole distance. That, practically, was the recommendation of the district engineer for half the channel; but this report does recommend 45 feet in the outer section——

Mr. RANSDELL. Where the open sea comes in.

Mr. BURTON. Well there is a chance for quite a sea in the lower portion of the Ambrose Channel, although it is magnificently protected by Long Island and the Jersey coast; but with a southeast wind or a strong south wind high seas would run there.

Mr. RANSDELL. But the Ambrose Channel has a soft bottom, has it not?

Mr. BURTON. Yes; for all the way, I think.

Mr. RANSDELL. They found very little rock there. It is very different from the granite at Boston Harbor.

Mr. BURTON. Yes; it is true that granite or rock is the worst, but an ocean steamer would not find it an agreeable collision if it were thrown against the sand with any considerable force.

Mr. RANSDELL. I imagine not; but if we had the whole Atlantic Ocean sweeping into the Ambrose Channel it would be a different proposition. That is what happens at Boston.

Mr. BURTON. Well, the further point must be taken into account that the tide is 3 feet more at Boston, though somewhat uncertain, than it is at New York.

Mr. SIMMONS. Mr. President, I have not understood the Senator as criticizing that $400,000 item.

Mr. BURTON. There is one point of criticism in it.

Mr. SIMMONS. I had understood the Senator to be sending for the report in order to refresh his memory. The facts in that report are tolerably familiar, I think, both to him and to myself. What I desired to know was whether the Senator meant now to disapprove of the appropriation for that new project.

Mr. BURTON. The Senator from North Carolina and others from the very start have adhered to the recommendation of the Board of Engineers. One criticism that I have made of this bill and the present system is its policy—the piecemeal system which pervades it. Let us see what the engineers say about this project in the last two lines before the signature of the chief:

The initial appropriation should be $400,000 in cash, with contract authorization for the remainder.

There is no contract authorization for the remainder, $1,145,000. Is there not ground for criticism there?

Mr. SIMMONS. There is only $400,000 appropriated here. That is the cash appropriation recommended by the Chief of Engineers. The authorization is not included. I know the Senator is not in favor of the plan of adopting these large authorizations, but what I desired to get from the Senator was whether he does now disapprove of that particular item in the bill and to know——

Mr. BURTON. I would not put it in unless there was a contract authorization. I do not believe in making these partial appropriations. There is a recommendation, as I understand it, in the Engineers' Report, in the last line but one of section 3, for building a dredging plant. That is a part of the total cost of $1,545,000.

The next harbor to which I invited attention was that of Mobile. This has been quite an expensive proposition—$6,188,000, with a traffic of 2,210,000 tons. The improved channel is 33½ miles long, 5 miles through Mobile River, the harbor proper, and the rest in the bay. There is a depth of 26 feet, and the project is 27 feet.

The difficulty with this channel is to make it permanent. Constant dredging is required. It must be said of this locality that in recent years there has been a very gratifying increase in the volume of commerce, especially with the West Indies and Central American States, together with a considerable increase in its foreign commerce.

St. Johns River to Jacksonville: The distance from the bar is 27½ miles. The existing project provides for a channel 30 feet deep, of which 40 per cent was completed the 30th of June, 1913. To this several years ago was added another project, which, it seems to me, is in violation of the best rules, and that is an authorization or the adoption of a project costing $586,300 for dredging the river opposite the city. There is a very wide difference, apparent to anyone, between a channel brought in from the sea 27½ miles up to the city, that makes of the city an ocean port, and another project in which you go near to private property where wharves are or can be located and dredge in that place.

I submit, Mr. President, that a rational distinction between the duties and responsibilities of the Federal Government and the municipality would direct that the Government do its part in bringing that channel up to the municipality, and then, if the municipality wishes to use it, let it do its own dredging in front of or opposite its water front, just as it constructs its own wharves.

There is a practical side to this. Many times the pressure from the owners of wharf front—the interest they may arouse—is greater than the demand for the excavation of a great channel that will place a city in connection with the sea. There was a potent private interest advocating Bay Ridge and Red Hook Channel in New York Harbor, useful as they have been to the commerce of New York. I have this to say, that when the New York projects were first adopted in 1899 there was quite as much, if not more, pressure for Bay Ridge than there was for that magnificent channel now known as the Ambrose Channel, which gave the harbor of New York access to the sea with a channel 40 feet in depth.

Mr. RANSDELL. Did I understand the Senator as objecting to that portion of the project at Jacksonville in the St. Johns River opposite the city?

Mr. BURTON. It is opposite the city, as I understand it.

Mr. RANSDELL. Is it not a fact that that project was adopted in the act of 1907, and that we do not carry any appropriation for it in this bill?

Mr. BURTON. I do not think so.

Mr. RANSDELL. I think so. I read from the report of the Chief of Engineers at page 582:

St. Johns River, Fla., opposite the city of Jacksonville.

* * * * * * *

The original project, which is also the existing project, was adopted by the river and harbor act of March 2, 1907——

Mr. BURTON. Possibly that is so.

Mr. RANSDELL (reading):

and provides for dredging to a depth of 24 feet at mean low water.

Mr. BURTON. I remember the circumstances now that my attention is called to it. It was a Senate amendment. It never originated in the House.

Mr. RANSDELL. But it was in the act of 1907.

Mr. BURTON. That is true.

Mr. RANSDELL. That is an ideal act.

Mr. BURTON. I shall have to take upon myself a part of the responsibility for that, but it never originated in the House.

The next harbors I will merely refer to. Those are the Cape Fear to Wilmington. The distance to the ocean is 30 miles and the depth over the bar is 26 feet. The act of 1912 provides for that channel.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Idaho?

Mr. BURTON. Yes.

Mr. BORAH. Would it interfere with the remarks of the Senator from Ohio if I should ask that we proceed now with the trust legislation?

Mr. BURTON. I am agreeable to anything that suits the rest of the Senate.

FEDERAL TRADE COMMISSION.

Mr. BORAH. Mr. President, I understand there are now three trust measures before the Senate. Two have been reported and I think the other is in the chairman's hip pocket ready to be reported at any hour.

Mr. THOMAS. I should like to ask where the chairman's hip pocket is?

Mr. BORAH. I think he took it with him. He just went out of the door.

Mr. THOMAS. I suggest that before we proceed to a discussion of the three measures we had better get him here.

Mr. KERN. Mr. President, we did not understand on this side the request made by the Senator from Idaho.

Mr. BORAH. My request is that the trade commission bill be laid before the Senate and that we proceed with the trust legislation.

Mr. KERN. Does the Senator mean the commission bill which has been pending?

Mr. BORAH. The trade commission bill. I understand there are three trust measures now practically before the Senate.

Some of us do not wish to pass those bills without some discussion and we want to get through with them and get acquainted with our constituents.

Mr. KERN. I have sent for the Senator from North Carolina [Mr. SIMMONS], who with the Senator from Louisiana [Mr. RANSDELL] has charge of the river and harbor bill.

Mr. RANSDELL. We are very anxious to have the river and harbor bill proceeded with and it is now before the Senate in regular order. I see no reason why we should lay it aside. I do not believe it is in order for the Senator from Idaho to take the Senator from Ohio off his feet to make an address or to seek to take up another measure. I call for the regular order.

Mr. BORAH. It is the regular order under the rule of the Senate for a Senator to talk about anything he wants to. But I have no desire, Mr. President, to avail myself of the privilege which the rule gives me of discussing the trust measure when the river and harbor bill is before the Senate. Undoubtedly under the rules I could do that if I desired, but I do not think it is good practice, and I do not want to indulge in it.

However, I am severely in earnest when I say that I do want to offer some suggestions as to this trust legislation. The three bills are now before the Senate practically, and I suggest in good faith that those in charge of this legislation bring the matter before the Senate and let us proceed to the discussion and the disposition of those things which we are held here to discuss and dispose of.

I ask the Senators if they will not lay aside the bill before the Senate and let us proceed with the trade commission bill. There is a method by which we can proceed to the trust legislation anyway, but I do not desire to do that. If the Senators in charge of the measures are not going to lay them before the Senate to-day, when are they going to do it?

Mr. RANSDELL. I should like to ask the Senator from Ohio if he yielded the floor to the Senator from Idaho to make a speech? The Senator from Ohio was making an address on the river and harbor bill. I did not understand that he yielded the floor to the Senator from Idaho in order that he might make an address or take him off his feet.

Mr. BURTON. I yielded the floor.

Mr. BORAH. Undoubtedly the Senator from Ohio can take care of himself.

Mr. BURTON. I yielded the floor and expressed to the Senator from Idaho that if he desired to proceed I was entirely willing to yield. That is the simple fact; but I do not see that that question between the Senator from Idaho and myself is one of general concern to the Senate, provided we both proceed in order.

Mr. RANSDELL. I should like to know if it is in order for a Senator to move, or, if he did not move, to ask to take up another bill when one bill, the river and harbor bill, is regularly before the Senate and is being debated by the Senator from Ohio. If the Senator from Idaho wants to speak upon the river and harbor bill or some other bill, I presume he has a right to do it if the Senator from Ohio yields the floor. I do not understand that he has yielded the floor; perhaps he has.

The PRESIDING OFFICER. The Chair will state that the river and harbor bill is the regular order until some other bill is brought before the Senate.

Mr. BORAH. Of course I can proceed to discuss the trade commission bill with this bill before the Senate, as I said, but I do not desire to do that. I want the trust bills laid before the Senate, so that we may make progress and discuss them and dispose of them. We can vote on the trade commission bill within a very short time, in my judgment, if it is put before the Senate now. I understood the only reason for holding it back was for the report upon the other bills, and one of the other bills has been reported, and I understand the other is ready to be reported.

In the middle of last week I was in the midst of the discussion of the trade commission bill, and at the request of the Senator from Missouri [Mr. STONE] I yielded the floor in the middle of my remarks. I have not since undertaken to take the floor, because the chairman of the committee said that it was desirable that all bills be reported, and I have yielded until this hour.

Now the time has come when the bills have been reported, and I feel that in good faith I may ask that the bill be laid before the Senate and we may proceed to carry out the President's program and enact the trust legislation and go home.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from North Carolina?

Mr. BORAH. I yield.

Mr. SIMMONS. The Senator is correct in his statement that the antitrust bill has been reported to the Senate. It was reported this morning, but it has not yet been laid before the Senate as a printed document. I do not suppose it has been printed except for the use of the committee. I have seen no copy of the bill as amended upon my desk.

I do not suppose that the Senator from Texas [Mr. CULBERSON], who is in charge of the trust bill, is ready yet to call it up. The Senator from Nevada [Mr. NEWLANDS], who is in charge of the trade commission bill, advised me this morning through a messenger to proceed with the river and harbor bill, and I had it laid before the Senate with that understanding. Of course, if the Senator from Ohio yields the floor, the Senator from Idaho can make his speech upon the unfinished business with reference to the trade commission bill.

Mr. BORAH. I have no desire to do that.

Mr. SIMMONS. I have understood that it was the desire of Senators that before we proceed with the discussion of the legislative program all the bills should be before the Senate.

Mr. BORAH. Mr. President, we were advised more than 90 days ago that it was exceedingly important that we proceed with all due dispatch, considering the necessity of discussion, to the passage of these measures; and while there is no disposition to take measures from under the control of those who control them, we are just as anxious to dispose of them, however they may be disposed of, as the other side, and we want to dispose of them, and then we think there will be a chance to adjourn and go home. We are kept here for the purpose of passing those three measures. Those three measures can not be passed without some discussion upon them. In a few days they will be laid before the Senate and then there will be the crack of the whip to pass them at once in order that business may no longer be disturbed. The quicker they are put before the Senate the more speedily they can be passed, and I do not see any reason why they should not come before the Senate at this time.

I therefore move, Mr. President, that we proceed to the consideration of House bill 15613, known as the trade commission bill, and upon that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. NEWLANDS. I will state that there is no opposition to the consideration of this bill——

The PRESIDING OFFICER. The roll call has begun.

Mr. KERN. There is no opposition to the consideration of the bill, and there is no use to take up time by calling the yeas and nays.

The PRESIDING OFFICER. The roll call will proceed.

The Secretary resumed the calling of the roll.

Mr. THOMAS (when Mr. BRYAN'S name was called). The junior Senator from Florida [Mr. BRYAN], the senior Senator from West Virginia [Mr. CHILTON], the senior Senator from Michigan [Mr. SMITH], and the junior Senator from Washington [Mr. POINDEXTER] are absent from the Chamber on official business.

Mr. CATRON (when his name was called). Transferring my pair with the Senator from Oklahoma [Mr. OWEN] to the Senator from Illinois [Mr. SHERMAN], I vote "yea."

Mr. CHAMBERLAIN (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. In his absence I withhold my vote.

Mr. CHILTON (when his name was called). I have a general pair with the Senator from New Mexico [Mr. FALL] and withhold my vote.

Mr. HOLLIS (when his name was called). I am paired with the junior Senator from Maine [Mr. BURLEIGH] and withhold my vote.

Mr. SAULSBURY (when his name was called). I transfer my pair with the junior Senator from Rhode Island [Mr. COLT] to the junior Senator from New Jersey [Mr. HUGHES] and vote "yea."

Mr. THOMAS (when his name was called). I transfer my pair with the senior Senator from New York [Mr. ROOT] to the junior Senator from Nevada [Mr. PITTMAN] and vote "yea."

The roll call was concluded.

Mr. HOLLIS. My pair with the junior Senator from Maine [Mr. BURLEIGH] is transferred to the junior Senator from Ohio [Mr. POMERENE], and I vote "yea."

Mr. CHILTON. Under the terms of my pair I have a right to vote, and I vote "yea."

Mr. SMITH of Georgia. I transfer my pair with the senior Senator from Massachusetts [Mr. LODGE] to the junior Senator from Virginia [Mr. SWANSON] and vote "yea."

Mr. STONE. I transfer my pair with the Senator from Wyoming [Mr. CLARK] to the Senator from Virginia [Mr. MARTIN] and vote "yea."

Mr. TILLMAN. I announce my pair with the Senator from West Virginia [Mr. GOFF]. I transfer my pair to the Senator from Tennessee [Mr. SHIELDS] and vote "nay."

Mr. GRONNA (after having voted in the affirmative). I wish to inquire if the senior Senator from Maine [Mr. JOHNSON] has voted.

The PRESIDING OFFICER. He has not.

Mr. GRONNA. I have a pair with that Senator, which I transfer to my colleague [Mr. MCCUMBER] and allow my vote to stand.

Mr. SHIELDS entered the Chamber and voted "yea."

Mr. TILLMAN (after having voted in the negative). The Senator from Tennessee [Mr. SHIELDS] having voted, I withdraw my vote and announce my pair.

The result was announced—yeas 43, nays 6, as follows:

YEAS—43.

Ashurst	James	Perkins	Stone
Borah	Kenyon	Poindexter	Sutherland
Brady	Kern	Ransdell	Thomas
Brandegee	Lea, Tenn.	Saulsbury	Thompson
Burton	Lee, Md.	Shafroth	Thornton
Camden	Lewis	Sheppard	Vardaman
Catron	Martine, N. J.	Shields	Weeks
Chilton	Newlands	Shively	West
Crawford	Norris	Smith, Ariz.	White
Gronna	Overman	Smith, Ga.	Works
Hollis	Page	Smoot	

NAYS—6.

Bankhead	Clarke, Ark.	Lane	Nelson
Bryan	Jones		

NOT VOTING—47.

Bristow	Gallinger	Myers	Smith, Md.
Burleigh	Goff	O'Gorman	Smith, Mich.
Chamberlain	Gore	Oliver	Smith, S. C.
Clapp	Hitchcock	Owen	Stephenson
Clark, Wyo.	Hughes	Penrose	Sterling
Colt	Johnson	Pittman	Swanson
Culberson	La Follette	Pomerene	Tillman
Cummins	Lippitt	Reed	Townsend
Dillingham	Lodge	Robinson	Walsh
du Pont	McCumber	Root	Warren
Fall	McLean	Sherman	Williams
Fletcher	Martin, Va.	Simmons	

So the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. BORAH rose.

Mr. NEWLANDS. Mr. President——

Mr. BORAH. I yield to the Senator from Nevada.

Mr. NEWLANDS. Does the Senator from Idaho wish to proceed with his remarks now, or will he prefer that we should consider amendments?

Mr. BORAH. It is immaterial to me. If the Senator from Nevada prefers to proceed with the bill and consider amendments, I will make my remarks later. I will be at the convenience of the chairman.

Mr. NEWLANDS. I should like to have one amendment considered, but as the senior Senator from Iowa [Mr. CUMMINS] is not here——

Mr. KENYON. The senior Senator from Iowa is on his way here from his office.

Mr. NEWLANDS. I will await the coming of the Senator from Iowa. The Senator from Idaho can proceed.

Mr. BORAH. I will ask the chairman, then, to entertain the Senate while he is waiting, because I do not want to begin my speech and then stop.

Mr. NEWLANDS. I do not understand the Senator's suggestion.

Mr. BORAH. I said I do not desire to begin my remarks and then cease as soon as the Senator from Iowa comes.

Mr. NEWLANDS. I will not interrupt the Senator, of course. The Senator can proceed.

Mr. HOLLIS. Mr. President, I should be very glad to occupy the time until the Senator from Iowa gets here, if it is agreeable to the Senator.

Mr. BORAH. I am prepared to go ahead, unless the Senator from Nevada desires to take up the bill and proceed with the amendments, and so forth. If general discussion is now to be had, I am prepared to proceed. Otherwise, I will give way, if the Senator from Nevada wants to take up the bill for action on amendments when the Senator from Iowa returns to the Chamber.

Mr. NEWLANDS. I hope the Senator from Idaho will proceed.

[Mr. BORAH addressed the Senate. See Appendix.]

Mr. KERN. Mr. President, I ask the Senator from Idaho if it will be convenient for him to suspend his remarks for a motion to adjourn?

Mr. BORAH. I shall be very glad to suspend.

Mr. KERN. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 32 minutes p. m.) the Senate adjourned until to-morrow, Thursday, July 23, 1914, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *July 22, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our hearts turn to Thee, Eternal God, our heavenly Father, for a renewal of our faith, hope, and confidence in Thine almightiness, that we may bend our wills to Thine, put our souls into our work, assured that Thy providence shall shape it to Thy purposes, thus making us instruments in Thy hands for the furtherance of Thy plans.

"Blessed is the man that walketh not in the counsels of the ungodly, nor standeth in the way of sinners, nor sitteth in the seat of the scornful: But his delight is in the law of the Lord; and in His law doth he meditate day and night. And he shall be like a tree planted by the rivers of water, that bringeth forth his fruit in his season; his leaf also shall not wither; and whatsoever he doeth shall prosper." So may we live, work, and prosper. In the spirit of the Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

EXPOSITION AT SAN FRANCISCO.

The SPEAKER. With the indulgence of the House, the Chair wishes to make a statement in respect to the vote taken yesterday on the motion of the gentleman from California [Mr. KAHN] to reconsider the vote by which the Senate amendment in respect to a Government building at the Panama-Pacific Exposition at San Francisco was concurred in, and to lay that motion on the table. The vote should have been taken first on the motion to lay on the table, but, as a matter of fact, it was taken on the motion to reconsider. Ordinarily it would suggest itself immediately to the Chair or to anyone else. For instance, if A made the motion to reconsider and B made the motion to lay on the table, of course the vote on the last motion would be taken first; but owing to the confusion yesterday the vote was taken first on the motion to reconsider.

Mr. MANN. There were two motions?

The SPEAKER. Yes; and the same Member made both of them, but in the confusion, after the severance was ordered, the vote was taken on the motion to reconsider.

HOUR OF MEETING TO-MORROW.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow.

The SPEAKER. The gentleman from New York asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow. Is there objection?

Mr. HUMPHREY of Washington. Mr. Speaker, I object.

Mr. FITZGERALD. Mr. Speaker, I desire to state the reason why I make this request. To-morrow, in addition to considering the sundry civil appropriation bill, there is a conference report on the general deficiency bill to be considered, with one item undisposed of. If we meet at 11 o'clock it will enable the chairman of the Committee on Appropriations of the Senate to leave the city on a very important matter; otherwise these bills must necessarily go over until next week.

Mr. HUMPHREY of Washington. I will withhold my objection for a moment.

Mr. FITZGERALD. Senator MARTIN of Virginia is required to leave the city to-morrow at 3 o'clock because of family reasons. If we can meet at 11 o'clock, we can probably have action on both of these reports, and be able to dispose of whatever additional conference is necessary before he is compelled to leave the city; otherwise it may be necessary that these bills go over until next week.

Mr. HUMPHREY of Washington. Mr. Speaker, I feel very much inclined, in view of what took place here yesterday afternoon, to object, and I would do so if it were not for the special reason which the gentleman from New York gives. I withdraw my objection.

Mr. JOHNSON of Washington. Mr. Speaker, I object.

The SPEAKER. The gentleman from Washington [Mr. JOHNSON] objects.

Mr. JOHNSON of Washington. Mr. Speaker, I will withdraw my objection.

The SPEAKER. Both gentlemen withdraw their objections. Is there objection to the request of the gentleman from New York? [After a pause.] The Chair hears none, and it is so ordered.

USE OF REVENUE CUTTERS BY THE SECRETARY OF THE TREASURY.

Mr. GOOD. Mr. Speaker, I ask unanimous consent to address the House for 15 minutes in reply to the letter from Secretary McAdoo in respect to the use of revenue cutters.

The SPEAKER. The gentleman from Iowa asks unanimous consent to address the House for 15 minutes. Is there objection?

Mr. CANTOR. Mr. Speaker, I object.

Mr. MURDOCK. Who objected?

The SPEAKER. The gentleman from New York [Mr. CANTOR].

Mr. MURDOCK. Can a gentleman object while he keeps his seat?

The SPEAKER. The gentleman from New York got about half way up. [Laughter].

Mr. GOOD. I hope the gentleman will not object.

Mr. DONOVAN. Mr. Speaker, I demand the regular order.

The SPEAKER. The gentleman from New York objects. Of course the point of order made by the gentleman from Kansas is well taken. A Member can not from his seat make objection, but as a matter of fact the gentleman from New York had gotten half way up.

Mr. CANTOR. Mr. Speaker, it has just been explained to me that there is some criticism in the letter of Secretary McAdoo of the gentleman from Iowa [Mr. GOOD], and I withdraw my objection.

Mr. DONOVAN. Mr. Speaker, we will end this matter right here. I object, and I am going to stick to it.

The SPEAKER. The gentleman from Connecticut objects.

ELLEN M. STONE RANSOM FUND.

Mr. SHARP. Mr. Speaker, in view of these rapid-fire objections on both sides of the Chamber, I have not the temerity to undertake to ask any indulgence of the House in taking time to address it at this time, especially upon this sacred day of Calendar Wednesday; but I would like to have unanimous consent to extend my remarks in the RECORD, and it will be the second time during my entire service in this House that I have ever asked that privilege. In order that the House may know upon what subject I wish to extend my remarks, I wish to say that it is not only in keeping a promise I made to one who represents many others who are interested in this proposed legislation, but in its observance there is a good deal of pleasure upon my part. I want to get the matter into the CONGRESSIONAL RECORD tomorrow for another reason, because there are at least 40 per cent of new membership in the personnel of the House as compared with that of the last Congress; and, if I may carry the comparison further, I might say that during my service, involving almost six years, there has been such a change in the personnel of the House that only about one-third of the Members of the present Congress were Members of the Sixty-first Congress. It is because the subject, on that account, is quite new to so many Members of the House that I want briefly to say that, while it is in behalf and support of a measure that has four times passed the Senate, yet it has never been in any way more than merely mentioned on this floor, though at least once being favorably reported out by the Committee on Claims. I refer, Mr. Speaker, to the reimbursement to the contributors to the Ellen M. Stone ransom fund. I do not know how many here are familiar with that case, now almost ancient history, the stirring scenes of which were laid in Macedonia over a dozen years ago; but involving, as it does, a question that, it seems to me, is very close to our national honor, favorable action on which has been recommended by three distinguished Secretaries of State under three different administrations, and which, as I have said, has four times passed the Senate. I wish, therefore, to have an opportunity to include in the RECORD in extension of my remarks matter that shall set forth some of the documents, reports, and other facts bearing upon that particular case.

The SPEAKER. The gentleman asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I should like simply to make this remark: I do not always approve of the appointments made by the President of the United States, or probably those of any other President since I have been here; but I think we, all of us, can compliment and congratulate the President upon the selection from this House of one of its ablest Members to represent this country in France. [Applause.] While we shall miss him here, we know that the country will be represented to its full height abroad while the gentleman from Ohio [Mr. SHARP] represents us as our ambassador to France. [Applause.]

The SPEAKER. Is there objection to the request of the gentleman from Ohio [Mr. SHARP]?

Mr. BUTLER. Mr. Speaker, I do not mean to object, but I should like to ask unanimous consent that the gentleman from Ohio [Mr. SHARP], in view of the fact that he will soon separate himself from this House, where we have enjoyed and appreciated him, shall have 10 minutes in which to address the House.

The SPEAKER. The gentleman from Pennsylvania [Mr. BUTLER] asks unanimous consent that the gentleman from Ohio [Mr. SHARP] have 10 minutes. Is there objection?

Mr. MANN. The gentleman from Ohio does not want the time.

Mr. BUTLER. If the gentleman from Ohio does not want the time——

Mr. FITZGERALD. I think the gentleman from Ohio expected to ask the House to be permitted to make this address as a sort of valedictory, and he was somewhat——

Mr. BUTLER. Embarrassed?

Mr. FITZGERALD. Somewhat diffident about doing so, in view of the objection which was made to another request. I understand the gentleman from Ohio [Mr. SHARP] is about to quit the House, and I hope the House will not object to his making a final speech.

Mr. MANN. If the gentleman desires to address the House, I have no objection whatever, but I am sure the gentleman from Ohio would not desire to address the House for only 10 minutes on the Ellen M. Stone proposition. Before the matter came up he informed me that he desired to extend his remarks in the RECORD on that subject. I should be very glad to hear the gentleman from Ohio.

The SPEAKER. The gentleman from Pennsylvania [Mr. BUTLER] asks unanimous consent that the gentleman from Ohio be given 10 minutes in which to address the House. Is there objection?

There was no objection.

Mr. SHARP. Mr. Speaker, thanking the gentlemen from New York and Pennsylvania very sincerely for their kindness and courtesy, the gentleman from Illinois is entirely right. I do not want any time in which to address the House upon this matter. The House has already been very generous to me in giving me this opportunity to extend my remarks in the RECORD; but I certainly would appreciate about two minutes time in which to thank not only the gentleman from Illinois [Mr. MANN] for his very kind and gracious words, but also the entire membership of this House for the many courtesies that they have uniformly extended to me. The pleasant associations made on both sides of the dividing aisle during my service here will always be the happiest within my memory. Just before coming in here I was telling the distinguished Speaker, in his room, that the longer I remained a Member of this House the more I was impressed with the valuable and life-long lessons that such an association brings to a Member. It broadens his views of good citizenship and, above everything else, brightens within his heart the fires of a patriotic love of his country. I do not know that I can carry away with me a scene more inspiring than that when, on occasions, I have walked through the long corridor and looked across the rotunda from the Senate side and on down the long vista, extending beyond to the portal of this Chamber, and saw at the far end the American flag above the Speaker's desk, and then just below it the imposing figure of one whom we all honor and respect, a man who embodies in his sterling qualities of character and intellect the highest conception of American citizenship. [Applause.] And if I may add to the picture that other inspiring sight, a scene which I do not think is duplicated in any other legislative assembly on the face of the earth—the magnificent portrait of George Washington, the Father of his Country, at the Speaker's right, and there on his left that other compatriot, Lafayette, symbolical of the long friendship that has existed between the peoples of these two great Republics. [Applause.] I thank the gentleman.

Mr. Speaker, not having in mind the purpose of reviewing at any length the circumstances surrounding the capture by Turkish brigands of Miss Stone, her long imprisonment by them, and her final release, I shall content myself with merely setting forth those facts, now largely a matter of official record, which to my mind clearly demand favorable action upon the bill providing for reimbursement to the contributors to the ransom fund by the payment of which she was finally released. Indeed, though more than 12 years have elapsed since the harrowing experiences of this devoted woman occurred, yet we must all vividly recall the main incidents connected with her capture and final release, for the whole case was of such a sensational nature as to attract the attention of the people of every civilized nation; particularly was this true of our own people. It was this widespread sympathy and concern for her safety that undoubtedly led Mr. Hay, then Secretary of State, to telegraph under date of October 3, 1901, to the Rev. Judson Smith, of the American Board of Commissioners for Foreign Missions, at Boston, as follows:

It seems imperative that the amount (of the ransom) should be raised or pledged, so as to be available by your treasurer at Constantinople in season to save Miss Stone. Statutory prohibitions make it impossible for this Government to advance the money or guarantee its payment.

If paid by Miss Stone's friends, every effort will be made to obtain reimbursement from whichever Government may be found responsible under international law and precedent. In the event of its proving impossible to hold any foreign Government responsible for the capture and to secure the repayment of the money, this Government is willing in the last resort to urge upon Congress as strongly as possible to appropriate money to repay the missionaries.

While in fairness to those who may claim that the contributions to the fund for Miss Stone's release were entirely voluntary and were not made with the hope of return upon the strength of this telegram, yet it is, to say the least, a matter of marked coincidence that within a very few days after its wide publication throughout the country contributions came pouring in during the following two weeks. A list of such contributors shows that upward of 2,200 generously responded, sending all the way from a few cents up to $5,000 each, aggregating a total of approximately $75,000. Though naturally a considerable bulk of the sum total of contributions came from Boston and vicinity, yet in looking over the list I find that nearly every State in the Union was represented by some of those contributors. All of this money up to the amount agreed upon was quickly sent over to the brigands as a ransom for Miss Stone's release.

Congress, not being in session at the time, could not be appealed to to authorize an appropriation for the payment of this ransom, even if inclined so to do. While undoubtedly Secretary Hay had in mind at the time some recourse for its ultimate payment by the Turkish Government, yet for reasons evidently satisfactory to him and to his successor in office, these claims were never pressed to a successful conclusion. The matter therefore rests, it seems to me, entirely with the American Congress to afford the relief which the State Department unequivocally at the time stated it would be urged to do in the last sentence of the telegram which I have quoted.

More than six years elapsed after the sending of this telegram before any official action was taken by our Government looking to the acknowledgment of its liability on account of the obligation assumed by the promises therein contained. On the 21st day of March, 1908, President Roosevelt sent to the Senate the following message:

To the Senate and House of Representatives:

I transmit herewith for the consideration of the Congress a letter from the Secretary of State on the subject of the repayment to the contributors of the money raised to pay the ransom for the release of Miss Ellen M. Stone, an American missionary to Turkey, who was abducted by brigands on September 3, 1901, while traveling on the highway from Raslog to Djumabala in the Turkish Empire.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *March 26, 1908.*

The letter of Secretary Root, which was transmitted by President Roosevelt, reads as follows:

DEPARTMENT OF STATE,
Washington, March 24, 1908.

The PRESIDENT:

As will be remembered, Miss Ellen M. Stone, an American missionary to Turkey, was abducted by brigands on September 3, 1901, while traveling on the highway from Raslog to Djumabala in the Turkish Empire.

Our diplomatic and consular representatives in Turkey, in correspondence with the Department of State, shortly after the capture, indicated their belief that the motive therefor was to obtain a ransom, and stated that they had requested the Turkish officials to abstain from too close pursuit of the brigands, lest the death of the captured might result.

From later correspondence with our representatives it appeared that the brigands had retired to the mountains with the captive, probably over the border into Bulgaria. The exact location of the party during the captivity, however, is not established by any evidence in the possession of the Department of State, nor does it appear clearly of what Government the bandits were subjects.

About October 1, 1901, the bandits opened negotiations for a ransom, demanding £25,000, and transmitting a letter from Miss Stone, asking that the sum demanded be paid and that pursuit of the brigands by the Turkish troops be stopped.

Our diplomatic representatives were of the opinion that Miss Stone's release could only be obtained by the payment of the ransom, and the State Department shared this view. Miss Stone's friends, of course, entered into correspondence with the department regarding the payment of the ransom, and were told that it must be raised by private means.

On October 3, 1901, the State Department telegraphed to the Rev. Judson Smith, of the American Board of Commissioners for Foreign Missions, Boston, Mass., as follows:

"It seems imperative that the amount (of the ransom) should be raised or pledged, so as to be available by your treasurer at Constantinople in season to save Miss Stone. Statutory provisions make it impossible for this Government to advance the money or guarantee its payment. If paid by Miss Stone's friends, every effort will be made to obtain reimbursement from whichever Government may be found responsible under international law and precedent. In the event of its proving impossible to hold any foreign Government responsible for the capture and to secure the repayment of the money, this Government is willing in the last resort to urge upon Congress as strongly as possible to appropriate money to repay the contributors."

It is claimed that this assurance given by the department in its dispatch to Mr. Smith, to the effect that, as a last resort, a recommendation would be made to Congress looking toward the appropriation of a sum sufficient to pay the donors, was largely instrumental in enabling Miss Stone's friends to secure the sum of $66,000, which was raised through public subscription in this country by October 23, 1901, for the purpose of effecting Miss Stone's release.

After negotiations of considerable length the brigands finally consented to accept the amount raised, and arrangements were made by United States Minister Leishman for the payment of the money at a point near Bansko, Macedonia, the Turkish authorities consenting to withhold their troops from the vicinity of the place in order that the negotiations might have a successful issue.

The release of the captive was not obtained so soon as expected, but was finally reported by Minister Leishman on February 23, 1902.

After careful consideration of all the facts my predecessor, Mr. Hay, decided on January 19, 1905, that it was not advisable to attempt to hold the Turkish Government responsible for the capture and to secure the repayment of the money. Upon the subsequent application for reconsideration of this decision Mr. Hay again, on April 11, 1905, reaffirmed the judgment which he had originally expressed. Upon a further review of the same subject I have come to the conclusion that it is not advisable to reverse or change the conclusion which Mr. Hay reached.

It would seem, therefore, that the executive department is bound to make good its promise to recommend to Congress that money be appropriated to repay the ransom money, a promise which was probably relied upon by many of those who contributed of their private means to save the life of an American citizen believed to be in the gravest peril.

Accordingly I have the honor to advise that Congress be recommended to appropriate an amount sufficient to repay the contributors.

Respectfully submitted.

ELIHU ROOT.

As a result of this renewed agitation a bill providing an appropriation sufficient to reimburse all the contributors to Miss Stone's ransom fund was passed by the Senate in the Sixtieth, Sixty-first, Sixty-second, and the Sixty-third Congresses. More than this, a similar bill was favorably reported out by the House Committee on Claims by Chairman Prince, which set forth at some length the reasons that justified that committee in making a favorable report. That report in part reads as follows:

The committee has carefully gone over this case, and find that Ellen M. Stone, an American missionary to Turkey, was abducted by brigands on September 3, 1901, while traveling on the highway from Raslog to Djumabala, in the Turkish Empire. Friends contributed for her ransom, and were led to believe by correspondence with the State Department that the ransom money so contributed would be returned, either by obtaining it from Turkey or from the Treasury of the United States.

Messrs. Kidder, Peabody & Co., bankers, Boston, Mass., became the custodians of this fund, and furnished to the committee a list of the names and addresses of the original givers or their accredited representatives.

The committee finds that there are 2,264 givers to this fund.

Hereto attached and made a part of this report is a message from former President Roosevelt and former Secretary of State ELIHU ROOT and the list of the contributors.

The committee insists that the amount favored by them, of $66,000, shall be in full of all claims of every kind and character, and so accepted by the contributors who receive the money from the Secretary of the Treasury under the provisions of this bill.

The committee desires this appropriation of $66,000 to make an end to all legislation desired by the contributors to the Ellen M. Stone ransom fund.

Unfortunately the parliamentary status of the House bill became such that its consideration upon this floor could not be had, and to this day, as I have stated, there has never been more than the slightest reference to its merits made in this House. It is for that reason that I am very hopeful that such attention may be attracted to the merits of the measure as to at least call for its free and open discussion.

In order to conform to the chronological order of events as they have to do with the history of this measure, I have thus far only quoted from the letters of Secretary of State Hay and Secretary of State ROOT, but I am pleased, in support of my contention that this bill ought to pass, to be able now to quote from a very recent letter from our distinguished Secretary of State, William J. Bryan, who, on the 15th instant, wrote to Representative EDWARD W. POU, chairman of the Committee on Claims, as follows:

DEPARTMENT OF STATE,
Washington.

Hon. EDWARD W. POU,
Chairman Committee on Claims,
House of Representatives.

SIR: At the request of Miss Ellen M. Stone, the American missionary who was abducted by Turkish brigands in 1901, the department desires to call attention to the message of President Roosevelt to the Congress March 26, 1908, transmitting the letter of Secretary ROOT on the subject of repayment by the Government to the contributors of the money raised to pay the ransom for the release of Miss Stone, amounting to $66,000. It appears that the Department of State announced in 1901, while Miss Stone was in the hands of the brigands, that if the ransom were raised and paid by private persons every effort would be made to obtain reimbursement from the Government, which might be found impossible to hold any foreign government responsible, the department was willing to urge that Congress appropriate money to repay the contributors. Subsequent investigation appeared to show the irresponsibility of any foreign government, and therefore the department takes this occasion again to recommend that Congress make such appropriation.

I have the honor to be, sir, your obedient servant,

W. J. BRYAN.

To which Representative POU sent the following letter under date of the 18th:

JULY 18, 1914.

The honorable the SECRETARY OF STATE,
Washington, D. C.

SIR: Acknowledging receipt of yours of the 15th instant, I beg to say that S. 1864, for the relief of the contributors of the Ellen M. Stone ransom fund, is now before this committee for consideration.

Personally I have always favored the return of this money, and this committee made a favorable report on the bill for the refunding of this money during the Sixty-second Congress.

Faithfully, yours, CHAIRMAN.

While perhaps the international questions involved have no pertinency at this time inasmuch as the State Department has for satisfactory reasons seen proper to no further press these claims, yet there is to my mind an undoubted obligation on the part of Congress after these long years to do not the generous but the just thing to those who, upon the suggestion of the State Department—not to put it any stronger—came forward to release a subject of this country from the Turkish outlaws. And the fact that several other foreign nations within a few years, both before and after Miss Stone's capture, demanded and received satisfaction from the Turkish Government for similar outrages to their own subjects, does not excuse this Government from reimbursing its own citizens for the contributions which brought about Miss Stone's release, resulting undoubtedly in the saving of no little embarrassment in our international relations with Turkey.

Miss Stone had been for many years doing a noble work as a missionary in Turkey. It was in the famous capital of that Empire that, more than 40 years before her unfortunate experiences there, a noble educational institution had been founded by an American interested in a similar work. Indeed, what higher praise can be bestowed upon the work of our foreign missions in any land than the founding of such an institution as Robert College, the outgrowth of the early mission work in a country whose needs so strongly appealed to its founders. Of that institution the late W. T. Stead, mourned among the lost of the *Titanic* disaster, wrote more than a dozen years ago as follows:

That American college is to-day the chief hope of the future of the millions who inhabit the Sultan's dominions. They have 200 students in the college to-day, but they have trained and sent out into the world thousands of bright, brainy young fellows who have carried the leaven of the American town meeting into all Provinces of the Ottoman Empire.

But it is not alone in Turkey that the splendid work of these noble men and women has borne such fruit; for may we not in all truth point to the great governmental reforms that, at the end of more than 50 years of mission work in China, have awakened the people of that mighty country to the civilizing influences of the popular republican form of government.

To those who may fear that the enactment of this measure into a law may establish a harmful precedent for the future I wish to say that I have no fear of such result. It is, in fact, the only case to my mind upon which Congress has been called to act involving such conditions. But is it not true that during almost every term of Congress we have legislated not only to pay for outrages committed by our own outlaws upon foreign subjects, but we have likewise demanded and received reparation for similar outrages committed upon our own citizens in other lands? There would seem to me to be certainly no difference in principle from Congress paying to reimburse its own citizens when our Government has failed to secure payment from the offending nation than to make payment, as has been our practice in many instances, to foreign Governments because of the outrages committed by our own citizens. If, again, it is claimed that the payment of this money would in any way benefit Miss Stone, the one who of all others is most interested to see justice done, let me say, for the information of this House, that she has assured me that not a single dollar of such reimbursement would go to her. Above all, the one who has spent so many of her best years in this noble missionary work must feel that the honor of our Nation is involved, and to my mind she is entirely right in that view of the matter.

USE OF REVENUE CUTTERS BY THE SECRETARY OF THE TREASURY.

Mr. GOOD rose.

The SPEAKER. The gentleman from Iowa [Mr. GOOD] asks unanimous consent to address the House.

Mr. DONOVAN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Connecticut objects.

Mr. GOOD. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. GOOD. Mr. Speaker, a few days ago I made some remarks in criticism of the action of the Secretary of the Treasury, because of the unlawful use of revenue cutters. Those remarks were spoken on the floor of the House. On the 18th there was printed in the RECORD a letter from the Secretary of the Treasury, criticizing me for words spoken on the floor of the House. From that criticism I read the following:

Please allow me to thank you for having so effectively replied to the statements of Mr. GOOD, which I can ascribe only to utter ignorance on his part of the law and the long-standing custom of the department, or to wanton misrepresentation.

Mr. Speaker, on last Saturday the Secretary of the Treasury, William G. McAdoo, caused to be published in the CONGRESSIONAL RECORD a letter addressed to the gentleman from New York [Mr. FITZGERALD] in which he attempts to justify his unauthorized and unlawful use of revenue cutters.

It was not necessary for the Secretary of the Treasury to remind Congress or any of its Members of the great benefits derived from the Revenue-Cutter Service. Congress has long recognized the great importance of this service and has annually appropriated all that has been estimated as necessary for its continuance. Nor was it necessary for the Secretary of the Treasury to point out that it is no violation of law for him to go aboard a revenue cutter for the purpose of familiarizing himself with his duties.

Mr. BURKE of Wisconsin. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Wisconsin rise?

Mr. BURKE of Wisconsin. To make the point that the gentleman is not speaking to a question of personal privilege but instead is scolding the Secretary of the Treasury.

The SPEAKER. Well, the Chair thinks that the phrase in there, "wanton misrepresentation," constitutes a question of personal privilege. [Applause on the Republican side.] It is a sort of delicate circumlocutionary way of calling a man a liar. [Laughter and applause.] The Chair as long as he is in this chair is not going to permit outsiders to infringe upon the privileges of any Member of the House. [Applause.]

Mr. GOOD. Mr. Speaker, the Secretary of the Treasury is the head of the Revenue-Cutter Service, and it is his duty to become familiar with the needs and details of that service. Such a use of the revenue cutters by the Secretary of the Treasury should receive our warm commendation. It was no such use of revenue cutters that I complained of. It was the unauthorized and unlawful private use of which I then complained and which I now condemn.

Mr. Speaker, I desire to analyze this very remarkable letter of Secretary McAdoo's, for when it is squared with the facts it shows not only a violation of the law by the Secretary of the Treasury, but it shows a willful violation of the act of June 7, 1884, which provides that "hereafter revenue cutters shall be used exclusively for public service and in no way for private purposes."

In his letter Secretary McAdoo states:

Mr. GOOD says: "It is a notorious fact that every Friday or thereabouts at this time of the year the revenue-cutter *Prairie* leaves Boston, comes to Washington, and is loaded down with Democratic officials, and they are taken for a cruise down the Potomac at Government expense." This statement is utterly without foundation.

I confess to two inaccuracies in my statement. I was misinformed as to the name of the revenue cutter which I then had in mind, and inadvertently gave the starting point at Boston instead of Baltimore, but these were immaterial parts of the statement which the Secretary of the Treasury says "is utterly without foundation."

The facts are that the revenue cutter *Apache* during this entire summer has been leaving Baltimore on Friday, reaching Washington Saturday morning, and leaving Washington Saturday afternoon loaded with Democratic officeholders and politicians, selected by the Secretary of the Treasury and his assistants for a cruise down the Potomac. The *Apache* returns to Washington Monday morning, discharges her precious cargo, and leaves for Baltimore, where she arrives on Tuesday. The Secretary in his letter justifies this practice in the following language:

In all such instances officers of the Government have been permitted to use the revenue cutters only when it did not interfere with the proper cruising arrangements of the vessels.

Here we are told by Secretary McAdoo that officers of the Government are permitted to use revenue cutters for private purposes the law to the contrary notwithstanding, "when it did not interfere with the proper cruising arrangements of the vessels." With the power of making all "cruising arrangements of the vessels" in Secretary McAdoo and his assistants, when, pray, will the desire of William G. McAdoo for an ocean voyage in a revenue cutter at Government expense be prevented because of "cruising arrangements of the vessels" made by Secretary McAdoo? Such an interpretation renders this provision of the law not only nugatory but it is silly. The trouble with the Secretary's explanation is that it explains nothing. In the first place, the law absolutely prohibits such junkets in revenue cutters. "Cruising orders" have nothing to do with the observance and enforcement of this law. They should be given with respect to the law and not in defiance of the law. In the second place, "cruising orders" for the revenue cutter *Apache* were given by Secretary McAdoo or his assistants. She was scheduled for these unlawful summer junkets down the

Potomac by the Secretary of the Treasury. By a study of her schedule you will observe that she is able to perform practically no other service, for she leaves Baltimore on Fridays and returns the following Tuesdays, leaving only Wednesdays and Thursdays to take on supplies for the next junket and to perform the public business.

I am told that because of this unlawful use of the *Apache* the members of the crew have had no gun practice all summer. They have been overworked in carrying out the orders of Secretary McAdoo for these unlawful junkets, and they have a right to be dissatisfied.

It is important to know that Government business requiring a revenue cutter to take the friends of the administration for a cruise down the Potomac is on the wane. At any rate, for the first time in months she failed to make her regular trip last Saturday. [Applause on Republican side.] Why should she fail to make her regular trip on the first Saturday following the disclosure on the floor of the House of this unlawful use of revenue cutters? What is the matter of the "proper cruising arrangements of the vessels"?

Mr. MADDEN. Maybe her boilers were leaking.

Mr. GOOD. Strange, indeed, that this important public business down the Potomac should be so suddenly completed, and the use of revenue cutters in these waters so ruthlessly terminated right in the face of the approaching dog days.

The Secretary further states that:

On the occasion to which Mr. GOOD refers, namely, July 5, 1914, I did arrive at Mattapoisett, Mass., on the revenue cutter *Onondaga*. The *Onondaga* was under cruising orders, and I accompanied her on that cruise. Every item of expense occasioned by my presence and that of my wife was paid by me.

Mr. MADDEN. And for the coal and the oil?

Mr. GOOD. No.

Having previously stated in his letter that his presence on revenue cutters was in performance of his official duties, he would have Congress and the country believe that he was on the *Onondaga* because his official duties called him there. Now, what are the facts? Secretary and Mrs. McAdoo have their summer home at Mattapoisett, Mass., which can be reached from Washington by water. They were here and desired to go to their summer home. An ocean trip on a steam yacht unquestionably looked inviting. By a rather strange coincidence, just as the Secretary and Mrs. McAdoo were ready to start for Mattapoisett, the revenue cutter *Onondaga*, pursuant to "cruising orders," was also ready to leave Washington for Mattapoisett, a village of 1,200 on the Massachusetts coast. Of course the *Onondaga* was on Government business. But the Secretary's statement that he paid for his meals on the trip causes a little confusion. If Secretary McAdoo was on official business, as claimed, why should he have been compelled to pay for his meals? If he was called from Washington on official business why should not the Government pay for his meals? On the contrary, he was using that revenue cutter as a private yacht for private purposes. This being true, he should at least have paid all of the expenses of the voyage. He should have paid not only the trifling expense of his meals, but should have paid all the heavy expenses which were paid by the Government. The fact that he paid for his meals is in itself an acknowledgment that he was not on the *Onondaga* on official business and that he knew he was violating the law. Why, you ask, should the Government at large expense send this vessel on this long voyage for private purposes in violation of the law for the convenience and comfort of the Secretary of the Treasury? There is one reason why this was done and only one. Secretary McAdoo wanted to go, he wanted to take an ocean voyage at Government expense. He had charge of "the proper cruising arrangements of the vessels." He was willing to violate the law and so he violated it.

Mr. Speaker, the unlawful uses of revenue cutters by Secretary McAdoo justifies a more severe condemnation of his acts than I have attempted to make. The example set by this official only prompts minor officials of the Government to violate the law. This is illustrated by the clipping which I have here from the Times-Dispatch, of Richmond, Va., under date of June 6, 1914, which contains a description of a pleasure trip given by Norman R. Hamilton, at Norfolk, Va., from which I quote:

At Newport News the party was met by Mr. Norman R. Hamilton, collector at Norfolk. Later they were the guests of Mr. Hamilton aboard one of the vessels of the customhouse fleet, and after being shown the interesting points on Hampton Roads were carried to Norfolk.

This morning I received a letter from Massachusetts, and I quote the following:

Why kick on Secretary McAdoo alone? There are others, perhaps. "Everybody is doing it."

[Laughter.]

This is an example of real Democratic economy. These "cruising arrangements" at this season of the year are apparently very popular with at least a great part of this Democratic administration. These voyages in luxurious steam yachts at Government expense have not been denounced by a single Democrat connected with the administration.

Mr. MADDEN. It saves the man using them from going to the expense of purchasing a private yacht.

Mr. DONOVAN. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. DONOVAN. The gentleman from Illinois has no right to take possession of the floor and interject remarks without the permission of the Chair.

The SPEAKER. The gentleman from Connecticut is entirely correct. [Laughter and applause.] It is a bad habit that Members drift into.

Mr. GOOD. Hence I am led to inquire whether the unlawful and private use of these yachts are intended as a performance of that platform pledge of the Democratic Party wherein it declares:

We demand a return to that simplicity and economy which befits a democratic government.

Mr. Speaker, I ask to extend my remarks by printing in the RECORD an editorial from the New York Times of July 21, 1914.

The SPEAKER. The gentleman from Iowa asks unanimous consent to extend his remarks by printing an editorial on the same subject from the New York Times. Is there objection?

Mr. DONOVAN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Connecticut objects.

Mr. GOOD. Mr. Speaker, bearing on this same subject is an editorial in the New York Times of July 21——

Mr. GARRETT of Texas. Mr. Speaker, a point of order.

The SPEAKER. For what purpose does the gentleman from Texas rise?

Mr. GARRETT of Texas. I rise to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARRETT of Texas. Can the gentleman under the guise of personal privilege and under the ruling of the Chair in regard to "wanton misrepresentation" proceed to read the opinion of all the newspapers in the country or any newspaper on the question of Mr. McAdoo's conduct?

The SPEAKER. The situation is this: The gentleman has a perfect right to read that editorial if he wants to do so under the guise of personal privilege. Of course, the Speaker would not permit an abusive or improper editorial to be read at all; but the gentleman, as long as he keeps within the limits of decent discussion, has a right to read any extract from anything he pleases up until his hour runs out.

Mr. GARRETT of Texas. Then, a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARRETT of Texas. Would the gentleman have a right before arguing or speaking or reading any article——

Mr. MANN. Mr. Speaker, I make the point of order the gentleman can not interrupt the gentleman from Iowa by a parliamentary inquiry.

The SPEAKER. That is correct, too.

Mr. GARRETT of Texas. Well, I make the point of order that the editorial the gentleman proposes to read is not germane to the question of personal privilege.

The SPEAKER. The Chair can not tell until he hears it. [Laughter.]

Mr. GOOD. Mr. Speaker, the editorial referred to is as follows:

[Editorial from the New York Times, July 21, 1914.]

THE RESEARCHES OF M'ADOO.

Secretary McAdoo's defense against the charge of Congressman GOOD that he has been "joy riding" in revenue cutters is well enough so far as it confines itself to the argument that he has been doing what all his predecessors have done and that he has paid his expenses. But he ceases to be impressive when he undertakes to give the impression that he has been cruising around with his wife in the discharge of his official duties. And he becomes positively humorous when he says:

"On two occasions within the last 17 months when I have been on board revenue cutters rescues were made at sea, and I secured knowledge which I have applied with great advantage to the administration."

[Laughter.]

It is a new idea that the duties of the Secretary of the Treasury require him to go out cruising in Government boats to study the processes by which rescues are made. It conjures up a picture of a dignified statesman industriously making notes as a drowning man is hauled aboard from a sinking boat—

[Laughter.]

and jotting down such memoranda as "Man hauled aboard by rope. Query. Would not stepladder be better? Length of time occupied in climbing side, 50 seconds. Consult efficiency engineer to see if time can not be reduced in future."

Or perhaps Mr. McAdoo means us to understand that he is studying the art of rescue under the impression that his official position calls upon him to perform such duties himself, and he wants to be prepared. If so, he is setting an alarming precedent for his successors. No elderly and sedentary gentleman will wish to become Secretary of the Treasury if he is liable, in the midst of the preparation of a currency bill, to be interrupted with a call to put on his oilskins and slide down the side to man a rescue boat.

Mr. Speaker, some little criticism was made of the gentleman from New York [Mr. FITZGERALD] because he rushed to the defense the other day of the Secretary of the Treasury. Everybody here and elsewhere knows that there is no more efficient legislator on either side of this House than the gentleman from New York [Mr. FITZGERALD]. Few men have acquired the knowledge of appropriations and the expenses of running this Government that has been acquired by the gentleman from New York, but I am a little afraid that he set a precedent the other day that will disturb him when it comes to making appropriations for this Revenue-Cutter Service. It is perfectly natural, Mr. Speaker, that the gentleman from New York should defend the Secretary of the Treasury. The gentleman from New York and Secretary McAdoo come from the same State——

The SPEAKER. The Chair will suggest to the gentleman that he is not pursuing his personal-privilege question when he is talking about the gentleman from New York even if he is talking in a complimentary way. [Laughter and applause.]

Mr. GOOD. Mr. Speaker, I am about through talking in a complimentary way, and I think I will be able to get back to the point. [Laughter.] Now, Mr. Speaker, it is perfectly natural that the gentleman should rush to his defense. They both come from New York. Thousands and hundreds of thousands of dollars of patronage is at stake in the State of New York, and it is——

The SPEAKER. The Chair will——

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that the gentleman may be permitted to continue his complimentary remarks.

The SPEAKER. The gentleman could pronounce an eulogy upon the gentleman from New York at the proper time, but the gentleman from New York is not mixed up with this question of personal privilege.

Mr. FITZGERALD. No; I do not want to be. But if the gentleman thinks it helps his case to abuse me, I am so accustomed to it that it will not do any harm.

The SPEAKER. The gentleman was complimenting you.

Mr. FITZGERALD. It did not sound like it.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent that the gentleman from Iowa [Mr. GOOD] be permitted to continue the line of talk in which he has been indulging. Is there objection?

Mr. BOOHER and Mr. DONOVAN objected.

Mr. MOORE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. Has the gentleman from Iowa [Mr. GOOD] finished with his remarks?

Mr. GOOD. I yield the floor, Mr. Speaker.

Mr. MOORE. Mr. Speaker, the gentleman from Connecticut [Mr. DONOVAN] frequently rises in his place and says, "I object, Mr. Speaker," or "Point of order, Mr. Speaker." He never addresses the Chair in accordance with the rules, but the Speaker uniformly sustains him. I call the Speaker's attention to Rule XIV, paragraph 1, where it says:

When any Member desires to speak or deliver any matter to the House he shall rise and respectfully address himself to "Mr. Speaker."

The SPEAKER. That is true; but if the Speaker ruled rigidly in favor of every technicality we would not adjourn until noon on the 4th of March next. Anybody presiding has to inject into these rules the elements of common sense in order to expedite business. [Applause on the Democratic side.]

Mr. MOORE. Mr. Speaker, my parliamentary inquiry is whether it is not proper, under the rule to which I have referred, to address "Mr. Speaker" before saying "I object"?

The SPEAKER. That is undoubtedly correct. That is the formula.

Mr. MOORE. Then the gentleman from Connecticut is uniformly out of order in addressing the Chair?

The SPEAKER. Well, the Chair sustains the gentleman from Connecticut half of the time and overrules him half of the time. [Laughter.]

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent to address the House for three minutes.

The SPEAKER. The gentleman from New York asks unanimous consent to address the House for three minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FITZGERALD. Mr. Speaker, a moment ago the Speaker remarked that the gentleman from Iowa [Mr. GOOD] was speaking in complimentary terms of myself. As a former distinguished college professor and president, the Speaker is familiar with that figure of rhetoric known as antithesis. The fact is the gentleman was attempting to build up a straw man by some complimentary remarks in order to lead up to the latter part of his remarks, which, before interrupted, seemed to assume that what I had said on a former occasion in reference to this matter was due to the fact that the Secretary of the Treasury had a very large amount of patronage at his command, and, as I came from the same State, my action had been thereby influenced. First, let me say, Mr. Speaker, for the Secretary of the Treasury, that his statement about the payment of his expenses while on these cutters is easily understood. The Government does not supply rations to the officers of the revenue cutters. Anyone who boards those vessels for any purpose and partakes of food must either partake of the rations furnished by the Government to the crews of the vessels or, unless he pays or reimburses the mess of the officers for what he consumes, must encroach upon the hospitality of the officers and consume that for which they pay themselves.

I think the statement that a revenue cutter leaves this town every Saturday loaded down with Democratic officeholders and politicians is purely Pickwickian. There is not a boatload of Democratic officeholders in Washington. [Laughter.] The Democratic politicians have been as scarce here as huckleberries in winter. The statements made a week or so ago about the Secretary of the Treasury were made without any advance knowledge on this side. Without having time to investigate, I called attention to what I thought was their preposterous character. My action and my statement were not actuated by any favors I have received from the Secretary of the Treasury, nor by the hope of any favors to be received from him in the future. It may clarify the situation for me to state that while we are of the same party and are cooperating in one administration to carry out the promises of our party as enunciated in its national platform, that I have very little sympathy with the Secretary's views and the Secretary apparently has very little sympathy with my views as to what is desirable to be done in matters of appointments affecting the people I represent or for those in adjoining districts in Congress. It makes no difference to me what the Secretary of the Treasury does with his patronage. So far as the discharge of my official duties are concerned, my actions will not be affected. I have not been the beneficiary of his gratitude or of his favor, and I have no expectation that I will be. But when an official of the Government—Democrat, Republican, or nondescript——

Mr. GOOD. Mr. Speaker, will the gentleman yield for a question?

Mr. FITZGERALD. When I finish this statement—has statements made about him on the floor which reflect upon him in any way, and I believe I can contribute to the general enlightenment of the House, I shall not be deterred from attempting to furnish the information or induced to furnish it because of favor received or denied or hope of future benefit.

Mr. GOOD. Does the gentleman make that statement in view of the publication in the Post this morning, that all the New York Federal patronage has been turned over to and put in charge of Secretary McAdoo?

Mr. FITZGERALD. Yes. It is unfortunate for me, I guess; but I make it just the same.

Mr. Speaker, the gentleman has intimated again that my conduct has been actuated by that fact. That is a somewhat serious charge; first, because some people will misunderstand the motive actuating me in the discharge of my public duties; and, second, a large number of hopeful persons will misunderstand my ability to aid them in the ambitions they entertain.

Mr. MADDEN. Will the gentleman yield?

Mr. FITZGERALD. In just a moment. I wish to state once and for all, so far as I am concerned, that with the exception of a $1,200 position in an exempt class and a temporary position for six weeks, which I turned over to one of my colleagues, I have received no patronage from the Treasury Department, and I do not expect to receive any. So that, so far as either obtaining help to assist me politically in the past or hoping to obtain it in the future from the Treasury Department, it has not had the slightest influence in determining me to make the statement that I have made. In view of what I believed—and I do not intend to be offensive—to be unfounded, preposterous, and ridiculous statements of the use of the revenue cutters and which because of familiarity with the service, and my knowledge of the conditions, my confidence in the integrity and high purpose of the Secretary of the Treasury, regardless of any differences of opinion I might have with him politically, I was convinced could not be accurate, I did not hesitate to state my belief. [Applause on the Democratic side.] I do not know who furnishes the information about these matters. It was inti-

mated the other day that the Secretary of the Treasury had turned a revenue cutter over to his son, so that he might use it for his honeymoon.

Mr. GOOD. Mr. Speaker, will the gentleman yield there?

Mr. FITZGERALD. As a matter of fact, Mr. McAdoo's son went on his honeymoon on the yacht *Marguerite*, the property of the father of the young lady whom he married. These little intimations and suggestions are likely to be criticized by people who think that the mere suggestion of a fact is a fact in itself, and it results in gross injustice to men in public life.

Mr. GOOD. Mr. Speaker. will the gentleman yield?

The SPEAKER. Does the gentleman from New York yield to the gentleman from Iowa?

Mr. FITZGERALD. I yield.

Mr. GOOD. The gentleman does not mean to say that I intimated that?

Mr. FITZGERALD. No. I do not mean to say that the suggestion was made by the gentleman from Iowa.

Mr. GOOD. Does not the gentleman think now, since he has mentioned that fact. that he ought to state what is reported as having taken place when young Mr. McAdoo and his bride were on that cruise, so far as his father used a revenue cutter to intercept them, and in the early hours of the morning caused a gun, or it may have been 5 guns, or 16 guns, or perhaps 21 guns, to be fired across the bow of the yacht in which young Mr. McAdoo was cruising?

Mr. FITZGERALD. Mr. Speaker, such was the character of all these statements. The other day I happened to visit the office of the Secretary of the Terasury on a matter of public business affecting my work in the House when he referred to this statement and stated what the facts were—that his son and his wife had made a trip on the yacht *Marguerite*, the property of a gentleman in Baltimore, the father-in-law of his son. The only possible connection there could be between the suggestion as to the use of the revenue cutter and the fact was that as the Secretary had attended the wedding in Baltimore that day and the revenue cutter *Apache* was leaving Baltimore on a regularly scheduled trip that night to Washington he had returned to Washington on the revenue cutter.

This new suggestion that the revenue cutter fired guns across the bow of a private yacht, except in the performance of official duty, seems to intimate charges—although there are no charges—that the Secretary of the Treasury could be guilty of descending to such common horseplay that I am unable to believe that a man of his characteristics and culture and attainments could possibly be guilty of. [Applause.] Such statements are unfortunate. If the law is violated at any time, I am perfectly free in my criticism of those who violate it. But I remember that when I was in the minority all the disgruntled soreheads and discontented persons in every branch of the public service were continually furnishing me with what was supposed to be information of grave dereliction of duty on the part of high officials in the Republican administration. I consigned 99.99 per cent of them to the wastebasket. Upon investigation I found out that an infinitesimal fraction of the other one one-hundredth per cent of them had very little foundation. I have not the slightest doubt that this same group of marplots, soreheads, disgruntled, discontented, no-account, don't-want-to-work employees in the Government have now turned their attention to gentlemen on the other side. [Laughter and applause on the Democratic side.]

Mr. MADDEN. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from New York yield to the gentleman from Illinois?

Mr. FITZGERALD. Yes.

Mr. MADDEN. Is the gentleman from New York trying to convince his constituents that he has no influence with the administration, or is he afraid that his constituents will think he has some influence with the administration? [Laughter.]

Mr. FITZGERALD. The question of whether or not I have any influence with the administration is absolutely of no importance. If I can not be elected to Congress, if I can not stay in Congress because of what I do in the performance of my official duty, I do not want to be here because of the influence of an administration. [Applause.] No administration, no man, nor any person ever controlled or ever will control my acts as an official and as a Member of this body. If I can not remain in public life to represent what I honestly and intelligently believe to be the things that my constituents want, and which I honestly believe should be advocated and done, I am ready to go out. I have a great deal of respect for myself, although a great many others do not always seem to have much. [Applause.]

Mr. GOOD. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER. Does the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. GOOD. I would like to ask the gentleman whether or not he agrees with the Secretary of the Treasury that it is no abuse or violation of the law to use revenue cutters for private purposes?

Mr. FITZGERALD. I did not say that. The Secretary made no such statement. If I were the Secretary of the Treasury and had the Revenue-Cutter Service in my jurisdiction, which under a previous administration had been criticized and recommended for abolishment, to have its boats scattered among a number of different departments and its functions absorbed by half a dozen, with all the high-brow efficiency experts and reformers and adjusters of governmental affairs insisting that it should be abolished, I should have been sufficiently interested to know something about the personnel and the boats and the manner in which the officers and men performed the functions of the Revenue-Cutter Service to go aboard one occasionally myself and risk the charge that in doing so I was using the cutter for private purposes. [Applause.] Any man who is afraid to do the things that he believes are essential for the proper discharge of his official duties because of the fear that some one may criticize him or charge him with having done an unauthorized act or a wrong act is not fit to hold the office, and he ought to get out. [Applause.]

Mr. GOOD. I would like to have an answer to the question.

Mr. DONOVAN. This is a proposition for unanimous consent, Mr. Speaker.

The SPEAKER. You can not take the gentleman off the floor in that way.

Mr. GARNER. Mr. Speaker, just a suggestion. The gentleman from New York [Mr. FITZGERALD] got unanimous consent to address the House for three minutes. Just how long ago that was I do not know, but it seems much longer ago than——

The SPEAKER. The Chair understood the gentleman from New York got unanimous consent to address the House.

Mr. GARNER. I have no desire to take the gentleman off the floor; but this is Calendar Wednesday, and there are important matters on the calendar affecting Texas and other States, and——

The SPEAKER. It seems that the gentleman from New York [Mr. FITZGERALD] asked for three minutes, and in that case the gentleman's time expired long ago.

Mr. FITZGERALD. Did the Speaker say my time was up?

Mr. GOOD. I ask unanimous consent that his time be extended for one minute to answer a question.

The SPEAKER. The gentleman from Iowa asks unanimous consent that the time of the gentleman from New York [Mr. FITZGERALD] be extended to answer a question. Is there objection?

Mr. BOOHER. I object, Mr. Speaker.

The SPEAKER. The gentleman from Missouri objects.

Mr. DONOVAN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Connecticut rise?

Mr. DONOVAN. To make a proposition for unanimous consent.

The SPEAKER. The gentleman will submit it.

Mr. DONOVAN. To address the House for 10 minutes on the subject that people who live in glass houses, and mighty thin glass at that, had better be conspicuous by keeping quiet——

Mr. MADDEN. I object.

Mr. DONOVAN. I have not stated the proposition yet.

The SPEAKER. The gentleman from Illinois objected as soon as he heard what it was.

Mr. DONOVAN. I think there are ways of objecting.

FRANCES OWEN LURTON.

The SPEAKER. This is Calendar Wednesday——

Mr. BYRNS of Tennessee. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Tennessee rise?

Mr. BYRNS of Tennessee. To submit a request for unanimous consent.

The SPEAKER. The gentleman will state it.

Mr. BYRNS of Tennessee. There is a Senate concurrent resolution (S. Con. Res. 29) on the Speaker's table. If it is not considered to-day, it can not be considered at all. It will only take a minute or two if the House will agree to consider it, and I ask unanimous consent that it be taken from the Speaker's table and considered at this time.

Mr. SHERLEY. What is it about?

Mr. BYRNS of Tennessee. I ask that it be read for information.

The SPEAKER. The Clerk will read it for information.

The Clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914, and for prior years, and for other purposes, be, and the same is hereby, authorized to insert under the head "Department of Justice, miscellaneous objects," the following item: "To pay to Frances Owen Lurton, widow of Horace Harmon Lurton, late a justice of the Supreme Court of the United States, $14,500."

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, has the conference report on the general deficiency bill been submitted this morning?

Mr. BYRNS of Tennessee. The conference report was submitted this morning.

Mr. MANN. Is it a complete report?

Mr. BYRNS of Tennessee. No; it is not.

Mr. FITZGERALD. There is one item in disagreement.

Mr. BYRNS of Tennessee. There is a disagreement on one item.

I will state to the gentleman from Illinois [Mr. MANN] and to the House that I am informed that this same sort of procedure was followed in the case of the widow of Mr. Justice Harlan, and also, if I mistake not, in the case of Mr. Justice Brewer. Mr. Justice Lurton was not a wealthy man, and if this sum is to be paid, it seems to me it would be a very proper mark of respect to his memory to let it go through now, as the Senate unanimously decided ought to be done.

Mr. MANN. I take it, if this resolution goes through now, it will have become the established practice of the Government to appropriate one year's salary to the widow of a deceased Justice of the Supreme Court of the United States. I do not know how soon that would extend to the widows of deceased circuit judges, but I think it ought to be——

Mr. BYRNS of Tennessee. If the gentleman will pardon me, I just stated that the same practice was followed in the two cases I have cited.

Mr. MANN. I do not remember in reference to the Brewer case, but I remember in reference to the Harlan case, where there were claimed to be very exceptional circumstances. I do not know what the facts in this case may be. It comes in now purely as a matter of precedent, on the theory that it is following an established custom. I am not willing to do that without having it brought before the House in such a way that it can be considered and voted upon. I do not think we ought to take to-day on this proposition, and if it is opened to discussion it will take the whole day. Therefore I object.

The SPEAKER. The gentleman from Illinois objects.

LEAVE OF ABSENCE.

The SPEAKER laid before the House requests for leave of absence, which the Clerk read, as follows:

Mr. SHERWOOD requests leave of absence, indefinitely, to repair vital energies.

Mr. BUCHANAN of Illinois requests leave of absence, for five days, on account of illness.

Mr. MANN. Mr. Speaker, I did not hear those requests. Reserving the right to object, will the Clerk please read them over again?

The SPEAKER. The Clerk will read the requests again.

The Clerk read as follows:

Mr. SHERWOOD requests leave of absence, indefinitely, to repair vital energies.

The SPEAKER. Is there objection?

Mr. MANN. I shall not object to that request from Gen. SHERWOOD, but any similar request from anybody else in the House will be objected to.

The Clerk read as follows:

Mr. BUCHANAN of Illinois requests leave of absence for five days on account of illness.

The SPEAKER. Is there objection?

There was no objection.

RESIGNATION OF MEMBER.

The SPEAKER laid before the House the following communication:

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES UNITED STATES,
Washington, D. C., July 22, 1914.

Hon. CHAMP CLARK,
Speaker of the House of Representatives.

MR. SPEAKER: I have this day tendered to the governor of Ohio my resignation as a Representative in the Congress of the United States from the fourteenth congressional district of Ohio, to take effect on Thursday, July 23, 1914.

Respectfully,

WM. G. SHARP.

EXTENSION OF PAYMENT UNDER RECLAMATION PROJECTS.

The SPEAKER. This is Calendar Wednesday, and the unfinished business is the irrigation bill. The House automatically resolves itself into the Committee of the Whole House on the state of the Union, and the gentleman from Virginia [Mr. FLOOD] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes, with Mr. FLOOD of Virginia in the chair.

The Clerk read the title of the bill.

Mr. COX. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COX. Is the bill open now for amendment?

Mr. TAYLOR of Colorado. I will say to the gentleman from Indiana that the bill is open for amendment. We have read the first section.

Mr. COX. The first section has been read?

Mr. TAYLOR of Colorado. Yes; and I presume it is in order to have the committee amendments to that section read first.

The CHAIRMAN. The Chair will state to the gentleman that there are four committee amendments pending.

Mr. TAYLOR of Colorado. I ask that the committee amendments be read.

The CHAIRMAN. The Clerk will read the first committee amendment.

The Clerk read as follows:

On page 2, line 2, after the word "fund," strike out the word "two" and insert the word "five."

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will read the next committee amendment.

The Clerk read as follows:

Page 2, line 5, after the word "shall," insert the word "each."

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. If that amendment is agreed to to perfect the text, will it still be in order to move to strike out the perfected text and insert an amendment in lieu thereof? I take it that is the parliamentary situation.

The CHAIRMAN. The Chair thinks so.

Mr. MONDELL. Mr. Chairman, I did not quite understand the intent of the inquiry of the gentleman from Illinois. Of course the Chair understands that it is a well-established rule that the House having passed on a matter, an amendment proposing a change can not thereafter be offered. I think that rule has been too strictly enforced, for it has been very strictly enforced.

The CHAIRMAN. The inquiry of the gentleman from Illinois was, if after the text had been perfected an amendment could be offered striking out a portion of the paragraph containing the perfected text.

Mr. MANN. Yes; I take it that if this amendment is agreed to it will be in order to strike out that language, including the perfected amendment, and insert other matter.

The CHAIRMAN. That is the ruling of the Chair. If this amendment is adopted to perfect the text, then an amendment will be in order striking out the language, including the perfected text.

Mr. MONDELL. Mr. Chairman, in order that this matter may be understood, the House might adopt all the committee amendments, and under the ruling of the Chair just made the gentleman from Illinois might then propose a new section in lieu of this section, restoring the old section as it was in the bill originally. Manifestly, that could not be done under the rule.

The CHAIRMAN. The Chair thinks that if an amendment is offered to perfect a section, that afterwards an amendment striking out the language, including the perfected portion, is in order.

Mr. MONDELL. The Chair does not hold that after amending the section a motion could be made that would undo all that had been done by the committee?

The CHAIRMAN. The Chair rules that if the amendments were for the purpose of perfecting the section, that after the section was perfected an amendment would be in order striking the section out.

Mr. MONDELL. I realize that the Chair can not rule intelligently until we have a concrete case before us.

The CHAIRMAN. The question is on the amendment which has been reported by the Clerk.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

On page 2, line 6, after the word "remainder," insert the words "shall each be."

The amendment was agreed to.

The Clerk read as follows:

Page 2, line 14, after the word "available," insert the words "as announced by the Secretary of the Interior."

The amendment was agreed to.

Mr. MORGAN of Oklahoma. Mr. Chairman, I ask to proceed for 30 minutes. I will state that there was an understanding the other day, just before general debate was finished, between the chairman of the committee and the ranking member on this side that they would ask that I should be allowed 30 minutes to discuss the bill generally early in the consideration of the bill to-day. That was done near the close of general debate.

Mr. TAYLOR of Colorado. Mr. Chairman, I want to say in support of the request of the gentleman from Oklahoma that on last Thursday, when the general debate was closed, we did promise that early in the debate to-day we would do our utmost to secure for the gentleman from Oklahoma 30 minutes' time. It was not stipulated whether he should take it all at one time or along during the debate. I tried to persuade the gentleman to take it at different times along through the debate, but nevertheless I want to keep faith with him. He did agree to withdraw objection at that time to closing general debate with the understanding that he should have an opportunity to address the House for 30 minutes, and I hope there will be no objection to his proceeding.

Mr. KINKAID of Nebraska. Mr. Chairman, it was my understanding also that the gentleman should have 30 minutes.

Mr. GARNER. Let us have the regular order.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent that he may proceed for 30 minutes. Is there objection?

Mr. MOORE. Mr. Chairman, reserving the right to object for a moment, I call the attention of the gentleman from Colorado to the fact that I spoke to him abqut having some time, and he indicated to me that personally, as far as he was concerned, I might have it. I should not want more than 10 minutes, and might not use that.

Mr. TAYLOR of Colorado. I intend to ask unanimous consent that the gentleman from Pennsylvania shall have some time, but I hope the gentleman will wait until later in the afternoon.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. MORGAN of Oklahoma. Mr. Chairman, I am a western man; I live in a Western State; I represent a western district. My sympathies are with the West, and it is with a great deal of reluctance on my part that I rise to criticize some of the features of this bill, and unless the bill shall be amended I will be constrained to vote against it. My objections to this bill arise mainly on account of the manner in which the reclamation fund has been distributed, on account of the way the law has been administered.

In other words, Oklahoma has been discriminated against. The State has not received any benefit under the law, though we have contributed nearly $6,000,000 to the fund.

But some of my objections to the bill are not based upon considerations for my own State or for my own people, but are based upon the highest national interests. There may be some here who are not entirely familiar with the provisions of the original reclamation act, and I want to read section 9 of the original act. It is as follows:

SEC. 9. That it is hereby declared to be the duty of the Secretary of the Interior in carrying out the provisions of this act, so far as the same may be practicable and subject to the existence of feasible irrigation projects, to expend the major portion of the funds arising from the sale of public lands within each State and Territory hereinbefore named for the benefit of arid and semiarid lands within the limits of such State or Territory: *Provided*, That the Secretary may temporarily use such portion of said funds for the benefit of arid or semiarid lands in any particular State or Territory hereinbefore named as he may deem advisable, but when so used the excess shall be restored to the fund as soon as practicable, to the end that ultimately, and in any event within each 10-year period after the passage of this act, the expenditures for the benefit of the said States and Territories shall be equalized according to the proportions and subject to the conditions as to practicability and feasibility aforesaid.

Mr. Chairman, there are three propositions involved in this section. First, this section makes it the duty of the Secretary of the Interior to use the major portion of the fund derived from any State from the sale of public lands for the benefit of the land within that State; second, the Secretary is authorized temporarily, and only temporarily, to use funds that come from one State to construct a project in another State; third, the object and purpose of all this is declared to be that at the end of every 10-year period the funds derived from all the States shall be equalized among the States, so that each State may receive at least a major part of the funds it has contributed.

How has that been carried out? I have a table here which shows the amount which each State has contributed and the amount that has been expended in each State. The table is as follows:

Receipts to the reclamation fund from sale of public lands in each State and the amount expended on irrigation projects in each State to Apr. 30, 1914, including bond fund.

States.	Receipts from sale of public lands.	Expenditures on irrigation projects.
Arizona	$1,455,000.00	$17,049,211.31
Idaho	5,039,708.90	16,181,170.51
Washington	6,433,299.73	9,475,583.36
Colorado	6,680,991.93	8,837,577.55
Montana	8,588,290.73	8,334,430.39
Nevada	541,596.96	6,781,272.03
Wyoming	4,320,900.46	6,614,027.90
New Mexico	3,939,790.95	6,531,423.80
Nebraska	1,664,013.83	5,797,553.83
Utah	1,890,479.34	4,652,949.61
Oregon	10,413,928.22	4,371,791.08
South Dakota	6,823,778.66	3,219,097.83
California	5,358,943.03	3,073,542.59
Texas		2,817,928.90
North Dakota	11,921,898.43	1,947,467.20
Kansas	963,080.07	376,471.29
Oklahoma	5,783,557.84	72,512.10
Preliminary investigations		80,488.73
General accounts		259,655.99
Total	81,504,919.82	106,374,065.01

This table shows that Arizona has contributed $1,455,000 to the fund, but there has been expended in the State $17,049,000. Idaho has furnished $5,000,000, and has received $16,181,000. Arizona and Idaho together have furnished to the fund $6,500,000, and have received $33,000,000. These two States have received over two-fifths of the entire amount received from the sale of public lands. Washington has contributed $6,500,000 to the fund, and there has been expended in this State $9,500,000. Colorado has contributed $6,558,000 and received $8,837,000. Nevada has contributed only $541,596, but there has been expended in Nevada $6,781,272. Wyoming has contributed $4,320,000, and there has been expended in Wyoming $6,614,000. Oregon has contributed $10,413,000, and there has been expended in Oregon $4,371,000. North Dakota has contributed to the fund $11,921,000, and there has been expended in the State $1,947,000. Oklahoma has contributed $5,783,000 to the reclamation fund, and there has been expended in the State $72,888.99. The amount expended in Oklahoma was spent in surveys and in some experimental work on the North Fork of Red River.

Mr. Chairman, this table shows conclusively that the original law has not been carried out. What was the nature of that law? It should have been regarded in the character of a compact, an agreement, an understanding, a pledge between these 16 States that this fund should be distributed among the States strictly according to the compact between the States as expressed in the original act.

Mr. HAYDEN. Mr. Chairman, will the gentleman yield?

Mr. MORGAN of Oklahoma. Yes.

Mr. HAYDEN. The gentleman is aware, no doubt, that section 9 of the original act from which he read a few moments ago was repealed by the reclamation bonding act of 1910, and that it is not now a part of the law.

Mr. MORGAN of Oklahoma. I am aware of this fact. But in my opinion its repeal is no credit to the Representatives from those States which have secured the larger part of the reclamation fund. When the provision to repeal section 9 was before the House, I offered an amendment to strike that provision out. I appealed to the House not to repeal that section. But my efforts were unsuccessful. To my surprise the gentlemen representing the great Northwestern and Southwestern States, the States where the reclamation fund has been largely expended, did not come to my relief. Certainly the gentleman whose State has received more than its share of this fund will not claim that it is any credit to his people that the original compact for the use and distribution of this fund has been violated.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. MORGAN of Oklahoma. Yes.

Mr. MONDELL. Does the gentleman think that the Federal Government ought to construct reclamation projects whether conditions exist which make them feasible or not, but simply for

the purpose of expending some money in some one's district or State?

Mr. MORGAN of Oklahoma. I do not.

Mr. MONDELL. The gentleman knows that the provision to which he refers—of equalization—contained another provision under which no project could be undertaken unless a project was determined to be a feasible one. He knows that, does he not?

Mr. MORGAN of Oklahoma. I understand that very well.

Mr. MONDELL. Is not the trouble with the gentleman's State that it has not advanced or brought forward or shown and in fact has no feasible irrigation project?

Mr. MORGAN of Oklahoma. Of course, Mr. Chairman, I knew that proposition would come up. The gentlemen representing the other States must have some excuse for preventing Oklahoma from having its share of this fund, and that is one of the excuses they now make, that Oklahoma has no practicable or feasible project; but I ask the gentleman—and the gentleman remembers my effort to prevent the repeal of section 9—if there were no feasible project in Oklahoma, then no money could be spent there; and then what could have been the harm in allowing section 9 to remain in that bill?

Mr. MONDELL. Will the gentleman allow me to answer that?

Mr. MORGAN of Oklahoma. Briefly.

Mr. MONDELL. I was not one of those who favored or was anxious to have that modification made. That was insisted upon in order that we might secure the advance of $20,000,000 from the Treasury. But the gentleman from Oklahoma knows, I think he should know, that had the law remained exactly as it was, had there been no change, Oklahoma would not have secured any project, because she has no feasible location for a project, and the modification of the statute could not change the situation so far as Oklahoma was concerned.

Mr. MORGAN of Oklahoma. The gentleman is greatly mistaken when he states that there are no feasible irrigation projects in Oklahoma. The reports of the Reclamation Service show to the contrary. But the department has doubted the propriety of undertaking these projects up to the present time. But we have the feasible projects.

I will admit that up to the present time it has been immaterial as to the repeal of section 9. And why? Because prior to that time the fund had been appropriated and plans had been made to use all this fund in Wyoming, Montana, Washington, Idaho, and other States; and the repeal of section 9 does not prevent the construction of irrigation works in Oklahoma no more than it prevents the construction of irrigation works in any other State. Mr. Chairman, when I first came to Washington as a Representative the one thing I wished most to accomplish was to secure for Oklahoma some part of that great reclamation fund, and I went to the department soon after I came here. I saw the Secretary of the Interior; I saw the Director of the Reclamation Service, and I made my appeal for something for Oklahoma; but while I was courteously treated, yet I was told that there were no funds; that the funds were needed to complete works which had been already begun. And then I was told it would be necessary to issue $20,000,000 in bonds in order to increase this fund so we could partially complete projects already begun in the other States. And then came the bond proposition. I went before the Ways and Means Committee, that had jurisdiction of the bill to issue $20,000,000 in irrigation bonds. The gentleman from Wyoming remembers. I opposed the repeal of section 9, and when the bill was brought in the House I opposed the repeal. The law should have been allowed to stand as originally enacted. Now, every act of Congress has its history. So has the reclamation act. I have read the proceedings of the Fifty-seventh Congress, which passed this bill. The gentleman from Wyoming was a Member of the House at that time; and no doubt for the good of his State, as well as for the good of the country at large, he has been returned to this House and is here to-day. In a speech made by Mr. MONDELL, as shown in the CONGRESSIONAL RECORD of June 12, 1902, he said:

> At the beginning of the present session of Congress the Representatives from the 16 States and Territories embraced within the arid and semiarid portion of our country, believing that the time was ripe to present to the Congress a comprehensive plan of national undertaking of irrigation enterprise, formed a committee of 17 members, composed of Representatives and Senators from the region referred to, and this committee set about the formulation of a measure for the consideration of Congress. Most careful consideration was given to every detail of the proposed legislation, and after much discussion the measure was formulated and introduced in either House. Criticisms and suggestions were made relative to it, and as to the effect or intent of certain of its provisions, and after further thought and discussion the measure was finally amended in a way satisfactory, it is believed, to all of those favorable to national irrigation legislation and presented for your consideration.

Now, in the report of the Committee on Irrigation of Arid Lands, also made by the gentleman from Wyoming, upon this bill it is stated:

> Section 9 is intended to insure an uniform and harmonious development throughout the entire arid and semiarid region.

So that the object and purpose of section 9 was to secure, as the report says, written by the gentleman from Wyoming, "an uniform and harmonious development throughout the arid and semiarid region," and yet the fund has been so diverted that Oklahoma has been left entirely out in this "splendid, uniform, harmonious development" which the report describes. It may have been harmonious, but not uniform.

Mr. MONDELL. Will the gentleman yield?

Mr. MORGAN of Oklahoma. Just for a question.

Mr. MONDELL. The gentleman knows, notwithstanding the repeal of section 9, a project might at any time be undertaken in Oklahoma when funds are available, if a practical project can be found.

Mr. MORGAN of Oklahoma. Well, I am aware of that. That is the one hope we have.

Mr. MONDELL. I do not think the gentleman is fair to himself when he seems to convey the impression that he allowed Congress to shut that State out, because nothing of the kind was done.

Mr. MORGAN of Oklahoma. I can not yield any further. It is true, under section 1, these funds are still to be used to irrigate lands in the States from which the funds came, so that the Secretary still has the power to use these funds in Oklahoma; and I still believe that somewhere along the line Oklahoma will get something out of this great fund. I shall not give up hope as long as I remain in this House that some time, somewhere, the gentlemen from Wyoming, Nebraska, and Washington, and those other great Western States will come to aid and assist me in securing justice for Oklahoma. I shall not cease while I shall remain a Member of this House to work for justice to my constituents and my State. We are entitled to our share of the benefits of this act. In time I have faith we will get our dues.

Mr. MONDELL. Will the gentleman yield to me again?

Mr. MORGAN of Oklahoma. I will yield to the gentleman.

Mr. MONDELL. The gentleman does not mean by that that he desires us to aid him in securing money for a project that is not feasible——

Mr. MORGAN of Oklahoma. No, sir.

Mr. MONDELL. And that could not be successfully carried out?

Mr. MORGAN of Oklahoma. No, sir; neither——

Mr. MONDELL. Whenever his State presents a feasible project——

Mr. MORGAN of Oklahoma (continuing). Neither myself nor a single homesteader in Oklahoma would divert a single penny of this sacred fund to be wasted upon an impracticable project. Now, gentlemen make a splendid appeal here in behalf of the homesteaders on reclamation projects, and that comes very near to my heart, because I represent homesteaders largely. I have been among homesteaders in the West for 20 years. I think I know as much about homesteaders and their wants and have as high appreciation of the services they have rendered to the Nation as any man on the floor of this House, and yet I must look first to the homesteaders of my own district and my own State. I must see that their interests are not put in jeopardy.

And think about it, will you? You may take four or five of the northwestern counties of the State of Oklahoma—Woodward, Harper, Beaver, Texas, and Cimarron—extending out and including what was formerly "No Man's Land," a strip 35 miles wide and 170 miles long, extending 50 miles out beyond the western line of the State of Kansas, and a large portion of these homesteaders who went there, did so believing that under this splendid reclamation fund which Congress had created by the act of June 17, 1902, those lands would be made more valuable and productive, by reason of great irrigation works in that section of the State. I say they have been struggling throughout the last 6, 8, 10, or 12 years contending against the difficulties and obstacles and enduring hardships, and it was these men who contributed this $6,000,000, largely, to this fund. How did they get the $6,000,000? The greater part of them mortgaged their lands to secure it, paying from 8 to 24 per cent interest. So this $6,000,000 came through the hands of the homesteaders of Oklahoma. Their farms were mortgaged to contribute that amount to this fund, and yet you come here with a bill and ask me to vote to give your homesteaders 20 years' time, when by so doing you may still further defer the

time when an important irrigation work will be constructed in Oklahoma.

Now, what have we accomplished? Twelve years have passed since the reclamation act became a law. Have we succeeded? Have we accomplished what we expected to accomplish? Have we made no serious mistakes? I think no one will so assert. I find by reading the speeches and reports upon this bill that when it was first passed that it was predicted and estimated that under this fund, in the course of 30 or 40 years, we would reclaim perhaps from 20,000,000 to 60,000,000 acres of land; that upon these lands we would locate and provide homes for probably 30,000,000 or 40,000,000 people. That was the picture that was drawn. But what have we done in 10 or 12 years? We have expended $106,000,000 and made homes for 11,000 homesteaders and occupants of land.

Mr. MONDELL. Will the gentleman yield? The gentleman wants to be entirely correct. We have expended only $80,000,000, and we have made homes for approximately 60,000 people.

Mr. MORGAN of Oklahoma. Mr. Chairman, I have the same tables that were furnished to the gentleman.

Mr. BRYAN. Will the gentleman yield a little further on that same proposition?

Mr. MORGAN of Oklahoma. Yes.

Mr. BRYAN. Not only have we made homes for those families that are on the reclamation projects, but for innumerable people that have come in, and who run stores and work in stores, and in little factories that supply lumber and supply material and other things in the communities that have been peopled by those who live on the reclamation projects.

Mr. MORGAN of Oklahoma. As I understand from the tables, $81,000,000 has come from proceeds of the land. Twenty million dollars has come from the bond issue, and then about $5,000,000 has come back from the payments that have been made on these lands, making about $106,000,000.

Mr. MONDELL. But only $80,000,000 has been spent.

Mr. MORGAN of Oklahoma. It has not quite all been expended. This $20,000,000 will go in a very few years. It has been appropriated and set apart for specific projects. And we have from this $106,000,000, as I say, provided homes for 11,000 families, a population of 40,000 or 50,000 possibly. We have brought under irrigation only 1,250,000 acres of land. Texas County, Okla., which I represent, has 1,300,000 acres of land. Think about pouring into one county $106,000,000!

Mr. Chairman, I doubt the propriety of extending the period for the payment of the cost of construction of irrigation works from 10 to 20 years. By so doing I think you will lessen the productive power of the reclamation fund, that it will reduce the ability of the fund to reclaim desert lands. The fact that owners of land must pay from $40 to $100 per acre to cover the cost of constructing the works makes it necessary to give the settlers and owners of the land reasonable time, and in view of the fact that the cost per acre has been much larger than was at first expected, gives a good ground for a reasonable extension, and to that I shall not object.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. McCOY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

H. R. 8660. An act to amend section 4 of an act entitled "An act granting a franchise for the construction, maintenance, and operation of a street railway system in the district of South Hilo, county of Hawaii, Territory of Hawaii," approved August 1, 1912.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 1784) restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. MYERS, Mr. SMITH of Arizona, and Mr. SMOOT as the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to bills of the following titles:

S. 5957. An act to authorize the construction of a bridge across the Sabine River in the States of Louisiana and Texas, about 2 miles west of Hunter, La.; and

S. 485. An act to amend section 1 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

EXTENSION OF PAYMENT UNDER RECLAMATION PROJECTS.

The committee resumed its session.

Mr. COX. Mr. Chairman, if this bill is open for amendment I offer the following amendment.

Mr. TAYLOR of Colorado. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. TAYLOR of Colorado. Have we adopted the committee amendments, all of them?

The CHAIRMAN. The Chair so understands. The Clerk will report the amendment offered by the gentleman from Indiana [Mr. Cox].

The Clerk read as follows:

Amend, page 2, line 16, by inserting after the word "established," the following: "In addition to the principal of the construction charge there shall be paid in each case annual interest upon the balance of the construction charge remaining unpaid at the rate of 3 per cent per annum."

Mr. COX. Mr. Chairman, I do not know that I can add anything to what has been so ably stated by different gentlemen on this subject while the bill was under general debate. But it strikes me that to let these people have this tremendous amount of money without interest is absolutely indefensible. I am unable to conjure up in my mind any ground whatever that would justify this enormous appropriation year in and year out to the people engaged in farming on these reclamation projects without paying interest to the Government for the money put into them.

It has been demonstrated—at least to my mind conclusively—that the whole business is a failure, that it never has yielded back and never will, at least for a century to come, to the Government 100 cents on a dollar invested.

Now, to our friends on this side of the House I wish to say that we have inveighed year in and year out against special privilege If this is not special-privilege legislation, I never saw it in my life. Ever since the year 1864, down to the year 1912——

Mr. MANN. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] Forty-two gentlemen are present—not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Dooling	Keister	Prouty
Ainey	Dunn	Kennedy, Conn.	Rauch
Anthony	Eagan	Kiess, Pa.	Rayburn
Aswell	Eagle	Kinkead, N. J.	Reilly, Conn.
Austin	Edmonds	Kitchin	Riordan
Avis	Edwards	Knowland, J. R.	Roberts, Mass.
Baker	Elder	Korbly	Rucker
Barchfeld	Estopinal	Lafferty	Sabath
Bartholdt	Fairchild	Langham	Saunders
Bartlett	Farr	Lazaro	Scott
Beall, Tex.	Fields	L'Engle	Scully
Bell, Ga.	Frear	Lesher	Sharp
Borland	Gallagher	Lever	Sherwood
Bowdle	Gardner	Lewis, Pa.	Shreve
Broussard	George	Lindquist	Slayden
Brown, N. Y.	Gerry	Linthicum	Small
Browne, Wis.	Gill	Lloyd	Smith, J. M. C.
Browning	Gillett	Lobeck	Smith, Md.
Bruckner	Gilmore	Loft	Smith, Tex.
Brumbaugh	Glass	Logue	Stafford
Buchanan, Ill.	Goldfogle	McClellan	Stanley
Bulkley	Gorman	McGillicuddy	Stephens, Nebr.
Burke, Pa.	Goulden	McGuire, Okla.	Stringer
Byrnes, S. C.	Graham, Pa.	McLaughlin	Sumners
Calder	Griest	Mahan	Sutherland
Callaway	Griffin	Maher	Switzer
Campbell	Gudger	Manahan	Taylor, Ala.
Candler, Miss.	Guernsey	Martin	Taylor, N. Y.
Cantor	Hamill	Merritt	Temple
Cantrill	Hamilton, Mich.	Metz	Ten Eyck
Carew	Hamilton, N. Y.	Miller	Thomas
Carlin	Hammond	Morgan, La.	Thompson, Okla.
Carr	Hardwick	Morin	Vare
Cary	Harris	Moss, W. Va.	Vaughan
Chandler, N. Y.	Hart	Mott	Vollmer
Church	Hayes	Murray, Mass.	Walker
Clancy	Henry	Murray, Okla.	Wallin
Clark, Fla.	Hinds	Neeley, Kans.	Walsh
Coady	Hinebaugh	O'Brien	Walters
Connolly, Iowa	Hobson	O'Leary	Weaver
Cooper	Holland	O'Shaunessy	Whitacre
Copley	Houston	Padgett	White
Covington	Howard	Paige, Mass.	Willis
Crisp	Hoxworth	Park	Wilson, N. Y.
Crosser	Hughes, Ga.	Parker	Wingo
Dale	Hughes, W. Va.	Patten, N. Y.	Winslow
Davenport	Hulings	Patton, Pa.	Woods
Davis	Igoe	Peters, Me.	Young, Tex.
Dickinson	Jacoway	Peters, Mass.	
Dies	Johnson, S. C.	Porter	
Donohoe	Jones	Powers	

The committee accordingly rose: and Mr. COLLIER having taken the chair as Speaker pro tempore, Mr. FLOOD of Virginia, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having had under consideration the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes, finding itself without a quorum, he directed the roll to be called, whereupon

230 Members answered to their names, and he reported the names of the absentees to be entered upon the Journal.

Mr. McCOY. Mr. Speaker, I would like to make a request for a correction of the RECORD.

Mr. MANN. That is not in order now.

The SPEAKER pro tempore. That is not in order now. The House automatically resolves itself into the Committee of the Whole House on the state of the Union for the further consideration of Senate bill 4628.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. FLOOD of Virginia in the chair.

Mr. COX. Mr. Chairman, I ask unanimous consent that the pending amendment be reported again, as several Members have come in who have not heard it.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. COX:

Page 2, line 16, amend by inserting after the word "established" the following: "In addition to the principal of the construction charge there shall be paid in each case annual interest upon the balance of the construction charge remaining unpaid at the rate of 3 per cent per annum."

Mr. COX. Mr. Chairman, the amendment offered is a very simple one, and needs no explanation from me. As an economic proposition, I believe it is clearly right. I can not see the wisdom, justice, or equity of piling into these projects millions upon millions of dollars each year for the benefit of a few people in the United States.

I have no objection whatever to the attempt to reclaim this land and to utilize it, and thereby add to the wealth of the Nation; but I do object to piling this money into these projects at the expense of the people, when but a very few of them will enjoy the benefits of it. In my judgment, it is unconscionable, unjust, inequitable, and absolutely unfair to tax the people of each and every congressional district to float a proposition at the expense of the many for the benefit of the few. I can not bring myself to a justification of it. An argument of tremendous force was made here the other day on this subject by the gentleman from Illinois. I tried to obtain an answer from some one who was defending and favoring the proposition, but they never answered me. If you propose to appropriate millions of dollars, without interest, for this purpose, why is not every congressional district represented upon the floor of this House entitled, on the same principle, to an equivalent amount of money to reclaim some land in that district? In my own county there is not less than 50,000 acres of wet land, as good land as the Lord ever created out of doors. The people there would give the Government all kinds of bonds for this money if they could only get it to reclaim that land without interest.

Mr. MADDEN. And they would be willing to pay some interest, too.

Mr. COX. Yes; and as suggested by the gentleman from Illinois, they would be willing to pay a reasonable amount of interest to get it. Hence, as I said a moment ago, it can not be defended upon any economic ground, or any ground of justice and equality before the law.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. COX. I yield for a question.

Mr. BURKE of South Dakota. The gentleman seems to assume that this only benefits the congressional district in which a project may be located. Now, is it not true that the reclamation laws are available to all of the people of the country, some of whom are represented by the gentleman from Indiana [Mr. Cox]?

Mr. COX. But only a small number of people can avail themselves of it. It was argued here the other day that interest ought not to be charged, because when this project was begun in 1902 the law did not provide for the payment of interest. That is no reason why we ought not to amend the law. If we have tried out the law and found it to be a failure, or have found that it is working an injustice to the people, it is our duty and it is up to us to amend it so as to make it a law of equality.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. COX. For a question.

Mr. MANN. As I understand, this section to which the gentleman's amendment is offered applies only to those who hereafter enter upon the reclaimed land.

Mr. COX. That is true.

Mr. MANN. It does not apply to anyone who has heretofore entered?

Mr. COX. That is the proposition.

Mr. FALCONER. Will the gentleman yield for a question?

Mr. COX. Yes.

Mr. FALCONER. Does it not apply to anyone who applies for the benefit——

Mr. COX. Hereafter.

Mr. FALCONER. Hereafter, but under the enterprises already started and where the money has been expended for ditches?

Mr. COX. I think not.

Mr. FALCONER. Does it not, as a matter of fact?

Mr. COX. But I would go back and amend the law. I would make it apply to every one of these projects that was begun in 1902 or at any time prior to the passage of this law.

But to repeat, Mr. Chairman, if this is to be encouraged solely upon the ground that the law, when it was originally passed, did not provide for an interest charge, and if it is found that interest ought to be charged upon these payments, it is our duty to amend the law. It is special legislation, pure and simple. Why, ever since 1864, national banks which were made Government depositories have had the use every year of countless millions of dollars of the people's money, and it was not until 1912 that they were required to pay interest upon those deposits, and the Treasury Department has figured out that at 2 per cent interest on daily balances that would have yielded upward of $80,000,000 to the revenues of this country. And during the period of time the Government charged 2 per cent interest on daily deposits it yielded nearly $2,000,000 annually to the Government. This is a loan, pure and simple, to the farmers living on these projects, and why not make them pay a small rate on money advanced to them by the Government?

Mr. UNDERWOOD. Mr. Chairman, I ask the committee to allow me to speak for 10 minutes.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent that he may be allowed to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. UNDERWOOD. Mr. Chairman, I had the pleasure and the honor of serving on the Irrigation Committee of this House when the original irrigation bill was written, and since that time I have taken some interest in this class of legislation.

I would like to see this great work succeed. I think there were some defects in the original bill, which perhaps should be amended; but I do not concur at all in the argument that has just been made by the gentleman from Indiana. In the first place, Mr. Chairman, whom are we asking to pay this interest? Are they the great corporations of this country? Is it the wealth of this country? Is it well-to-do people? No; we are asking a lot of people who have been unable to buy a home for themselves up to this time, who are invited to the West for a free home, many of whom have been living in sand and dirt for years, without schools, without water, without houses in which to take care of themselves and their families, and battling on this naked desert for a living [applause], in order that some day they may have what God should give to every man on this earth—a home for himself and family. [Applause.] I would like to ask the Members of this House who do not live in the arid West, when you appropriate and spend $50,000,000 a year for rivers and harbors, does everybody in this country and in every congressional district get a part of that money? No. Do you ask the people who are benefited to pay interest on that money which you appropriate to make rivers and harbors navigable? No. Do you ask them to return the principal? No.

Mr. MADDEN. Will the gentleman yield?

Mr. UNDERWOOD. No; I decline to yield now. You do not require the money you spend for river and harbor service to be returned. You maintain a row of locks and canals from Pittsburgh down the Ohio River at the expense of my constituency and at the expense of your constituency who never use the Ohio River for navigation, and yet you give them the principal without interest.

This money does not come from the Public Treasury raised by taxation. It is a part of the private purse of the Nation. It has been so construed since the beginning of this Government. It is not subject to the same constitutional limitation on expenditures that has been recognized as Government money that goes into the Treasury by taxation.

What have you done with the money from the public domain in years past? You gave it away. In the early history of the country you gave away the public domain for homes. Is that what you are doing now—giving it away for homes? No: you are only lending the public domain to the homestead settler to make him pay for water on the arid desert. [Applause.] And you ask that these people should be charged interest. You gave the public domain to the great railroads of this country. Did you ask them to return the principal or interest? No.

Now, Mr. Speaker, this contract was entered into with these people many years ago. Instead of saying we give to so many people of the United States so many free homesteads, we said we give to the Secretary of the Treasury as trustee the public domain in 18 arid-land States that he may assemble that money

and use it for the purpose of making grass grow where no grass could grow before, to build homes where homes could not be built before, and then open it to homestead settlement. As a matter of fact, what is the difference in the proposition between opening the great plains of Ohio and Indiana and Illinois and giving homes to your fathers or taking a part of the public domain and expending it in a way so that you may give homes to your children? [Applause.]

I think this bill should be amended. I intend to support some of the amendments; but I say, Mr. Chairman, that when we gave the public domain to the great railroads of this country, gave them to the schools of the East, I am not prepared to agree that when there is a band of ragged, homeless, poor settlers fighting for their homesteads on the desert domain we should play the part of Shylock and ask for the pound of flesh. [Applause.]

Mr. KINKAID of Nebraska. Mr. Chairman——

The CHAIRMAN. The gentleman from Nebraska [Mr. KINKAID] is recognized.

Mr. KINKAID of Nebraska. Mr. Chairman, before discussing the amendment I am impelled to express my appreciation, which is very hearty, indeed, of the able and eloquent remarks made by the justly distinguished gentleman from Alabama [Mr. UNDERWOOD], the worthy floor leader of the majority, in opposition to interest charge. I congratulate the gentleman from Alabama on his very comprehensive grasp of the question and his correct conceptions of conditions in the semiarid West with which water users have to contend. I personally appreciate, and am sure the home builders of the semiarid West will highly appreciate, his effort made in behalf of their just cause.

Mr. Chairman, I am opposed to the amendment requiring the payment of interest. It is thoroughly repugnant to the spirit of the original reclamation act. Its enactment, in my judgment, would constitute a breach of faith with the people of the great semiarid West. But I now wish to express my views only as to the economic or business side of the question. I regard it as a saving at the spigot and wasting at the bung. Perhaps I have forgotten the language of the old fireside expression, but I remember the wisdom it contains.

To explain my meaning, there would be a loss to the public many times as much by deferring the development of semiarid lands as there would be gained by the Government in interest. There would be many times as much lost in the way of agricultural production by the delay of 5 or 10 years in opening up the lands to cultivation as the Government would gain in interest.

Mr. Chairman, to be better understood, the more money that is to be paid the longer it will take water users to make it out of the lands, and in proportion to the amount of interest required to be paid it would be necessary to extend the time limit beyond 20 years in which to make full payment of interest and principal. I understand the advocates of interest charge grant this proposition and would willingly extend the time limit of payment 10 years or more in addition to the 20 years' limit provided by the bill if their demand for interest payment be yielded. But as the amendment provides that interest be paid annually we will assume that but five years' delay would be caused in the development of 3,000,000 more acres, assuming that new entries would continue as if there were no interest charge, but which I do not think would prove true. I regard it as a fair estimate that the gross production per acre of these lands under a good system of irrigation would average at least $50 an acre. The gross production then of 3,000,000 acres would amount to $150,000,000 per year. For five years the gross production would amount to $750,000,000. The farmer water user ought to secure a net return out of this gross production of, say, $20 per acre per year, which would amount to $60,000,000 for 3,000,000 acres. For five years it would amount to $300,000,000. I should have stated the cost of construction, and therefore water-right charge, on 3,000,000 acres at $50 per acre amounts to $150,000,000. Interest at the rate of 3 per cent for one year upon $150,000,000 amounts to $4,500,000. For five years it would amount to $22,500,000.

Mr. Chairman, this shows that while the Government would be gaining $22,500,000 in interest, the semiarid West would lose at the same time in production $750,000,000. As our agricultural production is now about equaled by our home consumption, it is fair to assume that $750,000,000 worth of farm products raised in the semiarid West might save the necessity of the importation from foreign countries of an equal amount of farm products. But, Mr. Chairman, what would become meanwhile of existing water users? As a matter of course, most of them would fail. Not only this, the operation of the reclamation law would fail for the want of new entrymen for new projects and for new units on existing projects. As I have heretofore argued, the undertaking of water users will not endure an interest charge. It would be too much like doing business on a watered-stock basis. Unless they can commence and get started on a basis that will permit of their making a living, securing reasonable returns for their labor, they must sooner or later fail in the entries they make.

Mr. Chairman, I propose now to demonstrate by a correct mathematical calculation I have made how this interest amendment would operate in a concrete case like the North Platte project, where the average amount of the water-right charge remaining unpaid is a little over $50 per acre. Why, for the first few years interest payments would exceed the amount of the principal required to be paid by this bill. On this project, as the bill provides, the average payment of principal for the first year would be $83.02, while the interest payment would be $124.53, thus exceeding the principal payment by $41.51. And yet this is a relief bill. For the second year, as the bill provides, the principal payment would be $83.02 and the interest payment $122.04.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KINKAID of Nebraska. Mr. Chairman, I ask unanimous consent to proceed for three minutes more.

The CHAIRMAN. Is there objection?

Mr. DONOVAN. Mr. Chairman, reserving the right to object, the gentleman talked for three-quarters of an hour the other day, and I think he is imposing upon this side of the House. I shall have to object.

Mr. MANN. Oh, he is the ranking Republican on the committee.

Mr. DONOVAN. He talked for three-quarters of an hour the other day.

The CHAIRMAN. Is there objection?

Mr. DONOVAN. Mr. Chairman, I withdraw my objection.

The CHAIRMAN. The gentleman is recognized for three minutes more.

Mr. KINKAID of Nebraska. Mr. Chairman, continuing with my estimate, for the third year the bill requires the payment of $83.02 principal, while the interest amendment would require the payment of $119.54. The fourth year the principal required to be paid by the bill would amount to $83.02, while the interest amendment offered would require the payment of $117.06. The fifth year the principal required to be paid by the bill would amount to $166.04, while the interest amendment offered would require the payment of $114.56.

Mr. Chairman, I ask unanimous consent to place in the RECORD the written estimate I hold, showing how the act would operate with the adoption of the amendment offered by the gentleman from Indiana [Mr. Cox] requiring the payment of interest at 3 per cent.

But, Mr. Chairman, the result of the operation of the act with the interest amendment adopted would be to require the water user on such a project as the North Platte project to pay $18.66 per acre more for his water right than without interest payment. Interest payment on an 80-acre unit in the North Platte project at 3 per cent would amount to $1,491.68. Is this the way to afford relief when it is so greatly needed? [Applause.]

The CHAIRMAN. The gentleman from Nebraska asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The statement referred to is as follows:

Year of payment.	Payments on account of principal.		Payments on account of interest at 3 per cent.	Total payments, principal and interest.
	Rate.	Amount.		
	Per ct.			
First	2	$83.02	$124.53	$207.55
Second	2	83.02	122.04	205.06
Third	2	83.02	119.54	202.56
Fourth	2	83.02	117.06	200.08
Fifth	4	166.04	114.56	280.60
Sixth	4	166.04	109.58	275.62
Seventh	6	249.08	104.60	353.68
Eighth	6	249.08	97.12	346.20
Ninth	6	249.08	89.64	338.72
Tenth	6	249.08	82.18	331.26
Eleventh	6	249.08	74.67	323.75
Twelfth	6	249.08	67.23	316.31
Thirteenth	6	249.08	59.77	308.85
Fourteenth	6	249.08	52.29	301.37
Fifteenth	6	249.08	44.83	293.91
Sixteenth	6	249.08	37.35	286.43
Seventeenth	6	249.08	29.88	278.96
Eighteenth	6	249.08	22.40	271.48
Nineteenth	6	249.08	14.94	264.02
Twentieth	6	249.00	7.47	256.47
Total		4,151.20	1,491.68	5,642.88

Mr. MADDEN. Mr. Chairman, I ask unanimous consent to proceed for 10 minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. MADDEN. Mr. Chairman, what is the question before us? It is a question now of whether we are going to establish irrigation projects or reclaim lands on a business basis, or whether we are going to reclaim the lands and hand them over to settlers without any relation to what the business of the situation is. In 1902 we began this work. In 1903 we had expended $268,000; in 1904 we had expended $1,781,000; in 1905, $5,548,100; in 1906, $12,632,900; in 1907, $25,008,800; in 1908, $36,253,200; in 1909, $45,757,900; in 1910, $53,781,300; in 1911, $60,940,800; in 1912, $69,858,200; in 1913, $76,233,000; and in 1914, $83,588,200. The interest which would have accrued on that amount of money, if we charged at the rate of 3 per cent, up to the 30th of June, 1914, would have been $14,150,664. And all the money that has been paid in by the settlers up to the present time is less than one-third of what the accrued interest on the sum that has been expended would amount to.

Mr. FERGUSSON. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. I refuse to yield. What are we doing? We are developing arid lands. We are endeavoring to make them settleable for the people who want homes in the West. We are investing at the rate of $60 an acre for the development of the water that may be turned onto these lands so as to make them cultivable. We are investing in the 3,000,000 acres of land proposed to be developed under the law now in existence about $200,000,000. We are paying this money from the sale of public lands all over the Union, and we are turning that money into the hands of the Secretary of the Interior, carte blanche, to expend as he pleases.

When we have these $200,000,000 we are giving the land that is developed by that expenditure to the people who want to settle there. How much do we charge them for the land? Not a cent. Is it fair to assume that when we give this land to these people to settle there, free, after the expenditure of $200,000,000, there ought not to be any interest charged? The gentleman from Alabama [Mr. UNDERWOOD], the distinguished leader of the Democratic side of the House, said that we do not charge interest to the people who get the benefits from developments of rivers and harbors. Of course we do not. There is no comparison between the two propositions. Who owns the rivers and harbors after the money is expended on the development? The people of the United States. Who owns the land that these people settle on after we have expended our $200,000,000 for their settlement? The people that settle on the land, and nobody else. The man who owns 160 acres of land there is the sole beneficiary. The gentleman from Alabama says we do not charge the people interest on the money invested in the Life-Saving Service for lighthouses. Who owns the lighthouses? Who controls them? Who has a title to them? Does any individual in the United States own them or have title to them? Not at all. Why should anybody pay interest on the investment? Who owns the land all over the United States? The men who toil on the farms. Who loans them money without interest? Nobody. Is there land anywhere in the United States that needs development or reclaiming? Yes; there are millions of acres down on the Mississippi River. There is just as much reason for saying that we ought to reclaim the lands on the Mississippi River, where we have an alluvial soil, so rich that there is not anything like it in all the world, as there is for reclaiming land elsewhere. Why not reclaim that? Why not give the people of Mississippi and all the border States along the Mississippi Valley the benefit of the expenditure of this money for reclamation, where the land when reclaimed is worth something and where crops can be raised, regardless of whether waterways are built through which the water can flow upon the land? I see no reason on earth why this money should be expended by the Government of the United States without the payment of interest by those who receive the benefit. The gentleman from Nebraska [Mr. KINKAID], the lightning calculator at mathematics, made the statement a moment ago that $18.62 would be added to the price per acre of the land by the payment of the interest.

And I will say to the gentleman that the price of land is only $60 for development, and only $1.80 would be the amount of interest to be paid on the cost of an acre of land, so that I do not see where the gentleman gets $18.60. The gentleman adds to that ten times——

Mr. FALCONER. That is for one year.

Mr. MADDEN. It is only $1.80, or 3 per cent interest on $60——

Mr. FALCONER. Per year.

Mr. MADDEN. I am willing to give all the time extension these people out there want for the payment of the cost of the development of this land, whether it is 20 years, 25 years, 30 years, 35 years, or 40 years, but they ought to be obliged to pay interest on the money expended by the Government for the development of the land. We have lots of lands in Illinois that can be developed, and we would be glad to have the Government of the United States furnish the money to develop them, and we would be glad to pay the United States Government interest on the money which it would loan us for that purpose. The people in the other States of the Union have lands that can be developed. Why not use part of this reclamation fund for their benefit? Why not use part of the reclamation fund that is being expended in such vast quantities for the development of lands where people are willing and able to pay interest? If the people of this section of the country are not able to pay interest on money advanced by the United States, the projects are not worth developing. If we are not able, after we have expended $200,000,000 out of the Public Treasury, to assure ourselves that the land is worth settling upon, then we are not representing the American people with that degree of intelligence which they expected of us when they sent us here. It is our duty, we are obligated by our oath, to see that no dollar of the public money is expended extravagantly or unwisely or unjustly. We are obligated by our oath of office to see that every transaction performed by the Congress of the United States is so performed that it will stand the light of criticism, and I submit to you men here to-day that the expenditure of these $200,000,000 for the development of these arid lands without the payment of interest by the men who now contemplate further development is not only unjust but indefensible.

Mr. FERGUSSON. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I desire very briefly to express some thoughts which occurred to me while the gentleman who has just taken his seat was speaking. This is not a proposition to start anew this irrigation project and let the people pay the principal back, and, in addition to that, require them to pay interest. It is a project that was started many years ago. In its wisdom that earlier Congress considered this a great national enterprise and not merely for the local benefit of a few, and provided, what was at that time an unheard-of proposition, that the people who settled on these lands under these reclamation projects should pay the principal back in 10 years. The Government engineers mistook the time they could finish the work. The people who went on the lands, seeking and hungry for homes, were misled partly by these Government engineers and by their own hopefulness that they would get a home, and so undertook it. It is ascertained that unless the relief is given they will have to give up the enterprise almost in a body. Now and then you will find people who will survive, but the proposition before you to-day, nakedly stated, is this: Whether you will throw away that $83,000,000 that the gentleman has added up here before you and abandon this enterprise, that has been on foot in this country for years, as an absolute failure, or whether you will give these poor settlers—and I know personally many of them are hungry, not merely for homes and for land, but hungry for the necessities of life for their wives and children—this opportunty to procure a home; and here we are met by gentlemen like the gentleman from Indiana [Mr. Cox] and others on the floor of the House by the proposition, "You must starve or quit the proposition," a proposition as to which the Government made as much of a mistake as these people have made. Gentlemen on this floor say these settlers may starve or quit the proposition, and we will accept the loss of $83,000,000 and abandon the enterprise. Mr. Chairman, in a nutshell, that is what is to be decided now, namely, shall the Government lose the millions already invested by placing the additional burden of an interest charge on the settler and thus forcing him to give up and abandon his claim? [Applause.]

Mr. FITZGERALD. Mr. Chairman, I believe that these settlers should be required to pay interest upon the money invested in this land. The Government is going to expend about $60 an acre in placing water upon it. It was originally estimated that about $30,000,000 would be realized from the sale of public lands in the arid and semiarid States, but from 1901 to 1913 $80,901,000 was realized. It was all expended, and the $20,000,000 authorized to be obtained by the issuance of certificates of indebtedness has also been expended, and it is estimated that it will take $100,000,000 additional to complete the works now in progress. The subcommittee of the Committee on Appropriations made an investigation this winter of the Reclamation Service. They prepared a synopsis of the testimony taken before that committee, and in the synopsis, signed by Mr. BORLAND, of Missouri, Mr. WHITE, of Ohio, Mr. CARR, of

Pennsylvania, and Mr. MAHAN, of Connecticut, the statement is made "that the evidence indicates that a greater percentage of the land under irrigation projects is still in the hands of speculators, only the smaller fractions being in the possession of actual settlers." What will this House be confronted with in a very short time? Legislation to provide a system of rural credits. All over this country in the rural sections there is a demand that some system be devised by the Federal Government by which the farmer can more readily borrow money in order to finance the operations of his farm. If Congress determines to expend over $200,000,000 in making lands in the arid and semiarid regions available for cultivation, donating them merely upon the reimbursement to the Federal Government over a period of 15 years of the principal without interest, what defense can there be to the proposition that a system be devised whereby the lowly owner of some farm property at some place in the country, who might profitably till his farm and sustain himself in decency if he had $5,000 or $10,000 worth of improvements upon it, be financed by the Federal Government to make those improvements with a requirement that opportunity be given to repay the principal in 15 or 20 years without interest?

What answer can be made to the farming community of this country if we are to make tillable and possible of cultivation Government lands and give them to the men seeking them merely upon a return of the investment necessary to make them profitable over a period of 15 years, when the man who has the land himself asks that the Federal Government advance him for 15 years or 10 years or 5 years enough money to make it possible for him to put his farm in shape, so that he can make profitable returns from it and not be compelled to pay interest upon the investment required?

Mr. Chairman, I believe that this is one of the gravest questions the House has been compelled to confront in a long time. There will be rural-credit legislation after a very brief period. There is a universal sentiment in this country for it. It will be necessary to exercise the utmost care and take the greatest precautions to evolve a system that will be fair to those seeking extensions of credit along such lines without doing an injustice to the rest of the people or without launching the Government upon a scheme of financial operations that may well tax to the limit the energies and the resources of the people to maintain. And yet, if we establish this precedent and invest the money taken from the Treasury, advance it to some one who takes these Government lands, letting them take a period of 15 years to return it without interest, we can never meet the demands that will be irresistibly made upon us.

This situation is not similar to the situations that have been referred to. The business, the great function of the Federal Government is to maintain aids to navigation——

The CHAIRMAN. The time of the gentleman has expired.

Mr. FITZGERALD. Mr. Chairman, I ask unanimous consent for three minutes more.

Mr. BUTLER. Mr. Chairman, I ask that the gentleman may have five minutes more. I want to ask him a question.

The CHAIRMAN. Does the gentleman from New York ask unanimous consent for three minutes?

Mr. FITZGERALD. That is all I want.

The CHAIRMAN. The gentleman from New York asks unanimous consent for three minutes more. Is there objection?

There was no objection.

Mr. FITZGERALD. A function of the Federal Government is to maintain a lighthouse service as an essential aid to the safe navigation of the navigable waters over which the Government has control. A function of the Federal Government is to improve the navigable waters so that they may be safely navigated and so as to provide competitive rates and facilities with the great transportation systems of the country in order that those who have products to ship, as well as those who desire to purchase them, will not have imposed upon them burdens for transportation beyond all reason. The Life-Saving Service is somewhat similar. It might as well be said that the people of the seaboard should be compelled in some way to pay interest on the money expended to maintain a navy, because in no possible way from one standpoint does the interior of the country benefit from it.

Mr. BUTLER. Mr. Chairman——

Mr. FITZGERALD. I have only three minutes.

Or it might be said that a city, a great commercial center on the seaboard, should be compelled to pay interest on the amount expended for the coast defenses, because that particular place is defended and some point in the interior is not.

But those situations are not at all analogous to this one. Here is Government land, with persons taking it up for settlement under the law, the Government advancing the money to finance the improvement and development of the same. All that is asked is that there shall be returned principal and interest. I am not particular about the rate of interest, whether it be 3 per cent or 2 per cent. But let us establish as a policy of the Government that it will advance without interest the money necessary to finance those operations essential to make possible the development of lands taken from the Government, and there can not be any answer to the demand that every farmer in the United States owning his own land shall have advanced to him out of the Federal Treasury such sum as might properly be loaned upon his property for a term of years for the development of that land, to be returned after a period of years without any interest. If we launch into this policy now, we can not avoid the other, and as good, sound business men we should not do so.

Two hundred million dollars is projected in these schemes. Is it not enough that the resources of the country should be taxed to such an extent so as to enable men to settle upon and take up these lands, without asking the Federal Treasury to bear the burden of sustaining them? Mr. Chairman, it is said that this money is not taken out of the Treasury. We own a great public domain, an asset of the Federal Government, and it is provided by law that the proceeds of the sales of public lands in the arid and semiarid States shall be put into this reclamation fund and spent for the improvement and development of the land in the arid and semiarid States. Can it be said that is not taken out of the Treasury? If it had not been for that law, the money would have been turned into the Treasury as miscellaneous receipts and counted in the grand total necessary to provide the money to pay the expenses of the Government. To the extent of $80,000,000 the general funds of the Treasury have been depleted because the proceeds of these sales have been turned into the reclamation fund. We have borrowed $138,000,000 to help defray the cost of the building of the Panama Canal, paying interest on $84,000,000 at 2 per cent and fifty and odd million dollars at 3 per cent. If this money had not been diverted from the general funds of the Treasury and segregated in this reclamation fund, the country would not to-day be paying interest on $80,000,000 of the bonds issued for that purpose. It surely is a charge upon the Federal Treasury. I hope the amendment will be adopted.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAKER. Mr. Chairman, I ask unanimous consent that I may proceed for 10 minutes.

The CHAIRMAN. The gentleman from California asks unanimous consent to proceed for 10 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. RAKER. Mr. Chairman, I am opposed to these amendments and opposed to the payment of any interest on the deferred payments. I would like to call this matter to the attention of the House in a little different way than it has been presented relative to the question of interest. I trust that the Members from the Middle West, and the East, and the South will not be driven off their feet upon the question that the farmer is ready and willing to pay a reasonable interest upon a loan on his land in order that he may develop it. These men in the East in former generations were given this land like those who are struggling in the West. The present generation and the generation before have inherited this, with good homes, good roads, good towns, and you can now well afford to go into improving the country in which you live.

Mr. MOORE. Will the gentleman yield?

Mr. RAKER. I can not yield just now.

In the Middle West you have turned over a greater part of this domain to the railroad companies, and they took the best there was. I want to impress upon the mind of every man from the South and the East that for the last 40 years this Government, in its wisdom, has had upon the statute books laws that have given to these men free land and free water. A man living in the West knows what that means. He has taken his homestead, he has taken his desert land, and he gets his water without any cost to him. For 40 years of this selecting of the public domain it has taken the water without any expense. We find great empires of land that is not susceptible of use, not susceptible of men living upon it, without irrigation. This Congress in its wisdom, some eight years ago, believed that we should go, not to the Public Treasury, that we should not tax any man a dollar, but to the public-domain States and take the funds received from the sale of that land and turn them over to the Government that they might build it up, that they might put the remaining public domain in the position in which the greater part had been placed, namely, with good land and water.

And you find the people in that condition now, where, by virtue of the Government's energy, by virtue of the knowledge, by virtue of the brains and ability that this Government has gath-

ered together in the Reclamation Service, hundreds of thousands of acres of the public domain have been reclaimed by private individuals, and that fund has been put into the fund of the Reclamation Service, that otherwise would not be there to-day. By virtue of the same energy and work, the Carey Act and the other acts have been put forward, and thousands of dollars have been put into the reclamation fund and into the Treasury for the reclamation fund, for the purpose of continuing to build up these tracts of land that were absolutely worthless and upon which human nature could not exist.

Now, after you have started these men on the road for eight years and have held out the hopes to them that they might be treated like those in the East, that they might have water brought to their land, that a larger fund might be placed in the Treasury of the United States, that the Government might receive its price from the land, and that all the other lands might be sold and this land used for the purpose of developing and enhancing the remaining public land, after you have given this attention and started it, you say you want to place this interest upon this investment, when the Government is trying to put it in the same shape as the rest of the land that it has given away.

In practically all the projects, by virtue of the high cost of material and the high cost of everything, by additions to the projects, they have doubled and quadrupled in cost, not by any fault of the men on the ground, but because of necessity. You said they should have 10 years' time in which to pay back this money. Is it anything more than right and fair that they should be given an extra time of 10 years more in which they could pay back to this Government the money? Unquestionably no.

Some one has intimated, some one has been unkind enough to say, that the Government will not get back this money. Anyone who has read the case of Shirley against Baker, the case decided by the Supreme Court of the United States, knows that the maintenance fund and the upkeep fund has all been or will be paid back by these farmers.

The entire amounts that go into this fund are to return to the United States, and as a result after 10 years, as the law now stands, and under this bill 20 years, these men will pay back into the Treasury of the United States every dollar of money that has been expended, and the Government is not out one cent. You have the money in the Treasury instead of having barren wastes of land out there unused and unprovided for. Is there anybody injured? Can these men in the East and in the South—and I know there are only a few—say, "Why, my home was taken up as a homestead or preemption 50 years ago, and I wish you had loaned me money on my place to improve it and better it"? There is no comparison nor analogy between the cases at all, and it is only a question of treating these men in the proper shape, dealing with them as you would deal with an ordinary business man. There is not a business man in this House that does not know—and it is done every day—that when a man finds that he has his money invested and finds that his mortgagee can not possibly come out whole he not only reduces the principal in some instances, but in pretty nearly all of them he reduces the interest.

The Government has held out the hope to these people in the West. You have invited them there with this understanding, that they would pay no interest upon the money invested. All you have asked of them—and they have agreed to it—is that they will pay it back at stated times, as it is now in 10 equal installments of the money invested, first, the absolute amount of the construction of the dam, and, second, the money paid for the upkeep and maintenance of the entire project.

This bill, in addition to the first section—and I want to call your attention to it, so that there may be no misunderstanding—provides that each man that comes under the present projects must agree, or he can not get the benefit of the 20 years' time, that he will comply with the rules and regulations prescribed by the Secretary of the Interior. This is a law that will make it better for the Government and make it better for the individual to have it in that way rather than as it is at the present time.

Why, we talk about the various projects that the Government has benefited. It has been fully explained and gone into as to the construction of harbors. You are ready and willing to improve them. You are ready and willing to improve the rivers, but you have a million acres of land with water at a long distance, and you have said now that by an expenditure of the money from these same lands and others of like character and lands from the Western States, "We will take that land, we will impound that water, and we will use it for the purpose of putting the land in shape so that it is habitable and that a man may use it." It is a benefit to the Government, and you have thus improved that million acres of land. You have placed 10,000 families upon that tract of land. You have enhanced the wealth of this country by ten or twenty million dollars, and by virtue of direct and indirect taxation you are benefiting the States and you are benefiting this Nation by doing it.

And now at this time can it be possible that this Congress would change its plan and its policy and say to these men, after their hardships and struggles, that more burden should be placed upon them? I think not. This House will not require this extra burden. There is enough now.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. RAKER. I ask unanimous consent, Mr. Chairman, to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MOORE, Mr. GREEN of Iowa, and Mr. MONDELL rose.

Mr. MOORE. Mr. Chairman, I would ask unanimous consent to proceed, but I believe there is an understanding that I shall have 10 minutes.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. MOORE] asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. MOORE. Mr. Chairman, I would like to see this country populated and colonized wherever there is available land. I believe it would be well if we could encourage a more general distribution of the people. In some large cities undoubtedly there are those who would be better off if they went into the country districts or even into the far West. But they ought not to go upon arid or semiarid lands if they are to make dead failures of their lives or to take upon themselves, without an adequate return, the very great hardships that have been referred to in this debate. Moreover, there ought to be no misrepresentation, either upon the part of the Government or upon the part of private speculators, to induce men to leave the East or any other section of the country to go upon arid or semiarid lands if they are to be made to suffer as has been stated here.

I would not oppose the extension of the time that has been allotted to those who in good faith have already taken up these arid lands and who are now waiting for irrigation and the development of the crops, through which they hope to make good their contract. I sympathize keenly with those who are thus embarrassed, more especially if their misfortune had been due to misrepresentation or false pretense upon the part of speculators.

SETTLERS MUST GO IN TO MAKE GOOD.

But we are now about to make a new contract, and I believe, in the light of experience, that the time has come to give notice to every man who in good faith intends to go upon this land hereafter that he goes in with his eyes open and must no longer expect to fall back upon the bounty of the Government; that he goes in with a definite understanding that at the expiration of the time of the contract he must make good; that if 10 years is the limit, that is the limit, and it is the end of the contract.

Now, Mr. Chairman, those who have already gone in may not have sought to go in as the gentleman from California [Mr. RAKER] insists. They may have gone in upon representations made to them that were misleading and unfair; but having gotten in, there may be no earthly way for them to get out except by extending their time. I repeat I sympathize with those who are already in, but that is no reason why others should be induced to go in with them.

NO DISCRIMINATION IN FAVOR OF EAST.

The gentleman from California seems to think the eastern farmer has been favored as against the farmer who staked his chances upon this irrigated land. He can not compare this situation with anything that has prevailed in the experience of the early eastern pioneer. Neither can the gentleman from Alabama [Mr. UNDERWOOD], whose eloquence swayed the House a little while ago, because those men who carved out their homes on the farms and through the forests of the East had no such subsidy, no such governmental inducement, as has been made to the 11,000 farmers who have gone in under these irrigation schemes. While their lives may have been hard—and I am sure they were—the irrigation farmer had the advantage of Government aid, which the eastern farmer never had. They have been especially favored in this respect. No such expenditure for a like number of farmers has ever been made by the Government as has been made in support of these reclamation projects, and the eastern farmer, in particular, never had any such financial or paternalistic assistance.

MILLIONS TO BENEFIT A FEW.

Mr. BRYAN. Will the gentleman yield?

Mr. MOORE. I regret I can not, because my time is so limited. The best figures we have show that the farmers who have been induced, by circularizing or otherwise, to go out of the East onto the arid lands number 11,320. Give each of them a family of five and that makes 55,000 people who are the beneficiaries of this system, or the victims of it, either one or the other. That means about as many people in all of these 17 arid-land States as the number of residents in one ward in the city of Boston, or in the city of Philadelphia, or in the city of New York. Eleven thousand farmers means about as many farmers as there are in the district of the gentleman from Indiana [Mr. Cox], or any other gentleman who represents a farming district not in arid or semiarid territory. And whether it be Government money or not, it is Government land we appropriate. Thus far we have spent for these 11,000 farmers $86,000,000. Make a mental or pencil calculation, and you will find that the inducement made to these pioneers who are carving their way through these arid lands and this sagebrush is approximately $7,500 per farm. I would like some gentleman from Indiana or some gentleman from Illinois or some gentleman from Ohio to rise and say whether any one of his pioneer farmers, whose record he now looks back to with pride as son and heir, ever had such assistance offered to him by the Government? Answer, you up in North Dakota; answer, you down in Texas, whether the Government ever started you in business with the dead-sure promise that it would spend $7,500 upon 40 acres of land.

Mr. FALCONER. Oh, no: $60 an acre.

Mr. MOORE. Forty acres of land is about the limit of the farm unit under an irrigation scheme, as shown by these tables.

A LONG WAIT FOR RESULTS.

Mr. STEPHENS of Texas. We sell land on 40 years' time at 4 and 5 per cent interest.

Mr. MOORE. My sympathies are with those men who have gone on these lands. I do not care whether they have come from foreign lands or not; if they have gone out there from the East I wish them Godspeed in what they are undertaking to do. I have seen some of them who have persisted there for three, four, and five years, and the testimony of the gentlemen who have spoken for them indicates that some of them have labored in this sagebrush territory, waiting for their trees to come to fruition and their crops to develop for six, seven, and eight years, living meanwhile on canned goods and at times without fresh vegetables. If these people have been taken in and wronged, we should not encourage others——

Mr. BRYAN. Does the gentleman say they live on canned goods on a farm?

Mr. MOORE. I venture to say the gentleman will find enough tin cans on these remote farms of his State to roof every shack in the irrigated district.

Mr. BRYAN. Nobody lives on canned goods, without vegetables, on our farms.

Mr. MOORE. I do not accuse the gentleman himself of living on canned goods. The gentleman lives on the fat of the land.

Mr. BRYAN. The people out in my State have plenty of vegetables.

WATERWAY IMPROVEMENTS BRING REVENUE.

Mr. MOORE. I hope they have, but the gentleman is taking my time. Now, the East has been assailed in this debate because, like the West, the Middle West, and the South, it is striving to obtain improvements to its rivers and harbors. The East has been accused of robbing the Government in the matter of appropriations. Why, the eastern ports produce 80 per cent of all the revenue of this Government that comes in from the customhouses. It is entitled to river and harbor appropriations, because it has been sadly neglected. There is no justification, so far as it is concerned, for the holding up of the river and harbor bill in the filibuster that is now being conducted at the other end of this Capitol. The East has nothing to apologize for in its relations to the West. Go into Seattle, go into the gentleman's own town in Washington, and when the question is asked as to land values, even the boom values that prevail there, "Where does this money come from?" you will find that it comes out of the East. We have sent you money to build your railroads and put you on your feet, while we have suffered a lack of transportation facilities. And you have been legislating to get more of it.

Mr. BRYAN. I want to say that we are sending money to the East all the time.

Mr. MOORE. It would be very welcome in view of what your party has done to us.

Mr. BRYAN. You have got it.

Mr. MOORE. And I guess we pay for it. Under recent legislative conditions we will be glad to have all you send, if we can get anybody to take the risk of running our factories.

Mr. BRYAN. We have recently quit sending it to New York.

IMPROVED FARMS IN EAST AT SMALL COST.

Mr. MOORE. Some time ago, Mr. Chairman, the question of farm values was raised in this House, and there were some who expressed surprise when the statement was made that those who were going out on the arid plains and cleaning up sagebrush, which cost from $25 to $110 an acre to improve for irrigation, might do a little better and do it a little quicker if they looked down the Mississippi Valley and stayed there, or if they looked over the Atlantic coast and remained there. We have some pride in keeping our farmers at home. Nor is it fair that those who go West or anywhere else should be deceived as to what they are to get. The sagebrush farm may be very productive, but it takes seven or eight years for crops to come into bearing. Over along the Atlantic coast we can sell farms, irrigated by nature, with houses on them, for the price of constructing the irrigating and supply works in the arid region.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE. Mr. Chairman, I ask unanimous consent to extend my remarks.

The CHAIRMAN. Is there objection? The Chair hears none.

PERTINENT REVENUE FIGURES.

Mr. MOORE. In view of the attacks that have been made upon the East, and without desiring to be unfair or invidious, I insist that a comparison of the revenues raised in the various States for the support of the Union would leave very little ground for those who assail the East to stand upon. Such a comparison would prove conclusively in the matter of appropriations that the East is not only self-sacrificing but unfairly liberal to other sections of the country. Gentlemen have complained of river and harbor appropriations to eastern projects. These have been almost ludicrously low, in view of the returns that come back to the country through the rivers and harbors sought to be improved. New York, for instance, collects $225,000,000 of Federal revenue, while Pennsylvania contributes $46,000,000 and Massachusetts $35,000,000. New York State has paid as much for its own waterways, which benefit the entire country, as the Federal Government has spent upon all the ports and rivers of the Atlantic seaboard. Massachusetts and Pennsylvania have not received back from the Government in a hundred years as much as they turn into the Government every year. Maryland contributes to the Federal Government every year $13,000,000, while the Government has not given it more than $10,000,000 for rivers and harbors in 100 years. New Jersey contributes $10,000,000 every year to the Federal Government, and in return therefor has not received for rivers and harbors more than $7,000,000 in 100 years.

ATTACKS UPON EAST WITHOUT FOUNDATION.

I am in favor of colonizing and upbuilding the 17 arid and semiarid land States, but I am safe in saying that the internal revenue derived by the Government from all of them is not equal to that derived from Pennsylvania, nor is it much greater than that derived from the State of New Jersey alone. When our friends indulge in their attacks upon the East they ought to put these figures alongside of the $86,000,000 we have already spent to irrigate land for 11,000 farmers. And they should indulge us a little further when we venture the suggestion that there is still a vast quantity of improved and unimproved land in the Mississippi Valley and along the Atlantic seaboard that could be purchased at prices per acre far below the cost of installing irrigation plants in arid territory.

EAST FULL OF OPPORTUNITY.

Without reflecting upon the work of irrigation, nor upon the desirability of reclaiming arid and semiarid lands, I wish to quote from an address made by the Hon. Frank E. Howe, lieutenant governor of Vermont, made at the Jacksonville convention of the Atlantic Deeper Waterways Association in November, 1913. Speaking from personal knowledge of fertile lands in Florida and also in the State of Vermont, he said:

> Both are States of few cities. The great area of Vermont and the great area of Florida are made up of land which is only partially developed, land which is only giving a part of what it ought to produce. You have all heard about the abandoned farms of New England. Now, as a matter of fact, there are very few farms in New England that are absolutely deserted, but there are thousands and tens of thousands that produce only a fraction of what they ought to give, because of sloth and inefficient ownership.
>
> In Florida you have much the same condition, though you may call it by a different name. You have scratched the earth in a few garden spots like Lake Helen, Hastings, Fort Lauderdale, and Miami, of which we often hear, and in other places the names of which are not so familiar to us in the North; but all around these garden spots you have

areas just as fertile, waiting for the hand of labor and business judgment to develop them and bring forth their increase.

Vermont is in precisely the same predicament. Vermont produces more corn per acre than Illinois, more wheat per acre than Minnesota, more apples per tree than Oregon, more butter per cow than Iowa, and yet Vermont farms go begging at from $15 to $25 an acre.

I have spoken of Vermont and Florida, but privately and confidentially I want to tell you that the same condition exists in every Eastern State. You have got your cities; you are proud of their progress. But in order to develop the country and make it progressive as a whole, and make it do what it ought to do, you have got to reach these back areas, these areas which are not doing what they ought to do in adding to the prosperity and progress of the United States. You may say that all this has no part in a waterways convention; but it has. You may say that the cattle grower from Kissimmee cares nothing about the Raritan Canal; you may say the toiler on the Hudson River or in the Connecticut Valley or the Merrimac Valley knows or cares nothing about the toiler on the James. Perhaps once he did not, but at this time he does, for the completion of this waterways system is of interest to every citizen of every State.

Every State is a partner of every other State in the progress of our country. The completion of this proposed Atlantic waterways system will not only save our people millions in transportation charges, it will add millions of wealth through the development of our fertile areas, it will increase by millions the value of our real estate, and it will save thousands of human lives now lost on our wind-swept and treacherous coasts.

EAST FURNISHED MEN AND MONEY TO THE WEST.

Now, there is no special reason for rejecting Horace Greeley's advice to "Go west." Every true American admires the pioneer who blazed the way through the trackless forests and over the unbeaten mountain paths to settle and develop the West. The western type of citizenship and the western genius for hustle in business and for appropriations in Congress excites our interest if not our admiration. But our western friends who have taken an aggressive part in this discussion have no good reason for chiding the East. The East is neither effete nor is it done as an agricultural community. While we have been giving away our western lands and every inducement has been made to the settler to go in upon them, the heaviest draft has been made upon the East. It has furnished the men and the money, and in doing so it has neglected many of its own opportunities, transportation facilities and waterways improvements being among them. But just as the lieutenant governor of Vermont has observed, it has overlooked its own farms, it has not made that bid for settlers that has characterized other sections of the country.

MANY FARMS NEAR THE LARGE CITIES.

People talk of congestion in the East. We have congestion in the large cities, but within 25 miles of most of them, along neglected rivers or otherwise close to the market, there are ample productive farms for any existing surplus population. Read the real estate advertisements in any of the metropolitan sheets and ample evidence is forthcoming of farm opportunities that challenge the per-acre prices that hold in the Middle West and that make amazing to the average eastern man the story of the pioneer who enters arid or semiarid territory to wait for years until his efforts shall bring forth any return whatever. If irrigation that requires so much time and patience costs for construction only from $25 to $110 per acre, what shall we say of improved farms awaiting the tiller near great cities as described in these sample advertisements?

Near West Chester, Pa.:

One hundred and seventy-five acres—A farm at a speculation price. Only $50 per acre. Main line P. R. R. Desirable stock, grain, and fruit farm; large stone dwelling; large stone barn; new wagon house; two springs, with spring houses; spring water by gravity; woodland; beautiful views.

In Montgomery County, Pa.:

Sixty acres, close to Norristown and Pottstown trolley, with stone house, eight rooms; good barn and outbuildings; plenty fruit and grain planted; close to best of markets; $50 per acre; $1,000 worth of cedar posts; terms.

In the Perkiomen Valley, Pa.:

Seventy-five acres, $2,800, only $1,200 cash, balance easy terms; large eight-room stone house, bank barn, necessary outbuildings; two fine springs, spring house; near creamery, stores, school, etc.; some crops included; all clean, tillable, machine-worked fields; immediate possession.

EASTERN FARM OPPORTUNITIES.

These are but a few advertisements from a Philadelphia paper of to-day, but I venture to say that from $25 to $50 per acre would buy improved land in sufficient quantities to accommodate all of the 11,000 farmers who are striving for success upon these western irrigation projects in any of the States of New York, Pennsylvania, Maryland, or Virginia, or in either of the Carolinas. It is not generally known, but it ought to be, in the interests of the East as well as of the entire country, that nearly half of the tillable land of the thirteen original States is still available for the man who is seeking a home upon the farm.

Most of the manufactories of the country are in the Eastern States and in the old colonial area, but it is likewise true that some of the States east of the Appalachian chain have the greatest agricultural records in certain lines of production. The richest county in productivity in the United States is Lancaster, Pa. In buckwheat production Pennsylvania excels. It is not very far behind in dairy products. New York, Maine, and Pennsylvania rank one, two, three as potato raisers, while the duplicated crops of Florida are the marvel of the country.

That the East may not lose its status in agriculture, I call attention to a very remarkable statement in a carefully prepared address by the former Director of the Census, Mr. E. Dana Durand, at Richmond, in 1911:

MORE STRIKING FIGURES.

Mr. Durand showed that the total area of farm land in the 13 original States in 1910 was 161,000,000 acres. Of this vast acreage only 83,000,000 were improved up to 1910, leaving 78,000,000 available for the settler. The figures of the then Director of the Census have such an important bearing upon the question now under consideration that I quote a portion of them, as follows:

Although during the first 60 years of our national existence the 13 original States developed much more rapidly in manufactures and commerce than in agriculture, nevertheless they showed a very marked development in agriculture also. No trustworthy agricultural statistics are available for the 13 original States at the time of the adoption of the Constitution, or for many years thereafter; but it is certain that farm areas, value of farm property, and quantity and value of farm products steadily increased and were in 1850 several times greater than in 1790. Since 1850, however, there has been comparatively little increase in agriculture in the 13 original States, the growing demands for agricultural products being satisfied by the enormous development of regions farther west. The total area of farm land in the 13 original States in 1850 was 147,000,000 acres, while in 1910 it was only about 10 per cent greater, 161,000,000 acres. The acreage of improved land had increased somewhat more, from 64,000,000 acres in 1850 to 83,000,000 in 1910, or nearly one-third. In the area outside of the 13 original States, however, acreage of farm land increased from about 146,000,000 acres in 1850 to 713,000,000 in 1910, or over fivefold, and the acreage of improved land multiplied seven times. In 1850 the 13 original States had almost exactly one-half of the acreage of farm land and more than one-half of the acreage of improved land; in 1910 they had less than one-fifth of the total acreage and only a little over one-sixth of the improved acreage.

In striking contrast with these figures of agricultural industry in the thirteen original States are the figures for manufactures and commerce. While, of course, the percentage of increase in manufactures in the area outside of the thirteen original States has been much greater than within their area, the absolute amount of increase in the thirteen original States has exceeded the absolute amount of increase outside. In 1790 the total value of manufactured products for the entire United States—practically all being in the thirteen original States—was roughly estimated at $20,000,000. In 1910 the value of products of manufacturing establishments of the thirteen original States was $11,121,000,000, or nearly 600 times the figure for 120 years before. In 1850 the total value of products in the territory of the thirteen original States was $800,000,000. The increase of the past 60 years in this territory has been more than $10,300,000,000, the figure for 1910 being 14 times greater than that for 1850. While in the territory outside of the thirteen original States the value of manufactures between 1850 and 1910 multiplied nearly fifty-fold, the actual increase of about $9,330,000,000 was less than the increase during the same period in the thirteen original States.

EAST MUST BE CONSIDERED.

Considering this data from an official source, it is scarcely to be wondered at that these available eastern lands should be passed over by pioneers for the confessedly hard and hazardous work of developing land by artificial irrigation. If the pioneer is able with reasonable assistance from the Government to make his work effective upon the arid or semiarid lands, well and good. But he should not go in without full knowledge of his responsibility, since the financial aid obtained under the irrigation plan is not available to the millions of other farmers who are working out the problems of successful agriculture in lands more fertile and less remote. Nor can any comprehensive or equitable plan of distribution and development, either of population or of agriculture, be successfully worked out without taking the East into consideration.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent that I may proceed for 10 minutes.

Mr. BRYAN. Reserving the right to object, Mr. Chairman, I want the gentleman to have the 10 minutes, but I think we ought to have some agreement about the time for debate upon this matter so that we will know who is going to speak.

Mr. UNDERWOOD. Mr. Chairman, I suggest that some agreement ought to be made as to time. I would like to see this bill got through

Mr. TAYLOR of Colorado. I would like to see if we can not get some time for limit of debate. It has been running now nearly two hours.

Mr. MONDELL. I have not used any of that time.

Mr. TAYLOR of Colorado. Can not we agree on 20 minutes on a side?

Mr. MONDELL. This is a very important amendment to this bill, and it seems to me that we ought to have a fair amount of debate on this one amendment.

Mr. LEVY. Mr. Chairman, I have an amendment I want to offer, and I want a few minutes on it.

Mr. KINKAID of Nebraska. Mr. Chairman, there are several Members on this side who were promised, on last Thursday, that they would be given time. Some of them are members of the committee.

Mr. MANN. I think the gentleman had better get debate closed on this amendment and amendments to the amendment, because if a quorum disappears I am going to keep the Members here.

Mr. UNDERWOOD. I would like to see the bill got through and become a law.

Mr. MANN. So would I.

Mr. UNDERWOOD. I would like to see Members who are in favor of the bill help to get it closed up. Does not the gentleman from Colorado think that 20 minutes on a side is sufficient?

Mr. TAYLOR of Colorado. Yes. I ask unanimous consent that all debate on this amendment and amendments to it close in 40 minutes, one-half to be controlled by myself and one-half by the gentleman from Nebraska.

Mr. MONDELL. I would like to have 10 minutes. I can not complete what I have to say in less than that.

Mr. KINKAID of Nebraska. Here are some members of the committee that want to be heard.

Mr. TAYLOR of Colorado. Let us make it an hour; there are other amendments besides this, and this is not the last call.

Mr. MONDELL. This is the last call on this amendment, I will say to the gentleman.

The CHAIRMAN. The gentleman from Colorado asks unanimous consent that all debate on this amendment and amendments to this amendment be closed in one hour.

Mr. MADDEN. Before that is agreed to I would like to ask whether it will be necessary to offer amendments to this amendment before the debate is closed or after?

Mr. TAYLOR of Colorado. Oh, no.

The CHAIRMAN. No. Is there objection? [After a pause.] The Chair hears none.

Mr. DONOVAN. Mr. Chairman, is the one hour to be controlled by the gentleman from Colorado?

Mr. TAYLOR of Colorado. No; one half by me and the other half by the gentleman from Nebraska.

Mr. GORDON. I object to that.

Mr. MANN. No; it is to be controlled by the Chair.

Mr. DONOVAN. If the time is to be controlled by the Chair, the Chair will need to watch the gentleman from Wyoming somewhat in that respect.

Mr. MONDELL. "The gentleman from Wyoming" asked unanimous consent to proceed for 10 minutes, and I believe I have been recognized.

The CHAIRMAN. The gentleman has been recognized and asked unanimous consent to proceed for 10 minutes.

Mr. DONOVAN. I object, Mr. Chairman; 5 minutes is enough. The other day the gentleman got an extension of time and spent half of that time in foolish talk.

Mr. MONDELL. Mr. Chairman, other gentlemen have been discussing this question for 10 minutes, and the gentleman from Connecticut, who knows nothing about it, has not seen fit to object.

Mr. DONOVAN. I object, Mr. Chairman, to more than 5 minutes.

Mr. BRYAN. Mr. Chairman, I demand the regular order.

The CHAIRMAN. The regular order is that the gentleman from Wyoming is recognized for 5 minutes.

Mr. RAKER. Mr. Chairman, the gentleman from Wyoming has 10 minutes, has he not?

The CHAIRMAN. The gentleman from Wyoming asked unanimous consent to proceed for 10 minutes. Is there objection?

Mr. DONOVAN. Reserving the right to object, at the request of the gentleman from California, who rarely talks, and the gentleman from Wyoming, who hardly ever speaks, I am willing to withdraw my objection and allow them to talk for 10 minutes or 10 hours. [Laughter.]

Mr. MONDELL. Mr. Chairman, we are presenting a bill proposing an extension of the period of payment on reclamation projects from 10 to 20 years. In connection with that extension of time the gentleman from Indiana [Mr. Cox] proposes that there shall be interest paid at the rate of 3 per cent. He bases his contention on the proposition that if we are to loan to farmers for the purchase and development of farms money taken from the Treasury of the United States we should, in justice to all the people, charge interest on the money so loaned and advanced. I would agree with the gentleman from Indiana absolutely, if that were the proposition presented to the House; but that is not the proposition before the House at all. We are not taking money from the Treasury raised by taxation, but money received from the sale of public lands, and we are asking farmers to help the Government develop areas which could not be otherwise developed.

Let us get back to the time of the passage of the reclamation law. At that time there were within the continental boundaries of the United States nine and a half million acres under irrigation. We had reached a time when the effort of individual farmers, cooperative societies and associations, and corporations to reclaim arid lands had practically covered all of the projects that could be reclaimed at a reasonable cost; and the question agitated before Congress and argued for several years was this: Is it proper to take the proceeds of the sale of public lands and use them for the purpose of making other lands available for settlement and use? Is it proper to take this fund, of which we have given 127,000,000 acres to homesteaders, of which we have given 77,000,000 acres to the railroads, of which we have given 37,000,000 acres to the States, besides millions in cash receipts, no cent of which was ever paid back—is it proper to take this fund, which is not raised by taxation upon the people of the United States, but which comes from the sale of the public domain, and use it for the purpose of making fruitful and productive acres which otherwise would remain arid and unprofitable and useless until the day when Gabriel blows his trumpet? Remember, we did not contemplate the undertaking of a single project which was of such a character that would invite private enterprise. In other words, we did not contemplate and we have not undertaken projects which were not so difficult and expensive in their character that they could not bear the burden of an interest charge. We undertook this work because these projects could not bear an interest charge, and if there had been any suggestion whatever that we were to charge interest on this investment, we never would have undertaken the work. We undertook the work. Twenty-seven primary projects have been taken up. They have cost more than was anticipated. It has cost more to bring the acres into a condition for cultivation than was anticipated. Markets have not always developed as rapidly as we had hoped. Under these circumstances and conditions we ask what?

We ask, first, that the period within which repayment shall be made shall be extended to 20 years, and, second, that the amount to be paid each year shall be made definite. That is just as important a part of this legislation as the extension of time, because as matters now stand the Secretary of the Interior, within his authority, I believe, has so adjusted these payments as to make them very small at the beginning, enlarging them as time goes on, so that before the expiration of the 10 years they become so large that the entrymen can not meet them. We want to have the payments definite, so that people going on these projects shall know in advance just how much they have to pay and just when they have to pay it. The gentleman from New York says that we do not charge either the capital or the interest on rivers and harbors and other improvements because they are for the benefit of all of the people. So they are, in a way, and yet there are certain people who secure infinitely more benefits from them than the body of the people as a whole, and the country in which these projects are located receives practically no direct benefit at all from the millions of money that we expend for the improvement of rivers and harbors. The gentleman spoke of the Panama Canal, and he is complaining because from the proceeds of the public lands we have not paid for the Panama Canal. As patriotic citizens we are in favor of that great canal, and yet we know that the building of it will be of little direct benefit to the intermountain country. If it affects us at all, the effect is likely to be to tend to keep up our railroad rates rather than to help decrease them, and yet we are in favor of that project and we will pay our part of it for its building and its maintenance. There is scarcely an expenditure of the Government that reaches that central intermountain region which is directly beneficial to its people save the payment of pensions. But these people are not asking any special favors of the Federal Government.

The Federal Government on its own motion, not at the request of these settlers from Ohio, Indiana, Pennsylvania, Missouri, Kentucky, and elsewhere who have come there, but on its own motion, out of the proceeds of the public lands—a fund that has always been held to be a public extension fund, a public improvement fund—out of the proceeds of this fund the Government says, "We will reclaim these mighty projects; we will put mighty structures across these great gorges; we will build great tunnels and great diverting works; and we will carry water to these lands, and we invite you upon them, and we ask that you shall pay every dollar back that we invest in these lands." And the settlers are willing to pay it; they are expecting to pay it; and they are desirous of paying it, and all they ask is that the terms of the payments shall be such that they can comfort-

ably meet them. If these particular arid areas could have been irrigated and stand an interest charge, they would have been irrigated, as the other 12,000,000 acres have been irrigated, by private enterprise and individual effort; but it is because the dams are mighty and the diversion works monumental and the charge enormous that the Government, having this fund, which has always been used for internal improvements and for the development of the country, took the fund and loaned it in order that these lands may be put in the condition in which they may be farmed and reclaimed. Of course, there are not as many of these farmers as there are people in some Eastern States, but there will be some day, let us hope. Of course, they are not all of the population of the United States, but they are honest, God-fearing, self-helpful folks, and all they are asking is that they shall have such time as is necessary within which to make the payments on the acres which, had they not been developed by these works built by the Federal Government, never could have been developed and would have remained arid for all time.

How many millions have we voted for the lower Mississippi Valley this year? Three millions, is it not? And that, I think, totals up $101,000,000 spent there. I vote for these expenditures because I think them necessary, and yet I know, and everyone else knows, that a large part of that expenditure is for the protection of private property along that mighty stream rather than in the aid of navigation. That is a gift, that is a grant, as many other expenditures of the Government are, without expectation of return of the principal and no suggestion of interest. But here are expenditures which bring into full fruitage great areas that otherwise would have remained arid and unprofitable, as they are in their natural state. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROBERTS of Nevada and Mr. GORDON rose.

The CHAIRMAN. Does the gentleman from Ohio desire to speak against the amendment?

Mr. GORDON. In favor of it; the previous speaker was against it.

Mr. Chairman, I have never heard so much rotten political economy upon the floor of this House on any proposition as has been emitted by the proponents of this bill. [Applause.] Gentlemen stand up here and compare the donations provided for these arid States with the appropriations made for public highways, rivers and harbors, and railroads. There is absolutely no comparison, no analogy between those expenditures. When the Government of the United States first started on this enterprise it committed a monumental blunder, a perfectly idiotic proposition, as the gentleman from Wyoming has just demonstrated. He opens his speech by saying, "I decline to yield" [applause]; that all the lands out there which it was practical to reclaim had been reclaimed by private enterprises. Of course that is true. The lands which were practical to reclaim have been reclaimed by private individuals, and when there were no other arid lands available that any man of common sense would put his money into, then they come back to the Congress, as they always do. [Applause.] Now, they talk about a contract there. If they have any contract, they have not produced it. They have got appropriations of all the proceeds of the sale of public lands in the arid regions out there, and they have taken every dollar of it, and they have got a bond issue, I understand, of $20,000,000 besides. Now, the Government of the United States never expressly or by implication agreed to maintain these pumps, dams, and other paraphernalia out there to supply these men with water. They gave them the land, and then they appropriated the proceeds of the sales of public lands, and they have used that and they have spent it.

Now they come in here and ask to have the time extended from 10 to 20 years. I see nothing in the argument that the proceeds of the sale of the public domain is not public property. I never heard such a pretense made before until it was made in support of this bill. Of course it is public property and belongs to the Government of the United States, just as the gentleman from New York [Mr. FITZGERALD] here demonstrated, and but for this idiotic resolution adopted in 1902 that money would have been used for public purposes and we would not be paying interest on bonds to build the Panama Canal as we now are. Talk about gifts to the railroads. Everybody who knows enough to come in out of the wet knows that the donations to railroads are given upon the theory that they are public highways and we are engaged now in trying to keep down the rates upon the theory that they are a public highway. Is not all the legislation enacted by Congress during the past 27 years based upon the theory that they are public highways? We gave them these enormous bonuses of land and money upon the express theory that they were.

Mr. SHERLEY. And if the gentleman will permit I would suggest to the gentleman, too, that the worst scandal in America grew out of the gifts to the railroads, and it is a mighty bad precedent to cite.

Mr. GORDON. Of course that is true. We gave great empires of land, enormous donations of money, under the theory of law, and it is only a theory, that they could only charge the public for using the highway a reasonable tax or toll. We created a great court here for the purpose of hearing and determining whether they are charging more than a reasonable tax or toll upon the freight and commerce of the country. But there is no analogy between such gifts as that, unwise as it was, and this. This is a pure donation to private individuals, nothing else, and they come here now and ask you to extend the time 10 years longer without any interest. I see absolutely no justification or excuse for it.

As has been very well pointed out here when you loan the people out in the arid region of Nevada and Colorado and other desert States money out of the Public Treasury without interest, how are you going to refuse to loan to the people of Ohio, Indiana, and Illinois, who have land that is worth something, money to improve their lands with interest? You can not escape it unless you propose to make a special favored class out of these people who have seen fit to go out there and make their homes upon the desert. Now, the reason for the Government undertaking this, of course, is perfectly apparent; it is because it is an unwise business proposition and there is a desire to saddle it upon the Government, and that is the reason why we who are here now—remember this was 12 years ago and we are not responsible for what occurred 12 years ago or what Mr. Roosevelt did—are asked to do this. This is a piece of rotten, one-sided socialism and ought to be stopped, and the Government ought to put the heel of its condemnation upon it. That is what it ought to do, and it ought to do it first by requiring these people to pay a reasonable rate of interest. Of course you will not get the money back; I do not think you will ever collect either the principal or the interest; but if you impose interest you will do one thing. You will keep a lot of other fools from going out there and trying to make a home on these desert lands. [Applause.] That is one of the good purposes that this amendment might subserve if it should pass. I heard the gentleman from New Mexico, one of the most eloquent men in this House, here last week dilate upon the horrors of the people who undertake to live out in that desert region. He said that they have to go to the towns and work upon the streets in order to make a living for their families.

I do not believe in donating the Government assets to inveigle people to go out there to try to make a living on desert lands. The gentleman from Wyoming [Mr. MONDELL] says they ask no special favors from the Government. I would like to have him tell me what this is if it is not a special favor, by loaning Government money without interest to invest in a rotten business enterprise that no business man would engage in? [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROBERTS of Nevada. Mr. Chairman, I can not hope in the brief time allotted to me to enter into any extended discussion of this question, but I wish to say that I have been a member of the Committee on Irrigation for several years which has had the present bill under consideration, know its contents, and hope that this amendment will be defeated.

I come from that stock of people who drove ox teams across this continent in 1849 and helped to blaze the way for western development and its present civilization. I was born in the West, and when Members speak upon this floor of the old sagebrush land as worthless land, and of irrigation as a failure, I feel that I should resent the slander on our State in the manner it deserves. A man who would not stand up for his State under those circumstances certainly would not be worthy of a position in this House. [Applause.]

I was glad to hear the position of the great leader of the majority in this House, Mr. UNDERWOOD. He stood before you and opposed this amendment. He put it before you as any statesman should put it, and not in a narrow-minded way. The President of the United States stands for this bill; the Speaker of this House stands behind the western people always, and we all know how that great ex-President of the United States, Theodore Roosevelt, the father of irrigation projects, stood for western development, and did what he could to develop the Western States.

Why, gentlemen, the State of Ohio, from which the gentleman who just spoke hails, does not compare any more with the State from which I come than a baby's diaper compares with a tablecloth. We can wrap the State of Ohio up in one corner of the great arid lands of Nevada. [Applause.] Nevada awaits to-day, with millions and millions of acres of public lands that only need water to make of them a paradise.

The gentleman from Pennsylvania [Mr. MOORE] talked about the development of rivers. Of course, his State never wants its hand in the pork barrel. Philadelphia never wants any money that she does not give back. What about the Mississippi River, the Ohio River, and all your rivers and harbors? Who gets the benefit of them? We at least will pay back the principal. You pay back nothing. Who gets the benefit of your rivers, wharves, and harbors? Why, private individuals and corporations. Talk about private individuals in the West receiving the only benefits of this bill. Who is it that gets the benefit of your rivers, wharves, and harbors if it is not the privately owned steamboats and other corporations? And yet you come here, when these poor, struggling farmers, who are trying to eke out an existence and who are trying to raise produce for all the people in these United States, and say to them, "Why, you have got to pay interest upon the money. We will not lend you a helping hand." If we get the benefit of your rivers, harbors, and wharves, do you not also get the benefit of our farms? Every tree that is grown upon those arid lands benefits the whole country. I tell you it is about time that the people of the Eastern States we have been helping all these long years should wake up and take a broader view of things.

You may want our assistance some time. I am glad to help all meritorious propositions, and I am particularly glad to help the poor old South. I am glad to see the South get a little bit of what is coming to them now, and I will vote for any appropriation that seeks to benefit them in any way. This bill will benefit all the people, and I hope it will pass without this amendment. It would be an outrage to charge those people interest. God knows their lot is a hard one, and this Government should see that they get a square deal—that is all we ask. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. SELDOMRIDGE. Mr. Chairman——

The CHAIRMAN. The Chair has agreed to recognize some members of the committee, and the time against the amendment has been pretty well spoken for. I presume the gentleman is against the amendment?

Mr. SELDOMRIDGE. I am opposed to the amendment; yes, sir.

The CHAIRMAN. The Chair will then recognize the gentleman from Oregon [Mr. SINNOTT].

Mr. SINNOTT. Mr. Chairman, at this time, in order to expedite the consideration and passage of this bill, although I am a member of the committee, I should prefer to waive my time, as I did for that purpose last Wednesday when this matter was before the House. But this is such an important matter to my State and my district that I feel it my duty to say a few words, particularly upon this interest amendment.

Although the amendment offered to the section really relates to an interest payment by the new settlers on these projects, yet this discussion has taken such a wide range that the whole matter of interest upon the project, both for the new and the old settlers, is before the House. And for this reason I desire to make my observations particularly upon an amendment that probably will be offered to the next section, an amendment exacting the payment of interest from the old settlers upon these projects as a consideration for the proposed extension of time.

Mr. Chairman, upon the passage of the reclamation act, as is stated by H. G. Tyson, jr., of Idaho, the settlers and the Government undertook reciprocal parts in the reclamation and the settlement of the arid lands of the West. The Government impliedly in the reclamation act encouraged the settlers to believe, and made implied representations by the very terms of the act, that if the settlers would settle upon and cultivate these lands for which the Government would furnish water these lands could be reclaimed and the payments made within a 10-year period. These implied representations and inducements on the part of the Government were supplemented by actual and direct representations made by the reclamation officials in person upon the projects to prospective settlers and the farmers owning the land. These representations were, no doubt, honestly made. Relying upon these representations, the settlers and farmers went upon these lands, have spent their time and many thousands of dollars on the same. They have performed their part of that reciprocal contract. They should not now be penalized with an interest payment for the Government's mistake.

Upon one project in my State, the Klamath project, the reclamation officials held a meeting attended by 200 farmers, and told them that the lands could be reclaimed at a little greater expense than $13.65 an acre. They told these farmers that in order to be absolutely sure they would add 20 per cent, making the reclamation price $16.40 an acre. At the same time private people were there willing to take over this project and reclaim the same at a price of $15 an acre. The settlers and the farmers preferred to rely upon the representations made by the reclamation officers. They preferred a contract with the Government to a contract with private individuals, and therefore they listed their lands with the Reclamation Service. Four years after that meeting was held public notice was issued compelling the settlers to pay $30 an acre to reclaim these lands. Now, is the Government going to take advantage of its own wrong, its own misrepresentations, and exact interest from these farmers who relied upon the Government representation? Does not fair dealing demand, when it is disclosed that 20 years—not 10—is a reasonable period to make payment, that the same be granted without the added burden of interest? Why, Mr. Chairman, if the same state of facts, the same circumstances, were presented in an equity suit brought by these settlers against some private corporation making these representations to them, do you doubt for one moment but that such court of equity would decree a rescission of this contract, which would not only restore to the settlers the money they had expended upon these projects, but would reimburse them for the damages and for their loss of time? [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. FALCONER. Mr. Chairman, in the speeches made by several gentlemen this afternoon on this bill there have been two lines of argument. Certain Members have spoken for interest, at variance with a contract made in 1902, and certain Members have spoken for the farmer and the integrity of the contract of 1902. Coming from the State of Indiana we find a lawyer talking about what ought to obtain as regards the welfare of the arid-land farmer. Then we hear the gentleman from Illinois [Mr. MADDEN], who is a farmer, as I understand, but who owns the farm and lets the other fellow do the work, talking about what should be done as regards the interests of the arid-land farmers. And then the gentleman from Pennsylvania [Mr. MOORE], a newspaper man, or something of that nature——

Mr. MOORE. A farmer's boy. [Laughter.]

Mr. FALCONER. Well, he was a boy so long ago that he has forgotten all about the vicissitudes from which the farmer suffers—cutting loose some of the bon-ton, artistic-souled sentiment of Philadelphia. And then the gentleman from New York [Mr. FITZGERALD] speaks against the bill and tells us what should be done as regards the farmers. I will say, in passing, that the gentleman from New York, who is close to the administration, ought to spend some time in telling the House why the Democratic administration has not lived up to its pledges and given the farmers of this country a favorable loan system, and not fight the interests of the farmers by opposing this legislation.

The gentleman from Alabama [Mr. UNDERWOOD], whose speech was very brief, and who covered the subject as thoroughly as if he had talked for an hour, will, I am sure, find his effort fully appreciated by these men in the far West who have been brought into certain unfortunate conditions, partly on account of the insufficiency of the knowledge of the United States Government's employees in presenting the estimated cost of this reclamation proposition.

The gentleman from Ohio [Mr. GORDON] refers to these men who are out here in the Northwest country as "fools." Others have referred to them as "poor devils." I want to submit here, these men who meet the obstructions and discouragements of the new country are the most substantial and the most wholesome class of people to be found in the Nation. [Applause.]

Mr. Chairman, the purpose of this bill is plainly understood, and its merits are certainly evident to anyone giving it any consideration. The necessity for this particular legislation is evident from the variety and number of bills introduced by gentlemen from a number of different States.

The wisdom of the Department of the Interior in recommending this bill, covering all the good points of all the bills heretofore presented on the subject, is characteristic of the alertness and ability of the Interior Department, under the able direction of the Secretary of the Interior, the Hon. Franklin K. Lane. Surely the majority side of this House is ready to give serious consideration to the matter, and I believe serious consideration means support.

Unqualifiedly the Secretary has indorsed the bill. He has so expressed himself to many Members.

Under date of June 2, 1914, I received the following letter, which shows the necessity for the passage of the bill before August 1:

THE SECRETARY OF THE INTERIOR,
Washington, June 2, 1914.

Hon. J. A. FALCONER,
House of Representatives.

DEAR MR. FALCONER: I have your letter of May 26 with respect to the payments to be made by settlers on reclamation projects. This

matter has been receiving the constant attention of the department, and on May 29 I issued the following order:

"No action under order of June 23, 1913, will be taken awaiting action of Congress on extension bill. If said bill is not enacted into law by August 1, an order will be made requiring payment by August 15. If passed, an order will be made by August 15 in conformity with the terms of the new law."

The order of June 23, referred to, reduced by two-thirds the building charge last due on the water-right application of each water user and ordered that there should be no cancellation of entries or water-right applications for delinquency in payments until December 1, 1913.

Cordially, yours,

FRANKLIN K. LANE.

After a visit to several of the western reclamation projects Secretary Lane reported:

There is one matter of great moment to these people which should be corrected by law as soon as possible. We mistook the ability of the farmer to pay for his water rights. Ten years was the time given. His optimism and our own was too great. That time should be doubled.

The Committee on Irrigation of Arid Lands unanimously voted that the bill as amended should pass, and Secretary Lane urged its passage in a communication addressed to the chairman of the committee.

The Democratic platform adopted at Baltimore in 1912 says:

We believe in the conservation and the development for the use of the people of the natural resources of the country. Our forests, our sources of water supply, our arable and our mineral lands, our navigable streams, and all the other material resources with which our country has been so lavishly endowed constitute the foundation of our national wealth.

* * * * * * *

The public domain should be administered and disposed of with due regard to the general welfare.

Surely, Mr. Chairman, the general welfare in connection with our arable lands is being served by the purposes of this bill. Every precaution has been taken to exclude the speculator, the land grabber, and it is strictly true, sir, that the people benefited by the extension of the payment provision are honest, industrious farmers.

I wonder, Mr. Chairman, at the opposition of gentlemen on the minority side of the House.

The Republican platform of 1912 has a plank bearing directly on this matter:

We favor such fair and reasonable rules and regulations as will not discourage or interfere with actual bona fide home seekers, prospectors, and miners in the acquisition of public lands under existing laws.

* * * * * * *

We favor the continuance of the policy of the Government with regard to the reclamation of arid lands; and for the encouragement of the speedy settlement and improvement of such lands we favor an amendment to the law that will reasonably extend the time within which the cost of any reclamation project may be repaid by the landowners under it.

Gentlemen from Illinois suggest that there is much land in the rain-belt regions where settlers might locate, stating further that there is much land in Illinois where, if the Government would furnish noninterest-bearing loans, farmers would buy and settle on land.

I want to say in that connection, Mr. Chairman, that there is much land in my State—developed lands, if you please—similar, as regards development, to Illinois farms where many men now asking for extensions would gladly buy developed farms if the Government would loan low-interest money. But the Government is not doing that kind of business. The intention of the Government should be and is to develop good land, even at extra cost, on a plan by which the Government would be reimbursed.

WHAT IS THE MATTER?

What is the matter with this country, Mr. Chairman? We have heard much discussion on the floor of the House the past few months, suggesting that something was awry. The high cost of living is said to continue; social and industrial conditions are unsettled.

The Republicans call down the condemnation of the political gods on the Underwood tariff bill.

The Democrats insist that present and past unfavorable conditions are due to the result of the Republican Party policies of years past, resulting in making a few men very rich and many men very poor, and gentlemen here on the floor of the House teeter, totter, and, figuratively speaking, chase each other around the block with much gusto and a great noise, each trying to make the people of the country believe that the "other fellow" is to blame for the present apparent standstill.

Do they tell us where the trouble lies?

I will tell you, sir, what is the matter with this country: There are not men in sufficient numbers on farms producing from the soil. It would pay the United States Government to embark on a line of economic operation that would remove from the thickly settled centers a percentage of the population and place them with Government aid on the lands of the country.

There are too many drones—nonproducers—in the country; too many doing the "middleman" act—making money off of the other fellow, the other fellow who produces. This, sir, answers the question: What is the matter?

And here we are to-day, 435 Congressmen—the producer might suggest too many—considering the advisability of making it possible for real men, men who produce from the soil, to meet the demands that certain unfavorable conditions have placed upon them.

These men with families have denied themselves and have gone through stringent times, real—not "statesmen-talk"—hard times to the end that they might finish the work of development; converting the waste desert of arid lands, once inhabited by sagebush and sand lizards, into habitable homesteads and eventually reach a standard of reclamation and a state of cultivation that excels in richness of production and attendant comforts of life.

And yet we hesitate, we try to make ourselves wonder whether the Government should assist actual farmers who are now on the lands engaged in earnest endeavor to honorably carry out their end of a contract.

We, the Congress, sir, should not hesitate to extend the conditions of the original contract on the same lines, too, since the costs have been so much greater than originally estimated by the Government engineers in charge. And we should make new contracts and amend our laws to favor farm settlement.

Mr. Chairman, the Government should do all this bill suggests; the responsibility is upon this Congress. We are a grand country, with immense natural resources, good men, and brave women; but in our endeavor to "beat the world" in science and in trade we have neglected a more important matter—farm development and production. We should certainly treat our people as well as Australia does her people, but as a matter of fact we do not. Certain States of Australia not only provide money for development of farm lands, but furnish public overseers, experts in agricultural matters, to oversee and advise the man who is trying to work out new methods attendant upon the new country conditions, incidentally shielding the settler from the machinations of the land shark. Then the Government furnishes 75 per cent of the money necessary to build a house and clears, grades, and seeds one-fourth of his land.

The farm-loan branch of their State or Government money system accrues to the benefit of the man who borrows. Workmen who make their weekly or monthly deposits of savings get usually 3 per cent, and the banks loan to farmers at a rate of 4½ per cent, or at 6 per cent if it is desired, and 1½ per cent goes into a sinking fund, so that at the end of 31 years the interest and principal are entirely paid.

The thing needed most in this country is to get the man who loans and the man who borrows together with the least possible administration charges, and the way to do it is through a Government medium. There are many Congressmen here who probably would hesitate in adopting the suggestion that we employ a Government system of farm finance. It appears to be a somewhat radical change, but surely the bill under consideration can not be objected to on any substantial grounds, for this bill simply carries out the principle of the original reclamation bill of 1902.

Mr. Chairman, there are many people in my State interested in this measure. I am daily in receipt of communications urging its passage, and I sincerely hope it may pass to-day, conforming in noninterest-bearing features with the original contract of 1902 and with section 16 restored to the bill as it was reported to the Senate. [Applause.]

[Mr. HENSLEY addressed the committee. See Appendix.]

The CHAIRMAN. The Chair will state that gentlemen opposed to this amendment have consumed 33 minutes of the hour allotted for discussion of this amendment, and the gentlemen for it have consumed 5 minutes. The understanding was that the time was to be as equally divided as possible.

Mr. MANN. Mr. Chairman, I shall vote for this amendment, although I do not know that if I were writing it into a law I would write it in just the way it is now presented. If the amendment is agreed to, of course it will go back to the Senate and probably into conference.

I think myself that the time for the payment of the principal of the construction charge ought to be extended even beyond 20 years, because the construction charge on these reclamation projects amounts to what would in ordinary cases be the purchase price of the land. And while a farmer in Illinois buys a piece of land even for $150 an acre and gives a mortgage for a considerable portion of the purchase price, due in five years, he knows that at the end of that time he can secure an extension of that mortgage or can secure another mortgage with which to pay off the first mortgage.

In this case, in the reclamation project, the construction charge must be paid to the Government at the time stated—paid theoretically, at least. It has not been lived up to, so far, but we may consider that that is the case. So that the man who pays for his farm on a reclamation project, under the form of paying the construction charge, ought to have a sufficient time in which to realize the total cost. Usually that could not be done in 10 years, and, with the payment of interest, probably could not be done often in 20 years. It could easily be done in 30 or 40 years, with the payment of interest. Now, under the existing law, they are required to pay the entire construction charge in 10 years, in the main without interest. Probably that was a mistake, and put an undue burden where the construction charge amounted to $40, $50, $60, $70, $80, $90, or $100 an acre; although in Illinois, where I was raised, farms sell at from $150 to $250 an acre, for farm purposes, and no one pretends that they can raise as much per acre on that land as it is claimed they can raise per acre on the irrigated land.

Mr. GARNER. Will the gentleman yield?

Mr. MANN. Yes.

Mr. GARNER. For my own information I want to ascertain just what funds these people who pay this money are now paying interest on and what they are not paying interest on.

Mr. MANN. As I understand, they will have to pay interest, as a part of the construction charge, on any portion of the $20,000,000 raised from the sale of bonds authorized a few years ago. But they do not pay interest on anything else.

Mr. GARNER. This proposition is that they shall pay interest, not only on the $20,000,000, but on all the money out of the public lands that has gone into the reclamation fund.

Mr. MANN. The proposition now pending before the House does not affect anyone now on the projects. It only affects those who go on hereafter.

Now, I am inclined to think that where we entered into a contract with those now on these projects, it would not be advisable to require them to pay interest up to the time practically that their loan is extended, but if they ask for an extension, as they do in this bill, I can see no reason why they should not pay interest on the payments which are deferred, without any injustice to them. After all, this is a fundamental proposition of government: Has the Government the moral right to engage in an enterprise as a business enterprise which can not afford to pay interest for the use of the money? The Government of the United States could use this $80,000,000, which has been expended on reclamation projects, in the purchase of land in Virginia, Ohio, Illinois, Wisconsin, Minnesota, New England, or New York, and give that land to farmers who would take it, furnishing enough money to place the man on the farm, and he would be glad to pay interest for the use of the money; and if that had been done, it would have produced more sustenance than will be produced by the same amount of expenditure on the irrigation projects. You could have bought plenty of land in those States for $10 an acre, much of it cheaper than that, land which many people would be glad to go upon and cultivate and raise crops. But can the Government as a fundamental proposition afford to do this where the results do not warrant any interest payment? Because that is the test of the value of money. Do the irrigation projects pay if the farmers on them can not make money enough to pay a low rate of interest for the money which has gone into the making of the place?

I do not believe in grinding any of these people. I believe we ought to encourage them. I have no doubt that they would be able to pay interest. If I had my way about it, I think I would make a principal payment for a number of years of not to exceed 1 or 2 per cent, but would require the payment of interest. As a man gets his farm under cultivation and secures a ready and perhaps near market for the products of his farm, he can afford to pay a higher proportion of the principal, while he is at the same time having the amount of his interest reduced.

But no man in this House can go to the country and to his constituents and defend a proposition for the Government to loan money for the farmers in Montana, in Wyoming, in Washington, in Idaho, in Colorado, in Nevada, New Mexico, and Arizona, and California, and refuse to give the credit of the Government to farmers in New England and New York, who are just as anxious to get the land and make money out of the soil as are the farmers elsewhere. [Applause.] If you loan the money in one instance without interest, how can you defend the refusal to advance the credit of the Government in the other case without interest?

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. MANN. Yes.

Mr. GARRETT of Tennessee. The pressing problem in my immediate section is to get the water off the land rather than to get it on. Would there be any difference in principle in loaning the money without interest to the farmers of the States the gentleman has mentioned and to the landowners in my immediate section to drain the land?

Mr. MANN. I think not. I lived on the prairies of Illinois, when in the spring of the year I could make a little raft and pole it over every portion of the township except a few high spots, raised a few feet above the level of the rest of the land, where the houses were. And between the house in which I lived and the barn where our horses and cattle were kept was a river, in the spring of the year, rods wide, over which we had to build a bridge. That country needed drainage; the land was of little value. Now it is tile drained and thoroughly ditched by the expenditure of money raised by these people themselves. If they could have gotten the credit of the Government to borrow money at 3 per cent they would have been well off. They paid a much higher rate than 3 per cent, and they did not have the length of time now proposed in which to pay back the principal; and yet the expenditure of money which they made for draining has well paid them. They raise great crops now, as these people on the reclamation projects will raise.

Mr. HENSLEY. Will the gentleman yield?

Mr. MANN. Yes.

Mr. HENSLEY. Does not the gentleman see a distinction between lands in private ownership and lands the Government owned where irrigation projects were installed?

Mr. MANN. No; I do not.

Mr. HENSLEY. Will the gentleman permit me to ask him a further question?

Mr. MANN. Yes.

Mr. HENSLEY. Does the gentleman from Illinois imagine that one of these men in the Salt River Valley could have been induced by a representative of the Government to enter on that project if he had known that instead of costing $15 an acre the project would cost $60 an acre?

Mr. MANN. I met a gentleman the other day who had passed quite a time at Phoenix. He told me that they were asking $150 and $200 an acre on these reclamation projects now, subject to the construction charge to be paid the Government, and they want an extension of time for the payment of the construction charge without interest. [Applause.]

The CHAIRMAN. The gentleman from Illinois has consumed 13 minutes. The Chair stated that the other side had consumed 33 minutes. That was a mistake; it should have been 28 minutes. The gentleman from Kentucky is recognized for 5 minutes.

Mr. SHERLEY. Mr. Chairman, underneath the proposition of those who say the settlers should not pay interest lie two premises that in my judgment are unsound. First, that the public domain belongs peculiarly to the section in which it happens to be, instead of belonging to all the people of America; second, that because it is public domain it is proper to do with it what you would not do if it was private land.

Now, there is a clear distinction between the Government giving land to a settler ready for cultivation and the Government giving land to a settler with an undertaking to expend money on the land in order to make it useful for the settler.

The difference is fundamental. As the gentleman from Illinois [Mr. MANN] clearly pointed out, when you go into the improvement of land you put the Government into a business that should at least economically justify itself. The Government, under some conditions, might well give away the land of the public domain for settlement and stop there. Men might justify it on the basis of being the means of creating homesteads. But when the Government goes a step further, and not only undertakes to give the land but undertakes to enter into a business project to make the land worth settling, then you are faced with an economical proposition, and in order to justify that undertaking you must show that the thing you propose to do is worth doing economically. If it is not able to bear an interest charge, it is manifestly not worth doing, and you are driven back every time to the proposition presented by the gentleman from Illinois that if you are going to give the land to these people and make it, through a business enterprise, suitable for them without charging them any interest on the investment, the Government must be willing to do the same thing for all the country everywhere, and yet that means socialism beyond the dream of anybody in America.

If you will search the speeches of every one of the gentlemen from the public-land States, you will find that back of them lies the opinion that, somehow or other, this land is their State's peculiar property and that it is the duty of the National Government to treat it for their especial benefit in a way different from that it would employ as to land elsewhere. Why, analogies have been made here that are comical. Men have per-

mitted their eloquence to run away with their judgment. The distinguished gentleman from Alabama [Mr. UNDERWOOD], usually conservative in his utterances, made comparisons that would not stand analysis for half a minute. The difference between a river and harbor improvement, the difference between aids to navigation, such as lighthouses, the difference between a Government undertaking such as these and those in connection with irrigation projects is this, that the thing improved does not go into private ownership for the benefit of the private individual, to be used as a profit for the individual. There is no more comparison between the two than there is between night and day, and nobody would know it better than the gentleman from Alabama if he thought for just one moment.

Mr. BRYAN. Mr. Chairman, will the gentleman yield for a question?

Mr. SHERLEY. Yes.

Mr. BRYAN. This money, the gentleman says, does not go for private profit. Does the gentleman realize that the money there on these plants, not on the farms, but on these big plants, goes into a public enterprise for a vast number of people?

Mr. SHERLEY. I do not; because it is not a public enterprise by any stretch of the imagination. It is the property of the settlers who take up the land under the reclamation project, who pay for the cost of maintaining it, and who get the profit from the increased fertility of the land thereby made tillable.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. SHERLEY. Yes.

Mr. BURKE of South Dakota. Does not the gentleman know that many of these projects are undertaken and constructed, to quite an extent, before there are any settlers upon them?

Mr. SHERLEY. Oh, yes; and that is just it. Here is a business enterprise undertaken for certain private parties at the time unknown, but nevertheless for private parties, who shall come in on the land after the project has been completed and reap the benefits in the fertility of the soil brought about by virtue of the project when it has been completed. It is useless, from my point of view, to argue with a man who can not see the distinction between an improvement that is usable by the whole country and an improvement which is for the benefit of private individuals, no matter how numerous.

Mr. BURKE of South Dakota. Does not the gentleman know that many of these settlers were induced to go there under what would have been misrepresentation if it had been a matter suggested by a private individual or a corporation?

Mr. SHERLEY. They may have been so induced; and one of the vices of the present bill is that now, in the light of your 10 years of failure, you are undertaking to induce more men to go there at Government expense. [Applause.] That is the trouble with your whole bill.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. SHERLEY. Mr. Chairman, I ask unanimous consent to proceed for three minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BURKE of South Dakota. Do I understand the gentleman to contend that the law should be repealed?

Mr. SHERLEY. I think before you went on with a lot of your projects you ought to consider whether they are really worth going on with. You are very much in the situation of a man who has put a sum of money into an unprofitable business. He is a stockholder, let us say, in a corporation that has not made good. There is a call for subscription on the stock. He has to put up more money on that which is sunk.

If he is a wise man, the question that he asks himself is this: Is there enough merit anywhere in the project to warrant the expending of additional money over that which heretofore has given no sufficient return? I question very much whether under that test some of your reclamation systems would not absolutely fall to the ground. But instead of doing that you propose not only to put more money into every project that you have started, but to put money into new ones, and to induce people to go out there under conditions that, according to the gentleman's statement, are so difficult as to make it our duty to warn rather than to induce men to go there.

Mr. BURKE of South Dakota. Will the gentleman tell us what he would do with this condition?

Mr. SHERLEY. I will tell you what I would do. I would make these projects bear the practical test that things bear in the commercial life of a people. The best test of a thing is whether it can stand on its own feet, and if it can not stand with an interest charge at a Government rate, infinitely lower than can be obtained from any private source, then it is of such doubtful caliber that I, for one, am not willing to go into the Treasury to back it up. [Applause.]

Mr. FALCONER. Mr. Chairman, will the gentleman yield?

Mr. SHERLEY. For a question.

Mr. FALCONER. The money is expended, the ditches are dug, and what we want to do is to get men to go in and file on the land, to come in under the ditches, and that is the only way to pay it off.

Mr. SHERLEY. That may or may not be so; you may be able to pay it off that way, but what you are doing under the terms of this bill is to provide for entering upon new projects. The terms of your bill so provide.

Mr. DECKER. Will the gentleman yield for a question?

Mr. SHERLEY. Yes.

Mr. DECKER. I am confused, and I would like to know if the gentleman thinks there is need of stopping to see whether this thing will be economically wise?

Mr. SHERLEY. Oh, well; I can answer the gentleman by saying that the proof of the pudding is in the eating thereof. If you provide economical conditions, then if it pays it will be economically sound; but if it will not pay, if it will not bear such conditions, it would not be economically wise.

Mr. DECKER. How is it that the land is worth $150 an acre, or that much is asked, if it is not economically sound?

Mr. SHERLEY. That is one of the conflicts that come in the testimony here. One gentleman stands up and depicts the horrors of the settler who has to come to town and work on the streets in order to keep his family from starving, while another gentleman states that under one of these schemes the land is worth from $150 to $200 an acre.

Mr. DAVIS. Will the gentleman yield?

Mr. SHERLEY. For a question.

Mr. DAVIS. I judge from the gentleman's statement and argument he thinks the Reclamation Service has been a failure. Such being the case, what would the gentleman suggest now would be the remedy for those already in process of construction?

Mr. SHERLEY. I have answered that question. I would suggest as to the future you put each project upon a business basis——

Mr. DAVIS. True.

Mr. SHERLEY. Then if it does not stand, it is proof that we ought not to expend the Government money on it.

Mr. DAVIS. What are you going to do with the present projects now authorized?

Mr. SHERLEY. I would grant an extension of time and let those men pay some interest, I will say to the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHERLEY. Mr. Chairman, I ask for one minute more.

The CHAIRMAN. The gentleman from Kentucky asks for one minute additional. Is there objection? [After a pause.] The Chair hears none.

Mr. SHERLEY. I will say to the gentleman in candor I believe the position of you men from the arid States would be infinitely stronger if you had come in here with a bill dealing with the actual settlers who are out there now upon the reclamation projects. I might have been willing to strain a point on the theory that those men have gone there under misapprehension, just as we take care of other unfortunates over the land; but when you come here with a scheme to swallow up all the revenues from all the public lands left in those States in the perpetuation of a scheme that is a self-confessed failure, then I for one am not willing to accept it.

Mr. DAVIS. The gentleman thinks we had better pocket present losses on what we have now?

Mr. SHERLEY. Well, I suspect there will be some evidence in that direction in the near future.

Mr. SELDOMRIDGE. Mr. Chairman, in the brief time allotted to me it would be impossible for me to present the reasons which clearly to my mind justify this legislation.

Mr. Chairman, much has been said about the danger to the country that would follow from the Government engaging in a business which is purely of a private character, and the charge is made that this bill is class legislation. The purpose of this bill, as I view it, is to take the Government out of the reclamation business, and not to put the Government into that business. We can pass legislation here that will impose further penalties upon the settlers on these projects, that will give them an additional burden of expense in the shape of an interest charge; but we will then be forced to adopt the proposition made by the gentleman from Illinois [Mr. MANN] to extend the annual payments by a number of years, which, to my mind, will produce a continuation of present difficulties and impose further hardships on the deserving settlers. The people living on these projects are among our most worthy citizens, and have given the

best that is in them to the development of these reclamation undertakings. The results that have followed their labor and self-sacrifice fully justify the wisdom of the reclamation act of 1902. The Government could well afford to appropriate without reservation the sums already expended on reclamation projects and those required to bring them to completion. The return to the country in productive energy would be ample compensation for this expenditure, and the benefits derived thereby would not be local but general in character. Merely to show what has taken place in one section of Colorado where one of the reclamation projects has been developed, I append a statement showing the growth of population and increase of value of farm property in two Colorado counties—Delta and Montrose. The counties named contain the land reclaimed through the construction of the Gunnison Tunnel. These figures are taken from the last census reports:

Growth of population.

County.	1910	1900	Increase.
			Per cent.
Delta	13,688	5,487	149.5
Montrose	10,291	4,535	126.9

Increase in value of farm property.

County.	1910	1900	Increase.
			Per cent.
Delta	$21,024,102	$4,275,790	391.7
Montrose	13,858,209	2,897,504	378.3

The heroism and industry of the people who undertook the reclamation of the arid regions of the West entitle them to recognition by Congress. I am surprised that Representatives from the East and from the South, sections which have been the recipients of governmental favor for the last quarter of a century and even longer, should come into this House to-day and challenge the right of Congress to legislate in behalf of these deserving people. Why, Mr. Chairman, the millions of dollars that have been spent in the development of these projects have largely gone into the trade centers of the East. To-day from the western country are coming the products of the farmers and of the settlers upon reclamation projects to supply the railroads, largely owned in the East, and the investors of the East with dividends and profits upon their investment. As population increases in the West there is an enlarged demand for manufactured goods from the trade centers of the East. No one section of this country can be benefited without enriching other sections. I am surprised that when these hardy and worthy men come here and ask for consideration and for that relief to which they are entitled, they should be opposed by Representatives from the great centers who have received the benefit of their toil and the reward of their industry. Now, Mr. Chairman, I repeat, that we must provide a plan that will take the Government out of the reclamation business. Twelve years ago the Government was put into the reclamation business, and it was a business that was not understood in all of its ramifications and details. There were many problems that arose after the inauguration of the projects that required great engineering skill, that required amplification of the projects, that required numerous departures from the plans proposed, and imposed a great burden of expense upon those who have settled upon or purchased the land so reclaimed. I submit, Mr. Chairman, that it is absolutely wrong, in my judgment, to impose the burden of all the mistakes and of all of the errors of the Reclamation Service, of this enlargement of projects, of these failures, so called, upon the very people who are trying by their self-denial and by the toil of their hands to reclaim these arid wastes and add to the productive energies and development of the country.

Mr. Chairman, these people are not asking for charity. They are not coming before Congress pleading for special benefits. They are asking that Congress will simply allow them to work out their destiny under terms and conditions not of their own choosing, but upon liberal terms and conditions imposed upon them by the Government of the United States. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. HOWELL. Mr. Chairman, the discussion of the pending measure has brought prominently to the attention of the House the divergent views which exist as to the details of the future policy that should be followed in carrying forward the great work of reclaiming our arid lands. It will be noted with supreme satisfaction that but little criticism is given to the principle itself which underlies the reclamation of arid lands as undertaken under the provisions of the act of June 17, 1902, commonly known as the reclamation law. The country has become fully converted to the wisdom and farsighted statesmanship which inaugurated the reclamation policy. This policy is now everywhere regarded as fundamentally sound and a fit companion piece of legislation with the homestead law, and in the years to come, like the homestead law, the beneficient results that will flow from this act in ever-increasing volume will constitute an imperishable monument to the wisdom of its founders.

The prime purpose and object of the reclamation act is to devote the proceeds arising from the sale and disposal of public lands toward the making of other unproductive desert lands habitable and suitable for homes for the people. It is now generally conceded that the thought and basic principle of the reclamation policy is precisely similar to that which inspired the homestead law, and, those voicing their opposition to this measure to-day, had they been members of a former Congress, would have as vigorously condemned the policy of giving public domain away for free homes for the people under our homestead law.

Both of these great measures must be considered on the broad grounds of the building up and developing of a great Nation. It is a penny-wise and pound-foolish policy to restrict our vision only to the dollar-and-cents aspect in the larger questions involving our permanent national welfare. We are building for all time. We are extending the opportunity for agricultural pursuits and furnishing a vent for the evils of the congestion that unfortunately in increasing degree menaces our large cities. It is a truism that "man is disposed to do the least where nature does the most," and in those portions of the earth where large human efforts are demanded in order to triumph over the obstacles of nature will be found the most virile, progressive, intelligent, God-fearing people. As a Nation we pride ourselves in doing big things. We have spanned the continent with great iron highways. We freely devote our means and efforts for the improvement of harbors and waterways. We have just completed the world's greatest engineering achievement, the construction of the Panama Canal. We are actively engaged in conserving our water resources in the arid regions, and transforming the waste places into fields and happy homes wherein "thanksgiving and the voice of melody" supplant the awful stillness and desolation of the desert.

Regardless of the immense outlay in these undertakings, every patriotic citizen rejoices in every enterprise permanently contributed to our national welfare and prosperity. We ought not to allow a sectional feeling to possess us in the consideration of larger national policies. I have no envy for those sections in which vast sums are expended for rivers and harbors and other national purposes, and likewise gratefully appreciate the same generous and patriotic purpose evinced by the Representatives of the more humid regions toward the reclamation policy. The chief concern should be that a wise and economical expenditure of such appropriations be made for the permanent public welfare.

Now, what is the proposition confronting the Government in respect to the reclamation of our arid lands? The Government has vast areas of public domain in the so-called arid States which on account of the insufficiency of the rainfall remain unoccupied and desolate. But by conserving the water resources available and applying water on these lands they become susceptible of cultivation and suitable for homes. Through what is being accomplished it may be verily said: "The waste places are made glad and the desert shall rejoice and blossom as a rose, for in the wilderness shall waters break out and streams in the desert." The parched ground shall exult in fertility and be clad in plenty.

The hardy pioneer has accomplished a great deal. Through his sacrifice and determination the dull gray expanse of sagebrush plains has been transmuted in a beautiful Mosaic of green meadow, golden grain, and ripening orchards. He has demonstrated the efficicacy of irrigation and revealed the perennial fertility of the desert when combined with magic element. To the devout and earnest pioneers of Utah all honor is due for what they have done in the interest of western development. They were the first in the Rocky Mountain region to illustrate and proclaim the marvelous fertility of the parched and forbidding sagebrush lands when reclaimed by irrigation. From our earliest settlement irrigation has been applied successfully by the people of Utah in the cultivation of fields, gardens, and orchards. Our mountain streams were early di-

verted to this use by the unremitting industry and enterprise of those hardy pioneers.

The future development of irrigation in Utah must depend, therefore, upon the conservation of the flow waters. The Reclamation Service has undertaken but one irrigation scheme in Utah—the Strawberry project—which is designed to furnish water for 50,000 to 60,000 acres of land in one of the richest and most populous sections of the State. The project, though not a large one, is most interesting and important in the extent of its benefits. By means of a tunnel through the rim of the Great Basin water which now flows to the Pacific Ocean is conducted into the Salt Lake Valley, thereby permanently increasing the water resources of the Great Basin. Under this project the water, after discharging its duty of irrigation on the uplands, will eventually find its way to the Utah Lake, where by pumping it can be made available to irrigate lands in an adjoining county, thus performing a double duty.

But while the reclamation project in Utah is not a large one compared with other feasible projects of greater extent and benefit that could have been undertaken in the State, and which still await future development, it is only just to say that no project of its size and kind contains superior strategic conditions to insure its success both as a sound and sure investment and as an enterprise conferring lasting benefit upon its water users. The activities of the Reclamation Service in constructing irrigation works in and of itself, however, does not measure the extent of such development in the arid States. During the past decade a tremendous impetus has been imparted to private initiative and enterprise, and many private irrigation projects have been inaugurated in the arid States. Without in the least decrying the work of the Reclamation Service, I want to point to what has been accomplished in my own State with its reservoir fund. This fund arises from a grant of 500,000 acres of land for reservoir purposes contained in the enabling act of 1894. The proceeds from the disposal of these lands constitute a reservoir fund from which loans have been made to encourage private irrigation enterprises. The State of Utah also has constructed two large reservoirs with the requisite canals to irrigate large tracts of State land. From the splendid accomplishment in irrigation under our State administration I can say that undoubtedly liberal grants of land for reclamation purposes to the several arid States would prove an effective supplement to the general Federal reclamation policy.

The States thereby could promote the building of smaller projects capable of private or State development, and the Reclamation Service could find an ample field in constructing feasible irrigation systems beyond the capacity of private capital. When the Government entered upon the construction of irrigation works under the reclamation act the Reclamation Service was obliged to break new ground and blaze out new paths of experience. It is too much to say that mistakes were not made in some instances in the beginning, but in the light of experience and in the development and growth of the work a more competent and efficient organization has been effected so that serious mistakes have been reduced to a minimum. The annual report of the Reclamation Service is a full and comprehensive account of the magnitude of the constructive work carried on under it. From this report the following tables shed considerable light on its past and present operations.

From the following statements it will be seen that about $86,000,000 has already been expended on the various irrigation projects now in the process of completion, reclaiming an area of about 3,000,000 acres. New lands are being opened to settlement as fast as settlers can be found willing to settle upon them. The terms and conditions of payment for the construction charges under the reclamation projects were necessarily fixed without any accurate knowledge of what the cost would be per acre under the various projects or of the ability of the entryman and landowner to comply with the same. Those who are now seeking new homes are willing to give the only wealth they have—their brawn and brain—to the problem of reclaiming these lands, but the money to meet the construction charges must be wrested from the soil by the industry and skill of the settler. Under the terms and conditions of the existing law the settler hesitates to assume the obligations imposed in entering these lands, and many of those who have made entry find themselves unable to meet these obligations. The Secretary of the Interior has investigated conditions, and earnestly given his sanction to granting proper relief. This demand has met with generous consideration by Congress, and there appears a general desire to lighten the burdens resting upon the settlers. The Representatives from the arid States whose constituents are chiefly interested have approved the relief afforded in the present bill.

The States in which the irrigation work is being carried on are most vitally interested in this bill. The reclamation policy is vital to their future growth and development, and they are by far the most directly concerned in securing wise legislation to effectuate its extension and development.

The reclamation fund is a revolving fund, and the more speedily construction charges can be returned the more rapidly can the expansion of irrigation go forward. With this supreme object before them, the Representatives from these States present this bill, believing that its enactment will be a measure of justice and relief to the brave and stout-hearted men who have entered these lands, and will encourage others to engage in the

Statement showing, by projects, the estimated area of public and private irrigable lands, the average size of farm unit, the approximate number of homestead and private purchases of water rights, the price per acre for which water has been sold, and the date when payments began to be made.

State.	Project.	Estimated area of irrigable lands under project (acres).			Average farm unit (acres).	Approximate number of homestead and private purchases of water rights.			Price per acre for which water has been sold.		Date when payments began to be made.
		Public.	Private.	Total.		Public.	Private.	Total.	Building charges.	O. and M.	
Arizona	Salt River	20,074	198,526	218,600	40-42						Rental.
Arizona-California	Yuma	74,000	57,000	131,000	40	171	1	172	$55, $66	$1.00	Jan. 12, 1910
California	Orland	4	19,996	20,000	[1]						Rental.
Colorado	Grand Valley	30,070	22,930	53,000	25-55						Do.
Do	Uncompahgre	34,000	106,000	140,000	40-80						Do.
Idaho	Boise	67,711	139,289	207,000	40-80						Do.
Do	Minidoka	96,725	22,000	118,725	40-80	1,115	110	1,225	$22, $30, $40	.75	May 9, 1907
Kansas	Garden City		10,677	10,677	[1]				$37.50		[2] Mar. 6, 1908
Montana	Huntley	29,213	3,192	32,405	40-52	542	9	551	$30, $50	1.00	May 21, 1907
Do	Milk River	72,000	147,557	219,557	80-92						Rental.
Do	Sun River	74,974	31,372	106,346	40-80-62	187	11	198	$30, $36	1.00	Mar. 26, 1908
Montana-North Dakota	Lower Yellowstone.	17,913	42,203	60,116	80-56	103	180	283	$42.50, $45	1.50	Dec. 21, 1908
Nebraska-Wyoming	North Platte	83,358	45,912	129,270	40-80-65	820	130	950	$45, $55	1.10	July 29, 1907
Nevada	Truckee-Carson	140,451	65,549	206,000	40-80	262	257	519	$22, $30	.75	May 6, 1907
New Mexico	Carlsbad		20,277	20,277	[1]		516	516	$31, $45	1.75	Dec. 17 1907
Do	Hondo	240	9,760	10,000	[1]						Rental.
New Mexico-Texas	Rio Grande	13,039	141,961	155,000	[3]						Do.
North Dakota	North Dakota pumping.	882	11,357	12,239	34-4	9	127	136	$38	1.00-1.50	Apr. 8, 1908
Oregon	Umatilla	22,336	33,164	55,500	40	125	317	442	$60, $70	1.30	Dec. 27, 1907
Oregon-California	Klamath	32,000	38,700	70,700	58 [4]	2	428	430	$30	.75	Nov. 18, 1908
South Dakota	Belle Fourche	44,631	55,369	100,000	40-80-33	321	359	680	$30, $35, $40	.60	June 21, 1907
Utah	Strawberry Valley		60,000	60,000	[1]						Rental.
Washington	Okanogan	1,324	8,837	10,071	40	46	366	412	$65, $110	2.25	Nov. 12, 1908
Do	Yakima:										
	Sunnyside	2,565	100,259	102,824	20-32-45	57	3,293	3,350	$10, $31, $52	1.80-.95	Nov. 18, 1908
	Tieton	2,175	32,362	34,537	31	58	996	1,054	$93	1.50	Nov. 7, 1910
Wyoming	Shoshone	155,469	8,653	164,122	40-80-75	395	7	402	$45, $47, $50, $52	1.00	Nov. 25, 1907
Total		1,015,064	1,432,902	2,447,966		4,213	7,107	11,320			

[1] Private land. [2] Refunded. [3] Not established. [4] Average size

Statement showing acreage to which water can be supplied, acreage which is being irrigated, and public land unentered on Apr. 30, 1914.

State.	Projects.	Acreage for which service can supply water, 1914.	Acreage estimated to be irrigated, 1914.	Public land unentered Apr. 30, 1914.
				Acres.
Arizona	Salt River	203,431	190,000	
Arizona-California	Colorado River			
Do	Yuma	[1] 61,575	[2] 32,000	60
California	Orland	14,300	9,000	
Colorado	Grand Valley			
Do	Uncompahgre	[3] 53,000	36,000	
Idaho	Boise	207,000	100,000	
Do	Minidoka	118,000	85,000	859
Kansas	Garden City			
Montana	Huntley	30,649	18,000	1,595
Do	Milk River	15,000	4,500	
Do	Sun River	16,346	12,000	2,845
Montana-North Dakota	Lower Yellowstone.	36,578	15,000	847
Nebraska-Wyoming	North Platte	85,628	70,000	4,287
Nevada	Truckee-Carson	65,000	48,000	265
New Mexico	Carlsbad	20,267	20,267	
Do	Hondo	1,200	1,200	
New Mexico-Texas	Rio Grande	35,000	35,000	
Do	Rio Grande Dam appropriation.			
North Dakota	Missouri River pumping.	12,239	6,000	580
Oklahoma	Cimarron			
Oregon	Central Oregon			
Do	Umatilla	16,750	6,000	116
Oregon-California	Klamath	[4] 35,500	[5] 30,000	23
South Dakota	Bellefourche	68,870	50,000	3,843
Utah	Strawberry Valley			
Washington	Okanogan	9,000	8,000	
Do	Yakima:			
	Sunnyside	81,000	68,000	
	Tieton	34,000	20,000	
Wyoming	Shoshone	41,171	23,000	13,403
Total		1,261,704	886,967	28,723

[1] 49,000 water-rental basis; 12,575 public notice.
[2] 26,500 water-rental basis; 8,500 public notice.
[3] Gunnison water will also be furnished to canals in private ownership for 6,000 acres.
[4] 27,000 public notice; 3,000 water-rental basis.
[5] 27,000 public notice; 8,500 water-rental basis.
Acreage is 35,000 to Oct. 1; after that, 55,000 acres.

Statement of receipts and expenditures, by States, to Apr. 30, 1914.

State.	Receipts.		Expenditures.
	Bond loan (36 Stat., 835).	Sale of public lands.	
Arizona	$1,455,000	$1,140,660.74	$15,594,211.31
California	390,000	5,358,943.03	2,683,542.59
Colorado	2,500,000	6,680,991.93	6,337,577.56
Idaho	2,000,000	5,039,708.90	14,081,170.51
Kansas		963,080.07	376,471.29
Montana	1,000,000	8,588,290.73	7,334,430.39
Nebraska	1,400,000	1,664,013.83	4,397,553.83
Nevada	$1,193,000	$541,596.96	$5,588,272.03
New Mexico	2,700,000	3,939,790.95	3,831,423.80
North Dakota		11,921,898.43	1,947,467.20
Oklahoma		5,783,557.84	72,512.10
Oregon	775,000	10,413,928.22	3,596,791.08
South Dakota		6,823,778.65	3,219,007.83
Texas	1,800,000		1,017,928.90
Utah	2,272,000	1,890,479.34	2,380,949.61
Washington	1,915,000	6,433,299.73	7,560,583.36
Wyoming	600,000	4,320,900.46	6,014,027.90
Preliminary investigations			80,488.73
General accounts			259,655.99
Total	20,000,000	81,504,919.82	86,374,066.01

Statement of receipts and expenditures, by States, to Apr. 30, 1914—Con.

Statement showing total estimated building cost of all primary projects.
[Prepared Apr. 2, 1914.]

State.	Project.	Estimated gross building cost to completion.
Arizona	Salt River	[1] $11,862,972.46
Arizona-California	Yuma	9,899,495.96
California	Orland	936,000.00
Colorado	Grand Valley	4,595,020.00
Do	Uncompahgre	9,192,396.83
Idaho	Boise	14,434,653.47
Do	Minidoka	4,955,992.23
Kansas	Garden City	391,082.51
Montana	Huntley	1,447,050.26
Do	Milk River (includes St. Mary storage)	7,746,807.05
Do	Sun River	8,387,695.00
Montana-North Dakota	Lower Yellowstone	2,836,626.32
Nebraska-Wyoming	North Platte	12,828,014.66
Nevada	Truckee-Carson	8,449,853.11
New Mexico	Carlsbad	1,040,253.05
Do	Hondo	[1] 439,351.10
New Mexico-Texas	Rio Grande (includes Elephant Butte storage).	9,771,100.00
North Dakota	North Dakota pumping	[2] 714,175.48
Oklahoma	Lawton	100,000.00
Oregon	Umatilla	3,841,324.78
Do	Oregon cooperative work	[3] 500,000.00
Oregon-California	Klamath	4,331,756.55
South Dakota	Bellefourche	3,583,081.43
Utah	Strawberry Valley	3,407,000.00
Washington	Okanogan	858,543.88
Do	Yakima (including Storage, Sunnyside, and Tieton).	13,049,157.92
Wyoming	Shoshone	9,452,000.00
	Total	149,051,407.05

[1] This does not include the cost of operation and maintenance during construction, the earnings of which are estimated to equal the cost.
[2] Does not include construction of E. and W. Bottom, Williston; upper and lower Bottom, Buford; canal extension "A," Buford; and Trenton Flat.
[3] Amount allotted for cooperation work with the State of Oregon. No data in office showing the estimated completed cost.

Balance sheet showing financial conditions on Apr. 30, 1914, of project accounts.

Projects.	Assets.					
	Net cost of project.		Inventory of stock on hand.	Accounts receivable.		
	Building.	Operation and maintenance.		W. R. building charges.	W. R. O. and M. charges.	Miscellaneous.
Arizona, Salt River	$9,931,205.42		$212,438.51			$59,318.16
Arizona-California, Yuma	6,416,557.46	$189,036.98	307,754.82	$128,014.42	$18,391.32	3,324.49
California, Orland	607,471.14		13,603.47			46.97
Colorado, Grand Valley	997,901.27		67,535.71			445.50
Colorado, Uncompahgre	5,292,361.97		83,825.13			1,240.00
Idaho, Boise	8,995,671.94		330,924.22			18,494.40
Idaho, Minidoka	4,309,346.00	836,443.81	134,884.28	53,198.73	72,199.20	150,483.34
Kansas, Garden City	374,502.68		5,684.07			
Montana, Huntley	1,134,037.28	166,231.63	28,477.09	78,974.49	17,693.76	121.39
Montana, Milk River	1,690,394.17		73,906.42			845.69
Montana, St Mary storage	656,495.56		110,392.06			7,982.04
Montana, Sun River	1,303,900.32	65,168.25	146,897.93	73,932.77	12,686.34	33.50
Montana-North Dakota, Lower Yellowstone	2,821,969.42	402,187.04	34,771.16	44,008.47	127,359.76	52.50
Nebraska-Wyoming, North Platte	6,176,879.77	274,265.35	120,029.08	325,745.95	111,883.45	
Nevada, Truckee-Carson	5,373,723.34	286,658.52	126,710.34	68,429.04	4,451.23	575.89
New Mexico, Carlsbad	876,472.49	115,501.73	17,090.07	43,446.70	4,637.50	
New Mexico, Hondo	361,246.58		610.05			103.93
New Mexico-Texas, Rio Grande	731,022.13		39,938.08			
New Mexico-Texas, Elephant Butte storage	1,662,371.22		300,279.81			43.55
New Mexico-Texas, Rio Grande Dam appropriation	1,000,000.00					
North Dakota, North Dakota pumping	695,483.81	238,037.48	15,365.56	74,535.51	34,062.78	1,500.00
Oklahoma, Lawton	109.88					
Oregon, Umatilla	1,469,300.25	176,385.93	38,940.44	150,477.88	23,849.92	304.22
Oregon-California, Klamath	2,379,217.06	150,911.80	45,263.15	60,427.00	788.62	537.75

Balance sheet showing financial conditions on Apr. 30, 1914, of project accounts—Continued.

Projects.	Assets.					
	Net cost of project.		Inventory of stock on hand.	Accounts receivable.		
	Building.	Operation and maintenance.		W. R. building charges.	W. R. O. and M. charges.	Miscellaneous.
South Dakota, Bellefourche	$3,128,249.02	$222,272.08	$52,500.84	$167,220.00	$41,276.63	$199.20
Utah, Strawberry Valley	2,285,139.24		73,197.06			1,124.71
Washington, Okanogan	602,697.16	62,000.00	9,000.00	52,387.70		1,368.00
Washington, Yakima-Storage	1,128,774.07		203,122.35			35,537.59
Washington, Yakima-Sunnyside	2,335,428.69	471,832.02	23,085.04	230,618.30	19,830.88	12,469.99
Washington, Yakima-Tieton	2,963,842.11	114,850.22	26,040.69	218,863.48	20,856.02	51,095.05
Wyoming, Shoshone	4,010,772.83	118,921.44	90,555.64	127,126.04	7,934.66	10,656.02
Preliminary investigations	80,488.73					
Secondary projects	774,456.94		90,003.30			157.81
Jackson Lake enlargement			93,669.45			[1] 111,372.55
General expenses			60,019.26			78.05
Indian projects:						
Montana, Blackfeet	6,166.17		39,796.10			9,074.43
Montana, Flathead	8,616.66		104,068.80			69,231.62
Montana, Fort Peck	300.83		38,541.56			7,807.18
Total	82,581,673.61	3,890,704.28	3,078,011.54	[2] 1,897,406.48	[3] 517,902.05	332,880.33

Projects.	Liabilities.							Net investment of the United States.
	Accounts payable.	Water-right repayment accruals.						
		Building charges.			O. and M. charges.			
		Accrued.	Forfeited.	Advanced.	Accrued.	Forfeited.	Advanced.	
Arizona, Salt River	$39,056.73	$100,000.00						$10,063,905.36
Arizona-California, Yuma	130,341.73	209,530.18	$754.00	$617.50	$62,445.70	$251.00	$8.17	6,599,131.21
California, Orland	9,381.41							611,830.17
Colorado, Grand Valley	78,447.39							987,435.09
Colorado, Uncompahgre	31,641.63							5,345,785.47
Idaho, Boise	222,647.78							9,122,442.78
Idaho, Minidoka	73,244.13	402,462.80	6,667.78	96,846.27	365,703.90	1,687.49	905.01	4,609,037.95
Kansas, Garden City	3,715.46							376,471.29
Montana, Huntley	20,066.66	308,827.88	3,289.68	5,873.37	84,942.91	851.23	9.75	1,001,674.16
Montana, Milk River	89,469.42							1,675,676.84
Montana, St. Mary storage	40,365.66							734,504.00
Montana, Sun River	89,669.14	163,437.47	1,264.53	278.63	41,865.28	211.86	63.60	1,305,828.60
Montana-North Dakota, Lower Yellowstone	34,767.57	51,272.59	255.00	26,138.95	162,546.34	95.50	380.00	3,153,992.40
Nebraska-Wyoming, North Platte	56,976.89	501,479.43	3,539.70	4,102.80	344,339.17	871.55	370.59	6,097,123.47
Nevada, Truckee-Carson	65,088.04	304,961.13	1,317.80	1,693.65	144,562.12	1,275.07	175.94	5,341,474.61
New Mexico, Carlsbad	5,683.76	114,026.80	108.50	39,922.60	115,757.45	85.95	714.24	780,849.19
New Mexico, Hondo	229.31							361,731.25
New Mexico-Texas, Rio Grande	13,283.05							757,677.16
New Mexico-Texas, Elephant Butte storage	175,549.49							1,787,145.09
New Mexico-Texas, Rio Grande Dam appropriation								1,000,000.00
North Dakota, North Dakota pumping	3,760.29	80,883.54	152.00	30.40	46,654.36	74.70	.40	927,429.43
Oklahoma, Lawton								109.88
Oregon, Umatilla	12,375.41	307,448.22	1,371.22	28,330.10	75,296.83	390.53	6,511.38	1,427,504.95
Oregon-California, Klamath	16,733.51	318,394.00	9.00	4,543.00	99,197.25	3.75	8,341.13	2,189,923.74
South Dakota, Bellefourche	95,679.89	273,097.56	588.00	936.00	129,629.65	180.40		3,111,606.27
Utah, Strawberry Valley	31,388.42							2,328,072.59
Washington, Okanogan	5,500.00	68,228.40		130.00	34,566.87			619,027.59
Washington, Yakima-Storage	36,759.53							1,330,674.48
Washington, Yakima Sunnyside	11,298.97	811,789.45		5,819.15	446,931.55		512.11	1,816,913.60
Washington, Yakima Tieton	14,726.97	406,968.59		2,020.11	128,982.08	3.00	178.50	2,842,668.32
Wyoming, Shoshone	26,556.56	329,900.99	2,101.94	2,805.21	89,621.96	1,480.61	692.46	3,912,806.90
Preliminary investigations								80,488.73
Secondary projects	1,673.97							781,944.08
Jackson Lake enlargement	16,565.85							[4] 34,268.95
General expenses	12,547.05							47,550.23
INDIAN PROJECTS.								
Montana, Blackfeet	6,074.21							48,962.49
Montana, Flathead	21,984.38							159,932.70
Montana, Fort Peck	9,170.08							37,479.49
Total	1,502,420.34	[5] 4,812,709.03	21,419.15	220,117.74	2,373,043.42	7,462.64	18,863.31	83,342,542.66

[1] Advance receipts. [2] This is balance now due on building. [3] This is balance now due in O. & M. [4] Credit balance. [5] This is total, both due and paid on building.

praiseworthy effort of redeeming the waste places. It will give heart to the settlers and induce occupation of available lands, and, instead of delaying the progress of irrigation, will result in increased returns to the reclamation fund and correspondingly provide the means for future expansion and development. It is farthest from my purpose to inject into my remarks anything that might have a political flavor, and yet I feel constrained to invite attention to some of the conditions which now confront the husbandman in the West and which will become more acute with the increase of agricultural products. We are far removed from the great waterways and marts of the East. The great distances to be covered and the heavy expense of transportation by rail compel the farmer to rely largely on the home market or restrict his operations to producing that which can bear a heavy freight charge. Many sections of the West where irrigation is necessary have been found splendidly adapted to the production of sugar beets.

The beet-sugar industry has proved a blessing to the people wherever it has been established, and under fair and favorable conditions will make rapid growth and expansion. Sugar-beet culture necessarily increases the opportunity for healthful employment for boys, and inculcates in them habits of industry, so essential to future success. It results in improved and better cultivation of the soil, by which the land is brought to a high state of fertility. It is a ready-money crop, and enters into competition with no other product of the soil; but, on the contrary, every acre devoted to the sugar-beet culture is removed from competition with other crops and contributes to making a market for them. We have embarked upon the reclamation policy, and have spent millions in constructing irrigation works.

and many more millions will be expended in the rotation scheme provided. We are interested in smoothing the rugged pathway of the desert pioneer, as evidenced by this bill; but the most substantial, enduring, and effective help we can give is to open to him the opportunity of utilizing his lands to the best advantage in the production of the most valuable crops. The products taken from the soil largely go out in exchange for the products of other American labor. The sugar thus produced, in addition to making us independent for a necessary food supply, is exchanged for other American products, and simply results, in its final analysis, to an exchange of labor between American producers.

I am pleased to know that the importance of the sugar industry has at last dawned upon the present administration and that an investigation of it has been undertaken. It is so important an industry, and fraught with such manifest, direct, and indirect benefits that it is cruel and inexcusable to make it the football of politics. From the standpoint of our agricultural development and national welfare, an industry so admirably adapted to our soil and climate and so necessary to our food supply ought to be permitted to live and expand. And all that is asked is that the toilers who are engaged in it shall be given the consideration of other producers who compete against the paltry paid labor of other countries. The sugar industry ought not to be regarded as a political asset. We should approach its consideration on the broad principle of our national welfare, and take a common-sense, practical course to insure its reestablishment, extension, and permanency as a great auxiliary to our matchless agricultural production.

Mr. BRYAN. Mr. Chairman, we have spent the entire day on this matter of interest. The unspeakable agony some of these gentlemen have evinced because the settlers on these reclamation projects are not able to redeem the agreements they have made is enough to bring tears to the eyes of the stanchest and most stalwart. Here comes the gentleman from Illinois [Mr. MADDEN], who is justly proud of the fact that he is the owner of a 1,900-acre farm in Illinois. They say land is worth about $250 per acre down there, so here you have better than a half-million-dollar farm. I know the gentleman obeyed the law in acquiring that farm, but that he derived the lucky dog's advantage of rotten laws I would risk a wager. He thinks we should compel these western settlers on these reclamation projects to settle up in the 10 years allowed or else pay a penalty of 3 per cent per annum, which he calls interest.

Why did they not put interest in the original act? Because interest did not belong there. There were men then in Congress that knocked the West and those who were settling the West, but Congress would not think then of interest. Then it was considered a splendid policy to get men with families onto these lands that were arid and utterly worthless. The gentleman from Illinois [Mr. MANN], the leader of the Republican minority, who is leading the fight for interest here to-day, recently mentioned in debate the fact that when this reclamation bill was being first considered some Member had made a forceful speech against it and he had advised him not to put that speech in the RECORD, for if he did, "it would live hereafter to plague him." The advice was followed, and later this very man was praised for helping out the cause of reclamation. The gentleman from Illinois [Mr. MANN] was for the bill then. He did not vote against the bill because 10 years were to go by without interest. If it was right then, is there any logic in declaring it wrong now—assess a 3 per cent penalty on these people for not meeting the payments promptly?

Every man who thinks knows that the land laws are wrong in this country. We want to encourage small farms and discourage absentee landlordism. The gentleman who owns his 1,900-acre farm in Illinois and collects dividends from it may have a good farm—I hope he has—but it would be better if such areas were broken up into smaller tracts and more families were given a chance. That is what the Reclamation Service is doing.

I am not going to plead for these people as "poor devils" or any other kind of unfortunates here seeking charity. The Reclamation Service is one of the very first of the activities of this Government in efficiency and accomplishment. It has scored a rousing and a wonderful success, and the people out there may have been poor devils when they lived in Chicago and Philadelphia, but now they have their eyes turned toward the light; hope is in their hearts and buoyancy in their step. They have fought a hard fight, and there is tremendous work ahead. They left the tenement behind them, and, with overworked wife and children with sallow complexions, they settled out there to have a home. They have worked hard, and they will keep on working. Little towns have sprung up in every direction. There are 14,000 farmers. With their families and their hands there are 140,000 of them engaged in the farming, but that does not limit their activity. There are canning factories and machine and repair shops, stores, farming-implement agencies, sawmills to supply lumber, doctors, lawyers, nurses, newspapers, book dealers, churches and preachers, schools and school-teachers—oh, there are a thousand activities.

Let these knockers that call these men who settle out there fools rear up here on their hind legs and chatter and gibber all they want, but the people of this country are back of those reclamation projects, and the settlers out there know they will get a square deal. Is not the country richer by having those beautiful little enterprising cities on these arid plains rather than to have blinding sands to blow into the faces of the tourists as they pass through those vast areas? Can not you gentlemen see any advantage to the public and gain to the Treasury? Is not the corporation tax increased and the incomes enlarged for the purposes of taxation? The railroads are stimulated to spend large sums for betterments.

I shall say some more a little later about the Reclamation Service itself and its officials. Too much can not be said in their praise for their splendid accomplishments; but let me say now some more about these settlers and their problems. The Government's investment is about $80,000,000

The lands are not nearly all settled, owing mainly to the fact that interest sharks have prevented this Government from pursuing a liberal enough policy to hold those who would have filled up the lists, but who have gone to Canada, where the settler can borrow money to help him along. In Australia the Government lends a settler who will spend $1,000 on his place $600 in cash. They think a citizen and a farmer with his family producing wealth is worth something, but there are some on this floor who do not seem to think such an asset is worth 3 cents.

The settler on one of these little farms has a tremendous job ahead of him. If everything goes well and nothing unexpected happens, he must ditch and drain and build. He must have horses and feed them, poultry, farm animals. He must grade and level and plow. He must buy lumber and implements. Expense at every turn. Then he must pay the Government for the water he gets in the way of operating expenses. He has no title to his land, for a tremendous mortgage is on it for the full amount of the Government's investment. Then he has to buy seed and trees and plant his crop and suffer losses till he learns from experience just how to proceed. He may lose part of his crop for mistakes about drainage, or his money may have given out and he lost because he was denied things that he very badly needed. He had underestimated his crop—an invariable feature in every line of endeavor.

I am unable to understand why men on this floor will refuse to appreciate these facts and will not see the asset the Government has in an enterprise of this kind. We are to get every cent of it back, dollar for dollar. It is public-lands money put into a revolving fund. But now that the settler asks for time, you say, "Yes; give them time, but we must have interest."

The gentleman from Pennsylvania [Mr. MOORE], palms up, says, "Pisness is pisness. This can give time, but we need the interest." Yet he nearly talked himself into utter exhaustion to try to force through here a scheme to get the Government to buy a lot of waste lands in Philadelphia, near a powder plant, which was worthless almost and was not needed and yet to cost a very large sum. He takes relays with other gentlemen here in pleading for "protection for the infant industries of Pennsylvania." He wants the Government to take from the people a sum of money to swell the profits of every trust-owned factory in his State—the infant industry known as the Steel Trust, the textile mills, and the shipping plants. He did not mind helping the ships with free tolls, but a farmer on the reclaimed arid plains of the West, making an American home, creating wealth, bringing up citizens who will fight for the flag when called, are not worth 3 cents. "Pisness is pisness."

The millions they do not collect for the Government but let trusts absorb through unconscionably high tariffs never come back to the people. I believe in a big Navy, but I heard the gentleman from Pennsylvania [Mr. MOORE] making an argument for a big Navy with which I can not agree. He said the building of a ship was justified because the spending of the money by the Government put it into circulation and created work; yet he sees nothing of this kind in the reclamation work, notwithstanding the fact that every dollar is to come back, the Government holding title to everything till every cent is paid. Is there any other expenditure the Government makes that will ever come back? They talk about their lands, but the Government has lost title to them, and of course we can not take them up in great reclamation projects.

They are behind in their arguments on this subject. The Government does not ask interest on its post-office investments, its public buildings; all it asks of the Post Office Department is to pay expenses. Profit is all some men can get into their heads, but the Government is not looking for the kind of profits they talk about here to-day. These tremendous plants out there were necessary to make the lands fit for homestead.

The great forest reserves are not operated for profit. The reserved coal does not bear dividends. When we develop fully the system to use the forests and the coal all the Government wants is cost price.

U. S. does not stand for Uncle Shylock.

If we ever do get enough honorable energy into this House to reserve the radium deposits from private control, we will not do that for profits. We did not build the Alaska railroad for profits. We will be satisfied to get cost of operation and a small part each year on the investment. The Government one day will own all the railroads. I suppose these Uncle Shylock patriots will expect the Government to get 3 per cent on $20,000,000,000 for dividends like the Goulds, the Vanderbilts, and the Morgans—nearly two millions a day that would be. That is not the plan at all, and it is time the Uncle Shylocks came to themselves.

Now, as to the Reclamation Service, that work has been splendidly done.

The estimates as originally and roughly made for projects during the period of reconnoissance have no bearing, as they did not obligate the Government to construct anything. I understand that the estimated cost contemplated by law, as announced by the Secretary of the Interior when a project is formally opened, has not greatly exceeded the amount originally anticipated in those projects which were built in accordance with the original plans. On the Salt River project in Arizona the original expenditure contemplated was about $4,000,000. After the work began the people urged the Secretary to modify the plans by increasing the height of the Roosevelt Dam, by developing power, by constructing a million-dollar diversion dam, and by purchasing and enlarging a number of the old canal systems. The investment now is $10,500,000. The estimated cost of the work originally planned is very close to the actual cost of construction. Nearly every one of the larger projects shows similar expansions and alterations, most of which were ordered by the Secretary of the Interior in response to urgent requests of the landowners.

In planning the projects of the Reclamation Service it was assumed in the estimates that the Government would construct the reservoirs and the main canals, leaving to the farmers the building of the distribution systems, as has been practiced on many of the earlier private irrigation systems. Inasmuch as the distribution systems in irrigation projects cost from $10 to $20 per acre, the adding of the construction of distribution systems to the original plans for the various projects in which this was not included in the original estimate has increased the cost of those projects from $10 to $20 per acre. Where a portion of the distribution system only was planned for and afterwards a complete distribution system was built, the cost per acre has been proportionately increased. The fact that these distribution systems have been built does not mean that the work has been performed extravagantly, but merely means that the water user has been furnished a more complete irrigation system than it was originally planned he should have.

So far as the principal projects of the Reclamation Service are concerned, they were largely planned and estimates of their costs made during 1903 and 1904. As I have already shown, the price of labor at this time was considerably lower than it was during the succeeding years. It is well known that labor was cheaper during 1903 and 1904 than during 1905 and succeeding years. Records of the Reclamation Service show that the average rate of wages on the projects under construction by the Reclamation Service in 1906 was 18 per cent higher than in 1905, and in 1907 was 20 per cent higher than in 1905, and these increases would be still more compared with 1903 and 1904. The bulk of the work on the principal projects of the Reclamation Service on which estimates were made during 1903 and 1904 was done in 1906 and later.

In addition to the increase in cost of labor during 1906–1908 there was so much construction work in progress throughout the country that it was very difficult to obtain laborers, and the efficiency of labor greatly decreased. I have been informed that in many cases it was only possible to secure the most transient labor. Knowing that they could get work anywhere this class of men did not care to hold a permanent job. A construction company that has a continuous organization did not feel the effects of this inefficiency so much, but all temporary construction work requiring the labor of men for a short time in one place had great difficulty in retaining men, and for trivial reasons the men would often quit in a body and greatly embarrass the work. In the reclamation work a number of cases could be cited where carloads of laborers were shipped from Chicago, the home of these gentlemen who are now opposing us, or eastern points—New York City, for instance—by the railroads for the Reclamation Service, and they all deserted before they got to the site of the work. These difficulties not only greatly hampered the work of the service, but so reduced the efficiency as to add greatly to its cost. In many cases the depreciation in efficiency of the laborers resulted in from 25 to 30 per cent of additional cost.

There were also increases in the costs of some of the principal construction materials during the years 1906, 1907, and 1908 over the costs during 1903 and 1904, which tended to increase the actual costs appreciably over the estimated costs.

There is another element that enters into the cost of construction work on an irrigation project and that quite generally causes an increase of cost. This is the rise in the price of forage and grain used for animals employed and the cost of animals themselves. In the majority of cases the price of hay and grain was doubled during the construction period following the dates in which the estimates of the projects were made. A similar increase in the cost of horses and mules existed. These rises in prices of feed and work animals are generally due to the sudden increased demand for these products beyond the capacity of the local supplies.

The underestimating of the cost of engineering works is not peculiar to the Reclamation Service. A similar condition exists in the construction of private irrigation works. It is well known that railway work, private irrigation work, and work on the Panama Canal were all being done at from 60 to 75 per cent in excess of what the cost was, or would have been, estimated in 1904 or 1905.

The president of the Northern Pacific Railway states that the average cost of work prosecuted by that company since 1905 has been found by careful estimate to average about 60 per cent above the cost of the five years preceding that date. Mr. Andrew J. Wiley, Boise, Idaho, who has probably the widest experience with irrigation work under private enterprise and the provisions of the Carey Act during the last 10 years, states that his experience indicates the average cost since 1905 to be about 75 per cent more than the cost for the five years preceding that date. This testimony is borne out by the experience of all those engaged in construction work in the West as well, also, as in a less degree in other regions.

The estimated cost of the Panama Canal was $149,000,000, and the cost to date is about $400,000,000, showing increase of about 170 per cent. The canal is not yet completed, either. A portion of this is due to changes and extensions in plans as in the reclamation work and the remainder to the increased cost of labor.

It would appear, therefore, that the underestimation of cost of the work of the Reclamation Service is due principally to the increasing of the amount of work that was contemplated would be done on the projects, to an increased cost in labor between the time of making the estimate and the doing of the bulk of the work on the projects, to a similar but less increased cost of construction materials entering into the works during their construction, and to high prices for feed for stock used in the works. Such underestimation of costs can not therefore properly be adduced as an argument against the Federal Government engaged in large construction work.

The great difficulty in making comparison between private and Government work in the irrigation business is due to the fact that there is a multiplicity of conditions surrounding each project affecting the cost thereof that are not always considered when the comparisons are made.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] offers an amendment to the amendment, which the Clerk will report.

The Clerk read as follows:

Amend the amendment by striking out the word "three" in the last line and insert "one," so that the amendment as amended will read: "At the rate of 1 per cent per annum."

The CHAIRMAN. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was rejected.

Mr. LEVY. I call up my amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from New York calls up his amendment to the amendment, which the Clerk will report.

The Clerk read as follows:

Amend by striking out "three" on the last line and inserting "four."

The CHAIRMAN. The question is on the adoption of the amendment.

The amendment was rejected.

Mr. BRYAN. Mr. Chairman, I move to amend by striking out "three" and inserting a zero.

Mr. GORDON. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. GORDON. Such an amendment as that is not in order.

The CHAIRMAN. It is in order if the gentleman desires to make it. The question is on the amendment.

Mr. BUTLER. Mr. Chairman, would the gentleman write in there the word "zero"?

Mr. BRYAN. I will withdraw the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. Cox], which the Clerk will report.

The amendment was again reported.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. TAYLOR of Colorado. Division, Mr. Chairman.

The Committee divided; and there were—ayes 51, noes 55.

Mr. COX. Tellers, Mr. Chairman.

Mr. SHERLEY. Mr. Chairman, I ask for tellers.

The CHAIRMAN. The gentleman from Indiana [Mr. Cox] asks for tellers.

Tellers were ordered, and the Chairman appointed Mr. Cox and Mr. TAYLOR of Colorado to act as tellers.

The committee again divided; and the tellers reported—ayes 52, noes 60.

So the amendment was rejected.

Mr. MADDEN. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. MADDEN] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 2, line 16, by inserting, after the word "established," the following: "In addition to the principal of the construction charge there shall be paid in each case annual interest upon the balance of the construction charge remaining unpaid at the rate of 2 per cent per annum."

Mr. BRYAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BRYAN. I make the point of order that that amendment is out of order, we having just refused to make a 3 per cent amendment and a 1 per cent amendment, and we can not now amend on the same identical point. The action of the House is conclusive.

Mr. MANN. This is new Progressive parliamentary law. [Laughter.]

The CHAIRMAN. The Chair overrules the point of order.

Mr. MONDELL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MONDELL. My understanding is that the debate on this amendment was closed and that all amendments were to be offered and voted on.

Mr. TAYLOR of Colorado. That was the unanimous-consent request as to all amendments but this one.

Mr. MANN. That was not the request at all. It was on all amendments and amendments thereto.

The CHAIRMAN. That is the request put to the Chair on the amendment of the gentleman from Indiana [Mr. Cox] and all amendments thereto—that the debate should close in one hour.

Mr. MONDELL. Mr. Chairman, I renew the point of order made by the gentleman from Washington [Mr. BRYAN].

Mr. BRYAN. It does not need to be renewed, Mr. Chairman. The gentleman from Massachusetts [Mr. GARDNER] argued with the Chair almost a day in trying to get an amendment changed after it was acted upon by the House, and the present Speaker, Mr. CLARK, ruled it out of order on the ground that we could not again take up the same subject matter.

Mr. MANN. Mr. Chairman, will the gentleman yield for a question?

Mr. BRYAN. I yield to the gentleman, of course.

Mr. MANN. Mr. Chairman, I wish to be heard on the point of order. The gentleman from Washington [Mr. BRYAN], who was so completely nonplussed by a temporary victory in the House, has reversed his ideas, and thinks that an amendment was just agreed to and can not be changed, and, with a learning that is worthy of great hearing, he has argued to the Chair that where the House has agreed to an amendment it can not change it. The gentleman imagines that the amendment was agreed to.

Mr. GARNER. Mr. Chairman, as I understand, the Chair has ruled that the amendment is in order.

The CHAIRMAN. Yes; that the amendment is in order.

Mr. GARNER. I ask unanimous consent, Mr. Chairman, that all debate on this paragraph and amendments thereto close in 10 minutes.

Mr. MADDEN. Oh, no. We have a lot of other amendments.

Mr. GARNER. What other amendments have you got? I will ask, Mr. Chairman, that on this particular amendment the debate close in 10 minutes. This matter has been discussed all afternoon. Let us try to get along with this bill.

The CHAIRMAN. The gentleman from Texas [Mr. GARNER] asks unanimous consent that all debate on the amendment offered by the gentleman from Illinois [Mr. MADDEN] close in 10 minutes. Is there objection?

Mr. BURKE of South Dakota. I object, Mr. Chairman.

The CHAIRMAN. The gentleman from South Dakota [Mr. BURKE] objects.

Mr. MADDEN. Mr. Chairman and gentlemen, we are confronted with this proposition: The Government is expending $200,000,000 for the development of arid lands. The question arises whether or not this Congress will decide that we ought to enter upon the expenditure of that money. If we agree in advance that the projects are unprofitable, surely we can not justify the expenditure of $200,000,000 without some interest charge to those who get the benefit of that money.

Mr. JOHNSON of Washington. Will the gentleman yield?

Mr. MADDEN. I can not yield.

Mr. JOHNSON of Washington. How does the gentleman get his $200,000,000?

Mr. MADDEN. I have stated that in detail.

The CHAIRMAN. The gentleman declines to yield.

Mr. MADDEN. There has been and is now a sentiment all over the Nation in favor of rural credit legislation, and I would like to ask the gentlemen on this floor how you are going to justify the refusal to enact rural credit legislation for the farmers of the United States in the face of the expenditure of this $200,000,000 for the development of the arid lands of the West without the payment of a single dollar of interest? If you establish this precedent now, you will be confronted with it when the rural credit legislation comes up for consideration before you. When the farmers of America demand of you equal treatment with those who live on the arid lands what can you say to them? What can you say to them when they confront you with the proposition that they want money out of the Public Treasury without the payment of interest when you have already decided to grant to those men who live on farms in the Western States $200,000,000 for the development of their lands without the payment of a single dollar of interest? The Government of the United States issues its bonds, with the circulation privilege, at 2 per cent interest, but no Government bond has ever been issued at that interest rate without the circulation privilege. Why, then, grant the privilege to settlers on arid lands the use of public money payable in 20 years without any interest whatsoever?

Mr. GARNER. Mr. Chairman, I move that all debate on this paragraph and amendments thereto close in five minutes.

Mr. MANN. Oh, well now, that will not work.

Mr. GARNER. I think this paragraph has been discussed the entire afternoon.

Mr. MANN. I notify the gentleman now that we had an understanding that there should be liberal debate on this, and there are some other amendments to this paragraph, and no one will make anything, so far as time is concerned, by breaking faith by a motion like this.

Mr. GARNER. The gentleman understands that I have no desire to cut off debate.

Mr. MANN. I do not know what the gentleman is coming in for. The gentleman from Colorado [Mr. TAYLOR] is in charge of the bill.

Mr. GARNER. We have discussed this matter for hours; and I asked unanimous consent that the debate close in 10 minutes, and the gentleman from South Dakota [Mr. BURKE] objected.

Mr. MANN. Nobody is objecting to closing debate on this amendment.

Mr. GARNER. But objection was made.

Mr. MANN. Why should the gentleman from Texas make such a motion? The gentleman from Colorado [Mr. TAYLOR] is in charge of the bill.

Mr. GARNER. Is the gentleman from Illinois in charge of it on that side?

Mr. MANN. No; I am not in charge of it on either side, nor do I ever make such a motion as this, butting in, either.

Mr. GARNER. Why did the gentleman from South Dakota [Mr. BURKE] object? Is he in charge of the bill?

Mr. MANN. He has a right to object.

Mr. GARNER. I move that all debate on this paragraph close in five minutes.

Mr. MANN. There will be no more business done in this House at any time without a quorum if this motion prevails.

Mr. GARNER. Of course the gentleman from Illinois can make his bluff.

Mr. MANN. And the gentleman can call the bluff by going ahead and forcing the motion.

Mr. GARNER. I ask that the debate on this amendment close in five minutes.

The CHAIRMAN. Does the gentleman ask unanimous consent, or make the motion?

Mr. GARNER. I ask unanimous consent.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that all debate on this amendment close in five minutes. Is there objection?

There was no objection.

Mr. BRYAN. Mr. Chairman, a parliamentary inquiry. I would like to know if it is going to be in order, after this amendment is voted on, for somebody else to move 1½ per cent, and then 5 per cent, and then 6 per cent, and then 8 per cent, or any other amount, and keep it up indefinitely?

The CHAIRMAN. The Chair will have to answer that question when we come to it. The Chair hears no objection to the request of the gentleman from Texas.

Mr. GARNER. Mr. Chairman, I do not desire to take any time on this bill, but I do want to make a suggestion to the committee, and that is that we have had this one particular paragraph and this one particular question under discussion for the entire afternoon, and it does seem to me that there ought to be some limit somewhere when we can wind up this bill at some time.

Mr. PAYNE. Will the gentleman yield for a question?

Mr. GARNER. I always yield to the gentleman from New York.

Mr. PAYNE. What need is there of hurry as to the business of the House? We are literally doing next to nothing, and liable to be doing that same thing until next December. Why does the gentleman get so impatient, and why is he in such a hurry to close debate?

Mr. LEVY. I will tell the gentleman why.

Mr. MANN. I ask for the regular order. If we are to expedite business, let us expedite it.

The CHAIRMAN. The gentleman from Texas will proceed.

Mr. MANN. I thought the gentleman from Texas asked unanimous consent to close debate at once.

Mr. GARNER. I did not; I asked to close debate in five minutes.

Mr. MANN. Why not close it at once? You are wasting time.

Mr. GARNER. The gentleman from Illinois wastes fifty minutes where I waste one.

Mr. MANN. No; I do not waste it.

The CHAIRMAN. The gentlemen are out of order.

Mr. GARNER. If the Chair does not care for me to address my remarks to the gentleman from Illinois, I will not do so. I want to call the attention of the committee, if the gentleman from Illinois will permit, to the fact that we have been on this one paragraph the entire afternoon, and while the gentleman from Illinois has enlightened the committee on the proposition, it is evident that his purpose is to inject all the politics into it he can, and at the same time do all the injury he can to the dry farmers of the West.

Mr. MANN. That is not true; it is a false statement.

Mr. GARNER. The gentleman from Illinois will sit in his seat and violate the rules as he usually does.

The CHAIRMAN. The gentleman from Illinois is out of order.

Mr. GARNER. Unless the gentleman from Illinois can have the courtesy to get up and address the Chair and ask to be recognized——

Mr. MANN. Which I did not do.

Mr. GARNER. The gentleman from Illinois seldom does; he is always invoking the rule, but violates it more than any Member on the floor.

Mr. MANN. I can take care of myself, notwithstanding the remarks of the gentleman from Texas.

Mr. GARNER. The gentleman from Illinois is always agreeable if you let him have his way. Unfortunately under the rules governing the House he will have his way or take up the entire session to accomplish what he wants to accomplish. Often in the committee and in the House the gentleman from Illinois says that unless you agree to my whim I will make the point of no quorum and have the roll called.

Mr. JOHNSON of Washington. Mr. Chairman, the gentleman is not talking to his motion to expedite business.

Mr. GARNER. I hope the gentleman will content himself for a moment. I was discussing the amendment in connection with the fact that we have been considering the entire afternoon, and expressing the hope that I could with the aid of the gentleman from Illinois get through with the business.

Mr. BURKE of South Dakota rose.

Mr. MONDELL. Mr. Chairman, I know that the gentleman from Texas desires to expedite the bill, and will he not make a motion to close debate in five minutes?

Mr. GARNER. I have asked unanimous consent to close debate in five minutes.

Mr. MANN. And the gentleman has wasted the five minutes.

The CHAIRMAN. Debate on the amendment by unanimous consent was to close in five minutes, and the gentleman from Texas has used a part of it.

Mr. GARNER. Mr. Chairman, I will ask unanimous consent that the time be extended for five minutes.

Mr. BURKE of South Dakota. Mr. Chairman, the gentleman from Texas got the consent of the House to close debate in five minutes. I am entirely willing to have a vote now on this amendment. He has consumed the time, now let us vote.

Mr. CANTOR. Mr. Chairman, can we have the amendment again reported?

The CHAIRMAN. Without objection, the amendment will again be reported.

The Clerk read the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

Mr. LEVY. Mr. Chairman, I move to amend the amendment by making it 2½ per cent.

The CHAIRMAN. The gentleman from New York moves to amend the amendment by striking out the word "two" and inserting the words "two and a half." The question is on the amendment to the amendment.

The question was taken, and the amendment to the amendment was rejected.

The CHAIRMAN. The question now is on the amendment of the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. MADDEN) there were 50 ayes and 63 noes.

So the amendment was rejected.

Mr. MADDEN. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend, page 2, line 3, by striking out all after the word "installment" down to the end of line 7, and inserting in lieu thereof the following: "and shall pay the balance of the principal of said construction charge in 20 annual installments, the first 5 of which shall each be 3 per cent of the construction charge, the next 10 installments shall each be 5 per cent, and the remaining 5 installments shall each be 6 per cent until the whole amount shall have been paid."

Mr. MADDEN. Mr. Chairman, I wish to say that this amendment provides much easier terms of payment than the original bill does, and if the gentlemen who are in favor of this irrigation proposition want to help the settlers, they should vote for this amendment.

Mr. TAYLOR of Colorado. Mr. Chairman, on behalf of the committee I want to say that the officials of the Reclamation Service and the Interior Department, and the Irrigation Committees of both the Senate and the House, and nearly all the Members of the Senate and House from the West, as well as the representatives of all of these 32 reclamation projects, have been at work on this bill for a year or more and have exhaustively considered every line of it, and we are confident that this is the fairest and most practical and best way of making these payments, both for the Government and the settlers under these projects, and I hope this system will be retained in the bill, and that the amendment of the gentleman from Illinois [Mr. MADDEN] will be voted down.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The amendment was rejected.

Mr. MADDEN. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, page 2, line 2, by striking out all after the word "two" down to the end of line 7 and insert in lieu thereof the following: "5 per cent of the construction charge fixed for his land as an initial installment, and shall pay the balance of the principal of said charge in 35 annual installments, the first 10 of which shall each be 2 per cent of the construction charge and the remaining 25 shall each be 3 per cent, until the whole amount shall have been paid. In addition to the principal of the construction charge there shall be paid in each case, annually, interest upon the balance of the construction charge remaining unpaid from time to time at the rate of 3 per cent per annum."

Mr. MADDEN. Mr. Chairman, this amendment gives to the people who live on these irrigation projects 35 years in which to make payments. Each annual payment is so small that it can not involve any hardship whatever to the settler. The chairman of the committee says that he and others have given six months' time to the consideration of this bill; that they have decided upon just exactly what is to be done; that they have reached a conclusion that is most beneficial to the settlers on the arid lands of the West; and they are in favor of imposing burdens upon the arid-land settlers that this amendment does not impose. They want him to make his payments within 20 years, and I am willing to give him 35 years in which to make his payments. If you want to help the settler on the arid western land, you will vote for the adoption of this amendment, because it proposes to lighten his burdens; it proposes to give him time in which to make his payments, and makes the payments so light that nobody can complain.

Mr. MANN. Mr. Chairman, I desire to be heard on the amendment. Under the existing law the payments are all to be made within 10 years' time. Under the bill which is now pending on entries hereafter made the entryman pays 5 per cent at the beginning and pays nothing more until 5 years, and then pays the balance in different amounts in 15 years, making the whole amount payable within 20 years' time. The amendment which has been offered by my colleague makes no change except to extend the time from 20 years to 40 years, and provides for an interest charge of 3 per cent. It would still leave no payment of the principal of the construction charge for 5 years, except the initial payment of 5 per cent, and would in no case require the payment for principal and interest combined to be more than 5 per cent per annum upon the amount invested. How can gentlemen object to that? They would only be required under this amendment to pay 2 per cent of the construction charge during the second 5 years. It would amount to a total of 10 per cent of the construction charge after the initial payment during the first 10 years. How can gentlemen have the nerve, when they borrow money from the Federal Treasury, not to be willing to pay for principal and interest 5 per cent a year and thereby pay off the principal? Gentlemen are now sowing the wind, but they will reap the whirlwind. Those in these arid regions will find that a Congress hereafter will some time say, "You have gone too far," and they will pull back, and gentlemen from the other portions of the country who go home this summer and say, "There has been no rural credit bill passed under which you farmers can obtain any help, with the payment of interest, yet I voted for a bill to give to other farmers money without interest, and even refused to vote for a proposition which would retire both the principal and the interest in 40 years' time, with no payment in any year exceeding 5 per cent of the loan," will reap the whirlwind next fall.

The gentlemen ought to be willing to accept it, but they have had their hand in the Treasury so easy that they are unwilling to withdraw it unless it is filled with money. I wish gentlemen were willing to accept a reasonable proposition. Wherever the Government, as it has in some places in the world, has undertaken to help the farmers by the advancement of money, it never has made a proposition more generous to the farmers than the one from my colleague now pending.

Mr. BRYAN. Will the gentleman yield?

Mr. MANN. For a question.

Mr. BRYAN. I have before me a report on the speech of Mr. Elwood Meade on reclamation projects in Australia, which entirely contradicts the gentleman's statement.

Mr. MANN. What is it about?

Mr. BRYAN. It is about reclamation.

Mr. MANN. Does it relate to this subject?

Mr. BRYAN. Yes, sir.

Mr. MANN. That is rather unusual——

Mr. BRYAN. And in addition to furnishing water and what has been done in this country, they make a cash loan of 60 per cent of the settlers' improvements in Australia, and they have more liberal privileges in Canada.

Mr. MANN. They loan that 60 per cent at interest.

Mr. BRYAN. They do not charge——

Mr. MANN. And the gentleman has nerve to offer that as a precedent for loaning them 100 per cent without interest. Great God!

Mr. BRYAN. The gentleman is mistaken; they charge nothing on the work, but interest on the loan.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. I ask to be recognized.

Mr. DONOVAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. DONOVAN. Under the five-minute rule there can only be one speech for and one against the proposition.

Mr. MONDELL. No one has been recognized against the amendment.

The CHAIRMAN. The gentleman from Wyoming.

Mr. MONDELL. Mr. Chairman, we have all of us long since been warned to beware of the Greeks bearing gifts. [Applause.] It is always safe to vote against an amendment offered by the enemy of a proposition. The gentleman from Illinois, who offered this amendment, would be happy if there was an interest charge and has voted for interest amendments. Here is an amendment now that no man can justify, because of the fact that it extends the period of payment to 35 years and lays a heavy burden of interest——

Mr. MADDEN. Will the gentleman yield?

Mr. MONDELL. Whereas no settler on any reclamation project, no dweller in the country where the reclamation projects are being undertaken, no one having to do with reclamation projects has ever asked for any extension beyond 20 years, and I prefer to take the period which the friends of the measure have decided is fair and equitable rather than this proposed by the enemy.

Mr. KENT. Mr. Chairman——

Mr. DONOVAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. DONOVAN. Is not all debate exhausted on this amendment?

The CHAIRMAN. It is.

Mr. KENT. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from California moves to strike out the last word.

Mr. KENT. Mr. Chairman, I have had long experience in listing and selling farm lands. I have acquired a knowledge of conditions in the arid regions from personal experience. I know perfectly well that what the settler needs to make good is time to pay for his land out of its product. He does not need to be coddled, and he does not need to get along without the payment of interest, which he always pays under every private contract. What he needs is time to work out his own salvation. I have sold a great deal of land, and I have never taken back one acre from any settler. I have always realized that when he has met with adversity, then I ought to give him a chance by extending his time and not by curtailing a low interest charge.

The same thing must be true and will be proven true in Government ownership and Government transfers. I can not see why we should further subsidize the settlement of arid Government lands. We ought possibly, under our homestead policy, freely to give the land, but when through Government help we put water upon the land and make it productive when it was not productive, then it is but fair that we should ask the man who goes upon that land to make good the improvement charge, principal and interest.

Mr. RAKER. Will the gentleman yield?

Mr. KENT. No; I shall not yield. The gentleman from Illinois [Mr. MADDEN] has put in an amendment that is eminently reasonable. It provides long, patient waiting of 35 years on the part of the Government, with payment of an extremely low rate of interest at 3 per cent. If we here and now abolish the idea of the Government charging interest on improvements put on land, I can not see how we can ever possibly face the proposition of granting or aiding rural credit without giving to all applicants the same privilege of money without interest that we give to these people on irrigation projects. And therefore, in the interest of the people whom I know, in the interest of my own district and all other agricultural districts, I believe that the granting of this long, long period is to their advantage, and I believe the Government will not be the loser, provided it make an interest charge. But if the Government here and now starts in to lend money for improvement of property without charging interest, we might just as well take upon ourselves every crazy scheme that Coxey or any other fiatist ever urged, and go to it to an insolvent finish. [Applause.]

Mr. LEVY. Mr. Chairman, I move to strike out the last word.

Mr. TAYLOR of Colorado. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in five minutes.

The CHAIRMAN. The gentleman from Colorado asks unanimous consent that all debate on this amendment close in five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. LEVY. Mr. Chairman, I think it is a great mistake that the friends of this bill do not agree upon a fair rate of

interest. It will be construed wrongfully, and you must take into consideration the financial situation of the country. It is not very easy at the present time to sell any 2 per cent bonds or 3 per cent bonds. The English Government receives 3 per cent for their land sales and purchases in Ireland. At the present time the securities of this country are selling on the basis of 8 and 10 per cent, and if you go on in the manner that you propose, expending $200,000,000, how do you propose to keep the credit of the United States Government up to par? It is a great mistake. You should at least make it 3 or 4 per cent. I am quite sure that even the people in the section who ask for this extension will agree to it, because in that portion of the country money is demanding 8 to 10 per cent per annum. In Canada the railroads, in making improvements, receive 4 or 5 per cent for money on irrigation lands.

I hope the friends of this bill will reconsider it and come to the conclusion that we ought to charge some rate of interest. Otherwise this bill will be a failure.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. MADDEN].

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. MANN. I ask for a division.

The committee divided; and there were—ayes 30, noes 57.

Mr. MANN. I ask for tellers.

Tellers were ordered.

Mr. TAYLOR of Colorado and Mr. MADDEN took their places as tellers.

The committee again divided; and the tellers reported—ayes 38, noes 63.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ACT SHALL APPLY TO EXISTING PROJECTS.

SEC. 2. That any person whose land or entry has heretofore become subject to the terms and conditions of the reclamation law shall pay the construction charge, or the portion of the construction charge remaining unpaid, in 20 annual installments, the first of which shall become due and payable on December 1 of the year in which the public notice affecting his land is issued under this act, and subsequent installments on December 1 of each year thereafter. The first 4 of such installments shall each be 2 per cent, the next 2 installments shall each be 4 per cent, and the next 14 each 6 per cent of the total construction charge.

Also the following committee amendment was read:

Page 3, line 4, after the word "charge," insert "or the portion of the construction charge unpaid at the beginning of such installments."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. MANN. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report:

The Clerk read as follows:

Strike out section 2 and insert in lieu thereof the following:

"SEC. 2. That any person whose land or entry has heretofore become subject to the terms and conditions of the reclamation law shall pay the principal of the construction charge, or the portion of the principal of the construction charge remaining unpaid, in 40 annual installments, the first of which shall become due and payable on December 1 of the year in which the public notice affecting his land is issued under this act, and subsequent installments on December 1 of each year thereafter. The first 10 of such installments shall each be 1 per cent and the remaining 30 installments shall each be 3 per cent of the total construction charge, or the portion of the construction charge unpaid at the beginning of such installments: *Provided*, That in addition to the principal of the construction charge there shall be paid in each case, annually, interest at the rate of 3 per cent per annum upon such portion of the balance of the construction charge as remains unpaid beyond the time or times fixed for the payment thereof under the reclamation law in force when such land or entry became subject to the terms and conditions of such reclamation law: *Provided further*, That such person may, if he so elects, pay the whole or any part of the construction charge owing by him prior to the time herein required."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

Mr. MADDEN. Mr. Chairman, I make the point of no quorum.

Mr. GARNER. Let us get through with this section and start in with the next section.

Mr. MADDEN. All right. I will withdraw my point.

Mr. MANN. We have just finished the section.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PENALTIES.

SEC. 3. That if any water-right applicant or entryman shall fail to pay any installment of his construction charges when due, there shall be added to the amount unpaid a penalty of 1 per cent thereof, and there shall be added a like penalty of 1 per cent of the amount unpaid on the first day of each month thereafter so long as such default shall continue. If any such applicant or entryman shall be one year in default in the payment of any installment of the construction charges and penalties, or any part thereof, his water-right application, and if he be a homestead entryman, his entry also shall be subject to cancellation, and all payments made by him forfeited to the reclamation fund, but no homestead entry shall be subject to contest because of such default: *Provided*, That if the Secretary of the Interior shall so elect, he may cause suit or action to be brought for the recovery of the amount in default and penalties; but if suit or action be brought, the right to declare a cancellation and forfeiture shall be suspended pending such suit or action.

Mr. TAYLOR of Colorado. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. FLOOD of Virginia, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 8660. An act to amend section 4 of an act entitled "An act granting a franchise for the construction, maintenance, and operation of a street railway system in the district of South Hilo, county of Hawaii, Territory of Hawaii," approved August 1, 1912.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 5316. An act authorizing the survey and sale of certain lands in Coconino County, Ariz., to the occupants thereof;

S. 1087. An act authorizing the exchange of certain lands within the Fishlake National Forest, Utah;

S. 485. An act to amend section 1 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911;

S. 5957. An act to authorize the Frost-Johnson Lumber Co. to construct a bridge across the Sabine River in the States of Louisiana and Texas, about 2 miles west of Hunter, La.; and

S. 785. An act to relinquish, release, and quitclaim all right, title, and interest of the United States of America in and to certain lands in the State of Mississippi.

REQUESTS FOR LEAVE OF ABSENCE.

The SPEAKER. The Chair lays before the House the following personal requests, which the Clerk will read.

The Clerk read as follows:

Mr. TAGGART requests leave of absence for 10 days, on account of important business.

Mr. STEENERSON requests leave of absence for 60 days, on account of public business.

Mr. BYRNS of Tennessee requests leave of absence indefinitely, on account of important business.

The SPEAKER. Is there objection to these requests?

Mr. DONOVAN. Mr. Speaker, I am going to object to all these requests, each and every one of them.

The SPEAKER. The gentleman from Connecticut [Mr. DONOVAN] objects to all these requests.

ADJOURNMENT.

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 49 minutes p. m.) the House adjourned, under the order previously made, until to-morrow, Thursday, July 23, 1914, at 11 o'clock a. m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. KITCHIN, from the Committee on Ways and Means, to which was referred the bill (H. R. 12303) to amend section 3246 of the Revised Statutes of the United States, as amended by section 5 of the act of March 1, 1879, reported the same without amendment, accompanied by a report (No. 1002), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CLARK of Florida, from the Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 16056) to increase the limit of cost of the United States post-office building at Grand Junction, Colo., reported the same with amendment, accompanied by a report (No. 1004), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. RAYBURN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (S. 6031) authorizing the Board of Trade of Texarkana, Ark.-Tex., to construct a bridge across Sulphur River at or near Pace's ferry, between the counties of Bowie and Cass, in the State of Texas, reported the same with amendment, accompanied by a report (No. 1005), which said bill and report were referred to the House Calendar.

Mr. STEPHENS of Nebraska, from the Committee on Interstate and Foreign Commerce, to which was referred the resolution (H. Res. 571) requesting the Secretary of Commerce to report to the House all facts and information in his possession concerning the prices paid for wheat to the producer thereof in the State of Kansas and the prices at which said wheat is sold for export by dealers, concerns, and exporters at Kansas City, Mo., and how such prices are fixed and determined, reported the same with amendment, accompanied by a report (No. 1006), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. PARK: A bill (H. R. 18010) making copy of schedule of rates filed by carriers with the Interstate Commerce Commission admissible as primary evidence; to the Committee on the Judiciary.

By Mr. BRITTEN: A bill (H. R. 18011) to provide for the establishment of an additional life-saving station at Chicago, Ill.; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 18012) granting an increase of pension to Anna M. Goeller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18013) granting an increase of pension to Matilda Frank; to the Committee on Invalid Pensions.

By Mr. BRUMBAUGH: A bill (H. R. 18014) to correct the military record of Cornelius Hardin; to the Committee on Military Affairs.

By Mr. CANTOR: A bill (H. R. 18015) granting a pension to James Tucker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18016) granting an increase of pension to Alexander R. Olds; to the Committee on Invalid Pensions.

By Mr. COLLIER: A bill (H. R. 18017) for the relief of Maria Elizabeth Burnett; to the Committee on War Claims.

By Mr. HELM: A bill (H. R. 18018) for the relief of Jesse P. Riffe; to the Committee on War Claims.

Also, a bill (H. R. 18019) for the relief of John H. Engleman, administrator of the estate of John Engleman, deceased; to the Committee on War Claims.

By Mr. HUMPHREY of Washington: A bill (H. R. 18020) granting an increase of pension to George W. Hill; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 18021) granting an increase of pension to Henry M. Seitzinger; to the Committee on Invalid Pensions.

By Mr. LOBECK: A bill (H. R. 18022) reinstating J. I. Boyle to his former rank and grade in the United States Army; to the Committee on Military Affairs.

By Mr. SMITH of Minnesota: A bill (H. R. 18023) granting an increase of pension to Conrad H. Rowe; to the Committee on Pensions.

By Mr. TAGGART: A bill (H. R. 18024) granting a pension to Celinda B. Coon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18025) granting a pension to Jane Calafer; to the Committee on Invalid Pensions.

By Mr. TOWNSEND: A bill (H. R. 18026) granting an increase of pension to William H. Cook; to the Committee on Invalid Pensions.

By Mr. WINGO: A bill (H. R. 18027) for the relief of John M. Henley; to the Committee on the Public Lands.

By Mr. WHITE: A bill (H. R. 18028) granting a pension to Marion Gregory; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18029) granting an increase of pension to James M. Cooke; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of the Kansas Investment Co., of Ness City, Kans., favoring national prohibition; to the Committee on Rules.

By Mr. BARTHOLDT: Petition of a number of citizens of St. Louis, Mo., in favor of nation-wide prohibition; to the Committee on Rules.

Also, petition of Southwestern Missouri Millers' Club, in favor of 1-cent postage; to the Committee on the Post Office and Post Roads.

Also, petition of 59 citizens of St. Louis, Mo., protesting against nation-wide prohibition; to the Committee on Rules.

Also, petitions of 29 citizens of St. Louis County, Mo., in favor of House bill 5308, to tax mail-order houses; to the Committee on Ways and Means.

By Mr. BATHRICK: Memorial of Headquarters Richard Allen Post, No. 65, Grand Army of the Republic, of Elyria, Ohio, favoring appropriation for reunion of veterans at Vicksburg, Miss., in 1915; to the Committee on Appropriations.

By Mr. CARY: Petition of Wisconsin Retail Jewelers' Association, favoring the Stevens bill (H. R. 13305) relative to fixed selling price; to the Committee on Interstate and Foreign Commerce.

By Mr. CONNELLY of Kansas: Petitions for the Sheppard-Hobson amendment, as follows: Wallace County, Kans., 14 names; Lucas, Kans., 326 names; Norton County, Kans., 16 names; Formoso, Kans., 21 names; and Kanorado, Kans., 20 names; to the Committee on Rules.

By Mr. FOSTER: Petitions of citizens of Farina; members of Olney District Epworth League; Beulah Church, of Sumner; citizens of Walnut Hill; Grand C. E. of Robinson; Otterbein United Brethren Sunday School; citizens of Odin, Marion County; members of Sunday school of Kell; and 100 people of Kinmundy, all of the State of Illinois, favoring national prohibition; to the Committee on Rules.

By Mr. KONOP: Petitions of 300 citizens of Detroit Harbor and St. Paul's Methodist congregation of Green Bay, Wis., favoring national prohibition; to the Committee on Rules.

Also, petitions of B. Emfry and others, of Beaver, Wis., protesting against national prohibition; to the Committee on Rules.

By Mr. KORBLY: Petition of sundry citizens of Indianapolis, Ind., protesting against national prohibition; to the Committee on Rules.

By Mr. MAGUIRE of Nebraska: Memorial of Smith Cavit Post, No. 299, Grand Army of the Republic, Department of Nebraska, favoring appropriation for reunion of veterans at Vicksburg, Miss.; to the Committee on Appropriations.

By Mr. RUPLEY: Petition of Merchants and Manufacturers' Association, Philadelphia, and Chamber of Commerce, Pittsburgh, Pa., favoring postponement of trust legislation; to the Committee on the Judiciary.

Also, petition of Patriotic Order Sons of America, of Lebanon County, Pa., against any change in United States flag; to the Committee on Military Affairs.

Also, petition of Western Society of Engineers, Chicago, Ill., relative to H. R. 13457, providing for a more equitable distribution of topographic surveys, etc.; to the Committee on Expenditures in the Interior Department.

By Mr. WEAVER: Petition of representatives of four Young People's Societies of Vinita, Okla., favoring national prohibition; to the Committee on Rules.

By Mr. WHITE: Petition of A. N. Klein, J. B. Clark, and 34 others of Marietta, Ohio, protesting against national prohibition; to the Committee on Rules.

SENATE.

THURSDAY, *July 23, 1914.*

The Senate met at 12 o'clock m.

Rev. J. L. Kibler, D. D., of the city of Washington, offered the following prayer:

O Lord God of hosts, we thank Thee that we are called to serve in the army that is marching forward battling for the right. We thank Thee for our great Leader who bids us follow Him on to honor and to victory. We can not doubt the issues while Thou art leading the way. May we be true to Thee. May we be loyal to our great Commander; and, being inspired by the righteousness of our cause, may we be valiant in service. May we have courage, therefore, to meet all the demands that may be upon us this day. We ask it in the name of Christ, our Lord. Amen.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. NEWLANDS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House agrees to the report of

the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes; recedes from its disagreement to the amendment of the Senate numbered 145 to the bill and agrees to the same; further insists upon its disagreement to the amendments of the Senate numbered 44, 45, 91, 92, 138, and 146; agrees to the further conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. FITZGERALD, Mr. SHERLEY, and Mr. MONDELL managers at the conference on the part of the House.

The message also announced that the House had passed a bill (H. R. 12919) to amend an act entitled "An act to provide for an enlarged homestead," in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

S. 485. An act to amend section 1 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911;

S. 785. An act to relinquish, release, and quitclaim all right, title, and interest of the United States of America in and to certain lands in the State of Mississippi;

S. 1087. An act authorizing the exchange of certain lands within the Fishlake National Forest, Utah;

S. 5316. An act authorizing the survey and sale of certain lands in Coconino County, Ariz., to the occupants thereof;

S. 5462. An act to authorize the county of Barry, State of Missouri, to construct a bridge across the White River in Barry County, Mo., at or near a point known as Goldens Ferry;

S. 5957. An act to authorize the Frost-Johnson Lumber Co. to construct a bridge across the Sabine River in the States of Louisiana and Texas, about 2 miles west of Hunter, La.;

H. R. 8660. An act to amend section 4 of an act entitled "An act granting a franchise for the construction, maintenance, and operation of a street railway system in the district of South Hilo, county of Hawaii, Territory of Hawaii," approved August 1, 1912; and

H. R. 15320. An act authorizing the Secretary of the Treasury to disregard section 33 of the public buildings act of March 4, 1913, as to site at Owego, N. Y.

PETITIONS AND MEMORIALS.

Mr. THORNTON presented petitions of sundry citizens of Wadesboro and Ponchatoula, in the State of Louisiana, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. HITCHCOCK presented a telegram in the nature of a petition from Overland Lodge, No. 123, Brotherhood of Locomotive Firemen and Enginemen, of Omaha, Nebr., and a petition of Local Lodge No. 623, Brotherhood of Locomotive Firemen and Enginemen, of Alliance, Nebr., praying for the enactment of the so-called antitrust legislation, which were referred to the Committee on the Judiciary.

He also presented petitions of the Lincoln Camp of Gideons, of Lincoln, Nebr., and of the Christian Endeavor Society of Hastings, Nebr., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. GALLINGER presented the petitions of Charles D. Steele and W. J. Delaney, of Manchester, N. H., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SMITH of Arizona presented a petition of the Chamber of Commerce of Los Angeles, Cal., praying for the enactment of legislation for the regulation of the water power of the country, which was referred to the Committee on Commerce.

Mr. BRANDEGEE presented petitions of sundry labor organizations of the State of Connecticut, praying for the enactment of the so-called antitrust legislation, which were referred to the Committee on the Judiciary.

He also presented a memorial of the German-American Alliance of Hartford, Conn., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

He also presented a petition of Local Union, No. 30, International Association of Machinists, of Bridgeport, Conn., praying for the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. JONES. I have received telegrams in the nature of petitions—one is from 2,400 members of the First Methodist Episcopal Church of Seattle, another from a mass meeting of citizens at the University Methodist Episcopal Church, of Seattle, another from a mass meeting of citizens at Monroe, and another from a mass meeting of citizens at Edwall, all in the State of Washington—praying Congress to submit the amendment prohibiting the importation, manufacture, and sale of intoxicating liquors. I ask that the telegrams may be referred to the Committee on the Judiciary.

The VICE PRESIDENT. The telegrams will be received and referred to the Committee on the Judiciary.

Mr. JONES. I have a telegram in the nature of a petition adopted at a mass meeting of citizens at Montesano, Wash., which I ask may be read.

There being no objection, the telegram was read and referred to the Committee on the Judiciary, as follows:

[Telegram.]

MONTESANO, WASH., *June 28, 1914.*

Senator WESLEY L. JONES,
United States Senate, Washington, D. C.:

Mass meeting of citizens petition Congress to submit amendment prohibiting importation, manufacture, and sale of intoxicating liquors. Over a hundred thousand names were signed to the initiative petition in this State—evidence that the majority of the people you represent favor this amendment.

R. M. GIBSON, *Chairman.*
MARY PHILL SUTHERLAND, *Secretary.*

Mr. JONES presented petitions of sundry citizens of the State of Washington, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of the State of Washington, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. KERN presented a petition of the United Mine Workers' Local Union of Petersburg, Ind., and a petition of the Typographical Union of Gary, Ind., praying for the enactment of the so-called Clayton antitrust bill, which were ordered to lie on the table.

He also presented memorials of sundry citizens of Decatur County, Ind., remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. BURLEIGH presented resolutions adopted by the Knox County Board of Underwriters at a special meeting held at Rockland, Me., favoring the enactment of legislation to prohibit the use of the mails to insurance companies soliciting business in States where they are not authorized by the State to conduct business therein, which were referred to the Committee on Post Offices and Post Roads.

He also presented a resolution adopted by the Department of Maine, Grand Army of the Republic, favoring an amendment to the so-called widows' pension laws to make eligible for pension those who married subsequent to June 27, 1890, which was ordered to lie on the table.

Mr. WALSH. I present a memorial, which I send to the desk and ask to have read.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Secretary will read it.

The memorial was read and referred to the Committee on the Judiciary, as follows:

To the Members of the honorable body of the United States Senate and the House of Representatives of the United States of America:

Your petitioners respectfully represent and present the hereinafter described petition and resolution, to wit:

That whereas we, St. Paul's Methodist Episcopal Brotherhood, of the city of Helena, on the 8th day of June, 1914, duly and unanimously passed a resolution indorsing the full text of the prohibition resolution and petition delivered to Congress by the Anti-Saloon League committee of one thousand, at Washington, December 10, 1913.

That we recognize that the saloon is highly injurious and debauching to American citizenship; that the ruin caused by war, famine, and pestilence is a vanishing factor as compared with the deluge of damnation wrought every 365 days of every year in the past and present centuries.

That we recognize and realize the oncoming and irresistible avalanche of the prohibition wave under the awakening pulse of a public conscience, similar to that sentiment of 1865 which would accept no defeat for abolition of human slavery; that we recognize and realize, in view of the rapidly increasing prohibition sentiment in the State of Montana and in all other States, that the sagacious, longheaded, and wise politician—observing the liquor "handwriting on the wall"—acts prudently by henceforth allying himself with the dominant sober and better elements in the United States: Now, therefore, be it

Resolved, And your petitioners pray, that said petition and resolution as proposed, praying for a constitutional prohibition amendment to the Constitution of the United States, be passed by both Chambers of Congress when same is presented for your respectful consideration. We reaffirm our belief in the speedy overthrow and dethronement of King Alcohol and sincerely wish for a saloonless nation in 1920.

E. H. GUNDERSON,
Dean of Helena Law College.
H. A. DAVEE,
President.
O. B. TOMLIN,
Acting Secretary of Brotherhood.

RADIUM-BEARING ORES.

Mr. WALSH. Mr. President, lest we forget that the radium bill is still clamoring for recognition before this body, I send a petition to the desk and ask that it be read.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Secretary will read it.

The Secretary read as follows:

SENATE BILL (S. 4405) TO ENCOURAGE RADIUM INDUSTRY.

NATURITA, COLO., *June 1, 1914.*

Hon. THOMAS J. WALSH,
Chairman Committee on Mines and Mining,
United States Senate, Washington, D. C.

SIR: Inasmuch as this bill, as reported by you from the Committee on Mines and Mining to the United States Senate on March 16, 1914, supplies a free, competitive market for carnotite ore, continues the application of the general laws in relation to mining lands except in unimportant details, and insures the development of the carnotite mining business under conditions highly favorable to persons having only limited amount of capital, we, the undersigned, who are engaged in the carnotite business, do hereby petition you to do everything that lies in your power to have the said bill passed by the Senate at the earliest possible moment.

A. R. RADER
(And others),
Bedrock, Colo.

The VICE PRESIDENT. The petition will lie on the table.

Mr. WALSH. I am sure the Senate will be interested in knowing the progress that has been made in connection with the interesting experiments being conducted by the Bureau of Mines at the reduction works in the city of Denver in the extraction of radium from carnotite ore. Accordingly, I send to the desk the following communication and ask that it may be read.

The VICE PRESIDENT. Is there objection?

Mr. SHAFROTH. What is the request?

Mr. WALSH. It is a communication from Dr. Charles L. Parsons, which I have just sent to the desk.

Mr. SHAFROTH. Oh, certainly; I do not object.

The VICE PRESIDENT. There being no objection, the Secretary will read the communication.

The Secretary read as follows:

DEPARTMENT OF THE INTERIOR,
BUREAU OF MINES,
July 9, 1914.

Hon. FRANKLIN K. LANE,
Secretary Department of the Interior.

MY DEAR MR. SECRETARY: In accordance with your verbal request, I take pleasure in giving you the results of my experience on my recent trip to the carnotite mining regions of Colorado.

It was my privilege to meet a number of mining men in Denver, Placerville, Redvale, Norwall, Naturita, Long Park, Paradox, Uranium, and other places, many of whom knowing that I was in that portion of the country sought me to ask for information as to how soon the Government would be prepared to purchase ores and enter into the active production of radium therefrom. Without a single exception, every independent miner and prospector was heartily in favor of the legislation now proposed in Congress, and expressed their sincere regret that they had been so seriously misled by early newspaper reports, which they understood to mean the actual withdrawal of lands.

Such men as Curran, Belisle, McCloud, Manning, and others, who were early misled, expressed their full approval of the proposals as now understood by them, and whether operating independent claims or connected with a company there was no opposition, so far as I was able to determine, except from those in control of the operations of the Standard Chemical Co.

Messrs. Kithil and Davis, employees of the Bureau of Mines, who are now in the Paradox region and who have covered a much greater portion of the field than it has been my lot to personally examine, reported to me that so far as they had been able to find out there is nothing but unanimous approval on the part of the miner and prospector of the proposed legislation.

In spite of the large number of prospectors who went into the field during the early part of the year, comparatively few new discoveries of importance have been made. This is quite in accord with my opinion expressed before the House committee, that new discoveries of ore would come slowly. While many hundreds of claims were staked, comparatively few have been shown to contain carnotite of commercial grade and quantity, and the carnotite situation appears to be controlled by some three or four companies. The chief control is in the hands of the Standard Chemical Co., of Pittsburgh.

In addition to the above, I can now definitely state that there remains no question as to the successful outcome of the plant operations of the National Radium Institute at Denver, now being carried on under a cooperative agreement by the technical staff of the Bureau of Mines. Some 30 tons of ore have already been worked up in the plant, and its operation has been proceeding with regularity and efficiency that exceeds even our somewhat sanguine expectations.

Yours, very respectfully, CHARLES L. PARSONS.

Mr. SHAFROTH. Mr. President, notwithstanding the papers that have been read, I have received a few petitions to the contrary, and I wish to put them in the RECORD at this time.

I wish to read what these petitioners say with relation to the radium bill:

We, the undersigned, prospectors, miners, teamsters, merchants, and other citizens of Montrose and San Miguel Counties, State of Colorado, do hereby emphatically deny that the sentiment as outlined in the letter of Mr. Charles F. Curran, under date of May 29, 1914, addressed to the Hon. THOMAS J. WALSH, chairman of the Mines and Mining Committee of the United States Senate, and the letter of Mr. Charles F. Curran, under date of May 29, 1914, addressed to the Hon. JOHN F. SHAFROTH, a member of the same committee, is representative of the views of the citizens of this district.

We are of the firm belief that individual miners and prospectors, together with private enterprise, will do more to develop the carnotite fields than can be done by the passage of Senate bill 4405, and that if the carnotite fields are permitted to remain as they are now they will be fully developed, and the results accruing therefrom will continue to very materially benefit our community.

We further believe that the contemplated legislation as outlined in Senate bill 4405 will prove a decided detriment to the mining and development of the carnotite industry instead of a benefit.

We therefore respectfully request that before final action is taken on this bill that you kindly give careful consideration to our petition.

That petition is signed by miners, whose signatures cover six or eight pages. Here is one signed by miners and citizens, whose signatures cover three or four pages. Here is another petition signed by three or four pages of miners. Then here is another signed by five or six pages of prospectors and miners. Another is signed by two pages of prospectors and miners, and another is signed by four pages of prospectors and miners.

Mr. President, as bearing on the radium bill which has been before the Senate, and to which the Senator from Montana has alluded several times in the morning hour, there is a dispatch from Berlin that ought to settle forever the proposition of enacting that bill into legislation. I desire to read it, so that it may go in as a part of my remarks:

GIVE UP USE OF RADIUM—GERMAN DOCTORS ABANDON IT IN CANCER CASES—TURN TO X-RAYS.

BERLIN, *July 16, 1914.*

Germany's greatest surgery specialists have abandoned the use of radium for the treatment of cancer, and are now confining themselves exclusively to the Röntgen rays.

Among them is Prof. Bumm, director of the women's clinic of the University of Berlin, who has just presented a number of women cured of cancer by the Röntgen method. The surgeon general of the German Army, Prof. Bier, who is also the head of the surgical faculty of the university here, is another who has renounced faith in radium.

The surgeons say patients are treated with apparent success by radium and discharged as either improved or cured, but shortly afterwards they reveal evidences of a return of the disease in other parts of the body.

The German doctors do not mean to assert that the Röntgen therapy is infallible. Positive success, on the contrary, is still remote, but they are satisfied that there is no longer any use in buying radium at exorbitant prices for cancer treatment.

I wish to call attention to a London dispatch of June 13 last, which states the results obtained at a London institute in 500 cases. It reads as follows:

FIFTY CURED BY RADIUM—INSTITUTE IN LONDON REPORTS UPON RESULTS OBTAINED IN 500 CASES.

LONDON, *June 13, 1914.*

Out of nearly 500 cases of malignant cancer treated by the Radium Institute during the year 1913, 50 are described in the annual report of the institute as apparently cured and 183 as "improved." In a number of cases the results are not yet noted.

The institute declines to treat operable cases, radium being used only as a last resort.

"Time only can show," the Lancet says, "if any of these satisfactory results are permanent, and not until some years have passed without fresh manifestations of the disease could even the most favorable cases be described as cured.

I hold in my hand, Mr. President, a number of clippings consisting of the action of various surgical and medical societies of the United States and of Europe relative to the curative qualities of radium. At the present time the opinion of, I might say, nine-tenths of the surgical and medical associations is that it is dangerous to use radium, that in effect it drives the poison into the system and it produces death in many instances.

I wish to call attention to the fact that about two months ago in the city of New York there assembled the American Society for the Control of Cancer, and in that association there were some of the leading, if not most of the leading, surgeons of the entire United States, and at that meeting Dr. Mayo, the celebrated surgeon of Rochester, Minn., who has a line of practice which extends all over the world, reported that not one case out of a hundred treated by radium was ever cured.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Colorado yield to the Senator from Montana?

Mr. SHAFROTH. I do.

Mr. WALSH. I did not understand that this matter was up for discussion, but I interrupt the Senator to say that I have a telegram in my desk from Dr. Mayo denying that he ever made such a statement.

Mr. SHAFROTH. I have it here, if the Senator cares to see it.

Mr. WALSH. I shall be glad to see it at some time.

Mr. SHAFROTH. If that is the case, we will find what further there is that I have here. I wish to put into the RECORD a statement taken from the Washington Post of April 11 last, which is as follows:

FIND NO RADIUM CURE—SURGEONS SAY ONLY THE KNIFE WILL ARREST CANCER.

NEW YORK, *April 10.*

All hope of curing cancer by radium has been abandoned by some of the foremost surgeons and research workers of the country, who declared at to-night's meeting of the American Society for the Control of Cancer that the failures of radium outnumbered the cures 100 to 1.

That nothing is of avail against this most dreaded disease but the speedy use of the knife was the opinion advanced by Dr. William H.

Mayo, of Rochester, Minn. Operation is the only cure, but radium or ray treatment is in order as a temporary palliative, where operation is impossible, according to Dr. Francis G. Wood, director of cancer research at Columbia University. Another generation will be required to furnish knowledge on the real cause and actual nature of cancer, he said. Experiments for 35 centuries show that heredity plays only a small part, if any, in its appearance.

HOLD OUT NO HOPE.

It was expected that the members of the society would have something hopeful to report of their investigations. Instead, they admitted no progress and held out little hope. They united in saying they had discovered neither the cause nor the nature of cancer. Then they proved by statistics that cancer is on the increase.

That a change in the habits and customs may reduce the disease to some extent was a ray of hope held out by Dr. Mayo, who also said any cancer could be cured if operated upon in its early stages.

"If we could only tell how to avoid it, I would be glad because I am frank to admit that we do not know," he declared. He said the statement that the use of meat was one of the habits to be avoided in connection with cancer prevention had been wrongly attributed to him.

Mr. President, the Senator in charge of the unfinished business states to me that he will have to call for the regular order if I continue reading these articles. I wish to inform the Senate that I have quite a number here that are to the same force and effect, and explode the idea that radium is a specific for the cure of cancer.

Mr. SMITH of Arizona. Has the Senator noticed the decline in the price of radium?

Mr. SHAFROTH. I have not.

Mr. SMITH of Arizona. I understand it has declined from $120,000 to $80,000 a gram.

Mr. SHAFROTH. I am glad to hear it.

The VICE PRESIDENT. The petitions will lie on the table, the bill having been reported.

REPORTS OF COMMITTEES.

Mr. NEWLANDS. From the Committee on Interstate Commerce I report back favorably with amendments the bill (H. R. 16586) to amend section 20 of an act to regulate commerce, to prevent overissues of securities by carriers, and for other purposes. Later on I shall file a report (No. 706) of the committee to accompany the bill.

Mr. BRANDEGEE. Mr. President, I will say that while I joined with the committee in the favorable report on the bill just reported by the Senator from Nevada [Mr. NEWLANDS], there are many things in it which I think are vicious and to which I am greatly opposed. At the proper time I shall state my objections more at length.

The VICE PRESIDENT. The bill will be placed on the calendar.

Mr. CULBERSON, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 5630) for the erection of a public building at Dallas, Tex., reported it with amendments and submitted a report (No. 707) thereon.

Mr. MYERS, from the Committee on Public Lands, to which were referred the following bills, reported them each with amendments and submitted reports thereon:

S. 2692. A bill authorizing the Secretary of the Interior to sell all unsold lots in the town site of Plummer, Kootenai County, Idaho, and for other purposes (Rept. No. 708); and

S. 5701. A bill providing for the disposal of certain lands in block 32 in the city of Port Angeles, State of Washington (Rept. No. 709).

BIG SANDY RIVER BRIDGE, WEST VIRGINIA.

Mr. SHEPPARD. From the Committee on Commerce I report back favorably without amendment the bill (H. R. 17005) authorizing the fiscal court of Pike County, Ky., to construct a bridge across Tug Fork of the Big Sandy River at or near Williamson, W. Va., and I submit a report (No. 702) thereon. I call the attention of the Senator from Kentucky [Mr. CAMDEN] to the bill.

Mr. CAMDEN. I ask unanimous consent for the immediate consideration of the bill.

Mr. GALLINGER. Let the bill be read.

The Secretary read the bill.

Mr. BURTON. I did not understand over which fork of the Big Sandy River the bridge is to be constructed.

Mr. CAMDEN. Over the Tug Fork.

Mr. BURTON. I inquire what is the location of the proposed bridge and how far is it from the mouth of the Tug Fork?

The VICE PRESIDENT. The Secretary will read the portion of the bill describing the location of the proposed bridge.

The Secretary read as follows:

At a point suitable to the interests of navigation at or near the town of Williamson, in the county of Mingo, in the State of West Virginia.

Mr. BURTON. How far is it from the mouth of the Tug Fork?

Mr. CAMDEN. I do not know the exact distance.

Mr. BURTON. Is it above or below the lock and dam on that fork?

Mr. CAMDEN. It is above it.

Mr. CLARK of Wyoming. Mr. President, one question. I gather from the reading of the bill that it authorizes the construction by a county in Kentucky of a bridge over waters in West Virginia.

Mr. CAMDEN. The river separates the two States; it constitutes the boundary line.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LANDS FOR SCHOOL PURPOSES, WASHINGTON.

Mr. MYERS. From the Committee on Public Lands I report back favorably, without amendment, the bill (S. 4146) granting certain lands to school district No. 44, Chelan County, Wash., and I submit a report (No. 705) thereon.

Mr. JONES. Mr. President, this bill provides for transferring a small tract of land to a school district in my State. It is a short bill, and I am satisfied will lead to no discussion. Therefore I ask unanimous consent for its present consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That there is hereby granted to school district No. 44, Chelan County, State of Washington, 1.77 acres in lot 3, section 13, township 27 north, range 16 east, Willamette meridian, more particularly described as follows: Beginning at the corner No. 1 of the tract of land to be described, which is a stone marked "S. H.—44," from which the quarter corner between sections 13 and 14, same township, bears north 450 feet, thence south 62 east 418 feet to corner No. 2, thence south 209 feet to corner No. 3, thence north 62 west 418 feet to corner No. 4, thence north 209 feet to corner No. 1, the place of beginning, being the same as now used and occupied by said district for public-school purposes, and the Secretary of the Interior is hereby authorized and directed to issue patent for said lands to said school district.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ST. JOHN RIVER BRIDGE, MAINE.

Mr. SHEPPARD. From the Committee on Commerce I report back favorably, without amendment, the bill (H. R. 16579) to authorize the construction of a bridge across St. John River at Fort Kent, Me., and I submit a report (No. 703) thereon.

Mr. GALLINGER. Mr. President, I ask unanimous consent for the present consideration of the bill. It merely authorizes the construction of a bridge at Fort Kent, Me. It is a House bill, and I think it will take but a moment to dispose of it.

The VICE PRESIDENT. Is there objection to the request of the Senator from New Hampshire?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ARKANSAS RIVER BRIDGE.

Mr. SHEPPARD. I report back favorably from the Committee on Commerce, without amendment, the bill (S. 6084) to grant the consent of Congress for the county of Pulaski, State of Arkansas, to construct a bridge across the Arkansas River between the cities of Little Rock and Argenta, Ark., and I submit a report (No. 704) thereon. The Senator from Arkansas [Mr. CLARKE], who is temporarily absent, is the introducer of this bill, and I ask unanimous consent for its consideration at the present time.

The VICE PRESIDENT. Is there any objection to the request of the Senator from Texas?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. KERN:

A bill (S. 6150) granting an increase of pension to Charles H. McCarty (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Arizona:

A bill (S. 6151) granting title to the town of Florence, Ariz., to certain lands for cemetery purposes (with accompanying papers); to the Committee on Public Lands.

By Mr. NORRIS:

A bill (S. 6152) for the relief of Joseph Gorman; to the Committee on Military Affairs.

By Mr. JONES:

A bill (S. 6153) granting an increase of pension to William Lockwood; and

A bill (S. 6154) granting an increase of pension to James S. Wintermute (with accompanying papers); to the Committee on Pensions.

By Mr. BURLEIGH:

A bill (S. 6155) granting an increase of pension to Charles A. Holmes; to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 6156) granting an increase of pension to George D. Carter;

A bill (S. 6157) granting an increase of pension to William Roseberry;

A bill (S. 6158) granting a pension to Reinhard Anschuetz; and

A bill (S. 6159) granting an increase of pension to Albert W. Dyer (with accompanying papers); to the Committee on Pensions.

THE TELEPOST.

The VICE PRESIDENT. Pursuant to Senate resolution 405 relative to an investigation and report upon the merits of the telepost and its use in connection with the Post Office Department, the Chair appoints as the committee on the part of the Senate Mr. BANKHEAD, Mr. LEA of Tennessee, Mr. CHAMBERLAIN, Mr. POINDEXTER, and Mr. KENYON.

ANALYSIS OF TRUST BILLS.

Mr. WORKS. Mr. President, in the course of some remarks made by me a few days ago on trust legislation I submitted an analysis or synopsis of the provisions of the three trust bills—two of them as they came over from the other House. Those two bills were then being considered by Senate committees. I also stated that when the changes were made I would notice the fact. There have been some changes made in those bills, some of which I think are quite important. I desire to have printed in the RECORD a revised synopsis or analysis of the bills as they are now before the Senate.

The VICE PRESIDENT. Is there objection? The Chair hears none.

The matter referred to is as follows:

MEMORANDA OF PROVISIONS OF TRUST BILLS.

INTERSTATE TRADE COMMISSION BILL.

a. Federal trade commission of five members created.
b. Appointed by the President, by and with the advice of the Senate.
c. Term of office seven years.
d. Salaries, $10,000 a year each; secretary, $5,000; assistant secretary, $4,000; total, $59,000 a year.
e. Commission authorized to appoint attorneys, special agents, accountants, experts, examiners, and other employees, as many as Congress will appropriate money to pay.
f. Commission given power:
   1. To investigate any corporation or association doing an interstate-trade business whenever and as often as it pleases.
   2. To require any corporation to furnish any information it calls for at any time without limitation.
   3. To prescribe forms of annual reports from such corporations, and to compel the making of annual reports and special reports without limit and at any time.
   4. To make public the information it obtains.
   5. To prepare decrees in suits brought by the Attorney General.
   6. To investigate and determine whether decrees procured by the Attorney General are being carried out or are being violated and what, if any, other or additional decree is advisable.
   7. If it finds that anyone has violated the antitrust law, to report its findings and the evidence to the Attorney General with its recommendations.
   8. Have access to all books and papers of such business.
   9. To investigate trade conditions in other countries.
   10. To prevent unfair methods of competition.
   11. To hold hearings affecting any concern whenever it pleases, to determine whether its methods are unfair or not.
   12. If it finds they are unfair, to issue an order restraining and prohibiting the use of the same.
   13. If the order is not complied with, to bring an action to enforce compliance.
   14. To issue subpœnas, compel the attendance and testimony of witnesses, and production of evidence, and to administer oaths.

The bill imposes severe penalties for failure or neglect to comply with any of the orders of the commission.

THE CLAYTON BILL.

a. Forbids any person engaged in commerce to discriminate between different purchasers of commodities with the purpose or intent to thereby destroy or wrongfully injure the business of a competitor of either such purchaser or seller.
b. Forbids any person to lease or sell a commodity on condition or understanding that the lessor or purchaser shall not deal in the commodities of a competitor.
c. Makes decree or judgment in action by the United States under antitrust law prima facie evidence against defendants in action brought by other parties.
d. Authorizes suit in the Federal courts by any person injured by the violation of the antitrust laws without regard to the amount involved.
e. Fixes the time in which suits may be brought or indictments found for violations of the antitrust laws at six years, and the running of the statute is suspended during the pendency of an injunction suit by the United States.
f. Exempts labor, agricultural, and horticultural organizations instituted for the purpose of mutual help and lawfully carrying out the legitimate purposes of their organization, not only from the provisions of this act but of existing antitrust laws.
g. Forbids any corporation engaged in commerce to hold stock of another corporation so engaged, the effect of which is to eliminate or substantially lessen competition or create a monopoly.
h. Forbids a corporation to hold the stock of two or more corporations where such effect will result. This not to apply—
   (1) To corporations purchasing stock for investment or
   (2) To common carriers aiding in the construction of branch railroads feeders to its line.
i. Forbids any common carrier to purchase supplies or make contracts for construction or maintenance to the amount of $50,000 or more for any one year, where the two have interlocking directors, except upon competitive bidding.
j. Makes it unlawful to prevent or attempt to prevent anyone from bidding.
k Makes it the duty of the carrier to report the transaction of the purchase with all particulars to the Interstate Commerce Commission.
l. If the commission finds transaction to be in violation of the law, shall report the same to the Attorney General.
m. Every director and other officer of the carrier taking part in any transaction in violation of this section made personally liable.
n. Forbids any person to be a director in two or more corporations any one of which shall have capital, surplus, and undivided profits aggregating more than $1,000,000, where such corporations are or have been competitors in business.
o. Gives the person holding position of director in two or more corporations one year within which to sever his connection with all but one without liability.
p. Makes it a felony on the part of any director or officer of a common carrier to embezzle, steal, abstract, or misapply any of its moneys, funds, credits, securities, property, or assets.
q. Interstate Commerce Commission and Federal trade commission authorized to enforce the law.
r. Provides the procedure of the commissions in enforcing the act, and for the making of an order to cease such violation.
s. May, through district attorney, apply to district court to enforce the order.
t. Disobedience punished by fine or imprisonment, or both.
u. Appeal from the order allowed.
v. Suits under antitrust laws may be brought either in the district in which the corporation is an inhabitant or where it transacts business.
w. Subpœnas for witnesses in either civil or criminal actions may run into other districts.
x. Makes officer of corporation liable personally for any violation of the antitrust laws.
y. Suits in equity may be maintained in district courts to prevent violations of the law.
z. Gives private individuals the right to sue and have injunctive relief in the Federal courts.
aa. Requires notice and bond before issuing restraining order or injunction, and that such order shall set forth the reason for issuing it.
bb. That no restraining order or injunction shall be granted in action between employers and employees unless necessary to prevent irreparable injury to property or property rights.
cc. No such restraining order or injunction shall issue either—
   (1) To prohibit any persons, whether singly or in concert, from quitting work, or peaceably recommending, advising, or persuading others by peaceful means to do so.
   (2) Or from peacefully persuading any person to work or abstain from working.
   (3) Or from withholding their patronage from any party to such dispute, or from recommending or advising or persuading others by peaceful means so to do.
   (4) Or from paying or giving to or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value.
   (5) Or from peacefully assembling in a lawful manner and for lawful purposes.
   (6) Or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.
dd. Nor shall any of the acts above mentioned be considered or held to be in violation of the antitrust laws.
ee. Provides that proceedings for contempt not committed in the presence of the court coming within the purview of the act may, upon demand of the accused, be tried by jury.
ff. Provides for appeal in contempt proceedings.
gg. Proceedings for contempt shall not be commenced after one year.
hh. Proceedings in contempt shall not be a bar to criminal prosecution.

BILL TO PREVENT OVERISSUES OF SECURITIES.

a. Authorizes the Interstate Commerce Commission to compel annual reports, under oath, by common carriers showing all the facts about its stock and securities, cost and value of its properties, franchises, and equipments, number of employees, their salaries, amounts expended for improvements each year, and how earnings and receipts, operating and other expenses, balance of profit and loss, and a complete exhibit of the carrier's financial operations each year, including an annual balance sheet, information in relation to rates or regulations concerning fares or freight, or agreements, arrangements, or contracts affecting the same, and the keeping of a uniform system of accounts and making of monthly and special reports on any subject the commission may require, including a balanced statement of its receipts on capital account including a balanced statement of its receipts on capital account and of the surplus of the income account accruing during the period covered, and all other financial transactions that may be called for.
b. The commission is given the power to investigate all financial transactions of the carriers and examine into the actual cost and value of property acquired by or services rendered to them.

c. The carrier may be required to disclose every interest, direct or indirect, of the directors, stockholders, officers, agents or attorneys, employees, receivers, or operating trustees of such carrier in any transaction under investigation.
d. In addition the commission may require the carrier to furnish any further statements of fact or evidence it pleases.
e. The commission may prescribe the forms of accounts and books to be kept by the carrier, and to keep any other is unlawful.
f. The commission is given the right of access to all books and papers in the hands of the carrier, its officers, stockholders, agents, attorneys, employees, receivers, or operating trustee, or anybody else that has had business transactions with the carrier, provided that all communications between attorney and client giving or seeking professional advice shall be deemed privileged.
g. Authorizes the appointment of special agents or inspectors, who are given the right to inspect, examine, and take copies of everything they can find. Forbids examiners to disclose what they discover.
h. Makes it a penal offense to refuse access of these special agents or inspectors to anything, punished by heavy forfeitures.
i. Makes it a penal offense to make any false entries or accounts, or any accounts other than those prescribed by the commission, or to fail to make any entry, or to make them full, true, or correct, or to destroy any account or entry, etc., under penalty of fine and imprisonment.
j. Courts authorized to issue writs of mandamus to compel compliance with requirements of the commission.
k. Special agents and examiners are authorized to administer oaths, examine witnesses, and receive evidence.
l. Requires issuance of receipt or bill of lading for goods shipped, but the same shall not relieve the carrier from any liability under the act. Makes carrier liable for full value of goods, notwithstanding limitation of value in receipt or bill of lading, except where goods are concealed from view.
Interstate Commerce Commission may establish rates dependent on value as stated in writing by shipper.
Preserves right of action of shipper under existing law.
Makes it unlawful for carrier to shorten period of giving notice of loss to less than 90 days or for filing claims to less than 4 months or for bringing suit to less than 2 years.
Carrier issuing receipt may recover amount it is compelled to pay from carrier on whose road loss occurred.
m. Makes it unlawful for any carrier to issue any certificates of stocks, bonds, or other evidence of indebtedness, or to assume any obligation or liability unless:
First. (a) It be for some purpose within its corporate powers and for the construction, extension, enlargement, betterment, or equipment of its railroad or use thereof, or the payment or refunding of valid indebtedness or the lawful acquisition of the property of another common carrier for the protection or improvement of its property heretofore acquired not connected with its business as a common carrier if such last-named expenditure will not injuriously affect the public interest nor impair its ability to perform its public duty as a common carrier.
(b) And then only when such issue is approved by the commission. None of the securities shall be used for any purposes other than those allowed by the commission. The commission may fix a minimum price at which the securities may be sold.
(c) The application for leave to issue shall be in the form prescribed by the commission, and includes:
1. The total amount of the issue and how authorized on behalf of the carrier.
2. The number and amount of all its securities outstanding.
3. The amount to be issued and whether to be sold, pledged, or held in the treasury, and the terms upon which they are to be disposed of and the consideration, etc.
4. The number and amount of its securities so authorized and not then to be issued.
5. If the issue is of shares of stock, the number, face value, whether common or preferred, and number already outstanding.
Second. The preferences or privileges granted to holders of any such securities, date of maturity, whether cumulative or not, etc.
Third. The purpose to which the proceeds are to be applied.
Fourth. If it is proposed to assume the obligation of any other person, natural or artificial, the financial condition of such other person, and the object of such assumption.
n. The application must be made under oath.
o. When securities pledged or held unincumbered shall subsequently be sold or otherwise disposed of, must file a certificate to that effect and give again all the information called for by subdivision c above, and anything else the commission requires.
p. On application for leave to issue securities the commission is required to give notice to the proper authority of the State in which the carrier operates, and such State representative is authorized to be heard.
q. The action of approval shall not be construed as a guaranty or any obligation on the part of the Government.
r. Notes maturing not more than two years after their date excepted from the provisions of the bill, but notice of their issuance must be given to the commission.
s. Commissioners must require periodical or special reports from all carriers issuing securities, including such notes.
t. The issue of securities not authorized as above may be enjoined.
u. And the issuance of them is made a penal offense on the part of the officers, agents, and attorneys of the carrier.
v. Being a director of two or more carriers without the consent of the commission prohibited under penalty.
w. Officer or director of the carrier prohibited from receiving any money or thing of value for or on account of the issuance of securities by the carrier.

RIVER AND HARBOR APPROPRIATIONS.

Mr. BURTON. I ask unanimous consent to have printed in the RECORD certain facts and figures pertinent to the pending river and harbor bill.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The matter referred to follows.

RIVER AND HARBOR BILL—STATISTICS RELATING TO RIVERS.

INSTANCES OF DIMINISHING TRAFFIC.

Lower Mississippi River—Commerce (receipts and shipments), 1901 to 1910.[1]

[Source: From reports of the Chief of Engineers, War Department.]

Section of river and year.	Grain and its products.	Cotton.	Cotton seed and its products.	Live stock.	Coal and coke.	Lumber.	Logs.
St. Louis and Cairo:	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*
1901	137,954	308	.....	31,981	80,950	94,704	37,600
1902	194,175	3,144	.....	46,458	110,090	130,595	77,089
1903	103,114	585	340	18,010	119,727	120,231	89,662
1904	72,497	471	1,481	16,266	108,955	38,510	65,990
1905	50,441	1,991	912	21,048	131,756	21,143	101,111
1906	28,858	1,177	673	11,542	170,830	10,765	120,113
1907	19,832	1,522	260	11,075	166,360	25,179	49,175
1908	12,589	1,697	765	9,872	190,397	3,882	87,070
1909	21,325	3,129	614	15,184	164,496	19,925	58,040
1910	16,981	972	982	6,581	113,673	5,786	44,555
Cairo and Memphis:							
1901	103,599	13,647	21,750	1,903	1,359,462	228,493	309,395
1902	91,593	50,315	23,813	536	1,289,830	287,294	386,977
1903	100,222	10,065	10,850	15,040	1,266,378	209,541	430,530
1904	8,782	15,455	12,064	618	1,250,476	192,481	503,465
1905	51,123	9,573	11,069	200	1,328,930	242,070	486,051
1906	4,551	10,903	13,288	.....	1,030,000	254,156	238,464
1907	5,771	11,905	9,276	.....	1,031,154	183,036	464,969
1908	4,321	11,620	16,249	130	920,783	119,256	369,190
1909	11,340	12,489	9,567	3,942	737,761	70,818	305,716
1910	15,669	13,815	8,276	3,780	508,696	72,880	335,662
Memphis and Vicksburg:							
1901	143,791	49,553	39,855	5,200	1,281,393	55,747	129,286
1902	119,197	55,075	37,175	14,719	1,218,046	124,763	175,409
1903	114,974	31,695	145,988	4,830	1,281,311	80,023	236,521
1904	16,017	87,581	52,757	3,966	1,077,093	76,357	630,226
1905	47,960	66,556	64,699	4,091	1,097,758	128,697	334,499
1906	33,000	64,906	60,525	3,236	842,513	462,486	288,250
1907	21,937	37,843	24,206	7,586	871,034	157,930	373,695
1908	14,069	30,469	33,665	7,023	857,895	104,867	116,748
1909	17,325	20,563	23,287	10,792	632,570	78,116	223,434
1910	20,295	20,770	26,743	11,791	392,561	59,378	187,950
Vicksburg and New Orleans:							
1901	112,314	71,925	60,936	2,954	1,225,970	37,359	.....
1902	102,544	64,774	80,973	4,814	1,220,057	49,350	52,433
1903	125,236	39,519	53,909	7,337	1,213,372	80,500	212,375
1904	23,878	46,997	63,901	4,858	1,020,500	25,358	133,638
1905	24,062	25,349	39,454	3,945	1,080,075	33,203	233,388
1906	24,298	53,239	25,224	3,358	832,410	67,720	184,501
1907	31,532	38,262	73,242	2,834	850,200	45,764	167,607
1908	34,272	30,207	35,620	3,111	801,596	19,243	169,974
1909	34,794	10,599	17,103	2,105	607,383	31,501	242,574
1910	28,470	6,578	10,339	1,846	364,559	14,903	71,538

Section of river and year.	Iron, steel, and metals.	Groceries and provisions.	Railroad crossties.[2]	Gravel, sand, and stone.	Oil.[3]	Miscellaneous and unclassified.	Total.
St. Louis and Cairo:	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*
1901	29,122	83,656	.....	.....	.....	67,573	563,848
1902	3,873	105,171	.....	.....	.....	280,859	951,454
1903	82,797	35,485	18,243	.....	.....	60,987	649,181
1904	1,400	18,581	.....	14,559	.....	93,574	386,486
1905	135	18,958	.....	.....	.....	69,526	417,021
1906	325	7,779	.....	37,800	.....	68,154	458,016
1907	739	2,100	.....	1,000	.....	55,025	332,267
1908	15,925	12,158	.....	14,550	.....	40,454	389,357
1909	4,999	11,247	.....	.....	478	19,147	318,584
1910	188	10,694	.....	45,314	35	43,998	289,759
Cairo and Memphis:							
1901	55,572	37,340	.....	.....	.....	175,141	2,306,302
1902	247,565	15,317	.....	.....	.....	155,121	2,548,331
1903	77,331	4,838	5,397	13,000	.....	107,070	2,250,260
1904	45,549	3,745	.....	29,700	.....	92,978	2,153,254
1905	55,153	4,844	.....	5,800	.....	43,550	2,238,363
1906	58,449	762	.....	21,300	.....	88,020	1,719,893
1907	28,422	2,517	.....	15,200	.....	83,496	1,835,746
1908	38,868	579	.....	25,560	25	44,077	1,550,659
1909	34,835	13,160	.....	16,830	2	15,603	1,232,093
1910	20,828	17,211	.....	21,481	.....	20,897	1,039,195
Memphis and Vicksburg:							
1901	32,851	74,221	.....	.....	.....	44,442	1,856,339
1902	51,052	47,289	.....	.....	.....	67,301	1,940,026
1903	44,369	31,191	3,131	10,000	.....	31,186	2,018,222
1904	16,246	28,739	.....	19,000	.....	32,016	2,040,598
1905	16,409	30,471	.....	19,338	.....	45,354	1,855,330
1906	35,898	32,507	.....	491,458	.....	41,122	2,355,901
1907	22,278	27,646	.....	72,660	4,234	40,357	1,661,406
1908	21,783	10,800	.....	25,540	4,781	24,582	1,252,222
1909	10,949	25,971	.....	541	2,746	24,743	1,071,037
1910	15,421	34,560	.....	186,516	2,222	22,179	980,388

[1] Through traffic passing two or more sections of the river is included in each section; and the sum of the traffic of the four sections would involve a considerable amount of duplication. On coal, also on oil, in the section below Vicksburg, there was a considerable increase in the traffic in 1912 over 1910.
[2] Included under "Miscellaneous and unclassified" after 1905.
[3] Included under "Miscellaneous and unclassified" prior to 1906.

Lower Mississippi River: Commerce (receipts and shipments) 1901 to 1910—Continued.

Section of river and year.	Iron, steel, and metals.	Groceries and provisions.	Railroad crossties.	Gravel, sand, and stone.	Oil.	Miscellaneous and unclassified.	Total.
Vicksburg and New Orleans:	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*
1901	31,272	154,877	.....	.....	.....	137,557	1,835,174
1902	51,714	193,099	.....	.....	.....	399,500	2,159,258
1903	52,891	157,540	.....	27,983	.....	187,030	2,207,692
1904	116,371	118,458	.....	377,415	.....	186,466	2,117,840
1905	24,062	86,833	.....	526,852	.....	382,932	2,462,974
1906	29,928	77,839	.....	858,572	.....	397,127	[1] 2,554,336
1907	16,235	60,042	.....	926,445	219,075	154,039	2,585,277
1908	20,333	100,005	.....	321,498	261,869	70,184	1,867,912
1909	10,294	60,659	.....	770,941	233,191	83,606	2,104,720
1910	9,707	58,941	.....	657,656	223,984	81,709	1,830,230

[1] Includes 440,860 passengers in local excursion traffic.

Mississippi River: Mouth of the Missouri to St. Paul, Minn.

[From reports of the Chief of Engineers, War Department.]

	Tonnage.
1885	5,607,196
1886	3,200,000
1887	3,500,000
1888	3,750,000
1889	3,500,000
1890	4,200,000
1891	3,300,000
1892	3,750,000
1893	3,200,000
1894	2,975,000
1895	3,000,000
1896	2,250,000
1897	3,200,000
1898	2,800,000
1899	2,900,000
1900	2,400,000
1901	2,125,000
1902	1,900,000
1903	[1] 4,545,129
1904	[1] 4,534,539
1905	[1] 4,089,318
1906	[1] 3,847,319
1908	2,581,857
1909	1,916,114
1910	1,836,035
1911	2,081,566
1912	1,830,294

[From reports of the Chief of Engineers, War Department, 1904, vol. 2, p. 2157, and 1913, vol. 2, p. 2385.]

	Tonnage.
Average tonnage for years 1877 to 1902, inclusive	4,615,376
Tonnage in 1912	1,830,294
Decrease	2,785,082

Shipments and receipts of freight at St. Louis by rail and specified rivers, 1890–1913.

[Compiled from the St. Louis Merchants' Exchange reports.]

SHIPMENTS.

Year.	Upper Mississippi River.	Lower Mississippi River.	Missouri River.	Ohio River.[2]	Total by river.	Total by rail.	Grand total.
	Tons.	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*
1890	22,547	543,805	10,035	.....	601,862	5,270,850	5,872,712
1891	18,630	445,150	19,280	.....	512,930	5,216,228	5,729,158
1892	51,595	392,635	29,455	1,000	502,215	5,969,754	6,471,969
1893	54,230	342,785	12,775	.....	436,900	[3] 5,554,593	5,991,493
1894	52,190	281,635	4,075	.....	363,080	4,780,256	5,143,336
1895	30,780	241,155	5,505	.....	303,355	5,349,327	5,652,682
1896	31,510	508,960	1,355	.....	572,410	5,400,728	5,973,138
1897	36,225	406,315	.....	.....	469,365	6,137,265	6,606,630
1898	33,805	339,435	300	.....	399,583	7,079,319	7,478,902
1899	33,675	151,135	.....	.....	203,205	[3] 8,266,393	8,469,598
1900	36,675	187,385	1,225	.....	245,580	9,180,309	9,425,889
1901	23,392	158,493	7,185	.....	209,271	10,653,065	10,862,336
1902	23,130	174,517	4,840	.....	[3] 224,236	11,035,586	[3] 11,259,852
1903	44,855	146,498	2,345	.....	212,207	12,971,173	13,183,380
1904	21,775	46,320	2,020	.....	82,565	13,731,194	13,813,759
1905	25,730	35,295	4,705	.....	80,575	15,225,973	15,306,548
1906	36,000	34,905	3,565	.....	89,185	17,672,006	17,761,191
1907	25,155	35,550	3,095	14,700	78,500	18,295,416	18,874,916
1908	27,280	30,285	5,320	9,855	72,740	15,700,158	15,772,898
1909	16,695	21,140	.....	10,170	48,005	17,153,097	17,201,102
1910	12,510	24,815	.....	11,100	48,425	20,187,270	20,235,695
1911	11,270	38,150	415	17,630	67,465	17,974,337	18,041,802
1912	9,025	24,330	.....	9,940	43,295	20,368,613	20,411,908
1913	8,840	20,000	7,284	11,470	47,584	22,129,175	22,176,759

[1] The increase for these years is largely due to a larger tonnage in logs.
[2] From 1907 to 1913, inclusive, the tonnage given under the head of the Ohio River includes the Illinois, Cumberland, and Tennessee Rivers also.
[3] Corrected.

Shipments and receipts of freight at St. Louis, etc.—Continued.

RECEIPTS.

Year.	Upper Mississippi River.	Lower Mississippi River.	Missouri River.	Ohio River.[1]	Total by river.	Total by rail.	Grand total.
	Tons.	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*
1890	128,960	222,075	21,350	102,500	663,730	9,969,291	10,633,021
1891	90,865	209,095	25,065	63,890	592,140	10,098,729	10,690,869
1892	135,435	212,545	13,065	96,930	687,200	11,229,005	11,916,205
1893	111,710	216,300	8,000	33,490	599,405	10,408,039	11,007,444
1894	111,400	219,195	5,480	35,375	583,510	9,512,910	10,096,420
1895	78,170	239,690	3,270	35,440	508,830	10,489,344	10,998,174
1896	61,165	345,105	1,245	62,640	671,765	10,763,116	11,434,881
1897	51,435	311,540	250	26,915	576,670	11,921,279	12,497,949
1898	33,910	311,915	790	37,130	506,585	12,962,850	13,469,435
1899	45,410	238,140	565	39,440	466,610	14,805,872	15,272,482
1900	50,070	274,445	2,725	2,700	512,010	15,375,441	15,887,451
1901	68,470	233,885	3,860	57,315	462,805	17,433,523	17,896,328
1902	38,005	248,905	6,030	59,890	416,920	18,060,800	18,477,729
1903	32,705	160,085	1,415	111,435	340,410	21,580,403	21,920,813
1904	25,405	132,585	2,685	102,400	295,370	23,319,871	23,615,241
1905	31,190	107,520	3,580	125,755	289,850	23,915,690	24,205,540
1906	31,140	106,670	2,485	160,120	327,670	27,292,617	27,620,287
1907	21,440	91,325	3,655	173,155	289,575	29,156,094	29,445,669
1908	19,245	70,165	4,365	199,405	293,180	23,577,922	23,871,102
1909	24,305	67,395	160	159,730	251,590	27,075,248	27,326,838
1910	13,390	54,450	240	75,410	143,540	31,538,865	31,682,405
1911	37,480	62,060	490	201,800	301,830	28,965,658	29,267,488
1912	24,060	45,875	910	151,580	222,425	31,108,026	31,330,451
1913	27,735	11,275	5,380	166,735	211,125	32,221,676	32,432,801

[1] From 1907 to 1913, inclusive, the tonnage given under the head of the Ohio River includes the Illinois, Cumberland, and Tennessee Rivers also.

Total receipts and shipments at St. Louis by rail and by water for years given.

[From reports of the Merchants' Exchange, St. Louis.]

Year.	Total by water.	Total by rail.	Grand total.
	Tons.	*Tons.*	*Tons.*
1880	1,831,385	8,852,204	10,783,589
1890	1,265,592	15,240,141	16,505,733
1900	757,590	24,555,750	25,313,340
1905	370,425	39,141,663	39,512,088
1910	191,965	51,726,135	51,918,100
1911	309,295	46,939,995	47,309,290
1912	265,720	51,476,639	51,742,359
1913	258,709	54,350,851	54,609,560

Comparison of traffic on certain rivers, 1890–1895 and 1912.

Rivers.	Traffic 1890–1895 (yearly average).	Traffic 1906–1908 (yearly average).	Traffic in 1912.	Decrease from average 1890–1895 in 1912.
	Tons.	*Tons.*	*Tons.*	*Tons.*
Penobscot River	840,000	740,000	549,476	290,524
Kennebec River	1,140,000	550,000	281,700	858,300
Connecticut to Hartford	1,041,000	532,000	617,981	423,019
Hudson, Troy to Coxsackie	5,000,000	3,000,000	3,045,136	1,954,864
James River	099,000	563,000	507,023	191,977
Oconee River	109,000	105,000	17,451	101,549
Ocmulgee River	115,000	74,000	[1] 9,528	105,472

[1] Rafted lumber is excluded.

Other examples of decreasing traffic.

	Year 1905.	Year 1906.	Year 1907.	Average of 1905–7.	Year 1912.	Decrease from average of 1905-7 in 1912.
	Tons.	*Tons.*	*Tons.*	*Tons.*	*Tons.*	*Tons.*
Pawcatuck, R. I. and Conn.	167,668	60,786	47,589	92,014	55,522	36,492
Rappahannock, Va.	430,626	364,000	373,860	389,495	227,505	161,990
Occoquan Creek, Va.	109,490	26,000	26,888	54,126	49,558	4,568
Neuse, N. C.	469,309	501,315	448,719	473,144	383,137	90,007
Trent, N. C.	262,135	343,507	268,376	291,339	142,493	148,846
Savannah, below Augusta	[1] 55,700	[2] 54,800	[3] 63,013	57,837	[4] 30,479	27,358
Withlacoochee, Fla.	249,884	181,226	206,509	212,539	118,330	94,209
Leaf, Miss.	211,550	177,800	177,750	189,033	161,210	27,823
Big Kanawha, W. Va.	1,613,889	1,327,703	1,799,013	1,580,201	1,319,154	261,047

[1] 25,000,000 feet b. m. timber rafted.
[2] 15,000,000 feet b. m. timber rafted.
[3] 16,911,500 feet b. m. timber rafted.
[4] 30,500,000 feet b. m. timber rafted.

Comparison of traffic on other rivers in 1905 and 1912.

Rivers.	1905	1912	Decrease 1905 to 1912.
Cocheco, N. H	182,930	12,500	170,430
Santee, S. C	329,350	95,281	234,069
Wateree, S. C	22,000	[1]	.....

[1] None reported.

The same decrease of traffic is manifest on the three sections of the Tennessee River, though it is not so conspicuous on the middle section.

	Tons.
Upper section, above Chattanooga:	
1896	623,915
1904	562,677
1912	474,953
Middle section, between Chattanooga and Florence:	
1899	253,340
1903	297,851
1907	267,929
1912	226,467
Lower section, between Florence, Ala., and Paducah, Ky.:	
1898	602,916
1908	552,560
1912	373,625

Equally marked is the tendency toward the abandonment of through traffic and the limitation of traffic on rivers, even those of very considerable size and length to short hauls. It will be noticed that on the Great Lakes the average haul of freight carried through St. Marys River Canal between Lakes Superior and Huron is between 800 and 850 miles. This has been the average haul of this traffic for more than 25 years. Incidentally it may be remarked that the freight charges per ton per mile have very materially diminished and are perhaps the lowest in the world. On the other hand, the average haul on rivers, for which statistics are available, is in many instances below 50 miles and rarely, except in cases of the traffic heretofore mentioned, that in coal and logs, the former of which is carried advantageously in high stages of water in fleets of rafts, is it more than 100 miles.

The following table illustrates the tendency named, for some instances the haul of logs is very short:

Instances of average haul on the rivers named.

[From report of the Chief of Army Engineers, 1913.]

Rivers.	Length under improvement.	Average haul.
	Miles.	*Miles.*
Mississippi, between the mouth of the Missouri and St. Paul	658	31.6
Arkansas	416	34
Red, below Fulton	475.4	61.3
Tennessee, upper section	188	19
Tennessee, middle section	238	33
Tennessee, lower section	226	147
Big Kanawha	90	53.8
Fox	163	27
Snake	216	80
White	301	42
Missouri, mouth to Kansas City	392	13.9
Missouri, Kansas City to Fort Benton	1,894	16.4

Commerce through the canals at Sault Ste. Marie, Michigan and Ontario.

[Compiled from official records at St. Marys Falls Canal, Mich.]

Year.	Total freight.	Average haul.	Freight charges per ton-mile.
	Tons.	*Miles.*	*Mills.*
1887	5,494,649	811.4	2.3
1897	18,982,755	841.3	.83
1907	58,217,214	828.3	.80
1910	62,363,218	840	.74
1911	53,477,216	826	.67
1912	72,472,676	831	.67

The tendency to shorter hauls on the Mississippi and its tributaries is emphasized by the gradual decrease in the size of boats on these waterways, as shown by the table following.

Number, gross, and average gross tonnage of steam vessels on the Mississippi River and tributaries for the years given.

Year.	Number of vessels.	Gross tonnage.	Average gross tonnage.
1888	1,122	214,036	190.7
1898	1,064	167,297	157.2
1907	1,484	152,288	102.6
1910	1,697	140,781	83.9
1911	1,675	139,235	83.1
1912	1,833	145,980	79.6
1913	1,740	133,099	76.8

IMPORTS AND EXPORTS FOR JUNE, 1914.

Mr. SMOOT. Mr. President, I ask unanimous consent that I may take about five minutes of the time of the Senate to make a statement as to the imports and exports of merchandise during the month of June, 1914.

Mr. SIMMONS. Mr. President, what the Senator is going to state will call for a reply. Once before we had some discussion of similar matters which resulted in consuming an hour or more of the time of the Senate.

Mr. SMOOT. I would have almost been through with the statement by this time.

Mr. SIMMONS. If the Senator is going to make a statement, I shall probably want to make a further statement in reply. I object to the request for unanimous consent, because I think we wish to go on with other legislation.

Mr. SMOOT. Very well, Mr. President; I shall make the statement at another time during the day.

NOMINATION OF THOMAS D. JONES.

Mr. LEE of Maryland. Mr. President, I ask unanimous consent for the publication in the RECORD of the statement of Mr. Thomas D. Jones, dated July 18, 1914, which is a statement of fact and a correction of his testimony in some particulars. The former testimony of Mr. Jones was printed in the RECORD by unanimous consent. This is a continuation of his testimony and is equally entitled to be printed in the RECORD.

The VICE PRESIDENT. Is there objection?

Mr. HITCHCOCK. I have no objection to the printing of the statement asked for, but inasmuch as it is in part a reply to the report of a majority of the committee, I ask that the majority report be first printed in the RECORD; that it be followed by the statement of Mr. Jones; then, in turn, be followed by the report of the minority; and that the majority of the committee be given the right to have printed in the RECORD, as soon as it is prepared, such supplemental statement in reply to Mr. Jones as may be deemed necessary.

Mr. SHAFROTH. Mr. President, I will suggest to the Senator that he already has unanimous consent. The Senator from Missouri [Mr. REED] asked it on yesterday, and it was granted.

Mr. REED. That was that the testimony should be made public; it was not requested that it be printed in the RECORD.

Mr. SHAFROTH. Very well. I was under a misapprehension.

The VICE PRESIDENT. Is there any objection?

Mr. LEE of Maryland. Mr. President, I would like to suggest to the Senator from Nebraska [Mr. HITCHCOCK] that it is hardly appropriate to ask for the publication of reports that have not yet been submitted, and whose volume and relevancy can in no sense be passed upon. Here are two legitimate and limited propositions, namely, that the report of the majority be printed—that seems to be entirely proper—and that the statement of this witness, which is a limited statement compiled by him in a very short time—he was allowed from noon on Saturday to noon on Monday to prepare it and send it by mail—also be printed. The minority report when it comes can then be acted upon. I take it these two propositions are already before the Senate, namely, the report of the majority and the statement of the witness, which supplies important facts. I think the Senate ought to act on those two propositions which are before the Senate. I do not believe it is proper to ask unanimous consent for unlimited printing until the papers referred to are prepared and submitted. I do not at this time ask for the printing of the minority report.

The VICE PRESIDENT. Is there objection?

Mr. LEE of Maryland. I ask unanimous consent that the propositions be separated and that they be acted upon one at a time.

Mr. REED. Mr. President, it was the Senator himself who proffered the request primarily that the report of the minority be made public. That was before the report of the minority had been made; indeed, it has not yet been made, to my knowledge.

It seems to me, therefore, a little peculiar that the Senator should now object to printing in the RECORD the same thing which he asked to have made public or to the printing in the RECORD a reply to that. I shall not object to this request if it is coupled with the other statement; and it should be, because Mr. Jones has very seriously reflected upon the intelligence, if not upon the integrity, of the majority of the committee. His language is extremely offensive, and was undoubtedly purposely employed.

Mr. LEE of Maryland. I will say that personally I have no objection, but I think these propositions should be acted upon separately—namely, that the statement of the witness should be first considered. I ask leave to have that printed in the RECORD.

The VICE PRESIDENT. Is there objection?

Mr. HITCHCOCK. I object unless it is coupled with the qualifications which I have already stated, so that the whole matter may go together.

Mr. SMITH of Georgia. I object to an agreement to print something in the RECORD which has not been submitted to us. I do not think I shall object when it is submitted, but I do not think we ought to establish the precedent of agreeing to print matter in the RECORD that has never been submitted at all.

Mr. HITCHCOCK. Then, Mr. President, the whole matter can lie over until everything is ready.

Mr. LEE of Maryland subsequently said: Mr. President, I accept the proposition of the Senator from Nebraska [Mr. HITCHCOCK] that the report of the majority of the committee be printed in the RECORD, followed by the statement of Mr. Jones of July 18, 1914, the individual minority report, the subsequent minority report, and the rejoinder of the majority.

The VICE PRESIDENT. Is there any objection?

Mr. CLARK of Wyoming. Mr. President, I understood the Senator from Georgia [Mr. SMITH] made objection to the printing of this matter in the RECORD.

Mr. SMITH of Georgia. No. I made objection to agreeing to print in the RECORD in advance something that has never been submitted to the Senate. That was the extent of my objection.

Mr. CLARK of Wyoming. If the Senator from Georgia has no objection, I shall not object.

The VICE PRESIDENT. Is there any objection? The Chair hears none, and permission is granted to print in the RECORD the matter indicated.

The matter referred to is as follows:

[Executive Report No. 1. Sixty-third Congress, second session.]

NOMINATION OF THOMAS D. JONES.

Mr. HITCHCOCK, from the Committee on Banking and Currency, submitted the following adverse report, to accompany the nomination of Thomas D. Jones to be a member of the Federal Reserve Board:

The Committee on Banking and Currency herewith reports to the Senate the appointment of Mr. Thomas D. Jones, nominated to be a member of the Federal Reserve Board, and recommends that the Senate decline to advise and consent to the same.

This recommendation is based on the fact that Mr. Jones is an active director in the Harvester Trust and one of the founders and directors of the Zinc Trust. The first has been judicially declared to be an unlawful conspiracy in several States and is now being prosecuted by the United States. The latter has established a practical monopoly in oxide of zinc, has raised the price of the same to consumers, and on a capital of $10,000,000 is making an unconscionable profit of $5,000,000 a year.

THE HARVESTER TRUST.

The Harvester Trust was organized in 1902 under the name of the International Harvester Co., with a capital of $120,000,000. It was formed and financed by J. P. Morgan & Co., which took in four harvester companies, known as the McCormick, Deering, Champion, and Plano concerns. These four concerns received $103,144,660.98 in stock, or 86 per cent of the whole issue. The McCormick interests received $51,148,704.13, or 42.6 per cent; the Deering interests $41,280,167.85, or 34.4 per cent. Nine per cent of the stock went to the other two concerns. J. P. Morgan & Co. received as a commission for forming the trust over $3,000,000 in stock, and they also received $3,000,000 in stock in payment for a fifth concern, the Milwaukee Harvester Co., which they had purchased, thus making $6,000,000 of the stock which was turned over to J. P. Morgan & Co. Ten million dollars of the stock was sold for cash to Rockefeller and others through the firm of J. P. Morgan & Co.

Second. The effect of the organization of the trust was to do away with competition between the five great harvester companies, which were doing about 85 per cent of the business of the United States.

Third. All of the stock received by the four harvester companies in payment for their plants was under a trust agreement at once deposited with J. P. Morgan & Co., and the power to vote it placed in the hands of three men, to wit, Mr. Perkins, of the firm of Morgan & Co.; Mr. McCormick, and Mr. Deering. This was to continue for 5 years, and was made renewable for another 5 years, and did, as a matter of fact, continue for 10 years, until 1912, when the Federal Government began proceedings against the trust.

Fourth. Those who were thus required to deposit their stock with the voting trustees received stock certificates, but they were required to agree not to sell these certificates except in limited amounts over a period of years, and in order to guarantee their fulfillment of this contract they were also required to deposit their trust certificates with J. P. Morgan & Co. Thus the full control over 85 or 90 per cent of the harvester business of the country was placed for 10 years in the hands of three men, and the power of constituent companies to part with their holdings or realize money on them was limited and circumscribed.

Fifth. All directors of the harvester company from 1902 to 1912 were elected by the votes of the three trustees above named, and among those thus elected was Mr. Thomas D. Jones, in April, 1909.

Sixth. Mr. Jones was not financially interested in the company, but purchased a share of stock for $100 cash in order to qualify himself as a director. In a sense, therefore, he was and is what is known as a dummy director.

Seventh. It has been said in behalf of Mr. Jones that he became a director for the purpose of reforming the company, but Mr. Jones's testimony is unqualified and in repeated statements shows that he became a director to please his lifelong friend, Mr. Cyrus H. McCormick, the largest owner in the trust and the chief beneficiary of the trust. Furthermore, Mr. Jones states that since he became a director he has participated in and agreed to all important decisions concerning the policy of the trust; that he is in entire accord with the other directors; that he has at no time made any effort to modify the policy of the trust or lead it to conform to the law of the United States or of the various States. He stands, therefore, in no different relation to the trust than other directors, and Mr. McCormick or Mr. Perkins himself would be just as eligible for a position upon the Federal Reserve Board as Mr. Jones.

Eighth. Against the claim that Mr. Jones's position as a director was merely nominal, and that he did not participate in the responsibility for the policy and unlawful practices of the company during recent years, may be taken his statement, on page 8 of the hearings, that he took an active interest as a director; that the meetings were held every two weeks; that in five years he has only missed two or three of those held in Chicago and a few of those occasionally held in New York. He specifically stated that he was present when the $20,000,000 stock dividend was declared and supported the proposition. When the company was prosecuted as a trust, he examined the pleadings and briefs in the case and approved the action taken by the trust's attorneys, and he has approved and participated in the stand of his company in resisting the prosecution by the Government of the United States; that he approves the swollen capital of the company and the great increase of its earnings in recent years, which have resulted from the formation and operation of the trust in recent years while he has been a director.

Ninth. The harvester company is of all the American trusts probably the most obnoxious and notorious. Starting with five or six established brands of harvesting machinery, which previous to that time had been sold in competition with each other, it united them into one ownership, and then enlarged its activities so as to take in other agricultural machinery, such as cream separators, binding twine, and manure spreaders, not originally manufactured by the constituent companies. In this way it rapidly acquired a control of the market in those lines also.

It threw over 12,000 traveling men and office men out of employment. It increased the selling price of its products. It secretly bought out so-called independent harvester companies, but continued to operate them under the pretense that they were independent. It did this to destroy competition that was really independent and to deceive the retail trade and the consumer. In some cases its secret subsidiaries, pretending to act as independent companies, sent out inflammatory advertising, denouncing the harvester company, for the purpose of deceiving the retail dealers and crowding out the products of companies which were really independent. Sometimes it crushed an independent competitor by destroying its credit, as in the case of the Osborn Harvester Works, whose large loans were suddenly called and which was compelled to sell to the trust to escape bankruptcy, after which for several years the trust operated the Osborn Harvester Works as a blind or stool pigeon of so-called independent manufacturers. It established several thousand agencies throughout the United States, and, not content with the natural monopoly which resulted from its control of the leading brands of harvesting machinery, it bound them by contract to handle nothing but its trust-made goods.

Tenth. The policy of the company in crushing competition by unfair methods, dismissing employees, increasing prices, has resulted in an enormous increase in the profits of the trust. Starting with a profit of $5,000,000 or $6,000,000 a year, the trust has increased its profits year by year, so that they were $10,000,000 in 1908 and $16,000,000 in 1911, as shown by the report of the Bureau of Corporations.

Eleventh. The Bureau of Corporations in its report a year ago recited seven objectionable competitive methods adopted by the trust to destroy competition and interviewed 800 retail dealers in 600 towns concerning the same. More than 400 condemned the practices of the company as unfair and only 200 spoke well of the company, although doing business with it.

Twelfth. Many State legislatures have denounced this trust and many State courts have convicted and punished, or attempted to punish, it for violating State laws, including Kansas, Texas, Missouri, Ohio, Arkansas, Kentucky, and Montana. Most of these prosecutions have occurred while Mr. Jones has been a director.

Thirteenth. In response to nation-wide complaints against this trust, its officers and directors, the United States Government brought action against it in the summer of 1912 and named as one of the defendants in the case Mr. Thomas D. Jones. The charges made by authority of the United States against the trust involved not only the violation of law in the original formation of the trust, but the continued violation and defiance of law with the purpose of enlarging the scope of business so as to create a complete monopoly of agricultural implements. This policy and these acts covered the time Mr. Jones has been a director. He fully approves all acts done recently. See page 36 of his testimony. Mr. Jones agrees with and accepts part responsibility for the attitude of the trust in resisting and defying the United States, as it has also resisted and defied the various States.

Fourteenth. About the time the United States action was brought the trust divorced its foreign business from that in the United States by creating a separate concern, known as the International Harvester Corporation, and diverted about half of its great capital to that corporation, so that it might be beyond the reach of the United States in case the Government wins the action now pending. Mr. Jones participated in this act of evasion, as he did in earlier acts of defiance.

Fifteenth. Should the Government be successful in its suit, the Harvester Trust will be declared an outlaw, and whether its directors are or are not subjected to criminal prosecution, it is not thinkable that any of them could be permitted to hold a position of trust and honor under the Government. It is hardly less conceivable that a government should install in high office a man whom it is now prosecuting for violation of law.

THE ZINC TRUST.

Mr. Jones was one of those who in 1897 took part in the consolidation of the oxide of zinc interests of the United States into a company with $10,000,000 capital stock and $3,000,000 bonds. This company

enjoys a practical monopoly in the United States. It makes about 85 to 90 per cent of the zinc oxide used in mixing paints. The rest is made by the Sherwin & Williams Paint Co. for their own use as paint manufacturers.

The company owns practically all of the known zinc ore in the United States, its chief mines being in New Jersey and Wisconsin. The only zinc ore not owned by the company in this country belongs to the Sherwin-Williams Co.

Prior to 1897 Mr. Jones and his brother owned the Wisconsin mines, and their company was capitalized at $400,000. In that year they formed their consolidation with the New Jersey Zinc Co., which had a capital of $4,000,000. This was now increased to $10,000,000, and the Jones company received $900,000 of it for their share in the combination. Some other smaller companies were also purchased. After the consolidation, profits increased year by year. Two years ago the company raised the price of zinc oxide. It then was able to declare a dividend of $4,000,000 on $10,000,000 capital. Last year it paid $5,000,000 in dividends on a capital of $10,000,000.

This company has not been prosecuted as a trust, but the union of competing companies into a single concern, the monopoly enjoyed, the control of prices, the raising of the same, and the payment of enormous dividends of 40 and 50 per cent a year on an inflated capital, present all the earmarks of a trust. Its control of the market on oxide of zinc is so complete that the paint mixers and makers of the country, with the exception of one large firm, are at its mercy.

The fact that Mr. Jones participated in the organization of this monopoly and enjoys its unconscionable profits, throws a strong light on his connection with and support of the Harvester Trust.

For all of these reasons the committee reports against Mr. Jones's confirmation. It believes that the great powers of the Reserve Board should not in any degree be exercised by men who are defying the laws of the United States. The powers of the board over bank credits and currency should be exercised by men in sympathy with the effort now being made to free the business world from unfair methods of business, monopoly practices, and destructive competition. They should be men not under the domination of, nor in alliance with, those who have been notorious as creators of monopoly in the world of business or in the world of finance.

G. M. HITCHCOCK,
Acting Chairman.

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CHICAGO, *July 18, 1914.*

Hon. G. M. HITCHCOCK,
Acting Chairman Banking and Currency Committee,
United States Senate.

SIR: I am in receipt to-day of a copy of the report of the majority of your committee upon my nomination as a member of the Federal Reserve Board, and I have received part 2 of the hearings before the committee, said part 2 comprising documentary evidence submitted to the committee after I appeared before it.

I infer from the discussion in the committee reported in the hearings that these documents are sent to me with intimation that I am at liberty to make such comments thereupon as I may deem advisable, and I wish to take advantage of this privilege. As these documents have reached me only on a Saturday, and I am advised that my comments should be mailed by Monday noon, my comments must be both hasty and fragmentary.

I was invited to appear before your committee to be examined concerning my "relations with certain business enterprises." Those enterprises turned out to be the International Harvester Co. and the New Jersey Zinc Co. and some of its subsidiaries.

INTERNATIONAL HARVESTER CO.

I stated to your committee that my relations with the International Harvester Co. began in 1909, and that before that time I had had no relations of any kind, direct or indirect, with it, and had had no business relations whatever with any of its officers or directors. Any just criticism based upon my being a director of the International Harvester Co. must rest either upon the fact of my accepting a directorship in that company in 1909 or upon acts of the company or of its board of directors subsequent to that date.

As to my acceptance of the position of director, it must be judged by the conditions and situation at the date of the act. The company had then been in existence and doing business for more than six years. The facts connected with its organization and its methods of doing business were open to the public and well known. The Government of the United States had taken no action against the company. There had been some suits against the company under State statutes, but, as I am advised and then believed and now believe, any judgments therein against the company were based wholly upon facts connected with its organization and not upon any of its business methods. I then believed and I still believe that at the date of my acceptance of the position of director the corporation was a law-abiding corporation, and that its business methods were productive of benefit and not of harm, and in that belief I accepted the position of director.

As to the other branch, namely the acts of the company and its board of directors since I became a director, so far as I have known they have been neither oppressive nor illegal in any particular. I believe that the record will bear me out in the statement which I now make, that not one single act of the company during that period was instanced in my hearing before the committee as constituting a violation of law.

There was put into the record after my hearing before the committee what appears to be practically the entire record of the suit brought by the State of Missouri against the International Harvester Co. In this case the company submitted freely and fully all its records for examination by the authorities of Missouri, and after the taking of voluminous evidence the court held that by reason of the circumstances attending the organization of the company it was an illegal organization under the antitrust acts of the State of Missouri.

More important, however, in my judgment, than the determination by the court of illegality in the formation of the company is the fact that the charges of unfair dealing by the company toward the farmers, which had been vigorously charged by the State, and concerning which a large amount of evidence was taken, were emphatically denied by the court. Upon this point the court said:

"The evidence also shows that the price of harvester machines was not materially higher after the New Jersey corporation entered the field than it was before, until 1908, when it was increased 8 or 10 per cent, whilst in the meantime there had been a greater increase in the price of the material and labor used in their construction. The evidence also shows that whilst harvesting machines were the chief products of the companies absorbed by the International Harvester Co., that company has greatly enlarged its business and extended it to many other farm implements, and has thus put itself in competition with the many concerns that theretofore were and still are engaged in manufacturing such other farm implements, and the farmers generally have profited thereby. The evidence also shows that the machines manufactured by the International Harvester Co. have been greatly improved in quality, and the item of repair material has been reduced in price and placed within closer reach of the farmer. On the whole, the evidence shows that the International Harvester Co. has not used its power to oppress or injure the farmers, who are its customers." (Hearings, pt. 2, pp. 117, 118.)

Reference was made during my hearing to the suit brought in 1912 by the Federal Government in the Minnesota district for dissolution of the International Harvester Co. A very large amount of testimony was taken in that suit, and the suit has been fully argued before the court, and has been submitted to it, and is now held under advisement by the court. What the outcome of that suit may be can only be surmised.

I had expected to find in the record of the hearings before the committee copy of a letter reported in the newspapers of June 24 and 25 to have been written by Mr. Edwin P. Grosvenor, who had charge under the Attorney General of that suit from beginning to end. I am disappointed to find that the letter nowhere appears in the hearings, although it was stated in the papers that it had been presented to your committee. I can, therefore, only refer to the substance of that letter as stated in the newspapers and which, it will be understood, I state under correction. In that letter Mr. Grosvenor is reported to have stated that the record in the Federal suit above referred to contains nothing to indicate that I had had any connection with any practices which the Government contends were illegal. In the absence of the final judgment of the court this is as conclusive a statement of the facts shown by that record as the circumstances permit.

As to the fourteenth charge in the majority report, I wish to say that my own memory was at fault when I appeared before the committee as to the date when the International Harvester Corporation was organized. It was then my recollection that it was organized just previously to the institution of the suit against the company by the Federal Government, which is now pending. Upon refreshing my recollection I find that the suit by the Government was begun April 30, 1912, while the International Harvester Corporation was not organized until January 27, 1913. The organization of that company and the sale of certain of the assets of the old company to the new were therefore done pendente lite, and could not, therefore, in the least affect any judgment that might be rendered in that suit. This charge in the majority report is utterly baseless.

THE NEW JERSEY ZINC CO. AND ITS SUBSIDIARIES.

This company is stigmatized in the majority report as "the Zinc Trust," and in support of that charge it is alleged (1) that it owns "practically all the known zinc ore in the United States," and it is charged that it has a monopoly of the manufacture and sale of oxide of zinc; and (2) that its capital stock—$10,000,000—is "inflated," and that it is making "an unconscionable profit" upon its inflated capitalization.

(1) As to the alleged monopoly of raw material, the statement that the New Jersey Zinc Co. "owns practically all the known zinc ore in the United States" is made without one particle of evidence in the record to support it. Moreover, everybody who knows the beggarly rudiments of the zinc industry knows that the statement is not simply false, it is rediculously false. Perfectly accurate, reliable data regarding the tonnage of zinc ores mined is not readily obtainable, but the census reports of manufactured product afford a sufficiently accurate basis for calculation as to ores produced. "From the best information available I feel warranted in stating positively that the total zinc contents of all ores derived from mines owned by the New Jersey Zinc Co., or in which it has any interest, through its subsidiaries or otherwise, amount to somewhat less than 25 per cent of the zinc contents of all zinc ores mined in the United States." (Statement of Mr. Jones of July 16, 1914.)

The majority report further says that "prior to 1897 Mr. Jones and his brother owned the Wisconsin mines." Neither my brother nor I, nor the Mineral Point Zinc Co., owned in 1897, or at any time prior thereto, any zinc mines in Wisconsin. My testimony shows that in 1897, when we sold our stock in the Mineral Point Zinc Co. to the New Jersey Zinc Co., we owned one undeveloped mine in New Mexico, and that was all the mining property that we did own.

So much for the monopoly of raw material.

As to the alleged monopoly of the manufacture and sale of oxide of zinc, my testimony shows that the New Jersey Zinc Co. produces a largely preponderant share of the oxide of zinc manufactured in this country, but it also shows that this preponderance results entirely from the ownership of one mine which produces ore suited to the manufacture of oxide of zinc as no other known ores are suited, and that until that mine is exhausted, or until radical discoveries are made in processes of manufacture, the owners of that mine must hold a preponderant share of the business of oxide of zinc.

Of the other two main products manufactured by this company, namely, spelter and sulphuric acid, the New Jersey Zinc Co. and its subsidiaries produce a little less than 20 per cent of the total output of spelter in this country and produce between 3 and 4 per cent of the sulphuric acid manufactured in this country.

(2) As to the alleged inflation of the capital stock of the New Jersey Zinc Co. and the making of "unconscionable profits," I would say that I testified that the capital assets of that company are equal to its capital stock, and that there is therefore no kind or degree of inflation of any sort, and there is no testimony whatever to the contrary. As to the alleged "unconscionable profits," I wish further to say that the majority report entirely ignores the statement which I made as to the nature of the business of the company. I stated that the company is largely, though not exclusively, a mining company. Every ton that is taken from the company's principal mine results so far in the exhaustion of its capital assets. Its earnings are therefore in the nature of a distribution of its capital assets, and not simply earnings in the ordinary sense of that term. The larger its production the more rapidly does the exhaustion of its assets proceed. This distinction between the earnings of an ordinary manufacturing or trading corporation and the earnings of a mining corporation is fully recognized in law, and is not wholly foreign to common sense. Before a judgment can be formed that is even approximately just as to whether the earnings of a mining corporation are unconscionable or not many elements have to be considered that were not even touched upon during my examination. In the particular case under consideration the ores produced from the principal mine of the New Jersey Zinc Co. are very complex, and require a very expensive plant for the treatment of the ores before they are ready for manufacture. This plant is necessarily situated at the mine, and when the mine is exhausted that expensive plant will be almost pure scrap. A very expensive reduction plant has

been erected by the company at Palmerton, designed especially for the reduction of the kind of ores that are produced at this mine. What value this plant will have after the exhaustion of that mine is a matter of pure conjecture. Before any profits derived from the business of the company can fairly be pronounced to be unconscionable it must be taken into consideration that not only the value of the mine itself but the cost both of its plant for ore treatment and its principal plant for reduction ought to be met out of its earnings while the mine lasts, together with a fair return on the investment in the meantime. These various elements would require a complicated calculation which I myself am not fully capable of making, and with all due respect to the Committee on Banking and Currency I may say that I think it is wholly beyond the capacity of that committee to make such calculation.

When the invitation of the committee was extended to me to appear before it I was given to understand that I was expected only to give information concerning my own "relations with certain business enterprises." No reasonable interpretation of that language could have warned me that I was expected to come prepared to make a complete and detailed statement with regard to the entire business of the corporations with which I was connected. I had no intimation whatever of the scope of the inquiry. I had no reason to anticipate that the committee proposed to exercise what is essentially a judicial function, namely, to inquire and to determine whether any particular organization is a trust in the sense of being an organization under the ban of the law. Numerous questions were presented to me which even an active executive officer of the corporations in question could not have answered without reference to the records of the corporations. I have never been an officer of the New Jersey Zinc Co. Under the circumstances I might well have asked the committee to excuse me from answering many, if not most, of the questions asked; but I chose rather to answer every question as best I could, relying upon the confident belief that the sole object of the inquiry was to ascertain my relation to those corporations, and not to pass judgment upon them. The result is known far and wide. In an inquiry ostensibly intended simply to determine my fitness for public office a corporation in which I was a director has been branded as a "trust" and its earnings stigmatized as "unconscionable," and these charges were spread broadcast through the public press under the great authority of the Committee on Banking and Currency of the Senate of the United States. And this, too, occurred in the case of a corporation which in its present form had been carrying on its business for 17 years, and against which not a single accusation has ever been made in any tribunal, either Federal or State, that its organization is illegal or that its practices are oppressive or extortionate. I submit to your honorable committee that such procedure is grossly unfair.

I append hereto a list of certain corrections which I ask your committee to put into the record in connection with my testimony. The time at my disposal has been insufficient to enable me to note more than corrections that I deem of importance. Some of these corrections are clearly clerical, but others result from defective memory on my part or from obvious misunderstanding of questions asked. This list of corrections, especially relating to the New Jersey Zinc Co. and its subsidiaries, is still distinctly incomplete.

Respectfully submitted.

THOMAS D. JONES.

MEMORANDUM OF CORRECTIONS IN RECORD OF THE EXAMINATION OF THOMAS D. JONES.

(References are to the CONGRESSIONAL RECORD of July 15, 1914.)

I. CONCERNING INTERNATIONAL HARVESTER CO.

(1) In column 1, page 13231, my answer "That the company carries a certain amount of stock which it issues to its stockholders by way of bonus," should read, "which it issues to its employees by way of bonus."

(2) In column 1, page 13232, the statement in regard to the secretary of the company should be, "Harold F. McCormick was acting secretary from 1909 up to 1914, when G. A. Ranney was chosen secretary, and is now the secretary of the company."

(3) In column 1, page 13232, the statement that "common stock" of the company was issued to employees should be corrected so as to include "preferred" as well as common stock.

(4) In column 1, page 13233, the statement concerning plows should be amended by adding that the company does not manufacture or sell plows in the United States, but the International Harvester Co. of Canada (Ltd.), the owner of the Canadian plant, jobs plows in Canada but does not make them.

(5) In column 1, page 13233, to the list of European plants should be added the plant of the company at Neuss, Germany.

(6) All statements relating to the formation of the new corporation now owning the foreign plants and the new line plants in the United States should be corrected so as to conform to the following statements:

In January, 1913, the International Harvester Co. had a capital stock of $140,000,000, $60,000,000 preferred and $80,000,000 common. The new corporation, "International Harvester Corporation," was organized on January 27, 1913, under the laws of New Jersey, with a capital of $70,000,000, $30,000,000 preferred and $40,000,000 common. This was after the bringing of the Government suit, which was filed on April 30, 1912. As it was expected that the pending Government suit might not be ended for a considerable time and might go to the Supreme Court for final settlement, it was deemed necessary to organize the new corporation to protect, as far as possible, its foreign trade, which was not under attack, and its credit for foreign borrowings, which were very large. The new corporation bought the foreign plants and business of the original company and also its domestic plants making the new lines, and paid for the same by delivering to the old company its entire capital stock. The old company thereupon reduced its capital stock one-half and, in exchange for the stock retired by said reduction, issued to its stockholders the stock of the new corporation share for share of the same kind of stock; so that each stockholder, after the transaction was completed, had the same number and kind of shares of stock that he had before the formation of the new corporation, representing the same interest and ownership in the same properties as before the exchange.

The new corporation and the transfer of the properties to it were made with the full knowledge of the Attorney General of the United States, the entire plan being submitted in writing to him and being made pendente lite, had no effect whatever upon the Government suit.

(7) The statement in regard to the dividends paid and net earnings of the International Harvester Co. should be corrected to conform to the following table, which is compiled from the published annual reports of the company, and is in some respects at variance with my recollection, as contained in my statement before the committee. There is, however, no question as to its accuracy, and the figures without the per cents are contained in the petition in the Government suit, except for the years 1911 and 1912:

Year.	Net earnings.	Percentage of net earnings to capital stock and surplus.	Dividends.	Rate of dividends on capital stock.
		Per cent.		*Per cent.*
1903	$5,641,181	4.70	$3,600,000	3.00
1904	5,658,535	4.64	4,800,000	4.00
1905	7,479,187	6.08	4,800,000	4.00
1906	7,346,947	5.85	4,800,000	4.00
1907	8,080,458	6.31	4,200,000	[1] 3.50
1908	8,885,682	6.73	4,200,000	[1] 3.50
1909	14,892,740	10.89	4,200,000	[1] 3.50
1910	16,084,819	10.91	7,400,000	[2] 5.29
1911	15,521,397	9.95	8,200,000	[2] 5.86
1912	16,395,597	10.03	8,200,000	[2] 5.86
Average for 10 years	10,598,654	7.83	5,440,000	4.25

[1] 7 per cent on preferred, nothing on common.
[2] 7 per cent on preferred, 4 per cent on common.
[3] 7 per cent on preferred, 5 per cent on common.

In January, 1910, a stock dividend of $20,000,000 was declared on the common stock on which no dividends had been paid since 1906, and prior to that time the total dividends had averaged less than 4 per cent. This stock dividend gave to the stockholders nothing except more shares, representing the same amount of property in which the undistributed earnings had been invested. Including this stock dividend, the average dividend on the total capital was only 5.90 per cent per annum.

The stock of the original company was all of one kind until 1907, when it was divided into preferred and common in equal amounts, and thereafter there was no payment of dividends on the common stock until 1910. In January, 1910, the stock dividend of $20,000,000 was declared out of the surplus which had been accumulated while the company had paid inadequate or no dividends on the common stock.

(8) In column 2, page 13239, the statement as to the annual profits refers to the year 1912, and should be that the gross profit for that year was $16,395,597.16, and after the payment of the 7 per cent dividend on the preferred and 5 per cent on the common left a balance carried to surplus of $8,195,597.16.

(9) In column 1, page 13240, with reference to the number of local dealers or agents through whom a farmer can deal in buying the company's various brands of harvesting machines, I had and have no personal knowledge, but, as I am advised, I was in error in assenting to Senator NELSON'S statement that the company deals with the farmer only through one agent instead of several, as before the company's organization. In fact, the report of the Bureau of Corporations objects to the practice of the selling company in the United States of dividing among the local dealers its various brands of harvesters instead of giving them all to one dealer (p. 303).

(10) In column 1, page 13240, in relation to Senator HITCHCOCK'S question, my statement that no new capital had gone into the enterprise had reference to what was done subsequent to the organization of the company, and had no reference to the capital which went in at the date of the organization of the company. My answer in the record, if considered otherwise, was made under a misapprehension of the question. I had no personal connection with or knowledge of the organization of the company or of the capital paid in at the date of its organization; but I am advised and believe that a very large amount of new capital went into the business at the date of the organization of the International Harvester Co.

II. CONCERNING THE NEW JERSEY ZINC CO.

1. During my examination Senator REED asked me the following question: "How many combinations have been taken into that New Jersey company, absorbed or financed in any way?" (C. R., 13243, col. 1.)

I understood that question to refer to the companies which were consolidated with the New Jersey Zinc Co. in 1897, as appears from other portions of my testimony. Upon reading my testimony it appears that Senator REED'S question really covered not simply the companies referred to, but subsidiaries subsequently organized or acquired. My answer to that inquiry therefore, viz, "Two besides ours," was not correct. Besides the three corporations mentioned in my testimony as subsidiaries of the New Jersey Zinc Co., there are the following, viz: The New Jersey Zinc Co. (of Pennsylvania), Palmer Land Co., Palmer Water Co., the Chestnut Ridge Railway Co., Tulsa Fuel & Manufacturing Co., and the Bertha Mineral Co.

2. In stating the amount of the total spelter trade of the country (C. R., 13243, col. 1) I am quoted as stating that it amounts to $375,000 to $400,000. This is simply a clerical error, and should have read "375,000 to 400,000 tons."

THOMAS D. JONES.

[Executive Report No. 1, Sixty-third Congress, second session.]

THOMAS D. JONES.

(To accompany the nomination of Thomas D. Jones to be a member of the Federal Reserve Board.)

Mr. LEE of Maryland. As a member of the minority of the Committee on Banking and Currency, I recommend that the Senate advise and consent to the appointment of Mr. Thomas D. Jones to be a member of the Federal Reserve Board, and state as follows:

REPORT.

Mr. Jones being invited by the committee, appeared before it.

There was much to commend in the manner of the witness. He was perfectly frank, and made the impression of a modest man of courage, convictions, and ability.

The rules of the Senate have operated to prejudice the case of Mr. Jones, for the members of the committee who support him have respected the rules and gave nothing out for publication, while others, in disregard of the rules, have published incomplete statements and unfair arguments against him.

The New York Times of July 18 says editorially:

"The condemnatory report is published, although it is a part of the confidential proceedings of the Senate, and although it is unfair

that the conviction should be published without the defense. The text of the report shows it to be a partisan document, more anxious to make a case against the convict than to present a judicial examination of his qualifications."

CORRECTION NOT WAR ON AMERICAN INDUSTRY.

That the majority of the committee are bent on extreme measures; that their attitude is a dangerous one toward both the peace and industry of the country, is evident from their criticism of this nominee.

A choice is afforded the Senate in this case between an appeal to prejudice and hostile feeling and the wise and kindly purpose of the President, who has nominated for the reserve board in Mr. Thomas D. Jones a man he has known closely for many years and certifies to us as one of democratic convictions. In a letter to the committee the President recently said of Mr. Jones:

"I have been associated with Mr. Jones in various ways for more than 15 years and have seen him tried by fire in causes which were like the very causes we are fighting for now. He has always stood for the rights of the people against the rights of privilege, and he has won a place of esteem and confidence by his quiet power and unquestionable integrity in the city of Chicago, which is very enviable indeed.

"His connection with the Harvester Co. is this: He owns one share, and only one share, of stock in the company, which he purchased to qualify as a director. He went into the board of the Harvester Co. for the purpose of assisting to withdraw it from the control which had led it into the acts and practices which have brought it under the criticism of the law officers of the Government, and has been very effective in that capacity. His connection with these acts and practices is absolutely nil. His connection with it was a public service, not a private interest, and he has won additional credit and admiration for his courage in that matter.

"He is a lawyer by profession, but he has devoted his attention to special aspects of the law, and has been very little in the courts, I believe. My close association with him was in the board of trustees of Princeton University, where he stood by me with wonderful address and courage in trying to bring the university to true standards of democracy, by which it would serve not special classes, but the general body of our youth. He graduated from Princeton University in 1876. He is of Welsh extraction, possibly of Welsh birth, though I am not certain on that point, and is a man whom I can absolutely guarantee in every respect to the committee. He is the one man of the whole number who was in a peculiar sense my personal choice."

Question of practical democracy arose in the management of Princeton University, upon which these two thought alike and acted together. In carrying out his very large purpose of bringing about industrial reform in this country and maintaining peace and prosperity at the same time the President selected Mr. Jones for the Reserve Bank Board because he has confidence in him as a man and a Democrat, one well tested in a tense collegiate struggle, where the devotion to principle, which marked Woodrow Wilson for governor of New Jersey and President of the United States, naturally indicated Thomas D. Jones for a prominent place in the President's national reforms. Confidence based upon character is what of all things the country most needs just now. Mutual confidence on the part of the public, as expressed by the President, and on the part of business seems to be reposed in Mr. Jones.

The McCormick family, whose father invented the reaper, and who have continued for two generations in the business of making reapers and mowers, had confidence in him, and when they got into difficulties, probably both as to internal management and external attack on the monopolistic features of their organization, they called on him for help.

A MONOPOLY CORRECTED.

Mr. Jones testifies that no matter what power the Harvester Co., as organized, may have originally possessed, that power has not been used in any way contrary to law or public interest since he became a director in the concern (p. 40). He also testifies that competition with the Harvester Co. has grown each year and is to-day vigorous (p. 39), and that no plant in competition has been purchased by the Harvester Co. since he became a director (p. 27). Mr. Jones refused to approve of the method of organizing the Harvester Co. (p. 35).

This nominee further says (p. 49) that he would not have accepted a place on the board of the Harvester Co. if he had believed that it was then violating the Sherman antitrust law.

With reference to continuing offenses or such acts of an objectionable nature as might be claimed to have been committed since the election of Mr. Jones to the board of directors, the following question was asked (p. 4) by Senator HITCHCOCK:

"A part of the complaint [in the Federal suit] as it was read to the committee was with regard to continuing acts of the corporations down to very recent years, down to the filing of the suit in 1912. Have you any acquaintance with those acts complained of?"

And answered by Mr. Jones:

"No, sir; and my reading of the record was that, although there is such a general allegation, there is absolutely no proof of it. The charges were made as of continuing acts; but I read the briefs of counsel of the various sides, and the case finally turned almost entirely on the method of the original organization of the company as being an attempt to create a monopoly in restraint of trade."

The statement of the latter—that there was only general allegation and absolutely no proof of continuing offenses—has not been met in testimony before the committee and is apparently conceded.

Although submitted, no opinion has yet been rendered in the Federal suit of 1912. There is in hand a decision by the Supreme Court of Missouri (pp. 114 to 122), rendered in 1911, in a proceeding instituted in 1907, two years before Mr. Jones became a member of the board, and in this case the constitutionality of the Missouri antitrust statute was sustained by the Supreme Court of the United States in a recent decision (pp. 125 to 131).

MONOPOLY AS ORGANIZED, BUT NO DEFINITE ABUSE OF POWER.

The finding of the Missouri court tends to confirm the testimony of Mr. Jones above, the court saying (Record, pp. 117, 118):

"The evidence also shows that the price of Harvester machines was not materially higher after the New Jersey corporation entered the field than it was before until 1908, when it was increased 8 or 10 per cent, whilst in the meantime there had been a greater increase in the price of the material and labor used in their construction. The evidence also shows that whilst harvesting machines were the chief products of the companies absorbed by the International Harvester Co., that company has greatly enlarged its business and extended it to many other farm implements, and has thus put itself in competition with the many concerns that theretofore were and still are engaged in manufacturing such other farm implements, and the farmers generally have profited thereby. The evidence also shows that the machines manufactured by the International Co. have been greatly improved in quality, and the item of repair material has been reduced in price and placed within closer reach of the farmer. On the whole the evidence shows that the International Harvester Co. has not used its power to oppress or injure the farmers, who are its customers."

In the Missouri case all of the company's records were freely submitted and fully examined, but the Supreme Court of the United States, in reviewing this case, said the Supreme Court of Missouri "did not find a definite abuse of its powers by the plaintiff in error." (Record, pt. 2, p. 127.)

MISSOURI COURT PERMITS CONTINUANCE IN BUSINESS ON CORRECTED BASIS—SIMILAR TO VIEWS OF WITNESS.

Senator REED (p. 39) asserted that Mr. Jones's case presents an ethical question, namely, that if a concern is organized in an illegal manner, to become a member of it afterwards is illegal; but the witness answered denying this (p. 40). Mr. Jones asserted that, even though the organization included illegal power, yet there was no use made of the illegal power after he became a member, and he, therefore, was not a party to any unlawful act.

Not only do the foregoing quotations from the Missouri decision sustain the witness as to the conduct of the concern after he became a member of its board, but the judgment of the Supreme Court of Missouri in permitting the company to continue in business on certain definite terms, which terms are practically analogous to the position of this witness, completely overthrows and answers the ethical suggestion of Senator REED. The court permitted the company (p. 121, Record, pt. 2) to continue to do business in Missouri on the following general basis:

"If the International Harvester Co. is to be permitted to continue to do business in this State, either in its own name or through the agency of respondent, it must be on condition that it shall not use its power either to force a competitor to sell or drive it out of the market by unfair methods, and that it will not raise the prices of the articles it sells beyond a fair profit on their cost and the expense of marketing the same."

RESTRAINS A MONOPOLY FROM THE INSIDE.

No defense of the Harvester Co. is necessary or attempted in this report. Every act of Mr. Jones in connection with that company seems to have been entirely proper and to have been part of a general business experience, well qualifying him to protect the public interest as a member of the Federal Reserve Board. He expressly states that he is not in sympathy with these big consolidations (p. 64) and that he is in thorough accord with President Wilson's policy in destroying monopoly (p. 65).

Apparently Mr. Jones and others with him have restrained a monopoly from the inside, which should commend him rather than subject him to a sort of attainder of blood, which the majority of the committee implies he took by official descent. Here seems to be a blind and passionate confusion of good with evil which can not be accepted without disastrous public consequences. A citizen who has no financial interest in the concern becomes a director from motives of personal friendship and public interest (p. 35). He and others with him prevent the concern, which was organized as a monopoly and has the bad name of a monopoly, from continuing to act unlawfully and as a monopoly. He certainly is not to be condemned for this.

The intelligent patriotism which manifested itself in the affairs of Princeton University should be utilized in the further service of Democratic reform. It is natural that the political party under whose administration the trusts were formed should oppose this nominee. That party's leaders do not wish the Democratic Party and President Wilson to succeed. They seem to pray for failure or panic to prevent all such reform. The Senate and the country may well rely upon the President's judgment of his comrade in arms.

MISLEADING STATEMENT OF MAJORITY AS TO ORGANIZATION OF FOREIGN CORPORATION.

The majority report says:

"Fourteenth. About the time the United States action was brought the trust divorced its foreign business from that in the United States by creating a separate concern, known as the International Harvester Corporation, and diverted about half of its great capital of that corporation, so that it might be beyond the reach of the United States in case the Government wins the action now pending. Mr. Jones participated in this act of invasion, as he did in earlier acts of defiance."

This statement is clearly in error, as the diversion did not take place until after the Government suit was filed and could not affect that suit.

But what are the undisputed facts according to the record of the manner in which this division of business was made?

The company had a large business abroad, with factories adapted to the peculiar needs of those countries. The actual investments abroad and in the new lines represented about one-half of the capital of the company at that time (pp. 21, 32). The business as conducted abroad was never claimed to be monopolistic, but, on the contrary, was highly competitive (pp. 22, 27, 37, 38).

Before the organization of the foreign company in 1913, the facts were frankly presented to the Department of Justice, which, while not conceding anything or releasing the power of the Federal court as it had attached, raised no objection to the expressed plans of the company to sever the ownership of its foreign property from that retained by the old company in the organization of this new company (pp. 17, 19, 20, 23, 30).

We submit that the statement of the majority, indicating as it does wrongdoing on the part of Mr. Jones in this connection, is most unfair and in keeping with the whole tenor of the majority report.

DIVIDENDS WITHHELD, SURPLUS ACCUMULATED.

The insinuation of wrongdoing on the part of Mr. Jones in participating in the issuance of a stock dividend based upon actual earnings of the company, as set forth in paragraph 8 of the majority report, is likewise unjust.

There is no dispute about the properties turned into the original incorporation in 1902 being equal in value to the capital stock of $120,000,000.

The assets had so increased December 31, 1907, according to the report of the commissioner in the Missouri case (p. 103), adopted by the Supreme Court of Missouri (p. 116), that they were then valued at $156,282,654.16.

The criticism is based upon an increase of the capital stock by $20,000,000 in 1910 by way of a stock dividend to the holders of common stock.

On the subject of this dividend, Mr. Jones, in his supplemental statement after tabulating the earnings and dividends, says:

"In June, 1910, a stock dividend of $20,000,000 was declared on the common stock on which no dividends had been paid since 1906 and prior

to that time the total dividends had averaged less than 4 per cent. This stock dividend gave the stockholders nothing except more shares, representing the same amount of property in which the undistributive earnings had been invested. Including stock dividends, the average dividend on the total capital stock was only 5.90 per cent per annum."

NEW JERSEY ZINC CO.

The majority report is most unfortunate and misleading as to facts under this head.

PLAIN ERRORS AND OMISSIONS IN MAJORITY REPORT.

This report states (p. 4):

"The company (New Jersey Zinc Co.) owns practically all the known zinc ore in the United States." There was no such testimony before the committee.

"From the best information available I feel warranted in stating positively that the total zinc contents of all ores derived from mines owned by the New Jersey Zinc Co., or in which it has any interest, through its subsidiaries or otherwise, amount to somewhat less than 25 per cent of the zinc contents of all zinc ores mined in the United States." (Mr. Jones's letter, p. 4.)

This is confirmed by the United States Geological Survey. The majority of the committee could easily have ascertained the facts by inquiry of anyone informed as to the zinc industries or of the Geological Survey.

On page 5 the report says that the New Jersey Zinc Co.'s control of the market on oxide of zinc is so complete that the paint mixers of the country, with the exception of one large firm, are at its mercy. Mr. Jones, when before the committee, stated (p. 60) that the Mine Hill mine of the New Jersey Zinc Co. is the only mine of its kind in the world, but is being rapidly exhausted. This company, only because it owns this mine, is making 85 per cent of the oxide of zinc produced in the United States, but it is used in combination with white lead in paints (p. 58), and is also keenly competitive with white lead (p. 57). White lead has a controlling influence upon the price of oxide of zinc, and there are three or four times as much white lead used (pp. 66–67). On this subject Mr. Jones said:

"They are the real competitors, and they are very vigorous competitors.

"When you say that we have 85 per cent of the oxide of zinc trade, that is misleading, because the real competitor of zinc is white lead, and every movement in either one of these products affects the other, and there is a very keen and lively competition, and always has been, between white lead and zinc. * * * I should say there is probably three or four times as much white lead as there is oxide of zinc (p. 67).

"In addition, there is competition with French zinc, which, though 2 cents a pound more, is a heavier pigment and goes further" (p. 60).

The attitude of Mr. Jones toward large combinations, his sympathy with the President's policy in destroying monopoly, and the fact that the public usefulness of the New Jersey mine was increased by adding other mines to it are shown by the following parts of his testimony (pp. 65 and 56):

"Senator CRAWFORD. Are you in sympathy with the general policy of these big consolidations, with the power that may be, in the abstract, dangerous, depending entirely on whether the men who are using it are good men or bad men?

"Mr. JONES. No, sir; I am not in sympathy with them.

"Senator CRAWFORD. You really do not believe in it?

"Mr. JONES. I do not, frankly. I am giving my personal impressions now, and not those of any corporations I may be connected with. I think industrially most of them are failures, and the difficulty is that they reduce the individual to a mere unit.

"Senator CRAWFORD. Your idea is that if one of them is organized it may be dangerous or it may be kept within bounds by the right kind of a board of directors; that you could accept a position on the board of directors for the purpose of keeping it within bounds, although there was a dangerous power vested in it?

"Mr. JONES. I think they can be kept within reasonable bounds perfectly well, and I think many of them are.

"Senator HITCHCOCK. You think this is not a combination in restraint of trade or in control of trade—the New Jersey Zinc Co.?

"Mr. JONES. I do not.

"Senator HITCHCOCK. It has 85 per cent, you say, of the zinc trade of the country?

"Mr. JONES. Of the oxide of zinc.

"Senator HITCHCOCK. Of the oxide of zinc, I mean; yes.

"Mr. JONES. About that.

"Senator HITCHCOCK. Well, is there any other concern that controls a larger per cent of the products it manufactures?

"Mr. JONES. Not oxide of zinc.

"Senator HITCHCOCK. No; I mean of any other industry. Is there any other company that comes any nearer to monopolizing a certain product?

"Mr. JONES. No, sir. As I said, so long as oxide of zinc continues to be made out of the New Jersey mine ores the trade demands it and will not have anything else. It makes a grade of oxide of zinc that can not be made out of any other known ores in this country. I will say, frankly, that that mine is the whole business. There is no artificial combination of units to eliminate competition. That has not been attempted at all and has not been accomplished, but that mine continues a natural monopoly.

"Senator HITCHCOCK. Suppose your company and these others had not been united with the New Jersey corporation; would there be some competition between them?

"Mr. JONES. Well, as I told you before, we were up against it, because we could not get ores that would make a product that would meet all the needs of our customers; and it was in order to get a product that would meet the needs of our customers that we were willing—we had not any desire, but were willing—to sell our properties to the New Jersey Co. for stock in that company; and ever since then, as I told you, we have mixed the two and made a good product out of the mixture. I believe it has been industrially a great advantage to our customers, and my own judgment is that our customers have been fairly treated; and, as you have seen, there has been no combination in restraint of trade.

"Senator HITCHCOCK. One of the purposes in creating the new banking and currency system is to decentralize the banking power in the United States?

"Mr. JONES. Yes, sir.

"Senator HITCHCOCK. Which has been used to create monopolies. And I suppose that thought has been in the minds of some when the question arose as to your connection with two concerns which seem to have for their purpose a creating of great combinations; and the committee was curious to know whether your views were in harmony with the opinion of the country, which is strongly opposed to anything tending to centralize or monopolize business?

"Mr. JONES. I have not the slightest hesitation in answering any questions along that line that may be asked, as to what my views may be as to general policy. I am thoroughly in accord with what I believe to be President Wilson's policy in destroying monopoly.

"Senator HITCHCOCK. How would you go to work in destroying the zinc monopoly?

"Mr. JONES. I do not believe it is destructive, because I do not believe it is a monopoly in that sense.

"Senator CRAWFORD. That is a case where the supply has been limited by nature and is now limited by artificial combinations?

"Mr. JONES. Exactly.

"Senator HITCHCOCK. Yes; it looks that way.

"Senator SHAFROTH. There is no law requiring a man who owns a mine, if there is no other mine of the kind in the world, to divide it up so as to permit of competition?

"Senator CRAWFORD. By destroying the combination you could not increase the output from that mine.

* * * * * * *

"Senator LEE. Senator CRAWFORD has just called your attention to the fact that nothing could be done to increase the product of that New Jersey mine, and yet the combination that you have made really increased the applicability and public usefulness of the product of that mine, did it not?

"Mr. JONES. Oh, yes; it has made the output a great deal more, although, of course, that hastens the exhaustion."

BLAIR LEE.

MINORITY REPORT ON THE NOMINATION OF MR. THOMAS D. JONES AS A MEMBER OF THE FEDERAL RESERVE BOARD.

A careful reading of the hearings in this case, and the report of the majority of the committee, shows that it is:

First and principally an indictment, arraignment, trial, and conviction of the International Harvester Co. as a trust in violation of the Sherman antitrust law. A case to determine this issue is now pending in the Federal courts.

The International Harvester Co. was organized in 1902. Mr. Thomas D. Jones was elected a director of this company in April, 1909. The suit against the company was begun by the Department of Justice in the summer of 1912. Mr. Jones, the evidence shows, bought one share of stock, of the par value of $100, and paid for it in order to qualify as a director at the special request of Mr. Cyrus H. McCormick, a friend of many years standing.

After Mr. Jones became a director in the International Harvester Co. he attended most of the meetings of the directors held in Chicago and several of those held in New York City. He approved and acquiesced in such matters as were brought before the board. There is nothing in the record to show that anything which was acted upon at these meetings was in violation of any law, statutory or common, Federal or State, by any direct evidence or by any circumstantial evidence, unless it be the mere fact that the corporation continued to exist and do business. If any of the acts of the board of directors during the time that Mr. Jones was a member thereof violated any law of the land we respectfully invite our brethren who have joined in the majority report to point out specifically what those acts were.

Secondly, the report is an indictment, arraignment, trial, and conviction of the New Jersey Zinc Co. as a trust in violation of the Sherman antitrust law, against which company, so far as the record shows, and so far as we have any information, no complaint has been made either in any State or Federal court attacking the legality of its organization or any of its acts.

Mr. Jones is a large stockholder in this company and a director, and presumably has taken an active part in its management and development, as well as in some of the subsidiary companies owned and controlled by it.

It is very prosperous and has proven to be an unusually profitable investment. The New Jersey Zinc Co. and its subsidiary companies manufacture and sell about 85 per cent of the oxide of zinc, 3 per cent of the sulphuric acid, and 20 per cent of the spelter of our domestic trade. The oxide of zinc is a base for paint and sells in competition with lead in the ratio of 1 of zinc to 3 or 4 of lead. It also produces about 25 per cent of the entire output of zinc ore in this country. The New Jersey mine, known as the Mine Hill, because of the peculiar quality of its ore, is a natural monopoly. It is the only known deposit of zinc ore entirely suitable for paint. We assume that it has never been disputed that a man is entitled to all that he grows on his land or all that he produces from his mine. The ore from the other mines is not merchantable as a base for paint except as it is used in conjunction with the ore taken from the Mine Hill. How long the supply of the Mine Hill ore will last is only conjectural.

While the profits of this company have been very large, it is significant that no action has been begun against the company or its subsidiaries so far as this committee knows for any violation of any law, Federal or State. If there is in the record any evidence showing such violation, the majority of the committee has failed to point it out.

Third. We submit that the report shows no violation of any law by Mr. Jones, either personally or as a director, unless it be inferentially from the fact that he was a director and participated in such business of the International Harvester Co. as came before its board of directors and because of his interest and connection with the business and management of the New Jersey Zinc Co.

We hold no brief for the International Harvester Co. We are here neither to condemn nor to defend the organization, operation, or business methods of either the International Harvester Co. or of the New Jersey Zinc Co. If they, or either of them or their officers, have violated the law, we offer no palliation for the offense. We submit that there is nothing in the record showing that Mr. Jones in either company violated any law. There remain therefore but two questions to consider—

First. His qualifications.

Second. The expediency of his nomination.

As bearing upon these questions we refer to the following facts taken from the record:

On page 5 of the hearing Mr. Jones says:

"I had the time to give it (the International Harvester Co.), and the relations of corporations to their employees and to the public is an interesting question, and I was willing to give the time and I had the time to give, and I met the request of my friends for those reasons, and at the same time I recognized that it was a work that was worth giving some time and attention to, and I did give such time and attention as the work seemed to require."

Again, on page 5 of the record, Mr. Jones says:

"The relation of the company to its employees has had a good deal of attention by the board of the International Harvester Co. in the way

of profit sharing and schemes of that sort, which are occupying the attention of the directors of a great many corporations at the present time, which are not yet satisfactorily solved, but they will be later."

This reference to this principle is not made in a boastful way, but very modestly, and we believe it was the controlling factor in determining him to become a member of the board of directors of the International Harvester Co.

Again, on page 38 of the record, the following questions were asked and the answers given:

"Senator POMERENE. When you expressed your approval of the transactions and business methods of the International Harvester Co. since your connection with it, did you have in mind and give your approval in that statement to the original organization of the company?

"Mr. JONES. I did not, sir.

"Senator POMERENE. Or any of the transactions of that company between the date of its organization and the time when you became a directing force in the company?

"Mr. JONES. I limited my statement, or meant to do so, strictly to the transactions of the company after I had become a director.

"Senator POMERENE. The purpose of my question was to make that perfectly clear.

"Mr. JONES. I want to make that clear."

On page 49 of the record the following question was asked and answered:

"Senator HOLLIS. Now, if you had believed that these other officials with whom you associated yourself were lawbreakers and were acting in violation of the Sherman antitrust law, would you have become a director?

"Mr. JONES. No, sir; I would not if I thought so at the time."

On page 69 of the record the following questions were asked and answers given:

"Senator CRAWFORD. Are you in sympathy with the general policy of these big consolidations, with the power that may be, in the abstract, dangerous, depending entirely on whether the men who are it are good men or bad men?

"Mr. JONES. No, sir; I am not in sympathy with them.

"Senator CRAWFORD. You really do not believe in it?

"Mr. JONES. I do not, frankly. I am giving my personal impressions, now, and not those of any corporations I may be connected with. I think industrially most of them are failures, and the difficulty is that they reduce the individual to a mere unit."

So far as we know, no man has said aught against his character or his preeminent ability to fill the position with satisfaction to his country and with credit to himself. The President, who named him for the place, wrote to the chairman of the Banking and Currency Committee, under date of June 18, as follows:

THE WHITE HOUSE,
Washington, D. C., June 18, 1914.

DEAR SENATOR: I am afraid that Mr. Thomas D. Jones is the man about whom the committee will have the least information, and I venture to write you this letter to tell you what I know, and fortunately I can say that I really do know it.

I have been associated with Mr. Jones in various ways for more than 15 years, and have seen him tried by fire in causes which were like the very causes we are fighting for now. He has always stood for the rights of the people against the rights of privilege, and he has won a place of esteem and confidence by his quiet power and unquestionable integrity in the city of Chicago which is very enviable indeed.

His connection with the Harvester Co. is this: He owns one share, and only one share, of stock in the company which he purchased to qualify as a director. He went into the board of the Harvester Co. for the purpose of assisting to withdraw it from the control which had led it into the acts and practices which have brought it under the criticism of the law officers of the Government, and has been very effective in that capacity. His connection with it was a public service, not a private interest, and he has won additional credit and admiration for his courage in that matter.

He is a lawyer by profession, but he has devoted his attention to special aspects of the law and has been very little in the courts, I believe. My close association with him was in the board of trustees of Princeton University, where he stood by me with wonderful address and courage in trying to bring the university to true standard of democracy by which it would serve not special classes, but the general body of our youth. He graduated from Princeton University in 1876. He is of Welsh extraction, possibly of Welsh birth, though I am not certain on that point, and is a man whom I can absolutely guarantee in every respect to the committee. He is the one man of the whole number who was in a peculiar sense my personal choice.

Cordially and sincerely, yours,

WOODROW WILSON.

No higher testimonial could be given than this letter from the President of the United States, who has known him so long and so intimately, stands sponsor for him, and who is so much interested in the success of the new banking system. All who know Mr. Jones personally, so far as we have been advised, concur in the wisdom of his choice.

Because of the pendency of the suit against the International Harvester Co., in which Mr. Jones is a party defendant, men may honestly differ as to the wisdom of the appointment from the standpoint of expediency, but no one, in our judgment, can fairly doubt his qualifications. We submit that all questions of expediency should give way to his preeminent fitness, as testified to by those who know him best.

We therefore recommend that the Senate do advise and consent to his confirmation.

ATLEE POMERENE.
HENRY F. HOLLIS.
JOHN F. SHAFROTH.
BLAIR LEE.

HOUSE BILL REFERRED.

H. R. 12919. An act to amend an act entitled "An act to provide for an enlarged homestead," was read twice by its title and referred to the Committee on Public Lands.

PROPOSED ANTITRUST LEGISLATION.

Mr. HITCHCOCK. I submit and ask to have printed and lie on the table an amendment to House bill 15657. As it is very short, consisting of one paragraph, I ask to have it read for the information of the Senate.

The VICE PRESIDENT. In the absence of objection the Secretary will read as requested.

The Secretary read as follows:

On page 17, line 2, insert:

"No person shall be eligible for the position of member of the Federal Reserve Board or member of the Federal trade commission or for any other position of honor, subject to appointment by the President, who is a director, manager, trustee, or other officer of a corporation operating in violation of the antitrust laws of the United States or of any State or resisting in court the enforcement of same."

The VICE PRESIDENT. The amendment will lie on the table and be printed.

MEETINGS OF COMMITTEES DURING SESSIONS OF SENATE.

Mr. CUMMINS. Mr. President, we have now entered upon the most important work of this session, or, indeed, of any session held in the last 20 years. The three bills which constitute proposals for legislation upon the subject of trusts and monopolies are now before the Senate. I assume that it will not be possible for all Senators to attend at all times the sessions of the Senate; it may not be convenient for many Senators to attend constantly, but I desire a condition in which there will be nothing to prevent the attendance of Senators upon the debate which is about to take place. Therefore, in pursuance of a notice I gave some time ago, I offer the resolution which I send to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The Secretary will read the resolution.

The resolution (S. Res. 430) was read, as follows:

Resolved, That from and after the passage of this resolution, and until otherwise ordered, all permits given in resolutions, orders, or otherwise, authorizing standing or select committees to sit during the sessions of the Senate, are hereby rescinded.

The VICE PRESIDENT. Is there any objection to the present consideration of the resolution? The Chair hears none.

Mr. NEWLANDS. Mr. President, so far as I am concerned, I have no objection to the passage of the resolution. I simply wish the Senator from Indiana [Mr. KERN] to be informed of its contents.

Mr. KERN. What are its contents.

The VICE PRESIDENT. The Secretary will reread the resolution.

Mr. SHAFROTH. Let it be read again.

The Secretary again read the resolution.

Mr. KERN. I have no objection to the resolution. Of course the spirit of it is all right. There are some committees that I suppose ought to be excepted; that is, at least two that I have in mind. One is a subcommittee of the Naval Affairs Committee, which is conducting an investigation, and I understand has witnesses before it. I refer to the coal investigation of the Naval Affairs Committee.

I will inquire of the Senator from Iowa whether this resolution contemplates or takes into account conference committees?

Mr. CUMMINS. There are no such bodies as conference committees.

Mr. KERN. Well, they are conferees.

Mr. CUMMINS. And this resolution does not apply to managers of a conference.

Mr. KERN. I do not know the situation with reference to the investigation by the subcommittee of the Naval Affairs Committee.

Mr. CUMMINS. I do not, either. I only know that in the consideration of the bills that are now before the Senate every Senator ought to be at liberty to attend the meetings of the Senate. I do not suppose every Senator will attend, but there ought not to be any superior engagement compelling him to be absent.

Mr. KERN. I quite agree with the Senator from Iowa in that observation.

Mr. CUMMINS. Of course, there are times at which these committees can meet when the Senate will not be in session. We have now reached a point, it seems to me, where we ought to give our undivided attention to the legislation upon this subject, for we are about to do something that will affect, for good or for ill, more people than were ever before affected by legislation of Congress.

Mr. GALLINGER. Mr. President, agreeing fully with the purpose the Senator has in view, I desire to call attention to the fact that there is one very important committee that I apprehend is working day and night, and that is the committee that is going to discover how the secrets of the executive sessions get into the newspapers. [Laughter.] That committee ought not to be hampered in its work.

Mr. CUMMINS. In response to the Senator from New Hampshire, Mr. President, recognizing the vast and vital importance of the work of that committee, I will only say that it can apply to the Senate at any time for leave to sit, and if it is able to show that its work is so imperative I have no doubt the Senate will give it leave to sit during the sessions.

Mr. POINDEXTER. Mr. President, I should like to ask the Senator a question.

Mr. CUMMINS. I yield to the Senator from Washington.

Mr. POINDEXTER. Is it the Senator's understanding that a committee engaged in the business of the Senate can not hold its sessions while the Senate is in session without special permission from the Senate?

Mr. CUMMINS. Mr. President, we have no rule upon that subject save the general rule of parliamentary law as laid down in Jefferson's Manual. It would be no offense, I assume, but we now have upon the records of the Senate 15 or 20 resolutions permitting practically every committee having in charge legislation to sit during the sessions of the Senate. These sittings, according to the statement of Senators, have interfered with their presence in the Senate during the progress of debate, and I want to relieve the situation of that obstacle.

Mr. POINDEXTER. Mr. President, my understanding is that this resolution, if adopted, would not prohibit committees from sitting during the sessions of the Senate. It would operate probably as an expression of the sentiment of the Senate that Senators ought to attend the sessions of the Senate, but there might be, in a great many cases, emergencies requiring the action of committees during the sessions of the Senate. I think it would be impracticable to require that in each case they should obtain a special permit or order before they could transact that business.

I agree with the Senator that the business before the Senate is of paramount importance, and that Senators ought to attend; but, as the Senator has just said, it may not be practicable. I think he used the word "convenient." He might use a stronger word. It might not be possible in some cases, or consistent with the performance of the duties of a Senator, for him to attend the sessions of the Senate at all times that these bills may be before the Senate for consideration.

Some reference has been made to the inquiry of the subcommittee of the Committee on Naval Affairs which is now in progress. More or less elaborate proceedings have developed there, and the attendance of a large number of persons, and it is perfectly practicable for that subcommittee to continue to hold hearings during at least a portion of the time that the Senate may be in session. It holds its sessions in the Capitol Building, within immediate reach of the Senate Chamber; and while all Senators would desire to hear everything that is going on in the Senate Chamber, it is not necessary at all times that they should do so. I do not think it would be expedient to prohibit that committee, or the Judiciary Committee, or any committee that may be considering important nominations which the President may send to the Senate, from sitting at convenient times, even though the Senate should be in session.

Mr. CUMMINS. Mr. President, in response to the Senator from Washington, I suggest two things:

First, this resolution simply restores the Senate to its natural condition. It does not prohibit committees from sitting during the sessions of the Senate, if they so desire, and if the Senate is willing that they shall so sit.

In the next place, there are other hours of the day than those in which the Senate is in session, or in which it may be sitting, in which it has been supposed in the past that committee work should be done. So solicitous have been the general parliamentary writers upon this subject that I find it stated in Jefferson's Manual, on page 85, that—

> So soon as the House sits, and a committee is notified of it, the chairman is in duty bound to rise instantly, and the Members to attend the service of the House.

I do not say that that would always be true; but we have passed a series of resolutions declaring that practically all the committees may sit during the sessions of the Senate, and for the last four weeks four or five of the great committees have been sitting almost constantly during the sessions of the Senate, with the result that even those who desired to attend the sessions of the Senate were not able to do so in view of their duties before these committees.

I hope the Senator from Washington will not object. Let us at least return to our normal situation, and then deal with the question as it may come up from time to time. Let us rescind this wholesale permission to be engaged in other work during the sessions of the Senate.

Mr. POINDEXTER. I am in entire sympathy with the general spirit expressed by the resolution of the Senator from Iowa, Mr. President; but I will ask that it go over for consideration until to-morrow.

Mr. CUMMINS. That, of course, is within the Senator's rights. I simply wish to say before I sit down that under the objection of the Senator from Washington I shall find it necessary to do whatever I can—it may be little, or it may be nothing—to prevent carrying out the suggestion made, as I understand, last night in the Democratic caucus that instead of adjourning each evening a recess shall be taken, because if a recess were taken to-night until to-morrow, with these bills under consideration, the resolution would not appear until the next adjournment.

Mr. NEWLANDS. Mr. President, I trust the Senator from Washington will not ask that the resolution go over until to-morrow. I think it is highly important that the resolution should be adopted, and I only asked for time in order to bring it to the attention of the Senator from Florida [Mr. BRYAN], who, I knew, had a special committee that he desired to have exempted from the operation of this proposed order.

Mr. BRYAN. Mr. President, I quite agree with the construction placed by the Senator from Iowa upon the rules of the Senate, or, rather, upon the statements found in Jefferson's Manual, which is a part of the rules of the Senate.

There is a subcommittee of the Committee on Naval Affairs, consisting of the Senator from West Virginia [Mr. CHILTON], the Senator from Maine [Mr. JOHNSON], the Senator from Michigan [Mr. SMITH], the Senator from Washington [Mr. POINDEXTER], and myself, who have been holding hearings upon Senate resolution No. 291, commonly known as the coal investigation, to find out whether or not certain charges were true to the effect that the South Atlantic ports are discriminated against by the so-called Coal Trust. This subcommittee notified those interested upon both sides of the question that we would begin hearings on the 20th of this month. A large number of people have come to Washington to attend those hearings. The sessions began promptly on the 20th, and we have been holding sessions twice a day, beginning in the morning at 10 o'clock and suspending at 12, when the Senate convened, taking up the work again at 3 and continuing until 5 o'clock. The committee, of course, will yield to the judgment of the Senate.

Mr. CUMMINS. Mr. President, will the Senator from Florida yield to me for a moment?

Mr. BRYAN. Certainly.

Mr. CUMMINS. If we were to make an exception in this resolution of the subcommittee to which the Senator from Florida has referred—and upon the showing that has been made by the Senator from Florida and other Senators I should feel inclined to do so—would that remove the objection of the Senator from Florida and the objection of the Senator from Washington?

Mr. BRYAN. I believe the Senator would be justified in that. We have obtained a committee room, not on the same floor as the Senate Chamber, but immediately by the Senate Chamber, so that we can be reached at a moment's notice. The investigation is quite important, it seems to me, and, again, it does not seem fair to the people who have come here from a distance upon a notice of the Senate before they have been given an opportunity to be heard to discontinue the hearings.

Mr. CUMMINS. I am willing that an exception be put into the resolution I have offered. I ask the Secretary to write into it as an amendment the words "except the subcommittee of the Committee on Naval Affairs."

Mr. BRYAN. I suggest to the Senator to say "except the subcommittee of the Committee on Naval Affairs now considering Senate resolution 291."

Mr. CUMMINS. Very well. That will satisfy me.

Mr. BRANDEGEE. I think the Senator might except the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. CUMMINS. I do not believe that committee sits very often during the sessions of the Senate.

Mr. SMITH of Michigan. Mr. President, I do not like to object to the request of the Senator from Iowa, but the Committee on Foreign Relations has been conducting an inquiry in obedience to a resolution of the Senate, and I dislike to feel that that committee must come to the Senate and ask for further authority to pursue their investigation. That inquiry relates to a proposed treaty with Nicaragua; and, in my opinion, it is very important to ascertain our exact relations with that impoverished country. I do not know how much further progress will be made in the investigation, but if the object of this resolution is to obtain the presence of Senators on the floor of the Senate instead of their attendance upon committee work—and, of course, it is a very worthy object; no one can deny that—committee work will suffer during the hours of the Senate sessions, while the attendance upon the floor will not be more numerous than before. We have spent three or four days in the discussion of the river and harbor bill. The Senate has listened to the distinguished Senator from Ohio [Mr. BURTON], who has delivered a most intelligent and creditable speech, but we who sat upon the subcommittee with the honored Senator from Ohio are not lacking in the information which the Senator

from Ohio is now giving to the Senate. There is no reason why we should be prevented from other service in order to listen to that discussion.

I do not believe that the purpose of the Senator from Iowa will be realized. I should like to help him secure a larger attendance of Senators upon the floor, but I do not believe this plan will accomplish that purpose.

Mr. CUMMINS. I am not presenting this as a personal matter. I do not want any help from the Senator from Michigan. So far as my own work is concerned, I am presenting it as a matter of public policy. I supposed that it was the business of Senators to be present when the proposed legislation is debated and disposed of. I assumed that the work of a committee was preliminary to the work of the Senate. I hope the Senator from Michigan will not look upon this as any personal request. I have no greater interest in it than he or any other Senator has who desires good legislation.

I have said all I want about it. If there is objection to the resolution, it must go over; if there is not, I want a vote upon it.

Mr. LEWIS. May I ask the Senator from Michigan what particular investigation he has in his mind that he wishes reserved?

Mr. SMITH of Michigan. The subcommittee of the Committee on Naval Affairs, of which the Senator from Florida [Mr. BRYAN] is chairman, is now working on the investigation of the coal railroad discrimination in the South, and we are working from 10 o'clock in the morning until 5 o'clock in the afternoon, taking only a short recess in the middle of the day for our other work.

Mr. LEWIS. I may be in error, but I had understood that that had been excepted from the resolution as a conclusion of the conference on this side with the Senator from Iowa. Am I incorrect in that?

Mr. SMITH of Michigan. I think the Senator is correct. He asked me what committees are now working under the authority of the Senate. The other committee is the Committee on Foreign Relations, which has before it a resolution adopted by the Senate authorizing an investigation into Nicaraguan affairs. That committee has proceeded up to the present time during the hours the Senate has been sitting. It has been temporarily laid aside because there seems to be nothing before the committee to challenge our immediate attention, but if the treaty with Nicaragua should be sent here the inquiry will be promptly revived with vigilance and care; and I do not wish to be precluded from pursuing such an investigation by the adoption of a resolution of this character.

Furthermore, it has been intimated that under the policy adopted by the Democratic caucus last night—and I know nothing about it, except what I have heard on the floor—we are to proceed to recess from day to day, rather than adjourn, as is usual. Am I right about that? And it is said if the resolution is not adopted now, there will be no opportunity for it to be heard in the morning hour hereafter.

Mr. President, it is very easy to maintain a morning hour for routine morning business. The only thing necessary to do is to move an adjournment, and in the absence of a quorum the Senate can not recess; adjournment will be the only motion which can be made; the morning hour will come up automatically. I do not think there will be any serious trouble in observing the morning hour.

Mr. President, as far as I am concerned I am not in accord with the policy of the majority, determined by their caucus, which seeks to hold before the Senate any special bill to the exclusion of other bills, and I do not propose to aid the other side in any way by my vote or presence.

Mr. LEWIS. I will say if the Senator feels that there will be a morning hour, and therefore he will have complete opportunity for anything he would desire to discuss during the morning hour, there is no embarrassment. If, on the other hand, there were not a morning hour, and the Senator had some particular special matter he desired to present, I am sure he could rely on the courtesy of the Senate to allow him to entertain whatever he presented. Therefore I can see no obstruction to the resolution from that viewpoint.

Mr. CUMMINS. Mr. President, I do not want to be understood as favoring the plan to recess from day to day. I stated it because I read it in this morning's papers as one of the things favored by the caucus of the majority last night. I am very anxious that this resolution shall be voted upon.

Mr. SMITH of Michigan. I object to the present consideration of the resolution, and ask that it go over.

Mr. SIMMONS. Mr. President, I hope we may adopt the resolution offered by the Senator from Iowa. I think there is a feeling on both sides that there is certain legislation here that should be enacted before we adjourn. I think there is also a feeling that we ought to adjourn as soon as we possibly can. I believe that nothing would conduce more to facilitating this legislation and an early adjournment than action by this body which will stop the sitting of committees during the sessions. I trust the resolution may pass.

Mr. GALLINGER. Mr. President, joining with the Senator from North Carolina in his expressed desire that we should secure an early adjournment, I will ask the Senator if he, psychologically or otherwise, can suggest to us the probable time of final adjournment if we are all very industrious?

Mr. SIMMONS. I understand the Senator is asking me if I can suggest a probable time for final adjournment?

Mr. GALLINGER. Yes; approximately.

Mr. SIMMONS. I can not, Mr. President. The Senator knows as well as I do, and one Senator here knows as well as any other Senator, the difficulties that we have under our rules even when we are all ever so anxious to proceed expeditiously. If there is no filibustering in any direction, I had hoped for early action on all these measures; but if there is no filibustering on the trust and trade-commission bills, and after they are passed there is still filibustering on the river and harbor bill, or if the present filibuster on that bill is renewed, then, of course, that would greatly extend the length of time that we would have to stay here and suffer, because I think a majority of the Senators have made up their minds that there will be no final adjournment of Congress until the river and harbor bill has been passed, as well as these other bills.

Mr. NEWLANDS. Mr. President, I desire to ask whether the objection is still urged by the Senator from Michigan or the Senator from Washington against the resolution?

Mr. SMITH of Michigan. Yes; I insist on my objection.

Mr. NEWLANDS. Then, I ask for the regular order, Mr. President.

The VICE PRESIDENT. Objection is made and the resolution will go over. Concurrent and other resolutions are in order.

STATUE OF GEORGE WASHINGTON GLICK.

Mr. THOMPSON. I submit a concurrent resolution, and I ask unanimous consent for its present consideration.

The VICE PRESIDENT. The Secretary will read the concurrent resolution.

The Secretary read the concurrent resolution (S. Con. Res. 30), as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound in one volume the proceedings in Congress upon the acceptance of the statue of the late George Washington Glick 16,500 copies, of which 5,000 shall be for the use of the Senate, 10,000 for the use of the House of Representatives, and the remaining 1,500 shall be for use and distribution by the governor of Kansas; and the Secretary of the Treasury is hereby directed to have printed an engraving of said statue to accompany said proceedings, said engraving to be paid for out of the appropriation for the Bureau of Engraving and Printing.

Mr. SMOOT. I ask that the concurrent resolution may be referred to the Committee on Printing.

Mr. THOMPSON. Very well.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the concurrent resolution will be referred to the Committee on Printing. If there are no further concurrent or other resolutions, the morning business is closed.

GENERAL DEFICIENCY APPROPRIATIONS.

Mr. MARTIN of Virginia. I ask that the conference report on House bill 17824, the general deficiency appropriation bill, may be laid before the Senate.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. MARTIN of Virginia. I move that the report be adopted.

The VICE PRESIDENT. The question is on the adoption of the conference report.

Mr. CLARK of Wyoming. Mr. President, there is but one matter in the conference report to which I desire to call attention, and that is in regard to the amendment which was proposed by my colleague [Mr. WARREN] and which was adopted by the Senate, making an increased appropriation for the fish hatchery at Saratoga, Wyo. It seems that the conferees in their wisdom have seen fit to strike from the bill this amendment.

The situation is a little peculiar. An appropriation was made some years ago for a hatchery at that point. Much of the land was in private ownership, and the acquiring of title took up time and required more money than was anticipated at the beginning. The consequence is that the work has dragged and there is an insufficient amount at present, according to the Secretary of Commerce, to put the institution on the basis which it ought to attain.

It occurs to me that in these times of rising prices, especially of food products, and in the failure of our hopes and expectations that under the recent tariff legislation the cost of living

would be reduced, the Government ought to use every means in its power to increase the food supply, and fish is becoming a very important food supply. I notice in the morning papers the congratulations upon Congress for providing free fish wharves here, because they would result in reducing the cost to the consumer of one of the principal necessities of daily life.

It is not my purpose, Mr. President, to antagonize the adoption of the conference report, but I wish to call attention to the fact that this amendment was made directly upon the request and at the suggestion of the Secretary of Commerce, which appears in a letter printed at page 13440 of the RECORD, when this bill was under discussion. I can only express my regret that the conferees have seen fit not only to halt the necessary work upon this project but to retard still further the hope that the people of the United States have entertained that there might be some reduction in the cost of living through an increase in the quantity of food products.

Mr. SMOOT. Mr. President, in connection with the deficiency items in this appropriation bill I desire to call the attention of the Senate to some other things that may in the future cause greater deficiencies than are shown in this bill. I call attention to the imports and exports for the month of June, 1914, and compare them with the imports and exports for the month of June, 1913. The total imports for the month of June, 1914, were $157,772,973; for June, 1913, they were $131,245,877, or an increase of imports for the month of June, 1914, over the month of June, 1913, of $26,527,096.

The total exports for June, 1914, were $157,119,451; for June, 1913, they were $163,404,916, a decrease of $6,285,465 for the month of June, 1914, as compared with June, 1913.

The exports and imports together for the month of June, 1914, as compared with June, 1913, show a loss to the commerce of our country of $32,812,561. The effect of the Democratic tariff was not materially felt until April, 1914, as orders could not be placed by American importers and goods made and shipped by the foreign manufacturers much before that date.

I now call attention to the total loss to our commerce by the increased importations and decreased exportations for the months of April, May, and June, 1914, as compared with the same months of the year 1913:

Loss for April, $63,890,849; loss for May, $63,562,901; loss for June, $32,812,561, or a total for the three months of $160,266,311.

What a wonderful difference it would have made to American workmen and to American business if this vast amount of merchandise had been made by the unemployed of our country. The month of July, according to the statement of the United States Treasury, dated July 18, 1914, bids fair to be as disastrous as the preceding months, for I see the custom receipts, notwithstanding the great decrease in the rates of duty, are greater than for the same period of July, 1913.

I have a list of the imports of merchandise in May, 1914, compared with May, 1913, covering 27 classes of goods. I ask that it be printed in the RECORD without reading.

The VICE PRESIDENT. Without objection, it is so ordered.

The table referred to is as follows:

Imports of merchandise in May, 1914, compared with May, 1913.

[Official report of Department of Commerce for May, 1914.]

Products.	1914 values.	1913 values.	Increase.	Per cent.
Aluminum, manufactures of	$150,056	$92,641	$57,415	61
Automobiles, parts of	131,776	26,946	104,830	389
Watches and parts of	272,193	204,705	67,488	32
Clocks and parts of	78,273	61,039	17,234	28
Cloths (cotton)	749,032	532,028	217,004	40
Lace and lace articles	990,626	751,357	239,269	31
Stockings	301,968	223,739	78,229	34
All other knit goods	262,305	29,833	222,472	745
Yarns (linen)	76,063	51,094	24,969	48
Fruits and nuts	5,190,454	4,194,537	995,917	23
Glass and glassware	708,435	520,081	188,354	36
Cutlery	242,444	126,008	116,436	92
Leather and tanned skins, and manufactures of	1,485,372	718,931	766,441	106
Gloves (leather)	251,609	227,487	24,122	10
Linoleum	131,506	116,339	15,167	13
Paper and manufactures of	2,384,166	1,849,434	534,732	28
Perfumery and toilet articles	214,202	125,933	88,269	69
Seeds	1,879,508	1,381,785	497,723	36
Silks and manufactures of	12,223,314	9,150,574	3,072,740	33
Vegetables	990,637	578,498	412,139	71
Wool, class 1	4,353,487	1,009,767	3,343,720	331
Wool, class 2	578,275	159,553	418,722	262
Wool, class 3	1,857,502	651,967	1,205,535	185
Cloths	1,316,155	228,871	1,087,285	475
Dress goods	379,716	186,804	192,912	103
Wearing apparel	130,282	105,048	25,234	24
All other imports of wool	1,779,330	524,291	1,255,039	239
Total	39,098,687	23,829,293	15,269,394	64

Mr. SMOOT. I now want to call the attention of the Senate to the total value of imports and exports of the United States for the 12 months ending June 30, 1914, as compared with the 12 months ending June 30, 1913. Total imports, free and dutiable, for the fiscal year 1914, $1,894,169,180; total imports, free and dutiable, for the fiscal year 1913, $1,813,008,234, an increased importation for the fiscal year 1914 of $81,160,946. Total exports, domestic and foreign, for the fiscal year ending June 30, 1913, $2,465,884,149; total exports, domestic and foreign, for the fiscal year 1914, $2,364,626,555, a decrease in exports for the fiscal year 1914, of $101,257,594—a total loss to our commerce by increased importations and decreased exportations of $182,418,540.

Senators will notice that out of a total loss to our commerce for the year ending June 30, 1914, of $182,418,540, the greater part of it, namely, $160,266,311, occurred during the months of April, May, and June, 1914. What stronger condemnation could be made against the Democratic tariff bill than these facts, furnished us by the published statements of our Department of Commerce? A kind Providence has vouchsafed to our country an unprecedented crop, and at a time when other countries are suffering from a shortage. Mother earth has yielded to the American husbandmen her richest blessings, and let us hope that this will prevent disaster to our business life and want and suffering to our laboring people.

Mr. SIMMONS. Mr. President, I did not know it was the purpose of the Senator from Utah [Mr. SMOOT] to enter into a tariff discussion this morning, and I hesitate to take up the time of the Senate when I know Senators are so anxious to begin the consideration of other legislation, in which the country is deeply interested, in replying to that Senator, but I feel it is proper I should give the Senator some facts in connection with our import and export trade.

The Senator from Utah has referred to the increase in imports during the last two or three months. In a statement issued only a few days ago by the Secretary of Commerce, Mr. Redfield, it was shown that the increase in the imports during the last few months is due largely to an increase in the importation of food products, and that the increase in the importation of manufactured products ready for consumption has been relatively small. As is explained by the Secretary of Commerce in this very illuminating statement, which he has issued and given to the public, that that increase in food products was to supply a deficiency of these products in this country, resulting from the fact that last year we had short crops and a falling off in the domestic meat supply.

This increase in the importations of food products has not, because of the scarcity in this country, reduced the price to any considerable extent of the food products here. There has been a great deal of talk about the increase in the importation of corn and of meat products, but because of the short supply of those products that importation has not resulted in an appreciable reduction in the price of those products in this country.

I do not think from any standpoint there can be ground for serious criticisms of an increase in imports when it does not affect the price of products here; but from the Democratic standpoint, whenever the price of any product in this country is unreasonably high we welcome imports. One of the objects and purposes in the reduction of duties by the Democratic Party was that, when American producers were exacting of American consumers unreasonable prices for their products, the doors might be thrown open in order that consumers might get the necessaries of life at more reasonable prices.

Mr. President, there has been some slight falling off in the amount of exports in the last few months. It is well known to every man of common knowledge that the purchasers of our exported products are foreigners. When we export anything from this country to a foreign country we sell it to foreigners. If the financial condition of the foreign countries to which we export our products is bad, if the business situation there is depressed, it affects the purchasing power of our customers. When you find a falling off of exports from this country, in view of the well-organized arrangements of the producers of the staple products in this country for the exploitation of foreign markets, it is not to be attributed to any condition that exists in this country; it is not to be attributed to any tariff legislation; it is not to be attributed to any policy of the administration; it is to be attributed to the conditions that prevail in the countries where we sell those products.

The fact that our exports have fallen off is conclusive evidence of what the newspapers tell us, of what publicists tell us, of what the economists tell us, that in nearly every country in the world to-day there is a condition of business depression very much greater than any that has recently existed in this country, even taking the pessimistic views of those who advo-

cate protection and who attribute all evils that come to us, whether they come through Providence or from other sources, to the abolition of the Republican prohibitory protective tariff system.

Mr. President, the Senator has given us some figures with reference to imports, intended to show that the increase of importations in recent months is due to the passage of the Democratic tariff bill. The Senator would have the country believe that the increase in imports is entirely due to this legislation and because of alleged cheaper production abroad. The Senator ignores the well-known fact that this increase is largely of food products, and to supply a deficiency here caused by short crops, and so forth. Further, the Senator forgets the fact that our import trade has been progressive under all administrations and under all tariffs. I say to the Senator from Utah, if he contends that this increase in imports in recent months is the result of the Democratic tariff law and that that increase has robbed the laboring men of this country of jobs, that if he will take the imports that have followed the tariff legislation of his party and apply the same theory and logic he will find that the number of jobs that have been lost to workmen, if any, as the result of the increase in imports is many per cent less under the Democratic tariff law than under the Payne-Aldrich law and under the Dingley law.

Now, let me give the Senate some figures in regard to that. I will go back just one year, but I will go back far enough, Mr. President, to get within the purview and limitations of the Payne-Aldrich law, a law for which the Senator from Utah has always stood sponsor; a law which he thinks is an ideal tariff law; a law to which he wants the country to return and which he thinks is the panacea for all political, industrial, and commerical ills. Let us see what was the increase of imports under that law. The total imports under the Payne-Aldrich law in the fiscal year 1912 were $1,653,226,934. In the fiscal year 1913, just one year afterwards, under the operation of the Payne-Aldrich law the imports amounted to $1,813,008,234, an increase under the Payne-Aldrich law in importations of foreign products, in one year, of $159,744,300.

Now let us compare the years 1913 and 1914, during the first of which we had the Payne-Aldrich law, and during 11 months of the latter we had the present Democratic tariff law. In 1913 the imports were $1,813,008,234; in 1914, covering 9 months of the Democratic tariff law, the total imports were $1,894,169,180, an increase under the new tariff law in importations in one year of $81,000,000, as against an increase under the Payne-Aldrich law in the previous year of $159,000,000; in other words, a falling off in imports in one year under the Democratic tariff of $78,000,000.

Let me put these figures in percentages, Mr. President. The increase in imports from 1912 to 1913 under the Payne-Aldrich law was 9⅝ per cent; the increase in 1913 to 1914 under the Democratic tariff, put in percentages, was 4.4 per cent; so that the increase in imports for the year 1913 over the year 1912 under Republican tariff was 9⅝ per cent, as against a 4.4 per cent increase for the fiscal year 1914 under the Democratic tariff law over the year 1913, or an increase of about twice as much under the operation of the Payne law, in one year, as under the operation of the Democratic tariff law.

Mr. SMITH of Michigan. But there was a larger domestic business then.

Mr. SIMMONS. No; I am referring to imports.

Mr. THOMAS. Mr. President, in this connection I want to call the attention of the Senator from North Carolina to a statement from the New York Evening Post, which I caused to be inserted in the RECORD yesterday, which is designed to show that a comparison of the exports of 1914 with those of 1913 alone is misleading, and that when those comparisons are carried further back it is demonstrated that the amount of the falling off in exports between those two years is comparatively small as compared with the different percentages in the falling off between the exports of 1914 and the exports of years previous to 1913. It is a very instructive article.

Mr. SIMMONS. Does the Senator desire to put that in the RECORD?

Mr. THOMAS. It was inserted in the RECORD yesterday, and I was only calling the attention of the Senator from North Carolina to it.

Mr. SIMMONS. Well, Mr. President, that is all I care to say about this matter of imports. If the increase in the imports of this country results in depriving labor of work, as the Senator from Utah says, then, according to the statistical figures which I have given here and which can not be disputed, the imports under the Payne-Aldrich law during the two previous years caused a great deal more falling off and deprivation of jobs than has been caused since then under the Democratic law.

Mr. SMITH of Michigan. Oh, no.

Mr. SIMMONS. But let me proceed, Mr. President. We are very familiar with the argument that was made with respect to imports when this tariff bill was up for consideration. We were told that we would be flooded with imports, and the countries from which we were told these imports would come were the manufacturing countries, not the agricultural countries. Nobody doubted our ability to protect ourselves when we made a good crop against the agricultural countries. Nobody raised very seriously the question of our ability to protect ourselves against these agricultural imports. The argument was confined mainly to the general proposition that Germany and Great Britain and France and Belgium and other countries in Europe could manufacture products so much cheaper than we could that if we made these reductions in duties our markets would be invaded and inundated with these foreign manufactured products.

Now, the fact is, entirely in line with the argument which I have just made, and supporting the statement which I have just made, that these importations were largely food products to supply a demand caused by the bad crops in this country—the increase in imports that the Senator refers to in the last few months, and which I admit has come very largely from the agricultural countries and not from the manufacturing countries, especially not from the manufacturing countries of Europe. There has been hardly any change either in the import or the export situation between this country and Europe since the passage of the tariff act.

To bear out that statement I want to read a few official figures, and then I shall conclude. I have much more that I should like to say in this connection, but in the interest of time, and not to trespass upon the Senate when it wants to proceed to something else, I want simply to read the statistics of imports and exports between this country and Europe since the passage of this act, and then I shall conclude.

Imports from Great Britain for 11 months ending May, 1913, $275,362,605.. Imports from Great Britain for 11 months ending May, 1914—this year—$268,910,041.

Imports from Great Britain have fallen off. Great Britain was the country, the great manufacturing center, the home of pauper labor, which, according to protectionist argument, was to engulf us with its cheap products; and yet there has been a falling off of more than $6,000,000 of imports under our Democratic tariff.

Exports to Great Britain during 11 months ending May, 1913, $565,851,978. Exports to Great Britain during 11 months ending May, 1914, $557,837,521, a falling off in our exports to Great Britain of less than $8,000,000.

Here are the figures for all of Europe, embracing the great manufacturing countries of the world; the countries from which we had the most to dread, according to protectionists; the countries that were to come upon us like a mighty army and sweep away our factories, to take away the jobs of our laboring men. All of Europe—imports for eleven months ending May, 1913, $829,842,558. Imports from all of Europe for 11 months ending May, 1914, $826,430,748, a falling off of $3,412,000 in imports from all of Europe.

I am talking now about the first 11 months of these years, and not the whole fiscal year; the first 11 months of this year compared with the like number of months of last year. We have not yet the figures for the entire fiscal year of 1914.

Now, take the exports. Exports to all of Europe for these 11 months, 1913, $1,397,985,962. For the same 11 months of 1914, exports to all of Europe, $1,396,187,935.

Expressed in billions and in millions, there was exactly the same export trade between this country and Europe during the 11 months just past and the 11 months of the fiscal year ending June, 1913.

From these figures it appears that our imports from Great Britain for the 11 months ending May, 1914, were $6,000,000 less than for the same months in 1913, and our imports from all of Europe were likewise $3,400,000 less in 1914 than in 1913, while our exports to Europe were almost precisely the same for the same period of time.

As I said, Mr. President, some time before this Congress adjourns I desire to review this whole situation, but everybody recognizes that this is not the time. I apologize to the Senate for saying this much to-day, and I would not have done it but for the fact that the Senator from Utah made the statement that he did.

Mr. GALLINGER. Mr. President, no Member of this body is more anxious than I am that this session shall close. I acted as a member of the committee of conference on the bill that is before the Senate, and I want to see it agreed to as

speedily as possible. Notwithstanding that, however, I shall take a few minutes to put in the RECORD one or two facts that I think it is important should be placed in that publication, in view of what has transpired this morning.

The fact is, we all need a rest. There is not a Member in this Chamber, nor a Member of this body outside of the Chamber, who does not want to get home and who ought not to be permitted to go home. The President of the United States to-day ought to be breathing the health-giving ozone of the mountains and lakes of New Hampshire instead of the superheated atmosphere of Washington. We ought to adjourn as speedily as possible.

A few days ago I took from a former Democratic paper an item that interested me. It is headed:

GIVING CONGRESS ITS HAT.

It is chronicled of the evil King Jehoram that "he departed without being desired." This will be written in the history of the United States of the Congress that has prostrated business and is persisting at its task. Never has there been a Congress that so thoroughly vindicated the principle of the recall, that has so abundantly earned the condemnation of the undesired king.

But why should this Congress tarry in overheated Washington to add yet more to the discouragement of industry and the demoralization of commerce? Why should the eminent statesmen expose themselves to the torrid climate of Washington till they see the ashes of prosperity scattered on the waters?

The Nation to-day stands in the attitude of the bored and disgusted host, saying to the Congress fervently and with unaffected urgency, "Here's your hat! What's your hurry?"

I also clipped from the New York Tribune a few days ago an article headed "Not patriotism, but cowardice." The Tribune says:

It is not patriotism, but political cowardice, which keeps Congress in session at Washington. The leader of the majority in the House wants to quit. Five-sixths of his followers want to quit. Yet because the President has cracked the lash the weary toilers mechanically keep on toiling. They have no interest in their work, and the country has no interest in it.

Mr. President, that has been demonstrated over and over again during the past week, when we had to spend 15, 20, and sometimes 30 minutes in the middle of the day to secure a quorum of this body. The Senate has had no interest in its work; the Senators want to get away from Washington; and, in my opinion, the sooner Congress adjourns the better it will be for the country. The Tribune continues:

The only effect of the passage of the antitrust bills now pending in the Senate would be to surround with new uncertainties all prosecutions under the Sherman law and to retard further the recovery of business. There is no patriotism involved in muddling up a situation which had been almost completely clarified and further delaying the return of prosperity.

Nearly everybody about Washington except President Wilson sees this. He sets up his opinion against that of the Democrats in Congress and calls their surrender to him an act of patriotism. It is something to their credit that they are loath to accept as such what he has described as a decoration of honor. If there is nothing better and higher in patriotism than subserviency to a party leader, there would be no sting for anybody in going down in history as a man without a country.

Mr. President, I do not at this time intend to go into a discussion of the question that was raised by the Senator from Utah, and which has been replied to so vehemently by the Senator from North Carolina.

Mr. JONES. Mr. President, before the Senator proceeds, I have a little clipping here that might be of interest right along the line of those which he has just read.

Mr. GALLINGER. I shall be pleased to have the Senator put it in the RECORD.

Mr. JONES. It is an account of an interview with Senator WILLIAMS, of Mississippi, and is dated at Atlantic City.

JOHN SHARP WILLIAMS, United States Senator from Mississippi, is authority for the statement that the Democratic majority at Washington is worn out, peevish, and utterly weary of the work President Wilson has cut out for it, but determined to go through with the task if it takes months, instead of weeks, to come.

* * * * * * *

"We have gone so far that it would be suicidal to stop," he said this afternoon. "Months of discomfort and strain, particularly during the warm weather, have reduced many of the Senators to a condition which precludes the sanest and best work, but the only thing possible now is to go ahead."

Mr. GALLINGER. Why, Mr. President, everybody agrees to that in private conversation; but it is a little surprising to me that any Democratic Senator has openly announced the opinions which he so freely gives to his colleagues in the Senate in private conversation.

Mr. JONES. That was what surprised me, and that is the reason I thought it would be well to have it in the RECORD.

Mr. GALLINGER. I was about to say that I have noted the fact that the Senator from North Carolina says that he intends to discuss matters relating to tariff legislation at length before the adjournment of this session. I hope it will be before snow flies, because some of us would like to get home and look over our farms and get acquainted with our constituents; but whenever it may be I shall doubtless be here, and will then take the opportunity to put in the RECORD many facts that I have in my possession, and a great many more that I shall accumulate between now and that time.

For the present I am going to content myself with placing in the RECORD, without reading, if the Senate will give me permission, a letter from the Manufacturers' Association of Montgomery County, Pa., showing the condition of industrial affairs in that county, which I commend to the Senator from North Carolina and his Democratic associates.

The VICE PRESIDENT. Is there any objection? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

MANUFACTURERS' ASSOCIATION OF MONTGOMERY COUNTY,
Norristown, Pa., July 17, 1914.

Hon. WOODROW WILSON,
President of the United States, Washington, D. C.

DEAR SIR: The purpose of this letter is to lay before you, as President of the United States and leader of the political party now in power, the existing business conditions of those manufactories and other industries which make up the Manufacturers' Association of Montgomery County, Pa.

This association represents industries which lie in that part of the Schuylkill Valley covered by the county named, which county is adjacent to Philadelphia. It does not embrace all the industries in this county. It is, however, representative, and whatever is said of the conditions of the factories, etc., of this association applies with equal force to all other like industries hereabouts. It is a general condition that is here set forth.

Under existing circumstances we feel it to be our duty in this most unusual way to lay certain facts before you, and to lay these facts before you for the reason that if any relief is to come, so far as we can see, that relief must come through you. If there is no relief, then the outlook is nothing less than frightening.

In a great measure that part of the Schuylkill Valley for which we now speak is industrially paralyzed. Appalling as that statement is, it does not exaggerate real conditions. We might lay before you an elaborate statistical plan showing just how many hours in the week many of our factories have curtailed; we might in this way show you just what the percentage of loss of wages to the workpeople is; we might work out for your easy reading what the individual losses aggregate to a given group as compared with this time one year ago. We content ourselves, however, with the broad statement—a statement based on facts quite within our control and always ready for your inspection—that such are the conditions here now that should these conditions become permanent, it would mean the annihilation of many of these industries and all the consequences which such disaster would carry with it. If these conditions are not improved, they mean destruction. It is in the presence of this impending ruin that this letter is written.

We would not bring this situation in this public way to your attention were we not convinced that you have the power to give, in some measure at least, the relief we ask and to which we are entitled. Mark, please, the relief to which we are entitled. We are not asking a favor. We are seeking to avoid a calamity. We have been told that we are asking too much of human nature to suggest a modification of the tariff law so lately passed by the party now in power and which became a law over your willing signature. We dare submit, however, that when a law like that under trial shows that it brings relief neither in the direction of lower prices of the things we eat nor increased opportunity for labor in the things which we make, when, in fact, its operation proves that it closes down much of the machinery in our own country, and to this extent increases the importation of goods of this same kind produced abroad, when, we say, a law in operation proves itself to be that kind of a cruelty to both capital and labor, then the splendid opportunity does arise for the party in power to acknowledge its mistake and reverse its error. No finer opportunity ever presented itself to any political party to rise above partisanship and serve the people than is now offered the Democratic Party to so modify the present tariff law as to give both capital and labor a decent chance in the country in which that Democratic Party boasts that it is the servant of the people. Some of our friends say it is useless to ask such a thing. They tell us that in anger you will rebuke us for making such a suggestion. If we were trifling, if we were not in dead earnest, if we were writing this letter merely as critics of your administration, then we might be met in this spirit. But when we are standing in the presence of capital jeopardized, in the presence of suffering and want, in the presence of idle men and women who pray for work and who can not get it, because of the tariff law which your party has passed and you have signed with pleasure, then we will not hesitate to say that under such circumstances as these the President of the United States falls far below the standard of his high office when, as the servant of the people, he meets their appeal in either anger or indifference. We say now and here that the Manufacturers' Association of Montgomery County, Pa., does ask that this law be modified, and modified now, by the party in power, which made the serious mistake of forcing it upon us for even a short time. That party under your leadership can do this. In this hour of the people's trial that party and its leader should do no less. They are the servants of the people.

We have more to say. We need relief from some impending legislation which, according to the public press, you now propose to have enacted before the present Congress adjourns. It is difficult to describe to you the effect which this impending legislation has upon that part of the country which we represent and for which we now speak. No word better describes it than fright. It is right that you should know this. It is right that you should know that men are asking, Is capital to be tabooed? Are successful business men to be declassed as citizens and classified as malefactors? Is the law to say to one class of citizens sabotag is lawful and to another class property is plunder? The feeling is abroad that malice and class hatred are being toyed with by our representatives at Washington. Men are frightened as never before in the history of this Nation. They tremble for their country. They fear the cause of the depression is more dangerous than the effect. Men bear to you the tidings, so it is said, that there is no depression, men are not out of work, the country suffers from nothing but "calamity howlers." Our answer is this: In the Schuylkill Valley there is depression; the streets of the Schuylkill Valley towns are lined with men who have no work who one year ago were well employed; the floors of the Schuylkill Valley warehouses are piled with goods, for which there is no market and no demand. We speak only for the Schuylkill Valley,

but for that we do speak. When any man rises in your presence to tell you, as President of our country, that these men in the Schuylkill Valley can work if they will, that the work is here, and that they are crying out merely to discredit your administration, that all this talk about depression is due to an inflamed imagination, then we rise to say that that man, whoever he may be, is guilty of mockery that is exquisitely cruel.

It is said that all we need is confidence. True. That is just what we now come to you for. Confidence. Speak the word. Tell us that no bill brought before you which discriminates between capital and labor will meet with your approval. Tell us that all so-called trust legislation shall meet with your disapproval and your veto until such time as the country has had opportunity to recover from the shock of laws already passed and full time to weigh well new laws now pending. Tell us that you do not share the feeling of those who would heckel the so-called "vested interest" and destroy the property of the other man by legislative enactment. Tell us that you do not believe that hospitals and colleges and charitable institutions which are accepting support from funds provided by those who made that money in "big business" are accepting unholy help. Tell us that you believe the pension offered by the "American millionaire" to old and honorable educators may be money honestly gathered by decent methods. Tell us that legal vandalism is as horrible to you as any other form of anarchy. Tell us these things. Say them out loud where the people can hear you. Say them straight and clear and without equivocation or reservation. Do this and modify the tariff and there will flow over this land a wave of that kind of confidence that will from that day mean prosperity to all the people. We need confidence. We come to Washington to get it. We have nowhere else to go. It can be had at no other place. It can be had there, and we come there to get it. The issue is squarely before you.

In the name of unremunerated capital, in the name of honest, independent labor, in the name of every man and woman whose comfort and happiness depends upon the general welfare of all the people, we do now and here ask that you say these things we have asked you to say. To say these things will show capital, and it will show labor, that we have a President who will set his face as flint against demagogy in all its subtle forms. That will restore confidence. It has been recently asked, editorially, by one of the great daily papers of this country:

"Of what value will any advice be to a man whose mind is made up? Mr. Wilson is open to no argument. He has marked out his path and declared his fixed intention to follow it to the end, whatever the result to the business of the country."

"Whatever the result to the business of the country!" If that be true, then this letter and the broad and best interests of both capital and labor behind this letter can receive no consideration at your hands. If that be true, then, as has been said, editorially, by another great and independent journal of this country, we stand face to face with that condition which can only mean that—

"The prestige of our manufacturers attained by such a gallant struggle is to be destroyed by those who neither understand its significance or realize its priceless value."

Sincerely, yours.

C. F. WILLIAMS,
President Manufacturers' Association of Montgomery County.
W. W. FINN,
Secretary Manufacturers' Association of Montgomery County.

Mr. CHILTON. Mr. President, it is with some diffidence that I put in the RECORD at this time the fact that the sum total of the calamity set forth to the Senate awhile ago by the Senator from Utah is about $167,000,000. Whether that was represented by the falling off of exports or imports, the one or the other, is not material. That is his charge. I want the Senate to know that by the report of a department of this Government that is short by 130-odd millions of the peculations from one great corporation in New England, to wit, the New York, New Haven & Hartford Railroad, to correct which we have three bills pending before the Senate now, reported from committees, regardless of party; and we say to the country that our bills will not only prevent that from occurring in the future, but they will punish those who are guilty of that kind of thing in the future.

The country therefore is presented with the question whether or not we shall filibuster and delay here in talking about the small matters, when the large matters immediately before us for correction are now before the country, and this side of the Chamber is asking the other side to allow us to pass the needed legislation.

Mr. GALLINGER. Mr. President, just a word. If it were not for the New York, New Haven & Hartford Railroad situation, I do not know what Senators on the other side of the Chamber would talk about. It has no more to do with the industrial conditions in this country to-day than the contents of last year's almanac. The New York, New Haven & Hartford Railroad Co. is to be attended to by the legal department of the United States Government, as I think it ought to be, unless a satisfactory adjustment can be made outside of the courts. But whatever course is pursued I am content, as a New England man, to let the corporation defend itself in any way it can.

Mr. President, I understand the Senator from Missouri [Mr. REED] is going to address the Senate, and we all want to hear him. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Bryan	Chilton	Crawford
Bankhead	Burton	Clapp	Cummins
Borah	Camden	Clark, Wyo.	Gallinger
Brady	Catron	Clarke, Ark.	Hitchcock
Brandegee	Chamberlain	Colt	Hughes
James	Myers	Shafroth	Swanson
Jones	Newlands	Sheppard	Thomas
Kenyon	Norris	Shields	Thompson
Kern	Overman	Shively	Thornton
Lane	Page	Simmons	Tillman
Lea, Tenn.	Perkins	Smith, Ariz.	Vardaman
Lee, Md.	Pittman	Smith, Ga.	Walsh
Lewis	Poindexter	Smith, Md.	Weeks
Lippitt	Ransdell	Smoot	West
Martin, Va.	Reed	Stone	White
Martine, N. J.	Saulsbury	Sutherland	Works

The VICE PRESIDENT. Sixty-four Senators have answered to the roll call. There is a quorum present. The morning hour having expired, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. MARTIN of Virginia. I ask that the unfinished business be temporarily laid aside, in order that we may dispose of the conference report on the general deficiency bill.

The VICE PRESIDENT. Is there objection? The Chair hears none. The question is on agreeing to the conference report.

The report was agreed to.

Mr. MARTIN of Virginia. I move that the Senate further insist on the one amendment, amendment numbered 158, that is in disagreement between the two Houses.

The motion was agreed to.

Mr. MARTIN of Virginia. I ask that there be printed in the RECORD a letter that I have which has relation to matters which were discussed yesterday.

There being no objection, the letter referred to was ordered to be printed in the RECORD, as follows:

TREASURY DEPARTMENT,
Washington, July 23, 1914.

Hon. THOMAS S. MARTIN,
Chairman Committee on Appropriations,
United States Senate.

MY DEAR SENATOR: Replying to your telephone inquiry of this morning concerning the Senate amendments to the pending general deficiency bill for the public-building projects at Martinsburg, W. Va., and Spanish Fork, Utah, I beg to advise you as follows:

MARTINSBURG, W. VA.

This is an authorization for extending and remodeling, etc., the public building at this place, authorized in the public-building act of March 4, 1913, at a limit of cost of $20,000.

At the commencement of the present fiscal year—July 1, 1914—the Office of the Supervising Architect had before it authorized extensions and new buildings totaling $38,500,000 for construction work alone; that is to say, exclusive of the cost of land. Included in this total was over $6,000,000 worth of construction work authorized prior to the act of March 4, 1913.

The technical force employed in the Office of the Supervising Architect, which is now working at its maximum capacity, is able to place under contract each year work to the value of about $7,000,000. It therefore appears that this office has about one year's work ahead of it before it will commence upon any projects authorized in the act of March 4, 1913.

Under date of May 6, 1914, I transmitted to the Speaker of the House a letter (H. Doc. No. 907, 63d Cong., 2d sess.) setting forth the status of the public-building work and containing a list of projects authorized prior to the act of March 4, 1913, for which the plans and specifications would be prepared after July 1, 1914. The department feels that it is committed to this program, and the Office of the Supervising Architect is taking up each of the projects listed in the relative order stated.

In view of the fact that the Office of the Supervising Architect had ahead of it July 1 this year nearly five and one-half years' work, it became, of course, necessary to fix upon a plan which would determine the rotation in which various projects are placed under contract. The evident and equitable method of procedure is to take up the various projects according to the acts in which they are authorized. For this reason the buildings and extensions authorized in the act of March 4, 1913, will not be placed under contract until all prior authorizations have been taken care of.

Inasmuch as work on the bill of March 4, 1913, can not commence until about July 1, 1915, it is unnecessary at this time for Congress to appropriate for the authorized extension to the building at Martinsburg, W. Va. Any sums necessary for commencing this work may be carried in the sundry civil bill for the fiscal year 1916, which will probably pass about four months before work commences on the buildings authorized in the 1913 act.

It is noted in the CONGRESSIONAL RECORD of yesterday Senator CHILTON'S statement that a department of the Government should not make the excuse that it is not ready to carry out the will of Congress. Without wishing to enter into any argument, I would be glad to assure the Senator that this is not the attitude of the Treasury Department, but that the inability to take up the Martinsburg project at this time is solely due to the fact that building authorizations have piled up far in excess of the annual capacity of the Office of the Supervising Architect. To appropriate for the Martinsburg project at this time would not mean that the department would give it special attention and advance it out of the place which has been equitably determined for it, unless the legislation carried with it a mandate requiring the Secretary of the Treasury to place this work under contract immediately, regardless of prior claims of projects authorized in earlier legislation.

I regret the necessity of such a lengthy explanation, but I am most anxious that both you and Senator CHILTON may understand that this department, instead of refusing to carry out the will of Congress, is most anxious to do so, but believes that it must not discriminate in carrying out the public-building program. For the reasons stated above, the department can not submit at this time an estimate for an ap-

propriation for the work authorized to be undertaken in connection with the extension of the public building at Martinsburg, W. Va.

SPANISH FORK, UTAH.

July 17 the department transmitted to your committee a supplemental list of sites for public buildings upon which the department had received the recommendation of the Post Office Department. This list did not include any estimate for an appropriation for the site at Spanish Fork, Utah. Since the estimate was submitted the department has received from the Post Office Department the recommendations of the latter concerning other site projects. The department was willing to submit estimates for these further site projects, but upon inquiry of the House Committee on Appropriations was informed that the bill was closed. Among these latter site matters is that at Spanish Fork, Utah. If the appropriation is made at this time the department believes that it will be able to reach its decision and acquire a site. Nevertheless, to submit an estimate for this project only at this time and ignore the other sites to which reference has been made, would appear to be a discrimination which the department is desirous of avoiding. Nevertheless, should the conferees agree that the Spanish Fork item remain in the general deficiency bill, the department will not interpose any objection, as this matter is one in a very different position than the extension to the building at Martinsburg, W. Va.

Respectfully,

BYRON R. NEWTON,
Acting Secretary.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House further insists upon its disagreement to the amendment of the Senate No. 158 to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes; asks a further conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. FITZGERALD, Mr. SISSON, and Mr. VARE managers at the further conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 1784) restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. FERRIS, Mr. GRAHAM of Illinois, and Mr. LENROOT managers at the conference on the part of the House.

The message further announced that the House agrees to the amendments of the Senate to the bill (H. R. 16294) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H. R. 15959) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy of wars other than the Civil War and to widows of such soldiers and sailors, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. KEY of Ohio, Mr. KEATING, and Mr. SELLS managers at the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H. R. 16345) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy of wars other than the Civil War and to widows of such soldiers and sailors, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. KEY of Ohio, Mr. KEATING, and Mr. SELLS managers at the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H. R. 17432) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy of wars other than the Civil War and to widows of such soldiers and sailors, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. KEY of Ohio, Mr. KEATING, and Mr. SELLS managers at the conference on the part of the House.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. REED addressed the Senate. After having spoken for some time,

Mr. KERN. Mr. President, by permission of the Senator from Missouri [Mr. REED]——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Indiana?

Mr. REED. Certainly.

Mr. KERN. I move that when the hour of 6 o'clock arrives, the Senate take a recess until 11 o'clock to-morrow.

The VICE PRESIDENT. The Senator from Indiana moves that when the hour of 6 o'clock arrives, the Senate take a recess until 11 o'clock to-morrow.

Mr. CUMMINS. I assume that the motion just made by the Senator from Indiana [Mr. KERN] is not debatable; but I beg to suggest to him that he ought not to make that motion this afternoon in view of the pendency of the resolution which I offered this morning.

Mr. KERN. I think there will be no trouble about unanimous consent for the consideration of the resolution to-morrow.

Mr. CUMMINS. I do not know with regard to that.

Mr. KERN. I feel obliged to make the motion.

Mr. CUMMINS. I shall feel compelled to ask for a roll call upon the motion if it is made now, although ordinarily I might not do so.

Mr. SMOOT. Mr. President, I desire to say to the Senator from Indiana that if we are not going to have any morning business, if we are going to take a recess from day to day, I think the proper thing to do would be to prevent the introduction of any such business at any time, to have no morning business until the trust legislation is out of the way.

Mr. KERN. I have made the motion, and I feel that I must insist upon it, for it is necessary.

The VICE PRESIDENT. The question is on the motion of the Senator from Indiana.

Mr. CUMMINS. Upon that I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The Secretary will call the roll.

Mr. GALLINGER. Mr. President, before the roll is called, I want to make an inquiry of the Senator from Indiana [Mr. KERN]. What is the exigency that requires us to depart from the usual rule of adjourning and meeting at a given hour? There must be some reason for it.

Mr. REED. I can not yield for debate, Mr. President.

Mr. ASHURST. Regular order!

Mr. KERN. It is not necessary that I answer the interrogatory of the Senator from New Hampshire.

The VICE PRESIDENT. The Secretary will call the roll.

Mr. GALLINGER. Mr. President——

The Secretary called the name of Mr. ASHURST, and he answered in the affirmative.

Mr. GALLINGER. Mr. President, I have not yielded the floor.

The VICE PRESIDENT. The Chair is compelled to state to the Senator from New Hampshire that this is a motion that is not debatable, and the yeas and nays have been ordered.

Mr. GALLINGER. Mr. President, I think if the Chair will examine the rules, he will find that this is not a motion to take a recess.

The VICE PRESIDENT. That is what the Chair construed it to be—a motion to take a recess.

Mr. GALLINGER. It is a suggestion that when a certain hour arrives we then take a recess. This motion does not come under the rule which says that a motion to take a recess is not debatable. However, Mr. President, I have no disposition to delay the Senate, and with this suggestion will permit the roll to be called.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary resumed the calling of the roll.

Mr. CHAMBERLAIN (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. In his absence, and in the absence of a transferee, I withhold my vote.

Mr. CULBERSON (when his name was called). I have a general pair with the Senator from Delaware [Mr. DU PONT]. In his absence, I withhold my vote.

Mr. GRONNA (when his name was called). I have a general pair with the senior Senator from Maine [Mr. JOHNSON]. I transfer that pair to my colleague [Mr. MCCUMBER] and vote. I vote "nay."

Mr. HOLLIS (when his name was called). I have a general pair with the junior Senator from Maine [Mr. BURLEIGH], and withhold my vote, unless it be necessary to make a quorum.

Mr. MYERS (when his name was called). I have a pair with the junior Senator from Connecticut [Mr. MCLEAN]. Although under the liberal terms of that pair I often feel at liberty, when I may feel so disposed, to set aside the pair, this vote presenting more or less of a party question, I do not feel at liberty on it to disregard the pair. I therefore refrain from voting.

Mr. SMITH of Maryland (when his name was called). I transfer my pair with the senior Senator from Vermont [Mr. DILLINGHAM] to the senior Senator from Virginia [Mr. MARTIN] and vote "yea."

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT], which

I transfer to the junior Senator from Kansas [Mr. THOMPSON], and vote "yea."

The roll call was concluded.

Mr. CLARK of Wyoming. I desire to announce the absence of my colleague [Mr. WARREN] and his pair with the Senator from Florida [Mr. FLETCHER].

Mr. CATRON. I transfer my pair with the Senator from Oklahoma [Mr. OWEN] to the Senator from Illinois [Mr. SHERMAN] and vote "nay."

Mr. GALLINGER (after having voted in the negative). I voted inadvertently. I am paired with the junior Senator from New York [Mr. O'GORMAN]. I transfer my pair to the senior Senator from Ohio [Mr. BURTON], and will allow my vote to stand.

Mr. SAULSBURY. I inquire if the junior Senator from Rhode Island [Mr. COLT] voted?

The VICE PRESIDENT. He has not.

Mr. SAULSBURY. Then, I withhold my vote, having a pair with that Senator.

Mr. SMITH of Georgia (after having voted in the affirmative). I have a general pair with the senior Senator from Massachusetts [Mr. LODGE], and I think I ought, therefore, to withdraw my vote.

Mr. TILLMAN (after having voted in the affirmative). I have a general pair with the Senator from West Virginia [Mr. GOFF]. I voted a little while ago because I thought he was in the Chamber. I now learn he is not. Therefore I transfer that pair to my colleague [Mr. SMITH of South Carolina] and will allow my vote to stand.

Mr. SMOOT. I desire to announce that the Senator from Pennsylvania [Mr. PENROSE] is paired with the Senator from Mississippi [Mr. WILLIAMS], the Senator from Michigan [Mr. TOWNSEND] is paired with the Senator from Arkansas [Mr. ROBINSON], and the Senator from Wisconsin [Mr. STEPHENSON] is paired with the Senator from Oklahoma [Mr. GORE].

Mr. WALSH (after having voted in the affirmative). On account of the absence of the senior Senator from Rhode Island [Mr. LIPPITT], with whom I have a pair, I withdraw my vote.

Mr. JAMES. I desire to inquire if the junior Senator from Massachusetts [Mr. WEEKS] has voted?

The VICE PRESIDENT. He has not.

Mr. JAMES. I have a pair with that Senator, but I transfer that pair to the junior Senator from Oregon [Mr. LANE] and vote. I vote "yea."

Mr. LEWIS. I desire to announce the absence of the Senator from Kansas [Mr. THOMPSON], who was called away from the Chamber by illness.

Mr. CHILTON. I have a general pair with the Senator from New Mexico [Mr. FALL], but under its terms I can vote on such a question as this. I vote "yea."

Mr. GALLINGER. The Senator from Ohio [Mr. BURTON], to whom I transferred my pair, having entered the Chamber and voted, I now desire simply to announce my pair with the junior Senator from New York [Mr. O'GORMAN] and withdraw my vote.

The result was announced—yeas 37, nays 19, as follows:

YEAS—37.

Ashurst	Kern	Ransdell	Swanson
Bankhead	Lea, Tenn.	Reed	Thomas
Borah	Lee, Md.	Shafroth	Thornton
Bryan	Lewis	Sheppard	Tillman
Camden	Martine, N. J.	Shields	Vardaman
Chilton	Newlands	Shively	West
Clarke, Ark.	Overman	Simmons	White
Hitchcock	Pittman	Smith, Ariz.	
Hughes	Poindexter	Smith, Md.	
James	Pomerene	Stone	

NAYS—19.

Brady	Clapp	Jones	Perkins
Brandegee	Clark, Wyo.	Kenyon	Smoot
Bristow	Crawford	Nelson	Sutherland
Burton	Cummins	Norris	Works
Catron	Gronna	Page	

NOT VOTING—40.

Burleigh	Gore	Myers	Smith, Mich.
Chamberlain	Hollis	O'Gorman	Smith, S. C.
Colt	Johnson	Oliver	Stephenson
Culberson	La Follette	Owen	Sterling
Dillingham	Lane	Penrose	Thompson
du Pont	Lippitt	Robinson	Townsend
Fall	Lodge	Root	Walsh
Fletcher	McCumber	Saulsbury	Warren
Gallinger	McLean	Sherman	Weeks
Goff	Martin, Va.	Smith, Ga.	Williams

So Mr. KERN's motion was agreed to.

Mr. REED resumed and concluded his speech, which entire is as follows:

Mr. President, lest I should forget it later on, I perhaps ought to say a preliminary word. I have recently discovered through the columns of a great newspaper that I was at one time a Republican. This paper apparently is disturbed lest I should return to that fold. It may be, Mr. President, that I was at one time a Republican, but if so it must have been in some prehistoric age, when I was previous to this existence upon this earth. I think it would be necessary to trace me back to the time when all life was limited to primordial protoplasm to discover that fact.

I have been accused of this supposed crime only very recently. If it will add to the peace of mind of the editorial writer, who has been exploiting his idea as a basis for editorial criticism, I will state to him that when I was 18 years of age I was engaged in canvassing my State for the Democratic State ticket; that from that time to this hour I have given my time and effort in every political campaign to the best of my very poor ability in favor of the Democratic Party; that my hand has never held a pencil that drew a scratch through the name of a Democrat printed upon a ticket. I may add that in 1896, when certain distinguished gentlemen and certain great newspapers were firing from the brush into the backs of the Democratic hosts, I was on the battle line just as an humble private, but as far as I had ability I was seeking to uphold the hands and the cause of the present Secretary of State.

The anxiety manifested in certain newspaper quarters, if not elsewhere, lest I should wander from the Democratic fold, is extremely interesting in view of the facts I have just related. Let me say here now, and say it with some emphasis, that I have not only always supported my ticket, but I have always supported my party platform. I have never been compelled to indulge in special pleadings to excuse myself for violating one plank by setting up the pretense that I am justified under another plank.

Mr. President, I am not surprised at these newspaper statements. I take them rather good naturedly than otherwise. The International Harvester Co. has many arms. It is only one of that pestiferous litter whelped in the Morgan offices. These are all united by the triple ties of consanguinity, affinity, and interest.

MONOPOLY.

Monopoly is a quagmire that has a common origin and a common bed. Touched at its circumference it quivers throughout its entire body. Shake it, and there will come crawling to the surface the foul beasts that inhabit its slime. Their heads will appear in concert, and their angry cries unite in an inharmonious chorus of malediction. Their cause is as much in common as was that of Ali Baba's Forty Thieves. Disturb the International and you arouse the Steel Trust. Awaken it, and you excite a chain of subsidiary companies. You start into activity the Standard Oil and all its allies are instantly upon the scene of action—a vast chain of banks, a measureless network of corporations, held together by illegal agreements and interlocking directorates. You arouse the malicious activity of every newspaper controlled by crooked business.

You may count upon the fact that, through the business agents of the International Harvester Co., the emissaries of the Steel Trust, and gentlemen of like ilk, there can be speedily produced for publication numerous interviews from business men, petitions from boards of trade, and especially plaintive supplications from "farmers" who are strangely interested in the welfare of the International Harvester Trust. We may therefore expect a flood of public opinion from this fountain source of purity to speedily engulf the Senate.

PRIVATE MONOPOLY IS INDEFENSIBLE.

As for myself, having always been a Democrat, believing in the fundamentals of that party, I stand here to-day to proclaim as of old that private monopoly is indefensible and intolerable.

"Private monopoly is indefensible." How familiar the phrase sounds! For 25 years it has been a cardinal doctrine of the Democratic faith. It has been a pillar of cloud by day and a pillar of fire by night, guiding the Democratic hosts from the valleys of defeat to the sunlit heights of victory. You can no more expurgate it from the philosophy of Democracy than you can obliterate the doctrine of the Trinity from the creed of Christianity. By a thousand solemn acts and convocations we are pledged to the extermination of monopoly.

All enemies of monopoly are fundamentally Democrats. All friends of monopoly are enemies of Democracy.

Those who create monopoly war against the Democratic Party. Those who perpetuate monopoly are as guilty as those who create it.

Those who honor monopolists give aid and comfort to the enemies of Democracy and the cause of human liberty.

"Private monopoly is indefensible." The expression finds its equivalent in the phrase "Private monopoly is criminal." Those who create, foster, and encourage that which is criminal are themselves criminals.

"Private monopoly is indefensible." The proposition has its corollary in the oft-repeated doctrine that those who organize or operate monopoly should be held personally responsible and be tried and condemned as criminals.

Respectability constitutes no excuse for crime. When education, learning, or great riches can be woven into a cloak to cover corrupt, criminal, and unlawful practices, justice is dead in the Republic.

When a man who pilfers from hunger or steals a trifle to supply a necessity is sent to jail and those who in the teeth of the law organize commercial marauding expeditions and plunder communities and entire States not only go unwhipped of justice but are crowned with offices and showered with honor, an evil day has arrived.

I do not believe in sending the man who steals a loaf of bread to jail and exalting those who rob a nation.

The reason monopoly has not been destroyed is because monopolists have been both powerful and respectable.

If money can not buy respect, it can purchase its counterfeit.

The golden calf still commands adoration.

Monopoly can not gain rights by prescription. Long-continued robbery does not ripen into a privilege. You can not steal long enough to make larceny a vested right. If you could, thievery would be an established and flourishing business.

A man who volunteers to serve on board a pirate ship with an already established criminal history may be worse than one who enlists with the original crew. The latter might have been deceived into the service. The former knows the gory record of the craft. He sees the black flag at the masthead. He steps upon decks slippery with the blood of the slaughtered. A gentleman of that kind knows what he is doing.

In the forum of morals there is no statute of limitations.

The commonest plea of the scoundrel is that he was beguiled by others. Adam invented that defense. It was not good when it was made, and it is not good now.

The executioner who during the French Revolution operated the guillotine could not shift his crime to Antoine Louis, the inventor of the instrument, nor be heard to say that prior to his employment the knife had already gathered a great harvest of innocent heads.

The man who helps to conduct the Harvester Trust can not escape responsibility by alleging that his sponsor and friend created it before he took service.

Moreover, a man who can not determine whether the practices of a monopoly are illegal until the question has been decided by the courts is too much in need of advice to place in a position requiring great discretion and independent judgment. Even a burglar is willing to admit his wrong after he has been advised by a court and duly sentenced to the penitentiary. The looters of the New Haven Railroad, if tried and convicted, will probably admit they have to stop operations.

The Missouri doctrine, "Show me," finds its extremest illustration in the gentlemen who can only be convinced by the decree of a court. The man who can not distinguish the illegality of an act until the judge is ready to impose sentence ought to be compelled to attend a school of morals.

Some people never can discern anything clearly until they see it through the bars of a jail. Even then they could not recognize their own wrong as readily as they could a kit of tools with which to saw their way out.

Here is a bit of interesting Jones testimony illustrating my thought. I quote:

I know of no practices of the company after I became a director that I thought in any way in contravention of law or good morals.

Here are the facts:

In 1912 the International Harvester Co. sold 111,447 binders, while the total sales of its competitors were only 19,535 machines.

In face of this fact, the witness was unable to see that he was connected with a monopoly.

This is the evidence and the charge in the Government's petition, and yet with it staring the witness in the face he answered:

You asked me whether I entirely approve of them—

The practices and policies of this company—

I say that that question is to-day pending before the courts, and if the courts say that that was an improper organization, I shall be prepared to say that I think so, too.

Observe that nothing can convince this gentleman that the Harvester Trust is a monopoly save the judgment of a court.

Mr. President, being a member of the Democratic Party and coming from the State of Missouri, I feel a little pride in the record of my State with reference to all matters concerning the prosecution of trusts and combinations. We have not been laggards, but have from the first been on the battle field. We have a somewhat satisfactory and distinguished record. I challenge attention to a few incidents. I desire later to put in the RECORD certain of the platform declarations of my State. But first let me quote the national platforms. In 1884 the Democratic Party declared against trusts and combinations. It reads:

While we favor all legislation which will tend to the equitable distribution of property, to the prevention of monopoly, and to the strict enforcement of individual rights against corporate abuses, we hold that the welfare of society depends upon a scrupulous regard for the right of property as defined by law.

The Republican platform in 1888 contained the following language:

We declare our opposition to all combinations of capital, organized in trusts or otherwise, to control arbitrarily the condition of trade among our citizens; and we recommend to Congress and the State legislatures, in their respective jurisdictions, such legislation as will prevent the execution of all schemes to oppress the people by undue charges on their supplies, or by unjust rates for the transportation of their products to market. We approve the legislation by Congress to prevent alike unjust burdens and unfair discriminations between the States.

The Democratic platform in 1898 contained this language:

Trusts and combinations in restraint of trade, as evils of the greatest magnitude and as organizations of this kind, not only continue to exist, but multiply in numbers, in defiance of law and public sentiment, we demand such laws, both State and national, as will certainly result in suppressing them.

In 1900 the Republicans and Democrats adopted platforms denouncing the trusts.

Democratic national platform, 1900:

"*We pledge the Democratic Party to an unceasing warfare in Nation, State, and city against private monopoly in every form. Existing laws against trusts must be enforced and more stringent ones must be enacted* providing for publicity as to the affairs of corporations engaged in interstate commerce, requiring all corporations to show, before doing business outside the State of their origin, that they have no water in their stock, and that they have not attempted and are not attempting to monopolize any branch of business or the production of any article of merchandise; and the whole constitutional power of Congress over interstate commerce, the mails, and all modes of interstate communication shall be exercised by the enactment of comprehensive laws upon the subject of trusts."

Republican national platform, 1900:

"We recognize the necessity and propriety of the honest cooperation of capital to meet new business conditions, and especially to extend our rapidly increasing foreign trade; *but we condemn all conspiracies and combinations intended to restrict business, to create monopolies, to limit production, or to control prices, and favor such legislation as will effectively restrain and prevent all such abuses,* protect and promote competition, and secure the rights of producers, laborers, and all who are engaged in industry and commerce."

In 1906 the Democratic platform again denounced the trusts. In 1908 this language was employed:

A private monopoly is indefensible and intolerable. We therefore favor the vigorous enforcement of the criminal law against guilty trust magnates and officials, and demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States. Among the additional remedies we specify three: First, a law preventing a duplication of directors among competing corporations; second, a license system which will, without abridging the right of each State to create corporations, or its right to regulate as it will foreign corporations doing business within its limits, make it necessary for a manufacturing or trading corporation engaged in interstate commerce to take out a Federal license before it shall be permitted to control as much as 25 per cent of the products in which it deals, the license to protect the public from watered stock and to prohibit the control by such corporation of more than 50 per cent of the total amount of any product consumed in the United States; and, third, a law compelling such licensed corporations to sell to all purchasers in all parts of the country on the same terms, after making the allowance for the cost of transportation.

The Republican platform of that year praised President Roosevelt for the prosecution of illegal trusts and monopolies:

The greatest accomplishments of President Roosevelt have been, first and foremost, a brave and impartial enforcement of the law, *the prosecution of illegal trusts and monopolies,* the exposure and punishment of evildoers in the public service, the more effective regulation of the rates and services of the great transportation lines—

And so forth.

The Republican Party passed the Sherman antitrust law over Democratic opposition and enforced it after Democratic dereliction. It has been a wholesome instrument for good in the hands of a wise and fearless administration; but experience has shown that its effectiveness can be strengthened and its real objects better obtained by such amendments as will give the Federal Government greater supervision and control over, and greater publicity in, the management of that class of corporations engaged in interstate commerce having power and opportunity to effect monopolies.

In 1912 the Democratic platform contained this:

A private monopoly is indefensible and intolerable. We therefore favor the vigorous enforcement of the criminal as well as the civil law against trusts and trust officials, and demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States.

* * * * * * *

We condemn the action of the Republican administration in compromising with the Standard Oil Co. and the Tobacco Trust and its failure to invoke the criminal provisions of the antitrust law against the officers of those corporations after the court had declared that from the undis-

puted facts in the record they had violated the criminal provisions of the law.

The Republican platform of the same year read in this wise:

The Republican Party favors the enactment of legislation supplementary to the existing antitrust act which will define as criminal offenses those specific acts that uniformly mark attempts to restrain and to monopolize trade, to the end that those who honestly intend to obey the law may have a guide for their action, and that those who aim to violate the law may be the more surely punished.

I quote from the Progressive platform of the same year, as follows:

We therefore demand a strong national regulation of interstate corporations. The corporation is an essential part of modern business. The concentration of modern business in some degree is both inevitable and necessary for national and international business efficiency. * * * We do not fear commercial power, but we insist that it shall be exercised openly, under publicity, supervision, and regulation of the most efficient sort, which shall preserve its good while eradicating and preventing its evils.

The Progressive convention, largely dominated by Perkins of the Harvester Trust, alone failed to denounce trusts as criminal. The omission is significant.

Mr. President, the national platforms of the two great parties have all along contained similar anathemas against trusts and combinations. Both parties have insisted upon the enforcement of the criminal statutes; both parties have demanded the personal responsibility of directors of concerns engaged in monopolizing trade.

I now ask that excerpts from the platforms of the State of Missouri may be printed in the RECORD as a part of my remarks.

The PRESIDING OFFICER (Mr. LEA of Tennessee in the chair). Without objection, it is so ordered.

The matter referred to is as follows:

MISSOURI PLATFORMS.

DEMOCRATIC, 1892.

We recognize in the trusts and combinations, which are designed to enable capital to secure more than its just share of the joint product of capital and labor, a natural consequence of the prohibitive taxes which prevent the free competition which is the life of honest trade, but we believe their worst evils can be abated by law, *and we demand the rigid enforcement of the laws made to prevent and control them,* together with such further legislation in restraint of their abuses as experience may show to be necessary.

REPUBLICAN, 1892.

We reaffirm our opposition, declared in the Republican platform of 1888, *to all combinations of capital, organized in trusts or otherwise,* to control arbitrarily the condition of trade among our citizens. We heartily indorse the action already taken upon this subject, and ask for such further legislation as may be required to remedy any defects in existing laws and to render their enforcement more complete and effective.

DEMOCRATIC, 1896.

The absorption of wealth by the few, the consolidation of our leading railroad systems, and the *formation of trusts and pools require a stricter control by the Federal Government of those arteries* of commerce. We demand the enlargement of the powers of the Interstate Commerce Commission, and such restriction and guaranties in the control of railroads *as will protect the people from robbery and oppression.*

We arraign the Republican Party as guilty of the grossest hypocrisy in the treatment of the trust question, in that being in the ascendency in Congress it has steadfastly refused to pass any of the legislation which has been proposed to curb the power of the trusts; it has failed to withdraw tariff protection from trust-made goods; *has constituted the leaders of trusts as the leaders of its party in the Nation, and accepted from them contributions of millions of dollars to its gigantic corruption fund, which fact is itself a menace to the stability of our free institutions.* We declare that the existence of trusts is opposed to public welfare. * * * We pledge ourselves, as we have given to the people the strongest possible legislation on this subject in our State, to see that it is enforced, and that it shall be, when in our power, enforced by the Federal Government.

DEMOCRATIC, 1902.

After urging tariff reform as our effective method of dealing with the trusts it adds:

In the event of such legislation failing of its purpose, then we favor the most drastic legislation which can be enacted prohibiting the existence or forming of such trusts or any other such combinations which have even a tendency to destroy honest competition in any line of business or make it possible to arbitrarily regulate wages, prices, rates, or charges of any kind.

DEMOCRATIC, 1906.

We believe Theodore Roosevelt insincere. Pretending to inveigh against the crimes of trusts and corporations, he openly defended Paul Morton, whom, as manager of the Santa Fe Railroad, he compelled to confess enormous rebates to the Colorado Fuel and Iron Co. It was Roosevelt *who advanced the pernicious doctrine that you must punish the corporations, not its officials who cause it to commit the crime.*

DEMOCRATIC, 1908.

The Democratic Party, both in theory and in practice, ever has been and now is opposed to monopoly and unlawful combinations, and we pledge the party to continue its efforts to protect the people against trust extortion and oppression.

We are not hostile to corporations or to wealth as such, but we insist that corporations as well as individuals, the rich as well as the poor, must obey the laws, and we are determined that the violator of law in the interests of trusts or corporations shall be punished *by imprisonment as well as by fine.*

REPUBLICAN, 1908.

The attorney general has enforced the laws of the State without fear and without favor. He brought suits against the Standard Oil Trust, the greatest combination of wealth and power the world has ever known; forced its chief officers, for the first time in its history, to respect the orders of the courts and to disclose its plan of organization. This evidence has been used by the National Government and five States as the basis of suits against this trust. He secured a favorable decision upon every one of his charges from the commissioner appointed by the supreme court to try this case, and has forced the discontinuance of the abuses that it had practiced upon the people of Missouri; drove the Republic Oil Co., one of its puppet corporations, from the State, and thus made competition in the oil business possible, with the result that the wholesale price of oil has been reduced over 2 cents a gallon, resulting in a saving of $600,000 each year to the people of Missouri.

He brought suit against the Insurance Trust and forced a rerating of the property of the State on an average reduction of from 10 to 15 per cent in insurance rates, with a consequent saving of $800,000 a year to the people of Missouri. By prompt and vigorous action in the courts he forced the railroads of the State to comply with the 2-cent passenger rate law, resulting in a saving of approximately $1,000,000 each year to the people of Missouri, and has thus secured, by actual experience, the facts necessary for a determination of the reasonableness of this law.

He brought suit against and prevented the further consolidation of the Lumber Trust, *and will soon present to the supreme court for final decision an action to oust the Lumber Trust and Harvester Trust from Missouri.*

DEMOCRATIC, 1910.

A private monopoly is indefensible and intolerable. We therefore favor the vigorous enforcement of the criminal law against guilty trust magnates and officials, and demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States.

MISSOURI LEGISLATURE'S RESOLUTION.

Mr. REED. Mr. President, in consonance with these declarations of the Missouri platform action was taken. As early as March 12, 1907, the Legislature of the State of Missouri passed the following resolution:

Whereas our farmers of Missouri invest thousands of dollars annually in the purchase of machinery and farming implements; and

Whereas competition has been greatly reduced in the manufacture of those useful commodities by the combination of the Milwaukee, Deering, Champion, Plano, and the McCormick harvester companies; and

Whereas a trust has been formed to control farming implements necessary to promote agriculture under the name of International Harvester Co. of America; and

Whereas said company is doing business in this State: Therefore be it

Resolved (by the House of Representatives of the State of Missouri), That the Hon. Herbert Hadley, attorney general of Missouri, be kindly requested to investigate the advisability of instituting legal proceedings against said International Harvester Co. of America under and by virtue of the antitrust laws of the State of Missouri.

Resolved, further, That the chief clerk of the House transmit a copy of this resolution to the office of the attorney general.

MISSOURI'S ACTION.

That resolution was probably the initial step taken in my State, if not in the country, to bring the International Harvester Co. to book. For the present I will pass from the topic with the remark that the attorney general of the State did bring a case in the nature of quo warranto. The case was brought directly in the supreme court of the State. That court appointed as commissioner to take the evidence and to make findings of law and of fact Judge Theodore Brace, of nearly 30 years' service upon the supreme bench of the State. That great lawyer and jurist, after an exhaustive hearing, rendered his findings of fact and conclusions of law. The findings of fact disclosed the existence of a combination and trust and a conspiracy in restraint of trade. They were duly submitted to the Supreme Court of the State of Missouri over three years ago. A decision was rendered approving the opinion and findings of Judge Brace. That decision of the Supreme Court of Missouri was recently affirmed by the Supreme Court of the United States. The decision in Missouri was rendered November 27, 1911. The opinion of the Supreme Court of Missouri can be found in the One hundred and forty-first Southwestern Reporter, at page 672. The judgment was affirmed in the Supreme Court of the United States June 8, 1914.

CONVICTIONS IN OTHER STATES.

Mr. President, as early as the year 1907 this concern was charged with crimes under the antitrust laws of the State of Texas, and after pleading guilty was fined $35,000 and ousted from the State. On January 9, 1909, the Supreme Court of Kansas affirmed a verdict of guilty, which was based upon an information filed on the 13th day of October, 1906. The company was at that time fined on 42 counts. The company was also prosecuted in the State of Kentucky in five separate actions. It was found guilty, and the judgment was affirmed in the Court of Appeals of the State of Kentucky. It was afterwards reversed by the Supreme Court of the United States upon the ground that the law was not sufficiently definite.

In all of these contests——

Mr. KENYON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Iowa?

Mr. REED. Yes.

Mr. KENYON. Will the Senator state, so that it may go into the RECORD, the time of these trials in Kentucky and the date of the reversal by the Supreme Court?

Mr. REED. I am unable to state from the memoranda before me when they were begun, although I thought I had the information—I have it at my desk—but I can give to the Senate, and will do so, a reference which will enable every Senator to find the date.

One of these cases, Commonwealth of Kentucky against The International Harvester Co., was decided March 16, 1912, and is reported in One hundred and forty-fourth Southwestern Reporter, at page 1064.

The next case, bearing the same title, is reported in One hundred and forty-seventh Southwestern Reporter, page 393, and was decided in the Court of Appeals of Kentucky, April 10, 1912.

The next case, bearing the same title, was decided April 16, 1912, by the Kentucky Court of Appeals, and is reported in One hundred and forty-sixth Southwestern Reporter, at page 12.

The next case, bearing the same title, is reported in One hundred and forty-seventh Southwestern Reporter, at page 760.

The next case is reported in One hundred and forty-seventh Southwestern Reporter, at page 1199.

Mr. President, the Government of the United States——

Mr. NELSON. Mr. President, will the Senator yield to me a moment?

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Minnesota?

Mr. REED. If the Senator from Minnesota will allow me to make one more statement, in order to have the matter together, I shall yield.

THE FEDERAL SUIT.

The Government of the United States in 1912 brought a suit against this concern and all of its allies, which is now pending in the United States Circuit Court of Minnesota. The petition in that case was filed April 30, 1912. The evidence has been taken and the cause is still pending, but it has been briefed by the attorneys for the Government. Now I yield to the Senator from Minnesota.

Mr. NELSON. With the leave of the Senator from Missouri, I desire to call his attention to one of the Kentucky cases decided by the Supreme Court here on the 22d of June last. I refer to the case of the International Harvester Co. against the Commonwealth of Kentucky. In that case a fine was imposed by the court in Kentucky, and the only issue the Harvester Co. made in that case was that it had not been properly served with process. Upon that issue the case came to the Supreme Court here, and the Supreme Court held that the company had been properly served. So the fine imposed by the court of Kentucky remained in force against the company.

Mr. REED. Mr. President, I have said that I believed in the enforcement of the civil and criminal law against these institutions. I am glad to say that that is no new doctrine in the Democratic Party. It has been engraven upon its platforms, and it has been thundered from the lips of its great men. I call attention to just one of the many statements which I might read. It is as follows:

> Other criminal laws are enforced against all offenders who can be found. Why should we draw a distinction between the horse thief who violates the law against horse stealing and the trust magnate who violates the law against the trust? The Senator (Mr. Beveridge) complains because I have said that private monopoly must be eliminated, that the trust must be destroyed root and branch. That is my position, and that position, set forth in the Democratic national platform of 1900, was indorsed by more than 6,000,000 voters.

Who said that? It was not an utterance upon the platform, when men do not always speak their deliberate judgment, when the fervor of the moment may swing them from their balance. It was deliberately written out for publication; and its author was that great man whose image is photographed upon the hearts of the American people, William Jennings Bryan.

> In the beginning the executive officers thought the civil part of the statutes sufficient and attempted to break up the trusts by injunction. That proving unsatisfactory, resort was next had to the criminal provisions of the law with the idea that a fine would be sufficient. The fine has been shown to be ineffective, and the President is turning more and more toward the imprisonment clause. It is useless to attempt to prevent combinations by fines levied against corporations when the fines are small compared with the sums made by combination. Imprisonment, however, is a real punishment, and the *trust magnates will become scarce as soon as the penitentiary doors close upon a few of the large offenders.*

Again, those are the deliberate words of Mr. Bryan, written and published in a magazine.

CHAMP CLARK'S STATEMENT.

I quote another authority, one whom I delight to honor, one whom the American people honor, because he always speaks from the heart, and the sound of his lips is but the voice of his brave soul:

> If I had my way, I would fill the penitentiaries and jails of the United States so full of trust magnates that their arms and legs would stick out of the windows.

Those are the words of CHAMP CLARK.

PRESIDENT WILSON'S STATEMENT.

I read again:

> The dominating danger in this land is not the existence of great individual combinations—that is dangerous enough, in all conscience—but the combination of the combinations—of the railways, the manufacturing enterprises, the great mining projects, the great enterprises for the development of the natural water powers of the country, threaded together in the personnel of a series of boards of directors into the "community of interest"—more formidable than any conceivable single combination that dare appear in the open.

There is an omission here. I am reading from another part.

> When I am fighting monopolistic control, therefore, I am fighting for the liberty of every man in America and I am fighting for the liberty of American industry.

Brave words, well chosen! They found a response in the hearts of the American people. I read again:

> The great monopoly in this country is the monopoly of big credits. So long as that exists our old variety and freedom and individual energy of development are out of the question. A great industrial nation is controlled by its system of credit. Our system of credit is privately concentrated. The growth of the Nation, therefore, and all our activities are in the hands of a few men who, even if their action be honest and intended for the public interest, are necessarily concentrated upon the great undertakings in which their own money is involved and who necessarily, by very reason of their own limitations, chill and check and destroy genuine economic freedom. This is the greatest question of all, and to this statesmen must address themselves with an earnest determination to serve the long future and the true liberties of men.

The last quotations I have given are from the magic pen, inspired by the wonderful brain of the President of the United States. They are sound principles, splendidly expressed and magnificently put forth, and they are being read as the gospel of truth by thousands of boys and girls throughout the United States of America.

Mr. President, I need not pause, in view of these high authorities, to elaborate the thought that monopoly is indefensible and that monopolists are criminals. Neither need I argue in this presence that he who perpetuates an evil is as guilty as the man who inaugurated it. I scarcely need stop to demonstrate that there is one trust in this country which has never yet been criminally prosecuted that must be criminally prosecuted.

Lest I should be criticized by some Republican newspaper for having abandoned the Democratic Party and so that I may start with my feet upon the ground, I read from the Democratic Handbook of 1912:

> Progressives should support Wilson not only in order to secure his election but in order to enable him after election to carry out those progressive policies which he has so much at heart. His nomination ranks among the most encouraging events of American history. Under the masterful and masterly leadership of Col. Bryan, the ideals of American Democracy triumphed over the reactionaries and their money bags; the will of the people prevailed over the devices of the machine. * * *
>
> But the struggle of privilege is unending and omnipresent. That struggle is as subtle as it is determined. The struggle will not close when Wilson is elected. We may be sure that every effort he may make as President to carry out progressive policies will meet with stubborn resistance from the possessors and apostles of privilege—

And so forth.

PRESIDENT TAFT ON THE HARVESTER TRUST.

Under the same topic is quoted with approval a statement of President Taft. It was sent out as our proclamation to the American people.

> President Taft added a new chapter to the history of the Harvester Trust here to-night—

This is from a newspaper dated May 4, 1912—

> Speaking to an audience that filled the Lyric Theater to the doors, Mr. Taft declared that Col. Theodore Roosevelt did prevent the prosecution of the Harvester Trust after George W. Perkins, one of its directors, and now a Roosevelt supporter, had asked that the trust be not taken into the courts. * * * He said, in part:
>
> "The truth about the Harvester Trust is that Mr. Bonaparte thought it ought to be prosecuted. George W. Perkins, who was a director in the Harvester Trust, then a director in the Steel Trust, and also a member of the firm of Morgan & Co., *came to Washington and pleaded with Herbert Knox Smith, of the Bureau of Corporations, not to bring the suit, and induced Mr. Smith to make a report to Mr. Roosevelt in which he set forth the fact that the Steel Trust and the Harvester Trust and the other Morgan interests had attempted to carry out Mr. Roosevelt's idea of publicity, and therefore ought not to be subjected to prosecution under the antitrust law, even though they were technically guilty, threatening that if they were prosecuted they would fight the administration, would give them no more access to their books, and would conduct themselves in opposition to the administration."*

So arrogant had this trust become that it imagined it was more powerful than the courts of law and that it could withhold its books from the officers of the Government. Nor did it hesitate to send its man Perkins to the President of the United States and demand, upon pain of its anger, that the arm of justice should be paralyzed.

The scoundrel in revolt against the State marching beneath a red flag to the Capitol and demanding that the law shall not be enforced is engaged in a no more impudent practice than was George W. Perkins.

I continue reading from Mr. Taft:

The result was that Mr. Smith made a report on the 21st of September to Mr. Roosevelt, in which he detailed this conversation and recommended that no suit be brought until he had made a full investigation of the Harvester Trust. Before this a report was made by the assistant district attorney of North Dakota and by the district attorney of Minnesota that there were grounds for prosecuting the Harvester Trust and that this trust had violated the antitrust law.

Between September 21 and November 1 the matter was under consideration, and on November 7 the President directed Herbert Knox Smith to notify Mr. Perkins that no prosecution would be begun until after the investigation. That settled the matter, because that is what Mr. Perkins asked for. * * *

Mr. Roosevelt's assumption of virtue is so intense that it is sufficient to purify anyone when he becomes a supporter of Mr. Roosevelt, even though it be a trust and even though it be a director of a trust contributing to his campaign. In other words, when the facts are shown with reference to his failing to prosecute certain trusts and with reference to contributions from a directing officer of such trusts, it hardly lies in his mouth, as a matter of the "square deal," to charge me with being controlled by special interests and privileges.

So said William H. Taft of Theodore Roosevelt. From the lips of President Taft we learn the important fact that this trust regarded itself as so intrenched and powerful that it dared come to the head of the greatest Nation on earth, and, bearding him in his office at the Capital, demand a surrender at the price of its displeasure.

Mr. President, moral questions are the same to-day, yesterday, and forever.

With this introduction regarding the Harvester Trust I want to put into the RECORD some salient facts regarding that institution, developed in the pending suit of the Government against the Harvester Trust. If, sir, one-tenth of that which the Government alleges in its petition as true be true, then it is the duty of the Attorney General to proceed against every officer of that company as he now assures us he intends to proceed against the New Haven Railroad and its officers, civilly and criminally.

The Harvester Trust was hatched in the offices of Pierpont Morgan. Prior to 1902 there were in the United States a total of 12 manufacturers of harvesting machinery. Seven of these were quite small. Five of them were very large and powerful. I name them in the order of their importance:

The McCormick, which had been in business since 1849.

The Osborne, in business since 1860.

The Champion, in business since 1868.

The Deering, in business since 1875.

The Plano and the Milwaukee, in business for many years.

Mr. Glessner, the president of the Champion, testified in the Government's suit that these names have been known as trade names for the period I have indicated.

The five companies to which I have just referred controlled, in 1902, from 90 per cent of the business in agricultural implements in certain sections of the country to 100 per cent of the business in certain other large sections of the country. These five companies each controlled some standard make of harvesting machinery, without which no agent could hope to succeed or to live as a dealer in agricultural implements.

It is admitted in the answer filed in the Government suit that from 80 to 85 per cent of the business in the United States in agricultural implements was controlled by these five institutions. It is established indubitably by proof that their control was much larger than is admitted.

Here, then, we had this condition: Five great companies and seven smaller companies supplying all of the agricultural and harvesting machines for all of the millions of farmers of the United States. Moreover, sir, every one of these companies was profitable and making money. There was the keenest competition. They had their rival agencies in almost every hamlet and village of the United States. Their agents even went along the highways in the country for the purpose of soliciting the custom of farmers. Every farmer in the United States had at least five different places where he could go to buy his harvesting machinery. If he was dissatisfied with the offer of one he could go to the others. Moreover, prices were constantly falling. Competition was so keen that accommodation was easy. Yet, with all the keen competition, every one of these concerns was making money. They did not have the poor excuse that they were forced to become a trust in order to escape bankruptcy.

Mr. GRONNA. Mr. President——

Mr. REED. One moment, and then I will yield. When they organized the trust they appointed a committee to appraise its assets. That committee made its solemn report, from which I read a clause:

Your committee are of the opinion that the five properties mentioned in Mr. Lane's offer—

That is, the five great properties I have mentioned—

are the most important in their line of business in the United States and that each of them has for several years enjoyed a prosperous, profitable, and growing business.

In order to make a little more definite what I have had to say with reference to the extent of the business of these companies, I ask leave to print a table showing the output of these companies and the output of all outside companies in the year 1902.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

	Binders.	Mowers.	Corn binders.	Rakes.	Reapers.
McCormick, IV, 215	67,592	129,066	16,264	74,446	16,771
Deering, IV, 204	60,981	92,494	12,922	54,175	7,471
Champion, IV, 226	23,480	35,655	None.	20,577	1,487
Plano, IV, 234	15,344	20,545	None.	15,034	2,348
Milwaukee Co.[1]					
D. M. Osborne & Co. (for 1903, IV, 406)	10,495	19,955	2,033	21,303	4,486
Total	177,892	307,715	31,219	185,535	32,563

[1] Not disclosed, but about same as Plano.

On the other hand, the sales of the independent companies were the following for 1902:

	Binders.	Mowers.	Corn binders.	Rakes.	Reapers.
Adriance-Platt Co., III, 360	732	6,276	43	11	340
Johnston Harvester Co., III, 378	780	2,416	711	2,056	270
Walter A. Wood Co., III, 305	919	4,916	106	7,078	108
Total	2,431	13,608	860	9,145	718

Minnie Harvester Co., XIII, 49 (acquired by International Harvester Co. in 1903), 2,500 binders.

Acme Harvesting Machine Co. figures were unobtainable for 1902–1904, it having been in the hands of a creditors' committee.

Mr. REED. I call attention to just two items, namely, that these five companies manufactured that year 177,892 binders, while all of the other companies combined manufactured only 2,431. I omit from the latter figure the Minnie Harvester Co., because it was acquired by the trust within a few months thereafter. Including the Osborne plant, there were manufactured by the companies brought into this consolidation 195,392 binders in the year 1902, and all of the outside production aggregated only 2,431.

The control of these five companies in a great many places was substantially complete. In the States of Missouri, Arkansas, Kansas, Oklahoma, Indian Territory, Texas, western Kentucky, Tennessee, and part of Illinois these five concerns, then independent, controlled from 95 to 100 per cent of all of the business in harvesting machinery. In the States of Nebraska, Iowa, Illinois, Minnesota, and Wisconsin they controlled from 95 to 100 per cent.

I ask leave to print in connection with these statements excerpts from the testimony taken in this case; and I make the same request with reference to that which immediately follows.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

M. H. Gibbs, in 1902 and for several years prior thereto general agent for D. M. Osborn & Co., having charge of sales in Missouri, Arkansas, Kansas, Oklahoma, Indian Territory, Texas, the western part of Kentucky, and Tennessee and part of Illinois, testified that the six companies were doing in 1902 in that territory 95 per cent, if not more, of the business in binders, 95 per cent in mowers, and all, or 100 per cent, in corn binders (III, 110, fols. 3–4).

R. E. Mason from 1899 to 1903 general agent of the Plano Co. at Grand Island, Nebr., having charge of the western half of Nebraska, stated that practically all of the business (100 per cent) in that territory was done by the five companies which went into the International (III, 178, fol. 4).

H. E Porter, for six years general agent of D. M. Osborne & Co. at Chicago, testified that in 1902 the six companies did from 90 to 95 per cent of the business in binders in Nebraska, Iowa, Illinois, Minnesota, Wisconsin, and Indiana (III, 92, fol. 4), and the same per cent in mowers (III, 94, fol. 4).

M. H. Lamb, in 1902 general agent of the McCormick Co. at Sioux Falls, S. Dak., having charge of southwestern Minnesota, part of Iowa, and part of South Dakota, testified that the five companies in that territory did "practically all, at least 90 per cent," of the business in binders, 75 to 80 per cent in mowers, and 95 per cent in corn binders (II, 315).

Mr. REED. In South Dakota, one witness stated, they controlled practically all—at least 95 per cent.

The extent of the business in the United States exceeded annually $100,000,000.

That control, I remark now, has been maintained up to this time in substantially the same way it was before. It is as complete now as it ever was, and statements that have been made by Mr. Jones to the contrary are aside from the facts and in the teeth of sworn testimony. The Government shows in its brief, at page 68, and cites the record to sustain it, that the International Harvester Co. in 1912 manufactured and sold in the United States 111,447 binders, while all of the outside companies manufactured and sold only 19,535 machines, and part of those were made in a penitentiary.

Therefore the claim that any man connected with this institution does not know he is running a monopoly is to claim that a man can not recognize the plainest facts ever laid down to demonstration.

In 1902 Mr. Morgan succeeded in organizing the great Steel Trust. He had gathered together under one control nearly all of the good iron ores of North America, splendid deposits the Almighty had placed here for the people of to-day and for the shadowy hosts that are yet to come. Morgan had gathered in the great rivals engaged in manufacturing steel. He had paid to them the plunderer's profit. He capitalized the power of monopoly to rob the American people. He issued bonds against it. These bonds are now used to purchase respectability for a certain gentleman upon the lintels of whose doors there are yet to be detected the red drops of Homestead.

Having succeeded in completely dominating the great field of the manufacture and production of steel, having brought within his control that primal necessity without which civilization could not exist, and but for which the wheels of progress would be rolled back a thousand years, he looked about for new fields to conquer. He found that the fields were ripe and the proprietors were willing. I should say that he found that those who made the machines to reap the fields were ripe, and mighty willing.

THE ORGANIZATION.

The five great companies were consolidated into a trust. At the time of the organization they contemplated crushing or acquiring all companies not taken into the combination. In order that I may now dispose of this branch of the subject, I call attention to these outside companies and to what the trust did to them.

In 1903 it acquired the Osborne Co., which was the largest outside competitor. The Osborne was capitalized at $1,000,000. The same year it acquired the Aultman-Miller Co. for $640,000; also, it acquired the Minnie Harvester Co. The next year it gathered in the Keystone Co. About the same time it took in the Weber Wagon Co. In 1906 it acquired Kemp & Co., manufacturers of manure spreaders, at Newark Valley, N. Y., and Waterloo, Iowa, and they closed the Waterloo plant. In 1906 it absorbed the Bettendorf Axle Co., makers of wagons. It owns all of the stock of the Wisconsin Steel Co., amounting to $1,000,000. It has acquired the Wisconsin Lumber Co., capitalized at $250,000. It owns the Illinois Northern Railroad and the Chicago, West Pullman & Southern Railroad, two little railroads used in connection with their plants, capitalized at $900,000. It has acquired the International Flax Co., capitalized at $250,000.

Thus, instead of shrinking their control, instead of going out of the monopoly business in the last five years, they have constantly extended their plants in numbers, in activity, and the scope of that which they manufacture.

Mr. HITCHCOCK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Nebraska?

Mr. REED. I do.

Mr. HITCHCOCK. Before the Senator leaves that branch of the question I want to ask him to permit me to interject the statement that in acquiring those competitors they resorted to some of the most despicable and disgraceful proceedings to do so. Possibly the Senator from Missouri intends to set forth that fact. I call to mind at the present time that it is in official evidence that in the case of the Osborne Harvester Co., which was the company in the United States doing the largest foreign business, the acquisition was secured not by the voluntary sale of the Osborne Co., but by the act of the International Harvester Co., after negotiations for a voluntary purchase had failed, in destroying the credit of the Osborne Co., so that its large loans were called by banks, and in order to save itself from bankruptcy it was compelled to sell out to the International Harvester Co. Nor did that tell all the story; because, as I recall, for two years after the Osborne Co. had been compelled to sell out to the Harvester Trust, the Harvester Trust secretly ran and operated the Osborne Co. as a pretended independent, for the purpose of deceiving the trade and defrauding the customers who thought they were dealing with an independent company. The same practice that was indulged in in that case was indulged in also in others, when independent companies were acquired and competition crushed.

Mr. REED. Mr. President, I am coming to a great deal of that matter later on, but I thank the Senator for his contribution.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Utah?

Mr. REED. I do.

Mr. SUTHERLAND. Will the Senator state, if he knows, what the entire capital stock of the International Harvester Co. is now?

Mr. REED. I am coming to that, but I will state it now. The capital stock of the International Harvester Co. when it was organized was $120,000,000. It was afterwards increased to $140,000,000. Then the European and Canadian business was taken out of the company, and a new company organized with $60,000,000 capital, and the International's capital was reduced to $80,000,000.

Mr. SUTHERLAND. Will the Senator answer one other question—whether farming implements and machinery have increased or decreased in price since the organization of the International Harvester Co.?

Mr. REED. Mr. President, I think I can answer the question. Farming implements remained about the same until they got rid of nearly all outside competitors, and then farming implements went up. But, Mr. President, I pause at this time to remark—because it is especially pertinent with reference to an issue raised by Mr. Jones—that the fact that prices may not have been raised is no answer to the objections to this trust, because prior to the organization of this trust the price of farming machinery had been going steadily down, while the quality of the machinery had been going steadily up. When the trust was organized the improvement in quality, in my opinion—and I state it merely as a matter of opinion—largely ceased, while the price no longer went down as had been the case before the organization.

That, of course, is the justification which John D. Rockefeller puts forth. He continually asserts he did not increase the price of oil, but who shall say what oil would be selling for if there had been an open field and no man to stand and monopolize that field?

However, that is leading me away from my theme.

Mr. MARTINE of New Jersey and Mr. BRISTOW addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Missouri yield, and to whom?

Mr. REED. I will yield if the Senators really desire to ask questions.

The PRESIDING OFFICER. To whom does the Senator yield?

Mr. REED. I yield to my friend from New Jersey.

Mr. MARTINE of New Jersey. I want to say, in answer to the Senator from Utah, that the price of harvesting machinery has increased from 15 to 25 per cent in the past three or four years.

Mr. SUTHERLAND. Mr. President, if the Senator will permit me——

Mr. REED. Certainly.

Mr. SUTHERLAND. That is my own information about it. The statement was made upon the floor of the Senate several years ago, probably four years ago, and I never have heard it denied, that in the State of North Dakota—perhaps the Senator from North Dakota can tell us about that—the price of binders had risen since 1902 up to the time this statement was made from $100 to $150, which would be considerably more than an increase of 25 or 30 per cent.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Kansas?

Mr. REED. I yield to the Senator from Kansas.

Mr. BRISTOW. I wish to inquire if the Senator later on in his address expects to put into the RECORD the value or the capitalization of these concerns that were merged in the trust.

Mr. REED. I expect to do so. If I omit it, I shall be glad to have the Senator call my attention to it.

Mr. BRISTOW. I am anxious that that shall be done.

Mr. GRONNA. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from North Dakota?

Mr. REED. I yield.

Mr. GRONNA. I wish to add to the statement of the Senator from Utah that I know of my own knowledge that binders were sold for as low as $90 in the State of North Dakota and we are paying for those binders to-day $155 cash.

If the Senator from Missouri will permit me, I was going to call his attention a moment ago to the fact that the report made by the Department of Commerce and Labor during the year 1913 shows that it cost the independent companies 20½ per cent more to manufacture harvesting machinery than it cost the International Harvester Trust, and in the face of that I will say that the independent companies have been selling harvester machinery at a lower price than the International Harvester Trust.

Mr. KENYON. Mr. President——

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Does the Senator from Missouri yield to the Senator from Iowa?

Mr. REED. I do.

Mr. KENYON. The Senator from Missouri was asked by the Senator from Utah regarding the capitalization, and the Senator stated it had been increased to $140,000,000. I call the Senator's attention to the fact that an increase of $20,000,000 was the declaration of a stock dividend in 1910.

Mr. REED. Oh, yes. I will, perhaps, touch on some of those things if I do not get too weary.

I just now desire to inquire what was the purpose of organizing this combination? I have already shown by the report of the committee on organization that it had been found that every one of the five companies was in a prosperous condition. Therefore they were not being forced by bankruptcy or misfortune into a position where they had to combine in order to save themselves.

I now call attention to the charge in the Government's petition. The petition charges that—

> McCormick, Deering, Glessner, William J. Jones, George W. Perkins, and others, nearly all of whom were owners or officers of the five companies, "believing combination could yield large profits, determined to bring it about, destroying existing competition among the five concerns, and through combinations and agreements in restraint of trade to exclude all others and secure control of and monopolize interstate trade and commerce in harvesting machinery and twine. They further determined that when they had accomplished the purposes just mentioned they should extend into other classes of agricultural machinery and finally monopolize interstate trade and commerce in agricultural machinery of all kinds, their purpose being to use the power obtained by a monopoly of trade in harvesting machinery in such a way as to acquire a similar monopoly in every class of agriculture."

So charged the Government of the United States in 1912. So charges the Government of the United States to-day in its petition. The charge is indubitably true. I read from one of the letters that were sent out to the agents of these companies shortly after the consolidation:

> We believe that in the near future this great company will do practically all the harvesting business of the world. * * * It is according to and in harmony with the divine plan.

"It is according to and in harmony with the divine plan." Who was it last before this gentleman said that God had put the control of great properties in the hands of a selected few, he being, of course, one of the elect? The man is dead now, and I will not name him.

Mr. President, the allegation of purpose contained in this petition is borne out by every subsequent act of the incorporators. Why is it necessary to produce evidence that a combination of this kind was organized for the purpose of plunder? Why is it necessary to argue that? Will anyone tell me why a lot of prosperous men running their independent businesses will yield their sovereignty over them, their pride in the success of their business ventures, their love of independence, and concentrate them under a management and control where they are at best but partners, if not figureheads, unless the purpose is to make money? Will any man tell me why a monopoly was ever organized in this world except for the purpose of extorting money? There never was a monopolist on this earth who in the center of his heart was not a thief, and there never will be.

Harsh language you say. Let us analyze it. What is a thief? He is a man who by stealth, by artifice, by cunning, takes his neighbor's goods against his neighbor's will. The essential of the wrong is that the neighbor did not consent; he was compelled to yield by the force of cunning. What is a monopolist? The man who organizes a monopoly gathers all of a certain product into his hands with no other object than this, that he may apply the force of human necessity to compel human beings to surrender their property to his inhuman greed.

But I return to discuss the concrete proposition. I desire at this point to quote without reading certain excerpts from the Bureau of Corporations.

The PRESIDING OFFICER. Without objection, the matter will be printed.

The matter referred to is as follows:

> Bureau of Corporations, Department of Commerce and Labor (Mar. 3, 1913), demonstrates from the testimony of the harvester people themselves that prior to the consolidation the various harvester companies of the United States were engaged in an active and fierce competition (p. 59). It is a fact that two of the objects in creating the trust was—
>
> 1. To eliminate competition.
> 2. To issue inflated securities (p. 60–a).
>
> The bureau adds:
>
> "There is no doubt that the true motive for the formation of the International Harvester Co. was to eliminate competition and secure a dominant position in the trade. This was also the salient fact of the transaction. The purposes of reducing costs and expenses by organizing a single great concern from several large ones was a secondary motive" (p. 70).

Mr. REED. Now, Mr. President, I come to a demonstration of the proposition that every one of the organizers of this institution knew he was engaged in a criminal venture, that the answer now on file in the United States court in Minnesota is a false answer deliberately made, and that those who were parties to the making of that answer sought to impose an untruth in the temple of justice. They pleaded—and I quote:

> That in accordance with separately conducted negotiations with the representatives of the Deering, McCormick, Plano, and Warder, Bushnell & Glessner Companies, said companies, pursuant to oral agreements theretofore independently and separately reached by their representatives and defendant Perkins, executed separate contracts on July 28, 1902, each of which was substantially similar to Exhibit 1 attached to the petition.

The Government had charged that there was concert of action, a common purpose, in organizing this trust, and that charge was met by the solemn plea that there was not such concert, but that they had each made a separate and independent deal; that they did not come together in combination, but were actually purchased outright in good faith by somebody who afterwards sold them to a company. That plea was also repeated in substance by Mr. George W. Perkins. Mr. Perkins in his answer used this language, that the properties were acquired "through separate negotiations with the officers and owners of the McCormick, Deering, Plano, and Champion companies"; that they "contracted for the purchase by the corporation he was about to form of the plants, properties, and business of those four companies, respectively," the point of it all being that these gentlemen thought they could convince a court that they had by separate arrangement each sold his property to some individual. The individual, having acquired all the property, could as the sole proprietor sell it to a company. So the illustrious conspirators plead that there was no concert of action, and that there was, in fact, an actual good-faith purchase by independent contracts. These were the answers of all the defendants, and any defendant, particularly Jones, the lawyer defendant, surely knew the answer was based on a sham and was therefore a fraudulent answer.

Mr. President, the pretense they undertook to put off upon the courts was an ancient one with them. It was indulged in from the very first. It was a fiction they had set up. I propose to trace that fiction not so much because it is so unique as because it colors and taints and gives a cast to all the conduct of these gentlemen.

By the way, that same pretense was set up in the State of Missouri in the suit there and relied upon. In the Missouri case, if I correctly understand the record, the State was not able to disprove the claim, but there was some testimony given in that case in Missouri which the Government in its brief now charges was false testimony. But of that a little later.

When the Government came to try this last case they put these gentlemen on the witness stand. It also found some agents of the trust who seemed to be willing to tell the truth. It was developed that the proprietors of these companies, who now allege they made independent contracts, went to New York and stopped at separate hotels; that they were in touch with Francis Lynn Stetson and William Nelson Cromwell and George W. Perkins; that Stetson assured McCormick that Morgan would be willing to stand back of the combination of the harvesting-machine companies. But Stetson also told them that if they all transferred their property to one corporation they would violate the trust laws. The danger of the law was distinctly discussed. They speculated as to how they could avoid the law; how they could perpetrate the crime in all its essence and yet so escape the form that they would go unwhipped of justice. These good citizens sat down with the statutes of the United States before them not to ask the question, "How shall we act

that we may accord with the law?" but "How can we defeat the law and warp it to our evil purposes? How may we perpetrate a fraud upon the law?" They were advised they could not combine by direction, and so they sought by indirection to find direction out. It was Mr. Cromwell, now well known to fame, who suggested that while the combination could not be made directly there was "nothing that could prevent people from selling their business to whomsoever they wanted or anybody else from buying."

So here was the suggestion of a means by which they, as they fondly hoped, could beat the law. Thereupon a man named Lane was secured. Mr. Lane has been mixed up with a great many corporate transactions. Mr. Lane prepared five identical contracts, to be signed by each one of these five companies. Each of these contracts recited that the seller should take his pay in the stock of a company to be capitalized at $120,000,000 and should transfer all the property of the particular concern to Lane.

A lot of ordinary thick-headed criminals who never undertook to rise above the dignity of robbing hencoops would have had sense enough to know that such a subterfuge as that would never stand in law or morals if the facts were once dragged forth.

The contracts were executed at substantially the same time by all five of these concerns. Thus Lane became the nominal dummy holder of all of the property of the constituent companies.

I pause to call attention to the fact that each of these contracts carefully avoided any reference to the fact that other contracts were being made; but the stupid gentlemen forgot that the clause which linked them all to one corporation—for all were to take their pay in the stock of the same corporation—was as deadly as though they had written their purpose upon the face of the instrument.

The Government declares that for 10 years this fiction has been put upon the country, and the Government demonstrates from the records that its position is correct.

Now, all this property having been transferred to dummy Lane, they, on the 12th day of August, 1902, organized a corporation with six dummy directors. I am almost quoting now the language of the Government brief.

Dummy Lane thereupon transmitted a proposition by one of the dummy directors to the other dummy directors to sell to this company for $120,000,000 of its stock all the property of these five great concerns.

Thereupon the six dummy directors appointed a committee of three dummy directors to consider Lane's proposition. Meanwhile, waiting in different hotels around town, were the proprietors of these concerns, which were all being sold at the same time. Of course all of them were innocent of any knowledge of what was transpiring.

I resume the narrative. The three dummies solemnly considered dummy Lane's dummy proposition and reported back to their three associate dummies. The minutes of that interesting meeting recite that the president, who was one of the six dummies, announced that the committee were prepared to report, and "the committee also stated they had invited E. H. Gary, Esq., chairman of the executive committee of the United States Steel Corporation, to be present because of his familiarity with the properties covered by Mr. Lane's proposition."

Mr. Gary was there. Why should he not be there? It was a Morgan proposition; only it is remarkable that Morgan sent Gary instead of sending another dummy, because everybody will admit that Gary is no dummy. The dummies then resolved solemnly to accept Mr. Lane's proposition. The dummy officers were authorized to issue to dummy Lane 1,200,000 shares of stock in this dummy company, of the par value of $120,000,000.

At the next meeting, which was immediately, a resolution was passed by the dummies declaring that the working capital was $132,000,000, and an entry was ordered to be made to show a surplus of $72,000,000, the balance being covered by the stock of $60,000,000, which was all that was issued up to that date.

The board then went to dinner. These six dummies had appetites and appear to have been possessed of "bodies and parts and passions." They went to dinner as other mortals might go.

After dinner they reconvened and increased the number of directors from 6 to 18. Thereupon Cyrus H. McCormick, Charles Deering, Norman B. Ream, Charles Steele, Harold F. McCormick, William H. Jones, John J. Glessner, George W. Perkins, E. H. Gary, Cyrus Beltley, Paul D. Cravath, Richard F. Howe, Stanley McCormick, James Deering, and William Deering were elected directors. They found themselves suddenly in possession of this corporation. The dummies had folded their tents like the Arabs and silently stolen into the night. Thus these men who had been told they could not combine their properties in one concern without violating the criminal laws of the country now found themselves purged and washed of their sins, sitting serenely behind mahogany desks, in possession of just such a combination. They fondly imagined they could impose the fraud upon the people of the United States and upon the courts of justice. For 10 years that fiction has been kept up. The present directors of this company authorized a false answer, alleging that they had made independent sales to be filed in the courts at St. Paul, and upon that false and fraudulent answer they are standing to-day.

Mr. President, who were these dummies? I want to put the names in the RECORD. There was dummy Lane, president of the Standard Trust Co. He possessed one of those accommodating memories which enabled him on the witness stand in the Government's case to forget nearly everything that had transpired. Reading through his testimony I am led to believe that he only remembers his name from force of habit, and not from tenacity of thought.

Dummy Hyatt was vice president of the New York Security & Trust Co., who acted at the request of Perkins. (111–A.)

Dummy Miller was a stockbroker and could not even remember how he came to be a dummy. (111–B.)

Dummy Cravath was the South American agent of the Trinidad Asphalt Co., doing business principally in Venezuela. (112–A.)

Dummy Cotton was a law clerk. (112–B.)

None of these men was interested in the agricultural implement business. Some of them probably would have scared at the sight of a Jersey cow and would not have been able to distinguish the difference between a self-binder and a hayrake. A touch of humor, however, is found in the fact that after all their attempts at concealment and the claim that Lane was an independent purchaser, it transpires that all of the details were prepared in the office of a lawyer who was one of the counsel of Morgan & Co.

Mr. President, it is not difficult to tell how they got those dummies; it is not difficult to tell how they get directors. Morgan was a great attraction in his day and generation. There were men who would rather be a director in the house of Morgan than to dwell in the tents of the righteous. In every age of the world's history there have been men willing to serve. If I might be pardoned a paraphrase of Macaulay's lines, I would repeat:

> Wher'er you shed the honey, the buzzing fly will crowd,
> Wher'er you fling the carrion, the raven's croak is loud,
> Wher'er down Tiber garbage floats, the greedy pike you see,
> And whereso'er a Morgan's found, a Perkins sure will be.

[Laughter.]

And Perkins was an expert in the selection of dummies. I suppose we might account for these lesser lights by paraphrasing the ancient doggerel.

> So big fleas have little fleas, all smaller still to bite 'em;
> And so the game goes merrily, in fact, ad infinitum.

Morgan! Perkins! McCormick! Jones! I thus run down the scale.

Mr. President, what did these gentlemen proceed to do? Having created this monstrous thing, the first proposition was to perpetuate it. Accordingly they organized a voting trust; indeed, that was provided for in the original agreement. Every share of stock was put into the hands of the three voting trustees and by them in turn deposited with Pierpont Morgan. Instead of issuing shares of stock to the proprietors of the constituent concerns, so that the stock might by possibility have got upon the market, being afraid to trust each other, and knowing well how to estimate each other, they made sure of a common ownership and common management and a monopolistic control by requiring them actually to deposit, physically, every share of their stock with Pierpont Morgan. Then they issued certificates, not of stock, but certificates that Morgan held stock for them. They were even afraid to trust each other with the certificates showing that they were entitled to shares of stock; accordingly they required the hypothecation with Morgan of the greater portion of those certificates.

Mr. President, at the time I was interrupted I was talking about the voting trust. This trust was made up of George W. Perkins, Cyrus McCormick, and Mr. Deering, the three gentlemen most active in forming that criminal trust, the three men most active in seeking deliberately to debauch the law by perpetrating a fraud upon the law. It was agreed that for 10 years these men, exercising through the power of voting trustees, should completely control the Harvester Trust. From

that day to this blessed hour every director in the corporation has been selected by these three men. If you can imagine three gentlemen sitting down and organizing a trust in defiance of the law, paying Mr. Morgan three million four hundred and fifty-odd thousand dollars as a fee for working out the consolidation and tying it all together for 10 long years—if you can imagine gentlemen inspired by such motives and such purposes electing directors for the purpose of having those directors reform the institution they had created in fraud, brought forth in iniquity, and cradled in crime, then you can imagine something beyond my inventive genius. The stream——

Mr. NELSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Minnesota?

Mr. REED. In one moment. The stream does not rise higher than the fountain source; the creature is not often better than the master; the devil has not yet been known to seek out saints that saints may reform perdition. I now yield to the Senator from Minnesota.

Mr. NELSON. Mr. President, are any of the directors operating under a voting trust such as this, anything except mere dummies?

Mr. REED. I can not see how they could be. This voting trust expired in 1912, and my remarks should be confined to those directors holding that position prior to that time. But since 1912, when the voting trust expired by limitation, it appears that the old directors are still largely in office, and so much did the McCormicks love the trust idea that they got up a voting trust of their own after the original voting trust had expired.

Mr. HITCHCOCK. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Nebraska?

Mr. REED. I yield.

Mr. HITCHCOCK. While the voting trust expired in 1912, it should be borne in mind that the voting trust elected the directors for a term of years, and that in the case of Mr. Jones particularly that term has not yet expired. My recollection is that the election is for five years.

Mr. REED. When you talk about a director elected under those circumstances reforming and breaking down the policies of the man who elected him, you arouse laughter. Absurdity knows no extreme beyond the acceptance of such a statement.

Mr. President, when they created this voting trust, how much water there was in the stock I can not tell. I heard it testified the other day that the assets far exceeded the amount of the capital stock, but I find on examination that the appraisal of these properties was turned over to gentlemen the majority of whom, if my recollection serves me right, were nominated by the Morgan interests. However that may be, they took over the properties at what was called their book value, and every man who knows anything about the term "book value" when it is applied to old concerns understands that it is generally vastly in excess of real value. But, sir, after they had put these properties in at their book value they still increased that amount by some $16,946,542; not so great an increase as is frequently found, but upon the very face of their own books there was that much water put into the company. I have not the slightest doubt, estimating the properties according to the real value, there was at least 50 per cent of water. I ask to have printed a tabulation of these figures which I have taken from the report of the Bureau of Corporations.

The VICE PRESIDENT. In the absence of objection permission is granted.

The tabulation referred to is as follows:

WATERED STOCK OF THE INTERNATIONAL HARVESTER CO.

At the time of the organization of the trust, the physical value of the properties transferred, as appeared on the books of the various companies, was as follows (Bureau of Corporations report, p. 125):

McCormick	$19,761,821.80
Deering	13,758,401.87
Plano	2,708,982.48
Champion	3,824,251.45
Milwaukee	3,000,000.00
Total actual value as appeared on the books of the companies	43,053,457.60

Value as raised by the International Harvester Co. upon its organization:

McCormick	$29,461,481.03
Deering	28,081,514.69
Plano	2,708,982.48
Champion	3,824,251.45
Milwaukee	3,000,000.00
Total value as raised by International Harvester Co	67,076,229.65

For this amount the company paid $60,000,000 in stock.

Company was organized with capital stock of $120,000,000; cash stock subscription was $60,000,000; actual value of property, $43,053,457.60; total of actual value, $103,053,457.60; leaving the difference between the $120,000,000 and the $103,053,457.60, or $16,946,542.40 watered stock.

This was not in payment of good will, as appears in the following statement (Bureau of Corporations report, p. 100):

In view of the evidence that the higher appraisals, particularly of natural resources, were frequently excessive, the bureau is satisfied that the appraisal of $4,963,909 for this McCormick land was altogether too high. One of the officials of the International Harvester Co., when questioned on this point, said:

"The higher valuation was adopted in the books for two reasons: First, because it was considered a reasonable valuation at that time; and, second, because there being no good will in the capitalization of the International Harvester Co. it was considered only fair and proper that the higher valuation of the appraisal should be used."

This statement clearly indicates that the valuation placed upon this real estate was excessive in that one reason why the International Harvester Co. felt justified in adopting it was that the company did not take account of good will in computing its assets.

Mr. REED. Mr. President, being organized in this wise, the proprietors of the concern set about to carry out its evil designs. Its first great acquisition was the last large single manufacturer of agricultural implements outside of the combination. I omitted to say, but now say, that they took in through Morgan & Co., the Milwaukee Harvester Co. at the time of organization; but immediately after the organization they took in the Osborne Co., and paid for it $3,365,000.

Now I challenge the attention of the Senator from Nevada [Mr. NEWLANDS], who has given so much study to the question of fair trade, to the prevention of those evils which we are asked to sit here in this sweltering weather to prevent, namely, the secret devices and the fraudulent practices by which great concerns crush their small rivals—I challenge all of you who believe in that kind of legislation, and who are willing to sit here and abide the summer's heat and the fatigues of the season and jeopardize your health, to hearken while I read you a few chapters out of the book, not of unfair competition, but of destructive and often criminal competition.

THEIR CRIMINAL COURSE.

They acquired early in 1903 the great Osborne Co., but they kept secret the fact that they had acquired it. Why? Because if they could keep that fact from the public they could use this supposedly independent concern in a way to deceive the public. They could use it to cut prices. They could use it to invade the territory of rivals. They could divide the trade of those who were unwilling to purchase from a trust, obtaining part of it for themselves through the instrumentality of this supposedly independent concern. So they kept the purchase secret, and they advertised all over the country the Osborne products as goods made by a concern independent of the trust and engaged in fighting the trust. Aye, they required or permitted—I know not which—their agent to go into the State of Missouri and apply for permission to do business there, and to make this affidavit:

That the company is not a party to any agreement or combination to fix prices or output; that it has not entered into any arrangement with any other corporation or persons, or placed the management and control in the hands of trustees for such purposes, or made any arrangement that in any way tends to interfere with full and free competition in the manufacture or sale of its products.

And yet when these gentlemen sent this agent to the State of Missouri to sign this false affidavit they knew that he would be required to swear falsely or that they could not do business within that State. This is the concern that through one of its agents announced that it was "organized according to the divine plan."

Mr. President, some two years later they had to or did publicly announce their ownership of this company, and then for the first time they elected new officers. Up to that time they kept the names of the officers of the old company at the head of the institution.

I pass from this piece of attempted fraud upon the public, from this specimen of unfair competition, which I commend to those who seek to set up new tribunals that we may prevent unfair competition as one device that ought to be included. I commend to the attention of those who seek to bring to the bar of law all who are guilty of unfair practices this particular device of this particular company.

Mr. NEWLANDS. Mr. President, may I inquire during what years that device was resorted to?

Mr. REED. In 1903, 1904, and part of 1905.

The next step in the onward march of this beneficent institution was the acquisition of the Minnie Harvester Co. They acquired that in 1903. They operated it for two seasons as an independent plant, advertised it as an independent plant, and then, having squeezed all the juice out of that lemon, having removed it from the field of competition by absorbing it, they

closed down the works and dismantled them—another evidence of the beneficence of monopoly.

Here had been a hive of human industry; here the whirring wheels and the blazing furnaces had made a scene of industrial activity and prosperity; here was a place from which wages flowed; here was a means of enriching a local community. Here was an industry put out of commission, the furnaces drawn, the smoke of the chimney died out, and the thousands of poor people dependent upon it for a livelihood turned out of employment and compelled to seek labor elsewhere; and here was another fraud being perpetrated upon our farmers.

Why, I can imagine one of these rugged old fellows, who hates a trust with that instinctive hatred which springs from the heart and soul of every honest man, driving to town and saying: "I will not patronize a trust," falling into the hands of an agent of the trust, and being told, "Why, neither the Minnie machine nor the Osborne machine is in a trust; we are fighting the trust." And so, believing that he was doing a little service to his country and his country's God by patronizing a concern that was fighting the trust, the old fellow goes down in his pocket and pays for a machine. The agent chuckles and laughs at the ignorance of the farmer, and remarking "How easy it is to do up those old fellows," remits the money to Perkins. I can see the smile that passes over that pious countenance, almost as beatific as it is when he sits in the presence of the great Roosevelt, basking in the light reflected from his noble brow—I can see the smile of pleasure upon the Perkins countenance as he counts the sheckels that came from the farmer who thought he was not buying from a trust.

The *Aultman-Miller* Co.—I do not know who battered the Aultman-Miller Co. down. I do know that very naturally it would be crushed by such a rival. Later on I shall give some evidence of the fact that all independent companies suffered from the unfair and unjust conduct of this company; but the Aultman-Miller Co. was gobbled up by the Harvester Trust. The interest of the Harvester Co. in this concern was kept secret for two long years. It was advertised as an independent concern. It owned the patents and the good will of the old Buckeye machine.

Why, sir, that was one of the first machines ever made in this country. When I was a boy it was singing its merry song in the meadows of my State. It was regarded as one of the few machines that could be relied upon to cut through everything from underbrush to wire grass. They put the old Buckeye out of business. It is no longer manufactured. If the plant had been sold to some independent company, the Buckeye would still be manufactured. But why should this concern, which had a monopoly, continue to manufacture the old Buckeye mowing machine? Accordingly it ceased to be.

Then they acquired in 1904 the Keystone Co. That was a company engaged in the manufacture of corn shellers, hay tools, and tillage implements.

What else did the trust do? It discharged numerous agents. Its method of economy was to cut off men's bread and butter to increase the profits of its proprietors.

Herein lies a good illustration. Put 20 concerns in the market doing business. Each will have a great number of agents soliciting business. Accordingly a part of the profits of the concerns is distributed to the agents. Consolidate them all now as a trust, make the monopoly complete, and it can and will discharge substantially every agent. What happens then? Instead of the profits being divided between the proprietor and the large number of agents, the proprietor gets all. The agents must go elsewhere and find work. So the trust discharged a vast number of agents employed before the consolidation.

Mr. President, the trust made low prices in order to shut out competitors, to destroy its weaker rivals. I read from the Government's brief, which contains a copy of the report of the meeting of the sales committee. This committee, meeting in the city of Chicago, reported as follows:

> It considers it of the utmost importance, for the purpose of encouraging and promoting the sale of grain harvesters, that the retail price be kept low.

That does not make the purpose very plain. Follow me on:

> Second. It believes a reasonably low price on twine this season will discourage smaller manufacturers from competing for the business for 1903 and for the future.
>
> Third. It believes the present price of fiber would enable a manufacturer to produce twine at a cost of not to exceed 9 cents per pound, and that any price over 10 cents would make the business more attractive to the smaller manufacturer than is desirable.

And so, not because they loved the people, but because they wanted to crush the smaller manufacturer, they continued low prices in the particular instances to which I have called attention.

I cite the item, not because of its inherent importance, but because it points a policy and manifests a purpose.

They undertook—and again I challenge the attention of the students of unfair competition—to deprive their rivals in the twine business and in the smaller agricultural-implement business of their good agents. I read briefly from the Government's argument:

> In the summer of 1903 the only companies competing with the International in selling harvesting machines in the great grain sections of the Central West were the Acme Co., of Peoria, Ill., which was in the hands of a creditors' committee, the Aultman Miller Co., of Dayton, Ohio, bought by the International Harvester Co., July, 1903, and the Minnie Harvester Co., of Minneapolis. The latter company started in business in the early part of 1902. It put on the market in that year 2,500 machines, and in 1903, 3,000 machines. The following sales report, dated April 30, 1903, signed by each of the sales committee, and approved by the executive committee of the International, discloses the character of the competition the Minnie Co. encountered:
>
> The Grass Twine Co. has a few good agents in points in Minnesota, the Dakotas, Iowa, Kansas, and Oklahoma. It is desired to keep the trade of these agents as small as possible and get them as agents for this company next year, and it is believed this can be accomplished if the divisions are especially active at these places. It is therefore decided that each division shall be permitted to locate a canvasser at each of these places where the volume of trade will justify it and where the division is well enough organized at the town to make the work effective, these men not to count on the regular allotment.

Translating that, it means that they had organized a "flying squadron" of experts, who were to invade the territories where the weaker companies had good agents. They were to work so assiduously as to ruin the business of those agents and take away their trade, and then, the agents having been discouraged in this way, this company intended to hire them the next year.

I call the attention of the author of the bill on unfair competition to that practice and to this shining example of fairness and virtue and of the beneficent results flowing from trusts.

Further on the Government elaborates this point, not now in the mere lawyer's brief, but in the lawyer's brief that quotes the record and sets forth the documents.

The report I have just read was "approved and ordered placed on file" at a meeting of the executive committee at which were present Charles Deering, Cyrus H. McCormick, James Deering, William H. Jones, Harold F. McCormick, and J. J. Glessner. Each one of these gentlemen is still employed by the International Harvester Co. Those of you who think this trust has been reformed, that it has been regenerated, that it has been baptized, that it has seen a great light, remember that the men who set up that infamous scheme to crush a weaker rival, who were present and approved the plan—a plan that would have done credit to a buccaneer sailing the Spanish Main in the fourteenth century—are still the officers of this company. Of course there have been a few added since who can see nothing wrong in all it has done, and who are yet uncertain whether the original organization was not an act of good morals.

But I proceed; and at this point, in order that the record may be complete, I ask leave to print from the Government's brief the names of the defendants in the Government's suit.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

> International Harvester Co., International Harvester Co. of America, International Flax Twine Co., Wisconsin Steel Co., the Wisconsin Lumber Co., Illinois Northern Railway, the Chicago, West Pullman & Southern Railroad Co., Cyrus H. McCormick, Charles Deering, James Deering, John J. Glessner, William H Jones, Harold F. McCormick, Richard F. Howe, Edgar A. Bancroft, George F. Baker, William J. Louderback, Norman B. Ream, Charles Steele, John A. Chapman, Elbert H. Gary, *Thomas D. Jones*, John P. Wilson, William L. Saunders, George W. Perkins.

Mr. REED. I proceed. Here is a later sales report:

> Sales committee report of April 30 recommends some additional canvassing in Minnesota, the Dakotas, Iowa, Kansas, and Oklahoma to meet grass twine competition. Recommendations from the general agents for a plan to meet this competition were submitted, and the sales committee, after revising these plans, suggests the following allotment of men to the different divisions for this work, in accordance with the recommendations of paragraph 1 in report of April 30:
>
> McCormick division, 20; Deering division, 20; Champion division, 15; Plano division, 10; Milwaukee division, 10.
>
> These figures to represent the maximum and not to be reached unless the expense seems justifiable.

That report was also approved by the executive committee.

The record—

Says the Government—

contains other instances of action taken by the sales committee, to employ extra canvassing agents against the Minnie Co.

Finally the Government adds:

> No wonder the company was glad to sell out in the fall of 1903; it could not get capital to continue its business. For two years thereafter the International operated it as a fake "independent."

Mr. President and Senators, if there be a trick, a device, a method known for the propagation of trusts and the destruction of honest rivalry in business which has not been adopted by this concern, then I am not aware what that device may be; and yet, through all of it there runs a vein of cant and false

pretense, a brand of hypocrisy that nauseates manhood and violates every idea of self-respect.

Here is a letter which Mr. O. W. Jones, one of these managers, sent out to the agents:

The International Harvester Co. of America has not been organized for the purpose of monopolizing or creating monopoly, and so no agent will have a monopoly on more than one machine on the International Harvester Co.'s lines.

Protesting that they were not organized for the purpose of monopoly, they refused to give to any one agent the agency for all their machines, thus compelling a number of agencies to be established in a city, or compelling the public to buy only one machine; but even if there were a number of agencies established in a city, they would all be agencies for the same concern, although each of them would have a different machine.

So this gentleman continues:

We believe that in the near future this great company—

After saying they were not organized for the purposes of monopoly—

We believe that in the near future this great company will do practically all the harvester business of the world, for the company is organized wisely and it is going to be, and is, managed on broad-gauged, unselfish principles.

Ah, how unselfish they were when they were sending out their "flying squadron" to crush their weaker rivals! How unselfish they were when they were lowering the prices in certain places to destroy competitors! How unselfish they were when they forced these struggling concerns over the precipice of bankruptcy in order that they might fatten upon the ruins that were left, while they occupied the field alone!

But I continue to read:

It is going to sell its goods for reasonable prices and deal justly with all men, employees, agents, and farmers, and that sort of treatment and operation will succeed everywhere. It is according to and in harmony with the divine plan.

Having reached out and gathered in all the agricultural business of the United States they now set up the pretense that Almighty God is their partner in the enterprise, or at least that they have a patent on divine plans.

Here is another excerpt illustrating some unfair competition, for I adopt that phrase for the present.

At their meeting held September 9, 1902—

It was decided that on an order for a carload of hayrakes for the use of one agent only it would be permissible to name a discount of $1 per rake when necessary to meet outside competition. If any cases arise where this is not sufficient to take the trade from outside competitors, the matter is to be brought up at a sales committee meeting for their consideration. Each division is to inform the other divisions of any sales made at less than schedule and give the price.

And so on.

CRUSHING COMPETITION.

I will not now take the time to read further. It would require hours to cover the field. I content myself in closing this particular branch of my remarks by reading from the hearings before the Committee on Rules of the House of Representatives, held January 17, 1912, long enough ago to permit the light to penetrate into the heart and soul of any director of the company so that he need not have further notice by decree of courts. I read from page 38, "Undermining of independents":

The International Harvester Co., by spreading false and so-called confidential reports, led the dealers to believe that it had acquired control of independent manufacturers and would soon discontinue their models, thus driving the independent machines off the market.

That is another variety of fraudulent competition. I say to the distinguished chairman, who has in charge the bill covering unfair practices, that if he will just study the practices of the International Harvester Co. he can obtain a university education along that particular line of fraud and oppression. I continue to read:

The International Harvester Co., through its interlocking directorates and interests with the great Morgan and Rockefeller financial groups, has been able to dry up the channels of credit of its competitors and to overcome all resistance.

How true and how pointed now are the words of President Wilson, which I read in the early part of my remarks, wherein he warns us against the financial power that is centralized in this country. Here we find it manifest, and here, according to the evidence contained in the report of the House of Representatives, are the certain proofs of its existence and of its devestation:

The International Harvester Co. has secured a discrimination in the price of steel from the United States Steel Corporation, and the Steel Trust refunds to the Harvester Trust $3 a ton on all steel used in the manufacture of machinery exported, thus proving beyond a doubt that steel can be and is produced in this country and sold profitably at the foreign price; in other words, showing that the tariff on steel is indefensible.

I read further:

The International Harvester Co. receives rebates from the railroads both in the East and in the West.

This is a present charge, or was a present charge on January 17, 1912. If that be true, then here is another violation of the law. If that be correct, here is another act of felony. I read further:

The International Harvester Co. makes its agents pay transportation and other charges out of their commissions and then defrauds them in the computation of these charges.

That is unfair treatment, to say the least. I read further:

The International Harvester Co. has been guilty of legislature bribing and tax dodging.

BINDING-TWINE MONOPOLY.

The International Harvester Co. conspired to create and did create a binding-twine monopoly; it took advantage of the elimination of competition to reduce the quality of its goods, greatly to the detriment of the agricultural interests.

Why, of course. There never was a monopolist yet who kept up the standard of his output unless he was forced to do it by present competition or by threatened competition.

The International Harvester Co. has extended its operations to other implements, and is bending all its efforts—

When? In 1902? No. In 1909? No. In 1912, when this hearing by the House of Representatives took place, a body certainly of equal dignity and importance with this. At that time—

The International Harvester Co. has extended its operations to other implements, and is bending all its efforts to the establishment of a monopoly in the manufacture of cultivators, harrows, manure spreaders, wagons, cream separators, gasoline engines, etc.

Further, in addition to the above criminal or illicit acts, information of which is in the possession of the Department of Justice, the International Harvester Co. has directly hampered the farmers of the country and increased the cost of living by suppressing the best and most efficient machinery to continue the manufacture of models that gave a greater profit, and has maintained retail prices which by no method of reasoning can be justified by the cost of production.

We are not talking about something that happened in the remote past. We are not considering acts where the statute of limitations can be plead. We are not going back of present conditions. I am reading this evidence from the report of the committee of the House of Representatives, because I believe it is entitled to respectful weight here.

Mr. VARDAMAN. When was the report made?

Mr. REED. The report was made January 17, 1912. [Reading:]

Since competition has been eliminated and a monopoly formed, the sole aim of the Harvester Trust has been to reduce its cost of manufacture and increase its profits, regardless of the interests of the farmers or of the country at large.

That does not refer to things that happened prior to 1909. That refers to things that were occurring up to the date of this report in 1912. You see the old pirate ship, the keel of which was laid with loving care by Perkins and Morgan and McCormick and Deering in 1902 still is sailing under the same black flag. It is commanded by the same officers, except as they occasionally put in a dummy who is willing to take orders and do their bidding. It is headed for the same port. It is as much deserving to be sunk now as it was the day it was launched. Those who man its decks and swarm through its yards are as well entitled to be tried, convicted, and punished as were the men who first gave its criminal hulk to the waters of the ocean of commerce.

Says this report:

The manner in which Mr. Perkins organized the Harvester Trust and the subterfuge he employed in his efforts to escape the meshes of the law were worthy of a man whose masterful mind has been whetted on the grindstone of corporation cunning. This is how he did it.

Then follows an account of the organization of this company, which is substantially as I have given it, and I ask leave to print it without reading.

The VICE PRESIDENT. Without objection, it will be so ordered.

The matter referred to is as follows:

At the beginning of 1902 there was keen competition between the various manufacturers of harvester machinery in the United States. The most powerful was the McCormick Harvester Machine Co., controlled by John D. Rockefeller, whose daughter is married to Harold F. McCormick.

Mr. Perkins, still flushed with the success of the billion dollar steel merger, proposed a plan for the merger of the harvester interests. He first approached Cyrus J. McCormick, who fell in with his views, and it was determined that McCormick should obtain an option on the entire capital stock of $1,000,000 of the Milwaukee Harvester Co., a Wisconsin corporation which manufactured the best and most efficient harvesting machine then invented, and was the only one of the larger firms in which the control was not centered in a few individuals.

The concentration of the harvester business in the hands of comparatively few firms, the concentration of the control of the principal competitors among a few stockholders, made the formation of a monopoly relatively easy. Rockefeller, through the McCormick family, controlled the McCormick machine; the Deering family controlled the Deering; the Jones family controlled the Piano; the Glessner family controlled the Champion.

In July, 1902, Cyrus J. McCormick exercised the option he had obtained on the stock of the Milwaukee company, and Mr. Perkins invited the McCormicks, the Deerings, the Joneses, and the Glessners to New York to effect the combination of their interests. The consolida-

tion was discussed in the offices of J. P. Morgan & Co. and a preliminary agreement was reached. It was decided that the various manufacturers should return to their homes and make inventories of their plants. This they did.

TROUBLE OVER INVENTORIES.

They returned in two weeks with the inventories made, but all of them had valued their assets highly, and each interest, while sticking to its own valuation, stoutly refused to accept the valuations its competitors had placed on their plants. It appeared they would never agree.

But Mr. Perkins was equal to the situation. He conducted all the negotiations and devised and executed the plan finally agreed on. Mr. Perkins suggested that the harvester people should consolidate anyhow and leave the value of their various plants to be afterwards appraised at their full value by independent appraisers, and that all of the properties about to be merged should be immediately transferred to a trustee pending the appraisements.

Mr. Perkins then suggested that the five companies should not all be merged into the International Harvester Co., but that the separate corporate existence of one of them should be preserved, and for this he selected the Milwaukee.

MILLIONS OF WATER.

On August 12, 1902, the International Harvester Co. was organized under the laws of the State of New Jersey with a capital of $120,000,000, which was about $15,000,000 in excess of the most rosy figure at which the constituent companies had estimated their assets in the inventories.

On the same day all of the capital stock of the Milwaukee Harvester Co. and all of the property of the four other companies was conveyed to one William C. Lane as trustee, and subsequently conveyed by him to the International Harvester Co. At the same time all the capital stock of the International Harvester Co. was issued and delivered to Mr. Lane as trustee. On the next day Lane entered into a voting trust agreement with Cyrus J. McCormick, James Deering, and George W. Perkins as voting trustees, by the terms of which all the capital stock of the International Harvester Co. was transferred to this voting trust, with authority to exercise its voting power only, trust stock certificates to be issued by the voting trustees to the various parties entitled thereto.

TO MORGAN, $5,000,000.

The appraisements were made on a most liberal scale, and stock trust certificates issued by the voting trustees as follows:

To the stockholders of the McCormick Harvester Machine Co	$51,000,000
To the partners of the Deering Harvester Co	40,000,000
To the stockholders of the Piano Manufacturing Co	4,000,000
To the stockholders of the Wardner, Bushnell & Glessner Co	8,000,000
To Cyrus J. McCormick for the $1,000,000 stock of the Milwaukee Harvester Co	2,700,000
To J. P. Morgan & Co., for services	5,000,000
Balance sold for cash (to John D. Rockefeller and others)	9,300,000
Total	120,000,000

On August 14 the International Harvester Trust was doing business. It had its offices in Chicago, where all the business is done, and where its officers are all located, notable exceptions being Mr. Perkins and one other local director in New Jersey to comply with the law.

Then on September 5 Mr. Perkins completed his plans by changing the name of the Milwaukee Harvester Co. to the International Harvester Co. of America. The amount of its capital stock remained unchanged, $1,000,000. It had the same directors and almost the same name as the $120,000,000 International Harvester Co.

PERKINS ENLISTS PERKINS.

Mr. Perkins of the big International Harvester Co. then suggested to Mr. Perkins of the little International Harvester Co. of America that they enter into an agreement. This was done. The agreement is a very simple thing. The International Harvester Co. sells all its products at the price it likes to the International Harvester Co. of America, which in turn sells to the trade at a nominal profit.

By this altruistic device the International Harvester Co.—the trust—avoids participation in interstate commerce. It is purely a State concern; it does not come under the jurisdiction of the Federal Government. That, at least, was Mr. Perkins's intent.

The International Harvester Co. of America, on the other hand, with its small capitalization and its very modest profits, is the model corporation which does business in other States, and is required by the laws of many of them to render statements as to financial condition, profits, etc., and in some cases to pay taxes accordingly. Mr. Perkins has used the same device in Canada, where the International Harvester Co. of Canada (Ltd.) is a model corporation and sells at a modest profit to itself the products of its parent company.

The Harvester Co. of America is a straw corporation, all of the stock of which has been owned by the International Harvester Co. ever since August 13, 1902, when it still had its old name of the Milwaukee Harvester Co. All the stock of the International Harvester Co. of America is still owned by the International Harvester Co. It was and is merely a subterfuge to escape the jurisdiction of the Federal courts.

BUY PLANTS TO CLOSE THEM.

Immediately after the merger the International Harvester Co., the trust, acquired by purchase four of its principal competitors—D. M. Osborne & Co., for $4,000,000; Aultman, Miller & Co., for $700,000; the Minneapolis Harvester Co., for $700,000; and the Keystone Co., for $460,000. The plants of the Minneapolis company, manufacturing the "Minnie" harvester, and of Aultman, Miller & Co., manufacturing the "Buckeye," were at once shut down, the two plants having been bought for $1,400,000, simply to destroy them. In less than one year from the establishment of the trust it controlled more than 90 per cent of the total harvester business of the United States.

The only independents of any consequence left were the Acme Harvester Machine Co., the Walter A. Wood Harvester Co., the Johnson Harvester Co., and the Adriance Platt Co. Of these the most important was the Acme, but the Department of Justice has its doubts as to whether it is not secretly controlled by the trust.

Mr. Perkins, having created his trust and laid the basis of a complete monopoly in "everything the farmer buys," then proceeded to "cinch the farmers." Trade conditions and the patent laws made it easy.

Mr. REED. The report further on charges under the heading "Rebates from railroads":

But Mr. Perkins, who, as he admitted under oath to Attorney General Major, of Missouri, controlled the entire business of the International Harvester Co., was not content with profits alone. He wanted rebates from the railroads, and he got them.

The information in the possession of the Department of Justice shows that the International Harvester Co. receives rebates from the railroads of both the East and the West. It gets a rebate of $6 a car in thousands from eastern railroads. This payment is made through the legal department of the railroads to some individual, ostensibly for legal services. The Harvester Trust gets the money.

In the West, where the International Harvester Co. owns short terminal railways connecting its factories with the railroads, the terminal allowance system was used to cover up rebates. A switching charge of $12 a car was billed against the railroads in 1906. But at last the railroads refused to stand for this; so Mr. Perkins invented a new plan.

The Harvester Trust, which has large warehouses in the West, made arrangements with the railroad companies to defraud its agents, who are obliged to pay transportation and other charges out of their commissions. The plan was as follows: The railroads billed against the agent the local tariff from Chicago to the intermediate warehouse, then a charge of $5 for transfer, and then the local tariff from the intermediate warehouse to the point of destination. They then refunded the Harvester Trust the $5 transfer charge plus the difference between the through rate and the aggregate of the two local rates.

Under the head, "Perkins deals with Perkins," I find this:

But profits and rebates were not enough for Mr. Perkins. He wanted more, and he got it from the Steel Trust. Mr. Perkins, chairman of the finance committee of the International Harvester Co., obtained from Mr. Perkins, chairman of the finance committee of the United States Steel Corporation, a special rate on all steel used by the Harvester Trust and a refund of $3 a ton on all steel used in the manufacture of machinery exported. The prices of raw material were manipulated with a discriminating favor murderous to those who dared to compete with the International Harvester Co.

Mr. Perkins, chairman of the finance committee of the International Harvester Co., was also able to obtain from Mr. Perkins, member of the New York Clearing House committee, accurate information as to the financial standing and the loans of the independent harvester companies.

MR. JONES.

Is it not strange that all this could go on; that it was cried from the housetops; that a wayfaring man, though a fool, could see it; and yet there is only one man left in the United States who can not see it until the court shall some day so adjudge it? Is it not marvelous that one so obtuse should be a member of the great Jones family? There was no other—just Jones. He alone, like a bat lurking in the shadows, "drops his blue-fringed lids" and, looking toward the plain, bald fact, "cries out, where is it?" That is a bad paraphrase of Milton. I apologize. Jones can not be convinced. He is not willing to say its original organization was wrong. Although it has been thrice condemned by the courts, although condemned by this report of the House of Representatives, although condemned at the bar of public conscience, although charged by the Government solemnly in suits to be a criminal against the law, but one man in all this world is not convinced. His name is Jones.

I continue to read:

Mr. Perkins, chairman of the finance committee of the International Harvester Co., was also able to obtain from Mr. Perkins, member of the New York Clearing House committee, accurate information as to the financial standing and the loans of the independent harvester companies. The banks which had made loans or were handling the business of the independents were controlled either by Morgan, whose partner Mr. Perkins then was, or by Rockefeller, who is equally interested in the fortunes of the International Harvester Co. The independent manufacturers, paying higher prices for their raw material, with their credit at the mercy of their giant competitor, were forced either to sell out or go to the wall.

I have read that a second time. I should like to have it read every morning until the Senate is inspired to action that will help sweep these combinations out of existence; until a public sentiment shall be aroused that will make it impossible for men to conspire to destroy the property of their neighbors; until a time shall arrive when he who is guilty of acts like these will be classed with the common thief and the highwayman. I read on:

FARMERS AT MERCY OF TRUST.

To-day Mr. Perkins's methods have placed the International Harvester Co. in control of the agricultural resources of the United States. The trust makes the plows, the disks, the harrows with which the soil is prepared. It makes the seeders and the drills. It makes the mowers, the hayrakes, the corncutters, the corn shredders, the headers, the reapers, the binders, the harvesters, the engines, the windmills, the wagons, the hoes, the rakes, the forks, the spades, the dairy machinery and implements used to produce almost all the $9,000,000,000 worth of farm and agricultural wealth which is the backbone of the prosperity of this country.

Mr. President, these statements that I have read are incorporated in this report and were from the New York World of July 24, 1911, and are accepted by the committee as of evidentiary value.

Before I conclude my remarks, and because the question was asked me, I want to put into the RECORD a tabulation from the report of the Department of Commerce and Labor, at page 254, which shows the prices of farm machinery to have been raised.

The VICE PRESIDENT. Without objection, permission to do so is granted.

The matter referred to follows.

The following table shows the general contract wholesale prices for specified grain binders, mowers, and corn binders in the chief grain States of the West from 1903 to 1911:

Contract list prices, f. o. b. Chicago, for two fall payments of specified Deering harvesting machines, by years, 1903–1911.

Machine.	1903	1904	1905	1906	1907	1908	1909	1910	1911
Grain binder:									
6-foot	$100.00	$100.00	$100.00	$100.00	$100.00	$107.50	$107.50	$107.50	$107.50
7-foot	103.00	103.00	103.00	103.00	103.00	110.50	110.50	110.50	110.50
8-foot	115.00	115.00	115.00	115.00	120.00	130.00	130.00	130.00	130.00
Mower:									
5-foot regular	36.00	36.00	36.00	36.00	36.00	38.50	38.50	38.50	38.50
5-foot vertical	37.00	37.00	37.00	37.00	37.00	39.50	39.50	39.50	39.50
6-foot	39.00	39.00	39.00	39.00	39.00	42.00	42.00	42.00	42.00
Corn binder	100.00	100.00	100.00	100.00	100.00	107.50	107.50	107.50	107.50

An inspection of the foregoing table shows that for 6 and 7 foot grain binders the only change in the regular contract prices was in 1908, when they were advanced $7.50. This advance does not take any account, of course, of the fact that the company also began to require payment, generally, for attachments which previously were usually thrown in gratis. (See p. 250.) The 8-foot grain binders, on the other hand, were advanced $5 in 1907 and $10 additional in 1908, giving a total advance during this period of $15.

The changes in the prices of mowers were parallel to those for 6 and 7 foot grain binders, only one advance being made, namely, $2.50 for the 5-foot mowers and $3 for the 6-foot mowers.

The list price of corn binders was the same as that of 6-foot grain binders in each year, advancing $7.50 in 1908.

The contract prices of harvesting machines shown above, while given specifically for Deering brands, were also applicable to the McCormick brands of harvesting machines of the corresponding kinds and sizes.

Mr. REED. Mr. President, I have but a few words to say in conclusion. I could stand here and mass facts of the character I have presented from now until to-morrow's sun might rise. I have said enough, however, to convince all men who are open to conviction of the character of this institution. I shall be prepared to defend these statements whenever any man has the temerity to rise here and on behalf of the Harvester Trust challenge aught I have said.

So far as I am concerned, my fight against monopoly has been a good-faith fight, and my fight against monopoly is not upon narrow or personal lines. I believe that where monopoly exists liberty is dead just to the extent that monopoly is potential. When I have attended conventions and voted for platforms declaring that monopoly is indefensible and intolerable; when I have attended conventions and voted for platforms declaring that the criminal provisions of the law ought to be enforced; when I have tossed my hat in the air and joined with the cheers of the multitude, as from the lips of Bryan and Clark and all other great Democrats, including the President himself, has come the demand for personal responsibility and for personal punishment for personal guilt—when I have acclaimed those sentiments, I have done it in good faith.

I am about to vote in the Senate for a bill wrought out here in the summer's heat declaring that the directors of corporations shall be held personally and criminally responsible for the criminal acts of the corporation. I shall, sir, keep the faith; I will not say in one breath that men should be made felons for their acts and in the next declare they should be the recipients of honorable distinction. I do not possess that quality of mind which enables me to insist that a man should look out upon the world through the bars of a cell and at the same moment insist that he should stand among the honored and the great.

Mr. President, the Democratic Party has a splendid history. Its foundation stones were laid by the master builder of all the ages—Thomas Jefferson. It has from that day to this hour been the enemy of privilege, the enemy of every scheme and device that sets up and creates a special privilege. Those who fight for special privilege fight against Democracy; those who advantage the enemies of Democracy fight for special privilege.

Mr. President, I have done, and I have done my duty.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. NEWLANDS. Mr. President, there are two amendments pending, I think.

The VICE PRESIDENT. There are no amendments pending.

Mr. NEWLANDS. Then, I offer these two amendments. They sprang out of an amendment which was offered by the Senator from Iowa [Mr. CUMMINS] with reference to the antitrust laws, to the effect that the creation of the interstate trade commission should not in any way affect the antitrust laws. The amendment which the Senator from Iowa offered was divided into two parts, one being an addition to section 5 and the other being an additional section.

The addition to section 5 is as follows:

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

Section 11 provides:

That nothing contained in this act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust acts or the acts to regulate commerce, nor shall anything contained in the act be construed to alter, modify, or repeal the said antitrust acts or the acts to regulate commerce or any part or parts thereof.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Iowa?

Mr. NEWLANDS. Certainly.

Mr. CUMMINS. I do not know what the record shows, but during the course of some observations I presented not long ago I offered an amendment——

The VICE PRESIDENT. The Chair was in error. The Secretary informs the Chair that the Senator from Iowa did offer an amendment, and the Senator from Nevada offered a substitute for that amendment, which is the pending question.

Mr. CUMMINS. I thought that was the state of the record.

Mr. President, the two amendments which have now been offered by the chairman of the committee cover exactly the ground which I sought to cover in the amendment offered some time ago. I therefore ask the consent of the Senate to withdraw the amendment which I offered and allow the chairman of the committee to offer his two amendments directly to the bill.

The VICE PRESIDENT. The Senator from Iowa has a right to withdraw his amendment.

Mr. NEWLANDS. Then I ask the consideration, first, of the proviso at the end of section 5.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to add, at the end of section 5, the following——

Mr. SMOOT. The Senator is not offering that to be voted upon to-night?

Mr. NEWLANDS. I am.

Mr. SMOOT. If that is the case, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Jones	Newlands	Smith, Md.
Bryan	Kenyon	Page	Smoot
Burton	Kern	Pittman	Stone
Camden	Lea, Tenn.	Pomerene	Thomas
Chilton	Lee, Md.	Ransdell	Thornton
Cummins	Lewis	Shafroth	Walsh
Hollis	Martine, N. J.	Sheppard	West
Hughes	Myers	Shively	White
James	Nelson	Simmons	

Mr. PAGE. I wish to announce the necessary absence of my colleague [Mr. DILLINGHAM]. He is paired with the senior Senator from Maryland [Mr. SMITH].

The VICE PRESIDENT. Thirty-five Senators have answered to the roll call. There is not a quorum present. The Secretary will call the names of absent Senators.

The Secretary called the names of absent Senators, and Mr. BRANDEGEE, Mr. GALLINGER, Mr. OVERMAN, Mr. POINDEXTER, and Mr. SMITH of Georgia answered to their names when called.

Mr. ASHURST. I wish to announce that my colleague [Mr. SMITH of Arizona] has been called from the Chamber on a very important matter. He is necessarily absent temporarily.

The VICE PRESIDENT. Forty Senators have answered to the roll call. There is not a quorum present.

RECESS.

The VICE PRESIDENT. The hour of 6 o'clock having arrived, the Senate stands in recess until 11 o'clock to-morrow morning.

The Senate thereupon (at 6 o'clock p. m.) took a recess until to-morrow, Friday, July 24, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate July 23, 1914.

CONSUL GENERAL AT LARGE.

Roger S. Greene, of Massachusetts, now consul general at Hankow, to be consul general at large of the United States of America, vice Alfred L. M. Gottschalk, appointed consul general at Rio de Janeiro.

CONSULS GENERAL.

Julean H. Arnold, of California, now consul at Chefoo, to be consul general of the United States of America at Hankow, China, vice Roger S. Greene, nominated to be consul general at large.

Fred D. Fisher, of Oregon, now consul general at Mukden, to be consul general of the United States of America at Tientsin, China, vice Samuel S. Knabenshue, resigned.

P. Stewart Heintzleman, of Pennsylvania, now Assistant Chief of the Division of Far Eastern Affairs, Department of State, to be consul general of the United States of America at Mukden, China, vice Fred D. Fisher, nominated to be consul general at Tientsin.

CONSULS.

John K. Caldwell, of Kentucky, now assistant Japanese secretary, to be consul of the United States of America at Vladivostok, Siberia, vice John F. Jewell, nominated to be consul at Chefoo.

John F. Jewell, of Illinois, now consul at Vladivostok, to be consul of the United States of America at Chefoo, China, vice Julean H. Arnold, nominated to be consul general at Hankow.

JUDGES OF CIRCUIT COURTS.

Clarence W. Ashford, of Honolulu, Hawaii, to be first judge of the circuit court of the first circuit of the Territory of Hawaii, vice Henry E. Cooper, whose term has expired.

William S. Edings, of Honolulu, Hawaii, to be judge of the circuit court of the second circuit of the Territory of Hawaii, vice Selden B. Kingsbury, whose term has expired.

THIRD LIEUTENANTS OF ENGINEERS, REVENUE-CUTTER SERVICE.

Cadet Engineer Chester Arthur Beckley to be a third lieutenant of Engineers in the Revenue-Cutter Service of the United States, to fill an original vacancy.

Cadet Engineer Aaron Matheis to be a third lieutenant of Engineers in the Revenue-Cutter Service of the United States, to fill an original vacancy.

Cadet Engineer Paul Revere Smith to be a third lieutenant of Engineers in the Revenue-Cutter Service of the United States, to fill an original vacancy.

Cadet Engineer Isaac John Van Kammen to be a third lieutenant of Engineers in the Revenue-Cutter Service of the United States, to fill an original vacancy.

PROMOTIONS IN THE ARMY.

INFANTRY ARM.

Lieut. Col. Omar Bundy, Eleventh Infantry, to be colonel from July 20, 1914, vice Col. George Bell, jr., Sixteenth Infantry, appointed brigadier general.

Maj. Evan M. Johnson, jr., Infantry, unassigned, to be lieutenant colonel from July 20, 1914, vice Lieut. Col. Omar Bundy, Eleventh Infantry, promoted.

Capt. John K. Miller, Infantry, unassigned, to be major from July 20, 1914, vice Maj. Evan M. Johnson, jr., unassigned, promoted.

First Lieut. Franklin P. Jackson, Second Infantry, to be captain from July 20, 1914, vice Capt. John K. Miller, unassigned, promoted.

Second Lieut. Blaine A. Dixon, Fifteenth Infantry, to be first lieutenant from July 20, 1914, vice First Lieut. Franklin P. Jackson, Second Infantry, promoted.

CONFIRMATIONS.

Executive nominations confirmed by the Senate July 23, 1914.

PROMOTIONS IN THE ARMY.

COAST ARTILLERY CORPS.

Maj. William C. Davis to be lieutenant colonel.

Capt. Thomas F. Dwyer to be major.

First Lieut. Rollo F. Anderson to be captain.

Second Lieut. Wallace L. Clay to be first lieutenant.

Second Lieut. Walter L. Clark to be first lieutenant.

APPOINTMENTS, BY TRANSFER, IN THE ARMY.

Second Lieut. Cedric Watterson Lewis to be second lieutenant of Infantry.

Second Lieut. Joseph Webster Allison, jr., to be second lieutenant of Cavalry.

POSTMASTERS.

VERMONT.

Anna M. Allen, West Pawlet.

George E. Randall, Wells River.

WITHDRAWAL.

Executive nomination withdrawn July 23, 1914.

Thomas D. Jones, of Illinois, to be a member of the Federal Reserve Board.

HOUSE OF REPRESENTATIVES.

THURSDAY, *July 23, 1914.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We lift up our hearts to Thee in gratitude, Almighty God our Father, for all the disclosures Thou hast made of Thyself. That we may know somewhat of Thy wisdom Thou hast displayed most marvelously the wonderful adaptation of means to ends. That we may know somewhat of Thy power Thou hast spread out before us the vast and stupendous heavens, all of which move in harmony with Thy will. That we may know somewhat of Thy love Thou hast bound us together into families by the tender ties of affection which time nor space can sever, all of which are reassuring.

May we hallow Thy name by a faithful service in the things whereunto Thou hast called us, for Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

DISPOSITION OF USELESS PAPERS IN THE EXECUTIVE DEPARTMENTS.

The SPEAKER laid before the House a report (No. 997, 63d Cong., 2d sess.) by Mr. TALBOTT of Maryland, from the Joint Select Committee on Disposition of Useless Executive Papers, relative to the report of the president of the United States Civil Service Commission in House Document No. 245, Sixty-third Congress, first session; the report of the Secretary of the Department of the Interior in House Document No. 912, Sixty-third Congress, second session; and the report of the Secretary of War in House Document No. 1005, Sixty-third Congress, second session, which report was ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed with amendments bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 16345. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 16294. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war;

H. R. 17482. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; and

H. R. 15959. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 6106. An act validating locations of deposits of phosphate rock heretofore made in good faith under the placer-mining laws of the United States.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 5462. An act to authorize the county of Barry, State of Missouri, to construct a bridge across the White River in Barry County, Mo., at or near a point known as Goldens Ferry.

SENATE BILL REFERRED.

Under clause 2, Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. 6106. An act validating locations of deposits of phosphate rock heretofore made in good faith under the placer-mining laws of the United States; to the Committee on the Public Lands.

SUNDRY CIVIL APPROPRIATION BILL.

The SPEAKER. When the House adjourned on Tuesday the matter in controversy was the conference report on the sundry civil appropriation bill; and the particular matter was the motion of the gentleman from California [Mr. KAHN] to recede and concur in Senate amendment 145.

Mr. SHERLEY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Kentucky suggests the absence of a quorum. Evidently there is no quorum present. There is no use pretending to count.

Mr. UNDERWOOD. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The SPEAKER. The Doorkeeper will lock the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk proceeded to call the roll, when the following members failed to answer to their names:

Adair	Elder	Korbly	Reilly, Conn.
Ainey	Estopinal	Kreider	Riordan
Anthony	Evans	Lafferty	Roberts, Mass.
Ashbrook	Fairchild	Langham	Rubey
Aswell	Farr	Langley	Sabath
Austin	Fields	Lazaro	Saunders
Barchfeld	Finley	L'Engle	Scully
Bartlett	Frear	Lesher	Sherwood
Beall, Tex.	Gallagher	Lewis, Md.	Shreve
Bell, Ga.	Gardner	Lewis, Pa.	Slayden
Borland	George	Lindquist	Small
Bowdle	Gill	Linthicum	Smith, Md.
Broussard	Gillett	Lobeck	Smith, J. M. C.
Brown, N. Y.	Glass	Loft	Smith, Tex.
Brown, W. Va.	Goldfogle	Logue	Stafford
Browne, Wis.	Gorman	McClellan	Stanley
Browning	Graham, Pa.	McGillicuddy	Stephens, Miss.
Bruckner	Griest	McLaughlin	Stephens, Nebr.
Buchanan, Ill.	Griffin	Maher	Stringer
Bulkley	Gudger	Martin	Sumners
Burke, Pa.	Guernsey	Merritt	Sutherland
Byrnes, S. C.	Hamill	Metz	Switzer
Byrns, Tenn.	Hamilton, Mich.	Miller	Taggart
Calder	Hamilton, N. Y.	Mitchell	Taylor, Ark.
Callaway	Hammond	Moore	Temple
Candler, Miss.	Hardwick	Morgan, La.	Ten Eyck
Cantrill	Hart	Morin	Thomas
Carew	Hayes	Moss, W. Va.	Thompson, Okla.
Carlin	Henry	Mott	Vare
Cary	Hinds	Murray, Mass.	Vaughan
Chandler, N. Y.	Hinebaugh	Murray, Okla.	Vollmer
Coady	Hobson	Neeley, Kans.	Walker
Connolly, Iowa	Houston	O'Brien	Wallin
Cooper	Howard	O'Leary	Walters
Copley	Hoxworth	O'Shaunessy	Watson
Covington	Hughes, Ga.	Padgett	Weaver
Crisp	Hughes, W. Va.	Paige, Mass.	Whitacre
Crosser	Hulings	Palmer	White
Dale	Igoe	Parker	Willis
Davenport	Jacoway	Patten, N. Y.	Wilson, Fla.
Dies	Johnson, S. C.	Payne	Wilson, N. Y.
Donohoe	Jones	Peters, Mass.	Winslow
Dooling	Keister	Platt	Woods
Driscoll	Kennedy, Conn.	Porter	Young, N. Dak.
Eagan	Kiess, Pa.	Powers	Young, Tex.
Eagle	Kinkead, N. J.	Prouty	
Edmonds	Kitchin	Rauch	
Edwards	Knowland, J. R.	Rayburn	

The SPEAKER. On this roll call 240 Members have answered to their names. A quorum is present.

Mr. UNDERWOOD. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The doors were opened.

Mr. DONOVAN. Mr. Speaker, I wish to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DONOVAN. I am going to make a charge of sharp practice being made here this morning on the part of one of the attachés of the House, who, at the behest of the gentleman from California, is pairing absent Members with Members who are present for the purpose of affecting the vote on this proposition.

The SPEAKER. Neither the House nor the Speaker nor the gentleman from Connecticut has any control over pairs. The question is on the motion of the gentleman from California to lay on the table the motion to reconsider.

Mr. MURDOCK. Mr. Chairman, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURDOCK. Very often in parliamentary procedure a motion to lay on the table carries the substantive measure with it. Why does it not do it in this case?

The SPEAKER. Because it is not an amendment. If an amendment is laid on the table, it tables the whole thing.

Mr. MURDOCK. And this tables only the motion itself?

The SPEAKER. This is a summary proceeding. Usually the Member makes the motion to reconsider and lay on the table in one motion, but there is nothing pending before the House at this particular instance except the motion. The other day, in the hurry of the proceedings, and it being the first time that a request to sever such a motion has been made since the present occupant of the Chair has been in the House, the Chair erroneously put the first half of the proposition first.

Mr. SHERLEY. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. SHERLEY. If the motion to lay on the table is voted down, does the question recur on the motion to reconsider the vote to appropriate this money for the San Francisco exposition?

The SPEAKER. The Chair thinks so.

Mr. SHERLEY. If the motion to lay on the table is voted down, does not that bring up the question of reconsideration?

The SPEAKER. Yes; on the question of reconsideration the other night the House adjourned because it could not get a quorum. The question is on the motion to table the motion to reconsider.

Mr. MANN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MANN. The Speaker having decided on Tuesday that the question was on the motion to reconsider, and the House having ordered the yeas and nays on that, is it not too late to correct the error?

The SPEAKER. The situation was that no quorum developed, and the whole proceeding was absolutely nugatory.

Mr. FITZGERALD. The ordering of the yeas and nays was not nugatory.

The SPEAKER. The yeas and nays were ordered on the motion to reconsider, and the Chair had forgotten that. What is the query of the gentleman from Illinois?

Mr. MANN. The Speaker having decided on Tuesday, as the Speaker now thinks erroneously, that the question was on the motion to reconsider, and the yeas and nays having been ordered on that question, is it not too late to correct the ruling?

The SPEAKER. The Chair thinks that under that state of the case the vote ought to be taken on the motion to reconsider.

Mr. UNDERWOOD. Mr. Speaker, as I understand the parliamentary situation, after the item had been agreed to the gentleman from California moved to reconsider and lay that motion on the table. There was great confusion in the House at the time, due to the fact that there was not a quorum present. The Speaker said the motion before the House was the motion to reconsider. Probably if the gentleman from California had made the point of order at the time the question before the House was to lay the motion on the table, I have no doubt the Speaker would have ruled with him.

The SPEAKER. Of course he would; and if the Chair had had a few minutes to think of the matter, he would have put the other motion first.

Mr. UNDERWOOD. But without objection, without the point of order having been made, the motion to lay on the table was passed over practically by unanimous consent, and we come to the question of reconsideration; and as there is no desire to debate that question, it seems to me that it would expedite business, the yeas and nays having been ordered on the motion now before the House, the question of reconsideration.

Mr. MURDOCK. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MURDOCK. Would it be in order now to move to lay the motion on the table?

The SPEAKER. That motion has already been made. If the vote on the motion to reconsider goes one way, it ends it, and if it goes the other, it does not. The Chair thinks, on the whole, that the vote ought to be taken on the motion to reconsider.

Mr. SHERLEY. If the vote is taken on the motion to reconsider and it is voted to reconsider, then the question comes on the original motion for the House to recede and concur in the Senate amendment.

The SPEAKER. The vote will be taken on the motion to reconsider the vote by which the motion of the gentleman from

California was agreed to. The yeas and nays are ordered on it, and the Clerk will call the roll. All those in favor of reconsidering the vote whereby the motion of the gentleman from California was agreed to will answer "aye," and those opposed will answer "no."

Mr. MURDOCK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURDOCK. I have already voted upon this proposition to reconsider.

The SPEAKER. But no quorum developed on that vote, and we must take the vote again, de novo.

Mr. BARNHART. Mr. Speaker, what was the result of the original vote taken on this? What was the outcome of the vote?

The SPEAKER. The motion made by the gentleman from California [Mr. KAHN] carried.

Mr. CLARK of Florida. Mr. Speaker, I demand the regular order.

The SPEAKER. The Clerk will call the roll.

The Clerk called the roll; and there were—yeas 108, nays 134, answered "present" 9, not voting 181, as follows:

YEAS—108.

Abercrombie	Danforth	Hensley	Rouse
Adamson	Decker	Hill	Rubey
Aiken	Dickinson	Hull	Russell
Ansberry	Difenderfer	Humphreys, Miss.	Seldomridge
Ashbrook	Dixon	Johnson, Ky.	Shackleford
Bailey	Donovan	Key, Ohio	Sherley
Baltz	Doolittle	Lee, Ga.	Sims
Barkley	Doremus	Lenroot	Sisson
Barnhart	Doughton	Lever	Sparkman
Bathrick	Faison	Lloyd	Stedman
Blackmon	Fergusson	Lonergan	Stephens, Miss.
Borchers	Fitzgerald	Maguire, Nebr.	Stephens, Nebr.
Brockson	Flood, Va.	Mahan	Stephens, Tex.
Brumbaugh	Foster	Mann	Stevens, N. H.
Buchanan, Tex.	Fowler	Mitchell	Tavenner
Burgess	Garrett, Tenn.	Morrison	Taylor, Colo.
Burnett	Garrett, Tex.	Moss, Ind.	Thacher
Caraway	Gerry	Neely, W. Va.	Townsend
Carr	Goeke	Oglesby	Tribble
Claypool	Gray	Page, N. C.	Tuttle
Cline	Gregg	Payne	Underwood
Collier	Hamlin	Peterson	Walsh
Connelly, Kans.	Hardy	Pou	Watson
Conry	Harris	Quin	Webb
Covington	Harrison	Ragsdale	Whaley
Cox	Helm	Reed	Williams
Cullop	Helvering	Reilly, Wis.	Witherspoon

NAYS—134.

Alexander	Esch	Kent	Raker
Allen	Evans	Kettner	Roberts, Nev.
Anderson	Falconer	Kindel	Rogers
Avis	Fess	Kinkaid, Nebr.	Rothermel
Baker	FitzHenry	Kirkpatrick	Rupley
Barchfeld	Floyd, Ark.	Konop	Scott
Bartholdt	Fordney	La Follette	Sells
Barton	Francis	Lee, Pa.	Sinnott
Beakes	French	Levy	Slemp
Bell, Cal.	Gallivan	Lindbergh	Sloan
Britten	Gilmore	McAndrews	Smith, Idaho
Brodbeck	Gittins	McGuire, Okla.	Smith, Minn.
Broussard	Godwin, N. C.	McKellar	Smith, N. Y.
Brown, W. Va.	Good	McKenzie	Smith, Saml. W.
Bryan	Gordon	MacDonald	Stephens, Cal.
Burke, S. Dak.	Goulden	Madden	Stevens, Minn.
Burke, Wis.	Graham, Ill.	Manahan	Stone
Butler	Greene, Mass.	Mapes	Stout
Campbell	Greene, Vt.	Mondell	Talbott, Md.
Cantor	Haugen	Morgan, Okla.	Talcott, N. Y.
Casey	Hawley	Mulkey	Taylor, Ala.
Church	Hayden	Murdock	Taylor, Ark.
Clancy	Heflin	Nelson	Thomson, Ill.
Clark, Fla.	Helgesen	Nolan, J. I.	Towner
Cramton	Holland	Norton	Treadway
Curry	Howell	O'Hair	Underhill
Davis	Humphrey, Wash.	Oldfield	Volstead
Deitrick	Johnson, Utah	Patton, Pa.	Watkins
Dent	Johnson, Wash.	Peters, Me.	Wingo
Dershem	Kahn	Phelan	Woodruff
Dillon	Kelley, Mich.	Platt	Woods
Drukker	Kelly, Pa.	Plumley	Young, N. Dak.
Dunn	Kennedy, Iowa	Post	
Dupré	Kennedy, R. I.	Rainey	

ANSWERED "PRESENT"—9.

Gard	Hay	Lieb	Park
Garner	Keating	McCoy	Rucker
Green, Iowa			

NOT VOTING—181.

Adair	Browning	Carter	Dooling
Ainey	Bruckner	Cary	Driscoll
Anthony	Buchanan, Ill.	Chandler, N. Y.	Eagan
Aswell	Bulkley	Coady	Eagle
Austin	Burke, Pa.	Connolly, Iowa	Edmonds
Bartlett	Byrnes, S. C.	Cooper	Edwards
Beall, Tex.	Byrns, Tenn.	Copley	Elder
Bell, Ga.	Calder	Crisp	Estopinal
Booher	Callaway	Crosser	Fairchild
Borland	Candler, Miss.	Dale	Farr
Bowdle	Cantrill	Davenport	Ferris
Brown, N. Y.	Carew	Dies	Fields
Browne, Wis.	Carlin	Donohoe	Finley
Frear	Jacoway	Moon	Smith, J. M. C.
Gallagher	Johnson, S. C.	Moore	Smith, Md.
Gardner	Jones	Morgan, La.	Smith, Tex.
George	Keister	Morin	Stafford
Gill	Kennedy, Conn.	Moss, W. Va.	Stanley
Gillett	Kless, Pa.	Mott	Steenerson
Glass	Kinkead, N. J.	Murray, Mass.	Stringer
Goldfogle	Kitchin	Murray, Okla.	Sumners
Goodwin, Ark.	Knowland, J. R.	Neeley, Kans.	Sutherland
Gorman	Korbly	O'Brien	Switzer
Graham, Pa.	Kreider	O'Leary	Taggart
Griest	Lafferty	O'Shaunessy	Taylor, N. Y.
Griffin	Langham	Padgett	Temple
Gudger	Langley	Paige, Mass.	Ten Eyck
Guernsey	Lazaro	Palmer	Thomas
Hamill	L'Engle	Parker	Thompson, Okla.
Hamilton, Mich.	Lesher	Patten, N. Y.	Vare
Hamilton, N. Y.	Lewis, Md.	Peters, Mass.	Vaughan
Hammond	Lewis, Pa.	Porter	Vollmer
Hardwick	Lindquist	Powers	Walker
Hart	Linthicum	Prouty	Wallin
Hayes	Lobeck	Rauch	Walters
Henry	Loft	Rayburn	Weaver
Hinds	Logue	Reilly, Conn.	Whitacre
Hinebaugh	McClellan	Riordan	White
Hobson	McGillicuddy	Roberts, Mass.	Willis
Houston	McLaughlin	Sabath	Wilson, Fla.
Howard	Maher	Saunders	Wilson, N. Y.
Hoxworth	Martin	Scully	Winslow
Hughes, Ga.	Merritt	Sherwood	Young, Tex.
Hughes, W. Va.	Metz	Shreve	
Hulings	Miller	Slayden	
Igoe	Montague	Small	

So the motion to reconsider was rejected.

The Clerk announced the following pairs:

For the session:

Mr. METZ with Mr. WALLIN.

Mr. SCULLY with Mr. BROWNING.

On the vote:

Mr. GREEN of Iowa (for motion) with Mr. STEENERSON (against).

Mr. MOON (for motion) with Mr. AUSTIN (against).

Mr. SHERWOOD (for motion) with Mr. KEATING (against).

Mr. MCCOY (for motion) with Mr. CARTER (against).

Mr. LIEB (for motion) with Mr. KORBLY (against).

Mr. PARK (for motion) with Mr. GOODWIN of Arkansas (against).

Until further notice:

Mr. HAY with Mr. PAIGE of Massachusetts.

Mr. DAVENPORT with Mr. J. M. C. SMITH.

Mr. HENRY with Mr. HINDS.

Mr. DALE with Mr. MARTIN.

Mr. STEPHENS of Nebraska with Mr. LEWIS of Pennsylvania.

Mr. VAUGHAN with Mr. SHREVE.

Mr. THOMAS with Mr. FAIRCHILD.

Mr. SLAYDEN with Mr. BURKE of Pennsylvania.

Mr. GOLDFOGLE with Mr. LANGHAM.

Mr. HUGHES of Georgia with Mr. MERRITT.

Mr. HARDWICK with Mr. J. R. KNOWLAND.

Mr. YOUNG of Texas with Mr. AINEY.

Mr. LAZARO with Mr. PARKER.

Mr. SABATH with Mr. SWITZER.

Mr. SAUNDERS with Mr. WINSLOW.

Mr. LOBECK with Mr. POWERS.

Mr. GORMAN with Mr. MCLAUGHLIN.

Mr. BUCHANAN of Illinois with Mr. COOPER.

Mr. ASWELL with Mr. CARY.

Mr. BROWN of New York with Mr. CHANDLER of New York.

Mr. STRINGER with Mr. PROUTY.

Mr. CALLAWAY with Mr. WILLIS.

Mr. KITCHIN with Mr. ROBERTS of Massachusetts.

Mr. JACOWAY with Mr. HULINGS.

Mr. IGOE with Mr. HINEBAUGH.

Mr. ESTOPINAL with Mr. FREAR.

Mr. BOWDLE with Mr. BROWNE of Wisconsin.

Mr. ADAIR with Mr. ANTHONY.

Mr. BYRNES of South Carolina with Mr. KREIDER.

Mr. GARNER with Mr. TEMPLE.

Mr. MCGILLICUDDY with Mr. GUERNSEY.

Mr. WILSON of Florida with Mr. HAMILTON of New York.

Mr. BYRNS of Tennessee with Mr. HUGHES of West Virginia.

Mr. GLASS with Mr. HAYES.

Mr. BARTLETT with Mr. GILLETT.

Mr. BELL of Georgia with Mr. CALDER.

Mr. BOOHER with Mr. COPLEY.

Mr. CANDLER of Mississippi with Mr. EDMONDS.

Mr. CARLIN with Mr. FARR.

Mr. DONOHOE with Mr. GRAHAM of Pennsylvania.

Mr. EDWARDS with Mr. GRIEST.

Mr. ELDER with Mr. MILLER.

Mr. FIELDS with Mr. LAFFERTY.

Mr. FINLEY with Mr. HAMILTON of Michigan.

Mr. HOUSTON with Mr. KEISTER.

Mr. HOWARD with Mr. KIESS of Pennsylvania.
Mr. JOHNSON of South Carolina with Mr. MOORE.
Mr. MORGAN of Louisiana with Mr. LINDQUIST.
Mr. PADGETT with Mr. MORIN.
Mr. PALMER with Mr. VARE.
Mr. REILLY of Connecticut with Mr. MOSS of West Virginia.
Mr. SMALL with Mr. MOTT.
Mr. WALKER with Mr. PORTER.
Mr. PATTEN of New York with Mr. SUTHERLAND.
Mr. WEAVER with Mr. WALTERS.

Mr. MOORE. Mr. Speaker, I desire to vote "no."

The SPEAKER. Was the gentleman in the Hall listening when his name should have been called?

Mr. MOORE. I was not.

The SPEAKER. The gentleman does not bring himself within the rule.

Mr. MOORE. May I be recorded as present, Mr. Speaker?

The SPEAKER. If the Chair needs a quorum, he will count the gentleman.

Mr. KEATING. Mr. Speaker, I am recorded in the negative. I am paired with the gentleman from Ohio, Mr. SHERWOOD. I desire to change my vote of "no" and answer "present."

The SPEAKER. The Clerk will call the gentleman's name.

The name of Mr. KEATING was called, and he answered "Present."

Mr. LANGLEY. Mr. Speaker, I desire to inquire if the record shows I am paired with my colleague, Mr. FIELDS? I did not hear it announced.

The SPEAKER. The proper way to find that out is to determine whether or not the gentleman is recorded. He is not recorded.

Mr. LANGLEY. I am not recorded, but I want to know if the record shows that I am paired with my colleague, Mr. FIELDS?

The SPEAKER. The Chair is informed that the gentleman is not paired.

Mr. LANGLEY. That was my understanding with the gentleman. He is absent and I am paired with him.

The SPEAKER. The Chair has nothing to do with that.

Mr. McCOY. Mr. Speaker, is the gentleman from Oklahoma, Mr. CARTER, recorded?

The SPEAKER. He is not recorded.

Mr. McCOY. Mr. Speaker, I have a pair with the gentleman. I wish to withdraw my vote of "aye" and answer "present."

The name of Mr. McCOY was called, and he answered "Present."

Mr. PARK. Mr. Speaker, I wish to know if the gentleman from Arkansas, Mr. GOODWIN, voted?

The SPEAKER. He is not recorded.

Mr. PARK. I wish to withdraw my vote of "aye" and answer "present."

The name of Mr. PARK was called, and he answered "Present."

The result of the vote was announced as above recorded.

Mr. FITZGERALD. Mr. Speaker, I move that the House further insist upon its disagreement to Senate amendment numbered 146.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] moves that the House further insist on its disagreement to Senate amendment numbered 146, which the Clerk will report.

The Clerk read as follows:

The Government Exhibit Board, for which provision was made in the sundry civil act approved June 23, 1913, shall, after consultation, by correspondence or otherwise, with the heads of the executive departments and the Regents of the Smithsonian Institution, the Isthmian Canal Commission, the Interstate Commerce Commission, the Civil Service Commission, the Commissioners of the District of Columbia, the American National Red Cross, the Commission of Fine Arts, the Librarian of Congress, the Public Printer, the Governor of Porto Rico, the Governor of Alaska, the Governor of Hawaii, and the United States Geographic Board, determine the nature, character, and extent of the exhibits of the United States Government to be made at the Panama-Pacific International Exposition, to be held at San Francisco, Cal., in 1915, and shall be charged with the selection, purchase, preparation, safe-keeping, exhibition, and return of such articles and materials as said board may decide shall be exhibited; and the said board is empowered to select, purchase, and exhibit articles or materials representing the activities of any department, office, commission, or organization named in this paragraph.

The SPEAKER. The question is on the motion of the gentleman from New York to further insist on its disagreement to the Senate amendment just read.

The question was taken, and the motion was agreed to.

Mr. FITZGERALD. Mr. Speaker, I move that a conference be asked of the Senate.

The SPEAKER. The gentleman from New York moves to ask for a conference.

The question was taken, and the motion was agreed to.

The SPEAKER announced the following conferees: Mr. FITZGERALD, Mr. SHERLEY, and Mr. MONDELL.

LEAVE OF ABSENCE.

The SPEAKER. The Chair lays before the House the following personal request:

Mr. GARNER requests leave of absence for Mr. RAYBURN, indefinitely, on account of death in his family.

The SPEAKER. Without objection——

Mr. MANN. Mr. Speaker, what is the request?

The SPEAKER. The request is for leave of absence for Mr. RAYBURN, on account of death in his family. Is there objection? [After a pause.] The Chair hears none.

CONFERENCE REPORT—GENERAL DEFICIENCY BILL.

Mr. FITZGERALD. Mr. Speaker, I call up the conference report on the general deficiency bill and ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] calls up the conference report on the general deficiency bill and asks unanimous consent that the statement may be read in lieu of the report. Is there objection? [After a pause.] The Chair hears none, and the Clerk will read the statement.

The statement was read.

The conference report and statement of the House conferees are as follows:

CONFERENCE REPORT (NO. 1003).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 62, 101, 117, 119, 120, 125, 128, 129, 130, 131, 132, 133, 134, 138, 139, 144, 145, 146, 147, and 150.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 121, 122, 123, 124, 126, 127, 135, 140, 141, 142, 143, 148, 151, 152, 153, 154, 155, 156, and 157, and agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows: In line 2 of the amendment strike out the word "continuation" and insert the word "commencement"; and the Senate agree to the same.

Amendment numbered 118: That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$4,393.51"; and the Senate agree to the same.

Amendment numbered 136: That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment as follows: On page 29 of the bill, after line 7, insert the word "Senate," and in lieu of the matter inserted by said Senate amendment insert the following:

"For employees of the Committee on Expenditures in the Department of Labor from July 1, 1914, to June 30, 1915, both dates inclusive, as follows: Clerk, $2,220; assistant clerk, $1,440; messenger, $1,200; in all, $4,860."

And the Senate agree to the same.

Amendment numbered 137: That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"The Secretary of the Senate is authorized and directed to pay from the appropriations for salaries to clerks, messengers, and others in the service of the Senate, for the fiscal year 1913, the following: To James M. Porter, at the rate of $2,000 per annum, from March 26 to April 6, 1913, and Nettie K. de Freitas, at the rate of $1,200 per annum, from March 26 to April 14, 1913, as clerk and stenographer, respectively, to Senator SHERMAN.

And the Senate agree to the same.

Amendment numbered 149: That the House recede from its disagreement to the amendment of the Senate numbered 149,

and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"To reimburse the official reporters of debates for moneys actually and necessarily expended by them to June 30, 1914, $3,000."

And the Senate agree to the same.

Amendment numbered 158: The committee of conference have been unable to agree on the amendment of the Senate numbered 158.

JOHN J. FITZGERALD,
T. U. SISSON,
FREDK. H. GILLETT,
Managers on the part of the House.
THOMAS S. MARTIN,
N. P. BRYAN,
J. H. GALLINGER,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1914, and for other purposes, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying report as to each of the said amendments, namely:

On amendment No. 1: Strikes out the appropriation proposed by the Senate of $82,975 to reimburse certain insurance companies for losses paid on certain property in Hawaii destroyed by the Government in suppressing the bubonic plague.

On amendments Nos. 2 to 61, 63 to 100, and 102, to 115, inclusive: Appropriates, in all, $1,038,685, as proposed by the Senate, for sites or sites and commencement of public buildings within their respective authorized limits of cost as recommended in estimates submitted by the Treasury Department in Senate Document No. 551.

On amendments Nos. 62 and 101: Strikes out the appropriations proposed by the Senate of $20,000 and $7,500 for the public buildings at Martinsburg, W. Va., and Spanish Forks, Utah, respectively, the same not being recommended as necessary at this time or estimated for by the Treasury Department.

On amendment No. 116: Inserts the provision proposed by the Senate authorizing the Secretary of the Treasury, in his discretion, to waive, in cities and towns of less than 10,000 population, the requirements of law providing that sites for public buildings shall face on two streets.

On amendment No. 117: Strikes out the appropriation of $75,000 proposed by the Senate for furniture for the public building in Boston, Mass.

On amendment No. 118: Appropriates $4,393.51 for the Revenue-Cutter Service.

On amendments Nos. 119 and 120: Strikes out the appropriations proposed by the Senate of $5,000 each for aid to the blind and for the library for the blind in the District of Columbia.

On amendment No. 121: Appropriates, as proposed by the Senate, $100,358.05 to pay the American Surety Co., of New York, the amount of a judgment in its favor rendered June 19, 1914.

On amendment No. 122: Appropriates, as proposed by the Senate, $5,000 to pay for legal services rendered in connection with acquirement of land at Front Royal, Va., for remount station.

On amendment No. 123: Authorizes payment of salary of $1,000 for one year to the secretary of the Lincoln Memorial Commission.

On amendment No. 124: Appropriates $75,000, as proposed by the Senate, to erect a monument to the memory of Francis Scott Key and the soldiers and sailors who participated in the Battle of North Point and the attack on Fort McHenry in the War of 1812.

On amendment No. 125: Ratifies action of the Secretary of War in transferring submarine mines and appliances from stock on hand for use in continental United States for protection of harbors in the Philippine Islands, as proposed by the House.

On amendments Nos. 126 and 127: Authorizes credit of $1,000 in accounts of the disbursing clerk of the Interior Department and appropriates $51.07 to pay a transportation account of the Department of Justice, as proposed by the Senate.

On amendments Nos. 128, 129, 130, 131, 132, and 133: Strikes out appropriations, proposed by the Senate, of $25,000 for the fish hatchery at Saratoga, Wyo.; $4,500 for the fish hatchery at Baker Lake, Wash.; and two claims of $25.10 and $121.42 arising under the Coast and Geodetic Survey.

On amendment No. 134: Strikes out the provision, proposed by the Senate, authorizing the use of the miscellaneous fund of the Bureau of Labor in the employment of temporary personal services.

On amendments Nos. 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, and 150, all relating to the Senate: Appropriates for certain expenses of that body, as proposed, except the following, which are stricken out: Additional payment for 60 days to employees of the Committee on Revolutionary Claims, and payments to certain persons for extra or additional services, amounting in all to $2,667.83.

On amendments Nos. 151, 152, 153, 154, 155, 156, and 157: Appropriates for payment of certain judgments of the United States courts, Court of Claims, and amounts found due by accounting officers of the Treasury, all duly certified to Congress subsequent to the passage of the bill by the House.

The committee of conference have been unable to agree on amendment No. 158, to pay not exceeding $175,000 on account of claims for longevity and other allowances of certain Army officers under the act of July 6, 1914.

JOHN J. FITZGERALD,
T. U. SISSON,
FREDK. H. GILLETT,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

Mr. DUPRÉ. Mr. Speaker, I would like to ask the gentleman from New York a question about amendment No. 121, proposing to pay the American Surety Co. something like $100,000.

Mr. FITZGERALD. The House receded from that.

Mr. DUPRÉ. The House receded from that? I believe the amendment was inserted by the Senate.

Mr. FITZGERALD. The House agreed to the amendment.

Mr. DUPRÉ. Why have the House managers agreed to it? I would like to know something in regard to it.

Mr. FITZGERALD. Mr. Speaker, the American Surety Co. was the defendant in an action brought by the United States against it as surety on a bond. Judgment was rendered against the surety company for $100,358.05, and the American Surety Co. paid that sum over to the Government under protest, and an appeal was taken from the judgment rendered. The United States Supreme Court reversed the judgment and directed that there should be a new trial. Upon the matter being presented again to the district court the petition of the Government was dismissed. Under these circumstances, the money having been paid in satisfaction of a judgment which has been overturned and the petition of the United States having been dismissed, it seemed to the managers upon the part of the House that the company was entitled to have this money back; and particularly is that true since no attempt has been made to make any allowance for interest during the time the money has been in the possession of the United States.

Mr. DUPRÉ. I will ask the gentleman, if he will permit me, why he considers this a proper item to put in a deficiency bill?

Mr. FITZGERALD. Under the circumstances stated I think we should give this money back to the company. I understand there had been some objection from some sources because there is a controversy about the compensation to some attorneys in the litigation, but that is a matter to be determined between the attorneys and the company. It is a company which paid into the Treasury the amount of a judgment rendered against it. The Supreme Court reversed the judgment, and upon a retrial the petition was dismissed and the Solicitor General of the United States states that the money should be returned to the company. It is our duty to return it as speedily as possible.

Mr. ALLEN. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. ALLEN. The company took the precaution to preserve its rights by its protest.

Mr. DUPRÉ. Since the gentleman adverted to the question of attorneys' fees I will say that this litigation was initiated in my State of Louisiana and that I am familiar with it, and I think the return of the money is perfectly proper under these circumstances, but the American Surety Co. received from the Sandstone & Gravel Co., on which it was a bondsman, certain sums of money and certain bonds as indemnity and now refuses to adjust its affairs with its principal, and under those circumstances it did seem to me that the rights of other persons in interest should be protected. The Government, in restoring this money to its lawful owners, ought to see that it goes to the lawful owners and not simply to the surety company.

Mr. FITZGERALD. But the trouble is that we can not determine such conflicting claims. Of course, the defendant in the action who paid the money was the American Surety Co. I doubt if Congress is able to determine the questions which may arise between the surety company and the persons for whom it acts as surety. The question of adjusting such rights is hardly a thing which can be done by Congress.

Mr. DUPRÉ. Yet in view of the fact that such a condition exists, it occurs to me that there is no necessity for such haste in attaching this amendment to the general deficiency bill and asking the House here, without any knowledge of the subject, to acquiesce in the amendment.

Mr. FITZGERALD. Well, in view of the facts in the case and the statement of the Solicitor General of the United States that the money should be paid back to the company, and the fact that it is proposed to give it back to them without interest during the period it has been in the possession of the Government, it seems to me we are not doing anything too much for this company. We have no right to the money.

Mr. DUPRÉ. May I ask the gentleman where the hearings were? Were they before the House Committee on Appropriations?

Mr. FITZGERALD. There were no hearings before the committee. This information was obtained by the managers upon the part of the House before we consented to agree to the amendment, and the agreement was upon the representations upon the part of the Department of Justice that in its opinion the money should go back.

Mr. DUPRÉ. It seems to me they are displaying great consideration for this company——

Mr. FITZGERALD. I think not.

Mr. DUPRÉ. While ordinary claimants have to knock at the doors of the Congress for a long time.

Mr. FITZGERALD. If I had paid money under judgment to the Government and the courts had finally determined that the judgment was erroneous and that the Government was not entitled to the money, the least I could expect would be to get it back as quickly as possible, particularly if I were not to be paid interest for the period during which the Government had possession of the money.

Mr. DUPRÉ. I know there are many claims as meritorious as this that have never been engrafted on a bill of this character and put through the House in this way. I do not mean there is anything shady about this claim, of course.

Mr. FITZGERALD. I think the gentleman is mistaken. The general deficiency bill carries all judgments against the Government. Now, what is this item? If it be not a judgment against the United States, then the company is not entitled to this money. It was paid pursuant to judgment rendered by the court. This bill is filled with items of judgments of the United States courts, judgments of the Court of Claims, judgments in Indian depredation claims, and audited and certified claims. Those are items that properly belong on this bill. There is no question but that this company is entitled to the return of this money from the Government. As to any dispute that may arise or may exist, or any claim that may properly be made against the company by some one who is not involved in the matter between the Government and the company, we have no knowledge, and we attempt to avoid taking cognizance of it.

Mr. OGLESBY. Will the gentleman yield to me for a question?

The SPEAKER. Will the gentleman from New York yield to his colleague?

Mr. FITZGERALD. I will.

Mr. OGLESBY. There has been no question raised as to the solvency of this company?

Mr. FITZGERALD. No. The managers on the part of the House insisted on knowing whether upon this decision of the lower court, by which the petition of the Government was dismissed, there was any question if upon appeal the Government might be successful. But the Solicitor General of the United States had notified the Senate that the money should be returned to the company. The American Surety Co., I suppose, is among the most solvent surety companies in the United States. There can be no question that if the Government has any claim against it for $100,000 it is amply able to meet it. We have taken their money under a judgment and we have held it. The courts have decided they should not have paid it, and we are returning it to them, and we are not giving them any interest for the period during which they have been deprived of the use of the money.

Mr. OGLESBY. And even if the Government should act as a ward for these other claims, since the company is perfectly solvent, it would be only a matter of holdup on their part to compel a settlement with the company?

Mr. FITZGERALD. I would not want to go that far. I think if there is a dispute now as to whether the American Surety Co. or somebody else is actually entitled to this money, under the procedure in the District of Columbia that can be determined and the money impounded while the question is being litigated.

Mr. TREADWAY. Will the gentleman yield?

The SPEAKER. Does the gentleman from New York yield to the gentleman from Massachusetts?

Mr. FITZGERALD. I yield.

Mr. TREADWAY. I would like to ask the conferees in regard to amendment No. 117, adopted by the Senate, which has been stricken out of the conference report. It is for furniture equipment of the new customhouse in Boston, $75,000. This item was inserted by the Senate owing to the fact that the building is practically completed and will be ready for occupancy by January 1. I would like to inquire why this item is stricken out, which was inserted with the idea of securing steel furniture for the new building and having it ready by the time the building is to be occupied on January 1.

Mr. FITZGERALD. The House conferees insisted upon that item being eliminated because the sundry civil appropriation bill carries $825,000 for furniture and repairs to furniture for public buildings.

Mr. TREADWAY. May I ask, Mr. Speaker, whether in this $825,000 any part is estimated for the furnishing of the Boston customhouse?

Mr. FITZGERALD. I am unable to state. It can be spent upon any building that is to be furnished, and as much spent upon any building as desired. The committee does not believe it is good policy to insert special items for special buildings. Last year a request was pressed very hard for a specific appropriation of $150,000 to furnish the New York post office, then recently completed.

The Committee on Appropriations insisted that the general appropriation for furniture be used for that purpose. That building was furnished out of the general appropriation without making the special appropriation of $150,000. There is no reason that can be advanced for a singling out of some particular building for a specific appropriation for furniture. Eight hundred and twenty-five thousand dollars is carried in the sundry civil bill, and can be spent upon any building, and as these buildings become ready for furniture the department will proceed to furnish them. There is another objection to appropriating specifically for any building. I suppose the most indefensible expenditure of public money that has ever come under my observation has been for the furnishing of the customhouse in the city of New York. The character of the furniture and the price paid for it were absolutely without justification. If a specific sum be appropriated for a particular building for furniture, the department officials seem to proceed upon the theory that it is their duty to expend the entire amount for the furniture, and the character of the furniture is determined by the amount of money placed at their disposal. An effort has been made and has been successful, and it is being perfected from year to year, by which furniture in public buildings shall be standardized and suitable furniture for public offices shall be installed in all public offices of the same character. There is furniture in the New York customhouse that would be creditable to the palaces of any of the effete monarchs of Europe, and it is so wholly out of place in a public office of the United States that it arouses the indignation of everyone who sees it.

We did not wish to have a repetition of that situation at any place in the United States. If $75,000 is needed to furnish the Boston customhouse, it can be spent out of the $825,000 general appropriation. If $100,000 be needed, it can be spent out of that appropriation. Whatever sum is necessary is available for that purpose.

Mr. TREADWAY. Has the gentleman any information as to how the department reaches the conclusion making the figures $825,000, and whether or not in that estimate Boston is included?

Mr. FITZGERALD. They really asked for $1,000,000. Last year they asked for $900,000 in the general appropriation and $150,000 additional for the post office at New York City. They succeeded in furnishing the New York post office out of the $900,000 without any specific appropriation, and in view of the fact that there was no other building coming into commission that would require furniture of such an expensive character, the committee believed that with the observance of proper economy the department would probably have all the money it required,

or so nearly so that whatever additional money might possibly be required could, upon proper showing made, be provided in the deficiency bill at the next session of Congress without delaying in any respect any building. The next session of Congress adjourns on the 4th of March, and there will be three months from that time during which expenditures will be made on public buildings.

Mr. PHELAN. Mr. Speaker, will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. PHELAN. I would like to ask one question in the same connection. There is nothing to prevent the Treasury Department from spending anything that is necessary under the $825,000?

Mr. FITZGERALD. They can spend all of it if necessary. The appropriation is for that purpose. It is to furnish public buildings; and they will be furnished when they come into commission.

It is suggested that unless a special appropriation is made for the Boston customhouse it will be permitted to stand idle, unfurnished, because while it is ready for occupancy the money will be needed for some buildings to come into commission in May or at some other time. I can not assume that the business of the department will be conducted in such an idiotic manner. I believe the money will be expended for the furniture that is required; and if not enough money has been given, Congress will do what has been its custom—give the requisite money when the time comes.

Mr. BROWN of West Virginia. Mr. Speaker, may I ask the gentleman as to the Martinsburg, W. Va., item, on page 11, Senate amendment numbered 62? There is an appropriation there of $20,000 to install an elevator. This is a very antiquated building, of old style, and really the people there ought to have a new building. The department is very anxious to have an elevator constructed to the fourth floor, where they now have to climb up flights of stairs. I think it a meritorious case. The gentleman will find it on page 11, amendment 62.

Mr. FITZGERALD. Mr. Speaker, there were two public-buildings items included in this bill by the Senate which have not been agreed to. One is for the building at Martinsburg, W. Va., referred to by the gentleman from West Virginia [Mr. BROWN]. It was not agreed to because no estimate had been submitted for it. The Assistant Secretary of the Treasury in charge of public buildings said that it was not needed, and if it were appropriated it could not be expended.

The first reason was sufficient for the Members of the House; that is, that it could not be expended, because it could not be reached in the order of the arrangement to be followed in time to be used next December. There are some 20 items, in which is included the Martinsburg item, which in all probability will be requested at the session of Congress that commences in December.

Mr. BROWN of West Virginia. I am very glad of that. It is an appropriation that is badly needed.

Mr. FITZGERALD. I have no doubt that the situations as to some of these buildings are perhaps somewhat pressing. The policy of the Committee on Appropriations has been one that is absolutely fair to all of the Members of the House. That policy is to give all of the money requested by the department for public buildings and sites which the department says can be used before the next bill becomes a law, and to insist that no other items be placed in the bill. If an item be placed in the bill at the request of one Member or one Senator, it is an injustice to everyone else who has items that can not be inserted, and it causes confusion and embarrassment and difficulty. We try to be absolutely fair in the manner in which we recommend these items.

Mr. SMITH of New York. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from New York yield to his colleague?

Mr. FITZGERALD. I do.

Mr. SMITH of New York. I would like to ask my colleague from New York why the two items on pages 22 and 23, amendments numbered 119 and 120, were eliminated? These are the items that make appropriations of $5,000 in each case for the Association for the Blind in the District of Columbia.

Mr. FITZGERALD. They were eliminated because it has been the policy not to have the general deficiency bill or urgent deficiency bill used as courts of appeal from other committees. These items were included in the District of Columbia appropriation bill by the Senate. They were considered by the conferees, by the representatives on the part of the House who had charge of the District of Columbia appropriation bill, and they insisted that these items be eliminated. The representatives on the part of the House on the District bill were the men most familiar with the situation. When the same amendments were placed on the deficiency bill the managers on the part of the House took the position that the matter had been settled and that we would not carry on this bill items for the current service of any department of the Government that had already been passed upon and determined by those in charge of the bills to which they properly belong if they should be appropriated for at all. For that reason the items were eliminated.

Mr. Speaker, I ask for a vote.

The SPEAKER. The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. FITZGERALD. Mr. Speaker, there is but one amendment undisposed of in this bill. It is amendment numbered 158, and I ask that the Clerk be directed to report the amendment.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

Amendment 158, page 59, line 23: "The accounting officers of the Treasury are hereby directed to adjust, settle, and pay, out of any money in the Treasury not otherwise appropriated, not to exceed in all the sum of $175,000, to officers of the Army, their heirs or legal representatives, pay as commutation for longevity rations, or other pay or allowances that may be due said officers, their heirs or legal representatives, under the decisions of the Supreme Court of the United States, any statute of limitations to the contrary notwithstanding, which claims have been heretofore barred from adjustment and settlement by section 3480, United States Revised Statutes, repealed by act of Congress approved July 6, 1914."

Mr. FITZGERALD. Mr. Speaker, I move that the House further insist upon its disagreement.

The SPEAKER. The gentleman from New York moves that the House further insist upon its disagreement to the amendment just read.

Mr. UNDERWOOD. Mr. Speaker, I think this is an amendment that ought to be concurred in. I do not like to differ with the chairman of the committee, but I think the House should understand this amendment, and I think it ought to be concurred in. I would like to make the preferential motion that the House recede and concur.

The SPEAKER. The gentleman from Alabama [Mr. UNDERWOOD] makes the preferential motion that the House recede and concur in the amendment just read.

Mr. MANN. Mr. Speaker, will the gentleman yield? Does the gentleman from Alabama want some time?

Mr. UNDERWOOD. I would like to have five minutes, unless I have to yield to somebody for reply. Then I may ask the gentleman later on for more time.

Mr. FITZGERALD. I yield to the gentleman from Alabama.

Mr. UNDERWOOD. Mr. Speaker, as I understand this proposition it is this: A number of years ago Congress passed a law that allowed officers in the United States Army additional pay for each five years of their service in the Army. It was contended that the service at West Point should be included in the five years, which contention was contested by the comptroller or by one of the departments. The case went on appeal to the Supreme Court of the United States, and the Supreme Court of the United States decided that the four years at West Point should be included in the time of service for the allowance of this pay. Under that decision a large number of officers in the United States Army received their additional compensation, based on the four years' service at West Point. I am informed that the amount that was paid out for that reason amounted to something like a million dollars.

Now, Mr. Speaker, there were certain officers in the United States Army who resigned while this question was pending in the Supreme Court, and after resigning from the United States Army joined the Confederate Army. Of course when the decision was rendered they were ineligible to make a claim by reason of section 3480 of the Revised Statutes, which prohibited any officer who resigned from the United States Army to enter the Confederate Army from making any claim of this kind. But within the last month the House has passed a bill, on the motion of a distinguished gentleman who occupies a seat on the other side of the House and who made one of the most eloquent pleas to this House that I have ever listened to. This bill authorizes these soldiers, their heirs or their widows, to make the claim under existing law; that is, that an officer who served at West Point and subsequently resigned and went into the Confederate Army shall for his service before he resigned be placed on the same footing as his brother officers in the United States Army. There can be no question about what Congress intended, because here is the report made by the gentleman from Pennsylvania [Mr. GRAHAM] when he presented this bill to the House, in which report he says:

In the passage of this bill there is no question of opening up any other claims—

That is, no other claims except these claims of officers who resigned—

Nothing will be opened up by the repeal of section 3480 by the language of the proposed act except certain claims which can be presented to the Office of the Auditor for the War Department covering pay due some 173 persons accruing prior to April 13, 1861. These persons were West Point graduates, who were afterwards officers in the Confederate service. The claims total about $165,000.

Now, this proposition does not ask Congress to decide the case. Congress in its liberality and in its justice has already decided the case. It does not come from this side of the House. It does not come from the South, but comes, as I say, on the motion of a distinguished Member of this House and a member of the Republican Party, Mr. GRAHAM of Pennsylvania, on whose motion the Congress itself has already decided that these claims shall be paid.

Now what is there to be determined? There is only to be determined the question whether the man was at West Point and was in the Union Army. That is a matter of record. There can be no dispute about it one way or the other. The only other question is the amount of additional pay that he should receive by decision of the Supreme Court of the United States, which amount his brother officers who served with him have already got, and that is only a question of an auditor figuring the amount. Now, it can not embrace anybody else. As the gentleman from Pennsylvania [Mr. GRAHAM] points out, it can only embrace these men. The only thing to be determined is a question of record fact, as to the length of the man's service, and whether he was in the Army.

Now, you may answer that and say that when this fact is ascertained it will be time for Congress to make the appropriation; and possibly in an ordinary case that might be true. But as the gentleman from Pennsylvania [Mr. GRAHAM] said in his eloquent speech, this act wiped out the last barrier that stood between the South and the North. This bill passed, not by a partisan vote, not by partisan efforts, not as the result of some claims lobby, but by the unanimous vote of a Congress that wanted to say that there is but one flag and one country. Now, after Congress has written this law on the statute book, it is only a question as to whether we shall pay these old soldiers or their widows to-day or next December, when the auditor has ascertained their names and figured up the amounts. Whether we shall pay them then or pay them to-day is the only question which confronts Congress.

The SPEAKER. The time of the gentleman has expired.

Mr. FITZGERALD. I yield to the gentleman five minutes more.

Mr. UNDERWOOD. They can not receive this money until the auditor ascertains the facts; and there is some reason why they should get it to-day instead of next winter, because many of them have reached that point in life when the span of their days may be measured between the adjournment of this session and the meeting of the next. It is only a few hundred dollars apiece. It does not amount to much. But these few hundred dollars may be of inestimable value to these old soldiers, or to their widows, in their declining days. Why should we hesitate now, when we have already determined that we will pay the amount? Why withhold it, when under the law that we passed we must pay it next fall?

Let me call attention to some of the distinguished officers who, although they may not have served on the side that this House recognized during the war between the States, yet bear names and places in history cherished by every American citizen, no matter on which side of that controversy his allegiance may have fallen. Every American citizen cherishes their names and their memories as worthy of American manhood, and as soldiers whose reputations are untarnished and whose names will live in the history of the people of our Republic. [Applause.]

The soldiers whose heirs will receive a few hundred dollars from this appropriation are Gen. Robert E. Lee, of Virginia; Gen. P. G. T. Beauregard, of Louisiana; Gen. J. E. B. Stuart, of Virginia; Gen. Dick Ewell, of Virginia; Gen. Joseph Wheeler, of Alabama; and Gen. Fitzhugh Lee, of Virginia; and the widows of Gen. "Stonewall" Jackson, of North Carolina; Gen. Simon Buckner, of Kentucky; Gen. Bell, of South Carolina; and Gen. A. P. Hill, of Virginia.

Mr. Speaker, a recital of those names is sufficient, in my judgment, to authorize the passage of the appropriation; and I think that, now that Congress has passed a just law in recognition of the wiping out of the past, Congress should not hesitate at this time to make this appropriation and let these old soldiers and their widows have these few hundred dollars that may not reach them if we postpone action in this matter. [Applause.]

Mr. FITZGERALD. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois [Mr. MANN].

The SPEAKER. The gentleman from Illinois [Mr. MANN] is recognized for 10 minutes.

Mr. MANN. Mr. Speaker, if I understood this case as the gentleman from Alabama [Mr. UNDERWOOD] does, I should be for his proposition. But unfortunately he has had his attention attracted to this matter only recently, and he is now favoring the proposition upon the theory that this measure is to do justice only to certain Confederate soldiers who had been officers of the United States Army. That is not the case at all. Let me very briefly endeavor to outline what is before the House. In 1838 Congress passed a law providing for longevity pay, providing that officers in the Army who had served five years should have their pay increased 10 per cent, and an increase of 10 per cent for each five years of service until the increase amounted to 40 per cent. That is still the law. That law was passed in 1838. It was construed by the Government for many years, and no change in the construction was made until the eighties. We had a military academy at West Point where the Members of Congress sent cadets. The Government paid the expenses of the cadets. After four years at the Military Academy—and the same thing is true after six years' service at the Naval Academy—the boy came out of the academy and received a commission in the Army or the Navy.

The department construed the law to be that the date of service commenced when the commission was granted, after he came out of the Military Academy, and did not count the four years of service at the Military Academy, or the six years of service at the Naval Academy in determining the longevity pay.

In other words, if the six years of service at the Naval Academy was to be included as service in the Navy, when the boy received his commission as an ensign he was already entitled to his first longevity pay, an increase of 10 per cent over the amount provided by law, on the ground that he had been more than five years in the service.

This was the construction of the department and the Government from 1838 until along in the eighties. It never was questioned. The Government said that the service in the Army and the Navy upon which to compute longevity pay did not begin when the boy entered the academy, but began when he came out and went into the Army or the Navy. To an ordinary man that would seem like a sensible construction. But some genius in the course of time conceived the idea that the military and naval service commenced when the boy entered the academy, and a claim was made against the Government, which went to the Supreme Court of the United States, and the Supreme Court decided that the service did commence when the boy entered the academy and that longevity pay was to be computed accordingly. In other words, the boy who came out of the Military Academy received his 10 per cent increase after he had been in the Army one year instead of five years, computing the four years at West Point; and in the Navy it commenced at once, because he had already been five years in the service of the Navy.

Congress changed that law recently and said that the service at West Point should not count in fixing longevity pay. When the Supreme Court made this decision all of the officers who were in the service practically filed their claims in the Court of Claims and received the allowance for the increase of longevity pay which had occurred within six years, as under the law the statute of limitations barred all claims more than six years old. Ever since that time these claims have been floating around Congress. The Senate has on more than one occasion put these claims upon the omnibus claims bill. They never have received a vote in the House on any previous occasion. No one has ever defended them in the House. The Senate sent a lot of these claims to the Court of Claims for findings, and the court made the finding of facts that the man entered the service at a certain time, was in the service a certain length of time, and that if the decision of the Supreme Court was to be followed by Congress his increase in longevity pay would be so much.

These claims are not confined to the Confederate officers who have been in the Army of the United States. They apply to all officers who have been in the Army at any time, and by like comparison are applied to all officers who have been in the Navy. The gentleman from Alabama [Mr. UNDERWOOD] believes that the claims only apply to these Confederate officers.

Mr. UNDERWOOD. I will ask the gentleman, if he will allow me—I would not mislead anybody——

Mr. MANN. I know the gentleman would not, and I am coming to what I think is in the gentleman's mind.

Mr. UNDERWOOD. This proposition is limited to officers who are affected by section 3480, and only Confederate officers can be affected by that statute.

Mr. MANN. We recently passed a law repealing section 3480 of the Revised Statutes. That section did not as a matter of fact bar any of these claims, but some of the very shrewd claim

agents who have been urging these claims for years thought that if they could repeal that statute, which was intended to shut out claims of Confederate soldiers against the Government, they could pursue the very course which is now being pursued, and commit the Government to the payment of these claims. I said to the gentleman from Pennsylvania [Mr. GRAHAM], who had this bill in the House, that it amounted to nothing, that it did not do anything; but if anybody wanted to repeal any provision of the law that appeared to discriminate against the Confederate soldier I was quite willing to vote for that proposition.

Mr. BURKE of Wisconsin. Will the gentleman yield?

Mr. MANN. Yes.

Mr. BURKE of Wisconsin. When was the decision of the Supreme Court rendered to which the gentleman has referred?

Mr. MANN. It was some time, I think, in 1884. It is the United States against Tyler, One hundred and fifth United States.

Mr. BURKE of Wisconsin. When was the statute changed? I understood the gentleman to say that after the Supreme Court decision Congress passed a law providing that the service at West Point should not count.

Mr. MANN. The statute was changed in the last Congress.

Mr. GARNER. May I ask the gentleman whether the statute applied to the Naval Academy as well as to West Point?

Mr. MANN. We changed it as to the Military Academy, and I am not sure whether it was also changed as to the Naval Academy or not, but I think it was.

Mr. GARNER. It seems to me anomalous that it should be changed with reference to the Military Academy and not with reference to the Naval Academy.

Mr. MANN. The Military Academy was included in the Army bill from the Military Committee. I know the same proposition was before the Naval Committee, but I am not sure whether it was passed or not. It is not important except to show the opinion of Congress as to the ruling of the Supreme Court. This is one of the cases that is pending. You can not pay the Confederate soldiers who have these claims and refuse to pay the Union soldiers who have these claims, and while this proposition in this pending amendment, it is true, only pays the Confederate soldiers who had the claims, it is nonsense to say that we can do that and then refuse to pay the Union soldiers who had the claims. No one would claim that. No portion of the claims has yet been paid to anyone.

Mr. ADAMSON. Mr. Speaker, will the gentleman yield?

Mr. MANN. Certainly.

Mr. ADAMSON. As I understand the contention of the gentleman from Illinois, the act passed the other day at the instance of the distinguished gentleman from Pennsylvania [Mr. GRAHAM] did not enlarge or affect the rights of all these claimants, but merely removed such disabilities as had been imposed upon those claimants who had been in the Confederate Army.

Mr. MANN. That is all. Those people did not have any claim against the Government which could be enforced, because it was barred by the statute of limitations in any event; and the only way they could ever get their money is by a new provision of law authorizing its payment and waiving the statute of limitations, so that they are not in any different position by reason of the law passed the other day from what they would be in if this law were passed without the other law having been passed.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. FITZGERALD. Mr. Speaker, I yield the gentleman 10 minutes more.

Mr. SISSON. Mr. Speaker, will the gentleman yield?

Mr. MANN. Yes.

Mr. SISSON. The gentleman is familiar with section 3480 of the Revised Statutes passed in 1867?

Mr. MANN. Yes.

Mr. SISSON. Were all these claims barred at the time of the passage of that act?

Mr. MANN. Oh, these claims had not arisen at the time of the passage of that act. No one had dreamed of claims at that time.

Mr. SISSON. What I meant is the pay, for example, of an officer who resigned his commission in the United States Army and joined the Confederacy, having money due him at that time.

Mr. MANN. Oh, this has nothing to do with that.

Mr. SISSON. Those were the claims I had in mind.

Mr. MANN. This has nothing to do with that. This does not affect the pay that was due to the officer, except in the matter of the computation of the longevity pay.

Mr. SISSON. But that would be affected by the passage of this act in 1867.

Mr. MANN. Oh, it would have been affected then when the claims were alive, before the statute of limitations run, but they could not have been paid after the statute of limitations had run, and if we should enact a law to pay them, they would be paid regardless of section 3480.

Mr. SISSON. That would be true irrespective of whether the claimant was a Confederate or Union soldier.

Mr. MANN. Yes.

Mr. SISSON. The question is whether this statute had barred the longevity pay in 1867.

Mr. MANN. There is no difference between this case and any other claim that the Government orders paid to an individual. Whenever the Government orders it paid, that statute is not effective.

Mr. SISSON. If the claims were not barred at the passage of this act, then this act operated as a bar?

Mr. MANN. It operated as a bar if they bring the claim before the accounting officers, but it did not operate as a bar before Congress. No one ever pretended that that section forbade Congress to provide for the payment of the claims. It applies only to the accounting officers and the officers of the Government.

Mr. SISSON. At that time I doubt whether the feeling would have permitted the passage of an act, however just the claim might be. The only question is whether or not they have been dealt with just as they would have been dealt with and as other claims have been dealt with.

Mr. MANN. Absolutely, that is all.

Mr. GARNER. Mr. Speaker, I understood the gentleman to make a statement a while ago that similar cases of this character had been put on in the Senate for Union soldiers.

Mr. MANN. I did not say Union soldiers. I do not think it has been confined to Union soldiers.

Mr. GARNER. Officers of the United States Army?

Mr. MANN. Yes.

Mr. GARNER. And that they had been universally refused by the House?

Mr. MANN. Yes.

Mr. GARNER. If the Congress permits these claims to be paid, I agree with the gentleman that we can not well resist similar claims offered by gentlemen who have not been incapacitated by their service somewhere else.

Mr. MANN. Undoubtedly.

Mr. OGLESBY. Mr. Speaker, will the gentleman yield?

Mr. MANN. Yes.

Mr. OGLESBY. After the United States Supreme Court decided that this longevity pay should apply from the entrance to the Military or Naval Academies, it was then too late, because the statute of limitations had run, to make any claim prior to 1867.

Mr. MANN. I endeavored to state a while ago that it was too late to succeed in any claim where six years had elapsed. This has nothing to do with 1867.

Mr. OGLESBY. So that no Union soldier collected anything which accrued prior to that time?

Mr. MANN. No.

Mr. OGLESBY. Therefore the Confederate soldiers are in no worse situation than the Union soldiers?

Mr. MANN. No Union soldier has ever collected a cent that was barred by the statute of limitations.

Mr. UNDERWOOD. But before it was barred they collected $1,000,000.

Mr. MANN. They collected the million dollars only for the six-year period where the statute of limitations did not bar them, just prior to the decision of the Supreme Court.

Mr. DUPRÉ. Mr. Speaker, will the gentleman yield? My information is, I will state to the gentleman——

Mr. MANN. Ask me a question—well, go ahead.

Mr. DUPRÉ. I simply want to clear up the matter. My information is since 1907 a million dollars of claims of this character accruing to old soldiers have been paid.

Mr. MANN. Well, that is not true. There has been no money paid to any Union soldier for any service prior to 1875 on these claims.

Mr. WEBB. Mr. Speaker, will the gentleman yield?

Mr. MANN. I will.

Mr. WEBB. Since the decision of the Supreme Court of the United States in the case of Watson, handed down in 1889, wherein they say the time of the service in the Military Academy at West Point is to be reckoned as a part of the time an officer served in the Army, within the meaning of the act of July 5, 1838, and should be counted in computing the longevity

pay—I will ask if since that time these cadets have not been drawing this pay? What information has the gentleman on that point?

Mr. MANN. Of course the cadets do not draw longevity pay. The service at the Military and Naval Academies was counted as part of the five years in order to fix his increase of 10 per cent until a Democratic Congress—wisely, in my judgment—repealed that provision, changing it. [Applause.]

Mr. WEBB. Then, since the——

Mr. MANN. And did it without opposition, by the way.

Mr. WEBB. Since the rendition of this opinion, however, they have been entitled to it until a Democratic Congress repealed it.

Mr. MANN. Certainly. They received longevity pay from that time until Congress repealed the law in the last Congress based upon the proposition that their service at West Point and Annapolis was service in the Army and Navy, and they also, those who could, filed claims within the six-year limitation after the decision of the Supreme Court had been rendered, and if they had legal claims against the Government they were paid.

Mr. WEBB. Will the gentleman permit this question, as the gentleman seems to be remarkably familiar with the facts of the case: Up to the time the Supreme Court rendered the opinion in the Morton case in 1884, which is in line with the case I have referred to, had any officer ever applied for longevity pay based upon service at the Military Academy?

Mr. MANN. Of course some filed or there never would have been a case in the Supreme Court.

Mr. WEBB. Of course Mr. Morton did; but was there any general attempt?

Mr. MANN. There was not, and it never was even dreamed of, except some shrewd attorney got it up, and they probably worked the Supreme Court through social influence.

Mr. PAYNE. Did not a claim agent institute that proceeding and did he not claim he had done a great thing in originating it?

Mr. MANN. Now, for instance, the gentleman from Alabama [Mr. UNDERWOOD] seemed to believe—and I have no doubt of his good faith in the matter—that the only claims were Confederate soldiers who had been discriminated against. Here is a man who entered the Military Academy June 11, 1838, served continuously from that date until the date of his death, in September, 1847. This is a finding of the Court of Claims, and I have quite a large number of them. He received all the pay he thought he was entitled to. He knew what the law was; he received all the pay that Congress appropriated for him; he received all the pay that the Government thought he was entitled to. The question had never been raised. The Army thought it was very lucky, indeed, to have secured from Congress a law providing for a 10 per cent increase in pay every five years from entrance into the Army and the Navy and not from the entrance in the academy, and yet this man, dead since 1847, has a claim pending amounting to $590.80. Of course, you would have supposed his longevity pay would have been lost entirely, because there is only 20 years to raise the 40 per cent between the time he went in the academy in 1838. I do not know how they figure it out, but they do. I have a large number of these findings here, not of Confederate soldiers but of Union and Confederate soldiers, of men who died years before the war commenced, of men who entered the service long after the war ceased—all of them have claims. Every officer who was in either the Army or Navy during the last century, who was in the Military or Naval Academy, had one of these claims. It is inevitable that they should have. They supposed they were getting the pay to which they were entitled. We supposed they were getting the pay to which they were entitled, and after they have died and passed away some claim agent worked up the claim for the estate. My friend from Alabama said, Pay these claims and let these poor—I will not say "poor"—but let these old soldiers have this money in their declining years. Well, I hold in my hand the omnibus claims bill of the last Congress, where there were a large number of these claims specifically inserted. Virginia Forse, administratrix; Flora A. Janes, administratrix; James M. Seawell, administrator; Julia E. Wilcox, administratrix; Edgar L. Swaine, administrator; Albert B. Greene, administrator; Lizzie F. Remington, administratrix; Catherine Du B. Beale, administratrix. That does not sound much like taking care of old soldiers in their declining years, and I have read them as they come. There are a great number of these claims specifically provided for in the omnibus section of the bill as a Senate amendment. Then the bill originally contained a general provision authorizing these claims for all officers in the Army.

Of course, if we allow them for the Army we must allow them for the Navy. When that bill came over to the House with the Senate amendments, attention was called to these claims. The gentleman from Tennessee [Mr. SIMS], who had charge of the omnibus claims bill, stated on the floor of the House that they never would be agreed to; that there was absolutely no justice in them. Now, I know what the social influence is. Old Gen. Mackenzie, one of the finest men I ever met, used to be Chief of Engineers, and has one of these claims. Old Gen. Marshall, one of the finest men I ever met, used to be Chief of Engineers, and has one of these claims. All of these old officers on the retired list living in Washington, and there are a number of them, who were in Annapolis or West Point, have these claims. I have met the social touch in connection with these claims myself, but not until I knew more about them than some of the gentlemen who have succumbed to the social influence. Now, as to the pending amendment, there can be no justification for it. That only appropriates money to pay those portions of the claims where the men had been in the Union Army or the Army of the United States, and resigned and went into the Confederate Army, without paying the claims of those who remained in the United States Army. The claims of the men who remained in the United States Army are still unpaid. I am not in favor of paying them.

The SPEAKER. The time of the gentleman from Illinois has again expired.

Mr. FITZGERALD. Mr. Speaker, I yield five minutes more to the gentleman.

Mr. OGLESBY. May I ask the gentleman a question?

Mr. MANN. Yes.

Mr. OGLESBY. I think I understand the gentleman, but I would like to put this question to him: If the Graham bill, which passed in July of this year, had been passed in 1884, at the time the Supreme Court rendered that decision, were there then any men who had gone into the Confederate Army who could have filed a claim? Were there any of those men who had a claim that had arisen within six years prior to that date?

Mr. MANN. There were not. If section 3480 had never been passed at all, not one of these claims could have been paid except by direct legislation or appropriation by Congress. So that section of the statute made no difference. It never affected our right to legislate or appropriate. That statute did not affect a thing. Some wise, bright claim agent got up the idea of repealing that statute, knowing it did not affect anything, but in order to work the sympathetic, patriotic racket on Congress. I think the statute ought to have been repealed. I do not think it has any place on the statute books now. But it has nothing to do, in fact, with these claims.

Now, we have always resisted these claims in the House of Representatives. No one knows how much they amount to. It is proposed here to appropriate $175,000 only to take care of the claims of the United States Army officers who resigned to go into the Confederate service. These claims cover a period from 1813, the date of entering the service, as I have just illustrated, down to the time of the decision of the Supreme Court of the United States. And if it takes $175,000 to take care of all those officers who resigned from the United States Army to go into the Confederate Army, who can tell how much it will take to pay the claims of all of the officers who have been in the Army during all of these years? And, then, who can tell how much more it will take to pay similar claims of the officers of the Navy? We can not pay one of these claims without paying all of them. We have no right to discriminate. I would not discriminate against a Confederate officer, and I do not believe we ought to discriminate in his favor. The claim agents, if they can get one of these claims paid, know very well that justice and equity will require us to pay all of them. We might as well pay the claims of men whose property was destroyed by the flood. There never was any justice in the claims, and we never supposed they were to be paid. [Applause.]

Mr. FITZGERALD. Mr. Speaker, I yield five minutes to the gentleman from Alabama [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Speaker, the gentleman from Illinois is undoubtedly one of the most diligent men in this House in attending to his business, and he is usually accurate in the information which he furnishes to the House; but he has evidently made a very great mistake in presenting the facts to the House in reference to this question.

Now, the gentleman would lead you to believe from what he states that Congress has paid no claims of this kind to Union soldiers. As a matter of fact, since 1907 it has paid about $1,000,000 worth of them. I hold in my hand just one bill, because I have not had a chance to get them all—a deficiency bill, approved March 4, 1913—and on page 26 of that bill, under "Claims allowed by the Auditor of the War Department for

pay, etc., of the Army," there is allowed $23,354.02. And this was for longevity pay for northern officers since 1838. So the gentleman is in absolute error in his statement to the House that the officers of the northern army have not been paid these claims heretofore. I do not mean to say that there are not some pending now. That may be true, but that some of them have been paid is unquestionably a fact. That they have amounted in the neighborhood of $1,000,000 is absolutely a fact. Now, I do not contend for one minute that you should pay these officers who served in the Union Army and resigned and went to the Confederate Army, and not pay other officers in the Union Army in a like manner, but you have been paying them, and are paying them, and last year's deficiency bill carried an item to pay some of these claims.

Now, when this repeal of section 3480 was passed here within the last month, what was the purpose for which it was repealed? It was not repealed to occupy an idle hour or to amuse Congress. It was repealed for the specific purpose, because the report said so, to give these very officers an opportunity to file these claims. No statute of limitations has debarred these officers. There is no laches on their part. They were barred by a statute that prohibited an officer who had been in the Union Army and entered the Confederate service from bringing a claim against the United States Government. There was no laches on their part, because they never had an opportunity to act until within the last 30 days. And if you want to repudiate your action of a month ago, if you want to say that these claims shall not be considered, that is another question. But to repudiate these claims on the basis that the officers in the Union Army have not been paid their longevity pay, where they filed their claims before the statute of limitations ran against them, is wrong, and that there have not been claims paid by this Congress to officers who did let the statute of limitations run against them is equally unjustified by the facts.

Mr. MANN. Will the gentleman yield to a question?

Mr. UNDERWOOD. Certainly.

Mr. MANN. Under what authority would the auditor have a right to audit a claim where the statute of limitations had run against it?

Mr. UNDERWOOD. He had the authority of Congress.

Mr. MANN. Where is the authority?

Mr. UNDERWOOD. I do not know that, but I refer the gentleman to a claim that is in a bill, where we did pay it.

Mr. MANN. That could only refer to audited claims.

Mr. FITZGERALD. The gentleman read something that was not in the bill. The statute expressly prohibits the certification of an audited claim for longevity pay except six years prior to the decision of the Supreme Court, and I have sent for the statute. These men could not have obtained any favors. It was a decision made in 1884.

Mr. MANN. The gentleman from Alabama was misled by some one. There is no such thing.

Mr. UNDERWOOD. I have the proposition here in my hand, in the act I have referred to: "For pay, and so forth, in the Army," of claims to the extent of over $23,000 for longevity pay.

Mr. MANN. How does it read?

Mr. UNDERWOOD. "Claims allowed by the Auditor for the War Department for pay, and so forth, of the Army, $23,354.02."

Mr. MANN. Claims allowed for pay of the Army. That has nothing to do with these old longevity claims.

Mr. UNDERWOOD. Those claims, I am informed, were for this very longevity pay.

Mr. MANN. The gentleman has been misinformed.

Mr. UNDERWOOD. I do not think so. I have the information from a source that I am satisfied with; and I know, further than that, that the officers in the Union Army, where there was no statute, were paid these longevity claims. Now, how can you, in any justice, say that laches or the statute of limitations applies, if you are going to pass a bill and wipe out the barrier that existed against those men? They had no chance to present their claims. How can you say laches or the statute of limitations ran against these men when you but yesterday opened the door to them to make their claim?

The SPEAKER. The time of the gentleman from Alabama has expired.

Mr. FITZGERALD. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has 20 minutes.

Mr. MANN. Will the gentleman give me a few minutes more while he is looking up that reference?

Mr. FITZGERALD. I yield five minutes to the gentleman from Mississippi [Mr. SISSON].

The SPEAKER. The gentleman from Mississippi [Mr. SISSON] is recognized for five minutes.

Mr. SISSON. Mr. Speaker, the statute that was passed a few days ago, with which the Members of the House are familiar, repealed all of that portion of section 3480 which affected the right of an officer of the United States Army who resigned his commmission in the Army and joined the Confederacy. The language repealed by that statute is this:

SEC. 3480. It shall be unlawful for any officer to pay any account, claim, or demand against the United States which accrued or existed prior to the 13th day of April, 1861, in favor of any person who promoted, encouraged, or in any manner sustained the late rebellion, or in favor of any person who during such rebellion was not known to be opposed thereto, and distinctly in favor of its suppression; and no pardon heretofore granted, or hereafter to be granted, shall authorize the payment of such account, claim, or demand until this section is modified or repealed.

Now, that statute was passed in 1867 for the purpose of preventing any Confederate officer, who was previously a Union officer, getting any pay which the Government of the United States owed him at the time of the beginning of the War between the States, which he had the right to prior to the 13th of April, 1861. The statute which was passed here the other day was passed for the purpose of enabling these officers to get that longevity pay which was due them at that time, together with pay and allowance they resigned, which they would have gotten if they had remained in the Union Army, because, as was argued on the floor here—which argument prompted the Members of this House in voting for the repeal and prompted the Members of the Senate—the accounting officers of the Government were not permitted to compute this pay and could not pay this money was because of the existence of that old statute of 1867, section 3480, which was specifically repealed, and repealed for that purpose, and that purpose only. That is the object of that, and the item in this bill is for the purpose of enabling the officers of the Government to make the computation as to what was due these officers under the law at that time, just as if they had remained Union officers, and the appropriation does not do more than that. That is all that it does do, and in the passage of this appropriation in this bill it does not enable these people to do more than that. If the gentleman will get the appropriation act——

Mr. MANN. Mr. Speaker, will the gentleman yield there for a question?

Mr. SISSON. Yes; I yield.

Mr. MANN. If those officers were Union officers now, could they recover their claims now?

Mr. SISSON. Union officers?

Mr. MANN. Yes.

Mr. SISSON. Well, it is possible that the Union officer who, having no such statute barring him as the statute in section 3480, would be barred by the statute of limitations; but, as was stated the other day in the discussion of this repealing act, these men could not assert their claims. The accounting officers had no right to pay the claims. No officer in the Government could pay them. But every Union officer got his pay as it became due, without an exception.

Mr. MANN. The gentleman knows that most of these claims commenced long before the Civil War. I read one awhile ago of one officer.

Mr. SISSON. I understand that is bound to be true as it affects a Confederate officer. As the gentleman says, it must have happened before April 13, 1861, unless the officer reenlisted in the Union Army after the Civil War, as, for example, in the Spanish-American War, and should have become an officer under the statute.

Mr. MANN. The statute of limitations would run if that had not been in the law at all.

Mr. SISSON. The statute of limitations would have run against these men if the doors had been open to them.

Mr. MANN. They were open before the war. They had the theoretical claim, but did not know it.

Mr. SISSON. The point in the whole matter is that those men who entered the Confederate service should be dealt with just as the Union officer. They were officers of the Army of the United States, and should have gotten what was due them when they resigned. They rendered the service to the Government up until they resigned. They should be put identically on the same plane. To do this they should be paid what was due them.

Now, I will state frankly to the gentleman that it is not my purpose or my aim or object to open up any floodgate, but irrespective of the question of whether or not it is a Union officer who went into the Confederate service, the only question in my mind is to have these men at this time, when we are all absolutely united, treated exactly like the others, and I do not believe the gentleman from Illinois [Mr. MANN] would have any other treatment accorded to those people. As I gathered from

what he said, that is the point he made in his speech—he wanted them to be dealt with alike. To do this, pay them what was due them on the date of their resignation.

Mr. MANN. But the gentleman knows that no Union officer has ever been able to receive one single cent for any time prior to April 13, 1861, and the claims of all these Confederate officers must have been prior to that time.

Mr. SISSON. That is what I am trying to make clear. They received it regularly under the law. It was paid as it became due. The statute of 1867 prevented any computation of any service rendered by a man who afterwards went into the Confederate service.

Mr. MANN. But the Union soldier at the same time could not secure any claim, because the statute of limitations debarred him. They were all before 1861.

Mr. SISSON. But they were all paid and could have no claim. These Confederate officers were not paid anything. The statute of limitations was suspended during the hostilities, during the actual war. But that is far from the point involved here. We simply say, pay these officers what was due them when they resigned. All Union officers, of course, got theirs. It was paid under the law as it fell due. If the statute ran against him after hostilities ceased, it would be laches on his part, for which he would be responsible; but if the statute stands in the way of a Union officer who afterwards joined the Confederacy, laches could not stand against him because of the statute which forbids the pay of what the Government owes him.

The SPEAKER. The time of the gentleman from Mississippi has expired.

Mr. MANN. But the Union soldier, having had a chance to make a claim——

Mr. SISSON. He would be able to press that now.

The SPEAKER. The time of the gentleman from Mississippi has expired.

Mr. FITZGERALD. I yield to the gentleman one minute more.

The SPEAKER. The gentleman from Mississippi is recognized for one minute more.

Mr. SISSON. I would be willing to do that, and the statute does exactly that. It treats the Union officer and is compelled to treat the Union officer who has not received his pay under this statute just as it would treat the officer under the Confederacy.

Mr. FITZGERALD. Mr. Speaker, this amendment provides for the payment of longevity claims of officers of the United States Army who left the United States Army and entered the Confederate service. No officer of the United States Army has received any allowance for longevity claims of this character during the period covered by this amendment. The only longevity claims of this character that have been paid are those for the six years prior to the decision of the United States Supreme Court. The adoption of this amendment means that men who were in the United States Army and who resigned from it to enter the Confederate Army are to be allowed these longevity claims, while no provision is made for men who were in the United States Army and remained in the Army and fought on the Union side.

This is the most ingenious amendment ever devised and presented to the House. Members of the House are not responsible for it; but the bright minds who devised it know that if this Congress provides that officers of the United States Army who resigned from that Army and went into the Confederate Army are paid these longevity claims an irresistible demand will arise that will open the Treasury to the millions of claims of the men who remained loyal to the Union and who were in the Army after the war and whose claims have been barred.

The gentleman from Alabama [Mr. UNDERWOOD] is wholly mistaken about the appropriations that have been made. I have in my hand House Document No. 1372, Sixty-second Congress, third session, which is the schedule of claims allowed by accounting officers, transmitted to Congress under date of February 10, 1913, and for which, under the head of audited claims, the deficiency bill carried $23,354.02 for pay of officers, and so forth, of the Regular Army. The gentleman from Alabama stated that it included claims dated as far back as 1838, and in that he is mistaken.

Mr. UNDERWOOD. But that is what the record discloses, from which I got this information.

Mr. FITZGERALD. I believe the gentleman is mistaken, and I believe I can demonstrate it. The fiscal year in which the expenditure occurred is stated in this document opposite the names of the claimants, together with the amount of the claims. Every single expenditure in that schedule, covering three pages, was incurred in the fiscal year 1910 and in prior years. They could not go back to a period antedating the six years prior to the decision of the United States Supreme Court, because they were claims of men in the Army in 1910, and none of them served before the war. For instance, in the general deficiency act in 1912 the sum of $220,000 was appropriated for certified claims. Questions like this continually arise: An officer is promoted and his commission issued. A controversy arises as to the date from which his pay should commence in his new grade. Controversies arise as to allowances to which he is entitled, when assigned on different duties. Such matters go to the auditor, are adjusted and are certified for inclusion in the deficiency bill. I am informed by the clerk of the Committee on Appropriations, who is very accurate in his knowledge and who has a vast fund of information in reference to these matters, that a statute prohibits the auditor certifying any claims for longevity for any period prior to six years before the United States Supreme Court decision. Suppose section 3480 of the Revised Statutes had been repealed when the Supreme Court rendered its decision, or suppose that provision of the Revised Statutes had never been enacted. Not a single one of the claims proposed to be paid in this amendment could now be paid or could have been paid at any other time. This amendment lifts the men who went into the Confederate service into a preferred class and permits them to be paid these longevity claims, for which no other man who served in the Army can receive pay or ever has received pay.

Mr. UNDERWOOD. Will the gentleman allow me to ask him a question?

Mr. FITZGERALD. Certainly.

Mr. UNDERWOOD. The statute of limitations can run against no man until the opportunity for the claim accrues. As these men were barred by reason of this statute, section 3480, the door was never open for them to make the claim until last month.

Mr. FITZGERALD. It was not barred to these men. They could have asserted a claim for this longevity pay at any time prior to their resignation from the Army, but nobody ever thought of making such claim; and the gentleman does not intend to contend that because of that statute a man who had been in the Confederate service should be given the right to file a claim which the man who remained in the Union Army was deprived of filing, except for the period of six years prior to 1884.

Mr. UNDERWOOD. No; but I do claim this: That when Congress passed this act last month repealing section 3480 it did so with the express purpose of authorizing the payment of these claims. It is so stated in the report. It was argued on the floor. The amount of the claims was stated to the House, and every Member of this House who voted to repeal that statute knew that it opened the door for $165,000 worth of claims to these soldiers; and with that knowledge before them, the House and the Senate enacted it into law; and I say that was the will of the House, the intention of Congress, and it seems to me that for the Committee on Appropriations to come here now and ask the House to repudiate its action is to put us in the attitude of merely maching up the hill and then marching down again.

Mr. FITZGERALD. Mr. Speaker, I was in the House that day and I heard the very eloquent speech of the gentleman from Pennsylvania [Mr. GRAHAM], and I never heard a suggestion, and I never imagined for a moment, and nobody else in this House imagined, that that was what Congress was doing in the passage of that act.

Mr. UNDERWOOD. It is stated in the report. I read it.

Mr. FITZGERALD. I do not care about the reports, because I do not read them very often. I do not have the chance. But nobody ever suspected that Congress was proposing to open the door to claims of men who left the Regular Army to go into the Confederate service, and at the same time denying the opportunity for claims for the same service for the same period to be presented by men in the Regular Army who remained loyal to the Union. I think for anybody to assert now that Congress intended that is to make an assertion that can not be justified.

Mr. UNDERWOOD. Why, the gentleman——

Mr. FITZGERALD. What was believed, Mr. Speaker, was that we were placing the men who had left the Army and gone into the Confederate service on an equal footing with men who remained loyal to the Union. But this amendment does not propose such action. We are giving them something that the men who remained loyal have not got and can not get. This House never intended and never knew what was being accomplished by that act. I would go as far as anyone to wipe out whatever lingering or smoldering animosities there may be arising out of that terrible conflict which divided this country from 1861 to 1865—and what I say is not for the purpose of arousing any feeling—but I would not have Congress do an act

which, in effect, puts a premium upon the action of the men who left the service of their country to take arms in the Confederate service, and that is what is done in this amendment.

If Congress wishes to enact a law so that every man who was in the Regular Army shall be able to present a claim for longevity service and be paid for it, so far as I am concerned I am willing to meet others and to let these men who did go into the Confederate service be placed on an equal footing with the men who remained in the Army or who did not go into the Confederate service. I would be willing to blot out and remove the effect of any action by which these men went into the Confederate service, because I have always believed that the men who took that side of the controversy were sincerely actuated by lofty and patriotic motives. The awful conflict, which resulted finally in the preservation of the Union, has long passed; it is the duty of everyone to cooperate as much as possible to obliterate the causes of ill feeling that so long remained and to do everything possible to restore the common brotherhood of this country. But to say that Congress intended, in order to meet the condition that existed and to bring about a better feeling, to enact a law which gave the men who went into the Confederate service an advantage and preference, and an opportunity to present a claim to which Congress has persistently refused to the men who remained in the Army and were loyal to the Union, is going far beyond what anyone can justify.

I believe that those who advocate this amendment do so in the honest belief that it puts the men who went into the Confederate service on a footing with those who remained in the Army and engaged on the Union side, but it does not do so. It *does much more*. There is no record that I have been able to find where anyone has been paid longevity pay for the period covered by this amendment. If this amendment be adopted, there can be no excuse, there can be no defense to the claims presented by every man who was in the Army and remained in it on the Union side.

Mr. WEBB. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. WEBB. It strikes me that under the decision of the Supreme Court both Confederate claims due these officers, as well as claims of the Federal officers, who were at West Point are entitled to the pay. Can the gentleman give any idea as to how much the amount would be due the Federal officers and widows who served at West Point during the same period as these in the Confederate service?

Mr. FITZGERALD. I have no idea, but I think it runs up into the millions. The gentleman will remember that this is merely for those men who went into the Confederate service.

Mr. WEBB. And there are 173 of those, I believe.

Mr. FITZGERALD. But it would take in the men in the Regular Army.

Mr. WEBB. They did not all serve at West Point.

Mr. FITZGERALD. It would include all the men in the Regular Army who were graduates of West Point.

Mr. MANN. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. MANN. The statement was made repeatedly that a million dollars has been paid, and the only men or officers paid were those that were not barred by the six years. The amount that has been paid accrued in six years, whereas the men who have not been paid the amount accrued between the years 1838 and 1878.

Mr. WEBB. That did not take into consideration the longevity pay based on service in the Military Academy?

Mr. MANN. Both academies.

Mr. WEBB. That was not based solely on the longevity that accrued at the academy.

Mr. MANN. That was the statement of the gentleman from Alabama, that a million dollars had been paid on these claims, and there was no claim paid except where the claim had accrued within six years.

Mr. SISSON. Will the gentleman from New York yield?

Mr. FITZGERALD. For what?

Mr. SISSON. For a question.

Mr. FITZGERALD. Yes.

Mr. SISSON. The gentleman has given the other side of this proposition 30 minutes and 5 minutes to the gentleman from Alabama and 5 minutes to myself.

Mr. FITZGERALD. The gentleman is mistaken. I gave the gentleman from Alabama all the time he desired, and so stated at the beginning.

Mr. SISSON. The gentleman from Alabama only occupied 5 or 10 minutes.

Mr. FITZGERALD. The gentleman is mistaken. He occupied nearly 15 minutes. I gave the gentleman from Misssisippi all the time he asked for.

Mr. SISSON. You only gave me five minutes.

Mr. FITZGERALD. That was all the gentleman asked for.

Mr. SISSON. I did not ask for more because the time was limited. But the question I want to ask is, Will the gentleman state positively that every officer has not received his longevity pay from 1861 to the present time? Is it not true that in appropriation bills almost every year since the Supreme Court delivered its opinion the Union officers have been receiving pay? I ask for information, for I have not had time to look it up.

Mr. FITZGERALD. I will state what I understand to be the fact——

The SPEAKER. The time of the gentleman from New York has expired. All time has expired.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that I may continue for five minutes.

The SPEAKER. The gentleman from New York asks unanimous consent to continue for five minutes. Is there objection?

There was no objection.

Mr. FITZGERALD. Mr. Speaker, my understanding is that the claims of no officer have been paid for a period antedating six years prior to the decision of the Supreme Court in 1884, if that be the correct date. These certified claims are not for periods prior to that date. I do say, and I am as absolutely certain as I can be, that claims of this character for the period of service covered by the service of the men to be affected by this amendment have not been paid to anybody. This gives to those who served in the Confederate Army payment of claims that has been denied to men who served in the Union Army.

Mr. UNDERWOOD. Will the gentleman let me ask him a question?

Mr. FITZGERALD. Yes.

Mr. UNDERWOOD. The Supreme Court decision that brought about this question was rendered in 1884. Since that time there have been no claims for officers in the Union Army, because it was added into their pay.

Mr. FITZGERALD. Of men who were in the service, yes.

Mr. UNDERWOOD. I am informed—I have not looked it up, but I have received the information from a gentleman who has and in whom I have the utmost confidence—that there has been in the neighborhood of a million dollars of these claims paid. They must have been claims that originated before 1880.

Mr. FITZGERALD. Claims that originated within six years prior to the decision of the Supreme Court. If the statute repealed the other day had never been enacted, when the Supreme Court rendered its decision about this longevity pay none of the men affected by the Senate amendment could have asserted a claim, because they were not in a position to do it. They had been out of the service for a period more than six years back. The claims were barred by the statute of limitations, the same as the claims of Union officers.

Mr. BURNETT. Mr. Speaker, will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. BURNETT. Unless claims of this character are paid, is there any field for the operation of the law we passed just a few days ago?

Mr. FITZGERALD. I do not know.

Mr. BURNETT. Was it not merely nugatory?

Mr. FITZGERALD. I do not know whether there be any field for it or not; but I have no hesitation in saying that in voting for the law passed the other day I had no intention, and I do not propose because I voted for that bill to be put in the position of voting to pay the claims of these men who went into the Confederate service, when Congress has decided it will not pay similar claims for men who remained in the Union service.

Mr. Speaker, I ask a division of the question, that the vote be taken first on the question of receding from the disagreement of the House to the amendment of the Senate.

The SPEAKER. The question is on receding from the disagreement of the House to Senate amendment 158.

Mr. BURNETT. Mr. Speaker, I ask unanimous consent that the amendment be again reported.

The SPEAKER. Without objection, the Clerk will again report the amendment.

There was no objection, and the Clerk again reported the amendment.

The SPEAKER. The question is on receding from the disagreement of the House to Senate amendment 158.

The question was taken; and on a division (demanded by Mr. UNDERWOOD) there were—ayes 24, noes 70.

Mr. UNDERWOOD. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 67, nays 154, answered "present" 1, not voting 210, as follows:

YEAS—67.

Abercrombie	Ferris	Igoe	Sherley
Adamson	FitzHenry	Johnson, Ky.	Sims
Aiken	Flood, Va.	Lee, Ga.	Sisson
Barkley	Garrett, Tenn.	Lever	Stedman
Broussard	Garrett, Tex.	Lloyd	Stephens, Tex.
Bryan	Godwin, N. C.	McKellar	Stout
Buchanan, Tex.	Hamlin	Montague	Talbott, Md.
Burgess	Hardy	Moon	Taylor, Ark.
Burnett	Harris	Mulkey	Tribble
Caraway	Harrison	O'Hair	Underwood
Carter	Hay	Park	Watkins
Collier	Hayden	Pou	Watson
Dent	Heflin	Quin	Webb
Dickinson	Helm	Ragsdale	Whaley
Dupré	Holland	Rubey	Wilson, Fla.
Elder	Hull	Rucker	Wingo
Faison	Humphreys, Miss.	Russell	

NAYS—154.

Allen	Doolittle	Kelly, Pa.	Platt
Anderson	Doremus	Kennedy, Iowa	Post
Ashbrook	Doughton	Kent	Rainey
Avis	Dunn	Key, Ohio	Raker
Bailey	Esch	Kindel	Reed
Baltz	Falconer	Kinkead, N. J.	Reilly, Wis.
Barchfeld	Farr	Kirkpatrick	Roberts, Nev.
Barnhart	Fergusson	Konop	Rogers
Barton	Fess	La Follette	Rouse
Bathrick	Fitzgerald	Langley	Rupley
Beakes	Floyd, Ark.	Lenroot	Scott
Bell, Cal.	Fordney	Lindbergh	Seldomridge
Borchers	Foster	Lonergan	Shackleford
Britten	Fowler	McAndrews	Sinnott
Brockson	Francis	McCoy	Sloan
Brodbeck	French	McKenzie	Smith, Idaho
Brumbaugh	Gallivan	MacDonald	Smith, Minn.
Burke, S. Dak.	Gard	Madden	Smith, N. Y.
Burke, Wis.	Garner	Maguire, Nebr.	Smith, Saml. W.
Butler	Gerry	Mahan	Stephens, Cal.
Campbell	Gilmore	Manahan	Stevens, Minn.
Cantor	Gittins	Mann	Stone
Carr	Good	Mapes	Tavenner
Casey	Gordon	Mitchell	Ten Eyck
Church	Goulden	Mondell	Thacher
Claypool	Graham, Ill.	Moore	Thomson, Ill.
Cline	Green, Iowa	Morgan, Okla.	Towner
Connelly, Kans.	Greene, Mass.	Morrison	Townsend
Conry	Greene, Vt.	Moss, Ind.	Treadway
Cox	Haugen	Murdock	Tuttle
Cramton	Hawley	Neely, W. Va.	Underhill
Cullop	Helgesen	Nolan, J. I.	Walsh
Curry	Helvering	Norton	Williams
Danforth	Hensley	Oglesby	Witherspoon
Deitrick	Hill	Page, N. C.	Woodruff
Dershem	Humphrey, Wash.	Palmer	Woods
Dillon	Johnson, Wash.	Payne	Young, N. Dak.
Dixon	Kahn	Peterson	
Donovan	Keating	Phelan	

ANSWERED "PRESENT"—1.

Slemp

NOT VOTING—210.

Adair	Dies	Hoxworth	Murray, Mass.
Ainey	Difenderfer	Hughes, Ga.	Murray, Okla.
Alexander	Donohoe	Hughes, W. Va.	Neeley, Kans.
Ansberry	Dooling	Hulings	Nelson
Anthony	Driscoll	Jacoway	O'Brien
Aswell	Drukker	Johnson, S. C.	Oldfield
Austin	Eagan	Johnson, Utah	O'Leary
Baker	Eagle	Jones	O'Shaunessy
Bartholdt	Edmonds	Keister	Padgett
Bartlett	Edwards	Kelley, Mich.	Paige, Mass.
Beall, Tex.	Estopinal	Kennedy, Conn.	Parker
Bell, Ga.	Evans	Kennedy, R. I.	Patten, N. Y.
Blackmon	Fairchild	Kettner	Patton, Pa.
Booher	Fields	Kiess, Pa.	Peters, Mass.
Borland	Finley	Kinkaid, Nebr.	Peters, Me.
Bowdle	Frear	Kitchin	Plumley
Brown, N. Y.	Gallagher	Knowland, J. R.	Porter
Brown, W. Va.	Gardner	Korbly	Powers
Browne, Wis.	George	Kreider	Prouty
Browning	Gill	Lafferty	Rauch
Bruckner	Gillett	Langham	Rayburn
Buchanan, Ill.	Glass	Lazaro	Reilly, Conn.
Bulkley	Goeke	Lee, Pa.	Riordan
Burke, Pa.	Goldfogle	L'Engle	Roberts, Mass.
Byrnes, S. C.	Goodwin, Ark.	Lesher	Rothermel
Byrns, Tenn.	Gorman	Levy	Sabath
Calder	Graham, Pa.	Lewis, Md.	Saunders
Callaway	Gray	Lewis, Pa.	Scully
Candler, Miss.	Gregg	Lieb	Sells
Cantrill	Griest	Lindquist	Sherwood
Carew	Griffin	Linthicum	Shreve
Carlin	Gudger	Lobeck	Slayden
Cary	Guernsey	Loft	Small
Chandler, N. Y.	Hamill	Logue	Smith, J. M. C.
Clancy	Hamilton, Mich.	McClellan	Smith, Md.
Clark, Fla.	Hamilton, N. Y.	McGillicuddy	Smith, Tex.
Coady	Hammond	McGuire, Okla.	Sparkman
Connolly, Iowa	Hardwick	McLaughlin	Stafford
Cooper	Hart	Maher	Stanley
Copley	Hayes	Martin	Steenerson
Covington	Henry	Merritt	Stephens, Miss.
Crisp	Hinds	Metz	Stephens, Nebr.
Crosser	Hinebaugh	Miller	Stevens, N. H.
Dale	Hobson	Morgan, La.	Stringer
Davenport	Houston	Morin	Sumners
Davis	Howard	Moss, W. Va.	Sutherland
Decker	Howell	Mott	Switzer
Taggart	Thomas	Walker	Willis
Talcott, N. Y.	Thompson, Okla.	Wallin	Wilson, N. Y.
Taylor, Ala.	Vare	Walters	Winslow
Taylor, Colo.	Vaughan	Weaver	Young, Tex.
Taylor, N. Y.	Vollmer	Whitacre	
Temple	Volstead	White	

So the motion to recede was rejected.

The clerk announced the following additional pairs:

Until further notice:

Mr. ALEXANDER with Mr. HINEBAUGH.

Mr. MOON with Mr. AUSTIN.

Mr. LIEB with Mr. BARTHOLDT.

Mr. KORBLY with Mr. DAVIS.

Mr. SHERWOOD with Mr. DRUKKER.

Mr. GOODWIN of Arkansas with Mr. TEMPLE.

Mr. BLACKMON with Mr. GRIEST.

Mr. CLARK of Florida with Mr. HAYES.

Mr. DECKER with Mr. HOWELL.

Mr. DIFENDERFER with Mr. STEENERSON.

Mr. CLANCY with Mr. HAMILTON of New York.

Mr. GLASS with Mr. SLEMP.

Mr. GOEKE with Mr. JOHNSON of Utah.

Mr. GREGG with Mr. KELLEY of Michigan.

Mr. TAYLOR of Alabama with Mr. HUGHES of West Virginia.

Mr. BYRNS of Tennessee with Mr. KENNEDY of Rhode Island.

Mr. LEE of Pennsylvania with Mr. KINKAID of Nebraska.

Mr. LESHER with Mr. MCGUIRE of Oklahoma.

Mr. MURRAY of Massachusetts with Mr. NELSON.

Mr. OLDFIELD with Mr. PATTON of Pennsylvania.

Mr. SPARKMAN with Mr. PETERS of Maine.

Mr. STEPHENS of Mississippi with Mr. PLUMLEY.

Mr. BROWN of West Virginia with Mr. SELLS.

Mr. COADY with Mr. VOLSTEAD.

Mr. GRAY. Mr. Speaker, I desire to vote "no."

The SPEAKER. Was the gentleman in the Hall?

Mr. GRAY. No, sir; I was not in the Hall.

The SPEAKER. The gentleman does not bring himself within the rule.

Mr. GRAY. Then I desire to vote "present" in order to make a quorum.

The SPEAKER. That will not be in order until after we find out whether we have a quorum or not.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion of the gentleman from New York, to further insist upon its disagreement to Senate amendment 158.

The question was taken, and the motion was agreed to.

The SPEAKER. The Chair announces the following conferees: Mr. FITZGERALD, Mr. SISSON, and Mr. VARE.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that the order of the House asking for a conference on the sundry civil bill with the Senate be vacated and that the House agree to the conference asked for by the Senate.

The SPEAKER. The gentleman from New York asks unanimous consent that the order of the House to ask for a conference with the Senate be vacated and the House agree to the conference asked for by the Senate on the amendments to the sundry civil bill. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

EXTENSION OF REMARKS IN THE RECORD.

Mr. MOORE. Mr. Speaker——

Mr. RUSSELL. Mr. Speaker——

The SPEAKER. The gentleman from Pennsylvania.

Mr. MOORE. Mr. Speaker, I ask unanimous consent to proceed for 10 minutes on a personal matter.

The SPEAKER. The gentleman from Pennsylvania [Mr. MOORE] asks permission to address the House for 10 minutes. Is there objection?

Mr. UNDERWOOD. Mr. Speaker, I do not like to interfere with the gentleman from Pennsylvania, but I object to anything except the regular order at this time.

The SPEAKER. The gentleman from Alabama objects.

Mr. MOORE. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. MOORE. I will not do this if the gentleman will give me 10 minutes, although I think the question of personal privilege will be sustained.

Mr. UNDERWOOD. Mr. Speaker, if it is a matter that is personal to the gentleman, of course I will not object. I did not so understand.

Mr. MOORE. Mr. Speaker, it is a personal matter, and I so stated.

Mr. UNDERWOOD. I withdraw my objection.

The SPEAKER. Is there objection to the gentleman proceeding for 10 minutes? [After a pause.] The Chair hears none.

Mr. MOORE. Mr. Speaker, sometimes I wonder whether a man who utters a lie is more to be complained against than a man who builds upon a lie. The man who stabs in the dark strikes a blow that can not be repelled; and the man who writes an anonymous letter can not be found; so that the victim of a man who thus strikes or who writes anonymously is helpless unless he can find the man who lies about him. The man who builds upon a lie can not always be found and the effect of the lie passing from one to another may shatter a reputation. Therefore I am inclined to believe that the man who builds upon a lie is worse, perhaps, than he who gives the lie direct. As to the anonymous letter writer we may all have contempt for him because all of us, doubtless, have been his victims. He who thus writes anonymously writes in the spirit of cowardice because he leaves no trace, and no utterance of the truth or reply to the insinuations made may catch up to him. Hence the poisoned pen is one of the most vicious of all the offenses in the catalogue of crimes. It shatters character.

I would regret to think that there was a man in the House of Representatives who would lie, and I would regret sincerely to think that there was one in the House who would build upon a lie, or that there was one who would sanction an anonymous letter that would tend to destroy a reputation of a colleague. I do not impute motives of this kind to any Member of this House, but I do say that a practice has arisen here to which the public attention ought to be drawn, involving an abuse of the privilege of leave to print, the privilege which abused, might enable a Member to unjustly criticize or condemn a colleague without the latter having an opportunity, face to face, to meet the accusation.

I shall not put myself in the position of accusing anyone of having dealt so unfairly with me as these remarks might indicate I have it in mind to do toward any Member of the House. I am speaking of a practice that has arisen and of the abuse of it which the House by sufferance has tolerated. There ought to be a closer inspection of the leave to print and of the right of a Member, so inclined, to print that which in all good conscience and in honor should be unprintable in the CONGRESSIONAL RECORD. There ought to be that honor, at least, among Members of the House that is attributed to a worse class of our citizens—the honor of being fair with one another. If I can not trust my brother, a Member of this House, to be fair with me when by my silence I give him the leave to print, which I could prevent by offering an objection, then I am in a sorry plight, for I would regret to think there was any Member of this House who could not be trusted to do the right thing in courtesy by his colleagues, no matter to what party he belonged.

I make these observations because I believe they are important and that they may help to lead to a correction of the abuse to which I have referred.

Now, sometimes some of us get spectacular in this House and do those things which are calculated to attract attention in the newspapers. This may account in part for the abuse of privilege. The active working men on this floor sometimes go unnoticed for months because of the brilliant dashes of those who take chances to attract popular attention. There are those, perchance, who get to the newspapers quicker than the loyal worker upon the floor, and possibly there are those who work that practice to the limit, especially in preelection times. Now, I am not accusing anybody in particular in this respect, for I may be as amenable as others, but I am stating a fact of which all men may take notice.

In the RECORD of this morning, July 22, on page 12512, are the remarks of Mr. BRYAN, of Washington, printed under leave granted to him to print; that is to say, the presumption is that he obtained the leave of this House by unanimous consent to print. I will leave it to the gentleman from Washington [Mr. BRYAN] to say whether he obtained that unanimous consent or not. I presume he did. But these remarks to which I make reference were not uttered upon the floor of this House. If they had been, those to whom they apply would have had the opportunity to answer them, and to answer them in a manly way. It would have made no difference how forceful nor how pointed they were, if they were within the parliamentary limit they could have been answered; but it would have been fair only to utter them in the presence of those against whom they were directed.

I have nothing to say in regard to these extended remarks of the gentleman from Washington, not uttered upon the floor of the House, as they apply to my colleagues. I desire to say in regard to these remarks, not delivered upon the floor of the House nor uttered in open debate, where I could hear them, but shoved in under cover of darkness, as it were, under leave to print; pushed in so that I had no notice or opportunity to reply, and in a manner which I believe to be objectionable; that while I believe him guilty of a parliamentary offense, I am willing to pardon him on the ground of youth and inexperience.

Mr. BRYAN, if correctly quoted in the RECORD of this morning, on page 12512, said:

> The gentleman from Pennsylvania [Mr. MOORE], palms up, says, "Pisness is pisness. This can give time, but we need the interest." Yet he nearly talked himself into utter exhaustion to try to force through here a scheme to get the Government to buy a lot of waste lands in Philadelphia, near a powder plant, which was worthless almost and was not needed, and yet to cost a very large sum. He takes relays with other gentlemen here in pleading for "protection for the infant industries of Pennsylvania." He wants the Government to take from the people a sum of money to swell the profits of every trust-owned factory in his State—the infant industry known as the Steel Trust, the textile mills, and the shipping plants. He did not mind helping the ships with free tolls, but a farmer on the reclaimed arid plains of the West, making an American home, creating wealth, bringing up citizens who will fight for the flag when called, are not worth 3 cents. "Pisness is pisness."

And further along he adds:

> "U. S." does not stand for "Uncle Shylock."

Now, of course, that may seem amusing to some of you and to a certain extent it is amusing to me, because of the utter variance from the truth of the statement therein made. The inference is, so far as I am concerned personally, that I represent certain interests in this House unfair to the farmers of the land, for whom the gentleman from Washington attempts to speak. That is a totally unwarranted statement.

I have on previous occasions challenged anyone who wanted to question my record in that respect, and I do not hesitate to challenge them now. I am as free to vote with honor upon any public question that arises here as any man in this House, as free from the domination of corporation bosses as I am of labor bosses, or political bosses, or any other bosses. I know the people of my district, and I vote and labor here as I believe befits their welfare, and I labor here for that larger interest of the United States which, I believe, becomes me as a representative of all the people without regard to classes.

But, so far as my own feelings in this matter are concerned, I do not worry, because I am responsible to the people who send me here. I want to hear my course criticized, but in the open and not in the dark. I do not want to have it appear in the State of Washington under flaming headlines in the newspapers, and under the franking privilege when these speeches are sent out, that these violent assaults upon "the agents of evil" are made upon the floor of the House, when they are slipped into the RECORD under the cover of darkness.

The SPEAKER. The time of the gentleman from Pennsylvania has expired.

Mr. MOORE. Mr. Speaker, I ask unanimous consent to proceed for five minutes more.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. MOORE. Let us dispense with the personal side of it, Mr. Speaker, and take up that question which I regard as more serious—the slipping into the RECORD of those things not uttered upon the floor and that appear to an unsuspecting constituency at home as having been uttered here in fiery debate. The gentleman from Washington, I said, was guilty of this offense, and I charge him now with having violated the rules of courtesy, if not the parliamentary rules of the House, when he put quotation marks upon an expression which he attributed to me for the purpose of his argument and to which I never gave utterance. I not only object to his reflecting upon an honorable race of men and women, but to his putting me in the position of making a mockery of them. [Applause.]

If he has no respect for the great Jewish race in the United States and proposes to make fun of them in the public RECORD, he can not do it by putting the language in my mouth and using quotation marks upon remarks which he attributes to me and which I never used. "Pisness is pisness," and "palms up," says the gentleman from Washington, attributing those remarks to me, and putting the quotation marks upon them as if I had spoken them. Herein was his principal fault.

The gentleman from Washington manufactured this speech of his out of whole cloth. He manufactured this quotation from me out of the whole cloth, and by doing it gave offense to millions of worthy citizens of the land for whom apparently he has contempt and for whom I have always entertained the highest respect.

I believe, in the course of time, that this sort of abuse of the unanimous-consent privilege to extend remarks in the CON-

GRESSIONAL RECORD will be corrected. But I am glad of this opportunity to say, so long as I am placed in the limelight by reason of the thrust after dark of the gentleman from Washington, that those gentlemen in this House who hold themselves holier than others who are performing their duty honestly and conscientiously may some day be pointed out for the demagogues they are. [Applause.] I believe that the poor people of this land, the poor farmers in the district that the gentleman himself represents, the farmers upon this arid and semi-arid soil, for whom the Government of the United States is spending $7,500 per farm, which is not granted to any other farmer in the United States, would rather have the truth as it comes from "the gentleman from Pennsylvania" than they would to have the misstatements as they come from "the gentleman from Washington."

Mr. BRYAN. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. BRYAN. The gentleman from Pennsylvania [Mr. MOORE] said several things just a moment ago——

Mr. UNDERWOOD. Mr. Speaker, I doubt very much whether a reply to the statement of the gentleman from Pennsylvania [Mr. MOORE] is a question of personal privilege. If the gentleman from Washington [Mr. BRYAN] wants an opportunity to reply, I suggest that he ask for 10 minutes.

Mr. BRYAN. I agree to the suggestion, Mr. Speaker, that my time be limited to 10 minutes.

The SPEAKER. The gentleman from Washington [Mr. BRYAN] asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. BRYAN. Mr. Speaker, the first thing that I want to refer to—a thing that the gentleman from Pennsylvania [Mr. MOORE] has thrust at me—is that he has accused me of impugning or criticizing a race of people. I was not talking about any race of people. I was talking about the gentleman from Pennsylvania, J. HAMPTON MOORE. I did not say anything about the Jews of this country. I respect that race, and think he is the one who has insulted them and hurled an insult in their face.

Where is there anything about the Jewish race in what I said? Why should that gentleman rise here and accuse me, or suggest that the Jewish race of this country is referred to in that little suggestion that I made there about some one being rather parsimonious about money? The Jews of my district are not that kind of people. They may be in Philadelphia, if the gentleman looks at it in that way, but the Jews of my State are a progressive race of people. They are progressive, and they are found on the newspapers, they are found in the public marts and in the places of trade, and they are always standing for things that are uplifting and decent. I do not know how they are in Philadelphia; but if there is an insult to the Jews of this country, it is the Jews of Philadelphia, those that the gentleman from Pennsylvania knows, that have been insulted, and not the Jews that I know, because I do not know that kind of people in my district.

Now, Mr. Speaker, so far as the unanimous consent was concerned, I obtained unanimous consent. I do not know why that line was dropped out of the RECORD, but unanimous consent ought to have been lodged in the RECORD. I did request that my remarks be inserted and extended, and it ought to have appeared right after the unanimous consent was asked.

Now, the gentleman from Pennsylvania, in so far as he concludes that I intended by anything that I said to impugn the honor or integrity of the gentleman or his work on this floor, is entirely mistaken, and he has made an assumption that is not warranted by anything that I thought, and I do not believe by anything that I said. I respect the gentleman, and I want him to know, and I want this House to know, that I respect him as an honorable Member of this House.

The worst thing that I know of his doing is to get up here and openly and publicly insult a race that is represented in all the great cities of this country by men who are standing for something and doing something. I think that is the disgrace of this session.

So far as the gentleman's injustice goes, in coming here and pleading, as I said he did, times without number for all kinds of laws that will take away from the people of the West and from the people of the South and from the purchasers and consumers of this country their hard-earned money in their pockets and turn it over to the mills and the factories in his State, I think it is warranted. I think it is just to criticize that economic position of the gentleman; that persistent claim that he has always made, that we of the country elsewhere owe all our substance to his particular corporations, his Steel Trust, his textile interests, and other interests; so that what I had there in mind, what I suggested there, I believe, is based on the real truth, and they are real facts, as everyone in this House may know.

I want to repeat what I said at the start, that any statement that I have attempted, or that I had in my mind any desire to impugn the honorable motives of the gentleman is false. When the gentleman from Pennsylvania first started out, he used the word "lie," and I got up and walked around and sat in front of him, determined that if he applied that to me, I was going to make the best effort of my life to put him across the bench there. I was not going to let him say that; but he did not. He said he did not apply it to me; and all I want the RECORD to show is that my determined view in this matter is that I was only talking economics—what I considered just, honorable, and upright economics—and was not impugning the motives of any man. So far as the language incorporated in my extension, to which the gentleman from Pennsylvania [Mr. MOORE] referred, he did not use that identical language or quotation in the debate.

Mr. RUCKER. Mr. Speaker, I ask unanimous consent for five minutes, to say something in behalf of the Jews.

The SPEAKER. The Chair will put that question in a minute.

Mr. RUCKER. I withdraw the request.

The SPEAKER. The Chair will explain to the gentleman from Washington and all other Members that when a gentleman has the floor and is saying something that some other gentleman thinks reflects on him, the proper procedure is not to undertake to get up a row with the man who has the floor, but to address the Chair and ask that his words be taken down. That is the orderly procedure. This is not a school for pugilism. [Applause.]

RESERVED LANDS AT HEADWATERS OF MISSISSIPPI RIVER.

Mr. FERRIS. Mr. Speaker, I call up the bill (S. 1784) restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries, and ask to agree to the conference asked by the Senate.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read the title of the bill.

The SPEAKER. The gentleman from Oklahoma asks unanimous consent to agree to the conference which has been asked for by the Senate. Without objection it is so ordered, and the Chair announces as conferees on the part of the House Mr. FERRIS, Mr. GRAHAM of Illinois, and Mr. LENROOT.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent to call up from the Speaker's table the bill (H. R. 16294) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, and to concur in the Senate amendments.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read the title of the bill.

The SPEAKER. The Clerk will report the amendments of the Senate.

The Senate amendments were read.

The SPEAKER. The gentleman from Missouri moves to concur in the Senate amendments.

The motion was agreed to.

Mr. KEY of Ohio. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the following pension bills, H. R. 16345, H. R. 15959, and H. R. 17482, disagree to all of the Senate amendments, and ask for a conference.

The SPEAKER. The Clerk will report the title to the bills.

The Clerk read as follows:

H. R. 16345. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

H. R. 15959. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

H. R. 17482. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The SPEAKER. The gentleman from Ohio asks unanimous consent to take the three bills just reported from the Speaker's table, disagree to all the Senate amendments, and ask for a conference. Is there objection?

Mr. HAWLEY. Do I understand that these are all House bills?

Mr. KEY of Ohio. They are all House bills.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER appointed as conferees on the part of the House Mr. KEY of Ohio, Mr. KEATING, and Mr. SELLS.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed without amendment bills of the following titles:

H. R. 17005. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Tug Fork of the Big Sandy River at or near Williamson, W. Va.; and

H. R. 16579. An act to authorize the construction of a bridge across St. John River at Fort Kent, Me.

The message also announced that the Senate had further insisted upon its amendments to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes, numbered 158.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 8630. An act to amend section 4 of an act entitled "An act granting a franchise for the construction, maintenance, and operation of a street railway system in the district of South Hilo, county of Hawaii, Territory of Hawaii," approved August 1, 1912; and

H. R. 15320. An act authorizing the Secretary of the Treasury to disregard section 33 of the public-buildings act of March 4, 1913, as to site at Owego, N. Y.

THE GENERAL DAM ACT.

Mr. ADAMSON. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 16053) to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910, and pending that I would like to take the sense of the House on a request for unanimous consent that not later than 6 o'clock to-night we take a recess until 8 o'clock and indulge in general debate until 11 o'clock p. m.

Mr. STEVENS of Minnesota. I think there will be ample time during the session for debate during the daytime, and I shall object.

The SPEAKER. The gentleman from Minnesota objects.

HOUR OF MEETING TO-MORROW.

Mr. ADAMSON. Then, Mr. Speaker, I will try another tack on the gentleman, and see if we can come in at 11 o'clock to-morrow. I will ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow.

The SPEAKER. The gentleman from Georgia asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow. Is there objection?

There was no objection.

THE GENERAL DAM ACT.

The motion of Mr. ADAMSON was then agreed to; accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GARNER in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 16053) amending the general dam act.

Mr. ADAMSON. Mr. Chairman, I hope the gentleman from Minnesota will find it convenient to consume some of his time.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield 30 minutes to the gentleman from California [Mr. KENT].

Mr. KENT. Mr. Chairman, first of all, I wish to remark that there are no such things as property rights or property except as recognized and protected by such authority as is delegated by society, and, furthermore, that society in its own interest should never grant or protect rights that are not for the benefit of society. This axiom being accepted, our course is clear. Any other assumption leads to infinite muddlement.

In the evolution of orderly government there has come down some chaff with the wheat. Through our English antecedents there has come a belief in the supreme sanctity of land ownership, which to-day is being challenged and must be challenged in the interests of equalized opportunity. This preface may seem apart from the theme under discussion, but it has a vital relation.

The Federal Government in many cases has asserted its right to regulate the waters flowing over the public domain, but the question of the rights of riparian landowners to control the waters flowing by and over their property on navigable streams has been rendered complex and complicated by this system of private ownership of land, which, by an impudence of human speech, extends to heirs and assigns forever without control from the center of the earth to the surface.

Just as through the interstate-commerce clause of the Federal Constitution we have found means of breaking shackles that otherwise would have bound us to many misfit and superannuated traditions of the past; thus in the Chandler-Dunbar decision we have found a means whereby we may assert the right to control our navigable waters, for all purposes, in the interests of all the people through the violent assumption of benefiting navigation. Every man capable of clear analysis knows perfectly well that much of the navigation that is proposed as a means of regulating freight charges is absurd and extravagant. The Interstate Commerce Commission is empowered by a stretch of constitutional authority to regulate the railroads in their charges and their service, and in a vast number of cases it would be cheaper to furnish free railroad service than to improve river navigation. In this Chandler-Dunbar decision we find an assertion that the Federal Government is sovereign and supreme over the navigable waters of the country, whether or not abutting property, which supposedly runs to the middle of the stream, is in private ownership. Thus the Supreme Court gives us possession of untrammeled authority to regulate the generation of power on navigable streams.

Our duty is obvious and insistent. Either the Federal Government, as a corporate entity, should utilize this water power, or if it grants authority to an agent to utilize it, it should limit and control that agent. We by having the right to withhold have a corresponding duty to control. This is a matter but feebly comprehended and little understood in its full scope. We have been so prone to start at the wrong end of the argument and to consider private property as the foundation of society instead of considering society as the sole foundation and protection of private property that we do not recognize our social power or our social duty. Society demands the utilization of all natural resources in the public interest. Without the utilization of these resources we should be a pauper nation. Up to the present time we have gone on the presumption that there was too much of everything, and that the best policy for the Government to adopt is to alienate our common possessions into private hands and put them on the tax roll. Our forests have been wastefully cut, and men, under private ownership, have harvested and destroyed a crop in their short lifetimes that should have been perennial. Under the guise of private ownership they have destroyed three or four times as much timber as they or the community have used and have enjoyed. Our anthracite coal fields are all in private hands, and we must now beg of Mr. Baer and his successors and assigns "under Providence," as he contended, for the right to purchase the means of warming ourselves and of generating steam. Our vast resources of petroleum have been rounded up and cornered until the Navy can not find an adequate public supply. Our natural resource in iron-ore lands, whether in the North or in the South, has gone to make solvent an insanely overcapitalized Steel Trust. The man who desires to enter into manufacturing must now beg of the combinations that control the fuel for the necessary combustible to generate steam. The water power of the country, indestructible, perennial, must be held for public welfare or else there can be nothing ahead of us in times to come but a revolution that will surely demand an abrogation of the special privileges that we have so recklessly conferred.

It is not enough that our assets should be utilized, for there is no comfort in aggregate figures of national wealth; there must be an equalized distribution of benefits. We must never forget that the time will certainly come when our people through corporate entities, whether Federal, State, or municipal, will take over and operate this water power in the interests of the entire public.

Now as to this question of agency. If we, the people of the United States, choose to employ agents to do for us what we can do for ourselves, and what we have splendidly done for ourselves in the case of the Panama Canal, we must first of all see to it that our agents are fairly treated. They must be protected against unnecessary risk. They must be permitted to make reasonable combinations, for there is no such thing as practicable competition in public utilities, and next we must see to it that they are controlled in the public interest. Wherever the element of risk is large, whether from uncertain earnings or possible competition, we must admit a large element of profit. Wherever we exact unreasonable terms we must expect to pay unreasonable charges. But ever and always we must realize the necessity of leaving those who follow us a lawful opportunity to resume the powers that we, in our short lives and possibly in our short-sighted policy, have delegated to others.

The gentleman from Alabama set forth an obvious truth when he contended that a public utility of such a nature as water

power is inherently a monopoly and that competition in providing this facility means duplication and waste. As to this view, he can have no contention with anyone who believes in conservation. All the more reason, then, for full power of control and regulation. But the gentleman from Alabama overlooked the obvious fallacy embodied in an argument apparently favoring those great aggregations of capital that control water power in widely scattered sections of the country. We certainly need physical union to brace and strengthen the individual plant and supply. Adjoining plants may well be linked together, so as to render certain a continuity of service in the event of a breakdown in any plant. This physical fact has nothing whatever to do with that form of monopoly evidenced by the holding of stocks and bonds. The two sorts of monopoly are absolutely distinct and bear no relation whatever to each other. One recognizes physical and economic necessity, the other a stock-jobbing opportunity.

The bill as originally proposed is an utter absurdity. Its genesis is hidden in doubt. Somehow I feel as if the name of my genial friend from Georgia were put on as an afterthought, just as people put a sticker on a ballot to help an overlooked candidate. To any man who served on the Public Lands Committee of the House, and who heard the arguments of the water-power people and listened to their requests for amendments to the bill proposed by the Secretary of the Interior, this bill is a singular echo of their desires and a nullification of all we strove to attain. As originally drafted it canceled all our work. It is not at all like the bill proposed by the Secretary of War, nor does it in any way recognize the theories he propounded in his letter to the chairman of the Interstate Commerce Committee, both of which documents will be found in the hearings on the bill held before that committee.

It has been charged that we, who have been opposing some of the features of the bill, represent a jealous attitude as between two committees; that the jurisdictions over the public lands and over navigable waterways were distinct, and that we were going out of our preserves. As a matter of fact, the bill as originally drafted absolutely negatived any control by the Secretaries of Agriculture and the Interior over the waters in the public domain that were in any way tributary to any portion of any stream that was navigable. But it was not on this account that we have entered our objection. We who believe in the utilization of the common property of all the people for the benefit of all the people are not especially worried over questions of jurisdiction. It makes no difference to us whether the water power of the country rests in the hands of the Department of the Interior, the Department of War, or the Department of Agriculture, only provided that that jurisdiction is so enforced as to result in proper utilization, proper development, good service, and reasonable prices. The Government engineers have been given mandate to report on water power. This they have failed to do. Dams have been built on water under the jurisdiction of the Secretary of War, apparently without his consent. The War Department must wake up to its responsibilities. Some day there must of necessity be a strong Federal utilities commission to assemble control of national assets and to exercise the discretion called for by varying conditions. It is for such control that we have so insistently fought the original bill, and have insisted upon amendments. The amendments suggested up to date grant to the Department of the Interior jurisdiction over lands on the public domain. Furthermore, they, in an uncertain and halting way, destroy the provisions of the original bill which go to make the tenure of rights under the Secretary of War perpetual, and cut them down to the limitation of 50 years after the completion of the dam.

But the same blind language stands, compelling purchase of everything remotely connected with the dam before we can resume our ownership of our leased property. We are compelled to pay for the last mat or advertising space in the last street car before we can come into our own. The bill also provides for regulation in the public interest by the Secretary of War when the States have not been granted by legislation adequate authority to control the service in the public interest. But there are some serious lapses still to be cured. The gentleman from Alabama [Mr. UNDERWOOD], in his long address on the subject, spoke of the utilization of electrical power for the production of chemicals needed in agriculture. He spoke feelingly of the export duty on Chilean nitrates, amounting to upward of $11 a ton, which has largely supported the Government of Chile. Now, if this water power be utilized for the production of an electric energy that may be required by many separate individuals or by municipal or other corporations, it would come under the jurisdiction of the State commissions. But we are asked and have been asked to practically donate our greatest asset without limitation or control, if it be used for private manufacturing.

The gentleman from Alabama is hostile to the proposition of raising Federal revenue in consideration of granting our rights to water-power sites or to water power.

Now, first of all, why should not the Federal Government receive compensation for water power granted, where the Federal Government has the undoubted right to grant or to withhold? The answer will be made that such compensation would at once be taken out of the consumer. This sounds entirely plausible until we stop to analyze the situation. Let us suppose a municipal community that needs 100,000 horsepower to operate public lighting, street railways, and privately owned plants. Let us suppose that 25,000 horsepower may be furnished under water-power grant by the Federal Government. Let us suppose that this water power may be furnished at a cost of less than $20 per horsepower per year from water power, whereas coal will cost $40 per horsepower. Now, who is to receive the benefit of the cheapened power? It would be unfair to discriminate between those who, by the use of one natural resource, could receive the benefit of a cheapened rate, while those who by the use of another natural resource should have to pay more for the energy they need to perform their business functions. Here is a case where the Government, for the time being, at least, can and should step in with a demand for compensation which would not in any way oppress the average consumer but would detract from the swollen earnings of the agent. Take another case: Let us suppose that by the erection of a dam on a navigable waterway the Federal Government, by the expenditure of large sums of money, has created a potentially large horsepower. Under what process of reasoning should the Federal Government not charge for the utilization of this wealth created by Federal expenditure, and thereby relieve the burden of the general revenues from the tax made necessary by river improvements? There is no sense and no logic to be found in a contrary view. The right to exact compensation is the most fundamental method of control. It is essential, and without its recognition I believe this bill should be defeated.

The bill, even if the committee amendments are adopted, contains some extremely vicious features.

The gentleman from Wisconsin [Mr. LENROOT] answered the gentleman from Alabama as to the abuses perpetrated upon the unfortunate Alabama power company, which was driven into Canada. In Canada, at the expiration of their grant, they will practically forfeit everything they have to the Canadian Government. If at the expiration of their grant they receive anything at all, it will be because the Canadian Government believes that they possess something that ought to be bought and is of value to that Government. But in this bill, as originally drafted and even as now amended, there is a great twilight zone of doubt as to what the Government should be compelled to buy at the expiration of the term. The bill reads to the effect that the Government must purchase every item that may depend in whole or in part upon this water power for its support. In other words, if at the end of the lease there be found a trolley system connected with this hydroelectric supply, the Government must buy and pay for every broken-down car, every trolley pole, and every cash register in every car before the people of the United States can resume possession of their own common property. This section must be drastically amended or the bill will threaten perpetual franchises.

Now, let us revert for a moment to the plea of the gentleman from Alabama concerning the production of fertilizers. We know perfectly well, and I am sure that the gentleman himself would admit, that granting the right to private individuals to utilize these water powers for the purpose of manufacturing fertilizers would not result in any perceptible decrease in price of these invaluable necessities of agriculture. This business requires tremendous units of power and large investment. There will be few engaged in the industry. It will be naturally monopolized and not competitive. The people producing these rare products would not need to enter into any formal trust. They would simply have a gentleman's understanding that they should charge just a little less than the importers of the foreign fertilizers charge now, so as to get into the market, and if, as would be natural and has always been the case, they should arrive at any understanding with the foreign exporters and the local importers, the farmers of this country would still be paying a price equivalent to the cost of producing Chilean nitrates, plus a profit to the manufacturers of those nitrates, plus the export duty on those nitrates, and although we would have more fertilizer, it is more than doubtful whether we should get it at a cheapened price, and if the export duty should be raised, our business-like manufacturers would at once raise their prices correspondingly. So all this talk by the gentleman from Alabama of destroying a great bene-

ficial American industry by driving it out of our country is to me absurd. In view, first, of the fact that in Ontario, where they have taken refuge, they are subject to more rigid conditions than anything now proposed or anything in the original dam act; second, that if we liberalize our treatment of these water-power manufacturers they will still be in position to take all the rake-off of export Chilean duty and yield nothing to the consuming public.

I foresee with perfect clarity the time when the Agricultural Department will be granted authority to manufacture and sell these necessary fertilizers at a price representing cost of production plus a sinking fund, and under such conditions we can foresee a real benefit to our agriculture, which needs every legitimate and nonsubsidized encouragement that can be afforded. The gentleman from Wisconsin [Mr. LENROOT] has most ably discussed this bill. In my brief time I wish to request of every Member of the House that he read the gentleman's argument and also three bills bearing on this subject—first, the bill from the Public Lands Committee, then the letter of the Secretary of War and his proposed bill, the Adamson bill, and the agreed amendments.

The question of what capital is willing to do under certain circumstances is not hard to demonstrate. In the case of the Connecticut River dam the proponents were willing to accept the conditions proposed by the then Secretary of War, Mr. Stimson, which conditions were generally indorsed and included compensation. The Secretary of the Interior and his predecessor have entered into contracts with those who were willing to make developments under reasonable conditions of public control. The *Hetch Hetchy* bill passed in the last session of Congress absolutely controlled the use of the water from the source to the last trickle over irrigable territory and down to the city of San Francisco in the public interest. It provided for a considerable compensation. If a public utility operated by the public and for the public and without profit may meet such conditions, how much more should a private, profit-making concern submit to adequate control.

It is natural that the water-power crowd should want all they can get. I have personal knowledge of one project where, on the basis of a promise by a former Secretary of the Interior, a firm of brokers in water-power securities started out to sell an issue of $6,000,000 of bonds, when the entire project would have cost vastly less. I am proud to say that I was influential in stopping that particular grab.

I have had long and broad experience with those who represent capital, and I have found that capital is available on reasonable terms provided there is any certainty of payment of interest and repayment of principal. A long struggle in Chicago against the watered-up traction combination proved this definitely. Just as soon as we had fought out the fight, eliminated the water from the stock of the railways, recognized the traction companies as, for the time being, partners of the city, afforded them protection, guaranteed them as far as we could against the element of risk, then and there we secured good service and enormous revenue for the city. As a matter of course we should have transmuted this municipal revenue into lower fares, but the people of Chicago were so anxious for municipal ownership that we were forced to accept their verdict and set these great revenues aside for the ultimate purchase of the street railways, which will be bought out of their surplus earnings. The street railways of Chicago since that time have freely advertised that they are in partnership with the city of Chicago, and that their bonds are good, because their issuance is supervised by the city. In some such way as this these water powers must be handled. If we fail to operate them for ourselves in the public interest, if we believe that it is better policy to establish agents to operate them when we might ourselves perform this function, it is our bounden duty not only to treat our agents fairly but to see to it that those who come after us may in their day and generation have a fair chance to resume the functions which we, in our time, have seen fit to delegate to others, and this is the whole crux of the situation.

The question of Federal versus State rights is largely irrelevant. I, for one, thoroughly believe in the thought expressed by the President to the effect that the States have necessary functions, and that the question of proper performance of obvious duties is of more consequence than the continued assertion and wrangling over doubtful rights. The discussion should be rather as to what the States should do rather than as to what they can prevent the Federal Government from doing. The public welfare is the question, and not limitless gabfests over what men thought or did not think or said or did not say 150 years ago.

Whenever and wherever a State shows an intent and an ability to control public utilities in the interests of the people, then and in that event I am willing to delegate to that State large authority; but in the meantime, as Representatives of the National Government, empowered and commissioned to look after the public welfare, it is our solemn duty to use whatever power we have to secure that end.

And now, in passing, I wish to make a statement concerning the fallacy upon which rests this whole structure of private control of public assets, and that is the private ownership of land. I am not going to talk in favor of any theory of land taxation or land tenure. I merely wish to state that nothing more absurd from an economic standpoint was ever conceived than this theory of final private control of this fundamental necessity, without any restraint against waste or destruction, and dedicated to the grantee and his heirs and assigns forever. It is this fallacy that has destroyed our timber, that has monopolized our coal, our oil. It is this fallacy that has permitted the extortionate extravagance of land speculation and the most tremendous charge laid upon distribution, which charge will be found in the vast aggregated item of rent. In the Ferris bill we put into words a theory and a truth, namely, that lands, rights of way, and water rights should not be subject to the unearned increment; that those coming after us should not suffer by being more numerous than we are, which has been the affliction of every country guilty of increasing in population under this doctrine. In this bill it has been taken for granted that the water-power people were not only to be protected in rights that they were to acquire for practically nothing from the public, but they were to be granted privileges of speculation in land that was not acquired from the public; that they were to profit by the breeding of people, just as every landowner profits by that commonplace performance. This bill must be amended in this particular. We who fought the fight in the Public Lands Committee and put forward our bill thoroughly realize that our duty lay in using whatever power was ours to protect the future. In the Hetch Hetchy bill, where the city of San Francisco owned more than half the land to be flooded, and had made immense expenditures to obtain water rights, we used the leverage of the right to refuse in such a way as to impose conditions in the public interest. On the other hand, in this bill, as drafted, the water-power people could take anything they required on the public domain, whether or not it was the key to the situation, on payment of 5 per cent of its existing value. I leave it to the Members of this House which view is correct, whether it is our sworn duty to use every means in our power to protect the public welfare or whether, as trustees of the public domain, we should weakly surrender that public domain on any such absurd and inadequate basis.

In conclusion, Mr. Chairman, I would state that in our contention we have back of us the rising sentiment in favor of democracy and equalized opportunity; and it is my belief, although I am not authorized so to state, that we have back of us a man in the White House who will use a crowbar for a pen in vetoing any measure that is not duly protective of the public interest. [Applause.]

Mr. STEVENS of Minnesota. Mr. Chairman, on behalf of the gentleman from Georgia [Mr ADAMSON], I yield to the gentleman from Missouri [Mr. HENSLEY].

Mr. HUMPHREY of Washington. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Washington asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. HENSLEY. Mr. Chairman, I make the same request.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. CLINE. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. DONOVAN. Mr. Chairman, I am going to couple with that the condition that I made.

Mr. ADAMSON. Mr. Chairman, I am willing to couple with it also the gentleman from Connecticut.

Mr. DONOVAN. The gentleman from Connecticut will take care of himself.

Mr. STEVENS of Minnesota. Mr. Chairman, I demand the regular order.

The CHAIRMAN. Is there objection to all gentlemen who spoke upon this bill revising and extending their remarks in the RECORD?

Mr. DONOVAN. Mr. Chairman, I shall object unless the gentleman from Missouri is allowed to proceed for five minutes.

The CHAIRMAN. The gentleman from Connecticut objects.

Mr. GRAHAM of Illinois. Mr. Chairman, I ask unanimous consent that the gentleman from Missouri may proceed for five minutes.

The CHAIRMAN. Is there objection?

Mr. STEVENS of Minnesota. Mr. Chairman, reserving the right to object, I think there is no difficulty about the gentleman being yielded that much time.

Mr. HENSLEY. I only ask for three minutes.

Mr. STEVENS of Minnesota. I will yield the gentleman three minutes.

Mr. ADAMSON. I will yield him two.

Mr. HENSLEY. I thank the gentlemen.

Mr. Chairman, at the outset I want to say that it is my purpose to support the pending bill before the House, but that is not the purpose for which I have asked for time at present.

I hardly think any person on the floor of this House will charge me with being a partisan. While I am a Democrat, I have at all times put my country above my party. Vastly more concerned am I about the welfare of this Nation, the prosperity and happiness of the people, than I am about the success of my party and the achievement of my personal ambitions. In this frame of mind, and with a deep desire to know the whole truth and to do my full duty I have attended the sessions of this House continuously.

Yes; I have been here, regardless of the hot, sultry weather and in the face of opposition in my district. I have every day given close and careful attention to everything that has been said regarding the conditions of the country as the changes have been rung on this floor.

I have listened very patiently to many, very many, somewhat remarkable speeches. Many of these have been made by the gentleman from Washington [Mr. HUMPHREY]. When there has come a lull in business, for any reason whatever, the gentleman from Washington has always bobbed up serenely and filled in the time with a wail, the like of which has rarely been heard outside of Congress or a menagerie. I sincerely hope that his doleful story has been so often told that it has disgusted the Republican side of the House, as I feel sure it has the country at large.

I have tried hard to follow him in his skyrocketing oratory, but who can follow the eagle flights of that pessimestic mind? I have observed his grotesque antics in his attempts to marshal the masses under his flag of deception, and I have grown weary of his performances. Who cares to get down into the slime and mire in order to appreciate the purposes of the gentleman from Washington or the methods he employs to further them? I have also heard the fine tenor voice of my genial and brilliant friend from Wyoming joining in a like refrain, until between them they have almost led me to doubt conditions. I have almost been led to believe at times that the administration had committed some grievous error. But let us see.

What is it, gentlemen, that causes you to complain so vociferously against this Democratic administration? Let us put our heads together and think over these matters seriously and analyze the situation carefully and discover, if we can, the reason or basis in fact for all this noise. Do you think, my worthy friends, that you are voicing the sentiments of any considerable number of the plain people of this Nation in your carefully prepared tirades in this your systematic campaign of abuse against the administration? Do you suppose the people of this Nation desire a return to Cannonism in this House when committees were selected by the Speaker instead of by the membership, yea, when legislation was autocratically controlled by the man in the chair? Do you suppose the people you represent here desire to return to the old régime when legislation was throttled by the few? The gentleman from Kansas [Mr. MURDOCK] and many others have told us time after time of such performances in the past. Do you Republicans desire to return to power in order that you may repeal the pension law that bears the name of that grand old Roman, Gen. SHERWOOD, of Ohio? Dare you lay your hands on that law which, in a measure, was fashioned after the Sulloway bill, which failed of enactment in the Sixty-first Congress when you were in power? Do you suppose for a moment that the old soldiers of this land desire to see you returned to power in the face of this just legislation which properly recognizes their services and enables them to enjoy the comforts of life in their old age? You certainly do not desire an opportunity to repeal this legislation.

Do you think for a moment the people of this Nation wish to return to the Payne-Aldrich-Smoot tariff as against the Underwood law? The Underwood tariff bill was written intelligently and in the interest of the whole people, not for the favored classes. No master mind of the Manufacturers' Association guided the hand that wrote the schedules in the Underwood tariff bill. There was not the faintest suspicion that lobbyists influenced either the writing or passage of this law. It was enacted by a vote of 255 to 104, many Republicans voting for it. Are these loud lamentations caused by the administration having put upon the statute books the income tax, which requires the wealth of the country to bear a just share of the burdens of Government? As you know, this law requires the rich to pay taxes upon their riches and to that extent removes the burden from the poorer classes. You know that this law is popular with the masses, and you dare not lay hands upon it.

Mr. GOOD. Will the gentleman yield?

Mr. HENSLEY. I would rather not yield; but if it is just a question, I will.

Mr. GOOD. It is a question. I would like to ask the gentleman what Republicans voted for the tariff bill. I think he is mistaken about that.

Mr. MURDOCK. The gentleman from Wisconsin, Mr. STAFFORD, was one.

Mr. GOOD. He was not elected on a Republican ticket.

Mr. BOOHER. All the sensible Republicans voted for it. [Laughter.]

Mr. HENSLEY. Several Republicans of the House and Senate who were fearless and patriotic voted for it.

Now, Mr. Chairman, I can not yield further. Are you weeping and wailing because we Democrats in Congress routed the American Manufacturers' Association from these halls? Do you wish to see the representatives of this association again domiciled in this Capitol with Mulhall enthroned as its legislative agent on a fabulous salary? Are you sad because you no longer have the paid agents of giant combinations of capital acting as clerks of the committees of Congress and receiving large sums as presents from these powerful interests for their nefarious and corrupt practices? Do you not, gentlemen, remember how you ridiculed and scouted the idea that a lobby infested this Capitol when this fact was declared by the President of the United States? What have you to say now after you have read the testimony taken by the investigating committees of both Houses of this Congress? You know that this testimony shows conclusively that there existed a most powerful lobby which had for its original purpose the defeat of all legislation inimical to certain great corporations and protected interests. If this Democratic administration had only to its credit the routing from the Capitol of the most powerful and corrupt lobby that ever existed in this or any other country, I am quite sure the people would be entirely satisfied and would say, "Well done, thou good and faithful servant." If you were returned to power, would you allow this lobby to return? We found it here, and sent it into exile. [Applause on the Democratic side.] Why did not you? Do you desire its return?

Mr. CLINE. Will the gentleman yield?

Mr. HENSLEY. Certainly.

Mr. CLINE. I want to call the attention of the gentleman to the fact, since he has referred to the manner in which legislation was conducted during the Republican administration, that under the old régime a good many bills were carried to a well-ventilated morgue for the disposition of that kind of legislation that they were not in favor of. That was particularly true, as developed in the inquiry by the Judiciary Committee in the testimony of a gentleman who had charge of a subcommittee for the purpose of controlling legislation which it was not desirable to vote upon. He held that position for nearly seven years. That was the gentleman from Maine, Mr. Littlefield, who stated in his testimony that he was appointed for that purpose and had sufficient men appointed with him to see that no legislation got out of his committee that was not desirable. He thought that was the proper function of that committee.

Mr. HUMPHREY of Washington. What committee was that?

Mr. CLINE. The Judiciary Committee; and the members of the National Association of Manufacturers thought so much of what the gentleman did that they spent $18,000 for his election in Maine in 1908, and as a further testimonial of his ability they handed him $3,000 to defray his expenses to the Pacific coast to recuperate his health. The fact was that this committee constituted an automatic, self-oiling, ball-bearing institution that worked with the noiselessness of a passing summer cloud. [Laughter.]

Mr. HENSLEY. I thank the gentleman from Indiana. I recall that the gentleman from Indiana was on the special committee which investigated the lobby situation.

Do you desire to return to that condition when the great banking houses in New York maintained a secret agent in the Treasury Department to communicate in advance all important

rulings of the department that might affect their interests? Certainly such agents were not domiciled here to protect the interests of the masses of the people of the United States. Do you complain of these changes? Honestly, gentlemen, do you object to the Treasury Department's requiring banks to pay interest on Government deposits? Are you really sorry that some millions in interest have been paid on the people's money within the year? You did not require the great banks to pay interest on deposits when you were in power. Why did not you? While you did this for the powerful banks, yet when the people needed money they were compelled to pay the banks all the interest the traffic would bear. You did not make favorites of them. This was a beautiful plan of copartnership between the Government and the national banks at the expense of the people. Under a Democratic administration the Secretary of the Treasury distributes the money of the people, not to a few favored banking institutions free of charge, but all over the country as the needs of business require at a fixed rate of interest. Are the people of the United States complaining of these things?

For many years the laboring classes appealed in vain for progressive legislation, legislation which common decency and the instincts of humanity should have prompted you to enact. This legislation had for its purpose the improvement of labor conditions throughout the land, but in your committees all such bills "slept the sleep that knows no waking." When they "asked for bread, you gave them a stone"; when they "asked for a fish, you gave them a serpent."

This administration has responded in every way possible to the call of these millions of toiling citizens. If our form of government is to be perpetuated and our liberties vouchsafed to posterity, and if our flag is to be kept unsullied, if our homes are to be safeguarded against the despoiler, it will be through the efforts of the men and women of this land who "eat their bread in the sweat of their face." Why did not you respond to their reasonable demands?

A Democratic Congress originated the bill which placed a representative of labor in the Cabinet. I am proud of the fact that I was a member of the committee which reported the bill, and I appreciate the honor of having assisted in its passage. To-day we have a Secretary of Labor, the Hon. W. B. Wilson, who sprang from the loins of labor and whose heartbeats and emotions are in accord with the hopes and aspirations of the great body of toilers in this land. Do you gentlemen wish to take this Department of Labor out of the Cabinet? The bill passed the House by almost a solid vote, many Republicans voting for it. The labor people worked a long time to secure this recognition. Do you think the great body of American people will turn against the Democratic Party for responding to the call of labor in this way? Do you think, Mr. Standpatter, that labor will truckle at your feet and "kiss the hand that smote it in the past"?

This administration has enacted laws shortening hours of labor; this House has also passed a bill to prohibit the importation of convict-made goods. The anti-injunction law is to the credit of this Congress. Do you wish to be returned to power in order to repeal any of these? Would you dare touch one of them? The amendment to the Erdman Act, which provides mediation, conciliation, and arbitration in disputes between capital and labor, was a great achievement. The bill passed almost unanimously. The gentleman from Kansas [Mr. MURDOCK] commended not only the act but the President in unstinted measure.

In the name of high heaven, gentlemen, what is it that is troubling you? You can not be violently opposed to the currency law, for many of you voted for its passage. You were never able to write and put upon the statute books a currency law. Those of you who prize your country more highly than you do your party, especially the Progressives, joined hands with us in passing some of these remedial laws, and it is to your credit that you did so.

Big business tells us that no trust legislation should be enacted at this session. Do you agree with big business? Do you believe that we should adjourn and leave our work unfinished? However much I may desire to go home after being here nearly continuously for three years, I prefer to stay and discharge my duties to the people of the Nation, even though I suffer defeat for renomination at the hands of my constituents. This is the test, and every Member should meet it squarely. We promised to take this Government out of the deadly grasp of big business and restore it to the common people, and by the eternal we are going to do it, if it takes all summer.

This House has gone on record for good roads, something you never did in all the days you were in power. We believe in internal improvement, and are responding to the will of the people in this regard. Do you object to this? Then, why did you not register your votes against the good-roads bill? It passed the House almost unanimously.

Have we ruined the country by responding to the voice of the people in providing for the election of United States Senators by direct vote of the people? We also provided for publicity of campaign contributions, to prevent corruption in politics. The people believe these are good laws. Are you opposed to them? Why did so many of you vote for them?

I have briefly enumerated only a few of the accomplishments of this Democratic administration. We hope much may follow. I am persuaded that any candid individual, irrespective of party affiliations, will say, without equivocation or mental reservation, that this administration in less than two years has put more just remedial legislation upon the statute books than you placed there in all the 16 years you were in power. [Applause.] Strong Republicans subscribe to this fact, and many of them will join us. They are patriotic and more interested in the proper administration of affairs and the prosperity and happiness of all the people than they are in the success of the Republican Party.

As to our foreign policy, that you can hardly find language violent enough to condemn satisfactorily to yourself, what radical changes have been made in our foreign policy that merit such condemnation? What does the Republican Party desire as regards Mexico? Do you desire occupation by our Army? Do you want to go on record as favoring conquest? You do know that such a curse would necessitate, first and last, the sacrifice of thousands of American boys, saddening and desolating many homes in this beautiful land. Would you shoulder arms and go to the front, or would you send your boys? No; you would do neither, but would be found in company with our friend from Kansas, Mr. CAMPBELL, "staying here on the job." [Laughter.] Do you not know that big business, such as you and your party fostered for so many years when you were in power, is very largely responsible for existing conditions in Mexico? And do you not know that in case of war every American boy whose life would be sacrificed would be a sacrifice on the altar of big business? Our Nation could not profit by such a war. Only the vampires that are now sapping the lifeblood of that country would be benefited. The red blood of American youth spilled in such a war would only enhance the value of the investments of big business. Such a war would be destructive of the sacred principles upon which our glorious Republic is founded. Do you really want this thing done?

Do you not know that you can just as certainly dishonor the flag of your country and drag its folds in the mire by improper conduct on this floor as you could by turning your back to the enemy on the field of battle? War of this kind—or any other kind, in fact—I pray, may never come to our country. I do not want to entail an indebtedness of hundreds of millions of dollars unto our children and unto our children's children; much less do I wish to sacrifice the flower of American citizenship in such a war as a conflict with Mexico would be.

Thank God we have a President whose heart is made of flesh, not adamant; who is big enough, patriotic enough [applause]; yes, and determined enough, to repress and suppress the short-sighted, unpatriotic gentlemen who so foolishly counsel a declaration of war. [Applause.] I wish to call your attention and the attention of the country to the fact that during the last years of Mr. Taft's administration conditions in Mexico were about as bad as they are now. Men, women, and children were being killed even over the border line in the United States. These were our citizens, if you please, and while it appeared to be popular to assail President Taft at that time, for he was on his last pegs, yet not a Democrat raised his voice against the President of the United States, for he was the President of all the people. Not a Democratic voice was heard in condemnation of the foreign policy of the last administration. But how times have changed since a Democrat occupies the White House. It remained for a Republican to assail with all the bitterness of which he was capable, vituperation unsurpassed, the President of the United States when he has pursued the very same policy a Republican President pursued before him. Now, quit your croaking and join hands with us to make better and more glorious this great country of ours. If you were returned to power, which is impossible to contemplate, because of the intelligence and patriotism of the American people, you could not consistently make any material changes in the administrative policies now being pursued.

A few days ago I saw a cartoon in that great Democratic paper of Missouri, the St. Louis Republic. It was a picture of a huge bag being filled with wheat and upon it were the figures showing the estimated bumper wheat crop for the season. Off in one corner was shown a withered tan-faced creature, a calamity croaker cowering and quaking in dire distress over

what he witnessed. In some respects I think the figure resembled the gentleman from Washington. [Laughter.]

But you say the administration is not entitled to credit for a bumper wheat crop. If this is true, and I do not dispute it, then the Democratic administration is not responsible for the devastating and withering drought prevalent in my district and should not be held responsible for it.

We must move forward. The welfare of the whole country depends upon progression, not professions of progression, but progression written in the statutes for the good of mankind. We can not stand still if we hope to attain unto the best, but we must press onward and upward to a higher and nobler plane of civilization. We must rise to that point where he who toils will be able, because of equitable and just laws and conditions, to enjoy the full usufruct of his toil. [Applause.] Our Government must be so organized and administered that we may properly distribute the products of the mines, the factory, and the field, so as to give equal opportunities to every individual and a square deal to all mankind. [Applause on the Democratic side.]

Mr. ADAMSON. Mr. Chairman, I ask unanimous consent that all who speak upon this bill be allowed to revise and extend their remarks in the RECORD.

The CHAIRMAN. The Chair doubts if that can be done in committee.

Mr. ADAMSON. I think it can, for all who speak.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that all who speak on this bill may have leave to extend their remarks in the RECORD. Is there objection?

Mr. DONOVAN. If we can get unanimous consent that the gentleman from Missouri [Mr. HENSLEY] may proceed for five minutes, I will not object.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Michigan [Mr. MACDONALD].

Mr. MACDONALD. Mr. Chairman, I am indebted to Mr. Harry A. Slattery, the secretary of the National Conservation Association, for some historical data in regard to this legislation that I should like to incorporate in my extended remarks on this bill, and I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield 15 minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Chairman, I desire to record my hearty approval of the bill under consideration introduced by the gentleman from Georgia [Mr. ADAMSON], known as the Adamson amendment to the general dam act.

It is not my purpose to consider the subject matter of the bill in detail or the amendments to be offered by various gentlemen. However valuable the suggestions are that may be offered in the way of amendments, in order that the prospect of legislation may not be endangered, it seems to me preferable that we should accept the results of the continued study that has been made by the Committee on Interstate and Foreign Commerce.

While the gentlemen anxious to secure the best arrangement possible for the Government are to be commended for their zeal, they must not lose sight of the fact that private capital must be induced to invest in these projects and conditions must not be made so severe that a suitable return on their investments becomes impossible.

It would seem to me that the differences which have arisen during the discussion of the bill and the efforts to secure amendments to it are the result of a possible interlocking of authority between two great departments of our Government—the War Department and the Interior Department. It has been a well-established regulation that the control of navigable streams should come under the supervision of the War Department.

In the settlement of the vast sections of the West the authority of the Interior Department over streams in public domains has been increasingly recognized.

We of the East have not had occasion to consider this dual authority or the authority of the Interior Department, and in the present instance we are very anxious that the confusion between the respective departments should not endanger the possibilities of the enactment of this legislation.

In reading the redraft of the bill of the committee, it would seem to me that this possibility is to all intents and purposes so completely removed that it becomes a very minor consideration.

The bill in question deals with two great problems—first, navigation; second, development of electrical energy.

While the Federal Government must primarily consider the question from the standpoint of navigation, it nevertheless must recognize the interdependence of the one upon the other in the cases wherein this bill is applicable.

It is in this mutual relationship that my district is greatly interested in this bill. Its enactment will be the beginning of a long-delayed act of justice to an important part of my district.

For many years we have heard a great deal about the conservation of the natural resources of the country, especially as applied to the West, but gross negligence has been shown toward the conservation of the resources and opportunities afforded by one of nature's most beautiful streams.

Frequent reference has been made during this debate to what is a navigable stream, and as a matter of record I will insert here the Supreme Court decision:

EXTRACT FROM SYLLABUS OF A DECISION BY THE SUPREME COURT OF THE UNITED STATES IN THE CASE OF "THE DANIEL BALL" (10 WALL., 557), DEFINING A NAVIGABLE WATER.

Those rivers are public navigable rivers in law which are navigable in fact. Rivers are navigable in fact when they are used, or are susceptible of being used, in their ordinary condition as highways for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water.

And they constitute navigable waters in the United States within the meaning of the acts of Congress in contradistinction from the navigable waters of the States when they form in their ordinary condition by themselves, or by uniting with other waters, a continued highway over which the commerce is or may be carried on with other States or foreign countries in the customary modes in which such commerce is conducted by water.

(NOTE.—Rafting and the floating of logs are recognized methods of navigation.)

Flowing between the States of New Hampshire and Vermont, across the States of Massachusetts and Connecticut for 345 miles, the Connecticut River most certainly comes within this decision. From its mouth to Hartford, Conn., a distance of 52 miles, there is a 12-foot channel, and boats of that draft use that portion of the river. Above Hartford it is navigable but not navigated, and it is to secure this desired result that we ask for the passage of this bill.

My colleague, Mr. GILLETT, has already spoken of the long-continued effort to secure an appropriation to make the river commercially navigable, of the opposition of the War Department, and finally of the approval by the engineers of the scheme to combine an electrical development for navigation.

When it has seemed that results were about to be accomplished new difficulties have arisen until, finally, in the last Congress the constitutional question of the relationship between State and Federal authority arose to defeat or delay the proposition. This having been now thoroughly discussed and understood, and the Supreme Court having passed upon the question, we ask that no further quibbles should be placed in the way of the final accomplishment so long and so eagerly desired.

The Legislatures of Connecticut and Massachusetts through special commissions have both given their approval to the plan proposed and have urged prompt congressional action.

Briefly stated it is this: At Windsor Locks, Conn., there are an old dam and locks built under charter from the Connecticut Legislature in 1824. This right is now controlled by the Connecticut River Co., which has ample financial backing. The company will accept such form of contract as the Government and State may offer. It is prepared to construct a dam and locks at very large expense—approximately $5,000,000—presenting them to the Government for navigation purposes, provided they can use the power for electrical development.

It is estimated that water sufficient to develop 35,000 horsepower is now aimlessly and uselessly flowing to the sea.

Conservationists are defeating their own ends if they oppose the use of this tremendous amount of power, which can supply an area having a population of several hundred thousand people with cheaper light, heat, and power, nor should the question of Federal or State authority or that of authority of the War or Interior Departments longer delay this development.

We should certainly have sufficient confidence in the knowledge of as important committee as the one having this matter in charge to properly safeguard the public interests.

In addition to this an almost incalculable benefit will come to the people of this section through navigation on the Connecticut River as far as Holyoke by the construction of a channel 12 feet in depth at a comparatively small cost to the Government.

Freight tonnage of the section is over 3,000,000 tons per annum, upon which there will be an estimated saving of about 20 per cent in rates.

It is estimated that there will be a saving of between 60 and 80 cents per ton on the million and half tons of coal consumed annually on the places directly affected.

I have only thus briefly referred to the great benefit to the entire business interests of western Massachusetts this bill will permit.

There was never a time when the legislation was more needed than now. The section is hard hit by Democratic times. Business is at the lowest ebb it has been in many years.

The manufacturing centers of Springfield, Holyoke, Chicopee, and West Springfield manufacture goods valued at over $100,000,000 annually.

The great paper mills of Holyoke alone manufacture about 125,000 tons annually.

I therefore ask for its favorable consideration in order that this long-delayed benefit to the section I represent may be soon under way and that the wasteful negligence of the past may be promptly overcome.

We can then have a practical illustration of the benefits of conservation.

The people of the section have waited patiently; their patience has ceased to be a virtue.

I ask that Congress shall not again disappoint them and deprive them of their just rights, for which nature needs so little assistance to bring practical results. [Applause.]

Mr. STEVENS of Minnesota. Mr. Chairman, I now yield to the gentleman from Iowa [Mr. GOOD].

Mr. GOOD. Mr. Chairman, a few days ago the Washington Post, an independent newspaper, published an editorial entitled "The farmer loses," it appearing in the issue of the Post of July 14, 1914. I ask unanimous consent to extend my remarks in the RECORD by printing that editorial in the RECORD.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. MURDOCK. Mr. Chairman, reserving the right to object, what is the article about?

Mr. GOOD. About the losses sustained by the farmer through the announcement of the Democratic tariff law.

Mr. LLOYD. Did I understand the gentleman to say that the Washington Post is a Democratic newspaper?

Mr. GOOD. Oh, no; an independent newspaper.

The CHAIRMAN. Is there objection?

There was no objection.

The editorial referred to is as follows:

"THE FARMER LOSES.

"In the 10 months ended April, 1914, the value of foreign foodstuffs imported into the United States increased $10,000,000, or $1,000,000 a month. This money, which should have gone to the American farmer, went to foreign farmers.

"In the same period the exports of American foodstuffs decreased $64,416,000, or $6,400,000 a month.

"The adverse balance against the American farmer, so far as dealings with the outside world are concerned, is $75,000,000 in 10 months.

"During the 10 months ended April, 1914, there were imported 20,058,998 bushels of oats, as against 714,767 bushels imported during the same period ended April, 1913. Comparing the same periods, there were imported 1,854,054 bushels of wheat against 769,329; other breadstuffs, $2,602,952 against $1,362,630; fruits, $26,155,168 against $21,635,382; nuts, $722,217 against $636,290; butter, $1,633,515 against $253,513; cheese, $9,302,438 against $7,683,390; olive oil, $6,444,247 against $5,815,810; prepared vegetables, $3,015,545 against $2,772,100; fresh vegetables, $1,468,396, against $1,308,821. The importation of eggs during the 10 months ended April, 1914, amounted to 5,043,765 dozens, valued at $1,000,000.

"These are staples produced by American farms, orchards, and gardens. The new tariff reduces the duty upon these articles and opens the market to foreign farmers. The foreigner has seized this opportunity and is now making $1,000,000 a month which formerly went to the American farmer.

"The consumer gets no benefit from this tariff reduction. The price has not gone down on a single article mentioned. The high tariff formerly kept the foreigner out and gave this business to the American farmer. The new tariff throws the business to the foreign farmer, who, with the middleman, pockets the benefit, and the consumer pays as much as he did before. The only loser is the American farmer.

"This loss of $1,000,000 a month covers only 10 months of the new tariff. It is natural that the loss should be greater as soon as foreign farmers awaken to the splendid opportunity offered by the American market. The more they take advantage of this opportunity the more the American farmer will lose.

"The only way to prevent this loss to the American farmer is to put the bars up again, and shut out the foreigner. The experiment has been in effect long enough to show that it does not decrease the cost of living.

"Maybe this item of $1,000,000 a month loss through the low tariff will be borne in mind by the American farmer when he votes next November for Congressmen who frame tariff bills."

Mr. RUSSELL. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by printing a letter from Gen. W. H. Standish, now of my district, formerly attorney general of the State of South Dakota, who is very deeply interested in the subject of dams, this letter being upon that subject.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

The letter referred to is as follows:

REEDS SPRING, MO., *July 16, 1914.*

Hon. J. J. RUSSELL,
Washington, D. C.

MY DEAR MR. RUSSELL: I am in receipt of the Adamson water-power bill, H. R. 16053. So far as it goes it is a very fine bill.

I inclose to you a petition, signed by 760 of the residents of this county at six different post offices, to wit: Hurley, Crane, Elsey, Galena, Cape Fair, and Reeds Spring. The petition reads thus:

"To the Sixty-third Congress of the United States of America:

"Our homes are in Stone County, Mo., where natural water-power sites exist in certain places, which, in our opinion, should be developed by the use of dam and tunnel together, and thereby retain for farming purposes a large portion of our bottom river lands and cause a more economical development of water power than by dams alone, and we believe this mode of development will give cheaper rates and better results to the public than by the use of dams alone. We believe the whole subject of where dams should be placed and whether tunnels should be used in connection with dams should be first submitted to the public-service commission of our State, with authority for it to draw any bill for Congress which said commission believes would be for the best interest of the public, and include in such bill a provision for a tunnel in connection with the dam where the commission believes it would be for the interests of the locality and the public at large. This petition would require only such modification of the pending bill in Congress as to authorize tunnels in connection with dams where the interests of the public would be promoted thereby, and that applications for dam construction should be first submitted to the public-service commission of the State, for it to examine into the matter and report its advice either to Congress or to the War Department agency.

"The public-service commission of the State is peculiarly fitted to do this work; better so, probably, than any other body in the United States. Your bill recognizes that this body shall have the right to fix and control all the business of the company done within the State where the dam is to be located and the power distributed. In the State of Missouri this body controls the amount of stock and bonds that shall be issued, and every step from the beginning to the close of construction, and everything thereafter in the operation; so much so, that if the manager of the company should be the majority owner of all the property of the plant, and such manager should not comply with the orders of the board, it could and would remove him and install another manager. In this way this board at once learns the cost of building a dam, either whether it is a solid concrete dam or a hollow, reinforced concrete dam, so that after the first dam has been constructed in the State and the matter thrashed over in the issuing of stock and bonds and the fixing of rates, this public-service body, when the measurements for any plan are submitted to it, can approximately tell at once what the cost of any proposed dam will be without the taking of any testimony. Besides, our public-service body has expert engineers employed by it to go out and examine the site and report on its suitableness. Where there are such conditions as exist in Stone County, Mo., Taney County, Mo., and in other portions of Missouri, with crooked rivers located in the mountain part of the State, and there are narrow bends that can be had where it is certain that a tunnel to form all water-power necessities can be put through the bend for probably one-third of what a second dam can be made, and the pondage land around the bend that would be submerged purchased—and there are plenty of such places—and where the river around the bend is of no use for navigation, and the people of the locality prefer and petition for the tunnel instead of a second dam, there should be a right vested in this local body to investigate into the matter and report to Congress or the War Department their conclusions.

"This authority for the State board to thus act is made clear in the Adamson bill. When such proposition comes before the State board, the State board can fix a day for the hearing, when contractors who do tunnel work who have already examined the site for the proposed tunnel will appear before the board and submit their bids to build a tunnel which would take the place of the second dam. The State board can and naturally would require of them a safe bond for the performance of their bid in case the Federal authority should authorize a tunnel in connection with the dam and thereby save the construction of a second dam and the submergence of probably thousands of acres of land that would lie in and around the bend between the intake and output of the proposed tunnel, land in which in all cases is the richest in the State.

"This examination and hearing need not take over 30 days from the time the matter is presented to the State board for the State board to make its report. The interest on the amount that will be saved by having the tunnel instead of a second dam will go that much to reduce the cost of power to the public and tend to increase water-power development, and will lessen the sum to be paid for the property at the end of the 50-year period, when the permit is to expire. The people of the locality will not prefer the tunnel where the river around the bend is needed for navigation, nor will the State board recommend it. This competition that will be created by the right to bid will prevent the possibility of collusion between the officers of the water-power company and those who do the construction, which could be secret and never discovered or discoverable by the State board. If the department or Congress shall authorize dam construction in our mountain regions at places where the back water would intrude on that part of the river that would be in a bend, between where the intake and output of such a tunnel would be, the possibility of having a tunnel thereafter would be destroyed.

"After the dam would be authorized by Federal authority the State Utility Board could not authorize a tunnel, even though it might save a million of dollars in the development. If the State board is suitable and competent to authorize everything about the development after it is once authorized, it is a suitable body to examine and advise the Federal authority before the project is started, and this plan will aid the State board in its supervision of the development after it is started, because it will know to a certainty what the tunnel is to cost or has

cost. It will be safer for the public to have tunnels made in such cases than dams to take up the fall around the bend, because no matter how careful our engineering bureaus are, with dams we are liable to have Johnstown floods, digging out by the water on the lower side of the dam, so that when a flood comes it will tip over, as was the case of the big dam in the Missoula River near Great Falls, Mont., a few years ago. Only a few years ago we had two great dam washouts, causing the loss of life and much property. Under this new bill water-power development is likely to proceed ten times faster than it ever has before, which is desirable, as the public needs the cheaper power, but with this ten times of increase there will be ten times the chance for washouts of dams. A tunnel never washes out. It will last forever without an accident. The dam near the mouth of the tunnel which creates the reservoir or pondage will receive but a small portion of the water over it that would go over it if there was no tunnel to draw the pondage off, and therefore it will be made more safe, and around the bend when floods come ties and timber can be floated the same as now, without any injury to the power property.

"In relation to the diversion of the water of all our small streams through a tunnel, the Government now has 22½ miles of tunnel of the same character in which it diverts water from large rivers for irrigation purposes, because it will be of greater benefit to the public than to leave the water in the river. But here the water goes immediately into the river and saves thousands of acres for farming."

I desire to call your attention to the character of the petitioners for tunnels in connection with dams in water-power developments. Many of these petitioners are personally known to you; some of them are known to Mr. HAMLIN, of Springfield, and to our Senators. To begin with, this petition is signed by all of the men who have been sent from our county to our legislature during the last eight years. Two of these are Progressives—Hon. Truman S. Powell and Theodore Tromley. One, W. C. Woods, was a Taft Republican. The other, W. D. Craig, is a Wilson Democrat, and was elected as a Democrat to the legislature. The petition is practically unanimous from these different towns. It contains all our bankers, our county officers, our editors, our lawyers that have had a chance to see it, and nearly every merchant—men of the utmost integrity and clearest judgment and who know local conditions thoroughly. I hope that the authority which they petition for will be incorporated into the Adamson bill to authorize State utility boards to have 30 days' time to consider and recommend applications that are to be made to Congress, or the War Department, for dam permits. I see no harm of any kind that can arise from this, no prejudical delay to the enterprise in protection to stockholders and bondholders as well as the public, but a large reduction in rates, the saving of millions of acres of bottom lands in the United States for farming purposes, and less expense to the Government to take over the property at the end of the permit, because at that time I look for the Government to own and operate every water power in the United States.

Sincerely, yours,

W. H. STANDISH.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield 30 minutes to the gentleman from Minnesota [Mr. SMITH].

Mr. SMITH of Minnesota. Mr. Chairman, I take occasion at this time to repeat what the chairman of this committee stated on Saturday last. He said:

I will remind the Committee of the Whole that there is not a single amendment in the 14 that the committee is going to offer that is inconsisent with the bill as originally drawn and introduced in this House. We discussed them over and over again, and we suggested these amendments and they were agreed to by the other side.

I further desire to state that I made this statement in opening the argument, that the fears of the gentleman were entirely imaginary; that the English language did not justify any such conclusion as they tried to deduce from the language of the bill. Mr. Chairman, I am so happy that the amendments we are going to propose, and of which I gave notice, are satisfactory to the gentleman that I have nothing further to say. I hope we will proceed with the debate and adopt as soon as possible this great and valuable constructive measure on the most important subject to the country that has been before Congress for a long time.

I heartily agree with the latter portion of that statement as to the importance of this subject. I do not quite share in the chairman's optimistic view, that the amendments which he has offered are all of the amendments that are necessary.

DEFECTS OF AMENDED COMMITTEE BILL.

The Interstate and Foreign Commerce Committee, through its chairman, the gentleman from Georgia, presents an amended bill, bearing the label "Committee print, with amendments."

A number of the defects noted in the original bill are remedied, in part or whole, in the new amendments. But, I submit, the cardinal shortcomings of the original bill are still inherent after amendment.

Among the defects which have not yet been reached are the following:

First. The amended bill utterly fails to provide anything like definite, tangible, authoritative, and efficient regulation of hydroelectric utilities, notwithstanding the fact that the bill is based on the doctrine that a hydroelectric utility is a monopoly and that, as such, it must be subject in its operation to effective regulation both in the interests of the Government and the consumers.

Second. There is no provision for joint or interlocking Federal and State supervision of such hydroelectric utilities, although the electric current generated by such projects enters both local and interstate commerce, and therefore requires the joint or cooperative regulation of the Federal Government and the State, if regulation is to be effective, with no "twilight zone" of governmental jurisidction.

Third. The bill still provides:

That the rights herein granted shall continue for a period of 50 years—

Which leaves the Government no option or leeway in regard to the term of the grant, which might readily be provided by substituting the more salutary phrase, "for the period of no longer than 50 years."

Fourth. The bill gives the Secretary of War jurisdiction in fixing charges in two fields over which the Secretary of the Interior has administrative authority, namely, in the case, first, of "headwater improvements of every kind, nature, and description, including storage reservoirs or forested watersheds or land owned, located, or reserved by the United States at the headwaters of any navigable stream"; and second, in the case of "lands acquired by the United States through purchase or condemnation and any part of the public lands withdrawn by the President from entry or disposition for the sole purpose of promoting navigation." Joint control by the Secretary of the Interior and Secretary of War, or by the water-power commission of three, as proposed in House bill 17854, would certainly be more conducive to a harmonious, efficient, and businesslike administration of such public domain and headwaters than by giving the Secretary of War jurisdiction in a field which distinctly belongs to the Secretary of the Interior.

Fifth. H. R. 16053 still lacks a proper provision for priority of public purpose and use of Federal water powers as against commercial use, and in that respect is inferior to the water-power acts of all progressive nations.

Sixth. H. R. 16053 still retains in section 15 that indefinitely worded exemption from the provisions of the antitrust law, which would prove so useful to a water-power trust or hydroelectric group, namely:

Provided, however, That it shall be lawful, under the approval of the Secretary of War, for different grantees to exchange and interchange currents, to assist one another whenever necessary by supplementing the currents or power, and enable any grantee to secure assistance to carry on the business—

And so forth.

Nobody knows what this provision means, unless it is to give a water-power aggregation full immunity to do what it pleases.

Seventh. Under section 13 the bill makes all the provisions of the proposed act a vested right to the favored grantee, and deprives Congress of its customary right to "alter, amend, or repeal" unless and until "Congress determines that the conditions of consent have been violated." And unless "the conditions of consent have been violated," the United States is made by this section liable for such "alteration, amendment, or repeal thereof to the owner or owners or any other persons interested in such dam." Such a provision is plainly untenable.

The optimism of the chairman of the committee is only exceeded by his geniality. I know that he is anxious to get a bill on this subject that will do justice to the people of this country, and in doing so there can be no more valuable service rendered by any Member of this House than to honestly and earnestly assist in getting the best bill. I do not quite agree with my friend from Massachusetts [Mr. TREADWAY], who just addressed us, that we should always abide by the judgment of our committee. Committees are instituted for the purpose of giving certain subjects their special consideration. They perform a valuable service, and the Committee on Interstate and Foreign Commerce has done valuable service by bringing in a bill that furnishes us an outline out of which we possibly can whip into shape and make a useful and efficient bill. Of course, the gentleman from Massachusetts is willing to accept this bill. He was willing in the last Congress, or his people were, to accept what was known as the Connecticut dam bill, and this bill, possibly, is more favorable to his people. I wish they had what they desire, and I feel confident that they need just such legislation as they have been trying to get for years.

Mr. TREADWAY. Will the gentleman yield?

Mr. SMITH of Minnesota. Yes.

Mr. TREADWAY. The gentleman realizes, I trust, that the interest my people have in the matter is that of navigation very largely. I hope I made plain in my remarks what the citizens in western Massachusetts desire, and that is to secure the navigation of the Connecticut River, and the development of power is only incidental to that desire. I trust the gentleman realizes that.

Mr. SMITH of Minnesota. I do not know just the importance of the difference between the two purposes you want to accomplish, but I feel sure the project is worthy and that the gentleman should have legislation sufficient to help him realize it to its full extent.

Mr. TREADWAY. I thank the gentleman for his confidence, because I am sure it is deserved.

ANALYSIS OF BILL BY THE HOUSE LEADER.

Mr. SMITH of Minnesota. This House has been favored by a learned and exhaustive analysis and defense of the original and amended bill by the leader of the House majority, chairman of the Ways and Means Committee, the gentleman from

Alabama. All who listened to his able and instructive address, which covers five pages of the CONGRESSIONAL RECORD, were not only entertained by the elaborate and eloquent character of the address, but also by these two facts, namely, that the subject matter which we propose to legislate upon in this proposed act is one of most vital and far-reaching import to the industrial and commercial development of America, and, second, that this bill in its finally amended form may become one of the most historic monuments of this Congress.

There are two propositions laid down by the gentleman from Alabama to which I desire to call your attention. They reach to the heart of this measure. They have a peculiar bearing upon the purpose of this bill and the ways and means of carrying the purpose into practical execution. Moreover, these two propositions are not consistent.

The first proposition is that hydroelectric developments are "natural monopolies performing a public-utility service," and the second proposition is that "the most important feature of the bill" is that which "authorizes a recapture of the dam and its accessory works."

If the purpose of this bill was to establish public ownership and operation of the Federal water powers of this country, I should agree most emphatically with the gentleman from Alabama and with the members of the committee who father this bill that "the most important feature of the bill, so far as the public is concerned, is that provision in the bill that authorizes a recapture of the dam and its accessory works in the interest of the *public*," as so eloquently stated by the gentleman from Alabama.

But the object of this bill is not the public ownership and operation of water powers, but private ownership and operation of hydroelectric developments. Its purpose is to enlist private capital. Its distinct aim and purpose, as stated by the gentleman from Alabama [Mr. UNDERWOOD], by the chairman of the committee and nominal author of the bill, the gentleman from Georgia [Mr. ADAMSON], and by the ranking minority leader of the committee, my colleague from Minnesota [Mr. STEVENS], is to enlist private capital to accept water-power grants and leases, to build the water-power dams and accessory works, and to develop, transmit, use, and sell electricity thereby generated.

The purpose of this bill is to establish ownership, exploitation, and operation of the great water-power resources of this Nation by private capital. Therefore, most consistently does the gentleman from Alabama further along in his speech state:

> My only fear is that it—the bill—does not hold out sufficient inducements to capital to encourage investment in such enterprises.

Has not the committee spread upon the records of this House pages of statistics to show how difficult it is to interest private capital in water-power projects?

Do you not recall how the committee has investigated and found a list of 56 financial corporations, American and European, all of whose names and addresses the committee has ascertained and published in the CONGRESSIONAL RECORD, who were so shy of hydroelectrical projects that they refused to consider the financing of the Keokuk Dam?

Has not the chairman of the committee, author of the bill, also dug up the history of 16 hydroelectric corporations, representing 506,000 horsepower, which have been through receiverships or proved bad investments?

In his opening speech the author of this bill frankly told us that the purpose of this bill was "to tempt capital" to construct and operate these dams; and he bemoaned the fact that "capital is a wary old bird."

Finally, on page 12527 of the CONGRESSIONAL RECORD, he states in open confidence to the public and this House:

> If this bill were allowed to pass and permit the utilization of private capital to relieve the Treasury of all these expenses, why perhaps if we could make the proposition sufficiently attractive to capital, and they could open up all this navigation and at the same time furnish the people light and the cleanest, best, and cheapest fuel, electric force enough to manufacture not only fertilizers, but every other conceivable thing that the genius of this country could think of, and make a network of trolley lines all over that fair country.

The committee in its testimony and report, its chairman, the gentleman from Georgia, its ranking minority member, my colleague from Minnesota [Mr. STEVENS], as well as the gentleman from Alabama, majority House leader, have all discussed the various measures of this bill with reference to its effect in inviting private capital, in promoting private investment, and enlisting the interest of promoters and investors in the private ownership and operation of the hydroelectric developments of this country through the instrumentality of this bill. They have told us that "the hazards of hydroelectric investment are greater than in any other class of investments"; and so, as so consistently stated by the leader of the House majority, the gentleman from Alabama, in his summing up of the vital considerations affecting the bill's purpose and mission after passage, the great concern of its authors and supporters is "My only fear is that it does not hold out sufficient inducements to capital to encourage investment in such enterprises."

Let us, therefore, start upon this discussion with this one proposition as an established corner stone, namely, that the purpose of the bill is private investment and private operation of hydroelectric utilities. That is the central point upon which rests the whole argument of the bill's supporters.

Let us now see where this established proposition leads us. This bill provides private ownership and operation of hydroelectric developments under an irrevocable contract for a period of 50 years. We are to have such private operation of our great water-power resources for at least a half century from the day of the passage of the bill. By that time perhaps every member of this Congress will be dead and gone, and the vast majority of the adult population of the United States interested to-day in the industries and commerce of America.

Bear this in mind, there can be no recapture by the Government, except for violation of contract, for a half century to come. What, then, becomes of the proposition of the gentleman from Alabama that "recapture of the dam and its accessory works" is the "most important feature of the bill"?

Is this House legislating for the public only of that remote period a half century hence, when recapture first becomes possible? Have we no duties to the 100,000,000 people of America to-day and for 50 years to come?

Moreover—and this proposition, while true, makes the situation worse—the gentleman from Alabama demonstrates that this private hydroelectric development and exploitation is in its nature a "monopoly." To use his language again, "hydroelectric developments and public-service companies are found natural monopolies performing a public-utility service." A page of noted authorities, including leading economists, public officials, and two former Presidents, are thereupon quoted for the space of a full page of the CONGRESSIONAL RECORD "supporting the contention that hydroelectric developments are natural monopolies." The learned gentleman finally leads up to the conclusion that—

> Combination is as natural in business as it is in human society. Only among primitive peoples is every man a law unto himself and an enemy to his neighbor. Combination was the first step toward civilization and is a force which will persist while civilization continues.

Accepting these two propositions as settled, therefore, first, that the prime object of this bill is to enlist private capital in hydroelectric development, and second, that such hydroelectric development is a natural monopoly, what, therefore, becomes the paramount duty of Congress in the premises? Is it not to make certain that this bill provides for a thoroughgoing system of public regulation of hydroelectric utilities? Is not such public regulation, which should be established now and to be continuously in force during the 50-year life of every one of these valuable public water-power grants, the paramount concern of the American people of to-day, rather than a recapture clause which is to be effective a half century hence?

As against the fear of the gentleman from Alabama and other sponsors of this bill, lest "it does not hold out sufficient inducements to capital to encourage investments," my fear and concern is, lest the bill does not provide a system of public regulation that will properly safeguard the public interests of the American people during the 50 years before recapture is possible. Moreover, I am as certain as I ever was upon any proposition which I have ever investigated and studied during my professional and public career that this bill does not provide anything worthy of the name of a system of public regulation. I challenge any sponsor of this bill to point to the public-utility law of any of the 30 States that to-day attempt public-utility regulation, that is not a better law with much stronger and better-defined provisions for public regulation than the *feeble attempt* at hydroelectric regulation made in section 11, the public-regulation section of this bill.

Moreover, such regulation, as is hinted at in section 11, is largely offset by sections 9, 13, and 15, which, respectively, accomplish the following obstacles to public regulations: First, a flat 50-year water-power franchise, without option of the Government to modify the period of the grant; second, a vested right which Congress has no authority to amend or repeal, except for violation of terms; and, third, immunity from the provisions of the antitrust laws in allowing a group of grantees to "assist one another whenever necessary." Coupled with absence of anything like express powers to be exercised by the Government to publicly regulate these "natural monopolies" owned and operated by private capital, we find, therefore, that the bill actually handicaps and holds the hand of the administrative branch of Government in its possible future efforts to protect the public from aggrandizement of hydroelectric monopoly.

INDUCEMENTS OF THE BILL TO PRIVATE CAPITAL.

The gentleman from Alabama fears that the bill does not offer sufficient inducements to private capital. Let me, therefore call the attention of this House to some of the special inducements offered. On this point, I think that the author of the bill, the gentleman from Georgia, is good authority when he said:

The committee offers a bill that it is believed will invite and attract capital to construct dams in the navigable streams of the country, improving the navigation of these streams, and developing water power at the same time.

I am convinced, Mr. Chairman, after careful examination of this bill and its many attractive features, that when the gentleman from Georgia said, "The committee offers a bill that it is believed will invite and attract capital," he was familiar with the facts and the personnel of hydroelectric investment; in short, that he knew what he was talking about.

Here is a partial list of some of the inducements, the investment plums, as it were, of this bill:

First. A flat 50-year grant, at least—it may work out much longer—is given to every grantee of Federal water power, with no option of the Government to modify the term; while in many of our States, as well as other progressive countries, where hydroelectric development is most successful, the grant runs for periods of 20 to 40 years and present acts give the Government a leeway of option under the phrase "No longer than 50 years."

Second. Section 13 makes this grant or lease a vested right, without the usual reservation of Congress to alter or repeal, unless the contract itself is violated; and, therefore, the United States becomes liable for "alteration, amendment, or repeal thereof to the owner or owners, or any other persons interested in such dam."

Third. Section 15 gives the grantee the following immunity bath from the provisions of the antitrust laws:

Provided, however, That it shall be lawful, under the approval of the Secretary of War, for different grantees to exchange and interchange currents, to assist one another whenever necessary, by supplementing the currents or power, and enable any grantee to secure assistance to carry on the business and supply his customers.

What more complete immunity could a hydroelectric group, like the General Electric, which controls 50 per cent of the available water power of 18 States, ask for to maintain its electric trust combination?

Fourth. Although it is provided that, "In no case shall such an arrangement be permitted to raise the price," there is no prohibition against such a group maintaining an arrangement to resist the reduction of price.

Fifth. There is no requirement upon the hydroelectric "monopoly," as it is admitted to be, to file with the public a report of its operations or proceedings, a statement of costs of plant, production, transmission, use, or sale, or to keep public accounts of its finances subject to public examination; and there is no authority for the Government to visit the works, have access to its accounts, or compel the attendance of witnesses with books and records.

Sixth. There is no procedure provided for public appeal against service or rates and no system outlined for standards of service or procedure to establish a basis for ascertaining and fixing just charges, or for publicity of rates, accounts, proceedings, complaints, or finances.

Seventh. There is no basis established for Federal and State cooperation in hydroelectric utility regulation to prevent a "twilight zone" of jurisdiction in which neither the Federal Government or the State can act with certitude and effective result. Federal interposition is established in this bill, so as to exclude in large measure the power of the State and the municipalities to protect themselves against these Federal grantees and lessees; but this bill gives the consuming public no certain and assured regulation and protection against bad service and rate extortion in its stead.

Therefore, it appears to me, Mr. Chairman, that this bill offers many inducements to capital of the hydroelectric group order not found elsewhere and not enjoyed by other kinds of corporations of the "monopoly" family in this country. Certainly I feel that the chairman of the Interstate Commerce Committee was well within the facts when he declared: "The committee offers a bill that it is believed will invite capital."

Surely the committee had an opportunity to know its ground, because the only witnesses which, according to the published testimony, testified before the committee were hydroelectric promoters and financiers. Had the committee summoned to its presence the experienced public officials of something like 20 to 30 public-service commissions who are regulating such utilities under State laws, the committee would have learned the necessity of strict regulation of hydroelectric monopolies and imbibed something of the system and spirit of such public regulation. it is fair to believe, instead of simply the fear that the inducements to such interests might be insufficient.

Mr. MADDEN. Will the gentleman yield?

Mr. SMITH of Minnesota. I will.

Mr. MADDEN. What does the gentleman think of the value of the right to recapture, in that it would give to the Government the opportunity at the time of recapture to revamp rules under which the monopoly was authorized to exist?

Mr. SMITH of Minnesota. I will say to the gentleman from Illinois I believe, as I stated before, that while recapture may be necessary, I do not think that it is essential to a bill which relies upon private operation. I think that the material proposition here from this time on is to provide suitable public regulation. I believe that the committee has brought into the House a bill that gives capital more than it should have. I do not agree with the gentleman from Alabama when he said in his remarks the other day that he is fearful that capital will not take advantage of this measure if it is passed just as it was brought in.

Mr. FESS. Will the gentleman yield there?

Mr. SMITH of Minnesota. Yes.

Mr. FESS. Is it not true that the field of electricity is so new that it is always dangerous to give too long a period upon a fixed basis, because of the remarkable improvements that may be made by science that will ultimately make it very inexpensive? If you do not have control over it, future reduction in price to the public may not result. Is not that one of the arguments why the Government should not grant too much freedom and latitude here?

Mr. SMITH of Minnesota. In what respect? Now, there are several respects in which the Government can grant latitude. Now, in what particular one?

Mr. FESS. The Government ought not to lose the power to name the regulatory function as to charges, for example, simply because the cost charge now might be very much lessened later on by invention or by discovery. In other words, is not a long time contract, where electrical appliances are involved, rather a serious thing to grant?

Mr. SMITH of Minnesota. It is unless you couple that up with strict, efficient public regulation.

Mr. FESS. That is the point I am trying to get at, that the public ought to hold that power.

Mr. SMITH of Minnesota. And unless you hold that power the public is apt to suffer, and if you do hold the power the investor should not suffer, because the American people are fair and they do not want capital to work for them without yielding to capital a just compensation. But capital, on the other hand, as we know, has often been unfair and exacted a tribute from the public which it should not have exacted. It is for us as Members of Congress engaged in the forming and shaping of a piece of legislation the like of which has not passed out of this House this session, and I doubt whether it will in some sessions to come, to look out for this, because this deals with a project that is simply in its infancy. And as we look into the future we see how important it becomes. We have had our experience in the past in dealing with natural resources. We know how capital has foreseen the future and taken advantage of it. We also know that the American people have slept on their rights and have permitted capital to go out and gather up the natural resources of this country and bring them to their own vaults.

It is time that we should be looking out for the things that are plain and easy to be seen, and one of the things that is plain in this proposition is the fact that the manufacture of hydroelectricity is becoming one of the great industries of this country, and it is just in its infancy, as the gentleman from Ohio [Mr. FESS] has said. Then why should we start out at this time, after many years of hard labor and study by our committees, with a half-baked proposition that does not give any protection to the public?

Section 15 of this bill provides:

That it shall be lawful under the approval of the Secretary of War for different grantees to exchange and interchange currents, to assist one another whenever necessary, by supplementing the currents or power, and enable any grantee to secure assistance to carry on the business and supply his customers.

Gentlemen, if that section means anything, it means a permission on the part of the Government that hydroelectric corporations may combine and assist each other when it becomes convenient for them to do so. It means that they may come to each other's assistance whenever business stress requires it. It means, if it means anything, that the State laws against trusts and the national laws against trusts are put aside and that these institutions are to be immune from the operations of our antitrust laws.

Some gentlemen may contend that that does not clearly appear. I claim it is so clear that a man who desires to see it may see it. It is, at least, dangerous, and if it be in that condition, is it not wise to remedy it? Let us, if we are going to have regulated monopoly, say how far this monopoly may

go and how far it may not go. Let us have some control over it that will amount to a supervision and not a mere makeshift.

Section 14 has to do with dams known as public dams built out of the public purse of the Government. Under this section it is possible that a municipality or a State, wishing to obtain the privilege of using the power generated by one of these public dams, may have to go into the open market and bid for the privilege.

And in my own State could not the electric company which has a practical monopoly of all the electric power of that section afford to pay five times what that project is worth for the purpose of killing a competitor? They contend that we have not the right as a State or as a Nation to start an institution which will be a competitor of theirs; that they have invested their capital, and they have a right now to the market which that capital supplies. We have a right to preserve our natural resources, and one of the resources of that community is the water that flows down the Mississippi River and over this dam. That is not owned by any individual. It is the property of the State, and is controlled by the Federal Government. We should have the right, and the first right, to obtain the privilege of using the surplus water that flows over that dam. And any bill which passes this House should protect us in that right, and not put us in a position where we will have to compete with public-service corporations in order to get it. The National Government has not any right to ask any more than a return of the money or a fair return on the capital that it has invested. I agree with the gentleman from Alabama when he says it would not be wise, even though we have a right to tax the people of that community for the use of that water, to do it, because every dollar of tax you impose upon the dam and upon the grantee of the dam is transferred to the people who use it. Who has built up that market and every other market? It is the people of the community that the electric plant supplies.

PUBLIC OWNERSHIP AS A REGULATOR.

Another point which has not yet been brought out in this debate is the value of an occasional water-power project under public ownership and operation as a regulator of rates and charges. We do this in the case of transportation rates by providing for water transportation under Federal waterway projects. Indeed, the chief advantage of water transportation, and the principal justification cited by the Chief of United States Engineers and his colleagues of the Engineering Corps for a given waterway project or improvement, is its effect in reducing transportation rates, and in particular the rates of competing railways.

Thus, as a regulator of rates the Soo Canal and the Great Lakes project are estimated by Government engineers as worth scores of millions of dollars annually in reduction of rates, both by water and rail. Even the Mississippi, upon which comparatively little commerce moves, is recognized by the Government engineers as reducing the competitive rail rates between the Twin Cities and St. Louis something like 20 per cent. The Monongahela is known to have a marked effect in reducing coal rates.

Just such a result could be achieved by an occasional water-power project owned and operated by a public body, whether Federal, State, or municipal. The entire business would in that case be under direct public control, and the public would know the actual cost of production, transmission, and delivery of electric current and be in a position to know absolutely whether given rates and service by private companies were just or not.

Suppose, for an illustration, the public corporation created by the Legislature of the State of Minnesota for the purpose, a corporation created by public act and supported by public funds, in which the State university and the cities of St. Paul and Minneapolis are the active and interested public functionaries, should be allowed to secure, under the provisions of this bill, the lease of the 30-foot-high dam which the Government is now building across the Mississippi River between the two cities. Here would be a Federal dam and water power operated for a public purpose, the furnishing of light and power to local public institutions. All the facts of operation would be public property. The public would have complete public information as to methods and all data. The work would be an open book. Would there not be a great public gain, not only to the people of Minnesota but to the country at large, in the trial of this hydroelectric experiment?

In Minnesota the Consumers' Power Co. of Chicago, a foreign corporation, has almost a complete monopoly of public lighting and power in the big cities of the central and southern sections of the State and over a large suburban territory. Rates by this company are charged at prices varying from 10 cents down to 2 cents per kilowatt hour. Public charges of discrimination and extortion are common. Litigation is perennial. The elections are affected by the issues raised. Suspicions are general in certain political quarters against any public man who is on friendly terms with the so-called public utilities.

If this high-dam project of the Government could be leased to the State public corporation to meet public municipal and institutional needs and placed exclusively under public operation and control, Minnesota would be a public regulator of electric light and power rates, and the public would know whether the rates charged by the private corporation are just or discriminatory.

I have no doubt, moreover, so far as personal and official disposition is concerned, that the Secretary of War would gladly see such an experiment tried and give the public institution a lease. But to do so he needs congressional authority. In order to give the required authority with anything like certainty of result, just one thing is necessary, and that is, to provide, as the Provinces of Canada and the leading States of Germany provide, for priority of public use over commercial use. That is the only certain way; because otherwise the private corporation is situated so as to give the Secretary of War superior commercial terms in order to insure its monopoly.

The Consumers' Power Co. of Chicago could afford to offer many times what that power is worth simply to prevent the public body from instituting a rate regulator of electric prices in the State of Minnesota. From a business point of view the commercial company would be able to name terms to the administrative branch of Government which no business official who was jealous of public income and expenditure ought to turn down, unless that official had the backing of Congress in the shape of a clause in this water-power act giving preference to the application of the public claimant over the commercial corporation who applied for power for sale and exchange. Thus all progressive nations which have enacted up-to-date water-power acts in recent years have provided for such emergency a priority of public purpose clause which give preference to applications for public use and purpose over all private claims.

DIRECT USE BY INDUSTRIES.

The gentlemen from Georgia and Alabama are interested, as many other public-spirited citizens of this country are, in the use of electric current from Federal water powers for the development of fertilizer and electric steel industries. There is no question that such developments are fraught with great value to the future industrial development, not only of the South, but of the North and West and wherever there is a large surplus water power.

The practical question is, How shall these industries secure the economical use of these water powers? Does the gentleman from Alabama think for a moment that these industries will prosper and secure low electric costs, if a middle-man in the shape of a public-service corporation is instituted and placed between the Federal grantor and the industry which uses the power? What service will that middle-man afford? Its mission is to earn dividends and interest on its own watered securities and pay salaries to a body of favored directors, experts, and officials. If that fertilizer or electric steel industry wants cheap power there is just one way to get it, and that is to deal directly with the Government instead of with the corporate middleman. If that industry wants to be able to compete successfully with similar industries in Norway and Sweden it can not begin by paying dividends and high salaries to American public-service corporations. It must get its hydroelectric current direct without special tribute along the way.

What is the practical application? It is this again, that this bill must have a properly worded priority of purpose section, giving an industry priority over a public-service corporation in contesting applications for leases. Otherwise the hydroelectric combinations, with their special grant of immunities, will secure control over all the choice water powers of America, and neither an American industry nor an American municipality will have an opportunity to secure a public water power except through a commercial middle-man in the form of a public-service monopoly.

The people of Minneapolis and of St. Paul have built up the market for this great hydroelectric plant supply. Dam after dam in the Mississippi River above Minneapolis is being built, or will be built, and not a cent is being asked for it. There should not be a cent asked for it, except that when the Government gives a private individual the right to a monopoly, or the use of that power which belongs to the State, then we demand that there should be such a regulation of the rates and of the service as will do justice to our community.

Now, I suggest in all candor and in all sincerity that the people of Massachusetts are not entitled to one whit more than the people of Minnesota; that it should be our effort from the time we enter this Hall until we leave it to see that our part of this country receives fair treatment and that no part of it receives

any special favor. We are not asking any special favors when we lay down a general rule that any community can adopt; and I am going to call the attention of the House to a bill that I introduced, possibly not with any hope of its being adopted, but in which there are certain sections that I consider should be adopted in the committee bill. One of them is as follows:

As between contesting applicants for a permit hereunder, the commission shall have due regard to the use and purpose for which such permit is required, priority of purpose and of benefits conferred by such permit and project to rank in the following order:

First. Benefits to navigation and conservation of water resources.

Second. Public uses of the States, the municipal subdivisions thereof, and public institutions.

Third. Industrial use for agricultural, mining, and manufacturing industries.

Fourth. Commercial power for sale, barter, and exchange, and for use by public-service corporations.

Some such provision as section 3, the priority of purpose chapter of my own measure (H. R. 17854), I respectfully submit, is radically necessary for the protection of the public interest under the operations of the pending bill (H. R. 16053). Let me again call the attention of the Members of this House to the fact that with few and perhaps no exceptions, the well-known water-power laws of all other progressive nations enacted in recent times provide for priority of public use and purpose by most carefully worded express provisions. Certainly the United States of America, in Congress assembled to consider the conservation and wise development of its water powers, will not neglect its duty in this regard, and offer to the world a reactionary measure which ignores the public interest in its own water-power resources.

What does the pending measure recognize in this regard? As stated by the authors and sponsors of the bill, it has one prime purpose and that is to attract and interest private capital. It places commercial use and purpose first and foremost. It is true that in section 14, which pertains to leases of dams built by the Government, preference is given to the lessee who is able to conserve navigation and the water-power development. But, of course, that goes without saying, because the source of all Federal control flows out of the constitutional authority of Congress over navigation. What other public interest, however, does H. R. 16053 recognize and protect? It does not recognize or give priority to either Federal or State use. It gives no recognition to municipal use. It recognizes no public institution as an applicant for a water-power lease. It is primarily only the fourth and last purpose and use named in section 3 of my bill that H. R. 16053 fully contemplates and recognizes, namely, "Commercial power for sale, barter, and exchange, and for use by public-service corporations." In other words, what Canada, Germany, and Switzerland hold of last consideration from the point of priority of use and purpose this bill places first; and the gentleman from Alabama, indeed, even then confesses "my only fear is that it—the bill—does not hold out sufficient inducements to capital."

House bill 16053 permits private capital to come into our community and into your community and bid against the citizens of that community who have natural rights there, and under this bill the commercial interest may pay five times what the actual price of that surplus water is worth and to surcharge every man, woman, and child in that community for that overcharge. It is admitted on all hands that hydroelectric development is a natural monopoly. It is so admitted by the authors of this bill, and no one seriously contends that it is not. So let us frame the bill so that every community that can bring itself within the provisions of this law can obtain the surplus water that flows by its shore and past its door, and in that way you will give no special privilege to anyone. I commend, therefore, particularly to the consideration of those who are seriously interested in this proposition section 3 of House bill 17854. I also commend to their attention section 16 of the same bill, which provides for regulation.

Now, so much for section 14. I have not the time to dwell longer upon it, but I do contend that it can be greatly improved upon. I do not contend but that under House bill 16053 the cities of Minneapolis and St. Paul could get the right to use that power. However, I believe that if you incorporate into such a law the section I have called attention to, the cities and the States would have the first opportunity of refusing to lease such power, and the cities of other States would have the same opportunity. That seems to be fair and wise.

Section 11 provides for the regulation of the sale and use of the hydroelectric power that will be developed by these dams, and this regulation is turned over to the Secretary of War. What does he know about industry, commerce, and navigation? What has the Secretary of War or the War Department ever done toward the development of industry or commerce? Over $500,000,000 has been expended on the rivers of this Nation by the Federal Government under the direction of the War Department. Over $160,000,000 has been expended on the Mississippi River alone.

What commerce and industry have been built up by the War Department from such expenditure? It has opened the way for commerce and industry to follow at such time as the United States shall wake up to the need of a national system of waterway administration under right control. But the engineers of the War Department are not trained to look after industry and commerce. They are men of war, and not of peace. They are men highly trained as engineers, who know all about the engineering proposition, who can examine and pass upon a set of specifications, and can superintend the construction of a dam. But when it comes to the regulation of industry and commerce, to the operation of hydroelectric business, establishing commercial rates and standards of service and dealing with producers and consumers, or figuring what rate you and I should pay for our electric current, it is outside of their field entirely. There are other departments of our Government that are peculiarly adapted to that sort of business, and therefore I have proposed, in this amended bill that I have offered, that the Secretary of War, the Secretary of the Interior, and the Secretary of Commerce shall constitute a water-power commission to control and regulate the hydroelectric business of the country. We have got to come to that proposition. You may shift along for a little time under the Secretary of War's supervision, but he will tell you, or his engineers will tell you, that they know nothing about hydroelectric service, accounts, reports, operation, or rates. They have no means at their command by which they can ascertain scientific standards of hydroelectric service, prescribe commercial accounts and reports, regulate industry and commerce, or how to place a suitable rate. They have no means under their control by which they can tell what would be a suitable service. But have we not in the Department of Commerce just that sort of machinery? We have our Bureau of Corporations. We have our Bureau of Standards. We have our Bureau of Navigation.

My idea is that if a water-power commission of the kind suggested should be created, we could build up a system that would be wholesome and beneficial. When you undertake to delegate to one man, without the right of appeal, the vast interests which are involved in this sort of legislation, you are doing something which you know is wrong. Your own sense of right and justice and your own knowledge of the capacity of men tells you that it is wrong. Moreover, the duties involved in the granting of water-power leases, the adjustment of public complaints in regard to rates and service, and the general enforcement of the regulations of this bill, are not only executive, they are quasi-legislative and quasi-judicial, as are the functions of the Interstate Commerce Commission in regard to railway regulation; and a board of three is, for such functions, much more efficient, and far more likely to receive public support, than a one-man tribunal even if he be so exalted as the Secretary of War.

Mr. FESS. Mr. Chairman, if you make a board constituted of representatives from these three different departments, is there not danger that you will lack in unity of decision by conflicting interests in all the departments represented? Do you not think a single department of the Government would be better than a board of three departments?

Mr. SMITH of Minnesota. No; I do not. I grant that a single department, outside of all existing departments, would possibly be better for the enforcement of the purely executive provisions of the act; but, in the first place, we are not now prepared to create a new waterway and water-power cabinet department, and, in the second place, it must be admitted that quasi-legislative and quasi-judicial functions such as are herein required are better performed by a commission or bench of three men than by one-man decision and rule. Furthermore, I think it is up to us as legislators to try and find some way by which we can economize to a certain extent. It is for the sake of economy as well as efficiency that I suggest the above plan as one ready at hand to be put into immediate effective execution with the minimum of cost and the maximum of departmental efficiency. In the War Department you have only the Corps of Engineers, while in the Interior Department you have your Bureau of Water Resources, you have your Topographical Survey, and you have one other department. In the Department of Commerce you have nine bureaus, and every one of them could be brought into cooperation, so that they would bear on the regulation of hydroelectric development, use, and so forth. There would not be a waste anywhere. There would not be a duplication anywhere. If the Secretary of War is going to undertake the regulation of hydroelectric development of this country, its sale and its use, he must create a department for it, and I say if you will take on these other departments with the departments that you now have in the Government you have

sufficient machinery to enable you to carry on wisely and intelligently, perhaps not the best scheme that could be possibly proposed, but a scheme that has practical merit and far superior to the scheme that is presented in H. R. 16053 from every point of view.

Mr. ADAMSON. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from Georgia?

Mr. SMITH of Minnesota. Most assuredly.

Mr. ADAMSON. Does the gentleman desire to take from the Secretary of War and the Corps of Engineers the work of river and harbor improvements?

Mr. SMITH of Minnesota. Not at all.

Mr. ADAMSON. Then, perhaps, the gentleman has failed to discover the scheme of this bill. I will yield to the gentleman any time I consume.

Mr. SMITH of Minnesota. All right.

Mr. ADAMSON. We placed this matter in the hands of the Secretary of War, because it is a navigation project. It is not designed that a single dam shall ever be built except in aid of navigation under the provisions of this bill. As the Secretary of War and the Chief of Engineers have charge of river and harbor work, and this is river and harbor work, it goes under the same jurisdiction, to be supervised in the same way. It is so difficult to secure from Congress appropriations for the improvement of rivers and harbors, and there are so many thousands of miles of shallow steams that could be made navigable, we have been trying for 15 years to induce private capital to relieve the Government of this expense, and as the Secretary of War has charge of river and harbor work we placed conditions on consent of Congress to erect by private capital a dam in a navigable stream. Those conditions are mainly two. The gentleman has already discussed the 50-year limit. There are mainly two, aside from that. One is, they must do enough work, in the estimation of the Secretary of War, to promote navigation at that place. That secures what the Government wants. Then they must submit to regulation in the interest of the people, in order that the rates and practices may be fair. Those are the two main things.

As to the recapture, this bill makes the most perfect provision for that that has ever been devised by human ingenuity. We give two or three ways by which the Government holds control of it, and disposes of it at the end of 50 years in any way it desires to do so.

As to regulation, this bill, if the genfleman reads the entire section, provides perfectly for the regulation of rates and service, for the entire protection of the Government, the protection of the public, and promotion of navigation. Now, I know the gentleman wants to be fair. As to the wire connection, the section is entirely contrary to what the gentleman has stated, and if the gentleman will read it carefully and put it in his speech it will so appear. It denounces monopoly and does not say "a combination of wire," but it says "a connection of wire," so that when one river is low and another is high they may supply the shortage for one another, just as a merchant may supply goods to another or banks may pay checks to one another. It is as free from any possible monopoly as an angel is free from sin.

As to regulation, it is substantially identical with the regulation in the bill that the gentleman commends. If the State will not do its duty, the Secretary of War can enforce conditions and put the regulations on it. As to whether he is the right man or not may be questioned, but we fix it there because he has charge of navigation projects. It depends on who the man is that you get for Secretary of War, and if you had a board it would be made up of mortal men and as liable to err as the Secretary of War. Now, I beg the gentleman's pardon for the interruption. I recognize his fairness, and I know that he wants the best bill possible.

Mr. SMITH of Minnesota. Will the gentleman yield me 10 minutes?

Mr. ADAMSON. Yes; I will yield the gentleman 10 minutes.

Mr. SMITH of Minnesota. Mr. Chairman, the gentleman from Georgia thoroughly misapprehends the entire purpose of my argument, if he for a moment believes that I favor taking away from the Secretary of War and Chief of Engineers any of those engineering functions which they have traditionally performed throughout American history. What I object to is not that the engineering functions but that the regulation of hydroelectric industry and commerce should be exercised by the War Department.

Apparently the gentleman has forgotten the distinctive feature of his own bill. It is not dam construction, it is hydroelectric regulation. By rights the gentleman should have added to the title of his bill the line, "and for the regulation of the development, transmission, use, and sale of hydroelectric power." It is this commercial, industrial, and financial feature of the bill, with which the gentleman says that he is trying "to bait capital," that distinguishes it from former acts; and I maintain, and I believe the Members of this House feel, that such a function is foreign to the Department of War.

I have retained in my bill—H. R. 17854—the Secretary of War and Chief of Engineers for all engineering functions which they now perform, and also made the Secretary of War a member of the water-power commission, which exercises the quasi-legislative and judicial duties of the commission. But I submit that a commission to regulate industry and commerce should be composed of something more than a War Secretary; and I have therefore consolidated the official machinery of the Departments of Commerce, Interior, and War in order to cover the whole ground of a thoroughly equipped board of commerce, industry, and navigation.

Mr. Chairman, I wish to say, in reply, that I realize that all men are mortal and subject to shortcomings. But under my plan we would have three chances, and therefore I would prefer that. I realize that all men are subject to shortcomings somewhere along the line. I have not found a perfect man yet, and therefore I believe it would be wiser to have a board. I believe we could not afford to enact a law and say we have given it our best thought and best judgment when it only contains a single arbiter to pass upon such a vast amount of business and such delicate propositions as are contained in this project and no particular method provided. All you have to do under this bill is to bring the Secretary of War out, take lunch with him, and talk the situation over. Let us have public hearings. Let us not have a closed parlor session.

Now, let me read this section of the bill that provides for such regulation:

Provided, That whenever the State in which such current shall be used shall have provided by law adequate regulation for rates, charges, and service to the consumers for such electric current and such regulation shall not be unduly discriminatory or unjust against the service or charges in any other State arising from the use of the power from the same project, and such facts shall be established to the satisfaction of the Secretary of War—

And so forth.

Why, gentlemen, under this provision you place in the hands of the Secretary of War the power to pass upon every public utility commission in the United States. Not only does he pass upon it, but upon its fairness and adequacy. You also enable him to say whether your State is acting fairly. There is no limit to the power which you have placed in his hands when it comes to what the Secretary of War can do in order to protect the investor, but you have not provided any rules or regulations or specifications which will tell the Secretary of War or any other board which is to pass on the question what they ought to do when the consumer is aggrieved.

Mr. ADAMSON. I understand that the gentleman from Minnesota refers to another bill. I want to call his attention to the fact that the Secretary of the Interior has to fix the rates in that bill, and he is a mortal man, too.

Mr. SMITH of Minnesota. I have not said that I agreed in all respects with that bill.

Mr. ADAMSON. He may be the right man now, but when the next man comes along he may not be.

Mr. SMITH of Minnesota. The Secretary of the Interior is more competent to pass upon the public-domain resources and proper public service than is the Secretary of War, because the Secretary of the Interior has under his control instrumentalities which would give him the knowledge to provide for conservation of the public interests and make a fair and proper determination. The Secretary of War has nobody but the engineers who can tell about the construction of the dam, the water flow, and engineering questions.

Mr. STEVENS of Minnesota. Does the gentleman wish to impugn the intelligence, capacity, and ability of the Corps of Engineers?

Mr. SMITH of Minnesota. In their special line, I claim that we have a Corps of Engineers that is superior to any corps of engineers in all the world.

Mr. STEVENS of Minnesota. Is not this exactly in their line?

Mr. SMITH of Minnesota. No; it is not, and my colleague knows that it is not.

Mr. STEVENS of Minnesota. I know that the gentleman from Minnesota is mistaken, after an experience of 15 years in that very kind of work and on the very dam he has been speaking about.

The gentleman has been making a lot of misstatements here this afternoon, and this is one of them, and this matter should not go abroad in remarks of this kind.

Mr. SMITH of Minnesota. Mr. Chairman, I wish to say in reply to my colleague that in this discussion I have tried to be fair, and I am going to be. I am going to proceed along the line that any gentleman should follow in debate in the House, no matter what course my colleague may adopt. I can realize

that my colleague may be sincere. Because for 15 years he has been the intimate associate of the Engineering Department of this Government, and has swapped favors with that department to such an extent that he would not be human unless he would be prejudiced in their favor, I wish to say that I am not criticizing anybody, I am not impugning his motives, but I do say that I believe his associations with this body of engineers has made him believe they are capable of performing the impossible. I am only willing to admit that they are human, and capable only of performing things which the average man would perform; and when you come to give them work of a peculiar nature, of which they have no knowledge or experience, then I say that they are outside of their province and they are no better than any other class of men.

Moreover, the 15 years of work which my colleague states that he has been performing in connection with the Corps of Engineers was not the regulation of hydroelectric utilities. That function has never yet been attempted by the Secretary of War nor by any other public department in this country, except only the public-utility commissions of the States. Our Corps of Engineers have superintended the construction of dams, but they have no experience in the regulation of commerce and industry. They have no experience with the regulation of the hydroelectric industries, which in 1912, according to the Census Bureau, of the Department of Commerce, earned over $300,000,000—the very industries, Mr. Chairman, which the Bureau of Corporations, also of the Commerce Department, finds have been so largely combined into great hydroelectric "interrelationships" or "groups," popularly known as trusts, and which the authors of this bill are compelled to admit are "natural monopolies."

When, may I ask, has the Secretary of War exercised the public duty of regulating "monopoly"—the duty which the authors of this bill would place upon him? When have the Corps of Engineers been engaged in supervising the commercial operations of the hydroelectric utilities? What record is that which the gentleman says I would impugn? That record has never yet been attempted by any department of our Government. We are now planning such regulation for the first time.

Mr. ADAMSON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Minnesota. Yes.

Mr. ADAMSON. Does it not stand to reason that the Secretary of War or the Secretary of the Interior, or any other tribunal constituted by law, when a complaint of this sort came up would hear the evidence and exercise judgment and common sense on what the facts and the testimony appeared to be?

Mr. SMITH of Minnesota. Mr. Chairman, it has been my experience that it is always wise to protect your public servants. I am just as anxious to protect the Secretary of War from the unwise position that he is taking here as I am to protect my respected friend, the chairman of this committee. I know that he would protect me if he saw me attempting to commit a folly. The Secretary of War is going to have hearings only when he feels like it. He is to be the sole arbiter as to that. I say, pass a bill here that will permit the public when they are aggrieved to come before whatever body has control of this hydroelectric proposition and file their petitions and have a public hearing and a record made. Is there anything in this bill that permits any such thing? Is there anything in this bill that sets out anything like a form to be followed? Why do you not simply elect your judges and tell them to proceed without either law or procedure?

The gentleman knows, as a practitioner of long experience at the bar of his State, that one of the things that protects the rights of citizens is the mode of procedure and the practice of the court. Many a man is not known to be an able lawyer upon the substantive propositions of law, but when it comes down to a matter of practice and procedure he knows how to present the rights of his clients to the proper tribunal, and I say that there is no method provided in this bill for the presentation of the rights of the public to the tribunal, notwithstanding you have a tribunal that consists of only one man.

I wonder if the honorable gentleman whose name stands as author of this bill, or the committee in which the bill was cradled and fostered, has taken the trouble in the course of its study of this question to examine the provisions of the public utility laws of the 20 or 30 States who have undertaken the regulation of public utilities such as this bill proposes to regulate? If so, the honorable gentleman has found a most elaborate system and procedure carefully worked out down to the last detail of accounting, public reports, published tariffs, standardized service, tests of service, procedure for public complaints as to rates and service, public hearings and adjudications of grievances, appeals and rehearings, basis of returns to capital, basis of valuation for rate making, relations of public utility to consumer and to investor, and, in short, a well-rounded system of industrial and commercial regulation, for the protection alike of capital and the public consumer—none of which, Mr. Chairman, this bill makes more than a feeble and uncertain pretense of putting into law.

And yet the distinctive feature of this bill is regulation, and the regulation of the most difficult and complex brood of "natural monopolies" which exist and are rapidly multiplying in our fair land. I do not object to their existence or to their multiplication; but I do insist that when we turn over to them the great water-power resources of the American people we should do it under public regulations that are real, tangible, definite, adequate, efficient, and worthy of the best efforts of this Congress of the United States.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. STEVENS of Minnesota. Does the gentleman wish more time?

Mr. SMITH of Minnesota. I would like to have a little more time.

Mr. STEVENS of Minnesota. How much time does the gentleman desire?

Mr. SMITH of Minnesota. I would like to have five minutes.

Mr. STEVENS of Minnesota. I yield five minutes more to the gentleman.

Mr. ADAMSON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Minnesota. Yes.

Mr. ADAMSON. So far as my immediate State is concerned, I do not anticipate any Federal tribunal will have any trouble with them. My State has provision and regulation of all of these matters, but inasmuch as there are some States I understand that have not, and inasmuch as some people have fears about making regulations, we provided wisely, we thought, that the Federal Government should retain that control.

If it should be demonstrated by experience that we can devise a better tribunal to pass upon these matters, Congress is here always ready to do it. We want to get through something that will enable us to begin the construction of dams, and it is not necessary to advise my friend from Minnesota of the difference between this and the public-lands proposition. Out there there is the land. The Government owns the land, and in many places owns the beds of the streams where it has not parted with the land. This is an entirely different proposition. Ours is where we have nothing but the power to consent or refuse to allow somebody to construct a dam, and we must make arrangements and trades that will induce capital to put money into the construction of a dam, and up to this time we have not been able to do it.

Mr. SMITH of Minnesota. Mr. Chairman, I disagree to a certain extent to what the gentleman from Georgia says.

I realize that in certain cases, such as the Coosa, at No. 18, I think it is, that it may be possible that the Government will have to erect the dam. Why did we go to Alaska to build a railroad? Because private capital wanted more than we thought they ought to have and we went there to preserve and protect the natural resources. The water resources of the country can be treated in the same way.

Mr. ADAMSON. We have been hammering at the doors of Congress for 30 years to improve the Coosa River and they will not do it. We could get private capital to improve the best stream in the United States and give 900 miles of navigation through the best and most prosperous people in the world if we chose to make fair terms with private capital to put up these dams and save the Government $30,000,0000 or $40,000,000 if we were going to do it at all.

Mr. SMITH of Minnesota. My proposition is, we must not give away the rights of the people in doing that.

Mr. ADAMSON. We do not; there is not a word, not a line, not a syllable or a letter in this bill that gives away any right of the Government or the people; not a line, and has not been.

Mr. SMITH of Minnesota. Well, that is a matter of opinion——

Mr. ADAMSON. No, sir; it is a matter of fact. If the gentleman will get out of his head the old folderol that has misled people and filled the yellow journals for 15 years, he and they would understand this is a different proposition; that the Government does not own and has no right in anything but the matter of navigation.

Mr. DONOVAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DONOVAN. I would like to ask the Chairman who has the floor?

The CHAIRMAN. The gentleman from Minnesota has the floor, and he yielded to the gentleman from Georgia.

Mr. ADAMSON. I will yield the gentleman all the time I consume, and the gentleman knows that.

Mr. SMITH of Minnesota. Mr. Chairman, I am glad of these interruptions. I know the gentleman is honest about these things and honest in thrashing it out, and that is why I am giving to this subject my best thought. I have studied this matter somewhat, and I do not feel that I am going off at a tangent in asking simply one thing in reference to this proposition, and that is efficient public regulation. Now, I feel we have gone as far with this bill as we could go in enticing capital to invest in this enterprise, and I do not believe we should surrender the natural resources of this country, boots and breeches, over to capital without having some strings to them, and one of the strings you can have is efficient public regulation.

In brief, Mr. Chairman, I believe this House could well profit by a study of the message of former Gov. Hughes, of New York, now Justice of the Supreme Court of the United States, who in his message of January 2, 1907, one of the first messages to the American people on the subject of the conservation of the public hydroelectric resources said:

> In this connection it is well to consider the great value of the undeveloped water powers thus placed under State control. They should be preserved and held for the benefit of all the people and should not be surrendered to private interests. It would be difficult to exaggerate the advantages which may ultimately accrue from these great resources of power if the common right is duly safeguarded.

And again:

> The entire question of the relation of the State to its waters demands more careful attention than it has hitherto received in order that there may be an adequate scheme of just regulation for the public benefit.

Mr. Chairman, I herewith respectfully commend these words of wisdom, emanating from the mind of one of the greatest of American publicists and jurists, to all those ambitious statesmen of this House who fear lest insufficient inducement to private interest may not have been granted in this bill, or who hold that the prime object and concern of Congress in water-power legislation should be to enact provisions that will be as attractive as possible to private capital. Mr. Chairman, our paramount duty as representatives of the people is to protect the public interest and to make certain that no grants of the public resources shall go from our hands without strict scrutiny and public regulation.

NECESSITY FOR WATER-POWER COMMISSION.

The undeveloped water powers of the United States are variously estimated at from 30,000,000 horsepower to 60,000,000 horsepower. The total horsepower used to-day in all kinds of manufacturing establishments is not to exceed 30,000,000, and only 7,000,000 horsepower of this amount is water power. Therefore, at the lowest estimate only about one-sixth of the water-power possibilities of the United States are being utilized in manufacturing industries and 25,000,000 water horsepower is permitted to go to waste every year. But this does not tell the whole story of the needless waste of energy that is going on in this country to-day, and will continue to go on until the Federal Government recognizes its obligations to its people to utilize at the earliest date possible this ever-renewing power of falling water so that the coal supply of the United States, which is now being exhausted at the rate of 500,000,000 tons per annum—never again to be returned—may be reserved for the future prosperity of the country. It is estimated that the supply of anthracite coal will, at the present rate of consumption, be exhausted within the next century and that the soft-coal supply will not last more than three or four centuries. Moreover, we must have cheap power if we expect to maintain our position as the leading commercial and industrial country in the world. The invention and use of labor-saving devices have revolutionized the field of commerce and industry. On every hand human power is being supplanted by artificially controlled and regulated natural power. Man's energies are occupied in the discovery of new ways and new means of reducing the forces of nature to a more complete submission to his will. His wonderful success along this line is attested by the recent discovery and development of electric transmission which makes it possible to use the power of falling water 200 miles from the waterfall. Thus 100,000 square miles of territory may be served by hydroelectric power developed from a single waterfall as readily as the old mill at the foot of the dam was supplied a decade ago.

Certain economic conditions peculiar to the United States make it doubly necessary that the power resources of the country be utilized to the highest point of efficiency. For example: For the past 50 years a steady stream of country people has poured into our cities until to-day at least 50 per cent of the population live in our cities and villages. The farm is neglected or abandoned, and from a nation of exporters of foodstuffs we are reduced to a condition where we do not raise sufficient to supply our own market. The price of the market basket is increasing. The refusal of city dwellers to return to the farm makes it necessary to find employment for them in the cities. The mill and the factory offer the only hope. It is here that the skill and genius of the American shows to the best advantage, and if his Government will give him proper consideration he can flood the markets of the world with our manufactured products. Not only can he do it, but he must do it in order to maintain his present standard of living. However, notwithstanding his great genius and energy, the American can not cope with the foreign manufacturer unless he is given a fair opportunity to utilize the power possibilities of our rivers, and thus placed on an equal footing with his foreign competitor, whose Government has placed at his command the water-power resources of the country. Hence the country that best utilizes its water-power resources in the interest of its people will lead the world in commerce and industry.

Donald Cameron Schaefer, a leading economist, has said "water power is the cheapest as well as the most permanent source of energy in the world." "The greatest economy in the world is the development of the great waterfalls of America and the turning of their wasted energies into electricity for heat, light, and power," said a distinguished German commissioner.

Since so large a percentage of the American people must live from manufactures, it is the imperative duty of the Government to develop the water-power resources of the country, so that its people engaged in commerce and industry may have cheap light, heat, and power—three of the principal factors upon which industry and commerce are founded.

The authors of the pending bill admit the necessity of Government control of the development of water power by private capital and present this measure as an embodiment of what that control should be. The Adamson bill proposes to turn over all the vast water-power interests of the Federal Government, including the regulation of hydroelectric groups, involving hundreds of millions of dollars of capital, together with the regulation of the use and sale of hydroelectric current by hundreds of subsidiary public-service corporations, to a department which has no equipment or experience in such regulation, and which was never designed to carry on work of this character.

Hydroelectric regulation deals with the forces of industry and commerce, and it is proposed under this bill to turn this regulation over to the War Department.

The Census Bureau, of the Department of Commerce, in its bulletin of March last, shows that in 1912 there were engaged in the hydroelectric industries of the United States 5,221 central electric lighting and power stations, with a total income of $302,115,599. There were 79,335 people engaged, and the expenses, including salaries and wages, amounted to $234,419,478. There were 435,437 motors of 4,130,619 horsepower capacity served, and the output of the 5,221 stations reached 11,502,963,006 kilowatt hours. What has this hydroelectric development to do with the War Department? It is apparent to anyone who will consider the proposition at all that the War Department has nothing to do with the development, transmission, use, and sale of electric energy, except that its Corps of Engineers may be of use in supervising the purely engineering job of dam construction across streams.

Aside from the engineering phase of construction, the entire subject matter with which this bill deals is within the jurisdiction of two departments, viz: First, Department of the Interior, which has charge of the public domain, the water resources, the Reclamation Service, and the topographic survey; second, the Department of Commerce, which includes the Bureau of Corporations, the Bureau of Foreign and Domestic Commerce, the Bureau of Standards, the Bureau of the Census, the Coast and Geodetic Survey, the Bureau of Fisheries, the Bureau of Lighthouses, the Steamboat-Inspection Service, and the Bureau of Navigation. Thus we see that every one of the nine bureaus and branches of the Department of Commerce has more or less direct relation to the industry, commerce, and navigation involved in the development of our waterways and water powers and that the three branches of the Department of the Interior deal directly with the subject matter in point, while only one branch of the War Department—that of Chief of Engineers—has anything to do with the subject.

The executive branch of the Government has 10 departments that assist the President in the performance of the duties of his office. Each of these departments has its own special field of operation and deals with a particular subject. For example, the Secretary of the Treasury has charge of the national finances; the Postmaster General is the head of the Postal Service; the Secretary of Commerce is charged with the work of promoting the commerce and industry of the United States; the Secretary of War has charge of all matters relating to national defense, which includes river and harbor improvements and the prevention of obstructions to navigation.

The War Department, through its improvement of rivers and harbors and its removal of obstructions to navigation, has brought to its aid a great corps of engineers that is the peer of any like body of men in the world. These engineers are needed when it comes to plans and specifications of construction and the survey and estimate of stream capacity.

The amended bill, which I propose as a substitute for House bill 16053, utilizes to the limit all the services of the Secretary of War and Chief of Engineers which are applicable to the subject, and makes the Secretary of War one of the three members of the governing commission of water-power administration. It then adds to the administration the Secretary of the Interior, with his jurisdiction over public domain, the water resources, the Reclamation Service, and topographic survey; and the Secretary of Commerce, with his nine bureaus of industry, commerce, and navigation, which will bring to the administration of our navigable waters and water powers that particular knowledge and direct relation to the business of the country which our waterways and water-power administration in the past has so sadly needed.

It is foreign to my purpose and desire to throw any blame or shortcoming upon the great corps of able engineers of our War Department. Their knowledge and great abilities will be needed when it comes to plans and specifications of construction and the supervision of the erection of dams, locks, etc. Therefore my bill retains their services in every particular where they are applicable to the subject matter of the bill; besides, it leaves in the War Department full and unhampered control over matters that appertain to navigation as such.

The object of this legislation is to develop and regulate an industry that if properly encouraged by the Government will soon be the greatest in the United States. But the development and regulation of an industry is no part of the education and training of a War Department engineer. Besides, this bill deals with commerce—local, interstate, and foreign—and commerce is a subject radically different from providing for the national defense—the primary duty with which the Secretary of War is charged.

The result is that, while our Army engineers have planned and constructed something like $500,000,000 worth of various kinds of works and improvements on the rivers of the United States, including $160,000,000 on the Mississippi River and its tributaries, they have produced very little commerce and developed very little industry. They are not to blame for that, because commerce and industry are not within the range of their professional knowledge, experience, and jurisdiction. What I desire to accomplish through the proposed amendment of the pending bill is to make our control of navigable waters count in the commercial and industrial development of the United States, by bringing into the administration thereof those official agencies and forces of our Federal Government which deal with industry, commerce, and the development of our public domain.

The day may come when we shall create and develop a separate and distinct executive department of waterways and water powers, fully equipped to cope with the administration of our waterways and the industries, commerce, and navigation arising from and dependent thereupon. But until such time we now have in hand fully organized for all immediate practical purposes three executive departments, excellently equipped by experience, as in the necessary official machinery, to handle all the phases of such regulation and development.

There is an advantage in having a commission of three, especially in view of the large powers and varied duties to be exercised, and the further fact that these powers and duties, embracing, as they do, both the granting of water-power permits and the regulation of service and rates under such grants, involves, as it were, both quasi judicial and semilegislative functions in addition to strictly executive administration for such powers. It has been the almost uniform practice of Congress and of the legislatures of the various States to create commissions and courts of three or more members. Thus, for the regulation of common carriers and the fixing of railway rates on interstate commerce, we have an Interstate Commerce Commission of five members, and upon the subject of approval of projects for waterway improvements we have a Board of Engineers for Rivers and Harbors, consisting of five members. Other commissions which exercise quasi judicial and semilegislative functions, subject to the authority conferred and limited by Congress, are the Isthmian Canal Commission, the International Waterways Commission, the Commission to the Philippine Islands, the Board of Indian Commissioners, and the International Joint High Commission.

When we take into consideration that the maximum potential development of hydroelectric power may reach 65,000,000 horsepower and that now only 7,000,000 of that amount has thus far been developed, there is little question that a commission of three is better qualified to pass upon the approval of permits than one man, and especially when the special field of that one man is war, and not commerce, industry, and internal development. The grant and approval of this vast aggregate of water-power permits is likely to result in much competition and contest of applicants, and involve a great variety of interest. To that end the hearings should be held and the proceedings should take on the form of a legislative inquiry, and thus avoid danger of public criticism as an arbitrary one-man rule. Then again, in the enforcement of regulation of service involving valuation of property as a basis of fixing rates and passing upon charges of extortionate and discriminatory rates, public hearings will be held, which will take on the form of judicial inquiry, where the commission of the three will be far preferable and receive greater popular credence for impartial decisions than a one-man court.

Even the War Department itself in such cases commissions a board—as witness the Board of Engineers on Rivers and Harbors, the Board of Ordnance and Fortifications, and the Board of Court-Martial.

But all consider the enormous volume of business involved in such regulation. To-day, with 7,000,000 hydroelectric horsepower developed, the income from 5,221 central electric light and power stations exceeds $300,000,000 per annum. Not all of this is developed on the navigable waters of the United States, but the lion's share of it is always bound to be on such streams, because it is the volume of water that supports commerce and navigation that perforce yields the greatest hydroelectric power for commerce and industry.

In five years hydroelectric development has increased from 5,500,000 horsepower to 7,000,000 horsepower, or about one-third. A bulletin issued in March last by the Census Bureau shows the following facts: The income increased from $85,000,000 in 1902 to $302,000,000 in 1912, a growth of 352 per cent in 10 years; the kilowatt capacity of dynamos increased from 1,212,235 in 1902 to 5,134,689 in 1912, a growth of 232 per cent in 10 years; the output of central light and power stations increased from 2,507,051,115 kilowatt-hours in 1902 to 11,502,963,006 kilowatt-hours in 1912, or 358 per cent in 10 years; the horsepower capacity of stationary motors served increased from 438,005 in 1902 to 4,103,619 in 1912, a percentage growth of 843 per cent.

The enormous rate of hydroelectric expansion which has marked the decade 1902–1912 is almost certain to continue into the future until the full water-power potential maximum of the United States is serving the ever-growing population and their domestic, industrial, and commercial needs. When we take into consideration the present enormous volume of this business as already developed by the great hydroelectric groups and the relationships listed in the report of the Commissioner of Corporations and stop to note that this is less than 10 per cent of the potential maximum of our navigable rivers, and further contemplate the swift progress of this hydroelectric development, how can anyone seriously hold, or even dream for political purposes, that the practical and sensible regulation of these industrial and commercial forces is within the power of the Secretary of War? That honorable and able official certainly has duties and responsibilities sufficient to engage his energies, without undertaking the regulation of an industry which already yields $300,000,000 to the country's corporate income. The regulation of Mexico would be a bagatelle in comparison.

When Canada, Germany, France, Norway, Sweden, Switzerland, Italy, Russia, Austria-Hungary, and even Africa and India are placing their water powers under the regulation of expert commissions versed in the development of industry and commerce, with special reference to hydroelectric operation and control, what a farce for the greatest industrial nation on the earth to consider the proposition in National Congress assembled of placing its vast water-power resources under the military rule of a staff of colonels.

The reason given for so doing by the gentleman from Georgia, the sponsor of this bill, is that we have done so in the past. But it is our past experience with water powers that we are now trying to get away from. In the past a handful of water-power interests, which the report of the Commissioner of Corporations shows to be in the nature of a great water-power trust, has grasped the great majority of commercially developed water powers of the United States. In the past one great corporation, the General Electric, as shown by former Commissioner Herbert Knox Smith, has secured 50 per cent of the commercial power in 18 States. In the past $500,000,000 has been spent on our navigable rivers without producing commerce. In the past we have given away for the asking a great national resource to companies which, without regulation, are levying upon the public extortionate lighting and power rates. Even the great Keokuk Dam on the Mississippi, with 200,000 horsepower, yielded to it by grace of Congress and the Father of Waters, we find in

the report on that subject before the committee of this House, is levying upon the people of the Mississippi Valley rates stated to be higher than even the former charges for power and light obtained from coal consumption and steam power.

It is the past we are trying to correct in the legislation before this House, and in correcting our past with respect to our water-power resources and the regulation of hydroelectric industry and commerce, let us lay the foundation and equip it with the machinery to do the business right.

The first Director of the Census of the United States was the President, George Washington, himself. Beginning thereafter with John Marshall, in 1800, the census was taken for the next 40 years by the Secretary of State. There was no Secretary of the Interior until 1849 and no Secretary of Agriculture until 1889. The Department of Commerce and Labor was first created in 1903 and the Department of Labor in 1913. In fact, in the past our Federal Government has tried a good many makeshifts in handling its business, and one of them was to attach the administration of our waterways and waterpowers as a sort of appendix to the War Department. I submit that it is time that not exactly an appendicitis operation be performed, but that these great resources of our Nation, among the most valuable permanent assets of the 100,000,000 people of our country, receive at the hands of Congress that enlightened, progressive, and business-like administration which their vast and vital importance to the development and prosperity of the Nation demand.

Too long have these great resources of the people been left to the tag-end of a military department. They are worthy of an administration of their own under the auspices of men especially trained in the development of commerce, industry, and navigation and the conservation of our public domain.

Such an efficient and adequate administration Congress may develop under the substitute bill which I propose, which provides that the Secretary of War, the Secretary of the Interior, and the Secretary of Commerce shall constitute the water-power commission of the United States. Under the provisions of this amendment we still retain the Secretary of War as a member of the administrative commission and the services of the Chief of Engineers on all engineering phases of water-power development and navigation. We have the Secretary of the Interior, who is chief director of the public domain and its conservation and development, and under him we have the Geological Survey and Reclamation Service, including the topographical branch, which is invaluable to any survey of levels showing the water-power capacity of a watershed. And we have the water-resource branch with its divisions of surface waters, underground waters, and water utilization, organized under the Chief Hydrographer; and likewise we have the General Land Office, which has jurisdiction over the public lands which so often constitute the source of the headwaters of our navigable rivers.

To these two departments now associated with water-power control under different acts of Congress, with more or less conflict of jurisdiction, as shown by the bills before this House, I propose to add the third, the Department of Commerce, which deals directly with the industries, commerce companies, and data concerned in the practical utilization of our water powers. Under the Department of Commerce we get the services of the Bureau of Corporations, which deals directly with the corporations which construct and operate the dams and develop, transmit, use, and sell the power generated on our navigable waters; we secure the services of the Bureau of Standards for the regulation of services by the establishment of scientific tests and standards of operation, production, and consumption; we enlist the statistical services of the Bureau of the Census and the practical commercial experience of the Bureau of Foreign and Domestic Commerce; we secure the engineering aid of the Coast and Goedetic Survey and the further practical cooperation of the Bureau of Navigation. The combined machinery, experience, and professional training of the three departments named under the administrative head of the three department Secretaries as a water-power commission form the basis for a comparatively ideal administration of the water-power resources of the country, as related to industry, commerce, and navigation.

The commission, thus fortified by the detailed examination and judgment of trained experts in every branch of the duties to be performed, with a strong and thoroughgoing water-power law, in which Congress sets forth their powers and duties, has the opportunity and equipment which this country heretofore has ever lacked to give the people an up-to-date progressive and efficient administration of water-power resources which will bring order out of chaos, establish industry where now there is wholesale waste, protect alike the consuming public and the legitimate producer of water power, develop commerce and navigation, and conserve the great natural water resources of the United States, and that on a true and eminently practical basis of successful and sound business, founded on just rates and adequate service to the consuming public which requires light, heat, and power.

ANALYSIS OF PROPOSED BILL.

The method of handling the water-power question by the Government has developed two kinds of water power—those on the public domain and those on navigable streams. The Secretary of the Interior has jurisdiction over those on the public domain and the Secretary of War jurisdiction over those on navigable streams, and then we have a conflict of jurisdiction between the Secretary of the Interior and the Secretary of War. For example, a municipality may go to the Secretary of the Interior under this overlapping system of control and secure a lease of a water power for public purposes; and a public-service corporation may go to the Secretary of War and secure approval of a water-power project to be used for commercial purposes.

Two measures are pending before this House. One, H. R. 16673, originated with the Committee on Public Lands and is introduced by its chairman, the gentleman from Oklahoma. The measure gives the Secretary of the Interior power to issue irrevocable leases and permits of water powers on the public domain. The other, H. R. 16053, originates with the Committee on Interstate and Foreign Commerce and was introduced by its chairman, the gentleman from Georgia. It retains the power to grant permits in Congress and gives the Secretary of War power to regulate hydroelectric projects. The amended bill, which I offer as a substitute for the bill under consideration, to wit, H. R. 16053, overcomes the danger of such conflict of jurisdiction by making both the Secretary of War and the Secretary of the Interior members of the water-power commission. This is all the more necessary since the Supreme Court has decided that the watershed of a river having both navigable and non-navigable portions, as all Federal streams have, should be considered a unit. Hence the recent construction of the law as to water power makes it imperative that Congress provide an executive control for these waterways that will be a unit.

The amended bill follows:

A bill (H. R. 17854) to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910, and to create a water-power commission for the regulation of such dams and the power and electric current generated thereby.

Be it enacted, etc., That the act entitled "An act to regulate the construction of dams across navigable waters," approved June 23, 1910, be, and the same is hereby, amended to read as follows:

"SECTION 1. That the Secretary of War, the Secretary of the Interior, and the Secretary of Commerce shall constitute the water-power commission of the United States and hereby are authorized and required to execute and enforce the provisions of this act. The commission is hereby authorized and empowered to supervise and regulate the development, generation, transmission, sale, and use of hydroelectric power developed under any grant or lease hitherto given by Congress, or any grant, lease, or permit issued under the provisions of this act, for the construction and use of dams across the navigable waters of the United States.

"SEC. 2. That the consent of Congress is hereby given to any State, municipal subdivision thereof, or to any industrial or public-service corporation as ociation, or agency organized under and subject to the laws of such State, after obtaining the permit of the commission as hereinafter provided, to construct, maintain, and operate a dam or dams and accessory works for water power or other purposes across or in any of the navigable waters of the United States; and such grantee and such permit shall at all times be subject to the provisions of this act, and also subject to such conditions as the commission under the provisions hereof shall make a part of such permit.

"SEC. 3. As between contesting applicants for a permit hereunder, the commission shall have due regard to the use and purpose for which such permit is required, priority of purpose and of benefits conferred by such permit and project to rank in the following order:

"First. Benefits to navigation and conservation of water resources.

"Second. Public uses of the State, the municipal subdivisions thereof, and public institutions.

"Third. Industrial use for agricultural, mining, and manufacturing industries.

"Fourth. Commercial power for sale, barter, and exchange, and for use by public-service corporations.

"SEC. 4. That the navigable waters of the United States subject to the provisions of this act are declared to be, and are, the streams, lakes, harbors, and connecting waterways which Congress heretofore has declared or may hereafter declare to be navigable waters or possess navigable capacity.

"SEC. 5. That the commission is hereby authorized and empowered, under such terms, conditions, and general regulations as it may prescribe, consistent with the provisions of this act, to grant a permit to any State, municipal subdivision thereof, or persons organized under the laws thereof, as provided in section 2 hereof, for a period of not longer than 50 years, to construct, maintain, and operate dams, water conduits, reservoirs, power houses, transmission lines, and other works necessary and convenient to the development, generation, transmission, and utilization of hydroelectric power, which leases shall be irrevocable except as herein provided, but which may be declared null and void upon breach of any of their terms.

"SEC. 6. That when such permit granted by the commission to such grantee to construct and maintain a dam for water power or other purpose across or in any of the navigable waters of the United States, such dam shall not be built or commenced until the plans and specifications for such dam and all accessory works, together with such draw-

ings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of War and the Chief of Engineers for their approval, nor until they shall have approved such plans and specifications and the location of such dam and accessory works; and after such approval it shall not be lawful to deviate from such plans or specifications either before or after completion of the structure unless the modification of such plans or specifications has previously been submitted to and received the approval of the Chief of Engineers and of the Secretary of War.

"SEC. 7. That as a part of such permit such conditions and stipulations may be imposed as the commission may deem necessary to protect the present and future interests of the United States, which may include the condition that the persons constructing or mainaining such dam shall construct, maintain, and operate in connection therewith, without expense to the United States, a lock or locks, booms, sluices, or any other structure or structures which the Chief of Engineers or the commission then may deem necessary in the interests of navigation, in accordance with plans made a part of such approval; and also that in case such facilities of navigation shall not be made a part of such original approval and construction, whenever the commission shall deem such facilities necessary, the persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches, and shall grant to the United States free water power or power generated from water power for building and operating such constructions, and in such original approval, at the discretion of the commission, may be required to maintain and operate such lock without expense to the United States.

"SEC. 8. That as a part of said permit the commission shall require that the plans, specifications, and location for any dam shall be such as shall be best adapted to a comprehensive plan for the improvement of the waterway in question for the uses of navigation and for the full development of its water power and for other beneficial public purposes, and best adapted to conserve and utilize, in the interests of navigation and water-power development, the water resources of the region.

"SEC. 9. That as a part of the conditions and stipulations such permit shall provide—

"(a) For reimbursement to the United States of all expenses incurred by the United States with reference to the project, including the cost of any investigation necessary for the approval of the plans as heretofore provided, and for such supervision of construction as may be necessary in the interest of the United States.

"(b) For the payment to the United States of reasonable charges for the benefits which may accrue to such project through the construction, operation, and maintenance by the United States of headwater improvements, including storage reservoirs, on any such stream, such charges to be fixed from time to time by the commission and to be based upon a reasonable compensation equitably apportioned among the grantee and others similarly situated upon the same stream receiving benefits by reason of increase of flow past their water-power structures artificially caused by such headwater improvements, the total charges to all such beneficiaries from any such headwater improvement not to exceed in any one year an amount equal to 5 per cent of the total investment cost, in addition to the necessary annual expense of the operation of such headwater improvement.

"(c) That in the construction, maintenance, and operation of such dam and accessory works there may be occupied and used such lands of the United States as may be necessary therefor, and in consideration thereof the owner of such dam shall pay to the United States such charges, not to exceed an annual payment of 5 per cent of the fair value of such lands, as may be fixed by the commission, and in fixing such charges consideration shall be taken of the benefits accruing thereby to the interests of navigation as well as to the business of such grantee.

"(d) For the payment or securing the payment to the United States of such sums and in such manner as the commission may deem reasonable and just substantially to restore conditions upon such stream as to navigability as existing at the time of such approval, whenever the commission shall determine that navigation would be injured by reason of the construction, maintenance, and operation of such dam and its accessory works.

"SEC. 10. That the operation of navigation facilities which shall be constructed as a part of or in connection with any such dam, whether at the expense of such grantee or of the United States, shall at all times be subject to such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by any such dam, as shall be made by the Secretary of War and Chief of Engineers, and in the use and operation of such navigation facilities the interests of navigation shall be paramount to the uses of such dam by such grantee for power purposes. Such rules and regulations may include the maintenance and operation by such grantee, at its own expense, of such lights and other signals as may be directed by the Secretary of War and Chief of Engineers and such fishways as shall be prescribed by the Secretary of Commerce, and for failure to comply with any such rule or regulation such grantee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than $500 for each month's default, in addition to other penalties herein prescribed or provided by law.

"SEC. 11. That the persons constructing, maintaining, or operating any dam or appurtenant or accessory works, in accordance with the provisions of this act, shall be liable for any damage that may be inflicted thereby upon private property, either by overflow or otherwise.

"SEC. 12. That any grantee who shall fail or refuse to comply with the lawful order of the commission, made in accordance with the provisions of this act, shall be deemed guilty of a misdeameanor, and on conviction thereof shall be punished by a fine not exceeding $1,000, and every month such grantee shall remain in default shall be deemed a new offense and subject such grantee to additional penalties therefor; and in addition to said penalties the Attorney General may, on request of the commission, institute proper proceedings in the district court of the United States in the district in which such structure or any of its accessory works may, in whole or in part, exist, for the purpose of having such violation stopped by injunction, mandamus, or other process; and any such district court shall have jurisdiction over all such proceedings and shall have the power to make and enforce all writs, orders, and decrees necessary to compel the compliance with the requirements of this act and the lawful orders of the commission and the performance of any condition or stipulation imposed under the provisions of this act; and if the unlawful maintenance and operation are shown to be such as shall require a revocation of all rights and privileges held under authority of this act, the court may decree such revocation. In case of such a decree, the court may wind up the business of such grantee conducted under the rights in question, and may decree the sale of the dam and all appurtenant property constructed or acquired under authority of this act, and may declare such dam and accessory works to be an unreasonable obstruction to navigation and cause their removal at the expense of the grantee owning or controlling the same, except when the United States has been previously reimbursed for such removal, or may provide for the sale of the dam and all accessory and appurtenant works constructed under authority of this act for the further development of water power, and may make and enforce such other and further orders and decrees as equity demands; and in case of such a sale for the further development of water power the vendee shall take the rights and privileges and shall perform the duties which belonged to the previous grantee, and shall assume such outstanding obligations and liabilities arising out of the maintenance and operation of said dam and accessory works for power purposes as the court may deem equitable in the premises.

"SEC. 13. That no property or project installed and operated under the provisions or benefits of this act shall be assigned or transferred except upon the written consent and under conditions specified by the commission, except by trust deed or mortgage issued for the purpose of financing the business of such owner, and any successor or assign of such property or project, whether by voluntary transfer, judicial sale, or foreclosure sale or otherwise, shall be subject to all the conditions of the approval under which such rights are held, and also subject to all the provisions and conditions of this act to the same extent as though such successor or assign were the original owner hereunder.

"SEC. 14. That the rights herein granted shall continue for a period of not longer than 50 years from and after the date of the completion of the structure described in the original approval, and after the expiration of said period such rights shall continue until compensation has been made to said grantee for the fair value of its property, as hereinafter provided.

"SEC. 15. That at any time after the expiration of said period the commission may terminate the rights hereby granted upon giving to the owners thereof one year's notice in writing of such termination, and upon the taking over by the United States, or by any person authorized by the commission, of all of the property dependent in whole or in part for its usefulness upon the rights hereby granted, which shall include all necessary and appurtenant property created or acquired and valuable or serviceable in the distribution of water, or in the generation, transmission, and distribution of power, and all other property the value and usefulness of which would be destroyed or seriously impaired by such termination, and upon paying the fair value of said property together with the cost to the grantee of the lock or locks or other aids to navigation and all other capital expenditures required by the United States and assuming all contracts entered into prior to the receipt by it of said notice of termination which have the approval of the duly constituted public authority having jurisdiction thereof, or which were entered into in good faith and at a reasonable rate, in view of all the circumstances existing at the time such contracts were made. The fair value of said property and the reasonableness and good faith of such contracts shall be determined by agreement between the commission and the owners of such property, and in the event of their failure to agree, then by proceedings instituted by the United States, or by any person authorized by Congress, in the district court of the United States within which any portion of such dam may be located. In the determination of the value of said property upon the termination of said grant as above provided no value shall be claimed by or allowed for the consent hereby granted, nor for good will, profit in pending contracts, nor other conditions of current or prospective business, and it is further provided that lands, rights of way, and interests therein, shall be valued on the basis of actual cost.

"SEC. 16. That all charges, rates, and service by any grantee or lessee hereunder, or connecting company engaged in the transmission and sale of power and electric current generated by any project subject to the provisions of this act, shall be reasonable, adequate, without discrimination, and subject to the regulations of the commission. To enforce such just and reasonable and nondiscriminatory charges and secure adequate and efficient service to consumers, the commission is hereby authorized and empowered to prescribe and examine reports and systems of account, books, and other records, establish standards and make tests of service, control the issuance of stocks and bonds by corporations engaged in the generation, transmission, or sale of such hydroelectric product, and require them to submit statements of all costs of property, production, distribution, sale, and use of product, subject to such grant or lease and connected with such project, furnishing such information upon oath or by witness or in such form and upon such blanks as the commission may order and require; and on complaint of any State, municipality, or consumers affected thereby, and full hearing thereon, the commission is empowered to determine and prescribe the maximum rates to be charged, based on fair and reasonable returns on the valuation of the property and cost of operation, and ascertain and order the requirements of service to be rendered; and in case of any violation of such orders of the commission, or the refusal of such grantee or lessee to give the commission and its agents full access to its property and records, the provisions of this act relative to forfeiture and failure to comply shall apply. It is herewith provided, however:

"(a) That when a State in which such water power and electric current is used shall notify the commission of the passage of laws and the perfecting of administration to effectively provide for such regulation of rates, charges, and service within such State and its municipal subdivisions, the regulations of the commission shall not apply to local and intrastate business therein.

"(b) That when the power generated by such project enters both interstate and intrastate commerce, the commission is hereby authorized to join with any State in which such power is used in effecting such joint and interlocking system of Federal and State regulation as in its judgment shall most effectively promote the general public interest and carry out the purposes of this act.

"(c) That in such valuation for rate-making purposes of the property operated under such grant there may be considered by the commission any lock or other aid to navigation, including all capital expenditures required of the grantee by the United States, but no value shall be allowed for the good will or franchise value of the lease or permit hereby or heretofore granted.

"SEC. 17. That the grantee shall commence the construction of the dam and accessory works within one year from the date of the approval herein provided, and shall thereafter, in good faith and with due diligence, prosecute such construction, and shall, within the further term of three years, complete and put in commercial operation such part of the ultimate development as the commission shall deem necessary to supply the reasonable needs of the then available market, and shall, from time to time thereafter, construct such portion of the balance of such ultimate development as said commission may direct and within the time specified by said commission so as to supply adequately the reasonable market demands until such ultimate development shall be completed; and extensions of the periods herein specified,

not to exceed two years, may be granted by the commission, on recommendation of the Chief of Engineers, when, in his judgment, the public interest will be promoted thereby. In case the grantee shall not commence actual construction within the time herein prescribed, or as extended by the commission, then the authority as to such grantee shall terminate, and in case any dam and accessory works be not completed within the time herein specified or extended as herein provided, then the Attorney General, upon the request of the commission, shall institute proper proceedings in the proper district court of the United States for the revocation of said authority, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section 13 of this act.

"SEC. 18. That the commission may lease to any applicant embraced in section 2 hereof, who has complied with the laws of the State in which the dam is constructed or to be constructed by the United States, the right to develop power from the surplus water over and above that required for navigation at any navigation dam now or hereafter constructed, either with or without contribution by the applicant, and owned by the United States, and on such terms as may be deemed by the commission for the best interests of the United States, and in awarding such lease preference shall be given to the applicant whose plans are deemed by the commission best adapted to conserve the public interest as provided in section 3 hereof, and all such leases and the parties thereto and the terms and conditions thereof shall be subject to the control and regulations of the commission under the general provisions of this act.

"SEC. 19. That no works constructed, maintained, and operated under the provisions of this act shall be owned, trusteed, or controlled by any device or in any manner so that they may form a part of, or in any manner effect, a combination in the form of an unlawful trust or form the subject of an unlawful contract or conspiracy to limit the output of electric energy or in restraint of the generation, sale, or distribution of electric energy, or the exercises of any other business contemplated: *Provided, however,* That it shall be lawful under the approval and regulations of the commission for different grantees to exchange and interchange currents to enable any grantee to secure assistance to carry on the business and supply his customers, accounting therefor and paying therefor under regulations to be prescribed by the commission.

"In no case shall such an arrangement be permitted to raise the price, render unjust or unfair any practice, work, or discrimination, or operate in restraint of trade.

"SEC. 20. That the word 'persons' as used in this act shall be construed to import both the singular and the plural, as the case demands, and shall include corporations, companies, and associations, or other grantees. The word 'dam' as used in this act shall be construed to import both the singular and plural, as the case demands.

"SEC. 21. That all the provisions of this act for regulating the construction and use of dams and the transmission, sale, and use of power developed thereby shall apply alike to all existing enterprises in operation or authorized, as well as to new projects to which the consent of the commission may hereafter be granted. It is likewise provided that holders of previous authorizations are entitled to receive on application to the commission new permits subject to the provisions of this act and subject further to such terms and conditions as the commission shall deem just and reasonable in the premises and for the best protection of the public interests.

"SEC. 22. For carrying out the provisions of this act the commission shall have authority to appoint a secretary and employ such experts, assistants, and other employees as it may find necessary to the proper performance of its duties, and provide for the compensation and expenses of the same and the necessary office supplies from such sum as shall be provided by law."

Before taking up an analysis of my bill I wish to say that in drafting H. R. 17854 I have profited by a number of provisions that seemed wise, wholesome, practical, and for the safeguarding of the public interests which I note in the public-domain bill. Likewise, in drafting the section which provides for the regulation of hydroelectric service and also in the section which covered the powers and duties of the water-power commission, I have followed, in the main, similar provisions found in the interstate-commerce act. Moreover, I have profited by the Canadian, German, French, and Swiss water-power acts, especially the new acts of 1909 and later, and also from the official suggestions of Government experts connected with the Departments of War, Interior, and Commerce and with the Interstate Commerce Commission.

To summarize:

Section 1 creates a water-power commission of the United States, consisting of the Secretary of War, the Secretary of the Interior, and the Secretary of Commerce, to enforce the act and regulate hydroelectric development, generation, transmission, sale, and use by and from dams across navigable waters.

Section 2 specifies and restricts the class of grantees to which permits may issue, protecting against indiscriminate grants to irresponsible parties and limiting such permits to States, municipalities, or an industry or public-service corporation, association, or agency organized under and subject to the laws of such State where the project is located.

Section 3 provides for the contingency of contesting applications for grants of and determines the issue on the basis of priority of purpose and public benefit from the use. The section follows the Adamson bill in naming as the first ground, or priority of benefits, navigation and protection of water resources, because the power of Congress in the premises is derived from its control of navigation. This section also follows the Ferris bill in naming the public use as the next in priority. Direct industrial use by agricultural, mining, and manufacturing industries follows next in order, because these industries should not be compelled to go to the middleman in the shape of a public-service corporation in order to develop industry from public power. Commercial power for sale, barter, and exchange, and for use by public-service corporations is next in order and ranks fourth and last. While this last class of applications will be the most numerous and have the largest capital backing, their demands should be held subordinate to navigation, State and municipal public use, and industries; otherwise the enactment of the bill into law would lead to the ultimate and irrevocable establishment of the very danger that we are trying by this legislation to prevent and combat, namely, the monopolization of our hydroelectric resources by large commercial forces, thereby compelling the people of the United States who own the streams and water powers to submit to the excessive charges of middlemen in order to get access to and benefit from their own public resources in the earth and its waters. All the new water-power acts of progressive countries and States in America and Europe provide public safeguards against such danger of monopoly, and we of all countries must guard against such commercial aggrandizement.

Section 4 defines navigable waters over which the commission has jurisdiction as those which Congress has declared and may declare navigable. This settles the controversy raised between the Committee on the Public Lands and the Interstate Commerce Committee in the debate on the Adamson bill the other day and in connection with the Supreme Court decisions referred to, to determine the boundary of the water-power commission's jurisdiction as nearly as it is practicably possible.

Section 5 marks a new departure in regard to the issue of water-power permits on navigable streams. It places them on the same basis as water-power permits on the public domain, so far as being issued by the administrative interest of the legislative branch of the Government. Besides, whereas public-domain permits on navigable streams under this bill are issued by the Secretary of the Interior, water-power permits on navigable streams under this bill are issued by the commission. We know from experience that a special act of Congress is a failure. Special legislation on such subjects has never worked satisfactorily either in State or Nation. In my own State the people amended the constitution several years ago so as to prohibit special legislation. It is impossible for a large legislative body made up of members from every section of the Union to possess accurate knowledge sufficient to intelligently pass upon each application. Besides, the custom of congressional courtesy has arisen in such matters, and Members having special bills accepting the statements of another Member with a like bill, which gives rise to a condition of logrolling, which is demoralizing to anything like a businesslike and scientific administration of the public business and the conservation of the natural resources. In this grant of permit-issuing power to the water-power commission I have followed the main provision of the Ferris bill and the Department of the Interior act in its grant of power to issue leases to the Secretary of the Interior. This act has been tried and thoroughly tested and proven to be a wise measure both for conservation and development. As stated in the debate by the gentleman from Oklahoma, the act administered by the Secretary of the Interior has developed more water power than all the congressional acts the War Department has granted for several years. The addition of the Secretary of War and the Secretary of Commerce should strengthen the measure, as it will bring into the discussion of such grants the two departments directly concerned with navigable waters and commerce, and therefore cover the whole subject.

The above five sections constitute the most distinctive sections of the substitute bill. In brief, they create a water-power commission, specify and restrict the class of grants, define the extent of the commission's jurisdiction over navigable streams, set up a basis for priority of purpose, public use and benefit to govern the issuing of permits, clothes the commission with power to issue permits and regulate the projects built and operating, and surround both the commission and the grantees with legal restrictions to issue on the one hand, the grantee in the possession of an irrevocable lease of not longer than 50 years, so long as he abides by the lawful conditions thereof; and on the other hand, the public with the development of its water powers under proper legal safeguards.

The above five sections added to the present law, approved June 25, 1910, may indeed constitute a well-developed basis for water-power administration and development.

But I am not unmindful of the able and efficient work of the Interstate and Foreign Commerce Committee of this House in taking testimony from water-power expert authorities and drafting a bill to meet the wishes of business men that have been successful in promoting, financing, organizing, and operating hydroelectric enterprises; and I appreciate the force of the practical view of the chairman of that committee, the gentleman

from Georgia, when in his speech on June 30, explaining House bill 16053 to this House, he said:

The committee bill, it is believed, will invite and attract capital to construct dams in the navigable streams of the country and improve the navigation of these streams and develop water power at the same time. At this time there is not a single dam under construction in navigable waters by private capital. If the House will pass the bill just as the committee has reported it, within a year's time it is believed that the construction of dams in the navigable rivers of the country by private capital will begin and continue. It is true that there is no market for the power that will be developed at many of these dams, but markets will be created at or near the dam sites for manufacturing air fertilizers and other electric-furnace products. If the bill is passed, hydroelectric developments that have been going to Canada and Europe and are now going to these countries will stop and the developments will, as they should, be maintained for the navigable streams of our own country.

The distinguished chairman of the Interstate and Foreign Commerce Committee reenforced this statement with the testimony of such leading hydroelectric managers and promoters as J. W. Worthington, of Alabama, Hugh L. Cooper, the owner and builder of the Keokuk Dam, and such other financial and hydroelectric authorities as Harris & Son, Forbes & Co., Hodenpyl, Hardy & Co., E. H. Rollins & Sons, Lee, Higginson & Co., and Esterbrook & Co., the testimony of all of whom is published in the hearings had before the gentleman's committee and supported the general tenor of the recommendation of that committee.

I appreciate the force of the testimony of Mr. Cooper, who gave the committee a list of 56 American and European banking houses that refused to finance the Keokuk project under existing grants and conditions. Likewise, I took note of the testimony of Mr. Worthington, to the effect that 19 hydroelectric companies, controlling 506,500 horsepower of water projects, have been through receiverships or proved bad investments. I note the point made by the gentleman from Georgia, that the ultimate development in the State of Georgia will be 250,000 horsepower, that on the Chattahoochee the development will reach 300,000 horsepower, and that on the Coosa River there is a possible development of 300,000 horsepower. I also appreciate the force of the gentleman's statement that—

Twenty-three authorizations out of 25 have not moved a peg under the 1906 act, and that although in the past we have granted 95 authorizations to build dams for the improvement of navigation through the temptation and incentive of private gain to the investor we have only succeeded in seeing about 13 constructed and put in operation.

In short, Mr. Speaker, as stated by the chairman of the committee, "capital is a very old bird" and has been hard to bait into the trap, but the committee announces that it has found "bait" that will lead the quarry into the trap. They have made the proposition sufficiently attractive to capital, and they have the testimony of capital to sustain that.

"So we introduced this bill," says the chairman, the gentleman from Georgia, "and reported it, and I believe it will be a great blessing to the country if passed." Among these blessings the gentleman unfolds to the people on the Coosa and Chattahoochee how private capital thus attracted will "open up all this navigation and at the same time furnish the people light and the cleanest, best, and cheapest fuel, electric force enough to manufacture not only fertilizer but every other conceivable thing that the genius of the country could think of, and make a network of trolley lines all over the fair country."

So, gentlemen of the House, after providing in the above five sections for an efficient administrative commission to execute the provisions of this act and define their duties and jurisdiction and surround the same with proper safeguards, I propose to embody in my amended bill substantially all the entire body of the bill drafted and reported by the Committee on Interstate and Foreign Commerce, in order that the provisions on which the committee relies for promoting such an era of hydroelectric development and prosperity as that pictured by its chairman may have full and untrammeled power to see the light of day. The committee bill, whether intended so or not, is nothing more or less than a make-believe attempt to get away from the old doctrine that was so universally accepted in the past—that restriction imposed upon the right to make assault upon nature's storehouses was a restriction and an abridgment of human liberty, and therefore hostile to the principle of free government. The committee bill is ingenious in this respect. It purports to supervise the development and use of hydroelectric power, one of the greatest natural resources known to man, whereas in truth and in fact it only permits private capital to make assault under the guise of Government regulation upon this boundless and inexhaustible source of the Nation's wealth.

I am anxious to see this storehouse unlocked to the activities of the great captains of industry, but under such terms and conditions as will redound to the benefit of the public and not to enrich a few hydroelectric groups that have already fastened their tentacles upon this industry.

To resume analysis of the amended bill:

We are reminded by the gentleman from Oklahoma, chairman of the public-domain committee, that House bill 16053 apparently divests the Secretary of the Interior of jurisdiction over water power on public lands and has a few other dangerous points in matters of detail, which should be amended before the bill can pass the House. Therefore, in my substitute amendment, I have attempted to meet such contingencies while following the general provisions of House bill 16053.

Section 6, after the opening words, which refer to the permit as issuing by the commission, instead of being granted by Congress, is a recapitulation of section 1 of House bill 16053, in which approval of plans and specifications is left wholly, as in the original bill and present law, in the hands of the Secretary of War and Chief of Engineers.

Section 7, which governs the construction of locks, booms, sluices, and other works required of the grantee for the protection of navigation, is the same as in section 2 of House bill 16053, except the regulation is in the hands of the commission and Chief of Engineers instead of in the hands of the latter and the Secretary of War.

Section 8, which provides that the project shall adapt itself to a comprehensive policy of water improvement, is the same as section 3 of the pending bill, except that the commission controls instead of the Secretary of War and the Chief of Engineers.

Section 9, with its four subdivisions, specifying the conditions of construction, maintenance, and operation of dams, is taken over bodily.

Section 10 leaves the operation of navigation facilities in connection with the dam, including the level of the pool, lights, and signals, under the supervision of the War Department, as in the original bill.

Section 11, which provides that the grantee is liable to damages, is the same as under the existing bill.

Section 12, the penalty and forfeiture clause, which provides for legal process by injunction, mandamus, and fine, and conditions of property for violation of the act, is unchanged.

Section 13, governing the transfer and assignment of property, is unchanged, except the written consent of the commission is substituted for that of the Secretary of War.

Section 14 of the amended bill differs from section 9 of the original in that the period of the grant, instead of being a uniform and strict 50-year grant in all cases, is arranged to read "a period of not longer than 50 years." This gives the commission latitude to adjust the term of the grant to suit the condition. While a public-service corporation might want a flat 50-year grant, a State institution or municipality might want a shorter term, as, indeed, a mine or mill might contemplate a use for materially less than a 50-year period. Then, again, in renewing a partially expired permit under the provisions of this act it might be against public policy to give a company whose term had only five years to run the same 50-year period in a new permit that another received who was entitled to several times five years under its original grant. Furthermore, as this bill aims to effect cooperation of Federal and State regulation in the case of projects which are both interstate and local in the extent of the commission to effect such desired result, it should have the latitude to adjust its arrangements to harmonize with the State law. A State water-power grant varies from 20 to 40 years. In a number of new State water-power acts, however, whatever term is secured by the grantee, whether 50 years or less, he knows the term before he undertakes the project. The term is irrevocable thereafter, except his own violation of the law or terms of the permit, so that capital is on just as secure a basis as under the original bill. Experts who lay stress on this 50-year term of the grant are careful not to allude to European provisions on the subject, where successful hydroelectric projects are being financed at this time on a 30-year grant in some cases and for periods varying from 25 to 50 years, according to conditions. Experience shows that where a company gives the public satisfactory service and reasonable rates and attempts no extortion or evasion of the law there is little disposition to refuse a renewal of its permit at the expiration of the original term. An unduly long term, on the other hand, is a premium on high rates, indifferent service, and autocratic treatment of the public and its lawful authorities.

Section 15 provides, in the main, the text of section 10 in the original bill. It deals with the expiration of the term of the grant and the process to be followed in case the Government takes over the property. The principal difference is, first, that the amended draft substitutes the commission for the Secretary of War in making the adjustment; and, second, that in the event of the purchase of the property by the Government that the public settles for the land and the right of way on the basis of the original cost, instead of on the basis of released valuation after population of the surrounding country has added a large unearned increment to land values. In this the amended bill

follows the public-domain bill, reported by the Committee on the Public Lands.

Section 16, which covers the vital and far-reaching subject of regulation of rates, charges, and service of companies engaged in hydroelectric development, transmission, sale, and use, is a complete redraft of section 11 of the original bill, besides being far more complete and detailed in its provisions, attempts to take that section out of its present condition of uncertainty and mystery. In shaping the revised section the interstate-commerce act for the regulation of common carriers is followed in main outline. The water-power commission is given regulation of hydroelectric service and rates on practically the same basis as the Interstate Commerce Commission over railways, telephones, telegraphs, and express companies' rates and service. The bill, however, while denoting the general terms of control, including authority to prescribe accounts, reports, maximum rates, and service standards, with full access to property and records to ascertain cost units and otherwise, does not attempt the minutia of detail contained in the interstate-commerce act, which does not appear necessary, but the main skeleton of procedure is clearly denoted in such manner as to give the commission full authority to make regulation effective in the public interest. Regulation embraces not only new projects but all existing projects, so that under the bureaus and departments of the Secretary of War, the Secretary of the Interior, and the Secretary of Commerce it is possible for the Federal Government to enforce upon the hydroelectric service of the country that salutary and systematic supervision that the country has secured over railroad rates and service.

The cooperation of the State is fully recognized in cases of local and intrastate electric service, and where the electric current from the water-power projects, as in a number of cases, is both intrastate and interstate commerce the commission is authorized to arrange with the State or States affected a joint and interlocking Federal and State system of regulation. Thus, instead of conflict between Federal and State jurisdiction, with resulting "twilight zones" of no control or popular prejudice against Federal control, there will be a spirit of cooperation and mutual helpfulness in which the Federal Government comes to the aid of the people of the State, where otherwise they would be powerless to remedy the situation and cope with the interstate-commerce interests. Provision is made for complaint by the State, its municipalities, and consumers. Public hearings are held and violations are covered by the general penalty and forfeiture provisions of the act. However, in fixing the property valuation of the grantee as a basis for rate making, no good will or franchise value of lease or permit is allowed.

Section 17 governs the progress of the construction of the works in accordance with the original bill.

Section 18 governs the lease of dams built by the Government, according to the provisions of the original, except that in cases of contesting applications for the lease the priority rule laid down in section 3 of the amended bill applies, namely, navigation, public use, and industrial use take precedence over power for commercial sale.

Section 19, the antitrust section, is similar in general outline to the original bill except in two vital particulars: Exchange of current between two different grantees is allowed, subject not only to approval but to regulations laid down by the water-power commission; and, second, the obscure and miscellaneous to grantees to assist one another whenever necessary as given in section 15 of the original bill is omitted. This avoids the danger of giving the hydroelectric group, as the General Electric aggregation, general immunity from the antitrust laws.

Section 20 covers the ground of section 16 of the original act, with an immaterial addition which better fits the amended form. Sections 13 and 17 of the original bill are omitted and a substitute is offered for the latter. Section 13 of the original bill in its latest form contains what appears to be a woodchuck. On the face of it the section reserves the right of Congress to amend or repeal the act, but the ulterior meaning is doubtless the opposite and the force of it may be to give the grantees a contract which stops Congress from the exercise of its constitutional power to amend its own acts of regulation. The section begins as follows:

SEC. 13. That the right to alter, amend, or repeal this act is hereby expressly reserved as to any and all dams which may be authorized in accordance with the provisions of this act *wherever Congress determines that the provisions of this act have been violated.*

Evidently the legal construction to be placed on this section, in the light of the clause italicized is that unless Congress determines that the terms of the grant have been violated—and the grantee can well afford to avoid that contingency—Congress can not exercise its right to alter, amend, or repeal this act of public regulation without liability being incurred by the Government for violation of vested rights. No stipulation of this kind should go into a general regulation act.

Section 21 is a complete revision of section 17 and avoids two dangers: First, a wholesale repeal of all acts of Congress embracing former authorizations and grants; and, second, a wholesale reissue of new 50-year grants. Regulation of construction, transmission, sale, and use of hydroelectric plants and products is applied to all projects present and future; but instead of wholesale repeal of existing grants and reissue thereof for 50-year terms, holders of previous authorizations are given the opportunity to recharter under the new act under conditions which the commission may deem just in the premises.

If the old grant is near expiration, the commission will have a chance to issue a new short-term permit that would be fair to the company and to the public, and if the grantee has scarcely started on the term of the old grant, he may receive a new long-term grant that will be just under the conditions. If the outstanding contracts and obligations of the company are such that the repeal of its old charter would be unwise, it may still operate under the regulations of the commission as to accounts, reports, rates, and standards of service while retaining its old charter. In short, the redraft of section 17 in section 21 hereof gives the water-power commission complete and elastic administrative authority to adjust each situation on a basis that is at once practical from the viewpoint of business, and at the same time fully protects the interests of the Government and the general public.

The final section, 22, authorizes the commission to appoint a secretary and other needed help, subject to such appropriations as may be provided by law.

The amended bill, as a whole, combines, I believe, the best provisions of the pending bill, while at the same time utilizing the best suggestions contained in the Public Lands Committee bill. It therefore combines the best ideas of the Secretary of the Interior and his experts with those of the Secretary of War and his advisers. It then proceeds to join the forces of the two administrative departments for carrying out the provisions of the bill, and adds the Department of Commerce, with all its valuable machinery, to complete the program. The bill also provides for the best that France, Germany, Switzerland, and Canada, where water-power administration has proven to be a practical success, has to offer, together with much that experts have laid before the two committees of this House on the subject of water-power development and regulation.

Incidentally, moreover, the amended bill provides for a peaceful settlement of the differences between the committee and Members who stand for water-power control by the Secretary of War and those who stand for water-power control by the Secretary of the Interior. Mediation is provided by a joint commission of three. As stated before, the Supreme Court of the United States apparently requires some such joint control in order to bring about effective control by Congress over the water-power situation. In the Rio Grande case the court stopped the construction of a dam on the nonnavigable portion of the Rio Grande in New Mexico because it affected navigation on the navigable portion of the river on the international boundary. In this and the Chandler-Dunbar case, affecting the St. Marys River, the court took the advanced position that control of Congress reached the entire stream and watershed to its ultimate source and should be considered as a unit. This merges the jurisdiction of the Secretary of the Interior over waterways and public lands into the same control as that of the Secretary of War over navigable waters, and I submit the proposition to this House that this means, both in law and logic, that if Congress desires adequate and effective administration over its vast water-power resources, it must effect a joint executive administration thereof instead of a divided, conflicting, and ineffective attempt at administration. Merging the Departments of War and Interior with that of Commerce is logical for the full control of industries, commerce, and navigation involved. I submit it is the businesslike solution of our great navigation and water-power problem.

DIVIDED CONTROL OF HEADWATERS.

Mr. Chairman, the very text of the pending bill forces upon this House the necessity of broadening the administration of our waterways and water powers. The Interstate Commerce Committee of this body have drafted into section 4 of House bill 16053 four subsections as a part of the conditions and stipulations which shall go into every water-power grant of Congress, whether they be previous authorizations of the United States or those to be made in the years to come.

One of those conditions and stipulations is subsection (b), which provides for the payment to the United States of charges

for "the benefits which may accrue to such project through the construction, operation, and maintenance by the United States of headwater improvements, including storage reservoirs." It relates to "benefits by reason of increased flow past their water-power structures artificially caused by such headwater improvement," which are to be charged against the several grantees which receive increased power thereby, "such charges to be fixed from time to time by the Secretary of War and Chief of Engineers."

Subsection (c) of this section provides the following condition and stipulation of every water-power grant:

That in the construction, maintenance, and operation of such dam and accessory works there may be occupied and used such lands of the United States as may be necessary therefor, and in consideration thereof the owner of such dam shall pay to the United States such charges, not to exceed an annual payment of 5 per cent of the fair value of such lands, as may be fixed by the Secretary of War and Chief of Engineers.

Other sections of this bill likewise extend the jurisdiction of the Secretary of War and Chief of Engineers to the sources of the waterway. Section 3 gives the War Department control of water-power grants to the end that the plans, specifications, and location of the dam "shall be best adapted to a comprehensive plan for the improvement of the waterway," and "best adapted to conserve and utilize, in the interests of navigation and water-power development, the water resources of the region." Section 5 gives "control of the level of the pool" and other conditions affecting navigation to the Secretary of War and Chief of Engineers; and the entire subject of obstructions to navigation, as well as water supply affecting navigable capacity, is in the control of the Secretary of War and Chief of Engineers.

I am not questioning the wisdom of these provisions, but I am calling attention to the fact that we may know where the facts lead us. Now, here is one of the dilemmas into which the facts and these provisions of the bill lead us.

Everyone knows that the public lands of the United States yet remaining unsold are chiefly at the headwaters of our streams. The lower valleys have been taken by settlers and largely placed under cultivation. The valleys always go first, because they offer the best opportunities to agriculture. The hills that are the sources of the streams constitute the public-land remnant, for the administration of which we have created the Interior Department.

The land areas unappropriated and unreserved, which constitute the headwaters of our chief navigable rivers, compose a great scattered empire. Not including 360,000,000 acres in Alaska, there are still nearly 300,000,000 acres of public lands unsold and unreserved in the United States. These are largely in the chief water-power States. Then there are 186,000,000 acres in our national forests, and these are located chiefly at the headwaters of our streams, and, more than that, constitute an important factor in the maintenance of our streams, both for water power and navigation.

In looking over the water-power statistics compiled by the Geological Survey and Bureau of Corporations I find that 44,000,000 horsepower of the 60,000,000 of the potential maximum that may yet be developed is in the Western States, in which lie the bulk of our public lands. The nine States of California, Oregon, Washington, Montana, Idaho, Wyoming, Colorado, Arizona, and Utah are credited by the Commissioner of Corporations with the possession of 70 per cent of the estimated minimum water power of the United States. Over 2,000,000 additional horsepower of the assumed maximum and 1,000,000 horsepower of the available minimum is credited to Minnesota, Wisconsin, Illinois, and Michigan, which are the sources of the Mississippi and Great Lakes watersheds.

When we consult the public lands statistics and the national forests statistics, we find that these same States hold the great public land and forest reserves of the Nation under the control of the Secretary of the Interior.

Moreover, when we open the report of the Committee on the Public Lands of this House and consult the data on water-power hearings, we find that "installation of water wheels aggregating 18,000,000 horsepower capacity may reasonably be made on power sites of the public domain on the basis of low-water conditions, and that this may be increased to 29,000,000 horsepower if all storage facilities are realized."

The reports of the Geological Survey and Forest Service give a detailed list of 370 plants of 2,949,000 estimated horsepower capacity already installed in 11 Western States containing the lion's share of our public lands. These water powers are located either on the navigable or nonnavigable portions of the navigable waters which the pending bill places under the control of the Secretary of War and Chief of Engineers, while at the same time these water powers, or the sources of their water supply, are largely within the public domain which is under the executive administration of the Secretary of the Interior.

The bill reported by the Public Lands Committee of this House provides that the Secretary of the Interior is authorized and empowered to issue leases, under such terms, conditions, and general regulations as he may prescribe, to construct, maintain, and operate dams, water conduits, reservoirs, power houses, transmission lines, and other works necessary and convenient to the development, generation, transmission, and utilization of hydroelectric power within the boundaries of the public domain; and these boundaries contain those headwaters and lands which the pending bill of the Interstate Commerce Committee place under the control of the Secretary of War and Chief of Engineers. There appears to be only one logical solution—to place both departments on the commission for the control and regulation of water powers. The unit of regulation must be coextensive with jurisdiction.

There is an interesting situation which illustrates the case in my own State of Minnesota. The greatest Federal reservoir enterprise of the United States is that at the headwaters of the Mississippi River in Minnesota. The project in force, which is 95 per cent completed, contemplates the construction of six great reservoirs at Winnibigoshish, Leech Lake, Pokegama, Sandy Lake, Pine River, and Gull Lake, and an equalizing canal between Winnibigoshish and Leech Lake Reservoirs. Up to the time of the last report of the Chief of Engineers the total of $1,633,963 had been expended. The five timber dams originally built have been in operation many years, and have been instrumental in conserving for the summer months of the year both navigation on the upper Mississippi and power for the large number of water powers on the upper river for the Twin City district and 200 miles above.

Page 19 of the report of the Chief of Engineers, June 30, 1913, states of the purpose:

The reservoirs are operated mainly with a view to the improvement of navigation on the Mississippi River, but with due regard to other legitimate interests. Incidentally they are of great benefit in mitigating floods and in regulating the flow of water for power purposes.

The reservoirs are now being reconstructed with reinforced concrete and made thoroughly modern and efficient in every respect. Of course, everyone in our State, especially business men associated with flour and lumber manufacturing industries, and public utility companies using light and power, know that the greatest benefit derived for years has been from increased, improved, and more uniform and reliable hydroelectric and direct water power. These reservoirs have been a prominent factor in Minnesota's wonderful industrial development. My colleague from the neighboring district [Mr. STEVENS] has called attention to the fact that these reservoirs have given the upper Mississippi 18 inches of added depth of flow during the summer months. Of course, you can not give this added flow to navigation without giving it to the numerous water powers over which the stream flows.

There are seven hydroelectric installations on the Mississippi in Minnesota in operation at the present time, of something like 75,000 aggregate horsepower capacity, but the completion and operation of as many other authorizations will eventually double the hydroelectric capacity of the upper Mississippi in our State; and the great regulatory source for conservation and maintenance of all of these water powers is the great reservoir system of the Federal Government at Mississippi headwaters.

These works have been built by the War Department and are under the supervision of the Chief of Engineers. At the same time, the Government has still a considerable block of public lands in and around Mississippi headwaters in our State.

The situation in Minnesota illustrates the force of the point of the amended bill which I offer as a substitute to this House. Our jurisdiction and regulation of this subject must be a unit in order to secure efficiency and develop and conserve the national resources, while developing industries, commerce, and navigation. Join the Secretaries of War, Interior, and Commerce and you have a trinity of executive administration which fully meets all requirements from every legal, political, and business point of view; and this House and the country may go forward with full confidence that henceforth the United States has laid a foundation for waterway and water-power administration second to none in the world.

Mr. ADAMSON. Mr. Chairman, I desire to renew my request that all gentlemen who speak have the right to extend and revise their remarks.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that all gentlemen who speak on this bill may be permitted to extend and revise their remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield 15 minutes to the gentleman from Nebraska [Mr. SLOAN].

Mr. SLOAN. Mr. Chairman and gentlemen, on the 3d day of March, 1914, on the floor of the House I submitted some remarks upon the agricultural schedule of the Underwood tariff bill. In these remarks especial attention was called to the statement of the Ways and Means Committee of the House in support of that bill, where its majority members declared, on page 18 of that report, "In our judgment, the future growth of our great industries lies beyond the seas." Upon that occasion I submitted tables showing the importations of certain important farm products for the first four months under the new tariff bill compared with corresponding months one year before.

Special attention was called to the vast increase in each of these articles admitted at our ports under either removal of the duty or radical reduction.

I have taken occasion to prepare from authoritative sources the imports, both as to quantity and value, of 27 of the leading agricultural products, a part of Schedule G and one item of K, affected by the Underwood tariff bill, for the first eight months following the enactment of that law. Tables are herewith submitted with explanatory notes.

Imports into the United States of certain farm products for October, November, December, 1912, January, February, March, April, and May, 1913, under the 1909 tariff act, together with the imports for the same articles for the same months during 1913 and 1914 under the 1913 tariff act; the total imports of these articles for the eight months under the present law compared with the same eight months under the 1909 law and the per cent of increase; the total imports of these articles for the eight months under the present law compared with the imports under the 1909 law for a full year ending June 30, 1913.

Article.	October, 1913.		October, 1912.		November, 1913.		November, 1912.	
	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.
Cattle [1] ..... number..	130,639	$3,389,067	27,696	$578,843	123,118	$3,306,723	43,758	$829,358
Horses [2] ..... do....	2,154	227,150	1,704	398,102	4,705	295,262	1,474	164,217
Sheep [1] ..... do....	26,035	57,856	3,466	15,562	46,995	99,187	5,077	24,731
Animals, other (including live poultry) [3]	.....	55,836	.....	34,612	.....	87,086	.....	24,842
Bread and biscuits [4]	.....	33,855	.....	32,899	.....	46,412	.....	30,457
Corn [5] ..... bushels..	473,259	378,011	226,471	114,706	1,632,643	1,182,672	25,819	21,567
Oats [6] ..... do....	2,524,793	886,994	379	186	5,132,308	1,821,789	4,266	2,052
Wheat [7] ..... do....	233,217	213,483	52,213	29,510	127,039	107,011	2,187	2,152
Hay [8] ..... tons..	15,862	131,004	17,619	154,986	19,577	167,699	10,025	88,668
Beef and veal [9 10] ..... pounds..	5,677,461	466,987			10,856,516	[21] 900,296		
Mutton and lamb [9 10] ..... do....	60,047	5,452			32,385	[21] 3,445		
Pork [9 10] ..... do....	14,099	2,218			109,832	[11] 17,332		
Prepared and preserved meats [9 10]	.....	41,301	.....	121,583	.....	[21] 136,105	.....	128,818
Bacon and ham [10 11] ..... pounds..	46,013	11,051			70,117	[21] 15,759		
All other meats [9 10]	.....	47,381			.....	[21] 98,582		
Sausage and bologna [12] ..... pounds..	31,073	8,171	32,881	8,625	70,489	18,417	71,288	18,436
Sausage casings [12]	.....	213,566	.....	203,024	.....	174,506	.....	152,331
Milk and cream, fresh and condensed [1]	.....	134,352	.....	78,962	.....	181,656	.....	68,631
Butter and substitutes [13] ..... pounds..	463,399	105,975	107,046	27,088	1,069,617	234,197	169,233	42,458
Cheese and substitutes [14] ..... do....	5,424,000	1,005,884	4,950,658	949,359	6,722,892	1,197,566	5,492,871	1,042,711
Eggs [1 15] ..... dozen..	21,394	5,322	.....	.....	165,263	36,500	.....	.....
Vegetables:								
Beans [16] ..... bushels..	49,020	93,226	95,538	187,148	106,918	209,470	103,663	193,957
Onions [17] ..... do....	120,487	70,800	86,361	50,048	131,475	82,450	82,183	42,424
Peas, dried [17] ..... do....	51,887	89,367	100,000	264,649	104,692	238,753	64,730	106,464
Potatoes [18] ..... do....	472,052	202,356	9,881	4,716	734,829	346,679	10,668	4,800
All other, in natural state [19]	.....	155,876	.....	137,859	.....	162,353	.....	144,773
Wool, unmanufactured [20] ..... pounds..	6,915,185	1,414,890	17,814,218	2,989,736	8,442,513	1,548,970	12,291,592	2,139,123

Article.	December, 1913.		December, 1912.		January, 1914.		January, 1913.	
	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.
Cattle [1] ..... number..	87,470	$1,911,882	40,522	$610,569	90,694	$1,503,276	24,111	$340,841
Horses [2] ..... do....	4,544	215,577	568	103,114	7,239	255,635	255	66,048
Sheep [1] ..... do....	36,073	90,019	792	9,387	15,485	29,169	95	1,141
Animals, other (including live poultry) [3]	.....	126,880	.....	25,621	.....	95,756	.....	17,295
Bread and biscuits [4]	.....	62,619	.....	29,235	.....	17,454	.....	25,454
Corn [5] ..... bushels..	2,343,444	1,485,397	637	415	2,554,813	1,610,136	5,757	2,988
Oats [6] ..... do....	5,577,656	1,918,985	8,984	3,069	2,959,388	1,000,637	9,951	6,372
Wheat [7] ..... do....	149,304	124,782	151,616	117,579	901,130	793,024	109,437	85,739
Hay [8] ..... tons..	14,072	129,473	12,751	111,623	15,122	143,346	13,828	119,604
Beef and veal [9 10] ..... pounds..	15,483,670	1,227,037			12,746,749	[22] 1,020,137		
Mutton and lamb [9 10] ..... do....	441,308	34,598			521,730	[22] 41,464		
Pork [9 10] ..... do....	104,211	169,321			172,272	[22] 20,736		
Prepared and preserved meats [9 10]	.....	14,999	.....	163,871	.....	[22] 273,817	.....	122,532
Bacon and ham [10 11] ..... pounds..	139,242	31,170			195,589	[22] 39,553		
All other meats [9 10]	.....	137,074			.....	[22] 10,555		
Sausage and bologna [12] ..... pounds..	118,451	28,064	120,694	26,248	56,680	14,067	81,650	16,791
Sausage casings [12]	.....	211,821	.....	192,558	.....	152,997	.....	198,484
Milk and cream, fresh and condensed [1]	.....	112,277	.....	121,857	.....	129,537	.....	47,932
Butter and substitutes [13] ..... pounds..	1,183,152	244,321	145,949	37,655	1,838,911	447,266	47,947	15,112
Cheese and substitutes [14] ..... do....	6,979,241	1,233,453	4,571,922	852,577	3,530,972	1,039,956	3,688,186	703,701
Eggs [1 15] ..... dozen..	1,514,296	334,316	.....	.....	1,184,408	236,622	.....	.....
Vegetables:								
Beans [16] ..... bushels..	217,353	395,074	121,352	219,607	187,358	331,730	70,590	141,720
Onions [17] ..... do....	136,067	89,777	23,389	14,503	29,549	22,410	27,581	16,308
Peas, dried [17] ..... do....	179,403	419,976	107,925	172,642	125,691	268,634	93,622	160,377
Potatoes [18] ..... do....	258,308	121,952	20,253	25,302	64,392	30,166	38,698	49,823
All other in natural state [19]	.....	191,858	.....	212,005	.....	187,064	.....	193,249
Wool, unmanufactured [20] ..... pounds..	21,631,021	4,354,612	13,975,658	2,584,201	24,465,640	5,219,138	19,341,666	3,545,669

[1] Free on and after Oct. 3, 1913.
[2] Duty reduced from $30 per head where value not over $150, 25 per cent ad valorem where value over $150 per head, to 10 per cent ad valorem on all.
[3] Live poultry reduced from 3 cents per pound to 1 cent per pound; dead from 5 cents per pound to 2 cents per pound.
[4] Either placed on the free list or duty reduced about one-half.
[5] Free on and after Oct. 3, 1913. Duty was 15 cents per bushel.
[6] Duty reduced from 15 cents per bushel to 6 cents per bushel.
[7] Free if imported from countries which impose no duties on like imports from United States, otherwise 10 cents per bushel. Duty was 25 cents per bushel.
[8] Duty reduced from $4 per ton to $2 per ton.
[9] Free on and after Oct. 3, 1913. Duty was 25 per cent ad valorem.
[10] Included in all other meat products prior to July 1, 1913.
[11] Free on and after Oct. 3, 1913. Duty was 4 cents per pound.
[12] Free under both laws.
[13] Duty reduced from 6 cents per pound to 2½ cents per pound.
[14] Duty reduced from 6 cents per pound to ad valorem duty equivalent to about 4 cents per pound.
[15] Included in all other articles prior to Oct. 3, 1913.
[16] Duty decreased from 45 cents per bushel to 25 cents per bushel.
[17] Duty decreased from 40 cents per bushel to 20 cents per bushel.
[18] Free if imported from countries which impose no duties on like imports from United States, otherwise 10 per cent ad valorem. Duty was 25 cents per bushel.
[19] Duty reduced from 25 per cent ad valorem to 15 per cent ad valorem.
[20] Practically all free of duty since Dec. 1, 1913.
[21] Total value of meat products, except sausage, bologna, and sausage casings, for October was $574,390; for November, $1,171,519.
[22] Total value of meat products, except sausage, bologna, and sausage casings, for December was $1,614,199; for January, $1,406,262.

Imports into the United States of certain farm products for October, November, December, 1913, January, February, March, April, and May, 1913, etc.—Continued.

Article.	February, 1914.		February, 1913.		March, 1914.		March, 1913.	
	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.
Cattle [1] ..... number..	72,558	$1,321,714	30,630	$472,359	53,558	$974,887	36,105	$508,531
Horses [2] ..... do....	2,890	123,988	463	121,004	2,584	178,277	954	187,913
Sheep [1] ..... do....	871	4,919	13	161	13,995	25,547	782	2,440
Animals, other (including live poultry) [3]	.....	57,665	.....	11,720	.....	63,975	.....	14,554
Bread and biscuits [4]	.....	28,861	.....	18,625	.....	51,723	.....	15,584
Corn [5] ..... bushels..	1,341,569	739,988	567	345	482,427	309,585	2,477	1,503
Oats [6] ..... do....	751,214	252,305	15,764	7,942	1,611,747	615,777	14,025	6,788
Wheat [7] ..... do....	177,350	156,082	45,316	38,057	245,379	231,256	46,549	42,849
Hay [8] ..... tons..	15,929	150,006	8,176	71,483	18,404	191,818	9,906	85,412
Beef and veal [9 10] ..... pounds..	15,281,576	[1,283,760			23,597,121	[21] 2,114,102		
Mutton and lamb [9 10] ..... do....	1,610,866	132,043			2,234,336	[21] 196,523		
Pork [9 10] ..... do....	267,577	[21] 30,074		97,717	343,546	[21] 38,438		119,643
Prepared and preserved meats [9 10]	.....	140,794	.....		.....	[2] 248,413	.....	
Bacon and ham [10 11] ..... pounds..	198,101	41,968			245,855	[21] 47,366		
All other meats [9 10]	.....	70,391			.....	[21] 69,485		
Sausage and bologna [12] ..... pounds..	47,200	12,683	19,231	5,951	59,304	15,766	70,719	12,437
Sausage casings [12]	.....	253,662	.....	172,805	.....	248,920	.....	235,912
Milk and cream, fresh and condensed [1]	.....	112,332	.....	21,680	.....	206,859	.....	35,025
Butter and substitutes [13] ..... pounds..	775,276	185,412	68,992	20,691	1,142,303	243,779	108,966	30,926
Cheese and substitutes [14] ..... do....	4,100,403	707,207	3,229,156	614,221	5,439,819	953,894	3,715,151	687,988
Eggs [1 15] ..... dozen..	476,934	87,374	.....	.....	797,893	119,925	.....	.....
Vegetables:								
Beans [16] ..... bushels..	162,665	269,531	62,718	120,871	254,480	413,842	80,849	157,630
Onions [17] ..... do....	77,008	71,653	42,763	21,339	82,459	97,942	82,656	60,207
Peas, dried [17] ..... do....	119,909	309,075	102,121	151,361	72,523	123,994	83,883	150,833
Potatoes [18] ..... do....	10,491	5,257	12,055	12,863	26,978	9,121	28,145	34,102
All other in natural state [19]	.....	150,737	.....	176,254	.....	221,004	.....	117,240
Wool, unmanufactured [20] ..... pounds..	31,080,890	6,862,384	18,356,522	3,651,823	36,596,612	8,002,037	22,063,830	4,262,694

Article.	April, 1914.		April, 1913.		May, 1914.		May, 1913.	
	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.
Cattle [1] ..... number..	65,772	$1,333,809	47,708	$752,151	58,647	$1,347,084	68,607	$1,001,553
Horses [2] ..... do....	2,692	161,243	740	113,070	1,629	182,914	950	147,591
Sheep [1] ..... do....	73,169	168,355	2	60	5,834	9,814	2,769	14,230
Animals, other (including live poultry) [3]	.....	43,422	.....	18,230	.....	32,369	.....	21,225
Bread and biscuits [4]	.....	44,928	.....	18,353	.....	39,987	.....	20,245
Corn [5] ..... bushels..	110,063	74,445	1,366	1,232	1,308,639	812,509	2,515	2,767
Oats [6] ..... do....	1,494,405	545,029	17,465	7,470	1,899,708	714,481	3,045	1,732
Wheat [7] ..... do....	13,294	12,369	36,368	28,872	79,967	75,783	7,616	4,693
Hay [8] ..... tons..	10,979	117,906	9,049	78,490	14,572	160,604	12,694	137,560
Beef and veal [9 10] ..... pounds..	28,149,824	[2 478,845			34,332,510	[21] 2,942,277		
Mutton and lamb [9 10] ..... do....	1,684,992	145,890			2,898,987	[12] 237,905		
Pork [9 10] ..... do....	758,004	[21] 88,187		103,408	712,257	[12] 76,095		120,819
Prepared and preserved meats [9 10]	.....	227,965	.....		.....	[12] 236,680	.....	
Bacon and ham [10 11] ..... pounds..	250,093	47,767			327,696	[12] 55,856		
All other meats [9 10]	.....	149,793			.....	[12] 59,556		
Sausage and bologna [12] ..... pounds..	65,210	17,764	75,656	20,201	43,886	10,744	40,095	10,239
Sausage casings [12]	.....	342,681	.....	246,822	.....	272,530	.....	169,454
Milk and cream, fresh and condensed [1]	.....	195,475	.....	102,043	.....	307,273	.....	188,785
Butter and substitutes [13] ..... pounds..	293,531	65,512	142,664	33,860	402,931	73,700	104,434	26,205
Cheese and substitutes [14] ..... do....	5,506,820	929,246	3,734,982	675,063	5,380,288	880,027	4,289,865	734,641
Eggs [1 15] ..... dozen..	883,377	129,820	.....	.....	448,810	59,380	.....	.....
Vegetables:								
Beans [16] ..... bushels..	178,123	347,798	64,670	122,560	144,304	264,602	62,110	109,529
Onions [17] ..... do....	88,920	104,948	83,743	71,914	83,302	114,864	71,982	45,276
Peas, dried [17] ..... do....	54,313	87,550	24,187	37,273	33,876	54,423	8,770	13,130
Potatoes [18] ..... do....	5,041	3,237	36,545	49,188	60,892	59,635	101,769	76,742
All other in natural state [19]	.....	143,692	.....	89,516	.....	95,265	.....	64,553
Wool, unmanufactured [20] ..... pounds..	39,024,603	8,840,000	15,245,601	2,843,112	30,574,350	6,960,289	9,696,826	1,821,287

[1] Free on and after Oct. 3, 1913.
[2] Duty reduced from $30 per head where value not over $150, 25 per cent ad valorem where value over $150 per head, to 10 per cent ad valorem on all.
[3] Live poultry reduced from 3 cents per pound to 1 cent per pound; dead from 5 cents per pound to 2 cents per pound.
[4] Either placed on the free list or duty reduced about one-half.
[5] Free on and after Oct. 3, 1913. Duty was 15 cents per bushel.
[6] Duty reduced from 15 cents per bushel to 6 cents per bushel.
[7] Free if imported from countries which impose no duties on like imports from United States; otherwise 10 cents per bushel. Duty was 25 cents per bushel.
[8] Duty reduced from $4 per ton to $2 per ton.
[9] Free on and after Oct. 3, 1913. Duty was 25 per cent ad valorem.
[10] Included in all other meat products prior to July 1, 1913.
[11] Free on and after Oct. 3, 1913. Duty was 4 cents per pound.
[12] Free under both laws.
[13] Duty reduced from 6 cents per pound to 2½ cents per pound.
[14] Duty reduced from 6 cents per pound to ad valorem duty equivalent to about 4 cents per pound.
[15] Included in all other articles prior to Oct. 3, 1913.
[16] Duty decreased from 45 cents per bushel to 25 cents per bushel.
[17] Duty decreased from 40 cents per bushel to 20 cents per bushel.
[18] Free if imported from countries which impose no duties on like imports from United States; otherwise 10 per cent ad valorem. Duty was 25 cents per bushel.
[19] Duty reduced from 25 per cent ad valorem to 15 per cent ad valorem.
[20] Practically all free of duty since Dec. 1, 1913.
[21] Total value of meat products, except sausage, bologna, and sausage casings, for February was $1,699,030; for March, $2,714,330.
[12] Total value of all meat products, except sausage, bologna, and sausage casings, for April was $3,050,260; for May, $3,532,274.

Imports into the United States of certain farm products for October, November, December, 1912, January, February, March, April, and May, 1913, etc.—Continued.

Article.	Total imports for 8 months, October, 1913, to May, 1914, inclusive, under tariff law of 1913.		Total imports for 8 months, October, 1912, to May, 1913, inclusive, under tariff law of 1909.		Per cent of increase or decrease, 8 months under 1913 law, compared with 8 months under 1909 law.[22]	Total imports, year ending June 30, 1913, under tariff law of 1909.		Amount of increase in value for 8 months under new law over full year under old law.	Per cent of increase, 8 months over full year.[23]
	Quantity.	Value.	Quantity.	Value.		Quantity.	Value.		
Cattle[1] ..... number..	682,456	$15,088,442	319,137	$5,094,211	113	421,649	$6,640,668	$8,447,774	127
Horses[2] ..... do....	28,437	1,640,046	7,108	1,301,059	300	10,008	2,125,875	.....	.....
Sheep[3] ..... do....	218,137	384,866	12,996	67,712	1,578	15,428	90,021	294,845	327
Animals, other (including live poultry)[3]	.....	562,989	.....	168,099	234	.....	248,980	314,009	126
Bread and biscuits[4]	.....	325,839	.....	190,852	70	.....	255,336	70,503	27
Corn[5] ..... bushels..	10,246,857	6,592,743	255,609	145,616	3,908	903,062	491,079	6,101,664	1,242
Oats[6] ..... do....	21,951,219	7,755,997	73,879	35,611	29,612	723,899	289,364	7,466,633	2,589
Wheat[7] ..... do....	1,926,680	1,713,790	451,302	349,441	327	797,528	559,559	1,154,231	206
Hay[8] ..... tons..	124,517	1,191,856	94,048	847,826	32	155,763	1,514,311	77,545	.....
Beef and veal[9 10] ..... pounds..	146,125,427	12,433,441				4,288,764	322,567	12,110,874	3,751
Mutton and lamb[9 10] ..... do....	9,484,655	797,320				212,843	797,320	780,914	4,766
Pork[9 10] ..... do....	2,482,298	287,401				261,247	38,682	248,719	635
Prepared and preserved meats[9 10]	.....	1,475,072	.....	978,451	1,527	.....	426,788	1,048,284	243
Bacon and ham[10 11] ..... pounds..	1,470,706	290,490				628,307	156,933	133,457	85
All other meats[9 10]	.....	642,817				.....	297,581	345,236	116
Sausage and bologna[12] ..... pounds..	492,293	125,676	512,214	118,928	— 3	728,469	157,871	.....	.....
Sausage casings[12]	.....	1,870,683	.....	1,571,390	19	.....	2,476,082	.....	.....
Milk and cream, fresh and condensed[13]	.....	1,379,761	.....	664,915	107	.....	1,293,833	165,928	13
Butter and substitutes[13] ..... pounds..	7,189,120	1,600,162	895,231	233,995	703	1,162,253	304,090	1,296,072	426
Cheese and substitutes[14] ..... do....	43,085,035	7,947,313	33,672,791	6,260,261	27	49,387,944	9,185,184	.....	.....
Eggs[1 15] ..... dozen..	5,492,575	1,009,259	[25] 847,842	127,808	547	1,271,765	191,714	817,545	449
Vegetables:									
Beans[16] ..... bushels..	1,310,221	2,325,273	641,490	1,253,030	104	1,048,297	1,938,105	387,168	19
Onions[17] ..... do....	749,274	654,844	500,618	322,019	49	789,458	481,756	173,088	35
Peas, dried[17] ..... do....	742,294	1,591,772	645,278	1,056,729	30	1,134,346	1,835,775	.....	.....
Potatoes[18] ..... do....	1,632,983	778,403	258,014	257,536	532	327,230	303,214	475,189	156
All other in natural state[19]	.....	1,307,849	.....	1,135,440	15	.....	1,410,354	.....	.....
Wool, unmanufactured[20 21] ..... pounds..	198,730,814	43,202,720	128,785,853	23,837,645	54	195,293,255	35,579,823	7,622,897	21
Total	.....	114,975,224	.....	46,128,674	149	.....	69,322,865	.....	65

[1] Free on and after Oct. 3, 1913.
[2] Duty reduced from $30 per head where value not over $150, 25 per cent ad valorem where value over $150 per head, to 10 per cent ad valorem on all.
[3] Live poultry reduced from 3 cents per pound to 1 cent per pound; dead from 5 cents per pound to 2 cents per pound.
[4] Either placed on the free list or duty reduced about one-half.
[5] Free on and after Oct. 3, 1913. Duty was 15 cents per bushel.
[6] Duty reduced from 15 cents per bushel to 6 cents per bushel.
[7] Free if imported from countries which impose no duties on like imports from United States; otherwise 10 cents per bushel. Duty was 25 cents per bushel.
[8] Duty reduced from $4 per ton to $2 per ton.
[9] Free on and after Oct. 3, 1913. Duty was 25 per cent ad valorem.
[10] Included in all other meat products prior to July 1, 1913.
[11] Free on and after Oct. 3, 1913. Duty was 4 cents per pound.
[12] Free under both laws.
[13] Duty reduced from 6 cents per pound to 2½ cents per pound.
[14] Duty reduced from 6 cents per pound to ad valorem duty equivalent to about 4 cents per pound.
[15] Included in all other articles prior to Oct. 3, 1913.
[16] Duty decreased from 45 cents per bushel to 25 cents per bushel.
[17] Duty decreased from 40 cents per bushel to 20 cents per bushel.
[18] Free if imported from countries which impose no duties on like imports from United States; otherwise 10 per cent ad valorem. Duty was 25 cents per bushel.
[19] Duty reduced from 25 per cent ad valorem to 15 per cent ad valorem.
[20] Practically all free of duty since Dec. 1, 1913.
[21] Per cent of increase of wool for six months under new law over same period of last year under old law, 85 per cent.
[22] Per cent of increase figured on quantities, where quantities are given; otherwise on values.
[23] Per cents of increase figured on values.
[24] Total value of all meat products, except sausage, bologna, and bologna casings, for eight months, $15,926,541.
[25] No figures for months under old law. Quantity and value figured as two-thirds of year.

Recent figures submitted by the Secretary of Commerce show that the increase in importations of finished products was only 8.8 per cent under the new law, while the increase of the farm products mentioned in the above table increased 149 per cent, there being a very large increase in case of each article.

It will be noted that on the several articles mentioned there was a collective increase in value of imports of $79,427,186, all thrown on the market of the United States in competition with our own products. That tremendous amount came largely from the cheap lands, produced by cheap labor, and carried by cheap transportation from Australia, Argentina, Canada, and Mexico.

Verily, the prophecy of the Ways and Means Committee, "In our judgment the future growth of our great industries lies beyond the seas," is coming true. Agriculture is our greatest industry.

It will be recalled that of the additions to the free list made in the Underwood tariff bill nearly 80 per cent in point of value of products so affected were farm products.

There was no party platform warranting this discrimination against the farmer. Both the Republican and Progressive platforms declared in favor of protection being extended to the farmer the same as to the other industries, while the Democratic platform favored reduction, but did not promise or threaten to place farm products on the free list.

An examination of the import and revenue statistics for the period beginning with 1897 and ending with 1912 showed some remarkable facts, all of which indicated that Schedule G was the one schedule which seemed to combine the desirable qualities of a revenue producer, a competitive tariff, and a protective tariff, as the following facts will demonstrate:

First. Schedule G, containing many articles not in the foregoing table, in 1897, in point of view of dutiable imports, ranked No. 5, while in 1912 it was first.

Second. Schedule G as a revenue producer among the schedules in 1897 ranked ninth, while in 1912 it had risen to third.

Third. Schedule G in 1897 showed dutiable importations of only $33,716,958; in 1912 it had risen to $117,711,156; and Schedule G in 1897 produced only $8,613,987 revenue, increased in 1912 to $34,146,071.

Fourth. While Schedule G in 1897 had but 8 per cent of all the dutiable importations, in 1912 it had risen to 14 per cent.

Fifth. That while Schedule G in 1897 produced only 5 per cent of the import revenues, in 1912 it produced 11 per cent.

Sixth. It will be noted that while the revenues of Schedule G in 1897 were less than those of Schedule C (metals), in 1912 they were twice as great. While the revenues from Schedule G in 1897 were less than one-half those of Schedule F (tobacco), it in 1912 exceeded Schedule F by nearly $9,000,000. While approximately equal to Schedule H (spirits) in 1897, Schedule G in 1912 doubled it in revenue production. While Schedule G was less than Schedule I (cotton) in 1912 it produced three times Schedule I's revenue. That Schedule G in 1912 produced more revenue than Schedule I (cotton manufactures), Schedule K (wool, raw wool amounting to $14,000,000 eliminated), and Schedule D (lumber) combined.

Seventh. The dutiable importations of Schedule G have increased more between 1897 and 1912 than any other schedule, and Schedule G has increased as a revenue producer more rapidly than any of the other great schedules. Its percentage of increase in that period was 206 per cent.

The American farmer is asking the following questions:

Is the tariff important?

The Democratic Party answers: "Yes; it was important enough for us to make it our paramount issue in the last campaign, and we also gave it first place in our legislative program."

What was the large feature of the new tariff bill?

Removal and reduction of duties.

Did this cause large loss of revenues to the United States Treasury?

Answer. Yes.

Why, then, was it done?

To increase the competition of foreign articles in our own markets.

Why was that done?

In order to lower prices.

Against whom has there been a removal or reduction of duties to the greatest extent?

The farmers.

What class has been subjected to the greatest new competition?

The farmers.

To what extent has the farmer's competition with foreign productions increased?

On 27 leading farm products, 159 per cent.

What has been the increase in importations of manufactured or finished products?

Eight and eight-tenths per cent.

The farmer's competition has increased, therefore, as compared with the manufacturer's, in the ratio of 149 to 8⅝ per cent, a little more than 16 to 1, the old sacred ratio.

Mr. FESS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Nebraska yield to the gentleman from Ohio?

Mr. SLOAN. I do.

Mr. FESS. The Secretary of Commerce states that we have an increase of importation and a decrease of exportation, which means that the country is consuming more than ever before. In other words, increase of importation and decrease of exportation is argued as an advantage to the country, because we are more prosperous and are consuming more than ever before. What is your answer to that?

Mr. SLOAN. I would dislike to answer the proposition presented by the head of the Department of Commerce, who recently, in an interview, stated that this country was greatly interested in the matter of overfatigue. If they have accomplished anything by this new tariff legislation it is overcoming the overfatigue of the American workingmen, many of whom have been released from their employment, with the prospect of many more of them being released.

Mr. FESS. Will the gentleman yield for a question?

Mr. SLOAN. If I have the time.

Mr. FESS. Is the Nation on the road to increased wealth by selling less and buying more?

Mr. SLOAN. The answer to that is self-evident. If we purchase more than we sell, of course we are drawing on our reserve. [Applause.]

Mr. STEVENS of Minnesota. I promised to yield 40 minutes to the gentleman from Washington [Mr. BRYAN]. He stated he had some documents on the subject of the legislation before the committee that he desired to submit, but he does not seem to be here.

Mr. ADAMSON. Has the gentleman any other speaker? I have a great many applications, but nobody seems to be here now.

Mr. DONOVAN. Mr. Chairman, will the gentleman from Georgia yield to me?

Mr. ADAMSON. Do you want to make a speech for the bill?

Mr. DONOVAN. I do not want the gentleman to dictate.

Mr. ADAMSON. He can make one against the bill if he wants to do so.

Mr. DONOVAN. Does the gentleman yield to me?

Mr. ADAMSON. How much time do you want?

Mr. DONOVAN. Oh, I do not know. Say two minutes.

Mr. ADAMSON. Do not move to rise.

Mr. DONOVAN. I certainly will.

The CHAIRMAN. Does the gentleman from Georgia [Mr. ADAMSON] yield to the gentleman from Connecticut [Mr. DONOVAN]?

Mr. ADAMSON. I yield to the gentleman from Connecticut for a speech, but not to make a motion.

Mr. DONOVAN. It will be a speech, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Connecticut?

Mr. ADAMSON. I wish the gentleman would wait for the gentleman from Washington [Mr. BRYAN].

The CHAIRMAN. Will the gentleman from Georgia yield to the gentleman from Connecticut?

Mr. ADAMSON. I intended to do so until Mr. BRYAN appeared. If the gentleman wants to speak for two minutes I will yield to him for that purpose.

The CHAIRMAN. The gentleman from Connecticut [Mr. DONOVAN] is recognized for two minutes.

Mr. DONOVAN. Then, I move that the committee do now rise.

Mr. ADAMSON. I did not yield for that purpose.

The CHAIRMAN. The gentleman from Georgia [Mr. ADAMSON] can not control the gentleman from Connecticut.

Mr. ADAMSON. Then, I cancel that concession.

Mr. DONOVAN. I so move, Mr. Chairman.

The CHAIRMAN. The gentleman from Connecticut moves that the committee do now rise.

The question was taken, and the motion was rejected.

Mr. STEVENS of Minnesota. Mr. Speaker, I yield 40 minutes to the gentleman from Washington [Mr. BRYAN].

RATE REGULATION.

Mr. BRYAN. Mr. Speaker, this bill does provide, in words, for rate regulation; but by cutting out the charge provisions of the 1910 act, and by failing to add appropriate provisions for charge to be paid to the public, this rate regulation becomes a farce.

The rate must be uniform for electric energy in a given locality, however produced. The people own a power that can produce energy, say, at $1 per unit, whatever unit you may use. The cheapest competitor to this power is steam, which costs, say, $3 per unit. This great difference in cost makes the water power very valuable to the public. If the public can utilize it, a saving of $2 per unit will be realized; but if you give away the right in a monopolistic grant to generate this power, and the individual who acquires the grant, the grantee, fixes the price of the product at $2.90—just low enough to compete with steam—the result is that the public part with a $2 value for 10 cents. Is that just? By what token or right does this grantee get all of this $1.90 of profit? No regulation on earth can reach him, for if the utilities commission fixes a rate less than $3 those depending on steam will be forced out of business and their plants and factories confiscated. The Constitution will protect them against this. The only way to prevent this injustice is to take up a part of this slack or profit in the form of a charge and return it to the Public Treasury, where it will reach the pockets of those who own the stream and the water that flows down its bed, by reducing their taxes and the burdens of government that rest upon them or by eliminating river and harbor pork.

The Keokuk Dam, at Keokuk, Iowa, illustrates the point. It is said to cost about $10 per horsepower there to generate electricity, which they sell for $20, which just undersells those who produce electricity by steam. Why should the public lose this $10—all of it—to these dam owners and operators? There should be a charge, and a substantial charge, too. Ex-Secretary Fisher has stated this proposition very clearly. I will quote from him later.

I can not understand why the gentleman from Georgia [Mr. ADAMSON], in his colloquy with the gentleman from Minnesota [Mr. SMITH], should take the position that the Government is without power in these matters. The Chandler-Dunbar decision has been quoted, and has been considered and debated time and time again. In the Senate Senators ROOT and BURTON and President Taft have talked about it, and, plainly interpreting it, set forth the fact that it gave to the people of this Nation these rights and these powers over these streams. Then Secretary Stimson, former Secretary of War, and Mr. Fisher, former Secretary of the Interior, and the ex-Chief Forester, Gifford Pinchot, have all discussed the matter in the hearings and other places, and they all agree that this decision did give to the Government, or rather did confirm in the Federal Government, its right and power over these streams. The very fact that it has a right to say that a dam shall go there gives to it the right to say under what conditions it shall go. If it has the right to say, "No; you can not build a dam in this stream; you can not obstruct this stream," then it has the right to name the conditions. The one goes with the other. Before the committee, when Secretary Fisher was there setting forth his views on this decision, no one successfully contradicted him. They

raised some questions there. The members of the committee were all present, but it would have been ridiculous and ludicrous to question the position that he took, and anyone who will read the hearings will see that this decision does give the Federal Government the power. It has always had that power over these navigable streams, and we are not going to give it away, at least not with my consent, without exercising that right to establish conditions and restrictions.

THE ELECTRICAL FURNACE—ALUMINUM.

The argument of the gentleman from Alabama as to aluminum was very interesting, but he did not mention the fact that the aluminum goods are made by a trust and that all concessions made to the French aluminum company on the Yadkin River, in North Carolina, or to the American manufacturers on the Little Tennessee will merely increase the profits of this trust; that they will pocket all we give them and that the consumer would not be profited a penny unless we made a charge for what the public gives to them, with real regulation. Is it not more than probable that these French capitalists looked more kindly on the lax laws of North Carolina and the Little Tennessee and concluded that they could make more money by the use of child labor and 10 and 12 hours' work per day for the men and low wages than in one of the States that has changed those laws? Of course corporations seek privileges and profits, but the time has not yet arrived when I will vote to give the Aluminum Trust any special privileges. This company of gentlemen got in North Carolina free what they could not buy in their own country.

[From the Washington Post, January 15, 1913.]

ADMITS WORLD TRUST—ALUMINUM MAGNATE SAYS THAT AGREEMENT CONTROLS TRADE—HOME OFFICE IN AMERICA—ARTHUR V. DAVIS DECLARES HIS COMPANY OWNS CANADIAN FACTORY, WHICH HAS "UNDERSTANDING" WITH OTHER NATIONS—UNITED STATES EXCEPTED BECAUSE OF THE SHERMAN LAW.

The existence of an international agreement covering the aluminum industry was revealed at last night's session of the House Committee on Ways and Means. President Arthur V. Davis, of the Aluminum Co. of America, admitted that his company, the only aluminum manufactory in the United States, owned the Canadian Aluminum Co., which, in turn, had perfect agreements with all the six or seven foreign aluminum companies.

This agreement, he said, covers all the world except the United States, which, he admitted to Representative RAINEY, of Illinois, was excepted because there is a law here prohibiting it.

WANTS NO TARIFF CHANGE.

Arthur V. Davis, of Pittsburgh, testified that the company's total surplus is $12,000,000, and that the company is capitalized at $30,000,000, on which it is issuing dividends of 4 per cent on the capital stock. It has been earning between 15 and 17 per cent annually in 1910, 1911, and 1912.

Representative PALMER, of Pennsylvania, brought out that of the $30,000,000 of capital the total amount of cash actually put in was $1,860,000, the remainder representing earned profits. Mr. Davis protested against any threatened reduction of the tariff on aluminum. He said that the company was originally started as the Pittsburgh Reduction Co. in 1888, with $20,000 capital, which gradually evolved, with the use of patents whose value was put down as $700,000, into the $30,000,000 corporation.

ADMISSION AMAZES MEMBERS.

The admission of this agreement amazed members of the committee, some of whom pointed out that along with previous testimony regarding foreign trusts in other industries it presented a problem never before faced by a tariff-making committee.

Mr. Davis testified that he and his London representative wrote the agreement made by his Canadian plant with all the plants in Europe.

"I submitted the proposed form of the agreement," he said, "to Attorney General Wickersham, and when the agreement was signed I sent Mr. Wickersham a copy of it."

ACTION NOT DISCUSSED.

Mr. Davis did not say what action the Attorney General took in the matter.

"But Mr. Wickersham had no cognizance of this agreement between Canada and the rest of the world, except United States," interrupted Representative PALMER.

Mr. Davis was asked if he had a copy of the agreement. He said he had not, and said, while he personally would have no objection to filing it, he feared the other parties to it might object.

When the committee adjourned at midnight members expressed the suspicion that the Aluminum Co. of America might be interested in the $10,000,000 company being organized in North Carolina, in view of the agreement with European plants.

RAILROADS FAVOR IMPORTER.

Discussing freight rates as a factor to be considered in making a tariff, A. Cressy Morrison, of New York, representing the electric furnace manufacturing industry, told the committee that the transportation cost of heavy commodities, instead of being a protection to the domestic manufacturer, is really to his disadvantage.

The railroads grant lower rates to the foreigner on imported merchandise than they allow to the citizen of the United States.

Mr. Morrison said that with the opening of the Panama Canal the inland manufacturer of most commodities would be at a further distinct freight disadvantage with practically one-half the total population of the United States, which is his natural market.

Walter Laidlaw, of New York City, who said he represented about a dozen manufacturers of pumping machinery, but later admitted he represented the so-called Pump Trust, testified at the night session that the International Pumping Co. owned all the manufactories he mentioned

He said the International Pumping Co. had net earnings of $1,250,000 on its aggregate investment of $25,000,000, or a 5 per cent return on its capital invested. He could not recall the amount of its capital stock when pressed by Representative PALMER, of Pennsylvania, though he said he was a member of the executive committee.

The products of aluminum, the vessels made from aluminum, are manufactured by one of the closest and strictest trusts that there is in existence, and if we give them the rivers to make cheaper power and reserve no rights as to charges and regulation, it is plain, in my opinion, that it only increases the profits, that we only make for them more money, and take from the people that valuable possession that the people have in these streams.

In the Washington Herald of to-day there appears an article entitled "Water as a Resource."

The power of this water and the extent and value of water power in this country are particularly set forth and detailed in this article; but the very fact of this great power, the very fact of the great value of this utility are the reasons why we are particular about the conditions on which we part with them.

ELECTRICAL STEEL.

The illuminating statements as to electrical steel produced and to be produced in the electrical furnace were to me the most interesting portion of the able address of the gentleman from Alabama—electrical steel for steel rails, affecting greatly the safety of passengers and the economy of transportation; electrical steel for tools, for locomotive tires and axles, high-grade castings for automobile parts, and other products calling for steel of high quality. All of these things impress upon me more and more why the water-power combinations are so active and why they are working so hard to take from the people this tremendous asset.

The future of electrical steel, the uses to which high-grade steel will be put, which, it is stated, can be manufactured more economically by electricity than in any other way, only open up a vista that impresses the imagination of the people as to the future value of this asset that we are asked to part with. The United States Steel Trust is the principal manufacturer of electrical steel at this time. They are experimenting with it, and they have spent something like $300,000 to get at the science and facts in relation to the manufacture of electrical steel.

Now, then, if we give the Steel Trust a river and say, "Here, take this river, build dams in it for water power and manufacture electrical steel; take this stream and manufacture it," where do the people get any advantage of it, unless you retain hold of it in some way and lay a restraining hand upon it, so as to regulate the price of the steel or charge them for the use of the stream?

FERTILIZER AND CYANAMID PLANT.

Then we have the manufacture of fertilizer and the cyanamid plants. But in this field it is apparent that no reduction will come to the farmers if we do not compel a reduction. The possibility of increasing profits of the Fertilizer Trust does not stir me to action. I can not enthuse over the suggestion that we ought to give to this organization of interlocked capitalists the water power of the country. I want to hold this very power as a potent means of regulating the producers of fertilizer. I want to increase the charge as their profit increases. These men prate much about their patriotism, their love of the flag. Let them trust Uncle Sam to be true. They will not be wronged. Capital is timid, they say. That is not the way to put it. It is this way: Capital wants all it can get. Tell it just where its bounds are and it will not be shy at all.

We tried giving them the coal lands of Alabama and all of the South, of the East and the Central States, and much of the West, but now we refuse to part with any more mineral land for the mere asking. How did shy capital treat the people in the handling of the coal? See them shooting down innocents in glee at Mucklow, in West Virginia, and at Ludlow, in Colorado. Not so shy there. Have they reduced the price of coal to the people by letting them have the coal mines without any regulation or restraint? No; the railroads own the coal, and the railroad group own the water power, too.

But another word about West Virginia. Somebody may say I spoke too cruelly or from prejudice or something else. Here are a few lines from the dignified report of two United States Senators appointed to investigate that situation:

So that in investigating the seventh division of the resolution the committee has been led to the belief that the private ownership of these great properties, with the attendant human greed, is the underlying cause of the conditions, such as the record shows existed in the Paint and Cabin Creek coal fields.

Give them the water power free, eh? Well, I guess we will not do any such thing, and the men who try to do it are going to be censured by the American people, and they will be rightly censured.

The gentleman from Alabama [Mr. UNDERWOOD] said in his speech:

The gentlemen who are obstructing legislation of this kind upon the ground that they are conservationists I regret to say, in my judgment, are obstructionists against the best interests of the people of the United States.

We are obstructing, if obstructing at all, and I hope we are in the interest of the people, of agriculture, of industry, and are promoting the well-being of the people of this country. The gentleman from Alabama also said:

And I wish to say, in passing, that gentlemen who expect to make political capital for themselves by throwing obstructions in the way of honest legislation to develop the great water power of this country, when these facts become known to the agricultural classes of this country, will have a day of reckoning at their own homes.

By the term "who expect to make political capital for themselves" the gentleman evidently has the idea that, for the present at least, it is popular, or that we think it popular, to oppose such legislation as this. And it is popular in my State. The people in every little town and at every crossroad have heard about how it will ruin the country and destroy all industry to refuse to give away the franchises and the public rights. But they have learned to call the men who preach that doctrine reactionaries, adherents of the cause of greed, ballot-box stuffers, bosses, convention thieves, and they refuse to follow their teachings any more. They think for themselves. They bend every energy to own their own franchises. They are proud of the Government forest reserves. They own an interest in them, and they look with contempt upon those who gave the vast timber areas away to the Weyerhaeusers and the railroads. You can not get them to applaud when you moan about the Government timber tied up. They do not grieve about the Alaska coal that was reserved. They do not curse Pinchot; they hail him a hero. They do not damn the man who is the author of the new light and is the genius of present-day conservation and progress; they vote for him for President by 50,000 majority.

If these franchise seekers are not satisfied with a 50-year permit, with the understanding that we will pay them the cost of the dam and the value of their other structures at the end of the time, let them go to Canada. We can take care of ourselves in this country.

I do not want to be caustic or personal in my remarks. I highly respect the gentleman from Alabama, both for his ability and his affable and kindly disposition, but I do believe there is one part of his remarks he had better have left unsaid.

Here is what I refer to:

In the arid regions of the West it is water, not land, which measures agricultural production. In the cotton fields of the South it is fertilizer, not land, that measures production.

An examination of the summary of appropriations made by Congress for western land irrigation and reclamation discloses the following:

Early irrigation surveys	$350,000.00
Reclamation fund	79,450,438.53
Authorized bond issue	20,000,000.00
Expended by Geological Survey	4,500,000.00
Expended by Department of Agriculture	956,000.00
Expended by or through Office of Indian Affairs	10,797,316.29
Total	116,003,754.82

These contributions of the Federal Government by these appropriations in aid of the reclamation of the arid lands of the West are most wisely made, for Congress can make no appropriations and pass no laws so useful to the country as those appropriations and laws which contribute to the increase of our food crops.

What appropriations has Congress made, what encouragement has the Government given to the increased production and cheaper production of fertilizers, so indispensably necessary to the food crops of the farmers of this country from Massachusetts to California and from Maine to Texas? The agricultural fertilizer bill in the United States during the single year 1909 amounted to $114,882,541, and the fertilizer bill for 1909 of the 11 Southern States—North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, and Texas—was alone $63,992,626.

Is it sound, is it sane, that out of the Federal Treasury the enormous expenditures of public funds for the reclamation of the arid lands of the West be continued—and they should be—and Congress refuse to pass constructive dam legislation that will invite and protect private capital, to be invested at its sole expense in the construction of dams for the joint improvement of navigation and development of power in the navigable streams of the country, which power will be largely employed in the manufacture of fertilizers which are just as necessary to increase the food crops and cotton crops, especially of the Southern States, as water is necessary to the production of food crops on the arid lands of the West?

Let the gentleman first of all bear in mind that the water power of the West is in the hands of the Government and is administered under the strictest rules by the departments in control. The gentleman knows the provisions of the Lane-Ferris bill—not a part of our water power but practically all of it. And we have water power out there—very much more of it than there is in the South and East. We are getting permits for our municipalities, lighting our cities, heating and lighting our homes, running our industries, not at 12 cents per kilowatt hour, the preposterous and outrageous price named by the gentleman from Alabama [Mr. BURNETT], in his interruption of his colleague, as the rate at which his people are fleeced in Alabama, but at from 3 cents to 8 cents. The Puget Sound Navy Yard has a contract for electric current at 1½ cents per kilowatt hour. The Government is not asked by the people of the West to give their water power to the New York bankers and brokers, and there would be almost a revolution if any such procedure were attempted. We want the Government to continue to administer it, and to reserve it when it is right to reserve it.

But of this $116,003,754.82 bill of particulars that the gentleman presented, $99,450,438.53 was for reclamation, every cent of which the Government still owns as an investment, and $5,806,000 for surveys and by the Department of Agriculture. It takes some self-possession for a Member of this House to attempt to chide the men of the West with the statement "Look what we spent to survey your lands out West, and then the rest of the bill you spent on the Indians."

That is a big bill—$116,000,000. Why do you not complain some about the 260,000,000 acres of land that Congress gave away to the railroads and then $5,000,000,000 worth of timber that passed into private hands on the very kind of a flimflam by which it is now sought to give the water power to Canadian fertilizer makers and the French Aluminum Trust, and others? Oh, that $116,000,000 is a mere bagatelle. You spent that legitimately. You squandered the billions.

If the gentleman from Alabama wants fertilizer for the farmers in the South, let him come in here with a proposition to build a dam on any Government stream and establish a plant that will furnish the fertilizer to farmers at cost. He will have no trouble getting a waiver of cost from the Government for power in such a case. That is what we proposed and carried through with the valuable assistance of the gentleman from Alabama in Alaska. We wanted transportation at low prices, and we will have a Government railroad to do the job at cost.

But with all your squandering of the resources of the Government in the West and in Alaska, still there is where the public treasure is. What does the Government own in the South and East except the water power which these gentlemen are so anxious to unload? The Government owns a billion dollars worth of timber in the Western States. But that is only a suggestion of all the tremendous and inestimable wealth of mine and land and water power in the West and in Alaska. Our slogan is "Develop"; yours, "Give it away." Which is the better policy for the people?

My opinion is that the gentlemen who vote for this bill are the ones who will have to render account in the days to come.

Why has the chairman of this great committee introduced and brought forward as an emergency measure this particular bill? Did the gentleman believe the present law insufficient or inadequate to safeguard the public interest and did he desire more stringent regulation? Not at all. He stated in his speech the other day that the law was already too drastic to be effective, and he deplored the fact that but few of the permits granted under that law were put into operation.

THE NEW LIGHT.

The gentleman from Georgia [Mr. ADAMSON] referred in disparaging terms to a new light which had interfered with the operations of certain men who have heretofore received grants from Congress for dam sites for water power, and he plainly intimated that the same new light was still in the way. The new light first appeared on April 13, 1908, when President Roosevelt demanded the attention of Congress with his veto message on the bill for construction of a dam across Rainy River. (See CONGRESSIONAL RECORD, vol. 42, pt. 5, p. 4698.)

The new light was composed of five rays, summarized by the President as follows:

First. There should be a limited or carefully guarded grant in the nature of an option or opportunity afforded within reasonable time for development of plans and for execution of the project.

Second. Such a grant or concession should be accompanied in the act making the grant by a provision expressly making it the duty of the designated official to annul the grant if the work is not begun or plans are not carried out in accordance with the authority granted.

Third. It should also be the duty of some designated official to see to it that in approving the plans the maximum development of the navigation and power is assured, or at least that in making the plans these may not be so developed as ultimately to interfere with the better utilization of the water or complete development of the power.

Fourth. There should be a license fee or charge which, though small or nominal at the outset, can in the future be adjusted so as to secure a control in the interest of the public.

Fifth. Provision should be made for the termination of the grant or privilege at a definite time, leaving to future generations the power or authority to renew or extend the concession in accordance with the conditions which may prevail at that time.

On April 13—one month later—the new light was again flashed in the faces of certain gentlemen by the President in the form of

a letter to the Senate Committee on Commerce, the body of which letter is as follows:

Numerous bills granting water rights in conformity with the general act of June 21, 1906, have been introduced during the present session of Congress, and some of these have already passed. While the general act authorizes the limitation and restriction of water rights in the public interest, and would seem to warrant making a reasonable charge for the benefits conferred, those bills which have come to my attention do not seem to guard the public interests adequately in these respects. The effect of granting privileges such as are conferred by these bills, as said in a recent message, "taken together with rights already acquired under State laws, would be to give away properties of enormous value. Through lack of foresight we have formed the habit of granting without compensation extremely valuable rights, amounting to monopolies, on navigable streams and on the public domain. The repurchase at great expense of water rights thus carelessly given away without return has already begun in the East, and before long will be necessary in the West also. No rights granting water power should be granted to any corporation in perpetuity, but only for a length of time sufficient to allow them to conduct their business profitably. A reasonable charge should, of course, be made for valuable rights and privileges which they obtain from the National Government. The values for which this charge is made will ultimately, through the natural growth and orderly development of our population and industries, reach enormous amounts. A fair share of the increase should be safeguarded for the benefit of the people, from whose labor it springs. The proceeds thus secured, after the cost of administration and improvement has been met, should naturally be devoted to the development of our inland waterways." Accordingly I have decided to sign no bills hereafter which do not provide specifically for the right to fix and make a charge and for a definite limitation in time of the rights conferred.

On January 15, 1909, President Roosevelt vetoed House bill 17707, to authorize William H. Standish to construct a dam across James River in Stone County, Mo. The five rays of the new light were not only flashed but were focused and burnt into the eyes of some Members of Congress who, having eyes to see, see not. To make sure, a sixth ray was added, as follows:

Sixth. The license should be forfeited upon proof that the licensee has joined in any conspiracy or unlawful combination in restraint of trade, as is provided for grants of coal land in Alaska by the act of May 28, 1908.

The President further stated in his veto message:

To give away without conditions this, one of the greatest of our resources, would be an act of folly. If we are guilty of it, our children will be forced to pay an annual return upon a capitalization based upon the highest prices which "the traffic will bear." They will find themselves face to face with powerful interests intrenched behind the doctrine of "vested rights" and strengthened by every defense which money can buy and the ingenuity of able corporation lawyers can devise. Long before that time they may, and very probably will, have become a consolidated interest, controlled from the great financial centers, dictating the terms upon which the citizen can conduct his business or earn his livelihood, and not amenable to the wholesome check of local opinion.

* * * * * * *

THE NEW LIGHT WORE GLASSES AND HAD BIG TEETH.

I will sign no bill granting a privilege of this character which does not contain the substance of these conditions. I consider myself bound, as far as exercise of my Executive power will allow, to do for the people, in prevention of monopoly of their resources, what I believe they would do for themselves if they were in a position to act. Accordingly I shall insist upon the conditions mentioned above not only in acts which I sign, but also in passing upon plans for use of water power presented to the executive departments for action. The imposition of conditions has received the sanction of Congress in the general act of 1906, regulating the construction of dams in navigable waters, which authorizes the imposing of "such conditions and stipulations as the Chief of Engineers and the Secretary of War may deem necessary to protect the present and future interests of the United States."

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. BRYAN. Mr. Chairman, I would like to get through with this new-light proposition.

Mr. ADAMSON. Mr. Chairman, I think we had better rise. We have heard that a thousand times.

Mr. BRYAN. The gentleman will hear it a thousand times more; it is right, and it will not down.

Mr. ADAMSON. The line of talk that we have just heard has been familiar to us for 15 years, and it is due not, in my judgment to dishonesty, but to ignorance.

Mr. BRYAN I suppose the gentleman refers to that which I have just read from President Roosevelt. That is a new term to apply to him.

Mr. ADAMSON. After he wrote that letter he and his advisers agreed with Mr. STEVENS and his subcommittee for the amendment of 1910, and then they went back on the amendment after it was made.

Mr. BRYAN. The gentleman from Minnesota [Mr. STEVENS] says it is unconstitutional. I wish I had more time on that, Mr. Chairman, but I will avail myself of the privilege of extending in the RECORD.

The gentleman blames President Roosevelt for the trouble that the franchise getters incurred while Roosevelt was in Africa and on all other subsequent events. Surely there is some truth in that, for a good authority, which I will cite presently, said the new light of Theodore Roosevelt had "awakened the American conscience."

The act of 1910, which is the present general dam act, is evidently objectionable to the gentleman from Minnesota [Mr. STEVENS]. That gentleman gives the following as a portion of a "strictly accurate" statement of a promise made to President Roosevelt to "violate the Constitution" by agreeing—

That a supplemental act should be passed to the existing law that should extend the powers of Congress beyond those we got under the Constitution. It was that promise we kept in framing the act of 1910.

HIS PICTURE TO THE WALL, BUT—A CABINET ROW.

Matters proceeded smoothly for a season, and President Taft went on signing grants under Mr. STEVENS's "unconstitutional act of 1910"; but "the new light" again penetrated the gloom, and lo, a Cabinet row—Stimson, Secretary of War, and Fisher, Secretary of the Interior, had succeeded Dickinson and Ballinger. Certain constitutionalists had not properly estimated the power and force of the new light. The Chief Forester had been fired, but "where is now the merry party"? The new light forced its way into the gloom of the last administration, and we had a Taft veto for the Coosa River project.

HAS PRESIDENT WILSON PERCEIVED THE NEW LIGHT?

I wonder if the gentleman from Georgia has ever asked President Wilson if "the new light" has reached his administration. Will he veto such bills if they come up to him? I imagine he has said, "Yes," if such a question has been asked and the necessity for a new enactment in the form of a new general dam act has become apparent. For it was Woodrow Wilson, the historian, who, in speaking of the Roosevelt administration, said:

All must admit that the chief legacy of this remarkable administration to the people of the United States is one of ideas.

And—

One can * * * agree with Gov. Hughes, of New York, in characterizing it as "an administration which has impressed the American people with the necessity for the correction of obvious evils and has stirred the American conscience."

I believe that the new light is still a vital force in this country and that the American conscience is still on the job. So I have no doubt that President Wilson would likewise veto such grants, and the gentleman from Georgia knows that he would, and that Secretary Lane and Secretary Garrison also would advise such vetoes.

NO NEW LIGHT IN THIS BILL UNLESS AMENDED.

But surely the gentleman from Georgia knows there is none of the new light in this pending bill. To enact it into law would be to back up 10 years and practically destroy what has been accomplished in the past. It is absurd to think that the Members of this House will pass this bill in its present form. The gentleman from Georgia has insisted that this is an administration bill, approved by the President; but I will say that I can not understand the position of the administration. There must be a mistake somewhere. If the administration has approved this bill, I believe that approval was given without fully understanding the subject and will be withdrawn.

EVOLUTION OF AN ADMINISTRATION DAM BILL.

On the 19th of last February the report was given out that a bill said to have been proposed by the Secretary of War, Mr. Garrison, had the approval of the administration, but when the letter of the able Secretary disclosed the provisions of the bill it was found that the passion for local self-government and the desire to promote and encourage hydroelectrical development had caused the bill to lose all the provisions for real Federal control, and that its adoption would place the water-power interests in a place of safety between the State and the Federal Governments. The new light again shone forth, and Secretary Garrison stated very plainly that he was mistaken and, according to press reports, he let it be known that his approval of the plan had been given in error. Then the other day the gentleman from Georgia [Mr. ADAMSON] presented administration bill No. 2. I say this is an awful backdown, and that Congress can not think of passing it, and I now hear rumors persistent of administration bill No. 3, which carries certain amendments which were passed around on Wednesday afternoon of this week. But I believe administration bill No. 3 will not be satisfactory to this House. I know it is not satisfactory to me. I do not see any reason or excuse for liberalizing the general dam act as is proposed by this legislation. I am fully aware that there is a clamor for this kind of legislation on the part of the water-power interests, and they make the argument that if the law is not liberal, timid capital will not be enticed to build the dams. For my part, I had rather go a little slower and protect the public interest. It is very easy to give away rights and franchises, and it is very hard to recover them when they once get into private hands.

Upon investigation it will generally be discovered that there is no truth in the claims of these interests that honest, legitimate development is being retarded by regulation and careful regard by Congress of the people's rights. Let us consider some

of these claims, and I gladly acknowledge the aid of Mr. Slattery, secretary of the conservation association, in compiling much of this data.

1. THAT FEDERAL CONTROL IS RETARDING POWER DEVELOPMENT.

This is totally disproved by the progress of power development under permit on the national forests. The power permits of the Forest Service contain the very provisions for a 50-year franchise, a charge for the use of the power site, publicity, and prompt development, which the power interests claim are unreasonable and impracticable. So large has been the demand for privileges on national forests under these permits that on October 1, 1913, there were 78 water powers developed, 30 under construction, and 76 for which permits have been taken out during the past two years under conditions requiring prompt development. The total capacity of the water powers now under permit on national forests is 1,090,000 horsepower, reckoned on minimum stream flow. The actual capacity is not less than twice as much. Thus the total horsepower under permit for development in national forests is not far from one-third the total present development of water power in the United States.

The Forest Service has granted permits within the last four months for an aggregate power development of 340,000 horsepower at minimum stream flow, equivalent to at least 700,000 horsepower of actual development.

2. THAT THE CONCENTRATION OF WATER-POWER CONTROL IS NOT INCREASING OR THAT IT DOES NOT EXIST.

Concentration of private control of water power is the dominant feature of the water-power situation, as the following facts show:

In 1908, 13 groups of interests controlled 1,827,000 horsepower.

In 1911, 10 groups of interests controlled 3,270,000 horsepower.

In 1913, 10 groups of interests controlled 6,267,000 horsepower.

Thus the amount of private control of water power has practically doubled in the last two years.

When we compare the private control of developed and undeveloped water powers shown above with the total amount of developed water power in the United States we get these results:

In 1908, total development 5,300,000 horsepower, and the equivalent of 33 per cent in concentrated private control.

In 1911, total development 6,000,000 horsepower, and the equivalent of 55 per cent in concentrated private control.

In 1913, total development 7,000,000 horsepower, and the equivalent of 65 per cent in concentrated private control.

When we turn to individual States we find the results shown in the following table, which gives for each of the States enumerated the name or names of the leading power companies and the percentage controlled by them of the total developed commercial power in the State.

State.	Power company.	Percentage of total commercial power controlled.
California	Pacific Gas & Electric Co.; Western Power Co.	42
Washington	Washington Water Power Co.; Puget Sound Light & Power Co.	65
Oregon	Portland Railway, Light & Power Co.	54
Utah	Utah Security Corporation; Utah Power Co.	60
Montana	Montana Power Co.	80
Colorado	Colorado Power Co.	60
North Carolina	Carolina Power & Light Co.	50
South Carolina	Southern Power Co.	80
Georgia	Georgia Railway Power Co.; Georgia Power Co.	55
Alabama	Alabama Light, Power & Traction Co.	96
Tennessee	Tennessee Railway, Light & Power Co.; Chattanooga-Tennessee Power Co.	90
Minnesota	Northern States Power Co.; Northwestern Power Co.	50
Michigan	Commonwealth Power, Light & Railway Co.	42
Maine	Central Maine Power Co.; Cumberland County Power & Light Co.	45
Vermont	New England Power Co.	55

Thus in 15 of the great power States private control of developed commercial power, usually in the hands of a single company, averages 61 per cent. The total capitalization of these controlling power companies in these 15 States is approximately half a billion dollars.

3. THAT DEVELOPMENT OF WATER POWERS IN PRIVATE CONTROL IS KEEPING PACE WITH THE GROWTH OF THIS CONTROL.

In 1911 10 groups of interests controlled 3,270,000 horsepower, of which 1,821,000 was developed and 1,449,000 was undeveloped.

In 1913 10 groups of interests controlled 6,267,000 horsepower, of which 2,711,000 was developed and 3,556,000 was undeveloped.

Thus in two years the great power interests have increased their control of power held undeveloped more than twice as fast as they have increased their power development.

When we compare for 1908 and 1913 the total developed water power in the United States with the concentrated control of water powers developed and undeveloped we get these results:

In 1908 the total developed water power was 5,300,000 horsepower and the total power developed and undeveloped in the control of the 13 greatest groups of power interests was 1,800,000.

In 1913 the total developed water power was 7,000,000 horsepower and the total power developed and undeveloped in the control of 10 great groups of interests was 6,300,000.

Thus concentration of ownership of water power in the United States has increased in the last five years about seven times faster than power development.

Three western power corporations alone control about 1,000,000 undeveloped horsepower.

4. THAT IT IS DIFFICULT TO INTEREST CAPITAL IN POWER DEVELOPMENT BECAUSE OF HIGH FINANCIAL RISK AND LOW RETURNS.

During the last 10 years the net earnings of gas and electric companies have never dropped below 8 per cent on the securities issued, although these have increased by 110 per cent, or double the railroad expansion. (Henry L. Doherty & Co., bankers, New York, Apr. 21, 1913.)

The relative safety of gas and electric companies' securities compared with other securities is shown by the following figures:

Average annual amount of securities in receivers' hands per $100 of outstanding securities.

Gas and electric companies		$0.37
National banks—		
Insolvent	$0.32	
Voluntary liquidation	1.61	
		1.93
Railroads		1.84
Industrials		2.07

This shows that gas and electric companies are about as safe as national banks. For the last 10 years gas and electric companies have earned an average net return of $8.45 per $100 of outstanding securities, industrials $7.79, and railroads $4.25. Thus gas and electric companies have larger net earnings than the other classes. Their security is also greater, since their receivership risk is $0.37, against $2.07 for industrials and $1.84 for railroads.

Edward B. Lee, a recognized authority on investment securities, in "A year's review of public utilities," Moody's Magazine, January, 1913, states that 57 public-utility companies raised $469,656,000 through the sale of securities in 1912.

Mr. Lee also states:

The year 1912 saw the greatest spread of the holding-company idea and of the consolidation of public-utility companies and properties—

And goes on to say—

There are those who believe that the development of public-utility properties and the extension of their financing has gone a step too far.

5. THAT MANY POWER DEVELOPMENTS HAVE BEEN "GRAVEYARDS" FOR THE HOPES AND CAPITAL OF THEIR PROMOTERS.

Continuing, Mr. Lee says:

The record of hydroelectric companies in the United States has been, on the whole, an excellent one. There have been, of course, some failures owing to unfortunate selection of territory to be served and of water-power sites to be utilized, to faulty construction of dams and reservoirs, and to bad financing; but the losses of investors have been relatively small.

6. THAT RATES CHARGED BY POWER INTERESTS FOR WATER POWER COULD NOT REASONABLY BE LOWER.

Testimony before the House Committee on Foreign Affairs given by Gen. Francis V. Greene, president of the Niagara, Lockport & Ontario Power Co., and by Mr. C. H. Hammond, corporation counsel, Buffalo, brought out the fact that Buffalo pays $30 per horsepower for hydroelectric power generated at Niagara, and Rochester pays $25, while Toronto pays $17.45, and Hamilton, also in Canada, pays $18.55 per horsepower.

In Chicago, St. Paul, Spokane, Pittsburgh, Portland, Providence, Richmond, Reading, and San Antonio the base rate for power for lighting purposes charged by private companies is 10 cents per kilowatt hour. In Cleveland, where the municipality operates its own power plant, the maximum rate is 3 cents and the minimum 1 cent. Pasadena, which used to pay 15 cents per kilowatt hour under private ownership of its power plant, is now running its own plant and selling power for 5 cents per kilowatt hour, and has already earned enough in profits to pay for the plant.

Seattle now operates its own municipal light and power plant, with the result that power costs the city and the consumer less

than half what it cost when the power plant was privately owned and operated.

The Mississippi River Power Co., which operated the Keokuk Dam, has already sold less than one-third of the developed power for a sum representing a return of 5 per cent on its entire investment of $20,000,000.

We can not afford to forget the vast numbers of the people who must furnish the money to stimulate these water-power interests. The promoters that are in the habit of finding a snap and then forming a company will be heard to complain. Water-power development has been going on with amazing rapidity. This talk about embarrassed millionaires and timid water-power financiers is not borne out by the facts.

The Electrical World has made public some estimates of the rate of growth of the central-station business for March, 1914, compared with March, 1913, for various groups of States, based upon actual official returns from nearly 100 companies, which represent between them something over one-half of the entire light and power industry. These data show the following rates of increase on (1) revenue from the sale of energy and (2) total energy output of stations in kilowatt-hours: Middle Atlantic States, 6.1 per cent and 7.5 per cent; South Atlantic, 11.3 and 22.8; Central, 11.2 and 12.8; New England, 7.1 and 7.7. For the whole country it is closely estimated that the gross revenue from the sale of energy increased from $29,500,000 in March, 1913, to $31,913,000 in March, 1914, and the total energy output from 1,142,000,000 kilowatt-hours to 1,257,250,000.

THE WATER-POWER PROBLEM.

The water-power problem will sooner or later be brought home to every man, woman, and child, and home in this Nation. Within a few years the use of power will become a daily problem to the man on the farm, the woman in the home, and to the workingman in the shop. It does not take vision or imagination of great length to see the day when electric power, on account of the prohibitive cost of coal and wood, due to the depleted supply, will be the great factor in the power world. Even to-day, in manufacturing, water power is beginning to become a prime factor. This is shown by the fact that in six Western States 60 per cent of the power used in manufacturing is generated by falling water. When we consider the inestimable advantage of electricity over other power, we see clearly that water power will easily override all competitors.

WATER POWER IN THE HOME.

The use of electricity, generated by water power, is rapidly becoming an important economic factor in the home. Its widespread use for lighting and heating purposes is common knowledge. But in the near future will come the general operation of labor-saving devices in the home by electricity. In the West many communities have solved their servant problem, to say nothing of a reduced cost, by the installation of electric labor-saving machinery. A western governor at a recent meeting of the house of governors, to illustrate the widespread use of water power in his section, said: We have it on the farms, where we cook and heat and light by electricity, because our water powers are so cheap that we can afford to do it. In my home we have not had a fire to cook with in seven years nor a fire to heat our bath water and water for domestic use, and we do our cooking, make our ice cream, and churn the butter, do the washing and ironing, and the girls even wash the dishes by electricity. Within a few years this illustration will aptly apply to every section of this country.

CONSERVATION VERSUS DISSIPATION OF WATER POWER.

The keynote of the conservation policy with reference to water power is that our water powers should be controlled by the public. The reckless granting of power sites in perpetuity and without restrictions has been a sin of this generation which will be visited many times over on generations to come. The heedless giving of these franchises by both State and Nation to private corporations has been partly due to the failure of the public servants to safeguard this inestimable resource. There is some truth in the plea of ignorance, since it was only a few years ago that the value of a power site was realized. But there is no excuse for the frittering away of these valuable resources in this time of our Nation's life, with the ills of monopoly pressing us on every side. We must awaken to the true situation or there will be no use to lock the stable—the horsepower will be gone. Democrats ought to recognize the following words of William J. Bryan:

I know of nothing that nearer approaches the system of landlordism in Europe than the proposed giving away of these mountain streams in perpetuity to great syndicates, that through the years and generations to come could extract their toll from the toiling people. Therefore when we consider the use of these mountain streams the first thing we must decide is that there shall be no perpetual grant of water power. Who can tell what that right will be worth a hundred years from now? Look back 25 years. Who could have estimated then the value of a water-power site to-day? Within the last quarter of a century we have had a development of electricity that makes it possible to carry for hundreds of miles power generated by falling water. If you visit Canada you will find in the Province of Ontario great towers carrying for hundreds of miles the power generated at Niagara Falls. We are now in the very beginning of the use of electricity. What criminal folly for this generation to barter away sacred rights of posterity to syndicates and corporations. So it seems to me that one of the important questions to be decided in the conservation of our natural resources is that the principle of monopoly shall not be permitted in this country under a guise in any form. Let us insist that wherever or whenever a franchise is granted it shall be granted for a term of years, and that term shall not be so long but that we can reasonably estimate to-day the value of it at the end of the term. No other principles are tenable in the discussion of this subject.

DEVELOPED HORSEPOWER AND AVAILABLE SUPPLY.

The report of the Bureau of the Census made for the National Conservation Commission (1908) estimated 5,356,000 horsepower developed in the United States by water power. The Bureau of Corporations report of March 14, 1912, on water-power development estimates about 6,016,127 developed horsepower. According to this report, about 30,000,000 horsepower is developed by gas, water, and coal. It will therefore be seen that one-fifth of the horsepower in the country to-day is generated by water power.

In 1908 the United States Geological Survey estimated the potential water power of the country, minimum, 36,916,250, and maximum, 66,518,500.

It is estimated by experts that the waters of the country, if stored properly, would generate 200,000,000 horsepower, in addition to preventing floods. Power developed from storage reservoirs at the headwaters of our great rivers, like the Mississippi River, has unlimited possibilities. The late Dr. McGee, the most eminent authority on the subject of waters in the country, said of our storage-power possibilities:

It exceeds our entire mechanical power now in use, and would operate every mill, drive every spindle, propel ever boat, run every car, and light every city, town, and village in the country.

HAVE WE A WATER-POWER MONOPOLY, AND HOW?

If we should ask the average citizen this question, he would likely answer in the negative. Many doubtless have never heard of a water-power monopoly in their community, although it may already have fastened itself upon them. Let us look, for instance, at California—the State of the greatest water-power development. Upon investigation we find four large companies holding sites capable of developing 570,000 horsepower, of which only about 200,000 horsepower has been developed. This is practically a monopoly of a State's water power, when we consider the Bureau of Corporations' total water-power estimate of 1,168,216 developed horsepower. These corporations are also holding an enormous amount of power undeveloped.

But let us look at other States and see if concentration has been so widespread. In Washington we find two companies controlling 101,000 horsepower, or 75 per cent of the developed power, while in Michigan one company controls 73 per cent, or 52,000 horsepower of that State. Similar conditions exist in Montana, Colorado, Georgia, Alabama, Missouri, and New York.

"That is all right," some one will say, "to talk of these local water powers being under the domination of monopoly. We have heard lots of talk like that before, but I am from Missouri. Who are they? That is the meat of the question." All we will have to do is to put the Government behind these statements and say: There are two power fields in California—one around San Francisco, the other around Los Angeles. In the San Francisco region the Pacific Gas & Electric Co. control the water-power situation, embracing 30 counties, more than 200 cities and communities, and about two-thirds of the people of the State live in the area they serve. This company owns 118,343 horsepower and the electric and traction systems in more than 40 cities. In Washington the eastern part is largely controlled by the Pacific Coast Power Co. In the State of Montana the Butte Electric Power Co. controls 69,260 horsepower and the United Missouri River Power Co. 65,000; together they control 134,260, or about 45 per cent of the entire development. In Colorado the Central Power Co. alone controls all the developed water powers in the vicinity of Denver, and out of 72,000 horsepower developed in the State controls 47,000. This company also controls 50,000 undeveloped. In South Carolina we find the Southern Power Co. controls 101,000 horsepower, or 75 per cent of the State's power, with 73,000 undeveloped horsepower; while in Georgia the Georgia Power Co. controls 73,550 horsepower, or 58 per cent of that in the State. In Michigan 73 per cent of power is controlled by the Commonwealth Power Railway & Light Co., or 51,800 horsepower, and 71,000 undeveloped.

It is true that concentration is more acute in the West than any other section.

IN CONTROL OF THE GOVERNMENT.

However, in the national forests there is about 14,000,000 undeveloped horsepower; on the public lands there is estimated to be 10,000,000 horsepower, and on irrigation projects about 56,690 horsepower. This is 15,000,000 horsepower now under Federal control which should never be allowed to go the way of the other great water powers of the East and West.

IS A WATER-POWER TRUST IN FORMATION?

There may be a question whether or not we have a power trust to-day, but there is no denying the fact that it is on its way. If we look around, we find 10 large groups of water-power companies which are domineered to a great extent by the "General Electric interests." The General Electric absolutely controls 83,000 developed horsepower, controls by interlocking stock ownership or directors 419,000 developed horsepower, and controls through the community of directors 437,000, a total of 939,000 developed horsepower, or 15 per cent of the developed power in the United States, and 641,600 horsepower, or about 24 per cent of the undeveloped power reported by concerns owning developed power. The "Stone & Webster interests," the other large cooperative combine, own or strongly influence 278,000 horsepower, and, undeveloped, 641,000. In other words, we have these two allied interests alone controlling 2,499,600 horsepower. Is this not very near a trust in itself?

A water-power trust, granting it has not arrived, will be the greatest menace to the public welfare that we have yet experienced. Of the dangers of concentration, Senator BURTON has said:

Besides its enormous magnitude, this industry will become fundamental to many other industries which depend upon water power for their operation and success. The possibility of a control of the business of the country through the agency of water power is more imminent than any other form of control ever attempted in the history of human endeavor.

AN EXAMPLE OF THE OLD METHOD.

The Stone & Webster interests own the great Mississippi River Power Co., across the Mississippi River near Keokuk, Iowa, which is to generate 300,000 horsepower. Congress granted a perpetual franchise in 1905 to construct this dam without restrictions, except that certain locks and appurtenant works should be constructed. The project has recently been completed at a cost of $20,000,000. The dam, which will back the waters of the Mississippi for 65 miles, is eight-tenths of a mile long, of monolithic concrete, with 199 concrete arches, and a power house 1,710 feet long. Two locks on this project are of equal width of those at Panama, namely, 110 feet, and are 400 feet long. Without any regard as to the cost of constructing these locks and whether it would be sufficient remuneration to the Government for the privilege, Congress gave away this valuable right forever and for nothing. An investigation of the franchise, which Congress freely granted, should have been made by Congress. In view of its failure to do so, this news item of a recent date is interesting:

The Union Electric Light & Power Co. of St. Louis has contracted from the Mississippi Power Co. for the sale of 60,000 horsepower from this plant to be delivered in that city at $20 per kilowatt per year to consumers.

WATER POWER AND CONGRESS.

Since 1789 Congress has authorized the building of about 100 dams by special private bills. To-day 50 per cent of these dam sites are in the hands of large water-power interests. This is convincing evidence that these sites were secured primarily for monopolistic purposes. A Senator well summed up the situation in these words:

Special interests, in order to reap the harvests of the last of our great natural resources, have been grabbing for these water-power sites with a greed hardly paralleled in the history of this country, which has already suffered enough from exploitation of our natural resources.

But some will say, "Well, of course that happened many years ago, when Congress didn't understand the value of this great resource as we all do to-day." Well, just let us see. On February 24, 1911 (act 342), a right was granted by Congress to the Ozark Power & Water Co. to build a dam across the White River in Missouri. This company had been incorporated under the laws of Missouri on January 1, 1911, with authorized capital stock of $5,000, 48 of the 50 shares being held by one man. Three months after Congress passed this legislation the company increased its capital to $875,000, and nine months after its capital stock was increased to $2,000,000. This company is to-day rapidly absorbing all the local power companies in this section. The report of the Missouri Waterway Commission (p. 35, 1912) says of this same company:

It could not be learned by this commission at what price this electric energy would be delivered to the power consumer. Providing the electric power is sold to the ultimate consumer at a price which will be just a little under that of coal-produced power, it is easily seen that the profits from this water-power investment will be exceedingly large. At $40 per horsepower per annum, which, because of the high cost of producing power by means of coal and steam at Springfield and Joplin, would not be an excessive price, the annual gross income from this one water-power development would be $400,000. However, if more than the minimum power were realized the annual income would greatly exceed this amount. The promoters of the project have estimated that the annual expense, including the maintenance of transmission lines and the operation of the power plant, will not exceed $50,000. This therefore leaves a net income of $350,000 on an investment of less than $2,000,000, which is 16⅔ per cent profit. It is very likely, however, that the gross income is underestimated and the actual expenses overestimated, and therefore possible that the profits will be much greater than indicated.

Congress granted this franchise with no consideration of its worth or the speculative feature involved.

I have already referred to the fact that President Roosevelt in his veto of the James River bill, on January 19, 1909, called to the attention of Congress its failure to properly protect the public interest in these grants. But in 1909 an omnibus bill was reported favorably which contained this same grant on the James River. The grant became a law and a few months after was transferred to the power monopoly of Missouri by the grantees.

CONTROL IN FOREIGN COUNTRIES.

It may be of interest to see how they are handling this water-power problem in other countries. In the Province of Victoria, Australia, licenses are granted only for a limited period at an average charge of $5 per horsepower per annum.

The New South Wales Government retains the ownership of all land 66 feet each side of all water fronts and courses, and taxes and leases the water power.

In Switzerland, in 1908, an amendment to the constitution was adopted granting the Federal Government control of all franchises, and to-day about 70 per cent of all power generated in Switzerland is owned by public authorities or under public control through stock ownership. Many cities have municipal power plants.

In France permits are granted for development purposes on navigable streams on a rental basis.

Italy grants concession for water power not longer than 30 years on an annual rental.

Ontario reserves the right on each side of all water fronts and transmits power to municipalities at cost.

Mr. ADAMSON. Mr. Chairman, I wish to congratulate the country that there are some correct views on the Pacific coast, and I have sent to the Clerk's desk a letter to show the concurrence of the Seattle Chamber of Commerce and the San Francisco Chamber of Commerce in this bill, and I ask that it be read in my time.

The CHAIRMAN. Without objection the Clerk will read.

The Clerk read as follows:

SAN FRANCISCO CHAMBER OF COMMERCE,
July 8, 1914.

NEW SEATTLE CHAMBER OF COMMERCE,
Mr. C. B. YANDELL, *Secretary,*
Seattle, Wash.

GENTLEMEN: Referring to your favor of the 9th instant, in the matter of the Jones water-power bill and the Adamson bill, we beg to advise you that the board of directors of this chamber has taken action concurring in the recommendations of the New Seattle Chamber of Commerce, as set forth in the resolution adopted by your chamber indorsing the Jones water-power bill, suggesting a proposed amendment to that measure, and indorsing the Adamson bill.

We have to-day notified our congressional Representative of this action, as well as advising the associated chambers of commerce in the matter.

Yours, very truly.

SAN FRANCISCO CHAMBER OF COMMERCE,
L. M. KING, *Secretary.*

Mr. ADAMSON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16053—the general dam bill—and had come to no resolution thereon.

PRICES OF WHEAT IN KANSAS.

Mr. DOOLITTLE. Mr. Chairman, I ask unanimous consent for the present consideration of House resolution 571, which requests the Secretary of Commerce to report concerning the prices paid for wheat in Kansas, and so forth.

Mr. STEVENS of Minnesota. Mr. Speaker, I shall have to object to that being called up at this time. I promised the minority leader that I should object to all such matters.

The SPEAKER. The gentleman from Minnesota objects.

ADJOURNMENT.

Mr. ADAMSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 19 minutes p. m.) the House adjourned until to-morrow, Friday, July 24, 1914, at 11 o'clock a. m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. GARNER, from the Committee on Ways and Means, to which was referred the resolution (H. Res. 570) directing the Secretary of the Treasury to transmit to the House of Representatives all facts in his possession with reference to the conduct of the collector of customs of the Laredo district, in the State of Texas, reported the same with amendment, accompanied by a report (No. 1010), which said resolution and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. McKENZIE, from the Committee on Military Affairs, to which was referred the bill (H. R. 17752) for the relief of Caleb T. Holland, reported the same without amendment, accompanied by a report (No. 1008), which said bill and report were referred to the Private Calendar.

Mr. FRENCH, from the Committee on the Public Lands, to which was referred the bill (H. R. 11765) to perfect the title to land belonging to the M. Forster Real Estate Co., of St. Louis, Mo., reported the same with amendment, accompanied by a report (No. 1009), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. CHURCH: A bill (H. R. 18030) to provide for the sale of irrigation projects acquired under the provisions of the reclamation act to districts organized for the distribution of water for irrigation on the lands embraced within such projects, and to provide, under certain conditions, for the future construction of irrigation projects with moneys from the reclamation fund, the same to be sold, when completed, to districts organized for the purchase thereof; to the Committee on Irrigation of Arid Lands.

By Mr. OLDFIELD: A bill (H. R. 18031) amending sections 476, 477, and 440 of the Revised Statutes of the United States; to the Committee on Patents.

By Mr. EAGAN: Memorial from the House of Delegates of the State of Virginia, favoring the acquisition of Monticello by the Government of the United States; to the Committee on the Library.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 18032) granting a pension to George C. Louthain; to the Committee on Invalid Pensions.

By Mr. ALLEN: A bill (H. R. 18033) granting an increase of pension to Julia Fuhrmann; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18034) granting an increase of pension to Martha G. Le Count; to the Committee on Invalid Pensions.

By Mr. BRODBECK: A bill (H. R. 18035) granting an increase of pension to Aaron Markle; to the Committee on Invalid Pensions.

By Mr. DEITRICK: A bill (H. R. 18036) granting a pension to Charles McHugh; to the Committee on Invalid Pensions.

By Mr. FORDNEY: A bill (H. R. 18037) to remove the charge of desertion from the record of Henry T. Shafer; to the Committee on Military Affairs.

By Mr. HELM: A bill (H. R. 18038) to carry out the findings of the Court of Claims in the case of Louis Landram, administrator of William J. Landram, deceased; to the Committee on Claims.

By Mr. MacDONALD: A bill (H. R. 18039) granting a pension to Henry Wachter; to the Committee on Pensions.

By Mr. MAGUIRE of Nebraska: A bill (H. R. 18040) granting an increase of pension to Addison H. Vanderbergh; to the Committee on Invalid Pensions.

By Mr. MOSS of West Virginia: A bill (H. R. 18041) granting an increase of pension to America M. Fellows; to the Committee on Invalid Pensions.

By Mr. SMITH of Idaho: A bill (H. R. 18042) granting an increase of pension to Anna Robbins; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Petition signed by Herman Eissmar, of Pacific, Mo., protesting against the adoption of the Hobson prohibition amendment; to the Committee on Rules.

By Mr. AINEY: Petition of citizens of Rummerfield and Cold Creek, Pa., favoring national prohibition; to the Committee on Rules.

Also, petitions of citizens of Canton, Little Meadows, Camptown, East Herrick, Luzerne County, 13 citizens of Clifford, 138 citizens of Orwell, and sundry citizens of Preston, all in the State of Pennsylvania, favoring national prohibition; to the Committee on Rules.

By Mr. ALEXANDER: Petition of citizens of Orrick, Mo., for extension of the provisions of the pension law of May 11, 1912, to widows of soldiers; to the Committee on Invalid Pensions.

Also, petition of sundry voters of Gentry County, Mo., and Lone Star Woman's Christian Temperance Union, of Lone Star, Mo., favoring national prohibition; to the Committee on Rules.

By Mr. ALLEN: Memorial of Noyes McCook Post, No. 30, Department of Ohio, Grand Army of the Republic, favoring an appropriation for reunion of veterans at Vicksburg, Miss., in 1915; to the Committee on Appropriations.

By Mr. BRUCKNER: Petition of the Merchant Tailors' Society of New York City, relative to evasions of the tariff law; to the Committee on Ways and Means.

Also, petition of Lord's Day Alliance, protesting against section 6 of H. R. 12928; to the Committee on the Post Office and Post Roads.

Also, petition of Merchants and Manufacturers' Association of Philadelphia, Pa., relative to legislation affecting business; to the Committee on the Judiciary.

Also, memorial of General Post Office Letter Carriers' Mutual Benefit Association of New York City, protesting against section 6 of House bill 12928; to the Committee on the Post Office and Post Roads.

Also, petition of Central Federated Union, favoring the passage of the seamen's bill; to the Committee on the Merchant Marine and Fisheries.

By Mr. CLANCY: Petitions of C. G. Van Wormer, B. W. Ingraham, Rev. J. B. Knappenbeyer, and others, of Syracuse; Rev. Charles J. Howell, R. J. Manchester, Edwin K. Munro, and others, of Camillus; C. E. Green and others, of Apulia; Ernest Ashby, E. E. McDowell, and others, of Memphis; Rev. John C. Nichols and others, of Skaneateles; W. H. Graham, Mrs. Frank M. Jones, and others, of Syracuse, all in the State of New York, favoring national prohibition; to the Committee on Rules.

Also, petition of 95 voters of the thirty-fifth New York congressional district, against passage of Hobson-Sheppard-Works resolution; to the Committee on Rules.

Also, petitions of sundry citizens of Syracuse, Baldwinsville, Lysander, East Syracuse, Onondaga, Jordan, Skaneateles, Marcellus, and Camillus, all in the State of New York, against national prohibition; to the Committee on Rules.

Also, petition of employees of the Syracuse (N. Y.) Lithographing Co., against national prohibition; to the Committee on Rules.

By Mr. DOOLITTLE: Petition of 200 citizens of Eureka, Kans., favoring national prohibition; to the Committee on Rules.

By Mr. EAGAN: Petition of Howard F. Malt, of New Jersey, relative to carrying railway postal clerks on railroads free of charge; to the Committee on the Post Office and Post Roads.

Also, petition of Roseburg (Oreg.) Commercial Club, relative to new post-office building in Roseburg, Oreg.; to the Committee on the Post Office and Post Roads.

Also, memorial of United Societies for Local Self-Government of Chicago, Ill., protesting against national prohibition; to the Committee on Rules.

By Mr. FESS: Petition of W. A. Brand Post 98, Department of Ohio, Grand Army of the Republic, favoring appropriation for reunion of veterans at Vicksburg, Miss., in 1915; to the Committee on Appropriations.

By Mr. MERRITT: Petitions of Frederick R. Griffiths, Samuel J. Orr, G. W. Owen, W. F. Chaffee, Frank Backus, Noah Walker, Floyd Patterson, J. B. Wheater, C. E. Wheater, L. B. Ginn, Robert Merrifield, A. L. Dickinson, James Weatherup, Newton Stone, Joseph Ross, R. R. Ormsbee, William Graham, L. W. Seaman, L. N. Stone, C. E. Sunderland, J. L. Wood, J. H. Hutchinson, John McAllester, James Davis, E. R. Smithers, Henry Parkhill, E. M. Bagley, John Cline, W. A. Burlingan, E. H. Dexter, G. H. Simpson, C. B. Doty, R. S. Murray, Richard Kelly, Fred N. Bockers, S. C. Kendrew, F. W. Laidlaw, E. D.

Hanson, Allen Bill, S. M. McCrea, and S. C. Lytte, all of Rensselaer Falls, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. PATTON of Pennsylvania: Petition of citizens of Unionville, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. ROBERTS of Nevada: Petitions of Jack Volz, A. J. Campbell, and 11 others; Frank England, S. J. Lachman, and 5 others; and C. H. Smith, of Rhyolite, Nev., protesting against national prohibition; to the Committee on Rules.

By Mr. SMITH of Idaho: Petition of J. P. Sargood and 30 other citizens of Eagle, Idaho, favoring national prohibition; to the Committee on Rules.

By Mr. TALCOTT of New York: Petitions of the Liquor Dealers' Association of Herkimer and Mohawk; citizens of Waterville; Coopers' Union, Meat Cutters' Union, Carpenters' Union No. 1632, Steam Engineers' Union, Paper Hangers' Union, Street Railway Employees' Union, Bartenders' Union, Cigar Makers' Union, Mule Spinners' Union, Switchmen's Union, Hod Carriers' Union No. 132, Horseshoers' Union, Iron Molders' Union, Hod Carriers' Union No. 35, Lathers' Union No. 52, Barbers' Union, and Plumbers' Union, all of Utica, N. Y., protesting against national prohibition; to the Committee on Rules.

Also, petitions of Charles Younker, Dolgeville; First Methodist Episcopal Church, Rome, N. Y.; R. N. Jessup, Rome, N. Y.; J. B. Kingsley, F. M. Horton, Rev. F. J. Lee, Henry Ernst, J. A. Bailey, and C. E. Stedman, of Rome; E. N. Ames, Rome; 48 citizens of the thirty-third New York district; Truman Cole, C. T. Cole, Little Falls; A. W. Deitz, Verona Station; Lambert Family, New Hartford; F. R. and E. A. Stone, Little Falls; citizens of Oneida County; A. C. Burnam, Camden; W. J. Bennett, Waterville; Mr. and Mrs. Morris Smith, Henry Smith, representing 100 citizens of Herkimer; J. P. Jones, Dolgeville; Poland Baptist Church, Poland; T. P. Marsh, Dolgeville; M. C. Bullock, West Winfield; J. A. Hayes, Utica; citizens of Little Falls; Methodist Episcopal Church, Little Falls; A. E. Cox, Poland; citizens of New Hartford; P. H. Quackenbush, Herkimer; Men's Bible Class, First Presbyterian Church, Little Falls; Rev. H. L. Campbell, Sauquoit; William Carpenter, Rome; Alonzo Murray, Little Falls; Bethesda Welsh Congregational Church, Utica; H. S. Ninde, Rome; Rev. Thomas Browne, New Hartford; M. A. Spicer, West Winfield; F. H. Swanson, Camden; Young People's Society of Christian Endeavor of Bethesda Church, Utica; Woman's Christian Temperance Union of Poland, all in the State of New York, favoring national prohibition; to the Committee on Rules.

Also, petition of Department Veteran Army of the Philippines, relative to civil-service conditions in Philippine Islands; to the Committee on Reform in the Civil Service.

Also, memorial of citizens of Rome, N. Y., favoring a national motion-picture commission; to the Committee on Education.

By Mr. WALLIN: Petition of sundry citizens of Schenectady, N. Y., protesting against any change in the flag; to the Committee on the Judiciary.

SENATE.

FRIDAY, *July 24, 1914.*

(Legislative day of Thursday, July 23, 1914.)

The Senate reassembled at 11 o'clock a. m. on the expiration of the recess.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

The VICE PRESIDENT. The pending question is on the amendment proposed by the Senator from Nevada [Mr. NEWLANDS].

Mr. BRANDEGEE. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	Perkins	Smoot
Brady	Hitchcock	Pittman	Stone
Brandegee	Hollis	Poindexter	Swanson
Burton	Jones	Pomerene	Thomas
Camden	Kenyon	Reed	Tillman
Catron	Kern	Saulsbury	Vardaman
Chamberlain	Lane	Sheppard	Walsh
Chilton	Martine, N. J.	Shively	Weeks
Clapp	Myers	Simmons	West
Culberson	Newlands	Smith, Ga.	White
Cummins	Page	Smith, Md.	Works

Mr. PAGE. I wish to announce the necessary absence of my colleague [Mr. DILLINGHAM]. He is paired with the senior Senator from Maryland [Mr. SMITH].

Mr. KERN. I desire to announce the unavoidable absence of the junior Senator from Kansas [Mr. THOMPSON]. He will be detained for several days.

Mr. GALLINGER. I wish to announce the necessary absence of the junior Senator from Maine [Mr. BURLEIGH].

Mr. SIMMONS. I wish to announce the unavoidable absence of my colleague [Mr. OVERMAN]. He is paired with the Senator from California [Mr. PERKINS].

Mr. CAMDEN. I desire to announce the unavoidable absence of my colleague [Mr. JAMES]. He will be absent to-day. He is paired with the Senator from Massachusetts [Mr. WEEKS].

Mr. KERN. I wish to state that the Senator from Louisiana [Mr. THORNTON] is necessarily detained from the Chamber.

The VICE PRESIDENT. Forty-four Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of the absent Senators, and Mr. BRYAN, Mr. SMITH of Arizona, and Mr. SMITH of Michigan answered to their names when called.

Mr. SWANSON. My colleague [Mr. MARTIN of Virginia] will be unavoidably detained from the Senate to-day and tomorrow. It is impossible for him to be present.

Mr. BANKHEAD entered the Chamber and answered to his name.

Mr. KENYON. I desire to announce the unavoidable absence of the senior Senator from Wisconsin [Mr. LA FOLLETTE] on account of illness.

Mr. JONES. I desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent. He is paired with the junior Senator from Arkansas [Mr. ROBINSON]. I will let this announcement stand for the day.

Mr. SMOOT. I desire to announce the unavoidable absence of the junior Senator from Wisconsin [Mr. STEPHENSON].

Mr. SHAFROTH entered the Chamber and answered to his name.

The VICE PRESIDENT. Forty-nine Senators have answered to the roll call. There is a quorum present.

Mr. WORKS obtained the floor.

Mr. ASHURST. Mr. President——

The VICE PRESIDENT. Will the Senator from California yield to the Senator from Arizona?

Mr. ASHURST. I was going to move to proceed to the consideration of the conference report on the Indian appropriation bill; but, of course, I would not make that motion so as to interfere with the remarks of the Senator from California. However, as soon as he has concluded his remarks I shall make that privileged motion.

Mr. WORKS. Mr. President, I have already expressed my views in somewhat extended remarks made by me a few days ago on the three trust bills that are now before the Senate. I am not going to take up the time of the Senate in any further extended remarks upon the bill that is now immediately under consideration.

I have contended in the Senate for a long time and on different occasions that the only effective way to deal with the trusts is by specific provisions against wrongful offenses committed. We have legislated for a long time against combinations, conspiracies, and monopolies, but after all it is not the monopoly that offends or injures competition, nor is it the combination or conspiracy. It is the specific acts done in restraint of trade after that combination or monopoly has been formed or is in existence.

I listened with a good deal of interest to what was said by the Senator from Idaho [Mr. BORAH] in commenting upon the Standard Oil case, the Tobacco Trust case, and others of a like kind. I want to say to the Senate that the adjudication of those cases and the results which followed did more to satisfy my mind of the inadequacy and inefficiency of the Sherman antitrust law than anything that has happened. What was said by the court in laying down the principles involved in the controversy was interesting. They were correct principles that ought to control the conduct of business. But, after all, the only thing that was accomplished or attempted to be accomplished as the result of that litigation was to dissolve the combinations that had been formed, resulting, as it was claimed, in each case as a monopoly of the business in which these different corporations were engaged.

Now, what harm resulted to the Standard Oil Co. by the decree that was rendered in that case or its enforcement? Absolutely none. Instead of affecting the value of the stock of the corporation the stock went up soon after that time.

So far as anyone can see there has been no material change in the method of conducting business by the Standard Oil Co. since that time. The same thing may be said respecting the Tobacco Trust. We have simply attempted by the decree in that case and its enforcement to dissolve these combinations.

But, Mr. President, it is not necessary for the Standard Oil Co. to enter into any combination with anybody else or any conspiracy or any contract in order to control the trade in which it is engaged. It is powerful enough to control trade without the help of anyone else or the formation of subsidiary corporations. If we are going to reach the Standard Oil Co. we must define the specific offenses that will bring that corporation within the inhibition of the law and enforce those specific provisions not only against the corporation but against its officers and directors.

That is the weakness of the legislation that is now before the Senate. With very few exceptions, there is no specific provision here that if violated would bring any of these corporations or their officers under the ban of the law. There is a specific provision against discriminations not very well defined. Of course that is a specific provision that might be violated and the officers engaged in it punished, but there are thousands of things that may be done in restraint of trade by the great corporations without any combination or conspiracy. That is not covered by these bills or any laws that we have ever passed.

What I should like to see would be the passage of some law in aid of the trust laws that we already have which would make these offenders criminally liable and subject them to fine and imprisonment for violations of the law that we might enact, defining specific offenses independently of any combination or conspiracy.

Let us go to the fullest extent provided for in the Sherman antitrust law and we have simply dissolved the combinations. We have punished for the specific acts of conspiracy; we have been able to punish to a certain extent for the combination or acts of that kind that have been committed by offending corporations; but the acts that have been done by them in furtherance of the conspiracy, the actual interference with free competition or in restraint of trade, have not been touched; and by the legislation that we are proposing here to-day they are not going to be touched or made criminal.

I only wanted, Mr. President, to call attention in this brief way to what I think is the weakness of this proposed legislation. I do not believe it is going to aid or strengthen the trust legislation in the slightest degree.

There are certain provisions in the so-called Clayton bill that will be beneficial, and I should be glad to see them made a part of the laws because they come within my ideas of what should be done in order to effect some legislation that will prevent offenses in restraint of trade.

Mr. JONES. Mr. President——

The VICE PRESIDENT. Does the Senator from California yield to the Senator from Washington?

Mr. WORKS. I do.

Mr. JONES. As I understand the Senator's position, it is that he has reached, through the decisions of the courts, definite conclusions with reference to certain acts that ought to be prohibited, and that he thinks the legislation that is to be passed ought to punish those particular acts?

Mr. WORKS. Yes; and define other offenses.

Mr. JONES. And that such legislation should define them and punish them; that in that way we should secure effective legislation; and that the pending legislation is uncertain and indefinite, and will not accomplish the results intended? Now, it might be interesting, in connection with that, to read from a high authority merely a few lines, which I should like to read if the Senator will permit me.

Mr. WORKS. Certainly.

Mr. JONES. I read as follows:

> Nothing hampers business like uncertainty. Nothing daunts or discourages it like the necessity to take chances, to run the risk of falling under the condemnation of the law before it can make sure just what the law is. Surely we are sufficiently familiar with the actual processes and methods of monopoly and of the many hurtful restraints of trade to make definition possible, at any rate up to the limits of what experience has disclosed. These practices, being now abundantly disclosed, can be explicitly and item by item forbidden by statute in such terms as will practically eliminate uncertainty, the law itself and the penalty being made equally plain.

That is the language used by the President of the United States in his message of January 20, 1914.

Mr. WORKS. Mr. President, I agree entirely with the declarations made by the President of the United States, not only as they have just been read, but with other statements made by the President before his election, bearing out exactly what I am contending for. What I should like to see done is to punish guilty business and guilty business men and not to burden by commissions and otherwise innocent business and innocent business men. That is precisely what we are doing in this case. The innocent business man is going to suffer from this legislation almost as much as is the guilty business man.

What I should like to do is to seek out the man who has violated not only the law but the rights of individuals in a business way and to punish the offenders, and not to burden innocent business with commissions and other things of that kind for which ultimately the people will have to pay.

INDIAN APPROPRIATIONS.

Mr. ASHURST. Mr. President, I move that the Senate proceed to the consideration of the conference report on the Indian appropriation bill.

The VICE PRESIDENT. The question is on the motion of the Senator from Arizona. [Putting the question.] The ayes seem to have it; the ayes have it, and the motion is agreed to.

The Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12579) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915.

Mr. BURTON. Mr. President, may I ask unanimous consent to file a memorial signed by some 250 business men of the State of Ohio opposing the enactment of the so-called antitrust bill?

Mr. CUMMINS. Mr. President, I regret very much to do so, but I must object. We are acting under a certain order, and we are to have no morning hour, very much to my disappointment, and I intend to object to any business of any kind that is not in order until we can have a morning hour for the disposition of such matters as ought to be disposed of.

The VICE PRESIDENT. There is objection to the request of the Senator from Ohio. The question is——

Mr. BURTON. I will state, Mr. President, if I may be allowed a moment, that this memorial pertains immediately to the question now under discussion. I trust no order of business prescribed by the Senate will prevent the filing of communications which are immediately pertinent to the question under discussion.

Mr. CUMMINS. Mr. President, if the memorial is in order, of course my point would be overruled; but if its presentation requires unanimous consent, I object. I must do so now because I intend to do so in every similar instance when I am in the Chamber.

Mr. SMOOT. I want to say——

Mr. ASHURST. I call for the regular order.

Mr. SMOOT. I want to say to the Senator from Iowa that if he is not in the Chamber and I am, I shall object to any sort of business being done other than that which is the regular order of the Senate so long as we take a recess from day to day.

Mr. ASHURST. Mr. President, I merely wish to say that the conference report on the Indian appropriation bill, as the Senate will, of course, remember, was submitted on Wednesday morning last. It was printed in the RECORD, and has also been printed by order of the House of Representatives and by the Senate in the usual form. Of course, Senators have availed themselves of the opportunity to familiarize themselves with the report.

Mr. LANE. Mr. President, in relation to the action taken by the committee of conference I will say that there are several items in the bill which I think the representatives of the Senate should have retained and as to which the House should have receded. I am not saying this in a spirit of criticism, yet it seems to me those items should have been retained in the bill. They were for the benefit not only of the Indians but of the department. For instance, on page 11 of the bill there is an amendment providing that in hiring farmers——

Mr. CUMMINS. Mr. President, I rise to a parliamentary inquiry. I understand that the presentation of a conference report is a privileged matter. I ask whether the consideration of the report is also privileged and whether the Senate can, unless there is affirmative action, proceed to the consideration of such a report?

Mr. ASHURST. My motion was that the Senate proceed to the consideration of the report. The question was put; there were numerous ayes and some noes, and the Vice President, rightly, I think, declared that the motion was carried. That removes the matter from any doubt as to the report being privileged; but I wish to say that, in any event, such a report is privileged in its own right.

Mr. CUMMINS. I am not sure about it myself. In order to raise the question, so that the Chair may decide it——

The VICE PRESIDENT. The Chair put the question on the motion of the Senator from Arizona, and the Senate voted upon it. The Chair held that the motion was agreed to, and laid the conference report before the Senate.

Mr. SIMMONS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from North Carolina will state it.

Mr. SIMMONS. Are not conference reports always in order, and do they not have preference over all other matters?

The VICE PRESIDENT. The Chair read the rule on yesterday, and will again read it for the information of Senators:

The presentation of reports of committees of conference shall always be in order—

That is, the presentation of the report—

except when the Journal is being read or a question of order or a motion to adjourn is pending, or while the Senate is dividing—

That relates to the presentation of the report. In this case the report has already been presented—

and when received, the question of proceeding to the consideration of the report, if raised, shall be immediately put, and shall be determined without debate.

So the motion to proceed to the consideration of the report may be made at any time. There is no doubt about that. Such a report does not come up automatically, but in this case it came up on motion.

Mr. LANE. Mr. President, it seems to me that where legislation is sought which has to do with human life and with property of much value for which we are responsible as trustees, it is not inappropriate to call attention to certain items in the bill which I think should be retained in order that we may do our full duty under the circumstances.

I now desire to refer to an item on page 11, being amendment No. 21. The department asked, I think wisely, for legislation which would authorize them in selecting farmers to instruct the Indians and educate them in farming, so that they may hereafter become self-supporting, to select them from experienced and qualified men recommended by the agricultural schools in the States in which the Indians to be instructed reside. I think it will be conceded that a man who has been educated in farming methods in his own State, say, in Mississippi, would be better adapted to instruct in farming in that country than he would be in Minnesota or North Dakota or in eastern Oregon, where dry-farming methods are used, and he would be more apt to be of use and of benefit to the Indians of that locality. I thought that that provision incorporated in the bill by the Senate ought to stay in, but I am sorry to say that other conferees on the part of the Senate, who are more experienced than I am in these matters and more familiar with the management of Indian affairs, receded upon that amendment. I think, as I have said, that it is a wise provision and should be kept in, and I could not agree that the Senate should recede from it.

A provision was inserted in the bill in the Senate providing that—

Upon the determination of the heirs of a deceased Indian by the Secretary of the Interior, there shall be paid by such heirs, or from the estate of such deceased Indian, or deducted from the proceeds from the sale of the land of the deceased allottee, or from any trust funds belonging to the estate of the decedent, the sum of $10.

That has been increased to $15. That does not amount to very much, it may be said. Fifteen dollars may not strike Senators as being a very large sum of money, yet it is more money than many Indians ever have at one time in their entire lives, and it means the difference to many of them at times between something to eat and starvation. I thought that the costs of prosecuting the suit should be made as reasonable and fixed as low to the Indian as possible, and rather than have it $15 it had better be fixed at $5.

I also desire to call attention to amendment No. 33, wherein $6,000 of Indian money is appropriated to build a bridge across a river in Arizona. This appropriation was made reimbursable from the funds of the Indians. I dislike to say anything about Arizona, inasmuch as the chairman of the committee comes from that State, but there has been no definite statement and no analysis placed before the committee which either proves or disproves that the proposed bridge is not being built largely for the benefit of the whites, and I thought that the whites should be made to pay their share of it pro rata to the extent to which they receive benefit, and that we should not make the appropriation entirely out of the funds of the Indians. I objected to that and shall continue to object to it until I know the facts concerning it. I do not know them at this time.

There was another item incorporated in the bill by the Senate after much discussion in the Committee on Indian Affairs, which considered the bill in the first place, wherein no appropriation of the tribal funds of the Indians in Minnesota—and it was made to apply pretty generally along down the line; I do not pick this out for the reason that it relates to Minnesota—shall be available until such expenditure has been duly approved by the tribe of Indians whose funds are to be expended, thus giving them a voice and a right to say what is to be done with their money. In the past they have had no voice, but, at the whim or the will of the department, they are placed either in what is called "the restricted class" or outside of that class so far as the right to file upon land and farm the same is concerned, and are kept under halfway supervisory control, making them dependent for the use of their land and in other ways, for instance, as to any profit they make off of it, upon the whim of some superior officer. I thought it would be no more than wise and no more than fair to give them a voice in the matter. It would put a stop to a great deal of mismanagement of their affairs, for many Indians are intelligent, some of them more intelligent than the Government officers in charge of them.

Of course it would lead to a good deal of discussion; it might lead to logrolling and the use of political methods, and it might eventually work harmfully to the Indian; but at the same time, if we are trying to civilize the Indian and teach him how to do business after the manner of the white man, there would be no better lesson and no better training for Indians than to be allowed to meet in council, to use their judgment, and to pass their opinion on questions as to how their money should be expended. I think that is no more than fair, and in my opinion we do a very unfair thing when we deny to them, as our wards, the right to say what we shall do with their money.

If they had not suffered at our hands in the past such a lamentable and unfortunate experience in connection with their affairs while we have been acting as their guardians it would be a different matter. But they have had an unfortunate experience; they have lost much money and hundreds of thousands and millions of dollars of their property has been literally wasted and thrown away, and they have never had a right even to place a veto upon the manner in which it was being expended. That provision is also repeated on page 97, in amendment numbered 166.

It seems to me that these matters are of importance, and I should like to have the Senate instruct their conferees to take the bill back to conference and secure the retention in the bill of as many of the amendments to which I have referred as they can.

This Indian appropriation bill has to do with affairs of great importance to a large number of people, and I must say that in many respects those affairs are not being handled in a manner which any Senator would tolerate in the handling of his money or property without a most vigorous protest. As I said the other day, I do not think it has always been done with criminal intent, and yet there has grown up a bureaucratic and slack method of handling these affairs, with an entire lack of responsibility. There is no responsibility fixed anywhere. Congress does not know much about it. Even those who have been on the committee for years have not been furnished full information, but they have had to place their faith in others. The Indian has not advanced in civilization; he has not become a business man; his health has not improved; in fact, he is deteriorating. Some tribes have almost entirely died out in consequence of the inequality with which they have been treated. I think these things should be largely matters of conscience with us. A full presentation of them should be had here, and we should authorize members of the conference committee on the part of the Senate to go back into conference and to stand for anything and everything which will help without prejudice to relieve the Indians from the unfortunate condition in which they have been placed after a hundred years of the kind of treatment which has been accorded them.

Mr. ASHURST. Mr. President, in reply to the remarks of my good friend the Senator from Oregon [Mr. LANE], I must say that he gave the committee faithful, assiduous, and, I think, valuable service in this conference. He was especially valuable to the committee, and he was the last—if I am permitted to reveal what took place in the committee—to recede from any amendments made by the Senate. He was a faithful servant of the Senate in every respect and went so far as to decline to join in the conference report, which he had a right to do, and I honor him for his individuality of opinion.

After a full and free conference, however, lasting nearly 10 days, the Senate conferees were obliged to and did recede on a number of amendments. On a large number of amendments the Senate conferees declined to recede. On several important amendments, especially two upon which the Senate had instructed us by a roll-call vote, the Senate conferees declined to recede and have reported their disagreement to this body. The conferees are now before you asking that you agree to the re-

port submitted by the conferees and that you further instruct us as to the amendments in disagreement.

Mr. WALSH and Mr. CATRON addressed the Chair.

The VICE PRESIDENT. Does the Senator from Arizona yield to the Senator from Montana?

Mr. ASHURST. I yield first to the Senator from New Mexico. Then I will yield to the Senator from Montana.

Mr. CATRON. Mr. President, I notice by the report of the committee that amendment numbered 101, referring to an appropriation for the Mescalero Apache Indians, has been agreed to be stricken out. That amendment in part reads as follows:

There is hereby appropriated the sum of $200,000, to be immediately available and to remain available until expended, and the Secretary of the Interior is authorized to use this money, or so much thereof as may be necessary, under such regulations as he may prescribe, for the promotion of civilization and self-support among the Indians residing and having tribal rights on the Mescalero Indian Reservation in New Mexico, the said sum to be expended in the purchase of live stock, seed, vehicles, harness, machinery, tools, implements, and other agricultural equipment, and for such other purposes as the Secretary of the Interior may deem proper in promoting their civilization and self-support.

I wish to call attention to the fact that about two years ago, shortly after New Mexico was admitted as a State, a provision was incorporated in the Indian appropriation bill to remove the Apache Indians who were then in the State of Oklahoma to the Mescalero Reservation in New Mexico. That provision, when it came into the Senate, was objected to by my colleague [Mr. FALL] and myself, and it was unanimously stricken out. By that it was determined, and I thought every Member of the Senate so understood, that those Indians should not be moved back into New Mexico or to the Mescalero Indian Reservation.

There was a provision in that bill, however, almost similar to the one which I have just read, providing for acts on the part of the Government contributing toward their civilization and self-support. The department, after Congress adjourned, availed itself of that provision to use those funds, as I understand, to take those Indians back to New Mexico, regardless of the action of the Senate and of Congress in refusing to make a direct appropriation for that purpose when it had been called to their attention, and when it was supposed that that expression on behalf of the Senate was sufficient to say that we did not accede to the idea that they should be taken back.

Those Indians were induced by emissaries who were sent there by some members of the department of the Government under whose control they were to accede to being taken back to the Mescalero Indian Reservation, on the assurance that when taken there appropriations like this which has been stricken out would be made for them annually, so as to enable them to advance in knowledge of agriculture, knowledge of civilization, and other things contributing to their support, in order to make them finally citizens, so that they could take lands in severalty by allotment and become citizens of the United States. That, if they are to be there, is the desirable object to be accomplished. It is the one which the people of New Mexico wish. To-day the Mescalero Indian Reservation contains enough land to give every man, woman, and child of those Indians several hundred acres of land each, much more than any settler on the public domain can get under any law that now exists. The settler would be limited to a homestead for his family, while these Indians get it for every man, woman, and child.

What I wish to know from the Senator is, what provision is to be made, if any has been made, to take care of these Indians and do for them what it was understood when they agreed to go back there would be done for them? What provision is made to furnish them these implements, animals, and so forth, and contribute to their civilization and enable them to contribute to their self-support?

We do not want it understood that there is something concealed in this bill, which is not expressed in it clearly and not apparent in the record, like it was in the bill under which they were transferred back there—that is, something which can be ignored and applied to some other purpose for which it was not intended—and have them say it was left open and was not sufficiently definite. We want the record to show it plainly if there is anything for the Indians of that reservation. As this bill is to go back to conference, we ask that it go back there with this provision to be considered over again.

Mr. ASHURST. Mr. President, in reply to the question propounded by the Senator from New Mexico, if he has a copy of the Indian appropriation bill before him, and will turn to it, I ask his attention to page 15, beginning with line 21, which reads as follows:

For the purpose of encouraging industry and self-support among the Indians and to aid them in the culture of fruits, grains, and other crops, $400,000—

That is stricken out, and "$100,000" inserted—

or so much thereof as may be necessary, to be immediately available, which sum may be used for the purchase of seed, animals, machinery, tools, implements, and other equipment necessary to enable Indians to become self-supporting—

And so forth.

The Senate conferees, after a long discussion, reached an agreement with the House conferees making that sum read "$600,000." That will be available for these purposes; and I further call the attention of the Senator to line 10, on page 16, wherein it is stated:

That not to exceed $50,000 of the amount herein appropriated shall be expended on any one reservation or for the benefit of any one tribe of Indians.

The House receded from that amendment, with an amendment restoring the same, so that it shall read:

That not to exceed $75,000 of the amount herein appropriated shall be expended on any one reservation or for the benefit of any one tribe of Indians.

I do not know that I am doing the correct thing in stating what took place before the conference committee; but unless objection is made, I will say that I specifically referred to the situation on the Mescalero Reservation. I called attention to the fact that Gen. Scott, a very distinguished Army officer, who has had a great career, and who has done much good service in the State from which the Senator comes and which he so ably represents, had written a letter urging this appropriation of $200,000. The conference committee—and I say this for the RECORD—was assured by the Indian Office—and I take their word—that $75,000 of this sum of $600,000 would be spent in taking care of the Indians on the Mescalero Indian Reservation in New Mexico, as contemplated by amendment No. 101, found on page 47 of the bill.

For myself, I felt that the sum of $75,000 for each particular tribe was too small, but it was all that could be obtained, and I am going to state a fact that seems unnecessary. Congress is a bicameral affair. There are two Houses, as we all know. Senators who are friends of mine have complained to me because the conferees receded here and there. I say that we have receded only where it was apparent that it was necessary to recede or probably defeat the Indian bill. The House conferees were generous, and yielded on many points.

I trust this explanation will be satisfactory to the Senator from New Mexico.

Mr. CATRON. Mr. President, I hope when this matter goes back to conference the Senator will call up this item again. I do not think $75,000 is enough for that purpose. The bill which was passed some two years ago to do these very same things for those Indians while they were in Oklahoma—and it was understood that it should be expended for them in Oklahoma—contained at least double that amount for simply the portion of them that were in Oklahoma, not including those that were on the reservation at that time, which constituted the greatest number of them. When those Indians gave their assent to go back there they understood that something like the amount which was appropriated in that bill, from $150,000 to $200,000, would be annually appropriated for them until they acquired habits of civilization and were able to become self-supporting. It is unfair, it is not in good faith with those Indians, if this is intended to give them anything, to cut down the amount now to at least one-half what was provided for them. Besides, this provision does not say that anything shall be given to those Indians. It only says that not to exceed $75,000 shall be given to "any one Indian reservation," leaving it to the department to leave out any reservation they desire and give it to others, wherever they may be able to distribute it, if they can find that many. I have no doubt but that they will find that many without any trouble.

We ask the conferees, when the matter goes back to conference, to take up this matter again, and at least make that $100,000, and apply it directly to the Mescalero Indians, so that the department can not act as it has acted heretofore, and appropriate the moneys differently from the way they have been intended to be appropriated.

I wish this statement to go into the RECORD, so that the department will know what is being done here and what is the sentiment of the Senate.

Mr. WALSH. Mr. President——

Mr. ASHURST. I yield to the Senator from Montana.

Mr. WALSH. Mr. President, the conferees have been unable to agree with reference to certain amendments, including amendments numbered 81 and 82. These two amendments refer to an appropriation for the continuation of the work on the irrigation project within the Flathead Indian Reservation in the State of Montana.

The bill as it came from the House carried an appropriation of $100,000 for this work. The Senate committee recommended amendment 81, providing for the increase of this appropriation to $250,000. That was concurred in by the Senate; but there was added to it amendment 82, which reads as follows:

Provided, That no part of this appropriation shall be expended unless the Attorney General of the United States shall, after submission to him by the Secretary of the Interior of a request for an opinion thereon, hold affirmatively that, in his opinion, the Indians under existing law are protected and confirmed in their water rights.

I do not believe it will be necessary to dwell at length upon the reasons which ought to impel the Senate to adhere to its amendment numbered 81, providing for the increase of the appropriation for this work on the Flathead Indian Reservation. I feel justified, however, in making a brief review of the facts which make the increase imperative. The Flathead Indian Reservation was opened pursuant to an act passed 10 years ago, in the year 1904. About that time, or shortly thereafter, a project was planned for the reclamation of the lands within the reservation. A scheme of reclamation was proposed and outlined by the Indian Department, in conjunction with the Reclamation Service, and the Indians selected their allotments within the reservation in view of the construction of that project. The remainder of the lands, in addition to those selected by the Indians, were opened to settlement, the money paid by the settlers for the lands to go to the benefit of the Indians. It was represented to the settlers that this reclamation project would be carried on, and as indicative of the purpose of Congress appropriations were made from time to time for carrying on this work of from $250,000 to $400,000.

Mr. President, anyone conversant with the extent of these projects and of the expense incident to their economic conduct will recognize at once that a project as vast as this, which contemplates the ultimate expenditure of something in the neighborhood of $5,000,000, is carried on without any economy whatever unless a substantial amount is expended each year. A little appropriation of $50,000 or $100,000, contemplating, as you will perceive, the completion of the work in possibly 30 or 40 or 50 years, might as well not be expended at all. Unless an appropriation of a quarter million dollars a year is made, the project might just as well be abandoned, and the Government repudiate the implied obligation under which it rests to the Indians upon the Flathead Reservation, as well as to the settlers who have gone there at the invitation of the Government.

I believe, Mr. President, that we shall have no difficulty in convincing the House conferees that this appropriation ought to be at least $250,000. In that behalf, I may say that the Montana delegation, when the bill came over here, waited upon the Secretary of the Interior, who called in the head of the Reclamation Service and the head of the Indian Bureau, both of whom agreed with him that the appropriation ought to be that amount. Their views about the matter had appropriate force with the committee, and the recommendation was made as I stated.

But, Mr. President, when the amendment came before the Senate for consideration about a month since, during my absence from the city, amendment No. 82 was added in language as I have quoted. I can not but believe that the amendment was added to the bill without any real adequate comprehension of the significance of it, if it has any significance whatever. Indeed, Mr. President, I have studiously endeavored to find out what was the idea in the minds of those proposing this amendment and what they intended to accomplish by it. It provides that this appropriation shall not be available until an affirmative opinion is obtained from the Attorney General of the United States upon the question as to whether the rights of the Indians with reference to water are properly protected and confirmed by the existing laws.

Now, what does that mean, Mr. President? Whatever rights the Indians have in the waters of any stream are of course protected by existing laws. You do not need any laws to protect them in whatever rights they have in waters, because the Constitution of the United States protects them in those rights.

The real question, I apprehend, which was in the minds of the framers of this amendment was to ascertain what rights the Indians have. Now, Mr. President, with reference to that matter it was advanced in some way or other, I do not know just exactly how, that Indians were denied the right to make appropriations of water in the State of Montana; that some Indians had gone to the proper office at which to file their appropriations of water and had been denied the opportunity to do so. There is no evidence from any quarter that has come to my notice, and I have inquired carefully, that anything of the kind has ever occurred. But it was in a way rumored about that such a condition existed in the State of Montana.

Mr. President, I desire to say for the information of the Senate that under the laws of the State of Montana an Indian has just exactly the same right to make an appropriation of water that a white man has. There is no restriction in our law which would in any manner prohibit an Indian from making an appropriation of water if he saw fit to do so, and the rule is well established that unless there is some prohibition in the local law anyone may make an appropriation of water. Indeed the adjudications in our State lay down so liberal a rule that it has been declared by our supreme court that even a Chinaman may make an appropriation of water in the State of Montana, or at least that he may hold water right and he may transfer it, and no one except the Government can be heard to question his right thereto.

So, Mr. President, the law of our State being entirely clear, and there being no doubt whatever about it, I entertain the very gravest doubt as to whether any Indian was ever denied the right anywhere in my State to make an appropriation of water if he had any desire to exercise it. That is a matter, however, of very little consequence here, because every Indian on the Flathead Reservation had an opportunity to take his allotment out of lands under the irrigation project; and, bear in mind, when the Indian takes his land under the irrigation project and selects an allotment of that character he does not have to make any appropriation of water at all. The law of the State of Montana permits the Government of the United States to make an appropriation of water for any reclamation project which it sees fit to carry on, and it is so liberal in that regard that although in the case of a private individual he must begin his work upon his ditch within 40 days after he files his notice, the Government of the United States has two whole years after it makes the appropriation before it is under any requirement whatever to begin the work contemplated.

So far as the Flathead Indian Reservation is concerned, the Government has made the appropriation of water necessary to supply this great project under consideration in the construction of which it is now engaged, and every Indian on the Flathead Reservation who has taken an allotment under the project is perfectly protected in his rights by that appropriation, so made by the Government in his behalf.

Mr. President, if an Indian wanted a piece of irrigated land when he selected his allotment he would, in all probability, select land under the irrigation project, but if there are any Indians who desire to have irrigated lands and desire to cultivate land of that character who have selected their allotments elsewhere they have a perfect right, under our law, if they desire to do so, to appropriate water for the irrigation of such land.

The fact about the matter is, Mr. President, that there are none such, nor, sir, is there any water now available for that purpose. It will be understood that this law was passed 10 years ago. It was decided in the case of The United States against Winters and others, in connection with the Fort Belknap Indian Reservation, that the Indians for whom a reservation had been set aside had the right to the use of the water within that reservation, as well as the lands, and that no one could divert the water of a stream flowing down through a reservation so as to deprive the Indians of the use of that water, although they had made no appropriation. So when settlers went above the Fort Belknap Indian Reservation and diverted the water of the Milk River and left it a dry stream opposite the reservation the Government interposed, by injunction, and compelled them to allow the water to flow down.

But no such condition as that obtains upon the Flathead Indian Reservation, because all the streams except the Clarks Fork of the Columbia River, which forms the southern boundary of the reservation—all the streams upon the reservation arise within it and do not come to it from the outside. The great stream mentioned is a navigable river and carries more water than it would be possible to take from it for any purpose of irrigation. Indeed, it flows through a region so situated as to make it unavailable for the irrigation of the Flathead Indian Reservation at all.

So, Mr. President, there is nothing here that in anywise lends any countenance to the idea of arresting the expenditure of these moneys until an answer is received from the Attorney General of the United States to the effect that the rights of the Indians are properly protected.

But, Mr. President, allow me to remark in this connection that there is no difference in that respect between the Flathead Indian Reservation and any other reservation in connection with which the Government of the United States is carrying on any work of reclamation. It is carrying on similar work on the Blackfeet Indian Reservation, and no suggestion is made

that the appropriation for that purpose ought to be held up until an opinion of this character is obtained. Work of like character is being carried on upon the Fort Peck Indian Reservation, and there the rights of the Indians are just exactly the same. So likewise work is being carried on upon the Crow Indian Reservation, and, indeed, work is being carried on by the Government on reservations in nearly all the Western States within which there are reservations, and the rights of the Indians upon all those reservations are practically identical. The acts by which the reservations were created are all of the same general character, and the rights of the Indians in connection with one are exactly the same as the rights with reference to the others.

Now, why should the appropriation for the work upon the Flathead Indian Reservation be held up until an opinion is obtained from the Attorney General of the United States and the work go on upon all the other reclamation projects that exist under just exactly the same conditions?

I must confess, Mr. President, that I am not a little at sea as to what the ideas may have been which prompted the adoption of this amendment, but I am sure that it serves no useful purpose here and could have no effect whatever except to arrest this work, with the consequent loss to the Government which must ensue if the money is not available to carry it on. Everybody will understand that in order to carry on these projects with economy it becomes necessary to assemble a force, it becomes necessary to gather together horses and mules for the purpose of excavation, and power generally. These must be taken care of. It becomes necessary to assemble machinery for the purpose of conducting the work, which deteriorates by nonuse. There is an enormous loss and a useless expenditure unless the work is carried on with some degree of continuity. If the expenditure is arrested by this kind of a provision, a very substantial loss will ensue to the Government.

I trust very sincerely that we will agree to instruct the conferees to recede from this amendment, and accordingly I move that the Senate conferees be instructed to insist upon amendment numbered 81 and to recede from amendment numbered 82.

Mr. ASHURST. Mr. President, I rise for information. I ask the Chair or any Senator who will be so kind as to tell me what is the correct procedure. I am oblivious as to whether the conference report as agreed upon should be adopted and then the question as to the instruction of the conferees on the disagreeing portion should be considered. I do not know just how the Senate has been in the habit of proceeding in such cases.

The VICE PRESIDENT. The Chair will inquire as to whether the motion made by the Senator from Montana [Mr. WALSH] is with reference to the amendments that have already been agreed upon in the conference?

Mr. ASHURST. They have been disagreed to in the conference.

Mr. MYERS. Mr. President, I wish to make it plain that they were not receded from. There is a deadlock as to those two amendments between the House and the Senate conferees. There is a failure to agree on anything in regard to them.

The VICE PRESIDENT. Then, of course, the first question is on agreeing to the conference report.

Mr. CATRON. Mr. President I desire to make a motion in connection with the matter on which I addressed the Senate a short time ago. The motion which I propose, if it is in order now, is that the Senate shall refuse to agree to amendments 101 and 29, and that the committee be instructed to insist that not less than $100,000 of the $600,000 agreed to be appropriated shall be expended at the Mescalero Apache Indian Reservation. I understand the Commissioner of Indian Affairs insists upon it in that way.

The VICE PRESIDENT. May the Chair inquire of the Senator from New Mexico as to whether the item concerning which he makes his motion has been agreed to by the conferees?

Mr. CATRON. I understand it has.

The VICE PRESIDENT. The Chair is compelled to rule that the conference report must be accepted or rejected as a whole. The reason for the ruling on that parliamentary situation of affairs must be perfectly apparent. A large number of items are in disagreement between the House and Senate. It is to be presumed that the House conferees yielded upon certain points because the Senate conferees yielded upon other points, and there is no method of knowing that the conference report would be satisfactory to the House with this particular item omitted from the conference report.

Mr. CATRON. Then I request the Senate to refuse to concur in the report, so that I can make a motion to send it back with that instruction.

Mr. MYERS. Mr. President, I heartily concur in the motion made by my colleague [Mr. WALSH], that the Senate insist on amendment 81 and instruct its conferees to recede from amendment 82, and when the time comes for a vote thereon I sincerely hope the motion will prevail.

I do not believe that anyone who paid attention to the remarkably clear, concise, comprehensive, and lucid explanation of my colleague can fail to perceive the injustice of the amendment of which we complain, and which is amendment 82 of the bill. I do not believe that anyone who listened to his statement of the matter can fail to realize the justice of our position and the injustice of this amendment.

As a matter of fact, the rights of the Indians on the Flathead Indian Reservation are just the same as the rights of the Indians on any other Indian reservation where there is a reclamation project under construction. Their rights are just the same, no more and no less, and their rights under the Flathead reclamation project are even better protected than the rights of the white settlers, because, as my colleague has stated, they had first choice of the land. They had the first right to choose land that came under that reclamation project, and the water for those lands is appropriated by the United States Government and is thereby secure to Indians, who get the first allotment and make the first selection. I fail to see, as my colleague fails to see, any reason whatsoever for any discrimination against that project. As a matter of fact there is an appropriation in the bill for the prosecution of work under the same circumstances on a reclamation project in an Indian reservation in the State of Arizona, and there is no such crippling or handicapping amendment put on that appropriation. There is another appropriation for such work in the State of California, and there is no amendment on that appropriation. There is another appropriation for such work in the State of Idaho, on the Fort Hall Reservation, and there is no such amendment put on that appropriation. There is an amendment for the prosecution and completion of similar work in the State of Utah, but there is no such amendment put on that appropriation.

In the name of all fairness and sense and justice, why should our project be singled out to be stigmatized and crucified and have a provision made with respect to it which is not made with respect to other appropriations for other projects under the same conditions and of exactly the same nature?

I am authorized to say, and I now say by authority, that the Indian Bureau is utterly opposed to this amendment to the Flathead appropriation, and deems it unwise, unjust, unreasonable, improper, and discriminatory. I was authorized this morning—this very day—by Mr. Meritt, the Assistant Commissioner of Indian Affairs, to say for him and for Mr. Sells, the commissioner, that both of them think this amendment is unfair and improper and that it should be receded from; that it serves no good purpose; that they are not in favor of it; and not only are they not in favor of it, but they are both opposed to it and want to see it receded from. I have ample authority also for saying that the Secretary of the Interior, Mr. Lane, feels the same way about it. He thinks it is unjust and improper. I know the Reclamation Service, and Mr. F. H. Newell, Director of the Reclamation Service, feel the same way about it. There is no bureau or department of the Government which is upholding this amendment or justifying it or which thinks it is fair. I have the word of all of them that they are opposed to it and think it unfair, and that it ought to be rescinded.

As to the nature of this obnoxious amendment, I will say that it is very vague. I doubt, exceedingly, if the Attorney General could comply with its exact words. He could only state what the rights of the Indians are, after an exhaustive investigation, which might take weeks or months; he could only state the facts as they are. Then, whether or not the Indians are fully protected is a matter of opinion. One man might think one way about it and another man might think another way about it. What the Attorney General might say in the matter can be but mere speculation, or he might decline to express any opinion upon any such vague subject.

The rights of the Indians on the Flathead project are just the same as the rights of the Indians on any other project. They are really superior to the rights of the whites. Even if the Attorney General should see his way clear to render an opinion in the exact words of this vague and meaningless amendment, he is busy with other things, and it might take him weeks or months to get to it. In the meantime the work on this project, which is being prosecuted with the old appropriation of last year, would have to be suspended and hung up until the Attorney General had rendered his opinion. I undertake to say that if that work is suspended it will be done at a loss and waste of $50,000. The contracts would have to be rescinded, the contractors discharged, the force of men and teams scattered. To get them together would require months, and the work would

have to be resumed where it was left off. There would be a loss, I believe, of at least $50,000. It would be unjust to take this action.

Therefore I am in hearty accord with my colleague [Mr. WALSH]. I think this obnoxious amendment ought to be receded from, and I hope the motion will prevail. The amendment is unjust, unfair, unreasonable, unwarranted, discriminatory. There is no reason for it. It can not be justified. It discriminates, penalizes, without cause.

Mr. LANE. Mr. President, the other side of the case, the one which was considered by those who brought about the insertion of this amendment, was the condition of affairs as it actually existed, not only on the Flathead Reservation but on other reservations in Montana.

Mr. MYERS. I should like to ask the Senator to permit me to ask a question at this juncture. Right now seems to be an opportune time. Why should anyone select this particular project to put on such an amendment and not select others of the same character?

Mr. LANE. I do not know why it was fixed upon. I presume it was the first one of the Montana items which came up in the bill.

Mr. MYERS. No, Mr. President. The Blackfeet item was the first one which came up, and such an amendment was not placed on that project.

Mr. LANE. Then I will endeavor to make it plain.

Mr. WALSH. I should like to inquire of the Senator why he picks out Montana—why he singles out the Montana reclamation project?

Mr. LANE. Who does?

Mr. WALSH. The Senator does. He speaks about there being something peculiar about the Montana reclamation projects. In what respect do they differ from the reclamation projects in his State?

Mr. LANE. If the Senator will allow me time, and will be patient, I will try to answer him as well as I can. I can not do so until I get an opportunity.

In regard to this amendment which was put into the bill, the reasons for it, as I understand them, were as follows: There had been a reclamation project started on a number of reservations throughout the country, including some in Montana. Those projects were initiated on an appropriation which was reimbursable out of the funds of the Indians after the sale of their lands. I presume at the time the projects were inaugurated everybody thought it was a good thing for the Indian; that it was to be one of the means by which he was to be civilized through affording him opportunity to irrigate land and raise crops upon land which was not being used for any purpose at the time. In addition to that, it allowed the land to be sold to the white settlers who desired to settle in the country.

As a matter of fact, what really happened was this: The Indian lands were mortgaged for the construction of these reclamation projects. The project upon the Flathead Reservation, in all, will cost some six or seven million dollars. The Indian was given, under a law which was passed in 1907, one year's time within which to acquire his water rights by making use of the water. At the same time, the Indian was the ward of the Government.

Mr. SUTHERLAND. Mr. President, to what law does the Senator from Oregon refer?

Mr. LANE. To the law passed in 1907. There is an act which circumscribes the Indian as to time, and his limit, I think, does not exceed one or two years.

Mr. SUTHERLAND. If I may interrupt the Senator further, the statement that there is such a law as that is somewhat startling to me, and I wish the Senator would refer us to the law.

Mr. LANE. I will hunt it up for the Senator as soon as I get through my statement. It was startling to me also.

Mr. SUTHERLAND. Does the Senator mean that there is an act of Congress which provides that the Indian must make his appropriation of water within a year?

Mr. LANE. I think there is in terms something to that effect. That is my understanding.

Mr. SUTHERLAND. I should be very much interested in seeing that law.

Mr. LANE. I would be interested, too.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Oregon yield to the Senator from Montana?

Mr. LANE. I do.

Mr. WALSH. I can enlighten the Senator from Utah upon the matter, and I shall be very glad to tell him just exactly what the Senator from Oregon refers to. The act opening the Blackfeet Indian Reservation was passed in the year 1907. It was made open to settlement after the proclamation of the President. That proclamation has not yet been issued, and it is probable that the act will be repealed. That act provided that the Indians should have a priority in the appropriation of water for one year after the proclamation opening the reservation. That is what the Senator from Oregon is talking about.

Mr. SUTHERLAND. An act of Congress?

Mr. WALSH. An act of Congress.

Mr. SUTHERLAND. Which gives the Indian a preferential right to appropriate water in a State?

Mr. WALSH. Exactly.

Mr. LANE. But he had——

Mr. WALSH. Let me add, so that Senators may understand the situation, that the Flathead Reservation was opened by proclamation four years ago; the lands have already been taken up; the Indians have taken their allotments, and it is not possible under the circumstances to make the provision under discussion applicable to the Flathead Reservation.

Mr. LANE. Mr. President, there was a law passed in 1907 by Congress by which the Indians were circumscribed in some of the reservations as to the time in which they could secure their water rights. That struck the committee as being unfair. The Indian is a ward; he has no money with which to buy implements, such as plows, harrows, or to buy horses, cows, or with which to build a house to enable him to make a home upon this lowland and become a farmer; and in some instances he would lose his right if he did not do these things within a certain period of time. That seemed to the committee unfair.

Again, quite a number of the Indians did not choose the low, flat valley land along the creek and the river bottoms. Those lands are the most valuable, and are the lands which can be irrigated; but the Indians went out and took lands in the mountains which never could be irrigated under an irrigation scheme.

To a person who does not know the Indian that would seem peculiar; yet that is what all Indians would naturally do, for anyone who has ever lived out in the mountains and is familiar with them knows that the flat lands or the lowlands are the poorest places in the country in which to make a camp. They are damp and cold, and there is a fog and mist that rises. The Indians do not camp in such places as a rule; they camp up on the bench lands. Again, in the summer the flat lands down in the brush, where the land is rich, are mosquito-ridden, and you can not stay there. So the Indians get back on the benches, the same as other human beings would do. When it comes to irrigating the land and raising alfalfa, vegetables, and other crops, that is the better land; but in a state of nature, as wild land, that is land to keep away from; and the Indian did keep away from it. A good many of them, though not all of them, went back to the hills where they had always lived and refused to take this lowland. So the Indian then was in a position where his lands, which never could be irrigated, were mortgaged to pay for the irrigation of the other land to which he had no title.

At the same time, as I have said, he was not allowed funds with which to make improvements and to purchase implements. I understand arrangements are now being made to remedy that evil, which has existed for years, and we hope that the conditions will be bettered after a time, but in many cases this is the situation.

In regard to the Crows, the way in which their lands have been handled amounts to a scandal. The revenue of the Indians is being used at this time, or has been used, unless it has been stopped lately, to keep in repair the reclamation scheme which irrigates the lands of the white man and from which very few Indians receive any benefit at all. Large numbers of them are not allowed to use their allotted lands at all and are kept off of them. It is unjust.

It is proposed to expend some four or five million dollars to carry on a reclamation scheme, and the lands of the Indians are mortgaged for this money, and from present appearances the Indians will get very little benefit from it. If we continue to do business in this way acting as the guardians of the Indians, we will be subjected to suits for damages for not having done our duty and judgment will be lodged against this Government to pay the Indians for the injustice which has been done to them. A suit ought to lie in any court for damages on such a ground.

The committee concluded that it would be well to stop such practices and that it would be better to stop them now than to spend four or five million dollars more of the Indians' money or tie their lands up for such an amount. They thought it was better to stop it until the Indian was placed by his

guardians on the land and given an opportunity to make use of it for his benefit, and then when that was done to throw the land open, as the Senator from Montana desires, to white settlers on fair terms, securing fair prices for it.

Some of the irrigable lands on these reservations are to be sold at an upset price, ranging from $3 to $10 an acre, and are worth, when water is put upon them, from $30 to $40 an acre. The Senator knows that, and he also knows that the Indians ought to have that difference. We as his guardians should see that he has an opportunity to make something out of his land and not put all the loss upon him. So the committee concluded that it was better to stop these expenditures unless they were properly safeguarded.

There is no reason why the Flathead Reservation should be singled out. The same principle should be applied, in my opinion, to all of the reservations where irrigation projects are being prosecuted, and I am willing to apply it to any and all of them so that the Indian, whose lands are being mortgaged for the expenditure, may be provided for justly. To that end we should stop spending any more of his money or obligating him and his lands until we do so.

Under proposed new irrigation legislation which has been introduced and passed in the Senate we have allowed the white man 20 years, I think, in which to make his payments on the lands located by him. It has been found that it took five or six years to subdue those new lands, and that under the terms of the old law the best farmer would frequently fail, and hundreds of them have failed; but the Indian, who never was a farmer, who is not naturally a farmer, and who knows nothing about farming and does not like it—and the least profitable of all work is probably farming—is put upon such land, and he has not been given a 5-cent piece with which to buy himself so much as a grubbing hoe to go out and raise a rutabaga with, if you please; and he is told that within a limited time he must use the water on the land or forfeit his water rights. There is something utterly unfair about it.

I am willing to say to the Senator that while his argument sounds very good, the conditions do exist, in many cases, as I have described them. So far as I am concerned, I want to remedy them and to apply the same principle to all the reservations to which they would or do apply.

If the Attorney General states that the wrong can be rectified without prejudice to the white settler, I will agree to the plan; but I will never consent that we, as their guardians, should expend the money of the Indians under the conditions in which their money has been spent in the past or to put upon them the burdens we have put upon them in the past. I wash my hands of participation in any such transaction.

Mr. SUTHERLAND. Mr. President, may I ask the Senator from Oregon before he takes his seat whether or not the white settlers upon this land will be required to pay for the water which they use upon their land?

Mr. LANE. I do not know the terms of the contract; I think in some cases they will be so required; but the land of the Indians is being mortgaged to carry on the project practically for the benefit of the whites; there is no disguising that fact, and it is not right.

Mr. SUTHERLAND. Is it not a fact that the white settlers upon any of these lands will be obliged to pay a pro rata proportion of the expenditure involved in constructing this water system for any water which they use upon their land? That is true, is it not?

Mr. LANE. I think perhaps that is true.

Mr. SUTHERLAND. Is it not also true that the white settlers are first of all required to pay six, seven, or ten dollars an acre for the lands which they buy and to which thereafter they will apply water, and for which water they must also pay, whereas they would not be required to pay more than a dollar and a quarter an acre for the lands if they were not under an irrigation system?

Mr. LANE. Yes; but right there, I think, lies the wrong. If the Government, the guardian of the Indians, brought the water to the land and fixed the land up so that it could be used and then sold it at the highest market price, or at a fair market valuation, the Indian could get more than six or seven dollars; but under present conditions the Indian will get six or seven dollars for land which the white man, as soon as he gets it, can turn around and sell for thirty or forty and in some reservations for a hundred dollars an acre, and then the Indian is left without a dollar to improve his own land. There is something wrong with the proposition, and it should be rearranged. That is what we are trying to do.

Mr. SUTHERLAND. When the white man receives thirty or forty dollars an acre for his land, that will not only include the land, but the water rights, will it not?

Mr. LANE. Yes; but the land of each Indian has been mortgaged to bring the water there.

Mr. SUTHERLAND. But the price of thirty or forty dollars will include the water right as well as the land?

Mr. LANE. Yes.

Mr. SUTHERLAND. And the white settler will have paid practically thirty or forty dollars for his water right.

Mr. LANE. That is a very small price in proportion to what it is worth, and the Indian will be left to go up the flume, the same as he is now.

Mr. WALSH. Mr. President, no one can doubt the very high purpose that actuates the Senator from Oregon [Mr. LANE] in his attitude concerning this particular amendment. No one can doubt his sincere desire to do the best he can as a representative of the Government in its capacity as guardian of the welfare of the Indians; but after his talk it is perfectly obvious that he does not desire any opinion on any question of law at all from the Attorney General. It is perfectly clear that he is satisfied that the whole administration of our Indian affairs for the past 10 years or the past quarter of a century has not been to any extent at all creditable. He contends—and to my mind very, very justly indeed—that the Indian Department ought to be equipped with the necessary funds to put an excellent farmer on the reservation, having supervision and charge over possibly a dozen Indian farmers, instructing them and encouraging them in their work, and that kind of thing; and he wants to get an opinion from the Attorney General, not on any disputed question of law, but an opinion as to the wisdom of the policy that has been pursued, and his opinion as to what amendments there ought to be in the law that would operate for the general betterment of the Indians and the improvement of their conditions.

That is really what he wants, if I am able to comprehend the Senator.

Mr. LANE. Mr. President, if the Senator will yield, he entirely fails to comprehend me when he says I am trying to get any such opinion as that. That was not my intention. I was trying to get the Attorney General's opinion, amongst others, as to any method by which we could protect the rights of the Indian.

Mr. WALSH. Exactly; that is to say, what policy ought to be pursued the better to look after the Indians in the future. So, I believe, no reason has been advanced why this amendment ought to stay in the bill.

Mr. BRADY. Mr. President, the remarks of the Senator from Oregon [Mr. LANE] have been very illuminating and very instructive, but I do not consider that they are pertinent to this amendment. While I am not particularly interested in this special amendment, it does seem only fair that the remarks made by the Senators from Montana should receive serious consideration at our hands. If there is any business in the world that requires careful attention, it is the construction of irrigation canals and the reclamation of arid lands. If there is any thing in the world that should be done promptly and with dispatch in order to secure beneficial results, it is the reclamation of arid lands. As the Senators from Montana have well said, if their wishes are not carried out, it is certainly going to delay the work on this reservation.

While I agree with what the Senator from Oregon has said relative to the treatment of the Indians, I do not think he has shown a single reason why this amendment should be adopted, and for that reason I believe the remarks of the Senators from Montana should be heeded in our consideration of this matter.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. BRANDEGEE. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

Mr. WALSH. Mr. President, I am informed that the idea prevails that the matter of my motion is before the Senate. Will the Chair kindly state the matter that is before the Senate?

The VICE PRESIDENT. This is a roll call for a quorum.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hitchcock	Newlands	Smoot
Brady	Hollis	Norris	Sterling
Brandegee	Hughes	Page	Stone
Burton	Jones	Perkins	Sutherland
Camden	Kenyon	Pittman	Thomas
Catron	Kern	Poindexter	Thornton
Chilton	Lane	Pomerene	Tillman
Clapp	Lea, Tenn.	Ransdell	Vardaman
Colt	Lee, Md.	Reed	Walsh
Crawford	Lewis	Shafroth	Weeks
Culberson	Lippitt	Sheppard	West
Cummins	Martine, N. J.	Shively	White
Gallinger	Myers	Simmons	Works
Gronna	Nelson	Smith, Ga.	

Mr. KERN. I desire to announce the unavoidable absence of the junior Senator from Delaware [Mr. SAULSBURY].

Mr. SIMMONS. I wish to announce the unavoidable absence of my colleague [Mr. OVERMAN]. He is paired with the senior Senator from California [Mr. PERKINS].

Mr. CHILTON. I wish to announce the unavoidable absence of the senior Senator from New Mexico [Mr. FALL]. I will let this announcement stand for the day.

Mr. LEWIS. I desire to announce the absence of the junior Senator from Kansas [Mr. THOMPSON], occasioned by illness.

The VICE PRESIDENT. Fifty-five Senators have answered to the roll call. There is a quorum present. The pending question is on agreeing to the conference report on the Indian appropriation bill.

Mr. BRANDEGEE. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Connecticut will state it.

Mr. BRANDEGEE. In view of the motion made by the Senator from New Mexico [Mr. CATRON] to add some instructions, I will ask whether it is in order to amend the motion to accept the conference report by a motion to add certain instructions?

The VICE PRESIDENT. The Chair has decided that the conference report must be either accepted or rejected as a whole.

Mr. BRANDEGEE. Without instructions?

The VICE PRESIDENT. Without instructions.

Mr. CRAWFORD. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from South Dakota will state it.

Mr. CRAWFORD. It appears from the conference report that one or two propositions—and one of them is this one in connection with the Flathead Indian Reservation—are not covered by the conference report; and the Senator from Montana, before a motion was made to adopt the conference report, made a motion concerning those particular propositions. The question I wish to inquire about is whether the motion made by the Senator from Montana is not before the Senate for action before we pass upon the question of adopting the conference report?

The VICE PRESIDENT. There is not any doubt at all about the parliamentary situation.

Mr. CRAWFORD. That may be. There was in my mind, and I wanted to have it removed.

The VICE PRESIDENT. Certain items in disagreement between the two Houses have been agreed to by the conferees. Certain items, six of them, are still in dispute. As to the items that have been agreed to, there is not any question that the uniform rulings of the occupants of this chair have been that that is the first motion that comes up, and that it is the duty of the Senate either to concur in or to refuse to concur in the items which have been agreed upon, and that must be as a whole. If the Senate refuses to concur they go back, of course, for reconsideration, and then it is possible for instructions to be given to the conferees by the Senate. After the question of agreeing to the conference report has been determined by the Senate, then the motion of the Senator from Montana will be in order, to instruct the conferees with reference to the items that are yet in dispute between them.

Mr. CRAWFORD. It is in no way affected by this vote?

The VICE PRESIDENT. None whatever.

Mr. BRANDEGEE. Mr. President, I listened with great interest to the remarks of both Senators from Montana upon the matter in which they are especially interested, and also to the remarks of the Senator from New Mexico. It appears, therefore, that in the language of the Senator from Montana [Mr. MYERS] his colleague has made out a very strong case in the estimation of those who had the privilege of listening to his remarks, and that the only way for Senators interested in accomplishing the purposes which they have advocated here on the floor this morning under the parliamentary ruling of the Chair, which I have no doubt is perfectly correct, is to decline to accept the conference report.

The Senator from Arizona has moved that the conference report be agreed to, and that is the only motion we are allowed to vote on. So, unless Senators are prepared to let this thing go just as the managers on the part of the Senate have advised, their only remedy is to vote down the motion to agree to the conference report and then proceed to instruct the conferees to carry out such wishes as the Senate desires to express.

Mr. ASHURST. Mr. President, I am really astonished, because the Senator from Connecticut is one of the best parliamentarians in the Senate. The question now is, Shall the report of the conferees, as far as they agreed, be agreed to by the Senate? If the conference report shall be agreed to, then the question comes up what instructions, if any, the Senate shall give the conferees on the items as to which the conferees have disagreed.

Mr. MARTINE of New Jersey. On which there is a deadlock.

Mr. ASHURST. Yes; on which there is a deadlock. Whatever action the Senate may take on the conference report will in no wise, in no manner whatever, interfere with the disposition of the subsequent items, six in number, upon which the conferees are deadlocked. So those who wish to vote with the Senators from Montana, those who are convinced that their position is correct, will find themselves guilty of no inconsistency whatever in voting to adopt the conference report.

Mr. BRANDEGEE. Mr. President, I hear what the Senator from Arizona says, and I appreciate what he intends as a compliment to me in a parliamentary line; but I am still of the same opinion that I was when I spoke before. The Senator from New Mexico [Mr. CATRON], who understands better than I do the matter in which he is interested, is firmly of the opinion that if the motion of the Senator from Arizona to agree to the conference report prevails it cuts him out absolutely.

Mr. ASHURST. Oh, if the Senator will pardon me——

Mr. BRANDEGEE. Certainly.

Mr. ASHURST. Of course I cheerfully admit that if the motion should prevail to agree to the conference report, it would then prevent the conferees from considering the item to which the distinguished Senator from New Mexico has objected.

Mr. BRANDEGEE. Whatever the items may be, of course the acceptance by the Senate of the conference report which has been agreed to by the conferees settles everything upon which the conferees have agreed.

Mr. ASHURST. That is true.

Mr. BRANDEGEE. Of course; and that is all I am saying.

Mr. ASHURST. Then I beg the Senator's pardon.

Mr. BRANDEGEE. Senators who do not want these matters settled as the managers on the part of the Senate have agreed to recommend that they should be settled must, to maintain their position, vote against agreeing to the conference report.

Mr. ASHURST. I beg the Senator's pardon. I misheard him, then.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. BRANDEGEE. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CATRON (when his name was called). I transfer my pair with the senior Senator from Oklahoma [Mr. OWEN] to the senior Senator from Illinois [Mr. SHERMAN] and will vote. I vote "nay."

Mr. CHILTON (when his name was called). I announce my pair with the senior Senator from New Mexico [Mr. FALL], and in his absence withhold my vote.

Mr. COLT (when his name was called). I have a general pair with the junior Senator from Delaware [Mr. SAULSBURY]. In his absence I withhold my vote.

Mr. CULBERSON (when his name was called). I have a general pair with the Senator from Delaware [Mr. DU PONT], who is absent, and I withhold my vote.

Mr. GALLINGER (when his name was called). I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. In his absence I withhold my vote.

Mr. GRONNA (when his name was called). I have a general pair with the senior Senator from Maine [Mr. JOHNSON]. I transfer that pair to my colleague [Mr. MCCUMBER] and vote. I vote "yea."

Mr. HOLLIS (when his name was called). I transfer my pair with the junior Senator from Maine [Mr. BURLEIGH] to the Senator from Arizona [Mr. SMITH] and vote "yea."

Mr. MYERS (when his name was called). Notwithstanding my general pair with the Senator from Connecticut [Mr. MCLEAN], I feel justified in disregarding the pair on this question, and I vote "nay."

Mr. PERKINS (when his name was called). I have a general pair with the Senator from North Carolina [Mr. OVERMAN]. In his absence I withhold my vote.

Mr. SMITH of Georgia (when his name was called). I wish to announce the transfer of my pair with the senior Senator from Massachusetts [Mr. LODGE] to the senior Senator from Virginia [Mr. MARTIN]. I vote "yea."

Mr. STONE (when his name was called). I have a general pair with the Senator from Wyoming [Mr. CLARK]. In his absence I withhold my vote.

Mr. SUTHERLAND (when his name was called). I inquire whether the Senator from Arkansas [Mr. CLARKE] has voted?

The VICE PRESIDENT. He has not.

Mr. SUTHERLAND. I have a pair with that Senator, and on that account I withhold my vote.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT],

which I transfer to the junior Senator from Kansas [Mr. THOMPSON] and vote "nay."

Mr. TILLMAN (when his name was called). I have a general pair with the Senator from West Virginia [Mr. GOFF] who is absent. I transfer that pair to my colleague [Mr. SMITH of South Carolina] and vote "yea."

Mr. WEEKS (when his name was called). I have a general pair with the senior Senator from Kentucky [Mr. JAMES] which I transfer to the senior Senator from Nebraska [Mr. NORRIS] and vote "nay."

The roll call was concluded.

Mr. GALLINGER. I will transfer my pair with the junior Senator from New York [Mr. O'GORMAN] to the junior Senator from Connecticut [Mr. McLEAN] and vote "nay."

Mr. CLARK of Wyoming. I wish to ask if the senior Senator from Missouri [Mr. STONE] has voted?

The VICE PRESIDENT. He has not. He announced his pair with the Senator.

Mr. CLARK of Wyoming. Being paired with that Senator, I withhold my vote.

I desire to state that my colleague [Mr. WARREN] is unavoidably absent from the city, and that he is paired with the Senator from Florida [Mr. FLETCHER]. I ask that this announcement may stand for the remaining roll calls to-day.

Mr. HOLLIS (after having voted in the affirmative). Since I transferred my pair to the Senator from Arizona [Mr. SMITH], he has come into the Chamber and voted. I therefore withdraw my vote.

Mr. LANE. I wish to announce that my colleague [Mr. CHAMBERLAIN] is absent on official business. He is paired with the Senator from Pennsylvania [Mr. OLIVER].

Mr. SIMMONS. I wish to state that my colleague [Mr. OVERMAN] is absent and is not able to be in attendance to-day. He is paired with the Senator from California [Mr. PERKINS]. I will let this statement stand for the day.

Mr. MARTINE of New Jersey. I was requested to announce that the Senator from Maryland [Mr. SMITH] is paired with the Senator from Vermont [Mr. DILLINGHAM].

Mr. CHILTON. Under the terms of my pair with the Senator from New Mexico [Mr. FALL], I think I can vote upon this question. I vote "nay."

Mr. GALLINGER. I wish to announce that the Senator from Pennsylvania [Mr. PENROSE] is paired with the Senator from Mississippi [Mr. WILLIAMS]; that the Senator from Wisconsin [Mr. STEPHENSON] is paired with the Senator from Oklahoma [Mr. GORE]; and that the Senator from Michigan [Mr. TOWNSEND] is paired with the Senator from Arkansas [Mr. ROBINSON].

The result was announced—yeas 27, nays 26, as follows:

YEAS—27.

Ashurst	Hitchcock	Martine, N. J.	Smith, Ariz.
Bankhead	Hughes	Page	Smith, Ga.
Bryan	Jones	Poindexter	Swanson
Camden	Kern	Pomerene	Thornton
Clapp	Lea, Tenn.	Ransdell	Tillman
Cummins	Lee, Md.	Reed	White
Gronna	Lewis	Simmons	

NAYS—26.

Borah	Crawford	Pittman	Vardaman
Brady	Gallinger	Shafroth	Walsh
Brandegee	Kenyon	Sheppard	Weeks
Bristow	Lane	Shields	West
Burton	Lippitt	Smoot	Works
Catron	Myers	Sterling	
Chilton	Nelson	Thomas	

NOT VOTING—43.

Burleigh	Gore	O'Gorman	Smith, Md.
Chamberlain	Hollis	Oliver	Smith, Mich.
Clark, Wyo.	James	Overman	Smith, S. C.
Clarke, Ark.	Johnson	Owen	Stephenson
Colt	La Follette	Penrose	Stone
Culberson	Lodge	Perkins	Sutherland
Dillingham	McCumber	Robinson	Thompson
du Pont	McLean	Root	Townsend
Fall	Martin, Va.	Saulsbury	Warren
Fletcher	Newlands	Sherman	Williams
Goff	Norris	Shively	

So the conference report was agreed to.

Mr. WALSH. I rise to inquire if my motion is now in order?

The VICE PRESIDENT. The Chair is of opinion that the motion of the Senator from Montana [Mr. WALSH] to recede from amendment numbered 82 is in order.

Mr. CLAPP. If the Senator from Montana will yield to me for a moment, I desire to call the attention of the Senate to the fact that there are in this report six disagreements, although practically but four. One of those disagreements goes to the question of the amount to be appropriated to the Board of Indian Commissioners; another relates to the Montana item; and another relates to the Mississippi Choctaw item. Of course, I realize that we could not perhaps take a vote upon all these propositions, but before the disagreements go back to conference it would be desirable if we could get such an expression of opinion of the Senate as to be some guide in these matters that are still in disagreement. I simply call the attention of the Senate to the disagreements that the Senate may make such an expression as to Senators may seem desirable.

The VICE PRESIDENT. The question is, Shall the Senate recede from its amendment numbered 82?

Mr. PAGE. Mr. President, I am without sufficient information to vote intelligently upon the question. May I ask the Senator from Montana to state what is the proposed amendment?

Mr. WALSH. I did not hear the Senator.

Mr. PAGE. I am in doubt as to what my vote should be. May I ask that the amendment be again read?

The VICE PRESIDENT. The Secretary will read the amendment from which the Senator from Montana has moved that the Senate recede.

The SECRETARY. The Senator from Montana [Mr. WALSH] moves that the Senate recede from its amendment numbered 82. It occurs on page 22, line 23, after the word "expended," where the Senate inserted the following proviso:

Provided, That no part of this appropriation shall be expended unless the Attorney General of the United States shall, after submission to him by the Secretary of the Interior of a request for an opinion thereon, hold affirmatively that, in his opinion, the Indians under existing law are protected and confirmed in their water rights.

Mr. PAGE. Mr. President, I think the junior Senator from Montana [Mr. WALSH] was not present at the time when we had a discussion of this question which lasted for a day; indeed, I do not know but that it lasted two or three days. The facts are that at that time the Senate, by a large majority, as I remember, decided that it did not care to increase the House appropriation from $100,000 to $250,000 as presented in the preceding amendment, unless some safeguards were thrown around the Indians, and after a long discussion it was decided to insert the amendment which the Senator now seeks to eliminate. Personally I do not know but there may be a better way than this, but I believe that before we increase the appropriation from $100,000 to $250,000 we ought to have some positive affirmative suggestion from the Senators from Montana as to how the Indians' rights may be safeguarded. I do not think it necessary that we go on and discuss this matter for another day, although it is a great big proposition, and I think we should not recede from this amendment unless some good reason is shown for doing so.

Mr. WALSH. Mr. President, I feel sure the Senator from Vermont could not have been in when I took the time of the Senate for half an hour this morning in an endeavor to show that the amendment is absolutely without merit.

The Senator from Vermont correctly says that I was not present in the Senate at the time this amendment was incorporated in the bill. I have taken occasion to read the debate on the subject with great care, however, and I am fully apprised of what transpired at the time the amendment was incorporated in the bill. After reading the whole discussion I say to the Senator from Vermont that the amendment is absolutely meaningless; it does not signify anything at all. I have indicated to the Senate that there is no more reason for incorporating this provision in the bill in relation to the appropriation for the Flathead Indian Reservation than there is to introduce it in connection with an appropriation for any other reclamation project—those on the Blackfeet Reservation, the Fort Belknap Reservation, the reservations in the State of Arizona, the reservations in the State of New Mexico and in California. The rights of the Indians are just exactly the same upon the Flathead Indian Reservation as upon all the other reservations.

Moreover, Mr. President, I say again, because I desire to acquaint the Senator from Vermont in a general way with what I had to say about this matter, the Indians' rights to water, whatever they may be, are, of course, protected by the law. The Indian has the same right to appropriate water in the State of Montana as the white man. Even a Chinaman, I stated to the Senate, has a right to appropriate water in the State of Montana. Not only that, but the rights of the Indians upon the Flathead Reservation are safeguarded by reason of the fact that the Government has made an appropriation which takes care of every Indian who has taken his allotment under the irrigation project thereon. So there is absolutely nothing that the Attorney General can say in answer to the legal proposition which is submitted to him.

Mr. President, there may be many things in connection with the reclamation project on this particular Indian reservation, as upon all Indian reclamation projects, that might be corrected, but they are exactly the same upon the Flathead Indian Reser-

vation as they are upon all others, and there is no reason why we should hold that particular appropriation up until abuses, if they exist, are corrected. The amendment has no place here at all.

Mr. ASHURST. Mr. President, I ask the attention of the Senate for a moment, and especially I ask the attention of the Senator from Vermont [Mr. PAGE] and the Senator from Oregon [Mr. LANE]. It will serve as an explanation for the vote which I am about to cast upon this question.

Amendment numbered 82 was the subject of a prolonged and an illuminating discussion before the conference committee, and while the conferees did not agree and reported their disagreement to the Senate, the conferees inserted in the bill the following provision, which, I think, it is nothing but fair should be called to the attention of Senators. It will be found after the word "project," in line 15, of amendment numbered 3. The conferees inserted the following proviso:

Provided further, That, in addition to what is herein required—

The "herein required" above refers to the fact that there shall be an annual report on every irrigation project in any Indian reservation—

Provided further, That, in addition to what is herein required, there shall be submitted to Congress on the first Monday in December, 1914, as to the Uintah, Shoshone, Flathead, Blackfeet, and Fort Peck reclamation projects, a report showing the status of the water rights of the Indians and the method of financing said projects, together with such other information as the Secretary of the Interior may deem necessary for a full and complete understanding of all the facts and conditions in connection therewith.

In my opinion, those who desire amendment numbered 82 will get what they want by reason of having adopted this amendment, which the conferees have inserted, because by it the Interior Department of the Government is not called upon to state conclusions, the Attorney General is not called upon to give his opinion; but this amendment calls for the facts.

That is all I have to say.

Mr. PAGE. Do I understand that the Senator from Montana consents that amendment numbered 81, raising the amount from $100,000 to $250,000, may be abandoned, leaving $100,000 as the total sum appropriated at this time?

Mr. WALSH. Certainly not. I am very sorry the Senator from Vermont was not here. I took the time of the Senate a little while this morning, perhaps for 15 minutes, to explain why the amount ought to be at least $250,000.

Mr. PAGE. It may be true that I should have been here for a few minutes this morning to have heard the discussion, but it is also true that the Senator from Montana was away for a full day or two days when this matter was discussed at length, perhaps at as great length as any bill of minor importance has been discussed in the Senate during this session.

The Senators from Montana come here year after year and ask for double or triple the amount which the House has been willing to give for appropriations for this Flathead Indian irrigation project. I understand that amendment 81, increasing the amount from $100,000 to $250,000, is still a matter at issue before the conference committee. Am I right?

Mr. ASHURST. That is correct.

Mr. PAGE. If we are to leave the whole matter where the House left it, at $100,000, I have no objection to the elimination of the proposed amendment numbered 82. But if we are to increase the sum appropriated from $100,000 to $250,000, it seems to me that we ought not, after a few minutes' discussion this morning, set aside the results of our two or three days' deliberation upon this matter as it is now proposed to do.

Mr. SMITH of Arizona. If the Senator will permit me, the Senator from Montana spent 15 or 20 minutes in discussing it after an experience of 25 or 30 years, and the Senator from Vermont has had no such experience and there are other people who know less about it.

Mr. PAGE. I confess to what the Senator says, that I am not an expert on Indian matters, but I have been on this committee long enough to become very jealous lest we do not properly safeguard the rights of the Indians. I can not see for myself why anyone should object to having the Indians' rights safeguarded as is proposed in this amendment, even though the same provision has not been added to all other like appropriations made in this bill.

Mr. MYERS. May I ask the Senator a question?

Mr. PAGE. One word and I will conclude. I want to read the amendment which we propose to strike out:

Provided, That no part of this appropriation shall be expended unless the Attorney General of the United States shall, after submission to him by the Secretary of the Interior of a request for an opinion thereon, hold affirmatively that, in his opinion, the Indians under existing law are protected and confirmed in their water rights.

I do not care what has been done in regard to other water rights, but here is an amendment which, after a very long discussion, we thought it necessary to add, and for one I do not think we ought, certainly without a full discussion, to direct the conferees on the part of the Senate to abandon.

Mr. CLARK of Wyoming. Will the Senator yield for a question?

Mr. PAGE. Certainly.

Mr. CLARK of Wyoming. In the Senator's opinion, what effect has this amendment upon the water rights of the Indians or upon any rights of the Indians?

Mr. PAGE. Mr. President, I do not know that it has any effect, but at least I can not see that it does any harm. It is true that after a long discussion we sought for some protection to the Indians; we sought for some safeguarding of his rights; and this was the best amendment we were able to devise at that time, and I hate to see it abandoned.

Mr. CLARK of Wyoming. I was not here during the discussion of the bill as I ought to have been, of course. If the Senator will reflect a moment he will find that the only purpose the amendment could possibly fill is to call upon the Attorney General for an opinion as to the validity of a State law. The rights of Indians, the rights of white men, the rights of everybody, so far as their rights to the waters in the stream are concerned, depend entirely upon the enactment of the State legislature and do not depend in any degree or in any manner upon any law which we have passed here, as I understand it.

If that be true, then the Secretary of the Interior is simply calling upon the Attorney General for his opinion as to the construction of a State law as applied to these particular lands, and I can not see where that would be of any particular value to anybody. It would, of course, have the persuasive power of the opinion of any lawyer of good repute and of high degree.

Mr. PAGE. I can only answer the Senator by saying that while what he may say in regard to this matter is correct, that it is a subject entirely for the State to decide. Yet the Senate of the United States is called upon by an amendment here to add $150,000 to the appropriation made by the House. It is confessed that the Flathead Reservation is being mortgaged for water which the Indians may or may not receive the full benefit of. The subject was discussed at length here the other day, as the Senator probably knows, although he was not present, and it was then agreed by several Senators that a part of this appropriation ought to have been charged to another fund and that we should not go on year after year adding millions upon millions of dollars to this mortgage on the Flathead Indian lands because, as a matter of right, the Reclamation Service or reclamation fund ought to have borne a part of the expense.

I am sorry this matter comes up now, because at that time we had the very valuable assistance of the Senator from Arkansas [Mr. ROBINSON] and the Senator from Michigan [Mr. TOWNSEND]. They are both good lawyers and discussed the matter at length from a legal point of view. They were opposed to this addition of $150,000 unless something could be done to safeguard the Indians' rights, and as a result of a very full and illuminating discussion, it was decided to add this amendment. Perhaps, as the Senator says, it may not do any good; but I can not see that it will do any harm, and I do not see why we should abandon it, for it may do great good.

Mr. SUTHERLAND. Mr. President, I discussed at some length the question which is involved in this amendment when the matter was before the Senate on the original bill, and I have no intention of repeating that argument. The Senator from Vermont [Mr. PAGE], however, says that if this amendment does no good, it can do no harm. It may do a good deal of harm. Here is an irrigation project which will cost, as I am informed, somewhere from $5,000,000 to $7,000,000 when it is completed. It will bring under cultivation an immense area of land by reason of the irrigation project, for which the Indians would otherwise be able to receive but a dollar and a quarter or a dollar and a half an acre. These lands will be sold for from six to ten dollars per acre, and, in addition to that, the white men who buy the lands and pay those increased prices will be obliged to pay their pro rata proportion of the cost of the irrigation project. In other words, the white men who buy the lands at the increased prices will still be obliged to pay for the water right which they use upon the lands, so that the Indians will receive an immense benefit from the construction of this enterprise.

The House proposed to appropriate $100,000 for the expenditure this year. In an enterprise of this vast extent $100,000 is a mere pittance—$250,000 is altogether too small an amount to appropriate. If this irrigation enterprise is to be completed at all, it ought to be completed as speedily as possible, and it is poor economy to confine the appropriations for an immense project of that kind to $50,000 or $100,000 or $200,000 per

annum. We ought to be appropriating as large a sum each year as the constructors of the enterprise can economically use. I am informed, and I have no reason to doubt that it is true, that instead of using $250,000 they could well use $500,000.

Now, what is this proviso? It is—

That no part of this appropriation shall be expended unless the Attorney General of the United States shall, after submission to him by the Secretary of the Interior of a request for an opinion thereon, hold affirmatively that, in his opinion, the Indians under existing law are protected and confirmed in their water rights.

I have no doubt of the power of Congress to limit an appropriation in any way it pleases, but this to my mind is the most remarkable limitation that has ever been put upon an appropriation bill.

Mr. PAGE. May I ask the Senator a question there?

Mr. SUTHERLAND. In just a moment. In the first place, nobody is required to do anything. The appropriation is not to be expended unless the Attorney General of the United States shall render an opinion affirmatively with reference to these rights. Suppose he never renders an opinion, then the appropriation is never expended. All the work we have already done, amounting, I think, to more than a million dollars——

Mr. WALSH. To a million and a half dollars.

Mr. SUTHERLAND. To a million and a half dollars—is lost. Not only is the Attorney General not required to render any opinion, but he can not render it unless the question is submitted to him by the Secretary of the Interior; and the Secretary of the Interior is not obliged to submit it to him. The language is "unless the Attorney General of the United States shall, after submission to him by the Secretary."

I do not know what the attitude of the Secretary of the Interior may be, but I can well imagine a case where he might be hostile to the amendment, and he could prevent the appropriation becoming available simply by inaction. Either of these officers can prevent it. There would have been some sense in the amendment—very little, I must say—if we had provided that the Attorney General should render an opinion.

Why do we want the interposition of the Secretary of the Interior in the matter? If the Secretary of the Interior does not choose for any reason that may appeal to him to submit the matter to the Attorney General, the Attorney General can not act. In that way the appropriation absolutely lapses and all the work that has been done upon this vast irrigation enterprise is lost. Even if the Secretary does submit the matter to the Attorney General, and the Attorney General does not choose to render an opinion, it is lost nevertheless, or if he delays for a great length of time the whole enterprise is halted, when it ought to be going on.

Mr. PAGE. Mr. President——

Mr. SUTHERLAND. I yield to the Senator from Vermont.

Mr. PAGE. Mr. President, let us assume that every sentence the Senator from Utah has uttered is absolutely true; let us face what we are doing here. Here is the Flathead Indian Reservation; the Indians own that land. We have adopted a project that looks to the mortgaging of the Indians' lands, as the Senator has well said, to the extent of from $5,000,000 to $7,000,000. The Indian comes to us and says, "I do not want that mortgage placed upon my land."

Mr. MYERS. I should like to ask what Indian has ever said that?

Mr. PAGE. Mr. President, I could go over the hearings, which occupied hours and hours and days and days before the committee, and tell the Senator from Montana, but I can not on the spur of the moment tell him.

Mr. MYERS. I defy the Senator from Vermont to point out where one Flathead Indian has ever objected to this project.

Mr. PAGE. My friend on my left the Senator from Oregon [Mr. LANE] says I am correct about this.

Mr. MYERS. I should like the Senator from Vermont to point that out and read it.

Mr. PAGE. The Senator from Oregon says that the greater complaint was made as to other projects.

Mr. MYERS. All of it came from the Blackfeet project; there has been no complaint as to this project.

Mr. PAGE. But, Mr. President, here is a great project, and the men who are being called upon to mortgage their homes for this project are told that they must shut their mouths; that they can not have even an opinion from the Secretary of the Interior or the Attorney General assuring them that they are protected; that they must go on, whether they will or not, and let us mortgage their lands for $7,000,000, when the facts show that time after time we have made appropriations for these irrigation projects which have been failures. I do not know whether this project is good or bad.

Mr. MYERS. I should like the Senator to point out one of these projects that is a failure.

Mr. PAGE. I decline to yield for a moment. I decline to yield until I complete my sentence.

Mr. SUTHERLAND. Mr. President——

Mr. PAGE. I do not know whether I am occupying the time of the Senator from Utah. If so, I will yield with pleasure.

Mr. SUTHERLAND. Oh, no. I was afraid the Senator was acquiring a vested right to the floor when he said he declined to yield. I yield to the Senator until he has finished.

Mr. PAGE. Very well. I say that we ought in some way to safeguard the rights of these Indians. The simplest thing we could conceive of was this little proviso that the Attorney General should be asked to investigate the matter; and if he said the rights of the Indians were not safeguarded, we should not increase this appropriation from one hundred thousand to two hundred and fifty thousand dollars, but should leave it as the House left it, at $100,000.

Mr. WALSH. I should like to ask the Senator from Vermont if he will kindly tell the Senate in what respect it is claimed that the water rights of the Indians are imperiled?

Mr. PAGE. In this respect, Mr. President: Here is an immense project. Everybody confesses that the greater benefits are going to the whites in almost all cases.

Mr. MYERS. I do not confess that.

Mr. PAGE. Other reclamation projects have been charged to the reclamation fund; but we know, and everybody confesses, that in appropriating this money we are mortgaging the Indian's land; we are mortgaging his logs, his lumber, everything that he has to pay it back; and we do not know whether or not the Indian is going to get any benefit out of it. So we say that before the Indian shall be called upon to make this sacrifice—to place this mortgage upon his premises—he shall have the poor right to ask the Attorney General if he is safeguarded; and if he is not safeguarded, then only $100,000 of his money shall be taken this year.

Mr. SUTHERLAND. Mr. President——

Mr. CLAPP. Will the Senator from Utah yield to me for a moment?

Mr. SUTHERLAND. Yes.

Mr. CLAPP. Mr. President, the difficulty with this situation is that the amendment which the Senate put on does not and can not touch the subject referred to by the Senator from Vermont [Mr. PAGE] and that which is in the mind of the Senator from Oregon [Mr. LANE]. The administration of the fund with reference to this irrigation project, the price fixed for the land, the disinclination of some of the Indians to leave the highlands and go to the lowlands and take their allotment on this irrigation project are practical questions about which, of course, and with reference to which, of course, no opinion of the Attorney General could have any bearing or relation whatever.

As to amendment No. 3, which was in controversy, we added in conference, and the House conferees agreed to it, a provision that, in addition to the report thereon called for with reference to Indian matters generally, the Department of the Interior should report specifically upon the Blackfeet and four or five other reservation irrigation projects.

I was in favor of adding to this provision an additional protection for the Indian with reference to the practical use of the water, a provision that there should be reserved for each Indian, whether he would leave the highlands now or not, an amount equal to 40 acres of this irrigable land, awaiting the time when he would see the wisdom and policy of exchanging a wide area upon the highlands for a desirable rich and valuable tract within the plan of irrigation.

Mr. PAGE. But that was not done.

Mr. SUTHERLAND. If the Senator from Vermont will permit me, I shall finish what I have to say, and then I shall yield the floor.

Mr. CLAPP. That was not done because we reported a disagreement; but I have no doubt that we can do that.

The amendment under discussion does not bear upon the question of practical administration at all; it simply goes to the legal question, involving an interpretation of the law of Montana, and may in the delay incident to receiving that opinion seriously interfere with the progress of the work of the summer, and in that way work an injury to the Indians. While I would be in favor of placing in this bill a provision, which I believe we can, reserving to each one of the Indians who has taken his allotment on the high lands a 40-acre tract, I believe that unintentionally we are likely to injure that project and work harm to the rights of these Indians in relation to securing and saving

their water rights by postponing the continuation of this work pending the receipt of an opinion by the Attorney General upon a pure legal question that every one concedes, I think, is not and can not be involved in this matter. Therefore, I shall have to differ from my friend from Vermont, whose opinion I certainly hold in high regard, and whose zeal in the interest of the Indian and all other matters of legislation with which he comes in contact is beyond question; and I shall vote that the conferees be authorized to recede from this amendment.

Mr. SUTHERLAND. Mr. President, I quite agree with what the Senator from Minnesota [Mr. CLAPP] has said about this matter, and I judge from the expression on the face of my friend from Vermont [Mr. PAGE] that the Senator from Minnesota has succeeded in convincing him where I have failed.

Mr. President, Senators who represent the Western States ought to be given credit for understanding the various problems that are peculiar and local to those States, among them the Indian problem. We who represent those States are quite as friendly to the Indians as are the Senators from the Eastern States, who never have seen a blanket Indian in their lives. We understand their needs; we sympathize with them. Our legislatures are passing acts which are intended to preserve their rights. In my own State we have passed an act, general in terms it is true, as it had to be under the constitution, but intended for the special benefit of the Indians, which will give them a period of 14 years within which to complete their appropriations of water. The time will not lapse until the year 1919, if I remember correctly. That is a right which has never been accorded to any white settlers and never been accorded to any irrigation company in the State. Under the general law of appropriations the right must be complete within five years. We have extended the law for the benefit of those Indians for 14 years.

We are quite as sensitive to their rights as is the Senator from Vermont. We understand the situation quite as well as do Senators who represent the Eastern States. It seems to me that at some time or other we ought to be given credit for some honesty of purpose about these matters. Whenever a question comes up with reference to the public lands of the West we are met with the opposition of Senators from the East who do not understand the problems by actual contact with them as do we. Our hands are tied; we are prevented from solving public-land questions and Indian questions as they ought to be solved, in my judgment, very often by the opposition of Senators from other parts of the country who, I think, with all due respect to them, do not understand them so well as do the Senators who represent the Western States understand them.

Mr. PAGE. Mr. President, I do not think I want to stand here and talk about my own judgment or knowledge on Indian questions. For some six years I have been laboring faithfully in the Committee on Indian Affairs. If I should talk about what I know in connection with that committee it would not be creditable to some of the Senators from the Indian States, I am sorry to say, and I prefer to be excused from that.

I might say, however, Mr. President, that the Indian Affairs Committee, which consists of some 16 Senators, usually has 3, 4, 5, or 6 members present, and the Members from the Indian States usually appear before that committee when they have something to ask for their States. They leave it to others of us who are there all the time, finally to become a little suspicious that Senators from the Indian States are not always thoughtful of the Indians and are sometimes more thoughtful of their white constituents, who vote. I am sorry to have to state that, and I would not have stated it but for the fact that the Senator from Utah [Mr. SUTHERLAND] attacked me and said that I did not know anything about this matter because I live in the East. That is not a fair statement to make. I have tried to study this question with a good deal of care, and I want to say that, in my judgment, somebody from the East ought to have been here to protect the Indians when this plan was started.

Here was a project that ought to have been charged to the reclamation fund, at least as to half; but, instead of that, what has been done? Without anybody there to stand up and say, "Why do you do this?" with the rights of the poor Indian hanging in the balance, without anyone there to protect him, this great project, calling for the expenditure of from $5,000,000 to $7,000,000, has been placed upon his land as a mortgage, when Senators on this floor have stood up and stated that, in their judgment, a good part of the cost ought to have been charged to the reclamation fund. I think that is true.

Mr. WALSH. Mr. President, I do not like to sit here and allow to go unchallenged the statement made by the Senator from Vermont, impugning, as it does, the representatives from my State charged with the performance of a public duty in this body. The Senator now states that somebody from the East ought to have been here to look after the interests of the Indian when this project was originated. He implies that it was started with a purpose to advantage the white people of my State at the expense of the Indian.

Mr. PAGE. May I interrupt the Senator?

Mr. WALSH. In just a moment. I rose to ask the Senator what basis of objection he has to the plan under which this project was inaugurated? It provides that the lands benefited by the project shall bear the burden of the expense. The lands of the white settlers under the project bear their proportion of the expense and the lands of the Indians under the project bear their proportion of the expense. I want to ask the Senator from Vermont what other plan he would like to have proceeded upon?

Mr. PAGE. I am very happy, indeed, to answer that question, and I will answer it in this way: The Indian bears his proportion of the expense and the white man his proportion of the expense, as the Senator states; but, Mr. President, here is a venture; here are $7,000,000 probably to be placed as a mortgage on Indian lands. If this whole scheme shall prove to be a success, then it is true the white man and the Indian share alike the burden, but if it is should prove a failure, it is a mortgage upon the Indian lands.

Mr. WALSH. Mr. President, in what respect is it a mortgage on the Indian lands, and how are the Indian lands going to be seized? Are we to understand from the Senator from Vermont now that he has some kind of an idea that at some time in the future under some kind of a contingency a proceeding of foreclosure shall be instituted and the Indian's land sold out and taken away from him? Has he any such idea as that?

Mr. PAGE. Mr. President, I will be most happy to be corrected if I am wrong, because it is the foundation of all I have to say, but I understand that all appropriations of this character are a mortgage upon the Indian's land. I want some one to tell me if I am wrong, because in all of the discussions in the committee that has been the foundation upon which we have discussed the matter; and if I am wrong, I yield.

Mr. WALSH. I am glad to inform the Senator that he is wrong.

Mr. PAGE. Mr. President, the Senator from Minnesota [Mr. CLAPP], on my left, says, "Yes; the funds are all reimbursable, of course." What do we mean by a reimbursable fund? Will the Senator from Montana please explain that term to me?

Mr. WALSH. Mr. President, I am very glad to do so. A reimbursable fund means this: The Government makes the appropriation; the amount is reimbursed to the Government, so far as the settlers are concerned, by the settlers; they have to pay for their land so much a year. The amount coming from the Indian lands is taken from the Indian funds and reimbursed to the Government; so that out of the Indian funds the proportion of the expenditure chargeable against the Indian lands is taken, and the proportion assessable against the white man's land is paid by him.

Now, Mr. President, let me continue by saying that it should be perfectly understood that the Indians had the first right to select; they took their lands; they picked what they believed to be the richest lands under this irrigation project; and do not forget that they were wise enough to select judiciously, and they did. They secured the best land under this irrigation project, and the settlers got what was left; but, notwithstanding that, the settler pays exactly the same amount per acre as does the Indian. The Government appropriation is eventually reimbursed out of the Indian funds, so far as the amount is chargeable against the Indians.

Mr. SUTHERLAND. And, Mr. President, if the Senator will permit me, the expenditures of the Government on this account do not constitute a lien upon the lands which are allotted to the Indians. The Government only will be reimbursed by the sale of other lands. The Indian never can, in response to this expenditure, be dispossessed of the land that has been allotted to him. It constitutes no lien upon that land whatever. The funds can only be reimbursed from the sale of land wholly outside of that which he has selected and which he is irrigating.

Mr. PAGE. Let me make one suggestion——

Mr. WALSH. If the Senator from Vermont will pardon me for a moment, he will understand that the settlers are required to pay, in addition to the price of the land, the irrigation charges. If they are not under the irrigation system at all, they are obliged to pay anywhere from four to ten dollars an acre for this land. That goes into a fund for the benefit of the Indians. Not only that, but there are large tracts of valuable timber upon

this reservation, and that timber will eventually be sold for the benefit of the Indians. None of it has been sold, except some small tracts. That money will go into a fund, and out of the fund thus accumulated of money that belongs to the Indians the amount chargeable against the Indian lands will eventually be taken to reimburse the Government.

Mr. PAGE. Mr. President I do not want to be diverted from what I think is the straight line in this debate. It is unquestionably true, as the Senator says, that the lands, both of the white man and of the Indian, so far as they go, reimburse this fund; but I have been years sitting at the table of the Committee on Indian Affairs, and my good friend from Montana [Mr. MYERS] and the former Senator from Montana, Mr. Dixon, have told me, "We are not appropriating this from the Federal Treasury; it is reimbursable; the Indian has all of this to pay back"; and when the question has been asked, "Is this a lien upon the Indians' land, a lien upon the Indians' lumber?" the answer has universally been, "Certainly; this is not anything that comes from the Federal Treasury." Mr. President, if it does not come from the Federal Treasury——

Mr. MYERS. Mr. President——

Mr. PAGE. I ask the Senator to let me finish my sentence, please.

Mr. MYERS. The Senator has made an erroneous statement as to me.

Mr. PAGE. If it does not come from the Federal Treasury, and does not come from the Indians' lands, and there is not enough derived from the lands of the white settlers to pay it, who does pay it?

Mr. MYERS. Mr. President, I think the Senator is mistaken in saying that I have ever stated before the Indian Committee that this money is all a lien on the Indians' lands or property; only so much of it is a lien as the Indians get the benefit from.

Mr. PAGE. Then, Mr. President, I think it is high time that the Senate understands the meaning of these words:

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana, and the unallotted irrigable lands to be or which have been heretofore disposed of under authority of law, including the necessary surveys, plans, and estimates, $250,000, reimbursable—

When you add the word "reimbursable," does that mean that the money is taken from the Federal Treasury without——

Mr. MYERS. I never denied that, and it is all reimbursable.

Mr. PAGE. Reimbursable from what? First, from the lands that are sold to the whites?

Mr. MYERS. Both from the lands sold to and occupied by the whites, and also from the sale of property belonging to the Indians for their share.

Mr. PAGE. But if perchance there should be an insufficient sum out of the sales of the land to make good this appropriation, does not the word "reimbursable" mean that it is to be reimbursed out of any Indian funds belonging to the Indians of the Flathead Reservation?

Mr. MYERS. Mr. President, I do not think so. If a man fails to make a payment on his land, he forfeits what he has paid and also the land; then it is sold to somebody else, and the fund is reimbursable from the next settler.

Mr. CLAPP. Mr. President, the Senator from Vermont will bear with me a moment?

Mr. PAGE. I yield to the Senator.

Mr. CLAPP. First, I want to call attention to a matter I spoke of when on my feet a moment ago. To amendment numbered 3, on page 5, we added this in conference:

Provided further, That in addition to what is herein required there shall be submitted to Congress on the first Monday in December, 1914, as to the Uintah, Shoshone, Flathead, Blackfeet, and Fort Peck reclamation projects, a report showing the status of the water rights of the Indians and the method of financing said projects, together with such other information as the Secretary of the Interior may deem necessary for a full and complete understanding of all the facts and conditions in connection therewith.

Mr. President, referring now to the reimbursable feature of these propositions, there is this to be said: Of course, whatever party is in power, they are always anxious that the general appropriations made by Congress shall appear no larger than is necessary, so that it is often urged in committee and on the floor that an appropriation is reimbursable, in order that it may be urged in the final summary of the appropriations of the session that out of all these appropriations there is a certain percentage that is coming back and must not be charged up to the party in power.

Mr. PAGE. Will the Senator please tell me what the word "reimbursable" means, if it does not mean that we take it from the Indians' funds?

Mr. CLAPP. That is just what I am getting at. There is in all these provisions a certain element of uncertainty. Let me correct the Senator here by saying that while we use the word "reimbursable," that does not create a lien upon the allotted area that the individual Indian takes, but there is a lien upon the allotted area that the white man secures. Out of the general fund of the Indian tribes is to come what may be necessary to bear the cost of the irrigation project after there has been deducted from the project the amount that the white man pays for the irrigated land which he secures, and after there has been deducted the amount that is received by the Government for the land primarily sold to the white man. Of course, if an irrigation project should fail, then, as to the residue that is left if the Indian tribe had the property, it would come out of that property. On the other hand, it is also true that if the Indian tribe had no property, then the Federal Government would be the loser.

These irrigable lands lie there adjacent to water, which may be secured under certain laws involving the application and use of the water. These Indians, living there, are interested and benefited if an irrigation project can be developed in which they will take their small areas of irrigated land, and in the end the lands sold to the white man and the cost of putting water on the white man's land and the fund of the Indian tribe will meet all these costs and expenses. On the other hand, the Indian is likewise benefited if he can get irrigation and get his small allotment of irrigated land free from lien, even though in the last analysis the Indian fund might not be sufficient to recompense the Government.

There is, therefore, an element of uncertainty on both sides of a project of that kind; and it has been thought best, wherever Congress could be led to see the wisdom of it, to initiate these projects and make them in terms reimbursable, although everyone recognizes that if in the last analysis the Indian fund should be insufficient to meet the final residuum of cost, then there would be a loss to the Federal Government. It is a sort of compensatory proposition. Some risk is taken as to the Indian property. Some risk is taken as to the Federal Treasury. The only question is as to the wisdom or unwisdom of any individual project.

Mr. WEST. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Georgia?

Mr. CLAPP. I have not the floor to yield, but——

Mr. WEST. I should like to ask a question of the Senator from Minnesota, with the permission of the Senator from Vermont.

Mr. PAGE. Certainly.

Mr. WEST. Is there any limitation placed upon this reimbursement where the money has been expended by the Government to build these dams? In other words, the appropriation is made, and it is expected that the Government shall be reimbursed. Is there a time fixed when this reimbursement is to be made from the sale of the lands to the white people and whatever other course the funds may come from?

Mr. CLAPP. Ordinarily there is no time fixed at the outset, except as to what the white man pays. That time is fixed in a series of years. Of course those dealing with the matter have in contemplation, if there is an existing fund, the existing fund. If there is property in excess of the lands sold under the irrigation project to the white man, they have in contemplation the ultimate sale of that property. In this particular project, after taking out what the white men will pay for their allotments—and they have to take theirs after the Indians have taken their allotments—and then taking out the price which the white man pays for the land, I do not at present recall whether there is an existing fund to the tribal credit of this tribe or not.

Mr. PAGE. I think there is.

Mr. CLAPP. But I do not know that this tribe, the Blackfeet, have a very large amount of timberland, and I think they have a fund. As this work proceeds and reaches its completion, of course if there is a fund on hand that is not bound by any treaty regulation, unquestionably Congress could then pass an act reimbursing the residuum that is left after you have taken out of the cost of the irrigation what you have gotten from the white man, first through the land itself and then through the water right.

Mr. LANE. Mr. President, if the Senator will allow me, I should like to say that the condition is this: It is as if some person took your property and mortgaged it and all your effects and belongings and inaugurated a business scheme on it without consulting you as to whether or not you wanted it, and then carried it on upon what he thought was a wise plan.

It might prove to be or it might not, and yet you would have to pay for it.

Mr. SMITH of Arizona. Is not that usually the case in case of guardianship?

Mr. LANE. Yes. That, I think, is the meat of the whole question, and that is exactly how it has been carried on, and I think it accounts for the condition of the Indian at this time.

Mr. CLAPP. Of course the theory upon which the Government has proceeded in the past has been that of guardian or trustee for the Indian, and except in the most informal way the Indian as a rule has not been consulted. He is always consulted in a certain manner as to the things which he asks for, because the Indian or his representative comes before the committees of Congress.

How wise, how just it is to deal with these people in the manner in which we have dealt with them is a question, but it is a question which has been settled at least in harmony with the general spirit and purpose of the American people from the beginning of this Government. It has been administered by such men as ex-Senator Platt, of Connecticut, and by the great Senator Morgan, of Alabama. The Indian Committee has had its representation east and west, north and south. That mistakes may have been made no one can deny. When you realize, however, that a few years ago these people were savages, wearing blankets and living in tepees, and that we have had to carry them across from that condition to a condition—many of them now—of civilization, of self-reliance, of ability for self-support; when you realize that we have had to do this at arm's length, and when you realize that every step has been necessarily experimental, for there were no guides to go by, I, for one, feel that the Department of the Interior, the Indian Office, and Congress in the main may well congratulate themselves upon the result of this work.

It is very easy to say that inattention has marked the progress of legislation; but, Mr. President, in the years that have gone, and in the continual exchange of one person for another upon the committee, some of the great men who have honored this Chamber in the past by their presence here have been the vigilant members of that committee, notably the two men whom I name, ex-Senator Platt, of Connecticut, and ex-Senator Morgan, of Alabama.

Mr. PAGE. Mr. President, perhaps I should say that the remark of the Senator from Utah to the effect that the Senators from the East should be seen and not heard, that they are not prepared to act intelligently upon these Indian matters, ought not to have irritated me, and I guess it did not very much; but I, perhaps, said a little more than I would have said had not that remark been indulged in by the Senator from Utah. I certainly meant no disrespect to any Senator.

The remarks of my good friend the Senator from Minnesota are fine, but it seems to me that we are still running away from the foundation of this contest, and that is this: Are all these appropriations which are remibursable a mortgage upon the Indian's property?

I made that statement in good faith. I thought I was correct. The Senator from Montana arose in his place and said: "You are mistaken." The Senator from Minnesota then arose and said: "It is true that this fund which is termed 'reimbursable' is reimbursable, first, from moneys received from the white man for purchased lands; second, from other specified sources; third, from the Indian's money in the United States Treasury." If he has a fund in the Treasury, and I understand he has, that fund, as I understand it, is mortgaged for this $7,000,000 that we propose to invest in this Flathead irrigation project. It is true that when we have exhausted the Indian's money, if there is nothing left, the United States stands the balance of the loss, as the Senator says.

Mr. CLAPP. But, Mr. President, if the Senator will pardon me, the tone might indicate that he was out entirely. It must be remembered that in that transaction the Indian has his allotment of irrigated land, of which he can not be divested.

Mr. PAGE. Mr. President, we do not differ upon that point. Of course the Indian gets his plat of irrigated land, and the Senator from Minnesota says that he would increase the size of that plat so that he might be better protected; but the fact still remains that without his consent we are placing a $7,000,000 mortgage upon his property. He has a large amount of timbered lands, and I do not think there is any question but that the proceeds of the logs on these lands, when they are cut, must first go to pay any debts which the Indian owes under these reimbursable appropriations.

Mr. SMITH of Arizona. Mr. President, will the Senator permit me to ask him a question?

Mr. PAGE. With pleasure.

Mr. SMITH of Arizona. I have had some thirty-odd years of experience among the Indians of the western country. I am not surprised at the attitude the Senator takes, and I would not have him feel as he seems to have felt from the remarks made by the Senator from Utah. The Senator recognizes that the Indian is a ward of the Government. The Senator should likewise recognize that Congress, as far as the Indian is concerned, must take care of the ward of the Government through its legislation.

The Senator constantly speaks of "the Indian's consent." You might as well talk to me about the consent of a baby or a lunatic who has a guardian. The Senator constantly speaks of "the Indian's consent." How are you going to get it? Are you going to run out on the plains and lasso him and bring him in and get his consent?

The Senator does not know the Indian. He knows all he hears before the committee, and he forms very just conclusions from what he hears there; but how are you going to get the consent of an Apache Indian, and what does an Apache Indian know about whether or not that is the best thing for him to have?

The Government has made the Indian its ward. If you will just leave out the question of getting the Indian's consent and talk about the consent of the guardian of the Indian, your argument may be logical; but inasmuch as we have constituted ourselves the Indian's guardian, we must not expect to wait to get the consent of the baby.

Mr. PAGE. Mr. President, I do not know that I correctly understood the answer or response of the Senator from Montana to my suggestion that this was a mortgage upon the Indian's land, but I certainly understood him to say that I was mistaken. If I am, I should like to have him tell me how, and I will listen attentively to what he says.

Mr. WALSH. Mr. President, I have before me here a compilation of all acts of Congress with relation to the Flathead Reservation and the opening thereof. The Senator——

Mr. PAGE. I trust I may not be diverted from my argument. I should like to have the Senator say to me whether or not this "reimbursable" fund really constitutes a mortgage upon the Indian's property?

Mr. WALSH. I was about to say to the Senator that the term "mortgage" has no sort of appropriate application to the subject at all. I endeavored to express to the Senator the idea that a mortgage contemplates that in case of a default the property shall be sold and taken away. There is not a possibility of taking away any of these lands from the Indians.

Now, let me continue by saying that the word "reimbursable," as used here, simply means that it is expected that eventually the General Treasury will be reimbursed, so far as the burden rests upon the Indian lands, from any moneys that go into the Indian funds. The settler, as I indicated before, pays for his lands in installments; but it is thought that the Indian will not be able thus to meet the expenses of irrigation work, and the payments will be made on his account out of moneys that go into the Indian fund, derived, as has been stated by the Senator from Minnesota, from the sale of the other lands to the white settlers and to other people.

Mr. PAGE. And not from any other source?

Mr. WALSH. Certainly not.

Mr. PAGE. Is not any fund that may come from the sale of the Indian's lumber or timber from his reservation later on a fund which must go to reimburse the Government for what it pays out here?

Mr. WALSH. Why, unquestionably. The Indian has resources here. He owns the lands that the white settlers take up. Moneys will come from those. He owns the timberlands; moneys will eventually come from those. He owns the mineral lands; moneys will eventually come from those. All of that money will go into an Indian fund, and the portion of this expense that is chargeable to the Indian will be taken out of that fund and turned back into the General Treasury to reimburse the Treasury.

Mr. PAGE. Has not the Blackfoot Indian a large fund now in the Treasury?

Mr. WALSH. My recollection is vague about that. I do not know how much it is.

Mr. PAGE. Several hundred thousand dollars, I think.

Mr. WALSH. I think so. Whatever the Indian has, it is entirely appropriate that the amount should be from time to time taken from that fund to pay his proportion of the reclamation project.

Mr. SMITH of Arizona. To improve his estate.

Mr. WALSH. It does not make any difference whether it is taken out of funds that are now in the Treasury belonging to him or funds which may afterwards come into the Treasury from the sale of timberlands.

Mr. PAGE. Then, as a matter of fact, these funds which are reimbursable are a lien upon the proceeds of the lands sold to the white man; a lien upon the Indian's logs and lumber which are taken from his tract of land; and a lien upon his funds in the Federal Treasury. While perhaps not a mortgage in the strict legal sense of the term, yet it is a lien which compels him to stand all the risk growing out of this irrigation scheme.

Mr. WALSH. Risk in what way?

Mr. PAGE. The risk is this, as I understand it: There are several of these schemes that have not proven to be successful. If they are successful, of course nobody loses; but if unsuccessful, it is the Indian's loss. And here is a $7,000,000 risk that we are compelling the Indian to assume. I think it was agreed here by those who discussed this matter the other day that a part of this burden ought to have been regarded as a reclamation project and to have been paid for out of the reclamation fund, certainly that the risk ought not all to have been placed upon the Indian.

Mr. SMITH of Arizona. Mr. President, if the Senator will permit me, who ever suggested that under that particular proposition it should come from the irrigation fund under the irrigation law? It is absolutely out of the pale of that law. It has nothing in the world to do with it.

Mr. PAGE. But it is claimed—and I think truthfully—that when this project started, instead of being started solely as an Indian project, it ought to have been started in part as an Indian project and in part as a reclamation project. I drew that idea from the discussion in the Senate the other day.

Mr. SMITH of Arizona. If the Senator will pardon me, in effect it is the same thing, for under every irrigation project the very same conditions exist that existed in this case—that the man who gets the water pays for it. The Government, acting for the Indian, thinks it is best for its ward's estate to appropriate this Indian land and sell part of it to the white people, to appropriate the proceeds of that timber. The guardian, acting for the ward, to improve the Indian's estate, does that, and that is all there is in it. This question of mortgaging the holding is not to the point. It is a man acting for his children who says, "I think this is the best thing I can do for your estate"; and it is, if you can ever get an Indian to do any agricultural work at all, which I have always doubted. I believe it is largely visionary.

While the Senator from Minnesota was mentioning the distinguished gentlemen who had presided over the Committee on Indian Affairs, his modesty prevented him from giving himself a conspicuous place, to which I know he is entitled. He knows this question as well as any man in the Senate. He knows that it is all problematical. Why should the Senator from Vermont or anyone else take up the whole time of the evening over a question of mortgages as between a ward and its guardian, when the Government, acting for the best interests of the Indian, feels that this is the best thing it can do for him, and the committee feels the same way? Why should we say, "Now, there is something wrong away back yonder; there is some mortgage on an Indian's estate"?

There is nothing in the world except as though it had been under one of the irrigation projects. Naturally, every man that gets water pays for it. The Indian must do it; and if the Indian does do it, and the project succeeds, it is worth twice what he has to pay for it. What is he going to do with his timber if he does not give it for water? What is he going to do with his land if he does not sell part of it to get water for the more valuable land in the bottom?

Mr. JONES. Mr. President, will the Senator permit me?

Mr. SMITH of Arizona. I am intruding on the time of the Senator from Vermont.

Mr. PAGE. I yield to the Senator.

Mr. JONES. I simply want to ask, in the line of what the Senator has mentioned, is it not a fact that in practically all of these cases—I do not know exactly how it was on this reservation, but in practically all these cases where the irrigation enterprise is started—without irrigation the land is practically worthless?

Mr. SMITH of Arizona. Why, the Indian's estate on that reservation, if it is like the reservation in my own State, is not worth spending one minute of the time of the Senate in talking about. The Indian would never get a cent of profit from it in 500 years. This is an effort to bring it from a state of desert into a situation where you can give him a home, and, if possible, make a civilized human being out of him; and then we find opposition to it under the pretense that we are trying to take something from him. The Senator from Vermont opposes it in the tenderness of his heart, which I congratulate him upon entertaining. I congratulate him upon his sympathy with the Indians, in which I indulge, perhaps, more than he, because I know their condition better. In trying to help them, however, you will injure them if you carry out the plan which you are speaking about.

Mr. PAGE. Mr. President, I do not think I will offer any apology for the time I take in addressing the Senate. Every Senator knows that in the six years I have been here I have never uttered an unnecessary word to take the time of the Senate. I have never occupied the time of the Senate unless the subject before it was one upon which I thought it my duty to speak. I never have spoken for the purpose of hearing myself talk. I realize my own limitations too well for that.

But here is a question where, the other day, I found myself supported by a goodly line of able Senators. As I said, there was the Senator from Arkansas [Mr. ROBINSON], who is a member of the Committee on Indian Affairs and has studied this matter with a great deal of care; the Senator from Michigan [Mr. TOWNSEND], who gave this particular question a great deal of consideration, and their remarks were very able and illuminating. They are now necessarily absent, and I seem to be called upon to make my protest alone, as best I may, against a large array of able lawyers.

I am not a lawyer, but it seems to me that if there is any fair, square, plain meaning to the word "mortgage" or "lien," this word "reimbursable" in this bill covers it. The Indian's land can not be taken, perhaps, in the sense that you could take a white man's land on a foreclosure of mortgage; but his property generally, his large fund in the Treasury, amounting to several hundred thousand dollars, if I remember rightly, and his timber, logs, and lumber can be taken. I fear we are putting the Indian's money into a scheme that may prove a failure, and I am not willing to do it.

Mr. WALSH. Let me ask the Senator a question there. Really, then, what he wants, apparently, is some general legislation that will apply to all the different reclamation projects?

Mr. PAGE. I have to say, in regard to that, that when this matter was under discussion the decision of the Supreme Court of the United States was invoked to show that when Montana entered into the Union the act by which she became a member of the sisterhood of States provided, not in actual terms, but by inference or implication, that a sufficient quantity of water from the lake which supplies the Blackfoot Reservation belonged to this reservation and to the Indians. On the other hand, the Senator from Utah and other able Senators said: "No; the plain language of the Supreme Court of the United States in this case is not good law. It was obiter. They decided something that was not before them."

Those of us who were trying to safeguard the Indian's rights realized then that we confronted a bad proposition, one in which we did not know whether the Indian was or was not protected, and so this amendment was added.

Perhaps in closing I ought to apologize to the Senate for taking up so much of its valuable time, but I felt that we ought not to abandon this amendment. I am pretty well satisfied, however, that the weight of the argument may be against me, and I will not longer continue the unequal contest.

Mr. ASHURST. Mr. President, I call for the question. It will be remembered that this amendment was discussed at great length and with much ability, and was disposed of in the previous debate. We consumed, I think, practically three days on it then. I call for the question.

Mr. JONES. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gronna	Newlands	Smith, Ga.
Bankhead	Hollis	Norris	Smoot
Borah	Hughes	Page	Sterling
Brady	Jones	Perkins	Stone
Brandegee	Kenyon	Pittman	Sutherland
Burton	Kern	Pomerene	Swanson
Camden	Lane	Ransdell	Thomas
Catron	Lea, Tenn.	Reed	Thornton
Chamberlain	Lee, Md.	Shafroth	Tillman
Chilton	Lewis	Sheppard	Vardaman
Clapp	Lippitt	Shields	Walsh
Clark, Wyo.	Martine, N. J.	Shively	Weeks
Clarke, Ark.	Myers	Simmons	West
Gallinger	Nelson	Smith, Ariz.	White

Mr. LEWIS. I desire to announce the absence of the junior Senator from Kansas [Mr. THOMPSON] occasioned by illness.

The PRESIDENT pro tempore. Fifty-six Senators having answered to their names, a quorum of the Senate is present. The question is on the motion to recede from amendment numbered 82 on the Indian appropriation bill.

Mr. LANE. Mr. President, I wish to say for the information of the Senate that in the last analysis the question amounts to just this: Here are guardians who give no bond and nowhere are held responsible for what they do who handle the funds and properties of these wards, these helpless wards, in a manner which throughout the United States has brought no credit upon this Government. If there are any rights belonging to them which are undetermined, it is well enough to ask the opinion of the Attorney General as to what those rights are and to protect them from the sale of their lands at a price far below what the whites could sell it for within 24 hours if they desired after they acquired possession of it.

The PRESIDENT pro tempore. The question is on the motion to recede from amendment numbered 82.

Mr. PAGE and Mr. LANE called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. CATRON (when his name was called). I transfer my pair with the Senator from Oklahoma [Mr. GORE] to the Senator from Illinois [Mr. SHERMAN] and vote "yea."

Mr. CHAMBERLAIN (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. In his absence I withhold my vote.

Mr. GALLINGER (when his name was called). I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. In his absence I withhold my vote.

Mr. GRONNA (when his name was called). I have a general pair with the senior Senator from Maine [Mr. JOHNSON]. Not knowing how he would vote, I withhold my vote.

Mr. HOLLIS. I announce my pair with the junior Senator from Maine [Mr. BURLEIGH]. This announcement will stand for the day.

Mr. MYERS (when his name was called). I have a general pair with the junior Senator from Connecticut [Mr. MCLEAN], who is necessarily away from the city on business. In matters pertaining to this bill, however, I am expressly relieved from my pair, and I vote "yea."

Mr. PERKINS (when his name was called). I again announce my pair with the junior Senator from North Carolina [Mr. OVERMAN] and withhold my vote.

Mr. SMITH of Georgia (when his name was called). I transfer my pair with the senior Senator from Massachusetts [Mr. LODGE] to the senior Senator from Virginia [Mr. MARTIN] and vote. I vote "yea."

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT], which I transfer to the junior Senator from Kansas [Mr. THOMPSON], and vote "yea."

Mr. TILLMAN (when his name was called). I transfer my pair with the Senator from West Virginia [Mr. GOFF] to my colleague [Mr. SMITH of South Carolina] and vote "yea."

Mr. WEEKS (when his name was called). I have a general pair with the senior Senator from Kentucky [Mr. JAMES]. As he is absent, I withhold my vote.

The roll call was concluded.

Mr. CHILTON. I have a general pair with the Senator from New Mexico [Mr. FALL], but under the terms of it I can vote on this question. I vote "yea."

The result was announced—yeas 45, nays 7, as follows:

YEAS—45.

Ashurst	Hughes	Ransdell	Sutherland
Bankhead	Jones	Reed	Swanson
Borah	Kern	Shafroth	Thomas
Brady	Lea, Tenn.	Sheppard	Thornton
Brandegee	Lee, Md.	Shields	Tillman
Bryan	Lippitt	Shively	Vardaman
Camden	Martine, N. J.	Simmons	Walsh
Catron	Myers	Smith, Ariz.	West
Chilton	Nelson	Smith, Ga.	White
Clapp	Newlands	Smoot	
Clark, Wyo.	Pittman	Sterling	
Clarke, Ark.	Pomerene	Stone	

NAYS—7.

Bristow	Kenyon	Norris	Poindexter
Burton	Lane	Page	

NOT VOTING—44.

Burleigh	Dillingham	Gore	La Follette
Chamberlain	du Pont	Gronna	Lewis
Colt	Fall	Hitchcock	Lodge
Crawford	Fletcher	Hollis	McCumber
Culberson	Gallinger	James	McLean
Cummins	Goff	Johnson	Martin, Va.
O'Gorman	Perkins	Smith, Md.	Townsend
Oliver	Robinson	Smith, Mich.	Warren
Overman	Root	Smith, S. C.	Weeks
Owen	Saulsbury	Stephenson	Williams
Penrose	Sherman	Thompson	Works

So the Senate receded from its amendment No. 82.

The PRESIDENT pro tempore. Does the Senator from Arizona desire to have the Senate further insist upon the amendments still in disagreement and to move for a further conference?

Mr. ASHURST. I should like to have the sense of the Senate on the amendments upon which we have been unable to agree. We have been instructed on amendment No. 82 and we would like to be instructed on the others.

Mr. WALSH rose.

Mr. ASHURST. I yield to the Senator from Montana.

Mr. WALSH. I move that the Senate conferees be instructed to adhere to amendment No. 81.

Mr. ASHURST. Mr. President, I think a word will save a lot of time as to amendment No. 81. The House made an appropriation of $100,000 to continue the construction of the irrigation work on the Flathead Indian Reservation. The reclamation official came before us and stated that he ought to have $500,000. I am profoundly convinced that we should not recede from Senate amendment No. 81, which appropriates $250,000 instead of $100,000.

Mr. HUGHES. I understand that the Senator from Montana [Mr. WALSH] has moved to adhere to a certain amendment. The Senator perhaps did not intend to adhere, but to further insist.

Mr. WALSH. To further insist.

The PRESIDENT pro tempore. The motion of the Senator from Montana is that the Senate further insist upon its amendment No. 81.

Mr. SMOOT. I understood that by the Senate voting to adopt the report of the conferees we virtually agreed to all the amendments which have been agreed to by the conferees and disagreed to the amendment on which they have reported a disagreement.

The PRESIDENT pro tempore. There is just one amendment—numbered 82—that it is proposed now to further insist upon, and then the question will arise on insisting upon the other amendments which are in disagreement between the two Houses.

Mr. SUTHERLAND. I suggest to the chairman of the committee that a general motion ought to be made that the Senate further insist upon its remaining amendments and request a further conference. I do not see anything to be gained by taking up the amendments piecemeal.

Mr. ASHURST. Very well.

The PRESIDENT pro tempore. That is the usual motion.

Mr. WALSH. In that case, I withdraw my motion.

Mr. ASHURST. I make that motion.

The PRESIDENT pro tempore. The Senator from Arizona moves that the Senate still further insist upon its amendments which are in disagreement and request a further conference with the House, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. ASHURST, Mr. LANE, and Mr. CLAPP conferees on the part of the Senate.

FEDERAL TRADE COMMISSION.

The PRESIDENT pro tempore. The Chair lays before the Senate the trade commission bill, which is the regular order.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. WEEKS. Mr. President, it is my purpose to discuss in a general way some matters relating to and affected by the proposed legislation which the Senate now has under consideration.

We are quite apt to suggest when considering legislation of any moment that it is of paramount importance. In many cases this superlative language is not justifiable, but I think that it is appropriate in its application to the pending bill. The United States more than any other country has already adopted legislation relating to business organizations limiting and curbing their operations.

The whole question of what should be the Government's connection with corporations and combinations of capital should be the result of a most thorough, painstaking, and exhaustive examination. We do not legislate, in such matters at least, with the same care and prudence exhibited by our commercial rivals, and especially by the German Nation. It is well known

that before adopting their present tariff law a commission studied the subject for several years, taking up every phase of the question, so that its report contained a substantially clear course to be followed. We should do the same in this case. I do not wish to unduly criticize the committees which have been engaged in framing this legislation, but what we are doing now is done without the aid of technical knowledge. Business men themselves are not agreed as to the proper solution of the question at issue. Presumably they have only looked at the question from their own important and perhaps selfish standpoint. They may be influenced to advocate a trade commission with limited powers, believing that that would practically break down the operation of the Sherman Antitrust Act or they may be opposed to a trade commission because they think it would hamper and restrict their business operations. They do not know any better than the legislators who are engaged in framing this legislation what the result of its enactment will be.

During the past 18 months I have been a member of a commission to study the rates which the Government should pay railroads for the transportation of mail. Without going into that question in any detail, I can state with propriety and positiveness that when this question was undertaken neither the railroads nor the Post Office Department had information which would have been even a reasonable basis for the construction of a law; in fact, both the railroads and the department have been studying this question through hearings, interrogatories, and investigations during these months, and both department and railroads have modified, in fact, radically changed, their views, the department at least, several times during that period.

If legislation had been adopted without the careful investigation which has been made during these months, I am justified in saying that it would have been unfair and unreasonable either to the Government or to the railroads themselves, or both; but as a result of this investigation I believe it will be demonstrated that a plan has been developed which will be fair to both Government and railroads and which will settle this question for many years to come.

We have on the statute books the Sherman Antitrust Act, which is praised by those who have approved of the results of its operation, and condemned by those who believe that the results obtained are not commensurate with the damage they feel it has done. Now we are proposing to take further action relating to similar businesses in an entirely different way, so that corporations hereafter will be materially limited in the manner in which they may conduct their operations.

There are those—and they are not confined to those who have the so-called conservative habit of thought—who believe that any legislation which restricts business operations is in the end detrimental to the best interests of the country.

We are always passing legislation which is made necessary by the joy rider, and by making it general it applies to everyone else. There are comparatively few people owning and operating automobiles who do not observe and believe in observing reasonable regulations, but a few operate their machines in a manner which endangers public interests and personal safety, and therefore it becomes necessary to pass legislation which will punish these irresponsible people; this legislation is very frequently much more drastic than is necessary or desirable but it must be applied to all those who are using machines. This illustration is equally true of general business and business operations.

Daniel Webster, in 1838, recognized the sentiment with which we are familiar, a general criticism of things as they are—a complaint that things are not right; and every complainant has a remedy at hand which, he believes, if put on the statute books will right these wrongs. Mr. Webster said at that time:

> There are persons who constantly clamor. They complain of oppression, speculation, and the pernicious influence of accumulated wealth. They cry loudly against all banks and corporations and all means by which small capitals become united in order to produce important and beneficial results. They carry on mad hostility against all established institutions. They would choke the fountain of industry and dry all the streams. In a country of unbounded liberty they clamor against oppression. In a country of perfect equality they would move heaven and earth against privilege and monopoly. In a country where property is more evenly divided than anywhere else, they rend the air shouting agrarian doctrines. In a country where the wages of labor are high beyond parallel they would teach the laborer that he is but an oppressed slave.

It seems to me there are many things in common in the conditions as described by Mr. Webster and those of the present time. I do not refer entirely in making that suggestion to this pending legislation but to the general trend of the public mind.

We sometimes get the impression from those who are condemning the management of large business affairs that the men who are conducting important corporations are endeavoring to find some way to circumvent the law. Such assertions, in my judgment, are generally without foundation. Nine hundred and ninety-nine business men out of every thousand are law-abiding citizens who wish to observe and respect the law in spirit and letter and are frequently put to great expense and trouble in determining what they can do and obey the law, but not to avoid its provisions. Every corporation of relative importance which has been conducting a large part of any special line of activity in the last 20 years has found it necessary to employ trained and expert lawyers not to tell its managers how they could avoid obeying the Sherman antitrust law, but to tell its managers what they could do and keep within its provisions. Very frequently the decisions of the courts have demonstrated that the opinion of the lawyers in such cases has not been sound, and that has brought fines and humiliation to many men who never intended to do any act which the law forbade.

In other words, there has been uncertainty in business opefations, which is always a serious embarrassment. What business wants, both capital and labor, is stability in the conduct of its operation. It is not possible to run all business concerns at their full capacity all the time, because when that course is followed overproduction is sure to result, which in turn necessitates a slowing up, and when that slowing up comes, in order to keep their plants running, their forces employed, and not to break up their organization, business men cut prices and take other action to sell their output, which they do not do when there is an active demand for their product. This in turn embarrasses the weaker competitor, who may and quite likely does go to the wall, so that that kind of action instead of producing real competition lessens competition by driving a certain percentage of producers out of business and enabling those who can weather the unusual times to obtain a monopoly of the good times which are sure to follow. If we could regulate the output of certain lines of goods so that each concern should manufacture in proportion to its capacity its part of the total demand at all times real competition would be the result, and that was what was attempted in the early days of the Sherman Antitrust Act, which I shall discuss a little more fully to show how important it is to carefully consider any business legislation which is going to affect the corporations of our country.

Various, in not all cases consistent, reasons are advanced for the passage of this legislation. For example, it is claimed, in a minority report which was made on the trade-commission bill in the House, that business is carried on by larger and larger units and that—

> they have been able to drive their competitors out of business not by superior efficiency in the manufacturing of their product, but by securing special advantages and contracts in the buying of their raw materials and in the distribution and selling of their products. Any advantage large corporations have over small corporations or individuals through lower costs of production they are entitled to, but they should be prevented from an unfair use of the power that comes from their size alone.

That is a very common complaint, and yet there is a distinct limit to the possibilities which may come from size alone. We have recently seen that illustrated in the largest commercial failure which ever took place in the United States. The H. B. Claflin Co. for 40 years has been a synonym for successful business conducted under the highest possible ethics. As time went on the firm established branches in many cities. These branches, however, were conducted under other names, though the capital was largely, if not entirely, furnished by the main concern.

The business went on extending until the obligations of the Clafflin Co. aggregated from thirty to forty millions of dollars. They were very largely the notes of the branch houses, indorsed by the main house, making what is considered in trade double-name paper. As a matter of fact, the failure of the main house, followed by the failure of many of the branches, demonstrates that very largely, at least, it was only single-name paper, and that the banks in making loans to this concern had not been fully informed as to the character of the receivables. No one knows yet just what produced the failure or how serious the losses will be, but it is pretty clearly demonstrated that here was a business which under the very best auspices, with branches of its own throughout the country, has failed for one of two reasons: Either there was an overextension of credit, which does not seem to be borne out by the last financial reports which were made public, or a failure in the capacity of the management of the business. My own judgment is that it will be found that this business became so extended that some parts of it were not well managed; the genius which might have conducted the local store and the business carried on within

suitable limitations with the success which had accompanied the firm's affairs during the earlier period of its existence had not been able to extend this careful management over the entire United States, and I am confident that if a careful inquiry were made it would be demonstrated that, except in cases where natural products are involved, as in the notable cases of the Standard Oil Co. and United States Steel Co., that there is a limit beyond which expansion can not take place without pretty nearly a certainty of a breakdown resulting. But even in the case of the steel and oil statistics demonstrate that they have not grown at the expense of their rivals, but the reverse has been the case.

I have here some statistics on the steel company which I wish to put in the RECORD. Before doing so I will explain the point which I wish to illustrate to demonstrate the correctness of what I have just said.

In 1902, which was the year after the organization of the United States Steel Co., it produced in all districts 45 per cent of the total iron ore of the country.

Last year it produced 47.92 per cent, and I believe that that is the only percentage where there has been an increase in the 10 years to which I am referring in making comparisons in comparison with what other companies have done.

Shipments from the lake region in 1902 by the United States Steel Co. were 60.4 per cent of the total. Last year they were 50.46 per cent. Pig iron, including spiegeleisen, produced by the company in 1902 was 44.03. In 1912 it was 38.01. Spiegeleisen and ferromanganese, and so forth, in 1902 was 81 per cent of the total; in 1912 it was 80.82 per cent; Bessemer and open-hearth ingots and castings in 1902 were 65.7; in 1912 they were 54.08 per cent. Bessemer steel rails produced in 1902 were 65.4 per cent of the total; in 1912 they were 56.27 per cent. Structural shapes in 1902 were 57.9 per cent of the total; last year they were 49.83 per cent. Plates and sheets in 1902 were 59.4 per cent of the total; last year they were 50.37 per cent. The total finished rolled product in 1902 was 50.08 per cent of the whole; last year it was 48.52 per cent.

Wire nails produced in 1902 were 65 per cent of the total; last year they were 49.30 per cent. Since that time the company has taken up the manufacture of tin plates and terne plates. In 1908, the first year this product was manufactured, it did 72 per cent of the total business; last year it did 60.07 per cent. I ask, Mr. President, to include those figures in more detail in my remarks.

The PRESIDING OFFICER (Mr. BRADY in the chair). In the absence of objection, permission to do so is granted.

The figures referred to follow.

Annual production of ore, coke, and iron and steel products by United States Steel Corporation and by independent concerns, 1901–1910.

[From annual statistical reports of the American Iron and Steel Association.]

Products.	1902.			
	United States Steel Corporation.	Independent companies.	Total, all companies.	United States Steel Corporation's percentage of total.
Iron ore:	*Gross tons.*	*Gross tons.*	*Gross tons.*	
Production, all districts	16,063,179	19,490,956	35,554,135	45.1
Shipments from Lake region	16,659,470	10,911,651	27,571,121	60.4
Coke	9,521,567	15,880,163	25,401,730	37.4
Pig iron, excluding spiegel, etc	7,802,812	9,805,514	17,608,326	44.3
Spiegeleisen, ferromanganese, etc.	172,718	40,263	212,981	81.0
Ingots and castings:				
Bessemer	6,759,210	2,379,153	9,138,363	73.9
Open hearth	2,984,708	2,703,021	5,687,729	52.4
Total	9,743,918	5,082,174	14,826,092	65.7
Rolled products:				
Bessemer steel rails	1,920,786	1,014,606	2,935,392	65.4
Structural shapes	753,481	546,845	1,300,326	57.9
Plates and sheets	1,583,865	1,081,544	2,665,409	59.4
Wire rods	1,126,826	447,467	1,574,293	71.5
Bars, skelp, nail plate, open-hearth and iron rails, and other finished rolled products	1,701,700	3,766,996	5,468,696	31.1
Total finished rolled products	7,086,658	6,857,458	13,944,116	50.8
Wire nails (kegs of 100 lbs.)	7,122,354	3,859,892	10,802,246	64.8

Percentage of production of the United States Steel Corporation in 1912.

Iron-ore shipments from Lake Superior and iron-ore production in 1912; also coke production in the same year.	By United States Steel Corporation.	By independent companies.	Total shipments and production.	Percentage United States Steel Corporation.
Shipments of iron ore from the Lake Superior region in 1912 (gross tons)	24,331,837	23,889,709	48,221,546	50.46
Total production of iron ore in 1912 (gross tons)	20,428,449	28,721,698	55,150,147	47.92
Production of coke in 1912 (net tons)	16,719,387	27,264,212	43,983,599	38.01

Iron and steel actually produced in the calendar year 1912 (gross tons).

	Production United States Steel.	Production all others.	Total production.	Percentage United States Steel.
Spiegeleisen and ferromanganese	179,207	42,517	221,724	80.82
Bessemer, basic, low-phosphorous, foundry, forge, ferrosilicon, etc	14,006,957	15,498,256	29,505,213	47.47
Total pig iron, including spiegeleisen, ferromanganese, ferrosilicon, etc	14,186,164	15,540,773	29,726,937	47.72
Bessemer, open-hearth, curcible, electric, and all other steel ingots and castings	16,901,223	14,350,080	31,251,303	54.08
Steel rails, including Bessemer, open-hearth, electric, and enrolled, renewed, etc	1,872,772	1,455,143	3,327,915	56.27
Structural shapes	1,418,518	1,427,969	2,826,487	49.83
Plates and sheets, including black plates for tinning	2,959,056	2,916,024	5,875,080	50.37
Wire rods	1,676,916	976,637	2,653,553	63.20
Other finished rolled products, including nail plate, iron rails, merchant bars, rolled forging blooms and billets, semifinished products rolled for export, etc	4,037,530	5,916,276	9,953,806	40.56
Total of the rolled products enumerated above	11,964,792	12,692,049	24,656,841	48.52
Wire nails (kegs of 100 pounds)	7,227,502	7,432,198	14,659,700	49.30
Tin plates and terne plates (gross tons)[1]	581,346	381,625	962,971	60.37

[1] 1908, 72 per cent.

Mr. WEEKS. Mr. President, the same result is true of the Standard Oil Co., both in the production of oil and the consumption of oil. The Standard Oil Co. is really not primarily a producer of oil, but it is a refiner. While I have not been able to get the complete figures from the Bureau of Corporations since 1906, I ask permission to include these figures, which I have in detail, in my remarks.

The PRESIDING OFFICER. Without objection, permission to do so is granted.

The figures referred to are as follows:

Commissioner of Corporations.

Year.	Production.			Consumption.	
	United States.	Standard Oil.	Independent.	Standard Oil.	Independent.
	Barrels.	*Barrels.*	*Barrels.*	*Barrels.*	*Barrels.*
1882	30,349,897	None.	30,349,897	16,592,593	12,685,610
1883	23,449,633	None.	23,449,633	16,137,753	5,906,677
1884	24,218,438	None.	24,218,438	16,796,822	5,524,488
1885	21,858,785	None.	21,858,785	17,578,201	2,341,641
1886	28,064,841	None.	28,064,841	19,192,009	7,055,059
1887	28,283,483	None.	28,283,483	20,471,786	5,891,452
1888	27,612,025	None.	27,612,025	21,913,352	3,852,258
1889	35,163,513	5,889,606	29,573,907	27,165,572	5,969,616
1890	45,823,572	11,019,205	34,804,367	29,793,042	13,731,182
1891	54,292,655	14,232,931	40,059,724	35,997,532	15,992,199
1892	50,514,657	12,182,145	38,232,512	38,657,489	9,371,523
1893	48,431,066	13,966,176	34,464,890	41,083,324	4,688,135
1894	49,344,516	13,901,296	35,443,220	42,491,057	4,132,778
1895	52,892,276	15,928,796	36,963,480	40,772,168	9,359,296
1896	60,960,361	17,533,244	43,427,117	43,356,290	14,796,422
1897	60,475,516	17,364,845	43,110,671	48,068,430	9,514,498
1898	55,364,233	18,549,068	36,815,165	48,679,239	3,948,921
1899	57,070,850	18,080,267	38,990,583	45,847,279	8,421,572
1900	63,620,529	19,894,749	43,725,780	44,575,231	15,771,460
1901	69,389,194	18,828,822	50,560,372	48,527,527	17,837,667
1902	88,766,916	17,830,960	70,935,956	51,922,316	33,386,654
1390	100,461,337	17,319,907	83,141,430	52,378,513	45,070,641
1904	117,080,960	16,901,029	100,176,931	55,852,313	58,581,589

Commissioner of Corporations—Continued.

Year.	Production.			Consumption.	
	United States.	Standard Oil.	Independent.	Standard Oil.	Independent.
	Barrels.	*Barrels.*	*Barrels.*	*Barrels.*	*Barrels.*
1905	134,717,580	15,143,371	119,574,209	60,030,736	71,682,435
1906	126,493,936	14,052,113	112,441,823	64,958,301	58,010,747
1907	166,095,335				
1908	178,527,355				
1909	183,170,874				
1910	209,557,248				
1911	220,449,391				
1912	222,935,044				
1913	248,446,230				

Mr. JONES. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Washington.

Mr. WEEKS. I yield.

Mr. JONES. It is nearly a quarter after 3 o'clock. This is not the lunch hour; and I see only six of the majority here. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	Norris	Smith, Md.
Bankhead	Gronna	Page	Smoot
Brady	Hollis	Perkins	Stone
Brandegee	Hughes	Pomerene	Sutherland
Bryan	Jones	Ransdell	Swanson
Camden	Kenyon	Reed	Thomas
Chamberlain	Kern	Shafroth	Thornton
Chilton	Lane	Sheppard	Tillman
Clapp	Lea, Tenn.	Shields	Weeks
Clark, Wyo.	Lee, Md.	Shively	West
Crawford	Lewis	Simmons	White
Culberson	Nelson	Smith, Ariz.	
Cummins	Newlands	Smith, Ga.	

The PRESIDING OFFICER. Fifty Senators have answered to their names. A quorum of the Senate is present. The Senator from Massachusetts will proceed.

Mr. WEEKS. In 1889, the first year that the Standard Co. produced oil, it produced 17 per cent of the total oil of the country; in 1899 it produced 30 per cent; last year it produced 11 per cent, or 6 per cent less than the first year of its operations.

Its refining results, however, are even more striking. In 1882, the first year the combination was in operation, it refined 56 per cent; it refined a varying amount, in some years very much more than in others; but 10 years later it refined 81 per cent. Ten years later, in 1902, it refined 60 per cent, and in 1906 but 53 per cent. There have been many years during the organization of the Standard Oil Co. when it has refined as much as 90 per cent of the oil refined in this country.

In 1905 the independent companies refined more than did the Standard Oil Co., refining, all told, 71,682,435 barrels, as against 60,030,736 barrels refined by the Standard Oil Co.

These illustrations are given, Mr. President, for the purpose of indicating that the big companies are not growing bigger in all cases; in fact, I do not find any instance where exceedingly large companies are growing at the expense of independent outside interests. There is a limit to bigness, and that limit will be reached by the area covered in the operations of a company or the character of the management. No one man can, in my judgment, conduct a business outside of the limits where he can give his personal supervision and his care to its development.

Mr. GRONNA. Mr. President, will the Senator from Massachusetts yield to me?

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from North Dakota?

Mr. WEEKS. I yield.

Mr. GRONNA. Are not really some of the companies which are termed independent companies subsidiary companies to the so-called Standard Oil Trust?

Mr. WEEKS. Mr. President, I have not examined those figures with that in view, and I do not know. I took them as they were furnished by the Bureau of Corporations. In the case of the United States Steel Co., however, this allowance should be made, that since the original figures—those of 1902—which I submitted the steel company has taken over the Tennessee Coal & Iron Co.; but, notwithstanding it took over that company, which I think was probably the second largest producer in the country at the time, the United States Co. has fallen off in its proportionate part of the business, as compared with outside concerns. I take it for granted that the figures included under the head of "Independent" have no connection with the main company, but I do not know.

Mr. NEWLANDS. Will the Senator from Massachusetts yield for an interruption?

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Nevada?

Mr. WEEKS. I yield.

Mr. NEWLANDS. The Senator from Massachusetts has presented figures showing that the output of great combinations, such as the Steel Trust and the Oil Trust, as compared with that of independents, has diminished of late years rather than increased.

Mr. WEEKS. Yes.

Mr. NEWLANDS. Has the Senator any figures tending to show whether during this period of increased output upon the part of the independents the prices of the products have diminished or increased, or whether they have remained the same?

Mr. WEEKS. I have not gone into that. As the Senator from Nevada can see, my whole purpose in submitting these statistics, which relate to companies which are dealing in a natural product, where the public supposes that they control very largely the business of the country, is to show that even in those cases independent competition is now developing at the expense of the larger companies, and that there is a limit to the size which corporations can reach and be successful.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Iowa?

Mr. WEEKS. I yield.

Mr. CUMMINS. I think the statistics that the Senator from Massachusetts has given with regard to the United States Steel Corporation are correct; at least, they accord with my own investigation; but the Senator will not have forgotten the statement made by Mr. Gary, I think before one of the committees, that the United States Steel Corporation did fix the price at which all these commodities were sold—I mean not only those which were manufactured by it, but those manufactured by its rivals. It is big enough to dominate absolutely the trade. So Mr. Gary himself declared, and I think it has been so stated by several other men connected with that corporation. I think the Senator from Massachusetts will recognize that.

Mr. WEEKS. I think that that is largely true; but that does not disprove the correctness of the fact which I have tried to point out, that independent operation is vigorous in this country, and that it is actually gaining on the business of the larger concerns.

Mr. NEWLANDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Nevada?

Mr. WEEKS. I do.

Mr. NEWLANDS. The reason for my inquiry was this: We often hear it stated that as the monopoly power of these great corporations diminishes by reason of independent production the prices have risen. The reason which is given for that is that so long as great combinations are under the charge of being monopolies they are under the restraint of a public opinion which influences them to give more reasonable prices than when they are relieved of that charge, and that, as the independent production increases and these corporations are relieved to that extent of the charge of monopoly in the business, that relief has resulted in giving them the opportunity to charge increased prices in the place of the old lower prices.

Mr. WEEKS. I do not think it is true that all prices have increased. I think prices have varied, dependent somewhat on business conditions. We all know that the general trend of prices has been upward, and undoubtedly in many respects they will continue to increase, because the amount of material which is available in proportion to the amount used is relatively decreasing. Take the price of beef, if you like. There is every reason why the price of beef should be higher from year to year, because statistics show that the number of the cattle in the United States is not increasing, while every year we have a million additional mouths to feed. I predict that we shall find in 10 years from now the prices of beef will be materially higher than they are to-day. For that reason I should not want to subscribe entirely to the statement which the Senator from Nevada has just made.

Mr. President, this bill provides that unfair and oppressive competition is to be unlawful and provides a commission to enforce the law. Whether competition is fair or oppressive is a question of fact to be decided by the commission in a similar manner to the way in which the Interstate Commerce Commission determines whether a railroad rate is unreasonably un-

fair. It is a very simple matter to fix railway rates compared with the powers and duties which are provided for in this bill for the proposed trade commission; in fact, rates are established all over the United States, and changes are only made in the case of complaint by a shipper or by a transportation company. A hearing is then held and the rate fixed as a result of the hearing; but the Interstate Commerce Commission only has to deal with a very limited number of corporations, and many of the cases coming before it are so similar in their characteristics that when the commission has once passed on a question it finds that similar reasoning and similar action will apply in the other cases. That can not be possible in the case of the trade board proposed in this bill.

There are more than 300,000 corporations which will come under the provisions of this bill. It is fair to say that every one of these corporations has some different method of conducting some particular part of its business, and therefore there may come before the commission in due time 300,000 different cases which will have to be heard and determined before the participants will know whether they are complying with the law. It is unnecessary to say that it would take a hundred years before any such result could be obtained, and, in the meantime, as I have suggested, there would be all the uncertainty and expense which would come from the attempts of business men to obey the law as they would wish to do.

Let me call to your attention some phases of the Sherman Antitrust Act showing its uncertainty and the varied opinions held by those who have been familiar with its operations as to its value. Primarily the Sherman Antitrust Act was intended to prevent monopoly and the making of contracts in unreasonable restraint of trade; in fact, it extended the common law to interstate and international commerce. As a National Government, as I understand, we have no common law; our national laws consist of the Constitution and the statutes made under its provisions; but the several States have adopted the English common law either by express provision or by usage.

Undoubtedly in passing the Sherman antitrust law it was not the purpose of Congress to prohibit contracts in restraint of trade which were deemed reasonable and not contrary to public policy. We have evidence to substantiate this statement, because there is now living the former distinguished Senator from Vermont, George F. Edmunds, who was at the time of the passage of that law chairman of the Judiciary Committee of the Senate, and who has recently expressed himself in an interview on the trust bills which are pending as decidedly opposed to the passage of any of them. He said, in speaking of the trade commission bill, that it will merely upset things; that the present plan proposes to transfer the power of the Secretary of Commerce—meaning, I presume, the Commissioner of Corporations, who is under the Secretary of Commerce—to a commission and extending its powers. Mr. Edmunds used this language:

> As framed, the interstate trade commission bill—if it were valid—would give a tremendous power of tyranny which could easily employ itself in greed and corruption. It would concentrate power really in the President, who would have the power to appoint and remove the commissioners, and to control the whole business, inasmuch as by the apparently settled practice of the Government the President is authorized to keep his appointees in office without the consent of the Senate. If the Senate refuses to affirm a nominee, the President, if he chooses, appoints the rejected nominee over again, and so may keep on indefinitely, as has frequently happened in late years. The proposed commission would prove meddlesome, adding nothing to the merit possessed by the older Bureau of Corporations.

One of the leading members of the Judiciary Committee of the Senate at that time was Senator Hoar. In fact, it is probable that the former Senator from Vermont, whom I have just quoted, and Senator Hoar, whom I am about to quote, had quite as much to do with the framing of the bill as any other men, although it bore the name of Senator Sherman. Senator Hoar gave testimony immediately after the passage of the act as to his understanding of its meaning. This was done in an opinion to the participants in what was known as the Wire Pool. Under their method of conducting business each manufacturer selling and delivering his product in another State or in a foreign country agreed to a condition which stipulated that his product should not be sold for less than an agreed scale of prices, and that each should pay into the common stock, to be divided into an agreed proportion, all profits by him received beyond what came from a specified amount of sales. Senator Hoar said that the plan under which they were operating was not, under the terms of the Sherman Antitrust Act, illegal, and that they were entirely within the provisions of the law if they continued to act in the manner which they were then following, his reasoning being that there was nothing in the agreement which created a monopoly; that, on the contrary, if enforced, it gave an advantage to corporations which did not enter into it and which could sell their product at a lower price. He illustrated his opinion in many ways to show why it did not conflict with the restraint-of-trade provision of the Sherman Antitrust Act, concluding that that act only intended to prohibit such contracts as might be found unreasonable and contrary to public policy under the common law. The wire pool continued its operations for many years; but during the last administration its members were proceeded against for violating the Sherman Antitrust Act. They plead guilty by advice of their attorneys and were fined from one thousand to five thousand dollars each. There was no evidence that they had in any way changed their methods, and there is every evidence that they were doing nothing which the framers of the law, as indicated in the opinion of Senator Hoar, considered illegal.

This statement introduces a very important feature of not only the Sherman Antitrust Act itself, but the bill which we are now considering, and that is its uncertainty. Until the Supreme Court handed down the decision in the Trans-Missouri case undoubtedly the court decisions indicated that the opinion of Senator Hoar in the case of the wire pool was justified; but the Supreme Court in the Trans-Missouri case made an entire change in the construction of the law, and therefore large corporations, learning that they could not pool their output, fix prices at which the output should be sold, and limit the output of the plants, took the only other course open to them in order to control not only prices but output by forming consolidations. These consolidations include most of the so-called trusts of the present day. Is it therefore unreasonable to conclude that the Sherman Antitrust Act and the construction placed on it by the Supreme Court in 1897 is largely responsible for what many people at the present time consider one of the great evils in our industrial situation?

Let me go somewhat further with an analysis of the Sherman Act for the purpose of developing the possibilities that may come from the pending legislation. We all know that it seems very simple to put on the statute books something which will seem to correct what somebody has charged as a proper subject for legislation, and yet we see after all these years how many diverse opinions of the Sherman Antitrust Act there are and how many highly respected men there are who have at all times borne good reputations in their homes who have been indicted under the criminal clauses of this act and fined for doing what most careful attorneys had instructed them could be done with safety and propriety.

We have had an example on this floor in the last few days of the varying conclusions which men reach as to the value of the present antitrust statute. The Senator from Idaho [Mr. BORAH] believes that the law has been so construed by the courts that there is comparatively a clear course for business men to follow, and that the law is beneficial to all business interests, while we have heard the Senator from California [Mr. WORKS] to-day express the opinion that the great results accomplished under the Sherman Antitrust Act, such as the severing into its constituent parts of the Tobacco Trust and the Standard Oil Trust, have not in any sense been beneficial to anyone; that they have not reduced or modified prices; that they have not changed the methods of operation of those companies which are continuing the same practice to-day. I do not believe there is a Senator on this floor who can point out how, in any way, anybody has been benefited by the result of the litigation in those two cases.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. WEEKS. I yield to the Senator.

Mr. POMERENE. Does the Senator from Massachusetts seriously believe that there is anybody in the United States who thinks that the American Tobacco Trust was in fact dissolved by the decree which was entered by the circuit court of appeals and agreed to by the Attorney General?

Mr. WEEKS. Well, Mr. President, I do not know whether there are such persons or not. The Tobacco Trust was found guilty under the Sherman Antitrust Act, and the court prescribed what should be done. I do not know whether any more could be accomplished. I do not intend to criticize the court, because it would be extremely unfortunate for one not versed in the law to think of doing so; and I do not intend to criticize the law itself in its application in this case, but I do say that we are not getting results which are benefiting anybody from the construction that is placed upon it.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield further to the Senator from Ohio?

Mr. WEEKS. I yield.

Mr. POMERENE. It does seem to me that in any practical mind, where there are common stock holdings in 14 different companies—it is true, with not the same personnel on each board of directors of the 14 companies—it is impossible to expect that there shall be genuine competition. They are not going to compete so as to hurt one another when they have these common holdings; and that was the vice of that alleged dissolution.

Mr. THOMAS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Colorado?

Mr. WEEKS. I yield.

Mr. THOMAS. Mr. President, if it does not interrupt the trend of the Senator's discussion, I think it is appropriate to call his attention to one of two proposed amendments to the pending bill which were offered just before we recessed yesterday by the Senator from Nevada [Mr. NEWLANDS], having charge of the bill.

The first is a proposed addition to section 5, which I will read:

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

I am not wholly in accord with the trend of the Senator's discussion, but I fully sympathize with that part of it which is directed to the somewhat uncertain character of the provisions of the Sherman Antitrust Act as they have been applied to existing cases. I understand from the Senator having charge of the bill that the purpose of section 5 of the pending measure is to supplement the antitrust act by providing against and prohibiting unfair methods of competition. These methods are to be passed upon and determined by a commission which the bill creates, and the courts are afterwards to determine, if the exigency arises, upon the validity of the orders.

It may be that in the given instance the John Smith corporation, accused of practicing unfair methods of competition, will be haled before this commission, and the commission will decide, after the hearing that is given to both sides—I suppose both sides will have a hearing—that the practice is fair in some respects and unfair in others. There will be a court review of that decision and it will be affirmed, but perhaps the next week or the next year an indictment may be brought against that corporation or its members, or some of them, for a violation of the antitrust act, which violation is the result of its compliance with this order; and yet this amendment proposes that instead of protecting the defendant through the processes of the commission and the courts and shielding him from the consequences of his improper conduct, if he is proceeded against under the antitrust act he is not even permitted to defend himself by introducing either the order or the judgment in his defense.

It seems to me—of course I may not understand it, but it seems to me—that this is the most amazing proposition that ever was seriously introduced as an amendment to a bill. We are going to provide a system, a method for the intelligent transaction of business conducted without unfair methods of competition, but at the same time we are going to provide that if a proceeding is instituted against a person so doing, charged with the violation of some other statute, the thing which is done here, instead of being a protection, is going to be no defense at all. In other words, we are going to compel business men to come before this commission, tell them what they can do, and then, if under some other law they are to be punished, they can not seek protection or obtain any sort of consideration by virtue of their compliance with the statute we propose to enact.

I refer to this matter for the purpose of asking the Senator whether he has given consideration to the effect of this proposed amendment in connection with the criticism which he has made and will continue to make of the antitrust act.

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Connecticut?

Mr. WEEKS. Let me reply first to the question which has just been asked me. I had not had called to my attention until a short time ago the amendment which the Senator from Colorado has just read. To my lay mind it seems that it would add to the confusion which this legislation would create. I may not understand it, and I do not want to say that finally until I have had it explained to me by those who have drawn it, and then I may want to modify my expression of opinion. I should think the business man would consider that he had troubles ahead, both "coming and going."

I now yield to the Senator from Connecticut.

Mr. BRANDEGEE. I will say to the Senator from Colorado that in my opinion there is no intention on the part of anybody to offer any protection to the business man by the passage of this bill.

Mr. THOMAS. I disagree with the Senator in that. I think the purpose of this bill is good. I think the object sought to be subserved by the enactment of this sort of legislation is good; but I must protest, unless I have misconstrued it, against the attempt to secure legislation of a beneficial character by something which, if beneficial, will rob it of all of its efficacy at the very time and crisis when it is most needed for the protection of those for whose benefit it is proposed to be enacted.

Mr. BRANDEGEE. What the intentions may be which are benevolent I will not attempt to enumerate, but there is said to be a large country which is paved with that sort of furniture.

Mr. CUMMINS. It is the road to that country.

Mr. BRANDEGEE. And there is a road to it which is broad and frequently traveled. [Laughter.] I think this commission will provide such a highway for those whose inclination is in that direction.

Mr. THOMAS. That is already provided.

Mr. BRANDEGEE. Human nature may have provided it; and this may accelerate them for the decensus.

What I want to say to the Senator from Colorado is this: If I understand anything about the purposes of this bill—and I have had something to do with the attempt to resist the concoction of it—it does not propose to help the gentleman who is brought on here to have the commission decide whether or not his methods furnish an instance of unfair competition. It proposes to forbid him to continue to do what is complained of, if it does anything. If it finds that he has not been doing anything wrong, nobody intends that the finding of the commission shall be any protection to him. Nobody has ever pretended, either in debate or in committee hearing, that if the commission finds the man to be innocent he shall have any protection.

Mr. THOMAS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Colorado?

Mr. WEEKS. I yield. It is an interesting colloquy, and I do not wish to cut it off.

Mr. THOMAS. I shall not prolong it. If the commission considers any controversy or any complaint brought before it, it is bound to make a decision. I assume that.

Mr. BRANDEGEE. If the Senator will read the bill, he will see that if they find that the method of competition is unfair they are to report it to the Attorney General.

Mr. THOMAS. But whether the decision is that the competition is fair or that it is unfair, it is a decision. Whether the decision is negative or positive, it is a decision. It is a decision as to that particular subject matter; and to that extent it is, or ought to be, a protection or a warning.

Mr. BRANDEGEE. I think so.

Mr. THOMAS. Why, it must be.

Mr. BRANDEGEE. It must be, unless the bill provides otherwise.

Mr. THOMAS. But if this amendment comes along and declares that it shall not be admissible in any other proceeding, it practically robs it of all of its efficacy.

Mr. BRANDEGEE. That is what I was complaining about the other day. I am glad the Senator sees that point. I see it perfectly clear, I think.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Iowa?

Mr. WEEKS. I yield to the Senator from Iowa.

Mr. CUMMINS. Inasmuch as I am in sympathy with the amendment that has just challenged the attention of the Senator from Colorado and the criticism of the Senator from Connecticut, I feel that it is due to say at this point that the Senator from Connecticut, at least, is in some confusion, and I do not wonder at the state of his mind. He is opposed to all such legislation, I assume. I do not believe the Senator from Colorado looks at the legislation from quite the same standpoint; and while I can not hope to convince the Senator from Connecticut—I have tried in vain to do that through weary days of conference in the committee—it may be that I can say something that will clear up the doubt which may exist in the mind of the Senator from Colorado.

In the first place, let it be remembered that it is the order of the commission which is not admissible in evidence in a suit under the antitrust law.

Mr. THOMAS. The language is "no order or finding of the court."

Mr. CUMMINS. And the finding of the court. The commission makes no order, and the court makes no order enforcing

the judgment of the commission, unless it finds that there is unfair competition. If "unfair competition" were identical with "restraint of trade or commerce," the criticism of the Senator from Colorado would be unanswerable; but here are two radically different offenses. It is not supplemental to the antitrust law in so far as section 5 is concerned. It is intended to accomplish the same great object, but it is not supplemental to it in the sense that it is another attempt to enforce the antitrust law.

The antitrust law denounces restraint of trade or commerce and denounces monopoly. These are the offenses under that statute. Section 5 of this bill denounces unfair competition. In a trial as to the existence of unfair competition the issue is not the same as in a trial upon the issue of restraint of trade or commerce. There may be unfair competition in a restraint of trade, and there may be proof of unfair competition in a suit brought to establish restraint of trade; but the mere fact that there has been or exists unfair competition does not establish restraint of trade or commerce. Therefore, as it seems to me, the prosecutions under the two statutes ought to be entirely separate and distinct.

I think that is the reason for this amendment.

Mr. THOMAS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Colorado?

Mr. WEEKS. I do.

Mr. THOMAS. Assuming the statement of the Senator from Iowa to be correct—and it certainly is very clear—I should like to ask him what office this proviso can perform. What is the use of it? Why encumber the bill with it?

Mr. CUMMINS. There is none, except to allay an unfounded criticism of the bill. It is already charged here that the purpose of this bill is to destroy the effectiveness and prevent the enforcement of the antitrust law. Inasmuch as it was the purpose of the author of the bill, and I am sure the purpose also of those members of the committee who favored the bill, that the antitrust law, presenting an entirely different issue, should remain untouched, unimpaired, and unembarrassed in its enforcement, therefore this amendment is proposed, just as many, many provisos are added to legislation that are not, from the strictly legal standpoint, necessary to accomplish the purpose.

I quite agree with the Senator from Colorado that inasmuch as the issues are different, and the inquiry therefore occupies a different field, the order would not be admissible anyhow; but I think it was the purpose of the committee to assure the people of the United States that in creating the additional offense against trade—namely, unfair competition in and of itself—we were not in any way interfering with the enforcement of the statute of 1890.

Mr. WEEKS. Mr. President, when I was interrupted I was about to submit——

Mr. NEWLANDS. Mr. President, will the Senator permit me to say a word on this subject?

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Nevada?

Mr. WEEKS. I yield.

Mr. NEWLANDS. The amendment which I have offered as a proviso to section 5 has been under criticism. That amendment, taken in connection with another amendment adding a new section to the bill, absolutely prevents this measure from having any effect whatever upon the antitrust law or its enforcement. The reason why I offered this proviso and the additional section was that the Senator from Iowa [Mr. CUMMINS] had offered an amendment which covered the ground of both, and I thought it more logical to divide it into these two parts.

I wish to say that individually I have always been in favor of taking away the administration of the Sherman antitrust law from the Attorney General's office and vesting it in a commission such as this is. If I had the power, I would do it to-day, because I believe it is the only way of securing the continuous, consecutive, consistent administration of the antitrust law. We all know how inconsistent that administration has been. One of the best illustrations is that a suit which was brought under the Attorney General in Mr. Roosevelt's Cabinet to dissolve the New York, New Haven & Hartford combination was dismissed by an Attorney General in Mr. Taft's Cabinet, and the suit was renewed by an Attorney General in Mr. Wilson's Cabinet.

At the same time, whilst I have desired to accomplish this and desire it to-day, I realize that the public mind favors and sustains the continuance of the Sherman antitrust law, and as yet its attention has not been called to the inefficient administration of that law through the present system of intrusting it to the Attorney General's office. I realize also that an attempt to disassociate the Attorney General's office from the administration of the law itself would be regarded as an act inimical to the law itself. Public opinion has not yet reached the point where we can secure the safe, continuous, persistent, and consistent administration of the Sherman antitrust law through a commission.

We faced the fact then that we could not give this commission jurisdiction and control over the administration of the antitrust law, but we could make it efficient in aid of the court and of the Attorney General. We have done that, and we have concluded to go further and to reach practices which, whilst perhaps they might be incidentally reached through the administration of the Sherman antitrust law, could not always be reached. These practices constitute the very germ of monopolies. They are the monopolies in embryo. In order to pass this bill it was necessary to give absolute assurance that the antitrust law itself would not be interfered with, and it was with that view that I assented to this amendment.

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Connecticut?

Mr. WEEKS. I yield.

Mr. BRANDEGEE. I will say to the Senator from Iowa that when he says I am against all such legislation as this, he is absolutely accurate. Any such legislation as this he will find me against, now and forever; and I think any sane man ought to be. I will say that to him.

As to what the Senator from Colorado says, that this commission has to make a finding one way or the other, fair or unfair, and give the man who is dragged down here under a charge of carrying on an unfair method of competition either a conviction or an acquittal, I will say to him that the bill does not provide any such thing at all.

Mr. THOMAS. There must be some action on the part of the commission, negative or positive.

Mr. BRANDEGEE. Let me read the bill to the Senator, and I will tell him what the action of the commission must be, if it acts at all.

Mr. THOMAS. But, inherently, if a complaint is filed with the commission it must either dismiss it or sustain it, regardless of the language of the bill.

Mr. BRANDEGEE. I will read the bill, and then the Senator can decide whether inherently it must or not. I am reading what it does. What it ought to do I have no concern with, because I know it never will do what it ought to do.

Section 5 provides:

Whenever the commission shall have reason to believe—

Whatever that may mean—

that any corporation has been or is using any unfair method of competition in commerce, it shall issue and serve upon such corporation a written order, at least 30 days in advance of the time set therein for hearing, directing it to appear before the commission and show cause why an order shall not be issued by the commission restraining and prohibiting it from using such method of competition, and if upon such hearing the commission shall find that the method of competition in question is prohibited by this act it shall thereupon issue an order restraining and prohibiting the use of the same.

That is all there is to it. There is not a word in the bill to the effect that if they shall find that the method is not unfair they shall say so, and give the accused the benefit of a finding that he has done no wrong. The bill provides that anybody can smirch the reputation of the most respectable business man in this country by filing a charge that he is breaking the law by indulging in an unfair method of competition and drag him down here to defend himself; and when he successfully defends himself, and proves the man who brought the charge against him was a liar, or was laboring under a misconception of the law—which he probably will be, because there is no information in the bill to enlighten him as to what unfair methods are—the commission simply says, "Well, we can not find you guilty; we find nothing to prohibit what you are doing," and he wanders back home again. He is practically arrested, and yet not even a discharge is given him. No finding whatever is made. The commission throws up its hands and says, "On the evidence presented we do not find that this is an unfair method." They may say it to him, but they do not find it.

Mr. THOMAS. Is not that a finding?

Mr. BRANDEGEE. No; they may say so. They do not find it. The act provides that if they find it is unfair they shall issue an order.

Mr. THOMAS. And if they find it is not unfair, then is it the contention of the Senator that the commission is powerless to say anything?

Mr. BRANDEGEE. My contention is that the bill stops there.

Mr. THOMAS. And that the case must remain perpetually before them?

Mr. BRANDEGEE. My contention is that the bill is so deficient that it does not provide what the event of the suit is.

Mr. THOMAS. I think it is deficient in some respects, but I do not think it is so deficient as that.

Mr. BRANDEGEE. Well, I do. I think there is only one verdict provided here which the commission may give. It is not even authorized to find that the method is fair; and here is an amendment providing that even the unfair orders or findings of the commission shall not be offered in evidence anywhere else.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Iowa?

Mr. WEEKS. I yield.

Mr. CUMMINS. There is one statement made by the Senator from Connecticut that I do not want to go unnoticed, although he did not intend to misstate it, of course. I do not want Senators to believe that this is an adversary proceeding, instituted by a third person before the commission. There is no right given here for a person to file a complaint against another before the commission. The commission initiates the inquiry under the language "if it has reason to believe that a violation of the law has occurred." Then the investigation goes forward.

Mr. BRANDEGEE. I have not said that it provided for any petition to be filed, Mr. President. I called attention to the fact that the language of the bill is:

> Whenever the commission shall have reason to believe—

Whatever that may mean——

Mr. CUMMINS. I thought the Senator said that anyone could haul a reluctant and innocent business man down before the commission, and that he had no remedy except to wander back home.

Mr. BRANDEGEE. I did not. I say anybody can make a complaint, and he can go to the commission or write them a letter or see them personally; and if he can satisfy them or arouse their suspicion to the point that the commission think they "have reason to believe," then the commission issue their process.

Mr. WEEKS. Mr. President, I feel that I am to be congratulated that such an interesting colloquy has been injected into an otherwise dull discussion. I am to discuss some of the matters which have been referred to by Senators, and especially the question which the Senator from Nevada [Mr. NEWLANDS] discussed, relating to the consistent operation of the Department of Justice.

I am quite in sympathy with him that some change should be made in that respect, and I think in other matters relating to the Sherman Antitrust Act. I have positive opinions about that, and I want, preliminary to expressing those opinions, to give some references to the working of the Sherman Antitrust Act and the opinions which others have had of the result of those workings.

President Roosevelt, in his message to Congress in the winter of 1907–8, speaking of the Sherman Act, said:

> It should be so amended as to forbid only the kind of combination which does harm to the general public, such amendment to be an incident of a grant of supervisory power to the Government over these big concerns engaged in interstate business.

And in a special message to Congress on March 25, 1908, he said, again:

> This antitrust act was a most unwisely drawn statute. It is mischievous and unwholesome to keep upon the statute book, unmodified, a law like the antitrust law, which, while in practice only partially effective against vicious combinations, has nevertheless in theory been construed so sweepingly to prohibit every combination for the transaction of modern business.

Judge Knapp, who at one time was chairman of the Interstate Commerce Commission and is now judge of the United States Circuit Court, referred to the workings of the Sherman Antitrust Act in this language:

> I believe the most mischievous piece of legislation in the history of the country is the Sherman antitrust law, as interpreted by the United States Supreme Court. It is intolerable and strikes a blow at development and progress.

Mr. Seth Low, at a hearing before the House Judiciary Committee, referred to the act as follows. Mr. Low was at that time the president of the National Civic Federation. He said:

> Common carriers, business corporations and business men, labor organizations and labor men, have all had it brought home to them, one after another, that under the terms of the Sherman antitrust law a large part of the business done in the United States at the present time is being done contrary to law. * * *

I want to point that out more fully later. That is a correct statement.

Mr. COLT. May I ask the Senator if those statements were made prior to the decisions in the Standard Oil and Tobacco cases?

Mr. WEEKS. They were all made prior to that time. Mr. Low continued:

> As a further aggravation of the situation, the antitrust law is a penal one. * * * I respectfully submit that this is a situation which is literally intolerable. It inevitably leads to a wide disregard of the statute, upon the theory that "necessity knows no law," because business to be done at the present time must be done by modern methods, and these often involve some restraint of trade. * * * A better method for sapping enterprise could scarcely be devised.

In 1902 Senator Hoar, at that time chairman of the Senate Judiciary Committee, asked the Attorney General, Mr. Knox, if he could suggest any additional further legislation as applying to the Sherman Antitrust Act. Mr. Knox's reply is contained in Senate Document No. 73, in which he said:

> It is difficult to improve upon the great unwritten code known as the common law. Under its salutory guaranties and restraints the English-speaking people have attained their wealth and power. It condemns monopoly and contracts in restraint of trade as well. The distinction, however, between restraints that are reasonable, in view of all the circumstances, and those which are unreasonable is recognized and has been followed in this country by the courts.

This is added evidence to the suggestion which I have made that it might be found if there were no law regulating combinations or monopolies or competition, fair or unfair; that while there would undoubtedly be some abuses, a few of which would seem to be intolerable, that as a matter of fact business would adjust itself in most cases, growth would be limited by the possibilities of efficient management, and competition would be governed by pooling arrangements which would be recognized as they have been in the past by business men as absolutely essential to preserve stability in business.

That there was doubt in the wisdom of the decision in the Trans-Missouri case made in 1897 is evidenced by expressions in the minority opinion written by the present Chief Justice and concurred in by Mr. Justice Field, Mr. Justice Gray, and Mr. Justice Shiras relating to the "rule of reason," one expression of this being as follows:

> It is, I submit, not to be doubted that the interpretation of the words "every contract in restraint of trade" so as to embrace within its purview every contract, however reasonable, would certainly work an enormous injustice and operate to the undue restraint of the liberties of the citizen.

The question was raised in the minority opinion to which I have just referred whether the provisions of the act of 1890 were intended to apply to contracts between interstate carriers entered into for the purpose of securing fairness in their dealings with each other, and whether the statute of 1890 was intended to abrogate the power of railway companies to make contracts which had been expressly provided for in the act of 1887. The act of 1890 did not, like its predecessor, relate alone to interstate commerce in transportation matters, but is a general law applying to all forms of interstate commerce. It is not believed, and the minority opinion referred to in this decision corroborates that view, that the act of 1890 was intended to abrogate in any way the provisions of the act of 1887, and I very much doubt if Congress intended that public-service corporations should be included in the provisions of the Sherman Act of 1890. It is worthy of note that the "rule of reason" enunciated in the minority opinion in the Trans-Missouri decision was approved by the entire court with one exception, in rendering a decision in the Standard Oil and Tobacco cases, May 11, 1911.

In the Tobacco case and Standard Oil case the courts undoubtedly said you may now restrain such commerce, provided you are reasonable about it, only have a care that the restraint is not undue. This was the view taken by Mr. Justice Harlan in his dissenting opinion of the majority opinion of the court, and while the majority opinion suggests a rule of reason, it has not done enough to materially change conditions which have prevailed since 1897. To do so it should extend the doctrine of the rule of reason and permit trade combinations which are not unreasonably injurious to the public welfare and which impose no heavier restraints on trade than is required for the proper protection of the interests of the parties to a combination, and it should be noted that Attorney General Wickersham did not, in his public expressions, indicate that he believed, in the Standard Oil and Tobacco cases, which were found to be monopolies within the second section of the Sherman Antitrust Act, the court had construed the law to apply only to contracts in unreasonable restraint of trade, but that, on the other hand, every case must be decided on the facts as submitted in that case.

Speaking of the number of violations of the Sherman Antitrust Act, Attorney General Wickersham, in 1911, is quoted as saying that he had been over Moody's Manual of Corporations with a good deal of care, and found prima facie evidence of about 100 monopolistic combinations in addition to the number

against which suits had been brought at that time. Suit was not brought during the last administration against many of these corporations, quite likely because there were so many cases pending that the department did not have opportunity to prepare them. Neither has suit been brought against many of these corporations since the advent of this administration; in only 14 instances has a new suit been brought to dissolve a corporation of this character. It would appear from this that the administration had abandoned its preelection declarations, and especially those of the President, to crush out monopolistic organizations whether they were in reasonable or unreasonable restraint of trade.

Only about one-half the 44 suits brought during Mr. Roosevelt's seven years prevailed, and in many of these cases the result of pleading guilty was a fine, it being demonstrated that the defendants supposed they were obeying the law.

As a matter of fact, the law has not been enforced in hundreds of cases in which it would undoubtedly be effective if the Department of Justice took action, and the Government is responsible to some degree that the present conditions obtain, because it has permitted by its silence a vast number of combinations and allowed them to continue in operation for many years without proceeding against them.

Some time ago the Senator from Nebraska [Mr. NORRIS] introduced a resolution calling on the Attorney General for information as to what action he was taking in the case of the New York Central consolidations, which the Senator believed were improperly made. I suggested at the time that if the Attorney General was to proceed in this case he should make his action general and proceed against other similar combinations. If a law is a bad one it should not be continued on the statute books, and the only way to demonstrate whether it is good or bad is to enforce it. As an evidence of the very general laxity in the enforcement of this law in the matter of consolidations, I want to submit to the Senate the number of railroad combinations which have taken place in the United States since the passage of the Sherman Antitrust Act. I presume it will surprise many to know how generally this spirit of consolidation has been going on, practically speaking, without a protest from the Department of Justice in hundreds of cases. I have here a complete list of the consolidations and absorptions which have been made during the last 24 years, which I wish printed in the RECORD, for while it is a very voluminous production, it will furnish information which I think may be of value to the Senate and to the country.

Without going into detail, it is sufficient for me to say that there have been 1,485 consolidations and absorptions of 104,611 miles of railroad, a very considerable part, as will be noticed, of the 250,000 miles of railroad in the United States.

I have here a statement prepared by the Interstate Commerce Commission, Division of Statistics, relating to this matter, which I wish included in the RECORD:

INTERSTATE COMMERCE COMMISSION,
DIVISION OF STATISTICS,
July 17, 1914.

Memorandum concerning the accompanying statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, giving names of railway companies consolidated, merged, or purchased.

The details presented in this statement have been taken from tables in the commission's Annual Reports on the Statistics of Railways in the United States that, respectively, explained the omission of the names of any railway companies that were included in a related table of an immediately prior report, showing railway mileage in the United States at the end of the year.

The statement is, therefore, in certain respects, incomplete, because, with possibly a few exceptions, it does not contain, regarding companies the existence of which began and ceased within a fiscal year or regarding companies that owned no mileage or concerning which no returns were made, facts similar to those shown for the companies listed for which some information was published in the statistical reports as indicated above.

It should not be understood, however, that the inclusion of the names of railway companies in the accompanying list means, in all cases, that the companies have ceased to be corporate entities, but merely that they have been shown in reports as practically consolidated or merged so far as operation and accounting are concerned.

The portion of the statement pertaining to the years 1908 to 1912 does not cover switching and terminal companies.

W. J. MEYERS, *Statistician.*

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, giving names of railway companies consolidated, merged, or purchased.

[Interstate Commerce Commission—Division of Statistics, June 17, 1914.]

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1891.]							
Chesire R. R. Co.	53.64			Fitchburg R. R.	Oct. 1,1890		
Monadnock R. R. Co.	15.80			do	do		
Southern Vermont R. R. Co.	6.10					Fitchburg R. R.	Jan. 1,1891
Stamford & New Canaan R. R. Co.	7.66			N. Y., New Hav. & Hartford R. R.	Oct. 1,1890		
Wicomico & Pocomoke R. R. Co.	30.00	Baltimore & Eastern Shore R. R.	Sept. 1,1890				
Frankford Creek R. R. Co.	.70	Kensington & Tacony R. R.	Apr. 14,1891				
New York & Flushing R. R. Co.	2.73			Long Island R. R.	Apr. 18,1889		
Maryland Central Ry. Co.	44.40	Baltimore & Lehigh Ry.	May 19,1891				
York & Peach Bottom R. R. Co.	41.40	do	do				
New York Central & Niagara Riv. R. R. Co.	2.81			N. Y. Cent. & Hud. Riv. R. R.	——, 1890		
Northern Adirondack R. R. Extension Co.	22.00	Nn. Adirondack R. R.	Apr. 4,1890				
Cincinnati, Sandusky & Cleveland R. R. Co.	169.76					Clev., Cin., Chic. & St. L. Ry.	Nov. 1,1890
Columbus, Springfield & Cincinnati R. R. Co.	45.00					do	Do.
Norfolk & Virginia Beach R. R. Co.	17.90	Norfolk, Albemarle & Atlantic R. R.	Mar. 2,1891				
Norfolk Southern R. R. Co.	74.02	Norfolk & Southern R. R.	June 1,1891				
Shenandoah Valley R. R. Co.	255.55					Norf. & Wn. R. R.	Sept. 30,1890
Chattanooga, Rome & Columbus R. R. Co.	176.00					Sav. & Wn. R. R.	May 5,1891
St. Johns Ry. Co.	15.00			St. Augustine & Halifax River Ry.	—— —, 1891		
Knoxville Southern R. R. Co.	58.00			Marietta & N. Ga. Ry.	Nov. 25,1890		
Anniston & Atlantic R. R. Co.	52.36	Alabama Mineral R. R.	July 28,1890				
Anniston & Cincinnati R. R. Co.	35.00	do	do				
Orlando & Winter Park Ry. Co.	6.30	East Florida & Atlantic R. R.	May 1,1891				
Osceola & Lake Jesup Ry. Co.	4.70	do	do				
Savannah, Griffin & North Alabama R. R. Co.	60.00			Sav. & Wn. R. R.	Dec. 1,1890		
Shelby Iron Co.'s R. R.	6.05					Alabama Mineral R. R.	Sept. 23, 1890
Sanford & Indian River R. R. Co.	17.32			S. Fla. R. R.	May 1,1891		
Tavares, Orlando & Atlantic R. R. Co.	33.20					Fla. Cent. & Penin. R. R.	May 1,1891
Atchison, Topeka & Santa Fe R. R. Co., in Chicago.	2.12			Atch., Top. & S. Fe R. R.	Oct. —,1889		
Chicago, Santa Fe & California Ry. Co.	490.97			do	do		
Mississippi River R. R. & Toll Bridge Co.	.61			do	do		
St. Joseph, St. Louis & Santa Fe Ry. Co.	97.20			do	do		
Sibley Bridge Co.	.76			do	do		

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1891—Continued.]							
Harrisburg & Potomac R. R. Co	36.90	Phila., Harrisburg & Pittsburgh R. R.	July 24,1890				
Harrisburg Terminal R. R. Co	8.80	do	do				
Junction Ry. Co						Chic. & N. Wn. Ry	June 4, 1891
Paint River Ry. Co						do	Do.
Gardner, Coal City & Northern Ry. Co	33.41	Elgin, Joliet & En. Ry.	May 1,1891				
Waukegan & Southwestern Ry. Co	35.60	do	do				
Manville & Eau Plaine R. R. Co	3.50			Wis. Cent. R. R	Oct. 1,1890		
Oconto & Southwestern R. R. Co	12.00					Milw. & Nn. R. R	Sept. —,1890
Ontonagon & Brule River R. R. Co	46.00					do	June 16,1890
Wisconsin, Pittsville & Superior Ry. Co.	20.29					Chic., Milw. & St. P. Ry.	July 1,1890
Milwaukee, Dexterville & Northern Ry. Co.	15.00					do	Do.
Wyoming Central Ry. Co	130.46	Fremont, Elk. & Mo. Vy. R. R.	June 4,1891				
Randolph & Northeastern Nebraska Ry. Association.	21.00					Chic., St. P., Minneap. & Omaha Ry.	Dec. 31,1890
Denver & Santa Fe Ry. Co	126.03			Atch., Top. & S. Fe R. R.	Oct. —,1889		
Florence, Eldorado & Walnut Valley R. R. Co.	72.73			do	do		
Kansas City, Emporia & Southern Ry. Co.	84.27			do	do		
Kansas City, Topeka & Western R. R. Co.	66.32			do	do		
Leavenworth, Northern & Southern Ry. Co.	46.19			do	do		
Marion & McPherson Ry. Co	98.61			do	do		
New Mexican R. R. Co	68.11			do	do		
New Mexican & Southern Pacific R. R. Co.	372.09			do	do		
Pueblo & Arkansas Valley R. R. Co	294.16			do	do		
Rio Grande, Mexico & Pacific R. R. Co	186.08			do	do		
Silver City, Deming & Pacific R. R. Co	48.29			do	do		
Southern Kansas Ry. Co	841.52			do	do		
Wichita & Southwestern Ry. Co	130.72			do	do		
Chicago, Kansas & Western R. R. Co	940.93			do	do		
Chicago, Kansas & Nebraska Ry. Co	1,486.30					Chic., Rock I. & Pac. Ry.	June 10,1891
Council Grove, Osage City & Ottawa Ry. Co.	70.00	Kansas & Colorado Pac. Ry.	Dec. 27,1890				
Council Grove, Smoky Valley & Western Ry. Co.	27.00	do	do				
Denver, Memphis & Atlantic Ry. Co	411.00	do	do				
Grouse Creek Ry. Co	25.00	do	do				
Interstate R. R. Co	53.26	do	do				
Kansas & Colorado R. R. Co	136.00	do	do				
Kansas, Nebraska & Dakota Ry. Co	130.00	do	do				
Missouri Pacific Ry. Co. in Kansas	19.00	do	do				
St. Louis & Emporia R. R. Co	48.17	Interstate R. R	July 1,1890				
Salina, Sterling & El Paso R. R. Co	40.00	Kansas & Colorado Pac. Ry.	Dec. 27,1890				
Topeka, Salina & Western R. R. Co	52.00	do	do				
Verdigris Valley, Independence & Western R. R. Co.	80.62	do	do				
Wichita & Colorado Ry. Co	47.00	do	do				
Los Angeles, Pasadena & Glendale Ry	14.91			Los Angeles Terminal Ry.	Jan. 2,1891		
Cleveland & Western R. R. Co	56.09	Pittsb. Akron & Wn. R. R.	Mar. 11,1890				
Cincinnati & Springfield Ry. Co	48.05	Clev., Cin., Chic. & St. L. Ry.	July 1,1890				
Cincinnati, Lafayette & Chicago R. R. Co.	56.30	do	do				
White Water R. R. Co	62.40					Clev., Cin., Chic. & St. L. Ry.	July 1,1890
Fort Wayne, Cincinnati & Louisville Ry. Co.	128.90			L. Erie & Wn. R. R.	July 1,1890		
Scioto Valley & New England R. R. Co.	126.44					Norf. & Wn. R. R	July 22,1890
Jeffersonville, Madison & Indianapolis R. R. Co.	222.35	Pittsburgh, Cincinnati, Chicago & St. Louis Ry.	Oct. 1,1890				
Cambridge Extension				Jeffv., Madison & Indpls. R. R.	July 1,1890		
Northwestern Ohio Ry. Co	79.98	Toledo, Walhonding Valley & Ohio R. R.	June 10,1891				
Chicago, St. Louis & Pittsburg R. R. Co.	580.52	Pittsburgh, Cincinnati, Chicago & St. Louis Ry.	Oct. 1,1890				
Cincinnati & Richmond R. R. Co	66.00	do	do				
Pittsburgh, Cincinnati & St. Louis Ry. Co.	213.78	do	do				
McKeesport & Belle Vernon R. R. Co	28.00			Pittsb., McKeespt. & Youghy. R. R.	Oct. 7,1890		
Pittsburgh, Butler & Shenango R. R. Co.	19.90			Pittsb., Shen. & L. Erie R. R.	Oct. 1,1890		
Toledo, Ann Arbor & Lake Michigan Ry. Co.	40.00			Tol., Ann Arbor & N. Mich. Ry.	July 1,1890		
Toledo, Findlay & Springfield Ry. Co	15.00					Cin., Ham. & Day. R. R.	Dec. 1,1890
Detroit, Butler & St. Louis R. R. Co	113.50	Wabash & Western Ry.	July 29,1889				
Albemarle & Pantego R. R. Co	41.50	Norfolk & Southern R. R.	June 1,1891				
Blackville, Alston & Newberry R. R. Co.	30.00	Carolina Midland Ry.	May 15,1891				
Barnwell Ry. Co	9.00	do	do				
[From report for year 1892.]							
Chelsea Beach R. R. Co	3.34					Boston & Me. R. R	June —,1892
Dover & Winnipiseogee R. R. Co	29.00					do	Do.
Wolfeborough R. R. Co	12.03					do	Do.
Boston, Winthrop & Shore R. R. Co	4.70	Boston, Rev. B. & Lynn R. R.	July 1,1891				
Deerfield River Co.'s R. R	3.50	Hoosac Tun. & Wilm. R. R.	Jan. 1,1892				

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1892—Continued.]							
Fall River, Warren & Providence R. R. Co.	5.79					Old Colony R. R.	May 1,1892
Bradford, Bordell & Kinzua R. R. Co.	16.93	Bradford, Bordell & Kinzua Ry.	Apr. 1,1892				
Bradford, Bordell & Smethport R. R. Co.	10.23	do	do				
Brockwayville & Punxsutawney R. R. Co.	25.00					Buff., Roch. & Pittsb. R. R.	Nov. 16,1891
Stewart R. R. Co	16.44					Long Island R. R.	June 1,1892
Syracuse, Ontario & New York Ry. Co.	45.49			W. Shore R. R.	July 2,1891		
Cleveland & Canton R. R. Co.	160.62					Cleveland, Canton & South. R. R.	May 12,1892
Cleveland, Chagrin Falls & Northern R. R. Co.	8.00					Clev. & Cant. R. R.	Sept. 14,1891
Waynesburg & Canton R. R. Co	6.36					do	July 20,1891
Kentucky Central Ry. Co	169.13			Louisv. & Nashv. R. R.	July 1,1891		
Maysville & Lexington R. R. Co	49.33			do	do		
Pensacola & Atlantic R. R. Co	160.28			do	do		
Chicago & Iowa R. R. Co	104.00			Chic. Burl. & Quin. R. R.	Jan. 1,1892		
Webster City & Southwestern Ry. Co.	13.57					Crooked Ck. R. R. & Coal Co.	Jan. 25,1892
Des Moines & Northern Ry. Co	41.61	Des Moines North. & West. Ry.	Aug. 5,1892				
Des Moines & Northwestern Ry. Co	114.00	do	do				
Fort Scott & Eastern Ry. Co	26.27	Fort Scott Central Ry.	Aug. 1,1891				
Fort Scott & Southern Ry. Co	27.20	do	do				
Fort Scott Belt Terminal Ry. Co	3.91	do	do				
Fort Scott, Wichita & West. Ry. Co	309.85					Kans., Colo. & Pac. Ry.	July 1,1891
San Bernardino & Eastern Ry. Co	6.22	Sn. Cal. Ry	June 8,1892				
Northwestern R. R. Co. of Calif.	7.50					N. Pac. Coast Ry	
San Francisco, Tamalpais & Bolinas Ry. Co.	1.75					do	
Olympia & Chehalis Valley Ry. Co	16.00					Port Townsend South. R. R.	
Ebensburgh & Cresson R. R. Co	11.00	Cambria & Clearf. R. R.	Aug. 6,1891				
Gettysburg & Harrisburg R. R	25.20	Gettysburg & Harrisburg Ry.	July 19,1891				
Jersey City Terminal Ry. Co	1.24	Lehigh Valley Terminal Ry.	Aug. 28,1891				
Newark & Roselle Ry. Co	9.49	do	do				
Roselle & South Plainfield R. R. Co.	11.77	do	do				
South Mountain Ry. & Mining Co	9.40	Gettysburg & Harrisburg Ry.	July 19,1891				
[From report for year 1893.]							
Newburyport City R. R. Co	2.08					Boston & Me. R. R.	Jan. 16,1893
Orchard Beach R. R. Co	3.00					do	Do.
Hartford & Conn. Valley R. R. Co.	46.20	New York, New Haven & Hartford R. R.					
Watertown & Waterbury R. R. Co.	4.44			Naugatuck R. R			
New York, Providence & Boston R. R. Co.	80.28	New York, New Haven & Hartford R. R.	Feb. 13,1893				
Adirondack & St. Lawrence Ry. Co.	128.96	Mohawk & Malone Ry.					
Herkimer, Newport & Poland Ry. Co.	16.40	do					
Cent. New England & Western R. R. Co.	53.04	Phila., Reading & New England R. R.	Sept. 15,1892				
Poughkeepsie Bridge R. R. Co		do	do				
Lackawanna & South Western R. R. Co.	35.79					Cent. N. Y. & Wn. R. R.	Dec. 1,1892
Littlestown R. R. Co	9.30	Han. & York R. R.	Dec. 31,1892				
Turtle Creek Valley R. R. Co	6.37					Pennsylvania R. R.	May 31,1893
Phila. & Newtown Connecting Co				Phila., Newt. & N. Y. R. R.			
Rochester, Hornellsville & Lackawanna R. R. Co.	10.13					Cent. N. Y. & Wn. R. R.	Dec. 21,1892
Wilkes-Barre & Western Ry. Co	31.00	Cent. Pennsylvania & Western R. R.	Feb. 1,1893				
Cincinnati, Wabash & Mich. Ry. Co.	203.60					Clev., Cin., Chic. & St. L. Ry.	July 1,1892
Frankfort & Southeastern R. R. Co.	22.50					Tol., Ann Arb. & N. Mich. Ry.	
Toledo, Columbus & Cincinnati Ry. Co.	78.30					Tol. & Ohio Cent. Ry.	Nov. 1,1892
Buckingham R. R. Co	4.37					Ches. & Ohio Ry	
Atlantic & Western R. R. Co. (of Fla.)	30.00					Jacksonville, St. Augustine & Indian River Ry.	Apr. —,1893
Cahaba Coal Mining Co.'s R. R.	8.25	Tennessee Coal, Iron & R. R. Co.	Jan. 1,1893				
Maysville & Big Sandy R. R. Co						Ches. & Ohio Ry	
Elizabethtown, Lexington & Big Sandy R. R. Co.	109.72					do	
Ohio & Big Sandy R. R. Co	52.50					do	
Jacksonville, St. Augustine & Halifax River Ry. Co.	37.03	Jacksonville, St. Augustine & Indian River Ry.	—— —,1893				
St. Augustine & Halifax River Ry. Co.	40.00	do	—— —,1893				
St. Johns & Halifax River Ry. Co.	52.00	do	—— —,1893				
Louisville, New Orleans & Tex. Ry. Co.	796.73	Yazoo & Miss. Vy. R. R.	Oct. 31,1892				
Louisville, Hardinsburg & Western R. R. Co.	46.10					Louisv., St. L. & Tex. Ry.	Aug. —,1892
St. Cloud Sugar Belt Ry. Co	14.40	S. Fla. R. R.	Mar. —,1893				
Southern Iron Co.'s R. R.	13.50					Nashv., Chatt. & St. L. Ry.	
Tennessee Midland R. R. Co	135.60	Padu., Tenn. & Ala. R. R.	Nov. 1,1892				
Davenport, Iowa & Dakota Ry. Co.	31.51					Burl., Cedar Rap. & Nn. Ry.	
Chicago, Kan. City & Texas Ry. Co.	20.20					Kansas City & Atlantic R. R.	June 14,1893
Eau Claire Ry. Co	2.74			Chic., St. P., Minneap. & Om. Ry.	July 1,1892		
Menomonie Ry. Co	5.02			do	do		

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1893—Continued.]							
Marquette, Houghton & Ontonagon R. R. Co.				Duluth, S. Shore & Atl. Ry.			
Marquette & Western R. R. Co				do			
Alton Terminal R. R. Co	3.00			St. L., Alt. & Springf. R. R.			
Sault Sainte Marie & Southwestern Ry. Co.	37.00			Chic., St. P., Minneap. & Om. Ry.	July 1, 1892		
Kans. City Br. & Terminal Ry. Co	6.00					Kan. City & Atlantic R. R.	June 14, 1893
Astoria & South Coast R. R. Co	16.00					Astoria & Portland Ry.	Feb. —, 1892
Pasadena Ry. Co	6.00			Los. Ang. Term. Ry			
[From report for year 1894.]							
West Amesbury Branch R. R. Co	4.45					Boston & Me. R. R	July 1, 1893
State Line R. R. Co. (of Penna.)	11.20			Fairmount, Morgant. & Pittsh. R. R.	Aug. 10, 1893		
Richland & Petersburg R. R. Co	22.04	S. Jersey R. R	Aug. 16, 1893				
Winslow & Richland R. R. Co	11.45	do	do				
Sinnemaho ning Valley R. R. Co	12.23	Buff. & Susq. R. R	Sept. 25, 1893				
Susquehanna R. R. Co	14.00	do	do				
Baltimore & Ohio Southwes. R. R. Co	280.83	Balt. & Ohio S. Wn. Ry.	Nov. 1, 1893				
Columbus, Shawnee & Hocking Ry. Co	115.21	Cols., Sdsky. & Hock. Ry.	Jan. 16, 1894				
Sandusky & Columbus Short Line Ry. Co.	16.00	do	do				
Albemarle & Raleigh R. R. Co		Wilm. & Weldon R. R.	Jan. —, 1894				
Cheraw & Salisbury R. R. Co						Cheraw & Darlington R. R.	Nov. —, 1892
South Bound R. R. Co	135.03					Fla. Cent. & Penin. R. R.	Jan. 1, 1894
Kentucky & South Atlantic Ry. Co	19.44			Ches. & Ohio R. R			
East Fla. & Atlantic R. R. Co	16.00			Fla. Cent. & Penin. R. R.	Dec. —, 1893		
Sandersville & Tennille R. R. Co	3.50			Aug. Sn. R. R	Feb. 13, 1894		
South Florida R. R. Co	250.00	Sav., Fla. & Wn. Ry	Apr. 1, 1893				
Chicago & Indiana Coal Ry. Co	174.30	Chic. & En. Ill. R. R	June 6, 1894				
Chicago & Ohio River R. R. Co	85.42			Peoria, Dec. & Evansv. Ry.	July 1, 1893		
Leavenworth & St. Joseph Ry. Co	23.00			Chic. Gt. Wn. Ry			
Grand Tower & Carbondale R. R. Co	26.20	Chicago & Texas R. R.	July 1, 1893				
Grand Tower & Cape Girardeau R. R. Co.	28.80	do	do				
Milwaukee & Northern R. R. Co	426.30					Chic., Milw. & St. Paul Ry.	July 1, 1893
Milw., Lake Shore & Western Ry. Co	734.45					Chic. & N. Wn. Ry	Aug. 19, 1893
Ohio & Mississippi Ry. Co	632.68	Balt. & Ohio S. Wn. Ry.	Nov. 1, 1893				
Aspen Short Line Ry. Co	6.60	Colo. Midl. R. R	Dec. 1, 1893				
Houston, Cent. Ark. & Northern Ry. Co.	45.26					St. L., Iron Mtn. & Sn. Ry.	Dec. 13, 1893
Do	144.59					do	Do.
Oregonian R. R. Co	57.50					Oregon & Cal. R. R	July 31, 1893
Portland & Yamhill R. R. Co	28.50					do	Do.
[From report for year 1895.]							
Jones Lake R. R. Co	1.25			Erie & Wyo. Vy. R. R.	June 5, 1894		
Monongahela River & Streets Run R. R. Co.	1.40	Pittsb., Va. & Charleston Ry.	Nov. 1, 1894				
McKeesport & Bessemer R. R. Co	1.52	do	do				
Tionesta Valley R. R. Co	22.00	Tionesta Vy. Ry	Aug. 3, 1894				
Cherry Grove R. R. Co	11.00	do	do				
Sheffield & Spring Creek R. R. Co	9.50	do	do				
Warren & Farnsworth R. R. Co	15.26	do	do				
Hartsville R. R. Co	10.00			Cheraw & Darl. R. R.			
Atlantic, Tennessee & Ohio R. R. Co	44.00	Southern Ry	July 1, 1894				
Clarksville & North Carolina R. R. Co	7.03	do	do				
High Point, Randleman, Asheboro & Southern R. R. Co.	27.81	do	do				
North Carolina Midland R. R. Co	26.11	do	do				
Northwestern North Carolina R. R. Co	100.15	do	do				
Oxford & Clarksville R. R. Co	49.32	do	do				
Oxford & Henderson R. R. Co	12.94	do	do				
Piedmont R. R. Co	48.50	do	do				
Richmond, York River & Chesapeake R. R. Co.	39.00	do	do				
Statesville & Western R. R. Co	20.36	do	do				
Washington, Ohio & Western R. R. Co	50.12	do	do				
Western North Carolina R. R. Co	306.91	do	do				
Yadkin R. R. Co	41.17	do	do				
Charlotte, Columbia & Augusta R. R. Co.	190.53	do	Aug. 1, 1894				
Columbia & Greenville R. R. Co	199.00	do	do				
Atlanta & Florida Ry. Co	102.50	do	June 22, 1894				
East Tennessee, Virginia & Georgia Ry. Co.	1,246.50			Southern Ry	Aug. 1, 1894		
Louisville Southern R. R. Co	123.25					Southern Ry	Aug. 31, 1894
Knoxville & Augusta Ry. Co	16.00	Southern Ry	Aug. 1, 1894				
Superior Belt Line & Terminal Ry. Co	11.09					N. Wn. Coal Ry	Sept. 8, 1894
Prairie du Chien & McGregor Ry. Co	2.00					Chic., Milw. & St. P. Ry.	Oct. 18, 1894
Preemption Eastern R. R. Co	5.19	Rock I. & Peoria Ry	Nov. 26, 1894				
Peoria Terminal Ry. Co	3.07	do	do				
Deadwood Central R. R. Co	8.88					Chic., Burl. & Quin. R. R.	
La Porte, Houston & Northern R. R. Co.	12.00	Galv., La Porte & Houston Ry.					
North Galveston, Houston & Kansas City R. R. Co.	15.69	do					

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1896.]							
Androscoggin R. R. Co	31.00			Maine Central R. R. Co.			
Rochester, Hornellsville & Lackawanna R. R. Co.	10.13			Cent. N. Y. & Wn. R. R.			
Coudersport & Pine Creek R. R. Co	5.00	Coudersport & Port Alleg. R. R.	Dec. —, 1895				
Rochester & Honeoye Valley R. R. Co	15.94	Roch. Sn. R. R	Aug. 14, 1895				
Malone & St. Lawrence Ry. Co	12.10	St. Law. & Adirondack Ry.	Nov. 18, 1895				
Enterprise R. R	1.50	Belvidere Del. R. R	Feb. 26, 1896				
Martins Creek Ry. Co. of N. J	.14	do	do				
Martins Creek Ry. Co. of Pa	.15	do	Mar. 11, 1895				
Camden & Atlantic R. R. Co	68.79	W. Jersey & Seashore R. R.	May 4, 1896				
Philadelphia, Marlton & Medford R. R. Co.	11.98	do	do				
West Jersey R. R. Co	184.84	do	do				
Alloway & Quinton R. R. Co	4.22	do	do				
West Jersey & Atlantic R. R. Co	39.74	do	do				
State Line R. R. Co	2.20			Buff. & Susq. R. R	Nov. 26, 1895		
Muskingum County Ry. Co	9.00	Bellaire, Zanesv. & Cin. Ry.	May 19, 1893				
Cincinnati, Hamilton & Dayton R. R. Co.	59.74	Cin., Ham. & Day. Ry.	July 8, 1895				
Cincinnati, Dayton & Ironton R. R. Co	164.05	do	do				
Cincinnati, Dayton & Chicago R. R. Co	94.20	do	do				
Silver Creek & Dunkirk Ry. Co	8.71			L. Shore & Mich. Sn. Ry.			
South & North Carolina R. R. Co				Manch. & Aug. R. R.	Jan. 1, 1895		
Wilmington, Chadbourn & Conway R. R. Co.				Wilm., Col. & Aug. R. R.	do		
Spartanburg, Union & Columbia R. R. Co.	68.00					Ashev. & Spartanb. R. R.	Nov. 11, 1895
Laurens Ry. Co	29.90			Col., Newb. & Laurens R. R.	Jan. 15, 1896		
Mobile & Girard R. R. Co	122.01			Cent. of Ga. Ry	Mar. 15, 1895		
Montgomery & Eufaula Ry. Co	79.65			do	Feb. 1, 1895		
Savannah & Atlantic R. R. Co	17.70			do	Jan. 31, 1895		
Savannah & Western R. R. Co	481.97			do	Oct. 31, 1895		
Covington Short Route Ry. Transfer Co	.81					Ches. & Ohio Ry	
Macon & Northern Ry. Co	105.00			Cent. of Ga. Ry	Dec. 20, 1895		
Paducah, Tennessee & Alabama R. R. Co.	119.20			Louisv. & Nashv. R. R.	Dec. 14, 1895		
Tennessee Midland R. R. Co	135.40			do	do		
Superior Short Line Ry. Co	8.28			Chic., St. P., Minn. & Om. Ry.	Aug. 1, 1895		
Superior Short Line Ry. Co. of Minnesota	2.60			do	do		
Green Bay, Stevens Point & Northern R. R. Co.	6.00	Green Bay & Wn. R. R.	June 10, 1896				
Humeston & Shenandoah R. R. Co	95.45			Chic., Burl. & Quin. R. R.	May 1, 1895		
Cedar Falls & Minnesota R. R. Co	75.58			Dubq. & Sioux Cy. R. R.	June 15, 1895		
Randolph County R. R. Co	6.00	Centralia & Chester R. R.	Nov. 8, 1895				
Greenfield & Northern R. R. Co	37.67			Kans. Cy., Ft. Scott & Memp. R. R.	July 1, 1895		
Missouri, Kansas & Eastern Ry. Co	161.70					Mo., Kans. & Tex. Ry.	June 1, 1895
Texas Transportation Co	7.90					Tex. & N. O. R. R	Do.
Maricopa & Phoenix R. R. Co	34.36	Maricopa & Phoenix & Salt Riv. Vy. R. R.	Dec. 5, 1895				
[From report for year 1897.]							
Fall River R. R. Co	12.25					Old Colony R. R	
Shore Line Ry. Co	49.40			N. Y., New Hav. & Hartf. R. R.	Mar. 18, 1897		
Rumford Falls & Buckfield R. R. Co	26.48			Potl. & Rumf. Falls Ry.	Nov. 23, 1895		
Buffalo & St. Marys R. R. Co	24.08	Buff., St. Marys & S. Wn. R. R.	Jan. 28, 1897				
Buffalo & Southwestern R. R. Co	66.36			Erie R. R	Nov. 19, 1895		
Buffalo, N. Y. & Erie R. R. Co	140.25			do	Apr. 3, 1895		
Erie International Ry. Co	4.50			do	Nov. 27, 1895		
Suspension Bridge & Erie Jct. R. R. Co	24.01			do	Apr. 3, 1895		
Lockport & Buffalo Ry. Co	15.12			do	Nov. 27, 1895		
Falls Creek R. R. Co	3.00			Reynoldsv. & Falls Ck. R. R.	Jan. 11, 1897		
New York & Long Beach R. R. Co	5.63			Long I. R. R			
Oyster Bay Extension R. R. Co	3.94			do			
Olean, Oswayo & Eastern R. R. Co	14.00	N. Y. & Pa. R. R	June 22, 1896				
Frederick & Pa. Line R. R. Co	28.00	York, Han. & Fred. R. R.	Mar. 1, 1897				
Hanover & York R. R. Co	27.65	do	do				
Mifflin & Center County R. R. Co	12.43			Sunb. & Lewist. Ry	Oct. 1, 1895		
St. Marys & S. Wn. R. R. Co	21.12	Buff., St. Marys & S. Wn. R. R.	Jan. 28, 1897				
Detroit, Lansing & Nn. R. R. Co	221.57	Det., Gr. Rap. & Wn. R. R.	Nov. 30, 1896				
Grand Rapids, Lansing & Detroit R. R. Co.	55.54	do	do				
Saginaw & Western R. R. Co	42.57	do	do				
Saginaw Valley & St. Louis R. R. Co	35.50	do	do				
Saginaw & Grand Rapids R. R. Co	3.60	do	do				
Toledo & Michigan Belt R. R. Co	3.05			Tol., Can. Sn. & Det. Ry.	Jan. 29, 1897		
Columbus Connecting & Term. R. R. Co.	3.51			Norf. & Wn. Ry	Nov. 12, 1896		
Aberdeen & West End R. R. Co	40.50	Aberd. & Asheboro R. R.	Feb. 20, 1897				
Lynchburg & Durham R. R. Co	115.09			Norf. & Wn. Ry	Oct. 6, 1896		
Roanoke & Southern Ry. Co	124.09			do	Dec. 2, 1896		
Petersburg & Asylum R. R. Co	3.37			Atl. Coast Line Assn			
Port Royal & Augusta Ry. Co	112.10	Charl. & Wn. Car. Ry	Oct. 3, 1896				
Port Royal & Western Car. Ry. Co	227.15	do	Oct. 1, 1896				
Columbus Southern Ry. Co	87.78			Ga. & Ala. Ry	Jan. 1, 1897		
Abbeville & Waycross R. R. Co	22.26					Ga. & Ala. Ry	Aug. 15, 1896

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1897—Continued.]							
Rome R. R. of Georgia	18.15			Nashv., Chatt. & St. L. Ry.	Dec. —, 1896		
Middle Ga. & Atl. Ry. Co.	43.97			Cent. of Ga. Ry.	Jan. 1, 1897		
Eatonton Branch R. R. Co.	21.00			do	do		
Middlesborough R. R. Co.	21.51			Louisv. & Nashv. R. R.			
Chic., Lake Shore & En. Ry. Co (of Indiana).		Chic., L. Shore & En. Ry.	Feb. 17, 1897				
Calumet & Blue Island Ry. Co.	64.33	do	do				
Chic., Paducah & Memphis R. R. Co.	99.98					Chic. & En. Ill. R. R.	Feb. 23, 1897
Duluth & Manitoba R. R. Co.	210.12			Nn. Pac. Ry.	Sept. 1, 1896		
Duluth, Crookston & Nn. R. R. Co.	44.51			do	do		
Fargo & S. Wn. R. R. Co.	87.51			do	do		
James River Valley R. R. Co.	63.75			do	do		
Jamestown & Nn. R. R. Co.	102.57			do	do		
Jamestown & Nn. Exten. R. R. Co.	18.03			do	do		
Little Falls & Dakota R. R. Co.	89.28			do	do		
Nn. Pac., Fergus & Black Hills R. R. Co.	117.23			do	do		
Nn. Pac., La Moure & Mo. Riv. R. R. Co.	21.33			do	do		
St. Paul & Nn. Pac. Ry. Co.	192.50			do	do		
Sanborn, Cooperstown & Turtle Mountain R. R. Co.	36.75			do	do		
Southeastern Dakota R. R. Co.	14.84			do	do		
St. Louis & Eastern Ry. Co.	20.26	St. L., Peoria & Nn. Ry.	Feb. 18, 1896				
St. Louis & Peoria R. R. Co.	12.87	do	do				
North & South R. R. Co.	51.08	do	do				
Helena & Jefferson County R. R. Co.	22.07			Nn. Pac Ry.	Sept. 1, 1896		
Helena & Red Mntn. R. R. Co.	18.16			do	do		
Nn. Pac. & Montana R. R. Co.	367.38			do	do		
Rocky Fork & Cooke City R. R. Co.	45.43			do	do		
Rocky Mountain R. R. of Montana	52.89			do	do		
Kan. Cy. & S. Wn. R. R. Co.	61.86			St. L. & San Fran. R. R.	Apr. 9, 1897		
St. L., Salem & Ark. Ry. Co.	54.00			do	do		
Kan. City & Beatrice Ry. Co.	20.65			Kans. Cy., N. Wn. R. R.	Jan. —, 1897		
Kans. City, Ft. Smith & Sn. Ry. Co.	50.99			Kans. Cy., Pittsb. & Gulf Ry.			
Calcasieu, Vernon & Shreveport R. R. Co.	15.38			do			
Tex., Louisiana & En. R. R. Co.	29.00					Gulf, Colo. & S. Fe. Ry.	May 1, 1897
Clealum R. R. Co.	5.37			Nn. Pac. Ry.	Sept. 1, 1893		
Cœur d'Alene Ry. & Navigation Co.	52.15			do	do		
Green Riv. & Northern R. R. Co.	12.48			do	do		
Northern Pacific & Cascade R. R. Co.	19.47			do	do		
Nn. Pac. & Puget Sound Shore R. R. Co.	44.38			do	do		
Spokane & Palouse Ry. Co.	153.75			do	do		
Spokane Falls & Idaho R. R. Co.	14.27			do	do		
Tacoma, Orting & S. En. R. R. Co.	10.92			do	do		
United Railroads of Washington	184.38			do	do		
San Gabriel Valley Rapid Transit Ry. Co.	19.27			Sn. Pac. R. R. (of Cal.).			
Oregon Ry. Extensions Co.	68.73	Oregon R. R. & Nav. Co.	July 16, 1896				
Washington & Idaho R. R. Co.	154.19	do	do				
[From report for year 1898.]							
Housatonic R. R. Co.	90.12			N. Y., New Hav. & Hartf. R. R.	Mar. 29, 1898		
Little Saw Mill Run R. R. Co.	3.00	West Side Belt R. R.	June 25, 1897				
Cambria County R. R. Co.	9.49			Beech Ck. R. R.	May 6, 1898		
Monroe & Toledo R. R. Co.	18.72			Flint & Pere Marq. R. R.	Aug. 12, 1897		
Bedford & Bloomfield R. R. Co.	40.29	Chic. Indpls. & Louisv. Ry.					
Orleans, West Baden & French Lick Springs R. R. Co.	17.76	do					
Virginia Midland Ry. Co.	369.54	Southern Ry.	June 21, 1898				
Wilmington, Newbern & Norfolk Ry. Co.	87.25	Atlantic Coast Line Assn.	Aug. 1, 1897				
Chesapeake, Ohio & S. Wn. R. R. Co.	351.12			Chic. St. L. & N. O. R. R.	July 1, 1897		
Owensboro, Falls of Rough & Green River R. R. Co.	42.16			do	do		
Short Route Ry. Transfer Co.	1.52			do	do		
Middle Tennessee & Ala. Ry. Co.	28.50					Nashv., Chatt. & St. L. Ry.	Oct. —, 1897
Ohio Valley Ry. Co.	118.19			Chic., St. L. & N. O. R. R.	Aug. 1, 1897		
Knoxville, Cumberland Gap & Louisv. Ry. Co.	68.21			Southern Ry.	June 29, 1898		
Chicago & Calumet Terminal Ry. Co.	44.46	Chic. Term. Tr. R. R.	July 1, 1897				
Chic. & Northern Pac. R. R. Co.	45.46	do	do				
Chicago, Hammond & Wn. R. R. Co.	17.59	Chic. Jctn. Ry.	Apr. 1, 1898				
Duluth, Superior & Wn. Ry. Co.	100.00					En. Ry. Co. of Minn.	June 22, 1898
Belleville & Carondelet R. R. Co.	17.30			St. L., Alt. & T. Haute R. R.	Sept. 15, 1897		
Belleville & Eldorado R. R. Co.	50.20			do	do		
Belleville & Sn. Ill. R. R. Co.	56.40			do	do		
Chicago, St. Louis & Paducah Ry. Co.	53.50			do	do		
St. Louis Southern R. R. Co.	30.00			do	do		
Carbondale & Shawneetown R. R. Co.	17.24			do	do		
Des Moines & Kansas City Ry. Co.	112.00	Keokuk & Wn. R. R.	Apr. 1, 1898				
Brighton & Boulder Branch R. R. Co.	27.00			Un. Pac. R. R.	Apr. 1, 1898		
Brownwood & N. Wn. Ry. Co.	11.00	Cape Gir., Bloomf. & Sn. R. R.	Mar. 1, 1898				
Gulf R. R. Co.	12.13			Hutchinson & Sn. Ry.	Mar. 1, 1898		
Missouri Southeastern Ry. Co.	6.70	Cape Gir., Bloomf. & Sn. R. R.	Mar. 1, 1898				
Hope Lumber Co.'s R. R.	8.00			Tex. Sn. Ry.			
Fairhaven & Southern R. R. Co.	40.70			Seattle & Montana R. R.	Mar. 1, 1898		
Seattle & Montana Ry. Co.	78.50			do	do		

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1898—Continued.]							
Seashore R. R. Co	15.50			Astoria & Col. River R. R.			
California Pacific R. R. Co	113.51	Sn. Pac. R. R. (of Cal.).	Apr. 14, 1898				
Northern Ry. Co	379.15	do	do				
Northern California Ry. Co	53.72	do	do				
[From report for year 1899.]							
Bangor & Piscataquis R. R. Co	77.32			Bang. & Aroostook R. R.	Apr. 1, 1899		
Manchester & North Weare R. R. Co	24.50			Conc. & Montreal R. R.	Mar. 8, 1899		
Eastern R. R. in New Hampshire	16.08					Boston & Me. R. R.	June 16, 1899
Burlington & Lamoille Valley R. R. Co	26.00	Cent. Vt. Ry	May 1, 1899				
Consolidated R. R. Co. of Vermont	178.80	do	do				
Missisquoi Valley R. R. Co	28.00	do	do				
Montpelier & White River R. R. Co	13.50	do	do				
Shepaug, Litchfield & Nn. R. R. Co	32.28			N. Y., New Hav. & Hartf. R R.	July 9, 1898		
St. Croix & Penobscot R. R. Co	16.25			Wash. Co. R. R.	Jan. 1, 1899		
Brooklyn & Brighton Beach R. R. Co	7.50			Bklyn. Rap. Trans. Co.	Mar. 21, 1899		
Cambridge & Seaford R. R. Co	27.24	Delaware R. R.	Jan. 23, 1899				
Delaware & Chesapeake Ry. Co	54.30	do	do				
Queen Anne's & Kent R. R. Co	25.90	do	do				
Saratoga & Mount McGregor Ry. Co		Sar. Nn. Ry					
Mount McGregor R. R. Co	10.97	do					
Tiadaghton & Fahnastalk Ry. Co	6.62						
Northwestern Monroe Ry. Co	2.50	Mansf. S. Line Ry	July 19, 1897			Leetonia Ry	
Cheraw & Darlington R. R. Co		Atl. Coast Line R. R. of S. Car.	Aug. 1, 1898				
Florence R. R. Co		do	do				
Manchester & Augusta R. R. Co		do	do				
Northeastern R. R. Co. of S. Car		do	do				
Petersburg R. R. Co		Atl. Coast Line R. R. of Va.	do				
Richmond & Petersburg R. R. Co		do	do				
Wilmington, Columbia & Augusta R. R. Co.	246.76	Atl. Coast Line R. R. of S. Car.	do				
Carolina & Cumberland Gap Ry. Co	24.25					Southern Ry	Sept. 1, 1898
Holly River R. R. Co	12.50			Holly Riv. & Addison Ry.	May 15, 1899		
Norfolk, Willoughby Spit & Old Point R. R. Co.	3.50			Norf. & Ocean V. Ry.			
South Atlantic & Ohio R. R. Co	70.15	Va. & S. Wn. Ry	Feb. 18, 1899				
Danville, Mocksville & Swn. R. R. Co	8.00					Danv. & Wn. Ry	Mar. 1, 1899
Altamont & Manchester R. R. Co	3.50					Louisv. & Nashv. R. R.	
Atlantic Lumber Co.'s R. R	15.00			Atl. Suwannee Riv. & Gulf Ry.			
Boyle & Sunflower River R. R. Co	25.00			Yazoo & Miss. Vy. R. R.			
Bristol, Elizabethton & North Carolina Ry. Co.	22.00	Va. & S. Wn. Ry	Feb. 18, 1899				
Lookout Point Incline Ry. Co	2.56					Lookout Incline & Lula Lake Ry.	
Oconee & Western R. R. Co	40.00			Wrightsv. & Tennille R. R.	Feb. 1, 1899		
Quincy, Alton & St. Louis Ry. Co	46.36					Chic., Burl. & Quin. R. R.	May 1, 1899
Wilkes-Barre & Northern R. R. Co	12.00					Wilkes-Barre, Dallas & Harveys Lake Ry.	
Chic., Burlington & Nn. R. R. Co. of Wisconsin & Minnesota.	246.17					Chic., Burl. & Quin. R. R.	Do.
Chic., Burlington & Nn. R. R. Co. of Illinois.	94.05					do	Do.
Duluth, Miss. River & Nn. R. R. Co	36.50					En. Ry. of Minn	Apr. 30, 1899
Grantsburg, Ruch City & St. Cloud R. R. Co.	5.00			St. Paul & Duluth R. R.	June 30, 1899		
Duluth Short Line Ry. Co	17.75			do	do		
St. Cloud, Grantsburg & Ashland R. R. Co.	12.00			do	do		
Stillwater & St. Paul R. R. Co	12.50			do	do		
Taylors Falls & Lake Superior R. R. Co	20.50			do	do		
Wisconsin & Chippewa Ry. Co	19.00					Marinette, Tomahawk & Wn. Ry.	July 1, 1898
Montana Union Ry. Co						Nn. Pac. Ry	Feb. —, 1898
Kearney & Black Hills Ry. Co	65.74			Un. Pac. R. R	Nov. 1, 1898		
Omaha & Republican Valley Ry. Co	482.04			do	do		
Wichita & Western Ry. Co	89.05					Atch., Top. & S. Fe Ry	Dec. 31, 1899
Bentonville R. R. Co	7.00	Ark. & Okla. R. R.					
Junction City & Ft. Kearney Ry. Co	88.01			Un. Pac. R. R	June 1, 1899		
Un. Pac., Lincoln & Colo. Ry. Co	225.35			do	Nov. 1, 1898		
Waco & N. Wn. R. R. Co	54.68			Houston & Tex. Cent. R. R.	July 1, 1898		
Silver City & Northern R. R. Co	14.60					Atch., Top. & S. Fe Ry.	Apr. 17, 1899
Elsinore, Pomona & Los Angeles Ry. Co.	7.76			Sn. Cal. Ry	May 1, 1899		
Ventura & Ojai Valley R. R. Co	15.00			Sn. Pac. R. R. (of Cal.)	June 30, 1899		
Visalia R. R. Co	7.41			do			
Louisville & St. Louis Ry. Co	16.58					Louisville, Evansville & St. Louis Consolidated R. R.	
Minneapolis, New Ulm & S. Wn. R. R. Co.	20.60					Minneap. & St. L. R. R	Mar. 1, 1888
Minnesota, Belt Line Ry. & Transfer Co.	12.00					Minn. Transfer Ry	Aug. —, 1898
[From report for year 1900.]							
Portland, Saco & Portsmouth R. R. Co	50.76			Boston & Me. R. R	Jan. 1, 1900		
Portsmouth & Dover R. R. Co	10.88			do	do		
Portland & Rochester R. R. Co	54.98			do	do		
Baltimore & Philadelphia R. R. Co	59.32			Balt. & Ohio R. R	July 1, 1899		
Baltimore Belt R. R. Co	7.16			do	do		
Confluence & Oakland R. R. Co	19.70			do	do		
Fairmont, Morgantown & Ptbgh R. R. Co.	57.60			do	do		
Glenwood R. R. Co	2.05			do	do		

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1900—Continued.]							
Grafton & Belington R. R. Co	42.00			Balt. & Ohio R. R.	July 1,1899		
Lancaster, Cecil & Southern R. R. Co.	4.00			do	do		
Metropolitan Southern R. R. Co	2.25			do	do		
Ohio & Baltimore Short Line Ry. Co. (eastern division).	9.30			do	do		
Parkersburg Branch R. R. Co	103.30			do	do		
Pittsburgh & Connellsville R. R. Co	148.80			do	do		
Berlin R. R. Co	8.00			do	do		
Fayette County R. R. Co	11.80			do	do		
Mount Pleasant & Broad Ford R. R. Co	9.70			do	do		
Somerset & Cambria R. R. Co	45.10			do	do		
Schuylkill River East Side R. R. Co	11.00			do	do		
South Branch R. R. Co. (of W. Va.)	16.00			do	do		
Washington City & Point Lookout R. R. Co.	12.50			do	do		
Washington County R. R. Co	24.20			do	do		
Wheeling, Pittsburgh & Baltimore R. R. Co.	61.80			do	do		
Ohio & Baltimore Short Line Ry. Co. (western division).	4.00			do	do		
Berkeley Spgs & Potomac R. R. Co	5.95			do	do		
Salisbury R. R. Co	16.60			do	do		
Buffalo, St. Marys & South Wn. R. R. Co.	45.67	Pittsb., Shawmut & Nn. R. R.	July 13,1899				
Central New York & Western R. R. Co.	62.74	do	Aug. 1,1899				
Delaware River R. R. Co	19.97			West Jersey & Seashore R. R.	May 1,1900		
Kinderhook & Hudson Ry	16.30			Hud. Light & Power & R. R.	June 13,1899		
Mount Jewett, Clermont & Nn. R. R. Co.	7.60	Pittsb., Shawmut & Nn. R. R.	July 13,1899				
Nescopec R. R. Co	11.96	Schuyl. & Juniata R. R.	June 1,1900				
North & West Branch Ry. Co	47.82	do	do				
Pennsylvania Schuyl. Valley R. R. Co	130.22	do	do				
Sunbury & Lewistown Ry. Co	55.88	do	do				
Sunbury, Hazleton & Wilkesbarre Ry. Co.	43.44	do	do				
Rochester & Lake Ontario Ry. Co	6.46			Roch. & Suburban Ry.			
Youghiogheny R. R. Co	10.00			Pennsylvania R. R.	Oct. 28,1899		
Baltimore & Ohio & Chicago R. R. Co	264.90			Baltimore & Ohio R. R.	July 1,1899		
Akron & Chicago Junction R. R. Co	76.66			do	do		
Central Ohio R. R. Co	143.83			do	do		
Sandusky, Mansfield & Newark R. R. Co.	116.25			do	do		
Cleveland, Wooster & Muskingum Valley R. R. Co.	36.26			do	do		
Columbus & Cincinnati Midland R. R. Co.	69.80			do	do		
Newark, Somerset & Straitsville R. R. Co.	46.70			do	do		
Eastern Ohio R. R. Co	17.26			do	do		
Chicago & West Michigan Ry. Co	488.50					Pere Marquette R. R.	Jan. 1,1900
Chicago & North Michigan R. R. Co	92.61					do	Do.
Detroit, Grand Rapids & Western R. R. Co.	380.00					do	Do.
Cleveland Belt & Terminal R. R. Co	6.57					Wheel. & L. Erie R. R.	Aug. 14,1899
Cleveland, Canton & Southern R. R. Co.	203.69					do	Do.
Flint & Pere Marquette R. R. Co	707.17					Pere Marquette R. R.	Jan. 1,1900
Lowell & Hastings R. R. Co	12.50	Gr. Rap., Belding & Sag. R. R.	May 1,1899				
Salineville R. R. Co	3.07					Clev. & Pittsb. R. R.	Nov. 30,1899
Chartiers Connecting R. R. Co	.72	Chartiers Ry	Jan. 1,1900				
Attica, Covington & Southern R. R. Co.	14.80			Wabash R. R.	Nov. 26,1899		
Atlantic Coast Line Association	1,701.29	Atlantic Coast Line R. R.	Apr. 23,1900				
Atlantic Coast Line R. R. Co. of South Carolina.		do	do				
Atlantic Coast Line R. R. Co. of Va		do	do				
Norfolk & Carolina R. R. Co		do	do				
Wilmington & Weldon R. R. Co		do	do				
Winchester & Potomac R. R. Co	32.00			Balt. & Ohio R. R.	July 1,1899		
Winchester & Strasburg R. R. Co	20.38			do	do		
Norfolk, Virginia Beach & Southern R. R. Co.	39.40					Norf. & Sn. R. R.	Nov. 1, 1899
Green Pond, Waterboro & Branchville Ry. Co.	12.00	Green Pond, Walterb. & Branchv. R. R.	Mar. 1,1900				
Walterboro & Western Ry. Co	26.60	do	do				
Ohio River & Charleston Ry. Co. of Kentucky.	8.50			Ches. & Ohio Ry			
Passenger & Belt Ry. Co	4.17			do			
Columbia, Lumberton & Gulf R. R. Co.	16.00			Gulf & Ship I. R. R.	Aug. 2,1899		
Laurel & Northwestern R. R. Co	14.00			do	—— —,1899		
Jacksonville & Atlantic Ry. Co	16.25			Fla. E. Coast Ry			
Nashville, Florence & Sheffield Ry. Co.	104.83			Louisv. & Nashv. R. R.	Apr. 10,1900		
Northeastern R. R. Co. of Georgia	38.90			Southern Ry	Oct. 31,1899		
Jacksonville, Tampa & Key West Ry. Co.	128.92	Savannah, Fla. & Wn. Ry.	July 1,1899				
Evansville, Terre Haute & Chicago Ry. Co.	48.58					Chicago & En. Ill. R. R.	Dec. 27,1899
Indiana Block Coal R. R. Co	12.62					do	Do.
Dakota Central Ry. Co	723.93			Chicago & N. Wn. Ry.	Feb. 12,1900		
Winona & St. Peter R. R. Co	448.48			do	do		
Wisconsin Midland R. R. Co						Chic., Milw. & St. P. Ry.	Nov. 5,1897
Des Moines Northern & Western R. R. Co.	146.77			Chic., Milw. & St. P. Ry.	July 1,1899		
Little Falls & Southern R. R. Co	1.08					Nn. Pac. Ry	Sept. —,1899
St. Louis, Chicago & St. Paul Ry. Co. of Illinois.	109.50	Chicago, Peoria & St. L. Ry. of Ill.	Mar. 1,1900				
St. Louis, Indianapolis & Eastern R. R. Co.	90.00	Ill. & Ind. R. R.					
Sioux City & Northern R. R. Co	96.00					Willmar & Sioux Falls Ry.	Jan. 1,1900
Sioux Falls Terminal R. R. Co	6.90					do	Apr. 1,1900

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1900—Continued.]							
Champaign & Sidney R. R. Co.	11.70			Wabash R. R.	Nov. 26, 1899		
Des Moines & St. Louis R. R. Co.	66.80			do	do		
Wisconsin Central Co.	264.91	Wis. Cent. Ry.	July 1, 1889				
Chicago, Wisconsin & Minn. R. R. Co.	131.12	do	do				
Wisconsin Central R. R. Co.	436.11	do	do				
Milwaukee & Lake Winnebago R. R. Co.	95.76	do	do				
Packwaukee & Montellow R. R. Co.	7.93	do	do				
Carbon Cut Off Ry. Co.	16.98			Un. Pac. R. R.	Dec. 31, 1899		
Kansas & Southeastern R. R. Co.	8.26			Atch., Top. & S. Fe Ry	Dec. 20, 1899		
Pan Handle Ry. Co.	14.72			Sn. Kans. Ry. of Tex.	Jan. 1, 1900		
Choctaw & Memphis R. R. Co.	169.16			Choctaw, Okla. & Gulf R. R.	June 27, 1900		
Busk Tunnell Ry. Co.	2.09			Colo. Midl. Ry.	July 1, 1899		
Des Arc & Northern R. R. Co.	20.00	Searcy Des Arc R. R.					
Gifford Logging R. R. Co.	12.00					Gifford & S. Fn Ry.	Nov. 18, 1899
Hamilton Coal Co.'s R. R.	1.50					Ham. & Kingston R.R.	—— —, 1896
Hutchinson & Southern Ry. Co.	129.00					Atch., Top. & S. Fe. Ry	Oct. 1, 1899
Kansas City, Eldorado & Sn. Ry. Co.	12.75			Mo., Kans. & Tex. Ry.	Oct. 24, 1899		
Kansas, Oklahoma & Gulf Ry. Co.	20.00			St. L. & San Fran. R.R.	—— —, 1899		
Little Rock, Hot Spgs. & Texas Ry. Co.	3.50					Little Rock & Hot Spgs. Wn. R. R.	July 17, 1899
Kansas City & Pac. Ry. Co.	130.06			Mo., Kans. & Tex. Ry.	Nov. —, 1899		
Atchison, Colorado & Pac. R. R. Co.	254.79	Cent. Brh. Ry.	July —, 1899				
Atchison, Jewell County & Wn. R. R. Co.	33.40	do	do				
Central Branch Un. Pac. Ry. Co.	100.00	do	do				
St. Louis & Oklahoma R. R. Co.	103.26			St. L. & San Fran. R.R.	Mar. 28, 1899		
Searcy & West Point R. R. Co.	7.94	Searcy & Des Arc R.R.					
Tecumseh Ry. Co.	5.25			Choctaw, Okla. & Gulf R. R.			
Arkansas, Louisiana & Sn. Ry. Co.	23.50					La. & Ark. R. R.	June 15, 1900
Mississippi & Lafourche Ry. Co.	5.00					Tex. & Pac. Ry.	Mar. —, 1900
Tyler Southeastern Ry. Co.	88.60	St. L. S. Wn. Ry. of Tex.	Oct. 6, 1899				
Texas & Sabine Valley Ry. Co.				Tex., Sab. Vy. & N. Wn. Ry.			
Hope Lumber Co.'s R. R.	8.00					Com'l Lumber Co.	Oct. —, 1899
Texas Trunk R. R. Co.	51.68					Tex. & N. O. R. R.	Dec. 22, 1899
Santa Rita R. R. Co.	3.98			Atch., Top. & S. Fe. Ry.	Jan. 13 1900		
Santa Ana & Newport Ry. Co.	22.13			Sn. Pac. R.R. (of Cal.)			
Echo & Park City Ry. Co.	27.59			Un. Pac. R. R.	Dec. 31, 1899		
[From report for year 1901.]							
Lake Shore R. R. Co.	17.28			Conc. & Montreal R. R	Oct. —, 1900		
Profile & Franconia Notch R. R. Co.	12.84			do	do		
Suncook Valley Extension R. R. Co.	4.46			do	do		
Tilton & Belmont R. R. Co.	4.17			do	do		
Knox & Lincoln Ry. Co.	48.39			Me. Cent. R. R.	Feb. —, 1901		
Bennington & Rutland Ry. Co.	58.91	Rutland R. R.	Jan. 18, 1901				
Rutland-Canadian R. R. Co.	17.01	do	do				
Baltimore & Lehigh Ry. Co.	42.90	Md. & Pa. R. R.	Feb. 14, 1901				
Galeton & Eastern R. R. Co.	5.00			Buff. & Susq. R. R.	Apr. 1, 1901		
Susquehanna & New York R. R. Co.	31.00			do	do		
Eckhart Branch R. R. Co.	10.08			Cumb. & Pa. R. R.	Mar. 1, 1901		
State Line Branch R. R. Co.	2.50			do	do		
Susquehanna & Clearfield R. R. Co.	24.89	Beech Ck. Ex. R. R.	Mar. 26, 1901				
Ogdensburg & Lake Champlain Ry. Co.	118.00	Rutland R. R.					
York Southern R. R. Co.	42.30	Md. & Pa. R. R.	Feb. 14, 1901				
Marietta Ry. Co.	.27			Balt. & Ohio S. Wn. R. R.	July 1, 1900		
Ft. Wayne, Terre Haute & S. Wn. R. R. Co.	6.00					Chic. & S. En. Ry.	Apr. 25, 1901
New Castle & Shenango Valley R. R. Co.	16.29	Sharon Ry.	Nov. 20, 1900				
Chicago & Grand Trunk Ry. Co.	326.50	Gr. Trunk Wn. Ry.	Dec. 1, 1900				
Pomeroy Belt Ry. Co.	1.34			Hock. Vy. Ry.			
Louisville, Evansville & St. Louis Consolidated R. R. Co.	364.68	Southern Ry.	Jan. 1, 1901				
New Albany Belt & Terminal Ry. Co.	2.01	do	do				
Tionesta Valley & Salmon Creek R. R. Co.	6.00	Sheff. & Tionesta Ry.	June 1, 1901				
Norfolk & Ocean View Ry. Co.	14.03			Norfolk Ry. & Light Co.			
Chesterfield & Kershaw R. R. Co.	54.94	Seaboard Air Line Ry.	July 1, 1900				
Raleigh & Gaston R. R. Co.	98.74	do	do				
Louisburg R. R. Co.	10.00	do	do				
Carolina Central R. R. Co.	271.03	do	do				
Durham & Northern Ry. Co.	41.40	do	do				
Georgia, Carolina & Northern Ry. Co.	266.10	do	do				
Loganville & Lawrenceville R. R. Co.	10.33	do	do				
Seaboard Air Line Belt R. R. Co.	8.10	do	do				
Raleigh & Augusta Air Line R. R. Co.	106.73	do	do				
Palmetto Ry. Co.	18.20	do	do				
Pittsboro R. R. Co.	11.20	do	do				
Seaboard & Roanoke R. R. Co.	81.30	do	do				
Roanoke & Tar River R. R. Co.	32.30	do	do				
Bruton & Pineora Ry. Co.	58.00			Cent. of Ga. Ry.	July 1, 1900		
Chattanooga & Durham R. R. Co.	17.30			do	June 1, 1901		
Chattanooga, Rome & Southern R. R. Co.	138.00			do	do		
Dover & Statesboro R. R. Co.	9.96			do	Jan. 1, 1901		
Tredegar Mineral Ry. Co.	4.00			East & West R. R.			
Elizabethton Mineral R. R. Co.	9.00			Va. & S. Wn. Ry.			
Gadsden & Attalla Union Ry. Co.	10.05			Alabama City, Gadsden & Attalla Ry.			
Georgia & Alabama Ry. Co.	382.77	Seaboard Air Line Ry.					
Rosedale & Miss. Cent. Valley R. R. Co.	6.25			Yazoo & Miss. Vy. R. R.	July 1, 1900		
Beattyville & Cumberland Gap R. R. Co.	6.00			Louisv. & Atl. R. R.	June —, 1900		
Alabama & Florida R. R. Co.	32.71			Louisv. & Nashv. R. R.	Dec. 17, 1900		
Mobile & Montgomery Ry. Co.	178.49			do	do		
Fla. Cent. & Peninsular R. R. Co.	805.79	Seaboard Air Line Ry.					
South Bound R. R. Co.	135.02	do					
Atl. Suwannee River & Gulf Ry. Co.	38.90	do					

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1901—Continued.]							
Memphis & Charleston Ry. Co	34.10			Southern Ry.			
Southern Ry. Co. in Kentucky	123.20			do			
Southern Ry. Co. in Mississippi	238.87			do			
Tenn. & Alabama Mineral R. R. Co	8.00			Louisv. & Nashv. R. R.			
Yazoo Delta Ry. Co	20.30			Yazoo & Miss. Vy. R. R.	July 1,1900		
Waverly Short Line Ry. Co	5.68			Burl., Cedar Rap. & Nn. Ry.			
Ced. Rap., Garner & N. Wn. R. R. Co	18.38					Burl., Cedar Rap. & Nn. Ry.	
St. Louis, Jacksonville & Chic. R. R. Co.	158.00			Chic. & Alt. R. R.			
Chic., Burl. & Kansas City Ry. Co	181.56			Chic., Burl. & Quin. R. R.			
Hannibal & St. Joseph R. R. Co	289.22			do			
Kan. City, St. Joseph & Council Bluffs R. R. Co.	310.85			do			
Keokuk & Western R. R. Co	254.65			do			
St. Louis, Keokuk & N. Wn. R. R. Co	225.80			do			
Chic., Fort Madison & Des Moines R. R. Co.	71.00			do			
St. Louis, Peoria & Nn. Ry. Co	97.59			Ill. Cent. R. R			
Marshfield & S. En. Ry. Co	33.00					Wis. Cent. Ry	May 1,1901
Milwaukee & Superior Ry. Co	26.14					Chic., Milw. & St. P. Ry.	Oct. 18,1900
Missouri Midland Ry. Co	8.70			Mo., Kans. & Tex. Ry.	Mar. 1,1901		
St. Paul & Duluth R. R. Co	224.90			Nn. Pac. Ry			
Peoria, Decatur & Evansville Ry. Co	233.89					Peoria, Dec. & Mattoon R. R. Matoon & Evansv. R. R. Ill. Cent. R. R	
Rice Lake, Dallas & Menomonie Ry. Co	7.50			Minneap., St. P. & S. S. Marie Ry.	Oct. 15,1900		
Deckerville, Osceola & Nn. R. R. Co	38.00			Kan. Cy., Ft. Scott & Memp. R. R.	Mar. 1,1901		
Kan. City, Osceola & Sn. Ry. Co	146.90					St. L. & San. Fran. R. R.	June 1,1900
Kansas Midland Ry. Co	106.40					do	July 1,1900
Stuttgart & Ark. River R. R. Co	40.00			St. L. S. Wn. Ry	Jan. 15,1901		
Salina & Southwestern Ry. Co	35.46			Un. Pac. R. R	Sept. 30,1901		
Solomon R. R. Co	56.83			do	do		
Avoyelles R. R. Co	34.32					Tex. & Pac. Ry	
Calvert, Waco & Brazos Vy. R. R. Co	14.30	Internat. & Gt. Nn. R. R.	May 1,1901				
Sherman, Shreveport & Sn. Ry. Co	153.04			Mo., Kans. & Tex. Ry.	May 7,1901		
Natchitoches & Red Riv. Vy. Ry. Co	16.00					Tex. & Pac. Ry	
Texarkana, Shreveport & Natches Ry. Co.	71.50					do	
Seattle & International Ry. Co	161.17			Nn. Pac. Ry	Apr. 1,1901		
[From report for year 1902.]							
Aroostook Northern R. R. Co	15.91	Bang. & Aroostook R. R.	July 1,1901				
Bangor & Katahdin Iron Works Ry. Co.	19.60	do	do				
Patten & Sherman R. R. Co	5.84	do	do				
Barclay R. R. Co	14.02	Susq. & N. Y. R. R.	May 24,1902				
Johnsonburg & Bradford R. R. Co	19.60			Buff., Roch. & Pttsb. R. R.			
Lincoln Park & Charlotte R. R. Co	10.30			do			
Perry Railroad Co	1.03			do			
Chatham & Lebanon Valley R. R. Co	57.66			Rutland R. R	July 1,1901		
N. L. Hoover's R. R. Co	10.00					Hooverhurst & S. Wn. R. R.	
Bustleton R. R. Co	4.16	Connecting Ry	Jan. 1,1902				
Engleside R. R. Co	.17	do	do				
Fair Hill R. R. Co	.78	do	do				
Kensington & Tacony R. R. Co	6.90	do	do				
Philadelphia, Bustleton & Trenton R. R. Co.	3.55	do	do				
Philadelphia, Germantown & Chestnut Hill R. R. Co.	13.87	do	do				
Scalp Level R. R. Co	24.69	South Fork R. R	do				
Schuylkill & Juniata R. R. Co	289.93			Pennsylvania R. R	Apr. 1,1902		
Millersburg R. R. Co	1.39			Pa. & N. Wn. R. R			
Camden County R. R. Co	7.27			Atl. Cy. R. R	June 14,1901		
Seacoast R. R. Co	66.35			do	do		
Ocean City R. R. Co	10.30			do	do		
Ulster & Delaware R. R. Co	74.31	The Ulster & Del. R. R	Jan. 1,1902				
Delaware & Otsego R. R. Co	29.43	do	do				
Hobart Branch R. R. Co	3.52	do	do				
Kaaterskill R. R. Co	7.56	do	do				
Stony Clove & Catskill Mountain R. R. Co.	14.08	do	do				
Alliance & Northern R. R. Co	25.00					L. Erie, Alliance & Wheeling R. R.	July 1,1907
Barberton Belt Line R. R. Co	9.55	Akron & Barberton Belt R. R.	May 15,1902				
Cincinnati, Northwestern Ry. Co	6.00			Cincinnati, Dayton & Toledo Traction Co.	June 1,1902		
Detroit & Lima Northern Ry. Co	137.50	Det. Sn. R. R	July 1,1901				
Grayling, Twin Lake & Northeastern R. R. Co.	27.80			Jack., Lans. & Sag. R. R.	July 13,1901		
Saginaw Bay & Northwestern R. R. Co.	62.31			do	do		
Cincinnati, Portsmouth & Virginia R. R. Co.	108.00					Norf. & Wn. Ry	Do.
Cincinnati Connecting Belt R. R. Co	4.57					do	Do.
Ohio Southern R. R. Co	224.16	Det. Sn. R. R	July 1,1901				
Ohio Valley & Junction Ry. Co	3.00			Clev. & Mari. Ry	Jan. 1,1902		
Calumet River Ry. Co	4.43			S. Chic. & Sn. R R	July 1,1901		
State Line & Indiana City Ry. Co	7.56			do	do		
Alberene R. R. Co	11.10	Ches. & Ohio Ry	Feb. 15,1902				
Glen Jean, Lower Loup & Deepwater R. R. Co.	3.60	do	Oct. 26,1901				

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1902—Continued.]							
Greenbrier & New River R. R. Co	12.60	Ches. & Ohio Ry	Oct. 26, 1901				
Charleston & Savannah Ry. Co	102.40	Sav., Fla. & Wn. Ry.	July 1, 1901				
Ashley River R. R. Co	9.09	do	Sept. 2, 1901				
Green Pond, Walterboro & Branchville R. R. Co.	37.67	do	do				
Wilmington Sea Coast R. R. Co	11.81	Consolidated Rys. Light & Power Co.	Apr. 24, 1902				
Birmingham Belt R. R. Co	20.00					St. L. & San Fran. R. R.	June —, 1902
Birmingham, Selma & New Orleans Ry. Co.	31.40			Louisv. & Nashv. R. R.	Apr. 21, 1902		
Cumberland River & Tennessee R. R. Co.	12.90			do	Sept. 28, 1901		
Kentucky Western Ry. Co	18.40					Chic., St. L., N. O. R. R.	June 30, 1902
Shelby R. R. Co	19.10			Louisv. & Nashv. R. R	May 3, 1902		
Nashville & Knoxville R. R. Co	86.80					Tenn. Cent. R. R	May 1, 1902
North Jellico Coal Co.'s R. R	4.50			Louisv. & Nashv. R. R.	Dec. 1, 1901		
Tampa & Thonotosassa R. R. Co	13.33	Sav., Fla. & Wn. Ry.	July 1, 1901				
Abbeville Southern Ry. Co	26.90	do	Sept. 2, 1901				
Alabama Midland Ry. Co	206.92	do	July 1, 1901				
Brunswick & Western R. R. Co	170.40	do	do				
Silver Springs, Ocala & Gulf R. R. Co	73.67	do	do				
Southwestern Alabama Ry. Co	37.22	do	Sept. 2, 1901				
Shelbyville, Bloomfield & Ohio R. R. Co.	26.70			Louisv. & Nashv. R. R.	Sept. 28, 1901		
Tallapoosa Logging R. R. Co	4.00					Vanderbilt Timber, Mining & S. Wn. Ry.	
Tennessee Central Ry	57.30					Tenn. Cent. R. R	Do.
Cumberland Plateau R. R. Co	8.89					do	Do
Sioux City & Pacific R. R. Co	107.42					Chic. & N. Wn. Ry	Aug. 28, 1901
Minnesota & Wisconsin R. R. Co	21.00			Chic., St. P., Minneap. & Om. Ry.	June 7, 1902		
Des Moines Southwestern R. R. Co	8.30					Wabash R. R	
Duluth, Red Wing & Southern R. R. Co.	28.00			Wis., Minn. & Pac. R. R.			
Duluth Transfer Ry. Co	11.82					Nn. Pac. Ry	May 26, 1902
Mattoon & Evansville R. R. Co	97.27					Ill. Cent. R. R	July 1, 1902
Keithsburg Bridge Co	2.57			Io. Cent. Ry	July 25, 1901		
Omaha & St. Louis R. R. Co	143.39					Wabash R. R	Nov. 2, 1901
Omaha, Kansas City & Eastern R. R. Co.	33.97			Quin., Om. Kans. Cy. R. R.	Jan. 16, 1902		
Peoria & St. Louis Ry. Co	3.00			Peoria & Springf. Ry	July 1, 1901		
Toluca & Eastern R. R. Co	6.00			Toluca, Marq. & Nn. R. R.	May 15, 1902		
Washburn, Bayfield & Iron River Ry. Co.	34.30					Nn. Pac. Ry	July 14, 1901
Winona & Western Ry. Co	120.75					Wis., Minn. & Pac. R. R.	Sept. 12, 1901
Black Hills & Fort Pierre R. R. Co	50.00					Chic., Burl. & Quin. R. R.	Aug. 1, 1901
Cape Girardeau, Bloomfield & Southern R. R. Co.	28.00	St. L. & Gulf Ry	May 1, 1902				
Choctaw Northern R. R. Co	49.30			Choctaw, Okla. & Gulf R. R.	May 3, 1902		
Western Oklahoma R. R. Co	9.87			do	May 1, 1902		
Hot Springs R. R. Co	22.18					Choc., Okla. & Gulf R. R.	May 3, 1902
Houck's Missouri & Arkansas R. R. Co	13.00	St. L. & Gulf Ry	May 1, 1902				
Morley & Morehouse R. R. Co	15.72	do	do				
Hoxie, Pocahontas & Northern R. R. Co.	15.30					Sn. Mo. & Ark. R. R.	Nov. —, 1901
Current River R. R. Co	81.95			Kans. Cy., Ft. Scott & Memphis R. R.			
Kansas City Suburban Belt R. R. Co	13.45					Kans. Cy. Sn. Ry	Dec. 3, 1901
Kansas City & Independence Air Line R. R. Co.	5.58					do	Do.
Union Terminal Railroad Co	5.18					do	Do.
Memphis & St. Louis R. R. Co	6.00	St. L., Memph. & S. En. R. R.					
St. Louis & Memphis R. R. Co	13.50	do	Mar. 1, 1902				
St. Louis, Caruthersville & Memphis R. R. Co.	27.50					St. L., Memph., & S. En. R. R.	Mar. 1, 1902
St. Louis, Kennett & Southern R. R. Co.	43.10	St. L. & Gulf Ry	May 1, 1902				
Kennett & Osceola R. R. Co	14.16	do	do				
St. Francis Valley R. R. Co	9.50	do	do				
St. Louis, Morehouse & Southern R. R. Co.	18.00	do	do				
Southern Missouri & Arkansas R. R. Co.	92.40	St. L., Memph. & S. En. R. R.	Feb. 1, 1902				
Cow Creek Tram. & Ry. Co	16.00			Kirby Lumber Co.'s roads.			
Austin & Northwestern R. R. Co	107.86					Houston & Tex. Cent. R. R.	Aug. 22, 1901
Central Texas & Northwestern Ry. Co	12.57					do	Do.
Fort Worth & New Orleans Ry. Co	41.97					do	Do.
Texas Tram. & Lumber Co.'s Ry	19.85			Kirby Lumber Co.'s roads.	Jan. 1, 1902		
Arizona & Southeastern R. R. Co	59.78			El Paso & S. Wn. R. R.			
Rio Grande Western Ry. Co	460.17	Denver & Rio G. R. R.	May 15, 1901				
Seattle & Northern Ry. Co	56.75					Seattle & Mont. Ry	Feb. 1, 1902
Southern Pacific Railroad Co. (of Arizona)	392.90	Sn. Pac. R. R.	Mar. 10, 1902				
Southern Pacific R. R. Co. of New Mexico.	167.45	do	do				
Western American Co.'s R. R.	7.13					Nn. Pac. Ry	June 30, 1901
[From report for year 1903.]							
Quemahoning Branch R. R. Co	10.50			Balt. & Ohio R. R.			
Bay Ridge & Annapolis R. R. Co	4.50			do			
Allegheny Terminal Co	.12			Allegh. & Wn. Ry			
Glens Falls R. R. Co	15.12			Renss. & Sar. R. R			
Adirondack Ry. Co	56.97			Del. & Hud. Co	Nov. 5, 1902		
Cayadutta Elec. R. R. Co	14.50			Fonda, Johnst. & Gloversv. R. R.	Jan. 1, 1903		
Grays Run R. R. Co	9.00	Susq. & N. Y. R. R.	May 26, 1903				
Downingtown & Lancaster R. R. Co	37.58			Pennsylvania R. R	Apr. 1, 1903		
Riverfront R. R. Co	4.62			do	do		
South Fork R. R. Co	44.94			do	do		

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for 1903—Continued.]							
West Chester R. R. Co	5.22			Pennsylvania R. R	Apr. 1,1902		
Western Pennsylvania R. R. Co	138.24			do	do		
Great Neck & Port Wash. R. R. Co	3.89			Long I. R. R	Aug. 29,1902		
Montauk Extension R. R. Co	20.85			do	do		
New York Bay Extension R. R. Co	6.15			do	do		
Phila., Wilm. & Baltimore R. R. Co	117.20	Phila., Balt. & Wash. R. R.	Nov. 1,1902				
Baltimore & Potomac R. R. Co	93.20	do	do				
Baltimore & Dela. Bay R. R. Co	26.64					Delaware R. R	Oct. —,1902
Smyrna & Delaware Bay R. R. Co	6.95					do	Do.
Ashland & Wooster Ry. Co	21.78	L. & Riv. Ry	Mar. 10,1903				
Ellwood Short Line R. R. Co	3.10			Pittsb. & Wn. R. R			
Cinc., Hamilton & Indpls. R. R. Co	98.34	Cin., Indpls. & Wn. Ry.	Aug. 28,1902				
Ind., Decatur & Wn. Ry. Co	229.77	do	do				
Cin., Richmond & Muncie R. R. Co	169.94	Chic., Cin. & Louisv. R. R.	May 31,1903				
Hillsboro R. R. Co				Norf. & Wn. Ry	July 1,1902		
Columbus & Maysville Ry. Co	19.00			do	do		
Iron Ry. Co	17.50	Det. Sn. R. R	June 15,1903				
Jamestown & Chautauqua Ry. Co	27.31	Jamest., Chautauqua & L. Erie Ry.	July 1,1902				
Mil., Benton Harbor & Colb. Ry. Co	26.86			Pere Marquette R. R	May 7,1903		
Middletown & Cinc. R. R. Co	13.95			Cin., Leb. & Nn. Ry	June —,1902		
Bay City Belt Line R. R. Co	6.25			Pere Marquette R. R.	May 7,1903		
Grand Rap. Belding & Saginaw R. R. Co.	28.94			do	do		
Saginaw, Tuscola & Huron R. R. Co	65.79			do	do		
Pitts., Lisbon & Wn. Ry. Co	28.00	Pittsb., Lisbon & Wn. R. R.	Nov. 12,1902				
Salem R. R. Co	6.92			Pittsb., Lisbon & Wn. R. R.	Nov. 15,1902		
S. Haven & Eastern R. R. Co	36.60			Pere Marquette R. R	May 7,1903		
Jaeger & Southern Ry. Co	5.60			Norf. & Wn. Ry	July 1,1902		
Powellton & Pocahontas Ry. Co	7.88			Ches. & Ohio Ry	Nov. 1,1902		
Egypt Ry. Co	8.00			Ral. & Wn. Ry	July 1,1902		
S. Caro. & Georgia Extens. R. R. Co	182.40	Sn. Ry.—Car. Div	June 28,1902				
Asheville & Spartanb. R. R. Co	133.90	do	do				
Carolina Midland Ry. C	136.76	do	do				
S. Car. & Georgia R. R. Co	241.11	do	do				
Sumter & Waterce River R. R. Co	15.81	do	do				
Atl., Valdosta & Western Ry. Co	106.61	Ga. Sn. & Fla. Ry	Nov. 1,1902				
Do	11.59					St. Johns River Term. Co.	Nov. 1,1902
Elizabethtown, Lex. & Big Sandy R. R. Co.	109.20	Lexington & Big Sandy Ry.	July 1,1902				
Kentucky & South Atl. R. R. Co	19.50	do	do				
Ohio & Big Sandy R. R. Co	48.20	do	do				
Ohio Riv. & Charleston R. R. Co. (of Kentucky).	8.10	do	do				
Florida Midland R. R. Co	44.00	Atl. Coast Line R. R.					
Hodgenville & Elizabethtown Ry. Co	11.10			Chic., St. L. & N. O. R. R.	July 1,1902		
Troy & Tiptonville R. R. Co	4.60			do	do		
Jellico Bird Eye & Nn. Ry. Co	7.50			Louisv. & Nashv. R. R.	July 16,1902		
Ocilla & Irwinville R. R. Co	10.00			Bruns. & Birm. R. R.	July 1,1902		
Offerman & Western R. R. Co	35.00			do	do		
Savannah, Fla. & estern Ry. Co	1,647.17	Atl. Coast Line R. R	July 1,1902				
Sanford & Lake Eustis Ry. Co	28.62	do	do				
Florida Southern R. R. Co	246.44	do	Apr. 1,1903				
St. Johns & Lake Eustis R. R. Co	47.42	do	July 1,1902				
Sanford & St. Petersburg R. R. Co	153.33	do	Apr. 1,1903				
Yalaha & Western R. R. Co	7.00			Atl. Coast Line R. R			
Minnesota Western Ry. Co	45.82			Chic. & N. Wn. Ry	July 16,1902		
Burlington & N. Wn. Ry. Co	38.73			Chic., Burl. & Quin. R. R.	July 1,1902		
Burlington & Western Ry. Co	70.70			do	do		
Cedar Rapids & Clinton Ry. Co	81.93			Burl., Cedar Rap. & Nn. Ry.	May 22,1902		
Cedar Rap., Iowa Falls & N. Wn. Ry. Co.	510.78			do	do		
Chic., Decorah & Minnesota Ry. Co	23.28			do	do		
Iowa City & estern Ry. Co	72.99			do	do		
Davenport, Clinton & En. Ry. Co	32.28			Davenpt., Rock I. & N. Wn. Ry.	July 30,1901		
Davenpt., Rock I. & N. Wn. Ry. Co. (of Illinois).	6.13			do	do		
Moline & Peoria Ry. Co	5.09			do	do		
Albert Lea & Southern R. R. Co	18.59			Dubq. & Sioux Cy. R. R.	July 1,1902		
Chicago & Springfield R. R. Co	111.47			Ill. Cent. R. R	do		
Chicago & Texas R. R. Co	78.70			do	July 1,1902		
Chic. Havana & Western R. R. Co	131.62			do	do		
Chic. Madison & Northern R. R. Co	231.30			do	do		
Kankakee & S. Wn. R. R	131.26			do	do		
Stacyville R. R. Co	7.93			Dubq. & Sioux Cy. R. R.	do		
Kan. City, Peoria & Chic. Ry. Co	85.67			Quin., Om. & Kans. Cy. R. R.	do		
Collinsville & Troy R. R. Co	6.86			St. L., Troy & En. R. R.	Oct. 27,1902		
St. Louis Valley Ry. Co	100.00			St. L. Iron Mtn. & Sn. Ry.			
Fremont, Elkhorn & Mo. Vy. R. R. Co	1,303.45					Chic. & N. Wn. Ry	Feb. 28,1903
Kans. City & Omaha Ry. Co	193.68			Chic., Burl. & Quin. R. R.	July 1,1902		
Great Falls & Canada Ry. Co	134.37					Mont. & Gt. Nn. Ry.	
Arkansas & Choctaw Ry. Co	24.33			St. L. & San Fran. R. R	July —,1902		
Blackwell, Enid & S. Wn. Ry. Co	116.76			do			
Oklahoma City & Wn. R. R. Co	53.64			do			
St. Louis, Okla. & Sn. Ry. Co	192.65			do	June 22,1901		
Albion River R. R. Co	10.40			Ft. Bragg & South En. R. R.			

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1904.]							
Fish River R. R. Co	51.48					Bang. & Aroostook R. R.	Nov. 24, 1900
Whitefield & Jefferson R. R. Co	33.69			Conc. & Montreal R.R.	May 17, 1904		
Chateaugay R. R. Co	18.01	Chateaugay & L. Placid Ry.	July 10, 1903				
Chateaugay Ry. Co	38.89	do	do				
Saranac & L. Placid R.R. Co	9.93	do	do				
Schenectady & Duanesburgh R. R. Co	13.79			Delaware & Hudson Co.	July 29, 1903		
Depew & Tonawanda R. R. Co	10.56			Lehigh Vy. Ry	Aug. 3, 1903		
Easton & Amboy R. R. Co	68.52	Lehigh Vy. R. R. of N. J.	July 29, 1903				
Lehigh Vy. Terminal Ry. Co	28.00	do	do				
Perth Amboy & Raritan Ry. Co	6.16	do	do				
Pittstown Branch Ry. Co	4.02	do	do				
Greenville & Hudson Ry. Co	1.88	do	do				
Middlesex Ry. Co	.34	do	do				
Middlesex Vy. R. R. Co	29.43			Lehigh Vy. Ry	Aug. 3, 1903		
Waverly & State Line R. R. Co	.41			do	do		
Rochester Southern R. R. Co	29.67			do	do		
Seneca County Ry. Co	8.20			do	do		
McGees & Newtonburg R. R. Co	4.00			Pennsylvania & North Western R. R.	July 1, 1903		
Cambria & Clearfield R. R. Co	102.65	Cambria & Clearfield Ry.	Aug. 1, 1903				
Cresson & Irvona R. R. Co	29.51	do	do				
Ebensburg & Black Lick R. R. Co	21.33	do	do				
Pennsylvania & Northwestern R. R. Co	78.64	do	do				
Tyrone & Clearfield Ry. Co	141.64	do	do				
Spring Creek Ry. Co	12.00	Tionesta Vy. Ry	Feb. 16, 1904				
Whippany River R. R. Co	4.78			Morristown & Erie R R.	Aug. 28, 1903		
Rochester, Beaver Falls & Western Ry. Co	.55			Marginal R. R	Jan. 1, 1904		
Rolling Mill R. R. Co	.71			Toledo, Walhonding Valley & Ohio R. R.	do		
Sanilac R. R. Co	6.80			Pere Marquette R. R.	Dec. 19, 1903		
Tionesta Vy. Ry. Co	74.30	Tionesta Vy. Ry	Feb. 16, 1904				
Massillon R. R. Co	5.50			Wheeling & L. Erie R. R.	Mar. —, 1904		
Massillon Elm Run Ry. Co	3.50			Canton & Wooster R.R.	Nov. —, 1903		
Beaufort County Lumber Co.'s R. R	20.00					Greenville & Vanceboro R. R.	Mar. 15, 1903
Charleston, Clendennin & Sutton R. R. Co.	63.60	Coal & Coke Ry	Aug. 11, 1903				
Greenbriar Ry. Co	95.80	Chesapeake & Ohio Ry.	Oct. 31, 1903				
Guyandot Vy. Ry. Co	27.00	do	do				
Oxford & Coast Line R. R. Co	4.51			Seaboard Air Line Ry.		Roaring Creek & Belington R. R.	
Roaring Creek & Charleston R. R. Co	7.60						
Washington & Plymouth R. R. Co	33.30			Norfolk & Southern R. R.	Apr. 1, 1904		
Atlantic & Birmingham R. R. Co	139.30	Atlantic & Birmingham Ry.	Dec. 3, 1903				
Alabama Mineral R. R. Co	138.14	Louisville & Nashville R. R.	Sept. 29, 1903				
Birmingham Mineral R. R. Co	185.22	do	Jan. 11, 1904				
Southern Division, Cumberland & Ohio R. R. Co.	30.90	do	Oct. 2, 1903				
Cherokee Mining & Manufacturing Co.'s R. R.	7.50					Central of Georgia Ry.	
Knoxville & Bristol Ry. Co	39.30			Southern Ry			
East & West R. R. Co	120.20	Atlanta & Birmingham Air Line Ry.					
Knoxville & Ohio R. R. Co	69.32			Southern Ry	Dec. 31, 1903		
Mobile & Bay Shore Ry. Co	38.36			Mobile & Ohio R. R.			
Tennessee Northern Ry. Co	11.30					Knoxville & Ohio R. R.	Oct. 8, 1903
Tifton & Northeastern R. R. Co	25.00	Atlantic & Birmingham Ry.	Dec. 3, 1903				
Tifton, Thomasville & Gulf Ry. Co	55.50	do	do				
Bismarck, Washburn & Great Falls Ry. Co.	44.81			Minneapolis, St. Paul & Sault Ste. Marie Ry.	May 15, 1904		
Chicago, Iowa & Dakota Ry. Co	26.40			Chicago & North Western Ry.	July 31, 1903		
Quincy R. R. Bridge Co	1.43			Chicago, Burlington & Quincy R. R.	Dec. 14, 1903		
Burlington, Cedar Rapids & Northern Ry. Co.	1,313.19			Chicago, Rock Island & Pacific Ry.	June 15, 1903		
Rock Island & Peoria Ry. Co	121.50			do	June 11, 1903		
South St. Paul Belt R. R. Co	2.80					Chicago, Rock Island & Pacific Ry.	Mar. 25, 1904
Rantoul R. R. Co	74.43			Illinois Central R. R.	July 1, 1903		
St. Louis & Ohio River R. R. Co	17.20			do	do		
St. Louis, Alton & Terre Haute R. R. Co	239.04			do	do		
Mounds & Olive Branch R. R. Co	8.00			do	Jan. 3, 1904		
Guthrie & Western Ry. Co	10.60			Eastern Oklahoma Ry			
Enid & Anadarko Ry. Co	148.60			Chicago, Rock Island & Pacific Ry.	Oct. 21, 1903		
Chicago, Rock Island & Mexico Ry. Co	91.75	Chicago, Rock Island & Gulf Ry.	Dec. 1, 1903				
Choctaw, Oklahoma & Texas R. R. Co	94.49	do	do				
Searcy & Des Arc R. R. Co	23.96			Chicago, Rock Island & Pacific Ry.	Mar. 24, 1904		
Missouri, Kansas & Oklahoma R. R. Co	121.00			Missouri, Kansas & Texas Ry.	June 30, 1904		
Pine Bluff & Western Ry. Co	22.80					Pine Bluff & Western R. R.	Oct. —, 1903
St. Louis & Gulf Ry. Co	190.57			St. Louis, Memphis & South Eastern R. R.	May 1, 1904		
Southern Missouri Ry. Co	43.22			Illinois Southern Ry			
Kiowa, Chickasha & Ft. Smith Ry. Co	23.80			Eastern Oklahoma Ry.	Dec. 1, 1903		

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1904—Continued.]							
Chicago, Rock Island & Texas Ry. Co	147.29	Chicago, Rock Island & Gulf Ry.	Dec. 1, 1903				
Houston, Oaklawn & Magnolia Park Ry. Co.	6.34	International & Great Northern R. R.	Dec. 26, 1903				
Texas & Louisiana R. R. Co	22.00			St. Louis Southwestern Ry. of Texas.	July 1, 1903		
California Midland R. R. Co	3.50					San Francisco & North Western Ry.	July 7, 1903
Eel River & Eureka R. R. Co	25.00					do	May 14, 1903
California & Northern Ry. Co	9.00					do	Mar. 22, 1904
Portland, Vancouver & Yakima Ry. Co	27.47	Northern Pacific Ry.	Oct. 1, 1903				
Washington & Oregon Ry. Co	28.94	do	do				
Bellingham Bay & Eastern R. R. Co	23.36			Northern Pacific Ry.	July 1, 1903		
Monte Cristo Ry. Co	45.69			do	July 31, 1903		
Pacific Lumber Co.'s R. R	13.53					San Francisco & North Western Ry.	June —, 1903
Mill Creek Flume & Manufacturing. Co	13.40					Mill Creek R. R.	Dec. 10, 1903
New East Tintic Ry. Co	1.99					San Pedro, Los Angeles & Salt Lake R. R.	July 7, 1903
Utah & Pacific R. R. Co	74.61					do	Do.
Utan, Nevada & California R. R. Co	40.47					do	Do.
[From report for year 1905.]							
Somerset Ry. Co	42.06					Kennebec Vy. R. R	Aug. 4, 1904
Lehigh & Lackawanna R. R. Co	26.18			Lehigh & New England R. R.	Oct. 14, 1904		
Wind Gap & Delaware R. R. Co	9.96			do	do		
Cheat Vy. R. R. Co	6.00					Morgantown & Kingwood R. R.	Nov. 26, 1904
Elmira, Cortland & Northern R. R. Co	118.49			Lehigh Vy. R. R	Feb. 17, 1905		
Canastota Northern R. R. Co	20.65			Elmira, Cortland & Northern R. R.	Feb. 7, 1905		
National Docks Ry. Co	8.59			Lehigh Vy. R. R. of N. J.	Apr. 7, 1905		
Wilkes-Barre & Harveys Lake R. R. Co	15.00			Loyalsock R. R	Sept. 2, 1904		
Medix Run R. R. Co	8.50					Susquehanna & Southern R. R.	June 10, 1905
Mohnsville & Adamstown R. R. Co	8.00					Adamstown & Mohnsville Electric Ry.	Oct. 20, 1904
Masontown & New Salem R. R. Co	6.04			Connellsville & Monongahela Ry.	Mar. 11, 1905		
New Orange Four Junction R. R. Co	3.97	Rahway Vy. R. R	Mar. 1, 1905				
New York & Pennsylvania R. R. Co	51.70	New York & Pennsylvania Ry.	May 11, 1904				
Sharon & Ceres R. R. Co	4.43	do	do				
Clearfield Southern R. R. Co	12.99	Beech Creek Extension R. R.	Mar. 31, 1905				
Pittsburgh & Eastern R. R. Co	22.53	do	do				
Monongahela & Washington R. R. Co	14.60			Pittsburgh, Virginia & Charleston Ry.	July 1, 1904		
Pittsburgh, Virginia & Charleston Ry. Co.	84.02			Pennsylvania R. R.	Apr. 1, 1905		
Rockaway Vy. Ry. Co	30.00	New Jersey & Pennsylvania R. R.	Dec. 23, 1904				
Speedwell Lake R. R. Co	1.50	do	do				
Susquehanna & Southern R. R. Co	29.00			Buffalo & Susquehanna R. R.	June 27, 1905		
Connellsville Central R. R. Co	7.00			Connellsville & Monongahela Ry.	Mar. 11, 1905		
Boyne City & Southeastern R. R. Co	44.00					Boyne City, Gaylord & Alpena R. R.	Apr. 1, 1905
Indianapolis & Vincennes R. R. Co	137.44	Vandalia R. R	Jan. 1, 1905				
Logansport & Toledo Ry. Co	93.00	do	do				
Terre Haute & Indianapolis R. R. Co	123.22	do	do				
Terre Haute & Logansport Ry. Co	159.36	do	do				
Peru & Detroit Ry. Co	9.30					Winona Interurban Traction Co.	
Beaufort & Pamlico R. R. Co	13.00					Roanoke R. R. & Lumber Co.	
Blackstone & Southern R. R. Co	.25					Norfolk & Western Ry.	
Kanawha & Pocahontas R. R. Co	16.00			Chesapeake & Ohio Ry.	Feb. 1, 1905		
Chesapeake Transit Co	23.79			Norfolk & Southern R. R.	Dec. 12, 1904		
Laurel Creek Short Line R. R. Co	8.00			Chesapeake & Ohio Ry.	Jan. 1, 1905		
Pennsboro & Harrisville Ritchie County Ry. Co.	9.00					Lorama R. R	June 12, 1905
Raleigh & Cape Fear Ry. Co	31.50	Raleigh & Southport Ry.	May 18, 1905				
W. P. Read's R. R. Co	4.00			Chesapeake & Ohio Ry	Nov. 1, 1904		
Knoxville, La Follette & Jellico R. R. Co.	41.00			Louisville & Nashville R. R.	Dec. 22, 1904		
Atlanta, Knoxville & Northern Ry. Co	227.30			do	Jan. 1, 1905		
Newport & Cincinnati Bridge Co				do	June 16, 1904		
Brunswick & Birmingham R. R. Co	117.28	Atlantic & Birmingham Ry.	Sept. 21, 1904				
Covington Short Route Transfer Ry. Co	.80	Chesapeake & Ohio Ry. of Ky.					
Lexington & Big Sandy R. R. Co	182.70	do					
Maysville & Big Sandy R. R. Co	142.70	do					
Covington, Flemingsburg & Ashland Ry. Co.	17.12					Cincinnati, Flemingsburg & South Eastern R. R.	June 1, 1905
Hoyt & Woodin Manufacturing Co.'s R. R.	6.00					Minter City, Southern & Western R. R.	
Jacksonville & Southwestern R. R. Co	85.60			Atlantic Coast Line R. R.	Aug. 1, 1904		
Live Oak & Gulf Ry. Co	20.00					Suwannee & San Pedro R. R.	June 30, 1904
Ocilla, Pinebloom & Valdosta R. R. Co	20.00	Douglas, Augusta & Gulf Ry.	May 18, 1905				
Wadley & Mt. Vernon Extension R. R. Co.	28.00	do	do				

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1905—Continued.]							
Iowa & St. Louis Ry. Co.	52.04			Chicago, Burlington & Quincy R. R.			
Chippewa Vy. & Northwestern Ry. Co.	36.00			Chicago, St. Paul, Minneapolis & Omaha Ry.	Oct. 21, 1904		
Eau Claire, Chippewa Falls & Northeastern Ry. Co.	49.28			do	do		
Peoria, Decatur & Mattoon R. R. Co.	102.76			Illinois Central R. R.	Apr. 1, 1905		
Itasca Lumber Co.'s R. R.	55.00					Minneapolis & Rainy River Ry.	July 20, 1904
Jacksonville & St. Louis Ry. Co.	122.38			Chicago, Burlington & Quincy R. R.			
St. Louis, Vandalia & Terre Haute R. R. Co.	158.30	Vandalia R. R.	Jan. 1, 1905				
East St. Louis, Madison & Granite City R. R. Co.	2.40			Southern Ry.	Dec. 14, 1904		
Denison & Washita Vy. Ry. Co.	20.00					Missouri, Kansas & Texas Ry.	
Muskogee Union Ry. Co.	15.00					Missouri, Oklahoma & Gulf Ry.	Dec. 1, 1904
Blackwell, Enid & Texas Ry. Co.	12.75			St. Louis, San Francisco & Texas Ry.	July 1, 1904		
Oklahoma City & Texas Ry. Co.	8.68			do	do		
Red River, Texas & Southern Ry. Co.	57.54			do	do		
Texas, Sabine Vy. & Northwestern Ry. Co.	38.80	Texas & Gulf Ry.	Dec. —, 1904				
Marshall, Timpson & Sabine Pass Ry. Co.	19.10	do	do				
Caspar & Hare Creek R. R. Co.	12.00					Caspar, South Fork & Eastern R. R.	
Seattle & San Francisco R. R. & Nav. Co.	3.04					Northern Pacific Ry.	Oct. 20, 1903
[From report for year 1906.]							
Manchester & Keene R. R. Co.	29.59					{Conc. & Montreal R.R. / Boston & Lowell R.R.}	May 18, 1884
Berkshire R. R. Co.	20.53	Berkshire R. R.	June 7, 1905				
Colchester Ry. Co.	3.59			N. Y., New Hav. & Hartf. R. R.	Dec. 16, 1905		
Danbury & Norwalk R. R. Co.	36.20			do	Oct. 30, 1905		
Middletown, Meriden & Waterbury R. R. Co.	26.00			do	Nov. 3, 1905		
Naugatock R. R. Co.	60.99			do	Jan. 31, 1906		
New Haven & Derby R. R. Co.	14.55			do	Nov. 3, 1905		
Nantasket Beach R. R. Co.	6.95			Old Colony R. R.	Jan. 24, 1906		
Providence & Springfield R. R. Co.	27.73			N. Y., New Hav. & Hartf. R. R. Co.	Oct. 30, 1905		
Rhode Island & Mass. R. R. Co. of R. I.	7.07			do	Nov. 3, 1905		
Rockville R. R. Co.	4.43			do	Nov. 6, 1905		
Stockbridge & Pittsfield R. R. Co.	22.02	Berkshire R. R.	June 7, 1905				
West Stockbridge R. R. Corporation	2.64	do	do				
Woonsocket & Pascoag R. R. Co.	9.45			N. Y., New Hav. & Hartf. R. R.	Nov. 3, 1905		
Morris County R. R. Co.	18.00	Wharton & Nn. R. R.	June 10, 1905				
New York & Pitts. Cent. R. R. Co.						N. Y. & Pitts. Air Line R. R.	
Pitts., Johnstown, Ebensburg & Eastern R. R. Co.	15.90					do	
Southwest Penna. Ry. Co.	129.37			Pennsylvania R. R.	Apr. 1, 1906		
York Haven & Rowenna R. R. Co.	5.64			do	do		
Dillsburg & Mechanicsburg R. R. Co.	7.70			Cumb. Vy. R. R.	Feb. 3, 1906		
South Chester R. R. Co.	3.74			Phila., Balt. & Wash. R. R.	Apr. 1, 1906		
Potomac Valley R. R. Co.	14.30			Wn. Md. R. R.	Nov. 1, 1905		
Western Maryland Tidewater R. R. Co.	6.31			do	do		
Indianapolis Southern Ry. Co.	1.64	Indpls. Sn. R. R.	{June 28, 1905 / June 29, 1905}				
Indiana, Ill. & Iowa R. R. Co.	204.58	Chic., Ind. & Sn. R. R.	Apr. 9, 1905				
Indiana Harbor R. R. Co.	4.81	do	do				
New Castle & Beaver Valley R. R. Co.	14.98	Pittsb., Youngst. & Ashtab. Ry.	Jan. 1, 1906				
Pitts., Youngst. & Ashtab. R. R. Co.	125.09	do	do				
Toledo, Fayette & Western Ry. Co.	11.91	Tol. & Wn. Ry.	July 13, 1905				
Cape Fear & Northern Ry. Co.	37.97					Durham & Sn. Ry.	Jan. 1, 1906
Augusta Terminal Ry. Co.	1.60			Charleston & Wn. Car. Ry.	Mar. 20, 1906		
Roaring Creek & Belington R. R. Co.	17.70					Coal & Coke Ry.	June 30, 1905
Suffolk & Carolina Ry. Co.	74.52	Va. & Car. Coast R. R.	Jan. 27, 1906				
West Virginia Cent. & Pitts. Ry. Co.	134.21			Wn. Md. R. R.	Nov. 1, 1905		
Belington & Beaver Creek R. R. Co.	6.20			do	do		
Coal & Iron Ry. Co.	46.38			do	do		
Piedmont & Cumberland Ry. Co.	29.24			do	do		
Big Sandy Ry. Co.	69.30	Ches. & Ohio Ry. Co. of Ky.	June 1, 1906				
Chesapeake & Ohio Ry. Co. of Ky.	326.50	do	do				
Kinniconnick & Freestone R. R. Co.	19.80	do	do				
Chicago & Alton Ry. Co.	53.36	Chic. & Alt. R. R.	Mar. 14, 1906				
Chicago & Alton R. R. Co.	543.45	do	do				
Fulton County Narrow Gauge Ry. Co.	61.00			Chic., Burl. & Quin. R. R.	Jan. 1, 1906		
Illinois & Indiana R. R. Co.	88.51	Indpls. Sn. R. R.	{June 28, 1906 / June 29, 1906}				
Quincy, Carrollton & St. Louis Ry. Co.	49.00					Chicago & Alton R. R.	
Boston Coal & Fuel Co.'s R. R.	5.60					Calumet Fuel Co.'s R. R.	
Little Rock & Fort Smith Ry. Co.	166.35					St. L., Iron Mtn. & Sn. Ry. Co.	Apr. 13, 1906
Arkansas Southern R. R. Co.	106.01	Rock I., Ark. & La. R. R.	Oct. 31, 1905				
Arkansas Southern Extension R. R. Co.	10.00	do	do				
San Antonio & Gulf R. R. Co.	36.93	Galv., Harrisb. & San Ant. Ry.	Aug. 10, 1905				
Galv., Houston & Nn. Ry. Co.	53.90	do	Sept. 29, 1905				
Gulf, West. Tex. & Pacific Ry. Co.	111.42	do	Aug. 9, 1905				
New York, Texas & Mexican Ry. Co.	176.71	do	do				

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1906—Continued.]							
Alameda & San Joaquin R. R. Co.	36.10			Wn. Pac. Ry.			
Southern California Ry. Co.	478.07			Atch., Top. & S. Fe Ry. Coast Lines.	Jan. 31,1906		
Mill Creek R. R. Co.	12.44			Wash. & Col. Riv. Ry.	July 1,1905		
Tonopah R. R. Co.	60.00	Tonopah & Goldf. R. R.	Nov. 1,1905				
[From report for year 1907.]							
Danvers R. R. Co.	9.26					Boston & Me. R. R.	Oct. 30,1906
Newburyport R. R. Co.	26.98					do.	Do.
New York, New Haven & Hartford R. R. Co.	628.31	N. Y., New Hav. & Hart. R. R. Co.	May 31,1907				
Boston & New York Air Line R. R. Co.	52.26	do.	Jan. 30,1907				
Pawtuxet Valley R. R. Co.	5.67	do.	Feb. 5,1907				
Baltimore & Annapolis Short Line R. R. Co.	22.00	Md. Electric Rys. Co.	Aug. 7,1906				
Plumville R. R. Co.	18.70			Buff. & Susq. R. R. Co	Apr. 3,1907		
Long Branch & Seashore R. R. Co.	6.53			N. J. Sn. R. R. Co.	Feb. —,1907		
Orange County R. R. Co.	10.70	Lehigh & Hud. Riv. Ry. Co.	May 23,1907				
Lehigh & Lake Erie R. R. Co.	2.94			Lehigh Vy. Ry. Co.	June 27,1907		
Dutchess County R. R. Co.	12.40			Cent. New Eng. Ry. Co.	June 25,1907		
Newburgh, Dutchess & Connecticut R. R. Co.	58.84			do.	do.		
Olean Street Ry. Co.	27.95	Wn. N. Y. & Pa. Traction Co.	Nov. 17,1906				
Philadelphia & Erie R. R. Co.	307.01			Pennsylvania R. R. Co.	May 1,1907		
Cumberland Valley & Waynesboro R. R. Co.	18.20	Cumb. Vy. R. R. Co.	July 1,1906				
Poughkeepsie & Eastern Ry. Co.	34.99			Cent. New Eng. Ry. Co.	June 25,1907		
Columbus & Lake Michigan R. R. Co.	42.00					Ind., Cols. & En. Trac. Co.	July 1,1906
Toledo & Western Ry. Co.	74.91					Tol. & Wn. R. R. Co.	Jan. 10,1907
Jackson Springs R. R. Co.	4.00	Aberd. & Asheboro R. R. Co.	Mar. 8,1907				
Atlantic & North Carolina Co.		Norf. & Sn. Ry. Co.	Nov. 28,1906				
Blades Lumber Co.'s R. R.	42.00					John L. Roper Lumber Co.	July 1,1906
Deepwater Ry. Co.	58.55					Virginian Ry. Co.	Apr. 30,1907
Glade Creek & Raleigh R. R. Co.	11.00	Ral. & S. Wn. Ry. Co.	Oct. 25,1906				
Norfolk & Southern R. R. Co.	223.34	Norf. & Sn. Ry. Co.	Nov. 28,1906				
Raleigh & Pamlico Sound R. R. Co.	20.00	do.	do.			S. & Wn. R. R. Co. (of N. Car.) S. & Wn. R. R. Co. (of Va.)	
South & Western Ry. Co	63.12					Kingsport & Sn. Ry. S. & Wn. R. R. (of Tenn.).	
Tidewater Ry. Co.	56.59					Virginian Ry. Co.	Mar. 8,1907
Virginia & Carolina Coast R. R. Co.	74.52	Norf. & Sn. Ry. Co.	Nov. 28,1906				
Pamlico, Oriental & Western R. R. Co.	16.20					Va. & Car. Coast R. R. Co.	Sept. 19,1906
Henderson Bridge & R. R. Co.	10.03			Louisv. & Nashv. R. R. Co.	July 1,1906		
Yellow River R. R. Co.	26.41			do.	do.		
Stillmore Air Line Ry.	54.00	Wadley Sn. Ry. Co.	July 1,1906				
Wadley & Mount Vernon R. R. Co.	37.00	do.	do.				
Chesapeake & Nashville Ry.	35.87					Louisv. & Nashv. R. R. Co.	Jan. 18,1907
Middle & East Tennessee Central Ry. Co.	11.30					do.	Do.
Collins & Reidsville R. R. Co.	7.00					Ga. Coast & Piedmont R. R. Co.	Sept. 1,1906
Cooper Lumber Co.'s R. R.	14.00					Bentley Lumber Co.	Apr. 1,1907
Darien & Western R. R. Co.	42.00					Ga. Coast & Piedmont R. R. Co.	July 1,1906
Eastern Ry. of Alabama	19.80					Atlanta, Birm. & Atl. R. R. Co.	July 3,1906
Gainesville & Gulf Ry. Co.	48.00	Tampa & Jacksonv. Ry. Co.	Feb. 25,1907				
Carabelle, Tallahassee & Georgia R. R.	50.00			Ga., Fla. & Ala. Ry. Co.	July 1,1906		
Kensee Coal R. R.	1.40			Louisv. & Nashv. R. R. Co.	June 1,1907		
Ocilla & Valdosta R. R. Co.	25.60					Fitzgerald, Ocilla & Broxton R. R. Co.	June 8,1907
Peace River Phosphate Mining Co.'s R. R.	23.50					Charl. Harb. & Nn. Ry. Co.	
Reidsville & Southeastern R. R. Co.	16.00					Ga. Coast & Piedmont R. R. Co.	Sept. 1,1906
St. Augustine & South Beach Ry. & Bridge Co.	5.00					St. Johns Light & Power Co.	Oct. 1,1906
Tallahassee Southeastern R. R. Co.	21.00					Tallahassee, Perry & S. En. Ry.	
Tallahatta R. R. Co.	14.00					Cotton State Lumber Co. R. R.	May 13,1905
Arkansas River & Southern Ry. Co.	9.01					Fourche Riv. Vy. & Indn. Ter. Ry. Co.	Aug. 1,1906
Eastern Oklahoma Ry. Co.	306.71			Atch., Top. & S. Fe Ry. Co.	June 20,1907		
Denver, Kansas & Gulf Ry. Co.	2.09			Denver, Enid & Gulf R. R. Co.	Apr. 3,1907		
Arkansas & Oklahoma Ry. Co.	47.16					St. L. & San Fran. R. R. Co.	
Hudson River Lbr. Co.'s R. R.	10.00			La. & Pac. Ry. Co.			
Lake Charles & Leesville R. R.	38.00			do.	May 12,1906		
Fort Bragg & Southeastern R. R. Co.	23.85	N. Wn. Pac. R. R. Co.	Jan. 8,1907				
San Francisco & Northwestern Ry. Co.	53.62	do.	do.				
Bodie Ry. & Lumber Co.	37.00					Mono. L. Ry. & Lumb. Co.	Dec. 23,1908
Boise, Nampa & Owyhee Ry. Co.	29.55	Idaho Nn. Ry. Co.	July 1,1906				

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1907—Continued.]							
Coeur d'Alene & Spokane Ry. Co	30.70	Spokane & Inland Emp. R. R. Co.	Jan. 1,1907				
Columbia & Nehalem Valley Ry. Co	6.75					Peninsula Lumber Co.	June 6,1906
Ilwaco Ry. & Navigation Co	15.26					Ilwaco R. R. Co	June 15,1907
Medford & Crater Lake R. R. Co	11.00					Pac. & En. Ry. Co	
Eureka & Klamath River R. R. Co	39.29	N. Wn. Pac. R. R. Co.	Jan. 8,1907				
California Northwestern Ry. Co	40.06	do	do				
San Francisco & North Pacific Ry. Co	165.52	do	do				
North Shore R. R. Co	87.24	do	do				
Spokane & Inland Ry. Co	33.00	Spokane & Inland Emp. R. R. Co.	Jan. 1,1907				
[From report for year 1908.]							
Schoodic Stream R. R. Co	8.00			Bangor & Aroostook R. R. Co.			
Franklin & Megantic Ry. Co	16.70	Sandy River & Rangeley Lakes R. R.	Jan. 30,1908				
Kingfield & Dead River Ry. Co	18.30	do	do				
New England R. R. Co. (The)	364.36			New York, N. Hav. & Hartf. R. R. Co.	Apr. 1,1908		
Sandy River R. R. Co	18.00	Sandy River & Rangeley Lakes R. R.	Jan. 30,1908				
Coal Glen R. R. Co	.63					Buff., Roch. & Pittsburgh Ry. Co.	Sept. —,1907
New York & Canada R. R. Co	149.67			Delaware & Hudson Co.	May 23,1908		
Booher Branch R. R. Co	2.36			East Broad Top R. R. & Coal Co.			
Bald Eagle Valley R. R. Co	93.77			Pennsylvania R. R. Co.	Apr. 1,1908		
Southwest Connecting Ry. Co	1.73			do	Mar. 31,1908		
Junction R. R. Co. (of Philadelphia)	2.95			do	Apr. 1,1908		
Grand Rapids, Kalkaska & Southeastern R. R. Co.				Pere Marquette R. R. Co.			
Pere Marquette R. R. Co. of Indiana	20.68	Pere Marquette R. R. Co.	Dec. 11,1907				
Ohio River Junction R. R. Co	4.00	North Shore R. R. Co.	May 18,1908				
Chartiers Ry. Co	23.52			P., C., C. & St. L. Ry. Co.	Dec. 31,1907		
Meadow Lands & Zediker R. R. Co	1.72			Chartiers Ry. Co	Sept. 9,1907		
Western Washington R. R. Co	6.44			do	do		
Big Sandy, East Lynn & Guyan R. R. Co.	7.60			Norfolk & Western Ry. Co.	June 10,1908		
Clinch Valley Barytes Co.'s R. R	5.00			do	Sept. —,1907		
South & Western R. R. (of Tennessee)	23.12			Carolina, Clinchfield & Ohio Ry.	Mar. 31,1908		
South & Western R. R. Co. (of N. C.)	44.52			do	do		
Lick Creek & Lake Erie R. R. Co	8.00			do	June 1,1908		
Black Mountain Ry. Co	5.70			Virginia & Southwestern Ry. Co.	May 1,1908		
Alabama Northern Ry. Co	7.10			Atlanta, Birmingham & Atlantic R. R. Co.	July 1,1907		
Augusta & Florida Ry. Co	30.00	Georgia & Florida Ry.	July —,1907				
Atlantic & Gulf Short Line Ry. Co	18.00			Augusta & Florida Ry. Co.	July —,1907		
Dublin & Southwestern R. R. Co	28.42			Wrightsville & Tennille R. R. Co.	July 1,1907		
Chesapeake & Ohio Ry. Co. of Ky	430.80			Chesapeake & Ohio Ry. Co.	do		
Passenger & Belt Ry. Co	4.20			do	do		
Douglas, Augusta & Gulf Ry. Co	87.00	Georgia & Florida Ry.	July —,1907				
Kentucky Midland R. R. Co. (of Hopkins County).	.75					Kentucky Midland R. R. Co. (of Muhlenberg County).	June —,1908
Laurel Ry. Co. in Virginia	.67			Laurel Ry. Co	July 1,1907		
Memphis & State Line R. R. Co	10.75			Illinois Central R. R. Co.			
Millen & Southwestern R. R. Co	53.00	Georgia & Florida Ry.	July —,1907				
Nashville & Sparks R. R. Co	12.00	do	do				
Valdosta Southern Ry. Co	28.00	do	do				
Ames & College Ry. Co	1.98			Ft. Dodge, Des Moines & Sou. R. R. Co.			
Dead River R. R	2.98			Duluth, South Shore & Atlantic Ry. Co.	July —,1907		
Duluth, St. Cloud, Glencoe & Mankato Ry. Co.	40.10			Chicago, Milwaukee & St. Paul Ry. Co.	Dec. 1,1907		
Wisconsin Western R. R	51.97			do	Sept. 26,1907		
Dakota & Great Northern Ry. Co	282.35			Great Northern Ry. Co.	July 1,1907		
Eastern Ry. Co. of Minnesota	503.13			do	do		
Minnesota & Great Northern Ry. Co	41.09			do	do		
Park Rapids & Leech Lake Ry. Co	49.04			do	do		
St. Paul, Minneapolis & Manitoba Ry. Co.	3,875.23					Great Northern Ry. Co.	Nov. 1,1907
Duluth, Watertown & Pacific Ry. Co	69.84			Great Northern Ry. Co.	July 1,1907		
Minneapolis Union Ry. Co	2.63			do	do		
Willmar & Sioux Falls Ry. Co	304.25			do	do		
Sioux City & Western Ry. Co	129.16			Chic., Burl. & Quin. R. R. Co.			
Indiana Harbor R. R. Co	10.77					Indiana Harbor Belt R. R. Co.	
Montana & Great Northern Ry. Co	142.99			Great Northern Ry. Co.	July 1,1907		
Montana Central Ry. Co	249.26			do	do		
Montana Ry. Co	14.87			Northern Pacific Ry. Co.			
Denver, Enid & Gulf R. R. Co	163.61			Atchison, Top. & S. Fe Ry. Co.			
St. Louis, Kansas City & Colorado R. R. Co.	283.97			Chi., R. I. & Pac. Ry. Co. (The).	July 1,1907		
Fort Collins Development Ry. Co	17.16			Colorado R. R. Co			

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1908—Continued.]							
Arkansas Valley & Western Ry. Co	175.25			St. Louis & San Francisco R. R. Co.			
Fayetteville & Little Rock Ry. Co	15.71			do			
Fort Smith & Van Buren Bridge Co	.34			do			
Little Rock & Texas Ry. Co	18.34			do			
Ozark & Cherokee Central Ry. Co	143.90			do			
Pittsburg & Columbus Ry. Co	10.48			do			
St. Louis, Memphis & Southeastern R. R. Co.	665.20			do			
St. Louis, San Francisco & New Orleans R. R. Co.	232.52			do			
Springfield Connecting Ry. Co	3.18			do			
Topeka & Northwestern R. R. Co	37.50			Union Pacific R. R. Co.	May 30, 1908		
Leavenworth, Kansas & Western Ry. Co.	165.33			do	June 1, 1908		
Pecos Valley & Northeastern Ry. Co	221.47			Eastern Ry. Co. of New Mexico.	July 1, 1907		
Big Creek Lumber Co.'s R. R	19.20			Natchez, Ball & Shreveport Ry. Co.			
Rochelle & Western Ry. Co	10.00			Tremont & Gulf R. R. Co.			
Tremont & Gulf R. R	20.00					Tremont & Gulf Ry. Co.	
Grass Creek Terminal Ry. Co	5.00					Union Fuel Co	
Seattle & Montana R. R. Co	191.89			Great Northern Ry. Co	July 1, 1907		
Spokane Falls & Northern Ry. Co	130.51			do	do		
Columbia & Red Mountain Ry. Co	7.51			do	do		
Washington & Great Northern Ry. Co	111.72			do	do		
Washington & Columbia River Ry. Co	168.86			Northern Pacific Ry. Co.	do		
Portland & Seattle Ry. Co	67.63					Spokane, Portland & Seattle Ry. Co.	
Bay Shore Ry	9.84			Southern Pacific Co			
[From report for year 1909.]							
Phillips & Rangeley R. R. Co	28.60			Sandy River & Rangeley Lakes R. R.	July 1, 1908		
Madrid R. R. Co	6.40			do	do		
Cherry Vy., Sharon & Albany R. R. Co	21.04			Delaware & Hudson Co.	July 17, 1908		
Hudson Portland Cement Co.'s R. R	2.75					Atlas Cement Co	
Fall Brook Ry. Co	91.51	Geneva, Corning & Southern R. R. Co.	Apr. 1, 1909				
Pine Creek Ry. Co	75.91	do	do				
Syracuse, Geneva & Corning Ry. Co	64.29	do	do				
Raymondville & Waddington R. R. Co.	3.00	Norwood & St. Lawrence R. R. Co.	Jan. 6, 1909				
Chicago & Kalamazoo Terminal R. R. Co.	1.50					Grand Trunk Western Ry. Co.	Feb. —, 1909
Central Trunk R. R. Co	5.27	Jamestown, Franklin & Clearfield R. R. Co.	Feb. 26, 1909				
Franklin & Clearfield R. R. Co	31.50	do	do				
Jamestown & Franklin R. R. Co	50.93	do	do				
Carolina Vy. Ry. Co	21.00					Piedmont Ry. Co	Feb. 18, 1909
Catawba Vy. Ry. & Mining Co	3.50			Norfolk & Western Ry. Co.	June 30, 1909		
Douglas Land Co.'s R. R	10.00					T. W. Thayer Co	
West Virginia Southwestern Ry. Co				Norfolk & Western Ry. Co.	Oct. 8, 1908		
Winston & Bone Vy. R. R. Co	27.79			Atlantic Coast Line R. R. Co.	Feb. 17, 1909		
Natchez & Easton Ry. Co	66.00			Mississippi Central R. R. Co.	June 15, 1909		
Blue Ridge & Atlantic Ry. Co	13.50			Tallulah Falls Ry. Co.	Feb. 27, 1909		
Manitowoc, Green Bay & Northwestern Ry. Co.	113.68			Chicago & Northwestern Ry. Co.	Jan. 30, 1909		
Milwaukee & State Line Ry. Co	50.24			do	do		
Des Moines, Iowa Falls & Northern Ry. Co.	70.44					St. Paul & Des Moines R. R. Co.	Aug. 1, 1908
Duluth, Superior & Western Terminal Co.	5.28			Great Northern Ry. Co.	Aug. 1, 1908		
Illinois, Iowa & Minnesota Ry. Co	95.65					Chicago, Milwaukee & Gary Ry. Co.	Oct. 22, 1908
Rockford Belt Ry. Co	3.16					do	Do.
Wabash Southern Ry. Co	9.01			St. Louis, Iron Mountain & Southern Ry. Co.	July 1, 1908		
Newton & Northwestern R. R. Co	102.50			Fort Dodge, Des Moines & Southern R. R. Co.	Mar. 31, 1909		
Chicago, Milwaukee & St. Paul Ry. Co. of Montana.	337.12	Chicago, Milwaukee & Puget Sound Ry. Co.	Jan. 2, 1909				
Chicago, Milwaukee & St. Paul Ry. Co. of South Dakota.	194.36	do	do				
South Omaha & Western R. R. Co. (The).	11.61			Union Pacific R. R. Co.	June 15, 1909		
Arkansas Vy. R. R. Co. (extension)	106.56			Atchison, Topeka & Santa Fe Ry. Co.			
Rio Grande R. R. Co. (of Colorado)	34.92			Denver & Rio Grande R. R. Co.			
Rio Grande & Santa Fe R. R. Co	33.97			do			
Rio Grande Gunnison Ry. Co	9.59			do			
Rio Grande, Pagosa & Northern R. R. Co.	30.85			do			
Rio Grande, Pueblo & Southern R. R. Co.	3.36			do			
Rio Grande, Sangre de Cristo R. R. Co	16.96			do			
Bennett & Eastern R. R	7.55					Wyatt & Lillie Lumber Co.	
De Soto Land & Lumber Co.'s R. R	20.00					Frost-Johnson Lumber Co. & Mansfield Ry. & Transportation Co.	

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1909—Continued.]							
Minden East & West Ry. Co	7.00					Louisiana & Arkansas Ry. Co.	
Rapides Lumber Co.'s R. R	15.00					Woodworth & Louisiana Central Ry. Co.	
Santa Fe Central Ry. Co. (The)	115.70	New Mexico Central R. R. Co.	Sept. 21, 1908				
Albuquerque Eastern Ry. Co	2.00	do	do				
Chicago, Milwaukee & St. Paul Ry. Co. of Idaho.	8.00	Chicago, Milwaukee & Puget Sound Ry. Co.	Jan. 2, 1909				
Chicago, Milwaukee & St. Paul Ry. Co. of Washington.	101.70	do	do				
Columbia River & Northern Ry. Co	42.30			Spokane, Portland & Seattle Ry. Co.			
Castle Vy. Ry. Co	20.00			Denver & Rio Grande R. R. Co.			
Copper Belt R. R. Co	4.27			do			
Sevier Ry. Co	70.88			do			
Tintic Range Ry. Co	48.44			do			
Utah Central R. R. Co	35.63			do			
San Pete Vy. Ry. Co	49.67			do			
Idaho & Northwestern Ry. Co	22.04					Coeur d'Alene Southern Ry. Co.	
National City & Otay Ry. Co	26.90	San Diego Southern Ry. Co.	July 1, 1908				
Coronado R. R. Co. (of California)	22.34	do	do				
Caliente & Pioche R. R. Co	32.90			San Pedro, Los Angeles & Salt Lake R. R. Co.	Mar. 8, 1909		
Columbia & Palouse R. R. Co	144.80			Oregon R. R. & Nav. Co.			
Walla Walla & Columbia River R. R. Co.	35.52			do			
Veness Logging R. R	6.00					O'Connell Lumber Co.	
[From report for year 1910.]							
Northern Maine Seaport R. R. Co	57.01			Bangor & Aroostook R. R. Co.			
Newport & Wickford R. R. & Steamboat Co.	3.50					N. Y., New Hav. & Hart. R. R. Co.	Nov. 1, 1909
Hanover & Newport R. R. Co. (The)	6.81			Dela., Lack. & Wn. R. R. Co.	July 1, 1909		
Bangor & Portland Ry. Co. (The)	38.38			do	do		
Allegheny Valley Ry. Co	263.70			Pennsylvania R. R. Co.	Apr. 7, 1910		
Philipsburg R. R. Co	15.40					Philipsburg & Susq. Vy. R. R. Co.	Aug. 21, 1909
Athens, Amesville & Chauncey Ry. Co	4.33					Hocking Valley Ry. Co.	
Fort Wayne, Cincinnati & Louisv. R. R. Co.	128.72			Lake Erie & Western R. R. Co.			
Fort Wayne & Detroit R. R. Co	25.70			Wabash R. R. Co			
Toledo & Chicago R. R. Co	49.60			do			
Coal River Ry. Co	63.50			Chesapeake & Ohio Ry. Co.	Dec. 21, 1909		
Interior & West Virginia R. R. Co	7.70			Big Stony Ry. Co	June 21, 1910		
Lynchburg Belt Line & Connecting Ry. Co.	24.36			Norfolk & Wn. Ry. Co	Apr. 7, 1910		
Blackstone & Lunenburg R. R. Co	5.52			do	Apr. 25, 1910		
Pocahontas & Western R. R. Co	3.29			do	Apr. 28, 1910		
Catawba Valley Ry	21.43			Seaboard Air Line Ry.	Nov. 1, 1909		
Frankfort & Cincinnati Ry. Co	40.00			Louisv. & Nashv. R. R. Co.	do		
Johnson City, Bakersville & Southern R. R. Co.	8.50					Unicoi Ry	Aug. 28, 1909
Louisville & Atlantic R. R. Co	101.10			Louisv. & Nashv. R. R. Co.	July 1, 1909		
Kentucky River Coal & Coke Co.'s R. R	3.00			do	do		
Mobile, Jackson & Kansas City R. R. Co	198.96	New Orleans, Mobile & Chic. R. R. Co.					
Gulf & Chicago Ry. Co	203.73	do					
Atlanta & Birmingham Air Line Ry	216.17			Seaboard Air Line Ry.	Nov. 1, 1909		
Florida West Shore Ry	66.02			do	do		
Plant City, Arcadia & Gulf Ry	18.88			do	do		
Tallahassee, Perry & S. En. Ry	38.83			do	do		
Abbotsford & N. En. R. R. Co	15.16			Wisconsin Cent. Ry. Co.	Feb. 1, 1910		
Herrin & Johnston City Ry. Co	3.86			St. Louis, Iron Mountain & Southern Ry. Co.	Sept. 1, 1909		
Columbia & St. Louis R. R. Co	21.59			Wabash R. R. Co			
Moulton, Albia & Des Moines R. R. Co	94.12			do			
Montana R. R. Co	152.54			Chic., Milw. & Puget Sound Ry. Co.	Jan. 1, 1910		
Nebraska Southern Ry. Co	16.12			Missouri Pac. Ry. Co.	Jan. 18, 1910		
Omaha Belt Ry. Co	16.17			do	Jan. 19, 1910		
Omaha Southern Ry. Co	25.44			do	Jan. 18, 1910		
Pacific Ry. Co. in Nebraska	73.00			do	do		
Missouri Pacific Ry. Co. (The)	1,134.46	The Missouri Pacific Ry. Co.	Aug. 9, 1909				
Fort Scott Central Ry. Co	57.05	do	do				
Kanopolis & Kansas Cent. Ry. Co	14.16	do	do				
Kansas & Colo. Pac. Ry. Co. (The)	1,449.51	do	do				
Kansas City & S. Wn. Ry. Co. of Mo	20.70	do	do				
Kansas City & S. Wn. Ry. Co. (of Kans.)	27.00	do	do				
Kansas Southwestern Ry. Co. (The)	24.91	do	do				
Leroy & Caney Valley Air Line R. R. Co. (The).	51.78	do	do				
Nevada & Minden Ry. Co	73.71	do	do				
Rooks County R. R. Co. (The)	18.25	do	do				
Central Bch. Ry. Co. (The)	388.19	do	do				
Carthage & Wn. Ry. Co	17.96			Missouri Pac. Ry. Co.	Jan. 19, 1910		
Joplin & Western Ry. Co	4.59			do	Jan. 18, 1910		
Pueblo & State Line R. R. Co. (The)	152.12			do	do		
Kan. City N. Wn. R. R. Co	161.65			do	do		

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1910—Continued.]							
St. Louis, Oak Hill & Carondelet Ry. Co.	6.30			Missouri Pac. Ry. Co..	Jan. 18, 1910		
Sedalia, Warsaw & S. Wn. Ry. Co.	43.23			do.	Jan. 19, 1910		
Herrin Ry.	7.72			St. Louis, Iron Mt. & Sn. Ry. Co.	Sept. 1, 1909		
Kansas & Arkansas Valley Ry.	170.64			do.	do.		
Arkansas & Louisiana Ry. Co.	25.54			do.	do.		
Arkansas Midland R. R. Co.	47.45			do.	do.		
Arkansas Southwestern Ry. Co.	33.01			do.	do.		
Brinkley, Helena & Indian Bay R. R. Co.	22.97			do.	do.		
El Dorado & Bastrop Ry. Co.	43.94			do.	do.		
Gurdon & Ft. Smith R. R.	33.87			do.	do.		
Mississippi R., Hamburg & Wn. Ry. Co..	50.93			do.	do.		
Gurdon & Ft. Smith Nn. Ry. Co.	5.74			do.	do.		
Pine Bluff & Wn. R. R. Co.	44.34			do.	do.		
Wichita Falls Ry. Co.	17.96			Wichita Falls & N. Wn. Ry. Co.			
Farmerville & Sn. R. R. Co.	22.59			St. Louis, Iron Mt. & Sn. Ry. Co.	Sept. 1, 1909		
Little Rock & Monroe Ry. Co.	43.44			do.	do.		
Natches & Western Ry. Co.	15.88			do.	do.		
New Orleans & N. Wn. R. R. Co.	115.48			do.	do.		
St. Louis, Watkins & Gulf Ry. Co.	98.37			do.	do.		
Wichita Falls & North Wn. Ry. Co. of Texas.	17.10			Wichita Falls & Northwn. Ry. Co.			
Mexico & Colorado R. R. Co.	34.66			El Paso & Southwn. R. R. Co.	Mar. 1, 1910		
Arizona & Colorado R. R. Co.	35.35	Arizona Eastern R. R. Co.	Dec. 27, 1909				
Gila Valley, Glob. & Northern Ry. Co.	125.41	do.	do.				
Maricopa & Phoenix R. R. Co. (The)	45.64	do.	do.				
Arizona Eastern R. R. Co.	.77	do.	do.				
Toombstone & Southern R. R. Co.	1.95					Toombstone Consolidated Mines Co. (Ltd.).	Mar. 17, 1910
[From report for year 1911.]							
Washington Branch.	29.40			Baltimore & Ohio R. R. Co.			
Brandon & West Rutland R. R. Co.	4.85			Clarendon & Pittsford R. R. Co.	June 30, 1911		
Rockaway River & Montville R. R. Co..	1.79					Del., Lack. & West. R. R. Co.	
Hunters Run & Slate Belt R. R. Co.	1.00			Gettysburg & Harrisburg Ry. Co.	Nov. 1, 1910		
Lorain & Ashland R. R. Co.	20.00	Lorain, Ashland & Southern R. R. Co.	Nov. 4, 1910				
Ellwood Connecting R. R. Co.	.63			Beaver & Ellwood R. R. Co.	Jan. 9, 1911		
Berkshire R. R. Co.	46.23			N. Y., N. Hav. & Hartf. R. R. Co.	Oct. 26, 1910		
Milford & Woonsocket R. R. Co.	15.13			do.	Dec. 19, 1910		
Milford, Franklin & Providence R. R. Co.	4.65			do.	do.		
New Haven & Northampton Co.	127.00			do.	Oct. 26, 1910		
Rhode Island & Massachusetts R. R. Co.	6.52			do.	do.		
Worcester, Nashau & Rochester R. R. Co.	94.48			Boston & Maine R. R.	June 12, 1911		
Bedford & Bridgeport Ry. Co.	49.05	Hollidaysburg, Bedford & Cumberland R. R. Co.	May 1, 1911				
Bedford & Hollidaysburg R. R. Co.	22.58	do.	do.				
Ridgway & Clearfield R. R. Co.	27.08			Pennsylvania R. R. Co.	Apr. 1, 1911		
Constables Hook R. R. Co.	1.95			Central R. R. of New Jersey.	July 1, 1910		
High Bridge R. R. Co.	16.04			do.	do.		
Lake Hopatcong R. R. Co.	5.56			do.	do.		
Longwood Valley R. R. Co.	13.64			do.	do.		
Manufacturers R. R. Co.	1.68			do.	do.		
Newark & New York R. R. Co.	6.22			do.	do.		
South Branch R. R. Co.	15.78			do.	do.		
Silver Lake Ry. Co.	6.86			Buff., Roch. & Pittsburgh Ry. Co.	Oct. 1, 1910		
Southern Indiana Ry. Co.	228.19					Chicago, Terre Haute & Southeastern Ry. Co.	Jan. 1, 1911
Bedford Belt Ry. Co.	4.19					do.	Do.
Chicago Southern Ry. Co.	114.33					do.	Do.
Alma Ry. Co.	12.00					Maxton, Alma & Southbound R. R. Co.	May 11, 1911
Pearl River Lumber Co's. R. R.	8.21					Mississippi Valley Co..	
Caldwell & Northern R. R. Co.	23.50			Carolina & Northwestern Ry. Co.	July 1, 1910		
Chattanooga Southern R. R. Co.	94.00	Tennessee, Ala. & Ga. R. R. Co.	Jan. 10, 1911				
Flowers Brothers Lumber Co's. R. R.	15.00					Blakely Southern R. R. Co.	Apr. 1, 1911
Big Stony Ry. Co.	38.33			Norfolk & Western Ry. Co.	Dec. 31, 1910		
Sparks Western R. R.	15.00			Georgia & Florida Ry.	Mar. 1, 1911		
Dunnellon Phosphate Co's. R. R.	11.95			Standard & Hernando R. R. Co.			
Straight Creek Coal & Coke Co's. R. R.	3.90					Continental Coal Corp. R. R.	June 1, 1911
Arkansas, Oklahoma & Western R. R. Co.	30.00	Monte No Ry. Co.					
Bakersfield & Ventura R. R. Co.	25.00					Ventura County Ry. Co.	June 19, 1911
Oregon, Washington & Idaho R. R. Co.	72.03			Oregon - Washington R. R. & Nav. Co.	Dec. 23, 1910		
Lee County Ry. Co.	11.81			Chicago & North Western Ry. Co.	Oct. 20, 1910		
Walsenburg & Western Ry. Co.	1.35			Colorado R. R. Co.			

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1911—Continued.]							
Iowa & Great Northern Ry. Co				Great Northern Ry. Co.	July 1,1910		
Antoine Valley R. R	6.00			Memphis, Dallas & Gulf R. R. Co.	Oct. 5,1910		
Ultima Thule, Arkadelphia & Mississippi Ry.	17.00			do	do		
Monte Ne Ry. Co	4.59					Kansas City & Memphis Ry. Co.	May 1,1911
New Orleans Southern Ry. Co						New Orleans Southern & Grand Isle Ry. Co.	Apr. 11,1911
New Orleans, Fort Jackson & Grand Isle R. R. Co.	59.71					do	Do.
Connell Northern Ry. Co	60.95			Northern Pacific Ry. Co.			
Chicago, Rock Island & El Paso Ry. Co	152.96			C., R. I. & P. Ry. Co	Jan. 1,1911		
San Francisco & Napa Ry. Co	10.72			Southern Pacific R. R. Co.	May 31,1911		
Astoria & Columbia River R. R. Co	83.10			Spokane, Portland & Seattle Ry. Co.	Mar. 1,1911		
Springfield Belt Ry. Co	3.00					St. Louis, Springfield & Peoria R. R.	
Idaho Northern R. R. Co	32.83					Oregon-Washington R. R. & Navigation Co.	Dec. 23,1910
Ilwaco R. R. Co	28.65					do	Do.
Oregon & Washington R. R. Co	20.64			Oregon-Washington R. R. & Navigation Co.	Dec. 23,1910		
Boise City Ry. & Terminal Co	8.38			Oregon Short Line R. R. Co.	Oct. 31,1910		
Malad Valley R. R. Co	46.40			do	do		
Malheur Valley Ry. Co	14.24			Oregon - Washington R. R. & Navigation Co.	Dec. 23,1910		
Minidoka & Southwestern R. R. Co	74.28			Oregon Short Line R. R. Co.	Oct. 31,1910		
Northwestern R. R. Co	57.83			Oregon - Washington R. R. & Navigation Co.	Dec. 23,1910		
St. Anthony R. R. Co	53.32			Oregon Short Line R. R. Co.	Oct. 31,1910		
Salmon River R. R. Co	85.99			do	do		
Wyoming Western R. R. Co	22.64			do	do		
Yellowstone Park R. R. Co. (of Idaho)	70.36			do	do		
Columbia River & Oregon Central R. R. Co.	45.31			Oregon - Washington R. R. & Navigation Co.	Dec. 23,1910		
Columbia Southern Ry. Co	69.46			do	do		
Lake Creek & Coeur d'Alene R. R. Co	14.18			do	do		
Snake River Valley R. R. Co	65.85					Oregon - Washington R. R. Co. & Navigation Co.	Do.
Spokane Union Depot Co	2.55			Oregon - Washington R. R. & Navigation Co.	Dec. 23, 1910		
Umatilla Central R. R. Co	14.21			do	do		
[From report for year 1912.]							
Big Level & Kinzua R. R. Co	1.00			Pittsburgh & Western R. R. Co.	Aug. 1,1911		
Pittsford & Rutland R. R. Co	1.78			Clarendon & Pittsford R. R. Co.			
Delaware & Eastern Ry. Co		Delaware & Northern R. R. Co.	Oct. 31,1911				
Delaware & Eastern R. R. Co	45.89	do	do				
Buchanan & St. Joseph River R. R. Co	1.77			Michigan Central R. R. Co.	June 19,1912		
Plymouth & Middleborough R. R. Co	15.03			Old Colony R. R. Co	Dec. 27,1911		
Sebasticook & Moosehead R. R. Co	15.75			Maine Central R. R. Co	July 1,1911		
Somerset Ry. Co	94.41			do	do		
Washington County Ry. Co	132.68			do	do		
Pine Run R. R. Co	2.39			Cambria & Clearfield Ry. Co.	Feb. 9,1912		
Bradford Ry. Co	.05	Bradford R. R. Co	July 1,1911				
Kinzua Ry. Co	12.96			Western New York & Pennsylvania Ry. Co.	Nov. 2,1911		
Kinzua Valley R. R. Co	9.82			do	do		
McKean & Buffalo R. R. Co	22.25			do	July 1,1911		
Olean, Bradford & Warren Ry. Co	2.29	Bradford R. R. Co	July 1,1911				
Cleveland & Marietta Ry. Co	103.31	Toledo, Columbus & Ohio River R. R. Co.	do				
Tol., Walhonding Vy. & Ohio R. R. Co	234.26	do	do				
Cincinnati & Muskingum Vy. R. R. Co	148.46	Cleveland, Akron & Cincinnati Ry. Co.	do				
Clev., Akron & Columbus Ry. Co	186.16	do	do				
South Easton & Phillipsburg R. R. Co	.70			Lehigh & Hudson River Ry. Co.	Apr. 2,1912		
Rockdale R. R. Co	3.25					Rockdale Power Co	Sept. 15,1911
Evansville & Terre Haute R. R. Co	317.16			Chicago & Eastern Illinois R. R. Co.	July 20,1911		
Evansville Belt Ry. Co	3.77			do	do		
Eustis R. R. Co	10.67			Sandy River & Rangeley Lakes R. R.	Aug. 24, 1911		
Tionesta Vy. & Hickory R. R. Co	5.00			Sheffield & Tionesta Ry. Co.	Aug. 10,1911		
Sugar Creek & Northern R. R. Co	22.00			Wheeling & Lake Erie R. R. Co.			
Aberdeen & Asheboro R. R. Co	99.50	Raleigh, Charlotte & Southern Ry. Co.	Feb. 1,1912				
Carthage & Pinehurst R. R. Co	12.00	do	do				
Athens & Tellico Ry. Co	24.00			Louisville & Nashville R. R. Co.	July 1,1911		

Statement compiled from Annual Reports on the Statistics of Railways in the United States for the years ending June 30, 1891 to 1912, etc.—Continued.

Name of company.	Miles of road owned.	Consolidated into—	Date.	Merged into—	Date.	Purchased by—	Date.
[From report for year 1912—Continued.]							
Elkhorn Southern Ry	10.51			Carolina, Clinchfield & Ohio Ry.	Oct. 1,1911		
Durham & Charlotte R. R. Co	44.28	Raleigh, Charlotte & Southern Ry. Co.	Feb. 1,1912				
Hampshire Southern R. R. Co	38.00					Moorefield & Virginia R. R. Co.	Dec. 1,1911
Indianapolis Southern R. R. Co	176.93			Illinois Central R. R. Co.	July 1,1911		
Raleigh & Southport Ry. Co	60.50	Raleigh, Charlotte & Southern Ry. Co.	Feb. 1,1912				
Silver Springs & Western R. R. Co	6.00					Ocala Northern R. R. Co.	May 25,1911
Sanford & Troy R. R. Co	6.00	Raleigh, Charlotte & Southern Ry. Co.	Feb. 1,1912				
Tallassee & Montgomery Ry. Co	6.28			Birmingham & Southeastern Ry. Co.	Apr. 15,1912		
Aripeka Saw Mills R. R	12.30			Tampa Northern R.R. Co.			
Virginia Anthracite Coal & Ry. Co	8.84			Norfolk & Western Ry. Co.	Dec. 31,1911		
Arizona & New Mexico Ry. Co	69.84	Arizona & NewMexico Ry. Co.	June 30,1911				
Lordsburg & Hachita R. R. Co	38.52	do	do				
Barnwell & Searchlight Ry. Co	23.22	California, Arizona & Santa Fe Ry. Co.	Dec. 28,1911				
California Eastern Ry. Co	45.21	do	do				
Fresno County Ry	6.24	do	do				
Fullerton & Richfield Ry. Co	5.10	do	do				
Kings River Ry. Co	10.70	do	do				
Oakdale Western Ry. Co	6.30	do	do				
Oakland & East Side R. R. Co	11.32	do	do				
Randsburg Ry. Co	28.64	do	do				
Eastern Ry. Co. of New Mexico	486.75					Atchison, Topeka & Santa Fe Ry. Co.	Feb. 1,1912
Santa Fe, Prescott & Phoenix Ry. Co	195.35	California, Arizona & Santa Fe Ry. Co.	Dec. 29,1911				
Arizona & California Ry. Co	190.31	do	Dec. 28,1911				
Bradshaw Mountain R. R. Co	35.65	do	Jan. 2,1912				
Prescott & Eastern R. R. Co	26.40	do	Dec. 30,1911				
Chico & Northern R. R. Co	30.57			Central Pacific Ry. Co.	Feb. 29,1912		
Caddo & Choctaw R. R. Co	13.75			Memphis, Dallas & Gulf R. R. Co.	Sept. 1,1911		
Princeton & Western Ry. Co	16.06			Chicago & North Western Ry. Co.	Apr. 1,1912		
De Kalb & Great Western Ry. Co	5.81			Chicago Great Western R. R. Co.	Dec. 21,1911		
Colfax Northern R. R. Co	6.00					Security Investment Co.	May 18,1912
Corvallis & Alsea River Ry. Co	30.00					Portland, Eugene & Eastern Ry. Co.	July 20,1911
Crossett Ry. Co	10.00					Crossett, Monticello & Northern Ry. Co.	
Imperial Vy. Ry. Co	5.04			Sugar Land Ry. Co			
Iowa Central Ry. Co	502.98			Minneapolis & St. Louis R. R. Co.	Jan. 1,1912		
Louisiana Ry. Co	29.00					Grant Timber & Manufacturing Co.	
Marquette & Southeastern Ry. Co	55.92	Munising, Marquette & Southeastern Ry. Co.	July 1,1911				
Meto & Arkansas Vy. Ry. Co	6.88					Pine Bluff & Northern Ry. Co.	Mar. 26,1912
Minnesota, Dakota & Pacific Ry. Co	229.60			Minneapolis & St. Louis R. R. Co.	Jan. 1,1912		
Munising Ry. Co	76.55	Munising, Marquette & Southeastern Ry. Co.	July 1,1911				
Jacksonville Midland Ry. Co	.07			Chicago, Burlington & Quincy R. R. Co.	Oct. 25,1911		
Oregon & Eureka R. R. Co	10.80			Northwestern Pacific R. R. Co.	July 1,1911		
Ouachita Vy. Ry. Co	28.00						
Little Rock & Hot Springs Western R. R. Co.	22.96			Rock Island, Arkansas & Louisiana R. R. Co.	Oct. 14,1911		
St. Paul & Des Moines R. R. Co	114.24					St. Paul & Kansas City Short Line R. R. Co.	Aug. 9,1911
San Diego & Cuyamaca Ry. Co	25.37	San Diego & Southeastern Ry. Co.	Mar. 2,1912				
San Diego Southern Ry. Co	48.16	do	do				
San Juan Pacific Ry. Co	7.20					California Central Ry. Co.	
California Northeastern Ry. Co	86.10			Oregon Eastern Ry.Co.	Dec. 18,1911		
Central California Ry. Co	16.24			Central Pacific Ry. Co.	Feb. 29,1912		
Nevada & California Ry. Co	473.68			do	do		
Oregon Eastern Ry. Co	52.47			do	do		
Sacramento Southern R. R. Co	8.63			do	do		
Sunset R. R. Co	32.75	Sunset Ry. Co	Mar. 20,1912				
Sunset Western Ry. Co	17.11	do	do				

Total number of companies, 1,485; total miles of road owned, 104,611.

Mr. POMERENE. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. WEEKS. Certainly.

Mr. POMERENE. I assume the Senator does not mean to have it inferred that this large number of combinations were in violation of the Sherman law.

Mr. WEEKS. I am going on to discuss that now.

I do not know what the courts would say in very many of these cases. They were undoubtedly, in some instances, continuations of lines; yet in hundreds of cases they are as competitive with some other part of the system into which they have been taken as is the Boston & Maine Railroad with the New York, New Haven & Hartford, one being practically a con-

tinuation of the other, and yet it is reported that the Government is about to proceed against the New Haven Railroad, to compel a dissolution of these two systems——

Mr. NEWLANDS. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Nevada?

Mr. WEEKS. I do.

Mr. NEWLANDS. I wish to ask the Senator whether he does not think from the facts which he has adduced regarding the combination of railway lines involving, as I understood him to say, about 1,400 consolidations, demonstrate the absolute necessity of intrusting the enforcement of the antitrust law, so far as it relates to railroads, to the Interstate Commerce Commission instead of to the Attorney General's Office?

Mr. WEEKS. Mr. President——

Mr. NEWLANDS. Let me say in this connection that these combinations have been made during the past 20 years without any attempt on the part of the Attorney General's Office to interfere, and they have been effected in such a way that these systems, embracing in many cases two or three hundred lines, have become so interwoven through stock issues and bond issues and security issues of various kinds that it is almost impossible to disentangle them; and also the fact is clear that to attempt to disentangle them would be injurious to the public interest. Whilst technically possibly in some of these systems for a comparatively short length parallel lines may have been combined, I do not think that anyone will contend but that outside of the question of overcapitalization these gigantic combinations, which have practically reduced the systems of the country to about 15 in all, have been vastly beneficial to the transportation of the country.

I ask the Senator whether he does not think that the tribunal that has knowledge of transportation and knowledge of the administration of railroads should have the function of enforcing that law as against railroad companies instead of intrusting it simply to a law officer?

Mr. LIPPITT. Mr. President, I do not understand exactly what the Senator means by some of the statements that he makes. Does he mean that many of these combinations have been contrary to law, but nevertheless they are so advantageous that it would have been wise to have allowed them to occur? Does he mean that the result as it stands to-day, although brought about, perhaps, in some cases or in many cases contrary to the strict letter of the law, is a benefit to the community?

Mr. NEWLANDS. I think in very many instances it would have been a calamity to have prevented the junction of such lines as were involved in the Northern Securities case and two or three transcontinental lines. I do think that the general consolidations which have been effected, even though in some instances they have involved the consolidation of lines that have been parallel for a hundred or two hundred miles, have been vastly beneficial to the business of the country, and it would have been a misfortune to attempt to disentangle them.

For that reason, if that work is to be done, and the Attorney General's Office has started upon it with reference to the New York, New Haven & Hartford, I believe the decision should be intrusted to the Interstate Commerce Commission under a law that will permit them to determine whether these combinations, even though technical violations of the Sherman law, were not beneficial to the public interest.

Mr. LIPPITT. Then, as I understand the Senator's idea and theory of the procedure of the Interstate Commerce Commission, it is that although many of these combinations were in violation of the law, nevertheless it was a benefit to the country that they were allowed to occur.

Mr. NEWLANDS. I would not expect, of course, to allow them in violation of the law. It would be within the power of the recommendation which they possess to have presented to Congress legislation which would permit desirable combinations, even though, technically, they might involve a combination for short distances lines that in some degree were competitive.

Mr. LIPPITT. Then if all these railroads had been under the control of the Interstate Commerce Commission for the last 20 years, one of two things would have had to happen, either the consolidations that the Senator thinks are of such great value to the country would not have been made or the Interstate Commerce Commission would have had to wink at violations of the law.

Mr. NEWLANDS. Or else recommend legislation to Congress.

Mr. LIPPITT. Or else Congress would have had to pass laws in modification of the Sherman law?

Mr. NEWLANDS. Modifying it so far as the railroad companies are concerned, which, of course, are natural monopolies, and which are now recognized as such.

Mr. LIPPITT. So the Senator really thinks the Sherman law would have been a bad thing, as far as the railroad transportation of this country is concerned, if it had really been enforced?

Mr. NEWLANDS. If enforced with rigidity.

Mr. LIPPITT. What other way is there to enforce a law except to enforce it?

Mr. NEWLANDS. I do not know how the Interstate Commerce Commission would have enforced it. Doubtless it would have proceeded in accordance with the law.

Mr. LIPPITT. I will ask the Senator with reference to a statement which he made in his address in introducing the trade commission bill, in which he said that if at the time the Interstate Commerce Commission had been established there had also been established the trade commission the general business of this country would be in the same condition as the railroad business is to-day.

I was trying to find out exactly what he thought that situation would have been. Apparently from his description he believes in regard to these things that what would have happened under these conditions would have been that we would have had a trade commission that would have winked at violations of the law in some circumstances and would have enforced it strictly under other circumstances, and the result of it would have been that a very considerable number of combinations would have been brought about with the approval of the trade commission and in violation of law.

Mr. NEWLANDS. Mr. President, the Senator from Rhode Island can not find in a word that I have uttered any justification for his remark that the trade commission would have winked at violations of the law. All I say is that these consolidations would have been effected, if effected at all, under the inspection of an expert body that had some knowledge of transportation and would not have been submitted to the uncontrolled will of the railroads themselves; that the consolidations effected would have been pursuant to law and not in violation of law; that if, in pursuance of law, they found that the law itself prevented in some cases desirable consolidations they would have presented their recommendations to Congress in such shape as to secure legislation modifying the existing law, and that simply in recognition of the fact that the railroads are quite distinct from trading corporations, and that the railroads themselves, in their very nature, so far as the territory which they cover is concerned, are practically monopolistic in character, and as such they are regarded as public utilities and regulated in their charges as trading corporations are not.

Mr. LIPPITT. Mr. President, the statements of the Senator have brought out very clearly the very complicated relations with which we are going to be confronted when we undertake to deal with trade matters through a trade commission. If the Interstate Commerce Commission, in order to bring about desirable results in the country, would have had either to secure the enactment of new laws or prevent the beneficial things which the Senator has described or would have had to wink at violations of the law—if I may still use that expression—in what is such a simple thing relatively as the railroad business of the country, what would have happened to the enormous variety of business interests that would have been brought under such a commission is something almost indescribable. It was really for the purpose of emphasizing that situation a little that I asked the question.

Mr. WEEKS. Mr. President, I wish to emphasize the point which the Senator from Nevada has made, that the Department of Justice has failed in prosecuting palpable violations of the law. Undoubtedly many of them have been in the public interest, and I think we shall all admit that under those circumstances the law should be so framed that there will be no requirement for a prosecution. That is one of the suggestions that I am going to make in regard to the Sherman antitrust law, that it has not been enforced as it should have been and it should be changed to conform to what is for the public interest.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Nebraska?

Mr. WEEKS. I yield to the Senator.

Mr. NORRIS. If the Senator from Massachusetts will permit an interruption at this point——

Mr. WEEKS. Yes.

Mr. NORRIS. I should like to call attention to a statement made by the Senator from Nevada [Mr. NEWLANDS] which he has repeated at least twice during the discussion of this bill, and which I think he is justified in making from the history of the past. In substance it is that the Attorney General, being a political officer, part of an administration connected closely with the politics and the political conditions of the country,

often does not enforce the law for reasons that would not move a body such as, according to his theory, the trade commission will be, namely, a permanent, nonpartisan organization, and one that will not vary with changing conditions in politics.

I think there is a great deal in the suggestion that the Senator has made. His theory is that the proposed trade commission will not be influenced by considerations of that kind, because it will be beyond political parties or the changing of administrations from one party to another, and for that reason may do things that the Attorney General for political reasons can not do.

I can not let the occasion pass without calling attention to the fact that, assuming that to be true—and at least to a great extent, I think, it will be conceded that it is true—it is a sad commentary, it seems to me, upon the politics of the country, and is another illustration that partisanship interferes not only with the making of laws, but with their administration. If because of partisan reasons an Attorney General winks, under instructions, perhaps, from party associates, at a violation of the law, it seems to me that it is a serious criticism of our political parties; and although this bill may afford a remedy to a certain extent, as the Senator from Nevada believes it will, I think that the same criticism can be applied to almost every other department of the Government, that it is influenced by political considerations and exigencies of a campaign that may be approaching.

I thought when the Senator previously called attention to that subject that the Senate and the country ought to be made aware of the fact that, even though this bill may provide a remedy for that kind of evil along certain lines, it will not provide a remedy for the evil of partisanship along other lines, and for the conditions that control the administration of the various political parties in preparing for a campaign that may be approaching.

Mr. NELSON. Will the Senator from Massachusetts yield to me?

Mr. WEEKS. I yield to the Senator from Minnesota.

Mr. NELSON. I want to ask the Senator from Nebraska what warrant he has for assuming that the proposed trade commission will be a nonpartisan body? We have had experience here in reference to the Federal Reserve Board. We all had a right to suppose that a board of that kind, constituted to manage the financial affairs of this country, would be a nonpartisan board; but what transpired? Lo and behold, every one of the five names sent in here for membership of that board was that of a Democrat who had voted the Democratic ticket. There was not a single Republican among them.

Mr. NORRIS. Will the Senator from Massachusetts allow me to answer?

Mr. CUMMINS. I am told that one of them never voted.

Mr. NELSON. Oh, yes; he is a voter; but he only voted once, and that was for Wilson.

Mr. CUMMINS. I thought he never voted at all.

Mr. NELSON. Yes; he made an exception in that case.

Mr. NEWLANDS. Will the Senator permit me a moment?

Mr. NELSON. What right has the Senator from Nebraska or the Senator from Nevada to assume that this new commission will be a nonpartisan commission?

Mr. NORRIS. Will the Senator from Massachusetts permit me to answer the question which the Senator from Minnesota has propounded to me?

Mr. WEEKS. I yield to the Senator.

Mr. NORRIS. I am not assuming that it will be a nonpartisan commission; I was making a statement deduced from what the Senator from Nevada had said, and I perhaps would have been a little more accurate if I had said that the idea of the Senator from Nevada was—and I think that is right—that it would be a permanent commission, one that would not be dependent upon the success of any political party or any administration to continue it in power, and therefore would feel like enforcing the law without reference to what effect it might have on politics. I am not saying that that is true; I am not offering any suggestions in defense of this bill; I wanted to call the attention of the Senate to the statement made by the Senator from Nevada, founded, as I believe, upon a proper statement of the conditions that have existed in the past which make it necessary for Congress to protect the country from the evils of our partisan administration.

Mr. NEWLANDS. Mr. President, will the Senator from Massachusetts permit me to make a suggestion?

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Nevada?

Mr. WEEKS. I do.

Mr. NEWLANDS. In reply to the Senator from Minnesota [Mr. NELSON], I have to say that the Interstate Commerce Commission always has been a bipartisan board. That is one of its chief virtues. A majority only of that commission can belong to one political party. It is provided in the trade commission bill that a majority only can belong to one political party. Unfortunately, when the Federal Reserve Board was created such a provision was not put into the law. In my judgment it ought to have been put into the law, and the correction should be made as early as possible.

I can understand very easily how that board can drift into partisan administration if it is composed entirely of the members of one party.

Mr. NELSON. That shows how necessary it is to bridle the President.

Mr. NEWLANDS. I think it is always incumbent upon the lawmakers to put the proper cautionary phrases into the law. We had the opportunity and we lost it. We should avail ourselves of the opportunity at as early a date as possible. We all know that it was the identification of the old United States Bank with an existing administration that brought that whole system into discredit.

Mr. NELSON. Will the Senator allow me to ask him a question?

Mr. NEWLANDS. And I wish to say that the reserve system will also fall into discredit if it comes under partisan administration and is not neutralized by some such system as that which prevails with reference to the Interstate Commerce Commission.

Mr. NELSON. Does not the Senator from Nevada think that a provision should be incorporated in this bill requiring the members of the trade commission to undergo an examination as to their moral qualifications, as to their notions of what is right and just as affecting trusts and monopolies? Should there not be a qualification of that sort, or would the Senator have men on the commission entertaining the ideas of Mr. Jones, who are entirely neutral until the Supreme Court has passed upon such questions?

Mr. NEWLANDS. I would listen with great consideration to any suggestion which the Senator from Minnesota might make along that line.

Mr. WEEKS. Now, Mr. President, the suggestion which has been made here about carrying out the provisions of the Sherman antitrust law is a matter which I am going to discuss later; but no law should be put on the statute books for which there is not a strong public sentiment. That is one of the criticisms I make of the legislation which is now pending. I do not believe there is any real public sentiment among the people who know anything about it anywhere in the United States in favor of this legislation. I do not believe the people generally understand it, nor do I believe the business men understand it. That is one of the criticisms I make of this legislation; but I do not think that partisanship has had so much to do with the failure to carry out the provisions of the Sherman Antitrust Act, so far as dissolving combinations is concerned, as has the fact that there has been no public sentiment in favor of such procedure Many, if not a large majority, of the combinations formed have been in the public interest, so to dissolve them would be directly against the public interest. That, in my opinion, is the reason that the law officers of the Government have not moved.

If it is desirable, however, to dissolve the Boston & Maine and New Haven systems, or if a bill to bring about that dissolution would prevail, which I very much doubt, because they are in a sense connecting rather than competitive systems——

Mr. LIPPITT. Supplemental.

Mr. WEEKS. Supplemental, yes; if that prevails, then practically every railroad system in the country may be dismembered by separating it into its original constituent parts, a process which would be expensive and burdensome on stockholders and the public, for the service which could be performed by those dismembered units would be incomparably poorer than that performed by the companies as they stand to-day.

Certainly we have gone beyond the question of competition in railroad management in this country. Now, railroads are substantially operated under the direction of the Interstate Commerce Commission, which fixes rates and determines the manner of operation in contested cases. Therefore, having given up competition and having established what railroad corporations are in effect without competition—that is, natural monopolies—we should certainly take them from under the provisions of the Sherman Antitrust Act and permit consolidations whenever the Interstate Commerce Commission decides, as the result of investigation, that the public interest will be served as a result of the consolidation.

I know how difficult it would be to get a Congress to take this action, and yet I believe it is infinitely more important to fol-

low such a course than it is to pass the legislation which we are now considering; and if we are going to pass this bill, in my judgment the whole Sherman Antitrust Act should be repealed.

Take the case of the Boston & Maine and New Haven Railroads, suit for the dissolution of which has been brought. If those two roads are in competition—as has been suggested by my friend from Rhode Island [Mr. LIPPITT], one is supplemental to the other—there are 45 other roads which go to make up those two systems, which have been consolidated since 1890 with one or the other of those systems, which are in competition with some part of either the New Haven or the Boston & Maine Railroad Co. For instance, the Eastern Railroad of New Hampshire, which runs from Newburyport, in Massachusetts, to Portsmouth, in New Hampshire, is directly parallel to the main line of the Boston & Maine Railroad. Take the Portland, Saco & Portsmouth Railroad, which runs from Portsmouth, N. H., to Portland, Me., that is also directly parallel not only to the Boston & Maine Railroad but to the Worcester, Nashua & Rochester Railroad, which has also been consolidated with the Boston & Maine within that time. The Portland & Rochester is a part of the Worcester, Nashua & Rochester Railroad, which is parallel not only to the Portsmouth, Saco & Portland, but is parallel to the main line of the Boston & Maine Railroad. At many points they run within 5 or 6 miles of one another.

To go on through the whole list is unnecessary. Take one or two cases connected with the New Haven system, the New England Railroad, for instance, which was merged with the New Haven in 1908. The New England Railroad is directly parallel to the shore-line road from New Haven, Conn., to Boston, Mass. If there is any such thing as dissolution on account of competition——

Mr. LIPPITT. I wish to ask the Senator a question, so as to understand exactly what he means by that. He said that the New England road was parallel to the New Haven from New Haven to Boston.

Mr. WEEKS. From New Haven, Conn., to Boston, Mass.

Mr. LIPPITT. While it is parallel, it is parallel in most cases at a very considerable distance from the New Haven, the shore-line road. So far as the traffic between New Haven and Boston is concerned, it is parallel; in its intermediate aspects it serves an entirely different community.

Mr. WEEKS. That is true. In the intermediate points between Boston and New Haven they serve entirely different communities.

Mr. LIPPITT. So that it is competitive so far as through traffic is concerned, but so far as the other traffic is concerned it is not competitive.

Mr. WEEKS. I am much obliged to the Senator for making that point, because it is quite correct; but if there is any such thing as a dissolution of competitive lines, then this dissolution has got to go to the units from which these lines have been built up, and that would be directly against the public interest. That is the reason why the Department of Justice has not proceeded in all these cases, in my opinion; and I think it has acted wisely in not doing so, although I believe in enforcing the law and by its enforcement showing how absurd or bad it is, and that will bring about a repeal of such legislation.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Montana?

Mr. WEEKS. Yes; I yield.

Mr. WALSH. I desire to inquire of the Senator from Massachusetts if it is his idea that in accomplishing the dissolution it will be necessary to disassociate those lines that are mere extensions, and not competitors?

Mr. WEEKS. No; I do not think it should be done.

Mr. WALSH. Is it the Senator's opinion that the court must do so?

Mr. WEEKS. That is a question upon which I should rather have the opinion of the Senator from Montana than my own.

Mr. WALSH. I have an idea about it; but I gathered from the Senator that he felt that the organization would be broken up into its units, regardless of whether they were competitive or otherwise.

Mr. WEEKS. I will answer the Senator. I think that, as far as the monopoly section of the Sherman Antitrust Act is concerned, a continuation might go to make up a part of a monopoly, in which case it should be dissevered.

Mr. CUMMINS. Mr. President——

Mr. WEEKS. I yield to the Senator from Iowa.

Mr. CUMMINS. The Senator from Massachusetts has more than once said that the test ought to be whether a particular combination or arrangement is injurious to the public interest. To whom would the Senator delegate the power of determining whether a particular arrangement or combination is injurious to the public interest?

Mr. WEEKS. I would delegate it to the Interstate Commerce Commission, so far as public-service corporations are concerned.

Mr. CUMMINS. And what effect would the Senator give to the decision of such a commission?

Mr. WEEKS. I would leave it under the same provisions that obtain in that law in all respects. If it would mean confiscation as a result, then I think the participants should have the right to appeal to the courts. Otherwise, I think the findings should be final.

Mr. CUMMINS. Mr. President, I suppose there is not much difference of opinion in this country now upon the legal proposition that we can not delegate to any authority, judicial or administrative, the power to determine what is for the public interest or what is injurious to the public interest. That, however, leads me to ask this question:

The Supreme Court has now decided that a restraint of trade or commerce, in order to be a violation of the act, must be an undue or unreasonable restraint of trade. In my opinion, that means exactly the same thing as a restraint of trade injurious to the public interest. Those who have had the time and the inclination to look into the common law on this subject will remember that the courts of England had very often used that phrase, not, as I think, with regard to restraint of trade, but with regard to restraint of competition; and the test which those courts employed was this: "Is this particular restraint of competition or interference with competition such as to affect injuriously the public interest?" If the answer to that question was in the affirmative, then the restraint of competition constituted a restraint of trade; otherwise not.

We did not follow that exact line in our statute, but I believe that with the present construction of the antitrust law the Supreme Court has assumed the power to decide whether a particular restraint of trade is or is not injurious to the public interest.

Mr. WEEKS. I have tried to point out that I believed that was the intention of the framers of the law.

Mr. CUMMINS. Very well. If that be so, we have reposed in the courts of this country the authority to determine whether a particular practice, combination, or arrangement was or was not harmful to the public welfare; and if we have done that, I take it the Senator from Massachusetts would have no hesitation in reposing similar authority in a commission.

Mr. WEEKS. Mr. President, my idea would be that any such authority should be very definite, and not general; that the law should be as definite as possible. That is one reason why I have suggested that, in my judgment, the Sherman Antitrust Act should be amended, and the provisions which apply to the consolidation of public-service corporations should be repealed. I have not any doubt in my mind about the desirability of having that done; and to go on giving to anyone authority to act without having definite limitations in the law is, in my judgment, going too far.

Mr. CUMMINS. Precisely. It is of just that of which I complain. It is of that I complain with reference to the opinion of the Supreme Court in the Tobacco case and in the Standard Oil case. It is assuming an authority which the legislature can not confer, and which I believe has been usurped at this time by the judicial branch of the Government.

We can not make anything definite so long as we attach to it the provision "if it be in the public interest," or "if it be not opposed to the public welfare." That phrase at once destroys all certainty, all definiteness, and leaves the tribunal, whatever it may be—whether a court or whether a commission—to make laws for the people rather than to administer them. That is the very trouble in any effort to make the antitrust law more specific than it now is.

Mr. WEEKS. Mr. President, the Senator from Iowa was honoring me with his attention when I commenced my discussion of this question, and he will recall that I criticized at once the uncertainties that had developed as a result of the construction of the Sherman Antitrust Act, and the uncertainties which would be added to, in my judgment, by putting this legislation on the statute books; that I believed the whole subject of the connection which this Government has with corporations should be carefully and thoroughly considered; we should find out what other people are doing, whether what they have done has been advantageous or not, and a report should be made which would cover all the facts obtainable in such an inquiry. Then we would have a basis for legislation. Now, in my judgment, we have not either a public sentiment in favor of the legislation or a sound basis on which to frame the legislation; and we are going to have added confusion and trouble

in business instead of giving freedom to business, which phrase has been repeated so vociferously by so many.

Mr. CUMMINS. There is much force in the Senator's suggestion, Mr. President, but in one respect he is in error. We have examined what other countries have done. The laws of Germany are in this record. The laws of England are in this record. The laws of Australia are in this record. The laws of New Zealand, I suppose the most advanced community in the world, are in the record. The investigation has taken the widest possible range. The only question that remains is, Are we sufficiently strong of mind to draw from these illustrations the proper lesson and compose the proper legislation?

Mr. WEEKS. Mr. President, I am well aware that what the Senator says about the record is quite correct; but we are not doing what any other country has done. No other country has a law like the Sherman Antitrust Act on its statute books, and if it had I believe it would not think of adding legislation of this character. One, in a sense, is the antithesis of the other. You are going to have difficulty in finding out where one commences and the other leaves off. The confusion in the minds of those who have been devoting their time to this question, the doubt which has been expressed on this floor as to what the different phases of this question will mean or how they will be construed, indicates the confusion into which business will be thrown by putting such legislation on the statute books.

Mr. BRANDEGEE. Mr. President——

Mr. WEEKS. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. What particular phrase in the proposed legislation does the Senator allude to as being confusing?

Mr. WEEKS. Why, "unfair competition."

Mr. BRANDEGEE. That is what I supposed the Senator alluded to.

Mr. WEEKS. Every business man will have a lawyer at his elbow to tell him what he can do, and then the courts will tell him that what his attorney has told him to do he can not do.

Mr. BRANDEGEE. When the bill states that "unfair competition in commerce is hereby declared unlawful," the Senator from Massachusetts does not think that furnishes any light to anybody about what he may or may not do?

Mr. CUMMINS. Mr. President, we have a difference of opinion about that. I believe "unfair competition" is much more clearly understood by business men than "restraint of trade." We were speaking of Australia a few moments ago. Australia has a statute which expressly declares that unfair competition is unlawful, and it is enforcing it.

Mr. WEEKS. I remember the statute.

Mr. CUMMINS. I may say that Australia also has a statute which is much more stringent than the antitrust law, although it confers a great deal more power upon the administering body—that is, the court or the council—namely, it has a positive prohibition against all these things if they be detrimental to the public interest. I do not remember the exact language, but the substance of it is, if they be detrimental to the public interest.

Mr. CRAWFORD. If the Senator will permit me, the language is, "to the detriment of the public." I was looking at that to-day.

Mr. CUMMINS. I am very glad the Senator from South Dakota recalls the exact language. Now, if there could be anything more uncertain than that language, it is impossible for me to conceive it. When we ask a judge or a member of a council to say whether a particular act or series of acts is detrimental to the public interest we have to repose that power in somebody, or the equivalent of that power.

Mr. WEEKS. Mr. President, that introduces the question whether we are a more progressive and advanced country than Australia. Are our industries gaining more slowly than those of Australia; are our people, compared with those of Australia, in an inferior position; or are we in a better condition, when we compare everything that goes to make up life, than the people of Australia? If we are not advancing as rapidly as they; if we are not gaining in population, if we are not developing to the best interest of our people as rapidly as Australia, then we had better adopt their system; but if we are gaining more rapidly than they, why should we give up something we have and adopt what they are doing?

Mr. LEWIS. Mr. President, may I be permitted to interrupt the Senator for a moment?

Mr. WEEKS. I yield to the Senator.

Mr. LEWIS. In connection with the observation of the Senator from Iowa [Mr. CUMMINS] and the Senator from South Dakota [Mr. CRAWFORD], if I am not in error, the statute of Australia referred to by the three Senators was considered by privy council in the House of Lords of England from July 3 to July 25, 1913; and under the construction by the highest court of England it was there held that the words "unfair competition" or "to the detriment of the public interest" must be construed to mean the same as "unlawful or undue restraint of trade," in so far as the public interest was concerned, as used by the Supreme Court of the United States in the Tobacco case.

Therefore I beg to call the attention of the able Senator to the fact that "unfair competition," the exact phraseology of the statute of Australia, received a construction, not from Australia, not from the lower tribunal to which he alludes, but from the highest court of the English-speaking world next to our own, where a construction is given to it as having the meaning contended for by the Senator from Iowa.

Mr. COLT. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Rhode Island?

Mr. WEEKS. I yield.

Mr. COLT. I happen to have the laws of Australia before me. Section 6, paragraph 1, says:

> For the purposes of section 4 and section 10 of this act, unfair competition means competition which is unfair in the circumstances—

Then follows this significant part:

> And in the following cases competition shall be deemed to be unfair unless the contrary is proved:
> (a) If the defendant is a commercial trust.
> (b) If the competition would probably or does in fact result in an inadequate remuneration for labor in the Australian industry.

I should like to ask the Senator from Iowa if that is the sense in which "unfair competition" is used in the trade commission bill?

Mr. CUMMINS. It requires the direct declaration of the legislature to make it so.

Mr. COLT (reading):

> (c) If the competition would probably, or does, in fact, result in inadequate remuneration to labor in the Australian industry or throwing workers out of employment—

And so forth.

So the Australian law first defines unfair competition as that which would be unfair under the circumstances, and then it goes on to enumerate the particular instances in which such competition is unfair. The difficulty that lies in my mind is that when you introduce the words "unfair competition" in this proposed law you are embarked on a sea of uncertainty and of doubt.

Restraints of trade and attempts at monopoly are founded upon the common law of three or four centuries. Their meaning is known and defined. One element which enters into these transactions is that they are detrimental to the public. A contract in restraint of trade at common law was detrimental to the individual and detrimental to the public.

A monopoly was also held to be detrimental to the public, because it restrained the liberty of the people in respect to trade. The Supreme Court in their decisions have reached a solid foundation when they came to interpret restraint of trade and attempts at monopoly by the great law of reason, which is simply the rule of common sense based upon a sense of justice and the ethical standard of the people. Thus the Supreme Court have a safe criterion by which to interpret the words "restraint of trade" and "monopoly."

But if you are going to introduce this new phrase, "unfair competition," into the law, you enter upon a sea of uncertainty. It took the Supreme Court 15 years or more before they got their bearings as to the meaning of restraint of trade and attempts at monopoly. The Sherman statute, as literally interpreted, was revolutionary. It was impossible to enforce it.

We forget, Mr. President, that we are dealing with society; that we are dealing with life; that law has its limitations; and that any law which undertakes to overthrow the habits, the customs, and the usages of the people can never be enforced. The Sherman Act as literally interpreted was simply nonenforceable as applied to the customs, the habits, and the usages of the American people.

Then came the second interpretation of the Sherman Act, which was based upon the rule that a mere incidental restraint of trade was not a violation of the act. That criterion was found to be uncertain, vague, and confusing. The Supreme Court then invoked the great rule of reason as the criterion and guide in the interpretation of the Sherman law. This rule of reason is the same as the law of nature in the Roman law, which led to its development until it spread over the civilized world. And the same great law of reason is the universal postulate underlying the common law. With this rule of reason as the criterion and standard, the Sherman law can be enforced to meet any possible combination of circumstances which may be considered in restraint of trade and detrimental to the public interests.

Mr. LEWIS. Mr. President, will the able Senator from Massachusetts pardon me just for a reference?

Mr. WEEKS. I yield to the Senator from Illinois.

Mr. LEWIS. I was very much attracted by the specific utterances of the able Senator from Rhode Island, and recalling his extensive experience and renown on the Federal bench, hearing his allusion to the view he had given the Sherman Trust Act and the failure of the statute to make specific definitions and the danger of indulging in general terms lest we should upset the usages of society, I invite the distinguished jurist, as I do the able Senator from Massachusetts, to the Supreme Court of the United States meeting the very suggestion of the able Senator from Rhode Island. I call his attention to the answer of the Supreme Court of the United States to the argument made by the distinguished Senator from Rhode Island when made by eminent counsel representing the company before the court.

In answer to that form of argument the Supreme Court of the United States said:

> The merely generic enumeration which the statute makes of the acts—

Referring to the words "restraint of trade"—

> to which it refers, and the absence of any definition of trade as used in the statute, leaves room for but one conclusion, which is that it was expressly designed, not to unduly limit the application of the act by precise definition, but, while clearly fixing a standard—that is, by defining the ulterior boundaries which could not be transgressed with impunity—to leave it to be determined by the light of reason, guided by the principles of law and the duty to apply and enforce the public policy embodied in the statute, in every given case, whether any particular act or contract was within the contemplation of the statute.

Therefore I beg to call to the able jurist's attention that our court, the very highest court, has seen fit to divorce itself from that which might seem to work an injustice now.

Mr. SUTHERLAND. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Utah?

Mr. WEEKS. I yield.

Mr. SUTHERLAND. The Senator from Massachusetts has been very indulgent in yielding to interruptions, and if he will permit me, I should like to make a suggestion at this point somewhat in line with what the Senator from Rhode Island has said.

Section 5 provides "That unfair competition in commerce is hereby declared unlawful." I have not any doubt that "unfair competition" is a term well known to the law. It occurs where one person attempts to impose upon the public his goods or his business as the goods or business of another.

I think that all the cases of unfair competition the courts have dealt with fall within that definition, the attempt of a person to impose on the public his goods or his business as the goods or the business of another. For example, we have a mineral water which is called "White Rock," and it is a well-known brand. Somebody undertakes to sell another mineral water, giving it a name resembling White Rock and pretending that it is White Rock. That is unfair competition. The violation of a trade-mark is a form of unfair competition.

Mr. WEEKS. Let me ask the Senator from Utah, whose opinion is worth very much more than mine on any such question, if in his judgment there is not now sufficient law to protect a trader in such matters?

Mr. SUTHERLAND. Oh, undoubtedly. I say "undoubtedly." I mean that that is my opinion.

The point I was going to make about that is this: If "unfair competition" as used in this proposed law is to be construed as I have stated it, it is a matter within the jurisdiction of the courts; it presents purely a judicial question. In other words, if we were to write into this law "that unfair competition in commerce is hereby declared unlawful" and provide that a violation of the provision should be punishable by fine and imprisonment, there could be no doubt that the court would lay hold of that question, and whenever a violation of that provision of the statutes occurred a proceeding would be brought in the court. That, it seems to me, demonstrates that it presents a judicial question.

If section 5 means that and nothing more, then it seems to me there is a clear attempt to vest in this legislative commission judicial power—power that we can not exercise ourselves, and that a legislative body can not devolve upon a committee of itself or a commission created by it. We can only devolve upon any such commission the power which we ourselves have, and that is the legislative power.

Mr. WEEKS. Then I assume the Senator from Utah thinks this law which we are proposing to put on the statute books is unconstitutional?

Mr. SUTHERLAND. I think it is utterly void, Mr. President, in that view. Now, if we take the other view that has been suggested by the Senator from Nevada and others, that it means something more than that, there is no limit to what it means. If we are to go only to the law books to ascertain what it means, and go no further than that, then its enforcement is an exercise of judicial power. If this commission is to go beyond that and declare that certain things which the courts have not already declared, and which existing law does not recognize to be unfair competition, are unfair competition, then we, it seems to me, have laid down no primary standard, and therefore we have devolved upon the commission legislative power, because if they are not restricted to settled legal rules in ascertaining the meaning of it then they are upon a sea of uncertainty, as the Senator from Rhode Island [Mr. COLT] has said.

The commission make their own rules. One commission existing to-day may declare a certain thing to be unfair competion. Another commission differently constituted to-morrow may declare that that same thing is not unfair competition. It leaves everything to the discretion of the commission; it leaves it to their personal view, to their prejudices, and there is absolutely no standard laid down.

It seems to me that, conceding the point of view that it means what the law books say it means, and nothing more, then we have conferred judicial power upon the commission. If it is not to be restricted to that it leaves the commission an unbounded field in which to operate in declaring what shall constitute unfair competition, and in that view we have devolved legislative power upon that body.

Mr. POMERENE. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. WEEKS. I yield.

Mr. POMERENE. I desire to address my question to the Senator from Utah. Assuming that the words "unfair competition" have now a well-defined meaning in the law, is not the Senator of the opinion that if there were no other language in section 5 the courts, in construing the section, would give to those words their judicial construction?

Mr. SUTHERLAND. I am inclined to think so. If the Senator from Massachusetts will pardon me, I think the courts would hold that the expression "unfair competition," as I have said, has a well-settled meaning under the decisions of the courts; and I think the courts, when the question came before them, would hold that it was used in that sense. But if it be used in that sense, by what rule can we confer the power upon a legislative commission to deal with the question any more than we can any other thing that we might declare to be unlawful? Certainly if we would define what should constitute larceny and declare that larceny was unlawful, we could not devolve the power to forbid larceny or punish larceny upon a commission. It would have to remain with the courts.

Mr. LEWIS. While the Senator from Massachusetts is resting, and that he may get a breathing spell, I should like to address myself to the Senator from Utah. Do I understand correctly the Senator from Utah to assert as a legal proposition that it is not in the power of this body to vest judicial power in an administrative body?

Mr. SUTHERLAND. I say so most emphatically, Mr. President.

Mr. LEWIS. Then I ask if the Senator does not mean to assert that we have not the power to vest the execution of judicial processes in an administrative body? Otherwise the power of the Interstate Commerce Commission to determine in the light of judicial decisions the meaning of a reasonable rate could not exist under the Senator's construction.

Mr. SUTHERLAND. Oh, no, Mr. President, that presents an altogether different question. The making of a rate, the fixing of a charge which shall be made by a public utility corporation or body is a legislative power. We could not devolve that power upon the court. We could not authorize a court to fix a rate that should be charged by a railroad company or by any other public utility company. It is legislative power, and that power has been devolved upon the Interstate Commerce Commission, and properly devolved upon it. It is not a delegation of legislative power because we have fixed the primary standard.

Mr. LEWIS. Then may I say to the able Senator, if that be an argument, that body would have no right to determine what the word "rebate" meant. It would not have the right upon the logic urged by the able Senator to determine what would constitute a rebate.

Mr. SUTHERLAND. That does not seem to me to follow at all.

Mr. LEWIS. I think the Senator meant to say, and I should like to ask if this is not the limit of what he wished to urge, that it is not appropriate for this body to vest an administrative body with judicial functions to the extent of executing the

processes of the law in the form of arrest, injunction, punishment for a violation? But is it not in the power of ;is body to vest in any administrative body that is authorized to investigate all the powers that shall be necessary to elicit the truth in that investigation?

Mr. SUTHERLAND. As I understand the Senator, I answer him if we have the right to confer a power upon an administrative body we have the right to make the power effectual; but my contention is that we have no right to confer this power at all upon the administrative body; that it is a judicial power and belongs to the courts; that Congress itself can not exercise it. Suppose, for example, that Congress instead of undertaking to devolve this power upon an administrative body were itself to make an investigation of some particular case where it is claimed that unfair competition existed and Congress was to come to the conclusion that there existed unfair competition, does the Senator from Illinois think that Congress could issue an injunction against the continuance of that practice?

Mr. LEWIS. No.

Mr. SUTHERLAND. If Congress could not issue it, it would be because it would not be a legislative power; it would be because it was a judicial power; and if Congress could not itself issue the injunction in that case by what rule of law, by what provision of the Constitution, can it devolve that same power upon a legislative commission?

Mr. LEWIS. Mr. President, that is the very point I desire to attract the Senator's attention to—that he was really meaning to say that this body could not confer upon a commission power to execute judicial processes. I concur in that, but specifically press upon the Senator's attention that the power in an administrative body to make investigation to ascertain whether or not there has been a violation of things of a judicial nature does not confer judicial power, because if the illustration of the able Senator is accurate—that this commission can not ascertain what is unfair and pass a judgment as to a thing being unfair or not—the Agriculture Department would have had no right to ascertain what is adulteration in respect to food or what would make an accurate inspection, as I understand the Senator's position, merely because it wou'd not have the right to issue an injunction to avoid that adulteration of food.

Mr. SUTHERLAND. Oh, Mr. President, we might vest in a commission of this character—I am not absolutely certain about it, but I will concede, for the sake of the argument, that we might vest in a commission of this character—the power to investigate and ascertain whether or not unfair competition was being practiced, and then to present the result of their investigation to the Attorney General for prosecution, or themselves institute some sort of a proceeding in the court; but that is not what we do. We declare that unfair competition is unlawful, and then we say that this commission, whenever it has reason to believe that unfair competition is being practiced, shall itself issue an order bringing the parties that they suspect to be guilty of the practice before the commission; and if they find that their suspicions are well founded, then that commission issues an injunction. That is what we undertake to do, and that is purely the function of a court.

Mr. LEWIS. Mr. President, I fear the able Senator from Utah has misread the proposed law when he says it provides that the commission shall issue an injunction. I had the idea all the time that the Senator was laboring under one of two misapprehensions—that he either misapprehended the law as an abstract proposition or he misapprehended the contents of the bill. The Senator will see that his whole logic has been based upon a false premise.

Mr. CUMMINS. Mr. President——

Mr. SUTHERLAND. If the Senator from Iowa will pardon me just one moment, the language of the bill is, in substance, that when the commission have reason to believe that an unfair method of competition is being practiced they shall bring the parties before them for an investigation—

And if upon such hearing the commission shall find that the method of competition in question is prohibited by this act—

That is, if it shall find that it is unlawful, against the law of the land—

it—

The commission—

shall thereupon issue an order restraining and prohibiting the use of the same.

If that is not an injunction, I do not know what an injunction is.

Mr. CUMMINS. Mr. President, may I trespass upon the time of the Senator from Massachusetts just a moment?

Mr. WEEKS. I yield.

Mr. CUMMINS. It is not an injunction, of course, for nothing but a court can issue an injunction. We have in the interstate-commerce law a provision which confers upon that body the authority to investigate, at the suggestion of a shipper, whether or not the shipper has been overcharged, and upon that investigation to make an award in favor of the shipper, if it be found that an overcharge has occurred, and to command the railway company to pay to the shipper the amount so found to be overcharged. The Senator from Utah might just as well call that a judgment as to term the order of the trade commission commanding a person guilty of unfair competition to desist an injunction. It does not make any difference what words we use. I quite agree that the words "restrain" or "prohibit" are words that are ordinarily applied to judicial process, but that makes no difference. The commission has no power to issue an injunction. It could not enforce its injunction; it could not punish for contempt of an injunction. Therefore it remains merely an order, precisely as the order which the Interstate Commerce Commission enters every day in the year commanding railway companies to pay those that have been overcharged the amount of the overcharge. If the railway company refuses to pay, refuses to carry out the award, then the shipper can bring his suit upon the order in any court of competent jurisdiction, and the order of the commission is prima facie evidence of the justness of the claim.

Mr. SUTHERLAND. Now, let me ask the Senator from Iowa a question: Suppose, instead of providing that unfair competition in commerce is hereby declared unlawful, we were to provide that it should be unlawful for any person to enter the lands of another and cut down his ornamental trees. That presents a very well settled head of equity jurisdiction.

Mr. CUMMINS. Congress has no jurisdiction over those matters.

Mr. SUTHERLAND. Well, suppose the legislature of a State were to so provide—the illustration would apply as well—or suppose that Congress were to provide in the District of Columbia, where it has jurisdiction, that it should be unlawful for any person in the District of Columbia to enter the lands of another and proceed to cut down his ornamental trees, and that if this commission or any other commission created should suspect that that sort of thing was going on that it could cite the parties before it, and if it found that they were cutting down the ornamental trees of the complaining persons, that it might issue an order restraining and prohibiting a continuation of the trespass.

Mr. CUMMINS. I am not prepared to say that that could be done, but that has no pertinency to this inquiry; it is not parallel in any sense. We are here exercising the constitutional power to regulate commerce among the States, and any law that is a proper regulation of commerce we have a right to enact. If we believe that unfair competition—and I am now assuming that the phrase furnishes a sufficient guide, and not passing upon that question at this moment—ought to cease in interstate commerce, we have a right to prohibit it.

Mr. SUTHERLAND. Oh, yes.

Mr. CUMMINS. And we have a right to prevent it in any way that we see fit——

Mr. SUTHERLAND. I disagree with the Senator as to that.

Mr. CUMMINS. Save that we can not punish; we can not usurp judicial powers. Under our Constitution we can not send an offender to jail; we can not impose upon him a fine; we can not in any way trespass upon or invade the judicial functions; but if we can prevent the recurrence of unfair competition without recourse to fines, imprisonment, jail, or injunction, we have an ample and abundant constitutional authority to do so. The only limitation is the constitutional prohibition against invading the judicial power. The judicial power does not extend to the work which this commission is authorized to do.

Mr. LANE. I should like to ask the Senator what power the commission does have, then, if it can neither punish nor fine? Does it give the person who is not satisfied the right to go into court?

Mr. CUMMINS. No; that phase of it is not now up.

Mr. LANE. What good is it?

Mr. CUMMINS. If the person who has offended and against whom the order has been issued refuses to obey, then, of course, we must go to the courts to secure his obedience. There is no other way in which to secure obedience to the law.

Mr. LANE. If that is the only remedy offered by the bill, I have not much confidence in it.

Mr. CUMMINS. That is all the remedy that any statute we have offers. There is no statute upon any subject that can be enforced by penalties or by way of injunction except through the courts. I am sorry that the Senator from Oregon has lost his confidence in the courts. I have not lost mine, although I share possibly in some of his views with regard to their inadequacy.

Mr. LANE. I did not say I had lost my confidence in the courts, but I have lost my confidence in this commission if it can do nothing but allow a person to go to court. People already have that right.

Mr. CUMMINS. All the Interstate Commerce Commission does, all that the Attorney General does, all that anybody in this country does is to go finally to the courts if they want to enforce the statutes of the land.

Mr. SUTHERLAND. Mr. President, I have already trespassed upon the time of the Senator from Massachusetts [Mr. WEEKS]; but will he permit me to make a single observation to the Senator from Iowa?

Mr. WEEKS. I yield to the Senator.

Mr. SUTHERLAND. The Senator from Iowa says we have the right to regulate interstate commerce, and, if I understand him correctly, he says we have a right to regulate it in anyway we please. I can not quite agree to that. We have a right, as the courts have held, to provide, for example, that lottery tickets shall not be carried from one State to another; that is a regulation of interstate commerce; but we certainly would not have the right to say that a commission can be given jurisdiction to inquire into the question as to whether or not a law forbidding the transportation of lottery tickets has been violated and to issue an order either final or preliminary in its character.

Mr. CUMMINS. I have no doubt of our right to do just that thing—to pick up a lot of literature and determine whether it constitutes a lottery or not.

Mr. SUTHERLAND. That is, the Senator from Iowa thinks that we would have the right to devolve upon a commission the authority to ascertain whether the law forbidding the transportation of lottery tickets is being violated by an individual; and if so, to impose punishment upon him?

Mr. CUMMINS. I have no doubt of that.

Mr. SUTHERLAND. Well, Mr. President, then we are so far apart——

Mr. LEWIS. That function is now exercised under the law.

Mr. SUTHERLAND. That we have no common foundation upon which to proceed with this argument.

Mr. CUMMINS. Congress could do that, Mr. President.

Mr. SUTHERLAND. I think the Senator, upon reflection, will come to the conclusion that Congress can not do that.

Mr. CUMMINS. I hope I would not come to that conclusion upon reflection. Congress is doing that all the time.

Mr. SUTHERLAND. Let me understand the Senator.

Mr. CUMMINS. Congress can make any investigation it sees fit to ascertain whether or not the law is being violated.

Mr. SUTHERLAND. For what purpose?

Mr. CUMMINS. And if it is being violated, it can go to the courts to enforce the statute.

Mr. SUTHERLAND. I am not so certain about that. That is a very different thing from what I have been saying, namely, that Congress, having passed a law making a certain practice unlawful, may then investigate whether that law has been offended against; and if it ascertains that it has been broken, that it can impose a penalty.

Mr. CUMMINS. I had not intended to say so.

Mr. SUTHERLAND. The Senator did say so, although I think perhaps he did not intend to say so.

Mr. CUMMINS. I hope I did not say so.

Mr. SUTHERLAND. If the Senator says he did not say so, very well.

Mr. CUMMINS. There has been a misunderstanding. I have expressly declared that neither Congress nor the commission may impose a penalty. We can not confer upon a commission the power to impose a fine or to consign an offender to imprisonment.

Mr. SUTHERLAND. But we can issue a preliminary injunction.

Mr. CUMMINS. No.

Mr. SUTHERLAND. That is what we do in this bill.

Mr. CUMMINS. Of course the Senator from Utah can use those words in that sense; he calls this an injunction, but it is not an injunction; it is just the same sort of order precisely that the Interstate Commerce Commission issues every day of its existence, and it issues such orders because it has found that under the facts the railroad company, or whoever may be within its jurisdiction, has violated the law. If a person or corporation sees fit to desist from an unlawful practice under this bill there will be no prosecution, because under section 5 it is not made a criminal offense at all; it is made unlawful, but it is not made criminal.

Mr. LEWIS. Mr. President, let me say to the Senator——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Illinois?

Mr. LEWIS. I merely desire to make a brief statement.

Mr. WEEKS. I yield to the Senator.

Mr. LEWIS. I desire to inform the Senator from Iowa, or rather to refresh his recollection, that the very premises put by the able Senator from Utah exist now. If the Postmaster General, a mere administrative official, believes that a lottery is being conducted, and that the mails are being used to facilitate it, he has the right in his own manner to ascertain that fact by an investigation and to declare it, and after declaring it to add a punishment, such as forbidding the mails to the person engaged in the unlawful undertaking.

Mr. CUMMINS. Certainly; and there are many such instances in our statutes and in the administration of our laws.

If I will not unduly interfere with the Senator from Massachusetts—and I am sure that he is willing that we shall now take up the time for a little while—I want to refer to another remark made by the Senator from Utah. He seems to assume that words can only receive significance or meaning through an interpretation of the courts; that "unfair competition" can not mean anything except what a court has said that those words mean. I entirely dissent from that. Our language is not made up by the courts; our language is made up in a hundred different ways. "Unfair competition" means what the people who use the English language commonly believe that those words mean; and it makes no difference whether they have been instructed by a decree or a judgment of a court or whether they have received that definition from a dictionary or whether they have received it from any other form of literature. It is to me a most astonishing proposition that when we use the words "unfair competition" in a law we are limited to what some court has said is unfair competition in a particular case. No court ever attempted to limit the words "unfair competition," but many a court has declared that certain facts established in a legal proceeding constituted unfair competition. Business men are just as potent in determining what unfair competition means as are the courts; the writers who make our literature, after observing the affairs of men, are just as influential in determining the meaning of unfair competition as are the courts.

Mr. COLT. Mr. President, will the Senator allow me to interrupt him?

Mr. CUMMINS. Certainly.

Mr. COLT. I suppose, as a general rule, that when words are used in a statute they are understood to be used in the legal sense in which they are known in the law; but that rule is not necessarily controlling. If the words "unfair competition" were taken in their legal sense, I think there can be little doubt that they would refer to such acts of competition as are tainted with fraud, with deceit to the public. Specifically, the words in a legal sense are used in trade-mark cases, where there is an element of fraud or deceit, such as palming off one man's goods as those of another; but if a court in reading those words should refer to the speech of the junior Senator from New Hampshire [Mr. HOLLIS] or to the speeches of other Senators in this body, it might easily arrive at the conclusion that it was the intention of Congress to use these words in a broader sense.

The difficulty, in my mind, is to know in that broader sense what is the criterion by which any man is going to judge as to what is unfair competition. You must have some criterion in the law. The law is governed by principles, and you must have some guide.

Competition is a rivalry, a race, and fundamentally it may be said to be based upon something which is unfair, such as one man trying to get trade away from another. The common law, therefore, limits the term to those transactions which are in a way colored with fraud. But now, if you go beyond that to the ethical field, to the field of good morals, I should like to ask any Senator how he can determine the limits of that field, or what would be the criterion by which he would arrive at the conclusion as to what was fair or unfair.

If you should take the criterion which I should be rather inclined to take, namely, "such customs and uses as the business men of the country have recognized as fair dealing," then they have recognized everything as being fair in trade, not from the standpoint of that which is ethical, but everything which is not tainted in some way with deception or fraud upon the public.

I am simply saying that to use the words "unfair competition" in this statute, and to allow five men in the city of Washington to determine what is unfair competition in trade among 100,000,000 of people, is to me almost an absurd idea.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Montana?

Mr. WEEKS. Yes.

Mr. WALSH. Before the Senator from Rhode Island takes his seat I should like to address a question to him.

The Senator from Rhode Island has had extensive experience upon the Federal bench. I dare say he has tried some of these trust cases. In the trial of these cases evidence is generally put in pertaining to practices that are generally spoken of as "unfair competition." We listened yesterday to a recital of various kinds of unfair competition charged against the Harvester Trust in the prosecution now being conducted.

If the distinguished Senator were now on the bench, and he were trying one of these trust cases, and the Attorney General offered to put in testimony to show "unfair competition," would the distinguished Senator have no guide as to whether the testimony tendered properly falls within that designation?

Mr. COLT. That would not be the issue, would it? The issue would be restraint of trade.

Mr. WALSH. No, no. The Attorney General stands up and says: "I desire to put in some more testimony concerning unfair competition."

Mr. COLT. On what issue?

Mr. WALSH. On the issue raised in the action as to whether or not a trust exists—whether the defendant exists in violation of the Sherman law.

Mr. COLT. But on what action? What action is the Senator talking about?

Mr. WALSH. I am talking about a prosecution under the existing antitrust law.

Mr. COLT. There is no such issue as "unfair competition."

Mr. WALSH. No, no; I understand there is none.

Mr. COLT. There is an issue of "restraint of trade."

Mr. WALSH. But the Attorney General stands up and says to the court: "I want to put in some more testimony in relation to unfair competition." Would the court be so troubled about what "unfair competition" means that it would be unable to determine whether or not the particular testimony offered would fall under that designation?

Mr. COLT. The issue in antitrust cases, as a rule, is one of combination in restraint of trade, or an issue of circumstances and facts which tend to a monopoly. On that broad issue of a scheme or a plan to establish a combination in restraint of trade or to establish a monopoly, as going to show the intent to establish restraint of trade or to establish a monopoly, I would allow anything to go in which might be, from an ethical standpoint, in the nature of that which was unfair, not as going to prove that unfair competition was an offense under the statute, but as going to prove the main issue of an intent or design to carry out a combination in restraint of trade or to carry out an attempt at monopoly.

Mr. WALSH. Would the Senator regard those practices as properly designated as "unfair competition"?

Mr. COLT. Very likely in writing an opinion I would designate them as "unfair competition"; but just see, from the standpoint of the Senator from Montana and the Senator from New Hampshire, in his speech the other day, the extent to which you are going in unfair competition. See how you are going to hamper the ordinary business transactions and business practices in this great country.

Take the thread case. Every charge or allegation of unfair competition is to be taken as an offense under this trade-commission bill; everything contained in a decree which might be forbidden by the court as one of the elements going to show a conspiracy or a combination in restraint of trade, which might consist of twenty or a hundred different elements—every one of those details. Nay, more; they say that does not comprise all. That is only the beginning. The number is infinite. Five men sitting here in the city of Washington are going to exercise a police power over the vast business of this country and look into every transaction from an ethical standpoint, and if they determine that any of the ordinary business transactions in life are unfair according to their ethical standard, they are subject to the prohibition of this statute and are declared unlawful.

Mr. KERN. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Indiana?

Mr. WEEKS. I do.

Mr. KERN. I should like to move that the Senate proceed to the consideration of executive business.

Mr. WEEKS. Before the Senator makes the motion, I should like to have permission to have printed in the RECORD the list of railroads to which I referred in my remarks this afternoon, the dates when they were consolidated with other roads, and other memoranda connected with it.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

CONSOLIDATIONS INTO THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD AND BOSTON & MAINE RAILROAD COMPANIES.

Cheshire Railroad Co. merged into Boston & Maine Railroad, October 1, 1890.
Monadnock Railroad Co. merged into Boston & Maine Railroad, October 1, 1890.
Southern Vermont Railroad purchased by the Boston & Maine Railroad, January 1, 1891.
Stamford & New Canaan Railroad merged into New Haven Railroad, October 1, 1890.
Chelsea Beach Railroad Co. purchased by Boston & Maine, June, 1892.
Dover & Winnipiseogee Railroad purchased by Boston & Maine, June, 1892.
Wolfeborough Railroad purchased by Boston & Maine, June, 1892.
Fall River, Warren & Providence Railroad purchased by New Haven, May 1, 1892.
Newburyport City Railroad purchased by Boston & Maine, January 16, 1893.
Orchard Beach Railroad purchased by Boston & Maine, January 16, 1893.
Hartford & Connecticut Valley Railroad consolidated into New Haven.
New York, Providence & Boston Railroad consolidated into New Haven, February 13, 1893.
West Amesbury Branch Railroad purchased by Boston & Maine, July 1, 1893.
Fall River Railroad purchased by New Haven.
Shore Line Railway Co. merged into New Haven, March 18, 1897.
Housatonic Railroad merged into New Haven, March 29, 1898.
Eastern Railroad (in New Hampshire) purchased by Boston & Maine, June 16, 1899.
Shepaug, Litchfield & Northern Railroad merged into New Haven, July 9, 1898.
Portland, Saco & Portsmouth Railroad merged into Boston & Maine, January 1, 1900.
Portsmouth & Dover Railroad merged into Boston & Maine, January 1, 1900.
Portland & Rochester Railroad merged into Boston & Maine, January 1, 1900.
Colchester Railway Co. merged into New Haven, December 16, 1905.
Danbury & Norfolk Railroad merged into New Haven, October 30, 1905.
Middletown, Meriden & Waterbury Railroad merged into New Haven, November 3, 1905.
Naugatuck Railroad merged into New Haven, January 31, 1906.
New Haven & Derby Railroad merged into New Haven, November 3, 1905.
Nantasket Beach Railroad merged into New Haven, January 24, 1906.
Providence & Springfield Railroad merged into New Haven, October 30, 1905.
Rhode Island & Massachusetts Railroad merged into New Haven, November 3, 1905.
Rockville Railroad merged into New Haven, November 6, 1905.
Woonsocket & Pascoag Railroad merged into New Haven, November 3, 1905.
Danvers Railroad purchased by the Boston & Maine, October 30, 1906.
Newburyport Railroad purchased by the Boston & Maine, October 30, 1906.
New York, New Haven & Hartford Railroad consolidated into New Haven, May 31, 1907.
Boston & New York Air Line Railroad consolidated into New Haven, January 30, 1907.
Pawtuxet Valley Railroad consolidated into New Haven, February 5, 1907.
The New England Railroad merged into the New Haven, April 1, 1908.
Newport & Wickford Railroad & Steamboat Co. purchased by New Haven, November 1, 1909.
Berkshire Railroad merged into New Haven, October 26, 1910.
Milford & Woonsocket Railroad merged into the New Haven, December 19, 1910.
Milford, Franklin & Providence Railroad merged into the New Haven, December 19, 1910.
New Haven & Northampton Co. merged into the New Haven, October 26, 1910.
Rhode Island & Massachusetts Railroad merged into the New Haven, October 26, 1910.
Worcester, Nashua & Rochester Railroad merged into the Boston & Maine, June 12, 1911.
Plymouth & Middleborough Railroad merged into the New Haven, December 27, 1911.

Mr. WEEKS. The Senate has had a good illustration this afternoon of what happens to a layman when he attempts to make a speech upon this subject. I hope it will take into consideration what will happen to the business man if this legislation is passed, when he gets into the hands of his lawyers, and later the courts.

Mr. HOLLIS. I desire to offer an amendment to the pending bill, and ask that it may lie on the table and be printed.

Mr. GALLINGER. Let it be read.

The VICE PRESIDENT. The Senator from New Hampshire asks for the reading of the amendment.

Mr. HOLLIS. I do not ask for the reading.

The VICE PRESIDENT. The senior Senator from New Hampshire asks for the reading of the amendment. The Secretary will read as requested.

The SECRETARY. In lieu of section 5, as printed in the bill, it is proposed to insert:

Amendment intended to be proposed by Mr. HOLLIS to the bill (H. R. 15613) to create an interstate commerce commission, to define its powers and duties, and for other purposes, viz: Amend section 5 as follows:

"SEC. 5. That unfair or oppressive competition in commerce is hereby declared unlawful.

"The commission is hereby empowered and directed to prevent corporations from using unfair or oppressive methods of competition in commerce.

"Whenever the commission shall have reason to believe that any corporation has been or is using any unfair or oppressive method of competition in commerce, it shall issue and serve upon such corporation a written order, at least 30 days in advance of the time set therein for hearing, directing it to appear before the commission and show cause why an order shall not be issued by the commission requiring it to cease and desist from using such method of competition. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission. If upon such hearing the commission shall be of opinion that the method of competition in question is prohibited by this act, it shall make a report in writing, in which it shall state its findings as to the facts relevant to the unlawfulness of such method of competition, and shall issue an order requiring such corporation to cease and desist from using the same. Until a transcript of the record in such hearing shall have been filed in a district court of the United States, as hereinafter provided, the commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

"If such corporation fails or neglects to obey such order of the commission while the same is in effect, the commission may certify and file in the district court of the United States, within any district where the method of competition in question was used or where such corporation is located or carries on business a correct transcript of the entire record in the proceeding, including all the testimony taken in the proceeding and the report and order of the commission. Upon such filing of the transcript the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and to enter upon the pleadings, testimony, and proceedings set forth in such transcript such orders and decrees as may be just and equitable. On motion of the commission, and on such notice as the court shall deem reasonable, the court shall set down the cause for summary final hearing upon such transcript. Upon such final hearing the findings of the commission shall be prima facie evidence of the facts therein stated; but if either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may allow such additional evidence to be taken before the commission or before a master appointed by the court, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem just.

"The commission may provide for the publication of its reports under this section in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports of the commission therein contained in all courts of the United States and of the several States."

DEALING IN COTTON FUTURES (S. DOC. NO. 557).

Mr. SMITH of Georgia. I submit a conference report on the cotton futures bill and ask that it may be printed and lie over until to-morrow.

Mr. JONES. On what bill?

Mr. SMITH of Georgia. On Senate bill 110, the cotton futures bill.

The VICE PRESIDENT. The conference report will lie on the table and be printed.

The report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 110) to regulate trading in cotton futures and provide for the standardization of "upland" and "gulf" cottons separately, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same amended as follows:

In section 3, line 4, of the amendment strike out "1 cent" and insert in lieu thereof "2 cents."

In section 5, seventh line of fifth page, of the amendment, after the comma following "thereof," strike out all the rest of the paragraph and in lieu thereof insert the following: "fixed, assessed, collected and paid, in such manner and in accordance with such rules and regulations as may be prescribed by the Secretary of Agriculture."

In section 5, twenty-second line on the fifth page, of the amendment, after "heard," insert the following: "by him or such officer, officers, agents, or agents of the Department of Agriculture as he may designate."

In section 9 of the amendment strike out the sentence beginning "That." in line 10 of page 8, and insert in lieu thereof the following:

"That the Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards of cotton by which its quality or value may be judged or determined, including its grade, length of staple, strength of staple, color, and such other qualities, properties, and conditions as may be standardized in practical form, which, for the purposes of this act, shall be known as the 'Official cotton standards of the United States,' and to adopt, change, or replace the standard for any grade of cotton established under the act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1909 (35 Stat. L., p. 251), and acts supplementary thereto: *Provided*, That any standard of any cotton established and promulgated under this act by the Secretary of Agriculture shall not be changed or replaced within a period less than one year from and after the date of the promulgation thereof by the Secretary of Agriculture: *Provided further*, That, subsequent to six months after the date section 3 of this act becomes effective, no change or replacement of any standard of any cotton established and promulgated under this act by the Secretary of Agriculture shall become effective until after one year's public notice thereof, which notice shall specify the date when the same is to become effective."

At the end of section 10 of the amendment insert a new paragraph, as follows:

"This section shall not be construed to apply to any contract of sale made in compliance with section 5 of this act."

In section 11, line 8, of the amendment strike out "1 cent" and insert in lieu thereof "2 cents."

In section 11, first line on page 11, of the amendment strike out "quality" and insert in lieu thereof "quantity."

In section 20, line 9, of the amendment strike out "and" preceding "to."

In section 20, line 10, of the amendment strike out "permanent."

In section 20, line 12, strike out "and he shall" and insert in lieu thereof "to."

In section 20, line 13, of the amendment strike out "including" and insert in lieu thereof "to pay."

In section 20, line 13, of the amendment strike out "the employment of" and insert in lieu thereof "to employ."

In section 20, line 15, of the amendment, after the period, insert the following:

"The Secretary of Agriculture is hereby directed to publish from time to time the results of investigations made in pursuance of this act."

In section 21, line 5, of the amendment strike out "three" and in lieu thereof insert "six."

In section 21, line 6, of the amendment strike out the period and insert: " : *Provided*, That nothing in this act shall be construed to apply to any contract of sale of any cotton for future delivery mentioned in section 3 of this act which shall have been made prior to the date when said section 3 becomes effective."

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the title and agree to the same.

HOKE SMITH,
MORRIS SHEPPARD,
JAMES H. BRADY,
Managers on the part of the Senate.

A. F. LEVER,
GORDON LEE,
G. N. HAUGEN,
Managers on the part of the House.

INDIAN APPROPRIATIONS.

Mr. MYERS. Mr. President, I have here a communication from the Commissioner of Indian Affairs, bearing upon certain matters contained in the Indian appropriation bill, the conference report on which was under discussion this morning. I ask that it may be printed in the RECORD in connection with that discussion.

Mr. SMOOT. I object.

The VICE PRESIDENT. Objection is made.

PETITIONS AND MEMORIALS.

Mr. BURTON presented memorials of sundry citizens of Cincinnati, Ohio, remonstrating against the passage of the so-called Clayton antitrust bill, which were ordered to lie on the table.

Mr. POMERENE presented petitions from citizens of New Moorefield, Hillsboro, 48 members of the East Side Chapel Christian Endeavor of Springfield, 35 members of the Christian Endeavor of Hamden, 34 members of the Christian Endeavor of Zanesville, 50 members of the Friends' Christian Endeavor of Montgomery County, 58 members of the Christian Endeavor of Cleveland, 30 citizens of Westerville, 14 citizens of Youngstown, 38 members of the Christian Endeavor Society of Degraff, 63 members of the Woman's Home and Foreign Missionary Society of New Concord, and 15 citizens of Berlin and Millersburg, all in the State of Ohio, praying for nation-wide prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of 200 citizens of Toledo and Cincinnati, in the State of Ohio, remonstrating against national

prohibition, which were referred to the Committee on the Judiciary.

PENSIONS AND INCREASE OF PENSIONS.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 15059) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy of wars other than the Civil War and to widows of such soldiers and sailors, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. SMOOT. I move that the Senate insist upon its amendments and agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT conferees on the part of the Senate.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 17482) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy of wars other than the Civil War and to widows of such soldiers and sailors, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. SMOOT. I move that the Senate insist upon its amendments and agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT conferees on the part of the Senate.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 16345) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to widows of such soldiers and sailors, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. SMOOT. I move that the Senate insist upon its amendments and agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT conferees on the part of the Senate.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 5 minutes spent in executive session the doors were reopened.

RECESS.

Mr. KERN. I move that the Senate take a recess until to-morrow at 11 o'clock a. m.

The motion was agreed to; and (at 6 o'clock p. m) the Senate took a recess until to-morrow, Saturday, July 25, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate July 24, 1914.

FIRST ASSISTANT CHIEF OF BUREAU OF FOREIGN AND DOMESTIC COMMERCE.

Edward A. Brand, of Virginia, to be (First) Assistant Chief of Bureau of Foreign and Domestic Commerce in the Department of Commerce, vice Oscar P. Austin, resigned. (By promotion from (second) assistant chief of the bureau.)

SECOND ASSISTANT CHIEF OF BUREAU OF FOREIGN AND DOMESTIC COMMERCE.

Frank R. Rutter, of Maryland, to be (Second) Assistant Chief of Bureau of Foreign and Domestic Commerce in the Department of Commerce, vice Edward A. Brand, nominated for promotion to (first) assistant chief of the bureau. (By promotion from expert in charge of the Latin-American trade division of the bureau.)

POSTMASTERS.

ARIZONA.

Ida E. Carty to be postmaster at Fort Huachuca, Ariz. Office became presidential July 1, 1914.

E. W. Phillips to be postmaster at Hayden, Ariz., in place of Harry C. Adams, removed.

Leonard D. Redfield to be postmaster at Benson, Ariz., in place of Patrick G. Madigan, declined.

John Towner to be postmaster at Naco, Ariz. Office became presidential July 1, 1914.

ARKANSAS.

Robert B. Lawson to be postmaster at Bigelow, Ark., in place of Harry S. Stuckert. Incumbent's commission expired May 4, 1914.

T. E. Haley to be postmaster at Paragould, Ark., in place of John H. McPherson. Incumbent's commission expired January 25, 1914.

Lucius Pilkington to be postmaster at Searcy, Ark., in place of Ransel S. Coffman. Incumbent's commission expired April 19, 1914.

CALIFORNIA.

Reuben E. Baer to be postmaster at Healdsburg, Cal., in place of John C. Ingalls. Incumbent's commission expired February 18, 1914.

FLORIDA.

J. R. Thompson to be postmaster at St. Andrew, Fla., in place of S. J. Gainer, declined.

F. C. Wilson to be postmaster at Chipley, Fla., in place of Joseph P. Schell, removed.

ILLINOIS.

Charles D. Kuykendall to be postmaster at Grayville, Ill., in place of William A. Mussett. Incumbent's commission expired February 18, 1914.

Robert Selby to be postmaster at Lovington, Ill., in place of Charles A. Gregory, removed.

INDIANA.

John P. Huther to be postmaster at Jasper, Ind., in place of Andrew F. Gugsell, resigned.

Levi T. Pennington to be postmaster at Spiceland, Ind. Office became presidential July 1, 1914.

IOWA.

Sterling P. Moore to be postmaster at Villisca, Iowa, in place of William B. Arbuckle. Incumbent's commission expired May 18, 1914.

J. Brady Platt to be postmaster at Tipton, Iowa, in place of J. Brady Pyatt, to correct name of appointee.

Isaac N. West to be postmaster at Mount Vernon, Iowa, in place of Louis H. Kepler. Incumbent's commission expired June 24, 1914.

KENTUCKY.

E. P. Brown to be postmaster at Lancaster, Ky., in place of William T. West. Incumbent's commission expired March 7, 1914.

MINNESOTA.

Henry P. Dunn to be postmaster at Brainerd, Minn., in place of Newton H. Ingersoll. Incumbent's commission expired February 15, 1914.

Halvor T. Moland to be postmaster at Buffalo, Minn., in place of Edward M. Nagel. Incumbent's commission expired June 13, 1914.

Frank Plotts to be postmaster at Blooming Prairie, Minn., in place of Theodore P. Fagre. Incumbent's commission expired June 2, 1914.

MISSISSIPPI.

Frances P. McNabb to be postmaster at Drew, Miss. Office became presidential July 1, 1914.

MISSOURI.

A. R. Alexander to be postmaster at Plattsburg, Mo., in place of Walter F. Thompson. Incumbent's commission expired April 29, 1914.

NEBRASKA.

John Conroy to be postmaster at Shelton, Nebr., in place of Iver T. Petersen. Incumbent's commission expired May 17, 1914.

George W. Ewing to be postmaster at Nelson, Nebr., in place of Thomas W. Cole. Incumbent's commission expired June 2, 1914.

Edward P. Fitzgerald to be postmaster at Elm Creek, Nebr., in place of Ben F. Sailor, resigned.

NEW JERSEY.

James L. Ackerman to be postmaster at Ridgefield, N. J., in place of George H. S. Rowe, resigned.

NEW YORK.

James Hulls to be postmaster at Niagara Falls, N. Y., in place of F. H. Salt. Incumbent's commission expired June 1, 1914.

James Lynch to be postmaster at Ithaca, N. Y., in place of L. H. Van Kirk. Incumbent's commission expired May 23, 1914.

Harry J. Towner to be postmaster at Avoca, N. Y., in place of George C. Silsbee. Incumbent's commission expired March 22, 1914.

OHIO.

Val Lee to be postmaster at Sidney, Ohio, in place of Robert V. Jones, deceased.

PENNSYLVANIA.

Peter V. Abel to be postmaster at Hastings, Pa., in place of Alpheus B. Clark. Incumbent's commission expired May 6, 1914.

Walter K. Ashton to be postmaster at Fairchance, Pa., in place of Huston S. Williams, resigned.

Lewis Dilliner to be postmaster at Point Marion, Pa., in place of Howard B. Frankenberry. Incumbent's commission expired January 11, 1914.

John J. Kinney to be postmaster at South Fork, Pa., in place of William H. Moore. Incumbent's commission expired June 1, 1914.

William H. Nelson to be postmaster at Chester, Pa., in place of James M. Hamilton, removed.

Abraham H. Nyce to be postmaster at Vernfield, Pa. Office became presidential April 1, 1914.

VIRGINIA.

Samuel M. Donald to be postmaster at Staunton, Va., in place of S. Brown Allen. Incumbent's commission expired March 7, 1914.

WEST VIRGINIA.

Harry L. Van Sickler to be postmaster at Lewisburg, W. Va., in place of Noah W. Russell. Incumbent's commission expired June 25, 1914.

WISCONSIN.

H. Meisner to be postmaster at Wittenberg, Wis., in place of Irwin R. Nye. Incumbent's commission expired January 12, 1913.

CONFIRMATIONS.

Executive nominations confirmed by the Senate July 24, 1914.

CONSULS.

Wallace J. Young to be consul at Carlsbad, Austria.

Walter A. Leonard to be consul at Colombo, Ceylon.

RECEIVERS OF PUBLIC MONEYS.

Oscar B. Gordon to be receiver of public moneys at Camden, Ark.

James P. Bole to be receiver of public moneys at Bozeman, Mont.

REGISTER OF THE LAND OFFICE.

Robert D. Newton to be register of the land office at Camden, Ark.

POSTMASTERS.

MINNESOTA.

Alois Hirscher, Shakopee.

J. D. Whaley, Fosston.

SOUTH CAROLINA.

T. P. McLeod, Hartsville.

Robinson P. Searson, Allendale.

WASHINGTON.

Talleyrand Bratton, Goldendale.

HOUSE OF REPRESENTATIVES.

FRIDAY, *July 24, 1914.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We thank Thee, Almighty God our Father, for all that is truly noble, pure, and great in man; that the trend of his life from the beginning has been upward, not downward; forward, not backward; goodward, not badward; and we most fervently pray that under the spiritual leadership of the world's great Exemplar he may continue to grow until Thy kingdom shall come in every heart and Thy will be done in every life, that the name of our Father may be hallowed in all the earth. Amen.

The Journal of the proceedings of yesterday was read and approved.

THE GENERAL DAM ACT.

Mr. ADAMSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of H. R. 16053, the general dam bill.

Mr. HAWLEY. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Oregon rise?

Mr. HAWLEY. I ask unanimous consent to speak for five minutes on a matter of public importance.

Mr. ADAMSON. Mr. Speaker, I think we can accommodate the gentleman in Committee of the Whole. We will yield to the gentleman five minutes.

Mr. HAWLEY. It will take no longer now than it will then.

Mr. ADAMSON. We can yield to the gentleman five minutes when we get into Committee of the Whole. I will do that with pleasure.

The SPEAKER. The gentleman from Georgia [Mr. ADAMSON] moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of H. R. 16053, the general dam bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 16053) to amend the act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910, with Mr. GARNER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of H. R. 16053, which the Clerk will report by title.

The Clerk read the title of the bill.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. MONTAGUE having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 6084. An act to grant the consent of Congress for the county of Pulaski, State of Arkansas, to construct a bridge across the Arkansas River between the cities of Little Rock and Argenta, Ark.; and

S. 4146. An act granting certain lands to school district No. 44, Chelan County, Wash.

The message also announced that the Senate had insisted upon its amendments to bills of the following titles, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT as the conferees on the part of the Senate:

H. R. 16345. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 17482. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; and

H. R. 15959. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

THE GENERAL DAM ACT.

The committee resumed its session.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Oregon [Mr. HAWLEY] such time as he may desire.

Mr. HAWLEY. Mr. Chairman and gentlemen, I ask the special attention of Members to this brief statement:

In 1908 Congress passed a resolution authorizing the Attorney General to begin a suit for forfeiture, or the enforcement of other remedies on the part of the Government, against the Southern Pacific Railroad Co., the successor in interest to the Oregon & California Railroad land-grant lands.

The grant provided that the land should be disposed of to actual settlers in tracts not to exceed 160 acres to any one person and for a price not to exceed $2.50 per acre.

The case was heard in Judge Wolverton's court, the United States District Court for the Eastern District of Oregon, on demurrer, and then on the merits, and in both instances the grant was held for forfeiture. But that is not the particular matter of which I wish to speak.

Immediately upon the passage of the resolution certain individuals throughout the United States began to represent themselves as authorized to place settlers on these lands, and others have acted as locators on their own individual responsibility, and their activities have covered the entire United States and Canada. These operations have continued more or less uninterruptedly since 1908. The representatives of the Department of Justice in Oregon have estimated that citizens of the United States have been mulcted of about a million and a half dollars for these alleged locations on the railroad lands. While the suit is pending, of course the ownership of the lands is in dispute. The railroad company has no right to sell them and the Government has no right to dispose of them while the suit is pending, and no person acting on his own authority has a right to make any representation to any citizen of the United States that he can locate him on a piece of this land and guarantee to him, directly or indirectly, that when the suit is decided he will receive the land with any assurance or certainty that this will result. But locators have represented to thousands and thousands of people that if they would pay them from $150 to $400 for a location they would "locate" them on a tract of land and that they would get their patent in due time. They have promised them patents in as short a period as within 90 days, and they have said to them that the railroad company had adopted this plan of getting settlers onto the land under the law, and then when the settler has received his patent under the original grant the railroad company will buy the land back from the supposed settler; and in the meantime if he was in unfortunate circumstances they would loan him a sum of money upon his location.

Of course all such representations are without foundation.

The Government is proceeding in the United States district court against these parties for fraudulent use of the mails. Several have been convicted. Others are on trial. It so develops that the parties who were engaged in "locating" people on these lands have different interests, and they are testifying one against the other. The fraud has been so widely spread throughout the United States, so many people have been misled, so much money has been taken from unsuspecting citizens, amounting to a million and a half of dollars, as estimated by the district attorney's office in Portland, that I thought it proper to call the attention of the House and the country to this matter, so that it may be stopped, and unsuspecting people may not be further misled.

They are taking the money from people who can ill afford to lose it; people of small means, earning a livelihood and having small resources. It is not only a public wrong, but a private wrong to all these people. As many as 50 filings have been sold on one location in the county of Marion, so the county recorder of that county reports. There are thousands and thousands of duplications in these so-called locations. I ask unanimous consent to insert in the RECORD the newspaper reports of this trial, in order that the House may be informed of the matter. I have had a great many inquiries from all parts of the United States, and some from Members of the House regarding the matter, and, although these newspaper reports are somewhat long, they state the case very succinctly and clearly. On account of the large amount of money involved and the number of persons who are being misled, I think the insertion in the RECORD is justified. I ask unanimous consent to insert these newspaper extracts.

The CHAIRMAN. The gentleman from Oregon asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The newspaper extracts referred to are as follows:

[From the Morning Oregonian, Portland, Oreg., of July 14, 1914.]

FIFTY FILINGS SOLD ON SAME SECTION—MARION COUNTY OFFICIAL TELLS OF "LOCATORS"—STENOGRAPHER GIVES SECRET—LOGAN'S CONFEDERATE ANSWERS "BUZZER" AS "PROSPECT" CALLS—OFFICE METHODS SHOWN—STENOGRAPHER TESTIFIES THAT MEMBER OF CONCERN POSED AS BUYER OR SATISFIED CUSTOMER SO THAT OTHERS WOULD FOLLOW.

The methods said to have been used by the so-called Seattle group in inducing people to buy alleged fraudulent "locations" on Oregon & California land-grant lands were aired in the United States district court before Judge Bean when the trial of W. F. Minard, of Portland, and J. W. Logan and E. J. Sellers, of Tacoma, was resumed yesterday.

Clara Gaucher, stenographer for Logan at Tacoma, in 1911, told how a confederate of Logan's received a buzzer signal from Logan when a "prospect" entered the office.

CONFEDERATE IS "DELIGHTED."

This confederate, according to Miss Gaucher, then would enter the office, "introduce" himself, and either close a deal for a location before the "prospect's" eyes, or would say that he had just returned from examining land on which he had been "located" and was delighted with the "investment."

Max Hoffman, of Twodot, Mont., a New Thought preacher, was on the stand and told of his work as an agent for Minard, who, he said, represented himself as 'acting attorney" for the Oregon & California Railroad.

MINARD'S AGENT TELLS OF LETTER.

Hoffman said he received a letter from Minard at Portland in March, 1914, saying:

"The grand jury has just adjourned. The Government spent half a million dollars, called 343 witnesses, but couldn't indict me nor my confederates. I'm now a most noted man."

County Recorder A. Eugene Aufranc, of Marion County, told of having received as many as 50 "filings" for different people on the same quarter section of land, many of which were received on the same day and in the same affidavit from Minard.

Miss Blanche Reed, of Roseburg, deputy county recorder of Douglas County, gave testimony similar to Mr. Aufranc's, and Fred L. Colvig, county recorder of Jackson County, previously had testified that his office recorded "locations" on the same piece of land.

The modus operandi, as brought out in the testimony, was for one of Minard's agents to secure from the "prospect" a sum of money, varying with the amount of timber said to be on the quarter section of land selected by the "prospect."

TENINO MAN GIVES PRICE.

C. S. Vanderslice, of Tenino, Wash., testified yesterday that the "location" price in his case was to be $15 for each million feet of timber on his land.

The agent, retaining his commission, would forward the remainder of the "location fee" to Minard in Portland. Minard then would go through the form of offering the Southern Pacific Co., successors in interest to the Oregon & California Railroad Co., $2.50 an acre, or $400 for the certain quarter section selected by the "settler" or person whose money had been sent him.

The company would refuse to sell. Minard then would make affidavit that he had made application for the land for the "settler" and forward the affidavit with the "application" made by the "settler" to the county recorder of the county in which the land was located. The "application" would be recorded, returned to Minard, and by him to the "settler."

On cross-examination by Attorney J. C. Dennis, of Seattle, representing Logan, Vanderslice admitted that at no time had he had any intention of settling on the land on which he was "located." He did not even know whether Jackson County, where his selection was located, was in northern, southern, or eastern Oregon.

"GOOD PROPOSITION" SEEN.

Pressed by Attorney Dennis, Vanderslice insisted that in investing a total of $165, for which he expected to receive in return $5,500 within 60 or 90 days from the railroad company, he thought he "had a good business proposition."

He told of going to Seattle with one of the defendants, E. J. Sellers, also a resident of Tenino; of how Sellers learned of the opportunity to invest in railroad timber lands, told him of it, and of how he paid $157.50, which was to be the "location fee" for a one-half interest in two quarter sections, Sellers taking the other half of the deal.

He said that Henry J. Harper, who already has served a 30-day sentence following a plea of guilty to the charge of using the mails fraudulently, was the man who explained the plan to him in the presence of Logan.

Vanderslice said that he was told that the railroad company wanted to comply with the terms of the original grant by selling the land to settlers at $2.50 an acre, and that to do this it wanted to get "dummy" settlers, from whom it would buy the land back at a price of $15 for each million feet of timber and "get a clear title" for itself.

He understood that he was to be a "dummy," he said, but on cross-examination maintained that he considered the proceeding "legitimate."

Miss Gaucher, who was Logan's stenographer, was asked by District Attorney Reames to tell the jury all about a "bell code system" that she had mentioned as being used in Logan's office.

METHODS ARE EXPOSED.

"We had two rooms," said Miss Gaucher, "a private office and a general office, with a bell system between and a buzzer in the private office.

"By appointment, as people would come in and Mr. Logan would be talking to them he would press the buzzer, which would ring in the private office. Mr. Miller (J. B. Miller, of Tacoma, now dead) would then leave the private office, go out in the hall, and come in the general office as if he had come from the street. Then he would pose as a man who had just bought land or who had just come up from Oregon, where he had seen the land, or who wanted to buy land, according to the people that were in the office."

"As a matter of fact, Logan and Miller were working together?" asked Mr. Reames.

"They were," said the witness.

"Suppose," said Mr. Reames, "Mr. Logan had some one in the office who was about to purchase land, what would Mr. Miller say when going in?"

"Sometimes, but not always," replied Miss Gaucher, "he would go in and was ready to buy land; he had heard about it and the property appealed to him."

[From the Morning Oregonian, July 15, 1914.]

FRAUD PROFE NOW TURNED TO LOGAN—LAND-GRANT SALES ARE MADE WHOLE FAMILY—PRICE OF ARM BUYS "LOCATION"—ALLEGED ILLEGAL TRAFFIC COVERS FROM OCEAN TO OCEAN—FILINGS CALLED "CINCH"—"YOU CAN'T LOSE," WITNESSES SAY THEY WERE TOLD; "EITHER RECEIVERS WILL BE APPOINTED OR YOU WILL GET LIEU CHOICE."

That J. W. Logan, of Seattle, on trial in the United States district court, charged with fraudulent use of the mails, still was engaged in taking "applications" from prospective settlers on the Oregon & California Railroad grant lands as recently as last March, or three weeks after a secret indictment against him had been returned by the Federal grand jury here, was testified to yesterday in Judge Bean's court in the trial of Logan and W. F. Minard, of Portland, and E. J. Sellers, of Tacoma, who were indicted at the same time.

LOGAN NEW OBJECT OF ATTACK.

The Government prosecutors yesterday afternoon switched their guns from Minard, who had been under a heavy fire since the opening of the case last Friday, and concentrated their attack on Logan.

This was done under a ruling by Judge Bean, to which Claude Strahan, one of Minard's attorneys, saved an exception.

Judge Bean's ruling came after a contest between District Attorney Reames and J. C. Dennis, of Tacoma, attorney for Logan. Mr. Reames asked that evidence be admitted of Logan's acts as an individual, and not as a party to the alleged "conspiracy to defraud," with which he, Minard, and Sellers are jointly charged, these acts, Mr. Reames said, having occurred after the completion of the alleged "conspiracy."

Mr. Reames asked that this evidence be admitted as tending to show Logan's intent in his previous acts, for which he is on trial.

INTENT ONLY IS CONSIDERED.

As such, the evidence was admitted by Judge Bean, with an admonition to the jury that it could have no bearing on the charges against Minard and Sellers, or on those against Logan, except as showing his intent.

With yesterday's witnesses the extent of the alleged fraudulent operations of the men on trial was shown to have ranged from Seattle to Los Angeles and from Chicago to Portland.

Evidence was given showing how whole families invested in the "locations" on the railroad grant lands, and how a person, once a "locator," became an effective "booster," getting his friends to "invest" likewise.

One person to whom Logan sold an alleged fraudulent land location was Mrs. O. A. Brugler, of Watsonville, Cal., whose husband had procured a "location" from Logan three weeks before, according to their evidence.

INSURANCE BUYS LOCATION.

Brugler is a young stationary engineer. He has lost an arm and he explained that the $300 he and his wife paid for the two locations was received as insurance for the accident which crippled him.

"I explained to Logan that we only had a little money that I received for the loss of my arm," said Brugler, "and told him that I couldn't afford to take any chances. He told me I was taking no chances whatever."

Mr. Brugler told of Logan coming with her husband to their home to explain the plan whereby they were to get the railroad land.

"Mr. Logan told us there positively was no chance of our losing," she said, "and that the reason the railroad company wanted people to settle on the land was so they could get the timber.

"But there was no chance of our losing," she repeated, with emphasis. "If the Government won the suit against the railroad company, we would get the land, but the only way the railroad could win was to sell the land to settlers at $2.50 an acre."

Other witnesses gave similar testimony. All were emphatic that Logan had told them they couldn't lose.

LOCATIONS CALLED "CINCH."

"Logan said it was absolutely a cinch," said Thomas J. Prastor, a barber, of Tuolumne, Cal., who said that at least eight people in that town bought "locations" from Logan at $150 each at about the same time he did and afterwards.

He said that his attention first was called to Logan's proposition by an "ad" in a San Francisco paper, to which his brother-in-law directed his attention in June, 1913. He wrote to the "Oregon Realty Co.," which was advertising "homestead relinquishments," and Logan came to Tuolumne to see him.

G. F. Eade, now of Daly City, Cal., but formerly a grocer at Attica, Ind., told of meeting Logan in Chicago in September, 1912, as a result of an advertisement in a Chicago paper signed the "Oregon Development Co."

WHOLE EADE FAMILY BUYS.

Not only Eade, but nearly his whole family, according to his testimony, "invested" in Logan's proposition.

"Myself, my wife, my two sons, my brother-in-law, and his wife," he enumerated, naming 12 persons in all in the family who had paid $150 each, or a total of $1,800, to Logan for "locations."

"Did you ever get any of this money back?" asked District Attorney Reames of each of the witnesses.

"Not yet," was the invariable answer.

"Ever get any land?" pursued Mr. Reames.

"Not yet," was the reply in each case.

The name of Norman D. Cook, a San Francisco attorney, who is under indictment on charges similar to those on which Minard, Logan, and Sellers are being tried, bobbed up in the testimony several times during the day.

ATTORNEY COOK DISMISSED.

Cook had a hearing, beginning May 28, before United States Commissioner Krull, at San Francisco. Having heard some of the witnesses who appeared yesterday, Commissioner Krull dismissed Cook, not considering the evidence against him sufficient to send him to Portland for trial.

Logan represented himself as the representative of a "big Chicago syndicate," said Theodore Aarkrogh, an engineer in a refrigerating plant in San Francisco. The other witnesses told the same story. He met Logan in San Francisco, he said, in August, 1912, where the "Oregon Realty Co." had "three offices, with doors between."

"I was to pay $150 for a location fee, cruising, filing, attorney fees, etc.," said Aarkrogh. "I was to understand that I was giving up all right ever to file on a timber claim again. The railroad company's purpose, I was told, was to get settlers on the land, which was lying idle and involved a value of $10,000,000, as the railroad company would lose it if it could not get settlers on it.

"I was to get title not later than January, 1913," went on Aarkrogh. "The timber was to be taken off in three months after I got title, and I was to be paid a forfeit of $50 a month by the Oregon Railroad Co. if it was not removed. The Oregon Railroad Co. was the owner of the land, but had to sell it according to the grant of 1872 to get title."

FARMER GIVEN LURING PROMISE.

Hans Madsen, a farmer of Dublin, Alameda County, Cal., said Logan, at Pleasantown, 40 miles southeast of San Francisco, represented himself as a lawyer for a lumber company; that he paid Logan $150, with the understanding that he was to get the land in six months or a year.

"They were to pay me $30 a thousand for logs, making $2,500 for the timber on my land," said Madsen. "Four hundred was to pay the railroad company for the land, at $2.50 an acre, and the remaining $2,100 was to be given me. My land was to be in Lane County."

Logan's defense began to take definite shape yesterday, as Attorney Dennis in cross-examination made no attempt to rebut the witnesses, but tried to bring out that Logan had been open and public in his transactions, giving public lectures and acting as though he had the greatest faith in the scheme.

Attorney Dennis brought out that Logan had told the locators of the Government suit to forfeit the railroad's claim to the land, and that he had read and shown them passages in the Federal Court Reporter relating to the suit.

SPEECH NOT SHOWN WITNESS.

"Didn't Mr. Logan show you the speech delivered by Congressman LAFFERTY on this land-grant matter?" Attorney Dennis asked Thomas J. Praster, of Tuolumne, but the witness said "No," admitting that Logan, in his barber shop, displayed maps, abstracts, photographs of timber, and other data bearing on the land grant.

John McCourt, United States district attorney in 1911, told how Minard came to his office in that year to see him about his "proposition."

ATTORNEY M'COURT CALLED IT "BUNK."

"I told Minard that he was engaged in a 'bunk' game," said Mr. McCourt, "and that the Government was going after him if he didn't quit. He told me he was advised by his attorneys that he was within the law, and that he would persist in his course until advised to the contrary."

Emil Carlin, a restaurant employee of Los Angeles, told of meeting Logan, giving him $150 for a "location," and signing an option agreeing to sell the timber to Logan's company.

W. D. Fenton, counsel for the Oregon & California Railroad Co., who has handled the land-grant suits for the company since they were begun in September, 1908, gave a complete review of the litigation concerning the case in the morning session of the court.

The attitude of the company had always been that it was the owner of the lands and it had received patents to them, he testified, and accordingly held that it could sell them at any price and give deed at any time. No applicant has received any title to the land in the grant, according to Mr. Fenton, and they are considered as trespassers.

MINARD OR LOGAN NOT AGENTS.

He said that Minard was not an attorney of the Oregon & California and had acted without authority in so declaring himself. He denied that J. W. Logan is or ever has been an agent for the company.

"No locators have been given authority by us," said Mr. Fenton.

Representative A. W. LAFFERTY'S interest in the suit was touched upon by Mr. Fenton. He said that Mr. LAFFERTY represents 68 actual settlers on the 2,300,000 acres involved in the suit. Most of these are located either in Columbia County or in the northern part of the grant, according to Mr. Fenton.

[From the Morning Oregonian, July 16, 1914.]

CALIFORNIA PHOTOS FAKE OREGON LAND—LOGAN'S CHAUFFEUR AN ACCOMPLICE—100 "LOCATIONS" SOLD, SWORN—LAND-GRANT "SALESMAN" WOULD "LAUGH WHEN ALONE"—DIFFERENT STORIES TOLD—"OREGON REALTY CO." AND "OREGON TIMBER & LAND CO." ARE TWO CONCERNS "REPRESENTED" IN SAN FRANCISCO.

Kodak pictures of the famous sequoia, or big redwood, trees of California were used as fake pictures of Oregon timber by J. W. Logan, of Tacoma, in persuading Californians to buy "locations" on timberlands within the Oregon & California Railroad grant in Oregon, according to testimony given in United States district court yesterday by J. D. Stafford, a San Francisco chauffeur, who admitted he had been an accomplice of Logan.

STAFFORD CONTINUES "LOGAN CHAPTER."

Stafford's testimony came in the continuation of the "Logan chapter" of the trial of Logan, W. F. Minard, of Portland, and E. J. Sellers, of Tacoma, accused of fraudulent use of the mails in connection with the sale of "locations" on the railroad land grant, which has been forfeited to the Government by the United States district court for Oregon, the case now being on appeal to the United States Supreme Court.

Like much of the testimony given Tuesday, that of Stafford will have no bearing on the case against Minard and Sellers, and only on Logan's case in so far as it may show his intent in his previous activities in conjunction with Minard and Sellers. This testimony relates to Logan's acts subsequent to those for which he, Minard, and Sellers now are accused of using the mails in a "conspiracy to defraud."

CALAVERAS PICTURE IDENTIFIED.

Questioned by District Attorney Reames as to pictures used by Logan in his "location" selling campaign, Stafford said at least one of them was taken in Calaveras County, noted for its big trees, he and Logan having come among the giant timber in the automobile in which they canvassed the country around San Francisco for a radius of 150 or 160 miles.

"Logan suggested taking these pictures, because they would be good boost pictures," said Stafford, adding that they were taken by Logan. He identified a picture which showed himself sitting in an automobile, with the big trees for a background, as one taken under these circumstances.

Stafford told of being engaged as Logan's chauffeur for five or six months during the spring and summer of 1913, at which time, he said, Logan's headquarters were in San Francisco and Oakland. He said he had no other employment while working for Logan, except that he "boosted this O. & C. stuff."

100 LOCATIONS SOLD.

Stafford estimated that during the time he was with Logan more than 100 "locations" were sold at $150 each.

"Logan did business mainly with well-to-do people, didn't he?" asked J. C. Dennis, of Tacoma, Logan's attorney, on cross-examination.

"They all had $150," answered Stafford.

"Was there a difference in Logan when you were alone together, compared to when you were in the presence of prospective applicants?" asked District Attorney Reames.

"The thing was a joke to me, and to him, too," said Stafford. "He used to laugh about it when we were alone."

He said that Logan was serious and businesslike when there were "prospects" around.

"What would Logan say to you when you were approaching a town in the automobile?" asked Mr. Reames.

"WE'LL DYNAMITE IT" IS REPLY.

"He would say, 'We'll dynamite this place,'" said Stafford.

"Did you know what he meant by 'dynamite'?" asked Mr. Reames.

"I object to the form of the question," interposed Attorney Dennis.

"You knew that he didn't really mean that you were going to blow up the town?" persisted Mr. Reames, and Stafford said that he did.

Stafford said that Logan claimed to be representing different concerns at different times, among them the Oregon Realty Co. and the Oregon Timber & Land Co.

"Did you ever come right out and ask Logan as to the merits of the proposition?" asked Mr. Reames.

LOGAN "KIND OF LAUGHED."

"I asked him once," said Stafford, "and he kind of laughed and said, 'They may have a chance in 10 years or so.'"

Stafford identified the following advertisement, which was read to the jury, as one having been used by Logan in San Francisco newspapers to attract "prospects":

"GOVERNMENT LANDS.—Homestead relinquishments, 160 acres choice land, rich loam soil; 80 acres level, balance slightly rolling; two natural springs; good stream running through place; 20 acres cleared for cultivation; 40 acres pasture, fenced; green grass year around; some good green timber; three-room house, two additional rooms almost finished; plenty of furniture and cooking utensils; chicken house, smokehouse, barn 24 by 36; six tons hay; two work horses, wagon, farm implements; 100 chickens, mostly laying hens; two fresh cows; three hogs; two-seated hack; good road to station; 2½ miles to country school; large garden full of vegetables, some fruit trees, etc.; healthy climate; owner will relinquish his right and sacrifice for $1,200; terms, $500 cash down, balance to suit.—Box 3504, Examiner."

ADVERTISEMENT PRONOUNCED FAKE.

Stafford said that Logan, so far as he knew, had no such land for sale as that described in the advertisement, which was used as a means of getting in touch with prospects.

He said that Logan's method of presenting the scheme varied with the character of the prospect, but that Logan always would begin by asking a person if he had used his timberland right.

"Would he tell them about the Government's suit to recover the land?" asked District Attorney Reames.

"Not unless they knew something about it already," said Stafford.

He said Logan told "prospects" that "it was absolutely a sure thing, or we couldn't sell it."

Cross-examined, Stafford said he not only had heard all that he had been telling about but had "worked it himself."

CHAUFFEUR STANDS FIRM.

He stood firm on cross-examination, saying he never had a serious quarrel with Logan and was friendly to him yet.

Pressed by Attorney Dennis, he admitted going to Nevada and had worked the "location" scheme.

"Did you misrepresent?" asked Mr. Dennis.

"All the locators did."

"Did you, personally?"

"Yes; I did," said Stafford, with a shame-faced grin.

He said he never heard Logan say he represented the Oregon & California Railroad Co., but that Logan always claimed to represent a timber firm.

TWO HUNDRED TO THREE HUNDRED ACKNOWLEDGMENTS MADE.

R. J. McClelland, a Los Angeles notary public, said in 1912 and 1913 he was called to the office of Fred Brantner, who, he said, was apparently working with Logan, 200 or 300 times to take acknowledgments.

He said Logan, Brantner, and other would give the impression in a roundabout way that the railroad company was back of them.

George H. Veach, a harnessmaker of Watsonville, Cal., testified he had invested with Logan and had induced Watsonville friends to invest.

Attorney Dennis asked Veach if he had not been interested financially with Logan.

Veach denied with emphasis.

Producing three letters, Mr. Dennis asked Veach if he had ever seen them before.

With a red face, Veach admitted he had.

The letters, which were from Veach to Logan, were read to the jury by Mr. Dennis.

A fourth letter was produced, warning Logan that there was a little scare in Watsonville that Logan's proposition was a fake. Veach said the fourth letter had been written at the request of a post-office inspector as a decoy for Logan.

POSTAL INSPECTOR ON STAND.

M. M. Warren, the San Francisco post-office inspector for whom Veach wrote the fourth letter, testified as to the circumstances of meeting Veach and making arrangements with him to get evidence against Logan.

A. Karpoff, a machinist of West Berkeley, Cal., said he paid $50 and made a trip to Josephine County, Oreg., to see his land.

"Logan told me it was level," he said, "with 5,500,000 feet of timber. I found a hill impossible to climb, from which the timber had been cut 15 or 20 years ago."

He said he was one of several who started a suit against Logan in California.

He insisted Logan represented himself as a Government agent.

Logan apparently was undaunted by the testimony against him and watched the progress of the case alertly, frequently supplying his attorney with data and making suggestions.

The case will be continued to-day.

[From the Morning Oregonian, July 17, 1914.]

LAND CASE BRINGS FIRST PARDON NEWS—WILSON FREES "LOCATOR" WHO CONFESSED—SURPRISE SPRUNG IN COURT—HARPER DECLARES THAT IMMUNITY WAS NOT PROMISED—CLEMENCY LAID TO WIFE—FORMER MEMBER OF GROUP SELLING "LOCATIONS" ON DISPUTED PROPERTY TOO FLUENT IN TESTIMONY, IS CHECKED BY ATTORNEYS.

The fact that Henry J. Harper, a Tacoma barber who served 30 days for fraudulent use of the mails, has a full pardon from President Wilson, restoring his civil rights, first became public yesterday in the United States district court, with Judge Bean sitting, while Harper was on the witness stand as a witness against W. F. Minard, of Portland, and J. W. Logan and E. J. Sellers, of Tacoma, accused of the same offense.

Harper was a member of the so-called "Seattle group" of alleged fake land locators, of which Minard, Logan, and Sellers are alleged by the Government to have been members also.

OPERATIONS ARE EXTENSIVE.

These men, the Government alleges, conspired and used the mails in furtherance of the conspiracy to get persons to buy worthless "locations" from them on timberlands within the Oregon & California Railroad land grant in Oregon. This alleged fraud was country-wide, and the Federal authorities estimate that its operators obtained at least $1,500,000 by this means.

Harper's pardon, which was made a part of the record of the Minard-Logan-Sellers case, recites as reasons for its granting that the United States district attorney desired to use Harper as a witness, which would have been impossible without the pardon, and that there were extenuating circumstances connected with Harper's case, which, in the language of the instrument, were "sufficient to move" the President to grant it.

Harper said that he did not know that he had been pardoned or that a pardon was to be granted to him until notified by Mr. Reames last Tuesday.

WITNESS SHOWS EMOTION.

Having related his connection with the alleged fraudulent scheme and how he had spent six weeks in jail in Portland before his arraignment and plea of guilty, Harper was asked by Mr. Reames if he knew why he had received so light a sentence.

"Yes," he said.

"At whose solicitation was it?" asked Mr. Reames.

Harper did not answer at once. He turned his face aside and seemed overcome with emotion.

Urged by Mr. Reames, he answered in a choking voice, "My wife."

In what circumstances were your family while you were in jail?"

FAMILY LEFT DESTITUTE.

Harper admitted that they were destitute.

"How much of a family have you?"

"A girl 15," said Harper brokenly, "a boy 12, one 7, one 4, and one 3."

Harper said that from the time, of his own accord, he first went to Special Agent Byron, of the department of justice at Seattle, and told his story, he had received no promise of immunity or pardon.

He was working as "extra man" in a barber shop in Seattle in January, 1914, he said, when one morning he read in a newspaper that the Federal grand jury at Portland was about to investigate the Oregon & California land frauds.

WIFE COUNSELS CONFESSION.

"I went home to talk the matter over with my wife as soon as I read it," he continued. "I told her that it looked as though the whole thing was coming to a head, and that I believed the best thing was to go to some Government officer and tell the whole darn story.

"They will get me anyway," I said, "and we agreed that I couldn't run away." She said that if that was the way I felt about it that was the best thing to do.

"My wife had always said there would be trouble over it," he said. "She had tried to get me to stop it, and even burned some of the papers that I used in soliciting locations."

On cross-examination by Claude Strahan, attorney for Minard, Harper reiterated that he had acted throughout of his own volition, volunteering all the information that he gave to the Federal officials at all times.

"Where did you get the money to come to Portland before the grand jury?" asked Strahan.

MONEY DECLARED PERSONAL LOAN.

"I borrowed $9 from Mr. Byron," said the witness.

"Have you paid it back?"

"No."

Harper insisted, however, that Byron had given him the money with the understanding that it was not Government funds, but a personal loan, and that he expected it back.

Harper denied "scouting around" in Portland after he came as a grand-jury witness to get information against his former associates.

He denied telling inmates of the county jail that "if he had money he would fight," and that a Government agent had been there to get him to plead guilty, but admitted that he told other prisoners that he thought that "if his wife came down he could get off with a light sentence."

So rapidly did he talk and so closely did Attorney Strahan crowd him with questions that Miss Mary E. Bell, official court stenographer, was compelled to halt them several times to catch up, although she can take with ease the usual court proceedings.

Harper was voluble. He was willing to tell not only what Mr. Reames and Mr. Strahan wanted to know, but a great deal more, so that they had to stop him repeatedly.

He said that "telling the truth was no good" in selling the locations. He went to Grants Pass, he said, following Judge Wolverton's forfeiture decision in April, 1911, declaring the whole land grant restored to the United States, to see J. T. Burns, who had been selling "locations."

LYING DECLARED NECESSARY.

"Mr. Burns at this time was a very small weakling at the game," said Harper. "He had taken 'locations' as low as $2 apiece."

He said that Burns made money after he had told him how.

"His system of telling the truth was no good," said Harper.

"You found it necessary to resort to falsehood?" asked Strahan.

"Absolutely," said Harper. "I can prove that other agents told me it could not be done on the square."

He said he had tried it on the square and that the only "location" he got that way was from a logger, who knew he was taking a chance.

"The others wouldn't take a chance," he said.

He mentioned a North Yakima real estate man, B. S. Schneider, who had been a witness before him for the Government, and said that in Schneider's representations as a seller of locations "the truth was overshadowed by a lot of flowers." Schneider worked on a 50 per cent commission, he said.

Harper spared neither himself nor his former colleagues, and repeatedly mentioned Minard as having had knowledge that the "game was crooked."

HARPER SPENDS "EARNINGS."

Harper operated in North Yakima, where he first met Logan in 1909 through J. B. Miller, now dead. Having the proposition explained to him, he at once quit his job as a barber and went to work on commission. Later he became a full-fledged "locator." At that time he said they were charging $75 for locations, $15 of which went to Minard, the balance, after expenses were paid, being "split 50 50" between himself and Logan.

Telling of his first meeting with Minard at Seattle, Harper described Minard as being "a very prosperous-looking man, a whole lot more so than now."

He said Minard carried a gold-headed cane then, and as he talked the people in the court room turned their faces toward where Minard sat at the end of the attorney's table, a dejected figure in old clothes, wearing no collar, his face bearing a stubby three weeks' growth of gray beard, and his hands clasped over the curved head of an ancient black cane.

SEATTLE CONFERENCE RELATED.

The meeting in Seattle, Harper said, was attended by Minard, Miller, Logan, and himself. Harper had explained that he first went to work for Miller in North Yakima, but that when he had secured several locations Miller "ditched" him and left town without giving him his commissions.

Harper went to Coeur d'Alene, selling "locations," and paying little attention, he said, as to whether the same location was sold more than once. He was not there long and returned to North Yakima, where he remained a year, selling "probably 20 or 30" in that time.

Touching on Sellers' connections with the proposition, Harper said Sellers called him up in Seattle from Tenino, Wash., and told him he had a lot of people there who wanted to locate.

FOURTEEN BOOKED IN DAY.

"I went out to Tenino and wrote 14 that day," said Harper. "I made few representations. They weren't necessary. Sellers had the business all worked up. He got a commission of $15 for each."

Then, he said, he went back to Seattle and Sellers, Logan, and he went out to Cle Elum, where nine applications were written, Sellers getting $15 each. He said that Sellers did not pay for his own claim to his knowledge, and that he believed it was to be paid for in commissions.

Then he severed connection with Logan, he said, and he and Harper went to Tacoma and opened an office as "Harper & Sellers." This partnership, Harper said, continued five or six months, when he went back to Seattle and his trade as a barber.

A printed letterhead was introduced as evidence, bearing the words: "Harper & Sellers, promoters. We make it a business to take your ideas—we make them pay you—we pay ourselves."

Harper said he knew that the system he and Sellers adopted was crooked.

Frank F. Haight, a transfer man of Cle Elum, was a witness yesterday morning. He told of "investing" through the agency of Logan, Sellers & Harper.

He repeated the old story of being assured that it was a "sure thing," and that he "couldn't lose, whichever way the railroad suit went."

Logan, Sellers & Harper never told him there was a $17,000,000 mortgage on the railroad land, and if they had, he would never have invested, he said. He paid $300 for applications for himself and his wife for land in Douglas County.

Frank Holstrom, a Seattle street car motorman, said he was told that the land on which he "located," which he was to receive in 90 days, was worth $5,000.

Ludwig Wallin, of Tacoma, answered an advertisement, he said, and paid $75 for a "location" in Coos County, which was afterwards changed for one in Douglas County, for which he paid $50 more.

"They told me it would be better if I went right down there and settled," said Wallin, "and then when the suit was finished in the Oregon courts I would be an actual settler. They said I could get a cabin built for from $20 to $50 and offered to have a man build it."

He said Harper did most of the explaining.

The cross-examination of Harper will be continued to-day and the Government may rest its case then.

[From the Morning Oregonian, July 17, 1914.]

SEVENTY-FIVE FILE ON GRANT LANDS—APPLICANTS, CANADIANS, ARE ENTERED BY S. A. D. PUTER AT EUGENE.

EUGENE, OREG., *July 16.*

S. A. D. Puter, identified with the McKinley-Ware land dealings in Oregon, to-day filed 75 applications for the purchase of 160 acres each in the Oregon and California land grant. The applicants all were Canadians living in Montreal, Quebec Province.

Local abstractors who examined the applications found no two of them for the same piece of property. The applicants agreed to pay $400, or $2.50 an acre, which they tender through Alan McEwen, attorney in San Francisco. Lane County has thousands of such applications on file, although some timbermen consider them worthless. Applicants pay from $100 to $150 for the "locations."

[From the Morning Oregonian, July 18, 1914.]

GRANT LAND TRIAL SEEKS "OVERT ACTS"—"LOCATORS" CASE NOW IN SECOND STAGE—SIGNIFICANT LETTERS ARE READ—SELLERS'S PAST REPUTATION IS DEFENDED BY "BUYER"—HARPER'S NAME BOBS UP—MANY WITNESSES IN FEDERAL COURT TELL DEVICES USED TO INDUCE THEM TO PART WITH MONEY FOR RAILROAD FILINGS.

"LOCATIONS" IN LANE COUNTY ARE FOUND NOT TO BE LAND-GRANT LANDS.

EUGENE, OREG., *July 17.*

Highly developed orchard land, some of it donation land claims which have been held for 50 years and which never have been Oregon and California land-grant lands, are included in the "locations" made by W. F. Minard and J. W. Logan, whom the Government is trying for fraudulent use of the mails in Portland, according to the descriptions of six claims sent to B. F. Keeney, Lane County assessor, by Clarence L. Reames, United States attorney at Portland.

He writes that in some cases the lands were represented to carry from 10,000,000 to 16,000,000 feet of timber, and other tracts were advertised to be splendid fruit and agricultural lands.

Two of the claims described are part of the Bohrnstedt tract near Creswell and another covers highly developed orchard land near Creswell, owned by George M. Hawley, county commissioner; Frank E. Sly, John Schroeder, and R. D. Hawley. It has been settled half a century.

Proof of alleged "overt acts" was the object of testimony submitted by the Government prosecutors in the United States district court before Judge Bean yesterday in the trial of W. F. Minard, of Portland, and J. W. Logan and E. J. Sellers, of Tacoma, on a charge of conspiracy to use the mails fraudulently.

The submission of this testimony, for the purpose of showing that the mails were employed to further the alleged fraudulent scheme, was the second stage of the Government's case, evidence having been presented previously with the idea of showing fraudulent intent on the part of Minard, Logan, and Sellers as "locators" of settlers on timber claims included in the Oregon & California Railroad land grant in Oregon.

MINARD ADMITS WRITING LETTERS.

Letters admitted in court by Minard to have been written by him to persons who had bought "locations" on the grant lands were introduced by the Government as evidence of the alleged 15 overt acts.

These letters, the Government contends, were used by Logan, Sellers, and other selling agents for the purpose of inducing persons other than those to whom the letters were written to buy the alleged fake "locations."

The avidity with which the "opportunity" offered by the agents to file on a valuable piece of timberland was taken became apparent in the testimony of Norman W. Everts, a merchant of Tenino, Wash., who said that it took him three minutes to make the deal for his "location," and of S. E. Bunker, an ex-policeman at Cle Elum, Wash., who said that it took him 10 minutes to complete the transaction whereby he parted with $150.

WITNESSES HAD PRIOR KNOWLEDGE.

Everts and Bunker, however, said they had had previous knowledge of the proposition. Everts having been told of it first by Dr. Robson, of Tenino, who had bought a claim.

"I paid $135 and got nothing," said Everts. "I bought the claim from Harper and didn't see Logan. I met Sellers on the street and asked him about it, and Sellers said that it looked good enough to him to take a claim on his own judgment."

Sellers, he said, did not tell him about the proposition till afterwards.

"That was all right," said Everts, "I was going to buy on my own judgment."

SELLERS'S COMMISSION NOT KNOWN.

Everts, Bunker, and other witnesses said they did not know that Sellers was to receive a commission on their "locations."

D. B. Burcham, of Cle Elum, identified a letter as one that he received from Minard in Portland in November, 1911, telling him that his application had been filed, the application having been returned with the letter.

Burcham said Sellers gave him information, telling him that it came from Harper & Logan. He said he had known Sellers for 10 years, and that Sellers's reputation had been good.

Cross-examined by Attorney Strahan, representing Minard, Burcham said he understood at the time he made his application that Minard was "attorney for the Oregon & California Railroad Co."

OLD STORY IS REPEATED.

He reiterated the testimony given by so many witnesses preceding him that he was given to understand that he would get the land, whichever way the suit between the Government and the railroad for the possession of the grant should go.

"Didn't it strike you as inconsistent that Minard should be attorney for both you and the railroad company?" asked Attorney Strahan, on cross-examination.

"It didn't at the time I signed the papers and gave Harper my check for $300," said Burcham.

He had explained that the check was for two claims, one for his sister and one for himself.

CHECK STOPPED TOO LATE.

"But before I got to Seattle I thought of it," he continued. "I was in a hurry to make my train and signed the papers about 1 o'clock. I called up the bank the next day to stop payment on the check, but the cashier told me it had been cashed at 3.30 o'clock the day before."

He said he never had seen Logan and Harper before, but denied that he was depending on Sellers, whom he knew, as a guaranty that the deal was bona fide.

"Had you any notion of becoming an actual settler?" asked Attorney Strahan. What did you mean when, in your application, you signed an agreement to perform any and all acts required of settlers?"

OCCUPATION OF LAND NOT KNOWN.

"I don't know how to answer that," said Burcham. "I didn't intend to go down to Oregon and make my home on the land. I never was told it was necessary."

Other witnesses likewise said they had had no intention of making actual settlement on the land.

C. A. Betts, a Seattle physician, identified a check for $25 as one he had given Sellers in January, 1912, as a partial payment on a claim in Oregon. He said he had not received the money back and heard nothing from Sellers for about a year, or until he wrote to him and threatened to start criminal action if the money was not returned.

Dr. Betts said he also asked Sellers to return the power of attorney which he had given him.

Letters from Sellers to Dr. Betts were introduced, in which Sellers said he had been unable to find a piece of land for Dr. Betts, but that he still hoped to find one.

SELLERS OFFERS MONEY BACK.

"Didn't you send a letter to District Attorney Reames, when you learned that this case was coming up, offering your testimony?" asked John Ryan, of Seattle, Sellers's attorney.

"Yes" said Dr. Betts.

"Then all that's the matter with you is that you want your $25 back?" asked Mr. Ryan.

Dr. Betts denied this.

A letter from Minard to Frank F. Haight, of Cle Elum, dated November 14, 1911, was introduced as evidence of one of the alleged "overt acts," as was also one from Minard to M. B. Peterson, a Tenino merchant, and others to Cle Elum and Tenino people.

"My son-in-law wanted me to go into this thing," said Peterson, "but I told him it looked a little bit scaly."

LATER HE "BUYS LOCATION."

Later, he said, having had the matter explained by use of a map by Harper, he paid $105 for a claim, agreeing to pay $105 more when he should be furnished with an estimate of the timber on the land.

Mrs. B. Waddington, of Oak Harbor, Wash., formerly of Tenino, told of paying $165 to Harper for a "location."

E. E. Calhoun, of Cle Elum, said he paid $195 to Logan in Seattle, with the understanding that he was to get a deed to the land in not more than four months. His father and mother both took claims, he said, paying $315 for the two. Calhoun said that Logan gave him a specific description of his land, which was to have good, tillable soil, with only such underbrush as could be driven through with a horse.

Carl Peterson, of Seattle, was another who testified to having bought a "location."

HARPER'S ACTIVITIES BOB UP.

The activities of Harper, the Tacoma barber, who was indicted with the others, who pleaded guilty, served 30 days and was pardoned by the President so that he could be used as a witness, showed strongly through all the testimony introduced yesterday afternoon.

Harper, who was the Government's star witness Thursday, continued on the stand under cross-examination yesterday morning.

He repeated his testimony of the day before that Minard had told him to be careful about what he put in writing, and, questioned about the use of "acting attorney" on Minard's testimony, said that Minard told him that his attorneys said it was within the law, but that it often deceived people.

"I don't know that he used the word 'deceived,'" said Harper, "but that was the idea."

HARPER OPERATED ALONE.

He admitted that he operated in Seattle on his own account, that Minard's part was simply to file and return applications for a fee of $15, but insisted that Minard was the "head" of the scheme.

"When did you quit this business?" asked Attorney Strahan.

"I quit it four or five times."

"When did you quit last?"

"Last March."

He told how, returning from testifying before the grand jury last February, he had filed an application for a friend in Seattle, believing that the grand jury would not indict. He said he received no money for this application.

STORY BRANDED "A LIE."

"A lie from beginning to end," was Harper's answer to a question as to whether he had not told Minard, after he came down to appear before the grand jury, that he "could get him off for $50."

"Mr. Sellers, according to your belief," asked Attorney Ryan, "never did a wrong thing in connection with the Oregon & California, did he?"

"No," said Harper, "but he knew something was wrong."

Harper said he didn't think he had said, since the beginning of the case, that Sellers was innocent.

"I did say that I thought he was the best of the lot," he said.

Harper told of going with Sellers to see a Seattle attorney, John Mills Day, and of receiving a brief opinion from him that the grant-land settlers would receive their claims.

He said this was what caused Sellers to go into the "location" business, explaining that Sellers at the time was a diamond drill man, and expected to develop some coal lands near Tenino.

UPRIGHT LIFE QUALIFIED.

"You expect to live an upright, straight life?" asked Attorney Ryan.

"From this on, you mean?"

"Yes," said Ryan.

"Yes," replied Harper, and then, as though it had been a quick afterthought, "so far as this timber business is concerned."

Edwin G. Emme, a Portland attorney, identified a blank receipt signed by Harper which he said he had torn from a pad in Minard's office, expecting to use it in a case he expected to bring against Minard for clients who had bought "locations." When his clients gave up the idea of bringing suit, not wishing to "send good money after bad," Emme said he turned the receipt over to the grand jury.

Harper will be recalled to-day for further cross-examination by Sellers's counsel.

The Government will not rest its case until Monday, when B. D. Townsend, formerly special assistant to the Attorney General in charge of the case for the forfeiture of the railroad-grant lands to the Government, will be a witness.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield 10 minutes to the gentleman from Missouri [Mr. BARTHOLDT].

Mr. BARTHOLDT. Mr. Chairman, as it will be impossible for me to present what I desire in 10 minutes, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. BARTHOLDT. What I wish to present, Mr. Chairman, is really a question of privilege, a question touching the privileges of the House, but as I wish to submit some observations which will not be privileged I have asked my friend to yield me some time.

The CONGRESSIONAL RECORD of March 21, under the head of "Petitions," contained a brief as follows:

By Mr. Dyer: Petitions of 25,533 citizens of St. Louis, Mo., favoring national prohibition; to the Committee on the Judiciary.

At the time this brief appeared in the RECORD it escaped my attention, but it was noticed in my home city of St. Louis. I received quite a large number of inquiries as to the authenticity of these petitions, my attention being called to the result of the vote on prohibition in St. Louis as well as in the State of Missouri. In 1910 Missouri voted on the question of State-wide prohibition, and the vote was as follows: Two hundred and seven thousand two hundred and eighty-one in favor and 425,406 against, a majority of over 218,000 against prohibition in the State of Missouri, which really means that out of three citizens two voted against and only one in favor. In the city of St. Louis the vote in favor was 8,247 and against the proposition 134,366. The readers of the RECORD seeing that brief naturally inquire how it was possible that 25,533 citizens could sign a petition in favor of prohibition when only 8,000 voted for it at the time there was a chance to engraft this alleged reform upon the constitution of the State. I immediately proceeded to make an investigation. I asked my colleague, Mr. Dyer, about that petition. He said he did not remember anything about it and was sure the petition did not come from him. His clerk made the same statement. She said the petition had not passed through her hands. The petition clerk of the House had no record of it, and when Mr. Dyer, who was a member of the Judiciary Committee, instituted an investigation in that committee it availed nothing; the petition could not be found.

Mr. BARNHART. Will the gentleman yield?

Mr. BARTHOLDT. I only have 10 minutes.

Mr. BARNHART. Just for a question.

Mr. BARTHOLDT. Yes.

Mr. BARNHART. It seems St. Louis has a way of toying with the liquor question. I remember on the floor of this House——

Mr. BARTHOLDT. I yielded only for a question.

Mr. BARNHART. Does the gentleman recall that a Representative from St. Louis at one time introduced a prohibition resolution for the District of Columbia on the floor of this House—an amendment to the red-light bill? Does the gentleman recollect that?

Mr. BARTHOLDT. Yes; and that was in order to test the sincerity of certain gentlemen on the floor of this House. But let me continue. My colleague, Mr. Dyer, finally received a letter from the Clerk of the House, which, by unanimous consent, was inserted in a later edition of the RECORD, and which reads as follows:

HOUSE OF REPRESENTATIVES,
CLERK'S OFFICE,
Washington, D. C., April 22, 1914.

Hon. L. C. DYER, *Washington, D. C.*

SIR: On March 21, 1914, the following brief appeared by mistake in the CONGRESSIONAL RECORD, under the head of petitions: "By Mr. Dyer: Petitions of 25,533 citizens of St. Louis, Mo., favoring national prohibition; to the Committee on the Judiciary."

It was discovered the next day that this petition did not come from St. Louis, and that it was not filed by Mr. Dyer. Proper corrections were made, and said brief does not appear in the permanent RECORD of the House of Representatives.

Very respectfully,
SOUTH TRIMBLE,
Clerk of the House.

Later on I was informed the petition had been found. It was described to me as a single piece of paper, on which was written "25,533 citizens of St. Louis, petition for national prohibition," but in spite of all my efforts I have never been able to inspect it. In spite of quite a number of requests I made to be permitted to look at it, I have never been able to see it. The question arises, Mr. Chairman, if this petition did not come from St. Louis, as the Clerk testifies, where did it come from, who originated it, and who is responsible for its presentation here in the House? I am not going to make any charges, and I certainly acquit the clerks of the House of all blame in this matter; but it certainly looks to me as if this were a spurious petition and that we have to deal here with some sort of imposition upon the House to manufacture sentiment in favor of the proposition pending here now.

In this connection permit me to call the attention of the House to the peculiar character of these petitions which are being daily filed in favor of national prohibition. They evidently have all been printed on the same press. They have been sent out by an organized body of men, by agents who, according to their own testimony, are being paid for that kind of service, to all the clergymen of the United States, and these gentlemen take it upon themselves to sign them in behalf, not only of themselves, but in behalf of all the membership of their congregations. In other words, a clergyman would certify that such and such a church of 3,000 or 4,000 members prays for the enactment of national prohibition; but when you come to investigate and ask any of these 3,000 or 4,000 members of that particular church whether they knew anything about it, whether they are in favor of national prohibition or not, you will find that they are ignorant of it and have not approved of it, as has been found in the case of many churches in the city of St. Louis by investigation.

Mr. Chairman, while I am on the floor I desire to present to this House a number of genuine petitions that have reached me during the last two or three weeks protesting against the enactment of a constitutional amendment for national prohibition.

In briefly describing them I wish to say there are 1,589 individual telegrams, signed personally by the voters who sent them and who are not spoken for by anybody else, but they speak in their own behalf.

There are besides 3,525 other petitions, which I shall, in accordance with the rules of the House, deposit in the basket. These are all individually signed cards from my district protesting against action in favor of prohibition either at this or any other session.

Mr. LLOYD. Mr. Chairman, in the allegation that he makes against the clergy, does the gentleman undertake to impugn the motives of any clergyman outside of the city of St. Louis?

Mr. BARTHOLDT. I do this, Mr. Chairman. I suppose these gentlemen take it for granted that when they themselves favor national prohibition the whole membership of their congregations is of the same opinion, and so they undertake to speak in behalf of the whole membership of their congregations.

Mr. LLOYD. As I understood you a moment ago, your charge was against the clergy of the United States?

Mr. BARTHOLDT. I make no charge against the clergy of the United States.

Mr. LLOYD. The clergy of the United States are unquestionably a class of men who are concerned for the upbuilding of mankind, and the charge ought not to be made against any except those who may have been responsible for some exception.

Mr. BARTHOLDT. The gentleman certainly will not impute to me any disrespect for the clergy. In this connection let me say, however, that, on principle, I do not believe in the church running the state. This is the case here; the church is trying to govern and rule and control the state. I am opposed to that policy.

Mr. LLOYD. But the gentleman will not say that any clergyman has not the same rights as has any citizen of the United States to assert his own convictions?

Mr. BARTHOLDT. When he says, "I, So-and-so, pastor of such-and-such church, petition Congress in favor of national prohibition," he is within his rights, but he has not the right, in my judgment, to certify in behalf of all the membership of his congregation unless he knows positively that they are all of one mind with him.

Mr. LLOYD. I was just trying to get at the statement you wish to be understood as making. Do you refer only to pastors of the churches in the city of St. Louis, or is the charge you make against the clergyman a sweeping charge against the clergymen of the whole country?

Mr. BARTHOLDT. I want to make myself entirely clear on this subject. There have been petitions presented here by myself from clergymen of the city of St. Louis in behalf of certain churches, and they simply said, "So-and-So, the pastor, in behalf of fifteen hundred members of such-and-such a church." I made inquiries in St. Louis and I sent men to members of those particular churches, and their answer was that they did not know anything about such a petition, and, what is more, did not favor national prohibition. And yet the pastor of that church had undertaken to certify in their behalf to Congress that they were all favoring national prohibition.

Mr. FOSTER. Would the pastor of a church falsely certify as to his church?

Mr. BARTHOLDT. No doubt he does it in good faith. He probably thinks that because he favors prohibition as a tenet of his church that every individual member of his congregation ought to do the same. He is simply mistaken in his judgment. I do not charge bad faith to him.

Mr. FOSTER. You see that would be a charge of bad faith if he would make such a statement.

Mr. BARTHOLDT. No.

Mr. FOSTER. Let me ask the gentleman this: A minute ago, when he asked unanimous consent to print in the RECORD, do I understand that he intended to print these telegrams?

Mr. BARTHOLDT. Oh, no. I want to print something else.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTHOLDT. I print the following pamphlets, which I have received, under the leave to extend my remarks:

PERSONAL LIBERTY.

[Address by Percy Andreae at the banquet of the American Association of Foreign Language Newspapers at New York City, February 7, 1914.]

"Mr. President, members of the American Association of Foreign Language Newspapers, and ladies and gentlemen, I once heard 'personal liberty' rather flippantly described as 'the privilege which every free-born citizen enjoys of preventing his neighbor from doing what he likes.'

"Sarcastic as it may sound, I am not at all sure that this definition of personal liberty, as practiced to-day by quite a goodly number of our fellow citizens, is entirely beside the truth. The fact is that the best of us are more prompt to recognize our own individual rights than we are to recognize the individual rights of our neighbor, and here perhaps lies the root of all that is controversial about the question of personal liberty to-day.

"For that the question of what constitutes personal liberty is a subject of controversy, and somewhat bitter controversy, in this enlightened age of ours is a fact admitting of no doubt. I venture to go further and assert that this great principle, for which men have fought and died in all ages, has perhaps never been in greater jeopardy, has never been subject to more insidious attack, than it is at the present day, when the word 'freedom' is on every man's lips, and the boast that man is his own sovereign forms the burden of every patriotic song.

"Of course the day of the despotic ruler, who sacrificed the liberties of the people on the altar of his own ambition is gone. We choose our own rulers, and even in many monarchical countries the voice of the people counts in government to-day as it never counted in history before. This means that we have gained our political liberty, and it is, of course, a mighty achievement to have wrested this great possession from the powerful few, who in past ages withheld it from us for the purpose of their own gain and aggrandizement. But, like all human achievements, it has brought with it its dangers as well as its blessings.

"Personal liberty, as we well know, is something quite distinct from political liberty, and the danger which we can never be careful enough to guard against is that the acquisition of the one may involve us in the loss or the curtailment of the other. When every man becomes potentially a lawmaker the temptation of the sovereign individual, both individually and collectively, to regard himself as his brother's keeper, called upon to direct and regulate his brother's conduct and habits and morals, is liable to create a system of tyranny which may prove to be even worse in its effects upon the community at large than the yoke of the ancient form of despotic government which we have succeeded in throwing off.

"Nowhere, it seems to me, does this truth apply with greater force than it does in this country, where the customs, the habits, the ideals, and the social needs of those who have made it their adopted home and refuge vary as much as the creeds and nationalities vary from which their ranks have been recruited. If one creed or nationality, even though it exceed all others in numbers, should seek by misuse of its political liberty to impose its particular customs, opinions, and beliefs upon the rest of the citizenship the conflict between political liberty and personal liberty must at once become acute, to the detriment not only of the individuals whose liberties are involved, but of the community as a whole. For there is only one way in which the issue of such a conflict can be determined. It must last until the rights of the individual are vindicated, because our individual rights are our heritage from nature, and no human power can permanently suppress them. They consist, not in the political rights which the many have obtained by conquest from the few, but in the natural rights which each of us must seek from the other, each of us must concede to the other, and each of us must defend from the other and for the other as long as the world lasts—the God-given rights of individual man as distinguished from the man-given rights of the community of which he forms a constituent part.

"There is no need to define what these rights are. The history of government has long ago defined them for all of us, and their limits have been set, and will always be set, by actual experience.

"But here is the crux of this whole great question as it confronts us to-day. It is just history, and the experience of those who lived before us, which are strangely lost sight of in the tendencies of many of our present-day reformers. They suffer from a perfect rage, not only to accelerate the slow and steady processes of nature, but to correct and even arrest them, and since the making of laws is now in our own hands they demand that we shall devote our lawmaking power, not only to the correction of the defects of our weaker fellow men, but to the correction of that which they believe to be the defects of nature herself, who created those weaker fellow men.

"Education has become, to them, a mere secondary auxiliary in shaping our lightning course toward perfection. Mankind, if we are to believe them, can be made honest, and righteous, and sober, and moral, and what not, by a mere stroke of the legislative pen. The stern truth is forgotten, which history has so often and so painfully impressed upon humanity, that law can successfully concern itself only with the actions of man toward man, but can never determine or control the actions of individual man in such matters as concern himself alone.

"Under the circumstances, then, it is scarcely surprising that all the activities of that particular class of reformers which I am describing should proceed from a basis which is the very opposite from that upon which our civilization and general social structure have been erected. For whereas law, as we generally understand it, has always sprung from and been established by custom, they are to-day trying to reverse the process and establish custom by law. Whereas we have hitherto largely left it to nature to deal with the small percentage of defectives she produces, and have made our customs and usages conform to the character of the huge percentage of normal beings, they are to-day adopting the opposite course and are not only attempting to take the defectives out of nature's experienced hands, but are actually demanding of normal man that he shall shape his customs and his habits to suit the needs and the weaknesses of the comparatively few defectives among us.

"In saying this I am not casting any doubt upon the motives of these good people. They are excellent, of course. But the question is not whether their motives are excellent, but whether by acting upon them they will attain the excellent object they are seeking to obtain.

"The fact is that we can not by law subordinate the faculties of the strong to the needs of the weak without destroying the very essence of that which has made the majority of men to-day the strong, reliant, and competent beings they are—their personal liberty. It is true that wise laws have done much to direct the activities of men into worthy channels, even more perhaps than unwise laws have undone. But our would-be uplifters forget that individual man himself has risen, and is still rising, above the inherent weakness of all animal nature, not by compulsion of law, or by the coercion of his superiors, but by reason of the exercise of his God-given individual free will, his power of self-restraint, and by those higher faculties which religion and culture have developed in him.

"If we once deprive men of the right and the opportunity to exercise these faculties, the result must be, if nature's work is any criterion, not that the weak will be raised to the level of the strong, but that the strong will be lowered to the level of the weak. If we sacrifice the independence of the many in order to protect the frailty of the few, we shall not only destroy the source from which the many derive their strength, but shall still further accentuate the dependence of the few, to whom a share of that strength has been denied. Charity affords the best proof of the truth of this. For who does not know that charity, which aims to relieve poverty, is the most fruitful producer of paupers?

"This, then, is the real and most stupendous danger that confronts us wherever we are confronted with the curtailment of our personal liberty, not as those who affect to sneer at that liberty pretend, the mere sacrifice of our individual pleasures, our individual indulgencies, or the satisfaction of our individual social needs. These are minor incidents of this great question, dear to our hearts, of course, but mere trifles compared with the greater considerations involved.

"Now, there is nothing new in all this, and certainly nothing new to you, many of whom are far abler exponents and far doughtier champions of the principles I have been asked to discuss here than I can ever hope to be. No man, indeed, who has studied the history of government, and in particular the limitations of the law-making power, as evidenced by its many disastrous failures in all ages and under every variety of conditions, needs to be told that the safeguarding of that which we call the personal liberty of man is the primary and most vital essential to all human progress, and that no law affecting that liberty in the slightest particular, however charitable, however estimable the motives may appear that prompt it, can be enacted without danger to the whole system upon which our civilization is founded.

"Unhappily, the men who have acquired this knowledge and who possess this experience are only too often not the men who assemble in our legislative halls, with the mandate of the people to make their laws for them; and here we have an anomalous condition presented to us, which has often puzzled me and which I offer for your earnest thought and consideration.

"We demand of every profession upon which, directly or indirectly, the public welfare is dependent that its members, before being permitted to enter it, shall receive previous instruction and training at the hands of those whose knowledge and experience of all its intricacies have been acquired by diligent study and wide practice. I say we demand this of every profession, excepting one—that of the lawmaker. The physician, the jurist, the teacher, and the preacher are required to give evidence of their fitness to follow their respective professions before they are licensed to practice them. Yet the most important profession of all—that of the lawmaker—is open unconditionally to every adult citizen, and its members are selected by the people haphazard, without inquiry into their fitness and without consideration of their knowledge and experience of the intricate problems of law and government with which the world has grappled since history began.

"Is it entirely to be wondered at that legislation, under these circumstances, frequently runs riot and that it is guided by impulse and sentiment and by the often artificially created clamor of the untutored multitude, rather than by logic and reason and the caution that comes with accumulated knowledge and training? Our schools and universities teach the evolution of law, the interpretation of law, and the practice of law. But the science which concerns itself with the effect and the bearings of law, the science which defines the true scope of legislation and inculcates the lessons to be learned from its successes and failures, the science, in short, which deals with the natural restrictions and limitations of the lawmaking power, has, I believe, no chair in any university in the world.

"Is this condition subject to remedy, or would any change in it be incompatible with the preservation of our political liberty? It would be a bold man who presumed to answer the question offhand. But whether it be subject to remedy or not, the condition itself, I submit, is the primary cause of the multitude of freak laws which clog our statute books, the dead-letter laws which breed among us so much pestilent contempt of duly constituted authority—those unburied corpses, in other words, that bestrew the battlefield on which political liberty and personal liberty are to-day so fiercely contending for their respective rights.

"The victory at this day is still with personal liberty. But for how long? The forces of tyranny and oppression are ever with us, and they surround that battlefield to-day in their full array, awaiting the opportunity to fall upon both champions and bind them hand and foot with the chains forged by fanaticism and intolerance.

"And if these forces should ever accomplish their purpose, what then? Read the printed publications and the open declarations of these insidious foes of the liberties which the millions of your best and sturdiest fellow citizens came to this great Republic to preserve and enjoy, and they will tell you. 'What then?' They will tell you, as nothing else can tell you, that if there is one prayer more than any other which every true citizen of this great country should offer up morn and night to the Giver of all things it is the prayer that our free America may be preserved from the curse of racial and social and religious prejudices and intolerances, for they are the harbingers of disaster to all that we cherish under the name of freedom and liberty."

ADDRESS ON NATION-WIDE PROHIBITION AND ITS EFFECT UPON THE AMERICAN HOTELS AND THEIR PATRONS, BY PERCY ANDREAE.

[Delivered before the American Hotel Protective Association of the United States and Canada at the Waldorf-Astoria, New York, on April 14, 1914.]

Resolution passed unanimously by the National Hotelkeepers' Association of the United States and Canada at its convention in New York on April 14, 1914.

Resolved, That this association call upon every hotel in the United States to join in taking a poll of its guests upon the resolutions for nation-wide prohibition of the manufacture, sale, and importation of alcoholic beverages now pending in Congress; that the president appoint a committee of three members with power to appoint subcommittees in every State, which committee shall be charged with all arrangements necessary for the carrying out of this poll all over the United States on such day or days as may be hereafter determined by the said committee.

Resolved, furthermore, That the offer of the National Association of Commerce and Labor to place its organization at the disposal of this association for the purpose of securing this poll be accepted, and that the committee be instructed to communicate with the clubs of the country and invite them to cooperate in this work by taking a similar poll of their own members.

Be it also resolved, That the result of such poll when completed be presented to the Congress of the United States through the proper channels by the president of this association and the said committee.

"Mr. President and gentlemen, before I approach the subject upon which you have honored me with an invitation to speak before you to-day, permit me to say that I believe it to be neither your desire to listen to my views, or to anyone else's views, on that subject in its moral, ethical, or sociological bearings, nor my province to discuss such views before a gathering of this kind. The question whether men shall continue to exercise the right they have enjoyed from time immemorial to drink wines, beers, and other alcoholic stimulants has, unfortunately, within recent years passed beyond the realm of opinion and become, at least on the part of those who take the negative side of this question, a matter of dogma pure and simple, and you can not argue with a man on a matter of creed, nor reason with him on a question of faith.

"There is, however, one incontrovertible fact bearing on this question which no one interested in its solution can afford to ignore, and that is that a very large proportion of mankind does exercise this right, in its opinion without detriment either to itself or to others, and that it is not likely, without a struggle, to surrender that right merely because a certain percentage of men does not exercise it as judiciously as it might, or because a certain other percentage of men has firmly determined in its own mind that mankind as a whole shall go without it.

"Now, mankind as a whole is a pretty big fellow, and has certainly some claim to be consulted in a matter so personal to itself as the one we are reviewing, and it is from this standpoint, the correctness of which few will doubt, that I propose to lay before you—whom I may, I think, fitly describe as the housekeepers of the Nation at large—the question of prohibition as it confronts the country to-day.

"There are at present, as you all probably know, three resolutions pending before the Congress of the United States—two providing for an amendment to the Federal Constitution by virtue of which the manufacture, sale, and importation of alcoholic beverages are to be forever prohibited in this country, and the third providing for an amendment to the Constitution prohibiting the manufacture and sale of distilled liquor. The passage of a resolution to amend the Constitution of the United States requires a two-thirds affirmative vote in both Houses of Congress, and the further ratification of that vote by three-fourths of the legislatures of the 48 States comprising the Union, before such amendment can become part of the basic law of the country.

"On the face of it, then, it would seem as if nothing short of the overwhelming consent of the people at large were required to give effect to the desire of those who aim to impose this drastic law upon the whole Nation. But the real fact is just the reverse.

"The action now asked of Congress is the mere submission to the legislatures of the individual States of the question, 'Shall the people of this country, by an alteration of the Federal Constitution, be deprived of the personal privilege of obtaining alcoholic beverages?' The individual Congressman, therefore, is not required to cast his vote either for or against depriving the people of that privilege, but ostensibly merely in favor of allowing the people to decide for themselves whether they shall be so deprived. I say ostensibly, because, as I shall show you later on, it is not the people who will eventually decide this question, but a comparatively insignificant minority of the people. Now, though considerably more than one-third of the Members of Congress may be, and, according to the belief of many, actually are personally opposed to the principle of prohibition, yet such is the vindictive passion with which this principle is insisted on by those who wish to see it established, and so relentless and unscrupulous their persecution and vilification of those who oppose them, either politically or otherwise, that the average Congressman is only too glad to avail himself of the opportunity to compromise, on the one hand with them, and on the other hand with his own conscience, by consenting to leave the final determination of the question to the country at large.

"It is this fact which renders the passage of one or the other of the resolutions in question, should either ever reach the floor of Congress, an almost universally admitted certainty, though only a minority of the representatives of the people may favor the amendment themselves.

"The same condition, only in a greatly aggravated degree, attends the ratification of the resolution by the legislatures of three-fourths of the States of the Union. Here, too, the general impression is that, if ratified, an overwhelming majority of the people will have approved the resolution, whereas the fact is that a comparatively small minority of the people will have the power to give final effect to the resolution against the desire and the will of the rest of the community. And for this reason: Each of the 48 States is entitled to cast through its legislature one vote on the question, so that, for instance, the State of Nevada, with a little over 80,000 population, has exactly the same voice in deciding it as the State of New York has with her population of over 9,000,000 souls. Nay, a mere majority of Nevada's voters, since a majority determines the attitude of the legislature on such a question, can offset the entire voting strength of the State of New York, even if every voter in that State were opposed to that which a bare majority of Nevada's voters favored. Indeed, if you review the 48 States in the order of their population, you will find that 36 States with a total population of just over 40,000,000 will outvote by a mere majority of those 40,000,000 the remaining 12 States with a total population of nearly 54,000,000, though every single one of those 54,000,000 people were opposed to that which the majority of the 40,000,000 favored.

"I think you will admit, quite aside from the merits or demerits of the question itself, that this is an extraordinarily dangerous situation, overshadowing all the moral, economical, and industrial aspects which that question presents. In other words, whatever the opinion of individual men may be with regard to these latter aspects, and they are, of course, subject to opinion and open to argument, though the Prohibitionist arbitrarily denies this fact, there can surely be only one opinion regarding the desirability, or indeed the possibility, of imposing the will of a comparatively small minority of men upon a very large majority in a matter so closely affecting the most cherished and hitherto undisputed right of the individual to pursue his own personal customs, whether good, bad, or indifferent, and to regulate his own conduct within the four walls of his own home.

"This is the main aspect of this many-angled question which I desire to present to you, and if I confine myself to it almost exclusively, it is for the reason that its other aspects have been so fully discussed that I could hardly hope to add anything new to that which has already been said about them. That the resolution aiming to prohibit the individual from drinking wines, beers, and other liquors in his own home incidentally contemplates the destruction of over a thousand million dollars' worth of property without compensating those who, under the sanction and the implied guaranty of the law, have invested their means in that property, and without reimbursing them for the loss of a business which they have established, not to create but to meet a public demand, the legitimacy of which even those who aim to destroy the supply have never ventured to question, is, of course, a matter of very grave import, affecting the stability of all and every other kind of business and the sacredness of all and every other kind of property right. But you know this as well as I do. Indeed, in so far as your own business has of necessity been so arranged as to comply with this demand of the public, you are yourselves personally interested in this aspect and therefore more competent than I am to judge in how far your own business and property rights will be affected.

"On the other hand, that the attempt to compel the people to abstain from the use of beers, wines, and other liquors will throw 2,000,000 wage earners upon the already overstocked labor market of the country is, at least in my estimation, a consideration of even greater moment than the question of property loss, and weighs far more heavily in the scales against the so-called moral aspect of this whole question, which the advocates of prohibition so strongly insist upon.

"These advocates deny the injurious result of prohibition to the workingman, claiming, in the first place, that the money spent for beers, wines, and other liquors goes only to a very small extent toward the payment of labor; and, in the second place, that such labor as may be dislodged by prohibition will be quickly absorbed in other trades, whose business will be enormously increased by the purchases of necessities made with the moneys the people will save when they cease spending anything for drink.

"I would like, if you will permit me to digress for a few moments from what I have called the main aspect of the question, to point out the obvious fallacies upon which these two very random assertions are based, and incidentally to bring to your attention the extraordinary want of the sense of proportion which is the characteristic feature of all the reasoning of these excellent people, and which unfortunately infects those whom they influence.

"The annual drink bill of the United States, according to Government statistics, approximates $2,000,000,000. A certain clergyman, not a prohibitionist, but a temperance advocate, as I hope we all are, happened recently to cull this interesting fact from a prohibition paper, together with the statement accompanying it to the effect that only a very small percentage of this huge amount went in payment for labor, and he was so exercised by what he called this staggering revelation of the excessive indulgence in drink on the part of the people, and the waste of money it involved, that he issued a statement insisting that something should be done to eradicate an evil which was evidently sapping the very vitals of humanity, and would shortly result in leaving only a handful of temperate individuals, like himself, to people the earth.

"Now, I have no doubt that this statement, like many other statements from similar sources, was religiously accepted as a fact by hundreds of good and well-meaning people, who, following the example of their pastor, had seen nothing wrong in indulging temperately in what I may call the liquid pleasures of the table, but who, with this alleged proof of the intemper-

ance of the majority of their fellow citizens confronting them, felt that probably nothing short of absolute general prohibition was capable of saving the human race from rapid total extinction.

"But what is the real truth? First and foremost, the real truth is that this worthy clergyman has utterly failed to realize what a big country he is living in. There are upward of 93,000,000 people in the United States, and if you divide 93,000,000 people into $2,000,000,000 per annum, you will find that it produces a little over $21 per head per annum, or less than 6 cents per head per day spent in drink. This is less than the average cost of a pint bottle of beer at retail. The pastor in question, therefore, who considers he is indulging temperately when he takes a pint of beer for lunch, and another pint of beer for dinner, is in reality consuming, by his own reckoning, just double his average proportion of what he calls the staggering excess of drink consumed by the Nation at large, and consequently, if his prediction regarding the impending extinction of the human race owing to excessive drinking is correct, he himself will not be included in the handful of temperate men who will soon be left over to people the earth.

"He does not realize, in short, that if only half of the population of the United States drinks in just the same proportion as he does, the Nation's drink bill will still amount to $2,000,000,000.

"But what is of greater significance is that he does not realize that every cent of this $2,000,000,000 spent in drink, including the $225,000,000 which goes in the form of taxes to the Government of the United States, pays for labor, since the market value of every commodity which nature brings forth represents just exactly the sum total of the wages paid for the labor employed in producing and bringing it to the market, plus the interest on the capital required to set such labor in motion, which is itself nothing more than the accumulated product of labor, and can not be expended except in payment for labor. Only the earth, in fact, works without pay. Hence, if $2,000,000,000 worth of drink is not produced and consumed, something else must be produced and consumed, and something else must be taxed in its stead, in order, respectively, to make up for the loss of nearly a quarter of a billion dollars in the Government's annual revenues, and to give employment to at least 2,000,000 wage earners who depend for their existence and that of their families upon the Nation's drink bill.

"The theoretical mind of the Prohibitionist brushes these practical difficulties aside as if they were too paltry for serious consideration. But, then, as a rule he has no personal risk in the experiment he is suggesting, and can therefore bravely afford to let both the capitalist and the workingman take their chances. He is simply satisfied in his own mind that 2,000,000 laboring men can easily find employment in other trades, because he assumes that when all men cease drinking they will promptly spend $2,000,000,000 a year more for clothes, shoes, hats, gloves, and other commodities, which labor must produce. Nor is he at all concerned about the revenues of the Government, because he is equally satisfied in his own mind that when people are once deprived of the means of obtaining alcohol all poorhouses, insane asylums, jails, and most of the law courts will go out of existence—dislodging more labor, by the way—and the sum thus saved to the Government in the maintenance of these institutions will more than balance the loss of revenue from the sale of wines, beers, and other liquors.

"Alas, it is needless to discuss all these beautiful theories, because they are all based upon the one fundamental fallacy that if the manufacture, sale, and importation of alcoholic beverages is prohibited men will cease drinking such beverages. The fact is that the existence of breweries, distilleries, and wineries is the effect and not the cause of men's inclination to drink, and their destruction and the abolition of the sale of wines, beers, and other liquors in hotels, stores, or similar establishments can neither destroy the desire of men to obtain these commodities nor deprive them of the means of doing so. Those who ignore this obvious fact forget that men drank, some unhappily to excess, long before breweries, distilleries, and wineries were built, because there is nothing that grows in nature from which alcohol can not easily be obtained in practically unlimited quantities by all who desire it, and that the number of those who do desire it is overwhelmingly large is proved beyond the peradventure of a doubt by our Nation's annual drink bill of $2,000,000,000. In other words, breweries, distilleries, and wineries were not established for the mere purpose of providing men with alcohol, which they had theretofore just as easily, and perhaps more cheaply, produced for themselves, but for the purpose of providing them with alcohol unmixed with the various attendant poisons that accompany it whenever produced by the crude and unscientific methods of private manufacture.

"Go into any prohibition State and sample the fearful alcoholic concoctions with which the people there supply themselves in lieu, and usually in excess, of the purified article they are prevented from obtaining, and you will find ample proof of my statement. In short, as Mark Twain has so quaintly put it: 'Since men can get their tipple out of a table leg or a wooden fence rail, what is the use of talking about prohibition?'

"Gentlemen, I have dwelt upon these facts not in order to convince you of their truth, because their truth is as old as the hills, but in order to establish the conclusion that the Nation's drink bill, which the Prohibitionist points to as proof of the necessity for prohibition, is, on the contrary, the strongest conceivable proof of its futility. If this conclusion is wrong, the sooner we find it out, without putting it to the dangerous test of statutory law, the better, and there is no body of men in this country better equipped to find it out than you are. I will go further and say that there are no men upon whom the duty is more clearly laid to find it out than you.

"I took the liberty of referring to you at the outset of my address as the housekeepers of the Nation, and you assuredly are. The American hotel is the home of the American citizen when he is traveling, and the percentage of Americans who do not travel at some time or other in their lives is very small. The most successful hotel man, I believe, is he who is most expert in managing to make his guests forget that they are not in their own homes, and he does so by placing within the reach and within the command of his guests those comforts which they are accustomed to and desire to have within the privacy of their own four walls. I believe that 90, if not 95 or 99, per cent of the hotels of the country supply wines, beers, and other liquors to their guests, and I presume that they do not do so with the purely malicious intention of causing them to yield to a temptation which they are yearning and praying to escape from, but in order to meet a genuine and spontaneous demand on their part.

"Some of you, I believe, have already gone on record in protesting against the proposed amendment of the Constitution providing for Nation-wide prohibition of the manufacture, sale, and importation of alcohol beverages. I now suggest that you follow up this action by asking your guests, in whose behalf I presume it was taken, to either sustain or repudiate it. In other words, it is in your power, as it is in no one else's power, to let the Congress of the United States know just exactly what the people of the United States think of these prohibition amendments by asking your guests to express themselves either for or against them.

"You can do this by placing in the letter file of each of your guests, on any given day or within any given period, a printed form of petition to Congress, setting forth the fact that certain resolutions providing for Nation-wide prohibition are now pending in the Congress; that the hotels of the country are interested to learn the attitude of their patrons toward such resolutions; and that each guest is therefore requested to sign said petition either for or against their passage and deliver it to the hotel management for transmission to Congress.

"This will be tantamount to a representative poll of the people of the country on a question which the Congress is to-day considering without having any means of ascertaining the true sentiment of the voters with regard to it.

"I am fully alive to the fact that this can not be done without careful preparation, and that it should not be done without providing the strictest possible safeguards that will secure an unquestionably fair and impartial expression of public opinion. The arrangements for carrying it out should therefore be placed in the hands of a committee, with power to appoint subcommittees in every State, whose duty it will be to supervise all details connected with this poll and to settle all questions that may arise concerning it.

"I am authorized by the National Association of Commerce and Labor, consisting of a large number of merchants' and manufacturers' associations throughout the country, all of whose members, representing many thousands of firms, are actively interested in this question, to offer the assistance and cooperation of that association in the execution of this work, and to place its every extensive organization at your disposal for the purpose of perfecting and carrying it out in all its details; and if it should be your pleasure to adopt my suggestion, I would ask that you empower your committee to act in conjunction with that association and avail itself of the facilities it offers in putting the proposed plan in operation.

"I suggest, furthermore, that your committee be empowered to place itself in communication with all the clubs of the coun-

try and invite them to cooperate with you in this work by taking a similar poll of their own members.

"Gentlemen, I urge this action upon you regardless of whether you are individually believers in prohibition or not, and I do so not for your sake, but for the sake of those whom you serve, and whose voice in such a matter none but they who hold the principle of democratic government in contempt can presume to disregard.

"Many of us may differ individually on the question of what measure of personal freedom is best calculated to promote the welfare of the community at large, but whether one of us believes that a maximum of such freedom and another believes that a minimum of such freedom is most beneficial is a matter of no moment at all. It is the will of the people that governs the Government of this country, and it is upon the will of the people that the surrender or the nonsurrender of their individual rights and liberties depends. Indeed, the success or the failure of all laws in a Commonwealth like ours hinges upon the correct interpretation of the people's will on the part of those who make those laws, for what we rather grandiloquently term the majesty of the law is not conferred upon laws by those who make them nor by those who execute them, but by the mass of the people, who accept them, approve them, and ratify them.

"If the mass of the people, whose collective wisdom is superior to the wisdom of any legislative body conceivable, would take as determined an attitude toward the laws of the land before they are enacted as it does toward the laws of the land after they are enacted, many of the troubles from which our Republic is to-day suffering would be eliminated. It lies in this case with you to become the instrument through which the Nation at large can unequivocally define its real attitude toward a measure which, if enacted, will constitute the most radical departure in the government of men since the days of the ancient patriarchs.

"If you consent to become that instrument, you will perform not only a service to yourselves and to your clients, but a patriotic service to the country at large; you will earn not only the recognition of the people to whose views you thus give the means of utterance, but also the gratitude of the people's representatives, the faithful performance of whose duty to the Nation is conditioned upon a correct knowledge of those views. And, above all, you will discharge a duty clearly imposed upon yourselves as the Nation's housekeepers, namely, to see that, if a change is to be made in the order of the Nation's household, it be made with the full knowledge and consent of the householders themselves and not at the mere dictation of a factional body of citizens who represent themselves as the accredited spokesmen of those householders.

"Gentlemen, I ask you to give this matter the earnest and urgent consideration it deserves. Your ability to carry it out is beyond question. To believe that the will to do so is lacking in you would mean to doubt the judgment, the loyalty, and the patriotism of men who represent one of the greatest and most magnificent institutions of this country—the American hotel."

Mr. DOUGHTON. Mr. Chairman, my present purpose is to support the bill under consideration. However, that is not my purpose in taking the floor this morning. My purpose is to submit some few observations in response to remarks made by the minority leader, Mr. MANN, a few days ago, and this is the first opportunity I have found to do so. I regret the gentleman is not on the floor, because when I make remarks concerning a fellow Member I am always glad to have him hear those remarks.

Mr. DONOVAN. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman from Connecticut rise?

Mr. DONOVAN. Will the gentleman from North Carolina permit a question or observation right here?

Mr. DOUGHTON. A short one.

Mr. DONOVAN. Does not the gentleman think, in order to be courteous, he ought to wait until the minority leader is present?

Mr. DOUGHTON. I do not know whether I can get an opportunity when he is present. If I can be sure of the time, I will be glad to wait. I have waited now three or four weeks to get an opportunity. I was denied unanimous consent by a Member on that side of the House who has burdened the RECORD with as much superfluous talk as any man here.

Mr. DONOVAN. The gentleman has undoubtedly heard that the presence of a majority has a tendency to prevent abuses. Now, does not the gentleman think the point of no quorum ought to be made, so that we can bring them in here to attend to their business? Every leader on that side is absent.

Mr. DOUGHTON. I am not willing to discuss what ought to be done in that regard.

Mr. ADAMSON. I resent the suggestion made by the gentleman from Connecticut, because the gentleman from Connecticut and I are both here. There are two leaders here.

Mr. DOUGHTON. Mr. Chairman, a few days ago, while the gentleman from Illinois [Mr. MANN] had the floor, I rose and addressed the Chair and asked if the gentleman would yield. I thought then, and still think, I was within my rights. In declining, the gentleman from Illinois was clearly within his rights, and had he proceeded with the discussion it would have been perfectly all right and I would have thought nothing more of it; but after declining in rather an uncivil way, he attempted to reproach me by stating in a very sarcastic, snarling, and disrespectful manner that I could not answer if given a week in which to do so.

I had not requested to be allowed to answer anything, neither was that my purpose when I rose. If that had been my motive, I would have taken the floor in my own right. My purpose in interrupting the gentleman was to ask him a question relating to the subject under consideration.

I shall not attempt to reply to him in the manner in which he referred to me, and, so far as I am concerned, he can continue to hold his monopoly on that kind of debate.

When my term of office in this House shall have ended I will at least have the satisfaction of feeling and knowing that I have extended to each and every one of my colleagues that courtesy and consideration to which he is entitled. [Applause.]

We all recognize the gentleman from Illinois, the minority leader, as an able, faithful, untiring Member of this body. We also realize that in parliamentary matters he has no superior. One in his position who can and ordinarily does large things in a large way should be incapable of doing small things in a small way.

The gentleman specially requested that some one take time and answer why the tariff was taken off of wool, if by so doing it has resulted in increasing the price of foreign wool. So far as I can find, the RECORD discloses no such statement made by anyone on this side of the House. The statement has been made on this side and admitted on that side that the price of domestic wool is from 3 to 5 cents per pound higher this year, under the present tariff law, than last year, under the old Payne-Aldrich tariff law. Whether or not the change in the tariff has brought about this condition I am unable to state.

We all know, however, had the price declined it would have been charged up to the tariff. I will state to the gentlemen on that side of the aisle that we did not take the tariff off of wool and reduce it on the manufactures of wool and woolens for the purpose of increasing the price of domestic or foreign wool, though some thought that such would be the result. They believed that it would break up the Wool Trust that had hitherto fixed the price of raw and manufactured wool and restore competition in buying wool, and thereby increase the price.

I for one at the time had some fears that reducing the tariff might affect or lower the price of wool, and believing also that a reasonable revenue duty was necessary, opposed in conference the placing of wool on the free list. The tariff was taken off of wool and reduced on woolens in order to give cheaper clothing, blankets, and so forth, to the American people, as everyone knows save the gentleman from Illinois.

While that bill was under discussion we all remember how wails and lamentations went up from that side of the House to an altitude hitherto unknown as to its direful effects on the wool-growing and sheep-raising industry of the country. The eloquent appeals of the gentlemen from Ohio, Mr. Longworth, Mr. WILLIS, and others, and the gentleman from Wyoming [Mr. MONDELL], of how a great American industry was about to be destroyed, are still ringing in our ears. The gentleman from Illinois [Mr. MANN] said that we were striking down one American industry after another, and the able and eloquent gentleman from Michigan [Mr. HAMILTON] said that the bill was framed by men who wanted to increase the flocks of Australia, South America, and South Africa and drive the flocks of the United States to the slaughterhouse.

From their statements one would have thought that within a brief period after the enactment of this law that the only sheep to be found in the United States would be in the zoo, and it would be as great a curiosity as Roosevelt's zebra. We would have thought that every sheep in Australia, Canada, South America, and from the ends of the earth, regardless of transportation charges, long distance, high mountains, or deep water, would have immediately been dumped on our markets, and that wool from these countries would have become as plentiful and as cheap as the leaves of the forest. Frantic statements

are worthless, however, when superseded by facts, and the facts are that none of these dire prophecies have been fulfilled.

The gentlemen on that side who are so fond of congesting the RECORD with letters telling of damage done and injury wrought as the result of our tariff bill, it is superlatively strange now that they are not placing in the RECORD some of the letters from the woolgrowers and sheep raisers of the country as to the ruinous effects of this law, as predicted by them 12 months ago.

While the woolgrower is getting from 3 to 5 cents per pound more, as I have stated, for his wool this year than he did last, the American people are buying clothing of the grade worn by the plain people, I am reliably informed, materially cheaper than under the old tariff law. That was our purpose, and the result is our justification.

I am a farmer and a sheep raiser on a small scale myself and know that wool was sold last year in my country from 20 to 22 cents per pound. This year it brought 24 to 25 cents.

A few days ago I addressed a letter to the Chatham Manufacturing Co., Elkin, N. C., asking them to give me the prices they have paid for wool for the last 8 or 10 years. These people are large buyers of raw wool, also large manufacturers of woolen blankets and other woolen fabrics. They gave me the following quotations:

	Cents.
1906	28
1907	25
1908	21
1909	30
1910	23
1911	21
1912	28
1913	21
1914 (for unwashed wool)	25–26

Signed by Chatham Manufacturing Co.

The highest being 30 cents in 1909, and the lowest being 21 cents in 1908, 1911, and 1913, respectively. So a comparison of these figures shows that this year, under the new tariff law, with every effort made to break down the price, it is one-third of a cent higher than the average for the nine years given, the average for the nine years being 24⅔ cents. These figures are based on actual cash transactions, and controvert every statement by our opponents as to what would be the result of our tariff law on the price of wool.

These facts call for no answer from us, and need no explanation on this side of the House. They do, however, call for an explanation from those of you who filled the RECORD full of false statements as to the ruinous effects of the tariff law on the sheep and wool industry.

For 20 years the Republican Party has had but one issue, and that has been calamity howling, but you have at last overplayed the game, and your efforts are so transparent that the wayfaring man, even though a fool, can easily comprehend them.

You persist in talking about the great army of the unemployed, but outside of a very few corporation-ridden States and communities, where the people are being oppressed for political effect, business conditions were never better.

There are only two armies of the unemployed—one is the army of Republican lame ducks, and the other is the army of hobos. Neither was ever known to do anything but howl calamity. For every idle man who is found without a job in the towns and cities, and who really wants to work, there are hundreds of calls for help out on the farms. Men who are willing to go on the farms and work can find employment on every hand at a larger wage than ever before in the history of the country.

The people of the section of the country from which I hail are prosperous, contented, and happy, and you had just as well attempt to suspend the law of gravitation or turn back the tides of the ocean as to undertake to frighten them any longer by the false cry of business depression. Notwithstanding the fact that they had been told again and again that if the Democratic Party was successful the price of cotton, wheat, tobacco, corn, and cattle would go to nothing they know that they sold these commodities for a larger price in the year 1913 than ever before.

Bank statements show more money on deposit than ever before, factories are being enlarged, new enterprises starting up daily, and there is every evidence that business conditions are on a substantial basis.

Constructive statesmanship is one thing and destructive criticism is another. You are conspicuous failures at the former, but a prodigious success at the latter. Your whole program throughout this entire Congress has been one of criticism, grumbling, and complaint. While we enacted the tariff law, currency law, gave the people the parcel post, provided for the election of United States Senators by a direct vote of the people, imposed an income tax on the wealth of the country, and are now completing the program by the enactment of trust legislation, the only assistance you have offered has been to stand by and curse the doctor and choke the patient. The masses of American people of all parties are honest, and such dope, claptrap, rot, and rubbish as you have been handing out no longer appeal to their intelligence.

At the end of this Congress we will have enacted more progressive, constructive, and remedial legislation for the relief and benefit of the great masses of the American people than any Congress that has convened in Washington in half a century. While it is known of all men that the program of your leaders has been one of constant and continuous obstruction, yet you have not only failed to offer any program of relief, but you have been unable to marshal your entire forces against any of the measures we have passed.

When our labors are ended we are entirely willing to have judgment passed upon us, and a verdict rendered as to the way in which we have kept the faith, and the manner in which we have fought the battles for the people. [Applause.]

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from Connecticut [Mr. LONERGAN] six minutes.

Mr. LONERGAN. Mr. Chairman, the people of the district which I have the honor to represent are greatly interested in the immediate passage of this bill or a measure of similar purport. We have on the Connecticut River, about 12 miles above Hartford, at what are known as the Enfield Rapids, 30,000 horsepower running to waste every day, although it is situated in the center of a manufacturing section, where within the radius of a few miles there are over 100,000 horsepower being manufactured by the use of coal at comparatively high cost to the manufacturers.

By the development of this water power electricity can be delivered to the manufacturing plants in small communities at about one-half of the cost to them of producing steam power. The development of this water power has been delayed and prevented by the failure of Congress to solve the water-power problem, so far as navigable rivers are concerned, which the present bill will and does solve, and will permit the utilization of these water powers now being wasted, and will at the same time greatly aid the development of our rivers for navigation, with the expense of this development borne by private capital rather than by the Government.

The State of Connecticut has already granted authority for the development of this power, and in Connecticut the State owns the bed of the river. Over six years ago the legislature of that State passed a special act permitting the damming of the Connecticut River at Windsor Locks, and, in so far as it could, made the necessary grant to permit the conservation of this great natural resource of the State.

The capital necessary to develop this project, which it is estimated will cost at least $5,000,000, I am informed is ready and waiting. I am assured that a company of over 70 Connecticut and western Massachusetts men has been organized who are anxious to see this development made, and who are willing and ready to invest their own money in this project and are simply waiting for permission from the United States Government to go ahead with it. This company is made up of manufacturers, who want the cheap power for their own individual plants; of men interested in the improvement of navigation, who are ready to invest their money in this project in order that navigation on the Connecticut River may be opened up from Hartford to Holyoke and the advantages of cheap water transportation gained for the manufacturing cities and towns which have been built up along the Connecticut River.

The only thing which prevents the immediate development of this project is the failure to secure authority from Congress for the right to place a dam across the Enfield Rapids. There is no navigation on this river to-day above Hartford on account of these rapids. The Government has refused to improve the river, owing to the expense of placing a dam across it in order to enable boats to surmount these rapids. It has, after a very careful and complete examination, recommended the improvement of this river, contingent upon a dam being built by private capital at Windsor Locks.

The passage of this bill will go a long way toward permitting this improvement to be made, and is a preliminary step which is absolutely necessary before these developments can be started.

Mr. STEVENS of New Hampshire. Will the gentleman yield?

Mr. LONERGAN. I can not yield. I have not the time.

The CHAIRMAN. The gentleman declines to yield.

Mr. LONERGAN. Under the terms of the present general dam act it has been impracticable to secure capital for the development of these water-power projects.

This water-power controversy has been one of long standing. The real purpose of the present bill and the real solution of

the problem is to serve the public interest; to safeguard the people against any overcharge for power; to prevent illegal combinations in restraint of trade and at the same time to permit and encourage the investment of capital in the development of water-power projects in order that the vast amount of hydroelectric power now being wasted in this country can be immediately utilized. From every part of the country there is an insistent demand for electric power. This call comes from the city and from the country, from factory and from farm, from the manufacturing centers of the East, from the arid lands of the West, and from the new industrial cities of the South. More and cheaper electric power is demanded for lighting our houses and streets, for cooking our food, for use in our factories, for moving our railroads now operated by steam, and for street railways and for interurban lines, for pumping water for irrigation and to drain the overabundantly watered lands of the South.

Cheap electric power is demanded that this country may be on an industrial footing equal to that of the nations of Europe, where, it must be admitted, the development of the new electric chemical industries is far in advance of this country. The present laws have caused what is practically a deadlock between capital and the Government in the development of water powers upon all rivers under the control of the United States. Grants permitted under the terms of the present laws are not such as to encourage the investment of capital in water-power projects. The result is a complete stagnation of water-power developments. The few plants that have been constructed have either been exceptionally favored in their situation or have become bankrupt.

In the attempt to protect the interests of the public preventive measures have been passed, so that the public has been deprived of the great benefits to be secured from the full and adequate development of the water powers of this country. What is needed to-day is a constructive program rather than a destructive one, legislation which will permit and encourage the development of navigation and hydroelectric plants to the utmost, yet at the same time safeguard the people against extortion by high prices for power and combinations to prevent the full development and use of these powers. It is just as important to secure for the public the benefits to be derived from the development of these waterways as it is to protect them against high prices and illegal combinations.

All legislation should be in the public interest, but it is not in the public interest to pass laws which prevent utilization of the greatest natural resources of this country.

It is now time to pass constructive legislation which will enable the development of these water powers on terms fair to the public and to private capital.

It is a mistaken policy to prevent the present development of water powers in the belief that in the future they will be more valuable than now and a large source of income to the United States Government, to be raised through the taxation of these water powers. All taxation must be uniform. Every tax laid on water powers must be paid by the consumers of the power and means a higher price for power to those consumers. The correct policy is to encourage the development of our water powers and to protect the consumers by provisions which will prevent extortionate charges for water power, or a too high rate of return, or a more than a reasonable return to capital, a policy which will result in both protecting capital against confiscations and the consumer against extortionate rates. The pending bill, with proposed committee amendments, is a measure—not perfect, to be sure—which guarantees good service, low rates, and fair treatment of the public. These benefits are guaranteed by Government authority, as they should be, without, on the other hand, the threat of property destruction or confiscation.

The bill establishes the public rights by a specific provision that if any State shall fail to provide laws for the regulation of these matters, then regulation shall be exercised by the Secretary of War. Interstate business is, of course, finally to be regulated by the Federal Government. The control is made more complete by the provision that no transfer or assignment of any property or project shall be made without the approval of the Secretary of War.

With respect to the preservation and the promotion of navigation, the bill makes ample provisions. No consent may be granted except by approval of the Secretary of War and Chief of Engineers after plans have been submitted and changed or modified so that they are satisfactory from the standpoint of both power and navigation. The bill in this respect is a great advance over all previous acts or proposals, for it provides that not only shall any plans be such as shall be best adapted to conserve the navigation and power resources of the stream on which the works are to be located, but the scope is broadened to cover, in a comprehensive way, such neighboring streams and general conditions in the region as may exert a modifying or controlling influence on the water power and navigation resources.

All other provisions, such as the control of the works in the paramount interest of navigation, the relief of the Government from liability for damages to private property, the furnishing of power free of charge for lock operation, and the conveyance, free of cost, to the Government by the grantee of land necessary for locks and approaches are all reserved in the bill.

The bill defines and fixes the tenure of the grant and the conditions under which it may be terminated.

The principal reason why the general dam act has placed an embargo on water-power development is that it confers on the grantee no title that can be made a basis for financing. The longest term provided is 50 years, and there is no provision for disposition of the property or the recovery of equivalent value by the grantee at the end of that period.

It is stated that as a result the investment of at least a half billion dollars of capital has been prevented that would otherwise have been invested in water-power projects, and we have deprived ourselves of enormous electrochemical industries, such as have been so successful in Europe.

Under the terms of this bill the Government can not grant consent in perpetuity but for an initial period of 50 years, after which the Government reserves the right to terminate upon paying the fair value of the investment, not including any value of the rights granted. Until the Government decides to exercise this right, after the expiration of the 50-year period, the grant may be continued or terminated under the provisions of sections 9 and 10. This is a fair and businesslike provision. It fulfills every reasonable condition as to the public interest in the tenure of the grant, and at the same time provides a tenure that can be used as a basis of sound credit for the purpose of borrowing money for development purposes.

The regulation of rates and service is provided for in this bill, granting double security to the public interest. Regulation is properly left in the first instance to the local sovereign, but in case the State should fail to adequately provide for such regulation the duty falls on the Secretary of War.

I do not think our waterways should be left to the exploitation of private interests, but favor a program fair to all concerned. It is probable that in another generation or two the Government will own all water powers, but in the meantime they should be utilized under Government control.

The development of the water power at Windsor Locks is a matter which concerns all of the towns situated near that place. This is a manufacturing as well as an agricultural part of the State of Connecticut. The communities which will be directly interested and their population in 1910 follow:

Hartford	98,915
New Britain	43,916
East Hartford	8,138
Windsor	4,178
South Windsor	2,251
East Windsor	3,362
Windsor Locks	3,715
Suffield	3,841
Enfield	9,719
Rockville	9,087
Manchester	13,641
Stafford Springs	5,235
Glastonbury	4,796

Every one of these communities is in direct line for the benefits which would result from the developing of the water power at this part of the river. These cities and towns are among the most prosperous as well as the oldest in the State. Among their residents are thousands of people who are engaged in manufacturing and agricultural pursuits, and whose products go beyond the border of the United States. There are hundreds of prosperous mercantile and manufacturing concerns and hundreds of thousands of consumers who will indirectly feel the benefit of a substantial movement to increase the manufacturing facilities in their respective localities. Not only the places I have mentioned, but several other important towns and cities in Connecticut and Massachusetts will be accommodated by the proposed improvements on the Connecticut River. There is no question but that with the increased population and continued industrial development the demand for water power is growing rapidly. It would be difficult to estimate the great advantages to the industries of northern Connecticut which are bound to follow when the proposed project opens up this new source of power.

The firm belief in the ultimate success of the project is greatly strengthened by the personnel of those who are back of the enterprise. They are substantial men of affairs who have achieved marked success in other lines and who are identified with the largest commercial and manufacturing interests in their respective towns, and it may be expected that they will bring to this important undertaking the same ability, enterprise, fair dealing, and judgment that have characterized their endeavors in the past.

The Connecticut Valley is anxious to make the most of the natural resources of the Connecticut River. In my speech in the House of Representatives, on March 21 last, I mentioned the reasons for the widespread desire for the improvement of the Connecticut River. The Connecticut rises in the extreme northern portion of New Hampshire and flows in a southerly direction between that State and Vermont, forming the boundary line between these two States, and through Massachusetts and Connecticut, emptying into Long Island Sound and Saybrook, about 30 miles to the eastward of New Haven and about 40 miles to the westward of New London. Its entire watershed is said to be about 11,000 square miles, of which only about 850 square miles are below Hartford. Most of the important tributaries of the Connecticut River join it above Hartford. Below Hartford there are only five that may be considered of any importance. The Park or Hog River enters the Connecticut from the westward at Hartford about 4,100 feet below the highway bridge, and the Hockanum River flows into it from the eastward about 5,000 feet below the mouth of the Park River. At Middletown, Little River flows in from the westward; and just above East Haddam the Salmon River and a short distance above Essex Eight Mile River empty in from the eastward.

An idea of the possibilities in freight traffic development on the Connecticut River is given in an extract from the report of the Chief of Engineers of the Army made public recently. The report showed that the value of freight transported on the river during 1912 was $39,419,594.70. The tonnage was 617,981 short tons, mainly coal, lumber, building materials, fertilizer, petroleum products, and miscellaneous steamboat freight.

The Boston Chamber of Commerce in a recent report showed that the annual freight bill of New England on coal alone was $70,000,000. The actual value of this coal at the mines was but $30,000,000. Hence it costs more than $2 to bring every dollar's worth of coal into New England, according to the Boston Chamber of Commerce. How long can New England expect to do business under this handicap and still keep up its competition with an aggressive interior and a booming West, so much more favorably situated with regard to the fuel supply and the market?

An idea of the large number of people who are in position to be benefited by the development of the river is given by referring to the population of the cities and towns concerned. The communities in Connecticut interested in the river improvements have approximately 600,000 inhabitants. They are in the front rank among New England's manufacturing towns, and their products, which are so diversified that they range all the way from an ordinary pin to an automobile are shipped to all sections of the civilized world.

Historical records show that a hundred or more years ago elaborate plans were commenced for the development of the Connecticut River. A system of canals was proposed, and charters were secured in Vermont, Massachusetts, and Connecticut. Under the Connecticut charter, which was granted in 1824, the recipient was given permission to widen the channel of the river and remove obstructions from that part of the river between the bridge at Hartford and the city of Springfield. Authority to construct canals was also given. Extensive improvements were made at that time, and it is said that at that period the Connecticut River entered upon its era of greatest commercial activity. According to the records, the whole river was open to navigation from Hartford, Conn., to Wells River, Vt. The river is about 345 miles long. Freight was carried in flatboats with capacity of 30 to 40 tons.

Several bills have been introduced in this session of Congress having for their purpose the development of the Connecticut River. House bill 7592, introduced August 22, 1913, calls for an appropriation of $1,000,000 to be expended under the direction of the Secretary of War for improving the river from Long Island Sound to Hartford, with a view to securing a channel of width and depth suitable to accommodate the present and future demands of commerce.

House bill 27989, introduced January 13, 1913, proposed the authorization of the relocating and constructing of a dam across the Connecticut River above Windsor Locks, and for other purposes.

House bill 6437, introduced June 26, 1913, called for an appropriation of $1,015,000 for the improvement of the river between Hartford and Holyoke, Mass., including the deepening of the channel.

HELP TOBACCO IRRIGATION.

The Connecticut Valley is famous for its tobacco lands, the river extending right through the heart of the tobacco belt. One of the problems which confronts the tobacco grower at the present time is the question of irrigation. Many growers and the United States Department of Agriculture are giving the matter serious study, and a partial solution is near at hand. Millions of gallons of water will be required in the irrigating, and power development on the Connecticut River, it is believed, will open up for the growers a new means for supplying the much needed water in the thirsty tobacco fields.

THE PEOPLE DESIRE IT.

The citizens of the towns which border the Connecticut River, not only in their own interest but in behalf of the commercial prosperity of the whole State, desire legislative action which will make possible the utilization to the fullest extent of the great natural resources of the river for power purposes and navigation. [Applause.]

Mr. ADAMSON. Mr. Chairman, I yield five minutes to the gentleman from Florida [Mr. CLARK].

Mr. CLARK of Florida. Mr. Chairman, on many occasions I have stood upon this floor and attempted to call attention to the many advantages of the State of Florida, the progressiveness of her people, her great industries, and all that sort of thing; and I want to call attention this morning to some figures which I think will carry confirmation strong as holy writ. In the individual payment of income taxes in proportion to population Florida leads all Southern States. The following article from the Pensacola News shows the amount paid in the States of Louisiana, Texas, Georgia, Florida, Virginia, Alabama, and Mississippi, Tennessee, Kentucky, West Virginia, Oklahoma, North Carolina, Arkansas, and South Carolina.

INCOME TAX PAYMENTS IN FLORIDA.

In the individual payments of income tax in proportion to population Florida leads all southern States. The following table shows the collection of tax on individual incomes for the Southern States, the population of the States, and the amount of individual income tax paid by each per thousand population:

State.	Income tax.	Population.	Amount per 1,000.
Texas	$361,965.21	3,896,542	$92.89
Louisiana	159,056.91	1,656,388	96.02
Georgia	115,874.11	2,609,121	40.58
Florida	108,800.43	751,139	144.85
Virginia	102,638.04	2,061,612	49.70
Alabama and Mississippi	102,586.10	3,935,207	26.07
Tennessee	98,277.59	2,184,789	44.98
Kentucky	98,244.66	2,289,905	42.90
West Virginia	94,627.97	1,221,119	77.49
Oklahoma	93,082.15	1,657,115	56.17
North Carolina	46,566.55	2,206,287	21.11
Arkansas	41,239.25	1,574,449	26.19
South Carolina	25,816.08	1,515,400	17.57
Total	1,448,775.05	27,559,108	52.57

This is a splendid indication of Florida prosperity, the State's per capita payment of this tax being 50 per cent greater than that of Texas or Louisiana, almost double that of Virginia, more than three times as much as that of Tennessee, Kentucky, and Georgia, more than four times as great as that of Arkansas, Alabama, and Mississippi, nearly seven times as great as that of North Carolina, and more than eight times as great as that of South Carolina.

Though its population is less than that of any other Southern State, Florida is fourth in individual payments of income tax. When the payments are figured in proportion to population the State of Florida pays approximately three times as much tax on incomes as the balance of the South. It would be well for all boosters to paste these figures in their hats.

It will be seen that Florida, which pays $144.85 per thousand of population, leads all this list. I have called attention to these facts, Mr. Chairman, in order that "he who runs may read," and that all the people of these United States may know that the arms of the State of Florida are open. We have plenty of territory. Anyone can be paying an income tax hereafter to support the Government if he will only migrate from some of these other States to the State of Florida. [Applause.]

Mr. ADAMSON. Will the gentleman from Minnesota kindly use some of his time?

Mr. ESCH. I yield 20 minutes to the gentleman from Ohio [Mr. FESS].

Mr. FESS. Mr. Chairman, I beg the attention of the Members on the floor to a discussion of a subject that I hope will not be regarded as captious criticism, but probably constructive criticism. I am sure those who are here will give me the recognition that this is the first time I have spoken under general

debate when I have not spoken to the bill, and I would not speak afield of the bill to-day if it were not to ask the respectful attention of the membership to a theory of government that we all, as students of our history and members of one of the legislative bodies, ought to look into a little more carefully than we have.

I think this is probably the first time in the history of our Nation when the distinguished head of the Nation has had an opportunity of putting into operation a theory of government that he himself has outlined in the form of lectures and published treatises upon constitutional government. For that reason I take it that it is not a matter of impulse, but it is rather a matter of constructive judgment upon his part. I refer to the relationship between the three departments of the Government; and if I should say anything that would appear to be criticism, I want it distinctly understood that it is said with the highest personal regard for the head of the Nation, as every Member in this House knows I have.

I think that Macaulay in his comments makes an error in referring to our own Government when he says the United States Government has not anything in it that it did not bodily borrow from the English House of Commons. This statement from the famous English essayist was an argument that the new Government was but a copy of the old. Thomas Jefferson, so far as I know, was the first man to put in writing words clearly differentiating our Government from the Governments of Europe or any other Government anywhere of a constitutional character. He wrote to James Madison in 1786 to this effect, that the executive department must be contradistinguished from the legislative department and the judicial department, and that the three departments must be jealously kept separated. And this ideal prevailed, as you know, in the Constitutional Convention that was held a year after this famous letter. However the great leaders of that body differed in other respects, in this they were agreed.

Almost every English commentator upon constitutional law, including such men as Edward A. Freeman, then occupying the chair of modern history in Oxford University; James Anthony Froude; Goldwin Smith; Justin McCarthy; and that famous writer, Henry Thomas Buckle—all of these English publicists claim that the one differentiation between our Government and others is the jealousy with which the three departments are being kept separated. I mention this to indicate to you that modern thought in Europe is in accordance with the form of government as set forth by the constitutional fathers in the Constitutional Convention of 1787. In that convention we had the three departments set out, each one organized independently, each one independent in its function, and neither dependent upon the others; and I am sure that every Member of this House will recognize that that has been maintained pretty jealously up to at least a certain period. True, emergencies like war compel a President to extend his functions, as in the case of Lincoln. I want to call the attention of the membership of the House to what I regard as a modification of that theory, of the loss of equilibrium of the coordinate departments of government; and I do it not alone because of what has been done, but also because of what has been said by the President of the United States before he had become the Nation's head, but while he was the head of a great university.

I refer to a series of lectures that he delivered in Columbia University in 1908, which since have been printed by the university authorities. I hope that you will note:

> The President is at liberty, both in law and in conscience, to be as big a man as he can. His capacity will set the limit. If Congress be overborne by him, it will be no fault of the makers of the Constitution.

This statement has deep significance to me:

> If Congress be overborne by him, it will be no fault of the makers of the Constitution. It will be from no lack of constitutional power on the part of the President, but only because the President has the Nation behind him, and Congress has not the Nation behind it.

I read further, on page 71:

> The personal force of the President is perfectly constitutional to any extent to which he chooses to exercise it, and it is by the clear logic of our constitutional practice that he has become alike the leader of his party and the leader of the Nation.

I read further, on page 72, the most significant statement in this strikingly significant address. Note it:

> The lawmaking part of the Government ought certainly to be very hospitable to the suggestions of the planning and the acting part of the Government.

What is the "planning" part of the Government? What is the "acting" part of the Government as interpreted in this sentence? The President of the Nation asks that the legislative or the lawmaking power be responsive to what? To the "acting" and the "planning" part of the Government. And then, in another sentence he says there are those who think that Pennsylvania Avenue ought still to be longer and that the White House should be further separated from Capitol Hill.

I want to repeat that this is not said in the sense of captious criticism, but it is as a Member of the House calling attention to a political theory that is now being inaugurated in the Government, not from impulse, not as an emergency, but as a political theory well defined by its author before he was seriously mentioned as President. I do not believe that anyone can feel that I am not justified in calling attention to it on the ground that some one would criticize me and say, "You are doing this purely for political purposes." That is not true. Here is an announcement of a new theory unknown to our views in the past. All Governments, whether they be European or American, are the same in organization. Every Government must maintain certain functions—the lawmaking, the law-enforcing, and the law-interpreting departments of government. Ours is not different from the Government of Turkey in its powers or in its exercise of function. All Governments exercise these three departments. Some place all three in one, as until recently was done by Turkey. The executive absorbed the other two, and it was a despotism. In England, while the executive is recognized with veto power in the abstract right, he has not used it since 1701. All power there is with the legislative, and with but one branch of it. Not so with us.

As said Mr. Bryce in that famous work on the American Commonwealth, ours is different from any other country, in that you maintain the legislative, executive, and judicial departments all separate, one from the other. It is true they are interdependent in some respects, but in the exercise of their functions neither depends upon the other. This is our signal virtue. When you put functions like the legislative and judicial and executive in one man's hands, then you have despotism like Turkey. I do not mean that that is being done in this country, but I do mean the tendency is in the direction of increase power of the Executive. This is natural; but in the present case it is more significant, because it follows a theory of the present Executive, as set out in 1908.

Mr. GORDON rose.

The CHAIRMAN. Does the gentleman from Ohio yield to his colleague?

Mr. FESS. I will yield.

Mr. GORDON. Does not the Constitution of the United States by express terms make the President a part of the lawmaking function?

Mr. FESS. The Constitution of the United States by express terms defines the functions of the Executive, first, that he shall see that the laws of the United States are enforced; secondly, that he, in conjunction with the Senate, shall have the appointing power; thirdly, that he shall have the function of making treaties, to be confirmed by the Senate; and, fourthly, the only legislative function he has is a negative one, namely, the veto power. There is no positive one. He can on the state of the Union give the conditions of the country in a message if he wants to, but the House or the Senate is not required to pay more than respectful attention to that. That is not legislation. That is only information upon which Congress can act favorably or unfavorably or entirely ignore. These are the functions of the President.

The President holds that his office is becoming less executive and more political.

The President himself, in this series of lectures, says his constitutional function in lawmaking is a negative force, to say what shall not be done, and not a positive force, to say what shall be done. In his veto the President can say what shall not be done, but two-thirds of the two Houses can overturn that. You make a mistake when you think the legislative department of this Government is at the White House instead of on Capitol Hill. [Applause on the Republican side.] That is the thing I am calling attention to.

Mr. GORDON. Will the gentleman yield once more?

Mr. FESS. Yes.

Mr. GORDON. The gentleman has overlooked the provision of the Constitution which authorizes the President at all times during his official incumbency to give advice to Congress.

Mr. FESS. I have just mentioned that; I have said that he could give information in the form of a message, but Congress does not have to pay any attention to it except as a matter of respect. Even in the latter case the Congress is under no legal obligation.

Mr. GORDON. And Congress does not have to pay any attention to what the gentleman from Ohio says.

Mr. FESS. I do not think my friend ought to inject a statement of that kind. I am trying to put the matter on a plane that the gentleman himself will approve. I am not saying this

in a sense of captious criticism. I am somewhat surprised that Members fret under a deliberate discussion of such important matters that ought to be above partisan contention and free of personal attack. I want to say again that there should be a well-defined field of operation for each department. As Blackstone says, there must be intelligence to make the laws, good will to interpret the laws, and power to enforce the laws. The making of the law is legislative; the interpreting of the law is judicial; and the enforcement of the law is executive. These three must never be combined. If you do you have lost the one unique feature that we have in our Government which differentiates us from all other countries.

I am saying this as a student of comparative history. Ours, I repeat, is the only country that maintains these three departments absolutely independent in the exercise of function, and yet in a sense interdependent in organization.

Mr. SHERLEY. Will the gentleman yield?

Mr. FESS. I will yield to the gentleman from Kentucky.

Mr. SHERLEY. Is the gentleman complaining that Congress accepts the advice of the President too frequently?

Mr. FESS. No. Acceptance here means freedom to reject. In that case, I say no.

Mr. SHERLEY. What is the fault that we are falling into?

Mr. FESS. I will answer that, although I had not intended to enter that field. My friend from Kentucky asks what is the fault we are falling into. I will specify the fault we are falling into. I do not think it is the function of the President to call a Member from this House to consult him as to what he is going to say on this floor on any particular subject. I do not think it is the function of the President to have any man, whether associated with the Government or not, write a bill and then have it submitted to a partial committee of this House and have that committee exclude the minority Members, and then take it to the Democratic caucus and there put the measure through by caucus rule on the basis that he is the leader of the party as well as the leader of the Nation, as was done in the currency bill. [Applause on the Republican side.] I do not think that is a legitimate function of the Executive—to require a measure submitted to him and have him give orders to place certain articles on the free list to try out his theories. These are some of the things I have in mind, and then there are other things such as we see frequently, but I do not want to enter that, because I will be regarded as being offensive personally, and I do not mean to be. I simply want to call the attention of this House to the encroachment on the legislative field by the Executive, because he believes in that theory as set forth in his written lectures some time ago. This is the thing that is serious. It is not a matter of impulse; it is a matter of political theory in which he believes, and I do not believe it is the theory of this Government. That is why I am calling attention to it.

Mr. DECKER. Will the gentleman yield?

Mr. FESS. Yes.

Mr. DECKER. Will the gentleman take the time to make it more clear what part of the lecture is inconsistent with the gentleman's statement as to what are the functions of the Government? He simply says that if Congress is overborne by the President it is the fault of Congress; in other words, if the President has the power intellectually to persuade through his constitutional right to recommend to this body, what is there in that that is inconsistent with the gentleman's theory of government? In other words, if he is smarter than we are and give good reasons for it, what harm is there in that?

Mr. FESS. I want to say to my friend that when he says if the President is smarter than we are, he really puts the whole thing in a nutshell. The President does not regard this House as the representative responsible to the people, but he believes the President is that responsible head. The executive department is one thing, the legislative department is another. The Executive is one man, the legislative is 435 Representatives and 96 Senators. The legislative department represents a single function that is lawmaking, where in the multitude of counsel there ought to be safety. If its power is to be overborne by not the lawmaker, but the law enforcer, then I say the legislative function has been usurped by the executive function, and I do not believe you think that is a good thing. I am not addressing any particular party in this House, but all parties. The majority side would show their jealousy of their rights were the head of the Nation not of their political faith.

Mr. DECKER. Just one point there. Does the gentleman not mean to infer that it depends upon how it is overborne? If it is overborne by a reason, where can there be any harm in it?

Mr. FESS. Very well, if the gentleman wants to accept it in that way, but this is what I have in mind—the President seeking in the exercise of his function to be so powerful a factor in the Government that two-thirds of this House to-day eat out of his hands, without any protest at all; and I say that that is a calamitous situation. How many Members would have voted for the free-tolls repeal against the plank of the platform if the President had not asked that it be done? That is the question, and is a concrete example of what I mean by executive encroachment upon legislation. Only a few rare specimens were free to take a position against the President, and even when they did they submitted themselves to severe partisan criticism.

It is a very serious thing for a Member on that side of the House to go against the wishes of the President, for the wish, as you know, is equal to a command, and most people will respect the wish as though it were a command. And I say that the President when he comes to the floor of this House to address Congress—not because I dislike the practice, for I rather like it—is assuming not an unconstitutional authority, for he has that, but he is putting into practice his views as expressed in these lectures that his personal influence should be a measure here in Congress. I do not say he comes to have you overborne by him, as he says, but I do say that you are likely to be overborne by him, for whatever purpose he might wish, if you suppliantly submit this membership to vote his will without asking any questions.

Mr. McKELLAR. Mr. Chairman, will the gentleman yield?

Mr. FESS. Yes.

Mr. McKELLAR. The gentleman says he wishes to be entirely fair?

Mr. FESS. I do, and I believe the House knows I have no other motive.

Mr. McKELLAR. I hope he does.

Mr. MANN. Of course he does.

Mr. McKELLAR. Does not the gentleman know that in the preceding Congress, before President Wilson was nominated and elected, a majority of the Democrats of this House voted exactly the same way upon the tolls question? [Applause on the Democratic side.]

Mr. FESS. I know this, that a great many of them changed their views and were asked by the President to do so without raising the question of right or wrong.

Mr. GORDON. And did not the gentleman change his?

Mr. FESS. No: I did not. I am not a man that changes with the wind. I do not allow any man or set of men to dictate to me how I shall vote. I vote my principles in spite of what happens without fear or favor.

Mr. GORDON. Mr. Chairman, will the gentleman yield?

Mr. FESS. Yes.

Mr. GORDON. Did not the gentleman tell me on the Saturday before the tolls question——

The CHAIRMAN. The time of the gentleman from Ohio has expired. Neither gentleman has the floor.

Mr. BARKLEY. Mr. Chairman, I ask unanimous consent that the gentleman may have five additional minutes so that the gentleman from Ohio may ask his question.

Mr. ESCH. Mr. Chairman, I yield 10 minutes more to the gentleman from Ohio.

Mr. FESS. Mr. Chairman, I will state that I can not yield to a question of the kind asked by my friend from Ohio [Mr. GORDON].

Mr. GORDON. All right, I will ask the gentleman from Georgia [Mr. ADAMSON] to give me five minutes.

Mr. FESS. Mr. Chairman, not desiring to inject anything of that sort into the discussion that ought to be lifted above it, I simply want to call another item to your attention, and that is this—and I would like to have the respectful attention of both sides of this House upon this point.

Mr. MONTAGUE. Mr. Chairman, will the gentleman yield?

Mr. FESS. I yield to the gentleman.

Mr. MONTAGUE. Putting it upon a broader basis than suggested, I would ask the gentleman this question: Is it not apparent—is it not quite obvious—that the trend of the whole American system, both State and National, is to make the Executive more prominent and effective in our Government; is not that the evolution, as far as we can observe?

Mr. FESS. It is.

Mr. MONTAGUE. Was not that, for instance, most markedly shown in the administrations of Jackson and Roosevelt, and was it not approved by the people of the country?

Mr. FESS. If I may be permitted, that is a field that I desire to enter at this time. It is the point I raised when I yielded to the distinguished Member from Virginia.

Mr. MONTAGUE. What I desire to suggest is this: That there are forces, great popular convictions, behind the President, whether right or wrong, that are impelling him—that are impelling every executive in every State in the Union—to do

things that the gentleman and I may or may not think belong to that branch of the Government.

Mr. MANN. The gentleman has been a governor and he ought to know.

Mr. FESS. I want to appeal to the good sense of this House upon this phase of the discussion. It might be true that the trend is greater exercise of power in the Executive. I rather think that is true. It might be true that the President is supported by the people of the country in this regard. I think it is true, but I ask my friend from Virginia, whose judgment I very highly regard——

Mr. MONTAGUE. I did not mean to pass any opinion upon the matter. I was simply trying to suggest what I thought was the trend of the times, the evolution of politics, if I may use that term.

Mr. FESS. I take it that as the gentleman stated the fact he believed it. As I was about to say, I think the people are rather pleased to find the President lashing Congress. As an instance, I was at a business banquet recently, and one of the most distinguished men in the country made an address, and this is what he said in substance: "The Government is paying Congress $25,000 a day to make laws, and it is costing the country $100,000 a day to unmake the laws that they ought not to make."

That statement was applauded to the echo. Why did business men applaud such a statement? Did it express an opinion? Was such an opinion warranted? Does it mean that the public has lost confidence in its Congress? That sentiment is abroad. I heard another distinguished friend in a jocular manner say that a little boy sat in the gallery with his father. When the Speaker rapped for order and the Chaplain led in prayer the little boy said, "Papa, why do they pray for Congressmen?" The father said, "They do not pray for Congressmen, but the Chaplain comes out and looks at the Congressmen, and then he prays for the country." [Laughter.] That statement was applauded. I have heard men speaking from the public platform about our lawmakers in a way that would produce hatred of our legislators—though, thank God, never from my platform, for I would not allow that kind of thing, at least without a chance to answer—and when they got through the hearers wondered how many crooks there were in the House of Representatives from what had been said. I have heard men who sit upon this floor, Members of this present Congress, charged and attacked by men as though everything they did as legislators was done in order to advantage themselves and without a thought for the public welfare. I have heard at different times from the lips of men of respectability statements made about the two Houses of Congress that would lead the public to think that they ought to have a group of detectives in the House in order to find out who these men are who pretend to be legislating for the interests of the country. Similar statements on similar occasions are made against the judiciary until this department has almost become an issue before the people.

Mr. McKELLAR. Will the gentleman yield?

Mr. FESS. No; I can not. I am sorry, but my time is running.

The CHAIRMAN. The gentleman declines to yield.

Mr. FESS. I am speaking of this to throw some light upon why it is popular to attack the legislative branch of this Government in either House, or why the President is applauded by the people when he issues his commands. Why is it popular to say unkind things about the membership of this House, which utterances are vociferously applauded? Why is it, when the distinguished occupant of the White House spoke of an insidious lobby that it was given the largest space in all the newspapers, and why do Members of this House, as was done yesterday, speaking upon the work of the committee upon the lobby applaud what has been done? It is not sufficient to say that such utterances are for political advantage. The Democratic side of the House would not feel happy to indicate the only concrete result of that lobby investigation. I do not say that to you to be unkind. You are not responsible for it. But the hue and cry that followed the President's method of attack, to result in this fiasco, is but another item in his desire to control Congress.

The charge of insidious lobby will not be forgotten, but the results will find small space in the press. I came to this House with a deep prejudice against the Speaker of this House because of things that I had heard against him by irresponsible babblers, and to-day, with all the vigor of protest that I can summon, I denounce them, for I think he is one of the most lovable and fair-minded, as well as big-hearted, men I have ever known. [Applause.] And yet all over the country we hear the House of Representatives and the Senate held up as a group of men to be watched; that they are not acting for the sake of the country. That is the reason why the public will applaud the lashing of Congress by any man who has the power. All I want to do, without saying anything unkind of anybody, is to call in question the wisdom, as expressed in these series of lectures, of extending the executive function over the legislative. Let us maintain the three departments independently; let the House of Representatives exercise its own functions; let the Senate concur or reject, and let us concur in or reject what the Senate does, but let us not allow too much influence to be exercised over the field of the legislative department by executive power, and, above all, I appeal to you to avoid the appearance of saying he who differs from us is a crook. Freely grant to the President his legislative right to inform Congress on the state of the Union and sign or veto, as he chooses. If you can not differ without impugning motives, then there is something wrong. Mr. Chairman, I have called attention to the danger as I see it. Power is always aggressive. It is never passive. It is assertive. It encroaches wherever the door opens. No one feature of our Constitution was so jealously guarded as the rights of the legislative and the possible dangers of the executive. The history of government is but a comment upon this fact. While I am not one of those who charge sordid motives to men, I do regard a man's views as expressed in well-thought-out publications as an expression of his theories. Upon that basis I call your attention to the part in legislation taken by our President, for whom I have high personal regard but whose theories I must question. [Applause.] If he wishes to inaugurate a responsible ministry, he must not exercise power without commensurate responsibility. If he commands, he must also submit to be questioned.

Mr. ADAMSON. Mr. Chairman, I yield five minutes to the gentleman from Ohio [Mr. GORDON].

Mr. GORDON. Mr. Chairman, the gentleman from Ohio [Mr. FESS] is terribly concerned about somebody overturning Congress, and says that he has not an unkind thing to say about anybody or anything; but I think that speech he has just made detracts more from the dignity of this body than any I have ever heard since I have been a Member of this House. Like the buzzard, he befouls his own nest. I am not afraid of executive influence so long as the President of the United States can control the Congress by the power of his reasoning, and he has express authority under the Constitution to do it. The gentleman from Ohio complains that the President makes recommendations, and that the Democrats hold a caucus and they put it over. I heard the gentleman state upon the floor of this House less than two months ago at the time when he was keeping tab on the attendance of the Democratic Members here and pointing out the absenteeism on this side of the House—I heard him say the Republicans did not have to be here, because they were not responsible for legislation in this House, and he ascribed this as a reason for not including Republican absentees in his record. Well, if you are not responsible, gentlemen, what are you complaining about the Democratic caucus for? And he is complaining about free tolls. Well, now, it just so happens that the gentleman can not shake his gory locks at me. I was against free tolls before the President was. I was very happy to follow the President's advice on that question, and that is true of a majority of the men on this side of the House and the RECORD shows it. [Applause on the Democratic side.] How about the gentleman from Ohio on free tolls? We voted on that proposition on Tuesday. On the Saturday before he told me on the floor of this House that on the following Monday he was going to make a speech in support of the President on the tolls question. He made his speech, but he made it on the other side; he changed his mind. He had a perfect right to do so.

Mr. FESS. Will the gentleman yield?

Mr. GORDON. Yes.

Mr. FESS. I want to correct the gentleman. I said that I agreed with the President on the economic proposition, and if I had been here in 1912 I would have voted against free tolls, but I would not vote to submit the matter without submitting it to arbitration, because it was asking more than England asked. That is my statement.

Mr. GORDON. The gentleman is perfectly right to state his recollection of the conversation with me, and I yielded to him for that purpose, but I say to the gentleman that he did say to me on the Saturday before the vote on the tolls question, which was on Tuesday, that he was going to make a speech the following Monday in support of the President's position on the tolls question. I am not complaining about him changing his mind. He had a perfect right to do so. It is the duty of every Member of this House to change his mind when his reason is convinced.

Mr. FESS. Will the gentleman yield?

Mr. GORDON. I do.

Mr. FESS. I want my colleague to understand that the speech to which he refers is in the RECORD, and if he will read it he will see exactly what I said about the economical proposition, but as to the national policy I could not——

Mr. GORDON. I know what the gentleman said in the RECORD and I know what the gentleman said to me.

Mr. POU. Will the gentleman yield?

Mr. GORDON. I will.

Mr. POU. Out of five great administrative measures I think the gentleman from Ohio voted for three.

Mr. GORDON. Yes.

Mr. FESS. Will the gentleman yield?

Mr. GORDON. I can not yield further. It may be, Mr. Chairman, that through the power of reasoning, by his great persuasive powers, the President of the United States has overborne the distinguished gentleman from Ohio. If he has, and the gentleman now regrets it, I am sorry. It appears now that he has voted for three out of five great constructive measures which have passed this House, and which were recommended by the President. Now, if any argument can be adduced in support of giving the President all the power that the Constitution has conferred upon him to communicate from time to time his views to Congress in any way he may see fit, it seems to me that the experience of the gentleman from Ohio vindicates that policy, because he is certainly one of the most intense partisan Republicans upon the floor of this House.

I yield back the balance of my time. [Applause on the Democratic side.]

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from Missouri [Mr. DECKER].

Mr. DECKER. Mr. Chairman and gentlemen of the committee, I, too, believe in the theory of this Government set forth in the Constitution. I, too, believe in the three distinct departments of this Government—the department which makes the laws, the department which interprets the laws, and the department which enforces the laws. And I believe, in harmony with the Constitution, those departments should be kept separate. But the gentleman from Ohio [Mr. FESS] overlooks an important fact, namely, that the makers of the Constitution did not intend the President of the United States to be a figurehead. They did not intend that he should not have influence in legislation. Otherwise, why should they have given to him two things—the right to recommend to Congress needed legislation and the right to veto any measure passed by Congress?

And I want to call your attention to the fact that, so far as what you read from the lectures of the distinguished head of this Nation, there is nothing in them which is inconsistent with that doctrine. He simply says that if the Congress is overborne by the President, it is the fault of Congress and not the fault of the Constitution.

Of course it was never intended by the Constitution that Congress should be browbeaten or intimidated by the President, but it was intended that he should have a right and a duty to exercise and influence over Congress by reason and by intellectual persuasion. President Wilson has exercised this kind of influence. He has dealt with Congress not as a dictator, but as a "normal individual cooperating with other individuals." His influence has been strong, and for the good of Congress and the people, and it has always been through constitutional channels. Of what unconstitutional act does the gentleman complain?

The President was elected by the people upon a platform of well-defined principles and promises. At the beginning he exercised power, but power granted by the Constitution, and convened Congress in extraordinary session to begin to carry out the promises of the platform on which he and Congress were elected. Did the President "overbear" Congress in the writing of the tariff bill? True, he uttered a protest that started the movement that drove the Mulhall lobby from the corridors of Congress with the lash of public scorn. But that tariff bill itself as it finally became a law was very similar to the one written by the great Ways and Means Committee of the Sixty-second Congress under the leadership of CHAMP CLARK and OSCAR UNDERWOOD.

Mr. FESS. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from Missouri yield to the gentleman from Ohio?

Mr. DECKER. I do.

Mr. FESS. I do not charge that he wrote the tariff bill, but I do state that when the tariff bill was carried to him with the provisions for tariff on wool and tariff on sugar, his wish to have them placed upon the free list was recognized.

Mr. DECKER. It is true that the great Ways and Means Committee submitted the tariff bill to the President and he made suggestions as to certain items; and that is in harmony with the principles of the Constitution, as I will point out to you. If the tariff bill, after it had been passed by Congress, had not been satisfactory to the President of the United States it would have been his duty to veto it. The people of this country placed upon him that responsibility. And then, dare you tell this House and the people of the country that he was "overbearing Congress," because, before it was passed, he made his opinions known to the men who are responsible here for passing the tariff bill.

When the tariff bill had been passed, many good men said let us adjourn and rest on our laurels. Congress had a constitutional right to adjourn, but the President has a constitutional right to reconvene Congress. Was it an encroachment on legislative authority then for him to say, "You have done well, but I recommend that before you adjourn you fulfill another promise and reform the banking and currency laws." And so through the Banking and Currency Committee and in cooperation with the President, we wrote into law the Glass-Owen bill that will give a currency responsive to the needs of commerce, that will take the reserve money from Wall Street, distribute it over the country, prevent panics, and weaken the hold of the Money Trust.

You speak about the tolls question. The distinguished gentleman from Ohio [Mr. FESS] asked the question as to how many men would have voted against free tolls if it had not been for the President. I will answer that question by saying that, in my humble opinion, every man who voted for that bill did so, not only because of his faith in the President but also because of one or both of two reasons—first, because "toll exemption" meant the violation of a solemn treaty, and, second, because "toll exemption" meant the violation of a doctrine enunciated by the Democratic Party long before the President was born—the doctrine of "equal rights to all and special privileges to none." [Applause.]

Will the gentleman say that the President has overborne Congress because he has asked us to uphold his hands in the efforts which he and the great Secretary of State, Mr. Bryan, have been making, with now admitted hope of success, to save from exploitation, anarchy, and strife the unhappy people of distracted Mexico; in the efforts to save them without losing the lives of thousands of American boys and millions of dollars raised by taxing the toiling millions of this land?

Let us consider the antitrust bills. Long before the President attained national prominence the Democratic Party declared that private monopoly was indefensible. We have repeatedly promised that if intrusted to power we would enact laws, not to destroy honest, legitimate business, however big, but to destroy monopoly and give opportunity for individual enterprise on a basis of equality. Is it an encroachment on the legislative department for the President to recommend that we keep our pledge? I am proud to say that we have followed the recommendations and leadership of the President. In doing so we have not degraded, but we have exalted, the reputation of Congress; because in following him we have not yielded to the suggestions, insinuations, and dictations of the powerful few, as has been done by some Congresses in times past, but we have kept our promises and have been responsive to the wishes and interests of all the people, and to them alone the President and we must answer.

I believe the people will approve our course. In spite of the efforts of some gentlemen in this House, and of some newspapers, to emphasize and even augment business difficulties in some localities, the people realize that these great reforms can not be secured without changes and readjustments that must cause temporary business depression. They want the work finished. They know that we have done and are doing what they told us to do; and they believe that when the work is done there will come an era of prosperity unprecedented, prosperity to the humblest and the highest.

Mr. HUMPHREY of Washington. How about Mr. Jones?

Mr. DECKER. "How about Mr. Jones?" I want to say to you, sir, I do not speak for the President of the United States as to his confidence in Mr. Jones. I do not know Mr. Jones personally, but I want to say to you, sir, that I voice the sentiment of the majority of the people of the United States when I say that they have confidence in Woodrow Wilson. I want to say to the gentleman from the State of Washington [Mr. HUMPHREY], who sits there like the grim-visaged raven croaking "Nevermore, nevermore"—like the bird of evil omen predicting misfortune and despair—I want to say to him that the people have confidence in the man who sits in the White House. They do not believe he is infallible, but they believe he is one on whom "every god does seem to set his seal to give the world assurance of a man." An honest man, who has the heart to

feel, the brain to think, and the courage to act. [Applause on Democratic side.]

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. KELLY].

Mr. KELLY of Pennsylvania. Mr. Chairman, far more important than the question of whether this House is overborne by the Executive is the question under consideration in the water-power bills before this House. It is a question on which the Executive can not be charged with overbearing this House, because it is to be decided by every Member on his own knowledge and purpose. The people are more interested in the question of the conservation of the water power of America than they are in the question of whether the traditional checks and balances are being sacredly preserved.

I have in my hand the Philadelphia North American of this morning, which calls attention to the fact that 100 municipalities of the country have formed an alliance for the purpose of fighting utility corporations that have been fattening on the people. The union of these cities was proposed by Mayor Blankenburg, of Philadelphia, and on the list of active officers is the name of Louis G. Brandeis, a stalwart fighter for the people against monopolies. This is only one indication of the widespread recognition of the importance of the question of water power.

The future of America is bound up in the water power of the country. Mechanical power lies at the root of civilization in the twentieth century. Of the raw materials of mechanical power, coal, oil, gas, and falling water, the last is the greatest. Its control in the future will mean the control of industry and transportation, and that means the ability to order the daily life of every American.

It is estimated that the annual fall of rain upon the surface of the United States is about 250,000,000,000,000 feet. In the light of our present knowledge and inventions it is possible to use sufficient of this water to generate 150,000,000 horsepower, or about five times the present mechanical needs of the country. There is immediately available over 30,000,000 horsepower, or sufficient to meet the entire demand for power at present.

Rapid increase in the use of water power is noted, and it is not exaggerating to say that the time is not far distant when every light that illumines street or building, every wheel that turns in mill or mine or on railroad, will depend upon the electricity generated by water power.

Under such conditions the importance of the control of water power can not be magnified, for upon it depends the control of our civilization. It is an empire of power, and those who are supreme in it may determine the weal or woe of the Nation.

The question of control is therefore one of the most important that faces the Nation. Private interests, aware of the possibilities, have already sought to settle the question. They entered, years ago, upon a campaign of exploitation, and their far-flung plans were continental in scope. If permitted to continue in the future as in the past they will effect a monopoly greater and more menacing than any that has been known in the history of mankind. Delay, inaction, neglect is all that is necessary to give these power seekers the mastery of the Nation.

Already they have gone far toward building a water-power monopoly. Ten groups of power interests control 65 per cent of all the developed water power in the country. In 1911 they controlled 3,270,000 horsepower, developed and undeveloped; to-day they control 6,270,000. In other words, the amount of concentration has doubled in the past two years.

But still more eloquent, these great power interests have been securing water-power sites and are holding them for the future. In 1911 the 10 greatest groups had developed 1,821,000 horsepower and held undeveloped 1,450,000 horsepower. Two years later they had developed 2,711,000 horsepower and held undeveloped 3,500,000 horsepower. In the two years these power interests have increased their control of power held undeveloped more than twice as fast as the power developed.

In 1908 the 13 greatest interests controlled 1,800,000 horsepower, developed and undeveloped. In 1913 the 10 greatest groups held 6,270,000 horsepower, developed and undeveloped. During this time the total power developed had increased from 5,400,000 to 7,000,000 horsepower. The concentration in control was to the development of power as 7 is to 1.

This startling tendency to centralization in control has not been due to a "let-alone" policy on the part of States and Nation, for there has been some effort on the part of both to exercise a measure of control over water-power development.

As an instance, the State of Pennsylvania has attempted to exercise some control, but in a manner which missed the fundamental principles involved in dealing with water power. As a result practically all of the water-power rights of Pennsylvania are in the hands of private corporations. Mr. Slattery, of the National Conservation Association, gives the following summary:

Pennsylvania has granted charters to 1,856 water-supply and water-power companies; 969 are in active operation; 133 cities and towns of the State control their own water supply. The balance of the charters—1,623—are owned by corporations; 787 are not operated, now held to prevent competition or for future exploitation. Of the 836 owned by corporations and in operation, the most valuable have been consolidated into 93 merger corporations, with 4 giant monopolies. Water rights in 13 counties of Pennsylvania have been secured by the coal companies on the plea that they needed the water for mining purposes, hiding their real reason—fear of the development of a cheaper power than coal. The Lehigh Valley Railroad and its subsidiary coal company controls 9 incorporated and 22 unincorporated water companies. Pennsylvania has a law to annul all water charters not used and put into actual operation within two years after they are granted. Unfortunately, Pennsylvania has another law which says no charter shall be surrendered and no corporations dissolved until all back taxes owed to the State have been paid. The water companies holding charters for future exploitation say since they never operated they never acquired any assets, and therefore can not pay their taxes. Thanks to this conflict in the law, the State can not take back the 787 charters now being held for future exploitation or to prevent competition.

Half of the State's resources have been grabbed within the last five years, and some of the methods are interesting. A newborn water-power company would leave its swaddling clothes of $1,000 capital the day after the charter was granted to appear the next day grown to the size of a million-dollar company. For instance, the Green Tree Water Co. grew from a corporation of $5,000 in May, 1904, to a corporation of $8,000,000 in August of the same year. A few months afterwards this huge Allegheny corporation was made a subsidiary company of the American Water Powers & Guaranty Co. The South Pittsburg Water Co.'s charter of July 15, 1904, under the guise of supplying water to various towns in Pennsylvania, capital $50,000, developed on August 17, 1904, into a $5,000,000 corporation. This company also a few months later became a subsidiary corporation of the American Water Powers & Guaranty Co.

The state of affairs in Pennsylvania and other States and the dangerous concentration of water-power interests everywhere apparent is due to the failure to recognize the peculiar characteristics of the business of developing water power. It is not an ordinary business, to be dealt with on the ordinary basis of competition. Water power is a natural monopoly. The business of supplying mechanical energy generated from water power depends upon natural resources, whose supply is limited; its product is furnished in connection with the power plant itself, and it is subject to the law of increasing returns—that is, the greater the output the larger the returns.

Thus the business of developing power from falling water meets every condition of a natural monopoly. In such a business competition is not advisable, for it means a waste of energy and increased expense for poorer service. A half dozen water-power plants supplying electrical energy to the same town is an inefficient and recklessly wasteful system. It injures all concerned and benefits none. We do not want competition under such conditions.

It is also true that we can not compel competition under these conditions. All the laws in the world will not prevent combination and concentration in such a business as this. Electrical energy can be transmitted more cheaply from one large plant than from two small plants, for practically the same investment is necessary for the small plant as for the large. When competitors, by uniting, can furnish an increasing output at a cheaper rate no power will keep men in business for gain from combining.

The record of the combination of water companies is therefore a logical one and is to be expected. The advantage of increased gain from combination is always present, and it will always prevail under a system of private ownership of water power.

Monopoly, therefore, is the certain end of water-power development. The only question is shall it be a public monopoly owned and operated for the people or shall it be a private monopoly, with the gains going into the coffers of private corporations and the tax-levying power in private hands.

For my part, I believe water power to be the possession of all the people. I want to see it a monopoly, but one owned by the people, with all the rights of control which go with absolute ownership. Natural monopolies make the field for public activity and competitive pursuits are those for private efforts. Water-power sites should never be permitted to pass out of the people's hands. Where public development is not desirable the sites should be leased for definite periods to private enterprises, but at the expiration of such leases all rights should revert to the public.

This ownership of water-power sites is essential to efficient control of developing companies. With such ownership rates can be enforced, which means that some of the profits due to a public grant shall be shared with the people who grant it.

The question as to whether the jurisdiction over water power should be in the States or in the Federal Government is one which has aroused bitter controversy. It is fair to say that, while everyone who favors State control is not an ally of the

power grabber, every power grabber and privilege seeker is in favor of State control.

This question should be settled from the standpoint of the welfare and interests of all the people. That demands that the water power shall be nationalized, that the Federal Government shall have supreme jurisdiction over water power. In the first place, it is a national problem, and the States are not competent to deal with it. Then, the principal sources of water power come from navigable streams, which are under the jurisdiction of the Federal Government, and from the streams in the national forests and in the public domain. For many years it was contended that the Federal Government had no control over water power on navigable streams, but this has been overthrown by the Supreme Court decision in the Chandler-Dunbar case.

This decision states that in the regulation and development of navigable streams "the United States is a single Government, and as to that governmental function there are no States. When, where, and how power inherent in navigable streams shall be utilized is a legislative question for congressional determination."

As far as the right of the Federal Government to control the water power on the national forests and public domain is concerned, it has never been successfully questioned.

The fact that Congress is now considering the Adamson bill, providing for control of water power on navigable streams, and the Ferris bill, covering water power on public lands, is evidence of the acceptation of the Government's right to act in the matter. The right being admitted, the vitally important point is the principles underlying these measures.

Regardless of the frenzied but feeble arguments of privilege-seeking interests and their defenders, the ownership must be vested in the Government or there can be no effective control of rates and service to the public. Any successful attempt to advance the common welfare must be predicated on such possession. Switzerland, the little nation which has come nearer to realizing a pure democracy and government by the people than any other in the world, has learned this lesson and profited by it. There is no coal in the country, every pound used being imported. But the mountain torrents, rushing down steep declivities, furnish the power which may be easily generated into electricity. Years ago keen-eyed capitalists saw the value of this power and started in to secure the water-power sites for their own enrichment. They were rapidly securing a monopoly, when patriotic citizens saw the danger of such efforts. They began an organized protest by calling the attention of the people to the menacing power which was vested in those who controlled the only source of mechanical energy in the country.

The Federal Congress refused to act, however, and the citizens drafted an initiative petition for an amendment to the national constitution, providing for the nationalization of water power. In Switzerland the people really rule, and no Congress can defy their will. Whenever 50,000 Swiss voters sign an initiative petition for an amendment, the proposed measure must be put to a vote of the people, and the decision of the people is law.

The water-power amendment was signed by twice as many voters as necessary, and then the Federal Congress became interested, for when representatives of the people know that the people themselves can nullify their refusal or neglect to act, they are very anxious to carry out the people's will. The Federal Congress went a step further than the people and proposed an amendment still more comprehensive. This was accepted by the citizens, it was voted upon, and overwhelmingly carried. Switzerland to-day owns her water power. She encourages development by private enterprise, but the sources of power remain with the people, and the Federal legislation controls every feature of the development, transmission, and sale of electrical energy.

This action by the people of Switzerland to save her "white coal" is only the action which would be taken by any intelligent people. Would anyone dare say that if America were far enough advanced in popular government to have the right of initiative and referendum the verdict here would be different from that of the Swiss citizenship? The man who so declares argues that the American people are blind and idiotic, and that instead of controlling the water-power trust they would rather have the water-power trust control America.

The American people are awake to the dangers of private ownership and control of water power. The awakening has come within recent years, but this is a question of recent years. The power of that enlightenment may be seen in the changes made in this measure.

The first draft of the Adamson bill was a complete nullification of all the principles of a sound water-power policy. The changes which have been made mean a decided improvement in some particulars, but even in its amended form it means a step backward instead of forward. The provision for altering and amending the act will have the virtual effect of giving perpetual rights to water companies. The bill is apparently founded on the principle of encouraging private enterprises to develop water power and for the sake of that development to sacrifice the public interest.

Whatever virtue there may be in prompt development there is still more need to protect the rights of the people. It would be better to suffer delay than to take action now which would close the doors to effective efforts to benefit the public and advance the common good in the future.

The provisions for return to the Government at the expiration of a definite time are also such as will render it easy for private water companies to hold control indefinitely. The purchase plan is involved with many difficult if not impossible provisions.

The measure as it now stands does not square with the demands of an enlightened citizenship and should be defeated. Its passage will mean that private interests will have undue power to control rates, and that the organizations of municipalities over the country will have great need to fight against unjust charges and undue advantages on the part of these power companies over the people.

Mr. ADAMSON. I yield to the Resident Commissioner from the Philippines [Mr. QUEZON].

Mr. QUEZON. Mr. Chairman, on July 22 there appeared in the local newspapers of this city and in most of those published in New York an article purporting to be a description of a petition said to have been sent to the President and to Members of Congress by the annual convention of the United States Spanish War Veterans. This petition, it is alleged in the article, asserts that "more than 500 Spanish-American War veterans employed in the Philippines have either been ruthlessly dismissed or have had their salaries reduced since Francis Burton Harrison became Governor General." It therefore requests "that * * * whenever it is desired to fill a position now occupied by a discharged soldier, sailor, or marine with a Filipino, or where it is desired to abolish altogether such position for economic reasons, the occupant of such position be transferred to a similar position in the service of the United States, either here or at home."

I have no concern, Mr. Chairman, with the recommendation for transfers of veterans to places in the civil service of the United States. That is a question of your domestic policy already amply provided for, but with which I should not presume to attempt to meddle in any event. But I am deeply and directly concerned with the aspersions upon the conduct of Governor General Harrison which are contained in the press report. Secretary of War Garrison has prepared and given out a statement upon this subject, which, together with the newspaper article, I ask leave to print in connection with my remarks.

This is the newspaper article:

[From the Washington Post, July 22, 1914.]

VETERANS' JOBS GONE—500 HIT BY PHILIPPINE POLICY SEND PLEA TO WASHINGTON—CIVIL-SERVICE LAW IGNORED—PETITION TO CONGRESS AND PRESIDENT PUTS BLAME ON RETRENCHMENTS OF GOV. GEN. HARRISON—WANT WRONGS RECTIFIED—ASK FOR TRANSFERS TO THE UNITED STATES.

[Special to the Washington Post.]

NEW YORK, *July 21.*

More than 500 Spanish-American War veterans employed in the Philippines have either been ruthlessly dismissed or have had their salaries reduced since Francis Burton Harrison became Governor General, according to a petition which has been sent to the President and to the Members of the Senate and the House. A number of the men affected, the petition avers, have families to support. Those affected run from bureau chiefs to teamsters, and from architects to road foremen. Their places have been filled by Filipinos. The government, the petition says, has stultified the so-called Philippine civil-service act.

The petition was ordered sent to Washington by the annual convention of the department of the Veteran Army of the Philippines, United Spanish War Veterans, and it asks that relief be afforded at once.

CABLED NOT TO RETURN.

It asserts that upon the cessation of hostilities, 16 years ago, inducements were offered to cause the veterans to continue in their places, and a civil-service law was enacted which tended to insure permanency of employment.

"With the coming of the new administration," the petition reads, "there was inaugurated a policy of retrenchment. As an outcome, many honorably discharged soldiers, sailors, and marines, some of them past the prime of life, were separated from the service without cause; others were reduced in compensation without notice. Many thus affected were at home on well-earned vacations, and were notified by cablegram that they need not return to the islands.

ASK FOR TRANSFER OF MEN.

"The veterans ask that the matter of the separation of honorably discharged soldiers, sailors, and marines from Government employ be investigated, and that the wrong done such persons be rectified at the earliest practicable date; and that in the future, whenever it is desired to fill a position now occupied by a discharged soldier, sailor, or marine

with a Filipino, or where it is desired to abolish altogether such position for economic reasons, the occupant of such position be transferred to a similar position in the service of the United States, either here or at home."

Secretary Garrison's statement is as follows:

I notice in the papers of yesterday a statement purporting to proceed from the Spanish-American War Veterans in the Philippines, alleging unfair treatment of veterans who have been in the Philippine service by the Philippine Government. I say "purporting," because the communication has not come to us officially, and it may be that it is an error to attribute the statement to the Spanish-American War Veterans.

In some of the papers the headlines state that as many as 500 Spanish-American War veterans have been let out since the new administration took charge, and other similar statements appear in other papers. This whole statement is so wide of truth that I desire to state the facts. My reason is not merely to correct this particular misstatement, but to bring to the attention of the public a widespread, thoroughly organized, and vigorous propaganda of misstatement of facts concerning the Philippine Islands and the governmental administration thereof. I am not in the least resentful of any sort of criticism anybody feels called upon to make concerning our relations to the Philippines and what we are doing or hope to do therein, but I do feel that the public should be warned and cautioned against accepting as facts these conscious and purposeful misstatements.

Very recently there have been conspicuous examples showing that there is a design to mislead the public and make it very difficult to treat the subject from the proper point of view.

But recently it was reported that there had been a great increase in the death rate and much more sickness than ever before in the islands, owing to the fact that Dr. Heiser had been supplanted. The fact is that Dr. Heiser has not been supplanted; at the time that the publication appeared he had not even left the islands, although he had been granted leave of absence. Another report stated that the new government had let out 15 American heads of divisions in a particular bureau. The fact is that there were only three heads of divisions in the bureau, and one of them had resigned.

In this particular instance, concerning the Spanish-American War veterans, the facts are as follows:

I have before me, loaned by a periodical, an unsigned, unauthenticated, printed folder purporting to be a copy of resolutions adopted by the Department Veteran Army of the Philippines at its convention held at Baguio, Philippine Islands, April 8 to 12, 1914. It contains no allegation that 500 veterans of the Spanish War had been let out of the service, though the statement is made therein that almost 500 Americans had been forced out of the service within four months. And this statement is made in such a way as to mislead, apparently, a good part of the press.

As a matter of fact, when Gov. Gen. Harrison, himself a veteran of the Spanish War, reached the Philippine Islands the number of Spanish War veterans in the Philippine civil service was very small. There had been a time when the majority of the American civil employees of the Philippine government were veterans of the Spanish-American War and the insurrection in the Philippines, but in 1903 617 Americans voluntarily left that service and 269 left involuntarily, a total of 886, or 32 per cent of the American personnel. In 1904 787 Americans left voluntarily and 313 involuntarily, a total of 1,100, or 34 per cent of the American personnel. In the later comparisons I shall only refer to subsequent years, when the entire number of Americans in the Philippine service was kept at approximately 2,600.

On Gov. Gen. Harrison's arrival there was in the civil service of the Philippine Islands, and had been for a number of years, a continuously changing body of Americans, maintained at approximately 2,600. Of these Americans for the eight preceding years approximately 500 each year had voluntarily withdrawn from the service. The number leaving in the past year has been slightly greater, due to necessary retrenchment. For the seven months ending April 30, which included the first seven months of Gov. Gen. Harrison's administration of the Philippine Islands, 497 Americans had left the service. Of this number 302 had resigned voluntarily, 144 had left the service due to reduction of force, 12 had resigned for various reasons at the request of the Governor General, 18 had been dropped for unexplained leave of absence, 4 had died, and 17 had been discharged for various reasons under the civil-service laws.

It should be noted that in 1905 and 1906, when an effort was made at retrenchment, 1,275 Americans left the civil service of the Philippine Islands in two years, so that there has been nothing remarkable in the number of Americans that have left the Philippine civil service for all causes since the arrival of Gov. Gen. Harrison in the Philippines.

Now as to the number of these leaving the service who are Spanish War veterans and of the unfair treatment which they have subsequently received. On January 10, 1914, the director of the civil service of the Philippine Islands prepared for the Governor General a list showing the ex-soldiers, ex-sailors, and ex-marines who had been dropped from the Philippine civil service since his arrival on account of reduction of force. This included a total of 22, not half of whom were Spanish War veterans. Of this number 4 have been transferred to the United States civil service in the islands and 6 were transferred to the United States civil service at home. This total of 10 who were transferred to the civil service included every man on the list who applied for a transfer. Other changes have taken place since January 10, but this quite fully illustrates the small number of veterans affected thereby and the subsequent treatment which they had received.

In fact, it is well known to all persons who have been for any length of time in the Philippine civil service that we have the most liberal provisions governing their transfer to the United States civil service. Heretofore, this has required three years' service in the Philippine Islands, but in order that no man might be prejudiced due to the reduction in the American force found necessary in the Philippine Islands, President Wilson has reduced this period to two years in cases of persons who have been deprived of positions in the Philippines by reduction of force.

The facts further are that no employees in the Philippines have been discharged by Gov. Harrison except in accordance with law and the civil-service regulations and in the manner customarily followed heretofore in the islands.

This department certainly has no grievance against ex-soldiers petitioning for consideration, but such petition should be based on facts and not be susceptible of use in a campaign of misrepresentation and falsehood.

I give attention to this particular misrepresentation because I feel so strongly that we have a very difficult duty to perform in the Philippines, and that it only can be properly performed in the event public opinion in this country proceeds upon the facts as they are and not upon willful misstatements thereof, which can only serve to misdirect and mislead opinion and judgment.

Before I refer to Secretary Garrison's statement in greater detail, Mr. Chairman, let me say that I have the highest respect for the veterans of the Spanish-American War as such, and that I am certain my people entertain toward them a similar feeling. They answered the call not only of their country but of free government in general when they enlisted for the liberation of the Cuban people who were then struggling for their national existence against the tyranny of Spain. It was an unforeseen turn of events that brought them to the Philippines, but there as in Cuba they fought the Spaniards in the cause of liberty, cooperating with the Filipinos who, like the Cubans, were in open revolt against the tyrannical rule of foreigners. That these veterans—enlisted in the cause of freedom—were subsequently compelled to turn their weapons against the Filipinos, their former allies and friends, was in no sense their fault. Ordered by their Government to subdue the Filipino people, they, as good soldiers, had no choice but to obey the command. When peace had been reestablished and civil government introduced, it was natural that many of these soldiers should enter the civil service. There they have received from the Philippine Government every consideration, and the generosity displayed toward them has been warmly approved by the Filipino people. Many of them have been numbered among the useful public servants of the insular government, and as such they have received full and due recognition. There is nothing but good feeling toward them among the inhabitants of the Philippines.

It is this state of affairs that has controlled the management of the Philippine civil service, as Secretary Garrison amply and ably shows in the statement I have just submitted to you. What he has said has been written with absolute knowledge of the whole situation. It is inspired by no partisan motive. The affairs of the Philippine Government are managed in the War Department through the Bureau of Insular Affairs; and at the head of that bureau is a general of the United States Army, himself a veteran of the Spanish-American War and a consistent friend of every American who has rendered good service in the Philippine Government. Gen. McIntyre, to whom I refer, has, moreover, been in charge of that bureau since President Taft's administration, and was for many years before he assumed charge an active factor in its management, besides having seen long service in the Philippines. We may count with absolute certainty upon the reliability of the data he has furnished the Secretary of War and which form the basis of the latter's statement.

But, more than this, I can assure the Members of this House that Secretary Garrison himself has, since his appointment as Secretary of War, adopted and consistently pursued the policy of dealing with Philippine affairs upon an absolutely nonpartisan basis. He has deliberately avoided making criticisms of the former administration of the islands, although there was an ample field for a just and strong denunciation of both Republican officials and Republican policies. I speak with knowledge and conviction when I say that he desires to deal with Philippine affairs from the moral standpoint and to dispose of them on a basis of justice. Take note, further, that Secretary Garrison's statement is sweeping and inclusive. He refers to this alleged petition in behalf of the Philippine veterans merely as one item in a campaign of misrepresentation directed against Gov. Harrison, himself long a distinguished Member of this House. That such a campaign is in progress, animated by malicious motives and conducted through the circulation of artful appeals to prejudice and baseless assertions as to facts I firmly believe. It should be enough, in answer to such calumnies, to call to mind Mr. Harrison's past record here. You are all familiar with his great ability, his high character, and his love for righteousness. He is honoring both this House and his country by his able, conscientious, and statesmanlike discharge of the duties of his high office. Let me say to you in one word that, since the beginning of the American occupation of the Philippines, no better or more efficient man has ever sat in our chief executive's chair than Francis Burton Harrison, of New York. [Loud applause.]

Because he is imbued with the spirit of genuine free Americanism he has the love of the Filipino people. If you are seeking to lead that people along the path of prosperity, progress, and individual freedom to the goal of national liberty, you have intrusted that noble enterprise to the right man. If it be your wish to subjugate the Filipinos, to exploit them, and to give their resources into the hands of a few concerns, you have placed the governorship in the hands of the wrong man, and Mr. Harrison should be recalled without delay.

I believe I understand and appreciate the real altruism that actuates the rank and file of the American people in their dealings with the Philippine Islands, and, so believing, I do not doubt that Gov. Harrison, in spite of his adversaries and detractors, will have the support of this Government and finally of the public in the performance of his duty. It is my fervent prayer, and that of all my people, that Gov. Harrison may patiently and unselfishly continue to bear the burden of his difficult task until he shall have carried through his mission and attained its complete success. That such a course involves for him only labor and hardship, whose full value will be appreciated to the full by but few of his compatriots, I am well aware; but I believe that with his ideals and high purposes he will find his compensation for personal sacrifice in the knowledge that he has advanced the cause of justice and of humanity. When the time shall come that his work in the Philippines has been accomplished Gov. Harrison can retire, should he so wish, in the full knowledge that both to his own country and mine he has rendered a service that will place his name among the immortal champions of freedom. [Loud applause.]

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from Illinois [Mr. RAINEY] such time as he desires to use. [Applause.]

Mr. RAINEY. Mr. Chairman, I desire to vary the rule which seems to have been observed so far to-day, and to discuss this bill. I know of no more important legislation pending before this House at the present session.

I yield to no man in my admiration for the distinguished chairman of this great committee [Mr. ADAMSON], and I yield to no man in my admiration for the personnel of this, one of the most important committees in the House. The measures which they have reported out have been absolutely nonpartisan, and this measure is, as it ought to be, absolutely nonpartisan. Before reporting the other measures submitted by this committee, they have given careful consideration to them, sometimes extending over long periods—weeks and months—and have held exhaustive hearings. I have found it possible to support every provision of every bill reported by this committee during this Congress or the last Congress. I regret exceedingly that I can not support this measure. In my judgment, it has not received the careful consideration always given by this committee to the bills they have reported out and have championed upon this floor.

They are absolutely frank in the position they take with reference to this bill. They speak for one school in this country—the school which believes in developing the rivers of this country at any kind of cost. This bill is in entire harmony with the policy of this committee in dealing with structures heretofore erected or proposed to be erected in our rivers where there are declivities. They frankly admit that their object is to attract capital to the rivers, to make it possible to build in the rivers dams that the Government does not feel able to build, to improve the navigation of the rivers, and incidentally to develop the latent power in our rivers wherever there are declivities down which the rivers flow on toward the sea. This is their position. It has always been their position. This bill is not a conservation measure in any sense in which the term is used, and they do not claim that it is.

I do not want to be offensive to this committee, for whose membership I entertain so much respect, but as I view the bill the effect of it and the intended effect of it is to subsidize the great water-power groups in this country and bring about in that way these improvements in our rivers. And the attempt is, so far as this committee is concerned, absolutely nonpartisan. I understand there are Democrats on the committee who are opposed to the bill, but they have not filed minority views. I know of no Republicans on the committee who are opposed to this measure.

This bill will not accomplish what the committee thinks it will accomplish, in my judgment. It does not change in the least the policy of treating our rivers which has heretofore prevailed—a policy which has kept capital, to a considerable extent, away from the rivers.

What capital needs before it will invest in an enterprise of this kind is some assurance on the part of Congress, the adoption of some policy, which will make the investment secure for a definite term of years; which will yield the investors the returns they ought to have. This bill does not do that. Under this measure they must apply hereafter separately to Congress in the matter of each dam they propose to build. The old policy of passing through both Houses of Congress a separate permit will go on in the future just as it has in the past, and the old fights against each bill will be renewed every time a bill is presented, every permit will be revocable, and this bill itself provides only for revocable permits. It provides that whenever Congress decides that the conditions of consent have been violated there shall be a forfeiture. This is the sort of thing that does not invite capital to our rivers. This bill is a frank and avowed attempt to subsidize the water-power groups of the country. The attempt will, in my judgment, fail, and, of course, it ought to fail.

The consideration this measure has received in the committee does not entitle it to the respect on the floor that measures usually reported by this committee are entitled to receive. Heretofore the policy has been to report out bills granting to any group of persons who asked for permission to build a dam in a navigable river permission to build that dam. All they had to do was to ask for it. It made no difference as to their financial standing, as to whether or not they represented any particular water-power group, as to whether or not it was merely speculative on their part. All they had to do was to ask for the permission and the committee reported out a bill.

Now, it was that sort of thing against which some of us, a majority of us, in this House rebelled recently, and it was that sort of thing which makes necessary the adoption of a general water-power policy. The fight will go on; if unfortunately this bill should pass, that fact will not stop the conservation fight in the least. There were no hearings on this bill. The opponents of a measure of this character were well known, but none of them were given an opportunity to be heard; it was not intended to give the other side the slightest consideration, and that intention was carried out in every particular. Members of this House who introduced bills on this subject were given no opportunity to present their ideas to this committee. Two gentlemen only were permitted to testify. They came from distances a thousand miles away. From a thousand miles away they brought here Hugh L. Cooper, a water-power magnate, who admits he is, who admits in his testimony that he represents that side of the case, and they heard him. He was the engineer who promoted and built the dam across the Mississippi River at Keokuk. From a thousand miles away, down in Alabama, they brought another water-power magnate, J. W. Worthington, of Sheffield, Ala., who appeared before the committee and addressed them; and upon the testimony of these two, the greatest water-power magnates of this country, interested only on the capitalistic side of the question, this bill was framed. Of course they got what they wanted. This bill is drawn in the interest of the water-power grabbers of the country; in the form in which it comes from the committee it is absolutely indefensible. Even if, unfortunately for the country, it passes, it may not accomplish what it is intended to accomplish.

In his speech the gentleman from Georgia [Mr. ADAMSON] relies largely for his facts on the statements made by these two gentlemen, many of them absolutely misleading. No man was given the opportunity to contradict them. The water conservationists of the country were not heard in any particular, but were dismissed, in the report which accompanies this bill, with the statement that they are honest but misguided individuals, who were standing in the way of the economic advance in this country, so far as water power is concerned.

After the bill was reported out, at a late hour in the afternoon, when but few Members were on the floor, this bill was given a privileged status at the request of the gentleman from Alabama [Mr. UNDERWOOD], the majority leader, the privileged status that it now occupies, and which makes it possible to consider it at this time. If his request had been made at a more seasonable hour, it would not have been granted.

Under these circumstances there is no reason why Members of this House should surround this bill with the halo that bills usually and properly have coming from this great committee. The gentleman from Alabama [Mr. UNDERWOOD], who in this unusual way obtained for the bill its privileged status, in the closing sentence of his address delivered on the floor supporting this bill, announces that those gentlemen in this House and elsewhere who were opposed to this bill and to this kind of policy really stand in the way of the Nation's advance.

He devoted considerable time to discussing the situation in the State of Alabama and regretting that some Canadian company, because we had established no definite water-power policy, found it impossible to locate in Alabama for the purpose of extracting nitrogen from the air in order to use it in the manufacture of fertilizer, but went back to Canada, where he says there is an adequate water-power policy.

If there is anything in Alabama that can be given away by that State to the Water Power Trust and has not been so given away, I would like to know what it is. The policy of the gentleman from Alabama, and those who think with him, has had the effect of delivering the State of Alabama bound hand and

foot to the water-power groups in this country. The Alabama Light & Power Co. is a company that he usually champions on this floor. It is the company which attempted to get permission from this Government to build a dam in the Coosa River, and which, in spite of his effort, passed the House by a bare majority and was afterwards vetoed by the President of the United States. The only thing left in Alabama that Alabama has not given away are the possibilities in her navigable rivers, and they seem to be demanding, under the leadership of the distinguished statesman from that State, the right to give these possibilities away also to the great water-power groups. They are not even loyal to the water-power grabbers who operate under the flag of the United States, but seem to prefer capitalists who operate under the English flag.

The stock of the Alabama Light & Power Co. is all owned by the Alabama Traction, Light & Power Co., which is a $30,000,000 corporation organized in Canada. These companies together control the Birmingham & Gulf Power Co. and the Muscle Shoals Co., operating also in Alabama, with an unlimited charter nonforfeitable for nonuse. They can build dams on the Tallapoosa River, build all the electric roads in Alabama they feel like building, and establish as many electric light plants as they may feel like establishing. They are exempt for 10 years from taxation in reference to any plant they may construct. These Canadian companies control in Alabama 400,000 electrical horsepower, developed and undeveloped. Up in the city of Birmingham, where the gentleman lives—the gentleman who is sure we stand in the way of national progress when we propose a rational water-power policy—the American Cities Co. control. This is a company organized for the purpose of controlling the utilities of cities in the South. It seems easier to get franchises in the cities of the South and rights to streets than it now is in northern cities. The American Cities Co. operates principally in the South.

In the city of Birmingham this organization controls the Birmingham Railway, Light & Power Co., which operates all the street railways and the electric light and power companies and the steam-heating business of all the municipalities which compose the present incorporated city of Birmingham. After giving away everything in Birmingham to the American Cities Co., and giving everything that can possibly be given away in the State to the Canadian company which is given such extraordinary powers, the gentleman from Alabama [Mr. UNDERWOOD] comes into the House and complains that we have not permitted him and his associates who think as he does in the State of Alabama to give away to another Canadian company the right also to dam the navigable rivers of Alabama. If there is any State in the Union that has absolutely shown its incapacity to govern in the matter of franchises to water power companies it is the State of Alabama. If this Canadian company that proposed to develop atmospheric nitrogen did not locate there, it was because they found the territory completely covered by other Canadian companies, and for that reason they were compelled to go back to Canada. The gentleman announced that their reason for going back was that they had a definite water-power policy in Canada, and therefore they went back there where they could know what they could do. But when they went back to Canada they submitted themselves to a tax on every horsepower of electric energy they could develop. When they went back to Canada they agreed that the Canadian Government could take over at the end of a term of years their entire plant, if they pleased, and pay them what they pleased or pay them nothing. They went to a country that regulates absolutely the price of electrical energy to the consumer. Now that is all the conservationists of this country stand for. That is the only policy we are promoting—tolls to the Government, adequate price regulation for the consumer, and a definite period within which these companies will be permitted to operate under some definite regulation that will give to capital the security it ought to have.

Whenever we adopt in this country the kind of policy the conservationists stand for here and throughout the world, when we adopt the kind of rational policy they have in Sweden and Switzerland, in France, in the Canadian Provinces, wherever among civilized nations it is possible in the world to develop considerable electrical horsepower—when we do that we will be able to attract capital to our rivers, and this bill will absolutely fail to bring about results of that character.

Mr. Chairman, I want now to hold up to this House and to the country a horrible example. I do not like to occupy the rôle of a prophet, but I think I have the right to call attention now to the things that I have been saying for years would happen under the policies, or rather the lack of policies, prevailing in this country with reference to water power. I want to discuss the greatest single devolpment of water power on this continent, accomplished by damming up the greatest river we have—the Mississippi River, at Keokuk, Iowa—building a structure between Keokuk, Iowa, and Hamilton, Ill. This franchise was granted in 1905 to a group of citizens of Keokuk. They had no particular financial standing. The statement was made at the time on this floor that it would cost a million dollars or it might cost $2,000,000 to build this dam; that it was demanded by the people in that immediate neighborhood, and therefore it ought to go through, and there ought to be no opposition to its passage. Finally it was possible to get it through—it was considered by unanimous consent and it passed the House. At that time, and that was only a few years ago, we knew nothing about water power or its possibilities in this country. We did not then know for a certainty that power could be conveyed considerable distances from the point where it was developed without appreciable loss. Four legislative days later, without any hearings, without any consideration, the bill passed the Senate, and the same day it was signed by the President and became a law.

These gentlemen, these citizens of Keokuk and that vicinity, who, upon the theory that they were locally interested, and that it was a local enterprise, and that the people in that vicinity wanted it, were able to obtain the franchise, afterwards sold it, without the prior expenditure of a dollar upon their part, to Mr. Hugh L. Cooper, the gentleman who furnished this committee with its reasons for this bill, and obtained for it $20,000. Mr. Cooper proceeded to capitalize this venture and to place the stock in England. In two or three years the dam was completed. It has been in operation now for over a year. This is the second season. A proper water-power policy, a hydroelectric commission, would have prevented this Mississippi River bubble, and there never was in fact or in fiction a Mississippi River bubble equal to this dam. The Government assigned to the project an engineer and had him live there at Keokuk, to oversee the work, and to see that the rights of the Government were protected. The statement was made, and the Government never contradicted it, that it was possible to develop 300,000 horsepower in this river where the dam was to be built. They went down to St. Louis and contracted to market 60,000 horsepower at a little over a million dollars per year, and then continued their successful efforts to finance the building of this dam. They went abroad and advertised abroad that under the permission we had given them, under the consent we had given them to build this dam, all they had to do was to erect there a plant, and then the Government was compelled to buy the power from them with which to operate the locks, at their own price. This was one of the reasons advanced by them for liberal capitalization; this was one of the reasons why they said the returns would be large.

They also in their advertisements said that they could develop 300,000 horsepower, calling attention always to the fact that there was Government supervision here; that a Government engineer was there to overlook everything, and leading foreign investors to believe that this Government was exercising the kind of supervision over that kind of enterprise that they had a right to believe it would under the evidence. As a matter of fact we exercised not the slightest supervision over this enterprise. We permitted them to go ahead and build this dam just as they pleased, and whenever steamboat companies operating on the river complained about any features of it, the engineers in charge simply said to them—and I have a series of letters bearing out these statements—"We will see what Mr. Cooper will do about it"; and if Mr. Cooper was willing to do what the companies wanted in the interest of navigation, then it was done, and if he was not willing to do it it was not done. That was all there was to it. At the present time they are proposing to issue a little over $4,000,000 of bonds, and when they have done that it will mean that there are $47,000,000 worth of bonds and securities there with which the people within the power zone are to be burdened in order to enable this company to pay dividends and interest. This company has violated every law of the States where it is operating; it has violated the Federal law. In order to facilitate the capitalization of the company they paid dividends on their stock before even the dam was completed, before a wheel was furning. I have here the latest publication issued by the Stone & Wester Co., the holding company which now controls this investment, in which they say that this hydroelectric plant on the Mississippi River starts with an initial capacity of approximately 125,000 delivered horsepower and an ultimate horsepower of approximately 200,000 delivered horsepower.

Mr. MADDEN. What do they mean by "delivered horsepower"?

Mr. RAINEY. I do not think it means anything. I do not know what it means. I know that they can not either produce

or deliver it. Here is what the engineers have to say about it in their letter to me of June 13:

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, June 13, 1914.

HON. HENRY T. RAINEY,
United States House of Representatives.

SIR: In reply to your letter of the 2d instant, requesting information as to the electrical energy that may be developed on the Mississippi River at Keokuk, Iowa, I have the honor to quote for your information from a report on the subject by the district engineer officer at Rock Island, Ill.:

"The average power that can be generated at Keokuk at low water, without impounding the water, is 77,273 horsepower.

"If water is stored at night to the full extent authorized by the War Department, the average low-water output during 10 hours of darkness will be 38,636 horsepower, and the corresponding average output in the daytime will be 104,870 horsepower.

"The output of power is not affected by the river being frozen over."

Very respectfully,

DAN C. KINGMAN,
Chief of Engineers United States Army.

They have obtained from the War Department permission to impound water in the nighttime, which shows the absolute insufficiency of regulation by the War Department. The War Department in water-power matters does not attempt to regulate anything. The Secretary of War gets his advice and information from engineers, and they are always for these power projects and against navigation. They obtained permission from the War Department to impound water there in the nighttime in order to enable this company to develop as much power as possible in the daytime. In other words, in the nighttime they stop the flow of the Mississippi River so that in the daytime they can let it run through, when down in St. Louis they are demanding this power under their contract. We knew nothing about it in this country; we did not hear of it until they advertised in England that the War Department had given them the right to dam up this river almost completely in the nighttime, to stop the flow of the mightiest river on this continent, in order to enable them in the daytime to develop more power.

They do not entirely stop the flow of the Mississippi River in the nighttime, but they might just as well do it. They stop it to such a degree during the hours of darkness that navigation is seriously impaired both in the day and in the night. If they are permitted to continue doing this, they can only develop 104,000 horsepower at that point on the Mississippi River in the daytime. I wrote to every steamboat company authorized to operate boats on the upper river—104 of them altogether—and I have answers from such of them as actually operate boats on the upper river through these locks, or are proposing to operate boats upon this part of the river. There has not been a single boat added to the traffic on the upper river on account of the building of this dam. On the contrary, two or three of them have been taken off. There is not a single steamboat officer or owner operating on this part of the river who does not complain bitterly of the management of this dam. The impounding of the water there in the nighttime very frequently leaves vessels operating on the river below the dam high and dry on the rocks. Is that benefiting the navigation of the river in the slightest degree? They have created slack-water navigation above the dam for a considerable number of miles. They have created there a lake which, in honor of this engineer who furnished the information upon which this bill was constructed, they call Lake Cooper. They have made it difficult, on account of the waves on this lake, for ordinary river steamers to navigate that part of the river in a storm. They had a system of canals there before this dam was built which were ample and sufficient. Only one steamboat owner on the upper river advised me that the dam was satisfactory to him, and upon investigation I found he was engaged in the excursion business, and his business was to collect money from people whom he carried down to Keokuk to look at the dam.

Mr. FOWLER. Will the gentleman yield?

Mr. RAINEY. Yes, sir.

Mr. FOWLER. Does the gentleman understand that under the terms of the present bill that like dams could be constructed in navigable streams as the Keokuk Dam?

Mr. RAINEY. I understand under the terms of the present bill before any dam is built they have to get permission from Congress.

Mr. FOWLER. Yes.

Mr. RAINEY. I can say this bill does not change the policy in the least, and if they could do these things in the past, under this bill they can do the same things in the future.

Mr. FOWLER. One other question. If dams like the Keokuk were built numerously on navigable streams what effect, in the gentleman's opinion, would it have on water navigation?

Mr. RAINEY. Oh, it would destroy navigation and be of tremendous benefit to the railroads. Now, this is not all that has been done under the permission of the War Department. They have constructed that dam in such a way that it permits of its being used as a bridge, and without any authority from this Congress at all. They also had no authority to store water in the nighttime. They have no authority at all from any source whatever except the permit given them by the Secretary of War, but they have built two piers in the forebay of that dam upon which they propose to erect some sort of a jackknife bridge in order to operate a bridge across the river at this point. It does not do any good to protest in this matter; the piers are there, and there is no authority for them at all except the authority given by the Secretary of War. Under any administration it seems possible for the engineers of water-power projects in this country to get any sort of authority from the Secretary of War they want to get. There is no supervisory authority in the interest of navigation assumed by the War Department over a river in the matter of structures of this kind. Those piers stand there, the expectation being that at some future time this House may pass a bill to legalize what they have done illegally. I have talked with a good many pilots on the steamers coming down the river in the nighttime and daytime and they say that in the distance these little piers can with difficulty be seen and look like hats floating on the water. They extend clear down into the rock bed of the Mississippi River, a fearful menace to navigation and to human life.

Mr. ADAMSON. Will the gentleman yield?

Mr. RAINEY. Yes, sir.

Mr. ADAMSON. I wish to remind the gentleman that the scheme of erecting a bridge at that dam has not yet been legalized.

Mr. RAINEY. I know it has not been.

Mr. ADAMSON. It has not yet passed the committee of which I am chairman.

Mr. RAINEY. I hope it will not pass your committee.

Mr. ADAMSON. It seems to me the prospect is exceedingly remote. I admit the difficulty which the gentleman mentions about the piers, and the chairman of the committe has protested against it.

Mr. RAINEY. I am aware of that.

Mr. ADAMSON. The chairman of the committee intends to have it taken down and arrange waterways so as to make an unobstructed channel there. I wish further to remind the gentleman that the Keokuk dam was not built under the general dam act, but by a special act before that, and one of the objects of this bill, and some of the sections in it, is to get control and regulation of the Keokuk dam, and if this bill is passed it will be thoroughly regulated under law.

Mr. RAINEY. I believe I stated that it was built under a special act and before this general dam law was passed.

Mr. ADAMSON. Then I beg the gentleman's pardon; I was not in at the time, probably.

Mr. RAINEY. This dam was erected under special license granted by Congress, and all other dams in the future will be erected even under this bill as the result of legislation here in the House. The position taken by the chairman of the committee does not satisfy me at all; it may satisfy him, and it may satisfy others. A simple proposition to make this channel a little safer and permit this company to go ahead and build these piers, and in another place——

Mr. ADAMSON. If the gentleman will permit, the gentleman certainly misunderstands me. I do not propose to permit any such thing.

Mr. RAINEY. I thought you were going to insist and announced that the committee policy was going to be that the piers be moved farther east?

Mr. ADAMSON. I say if the War Department will permit them to build a bridge for their own service, and not for the public, they must make a safe channel, *even for that*, but I do not expect there ever will be authority given to put a public bridge on that dam.

Mr. RAINEY. I am glad the gentleman announced that policy.

Mr. SMITH of Minnesota. The piers are there now by the authority of the War Department?

Mr. RAINEY. They are.

Mr. SMITH of Minnesota. And the piers as they are now located interfere more or less with navigation?

Mr. RAINEY. Absolutely. They stand there 175 feet apart, and they do not stand in line. The alignment is different from what it ought to be with reference to boats coming down the river, which makes the distance apart, in fact, much less than it is. They stand there in 40 feet of water, and these frail river steamboats come down loaded sometimes with 800 people,

or more even than that—excursionists—whose lives are endangered in the deep water of the fore bay; and the War Department has permitted this condition of affairs.

Mr. ADAMSON. If the gentleman will permit, while I concur in the views of the gentleman from Illinois and have announced my views to the War Department, I do not wish to do the distinguished engineers of the War Department injustice. They may know more about it than the gentleman from Illinois and I know. I confess I am a "landlubber." As to the position of the War Department on the subject, they insist the channel is safe. I want to do them justice, and I leave it to the gentleman from Minnesota [Mr. STEVENS], who accompanied me in the inspection of that dam.

Mr. STEVENS of Minnesota. In my own time I will state it.

Mr. ADAMSON. I mean in his own time he will state the position of the War Department about it.

Mr. STEVENS of Minnesota. It is only fair to state to the gentleman from Illinois [Mr. RAINEY] that the information obtained by the subcommittee which visited there last winter is entirely different. I do not think one single fact that the gentleman has stated is substantiated by the facts we obtained at Keokuk.

Mr. ADAMSON. I agree with the gentleman from Illinois in what he says as to the location of those piers. If the War Department permits them for the private use of the company itself and not for the public, then I am going to insist on moving the piers and making a special channel. I may stand alone on that.

Mr. RAINEY. The gentleman need not have anything he says corroborated, so far as I am concerned. I am quite willing to believe that the War Department, following its usual policy, is prepared to say that these piers or anything else water-power promoters want to do in our rivers is all right and does not endanger navigation. I get my information, however, from the companies which operate boats on the river, and information of that character is more valuable than information obtained from water-power promoters, or from officials of the War Department, 1,000 miles from the river. These piers remained for days during the navigation season without any lights on them and without any protection around them in the the way of booms. I have a letter which shows that at the request of the steamboat interests operating on the river the engineer in charge requested Mr. Cooper to put some booms around those piers in order to make them safer, and that Mr. Cooper refused to do it; and I understand that now this Government, at its own expense, within the last month or so, has erected booms around those piers, so illegally placed there, in order to protect, to a certain degree, the lives of the people on the steamboats navigating this river.

Now, there is no difference between us at all. Those piers are 175 feet apart. Every boatman navigating the river at that point, every steamboat man, every officer on a steamboat, and every officer of the company operating those boats will say they are unsafe in their present condition, but from a thousand miles away a chief of engineers finds that they are safe, and the subcommittee of this committee, which went to Keokuk and consulted only interested citizens, obtained information, of course, that everything was all right.

They have insidious ways of overcoming the opposition of engineers to what they do. I may later on refer to some of them. They placed in charge of the navigation interests on the river an engineer, and he stays there at Keokuk a part of the time at least. He has just returned from a trip of several hundred miles over the rivers of that part of the country on a palatial power boat owned by the Mississippi River Power Co., which he made as the guest of the company. I get this information from the newspapers published in that section. You can not expect an official who accepts favors of this kind to discharge the duties of his office in an entirely satisfactory way; he is not in a position to do it. His only business seems to be to act as an ambassador between the boats navigating that river below the dam, and the officials of this English water-power company. Whenever it is found that there is not enough water to get up to the dam the boat ties up and one of the officers goes to some farmhouse and telephones up to the engineer in charge, and he, acting as an ambassador, proceeds to the persons in charge of the dam and asks them to let down enough water to make the river navigable; sometimes they do and sometimes they do not, but the boats finally are able to reach the dam. Has that kind of structure under those regulations proven of any benefit to the Mississippi River at that point?

This dam was built on the theory that they were going to get cheap water power in that section of Illinois. The company obtaining the franchise sold it to Mr. Cooper for $20,000. He sold it to the Mississippi Power Co., and that company built the dam. How much it really cost, I do not know. I know how much securities were charged against it. They claim it cost over $30,000,000, and they have standing out now over $43,000,000 worth of stock and securities, on which they expect to pay dividends and interest. The Mississippi River Power Co. expect to sell nearly all their power in this way: They organized the Mississippi River Power Co. and built the dam. They sell 60,000 horsepower to the Mississippi River Power Distributing Co., a subsidiary company of the Mississippi River Power Co. The Mississippi Power Distributing Co. disposes of the 60,000 horsepower in the following manner: In the first place, however, the Mississippi River Power Co. carries the power to within 6 miles of St. Louis, and they there turn it over to this subsidiary company, and that company puts in transformers and carries it to St. Louis, and they sell this entire amount of power in St. Louis to the United Railways Co., of St. Louis, and the Union Electric & Power Co., of St. Louis. The United Railways Co., of St. Louis, is the company that controls street-car franchises in St. Louis and operates over 100 miles of street cars. The Union Electric & Power Co., of St. Louis, is the company that has heretofore generated power from steam in St. Louis and distributed it throughout the city. They sell to those two companies, and both of those companies are controlled by the North American Co., and the North American Co. owns a large block of stock in the Mississippi River Power Co. Now, how does that do anybody any good? This is what has been accomplished: They are selling to the Union Electric & Power Co., and the Union Electric & Power Co. is selling the electric energy there in St. Louis at the price at which it has always sold electric energy. They have accomplished with this company, controlled as it is by the Mississippi River Co. and the North American Co., an arrangement by which the United Railways Co., of St. Louis, for 99 years will be furnished with electric energy and power regulated only by the price of steam.

Now, for 99 years, if you can not control that sort of a thing—and I do not know how you can control it under this bill, or under anything else that this committee has ever proposed—for 99 years the hope for cheaper street car fares in the city of St. Louis is gone. Cities located along the line of this transmission line [indicating], this high-traction line that connects the dam with St. Louis, can not get any power. They can not connect up with that line, so conveying power of high voltage, any more than they can connect up with the moon, and they do not try to do it.

I have in my possession a series of letters which passed between representatives of the Mississippi River Power Co. and one of the larger cities in Illinois, in which the representatives of the Mississippi Power Co. in effect say: "We will sell you power in your city, we will come to your city with our power, if you will turn over to us all your public utilities." They made that sort of a proposition on a misunderstanding, and when they found out what the facts were in that city they withdrew even that sort of a proposition.

Mr. BOOHER. Mr. Chairman, will the gentleman yield to me for a question?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Missouri?

Mr. RAINEY. Yes.

Mr. BOOHER. I would like to ask the gentleman if the stockholders in the North American Co., any of them, are directors in the Mississippi River Power Co.?

Mr. RAINEY. I could not answer that question; but I know that the North American Co. owns a large block of the stock in the Mississippi River Power Co., and they act in harmony and are controlled by the same interests. They accomplish this sort of thing by a common ownership of stock arrangement.

I do not want to keep the committee listening to me too long this hot day, but I want to call attention to the possibilities in that section or any other section of the country where you permit water-power development under an insufficient bill, like the bills that we have always had, and like this one.

I want to state some facts concerning the situation there in that section of the United States and to call attention to what may happen if this bill becomes a law.

Three of the great power groups of the country are the Stone & Webster group, the Middle West Utilities Co., and the North American Co.

The Stone & Webster people control now the Keokuk Dam; they control or own 52 companies in various parts of the country operating street railways, electric light, gas, and power companies. A conservative estimate of the population of the territory served by the utilities of this interest is 3,398,650.

The Middle West Utilities Co. is a $24,000,000 corporation, organized for the purpose particularly of controlling the public utilities in the smaller cities and towns. I might call attention to one of its subsidiary companies, the Central Illinois Public Service Co. It has already taken over about 100 utilities in as many communities in central, southern, and western Illinois. A large number of generating plants formerly supplied this district. These plants are being shut down, and within a short time all these cities will be served by the transmission lines of this company.

The North American Co. is another great holding company. It controls the entire electric light and industrial power business of Detroit. It controls the St. Louis Gas Co., which does the entire business of St. Louis County, Mo., and serves 26 cities and towns. It controls also the Union Electric Light Co., which does the greater part of the electric light and power business of St. Louis. It controls the United Railways Co. of St. Louis; it also controls large public-service properties in other cities.

I want to show what is going on in that section of the country. The Middle West Utilities Co. controls large amounts of coal lands in Illinois. I desire to call attention to the map I have displayed on the easel here to make my position plain.

At Kincaid, Ill., in one of the greatest bituminous-coal regions in Illinois, and perhaps in the world, they have erected a plant to generate electricity from coal. Over at Hull, Ill., along the transmission line of the Mississippi River Power Co., is a substation of that company. Here go the power lines of the Mississippi River Power Co., down to a point above St. Louis, where they cross over to Missouri. At Hull, Ill., they have put in transformers, and down here, again, at Meppin, Ill., they put in transformers in order to take electrical energy from that high-voltage line and sell it to somebody else. I will tell you to whom they sell it.

The Middle West Utilities Co. was proclaimed through newspaper press agencies—and these companies have the most skillful press agencies in the world—as an opponent of the Keokuk Dam proposition. The announcement was made that it was being organized for the purpose of competing with the Keokuk Dam. This is the way they compete: They generate power from coal, and then, through some subsidiary company—at present I shall refer only to the Central Illinois Public Service Co.—they buy out plants. They bought a plant a few months ago that had been offered for $4,500, and they paid $20,000 for it. They pay anything that is asked, and just as soon as this Central Illinois Public Service Co. gets control of a local plant in a town they close up the plant and supply the town with electricity generated from coal or electricity generated here at the Stone & Webster plant on the Mississippi River, and they are proceeding to close plants all over central Illinois.

That is a particularly prosperous section of the country, where communities have everything that contributes to the comfort of the people who live there. A number of these towns are supplied with heating plants, and the stores and residences in the towns are heated with waste steam from their little local plants. They will be deprived of that service now. They are given exactly the same rates. As the franchises they buy expire they demand 20-year franchises, and even longer contracts than that. If complaint is made they say, "If you do not like it, go ahead and build your own plants." Most of these cities are bonded as much as they can be under the law, and although they are able to raise a few thousand dollars of local capital, they are not going to raise it and build a plant there and compete with this great combination, and they do not do it. In some places they apparently slightly reduce the rates, but the meters are always in some mysterious way speeded up and the customer never can tell from the bills he pays that there is any reduction.

Now, through all these cities in central Illinois, which I have indicated here by these red crosses, the service lines of the Central Illinois Service Co. reach. They reach them all. They connect up over here with the Keokuk Dam at Hull, Ill. They connect down here again with the Keokuk Dam at Meppen, Ill. They connect up with the great coal fields there, controlled by the Middle West Utilities Co., and they get from those sources—the coal fields of Illinois and this great national river of ours—all the power that is available in any of those cities, and they sell it to them, whether it comes from coal or whether it comes from the power generated there in the river, at the price they see fit to make.

Mr. McKENZIE. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to his colleague?

Mr. RAINEY. Yes.

Mr. McKENZIE. Would not the public utilities commission of our State have the power to regulate the prices to be charged by these different concerns?

Mr. RAINEY. I presume they could, but they would not control or regulate the price to be charged to the consumers or fix a price that would yield less revenue than these promoters claim they ought to have on $47,000,000 worth of securities.

Mr. BOOHER. Mr. Chairman, will the gentleman yield?

Mr. RAINEY. Yes.

Mr. BOOHER. Do I understand the gentleman to say that they sell power generated at Kincaid for the same price that they sell the power generated on the river?

Mr. RAINEY. Certainly. The company gets the power from both sources. The lines of the Middle West Utilities Co. reach the river and the coal fields, and they get the power from both sources and sell it all through central Illinois, and there is not a particle of competition about it and never can be.

Mr. SMITH of Minnesota. Do you think if the regulation of the rates was turned over to the Secretary of War it would help the interior of Illinois?

Mr. RAINEY. It might be better; it could not be worse.

Mr. FOWLER. Have you any comparative data as to the cost of horsepower generated by water and by coal?

Mr. RAINEY. There is much data available along that line.

Mr. FOWLER. Which is the cheaper?

Mr. RAINEY. Of course, water power is much cheaper.

Mr. FOWLER. Suppose that a few corporations should get control of the water power, who could compete with them in furnishing energy for the purpose of furnishing light?

Mr. RAINEY. There would not be any competition at all.

Mr. FOWLER. When would the Nation ever get rid of such a class of men?

Mr. RAINEY. They can not get rid of such a situation under any policy proposed in this bill.

Mr. HUMPHREYS of Mississippi. I understood one of the gentleman's colleagues to ask if this utilities commission in Illinois could not regulate the price at which the hydroelectric power was sold in various cities of Illinois. If this power is produced at Keokuk, beyond the limits of the State of Illinois, would the Illinois commission or any Illinois State authority have the right to regulate it?

Mr. RAINEY. They would have great difficulty in doing it, and that is the point I am coming to now. This bill proposes that the Secretary of War shall control the price of certain power.

The CHAIRMAN (Mr. GARNER). The gentleman from Illinois has consumed one hour.

Mr. STEVENS of Minnesota. I understood the gentleman was to have all the time he desired.

Mr. GARNER. The present occupant of the chair was advised that the gentleman was to use not to exceed one hour.

Mr. MANN. Mr. Chairman, when the gentleman from Illinois [Mr. RAINEY] took the floor he was yielded such time as he might desire.

Mr. BURNETT. That was distinctly stated by the gentleman from Georgia [Mr. ADAMSON].

The CHAIRMAN. The Chair will make this statement: The gentleman from Georgia [Mr. ADAMSON] has been accustomed to yield to gentlemen and then send word to the Chair that they may proceed not beyond a certain time, and in this instance the gentleman from Georgia sent word to the occupant of the chair not to let the gentleman from Illinois [Mr. RAINEY] proceed to exceed one hour. That is the reason the Chair called attention to the expiration of the time.

Mr. RAINEY. On account of the interruptions to which I have yielded, I think the gentleman from Georgia, if he were on the floor at this moment, would allow me more time.

Mr. MANN. In this case the gentleman from Georgia [Mr. ADAMSON] yielded to the gentleman from Illinois [Mr. RAINEY] until he should have concluded his remarks.

Mr. RAINEY. I said to the gentleman from Georgia that I would conclude within one hour.

Mr. STEVENS of Minnesota. How much time does the gentleman desire?

Mr. RAINEY. I will conclude in 15 minutes.

The CHAIRMAN. The gentleman is recognized for 15 minutes.

Mr. RAINEY. It is proposed in this bill that the Secretary of War shall regulate such current as goes into interstate commerce, provided the State where the current is sold has no adequate method of regulating cost to consumers. I do not know what sort of a tribunal is to determine whether the method is adequate or not.

This bill permits interchanges of current between plants located in different places, and under this arrangement the

consumer can not tell where he gets his power. It moves unseen over wires across the boundaries of States. How does he know whether it is interstate power or not? How does anybody know, except probably some of the officials of these companies; and how is the individual consumer going to find out where he gets his power in order to come here individually and complain to the Secretary of War? I do not think you can possibly regulate the price in that way.

But suppose those three States out there attempt to regulate the price of this power. Suppose Illinois says, "You can sell power in Illinois for $17 a horsepower"; and Iowa says, "You can sell power for $18 a horsepower"; and Missouri says, "You can sell power for $19 a horsepower"; what State will get it? Why, the State that will permit them to charge the most. It is not a question as to who will pay the least under this bill, it is a question as to who will pay the most, and that is the only competition provided for in this bill.

Now, I want to be fair. I do not think it is possible to establish competition between water-power plants, and I know it is not possible to establish competition between the plants operating here on this river and plants operating in this coal field. You can not do it. There is no use trying. The gentleman from Alabama [Mr. UNDERWOOD] occupied most of his time in discussing the question as to whether or not you could make water-power groups compete. He quoted a number of water conservation advocates on that subject, and they all said consolidation was desirable; and of course it is. These things are natural monopolies. That situation in Illinois is ideal. Here is a river over here that may sometimes be in flood and sometimes frozen almost solid. The varying power which it can deliver is sometimes larger, sometimes much smaller. Here is an auxiliary plant over here in the coal fields, ready at any time to supply the lack of power which they can not supply at Keokuk. They ought not to compete, in order to render the best service. They ought to be regulated in some adequate way, but this bill does not propose that sort of a way.

Mr. BURKE of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. RAINEY. For just one question. I must conclude my remarks.

Mr. BURKE of Wisconsin. Does this bill propose to allow the States to regulate the charges, or are the charges to be regulated by the War Department?

Mr. RAINEY. This bill only regulates currents that are in interstate use, sold in another State than the one in which they are generated; and the bill does not attempt to regulate them there if that State has adopted an adequate method of controlling the price of the power that may be supplied from this particular plant, and nobody knows how you are going to decide what is adequate.

Mr. BURKE of Wisconsin. One other question. Is it proposed by this bill that the different States shall not establish different rates, and therefore permit discrimination?

Mr. RAINEY. The bill provides that the Secretary of War may intervene to prevent discrimination. That part of the bill is not at all plain to me. He may intervene to compel them to raise their rates. I do not think, however, under this bill he could in fact exercise any power at all. Now, if we could establish in this country an extension of the Interstate Commerce Commission, to be known as the hydroelectric division of the Interstate Commerce Commission, to regulate this entire thing, including the issue of stock and bonds, we would not have this Mississippi bubble up here.

Why, we have done more harm to hydroelectric development in this country by permitting these fellows who have been kiting that stock and those bonds and proposing to offer to the public $47,000,000 worth of it—we have done more harm to hydroelectric development than we could possibly do in any other way. But if we had a hydroelectric commission to give out the facts in the case, to have said at the outset that you can not develop more than 77,000 horsepower, it would prevent this situation. The Secretary of War knows how much can be produced there. I have his letter here. The Secretary of War says that even if they are permitted to impound the water in the nighttime, if that method is to continue, they could not get more than 104,000 horsepower, and yet they have offered and sold their stock on a basis of 300,000 horsepower, and now they say they can develop 200,000 horsepower. They have made investors throughout the world believe that, and they never could do it and never will be able to do it. If we had a hydroelectric commission in this country controlling this thing, it would relieve capital of the uncertainty which surrounds the present way of doing business in the Congress. We must give capital a definite period during which it will be permitted to operate these plants. We must protect investors by telling them how much power can be developed and where it can be marketed, and not leave them, under supposed Government supervision, to the tender mercies of such unscrupulous manipulators as these Keokuk Dam people have proven themselves to be. We must also protect consumers and see that the prices charged them are reasonable. We should provide a suitable compensation for the Government; that compensation every Government in the world exacts. When we do all this we will have here real hydroelectric development.

There has been introduced by the gentleman from Minnesota [Mr. STEVENS] a bill, which has been referred to the Ways and Means Committee, placing a tax of so much per horsepower on the power produced in the rivers of this country, one-fifth of $1 per horsepower. That must be a joke. It appears as a joke to me. Here is a company operating in a community supplying them with power generated from a dam in a river. Here is another company supplying the same community with power generated from coal. Here is another company supplying power generated from coal and from falling water combined. The three companies operate in the same community, deriving their power in these three different ways and selling the power at approximately the same price. Can we tax one of these companies because it is generating power from a dam in a river and not tax the others? Could we sustain a bill of that kind under the Constitution of the United States? That is class legislation undreamed of before in the history of the courts of this country. Of course it could not be done. The only way in which you will be able to get any return from these rivers is to make a part of the condition of consent the proposition that they shall pay so much per horsepower, to make that a part of the contract, and then the constitutional question does not come in and they will be compelled to pay as they have to pay everywhere else.

Now, I do not desire to take up any more time unless some Member of the House wishes to ask me a question.

Mr. BOOHER. I would like to ask the gentleman a question. I do not understand why anybody should want competition on the Keokuk dam, because the producing company is the same company in reality that uses it. What is the use of competition?

Mr. RAINEY. Of course, there can be no competition and there is no competition.

Mr. BOOHER. Can not you have a public utilities commission of Illinois regulate the price in Illinois? Can not they do it without reference to the Secretary of War or anybody else?

Mr. RAINEY. They might be able to do it, but if they fix a price so low that this company operating at Keokuk did not want to sell, they would go into another State and sell where they were permitted to charge a higher price. They would sell in the State that permitted them to charge the highest price. That is what would happen anywhere, because you can carry electrical power a great distance and market it in other States.

Mr. O'HAIR. Will the gentleman yield?

Mr. RAINEY. Certainly.

Mr. O'HAIR. Suppose the bill provided for a hydroelectric commission, with powers analogous to the powers of the Interstate Commerce Commission, to control the price to be charged for power originating in any navigable stream, what would the gentleman say as to the advisability of passing the bill substantially as it is?

Mr. RAINEY. That is the idea I suggested. It is not a new method; it is not an experiment. The idea is not original with me. It is the plan used in other civilized nations of the world where there is great power produced in rivers. In all other countries these things are all controlled by commissions selected by the Government; in other countries they pay tolls and charge consumers what the commission says they can charge. I think that is the better policy. This bill will not settle anything. It simply postpones the agitation in this country until some day when we can have an adequate policy. The policy announced in this bill will not attract capital to our rivers.

Mr. BURNETT. Does the gentleman think the commission should regulate intrastate as well as interstate power?

Mr. RAINEY. It should regulate all power produced anywhere in a navigable river or in a Government-controlled river, and should be strictly nonpartisan. There is no navigable river in the country where you can generate power but that is not also, in a sense, interstate; at any rate, it is subject to the control of the National Government to its source whether navigable all the way or not. There is not a drop of water that falls on the mountain headlands that does not reach the sea by that river or some other. It either reaches the sea by that river or it is connected with some other river in the country, and so reaches the sea. There is nothing in our navigable rivers that this Government could not control. [Applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. MONTAGUE having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had further insisted upon its amendments to the bill (H. R. 12579) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915, Nos. 23, 37, 81, 139, and 155, recedes from its amendment No. 82, had asked a further conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. ASHURST, Mr. LANE, and Mr. CLAPP as the conferees on the part of the Senate.

THE GENERAL DAM ACT.

The committee resumed its session.

Mr. STEVENS of Minnesota. Will the gentleman from Georgia use some of his time?

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from New Hampshire [Mr. STEVENS] 30 minutes.

[Mr. STEVENS of New Hampshire addressed the committee. See Appendix.]

Mr. STEVENS of Minnesota rose.

Mr. ADAMSON. Mr. Chairman, the gentleman from Alabama [Mr. UNDERWOOD] wanted a moment, if the gentleman from Minnesota will permit.

Mr. STEVENS of Minnesota. Yes.

Mr. UNDERWOOD. Mr. Chairman, yesterday, when the general deficiency bill was before the House, I made a statement with reference to Senate amendment numbered 158, in which I stated that there was no statute of limitations which barred officers of the Union Army going before the comptroller and having their longevity claims adjusted, and that the amendment only put those officers in the Confederate Army on the same basis. I had not investigated that question personally, but had received my information from Mr. Whiteley, of the firm of Herbert & Micou; and after the House adjourned I called upon Mr. Whiteley to substantiate what he told me. He has written me a letter, substantiating the facts that I stated and referring to the documents and the pages to prove the facts as stated.

I therefore rose to take advantage of the leave to print, that was granted in connection with the general debate under this bill, in order to have this letter printed in the RECORD in connection with my remarks yesterday.

Following is the letter referred to:

WASHINGTON, D. C., *July 24, 1914.*

Hon. OSCAR W. UNDERWOOD, M. C.,
House of Representatives, Washington, D. C.

MY DEAR MR. UNDERWOOD: Referring to amendment No. 158, added to the general deficiency bill, now pending, by the Senate, and as to which amendment I gave you certain information, I note in the CONGRESSIONAL RECORD of yesterday that the statements as to law and fact made by you were contradicted by certain gentlemen opposing the amendment, and I will take the liberty of writing you now to clear up the misunderstanding under which these gentlemen unquestionably proceeded. In order to do so I will first briefly give the status of these so-called longevity claims which have arisen under the act of Congress of 1838.

In that year Congress provided that all officers of the Army should receive an increase in pay (which consisted of an additional ration per day or its commuted value) for each period of five years' service in the Army. This legislation was limited to the Army, and so no similar longevity claims as to officers of the Navy have arisen during the period in question. The pay and accounting officers of the Government in construing this act of Congress decided that service in the Army began with the date of graduation. In 1884 the Supreme Court, in the case of United States *v.* Morton (112 U. S., 1), decided that the time of service of a cadet at the Military Academy was to be regarded as actual time of service in the Army within the meaning of the acts of February 24, 1881, and June 30, 1882 (21 Stat. L., 346; 22 Stat. L., 118), in computing his increase of pay for each term of five years' service under the pay law of 1870, which law changed the act of 1838, which gave a ration for each five years' service, and gave a 10 per cent increase for each five years' service up to 40 per cent. In 1889, in the case of United States *v.* Watson (130 U. S., 80), the Supreme Court further decided that the time of service of a cadet in the Military Academy at West Point was to be regarded as part of the time he served in the Army, within the meaning of the act of July 5, 1838, and should be counted in computing his longevity pay under that act; further deciding that an officer was entitled to receive from the courts so much of the amount thereon thus computed not barred by the statute of limitations.

This was the first construction of the Supreme Court upon the act of 1838, and under it all officers of the Army became entitled to receive immediately from the pay officers this longevity pay under the act of 1838 for six years prior to the time that the Watson case, the test case, had been filed in the Court of Claims. All of the officers in the United States Army, or their heirs, except the officers who had resigned and joined the Confederacy and who were barred by section 3480, Revised Statutes, from presenting their claims, received their longevity pay back to 1880 under this decision of the Supreme Court. Prior to 1880 they could not receive the said longevity pay from the courts, although the Supreme Court held them to be entitled to it under the act of 1838, because of the six-year period of limitation which runs against all claims against the United States in United States courts.

There was, however, a way in which these claims could be settled and paid, and that was through the accounting officers, where no statute of limitations runs against the claim of any officer of the Army or Navy or his heirs. See the decision of the Comptroller of the Treasury in the case of Alexander O. Brodie (14 Compt. Dec., 795), rendered in 1908, in which the comptroller states:

"There is no statute of limitations that bars the claimant's right to recover before the accounting officers upon his claim in this case. Were it not for the bar of the statute of limitations against his right to sue in the Court of Claims, and he should sue there, there can be no doubt but that under the act of 1838 he would recover, and that being true, I do not think the accounting officers against whom the bar of the statute of limitations does not apply are justified in disallowing his claim under said act."

See also Smith *v.* United States (14 C. Cls., 114), in which the court held:

"Accounts in the Treasury are never closed. In neither the legal nor mercantile sense of the term is an account between the Government and one of its officers ever 'finally adjusted' nor his official bond ever canceled or surrendered. This practice is general, has been invariable since the organization of the Treasury, and is applicable to all officers as well as those intrusted with the disbursement of the public funds."

Because there was no statute of limitations barring the payment of these longevity claims prior to 1880 by the accounting officers, officers of the United States Army filed with the accounting officers immediately after the Watson decision in 1889 claims for longevity prior to 1880. The comptroller in office, Mr. Butler, allowed the claims and paid longevity for this service from the date of their graduation to the family of Gen. U. S. Grant, to Gen. William S. Rosecrans (who was then still living), and to the family of Gen. Judson Kilpatrick. Gen. Grant's heirs were paid longevity under the act of 1838, by Comptroller Butler, from 1844 to 1880. Gen. Rosecrans was paid longevity from 1843 to 1880, and Gen. Kilpatrick's family were paid longevity from 1862 to the time of his resignation.

After the payment of these claims there was a change of comptrollers, and the new comptroller, Mr. Gilkeson, reversing his predecessor, Mr. Butler, and in effect overruling the decision of the Supreme Court of the United States, refused to pay any more longevity claims prior to 1880. Since the claims prior to that time were barred in the courts by the statute of limitations, the comptroller was the only one who could allow and pay them, except, of course, Congress, and under Comptroller Gilkeson's refusal to pay, no further longevity claims of northern officers accruing prior to 1880 were paid until 1908.

In 1908 another comptroller, Mr. Mitchell, reversed Comptroller Gilkeson's decision, holding that the accounting officers should never have attempted to overrule the Supreme Court of the United States, decided that the longevity between 1838 and 1880 should be paid. In this decision (14 Compt. Dec., 795), case of Alexander O. Brodie, the comptroller states:

"The asserted doctrine that because the construction placed upon the act of 1838 by the accounting officers prevailed for a long period of time such construction should be persisted in, notwithstanding the Court of Claims and the Supreme Court had decided that such construction was wrong and contrary to law, I do not think can be sanctioned. To do so is to perpetuate error, overthrow the law, and deny to a worthy class of men the rights which the law clearly gives to them. In other words, the Supreme Court of the United States being the ultimate tribunal to determine the meaning of statutes enacted by Congress, the accounting officers are not justified in setting up their judgment in conflict with the decision of the Supreme Court in such cases upon the assumption that such decision is unreasonable or because it is in conflict with a long-standing practice of the accounting officers."

This decision, however, was qualified by the rule which prevails before the comptroller, that accounting officers are not authorized to reopen accounts settled by their predecessors except for the purpose of correcting mistakes of fact arising from errors in calculation, or upon the production of newly discovered material evidence, or for fraud. (See decision of comptroller, 14 Compt. Dec., 804.)

The effect of this exception was that all northern officers who had, after the payment of the claims of Grant, Rosecrans, and Kilpatrick for longevity between 1838 and 1880, presented their claims for the same pay and had them disallowed by Comptroller Gilkeson were now barred from presenting their claims to Comptroller Mitchell under his decision of 1908, reversing Gilkeson.

However, all northern officers of the United States Army or their heirs who had not, because of notice of Gilkeson's action, presented their claims and had them disallowed were able to and did present them to Comptroller Mitchell, had them audited, certified to Congress by the Treasury, and paid on every general deficiency bill since 1908.

As you stated upon the floor of the House yesterday, about a million dollars have been paid since 1908 to these northern officers or their heirs for longevity between 1838 and 1880. Every cent of this sum is for longevity prior to 1880, because all longevity after that had been settled by the pay officers under the Watson decision in 1889.

In order that there may be no doubt about the correctness of this statement and the statement made by you, I herewith refer to the documents containing the certified claims for longevity between 1838 and 1880 allowed by the Auditor of the War Department, certified to Congress, and paid as follows:

Number of claims.	Amount.	Certified in—	Paid in act of—
19	$9,257.44	H. Doc. 1414, 60th Cong., 2d sess.	Mar. 4, 1909
139	118,033.56	H. Doc. 474, 61st Cong., 2d sess.	Feb. 25, 1910
64	65,641.48	S. Doc. 333, 61st Cong., 2d sess.	Do.
205	199,971.25	H. Doc. 926, 61st Cong., 2d sess.	June 25, 1910
81	48,716.20	S. Doc. 640, 61st Cong., 2d sess.	Do.
236	203,314.74	H. Doc. 1368, 61st Cong., 3d sess.	Mar. 4, 1911
66	49,022.87	S. Doc. 853, 61st Cong., 3d sess.	Do.
146	125,169.85	H. Doc. 778, 62d Cong., 2d sess.	Aug. 26, 1912
12	7,185.16	H. Doc. 1372, 62d Cong., 3d sess.	Mar. 4, 1913
12	11,250.34	H. Doc. 157, 63d Cong., 1st sess.	
3	3,602.79	S. Doc. 193, 63d Cong., 1st sess.	
4	3,159.45	H. Doc. 594, 63d Cong., 2d sess.	
3	1,412.54	S. Doc. 443, 63d Cong., 2d sess.	

All of the claims thus listed and the amounts paid thereon are the claims of officers of the Northern Army for longevity between 1838 and 1880. This can be verified by an examination of the names of the officers contained in the House and Senate documents stated in Heitman's Historical Register and Dictionary of the United States Army, 1789 to 1903, volume 1. In this register it will be seen that all of the names which I have checked off in the documents I am transmitting to you herewith are graduates of the Military Academy at West Point; and the amounts certified up and paid as stated above were longevity pay prior to 1880, which can be verified by the Office of the Auditor for the War Department. In other words, since 1908, 991 northern officers, or their heirs, have received, according to the documents cited above, $845,737.27, being back longevity pay between 1838 and 1880. This is the same period covered by the claims contained in Senate amendment No. 158, for exactly the same services, rendered at exactly the same time.

A statement was made on the floor yesterday that this sum of approximately a million dollars was collected only for the six-year period where the statute of limitations did not bar them just prior to the decisions of the Supreme Court in the Watson case. This was an error. All claims for that period were paid in 1889 or 1890, and every claim listed above is a claim of a northern officer for longevity pay prior to 1880 and extending back in many cases as far as 1838.

The misunderstanding under which this statement was made was due to the fact that those northern officers whose claims were disallowed by Gilkeson, and who could not therefore have them audited and paid now by the accounting officers under the ruling of res adjudicata, have no recourse save to Congress, and bills to pay their longevity claims have been pending, and amounts have been included by the Senate in a recent omnibus claims bill; but every dollar of the $845,000 set out above is longevity pay accruing between 1838 and 1880, and paid since 1908 to northern officers or their heirs.

The further statement was made that section 3480 did not prevent Confederate officers or their heirs from presenting their claims to the accounting officers, and that it was the statute of limitations that prevented their consideration and adjustment. This statement is also incorrect, as the statute of limitations does not run before the accounting officers, as shown above. It does run before the courts, so that the only opportunity for the presentation and settlement of the claims covered by amendment 158 is with the accounting officers, who were barred from considering them by section 3480, passed in 1867, during reconstruction days. That this is so is established by the recent decision of the comptroller, dated June 29, 1910, in the case of Mansfield Lovell. This officer had graduated from West Point July 1, 1842, and resigned December 18, 1854. He served as a major general in the Confederacy, and died June 1, 1884. His claim was presented to the auditor in 1909 or 1910, under the decision of the comptroller opening these longevity claims in 1908, and a settlement was made in his favor of $819.32, the fact of his service in the Confederacy not having been brought to the attention of the auditor. This sum of $819.32 was certified up to Congress for appropriation in the general deficiency bill (see H. Doc. No. 926, 61st Cong., 2d sess., number of certificate or claim 51040), and after the amount had been so certified the auditor discovered that Mansfield Lovell had served in the Confederate Army, and so informed the comptroller. In the comptroller's decision, cited above, he stated:

"As this claim accrued prior to April 13, 1861, the term fixed in the above statute (sec. 3480), it is unlawful under the terms of the statute for any officer to pay the same. You were without jurisdiction to make either an allowance or disallowance of the claim. You should have dismissed the claim for want of jurisdiction. As you were without jurisdiction, this office is also without jurisdiction to consider the claim upon its merits. Your action is annulled, the claim is dismissed, and the cancellation by you of your certificate is directed. See Hart *v.* United States (16 C. Cls., 459; 118 U. S., 62; 5 Comp. Dec., 1; letter of Nov. 13, 1909, addressed to you)."

From this it clearly appears that it has been section 3480 that has prevented these Confederate officers or their heirs from coming before the accounting officers since the reopening of these longevity claims in 1908 and having them settled and paid just as the 991 Northern officers have done, as the Confederate officers were not barred by Gilkeson's decision. This for the reason that the Supreme Court's decision allowing credit for service at West Point under the act of 1838 was not rendered until 1889, at which time the first longevity claims under said act were paid by the accounting officers. This was 22 years after the enactment of the prohibitory provision in section 3480, preventing the accounting officers from considering the claims of persons who afterwards aided or abetted the Confederacy in any way. The repeal of section 3480 will enable the 173 Confederate officers or their heirs to file their claims and to receive the same consideration at the hands of the accounting officers and Congress that the 991 Northern officers have already received.

As a concrete illustration of the claims that have been audited and paid by Congress since 1908, I beg to refer to one that was certified during the present session of Congress, March 9, 1914, and appropriated for in the urgent deficiency bill within the past few months.

The claim is that of Edgar O'Connor, who graduated from West Point in 1854 and was killed in battle August 28 1862, so that the period of his claim for longevity was from 1854 to 1862. The heirs of this officer have received the sum of $394.54, allowed during the present year.

Another claim appropriated for in the same urgent deficiency bill was that of Samuel MacKenzie, who graduated from West Point in 1818 and died October 19, 1847. His heirs have received the sum of $644.40 longevity pay for the period between 1818 and 1847. This is the same period covered by the Confederate claims in amendment 158.

In conclusion, you can classify these claims, in just a few words, into three classes.

First. Those of the northern officers, which have been audited and paid since 1908, for longevity pay between 1838 and 1880, and which constitute the bulk of the longevity claims, amounting to about 1,000 claimants.

Second. Those of the Confederate officers, 173 in number, covered by amendment 158, which are in exactly the same status as the northern claims in class 1 except that they have been heretofore barred by section 3480, but which can now be presented and audited just as the 1,000 northern claims have been.

Third. The remainder of the northern claims, which were presented to Comptroller Gilkeson and disallowed and are now barred from consideration by the accounting officers for that reason.

Trusting that this information will clear up the misunderstanding upon the question of these claims, I am,

Very truly, yours,

RICHARD P. WHITELEY.

LONGEVITY PAY.

The annexed list shows the claims of 1,106 officers of the Army whose claims for longevity pay, aggregating $944,950.89, have been allowed, certified to Congress, and paid within the past six years, under the decision of the Supreme Court of the United States in United States *v.* Watson (130 U. S., 80), and the decision of the Comptroller of the Treasury, dated May 18, 1908, in the case of Alexander O. Brodie (14 Comp. Dec., 795).

These claims were regularly audited by the accounting officers of the Treasury Department and reported to Congress in the documents mentioned and appropriated for in the following deficiency acts: Act of March 4, 1909 (35 Stat. L., 939, 944); act of February 25, 1910 (36 Stat. L., 219, 225); act of June 25, 1910 (36 Stat L., 808, 813); act of March 4, 1911 (36 Stat. L., 1320, 1325); act of August 26, 1912 (37 Stat. L., 618, 623); act of March 4, 1913 (37 Stat. L., 934).

In the tabular statement following is the date when the officer completed his service at West Point, or graduated. On the list are some claims which are not based upon cadet credit, but upon credit upon service as an enlisted man. Notation has been made to this effect opposite such names.

Longevity claims of Army officers allowed by the accounting officers and appropriated for by Congress (see following documents: S. No. 746, H. R. No. 1414, 60th Cong., 2d sess.; S. Nos. 333, 640, H. R. Nos. 474, 926, 61st Cong., 2d sess.; S. No. 853, H. R. No. 1368, 61st Cong., 3d sess.; S. No. 923, H. R. No. 778, 62d Cong., 2d sess.; S. No. 1114, H. R. No. 1372, 62d Cong., 3d sess.):

Abbot, Frederick V. (Military Academy, 1879)	$97.08
Abbott, Edward F. (credit for enlisted service)	428.00
Abert, John J. (Military Academy, 1811)	1,220.00
Abert, James W. (Military Academy, 1842)	1,355.63
Adams, Granger (Military Academy, 1876)	510.61
Adams, Julius W. (Military Academy, 1861)	213.28
Adams, Thomas R. (Military Academy, 1867)	1,083.03
Aldrich, Bishop (credit for enlisted service)	3,752.04
Alexander, Barton S. (Military Academy, 1842)	1,951.53
Alexander, James B. S. (Military Academy, 1856)	31.10
Alexander, Thomas L. (Military Academy, 1830)	2,285.74
Alexander, Walter S. (Military Academy, 1879)	91.61
Allen, James (Military Academy, 1872)	443.60
Allen, Jesse K. (Military Academy, 1856)	123.38
Allen, Leven C. (Military Academy, 1872)	480.79
Allen, Robert (credit for enlisted service)	1,914.03
Allen, William (credit for enlisted service)	833.11
Allison, James N. (Military Academy, 1871)	673.86
Almy, William E. (Military Academy, 1879)	97.08
Alston, Thomas L. (credit for enlisted service)	1,331.25
Ames, Robert F. (Military Academy, 1879)	182.95
Amory, Thomas J. C. (Military Academy, 1851)	1,302.10
Anderson, Calvin A. (credit for enlisted service)	118.75
Anderson, George L. (Military Academy, 1874)	234.49
Anderson, Harry R. (Military Academy, 1865)	264.12
Anderson, James W. (Military Academy, 1833)	517.40
Anderson, Robert (Military Academy, 1825)	1,764.27
Andrews, George (Military Academy, 1823)	1,769.40
Andrews, George (Military Academy, 1876)	510.61
Andrews, George L. (Military Academy, 1851)	234.49
Andrews, George P. (Military Academy, 1845)	1,870.41
Arden, Thomas B. (Military Academy, 1835)	328.20
Armstrong, Bezabel W. (Military Academy, 1845)	192.60
Arnold, Ripley A. (Military Academy, 1838)	876.60
Auger, Ammon A. (Military Academy, 1877)	377.44
Avery, Frank P. (Military Academy, 1878)	234.14
Ayers, George W. (Military Academy, 1841)	292.20
Ayers, Romeyn B. (Military Academy, 1847)	1,436.51
Babbitt, Edwin B. (Military Academy, 1826)	2,250.03
Bache, Hartman (Military Academy, 1818)	2,207.32
Backus, Electus (Military Academy, 1824)	1,562.62
Backus, George B. (Military Academy, 1875)	573.01
Bacon, Alexander S. (Military Academy, 1876)	93.73
Bacon, George R. (Military Academy, 1869)	1,070.39
Bacon, John D. (Military Academy, 1840)	416.20
Baden, James T. (credit for enlisted service)	209.56
Bailey, Albert S. (Military Academy, 1878)	247.08
Bailey, Guilford D. (Military Academy, 1856)	438.30
Bainbridge, Henry (Military Academy, 1821)	1,017.80
Bainbridge, William P. (Military Academy, 1824)	730.59
Baker, Charles T. (Military Academy, 1842)	694.20
Baker, Eugene M. (Military Academy, 1859)	1,310.88
Baker, Frank (Military Academy, 1874)	1,083.67
Baker, Robert F. (Military Academy, 1836)	416.40
Baldwin, William H. (Military Academy, 1877)	398.33
Balk, Stephen S. (credit for enlisted service)	187.10
Barber, George C. (Military Academy, 1848)	359.20
Barbour, Philip N. (Military Academy, 1834)	596.00
Barnard, John G. (Military Academy, 1833)	1,813.78
Barnett, John T. (Military Academy, 1878)	397.08
Barry, Garrett (Military Academy, 1839)	237.12
Barry, John (credit for enlisted service)	975.00
Barry, Thomas H. (Military Academy, 1877)	390.60
Barry, William F. (Military Academy, 1838)	1,760.01
Bass, Edgar W. (Military Academy, 1869)	1,285.16
Bassel, James (Military Academy, 1867)	410.12
Bates, Alfred E. (Military Academy, 1865)	1,254.36
Bates, Francis H. (Military Academy, 1850)	1,931.33
Bates, Joshua H. (Military Academy, 1837)	291.40
Baxter, George W. (Military Academy, 1877)	384.80
Baxter, John E. (Military Academy, 1877)	370.61
Bayard, Albert F. (credit for enlisted service)	227.72
Bayard, George D. (Military Academy, 1856)	438.30
Bayard, William (credit for enlisted service)	16.88
Baylor, Thomas G. (Military Academy, 1857)	1,107.37
Beall, Benjamin L. (Military Academy, 1818)	1,896.91
Beaman, Jenks (Military Academy, 1842)	292.20
Beardsley, John (Military Academy, 1841)	682.00
Beckwith, Amos (Military Academy, 1850)	1,569.95
Bell, James E. (Military Academy, 1867)	474.06
Bell, William H. (Military Academy, 1820)	1,382.90
Benet, James W. (Military Academy, 1880)	90.56
Benjamin, Samuel N. (Military Academy, 1861)	1,169.23
Benson, Henry (credit for enlisted service)	769.92
Benyaurd, William H. H. (Military Academy, 1866)	1,242.78

Beyer, Charles D. (credit for enlisted service)	$2,230.60
Bicknell, John Y. (Military Academy, 1844)	292.20
Bigelow, Charles H. (Military Academy, 1835)	437.60
Bigelow, John (Military Academy, 1877)	397.08
Biggs, Herman (Military Academy, 1856)	1,057.53
Bingham, Theodore A. (Military Academy, 1879)	72.08
Bishop, Joel S. (Military Academy, 1873)	971.84
Bixby, William H. (Military Academy, 1873)	907.52
Black, William M. (Military Academy, 1877)	406.05
Blair, Francis P. (Military Academy, 1877)	370.40
Blake, Jacob E. (Military Academy, 1833)	383.60
Bliss, William W. (Military Academy, 1833)	839.40
Blocksom, Augustus P. (Military Academy, 1837)	372.03
Blunt, Charles E. (Military Academy, 1849)	1,725.69
Blunt, Matthew M. (Military Academy, 1853)	1,288.89
Blunt, Stanhope E. (Military Academy, 1872)	1,060.49
Bodfish, Sumner H. (Military Academy, 1868)	433.18
Bonaparte, Jerome N. (Military Academy, 1852)	84.38
Bootes, Levi C. (credit for enlisted service)	877.33
Booth, Charles A. (Military Academy, 1872)	993.41
Borup, Henry D. (Military Academy, 1876)	539.35
Bourke, John G. (Military Academy, 1869)	1,010.73
Bowen, Edgar C. (Military Academy, 1865)	1,114.74
Bowen, Nicholas (Military Academy, 1860)	1,007.42
Bowman, Alexander H. (Military Academy, 1825)	1,917.19
Bowman, Charles S. (Military Academy, 1860)	954.84
Boynton, Edward C. (Military Academy, 1846)	1,709.26
Boyd, Orsemus B. (Military Academy, 1868)	1,776.06
Braden, Charles (Military Academy, 1869)	1,142.14
Brady, Charles B. (credit for enlisted service)	647.68
Branna, John M. (Military Academy, 1841)	1,553.14
Brant, Louis P. (Military Academy, 1873)	432.06
Brant, Thomas L.	578.22
Brett, Lloyd M. (Military Academy, 1879)	212.53
Brewerton, Henry (Military Academy, 1819)	3,469.91
Brice, Benjamin W. (Military Academy, 1829)	1,304.60
Brightly, Charles H. (Military Academy, 1861)	188.57
Brodie, Alexander O. (Military Academy, 1870)	888.31
Brook, Edward H. (Military Academy, 1877)	99.58
Brooks, Horace (Military Academy, 1835)	2,693.63
Brooks, Lorenzo L. C. (Military Academy, 1879)	72.08
Brooks, William T. H. (Military Academy, 1837)	1,341.47
Brotherton, David H. (Military Academy, 1854)	1,331.26
Brown, Edward T. (Military Academy, 1873)	808.35
Brown, George L. (Military Academy, 1872)	918.55
Brown, Hachaliah (Military Academy, 1842)	590.60
Brown, James P. (credit for enlisted service)	636.47
Brown, Rufus P. (Military Academy, 1866)	1,029.00
Brown, William C. (Military Academy, 1877)	494.48
Brown, William H. (credit for enlisted service)	1,408.44
Browne, Edward H. (Military Academy, 1879)	67.27
Bryan, Timothy M. (Military Academy, 1855)	55.20
Bryant, Cullen (Military Academy, 1864)	1,178.10
Bubb, John W. (credit for enlisted service)	1,438.50
Burbank, John G. (Military Academy, 1841)	292.20
Burbank, Sidney (Military Academy, 1829)	2,260.75
Burke, Martin J. (Military Academy, 1836)	510.60
Burnett, Isaac R. D. (Military Academy, 1833)	413.80
Burns, James M. (credit for enlisted service)	429.10
Burrows, Charles W. (Military Academy, 1870)	184.87
Burton, Henry S. (Military Academy, 1829)	2,171.02
Butler, John G. (Military Academy, 1863)	1,025.76
Butler, Robert Q. (Military Academy, 1839)	201.40
Butler, William P. (Military Academy, 1866)	36.67
Buttler, William C. (Military Academy, 1876)	708.79
Cabaniss, Charles H. (Military Academy, 1874)	654.25
Cady, Albermarle (Military Academy, 1829)	2,219.79
Cahill, James (credit for enlisted service)	2,071.88
Caldwell, James N. (Military Academy, 1840)	2,006.82
Calhoun, Patrick (Military Academy, 1841)	977.10
Callender, Franklin D. (Military Academy, 1839)	2,156.31
Campbell, Quintin (Military Academy, 1866)	1,153.39
Canfield, Augustus (Military Academy, 1822)	857.20
Capron, Erastus A. (Military Academy, 1833)	521.40
Carling, Elias B. (Military Academy, 1859)	2,487.39
Carlisle, Joshua H. (Military Academy, 1845)	1,886.60
Carlton, Caleb H. (Military Academy, 1859)	1,265.96
Carnecross, Sentimus (credit for enlisted service)	1,562.85
Carrington, Frank L. (Military Academy, 1878)	267.16
Carter, William H. (Military Academy, 1873)	1,219.57
Casey, Edward W. (Military Academy, 1873)	843.45
Casey, Thomas L. (Military Academy, 1852)	97.08
Catlin, Robert (Military Academy, 1863)	1,062.02
Chaffe, Clemens C. (Military Academy, 1862)	500.35
Chambers, Alexander (Military Academy, 1852)	1,422.00
Chapin, Gurden (Military Academy, 1851)	1,684.88
Chapman, Orren (Military Academy, 1846)	987.40
Chapman, William (Military Academy, 1831)	2,136.48
Chase, William H. (Military Academy, 1815)	481.32
Cherry, Samuel A. (Military Academy, 1875)	752.02
Chester, Elinhalet N. (Military Academy, 1867)	383.63
Childs, Thomas (Military Academy, 1814)	185.60
Church, Albert E. (Military Academy, 1828)	2,246.81
Churchill, Richard C. (Military Academy, 1866)	541.06
Churchill, William H. (credit for enlisted service)	520.16
Churchill, William H. (Military Academy, 1840)	541.06
Chynoweth, Edward (Military Academy, 1877)	347.27
Chanlin, Winfield S. (Military Academy, 1870)	113.30
Claflin, Ira W. (Military Academy, 1857)	1,006.48
Clark, Darius D. (Military Academy, 1849)	693.90
Clark, Dillard H. (Military Academy, 1873)	852.54
Clark, John D. (Military Academy, 1842)	310.03
Clark, Joseph C. (Military Academy, 1848)	1,677.59
Clark, Wallis O. (Military Academy, 1877)	396.25
Clarke, Henry F. (Military Academy, 1843)	1,878.86
Clendenin, John M. (Military Academy, 1830)	240.20
Clitz, Henry B. (Military Academy, 1845)	1,881.36
Coats, Albert (credit for enlisted service)	504.16
Coburn, Joseph L. (Military Academy, 1834)	575.00
Cochran, Robert M. (Military Academy, 1838)	620.19
Coffin, William H. (Military Academy, 1873)	757.62
Colburn, Albert V. (Military Academy, 1855)	759.37
Collins, Francis (Military Academy, 1845)	292.20
Collins, Joseph B. (credit for enlisted service)	356.65
Comly, Clifton (Military Academy, 1862)	$1,036.24
Connelly, Timothy (credit for enlisted service)	1,707.98
Conner, Edward J. (Military Academy, 1856)	591.55
Conway, Edward J. (credit for enlisted service)	2,207.26
Coolidge, Charles A. (credit for enlisted service)	103.93
Cornish, George A. (Military Academy, 1873)	958.31
Cornman, Daniel (Military Academy, 1873)	776.53
Cotton, John W. (Military Academy, 1823)	393.20
Counselman, Jacob H. (Military Academy, 1863)	1,206.95
Coxe, Robert E. (Military Academy, 1870)	421.00
Cradlebaugh, George W. (Military Academy, 1867)	279.92
Craig, Louis L. (Military Academy, 1874)	1,019.00
Craig, William (Military Academy, 1852)	831.19
Cram, Thomas J. (Military Academy, 1826)	1,972.16
Crandal, Frederick M. (Military Academy, 1849)	815.01
Cranston, Arthur (Military Academy, 1867)	773.34
Creel, Heber M. (Military Academy, 1877)	372.08
Crilly, Francis J. (Military Academy, 1859)	1,111.79
Crispin, Silas (Military Academy, 1850)	1,548.97
Critchlow, Benjamin D. (Military Academy, 1865)	331.65
Cronkite, Adelbert (Military Academy, 1882)	1,277.58
Crook, George (Military Academy, 1852)	1,232.13
Crosman, George H. (Military Academy, 1823)	2,082.55
Cross, Charles E. (Military Academy, 1861)	207.54
Crozier, William (Military Academy, 1876)	487.27
Cummings, Joseph F. (Military Academy, 1876)	683.58
Cunningham, Nathaniel F. (Military Academy, 1866)	400.60
Curtis, Edwin S. (Military Academy, 1867)	1,076.89
Cusack, John (credit for enlisted service)	1,267.16
Dahlgren, Paul (Military Academy, 1868)	95.51
Damrell, Andrew N. (Military Academy, 1864)	3,362.97
Dana, Napoleon J. T. (Military Academy, 1842)	710.02
Daniels, Charles B. (Military Academy, 1836)	550.65
Darne, Alexander C. H. (Military Academy, 1841)	257.43
Davidson, Francis S. (Military Academy, 1865)	640.37
Davidson, John W. (Military Academy, 1845)	1,518.98
Davidson, William B. (Military Academy, 1815)	13.05
Davies, Charles (Military Academy, 1815)	143.20
Davies, William S. (Military Academy, 1874)	652.51
Davies, Benjamin F. (Military Academy, 1854)	785.62
Davis, John M. (Military Academy, 1829)	998.51
Day, Edward H. (Military Academy, 1851)	544.77
Day, Matthias W. (Military Academy, 1877)	397.08
Dean, William (credit for enlisted service)	1,605.87
Dearborn, Alexander H. (Military Academy, 1838)	828.20
Deas, Edward (Military Academy, 1832)	625.32
Dimick, Justin (Military Academy, 1819)	2,915.77
Deems, Clarence (Military Academy, 1814)	605.06
De Hart, Henry V. (Military Academy, 1856)	438.30
De Hart, William C. (Military Academy, 1820)	815.20
De'Lagnel, Julius A. (Military Academy, 1821)	187.60
Denison, David S. (Military Academy, 1868)	1,002.13
Denman, Frederick J. (Military Academy, 1842)	584.40
Denny, St. Clair (Military Academy, 1827)	1,087.70
Derby, George McC. (Military Academy, 1878)	248.53
Deshler, George W. (Military Academy, 1868)	673.42
Dick, George M. (Military Academy, 1854)	19.85
Dickerson, John H. (Military Academy, 1847)	1,139.22
D'Issay, Isaac (credit for enlisted service)	229.05
Dodds, Frank L. (Military Academy, 1879)	198.90
Dodge, Richard I. (Military Academy, 1848)	1,606.64
Donaldson, James L. (Military Academy, 1836)	2,213.44
Donelson, Andrew J. (Military Academy, 1848)	676.00
Door, Gustavus (Military Academy, 1825)	146.20
Dorst, Joseph H. (Military Academy, 1873)	861.36
Doubleday, Abner (Military Academy, 1842)	1,695.79
Dougherty, John J. (Military Academy, 1872)	991.31
Douglas, Samuel R. (Military Academy, 1876)	487.27
Dowd, Heman (Military Academy, 1876)	555.39
Dravo, Edward E. (Military Academy, 1876)	547.08
Drouillard, James P. (Military Academy, 1861)	319.23
Drum, William F. (Military Academy, 1852)	1,132.59
Drum, Simon H. (Military Academy, 1836)	669.00
Dry, Thomas (credit for enlisted service)	1,275.17
Duane, James C. (Military Academy, 1848)	1,690.51
Du Bois, John V. (Military Academy, 1855)	1,960.06
Ducat, Arthur C. (Military Academy, 1879)	95.83
Duncan, James (Military Academy, 1834)	577.00
Dunn, Thomas (credit for enlisted service)	500.95
du Pont, Henry A. (Military Academy, 1861)	1,234.82
Duryea, Richard C. (Military Academy, 1853)	1,670.35
Dutton, Arthur H. (Military Academy, 1861)	244.83
Dutton, George (Military Academy, 1822)	1,087.30
Dwyer, Philip (credit for enlisted service)	1,144.40
Dyer, Alexander B. (Military Academy, 1837)	1,993.08
Earle, Richard T. (Military Academy, 1867)	465.11
Eastman, Frank F. (Military Academy, 1879)	90.61
Eastman, James E. (Military Academy, 1866)	1,096.99
Eaton, Amos B. (Military Academy, 1826)	2,044.67
Ebstein, Frederick H. E. (credit for enlisted service)	890.36
Eckhart, Charles G. (Military Academy, 1867)	210.66
Edie, John R. (Military Academy, 1841)	98.11
Edie, John R. (Military Academy, 1829)	126.61
Edgerton, Edward C. (Military Academy, 1870)	352.56
Edgerton, Wright P. (Military Academy, 1874)	700.96
Edson, Theodore (Military Academy, 1853)	1,148.41
Edwards, George (Military Academy, 1845)	367.70
Edwards, John (Military Academy, 1852)	1,766.92
Eggleston, Millard F. (Military Academy, 1877)	391.04
Elliott, John (Military Academy, 1864)	420.82
Elliott, Washington L. (Military Academy, 1844)	976.49
Elliott, William J. (Military Academy, 1878)	183.40
Elting, Norman (Military Academy, 1843)	172.34
Emmet, Robert T. (Military Academy, 1877)	628.74
Emory, Campbell D. (Military Academy, 1861)	1,167.36
Ennis, William (Military Academy, 1864)	1,150.28
Enos, Herbert M. (Military Academy, 1856)	1,223.58
Ernst, Rudolph F. (Military Academy, 1841)	304.60
Erwin, James B. (Military Academy, 1880)	97.08
Esterly, Calvin (Military Academy, 1877)	397.08
Eustis, Henry L. (Military Academy, 1842)	371.00
Eustis, William (Military Academy, 1830)	669.20
Evans, Andrew W. (Military Academy, 1852)	1,516.56
Evans, George F. (Military Academy, 1846)	720.60

Evans, Robert K. (Military Academy, 1875)	$528.69
Evans, Thomas H. (credit for enlisted service)	166.55
Evans, William P. (Military Academy, 1878)	230.61
Everett, William (Military Academy, 1868)	1,168.22
Fahnestock, Simon S. (Military Academy, 1841)	493.20
Falvey, John (credit for enlisted service)	786.93
Farquhar, Francis U. (Military Academy, 1861)	994.93
Farragut, Loyall (Military Academy, 1868)	465.41
Farrelly, Patrick A. (Military Academy, 1845)	292.20
Fay, Heman A. (Military Academy, 1808)	1,668.20
Field, Francis A. (credit for enlisted service)	871.77
Field, George P. (Military Academy, 1834)	536.37
Finley, Walter L. (Military Academy, 1879)	97.08
Fitzhugh, Charles L.	306.91
Fitzpatrick, Patrick (Military Academy, 1868)	573.99
Fleming, Hugh B. (Military Academy, 1852)	1,427.82
Fletcher, Robert (Military Academy, 1868)	296.08
Flipper, Henry O. (Military Academy, 1877)	397.08
Floyd-Jones, De Lancey (Military Academy, 1846)	1,803.59
Flynn, Daniel (credit for enlisted service)	1,648.22
Follett, Frederick M. (Military Academy, 1850)	1,203.39
Folsom, Joseph L. (Military Academy, 1879)	3,788.46
Foltz, Frederick S. (Military Academy, 1879)	97.08
Foote, Rensselaer W. (Military Academy, 1835)	247.70
Forsyth, James W. (Military Academy, 1856)	1,460.06
Foster, Charles W. (credit for enlisted service)	530.61
Foster, Fred W. (Military Academy, 1877)	393.33
Foster, John G. (Military Academy, 1846)	1,311.42
Franklin, William B. (Military Academy, 1843)	1,328.49
Fraser, William D. (Military Academy, 1834)	1,022.10
Frazer, William (Military Academy, 1836)	358.40
Frederick, Daniel A. (Military Academy, 1877)	370.61
French, Frederick H. (Military Academy, 1877)	397.08
French, Francis H. (Military Academy, 1879)	93.06
French, William H. (Military Academy, 1837)	2,151.96
Fry, Cary H. (Military Academy, 1834)	1,488.02
Fry, James B. (Military Academy, 1847)	51.57
Fuller, Alfred M. (Military Academy, 1876)	588.33
Fuller, Ezra B. (Military Academy, 1873)	1,029.26
Fuller, William D. (Military Academy, 1861)	1,032.55
Gageby, James H. (credit for enlisted service)	501.90
Gaither, Edgar B. (Military Academy, 1839)	119.40
Galbraith, Jacob G. (Military Academy, 1877)	372.08
Galbraith, William W. (Military Academy, 1877)	395.52
Gantt, Levi (Military Academy, 1842)	242.50
Gardenier, John R. B. (Military Academy, 1828)	827.40
Gardner, Cornelius (Military Academy, 1873)	835.88
Gardnier, John W. T. (Military Academy, 1840)	1,882.58
Garrard, Joseph (Military Academy, 1873)	874.85
Garretson, George A. (Military Academy, 1867)	130.25
Garst, Charles E. (Military Academy, 1876)	510.61
Gasman, Hans J. (Military Academy, 1871)	598.33
Gates, Callinson R. (Military Academy, 1836)	656.40
Gates, William (Military Academy, 1806)	2,731.34
Gay, Ebenezer (Military Academy, 1855)	1,996.98
Geary, William L. (Military Academy, 1874)	649.00
Gentry, William T. (Military Academy, 1856)	1,199.58
Gerhard, William (Military Academy, 1869)	378.75
Gerlach, William (credit for enlisted service)	3,182.75
Getty, Robert N. (Military Academy, 1878)	465.63
Gibson, Archie (Military Academy, 1879)	73.57
Gibson, Charles H. (Military Academy, 1861)	172.65
Gibson, William W. (Military Academy, 1879)	91.61
Gilbert, Charles C. (Military Academy, 1846)	1,702.67
Gill, John U. (credit for enlisted service)	182.22
Gill, Samuel (Military Academy, 1844)	140.00
Gillem, Alvan C. (Military Academy, 1851)	1,114.81
Gillmore, Quincy A. (Military Academy, 1849)	1,238.36
Gittings, Erskine (Military Academy, 1861)	1,118.18
Goddard, Vinton A. (Military Academy, 1871)	32.42
Godfrey, Edward S. (Military Academy, 1867)	1,229.60
Goe, James B. (Military Academy, 1875)	109.77
Goldman, Henry J. (Military Academy, 1877)	367.50
Gooding, Oliver P. (Military Academy, 1858)	768.48
Graham, Campbell (Military Academy, 1822)	1,831.66
Graham, James B. (Military Academy, 1817)	1,948.71
Graham, Richard H. (Military Academy, 1838)	450.60
Grant, Alexander (credit for enlisted service)	1,264.13
Grant, Frederick D. (Military Academy, 1871)	2,754.50
Greene, James B. (Military Academy, 1851)	813.94
Greene, Lewis D. (Military Academy, 1878)	228.87
Greene, Samuel C. (credit for enlisted service)	2,863.38
Greland, John H. (Military Academy, 1843)	549.40
Grier, William N. (Military Academy, 1835)	1,967.71
Grierson, Charles H. (Military Academy, 1879)	222.08
Griffin, Eugene (Military Academy, 1875)	609.19
Griffith, Emerson (Military Academy, 1872)	966.71
Griffith, Joseph E. (Military Academy, 1867)	447.51
Griffith, Thomas W. (Military Academy, 1883)	105.24
Grover, Cuvier (Military Academy, 1850)	1,223.71
Gunther, Sebastian (credit for enlisted service)	2,705.20
Gustin, Joseph H. (Military Academy, 1875)	530.83
Gwynne, Thomas P. (Military Academy, 1818)	1,931.40
Hall, James H. (Military Academy, 1865)	343.42
Hall, Joseph (Military Academy, 1872)	553.39
Hall, Norman J. (Military Academy, 1859)	972.70
Hall, William P. (Military Academy, 1868)	1,192.75
Hamilton, Charles S. (Military Academy, 1843)	566.20
Hamilton, Schuyler (Military Academy, 1841)	760.20
Hamilton, William R. (Military Academy, 1876)	521.20
Hammond, Richard P. (Military Academy, 1841)	566.20
Hammond, Thomas C. (Military Academy, 1842)	316.80
Hamner, William H. (credit for enlisted service)	1,831.64
Hancock, David P. (Military Academy, 1854)	1,738.59
Hancock, Winfield S. (Military Academy, 1844)	1,398.63
Hanna, Robert (Military Academy, 1872)	1,048.36
Hanson, Weightman K. (Military Academy, 1835)	364.60
Hardcastle, Edmund L. (Military Academy, 1846)	575.49
Hardie, Francis H. (Military Academy, 1875)	351.33
Harding, Ebenezer D. (credit for enlisted service)	1,994.74
Harding, Edward (Military Academy, 1818)	852.40
Harker, Charles G. (Military Academy, 1858)	492.90
Harlow, Frank S. (Military Academy, 1879)	94.58
Harris, William H. (Military Academy, 1861)	980.91
Hartz, Edward L. (Military Academy, 1855)	$917.67
Harwood, Franklin (Military Academy, 1861)	1,272.77
Hasbrouck, Henry C. (Military Academy, 1861)	505.48
Hasson, Patrick (credit for enlisted service)	1,397.65
Hathaway, John S. (Military Academy, 1836)	802.80
Haupt, Lewis M. (Military Academy, 1867)	100.92
Hawkins, Hamilton S. (Military Academy, 1855)	1,536.82
Hayes, Edmund (Military Academy, 1846)	236.00
Hayes, Edward M. (credit for enlisted service)	166.38
Hays, William (Military Academy, 1840)	1,801.45
Hazen, William B. (Military Academy, 1855)	963.86
Hazlett, Charles E. (Military Academy, 1861)	216.42
Hazlitt, Robert (Military Academy, 1843)	30.49
Hazzard, George W. (Military Academy, 1847)	1,150.20
Heap, David P. (Military Academy, 1864)	1,330.14
Hegewald, John F. C. (Military Academy, 1877)	271.47
Heistand, Henry O. S. (Military Academy, 1878)	207.27
Henely, Austin (Military Academy, 1872)	455.81
Henry, Addis M. (Military Academy, 1872)	1,086.13
Henry, William S. (Military Academy, 1835)	295.88
Herr, Hlero B. (Military Academy, 1866)	301.78
Hickey, James B. (Military Academy, 1871)	1,168.14
Higgins, Thaddeus (Military Academy, 1840)	292.20
Hight, Thomas (Military Academy, 1853)	791.79
Hill, Bennett H. (Military Academy, 1837)	196.23
Hill, George D. (credit for enlisted service)	28.87
Hillhouse, John (Military Academy, 1842)	124.15
Hines, John W. (credit for enlisted service)	25.91
Hinman, Frederick A. (Military Academy, 1867)	1,147.06
Hodges, Charles L. (credit for enlisted service)	468.61
Hodgson, Benjamin H. (Military Academy, 1870)	853.38
Holabird, Samuel B. (Military Academy, 1849)	34.38
Holgate, Asa H. (Military Academy, 1863)	1,311.90
Holliday, Jonas P. (Military Academy, 1850)	798.90
Hollister, George S. (Military Academy, 1860)	371.10
Homer, William B. (Military Academy, 1870)	1,182.38
Honey, Samuel R. (credit for enlisted service)	330.60
Hook, Cornelius (Military Academy, 1860)	455.00
Hooker, Joseph (Military Academy, 1837)	28.94
Hoppin, Curtis B. (Military Academy, 1877)	143.33
Horr, Joseph L. (credit for enlisted service)	154.70
Horrigan, Patrick W. (credit for enlisted service)	788.62
Hoskins, Charles (Military Academy, 1836)	510.60
Hosmer, John E. (Military Academy, 1865)	94.22
Houlihan, Patrick W. (credit for enlisted service)	51.20
Houston, William F. (credit for enlisted service)	233.24
Howard, Oliver O. (Military Academy, 1854)	453.50
Howe, Edwin (Military Academy, 1843)	316.00
Howe, Marshall S. (Military Academy, 1836)	2,299.75
Howe, Myron W. (Military Academy, 1875)	476.78
Howes, Leander T. (Military Academy, 1867)	213.92
Howe, Walter (Military Academy, 1867)	1,127.08
Howell, Charles W. (Military Academy, 1863)	1,208.06
Howland, George W. (Military Academy, 1848)	1,652.42
Hoyle, George S. (Military Academy, 1873)	882.41
Hughes, George W. (Military Academy, 1827)	745.42
Humber, Charles H. (Military Academy, 1840)	1,041.30
Hunt, Edward B. (Military Academy, 1845)	1,265.75
Hunt, Lewis C. (Military Academy, 1847)	1,424.64
Hildt, John McL. (Military Academy, 1856)	1,127.97
Hunter, David (Military Academy, 1822)	1,604.06
Hunter, George K. (Military Academy, 1877)	372.00
Hunter, Nathaniel W. (Military Academy, 1833)	885.99
Hunter, Robert F. (Military Academy, 1853)	550.23
Huntington, Edward S. (credit for enlisted service)	102.12
Huston, Joseph F. (Military Academy, 1873)	824.79
Hutton, James A. (Military Academy, 1876)	487.27
Hynes, Thomas (Military Academy, 1864)	240.60
Ingalls, Rufus (Military Academy, 1843)	1,449.22
Ingerton, William H. (credit for enlisted service)	726.20
Irwin, Douglass S. (Military Academy, 1840)	279.80
Irwin, James R. (Military Academy, 1825)	504.40
Jackson, James B. (Military Academy, 1877)	347.28
Jackson, Mason (credit for enlisted service)	292.04
Jacobs, Joshua W. (credit for enlisted service)	74.80
Jarvis, Charles E. (Military Academy, 1843)	312.32
Jenkins, Leonidas (Military Academy, 1841)	310.60
Jenkins, Micah J. (Military Academy, 1879)	72.08
Jenkins, Walworth (Military Academy, 1853)	1,007.36
Jewett, Charles E. (credit for enlisted service)	176.10
Johns, Thomas (Military Academy, 1833)	158.60
Johnson, James (credit for enlisted service)	45.32
Johnson, John M. (Military Academy, 1867)	361.45
Johnson, Richard W. (Military Academy, 1849)	1,528.11
Johnston, Abraham R. (Military Academy, 1835)	596.00
Johnston, John A. (Military Academy, 1879)	97.08
Johnston, John L. (credit for enlisted service)	56.99
Johnstone, John P. (Military Academy, 1843)	225.00
Jones, Francis L. (Military Academy, 1824)	214.20
Jones, Frank B. (Military Academy, 1879)	90.60
Jones, James M. (Military Academy, 1875)	554.17
Jones, Rogers (Military Academy, 1851)	1,444.10
Jones, William G. (Military Academy, 1860)	321.41
Jordan, Allen R. (Military Academy, 1879)	72.08
Jordan, Charles D. (Military Academy, 1842)	1,627.33
Judd, Henry B. (Military Academy, 1839)	2,064.14
Kaiser, August (credit for enlisted service)	724.60
Keller, Charles (Military Academy, 1865)	848.89
Kellogg, John (Military Academy, 1849)	1,132.20
Kellogg, Lyman M. (Military Academy, 1852)	604.76
Kendall, Theodore (credit for enlisted service)	1,144.43
Ketcham, James M. (Military Academy, 1838)	146.10
Ketchum, William S. (Military Academy, 1864)	1,840.05
Keyes, Erasmus D. (Military Academy, 1832)	1,536.00
King, William R. (Military Academy, 1863)	1,176.28
Kingsbury, James W. (credit for enlisted service)	111.50
Kinney, Samuel H. (Military Academy, 1864)	335.69
Kirby, Henry (Military Academy, 1877)	370.60
Kirkham, Ralph W. (Military Academy, 1842)	1,953.15
Kislingbury, Frederick F. (credit for enlisted service)	1,046.64
Knapp, Orson C. (credit for enlisted service)	86.36
Knight, John G. D. (Military Academy, 1868)	1,394.71
Krause, William (Military Academy, 1865)	1,068.19

Kurtz, John D. (Military Academy, 1842)	$1,950.45
Kyle, John G. (Military Academy, 1870)	669.24
Lamonion, George (credit for elisted service)	1,095.55
La Motte, Joseph H. (Military Academy, 1827)	1,131.90
Lancaster, James M. (Military Academy, 1862)	1,199.70
Landis, John F. R. (Military Academy, 1878)	247.08
Lansing, Arthur B. (Military Academy, 1836)	648.80
Larnard, Charles H. (Military Academy, 1831)	775.40
Lassiter, William (credit for enlisted service)	603.45
Latimer, Alfred E. (Military Academy, 1853)	2,599.73
Layton, Caleb R. (credit for enlisted service)	1,351.66
Leach, Smith S. (Military Academy, 1875)	773.25
Leavell, Benjamin W. (Military Academy, 1879)	125.84
Ledyard, Henry B. (Military Academy, 1865)	506.33
Lee, Alexander N. (Military Academy, 1865)	2,229.29
Lee, Arthur T. (credit for enlisted service)	137.37
Lee, Thomas J. (Military Academy, 1857)	964.60
Letherbury, James W. (credit for enlisted service)	98.10
Lewis, Martin V. (Military Academy, 1860)	210.00
Lewis, William H. (Military Academy, 1849)	1,597.78
Leyden, James A. (Military Academy, 1879)	90.61
Liggett, Hunter (Military Academy, 1879)	90.61
Lincoln, Abram B. (Military Academy, 1845)	493.20
Livermore, William R. (Military Academy, 1865)	1,305.12
Lloyd, Thomas J. (Military Academy, 1865)	1,241.75
Lockett, James (Military Academy, 1879)	97.08
Lockwood, Daniel W. (Military Academy, 1866)	1,161.19
Loder, Samuel H. (Military Academy, 1877)	140.00
Loeser, Lucien (Military Academy, 1842)	3,489.36
Lomia, Luigi (Military Academy, 1867)	1,105.12
London, Robert (Military Academy, 1873)	875.33
Long, Edwin R. (Military Academy, 1829)	206.50
Loomis, Gustavus (Military Academy, 1811)	1,605.22
Loosley, Daniel (credit for enlisted service)	879.63
Lorain, Lorenzo (Military Academy, 1856)	1,247.90
Lord, James H. (Military Academy, 1862)	1,511.38
Loshe, Charles F. (credit for enlisted service)	1,617.92
Lott, George G. (credit for enlisted service)	269.14
Lovell, Charles S. (credit for enlisted service)	2,897.06
Loveridge, Wilbur (Military Academy, 1880)	190.67
Lovering, Leonard A. (Military Academy, 1876)	464.53
Lowe, William W. (Military Academy, 1853)	1,101.04
Ludlow, William (Military Academy, 1864)	1,270.37
Lundeen, John A. (Military Academy, 1873)	864.29
Lusk, James L. (Military Academy, 1878)	222.08
Luther, Roland A. (Military Academy, 1836)	863.80
Lyford, Stephen C. (Military Academy, 1861)	987.69
Lynde, Isaac (Military Academy, 1827)	959.98
Lyon, Nathaniel (Military Academy, 1841)	1,301.40
McAllister, Julian (Military Academy, 1847)	1,663.18
McArthur, Malcomb (Military Academy, 1865)	1,150.76
McAuliffe, James R. (Military Academy, 1875)	530.83
McCaleb, Thomas S. (Military Academy, 1875)	554.16
McCleary, John (Military Academy, 1854)	1,046.50
McClellan, John (Military Academy, 1826)	1,097.81
McClure, Charles (Military Academy, 1879)	90.61
McConnell, Thomas R. (Military Academy, 1846)	562.20
McCook, Alexander McD. (Military Academy, 1852)	1,284.73
McCoy, John (credit for enlisted service)	139.67
McCrate, Thomas (Military Academy, 1836)	450.00
McCrea, Tully (Military Academy, 1862)	1,120.88
McCrimmon, Ariosto (Military Academy, 1877)	164.89
McDonald, David N. (Military Academy, 1877)	397.08
McDowell, Irvin (Military Academy, 1838)	1,783.56
McElvain, Joseph (Military Academy, 1845)	458.00
McFarland, Walter (Military Academy, 1860)	1,132.82
McFarland, William C. (Military Academy, 1872)	961.03
McFarran, John C. (Military Academy, 1843)	2,650.53
McGinness, John R. (Military Academy, 1863)	1,143.94
McKee, Samuel (Military Academy, 1858)	586.76
McKim, James (credit for enlisted service)	1,245.98
McKinney, John A. (Military Academy, 1871)	605.57
McLane, Tobert M. (Military Academy, 1837)	319.40
McLaughlin, William H. (Military Academy, 1865)	1,206.53
McMartin, John (Military Academy, 1877)	370.60
McMullin, George O. (credit for enlisted service)	214.83
McNab, John (credit for enlisted service)	299.70
McNaught, John S. (credit for enlisted service)	488.70
McNutt, John (Military Academy, 1840)	2,168.23
McPherson, James B. (Military Academy, 1853)	716.42
McRae, Alexander (Military Academy, 1851)	730.50
McRee, Samuel (Military Academy, 1820)	792.40
MacDonald, Philip W. (Military Academy, 1841)	563.80
Mackall, James B. (Military Academy, 1868)	194.82
Mackenzie, Ranald S. (Military Academy, 1862)	1,239.19
Mackey, John T. (credit for enlisted service)	125.87
Maclay, Isaac W. (Military Academy, 1864)	1,000.57
Magilton, Albert L. (Military Academy, 1846)	639.00
Maguire, Edward (Military Academy, 1867)	1,154.17
Mahan, Dennis H. (Military Academy, 1824)	2,128.60
Mahan, Frederick A. (Military Academy, 1867)	1,209.86
Mallory, John S. (credit for enlisted service)	90.81
Maney, James A. (Military Academy, 1877)	374.58
March, Thomas J. (Military Academy, 1868)	289.58
Marsh, Samuel S. (Military Academy, 1860)	1,321.83
Martin, Chancellor (Military Academy, 1868)	271.05
Martin, James P. (Military Academy, 1860)	1,087.99
Martin, John W. (credit for enlisted service)	267.69
Martin, Leonard (Military Academy, 1861)	323.03
Martin, Medad C. (Military Academy, 1877)	370.61
Marye, William A. (Military Academy, 1862)	1,243.31
Mason, George T. (Military Academy, 1842)	183.00
Massey, Solon F. (Military Academy, 1877)	118.28
Matile, Leon A. (credit for enlisted service)	968.88
Maus, Marion P. (Military Academy, 1874)	576.20
May, Will T. (Military Academy, 1879)	90.61
Maynadier, Henry E. (Military Academy, 1851)	1,394.60
Maynadier, William (Military Academy, 1827)	2,247.06
Meagher, Patrick (credit for enlisted service)	630.16
Medcalfe, William M. (Military Academy, 1876)	657.85
Mellen, Albert H. (Military Academy, 1874)	148.16
Mendell, George H. (Military Academy, 1852)	1,394.22
Merchant, Charles S. (Military Academy, 1814)	851.88
Merriam, Lewis (credit for enlisted service)	$2,343.84
Merrill, Hamilton W. (Military Academy, 1838)	1,095.70
Merrill, Lewis (Military Academy, 1855)	1,275.71
Merrill, Moses E. (Military Academy, 1826)	510.60
Merrill, William E. (Military Academy, 1859)	1,219.60
Merriman, Edward M. (Military Academy, 1867)	465.17
Merritt, Wesley (Military Academy, 1860)	889.06
Metcalf, John T. (Military Academy, 1838)	67.20
Michie, Peter S. (Military Academy, 1863)	1,576.67
Michler, Francis (Military Academy, 1870)	1,245.20
Michler, Nathaniel (Military Academy, 1848)	1,612.57
Miles, Dixon S. (Military Academy, 1824)	1,997.60
Miller, Albert S. (Military Academy, 1823)	964.40
Miller, Alexander M. (Military Academy, 1865)	1,287.81
Miller, Andrew G. (Military Academy, 1848)	712.50
Miller, Crosby P. (Military Academy, 1867)	1,188.84
Miller, Samuel W. (Military Academy, 1879)	91.25
Miller, Thomas E. (Military Academy, 1856)	532.56
Miller, William H. (Military Academy, 1872)	1,040.31
Mills, Albert L. (Military Academy, 1879)	247.08
Mills, Samuel M. (Military Academy, 1865)	1,294.91
Mills, Stephen C. (Military Academy, 1877)	390.05
Miner, Christopher C. (Military Academy, 1879)	91.61
Mishler, Lyman (Military Academy, 1860)	82.35
Mitchel, Ormsby M. (Military Academy, 1865)	499.64
Mizner, John K. (Military Academy, 1856)	1,280.71
Moberly, Will J. (Military Academy, 1866)	222.30
Mock, William (Military Academy, 1836)	218.40
Molinard, Albert J. S. (Military Academy, 1851)	921.53
Montgomery, William R. (Military Academy, 1825)	984.80
Moore, Henry B. (Military Academy, 1872)	562.18
Moore, Treadwell (Military Academy, 1847)	1,771.74
Mordecai, Alfred (Military Academy, 1861)	1,001.28
Morgan, Charles H. (Military Academy, 1857)	1,014.96
Morgan, Edwin W. (Military Academy, 1837)	167.00
Morgan, James McC. (Military Academy, 1835)	1,204.50
Morris, Charles F. (Military Academy, 1841)	279.80
Morris, Gouverneur (credit for enlisted service)	2,102.77
Morris, Lewis N. (Military Academy, 1820)	553.60
Morris, Robert M. (credit for enlisted service)	196.91
Morris, Thompson (Military Academy, 1822)	2,127.78
Morris, William H. (Military Academy, 1851)	189.20
Morris, William W. (Military Academy, 1820)	2,258.35
Morrison, John C.	117.09
Morton, Charles (Military Academy, 1869)	1,097.49
Morton, James St. C. (Military Academy, 1851)	1,061.02
Moss, Henry N. (Military Academy, 1867)	1,027.59
Mott, Wallace (Military Academy, 1871)	1,120.63
Mowry, Sylvester (Military Academy, 1852)	328.70
Mullins, Martin (credit for enlisted service)	1,947.24
Monroe, John (Military Academy, 1814)	514.00
Murphy, Eugene P. (Military Academy, 1867)	439.93
Murphy, John (credit for enlisted service)	2,655.79
Murry, Cunliff H. (Military Academy, 1877)	411.87
Myers, Frederick (Military Academy, 1846)	2,218.26
Myers, John E. (Military Academy, 1873)	810.97
Maglee, Henry M. (Military Academy, 1835)	37.62
Nauman, George (Military Academy, 1823)	1,685.07
Nave, Andrew H. (Military Academy, 1871)	1,233.16
Neff, Albert J. (Military Academy, 1866)	57.73
Neill, Thomas H. (Military Academy, 1847)	1,534.65
Nelson, Andrew D. (Military Academy, 1841)	2,122.96
Nicholas, William A. (Military Academy, 1838)	2,109.05
Niles, Lotus (Military Academy, 1875)	436.23
Nimmo, William A. (Military Academy, 1849)	375.20
Noble, Patrick (Military Academy, 1842)	322.80
Noel Thomas (Military Academy, 1820)	933.99
Norton, Charles C. (Military Academy, 1874)	649.17
Norvell, Stevens T. (credit for enlisted service)	1,518.69
Noyes, Charles R. (Military Academy, 1879)	67.27
Nugen, John (Military Academy, 1852)	328.70
O'Brien, Alonzo L. (Military Academy, 1879)	97.08
O'Connell, John D. (Military Academy, 1852)	1,264.65
O'Connell, John J. (credit for enlisted service)	796.25
O'Connor, Charles M. (Military Academy, 1873)	862.88
O'Hara, James (Military Academy, 1866)	1,101.68
Ogden, Cornelius A. (Military Academy, 1819)	1,319.00
Ogle, Alfred M. (Military Academy, 1879)	90.56
Olmsted, Jerauld A. (Military Academy, 1870)	1,397.37
Ord, Edward O. C. (credit for enlisted service)	1,489.05
Osgood, Worth (Military Academy, 1869)	297.66
O'Toole, William D. (Military Academy, 1865)	325.64
Owens, Wesley (Military Academy, 1856)	1,037.12
Oyster, Joseph S. (Military Academy, 1874)	677.98
Paddock, George H. (Military Academy, 1873)	835.44
Paddock, James V. S. (Military Academy, 1877)	368.95
Paine, Ferdinand (Military Academy, 1848)	292.20
Palmer, George (Military Academy, 1876)	510.61
Parke, John S. (Military Academy, 1879)	90.61
Parke, John G. (Military Academy, 1849)	1,279.67
Parker, James (Military Academy, 1876)	556.27
Parker, Percy (Military Academy, 1879)	90.61
Parker, Theophilus (Military Academy, 1877)	162.08
Parkhurst, Charles B. (Military Academy, 1872)	1,008.36
Parkinson, David (credit for enlisted service)	790.76
Parks, Edwin R. (credit for enlisted service)	346.68
Partello, Joseph M. T. (credit for enlisted service)	194.86
Parsons, Charles C. (Military Academy, 1861)	232.37
Patch, Alexander M. (Military Academy, 1877)	288.05
Patten, Francis J. (Military Academy, 1877)	383.11
Patten, George W. (Military Academy, 1830)	2,243.48
Patterson, George T. (Military Academy, 1872)	883.48
Patterson, Robert E. (Military Academy, 1851)	356.31
Patterson, Thomas C. (Military Academy, 1877)	368.73
Paul, Gabriel R. (Military Academy, 1834)	2,276.85
Payne, David W. (Military Academy, 1865)	354.61
Payne, John A. (credit for enlisted service)	2,919.67
Peck, John J. (Military Academy, 1843)	528.53
Peck, William G. (Military Academy, 1844)	603.20
Peeples, Samuel (credit for enlisted service)	1,117.29
Penrose, James W. (Military Academy, 1828)	587.84
Perkins, Delavan D. (Military Academy, 1849)	1,226.18
Perry, Christopher R. (Military Academy, 1842)	237.03

Pettee, Lemuel (credit for enlisted service)	$260.17
Phelps, John W. (Military Academy, 1836)	1,351.50
Philbrick, John H. (Military Academy, 1877)	358.55
Phillips, Joseph A. (Military Academy, 1823)	146.40
Pickering, Abner (Military Academy, 1878)	230.61
Pitcher, John (Military Academy, 1876)	545.83
Pitcher, Thomas G. (Military Academy, 1845)	1,594.61
Pitkin, Lucius (Military Academy, 1838)	292.20
Plummer, Joseph B. (Military Academy, 1841)	1,300.06
Pollion, Richard H. (Military Academy, 1871)	404.67
Poland, Martin L. (Military Academy, 1864)	2,005.51
Pope, James W. (Military Academy, 1868)	1,079.95
Porter, Andrew (credit for enlisted service)	127.84
Porter, Andrew P. (Military Academy, 1856)	915.08
Porter, David R. (Military Academy, 1865)	231.80
Porter, Giles (Military Academy, 1818)	1,898.67
Porter, Horace (Military Academy, 1860)	1,029.69
Potter, Joseph H. (Military Academy, 1843)	1,884.57
Powell, Albert M. (Military Academy, 1860)	532.61
Powell, Charles F. (Military Academy, 1867)	1,143.79
Price, David (Military Academy, 1877)	416.01
Purcell, John H. (credit for enlisted service)	1,757.29
Putnam, Haldimand S. (Military Academy, 1857)	434.02
Putnam, James E. (credit for enlisted service)	496.50
Quinan, William R. (Military Academy, 1870)	1,227.37
Randol, Alanson M. (Military Academy, 1860)	1,217.23
Ransom, Dunbar R. (credit for enlisted service)	1,190.64
Ransom, Hyatt C. (Military Academy, 1851)	1,951.95
Rathbone, Jared L. (Military Academy, 1865)	625.57
Rawles, Jacob B. (Military Academy, 1861)	1,136.85
Rea, Charles H. (Military Academy, 1869)	118.68
Reade, Philip (Military Academy, 1859)	630.63
Reese, Chauncey B. (Military Academy, 1835)	1,266.52
Reeve, Isaac V. (Military Academy, 1838)	2,355.81
Reeves, Isaac S. K. (credit for enlisted service)	663.20
Regan, James (Military Academy, 1863)	2,323.71
Reid, James R. (credit for enlisted service)	372.20
Reilly, Henry J. (credit for enlisted service)	679.62
Remak, Stanislaus (Military Academy, 1867)	349.64
Reno, Jesse L. (Military Academy, 1846)	1,022.70
Reynolds, Bainbridge (Military Academy, 1873)	1,160.73
Reynolds, John F. (Military Academy, 1841)	1,314.90
Reynolds, Samuel H. (Military Academy, 1849)	11.82
Reynolds, William B. (Military Academy, 1879)	67.27
Reynolds, William F. (Military Academy, 1867)	1,878.85
Rice, Frank S. (Military Academy, 1874)	677.38
Richardson, Israel B. (Military Academy, 1841)	1,148.70
Ricketts, James B. (Military Academy, 1839)	1,694.12
Ridgely, Randolph (Military Academy, 1837)	699.00
Ridgely, Samuel C. (Military Academy, 1831)	1,286.70
Riley, Thomas F. (credit for enlisted service)	795.06
Ringgold, George H. (Military Academy, 1833)	1,098.31
Ringgold, Samuel (Military Academy, 1818)	394.85
Ripley, James W. (Military Academy, 1814)	562.03
Ritter, John F. (Military Academy, 1856)	1,486.86
Ritzius, Henry P. (credit for enlisted service)	924.31
Robbins, Kenelm (Military Academy, 1863)	715.40
Robert, Henry M. (Military Academy, 1857)	1,112.61
Roberts, Thaddeus (credit for enlisted service)	610.86
Robertson, Samuel C. (Military Academy, 1879)	97.08
Robertson, William (Military Academy, 1840)	221.00
Robinson, Augustus (Military Academy, 1857)	1,052.96
Robinson, Frederick (credit for enlisted service)	3,806.47
Robinson, Henry E. (Military Academy, 1871)	1,282.48
Robinson, James W. (Military Academy, 1852)	643.70
Robinson, John C. (credit for enlisted service)	1,282.48
Rockwell, Charles F. (Military Academy, 1863)	489.83
Rockwell, Charles H. (credit for enlisted service)	1,370.16
Rodgers, Alexander (Military Academy, 1875)	640.69
Rodman, John B. (credit for enlisted service)	1,480.18
Roessler, Solomon W. (Military Academy, 1877)	373.55
Rogers, Alfred H. (Military Academy, 1872)	696.05
Roland, John F. (Military Academy, 1836)	802.80
Rollins, James H. (Military Academy, 1862)	1,342.16
Rose, George W. (Military Academy, 1852)	248.90
Rosecrants, Mortimer (Military Academy, 1841)	383.80
Ross, Francis H. (Military Academy, 1865)	417.05
Ross, Richard H. (Military Academy, 1830)	736.80
Rossell, William T. (Military Academy, 1873)	933.97
Roumfort, Augustus L. (Military Academy, 1817)	203.00
Roundy, William C. (credit for enlisted service)	447.61
Rowan, Hamilton (Military Academy, 1876)	506.43
Roys, Rufus A. (Military Academy, 1848)	79.00
Rucker, Louis H. (credit for enlisted service)	487.92
Ruffner, Ernest H. (Military Academy, 1867)	1,210.84
Ruhlen, George (Military Academy, 1872)	1,011.15
Runcie, James E. (Military Academy, 1879)	67.27
Rush, Richard H. (Military Academy, 1846)	584.40
Russell, David A. (Military Academy, 1845)	1,176.41
Russell, Frank W. (Military Academy, 1868)	391.65
Ryan, Edmund T. (credit for enlisted service)	1,334.63
Ryan, George (Military Academy, 1857)	518.33
Sacket, Delos B. (Military Academy, 1845)	2,264.42
Saffold, Marion J. B. (Military Academy, 1879)	74.29
Sanders, John (Military Academy, 1834)	1,241.00
Sanders, William P. (Military Academy, 1856)	1,222.82
Sargent, Alden (Military Academy, 1850)	533.05
Sarson, Horace B. (credit for enlisted service)	273.46
Scarritt, Jeremiah M. (Military Academy, 1838)	876.60
Schaeffer, Charles M. (Military Academy, 1878)	247.08
Schroeder, Henry A. (Military Academy, 1880)	52.50
Schuyler, Walter S. (Military Academy, 1870)	1,267.23
Schureman, James W. (Military Academy, 1842)	554.00
Schwatka, Frederick (Military Academy, 1871)	1,247.41
Scott, George L. (Military Academy, 1875)	593.75
Scott, Henry L. (Military Academy, 1833)	1,498.80
Scott, John M. (Military Academy, 1835)	888.20
Screven, Richard B. (Military Academy, 1829)	711.40
Searight, Joseph D. (Military Academy, 1826)	463.60
Sedgwick, John (Military Academy, 1837)	1,553.10
Sellmer, Charles (credit for enlisted service)	2,770.54
Seward, Augustus H. (Military Academy, 1847)	1,762.13
Shackleford, Muscoe L. (Military Academy, 1836)	553.67
Sharp, Thomas (credit for enlisted service)	1,195.83
Sharpe, Alfred C. (credit for enlisted service)	$360.53
Sheibner, Eugene W. (credit for enlisted service)	1,020.48
Shelton, Edward H. (Military Academy, 1870)	1,262.88
Sherburne, John P. (credit for enlisted service)	1,529.67
Sheldon, George W. (credit for enlisted service)	242.37
Sherman, James L. (Military Academy, 1865)	1,086.55
Sherman, Thomas W. (Military Academy, 1836)	1,837.62
Shinn, John B. (Military Academy, 1856)	1,581.31
Shiras, Alexander E. (Military Academy, 1833)	2,124.86
Shofner, James C. (Military Academy, 1877)	332.69
Shover, William H. (Military Academy, 1838)	660.80
Shunk, William A. (Military Academy, 1879)	97.08
Sibley, Ebenezer S. (Military Academy, 1827)	1,736.05
Sibley, Frederick W. (Military Academy, 1874)	1,006.00
Sill, Joshua W. (Military Academy, 1853)	520.90
Simmons, Seneca G. (Military Academy, 1834)	1,939.05
Simpson, James H. (Military Academy, 1832)	2,138.96
Simpson, Marcus D. (Military Academy, 1846)	1,725.90
Simpson, William A. (Military Academy, 1875)	574.16
Sinclair, William (Military Academy, 1857)	1,126.10
Sitgreaves, Lorenzo (Military Academy, 1832)	2,779.80
Slocum, Herbert J. (Military Academy, 1876)	533.33
Small, Michael P. (Military Academy, 1855)	1,304.39
Smallwood, Jenifer H. (Military Academy, 1869)	470.71
Smead, John R. (Military Academy, 1854)	775.83
Smead, Ralph C. (Military Academy, 1825)	577.80
Smith, Abiel L. (Military Academy, 1878)	247.08
Smith, Alfred T. (Military Academy, 1860)	1,127.11
Smith, Andrew J. (Military Academy, 1838)	1,850.91
Smith, Charles F. (Military Academy, 1825)	1,880.30
Smith, Charles P. (Military Academy, 1865)	386.96
Smith, Ephraim K. (Military Academy, 1826)	627.72
Smith, Frederick A. (Military Academy, 1873)	874.57
Smith, Harry M. (credit for enlisted service)	885.73
Smith, Henry L. (Military Academy, 1839)	791.40
Smith, Leslie (credit for enlisted service)	1,218.48
Smith, William S. (Military Academy, 1839)	765.10
Smyser, Jacob H. (Military Academy, 1861)	778.13
Snyder, George W. (Military Academy, 1856)	419.70
Solomon, Owen F. (Military Academy, 1853)	93.60
Sparrow, Solomon E. (Military Academy, 1878)	215.61
Spencer, George K. (credit for enlisted service)	2,694.22
Springett, Howard A. (Military Academy, 1877)	370.60
Stanley, David S. (Military Academy, 1852)	1,056.31
Stanton, Henry W. (Military Academy, 1842)	650.80
Stanton, William S. (Military Academy, 1865)	1,339.42
Starr, Charles G. (Military Academy, 1878)	230.60
Starring, William S. (Military Academy, 1865)	1,402.38
Stedman, Clarence A. (Military Academy, 1870)	1,551.13
Steele, Charles L. (Military Academy, 1879)	90.61
Steele, Frederick (Military Academy, 1843)	1,334.79
Steinmetz, William R. (credit for enlisted service)	1,734.64
Stephenson, William (credit for enlisted service)	862.49
Steptoe, Edward J. (Military Academy, 1837)	1,731.43
Stevens, Edward G. (Military Academy, 1870)	86.67
Stevens, George (Military Academy, 1843)	137.40
Stevens, Robert R. (Military Academy, 1877)	344.75
Stewart, Charles S. (Military Academy, 1846)	1,688.95
Stewart, James (credit for enlisted service)	
Stivers, Charles P. (Military Academy, 1879)	90.61
Stockton, Edward D. (Military Academy, 1849)	375.40
Stone, Charles P. (Military Academy, 1845)	672.02
Stoughton, Edwin H. (Military Academy, 1859)	181.95
Street, Washington P. (Military Academy, 1847)	292.20
Stretch, John F. (Military Academy, 1866)	1,213.38
Strong, George C. (Military Academy, 1857)	438.30
Sturgis, Samuel D. (Military Academy, 1884)	1,147.44
Sully, Alfred (Military Academy, 1841)	1,431.40
Sweatman, Robert (credit for enlisted service)	747.89
Sweet, John J. (Military Academy, 1860)	192.33
Swift, Joseph G. (Military Academy, 1802)	291.81
Swigert, Samuel M. (Military Academy, 1868)	633.34
Sykes, George (Military Academy, 1842)	1,650.41
Symington, John (Military Academy, 1815)	611.28
Symmes, John C. (Military Academy, 1847)	1,252.57
Symonds, Henry C. (Military Academy, 1853)	916.05
Symons, Thomas W. (Military Academy, 1874)	665.43
Talcott, George H. (Military Academy, 1831)	936.60
Tannatt, Thomas R. (Military Academy, 1858)	457.93
Tardy, John G. (Military Academy, 1860)	797.11
Taylor, Alfred B. (credit for enlisted service)	109.31
Taylor, Charles W. (Military Academy, 1879)	247.08
Taylor, Frank (credit for enlisted service)	161.88
Taylor, Joseph H. (Military Academy, 1856)	1,156.26
Taylor, Oliver H. P. (Military Academy, 1846)	313.53
Tebbetts, Clinton H. (Military Academy, 1870)	166.46
Temple, Robert E. (Military Academy, 1828)	139.00
Terrill, William R. (Military Academy, 1853)	719.37
Thies, Frederick (credit for enlisted service)	982.21
Thomas, Charles W. (Military Academy, 1855)	1,308.86
Thomas, George C. (Military Academy, 1836)	100.03
Thomas, Lorenzo (Military Academy, 1823)	1,210.86
Thompson, James (Military Academy, 1851)	1,499.24
Thompson, Richard E. (Military Academy, 1868)	116.12
Thompson, William A. (credit for enlisted service)	89.44
Thornton, William A. (Military Academy, 1825)	1,905.79
Thurston, Walter A. (Military Academy, 1879)	90.61
Tidball, Joseph L. (Military Academy, 1849)	1,892.99
Tilford, Joseph G. (Military Academy, 1851)	504.86
Tillinghast, Otis H. (Military Academy, 1847)	949.70
Tilson, John C. F. (Military Academy, 1878)	893.85
Totten, Edward H. (Military Academy, 1865)	1,540.50
Totten, James (Military Academy, 1841)	1,771.75
Totten, Joseph G. (Military Academy, 1805)	1,099.40
Totten, Joseph S. (Military Academy, 1847)	158.20
Toney, Timothy A. (credit for enlisted service)	569.12
Townsend, Curtis McD. (Military Academy, 1879)	97.08
Townsend, Thomas G. (Military Academy, 1871)	1,438.46
Treadwell, Thomas J. (Military Academy, 1854)	1,232.71
Tree, Arthur D. (credit for enlisted service)	1,234.06
Truit, Charles M. (Military Academy, 1879)	90.60
Turnbull, Charles N. (Military Academy, 1854)	836.21
Turner, John W. (Military Academy, 1855)	1,166.88

Turnley, Parmenas T. (Military Academy, 1846)	$1,244.59
Turtle, Thomas (Military Academy, 1867)	1,210.86
Tyler, Augustus C. (Military Academy, 1873)	703.33
Tyler, William H. (Military Academy, 1846)	523.80
Updegraff, Joseph (credit for enlisted service)	679.86
Upham, William H. (Military Academy, 1866)	225.97
Urban, Gustavus (credit for enlisted service)	1,205.46
Van Buren, Abraham (Military Academy, 1827)	431.40
Van Camp, Cornelius (Military Academy, 1855)	210.00
Van Horn, James J. (Military Academy, 1858)	836.11
Van Horne, Jefferson (Military Academy, 1827)	1,204.50
Van Orsdale, John T. (Military Academy, 1872)	913.13
Vernon, George R. (credit for enlisted service)	37.55
Viele, Egbert L. (Military Academy, 1847)	145.65
Vinton, David H. (Military Academy, 1822)	2,126.96
Vinton, Francis L. (Military Academy, 1856)	137.19
Vinton, John R. (Military Academy, 1817)	440.20
Vodges, Israel (Military Academy, 1837)	2,018.95
Vose, William P. (Military Academy, 1864)	1,544.22
Wager, Barnet (Military Academy, 1867)	1,140.01
Waggaman, George G. (Military Academy, 1835)	1,610.20
Wagner, Arthur L. (Military Academy, 1875)	634.00
Wagner, Orland G. (Military Academy, 1859)	301.50
Wainwright, Robert A. (Military Academy, 1835)	1,966.90
Waite, Henry D. (Military Academy, 1879)	97.08
Walbach, Louis A. D. (Military Academy, 1834)	869.00
Walker, Charles J. (Military Academy, 1857)	758.88
Walker, George B. (Military Academy, 1872)	962.08
Walker, Henry P. (Military Academy, 1874)	1,027.92
Wallace, George D. (Military Academy, 1872)	1,034.45
Wallen, Henry D. (Military Academy, 1840)	477.80
Wallen, Henry D. (Military Academy, 1867)	2,069.11
Walsh, James W. (credit for enlisted service)	2,106.91
Waltz, Millard F. (Military Academy, 1878)	232.53
Warner, James M. (Military Academy, 1860)	568.39
Warner, William H. (Military Academy, 1836)	790.60
Warren, Gouverneur K. (Military Academy, 1850)	1,295.45
Warwick, Oliver B. (Military Academy, 1873)	92.11
Washington, Reade M. (Military Academy, 1869)	384.44
Watts, Charles H. (Military Academy, 1872)	1,050.55
Webb, Alexander S. (Military Academy, 1855)	981.84
Webb, William A. (Military Academy, 1853)	839.70
Webster, George O. (Military Academy, 1866)	1,468.88
Webster, Isaac T. (Military Academy, 1866)	1,113.60
Weeks, George H. (Military Academy, 1857)	1,130.24
Weir, William B. (Military Academy, 1870)	1,136.08
Weitzel, Godfrey (Military Academy, 1855)	1,007.24
Welborn, Luther S. (Military Academy, 1879)	47.08
Welcker, George L. (Military Academy, 1836)	571.60
Wessells, Henry W. (Military Academy, 1833)	1,982.26
West, Frank (Military Academy, 1872)	1,052.71
Wetmore, William B. (Military Academy, 1872)	606.25
Wham, Joseph W. (credit for enlisted service)	213.92
Wharton, Henry C. (Military Academy, 1862)	798.87
Whedbee, Thomas M. (Military Academy, 1847)	127.40
Wheeler, Otis (Military Academy, 1821)	226.66
Wheeler, William B. (Military Academy, 1871)	1,114.56
Wheelock, Joseph H. (Military Academy, 1850)	195.24
Whipple, Amiel W. (Military Academy, 1841)	1,314.90
Whipple, Joseph H. (Military Academy, 1835)	498.40
Whipple, William D. (Military Academy, 1851)	1,219.68
Whiting, Charles J. (Military Academy, 1835)	1,453.94
Whiting, Henry M. (Military Academy, 1842)	559.60
Whittemore, James M. (Military Academy, 1860)	1,042.30
Wilkins, John D. (Military Academy, 1846)	1,792.37
Wilkinson, John W. (Military Academy, 1872)	1,008.19
Willard, George L. (credit for enlisted service)	260.09
Willcox, Elon F. (Military Academy, 1878)	393.23
Williams, Charles A. (Military Academy, 1874)	842.18
Williams, Charles W. (Military Academy, 1875)	814.18
Williams, John (credit for enlisted service)	495.75
Williams, John B. (Military Academy, 1861)	325.99
Williams, Robert (Military Academy, 1851)	1,079.33
Williams, Seth (Military Academy, 1842)	1,281.96
Williams, William G. (Military Academy, 1824)	449.80
Williamson, Andrew J. (Military Academy, 1842)	548.03
Williamson, Robert S. (Military Academy, 1848)	1,909.04
Williamson, Samuel C. (credit for enlisted service)	160.37
Wilson, Clarendon J. (Military Academy, 1846)	313.00
Wilson, James E. (credit for enlisted service)	1,631.07
Wilson, James E. (Military Academy, 1862)	1,000.35
Wilson, James H. (Military Academy, 1860)	832.16
Wilson, Joseph K. (credit for enlisted service)	2,789.22
Wilson, Richard H. (Military Academy, 1877)	370.60
Wingate, Benjamin (credit for enlisted service)	335.20
Winship, Oscar F. (Military Academy, 1840)	876.60
Winston, Donald (Military Academy, 1878)	347.27
Winston, Thomas M. (Military Academy, 1847)	221.48
Wittich, Willis (Military Academy, 1874)	659.00
Wolf, Silas A. (Military Academy, 1878)	230.61
Wood, William H. (Military Academy, 1845)	1,825.80
Wood, William T. (Military Academy, 1877)	370.61
Woodbridge, Francis (Military Academy, 1837)	1,040.20
Woodridge, Francis (credit for enlisted service)	326.28
Woodbury, Daniel P. (Military Academy, 1836)	1,533.30
Woodbury, Thomas C. (Military Academy, 1872)	1,315.07
Woodruff, Charles A. (Military Academy, 1871)	720.40
Woodruff, Eugene A. (Military Academy, 1866)	663.79
Woodruff, Israel C. (Military Academy, 1836)	2,244.24
Woodruff, Thomas M. (Military Academy, 1871)	1,036.29
Wooster, Charles F. (Military Academy, 1837)	1,046.40
Woodward, Charles G. (Military Academy, 1877)	370.61
Worden, John L. (Military Academy, 1864)	180.32
Worth, Joseph S. (Military Academy, 1825)	437.60
Wright, Thomas F. (Military Academy, 1849)	236.79
Wright, William H. (Military Academy, 1838)	395.80
Wright, Thomas (Military Academy, 1849)	484.20
Wygant, Henry (Military Academy, 1872)	938.35
Wyman, Powell T. (Military Academy, 1850)	797.79
Wyse, Francis O. (Military Academy, 1837)	1,792.44
Yeaton, Franklin (Military Academy, 1869)	312.92
Total	944,950.89

Total number of names, 1,106.

Mr. STEVENS of Minnesota. Mr. Chairman, I ask the Chair to notify me when I have used 20 minutes.

The CHAIRMAN. Very well.

Mr. STEVENS of Minnesota. Mr. Chairman and gentlemen, it is evident from this debate that there are widespread differences of opinion and radically divergent points of view as to what should be done by Congress concerning water-power development. In the preparation of this legislation your committee has not sought to follow either school or adopt either set of theories.

On the one hand, there is the extreme school of so-called conservationists, who believe that rules should be laid down, as they state, for the conservation of the national resources; that there should be regulations prescribed by Congress to govern such development for future generations of our people; and if the resources of the country can not be developed at this time in accordance with those rules, if they should be found to be too restrictive or burdensome for the practical use of the present generation, then so much the worse for the development. That is the extreme view of the conservationists as it is being illustrated by the debate upon this bill.

On the other hand are the extreme views of those who believe that the development should be had at all hazards, irrespective of public interests or public rights; that the greatest public duty we can perform is to encourage the use of our natural resources on any terms which will make them immediately available, letting the public interest care for itself. This committee has not followed that view. What we have sincerely sought to do is to have a proper development in due time for the public advantage of a great national resource, conserving the interests of the people at every step, so that their rights now and for all future generations shall be suitably guarded, that the fullest benefits may be enjoyed by us and by those who will come after us.

Now, we realize that we are criticized from both sides by both sets of extremists, and perhaps that may be regarded as a compliment for what we have actually placed before you. What I now shall attempt to do, after stating briefly the history of this legislation, will be to analyze the bill as well as I can for the committee and show how we have sincerely tried to cause a development of the public resources and at the same time to practically conserve the public interests.

HISTORY OF LEGISLATION.

None of the gentlemen who have spoken have stated accurately the history of this legislation. For many years Congress passed various private bills containing different provisions concerning the authorization for the construction of dams in navigable streams. This was a waste of time and gave no accurate information or proper standard for our action. So for several years it was evident that there should be some method, some uniform system, adopted to define the rights of the owners of the dam and power, and to define and safeguard the interests of the public. Accordingly, in 1906, under the leadership of the present minority leader of the House [Mr. MANN], the first general dam bill was passed, approved June 21, 1906. As we now look back through these years, I sincerely believe that if the President of the United States and the Secretary of War and the Chief of Engineers then had performed their full duty under the act of 1906, nine-tenths of these disputes would have been settled, the public rights would have been amply protected, and there would have been a large development of our water resources. I think they did not construe that act as liberally and broadly as they could have done and should have done, to have avoided some of these troubles. They could have incorporated among the stipulations and conditions some of the safeguards since demanded by the public, but they did not do so. Accordingly, in 1908, President Roosevelt vetoed two bills authorizing construction of dams in navigable streams. It so happened that the first one came from the State which I have the honor in part to represent, relating to the Rainy River, in district. I knew none of the parties, so that I was entirely disinterested, had no local pressure or sentiment, and I only acted as I believed to be best from the broadest public interest.

RAINY RIVER DAM.

It so happened that I was a member of the subcommittee of the Committee on Interstate and Foreign Commerce which had charge of that subject. So it became my duty to interview President Roosevelt at that time and obtain some sort of a compromise, so that that bill could be passed and a tremendous injury prevented to the people of that northern part of the State. President Roosevelt realized the injury when the facts were presented to him. He appreciated that a great injustice would be done; and as I ever found him, during his career, ready to remedy any wrong or injustice when it was shown to him, so he consented that the bill be passed over his

veto. It was passed over his veto only because he consented to it. He consented on the basis that there should be a revision of the general dam act, which should go as far as possible in containing the principles which he outlined in his veto messages. Accordingly, Secretary Garfield, of his Cabinet, came before our Committee on Interstate and Foreign Commerce, made his statement to this effect, and those hearings are in print and available for use. A letter was also written by Secretary Garfield to me upon the basis of which the Rainy River bill was passed over President Roosevelt's veto. That letter contains the statement that an amendment to the general dam act would be passed to supplement the existing law and cover whatever deficiencies we could. It can be found in the files of the Committee on Interstate and Foreign Commerce and in numerous publications of the Senate and House, on the subject of water-power legislation.

ACT OF 1910.

I promised that, so far as lay within me, such amendment should be made. The bill which passed, the act of June 23, 1910, redeemed that promise as best we could under the difficulties we had at that time. I had the responsibility of preparing and pressing the legislation and compromising the great differences of opinion on that subject. What we did was necessarily a compromise. The Senate had decided views adverse to those entertained by President Roosevelt and by the extreme conservationists. Many Members of this House had decided views on all phases of the subject. The President and Secretary of War then had decided views and were in a situation to make them effective.

So the act of 1910 was not satisfactory at the time and never has been satisfactory since. There has been very little development under it, and such situation has not been the fault of the law as much as the violent disagreements as to policies and principles outside of that law, which prevented the enactment of the separate bills for the different projects to make the law effective. But that the act was not thoroughly satisfactory is best shown by the fact that since January 1, 1911, only five permits have been granted by the Secretary of War to construct dams on streams wholly intrastate, which would not require any action by Congress. Two in Minnesota, one in Oklahoma, one in West Virginia, and one in Wisconsin are all the applications and permits under this provision. So it is evident that greedy water-power interests have not profited any by the provisions of that act. As a result the time would seem to have come when we should pass another act to lay down as far as we can at this time the policy of our Government as to what shall be done as to these water powers and correct deficiencies and misunderstandings as to the earlier acts. I am outlining the history of this matter, so that you can realize that some of us have done the best we could disinterestedly, sincerely, and for years to assist in this legislation and development. The people in my district have no more interest than the people in any other district in the United States. There are no water powers of value for individuals in our locality, though in our State there should be a larger development. But what some of us have tried to do is to practically work out the development of this power and at the same time protect the interests of the people. The result is this bill which is before you. We have made no claim for its perfection. We realize its shortcomings and are ready to remedy them. But we have dealt with novel problems in a practical way, as we think, which will really accomplish beneficial results, both to the people whose interests are foremost and to those who may have the courage and enterprise to initiate work under it.

CRITICISM HEARINGS.

Nearly everyone who is opposed to this bill has complained bitterly, and my very good friend from New Hampshire [Mr. STEVENS] has complained that we had no hearings, substantially, or only of two individuals. Here is one of the differences of opinion and great difficulties in the discussion of this measure. Those of us who believe this measure is proper and should be adopted differ both as to the facts and as to the law with those who do not agree with the measure.

I differ as to the facts with my very good friend from Wisconsin [Mr. LENROOT], with my friend from California [Mr. KENT], with my friend from Illinois [Mr. RAINEY], and with my friend from New Hampshire [Mr. STEVENS]. I do not understand the facts as they do. My views of the law are entirely different from theirs. And, necessarily, we radically differ as to the effect of this bill and the results which would be accomplished under it. So you will understand that as they have discussed the matter in an impersonal way, I shall discuss it also in an impersonal way, giving you the facts and the law as I understand them and on the basis of which I have acted in preparing this bill. We took some testimony, as it seemed to be required. But we had before us a very great mass of facts and opinions, as you will realize, as seemed to me amply sufficient for the preparation of this important legislation.

Now, we had before us this book containing the testimony before the National Waterways Commission on the subject of water-power development, as well as the very exhaustive report, appendixes, and papers contained in such reports. These volumes contain several hundred pages of testimony of the most eminent men in their line in this country. They covered all branches and views upon this subject, and subjected all phases of it to a searching analysis. Among them were Mr. Pinchot, Secretary Fisher, and part of these same witnesses who appeared before the Committee on Public Lands. So we did not believe it was necessary, since the situation had not changed materially from the time this testimony was given, to have further testimony or make additional publication of these same facts. There was enough at hand for everybody who wanted it. Then we had testimony previously taken by our committee on this subject, so there was no need to duplicate that. These gentlemen talk about not having testimony and not hearing witnesses. We had before us all the time the most complete and comprehensive hearings, the ablest papers on all sides of the question, and where we needed additional information we secured it.

Mr. MONTAGUE. May I suggest to my colleague that in addition to that that he had a view—that is, that the subcommittee made a view—of one of these great projects?

JURISDICTON OF COMMITTEES.

Mr. STEVENS of Minnesota. Now the gentlemen have assumed that there were only two committees which have to do with this general subject of water-power development. Let us examine this situation under the rules of the House. The statistics prepared by Mr. Leighton, Chief Hydrographer of the Geological Survey, some years ago, and as inserted in the report of the Conservation Commission, are generally agreed to be the most accurate on the subject, and have been accepted as the basis for the consideration of water-power development. Those statistics show that there are, I think, between 42,000,000 and 44,000,000 potential horsepower upon the public domain out of 61,000,000 potential horsepower in the Nation which may be developed without the use of reservoirs. So that the water-power bill of the Committee on the Public Lands will control probably over 40,000,000 horsepower, and is by far the most important of any of these measures. Of course, included in that are the water powers on Indian lands, which would properly come under the Committee on Indian Affairs under the rules of the House, and there are the water powers on forest reserves which should come under the Committee on Agriculture. But they should all be developed under the same kind of regulations and the same general principles of controlling them should be adopted, because the conditions are similar, whether on the public domain, in forest reserves, or on Indian lands.

NAVIGABLE STREAMS.

Next following are the water powers of navigable streams, where the Government itself has not developed the power. That development would come under the jurisdiction of the Committee on Interstate and Foreign Commerce, and would cover between 15,000,000 and 16,000,000 potential horsepower. That is, you will see considerably less than half of the power which can be affected by the bill from the Committee on the Public Lands. The Committee on Rivers and Harbors would have charge of the power from dams constructed by the Government itself in navigable streams, and there is probably several hundred thousand potential horsepower in them. This concerns an entirely different class of dams and water power, for which yet different rules must be applied. These dams are constructed by the Government itself solely for navigation, and any water power which may be developed is comparatively small and of slight value. This is so because the water must be used for commerce and not power. The records of the War Department amply show this fact. Then the Committee on Foreign Affairs has jurisdiction over the power from Niagara. I think there might be about 750,000 horsepower there, and a bill is now on the calendar of the House on that subject. The Committee on Military Affairs should have jurisdiction over the water power developed on military reservations, although that is taken away from them by the bill from the Committee on the Public Lands, even against the protest of the Secretary of War himself, as we may point out later under the provisions of that bill.

The result is, as you see, that there are radically different conditions pertaining to the regulation and control of these water powers from the very nature of their being, one con-

dition the Committee on the Public Lands has to consider, and there are other conditions somewhat similar to be considered by the Committee on Indian Affairs, the Committee on Agriculture, and the Committee on Military Affairs. The Committee on Interstate and Foreign Commerce has jurisdiction of lighthouse reservations which might be affected in some remote instances by a power plant on a navigable stream.

DIFFERENT CONDITIONS.

Now, I think this committee will realize that there must be different rules which should be applied to the regulation of these different kinds and classes of power. You can perceive the reason. My friend from New Hampshire, Mr. STEVENS, stated that the regulation for all of them should be the same, and I think my friend from Wisconsin, Mr. LENROOT, rather assumed that the regulation of the two classes of water power should be the same. But let me show you why they can not be the same. I will take an instance from the districts represented by my friend from Wisconsin, Mr. LENROOT, and myself—a concrete instance. There is a dam across the St. Croix River between the States of Wisconsin and Minnesota. It is a large dam, formerly controlled by the same Stone & Webster interests which have been alluded to here. That dam cost about $3,000,000. It impounds the water of the St. Croix River, which is a navigable stream. There is actual navigation below that dam, and there has always been actual and valuable navigation from the early pioneer days. The people are determined to preserve that navigation, and the United States has expended probably $125,000 in the improvement of the St. Croix River below that dam, where the people actually navigate.

After the dam was constructed the people who were interested in that navigation demanded that they should continue to have the navigation below that dam exactly as they had enjoyed from the early days of the Territory. So I, as their representative on the subject, went before the War Department, and upon this we had numerous conferences, which finally resulted in the adoption of regulations by the War Department which I here insert, dividing the time and water between the interests of navigation and the generation of power.

REGULATIONS TO GOVERN THE FLOATING OF LOOSE TIMBER, LOGS, AND SACK RAFTS (SO CALLED) OF TIMBER AND LOGS, AND OTHER METHODS OF NAVIGATION ON THE ST. CROIX RIVER, WIS. AND MINN., ABOVE LAKE ST. CROIX.

WAR DEPARTMENT,
April 5, 1904.

In pursuance of the authority conferred by the act of Congress approved May 9, 1900, entitled "An act authorizing the Secretary of War to make regulations governing the running of loose logs, steamboats, and rafts on certain rivers and streams," the following regulations are prescribed for the St Croix River above Lake St. Croix, Wis. and Minn., a navigable waterway of the United States, whereon the floating of loose timber and logs and sack rafts of timber and logs is the principal method of navigation:

REGULATIONS.

1. During the season of navigation, from May 15 to August 31, the full natural run of water in the river shall be permitted to flow between 1 a. m. on Thursday and 4 p. m. on Sunday of each week, and during the time between 1 p. m. on Wednesday and 4 p. m. on Sunday of each week no logs shall be sluiced out of the Nevers Dam.

2. Except during the period above mentioned, the parties engaged in handling logs upon the river shall have the right to sluice, drive, and float loose logs and to regulate the flow of water in the river as may best suit their convenience, all reasonable precaution being taken to avoid log jams.

3. These regulations shall remain in force until modified or rescinded.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

The result is that from that dam, on which there has been an expenditure of over $3,000,000, the power company can only have a certain proportion of the potential power which might be possibly developed by the dam, and that condition will continue throughout all the future. If that dam were on the public domain, the power company could get 100 per cent of the potential power. At that dam and other dams in navigable streams, like the Keokuk Dam, they can have only a certain per cent fixed by the War Department, which is variable and will continue to vary and really diminish in the future as the interests of navigation shall increase, for we must ever have in mind that commerce is paramount and will be first considered. I do not know how much it is on the St. Croix, but probably the efficiency is only 50 or 60 per cent, when it would be 100 per cent on the projects controlled on the public domain. Here is the basis of the essential difference between the conditions. The situation is true as to the Keokuk Dam. And as to that I wish to state that my recollection of the facts concerning that dam is just as different as night from day, from the recollection and statements of the gentleman from Illinois [Mr. RAINEY]. A subcommittee of the Committee on Interstate and Foreign Commerce visited the Keokuk Dam last winter to see what these various troubles were that they complained about. We were there on the ground and interviewed all who were interested in different phases of the controversy.

KEOKUK DAM.

We met the owners and operators and pilots of the steamboats, talked with them and went over the dam with them; we had the dam people and the village people and the city people from Illinois and Iowa and talked with them, and of course the engineers, military and civil, who have charge of that work. From my recollection of those conferences, and the gentleman from Wisconsin and the gentleman from Georgia are here, not one single fact stated by the gentleman from Illinois is accurate. I represent a river district. My city is the second largest city on the upper Mississippi River, next to St. Louis in the importance of its river navigation. My people are vitally interested in the navigation of the Mississippi River and rely upon it for much of their future growth and prosperity. They did not care anything about power; in fact, the existence of cheap power at Keokuk created a sectional rivalry with us in industrial development, and so it was my business to know that navigation was adequately protected. I went there with blood in my eye to see that navigation was encouraged and given all advantages possible in the use of its waters and facilities. The steamboat men, the pilots, and captains, knew my position and situation and stated to me that if they could have a boom placed around that pier they would be satisfied. We ordered that that should be done. The War Department insisted that it should be done, and the representatives of the power company agreed that these booms should be installed at their own expense. The gentleman from Illinois stated that it had been done at the expense of the War Department. I doubted that, and after he made his statement I telephoned to the War Department and asked what the facts were and who paid for the installation of the boom. I here insert a copy of the telegram from the local engineer at Rock Island to the Chief of Engineers relative to the matter:

Booms have been installed in the fore bay by the Keokuk power plant in accordance with department letter of March 2 and map. They are apparently perfectly satisfactory to the steamboat lines. No complaint has been received. The booms were old ones belonging to the Government. They were borrowed and repaired at considerable expense and installed by the power company without any expense to the Government.

HOFFMAN, *Engineer.*

The point is that those who debate this measure seem to differ so radically as to the facts as well as concerning the law of this matter——

Mr. ADAMSON. If the gentleman from Minnesota will permit, he will remember that in the conversation at Keokuk the officials of the power company said that they were going to place booms there.

Mr. STEVENS of Minnesota. Yes; and the agent of the Government said that they would order the booms placed there, and the steamboat men said that they would be satisfied. We did hear the steamboat people complain that there had not been sufficient water below the dam. We asked the Government engineers why the water was not furnished. They said that it was only for a short time while the power house was being arranged and the water stored above the dam, and after that the War Department would see to it that the steamboat men should be supplied with ample water 24 hours in the day. The steamboat men and the engineers told us that navigation was tremendously benefited by the Keokuk Dam. They have a stretch of 40 miles above the dam that is as good navigation as there is in the world. Below the dam the engineers must regulate the flow from the dam so the channel will have ample water. This bill provides such power and direction for exactly such action to protect navigation.

Now, the gentleman from Illinois is mistaken when he says that the engineers did not supervise the building of the dam. They supervised the laying of every stone in the dam. The law required it and I know the engineers well enough to know that they conscientiously obeyed it. I think the gentleman has not informed himself about the conditions concerning the construction and operation of the Keokuk Dam. They satisfy the navigation interests of the river, and they told us so personally within the last six months.

Mr. ESCH. Will the gentleman yield?

Mr. STEVENS of Minnesota. Yes.

Mr. ESCH. They also informed us that they constructed a lock for the accommodation of navigation which cost upward of $2,000,000, and also furnished the power to operate the lock, and expended much more than the law called for.

Mr. STEVENS of Minnesota. I have promised to insert as a part of my remarks a statement as to the saving to the people by the reduction of prices for use of electricity from the dam. I here insert, as I agreed with the gentleman from Connecticut

[Mr. DONOVAN], a memorandum concerning the situation as to the consumption of power from the Keokuk Dam:

Users of power benefited: The rates charged by the company are low, ranging from $0.015 per kilowatt hour for the first 8,000 kilowatt hours monthly to $0.006 per kilowatt hour above that amount, with various discounts, including an additional discount of 10 per cent for near-by users. Excess power, subject to interruption on notice, is sold at half these rates. The rate schedules are based on the cost of the works and their operation and maintenance, and are intended to secure a fair return on the actual cash invested in the enterprise. At present, with much of the power unsold, the company is not earning as much as 5 per cent on the actual cash invested, allowing for depreciation only the low estimate of 1 per cent.

Consumers' electric lighting and power costs reduced in the power zone: The Mississippi River Power Co. does not do a retail business. Its power is purchased, however, by lighting companies at Burlington, Iowa; Fort Madison, Iowa; Hamilton, Ill.; Warsaw, Ill.; Keokuk, Iowa; and Quincy, Ill. The following tables indicate the benefits secured to consumers at these points:

Lighting rates.

City.	Old rate.	New rate.
Burlington, Iowa...	First 30 kilowatt hours, 12.6 cents per kilowatt hour. Next 60 kilowatt hours, 10.8 cents per kilowatt hour. Next 60 kilowatt hours, 9 cents per kilowatt hour.	First 25 kilowatt hours, 0.10 cent per kilowatt hour. Next 150 kilowatt hours, 0.09 cent per kilowatt hour. Next 225 kilowatt hours, 0.08 cent per kilowatt hour.
Fort Madison, Iowa.	Flat rate of 0.10 cent per kilowatt hour.	First 25 kilowatt hours, 0.10 cent per kilowatt hour. Next 150 kilowatt hours, 0.09 cent per kilowatt hour. Next 225 kilowatt hours, 0.08 cent per kilowatt hour. Next 400 kilowatt hours, 0.06 cent per kilowatt hour. Next 400 kilowatt hours, 0.04 cent per kilowatt hour.
Hamilton, Ill.....	First 30 kilowatt hours, 0.15 cent per kilowatt hour. Next 5 kilowatt hours, 0.1475 cent per kilowatt hour. Next 5 kilowatt hours, 0.145 cent per kilowatt hour. Next 5 kilowatt hours, 0.14 cent per kilowatt hour.	First 25 kilowatt hours, 0.10 cent per kilowatt hour. Next 150 kilowatt hours, 0.09 cent per kilowatt hour. Next 225 kilowatt hours, 0.08 cent per kilowatt hour. Next 400 kilowatt hours, 0.06 cent per kilowatt hour. Next 800 kilowatt hours, 0.04 cent per kilowatt hour.
Warsaw, Ill.....	First 30 kilowatt hours, 0.15 cent per kilowatt hour. Next 5 kilowatt hours, 0.1475 cent per kilowatt hour. Next 5 kilowatt hours, 0.145 cent per kilowatt hour. Next 5 kilowatt hours, 0.14 cent per kilowatt hour.	First 25 kilowatt hours, 0.10 cent per kilowatt hour. Next 150 kilowatt hours, 0.09 cent per kilowatt hour. Next 225 kilowatt hours, 0.08 cent per kilowatt hour. Next 400 kilowatt hours, 0.06 cent per kilowatt hour. Next 800 kilowatt hours, 0.04 cent per kilowatt hour.
Keokuk, Iowa.....	First 30 kilowatt hours, 0.15 cent per kilowatt hour. Next 5 kilowatt hours, 0.1475 cent per kilowatt hour. Next 5 kilowatt hours, 0.145 cent per kilowatt hour. Next 5 kilowatt hours, 0.14 cent per kilowatt hour.	First 25 kilowatt hours, 0.10 cent per kilowatt hour. Next 150 kilowatt hours, 0.09 cent per kilowatt hour. Next 225 kilowatt hours, 0.08 cent per kilowatt hour. Next 400 kilowatt hours, 0.06 cent per kilowatt hour. Next 800 kilowatt hours, 0.04 cent per kilowatt hour.
Quincy, Ill.....	Flat rate of 11.4 cents per kilowatt hour.	First 30 kilowatt hours, 0.11 cent per kilowatt hour. Next 60 kilowatt hours, 0.09 cent per kilowatt hour. All excess, 0.05 cent per kilowatt hour.

Power rates.

City.	Old rate.	New rate.
Burlington, Iowa...	First 100 kilowatt hours, 0.08 cent per kilowatt hour. Next 150 kilowatt hours, 0.05 cent per kilowatt hour. Next 250 kilowatt hours, 0.045 cent per kilowatt hour. Next 500 kilowatt hours, 0.04 cent per kilowatt hour. Next 1,000 kilowatt hours, 0.035 cent per kilowatt hour.	First 40 kilowatt hours, 0.05 cent per kilowatt hour. Next 1,000 kilowatt hours, 0.03 cent per kilowatt hour. Next 1,000 kilowatt hours, 0.025 cent per kilowatt hour. Next 2,000 kilowatt hours, 0.02 cent per kilowatt hour. Next 4,000 kilowatt hours, 0.01 cent per kilowatt hour.
Fort Madison, Iowa.	No standard rate.....	First 40 kilowatt hours, 0.05 cent per kilowatt hour. Next 1,000 kilowatt hours, 0.03 cent per kilowatt hour. Next 1,000 kilowatt hours, 0.025 cent per kilowatt hour. Next 2,000 kilowatt hours, 0.02 cent per kilowatt hour. Next 4,000 kilowatt hours, 0.01 cent per kilowatt hour.
Hamilton, Ill.....	First 200 kilowatt hours, 0.08 cent per kilowatt hour. Next 200 kilowatt hours, 0.0775 cent per kilowatt hour. Next 250 kilowatt hours, 0.075 cent per kilowatt hour. Lowest, 0.04 cent per kilowatt hour.	First 40 kilowatt hours, 0.05 cent per kilowatt hour. Next 1,000 kilowatt hours, 0.03 cent per kilowatt hour. Next 1,000 kilowatt hours, 0.025 cent per kilowatt hour. Next 2,000 kilowatt hours, 0.02 cent per kilowatt hour. Next 4,000 kilowatt hours, 0.01 cent per kilowatt hour.

Power rates—Continued.

City.	Old rate.	New rate.
Warsaw, Ill.....	First 200 kilowatt hours, 0.08 cent per kilowatt hour. Next 200 kilowatt hours, 0.0775 cent per kilowatt hour. Next 250 kilowatt hours, 0.075 cent per kilowatt hour. Lowest, 0.04 cent per kilowatt hour.	First 40 kilowatt hours, 0.05 cent per kilowatt hour. Next 1,000 kilowatt hours, 0.03 cent per kilowatt hour. Next 1,000 kilowatt hours, 0.025 cent per kilowatt hour. Next 2,000 kilowatt hours, 0.02 cent per kilowatt hour. Next 4,000 kilowatt hours, 0.01 cent per kilowatt hour.
Keokuk, Iowa.....	First 200 kilowatt hours, 0.08 cent per kilowatt hour. Next 200 kilowatt hours, 0.0775 cent per kilowatt hour. Next 250 kilowatt hours, 0.075 cent per kilowatt hour. Lowest, 0.04 cent per kilowatt hour.	First 40 kilowatt hours, 0.05 cent per kilowatt hour. Next 1,000 kilowatt hours, 0.03 cent per kilowatt hour. Next 1,000 kilowatt hours, 0.025 cent per kilowatt hour. Next 2,000 kilowatt hours, 0.02 cent per kilowatt hour. Next 4,000 kilowatt hours, 0.01 cent per kilowatt hour.
Quincy, Ill.....	0.05 cent to 0.03 cent per kilowatt hour.	First 15 kilowatt hours, 0.06 cent per kilowatt hour. Next 1,000 kilowatt hours, 0.02 cent per kilowatt hour. Next 1,000 kilowatt hours, 0.015 cent per kilowatt hour. All excess, 0.01 cent per kilowatt hour.

Mr. STEVENS of Minnesota. There are other facts which must be taken into consideration as to difference in treatment of dams on navigable streams and those on the public domain. Remember that a dam on a navigable stream is always subject to the uses of the water for navigation, and one of the essential provisions in our bill is that navigation shall be paramount. That is the very thought of this committee always, that navigation shall be paramount. Making navigation paramount reduces the potentiality of that dam nobody knows how much. The power possibilities may continue to decrease because navigation may continue to increase, and at the end of 50 years it is entirely possible that the dam may not be worth much of anything for a water power.

Mr. KENT. Will the gentleman yield?

Mr. STEVENS of Minnesota. I will yield to the gentleman from California.

Mr. KENT. I would like to ask if this bill provides for the change in conditions during the life of the grant in the interest of navigation. As I understand, the original scheme outlined by the Secretary of War runs throughout the grant, and the grant could not be changed in the interest of navigation.

Mr. STEVENS of Minnesota. The gentleman refers to the second lock. No; and it should not be changed under the terms of the bill. If the gentleman will allow me, I would like to discuss that at another time. As to all the other rules of navigation, the bill does not undertake to lay down any law as to commerce, taxation, and eminent domain. All such constitutional powers of Congress are entirely reserved and are not affected by this bill. You would think to hear gentlemen talk on this floor that we had tied up all the constitutional powers of Congress and prevented their action for half a century. As a matter of fact, we have not tied up anything, have expressly refused to do so on anything except regulating for purposes of hydroelectric power the use of the water at that dam for that period, and that is all we assume to tie up by this bill.

Mr. ADAMSON. If the gentleman will pardon me, I want to request the gentleman—as the gentleman from California has raised the question—before he quits the floor to elucidate that feature. My friend from California is a good, fair, generous man, and he does not mean any harm; and I want the gentleman from Minnesota to explain to him, and possibly to others like him, that no plan for the navigation of a river to any considerable extent is undertaken except after a general survey and general scheme. The Government would be foolish to put one of these dams in without a general scheme and survey that we provide for.

Mr. STEVENS of Minnesota. Mr. Chairman, I would like to get through with this matter. I did not intend to touch upon that subject, but if it be desired I will explain. The plan of the committee was this: Section 3 provides that before the plans for these dams are authorized, and are approved by the Secretary of War, the Chief of Engineers shall submit a comprehensive plan to the War Department looking to the development of all the water resources in that section, and that shall be done at the expense of the applicant for the dam.

Now, when the plans for the dam come before the Secretary of War and the Chief of Engineers they are required to designate whether or not a lock shall be built in that dam at the time of its original construction. If they order it placed there

it must be done at the expense of the applicant for the dam. If not, for 50 years the Government itself, if a lock be required, must pay for the expense of the lock, and the owners of the dam are required to donate the right to do so and provide the land sites and power for operation free of charge. The reason we did not think it wise to require that during the whole period of 50 years a lock might be required to be placed there was because it might prevent small dams being erected at any time at the expense of the owner under this bill. You must remember that a lock costs, on an ordinary dam on a navigable stream, nearly one-half the expense of the dam. The gentleman from Mississippi is more familiar than I am with that matter, but he will admit, I am confident, that nearly one-half the expense of constructing a dam would be covered in the construction of a lock.

Remember that these ordinary-sized dams are constructed as a rule by small concerns. They have a limited financial ability and a limited market. That market as to prices and facilities must be under this bill controlled by utility commissions of the States or by the Secretary of War, as I will show the gentleman, if I can get the time to do so. The prices for their product must be fixed under the terms of this bill, the amount of their earnings is fixed under the terms of this bill. If during these 50 years you compel them to spend 50 per cent additional for a lock, it would be ruin to those enterprises, it would mean that they could not add it to the price, the people would not pay for it, and it would mean finally that the concerns would be thrown immediately into a receivership. The result would be that financial backing can not be expected with such a contingency confronting a company, so there would be no dams at all of any size constructed on small streams or by people of moderate means. This would throw the business entirely into the hands of these large water-power companies, of which these gentlemen profess to be so afraid, and for that very reason we provide that this should wait 50 years, when the whole matter should be newly considered, and then that Congress should have the right to order a new lock, if necessary. If the past be any criterion, this will amount to nothing, because the War Department will not take any chances and if there be any doubt will order in locks in the first instance, and where not so ordered there would be no demand for the time, because no navigation would be possible.

Mr. SHERLEY. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly.

Mr. SHERLEY. Why not give some option to the Government as to whether it should require the payment by the grantee or not? The gentleman says these things are always determined finally in the first instance. At Louisville there have been a half dozen War Department projects since I have been in Congress. They are not always determined at first, but they change from day to day.

Mr. STEVENS of Minnesota. For the first time we ordered that a comprehensive plan of the river be made.

Mr. SHERLEY. And we have that on the Ohio.

Mr. STEVENS of Minnesota. And it is made the business of the engineers to make that plan. We believe the engineers can look forward that length of time and fairly determine as between the Government and the applicant as to what ought to be done during that time, and if an emergency develops which could not fairly be foreseen these people should do their share and the Government should do its share. At the end of 50 years, of course, the Government would have the right to require the owners to put in the lock. The dams are and will always be on stretches of river not then navigable. This country is fairly settled now, so that conditions can be fairly determined upon every navigable stream in the country. The tremendous development and changes of the past 50 years will be an augury for the next half century, and yet the great diversity of radical changes and discoveries can hardly be expected. The situation as to water traffic and uses can be somewhat appreciated, and when the engineers need not take chances and can make their orders to protect the public interests I have no doubt they will do so, and this will be an encouragement to the construction of the smaller dams, and in that way encouragement to the most advantageous development of all our water resources.

Mr. LENROOT. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of Minnesota. Yes.

Mr. LENROOT. Does the gentleman believe the Government engineers can look ahead for 50 years and determine what kind of locks may be necessary on our rivers?

Mr. STEVENS of Minnesota. Yes; as I have stated.

Mr. ADAMSON. That is exactly what they will do.

Mr. STEVENS of Minnesota. They can do that fairly, and please allow me to do a little answering. I have no doubt that locks will be installed under this that now really are not needed for navigation, just because of the sentiment expressed by the gentleman from Wisconsin, because engineers will not care to take any chances, and I have no doubt that this will make the cost of the construction of some of these dams considerably greater, so that balancing one with the other, we think it was only fair under all of the circumstances to make this provision. We are confident that under it more dams will be constructed, because the uncertainty is taken away as to increase of cost during its term. We are equally certain more locks and improvements to navigation will be furnished, and there will be a greater development of our water resources.

Mr. SHERLEY. With a study of the Ohio River more detailed than that of any river in America, they have never been able to so foresee the conditions as not to change their plans at Louisville, where the falls are, and they have now in contemplation a change in the height of the dam, which would completely revolutionize any question of power, if there was one there.

Mr. STEVENS of Minnesota. That may be true; but at the same time remember that during the last 10 years we have witnessed almost a revolution in the study of navigation and water-power development, and that what could not be done 10 years ago can be done now; and I have no doubt, and those who are acquainted with the engineers have no doubt, that they will exercise the utmost prevision, and where a lock will be needed during these 50 years one will be provided, and where it is not, as I said, it might be ruinous; and for my part I assume the responsibility of stating that I do not think it would be fair to require it.

DIFFERENT CONDITIONS.

If the committee will permit me, I now desire to continue my remarks along the line I started. Gentlemen will now realize that there is a great distinction between streams on the public domain and those for navigation, in addition to the additional costs and contingencies of furnishing locks for navigation and the paramount use of the water for navigation, instead of solely for power covered by the bill of the Public Lands Committee. A stream on a public domain has a steadier flow, as a rule. It generally comes from the mountains, and throughout the year it has a steadier flow than have our rivers in the East, the Central West, and the South. These rivers are subject to great fluctuations, as is shown by the table which I here insert:

The following table, furnished by Mr. Leighton, of the Geological Survey, will give the maxima and minima of typical rivers of the United States at specified points:

Stream and locality.	Maxima.	Minima.	Drainage area.
	Second-feet.	*Second-feet.*	*Sq. miles.*
Kennebec, Waterville, Me	157,000	730	4,270
Potomac, Point of Rocks, Md	460,000	790	9,650
Alabama, Selma, Ala	146,000	3,300	15,400
Tennessee River, Chattanooga, Tenn	357,000	4,800	21,400
Mississippi, St. Paul, Minn	80,800	1,200	35,700
Brazos, Waco, Tex	132,000	3	30,800
Yellowstone, Glendive, Mo	107,000	3,750	66,100
Grand River, Palisades, Colo	43,000	944	8,550
Salt River, Phoenix, Ariz	300,000	0	.....
Sacramento, Red Bluff, Cal	254,000	4,650	9,300
Willamette, Albany, Oreg	188,000	1,870	4,860
Clark Fork, Newport, Wash	155,000	5,700	24,000

With the difference which exists by the needs of the water for navigation and from the variable flow, a very large auxiliary steam plant is absolutely necessary in projects on navigable streams, where it might not be needed at all in a project upon the public domain, and that steam plant may cost a very considerable part of the investment in that project. For these reasons, which exist as to nearly every project upon a navigable stream, gentlemen who represent the public domain and those interests, from their experience and point of view, can not adequately lay down the rules for the dams in navigable streams. The conditions and regulations are necessarily entirely different.

Mr. SHERLEY. Mr. Chairman, will the gentleman yield there?

Mr. STEVENS of Minnesota. Yes.

Mr. SHERLEY. Is there not just as much difference between various water-power projects upon navigable streams as there is between some on navigable streams and some on the public domain?

Mr. STEVENS of Minnesota. I presume that may be true; and yet the terms of our bill make provision for exactly those differences by giving a discretion as to requirements.

Mr. SHERLEY. If that be true, why should we not in dealing with the fundamental requirements make the provision the same as to both, leaving the details of the contract under the

general rules that we lay down, to be determined by the particular cases?

Mr. STEVENS of Minnesota. That is exactly what we have done in our bill. But that may not be necessary in the other measure, and we are being criticized by them for preparing for contingencies for which they are not obliged to consider in their measure.

Mr. SHERLEY. Oh, no.

Mr. STEVENS of Minnesota. Oh, allow me to point out, that is just exactly what we have done, and I shall point it out during my remarks. The fundamentals are practically the same. The details are entirely different and ought to be entirely different. Let us see what are the fundamentals, which are the real interests of the people in all of these projects. The first requirement I think we all want and must insist upon is to have the utmost and most advantageous development of all of the water resources upon a stream.

PUBLIC INTEREST.

I think we all agree to that, and if that can be done and eliminate the utmost possible waste that comes by not developing these resources I think we will agree to that. And in developing these natural resources of our waters and eliminating that waste of nonuse of them and the free use of that which need not otherwise be used, we are performing a most useful public work for the public interest. Now, what is the public interest? None of these gentlemen have attempted to define that, all of them have talked very loudly about what should be for the public interest, and have waxed very eloquent in their devotion to the public interest, and very vigorous in their denunciation of this bill as against the public interest. But none of them have condescended to proceed further and inform us what the public interest actually is. But what is the public interest? Let me see if I can define the elements of what constitute public interest in this water-power development. The first element of public interest is that there should be the most advantageous development of all parts of that particular water resource. I do not believe anybody can question the wisdom and soundness of that. The second element of what constitutes a public interest is that the benefits from such development should be distributed fairly so that all parts of the public should have their fair share of these public resources—those who develop, the investors, the promoters, those who assume the hazard; then, those who control, those who patronize, the consumers, those who pay taxes, the general public outside, all should have their fair share of the advantages and benefits caused by that development. I presume everyone will agree with that proposition. The main difficulty must be in its adjustment, and this bill seeks to do that very thing.

Now, third, that development and those who make the development should pay their fair share of the public burdens, whatever they may be, in the way of taxes or anything else. They have no right to expect any special favors in the way of evading public burdens. They should do their full share. They ought not to pay any more than their fair share, and full consideration should be given to their situation as compared with other classes of the community. I do not believe anyone can deny the fairness, soundness, and wisdom of that proposition.

Fourth, wherever these projects shall take or use any Government property they ought to pay for it all it is fairly worth any time they take it and as long as they want or use it and need it, on the terms which Congress may see fit to lay down. I do not believe anybody can controvert the soundness and fairness of such a proposition.

Fifth and lastly, if the public, through its representatives, shall decide that it is for the public advantage or a public necessity that it must take over and use this water resource as it may deem necessary, then fair provision should be made for so doing. This should provide for due notice, care, and protection for the customers and contracts and fair compensation to those who own the property. All of these requirements must be fulfilled and be adequately provided for. I take it none will dispute the fairness and soundness of such a proposition.

Is there anything else? It seems to me these are the five elements which constitute and define the public interest, and I believe that we have met every one of those five elements in the framing of this bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEVENS of Minnesota. I shall have to take 15 minutes more.

Mr. KENT. Mr. Chairman, I had some time left over from yesterday, and I would be glad to yield that to the gentleman.

Mr. STEVENS of Minnesota. I thank the gentleman for his kind offer. Of course, I have control of the time, but I did not desire to use more than my fair share. Now let us consider the immediate situation which is before this committee, the things which actually met us as we sat down to frame this bill in the committee room. The first proposition is that the water-power development on a navigable stream is an extremely hazardous proposition and that its operation is a constant hazard. Everybody who considers the subject realizes that. For example, in my city of St. Paul, on the Mississippi River, there exists difference between the high-water flow of 80,000 cubic feet at flood stage and the low-water flow of 1,200 feet at low water. I think nearly every stream in the West and South is subject to this great fluctuation. The result is that we have floods which wash away and damage, and droughts which refuse almost all power. Both seriously increase the expense of construction, maintenance, and operation of water powers of this kind, and investors are obliged to take into consideration these very facts in practically every project under this bill.

In addition are the engineering hazards and mistakes, which may be serious and expensive and have to be paid for. Mr. Cooper prepared a list of unsuccessful water-power investments in this country, which was placed before your committee, and which I insert as a part of my remarks, which illustrates what every water-power man always has in mind when a project is under consideration, and which legislators must also have in mind if they wish to place upon the statute books a plan which will cause real and substantial development:

Partial list of water-power developments which have been through receiverships or proved bad investments.

	Horsepower.
Hudson River, Spies Falls, Mechanicsville, N. Y	52,000
Michigan Lake Superior Power Co., Sault Ste. Marie, Mich	23,000
Great Shoshone & Twin Falls Water Power Co., Pocatello, Idaho	10,000
Animas Power & Light Co., Durango, Colo	4,500
Central Colorado Power Co., Denver, Colo	40,000
Wisconsin Railway, Light & Power Co., Hatfield, Wis	8,000
McCall Ferry Power Co., McCall Ferry, Pa	80,000
Hanford Irrigation & Power Co., Priest Rapids, Wash	4,000
Yadkin River Power Co., Rockingham, N. C	25,000
Hauser Lake (Mont.) Power Co	15,000
Chattanooga & Tennessee River Power Co., Chattanooga, Tenn	40,000
St. Lawrence River Power Co., Massena, N. Y	60,000
Austin Dam, Tex	25,000
Stanislaus Electric Power Co., San Francisco	50,000
Whitney plant on Yadkin River	20,000
Miscellaneous small water powers	50,000
Total	506,500

I have already outlined the necessities for navigation in the way of added expense, for lock construction and the like, and the loss of water and potential power which must come from the paramount use of this water for navigation. This must require an additional large investment, which must be provided for or the dam can not be successful.

PRICE FOR POWER.

Now, what really determines the price at which this power shall be sold to the public? It is not the Public Utilities Commission which has the sole authority to determine such price. It is not in the power of any legislative body to grant such authority, which can always be made effective. The real determining factor is the competition with others in that same region. It is the price of power developed by coal at that point which really fixes the price at which hydroelectric power can be sold. The commission can only regulate this fact. Now, remember that the power development from coal is more advantageous and more reliable than the power developed by water, for the reason that it is not subject to floods and droughts and natural conditions as to long-distance transmission. Of course, the man who gets the power does not care; it is immaterial to him where he gets the power from. But the cost of generation is material to the man who furnishes it, and where there is a difference of 10 per cent between the cost of generating by steam and by water, if the steam power does not cost more than 10 per cent in excess of the hydroelectric, the steam is always preferred to be installed, for the reason that the owners can put it where they want it and can easily use it. They need make an investment in a steam plant of probably a third of what a water plant would cost. They can borrow and finance as they are obliged to. They can expand in their operations as may be necessary, and certainly it is not subject to such hazard as I have described. The main cost of the steam plant is the expense of its daily operation, fuel, labor, and so forth. While the main expense of the water plant is not in its daily operation, which is comparatively small, but in the interest cost of the investment of the dam and appurtenant works, which may be very large. This is the main expense of a water plant and a small expense to the steam plant. That is the condition which necessarily confronts every project under this bill, and it can not be avoided by

prudent men. But another very important phase of this competition must be realized.

IMPROVEMENTS IN STEAM POWER.

These facts were shown to us: At the present time electricity from water power has reached a very high degree of efficiency in its development. It was shown to us that some plants develop nearly 70 per cent of the theoretical efficiency placed at the buss bars of the receiving power house. Thence they run down to 24 and 25 per cent. The idea is that hydroelectric development is at a high degree of perfection, and that, proportionally to steam, not much more can be fairly expected in the future.

That is the opinion expressed by some of the electrical engineers, as shown in the testimony. Steam power will be developed proportionally to a greater efficiency in the future, whereas hydroelectric power is nearly at its height. Now, I have here statements which may be of much interest in this connection, but are too long to be placed in the RECORD. One is from Mr. Edison, to the effect that it is probable in the near future that there will be in use a process by which electric power can be developed directly from coal, saving all the great waste from the various transformations and will utilize a very high per cent of the possible energy. Here is another statement from the American Machinist of June 18 last, showing a successful system of using powdered coal in producing power, with a very large resultant gain. Here the cost was less than with oil, which shows the great economy.

Why, if these improvements shall continue as outlined they will almost destroy the value of most of the water powers of the United States, with the exception of a dozen or so of the most profitable. Just think what it would mean. It now requires from 7 to 17 tons of coal per annum to produce 1 horsepower. If Mr. Edison's plan can be perfected, then it is estimated that a horsepower can be produced from 2½ to 4 tons of coal a year.

Mr. SHERLEY. And if Mr. Edison's prophecy is correct as to getting a storage battery that will really store electrical power, then the water-power plants now having their property destroyed by flood for half a year will have doubled their value.

Mr. STEVENS of Minnesota. That can not be done without tremendous increase of investment expense to construct, which may not be profitable. The testimony before us there showed that power is being produced from alcohol in Germany costing, I think, about 16 cents a gallon, and alcohol is produced from sugar waste in Cuba at a cost of about 14 cents. The man who produces this hydroelectric power must take all of these hazards and all those improvements and investments into consideration. We must also realize all these things in laying down rules as to what should be done for the regulation of dams in navigable streams if we expect to have any substantial and profitable utilization of them.

CLASSES OF DEVELOPMENT.

There will be three different classes of development of water power under this bill if it be properly framed and administered. There will be the development used by the owner of it for manufacturing or irrigating or some sort of industry, outside of being sold to the public as a public utility. Then there will be the small dam, the small owner, which will cover only a limited area, with some sort of a public utility, and depending on this power as a basis for his enterprise. Then, third, there will be the larger development, which is necessarily a part or a subsidiary of a large concern, developing water power partly in one place and partly in another place, depending also on steam plants here and there. This plant under this act will be only a small part perhaps of the total production and use of electricity. Thus there may be rigid and uniform rules laid down to govern the last class of development which would work hardship and possible disaster upon the other two classes. That would inevitably happen if the ideas of the extreme conservationists should prevail. The big fellow will take care of himself under their theories. We do not need to worry about him, but the small man, whom we want to encourage, can only do it by having as few restrictions as possible in the bill to hamper him and burden him. So it is well to bear in mind this diversity of conditions, which can only be met by broad, general rules, such as we have laid down in the bill, which must be administered with a sound discretion of the Secretary of War and Chief of Engineers to accomplish the development and at the same time protect public interests. Every additional restriction means the elimination of the small man, who can not compete with the larger under this added burden. The big plant can stand restrictions, and can generate his power by coal, if necessary. There is not much difference in cost in most places in developing the power by coal and power by water.

For these reasons most of the things we have been criticized for on this floor have been placed in the bill with the notion that there should be as few restrictions as possible and yet the public interest adequately protected; that the small power plant, the small dealer, the small locality, can be adequately cared for and encouraged. If you test every section of our bill by the elements of what constitute public interest as I have analyzed them to you, I am confident you will find we have kept the faith, and it will be followed by fruitful work.

SYSTEM MUST GROW.

There is another consideration which these gentlemen have not realized, and that is that in this country a water-power plant is not complete at the start. It is generally placed in the stream to supply a certain territory. The chances are that there never has been a plant constructed where the power is all used at the time the plant is finished. The owners must first go out and develop their power, then find a market for it; hustle around and spend considerable money in developing the market. After the market begins to exist, the time will come when they must extend their plant. They must add more turbines and secure a larger power. The Keokuk plant is an example of that. As we saw it last year it had a power development, I think, of 90,000 horsepower, which had been actually disposed of, out of 120,000 possible development under existing construction and 200,000 when fully completed.

The managers informed us they were extending their markets just as rapidly as they can find customers. I do not know how they will proceed, but if they are acting wrongly the State of Illinois has a perfect right, under its utilities commission, I have no doubt, to protect its own people; the State of Missouri has a perfect right to protect its own people, and the same situation will exist as to the people of Iowa. And if it be not adequately done by these States this bill makes provision for it, as I will try to show when we get to that section. But there is one thing which should be said here, and that is that the State authorities and municipal authorities of Iowa and Illinois did warmly compliment Mr. Cooper, the engineer of the Keokuk Dam, and warmly expressed their satisfaction for his work in many ways. This House should know that fact.

But the point is that a water-power plant is never complete: It continues to grow. It necessarily must grow; additions must be made; it must install new machinery; it must spread new lines of transmission and find new and reliable sources of generation. This requires a constant and increasing expenditure which must always be in the minds of the managers of the plant and of the public officials who supervise it.

Now remember this: That the transmission lines in a water-power utility scheme—that is, the whole transmission system—costs about one-half of the total expense of the whole system. That is, the dam and the power house would be about one-half, and the transmission system would be about one-half.

Those are the approximate values as they were given to us in the testimony to which I have referred. The result is that constantly during that 50 years this concern must get more money, reach further and further on to produce and dispose of its product, and extend its plant, partly by steam, partly by water, keep its appliances up to date, and this requires a constant and large expenditure of money.

AMORTIZATION.

And now I will be pleased to discuss the question of the gentleman from Mississippi [Mr. HUMPHREYS]. I have tried to find the testimony of one of the committee given before the waterways commission, and I here insert a statement of Mr. J. R. McKee, chairman of the National Electric Light Association, page 118, testimony before National Waterways Commission 1910, as follows:

On the question, which has been suggested, of amortization within a given period for water-power plants, please keep in mind that you never hear of a railroad amortizing its bonds. I believe that I am correct in this. I recall mentioning it before to four or five prominent railroad presidents one day, and they looked thoughtful, but not one answered. The amortization of railroad bonds has not been undertaken, because it has generally been contemplated that when any issue of bonds became due they would anticipate a reissue of the bonds at a lower rate of interest. If water powers are obliged to amortize their bonds during their limited franchise, it would simply mean it would be prohibitive to their installation, because as the cost of steam power is decreasing, the cost of water power can not decrease, and it is a most misunderstood cost of development to-day.

I venture to quote from a speech of Senator WESLEY L. JONES, delivered in the Senate on March 5, 1914, as follows:

There are those who insist that when a public-service corporation wishes to develop a publicly owned or controlled water-power site, it should be prevented from so doing unless it will agree to give back to the public, free of charge, the property and improvements at the end of a definite period—say 50 years. It can not be denied that if the public eventually acquires a developed power site free of expense at the end of a designated period, said public must, in all equity, pay for it in extra rates during that period. Mark you, that during all the 50

years the public is to have absolute control of rates and service and must therefore penalize itself as to rates so that at the end of the period a future generation may absorb the plant.

In any era of progress each generation is abler and more self-reliant than its predecessor. Unless we are anticipating American decadence, we are bound to believe that the average American 50 years hence will be better able to pay for water-power plants in a lump sum than we are now able to pay for them in installments. The gospel of conservation does not bid us make spineless beneficiaries of our descendants.

A hydroelectric system can not be amortized. The concern is not like a mill or a factory. The mill stands as a relatively fixed investment with a definite capacity for production and a fairly determined earning power. When that capacity is reached a new mill is built which has the same definite investment characteristics as the first. The two mills are independent investment units. Burn one down and the other proceeds as before. Under such conditions the owner may amortize. Just the opposite is true of the hydroelectric system. The public demand for power constantly grows and the corporation is bound to supply that demand. The hydroelectric system is never completed and never becomes a fixed investment unit, because every day sees some new line, connection, or instrument added in response to a new call. When the capacity of the power sources is reached, we do not build a new system as we would build a new mill, but we develop a new source of power and throw it into the same system. That new source of power loses its individuality and becomes a mere element in a large creation. A hydroelectric system is not the sum of its parts, but it is the whole thing, just as man is man and not the sum of sundry arms, legs, and organs. Could one amortize the value of a leg?

It would be easy enough to amortize if there were one power plant, one set of consumers, and the latter never demanded more than the former could furnish, but we are not considering peanut-stand propositions of that kind. Except in rare cases, the real hydroelectric system has several and sometimes many power sources. It usually begins with one or more sources in private ownership. Business grows, and then Government sites may be added, so that private and Government sites are merged and lose their identity in one great network. Now apply this 50-year surrender idea. After a while the time limit on one of these Government sites expires. Who is wise enough to amortize that improvement, or, in the final surrender to the Government, to determine what part of the distribution system is functional to that particular site? One may as well try to unscramble eggs.

Follow the idea to its logical conclusion and it will be apparent that the increase in utilization of power by the public will necessitate the progressive addition of new sites to the hydroelectric system. Therefore, it will certainly occur that at the very time when the public-utility company is acquiring a new site to meet a new demand, it would be surrendering to the Government, free of cost, a site acquired 50 years before and which is still needed in the system to supply current demand. Does the preservation of the public interest really require such a chaotic procedure?

We must realize that in many plants much time will be required before the system will get on a paying basis. The result is that for the rest of the term the concern must get some profit; if that time must also be used to amortize it would make the price too high to the consumer during the term. It would be unfair, as the gentleman from Mississippi so well and clearly stated, to the consumers to make them pay the cost of this plant for the 50 years, and then deed it to posterity free of charge. That is not fair, and it ought not to be done, and it need not be done. If it be compelled in all cases, many dams can not be constructed and those water resources will be wasted. It may be done in a degree by an extension of time and opportunity for cheaper refundment. It may be necessary to do it in some places in degree; but I think the modern trend is that where the plant is constructed fairly, where they develop the resources and serve the public fairly, where they treat the people fairly, the charges must be on a minimum, of course allowing for contingencies and all necessary expenses; but at the end of the term the plant stands for whatever it is worth, and is sufficient security for all indebtedness, principal and interest. That allows each generation to care for itself.

Mr. LENROOT. Does the gentleman think that any water-power utility could borrow money without providing for amortization to the extent of the money borrowed?

Mr. STEVENS of Minnesota. I will say that a committee representing the electrical interests of this country said they could.

Mr. LENROOT. There has not been any company in existence where they have not provided for it.

Mr. STEVENS of Minnesota. I am stating the views of the committee of engineers who came before the National Waterways Commission. I am willing to accept their views in preference to the views of the gentleman from Wisconsin. But to reenforce their opinions and my own, I will add two concrete cases as to what has actually been done.

Do banking houses require amortization? They do under some conditions, but these conditions and stipulations should be examined before making the broad assertion.

The most recent mortgage indenture covering a large hydroelectric bond issue was that issued by the Utah Power & Light Co. to the Guaranty Trust Co., of New York. The first bond issue under this indenture was $10,000,000, but the mortgage covers an eventual bond issue of $100,000,000, subsequent bond issues to be made from time to time as the company acquires properties equivalent thereto. It is of interest to note that this mortgage provides that no bonds can be issued on any developments located on lands of the United States unless the assured tenure thereon extends to a date not less than 20 years after the maturity of the bond; or if the tenure expires previous to such interval, the property is to be taken over by the United States or its nominee at a price not less than its fair value.

A provision is made for the annual deposit of funds or moneys in an amortization fund, but it is expressly provided that—

> The moneys received by the corporate trustee under the provisions of section 3 of this article—

The section here referred to is the one providing for the amortization fund—

> shall, however, be applied by the corporate trustee, at any time within 18 months after the same become due and payable to the corporate trustee, to reimburse the company for 80 per cent of the cash cost (and not exceeding 80 per cent of the fair value) of the additional plants or property or permanent improvements, extensions, or additions to the company's plans or property: *Provided*—

Here follows certain stipulations with respect to the request of the company for such payment, the proper certification of such request, and a certification by an independent engineer that the additional property, betterments, or improvements are as valuable as represented by the company.

These provisions make thorough recognition of the principles and facts above referred to in the speech of Senator JONES. It will be noted that only 20 per cent of the money in the amortization fund is available for redemption of bonds, and this is a wise provision designed to strengthen the issue outstanding and to provide a reasonable surplus against unforeseen contingencies, so that in the event of financial depreciation the outstanding issue shall not be depreciated.

The affidavit of A. F. Hockenbeamer, of the Pacific Gas & Electric Co., presented in the district court of the United States in and for the northern district of California, March 2, 1914, shows that from the date of its incorporation to December 31, 1913, the company had expended a sum exceeding $54,000,000 for capital purposes, nearly all of which was raised on bond issue. At about that date the company negotiated what was called a "general and refunding mortgage," covering an eventual bond issue of $150,000,000, the terms of which were approved by the Railroad Commission of California. It appears in the aforesaid affidavit that of the total issue of $150,000,000, $50,000,000 were reserved to retire all underlying mortgage bonds. In other words, the previous bonded indebtedness of the company was not wiped out by amortization, but by refunding, and this is the process that will naturally be pursued at the expiration of the new mortgage bonds.

In testimony before the joint commission of the New York State Legislature on the conservation of water, November 15, 1911, Mr. J. R. McKee, who for many years has been identified with the development and financing of water power for electric transmission, made the following statements:

> Q. Assuming the State did undertake and did build these dams, do you think the State would have any right to tax a riparian owner for benefit that he derives therefrom?—A. As to your question as to whether he should pay anything or not, it undoubtedly contemplates what we know as amortization; in other words, should the State carry it forever or make a charge that would repay the cost? You have the precedent of the Reclamation Service of the United States Government for having it repaid; but, as against that, it is a curious thing that no railroad in the United States contemplates amortization. I don't think any railroad bond is issued that contemplates payment. It is only when it comes to water powers, which certainly operate on a much closer margin of profit, that the Government thinks it ought to amortize, but the railroads and electric lighting companies don't amortize.
>
> Q. Do you think that is true universally?—A. Well, enough so to call it the rule. I don't know of anything to the contrary. There may be possibly some electric lighting companies that would put out a 50-year bond, with a limited sinking fund, but they all contemplate their being there forever, and the reason they issue a limited bond is that they hope the next generation will take a lower rate of interest and exchange it.
>
> Q. Mr. McKee, do you believe that the modern financiers, even in the large railroads, contemplate that the bonds will never be paid off, except by refunding?—A. I sat at lunch with four very prominent railroad presidents. When I brought up this question they did not say they had never thought of it before. It was something they had never given much thought to. Of course, bonds are made for a definite period, but they are certainly made for this purpose solely. They hope the rate of interest will be lower and that they will be more salable. They retire the bond by replacing it with another.

Mr. TREADWAY. Would the gentleman kindly touch the point that the gentleman from New Hampshire brought up, that this bill does not bring a revenue to the Federal Government in accordance with the terms that were included in a bill suggested for the Connecticut River two years ago?

Mr. STEVENS of Minnesota. Yes; I will come to that if the gentleman will allow me.

Mr. HUMPHREYS of Mississippi. Now, before the gentleman goes to that——

Mr. STEVENS of Minnesota. Yes; you understand my time is limited, but I am glad to answer questions as I go along.

Mr. HUMPHREYS of Mississippi. On the proposition that the Government should or should not pay for the plant at the end of 50 years, if the Government is not to pay for the plant, then the inevitable thing that will happen will be that the companies will permit their plants to deteriorate, and the people for the last 5 or 10 years of the term will get very much worse service than they would if the Government was going to pay for the plant.

Mr. STEVENS of Minnesota. I am glad the gentleman made that statement. That shows the necessity of planning for the expiration of the term, to protect the interests of the consumers all of the time, and at the end of the 50 years we must make some arrangement so that during the latter part of the term the people will be dead sure to have all the service that is necessary; and that must be by an arrangement for what shall become of the plant at the end of the term. And that is what I shall be glad to discuss right now.

What ought to be done with the plant at the end of the term? Now, as I stated, the views of those who appeared before us were entirely different from those of the gentleman from Wisconsin [Mr. LENROOT]. Undoubtedly he has sources of information, but I am giving you frankly the source of my information—the committee of the American Institute of Electrical Engineers. They came before the waterways commission without advocating any particular bill, because their committee had no authority to draft a bill, but only to suggest the theories of legislation in general terms.

Now, what ought to be done at the end of 50 years? There are two different classes of use of this power; first, for manufacturing, and second, for public utilities. As to how much of this power will be used for manufacturing I do not know, but I assume, from what I have heard, that probably somewhat less than one-half will be used for industrial enterprises, such as irrigation, manufacturing, and the like by private interests. The balance will be used in one way or another for public utilities.

Now, what ought to be done with that power at the end of 50 years which may be used for manufacturing or irrigation or some private industrial enterprise? Remember what this bill does and does not do. It does not affect the taxing power of our Government. It does not affect the taxing power of the States, and it does not affect the taxing power of the municipalities. All of them can and doubtless will levy their taxes every minute during these 50 years constituting the term. It does not affect the right of Congress to regulate commerce during that 50 years. Congress does anything it pleases in the interest of navigation, regulating it as to rules, use of water, and so forth, if it sees fit, even to the point of the destruction of the water power. We do not change the law of eminent domain. If, during the term of 50 years, Congress shall find an emergency has arisen so that it needs to take that property, as it has taken or must take other property, Congress has the perfect right under this bill to do it.

The only thing we do here is to authorize the placing of a structure in navigable streams, to remain for 50 years, under these terms in the bill; that it shall be operated in the interest of navigation, or that a lock shall be placed there or may not be placed there, and that the owners shall observe certain rules and regulations prescribed by the Secretary of War.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEVENS of Minnesota. I shall use 10 minutes more, Mr. Chairman.

Now, what ought to be done with that dam and appurtenant plants at the end of that time? If the United States wants to take the plant over, it can do it. It could do it before on the same terms for what it may be worth. What object is there in taking such a plant; what public benefit can we now conceive will be subserved by reserving a right to take it then when we can secure it at any time by paying for it? You have practically all of the sovereign rights exercised during all those 50 years except the right to require a lock at the expense of the owners if not first installed. That right is practically the only thing that this bill reserves to the owner or takes from Congress. If you wish to make different terms at the end of that 50-year period, under our constitutional limitations that ought to be done. Everyone agreed that such right should exist, but we disagreed as to its reservation in the bill as reported and as to its value. My own judgment is that the original bill was sufficient, but I yielded my judgment for harmony among my colleagues.

Mr. DONOVAN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from Connecticut?

Mr. STEVENS of Minnesota. Certainly.

Mr. DONOVAN. Will the gentleman state, before he takes his seat, whether the prices charged by this great company on the Mississippi River are fair and equitable?

Mr. STEVENS of Minnesota. I will answer that when I get to the next point.

Of course the prices of the products of these manufacturing plants must be competitive. They must compete with other concerns here and abroad. They must compete with similar articles accomplishing a like purpose. The world's competition applies to them.

Now, I do not wish to censure anybody, but I think the statements made to this committee by those who pretend to state what other governments have done concerning water-power development and privileges have been grossly unfair and misleading. In not one single instance have the statements been accurate; not one.

OTHER NATIONS.

Now I want to state what other countries have done and how they compete with water powers and their products here. These gentlemen cite Canada as their chief illustration. For Canada they cite the Province of Ontario. Now, the Dominion of Canada has exactly the same relation to the Province of Ontario that the United States has to the State of New York. The Province of Ontario has enacted the laws stated by the gentleman from Wisconsin [Mr. LENROOT] and by the gentleman from Illinois [Mr. RAINEY] and other gentlemen, but these gentlemen have neglected to inform you that under those laws there has not been any practical development of any water power whatever in the Province of Ontario, and I want them to put it in the RECORD if there has been any development of any consequence. I assert that law will not allow it. The great development which was had at Niagara was had under a long lease of more than a century before the passage of that law which they referred to, and they have not told you the facts about it. These gentlemen boast about the Ontario system.

I here insert an extract from the conclusions taken from the report of the joint committee of the New York State Legislature on the conservation and utilization of water power with respect to the service of the hydroelectric commission of Ontario:

1. That the hydroelectric power commission has never developed any hydroelectric power, but has acted merely in the capacity of middlemen in the merchandizing of electrical energy.

2. That power is not furnished by the hydroelectric power commission to the municipalities at cost, but below cost.

3. That if the same methods of bookkeeping and business principles were applied to the operations of the hydroelectric power commission as are employed in ordinary business transactions of a similar nature the hydroelectric power commission would be found to be losing at least $200,000 a year, besides which the expenses of the commission itself for the year 1912 amounted to $173,090, which amount has been paid by the Province and has never been included in the cost of the power charged to the communities supplied.

4. That the power that is now being sold to the city of Toronto by the Hydroelectric Power Commission at $15 per horsepower actually costs the commission over $19 per horsepower.

5. That the power which the Hydroelectric Power Commission now sells to the city of London for $24 actually costs the commission over $43 per horsepower.

6. That in addition to the provincial loss from the operations of the Hydroelectric Power Commission the net loss down to June 30, 1912, of the city of Toronto from the operation of its own local municipal electric system was $286,984.

7. That in order to utilize the large amount of power the various municipalities have contracted to take from the Hydroelectric Power Commission they have greatly increased the municipal consumption, until in several cases the city itself is paying over 50 per cent of the gross amount received from the operations of the municipal power plants.

8. That the three larger cities of Toronto, Hamilton, and London, in order to utilize the power thus contracted for, have increased their annual expenditures for public lighting and power service more than $225,000 a year, which amounts to municipal extravagance, the burden falling upon the taxpayer.

9. That inequalities in the proportionate amount of capital cost charged against various municipalities appear to be inevitable in any attempt to serve by governmental process a variety of consumers; in fact, the cities of Toronto and Hamilton, comprising 74 per cent of the population served, are required to pay for power a price based upon 24 per cent of the cost of the transmission system, and to amortize only that proportion of the capital investment, while 14 small villages, containing only 7½ per cent of the population served, or one-tenth of that of the two cities mentioned, are required to bear the burden and pay nearly 30 per cent of the capital cost.

10. That while the Hydroelectric Power Commission was designed to deal with municipalities only, it appears that it has deviated from that rule and is in several instances furnishing power directly to private corporations.

As I promised to do, I here insert a statement laid before us relative to the water-power situation in Canada as it really exists to-day, not as these gentlemen have informed, or, rather, misinformed, the House:

FOREIGN WATER-POWER LAWS.

DOMINION OF CANADA.

Water-power jurisdiction in Canada is divided between the general Dominion and the Provinces in a manner quite similar to that between the Nation and the States in this country. The General Dominion Government holds lands and water rights subject to disposal without

reference to provincial law, just as Congress holds at its disposal lands and other rights without reference to State laws. The Dominion Provinces also have lands and water rights over which they have sovereignty in the same manner as do our States.

The best compari on between the present legislative proposal in Congress and Canadian law is afforded by the general law of the Dominion, which provides as follows:

(1) Licenses are issued for 21 years, renewable for three further consecutive terms of 21 years each. This is equivalent to a permit for 84 years, which is 34 years longer than the term specified in the Adamson bill or in the Ferris bill.

(2) At the end of the eighty-fourth year the licensee is to be paid compensation to the value of the works and of lands held in fee (not the actual cost of lands, as provided in the Ferris bill), but the value shall not include the rights and privileges granted or the revenues, profits, or dividends being or likely to be derived therefrom.

(3) The property may be taken over by the Government at any time the minister of the interior may decide such action to be in the public interest or for default or misconduct on the part of the licensee; but in such case bonus is paid to the lessee according to the following schedule: If works have been in operation less than 5 years, 30 per cent bonus; more than 5 and less than 10 years, 25 per cent bonus; more than 10 and less than 15 years, 20 per cent bonus; more than 15 and less than 20 years, 15 per cent bonus; more than 20 years, 10 per cent bonus.

(4) No license may be transferred without the written consent of the minister of lands.

(5) Rates and service are regulated by the board of railway commissioners of Canada.

The law also contains many other stipulations in the public interest of the usual character and not important in the present discussion.

PROVINCE OF QUEBEC.

This Province gives patents to water powers in perpetuity. The greatest menace to the establishment of electrochemical and electrometallurgical industries in the United States is, at the present moment, the existence of over 1,000,000 horsepower on the Saguenay River. Patent was given to this entire power for the sum of $15,000, with a penalty provided of a further payment of $15,000 if improvements to the amount of $1,500,000 were not made within three years. At the present moment an enormous investment is awaiting the decision of Congress at this session, for the purpose of determining whether it shall locate nitrogen fixation works, including fertilizers and explosives, in the United States, or whether it shall go to Saguenay River, in Quebec. If this company is driven to Canada it will settle the status of the nitrogen industry under a foreign flag for a long period of years. It is well known that our Government powder plants have not a war-basis capacity, and the War Department is very earnest in urging necessity for patronizing our commercial powder plants, in order to make them available in time of war. The department is also slowly accumulating 65,000,000 pounds of Chilean nitrates, and we are paying the price therefor fixed in Europe. We are absolutely dependent on foreign sources for nitrogen, and now come into competition with 1,000,000 Canadian horsepower, given in perpetuity for $15,000. Incidentally we have the same competitive conditions in Iceland, where practically unlimited power is offered for nothing.

PROVINCE OF ONTARIO.

The great water-power developments of this Province, especially at Niagara, have been made under lease for 110 years, with the privilege of extension to 130 years. No developments of any consequence have been made under the terms of the present law, which is abstracted below.

The Province has entered upon the policy of Government ownership, but so far has never developed any hydroelectric power. It has constructed a great transmission system, but is acting merely in the capacity of middleman in the merchandising of electrical energy.

NORWAY.

These gentlemen also have been misled and have incorrectly outlined the situation in Norway, so I will place in the RECORD a statement from the consul general of Norway showing the rates and conditions there:

WATER-POWER TAXES IN NORWAY.

The following is taken from a translation of the sections of the Norwegian water-power law relating to taxes. The translation was made by the consul general of Norway for the city of New York:

The municipality imposes a tax of not less than 2.7 cents and not greater than 27 cents per horsepower year.

The Federal Government imposes a tax of not less than 2.7 cents and not more than 27 cents per horsepower year.

Thus the total tax paid is not less than 5.4 cents and not more than 54 cents per horsepower year.

In the case of the last water-power concession made in Norway the municipal and governmental tax combined was fixed as follows:

For the first 10 years, 13.5 cents per horsepower year; for the following 5 years, 20.25 cents per horsepower year; for the remainder of the term of concession (80 years), 27 cents per horsepower year.

In presenting the foregoing information the consul general says:

No other taxes are paid for the acquisition or regulation of water power in Norway.

Whenever a water-power project involves the impounding of water in a lake which is in public ownership, by raising the level thereof by the construction of a dam, the only charge paid to the Government for the right of way is from 27 cents to 54 cents per horsepower made available by the regulation improvement. The grantee thereby secures an easement, which is coterminous with the franchise. Of course the power developed by this water at the power plant located downstream is subject to the same rate of taxation as is the power developed from the natural stream flow.

The usual price paid in the United States for undeveloped water-power sites involving transfer of ownership in fee, whether the land constitutes an actual power site or a storage reservoir, is $10 per horsepower. Contrast this with the amount paid for Government sites in Norway. The price fixed in the regulations of the Interior Department and the Forest Service for water-power permits varies from 10 cents to $1 per horsepower year, in addition to which the permittee is obliged to pay all State and county taxes and the corporation and income taxes of the Federal Government.

NORWAY.

The new law of Norway provides:

(1) That franchises for water-power development shall be granted for periods of from 60 to 80 years.

(2) That a royalty shall be assessed of 1 crown (about 26.5 cents) per horsepower year.

(3) That the plant shall be taken over by the Government at the end of the franchise period without payment.

It should be emphasized that the great water-power developments which have placed Norway upon the industrial map were made under franchises given in perpetuity. The great nitrogen fixation installations involving 450,000 horsepower were made under perpetual grants. No great installations have been made since the above law went into effect and those who are familiar with the situation state that the outlook is dubious. It should be noted that Norway water powers are among the most inexpensive in the world. The present big installations on an average cost from $6 to $7 per horsepower. The average cost in this country is over $100 per horsepower. A very cheap investment might be commercially possible under the Norway law, whereas expensive developments like those in this country would be impossible to finance under the same conditions of law. In other words, it is not sufficient to compare the laws but we must also take into consideration the amount of money involved in development.

REPUBLIC OF FRANCE.

Attention should be called to the statement on page 529 of the hearing before the Committee on the Public Lands on the Ferris bill. This statement, furnished by the National Conservation Association, begins by saying that the law, subsequently set forth, was passed by the House of Deputies and would be in force at an early date. Very cleverly, however, the responsibility for the statement is placed on the Counselor General at Paris. The facts are that this law has not been enacted and at the present time has not even fair prospects of enactment. This statement has been confirmed by reply to cabled inquiry addressed to the Chief Engineer Department of Public Works of France.

The French law distinguishes between navigable and nonnavigable water courses. On the nonnavigable courses, riparian rights prevail as they do in the eastern part of the United States. Navigable water courses are a part of the public domain and power development thereon must be made under permit. The situation is precisely the same as in the United States. The permits are revocable without indemnity and consequently there has been little or no power development on navigable streams. For years there has been a general protest because of this embargo and the matter has been actively discussed by legal and scientific societies. The law proposed by M. Baudin, which the Conservation Association would have us believe is in effect, provided for a limited franchise and for the taking over by the Government of all structures at the end of the franchise period without indemnity to the owner. As above stated, that bill has so far been rejected by Parliament.

SWITZERLAND.

The advocates of a destructive water-power policy have endeavored to make much capital over the fact that authority over the Swiss water powers has been conferred on the General Government. This does not mean, however, that a destructive policy has been entered upon. Switzerland is a small country. Practically every stream is common to two Cantons. Therefore, intercantonal jurisdiction is necessary. It is significant that the act which transferred jurisdiction to the Federal Government of Switzerland provides as follows:

"All water rights to which the terms of the federal law do not extend shall be under the jurisdiction of the Cantons, which shall dispose of the concessions, regulate the same, and impose taxes and fees for their use, but such regulations, taxes, and fees shall not be so severe as to prevent or inhibit the development of water powers.

"The National Government shall regulate and dispose of concessions for powers located on intercantonal and national boundary streams and shall determine taxes and fees to be imposed thereon after hearings have been granted to the Cantons interested, but such taxes and fees shall be calculated by the Cantons."

The various cantonal laws are too diverse to be briefly reviewed. The most striking point is the eagerness of the authorities to adopt special laws or regulative measures for power development. A few months will sometimes suffice to procure a special law. The Water Power Co. of Avancon, in Canton of Vaud, was organized in March, 1897, for the purpose of developing 3,000 horsepower for public-utility purposes. In April, 1897, the necessary capital, $2,362,000, was raised. The work was commenced in May, 1897, and the distribution of power began in January, 1898. All this involved a special act which gave full security to the investor, and it was necessary to secure much property under condemnation proceedings. Nothing was allowed to delay or interfere with the development of this power. In the United States one might conservatively look ahead to a two-years' delay in the passage of an enabling act.

There is the prospect of almost unlimited water-power development in Iceland and South America, which will seriously compete with the United States. The grants from the Governments will be extremely liberal, capital will be amply protected, and rates of freight to the United States will be exceedingly low, and our customs tariff rates will allow an easy admission of their products to compete in our markets.

In summing up the present aspect of foreign water powers it will be noted that, irrespective of general foreign statutes on the subject, large grants in perpetuity have been made, either under special act or at a date previous to the enactment of present laws. In the practical development of water powers for industries in this country we are placed in competition with the old perpetual grants in foreign countries which are not yet developed, and if we desire the industries we must make our legislation somewhat more liberal than we otherwise would.

The great development in Norway of over 400,000 horsepower was under a perpetual grant, not under the grant stated and outlined on this floor by these gentlemen who are opposing our bill. They have not stated the matter accurately to this committee. Whoever furnished this information to the committee did not supply them with accurate information, and to his shame be it that he has tried to mislead the committees of this House and tried to mislead this House itself.

Mr. KENT. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from California?

Mr. STEVENS of Minnesota. Yes.

Mr. KENT. I merely wish to state that the facts as expressed by the gentleman from Wisconsin [Mr. LENROOT] and others are matters of record in the hearings had before the Committee on Public Lands, and they were furnished to the committee by the man in charge of the hydroelectric work in the Department of Forestry, Mr. Merrill.

Mr. STEVENS of Minnesota. I read the hearings, and I notice that one of the gentlemen of the conservation association stated that he would furnish them; but the facts are inaccurate, no matter who furnished them.

Mr. MURDOCK. The gentleman started in on the subject of recapture and then did not pursue it. Is the gentleman going to deal with the right of recapture by the Government after 50 years?

Mr. STEVENS of Minnesota. Yes.

Mr. MURDOCK. As it was affected by the bill as it originally stood and as it has been amended?

Mr. STEVENS of Minnesota. Yes.

Mr. LINDBERGH. Does the gentleman hold that the Government has a right to condemn that property within the 50 years?

Mr. STEVENS of Minnesota. At any time.

Mr. LINDBERGH. Is that provision in the bill?

Mr. STEVENS of Minnesota. No. A provision in the bill is not necessary. It is a general provision of law understood in the drafting of the bill.

Now, I return to the inquiry of the gentleman from Kansas [Mr. MURDOCK]. What ought to be done with these public utilities at the end of 50 years? I think, as I stated, that the first object always is development, and the second is fairness in looking after the interests of the people, the third, that there should be equality in bearing public burdens, fourth, that public property should be adequately paid for, and, fifth, that when necessary the public may take the property. That means that everybody shall have what they ought to have out of this development of natural resources. So that during the latter part of the term, as was clearly pointed out by my friend from Mississippi [Mr. HUMPHREYS], an arrangement shall be made by which the service shall be supplied to the people wherever it is necessary, so that the service shall be continued and that the plant shall not deteriorate. Now, what ought to be done in order that these things may be accomplished? The bill, as reported from the committee, provided that on one year's notice the United States should have the right of entry or recapture or retaking or whatever you call it and pay a fair value for the property.

The rule as to tenure which we laid down is the one that is practically enforced in the States of Massachusetts and Wisconsin. In those two States they have public utilities with an indeterminate term, with the right of the public to take the property on fair notice and on payment of fair value. Now, so far as the law goes in those States, that practically gives them a perpetual franchise, so the gentleman describes it, but that is an inaccurate definition. It is an indeterminate term, exactly as we provide at the end of the 50 years for these grants; and the committee thought that such an indeterminate term, with the right to take the property at any time on one year's notice preserved the public interest, did protect the consumer, did protect the public, and did protect the Government. Some gentleman objected. I thought the old plan did not contemplate or allow a perpetual franchise, any more than do the laws of Wisconsin and Massachusetts. It was an indeterminate term, as provided in those two States.

Mr. LENROOT. Will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly.

Mr. LENROOT. In those States it can be determined by the legislative body itself in any way that it chooses. Under your original bill it could only be determined by buying it.

Mr. STEVENS of Minnesota. It would only be determined in those States by paying a fair compensation.

Mr. LENROOT. Or changing the provisions of the law as the State saw fit.

Mr. STEVENS of Minnesota. I beg the gentleman's pardon.

Mr. LENROOT. I know about the State of Wisconsin.

Mr. STEVENS of Minnesota. I have examined the laws as best I could, as I found them in the report of the National Civic Federation. But the State of Wisconsin, the State of Massachusetts, and the United States can not take the property of these people or anybody unless they pay a fair compensation or provide otherwise in their contract, and there is no such contract provision, because either the rates would be too high under it and the people would not stand it, or there would be no development. Now, that is the term in those States, and we use practically the same language which those States use. By an amendment we have changed it to provide that the United States, through Congress, may do as it seems wise at the end of the 50 years.

Now, what additional right does that give? At any time we can not take that property unless we pay for it, unless those people who own it get their money in fair value. If we do not do that, and if they adopt the method which the electrical engineers told us should be adopted of charging only fair and just rates and give the best possible service and not to amortize during the 50 years, as many of them can not amortize during the 50 years because of the condition of their business, then we must pay for their property, and it must be thoroughly understood or there will be no property. Unless we do, the plant will deteriorate to nothing during the last 5 or 10 years, the people will not get the service, and the public will be seriously injured. So the question recurs as to what we are going to pay. A fair compensation of value or cost? The water-power people came before us and advocated cost. We changed it to fair compensation, for this reason: Nobody can tell what may happen at the end of 50 years. Some of these dams may not be worth blowing up, because of a change of business, change of navigation conditions, a change in the method of generating and transmitting power. The changes may be so startling that the public should not fairly take the risk. It is not asked to. If it should not take the risk, it ought not in fairness to have the increment.

I have already shown to you that there may be changes of navigation, so that the uses of navigation will require the entire flow of the stream. The result is that if we here provide for the payment of cost upon acquisition, we believe on the whole the public would get the worst of it. There are other reasons to consider why this may be true.

TAXATION.

One of the most important is the question of taxation. If we provide only cost for acquisition of the property, the local communities could not secure a tax upon the property higher than the basis of that cost in putting that property upon the tax roll. That would be the maximum limit of any assessment for taxation, and the sense of justice could not fix anything above what the owners would have to surrender it for at the end of 50 years. If, however, we allowed a fair value for the taking, then the community will get the added increment on the tax rolls of those communities. Now, we know that all over the United States our communities are bonding themselves to the limit. It is not good policy as a rule to do it. They are going too far. But is it right for us to take away from their tax rolls a considerable part of their taxable possibilities when they need it the most? It does not seem to me it is. If we give them the opportunity to tax this added increment—and remember that all of the time the rates and service for the public are under the control of a public commission, either State or National—the average rate of taxation in the United States for about 30 years would more than eat up that added increment. Under those circumstances we have believed that it is for the benefit of the community, both in the way of service and in the way of taxes, for the benefit of the Government, for the benefit of the owners, for the benefit of everybody, that we should use the words "fair value" as they are used in the State statutes.

These gentlemen have urged the change, and we have made the amendment—that wherever lands are acquired from the United States or any State or subdivision thereof, then only the cost should be paid by the Government for the acquisition.

The CHAIRMAN. The gentleman has used one hour.

Mr. STEVENS of Minnesota. I will use five minutes more.

The CHAIRMAN. The gentleman is recognized for five minutes.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield?

Mr. STEVENS of Minnesota. I will yield to the gentleman.

Mr. HUMPHREYS of Mississippi. Among the things that the Government is to pay for at the end of the time is the lock or locks and the other aids to navigation.

Mr. STEVENS of Minnesota. That is right.

Mr. HUMPHREYS of Mississippi. What does the Government get in exchange for its franchise that it gives to this company? My understanding was that the company was to build the lock or locks and other aids to navigation which were required at the outset to pay the Government for the value of the franchise which was being given to it. At the end of 50 years are we to pay them back what the lock cost them?

Mr. STEVENS of Minnesota. If we take over the property.

Mr. HUMPHREYS of Mississippi. What reason is there that we should pay them for the lock or locks?

Mr. STEVENS of Minnesota. The United States is to pay the expense if it takes over the property. If it sees fit to let the matter continue, not perpetually as some gentlemen have inaccurately stated, but for an indeterminate term, so long as it be for the public interest, the Government gets the use of that structure for navigation indefinitely without any charge. The owners are pledged to furnish the power, pledged to care for the locks, and if the Government sees fit to have that stream improved in that way without spending a cent for it, it does get that benefit if it believes that it is for the public interest to so continue at the end of that term. That is what will be the case in nearly every structure under this act. What ought it to pay if it takes the property? If the Government entered and took it according to the gentleman's view, what would that mean? It would mean in a small dam that 50 per cent of the cost of that dam would be paid by the consumers of that power in the locality during the term. In other words, that the consumers contribute that much to help the Government, which is not done by any other community which would have exactly the same facilities afforded by the bill from the gentleman's committee. The point is that such a plan would be an unjust burden on the consumers and an unjust discrimination against the community in which the structure is placed. It would mean that the public commission must consider this sum in allowing rates and that if not taken the community would pay double the expense. In the end the consumers must pay for it; the company can not pay for it. They are not a charitable society for such purposes. The consumers of that limited locality would thus have an additional burden which the other people of the United States do not have. They would then have to pay for that lock, which would be an unfair burden compared with the dam which is erected where the lock is not erected or does not amount to such a proportion.

Mr. SHERLEY. Will the gentleman yield?

Mr. STEVENS of Minnesota. Yes.

Mr. SHERLEY. Does the gentleman understand that the bill at the end of 50 years permits the Government to do one of two things—permit the grant to continue or take the property?

Mr. STEVENS of Minnesota. Yes; and one other, as Congress may deem wise.

Mr. SHERLEY. Does the gentleman understand that Congress can fix new conditions upon the grantee at the end of 50 years?

Mr. STEVENS of Minnesota. Yes; though I do not believe the conditions will amount to much.

Mr. SHERLEY. But has it the power? Does not the gentleman think that Congress at the end of 50 years ought to be able to make a new contract either with the original grantee or any other grantee?

Mr. STEVENS of Minnesota. Well, let us see what kind of a contract can be made.

Mr. SHERLEY. I am asking the gentleman whether there ought not to be that power.

Mr. STEVENS of Minnesota. We give them the power, but I do not think it amounts to much.

Mr. SHERLEY. Does not your bill simply do this—say to the original grantee you shall continue by sufferance unless Congress affirmatively takes action or buys the plant?

Mr. STEVENS of Minnesota. That is the indeterminate plan.

Mr. SHERLEY. Is it not a fact that by the inertia of the Government you enable, if there is opposition—as there always will be by the grantee to more onerous terms—you enable him to continue indefinitely on the original plan?

Mr. STEVENS of Minnesota. That is the indeterminate plan which has operated so successfully with the States. Consider what can be done at the end of 50 years. First, the necessary facilities must be provided for the people as they may need, at the least expense commensurate with good service. That must be assumed as a basis for our action. Remember, too, as to this dam the public authority will be exercised as to the right and power and extent of regulation to insure such facilities and rates.

Mr. SHERLEY. But is that true?

Mr. STEVENS of Minnesota. Most assuredly. There is no question about it.

Mr. SHERLEY. Does the gentleman mean to say that in all the States provision is made for the regulation of cost at which power is sold to private manufacturers and private individuals?

Mr. STEVENS of Minnesota. I make the statement that this bill provides a method of public regulation, which we think is sufficient, by the States as a preference, if not by the Federal Government.

Mr. SHERLEY. The gentleman is going on the assumption that the States will regulate that matter, but that assumption is not borne out by the facts.

Mr. BRYAN. It makes it possible.

Mr. STEVENS of Minnesota. Such a statement does not do justice to the States or credit to their accusers. Let me state what we are trying to do. During the original term and at the end of 50 years there is, as we assume, an adequate public regulation of facilities and rights so that the people properly are cared for; the community is looked after so that they are getting the advantages of the project in the way of good and reasonable service. I think it a slander and reflection on the American people to assume they have no capacity to insure such protection for themselves. Secondly, if there be an additional burden in the way of taxation the people must pay it, but they can raise such taxes at any time during the life of the project. They do not have to wait until the end of 50 years. Any burden in the way of taxation can be placed at any time, because this bill in no way assumes to affect the taxing power.

Mr. SHERLEY. What does the gentleman mean by that?

Mr. STEVENS of Minnesota. Anything by way of a charge.

Mr. SHERLEY. Does the gentleman believe that the Federal Government should get anything for its franchise?

Mr. STEVENS of Minnesota. The gentleman from Kentucky has asked me to discuss the same subject which the gentleman from Massachusetts asked me to discuss. I will discuss that after I have yielded to the gentleman from California.

The CHAIRMAN. The time of the gentleman from Minnesota has again expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I will use 10 minutes more.

Mr. KENT. Mr. Chairman, as I read the bill, the big question in the bill is the question of recapture.

Mr. STEVENS of Minnesota. Yes.

Mr. KENT. To maintain for future generations their right to enter on their own property.

Mr. STEVENS of Minnesota. We do not assume that. Our bill assumes that this property is private property.

Mr. KENT. The gentleman has a time limit to his bill.

Mr. STEVENS of Minnesota. Yes; 50 years.

Mr. KENT. Fifty-three years.

Mr. STEVENS of Minnesota. No; the gentleman is speaking of his own bill.

Mr. KENT. There are three years in which to build the dam, and after the completion of the dam it runs for 50 years?

Mr. STEVENS of Minnesota. Yes; that is correct, only under some circumstances it might be slightly less or indefinitely longer; the Government regulates that.

Mr. KENT. The bill provides in one place that Congress shall be empowered to make new terms at the end of that time, and in another place it is provided that before entering upon that property Congress shall be forced to pay for everything that is ancillary to that project. Which of those two clauses goes? Do we have to buy every irrigation plant, every street car, everything else; or do we have a real chance to make new conditions? That is what bothers me about the bill.

Mr. STEVENS of Minnesota. As I understand sections 9 and 10 as changed, it is this: I discussed, as the gentleman from Kansas desired me to do, the indeterminate term. It has been changed to give Congress authority to make such conditions as it may deem wise at the end of 50 years. What conditions can be made? Of course at that time Congress could provide different means for acquiring the facilities or the use of the structure. It could undoubtedly prescribe a different method of securing the property, which did not confiscate it. If our Constitution shall last that long, it can provide for an additional term of years, and at the end of that time another contract or arrangement or conditions may be prescribed, provided that such contract or conditions shall not be prohibited by the Constitution. That must always be had in mind as a limit to the power of Congress. I shall discuss that in a few moments, as I promised to do.

Mr. KENT. But here we have a statement in the bill that we have to buy everything that is ancillary to the project.

Mr. STEVENS of Minnesota. As to that, I think that provision is about the same which the States have applied to similar subjects. We have nothing to do with irrigation plants.

Mr. KENT. Why, certainly. The bill provides that we have to buy everything the value of which will be injured by the taking over of this project by the Government.

Mr. STEVENS of Minnesota. If we do not have a provision that everything that clearly belongs to and necessarily connects with the plant should be purchased, then we can not expect that any of those facilities will be furnished the people during the last years of the term, and the plant will not be used to its capacity unless we provide that those things which make the plant valuable shall be taken over and cared for honestly and sincerely. You can not secure those facilities for the people during the term at a reasonable rate unless they shall be taken and not destroyed at its close. If you destroy them, then they must be paid for during the term, which might be unjust and unreasonable. The only fair plan is to take the property as it exists and pay for it what it is fairly worth. Any other plan will not succeed, either by preventing development or by securing expensive and inadequate service. The gentleman would be running against the very proposition he desires to avoid. You will not have a complete development of water power or you will not have cheap and decent service.

Mr. KENT. I would like to know what we have to buy. Do we have to buy every last street car, every last advertising space in the last trolley car, the last irrigation scheme, before we can enter upon our own property?

Mr. STEVENS of Minnesota. Oh, no; the gentleman has not any property. He does not seem to grasp the situation. The United States, or the people, have not any property rights here for which they have not been fully paid under the bill.

Mr. KENT. The United States has not any property?

Mr. STEVENS of Minnesota. No. I will discuss that in a few moments. What you have to buy is what fairly belongs to that plant, which makes it operative for the public interests during that term, and that is what you ought to buy; and if you do not buy it, the public will not get the facilities and the development can not possibly be made.

Mr. MADDEN. Does that include the right of way over which the transmission lines run?

Mr. STEVENS of Minnesota. I presume so.

Mr. MADDEN. And their accretions?

Mr. STEVENS of Minnesota. Yes; necessarily, as the accretions may be the very essence and the valuable part of the plant. It may be the very purpose for which it exists, and the people could not be properly served without them. Indeed, it is safe to say they would not be served. Now these are necessary. They will not be favored unless the owners are convinced they will be paid for either by rates for daily use or in the taking if the public shall want the property. We must bear clearly in mind the fact that this bill provides for a private plant, not a public one, unless the Government wishes to pay for it.

Mr. STEVENS of New Hampshire. There is nothing in this bill that prevents the grantee from using the power himself.

Mr. STEVENS of Minnesota. No.

Mr. STEVENS of New Hampshire. He is not obliged to sell it?

Mr. STEVENS of Minnesota. No.

Mr. STEVENS of New Hampshire. As a matter of fact, will not a great deal of this power be used for private manufacture by the grantee?

Mr. STEVENS of Minnesota. I think I said that nearly one-half of it would be.

Mr. STEVENS of New Hampshire. Is there any regulation of any of that business where it is used by the grantee?

Mr. STEVENS of Minnesota. I will come to that in a moment. But I think my friend will realize that all business will be regulated now. The customs tariff will affect most of the articles produced by the use of water power in the chemical and metal industries. The trade commission will probably investigate them regularly and regulate their practices. The Sherman law will compel them to compete. The corporation-tax law will compel them to bear their share of the burdens, and the State and municipality will take their toll also as the business proceeds. That seems to me considerable of a regulation.

Mr. LINDBERGH. Mr. Chairman, section 9 provides that at the end of 50 years the Government may recapture. Suppose the Government does not effect a recapture, but Congress seeks to impose additional terms. Has not Congress the power then to absolutely, by the additional terms it imposes, tax the property out of existence, so far as private ownership is concerned?

Mr. STEVENS of Minnesota. Yes; as a theory, but not as a matter of fact, if there be any constitutional safeguards then remaining; and that I will discuss in connection with the suggestion of the gentleman from Massachusetts. It can not do it as a matter of fact, because taxes must be uniform and equal to all in the class. That would save personal rights. It can make a contract limiting the terms, and, I presume, provide how the property might be acquired at the end of that term; but I take it as a matter of fact it could not be done except under the limitations of the Constitution of the United States preserving some sort of individual rights yet to our citizens.

I hope these safeguards are not all to be swept away in the desire to get the desirable property of the thrifty and enterprising. If such a time shall come or if such a spirit shall prevail, then the liberty of the individual has departed and the hope of individual progress is gone.

Mr. LINDBERGH. But, as a practical proposition, will not the company that makes the improvements have to take into consideration in making the investment that the United States may impose terms that they can not meet at the end of 50 years, and, therefore, during the 50 years they must collect a certain amount to protect them in their investment, which, of course, would be added to the price of the service and paid by the public?

Mr. STEVENS of Minnesota. Yes; that has to be considered. That is why I stated I did not believe in the amendment added by the committee; but at the same time it does give that additional power, and may have to be considered in regulating charges and service and the fate of the enterprise at the expiration of the term.

Mr. SHERLEY. The gentleman is proceeding upon the idea that at the end of 50 years Congress will not be willing to deal fairly with the company. My objection to the whole program is that while professing to give 50 years you are giving more than 50 years, and putting every obstacle in the way of changing the terms of the lease.

I would make them come and get a new contract, because I am not willing to assume, as the gentleman is, that the Government is going to enforce what is an unfair condition at the end of 50 years.

Mr. STEVENS of Minnesota. The gentleman has touched a point I think ought to be considered. The trouble with his proposition is this: If the term absolutely expires at the end of 50 years no additional development probably will be made during the last 10 or 15 years, even conceding that any large project can exist under such terms. For this reason, and I will give you my experience before this very Congress in a matter I shall have to discuss for a few moments before you during the progress of the bill. A dam is being constructed by the United States between St. Paul and Minneapolis. For the last three years I think I have pounded my good friend from Mississippi and the other members of the Committee on Rivers and Harbors to induce them to report a bill to give the right to our State and cities as a public enterprise to use that power and pay for it all it is worth, so that we can know what to do and what would be the basis for our action. But Congress is so busy and the Committee on Rivers and Harbors is so tremendously busy on tremendously big projects all of the time that they can not pay attention to little matters. They can not find the time and strength. I know it, and so sympathize with them. We are so overwhelmed with matters of importance in Congress now that we ought not to have these little matters come to us for our congressional action, because we know they will not be properly attended to.

I think the only safe thing to do is to continue it with the people who operate it properly during their term, in order that the power shall be utilized to the greatest advantage, and all the time regulate their service and charges and treatment of the public and then provide that they should continue on fair terms. If they do not so do, then we have the reserve power to throw them out, take it ourselves or turn it over to somebody who can do it better. What I would have would be that the Secretary of War—I would not leave it to Congress—should have authority, in his discretion, to make whatever adequate terms he sees fit, within limits prescribed by Congress. That is my own theory, not that of the bill. My impression is that Congress is so unwieldy, its committees have imposed upon them so much work, that their business is congested; that adequate action at the end of 50 years could not be had. Everybody would know it and so calculate. The result would be a limited term with the increased prices and poorer service. That is why it is not safe to depend upon the inertia of Congress and the results of it. What we want to do is to have the operation of these plants continue all the time in the best possible way, so

that the people will get the benefit of it. The only way we could agree upon is provided by this bill.

Mr. SHERLEY. Now, is not the gentleman by his argument strengthening my statement by saying that Congress would be so busy you will be giving a perpetual franchise?

Mr. STEVENS of Minnesota. Not at all; any emergency or bad faith can always be met. I stated my own view of it that I would give the authority to the Secretary of War. If I recall, Congress has acted in a somewhat similar case in the Tennessee River. There was some difficulty, but it was handled to the advantage of the Government.

Mr. SHERLEY. I would be willing to give it to the Secretary of War with this provision that he would make the company take the initial step to get a new life, whereas the gentleman would make the Government take the step in order to change the life.

Mr. STEVENS of Minnesota. The difference would be this, that I am very much afraid you could not have the development of the power during the last few terms.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I would like to close, but I will take 10 minutes additional in order to finish what I am discussing. The point I make to my friend from Kentucky is this, that under his theory the power would not be developed, the people would not get the service, or it would be inadequate and insufficient, and where we have the right to control the service and the rates, where we have the right to acquire for a fair compensation, I believe that protects the Government better than taking the chances of the inertia the gentleman speaks about. Now, I desire——

Mr. FOWLER. Will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly.

Mr. FOWLER. The question of perpetual franchise has worried me very much. Now, do I understand in generating the franchise you confer the right to the plant to engage in a business also?

Mr. STEVENS of Minnesota. We have nothing to do with that. We can not decide what we shall do.

Mr. FOWLER. The generator of the power may do that—the owner of the power. Now, I would like to know, as the gentleman seems to be well informed, as to what the United States will have to do at the end of the 50 years in order to take over this hydraulic power plant?

Mr. STEVENS of Minnesota. We have to give one year's notice in order to take it under the bill as it stands. Then we will have to pay the fair value of the property, except those——

Mr. FOWLER. I understand that; but now you have no limitation as to business operations, and I want to get this information, because I want to understand it. Suppose that power plant should engage in the manufacture of steel, the electric railways business, or furnishing of light by wires to a number of cities. How much of that property will the Government have to take over before it can get control of the water-power plant?

Mr. STEVENS of Minnesota. Well, that is a point which was raised by the gentleman from California [Mr. KENT]. My own judgment is this—and, as I say, it is a matter of construction—and my own judgment is the United States ought not to pay back more than that part of the plant that is necessarily connected with it for public use or which is essentially a part of the project, and without it the plant could not exist.

Mr. FOWLER. Your bill does not regulate that question, but it is broad. As I understand and the way I construe it it means that the Government must take over all of the business connected with the power plant.

Mr. STEVENS of Minnesota. No; only that directly connected with it, as I stated, for the public use or the essence of its creation.

Mr. FOWLER. Then that really will force the Government to go into ownership of private business, will it not? and the Government does not want to do that.

Mr. STEVENS of Minnesota. Some gentlemen want to do it, and this might be a good way to start. That is not what we have in mind. We believe this provision is necessary for adequate development.

Mr. FOWLER. It would result in a perpetual lease of the property.

Mr. STEVENS of Minnesota. No——

Mr. FOWLER. It would mean one of two things—either a perpetual franchise or Government ownership and operation of private business by the Government.

Mr. STEVENS of Minnesota. The gentleman misapprehends the condition. If he will allow me to state it——

Mr. FOWLER. I will be glad to do that.

Mr. STEVENS of Minnesota. This term "at the end of 50 years" is an indeterminate term. You may call it "perpetual," but that is not the proper designation of it. It is an indeterminate term. It is practically the same term as is used in the States. The sovereign has the right at any time after 50 years on one year's notice to terminate the term and acquire that property and whatever is necessary, connected with the project, and used for the public benefit, or essential to its creation and existence. I think that is what the bill tried to cover.

If we have not covered it, then we are unfortunate; but that is what our idea was in having that section framed, so that that indeterminate term would continue, and so that the public would be sure of its service, so that the development should progress to the utmost efficiency. If the Government determined it wanted it at the end of the time, or at any time thereafter, it could step in on a year's notice and take the plant itself, and only that part connected with it that is necessarily incident for the public use, on its creation and continuance.

Mr. FOWLER. If the Government were only required——

Mr. STEVENS of Minnesota. That might not cover the steel plant, or it might, under some circumstances. It would depend on conditions.

Mr. FOWLER. To pay the expense of the construction of the dam would be a different proposition, because that is the generating force, but here is the operating force, or the means by which the business of the company is done, and if we must take it over, then that forces us into Government ownership and operation of business, which is not desirable from my point of view, and, I think, in the end it amounts to a perpetual lease.

Mr. STEVENS of Minnesota. As I said, the indeterminate term is the one usually used in the States. It is not called a perpetual lease there. It has worked well so far, and I fear the gentlemen are more apprehensive than necessary, after the experience of the States.

If the committee will allow me I will try to discuss, as briefly as I can, the question of taxes and charges. Quite a number of gentlemen have cited the Chandler-Dunbar case, in which a rule was laid down by which it is claimed that the United States has the utmost authority to do as it pleases in a navigable stream, to make charges and collect taxes, or do anything it sees fit. I think these gentlemen are entirely mistaken as to the scope of the decision in that case.

The Chandler-Dunbar case does not do anything at all of that kind. As we understood up to the time of the decision of the Chandler-Dunbar case, the law as laid down by our own Supreme Court, and practically by the supreme court of every State in the Union, was this: That the United States has no property rights in the water of navigable streams; that the water, so far as there can be ownership, is owned by the State in trust for public use, not for private sale; that the United States has only the paramount right to use that water for navigation. That is its sole right and power as a sovereign. It has no right to charge for the use of that water, because it does not own that water and has no property right in it. It has no property interest in it. The Chandler-Dunbar case only follows the same doctrine laid down as, I think, very much more clearly, in the Scranton-Wheeler case, in the One hundred and seventy-ninth United States Reports, I think. Now, those two cases laid down this doctrine, and I will outline it so that the members of the committee can understand it, and you will see for yourselves what the Supreme Court decided.

CHANDLER-DUNBAR CASE.

Congress passed an act declaring that part of the Soo River in Michigan and all property within it between this point here [designating it]—that is the ship canal—and that point at the other end of the aisle—that is the international boundary line [designating it]—is necessary for the purposes of navigation. Congress passed an act making that declaration. Chandler & Dunbar owned a dam or mill site and structures on it in the bed of the stream within that stretch of the river. The United States started proceedings in condemnation to acquire that property and pay fair value for it. The court held that wherever Congress determines that within definite limits of the river all property and lands and waters are needed for navigation between the high-water banks such right is paramount and supersedes all other rights, and that one who has any dam or structure in that bed of the river between the banks has no right to recover value for it, because it is an integral part of the river bed, which Congress has the paramount right to use for navigation.

And that is all the case decided with this single exception, that where the United States itself constructs a dam in a navigable stream, and, incidental to the construction of that dam, generates water power, it has the right to charge for the use of that power. Of course it has, because the dam is its

own property, and the power is generated by the use of the property of the United States, just the same as the United States has the right to charge for the use of its own property anywhere. But the Chandler-Dunbar case does not go any further than in laying down those two points. The individual must only beware when the Government itself declares it wants to use the river bed and waters for navigation. That is the exercise of a sovereign right for a public use and no profit.

Mr. BURNETT. Is not that on the same theory and doctrine that the United States is then the riparian owner, just like an individual would be a riparian owner if he owned it individually?

Mr. STEVENS of Minnesota. Certainly.

Mr. SHERLEY. Does the gentleman question the right of Congress in giving a grant to a company to build a dam upon a navigable stream, to put such conditions on that grant as it sees fit?

Mr. STEVENS of Minnesota. Yes, sir; I do question it, and that is exactly what I am coming to.

Mr. SHERLEY. The gentleman must admit they must get the grant from Congress before they proceed?

Mr. STEVENS of Minnesota. Certainly.

Mr. SHERLEY. Do you believe as a proposition of fundamental law that a grant that must be obtained before the grantee can go on, can not be made with such conditions as the grantor sees fit to make?

Mr. STEVENS of Minnesota. I will discuss that very point. Yes, sir; I do; and I will read from the Chandler-Dunbar case to confound the gentleman. Congress in making a contract has a right to make any contract it sees fit, with this exception, and I will read from the language of the Chandler-Dunbar case, which these gentlemen rely upon. I read:

> The power to use and control comes from the power to regulate commerce between the States and foreign nations.

Now, that is the sovereign power to regulate commerce. Now note this sentence:

> All means having some positive relation to the end in view.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. STEVENS of Minnesota. I will continue, Mr. Chairman, for a few minutes.

Mr. ADAMSON. Mr. Chairman, I hope that the gentleman from Minnesota will not trouble the Chair to call him down until he has finished his remarks.

Mr. STEVENS of Minnesota. The power to regulate commerce is the power that Congress has over use and control of waters and land under them, and is paramount to every other use or ownership. Listen:

> All means having some positive relation to the end in view which are not forbidden by some other provision in the Constitution are admissible.

That is the point. Anything that concerns the power of Congress to regulate commerce can be put into that contract. Anything that concerns the raising of money for the United States Treasury is a part of the taxing power of the Government and can not be put into that contract. I am reading from the Chandler-Dunbar case itself, which these gentlemen rely on. The point is this: Would you try to use the sovereign power of Congress to regulate commerce as a means to obtain money in lieu of taxation? You can not do it in that way. If you raise the money to put into the Treasury of the United States you can do it only under the Constitution of the United States in three ways. One way is under the taxing power of Congress, prescribed in the Constitution. The second way is by the use of the property of the United States, its public lands or dams, or whatever it may be; and the third way is by penalties for violation of the law.

Mr. STEVENS of New Hampshire. Mr. Chairman, will the gentleman yield to me for a moment?

Mr. STEVENS of Minnesota. Certainly.

Mr. STEVENS of New Hampshire. I would like to call the gentleman's attention to one other way by which the Government can get revenue, and that is by charging for a franchise.

Mr. STEVENS of Minnesota. This is not a franchise.

Mr. STEVENS of New Hampshire. The gentleman said there were only three constitutional ways to get revenue—by taxing, by sale or lease of Government property, and by fines. I say there is a fourth way, well established and constitutional, namely, by the grant of public franchises. The currency bill, which the House passed and which the Senate passed, provided for revenue to the Government when the profits exceed 5 per cent or 6 per cent, whatever it was.

Mr. STEVENS of Minnesota. Yes; we get sort of revenues in innumerable ways, and under inspection bills.

Mr. MANN. One way is by selling the credit of the Government.

Mr. STEVENS of Minnesota. Yes. But that is not a revenue. We get sort of revenues in numberless ways. But the theory of all these sovereign powers is that the revenues shall about equal the expense of enforcing that law. It is not the intent of the Constitution that the public expenses shall be paid except by the use of the taxing powers. It is so with the exercise of the banking privilege, and it is so with the exercise of the post-office privilege and the inspection privilege as to all sorts of products. The theory is that whatever revenues we get from the exercise of any of our sovereign powers are supposed to be about what it will cost to do the work in administering them, and I think the experience of our venerable friend from New York [Mr. PAYNE], who has had so much experience in connection with the taxing power of this Government, will vouch for this fact, that wherever the sovereign power of the Government is used to do anything and it is necessary to incur some expense, the expense has some relation to the cost of enforcing the law. It may be less, it may be much more, but it must have and does have some sort of a relation to the expense for doing the work. With the taxing power, of course, the principle is totally different.

TAX NOT COMMERCE.

Now, wherever in the regulation of commerce the United States does anything or requires anything to be done which incurs an expense, we compel those who seek the use of the power, such as those who build the dam, to pay for it. For example, we have four different classes of expenses in our bill: First, charge for inspection; second, use of flowage lands; third, use of public lands; fourth, expense removal. We think that is as far as we can constitutionally go. We think that if you go further, as suggested by the gentleman from Kentucky [Mr. SHERLEY] and my friend from New Hampshire [Mr. STEVENS] and my very good friend from Wisconsin—and I will reverse the order if you desire to have it done [laughter]—my impression is that that constitutes a charge or tax, which is the essence of taxation. The Supreme Court will look through all these subterfuges and find what is the essence of the things you do or seek to do; and the tax or the charge—call it what you please—is, in essence, a tax, and must be levied under the taxing clause of the Constitution.

Mr. MANN. Mr. Chairman, will the gentleman yield there for a question?

The CHAIRMAN. Does the gentleman from Minnesota yield to the gentleman from Illinois?

Mr. STEVENS of Minnesota. Yes.

Mr. MANN. The gentleman does not doubt our authority to grant a franchise for the construction of a dam or to levy charges which require the grantee to spend money for the benefit of the United States, does he?

Mr. STEVENS of Minnesota. Oh, no.

Mr. MANN. What is the distinction between that and requiring them to pay money into the Treasury?

Mr. STEVENS of Minnesota. We do provide under our bill four different ways in which they are required to pay money into the Treasury.

Mr. MANN. The gentleman said a moment ago we have no constitutional power.

Mr. STEVENS of Minnesota. The gentleman must have misunderstood what I said.

Mr. MANN. Assuming that we have only the right of navigation over a stream—and that is all we have over these navigable streams where we do not own the property—and a man wants to build a dam there, do I understand the gentleman to say that while the man must get our consent we can not legally or constitutionally require him to pay us compensation for it, because that is an exercise of the taxing power which we are not authorized to make?

Mr. STEVENS of Minnesota. In that way.

Mr. MANN. I know in that way, but that is a variation.

Mr. STEVENS of Minnesota. That is right.

Mr. MANN. Now, if we can not sell our consent, how can we require the man to pay compensation in some other way?

Mr. STEVENS of Minnesota. We can tax him in any way we see fit.

Mr. MANN. It is not taxation under the taxation clause. It is another thing. There is a bill pending for taxation, as we taxed oleomargarine mainly out of existence, and we put a large tax on sulphur matches and taxed sulphur matches out of existence. But this is not under the power of taxation. We do this under the power to regulate commerce.

Mr. STEVENS of Minnesota. I will read that sentence over again when the gentleman finishes.

Mr. MANN. Oh, you do not need to read it for my benefit. I am perfectly familiar with it. I do not think that relates to that question. That relates, as I read it, to the power we have the right to exercise in regard to navigation and commerce.

Mr. STEVENS of Minnesota. It applies to this very proposition. We have the right to do anything that we see fit in the way of regulation of conditions or contracts, as the court says, having some positive relation to the end in view—that is, the regulation of commerce—not the raising of revenue. Anything which concerns that we have the right to do, but if we do some other thing, to exercise some other sovereign function, that we have no right to do under the guise of a condition granting the right to place a dam in a navigable stream.

Mr. MANN. What is the end in view?

Mr. STEVENS of Minnesota. The promotion of commerce.

Mr. MANN. Not the "promotion" of commerce.

Mr. MADDEN. Regulation.

Mr. MANN. Affecting commerce——

Mr. STEVENS of Minnesota. It means the same thing.

Mr. MANN. No; because the construction of this dam may have the effect of preventing commerce. It is "affecting commerce," and the end in view is affecting commerce, and here the near end in view is the construction of the dam.

Mr. STEVENS of Minnesota. We have covered that by the fourth provision of section 4, but we declined to take the additional step that the gentleman has in view, because we believed that we had no right to do so. We investigated every possible way where the National Government could be affected, and where any right was exercised which required the Government to act, we compel them to pay for it. Where any property of the Government is used, we compel adequate payment for it. Where there may be a contingent liability against the Government, we compel that to be met. But we do not think that there can be a condition affixed to this grant of approval that money should be paid for it. The Government has no property right there. It has only the paramount right to use the waters and lands under them for the sovereign power of commerce. That is not a property right to sell. The property belongs exactly where it always has—the lands to the owners as the State law may prescribe and the waters to the State for public use. The United States may use all of them perpetually for commerce without paying a cent, but if it attempts to use them for any other purpose, as a dam to create power for an arsenal and the like, it must pay their value. If it uses them as an individual would, it must pay their value. If so, can it hold that the individual owner can not use his own lands or the State use its own lands and its own waters without paying a charge as a condition of consent of the United States, when the latter always has the right to use them for commerce without paying anything?

Mr. SHERLEY. Will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly.

Mr. SHERLEY. I want to talk of power now, and not of the question of advisability. The gentleman has a lot of conditions in the grant that he proposes to give these companies, conditions that have nothing on earth to do with navigability. Yet the gentleman says that you can not put into the grant that the grantee gets, by which only he can build, a provision requiring him to pay money. I want to know the distinction.

Mr. STEVENS of Minnesota. I think the gentleman will find that every condition in this bill has some relation to the structure itself that goes into that stream, or the commerce which is to be affected by it. We provide fishways in the structure. We provide lights on the structure. We provide for taking the structure. We provide that other structures similarly situated shall be cared for in the same way. Everything that we put in the bill has some relation to the structure, and all of it under the commerce clause of the Constitution. Anything that does not relate to the commerce clause of the Constitution has no relation to the end in view, as stated by the Supreme Court. That seems a clear distinction to us. It has been suggested that a condition would be valid to exact a charge and the revenues expended in improving the navigation of the stream. In principle that is equally vicious, unless some relation can be shown between the structure, its effects, and the work to be done. If such relation fairly exists, then a charge as a condition can be made, as we have tried to do as to the use of forest reserves and reservoirs. But if no such relation fairly exists, then it makes no difference, so far as power is concerned, whether the money is expended on this or some other stream, or on a public building, or to pay the salary of a consul in Africa. It stands on the same basis. For example, a dam is constructed on the Mississippi River at Lake Itasca, in Minnesota. Would it be valid to exact as a condition of approval by the United States that a charge might raise money for the removal of the jetties in the Gulf of Mexico? Certainly not. But if the dam caused a current or changed currents so that the channel was affected miles below or above, then I have no doubt that such a charge could be fairly made. That is the extent, to my mind, we can go, and that we have gone in our bill.

Mr. LIEB. Will the gentleman yield for a question?

Mr. STEVENS of Minnesota. Yes.

Mr. LIEB. When the Government wants to erect a lock the first thing the Government does is to select the site and buy the ground necessary for the erection of the lock.

Mr. STEVENS of Minnesota. The gentleman refers to section 2, which I discussed.

Mr. LIEB. I mean the one you are now speaking about. The gentleman understands that any firm or individual that has permission from the Government to build a lock must first go to the owner of the ground before he can enter and operate upon the premises. I should like to know how a person or firm having a permit to build the lock could go upon the property of an individual without buying the site.

Mr. STEVENS of Minnesota. The bill provides that the owner may be paid before the Government gives permission. That is a part of the contract.

Mr. LIEB. The Government does not do that now.

Mr. STEVENS of Minnesota. Oh, yes; that is the law.

Mr. LIEB. The Government buys all the sites.

Mr. STEVENS of Minnesota. Oh, no.

Mr. LIEB. I differ with the gentleman. The Government buys all the lock sites.

Mr. STEVENS of Minnesota. Under the act of 1906——

Mr. LIEB. They have to buy them right along. Now, one other question——

Mr. STEVENS of Minnesota. I would like to yield to the gentleman, but I must finish my remarks.

Mr. LIEB. On a river like the Ohio River, for instance, where the land on one side is in one State and the other side is in another State, if a lock was erected or a dam constructed on the left-hand side going downstream, would the constructors not be permitted to take a man's property——

Mr. STEVENS of Minnesota. No; under the fifth amendment to the Federal Constitution the Government or anybody else can not take private property unless for the public use and upon just compensation, except where Congress has provided, as in the Chandler-Dunbar case, that a certain stretch of the stream was needed for navigation between the high-water banks. In such stretches the United States can take the property without paying for it, and that is all.

Mr. LIEB. I want to get a clear understanding of what is meant by section 6. That section says:

> That the persons constructing, maintaining, or operating any dam or appurtenant or accessory works, in accordance with the provisions of this act, shall be liable for any damage that may be inflicted thereby upon private property, either by overflow or otherwise.

Now, supposing the firm or company that was constructing the dam lived in another State. Would they have to go to that other State to sue?

Mr. STEVENS of Minnesota. Yes; they must go where the land is situated, and the property rights are governed by the law of such State.

Mr. LIEB. Does not the gentleman know that $3,000 is the smallest sum for which the individual may sue in the United States court? Now, suppose the construction company should do $1,500 damage to a private individual's property.

Mr. STEVENS of Minnesota. Mr. Chairman, there are other gentlemen waiting to speak, and I am very anxious to conclude my remarks. All we can do is to relegate these people to the laws of their States where the lands are overflowed or used. They have a right to proceed under their State laws to get redress. Under our Constitution I doubt if we have any right to give them redress. We have no right to authorize condemnation in these cases. We do not pretend to do it. We only declare their legal rights in the States where the land is situated, and that is all we have attempted to do in that section.

Mr. LIEB. One more question.

Mr. STEVENS of Minnesota. It is of great importance to other gentlemen that I should conclude my remarks.

Mr. LIEB. One question on taxation, for information only. Supposing one of these dams was built on the Ohio River. Would not a county in Kentucky, on the left-hand side of the river going downstream, have the right to tax the property that was in that county?

Mr. STEVENS of Minnesota. Oh, yes; unquestionably.

Mr. DONOVAN and Mr. ESCH rose.

Mr. STEVENS of Minnesota. I can not yield any further.

Mr. DONOVAN. You promised to answer my question before you concluded.

Mr. STEVENS of Minnesota. I do not wish to be discourteous, but some gentlemen have been promised the opportunity to make speeches this afternoon, and they have released them to the press, and it is unfair to them to take any more time. I thank the committee. [Applause.]

Mr. DONOVAN. Mr. Chairman, I asked the gentleman if he would not answer before he completed his statement, and he said he would. He has not answered the question yet.

Mr. ADAMSON. I hope the gentleman will answer the question.

Mr. STEVENS of Minnesota. What is the question?

Mr. DONOVAN. In regard to the rates now charged by this Keokuk company.

Mr. STEVENS of Minnesota. I will place in the RECORD a statement showing the reduction of rates. I think the gentleman from Iowa [Mr. KENNEDY] proposes to place an exhaustive statement in the RECORD, but I have a statement showing how much the reduction has been, which I will also put in the RECORD. The gentleman from Iowa will discuss that further. When the bill is under the five-minute rule I will discuss section 11, giving the power to regulate rates, which is very important. I can not do it this afternoon.

REGULATION.

The committee realized that it was necessary to provide some regulations concerning the rates and charges to consumers of the current generated from these projects, and that it was of prime importance that these regulations should be as effective as possible. A statement of the situation will show what the committee had to consider, tried to do, and the result which might be expected from these provisions.

As we were informed, more than half of the current generated from these projects under this bill would be used by public utilities in public service and should be regulated in some way by public authorities as to rates and service. But we also know that a large proportion of the power plants generates the power in one place and sells it to a distributing company at some distant point, probably in the same State, but in many cases in some adjacent State. In comparatively few cases is the power generated and distributed by a company directly to the consumer. Of course, where the distributing company is only a branch or direct subsidiary of a generating company the same controlling authority can reach the whole process of production and distribution. But we are obliged to confront the situation that in a very large proportion of cases the current is sent to a distant point to its own power house and from there sold to only one customer, and by a bona fide sale. The result is that we are confronted with the problem as to whether the commerce clause of the Constitution could cover a current of electricity generated at one point and delivered to the same company at another point, thence to be sold, transformed, and distributed.

RECENT CASES.

But we are now convinced that the cases recently decided by the United States Supreme Court on June 22, 1914, the United States against Oil Companies, do authorize such regulations, even though the same company is the producer and the receiver, if the latter be for subsequent public use. But the authority of Congress can extend no further. If the current be sold by a bona fide sale to a customer doing business entirely in a State, the Federal authority can not affect or control such distribution. It does not seem that such doctrine could be questioned sincerely or intelligently, and yet several in the course of the debate based their arguments upon the assumption that such control, solely in intrastate business, should be exercised by Congress. Of course, such a proposition is nonsense, and the committee acted upon that assumption that our only jurisdiction was over interstate commerce. We have not yet superseded the Constitution.

CONTRACT RIGHTS.

But the second paragraph of the section directs the Secretary of War to include among the conditions of his approval a provision reserving his right to regulate and control as though the current entered into interstate commerce. This is a contract right, clearly subject to the police powers of the State in which the current is used. It is not a sovereign right to be exercised paramount to the State authority, but a contract right subject to State police authority. But until the State shall exercise its right this contract would seem to be valid and grant to the Secretary of War a large authority in the regulation of the use of electric current entirely within the State. That is the way we get at the problem. With this confronting the committee, we framed a provision based upon section 15 of the interstate-commerce act which has been in force since 1906 as a part of the Hepburn Act. This section provides for the method of regulating the services and rates of carriers in interstate commerce. We have paraphrased that section and apply it to the regulation and control of electric current in interstate commerce. There can be no doubt as to its constitutionality or efficacy, because it has been tested as has no other statute passed within the last decade, and within its limits it certainly will be effective.

PROPER OFFICIAL.

The Secretary of War is the proper official to receive this large power, because under the general law he is placed at the head of the War Department and would have the right to use his subordinate bureaus—the Corps of Engineers and the officers of the Judge Advocate General—in the administration of this provision. The Corps of Engineers is probably the best equipped of any bureau in the Government to do this particular work. It is composed of men of the highest character, training, and disinterestedness, and with peculiar experience adapted for this sort of public duty. The postgraduate course of the Engineering School at Washington trains the engineers in electrical engineering, and several of the engineers have received special courses in engineering at Cornell University and at the Boston Institute of Technology. As a result the United States Engineer Corps has quite a number of able officers ready to undertake this very important task.

The Judge Advocate General's office also has officers experienced in the legal phases of this service. For many years the United States has leased its surplus current from its military reservations wherever such can be done without interfering with private business. The Judge Advocate General's office has always supervised these contracts.

ADMINISTRATION.

The result would be, in all probability, the Secretary of War would appoint a board composed of officers of the United States Engineer Corps and Judge Advocate General's office to administer this law. Regulations could be framed and the board could have local sessions wherever public interest would require.

For many years the Secretary of War has had charge of the use and charges for use of bridges across navigable streams, and has had no difficulty in ascertaining all the facts necessary to perform this difficult duty. He is also obliged to enforce the law relative to the removal of obstructions in navigable streams, and in the administration of both of these statutes he has been required to ascertain all sorts of facts and to secure information from corporate interests which would be necessary to form the basis for his administration. There has been no difficulty heretofore in securing all of this information. So the committee believes that no additional powers were necessary other than those which have been exercised so successfully for many years and without any disturbance.

STATE REGULATION.

But the main purpose of the committee and its best belief was that the power of regulation of these public utilities could be best accomplished through the various State governments. Accordingly a proviso to the section prescribed that whenever a State provided adequate regulations as to rates, charges, and services which shall not be unduly discriminatory or unjust against the service or charges in any other State arising from the same project and this situation shall be shown to the satisfaction of the Secretary of War, then in such case the State authority shall be supreme and the Secretary of War shall not exercise the powers granted by this section.

The committee believes that this would encourage States to provide adequate regulation themselves and then no question could be raised as to the limit of authority of the Federal Government. The States could act and would regulate the whole use from the reception of the current to the smallest detail to the final consumer. This the Federal Government always can not do under its limited power except by means of a contract. But if the State shall not provide adequate authority the Secretary of War is given supervision and decision to protect the public interests under the provision of this section. Thus we have tried to meet this difficult situation to encourage the States, and yet protect the people against any default.

We believe that there is ample constitutional authority for our action in the regulation of these rates and service, local and national. For nearly a century the Supreme Court has held that where regulation of Congress is of only local interest and not of national scope, then the State authority shall apply unless Congress otherwise shall authorize and direct. Here,

not only does Congress not interfere with State authority but provides expressly that it shall be effective. Under this doctrine we have given the States the right to adequately care for the whole situation, even though it be a regulation of interstate commerce.

This section has been severely criticized as being inadequate, half baked, and other epithets of that description. The gentleman who make them are not informed as to the limits of the constitutional powers of the United States and as to the actual course of business in the generation, transmission, and distribution of electric current. Your committee has endeavored to meet the situation as it is limited by our constitutional authority and by the actual business as it is done by the people in their daily life. Under these circumstances we are confident in submitting this section to the approval of the House. We do not grant more authority than necessary. But where long experience has indicated the limits to be fixed by a statute and the power which must be conferred, we have heeded such and confined ourselves and our work to the exigencies presented. We are confident the duties can and would be satisfactorily performed by what we have prescribed.

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. McCOY. Mr. Chairman, I ask unanimous consent, at the request of my colleague, Mr. KINKEAD, to extend my remarks in the RECORD by incorporating a short article referring to the establishment by the Washington Terminal Co. of a retirement plan for elderly employees.

The CHAIRMAN. The gentleman from New Jersey asks unanimous consent to extend remarks in the RECORD. Is there objection?

There was no objection.

Mr. McCOY. The following is one of the number of articles that the gentleman from New Jersey [Mr. KINKEAD] has recently placed in the RECORD:

EMPLOYEES TO BE PENSIONED—WASHINGTON TERMINAL CO. ADOPTS RETIREMENT PLAN.

An old-age pension system has been established by the Washington Terminal Co., retiring employees at the age of 70, or those between 65 and 70, who are found incapacitated and who have been with the Washington Terminal Co. or railroads associated with it for more than 20 years. The terminal company has been in existence only since 1907.

The first beneficiaries will be retired August 1. They are Albert Banes, assistant postmaster, in service nearly 40 years; Richard E. Ball, blacksmith's helper, in service nearly 31 years; and William Wallace, cleaner, in service nearly 30 years.

Pensions are allowed on the following basis:

For each year of service 1 per cent of the average regular monthly pay for the 10 years preceding retirement; for example, if an employee has been in the service of the company for 40 years and has received for the last 10 years $80 per month, his pension allowance would be 40 per cent of $80, or $32 per month.

Acceptance of pension allowance does not debar beneficiary from engaging in other business, but such person can not reenter the service.

No person is to be taken into the service of the company who is more than 45 years old.

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from Washington [Mr. HUMPHREY].

Mr. HUMPHREY of Washington. Mr. Chairman, the Panama Canal, the greatest material achievement of the human race, is now a reality. It is owned and was built and paid for by the American people. For it we have expended approximately half a billion dollars. No other nation has contributed to its construction. No other nation has assumed any responsibility in relation to it. As it neared its completion this Democratic administration, in spite of platform pledges, in spite of the many promises made to the American people, in ignorance and fear, to buy influence and friendship, cowardly surrendered the right to pass American ships through our own canal without paying ourselves for that privilege.

Now, as a fitting companion to this policy of surrender and national degradation it is proposed that we apologize to Colombia, give her special privileges in the use of the canal, and pay her $25,000,000 as a balm for her lacerated feelings, caused by her failure to either blackmail the United States or to prevent the construction of the canal.

The proposed treaty with Colombia that this administration is insisting on being ratified not only provides an apology and cash to Colombia, but it further provides that Colombia shall have the right to pass her troops, her munitions of war, and her vessels through the canal free.

At the dictation of the President the Democratic Congress in cowardice, shame, and humiliation has just voted that we can not discriminate among nations in the use of the canal; that we can not even pass our own ships through the canal free without violating the Hay-Pauncefote treaty and without national dishonor. In his message to Congress on March 5 last the President declared that to pass our ships through the canal without the payment of tolls would be in "plain contravention" of the Hay-Pauncefote treaty. Again, he made the same statement in his speech on the Fourth of July, and yet we find him now urging a treaty to do the very thing that he has been denouncing and condemning Certainly if the Democratic contention be true, that all nations must be treated alike under the Hay-Pauncefote treaty, we have no right to favor Colombia. The President urges that it is national dishonor for us to violate the treaty to favor ourselves, but that it is national honor to violate the treaty to favor Colombia. This contradictory attitude of the President I will not attempt to explain.

The history of the transactions in regard to our securing the right of way across the Isthmus of Panama for the construction of the canal is not complicated, but it is at this time extremely interesting and important. In 1902 Congress gave the President the power to enter into a treaty with Colombia, perfecting our right, under the treaty of 1846, to construct a canal across the Isthmus of Panama. In accordance with this action the Hay-Herran treaty was negotiated and ratified by the United States and submitted to Colombia for approval. Colombia was anxious at this time for the making of the treaty. She had urged us to make it and had eagerly approved its terms. Colombia under this treaty was to receive $10,000,000 and $250,000 per annum as long as we controlled the canal, and the right to pass her vessels through the canal free. This treaty could only be criticized in one regard, and that was in our anxiety to be fair with a weaker nation the United States was more than just.

Colombia at the time the treaty was submitted to her was in the absolute control, and had been for some time, of its President, Marroquin. He had been Vice President, but the constitution of Colombia provided that if for any reason the President was absent from the capital then the Vice President should perform his duties. Marroquin, being a student and a worshiper of the constitution, had the then President seized and imprisoned a few miles from Bogota, and then declared that as the President "was absent" from the city he himself, under the constitution, must perform the duties of President. This he proceeded to do. He also proceeded to make this "absence" of the President from the capital permanent, which occurred by the death of the President in 1902 in the prison where he had been placed by Marroquin. Then this great constitutional student, President Marroquin, discovered another provision in the constitution of his country to the effect that in case of a public disturbance the President could exercise legislative functions, dispense with Congress and the other coordinate branches of government, and become the absolute dictator of the nation. Having made this discovery, he at once caused some of his friends to "make a public disturbance," and promptly seized absolute power under this constitutional provision.

Whatever else may be said of this remarkable man, he was a great stickler for the Constitution.

In his love and reverence for the Constitution he is almost worthy to stand side by side with those favored protégés of this administration, those great patriots, Carranza and Villa. Constitutional government is dear to the leaders of this administration. It is well that they should now in state papers and on the Chautauqua circuit sing the praise of these great constitutional heroes. This administration is horrified by the bloody deeds of Huerta, but it believes in praise and apology and cash as a reward for the deeds of this constitutional dictator of Colombia, who secured his power by fraud and crime.

It will be well to remember that it was the liberty-loving, law-abiding, constitution-observing, mild-mannered man, Marroquin, that we were dealing with in attempting to make this treaty with Colombia.

For three years prior to 1903, the date of the declaration of the independence of Panama, no Congress had sat in Colombia, except the one called by President Marroquin to ratify the Hay-Herran treaty. This Congress was the absolute tool and puppet of the President. Circumstances compelled us to attempt to make a treaty with this man who by force and fraud had entirely usurped every power of the people of Colombia. The Hay-Herran treaty when first submitted to Marroquin was very acceptable to him, and he was anxious to approve it. But as he contemplated the $10,000,000 that he was to receive his cupidity and greed overcame his judgment.

The United States was going to pay the French company that had attempted to build the canal $40,000,000. Marroquin conceived the idea that either he could compel this company and the United States to pay large additional sums to have the treaty ratified or else by delay he could within the course of a year declare the rights of the French company forfeited, and thereby be able to seize the $40,000,000 the United States was to pay that company. With this plan in mind he tried to hide behind his sham Congress, the first that he had permitted

to meet in more than three years. But his performance of calling the Congress was so transparent that it deceived no one. It was his Congress. He controlled every vote in it, and he could have adjourned it at any time and have taken the matter entirely into his own hands and have ratified the treaty himself if he had wished if Congress had refused to do what he directed. In fact, he did afterwards offer to do this very thing if the United States would not recognize the Republic of Panama and would give him another chance.

But, notwithstanding repeated and plain warnings from this country that serious consequence would follow if they refused to accept the treaty, the Colombian Congress after many weeks of pretended debate rejected the treaty by unanimous vote. They had mistaken generosity for weakness and believed that we would pay more rather than be defeated, or greatly delayed, in our mighty undertaking.

The people of Panama were greatly incensed at this action of Colombia. Panama was the State of Colombia in which the canal was to be built. It was the part of Colombia that would be most directly and greatly benefited by its construction. The building of the canal meant life or death to Panama. If the United States should construct the canal along the Nicaraguan route, it would be the end of the hopes of Panama. The people of Panama, knowing these things and realizing that Colombia had deliberately perpetrated this monstrous outrage upon her, rose literally as one man in rebellion and declared themselves free and independent. Colombia offered some show of resistance, but it consisted only of threats at Colon and a burlesque bombardment of Panama. The only bloodshed in the conflict was the killing of one man, a sleeping Chinaman, who was accidentally struck by a stray shell.

The Republic of Panama was established, and it was promptly recognized by President Roosevelt. This act of President Roosevelt was consummated with his usual promptness, decision, and patriotic foresight. In this act President Roosevelt performed one of the highest duties to his country and conferred one of the greatest of blessings upon this Nation and upon humanity in the history of the world. In future ages it will be forever a cause for grateful remembrance that we had a President at that hour who had the courage and the patriotism and the brains to do what was done. In all the splendid deeds that he has done none will add more lasting luster to the fame and name of Theodore Roosevelt than this act of his making certain the construction of the Panama Canal.

But now it is seriously proposed to reflect upon the author of this great achievement and to belittle and discredit the Nation by apologizing for what has been done and paying to Colombia $25,000,000 for failure to block this great work. We propose to apologize for what? To apologize for refusing to be blackmailed? For having the courage and ability to defeat a band of bandits? What are we to pay the $25,000,000 for? Why are we giving Colombia special privileges in the use of the canal? For not being able to rob us? We propose to pay $25,000,000 to heal the wounds of Colombia for her failure to seize the $40,000,000 belonging to the French company and involve us in trouble with France. It is precisely as if a highway robber who had suddenly been struck down by his victim whom he holds up at the point of a revolver would come into court and ask to be paid for the swag that he lost and for the mental and physical pain and anguish that he had suffered.

Who ever heard of a thief acquiring title to stolen goods by apologies to the rightful owner? Who ever before heard that a robber could acquire right and title by forcing his victim to take such compensation as he saw fit to offer? If we acquired the canal strip by either force or fraud, then we have no right or title to it whatever. If we did not get it honestly and fairly, then we should return it to its rightful owner. This would be consistent with national honor. But we would not restore national honor nor acquire rightful possession by apologies and dollars.

But it is charged that the United States, or its citizens, assisted in fomenting the rebellion of Panama. Suppose that we did do this—which we did not—in view of her actions has Colombia any right to complain? Suppose that we did, does it lie in the mouth of this administration to criticize such action? How many times have we been entertained by those now in authority with noble declarations about constitutional government and the rule of the people? We have been repeatedly told that 85 per cent of the people of Mexico were not in sympathy with Huerta and that they had no part in the Mexican Government. Therefore there was no government in Mexico that we should recognize and none worthy the support or the loyalty of the Mexican people. Yet the people of Panama had no voice whatever in the Colombian Government and had not had for some years, for that Government was controlled absolutely by one man who had acquired his power by force and crime. The highest interests of Panama were entirely disregarded by this greedy and crooked usurper. The people of Panama were unanimously in favor of rebellion and in favor of independence. If the consent of the governed is a requisite, then Colombia had no claim whatever upon Panama. If ever in the world's history a rebellion was justified, it was that of Panama, not only for its own benefit but for the benefit of humanity. The people of Panama rebelled. They set up a new republic. They had been at all times urging Colombia to ratify the treaty with us. They had always been friends of the United States. Should we then have turned upon our friends and helped those who had sought to rob us?

If Panama had not rebelled, I believe we would have been fully justified in proceeding to build the canal in spite of Colombia without further delay and without further negotiations or treaties with her. This, I understand, was the attitude of President Roosevelt and the course that he proposed to pursue. I think he was right. I believe the world would have justified such action. Under the treaty of 1846 we had the right to insist that Colombia consent to a reasonable treaty. Our efforts to secure a treaty with Colombia were entirely different from what such an attempt would be under ordinary circumstances. Colombia was in honor bound under the treaty of 1846, as well as by a proper regard for the rights of mankind, not to reject the treaty as she did. Her manner of rejecting it clearly showed that she intended to block the construction of the canal indefinitely or extort the price she had demanded. For more than 50 years Colombia had been told by this Nation that she would not be permitted to do this. One of the express conditions of the treaty of 1846 was that the United States should have the right to keep the Isthmus free and open for traffic, and in return the United States was to guarantee the sovereignty of Colombia over the strip against all other nations of the world. It had been the opinion of highest authority ever since the making of the treaty of 1846 that that treaty gave us the right to construct the canal, and that it would be a violation of that treaty for Colombia to refuse to enter into a reasonable agreement for that purpose.

In 1858 Secretary of State Cass declared, in speaking upon this question, that the Governments in possession of the Isthmus did not have the right "to close the gates of intercourse of the great highways of the world and justify the act by the pretension that these avenues of trade and travel belong to them, and that they choose to shut them." That was our position from that day until now, or at least until this administration came into power. Colombia understood our position absolutely. Our position was right when Secretary Cass asserted it, and it is right to-day. Colombia by her rejection of the treaty raised the question squarely as to whether or not she had the right to close this "great highway of the world."

Three things were certain: First, that a private company could not construct the canal. Second, that the United States would not permit any European power or powers to construct it. Third, that the United States alone could construct it. Under these conditions Colombia had no right, in order to extort money, to attempt to indefinitely delay this undertaking.

It was fortunate for all the world that Panama rebelled and saved many troublesome problems and complications that might have arisen. Panama by that act not only blessed herself, but civilization. I wonder if this administration would, if it could, again place Panama under the greedy control of Colombia.

I wonder if this administration would, if it could, again place Panama in the power of that usurper, criminal, and great constitutionalist, Marroquin.

For the first time in her 400 years of troubled and perturbed existence, since being independent and under the powerful guiding hand of this Nation, Panama is enjoying a period of peace and prosperity.

The act of prompt recognition of Panama by this Nation brought peace and saved war between that country and Colombia. It was better for Panama and it was also better for Colombia. It was better for the civilized world. That this is the belief of other nations appears by their approval of our course and by their prompt recognition of the new republic.

But did the United States encourage or take part in the Panama rebellion in behalf of Panama? It has been attempted to show this was a fact, because American vessels were at that time at Colon, but it was not only proper for the Government to have war vessels there at that time, but in view of existing conditions and our duties on the Isthmus under the treaty of 1846 it would have been criminal neglect for us not to have had a force in that vicinity to protect the Canal Zone. The only mistake that was made in this matter was in not having a larger force. This mistake almost caused fighting and blood-

shed. Everyone knew who gave any attention whatever to the matter that Panama would probably secede if the treaty was not ratified. Our minister at Colombia had reported to the State Department months before that this would probably occur. Later he reported that representatives of Panama in the Colombian Congress had become largely indifferent as to the fate of the treaty, for the reason that they were convinced that Panama would secede if the treaty was rejected. Again our minister at Colombia, on September 15, 1903, called attention to the fact that Senator Obaldia had been appointed governor of Panama; that Obaldia was a "separatist," and that if the treaty failed Panama would at once set up a separate government. The newspapers of the country for weeks had carried articles saying that Panama would at once rebel if Colombia failed to ratify the treaty. Under such circumstances, this country would have been justly charged with criminal negligence if we had not taken notice of these conditions and prepared for them. Four hundred Colombian troops came to Colon, and their commander threatened to kill every American in the city. Serious trouble was only averted by the landing of a body of our marines.

There was no reason why any American should help to stir up trouble. It was entirely unnecessary. Panama for weeks had been ready to declare her independence, and was only waiting for the final rejection of the treaty to consummate her plan. President Roosevelt in his message to Congress January 4, 1904, said:

> I think proper to say, therefore, that no one connected with this Government had any part in preparing, exciting, or encouraging the late revolution on the Isthmus of Panama.

Secretary John Hay on January 5, 1904, in an official communication said:

> Any charge that this Government or any responsible member of it held intercourse, whether official or unofficial, with agents of revolution in Colombia is utterly without justification.
>
> Equally so is the insinuation that any action of this Government prior to the revolution in Panama was the result of complicity with the plans of the revolutionists. The department sees fit to make these denials, and it makes them finally.

In a later communication Secretary Hay made the following statement:

> The Isthmus was threatened with desolation by another civil war; nor were the rights and interests of the United States alone at stake—the interests of the whole civilized world were involved. The Republic of Panama stood for those interests; the Government of Colombia opposed them. Compelled to choose between these two alternatives, the Government of the United States, in no wise responsible for the situation that had arisen, did not hesitate. It recognized the independence of the Republic of Panama, and upon its judgment and action in the emergency the powers of the world have set the seal of their approval.

I place the facts known to all the world and the statements of these two eminent Americans against the suspicions and insinuations of that class of self-confessed superiority, that righteous breed of "high-brows," who are forever seeking to show the dishonor of their own country.

While Panama was a State of Colombia the control of Colombia over it was little more than nominal. It was always in a state of turbulence and rebellion. During the 57 years before Panama became a separate Government there had been on the Isthmus 53 outbreaks, consisting of riots, disturbances, and rebellions. Some of these disturbances were of considerable magnitude. One rebellion lasted more than a year. Another lasted three years. During that period of 57 years the United States intervened six times to restore order and to protect traffic across the Isthmus. Four times during that period the Republic of Colombia asked the assistance of the United States in keeping order on the Isthmus. In view of the fact that revolution was chronic, that rebellion was almost annual, how can any sane and sincere man contend that it needed American influence to foment rebellion? At the time it came the very life of Panama was at stake. Why, then, would it need encouragement to cause her to attempt to secure her independence when she had been willing to do this many times before when the reasons were comparativly insignificant?

Summing up, there can be no doubt that Colombia, although she had sought the treaty, deliberately and for the sole reason of extorting more money, either from the United States or the canal company, refused to ratify the treaty.

It is perfectly clear that Colombia hoped to delay the ratification of the treaty until she could find some pretext to declare forfeited the rights of the French company and then seize the $40,000,000 that the United States proposed to pay to that company. This criminal greed, if consummated, would have led to serious trouble and would undoubtedly have caused complications with France, with the probability of indefinite delay in securing the right of the United States to commence the construction of the canal.

The result of this bad faith and dishonesty on the part of Colombia was to threaten the complete ruin of Panama and forever destroy her hope of having the canal constructed through her territory.

The calling of the Colombian Congress for the purpose of ratifying the canal treaty was mere sham and pretense, and the treaty would have been ratified if the President of Colombia had desired it.

Panama, outraged by this monstrous injustice of Colombia, made it plain to the whole world that if Colombia rejected the treaty she would declare her independence. Fifty years of rebellion, riot, and disturbance showed that Panama had little regard for Colombia, and it also showed the weakness of the control of Colombia over Panama.

Panama did rebel. She was fully justified in so doing. The United States immediately recognized the new Government and made a treaty with it, giving the United States the right to construct a canal across the Isthmus, and then and there forever settled one of the greatest questions in the history of the human race.

Colombia had violated the spirit of the treaty of 1846. She rejected the very treaty she had sought. She showed bad faith and dishonesty. She attempted coercion and blackmail. She dishonored herself, played false with the United States, disregarded the interests of the civilized world, and threatened the complete ruin of Panama.

The people of Panama had always been our friends. She had always treated us fairly. She had kept the faith.

But now, Colombia and her friends insist that it was our duty to have turned our guns upon our friends and have rewarded our enemies; that attempted blackmail should be rewarded; and that the effort to block the construction of the canal should be praised and paid for.

What is there about the record in relation to securing the right to construct the Panama Canal that should call for apology? What is there in that record that should make any real American feel ashamed? What is there in that record that should call for a gift of $25,000,000? What is there in that record that should call for special privileges to be given to Colombia in the use of the canal?

If Panama had needed our help to be free we would have been fully justified in giving it. Fortunately this necessity did not arise. Fortunately for herself, for the nations of the whole world, Panama took her place among the family of nations. Fortunately, at that time, we had a President who had the courage, ability, and patriotism to do his duty in spite of timid friends and designing enemies. He may be criticized now by some who belong to that class who believe it shows mental superiority to be ever against your own country, but he will be fully vindicated by the verdict of history. By his act the dream of 400 years was to become a splendid reality.

It would indeed be a fitting climax to a discreditable foreign policy should this administration that has surrendered the Panama Canal to purchase the friendship of Great Britain and the influence of the transcontinental railroads; that practically caused this great Nation to declare war against an individual; that still continues its stupid, vacillating, and blundering foreign policy, now add to this policy of weakness and surrender the additional degradation of having this Nation apologize for defeating an attempt at blackmail and pay the nation that failed in its criminal undertaking $25,000,000 "to help the hurt that honor feels."

Nothing in all the history of this Nation has paralleled the public reasons of the Secretary of State for the ratification of the pending treaty with Colombia, except only the ones given in the message of President Wilson urging the surrender of the canal to Great Britain and the transcontinental railroads.

Mr. Bryan says, speaking of the Colombia treaty:

> It does not matter which party was at fault.

The President said, in speaking of the canal surrender, that we should do it "ungrudgingly."

Mr. Bryan said, speaking of the treaty:

> Colombia feels aggrieved, and whatever may be said as to whether or not this feeling is justified, we should give the price that she asks.

The President said, in regard to the surrender of the canal, we must do this thing "without asking whether it is right or wrong."

We are rich and prosperous, and if our money holds out we will finally buy the friendship of the world, if this Democratic policy is continued. How much better is the Nation that, "right or wrong," purchases peace and good will than the one that sells it?

Both the President and the Secretary of State seem to think that they owe no greater duty to their own country than they do to other nations of the world. They both preach that we should,

for the sake of friendship, yield to foreign demands, whether they are "right or wrong." This does not square with the belief or the action of other men or of other nations. It does not follow the divine declaration—

But if any provide not for his own, and especially for those of his own house, he hath denied the faith and is worse than an infidel.

Would that some of this robust, red-blooded, divine doctrine could be instilled into this anemic, weak, feeble, faltering, anile administration!

During this administration a giant banner should be stretched from the White House to the office of the Secretary of State, and written thereon in letters large enough for the whole world to read should be these words: "Our foreign policy: Pay, Apologize, and Surrender."

Mr. DONOVAN. Mr. Chairman, I make the point of no quorum.

SEVERAL MEMBERS. Oh, do not do that.

Mr. MURDOCK. There is no quorum present. There are only 23 Members by actual count.

Mr. DONOVAN. Mr. Chairman, I could get no intelligent question answered, and here we are listening to a lot of foreign matters. I could not get my question answered from an intelligent Member, and I do not feel like sitting here and listening to these matters which are entirely foreign to this subject.

Mr. ADAMSON. I would like to state to the gentleman that we have promised that some pension legislation shall be disposed of this afternoon.

Mr. DONOVAN. Mr. Chairman, at the request of others I withdraw the point of order.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Michigan [Mr. WOODRUFF].

Mr. WOODRUFF. Mr. Chairman, the conservation bill—H. R. 16673—that will soon be offered by the Committee on the Public Lands for consideration marks a long, long step in the right direction. I believe an earnest and honest effort has been made to conserve the interests of the public. However, it is impossible, I think, to successfully draw measures of this kind without having definite information at hand relative to the conditions existing in every State in the Union. It is necessary, I believe, that the committee having this work in charge should have a knowledge of the provisions of the laws of the various States. Without this knowledge, and without the knowledge—which, of course, no man can have—of just what a State proposes to enact in the way of laws controlling public utilities, it is impossible to draft a law that will absolutely meet the needs of the people in the various sections of our country, unless Congress reserves the right to see that projects developed under leases granted under the provisions of this act are properly regulated.

INADEQUACY OF PROPOSED BILL.

As I have said before, Mr. Chairman, I believe an earnest and honest effort has been made by the Committee on the Public Lands to draft a measure that would absolutely protect the consumers in the various States, but careful scrutiny of H. R. 16673 exemplifies the fact that the committee did not have at hand the information such as I have suggested. Section 9 of the bill provides:

That in case of the development, generation, transmission, or use of power or energy under a lease given under this act in a State which has not provided a commission or other authority having power to regulate rates and service of electrical energy and the issuance of stock and bonds by public-utility corporations engaged in power development, transmission, and distribution, the control of service and of charges for service to consumers and stock and bond issues shall be vested in the Secretary of the Interior or committed to such body as may be authorized by Federal statute until such time as the State shall provide a commission or other authority for such regulation and control.

You will notice that the section provides that "in a State which has not provided a commissioner or other authority having power to regulate rates, etc.," then only shall the right to regulate be reserved to the Federal Government. It matters not that the laws in most of the States having such a commission are drawn solely in the interests of the operating companies and not at all in the interests of the consuming public. The right to regulate, under the bill as presented to the House, is transferred for all time to the State authorities.

This is the only section of the bill that attempts to control the regulation of such public-utility corporations in the States, and this section does not insure protection in any way to the people living in States having a commission with authority to oversee the actions of such corporations. It instead turns over to such State commission every authority in the premises, not reserving to the Secretary of the Interior, or some other official or body, as it should, the right to determine for the Government whether or not the State laws are such as to insure fair treatment to the public.

THE REMEDY I PROPOSE.

Mr. Chairman, when this bill is being considered in the Committee of the Whole under the five-minute rule for amendment I propose to offer the following substitute for section 9:

"That in case of the development, generation, transmission, or use of power or energy under a lease given under this act in a State which, in the judgment of the Secretary of the Interior, has not provided a public-utilities commission or other authority with sufficient power to regulate, in the interest of the consuming public, rates and service of electrical energy and to supervise and control the issuance of stocks and bonds by public-utility corporations engaged in the development, transmission, and distribution of power in said State, then and in such case the control of service and of charges for service to consumers, and of stock and bond issues, shall be vested in the Secretary of the Interior or committed to such body as may be authorized by Federal statute until such time as the State shall provide a commission or other authority for such regulation and control which shall have such power."

Mr. MURDOCK. Will the gentleman yield?

Mr. WOODRUFF. Yes.

Mr. MURDOCK. In whom does the gentleman lodge this supervisory power?

Mr. WOODRUFF. The right to determine the adequacy of the State law will rest entirely in the hands of the Secretary of the Interior.

Mr. MURDOCK. But all the other powers in this bill are put under the supervision of the Secretary of War.

Mr. WOODRUFF. The gentleman has in mind the Adamson bill, while I am speaking of the Ferris bill.

This amendment, if adopted, will absolutely reserve to the Government for all time the right and the power to fully protect the consuming public in all communities where hydroelectric energy may hereafter be generated under the provisions of this act, and should by all means be adopted as a part of this bill.

The committee, it seems, has presumed that any State undertaking regulation would see to it that the laws were such that these corporations would be properly regulated. The committee has not taken into consideration the immense political power wielded by such corporations in the several States. It evidently does not appreciate the fact that in some States to-day there are laws upon the statute books that could justify one in thinking that such laws were either written by the attorneys of the corporations or submitted to them for approval. The committee did not understand, I think, the extreme difficulty that would be experienced in many of the States in amending these laws so as to properly safeguard the interests of those States. I have in mind particularly the State which I have the honor to represent.

COMMONWEALTH POWER CO. AND MONOPOLY.

In the State of Michigan we have a corporation known as the Commonwealth Power Co., which has sought and is still seeking to control every kilowatt of electrical energy generated in that State. To accomplish this they have not hesitated to resort to methods that should condemn them in the minds of every honest man. They have left no stone unturned to prevent competition in the development and sale of electrical energy. Their engineers have surveyed the more valuable streams of the State, and on such streams as they feel it is not necessary to develop at this time it is known that they have bought up lands that it would be absolutely necessary to own in order to develop the same, thereby preventing any rival firm or corporation from developing such water power, completely shutting out competition. I know of only one exception to this rule, and I have in mind the Tittabawassee River. It seems that another firm had discovered the possibilities of this river in connection with the development of water power and had taken steps to secure the land necessary for development prior to the time the Commonwealth Power Co. recognized its importance. The former company was under contract with my home city to develop this stream, generate the electricity, bring the same to Bay City, and deliver it at our switchboard in the city at the rate of eight-tenths of a cent per kilowatt hour.

Several of the most eminent engineers in the country had gone over this stream, and each and every one had pronounced the proposition entirely feasible and good from a business standpoint. They could figure to a dollar what the cost would be to build the dams, install the machinery, and build the lines into Bay City. They knew what the lands would cost that would have to be bought before the dams could be built, for the developing company had options on or owned outright every foot of land necessary. They knew how much it would cost to operate and how much electrical energy could be developed. The company had an ironclad contract with Bay City to take every kilowatt at a certain definite price, and as the municipality

was entirely responsible the Tittabawassee company could show to a cent, almost, what the profits would be each year. There were none of the uncertainties of business usually connected with the operation of concerns doing a retail or distributing business. There would be no loss of a small account here and another there. There would not be the expense of keeping in repair and good condition a complicated distributing plant. So it can readily be seen that under ordinary circumstances there would have been no difficulty whatever in financing this company.

COMMONWEALTH RESORTS TO COURTS TO ELIMINATE COMPETITION.

But for many years past Bay City has had a municipal electric-lighting plant, and the same has shown a profit at the end of each fiscal year. The Bay City Traction & Electric Co., a subsidiary of the Commonwealth Power Co., has for a number of years attempted to do away with the competition afforded by the municipal plant. It is common knowledge that machinery used in the generation of electricity becomes obsolete as quickly, perhaps, as machinery used in the production of any other one thing, and during the years that the municipal plant had been in operation it naturally followed that the machinery had become obsolete, so it was proposed to bond the city for a reasonable sum for the purpose of rebuilding the plant and putting it upon an up-to-date basis, with the object of producing electricity at a greatly reduced cost, thereby enabling the consumers to receive this service at a more reasonable rate. The Bay City Traction Co., which is a taxpayer in the city, took this matter into the courts as a taxpayer, and, on a technicality, prevented Bay City from even submitting the proposition to bond to the people. There was only one thing to do, and that was to allow the profits of the department to accumulate until such time as there were enough funds on hand to rebuild the plant. In the meantime the Bay City Traction Co. had been operating with the most up-to-date machinery; but at no time had they sold their output to the people at a less cost than did the municipal plant.

When it first became noised about that the Au Sable River was to be developed by the Commonwealth Power Co., it was inferred that the people living in that section of the State would receive current at a reduced price, owing to the ability of that company to produce electricity at a greatly reduced cost. Everybody supposed that the people would receive some benefit from the conservation of the power annually going to waste in the Au Sable River. Their dams were built, their wires were strung, and the current was brought into Bay City and into other cities in that section of the State. To this day, Mr. Speaker, there has been no reduction in the price of electricity to the consumer. We are paying as much to-day for our electricity as we did during the time when this company was compelled to generate its power by steam. The old, worn-out, obsolete machinery of the municipal plant was able not only to compete at a profit with this hydroelectric power but to actually sell at a less price than that asked by the Commonwealth Co.

COMMONWEALTH CO. PREVENTS FINANCING OF TITTABAWASSEE POWER CO.

I have stated, Mr. Chairman, that the Tittabawassee Power Co. had contracted with Bay City to bring their electricity to our switchboard and sell the same to us at the price of eight-tenths of a cent per kilowatt hour. With our old, worn-out, obsolete machinery in the municipal plant, with which it was possible to compete with the hydroelectric power developed on the Ausable, it cost us 2½ cents per kilowatt hour to develop. Realizing that if the Tittabawassee Power Co. was allowed to finance their project and fulfill their contract they would be compelled to sell their product at a reasonable profit, the Commonwealth Power Co. has gone into every money market, practically, in this country, and through their financial connections prevented the financing of the Tittabawassee Power Co. They were enabled to do this by the fact that they are directly or indirectly connected by a complete system of interlocking directorates with practically every hydroelectric developing or holding company and every financial institution that finances these concerns in this country. It was only necessary for the Commonwealth people to notify the different banking people that the completion of the Tittabawassee project would be an interference with their vested rights to make it absolutely impossible to finance this concern in the usual way.

It is a matter of record in the departments of this Government that while nominally many different companies are engaged in the production of hydroelectricity the actual condition is that they are all as closely connected as were the subsidiary companies of the Standard Oil previous to the dissolution of that company. These companies to-day form one of the most gigantic monopolies the world has ever known. They are swiftly and mercilessly crushing out competition everywhere by means no less unscrupulous than resourceful, and if it has been found impossible to finance an independent concern in Michigan it is not without the bounds of possibility that independent concerns in other localities are receiving similar treatment. The action of the Commonwealth Co. in this instance has been the means of denying to the people of my section of the State the privilege of enjoying the benefits of competition in hydroelectric heat, light, and power which by every right is theirs.

The Tittabawassee Power Co., Mr. Chairman, has entered into the contract with Bay City in good faith, being satisfied to sell to the city at a reasonable profit, and have agreed to dispose of their current to us for the extremely low price of eight-tenths of a cent per kilowatt hour, when it has been costing us 2½ cents per kilowatt hour to develop the same. And it is reasonable to suppose that if the Tittabawassee Power Co. can sell their product at eight-tenths of a cent per kilowatt hour and make a fair profit at that figure, the Commonwealth Power Co. could and would dispose of their product to the people of Michigan at a greatly reduced price from that they ask to-day if the laws of the State were such as to enable the railroad commission to really regulate this company.

There is a law on the statute books of Michigan, passed by the legislature of 1909, which gives to the railroad commission the power to fix the rates. This law provides:

"That upon complaint, in writing, by any city, village, or township, by its duly constituted common or village council or township board, or other duly constituted authority of such city, village, or township, relative to the price of the electricity sold and delivered in such municipality, the commission shall investigate such complaint, and may, by its agents, examiners, and inspectors, inspect the system and method used in transmitting and supplying electricity, and examine or cause to be examined the books and papers of such person, firm, or corporation pertaining thereto. The commission shall cause notices of such complaint, with a copy thereof, to be served on the corporation affected thereby, who shall have a right to be heard in respect to the matter complained of at a convenient time and place, to be fixed in such notice. After such investigation and hearing, the commission, within lawful limits, may by order fix the maximum price of electricity to be charged by such corporation; and the price so fixed, of which such corporation shall have notice, shall be the maximum price in such municipality until the commission shall, upon like complaint, or upon the complaint of the person, firm, or corporation engaged in furnishing such electricity, again fix the maximum price to be charged therefor. In determining such maximum price the commission shall consider and give due weight to all lawful elements proper to be considered, to enable it to determine the just and reasonable price to be fixed for supplying electricity in such municipality, including cost, reasonable return on actual value of all property used in the service, depreciation, obsolescence, risks of business, value of service to the consumer, the connected load, the hours of the day when used, and the quantity used each month: *Provided, however*, That the commission shall in no case have power to change or alter the price for electricity fixed in or regulated by or under any franchise heretofore or hereafter granted by any city, village, or township."

WATER-POWER LOBBY CONTROLLED LEGISLATION.

I would call your attention to the fact that in determining such maximum price the commission shall consider, among other things, "value of service to the consumer." And just why the members of the Michigan Legislature thought it necessary to specifically provide in this law that in determining the maximum price the railroad commission must consider the value of the service to the consumer is more than I can understand. It seems to me that any company would feel itself amply protected if the commission were instructed to consider only the cost, reasonable return on actual value of all property used in the service, depreciation, and overhead charges. This law could not have been drawn more favorable to the corporations if it had provided that the commission could consider only the wishes of the corporations themselves in the fixing of the rates, for the reason that under those circumstances they would only ask as much as they could get—no more, no less—and under the present law they can do precisely the same thing. This Michigan law, taken as a whole, is the most vicious of any of the State laws on this subject.

Mr. Chairman, it is a recognized fact that the value of any given commodity to the consumer is actually the amount it will bring. It seems somewhat difficult sometimes to fix values. A man would pay perhaps $10 for a glass of water in the desert—and it would be worth it. That would be the value of that glass of water to him. A glass of water in Washington is worth little or nothing. The Commonwealth Power Co. proposes to make Michigan an electrical desert and reserve to itself a mo-

nopoly of all electrical energy, and to exact from the people of that State the last pound of flesh in the way of charges for their output. Regardless of the cost of production, they propose to charge all the traffic will bear. The laws of the State of Michigan not only allow this, but actually aid and abet them in so doing. It seems to me, Mr. Chairman, that that law must have been written by the attorneys of the Commonwealth Power Co., for certainly no man having solely the interests of this company at heart could do other than subscribe most energetically to every word contained therein.

It is clearly shown in the contract offered to Bay City by the Tittabawassee Power Co. that hydroelectrical energy can be generated at a cost that would enable the other companies of that State to sell to the people at a price far below what it is being sold to-day and yet give the developing companies a magnificent profit. It is clear, also, that the Commonwealth Power Co. proposes to exact the last cent they possibly can from the consuming public of that State. And, too, it is clear that the laws of the State, as they are now written on the statute books, will not prevent such action; and I believe it is wise that this Government in enacting these conservation laws should reserve to itself the power to scan the laws in such States as have not and will not properly conserve the interests of the people and say to those States that unless this is done the Government itself will do it.

VITAL IMPORTANCE TO EVERY INDIVIDUAL.

This is a tremendously important thing, Mr. Chairman, for the reason that it affects directly, not only every manufacturing institution and every individual now using electricity for power, heat, light, or other purposes, but eventually it will directly affect all manufacturing institutions as well as every householder in the Nation. The time is coming when the people of this country will be compelled to depend upon the electricity generated by water power for power, heat, light, etc., for no man contends that the coal, gas, and oil deposits of the world are inexhaustible. And in enacting a law providing for leases covering the multitude of projects that will eventually be developed under the provisions of this act Congress should reserve to the Government the right for all time to not only assure the companies securing the leases a fair return on their investments, but absolutely fair treatment to the consuming public as well. This is of vast importance to the farmer, as well as to the man living in the city, for the time is coming, and not far distant at that, when we will see farm buildings lighted by electricity, farm machines operated by electricity, and the farmers of the Nation enjoying the pleasures and profits of modern electrical improvements. This time will come apace if they are enabled to purchase electricity, as they should, at a price that is really reasonable. In the cities electricity goes into the modest as well as the more luxurious homes, consequently this is a question affecting most vitally every householder in the Nation.

If by a proper supervision of these hydroelectrical concerns we can be instrumental in securing a reduction of the price now paid for the product of these concerns—and I am convinced, Mr. Chairman, that this can be done without preventing in any way the earning of a legitimate profit by the power companies—it means a very material saving to every individual purchaser of electricity. The streams of the world were never meant by an all-wise Providence to be used solely in the interests of any one particular class; but were intended to be used to benefit all alike, and the function of Congress in drafting this legislation should be to insure that this be done. We can not do this if we leave to the States, with their indifferent laws upon this subject, the power to forever say what the consumers shall pay and the corporations receive. To my mind the only solution of this problem is to specifically provide in this bill that the Government reserves to itself the right to scan the several State laws, and if it finds that they are not such as will enable the State utilities commission to fix rates in the interest of the consuming public, then the Government itself will do so through some duly authorized official or body.

I most sincerely hope that this House will consider favorably amendments looking to this result. It surely would do so if it would really conserve the interests of the people. No man, Mr. Speaker, objects to the earning of a fair profit by any business organization; but I object, and I believe this House objects, to any company or corporation being allowed to utilize the forces of nature in the interests, solely, of itself without consideration for the general public.

PRESIDENT ROOSEVELT'S POSITION.

In his message of April 13, 1908, vetoing a bill to extend the time for construction of a dam across Rainy River, President Roosevelt said:

"We are now at the beginning of great development in water power. Its use through electrical transmission is entering more and more largely into every element of the daily life of the people. Already the evils of monopoly are becoming manifest; already the experience of the past shows the necessity of caution in making unrestricted grants of this great power."

Again, in a message vetoing a bill to authorize William H. Standish to construct a dam across James River in Stone County, Mo., and to divert a portion of its waters through a tunnel into said river again to create electric power, he said:

"The bill gives to the grantee a valuable privilege, which by its very nature is monopolistic, and does not contain the conditions essential to protect the public interest."

In this message he sets forth most explicitly his reasons for believing that the Federal Government has the power to exact such conditions as it sees fit in the interest of the people, and says:

"Believing that the National Government has this power, I am convinced that its power ought to be exercised. The people of the country are threatened by a monopoly far more powerful, because in far closer touch with their domestic and industrial life, than anything known to our experience. A single generation will see the exhaustion of our natural resources of oil and gas and such a rise in the price of coal as will make the price of electrically transmitted water power a controlling factor in transportation, in manufacturing, and in household lighting and heating. Our water power alone, if fully developed and wisely used, is probably sufficient for our present transportation, industrial, municipal, and domestic needs. Most of it is undeveloped, and is still in National or State control.

"To give away, without conditions, this, one of the greatest of our resources, would be an act of folly. If we are guilty of it, our children will be forced to pay an annual return upon a capitalization based upon the highest prices which 'the traffic will bear.' They will find themselves face to face with powerful interests intrenched behind the doctrine of 'vested rights' and strengthened by every defense which money can buy and the ingenuity of able corporation lawyers can devise. Long before that time they may and very probably will have become a consolidated interest, controlled from the great financial centers, dictating the terms upon which the citizen can conduct his business or earn his livelihood, and not amenable to the wholesome check of local opinion."

The consolidation prophesied by President Roosevelt in 1909 is already an established fact, for by means of interlocking directorates, through the operating companies, holding companies, and financial institutions, practically every concern of any magnitude is directly or indirectly interested in every other. This is exemplified by the inability of independent concerns to finance independent projects, and already the generation and sale of electrical energy has become in every sense a monopoly.

President Roosevelt says further:

"I consider myself bound, as far as exercise of my executive power will allow, to do for the people, in prevention of monopoly of their resources, what I believe they would do for themselves if they were in a position to act. The imposition of conditions has received the sanction of Congress in the general act of 1906, regulating the construction of dams in navigable waters, which authorizes the imposing of 'such conditions and stipulations as the Chief of Engineers and the Secretary of War may deem necessary to protect the present and future interests of the United States. * * *'

"I esteem it my duty to use every endeavor to prevent this growing monopoly, the most threatening which has ever appeared, from being fastened upon the people of this Nation."

It seems to me, Mr. Chairman, as though the wisdom of this great man is shown by the conditions that have developed since the writing of this message. And if we would do for the people what they would do for themselves were they here, we would reserve to them the right, through some authorized Federal official or body, to at all times supervise the actions of these corporations, whether or not they are doing an interstate business.

FINANCIAL POWER OF MONOPOLY.

In a diagram compiled by T. W. Norcross, Assistant Chief Engineer United States Department of Agriculture, Forestry Service, is shown two-thirds of all operating electric power companies in the Nation. This diagram shows that of these companies the following are connected directly or indirectly through interlocking or interconnecting directorates:

Adirondack Electric Power Corporation; Alabama Traction, Light & Power Co.; Albany Southern Railroad; American Power & Light Co.; Appalachian Power Co.; Arizona Power Co.; Arkansas Valley Railway, Light & Power Co.; Athens Railway & Electric Co.; Athor Gas & Electric Co.; Bangor Railway & Electric Co.; Bar Harbor & Union River Power Co.; Bellows Falls Power Co.; Blackstone Valley Gas & Electric Co.; Canadian Niagara Power Co.; Carolina Power & Light Co.; Central

Georgia Power Co.; Claremont Power Co.; Coast Counties Gas & Electric Co.; Colorado Power Co.; Colorado Springs Light, Heat & Power Co.; Columbia Railway, Gas & Electric Co.; Columbus (Ga.) Power Co.; Commonwealth Power Co.; Commonwealth Power, Railway & Light Co.; Connecticut River Power Co., of New Hampshire; Consolidated Power & Light Co. of South Dakota; Consumers' Power Co.; Coshocton Light & Heating Co.; Cumberland County Power & Light Co.; East St. Louis & Suburban Co.; Detroit Edison Co.; Eastern Pennsylvania Power Co.; Georgia-Carolina Power Co.; Georgia Railway & Power Co.; Grand Rapids-Muskegon Power Co.; Great Northern Power Co.; Great Shoshone & Twin Falls Water Power Co.; Great Western Power Co.; Greenfield Electric Light & Power Co.; International Paper Co.; Keene Gas & Electric Co.; Lewiston, Augusta & Waterville Street Railway; Manchester Traction, Light & Power Co.; Minneapolis General Electric Co.; Mississippi River Power Co.; Mohawk Hydro Electric Co.; Montana Power Co.; Montgomery Light & Water Power Co.; Nevada-California Power Co.; New England Power Co.; Niagara Falls Power Co.; Niagara, Lockport & Ontario Power Co.; North American Co.; Northern Idaho & Montana Power Co.; Northern States Power Co.; Northwestern Power Co.; Old Dominion Iron & Nail Works; Ontario Power Co., of Niagara Falls; Ozark Power & Water Co.; Pacific Gas & Electric Co., Arizona; Pacific Gas & Electric Co., California; Pacific Light & Power Co.; Pacific Power & Light Co.; Pennsylvania Hydro Electric Co.; Pennsylvania Water & Power Co.; Portland Railway Light & Power Co.; Puget Sound Traction, Light & Power Co.; Republic Railway & Light Co.; Richmond & Chesapeake Bay Railway; Roanoke Railway & Electric Co.; Rockford Electric Co.; Rutland Railway, Light & Power Co.; Salmon River Power Co.; Sierra Pacific Electric Co.; Sierra & San Francisco Power Co.; Sioux Falls Light & Power Co.; South Carolina Light & Power Railways Co.; St. Joseph Railway, Light, Heat & Power Co.; Spring River Power Co.; Summit County Power Co.; Tampa Electric Co.; Tennessee Power Co.; Trumbull Public Service Corporation; Turners Falls Co.; Union Railway, Gas & Electric Co.; Utah Light & Railway Co.; Utah Power & Light Co.; Utica Gas & Electric Co.; West Pennsylvania Traction Co.; Western States Gas & Electric Co.; Western Vermont Power & Light Co.; Wisconsin Public Service Co.; Virginia Railway & Power Co.; Yadkin River Power Co.

In addition to the above, the diagram shows 11 other companies as independent. Each of these operating companies own many subsidiary local operating companies.

The boards of directors of these different operating companies are interlocked with the following holding companies, and no doubt the boards of directors of these holding companies are connected through other interlocking or interconnecting directorates with practically every financial institution of any magnitude in the country:

American Cities Co.; American Gas & Electric Co.; American Light & Traction Co.; American Power & Light Co.; American Public Utilities Co.; American Railways Co.; Atlantic Gas & Electric Co.; Augusta-Aiken Railway & Electric Corporation; Bangor Railway & Electric Co.; Cities Service Co.; Columbia Power, Light & Railways Co.; Commonwealth Gas & Electric Cos.; Commonwealth Power, Railway & Light Co.; Connecticut River Power Co., of Maine; Consumers' Power Co.; Eastern Power & Light Corporation; Electric Bond Deposit Co.; Electric Bond & Share Co.; Electric Corporation; Electric Investment Corporation; Electric Properties Co.; Electric Securities Corporation; Electric Utilities Corporation; Federal Light & Traction Co.; Federal Utilities Co. (Inc.); The General Gas & Electric Co.; General Electric Co.; Georgia Light, Power & Railways; Georgia Railway & Power Co.; Los Angeles Railway Corporation; Massachusetts Co.; Middle West Utilities Co.; The Mohawk Valley Co.; Mountain Power Co.; Montpelier & Barre Light & Power Co.; Municipal Service Co.; National Properties Co.; Nevada-California Power Co.; New England Power Co., of Maine; Niagara Falls Power Co.; Niagara, Lockport & Ontario Power Co.; North American Co.; Northern States Power Co.; Northwestern Power Co.; Pacific Gas & Electric Co.; Peoples Gas, Light & Coke Co.; Philadelphia Electric Co.; Public Service Corporation of New Jersey; Public Service Investment Co.; Public Securities Co.; Public Utilities Corporation; Puget Sound Traction, Light & Power Co.; Railroads & Power Development Co.; Railway & Light Securities Co.; Republic Railway & Light Co.; Securities Co. of New York; Securities Corporation General; Standard Gas & Electric Co.; Tennessee Railway Light & Power Co.; Union Railway Gas & Electric Co.; United Equities Corporation; General Electric Securities; United Gas & Electric Corporation; United Gas Improvement Co.; United Light & Railways Co.; United Properties Co., of California; United Railways Investment Co.; United Service Co.; United Utilities Co.; Utah Securities Corporation; Utilities Improvement Co.; Utilities Securities Corporation; Virginia Railway & Power Co.; Western Power Co.; Western Railways & Light Co.; West Penn Traction & Water Power Co.; Westinghouse Electric & Motor Co.; Wisconsin Edison Co. (Inc.); Wisconsin Securities Co.

It will be seen from these lists, and the probable other interlocking directorates with other financial concerns, that the power companies of this Nation to-day constitute one of the most gigantic monopolistic institutions the world has ever known, and the importance of proper regulation of this great organization can readily be seen. [Applause.]

Mr. ADAMSON. Mr. Chairman, I yield 20 minutes to the gentleman from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. Chairman and gentlemen of the committee, I have listened to some strange doctrine this afternoon. We have many Federalists in this House—men who have gone off after the new-fangled theories of new nationalism, and they call it conservation.

If our constituents at home could come here and see Members on this floor surrender day after day the rights that belong to the States, if they could see them enthusiastically advocating measures that strike down rights and powers that have belonged to the State since the foundation of the Government, they would be astounded and amazed.

Mr. Chairman, I am anxious to safeguard our natural resources and prevent them from being used to create a monopoly of any kind anywhere. I am also willing to do everything in my power to break up the monopolies already in operation in our country. I am willing and anxious to develop our wonderful resources. Nature's God has done a great deal for the South. He has placed within her confines some of the greatest natural resources in the world, and it is our duty to develop and utilize them to the greatest advantage, to harness water power now serving no purpose and going to waste, and to utilize these tremendous elements of wealth and power for the good of humanity. It takes capital to build locks and dams. It requires money and the disposition to invest it to build up a great industry anywhere. I welcome the capital and the men with the disposition to invest it for our benefit, and I am anxious that the investment shall be a safe and profitable one for those who come into our midst with their money. I want to say to gentlemen here that there is nowhere to be found a more attractive and inviting field to which capital can go for profitable investment than in the glorious South. [Applause.] Her marvelous resources are just beginning to be developed, and upon the stage of industrial development she has but sung her prelude. Her water power is unsurpassed by that of any country in the world, and yet, untouched and undeveloped, this tremendous power is serving no purpose but is singing the song of wasted strength as it winds it way to the sea. [Applause.]

Mr. Chairman, we had an opportunity to build a lock and dam at Lock 18 on the Coosa River in my district, and by doing so we would have completed a project that would have made the river navigable for 30 miles. Congress granted permission to the Alabama Power Co. to build a lock and dam at Lock 12, and then it asked that Congress grant permission to build the same kind of dam and lock at Lock 18, and why, because it was found that the lock and dam at Lock 12 were not sufficient to do the work that the company had contracted to do and that it was necessary to have the other dam and lock to complete the project, and the request was purely and simply that Congress grant a permit to do at Lock 18 just what it had permitted to be done at Lock 12. And, Mr. Chairman, Congress did grant that permission, but President Taft, embarrassed by a new and fresh disciple of the doctrine of Federal conservation, was finally persuaded to veto the bill. The bill ought to have been passed over his veto, because its failure to become a law rejected a gift to the Government of $1,600,000, put a stop to a project that would have made the Coosa River, without cost to the Government, navigable for 30 miles, and struck down an industry that would have saved to the farmers of the South from $2 to $2.50 per ton on fertilizers, prevented industrial development in my district, and drove capital out of my State back into the Dominion of Canada. This project had in it many blessings for our people; it would make the Coosa River navigable for 30 miles and it would establish a very useful and much-needed industry. It would give employment to labor, cheapen fertilizers, and aid much in reducing the cost of production, increase the productive power of the soil, and provide the farmers of the South with fertilizers from a home industry instead of forcing them, as is now the case, to pay tribute money to the nitrogen monopoly of Chile. [Applause.]

And, Mr. Chairman, the Alabama Power Co. by the completion of this one project would have contributed more toward making

the Coosa River navigable than the Government of the United States has contributed since the morning stars sang together. These innocent advocates of Federal conservation are not only standing in the way of industrial development in the South but they are hindering the work of navigation on one of the most important waterways in the United States. [Applause.] When permission was granted by Congress to build a dam at Lock 12 men had been induced to go into this enterprise, and money was obtained for this project under the provisions of the general dam act; and when it was found necessary to build another dam to complete the project the Alabama Power Co. simply sought to obtain permission the same as that which was granted under the powers of the general dam act with regard to Lock 12 and in operation when permission was granted to build the dam at Lock 12. The striking down of that bill by the veto of the President left an industry half finished and drove capital away that had come to establish in our midst a great fertilizer factory. This worthy project was hamstrung, this capital driven away, and this industry destroyed, all in the name of Federal conservation. Oh, conservation, how many an ignorant blunder has been committed here in thy name! [Applause.]

Mr. Chairman, here is a picture of this great fertilizer factory that was to have been erected in my State; but it was not erected there. It was erected in the Dominion of Canada, beyond the confines and jurisdiction of these new conservationists. I am reminded of a report made by a register in chancery regarding a mill and a dam site. The mill had been washed away, but the dam remained. It ran something like this:

The dam is down by the mill site,
The water is still flowing on;
But the mill isn't there by a dam site,
Johnny, my old friend, John.

[Laughter and applause.]

So here is the picture of this great industry, but the industry is not in Alabama by the dam site [laughter], but it is in Canada.

Your doctrine of Federal conservation gives us the picture of an industry that your folly drove into Canada.

The gentleman from Illinois made reference to the gentleman from Sheffield, Mr. J. W. Worthington. I want to say in behalf of this gentleman that he is one of the ablest and best men in the country. He is an industrious, enterprising citizen, and for bringing capital into Alabama and building Lock 12 on the Coosa River, in my State and district, he has and holds the gratitude of the people of Alabama.

Mr. Chairman, Presidents and Secretaries of War have held since the foundation of this Government that the riparian rights along navigable streams were questions for the State, and the State alone, and it has long been held that the Federal Government had no power over or concern with the water flowing through a State in a navigable stream except as that water was used for navigation. Mr. Chairman, these questions were left for settlement by the State, and until this new school of statesmen came along the State was protected and safeguarded in the exercise of its rights and powers.

Mr. Chairman, the trouble with some Members of Congress is they soon lose their local touch and bearing and drift away from all notions of home rule and local self-government. They forget that there is such an institution as a State with rights and powers that the State, and the State alone, should have and exercise. If the men sent here from the States and honored with seats in this body are to surrender the rights of the State and follow this federalistic idea of allowing the National Government to exercise jurisdiction over, take charge of, and regulate everything, regardless of its State or Federal aspect, then it will not be long until the State will be shorn of its virile strength and power. [Applause.]

The governor will become a mere advisory head and the legislature will become a mere house of delegates, such as Territories are permitted to have before they are admitted into the Union. Mr. Chairman, some of these gentlemen misunderstand their mission here. They are not sent here to surrender to the Federal Government rights and powers that belong to the State, but it is the prime function of their office and their solemn duty to safeguard and preserve the sovereign powers of the States. [Applause.] Deprive the State of these powers and the State will be weakened and impaired. Let the State retain and exercise these powers. The power unused is the power that perishes. It is our duty to guard with increasing vigilance the State against every step of Federal encroachment. It is our duty to stand firm against every effort to crucify these sacred powers of the State upon the cross of Federal control. [Applause.] But some gentlemen never stop to think or to analyze the situation when conservation is mentioned in connection with a dam or a dam site on a navigable stream. They do not stop to consider what these federalistic tendencies will do to our splendid system of government if this Federal usurpation is tolerated. This new fad, noisily proclaimed by a few faddists, has worked untold injury to the cause of navigation in my State and industrial development in the South. Just mention conservation, then upon a wild and reckless rampage these disciples of conservation go pell-mell into the Federal Congress with measures that belong purely and wholly, singly and solely, to the State. They fall into the error of advocating action on measures here that should be settled by the legislatures of the States. Some of them by advocating Federal control display a disregard for the State and its institutions. They show plainly that they distrust the local forces of this Government, forces that supply the very lifeblood of the Government of the United States [applause], and when I hear them pleading for Federal usurpation of the States' rights and functions, I am tempted to inquire whether or not they are the real friends of the States from which they come.

Mr. Chairman, it is the duty of the statesman to understand the spirit and genius of our institutions and to properly interpret the Constitution, State and Federal; but if he be driven from his moorings by every fallacious impulse and fanatical theory that comes along, then representative government will disappear. Our great system of State and Federal Government will perish from the earth. Whither are we drifting? Every Government that has gone down in the long night of time perished not because stress and emphasis were laid on the primary and local units of its power, but because these were shorn of their strength, dwarfed and smitten sore by the rod of federal usurpation. If this Republic is to live, it must prevent, not encourage, Federal interference with the sovereign powers of the Commonwealth; it must guard with intrepid vigilance the civic life and honor of the State. [Applause.] It must not weaken or impair a single sovereign power vouchsafed to a State in this Union, but it must contribute to the strength and glory of every Commonwealth in the sisterhood, and then by the full and free exercise of their constitutional powers they will make perpetual this great household of sovereign States. [Loud applause.]

Here, Mr. Chairman, under leave to print, I submit these statements:

The bill granting a permit to the Alabama Power Co. to build a dam at Lock 18, on the Coosa River, was passed by the House on August 22, 1912, with a majority of seven votes. No one dreamed that President Taft would veto the bill, it being confessed even by many of the opponents of the bill that the project was most meritorious, and especially could the friends of the bill expect the President to approve the bill since the Chief of Engineers, in making his report upon the bill, said:

> It will be seen that the construction of this high dam by the power company will save the United States in initial cost the sum of $1,622,000, the interest on which, at 4 per cent per annum, is $64,880.

To the amazement of the friends of the bill, inquiry on the day following the passage of the bill through the House disclosed that the President felt he should veto the bill.

Senator BANKHEAD visited the President, and expressed to the President his great surprise that the President could for one moment consider vetoing the bill. The Senator urged upon the President that he, when Secretary of War, had in a number of official statements held the very opposite to the contentions and arguments of those who supported the new theories and new nationalism, and the Senator urged that the President could not consistently, in view of his past record and opinions upon the subject, veto the bill. The President replied to the Senator that he still held to his former views, but he said, "BANKHEAD, it is too late now for me to have a family row, and the Secretary of War insists upon a veto, and I am letting him handle the subject." In short, the Bull Moose Secretary of War shook his antlers and snorted at the President, and the President, rather than have a row, vetoed the bill, and the Coosa River in my district lost a navigation improvement that the Chief of Engineers said would cost $1,622,000, and that the Government would save $64,880 per annum, and my district and State lost a lime-nitrogen factory, the total cost of which as built in Canada is over $2,000,000. In fact, the total loss to the United States can be stated at not less than $4,000,000.

The total appropriations for the improvement of the navigation of the Ohio River system now amount to nearly $90,000,000. The Coosa River has received a total since 1875 of $1,535,344.89.

Summary of appropriations made by Congress for western land irrigation.

Early irrigation surveys	$350,000.00
Reclamation fund	79,450,438.53
Authorized under bond issue	20,000,000.00
Expended by Geological Survey	4,500,000.00
Expended by Department of Agriculture	956,000.00
Expended by or through Office of Indian Affairs	10,797,316.29
Total	116,003,754.82

The gentleman from Wisconsin says that in 1913 there had been developed 2,711,000 horsepower, an increase of 900,000 horsepower in two years, and he says, "So we are doing pretty well with the legislation which we have, without making the grants to water-power interests contained in this bill." It is amazing that the gentleman from Wisconsin, with the easy opportunity for him to get at the facts, should make the statements that we are doing pretty well, and refer to an increase of 900,000 horsepower in the two years, when, as stated by the gentleman from Alabama in his speech on Saturday, only four important dams have ever been constructed by private enterprise in the navigable streams of this country. See page 13452.

The total development in these four dams is not in excess of 300,000 horsepower. That is to say, the gentleman from Wisconsin thinks we are doing very well when in the nonnavigable streams of this country millions of horsepower are developed under the laws of the States in which the developments occur. There is no distress or imposition upon the people, but prosperity and industrial achievement follows these developments; yet we do so well, according to the gentleman from Wisconsin, that with the millions of horsepower in the navigable streams of the country we have only developed by private enterprise 300,000 horsepower. It does appear that the gentleman from Wisconsin is such a grasping monopolistic conservationist that he even claims that the credit for the development of millions of horsepower in the nonnavigable streams of this country is due to Congress and to the policy of the Federal Government, when, as a matter of fact, the developments in the nonnavigable streams are in no respect whatever controlled or regulated by the Federal Government. The fact is that the 300,000 horsepower developed by dams built in the navigable streams of the country merely demonstrates beyond a question of doubt that the so-called conservation policy, of which the gentleman from Wisconsin is a shining light and advocate, has put a stop to the development of water powers in the navigable streams instead of encouraging these developments and conserving these natural resources.

The gentleman from Kentucky [Mr. SHERLEY] stated in discussing the subject with the gentleman from Wisconsin on Saturday that "it is not to be assumed that the Government will be unreasonable." Was the Government reasonable when its President vetoed a bill in which Congress granted the right to the Alabama Power Co. to build a dam in the Coosa River in my district, and by that veto drove the investment to Canada?

The gentleman from Wisconsin says he finds that in Ontario, Canada, where these people were driven to, leases are not made perpetual as provided in this bill, nor for even 50 years, but for 20 years. If the gentleman from Wisconsin will take the trouble to investigate the subject, he will find that the Ontario Power Co. has a perpetual right at its Niagara Falls, Canadian development, and the Ontario Power Co. contracted to furnish the American Cyanamid Co. the power for its new cyanamid plant at Niagara Falls, which plant went to Niagara Falls in Canada and was driven there, in fact, by the veto of the Lock 18, Coosa River bill passed in 1912.

The CHAIRMAN. The Clerk will read.

The Clerk began the reading of the bill.

Mr. MANN. Do I understand that general debate has closed?

Mr. ADAMSON. I have no other speaker.

Mr. STEVENS of Minnesota. The gentleman from Illinois [Mr. MANN] is on my list for some time if he desires it.

Mr. MANN. I just wanted to know if the general debate was closed. The Chair, without making any inquiry, directed the Clerk to read. I did not know whether that was by arrangement or not.

The CHAIRMAN. It was by arrangement.

Mr. ADAMSON. It is all right if the gentleman from Illinois desires time.

Mr. MANN. I did not care to consume any time. I do not think we ought to proceed with the reading of this bill under the five-minute rule without Members of this House having notice.

Mr. ADAMSON. I am not going to have read more than the first paragraph. Then I am going to move to rise. Let the Clerk finish the first paragraph.

The CHAIRMAN. The Clerk will read the first paragraph.

The Clerk read as follows:

Be it enacted, etc., That the act entitled "An act to regulate the construction of dams across navigable waters," approved June 23, 1910, be, and the same is hereby, amended to read as follows:

Mr. SLOAN. Mr. Chairman, the CONGRESSIONAL RECORD of July 23, 1914, on page 12535, records the distinguished Senator from North Carolina, Mr. SIMMONS, joint author with Mr. UNDERWOOD, of Alabama, of the new tariff law, as saying:

> We are very familiar with the argument that was made with respect to imports when this tariff bill was up for consideration. We were told that we would be flooded with imports, and the countries from which we were told these imports would come were the manufacturing countries, not the agricultural countries. Nobody doubted our ability to protect ourselves when we made a good crop against the agricultural countries. Nobody raised very seriously the question of our ability to protect ourselves against these agricultural imports.

In the following paragraph he further states:

> Now, the fact is, entirely in line with the argument which I have just made, and supporting the statement which I have just made, that these importations were largely food products to supply a demand caused by the bad crops in this country; the increase in imports that the Senator refers to in the last few months, and which I admit, has come very largely from the agricultural countries and not from the manufacturing countries.

These two quotations contain some significant admissions. Notice he says: "Nobody doubted our ability to protect ourselves when we made a good crop against the agricultural countries." In other words, under the new law, or, for that matter, the old law, when we had a good crop we could protect ourselves against importations from agricultural countries; or when we had a bumper crop sufficient for large exports we could protect ourselves; but when our crops were short, and husbandmen, having devoted the same amount of labor, same amount of seed, the same amount of expense for harvesting and garnering a poor crop that they would have expended for a bumper crop, they should be placed in open competition with the outside world and no advantage given them by way of protection of price. The banker has the opportunity to increase his rate of interest when money is scarce. The producers of manufactured products protected under the present law can raise his price when the amount of his products are lessened or the demand increased. But the theory of this legislation is to give the farmer no advantage by way of price in this country when his crop is a partial failure over what it is for the same amount when the crop is a bumper.

You will notice he further says, "Nobody raised very seriously the question of our ability to protect ourselves against these agricultural imports." I presume by "nobody" he means nobody in authority now in this country, and certainly nobody on the majority side who were making this legislation "raised very seriously the question of our ability to protect ourselves against these agricultural imports." The facts are that the rights of the farmer were absolutely ignored in the make-up of the law.

Referring to the large imports, he says, as quoted above, "These importations were largely food products to supply a demand caused by the bad crops in this country—the increase in imports that the Senator refers to in the last few months, and which I admit has come very largely from the agricultural countries." It does not seem to concern the distinguished gentleman, but he apparently deems it proper that although some of the crops have been "bad" in this country in the last year that it is entirely proper that the decreased yield to the farmer should be followed by a decreased price for the product. I submit nine of the most important crop importations for the first eight months under the new tariff law and the importation for the same articles for the corresponding months of the old law, together with the prices paid the farmers throughout the country on June 1 and July 1 of the following two groups of years: First, 1913 and 1914 are grouped together, because the two months in both years were after the passage by this House of the Underwood tariff law. In the first, 1913, its anticipatory effects were largely produced, and in 1914 its actual effects were apparent. The second group I quote the 1st of June and the 1st of July prices for 1909, 1910, 1911, and 1912 as a group of years under the old law. I give the average for the two representative dates under the operation of the old law and the new, and the result in each is quite significant.

The table I submit shows what the loss of revenue would have been if the increase of importations noted had come in under the old law instead of the new.

The statement of the distinguished Senator amounts to almost an authoritative admission that the new tariff law, containing, as it does, the largest amount of additions to the free list recruited from farm products, and the greatest reductions made on other farm products, that the farmer's interest was entirely ignored and the burdens of the tariff legislation placed largely upon the farmer's shoulders, so that he alone of the toilers of the country should be subjected to unchecked competition. And that in case of a reduction of his product from whatever cause there could be no advantage in price accruing to him.

Imports into the United States of certain farm products for eight months, October, 1913, to May, 1914, inclusive, under the 1913 tariff act, compared with the imports of same products for the corresponding months one year earlier under the tariff act of 1909; the per cent of increase under the new law; the loss of revenue to the Government; the average farm price of these farm products on June 1, 1913 and 1914, compared with the average farm price on June 1, 1909, 1910, 1911, and 1912, together with the amount of decrease in price of the two-year period compared with the four-year period.

Article.	Imports, eight months under 1913 law.	Imports, eight months under 1909 law.	Increase.	Per cent of increase.	Loss of revenue.	Average farm price, June 1, 1913 and 1914.	Average farm price, June 1, 1909, 1910, 1911, and 1912.	Amount of decrease in price.	Average farm price, July 1, 1913 and 1914.	Average farm price, July 1, 1909, 1910, 1911, and 1912.	Amount of decrease in price.
				Per cent.		*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*	*Cents.*
Wheat [1].....bushels..	1,926,680	451,302	1,475,378	327	$287,002.	83.5	102.5	19	79.1	99.8	20.7
Oats [2].....do....	21,951,219	73,879	21,877,340	29,612	1,975,609	38	47.6	9.6	38.2	47.0	8.8
Rye [3 10].....do....	27,624	10	27,614	276,100	2,762	64.1	80	15.9	63.2	79.2	16.2
Corn [4].....do....	10,246,859	255,609	9,991,248	3,908	1,537,028	67.8	69.7	1.9	69.3	71.0	1.7
Barley [5 10].....do....	326,945	3,560	323,385	9,083	49,041	50.9	71.9	21	50.6	68.2	17.6
Flaxseed [6 10].....do....	5,726,701	1,707,838	4,018,873	235	286,335	126.3	194.7	68.4	124.7	185.1	60.4
Hay [7].....tons..	124,517	94,048	30,469	32	249,034	[12] 11.82	[12] 13.30	[12] 1.48	[12] 11.60	[12] 12.94	[12] 1.34
Potatoes [8].....bushels..	1,632,983	258,014	1,374,969	532	356,985	63.2	79.5	16.3	65.6	82.7	17.6
Wool [9 11].....pounds..	183,473,116	104,079,043	79,394,073	76	17,808,188	17	[13] 17.9	0.9	.....	.....	.....

[1] Free if imported from countries which impose no duties on like imports from United States, otherwise 10 cents per bushel. Duty was 25 cents per bushel.
[2] Duty reduced from 15 cents per bushel to 6 cents per bushel.
[3] Free on and after Oct. 3, 1913. Duty wes 10 cents per bushel.
[4] Free on and after Oct. 3, 1913. Duty was 15 cents per bushel.
[5] Duty decreased from 30 cents per bushel to 15 cents per bushel.
[6] Duty reduced from 25 cents per bushel to 20 cents per bushel.
[7] Duty reduced from $4 per ton to $2 per ton.
[8] Free if imported from countries which impose no duties on like imports from United States, otherwise 10 per cent ad volorem. Duty was 25 cents per bushel.
[9] Practically all free of duty since Dec. 1, 1913.
[10] Imports entered for consumption for 6-month periods ending Mar. 31, 1913 and 1914. Figures not available for April or May of this year.
[11] Imports for 6 months instead of 8 months, as duty did not change until Dec. 1, 1913.
[12] Dollars.
[13] Average price for 1910, 1911, and 1912, as Department of Agriculture did not secure farm price of wool prior to 1910. Average wholesale price of wool, Ohio XX washed, Boston market, June 1, 1913 and 1914, 27.5 cents per pound; June 1, 1909, 1910, 1911, and 1912, average 29.8 cents per pound. Farm price of wool is for June 15 each year. July 15 prices not available.

Mr. ADAMSON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill (H. R. 16053) to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910, and had come to no resolution thereon.

Mr. ADAMSON. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow.

The SPEAKER. The gentleman from Georgia asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow. Is there objection?

Mr. MANN. What is the request?

Mr. ADAMSON. I understand there are some other matters that will come up to-morrow, and it is not likely we will get in at all early with this bill.

Mr. MANN. It seems to me, Mr. Speaker, that when the House puts in five or six hours of hard work that is about as much as you can expect to keep Members here for. Now, to-morrow it is the Indian bill and this bill; and when we have this bill up it will be under the five-minute rule. It will be a contest, and gentlemen will have to be here.

Mr. UNDERWOOD. I will say to the gentleman from Georgia [Mr. ADAMSON] that I understand the Indian bill will not come up to-morrow.

Mr. ADAMSON. But the Agricultural bill will.

Mr. LEVER. Mr. Speaker, I desire to say that I will call up the report in the cotton-future bill to-morrow morning, if I may be recognized.

Mr. MANN. Well, gentlemen ought to be here for that, too. I am not willing to assume that nobody wants to be heard on those things.

The SPEAKER. Is there objection?

Mr. MANN. I object.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. BARTHOLDT, indefinitely, on account of important business.

To Mr. MCANDREWS, indefinitely, on account of illness in his family.

EXTENSION OF REMARKS.

Mr. FOWLER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing a statement of Minister Dubois with reference to the treaty with Colombia.

The SPEAKER. The gentleman from Illinois [Mr. FOWLER] asks unanimous consent to extend his remarks in the RECORD by printing a statement by Minister Dubois about the Colombian treaty. Is there objection?

Mr. HUMPHREY of Washington. Mr. Speaker, reserving the right to object, was not that article printed a short time ago in the RECORD?

Mr. FOWLER. No; that was from Hannis Taylor.

Mr. HUMPHREY of Washington. I think the gentleman will find it has already been printed.

Mr. FOWLER. I do think the article from Minister Dubois has been printed. The article from Hannis Taylor has been, I know.

The SPEAKER. Is there objection?

There was no objection.

REGULATION OF COTTON FUTURES—CONFERENCE REPORT.

Mr. LEVER, from the Committee on Agriculture, presented, for printing under the rule, the conference report and accompanying statement on the bill (S. 110) to regulate trading in cotton futures and provide for the standardization of "upland" and "gulf" cottons separately.

The SPEAKER. The Chair will ask the gentleman from South Carolina [Mr. LEVER], Does he intend to call up this conference report in the morning?

Mr. LEVER. No; I do not.

Mr. MURDOCK. Nor to-morrow at all?

Mr. LEVER. Nor to-morrow at all.

Mr. ADAMSON. Then we can go on with the general dam bill.

The SPEAKER. The Chair wants the Members to know what will happen.

PENSIONS.

Mr. KEY of Ohio. Mr. Speaker, this is pension Friday, and I desire to call up two or three Senate pension bills.

Mr. MANN. Why does not the gentleman call up all four of them—I understand there are four—instead of two or three?

Mr. KEY of Ohio. I will call them all up. I desire, Mr. Speaker, first to call up Senate bill 4969.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

S. 4969. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy——

Mr. MANN. Mr. Speaker, the Clerk has no right to read the bill yet, so far as I know. May I suggest to the gentleman from Ohio that he ask unanimous consent to consider those four Senate pension bills in the House as in Committee of the Whole?

Mr. KEY of Ohio. Yes. Mr. Speaker, I ask unanimous consent that those four Senate pension bills be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Ohio [Mr. KEY] asks unanimous consent to consider the four bills which he names in the House as in Committee of the Whole. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the first one.

The Clerk read as follows:

S. 4969. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The bill is a substitute for the following Senate bills referred to the Committee on Pensions:

S. 546. Louis A. Thatcher.	S. 4264. Catherine J. Carter.
S. 552. Mary Bottino.	S. 4476. Thomas Jordan.
S. 858. Blanche Packard.	S. 4511. Henry Luch.
S. 1326. Marion C. Turrill.	S. 4611. Eugene P. McFadden.
S. 1362. Laura E. Hess.	S. 4612. Nettie Nieschang.
S. 1600. Michael E. Breck.	S. 4613. Leonidas Recob.
S. 2227. Francis M. Good.	S. 4624. Fred Kamm.
S. 3103. Lucinda Randall.	S. 4630. Emma E. Bear.
S. 3379. William Cross.	S. 4631. Bessie P. Dummer.
S. 3624. Nana E. Sears.	S. 4675. Thomas Ranahan.
S. 3699. Harriet G. Hayes.	S. 4695. Sigmund Schleisinger.
S. 3907. James B. Romaine.	S. 4705. Eli Zeigler.

Mr. KEY of Ohio. Mr. Speaker, I ask unanimous consent that the first reading of the bill be dispensed with.

The SPEAKER. The gentleman from Ohio asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

The SPEAKER. The Clerk will read the bill for amendment.

The Clerk read as follows:

The name of Marion C. Turrill, widow of Henry S. Turrill, late brigadier general, United States Army, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

The following committee amendment was read:

Page 2, strike out lines 14 to 17, inclusive.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

The name of Michael E. Breck, late of Company K, Second Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The following committee amendment was read:

Page 2, line 25, after the word "Infantry," insert the words "War with Spain."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

The name of Harriet G. Hayes, widow of Edward M. Hayes, late colonel Thirteenth Regiment United States Cavalry, and brigadier general, United States Army, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

The following committee amendment was read:

Page 3, line 18, after the word "Cavalry," insert the words "Regular Establishment," and on line 20 strike out "$50" and insert "$40."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

The name of James B. Romaine, late of Troop K, Eighth Regiment United States Cavalry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The following committee amendment was read:

Page 3, line 22, after the word "Cavalry," insert the words "Regular Establishment."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

The name of Catherine J. Carter, widow of Jacob Carter, late of U. S. S. *Concord*, United States Navy, Florida Indian War, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The following committee amendment was read:

Page 4, strike out lines 1 to 4, inclusive.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

The name of Thomas Jordan, late of Company D, Second Regiment Oregon Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The following committee amendment was read:

Page 4, strike out lines 5 to 7, inclusive.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

The name of Henry Luch, late of Company A, Fourteenth Regiment United States Infantry, and pay him a pension at the rate of $17 per month in lieu of that he is now receiving.

With the following committee amendment:

Page 4, line 9, insert after the word "Infantry" the words "Regular Establishment."

The amendment was agreed to.

The Clerk read as follows:

The name of Eugene P. McFadden, late of Company A, Fifth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The committee amendment was read, as follows:

Page 4, strike out lines 12 to 14, inclusive.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

The name of Nettie Nieschang, widow of Louis E. Nieschang, late of Company D, Nineteenth Regiment United States Infantry, and pay her a pension at the rate of $12 per month.

With the following committee amendment:

Page 4, line 17, after the word "Infantry," insert the words "Regular Establishment."

The amendment was agreed to.

The Clerk read as follows:

The name of Leonidas Recob, late of Company C, Fifteenth Regiment United States Infantry, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

With the following committee amendment:

Page 4, strike out lines 19 to 22, inclusive.

The amendment was agreed to.

The Clerk read as follows:

The name of Emma E. Bear, widow of Henry A. Bear, jr., late of the United States Marine Corps, and pay her a pension at the rate of $12 per month.

With the following committee amendment:

Page 5, line 5, after the word "corps," insert the words "Regular Establishment."

The amendment was agreed to.

The bill as amended was ordered to a third reading, and it was accordingly read the third time and passed.

The SPEAKER. The Clerk will report the next bill.

The Clerk read the title of the bill (S. 5899) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The bill is a substitute for the following Senate bills referred to the Committee on Pensions:

S. 262. Samuel H. Portz.	S. 4939. Jennie Farley.
S. 270. Harold L. Clifton.	S. 4940. Margaret Cecilia Donovan.
S. 634. Mary P. McIntire.	S. 4974. George W. Mason.
S. 831. Joseph A. Mason.	S. 4975. Benjamin Girdner.
S. 855. Patrick Moore.	S. 5160. Jacob D. Cook.
S. 1562. William E. Monroe.	S. 5365. Joseph Frick.
S. 1779. Thomas Harrison.	S. 5401. Harry D. Hogan.
S. 3127. Linnie C. Hawkins.	S. 5407. Ida M. Smith.
S. 3181. John E. Tevendale.	S. 5444. Susan J. Cantrell.
S. 3301. Louis M. Smith.	S. 5490. Marvel J. Nash.
S. 3518. James D. Setliff.	S. 5557. Dora D. Walker.
S. 3559. Clarence McMillan.	S. 5579. Albert V. Wallis.
S. 3770. John Ritter.	S. 5580. Emma B. Hubbard.
S. 3905. Perdita L. MacVean.	S. 5631. Theodore Hansen.
S. 4198. Edward Flannery.	S. 5710. George W. Cameron.
S. 4363. Richard C. Freeman.	S. 5715. Jen Rody Chauncey.
S. 4885. Philip H. Chambers.	S. 5724. Ray W. Burkdoll.
S. 4928. Lettie Vilott.	S. 5749. Frank Stemm.
S. 4938. Josephine Green.	S. 5870. Carlton Meredith.

Mr. KEY of Ohio. Mr. Speaker, I move that the first reading of the bill be dispensed with.

The SPEAKER. The gentleman from Ohio asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

The SPEAKER. The Clerk will read the bill for amendment.

The Clerk read as follows:

The name of Samuel H. Portz, late of Company G, Fifty-second Regiment Iowa Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

With the following committee amendment:

Page 1, line 8, strike out "$20" and insert in lieu thereof "$12."

The amendment was agreed to.

The Clerk read as follows:

The name of Harold L. Clifton, late of Troop K, Seventh Regiment United States Cavalry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

With the following committee amendment:

Page 2, line 2, after the word "Cavalry," insert the words "Regular Establishment."

The amendment was agreed to.

The Clerk read as follows:

The name of Thomas Harrison, late of Troops D and A, Third Regiment United States Cavalry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

With the following committee amendment:

Page 2, strike out lines 19 to 22, inclusive.

The amendment was agreed to.

The Clerk read as follows:

The name of James D. Setliff, late of Company H, Twentieth Regiment United States Infantry, and pay him a pension at the rate of $10 per month.

With the following committee amendment:

Page 3, line 11, after the word "Infantry," insert the words "Regular Establishment."

The amendment was agreed to.

The Clerk read as follows:

The name of Clarence McMillan, late of Company H, First Regiment Mississippi Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

With the following committee amendment:

Page 3, strike out lines 13 to 15, inclusive.

The amendment was agreed to.

The Clerk read as follows:

The name of Edward Flannery, late of Troop G, Third Regiment United States Cavalry, and pay him a pension at the rate of $12 per month.

With the following committee amendment:

Page 4, line 2, after the word "Cavalry," insert the words "Regular Establishment."

The amendment was agreed to.

The Clerk read as follows:

The name of Philip H. Chambers, late of Troop C, Sixth Regiment United States Cavalry, and pay him a pension at the rate of $12 per month.

With the following committee amendment:

Page 4, strike out lines 9 to 11, inclusive.

The amendment was agreed to.

The Clerk read as follows:

The name of George W. Mason, late of Company A, First Regiment Kentucky Volunteer Cavalry, War with Spain, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

With the following committee amendment:

Page 5, strike out lines 19 to 22, inclusive.

The amendment was agreed to.

The Clerk read as follows:

The name of Joseph Frick, late of U. S. S. *Michigan*, United States Navy, and pay him a pension at the rate of $20 per month.

With the following committee amendment:

Page 6, strike out lines 5 to 7, inclusive.

The amendment was agreed to.

The Clerk read as follows:

The name of Ida M. Smith, widow of Winfield S. Smith, late of Company K, Eleventh Regiment United States Infantry, and pay her a pension at the rate of $12 per month.

With the following committee amendment:

Page 6, line 14, after the word "Infantry," insert the words "Regular Establishment."

The amendment was agreed to.

The Clerk read as follows:

The name of Susan J. Cantrell, widow of John M. Cantrell, late of Company C, First Regiment Oregon Riflemen, Cayuse Indian War, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

With the following committee amendment:

Page 6, strike out lines 16 to 19, inclusive.

The amendment was agreed to.

The Clerk read as follows:

The name of Dora D. Walker, dependent mother of Ward V. Walker, late of Company C, Fortieth Regiment United States Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month.

With the following committee amendment:

Strike out lines 23 and 24, on page 6, and lines 1 and 2, on page 7.

The amendment was agreed to.

The Clerk read as follows:

The name of Albert V. Wallis, late of Company A, First Regiment Wisconsin Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

With the following committee amendment:

Page 7, strike out lines 3 to 5, inclusive.

The amendment was agreed to.

The Clerk read as follows:

The name of Emma B. Hubbard, widow of John F. Hubbard, late commander, United States Navy, and pay her a pension at the rate of $40 per month in lieu of that she is now receiving, and $2 per month additional on account of the minor child of said John F. Hubbard until he reaches the age of 16 years.

With the following committee amendment:

Page 7, line 7, after the word "Navy," insert the words "Regular Establishment."

The amendment was agreed to.

The Clerk read as follows:

The name of Jen Rody Chauncey, late of Company H, Seventeenth Regiment United States Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The following committee amendment was read:

Page 7, strike out lines 20, 21, 22, and 23.

The committee amendment was agreed to.

The Clerk read as follows:

The name of Ray W. Burkdoll, late of Company B, Signal Corps, United States Army, and pay him a pension at the rate of $30 per month.

The following committee amendment was read:

Page 7, line 25, after the word "Army," insert the words "Regular Establishment."

The committee amendment was agreed to.

The Clerk read as follows:

The name of Frank Stemm, late of Company E, Fifth Regiment United States Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The Clerk read the following committee amendments:

Page 8, line 2, insert after the word "Infantry" the words "Regular Establishment," and in line 3 strike out the figures "$24" and insert the figures "$17."

The committee amendments were agreed to.

The Clerk read as follows:

The name of Carlton Meredith, late of Companies B and K, Eleventh Regiment United States Infantry, and pay him a pension at the rate of $10 per month.

The following committee amendment was read:

On page 8, line 6, insert the words "War with Spain."

The committee amendment was agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

S. 5278. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Mr. KEY of Ohio. Mr. Speaker, I ask unanimous consent that the first reading of the bill be dispensed with.

The SPEAKER. The gentleman from Ohio asks that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

The bill is a substitute for the following Senate bills referred to the Committee on Pensions.

S. 181. Sidney Payne Smith.
S. 729. Wenzel Patzelt.
S. 1538. Sherwood C. Bowers.
S. 1982. Frank M. Eldredge.
S. 2163. George A. Porterfield.
S. 2283. William H. Rackliff.
S. 2825. Harry Jones.
S. 2837. Matilda Robertson.
S. 2858. Phebe W. Chase.
S. 3524. Nelson Dimick.
S. 4240. Mary J. Torney.
S. 4588. William A. Taylor.
S. 4724. John Andrews.
S. 4989. Joseph A. Black.
S. 5058. Charles W. Halls.
S. 5071. George F. Behymer.
S. 5118. John Abplanalp.
S. 5120. Hezekiah C. Cotner.

The Clerk read as follows:

The name of Sidney Payne Smith, late of U. S. S. *Nebraska*, United States Navy, and pay him a pension at the rate of $35 per month in lieu of that he is now receiving.

The Clerk read the following committee amendments:

Page 1, line 7, after the word "Navy," insert the words "Regular Establishment," and in line 8 strike out the figures "$35" and insert "$34."

The amendments were agreed to.

The Clerk read as follows:

The name of Frank M. Eldredge, late of First Troop Utah Volunteer Cavalry, War with Spain, and pay him a pension at the rate of $15 per month.

The following committee amendment was read:

On page 2 strike out lines 9, 10, and 11.

The committee amendment was agreed to.

The Clerk read as follows:

The name of William H. Rackliff, late of Company E, Sixteenth Regiment United States Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The following committee amendment was read:

Line 17, after the word "Infantry," insert the words "Regular Establishment."

The committee amendment was agreed to.

The Clerk read as follows:

The name of Harry Jones, late of Company F, Sixth Regiment United States Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The following committee amendments were read:

Line 21, after the word "Infantry," insert the words "Regular Establishment," and in line 22 strike out the figures "$30" and insert "$17."

The committee amendments were agreed to.

The Clerk read as follows:

The name of Phebe W. Chase, dependent mother of Edward Russell Chase, late chaplain Fourteenth Regiment United States Cavalry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The following committee amendment was read:

Page 3, line 5, after the word "Cavalry," insert the words "Regular Establishment."

The committee amendment was agreed to.

The Clerk read as follows:

The name of Mary J. Torney, widow of George Henry Torney, late brigadier general and Surgeon General, United States Army, and pay her a pension at the rate of $50 per month in lieu of that she is now receiving.

The Clerk read the following amendment:

Page 3, line 14, after the word "Army," insert the words "Regular Establishment."

The committee amendment was agreed to.

The Clerk read as follows:

The name of William A. Taylor, late of Company I, First Territorial Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

The Clerk read the following amendment:

Page 3, strike out lines 17, 18, 19, and 20.

The committee amendment was agreed to.

The Clerk read as follows:

The name of John Andrews, late of Company L, Sixty-fifth Regiment New York Volunteer Infantry, War with Spain, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The Clerk read the following committee amendment:

Page 3, line 23, strike out the figures "$30" and insert "$17."

The committee amendment was agreed to.

The Clerk read as follows:

The name of Joseph A. Black, late captain Company A, Fourth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

The Clerk read the following committee amendment:

Page 4, strike out lines 1, 2, 3, and 4.

The committee amendment was agreed to.

The Clerk read as follows:

The name of Charles W. Halls, late of Troop H, Third Regiment United States Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The Clerk read the following amendment:

Strike out lines 5, 6, and 7.

The committee amendment was agreed to.

The Clerk read as follows:

The name of George F. Behymer, late of Company F, Fourth Regiment United States Infantry, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The Clerk read the following committee amendment:

Page 4, line 9, after the word "Infantry," insert the words "Regular Establishment."

The committee amendment was agreed to.

The Clerk read as follows:

The name of John Abplanalp, late of Battery B, Battalion Utah Volunteer Light Artillery, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The Clerk read the following committee amendment:

Page 4, strike out lines 12, 13, 14, and 15.

The committee amendment was agreed to.

The Clerk read as follows:

The name of Hezekiah C. Cotner, late of Company D, Second Regiment Oregon Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month.

The Clerk read the following committee amendment:

Page 4, line 18, after the word "of," strike out the figures "$24" and insert "$17."

The committee amendment was agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

S. 5501. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The bill is a substitute for the following Senate bill referred to the Committee on Pensions:

S. 106. Henry Lottner.
S. 549. Harriet Pierson Porter.
S. 1649. Sigmund L. Messing.
S. 1747. Susan A. Reynolds.
S. 2978. Rosina Freer.
S. 3025. Roland J. Patrick.
S. 3102. William W. Oglesby.
S. 3387. Bernhart Levyson.
S. 3978. Willis D. Clark.
S. 4607. Mary Adair Kendall.
S. 4642. Rose Schroeder.
S. 4650. Maud M. Whitton.
S. 4911. Charles F. Pegg.
S. 4915. John W. Thomas.
S. 4963. Freddie O. J. Horne.
S. 4971. George Wash.
S. 4972. Dock J. Miller.
S. 4984. Michael A. Clark.
S. 5117. Leo S. Baumgart.
S. 5153. John W. Fessel.
S. 5162. Alice M. Robinson.
S. 5179. Alexander M. Clark.
S. 5268. Alfred A. Stampp.
S. 5292. David Britton.
S. 5332. Emory A. Hilkert.
S. 5334. Robert Layman.
S. 5376. James G. Smith.
S. 5394. Virginia C. Sawyer.

Mr. KEY of Ohio. Mr. Speaker, I ask unanimous consent that the first reading of the bill be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read as follows:

The name of Henry Lottner, late of Company D, Twentieth Regiment United States Infantry, and pay him a pension at the rate of $20 per month.

The committee amendment was read, as follows:

Page 1, strike out lines 6, 7, and 8.

The committee amendment was agreed to.

The Clerk read as follows:

The name of Harriet Pierson Porter, widow of Fitz-John Porter, late major general, United States Volunteers, and pay her a pension at the rate of $75 per month in lieu of that she is now receiving.

The committee amendment was read, as follows:

Page 1, strike out lines 9 and 10, and, on page 2, strike out lines 1 and 2.

The committee amendment was agreed to.

The Clerk read as follows:

The name of Sigmund J. Messing, late of Company A, First Regiment Florida Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The committee amendment was read, as follows:

Page 2, strike out the paragraph lines 3, 4, 5, and 6.

The committee amendment was agreed to.

The Clerk read as follows:

The name of Susan A. Reynolds, widow of Daniel Reynolds, late second lieutenant Capt. Cunningham's company, North Carolina Volunteers, Cherokee Indian War, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The committee amendment was read, as follows:

Page 2, strike out lines 7, 8, 9, 10, and 11.

The committee amendment was agreed to.

The Clerk read as follows:

The name of Rosina Freer, widow of Francis T. Freer, late of Troop B, First Regiment United States Cavalry, and pay her a pension at the rate of $12 per month.

The committee amendment was read, as follows:

Page 2, line 13, after the word "Cavalry," insert the words "Indian War."

The committee amendment was agreed to.

The Clerk read as follows:

The name of Roland J. Patrick, late of Troop I, Fifteenth Regiment United States Cavalry, and pay him a pension at the rate of $20 per month.

The committee amendment was read, as follows:

Page 2, line 17, after the word "Cavalry," insert the words "Regular Establishment."

The committee amendment was agreed to.

The Clerk read as follows:

The name of William W. Oglesby, late captain Company G, Second Regiment Oregon State Militia, Bannock Indian War in 1878 and 1879, and pay him a pension at the rate of $20 per month.

The committee amendment was read, as follows:

Page 2, strike out lines 19, 20, 21, 22, and 23.

Mr. HAWLEY. Mr. Chairman, I would like to ask the chairman of the committee if this is not an error. I see in the report of the committee that it recommends the payment of this.

Mr. KEY of Ohio. Mr. Chairman, I will call the gentleman's attention to the committee report, on page 35, where the committee does not recommend the payment of the claim.

Mr. HAWLEY. Mr. Chairman, I desire to be heard upon the proposal to strike out this item.

The SPEAKER. The gentleman is recognized for five minutes.

Mr. HAWLEY. Mr. Chairman, the soldier whom this proposes to pension was a soldier in an Indian uprising in the northeastern part of Oregon. The Bannocks, the Umatillas, and the Snakes, and renegades from other tribes rose suddenly and attacked the settlers in that section of the country, who at that

time had grown to be quite numerous. The people were on the point of being exterminated. Capt. Oglesby, under State authority, organized a company of about 100 persons and proceeded to the point of greatest danger. There were 55 of the soldiers who accompanied him to this place, the remainder being left to guard other points. At this point where 55 were gathered over 600 hostile Indians surrounded them, and they made good there for a considerable time, and sent a courier across the State line into the then Washington Territory to Fort Walla Walla for regular troops, but before the regular troops got even started the Indians had attacked these men, and there was a very severe battle. A number of the Indians were killed and some of the soldiers were killed and a number wounded. Capt. Oglesby did good work and bore himself quite bravely, according to the reports. In the latter part of the attack he was shot in the knee by an Indian bullet, the bullet entering under the kneecap and embedding itself in the knee joint. The surgeon refused to cut it out, and he has the bullet in his knee at this time. That incapacitated him from further service in the war. He has never asked for a pension until recently, and is now, at the age of 76, unable to make a living, and dependent upon what the pension will give him, if granted. I have talked with him. He rendered a good service. If it had not been for his courage and bravery in leading those men at one time when they were greatly alarmed at the sight of so many Indians, hundreds of people would have lost their lives, great property would have been destroyed by fire, the wheat fields would have been set on fire, and a much larger Indian war would have developed out of this by reason of it. I hope the chairman of the committee will agree that this item remain in the bill.

Mr. KEY of Ohio. Mr. Speaker, I want to state to the gentleman, on page 35, under the amendments set out in the report, you will find the following:

This is the case of William W. Oglesby, who, it appears from the report accompanying the bill, claims to have served during the Bannock Indian War in 1878. There is no record in the War Department to show that he was ever mustered in the United States service, and Congress has never passed a general law providing pensions for such persons engaged in Indian hostilities subsequent to 1865 who were not regularly mustered into the United States service, and your committee can see no justification for the approval of this claim.

Now, I would like to say in addition that the Senate will undoubtedly ask for a conference on the various items in these bills, and this matter can be taken up in conference.

Mr. HAWLEY. If the gentleman will give me his assurance——

Mr. KEY of Ohio. No; I will not do that.

Mr. HAWLEY (continuing). That he will permit the item to remain in there——

Mr. KEY of Ohio. This man was never mustered into the Regular Army, and it will be a direct violation of the rules of our committee, and I can see no way where I can consent to it. Now, if the conferees will do that in conference, I am willing; but I should not consent to it now. I think the gentleman had better let it go to conference and the item will receive careful consideration; but I could not consent to it now.

Mr. HAWLEY. Prior to 1865, if I remember correctly, meritorious cases of this kind where public service was rendered by a man who did not have time to enlist himself in the Government service, but rendered the same kind of service, were recognized by pensions. This Capt. Oglesby did at his own private expense and loss of his property. His horses were killed in the war. He had no time to join the service, but rendered the service that others did who had a little more time and were not in such stress of need. Where because of the danger to the people he volunteered his services, it seems to me that the country can well afford to recognize such service as that, especially when the object of it all these years has supported himself, and now, when he is facing a lack of food and shelter in his old age, is lame with a bullet he received in his knee in that war, he comes here asking for a few dollars that Congress may take a little care of him. I think it ought to be granted.

Mr. KEY of Ohio. Well, I think the gentleman had better let this go to conference. The Senate committee will ask for a conference, and I am sure if it is a meritorious claim the conferees will see that justice is done. The members of the House committee who consider these Senate bills have gone carefully into this matter, and I do not believe we ought to attempt to amend these bills on the floor of the House. It establishes a precedent. It simply puts the nose of the camel under the tent and there will be no end to amending bills on the floor of the House, and I suggest to the gentleman that he allow this matter to go to conference.

Mr. HAWLEY. If I had some assurance from the gentleman that the matter would be favorably considered——

Mr. KEY of Ohio. I can not promise the gentleman what I will do; I can not speak for the other conferees as to what they will do. The matter will have to be discussed and thrashed out, but I will assure the gentleman that we will carefully consider the case.

The SPEAKER. The question is on agreeing to the amendment.

Mr. NORTON. Mr. Speaker, from a reading of the report of the Senate committee on this item I am convinced it is a very meritorious one and that the amendment should not be agreed to.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

The name of Bernhart Levyson, late fireman, second class, U. S. S. *Piscataqua*, United States Navy, and pay him a pension at the rate of $12 per month.

The committee amendment was read, as follows:

Page 3, line 1, at the beginning of the line, insert the words "Regular Establishment."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

The name of Mary Adair Kendall, widow of Henry F. Kendall, late major, Twelfth Regiment United States Cavalry, and pay her a pension at the rate of $25 per month and $2 per month additional on account of each of the minor children of the said Henry F. Kendall until they reach the age of 16 years.

The committee amendment was read, as follows:

Page 3, line 9, after the word "Cavalry," insert the words "Regular Establishment."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

The name of Rose Schroeder, widow of Frederick Schroeder, late of Company H, Second Battalion of Engineers, United States Army, and pay her a pension at the rate of $12 per month.

The committee amendment was read, as follows:

Page 3, strike out lines 13 to 16, inclusive.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

The name of Maud M. Whitton, widow of Arthur M. Whitton, late master, United States Naval Auxiliary service, and pay her a pension at the rate of $30 per month and $2 per month additional on account of each of the minor children of said Arthur M. Whitton until they reach the age of 16 years.

The committee amendment was read, as follows:

Page 3, strike out lines 17 to 22, inclusive.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

The name of John W. Thomas, late of Company D, Seventh Regiment United States Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The committee amendment was read, as follows:

Page 4, strike out lines 3 to 6, inclusive.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

The name of George Wash, late of Company C, Tenth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The following committee amendment was read:

Page 4, line 13, strike out "$30" and insert "$17."

The amendment was agreed to.

The Clerk read as follows:

The name of Dock J. Miller, late of Hospital Corps, United States Army, and pay him a pension at the rate of $40 per month.

The following committee amendments were read:

Page 4, line 16, after the word "Army," insert the words "Regular Establishment."

Page 4, line 17, strike out "$40" and insert "$24."

The amendments were agreed to.

The Clerk read as follows:

The name of Leo S. Baumgart, late of Troop M, Sixth Regiment United States Cavalry, and pay him a pension at the rate of $50 per month.

The following committee amendment was read:

Page 4, strike out lines 22, 23, and 24.

The amendment was agreed to.

The Clerk read as follows:

The name of John W. Fessel, late of Company H, Ninth Regiment United States Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The following committee amendment was read:

Page 4, line 26, after the word "Infantry," insert "War with Spain."

The amendment was agreed to.

The Clerk read as follows:

The name of Alice M. Robinson, widow of Thomas B. Robinson, late first lieutenant and captain, Nineteenth Regiment United States Infan-

try, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The following committee amendment was read:

Page 5, line 5, after the word "Infantry," insert the words "Regular Establishment."

The amendment was agreed to.

The Clerk read as follows:

The name of Alfred A. Stampp, late of Troop K, Eighth Regiment United States Cavalry, War with Spain, and pay him a pension at the rate of $12 per month.

The following committee amendment was read:

Page 5, line 11, after the word "Stampp," insert the words "alias Charles Stoll."

The amendment was agreed to.

The Clerk read as follows:

The name of Emory A. Hilkert, late of Company A, Eleventh Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The following committee amendment was read:

Page 5, line 21, strike out "$30" and insert in lieu thereof "$24."

The amendment was agreed to.

The SPEAKER. The question is on the third reading of the bill.

The bill was ordered to a third reading, was read the third time, and passed.

On motion of Mr. KEY of Ohio, a motion to reconsider the votes by which the various pension bills were passed was laid on the table.

UNSURVEYED, UNTAXED LAND GRANTS IN THE STATE OF WASHINGTON.

Mr. FALCONER. Mr. Speaker, I ask unanimous consent to proceed to address the House on the subject of unsurveyed, untaxed land grants in the State of Washington.

Mr. Speaker, several times in debate here I have taken the time of the House in discussing the subject of unsurveyed, untaxed land grants in several Western States, and particularly in the State of Washington. I have stated that there are over 700,000 acres of unsurveyed granted lands in Washington State of which title is nominally held by the Government, but which, as a matter of fact, is pledged to and owned by railroad and land-holding corporations.

I desire, Mr. Speaker, to set forth here the peculiar conditions at the present time which on close analysis substantiate the statement that the United States Government, through its own negligence or lack of action, has prevented municipalities, counties, and States between Lake Superior and the Pacific coast from collecting taxes on something like 16,000,000 acres of unsurveyed land granted directly and by lieu-land script to certain railroads.

It is true, sir, that either the Congress of the United States or the Interior Department, or both, have failed utterly to protect the public interest in this matter.

RAILROAD LAND-GRANT LEGISLATION.

I wish, briefly, to refer, Mr. Speaker, to certain legislation enacted during the last half century, involving public-land gifts and indemnities to the Northern Pacific Railway.

The act incorporating the Northern Pacific Railway Co. and providing for certain land grants was enacted July 2, 1864 (13 Stat., 315), just 50 years ago this month. This act granted to the Northern Pacific Railway Co. a right of way 200 feet wide through public lands from the west shores of Lake Superior by the most feasible route to Puget Sound.

The act further provided that the Government grant the Northern Pacific Railway 10 alternate sections of land, nonmineral, designated by odd numbers, on each side of said railroad line through the States, and 20 alternate sections of land, nonmineral, per mile on each side of the said line in Territories.

This act specifically provided that the land should be surveyed and the patents issue as the road building progressed; also provided that the road should be fully completed in July, 1876, just 12 years after the passage of the act.

Mark you, Mr. Speaker, this original act of July, 1864, organized the Northern Pacific Railway Co., granted a right of way 200 feet wide from the Lakes to the Pacific, also granted approximately 45,000,000 acres of land, and provided that the road should be completed and equipped and all lands surveyed by June 4, 1876.

The company was somewhat slow in organizing, and in May, 1866 (14 Stat., 355), the railroad was granted an extension of two years for beginning and completion.

Note, Mr. Speaker, the consideration herein given the railway company by the Congress.

The company finally organized, proceeded by aid of Congress to realize something "substantial" on the munificent land gift and franchise made by the Government, and in May, 1870 (16 Stat., 378), an act passed Congress authorizing the company to mortgage its franchise, lands, and road; and, further, created indemnity limits and specially provided that all lands granted to the Northern Pacific Railway Co. which should not be sold, or which on account of not having been disposed of remained subject to the mortgage authorized by the act, should be subject to settlement the same as other public lands at the price paid the railway company not to exceed $2.50 per acre.

Again, Mr. Speaker, note the above favorable consideration given the company.

The act of July 15, 1870 (16 Stat., 305), provided an appropriation of $96,000 for Northern Pacific land surveys, and specified that before the railway company could convey to a purchaser any of the lands granted under any of the acts relating to the railroad company the Government should be reimbursed all survey costs by the railway company or its assigns.

Advantage has been taken of this latter provision by the railroad company to forestall, and protect itself from, paying taxes on these lands.

RAILROADS TAKE LEGAL ADVANTAGES.

Technical points of law have been used to the advantage of the railroad, and I cite one case in point.

Northern Pacific Railway Co. *v.* Thrall County (United States report, 115–600). In this case an appeal was taken from the superior court of the Territory of Dakota, submitted November 17, 1885.

Briefly the facts are that the treasurer of Thrall County, following the provisions of the laws of Dakota Territory, assessed certain Northern Pacific lands, and on nonpayment by the railroad company proceeded to sell these certain lands, and published notice that on certain date in October, 1881, he would sell said lands according to law.

The railroad company brought suit to enjoin collection of taxes levied upon land of plaintiff in error. The United States Supreme Court reversed the decision of the superior court of the Territory of Dakota, and a decree was entered perpetually enjoining the treasurer of Thrall County from further proceeding to collect taxes; and, Mr. Chairman, the point at issue and on which the decision was made was that the railroad company had not as yet reimbursed the United States for the costs of the surveys. Thus, although the road was built, the lands surveyed, and adjoining lands being settled, the railroad lands did not go to patent and were not placed on the tax lists because of the fact above referred to, namely, railroad not ready or willing to reimburse the Government for survey costs.

Mr. Justice Miller, who delivered the opinion of the court, said:

> The United States made a magnificent grant to this company of lands equal in quantity to forty or fifty thousand square miles, an area as large as an average State of the Union. It thought proper to require of the grantee the payment of the costs of making the surveys necessary to the location and ascertainment of these lands. To secure the payment of those expenses it decided to retain the legal title in its own hands until they were paid. The Government was, as to these costs, in the condition of a trustee in a conveyance to secure payment of money. But if the land was liable to be sold for taxes due to State, Territorial, or county organizations this security would be easily lost.
>
> No sale of land for taxes, no taxes can be assessed on any property, but by virtue of the sovereign authority in whose jurisdiction it is done. If not assessed by direct act of the legislature itself, it must, to be valid, be done under authority of a law enacted by such legislature. A valid sale, therefore, for taxes, being the highest exercise of sovereign power of the State, must carry the title to the property sold, and if it does not do this it is because the assessment is void.
>
> It follows that if the assessment of these taxes is valid and the proceeding well conducted the sale confers a title paramount to all others, and thereby destroys the lien of the United States for the costs of surveying these lands. If, on the other hand, the sale would not confer such a title, it is because there exists no authority to make it.
>
> At all events, the holder of the equitable title to these lands has a right to prevent a sale which would have the effect of impeding the United States in the assertion of the right to them until these costs are paid.
>
> We are aware of the use being made of this principle by the companies who, having earned the lands, neglect to pay these costs in order to prevent taxation. The remedy lies with Congress and is of easy application. If that body will take steps to enforce its lien for these costs of survey by sale of the lands or by forfeiture of title, the Treasury of the United States would soon be reimbursed for its expenses in making the surveys and the States and Territories in which the lands lay be remitted to their appropriate rights of taxation. The courts can do no more than declare the law as it exists.

This decision, Mr. Speaker, was rendered nearly 30 years ago, and still vast areas of these granted lands are not paying taxes.

"Inertia of Government," the lack of legislative and executive action, Mr. Speaker, have caused the Public Treasury a loss of millions of dollars of tax money, extending over a period from 1876 to 1914—38 years.

It is estimated that about 16,000,000 acres of indemnity land grants are still unsurveyed, and of this some 6,000,000 or 7,000,000 acres of valuable land, productive when improved and which should now be on the tax rolls, are not taxed. If these lands were on the tax rolls bringing in a nominal tax of 10 cents per acre, even on the best grade of lands, $600,000 or

$700,000 a year would find its way into the public money fund. I give these figures simply to fix a definite idea in the minds of gentlemen, the loss to the country, if we continue to sit idly here and let present conditions remain. In my State, sir, I venture to estimate that the annual loss to the public is approximately $200,000.

Mr. Speaker, I have referred to four legislative acts enacted by the Congress of the United States, all of which accrued to the benefit of the Northern Pacific Railway Co. I might recite several other acts involving first and second indemnity limits, lieu-land acts which also greatly benefit the Northern Pacific Railway Co., and while these latter have no bearing on the unsurveyed, untaxed feature, I refer to them to impress on the minds of gentlemen here the fact that, generally speaking, every legislative enactment in connection with this railroad land-grant matter has served the company's interests.

WHY DOES THE GOVERNMENT PAY HALF SURVEY COSTS?

The act of July 2, 1870, provided that the railroad company should pay for the survey of its lands, each odd section. It is evident that in surveying odd sections, even sections are incidentally surveyed.

This, without question, was understood in the consideration of the original land-grant act of July, 1864, and was definitely set forth in the act of July, 1870. But by some hocus-pocus turn the railroad company, with the aid of Congress and department officials, succeeded in saddling one-half the cost on the Government.

In any of the acts involving these land grants there is no provision that the Government should pay one-half the cost of the survey.

The practice, like Topsy, just grew, and the railroads reaped the benefit. It is true that the department officials have made rulings and decisions assuming to hold that the Government must pay one-half the cost, but I challenge a substantial authority or citation of law upholding this position.

On March 2, 1895 (28 Stat., p. 937), Congress passed an act making a continuing appropriation of $100,000 for the purpose of cooperating with the railroad company for the survey of these lands.

But there was no definite provision in said act providing that the railroad company should advance a like amount or expend dollar for dollar with the Government; hence another long delay.

On June 25, 1910, Congress enacted a law providing for the collection by the Government in advance of amounts necessary to pay the railroad's part of the expense.

This law makes ample provision for collection in advance of the amounts which the railroads pay for surveying lands within the granted limits. The present status of the matter indicates that the railroads are ready for survey and issue of patent on these land grants and, at the direction of the Government, have made a deposit of $100,000 in the Treasury on call of the Secretary to pay for surveying costs.

GOVERNMENT ALONE RESPONSIBLE FOR FURTHER DELAY.

We have reason to assume that no further delay will be made by the railroad company, and any delay from this time on will be charged to the Government's negligence.

The act of March 2, 1895 (28 Stat., p. 937), made what is known as continuing appropriations for the survey of railroad land grants. This, together with the act of June 25, 1910 (36 Stat., p. 304), makes effective legislation, to a certain degree, within the primary limits or grants.

This continuing appropriation provides for the appropriation of $100,000, but there has been a portion of this money applied for administrative features in the department, which cuts the appropriation down to $75,000 for the current year ending June, 1915, so that we now have an appropriation on the part of the Government of $70,000 or $75,000.

THE FALCONER SURVEY BILL, H. R. 17970.

It occurs to me, sir, that the Government should put up as much money as can be used, for there is no denying the proposition that the taxes on a township of land for one year ought to pay for the cost, even though the Government had to pay all the cost of survey. Hence it makes a vital difference to the average taxpayer whether these lands are surveyed in the next 3 years or the next 10 years, and to the end that the survey may progress more rapidly I have introduced a bill, H. R. 17970, which provides that there shall be appropriated sufficient money to immediately proceed to the survey of all land grants in the State of Washington. There are areas of valuable lands within these limits not now bearing their portion of the taxes, and these should be entered on the tax lists within the next two or three years.

It is hard to explain to the people of my State why these surveys have not been made before. The man who owns farm or timber land on which he is paying taxes, ranging from 10 cents to $1 per acre, does not willingly submit to a condition in which the railroad company or its assigns owning valuable land adjoining his holding pay no taxes.

All lieu selections and indemnity-land grants should be surveyed whether within the original limits or not. In many portions of my State there are St. P., M. & M. and other scrip holdings covering some of the very richest timberland in the State, some sections that are probably worth $50,000 and more, on which no taxes are being paid.

I personally know and have been through a number of tracts of this kind in the north fork of Skykomish in Snohomish County, and this is characteristic of upriver lands in many portions in western Washington.

The purpose of my bill is to cover these lands and place them on the tax rolls of the several counties in my State.

The county commissioners of the several counties in the southwest and in the northwest parts of Washington State are thoroughly alive to the necessity for and are emphatically demanding that these surveys be made.

I have called the attention of the Interior Department and of the Public Lands Committee of the House of Representatives to the situation in the State of Washington. I have sent to the department and the committee maps showing large areas of untaxed lands in King County.

The West is rapidly developing, and progress and development bring demands for money from the Public Treasury. Our only means of getting money is through taxation, and it is a mighty poor government that would knowingly permit large and influential interests to escape their portion of taxes. The whole burden of nontaxed lands is, as above suggested, now resting upon the shoulders of this Congress.

Commissioner Tollman has very urgently requested the Finance Committee of the House to make a sufficient appropriation.

The Secretary of the Interior, Hon. Franklin K. Lane, urges the survey of all granted lands, and the officials of the State of Washington are demanding the survey.

As many efficient corps of surveyors as could be gotten into the field during the splendid summer season in Washington State should be employed and this work expedited and hurried along to the end that this one disturbing factor of "untaxed lands" could be eliminated from economic discussions in our State. I earnestly solicit early consideration of H. R. 17970.

ENROLLED BILLS SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 16579. An act to authorize the construction of a bridge across St. John River at Fort Kent, Me.;

H. R. 16294. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; and

H. R. 17005. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Tug Fork of the Big Sandy River at or near Williamson, W. Va.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. 4146. An act granting certain lands to school district No. 44, Chelan County, Wash.; to the Committee on the Public Lands.

ADJOURNMENT.

Mr. ADAMSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 44 minutes p. m.) the House adjourned until Saturday, July 25, 1914, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. MOSS of Indiana, from the Committee on Agriculture, to which was referred the bill (H. R. 17971) for securing the uniform grading of grain, preventing deception in transactions in grain, and regulating traffic therein, and for other purposes, reported the same without amendment, accompanied by a report (No. 1011); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FRENCH, from the Committee on the Public Lands, to which was referred the bill (H. R. 17906) validating locations of deposits of phosphate rock heretofore made in good faith under the placer mining laws of the United States, reported the same with amendment, accompanied by a report (No. 1013), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. WITHERSPOON, from the Committee on Naval Affairs, to which was referred the bill (H. R. 7848) for the relief of Ten Eyck De Witt Veeder, commodore on the retired list of the United States Navy, reported the same without amendment, accompanied by a report (No. 1014), which said bill and report were referred to the Private Calendar.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 18043) granting an increase of pension to Helen M. Lind; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18044) granting an increase of pension to Emma F. White; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 18045) granting an increase of pension to Jacob Burner; to the Committee on Invalid Pensions.

By Mr. BOOHER: A bill (H. R. 18046) granting an increase of pension to John W. Guilliams; to the Committee on Invalid Pensions.

By Mr. CASEY: A bill (H. R. 18047) granting a pension to William Llowellyn; to the Committee on Invalid Pensions.

By Mr. CARR: A bill (H. R. 18048) granting an increase of pension to Martin Stoneking; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18049) to remove the charge of desertion from the record of Francis Wilhelm; to the Committee on Military Affairs.

Also, a bill (H. R. 18050) granting an increase of pension to Henry M. Roley; to the Committee on Invalid Pensions.

By Mr. DILLON: A bill (H. R. 18051) granting an increase of pension to Sarah Anna Shreves; to the Committee on Invalid Pensions.

By Mr. DUPRÉ: A bill (H. R. 18052) granting an increase of pension to Josephine A. Anglin; to the Committee on Pensions.

By Mr. GRAY: A bill (H. R. 18053) granting an increase of pension to Mary E. Waggoner; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18054) granting an increase of pension to Joel Manning; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18055) granting an increase of pension to Sarah V. Howren; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18056) granting an increase of pension to Phoebe Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18057) granting an increase of pension to Elizabeth Jones; to the Committee on Invalid Pensions.

By Mr. LEWIS of Maryland: A bill (H. R. 18058) granting a pension to Lucretia Coffman; to the Committee on Invalid Pensions.

By Mr. McKELLAR: A bill (H. R. 18059) granting an increase of pension to James Toulin; to the Committee on Invalid Pensions.

By Mr. RIORDAN: A bill (H. R. 18060) granting an increase of pension to Matthew J. McKeon; to the Committee on Pensions.

By Mr. SHERLEY: A bill (H. R. 18061) for the relief of the heirs of Richard Butler, deceased; to the Committee on War Claims.

By Mr. SMITH of New York: A bill (H. R. 18062) for the relief of Joseph H. Willsey; to the Committee on War Claims.

By Mr. TAYLOR of Arkansas: A bill (H. R. 18063) for the relief of S. Reamey; to the Committee on War Claims.

Also, a bill (H. R. 18064) for the relief of the legal representatives of Stephen Courtney, deceased; to the Committee on War Claims.

By Mr. TEN EYCK: A bill (H. R. 18065) granting a pension to Mary V. and Helen Bailey; to the Committee on Invalid Pensions.

By Mr. TOWNSEND: A bill (H. R. 18066) for the relief of D. M. Carman, representing the estate of Luis R. Yangco, deceased; to the Committee on War Claims.

By Mr. WALSH: A bill (H. R. 18067) for the relief of Erastus Griffiths; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petitions of certain citizens of Connecticut and the District of Columbia, urging the adoption of the Hobson prohibition amendment; to the Committee on Rules.

Also (by request), resolution of the International Union of Journeymen Horseshoers at Memphis, Tenn., protesting against the adoption of the Hobson prohibition amendment; to the Committee on Rules.

By Mr. BARTHOLDT: Petitions of 5,000 citizens of St. Louis, Mo., against national prohibition; to the Committee on Rules.

By Mr. CARR: Petition of 30 members of A. M. Neff Bible Class, First Presbyterian Church; 40 members of Senior Bible Class, First United Presbyterian Church; members of Men's Bible Class of Methodist Episcopal Sunday School, all of Connellsville, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. DALE: Petition of International Union of Journeymen Horseshoers of America, protesting against national prohibition; to the Committee on Rules.

By Mr. DONOVAN: Petition of Turner Liedertorfel, Stamford, Conn., protesting against national prohibition; to the Committee on Rules.

By Mr. EAGAN: Petitions from First Baptist Church, Town of Union; Grove Church Christian Endeavor Society, Weehawken; First Presbyterian Church, Hoboken; Mr. E. H. Van Keuren and Mr. Joseph Grant, both of Weehawken, all in the eleventh congressional district of New Jersey, favoring national prohibition; to the Committee on Rules.

By Mr. ESCH: Petition of International Union of Journeymen Horseshoers of America, protesting against national prohibition; to the Committee on Rules.

By Mr. GARDNER: Petition of citizens of Haverhill and West Newbury, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. GRAY: Papers to accompany a bill (H. R. 18055) granting an increase of pension to Sarah V. Howren; to the Committee on Invalid Pensions.

Also, papers to accompany a bill (H. R. 18056) granting an increase of pension to Phoebe Brown; to the Committee on Invalid Pensions.

Also, papers to accompany a bill (H. R. 18053) granting an increase of pension to Mary E. Waggoner; to the Committee on Invalid Pensions.

Also, papers to accompany a bill (H. R. 18054) granting an increase of pension to Joel Manning; to the Committee on Invalid Pensions.

Also, papers to accompany a bill (H. R. 18057) granting an increase of pension to Elizabeth Jones; to the Committee on Invalid Pensions.

By Mr. GRIEST: Petition of sundry citizens of Lancaster County, Pa., protesting against national prohibition; to the Committee on Rules.

By Mr. KETTNER: One thousand nine hundred and seventy-seven personal letters, 6 telegrams, 3 petitions and resolutions, and 66 individual printed protests, against the passage of the Hobson prohibition resolution; to the Committee on Rules.

Also, 25 postals, 88 petitions and resolutions, 18 telegrams, and 20 personal letters, urging the passage of the Hobson prohibition resolution; to the Committee on Rules.

By Mr. LEWIS of Maryland: Petition of citizens of Ballenger election district of Frederick County, Md., favoring national prohibition; to the Committee on Rules.

By Mr. MERRITT: Petition of F. W. Grupe, C. C. Denster, H. F. Sherman, I. H. Wood, R. W. Lobdell, J. M. Cass, D. S. French, H. A. Southard, H. P. Floyd, O. R. Morhous, H. Morhous, Emery Barton, D. L. Lawrence, E. J. Sherman, S. H. Hodgkins, H. E. Bigelow, Bernia Martin, Fred W. Heath, S. N. Sayre, C. M. Sherman, G. C. Smith, P. L. McMahon, Ernest Pierce, H. E. Harrington, F. Tomlinson, Thomas Sayre, M. C. Pierce, E. J. Lobdell, and H. L. Lobdell, all of Wadhams, N. Y., urging the passage of the Sheppard-Hobson resolution; to the Committee on Rules.

By Mr. NEELEY of Kansas: Petition of sundry citizens of Du Quoin, Kans., favoring national prohibition; to the Committee on Rules.

By Mr. NELSON: Petition of National Association of State Libraries, favoring the establishment of a congressional legislative reference bureau; to the Committee on Appropriations.

By Mr. PLATT: Petitions of citizens of Beacon and Poughkeepsie, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. SMITH of Idaho: Papers to accompany House bill 18042, granting an increase of pension to Anna Robbins; to the Committee on Invalid Pensions.

By Mr. THACHER: Petitions of citizens of New Bedford, Mass., favoring national prohibition; to the Committee on Rules.

Also, petition of citizens of New Bedford, Mass., against national prohibition; to the Committee on Rules.

By Mr. TUTTLE: Petitions of citizens of Rosellepark, and 88 citizens of Rahway, N. J., favoring national prohibition; to the Committee on Rules.

SENATE.

SATURDAY, *July 25, 1914.*

(Legislative day of Thursday, July 23, 1914.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hollis	Pomerene	Swanson
Brady	Hughes	Ransdell	Thomas
Brandegee	Kern	Reed	Thornton
Bristow	Lane	Saulsbury	Tillman
Bryan	Lea, Tenn.	Shafroth	Vardaman
Camden	Martine, N. J.	Sheppard	Walsh
Catron	Myers	Shively	Weeks
Chamberlain	Nelson	Simmons	West
Culberson	Newlands	Smith, Ga.	White
Cummins	Page	Smoot	Works
Gallinger	Perkins	Sterling	
Gronna	Poindexter	Stone	

Mr. MARTINE of New Jersey. I was requested to announce that the Senator from New Mexico [Mr. FALL] is absent on important business, and that he is paired with the Senator from West Virginia [Mr. CHILTON].

Mr. CAMDEN. I desire to announce the unavoidable absence of my colleague [Mr. JAMES]. He is paired with the Senator from Massachusetts [Mr. WEEKS]. I will let this announcement stand for the day.

The VICE PRESIDENT. Forty-six Senators have answered to the roll call. There is not a quorum present. The Secretary will call the names of the absentees.

The Secretary called the names of the absent Senators, and Mr. JONES, Mr. KENYON, and Mr. NORRIS answered to their names when called.

The VICE PRESIDENT. Forty-nine Senators have answered to the roll call. There is a quorum present.

Mr. NELSON. Mr. President, I offer a proposed amendment to the pending bill and ask that it may be printed and lie on the table, and also that it be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment proposed by Mr. NELSON is as follows:

Amend the bill by striking out the entire substitute amendment reported by the committee and substituting in lieu thereof the following, and adopting that in lieu of the House bill, to wit:

"That all commerce between two or more States, or between a State and a Territory or a District of the United States, and all commerce within a Territory or District of the United States, and all commerce between any part of the United States and any part of a foreign country, is hereby designated and referred to in this act as interstate commerce.

"SEC. 2. That all corporations with a capital of $1,000,000 or more engaged in interstate commerce, and now existing or hereafter created, except corporations subject to the jurisdiction and regulation of the Interstate Commerce Commission, shall hereafter be subject to the inspection, supervision, and regulation of the Secretary of the Department of Commerce in the manner and to the extent specified in this act, and shall be required to apply for and to obtain the license hereinafter prescribed.

"SEC. 3. That all existing corporations subject to the jurisdiction of the Secretary of the Department of Commerce, as provided in the preceding section, shall, within three months after this act takes effect, make written application to the Secretary of said department for a license to engage in interstate commerce. Such application shall be accompanied with a duly authenticated copy of the charter or articles of incorporation and the by-laws of the corporation, and shall state, among other things, the date when the corporation was formed, when it began business and its principal place of business, the nature and character of the business engaged in, a description of its tangible and physical property, where the same is located and its value as near as may be, the amount, denomination, and number of bonds authorized, issued, and outstanding, and the date and maturity of such bonds and the rate of interest they bear and when the same is payable, for what purpose the bonds were issued and for what purpose the proceeds have been used, and on what property such bonds are secured, and the nature and form of such security, with an authenticated copy of the instrument of mortgage or deed of trust, the amount, nature, and character of all other indebtedness, the amount of each and every kind of capital stock authorized, issued, and outstanding, the voting power of the stock, the par value of the shares of stock, the rate of dividend required and paid on the same, whether such dividend is cumulative, whether the stock is fully paid and nonassessable, and whether the stockholders are personally liable and if liable to what extent, and how and for what purpose the proceeds of the stock have been used by the corporation, and what salaries are paid the principal officers. The said application shall also embrace the income account of the corporation for the last fiscal year and its last balance sheet, and shall be subscribed and verified by the oath of the president, secretary, and treasurer of the corporation; and in case such oath is willfully false or untrue, the person making the same shall be deemed guilty of perjury, and on conviction thereof in a court of competent jurisdiction shall be punished by a fine of not more than $10,000 or by imprisonment for a term not exceeding three years, or by both such fine and imprisonment, in the discretion of the court. The Secretary of Commerce, on receiving an application conformable to the foregoing provisions, if he is satisfied that the corporation is solvent and is engaged in interstate commerce, shall, upon the payment of a fee of $50, issue, under his hand and the seal of the department and deliver to the corporation making the application, a license authorizing the corporation to engage and to continue to engage in interstate commerce, which license shall continue in force until canceled or revoked as hereinafter provided; and no corporation engaged in interstate commerce with a capital of $1,000,000 or more, except such as are subject to the jurisdiction and regulation of the Interstate Commerce Commission, shall be permitted to engage in such interstate commerce without making the application and procuring the license hereinbefore prescribed, and this prohibition may be enforced by writ of injunction in the district courts of the United States.

"SEC. 4. That all corporations with a capital of $1,000,000 or more created subsequent to the passage and approval of this act that intend to engage in interstate commerce and are not subject to the jurisdiction and regulation of the Interstate Commerce Commission shall, before engaging in interstate commerce, make written application to the Secretary of the Department of Commerce for a license to engage in such commerce. Such application shall be accompanied with a duly authenticated copy of the charter or articles of incorporation and the by-laws of the corporation, and shall state and specify, among other things, the date when the corporation has been formed, when it intends to engage in the business of interstate commerce, the nature and character of such business, where it intends to carry on the same and its principal place of business, a description of its tangible and physical property, where the same is located and its value as near as may be, the amount of bonds it is authorized to issue, has issued, and proposes to issue, the denomination of such bonds, their date, maturity, and rate of interest, and at what rate of discount, in the form of a commission or otherwise, the same have been or will be sold and the net amount which will enure to the corporation from the sale of the same, the purpose for which the proceeds of such bonds have been or will be used, the property upon which said bonds are, or will be, secured, and the nature and form of the security, the amount of each and every kind of capital stock authorized to be issued, that has been issued and is proposed to be issued, the number of shares of each kind of stock and their par value, the voting power of the stock, whether the stock when issued has been paid for, or will be paid for, in full, in cash or in property or both, and if paid for in property the nature, location, and value of such property, and if not paid for in full then the proportion remaining unpaid and whether the same is subject to call, and whether the stockholders are personally liable and if liable to what extent, what preference, if any, as to dividends one kind of stock has over other kinds of stock, whether any kind of stock has in any form or to any extent been given as an inducement or bonus to subscribers for bonds or preferred stock, for what purpose the proceeds of the stock has been or will be used, and what salaries are paid or are to be paid to the principal officers of the corporation. Said application shall be subscribed and verified by the oath of the president, secretary, and treasurer of the corporation; and in case such oath is wilfully false or untrue, the person making the same shall be deemed guilty of perjury and on conviction thereof in a court of competent jurisdiction shall be punished by a fine of not more than $10,000, or by imprisonment for a term not exceeding three years, or by both such fine and imprisonment in the discretion of the court. The Secretary of Commerce on receiving an application conformable to the provisions of this section, if he is satisfied that the corporation has or is likely to have the means to carry on the business of interstate commerce which it intends to carry on, shall, upon the payment of $50, issue under his hand and the seal of the department and deliver to the corporation making the application a license authorizing the corporation to engage in the business of interstate commerce, which license shall continue in force until canceled or revoked as hereinafter provided, and no such corporation shall be permitted to engage in the business of interstate commerce without making the application and procuring the license hereinbefore prescribed, and this prohibition may be enforced by writ of injunction in the district courts of the United States.

"SEC. 5. That the board of directors of corporations applying for and obtaining license to engage in interstate commerce as provided in sections 3 and 4 of this act, shall keep, or cause to be kept, in a suitable book, to be called the directors' book, a full, true, and correct record of all acts and transactions of the board pertaining to the business and property of the corporation occurring and taking place at their meeting or elsewhere, and a record of the vote on every resolution, motion, or proposition presented to or acted upon by the board, and the names of the directors voting in the affirmative on any proposition and the names of those voting in the negative on the same.

"The directors' book shall, during all reasonable business hours, be open to the inspection of all bondholders and stockholders of the cor-

poration; and a duly authenticated copy of the same shall be filed in the Department of Commerce. If the directors fail to keep, or cause to be kept, such a record in such a book, as aforesaid, or having kept the same, destroy, deface, or obliterate it, or any part thereof, or by their negligence suffer the same to be done, they shall each of them be deemed guilty of a crime, and on conviction thereof in a court of competent jurisdiction shall be punished by a fine not exceeding $5,000, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment, in the discretion of the court, and they shall also be jointly and severally liable in a civil action for all damages which any person may sustain in consequence of such crime.

"SEC. 6. That the presiding officer and secretary of every stockholders' meeting of corporations applying for and obtaining license to engage in interstate commerce, as provided in sections 3 and 4 of this act, shall keep, or cause to be kept, in a suitable book, termed 'Stockholders' book,' a full, true, and correct record of all business transacted at such meetings and of the vote on every proposition, giving the number of shares and by whom voted in the affirmative and in the negative on every proposition voted upon. Such book shall, during all reasonable business hours, be open to the inspection of the officers, bondholders, and stockholders of the corporation, and a duly authenticated copy of the same shall be filed in the Department of Commerce.

"In case the president and secretary of such meeting fail to keep, or cause to be kept, such a record in such a book, as aforesaid, or, having kept the same, destroy, deface, or obliterate it, or any part thereof, or by their negligence suffer the same to be done, they shall each of them be deemed guilty of a crime, and on conviction thereof in a court of competent jurisdiction shall be punished by a fine of not more than $5,000, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment, in the discretion of the court, and they shall also be jointly and severally liable in a civil action for all damages which any person may sustain in consequence of such crime.

"SEC. 7. That no corporation licensed under and pursuant to the provisions of sections 3 and 4 of this act shall, after obtaining such license, be permitted to issue or dispose of any capital stock, bonds, or other obligations or securities, in addition to such as may have been issued and are outstanding at the time the license was granted, without first securing the permission and authority of the Secretary of Commerce to issue and dispose of such additional stock, bonds, or other securities and obligations. Any corporation desiring to secure such permission and authority shall, before securing the same, make written application therefor to the Secretary of Commerce, and in such application shall specify and describe the character, location, and value of all its physical and tangible property, the character, nature, and volume of its business and where conducted, the amount of all kinds of capital stock issued and outstanding, giving the number of shares of each kind of stock, the dividend paid on each kind of stock and when payable, the amount, number, date, and maturity of all bonds or other securities or obligations issued and outstanding, and the rate of interest on the same and when and where payable, the amount, character, and value of all credits due and belonging to the corporation, the amount of cash working capital, if any, on hand, the amount, character, and description of the additional stocks, bonds, or other securities and obligations sought to be issued and disposed of and to whom and upon what terms and conditions to be issued and disposed of; and for what purposes and to what use the proceeds of such additional stocks, bonds, and other securities are to be devoted and the necessity for the issue and disposal of such additional stocks and bonds. The said application shall also include the income account of the corporation for its last fiscal year and its last balance sheet, and shall be subscribed and verified by the oath of the president, the secretary, and treasurer of the corporation; and in case such oath is false or untrue, the person making the same shall be deemed guilty of perjury, and on conviction thereof in a court of competent jurisdiction shall be punished by a fine of not more than $10,000, or by imprisonment for a term not exceeding three years, or by both such fine and imprisonment, in the discretion of the court. On receiving such written application as aforesaid the Secretary of Commerce shall proceed to investigate the subject matter of the same and hold a hearing thereon, and may summon and hear witnesses and require the production of books, reports, and other documents relating to the subject matter of the application. If after full hearing and due consideration the Secretary of Commerce is satisfied that permission and authority should be given to the corporation making the application to issue additional stock, bonds, or other securities and obligations, he shall make and issue an order permitting and authorizing the corporation to issue and dispose of such an additional amount of stock, bonds, or other securities and obligations as he may deem advisable and shall specify in the order. Any and every officer of such corporation who joins or in any manner participates in the issue, or attempt to issue, of such additional stock, bonds, or other securities and obligations, without the permission and authority of the Secretary of Commerce, shall be deemed guilty of a crime, and on conviction thereof in a court of competent jurisdiction shall be punished by a fine of not more than $10,000, or by imprisonment for a term not exceeding three years, or by both such fine and imprisonment, in the discretion of the court; and such officers as well as the corporation may be restrained by writ of injunction from committing such offense.

"SEC. 8. That no corporation licensed under and pursuant to the provisions of sections 3 and 4 of this act shall, after being so licensed, be permitted to own or hold stock, bonds, or other securities of any other corporation, and in case it is the owner or holder of such stocks, bonds, or other securities it shall within one year after the passage of this act entirely and completely divest itself of the same, and in case of failure to comply with these requirements, the same may be enforced by judicial proceedings in any court of competent jurisdiction. No officer or director of any corporation licensed as aforesaid shall be an officer or director in any other corporation engaged in the same or similar kind of interstate commerce as the corporation of which they or either of them are first appointed officers and directors, and a violation of this provision shall be deemed a misdemeanor, for which the guilty party shall, upon conviction in a court of competent jurisdiction, be punished by a fine of not more than $5,000 or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment, in the discretion of the court.

"SEC. 9. That all corporations licensed under and pursuant to the provisions of section 3 and 4 of this act shall annually, at the end of each fiscal or business year, make and deliver to the Secretary of Commerce a full and true report of their business, of their financial condition, and of their income and outlay account for the year, in such form and with such details as the Secretary may prescribe, which report shall, before delivery to the Secretary, be verified by the oath of the president, the secretary, and the treasurer of the corporation, and in case such oath is false or untrue the person making the same shall be deemed guilty of perjury and on conviction thereof in a court of competent jurisdiction shall be punished by a fine of not more than $5,000 or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment, in the discretion of the court; and said officers may also be compelled by writ of mandamus to make the report as and in the manner above prescribed. The Secretary of Commerce may, from time to time, require further and additional reports from such corporations in relation to their business and financial condition, which reports, when called for, shall be furnished and shall be verified in the like manner as the reports hereinbefore prescribed, and the affiants shall be subject to the same penalties for false oaths as in the case of the reports last mentioned. The Secretary of Commerce and the employees of his department designated by him therefor shall, during all business hours and during other reasonable hours, have full and complete access to inspect all the books, records, reports, memoranda, and minutes of such corporations relating to their business and financial condition, and in case such access is refused the Secretary may secure the same by writ of mandamus from any court of competent jurisdiction, but no trade secrets obtained through such access and inspection shall be made public except by the express written direction of the Secretary. The Secretary of Commerce, for the purpose of securing further additional information in regard to the business and financial condition of such corporations, may summon and subpœna as witnesses the officers and employees of the corporation and other persons and take their testimony under oath, and in case such witnesses refuse to attend and to testify they may be compelled to attend and to testify by any court of competent jurisdiction: *Provided*, That no person shall be prosecuted or be subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, in any proceeding, suit, or prosecution: *Provided further*, That no person so testifying shall be exempt from prosecution or punishment for perjury committed in so testifying.

"SEC. 10. That in case the Secretary of Commerce ascertains or discovers that any corporation required to apply for and obtain a license as prescribed in sections 3 and 4 of this act violates any of the provisions of this act, or the provisions of any other law of the United States, he shall report such violation and all the facts and evidence in his possession in connection therewith to the Attorney General of the United States, who shall, if it appears to him from the data and evidence thus reported to him, or from any evidence or data in the possession of his department, that the corporation has violated the provisions of this act or of any other law of the United States, proceed by appropriate judicial proceedings to enforce the provisions of law that have thus been violated, and for that purpose on behalf of the United States he may exercise the necessary visitatorial power. Any corporation that is required to apply for and to obtain a license as prescribed in sections 3 and 4 of this act which refuses to apply for and take out such license shall be enjoined from engaging in the business of interstate commerce; and proceedings to procure such injunction shall be instituted in the district court of the United States for the district in which the corporation has its principal place of business, which court is hereby given jurisdiction of such proceedings.

"SEC. 11. That the Secretary of Commerce shall, within one week after the first Monday of December in each year, make a report to Congress specifying the names and the principal place of business of all corporations licensed under the provisions of this act, the amount of capital stock, common and preferred, and the amount of bonds and other securities or obligations issued and outstanding of each corporation, the dividend paid on each kind of stock and when payable, the rate of interest paid on bonds and other securities and when paid and when such bonds and securities are due and payable, the general character of the interstate commerce carried on and the entire income and outlay for the last business or fiscal year of the corporation, and such other facts as will give information in regard to the operations of corporations licensed under the provisions of this act."

Mr. SMOOT. Mr. President, I wish to call attention to what I believe ought to be a correction in the RECORD. On page 12656 the RECORD shows that—

> A bill was introduced, read the first time by its title, and, by unanimous consent, the second time, and referred as follows:
> By Mr. LEWIS:
> A bill (S. 6160) providing for the extension of the post office at Galesburg, Ill.; to the Committee on Public Buildings and Grounds.

That is not a pension bill nor a private claims bill. It may have been introduced when I was absent from the Chamber, but I understood that other Senators would have objected to the introduction of such bills. I certainly would have objected if I had been here.

The VICE PRESIDENT. This is correct. The clerks are in no wise to blame. The Chair on yesterday morning refused to receive petitions or anything else on objection. Upon examining Rule VII the Chair was convinced that certain bills, petitions, and memorials could be left with the Secretary of the Senate, indorsing upon them the names of the Senators introducing them and the reference or disposition to be made thereof.

Mr. SMOOT. I have no objection whatever as to a petition, but paragraph 2 of Rule VII provides that—

> Senators having petitions, memorials, pension bills, bills for the payment of private claims or for the correction of naval or military records to present after the morning hour may deliver them to the Secretary of the Senate, indorsing upon them their names and the reference or disposition to be made thereof, and said petitions, memorials, and bills shall, with the approval of the presiding officer, be entered on the Journal with the names of the Senators presenting them as having been read twice and referred to the appropriate committees—

And so forth. If this——

The VICE PRESIDENT. The Senator from Utah is probably correct, and if there is objection to the introduction of the bill by the Senator from Illinois——

Mr. SMOOT. There is. I object.

The VICE PRESIDENT. Then the bill will be withdrawn from the RECORD and returned to the Senator from Illinois.

Mr. CUMMINS. Mr. President, I offer a proposed amendment to the bill under consideration and ask that it be printed and lie on the table.

Mr. NEWLANDS. Can the amendment offered be read?

The SECRETARY. The amendment proposed by Mr. CUMMINS is to insert, as a new section, the following:

SEC. —. It shall be unlawful for any corporation engaged in commerce to acquire, own, hold, or control, either directly or indirectly, the whole or any part of the capital stock, or other share capital, or any other means of control or participation in the control, of any other corporation also engaged in commerce if the business of such corporations is naturally and by reason of character and location competitive.

The commission is hereby empowered and directed to forbid and prevent such unlawful conditions in commerce in the manner following, to wit:

Whenever the commission shall have reason to believe that any corporation so engaged in commerce has acquired or is owning, holding, or controlling, either directly or indirectly, the whole or any part of the capital stock, or other share capital, or any other means of control or participation in the control of any other corporation also engaged in commerce, and that the business of the two or more corporations is naturally and by reason of character and location competitive, it shall issue and serve upon such corporation a written order at least 30 days in advance of the time stated therein for hearing, directing it to appear before the commission and show why an order should not be issued by the commission requiring it to cease and desist from such unlawful acquisition, holding, or controlling, and commanding it to bring itself into conformity with the law; and if upon such hearing the commission shall find that such corporation has acquired, or is holding, owning, or controlling the capital stock, or other share capital, or other means of control, or participation in the control, of any other corporation contrary to the provisions of this section, it shall thereupon issue an order in such terms as the circumstances may warrant requiring that the said corporation shall bring itself into conformity with the law by ceasing to acquire, own, hold, or control the whole or any part of the capital stock, or other share capital, or any other means of control or participation in the control, of such other corporation or corporations.

The commission may at any time modify or set aside in whole or in part any order issued by it under this section.

If, after the issuance of such an order, the commission shall find that such corporation has not complied therewith, it may file a petition in the district court of the United States in any district wherein such corporation is located or carrying on business, praying the court to issue an injunction to enforce its order, and the court is hereby authorized to issue such injunction and to enforce obedience according to the law and the rules applicable in suits in equity: *Provided*, That this section shall not apply to banks, banking institutions, or common carriers: *Provided further*, That no order or finding of the court or commission in the enforcement of this section shall have any force or effect, nor be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

Any suit brought to annul, set aside, or cancel, in whole or in part, any such order of the commission shall be brought against the commission in the district court of the United States in the district wherein the corporation has its principal office or place of business, and the procedure shall be according to the provisions of the law relating to suits brought to set aside or suspend orders of the Interstate Commerce Commission.

Mr. BRANDEGEE. Mr. President, a parliamentary inquiry. I want to understand for future guidance the ruling of the Chair. Does the Chair rule that petitions are admissible upon the convening of the Senate, now that we are taking recesses, unless there is objection to them?

The VICE PRESIDENT. The Chair has ruled, after attention was called to the following rule:

Senators having petitions, memorials, pension bills, bills for the payment of private claims or for the correction of naval or military records to present after the morning hour may deliver them to the Secretary of the Senate.

Mr. BRANDEGEE. I am familiar with the rule.

The VICE PRESIDENT. Now, all that the Chair has ruled is that when they come within the terms of that rule and are presented to the Secretary of the Senate the Chair has instructed the Secretary to properly note them in the RECORD.

Mr. BRANDEGEE. But the Chair has not ruled that there is any morning hour when we recess, of course.

The VICE PRESIDENT. Oh, no.

Mr. BRANDEGEE. So that as long as we recess no objection is necessary to the presentation of petitions in order to exclude them from being received.

The VICE PRESIDENT. There is no morning hour.

Mr. BRANDEGEE. Therefore petitions can not be received at all when the Senate recesses from one day to another.

The VICE PRESIDENT. They can be left with the Secretary of the Senate.

Mr. BRANDEGEE. Not to be entered in the Journal or the RECORD until the Senate resumes a morning hour, as I understand it.

The VICE PRESIDENT. Oh, no. The rule does not say so.

And said petitions, memorials, and bills shall, with the approval of the presiding officer, be entered on the Journal with the names of the Senators presenting them as having been read twice and referred to the appropriate committees, and the Secretary of the Senate shall furnish a transcript of such entries to the Official Reporter of Debates for publication in the RECORD.

Mr. BRANDEGEE. But I desire to direct the attention of the Chair to the fact that Rule VII applies to what may be done when there is a morning hour and morning business.

The VICE PRESIDENT. We have had a morning hour.

Mr. BRANDEGEE. Can there be a morning hour when the Senate is in recess from day to day on the same legislative day?

The VICE PRESIDENT. The present legislative day, although continuing, has had its morning hour, and the rule reads, "after the morning hour."

Mr. BRANDEGEE. How can there be morning business if there is not any morning hour?

The VICE PRESIDENT. There is a morning hour.

Mr. BRANDEGEE. Is this the morning hour?

The VICE PRESIDENT. No; the morning hour has expired.

Mr. BRANDEGEE. When did it expire?

The VICE PRESIDENT. It expired on the calendar day of Thursday, but on the legislative day of to-day.

Mr. BRANDEGEE. Then, if that is so, if there is a morning hour of the legislative day under which we are now operating, why can not morning business proceed right along every calendar day that we meet?

The VICE PRESIDENT. The Chair has not ruled that way.

Mr. BRANDEGEE. Is morning business in order each calendar day, or is it not?

The VICE PRESIDENT. It certainly is not.

Mr. BRANDEGEE. Then I fail to see how morning business can be received.

The VICE PRESIDENT. The Chair wishes he could make it plainer. The rule itself seems sufficiently plain.

Mr. SIMMONS. Mr. President, I wish to inquire of the Chair, for information, when we take a recess and thereby continue the legislative day into the next calendar day, would petitions, would bills, would anything that is to be done during the morning hour be in order, except by unanimous consent?

The VICE PRESIDENT. The Chair does not want to read more than three times this morning clause 2 of Rule VII.

Mr. SIMMONS. The Chair will pardon me. I wish to say that the Chair spoke so low I could not hear the statement of the Chair.

The VICE PRESIDENT. Paragraph 2 of Rule VII settles the question beyond any doubt.

Mr. WEEKS. Mr. President——

Mr. POMERENE. Will the Senator from Massachusetts yield to me?

Mr. WEEKS. I yield to the Senator.

Mr. POMERENE. I have asked the Senator to yield to me for the purpose of offering an amendment in the nature of a substitute for section 5 of the pending bill. I ask that it may be printed in the RECORD for the information of the Senate and that it be printed and lie on the table.

Mr. CULBERSON. Let it be read, Mr. President.

The VICE PRESIDENT. The Secretary will read the amendment.

The amendment was ordered to be printed and to lie on the table, and was read, as follows:

SEC. 5. That unfair competition in commerce is hereby declared unlawful. The commission is hereby empowered and directed to prevent corporations from using unfair methods of competition in commerce.

Whenever the commission shall have reason to believe, either from information in its possession or upon the complaint of another, that any corporation has been or is using any unfair methods of competition in commerce, it shall cause to be prepared and placed on file with the secretary of said commission a complaint against said corporation setting forth concisely the facts constituting the alleged unfair methods of competition so used by said corporation, which complaint shall be entered of record, and it shall serve upon said corporation an order setting forth a copy of said complaint at least 30 days in advance of the time set therein for hearing, directing it to appear before the commission and show cause why an order shall not be issued by the commission requiring it to cease and desist from such unfair methods of competition. The testimony in any such proceeding shall be taken under such rules as the commission may prepare and shall be reduced to writing and filed in the office of the commission. The commission shall enter of record its findings of fact and conclusions of law relating to said complaint and shall issue an order in accordance therewith, and said order shall be final except as hereinafter provided.

Until a transcript of the record of such hearing shall have been filed in a district court of the United States as hereinafter provided, the commission may at any time upon its own motion or upon the motion of any one aggrieved by said order, upon such notice and in such manner as it shall deem proper, modify, or set aside in whole or in part any report or any order made or issued by it under this section.

Such corporation at any time within 30 days after the commission shall have made any order upon a hearing requiring such corporation to cease and desist from using the said unfair methods of competition, or within 30 days after the notice of any modification thereof, shall have the right to file its bill in equity in the district court of the United States within any district where the said corporation has its domicile or chief or branch office, or where any of the acts complained of were committed, together with a certified transcript of the entire record in the proceedings including all of the testimony taken in the proceedings and the report and order of the commission, to enjoin, set aside, and annul or suspend any order of said commission.

Upon the filing of said bill in equity and transcript of the record as aforesaid, the court shall have jurisdiction of the proceeding and of the issues determined therein, and notice of the filing of said bill in equity

shall be served upon the commission. Said cause shall be tried upon the pleadings and the transcript thus filed unless the court shall be satisfied upon the application of either the corporation or the commission that there is other material and competent evidence necessary to a just determination of the complaint, which was not known to the party offering the same before or during the hearing by the commission, or which could not with reasonable diligence be produced at such hearing, in which event the court shall order it to be taken upon such terms and conditions as the court may deem best by the commission, or by a master, to be appointed by the court, and filed with the court to be considered by it in connection with the pleadings and transcript in said cause.

If such corporation fails or neglects to obey any original or modified order of the commission while the same is in effect, the commission may file its bill in equity in the district court of the United States in any district as hereinbefore designated together with a certified transcript of the record as aforesaid, and cause notice thereof to be served upon such corporation, and additional testimony may be taken upon the same terms and conditions and for the same purposes provided for in case the action is begun in the district court by the corporation as hereinbefore set forth.

In the proceedings begun as aforesaid the district court shall have jurisdiction thereof and shall have power to make and enter such orders and decrees as may be just and equitable.

The pendency of such suit shall not of itself stay or suspend the operation of the order of the commission, but the district court in its discretion may restrain or suspend in whole or in part the operation of the commission's order pending the final hearing and determination of the court. No order or injunction so restraining or suspending an order of the commission shall be made by the district court otherwise than upon notice and after hearing, except that in cases where irreparable damage would otherwise ensue to the petitioner, said court may on hearing after not less than three days' notice to the commission allow a temporary stay or suspension in whole or in part of the operation of the order of the commission for not more than 60 days from the date of the order of such court pending application to the court for its order or injunction, in which case the said order shall contain a specific finding that such irreparable damage would result to the petitioner. The court may upon like application and finding continue the temporary stay or suspension in whole or in part to such further period as it may deem proper.

The commission may provide for the publication of its reports under this section in such form and manner as may be best fitted for public information and use, and such authorized publication will be competent evidence of the reports of the commission therein contained in all courts of the United States and the several States.

Mr. WEEKS. Mr. President, when the Senate recessed yesterday, or during the latter part of the discussion in which I engaged, I was referring to some phases of the Sherman antitrust law, and was about to refer to some matters which were brought out in the discussion following my remarks.

There is so much confusion in the relative powers of the Sherman Act and the act of 1887 that it would seem to furnish an additional reason why the whole question of Government supervision should be thoroughly studied, and I believe a result of that study would mean the repeal of that part of the Sherman Act of 1890 which seems to apply to public-service corporations. As the act now stands it places in the hands of the Attorney General a power much greater than should be given to any department or departmental officer. He may, practically speaking, compel a readjustment of the ownership of railroad properties under threat of criminal prosecution, and we literally see the managers of railway properties standing in waiting at the office of the Attorney General asking what they may do to enable them to carry on their business in a legal way.

The New Haven Railroad matter which is now pending is an illustration of that condition. One may not have any sympathy for the condition which exists in New England or he may be most solicitous for its outcome without being sufficiently prejudiced so that he will not recognize the almost absurdity of a Government official having the power to bring a suit compelling the readjustment or the segregation of great property interests. That question should be carefully determined by some other body, preferably and probably the Interstate Commerce Commission, and the law should be so framed that, if the public interest will be served, then consolidations might be made, and those made stand. There is a great difference of opinion as to whether the New Haven and the Boston & Maine are in any respect competitive. Practically speaking, one is an extension of the other; and I may express a layman's view that the Government suit will not prevail if one is brought to effect a separation; but if the Attorney General has power to bring suit or to compel the segregation of these two systems, he has an equal power to subdivide the New Haven and Boston & Maine Railroads into their constituents which go to make up those two systems. That means probably as many as 45 railroads as originally organized. Can anyone knowing the New England situation believe that this segregation would be for the public interest, and is it not conclusive that it would mean poorer service at a greater expense to the users of every public-service corporation? Indeed, the dismemberment of any of our great railway systems into their constituent parts and a restoration of the competitive conditions which existed 50, 40, 30, or even 20 years ago would, in my judgment, be an absurdity. But as the law now stands, if the Attorney General has any power in any case, he should make the law effective in every case, and, as I have demonstrated in another place, this would include a vast railway mileage and great numbers of corporations.

Could there be any more effective reason given for a Government of laws rather than a Government dependent upon individual initiative than the course which has been taken in relation of a Government suit compelling a dissolution of the Boston & Maine and New York, New Haven & Hartford Railroads? Suit was brought, as will be recalled, by the Roosevelt administration. Action upon it was suspended by the direction of the President before March 4, 1909, and soon after the advent of the succeeding administration the suit was dismissed upon the ground that the legislation passed by the State of Massachusetts had validated the consolidation. The Senator from Nevada [Mr. NEWLANDS] will remember that he referred to this matter yesterday in the discussion. Whatever may have been the facts then or now is unimportant. The important feature is that this administration has now ordered a suit, after maturely considering the question at a Cabinet meeting and otherwise. In other words, the action has apparently not been at any time considered from the standpoint of what the law is, but whether, in the opinion of those administering the law, suit should be brought. This might be a good policy to follow if we had an all-wise ruler, but it can not fail to be a policy which will bring about serious abuses and great scandals if it is to be extended or even continued.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Nebraska?

Mr. WEEKS. I yield.

Mr. NORRIS. I am very much interested in what the Senator from Massachusetts is saying about the bringing of actions by the Government to dissolve alleged railroad companies which have entered into combinations contrary to law, and I want to call his attention to what to me seems to be quite a difference in the cases, some of which he has cited. I think I can do that, probably, better by using as an illustration the combination of the New York Central, Lake Shore, the Nickel Plate, the Michigan Central, and some navigation companies on the Lakes. I can see that it would be quite a different thing for the New York Central Road to take over the Lake Shore Road, for instance, the New York Central running to Buffalo and the Lake Shore commencing at Buffalo and continuing on west and thus making one continuous line, from what it would be if, after it had acquired the Lake Shore or prior to that time, the Lake Shore had taken over another line running parallel with it, such as the Nickel Plate, for instance. I introduced a resolution some time ago to see whether the Attorney General could not be induced to commence an action to separate those lines, but, as the Senator from Massachusetts knows, that resolution was referred to the Committee on Interstate Commerce and is slumbering there now in the sepulcher pigeonholes of that committee and probably always will.

Mr. NEWLANDS. Mr. President——

Mr. NORRIS. It seems to me that there is a big difference between a combination between two railroads running parallel and one railroad taking over another that is merely an extension of the first one.

Mr. NEWLANDS. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Nevada?

Mr. NORRIS. In the case of the Boston & Maine, I presume the issue will be whether or not that line and the New Haven line were previously competitors and in a great degree parallel lines running between the same terminals.

Mr. WEEKS. If the Senator from Nevada wants to interject a comment before I answer the question of the Senator from Nebraska, I will yield to him.

Mr. NEWLANDS. Mr. President, I do wish to state, with reference to the statement of the Senator from Nebraska [Mr. NORRIS], that the resolution which he offered regarding the New York Central was slumbering in the Interstate Commerce Committee; that it is true that the resolution which the Senator presented to this body, calling upon the Attorney General for his opinion, if my memory is correct, as to whether the holding by the New York Central of these parallel lines constituted a breach of the Sherman antitrust law, is still pending in the Committee on Interstate Commerce; but I wish to say with reference to it that when that matter came to the Interstate Commerce Committee it found the energies of that committee entirely absorbed in the consideration of the legislation now pending. Notwithstanding that, however, I took up the consideration of the Senator's resolution, looked up the authorities with reference to the right of Congress to call upon the Attorney General, who is the legal adviser of the executive department, for a legal opinion, and made some progress in that direction,

finding that the Attorneys General had uniformly, so far as my study of the question extended, denied the right of Congress to make such inquiries.

I was then about to take up the study of the debates on the subject to ascertain what the view of Congress thereon had been, with a view of presenting the whole matter to the committee and finally presenting to the Senate a complete report upon the entire subject. Whilst I was engaged in that consideration I asked the Senator from Nebraska as to whether the matter was pressing, and I understood from him that he was not so urgent about it, as the State of Ohio, I think, or the State of Indiana, had commenced an investigation or inquiry regarding this matter. In view of the statement of the Senator from Nebraska and because of the very pressing business before the Interstate Commerce Committee, which absolutely absorbed its time, I thought that that matter could rest for a later day.

Mr. NORRIS. Mr. President, will the Senator from Massachusetts yield to me further?

Mr. WEEKS. I yield to the Senator.

Mr. NORRIS. Mr. President, I am aware of the fact that the Interstate Commerce Committee has been extremely busy and they have been working hard; I have no doubt of that; in fact, I have an idea that one of the reasons why the resolution introduced by me was referred to that committee was that it was so busy that it could not take it up. The resolution was almost what might be termed a formal proposition, and I have an idea that if the committee had devoted time to it it would not have taken more than five minutes to dispose of the matter one way or the other; but it seems that the chairman of the committee has been able to find a great deal of literature on the subject, and I have no doubt that he will find that Attorneys General have refused to answer that kind of resolutions in the past, perhaps. It would be well, however, it seems to me, if the Senate can not get the information in that way, to let the Attorney General refuse to give the information, and then perhaps another method can be devised by which this information can be obtained.

I am not criticizing the committee, because I know, and I think the Senate knows, that the committee has had a great deal of work on its hands, and one of the reasons why I did not want this really formal resolution referred to that committee—I think it was generally understood it meant its death when it went there—was because the committee would not have time to consider it, if they were inclined to give it any consideration.

The Senator did speak to me about the resolution, and I spoke with him several times about it. I made inquiries on various occasions; but he is mistaken when he gets the idea that because there were some investigations being conducted in Indiana—Ohio was the State I mentioned to the Senator—I was not anxious to see the resolution reported. I intended to explain to him that one of the reasons why I was in a hurry about it was in order that the matter might be determined, if possible, by the Federal Government before the State of Ohio passed on a great many applications that were being made by some of these roads and other subsidiary roads connected with them for permission to consolidate, which might afterwards make it somewhat difficult to dissolve them, and it seemed to me that that was one reason why action ought to be taken by the Federal Government. There may have been an entirely good reason why the Federal Government should not act. It seemed to me, however, that it was very plain.

The Senate will remember that when we discussed the resolution Senators thought it was not fair to the Attorney General that such a resolution should be introduced. There were some "whereases" in it, and it was thought by some that perhaps some of these "whereases" were not true. I remember that one of the "whereases" was that the Nickel Plate road and the Lake Shore road were parallel. Now, it might be well, if you are getting technical, to modify a "whereas" of that kind, and say that at last reports they were parallel. I had an idea that they were still parallel. I lived there when one of them was built right by the side of the other, and I supposed it was there yet. Those are some of the technical objections that were made to the resolution; and it was thought that it was best, in order to frame it up right, to send it to a committee that had so much to do that it could not possibly attend to what it already had in mind.

I remember that the Senator from Massachusetts, in the debate, thought that the Sherman antitrust law did not apply to the Nickel Plate and the Lake Shore because that was a consolidation that was made before the law was passed, a great many years ago. It was not as harmful then as it has become since, or would become since when other combinations that did not exist then extended the power of that great controlling corporation all the way to New York City. I thought it made no difference, and expressed myself at the time that it made no difference, whether this combination was organized before or after the law; that the law made it illegal, and that an action could be maintained in one case as well as the other.

There might be a chance for dispute there. I thought the proper place to submit it was to the Attorney General. The Senator will remember also that when this resolution in regard to the New Haven was pending some Senators thought——

Mr. NEWLANDS. Mr. President, to whom does the Senator allude when he says "the Senator"? Does he refer to me or to the Senator from Massachusetts?

Mr. NORRIS. As expressing an opinion about the legality of that combination?

Mr. NEWLANDS. Yes.

Mr. NORRIS. I am alluding to the Senator from Massachusetts when I say that. He expressed that opinion at the time we had the resolution up for consideration. I thought he was wrong. I based the resolution on the theory that he was wrong. I thought the proper place to submit something of that kind that was disputed was to the Attorney General, and to let him decide. If that is a good defense, then there is no use beginning the action; and it seemed to me it was the proper place to send it.

When we had the New Haven resolution before us there were Senators, as I remember now, who objected to it and thought we ought to send that resolution to the Department of Justice instead of to the Interstate Commerce Commission. It was thought they had too much to do. We finally sent it to the Interstate Commerce Commission, however, and it resulted, I believe, in some good, in some developments that will be beneficial.

If the resolution regarding the New York Central Railroad can not be moved, if it must either remain in the Interstate Commerce Committee's archives, or, if passed, must be returned to the Senate because we have no authority to ask the question propounded in it of the Attorney General, or ask for the information sought to be gained by it, I think perhaps a resolution of investigation of the New York Central Railroad, similar to the one that has been passed in the case of the New Haven, would perhaps result in good, if it went to the Interstate Commerce Commission, where these technicalities could not prevail.

Mr. WEEKS. Mr. President, of course I have no way of knowing what the courts would say in any individual case to which reference has been made, or among the 1,485 consolidations which have been made since the passage of the Sherman Antitrust Act. If it were a small line, and the additional mileage were an extension of it, I presume the court would say that it is not prejudicial to the public interest, and that it did not make a monopoly, and therefore the Sherman Antitrust Act would not apply. On the other hand, if a monopoly was constituted by the consolidation, I should think the court would take the other view; and the facts in any case would have to be submitted before a decision could be reached.

What I am trying to point out is that if the court is going to act in one of these cases it would probably have to act in all of them; and this list of 1,485 consolidations does not include such consolidations as the Senator from Nebraska has referred to, notably the Nickel Plate and the Lake Shore, which took place before the passage of the Sherman Antitrust Act. Perhaps his judgment is better than mine as to the legal proposition whether that law would be retroactive or not; but my sense of justice would lead me to think it ought not to be retroactive, and therefore would not apply to such a case as he has instanced. That was the reason why I made the suggestion that I did when the resolution was under discussion.

Mr. NORRIS. I am not criticizing the Senator for making his suggestions. He may be right. I think he was wrong. I do not think the law was retroactive; but such a combination as that of the Lake Shore and the Nickel Plate is a continuing one. I think the law applies to it just as fully as though it had been organized only yesterday—because every day the combination exists, in my judgment, it is illegal.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Iowa?

Mr. WEEKS. I yield to the Senator.

Mr. CUMMINS. Before the Senator from Massachusetts resumes the discussion that he has prepared, I should like a little further explanation upon one point to which he has referred, and which I do not understand.

He says that the Attorney General under the administration of President Taft ordered the dismissal of the suit against the New York & New Haven Railroad and its allies because after

it was brought the State of Massachusetts had validated the transaction, or some transaction. I want to be sure that he has correctly stated the history of the matter. I can not understand or perceive how the State of Massachusetts could validate a situation or condition that was contrary to a law of the United States.

Mr. WEEKS. I supposed I was stating a fact which is fairly well known. As I remember, the reason assigned by Attorney General Wickersham for dismissing that case was that the purchase of the majority interest in the Boston & Maine Railroad which was made by the New York, New Haven & Hartford Railroad had been authorized by an act of the Massachusetts Legislature before the purchase was made. I understand that that was the reason which he gave for dismissing the suit which had been brought in the previous administration.

Now, I may not be entirely right in my facts; I think I am, however; but what I am trying to point out is that to leave in the hands of the Department of Justice the determination of questions which are going to affect millions of people by the segregation of great properties almost at the whim of whoever happens to be the Attorney General—because here are three Attorney Generals who have taken different views of their duty in this case—is bad public policy, and will produce bad results.

Mr. CUMMINS. I agree with the Senator from Massachusetts about that; but if it is true that the suit was dismissed because the State of Massachusetts had repealed a law of the United States, or had made something lawful under its laws which was unlawful under the laws of the United States, we have before us a very interesting proposition. I did not know that the Attorney General had ever assigned such a reason for the dismissal of the suit, although the Senator from Massachusetts may be right about that; but I desire to say that, in my opinion, if the combination of the Boston & Maine road with the New York & New Haven was a restraint of commerce or was a monopoly prior to the action of the State of Massachusetts, it was not less so after the action of the State; and I simply wanted to be sure that the Senator from Massachusetts had accurate information on that point.

Mr. WEEKS. I think I have stated the facts as they are. I do not think, myself, that a suit can be maintained separating these two corporations. The Boston & Maine system covers the State of Maine very largely, all the mileage in the State of New Hampshire, a portion of the mileage in the State of Vermont, and all of the mileage in the State of Massachusetts north and east of Boston. The New York, New Haven & Hartford covers all of the mileage in the State of Connecticut, all of the mileage in the State of Rhode Island, and all of the mileage in the southern part of Massachusetts up to Boston on the east, and similar points in other parts of the State, the Boston & Albany Railroad coming in between them.

These roads do not generally compete. They are extensions of one another. The New Haven Railroad, for instance, will run into the city of Worcester or the city of Springfield, and the Boston & Maine Railroad takes up the traffic and carries it on. If the combination is a monopoly and prejudicial to the public interest, then either one of these railroads is a monopoly, because it substantially covers the territory in which it is operating.

Mr. CUMMINS. I am expressing no opinion with regard to the validity of the consolidation of these roads; but I was surprised to know that the Attorney General thought that an invalid or unlawful combination under the law of the United States could be made lawful by a statute of the State of Massachusetts.

Mr. WEEKS. Mr. President, I do not know that the Attorney General thought that the combination was unlawful; but my understanding is that that was the reason assigned for the dismissal of that case.

Mr. BRANDEGEE and Mr. NEWLANDS addressed the Chair.

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Connecticut?

Mr. WEEKS. I yield first to the Senator from Connecticut.

Mr. BRANDEGEE. Mr. President, of course nobody can tell in advance of the court decision whether the New Haven system, as it has grown together, is in violation of the Federal laws or not; but that it is a question of the utmost moment and weight to all the New England States anybody can perceive. The system exists; and if it is to be broken up the consequences will be far-reaching and may be exceedingly disastrous.

If the Senator from Massachusetts will indulge me for a minute, I will read what the Hartford Courant says upon this question in its issue of yesterday. It is a very short extract.

Mr. WEEKS. I yield, Mr. President.

Mr. BRANDEGEE (reading):

This Government suit against the New Haven road is a good deal like an effort to resolve a plum pudding into its constituent parts. You take out the raisins, and the almonds, and the dates, and the eggs, and the sugar, and the flour, and also whatever else may be in it, and you have a lot of second-hand ingredients which are quite worthless for any further use. But you have destroyed the plum pudding. It was the combination of all these things that made the pudding what it was—a bit of food perhaps a little trying for the digestion, but which was most agreeable to the palate. You have lost your plum pudding, and what have you got as compensation for the loss? Nothing.

So you may pull an efficiently organized transportation system apart, setting each of its varied elements off by itself, and what do you gain by that? You gain the satisfaction—such as it is—of tearing apart a business and social organism which has been slowly growing up for years, under successive public perceptions of various needs and advantages, and you have a lot of fragments left which have no life in themselves, and which taken in their separated state are practically worthless. It is wholly wicked and depraved, we suppose, to speak of bargains in the lofty ethical atmosphere now surrounding us; but this certainly does look like a bad bargain for some hundreds of thousands of people who were able to pay their rent and have a few dollars over under things as they were.

Is the New Haven system to be unscrambled in accordance with the plea filed in New Haven yesterday by the Federal Government? If it is, it will be a sad day not only for thousands of New England stockholders in the road, but for the business interests of this entire section. Do the people who live and do business on the old Air Line, the old New England and the old Central New England roads want to return to the conditions when these roads, crippled by inadequate earnings, badly equipped, unable to provide anything like decent service, struggled along with impaired rolling stock and improperly maintained roadbeds? To undo what the New Haven has done for these roads since it has taken them over and for the people whom they serve would be a performance as unwelcome as it would be difficult. Nor could it be done with fairness and justice. Money raised on New Haven credit has been liberally spent on these old roads to bring them up to date and make them fully serviceable to their communities. How is this money to be recovered if the roads are to be separated from the company which has taken them over? The old roads themselves can not pay it back. They haven't it, nor can they earn it if this dissolution suit is successful. Yet, it may be just as well that the test has come. The trial will be an expensive affair. It will mean another, and apparently needless, raid on the company's earnings; but it may in the end clear the atmosphere, and it may also prove that it is easier to make sweeping charges than to prove them.

Mr. CUMMINS. Mr. President, I can imagine no stronger argument than the Senator from Connecticut has just read in favor of a permanent, continuous commission to administer, in so far as it lawfully may, the regulations of commerce.

NEW YORK, NEW HAVEN & HARTFORD RAILROAD SYSTEM.

Mr. NEWLANDS. Mr. President, if the Senator will permit me——

Mr. WEEKS. I yield to the Senator from Nevada.

Mr. NEWLANDS. I will state, also, that the article which the Senator has just read demonstrates the necessity of transferring the power of enforcing the Sherman antitrust law with reference to railroads from the Attorney General's Office to the Interstate Commerce Commission. It ought to be done under some law that will enable that commission, notwithstanding it may find a technical violation of the Sherman antitrust law, or even a substantial violation, to affirm the combination rather than to destroy it, where it would be in a higher degree to the public interest.

I quite agree with the Senator from Massachusetts. The Boston & Maine, to my eye, appears to be an extension of the New York & New Haven system, the Boston & Maine extending to the north and east of Boston and the New Haven to the south and west of Boston. I also agree with him that the original consolidation of the Boston & Maine, composed, as it is, of numerous railroads—I believe more than 100 in number—was more objectionable than the consolidation of the New York & New Haven and the Boston & Maine, and that logically, if the Attorney General is to seek to destroy the combination between the New Haven and the Boston & Maine he ought also to attack the combination resulting in the creation of the Boston & Maine and the combination resulting in the creation of the New York & New Haven, for the New York & New Haven is also composed, I believe, of more than 100 original roads. Such a course would produce chaos. Whilst all these consolidations are subject to the charge that they have resulted in exaggerated stock and bond issues, yet so far the practical administration of the roads themselves as efficient instrumentalities of commerce, I think there can hardly be a question that in most of them they have largely advanced the interests of transportation in this country.

I hope that before this debate closes the Senate will see the wisdom of putting upon one of these bills, preferably the bill relating to the securities, an amendment to the interstate commerce act transferring the enforcement of the Sherman law with reference to railroads from the Attorney General's office to the Interstate Commerce Commission and giving it some discretion, so that it will not be compelled to tear apart roads which have been put together, perhaps in violation of the Sherman antitrust law, but where the union itself has been beneficial to the public interest.

Mr. WEEKS. Many of the rates in the New England field before any consolidations had been made were substantially twice as high as they are to-day. I think the average passenger rate 40 years ago in New England was over 3 cents a mile, and now it is about 1¾ cents a mile, the lowest in the United States and the lowest in the world. While the freight rates have not been reduced to such a degree as the passenger rates, they have been very materially reduced. Any proposition for dissolving that whole network of railroads into the original parts would be a crime against the public as well as against the corporations themselves.

Mr. BRANDEGEE. Mr. President, when I read the extract of course I realized that it is not strictly germane to the particular bill that the Senator from Massachusetts is debating—this Federal trade commission bill—but the discussion which the able Senator from Massachusetts is making on this interrelated series of propositions shows the difficulty of keeping them unscrambled.

I agree with the Senator from Nevada and with the Senator from Massachusetts that it is very hard for these great business concerns, trying to give adequate service over a large extent of territory, to arrange their affairs and promote their extensions and keep up with the demands of increasing business under the different jurisdictions to which they are subjected. Even if the Interstate Commerce Commission had had authority at each stage of the proceedings which had been taken by this great network of New England railroads to have given its sanction to each acquisition and to have approved of each amalgamation or merger, still the whole system would have been subject to attacks by the Department of Justice just as it is to-day unless the law had been amended in some such way as suggested by the Senator from Nevada. But of course there is no such proposition here at present to take this away from the Department of Justice and confer it on the Interstate Commerce Commission. I assume if we should take that subject up in addition to the other easy little things that we are confronted with now and which we are to pass in the next day or two by unanimous consent and adjourn to fields where we are needed a great deal more perhaps than we are here, we would merge this long-continued and dreary session of Congress right into the next one and still we might be coordinating with each other on these great and extended conceptions.

Mr. WEEKS. I wish to ask the Senator from Nevada, as long as there seems to be a general agreement in favor of the change which has been suggested transferring from the Department of Justice to the Interstate Commerce Commission these intricate problems relating to public service corporations, why could we not incorporate in this act a section which would make that change?

Mr. NEWLANDS. Because I do not believe that public opinion would justify it just now. Hence I am only urging practical legislation. I did say I hoped this debate would so convince the Senate of the importance of this thing that without dissension on the question we would reach legislation on this subject. I judge from the remarks of the Senator from Connecticut, who is quite hopeless on the subject, that there is no hope in that direction; and I shall content myself with the legislation now before us.

Mr. WEEKS. I want to assure the Senator that there is ten times as much public sentiment in favor of taking this question away from the hands of departmental officers and putting it in the hands of a commission as there is in favor of any part of the trade-commission bill which is now pending in the Senate.

Mr. LIPPITT. Mr. President, as long as a question has come up of the feeling in New England in regard to this transaction, I should like to take this opportunity of reading an editorial from yesterday's New York Times which covers the situation quite thoroughly.

Mr. WEEKS. I yield for that purpose.

Mr. LIPPITT. It is entitled "New England's opinion on the New Haven case":

The action of the Federal Government in the case of the New Haven Railway may be repeated in any of several other sections of the country which now are applauding the Government's procedure. That lends countrywide interest to the contrast between opinion in New England and elsewhere. Where the merits and substance of the New Haven case are best known the opinion is least favorable. The President and the Attorney General perjudice the New Haven Railway before the country by charging it with breaking a solemn agreement upon a trivial pretext, but the Springfield Republican supports the railway. It says:

"The old law gives us clearly enough the right to appropriate railroad property in this State to State uses, but the proposition of the 'string' legislation is that the State, through majority stock holdings, may control a railroad system operating in several States. And the distinction establishes a difference worth noting. What nonsense it is to accuse the directors of culpably quibbling and unjustifiably breaking a covenant 'solemnly entered into,' and how unfair it is to fix upon them 'the sole responsibility' for whatever disastrous results to New England may ensue from a protracted dissolution suit. If there were less politics all around in the enforcement of the antitrust law, the situation would be happier to contemplate."

The Boston Transcript opposes the administration's course upon its faith in the character of the defendants whom the correspondence asperses. It recalls that their course is taken upon the advice of counsel suggested by the Department of Justice, and concludes:

"Solely because Dr. Hadley and his fellow directors are following advice of counsel, in the wisdom of which they wholly believe, the President sees fit to indict them one and all for 'failure to carry out an agreement deliberately and solemnly entered into.' The facts are against the President."

The New Haven Register accepts $10,000,000 as an estimate of the depreciation of the Boston & Maine shares by the "string" legislation, and thinks it sufficient justification of the course taken by the railway. It also condemns the lack of sympathy with the railway by the Government officials, and says:

"The President's designation of this as a slight pretext is a fair illustration of his appreciation of finance and business."

The Boston Herald says:

"The President of the United States appears not well informed on the New England railroad situation when he describes as 'inexplicable' the unwillingness of the New Haven Railroad to accept the terms of the 'string' bill."

The Hartford Courant considers the dissolution proceedings under the caption, "A crazy proposition," because "the fact is that the merger of the New England and the 'New Haven' has helped to develop New England industries and shipping facilities and has been a benefit instead of an injury."

The Boston Post alone of our New England exchanges approves the dissolution suit.

Official opinion resembles what the editors of New England say. Gov. Baldwin of Connecticut, in a public address even before the negotiations between the Government and the New Haven were broken, said the Federal action was "too drastic": "If it is necessary to require the sale of any of the property it ought to have time enough to dispose of it, if not to the best advantage, at least at a fair price. It is no case for an auction sale, rain or shine, under a red flag." These remarks apply even more strongly to the situation to-day, and the same may be said of the report made to the governor of Vermont by his appointees to the New England railroad conference. These gentlemen from Vermont wonder what can have inspired action so contrary to the interests of New England. Their conjectures regarding motives and reasons are interesting but hardly evidence. They are competent witnesses to what follows:

"The result [of the Government's action] we all know and feel. New England has suffered a loss of $200,000,000, and no one has been the gainer. Rates for freight and passengers have not decreased and railroad service has not been improved. What the compensation may be for all the loss and suffering we leave for others to answer."

Now, this is what the Times itself says:

And this official expression we find approved as heartily as the Government's action this week is disapproved. It is a fair inference that if other sections are favored by unsympathetic action like that in the New Haven case opinions elsewhere will come to resemble those above quoted. Lawbreakers must be punished, of course, and the laws must be enforced. There is no other way of discovering who are lawbreakers, and whether the law is broken, but by prosecution. So far the Government is within its rights and duties, but the manner of its procedure is making enemies for it and the law at a rate which it is friendly action to call to its attention. The President, it is safe to say, will hear of nothing like the foregoing from those who brought him to write the letter so generally disapproved.

Mr. President, I just want to add a word to that, and that is to say that I yesterday, under the date of July 22, received a copy of a letter sent to the Hon. James C. McReynolds by the Providence Chamber of Commerce, the most considerable body of business men in Rhode Island, in which they call his attention to the fact of a resolution which was passed by that body recently, as follows:

Resolved, That the Providence Chamber of Commerce believe that it is for the interest of the convenience and commerce of New England that the New York, New Haven & Hartford Railway Co. continue its operation and control of its existing steamship lines between the ports of New England and New York City; that this committee urge the Interstate Commerce Commission to enter an order permitting such continuance; and that the Secretary be instructed to transmit a copy of this resolution to said commission.

That resolution of the Providence Chamber of Commerce is in accordance with a resolution unanimously passed by the Legislature of the State of Rhode Island not long ago asserting that the control of the steamships by the New Haven Road was in accordance with the traditional policy of Rhode Island and of New England in building up its transportation facilities and urgently requesting that it be not broken up.

I am informed that there are more than a hundred business associations of various kinds in New England that have protested against the separation of these steamship lines from the New Haven Railroad.

About two years ago I received and put in the RECORD of this body a protest against the separation of these steamship lines from the New Haven signed by an extraordinarily large number of the largest shippers and business interests of Rhode Island, Fall River, and various parts of Massachusetts and of New England. I want to say that so far as I know about it the sentiment is almost unanimous in that community against the action that is being taken looking to the separation of those steamship lines from the New Haven.

Now, I merely wish to call attention to one more matter, and that is the fact, Mr. President, that in what is now being done it seems to me the stockholders of the New Haven Road are being badly treated. The stockholders of that road number

somewhere in the neighborhood of 25,000 people. They are almost entirely natives of New England, of Connecticut, Rhode Island, and Massachusetts. The average holdings are less than 100 shares to an individual. They are very largely women, people of small means, trust estates held for minors, and people who have invested in the New Haven stock because they felt that it was something from which they would get an assured income.

Certain unfortunate occurrences have brought about such a situation of the New Haven that the road is no longer paying those dividends, and it is asserted that owing to the action of Mr. Mellen and Mr. Morgan particularly the New Haven stockholders have suffered a severe loss on account of the purchase of the Rhode Island trolleys, of the Boston & Maine, and of the Westchester at too high a price.

Mr. President, there are two ways in which the stockholders of that road can be injured. One is by the purchase of something at too high a price. The other is by the sale of something at too low a price.

Mr. WEEKS. That something is the same something.

Mr. LIPPITT. And that something, as the Senator from Massachusetts very well says, is the same something.

Now, the suit which the Attorney General has just inaugurated is in consequence of a disagreement between the Department of Justice and the present directors of the road as to the wisdom of selling some of its securities. The present directors of the road are an entirely different board in many respects from that which had charge of the road in the past, and are endeavoring to rehabilitate it. I think I am safe in saying the most important business of these directors is to protect the stockholders of that road, to assist them, if possible, to recover some of the losses they have sustained, and that is as much, almost, for the benefit of the general public as it is for the stockholders. With this duty plainly apparent, the directors certainly would not be justified in consenting to the sale of the road's property at a price that would be too low, even though they may have been bought, as the accusation is, at too high a price.

Mr. President, the Rhode Island trolleys the sale of which it is proposed to compel have within my own recollection increased within 20 years in value from about $250,000 up to a point where some people in Philadelphia, if my recollection is correct, were willing to purchase them at somewhere in the neighborhood of $10,000,000; and further on, to a point where the then directors of the New York, New Haven & Hartford Railroad thought that they were worth $20,000,000. That has been the growth in value of those trolleys within such a short period as 20 years. Providence and Rhode Island generally and all that section of New England which they serve have had for 30 years one of the most steady growths in population and in value of any part of our country. It is now proposed to compel the sale of those trolleys at any price that may be obtained; in other words, as the editorial which I have read calls it, they are to be "put upon the bargain counter." If that is done, the possibility of the stockholders of this road ever recouping the loss, if there is a loss, incurred by the purchase of those trolleys is absolutely nothing. If the directors of the road are allowed to hold these and other properties or to sell them according to their good judgment as may be for the best interest of their stockholders, a time may well come when instead of that purchase being one disastrous for the stockholders of that road, they may not only get all their money back, but find that they have a handsome profit in addition.

What will be the position of the Interstate Commerce Commission before this country if the sale is insisted upon and five years from now it turns out that somebody has bought those trolleys for perhaps $10,000,000 and is able to again resell them for $20,000,000? Who, then, will be responsible for the loss that the stockholders of that road will suffer?

Mr. President, it seems to me that as regards this situation there has been an extraordinary and a most intemperate attack upon the New Haven Railroad. I do not know from what source that attack has been instigated, but it bears all the earmarks of an organized attempt to depreciate the value of the New Haven securities. The parties who are going to suffer in this matter are those whom the Government claims it is trying to protect as a result of these suits. Mr. Mellen is not going to be injured by any suit that is brought to dissolve the New Haven Railroad; Mr. Morgan is not going to be injured by any such suit; it will be simply the innocent stockholders of that railroad who will be injured.

I confess that I feel very strongly about the matter. I think that from a business standpoint, if I may say so, it is a "raw deal" to those stockholders; and I think that the directors, whose business it is to protect them, should have a free hand in doing so.

As for the charges of monopoly that are brought against the New Haven Railroad, of course it is a monopoly. Every railroad in this country is a monopoly. As the Senator from Nevada [Mr. NEWLANDS] has well said, there is scarcely a railroad system in this country that has not been consolidated in technical violation of the law; and it seems to me a very inappropriate time from the standpoint of the stockholders and of their proper interests for the Department of Justice to now single out this particular road to enforce a law, the violation of which, if it is a violation, is being overlooked elsewhere. If the representatives of the Government would consult with the present management of the road in a friendly spirit for the purpose of rehabilitating the property and protecting the innocent sufferers from the present situation, we would soon see a different condition of affairs. I am not suggesting any protection for anyone who may have done wrong, but the punishment of the guilty and the breaking up of the system are entirely different matters.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Nebraska?

Mr. WEEKS. If the Senator wishes to ask a question, I will yield. Otherwise I think I had better go on.

Mr. NORRIS. The Senator from Massachusetts has been very courteous in yielding, and so long as he had the floor I did not suppose that he desired to speak. [Laughter.] I desire to answer at some length what has been said by the Senator from Rhode Island [Mr. LIPPITT], but, of course, I shall not intrude on the Senator from Massachusetts.

Mr. WEEKS. Mr. President, the Senator from Nebraska entirely misconstrues my purpose in making this address. I have some general observations to submit on this question, and I should have been glad to have submitted them without interruption; yet I recognize the fact that frequently the discussion which is brought out, as was the case last night, is of quite as much value as, or even more value than, a carefully prepared speech. Therefore I have been liberal—I think all Senators will agree that I have been extraliberal—in yielding to others; but I have not done so for the purpose of delaying action. I have done so because I wish to bring about action that will be intelligent and reasonable when we finally conclude this legislation.

Before I proceed, however, I want to say that I am in substantial sympathy with everything which the Senator from Rhode Island [Mr. LIPPITT] has said about the situation of the stockholders of the New Haven road; and it is a fair conclusion to come to that they have some rights which the Government should consider and protect in the suits which have been brought.

Mr. BRANDEGEE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hollis	Norris	Smith, Ariz.
Bankhead	Hughes	Page	Smoot
Brady	Jones	Perkins	Stone
Brandegee	Kenyon	Pittman	Sutherland
Bryan	Kern	Poindexter	Swanson
Camden	Lane	Pomerene	Thomas
Catron	Lea, Tenn.	Ransdell	Thornton
Chamberlain	Lee, Md.	Reed	Tillman
Clark, Wyo.	Lewis	Saulsbury	Vardaman
Colt	Lippitt	Shafroth	Weeks
Crawford	Martine, N. J.	Sheppard	West
Culberson	Myers	Shields	White
Cummins	Nelson	Shively	
Gallinger	Newlands	Simmons	

Mr. KERN. I have been requested to announce the unavoidable absence of the Senator from Kansas [Mr. THOMPSON]. I ask that this announcement may stand for the day.

Mr. PAGE. I desire to announce that my colleague [Mr. DILLINGHAM] is necessarily absent and is paired with the senior Senator from Maryland [Mr. SMITH].

Mr. CLARK of Wyoming. I desire to announce the unavoidable absence of my colleague [Mr. WARREN] and to mention the fact that he is paired with the senior Senator from Florida [Mr. FLETCHER]. I ask that this announcement may stand for the day.

Mr. SIMMONS. I wish to announce the unavoidable absence of my colleague [Mr. OVERMAN]. I ask that this announcement may stand for the day.

Mr. JONES. I desire to announce the necessary absence of the junior Senator from Michigan [Mr. TOWNSEND] and to state that he is paired with the Senator from Arkansas [Mr. ROBINSON]. This announcement may stand for the day.

Mr. MARTINE of New Jersey. I again announce the absence of the Senator from West Virginia [Mr. CHILTON] on official business. He is paired with the Senator from New Mexico [Mr. FALL].

Mr. KENYON. I desire to announce the unavoidable absence of the senior Senator from Wisconsin [Mr. LA FOLLETTE]. I ask that this announcement stand for the day.

The VICE PRESIDENT. Fifty-four Senators have answered to their names. There is a quorum present.

Mr. WEEKS. Mr. President, when I was interrupted I was discussing some features of the Sherman Antitrust Act, which I will continue.

Sight should not be lost of the fact that the principle which governs the Sherman Antitrust Act, namely, one of prohibition, is negatived by the principle involved in this act which is one of regulation. There can be no doubt that the surest way to unsettle sound economic conditions would be to involve these two theories in legislation connected with governmental activities. In this whole series of legislation the administration's purpose seems to be to travel two different roads at the same time by increasing the effectiveness of the prohibitions of the antitrust law, while providing for supervisory authority in the Federal trade commission bill. The involving of these two principles will mean, in my judgment, unlimited discord, uncertainty, and, therefore, harm to business operations. We should either take one horn of the dilemma or the other. I would elaborate this argument still further if it had not already been better stated than I can state it by the President himself, who is now urging this legislation. In his "New Freedom," published in 1912, he discusses the question involved in this trade commission bill with a fullness and certainty of conclusion which do not seem to be in accord with the present purposes of the bill, which undoubtedly has his approval; and one is led to wonder what could have modified the views so strongly expressed when he was a candidate for the Presidency.

I now desire to read a few extracts from the "New Freedom" to indicate that the President, when a candidate, seemed to have in mind this thought alone, that the policy to be followed should be a thorough destruction of monopoly; that there should be no partnership with monopoly of any kind, and yet, while the Attorney General of the United States in the last administration, Mr. Wickersham, in the very last days of the administration, publicly stated that in casually going over Moody's Manual he had found 100 cases where there was prima facie evidence that monopoly existed, this administration in 16 months has brought but 14 suits of all kinds to prevent what the President so definitely declaims against in the paragraphs which I am about to quote:

The third party—

Meaning the Progressive Party, I assume—

The third party says that the present system of our industry and trade has come to stay. Mind you, these artificially built-up things, these things that can't maintain themselves in the market without monopoly, have come to stay, and the only thing that the Government can do, the only thing that the third party proposes should be done, is to set up a commission to regulate them. It accepts them. It says: "We will not undertake—it were futile to undertake—to prevent monopoly, but we will go into an arrangement by which we will make these monopolies kind to you. We will guarantee that they shall be pitiful. We will guarantee that they shall pay the right wages. We will guarantee that they shall do everything kind and public-spirited, which they have never heretofore shown the least inclination to do.

Now follows the President's comment:

Don't you realize that that is a blind alley? You can't find your way to liberty that way. You can't find your way to social reform through which the life of this country shall be justly and happily de-

The fundamental part of such a program is that the trusts shall be recognized as a permanent part of our economic order, and that the Government shall try to make trusts the ministers, the instruments, through which the life of this country shall be justly and happily developed on its industrial side.

And yet this legislation is not intended, as I understand, to carry out the purposes of that declaration, but it is designed to do just what the President criticized the third party for advocating at that time. He goes on to say:

If the Government is to tell big business men how to run their business, then don't you see that big business men have to get closer to the Government even than they are now? Don't you see that they must capture the Government in order not to be restrained too much by it?

"Must capture the Government." In other words, what we are proposing now, namely, to restrain unfair methods of competition, is just what the President says will give business men control of the Government, which he declaims against so strongly.

He goes on to say:

At the least, under the plan I am opposing, there will be an avowed partnership between the Government and the trusts. I take it that the firm will be ostensibly controlled by the senior member. For I take it that the Government of the United States is at least the senior member, though the younger member has all along been running the business. But when all the momentum, when all the energy, when a great deal of the genius, as so often happens in partnerships the world over, is with the junior partner, I do not think that the superintendence of the senior partner is going to amount to very much. And I do not believe that benevolence can be read into the hearts of the trusts by the superintendence and suggestions of the Federal Government, because the Government has never within my recollection had its suggestions accepted by the trusts. On the contrary, the suggestions of the trusts have been accepted by the Government.

Yet we are going to permit these people to continue their competition under our supervision. In other words, we are doing by this legislation exactly what the President again complains of and declaims against.

He goes on to say, further:

Inasmuch, therefore, as I hope and intend to interfere with monopoly just as much as possible—

He has interfered in 14 cases in 16 months, when Attorney General Wickersham said there was prima facie evidence in 100 cases in just casually glancing over Moody's Manual—

I can not subscribe to arrangements by which they know that it will not be disturbed.

The Roosevelt plan is that there shall be an industrial commission charged with the supervision of the great monopolistic combinations which have been formed under the protection of the tariff, and that the Government of the United States shall see to it that these gentlemen who have conquered labor shall be kind to labor. I find, then, the proposition to be this, that there shall be two masters, the great corporation, and over it the Government of the United States; and I ask who is going to be master of the Government of the United States? It has a master now—those who in combination control these monopolies. And if the Government, controlled by the monopolies, in its turn controls the monopolies, the partnership is finally consummated.

I do not care how benevolent the master is going to be; I will not live under a master. That is not what America was created for. America was created in order that every man should have the same chance as every other man to exercise mastery over his own fortunes. (The New Freedom, pp. 193–207.)

Mr. HOLLIS. Mr. President, will the Senator allow me to make one suggestion?

Mr. WEEKS. Yes; I yield to the Senator from New Hampshire.

Mr. HOLLIS. If the Senator will read the three pending trust bills, he will find that there is not one line or syllable in any one of them that countenances monopoly in any way. They are merely additional and supplemental acts to the already existing laws on those subjects. They are intended not to regulate monopoly, but to prohibit it, and to prohibit those practices which will lead to and encourage it.

Mr. WEEKS. I have read all three of the bills. Perhaps I have not read them understandingly. I am quite frank to say that no action is taken to change directly in any way the monopoly features of the Sherman Antitrust Act; but I do say that the measure we are now considering is the antithesis of the Sherman Antitrust Act; that the one would naturally commence where the other leaves off; that they deal with the control and the regulation of corporations in entirely different ways; that there is not anything in the proposed legislation, if I understand it, which would prevent monopoly, but it will permit monopoly to continue as it has up to the present time, simply saying, "You must compete fairly." As I have repeated once or twice, the course of the administration seems to bear out that conclusion; for, as I have suggested, we have had only 14 suits in 16 months of the administration brought to restrain or destroy monopoly.

Mr. HUGHES. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from New Jersey?

Mr. WEEKS. Yes; I yield to the Senator.

Mr. HUGHES. Does the Senator know of any trust which has been successfully launched and successfully operated which has not owed its success or apparent success to unfair practices?

Mr. WEEKS. I think, if I understand the Senator's question, that there are great numbers which have not had to do with unfair practices in any way.

Mr. HUGHES. I should like to have the Senator name one.

Mr. WEEKS. I have submitted a list of 1,485 consolidations of railroads; and if the Attorney General wished to proceed against monopolies there are 1,485 opportunities for him to do so.

Mr. HUGHES. Of course the Senator is discussing one thing, and I am discussing another. I was not thinking, I will say, of railroads; but I do not know of any trust that has been launched and has been successfully operated which does not depend or has not in the past depended for its success on the commission of acts which would be condemned by anybody's definition of what constitutes unfair competition.

Mr. WEEKS. I think it would take a long time to go into that discussion. Quite likely my conclusions might not be accepted by the Senator from New Jersey; but my judgment is that there are a great many combinations which have reduced prices as a result of the combination, and that therefore they have been for the public good.

Mr. HUGHES. That is not what I am talking about, either. The Senator is apparently criticizing the President of the United States on the theory that the proposed legislation and the statement of the President are irreconcilable; and I wanted to find out just on what he based that contention.

Mr. WEEKS. I do not think they can not be reconciled, but I think they are inconsistent.

Mr. HUGHES. That is just the point I was trying to make.

Mr. WEEKS. I think if the President were consistent he would direct the Department of Justice to proceed against all combinations of all kinds which militate against the provisions of the Sherman Antitrust Act.

Mr. HUGHES. Would the Senator have that done in the face of the Supreme Court decision?

Mr. WEEKS. Well, I have my own opinion about what the results would be.

Mr. HUGHES. Exactly.

Mr. WEEKS. But the law is on the statute books; and I have suggested to the Senator from Nevada to-day that if he would modify the Sherman Antitrust Act he would, in my judgment, be doing more for the business interests of the country than by all of the legislation which we are contemplating.

Mr. HUGHES. The Sherman Antitrust Act has been pretty well modified—at least, that is the general opinion—by the recent decision of the Supreme Court. It seems to me the Senator must know that as well as I do.

Mr. WEEKS. I have not any doubt in my mind that the recent decisions of the Supreme Court in the Tobacco and Standard Oil cases were in exact conformity with the opinions of the men who framed the Sherman Antitrust Act and put it on the statute books. I have submitted a statement made by former Senator Edmunds, who was chairman of the Judiciary Committee at that time, which corroborates that statement. I have submitted testimony from Senator Hoar, of Massachusetts, who was a member of the committee, which corroborates that statement.

Mr. HUGHES. I will say to the Senator that it seems to me quite apparent that those distinguished gentlemen were perfectly capable of writing the word "unreasonable" into the Sherman Act if they had wanted to have it there.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Iowa?

Mr. WEEKS. Yes; I yield.

Mr. CUMMINS. The Senator from Massachusetts is usually fair. He is always candid. I am very sorry to hear him characterize the proposed legislation as an attempt to regulate monopoly.

I am not interested in reconciling the inconsistencies of the President of the United States. I think his views as formerly expressed are not in entire harmony with those which he has recently expressed; but that does not affect the value of the legislation which is now before the Senate.

I am in favor of part of this legislation. There are some provisions in some of these bills which I do not favor, and I will make them known as time goes on.

Mr. WEEKS. I should like to inject here, Mr. President, that I am in the same position that the Senator from Iowa is. There are some provisions in these three bills which I would favor.

Mr. CUMMINS. But I do not believe there is a single provision in any of the bills intended to encourage or protect monopoly, or that can by any possibility encourage or protect monopoly. The bill that we have before us is not a regulation of monopoly in any of its parts. It is not intended to permit monopoly to exist and then prescribe the terms or conditions upon which it may operate or do business. It is intended to destroy the monopolies that are now with us and to prevent the establishment of other monopolies.

Some of us may believe that the antitrust law, so called, is all the legislation we need in order to accomplish those purposes. I am not one of them. I am inherently and by training opposed to monopoly in all its forms, but we must be fair about this bill. I take it that nothing but section 5, or the unfair-competition proposition, was in the mind of the Senator from Massachusetts when he spoke of the bill in the way he did.

Unfair competition is the antithesis or the opposite of free, fair competition. It is that condition which we desire to preserve. It is that condition which, in my opinion, this bill will help to establish and preserve. Unfair competition may not always tend toward monopoly, but unfair competition always destroys the effect of fair competition.

While the Senator from Massachusetts may not agree with me, and while I value his judgment very highly with regard to the propriety of establishing new regulations, yet inasmuch as we have a statute which is directed against the restraint of trade as forcibly and as completely as any statute could be directed against an evil—a statute which is directed against monopoly and all attempts to monopolize as emphatically as a statute could be directed toward such purposes—and inasmuch as that statute is to remain unimpaired, untouched, with all its vigor, and we now propose to make a new offense which is intended to prevent unfair competition, I can not quite understand how the Senator from Massachusetts can characterize a bill of that kind as a proposition to regulate monopoly.

The party to which the Senator referred in the extracts from which he read I think did propose to regulate monopoly. It proposed to allow monopolistic power and to shield the people from the effect of the power by establishing prices at which these enterprises should sell their commodities to the public; and repeatedly the advocates of that party have likened the commission which should be established to supervise industry to the commission which we have established to supervise railroads. We have given to the latter commission the power to fix the price at which the service shall be rendered; and in a general way I understand the political party to which reference is made in these extracts proposes to do the same thing with regard to industry, to curb the power and limit the avarice of monopoly by saying, "You can not charge for your service or your commodity more than thus and thus."

I am as unalterably opposed to any such proposition as the Senator from Massachusetts can possibly be. I do not want a commission imposed upon the industry of this country which recognizes a monopoly and attempts to check its ravages in that way. I do, however, want a commission that will supervise a certain part of the enforcement or administration of the law which is intended to prevent the monopoly from coming into existence at all; and I hope the Senator from Massachusetts will distinguish between the commission which is proposed in the bill now before us and a commission which would be given the same powers over industry and its prices as we have already given to the Interstate Commerce Commission over railroads or common carriers and their prices.

I suggest this because I felt there was some danger, in view of the very persuasive manner in which the Senator from Massachusetts was dealing with this subject, of the impression going out that those of us who believed in this commission were followers of the further proposal that a trade commission should be given the same power over manufactures and commodities of all kinds that we have given to a commission over a public duty such as is performed by common carriers.

Mr. WEEKS. Mr. President, the Senator from Iowa of course knows that I had no intention of making unfair statements, even by inference, and I have no doubt he has in his mind just exactly what he has expressed in regard to this proposed legislation, but I am taking the situation as it is. What is the administration doing? Is it proceeding to destroy monopoly by bringing suits? Not to any extent. Only in 14 minor cases have suits been brought in 16 months. Now we are proposing legislation which is going to deal with business concerns in, I think, a different way. The Senator from Iowa may be correct, and possibly both laws will be enforced to the limit. I hope they will be if they are put on the statute books. I believe, however, that the enforcement of the Sherman Antitrust Act will be substantially stopped and this law will take its place, and we will be doing just the reverse of what the Senator from Iowa has in mind. That is to say, we will be doing what the President charges in the extracts I have read to be the belief and the intention of the third party. Of course, time alone can determine who and what is right in that respect.

I have gone into the Sherman Antitrust Act in considerable detail in order to indicate to what extent uncertainty exists, even after the law has been in operation 24 years and notwithstanding the fact that many attorneys feel that the court has now passed on a sufficient number of cases so that if any business man now breaks the law he does it intentionally; in other words, that the path has been blazed with sufficient accuracy to enable any honest business man who wishes to comply with the law to do so. That is true in many directions, and yet we find the highest authorities disagreeing about the force of recent decisions, and I predict that it will be many years before the courts will have completely cleared the atmosphere which surrounds the Sherman Antitrust Act.

Mr. President, I want to take up another phase of this question.

Mr. NEWLANDS. Will the Senator yield to me before he passes to that?

Mr. WEEKS. I yield to the Senator from Nevada.

Mr. NEWLANDS. The Senator has read certain views of the President expressed during the campaign which were critical of the Progressive Party program and of the views of the candidate of the Progressive Party for the Presidency, and he claims that the views now entertained by the President are inconsistent with the views which he expressed there, and the Senator from Iowa indicates that it is not his disposition to reconcile the alleged inconsistency. I wish to say that there is no inconsistency.

The Senator will realize that the proposal of this trade commission bill is a very different one from that urged by the Progressive movement and by Mr. Roosevelt as the head of that movement. This commission is organized for the enforcement of the Sherman antitrust law by aiding the courts in the preparation of decrees and in the dissolution of these trusts, by aiding the Attorney General in his work in enforcing the antitrust law, by investigations under which it is the duty of the commission to call the attention of the Attorney General to any violation of the antitrust law with a view to securing his action as to its enforcement, and a further provision contained in section 5 which takes hold of unfair practices in competition that tend toward the creation of monopoly by the destruction of fair competition.

It will be seen, therefore, that this is not a substitute for the antitrust law but is in aid of the enforcement of the antitrust law and is intended to take hold of those practices in trade which inevitably in the end lead toward the creation of a monopoly and the increase of monopolistic power.

The regulation which was recommended by the Progressive movement and by Mr. Roosevelt looked toward the recognition of these great combinations and practically to their validation, and also looked to the regulation of them just as the Government now regulates such public utilities as the railway system, looking to a regulation of monopoly, even to the extent of the control of prices. It was with reference to that kind of a regulation that the President in the campaign made these utterances.

I claim that there is nothing whatever inconsistent in the position which the President now takes as compared with the position that he then took, but on the contrary the positions are not inconsistent with each other. The President is advocating now the absolute enforcement of the antitrust law through additional machinery and the destruction of unfair competition as an aid to monopoly whilst he condemns the policy which would validate combinations and monopoly and seek to regulate them in the interest of society by the regulation of not only their practices but their prices.

Now, will the Senator let me say one word further before he passes to another phase, and that is with reference to the action of the Attorney General regarding the New York & New Haven Railroad? I fear that what I said might be regarded as a criticism upon the Attorney General's office for its recent action. I will say that my criticism is of the law which intrusts the enforcement of the Sherman law to the Attorney General, not of the action of the Attorney General. I think that that portion of the law with reference to railroads ought to be intrusted to the Interstate Commerce Commission, and with reference to trade incorporations it should be intrusted to the commission which we are about to create. I have no fault to find with the action of the Attorney General who found himself face to face with a consolidation which, entirely outside of the mooted question as to whether the consolidation of the Boston & Maine with the New York & New Haven constitutes a violation of the Sherman antitrust law, involved consolidations that were plainly in violation of the law, the acquisition of the electric lines and the boat lines, which were clearly in active competition with the New York & New Haven and the Boston & Maine system.

I regret, of course, that we have to go along with the brutal enforcement of the law at a time when the condition of the innocent stockholders of the New York & New Haven Railroad system cries out for relief, and I would be glad to have some change made in this proposed law that would enable the Interstate Commerce Commission to take hold of this question in a humane way, with a view of organizing that entire system in some possible manner in harmony with the law, and at the same time protecting and preserving the rights of the innocent stockholders, whose property is now in great peril as the result, possibly, of forced sales.

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Does the Senator from Massachusetts yield to the Senator from Connecticut?

Mr. WEEKS. Yes.

Mr. BRANDEGEE. It is always a pleasure to listen to the Senator from Nevada, because the words with which he seeks to drug people into insensibility to all dangers contained in his projects are mellifluous, and if one will allow himself to be carried along by the iridescent optimism that always pervades the Senator, he can be induced to vote for almost anything.

Of course, in the opinion of the Senator, when the Interstate Commerce Commission takes hold of a monopoly to rend it into its fragments and constituents it is a humane and perfectly delightful operation and dissection process. If this is a monopoly, it will be rent apart. It will be no business of the Interstate Commerce Commission, if it is ever clothed with the enforcement of the Sherman law, to patch it up in some way, so that it will continue to be a monopoly; it will be dismembered.

Mr. NEWLANDS. The Senator will recollect that I said I hoped that would be done by some modifications of the law which would enable the Interstate Commerce Commission to determine the question of public interest where consolidations had been perfected and where it would work greater injury to the public to destroy it and rend it apart than to allow it to be maintained.

Mr. BRANDEGEE. Simply words, Mr. President, words! The Senator hopes that something will be enforced to break up something so that it will promote the public interest. Nothing but words! No tribunal in this country is given authority to have a roving commission to "promote the public interest" as it may happen from minute to minute to think is "the public interest." A commission must have some definite authority, and it is going to be confined to one or the other of the three branches of this Government, and no benevolent despots are to be allowed to roam about with an eclectic commission to fix things so that they will run smoothly according to their notions of what may be "ethical" or not "antisocial" or for the "public interest," or any of those "goo-goo" phrases. This is a Government of law and not of men.

Mr. THOMAS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield?

Mr. THOMAS. What was that commission?

Mr. BRANDEGEE. It is for the Senator from Massachusetts to say whether he yields.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield?

Mr. WEEKS. Yes.

Mr. THOMAS. The Senator from Connecticut mentioned a commission just now which I never heard of before. What was the commission?

Mr. BRANDEGEE. I was not aware that I mentioned it.

Mr. THOMAS. Eclectic?

Mr. BRANDEGEE. If I did, I hope the Senator will be able to grasp what it meant.

Mr. THOMAS. I thought I had heard of the name of all, but that was a new one to me.

Mr. BRANDEGEE. The Senator need not lay that balm to his soul. He has not heard of half the commissions. I had here, and I am sorry I just sent it to my committee room, a copy of the Outlook, or the Output, with four great coordinate national commissions, which it says must be elevated to the dignity of departments of the Government.

Mr. THOMAS. I have those here. I received a copy of those.

Mr. BRANDEGEE. Very well. There was one there that I had not heard of before. I have no doubt if we establish this Federal trade commission there will be no dearth in the incubator factory. Somebody will think of something else that ought to be regulated by a commission. I believe there is an amendment somewhere in print for a rivers and harbors commission, which in some way was to fix it so that the "pork barrel" will be divided up to the satisfaction, "humanely" of course, of the river and harbor commission. How they are going to get the money out of the Federal Treasury without the apportionment being satisfactory to Congress I do not know, but I have no doubt there will be no difficulty; it will be perfectly simple, and everything will be lovely after we get it established.

Now, this commission——

Mr. NEWLANDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Nevada?

Mr. BRANDEGEE. I do, if I can.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Nevada?

Mr. WEEKS. I yield for a question.

Mr. NEWLANDS. The Senator has only humor and satire for those who attempt to do anything in reference to relieving

serious conditions. Now, the Senator is addressing himself to the question of the New York & New Haven system.

Mr. BRANDEGEE. I am not.

Mr. NEWLANDS. The Senator realizes——

Mr. BRANDEGEE. The Senator from Massachusetts has yielded to the Senator from Nevada for a question, and that is what I yielded for.

Mr. NEWLANDS. I wish to ask the Senator whether he can suggest any method by which the New York & New Haven Railroad system can be brought out of the existing complication? What does the Senator say?

Mr. BRANDEGEE. I decline to discuss the question here as utterly irrelevant, and I decline to yield for a question I am not discussing.

Mr. NEWLANDS. I understand the Senator declines to yield because he has nothing to suggest.

Mr. BRANDEGEE. It is none of my business; it is the Department of Justice that is attending to its business.

Mr. NEWLANDS. Does the Senator approve of the proceedings that are now pending?

Mr. BRANDEGEE. I have not given it any attention, because I try to confine my attention to my own business.

Mr. NEWLANDS. As a Senator from the State of Connecticut the Senator is exceedingly concerned about the economic condition of that region.

Mr. BRANDEGEE. I am, but I can not help it. Congress has passed a law under which the Attorney General is prosecuting, and the court is going to decide whether the Attorney General and the administration are right in their allegations. I know nothing about it.

Mr. NEWLANDS. The Senator is entirely satisfied with the conditions as they exist there?

Mr. BRANDEGEE. I am entirely satisfied to mind my own business, and I am not giving legal opinions on things I do not know anything about. It is trouble enough for me to try to find out what conundrums are now pending before this body, where I have some business, which I am trying to perform, and my wits are pretty nearly used up in the contemplation of these conundrums. I am trying to get some light on them.

I have just been looking to see what this pending commission is called to do, which the Senator says is to stop unfair competition which "tends to monopoly." Of course it is not authorized to do any such thing. It is authorized and directed to prevent corporations from using "unfair methods of competition in commerce," and there is not anything about a monopoly or the Sherman law in this section 5. There is what I regard as a mischievous, meddlesome provision later on, that if a court does not know how to make its own judgment or decree after it has decided a suit it may call upon the commission to frame it. That, in my judgment, is a piece of impertinence to the court and is not called for in this bill. But they are called upon to decide what is unfair.

It has been said here that "unfair" would not be limited to that narrow and restricted zone which the judiciary has heretofore occupied in the definition of "unfair competition," but would be defined according to its meaning in the English language. Therefore I have had recourse to the Century Dictionary, which is one authority upon the English language, to see what it means. The President in his message upon this subject demands that a fixed rule or standard shall be laid down for the guidance of the commission and the business man. I find "unfair" means—

> Not fair; not beautiful; not comely. Not glad; sad; sorrowful. Not honest; not impartial; disingenuous; using trick or artifice.
> "You come, like an unfair merchant, to charge me with being in your debt"—

I do not know whether it is unfair to claim that a man owes you anything if he does owe you—

> Not based on honesty, justice, or fairness; inequitable: as, unfair advantages; unfair practices. Synonyms.—Unjust, inequitable, partial, one-sided, dishonest, dishonorable.

That is the meaning of "unfair" competition. This commission is to have absolute authority to order a man to stop an unfair method, and if he has the presumption not to keep out of trouble (and the Senator from Nevada says he can keep out of trouble, if he obeys the order of the commission and ruins his business), but has the presumption to disobey the order of the commission, then the commission goes to the court and gets an injunction against him, and the court sends him to jail for contempt of court in the violation of the injunction. That is the definite rule of guidance which the President says the experience of the country warrants the Congress in fixing for the guidance of the business man.

Mr. WEEKS. Mr. President, I want to turn now to the discussion of another phase of this question. Before doing so I wish to suggest that I have no doubt that the Senator from Nevada and other members of the committee, the majority members of the committee, feel that this legislation is desirable and necessary. The President thinks so, and he submitted a message to Congress which is the incentive which has brought forth all these bills, changed from time to time. In fact, I suspect, if you take all the amendments that have been submitted to this bill since it has been presented to the Senate and compare them with the terms of the bill itself, the authors of the bill would not know it if they were incorporated in it.

Most of these suggestions come from that class of reformers who never have been in business and do not know anything about business and never earned a dollar in their lives. I see them around this Capitol preparing amendments and doing other things to perfect this legislation, of which they have no comprehension, in my judgment.

What I have said several times, and I repeat now, is that unfortunately there crept into the Democratic national platform something about trusts, so very indefinite that it might possibly be observed to the satisfaction of every Senator. That happened a year ago last summer. Since that time there has not developed and there is not now any real business sentiment in this country in favor of this legislation. I am going to try to demonstrate that that is true, notwithstanding the statements made by the President in his message and statements that have been made on this floor by Senators that it is all-important.

I want to read extracts from what the President said. I wish I had the time to read the whole message, but Senators have read it, so it is unnecessary:

> In my report "on the state of the Union," which I had the privilege of reading to you on the 2d of December last, I ventured to reserve for discussion at a later date the subject of additional legislation regarding the very difficult and intricate matter of trusts and monopolies. The time now seems opportune to turn to that great question.
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> Constructive legislation, when successful, is always the embodiment of convincing experience, and of the mature public opinion which finally springs out of that experience.
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> Legislation is a business of interpretation, not of origination; and it is now plain what the opinion is to which we must give effect in this matter. It is not recent or hasty opinion.
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> What we are purposing to do, therefore, is, happily, not to hamper or interfere with business as enlightened business men prefer to do it, or in any sense to put it under the ban. The antagonism between business and government is over. We are now about to give expression to the best business judgment of America, to what we know to be the business conscience and honor of the land. The Government and business men are ready to meet each other halfway in a common effort to square business methods with both public opinion and the law.
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> The business of the country awaits also, has long awaited and has suffered because it could not obtain, further and more explicit legislative definition of the policy and meaning of the existing antitrust law. Nothing hampers business like uncertainty. Nothing daunts or discourages it like the necessity to take chances, to run the risk of falling under the condemnation of the law before it can make sure just what the law is. Surely we are sufficiently familiar with the actual processes and methods of monopoly and of the many hurtful restraints of trade to make definition possible, at any rate up to the limits of what experience has disclosed. These practices, being now abundantly disclosed, can be explicitly and item by item forbidden by statute in such terms as will practically eliminate uncertainty, the law itself and the penalty being made equally plain.
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> * * * * * * *
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> I have laid the case before you, no doubt as it lies in your own mind, as it lies in the thought of the country. What must every candid man say of the suggestions I have laid before you, of the plain obligations of which I have reminded you? That these are new things for which the country is not prepared? No; but that they are old things, now familiar, and must of course be undertaken if we are to square our laws with the thought and desire of the country. Until these things are done, conscientious business men the country over will be unsatisfied. They are in these things our mentors and colleagues. We are now about to write the additional articles of our constitution of peace, the peace that is honor and freedom and prosperity.

Mr. President, in my judgment the President stands on the shore of the ocean of business and he views the jetsam and flotsam coming in and thinks that is business; but that is what has been cast out by business, which has been thrown overboard in order to save business. He has not had business experience—it is no criticism of him to say that—and neither have those who are most intimately advising him had the business experience to justify any such assertions as he makes in that message. He does have occasionally men come to the White House to consult with him about business methods—men like Mr. Ford, for instance. Mr. Ford, by a keen perception of what the public requires, has been able to make an enormous fortune and do a business which does not depend on ordinary conditions. He never has had to consider the shoals or the currents or the other impediments with which every navigator in business has to contend. He has had smooth sailing in his business career since

he commenced to manufacture automobiles. The average man, in my judgment, who goes to see the President of the United States to talk with him about business knows before he goes there what the President's ideas are, and he gives the President what he thinks the President wants; and, in my judgment, the President does not get from the business men of the country what they actually think should be done under such conditions and circumstances.

I am going to submit to the Senate, if I have the time, proof of the assertion which I have just made.

It is undeniable that while the press and business men are uncertain as to the possible value of the proposed trust legislation, the strong sentiment of the country is against any further action at present, and if it were properly put up to business sentiment I have no doubt that they would demand a careful investigation before any further legislation is adopted.

The Chicago Herald, under date of July 1, prints some replies to the Chicago Chamber of Commerce suggestions, which show the indecision but the general trend against any legislation. In only one instance is the plan of the President to pass trust legislation entirely approved, and that from the town with the significant name "Devils Lake, N. Dak."

It is almost certain that those who are framing these bills and who have necessarily given their best attention to them can not have had experience in many lines of business. Does it not seem most unwise to proceed with legislation which is undigested, not entirely intelligent, and for which most people feel there is no demand? The hearings before the Senate and House committees on this subject form a convincing argument to the assertion that there is not any legitimate demand for it. Practically speaking, those who appeared for the legislation were confined to those theorists who find something wrong in everything and who believe that those wrongs can be corrected by legislation which has not been sufficiently studied to determine whether it applies to any or many of the activities of life. On the other hand, those who have definite knowledge have almost universally opposed the legislation and denied the necessity for it.

I am going to read a few of these extracts from the opinions which were published in the Chicago Herald.

Mr. GALLINGER. Mr. President, the voice of the Senator from Massachusetts striking the empty seats on the Democratic side produces an echo that is not entirely agreeable. I make the point of no quorum.

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). The Senator from New Hampshire makes the point of no quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gronna	Norris	Smoot
Borah	Hollis	Perkins	Sterling
Brandegee	Hughes	Pomerene	Stone
Bristow	Jones	Ransdell	Sutherland
Chamberlain	Kenyon	Reed	Swanson
Clark, Wyo.	Kern	Saulsbury	Thomas
Clarke, Ark.	Lane	Shafroth	Thornton
Colt	Lea, Tenn.	Sheppard	Vardaman
Crawford	Martine, N. J.	Shively	Walsh
Cummins	Myers	Simmons	Weeks
Gallinger	Nelson	Smith, Ariz.	West

The PRESIDING OFFICER (Mr. LEA of Tennessee in the chair). Forty-four Senators have answered to their names. A quorum is not present. The Secretary will call the names of the absent Senators.

The Secretary called the names of the absent Senators, and Mr. NEWLANDS, Mr. PAGE, Mr. POINDEXTER, and Mr. SMITH of Georgia answered to their names when called.

Mr. BRADY, Mr. CAMDEN, and Mr. BRYAN entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-one Senators have answered to their names. A quorum of the Senate is present.

Mr. WEEKS. Mr. President, when the call for a quorum was made I was about to read some of the opinions which the Chicago Record-Herald has obtained from business associations throughout the country. I do not intend to include very many of these opinions in my comments, but these are so scattered in the locations from which they come, and so different are the reasons which are given that I think they are worth considering as a fair statement of what business organizations throughout the western section of the country are thinking in regard to this legislation. The first one is from the Kokomo Chamber of Commerce, and it says:

Kokomo Chamber of Commerce: Association of commerce plan indorsed, with recommendation that trade commission act in advisory as well as judicial capacity. Government policy should be more advice and cooperation and less harassment and prosecution. Important legislation should be effected so that business may know its code of rules.

The next is from the Superior Commercial Club of Wisconsin, and is as follows:

WISCONSIN.

Superior Commercial Club: Sentiment against further trust or class legislation, though in accord with association of commerce suggestions. Conservative action is essential to business interests and to end present uncertainty.

The one I shall now read is from the Kalamazoo Commercial Club:

MICHIGAN.

Kalamazoo Commercial Club: Sherman Act considered adequate and Clayton bill full of unwise and harmful provisions. Postponement of trust legislation to next session favored, leaving matter in hands of commission.

Not the commission proposed in this bill, but a commission to consider the subject.

United States Chamber of Commerce stand approved.

I now read from the St. Louis Business Men's League, of St. Louis, Mo.:

MISSOURI.

St. Louis Business Men's League: Forwarded resolution to Missouri Senators and Representatives declaring against passage of further legislation at this session, and asserting that regulation of business along new and untried lines might jeopardize country's general welfare.

This is from the Minot Association of Commerce:

Minot Association of Commerce: Antitrust laws sufficient if enforced. Not in favor of trades commission; should be handled by Department of Justice. Favors legislation that will discourage mail-order houses from misrepresenting merchandise so as to put country merchant out of business.

I now read from the Moorhead (Minn.) Commercial Club:

MINNESOTA.

Moorhead Commercial Club: Opinion practically unanimous that pressing trust legislation at this time does more harm than good, and that the country is suffering from plethora of lawmaking and unintelligent legislation.

As I have said, in some 40 or 50 such expressions of opinion published in the Chicago Record-Herald the only one that was at all favorable to this legislation came from Devils Lake, N. Dak., and it says:

NORTH DAKOTA.

Devils Lake Commercial Club: Business men stand squarely behind the President in his program of trust legislation. That the trust question should be permanently remedied without compromise is the sentiment of this section of North Dakota.

I see the Senator from North Dakota [Mr. GRONNA] is in his seat. He can probably explain the reason why the citizens of that section of his own State seem to take a different view of this question from all other commercial organizations.

Mr. GRONNA. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from North Dakota?

Mr. WEEKS. Yes; I yield.

Mr. GRONNA. I will say to the Senator from Massachusetts that Devils Lake is very close to my home. I know of no reason why its citizens should favor this particular legislation in that section more than any other, except that the president of a subsidiary railroad, who lives at Devils Lake, is a distinguished Democrat, and undoubtedly approves of this legislation or of any legislation proposed by the Democratic Party.

I might also explain that there is a prominent Democrat in that city who is a candidate for a certain office. Furthermore, the Treasurer of the United States lives at Devils Lake. Those three reasons might perhaps be the cause of this petition demanding this particular legislation.

Mr. WEEKS. Mr. President, to continue the evidence that there is not any substantial sentiment in favor of this legislation, I want to put into the RECORD the report of the Chamber of Commerce of the United States, as far as it applies to the three questions which were submitted by the chamber. These questions were submitted to all of the Chamber of Commerce of the United States.

First: The committee recommended that there be no attempt by statute to forbid discriminations in prices of commodities.

The replies to that were in favor of the recommendation by 531 business organizations, while 22 organizations voted against it.

The second proposition was: The committee recommended that a proposal to compel persons controlling the product of mines to sell to all applicants "who may be responsible" is wrong in principle and unworkable in practice.

The replies to that were 527 votes in favor of the chamber's recommendation, and 32 votes opposed to it.

The third was: The committee recommended that there should not be statutory prohibition of conditions accompanying sales and leases to the effect that buyers or lessees can not handle or use the products of competitors.

The replies were 514 votes in favor of the recommendation and 35 votes opposed to it. I want to include in my remarks more of those votes, Mr. President, because they have some application to this matter, but I shall not take the time now to read them.

The PRESIDING OFFICER. Without objection, permission to do so is granted.

The matter referred to is as follows:

[Bulletin No. 110. Series, general. July 15, 1914. Not for publication. Chamber of Commerce of the United States of America, Riggs Building, Washington, D. C. This bulletin may be posted in your office or board room and its contents communicated to your members.]

VOTE ON REFERENDUM NO. 8.

Referendum No. 7, the results of which were printed in Bulletin No. 102 of June 5, was taken upon a report of the special committee of the chamber on trust legislation, and dealt with the subject of an interstate trade commission, its jurisdiction, etc. In referendum No. 8 a report of the special committee relative to proposals for legislation regulating business practices was submitted to the organizations which are members of the chamber. Under the by-laws of the chamber the balloting after an interval of 45 days closed at midnight on July 9, when 198 organizations had cast their votes. Details of these votes are printed in the following pages of this bulletin.

In balloting each organization casts as many votes as it may have delegates at an annual meeting of the chamber. The number of delegates an organization may have depends upon the number of its members, but in no case falls below 1 delegate nor exceeds 10.

The separate propositions set out in referendum No. 8, and the totals of the votes, are as follows:

I. The committee recommended that there be no attempt by statute to forbid discriminations in prices of commodities; 531 votes in favor of the recommendation, 22 votes opposed.

II. The committee recommended that a proposal to compel persons controlling the product of mines to sell to all applicants "who may be responsible" is wrong in principle and unworkable in practice; 527 votes in favor of the recommendation, 32 votes opposed.

III. The committee recommended that there should not be statutory prohibition of conditions accompanying sales and leases to the effect that buyers or lessees can not handle or use the products of competitors; 514 votes in favor of the recommendation, 35 votes opposed.

IV. The committee recommended that the final decree in an equity suit brought by the Government which establishes the existence or the nonexistence of a restraint of trade or of a monopoly should be conclusive evidence as to the same general fact in private actions brought against the same defendants under the antitrust laws; 484 votes in favor of the recommendation, 62 votes opposed.

V. The committee recommended that interlocking of directors among competitive business corporations, including railroad corporations, should be prohibited, regardless of the size of corporations, if elimination of competition among the corporations in question would constitute a violation of the Sherman Act; 491 votes in favor of the recommendation, 41 votes opposed.

VI. The committee recommended that interlocking of officers and directors between railroads and industrial businesses with which they transact a substantial volume of business (for example, in the relation of buyer and seller) should be prohibited, except in such instances as the Interstate Commerce Commission may determine are not detrimental to the public interest; 494 votes in favor of the recommendation, 33 votes opposed.

VII. Regarding interlocking of officers and directors between railroads and bankers with whom the railroads have financial transactions, the committee made no recommenation, but suggested three principles, exclusive one of another, on which legislation might proceed. These principles, as embodied in questions, and the votes were as follows:

a. Should interlocking of officers and directors between railroads and bankers with whom they have financial transactions be entirely prohibited? Seventy-seven votes in favor, 133 votes opposed.

b. Should there be legislative prohibition of such interlocking with a provision that a finding of the Interstate Commerce Commission to the effect that in a particular instance there was no detriment to the public interest would prevent illegality in that instance? Sixty-four votes in favor, 95 votes opposed.

c. Should there be legislation in a form which would not pronounce illegal existing situations, but would authorize the Interstate Commerce Commission upon finding a detriment to the public interest in any interlocking to order that it be terminated? Three hundred and twenty-four votes in favor, 42 votes opposed.

VIII. With reference to legislation upon the problems involved in preventing concentration of credit, for example, interlocking of directors among banks, the committee made no recommendation, but stated mutually exclusive methods of procedure, as follows:

a. Should the problems involved in preventing concentration of credit be referred for investigation and recommendation to the Federal Reserve Board or some other competent body? Four hundred and forty-four votes in favor, 43 votes opposed.

b. Should these problems be the subject of immediate legislation; for example, in the form of a prohibition of interlocking of officers or directors among banks, if any bank in question is of a certain size? Thirty-eight votes in favor, 105 votes opposed.

IX. The committee recommended that corporate ownership of stock directly or indirectly of competitor corporations should be prohibited if elimination of competition among the corporations in question would constitute a violation of the Sherman Act, except in such instances as the interstate trade commission (or the Interstate Commerce Commission in the case of railroads) may determine are not detrimental to the public interest; 432 votes in favor of the recommendation, 75 votes opposed.

X. The committee recommended that there should not be an attempt to regulate the shares of stock issued by corporations engaged in interstate commerce; 445 votes in favor of the recommendation, 74 votes opposed.

The attitude of the chamber can be fixed only by two-thirds of the votes cast. Consequently referendum No. 8 has defined the attitude of the chamber on I, II, III, IV, V, VI, VII, VIII, IX, and X.

On VI votes came from 36 States, the District of Columbia, Porto Rico, and the American Chamber of Commerce in Paris, France. On other questions the number of States from which votes came was 35, 34, or 33.

Mr. WEEKS. There has been a very significant statement made this week by a business organization which covers a large section of the eastern part of Pennsylvania, in the Schuylkill Valley, called the Manufacturers' Association of Montgomery County, and I will read some of the conclusions which this association has reached:

The association disclaims all political bias and puts its plea on the grounds that it is necessary "in this most unusual way" to force upon the attention of Washington and of the country an existing industrial condition which is described as "nothing less than frightening."

I should state that this is a letter written to the President which has been given to the press.

Charles F. Williams, president of the association, is also president of James Lees & Sons Co., Bridgeport, whose mill, employing formerly 1,000 persons, is now closed. Mr. Williams has never taken any active part in politics.

The association says:

Of course we are speaking only for the Schuylkill Valley, and more particularly for the Montgomery County Manufacturers' Association, but we are convinced that our case is typical.

It then refers to tariff legislation, and goes on to say:

We have more to say. We need relief from some impending legislation which, according to the public press, you now propose to have enacted before the present Congress adjourns. It is difficult to describe to you the effect which this impending legislation has upon that part of the country which we represent and for which we now speak. No word better describes it than fright. It is right that you should know this. It is right that you should know that men are asking, Is capital to be tabooed? Are successful business men to be declassed as citizens and classified as malefactors? Is the law to say to one class of citizens sabotage is lawful, and to another class property is plunder? The feeling is abroad that malice and class hatred are being toyed with by our Representatives at Washington. Men are frightened as never before in the history of this Nation. They tremble for their country. They fear the cause of the depression is more dangerous than the effect. Men bear to you the tidings, so it is said, that there is no depression; men are not out of work; the country suffers from nothing but "calamity howlers." Our answer is this: In the Schuylkill Valley there is depression; the streets of the Schuylkill Valley towns are lined with men who have no work who one year ago were well employed; the floors of the Schuylkill Valley warehouses are piled with goods for which there is no market and no demand. We speak only for the Schuylkill Valley, but for that we do speak. When any man rises in your presence to tell you, as President of our country, that these men in the Schuylkill Valley can work if they will, that the work is here and that they are crying out merely to discredit your administration, that all this talk about depression is due to an inflamed imagination, then we rise to say that that man, whoever he may be, is guilty of mockery that is exquisitely cruel.

The Merchants' Association of New York is, I believe, the largest business organization in the United States. It conducts its investigations and comes to its conclusions with care. I have had an opportunity to investigate somewhat the methods which are followed by this great association in any public matter which is brought to its attention, and I believe that, to a greater degree than perhaps in almost any other case, their conclusions are a result of most thorough investigation. The men who are best fitted take part in its deliberations and investigations. This association says, referring to this legislation:

We view with profound concern the effort to "rush" legislation of this kind; to enact laws intended vitally to affect the operations of industry and commerce without affording proper opportunity to those who make the laws to understand their influence and effect, and without affording opportunity to the vast number of our citizens whose welfare will be affected, directly or indirectly, by the operation of such laws to understand intelligently what is proposed, to study the probable effects in their infinite ramifications, and to formulate and express their views and wishes.

With even more profound concern we note that these proposed new laws bristle with measures designed to regulate, to control, and to repress the activities of industry and commerce, but embody little or nothing that is constructive or helpful or which indicates even the desire to foster and promote the welfare of American industry and American commerce.

The report goes on to say:

Cooperation has become the greatest and most potent factor in progress, individual and national. It is encouraged by most, if not all, other nations, notably by Germany, whose progress in industry and commerce during the past generation is one of the marvels of our day, and whose system of "kartels," or trade agreements, is not merely permitted by law, but encouraged and fostered by the Government. The proposed laws now pending in Congress all tend in the other direction, to repress or to forbid cooperation in industry and commerce, and to the extent of their influence would handicap us as against the other nations of the world.

The Chamber of Commerce of the State of New York, a great combination of chambers of commerce covering all similar organizations in that State, makes these comments:

To shackle the genius of this country, to limit individual freedom and initiative within the confines of parental government direction other than the well-defined limits now understood and recognized as inconsistent with moral law, modern ethics, and the public welfare, would be to set brakes upon the splendid spirit of our people by which all our achievements have been inspired, if not indeed to break down the march of progress, and to force us to the rear in that international contest for the world's business by which alone this country can continue to grow and reach the fruition of which there has heretofore been such ample promise.

Then the report goes on to make another comment, which I think is significant:

With this consciousness abroad in the land your committee believes that what business men generally desire, what industry most needs, is the certainty of a period of rest for the peaceful readjustment of all enterprise that is inconsistent with the accepted principles of law and ethics, and for the energetic advancement of all individual endeavor free of any sense of repression, secure in a sense of liberty of action, and guarded from the danger that the disclosure of personal prerogatives and private achievements would entail.

I have here complete resolutions from various chambers of commerce, one from the Humboldt Chamber of Commerce, of Eureka, Cal., one paragraph of which I wish to put into the RECORD without reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

Resolved by the Humboldt Chamber of Commerce, representing the business and commercial interests of the city of Eureka and of the county of Humboldt, State of California, That the Congress of the United States of America is hereby earnestly requested to postpone final action upon the pending antitrust legislation until its next session, and that the intervening time be employed in ascertaining the sense of the people of the whole country toward the various features of the proposed laws, with a view to so perfecting them that a united and deliberate public sentiment shall stand firmly behind these measures if enacted.

Mr. WEEKS. I have another from the Erie (Pa.) Chamber of Commerce, which seems to me particularly appropriate, and which I will read:

Resolved, That we believe that a comprehensive basis for enduring legislation can be obtained only by affording ample time and opportunity to all persons who would be affected in every part of the United States to understand what is proposed in the new bills relating to "a trade commission" and "interlocking directorates" and the "Sherman law definitions bill." This would give the people an opportunity to make suggestions and recommendations to aid Congress in framing legislation which shall promote the vast industrial and commercial interests of the country and at the same time safeguard the rights and interests of all citizens.

I commend this especially to the Senator from Nevada:

We deprecate haste in the enactment of legislation of such importance. Before the judgment of the country has been fully consulted and has come, in Presiden Wilson's words, "to a clear and all but universal agreement," or at least has substantially approved the legislation proposed, and that, in view of the impressive disapproval which has been generally expressed in the hearings thus far had upon these bills before several committees of Congress, and in resolutions adopted by numerous commercial organizations, and in the press throughout the country, regardless of political affiliations, we believe a wiser course will consist in postponing final action until the next session of Congress and in utilizing the interval to ascertain the sense of the country concerning the proposed legislation, which can not fail to have a most profound and far-reaching influence on the conduct of the industry and commerce of the Nation, and therefore on the welfare of the people of the entire country.

From resolutions passed on the 21st of May by the Dallas (Tex.) Chamber of Commerce I wish to read one paragraph:

Now therefore be it resolved by the Chamber of Commerce of Dallas, That we deprecate haste in the enactment of any legislation in such matters. We particularly urge delay in such enactment until the judgment of the business men of the country has been fully consulted and ample opportunity furnished all persons who would be affected to understand what is proposed in the bills relating to a "trade commission" and "interlocking directorates" and the "Sherman law definitions bill." We believe the wise course will consist of postponing final action at least until the next session of Congress. In the meanwhile the opinions of the business men be ascertained, and that such opinions be given due weight in settlement of these questions.

The Boston Chamber of Commerce, which has a membership of more than 3,000, had, I know, a particularly competent committee considering this legislation. The committee reported on the 19th of May, and the action of the committee was unanimously ratified on Tuesday, May 26. Their report is as follows:

1. What the country needs at the present time is a rest from new legislation affecting business and an opportunity to adjust itself to the new conditions created by recent Federal legislation, such as the income tax, the revision of the tariff, and the currency law.
2. There is not sufficient time during the present session of Congress to consider, with the deliberation to which it is entitled, the matter of so-called trust regulation or any general legislation contemplating changes in or additions to the present restrictions on interstate or foreign trade
3. Accordingly the board of directors is opposed to the consideration or enactment of any form of such legislation during the present session of Congress.
4. The whole subject of such legislation should be postponed until the next session of Congress, and in the meanwhile Congress, by its committee, should take the opportunity to invite the cooperation of business men throughout the country in framing needful legislation.

The National Association of Manufacturers have passed on this question in similar manner. I will ask consent to print, without reading, one paragraph from their resolutions, which is particularly pertinent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

Therefore be it resolved, That the National Association of Manufacturers, a nonpolitical, nonpartisan organization, representing all crafts and groups of industry, do hereby solemnly protest against continuous assault on our established industries. That we affirm our conviction that unless there is a cessation of hostility to legitimate business the vitality of our commerce and trade will be critically impaired; And we therefore finally

Resolved, That we unqualifiedly oppose the passage of the Clayton bill (H. R. 15657) now pending before Congress.

Mr. WEEKS. I also desire to read from resolutions passed by the annual convention of the National Jewelers' Board of Trade of the United States held at the Hotel Astor. This is a large and very representative body of men. They say:

Be it further resolved, That in the event that further legislation is imperative, such legislation should receive the closest scrutiny, and merchants should be given every opportunity to be heard by Congress after they have learned the exact scope and power of the proposed laws.

Be it further resolved, That it is generally not feasible for merchants to go to Washington to appear before the committee having these bills in charge, and we respectfully suggest that the far-reaching effects of these proposed laws would justify hearings in different commercial centers of the country, to the end that all merchants may have equal opportunity to speak on matters which so closely concern them.

The Philadelphia Board of Trade, one of the largest in the United States, has passed on this subject with great clearness and force. I will ask to include a part of its conclusions in my remarks without reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

PRICE DISCRIMINATION.

In section 2 of the act it is declared to be a crime to discriminate in price between purchasers of commodities with the purpose or intent to injure the business of a competitor.

With the general moral purpose ascertainable in this provision no one would disagree. There is such a thing as an effort to wantonly destroy the business of a competitor by means other than those recognized as fair competition. The act, however, as drawn is, we believe, unsound and likely to do substantial harm.

Discriminations in price are essential to any freedom in trade. The manufacturer or dealer in goods who has a large supply in the West with a small demand must be at liberty to sell in the West at a lower price than he would in the East if he had there a small supply and an active demand. He must sell at an advancing or declining scale of prices and on such market as may exist in different localities. Discrimination in price per se is a part of the life of trade and contains no element of immorality.

Moreover, discrimination in price is an essential to competition. Competition means obtaining business formerly done by others, and this is accomplished by price cutting in the market where the competitor is operating. It would be mere hypocrisy to pretend that competition does not injure or destroy the business of the competitor. The avowed purpose of the competition is to take the competitor's business from him as he is attempting to take your business from you. Competition is the settled policy of the law, and it would be manifest folly to pass an act requiring that the effects of competition must not exist. The direct effect of competition is "to injure or destroy."

It follows, therefore, that every person in a competitive business who cuts prices in order to obtain the business formerly held by some other competitor would come within the terms of the proposed act, since the direct effect of his price cutting is to injure the business of his opponent, and he is presumed to know the effect of his acts. The act as drawn should not, therefore, be passed. It would place everyone doing business in the United States in jeopardy of fine and imprisonment.

Mr. WEEKS. I have here a clipping from the St. Louis Globe-Democrat which contains an appeal from the Business Men's League of St. Louis. I wish it to be particularly noticed that these expressions of opinion do not come from any one class of cities or from any one particular section of the country, but they come from every section; and they are evidently not inspired from one source, but are prepared as the deliberate judgment of the business men who have subscribed to them. The Business Men's League of St. Louis makes this statement:

Whereas in our opinion these bills, drastic in their terms, are not thoroughly understood at this time by the business men of the city of St. Louis, and that further time for their consideration both by the public and by our legislators is necessary; and

Whereas said bills propose to give to a commission an enormous power and control over practically all kinds of business in the United States, neither the scope nor effect of which can at this time be foreseen; be it

Resolved, That the Business Men's League of St. Louis believes that the passage of any further amount of new legislation at this session of Congress which has for its purpose the regulation or control of business along new and untried lines is inopportune and might jeopardize the general welfare of this country, and we believe that the passage of such legislation at this time would rather tend to further stagnate business than to stimulate it; be it further

Resolved, That the president be hereby directed to forward to our Congressmen and to our Senators a copy of this resolution.

Those were resolutions passed on the 27th day of June. I will add that all of these resolutions have been passed by business men without regard to political affiliations. I assume that business men's organizations in the South, whose resolutions I have read, such as the one from Dallas, Tex., are largely made up of men belonging to the dominant party; I do not see that any reflection on the President or on the dominant party appears in any form in these resolutions; but they are an expression of business views without any regard to political considerations.

The Rochester Chamber of Commerce, of Rochester, N. Y., has given expression to its sentiments in a resolution which I think should be included in the RECORD, and I ask that I may do so, without reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution referred to is as follows:

Resolved, That the Chamber of Commerce of Rochester, N. Y., respectfully urges upon the committees of Congress having these matters under consideration such reasonable delay in their final report as may permit the presentation and consideration of such recommendations as may be found to be concurred in by the business interests of the country so collected and represented by referendum vote, it being their conviction that no condition of business exists which calls for either hasty or radical legislation.

Mr. WEEKS. The Youngstown Chamber of Commerce, of Youngstown, Ohio, has adopted a similar resolution, which I ask to have printed in the RECORD without reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

Resolved, That we believe that a comprehensive basis for enduring legislation can be obtained only by affording ample time and opportunity to all persons who would be affected in every part of the United States to understand what is proposed in the new bills relating to "a trades commission" and "interlocking directorates" and the "Sherman law definitions bill." This would give the people an opportunity to make suggestions and recommendations to aid Congress in framing legislation which shall promote the vast industrial and commercial interests of the country and at the same time safeguard the rights and interests of all citizens. We deprecate haste in the enactment of legislation of such importance. Before the judgment of the country has been fully consulted and has come, in President Wilson's words, "to a clear and all but universal agreement," or at least has substantially approved the legislation proposed, and that, in view of the impressive disapproval which has been generally expressed in the hearings thus far had upon these bills before several committees of Congress and in resolutions adopted by numerous commercial organizations and in the press throughout the country, regardless of political affiliations, we believe a wiser course will consist in postponing final action until the next session of Congress and in utilizing the interval to ascertain the sense of the country concerning the proposed legislation, which can not fail to have a most profound and far-reaching influence on the conduct of the industry and commerce of the Nation and therefore on the welfare of the people of the entire country.

Mr. WEEKS. I have in my hand expressions of opposition to different phases of this legislation coming from business organizations throughout the United States. They are very brief, and relate to various details of the legislation and express their disapproval. They are so pointed and so brief that I will ask that all of them may be inserted in the RECORD without being read. There are nearly 100 of them, which cover some six or seven pages of this paper.

The PRESIDING OFFICER. Without objection, it will be so ordered.

The matter referred to is as follows:

The Herald telegraphed to officers of 70 chambers of commerce, boards of trade, and similar organizations the following:

"Please wire 100 words your views on plan of trust legislation as presented to President Wilson this week by representatives of the Chicago Association of Commerce. If official expression of your organization is not obtainable, kindly indicate consensus of opinion of your representative business men as known to you or some other prominent individual."

PRINCIPAL POINTS IN PLAN.

These are the principal points in the Chicago Association of Commerce plan as urged upon President Wilson:

"The Clayton antitrust bill is unnecessary if the trade commission measure is altered to conform to business ideas.

"Further definitive legislation is unnecessary. It will disturb business through the uncertainty of court rulings which will not be obtainable until after months of suspense."

EXERCISE OF JURISDICTION.

"Jurisdiction should be exercised by the trade commission over corporations or anyone who is subject to the Sherman antitrust law. It should have the authority to rule certain practices fair and not in violation of the Sherman law, subject to the authority of the Attorney General of the United States.

"Insistence on annual reports from corporations is not businesslike or economical; neither is the regulation of account and record systems.

"Sufficient knowledge of violations of the law may be obtained if aggrieved persons have the right to file complaints on which investigation must be made by the commission."

VIEWS OF OTHERS.

While many favored that code of principles, others from which answers were received indicated more satisfaction in the proposals of the Chamber of Commerce of the United States of America, which are, in substance:

"Create an interstate trade commission of five members appointed by the President. Give the commission administrative powers over trade and business matters similar to those exercised by the railroad commission and consolidate with it the Bureau of Corporations.

"Abandon the Clayton bill, or at least that part of it which would exempt labor and agricultural organizations from the operation of the bill and which would limit or restrict the right of injunction in connection with labor matters."

GREAT VARIETY OF OPINIONS.

Summary of resolutions accompanying vote on referendum of Chamber of Commerce of the United States upon legislation for creation of interstate-trade commission.

(Quoted from Bulletin No. 102, June 5, 1914, announcing the vote.)

(a) The San Francisco Chamber of Commerce approved a recommendation of the Chicago Association of Commerce that the Attorney General should begin suit under antitrust laws only upon request of the interstate-trade commission after it has made investigation.

(b) The Denver Chamber of Commerce voted in favor of recommendation 4 only if modified to prevent the commission from requiring annual reports from such classes of corporations as it might determine if these corporations have capital resources of less than $5,000,000 or income less than $2,500,000. In voting on recommendation 7 the Denver chamber expressed an opinion that the Sherman Act should not be changed in any particular.

(c) The New Haven Chamber of Commerce adopted a resolution "that in view of present industrial conditions it is not wise to supplement existing legislation of this character."

(d) The Washington Board of Trade in declining to vote on recommendation 3 adopted resolutions to the effect that before beginning any suit under the antitrust laws the Attorney General should submit the facts to the interstate-trade commission and obtain its approval for the initiation of proceedings.

(e) The Alton Board of Trade qualified its vote on recommendation 1 by favoring on the commission two members of high standing in commercial life, two members of high standing in financial life, and one lawyer of broad experience in corporation affairs; on recommendation 2 by favoring extension of jurisdiction of the commission to partnerships and individuals; and on recommendation 6 by opposing publicity of findings in individual cases.

(f) The American Manufacturers' Association of Products from Corn in casting their ballot opposed any further legislation.

(g) The Chicago Association of Commerce in voting in opposition to recommendation 2 explained that in its opinion jurisdiction should extend to persons as well as corporations, thus being coextensive with the Sherman Act. In voting in opposition to recommendation 4 it stated that annual reports are not an efficient means of obtaining information and should not be required of any corporations. Independently of the referendum the association of commerce adopted a draft of a bill which has been sent by the association of commerce to all Members of this Chamber.

(h) The Freeport Chamber of Commerce in voting in favor of recommendation 7 opposed any radical change in the Sherman Act as is applies to domestic trade.

(i) The Rockford Chamber of Commerce in connection with its vote on recommendation 7 stated it favors "further regulated cooperation in domestic trade for the purpose of reducing the cost of distribution."

(j) The Indianapolis Chamber of Commerce cast no definite vote on recommendation 1, but stated that if Congress decides at once to enact a law it prefers the Covington bill with section 9 modified by elimination of power in the commission to bring new classes of corporations within the requirement of annual reports; and Indianapolis chamber believes the powers of the commission should be definitely fixed.

(k) The Indianapolis Board of Trade, in voting against the recommendations of the committee, stated that in its opinion full and timely investigation and submission of the questions to the business interests of the country should precede any legislation for an interstate trade commission, and that "business interests are suffering more at this time by threatened legislation than by a need of further legislation."

(l) The New Orleans Association of Commerce, referring to recommendation 1, recommended that in the interest of accuracy of designation the title of the Interstate Commerce Commission should be changed to Interstate Traffic Commission, since "commerce" is so generic a term as to include both traffic and trade. In connection with recommendation 3 the New Orleans association recommended that the commission have power to give advice upon condition that the applicant for advice, in order to prevent frivolous applications, bear part or all of the expense of investigation; also that if the commission reached a finding of fact favorable to applicant, the legal questions should be placed before the Attorney General, and the applicant advised if his opinion were favorable, and that if the findings of the commission or the rulings of the Attorney General were later reversed, the cost of any subsequent contest in the courts should be borne by the United States and criminal penalties should not be imposed. If the findings of the commission or the rulings of the Attorney General were unfavorable, the New Orleans association would have the applicant notified, and would provide that in case he nevertheless proceeded and was subsequently involved in litigation he should bear the costs and other burdens.

(m) The Boston Chamber of Commerce in casting its votes passed resolutions to the effect (1) that the country needs a rest from new legislation affecting business and an opportunity to adjust itself to new conditions created by recent legislation such as the income tax, the tariff, and the currency law; (2) because of lack of time for adequate deliberation there should at this session of Congress be no legislation in the matter of so-called trust regulation or any general legislation contemplating changes or additions in the present restrictions on interstate or foreign trade; and (3) the whole subject should be postponed until the next session of Congress, and meanwhile the committees of Congress should invite cooperation from business men in framing needful legislation.

(n) The Massachusetts State Board of Trade qualified its vote on recommendation 1 to the effect that the majority of the members of the commission should be business men.

(o) The New England Shoe and Leather Association passed a resolution expressing approval of an interstate trade commission, but opposing the pending bill because there has not been adequate study, and because before such a bill is enacted the general business interests of the country should be invited to express their opinions.

(p) The National Machine Tool Builders' Association submitted a resolution in which, because of opposition to the bill for a trade commission stated it meant to refrain from voting except to the extent of protesting against enactment of the pending bill.

(q) The Bayonne Chamber of Commerce in voting against all the recommendations stated that in its opinion the pending bill is needlessly inquisitorial, permitting the Government to delve into lawful business methods and practices of private concerns and publish them to the world, thus making disclosures to competitors.

(r) The Passaic Board of Trade wishes at least as many members on the interstate trade commission as there are on the Interstate Commerce Commission—seven.

(s) The Manufacturers and Business Men's Association of New York, in transmitting its ballot, stated that it believed the pending bill should be withdrawn as the prospect of antitrust legislation will cause a continuance of poor business conditions, and there should be an

opportunity for recovery from disturbed conditions, which have followed enactment of the new tariff, the income tax, and the currency law, and the Mexican situation.

(t) The Buffalo Chamber of Commerce in casting its ballot filed resolutions to the effect that existing law, properly and efficiently administered, is adequate for the proper regulation of business.

(u) The Merchants' Association of New York, as part of its vote, filed a statement that although not opposed to the principle of a trade commission it deplores the effort to "rush" legislation of this kind which involves a new and untried experiment; that if, after sufficient time had been given to discussion and deliberation, a trade commission were created it should not have principally regulatory and repressive functions, but should be designed primarily to promote and foster legitimate business of every kind, and especially to assist American industry and commerce when in competition with industries of other nations in the neutral markets of the world.

(v) The National Paint, Oil, ad Varnish Association adopted resolution asking that "congressional action upon an interstate trade commission be deferred until such time as a clearer understanding exists with regard to the causes and effects upon and in the commercial and industrial welfare of our country."

(w) The National Wholesale Lumber Dealers' Association opposed legislation at this session of Congress, for the reason that industries should first have opportunity to adjust their affairs to the new tariff and currency legislation, and registered its votes only in the event a bill for a trade commission is at once to be enacted.

(x) The Natural Ice Association of America opposed recommendation V, but also opposed "any requirement for the reporting of names of customers."

(y) The Winston-Salem Board of Trade, in voting on recommendation III, recommended that orders and consents of the commission be prima facie evidence of lawfulness until changed by the commission or reversed by the courts.

(z) The Cincinnati Chamber of Commerce and Merchants' Exchange favors extending the jurisdiction of the commission expressly to individuals and partnerships.

(aa) The Hamilton Chamber of Commerce (Ohio), with reference to recommendations IV and V, passed a resolution to the effect that reports and information should be required only from corporations against which there is suspicion of violation of law or charges have been filed.

(bb) The Tile Manufacturers' Credit Association believes the commission should have powers to permit business to expand through cooperative efforts, to the profit of all without injury to the consumer, and, with reference to recommendation VII, it does not see a reason why a special study should be made of foreign trade rather than of domestic trade.

(cc) The Erie Chamber of Commerce passed a resolution recommending that Congress defer further action on legislation relating to business and manufacturing interests. The favorable votes of the Erie Chamber are conditioned on the creation of a commission, to which it is opposed

(dd) The Philadelphia Board of Trade adopted a memorial opposing the creation of a trade commission on the ground that a body which would generally oversee the details of business life has no place in the machinery of our Government, and asserting that practices opposed by sound moral judgment of the community, such as rebates, attempts to acquire absolute control of particular industries, etc., have been the subject of adequate legislative prohibition, and that the existing machinery for enforcing the law, when once put in motion, is efficient. The board of trade indicated its opinion that supervision of public-service corporations by commissions is as yet experimental, and that the commissions have not demonstrated their right to a permanent place among our institutions.

(ee) The American Face Brick Association, Pittsburgh, opposes further antitrust legislation until a time when "both Congress and the business people understand more fully the objects and effects such legislation would have on business in general."

(ff) The American Warehousemen's Association made its votes apply only to H. R. 14531 (the Covington bill), requiring that if this bill is superseded by another measure the vote of the association is to be recorded as against any legislation at this session of Congress.

(gg) The Pittsburgh Chamber of Commerce wishes legislation concerning a trade commission postponed until another session of Congress, believing that legislation concerning the tariff and concerning banking and currency has given business men many problems of readjustment which should be solved before a study of additional legislation affecting business is begun. If a bill is to be passed, however, the Pittsburgh Chamber records its votes as indicated above in connection with recommendation I, urging that the members of the commission have active, practical business knowledge and experience, and in connection with recommendation IV voting upon condition that an annual income of $2,500,000 should not be used as a test for corporations which are to make annual reports.

(hh) The Reading (Pa.) Chamber of Commerce would not favor a trade commission with powers exceeding those outlined in the Covington bill, and believes that "any person" disclosing information obtained by the commission should be punished. In Recommendation IV the Reading Chamber would not use an income of $2,500,000 as a test.

(ii) The Seattle Chamber of Commerce believes that legislation in this session of Congress should be confined to enactment of a bill for a trade commission.

(jj) The Merchants and Manufacturers' Association, Milwaukee, with regard to Recommendation IV, would require annual reports from all corporations having capital reources of $500,000.

(kk) The Wisconsin Manufacturers' Association, with regard to Recommendation IV, would require annual reports from all corporations having capital resources of $500,000.

(ll) The American Chamber of Commerce, in Paris, believes that the law should expressly require a majority of the commission to be business men of recognized experience, reputation, and authority.

ORGANIZATIONS NOT FILING BALLOTS, BUT REGISTERING OPINIONS.

The Clinton (Iowa) Commercial Club did not vote, but adopted resolutions to the effect that legislation should be postponed until the next session of Congress, in order that there may be opportunity for study.

The Louisville Board of Trade declined to vote, and stated that it has no faith in the conduct of commercial and business affairs by commission government, and that the Sherman Act is practically a sufficient guide to business interests.

The Framingham (Mass.) Board of Trade did not vote, but unanimously opposed the pending bill, declaring that there has not been sufficient time for study and that there should be a cessation of legislation affecting business.

The Grand Rapids Association of Commerce cast no vote, but adopted resolutions recommending that no action be taken by Congress on pending legislation, but that the Chamber of Commerce of the United States of America should appoint a commission of business inquiry and constructive legislation for the purpose of considering all legislative proposals with respect to interstate business, with a view to formulating the business sentiment of the country.

The National Automobile Chamber of Commerce did not vote, but adopted resolutions opposing an interstate trade commission as now proposed, because it fails to afford something more than a menace to legal process.

The Rochester Chamber of Commerce refrained from voting and adopted resolutions opposing the trade commission bill as unnecessary, harassing, and harmful to legitimate business.

The Watertown Chamber of Commerce, New York, did not vote, but protested against the passage of the pending bill.

The Cleveland Chamber of Commerce did not vote, but opposed the passage of any bill at this session of Congress, for the reason that the country has not had time for mature deliberation necessary to frame a measure which will constructively advance business interests both in domestic and foreign trade and yet provide for proper regulation.

The Providence Chamber of Commerce, Rhode Island, did not vote, but adopted resolutions protesting against the enactment of the pending bill until there has been ample time for consideration and discussion of the new proposals by all the people of the country, with a provision for obtaining testimony from business men and business organizations whose activities prevent their appearing at Washington to express their views. The Providence chamber wishes legislation postponed until a later session of Congress.

Mr. WEEKS. In editorials and otherwise attempts are made to compare the determining of unfair competition, as proposed in the trade commission bill, with fair and reasonable railroad rates approved by the Interstate Commerce Commission. It is undoubtedly true that there may be some basis for a comparison; but the question of making fair and reasonable railroad rates reduces itself to an examination of the requirements and the determination of a rate for a railroad which serves a very large territory, and which is final in that section until conditions change. That is a simple proposition, because it relates to a single affirmative action; but it is entirely different from unfair competition, which must be determined as a result of an investigation undertaken in the case of every corporation engaged in active trade.

If one decision relating to unfair competition could apply to all business concerns in the same trade, the difficulty would not be great; but everyone who has been in any way connected with active business must know that the methods employed in getting business are multitudinous, and that a settlement of the question of what is unfair competition in the case of one corporation would not apply to the settlement of complaints against other corporations in the same or similar trade. In other words, one firm in the city of Washington might be proceeded against 100 times for unfair competition, and yet none of these decisions could be used as a precedent in a complaint against an adjoining business in the same trade So that in determining a question of competition for a whole section by one decision, as would be done in the case of rates, the one decision would be applicable only to the individual case involved, and would not in any way point out to the business concerns involved or to others engaged in active business what they might do in other instances or what might be done in some other section of the country by a concern engaged in the same business.

That being the case, it is easily seen that there must be involved enormous expenditures in order to carry out the purposes of this commission. I want to submit some views on the subject of the cost of the commission. Of course, they are not final in any respect. They are based on supposition, but they may hold out to the minds of Senators some indication of what we are going to involve ourselves in if we try to regulate all of the 305,000 corporations in this country which would come under the terms of the pending legislation.

The only practical comparison that we can make is with the cost of maintaining the Interstate Commerce Commission, which is doing a similar work. This cost in the year ending June 30, 1913, according to the report of the Interstate Commerce Commission, page 87, was $1,853,259.03. The total number of companies which reported to the Interstate Commerce Commission in the year 1913 was somewhat less than 2,200. The average expense of the Interstate Commerce Commission, therefore, for supervising each corporation, not including any of the expense of physical valuation, to which I shall refer later on, amounted to over $8.423, as appears in the annual report of the Interstate Commerce Commission.

The total number of corporations in the United States in the year 1913 was 305,336. I get those figures from the report of the Commissioner of Internal Revenue, pages 101 and 102. This included 141,889 corporations classified as commercial and financial corporations, steamboat, ferryboat, and stage lines, pipe lines, gas, electric light, transportation, storage, telegraph, telephone, and miscellaneous companies. Doubtless these 141,889 corporations included many that do an interstate business or that, for one reason or another, would come under a Federal

trade commission. Assuming, however, that none of them do, and that the only corporations coming under the Federal trade commission would be the 163,447 industrial and mercantile corporations remaining after making this arbitrary and excessive deduction, and assuming that the Federal trade commission would work as economically as the Interstate Commerce Commission, the annual cost of the proposed Federal trade commission would be the enormous total of $1,376,714,081.

Mr. THOMAS. For one year?

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Iowa?

Mr. WEEKS. In one moment. I want to explain to the Senator from Colorado that if as much money were expended in supervising each of the corporations that would come under the provisions of this act as was spent by the Interstate Commerce Commission last year in supervising the corporations that that commission supervised, amounting to something like $8,400 for each corporation, it would cost for one year the enormous figure which I have just read.

I now yield to the Senator from Iowa.

Mr. CUMMINS. Mr. President, there is a difference between the present bill and the interstate-commerce act in a respect just noted by the Senator from Massachusetts which he possibly may have overlooked. The law requires all the corporations which are within the interstate-commerce act—namely, common carriers—to make reports. This proposed law does not require all corporations engaged in commerce, other than common carriers, to make reports.

Mr. WEEKS. May I interrupt the Senator? There is nothing to prevent the commission calling on all these corporations for reports.

Mr. CUMMINS. There is nothing.

Mr. WEEKS. Not only annual reports, but reports at any time the commission sees fit.

Mr. CUMMINS. There is nothing; but it is unfair, I think, to presume that the trade commission will call upon the great mass of the corporations throughout the country to make these reports. It was found impossible to limit the jurisdiction of the commission unless it were limited by the amount of capital which might be employed by the several corporations or by the amount of business which they might do; and therefore the jurisdiction was made general. I venture to say, however, that the trade commission would not find it necessary or helpful to call for reports from all these corporations, any more than the Bureau of Corporations has found it necessary to require all such reports or to investigate all corporations that might be engaged in commerce. I think we ought to assume that the trade commission is to be composed of practical, sane men, and that it would call for reports only from those corporations concerning which it had some reason to believe that the information they furnished would be of value in the performance of its duties.

I must think, therefore, that the apprehensions of the Senator from Massachusetts with regard to the vast cost of maintaining the commission will not be realized.

Mr. WEEKS. Mr. President, I have no idea that anyone would countenance any such enormous expense as I have suggested might be possible under the provisions of this bill; and I agree with the Senator from Iowa that undoubtedly the reports called for and the action taken by the commission will be very much less than the maximum which would entail any such expense as this. I am submitting these figures, however, because I want to show the possibilities of expense; and I am going, directly, to point out the way we are drifting in this country into not only enormous expenditures for governmental purposes, but the employment of great numbers of men, so that, if we do not have a care, one of these days we are going to have every citizen who is trying to earn a living carrying a Government employee on his back.

Mr. COLT. Mr. President, the Senator from Iowa has made a very long and exhaustive study of this subject, and I should like to ask him if he finds that a trade commission of this character has been established in any other country?

Mr. CUMMINS. I think not just such a trade commission as this. Of course, the Senator from Rhode Island knows that England has a council which probably has wider jurisdiction over its industries than it is proposed to give to this commission over ours.

Mr. COLT. While the whole subject of a trade commission is of a novel character, I must confess that I can not quite see the parallel which has been referred to by the Senator from Nevada [Mr. NEWLANDS] between the Interstate Commerce Commission and this proposed trade commission. It seems to me that they are entirely dissimilar, for this reason:

The Interstate Commerce Commission is founded upon the law which governs highways. The public have always had an interest in highways at common law, and with respect to such highways it has always been the rule that the public should be treated with absolute equality, and that if tolls are charged they should be reasonable. Fundamentally, the Interstate Commerce Commission is merely engaged in regulating public or quasi-public corporations which relate to public highways in the broadest sense. In the regulation of these corporations we find two clearly defined purposes, namely, equality of treatment and reasonable rates. Further, if it should be necessary for the Interstate Commerce Commission to regulate the issuing of securities upon the theory that the issuing of those securities had been abused, and had therefore led to unreasonable rates, this would be fairly within the legitimate powers of governmental regulation.

But a commission to regulate trade concerns an entirely different subject matter. There is no such rule of equality here. Trade, as we all know, is made up of an infinite variety of details and practices which are beyond the power of comprehension. There is no man living who can draw a statute regulating the details of trade.

Therefore I can not see the parallel between the Interstate Commerce Commission regulating railroad corporations and a trade commission regulating the vast business concerns of the country.

Mr. CUMMINS. Mr. President, I am inclined to agree with the Senator from Rhode Island that the parallel between the Interstate Commerce Commission and the trade commission is not close. I agree that the regulation which we have given to the Interstate Commerce Commission to enforce is not the same kind of regulation that we propose to confer upon the trade commission. The Senator from Rhode Island must remember, however, that we have given to the Interstate Commerce Commission many powers and the enforcement of many provisions of law which have no direct connection with either the rates that are to be charged by common carriers or the equality which they must observe as between their patrons.

I shall not enumerate these various provisions. They are well known to the Senator from Rhode Island. The fact, however, that I do not find so close a parallel between the Interstate Commerce Commission and the proposed trade commission as my friend from Nevada finds does not in any wise affect my conclusions in regard to the wisdom of establishing the trade commission.

We ought to keep our minds firmly, as it seems to me, on just one proposition. We propose to regulate the private commerce of the country as distinguished from the public commerce. I shall not undertake at this moment to enter upon the inquiry as to what regulation is wise; but, assuming that we are ready to prescribe some further regulation of commerce, we are next met with the duty of enforcing that regulation; and the enforcement of the regulation ought to be entirely disassociated in our minds, as it seems to me, from the regulation itself, in order that we may view both with impartiality and clearness.

For instance, we prescribe certain things with regard to our postal department. We enumerate certain things that may be transported from place to place in the mails. Those provisions would be of no value if we did not give to somebody the authority to enforce them; and so we give that authority in some measure to the Postmaster General. The authority we give to the Postmaster General with regard to the mails is, I think, vastly greater than that which we propose here to give to the commission for the enforcement of whatever regulation we may impose upon commerce.

Mr. COLT. But, Mr. President——

Mr. CUMMINS. Just a moment. Again, we pass a law that prescribes the conditions upon which immigrants shall be received into the United States. Those provisions are uncertain; they are vague; they are susceptible of application in different ways by different men. But we must have somebody to enforce them; therefore we give the enforcement of the law to the Commissioner of Immigration in the first instance, and after him to the Secretary of the Department of Labor.

Just so here. I am assuming now—I do not intend to argue it at this time—that the phrase "unfair competition" is sufficiently certain to become a part of the law of the land. Somebody must apply that phrase to actual affairs. Somebody must attempt to see that the will of Congress is carried into execution. All that the commission is established for, in so far as that section is concerned, is simply to enforce that law in the

same general way that every other administrative officer we create is directed to carry the law into effect.

There is, in my opinion, this important difference between the trade commission that we are here establishing and the Interstate Commerce Commission. The Interstate Commerce Commission, in fixing rates, is a supplement to the Congress, because it is a legislative function to fix rates for public transportation, and therefore the Interstate Commerce Commission is a legislative-administrative tribunal combined. The trade commission that we here propose to establish is purely an executive or administrative tribunal. It exercises no legislative functions whatever. I have looked upon it simply as an arm of the Government to help carry into effect the rule which we announce as the one that ought to control and govern the industry of the country.

Mr. COLT. Let me ask the Senator if he has thought of the matter in this light: When you are speaking of the Interstate Commerce Commission or the regulations of the Post Office Department, you are dealing with questions of public law. When you come to the trade commission, you are dealing strictly with questions of private law, questions of the right of contract, of property rights; questions which, under our system of law, never have been, except in the broadest sense, subject to governmental regulation. Under our system of laws the right of contract and the right to acquire property are matters of private law which have always been left to the individual with little or no governmental regulation.

I am not objecting to the constitutional phase of this bill, because I know that statutes are not held unconstitutional unless that fact clearly appears; but I am objecting to the policy of the Government which is embodied in this bill because it is a new departure, because it is something unknown in the history of the Anglo-Saxon people, unless you go back to Queen Elizabeth's time and to the statute of laborers and the sumptuary laws of that period. Under this proposed law the Government of the United States is entering the domain of private law and is creating a commission to regulate business in all its details. While I know that great changes have taken place in the methods of trade and commerce and that these changes have been accompanied by certain evil practices, it is also true that we have now on the statute books a great law for the correction of these evils, and under these conditions I can see no necessity for this bill.

It amazes me to think that the Federal Government is proposing to establish a commission with powers to invade the rights of private property and of contract and to regulate them in all their details.

Mr. CUMMINS. Mr. President, I am sure the Senator from Rhode Island will give to this subject, as to every other, careful and impartial study. There is a sense in which it is a new departure. Our constitutional authority is complete. When our forefathers said that "Congress shall have the power to regulate commerce among the States," they subjected the interchange of commodities between the people of the States to exactly the same rules, as far as authority is concerned, that they imposed upon the actual movement of these commodities through the instrumentality of a common carrier.

As the world has gone on it has become increasingly apparent that organized society must do something to protect itself against moral wrongs or, if not moral wrongs, to protect itself against the effects of selfishness if left undisturbed and unrestrained. Therefore we have proceeded, under our authority to regulate commerce among the States, to enact a pure-food law—an enactment which 50 years ago would have shocked every citizen of the Republic. If it had been suggested 50 years ago that the United States should endeavor to determine how all our food should be marked, what the labels should contain, what safeguards should be thrown around these articles in order to protect the public, I fancy the suggestion would have met the same fear and apprehension that many people now honestly feel when we propose to take this further step. I might instance a great many other powers which the Government has found it necessary to exercise which formerly, by common consent, were left in abeyance.

Mr. WEEKS. I do not wish to cut off the Senator from Iowa, but I want to call his attention to the fact that when the pure-food act was passed conditions had been reached which were ideal to result in legislation, because there was a unanimous sentiment that the time had come when such legislation should be passed. There was no division of sentiment as there is over this question. It had been discussed in Congress for many years in one form or another, and when the act which is now in the statute books was passed it was the unanimous action of Congress and it had public sentiment unanimously behind it.

Mr. CUMMINS. I was not in Congress when it was passed, but I have been a member of the Committee on Manufactures since I entered the Senate, and there have been many proposals there for the modification or enlargement of provisions of the pure-food law that have not met with universal approval. I think there is the same difference of opinion about that subject that there is about this.

The Senator from Massachusetts is quite right in one respect and altogether wrong in another. I think he is right in saying that the people of this country have not crystallized their opinions with regard to the remedy, with regard to just the thing that should be done, the law that should be passed. But they have long ago reached a conclusion—and I think it is practically a unanimous opinion—that we must do something to preserve free, fair competition in the business life of the United States; that we must do something to preserve the independence of the man as distinguished from the power of the corporation; that we must do something to perpetuate the individual initiative.

We often go wrong, I believe, in assuming that beeause a great corporation, a vast aggregation of wealth, can produce a given commodity more cheaply than can a smaller concern, therefore it is for the welfare and the interest of the people of the country that the commodity shall be produced at the lower cost. I do not accept that article of economic faith. I think we can purchase cheapness at altogether too high a price, if it involves the surrender of the individual, the subjugation of a great mass of people to a single master mind. I think in that respect there is no difference in the sentiment of the intelligent thinking men and women of the United States, and we are warranted by that sentiment in attempting to accomplish more than has been accomplished in this direction. Whether the particular measures that are before the Senate at this time are a fair expression of public opinion I do not pretend to say. I do not agree with the Senator altogether in that respect; but it may be that further reflection, further study, further investigation by the great mass of the people, would be productive of good results. I am not arguing that proposition.

Mr. WEEKS. Mr. President, I wish to continue the discussion in which I was engaged relating to the cost, or the possible cost, of carrying on the activities connected with this commission. I have shown that if the same expense were incurred in the 163,447 corporations which may come under the jurisdiction of the commission, which certainly come under its jurisdiction, at the same individual cost that is incurred by the Interstate Commerce Commission, it would cost $1,376,714 a year. Obviously it is impossible to conceive that Congress would make an appropriation of any such amount even if it were desirable that it be expended; and it can not be assumed either that this trade commission is going to perform all its functions immediately as cheaply as does the Interstate Commerce Commission. But there are vast differences in the activities in which this commission will be called upon to engage.

The Federal trade commission would have to supervise corporations engaged in every line of business; mining, lumber, and coke companies; rolling mills; foundry and machine shops; sawmills, flour, woolen, cotton, and other mills; manufacturers of cars, automobiles, elevators, agricultural implements, and all articles manufactured from metal, wood, and other material; manufacturers and refiners of sugar, molasses, sirup, and other products; ice and refrigerating companies; slaughterhouses; tannery, packing, and canning companies; dealers in coal, lumber, grain, produce, and all kinds of goods, wares, and merchandise; and in general every kind of financial, commercial, industrial, manufacturing, and mercantile corporation engaging in any business whatsoever across State lines.

I could go on indefinitely by instancing the kind of industries with which this commission will have to engage its activites.

It would include every conceivable kind of property, tangible and intangible. Only a small fraction of it would relate to any single industry; little of it would be homogeneous in character; by far the greater part of it would lie outside the experience of the most widely experienced appraiser.

If seven men, composing the Interstate Commerce Commission, with all the clerical, engineering, and legal assistance at their disposal, have to spend annually $1,853,269.03 in order to supervise 2,200 corporations that conduct a single industry and own comparatively homogeneous property, how much time and money would five men composing the Federal trade commission have to spend in order to supervise 163,447 corporations of miscellaneous and heterogeneous character relating to every kind of business under the sun?

Mr. SHIELDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Tennessee?

Mr. WEEKS. Yes.

Mr. SHIELDS. I ask the Senator from Massachusetts, does he understand the bill to be confined in its operations entirely to corporations?

Mr. WEEKS. That is my understanding.

Mr. SHIELDS. I call his attention to the definition of corporations, on page 13, as used in the bill:

The term "corporation" or "corporations" shall include joint-stock associations and all other associations having shares of capital or capital stock organized to carry on business for profit.

It is not uncommon for partnerships to divide their capital into so many shares. A corporation, from the time where the memory of man runneth not to the contrary, I may say, in English law is well known. It is an artificial person created with franchises by the grant of the governing power of the country. It is a term as well known and defined as is possible in the common law of the country. A mere corporation would mean an artificial person with power and franchises granted by the government of its domicile. Under this language all joint-stock associations and all organizations in partnership formed to carry on business for profit would be covered, and instead of 163,000 the number would be half a million partnerships and corporations under the dominion of these five men.

Mr. HOLLIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from New Hampshire?

Mr. WEEKS. I yield.

Mr. HOLLIS. If I may explain that, it has grown to be the custom in New England, particularly for manufacturing corporations, to turn their property over to trustees, to be managed as joint-stock associations. They are not in form corporations, but they carry on their work just as if they were. The great express companies are joint-stock associations, and while they would not come under this act, there are many manufacturing concerns, formerly corporations, that would. I think that was the reason for including joint-stock associations.

Mr. SHIELDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield further to the Senator from Tennessee?

Mr. WEEKS. I yield.

Mr. SHIELDS. Doubtless that is the reason, but it will not change the fact. Under this language the courts can not but construe it to apply to partnerships, and thus there will be no limit to the business interests of the country which will be subjected to the inquisition of this law and the embarrassment that is required in making reports of their business at any time, and certainly annually, by the provisions of the bill.

Mr. WEEKS. The suggestion made by the Senator from Tennessee would simply aggravate the conditions which I have tried to outline. I am limiting my discussion to joint-stock corporations.

Mr. NEWLANDS. I wish to ask the Senator from Tennessee whether he would regard every partnership as a joint-stock association?

Mr. SHIELDS. Practically I would, under the definition given here, because when you leave a corporation and its well-known definition there is no limit. They are all left in uncertainty to the construction of the various courts that may be called upon to adjudicate the question.

Mr. HOLLIS. But I think the Senator from Tennessee must realize that there are very few partnerships having shares of capital or capital stock. They are almost unknown. It is only when they have shares of capital stock that they become joint-stock associations, and would come under the bill.

Mr. SHIELDS. On the contrary, I never knew a partnership that did not have capital. Whether it was paid in the form of shares of stock or not it would not do business long without capital.

Mr. HOLLIS. But this does not say "capital"; it says "associations having shares of capital or capital stock." That is the exact definition.

Mr. WEEKS. Mr. President, I was about to add that the administration tells us that the Interstate Commerce Commission does not now adequately supervise the 2,200 corporations under its jurisdiction, and that the Interstate Commerce Commission ought to have greater powers and duties, calling, of course, for greater expense, in order adequately to do its work. So that the enormous annual expense of $1,376,714,081 would actually be inadequate for really efficient supervision.

No commission, of course, will ever be given this stupendous annual appropriation. From the experience of the Interstate Commerce Commission, however, it is plain that a Federal trade commission, with much less than this stupendous sum, can not really be effective. Presumably, the administration wants none but an effective commission. For that reason—the cost of a truly effective Federal trade commission—is this the only proper sum to be considered, even though it reaches the tremendous annual cost of $1,376,714,081? If it supervised business corporations thoroughly, as the Administration thinks the Interstate Commerce Commission ought to supervise railroads, it would go several times beyond this tremendous figure.

Mr. THOMAS. Has the Senator made any estimate of the number of employees or approximately the number of employees that will be necessary?

Mr. WEEKS. I am basing all my estimates on the expenditures made by the Interstate Commerce Commission.

To supervise corporations engaged in such miscellaneous and heterogeneous lines of industry as these would necessarily cost more than to supervise corporations of equal size engaged in a single line of business.

For purposes of obtaining, however, the lowest possible estimate of the annual cost of a Federal trade commission, let us arbitrarily assume that the cost of supervising corporations engaged in all these miscellaneous and heterogeneous lines of industry would cost no more than the supervision of corporations engaged in a single line of industry; and let us arbitrarily assume that the Federal trade commission, immediately upon its creation, would do its work as well and as economically as does the Interstate Commerce Commission after 27 years of experience; and, finally, in the effort to reach the lowest possible estimate, let us make the very violent assumption that the annual cost of supervising all these miscellaneous and heterogeneous corporations would not exceed the annual cost of supervision by the Interstate Commerce Commission of railroad corporations of an equal amount of capitalization.

While these assumptions obviously would permit of only the most ineffective kind of a Federal trade commission, they serve to show the lowest possible annual cost of any such commission.

The aggregate amount of capital stock of all the corporations in the United States in the year 1913 amounted to $61,738,227,730.54. (Report of Commissioner of Internal Revenue, 1913, pp. 101–102.)

This included 141,889 corporations, having an aggregate capital stock of $31,109,036,904.80, classified as commercial and financial corporations and steamboat, ferryboat, stage-line, pipeline, gas, electric light, transportation, storage, telegraph, telephone, and miscellaneous companies. Doubtless these 141,889 corporations included many that do an interstate business or that, for one reason or another, would come under a Federal trade commission. But assuming, for purposes of keeping the estimate as low as possible, that none of them do, and that the only corporations coming under the Federal trade commission would be the 163,447 industrial mercantile corporations remaining after making this arbitrary and excessive deduction, the aggregate capital stock of these 163,447 industrial and mercantile corporations is found to amount to the enormous total of $30,629,190,825.74. (Report of Commissioner of Internal Revenue, 1913, pp. 91–102.)

The aggregate capital stock of railroads which reported to the Interstate Commerce Commission in the year 1913 was $8,610,611,327. (Abstract of Statistics of Steam Railways for the year ending June 30, 1913, issued by the Interstate Commerce Commission July 9, 1914.)

The cost of supervision by the Interstate Commerce Commission of these railroads in the year ending June 30, 1913, was $1,853,269.03. (Report of Interstate Commerce Commission, 1913, p. 87.)

Invoking, for the purposes of obtaining the lowest possible estimate, all the assumptions above mentioned, and upon the basis that the annual cost of a Federal trade commission will bear the same relation to the annual cost of the Interstate Commerce Commission that the aggregate capital stock of the corporations to be supervised by the Federal trade commission bears to the aggregate capital stock of the railroads supervised by the Interstate Commerce Commission, it is found that the annual cost of the proposed Federal trade commission will be over three and fifty-five hundredths times the annual cost of the Interstate Commerce Commission, namely, the enormous sum of $8,179,105.

All this enormous annual expense of $8,179,105 would be simply the lowest possible estimate of a concededly ineffective Federal trade commission. For, as has been above explained, the cost of a commission truly effective, according to the standards expressed by the administration itself, would be immensely more than this.

All the estimates above mentioned, however, fail to include the expense of performing any of the additional functions which the amendments proposed by Senator CUMMINS and by other Senators would lay upon the Federal trade commission.

Consider, for example, the expense involved in the proposal that whenever any corporation engaged in interstate commerce proposes to issue any stock in payment of property or services the Federal trade commission shall investigate the actual value of the property or services and shall certify the same to the corporation, and the corporation shall receive such property or services in payment for capital stock at no greater value than that fixed by the commission. In the year ending June 30, 1913, the aggregate capital stock of the corporations of the United States was increased by the sum of $1,671,088,805.12. (Report of Commissioner of Internal Revenue, 1913, p. 12.)

Assuming that on the average the capital stock for property and services, issued annually by corporations which would be subject to the Federal trade commission, would equal this sum of $1,671,088,805.12, which is an underestimate considering that last year was not a particularly active year, financially and commercially, and that the normal increase in aggregate capitalization of these corporations would probably be greater, what would it cost the Federal trade commission to investigate the actual value of the property or services for which such stock would be issued?

Here, again, the only basis for calculation is the Interstate Commerce Commission, which is engaged in the somewhat analogous task of making a physical valuation of the railroad properties subject to its jurisdiction.

Hon. C. A. Prouty, formerly a member of the Interstate Commerce Commission and now Director of the Division of Valuation in the commission, said in February, 1914 (The Nation's Business, Feb. 16, 1914, p. 39):

I told the Appropriations Committee of the House last July that from what I knew about the subject then I should not advise Congress to enter upon this undertaking unless it was ready to expend at least twelve millions, and another six months' reflection has not changed that opinion.

"The capitalization of our railroads at the present time," says Mr. Prouty, "aggregates nearly $20,000,000,000." All of this is railroad property; much of it is homogeneous in character; none of it is outside the experience of men trained in the single business of railroading. Yet the valuation of this property, Mr. Prouty assumes, will take over six years and cost at least $12,000,000.

The amount of stock issued annually by corporations subject to the Federal trade commission, as above estimated, would be over one and two-thirds billions of dollars.

This would be issued by corporations engaged in every line of business—mining, lumber, and coke companies; rolling mills, foundry and machine shops, sawmills, flour, woolen, cotton, and other mills; manufacturers of cars, automobiles, elevators, agricultural implements, and all articles manufactured from metal, wood, and other material; manufacturers and refiners of sugar, molasses, sirup, and other products; ice and refrigerating companies; slaughterhouses; tannery, packing, and canning companies; dealers in coal, lumber, grain, produce, and all kinds of goods, wares, and merchandise; and, in general, every kind of financial, commercial, industrial, manufacturing, and mercantile corporation engaging in any business whatsoever across State lines.

This would include every conceivable kind of property, tangible and intangible. Only a small fraction of it would relate to any single industry; little of it would be homogeneous in character; by far the greater part of it would lie outside the experience of the most wisely experienced appraiser.

Nevertheless, the five men composing the Federal trade commission would be required to "make investigation of the actual value of said property" before the corporations could issue any stock therefor.

If seven men, composing the Interstate Commerce Commission, with all the clerical, engineering, and legal assistance at their disposal, must spend over six years and at least $12,000,000 in appraising $20,000,000,000 of comparatively homogeneous property relating to a single industry, how much time and money would five men, composing the Federal trade commission, have to spend in appraising one and two-thirds billions of dollars of miscellaneous and heterogeneous character relating to every kind of business under the sun? Probably it would be more; anyone can guess what the amount would be, but it is a fair assumption that it would cost at least $5,000,000 a year to appraise that property and do it properly.

Mr. SMITH of Arizona. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Arizona?

Mr. WEEKS. Yes.

Mr. SMITH of Arizona. Does the Senator say it would require that?

Mr. WEEKS. I say there is an amendment pending which will require it.

Mr. SMITH of Arizona. The bill itself does not require it?

Mr. WEEKS. I think not, Mr. President.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Montana?

Mr. WEEKS. I yield.

Mr. WALSH. Does the Senator assume in every one of these instances that property is turned in in payment for stock?

Mr. WEEKS. That is what the bill requires, I understand.

Mr. WALSH. And that in no instance cash subscriptions are made?

Mr. WEEKS. I am not sure.

Mr. WALSH. I assume that the regulation which the bill authorizes applies to a case of stock issued for property. I assume likewise that by far the greater portion of the corporations to which the Senator referred have an actual cash capital which is obtained for the stock.

Mr. WEEKS. I think it is fair to say that the original estimate would have to be the estimate of the property, but in additional issues of capital I should say that, in many cases, it would include money paid in.

Mr. WALSH. As the Senator well knows, there are two general forms of organizing corporations. In one instance the subscribers are called upon to put up cash and with that cash property is bought. My understanding is that the bill does not pretend to superintend such a purchase of property. The other plan is to issue stock for property, usually turned in at a great overvaluation. I take it that the supervision contemplated by the bill is over the organization of corporations along that line.

Mr. WEEKS. That is the intention of this provision.

Mr. WALSH. But I take it that the aggregate capitalization of all the corporations which the Senator has now given us embraces that of corporations organized by both methods.

Mr. WEEKS. I do not want at this time to deny the correctness of that statement.

Mr. WALSH. Of course, the law generally contemplates the organization of corporations whose stock is issued for cash, not property.

Mr. WEEKS. Of course, the Senator from Montana understands that this whole discussion in which I am now engaging is hypothetical. I am trying to point out what the possibilities are in connection with the expense which will be incurred by carrying on the work of this commission.

Mr. WALSH. But it occurred to me, I will say to the Senator, that it would be more valuable to us if the figures given embraced only those corporations which were organized by taking property in payment for stock and not those whose stock was issued for cash.

Mr. WEEKS. I think I will let some other Member of the Senate make such further investigation along this line as he sees fit. I have no intention to be unfair in the statements I am making; I am only trying to point out that the expense will be very great, whatever it is.

Making no allowance for additional expense due to the heterogeneous character of the industries concerned and the property which would have to be appraised, basing the estimate simply upon the expense of appraising the relatively homogeneous property which is now being valued by the Interstate Commerce Commission, the expense of the Federal trade commission in investigating "the actual value" of the property for which stock would, in any single year, be issued by the corporations subject to its jurisdiction would increase the annual cost of the Federal trade commission by about $1,000,000. If due allowance were made for increase in cost, due to the heterogeneous and miscellaneous character of the industries concerned and the property appraised, this estimate would probably have to be doubled or trebled.

Now, Mr. President, I want to take up other phases of the bill.

While in section 3 of the proposed law the powers and duties of the Bureau of Corporations and the Commissioner of Corporations are transferred to the commission provided for in this bill, there is undoubtedly some doubt as to the possibilities of the authority as constituted now of requiring our industrial concerns to make annual reports, and section 9 of the present bill adds to the former powers of the Commissioner of Corporations by making it obligatory on corporations engaged in interstate commerce to make annual reports setting forth the essential facts connected with the organization, stockholders, financial condition, and general business conduct of those concerns. While there would probably be no objection to compelling the furnishing of information about organization and financial condition, and possibly the stockholders, if this information is not to be made public, there may still be serious concern if we are to require information about the general business conduct and

the manner of conducting business by the average business house. That is information which results from experience and development, taking on the elements of a trade-mark, and to provide that this must be reported and exposed to the public is little short of confiscation, for under its provisions many concerns will practically give to their commercial rivals the reasons which have enabled them to be successful while those who are doing a similar business may not have had the business acumen or the wisdom to adopt such progressive and advanced methods.

When we are legislating along lines which will affect those matters which are brought in direct competition with the activities of foreign nations we may well hesitate about handicapping our own institutions and thus preventing their competing successfully with their foreign rivals. Of the European nations, Germany has made in recent years the greatest strides in developing not only home but foreign trade, and we may well look over their methods in any action which they have consummated in recent years. It is worth knowing that there is nothing on the statute books of Germany which compares in any way with our antitrust law, and, indeed, they follow a directly contrary practice by bringing the Government itself not only into approval of combinations but frequently into cooperation with them.

Neither is there anything which will intimately compare with the trades commission bills which are now pending. Their laws do require that assets shall bear a constant relation to nominal capital, which would not be burdensome on any corporation, and they impose personal liability upon promoters and directors for losses which may be incurred as a result of untrue or misleading information, which would certainly be proper legislation for any nation to adopt, and they also punish efforts at destructive competition. Further than that the German Government has given free rein to the activities of its citizens and the German courts sustain agreements covering outputs, fixing prices, and similar activities.

One of the triumphs of the present administration has been the separation of the telegraph and telephone companies. To the layman it would seem that a combination of these two services was perfectly natural. In hundreds and thousands of cases the same operator could perform both services without any difficulty whatever, and therefore it would produce an economy which in the end would be beneficial to the user; but under our antitrust law power is given the National Government to proceed against such combinations, and the segregation has taken place. At the very time this divorce measure was culminating the Postmaster General in an annual report was urging the advantages of combining these two systems and having them managed by the Government in conjunction with the Postal Service. There is serious doubt in the minds of most people who have investigated this question about the advisability and the economy of Government operation. I personally have no doubt that the Postal Service could be conducted for very much less if under corporate control; but, leaving aside for the moment that consideration, could there be anything more inharmonious than for one department of the Government to be proceeding legally and properly, as the law now stands, against a combination which another department is not only in favor of but is making an argument for in an annual report to Congress?

The whole tendency of the trades-commission bill is toward regulated monopoly. The President is urging its passage, and the administration therefore is committed to this policy, and yet it is not at all in accord with his position before he assumed office, as I have pointed out earlier to-day.

The passage of this kind of a bill, instead of reassuring business, is going to add to the difficulties and uncertainties and will result in lessening activities in all business affairs. If it is desirable to pass such a bill at all—which I do not admit, because I do not see any public demand for it—it must be coupled with a desire that the law shall be absolutely explicit in its terms. There is not a man in the Senate who can give a definition in a hundred words of unfair competition which will cover 3 per cent of what the courts and the commission itself may find to be unfair competition; and, if there were no other reasons to urge against this bill, its indefiniteness and the possibility for harm which will come from it rather than the benefits to accrue would be sufficient to warrant if not impel every Senator to vote against it.

One of the inhibitions in section 2 of the pending bill relates to the fixing of prices. Undoubtedly there may be gross injustice done in occasional instances by a large and strong organization cutting prices so as to destroy the business of a competitor. If that kind of conduct is aimed at and there is not sufficient law now—I think there is—provision should be made to punish willful and destructive action of that character; but to make a general proposition applying to business concerns of such character would be, in my judgment, repressive in the extreme and would materially militate against real competition in business. In fact, discrimination in prices is essential to competition. A merchant is overstocked in some line of goods; he wishes to clear his shelves for the up-to-date product which the next season will demand. Unless he makes a very low price he can not accomplish this; in fact, there can be no difference in prices in the same locality without discrimination, and we all know that there is a difference in prices existing in the same towns. I have no doubt one can go to the general market in Washington and make purchases of any product disposed of there at a lower price than it can be purchased in some section where rents are higher and purchasers are supposed to be willing to pay higher prices. I had brought to my attention only recently the sale of a certain brand of butter sold by two different merchants in Washington, one located in the market district and the other in the northwest section of the city, in which the price charged at the market was 10 cents a pound less than that charged by the other merchant. It would be folly in its extremest form to attempt to regulate or prevent competition of this character.

Furthermore, competition in sections somewhat remote should not depend on the selling of goods by a similar concern at the same price. If a large corporation sells its product in Chicago at one price and in New York at a lower price for the purpose of controlling the market in New York and driving out competitors, that is an action which, if the facts are demonstrated, should be prevented by legal process; but to say that a merchant doing business in different sections of the United States should not sell in one locality cheaper than another would be to say that he could not recoup himself for differences in freight rates, for differences in rentals which he pays in different localities, for the difference in the price which labor commands in different sections, and for a multitude of other reasons which will occur to anyone familiar with trade which would make such action most embarrassing in the conduct of business.

If competition in prices and in methods is to be so carefully scrutinized, how is an individual to start a new business enterprise? He must get custom from some one. He may get it by having better selections of goods, by selling his goods at a lower price, by any one of hundreds of inducements familiar to trade; but if he is going to be proceeded against for unfair competition in many or any of these methods, it would be impossible to start new business enterprises, and therefore all competition would be destroyed by simply keeping in trade those who by a survival or waiting-out process had been able to maintain themselves during the course of their business lives.

Substantially all competition is not intended to injure or destroy; it is the life of trade, and a general proviso which will lay the business man open to the charge of unfair competition should not be considered.

It is provided that the commission shall have full power to examine books, documents, correspondence, contracts, memoranda, and all other papers relating to or in any way affecting the business in which the corporation is engaged; that it may make copies of these, and that it may give to the public such of this material as it considers desirable or necessary. I doubt if the courts have ever been given such sweeping authority to rifle correspondence and to examine personal papers with power to publish them as is conferred in this bill on the commission which is proposed.

We have established freedom of the press and freedom of speech. Freedom to do business along sane lines is quite as important to the welfare of the country, and yet we propose to repress and restrict this freedom to a degree which has never been considered by even the most autocratic of nations. It is not too much to say that the authority given the commission places in its hands the power to destroy any or every corporation subject to its jurisdiction. Every business enterprise gathers from time to time information and develops methods of efficiency and economy which are not known to its competitors. They are its trade secrets, and the manner in which they are developed and handled results in the success or failure of the business. To create a power to obtain these secrets and then to exploit them to the public is nothing short of legal despotism, and would be of every value to conscienceless competitors.

It may be fairly assumed, I suppose, that the employees of the commission will be honest and will maintain reasonable secrecy about the work in which they are engaged; yet the tremendous value of a trade secret to a rival, even if the commission did not see fit to publish it, would be such a temptation that it almost goes without saying that it would not be prevented from getting into the hands of others than those who have a right to it. While the bill provides a penalty for the

divulging of information it would not, in my opinion, be sufficient in many cases to prevent improper use being made of information obtained.

The commission has the power under this act to enjoin a corporation which is doing anything which it considers to constitute unfair competition; but what is unfair competition depends on the individual opinion of the five commissioners. Anyone familiar at all with business must know that no commission of five men can have any familiarity whatever with the methods of doing business as conducted by several hundred thousand corporations representing the varied industries of a great country. No man could in a lifetime make himself sufficiently familiar with the operations of a small percentage of these corporations to warrant his passing on the question of whether it was conducting its business fairly or unfairly.

Furthermore, if the commission is to restrain corporations from doing business unfairly, on information submitted to it, the very fact that the corporation is restrained would militate against its business temporarily and would enable its rival to take advantage of the temporary lull in its business to gather in such of its business as might be affected by such action; so that an injunction in such cases would be of serious and permanent consequence to the enjoined party, even if the contention made by the commission that it was engaged in unfair competition failed to be sustained.

I think no one can make a reasonable objection to regulation of corporations engaged in interstate commerce which are engaged in willful actions which are inimical to the public interest; but this bill would exert over the business of the country an inquisitorial and prejudicial influence which, in my judgment, will be beyond all reason, even assuming that the commission is made up of the best men obtainable and that they conduct their investigations and reach their conclusions with care and prudence.

If this legislation were to be applied to corporations and not to partnerships the tendency would be to increase partnerships and in the same degree decrease corporations, which have become the accepted way for conducting large business operations. It is well that this should be so, because the forming of a corporation and the issuing of stock certificates enables the dividing up of business enterprises among a large number of people, acting as a distributer of returns obtained and of wealth, which can not be harmful but must be beneficial to the country.

For example, before the organization of the United States Steel Co. it was undoubtedly true that the steel business was controlled by less than 100 men, if not substantially owned by less than 100 men. Now there are more than 100,000 stockholders in the United States Steel Co., including a large amount of stock held by the employees themselves. Can anyone doubt that this policy of employees becoming directly interested in the business of a corporation will be beneficial from every standpoint, not only to the employees themselves but to the corporation as well, and how can any better cooperative method be developed than by following such a course?

A State can not pass repressive, drastic, or burdensome legislation without affecting capital and indirectly driving capital to places where it can do business without being hampered. I have been told by manufacturers in States where legislation had placed them at a disadvantage in competition with similar manufacturers in other States that they could in many cases afford to give away their real estate and replace it in another State if they were assured that the State into which they were moving would not in the immediate future adopt similar legislation. I instance this as an example of the effect which legislation may have on enterprises in any particular locality.

If we are going to place unreasonable burdens on American capital and American labor as well, there is nothing to prevent its seeking other fields of activity. We know that foreign capital has frequently been employed in the United States because it could probably obtain larger returns here than in the country from which it came. There is a constant movement all over the world toward China, Russia, and South American countries, which are comparatively undeveloped. No one doubts the possibilities in all of these sections, and we should have a care that we do not take action which will not only check the flow of foreign capital to our shores, but will at the same time encourage our capital to go into other fields.

Our population is increasing rapidly and our industrial and agricultural possibilities have not been reached, but it would not take very much drastic and uncalled-for legislation to stop this development; in fact, it has been stopped as far as our public service corporations are concerned. They can not obtain now sufficient returns on invested capital to warrant investing additional money in their enterprises. The Pennsylvania Railroad built 12 miles of new track in the year 1913. Does anyone think that that is a good sign, and does not everyone know that if the inducing of investments of capital in railroad stocks had not been chilled, it would quite likely have built many times that number of miles, and would it not have been well for every business in the United States if it had done so?

Mr. President, I want now to give a brief résumé of the points that I have made and my reasons for opposing this legislation. I will summarize my expressions of opposition to the pending legislation as follows:

First. There is no public demand for it. This is evidenced by the failure of business men to appear before either the Judiciary Committee of the House or the Interstate Commerce Committee of the Senate in its advocacy and by the general expressions of boards of trade and chambers of commerce all over the United States in favor of a policy of much more careful and thorough investigation being made before any action is taken, even assuming that it is desirable to legislate on the subject.

Second. That this legislation is involving the Government in policies one of which is practically the antithesis of the other—namely, forbidding action on the one hand and regulating it on the other. This conflict of action will product inextricable confusion.

Third. If legislation of this character is to be adopted, the Sherman Antitrust Act should either be repealed or modified to put it in harmony with this newly adopted policy. In any case, it seems to me that the Sherman Antitrust Act should be amended so that hereafter it should not apply to public-service corporations, which are now in effect a regulated monopoly, and there may be many cases where consolidations could properly be made, or consolidations which have been made might properly be allowed to stand, if good public policy were alone to be considered. The law at present forbids such action.

Fourth. I believe there is now sufficient law to enable the carrying out of any desirable feature there may be in this legislation; that is, to prevent willful and destructive competition. I have no doubt that the courts would act affirmatively on any plea to take such action if the facts demonstrated the truth of the charges.

Fifth. Investigation shows that when real competition is not willful and destructive it is not difficult to compete effectively against even the strongest and largest organizations. This is well illustrated in the case of the growth of independent steel plants against the opposition of the United States Steel Co. and the growth of independent oil refining companies against the Standard Oil Co. Both of these concerns depend largely on a natural product which is limited in the area where it can be produced and in ownership, yet statistics show that the independent companies are now gaining, as they have been for many years, in proportion to the total output, on both of these companies.

Furthermore, an investigation would doubtless show that beyond a reasonable limit any expansion of a business can not be made successfully, because the qualities that control a successful business must be limited in the time that can be devoted to it and the area which can be covered by it.

Sixth. By it we are going to place handicaps on our own business operations brought into competition with foreign capital and enterprises, for in no other country is business repressed as a result of legislation as it is in the United States even now, and this proposed action will add to the confusion and to the difficulty which our business men will have to overcome in competing with foreign countries for international trade.

Seventh. It will be an enormously expensive commission; the expense finally may run up to the tens of millions, and, in any case, it will add to the public service an army of employees, so that it will be a contributing element to the tendency of bureaucracy and increasing Government expenses which will, unless we have a care, finally involve us in government by Government employees.

Eighth. I have no disposition to place myself in antagonism to those who wish to prevent willful and destructive business policies, but if any legislation of this character is to be adopted it should apply to those who are guilty of such action and not include in its provisions the vast number of business men who are doing their best to conduct their business operations legally and fairly. By applying this law to these latter classes a serious injustice is being done them, because it will increase the cost to them of doing business; it will place it in the power of the commission to obtain and to make public such trade methods of corporations as they have which may give them an advantage over their competitors. The whole principle involved in the scrutinizing of books, correspondence, and methods, as provided for in this bill, is obnoxious to every sentiment of freedom of business operations.

Ninth. Before any further action is taken in pushing this legislation a commission should be appointed to carefully and thoroughly examine into the methods employed by other countries in such matters and to report a carefully worked-out plan which will provide for such supervision, regulation, and relationship as our Government should bear to business operations; and the Sherman Antitrust Act and all other legislation should be made to conform to this plan. No other course will put our business men in a consistent position where they may conduct their operations free from unreasonable expense and investigation and in which they may have the best opportunity to compete with their foreign rivals.

Mr. MARTINE of New Jersey. Mr. President, out of order, I desire to present a letter I have received from the United Spanish War Veterans of Manila, together with resolutions. I ask that it may be referred to the Committee on Military Affairs.

Mr. SUTHERLAND. I object.

The PRESIDING OFFICER. Objection is made.

POWERS OF INVESTIGATION OF COMMISSION.

Mr. NEWLANDS. Mr. President, the Senator from Massachusetts [Mr. WEEKS] has made a very interesting address, in which, as I believe, he has very greatly exaggerated the cost of the proposed trade commission and the extent of its operations. He has assumed that because there are 300,000 corporations in this country probably all of them are engaged in interstate commerce. We know how small a proportion of them are actually engaged in such commerce.

In the second place, it seems to be assumed that all of the powers granted by the bill are to be applied to every corporation that comes within the jurisdiction of the commission, whereas, as a matter of fact, the power is simply given, as it must be given, to investigate all corporations; but, of course, investigation will only be made of those concerning whom there is some probable cause to believe that they are violating the law.

In the next place, we must bear in mind that this commission will cost only what Congress appropriates for the expenses of its operations, and that the extent of its operations is thus always within the control of Congress. Of course if this commission is to be the scourge that the Senator from Massachusetts assumes that it will be, and is to be as costly as the Senator assumes it will be, the law providing for it will not stay upon the statute books long.

Extensive power must be given to the commission, but that does not necessarily assume that the power is to be exercised with reference to every corporation in the United States, or even to every corporation that is engaged in interstate commerce. The powers of investigation proposed to be conferred are not much larger than those conferred upon the Bureau of Corporations. Who has heard of the operations of that bureau bankrupting the Government?

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Utah?

Mr. NEWLANDS. If the Senator will permit me, I should prefer to finish my statement. I have promised that I would only occupy a few moments.

Mr. SUTHERLAND. I want to ask the Senator from Nevada a question about the Bureau of Corporations. I desire to ask the Senator from Nevada whether or not the Bureau of Corporations has thus far attempted to exercise any of its powers compulsorily?

Mr. NEWLANDS. No; I do not understand that it has.

Mr. SUTHERLAND. So that its powers are not contested.

Mr. NEWLANDS. I am speaking of its powers of investigation. Its powers of investigation are nearly as great as those proposed to be conferred upon the trade commission. Besides, Congress will always have this commission, its expense and its operation, within its control by reason of its power to appropriate.

Mr. President, the powers of this commission are to be in aid of existing law—first, in aid of the courts; second, in aid of the Attorney General; third, in independent investigations which will bring to sight violations of the law, the obligation being imposed upon the commission of bringing those violations to the attention of the Attorney General.

The only other extra matter of jurisdiction that is imposed upon this commission is to ascertain whether unfair practices exist and to condemn them. Does anyone believe that all of the 300,000 corporations in this country are engaged in unfair practices? If they are, then there is all the more necessity for legislation of this kind, for we are then near universal corruption and demoralization; but we all know that such practices are resorted to simply by the powerful with a view to destroying the weak, and that the powerful are comparatively few in number, though their resources are great, and that it is the duty of society to protect the individual against these gigantic creations of the law which whilst beneficial when held within the limits of the design of their creation can become most prejudicial to the public interest if allowed to pursue their own way unchecked by administrative control. These practices are resorted to by but few, and investigation will quickly, in my judgment, through the processes of publicity, control most of them; and those that are not controlled through the processes of publicity will feel the force of the law, and ought to feel the force of the law.

The same dire predictions that are being raised to-day with reference to the extent and the operation of this proposed law, its cost, its pressure upon the freedom of the people, have been indulged with reference to every act of progressive legislation in the history of the Republic. We all know that those predictions have not been true predictions, and that the results have demonstrated their inaccuracy. At all events, whatever legislation we may enact upon this subject will be tentative; it must stand the test of public opinion; and will be quickly repealed if not sustained by public opinion.

INTERNATIONAL HARVESTER CO.

Mr. NELSON. Mr. President, I ask unanimous consent to have printed as a Senate document the brief of the Government in the so-called Harvester case, pending in the district court of Minnesota. It is very difficult to get the brief; it is an important document, and I therefore wish to have it printed as a Senate document.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

Mr. SUTHERLAND. Mr. President, I dislike very much to object to the printing of this or any other matter; but it seems to have been determined by the majority that we shall have no morning hour for some time to come; that we are to take a recess from day to day, which will cut off a great many Senators from presenting morning business. I have an item of morning business myself which I have been waiting for a day or two to present, but I am unable to do so. I therefore feel obliged to object to any morning business being transacted until we can have a morning hour, so that any Senator who has morning business may be able to present it. I object to the printing of the brief referred to by the Senator from Minnesota.

The PRESIDING OFFICER. Objection is made.

PETITIONS AND MEMORIALS.

Mr. POMERENE presented memorials of 250 business men of Cincinnati, Ohio, remonstrating against the passage of the so-called Clayton antitrust bill, which were ordered to lie on the table.

Mr. POINDEXTER presented the petition of George Ward Cook, of Haverhill, Mass., praying for the enactment of legislation for the recognition of Dr. Frederick A. Cook as the discoverer of the North Pole, which was referred to the Committee on the Library.

Mr. BURLEIGH presented a petition of the State Federation of Labor, of Augusta, Me., praying for the passage of the so-called Clayton antitrust bill, which was ordered to lie on the table.

He also presented a petition of sundry citizens of Melrose, Me., praying for national prohibition, which was referred to the Committee on the Judiciary.

He also presented a petition of Sagadahoc County Board of Fire Underwriters, of Bath, Me., praying for the enactment of legislation to prohibit the use of the mails to insurance companies to solicit business in districts in which they are not licensed, which was referred to the Committee on Post Offices and Post Roads.

Mr. PERKINS presented a petition of the Sunday school of the Park Congregational Church, of San Francisco, Cal., praying for the enactment of legislation to provide Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

He also presented a telegram in the nature of a petition from Hon. Hiram W. Johnson, governor of the State of California, urging the retention of Maj. S. A. Cheney as a member of the California Débris Commission, which was referred to the Committee on Commerce.

He also presented a petition of the Woman's Christian Temperance Union of Salina, Cal., praying for the enactment of legislation to grant a compensatory time privilege to postal employees, which was referred to the Committee on Post Offices and Post Roads.

BILL INTRODUCED.

A bill was introduced, read the first time by its title, and, by unanimous consent, the second time, and referred as follows:

By Mr. CHAMBERLAIN:

A bill (S. 6161) granting an increase of pension to Hiram Bender (with accompanying papers); to the Committee on Pensions.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 1 hour and 50 minutes spent in executive session the doors were reopened.

Mr. KERN. I move that the Senate adjourn until Monday at 10 o'clock a. m.

The motion was agreed to; and (at 5 o'clock and 15 minutes p. m., Saturday, July 25, 1914) the Senate adjourned until Monday, July 27, 1914, at 10 o'clock a. m.

CONFIRMATIONS.

Executive nominations confirmed by the Senate July 25, 1914.

CONSUL.

John A. Ray to be consul at Odessa, Russia.

POSTMASTERS.

ILLINOIS.

Charles C. Grady, Rock Falls.
S. A. D. Howe, Cowden.
Frank H. T. Maronde, Franklin Grove.
Walter E. Roberts, Coffeen.
Merton L. Spangler, Plainfield.
Darlin H. Thompson, Earlville.

INDIANA.

John P. Huther, Jasper.

NEW MEXICO.

Anastasio C. Torres, Socorro.

NEW YORK.

Thomas P. Hammond, Middleport.

OHIO.

James A. Ryan, Sandusky.

VIRGINIA.

Samuel M. Donald, Staunton.

HOUSE OF REPRESENTATIVES.

SATURDAY, *July 25, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou Great Spirit, everywhere present, working in and through the hearts of men, approving, disapproving, encouraging, discouraging, "A voice crying in the wilderness, Prepare ye the way of the Lord, make His paths straight," may our hearts be susceptible to the holy influence; may we hear the voice and obey its call. "Who shall ascend into the hill of the Lord? Or who shall stand in His holy place? He that hath clean hands and a pure heart; who hath not lifted up his soul unto vanity, nor sworn deceitfully. He shall receive the blessing from the Lord, and righteousness from the God of his salvation." So may we strive, so may we attain. In His name. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEAVE OF ABSENCE.

The SPEAKER. The Chair lays before the House the following personal requests, which the Clerk will report:

The Clerk read as follows:

Mr. SINNOTT requests leave of absence, for five days, on account of illness in his family.

HOUSE OF REPRESENTATIVES,
Washington, D. C.

To the SPEAKER: I ask the House for a leave of absence for 30 days to take effect August 5 in order that I may go to Minnesota to investigate the many complaints of damages encountered by a large number of farmers through the flooding of their lands by the operating of the reservoir system at the headwaters of the Mississippi. My reason for asking for this leave of absence in advance of the period when I wish it to take effect is because the parties interested in having this examination made desire a time to be fixed when mass meetings may be held at two different places and, in addition, to allow me time to go over a part of the ground.

Respectfully,

C. A. LINDBERGH.

The SPEAKER. Is there objection to these requests? Without objection, they will be granted.

There was no objection.

PROPOSED AMENDMENT OF THE RULES.

Mr. MADDEN. Mr. Speaker, I offer a privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Illinois [Mr. MADDEN] sends up what he says is a privileged resolution. The Clerk will report it.

The Clerk read as follows:

Resolved, That clause 1 of Rule XIV be amended by striking out the period after the word "personality" and inserting a comma, and adding thereto the following: "and no Member shall, under leave to print or extend remarks, refer directly or indirectly to another Member of the House."

Mr. GARRETT of Tennessee. Mr. Speaker, I make the point of order that that is not privileged.

The SPEAKER. It is not privileged, and there is no use to take time on it. It goes to the Committee on Rules.

DISPOSITION OF LANDS, FORT BERTHOLD INDIAN RESERVATION, N. DAK.

Mr. NORTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 4988.

The SPEAKER. The gentleman from North Dakota [Mr. NORTON] calls up a House bill with Senate amendments. Does the gentleman know whether it has been referred to the committee or not?

Mr. NORTON. No; it has not been. It is on the Speaker's table.

The SPEAKER. The Clerk will report it.

The Clerk read the title of the bill, as follows:

A bill (H. R. 4988) to provide for the disposition of certain lands in the Fort Berthold Indian Reservation, N. Dak.

With Senate amendments.

Mr. NORTON. Mr. Speaker, I move that the House concur in the Senate amendments.

The SPEAKER. Wait until the Clerk reads the amendments. The Clerk will report the Senate amendments.

The Senate amendments were read.

The SPEAKER. The question is on agreeing to the Senate amendments.

The Senate amendments were agreed to.

THE GENERAL DAM ACT.

Mr. ADAMSON. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16053.

The SPEAKER. The gentleman from Georgia [Mr. ADAMSON] moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 16053) to amend the general dam act. The question is on agreeing to that motion.

The motion was agreed to.

The SPEAKER. The gentleman from Texas [Mr. GARNER] will take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16053, with Mr. GARNER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16053, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 16053) to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910.

Mr. ADAMSON. Mr. Chairman, the Clerk last evening read the first paragraph of the bill. Is it proper to stop there and offer an amendment, or read the entire section?

The CHAIRMAN. The gentleman can offer an amendment to the first paragraph.

Mr. ADAMSON. I thought bills of this sort were read by sections.

The CHAIRMAN. I understood that the first section has been read.

Mr. ADAMSON. Only the first paragraph.

The CHAIRMAN. The first section would have to be read before an amendment could be offered. The Clerk will read.

The Clerk read as follows:

SECTION 1. That when consent has been or may hereafter be granted by Congress, either directly or indirectly through any duly authorized official or officials of the United States, to any persons to construct and maintain a dam for water power or other purpose——

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. There seems to be only one section in this bill.

Mr. ADAMSON. The Clerk is reading the original bill.

The CHAIRMAN. The bill that the Chair has before him has sections 1, 2, 3, and 4.

Mr. ADAMSON. Perhaps the gentleman from Illinois [Mr. MANN] has the wrong copy.

Mr. MANN. I think I am correct. Let me ask the attention of the Chair as to what amendments will be in order. The bill provides that the general dam act "be, and the same is hereby, amended to read as follows." Then come various sections of amendments of the general dam act.

The CHAIRMAN. The Chair had not noticed that phase of this bill. Undoubtedly there is but one section in the bill.

Mr. MANN. I think there is only one section in the bill, but I am inclined to think that it ought to be treated either as sections or paragraphs.

The CHAIRMAN. It occurs to the Chair in the same way. From the way in which this bill is drawn there is but one section in the bill, but there are a number of different paragraphs.

Mr. ADAMSON. What I wish to do, Mr. Chairman, is to offer a substitute for all after the enacting clause, and I send the substitute to the Clerk's desk. The reason for that is that the committee, in various sessions, and Members of Congress, in various conferences, have about agreed upon 14 or 15 amendments. There were so many of them that we had a new committee print made as a whole. The committee would now like to have that substitute considered instead of reading the original bill. I want to offer that substitute, and I want to ask unanimous consent that, instead of taking time to perfect the original bill by considering the amendments, we consider the substitute and perfect it, as it contains all of the original bill and the amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. LENROOT. Reserving the right to object, Mr. Chairman, I would have no objection to that course being taken provided it is understood that the substitute, for the purpose of amendment, shall be considered as an original bill.

Mr. ADAMSON. Mr. Chairman, I have no desire to abridge the right of amendment or of debate. I want to exercise the utmost liberality on that.

The CHAIRMAN. Let us see if the Chair understands the situation as to the amendment of the gentleman from Minnesota [Mr. STEVENS]. The gentleman from Georgia [Mr. ADAMSON] asks unanimous consent that the substitute that he will offer will be considered as the original bill for the purpose of offering amendments. Is there objection?

Mr. BRYAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BRYAN. If this is to be considered as the original bill, amendments offered will be subject to amendment as if the original bill had been read?

Mr. ADAMSON. I am perfectly willing that any privileges which the gentleman would have had as to the original bill he shall have on this substitute.

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will report the substitute.

The Clerk read as follows:

Amend by striking out all after the enacting clause——

The CHAIRMAN. May I ask the gentleman if the substitute is what is called the committee print with amendments?

Mr. ADAMSON. Yes; H. R. 16053. There are plenty of copies here. I will have the pages carry them around. The way it is printed the committee amendments are indicated by brackets, and of course the Clerk will read it as continuous matter, and when it goes to the printer the brackets will be eliminated.

Mr. MANN. Then the print that is now being considered as a substitute is the print marked "[Committee print with amendments], H. R. 16053"?

Mr. ADAMSON. Yes; that is it. I hope gentlemen who want copies will get this print instead of the original.

Mr. MANN. I hope the gentleman from Georgia will also ask unanimous consent that instead of reading the substitute clear through before any amendments are read, the substitute may be read according to the sections as numbered in the substitute, so that we will not be amending the first part of the bill when we are considering the last part of it.

Mr. ADAMSON. The sections are all numbered, and I ask unanimous consent that the bill be read by the sections as numbered.

The CHAIRMAN. For the purpose of amendment?

Mr. ADAMSON. For the purpose of amendment.

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will report the first section.

The Clerk read as follows:

Be it enacted, etc., That the act entitled "An act to regulate the construction of dams across navigable waters," approved June 23, 1910, be, and the same is hereby, amended to read as follows:

"SECTION 1. That when consent has been or may hereafter be granted by Congress, either directly or indirectly through any duly authorized official or officials of the United States, to any persons to construct and maintain a dam for water power or other purpose across or in any of the navigable waters of the United States, such dam shall not be built or commenced until the plans and specifications for such dam and all accessory works, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of War and the Chief of Engineers for their approval, nor until they shall have approved such plans and specifications and the location of such dam and accessory works; and after such approval it shall not be lawful to deviate from such plans or specifications either before or after completion of the structure unless the modification of such plans or specifications has previously been submitted to and received the approval of the Secretary of War and the Chief of Engineers."

Mr. TOWNSEND. Mr. Chairman, that is not my understanding of the agreement as to the manner in which it shall be read.

Mr. MANN. Yes.

The CHAIRMAN. As the Chair understood the agreement, it was that the substitute was to be read in lieu of the original bill, and that the portions with lines stricken through should not be read, but that all other portions of the bill should be read.

Mr. TOWNSEND. Including those in brackets, but not including the language stricken out.

The CHAIRMAN. Yes.

Mr. ANDERSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report.

The Clerk read as follows:

At the end of section 1, insert:

"Such plans, specifications, and drawings shall be submitted within one year after the date of the approval of the act authorizing the construction."

Mr. ANDERSON. Mr. Chairman, the present law provides that the construction of the dam authorized shall be begun within one year after the passage of the act authorizing it. The pending bill provides that the construction shall be begun within one year after the approval of the project by the Secretary of War. As a result there is a period after the approval of the act authorizing the construction, during which there is no obligation whatever upon the part of the grantee to take any action whatever looking to the construction of the work authorized by the act.

Now, this would not be so important were it not for the language of section 8, which refers to the assignability of projects authorized. Section 8 provides:

That no property or project installed and operated under the provisions or benefits of this act shall be assigned or transferred except upon the written consent of the Secretary of War.

Now, mark that that section does not prevent an assignment of the rights and benefits granted under this act nor does the subsequent section, prohibiting the assignment of the property or project for the purpose of creating a monopoly, apply to the rights and privileges granted by the act itself. As a result there will be a period after the approval of the act authorizing the construction, during which the grantee may assign the rights and benefits granted by this act to any person or any corporation, regardless of whether that corporation be a monopoly, or whatever it may be, without the consent of the Secretary of War. If this bill remains as it is now, there is absolutely nothing in it to prevent the gathering up by great water-power companies of the sites upon navigable streams and holding them absolutely without any development whatever for an indefinite period. I do not believe that this situation was contemplated by the committee in the drafting of this bill, but it seems to me there can be absolutely no question about the proposition that it is the effect of the failure to provide, first, a definite period within which these plans shall be submitted, and, second, of the failure to provide that the rights and benefits granted by the act itself shall be assignable only under the same conditions as the property and projects installed under the provisions of the act.

Mr. MANN. Will the gentleman yield for a question?

Mr. ANDERSON. Certainly.

Mr. MANN. Is there no provision in the bill at all in reference to the time for commencing the construction as compared with the date of the approval of a special act?

Mr. ANDERSON. Absolutely none.

Mr. MANN. Is there in the existing law?

Mr. ANDERSON. In the present law there is.

Mr. MANN. I thought there was in the present law.

Mr. ANDERSON. The present law requires that the construction shall be begun within one year after the approval of the act. This bill requires that it shall be begun within one year after the approval of the plans and specifications required by the act.

Mr. MANN. There is one thing that I think perhaps the gentleman has not taken into consideration. It may be that Congress wishes to change the policy. Special acts authorizing the construction of dams over navigable rivers are now required only where the river is navigable in two or more States, or where it is a boundary line between two States. The Secretary of War has the authority to grant a permit for a dam across a stream which is wholly within the limits of one State; and when the dam act was originally drawn, the gentleman will notice that it read:

When consent has been or may hereafter be granted by Congress, either directly or indirectly.

Now, that consent is granted indirectly where we grant the authority to the Secretary of War to permit the construction of a dam across a stream wholly within one State, because that is by authority of an old act of Congress.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. ANDERSON].

Mr. ADAMSON. Mr. Chairman, section 12 provides that the work shall be begun within 12 months after the approval of the plans. A work of such magnitude as these are is financed with considerable difficulty. We did not think it right to commence counting the time against the project until they had succeeded in financing it and had an approval of the plans so that they could go to work. As to whether or not you will limit them as to the preparation of plans, and so forth, is a matter of policy. The committee did not think it necessary to do that; but if the Committee of the Whole thinks it is necessary, it can do it.

Mr. GORDON. Will the gentleman yield?

Mr. ADAMSON. Yes.

Mr. GORDON. Is it possible under this bill to obtain rights and hold them for an indefinite number of years? Is there any provision in the bill that would answer that objection? The gentleman from Minnesota says that it is possible to do that.

Mr. ADAMSON. I think section 12 would settle it; it puts it in the discretion of the Secretary of War.

Mr. HUMPHREYS of Mississippi. I think it is clear that section 12 does not put any limitation on it. It might do it as a matter of practical operation. Does not the gentleman think that even if the time suggested by the gentleman from Minnesota is too short, there ought to be a limit of some kind?

Mr. ADAMSON. Yes; I was just going to suggest that. I do not want to nullify the projects because of failure to get ready at a certain time. I was going to ask if the gentleman from Minnesota would be willing to make it two years?

Mr. ANDERSON. As far as I am concerned, I would be willing to do that, but we should have some time in which the plans should be submitted.

Mr. ADAMSON. The gentleman will understand that these are large propositions, and it frequently takes some little time to get them financed, but if the gentleman will modify his amendment to provide for two years I will accept it.

Mr. ANDERSON. Mr. Chairman, I ask unanimous consent to modify my amendment by inserting "two years" instead of "one year."

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to modify his amendment as suggested. Is there objection?

There was no objection.

Mr. ADAMSON. Mr. Chairman, we will not resist that amendment.

Mr. MANN. Mr. Chairman, I would like to ask the gentleman from Georgia a question. The copy of the bill which I have in my hand, which I think is the one under consideration, has a note on the first page which reads:

[NOTE.—The parts printed in italics are new; omit line stricken through; proposed amendment in brackets.]

I had supposed that meant that where the lines were stricken through they were in the existing law, and where there was no change in the law, if new matter was inserted, it was printed in italics.

Mr. ADAMSON. That note refers to the bill reported by the committee. If any old law was affected by these amendments, it would be stricken through. The italics were new matter in the bill, and the committee amendments are in brackets.

Mr. MANN. I have a copy of the bill reported to the House, where the same note is made that the parts printed in italics are new. That may be correct, but what I want to get at is whether all the new matter in this bill which is not in existing law was put in italics. When I first got a copy of the bill I supposed that was the case, and I did not take the original law and compare it, as I otherwise would have done, because I thought this undertook to show by difference in print what was existing law and what was the new proposition.

Mr. ADAMSON. The bill as reported by the committee printed in italics the new suggestions. That in roman is the old law.

Mr. MANN. I read under section 12:

That the grantee shall commence the construction of the dam and accessory works within one year from the date of the approval herein provided.

That is all in roman.

Mr. ADAMSON. I think that is a misprint. I will ask the gentleman from Minnesota if that is not true?

Mr. STEVENS of Minnesota. Yes; the clerk of the committee went over the whole of this after the committee got through with it, and I think that is a mistake.

Mr. MANN. Does not the same thing occur in other parts of the bill?

Mr. STEVENS of Minnesota. It is possible.

Mr. LENROOT. There is scarcely a section of the bill that is not changed.

Mr. ADAMSON. I do not deny that some parts of the old law may be omitted, as far as the difference in type is concerned.

Mr. BRYAN. Let me call the gentleman's attention to line 6, page 2, the added words "and all accessory works." They are not in italics, and I do not find them in the original bill, and yet they are words changing the whole policy of the section. Ought not those words "and all accessory works" be italicized?

Mr. ADAMSON. If they are in the old law, they ought to be italicized; but I do not attach the same importance or materiality to it that the gentleman does.

Mr. BRYAN. As far as they are new words, they ought to be italicized.

Mr. ADAMSON. The intention of the committee was to print the bill as indicated in the note; but mistakes will happen in the best regulated families.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. ANDERSON].

The question was taken, and the amendment was agreed to.

Mr. BRYAN. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 1, lines 7 and 8, and page 2, lines 1 and 2, strike out the following language: "That when consent has been or may hereafter be granted by Congress, either directly or indirectly, through any duly authorized official or officials of the United States," and insert in lieu thereof the following: "That when hereafter authority is granted."

Mr. BRYAN. Mr. Chairman, the Adamson bill provides "that when consent has been or may hereafter be granted by Congress, either directly or indirectly, through any duly authorized official or officials of the United States, to any persons to construct and maintain a dam for water power or other purpose across or in any of the navigable waters of the United States, and so forth."

To begin with, the word "consent" was there substituted for the word "authority" in the original bill. The effect of substituting the word "consent" for the word "authority" is necessarily to weaken the thing which the constructor of the dam must get. Under the old bill he was to get "authority," and under the Adamson bill he is to get "consent," either directly or indirectly, through any duly authorized official or officials of the United States. Under the old law he is to get the authority I have just mentioned from Congress; and those broad words are not set forth in the original act.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. BRYAN. Yes.

Mr. MANN. Under the existing law the authority is not required to be by special act, as I stated a moment ago, in streams which lie wholly within the limits of a State. There is a provision of law authorizing the Secretary of War to permit obstructions to navigation in a stream wholly within the limits of a State; and so that if he did grant such authority under that provision of law for a dam it should still come under the provisions of the general dam act, there was inserted "directly or indirectly the authority of Congress," because one is the general authority under which the Secretary of War acts, and the other is a specific authority by a special bill.

Mr. BRYAN. Mr. Chairman, according to the gentleman from Illinois, that is to cover then a grant in a State, within the limits of a State, but this is a general act; and if we want to draw that line of distinction, I think it is a very dangerous

ground to mix into this act that State-rights proposition. We have been getting along all right under the 1910 act, and to add that verbiage here, I believe, weakens the requirements and lessens the authority that the applicant has to obtain, and I do not believe we ought to put it in that way. I believe that we ought to retain the same words that we have in the original act as to this authority.

Mr. MANN. What are the original words?

Mr. BRYAN. The original act reads in this way:

That when hereafter authority is granted by Congress to any person to construct and maintain a dam.

Mr. STEVENS of Minnesota. Mr. Chairman, the gentleman is reading the act of 1906.

Mr. BRYAN. I read 1906. The 1910 amendment is this:

That when hereafter authority is granted or may hereafter be granted.

Mr. Chairman, I recognize the fact that I was basing my argument upon the act of 1906 instead of the act of 1910.

Mr. MANN. The reason for the change which was made was because of the authority to the War Department to grant these permits over navigable streams wholly within a State, which under the original act probably by inadvertence were not permitted under the general dam law.

Mr. BRYAN. Mr. Chairman, the pages of the volume before me had turned over, and I got the act of 1906 instead of the act of 1910. I therefore ask unanimous consent to withdraw my amendment.

The CHAIRMAN. The gentleman from Washington asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

Mr. THOMSON of Illinois. Mr. Chairman, I desire to offer an amendment to strike out the word "consent," in line 7, page 1, and to substitute therefor the word "authority."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 1, line 7, by striking out the word "consent" and inserting the word "authority."

Mr. THOMSON of Illinois. Mr. Chairman, it seems to me that at least that far the proposition made by the gentleman from Washington is tenable, and that the word "authority" would mean more and be more substantial than the word "consent." They ought to get authority to do a certain thing, not merely consent to do it.

Mr. MANN. Mr. Chairman, I will ask the gentleman from Georgia [Mr. ADAMSON] if he would have any objection to inserting both words, "consent or authority"?

Mr. ADAMSON. Mr. Chairman, the only reason we use the word "consent" is because we do not want to mislead anybody about what we do. If we use the word "authority," some people will have the notion that we are giving them a charter to go ahead and do something independent of any other right or law.

Mr. MANN. There might be cases where authority was granted apart from consent, where the Government was constructing locks, for instance. As a matter of fact, for years Congress has passed special bridge laws and some special dam laws, where in some cases we used the word "authority" and in some cases the word "consent." I take it they probably mean the same thing.

Mr. ADAMSON. Mr. Chairman, if the gentleman will permit, I think myself that in this connection to a trained mind they will mean the same thing, but some people are misled by the word "authority." I have received numbers of letters from people complaining that power companies who built dams had not paid them for the overflow lands, and things of that sort, and charging Congress with misleading the people because it authorized something done that injured the people. I have explained to those people that all Congress did was to consent, under certain restrictions and conditions, to have obstructions put in a navigable stream, and that we did not charter or authorize anyone to do anything but that, and it seemed to me that the word "consent" came nearer putting everybody on notice of exactly what Congress did than the word "authority."

Mr. MANN. But we have used the word "authority" in some of these special acts?

Mr. ADAMSON. Yes. Does the gentleman propose to use both words?

Mr. MANN. Yes. Make it read this way:

That when consent or authority has been or may hereafter be granted—

And so forth.

Mr. ADAMSON. Mr. Chairman, will the gentleman from Illinois accept that modification of his amendment?

Mr. THOMSON of Illinois. Yes.

Mr. ADAMSON. Very well.

Mr. THOMSON of Illinois. Mr. Chairman, I ask unanimous consent to modify my amendment as indicated.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to modify his amendment as indicated. Is there objection?

There was no objection.

Mr. THOMSON of Illinois. What is the amendment now?

The CHAIRMAN. The Clerk will report the amendment as modified.

The Clerk read as follows:

Page 1, after the word "consent," in line 7, insert the words "or authority."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 2. That as a part of such approval such conditions and stipulations may be imposed as the Secretary of War and the Chief of Engineers may deem necessary to protect the present and future interests of the United States, which may include the condition that the persons constructing or maintaining such dam shall construct, maintain, and operate in connection therewith, without expense to the United States, a lock or locks, booms, sluices, or any other structure or structures which the Secretary of War and the Chief of Engineers or Congress then may deem necessary in the interests of navigation, in accordance with plans made a part of such approval; and also that in case such facilities of navigation shall not be made a part of such original approval and construction, whenever Congress shall deem such facilities necessary, the persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches, and shall grant to the United States free water power or power generated from water power for building and operating such constructions, and in such original approval, at the discretion of the Secretary of War and Chief of Engineers, may be required to maintain and operate such lock without expense to the United States [: *Provided*, That whenever Congress has heretofore provided, either directly or indirectly, through any official or department of the United States Government, for the construction, maintenance, and operation of a lock, free of cost to the United States, as may be deemed necessary for navigation by the Secretary of War and Chief of Engineers in any dam in navigable waters authorized by law at the date of passage of this act, in all such cases such obligation shall continue to be of full force and effect].

Mr. LENROOT. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend section 2, in line 3, on page 3, by striking out the word "then" and inserting in lieu thereof the words "at any time."

Mr. LENROOT. Mr. Chairman, the present law provides that the Secretary of War may, in his discretion, insert in the approval of the project a provision that the grantee shall construct a lock in the dam constructed by it at any time that he may deem necessary in the interests of navigation. This bill seeks to change that by requiring the Secretary of War in the beginning, in the approval of the project, to determine whether within the next 50 years the grantee shall be required not only to construct a lock at his own expense needed for navigation, but it requires the Secretary of War at that time to determine the character of the lock and provide the plans and specifications for it. Now, Mr. Chairman, it is said by the chairman of the committee in his report on this bill in its original form that this bill seeks as a primary purpose promoting navigation. Now, if that were so, Mr. Chairman, can you imagine any dam upon any navigable portion of any stream that will promote navigation without a lock? Instead of promoting it, the bill itself permits the absolute obstruction of navigation upon a stream. And whenever it permits certain obstructions to navigation we ought to save the right to say to those who put the obstruction in the stream that whenever navigation shall make it necessary they shall construct a lock and make the stream at least as nagavitable as it was before they put the dam in the stream. Now, the excuse that is made for this change of the law is the excuse that is made for every other change in the bill, that it is necessary in order to induce capital to invest in water-power enterprises; and let me remind the committee, as I said the other day, that there is not a line of new legislation in this bill that is not a letting down of the bars and a concession to capital and water-power companies. I do not say that it is not necessary in some cases; I am not criticizing that; but let no man misunderstand what this bill does. It is a surrender of public rights that we have reserved under the present law. We ought to understand that. Now, is it necessary? Mr. Chairman, the trouble during the past two years has not been that the 1910 act was too strict and too stringent, as the committee would have the House believe.

The trouble has been that Congress has deemed that that act was not stringent enough, and it has refused to grant franchises or concessions under the act of 1910 because it believed the public interest was not sufficiently protected and demanded further amendments, such as compensation to the Government. The House will remember the Coosa River Dam

bill passed two years ago granting a franchise to the Alabama Power Co. They were willing to develop that dam under this very act of 1910 without these concessions, and the House by a close vote passed it. It was passed by the Senate, and President Taft vetoed that bill because it granted too many concessions to the Alabama Power Co. and did not provide for compensation to the Government.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield?

Mr. LENROOT. Yes.

Mr. HUMPHREYS of Mississippi. Does the gentleman think that paragraph D, on page 6 of the bill, safeguards the interests of the Government to the extent it can require the same conditions of navigability to be restored as exists when the contract or approval is made?

Mr. LENROOT. No; not at all, Mr. Chairman, unless this amendment I have proposed shall be adopted. If the Secretary of War shall fail to decide in the first instance that the lock is necessary, no matter how great the obstruction the dam may be to the navigability of a river that lock can never be put in afterwards except at the expense of the Government of the United States; and if it is an obstruction, whether now or 50 years from now, that lock, if necessary, ought to be put in at the expense of the party who makes the obstruction.

Mr. ANDERSON. Will the gentleman yield?

Mr. LENROOT. Yes, sir.

Mr. ANDERSON. I want to call the attention of the gentleman to the fact that if the bill passes in its present form without reserving to the Government the right to build the lock in connection with the dam, the Government could not build it itself.

Mr. LENROOT. That is probably true as well, because the present law does reserve the right to the Government to build a lock in connection with the dam, and this bill eliminates that.

Mr. STEVENS of Minnesota. Mr. Chairman, I am surprised at some of the inaccuracies of the gentleman from Wisconsin in his statement of the provisions of this bill, and it is rather surprising, in view of his splendid intelligence and the care with which he has read this measure. He stated that there was a general letting down in the interests of capital in the provisions of this bill. On page 7, section 5, you will find the italicized words:

> And in the use and operation of such navigation facilities the interests of navigation shall be paramount to the uses of such dam by such grantee for power purposes.

Under those italicized words they may subtract 50 per cent from the efficiency of the dam, and one of the dams of this very character is in the gentleman's own district, and he does not seem to know what conditions are there, as I stated yesterday.

Mr. LENROOT. Will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly.

Mr. LENROOT. Does the gentleman think this provision adds anything?

Mr. STEVENS of Minnesota. Yes; it adds very materially.

Mr. LENROOT. Has Congress this discretion and the paramount right as to power purposes?

Mr. STEVENS of Minnesota. Congress could do it by contract, as the language of the Chandler-Dunbar case indicates. But we expressly provide by contract it shall not be done, and by that reservation of the right to use the water at any time, even all of it all the time, for the purposes of navigation, we reserve the right to utterly destroy the power purposes of any dam that might be constructed which did not exist in the present law, and I commend it to the attention of the gentleman. And, as I stated, a very notable instance exists in his own district.

Now, why was the change made? It was made because we want the dams built, because we want the waters utilized. When the plans are presented for approval to the Secretary of War and the Chief of Engineers, remember that section 3 at once applies, that there shall be a comprehensive plan for the improvement of the waterway in question for the uses of navigation, for the full development of its water power, and other beneficial public purposes, and best adapted to conserve and utilize, in the interests of navigation and water-power development, the water resources of that region. So you notice that there are new obligations, not in the interest of capital but in the interests of the people, placed upon the applicants for this improvement.

What we design to accomplish is this, and the gentleman realizes that this arises in part from a controversy that we had previously over the river between our States—what we desired to accomplish was that the Secretary of War and the Chief of Engineers shall look over the whole stream; they shall ascertain whether this dam is for the best interests of the public in the use of that stream, and they shall ascertain as best they can how the waters of the stream shall be best conserved for all purposes, and whether this dam accomplishes that purpose.

Now, I do not believe it is difficult for the engineers to realize what ought to be done for many years in the future as to a stream after they have had that plan made under those circumstances, paid for by the applicant. Our own notion was—and in that we are reenforced by the judgment of the Secretary of War and of the Chief of Engineers—that it is not difficult whenever a plan is presented, whenever this comprehensive plan has been designed and made by the War Department, that they can tell within a reasonable certainty whether or not this lock ought to be placed and what ought to be its character.

Now, anybody who knows the Corps of Engineers well enough will realize that wherever there is any question at all, wherever there is any doubt at all, the engineers are bound to resolve that doubt in favor of navigation and require that dam to be installed. Now, we had no doubt that would cause the installation of more locks than would otherwise be constructed; that it would benefit navigation in that way far more than any other plan that could be designed. It will cost the applicants more for that reason. But there are many cases, and we have had cases come before this House and before the committee, where it would not be necessary to install a lock, especially in the small projects. In the large projects it is almost necessary in every instance to install the lock, and I have no question that in practically every large case that would be presented a lock would be required to be installed. But in the smaller cases, in the mountain streams, in the headwater development, there is no question that a lock is not necessary and never will be necessary. The result is that when a small dam owner, when the man who owns a site and who plans, perhaps, a $500,000 or $1,000,000 development, takes his plans to the Secretary of War, if the Secretary of War at the time informs him that a lock is necessary he knows just exactly what that lock will cost. And in the large proportion of cases, I think in most all of the cases, the lock will cost about one-half of the total expense of the dam. And where that is fixed in advance the applicant knows, and those who finance the enterprise will know, exactly what to do.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. STEVENS] has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STEVENS of Minnesota. Then the applicant knows, then those who finance the project know, just exactly what the project will cost. There is no uncertainty about it. The result is that they can make up their minds then and say whether or not it is a proper thing to finance the project. If you leave the matter open, because of popular clamor, and it may arise, the War Department may be compelled, by this House or the other House, to compel the installation of a lock, and then, what would happen? The dam would cost from $500,000 to $1,000,000 in a small project. The dam would cost half of that. Remember the revenue of this project is fixed by public authority; that the consumers are paying on a certain scale; that the revenues are adjusted to meet the conditions of that project. Now, if you compel the additional expense of 25 or 50 per cent of the original expense any time the officials desire, that very uncertainty will prevent the financing of very many projects. That was one of the objections suggested, but our committee, to relieve the uncertainty at the beginning of the project, is laying down as a rule what ought to be done at the beginning. They have consulted the Secretary of War and the Chief of Engineers, and I know that the gentleman from Wisconsin [Mr. LENROOT] heard the statement that the Secretary of War had confidence in his engineers that they could decide such a matter, and the engineers have told us that they could decide with reasonable certainty as to what ought to be done in the construction of a lock as to whether navigation would be improved.

Mr. LENROOT. Did not the chairman of the Board of Harbor Engineers say to the gentleman himself at a public hearing, at which I was present, that the engineers could not decide the question that was then up, and they could not for four or five years to come?

Mr. STEVENS of Minnesota. He stated that the type of barge could not be told.

Mr. LENROOT. And therefore they could not decide on the type of lock?

Mr. STEVENS of Minnesota. If they knew the size of the project, they could. And then, if the gentleman did not choose to build a lock, he need not. But it will be done, because the

engineers will be compelled to require the maximum size in order to care for future contingencies. I can see no practical difficulty about that. As a result there will be more locks and better navigation facilities under this provision than there would be under the amendment of the gentleman from Wisconsin.

Mr. ADAMSON. I want to make a suggestion, right in that connection, as to the Secretary of War.

Mr. STEVENS of Minnesota. Very well.

Mr. ADAMSON. In addition to what the gentleman from Minnesota [Mr. STEVENS] stated, where he describes the conversation on my statement that the Secretary and the Chief of Engineers had all this information ready, I would state that the Chief of Engineers in an interview stated to me positively that whenever there was any doubt about the future necessity of a lock, they required it at the time, and would do so under this bill.

Mr. LENROOT. The Secretary proposed a bill to the gentleman's committee and made no proposition of that kind, but left the proposed bill as it now is.

Mr. ADAMSON. That is the Secretary of War's present proposition.

Mr. STEVENS of Minnesota. I assume the responsibility of giving the committee the reasons why such a change was made.

Mr. GARRETT of Texas. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of Minnesota. Yes.

Mr. GARRETT of Texas. Referring to the colloquy between the gentlemen, I understand the gentleman from Minnesota to take the position that by leaving the word "then" in the act, instead of inserting the words "at that time"——

Mr. STEVENS of Minnesota. "At any time."

Mr. GARRETT of Texas. "At any time"—he means that if in the erection of a dam this year it would not appear necessary for navigation to have a lock, but that if in 10 years from that time a lock should be put in, then the Government would have to bear that expense, and not the owners of the dam?

Mr. STEVENS of Minnesota. Oh, no. The Secretary of War and the Chief of Engineers could provide in the original approval the conditions under which a lock could be installed. That might be at any time in the future. But of course it would be cheaper and easier to install a lock at the beginning, even if it were not used for 20 years afterwards. In that case they would not have to tear out the work.

Mr. GARRETT of Texas. I understood the amendment proposed would simply put them upon notice and compel them to do that in the first contract?

Mr. STEVENS of Minnesota. Yes.

Mr. GARRETT of Texas. Would not that better serve the interests of navigation?

Mr. STEVENS of Minnesota. No; I believe it would injure navigation, and for this reason: Because more dams would be built under our plan than under the plan of the gentleman from Wisconsin [Mr. LENROOT].

Mr. HUMPHREYS of Mississippi. More locks.

Mr. STEVENS of Minnesota. Yes; more locks would be built. Under the plan proposed by the gentleman from Wisconsin dams in doubtful places could not be built at all, because they could not be financed. Under our plan any place that needed a lock in a dam would have it in advance, even if it might not be used for 20 or 25 years afterwards.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. SHERLEY. Mr. Chairman, against the statement of the gentleman from Minnesota [Mr. STEVENS] as to the power of the Board of Engineers to foresee the needs of the future I put the actual facts of the past. At my city is a falls that has necessitated the building of a canal. Probably no river in America has had more study than the Ohio River; probably no project has undergone as many changes touching the height of the dam, the character of the lock, its length and its width, as has the project at the city of Louisville.

Now, I state that for the information of this committee, because to my mind it is perfectly plain that it is impossible for engineers, no matter how skilled they are, to foresee the needs of the future. Those needs will be determined largely by the character of the commerce that develops on the stream. For instance, we are now building at Louisville a lock of the same width as the Panama lock and 600 feet long—the largest lock, nearly, in the country. That has come about through the need of being able to put a large number of coal barges through the lock at one time, without breaking them up and locking them individually, and particularly at a time when it is necessary to go down the river upon the crest of high water.

Now, to say that you can always foresee the development that may take place upon a river and that the United States must estop itself for 50 years or build at its own expense is to say something that I do not think appeals to the reason of the House.

The gentleman from Minnesota [Mr. STEVENS] says that this is done for the sake of small streams at the headwaters, where there will never be need of a dam, and then in the next breath he tells you that he is fearful that these engineers who are to have the wisdom to see 50 years hence will be so weak that under the pressure of popular clamor they will order at some subsequent period a lock to be built that ought not to be built.

Now, he must stick by his witnesses. I do not believe there is any danger of Congress or the War Department putting upon any grantee any undue or onerous terms in connection with the building of locks that might be found necessary in the future. I do not fear that. You can not legislate except upon two premises. First, that your agent is going to be honest; and, second, that he is going to be intelligent. If your engineers are going to be both honest and intelligent, they are not going to burden a grantee with an undue and an unjustifiable burden. But here you are proposing to grant an unusually long franchise In my country a 50-year franchise is a very long franchise to give. We have been constantly shortening the franchises that we give to corporations of all sorts. Here you are proposing to close the door for a term of 50 years.

My only objection to the amendment offered is that I do not think it fully covers the point. I think the whole paragraph ought to be so written as to make it clear that at any time any aids to navigation may be placed in the river or in the stream, and that such part of the cost as may be determined, either the whole or a part, may be put upon the grantee. We are here undertaking to mortgage the future; and I, for one, protest against the closing of the door for 50 years.

Now I yield to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Chairman, I will say to the gentleman that, if this amendment is adopted, I shall offer further amendments restoring the old law.

Mr. SHERLEY. Yes; for the amendment itself will not accomplish the whole purpose. I had roughly drafted here a section to take the place of the old one; but now upon this particular amendment we are faced with the principle, and this House ought to determine whether it is going to foreclose the matter for 50 years or whether it is going to leave it open to be adjusted as circumstances may determine.

Mr. TOWNSEND. Mr. Chairman, will the gentleman yield?

Mr. SHERLEY. Yes.

Mr. TOWNSEND. What does the gentleman from Kentucky say as to the statement of the gentleman from Minnesota [Mr. STEVENS] that, with the Lenroot amendment, capital could not be induced to engage where there was a possibility of an additional 50 per cent in the investment?

Mr. SHERLEY. In the first place, the cost of a lock may be 50 per cent of the dam cost, but it is not 50 per cent of the investment in the development of water power, and nothing like that much.

I say another thing. You can not here determine what water powers are going to be developed. That will change from year to year. Increased facility in the transportation of electric power, which has now reached the point in some instances where power is transmitted 300 miles; the increased efficiency of machinery in the development of hydroelectric power; the increased cost of other methods of developing power; the increased cost of coal may bring into the realm of practicability in the future projects that to-day are not practicable. Look back 50 years and see the changes that have taken place in engineering, in all the fields of industry and of science. Yet here to-day you are undertaking to determine for half a century the terms, and you agree that they must be very liberal so as to invite capital to invest. My experience has been that the trouble with a good many water-power proposals is that the men who undertook them and who got the original control of the sites were promoters rather than men engaged in the actual development of power.

Then there will come changes in the demand for power in different localities. All of these things will determine from time to time whether a particular power can be developed. And I submit again this proposition, that you have no right to assume that an engineer will put such burdens upon the grantee as will bankrupt him; and I do not believe that the men who invest capital in matters of this kind are so doubtful, so suspicious of their Government, as to make that a reason why they should not undertake these projects.

Mr. GARRETT of Texas. Is it not a common practice in this country, and has it not been for years, to impose burdens upon

grantees, railroads, street car companies, and so forth, that were never dreamed of years ago?

Mr. SHERLEY. Yes; and though they said they would go bankrupt, they have continued to make profits.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I will detain the committee only a moment. I rise more for the purpose of obtaining information than to make any argument. I will say, however, that I do not agree with the statement of the gentleman from Kentucky [Mr. SHERLEY] that we are mortgaging the future, foreclosing our rights for the next 50 years in this matter. The proposition we make to the water-power company is simply this: "Here is a stream. If you will provide a lock and dam in it according to the specifications of our engineers that will serve the needs of navigation, we will permit you to do it. If the Government itself thought it was desirable, it would go on and build that lock and dam to-day to meet the needs of the navigation interests of to-day. If 25 years from now other conditions arise and it is necessary to have a different type of lock, the Government will then go in at its own expense and build another lock of another type."

Mr. ANDERSON. Will the gentleman yield right there?

Mr. HUMPHREYS of Mississippi. Not right now. The Government will then do what is necessary to develop the navigation facilities that are then required. Under this bill these companies are required to furnish the facilities that our engineers think are needed now or reasonably prospective. We certainly ought to have the right, and if it is not in the bill I think it ought to be there—the Government certainly ought to have the right to say to this company "You must restore the conditions of navigability, at least as good conditions as there were when you went in there."

The gentleman from Wisconsin [Mr. LENROOT] said that is not in the bill. I then asked his attention to this paragraph, and he and the gentleman from Illinois [Mr. MANN] both said it does not apply. If paragraph (d) on page 6 does not mean that, I can not see what else it does mean.

Paragraph (d), on page 6, provides—

(d) For the payment or securing the payment to the United States of such sums and in such manner as the Secretary of War and the Chief of Engineers may deem reasonable and just substantially to restore conditions upon such stream as to navigability as existing at the time of such approval, whenever the Secretary of War and the Chief of Engineers shall determine that navigation would be injured by reason of the construction, maintenance, and operation of such dam and its accessory works.

Now, I will ask the gentleman from Wisconsin [Mr. LENROOT] a question solely for information: If that does not mean that the Federal Government is reserving the right to require these people to restore the conditions of navigability existing at the time of such approval, what does it mean?

Mr. LENROOT. It could not mean that, because there could be only two ways of restoring it—one by taking out the dam, and the other by constructing the lock. The specific provision that we are discussing will, unless my amendment is adopted, be such that they will never have to construct a lock. Under the terms of the general bill itself they can not be compelled to remove the dam.

Mr. MANN. Will the gentleman yield for a question?

Mr. HUMPHREYS of Mississippi. Yes.

Mr. MANN. Suppose we give somebody the authority to construct a dam up here at Great Falls on the Potomac, and in the course of time the Government wants something done and it requires the owner of the dam to restore conditions of navigability which existed at the time the dam was constructed. Who would make anything out of it? There is no navigation there. There can not be any navigation there now. Of what avail is it to order a man to restore the conditions of navigability, or nonnavigability, which means the same thing?

Mr. HUMPHREYS of Mississippi. I assume that under conditions of that sort no such ridiculous order would ever be issued. The Government would do nothing of the sort.

Mr. MANN. Then the Government can accomplish nothing under the gentleman's proposition.

Mr. HUMPHREYS of Mississippi. At that point it could not.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HUMPHREYS of Mississippi. I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. HUMPHREYS of Mississippi. I suppose not there, and not at Niagara Falls; but suppose at some other place, where there are certain conditions of navigability now, that we propose to improve, and in the course of human events the engineers decide that the structures that are put in there by the grantee are actually a menace or hindrance or an obstruction to navigation instead of an aid. Then in that event we would have the right to tell these people "You must remove the obstructions and restore the conditions of navigability that did exist before." That would never occur at Great Falls of course, where there is no navigability.

Mr. MANN. Is it not almost universally the case that where you can construct a dam you have something in the way of falls or rapids where there is no navigation?

Mr. HUMPHREYS of Mississippi. That is frequently true.

Mr. MANN. That is usually the case.

Mr. HUMPHREYS of Mississippi. I do not know that it is usually the case.

Mr. MANN. I am acquainted with scarcely a place where that does not occur.

Mr. HUMPHREYS of Mississippi. Take the 9-foot dams of the Ohio River; those are not dependent upon any falls or rapids. Very frequently we put locks and dams in a river where it is navigable for four or five months in the year.

Mr. MANN. Take the Keokuk Dam.

Mr. HUMPHREYS of Mississippi. Take the instances I am citing, for they will do as well. There we put locks and dams in the river and make it navigable for 12 months without reference to whether there are falls or rapids or not. It helps the conditions of navigability; and if the conclusion is afterwards reached that that dam is an obstruction instead of an aid to navigation, it ought to be removed. Now, I am asking for information, and I will ask the gentleman to answer me first, What is this paragraph (d)?

Mr. LENROOT. Fortunately, I am not in a position where I am called upon to answer.

Mr. HUMPHREYS of Mississippi. Then I will ask the gentleman from Minnesota.

Mr. STEVENS of Minnesota. That is put in for this purpose: Where the natural conditions exist and a change of commercial conditions arise, where it is necessary that the Government should have the improvement to navigation, it has a right under this to order conditions restored as they were before, practically, under the Chandler-Dunbar case, without the Government paying anything for it. It makes that case applicable to this act.

Mr. LENROOT. Let me ask the gentleman, Would it authorize the removal of the dam without paying anything for it?

Mr. STEVENS of Minnesota. Yes; if Congress should order it removed.

Mr. HUMPHREYS of Mississippi. The Secretary of War——

Mr. MANN. Take the Keokuk Dam, and here is a live illustration. The Government did have a lock there before. There was no navigability of the river, except in high water, except through the lock. By the construction of the dam that lock was destroyed and overflowed, and there was a new lock put in. Does this provision mean that if the Government chooses it can order this dam removed and restore this old, inadequate, practically useless lock, which was there before this dam was constructed? Because that would be restoring the conditions of navigability before the dam was constructed.

Mr. HUMPHREYS of Mississippi. The gentleman's inquiry was addressed to the gentleman from Minnesota. I suppose that that might be the case, but I am not going to suppose that Congress or the Secretary of War would do any such ridiculous thing.

Mr. MANN. Mr. Chairman, I ask unanimous consent to proceed for 10 minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. MANN. My reason for making the request is that I drew the original dam law in 1906 and was chairman of the committee when the amendatory act of 1910 was enacted, although even at that time I preferred the original act to the amended act, but there were some outstanding obligations to President Roosevelt which caused the amendment.

The dam act has never had a fair show. We hear the statement constantly made that under the provisions of the original dam law capital will not be invested, that you can not finance the enterprise.

Now, the fact is that almost every enterprise that has been authorized by Congress, if not every one, since the passage of the original act in 1906 has been financed and constructed, notwithstanding the constant claim made that you can not obtain capital under the provisions of that act. Here is the Rainy River Dam at International Falls, one of the principal dams of the country, it might be said, which was constructed and

financed and is now in operation under the provisions of that law.

In 1910, as I recall it—I do not remember whether before or after the amendatory act was passed—we passed a law or laws authorizing the construction of some dams down in South Carolina. I remember that was when the Taft administration was new. I think I was expected to be the chairman of the Committee on Interstate and Foreign Commerce at that time, although the committee had not been appointed. A gentleman came here from South Carolina with pathos in his voice and hard-luck stories of all kinds and succeeded in getting everybody here agreeable to the passage of his bill or bills—I do not remember whether there was more than one, but I know there were several dams involved—and that bill passed without ever coming from a committee. I had forgotten the circumstance, but a few days ago I received a letter from this gentleman recalling the action when he was here and inviting me to visit the dam which had been constructed and by means of which power is now being generated. They were able to finance that project.

Now, why have not more enterprises been financed? Well, the first bill we passed, or the second, under the original dam law was vetoed by President Roosevelt on the ground that the law did not require the payment of compensation, or some ground like that. I insisted to the President, as I still believe, that under the terms of the original law the Government could impose such stipulations and conditions as it pleased for the approval of the dam. But when Mr. Roosevelt vetoed the bill on the ground he did, although he waived the objection as far as the Rainy River Dam was concerned, it still stood as to any other bill. What was the use of passing any more bills? Congress declined to pass any other bills until the matter was adjusted in some way so that when Congress had passed the act the President would approve it. When Mr. Taft came in as President he approved these acts that I speak of for the South Carolina dams.

But shortly after Taft went in there a dam bill went to him and he disapproved it and vetoed it. What was the use in Congress passing any more bills when the President had declared that he would veto them all? And he vetoed the Coosa River Dam bill, which did pass after a hot contest in both the House and the Senate. I do not think anyone can know whether financiers would advance the money under the provisions of the original law, because there has been no opportunity to do it which they have refused. It is natural and proper that promoters desire to get the best terms possible. It is natural that men who propose to invest money desire to get the best terms possible for their side of the case, and it ought to be natural that we, representing the whole people and standing for the Government itself, should, while dealing fairly with those who seek the special privileges, also guard the interests of the Government and the whole people.

We now have an amendatory act before us which has to be disposed of. I have not paid so much attention to the details of the bill that has been printed in a number of different forms. I have the highest regard for the gentleman from Georgia [Mr. ADAMSON], the chairman of the committee; for the gentleman from Minnesota [Mr. STEVENS], the ranking minority member on that committee; and for all the members of that committee, for which I also entertain, both in the way of memory and reality, an affectionate regard. I served on that committee so long that my prejudices are all with the committee.

A word now as to the pending amendment. The old law, the first act, and the amendatory act, provides that when the plans are presented to the Secretary of War and the Chief of Engineers for approval, those two officials may impose such stipulations as they please. That is not the language. Here it is:

> Such conditions and stipulations may be imposed as the Chief of Engineers and the Secretary of War may deem necessary to protect the present and future interests of the United States.

I think that gives to those officials the power to impose such stipulations as they please, if in their opinion—and they are the judges of that—it should affect the present or future interests of the United States. And then specifically, so that there might be no lack of calling their attention to the matter when the act was originally drawn, it provided:

> Which [conditions and stipulations] may include the condition that such person shall construct, maintain, and operate, without expense to the United States, in connection with said dam and appurtenant works, a lock or locks, booms, sluices, or any other structures which the Secretary of War and the Chief of Engineers at any time may deem necessary in the interest of navigation, in accordance with such plans as they may approve.

In other words, when the original plan comes before the Secretary of War and the Chief of Engineers for approval they may include in their stipulations the condition that the owners of the dam shall construct locks, booms, sluices, or other structures which these officials may at any time think are necessary, and then in accordance with plans which they may approve.

The pending bill has entirely changed the theory of the original act. The original act authorized the Secretary of War and the Chief of Engineers to impose these conditions; treated the matter as though we had an actual case. Here is a river. There are rapids in the river, or there are falls in the river. You never have dams constructed where there is plenty of water at a particular place in the river. You have to have a fall of water, a decline, in order to make a dam of any use, and that must be either in the way of falls or rapids. There is no variation in the surface level of a stream unless there is a rapid run of the water, and you have to have a condition where there is practically no natural navigation except in high water, in order to construct a dam at all for the purpose of the production of power. But here is a case where the improvements on the river have not been determined. No one can tell whether there is need for a lock at that place at this time, but it is a great potent power for the manufacture of hydroelectric power, and the original act authorized the Chief of Engineers to impose the condition that if he should conclude, as the development of navigation progressed up that river, that in the course of time a lock was needed at that point, in order to go around the dam that was raised, then the owners of the dam should be required to construct that lock.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. ADAMSON. Does the gentleman wish more time?

Mr. MANN. Yes; I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MANN. Take the Keokuk Dam which has been referred to—a great dam. The Government did have a lock there and was contemplating the construction of a new lock. But suppose there had been no lock there at all, and Congress had granted the authority to build a dam, and the engineers had not yet arrived at a definite conclusion as to what kind of lock was required. They could impose, under the original act, the condition that at any time the owners of the dam should be required to construct a lock to get around the dam upon plans which they should then approve. These locks that are required are required to get around a dam that the owners of the dam build. That looks like a fair proposition. I can not say that it was onerous upon the proposed owners of the dam. If we had said that the owner of the dam here should be required to build a lock out yonder in the prairie, that would be imposing onerous and unfair conditions; but when we reserve the right only to require the owner of the dam to construct a necessary lock to go up and down around the dam which he built, that is no onerous condition. And as you necessarily go into just what was wanted at the time in many cases, the right was reserved at any time to fix the matter. But the pending bill removes that entirely. The pending bill requires that the Secretary of War must determine when he approves the plans for the dam exactly what other structures are to be built. If the Secretary of War or the Chief of Engineers has not made up his mind as to what lock is necessary, then he refuses to approve the dam.

I can not see how that will be any advantage for men who wish to promote these enterprises. In many cases the Chief of Engineers will not have determined what necessary structures ought to be there in order to permit the passing up and down of the river around the dam; and if he is not, he can not approve these plans; or if he does approve them, he must waive the right to ever require these structures to be built, because the present bill reads:

> Which the Secretary of War and the Chief of Engineers or Congress then may deem necessary in the interest of navigation, in accordance with plans made a part of such approval.

And such approval is the approval of the plans for the dam. In other words, under the pending bill the Secretary of War and the Chief of Engineers must either waive all right on behalf of the Government or he must be prepared, when they approve the plans for the dam, to determine exactly just what locks, dams, sluices, or other structures are required in order to pass around the dam; and nine times out of ten they will not have done that, because in most of these places where the dams are to be built the War Department has not yet reached a conclusion as to what is necessary at these particular points for the interest of navigation. They improve navigable rivers in many places, but not so much in those places where they have rapids, unless they have already undertaken the work there, and where

they have already undertaken the work there this bill is of little importance.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield to me.

Mr. MANN. I promised to yield to the gentleman from Georgia [Mr. ADAMSON] if he desires to ask me a question.

Mr. ADAMSON. I do not care to disturb the gentleman's argument, but as I understood from the gentleman from Illinois the material difference between the present amendment and his old provision is that in the approving of plans under the old law the Secretary of War and the Chief of Engineers may require the company in the future to comply with any condition in reference to navigation if they find it necessary.

Mr. MANN. Under the old law it leaves the Chief of Engineers and the Secretary of War the authority to determine hereafter what structures are necessary in order to pass around the dam. Under this law they have to determine at the time of the approval of the plans for the dam or else waive the right entirely.

Mr. ADAMSON. Then, what does the gentleman think of the last sentence in the old section imposing authority, that if the Government concludes to build the locks it shall require title to be conveyed and power granted?

Mr. MANN. There may be cases where the Secretary of War does not choose to require the dam companies to build the locks. But in every case they will be required, at least, to furnish the title to the land. There may be and I doubt not there are many places where it would be unfair to require the builders of the dam to construct the locks, but at least they will be required to furnish the land, but the Secretary of War has authority to prescribe the building of the locks.

Mr. ADAMSON. Then the gentleman's position is that under the original section the Secretary of War did have discretion to require or not require at the time?

Mr. MANN. Undoubtedly.

Mr. SHERLEY. Will the gentleman yield.

Mr. MANN. I will.

Mr. SHERLEY. Will not the result of forcing the Government engineers to determine in advance what they want then be that primarily they will make requirements that would not be necessary, and so place a burden upon the grantee, and in that way it is not in the interest of the grantee?

Mr. MANN. I would not be surprised if they were, because they must do something without sufficient knowledge or refuse to do it, one of the two. Now I yield to the gentleman from Mississippi.

Mr. HUMPHREYS of Mississippi. I just want to make this statement: The gentleman and myself have made opposite statements, or, rather, contradictory statements, and the fact is this——

The CHAIRMAN. The time of the gentleman has expired.

Mr. HUMPHREYS of Mississippi. I ask that the gentleman may have a minute longer.

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent that the gentleman from Illinois may proceed for a minute.

Mr. JOHNSON of Kentucky. Mr. Chairman, I ask unanimous consent that the gentleman from Illinois conclude his remarks.

Mr. MANN. I do not wish that much time. I ask the gentleman's pardon.

Mr. JOHNSON of Kentucky. Somebody else would like to hear more about it.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that the gentleman may conclude his remarks.

Mr. MANN. I ask the gentleman to withdraw that request.

Mr. JOHNSON of Kentucky. Very well; I will withdraw it.

The CHAIRMAN. Is there objection to the gentleman from Illinois proceeding for five minutes? The Chair hears none.

Mr. HUMPHREYS of Mississippi. What I want to call the gentleman's attention to is this: I have been asked if it was not true that locks and dams are always built in rivers where there are falls or rapids. I answered that question, I think accurately, that that is not the case and I do not think that that is usually the case. Where a dam is constructed for the purpose of developing water power it is most likely—I do not know, but it might be universally constructed where there are falls or rapids, but if locks and dams are built for the purpose of navigation throughout the country I do not think the gentleman's statement is accurate.

Mr. MANN. Oh, well; I was talking about this bill. I did not mean to be understood as saying they never built a dam in flat water. Of course they can build a dam in any water; you can build a dam in the sea if you want to do so; but what has that got to do with the bill we have now before us, which is authorizing the construction of dams to generate electric power?

Mr. HUMPHREYS of Mississippi. I was answering the gentleman's question——

Mr. MANN. I thought the gentleman was discussing this bill; if he was not——

Mr. HUMPHREYS of Mississippi. I thought I was answering the gentleman, and I still think I answered him. Now, I would like to get the gentleman's opinion, and I am asking for information; I have asked several Members, and nobody could answer anything more than what the gentleman has just said. That is, as to what paragraph (d) on page 6 means. The only information I have received on the subject is that it did not mean what I thought it did.

Mr. MANN. I suppose it means what it says, but, as the Lord only knows, there are many things that creep up here that are not intended to mean what they say. But I do not think it is so difficult to understand. It says:

> For payment or securing the payment to the United States of such sums and in such manner as the Secretary of War and the Chief of Engineers may deem reasonable and just substantially to restore conditions upon such stream as to navigability, as existing at the time of such approval, whenever the Secretary of War and the Chief of Engineers shall determine that navigation would be injured by reason of the construction, maintenance, and operation of such dam and its accessory works.

There may be cases where the Secretary of War and the Chief of Engineers might desire to restore conditions as they existed at the time. I can not imagine any other meaning, and I think the bill would be just as well off without it as it is with it.

Mr. HUMPHREYS of Mississippi. Oh, no. It is in the original bill that the gentleman drew.

Mr. MANN. It is not.

Mr. HUMPHREYS of Mississippi. Oh, yes.

Mr. MANN. If it is, it is all right.

Mr. HUMPHREYS of Mississippi. The provision is in the old law that the Secretary of War and the Chief of Engineers can require at any time any obstruction to navigation to be removed.

Mr. MANN. Oh, certainly.

Mr. HUMPHREYS of Mississippi. That is what this means, exactly. This is a requirement that any obstruction to navigation that was put in by the grantee can be removed.

Mr. MANN. If that is the case, it is better to leave it as it is in the existing law, which is plain, and which my friend from Mississippi understands may require obstructions to navigation to be removed, whereas he says he does not understand what this provision means.

Mr. HUMPHREYS of Mississippi. I said it meant that obstructions to navigation could be removed. The gentleman from Wisconsin [Mr. LENROOT] and the gentleman from Illinois [Mr. MANN] both said that it does not.

Mr. MANN. I beg the gentleman's pardon.

Mr. HUMPHREYS of Mississippi. The gentleman may not have understood my question, or I may have been unhappy in putting it. That is the thought I had in my mind. That is the question I was trying to ask at the time, because the gentleman from Wisconsin [Mr. LENROOT] had stated that we at least ought to have a right to require the grantee to restore conditions as to navigability as they were when the contract was originally made; and then I asked if this did not do that, and both of the gentlemen answered no.

Mr. MANN. I never found any value in disputing with any gentleman over what he meant if you could arrive at a conclusion of what he means now. So I do not think that is important. We were discussing the other question, as to the right of the Secretary of War to retain the control and require locks or dams to be constructed in the future. The gentleman from Mississippi undertook to state, as I understood him, that this section (d) covered that. I respectfully then, and respectfully now, deny it, because section (d) only authorizes the removal of the obstruction to navigation.

Mr. TOWNSEND. Will the gentleman yield? I understood the gentleman to say that if the Secretary of War and the Chief of Engineers at the time of the original approval of the plan did not require the construction of a lock they waived all such rights; but is there not a very important and large reservation of rights that immediately follows there:

> Whenever Congress shall deem such facilities necessary, the persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches, and shall grant to the United States free water power or power generated from water power for building, lighting, and operating such constructions.

Mr. MANN. The gentleman will notice that this is one of the conditions imposed by the Secretary of War and the Chief of Engineers as a condition for approving the plans.

Mr. TOWNSEND. Without the requirement of a lock or canal?

Mr. MANN. You can not build a dam without their approval. They can reserve these conditions, but it is within their discretion to do it. I take it they have already reserved it so far. If they do not reserve them, the conditions do not exist.

Mr. SPARKMAN. Mr. Chairman, I suppose the reason for this amendment is based upon the idea that the Chief of Engineers will not be capable, when passing upon the plans and requirements of a dam or a system of dams in a stream, to state in advance just what facilities may be needed in the future for the purposes of navigation. Now, if I agreed with him as to that, or if I agreed with that idea, I should myself favor the amendment, because I believe we should leave nothing unsaid in this bill to make certain that it will operate in the interests of the people of the country, for what will be to their interest will likewise be to the interest of those who will develop the power. But while it may be true that in some instances the Chief of Engineers may be unable to state just what the future needs of a stream may be, those cases, in my opinion, will be rare, and in a large majority of instances he will be able to determine approximately in advance what facilities will be needed in the future, at least during the limit of years fixed in this bill. That might not have been easy in some instances 30 or 40 years ago, but the engineers know more, perhaps, now of the needs of our waterways than they did then. And I want to say, in response to a remark made by the gentleman from Kentucky [Mr. SHERLEY] a while ago when he instanced some of the locks and dams on the Ohio River as bearing out his idea that the engineers could not look far into the future, that even 20 or 25 years ago they were contending that those locks should be larger than they were being constructed, larger than the plans for them required.

Mr. SHERLEY. Will the gentleman yield?

Mr. SPARKMAN. I will.

Mr. SHERLEY. I will say to the gentleman, as he knows, that the plan for the Ohio River has been adopted within the last few years—less than 10. There is now a project looking to a complete change in that plan by the elimination of one dam and lock and the increase of the height of the dam at Louisville by several feet, and a year has not gone by that there has not been some fundamental change proposed by the engineers—not one year.

Mr. SPARKMAN. Possibly not so fundamental as the gentleman might suppose. But it is a fact, Mr. Chairman, that 20 or 25 years ago some of our engineers were contending that the locks as planned for the Ohio River were not sufficient; that larger and deeper locks were needed; and that a 9-foot low-water depth from Pittsburgh to Cairo should be provided. It has only been within recent years, to be sure, that that plan has been adopted. At first we worked upon a 7-foot channel, but finally—in 1907, I believe—embarked upon the 9-foot plan, with locks to accommodate such a channel and the water craft that might be expected to use the channel. The only material consideration was the dimensions of the locks, and these have been, in the main, long since determined.

Looking over the field and having given this matter such thought as I am capable of, I have reached the conclusion that our commercial needs will not demand any greatly increased depth in many of our rivers. Indeed, if the ideas now being expressed by some periodicals and by a few of our statesmen are to be taken as correct, commerce is dwindling and rapidly disappearing on the rivers of our country, so that in a few years we will not need any kind of improvement or transportation facilities. This is an erroneous impression, for it is growing on nearly all our rivers.

But let me tell you the trouble is not with the rivers, but with the harbors, when you come to arrange plans for the future. When the last river and harbor bill was under consideration in the House I undertook to forecast the future as to expenditures for river and harbor improvements for the next 25 years and believe I did not overstate the figures, which I fixed at $450,000,000, including the projects adopted in that and preceding bills and not completed. The trouble when you seek to look into the future is not with the rivers, although now and then the engineers might make a mistake. Such mistakes would be negligible. The trouble is with the harbors, where they must plan for the accommodation of the ever-increasing draft of vessels.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. SPARKMAN. Now, I am inclined to believe that a low-water depth of 7 feet in our rivers will in most cases be sufficient. Some, of course, as the Ohio and the lower Mississippi, will require more; and I say it is possible even now for a competent engineer—and our Government engineers are competent—after having studied a proposed project, to determine just what will be needed to meet commercial demands for a long period of years. I think, for instance, he can, after looking over a stream, after studying and considering the resources of the stream, studying the needs of the future and the possibilities of the country contributing to such stream, determine quite accurately its future commercial needs, and plan accordingly without any great liability to err. If I did not believe that, Mr. Chairman, I should certainly favor the amendment which the gentleman has offered.

I have said that the main trouble in any effort to predict as to future commercial needs when outlining plans for the improvement of our waterways is mainly with the harbors and not with the rivers. There is perhaps not a navigable stream in the country, or one capable of being made navigable by canalization or otherwise, that has not been studied by the engineers, nor one with which they are not thoroughly familiar. So that it is easy for them now to lay down plans to meet the requirements of navigation on any stream for many years to come; or, at least, it is easy for anyone who has been so long in the service and become so skillful in his profession as to be placed in the responsible position of Chief of Engineers. That fact is recognized by some, at least, who have given serious thought to the subject of waterway development. There has been for many years an insistent demand for a comprehensive system of improvement of our rivers under which channels not only may be standardized as to depth, but may be put in a condition to meet all future demands or, at least, the requirements of commerce for a long period of years. This demand is even now in a fair way to be met, as every plan for the improvement of our rivers is being made with reference to the distant future as well as the present. So that when a project now proposed for a given improvement in any navigable stream is completed it will likely be in a condition to meet all reasonable requirements for many years to come, as it is not expected the draft of freight-carrying boats for use on our rivers will greatly increase beyond what it is to-day.

The future freight-carrying boat for river use will be of the barge type, either self-propelled or moved by a towboat, and there is little need for greater than 7 feet for the accommodation of such craft. Certainly 9 feet will at all times be ample. This is proven by the class of traffic on the waterways of Europe, where they are compelled to accommodate themselves to shallow channels. Traffic on the Rhine, for instance, the greatest freight-carrying river of Europe, is moved in the main on less than 9 feet of water.

In some rivers, as the Hudson and the lower reaches of the Mississippi, large and deeper draft vessels will no doubt be used, as they are being used now, but the greater part of the freight traffic on all of our navigable streams will be carried in barges of perhaps not more than 7-feet draft, certainly not more than 9. So that even now, as I have just said, it will be easy for an engineer to determine the necessary dimensions of a lock for use during the next 50 years.

The trouble in predicting arises when you come to deal with harbors, for it is difficult to tell just now what the size and draft of the boat of the future will be. Still, I think that is entirely possible, at least within reasonable limits. I believe it is now practicable for the engineers, in devising plans for present and future needs, to determine what facilities will be needed for our coastwise and foreign commerce, at least for a quarter of a century, perhaps for half a century, and I have heretofore suggested that the engineers, in making surveys and recommending new projects for our harbors, should plan for at least 25 or 30 years, for by that means we would materially lessen the cost of such improvements. Heretofore this has been done in few if any cases, as the engineers have, in recommending plans, felt themselves limited by the prevalent, though in many instances commendable, desire for economy, or at least for conservatism in the matter of expenditures. This is a false idea of economy when applied to our harbors and rivers and should not be followed in any case where it is possible by wise and well-considered plans to get away from it. If the engineers were permitted, in making surveys and reporting projects, to plan for long periods of years, so that work now being done by piecemeal and with short rests, could all be done at once, or in the carrying out of one project much money would be saved in making required improvements and better commercial results obtained.

Now, Mr. Chairman, I will only add that we can enter upon no more important undertaking than the improvement of our rivers and harbors for the purposes of navigation, and I favor this measure because it will aid much in this great work.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Wisconsin [Mr. LENROOT].

The question was taken, and the Chairman announced that the ayes seemed to have it.

Mr. ADAMSON. A division, Mr. Chairman.

The Committee divided; and there were—ayes 41, noes 15.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

Mr. LENROOT. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Wisconsin [Mr. LENROOT].

The Clerk read as follows:

Strike out, on page 3, all of line 2 after the word "with," on lines 3 and 4, and the words "approval and construction," on line 5, and insert in lieu thereof the following: "such plans as they may approve, and also that."

Mr. LENROOT. Mr. Chairman, that amendment applies to the old bill. If the Clerk will change that, to refer to the new committee print, it will be all right.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

Mr. ADAMSON. Let us understand where it comes in.

The Clerk read as follows:

Strike out, on page 3, all of line 2 after the word "with"——

Mr. MURDOCK. There is not any word "with" in there.

Mr. LENROOT. After the word "with," in line 4 of the new committee print, down to and including the word "construction," on line 7.

Mr. FERRIS. What is that amendment, Mr. Chairman? Will the gentleman state it again?

Mr. ADAMSON. Let the gentleman from Wisconsin state the amendment.

Mr. LENROOT. The amendment will strike out the words "plan made a part of such approval."

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

Strike out all after the word "with," on line 4, and lines 5 and 6 and the words "approval and construction" in line 7.

Mr. MURDOCK. Mr. Chairman, may I call the attention of the Clerk to the fact that there are three copies of this bill—an original bill, and then a bill with amendments, and then a new committee print?

Mr. ADAMSON. There is only one copy before the House, by unanimous consent, and I have furnished the gentleman from Kansas [Mr. MURDOCK] with that this morning.

Mr. MURDOCK. The amendment as cited there does not fit with the language.

Mr. ADAMSON. That is the fault of the gentleman from Wisconsin [Mr. LENROOT].

The CHAIRMAN. The Clerk has read the amendment as it was given to him.

Mr. LENROOT. It is correct now.

Mr. ADAMSON. I did not understand it. Let the gentleman from Wisconsin read it.

The CHAIRMAN. The Clerk will report the amendment again.

The Clerk read as follows:

Strike out, on page 3, all of line 4.

Mr. HUMPHREYS of Mississippi. No; that is all wrong.

The Clerk read as follows:

Strike out all after the word "with," in line 4, and lines 5 and 6.

Mr. ADAMSON. And line 7.

The Clerk read as follows:

And the words "approval and construction" in line 7.

Mr. MURDOCK. That is correct.

The Clerk read as follows:

And insert in lieu thereof the following: "such plan as they may approve, and also that."

Mr. LENROOT. Now, Mr. Chairman, this merely restores the old law, so as to harmonize the amendment just adopted.

Mr. ADAMSON. Mr. Chairman, I shall not resist that amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Wisconsin.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

Mr. LENROOT. Now, Mr. Chairman, I move to strike out the proviso in the committee amendment. It now becomes unnecessary.

Mr. ADAMSON. The gentleman from Minnesota [Mr. STEVENS] can tell about that. I myself never did think it was necessary.

The Clerk read as follows:

Amend, page 3, line 16, by striking out the proviso.

The CHAIRMAN. Will the gentleman from Wisconsin [Mr. LENROOT] state more accurately just what is intended to be stricken out?

Mr. LENROOT. All of the proviso, beginning with line 16, covering the balance of the section.

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

Amend, page 3, by striking out all of the proviso, beginning with line 16 and ending with line 25.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Wisconsin.

The amendment was agreed to.

Mr. LENROOT. One more amendment, Mr. Chairman. I move, in line 13, page 3, to strike out the words "in such original approval."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 3, line 13, by striking out the words "in such original approval."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

Mr. THOMSON of Illinois. Mr. Chairman, I move to amend, page 3, line 12, by adding a comma after the word "building," and inserting the word "lighting."

The CHAIRMAN. On what line?

Mr. THOMSON of Illinois. Line 12.

The Clerk read as follows:

Amend, page 3, by inserting after the word "building," in line 12, a comma and the word "lighting."

Mr. ADAMSON. Mr. Chairman, we thought the word "operating" included the word "lighting." I do not think this is necessary. You certainly can not operate it without lighting it.

Mr. THOMSON of Illinois. I disagree with the gentleman from Georgia. The lighting does not enter into the operation. They ought to furnish power for lighting as well as for operating.

Mr. ADAMSON. I tried to intimate to the gentleman that adding that redundant word does not meet any powerful resistance on my part. But you can not operate one of these plants without lighting it.

Mr. STEVENS of Minnesota. If the gentleman will examine page 7, lines 13, 14, 15, and 16, he will notice the language is:

Such regulations may include the maintenance and operation by such grantee, at its own expense, of such lights and other signals as may be directed by the Secretary of War and the Chief of Engineers—

And so forth.

Mr. THOMSON of Illinois. Then, Mr. Chairman, the adoption of my amendment will bring this in harmony with what the gentleman from Minnesota has just called attention to.

Mr. MANN. I doubt very much, Mr. Chairman, the desirability of this amendment. This relates to the practical operation of the lock, and the law now provides that the owner of the dam shall furnish power for the operation of the lock. If you insert the word "lighting," it would not refer to anything except the operation of the lock. It would not relate to the furnishing of lights in the Government building, or anything of that kind. Now, if lights are necessary for the operation of the lock, that is included. If you specify a particular thing, you may exclude other things that may be required. Where you become specific you have either got to follow along and keep specific or else your general language becomes of no advantage.

Mr. MONTAGUE. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. MONTAGUE. In other words, the gentleman from Illinois thinks there may be other elements essential to the operation?

Mr. MANN. There might be many other elements besides the mere moving of the lock up and down.

Mr. MONTAGUE. And the mere lighting.

Mr. MANN. And the mere lighting.

Mr. MONTAGUE. And if you begin to be specific, you may exclude other things.

Mr. MANN. The general rule of law is that when you become specific and then use general language the general language may not include similar things to the one where you have been specific.

Mr. ADAMSON. The expression of one will exclude many others.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. THOMSON].

The question was taken, and the amendment was rejected.

Mr. SHERLEY. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. If the gentleman from Kentucky will excuse the Chair for a moment, the Chair should have recognized the gentleman from Illinois, who had another amendment, which may have referred to the same subject.

Mr. THOMSON of Illinois. Mr. Chairman, my amendment does not refer to the same subject, and I am willing to yield to the gentleman from Kentucky.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Kentucky.

The Clerk read as follows:

Amend, page 3, by adding at the end of the section, in line 16, the following: "The Secretary of War may provide as a condition of such approval for the payment to the United States of reasonable annual charges for the benefits that accrue to the grantee by the authority given under this act, and at the end of 20 years, and every 10 years thereafter, the Secretary of War may readjust the annual charges as may then be just and reasonable."

Mr. STEVENS of Minnesota. Mr. Chairman, I make the point of order that that amendment is not germane.

Mr. SHERLEY. I want to be heard on that, Mr. Chairman. This section provides for the conditions that may be imposed before approval is given to any grantee to construct a dam on navigable waters. My amendment provides for one of these conditions—annual payment, when it shall be just and reasonable. If that is not in order here, I do not know what on earth can be in order.

Mr. STEVENS of Minnesota. Mr. Chairman, it is not in order on this bill. It raises the general question both of lack of authority to make this provision in this way, and, even if it be constitutional, that it should not be done in this measure. I do not make the point particularly that it is not in order at this particular place in the bill, although I think it would be better in some other place; but I make the point of order that it is not germane to this bill, either here or in any other part of the bill. I am ready to discuss that question of germaneness.

Mr. SHERLEY. I would like to hear the gentleman's point of order. I can not conceive what it is.

Mr. STEVENS of Minnesota. Mr. Chairman, I did not catch quite all of the gentleman's amendment, but I understand that the Secretary of War may include a charge as a condition of his approval. That is the substance of the amendment as I understood it. Mr. Chairman, I maintain that is not germane for the reason that it is an exercise of the taxing power of the United States, or an attempted exercise, as a part of a bill which is using the commerce power of the United States. I maintain that the raising of a tax under the taxing power is not germane to a measure which only concerns the exercise of the commerce clause in regulating navigation. That is the substance of my point; but, even if Congress can so tax, this amendment does not provide for such uniformity as the Constitution requires.

The amendment attempts to make a charge to raise revenue for general purposes of the United States, and that can not be done under this bill when objection is made that it is not germane. The basis of that contention is that there is nothing in the amendment which makes it relate directly to the purpose of commerce; that it is not a necessary part of the regulation of commerce; but, on the contrary, that it is a necessary part of a purpose and plan to raise money for the general public purposes to replenish the Treasury of the United States.

Now, the general legal proposition is that the United States has no legal property right in the flowing waters of navigable rivers, but that the legal title and right to these waters is in the State in trust for the public. I think there can be no contradiction as to this point in the decisions of either State or National courts on that subject. The only right that the United States has is the paramount right to use the water for navigation under the commerce clause, and anything which concerns the right or which relates to that right to use that water for the purposes of navigation can be included in this bill. I herewith submit a report of the Committee on the Judiciary of the Senate on this subject, and will append it as a part of this argument.

The report is as follows:

[Senate Report No. —, Sixty-second Congress, second session.]

POWER OF THE FEDERAL GOVERNMENT OVER THE DEVELOPMENT AND USE OF WATER POWER.

Mr. NELSON, from the subcommittee of the Committe on the Judiciary, submitted the following report, to accompany S. Res. 44.

To the Committe on the Judiciary:

Your subcommittee which was directed to report on the following resolution—

"*Resolved*, That the Committe on the Judiciary of the Senate be, and it is hereby, directed to report to the Senate, at as early a date as possible in the next regular session of Congress, upon the power and authority of the National Government over the development and use of water power within the respective States, and especially:

"First. Has the National Government any authority to impose a charge for the use of water power developed on nonnavigable streams, whether State or interstate?

"Second. Has it any authority in granting permits to develop water power on a navigable stream to impose and enforce conditions relating to stated payments to the Government, regulation of charges to consumers, and determination of the right to make use of such developed power?

"Third. Has it authority in disposing of any of its lands, reserved or unreserved, necessary and suitable for use in connection with the development or use of water power on a nonnavigable stream, whether State or interstate, by lease or otherwise, to limit the time for which such development may continue, or to impose and enforce charges for the use and development of such water power, or to control and regulate the disposition of such water power to its consumers?"

have considered the same and reports as follows:

The interrogatories embraced in the foregoing resolution involve the rights of riparian owners, the rights of the States, and the rights of the Federal Government in the navigable and nonnavigable streams and watercourses of the country. A solution and understanding of these several rights will tend to answer and solve the questions propounded.

NAVIGABLE STREAMS.

The rule of the common law, that only those streams are held navigable in which the tide ebbs and flows, and only so far as such ebb and flow, has not been adopted and does not prevail in this country. With us the question of navigability is one of fact in each case. If a stream can be used for commerce or trade, in any form, to any substantial extent, even for the floating of rafts of logs or lumber, it is held to be a navigable stream. (The *Genessee Chief*, 12 How., 443; the *Daniel Ball*, 10 Wall., 557; the *Montello*, 20 Wall., 430; Barney *v.* Keokuk, 94 U. S., 324; Waterpower Co. *v.* Water Commissioners, 168 U. S., 349.)

Most of our streams and watercourses are, in fact, more or less navigable in some of their reaches, and the nonnavigable portions serve as a feeder for, and are so connected with, the navigable sections that it is difficult and scarcely practicable to apply a separate rule for each. This must needs be so where ample regulation of the navigable section can only be secured through regulation of the nonnavigable section. In such cases, for the purposes of interstate commerce, the Federal Government has full regulative power over the entire stream, the nonnavigable as well as the navigable sections.

In U. S. *v.* Rio Grande Irrigation Co. (174 U. S., 690) the Supreme Court, in passing upon certain statutes relating to the use of water for mining and irrigation purposes, makes this declaration:

"To hold that Congress, by these acts, meant to confer upon any State the right to appropriate all the waters of the tributary streams which unite into a navigable watercourse, and so destroy the navigability of that watercourse in derogation of the interests of all the people of the United States, is a construction which can not be tolerated. It ignores the spirit of the legislation and carries the statute to the verge of the letter and far beyond what under the circumstances of the case must be held to have been the intent of Congress" (pp. 706, 707).

TITLE OF THE STATES IN THE BEDS AND WATERS OF NAVIGABLE STREAMS.

The several States of the Union are each primarily the proprietors of, and have the sovereignty over, the beds and waters of the navigable streams and watercourses within their respective borders, subject only to the rights of the Federal Government under the interstate-commerce clause of the Constitution (par. 3, sec. 8, art. 1), and to the rights of the Federal Government as owner of the riparian lands (par. 2, sec. 3, art 4), which rights will hereafter be referred to and enlarged upon.

In the case of Martin *v.* Waddell (16 Peters, 367), where the question of tidelands and tidewaters was involved, the Supreme Court of the United States makes this clear and comprehensive declaration:

"For when the Revolution took place the people of each State became themselves sovereign; and in that character hold the absolute right to all their navigable waters, and the soils under them, for their own common use, subject only to the rights since surrendered by the Constitution to the General Government."

The same doctrine was laid down by the court in the case of Pollard *v.* Hagan (3 How., 212), and it was held to apply to the newer States in as full a measure as to the original States of the Union. In this case the court concludes its opinion as follows:

"By the preceding course of reasoning we have arrived at these general conclusions: First. The shores of navigable waters and the soils under them were not granted by the Constitution to the United States, but were reserved to the States respectively. Second. The new States have the same rights, sovereignty, and jurisdiction over this subject as the original States. Third. The right of the United States to the public land and the power of Congress to make all needful rules and regulations for the sale and disposition thereof conferred no power to grant to the plaintiffs the land (tidewater land) in controversy."

In the case of Barney *v.* Keokuk (94 U. S., 324), Justice Bradley declares that the correct principles were laid down in the foregoing cases, and then adds:

"These cases related to tidewater, it is true, but they enunciate principles which are equally applicable to all navigable waters."

The rule laid down in the foregoing cases is reaffirmed and amplified with the citation of numerous authorities in the case of Shively *v.* Bowlby (152 U. S., 1).

RIPARIAN TITLE.

It is the rule of the common law that a grant of land upon the borders of a navigable stream carries the grant only to the high-water

line, while a grant of land bordering upon a nonnavigable stream carries the title to the center of the stream, subject to the public easement in the water of the stream. While this is the rule of the common law, the Supreme Court of the United States, in the case of Hardin *v.* Jordan (140 U. S., 371), has determined that the limits and extent of the riparian ownership is governed by the law of the State in which the land is situated. Justice Bradley, who delivered the opinion in this case, after discussing the question and citing numerous authorities, concludes as follows:

"We do not think it necessary to discuss this point further. In our judgment the grants of the Government for lands bounded on streams and other waters, without any reservation or restriction of terms, are to be construed as to their effect according to the law of the State in which *the lands lie*" (p. 384).

The case of Shively *v.* Bowlby, heretofore cited, approves of and adheres to this rule, and the following cases indorse and adhere to the rule: Barney *v.* Keokuk (94 U. S., 324), St. Louis *v.* Myers (113 U. S., 566), Packer *v.* Bird (137 U. S., 661), St. Louis *v.* Rutz (138 U. S., 226), Mitchell *v.* Smale (140 U. S., 406), Grand Rapids *v.* Butler (159 U. S., 87), Water Power Co. *v.* Water Commissioners (168 U. S., 349), Kean *v.* Calumet Canal Co. (190 U. S., 452), United States *v.* Chandler Dunbar Co. (209 U. S., 447).

The rule of riparian ownership as to grants of land bordering on streams is diverse in the various States. Some States hold that the grant extends only to high-water mark; other States hold that it extends to low-water mark; while another class of States—and perhaps the most numerous—hold that the grant extends to the middle of the stream, subject to the public easement in the water of the stream. But whatever may be the law in this respect as to the effect of the grant, it only relates to the proprietorship in the banks and bed of the stream, and not to the ownership of the water in the stream.

In those States which hold that the title of the riparian owner only extends to the high or low water mark the title to the bed of the stream is deemed to be in the State, and whether the title to the bed of the stream is in the riparian owner or in the State, in either case the sovereignty over and the paramount title to the water of the stream is deemed to be in the State, but it holds it not absolutely, but in trust for all lawful public uses, and in subrogation to the rights of the Federal Government.

PROPRIETORSHIP AND CONTROL OF THE WATER IN STREAMS.

While the riparian proprietor may be the absolute owner of the bed of the stream, he has no such proprietorship in the water of the stream. The water is a movable thing, and as to that he has only a usufruct. His rights in the water are subject to the sovereignty and control of the State, to the rights of the other riparian owners, and to the public easement or use. Lord Chief Justice Hale in his De Juris Maris (Hargrave, p. 6), in the quaint law language of those days, states:

"Though fresh rivers are in point of propriety, as before, prima facie of a private interest; yet, as well fresh rivers as salt, or such as flow and reflow, may be under these two servitudes, or affected with them—viz, one of the prerogatives belonging to the King, and another public interest, or belonging to the people in general."

Commenting on a case in which the riparian owner claimed the title up to the thread of the stream in the Severn River as against the King, Lord Hale says (Hargrave, p. 36):

"But though the subject may thus have the propriety of a navigable river part of a port, yet these cautions are to be added, viz: First, that the King has yet a right of empire or government over it in reference to the safety of the kingdom and to his customs, it being a member of a port, prout infertius dicitur; second, that the people have a public interest, a jus publicum, of passage and repassage with their goods by water and must not be obstructed by nuisances or impeached by exactions. * * *. For the jus privatum of the owner or proprietor is charged with and subject to that jus publicum which belongs to the King's subjects; as the foil of an highway is, which though in point of property it may be a private man's freehold, yet it is charged with a public interest of the people, which may not be prejudiced or damnified."

Sir J. Leach, vice chancellor, in the case of Wright *v.* Howard (1 Simons & Stuart's Reports, 203), an English case in chancery, decided in 1823, explains the right of a riparian as follows:

"The right to the use of the water rests on clear and settled principles. Prima facie, the proprietor of each bank of a stream (not tidal) is the proprietor of half the land covered by the stream, *but there is no property in the water*. Every proprietor has an equal right to use the water which flows in the stream, and, consequently, no proprietor can have the right to use the water to the prejudice of any other proprietor. Without the consent of the other proprietors, who may be affected by his operations, no proprietor can either diminish the quantity of water, which would otherwise descend to the proprietors below, nor throw the water back upon the proprietors above."

Chancellor Kent, in his Commentaries, states the common-law rule in these words:

"Every proprietor of lands on the banks of a river has, naturally, an equal right to the use of the water which flows in the stream adjacent to his lands, as it was wont to run (currere solebat), without diminution or alteration. No proprietor has the right to use the water to the prejudice of other proprietors above or below him *unless he has a prior right to divert it or a title to some exclusive enjoyment. He has no property in the water itself, but a simple usufruct* while it passes along. Aqua currit et debet currere ut currere solebat is the language of the law. Though he may use the water while it runs over his land as an incident to the land, he can not unreasonably detain it or give it another direction, and he must return it to its ordinary channel when it leaves his estate." (3 Com., 439.) (Stein *v.* Burden, 29 Ala., 127.)

In the case of Head *v.* Amoskeag (113 U. S., 9), involving the right of the riparian owner to construct and maintain a milldam on his own land under a statute of New Hampshire, Justice Gray, who delivered the opinion of the court, declares:

"We prefer to rest the decision of this case upon the ground that such a statute, considered as regulating the manner in which the rights of proprietors of lands adjacent to a stream may be asserted and enjoyed, with a due regard to the interests of all, and to the public good, is within the constitutional power of the legislature" (p. 21).

He further declares:

"The right to the use of running water is publici juris, and common to all the proprietors of the bed and banks of the stream from its source to its outlet. Each has a right to the reasonable use of the water as it flows past his land, not interfering with a like reasonable use by those above or below him" (p. 23).

In the case of the United States *v.* Rio Grande Co. (174 U. S., 690), in considering a nonnavigable reach of the Rio Grande River, in the Territory of New Mexico, Justice Brewer, who delivered the opinion of the court, after quoting the foregoing paragraph from Chancellor Kent, adds:

"While this is undoubted, and the rule obtains in those States in the Union which have simply adopted the common law, it is also true that as to every stream within its dominion a State may change this common-law rule and permit the appropriation of the flowing waters for such purposes as it deems wise."

That the sovereignty and control over, and paramount title to, the waters in a stream is in the State is further established by that line of decisions sustaining the rule of public ownership and "prior appropriation" prevailing in the mining and semiarid States, and acquiescing in its application to the lands of the United States. (Jennison *v.* Kirk, 98 U. S., 45; Broder *v.* Water Co., 101 U. S., 274; Gutiers *v.* Albuquerque Co., 188 U. S., 545; Boquilla Cattle Co. *v.* Curtis, 213 U. S., 339.)

The case of Kansas *v.* Colorado (206 U. S., 46) was a controversy between two States, one recognizing the doctrine of public ownership and prior appropriation and the other the common-law rule. Chief Justice Shaw, in the case of Elliott *v.* Fitchburg Railway Co. (10 Cush., 191), describes the rights of the riparian owner under the common-law rule in the following terms:

"The right to flowing water is now well settled to be a right incident to property in the land; it is a right publici juris, of such a character that, while it is common and equal to all through whose land it runs, and no one can obstruct or divert it, yet, as one of the beneficial gifts of Providence, each proprietor has a right to a just and reasonable use of it as it passes through his land; and so long as it is not wholly obstructed or diverted, or no larger appropriation of the water running through it is made than a just and reasonable use, it can not be said to be wrongful or injurious to a proprietor lower down. What is such a just and reasonable use may often be a difficult question, depending upon various circumstances. To take a quantity of water from a large running stream for agricultural or manufacturing purposes would cause no sensible or practicable diminution of the benefit to the prejudice of a lower proprietor, whereas taking the same quantity from a small running brook passing through many farms would be of great and manifest injury to those below who need it for dometic supply or watering cattle, and therefore it would be an unreasonable use of the water, and an action would lie in the latter case and not in the former. It is therefore to a considerable extent a question of degree; still the rule is the same, that each proprietor has a right to a reasonable use of it, for his own benefit, for domestic use, and for manufacturing and agricultural purposes. * * *

"That a portion of the water of a stream may be used for the purpose of irrigating land we think is well established as one of the rights of the proprietors of the soil along or through which it passes. Yet a proprietor can not under color of that right or for the actual purpose of irrigating his own land wholly abstract or divert the watercourse or take such an unreasonable quantity of water or make such unreasonable use of it as to deprive other proprietors of the substantial benefits which they might derive from it if not diverted or used unreasonably. * * *

"This rule, that no riparian proprietor can wholly abstract or divert a watercourse, by which it would cease to be a running stream, or use it unreasonably in its passage and thereby deprive a lower proprietor of a quality of his property, deemed in law incidental and beneficial, necessarily flows from the principle that the right to the reasonable and beneficial use of a running stream is common to all the riparian proprietors, and so each is bound to use his common right as not essentially to prevent or interfere with an equally beneficial enjoyment of the common right by all the proprietors. * * *

"The right to the use of flowing water is publici juris and common to all the riparian proprietors; it is not an absolute and exclusive right to all the water flowing past their land, so that any obstruction would give a cause of action; but it is a right to the flow and enjoyment of the water, subject to a similar right in all the proprietors to the reasonable enjoyment of the same gift of Providence. It is, therefore, only for an abstraction and deprivation of this common benefit or for an unreasonable and unauthorized use of it that an action will lie."

The assertion of public ownership and of prior appropriation, already referred to, is thus described by Justice Field in the case of Jennison *v.* Kirk (98 U. S., 453). After describing the system of discovery and appropriation and development of mining claims he adds the following:

"But the mines could not be worked without water. Without water the gold would remain forever buried in the earth or rock. To carry water to mining localities when they were not on the bank of a stream or lake became, therefore, an important and necessary business in carrying on mining. Here, also, the first appropriator of water to be conveyed to such locality for mining or other beneficial purposes was recognized as having, to the extent of actual use, the better right. The doctrine of the common law respecting the right of riparian owners was not considered as applicable, or only in a very limited degree, to the conditions of miners in the mountains. The waters of rivers and lakes were consequently carried great distances in ditches and flumes, constructed with vast labor and enormous expenditures of money, along the sides of mountains and through canyons and ravines, to supply communities engaged in mining as well as for agriculturists and ordinary consumption. Numerous regulations were adopted, or assumed to exist, from their obvious justness for the security of these ditches and flumes, and for the protection of rights to water, not only between different appropriators, but between them and the holders of mining claims. These regulations and customs were appealed to in controversies in the State courts, and received their sanction, and properties to the value of many millions rested upon them. For 18 years, from 1848 to 1866, the regulations and customs of miners, as enforced and molded by the courts and sanctioned by the legislation of the State, constituted the law governing property in mines and in water on the public mineral lands."

These water rights by prior appropriation, as described by Justice Field, were recognized and confirmed by congressional legislation in 1866 and in 1870. Those acts are now sections 2339 and 2340 of the Revised Statutes. Justice Field further adds:

"It will thus be seen that the Federal statutes merely gave a formal sanction to the rules already established. These rules had been built up in reliance on the tacit acquiescence of the United States, the true owner of the lands and waters on which appropriations were made, and these statutes acquiesced therein expressly 'a voluntary recognition of a preexisting right rather than the establishment of a new one.'"

In the case of Broder *v.* Natoma Water Co. (101 U. S., 274) the Supreme Court, in referring to the contention that these statutes established a new right, uses the following language:

"We are of the opinion that it is the established doctrine of this court that rights of miners who had taken possession of mines and worked and developed them, and the rights of persons who had constructed canals and ditches to be used in mining operations and for purposes of agricultural irrigation in the region where such artificial use of the water was an absolute necessity, are rights which the Government had, by its conduct, recognized and encouraged and was bound to protect before the passage of the act of 1866, and that the section of the act which we have quoted was rather a voluntary recognition of a preexisting right of possession constituting a valid claim to its continued use, than the establishment of a new one."

While the common-law rule prevails—in some instances with slight modifications—in all of the States, except the so-called semiarid or mining States, there can be no doubt that it is in the power of these common-law States by virtue of their sovereignty, to modify or change the rule of the common law. In the language of Justice Brewer (in United States *v.* Rio Grande Co., 174 U. S., 702–703):

"It is also true that as to every stream within its dominion a State may change this common-law rule and permit the appropriation of the flowing waters for such purposes as it may deem wise."

The same justice, in the case of Colorado *v.* Kansas (206 U. S., 94), describes the power of the State as follows:

"It may determine for itself whether the common-law rule in respect to riparian rights or that doctrine which obtains in the arid regions of the West of the appropriation of waters for the purposes of irrigation shall control. Congress can not enforce either rule upon any State." (See also McGilvra *v.* Ross, 215 U. S., 70.)

We append hereto Exhibit A, which names most of the States in which the rule of prior appropriation prevails and also gives the constitutional and statutory provisions, with some of the decisions of the courts relating to the subject in each of these States.

PROPERTY AND RIGHTS OF THE UNITED STATES.

Except as the owner of riparian lands and except for the purpose of regulating interstate commerce, the United States has no property in or sovereignty over the streams or water courses within the boundaries of the several States. The sovereignty and ultimate control is in the State, and the proprietorship is either in the State or in the riparian owner, or in both, according to the constitutions and laws of the several States, and the power of the Federal Government over the streams is no greater in the so-called public-land States than in the States east of the Mississippi River. In Kansas *v.* Colorado (206 U. S., 92), already cited, Justice Brewer declares:

"As to those lands within the limits of the States, at least of the Western States, the National Government is the most considerable owner and has power to dispose of and make all needful rules and regulations respecting its property. We do not mean that its legislation can override State laws in respect to the general subject of reclamation. While arid lands are to be found mainly, if not only, in the Western and newer States, yet the powers of the National Government within the limits of those States are the same (no greater and no less) as those within the limits of the original thirteen, and it would be strange if, in the absence of a definite grant of power, the National Government could enter the territory of the States along the Atlantic and legislate in respect to improving by irrigation or otherwise the lands within their borders.

THE RIGHTS OF THE FEDERAL GOVERNMENT AS RIPARIAN OWNER.

Through the treaty of independence and subsequent treaties with Great Britain, through cessions from foreign countries, and some of the original States of the Union, and through discovery and exploration, and by virtue of its national sovereignty, the Federal Government became the proprietor of a vast domain of unsettled and undeveloped lands. Chancellor Kent (1 Com., 257) describes the title of the United States to this domain in the following language:

"Upon the doctrine of the court in Johnson *v.* McIntosh, 1823 (8 Wheat., 543), and Fletcher *v.* Peck, 1810 (6 Cranch, 142, 143), the United States own the soil as well as the jurisdiction of the immense tracts of unpatented lands included within their territories, and of all the productive funds which those lands may hereafter create. The title is in the United States by the treaty of peace with Great Britain and by subsequent cessions from France and Spain and by cessions from the individual States."

By paragraph 2, section 3, Article IV of the Constitution, Congress was given plenary control over this public domain in the following terms:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; * * *."

The power thus conferred on Congress is as full and complete as the power conferred by another paragraph of the Constitution to regulate foreign and interstate commerce. The power of Congress is paramount and plenary in each case. Justice Brewer, in the case of The United States *v.* Rio Grande Co. (174 U. S., 690, 703), declares:

"Although this power of changing the common-law rule as to streams within its dominion undoubtedly belongs to each State, yet two limitations must be recognized: First, that in the absence of specific authority from Congress a State can not by its legislation destroy the right of the United States as the owner of lands bordering on a stream to the continued flow of its waters, so far at least as may be necessary for the beneficial uses of the Government property. Second, that it is limited by the superior power of the General Government to secure the uninterrupted navigability of all navigable streams within the limits of the United States. In other words, the jurisdiction of the General Government over interstate commerce and its natural highways vests in that Government the right to take all needed measures to preserve the navigability of the navigable watercourses of the country even against any State action."

The rights of the Federal Government as riparian owner is that of a riparian owner at common law. (Sturr *v.* Beck, 133 U. S., 541; Lux *v.* Haggin, 69 Cal., 336.) This right vested in the Federal Government when it acquired its public domain, and of this right it is not divested on the admission of a State into the Union, for this right is expressly reserved by the Constitution. The title of the Federal Government to the public lands in the States where the rule of prior appropriation prevails antedates the admission of those States into the Union, and over that title the Constitution reserved plenary power of disposal and regulation to the Federal Government. It is only when the Federal Government has entirely parted with that title and it has passed into other ownership that the power of regulation on the part of the Federal Government becomes extinct. The water on the riparian land of the Federal Government is an appurtenance of the land of which it can not be divested without its consent, no more than of its riparian lands. In the case of the United States *v.* Winans (198 U. S., 371) it was held that the Federal Government had the power to reserve a fishing right for the Yakima Indians in the Columbia River, and that such reservation, though made when the State was a Territory, bound the future State. And in the case of Winters *v.* The United States (207 U. S., 564) it was held that the Federal Government had the right to reserve the water in the Milk River for the benefit of the Indians and officers of the Government on the Fort Belknap Reservation, in Montana, and that this reservation of the water, though made while Montana was a Territory, bound it after it became a State. The court affirms and asserts the doctrine and rule in these terms:

"Another contention of appellants is that if it be conceded that there was a reservation of the waters of Milk River by the agreement of 1888, yet the reservation was repealed by the admission of Montana into the Union, February 22, 1889 (c. 180, 25 Stat., 676), 'upon an equal footing with the original States.' The language of counsel is that 'any reservation in the agreement with the Indians, expressed or implied, whereby the waters of Milk River were not to be subject of appropriation by the citizens and inhabitants of said State, was repealed by the act of admission.' But to establish the repeal counsel rely substantially upon the same argument that they advance against the intention of the Government to reserve the waters. The power of the Government to reserve the waters and exempt them from appropriation under the State laws is not denied and could not be." (The United States *v.* The Rio Grande Ditch & Irrigation Co., 174 U. S., 690, 702; United States *v.* Winans, 198 U. S., 371.)

In the case of Camfield *v.* United States (167 U. S., 518) the court declares:

"While we do not undertake to say that Congress has the unlimited power to legislate against nuisances within a State which it would have within a Territory, we do not think the admission of a Territory as a State deprives it of the power of legislating for the protection of the public lands, though it may thereby involve the exercise of what is ordinarily known as the police power, so long as such power is directed solely to its own protection. A different rule would place the public domain of the United States completely at the mercy of State legislation."

These opinions of the Supreme Court of the United States have been concurred in by some of the courts of those States in which the rule of prior appropriation prevails.

Judge Rudkin, of the Supreme Court of the State of Washington (now a Federal district judge), in the case of Kendall *v.* Joyce (48 Wash., 492, 493), declares:

"It has never been contended that a mere squatter on public land who subsequently sells out or abandons his claim acquires, or can acquire, riparian rights in a stream flowing through the land. Riparian rights are a mere incident to ownership in the soil, and, while they may relate back by fiction of law to the date of the settlement or filing, by virtue of the patent subsequently issued, yet they do not vest until patent issues, for up to that time the patent to the land, with all its incidents, is vested in the United States, utterly beyond the power or control of State legislatures. And the party thereafter acquiring title from the Government acquires the land with all its incidents."

In the case of Cruse *v.* McCauley (96 Fed. Rep., 369), the United States Circuit Court for Montana, through Judge Knowles, declares:

"It must be conceded that the United States, as the proprietor of the land over which the South Fork of McDonald Creek flowed, had a right to the flow of the waters thereof over its land as an incident thereto. In the eastern part of Montana the United States acquired its title to land by virtue of what is called the 'Louisiana Purchase.' There can not be one rule as to the right to the flow of water over its lands in Montana and another rule as to its lands in Iowa and Missouri. In these last-named States there can be no doubt of the rule that the National Government would be entitled to water which is an incident to its land. As the United States then owns the waters which are an incident to its lands, it can dispose of them separate from its lands if it chooses. Section 2339, Revised Statutes, provides:

"'Whenever by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes have vested and accrued and the same are recognized and acknowledged by the local customs, laws, and decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same.'

"The practical construction of this statute has been that as long as land belonged to the United States the waters flowing over the same was subject to appropriation for any of the purposes named, when such appropriation was recognized by the local customs, laws, or decisions of the courts. But if the water was not so appropriated when it flowed over the public domain, it was not subject to appropriation after the land over which it flowed became private property. Patents of the United States to lands contain this clause:

"'Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes,' etc.

"Certainly this means subject to such water rights as existed at the time when the patent took effect. * * *

"If a person receives a patent from the United States for land subject only to accrued water rights—that is, existing water rights—and as an incident to or a part of this land there is water flowing over the same or upon the same, he would have all the rights the United States had at that time. I do not think any State law or custom can take away such rights, except for some public purpose."

The Federal Government has the undoubted right to lease its riparian and other lands with all their appurtenances. (United States *v.* Gratiot, 14 Pet., 526.)

Congress has also the undoubted power to create and establish forest reserves on the lands of the United States within any State, and to authorize the Secretary of Agriculture to make proper rules and regulations for the use of the same, and to charge a compensation for the use of any portion of the reservation; and such a statute amounts to a revocation of the implied license to graze the public lands, referred to and sustained in the case of Buford *v.* Houtz (133 U. S., 320). (See United States *v.* Grimaud, 220 U. S., 506; Light *v.* United States, 220 U. S., 523.)

In this connection it may be observed that the right to occupy and use the public lands of the United States for canals and ditches, for the appropriation of water for agricultural and mining purposes, is based upon and conferred by the following acts: July 26, 1866 (R. S., sec. 2339), and July 9, 1870 (R. S., sec. 2340). There is, in addition to these acts, the right-of-way law contained in the act of March 3, 1891. (26 Stat., p. 1101.) It is through these laws, and not by virtue of any State authority, that the use of the public domain for the appropriation of water is conferred and acquired.

It is further to be noted that the act of June 25, 1910 (36 Stat., 847), confers the following-described power upon the President in these terms:

"That the President may, at any time in his discretion, temporarily withdraw from settlement, location, sale, or entry any of the public lands of the United States, including the District of Alaska, and reserve the same for water-power sites, irrigation, classification of lands, or other public purposes to be specified in the orders of withdrawals, and such withdrawals or reservations shall remain in force until revoked by him or by an act of Congress."

In the light of the constitutional provision and of the interpretation placed upon it by the decisions of the Supreme Court and other courts in respect to this subject, it seems clear that the Federal Government, through Congress, has the power to lease its riparian lands, with the waters *appurtenant* thereto, situate within the several States, for such a period, on such terms, and for such rent as Congress in its discretion may prescribe, but the lessee would, at most, only acquire the common-law usufruct in the water of the appurtenant stream, as defined by Chancellor Kent and Chief Justice Shaw.

THE POWER OF THE FEDERAL GOVERNMENT UNDER THE INTERSTATE-COMMERCE CLAUSE OF THE CONSTITUTION.

For the purpose of promoting and regulating foreign and interstate commerce Congress is given plenary power over all the navigable waters of the United States, to the end of improving and maintaining their navigability; and this power is not limited to the navigable sections of streams, but extends to the tributaries and feeders of the same, for without the control of these the power over the navigable sections might become wholly impotent. (United States *v.* Rio Grande Co., 174 U. S., 690.) Neither can any limits be placed upon the methods of improving the navigability of streams nor upon the means by which commerce can be carried on upon the same.

Science has in recent years evoked from the great storehouse of nature the hidden and well-nigh limitless power of electricity and utilized the same in various ways for the promotion of commerce, industry, and the domestic and social well-being of mankind. The bounds of such power and use can not well be defined or foretold. That such power has become and may still much further become one of the great instrumentalities of commerce is evident. While sail, aside from the oar, was the only known motive power on water, the limits of navigation was confined to tidewater.

The discovery of steam extended navigation on our streams far beyond the limits of tide water, and who can tell how much further hydroelectrical power generated by a dam in a stream may extend navigation on that or some other stream? The water in a stream may not only be used to float and carry a vessel, a boat, or a barge, but it may also be used to furnish the motive power for the navigation of the same. And a dam erected in a stream carrying interstate commerce can well be utilized for this double purpose; and Congress, having jurisdiction over the improvement and regulation of an interstate navigable stream, has ample power to resort to all reasonable means for the improvement of navigation and the promotion of commerce on such a stream. (Gibbons *v.* Ogden, 9 Wheat., 1.)

If, for the purpose of improving the navigability of a stream carrying interstate commerce, the Federal Government constructs and maintains a dam, with locks and gates, on its riparian lands or on lands in which it has acquired an easement for such construction and maintenance, the Government has the undoubted right to establish and maintain, in connection with such dam, an electric-power plant for the purpose of furnishing motive power to operate such locks and gates. And the Federal Government has the right to sell, lease, or rent, for compensation, any surplus power that may arise from and be an incident to such an improvement of navigation. (Kaukauna Water Power Co. *v.* Green Bay & Mississippi Canal Co., 142 U. S., 254.)

This case relates to the construction of a dam for purposes of navigation and the use of the surplus water incident thereto. In 1846 Congress made a grant of land to the State of Wisconsin for the improvement of the navigation of the Fox and Wisconsin Rivers. The State assumed the grant and the work. In the act of assumption it was provided among other things:

"Whenever a water power shall be created by reason of any dam erected or other improvements made on any of said rivers, such water power shall belong to the State, subject to the future action of the legislature."

The court, in passing upon the effect of this reservation to the State, declares:

"But if, in the erection of a public dam for a recognized public purpose, there is necessarily produced a surplus of water, which may properly be used for manufacturing purposes, there is no sound reason why the State may not retain to itself the power of controlling or disposing of such water as an incident of its right to make such improvement. Indeed, it might become very necessary to retain the disposition of it in its own hands, in order to preserve at all times a sufficient supply for the purposes of navigation. If the riparian owners were allowed to tap the pond at different places and draw off the water for their use, serious consequences might arise, not only in connection with the public demand for the purposes of navigation, but between the riparian owners themselves as to the proper proportion each was entitled to draw—controversies which could only be avoided by the State reserving to itself the immediate supervision of the entire supply. As there is no need of the surplus running to waste, there was nothing objectionable in permitting the State to let out the use of it to private parties, and thus reimburse itself for the expenses of the improvement."

The court, after further comments and the citation of three Ohio cases, adds:

"The true distinction seems to be between cases where the dam is erected for the express or apparent purpose of obtaining a water power to lease to private individuals, or where in building a dam for a public improvement a wholly unnecessary excess of water is created, and cases where the surplus is a mere incident to the public improvement and a reasonable provision for securing an adequate supply of water at all times for such improvement."

Also, see Green Bay Co. *v.* Patten Co. (172 U. S., 58), relating to the same water power and dam after the Federal Government had taken over the work and improvement.

In general, it may be said that whenever the Federal Government is engaged in improving the navigability of a stream on which there is interstate commerce, if by reason and in consequence of such improvement, and as an incident thereto, surplus power is created, the Federal Government has the right to lease or sell such power on such terms and for such compensation as it may deem just.

Congress, as in the case of Wisconsin, Ohio, and other States, can delegate the work of improving portions of navigable rivers to States, municipalities, private corporations, and individuals, and if in connection with such improvement and as an incident thereto surplus power is created, Congress may authorize those to whom the right of improvement is delegated to lease and secure compensation for such surplus power. In such cases those to whom the power of making the improvement is delegated are the agents for and stand in place of the Federal Government. But unless such work of improvement is primarily made for the purpose of improving the navigation on streams or other waters carrying interstate commerce, the Federal Government could not confer the power to obtain compensation for the use of the water.

Provision has been made in several acts of Congress for the utilization of surplus water power on navigable streams. In a part of the cases the dam or other improvement has been carried on and made directly by the United States; in other cases by private parties. Senate Document No. 57, first session Sixty-second Congress (see Exhibit B appended hereto), contains a list of the cases where so-called water-power privileges have been granted. The case of the Black Warrior River in Alabama has been added to the document since it was issued.

ANSWER TO THE INTERROGATORIES PROPOUNDED IN THE RESOLUTION.

Coming now, in the light of the Constitution and of the construction and interpretation put upon it by the courts in the authorities we have cited, to the direct consideration of the interrogatories propounded in the foregoing resolution, and before attempting to directly respond to the same, it must be borne in mind that it is always difficult to give a satisfactory and instructive answer to hypothetical or abstract question. It is much easier to solve a concrete case.

As to the first interrogatory, the only answer we can make is this: That whether a stream is navigable or nonnavigable, State or interstate, the rights of the Federal Government as riparian owner are practically the same; and barring any power that may rest in the Federal Government under the commerce clause of the Constitution, that Government has manifestly the right to lease, for compensation and on such terms as it sees fit, its riparian lands with the water appurtenant thereto, but the lessee would not acquire a greater right or interest in such water than the *usufruct* as defined by the common law, and such right or interest would be subject to and charged with any right acquired under the act of July 26, 1866 (R. S., sec. 2339). The Federal Government has no water *power* aside from the *usufruct*, to lease in such case; and if the utilization of the water in a stream is sought beyond such *usufruct* and for other purposes, authority therefor must be obtained from the State where the residuary power over the water resides.

Responding to the second interrogatory we are of the opinion, divorcing the question from riparian rights, that the Federal Government in authorizing the construction and maintenance of a dam on a navigable stream by States, municipalities, or private parties for the chief and primary purpose of improving the navigation of the stream has the same right to prescribe the terms and compensation for the use of the surplus power, created as an incident to the main improvement, as the Government would have in case it had itself built the dam or made the improvement, and that the Government having delegated the power of building such dam to private parties might well confer upon them as compensation for the work thus undertaken the right to do what the Government itself could do in case it had itself constructed the work. In this connection and as a further response to the interrogatory it must be noted that the mere grant by the Federal Government of authority to construct a dam in a navigable river, not for purposes of navigation, but really for the creation of a water power, is merely a license or permit, the effect of which is that if the dam is constructed and operated conformable to plans approved by the Government, it will not be deemed an obstruction or impediment to navigation. And in such case the Government would be authorized to charge a nominal license fee for inspecting and passing upon the plans and for watching over the work to see that it conforms to the plans and is properly maintained; but the regulative power of the Government would not extend to the use of the water for other purposes than navigation and interstate commerce. In such a case it seems to us that the Federal Government has no water power to sell or charge compensation for, for it is only authorized by the Constitution to regulate interstate and foreign commerce, which in this case means navigation.

As to the third interrogatory it may be remarked that it has in part been responded to in the answer to the first interrogotory. And as a further answer we will add that the Federal Government has under the Constitution plenary power to sell or lease its riparian lands with the water appurtenant thereto, and that if on any such land there is a water-power site, that, as a part of the riparian land, can of course be sold or leased. The Federal Government has no water *power* distinct or separable from its riparian lands or any water-power site on the same. The only water *power* the Federal Government owns is the common-law *usufruct* in the water appurtenant to its riparian lands. In leasing its riparian lands with their appurtenant water, which is all the Government has to lease within the limits of a State, it can no doubt prescribe such terms as it sees fit in respect to rent, duration of lease, and the uses to which the leased premises may be put. It can say in its lease to the lessee, "If you succeed in creating and maintaining a water power on the premises I lease you, you will be required to rent such power on such and such terms. This condition will be in your lease; without it I will not lease you the premises. If you accept a lease with this condition and fail to comply with the condition, your lease will be forfeited." In this connection it must be borne in mind, however, that the leasing of the water-power site as a part of the riparian lands of the Federal Government does not in and of itself confer the right to create a water *power*. At most, as we have already stated, it merely confers the common-law right of usufruct in the water. If any other or further use of the water in the stream is required, the right to such use must be obtained from State authority, and, therefore, it is difficult to see how water power can be established in such cases without the cooperation or consent of the State.

Several acts have been passed by Congress relating to obstructions, and the construction of dams, in navigable rivers. Among these, to which we call your attention, is the act of September 19, 1890 (26 Stat., 426), which contains important provisions for the removal or change in bridges that are found to be an obstruction to navigation by the Secretary of War, and other provisions relating to the construction of wharves, piers, bridges, etc.

The act of July 13, 1892 (27 Stat., 88), relates particularly to the construction of wharves, piers, and bridges over navigable waters, and requires the approval of the Secretary of War for any improvement or bridge. (See sec. 3, p. 110.)

Section 10 of the act of March 3, 1899 (30 Stat., 1121), prohibits the creation of any obstruction to the navigable capacity of any of the

waters in the United States not affirmatively authorized by Congress, etc., and prohibits the construction of any breakwater, jetty, or other obstruction in any river or water of the United States, except on plans recommended by the Chief of Engineers and authorized by the Secretary of War. Section 9 of the same act prohibits the construction of any bridge, dam, etc., over any navigable river without the consent of Congress and without the approval of plans by the Chief of Engineers and Secretary of War.

The act of June 21, 1906 (34 Stat., 386), relates to the construction of dams by parties other than the Federal Government, and the act of June 23, 1910 (36 Stat., 593), is amendatory of the preceding act, and lays down many important rules and regulations for the construction of dams in navigable rivers, etc.

Mr. STEVENS of Minnesota. But the amendment of the gentleman from Kentucky does not concern the right to use the waters for navigation. It gives the right to impose a charge or a sum of money for the privilege of using a man's own property—of placing an object in navigable waters on a man's own land—and this charge bears no relation at all to the right of navigation or the use of it for commerce. It uses the act of one of the officials of this Government in regulating commerce as a basis to raise money for the Treasury, which is not at all connected with commerce. That can not be done. The only kind of charges which can be exacted must bear some relation to the service to be performed by the Government. I will read an extract from a decision which seems to cover that point.

In City of Ottumwa *v.* Zekind (95 Iowa, 622) the court says:

Such charge as would cover not only the necessary expense of issuing it (the license) but also the additional labor of officers and other expenses imposed by the business, but nothing beyond this. * * * The amount of the license fee or charge is to be considered in determining whether the exaction is not really one of revenue or prohibition, instead of one of regulation.

You will note that the amendment bears no necessary relation to the business. It is not necessary for purpose of regulation. It is a plain, bald exaction for revenue, and so can not be a license fee, can not be connected with use for commerce, but is solely for purposes of revenue.

This bill contains three different provisions for charges. One covers the expense of the Government in making the examination; the second, the use of the Government's property in these storage reservoirs and the operation of the reservoirs; and the third, the use of the Government property in the way of the site for the dam and the flowage rights. It is for Congress to prescribe such charges which relate to the use of this project for commerce, and that we do in the bill. But the amendment under discussion bears no relation to commerce at all. It does not help commerce. It only authorizes an official to make a charge as an income to the Government, because he must perform an official act, which may relate to commerce or may relate to something else. But the charge which he may levy has no connection with his act to regulate commerce. Now, let me illustrate the difficulty which you may get into if you allow a proposition of that kind. If this amendment has no relation to the commerce clause, but has a relation to the taxing power and is a part of the taxing power, then it is not germane. An amendment of that kind should come properly from the Committee on Ways and Means.

Mr. SHERLEY. Will the gentleman yield right there?

Mr. STEVENS of Minnesota. Certainly.

Mr. SHERLEY. What authority has the gentleman for the proposition that a thing is not germane simply because it might have gone to another committee for consideration as an original proposition? We are not limited simply to the jurisdiction of the committee that brought the bill in here.

Mr. STEVENS of Minnesota. Yes; but this bill has relation only to the commerce cases and commerce clauses. It is not attempting to exercise the taxing power of the United States.

Mr. SHERLEY. That bill has relation to dams on navigable streams.

Mr. STEVENS of Minnesota. Yes.

Mr. SHERLEY. Now, your power may or may not be dependent upon a particular provision of the Constitution; but there is a good deal of difference between a question of our power under the Constitution legally to do a thing and the right under parliamentary law to offer an amendment on the floor. The right to offer an amendment has nothing to do with the question whether a thing is permissible under the provisions of the Constitution or not.

Mr. STEVENS of Minnesota. This amendment violates both. There is a double objection to it. It not only is not germane, because it is an attempted exercise of the taxing power upon a bill trying to regulate commerce, but in addition it would not be constitutional or valid if it existed by itself as an exercise of the taxing power, because it is not valid on its face since it is not uniform in its application and is not framed in accordance with the requirements of the Constitution. Now, the courts have decided, I think repeatedly, that there is no particular necessary form that a tax should take. A tax may be anything; and I think the courts have held repeatedly, and I think in the income-tax cases the Chief Justice held, that a tax need take no particular form; that it is the substance the court looked to, as to whether or not a particular charge is a tax.

Mr. SHERLEY. They held that in the De Witt case also.

Mr. STEVENS of Minnesota. I will furnish the Chair with the citations. Of course it is a general rule of law, so that the Chair in deciding this matter will look to see what the substance of this amendment is—whether it is something that makes a charge that is practically a tax against the applicants for these dams that is not borne by those under similar conditions among other classes of the population.

Any charge in the nature of a toll, tribute, or revenue from the water power itself beyond the limits of the license charge as defined is in substance and in fact a tax or excise upon the water power.

Such excise tax is already provided by the Federal income tax, under which each water power pays upon its gross income.

If a further tax or excise upon water powers as such is to be imposed, it can be done only under section 8, Article I of the Constitution, which reads as follows:

SEC. 8. The Congress shall have power to lay and collect taxes, duties, imposts, and excises to pay the debts and provide for the common defense and general welfare of the United States, but all duties, imposts, and excises shall be uniform throughout the United States.

If such a charge is to be a direct tax, it can not be levied directly by the Federal Government, but must be apportioned among the States, each State to make the collection. If it is an impost or excise tax, then it must be levied uniformly upon every dam and water power in the country and can not be limited to any particular class of water-power dam. It must extend to all private enterprises upon navigable streams.

A charge or toll beyond a license charge, as above defined, must be one of the two classes of taxes recognized by the Constitution, and that can be imposed only in the manner provided by the Constitution; that is, under the rule of apportionment as to direct taxes and under the rule of uniformity as to duties, imposts, and excises. As said by the Federal Supreme Court (157 U. S., 557):

Thus in the matter of taxation the Constitution recognizes the two great classes of direct and indirect taxes, and lays down two rules by which their imposition must be governed, namely, the rule of apportionment as to direct taxes and the rule of uniformity as to duties, imposts, and excises.

In the case of Thomas *v.* United States (192 U. S., 363) Chief Justice Fuller says:

And these two classes, taxes so called, and "duties, imposts, and excises," apparently embrace all forms of taxation contemplated by the Constitution.

As was observed in Pollock *v.* Farmers Loan & Trust Co. (157 U. S., 429, 557):

Although there have been from time to time intimations that there might be some tax which was not a direct tax nor included under the words "duties, imposts, and excises," such a tax for more than 100 years of national existence has as yet remained undiscovered, notwithstanding the stress of particular circumstances has invited thorough investigation into sources of revenue. * * * There is no occasion to attempt to confine the words "duties, imposts, and excises" to the limits of precise definition. We think that they were used comprehensively to cover customs and excise duties imposed on importation, consumption, manufacture, and sale of certain commodities, privileges, particular business transactions, vocations, occupations, and the like.

Therefore a toll or charge for revenue or as a tribute can not be imposed in this bill, because, beyond the license charge expressly provided in the proposed act, such charge would be a tax. It must, therefore, be imposed by separate legislation and in the manner provided for the imposition of taxes.

Such charge being a tax, and not properly a part of the exercise of the powers of Congress "to regulate commerce," it can not constitutionally be made a provision in this measure.

Mr. DILLON. Will the gentleman yield for a question?

Mr. STEVENS of Minnesota. Certainly.

Mr. DILLON. If I understand this bill, it grants certain privileges to the grantee, does it not?

Mr. STEVENS of Minnesota. Yes.

Mr. DILLON. Therefore has not Congress the right to fix the terms upon which it will grant that privilege?

Mr. STEVENS of Minnesota. Yes; with this limitation, which the Supreme Court clearly laid down in the Chandler-Dunbar case. I will read it again, so that the gentleman can realize what it means. The Supreme Court in the Chandler-Dunbar case stated this:

That power of use and control comes from the power to regulate commerce between the States and with foreign nations. It includes navigation and subjects every navigable river to the control of Congress.

Now comes the general rule which applies to this and every other proposition confronting this bill and confronting the amendment to the act of commerce:

All means having some positive relation to the end in view which are not forbidden by some other provision of the Constitution are admissible.

Now, there are two provisions in the Constitution, it seems to me, which are violated by a provision of this kind. One is that it is, in substance, a tax; the other that it takes a man's property without due process of law or just compensation.

Mr. SHERLEY. I make the point of order that that does not go to the question of whether the amendment is in order or not. The question whether a provision is constitutional or not does not determine whether an amendment is in order.

Mr. STEVENS of Minnesota. It certainly does. If you are trying to exercise the taxing privilege, it is not germane to a bill to regulate commerce, and, secondly, even if it be a tax, on the question of germaneness as now raised it is unconstitutional in form, so that for those two reasons it is not germane, because it is not valid. You can not place a void provision for a tax on a bill to regulate commerce where objection is made.

Mr. DILLON. Is it not wholly immaterial upon those points if Congress grants as a privilege that which is a contract, so that the contractual relation exists between the United States on the one part and the grantee on the other? If that be true, and if it be a contract, has not Congress the absolute right to fix the terms upon which it will issue the contract?

Mr. STEVENS of Minnesota. No; Congress can not make a contract which in essence is a tax and attempt by means of a contract to levy a tax, because such a method would violate the taxing clauses of the Constitution, which requires that such should be uniform. Congress can not make a contract involving rights under the commerce clause and attempt to exercise rights which it could not do directly by its legislative action. Such would not be good morals or law. For example, by a condition of a contract concerning interstate commerce Congress might try to regulate intrastate commerce and thus oust States of their jurisdiction. No one can claim this could be done. It might seek to compel a man to waive his right of trial by jury in case of dispute. I do not believe that would be valid, yet these would be just as sound as attempting to levy a tax by contract. You would charge this man unequally with his competitors. You place a discretion in an administration official to levy a charge as he pleases upon the use by a man of his own property, which is unequally placed and may be subject to gross oppression. Surely a citizen has some rights under the Constitution. A State may be forced in this way to pay a tax to use its own lands and own waters for its public purposes. Yet you can not tax the sovereign powers of a State.

CONSEQUENCES.

I will show the gentleman in a moment the consequence of this by a practical illustration, and perhaps that will answer his question. The suggestion I have to make is this, that if this be conceded to be a condition of a contract, and if it be allowed, this would be the consequence: Congress might use this method of contracts to raise very large sums of money for revenue or in place of other revenues. It could use this method of raising revenue on every navigable stream in the United States. I am speaking of the logical possibility, not the practical possibility. Consider what this logical possibility to use this method of raising large sums of money would mean. Such an amendment, then, if it is not to be construed as a revenue measure and does not come under the taxing clause, could be offered in the Senate of the United States equally as well as in the House of Representatives. The very moment you concede that this could be offered in the Senate as well as in the House, you concede to the Senate the right to initiate revenue legislation. More than that, on the border streams, like the St. Johns River in Maine, the St. Lawrence River in New York, along the Great Lakes, the Rainy River in Minnesota, the Milk River in Montana, the Rio Grande in the South——

Mr. DILLON. Mr. Chairman, I want to submit one further inquiry.

Mr. STEVENS of Minnesota. Please permit me to make my statement. If this contention be true, then a treaty could be made by which dams could be erected, as they have been under treaties, and large sums of money possibly might be raised under the treaty power, in which this House would have no right at all in the matter of revenue legislation. And if these large sums could be so raised as a condition under the commerce clause, they could be equally raised by similar conditions under the other provisions of the Constitution, and you might then have a situation where the revenues would be entirely raised by treaties on Senate bills.

Mr. SHERLEY. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of Minnesota. Please let me make my statement.

Mr. SHERLEY. Then I insist that the gentleman talk to the point of order.

Mr. DONOVAN. Mr. Chairman, these gentlemen have no right to interrupt the one who has possession of the floor, without permission of the Chair.

The CHAIRMAN. The point of order is well taken.

Mr. SHERLEY. I submit the gentleman's point of order is not well taken. I have the right to interrupt the gentleman, if he is willing to yield, and I have not been out of order.

The CHAIRMAN. The point of order made by the gentleman from Connecticut is that the gentleman should first address the Chair.

Mr. STEVENS of Minnesota. The gentleman knows that I am always very glad to yield to him; but I think in fairness to the Chair and to the committee that when I am trying to make a point it is better to permit me to make my point clearly for whatever it is worth and then submit to interrogations from my friend from South Dakota and my friend from Kentucky. The point is this: That if this amendment be germane, then it could just as well be offered in the Senate, and could be used as a basis for raising revenue by being initiated as the Senate amendment. It could just as well be a part of the treaty with which this House would have nothing to do at all, and yet might raise revenue to put in the Treasury. Again, if the commerce clause can be used as a basis for raising revenue in that way, being initiated in the Senate or being initiated by means of treaties with which this House has nothing to do, in such case this House forfeits its most cherished prerogative of having the right under the Constitution to initiate revenue legislation. This amendment goes directly to the root of the prerogative of this House—to initiate revenue legislation. If this amendment be in order and allowed by the House, it seems to me that we encourage every sovereign power of the Constitution to be the basis of raising revenue, without being initiated here in the House, because only revenue bills are required to be initiated in the House. If this be a revenue bill or a revenue amendment, it must originate in the House. If it be not a revenue matter, then it can originate in the Senate by means of an amendment or by means of a treaty. If it can originate in the Senate by means of a treaty or amendment, and yet by this and similar amendments on Senate bills or treaty provisions sufficient money can be raised to run this Government, then this House forfeits its right to raise revenue, which may entirely control the course of this Nation. So that it is of vital consequence to this House that this precious right shall be preserved and shall not be frittered away by amendments which may be used as precedents against our rights hereafter. This House has always highly estimated its privilege of guarding its right to originate revenue legislation. I refer now to the CONGRESSIONAL RECORD of February 16, 1905. Mr. PAYNE rose and said:

I rise to a question of privilege and send the following resolution to the Clerk's desk, to be reported to the House.

The substance of that resolution was this: That when the Agriculture appropriation bill reached the Senate, an amendment was adopted there that paragraph 234 of the act of July 24, 1907, an act to provide revenues, should be held not to be affected by the provisions of said act.

In other words, it repealed the drawback clause of the customs tariff. That was the substance of the Senate amendment. The gentleman from New York [Mr. PAYNE] took the position that the Senate had no right to do that. A drawback clause, it is true, does not raise money, but pays money out, but it affects the raising of revenue by the United States. He took the position, and I think he was sustained by nearly every speaker on the floor—and I notice the name of Mr. WILLIAMS, now the Senator from the State of Mississippi, and other speakers on both sides—that the House could not afford under any pretext to permit its constitutional prerogative to be invaded.

Mr. SHERLEY. Now, will the gentleman yield?

Mr. STEVENS of Minnesota. And by an overwhelming vote of 206 to 5 the House sent the bill back without considering it further. I now yield to the gentleman from Kentucky.

Mr. SHERLEY. Mr. Chairman, I want to suggest to the gentleman that this is not a Senate amendment.

Mr. STEVENS of Minnesota. Yes; but it might be a Senate amendment.

Mr. SHERLEY. But it is not.

Mr. STEVENS of Minnesota. That is the very point. If the gentleman's contention be correct, it could just as well be imposed in the Senate as here; and if it could be imposed in

the Senate, we thus fritter away our prerogative to initiate revenue legislation. That is the point I ask the gentleman to consider. This is the precedent. If we concede that this is not a revenue measure, then it could be made a Senate amendment, and it could be a part of a treaty, and those two methods would provide for raising revenue and ought to originate in the House of Representatives. For that reason, since it does raise revenue, it is a part of the revenue system of the country, and it should come under the taxing clause of the Constitution, and it should originate in the House of Representatives; and if it should originate here, then it is a part of the taxing power of our Government, and it is not germane to this measure.

Now I yield to the gentleman from South Dakota.

Mr. DILLON. I do not think the gentleman has answered my question.

Mr. STEVENS of Minnesota. Possibly not.

Mr. DILLON. As I understand, the Supreme Court of the United States has decided, in the Dartmouth College case, that the charter or grant or privilege is a contract. Now, that being true, I ask the gentleman if Congress has not the right to fix the terms upon which it will grant a privilege? In other words, the taking of money for a privilege is a right that Congress has a right to insist upon as its terms upon which the charter shall issue.

Mr. STEVENS of Minnesota. The gentleman is incorrect. The Constitution provides that Congress shall raise money. It shall raise it by taxation, and there are two different methods of taxation prescribed in the Constitution and no more, and this amendment is neither of them in form, but attempts to be in fact.

Mr. DILLON. But this proposition——

Mr. STEVENS of Minnesota. Let me answer the gentleman. There are two methods prescribed in the Constitution by which money shall be raised by taxation. One, the direct tax, must be raised by apportionment; the other, the indirect tax, such as duties, excises, and so forth, which must be uniform. This would probably be construed as an indirect tax for a privilege, as in the Sugar Trust case, and should be uniform upon all enjoying like privileges. But it does not so provide, and so is void. Now, it is true that this very bill provides conditions to the use of this sovereign power, and, as the courts have held many, many times, Congress may levy certain charges relating directly to that use. And whatever relates directly to that use as a part of it Congress can exercise its right to make such charges as relate to that use to meet its expenses. There may be more; there may be less; but that can not be the means, that can not be the basis, of evading the taxing power of the Government.

Mr. DILLON. If the gentleman will permit me further. That is, Congress fixes the terms upon which it will grant a privilege. Those terms are money considerations. Now, the grantee takes it or he does not take it; it is up to him to accept or reject it. Is not that perfectly plain?

Mr. STEVENS of Minnesota. Yes; but Congress is limited in its powers by the prohibitions of the Constitution. Congress has no right to raise money in any other way than is prescribed by the Constitution, and this House has no right to direct that money be raised in any other way than by the terms of the Constitution. The gentleman is trying to enforce a method which is prohibited by the Constitution. He is trying to make a condition of a contract, that which Congress is expressly prohibited from doing directly by a legislative act. Such a condition is evidently beyond the power of Congress to place as a part of a contract.

Mr. MONTAGUE. Will the gentleman yield?

The CHAIRMAN. The Chair is ready to rule.

Mr. MONTAGUE. If I understand the gentleman, his reply is substantially this: While Congress can give its consent, it can only give its constitutional consent.

Mr. STEVENS of Minnesota. Yes; that is the point.

Mr. MONTAGUE. And if there be a consent it must be within the enumerated powers of the Constitution.

Mr. STEVENS of Minnesota. Certainly; that is the point I make.

Mr. LENROOT. Will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly.

Mr. LENROOT. I would like to ask the gentleman whether he approves of the provisions of section 14 in reference to the leasing power?

Mr. STEVENS of Minnesota. Yes.

Mr. LENROOT. Is not that a matter of raising revenue?

Mr. STEVENS of Minnesota. No; Congress has the right under another provision of the Constitution to regulate the use of property of the United States. That is part of the property of the United States just the same as it is part of the public domain, and we can raise whatever we see fit, whatever we can get out of the property of the United States. This is a different proposition.

Mr. LENROOT. If the gentleman will permit me a moment further, the Government itself might construct every one of these dams and lease the surplus water power?

Mr. STEVENS of Minnesota. Yes.

Mr. LENROOT. If the Government surrenders that power the Government surrenders its right to charge compensation, and it is not part of the taxing power——

Mr. STEVENS of Minnesota. No; the gentleman steps altogether too far. The Government does not surrender. It gives this authority or privilege in this act to do a certain thing affecting commerce. That is all we do by this act, because we are to do certain things affecting commerce. Now, anything that bears some relation to an act affecting commerce, navigation, the use of Government property, we have a right to charge for, and we have no right to use that as a basis for the general raising of revenue, because you call it compensation. The courts have held repeatedly it does not make any difference what you call it; it is what it is.

Mr. LENROOT. Will the gentleman yield again?

Mr. STEVENS of Minnesota. Certainly.

Mr. LENROOT. The Government might erect these dams, as the gentleman admits, and sell the power.

Mr. STEVENS of Minnesota. Surely.

Mr. LENROOT. Now, then, if that is true, is not that a surrender of that right in this bill?

Mr. STEVENS of Minnesota. Not at all.

Mr. LENROOT. During the 50 years we could not sell this surplus power.

Mr. DONOVAN. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. DONOVAN. This discussion is presumed to be on a point of order raised as to whether it is germane or not, and it is for the enlightenment of the Chairman. Now, the gentleman over there seems to be arguing a question——

The CHAIRMAN (Mr. McKELLAR). The Chair is ready to rule. The point of order is overruled. The Chair is of the opinion that this amendment to section 2, fixing the terms and conditions on which these rights are to be granted, is clearly germane to the section. The Chair does not think there can be any doubt. The amendment merely enlarges and adds to the terms and conditions which have been set out in the preceding part of the section. Section 2 fixes the terms, conditions, and considerations upon which the Government grants the right or license to use its navigable waters owned by it. This amendment deals directly with the same subject, and is germane to it.

Now, as to the point made by the distinguished gentleman from Minnesota [Mr. STEVENS] that this is an exercise of the taxing power, the Chair does not believe that this is an exercise of the taxing power at all. The water in navigable rivers is Government property in which the Government is undertaking by this bill to convey rights, in whole or in part, and the consideration for such rights is not a tax but a consideration moving to the Government for the grant of the power or right or license to use such navigable waters, and the Chair does not think the question of taxing power under the Constitution is involved in this matter at all.

The United States is the owner of the waters in navigable streams, under our Constitution as construed by our courts, much after the same fashion that the United States is the owner of our public lands. Under acts of Congress it gives patents to these lands to individuals complying with such laws. The money we receive for such lands is not a tax levied under the taxing power of Congress. In like manner the money to be received by the Government for these water rights, if the amendment should become law, is not a tax, but a consideration for property owned by the Government and disposed of by this law.

Even if the consideration could be called a tax, the Chair still would not think it an unconstitutional measure, because the tax would be but incidental to the main provisions of the bill. And again whether or not the amendment is constitutional is not a question of order under the rules, but a legal question which must be first passed upon by the Members when they vote, and afterwards by the courts, if the amendment becomes the law, and is called in question. The point of order is overruled.

Mr. SHERLEY and Mr. FOWLER rose.

The CHAIRMAN. The gentleman from Kentucky [Mr. SHERLEY] is recognized.

Mr. SHERLEY. Mr. Chairman, the proposal embodied in my amendment is to give to the Secretary of War the right to

charge for the privilege that is given of maintaining a dam for the creation of water power upon navigable streams. I shall not undertake at this time to enter into any lengthy discussion of the power of Congress to put such a condition upon its grant. To my mind there is a clear right which the Government has. It has a right in the flow of the water, and the Dunbar case especially decided that the owner of the land did not have a property right in the flow of the water. Now, we give as to that right of the flow of the water certain privileges to a grantee, and we have, in my judgment, clearly the right to impose the conditions upon which those privileges touching the flow of water shall be given. The question that really concerns this House is the question of whether we want to confer this power.

The trouble with the gentleman from Minnesota [Mr. STEVENS] is that he is so much opposed to charging that he can not for the life of him see the right to charge. If he was in favor of the proposal to charge, he would have less trouble touching the constitutional rights of the Government to charge. And nearly every man here who is raising legal, technical objections to the doing of these matters is opposed to the doing of them irrespective of the power. Now, I submit to this committee that there will be many water powers developed that will have great value, value granted to a grantee, that will be capable of immense capitalization. Men here would have you believe that every development that is going to take place is going to be one of great risk and that the grantee is going to be a heroic public benefactor for entering upon it at all. That has not been the history of Federal grants in the past and it will not be in the future. The improvement that takes place in connection with the development of power, the invention of man, will make many a proposition that is now attractive unusually attractive in the future.

I wish it were possible to make this committee realize the physical condition of the world 50 years ago, to pass before their minds the inventions that have been made within the past 50 years, and see the absolute transformation of the physical aspect of the world, to realize that we are doing things to-day that if suggested then would have been thought the vaporings of an absolutely insane mind. We are conquering all the forces of nature. Here you propose to tie up a right for 50 years and yet not to provide that under any conditions may compensation be asked by the Government. I submit that it is folly. The whole tendency of America, the tendency of every State in the Union, has been to shorten the life of charters and of special privileges given. Every fight in the courts from the days of the Dartmouth College case to now has been to unshackle the people from the claim of contract right that was set up in that case and to prevent the mortgaging of the future.

I do not require that the Government must charge. I do not undertake to fix what shall be the charge. I have not the egotism of some of those who think they can span the future with the flimsy bridge of thought, and determine what ought to be done here and now. But I am in favor of giving a discretion to a Government official that he may protect the people in a valuable property right. And no amount of argument can convince me that we have not the power to reserve such a right when the individual, no matter what land he owns, no matter what grant he gets from the State, could not proceed one moment in the construction of a dam without the consent of Congress. Our control over navigable waters compels him to come to seek the concession from us, and we have a right to put the conditions upon the concession granted. [Applause.]

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. SHERLEY] has expired.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended one minute. I would like to ask him a question.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HUMPHREYS of Mississippi. Your amendment, as I understand, provides that the Secretary of War or the Chief of Engineers may prescribe these charges hereafter?

Mr. SHERLEY. And that at the end of 30 years he may readjust them, and 10 years after that.

Mr. HUMPHREYS of Mississippi. Does not the gentleman think it would be well to say, "The Secretary of War, the Chief of Engineers, or Congress"?

Mr. SHERLEY. Well, I think it is perhaps better to leave it with the administrative officers than it is to leave it with Congress. And the reason I want to leave it that way is, in the first place, I think that they will have as much knowledge of cost of operation and maintenance and the factors that determine what can and should be paid as we will, and perhaps more. And further, I want to leave it there because of the thing I spoke of the other day, and that is the inertia of Government. If you require that Congress must readjust, then you can put all the methods of obstruction that are so potent to interfere with Congress taking action.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. SHERLEY] has again expired.

Mr. SHERLEY. Mr. Chairman, I ask for two minutes more.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent for two minutes more. Is there objection?

There was no objection.

Mr. SHERLEY. I do not want a condition where all of these forces will interfere with the action of the Congress when it seeks to take away some privilege that should not have been granted. We have many theoretical rights that do not amount to a row of pins as practical rights.

Mr. HUMPHREYS of Mississippi. I understand that; but even if they put the provision in here, "the right to amend, alter, or repeal, etc., is reserved," which is the inertia of Government that you speak of, it would still prevent the Government, as a matter of fact, from ever exercising the right to amend, alter, or repeal in any material particular.

Mr. SHERLEY. Here is my answer to that: The right to amend, alter, or repeal should be reserved; but that has nothing to do with the specific proposition here, and I am not so much concerned as to whether the power is given to the Secretary of War—although I think that is where it ought to be—as I am concerned in the establishment of the principle that we may and should reserve the right to charge.

Now, gentlemen who follow me will tell you that the putting of this amendment upon the bill would prevent the development of water power. I repeat, I do not know where they get this power of prophecy, this power to see events hidden in the future, and I suggest again that you have no right to assume as a premise that where a proposition is such that it would not bear any such payment such a payment will be required. I assume that these engineers, whom in one breath they praise to the skies and in the next breath condemn, will have common commercial sense enough not to put conditions in a contract for the purpose of preventing its being entered into, and all their premises are based upon the assumption that somebody representing the Government is going to be so lacking in gray matter that he will go out of his way to prevent anybody on earth from developing anything. That has not been the history of the past. The trouble is that the Government in the past did not get a good enough contract.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. UNDERWOOD. Mr. Chairman, I ask unanimous consent to proceed for 15 minutes.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent to proceed for 15 minutes. Is there objection?

There was no objection.

Mr. UNDERWOOD. Mr. Chairman, I listened with great interest to what the gentleman from Illinois [Mr. MANN] said this morning about the bill which the Committee on Interstate and Foreign Commerce passed through this House at the time he was chairman of that committee, and I concur in what he said, to the effect that it was not the general dam law that now stands on the statute books which prevented the building of dams in this country. So far as the interests of those who are concerned in the building of dams go, the law that is now on the statute books is a very good law. It gives all the machinery of law and all the permission that is necessary to dam navigable rivers and protect navigation, so far as that is concerned. But certain gentlemen in this House and in the Senate have conceived the idea that the public interest has not been protected.

Now, I also concur in what the gentleman from Illinois said this morning, that under the law as it is on the statute books to-day there is ample authority to authorize the Secretary of War and the Chief of Engineers to make contracts with the builders of dams that will fully protect the public interests.

But we are facing a condition and not a theory. Certain gentlemen conceive the idea that it is their business to protect the public here, before it goes to the Secretary of War, with the result that all development, practically, under the law has been stopped either in the House or in the Senate or by a President of the United States. The purpose of presenting this bill to Congress was to meet objections of that kind, to modify the law along the lines that certain gentlemen claim must be met in order to protect the public interest, and put a law on the statute books by which any person desiring to build a general dam might come here and have a bill passed through the House as you pass a bridge bill, and avoid the continual delays and

fights that grew out of the attempts to pass bills under the present law.

Now, it was stated this morning that, so far as this bill goes, it is a recession from the present law, so far as the public interests are concerned. Really, as a matter of fact, there is not a great deal of change in this bill, so far as the building of dams is concerned or the authorization of power to the engineers. Practically and substantially it is the same as the law now on the statute books. The main changes in this bill are in the direction of protecting the rights of the public, and there are two very important provisions in the bill in the interest of the public. One is the provision that gives a right to regulate the charge for the use of the electricity that comes from these dams, either by the State or by the Federal Government, and the other is the right of the Government itself, or under Government authority for somebody else, to take back this property at the end of 50 years.

Now, I can not conceive how any gentleman can say that with those two provisions added to the present law this bill is not an advance in the interest of the public instead of a moving away from it.

But I want to address the House particularly as to the amendment offered by the gentleman from Kentucky [Mr. SHERLEY]. These amendments have been offered before. It is known that the same proposition was sought to be put on the Coosa Dam bill when it passed this House some time ago. The House rejected it and the Senate rejected it. It is perfectly well known that a proposition of this kind was added to the bill authorizing the construction of the dam proposed to be built in Connecticut, and it defeated the bill in the United States Senate.

Mr. STEVENS of New Hampshire. Mr. Chairman, will the gentleman yield?

Mr. UNDERWOOD. I can not yield now.

The CHAIRMAN. The gentleman from Alabama declines to yield.

Mr. UNDERWOOD. It was fought out there on the great constitutional question as to whether or not the Government of the United States had a right to fix a charge for the running water in a stream.

Now, I do not believe it has. I do not think there can be any issue about this fact, that no one can build a dam across a navigable stream and be assured that the Government will not pull it down when the Government grants its consent. He may go and build it, so far as the Government does not agree to use it for the purpose of navigation; but at any time the Government determines that it wants to make that river navigable, and his dam does not suit, it can pull down the dam, of course. Therefore the Government stands as an obstruction in the way of development if its consent is not granted; because no one man with money to invest would put his money in a dam that might be torn down in a year by the Government of the United States. And necessarily he must get the consent of the United States before he can build the dam. It is not a matter of the right to control the falling waters, but because the Government has the right to control navigation.

I also agree to the fact that if the Government can prevent his building the dam, for that reason it can also say, "We will grant our consent on certain terms"; and, of course, if the Government will not grant this consent on any other terms he can not get the consent unless he agrees to the terms. They may hold him up, just as a highwayman will hold up a man in the road with a shotgun, and demand his purse. He has got to deliver his purse or have his head blown off, but that does not make it right that the highwayman should take the purse. Now, gentlemen talk about this question of taxation as if it were a matter that the Government could exercise at any time. What do you levy taxation for? Why, you levy it for certain governmental purposes. There is no other reason to put the burdens of taxation on anybody except for governmental purposes, and a charge of this kind is, in effect if not in name, the same proposition as levying taxes. This is not Government property. This is supposed to be the property of the man who builds the dam, unless you say that falling water is Government property; and if you do that, you can levy a tax not only for the use of the water in running that power dam, but you can levy a tax on the water that is pumped out of the Ohio River in the district of the gentleman from Kentucky and used by the people of that city for washing and drinking purposes. Or you might levy a tax on the water that is pumped out of the Ohio River for the great industrial plants in the gentleman's city, and say that you can not operate industrial plants in the city of Louisville, Ky.—because you have got to have water to use in those plants—unless you pay tribute to the United States Government. There is no distinction between those matters.

But why should you levy this tax? There is no deficit in the Federal Treasury. You have a law on the statute books that is producing sufficient money to supply the needs of the Government at the present time, and, in my opinion, will produce a very large surplus at the end of the next fiscal year. And what do you want with it? There could be no reason in the world for levying this tax except to place a burden on the people who use the power. That is all. You have got in this bill a provision that if the State does not regulate the rates in the interest of the people, the Government of the United States, acting through the Secretary of War, may regulate the rates in the interest of the people. Now, I assume that that will be done, because if we assume that neither the State nor the Government is going to fix a just and fair rate in the interest of the people of the United States, we might as well abandon all this proposition, and the gentlemen who say that they wish to conserve the interest of the people of the United States might as well abandon it, because they admit that they have not got a Government that would carry out their wishes or the interests of the people.

Mr. SHERLEY. Mr. Chairman, will the gentleman yield?

Mr. UNDERWOOD. I ask the gentleman not to interrupt me just now.

The CHAIRMAN. The gentleman declines to yield.

Mr. UNDERWOOD. Then, assuming, as I do, that the rate that is going to be charged for the use of this water power is going to be a reasonable and just rate, if you impose a charge for the use of the water in addition to that, what will happen? There is only one thing that can happen. If the original charge authorized by the State or the Federal Government for the use of that power is reasonable, and is what the man who builds the dam is entitled to, if you put an additional charge on it, that additional charge must be handed down to the consumers of the power.

Now, this is all there is to it. If the charge is unreasonable, then the people can go to the power exercising the authority and reduce that to a reasonable charge. And if it is reasonable, you can not force the owner of the dam to go beyond that reasonable amount, and when the tax is added you must add it to the reasonable charge and put that burden upon the people, whether they are burning electric lights or whether they are using it for manufacturing purposes. So, in my judgment, there is no reason in the world for levying a tax on the people, if you are going to regulate it in the interests of the people. I have never seen any town in my life where they did not want as cheap electricity for lighting and heating purposes as they could possibly get. I have never seen a place yet where electricity was used for industrial purposes that it was not beneficial to give them cheap power rather than high-priced power. Now, the danger of the gentleman's proposition is this, and it is a very serious danger: It is that when the Government of the United States picks out one lone community, or, if you want, for the sake of argument, say a dozen or score of communities, and fixes a charge or tax on them, no matter how unjust that tax may be, it is almost impossible to get it off, because they have not the power or strength to throw it off themselves, and those who are getting the tax keep it in their pockets; and those who are getting the tax in this instance would be the other districts in the United States that are not being taxed. It was for that very reason, realizing the oppressive incidents of local taxation that the colonists had to bear under a despotic British rule, that the fathers of our Constitution placed in the Constitution the provision that taxation in this country should be uniform. I have always believed that the intent of the constitutional convention was to make absolute uniformity in relation to taxation; but John Marshall, in construing the Constitution of the United States, said that uniformity in that instance meant geographical uniformity, and that itself is a great protection against oppression, because if the charge that is levied is the same in my district and your district, or a large number of districts, then, if it becomes oppressive and unjust, there is power in this House to overthrow the tax and remove the burden from the backs of the people.

But if you pick out one individual community here and there and authorize the putting of a tax on their backs, no matter how burdensome it is, the benefit of the tax is going to the balance of you, and it would be a long day before public sentiment would be aroused so that it would throw off the injustice of that tax.

Mr. SHERLEY. Will the gentleman yield now?

Mr. UNDERWOOD. I beg the gentleman not to interrupt me now.

Mr. SHERLEY. I beg the gentleman's pardon.

Mr. UNDERWOOD. That is the standpoint from which I look at this. I say that outside of the constitutional question entirely, if you have a regulation in the interest of the people, you have to assume that that regulation is not going to allow a charge that is unreasonable; and if it is unreasonable, there is no sane reason on earth for adding to the burden of the people by putting an additional charge on their backs for the use of one of the great conveniences of life.

But coming down to the amendment offered by the gentleman from Kentucky. He said in his argument that it would be said by those in opposition to it that you could not build any dams if you put this provision in the bill—and the gentleman from Kentucky was absolutely right about his own amendment. He told the truth. If you put his amendment in the bill, you could not build a dam in the United States, so far as a sane man with capital is concerned.

Mr. SHERLEY. Will the gentleman yield now?

Mr. UNDERWOOD. I do not wish to be discourteous, but I would like to conclude what I have to say.

Mr. SHERLEY. The gentleman has had twice the time that I have had—and I am glad he has; but this question is supposed to be for the enlightenment of us all.

Mr. ADAMSON. I asked for additional time for the gentleman from Kentucky.

Mr. UNDERWOOD. I occupy as little time on the floor of this House as anybody, and all I ask is that when I have the floor I be let alone to say what I desire to say.

Now, Mr. Chairman, the amendment of the gentleman from Kentucky does not fix any particular rate, but it says that as a condition of this grant it shall provide for the payment to the United States of reasonable annual charges for the benefits that accrue to the grantee for authority given under this act at the end of 20 years, and every 10 years thereafter the Secretary of War may readjust the annual charges.

Now, he does not fix any rate. The Secretary of War has the authority to fix the rate when he makes the contract. But the most vicious part of the proposition and the one I say would not allow any sane man to invest in any enterprise of this kind, is where the gentleman says that at the end of 20 years the Secretary of War may increase the rate if he wants to and may again increase it at the end of another term of years. Why, I do not think that the Secretary of War would be so foolish as to tax a man out of existence because he had this power, but I want to say to you gentlemen that the men who organized this Government refused to give the power of taxation to anybody but the representatives of the American people. [Applause.]

They limited this power of taxing the people, they put it in your hands, and primarily in the hands of this House, because you have got to report to a constituency at the end of every two years, and if you are guilty of an abuse of the taxing power, your political existence can be brought to an end.

And yet the gentleman from Kentucky would ask you to surrender this sovereign power of taxation, a power that was wrung from the Crown by your English forefathers hundreds of years ago, and would again place that power in the hands of the Executive without limitation on the abuse of the power. [Applause.]

Whether a Secretary of War would abuse this power or not, it takes millions to build these dams, and would any man with millions to invest take the chance of putting his money into an enterprise without limitation in charge, where the charge in the future by some unthinking Secretary of War might be made so great that it would absolutely confiscate his property? [Applause.]

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. LENROOT. Mr. Chairman, the gentleman from Alabama, my good friend from Minnesota, and other speakers who have been advocating this bill have repeatedly charged me with not being accurate in my statement of what this bill contains. I know these gentlemen do not mean to be personal in any way, and I do not speak of it for that reason. Whatever I have said, Mr. Chairman, I repeat now, that there is not a line in the bill as originally presented, or in its present form, that is not a concession to the water-power interests. I do not say, Mr. Chairman, that some of those concessions are not proper or that they ought not to be made. I do not take that position at all, but I do want to say that they are concessions, every one of them.

The gentleman from Minnesota to-day undertook to set out two things that he said the bill contained of public interest that the old law did not contain. One was the right to impose the duty on the Secretary of War to consider a comprehensive plan of navigation and to approve the plan with reference to the dam. That very provision is in the act of 1910. It is amended, but the right is there to the fullest extent.

He said there is another provision in this bill that was not in the old law, making the right of navigation paramount to the power interests. Mr. Chairman, that is true, and that is also in the present act of 1910, giving the Secretary of War absolute power to control in the interest of navigation, and making navigation paramount to the water power.

The gentleman from Alabama [Mr. UNDERWOOD] has pointed out two great rights which he says are contained in this bill, but are not in the present law. One of them is power of regulation, regulation by the Secretary of War in the first instance, and, as he says, giving the States the power to regulate if they are willing to provide adequate regulations.

Mr. Chairman, so far as the power to regulate is concerned, there is nothing in the act of 1910 that does not permit Congress to exercise the fullest power with reference to regulation. That is a power that we can always exercise. That need not be a part of this dam bill at all, because it rests upon an entirely different proposition; but so far as that power is concerned, Mr. Chairman, what does it do? It gives the Secretary of War power to regulate interstate commerce only when the States themselves have not made adequate provision for doing so, and in that case surrenders the power that we now have to him without regulation. So that if there is anything to that proposition it is a surrender of a power that Congress now has rather than a safeguarding of it.

With reference to this matter of compensation I do not believe we ought to insist upon compensation in every case. I believe the Secretary of War ought to have the right, and it should be confined to the original approval, that he should determine in approving the plans and specifications, whether compensation should be provided, but, Mr. Chairman, there are a number of instances where compensation to the Government is the only method possible of doing equity. The gentleman the other day in his very eloquent speech spoke of a cyanamid plant involving 100,000 or more horsepower. Will the gentleman tell us how regulation upon the part of the State or by the Secretary of War is going to take care of the public interests in electric power furnished to a cyanamid plant owned by the cyanamid company itself?

Mr. UNDERWOOD. Would the gentleman want to increase the charge that would ultimately go into the cost of fertilizer?

Mr. LENROOT. Mr. Chairman, I am glad the gentleman has spoken of that.

Mr. UNDERWOOD. The gentleman would not want to have the fertilizer cost any more?

Mr. LENROOT. Mr. Chairman, I am very glad the gentleman spoke of that. The gentleman is the majority leader upon this floor. The last tariff bill that was passed bears his name. The gentleman, as a Democrat and properly upon the Democratic theory, takes the position that any tariff rate that is imposed in the way of protection is a burden to the consumer, because the domestic producer will charge up to the amount of the import price. That is logical from that standpoint. But how does the gentleman reason when we come to consider cyanamid? He speaks of importation of cyanamid from Chile and how much it costs; and in his speech he assumes that if we can manufacture cyanamid in this country we are going to drop away below the price of cyanamid from Chile through the generosity and philanthrophy of the cyanamid manufacturer. Is that consistent with the gentleman's theory with reference to a tariff for revenue only?

Mr. UNDERWOOD. Oh, but the gentleman will tell the truth about this proposition. I said the tax was levied by the Chilean Government. There is no tax in this country on fertilizer of any kind.

Mr. LENROOT. If cyanamid costs a certain amount landed in New York, according to the gentleman's tariff theory, the cyanamid company manufacturing cyanamid in this country will charge just below what it can be imported for; and if that is not the gentleman's theory, I do not know what his Democracy is.

Mr. UNDERWOOD. The first company would charge just below, I said; but when you get another company, it would charge a little lower, and ultimately the competition that would grow out of the development of this business would reduce the price.

Mr. LENROOT. Mr. Chairman, I congratulate the gentleman. That is exactly the theory of the Republican Party standing for a protective tariff system [applause on the Republican side], that by imposing tariff rates that will permit the upbuilding of home industries competition among our home industries will bring the prices down; but the gentleman from

Alabama through all of the years past has steadfastly denied that, and said that it was robbery.

Mr. UNDERWOOD. The gentleman has not done anything of the kind. The gentleman says that you can have competition under an open door at the customhouse as well as you could under a protective tariff, and your protective tariff cuts off the competition instead of increasing it.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. LENROOT. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SHERLEY. Mr. Chairman, I would like to ask the gentleman a question, and that is this: If the reasoning of the gentleman from Alabama [Mr. UNDERWOOD] is right, that you must not charge compensation because that puts an added burden on the grantee, does not his logic force you to the conclusion that you should not require any condition that causes the grantee to spend money?

Mr. LENROOT. Absolutely.

Mr. SHERLEY. What is the difference between having to build something that costs money and having to pay the money, so far as the burden on the grantee is concerned?

Mr. LENROOT. But, Mr. Chairman, I want to get back to the gentleman's position. The gentleman can not contend that the power of regulation in this bill can be of the slightest public benefit in the cyanamid case, to which he referred, because you regulate the price of the water-power company, owned by the cyanamid company, that they shall charge themselves, and you have done absolutely nothing. You have taken money out of one pocket and put it into the other, both pockets being those of the cyanamid company.

There is still another feature. Regulation of water power, Mr. Chairman, is not possible to the same extent or in the same way that regulation of other public utilities is, because every other public utility, a street railway or an electric-light company, furnishing their power by steam, is unlimited in capacity to furnish power. They can be compelled by State or sovereign authority to furnish such utilities and such service as the market demands. That is not true with reference to a water-power company.

They can only be compelled to furnish such facilities as their dam sites enable them to originate power. Here is a community where they utilize 50,000 horsepower to-day. Here is a river near by that has a capacity with a dam in it of 10,000 horsepower and that horsepower is developed, and say that 10,000 horsepower is developed for one-half what steam power can be developed for, and where the steam power furnishes that community with 50,000 horsepower, these 50,000-horsepower consumers can not demand of this water-power company to furnish them all the power they need, because it is impossible. They can only furnish one-fifth; that is all they have got, and they can only furnish that amount, and can not be compelled to furnish to others. Now, then, it comes to the rates. The usual standard of a fair rate is a reasonable return on the value of the property after paying operating expenses; but will that apply in the case of the water-power company? No; not necessarily, because there is another element there to be considered, and that is where you have these 50,000-horsepower users and the water-power companies can only furnish 10,000 horsepower, then the question comes, Will it not be a discrimination that we give four-fifths of the users—or allow one-fifth of the users to get their power at one-half the price that the four-fifths pay? And that must be taken into consideration. Here are two factories alongside of each other competing. One of them gets this water power; the other gets the steam power. Would it be fair to let one secure from a public utility power costing them $40 a year, while the other gets power from another public utility which would cost them $80 a year, and that would drive them out of business? And so, Mr. Chairman, any public-utility commission or the Secretary of War, if he has jurisdiction, will take into consideration that other element, and the result would be, in every case where there is not water power sufficient to furnish the entire market, that the cost of the water power will be determined by the cost of the steam power, and when that is true the only way that the public can get any benefit they could receive would be by compelling the water-power companies to return either to the State or the Nation that excess over and above a reasonable return by way of compensation, such as is provided for in gentleman's amendment. [Applause.]

Mr. FOWLER. Mr. Chairman, can I ask unanimous consent to occupy 10 minutes?

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for 10 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FOWLER. Mr. Chairman, while water power is one of nature's richest gifts, yet it has lain dormant in America, much like electricity, for centuries. It has been used in other countries with much success and with a great deal of profit. That it is a cheap power and needs to be harnessed and utilized for economic reasons we all agree. That the navigable streams will afford power for public-utility purposes and for operating factories throughout the land there can be no question, and I am anxious that some general legislation should be enacted whereby it can be harnessed and placed under the control of the magic touch of civilization, so that the people can get the benefit of it readily. But in doing so we ought to be exceedingly cautious. It now belongs to the people. The right of Congress to dispose of it is incident to the power to regulate commerce among the several States.

The contention of some gentlemen is that this water power ought to be granted for a long period of time without adequate consideration to the United States. With them I do not agree. If it is desirable at all, it is worth something. Whatever it is worth is an element to be considered in this bill. If it is worth nothing, then this bill is useless. If it is desirable, then the right to control its application to business and fix the terms for regulating the same and providing for an adequate compensation for such use should be fixed in no uncertain terms. Some of our able constitutional lawyers have raised the constitutional question as to whether we can levy a tax in a bill disposing of water power. Now, I do not view it as a constitutional question in the sense in which they do. I view it in the sense of a valuable right owned by the Government, with a proposition to concede it to others. This can be done only by contract, just the same as was done in the sale of the battleships *Idaho* and *Mississippi* to Greece a few days ago. We did not propose to cede those two vessels to a foreign country for nothing, but we fixed a reasonable compensation in the contract for their sale, and it was paid. Water power stands in the same category of contracts. If we provide for the transfer of the right to generate water power to corporations, it must be done by contract, and the terms of that contract ought to be specific.

Mr. TOWNSEND. Will the gentleman yield?

Mr. FOWLER. Yes.

Mr. TOWNSEND. Does not the gentleman agree that the people at large derive the great benefit from the development of this power for use in industries and commerce?

Mr. FOWLER. I think they will; but I think the people in the immediate localities where the water power is generated will probably receive the greatest benefit from it.

Mr. TOWNSEND. Is not that a consideration then; that when these developments are largely scattered, perhaps in the course of a few years they may favorably affect the industries in many parts of the country and the Nation itself derive a benefit thereby?

Mr. FOWLER. The Nation as a nation derives a benefit from every upward step taken, whatever that may be.

Mr. TOWNSEND. Then there is no analogy between that and the sale of a gunboat to Greece, from which as a nation we can derive no special benefit.

Mr. FOWLER. But it is nevertheless done by contract and should be governed by the law of the contracts. Simply because the people of the country will be benefited as a whole is no reason why we should give this power away. We have conceded nearly all the valuable rights within our borders to corporations, and this is about the only thing we have left, and before ceding this right to corporations it is our duty to secure an adequate consideration therefor as well as the right of regulation.

In my own State, in the fifties, it was proposed to grant to the Illinois Central Railroad Co. a franchise to build a railroad through the State, north and south. But some of the wisest men in the legislature said that for such franchise the corporation ought to pay a consideration. We had made then, according to the debate at that time, the same character of speeches as have been made here by the gentleman from Alabama [Mr. UNDERWOOD] and the gentleman from Minnesota [Mr. STEVENS] and all the rest of the advocates of the terms in this bill. But the wisdom of the Illinois Legislature prevailed in favor of the people of Illinois, and the Illinois Central Railroad ever since 1855 has paid into the treasury of the State of Illinois 7 per cent of its gross income.

Mr. McKENZIE. Mr. Chairman——

The CHAIRMAN. Will the gentleman from Illinois [Mr. FOWLER] yield to his colleague?

Mr. FOWLER. In a moment. It started in 1855 by paying $28,000 into the treasury, and last year it paid into the treasury between $600,000 and $700,000. And up to the present time it has paid between $30,000,000 and $40,000,000 into the treasury of the State of Illinois.

Now I yield to the gentleman.

Mr. McKENZIE. Is it not a fact that the 7 per cent paid in by the Illinois Central Railroad to the State of Illinois is not only in consideration of the franchise granted but the great land grant that was given to the Illinois Central?

Mr. FOWLER. It is true that the Illinois Central Railroad received a land grant from the State.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. FOWLER. Mr. Chairman, I ask unanimous consent to occupy 10 minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. McKENZIE. Will the gentleman yield?

Mr. FOWLER. Yes; I yield to the gentleman.

Mr. McKENZIE. I would like to ask my colleague if it is not a fact that the Illinois Central Railroad Co. got the actual title to the lands in question, and they conveyed them by deed to the purchasers?

Mr. FOWLER. The Illinois Central Railroad has the right of way over the territory through which it passes. Now, Mr. Chairman——

Mr. GARRETT of Tennessee. Will the gentleman permit an inquiry?

Mr. FOWLER. Yes.

Mr. GARRETT of Tennessee. Is the Illinois Central Railway paying now 7 per cent of the gross receipts over all of its lines or just those lines in the State of Illinois?

Mr. FOWLER. Only in Illinois, and there has been some question about paying on its leased lines as feeders to the main line in Illinois, which, as I understand, are operated in connection with the main lines, but do not pay the 7 per cent.

Mr. McKENZIE. Mr. Chairman——

The CHAIRMAN. Will the gentleman yield?

Mr. FOWLER. Only for a moment.

Mr. McKENZIE. I know my colleague wants to be fair, and he does not want to make any mistakes. Now, is it not a fact that the Illinois Central Railroad, instead of getting a right of way only, got every alternating section for 10 miles each side of the right of way, and is it not also a fact that they only pay into the treasury of the State of Illinois 7 per cent of the gross earnings of the chartered line in the State of Illinois?

Mr. FOWLER. I practically answered that in my answer to the question propounded by the gentleman from Tennessee [Mr. GARRETT]. But it does not make any difference what else the Illinois Central Railroad received in that grant. It was primarily for the right of building a railroad and operating that railroad in Illinois. This road did receive from the State of Illinois about 3,000,000 acres.

Mr. GARRETT of Tennessee. If the gentleman will permit me, it makes this difference: The Illinois Central runs through the section from which I come. If the shippers in my section are being taxed in order to pay money into the treasury of the State of Illinois, we are not getting much benefit from that.

Mr. GRAHAM of Illinois. Will my colleague yield?

Mr. FOWLER. If I can get a little more time. I have something else to say, but I will yield to my colleague.

Mr. GRAHAM of Illinois. I want to say in answer to the gentleman from Tennessee [Mr. GARRETT] that the 7 per cent is counted only on the traffic on the lines from Cairo to Chicago and from Centralia to Dunlieth. And the railroad company and the State recently had some trouble with reference to the proportion of earnings upon which it should pay the 7 per cent, and I believe the company admitted that the division had not been properly made theretofore, and settlement was made by payment of a considerable sum by the railroad to the State. It does not pay any per cent on the traffic through Tennessee.

Mr. FOWLER. No contract could be made by Illinois to affect rates or division of income outside of her own territory, and for this reason no other State has been affected by this wise provision. The concession that the Illinois Central Railroad received was primarily for the construction of a railroad, and it was through the influence of such great men as Stephen A. Douglas, who, as I recollect, was a member of the legislature at the time when this concession was given—it was through his long-sighted wisdom and that of other statesmen like him that the State of Illinois to-day enjoys the benefit of that handsome income. Notwithstanding the payment of this sum into the State treasury, it is one of the best roads in the State.

Now, Mr. Chairman, if every other railroad in the State of Illinois and all other corporations had been required to pay 7 per cent of their gross income into the State treasury, we could have built hard roads throughout the State of Illinois without taxing a single citizen of the State for the payment thereof. There are in other States similar railroads and corporations, and if the States of this Union had required when the franchises were granted away the payment of 7 per cent of the gross income, there is no doubt in my mind of its sufficiency to furnish ample revenue to defray the expenses of State government, thereby leaving the counties to defray the county expenses only.

Now, the same thing is true with this water power. If we start in by taxing the grantee of these rights a certain percentum of the gross income—and I have an amendment that I am going to offer for not less than 5 per cent of the gross income—we may in the future, maybe 50 years from now, realize an income from this source which will defray largely the expenses of this Government.

We have in this country now, according to the Commissioner of Corporations, 305.386 corporations. They have a capital stock of $61,000,000,000 in round numbers, with a bonded indebtedness and other indebtedness of $34,000,000,000. They have a net income now of about $4,000,000,000. Ten per cent of that income is $400,000,000—enough in one year to dig the Panama Canal; enough in five years to build 2,000,000 miles of hard roads in America; enough, if properly used, to make America in all of its tough and rough places blossom like the rose and flourish like a trust. [Laughter.]

Mr. TALCOTT of New York. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from New York?

Mr. FOWLER. Yes; I yield.

Mr. TALCOTT of New York. Would the gentleman from Illinois be in favor of imposing a charge on the construction of bridges across navigable waters?

Mr. FOWLER. If a bridge across a navigable stream were used for the purpose of collecting tribute from the people, I say yes.

Mr. TALCOTT of New York. Take railroad bridges.

Mr. FOWLER. Certainly. Railroads ought to be treated in the same way as the water-power companies, and, although we have given away these rights in the past, is that any reason why we should so continue until we have given away all we have? Let us wait no longer, but let us begin now in this bill to protect American rights.

Mr. TALCOTT of New York. Following the same principle, should there not be a tax imposed upon boats that use the water to carry them down?

Mr. FOWLER. Well, I do not care to go off on a tangent. But I do want to direct the attention of the House to the fact that water power is known to be the cheapest power in the world. The corporations that get control of the navigable streams of this country and are able to utilize the water power will be able to drive everybody else out of business, and when everybody else is out of business—I mean the people who generate their power by means of coal and other means—when opposition is out of the way, then these great masters of cheap production will regulate the prices and fix them as they please, and 50 years from now, or maybe much sooner, the people of this country will be asking why the Sixty-third Congress did not protect the rights of our posterity while framing this bill.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. GRAY rose.

The CHAIRMAN. The gentleman from Indiana is recognized.

Mr. GRAY. Mr. Chairman, I do not assume to be a teacher of men. I am only an anxious inquirer after truth that I may vote intelligently on this question.

I have discovered a new school of conservationists, a school that proceeds on the theory that the way to conserve the natural wealth of the world to the use of people is to give it away to a few persons. [Laughter.] I am opposed to that school of conservationists. I believe that every human being born into the world inherits a part of it, which he takes by a natural, superior title and which even the Congress, under the Constitution, has no power to alienate or divest without full compensation to the people.

These gentlemen talk about the taxing power as the only power to be invoked and the impossibility of its application. There is a great play upon the taxing power. It is invoked or denied as the purpose to be served requires. It has been the resort, as a valid power, in tariff legislation to defeat competition and create monopoly. But now when valuable water

rights are to be granted its force and application are seriously questioned and denied in order to take from the people the wealth they have inherited without compensation.

But, Mr. Chairman, it is not the taxing power here involved. The taxing power is a great, absolute power arbitrarily exercised by the Government—the power to levy and collect taxes from the people; the power to go into the people's pockets and take their money; the power to seize their property and sell it, or hold it for the payment of money; in fact, the power to take their money, their property, and the fruits of their toil and labor; and behind which there is all the civil and military authority of the Government to enforce it. The taxing power is enforced by summary proceedings against the people. It is true, before you can enforce the payment of taxes against a citizen you must give him some kind of notice. But whether he consents or not, whether he agrees or not, or whether he acquiesces or not, you take from him his money, his property, and the fruits of his labor. This is the exercise of the taxing power.

There is a difference between the exercise of the taxing power and enforcing compensation under contractual rights and for value received from the people. In the last instance the man pays the money as a voluntary act. It is not taken from him under a summary proceeding. He pays it as his free choice and will in compliance with his contract which he agrees to in accepting the grant from the Government. This is not the exercise of the taxing power. It is a contractual relation, a voluntary obligation incurred, and the only man who could raise the constitutionality of the right to collect tolls or charges would have waived all question of the enforcement of such payment by his acceptance and voluntary agreement. They stubbornly insist that this is the exercise of the taxing power only to deny its application in order to take from the people their natural and inherited property rights without compensation, the title to which we have not the right to divest, alienate, or to convey or transfer without their receiving full value in return.

The Government leases oil lands, coal lands, and mineral land, and collects rentals, but not under the exercise of the taxing power. It is the enforcement of payment under agreement. It is admitted that the Government may itself construct a dam and generate and sell power and electrical energy to any number of consumers, and it is difficult to understand why the Government can not sell to one firm or corporation at wholesale in its crude form what it may sell at retail to many in its manufactured and marketable state.

I am for this amendment, and I want to define the principle upon which I will give it my support. [Applause.]

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. MONTAGUE. Mr. Chairman, I first wish to say that until the decision in what has been called in this debate the Chandler-Dunbar case, decided by the Supreme Court May 26, 1913, no opinion of this great court can be cited to sustain the amendment now under consideration. This decision I do not think so holds, but I will discuss it later.

The right of the Federal Government to regulate interstate commerce, and therefore to regulate navigation in the navigable rivers of the States—for navigation under such power is the chief, if not the sole, instrument of commerce—has never been squarely held to authorize the Federal Government to appropriate to itself and for its benefit revenues derived from the sale of water power.

The authority of the Federal Government to control or regulate navigable waters rests alone upon the constitutional power of Congress to regulate commerce between the States and foreign nations. There is not a shadow of foundation of Federal jurisdiction for such purpose except what is afforded by this express sanction of the Constitution.

Now, obviously this power to regulate or control navigation does not give the Federal Government the right to sell the water or water power of such rivers, unless thereby navigation is preserved or promoted. Unless such sale or disposition of the water power is fairly to subserve this purpose, the Federal Government transcends its constitutional limitations.

Therefore, Mr. Chairman, the settled law of the land has always been that, except and subject to this sovereign right of navigation by the Federal Government, the States, or the riparian owners, or both, have all other regulatory power to control, of any nature whatsoever, in the navigable waters within the United States. In other words, the power of the Federal Government to regulate navigation means the power to control or use the waters for this purpose. The power so to regulate can not mean the power of the Federal Government to sell the waters for private commercial purposes. If the latter is to be accomplished, it must be done by the States or their citizens under the authority of the States.

If the use of the rivers for power purposes conflicts with the regulation or control of the rivers for navigation purposes, then navigation is paramount and supreme. The Nation has a perfect right and complete and exclusive jurisdiction for navigation and for no other purpose. For all other purposes we must look to the States. This general statement of governmental power and the apportionment of that power between State and Nation is supported by a torrent of decisions, and among them I would refer to Martin *v.* Waddill (16 Pet., 367), Pollard *v.* Hagan (13 How., 212), Barney *v.* Keokuk (94 U. S., 324), McCready *v.* Virginia (94 U. S., 391), Parker *v.* Bird (137 U. S., 661), Hadrin *v.* Jordan (140 U. S., 371), Shively *v.* Bowlby (152 U. S., 1), St. Anthony Power Co. *v.* Water Commissioners (168 U. S., 349), United States *v.* Chandler-Dunbar Co. (209 U. S., 447), Kansas *v.* Colorado (206 U. S., 58).

In the last-named case the court said:

> The Government of the United States is one of enumerated powers; that it has no inherent powers of sovereignty; that the enumeration of the powers granted is to be found in the Constitution of the United States, and in that alone; that the manifest purpose of the tenth amendment to the Constitution is to put beyond dispute the proposition that all powers not granted are reserved to the people, and that if in the changes of the years further powers ought to be possessed by Congress they must be obtained by a new grant from the people. While Congress has general legislative jurisdiction over the Territories and may control the flow of waters in their streams, it has no power to control a like flow within the limits of a State except to preserve or improve the navigability of the stream; that the full control over those waters is, subject to the exception named, vested in the State.

Again, in Illinois *v.* People (146 U. S., 387) this comprehensive language occurs:

> It is the settled rule of this country that the ownership of, and dominion and sovereignty over, lands covered by tidewaters within the limits of the several States belong to the respective States within which they are found, and with the consequent right to use or dispose of any portion thereof when that can be done without substantial impairment of the interest of the public in the waters, and subject always to the paramount right of Congress to control their navigation so far as may be necessary for the regulation of commerce with foreign nations and among the States. This doctrine has often been announced by this court and is not questioned by counsel of any of the parties.

So, Mr. Chairman, I submit that the overwhelming weight of authority, attested by the Supreme Court, the appellate courts of the States, and the undying names of great text writers, is, to the effect that under the commerce clause of the Constitution the Federal Government acquires no property or proprietary interests whatever in navigable rivers or in their beds. The title to the use of such waters and beds or soil thereunder remains in the States unimpaired. For the National Government, under the pretense of regulation, to appropriate such waters and soil, or the revenues therefrom, is a bald confiscation of the property of the States, property under their complete control, save only so far as such control may affect or interfere with navigation. The Federal Government has the perfect right to regulate and control navigation, but the accepted law of a century denies to Congress the right to sell or lease this power of regulation. To do so is a plain abnegation of sovereignty.

Mr. Chairman, I beg to submit in this connection, however archaic the suggestion, that federal republics have never gone to pieces unless the central authority absorbed the jurisdiction of the communal or state governments, or unless the communities or states absorbed the constitutional powers of the federal entity. The hope and the genius of our system consist in the better balancing and adjustment of these two powers and jurisdictions than ever before accomplished by man. Grote sounded the beneficence of "constitutional morality," and the admonition may well be heeded to-day in our beloved Republic. Principles should not yield to temporary desires. The test is not the hurrying cry of the hour.

Now, Mr. Chairman, if the settled law of the country is to be overturned it should be accepted by this House only upon the weight of adjudications involving the precise facts and principles asserted in this amendment. I do not resist or resent the control or the power per se found in this amendment. I voted not many minutes since for the amendment offered by the gentleman from Wisconsin [Mr. LENROOT]. But I do resent and resist control not granted by the Constitution. Therefore, it behooves the House to consider carefully whether the adjudications of our great supreme tribunal are so fairly and concretely analogous to the facts and principles contained in this amendment as to warrant our acceptance of them as a rule of stare decisis. We can not accept dogmatic asservations or permit our wishes to father our thoughts. Heretofore some eminent officials have thought that the case of the Green Bay Canal Co. *v.* Patten Paper Co. (172 U. S., 58) settled the authority contended for in the amendment. But I submit the facts in this case do not sustain the general revenue legislation proposed in this amendment. It is true that the water power

generated by the dam mentioned in this case was an incident to the improvement of navigation and was subject to the control and appropriation by the United States; but such control and appropriation was not based upon the fact that it was a navigation dam or that the water power was an incident to navigation. The real judgment of the case rests expressly upon the argument that by reason of certain conveyances from the private owners of the water power in question to the United States, which conveyances were confirmed by State legislation, both the private right and the right of the State had passed to the United States as the sole proprietary owner. Therefore the United States in this case had not only her sovereign right of navigation, but the sovereign right of the State and the property right of the riparian owner. So, too, in the case of Kaukauna Co. *v.* Green Bay (142 U. S., 254) the commerce clause was not involved. In this case the controversy was between the State and the riparian owner, and the facts afford no sufficient analogy to support a conclusive argument in behalf of this amendment.

But, Mr. Chairman, the Chandler-Dunbar case is believed to be conclusive by very sincere gentlemen upon this floor. This company, in pursuance of a revocable consent of the Government, established in St. Marys River wings or structures whereby much of the water of this river was diverted and employed as water power by this company. The Government found it necessary to control and use the whole of the water used by this company and of this river for the purpose of making the same navigable. The Government did not assert by the faintest suggestion any proprietary rights in the river. It simply contended that the grant made to the Chandler-Dunbar Co. was revocable whenever the United States should properly declare that the structures of this company in the river affected or obstructed navigation. Congress not only declared that such structures were an obstruction to navigation, but, as I have before stated, declared all of the waters and bed of the river were necessary for navigation. So the Government declined to pay the Chandler-Dunbar Co.'s claim for damages resulting from the withdrawal of water power by the United States in the exercise of its power to regulate navigation, because such structures were put into the river in subordination to the paramount and sovereign right of the Government to remove or destroy them in the interest of navigation. The point, however, was the twelfth section of the act, passed upon in this case, which declared that the conservation of the flow of the river was—

primarily for the benefit of navigation and incidentally for the purpose of having the water power developed, either for the direct use of the United States or by lease * * * through the Secretary of War.

The court held that inasmuch as the primary purpose, namely, navigation, was legitimate it could—

see no sound objection to leasing any excess of power over the needs of the Government—

and cited to sustain this conclusion the Kaukauna Co.-Green Bay case, which I have heretofore mentioned. But the committee is asked to bear in mind that in the Kaukauna Co.-Green Bay case the State of Wisconsin erected the dam and necessarily had every right and control thereof save when exercised in conflict with the authority of the United States as respects navigation. Indeed, I would urge upon the committee the following language of the Kaukauna-Green Bay case, quoted by Mr. Justice Lurton in the Chandler-Dunbar case, namely:

As there is no need of the surplus running to waste, there was nothing objectionable in permitting the State to let out the use of it to private parties, and thus reimburse itself for the expense of the improvement.

Thus in the Kaukauna-Green Bay case the United States approved of the right of a State to lease surplus water power to the extent of reimbursing itself for the expenses incident to the improvement or plant. In this connection I submit to the committee that the amendment does not contemplate that the United States shall lease the surplus water power for the purpose of reimbursing itself for any expense it may have incurred or may incur by reason of the operation of the locks or other improvements incident to navigation. And, further, in this connection I desire to urge that in President Taft's veto message of the Coosa River Dam he mainly based his objection to the bill upon the ground that it did not provide that the compensation for the use of surplus water power—

should be applied strictly to the improvement of navigation in the respective streams—a strictly Federal function.

Thus the Chandler-Dunbar case seems to confirm by argument the position of President Taft, namely, that should leases be made of water power the income derived therefrom should not accrue to the Government as revenue but should be applied to the maintenance and improvement of the navigation involved in the particular enterprise. Therefore, by inevitable negation, the Federal Government has no right to make leases except to the extent that the compensation exacted shall be directly applied to the maintenance and improvement of navigation. Moreover, it does not appear in the Chandler-Dunbar case that the State of Michigan, in whose territory the waters in question were situated, was made a party to the proceedings or in any wise objected to the procedure. I submit that if the State of Michigan had been made a party to the proceedings and had interposed her objection it is exceedingly doubtful that the Supreme Court would have handed down the specific judgment rendered in this case. I say this because in the Chandler-Dunbar case the court distinctly held that this company could not—

be heard to object to the selling of any excess of water power which may result from the construction of such controlling or remedial works as shall be found advisable for the improvement of navigation, inasmuch as it had no property right in the river which had been "taken."

Therefore it is manifest that the proper parties were not before the court to raise the vital question contained in this amendment, namely, the authority and jurisdiction of the State.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ADAMSON. I ask unanimous consent that the gentleman's time be extended five minutes.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that the time of the gentleman from Virginia [Mr. MONTAGUE] be extended five minutes. Is there objection?

There was no objection.

Mr. ADAMSON. If that is not sufficient, we will give the gentleman more time.

Mr. MONTAGUE. I thank the gentleman.

Mr. CLINE. May I ask the gentleman a question?

Mr. MONTAGUE. Certainly.

Mr. CLINE. I understand that the gentleman's position is that the United States has no proprietary interest in the water?

Mr. MONTAGUE. No proprietary interest in the water; none.

Mr. CLINE. But in the Rio Grande case, in One hundred and seventy-fourth United States, the court held that the United States had jurisdiction and power over the water, to the very last drop that fell on the mountains, sufficient to control navigation.

Mr. MONTAGUE. I do not controvert that decision. I rely upon it as one of the many of the few cases I have cited sustaining my contention.

Mr. CLINE. As a result, so far as the practical application of the proprietorship or control of the water is concerned, is there no distinction between the jurisdictional rights and the proprietary rights?

Mr. MONTAGUE. There is a very wide distinction between the jurisdictional or sovereign right and the proprietary right. The proprietary rights of the United States are mainly similar to the property rights of riparian owners, and such property rights of the United States in many States may be condemned by the laws of the State. Moreover, the proprietary rights of riparian lands owned by the United States must be governed in the main as similar property rights of private riparian owners are governed.

But to return to the Chandler-Dunbar case, I submit that it is bottomed altogether upon the one right of the United States in navigable waters, namely, the right granted by the Constitution to control their use for the purpose of commerce or navigation. The control of waters for such purpose, plainly defined by the Constitution, is widely different from the control of navigable waters for the purpose of revenue.

The wide difference, the vast distinction, between the exercise of Federal power to protect and promote navigation and the power to raise revenue from the sale of water power not belonging to the United States in connection therewith should be carefully considered by the committee. To concede the employment of regulation of navigation as an authorization for revenue may lead us into a labyrinth from which we will never be able to extricate ourselves. If the United States sells this excess of water power for the generation of electricity, for transportation, manufacturing and industrial purposes, we have embarked upon an uncharted sea. If we sell this power, we can control the very business using the power. If we control this excess water power, we may sooner or later be compelled to own and operate these commercial enterprises. I do not now say whether such exercise of power is good or bad, wise or unwise. I am only directing your attention to the conclusion that when the day comes for the United States, under the commerce clause, to lay its hands upon the waters of the States and to sell the same for commercial purposes, that day marks the extension of the powers of the Federal

Government to a degree never dreamed of by the founders of this Republic. [Applause.]

Mr. Chairman, I do not desire to weary the House. I would, however, recapitulate my arguments. We are now dealing with a section of this bill plainly supported by the constitutional authority to regulate commerce or navigation. I do not believe the constitutional right to regulate commerce or navigation carries with it the right to levy revenue upon water power unless such returns are directly necessary for the purposes of navigation. These water powers, sold for private commercial uses, may be taxed, I concede, but they should be taxed by the States. Moreover, the National Government, even as a matter of policy, should not exclude such property values from the taxing power of the several States.

Mr. CLINE. Will the gentleman yield?

Mr. MONTAGUE. Yes.

Mr. CLINE. Will the gentleman give us the constitutional authority that the Government has to sell surplus water to reimburse itself?

Mr. MONTAGUE. If the gentleman will permit, my personal opinion as a lawyer is that the Government has no water power to sell, and therefore it has no authority to charge for that which it does not possess. [Applause.] This has been the recognized law, as I have endeavored to argue, for a hundred years, as shown by the unbroken decisions of our Supreme Court, save the decisions which I have mentioned, which, in my opinion, do not afford such an analogy as to justify a reversal of the polity and the law of many generations.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHERLEY. I ask that the gentleman's time be extended one minute in order that I may ask him a question.

The CHAIRMAN. The gentleman from Kentucky asks that the time of the gentleman from Virginia be extended. Is there objection?

There was no objection.

Mr. SHERLEY. I want to ask the gentleman, where is the tremendous danger to the Government, where is the wide departure from what has been its policy heretofore, in making a grant to a company to create a water power on a navigable stream, putting certain conditions of building on it and giving the same grant with an additional condition that it shall pay something to the Government? If the Government in getting money from the grantee is entering on socialism, why is it not socialism in the other instance?

Mr. MONTAGUE. In one instance the Government regulates navigation. In the other the Government charges for the water power of the States to conduct or aid the private individual business, which is as far afield as it would be for the Government to go into the railroad or other business.

Mr. SHERLEY. In each instance the company is using the same water and making the same sort of power and selling it for the same purpose, but in one instance Uncle Sam gets the money and in the other he does not.

Mr. MONTAGUE. In one instance the United States is regulating commerce; in the other instance the United States is taking the property of the citizens or of the State and employing it in defiance of the Constitution for the administration of private commerce. As a constitutional principle the exercise of such governmental power is unfounded, in my judgment; and the exercise of such power in aid of business and industrial enterprise will not only deprive the State of its own property, but will be perhaps in the end a disastrous industrial and economic policy.

Mr. CULLOP. Mr. Chairman, I am in favor of this amendment and hope it will be adopted, as public policy and public justice require it. It is a strange doctrine that the gentleman from Virginia [Mr. MONTAGUE] invokes here to-day. He contends for an anomalous proposition; one, in my judgment, that can not be sustained. In other words, the school to which he belongs says that this Government has the constitutional right to give away the most valuable property that it has, and yet it has not the constitutional right to charge for it or to sell the property. It has the power to lease without compensation, but not the power to lease for a compensation. If this Government has the right to give property away, it has the right to sell that property, because it requires no greater right to exercise a gift than it does to fulfill a sale. The same elements of power are required in either event. But gentlemen say that there is danger of socialism in the adoption of this proposition. Socialism! That has been a great bugaboo in this country for many years, and has been made to do overtime. It is invoked on almost every occasion where special privilege attempts to extend its existence. What is socialistic about the Government raising revenue from the leasing of its property, charging a fair return for making valuable grants? If the Government has the power to tax the people of this country to build dams in aid of navigation, it has the power to charge those who get the benefit of the building of the dams and make a commercial product out of the by-products in order to reimburse the Government and to relieve the taxpayer of the Government from further and higher taxation. If the Government has the power to make a grant, to give away the public property, it has the power to charge for the leasing of the property, and may impose terms for the same. Supposing the States do own the beds of the rivers. The Government controls and has dominion over the water that flows over the beds of the rivers, and it exercises dominion; and as long as it exercises that power, it has the right to charge for the exercise of that dominion and the control of the products occasioned therefrom. If it has the power, which all concede, to exercise in the one case, it necessarily follows that it has it in the other.

Here is a valuable property. It is about the only known asset of this Government which has not already been exploited, and here is an attempt to deprive the Government of the most valuable asset it has left without compensation.

The same specious argument is made in the gift of this property to-day that was made 60 years ago in giving away the public domain to the great railroad corporations of the country. It was then said that the railroads would not build through that great empire of the West unless the public encouraged them, and Congress yielded to that alluring plea and gave away the most valuable known asset of the Government, and it has been the work of 50 years to have forfeited the lands which were unearned, so improvidently granted by that unwise legislation and restored to the public domain. Here is this valuable asset, worth more than that was. Certain interests in this country to-day control the transportation and the available fuel supply of the country. Give it now, as is here proposed, for nothing, the water power of this country, and it has the business of the country by the throat. [Applause.] It is a powerful interest, and when once in control of these three essentials it will be able to dominate the entire business of the country. This is the only link out of their chain, and we, as the representatives of the American people, should see to it that this valuable asset is not frittered away here without compensation to the Government. Capital is always seeking investment. It will go where it will bring back a profitable return, and when the business of the country in any locality requires it, capital will be invested in the building of the water powers, as it has been in the building of the railroads through different parts of the country. But in order to lure capital to invest in the building up of these powers, we are not required to give to them as a reward the greatest asset that this country to-day owns, namely, the undeveloped water power of the rivers of the country. [Applause.]

But, Mr. Chairman, it is said here that these great properties will remain dormant if the Government attempts to make a charge for them; that capital will not be invested in them for that reason; and to insert this proposition in this bill will only retard this great improvement. All who indulge in that argument mistake the true situation, and the facts will not sustain them. The men who desire these properties are trying here in this legislation to drive a good bargain, and may use that argument to aid their cause and secure advantage, but the argument is not well founded. For years they have been trying to get concessions from Congress to build dams, but because of a disagreement over this question between Congress and the Executives they have been unable to get authority to do so.

President Roosevelt vetoed bills passed by Congress because they did not contain authority for compensation to the public for the valuable right; President Taft did the same; and that is the reason dams have not been built and these properties developed. Both of these Presidents contended—and very properly so, in my judgment—that the public should have remuneration for the disposition of these valuable rights, and in that position I believe the American people approve their course. Just why the public should give away these valuable properties I am unable to comprehend.

But it has been asserted here we have no constitutional right to charge a tax for these properties, and hence are powerless to so legislate. This proposition to charge for this right is in no sense a tax. It does not come within the definition of a tax. It is the consideration named and paid as a part of the agreement for a right to use them. It is a voluntary act on the part of the person or company which obtains the right. No one is compelled to enter into the agreement. He can make it or let it alone. It is optional on his part. This element clearly distinguishes from a tax, which is always compulsory. Hence it is in no sense a tax. It is merely a considera-

tion expressed in the agreement and enforceable only as such. The public or Government is one of the parties to the contract, and as principal it instructs its agent, the Secretary of War, the terms to be inserted as a part of the contract. The whole matter for which we contend is plausible, practical, and justifiable, and in the interest of a sound public policy, one the country will approve and time will demonstrate its wisdom. Public interests require that every provision in this measure be carefully scrutinized and adequately safeguarded, that the public may not suffer as the years go by and development works its wonders.

We must not forget the fact that we are enacting legislation of vast importance not only to the people of to-day, but for people 40 and 50 years from now. Who is there that would attempt to draw a picture fairly and truly portraying conditions as they will really be 50 years hence? The most of us will not live to see them; others will take our places. Let us then not burden or even embarrass them with improvident and unjustifiable action now.

If the development of the last 25 years is to be used as a criterion for the next 25 years, what a great change; marvelous improvement will witness the conditions which will then exist, and how much greater will it be at the end of 50 years from to-day. We are moving by leaps and bounds. The ingenuity of man is taxed as never before, and it is responding as was never known before to meet every requirement made upon it. Electricity is in its infancy. Already what we have seen and know of it prepares us to expect greater strides in its development in the future than we have witnessed in the past. The ingenuity of man is opening the storehouse of science, revealing the hidden secrets, as time and conditions make requisitions for the advancement of the human race and the betterment of conditions, in order that an industrious and enlightened people may enjoy the fruits of their possessions and enhance the purposes of their existence. Nature's storehouse is filled with riches to supply every valuable purpose, but to profit by and enjoy these natural gifts we are required to husband them and employ them in a wise and conservative way and prudently enjoy them, that we may realize their real value. If we waste them, injury will ensue, because of our improvidence. Nature furnished the opportunities for these great properties. The larger portion of them have remained dormant, because necessity has not required their improvement; but as population increases, fuel becomes scarce or expensive, necessity for production increases, their values become apparent, and their development essential. If there is some demand to-day for this, who can approximate the urgent necessity which will exist 50 years from now? This fact should impress us with the imperative necessity for the exercise of caution in what we shall do now and here, in order that generations to follow us will have their rights preserved and the way for their advancement made easy and free of embarrassment. [Applause.]

Mr. STEVENS of New Hampshire. Mr. Chairman, there are two or three points to which I should like to call the especial attention of the committee. The gentleman from Alabama [Mr. UNDERWOOD] based all of his arguments upon the statement that the bill before the House provided for an adequate regulation of the water powers developed under the provisions of the bill. Yet nearly all of his argument the other day was devoted to showing that these water powers would be used for private manufacturing purposes and not for public-service corporations, and the gentleman from Minnesota [Mr. STEVENS], who knows a great deal about this water-power business, declares that, in his judgment, at least 50 per cent of the water power would be used for private manufacturing purposes and not for public-service corporations. This means that for over half of the power you give away there is absolutely no possibility of regulation either by the National Government or the State government, and in the bill as drafted no possibility of compensation of any kind to the Government. So that regulation as provided for in this bill is not ample protection to the public.

I want now to discuss for a moment the Chandler-Dunbar case, which the gentlemen who are opposed to any charge at all do not seem to like and regret that the Supreme Court ever handed down. I wish to call the attention of the committee to the fact that it was a unanimous opinion of the court. That case decided absolutely that the riparian owner of a navigable stream owns no water power as against the National Government. That is what it decided, and the Supreme Court said so in so many words. The Chandler-Dunbar people owned the land on the river. They were riparian owners and they had a plant developed, and the Government came in and put in a dam for navigation purposes, which destroyed the whole value of their property. The Supreme Court of the United States held that the Government did not have to pay them 1 cent as compensation, because, in the words of the court, it had taken nothing from the Chandler-Dunbar Co. which it owned.

Mr. Chairman, I will make two statements that no man on the other side can contradict, and one is that no dam can be built in a navigable stream without the consent of the Government, and the second proposition is that the Government itself may build a dam in aid of navigation, and all water power developed thereby belongs to it; and it shall pay not 1 cent for compensation, and it can lease, sell, and use that water power for any purpose under heaven that it wants to. That is the law, and I challenge any gentleman on the other side to deny that statement of law, as laid down in the Chandler-Dunbar case.

And then they tell us that we can not do, through an agent, through a private corporation to whom we grant this right, what we can do ourselves; that we can not get a cent of revenue from it or put any charge upon it without being unconstitutional. The gentlemen who make that statement, without exception, do not believe in public ownership. They do not believe in the conservation of the water power of this country. This is not a conservation bill. A little mixture of the doctrine of State rights and the doctrine of private ownership of water powers with a little State regulation stirred up together never will produce a Federal conservation act that will satisfy the people of this country. [Applause.]

Mr. STEVENS of Minnesota. Mr. Chairman, if the gentleman will permit me, at least two or three speakers have spoken in favor of the amendment, and in all fairness the amendment at this time ought to be opposed. I wish to rise right now, in order to contradict practically every statement, both as to law and facts, made by my good friend from New Hampshire, and he knows how very highly I regard him. I will read what the Chandler-Dunbar case itself states, and that ought to be the best answer to his statements and arguments:

> This title of the owner of fast land upon the shore of a navigable river to the bed of the river is at best a qualified one. It is a title which inheres in the ownership of the shore and, unless reserved or excluded by implication, passed with it as a shadow follows a substance, although capable of distinct ownership. It is subordinate to the public right of navigation, and, however helpful in protecting the owner against the acts of third parties, is of no avail against the exercise of the great and absolute power of Congress over the improvement of navigable rivers. That power of use and control comes from the power to regulate commerce between the States and with foreign nations. It includes navigation, and subjects every navigable river to the control of Congress. All means having some positive relation to the end in view which are not forbidden by some other provision of the Constitution are admissible.

That is the extent of it, that the riparian owner owns the bed of the river——

Mr. McCOY. Will the gentleman yield?

Mr. STEVENS of Minnesota. I can not just now. And such ownership is subordinate to the public right of navigation. That is all the right the United States has—the paramount right of navigation, not any property right of ownership in anything; that is continued in the riparian owner. Now, the Chandler-Dunbar case laid down this doctrine—that that private company owned the riparian rights. As a part of such ownership, it owned the title to the bed of the stream, under the law of the State of Michigan. The water that passed over it was not its property. Nobody has ever claimed that it was. I stated last night, I stated to-day, and I state now that the ownership of that water is not in any private individual, and it is not in the United States either. There is not one single decision in any United States court, of any State court, of any respectable attorney, who has ever claimed that the United States has a single particle of ownership or proprietorship in the water or, equally, that any private individual has any ownership in the water or any other right than its use. Whatever ownership there is would be in the State itself, in trust for the public use under its own rules, subject only to the paramount right of the United States to use it for navigation only. No case has ever contradicted this doctrine, and the Chandler-Dunbar case only restates it. Now, gentlemen must remember the only right whatever under the Chandler-Dunbar case the United States has is the right to use the bed of that river between the banks from high-water mark and the water which flows over such submerged land for the purposes of commerce. That is all the right it has or can have unless it buys and pays for it. Now, without any such proprietory right, you here attempt to tax an individual only or to sell something you do not own. That is the difficulty with you gentlemen.

Mr. STEVENS of New Hampshire. Will the gentleman yield?

Mr. STEVENS of Minnesota. I yield.

Mr. STEVENS of New Hampshire. Does not the Chandler-Dunbar case expressly decide that all water power developed by that dam, if built for navigation purposes, belongs to the Government?

Mr. STEVENS of Minnesota. No; it does not; not at all. All it says is this, that the excess power not needed for navigation from a future dam constructed for navigation under authority of Congress, owned by the Government, may be sold; and that is exactly what we have been contending for. Such excess power arose not from works of the Chandler-Dunbar Co., but of the United States, and in such case could be sold by the Government.

Mr. SHERLEY. Will the gentleman yield?

Mr. STEVENS of Minnesota. I will.

Mr. SHERLEY. What is the distinction the gentleman makes between the case where the Government builds the dam and sells the excess water power, and where it gives to somebody else the privilege of building the same sort of dam for the same purpose, to aid in navigation, and charges such grantee for the rights of the excess water?

Mr. STEVENS of Minnesota. This is the distinction, and this only: When the United States builds the dam itself for the purpose of navigation, it exercises its sovereign power under the commerce clause. If it creates property there for a public purpose in the use of its property wherever an excess of water results which may be used for power, it may sell the use of its own property. This is provided by the Constitution as one of the powers and duties of Congress to have charge of the property of the United States. Where the United States has no property rights, then it only had the right to control navigation, and that is a sovereign right, and right there I want to contradict another statement of my friend. For 100 years a man could put up a dam on a navigable stream and no Federal authority did attempt to interfere. It was not until the act of 1899, I think it was, that provided that no dam should be constructed in a navigable stream without the consent of Congress. Up to that time a man could construct all the dams he wanted to put up and take all the chances he wanted to in a navigable stream under authority of the States or otherwise, and if it was an obstruction to navigation, he was not violating any law, and nobody bothered him. Since that time, of course, where Congress has expressly required its assent, no dam can be constructed unless expressly authorized by Congress. But to get back to this point where Congress has itself given a person a right or authority to obstruct a stream——

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEVENS of Minnesota. I will ask for five minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota? [After a pause.] The Chair hears none.

Mr. STEVENS of Minnesota. Where that is done this man is not an agent of the United States; not an agent at all of the United States. We make a contract right with him or give him our consent or authority; call it whatever you please.

That contract right, as I have already stated this afternoon, within the limits of affecting commerce, within the limits of the commerce clause of the Constitution, allows certain things to be done—gives him the right to create certain property rights. Those are his property rights, just the same as though the United States owned the dam and had its property rights. Now, when the owner of that dam has his property rights, he should have the usufruct from it, just the same as where, if the United States owns its dam, it should have the usufruct from it, because the United States is the owner of the property, and this applicant for the dam is the owner of his property. In the case the United States does not act as the sovereign, it acts as an individual. Whenever the United States does not exercise its sovereignty for the purpose of regulating commerce and selling water power merely as an incident, it acts not as a sovereign, but as an individual, and the rights of individuals govern its acts, not the rights of the sovereign. Consequently when an individual constructs a dam under authority of Congress, and he is entitled to its use and profits, subject only to the paramount right for navigation, he is not a partner, and can not be a partner, with the United States, because the United States contributes nothing to the partnership. It can charge him for its services and property, but flowing water is not its property. If it wants more money from him it must tax him under the taxing powers of the Government. If it attempts to do more, or get money any other way, it is an invasion of the constitutional rights of the citizen—takes his property without compensation for public use, and without due process of law—and in addition is clearly, to me, a violation of the powers of Congress in raising its revenues by taxation. This owner of the dam must pay the taxes of the locality, whatever they may be. Water power costs from $150 to $300 per horsepower to create, and the cost of the land, the flowage right for lands alone, including the side and transmission lines, averages about $10 an acre. The average assessment on the whole property would probably be $100 to $150 a horsepower, and the average rate of taxation, according to the census, would be about 1 per cent more, so that the local tax would be a little over a dollar per horsepower per year right now. In addition to that, whatever additional right the State has to tax may be added on the water power. In addition to that, the corporation, or whatever it may be, pays a tax of 1 per cent on its gross earnings to the Federal Government under the corporation-tax law which Congress passed. So there are two or three taxes right now. In addition to that, there are three different kinds of charges provided in this bill, the charges of investigation and service by the Government, charges for the use of various classes of its property; and all those things are charged against water power.

The steamboat owner using identically that same water is not charged anything except the ordinary local tax. If he happens to be a corporation, he pays the same corporation tax as the water-power man. But he does not pay one cent more. You charge the water-power men a tax which you do not charge to some man that uses the same water if he happens to run a steamboat. I submit that, outside of the constitutional power, it is not a fair constitutional or economic proposition. No other country so discriminates. Canada and Norway tax less than half, I think probably only a quarter, of what we do now. Yet you propose to double this burden.

Now, you gentlemen talk about the water powers being worth so much. Let me cite you an instance right under your own noses, here in Washington. Ever since I have been in Congress we have wondered why the Great Falls water power has not been improved. The testimony before the National Waterways Commission showed why it has not been improved. The riparian rights at Great Falls necessary for water-power generation are owned by the same people who own the power plant here, and they told us, and their testimony is of record, that the reason they did not improve it was because they could produce the power cheaper and more advantageously with coal right here in the District; that it would not pay to improve it under existing circumstances. The result is that the water power at Great Falls—12,000 minimum horsepower—is running to the sea, and will run forever to the sea under the changes you gentlemen are making. Here in Washington that power ought to be improved. That natural resource should be conserved. Yet you propose to make it impossible, in the name of conservation. It never will be improved under the method which you gentlemen are adopting this afternoon. There is no need to prophesy. Here is a concrete instance before your own eyes.

Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Every gentleman who has addressed the committee on this subject has the right to extend his remarks in the RECORD.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent to proceed for 10 minutes.

Mr. ADAMSON. Mr. Chairman, the gentleman from Oklahoma [Mr. FERRIS] failed to get in his remarks during the general debate, and I hope he will be treated liberally as to time.

The CHAIRMAN. How much time does the gentleman from Oklahoma ask for?

Mr. FERRIS. Ten minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FERRIS. Mr. Chairman, if this were a debate only as to the mere policy of fixing a Government charge, I would not consume the time of the committee about what I have in mind. But when it comes to debating whether or not we have the legal right, I think every man who feels keenly about it ought to rise to his feet, to the end that this House may not go off beside the question. As to whether or not the Federal Government has the right to lay down as a condition precedent under which they have the right to construct dams and manufacture water power, I think the right to do so is undoubted and forever settled. The Chandler-Dunbar case, decided in 1913, passed on this question and makes waste paper of all the endless debate between constitutional lawyers on the subject. To my mind that case settles the paramountcy of the case in the Federal Government once and for all. Inasmuch as this matter is under the War Department, I want to submit so good an authority on the subject as the Secretary of War himself. He writes a letter, and it appears in the hearings under the date of February 19, 1914, to the chairman of the committee, and says on this identical question:

Legally speaking, I do not think there can be any dispute with respect to the question of power. The position of the Federal Government is—

What?—

paramount. Nothing can be done without its consent—

The Secretary of War has more eloquently put this question than I ever heard it before. Hear what he says, for he says it well:

Nothing can be done without its consent, and only that can be done to which it does consent. There is no justification for a policy of do nothing. Therefore the question is, What is the wise policy to adopt that something may be done?

It goes on in the same logical way all through.

I submit, Mr. Chairman, the Federal Government has the right to permit or withhold the permit for the construction of any dam in navigable water. I assert the Federal Government has the right to construct, anywhere, any place, any sort of a dam it desires to construct, in the navigable waters of the United States. I assert it has the power to destroy any dam, to remove any dam, existing in the navigable waters of the United States. Surely, if the Federal Government has first the right to construct, first the right to create, and, second, the right to destroy, what sane, thinking man, be he lawyer or layman, can say they have not the right of fixing the condition under which they may enjoy the use of this dam?

This question has been a football ever since water-power debates began, but now that the courts have settled the matter—and I submit they have the last say—the rest of us had better turn from the legal phase of it and deal with the policy of the matter.

The act itself, the existing law, says that the Federal Government may fix such conditions as it elects to fix, and surely this is but one of them. But, sweeping aside for the moment, and admitting for the moment that what the constitutional lawyers say on the subject is that we can not impose this power, I say that when, according to the Sherley amendment, the condition is fixed as a condition precedent which the power company must assume and must accept before it can go forward, it makes a contract between the grantee and the Federal Government that takes the case entirely out of dispute.

But there are so many other authorities on the subject that I will not in my short time try to present them. Ex-Secretary Fisher is a lawyer of no mean ability. He is a man who has given years of study to this question, and when he appeared before the House Committee on Public Lands he went on and showed that the question of our legal right so to do is no longer one even worthy of momentary debate. He showed that it is one of policy and a question of what we should do.

Granted at least for my own purposes, and granted that we have the right to charge, I want to pass on to the qustion of policy in doing it. To my mind, Mr. Chairman, this question of revenue or a fixing of charges is not the most important part of this bill. To my mind, this is not the feature that ought to engage the most careful scrutiny and judgment. It is true that the principle is one of the important features, but personally I would like to see the Sherley amendment modified. I would like to see it for the present either impose a nominal charge or provide for only enough to pay for operating expenses, so that we might preserve the principle without impairment and still have larger development. I am not keenly concerned with the revenue feature, and I think a careful reading and a careful investigation of the subject will disclose that the chief question regarding this amendment is not one to raise revenue; at least, that is not the question that now concerns me. Why? Because, Mr. Chairman, only from 10 to 20 per cent of the total water-power potentiality of the country has so far been developed. Some 80 or 90 per cent yet remains undeveloped, yet dormant. For that reason I am not anxious at all, nor do I believe it is the fundamental or deep-seated question in this bill, to see how much we can get out of these projects, because I want to see development go forward. While I am equally anxious that the House to-day does not turn its back on the principle, on the clear and unequivocal right of the Government to make a charge to-morrow, next day, or next week, or next year, or years hereafter, if it desires to, for water power generated by reason of dams either on the navigable or nonnavigable waters of the United States.

Seventy-two per cent of the water power of the country is out in the public-land States of the West, and if the House will indulge me for a moment I will tell you where the potential water power of this country is located. In the North Atlantic States there are 2,200,000 horsepower, or 7 per cent of the aggregate. In the South Atlantic States there are 3,200,000 horsepower, or 8 per cent. In the North Central group of States there are 1,700,000 horsepower, or less than 6 per cent of the aggregate. In the South Central States there are 1,500,000 horsepower, or 5.3 per cent of the aggregate. In the Western States there are 7,300,000 horsepower, or 72.6 per cent of the aggregate.

Some one in this debate has said that "we have no right or power to charge," and "nobody ever heard of charging until the Chandler-Dunbar case was decided." Why, the greatest development of the country in the West is water power, and they have all been paying a royalty or charge. Not only that, Mr. Chairman, but still contending that this is not the most vital part of this bill, we certainly should not go off on a tangent or think for a moment that we have not the power to do it. Every other water-power country does it. I again assert we have the full right to do it. It is only a question of how much we will do, to the end that we may not ward off or retard development. Personally I am in favor of a very low rate. Secretary Fisher, when he appeared before our committee, stated that he was in favor of a very low rate. Secretary Lane asserts the same thing—that he is in favor of a very low rate—and Gifford Pinchot asserts the same thing. But each one of them wants the principle preserved unimpaired. The letter of the Secretary of War is so clear as to what the Federal Government has the right to do that surely no one can go far wrong in accepting his conclusions.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. FERRIS. Yes.

Mr. MURDOCK. What does the gentleman mean by the impairment of the principle?

Mr. FERRIS. I do not want the House to agree to it that we have no right to charge water-power companies for the water power that they get under these grants. This legislation may be held by future courts as a precedent, and some court in the future may take these discussions and upon them base some decision or something that might seem to amount to a holding on what is said here. The intent of Congress always plays its part, and I personally do not want Congress to—even during this debate—go off on the wrong track. The Federal Government is paramount in these matters, and I shrink to see her rights assaulted, even momentarily. We deal with a matter here to-day that is large enough for our best minds. It is the question of questions; it is the people's question, and anything short of intelligent action will soon live to plague us.

Mr. MURDOCK. I do not think there is anything in the amendment of the gentleman from Kentucky [Mr. SHERLEY] which impairs that.

Mr. FERRIS. Oh, surely not. I did not assert that. I merely feared the amendment might be so worded that it would impose upon the Secretary of War the duty to charge the highest possible rate he could secure and thereby ward off the development and corresponding reduction in price of power that we all are striving for, that was all. The gentleman did not grasp my meaning, perhaps due to my inability to make myself clear.

Mr. SHERLEY. The danger is more than in the discussion. You are proposing a bill here—a bill to grant 50-year leases. If you put this bill through without some such amendment, you may have denied to the Government for 50 years the right to make the charge.

Mr. FERRIS. Of course, I am not putting this bill through at all. I agree with the gentleman that this is a 50-year proposition. But while it is wholly beside this amendment, that is not too long a time. We interrogated every water-power engineer and every water-power authority who appeared before our committee, and every one of them said that for the purpose of development they ought to have a 50-year term, and I personally believe they should have a maximum of 50 years. But at the end of 50 years their heads ought to go on the block, and they ought to initiate any additional negotiations rather than have some kind of a proposition to get it back, we know not when or how.

Mr. HARDY. Will the gentleman yield?

Mr. FERRIS. Yes.

Mr. HARDY. The property in this water has been held to be not in the riparian owner. It is claimed to be not in the United States. In the case of a stream between two States, where would the property right be?

Mr. FERRIS. Oh, an interstate question often arises immediately after the power is generated. That is the necessity of forever keeping the Federal Government paramount in power. For instance, transmission lines carry the power across State lines. Water power generated in Wyoming is at once used in Colorado. Here State control is ineffective and of no avail.

Mr. HARDY. The gentleman will probably get my point of difficulty. It does seem to me from the Constitution that the right of the United States Government in natural waters is an

easement rather than a proprietary right in the water; still I am puzzled to know where the right to the water in the river is between two States.

Mr. FERRIS. I think I can use a homely illustration and state where it is. The Federal Government owns the eye in the needle, without which the needle is of little service. The Federal Government owns the right to give or withhold the right to construct a dam, without which there is no dam or power, without which there may or may not be navigation. The Federal Government has the right to destroy or renew every structure placed in every navigable stream of the country. Then, granted the Federal Government has both power to create and destroy, surely it has the lesser right of regulation in the interest of the public for whom the Government acts. But, again repeating, even if constitutional lawyers justly differed upon the subject, the Chandler-Dunbar case, carefully read by careful lawyers, does not confuse the subject, but goes squarely to the point and, as I believe, settles it once and for all.

Too many theories and fine-spun points have too long been injected into these debates. Now that the Chandler-Dunbar case has left us free to act, has swept away the seeming cobwebs, it is our duty to do our full duty with naught but the public interest in mind.

Mr. LEVY, Mr. LINDBERGH, and Mr. ADAMSON rose.

The CHAIRMAN. Does the chairman of the committee desire recognition?

Mr. ADAMSON. I have no disposition to interfere with gentlemen who want to speak. I only wanted to ask whether we could reach any arrangement to bring the debate to a close. I will not make any suggestion until the gentlemen have spoken.

Mr. LEVY. Mr. Chairman, for the past three years this subject of power rights in navigable streams has been before the Committee on Foreign Affairs, and we are thoroughly conversant with the questions involved.

The Federal authority is purely a sovereign power for a specific public use, and does not carry with it any proprietary sovereign right except to control navigation. This proposition is well settled by numerous decisions of the United States Supreme Court. They are in harmony with the decisions of the highest court of the State of New York.

The leading case on the subject, and which holds the principles above outlined, is Martin *v.* Waddell (16 Pet., 367). The court there held that when the American Revolution was concluded the people of each State became sovereign, and in that character held the absolute right to all their navigable waters and the soils under them, for their own common use, subject only to the rights since surrendered by the Constitution to the General Government. This right, as pointed out by the court, was the right to regulate commerce between the several States and foreign nations.

In Pollard *v.* Hagan (3 How., 212) it was held that the shores of navigable waters and the soils under them were not granted by the Constitution of the United States, but were reserved to the States respectively. That was an Alabama case, and the court held, in addition to the above principle, that the new States had the same rights, sovereignty, and jurisdiction in respect to the waters of navigable streams as the thirteen original States.

In Barney *v.* Keokuk (94 U. S., 324) it was decided that the rights of riparian owners on the banks of the Mississippi River were subject to control and regulation by the laws of the States within which the lands were included. The opinion in that case states that the Great Lakes and other navigable waters of the country above as well as below the flood of the tide are, in the strictest sense, entitled to the denomination of navigable waters and amenable to admiralty jurisdiction, and that there is no sound reason for further adhering to the old rule as to the proprietorship of the beds and shores of such water. The court added that the proprietorship of the beds and shores of such waters properly belongs to the States by their inherent sovereignty.

In Hardin *v.* Jordan (140 U. S., 371) the court said, in speaking of the title to the shore and lands under the waters of navigable streams:

> Such title being in the State, the lands are subject to State regulation and control, under the condition, however, of not interfering with the regulations which may be made by Congress with regard to public navigation and commerce.

The court further said in the above case:

> This right of the States to regulate and control the shores of tide waters and the land under them is the same as that which is exercised by the Crown in England. In this country the same rule has been extended to our great navigable lakes, which are treated as inland seas, and also, in some of the States, to navigable rivers, as the Mississippi, the Missouri, the Ohio, and in Pennsylvania to all the permanent rivers of the State, but it depends on the law of each State to what waters and to what extent this prerogative of the State over the lands under water shall be exercised.

The United States Supreme Court, in Water Power Co. *v.* Water Board (168 U. S., 358), reasserted the principle that, subject only to the Federal right of control, under constitutional authority to regulate commerce, that all the rights of ownership and beneficial use in the beds and waters of navigable streams pass to the State. This is also held in the following cases: St. L. *v.* Rutz (138 U. S., 226, 242); Kaukauna Water Power Co. *v.* Green Bay & Miss. Canal Co. (142 U. S., 254); St. Louis *v.* Myers (113 U. S., 566); Shively *v.* Bowlby (152 U. S., 1); Illinois Central Ry. *v.* Illinois (146 U. S., 387).

In the latter case the court said:

> That the State holds the title to the lands under the navigable waters of Lake Michigan, within its limits, in the same manner that the State holds title to soils under tidewater, by the common law, we have already shown, and that title necessarily carries with it control over the waters above them whenever the lands are subjected to use.

In Kansas *v.* Colorado (206 U. S., 46) the United States Supreme Court covered in unmistakable language the whole subject involved in this litigation. It held that:

> The Government of the United States is one of enumerated powers; that it has no inherent powers or sovereignty; that the enumeration of the powers granted is to be found in the Constitution of the United States and in that alone; that the manifest purpose of the tenth amendment to the Constitution is to put beyond dispute the proposition that all powers not granted are reserved to the people, and that if in the changes of the years further powers ought to be possessed by Congress they must be obtained by a new grant from the people. While Congress has general legislative jurisdiction over the Territories and may control the flow of waters in their streams, it has no power to control a like flow within the limits of a State, except to preserve or improve the navigability of the stream; that the full control over those waters is, subject to the exception named, vested in the State.

The tenth amendment, to which the court refers above, is as follows:

> The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States, respectively, or to the people.

Nowhere in the Constitution of the United States is the Federal Government given any power other than for the purposes of commerce and navigation. [Applause.]

Mr. RAINEY. Mr. Chairman, I should like to proceed for 10 minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. RAINEY. Mr. Chairman, about the only thing a great city has at the present time upon which it can exact a considerable revenue is the right to use its streets. I undertake to say that public opinion is such that if the governing body of a great city granted to a railroad company or a subway company at the present time the right to use its streets for nothing that governing body would have considerable trouble with the people who lived in that city. About the only thing the National Government has of value outside of the public land it owns at the present time is the right to use the flowing water in these navigable streams and in these streams nonnavigable on the public lands. We are asked here in this bill to absolutely surrender, now and forever, that right. I undertake to say that the surrender of the right to exact compensation for these valuable privileges sought by the water-power groups would not meet with approval in this country at the present time.

The gentleman from Alabama [Mr. UNDERWOOD] and others speaking on the other side of this question and against this proposed amendment based their opposition to it on the theory that it is a tax, and that therefore a tax of this kind would be unconstitutional; that the Government ought to get its revenue by taxation from some other source. This is not a tax. It lacks the necessary element which makes a tax. It is not compulsory. Nobody is compelled to pay it, because nobody is compelled to enter into these relations with the Government. This is merely a compensation for the privilege granted. It is a part of the consideration for the contract the National Government enters into with the individual or company seeking the right to build dams—what he pays to make use of the flowing waters where there are declivities in our navigable rivers.

It will not have any effect on the consumer of electrical power. It will not increase the cost to him, because the cost of electrical power will be controlled by the cost of steam power, and because the cost of producing steam power is always higher. The consumers of power prefer that sort of power which is the least trouble to them, the power that they can get by simply turning a button. That is more valuable and more desired by them than the power they have to get by building and maintaining fires in great furnaces. We can expect always a market

for electrical power equal to the market for steam power in the zone reached by the company operating at that particular point. They will charge just as much or a little less than they charge for steam power, and if we impose this compensation upon them it will not mean that the consumer will pay any more money, but it will mean that the profits of this generating company perhaps will not be quite as large as they otherwise would be.

The gentleman from Alabama [Mr. UNDERWOOD] was perfectly frank in his statement as to the effect of this bill. He admits, as far as the construction of dams is concerned, and all other matters of like character, that this does not change the law as it has already existed, but it is a step in advance, he says, because it provides for regulation of the price to consumers, and because it holds out a glimmer of hope that 50 years from now the people who may be alive at that time can get some sort of relief from the exactions that the water-power groups of this country will try to put on them as soon as this becomes a law.

I would like for anybody to explain to me where the bill provides for any possible regulation of cost to consumers. It provides that where a current generated at one of these dams enters into interstate commerce and is consumed in another State from where it is generated, the consumer there, if he thinks he is charged too much, can complain to the Secretary of War and attempt to have the matter adjusted. But in the first place he must be able to establish the fact that his current does come from another State; and with the interchange of currents provided for in this bill, and with the interchange going on in commerce at the present time between currents generated by coal and in our navigable rivers, it is impossible for the consumer of a current in any State to know where it comes from. No man can tell from whence it comes except the omnipotent God Himself and one or two minor officials of some one of these water power companies, and you will never be able to reach them.

Fifty years from now the Government can take over the projects if it feels like taking them over. Here is what they have to do in order to recapture under this bill: At that time, if the Government elects to take over one of these dams under this bill, the Government must, first, take over all the property dependent in whole or in part for its usefulness under the franchise; second, the Government must take over all necessary property created or even merely serviceable, whether the company owns it or not, in the distribution of its power, and this would include rights of way. Then they put in an omnibus clause which requires the Government to take over all other property of value and usefulness which would be seriously impaired, whether owned by the company or not. This might be many entire manufacturing plants and a manufacturing city.

Fourth. The Government must pay the original cost of the lock or locks and all other expenses required by the United States, no matter how much it is impaired in value.

Fifth. The Government must undertake to carry out all contracts made by the company which seem to the Government to be reasonable.

Mr. Chairman, under the theory of this bill the Government might be compelled to take over nearly all of the tangible property in an entire State in order to take charge of one of these properties. If we are ready for socialism 50 years from now, then 50 years from now we may be ready for this kind of a provision in this kind of a bill. There is not any possible kind of regulation of price to the consumers here nor any possibility that even 50 years from now the people who live then can get any relief from the sort of oppression sought to be made by this bill. Every change in this bill, as has been stated so forcibly on this floor, from the original dam bill now on the statute books, is a change in the interest of water-power groups of this country and against the people. Every change made in this bill operates or is intended to operate as a subsidy to the water-power groups of this country; and this bill proposes and attempts to give to these water-power groups, fast consolidating so that there will be only three or four in the near future, the rivers of this country.

I vote for this amendment because it preserves the principle that we ought to preserve—the right to exact compensation. I vote for it because to defeat it here would be to defeat that principle. I vote for it because I believe it will result, in the near future, in the exaction of the kind of compensation these companies ought to make. In fact, I would vote for almost any amendment that could be proposed to his bill, for I can conceive of no amendment that would make it worse. [Applause.]

Mr. MANN. Mr. Chairman, I suggest to the gentleman from Georgia that this has been a very hot week, and that this is Saturday night, and it is now 5 o'clock.

Mr. ADAMSON. Mr. Chairman, I have been quietly permitting gentlemen to exercise their sweet will and to talk to their hearts' content. I had hoped that we would be able to end the discussion on this amendment to-night, but as three-fourths of the time has been used by the proponents of the amendment, I think that it would be fair that the opponents have some opportunity to discuss it. That would evidently keep us here too late for Saturday. I do not suppose it would be wise to attempt to make an agreement on the time of discussion this evening.

Mr. MANN. I doubt whether that would be possible.

Mr. ADAMSON. Then, when we again go into the Committee of the Whole for the consideration of this bill I will propose an arrangement to end debate upon this section and the amendments and to divide the remaining time. I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16053, the general dam act, and had come to no resolution thereon.

LEAVE OF ABSENCE.

The SPEAKER. The Chair lays before the House the following personal requests, which the Clerk will report.

The Clerk read as follows:

Mr. ASHBROOK requests leave of absence for 20 days, on account of important business.

Mr. STEENERSON requests leave of absence for 60 days, on account of public business.

Hon. CHAMP CLARK,
Speaker House of Representatives.

DEAR MR. SPEAKER: I respectfully request indefinite leave of absence, on account of illness in my family.

I. L. LENROOT.

The SPEAKER. Is there objection?

Mr. DONOVAN. Mr. Chairman, I object to the request of the gentleman from Minnesota [Mr. STEENERSON] and to the request of the gentleman from Ohio [Mr. ASHBROOK].

The SPEAKER. The gentleman from Connecticut objects to the requests of the gentleman from Ohio and the gentleman from Minnesota. Is there objection to the request of the gentleman from Wisconsin [Mr. LENROOT]?

There was no objection.

EXTENSION OF REMARKS.

Mr. FLOOD of Virginia. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD for the purpose of making a correction in the statement that I made.

The SPEAKER. The gentleman from Virginia asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. FLOOD of Virginia. Mr. Speaker, on the 12th of May, when the House had under consideration Senate bill 4553 and House bill 15503, authorizing the appointment of ambassadors to Argentina and Chile, I am quoted in the RECORD as saying: "The growing importance, politically and commercially, of the two Republics of Argentina and Chile has led their Governments to suggest to our State Department the propriety of accrediting diplomatic representatives of the highest character to those countries. Our executive department is most favorably inclined to this suggestion."

I intended to say: "The growing importance, politically and commercially, of the two Republics of Argentina and Chile has led our Government to suggest the propriety of accrediting diplomatic representatives of the highest character to those countries. Recognizing the greatness of these two South American countries, their commercial importance, and the great part they will play in the world's politics in the years to come, the President and the State Department are desirous that we accredit to these two Republics ambassadors instead of envoys extraordinary and ministers plenipotentiary." I make this statement that the RECORD may be accurate.

NEW HARMONY, IND.

Mr. DIXON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing in the RECORD an address delivered by my colleague [Mr. LIEB] at the one hundredth anniversary of the founding of the city of New Harmony, Ind., together with a letter from the President read on that occasion.

The SPEAKER. The gentleman from Indiana asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

Mr. LIEB. Mr. Speaker, I ask unanimous consent to place in the RECORD a speech delivered by Hon. S. M. Ralston, governor of Indiana, at New Harmony, at the centennial, on Indiana day.

The SPEAKER. The gentleman from Indiana [Mr. LIEB] asks unanimous consent to extend his remarks in the RECORD by printing an address by Gov. Ralston, of Indiana, on the same occasion.

Mr. MANN. Mr. Speaker, reserving the right to object, what is the object of inserting this speech in the RECORD?

Mr. LIEB. This is on the centennial celebration. The name of Hon. Robert D. Owen, a former Member of Congress and also a member of the Board of Regents of the Smithsonian Institution, appears in it; but there is nothing political in it.

Mr. MANN. If it were political, I would not object, and I guess I will not object anyhow; but if we permit the printing of speeches universally delivered by individuals we will have to considerably extend the RECORD.

Mr. MURDOCK. We ought to make exceptions of Members of Congress.

Mr. MANN. I have not objected to Members of Congress, and I do not object.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

ADJOURNMENT.

Mr. ADAMSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock p. m.) the House adjourned to meet on Monday, July 27, 1914, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. DIXON, from the Committee on Ways and Means, to which was referred the bill (H. R. 2909) to extend the privileges of the seventh section of immediate-transportation act to Bay City, Mich., reported the same without amendment, accompanied by a report (No. 1015), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. PALMER, from the Committee on Ways and Means, to which was referred the bill (H. R. 9591) to permit the manufacture of denatured alcohol by mixing domestic and wood alcohol while in process of distillation, reported the same without amendment, accompanied by a report (No. 1018), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FLOOD of Virginia, from the Committee on Foreign Affairs, to which was referred the joint resolution (H. J. Res. 302) authorizing and directing the President of the United States to invite foreign Governments to participate in the celebration of the fortieth anniversary of the founding of the Washington navel orange industry, reported the same without amendment, accompanied by a report (No. 1019), which said joint resolution and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. CARAWAY, from the Committee on the District of Columbia, to which was referred the bill (H. R. 16755) authorizing and directing the Secretary of the Interior to execute and deliver a deed in favor of and to Ida Seymour Tulloch, Roberta Worms, and Ethel White Kimpell for sublot 38 of original lot 17 in reservation D, upon the official plan of the city of Washington, in the District of Columbia, reported the same with amendment, accompanied by a report (No. 1016), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 6201) to authorize the Secretary of the Interior to issue a deed to the persons hereinafter named for part of a lot in the District of Columbia, reported the same with amendment, accompanied by a report (No. 1017), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 18068) providing for the purchase of a site and the erection thereon of a public building at Mount Vernon, State of Ohio; to the Committee on Public Buildings and Grounds.

By Mr. CARAWAY: A bill (H. R. 18069) to amend section 71 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 4, 1911; to the Committee on the Judiciary.

By Mr. MILLER: Resolution (H. Res. 576) to investigate appointments to and removals from Government service in the Philippine Islands; to the Committee on Insular Affairs.

By Mr. BRYAN: Resolution (H. Res. 577) requesting the Secretary of the Navy to furnish to the House information in regard to Fred L. Boalt; to the Committee on Naval Affairs.

By Mr. MADDEN: Resolution (H. Res. 578) to amend clause 1 of Rule XIV of the rules of the House of Representatives; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BORLAND: A bill (H. R. 18070) granting an increase of pension to Jacob Truckenmiller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18071) granting an increase of pension to Edward A. Headley; to the Committee on Pensions.

Also, a bill (H. R. 18072) granting an increase of pension to Annie Shafer; to the Committee on Invalid Pensions.

By Mr. COADY: A bill (H. R. 18073) granting a pension to Ella L. Blondeil; to the Committee on Pensions.

Also, a bill (H. R. 18074) granting a pension to William McClaskey; to the Committee on Pensions.

Also, a bill (H. R. 18075) granting a pension to Mary Larson; to the Committee on Pensions.

By Mr. KETTNER: A bill (H. R. 18076) for the relief of John R. Monteith; to the Committee on Claims.

Also, a bill (H. R. 18077) granting an increase of pension to James P. Cadman; to the Committee on Invalid Pensions.

By Mr. LINTHICUM: A bill (H. R. 18078) granting an increase of pension to Alice C. Wode; to the Committee on Pensions.

By Mr. LONERGAN: A bill (H. R. 18079) granting a pension to F. G. Kasimir; to the Committee on Pensions.

By Mr. STEPHENS of California: A bill (H. R. 18080) granting an increase of pension to William F. Spencer; to the Committee on Invalid Pensions.

By Mr. TEN EYCK: A bill (H. R. 18081) granting a pension to Thomas Wilkie, jr.; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18082) granting a pension to Mary C. Kline; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 18083) granting an increase of pension to Thomas Harman; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of Frederick Kaler, of the National Military Home, Kans., relative to criminal violation of a number of the pension laws by the Commissioner of Pensions and other officials in the Pension Bureau; to the Committee on Invalid Pensions.

Also (by request), petitions signed by certain citizens of the State of Connecticut, urging the passage of the Hobson prohibition amendment; to the Committee on Rules.

Also (by request), resolution signed by the pastor of the German Methodist Episcopal Church of Odebolt, Iowa, protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. ALLEN: Petition of 95 citizens of Cincinnati, Ohio, protesting against national prohibition; to the Committee on Rules.

By Mr. BARTHOLDT: Petition of the International Union of Journeymen Horseshoers of the United States and Canada, protesting against national prohibition; to the Committee on Rules.

Also, petition of 326 citizens of St. Louis, Mo., protesting against national prohibition; to the Committee on Rules.

By Mr. BEAKES: Petition of Central City Lodge, No. 95, International Association of Machinists, of Jackson, Mich., in opposition to national prohibition; to the Committee on Rules.

Also, petitions of 16 voters of Jackson, Mich., in opposition to national prohibition; to the Committee on Rules.

By Mr. CARY: Resolutions adopted at the convention of the International Union of Journeymen Horseshoers of America, assembled in the city of Memphis, June 22 to 27, 1914, in which resolutions were adopted protesting against the passage of the Hobson amendment providing for nation-wide prohibition; to the Committee on Rules.

Also, memorial of Veterans' Post, No. 8, Grand Army of the Republic, Department of Wisconsin, favoring an appropriation for reunion of veterans at Vicksburg, Miss.; to the Committee on Appropriations.

By Mr. DALE: Petition of department on compensation for industrial accidents and their prevention of the National Civic Federation, favoring passage of House bill 10733, relative to bureau of labor safety in the Department of Labor; to the Committee on Labor.

By Mr. EAGAN: Petition from Mrs. Katherine Middleton, State superintendent of Sunday schools, Woman's Christian Temperance Union of New Jersey, and Minetola Advancement League, of Minetola, N. J., both favoring national prohibition; to the Committee on Rules.

By Mr. HELGESEN: Petitions of 125 citizens of North Dakota, praying for the passage of the Hobson amendment to the Constitution; to the Committee on Rules.

Also, petition of various business men of Adams, N. Dak., praying for certain amendments to the interstate-commerce law, relative to taxing mail-order houses; to the Committee on Ways and Means.

Also, petition of the Evangelical Brotherhood of Fargo, N. Dak., favoring national prohibition; to the Committee on Rules.

By Mr. LONERGAN: Protest of Mr. Fred C. Cooley, of Hartford, Conn., against House joint resolution 168; to the Committee on Rules.

By Mr. McCLELLAN: Petition of Ward S. Oakley and 32 other voters of Hillsdale, N. Y., favoring national prohibition; to the Committee on Rules.

Also, protests of Fred Forest, of Kingston, and Charles Mulspaugh, Arthur Broas, William Hatnay, and William Snyder, of Ellenville, all in the State of New York, against national prohibition; to the Committee on Rules.

Also, telegram representing the petition of a mass meeting of citizens at Stone Ridge to Congress to submit amendment prohibiting importation, manufacture, and sale of intoxicating liquors; also petition of Charles H. Aldridge, of Marlboro, favoring national prohibition; to the Committee on Rules.

By Mr. McKELLAR: Papers to accompany a bill (H. R. 18059) granting an increase of pension to James Toulin; to the Committee on Invalid Pensions.

By Mr. ROBERTS of Nevada: Petition of the International Alliance of Theatrical Stage Employees of Reno, Nev., against national prohibition; to the Committee on Rules.

By Mr. ROGERS: Petition of sundry citizens of Bedford, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. SIMS: Petition of 728 citizens of Big Sandy, Tenn., favoring national prohibition; to the Committee on Rules.

By Mr. SMITH of Idaho: Petition of A. Urbsher, of Grangeville, Idaho, protesting against national prohibition; to the Committee on Rules.

Also, papers to accompany a bill (H. R. 17994) granting an increase of pension to Henry F. Black; to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: Petition of Rev. Robert Carter and 45 citizens of Burbank, Cal., favoring national prohibition; to the Committee on Rules.

Also, petition of Local Union No. 72, International Union of Steam and Operating Engineers, of Los Angeles, Cal., protesting against national prohibition; to the Committee on Rules.

Also, memorial of Nelson A. Miles Camp, Spanish War Veterans, favoring frigate *Independence* being taken to San Francisco during 1915; to the Committee on Military Affairs.

Also, memorial of the Maisonville (Cal.) Chamber of Commerce, favoring standard apple boxes; to the Committee on Interstate and Foreign Commerce.

Also, petitions of the Alaska Salmon Packers' Association, of San Francisco, favoring appropriation for Alaska fisheries vessels; also Pacific Coast Steamship Co., of San Francisco, Cal., concerning safety of steamships on Alaskan coast; to the Committee on Appropriations.

Also, memorial of the Red Bluff Chamber of Commerce, favoring Newlands river regulation bill; to the Committee on Rivers and Harbors.

By Mr. TEN EYCK (by request): Petition of W. J. Eaton, of Albany, N. Y., urging the passage of the Hobson bill, providing for national prohibition; to the Committee on Rules.

By Mr. THOMSON of Illinois: Petition of the North Shore Congregational Church, of Chicago, Ill., favoring national prohibition; to the Committee on Rules.

By Mr. TOWNSEND: Petition of town council of West Orange, N. J., favoring Hamill civil-service retirement bill; to the Committee on Reform in the Civil Service.

By Mr. UNDERHILL: Petitions of sundry voters and also sundry women of Candor, Tioga County, N. Y., favoring national prohibition; to the Committee on Rules.

SENATE.

MONDAY, *July 27, 1914.*

The Senate met at 10 o'clock a. m.

Rev. J. L. Kibler, D. D., of the city of Washington, offered the following prayer:

We thank Thee, our heavenly Father, for the light of Thy countenance and for the inspiration of Thy Spirit. We thank Thee for Thy outstretched hand and for the path which Thou hast marked out for our feet. Grant us Thy favor in the consideration of all our plans this day. Overrule our mistakes and bless the cause for which we stand. Sanctify our efforts, and give us understanding according to Thy law. We ask it in Jesus' name. Amen.

The VICE PRESIDENT. The Secretary will read the Journal of the proceedings of the preceding session.

Mr. GALLINGER. Pending the reading of the Journal, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hollis	Pittman	Swanson
Brandegee	Jones	Pomerene	Thornton
Bryan	Kern	Reed	Tillman
Camden	Lane	Sheppard	Vardaman
Chamberlain	Lea, Tenn.	Smith, Ga.	Walsh
Culberson	Myers	Smoot	West
Cummins	Owen	Sterling	White
Gallinger	Page	Stone	Williams
Gronna	Perkins	Sutherland	

Mr. THORNTON. I desire to announce the necessary absence of my colleague [Mr. RANSDELL] on account of illness. I ask that this announcement may stand for the day.

Mr. PAGE. I wish to announce the necessary absence of my colleague [Mr. DILLINGHAM]. He is paired with the senior Senator from Maryland [Mr. SMITH].

The VICE PRESIDENT. Thirty-five Senators have answered to the roll call. There is not a quorum present. The Secretary will call the absentees.

The Secretary called the names of the absent Senators, and Mr. LEWIS, Mr. SHAFROTH, and Mr. WEEKS answered to their names when called.

Mr. JONES. I desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is absent necessarily, and that he is paired with the junior Senator from Arkansas [Mr. ROBINSON]. This announcement will stand for the day.

Mr. KENYON, Mr. BRADY, and Mr. CATRON entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-one Senators have responded to the roll call. There is not a quorum present.

Mr. KERN. I move that the Sergeant at Arms be directed to request and if necessary compel the attendance of absent Senators.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will carry out the instruction of the Senate.

Mr. CLARK of Wyoming and Mr. CLAPP entered the Chamber and answered to their names.

Mr. STONE. I request that the list of absent Senators be read from the desk.

Mr. GALLINGER. The names of the absentees have just been called.

Mr. STONE. I make that request.

Mr. BRANDEGEE. I make the point of order that until a quorum appears there is nothing in order except to secure a quorum, and that that order has been entered.

The VICE PRESIDENT. The point of order is sustained.

Mr. CLAPP. I desire to state that the senior Senator from Wisconsin [Mr. LA FOLLETTE] is necessarily detained from the Chamber on account of illness. I will let this statement stand for the day.

Mr. GALLINGER. I announce that the junior Senator from Maine [Mr. BURLEIGH] is unavoidably absent.

Mr. CLARK of Wyoming. I desire to announce that my colleague [Mr. WARREN] is unavoidably detained from the city. He is paired with the senior Senator from Florida [Mr. FLETCHER]. I wish this announcement to stand for the day.

Mr. NEWLANDS, Mr. CRAWFORD, Mr. COLT, Mr. BANKHEAD, Mr. SHIELDS, Mr. SIMMONS, and Mr. CHILTON entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty Senators have answered to the roll call. There is a quorum present. The Secretary will read the Journal of the proceedings of the preceding session.

The Journal of the proceedings of the legislative day of Thursday, July 23, 1914, was read and approved.

CONSTRUCTION OF LOCKS AND DAMS (S. DOC. NO. 559).

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 13th instant, two tables showing the number of locks and dams constructed and operated by the Federal Government with the respective rivers or channels in which they are located, including the cost of construction of each, etc., and also the number of locks and dams now under construction, which, with the accompanying paper, was ordered to lie on the table and be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House agrees to the amendments of the Senate to the bill (H. R. 4988) to provide for the disposal of certain lands in the Fort Berthold Indian Reservation, N. Dak.

The message also announced that the House had passed the following bills, with amendments, in which it requested the concurrence of the Senate:

S. 4969. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 5278. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 5501. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; and

S. 5899. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

H. R. 16579. An act to authorize the construction of a bridge across St. John River at Fort Kent, Me.;

H. R. 16294. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; and

H. R. 17005. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Tug Fork of the Big Sandy River at or near Williamson, W. Va.

PETITIONS AND MEMORIALS.

Mr. CHAMBERLAIN. I present a telegram from the Port of Columbia Commercial Club, port of Astoria, Oreg., which I ask may be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD as follows:

ASTORIA, OREG., *July 25, 1914.*

Hon. GEORGE E. CHAMBERLAIN,
United States Senate, Washington, D. C.:

We earnestly call your attention to the following resolutions passed unanimously at a mass meeting of the citizens of Astoria and the members of the Port of Columbia Commercial Club, held July 24, 1914. We request you to exhibit this telegram to Senators BORAH and BRADY, of Idaho; Senators JONES and POINDEXTER, of Washington; and Senators MYERS and WALSH, of Montana, and to see that the same is called to the attention of Senators BURTON, CUMMINS, KENYON, and all other oponents as well as friends of the pending rivers and harbors bill. The sentiment of the people of the Columbia Basin is practically unanimous for the passage of the rivers and harbors bill as recommended by the United States engineers. A great wrong will be done to a great region striving for development if rivers and harbors appropriations are defeated this year:

"*Resolved*, That we, the members of the Port of Columbia Commercial Club and citizens of Astoria, Oreg., insist on the immediate passage by the Senate of the United States of the rivers and harbors bill now pending, and hereby request the United States Senators from Oregon and their colleagues of Washington, Idaho, Montana, California, and Nevada to bend every effort to this end. Improvements of vital importance to the Pacific coast ports and inland waterways depend upon the speedy availability of the appropriations embraced in this bill.

"*Resolved*, That we have implicit confidence in the recommendations of the United States engineers who have given favorable reports on the various projects embraced in the pending bill, and that we go on record as favoring liberal expenditures of public money to provide water transportation for interior communities.

"*Resolved*, That we believe there is no 'pork' in the appropriation items relating to Pacific coast projects, and that, so far as other projects are concerned, we accept the judgment of the United States engineers, meanwhile calling the attention of the United States Senate to the fact that the River Clyde, from Glasgow to the sea, was once a shallow, unimportant stream, and possibly its improvement might once have been classed as 'pork.' It now floats millions of annual commerce.

"*Resolved*, That we remind our Senators that the port of Astoria is expending approximately $1,000,000 for the construction of the greatest municipal docks on the Pacific coast, that the Hill system of railroads is building ocean docks and terminals here which will cost several millions, and that the citizens of a tributary region of 300,000 square miles in area are vitally concerned in the appropriations, which shall open the Columbia River to free and uninterrupted navigation from its mouth to the interior. Also that the organization of steamboat lines to navigate said river and its tributaries depends upon the early completion of the Celilo Canal, an appropriation for which is included in said bill."

THE PORT OF COLUMBIA COMMERCIAL CLUB,
By ALFRED KINNEY, *President.*
E. M. CHERRY, *Secretary.*

We hereby concur in the above.

COLUMBIA AND SNAKE RIVER WATERWAYS ASSOCIATION,
By W. P. GRAY, *President.*
R. STRUBLE, *Secretary.*
WALLACE R. STRUBLE, *Secretary.*

Mr. JONES. I have telegrams in the nature of petitions from the secretary of the Commercial Club of Waitsburg, Wash.; one is from the Astoria National Bank, of Astoria, Oreg.; another is from the Vancouver Commercial Club, of Vancouver, Wash.; and another is from citizens of Astoria, Oreg., urging the prompt passage of the rivers and harbors bill. I ask that the telegrams may be printed in the RECORD.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

WAITSBURG, WASH., *July 22, 1914.*

Senator WESLEY L. JONES,
Washington, D. C.:

Waitsburg Commercial Club urges quick passage of rivers and harbors bill; essential to completion of Columbia River project.

E. L. WHEELER, *Secretary.*

—

ASTORIA, OREG., *July 24, 1914.*

Senator JONES, of Washington,
Washington, D. C.:

Respectfully urge best efforts for immediate passage of rivers and harbors bill.

ASTORIA NATIONAL BANK.

—

VANCOUVER, WASH., *July 24, 1914.*

Senator W. L. JONES, *Washington, D. C.:*

Vancouver Commercial Club urges prompt passage of rivers and harbors bill and looks to you to have our dredge included.

C. A. WATTS, *Secretary.*

—

ASTORIA, OREG., *July 26, 1914.*

Hon. WESLEY JONES,
United States Senate, Washington, D. C.:

Appreciating your former friendship for northwestern rivers and harbors, we earnestly request you to use your influence to secure passage of pending rivers and harbors bill in the United States Senate. Please see Senators CHAMBERLAIN and LANE and read resolutions telegraphed them from Astoria. Defeat of this bill would be a calamity for Pacific coast rivers and harbors, and particularly the Columbia Basin.

THE CITIZENS OF ASTORIA,
By ALFRED KINNEY,
President Port of Columbia Commercial Club.
COLUMBIA AND SNAKE RIVER WATERWAYS ASSOCIATION,
By WALLACE R. STRUBEL, *Secretary.*

Mr. JONES. I present a telegram from W. J. Kinney, president of the Vancouver Commercial Club, of Washington, which I ask may be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

VANCOUVER, WASH., *July 25, 1914.*

Hon. WESLEY L. JONES,
United States Senate, Washington, D. C.:

Whereas it has come to the knowledge of the Vancouver Commercial Club that there is a likelihood that the rivers and harbors bill now pending in Washington, D. C., will be defeated; and

Whereas the defeat of the river and harbor bill would be of tremendous financial loss and detriment to the progress and growth of the Columbia River Basin; and

Whereas it is of great benefit to the development of the Northwest that said bill pass, and particularly such parts as are tributary to the Columbia River Basin; and

Whereas it is the sense of the Commercial Club of Vancouver, Wash., represented in public assembly that the Representatives in Congress from the State of Washington use their utmost influence toward passing the river and harbor bill as now before Congress, and that said passage be procured if at all possible immediately: Therefore be it

Resolved in public assembly at Vancouver, Wash., by the Commercial Club of said organization, That the Representatives in Congress from

the State of Washington be urged to use every effort and influence possible for the passage of said bill at once, and that a copy of this resolution be sent to each Member of Congress from the State of Washington and one copy thereof placed on file in the Commercial Club records at Vancouver, Wash.

W. J. KINNEY,
President Vancouver Commercial Club.

Mr. JONES presented memorials of sundry citizens of the State of Washington, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of the State of Washington, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SHEPPARD. I present a petition signed by a large number of citizens of Petersburg, Alaska, praying for the prohibition of the sale, manufacture, transportation, and importation of intoxicating liquors. The petition is short, and I ask that it may be read.

There being no objection, the petition was read and referred to the Committee on the Judiciary, as follows:

PETERSBURG, ALASKA, *June, 1914.*

We the undersigned earnestly petition for the passage by the United States Congress of the joint resolution introduced in the House of Representatives December 10, 1913, by Congressman RICHARD P. HOBSON, and on the same day introduced in the Senate by Senator MORRIS SHEPPARD, providing for the prohibition of the sale, manufacture for sale, transportation for sale, importation for sale, and exportation for sale of intoxicating liquors for beverage purposes in the United States and all Territories subject to the jurisdiction thereof.

Mr. CRAWFORD presented a petition of sundry citizens of Miner County, S. Dak., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. SMITH of Maryland presented petitions of sundry citizens of Baltimore, Md., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SHIVELY presented the memorials of George E. Coombes, Edward Hemke, and six other citizens, of Dearborn County, Ind., remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented the petitions of L. A. Shutt and Mrs. Elizabeth C. Jones, of Garrett, Ind., praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of the Retail Jewelers' Association of Laporte, Ind., praying for the enactment of legislation to prohibit time guaranties on watchcases, etc., which was referred to the Committee on Interstate Commerce.

Mr. GALLINGER presented the petition of Julia A. Robinson, of Derry, N. H., praying for a constitutional amendment for the national prohibition of the manufacture and sale of intoxicating liquor, which was referred to the Committee on the Judiciary.

Mr. JONES (for Mr. TOWNSEND) presented a petition of sundry citizens of Swartz Creek, Mich., praying for national prohibition, which was referred to the Committee on the Judiciary.

He also (for Mr. TOWNSEND) presented a memorial of sundry citizens of Mount Clemens, Mich., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

He also (for Mr. TOWNSEND) presented a petition of the Michigan State Veterinary Medical Association, praying for the enactment of legislation to render more efficient the veterinary service of the United States Army, which was referred to the Committee on Military Affairs.

VETERAN ARMY OF THE PHILIPPINES.

Mr. MARTINE of New Jersey. Mr. President, I present a letter in the nature of a petition, which I ask may be read and that it, together with the accompanying resolutions, be referred to the Committee on Military Affairs. The letter refers to the veterans of the Spanish War residing in Manila. As I read the letter I feel that gross and manifest injustice is being done those who are there resident.

The letter is very short, and I simply ask that it may be read and that it and the resolutions adopted by the veterans may be sent to the Committee on Military Affairs.

The VICE PRESIDENT. Is there any objection? The Chair hears none, and the Secretary will read as requested.

The Secretary read the letter, as follows:

HEADQUARTERS DEPARTMENT
VETERAN ARMY OF THE PHILIPPINES,
UNITED SPANISH WAR VETERANS,
COMMITTEE ON CIVIL SERVICE,
Manila, July 1, 1914.

Senator MARTINE:

Inclosed please find a copy of a petition and resolution adopted by the Department Veteran Army of the Philippines, United Spanish War Veterans, which is self-explanatory.

As a Member of the United States Congress, elected by the constituents of your district for the purpose of assisting in the deliberations of Congress, and thus legislate for the benefit of all Americans, within and without, we feel that we are not trespassing by forwarding this petition to you, and we ask no more of you than that you peruse the same, and after careful deliberation do what your conscience may tell you to do for the purpose of assisting those of your countrymen, who find themselves between the devil and the deep sea.

If there is any further information which this committee can give you, please write to the undersigned.

Yours, very truly,

SIDNEY C. SCHUARZKOPF, *Chairman.*

Mr. MARTINE of New Jersey. I do not ask to burden the Senate with the reading of the resolutions, but I ask that they may be referred to the Committee on Military Affairs.

The VICE PRESIDENT. The letter and accompanying resolutions will be referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. CHAMBERLAIN, from the Committee on Commerce, to which was referred the bill (H. R. 12463) to authorize the withdrawal of lands on the Quinaielt Reservation, in the State of Washington, for lighthouse purposes, reported it without amendment and submitted a report (No. 711) thereon.

Mr. LEA of Tennessee, from the Committee on the Library, to which was referred the joint resolution (H. J. Res. 249) for the appointment of George Frederick Kunz as a member of the North American Indian Memorial Commission, reported it without amendment.

MERRIMAC RIVER BRIDGE, LAWRENCE, MASS.

Mr. SHEPPARD. From the Committee on Commerce I report back favorably, without amendment, the bill (S. 6101) to grant the consent of Congress for the city of Lawrence, County of Essex, State of Massachusetts, to construct a bridge across the Merrimac River, and I submit a report (No. 710) thereon. I call the attention of the Senator from Massachusetts [Mr. WEEKS] to the bill.

Mr. WEEKS. Mr. President, I ask unanimous consent that the bill just reported by the Senator from Texas be given immediate consideration. It is a proposition to enable the city of Lawrence to proceed with the construction of a bridge across the Merrimac River. The matter has, of course, passed through the usual processes, so far as the city government is concerned; the Legislature of Massachusetts has passed a bill authorizing the construction of the bridge, subject to the approval of the War Department, and the War Department has approved the plans and the construction as proposed. The contract has been let; the work has commenced; and the only reason this legislation is required is because the Merrimac River is navigable in two States. Therefore it was assumed that this bridge could not technically come under the general bridge act. For that reason I hope there will be no objection to the immediate consideration of the bill.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the city of Lawrence, county of Essex, State of Massachusetts, and its successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Merrimac River, at a point suitable to the interests of navigation, at or near the foot of Amesbury Street, in the city of Lawrence, in the county of Essex, in the State of Massachusetts, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LEWIS:

A bill (S. 6160) providing for the extension of the post office at Galesburg, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. SUTHERLAND:

A bill (S. 6162) authorizing issuance of patent for certain lands to Thomas L. Griffiths; to the Committee on Public Lands.

By Mr. LEA of Tennessee:

A bill (S. 6163) granting an increase of pension to Alwilda Wheeler; to the Committee on Pensions.

By Mr. LANE:

A bill (S. 6164) granting a pension to Mrs. Lewis T. Pierce; to the Committee on Pensions.

By Mr. CUMMINS:

A bill (S. 6165) to amend an act entitled "An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and ap-

purtenances thereto," approved February 17, 1911; to the Committee on Interstate Commerce.

By Mr. KENYON:

A bill (S. 6166) granting an increase of pension to John Gossage; to the Committee on Pensions.

By Mr. THOMAS (by request):

A bill (S. 6167) to authorize the issuance during 1915 of a coin of the denomination of 25 cents, as may be required for the purpose of circulation, to commemorate the opening of the Panama Canal and the centenary of peace; to the Committee on Banking and Currency.

By Mr. WEEKS:

A bill (S. 6168) granting a pension to Odelon Valcour (with accompanying papers); to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 6169) for the relief of Myron H. McMullen; to the Committee on Military Affairs.

By Mr. HUGHES:

A bill (S. 6170) providing for the refund of duties collected on hot-rolled flat steel iwer rods, about 3 inches in width and one-eighth of an inch in thickness, under the act of Congress approved June 24, 1897, and under the act of Congress approved August 5, 1909, imported subsequently to June 4, 1908, and prior to October 3, 1913; to the Committee on Finance.

A bill (S. 6171) for the relief of Daniel Delhagen; to the Committee on Military Affairs.

A bill (S. 6172) for the relief of Johannes T. Jensen; to the Committee on Claims.

By Mr. NEWLANDS:

A bill (S. 6173) granting an increase of pension to Paul de Chaine (with accompanying papers); to the Committee on Pensions.

WITHDRAWAL OF PAPERS.

On motion of Mr. PERKINS, it was—

Ordered, That the papers accompanying, and in support of, the bill S. 4721, Sixty-third Congress, second session, now pending before the Committee on Claims, be, and the same are hereby, withdrawn from the files of the Senate, no adverse report having been made on said bill.

USE OF TIDAL BASIN.

Mr. NORRIS submitted the following resolution (S. Res. 431), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Commissioners of the District of Columbia be instructed to report to the Senate on the advisability and cost of converting the tidal basin in Potomac Park into a public bathing pool.

INTERNATIONAL HARVESTER CO. (S. DOC. NO. 558).

Mr. NELSON. I have a copy of the brief of the Government filed in the District Court of the United States for the District of Minnesota in the case of the United States Government against International Harvester Co. and others. I ask that the brief may be printed as a public document.

The VICE PRESIDENT. Without objection, it is so ordered.

LANDS IN PORT ANGELES, WASH.

Mr. JONES. I ask unanimous consent for the present consideration of the bill (S. 5701) providing for the disposal of certain lands in block 32, in the city of Port Angeles, State of Washington. It is a measure of purely local importance, and I am satisfied it will occasion no debate.

The VICE PRESIDENT. Is there objection to the request of the Senator from Washington?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill had been reported from the Committee on Public Lands with an amendment, on page 2, line 3, after the word "except," to strike out "three, to be selected by the Secretary of the Treasury," and insert "lots 1, 8, 9, and 10," so as to make the bill read:

Be it enacted, etc., That all lots in block 32, in the city of Port Angeles, State of Washington, now reserved for Government purposes under an act entitled "An act providing for the reappraisement and sale of certain lands in the town site of Port Angeles, Wash, and for other purposes," approved March 16, 1912, except lots 1, 8, 9, and 10, shall be disposed of under and pursuant to the provisions of said act of March 16, 1912, and the Secretary of the Interior is hereby directed to proceed at once to carry out the provisions of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was rejected.

RITTENHOUSE MOORE.

Mr. BANKHEAD. Mr. President, I ask unanimous consent for the present consideration of the bill (S. 2359) for the relief of Rittenhouse Moore.

Mr. NEWLANDS. I will inquire what is the nature of the bill?

Mr. BANKHEAD. It is a little claims bill.

Mr. GALLINGER. Mr. President, I inquire if morning business has closed?

The VICE PRESIDENT. It has not.

Mr. NEWLANDS. I ask the Senator if he thinks the bill will occasion any debate?

Mr. BANKHEAD. I will say to the Senator that I do not think it will.

Mr. GALLINGER. Mr. President, it seems to me we might spend an hour or two, profitably, on this delightful morning in disposing of bills on the calendar. I will not object to the Senator's request, if the bill is important.

Mr. BANKHEAD. I do not think it will occasion any debate.

The VICE PRESIDENT. Is there objection to the request of the Senator from Alabama?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Secretary of the Treasury to pay to Rittenhouse Moore $3,650.05, in full settlement for the amount stated and claimed by him as set forth in House Document No. 100, Fifty-eighth Congress, second session, for dredging in the Potomac River below Washington, D. C., and recommended by the Secretary of War, as therein shown.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LANDS IN CADDO COUNTY, OKLA.

Mr. OWEN. I ask unanimous consent for the present consideration of the bill (H. R. 9829) authorizing the Secretary of the Interior to sell certain unused remnant lands to the board of county commissioners of Caddo County, Okla., for fairground and park purposes. This is a purely local bill, providing for a county fair to secure part of a quarter section of land.

Mr. CUMMINS. Mr. President, we have not, as I understand, finished morning business. There is a resolution coming over from a previous day that I am anxious to have disposed of, and I must object to any further request for unanimous consent to consider bills until we have disposed of morning business.

Mr. OWEN. Mr. President, I should like to call the attention of the Senator to the fact that this bill was reported on May 1, and has been on the calendar since that time, and unless it is acted upon the county fair association can not use the land this season.

Mr. CUMMINS. I have no objection to the bill, but I desire that the regular order shall be proceeded with until we dispose of morning business.

Mr. GALLINGER. I call for the regular order.

Mr. OWEN subsequently said: Mr. President, I renew my request for the present consideration of the bill referred to by me a moment ago. If there is any objection to the bill I shall not urge its consideration. It simply provides that this county board may acquire 110 acres of ground for county fair purposes. It is a short bill.

The VICE PRESIDENT. What is the calendar number of the bill?

Mr. OWEN. Four hundred and seven.

Mr. SMOOT. Mr. President, I will say to the Senator that I have no objection to the bill, but if we are going to consider bills this morning I think we ought to take up the calendar in regular order. We have been for the last month or so trying to get consideration of the calendar, and we have been unable to do so up to this time. I do not believe it is right to have bills picked out from the calendar and considered, and allow other bills that have been here for months and months to go without consideration.

Mr. OWEN. This bill has been on the calendar since the 1st of May. The next county fair will be held in September, and unless the bill passes very shortly the county authorities will be unable to use the land for the purpose this season.

Mr. SMOOT. What is the calendar number of the bill?

Mr. OWEN. Four hundred and seven.

Mr. BRANDEGEE. Mr. President, I demand the regular order.

MEETINGS OF COMMITTEES DURING SESSIONS OF SENATE.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a preceding day, which will be read.

The Secretary read the resolution (S. Res. 430) submitted by Mr. CUMMINS on the 23d instant, as follows:

Resolved, That from and after the passage of this resolution, and until otherwise ordered, all permits given in resolutions, orders, or

otherwise authorizing standing or select committees to sit during the sessions of the Senate are hereby rescinded, except in the case of the Committee on Naval Affairs, now considering S. Res. 291.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

DEFICIENCY APPROPRIATIONS.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendment of the Senate numbered 158 to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MARTIN of Virginia. I move that the Senate further insist on its amendment numbered 158, agree to the further conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. MARTIN of Virginia, Mr. BRYAN, and Mr. GALLINGER conferees at the further conference on the part of the Senate.

PENSIONS AND INCREASE OF PENSIONS.

The VICE PRESIDENT laid before the Senate the amendments of the House to the bill (S. 4969) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Mr. SMOOT. I move that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the Vice President appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT conferees on the part of the Senate.

The VICE PRESIDENT laid before the Senate the amendments of the House to the bill (S. 5278) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Mr. SMOOT. I move that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the Vice President appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT conferees on the part of the Senate.

The VICE PRESIDENT laid before the Senate the amendments of the House to the bill (S. 5501) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Mr. SMOOT. I move that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the Vice President appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT conferees on the part of the Senate.

The VICE PRESIDENT laid before the Senate the amendments of the House to the bill (S. 5899) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Mr. SMOOT. I move that the Senate disagree to the amendments of the House, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the Vice President appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT conferees on the part of the Senate.

EULOGIES ON THE LATE REPRESENTATIVE RODDENBERY.

Mr. SMITH of Georgia. Mr. President, it had been the purpose this morning of the junior Senator from Georgia [Mr. WEST] to ask that the House resolutions upon the death of late Representative RODDENBERY, of Georgia, be laid before the Senate. He has, however, been called away necessarily to the White House, and I ask unanimous consent that, even though the business of the morning hour be finished, the Senator from Georgia may be allowed this morning to call up the resolutions to which I refer.

Mr. CUMMINS. I did not hear distinctly the statement of the Senator from Georgia.

Mr. SMITH of Georgia. I have suggested that the junior Senator from Georgia desires to call up this morning the House resolutions on the death of late Representative RODDENBERY, of Georgia, and to ask action thereon, but he has been called out of the Senate on business and was compelled to respond. I ask unanimous consent that upon his return during the day he may be allowed to call up these resolutions, even though it be after the morning hour.

Mr. CUMMINS. That is, to call up resolutions during the consideration of the Federal trade commission bill? If we have a morning hour to-morrow, the Senator from Georgia, of course, could then call up the resolutions.

Mr. SMITH of Georgia. I do not think we will have a morning hour to-morrow. That is the reason why I am so anxious to get the resolutions disposed of to-day.

Mr. CUMMINS. Is not the suggestion of the Senator from Georgia one of the reasons why we should have a morning hour?

Mr. SMITH of Georgia. Yes; but there are other reasons why we should not.

Mr. CUMMINS. Which are the stronger reasons?

Mr. SMITH of Georgia. I think those that we should not.

Mr. CUMMINS. Very well, then, Mr. President.

The VICE PRESIDENT. The Chair lays before the Senate resolutions of the House of Representatives which will be read.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
February 8, 1914.

Resolved, That the business of the House be now suspended that opportunity may be given for tributes to the memory of Hon. SEABORN ANDERSON RODDENBERY, late a Member of this House from the State of Georgia.

Resolved, That as a particular mark of respect to the memory of the deceased and in recognition of his distinguished public career, the House at the conclusion of these exercises shall stand adjourned.

Resolved, That the Clerk communicate these resolutions to the Senate.

Resolved, That the Clerk send a copy of these resolutions to the family of the deceased.

Mr. SMITH of Georgia. Mr. President, I regret the absence of the junior Senator from Georgia [Mr. WEST] who is at the White House. He had intended at this time to present the following resolutions, which I present for him, and which I send to the desk and ask to have read.

The Secretary read the resolution (S. Res. 432), as follows:

Resolved, That the Senate has heard with deep regret the announcement of the death of Hon. SEABORN ANDERSON RODDENBERY, late a Representative from the State of Georgia, which occurred September 26, 1913.

Resolved, That as a mark of respect to the memory of the deceased Representative the business of the Senate be now suspended in order to pay proper tribute to his high character and distinguished public services.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

Mr. SMITH of Georgia. Mr. President, SEABORN ANDERSON RODDENBERY, one of the best men who ever came from Georgia to the House of Representatives, died in the very prime of manhood. Young though he was, he had accomplished much. From his earliest youth he was a worker. His activities were divided between the farm and the study. Sturdily he labored tilling the soil, yet never failed to avail himself of every means to gratify his thirst for knowledge. No man ever entered legislative halls better equipped than he.

Born on a farm in 1870, he was educated in the common schools of his county and at Mercer University. After leaving the university he taught school and studied law. When less than 20 years of age he was professor of languages and mathematics at the South Georgia College. When little more than 21 he was sent to the legislature by the people of Thomas County, and there served his State for two years. In rapid succession he was mayor of Thomasville, president of the board of education of Thomas County, judge of the county court for four years, and finally a Representative in Congress.

Judge RODDENBERY was essentially a man of the people. His sympathies were with them, and they knew it. None so poor, none so humble, but felt free to go to him at any time for counsel or assistance. Always that counsel was given without ostentation; always that aid was rendered with painstaking care. Like all strong men, he was gentle in his bearing, patient, tolerant in his attitude toward the opinions of others, while holding firmly to his own carefully formed convictions.

Judge RODDENBERY's life made for the uplift of the race. His thoughts and acts ennoble life. He left the world better for having lived and labored in it. He was a man in whose association and friendship there was genuine inspiration. It will always be a source of pleasure to me to have known him and to have been able to count him a true friend.

It can be said of him with absolute truth that selfishness was not in him. As in private life so in his public career, the noblest altruism governed his every act. His protestations of solicitude for his people were not mere lip service; they came from the heart. Every one of his constituents had an ever-present claim upon his services. This service was rendered freely, ungrudgingly; not from any sense of obligation, personal or political, but because he loved to help and do kind deeds. "I serve" was the motto which ruled every moment of his life.

As a Member of the House of Representatives he bore himself modestly but with firm adherence to principles he had established and convictions he had formed. His voice and his vote were untrammeled. Flattery and applause he heeded little, and censure did not move him.

This phase of his character is strikingly illustrated in his record on pension legislation. He had made a study of the process of lawmaking whereby the pension payments of the Government have been brought to their present inexcusable proportions, notwithstanding the fact that the Union survivors of the War between the States are dying by the thousands every year. Judge RODDENBERY, while entertaining the kindest feelings for the invalid veterans, utterly repudiated the theory of increasingly liberal bounty to persons who had not borne the brunt of the strife. He reached the conclusion that much of this latter-day pension legislation was pure graft, and with this conviction firmly fixed in his mind he combated every proposition which in his opinion went beyond the bounds of justice and the moral obligations of the Government.

Bill after bill was met by his opposition. His arguments—persistently, consistently, and insistently, inveighing against surrendering the hard-earned money of the working people to what he looked upon as the loot of the Treasury—were cutting as the Damascene blade. He did not deal in rounded phrases of flowery rhetoric, but struck with all the force that outraged conviction and intensest indignation could lend to his words.

It was a fight foreordained to defeat. He must have felt that he was leading a forlorn hope against every one of the acts he antagonized. Only a mere handful of men came to his aid, and with him were overwhelmed in the onslaught. Undaunted he returned to the fray. Defeat could not conquer his purpose. He fought for the right as he saw the right. From the path he had marked out for himself neither the pleadings of friends nor the taunt of adversaries could swerve him.

Perhaps I am dwelling too long upon this incident of Judge RODDENBERY's work as a Member of the House of Representatives, but I do so because it illumines more clearly than any other the pervading trait of his character—adherence to righteous purpose. Among the last words he uttered before his spirit fled from this mortal tenement were these: "I have lived my convictions." His convictions—they were the guiding star in every act of his life. How few and far between are the men who at the close of their lives can lay that comfort to their souls.

Judge RODDENBERY was a tireless student. His reading was broad. It embraced every field of thought. Classic lore was to him familiar ground. From the history of nations he never failed to find useful lessons. In philosophical literature he took especial delight. His chosen profession—the law—had in him a most conscientious, untiring member. His keen, analytical habit of thought made him strong before the bench. Before juries he was almost irresistible.

He was devoted to agriculture. With him the cultivation of the soil was not a mere breadwinning occupation. He felt that agriculture is the mainstay of the State and the farmer the most important factor in the economic life of the Nation. While he delighted in sowing the seed, watching the growth of the crops, and rejoiced in the harvest, it was his pleasure to trace the history of agriculture even to the farthest antiquity.

Nor was he content simply to absorb stores of knowledge. He delighted in giving it currency among his friends and neighbors. He was always ready to respond to a summons to address meetings of farmers and give them the benefit of his studious research. Of all the membership of the Congress none surpassed him in the scrutiny of the publications emanating from the Department of Agriculture. Nothing pleased him more than to be able to point out to his people some new way of enriching the soil and how to make two blades of grass grow where before there grew but one. It has been said, "He is indeed the wisest and the happiest man who, by constant attention of thought, discovers the greatest opportunity of doing good, and with ardent and animated resolution breaks through every opposition that he may improve these opportunities." To no man that I have every known do these words apply with more striking force than to ANDERSON RODDENBERY.

Mr. President, in contemplating the career of a public man and seeking to pronounce deserved eulogium upon him, we sometimes lose sight of his private life; and yet some of the most beautiful lessons may be drawn from the life in the home.

> The sphere of harmony and peace,
> The spot where angels find a resting place
> When, bearing blessings, they descend to earth.

Rare Ben Jonson said that—

> To be happy at home is the ultimate result of all ambition; the end to which every enterprise and labor tend, and of which every desire prompts the prosecution.

Such happiness my friend enjoyed. His home was the mainspring that set in motion all his energies. In his home centered his dearest affections, his aspirations, his ambitions. To bring happiness to that home and to the loved ones who dwelt therein was the highest aim of his rarely beautiful life. There the gentlest side of his nature unfolded itself like a beautiful flower. There his affections had their fullest play. There he loved and was beloved by wife and children. In his home the strife of the world was stilled; it was, indeed, to him a sacred refuge.

So, also, was Judge RODDENBERY blessed in his friendships. In him the elements of strength and gentleness were so blended that he attracted men as naturally as the magnet draws the iron. They felt that they could place reliance upon his every word. They knew that he would not fail them in any strait. No wonder, then, that when his remains were borne to their last resting place among his people there was mourning in all the counties of his district. It was as if every family had lost one of its household. He has written his epitaph in the hearts of all of them, and we may regard it inscribed there as it was expressed in a letter from the aged pastor who received him into the church, and who pronounced the last benediction at the grave. That venerable man wrote:

> He was the friend and adviser of the poor. For the struggling boy or girl who desired an education his means were largely employed. He was the friend that you could count on at all times and under all circumstances. He was bold and aggressive in his advocacy of what he conceived to be right; true and loyal to his friends and to the cause he espoused.

Mankind, Mr. President, is under obligations to a man for great thoughts, or great deeds, or great devotion to principle; for clean living, and for the good example it sets. Measured by that standard, we owe a great debt to the memory of our departed friend, which best we may discharge by trying to live as he lived; to be moved by the loftiest dictates of patriotism; to crush selfishness; to strive, as he strove, to obey the injunction of the Master, to do unto others even as we would that others do unto us.

It is not given to frail human nature to attain perfection, but each and every one of us may well be satisfied if when the final summons comes he can say to himself, as did ANDERSON RODDENBERY: "I have lived my convictions."

I move the adoption of the resolutions.

The resolutions were unanimously agreed to.

Mr. SMITH of Georgia Mr. President, the House has passed a bill authorizing the ground around the Government building at Thomasville, where Mr. RODDENBERY lived, to be known as Roddenbery Park, and authorizing the Secretary of the Treasury to accept from the city several other blocks that the city intends to give to the Government around the Government building, the entire ground to be called Roddenbery Park. The House bill authorizes the Secretary of the Treasury to make rules and regulations by which the city of Thomasville is to maintain Roddenbery Park.

For the Senator from Virginia (Mr. SWANSON) I report back favorably from the Committee on Public Buildings and Grounds the bill H. R. 15110 and ask unanimous consent for its immediate consideration and, as a compliment to Mr. RODDENBERY's memory, to have it passed unanimously by the Senate, as it was passed unanimously by the House. I ask that the bill be considered at this time.

The VICE PRESIDENT. Is there objection?

Mr. GALLINGER. Let the bill be read.

Mr. CUMMINS. I do not understand that this is to be considered as a precedent.

Mr. SMITH of Georgia. I do not think it will be a precedent.

The Secretary read the bill, as follows:

> A bill (H. R. 15110) authorizing the Secretary of the Treasury to accept conveyance of title to certain land between the post-office site and Madison Street in the city of Thomasville, Ga.
>
> *Be it enacted, etc.*, That the post-office site, except where buildings, further addition, and approaches are now or may hereafter be located, may, in the discretion of the Secretary of the Treasury, be used as a public park, to be known as Roddenbery Park, to be maintained by the city of Thomasville, under regulations prescribed from time to time by the Secretary of the Treasury.

That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to accept conveyance of title to the land between the post-office site and Madison Street, in the city of Thomasville, Ga., and the said land so acquired shall thereupon become part of said post-office site: *Provided*, That the said enlarged post-office site, except where buildings, further additions, and approaches are now or may hereafter be located, may, in the discretion of the Secretary of the Treasury, be used as a public park, to be known as Roddenbery Park, to be maintained by the city of Thomasville, under regulations to be prescribed from time to time by the Secretary of the Treasury.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DAILY SESSIONS.

Mr. KERN. I ask for the adoption of the following order.

The VICE PRESIDENT. The order will be read.

The Secretary read as follows:

Ordered, That until otherwise ordered, the sessions of the Senate shall be from 11 o'clock a. m. until 6 o'clock p. m., at which last hour a recess shall be taken.

Mr. SMOOT. I have not any objection at all to holding daily sessions from 11 to 6 o'clock, but does not the Senator think that the adoption of this order may cause the Senate considerable trouble at times by providing that we shall take a recess at 6 o'clock?

Mr. KERN. I do not think it would.

Mr. GALLINGER. I suggest to the Senator to make it read "not later than 6."

Mr. SMOOT. "Not later than 6 o'clock."

Mr. GALLINGER. It might be convenient to take a recess 5 or 10 minutes earlier than 6, or something like that.

Mr. KERN. I will state to the Senator that I had it in mind that in such a case it could be arranged by unanimous consent.

Mr. SMOOT. Not as against a standing order, I should think. I should think it would be very much better to put in the words "not later than 6 o'clock," and then if we should want to take a recess a few minutes before 6 it would not make any difference.

Mr. BRANDEGEE. I ask that the proposed order may be restated by the Secretary.

The VICE PRESIDENT. The order will be again read.

The Secretary read as follows:

Ordered, That until otherwise ordered, the sessions of the Senate shall be from 11 o'clock a. m. until 6 o'clock p. m., at which last hour a recess shall be taken.

Mr. SMOOT. If the Senator will make it read "not later than 6 o'clock," I think everything will be gained that he desires by the order as it stands.

Mr. KERN. That can be remedied at any time by unanimous consent. I am certain that there will be no difficulty about it.

Mr. SMOOT. I have no objection to the adoption of the order.

The VICE PRESIDENT. The question is on agreeing to the order.

The order was agreed to.

FEDERAL TRADE COMMISSION.

The VICE PRESIDENT. The calendar under Rule VIII is in order.

Mr. NEWLANDS. I move that the unfinished business, House bill 15613, the trade commission bill, be now taken up.

The VICE PRESIDENT. The Senator from Nevada moves that the Senate proceed to the consideration of House bill 15613, to create an interstate trade commission, to define its powers and duties, and for other purposes. [Putting the question.] By the sound the ayes seem to have it.

Mr. BRANDEGEE. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I have a pair with the Senator from New Mexico [Mr. FALL], but under the terms of it I can vote on this question. I vote "yea."

Mr. COLT (when his name was called). I have a general pair with the junior Senator from Delaware [Mr. SAULSBURY]. In his absence I withhold my vote.

Mr. CLAPP (when his name was called). I have a general pair with the senior Senator from North Carolina [Mr. SIMMONS], and in his absence I withhold my vote.

Mr. CRAWFORD (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. LEA], who is not present. I will pass my vote for the present.

Mr. GRONNA (when his name was called). I have a general pair with the senior Senator from Maine [Mr. JOHNSON]. He is not present, and not knowing how he would vote I withhold my vote.

Mr. KERN (when his name was called). I have a general pair with the senior Senator from Ohio [Mr. BURTON], which I transfer to the Senator from Louisiana [Mr. RANSDELL] and vote "yea."

Mr. LEWIS (when the name of Mr. LEA of Tennessee was called). I desire to announce that the Senator from Tennessee [Mr. LEA] has been called temporarily out of the Chamber on official business.

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. In his absence I withhold my vote.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT], which I transfer to the Senator from Nebraska [Mr. HITCHCOCK] and vote "yea."

Mr. TILLMAN (when his name was called). I transfer my pair with the Senator from West Virginia [Mr. GOFF] to my colleague [Mr. SMITH of South Carolina] and vote "yea."

Mr. WALSH (when his name was called). I transfer my pair with the Senator from Rhode Island [Mr. LIPPITT] to the Senator from New Jersey [Mr. HUGHES] and vote "yea."

Mr. WEEKS (when his name was called). I have a general pair with the senior Senator from Kentucky [Mr. JAMES]. In his absence I withhold my vote.

Mr. WILLIAMS (when his name was called). I transfer my general pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the Senator from Arizona [Mr. SMITH]. I ask that this announcement of pair and transfer may stand for the day. I vote "yea."

The roll call was concluded.

Mr. CHAMBERLAIN. I have a general pair with the Senator from Pennsylvania [Mr. OLIVER], which I transfer to the senior Senator from Virginia [Mr. MARTIN] and vote "yea."

Mr. CAMDEN. I desire to announce the unavoidable absence of my colleague [Mr. JAMES]. He is paired with the Senator from Massachusetts [Mr. WEEKS]. I will let this announcement stand for the day.

Mr. TILLMAN. I was requested to announce that the Senator from Florida [Mr. BRYAN] is unavoidably absent attending the business of the Senate conducting the coal investigation.

Mr. MYERS. I have a pair with the Senator from Connecticut [Mr. MCLEAN], who is necessarily absent from the city. I transfer that pair to the Senator from Florida [Mr. BRYAN] and vote "yea."

Mr. GALLINGER. I was requested to announce that the Senator from Michigan [Mr. SMITH] is paired with the Senator from Missouri [Mr. REED]; that the Senator from Wisconsin [Mr. STEPHENSON] is paired with the Senator from Oklahoma [Mr. GORE]; that the Senator from Michigan [Mr. TOWNSEND] is paired with the Senator from Arkansas [Mr. ROBINSON]; that the Senator from Wyoming [Mr. WARREN] is paired with the Senator from Florida [Mr. FLETCHER]; that the Senator from Vermont [Mr. DILLINGHAM] is paired with the Senator from Maryland [Mr. SMITH]; and that the Senator from Delaware [Mr. DU PONT] is paired with the Senator from Texas [Mr. CULBERSON].

Mr. SIMMONS entered the Chamber and voted "yea."

The result was announced—yeas 43, nays 6, as follows:

YEAS—43.

Ashurst	Jones	O'Gorman	Sterling
Bankhead	Kenyon	Owen	Stone
Brady	Kern	Page	Swanson
Bristow	Lane	Pittman	Thomas
Camden	Lee, Md.	Pomerene	Thornton
Chamberlain	Lewis	Saulsbury	Tillman
Chilton	Martine, N. J.	Shafroth	Vardaman
Clarke, Ark.	Myers	Sheppard	Walsh
Crawford	Nelson	Shields	White
Cummins	Newlands	Simmons	Williams
Hollis	Norris	Smith, Ga.	

NAYS—6.

Brandegee	Clark, Wyo.	Smoot	Sutherland
Catron	Gallinger		

NOT VOTING—47.

Borah	Gore	Martin, Va.	Smith, Ariz.
Bryan	Gronna	Oliver	Smith, Md.
Burleigh	Hitchcock	Overman	Smith, Mich.
Burton	Hughes	Penrose	Smith, S. C.
Clapp	James	Perkins	Stephenson
Colt	Johnson	Poindexter	Thompson
Culberson	La Follette	Ransdell	Townsend
Dillingham	Lea, Tenn.	Reed	Warren
du Pont	Lippitt	Robinson	Weeks
Fall	Lodge	Root	West
Fletcher	McCumber	Sherman	Works
Goff	McLean	Shively	

So the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

The VICE PRESIDENT. The pending question is on the amendment proposed by the Senator from Nevada [Mr. NEWLANDS] to section 5.

Mr. SUTHERLAND. What is the proposed amendment?

The VICE PRESIDENT. The Secretary will read the amendment.

The SECRETARY. The pending amendment is that of the Senator from Nevada [Mr. NEWLANDS] to add at the end of section 5 the following proviso:

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

Mr. SUTHERLAND. Mr. President, I should like to ask the author of the amendment whether, in a case regularly prosecuted in the court, in which final judgment was rendered by the court in favor of the defendant, his proposed amendment would preclude the pleading and use of that judgment in evidence as an estoppel in a subsequent case brought upon the same facts?

Mr. NEWLANDS. The amendment, as I understand it, simply declares that in any proceeding under the antitrust act no order or finding made either by the commission or the court under section 5 shall be admissible in evidence. I will state that this amendment was, as I said the other day, drawn by the Senator from Iowa [Mr. CUMMINS], and it is segregated into two parts. I would be very glad if the Senator from Iowa would give his views regarding it.

Mr. SUTHERLAND. I should like to have the view of the Senator from Nevada, who proposes the amendment and is the proponent of the bill, as to what the effect of the language would be?

Mr. NEWLANDS. I have given my individual views again and again. So far as I am concerned individually I would trust to the commission the entire administration and enforcement of the antitrust law. But my individual views on that subject are not likely to prevail. There is a disposition to prevent the commission from taking the place of the Attorney General's office in the enforcement of the law, and to that I yielded. The Senator from Iowa introduced an amendment providing that no order or finding under section 5 should be admitted in evidence in any antitrust proceeding. That amendment I have accepted.

Mr. SUTHERLAND. The answer of the Senator from Nevada can hardly be described as a categorical answer to the question which I put. The language of this amendment is—

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

If exactly the same question should be presented—I am not saying that it would be, but if exactly the same question that was presented in the first proceeding before the court should be presented in the subsequent suit—does the Senator understand that this amendment would preclude the use by the defendant of the finding or judgment of the court in the first suit as an estoppel to the proceeding in the second suit, covering identically the same question? Does the Senator from Nevada think that would follow?

Mr. CUMMINS. Will the Senator from Utah permit me to answer the question?

Mr. SUTHERLAND. Certainly.

Mr. CUMMINS. My first observation is that it is impossible that the case suggested by the Senator from Utah should arise. A prosecution under the antitrust law charges either a restraint of trade, a monopoly, or an attempt to monopolize. The prosecution must involve one or the other of those charges; and the issue presented to the court is, Is the defendant guilty of a restraint of trade, guilty of an attempt to monopolize, or guilty of maintaining a monoply? A suit under section 5 must necessarily charge unfair competition, and the action of the commission and the action of the court would be no more than to find either that the defendant had been guilty of unfair competition or had not been guilty of unfair competition.

Mr. SUTHERLAND. Let me ask the Senator would it be sufficient in any proceeding finally brought into court to simply charge unfair competition? Would it not be necessary to set forth the acts which constituted the unfair competition?

Mr. CUMMINS. Undoubtedly.

Mr. SUTHERLAND. Unfair competition is a mere conclusion of law.

Mr. CUMMINS. I was about to proceed to that part of the inquiry.

Mr. SMITH of Georgia. The copy which I have of the amendment uses the words "this section," but does not name the section.

Mr. CUMMINS. It is a proposed amendment to section 5, so that it is identified in that way. In charging restraint of trade or monopoly it is, of course, necessary that the pleader shall state the facts which in his opinion constitute the restraint of trade or the monopoly or the attempt to monopolize, and in a suit under section 5 it would be necessary for the pleader to state the facts which in his opinion constituted unfair competition. But the order of the court or the commission in the latter case would be simply that the defendant had been guilty of unfair competition. The order of the court in the former case would be simply that the defendant had restrained trade or monopolized. It is the purpose of this amendment to prevent the judgment in one case becoming res adjudicata in the other case.

I do not believe the existence of any particular fact could be so segregated from the judgment or the finding of the court in either case as to make it wise that there should be an adjudication upon that one fact. Suppose, for instance, that in the allegation of unfair competition it were charged that the defendant had for a long series of months sold the product in which he dealt so far below actual cost as to indicate a purpose not to continue to trade legitimately but to injure and destroy a particular competitor; that one fact might be material in prosecutions under the antitrust law, and also in prosecutions for unfair competition; but I do not believe that the judgment of the court or the order of the commission under this section, even though it involved, or might involve, the existence of that fact, should be pleaded as an adjudication of that particular fact in a suit under the antitrust law.

Mr. CRAWFORD. Mr. President——

Mr. CUMMINS. Just one moment. The reason for my conclusion, I think, is obvious. It is, of course, within the discretion of the prosecuting officer or the prosecuting attorney under either the antitrust law or under section 5 of this bill, as it is within the discretion of the defendant in either case, to bring forward such testimony as he thinks ought to be brought forward with reference to the broad issue in the one case of restraint of trade, and in the other case of unfair competition.

It would not be fair either to the Government or to the defendant to say that a fact which might have varying degrees of materiality and of persuasiveness should be taken as established under the antitrust law because of the testimony that was offered with regard to it in a prosecution under this section. Therefore, the attempt is to keep the prosecution in the two cases entirely separate and distinct. Now I yield to the Senator from South Dakota.

Mr. CRAWFORD. Might this not be material testimony and entitled to some weight as testimony of value, and at the same time not have the potency of reaching to a res adjudicata or being accepted as conclusive in an action brought under the antitrust act and yet be valuable as proving a fact which with a chain of other facts might constitute an offense under this statute, and as such be competent testimony?

Mr. CUMMINS. Mr. President, I do not so understand. I may be wrong with regard to the opinion I am about to announce, but my view of the law is that when a judgment of a court rendered between the parties is admissible at all in any other judicial proceeding it is final and conclusive, because it is an adjudication of a competent tribunal of that fact between those parties.

Mr. SUTHERLAND. It is evidence, however, even if it be conclusive evidence.

Mr. CUMMINS. That is precisely what I say—it is conclusive evidence; and I think it would be unwise to impose upon either the plaintiff or the defendant the burden of conclusive evidence when that evidence may be thought not material, or, if material, may be of slight value, and therefore not very much considered, when one issue is being tried and very important or vital when another issue is being tried.

Mr. SMITH of Georgia. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Georgia?

Mr. CUMMINS. I do.

Mr. SMITH of Georgia. This amendment provides:

That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

Is that intended to exclude the finding of the commission as even prima facie evidence where application is made to enforce the order of the commission in a particular case?

Mr. CUMMINS. No. The Senator from Georgia has not observed that this inhibition is against the admissibility of the order of the court or of the commission in a suit brought to enforce the provisions of the antitrust laws.

Mr. SMITH of Georgia. Well, its provisions make the very bill we have before us one of the antitrust laws.

Mr. CUMMINS. No, Mr. President; I think the Senator from Georgia is in error about that. The antitrust laws referred to in this bill are, first, the act of 1890, known as the Sherman antitrust law; secondly, the two acts which are found in the tariff laws relating to trusts and monopolies. This reference does not include the proposed statute we are now discussing.

Mr. SMITH of Georgia. Well, the bill reported from the Judiciary Committee will undoubtedly be added to what are called antitrust laws, and that bill contemplates making the finding of the commission prima facie evidence in the courts in actions to enforce its provisions.

Mr. CUMMINS. I think the Senator from Georgia is right about that being the phraseology of the bill reported by the Judiciary Committee. That bill when enacted will be a part of the antitrust laws and will be included within the definition of the first section, but that is not true of this proposed act.

Mr. SMITH of Georgia. Will not this provision declaring "unfair competition" to be unlawful become one of the antitrust laws?

Mr. CUMMINS. The antitrust laws which are enumerated in this act are found on page 13 of the bill. I will read that reference so that there can be no future doubt about it. It is as follows:

"Antitrust acts" means the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; also sections 73 to 77, inclusive, of an act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894; and also the act entitled "An act to amend sections 73 and 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913.

Mr. SMITH of Georgia. Then it is not the purpose of this amendment to prevent the findings of the commission from being used at least as prima facie evidence in a legal proceeding to enforce the finding of the commission?

Mr. CUMMINS. If I may be permitted a reply, what is intended is this: We have in mind, of course, mainly the antitrust act of 1890; the others may be dismissed for the present, because they are not material in this discussion.

One of the sections—I think section 4 of that act—provides that the Government can bring a suit to enjoin any person or corporation from restraining trade or monopolizing or attempting to monopolize it; but those suits have been so frequently brought, and they have been so prominent in the discussion of this subject, that they are prefectly well known and their character, of course, thoroughly understood.

The purpose of this amendment is to prevent any order of either commission or court in a proceeding respecting unfair competition, under section 5, from becoming admissible in evidence in a suit brought by the United States under the antitrust act of 1890 where the issue is not unfair competition, but restraint of trade or monopoly.

Mr. SMITH of Georgia. Then would it not be well to say "the antitrust act of 1890," instead of "the antitrust acts"? We expect to call the Clayton bill, when it is passed, one of the antitrust acts, and will we not get into a conflict?

Mr. CUMMINS. I think this reference is just as necessary, so far as the Clayton bill is concerned, as it is with reference to the antitrust act of 1890. The purpose is to keep these things apart, so that when different offenses are charged the testimony and the findings of the court in one case shall not be controlling in another.

As I said the other day, from a strictly legal point of view I do not regard the amendment as necessary; I do not believe these orders and findings would be admissible under the well-established principles of the law; but I want, if I can—and that was the purpose of my amendment—to make it impossible for anybody to assert that we were in this bill endeavoring to emasculate or to destroy the efficiency of the antitrust act of 1890.

Mr. LEWIS. Mr. President——

Mr. CUMMINS. I yield to the Senator from Illinois.

Mr. LEWIS. Mr. President, I should like to ask the able Senator from Iowa whether a given premises which I shall now prescribe is not likely to arise to the disadvantage of a defendant. I illustrate: The amendment tendered by the Senator and proposed by the chairman provides—

That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

I observe that the expression "admissible in evidence" is used. I want to impose upon my learned friend this thought: In an ordinary criminal case a defendant would have a right to introduce before the court that he had been advised by his counsel to pursue a certain course, and, though the advice may have been wrong and he may really have violated the law, the court will take the suggestion, looking to the question of the defendant's intent, into consideration in inflicting penalty.

Now, I ask the learned Senator, under the provision that the order or finding of the court or commission should not be admissible in evidence, would not the defendant be greatly embarrassed in the following circumstances: Suppose there should be a proceeding before the commission and it should be held as a result of that proceeding that the man was not guilty of unfair competition, and yet a criminal proceeding should subsequently be had under which he should be found guilty of a violation of the Sherman Antitrust Act. Ought not that man to have the right to have introduced in that case in some form that finding of the commission in order that the judge might consider that finding in inflicting penalty looking to the man's intent? I fear under this section that, even though the commission had found there was no unfair competition, the defendant, when the judge came to inflict a penalty, would have no right to have the order introduced and thus have his offense mitigated in proportion because of the previous order that exculpated him, though it was not a defense as to the charge of violation of the Sherman Antitrust Act. Would the Senator consent to have the amendment amended so as to read, after the words "antitrust acts," "but may be considered by any judge or court in inflicting or prescribing punishment for any violation of the antitrust laws"?

Mr. CUMMINS. Mr. President, I would be reluctant to see the words which the Senator from Illinois has just proposed attached to the amendment for this reason: If a defendant is convicted of a crime under the antitrust act and his counsel is addressing the court with a view to mitigating or reducing the penalty or punishment, the considerations which he offers the court upon such an occasion are not evidence in the case. The evidence must be introduced before the case is submitted to the jury, and the jury must have an opportunity to consider and weigh all the evidence in the case.

I can well understand that after a conviction the intent or general conduct or the general standing of the defendant may be taken into consideration by the court in determining the extent of the penalty which shall be imposed, whether it be fine or imprisonment; but all those things can be done without any authority in the statute. Such action can be taken simply because that is a part of the established procedure of all courts; and I hope that the amendment will not be so changed as that the prior order of a court under section 5 could be offered in evidence. I think the Senator from Illinois will distinguish the difference between evidence offered in the case and considerations that are proposed to the court in determining what penalty shall be imposed.

Mr. LEWIS. Then the Senator from Iowa, as I understand him, does not fear that this expression would be an indication to the court that an order or finding of the commission is not to be received into the cause for any purpose whatever?

Mr. CUMMINS. I am not prepared to say whether it would be or could be received for any purpose; but I am very sure that the words which I now propose as an amendment would not preclude making the suggestion to the court after the verdict.

Mr. LEWIS. Now, may I ask the able Senator in what way would you get before the court the fact that there had been an order made by the commission that on its face indicated that the people against whom the proceeding was being had were not guilty of unfair competition, therefore indicating a lack of criminal intent, to be considered in mitigation of their offense, if it has been prescribed that such order shall not be introduced in the case?

Mr. CUMMINS. If it is proper to be brought to the attention of the court at all, it would be brought in any way that counsel might desire, just as a long life of probity, established by the word of neighbors——

Mr. LEWIS. May I say to the Senator that that would have to be introduced in evidence under general character and good behavior?

Mr. CUMMINS. No; all these things can be used, as I have seen them used, and I am sure the Senator has seen them used, when the counsel are urging a light penalty or light imprisonment.

Mr. WHITE. Mr. President, will the Senator from Iowa allow me to make a suggestion?

Mr. CUMMINS. I yield to the Senator from Alabama.

Mr. WHITE. Does not the situation hypothesized by the Senator from Illinois occur after the suit has ended, and is there any suit pending at that time; and does not this amendment contemplate that the evidence shall be evidence offered

during the pendency of the suit? In other words, would there be any suit pending under the situation hypothesized by the Senator from Illinois that would exclude the consideration of anything that might be considered by the court in mitigation of punishment?

As a matter of fact, as I understand, the suit has then ended, and matters of any character are brought to the consideration of the court. Facts might be introduced showing the situation of the defendant, the character and number of his family, or, as the Senator from Iowa has suggested, a long life of good behavior, and the fact that it is the first offense. Therefore it is not technically evidence offered in the case, while this amendment contemplates evidence offered during the pendency of the proceeding.

Mr. LEWIS. Permit me to say to the able Senator, if I may, Mr. President, that I can not accept the idea advanced by the able Senator from Alabama. I can not accept the idea that a suit no longer pends merely because the evidence has been closed and judgment has not been pronounced. My judgment is that the suit is still pending until a final appeal and affirmance or reversal.

I again state my position, and if the able Senators think my fear is unfounded I prefer to yield to their excellent judgment. I express the feeling that they are with me on the justice of my position; and if it is not debarred by the expressions in the amendment, then I have no desire to embarrass the amendment by the addition of words.

This is my fear: If there were nothing whatever said, if there had been no such amendment as proposed by the Senator from Iowa, I contend that the position of the Senator from Alabama would be absolutely correct; that you could introduce before the court all of the matters which ordinarily would be presented to a court under similar conditions; but that after we have put in an amendment which states that no order of finding shall be admissible as evidence in any suit the court might construe that our object was not to have that order considered for any purpose whatever in that other proceeding.

Now, unless it serves as a barrier in that respect my position is wrong. If it does serve as a barrier, I should like to have it so amended that the man would get the benefit of this honest mistake, if he has made one.

Mr. NELSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Minnesota?

Mr. CUMMINS. I yield to the Senator.

Mr. NELSON. I am not aware of any procedure by which testimony is taken in a formal way by the court upon the question as to the degree of sentence that is to be pronounced on a defendant. Whatever transpires comes in response to that inquiry under the common law; and that is, when the defendant is called up for sentence he is asked by the court what he has to say why sentence should not be pronounced upon him under the law. In response to that inquiry he himself, or through his attorney, can state any facts that he regards as material to reduce the sentence or to invoke the clemency of the court.

There is nothing in this amendment which would debar the defendant's attorney, or the defendant himself, from calling attention to that fact, like any other fact; but those facts are brought before the court in that informal manner, and not as a matter of testimony in the case.

Mr. LEWIS. I recognize that distinction, which is urged, and urged with clearness, by both Senators. I again express my fear, however, that having specifically legislated that the order shall not be received in the case, a court might conclude that the policy of our legislation was that it was not to be considered for any purpose in the case. Now, if I am wrong in that my amendment is unnecessary. If I am right in that, something ought to be done in order to give the man a chance to plead that order in mitigation of the penalty, should he be convicted of a violation of the Sherman Antitrust Act after there was an order that acquitted him of unfair competition.

Mr. CUMMINS. I feel sure the fears of the Senator from Illinois are unfounded. This prohibition is against the admissibility of these orders or findings in evidence. They are not to be admissible as evidence. I think the showing which the Senator from Minnesota has described so well and so completely, which is made in order to induce the favor of the court in imposing sentence, has never in the history of judicial procedure been termed evidence.

Mr. THOMAS. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Colorado?

Mr. CUMMINS. I do.

Mr. THOMAS. As I understand the position of the Senator from Iowa, it is that inasmuch as the pending bill is designed to provide against unfair methods of competition it is distinct and different from the measures which we call the antitrust measures, and as a consequence the proviso is not only desirable, but expedient, since otherwise the proceedings under this act might prevent the enforcement of the provisions of the other act or acts, or at least modify or influence their attempted enforcement and application. I would suggest, if that is so, that it ought to be accompanied by a corresponding inhibition as to proceedings under those laws with reference to proceedings under this one, so that the amendment would read:

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts; nor shall any order or finding of the courts in the enforcement of the antitrust acts be admissible as evidence in any proceeding or in any suit, civil or criminal, brought under the provisions hereof.

In other words, if we are going to introduce this proviso, should it not be made mutual, so that no proceedings under the other acts can be introduced as evidence or permitted to influence proceedings here, while on the other hand none of these proceedings shall be permitted to influence or be introduced in evidence either for or against the parties in proceedings under the antitrust acts?

Mr. CUMMINS. I think the observation of the Senator from Colorado is sound. It had not occurred to me before, but it is perfectly obvious that the prohibition ought to be mutual. If the Senator will prepare such an addition, I for one shall be glad to see it added to the section. I only suggest, however, that the language should not imply that there was any criminal prosecution to be brought under section 5, inasmuch as the enforcement of that section is through civil process alone.

Mr. THOMAS. My judgment does not approve of the proposed amendment; but it seems to me that if its office is as stated by the Senator from Iowa—and I have no doubt it is—then there should be some such addition to it as would make it mutual. Personally I very much doubt the wisdom of adopting the amendment. I shall have something to say upon that subject later.

Mr. SUTHERLAND. Mr. President, I do not doubt that this proviso, if adopted, would not prevent the consideration by the Judge, when he came to pronounce sentence, of any proceedings under section 5 of the socalled "trade-commission bill." I do not think a provision that such finding or order should not be admissible in evidence would prevent the judge, when it came to sentence, from considering it. He may consider anything he pleases in mitigation of punishment, and he may consider matters that are not admissible in evidence at all; anything that appeals to his discretion upon the matter of punishment.

The objection that occurs to me, however, is a deeper one than that. I assume that the same acts may conceivably be a violation of the unfair-competition statute and also a violation of the antitrust act. If so, upon what theory of justice should a defendant who has been acquitted of a series of acts charged as unfair competition be denied the right to set up that judgment of a court in another proceeding involving the same acts, though called by a different name?

Mr. CRAWFORD. Mr. President, will the Senator permit me there?

Mr. SUTHERLAND. Yes.

Mr. CRAWFORD. What would the Senator say if the order made by the commission were adverse to the defendant? For instance, suppose the commission had investigated half a dozen different charges against the defendant under this statute, and had found that the competition was unfair competition, or the methods of competition were unfair, and then afterwards another action was commenced against the same defendant for violating the antitrust act, for being guilty of restraint of trade. Would the Senator say that in the absence of this amendment these successive orders and findings of the court showing that the same defendant had been guilty of these different unfair methods of competition as sequences included in the general complaint of restraint of trade might not be competent testimony, not for the purpose of proving res adjudicata, but for the purpose of being considered as evidential matters establishing the general charge of pursuing a business in restraint of trade?

Mr. SUTHERLAND. So far as the findings of the commission are concerned, I think they ought not to be considered as evidence.

Mr. CRAWFORD. I refer more particularly to the findings of the court.

Mr. SUTHERLAND. I am taking up the propositions of the Senator seriatim. I am first dealing with the question of the commission. So far as the findings of the commission are concerned, I do not think they ought to be evidence anywhere.

Mr. CRAWFORD. I do not, either.

Mr. SUTHERLAND. I doubt very much whether we could make them evidence. I hope to discuss that question in another connection, later along, before we get through with this bill. So far as the decision of the court is concerned, however, I see no reason in the world why that decision should not be admissible as an estoppel in another proceeding involving the same facts, though called by a different name.

Mr. CRAWFORD. Mr. President——

Mr. SUTHERLAND. If the Senator will pardon me a moment while I follow out the thought which I have in mind—it is the general policy of our law, of the common law, that there shall be an end of litigation; that parties shall not be compelled to respond to the same charges in court more than once. In civil cases that finds its expression in the maxim—I am not attempting to quote it literally—that no person shall be twice vexed with the same litigation. It finds its expression in the criminal law in the rule that no person shall be twice put in jeopardy of life or limb for the same offense.

The question to which the law addresses itself when that matter arises is whether, in substance, the person is being twice vexed with the same case, or, in substance, whether the defendant has been twice put in jeopardy of life or limb. The form of the action is immaterial. The same set of facts may constitute a violation of more than one penal statute. It may be in one aspect that the same facts may constitute one offense and in another aspect a different offense, but if the defendant be prosecuted for either one of those offenses and be acquitted he can not afterwards be prosecuted for the other offense, although you may call it by a different name if it involves exactly the same facts.

Mr. LEWIS. Mr. President, the able Senator from Utah does not mean different jurisdictions?

Mr. SUTHERLAND. Oh, no; I am not speaking of different jurisdictions. This is the same jurisdiction. Of course a series of acts may constitute an offense against the Federal Government and against the State government, and both may prosecute.

Mr. LEWIS. That interests me. That is the thing that has been troubling me. May I say to the Senator from Utah and the Senator from Iowa that I have not expressed myself at all satisfactorily this morning, as I do not think I have at all expressed with clearness the fear that I had in my mind? When it comes to penalty, may I invite the attention of both Senators to an illustration, both having had very extensive practice of the law?

A man is charged with violating the law or municipal ordinance against carrying concealed weapons. My very able friend from Connecticut, having had some experience in municipal legal matters, I am sure will recall the instance to which I shall now invite the Senators' attention. We will say that a defendant is found guilty or not guilty, as the case may be, by the municipal court. He is proceeded against by the State upon an indictment in a different jurisdiction of the same State. In what way can the judgment of the municipality in which the man was acquitted or in which he may have been found guilty and fined be brought to the attention of the State tribunal as a mitigation of the penalty without the judgment being brought to the attention of the court in some form?

The mere statement of counsel, if he is an honorable gentleman, of course, would be accepted; but fancy how many illustrations can arise to our minds where a false statement can be made or where the court will say: "I can not consider that mattter on your statement, however much I trust you, as I have not the exact facts before me in order to see that these exact facts were before the court at that particular time."

That is the thing that is in my mind.

Mr. SUTHERLAND. I was not particularly concerned in that phase of this discussion. I think, however, that there would be not the slightest difficulty in it. When a defendant has been convicted by a jury and finally called for sentence counsel may stand up and present the record. It is not a formal matter. What the judge does upon an application for a mitigation of punishment is not a judicial proceeding in the sense that nothing can be admitted that the laws of evidence do not recognize as admissible. The judge can consider anything he pleases.

Mr. LEWIS. While the Senator could have considered it under ordinary circumstances, which we all concede, the Senator does not think that the words of the amendment, "shall not be received," and so forth, would be an intimation to the court that it was not to be considered for any purpose whatever?

Mr. SUTHERLAND. I think not.

Mr. LEWIS. That is the only fear, and I would rather yield to the judgment of the committee than trust my own.

Mr. SUTHERLAND. Now, we come back to the question which I was discussing. It makes no difference what name we give to a series of acts, the question in the one case, in the civil case, is whether the defendant is being twice vexed with prosecution for the same series of acts. The same set of acts may, as I have said, conceivably constitute a violation of the unfair-competition statute, and upon a final hearing in a court of justice the court may find and solemnly adjudge that the defendant has committed that series of acts which will constitute unfair competition. Later along a prosecution is instituted under the antitrust act, based perhaps entirely upon the same acts which were alleged in the prior action as constituting unfair competition. By what rule of law, by what rule of justice, should the defendant be prevented from pleading that in another proceeding, although called by another name, under another statute, the court had held that he was not guilty of committing the acts which are charged in both proceedings? That is the point that I have in mind.

Mr. CUMMINS. Mr. President, I should like to put to the Senator from Utah this question: Suppose A sues B for trespass upon property. B defaults and there is a judgment in favor of A. Among the allegations of the petition there is, we will assume, a charge that B was present upon the property of A. Thereafter A sues B for damages for an assault committed at the same time. Would the Senator from Utah claim that the judgment in the suit for trespass should be a bar or conclusive in favor of the plaintiff in the suit for assault?

Mr. SUTHERLAND. No; because the two cases would involve different facts; but if the presence of the defendant at a given time and place was necessary to the maintenance of the act of the trespass, and the court had found that he was not present, I would imagine that judgment might be pleaded upon that precise issue whenever presented in another case. But that is not——

Mr. CUMMINS. I am not disagreeing with the Senator from Utah regarding that; but the verdict must be guilty or not guilty, and suppose the very issue that the Senator from Utah has stated, namely, the presence of the defendant upon the property of the plaintiff, there is no finding except a verdict of not guilty.

Mr. SUTHERLAND. The Senator is now supposing two criminal cases.

Mr. CUMMINS. No; I am supposing two civil cases. There is no criminal procedure under section 5. I have in mind here particularly a civil procedure under the antitrust act, and my illustration was a civil case for trespass, with a verdict of not guilty, and then a civil case for assault. We will assume, now, that in the former case there was contested the question as to whether the defendant was personally upon the property of the plaintiff. Does the Senator from Utah think that the judgment of not guilty in the former case could be pleaded in estoppel or as a bar to the suit for assault?

Mr. SUTHERLAND. I do not think so. I think there would be two entirely different cases depending upon two entirely different sets of facts. One would be a trespass upon property and the other would be a personal assault.

Mr. CUMMINS. While it is quite possible that the same fact will be investigated in both cases, yet it is not the existence of that fact which is the judgment of the court, but it is the effect of that fact in view of all the surrounding circumstances upon the law. Its effect might be very different in inquiring into a restraint of trade and inquiring into unfair competition.

Mr. SUTHERLAND. Mr. President, of course all I want is that the law shall be left as it is. If the second case which is presented, namely, the prosecution under the antitrust act, does not present an appropriate case for pleading the estoppel in a former case, then, of course, it would not be received. If it does, I want the law left as it is; that is all. In other words, if under existing law, in the absence of this proviso, a set of facts arise wherein in the second prosecution under the antitrust act the defendant may plead the action of the court in a prosecution and under the unfair competition statute, I want that left as it is. I do not want to limit the rights of the defendant in that particular, and I think there is danger of doing it by this amendment.

Mr. CUMMINS. I assume the Senator from Utah is just as solicitous for the rights of the Government as he is for the defendant.

Mr. SUTHERLAND. Certainly.

Mr. CUMMINS. He has used several times the word "defendant." I assume we all want to protect the fair, proper rights of both complainant and defendant. If the charge in a

suit under this section is conclusive in favor of the defendant, it must also be conclusive in favor of the Government.

Mr. SUTHERLAND. Certainly; estoppels must be mutual. There is no doubt about that.

Mr. CUMMINS. An alleged offender is brought, through the commission, before the court with regard to unfair competition. The consequences may not be very grave, and the person so charged is therefore not very particular with regard to the evidence that he introduces in opposition to the charge. Thereupon an order of the commission is presented that the person or corporation must desist from the unfair practice, and it goes on and on and finally reaches a magnitude or seriousness that constitutes an offense under the antitrust law, and a suit is brought under that law. Does the Senator from Utah think that in such a case the Government ought to be able to bring forward the order of the commission or the order of the court, if one follows, in order to convict that person or corporation under the antitrust law or to prove conclusively that he or it had committed the acts charged and involved in the former procedure? It would seem to me very unfair inasmuch as the issue is different and the consequences are different, and therefore we ought to keep each separate.

Mr. SUTHERLAND. Mr. President, I think exactly what I have said. The Senator makes rather a long statement, and while, if written out so that I could analyze it, I might be able to answer it categorically, it is sometimes confusing when a question of that kind is put to a Senator on his feet to analyze it and answer it offhand. All I mean to say is that cases may arise where exactly the same facts and the same acts of commission will constitute a violation of the unfair-competition statute, and those same acts, neither more nor less, may conceivably constitute a violation of the antitrust statute. If the court in a prosecution for unfair competition has investigated all the acts and has rendered a judgment specific in terms, saying that the defendant has committed none of those acts, upon what theory should the defendant be prevented from pleading that judgment in another case, called by a different name but based upon precisely the same acts, or, conversely, the Government doing the same thing?

Mr. KENYON and Mr. WHITE addressed the Chair.

The VICE PRESIDENT. Does the Senator from Utah yield; and, if so, to whom?

Mr. SUTHERLAND. I will yield first to the Senator from Iowa and then I will yield to Senator from Alabama.

Mr. KENYON. Would the court under this act be authorized to render any such judgment or order as the Senator has suggested? If there are no acts of unfair competition—I am in the dark about this language and I am asking for information—is it not the provision of this amendment that the finding of the court or commission is the order that is issued in the enforcement of this section? Now, what is that order? The court can issue an injunction to enforce an order of the commission. The only order the commission can issue is one restraining and prohibiting the use of unfair methods of competition.

The only process of the court would be the injunction to enforce that order.

Mr. SUTHERLAND. I think there is great force in what the Senator says, but, in the first place, I can not conceive of an order being issued simply commanding a corporation to desist from unfair methods of competition, saying nothing more. The defendant could not know what he was ordered to desist from. The order, I assume, of necessity must specify the thing which he must desist from.

Mr. KENYON. Suppose the court should find there was no offense, no unfair competition; that is the end of the matter. Then there is no order.

Mr. SUTHERLAND. If the commission simply finds there has been unfair competition and issues a general order saying the defendant shall desist from unfair competition, such an order would obviously be a nullity.

Mr. KENYON. I do not claim to know. I am simply trying to get information. The court would issue the order specifying the acts of unfair competition, if the court found there was unfair competition; but suppose the court finds there is no unfair competition, it makes no order at all.

Mr. SUTHERLAND. I, of course, assume that before we get through with this bill, in view of the amendments which are pending, there will be some provision put in which will give the court power to try the charge of unfair competition; and if the court is given the power to try it and decide it, I can not conceive of its being presented to the court in any other way than by some form of pleading which will state the facts as distinguished from the mere legal conclusion. So in some way or other finally, if this is to be effective, the facts must be stated to the court and the court must be called upon to pass upon the facts.

Mr. CUMMINS. I wish to suggest to the Senator——

Mr. SUTHERLAND. I promised to yield to the Senator from Alabama [Mr. WHITE].

Mr. WHITE. From illustrations used by the Senator from Utah in discussing this amendment I assume that he is opposing the amendment on the ground that it is not in accord with sound public policy.

Mr. SUTHERLAND. Yes.

Mr. WHITE. The illustrations cited by the Senator are apt in showing that in criminal cases the pleas of autrefois acquit and autrefois convict and former jeopardy are complete answers on a second trial, when the facts which were admissible on the first trial would be admissible on the second, and that the pleas of res judicata would be a complete answer on a second trial of a civil suit, where the evidence offered in support of the action in the first trial would be admissible to support the action on the second. I quite agree with the Senator that these propositions are in accord with the general principles of the Anglo-Saxon law, but they are not universal.

Mr. SUTHERLAND. It has been the universal policy in criminal cases.

Mr. WHITE. Except in cases where the same act is punishable under different authorities, such as acts punishable both by the State and National Governments.

Mr. SUTHERLAND. Yes.

Mr. WHITE. There are notable exceptions to the rule, as stated by the Senator, one of them being the action of ejectment at common law. There are other exceptions under modern statutes and practice, namely, in ad quod dammum proceedings, in which commissioners have been appointed to assess the value of the property sought to be condemned, from which an appeal has been taken to a tribunal where the case is to be retried. On this second trial the findings of the commission are not admissible in evidence and can in no way affect the last trial.

There are instances where the findings on the same facts on one trial are not admissible in evidence and are without weight in the second trial, namely, in civil suits to recover damages for assaults and batteries. The findings and judgments in such suits are not admissible in the trials of the parties when being prosecuted criminally for the same act. The same is true under many other similar circumstances. In such cases the findings in one case are not admissible in evidence in the other. A quite sufficient reason why the findings in the first trial above mentioned should not be used as evidence in the second is that the parties to the actions are different, but these cases will illustrate the idea that an offender against the law may be proceeded against twice for the same violation of the law.

One reason why the amendment should be adopted and the findings and orders of the commission or court not be admissible in proceedings instituted under the antitrust laws is that proceedings to be instituted under this act are largely preventive in their purposes and objects. The proceedings under the act as I understand it will be mainly to prevent unfair competition and not punish it after it has been practiced. The adoption of the amendment will have beneficial effect on the proceedings under this act in that it will tend to widen the scope of the investigation, the commission and court understanding at the time that the finding and orders are not to be used to conclude parties to proceedings in any future trials or produce a consequence other than to induce the finding or order to be made when the facts are under consideration.

Mr. SUTHERLAND. Mr. President, I am obliged to the Senator from Alabama for his statement of the rules with reference to estoppel and the exceptions, with which in a general way I was already familiar. Of course, there are exceptions to the rule. The exception with reference to actions of ejectment is one well recognized. The other exceptions the Senator calls attention to are well known. They only serve to emphasize the general rule, however, that as a general thing a person ought not to be twice vexed with the same litigation. That is the general rule, and, as in most cases, these occasional exceptions simply serve to emphasize the wisdom and the justice of the general rule.

This does not come within any of those exceptions so far as the findings of the commission are concerned. I have already said I do not think they ought to be considered anywhere as evidence.

Mr. President, I have substantially completed all that I desire to say, but let me give this illustration: Suppose that we were dealing entirely with criminal proceedings. Suppose that this statute with reference to unfair competition should provide that

unfair competition is hereby declared to be unlawful, that any person violating the provision shall be subject to fine and imprisonment, and under that an individual were prosecuted charged with unfair competition. An indictment would state the facts. It would be obliged to state the general or ultimate facts. It would not be sufficient to say "unfair competition." Suppose upon that indictment the trial was had and the defendant were acquitted, and subsequently that same defendant should be indicted under the antitrust act for doing precisely the same thing and it is alleged to be not a violation of the unfair competition statute but a violation of the antitrust act. Can there be any doubt in that case the constitutional provision would apply, that the defendant could not be twice put in jeopardy of life or limb for the same offense, and that that could be successfully pleaded? If that could be done in the case I have illustrated, then it seems to me that it is unwise policy to pass a law which will prevent a defendant from doing it in two civil cases, called by different names, between the same parties, the United States as complainant and a corporation as defendant, each case called by different names, but involving precisely the same facts. I think it is unwise policy, to say the least about it. It is unjust, to say the least about it, to prevent the defendant in the second case from pleading that he has been adjudged by the court in the first case not to have committed the acts which are charged in the second case.

Mr. BRANDEGEE. Mr. President, this commission is not a court, as I understand it. While the Senator from Utah and I agree that section 5 is probably utterly void, because it is an ineffectual attempt to confer judicial power upon an administrative commission, still the order that the commission may make is not a judgment of a court. Still the Senator from Colorado [Mr. THOMAS] argued that the commission would have a right to find that the person who was charged with an unfair method of competition was not guilty of an unfair method of competition, even if it be but the opinion which Congress itself has said should be rendered by this Government commission for the guidance of the business man. If that commission, fit to decide the question, can find that the man who was haled before it was not guilty of unfair competition or an unfair method, it seems to me that the innocent party is certainly entitled to have that finding or that opinion operate to his advantage wherever he is charged with anything which savors of the nature of what he was charged with before the commission.

The Senator from Iowa [Mr. CUMMINS], if I understand him correctly, says that it would manifestly be unfair to have the finding of this commission introduced in evidence in a suit brought by the Department of Justice and in a Federal court under the act of July 2, 1890, the Sherman antitrust law, because the commission is not authorized by section 5 of this bill to determine what is a restraint of trade, which would be the question if the Department of Justice were acting under the Sherman Antitrust Act to dismember a corporation for engaging in a restraint of trade. But the trouble about it is—and this is the answer to the Senator from Iowa—that many things that this commission may find to be unfair methods of competition, if section 5 could stand and be valid in the law, quite likely would also be restraint of trade.

I do not need to enter upon an enumeration of the thousands of different devices and processes in the multitudinous efforts of the great number of competitors for all kinds of business in this country, the thousands of different methods of competition which they use, and I do not need to anticipate, because it would be trying to catch a flea on a sand beach to attempt to anticipate, the number of different methods of competition which the business competitors of this country will be driven to, to take the places of those which this commission may pronounce to be unfair. Mr. President, it will be as protean and as varied as the invention of the burglar to beat the safe. There is no limit to the devices which the ingenuity of competitors will resort to as they are forbidden to indulge those which they are practicing. So it is useless to attempt to enumerate the different things which some people think or would judge to be unfair methods in competition. They are as varied as the ethical conceptions of the consciences of men.

Everybody who is a lawyer knows he never had a client who would admit, when he was contesting most vigorously with the client of another lawyer, that he wanted anything except what was just and reasonable and fair, and yet they were at swords' points, and would spend their entire fortunes to maintain their position and their opinion about what was just and reasonable and fair.

This commission, not yet chosen, are to decide, if such a proposition can be upheld under American law, whether a given practice presented to them is fair or unfair. Suppose the method of competition which is in question before the commission is selling in one part of the country at a price less than is charged in another, or is any other of the specific acts which have been mentioned by the courts in the decision of cases brought to them under the Sherman antitrust law, which if pursued far enough and as applied to a particular case might amount to a restraint of trade under the Sherman antitrust law. If that is the unfair method of competition complained of before this commission, and the commission, if it has authority to do so under this act—that authority is not specially conferred, but the Senator from Colorado [Mr. THOMAS] thinks it is inherent in any tribunal which has authority to decide anything—decides that, in its opinion, the method complained of is not unfair; and supposing the next week the Attorney General brings a proceeding in the Federal court alleging that the very method of competition which the commission has just decided to be perfectly fair is in restraint of trade and commerce among the States—if this amendment should be adopted, in my opinion, the defendant could not introduce as evidence either as a defense or in mitigation or for any other purpose the opinion of the very tribunal that we are now proposing to set up to determine what is an unfair method of competition.

Mr. WEST. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from Georgia?

Mr. BRANDEGEE. I do.

Mr. WEST. Does the Senator from Connecticut mean to say that under this bill the opinion of the trade commission could not even be used in mitigation of the offense?

Mr. BRANDEGEE. I think that is true. What the amendment provides is this:

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

What can be the object sought in preventing an innocent man from having the benefit of the opinion of this commission, if it may render one. I do not see; neither, if the judgment of this commission or its opinion is worth anything, do I see, if suit is brought by the Attorney General under the Sherman antitrust law charging as a violation of that law the same act that was before the commission charged with being an unfair method of competition, why the Government should not be allowed to introduce the order of the commission directing the man to stop the practice or the injunction of the court at the request of the commission, as provided in section 5. There may be some reason for it that I do not apprehend. I regard it as unwise and uncalled for, and I think that it would be a great and unfair burden to be placed upon the business men who have to be summoned before this commission in addition to other burdens proposed by this bill to be placed upon them.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Nevada [Mr. NEWLANDS].

Mr. BRANDEGEE. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	O'Gorman	Sterling
Bankhead	Hollis	Overman	Stone
Borah	Hughes	Page	Sutherland
Brandegee	Kenyon	Perkins	Swanson
Bryan	Kern	Reed	Thomas
Camden	Lane	Saulsbury	Thornton
Catron	Lea, Tenn.	Shafroth	Tillman
Chamberlain	Lee, Md.	Sheppard	Vardaman
Chilton	Lewis	Shields	Walsh
Clapp	Martin, Va.	Simmons	West
Clarke, Ark.	Martine, N. J.	Smith, Ariz.	White
Crawford	Nelson	Smith, Ga.	Williams
Culberson	Newlands	Smith, Md.	
Cummins	Norris	Smoot	

The VICE PRESIDENT. Fifty-four Senators have answered to the roll call. There is a quorum present. The question is on the amendment proposed by the Senator from Nevada [Mr. NEWLANDS].

Mr. BRANDEGEE. Mr. President, I propose now to read the trade commission bill and the Clayton bill, in order that some opportunity may be given to the country to see what the bills are. Those bills, having been reported to the Senate, Senators offer various amendments to them, the discussion proceeds upon the amendment, and no one has any idea of what the provision is which it is proposed to amend or what the effect of the amendment will be. The pending bill, which is Calendar No. 518, House bill 15613, entitled "An act to create an interstate trade commission, to define its powers and duties, and for other purposes, reads as follows:

That a commission is hereby created and established, to be known as the Federal trade commission, composed of five members, not more than three of whom shall be members of the same political party, and

the said Federal trade commission is referred to hereinafter as "the commission."

The words defined in this section shall have the following meaning when found in this act, to wit——

Mr. CUMMINS. Mr. President, I ask for order, so that we may hear the Senator from Connecticut. Some of us are not familiar with the bill and we want to hear what is in it.

The VICE PRESIDENT rapped with his gavel.

Mr. BRANDEGEE (continuing)—

"Commerce" means such commerce as Congress has the power to regulate under the Constitution.

The term "corporation" or "corporations" shall include joint-stock associations and all other associations having shares of capital or capital stock, organized to carry on business for profit.

"Antitrust acts" means the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; also sections 73 to 77, inclusive, of an act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894; and also the act entitled "An act to amend sections 73 and 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913.

Mr. SUTHERLAND. Will the Senator yield to me?

Mr. BRANDEGEE. Mr. President, I will request that I be not interrupted during the reading of the bill, because my object is to inform the public as to what the bill is.

Mr. SUTHERLAND. I merely wanted to make a suggestion in regard to the reading.

Mr. BRANDEGEE. I resume:

SEC. 2. Upon the organization of the commission the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist, and the employees of said bureau shall become employees of the commission in such capacity as it may designate.

Mr. SWANSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from Virginia?

Mr. BRANDEGEE. I have requested not to be interrupted.

Mr. SWANSON. I hope the Senator will speak louder. It is impossible to hear him over here.

Mr. BRANDEGEE. I know how anxious the Senator is to learn the terms of the bill which is now being read for the first time, and I will endeavor to speak loud enough so that any Senator who wants to hear me may do so, provided those who are sitting around him will let the Senator who has the floor do the talking. The bill continues:

The commission shall take over all the records, furniture, and equipment of said bureau. All work and proceedings pending before the bureau may be continued by the commission free from the direction or control of the Secretary of Commerce. All appropriations heretofore made for the support and maintenance of the bureau and its work are hereby authorized to be expended by the commission for said purposes.

Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

The commissioners shall be appointed by the President, by and with the advice and consent of the Senate. The terms of office of the commissioners shall be seven years each. The terms of those first appointed by the President shall date from the taking effect of this act, and shall be as follows:

Mr. MARTINE of New Jersey. Mr. President, we are utterly unable to hear the Senator from Connecticut. I know he is discussing a matter of great importance, and I trust the Senator will raise his voice so that Senators on this side of the Chamber may hear him.

Mr. BRANDEGEE. As I have said before, if the Senators who are sitting in the neighborhood of the Senator from New Jersey would allow me to do the talking, I think the Senator would have no trouble in hearing; or, if under those circumstances he can not hear, there are plenty of vacant seats on this side any one of which the Senator could occupy and no doubt hear my remarks:

One shall be appointed for a term of three years, one for a term of four years, one for a term of five years, one for a term of six years, and one for a term of seven years; and after said commissioners shall have been so first appointed all appointments, except to fill vacancies, shall be for terms of seven years each. The commission shall elect one of its members chairman for such period as it may determine.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from New York?

Mr. O'GORMAN. A parliamentary inquiry: Is the Senate in session?

Mr. BRANDEGEE (continuing):

The commission shall elect a secretary and may elect an assistant secretary.

Mr. O'GORMAN. I have addressed an inquiry to the Vice President.

The VICE PRESIDENT. The Chair thinks the Senate is in session.

Mr. O'GORMAN. With all due respect to the Senator from Connecticut, who seems to have the floor, it must be apparent that he is engaged in a monologue, for he is talking in such an inaudible tone that he can not be heard by a Senator 10 feet from him. This is unusual, because the Senator from Connecticut has a strong, resonant, carrying voice when he desires to be heard.

Mr. BRANDEGEE. I decline to yield. If the Senator has a point of order to state, I am willing, of course, that he state it; but I do not yield to the Senator for any other purpose.

The VICE PRESIDENT. The Senator from Connecticut has the floor.

Mr. BRANDEGEE. I resume reading the bill:

Said secretary and assistant secretary shall hold their offices or connection with the commission at the pleasure of the commission——

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from Montana?

Mr. WALSH. I rise to a parliamentary inquiry. Is a Senator entitled to take the floor and occupy it who speaks in such a manner that it is impossible for anybody to hear him at any reasonable distance away?

Mr. STONE. I make the point of order, with all due respect to my friend, that a Senator occupying the floor can not be taken off the floor by a point of order or by a parliamentary inquiry.

The VICE PRESIDENT. The Chair will say that a Senator can not be taken off the floor by a parliamentary inquiry, but he certainly can be taken off by a point of order, if the point of order is sustained by the Chair.

Mr. STONE. Upon that, Mr. President, at the proper time—I do not care to interfere at this moment—I should like to submit some rulings of former occupants of the chair, predecessors of the present occupant, and also rulings of the Senate itself upon that very question.

Mr. BRANDEGEE. Mr. President, I will say that I think there will be no trouble in hearing me. If Senators desire to hear me, they will have no difficulty on account of the tone of my voice; but inasmuch as my remarks may perhaps be somewhat extended, I do not propose to try to make more noise single-handed than all the rest of the Senators can make in coordination. I shall conduct myself in a perfectly parliamentary manner; the Senate need not worry about that.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from New York?

Mr. BRANDEGEE. I do for a question.

Mr. O'GORMAN. May I ask the Senator from what he is reading?

Mr. BRANDEGEE. I do not wonder the Senator is surprised. This is the first information he has probably had of what is in the bill that is under consideration. I am reading from the Federal trade commission bill.

Each commissioner shall receive a salary of $10,000 per annum——

Mr. O'GORMAN. May I ask the Senator if he thinks he is reading the bill for his own benefit or for the benefit of his colleagues?

Mr. BRANDEGEE. For the benefit of all, including the country.

Mr. O'GORMAN. But the Senator's colleagues can not hear him unless he raises his voice.

Mr. BRANDEGEE. My colleagues can hear me if they want to.

Each commissioner shall receive a salary of $10,000 per annum. The secretary of the commission shall receive a salary of $5,000 per annum. The assistant secretary shall receive a salary of $4,000 per annum. In case of a vacancy in the office of any commissioner during his term, an appointment shall be made by the President, by and with the advice and consent of the Senate, to fill such vacancy, for the unexpired term. The office of the commission shall be in the city of Washington, but the——

Mr. CLARK of Wyoming. Mr. President, I ask for order in the Senate.

The VICE PRESIDENT rapped with his gavel.

Mr. BRANDEGEE (continuing):

commission may at its pleasure meet and exercise all its powers at any other place and may authorize one or more of its members to prosecute any investigation, and for the purposes thereof to exercise the powers herein given the commission.

The commission shall have such attorneys, accountants, experts, examiners, special agents, and other employees as may from time to time be appropriated for by Congress, and shall have authority to audit their bills and fix their compensation. With the exception of the secretary and assistant secretary and one clerk to each of the commissioners, and such attorneys and experts as may be employed, all employees of the commission shall be a part of the classified civil service. The commission shall also have the power to adopt a seal, which shall be judicially noticed, and to rent suitable rooms for the conduct of its work.

All the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders in making any investigation or upon official business in any other place than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor, approved by the commission.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the commission.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

SEC. 3. The commission shal have power among others—

(a) To investigate from time to time, and as often as the commission may deem advisable, the organization, business, financial condition, conduct, practices, and management of any corporation engaged in commerce, and its relation to other corporations and to individuals, associations, and partnerships.

(b) To require any corporation subject to the provisions of this act which the commission may designate to furnish to the commission from time to time information, statements, and records concerning its organization, business, financial condition, conduct, practices, management, and relation to other corporations, or to individuals, associations, or partnerships, and to require the production for examination of all books, documents, correspondence, contracts, memoranda, or other papers relating to or in any way affecting the commerce in which such corporation under inquiry is engaged or concerning its relations to any individual, association, or partnership, and to make copies of the same.

(c) To prescribe as near as may be a uniform system of annual reports from such corporations or classes of corporations subject to the provisions of this act as the commission may designate, and to fix the time for the filing of such reports, and to require such reports, or any special report, to be made under oath, or otherwise in the discretion of the commission.

(d) To make public, in the discretion of the commission, any information obtained by it in the exercise of the powers, authority, and duties conferred upon it by this act, except so far as may be necessary to protect trade processes, names of customers, and such other matters as the commission may deem not to be of public importance, and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation.

(e) In any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts if the court finds for the complainant it may, upon its own motion or the motion of any party to such suit, refer the matter of the form of the decree to be entered to the commission as a master in chancery; whereupon the commission shall proceed in that capacity upon such notice to the parties and upon such hearing as the court may prescribe, and shall as speedily as practicable make report with its findings to the court, which report and findings having been made and filed shall be subject to the judicial procedure established for the consideration and disposition of a master's report and findings in equity cases.

(f) Wherever a restraining order or an interlocutory or final decree has heretofore been entered or shall hereafter be entered against any defendant or defendants in any suit brought by the United States to prvent and restrain any violation of the antitrust acts, the commission shall have power, and it shall be its duty, upon the application of the Attorney General, to make investigation of the manner in which the order or decree has been or is being carried out, and as to whether the same has been or is being violated and what, if any, further order, decree, or relief is advisable. It shall transmit to the Attorney General a report embodying its findings as a result of any such investigation with such recommendations for further action as it may deem advisable and the report shall be made public in the discretion of the commission.

(g) If the commission believes from its inquiries and investigations, instituted upon its own initiative or at the suggestion of the President, the Attorney General, or either House of Congress that any corporation, individual, association, or partnership has violated any law of the United States regulating commerce, it shall report its findings and the evidence in relation thereto to the Attorney General with its recommendations.

For the purpose of prosecuting any investigation or proceeding authorized by this section the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documents or writings of any corporation being investigated or proceeded against.

(h) The commission is hereby directed to investigate, as expeditionsly as may be, trade conditions in foreign countries where associations, combinations, or practices of buyers, dealers, or traders may injuriously affect the export trade of the United States, and also to investigate whether American exporters have combined with each other or with foreign producers or dealers to control prices abroad, and to report to Congress thereon from time to time.

SEC. 4. The powers and jurisdiction herein conferred upon the commission shall extend over all trade associations, corporate combinations, and corporations as hereinbefore defined engaged in or affecting commerce, except banks and common carriers.

Mr. CATRON. Mr. President, as the Senator is reading this bill for the information of the Senate, I suggest the absence of a quorum.

Mr. STONE. Mr. President, I make the point of order that the demand for a call of the Senate for the purpose of establishing the presence of a quorum is not in order. We have just had a call for that purpose, which disclosed a quorum, since which time no business has been transacted; and my point is that until business has been transacted a call for a quorum is not in order. Mere debate, or the continuation of speech making, is not of itself business within the meaning of the rule.

If the Chair has any doubt about it, I have before me or at my hand the ruling of Vice President Fairbanks when the point which I am now making was made before him. He submitted it to the Senate, and the Senate sustained the point. Afterwards, during the same day and subsequent days, the same point that I am now making was made, and the Chair sustained it.

The VICE PRESIDENT. The Chair has taken occasion to look up the record with reference to this matter. It appears in the CONGRESSIONAL RECORD of May 29, 1908. There was the suggestion of the absence of a quorum, and Mr. Aldrich said:

Mr. President, I rise to a question of order. The suggestion of the Senator from Wisconsin is not in order. We have had 32 roll calls within a comparatively short time, all disclosing the presence of a quorum. Manifestly a quorum is in the building. If repeated suggestions of the want of a quorum can be made without intervening business, the whole business of the Senate is put in the hands of one man, who can insist upon continuous calls of the roll upon the question of a quorum. My question of order is that, without the intervention of business, a quorum having been disclosed by a vote or by a call of the roll, no further calls are in order until some business has intervened. I should be glad if the Vice President would submit that question of order to the Senate.

I call the attention of the Chair to a decision in a case which is on all fours with this, made on March 3, 1897, when this precise question was raised by the then Senator from New York, Mr. HILL, who sustained it by the same argument which I am now calling the attention of the Chair to; and the point made by the Senator from New York was sustained. It is found on page 2737 of volume 29, part 3, of the RECORD, second session Fifty-fourth Congress. The language was:

"Mr. HILL. My point is, that the presence of a quorum was determined by the last roll call, and that a Senator can not immediately thereafter suggest the absence of a quorum.

"The PRESIDING OFFICER. Does the Senator mean to embrace the feature that no business has intervened?

"Mr. HILL. Yes; that no business has intervened.

"The PRESIDING OFFICER. The Chair sustains the point of order."

Then, after the point of order was sustained—and the Chair will not read all of the RECORD—Mr. LA FOLLETTE said:

Mr. LA FOLLETTE. Mr. President, I just wish to suggest, in order that it may appear upon the RECORD, that debate has intervened since the last roll call.

Mr. ALDRICH. That is not business.

Mr. LA FOLLETTE. I just wish that to appear upon the RECORD.

Mr. ALDRICH. My suggestion was that debate was not business.

Mr. LA FOLLETTE. And I want to remind Senators here to-night, before this vote is taken that every precedent you establish to-night will be brought home to you hereafter.

Mr. GALLINGER. Mr. President, I simply desire to add to what has been said, that if the entire business of the Senate can be put in the hands of one man, that one man could destroy the Government; he could prevent appropriations being made to carry on the governmental machinery, and it is absurd to suppose that it was ever so intended.

I shall not read further from the RECORD; but the question whether debate was business was submitted to the Senate, and by a vote of 35 yeas to 5 nays the point of order was sustained. I find that among the Senators who believed that debate was not business were Senators BRANDEGEE of Connecticut, CLAPP of Minnesota, CLARK of Wyoming, DILLINGHAM of Vermont, DU PONT of Delaware, GALLINGER of New Hampshire, NELSON of Minnesota, SMOOT of Utah, STEPHENSON of Wisconsin, SUTHERLAND of Utah, and WARREN of Wyoming.

Mr. GALLINGER. Mr. President, just an observation. I have always been troubled about this rule that a quorum may be called at any time, and I have always felt that there ought to be in some way a modification of it. In this particular instance, however, I will call the attention of the Chair to the fact that more than debate has occurred since a quorum was last called. Points of order have been made; parliamentary inquiries have been raised, and either withdrawn or decided by the Chair, I do not know which; so that a little more than mere debate has intervened since the last call was made.

The VICE PRESIDENT. The Chair will finish the ruling of the Chair, at least.

Manifestly Vice President Fairbanks was in doubt about the matter, and submitted it to the Senate. The Senate at that time, on the discussion by great parliamentarians and by the vote of great parliamentarians, decided that debate was not business, and that, when a quorum was once disclosed, roll calls were not in order until some business had been transacted by the Senate.

Following the decision of that day by the Senate, upon the following day the same question was raised. It was then decided by Vice President Fairbanks without submission to the Senate, and no appeal was taken to the Senate.

The present occupant of the chair, if called upon to rule, upon first blush, would have taken the same course that Vice President Fairbanks did; but in the light of the authority and the way in which it was settled, the Chair rules that until business has intervened a roll call is not in order.

Mr. CLARKE of Arkansas. Mr. President, I ask the Senator from Connecticut to indulge me for a moment.

Mr. BRANDEGEE. Does the Senator ask me to yield to him?

Mr. CLARKE of Arkansas. Yes.

Mr. BRANDEGEE. I do so.

Mr. CLARKE of Arkansas. I did not like the ruling of the Senate when it was made, in 1909, and I am not particularly pleased with it now. I think at the time it was made it was a ruling that represented the resentment of the Senate rather than its judgment. This matter of calling for a quorum can be abused, and frequently is abused; but it is a substantial right, and a resort to it frequently promotes the convenience and dignity of the Senate, and it ought not to be unduly curtailed.

In the particular instance where the ruling referred to by the Chair was made in 1909, it was obvious that a Senator was seeking to occupy time against the distinct will of the majority of the Senate; and that situation was then deemed to justify the imposition of a strict construction of the rule. I think if a similar instance on the facts is presented the same rule ought

to be applied. I think practically a similar instance has now been presented. I do not believe the debate indulged in by the Senator from Connecticut up to the present time has been substantial debate. He has been reading simply a copy of the bill that is pending, which everybody has heard read and which everybody has had an opportunity to read. There is not the slightest reason for assuming that its being read at this time is intended to enlighten the Senate, or any Member of it.

I would now commit myself to the declaration that where there has been no substantial debate, where there has been exhibited an obvious purpose to kill time, and the calling of the roll was for the purpose of carrying out that general purpose, I think the rule just announced by the Chair should be applied; but there can be instances, and I have known many of them, where it was an entirely proper proceeding to have the roll called pending an address by a Senator.

Saving for myself just that much of leeway to be hereafter exercised in the event that I shall be confronted with the charge of inconsistency, I take the liberty of making the statement that I now submit.

Mr. STONE. Mr. President, I go a little further than my friend from Arkansas.

Mr. BRANDEGEE. Mr. President, if the Senator is discussing a point of order, very well; but I do not want to lose the floor. I yield to the Senator, if he wants to speak in my time. The point of order was raised, and the Chair has ruled, and I assume that I have the floor.

The VICE PRESIDENT. The Senator from Connecticut has the floor.

Mr. STONE. The Senator undoubtedly has the floor.

Mr. BRANDEGEE. Then I yield.

Mr. STONE. He did have the floor, and I suppose he still has it. I will ask the Senator to yield to me for the purpose of making a statement to the Chair.

Mr. BRANDEGEE. I yield.

Mr. STONE. Mr. President, the statement is brief. I, as most Senators with whom I have served here know, have been consistently and persistently opposed to cloture in the Senate. I believe in the largest freedom of real, intelligent, instructive debate, or such as a Senator sincerely means to be such. I would not restrain a Senator in that right of debate in any quantity. Nevertheless, I take the view that a different situation is presented when Senators day after day insist upon making the point of no quorum and calling the roll when it is known, and one roll call after another discloses the fact that there is a quorum, if not actually present in the Senate Chamber, convenient to the Senate Chamber, not only in the city but accessible to the call, and when a call is made a quorum responds to it, showing the presence of a quorum.

We have had the spectacle here for some time past of Senators speaking for a short while, and then some one rising to make the point of no quorum and going through the formality of a roll call, thus consuming considerable time. Then the Senator resumes the floor and his speech, and the same performance is repeated, and so on ad nauseum.

Mr. President, I think the Senate ought to have the right to protect itself against a proceeding of that kind, and when the Senate so protects itself I do not think it is encroaching upon the freedom of debate. It is invoking the rule of procedure established by the vote of the Senate and by the repeated rulings of the Chair to protect itself against the abuse of the right of debate.

My friend from North Carolina [Mr. SIMMONS] says that all we have to do in this case is to apply the law of reason and do a sensible thing that is permissible under parliamentary usage and under the practice of the Senate, as established by the rulings of the Chair and sustained by a vote of the Senate.

I wanted to say just that much, and no more, to let it be known that I put no reservation, as my friend from Arkansas [Mr. CLARKE] seems to do, on the continuing and unquestioned right of the Senate to invoke the practice to which I have referred, which practice is in accordance with the ruling just made by the Chair. I think it ought to stand without limitation.

While I am on the floor I will make just one further remark: This is not the only abuse to which the Senate is subjected, nor the only abuse that can be corrected by the legitimate ruling of the Chair; and we may have occasion to invoke the rulings heretofore made to protect the Senate against those abuses as they arise in the immediate future.

Mr. BRANDEGEE (reading):

SEC. 5. That unfair competition in commerce is hereby declared unlawful.

The commission is hereby empowered and directed to prevent corporations from using unfair methods of competition in commerce.

Whenever the commission shall have reason to believe that any corporation has been or is using any unfair method of competition in commerce, it shall issue and serve upon such corporation a written order, at least 30 days in advance of the time set therein for hearing, directing it to appear before the commission and show cause why an order shall not be issued by the commission restraining and prohibiting it from using such method of competition, and if upon such hearing the commission shall find that the method of competition in question is prohibited by this act it shall thereupon issue an order restraining and prohibiting the use of the same. The commission may at any time modify or set aside, in whole or in part, any order issued by it under this act.

Whenever the commission, after the issuance of such order, shall find that such corporation has not complied therewith, the commission may petition the district court of the United States, within any district where the method in question was used or where such corporation is located or carries on business, praying the court to issue an injunction to enforce such order of the commission; and the court is hereby authorized to issue such injunction.

SEC. 6. That if any corporation subject to this act shall fail to file any annual or special report, as provided in subdivision (b) of section 3 hereof, within the time fixed by the commission for filing the same, and such failure shall continue for 30 days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

SEC. 7. Any person who shall willfully destroy, alter, mutilate, or remove out of the jurisdiction of the United States or authorize, assist in, or be privy to the willful destruction, alteration, mutilation, or removal out of the jurisdiction of the United States of any book, letter, paper, or document containing an entry or memorandum relating to commerce, the production of which the commission may require under this act, or who shall willfully make any false entry relating to commerce in any book of accounts or record of any trade association, corporate combination, or corporation, subject to the provisions of this act, or who shall willfully make or furnish to said commission or to its agent any false statement, return, or record, knowing the same to be false in any material particular, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding $5,000 or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

Any employee of the commission who divulges any fact or information which may come to his knowledge during the course of his employment by the commission, except in so far as it has been made public by the commission, or as he may be directed by the commission or by a court, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 8. The commission shall have and exercise the powers possessed by the Interstate Commerce Commission to subpœna and compel the attendance and testimony of witnesses and the production of evidence, and to administer oaths. All the powers, requirements, obligations, liabilities, and immunities imposed or conferred by the act to regulate commerce, as amended in relation to testimony before the Interstate Commerce Commission, shall apply to witnesses, testimony, and evidence before the commission.

SEC. 9. The district courts of the United States, upon the application of the commission alleging a failure by any corporation, or by any of its officers or employees, or by any witness, to comply with any order of the commission for the furnishing of information, shall have jurisdiction to issue such writs, orders, or other process as may be necessary to enforce any order of the commission and to punish the disobedience thereof.

SEC. 10. The several departments and bureaus of the Government, when directed by the President, shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any trade association, corporate combination, or corporation, subject to any of the provisions of this act.

Amend the title so as to read: "An act to create a Federal trade commission, to define its powers and duties, and for other purposes."

Mr. President, that is the Federal trade commission bill as reported by the Senate committee. It differs radically from the trade commission bill which has passed the House. I ask that the trade commission bill that passed the House may be printed in the RECORD in conjunction with the bill that I have just read to the Senate, and the Clayton bill.

The PRESIDENT pro tempore. Unless there is objection, it is so ordered. The Chair hears none.

The matter referred to is as follows:

[House bill 15613, as passed by the House of Representatives.]

An act (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Be it enacted, etc., That a commission is hereby created and established, to be known as the interstate trade commission (hereinafter referred to as the commission), which shall be composed of three commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than two of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of two, four, and six years, respectively, from the date of the taking effect of this act, the term of each to be designated by the President, but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. The commission shall choose a chairman from its own membership. No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

The commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each commissioner shall receive a salary of $10,000 a year, payable in the same maner as the salaries of the judges of the courts of the United States. The commission shall appoint a secretary, who shall receive a salary of $5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such other officials, clerks, and employees as it may find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

Until otherwise provided by law the commission may rent suitable offices for its use.

All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making an investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commission.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the commission.

SEC. 3. That upon the organization of the commission and election of its chairman all the existing powers, authority, and duties of the Bureau of Corporations and of the Commissioner of Corporations conferred upon them by the act entitled "An act to establish the Department of Commerce and Labor," approved February 14, 1903, and all amendments thereto, and also those conferred upon them by resolution of the United States Senate passed on March 1, 1913, on May 27, 1913, and on June 18, 1913, shall be vested in the commission.

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau shall become funds and appropriations available to be expended by the commission in the exercise of the powers, authority, and duties conferred on it by this act.

That the Bureau of Corporations and the offices of Commissioner of Corporations and Deputy Commissioner of Corporations are, upon the organization of the commission and the election of its chairman, abolished, and their powers, authority, and duties shall be exercised by the commission free from the direction or control of the Secretary of Commerce.

The information obtained by the commission in the exercise of the powers, authority, and duties conferred upon it by this section may be made public, in the discretion of the commission.

SEC. 4. That the principal office of the commission shall be in the city of Washington, where its general sessions shall be held; but whenever the interest of the public may be promoted, or delay or expense prevented, the commission may hold special sessions in any part of the United States. The commission may, by one or more of its members, or by such officers as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

SEC. 5. That, with the exception of the secretary and a clerk to each commissioner, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the commission and by the Civil Service Commission.

SEC. 6. That the words defined in this section shall have the following meaning when found in this act, to wit:

"Commerce" means such commerce as Congress has the power to regulate under the Constitution.

"Corporation" means a body incorporated under law, and also joint-stock associations and all other associations having shares of capital or capital stock or organized to carry on business with a view to profit.

"Capital" means the stocks and bonds issued and the surplus owned by a corporation.

"Antitrust acts" means the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; also the sections 73 to 77, inclusive, of an act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894; and also the act entitled "An act to amend sections 73 and 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913.

"Acts to regulate commerce" means the act entitled "An act to regulate commerce," approved February 14, 1887, and all amendments thereto.

"Documentary evidence" means all documents, papers, and correspondence in existence at and after the passage of this act.

SEC. 7. That the several departments and bureaus of the Government, when directed by the President, shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this act, and shall detail from time to time such officials and employees to the commission as he may direct.

SEC. 8. That the commission may from time to time make rules and regulations and classifications of corporations for the purpose of carrying out the provisions of this act.

The commission may from time to time employ such special attorneys and experts as it may find necessary for the conduct of its work or for proper representation of the public interest in investigations made by it; and the expenses of such employment shall be paid out of the appropriation for the commission.

Any member of the commission may administer oaths and affirmations and sign subpœnas.

The commission may also order testimony to be taken by deposition in any proceeding or investigation pending under this act. Such depositions may be taken before any official authorized to take depositions by the acts to regulate commerce.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this act or any order of the commission made in pursuance thereof.

SEC. 9. That every corporation engaged in commerce, excepting corporations subject to the acts to regulate commerce, which, by itself or with one or more other corporations owned, operated, controlled, or organized in conjunction with it so as to constitute substantially a business unit, has a capital of not less than $5,000,000, or, having a less capital, belongs to a class of corporations which the commission may designate, shall furnish to the commission annually such information, statements, and records of its organization, bondholders and stockholders, and financial condition, and also such information, statements, and records of its relation to other corporations and its business and practices while engaged in commerce as the commission shall require; and to enable it the better to carry out the purposes of this act the commission may prescribe as near as may be a uniform system of annual reports. The said annual reports shall contain all the required information and statistics for the period of 12 months ending with the fiscal year of each corporation's report, and they shall be made out under oath or otherwise, in the discretion of the commission, and filed with the commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the commission. The commission may also require such special reports as it may deem advisable.

If any corporation subject to this section of this act shall fail to make and file said annual reports within the time above specified, or within the time extended by the commission for making and filing the same, or shall fail to make and file any special report within the time fixed by the order of the commission, such corporation shall forfeit to the United States the sum of $100 for each and every day it shall continue in default in making or filing said annual or special reports. Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of the acts to regulate commerce.

SEC. 10. That upon the direction of the President, the Attorney General, or either House of Congress the commission shall investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation. The report of the commission may include recommendations for readjustment of business in order that the corporation investigated may thereafter maintain its organization, management, and conduct of business in accordance with law. Reports made after investigation under this section may be made public in the discretion of the commission.

For the purpose of prosecuting any investigation or proceeding authorized by this section the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against.

SEC. 11. That when in the course of any investigation made under this act the commission shall obtain information concerning any unfair competition or practice in commerce not necessarily constituting a violation of law by the corporation investigated, it shall make report thereof to the President, to aid him in making recommendations to Congress for legislation in relation to the regulation of commerce, and the information so obtained and the report thereof shall be made public by the commission.

SEC. 12. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission to ascertain and report an appropriate form of decree therein; and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes; but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

SEC. 13. That wherever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, the commission shall have power, and it shall be its duty, upon its own initiative or upon the application of the Attorney General to make investigation of the manner in which the decree has been or is being carried out. It shall transmit to the Attorney General a report embodying its findings as a result of any such investigation, and the report shall be made public in the discretion of the commission.

SEC. 14. That any person who shall willfully make any false entry or statement in any report required to be made under this act shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to a fine of not more than $5,000 or to imprisonment for not more than three years, or both fine and imprisonment.

SEC. 15. That any officer or employee of the commission who shall make public any information obtained by the commission without its authority or as directed by a court shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 16. That for the purposes of this act and in aid of its powers of investigation herein granted the commission shall have and exercise the same powers conferred upon the Interstate Commerce Commission in the acts to regulate commerce to subpœna and compel the attendance and testimony of witnesses and the production of documentary evidence and to administer oaths. All the requirements, obligations, liabilities, and immunities imposed or conferred by said acts to regulate commerce and by the act in relation to testimony before the Interstate Commerce Commission, approved February 11, 1893, and the act defining immunity, approved June 30, 1906, shall apply to witnesses, testimony, and documentary evidence before the commission.

SEC. 17. That the commission shall, on or before the 1st day of December in each year, make a report, which shall be transmitted to Congress. This report shall contain such facts and statistics collected by the commission as may be considered of value in the determination of questions connected with the conduct of commerce by corporations, excepting corporations subject to the acts to regulate commerce, including an abstract of the annual and special reports of corporations made to the commission under section 9 of this act: *Provided*, That no trade secrets or private lists of customers shall be embraced in any such abstract. The report shall also include such recommendations as to additional legislation as the commission may deem necessary. The commission may also from time to time publish such additional reports or bulletins of facts and statistics relating to corporations engaged in commerce as may be deemed useful and do not violate the provisions of this act.

SEC. 18. That nothing contained in this act shall be construed to prevent or interfere with the Attorney General in enforcing the provisions of the antitrust acts or the acts to regulate commerce.

[House bill 15657, as reported to the Senate.]

An act (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Be it enacted, etc., That "antitrust laws," as used herein, includes the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; sections 73 to 77, inclusive, of an act entitled "An act to reduce taxation, to provide reve-

nue for the Government, and for other purposes," of August 27, 1894; an act entitled "An act to amend sections 73 and 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913; and also this act.

"Commerce," as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided*, That nothing in this act contained shall apply to the Philippine Islands.

The word "person" or "persons" wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foregin country.

SEC. 2. That it shall be unlawful for any person engaged in commerce either directly or indirectly to discriminate in price between different purchasers of commodities which commodities are sold for use, consumption, or resale within the United States, or any Territory thereof, or the District of Columbia, or any insular possession or other place under the jurisdiction of the United States, with the purpose or intent thereby to destroy or wrongfully injure the business of a competitor of either such purchaser or seller: *Provided*, That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for difference in the cost of selling or transportation or discrimination in price in the same or different communities made in good faith to meet competition and not intended to create monopoly: *And provided further*, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

SEC. 4. That it shall be unlawful for any person engaged in commerce to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies, or other commodities, whether patented or unpatented, for use, consumption, or resale within the United States, or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from or rebate upon such price, on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessor or seller.

SEC. 5. That any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

SEC. 6. That a final judgment or decree rendered in any suit or proceeding in equity brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

Any person may be prosecuted, tried, or punished for any offense under the antitrust laws, and any suit arising under those laws may be maintained if the indictment is found or the suit is brought within six years next after the occurrence of the act or cause of action complained of, any statute of limitation or other provision of law heretofore enacted to the contrary notwithstanding. Whenever any suit or proceeding in equity is instituted by the United States to prevent or restrain violations of any of the antitrust laws the running of the statute of limitations in respect of each and every private right of action arising under said laws and based in whole or in part on any matter complained of in said suit or proceeding shall be suspended during the pendency thereof: *Provided*, That this shall not be held to extend the statute of limitations in the case of offenses heretofore committed.

SEC. 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the antitrust laws.

SEC. 8. That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce where the effect of such acquisition is to eliminate or substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to create a monopoly of any line of commerce.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, is to eliminate or substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to create a monopoly of any line of commerce.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to eliminate or substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other such common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing herein shall be held or construed to authorize or make lawful anything prohibited and made illegal by the antitrust laws.

SEC. 9. After two years from the approval of this act no common carrier engaged in commerce having upon its board of directors or as its president, manager, or purchasing officer or agent any person who is at the same time an officer, director, manager, or general agent of, or who has any direct or indirect interest in, another corporation, firm, partnership, or association, with which latter corporation, firm, partnership, or association, or with such person such common carrier shall make purchases of supplies or articles of commerce or have any dealings in securities, railroad supplies, or other articles of commerce or contracts for construction or maintenance of any kind with any such corporation, firm, partnership, or association to the amount of more than $50,000 in any one year, unless and except such purchases shall be made from or such dealings shall be with the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding after public notice published in a newspaper or newspapers of general circulation, to be named and the time, character and scope of the publication to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the names and addresses of the officers, directors, and general managers thereof, if it be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section.

Every such common carrier having any such transactions or making any such purchases shall within 10 days after making the same file with the Interstate Commerce Commission a full and detailed statement of the transaction showing the manner and time of the advertisement given for competition, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said commission shall have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section, every director or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding $25,000 and confined in jail not exceeding two years, in the discretion of the court.

That from and after two years from the date of the approval of this act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than $1,000,000, engaged in whole or in part in commerce, other than common carriers subject to the act to regulate commerce, approved February 4, 1887, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this act it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employee of any corporation subject to the provisions of this act is eligible at the time of his election or selection to act for such corporation in such capacity, his eligibility to act in such capacity shall not be affected, and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

SEC. 9a. Every president, director, officer, or manager of any firm, association, or corporation engaged in commerce as a common carrier who embezzles, steals, abstracts, or willfully misapplies any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation, or willfully or knowingly converts the same to his own use or to the use of another, shall be deemed guilty of a felony and upon conviction shall be fined not less than $500 or confined in the penitentiary not less than 1 year nor more than 10 years, or both, in the discretion of the court.

Prosecutions hereunder may be in the district court of the United States for the district wherein the offense may have been committed.

SEC. 9b. That authority to enforce compliance with the provisions of sections 2, 4, 8, and 9 of this act by the corporations, associations, partnerships, and individuals respectively subject thereto is hereby vested: In the Interstate Commerce Commission where applicable to common carriers and in the Federal trade commission where applicable to all other character of commerce, to be exercised as follows:

Whenever the commission vested with jurisdiction thereof has reason to believe, either upon information furnished by its agents or employees or upon complaint, duly verified by affidavit, of any interested person, that any corporation, association, partnership, or individual is violating any of the provisions of sections 2, 4, 8, and 9 of this act, it shall issue and cause to be served a notice, accompanied with a written statement of the violation charged, upon such corporation, association, partnership, or individual, who shall thereupon be called upon, within a reasonable time fixed in such notice, not to exceed 30 days thereafter, to appear and show cause why an order should not issue to restrain and prohibit the violation charged. If upon a hearing held pursuant to such notice it shall appear to the commission that any of the provisions of said sections have been or are being violated, then it shall

issue and cause to be served an order commanding such corporation, association, partnership, or individual forthwith to cease and desist from such violation, and to transfer or dispose of the stock or resign from the directorships held contrary to the provisions of sections 8 or 9, as the case may be, within the time and in the manner prescribed in said order. Any such order may be modified or set aside at any time by the commission issuing it for good cause shown.

If any corporation, association, partnership, or individual charged with obedience thereto fails and neglects to obey any such order of a commission, the said commission, by its attorneys, if any it has, or by the appropriate district attorney acting under the direction of the Attorney General of the United States, may apply for an enforcement of such order to the district court of the United States for the district wherein such corporation, association, partnership, or individual is an inhabitant or may be found or transacts any business, and therewith transmit to the said court the original record in the proceeding, including all the testimony taken therein and the report and order of the commission. Upon the filing of the record, the court shall have jurisdiction of the proceeding and of the questions determined therein and shall have power to make and to enter upon the pleadings, testimony, and proceedings such orders and decrees as may be just and equitable.

On motion of the commission and on such notice as the court shall deem reasonable, the court shall set down the cause for summary final hearing. Upon such final hearing the finding of the commission shall be prima facie evidence of the facts therein stated, but if either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may allow such additional evidence to be taken before the commission or before a master appointed by the court and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem just.

Disobedience to any order or decree which may be made in any such proceeding or any injunction or other process issued therein shall be punished by a fine not exceeding $100 a day during the continuance of such disobedience or by imprisonment not exceeding one year, or by both such fine and imprisonment.

Any party to any proceeding brought under the provisions of this section before either the Interstate Commerce Commission or the Federal trade commission, including the person upon whose complaint such proceeding shall have been begun, as well as the United States by and through the Attorney General thereof, may appeal from any final order made by either of such commissions to any court having jurisdiction to enforce any order which might have been made upon application of such commission as hereinbefore provided, at any time within 90 days from the date of the entry of the order appealed from, by serving notice upon the adverse party and filing the same with the said commission; and thereupon the same proceedings shall be had as prescribed herein in the case of an application by the same commission for the enforcement of its order as hereinbefore provided.

Any final order or decree made by any district court in any proceeding brought under this section may be reviewed by the Supreme Court upon appeal, as in cases in equity, taken within 90 days from the entry of such order or decree.

SEC. 10. That any suit, action, or proceeding under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is an inhabitant, but also any district wherein it may be found or transacts any business; and all process in such cases may be served in the district of which it is an inhabitant, or wherever it may be found.

SEC. 11. That in any suit, action, or proceeding brought by or on behalf of the United States subpœnas for witnesses who are required to attend a court of the United States in any judicial district in any case, civil or criminal, arising under the antitrust laws may run into any other district.

SEC. 12. That every director, officer, or agent of a corporation which shall violate any of the penal provisions of the antitrust laws, who shall have aided, abetted, counseled, commanded, induced, or procured such violation, shall be deemed guilty of a misdemeanor, and upon conviction therefor of any such director, officer, or agent he shall be punished by a fine of not exceeding $5,000 or by imprisonment for not exceeding one year, or by both, in the discretion of the court.

SEC. 13. That the several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act, and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition, and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises. Whenever it shall appear to the court before which any such proceeding may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not, and subpœnas to that end may be served in any district by the marshal thereof.

SEC. 14. That any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of the antitrust laws, including sections 2, 4, 8, and 9 of this act, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

SEC. 15. That no preliminary injunction shall be issued without notice to the opposite party.

No temporary restraining order shall be granted without notice to the opposite party unless it shall clearly appear from specific facts shown by affidavit or by the verified bill that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. Every such temporary restraining order shall be indorsed with the date and hour of issuance, shall be forthwith filed in the clerk's office and entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed 10 days, as the court or judge may fix, unless within the time so fixed the order is extended for a like period for good cause shown, and the reasons for such extension shall be entered of record. In case a temporary restraining order shall be granted without notice in the contingency specified, the matter of the issuance of a preliminary injunction shall be set down for a hearing at the earliest possible time and shall take precedence of all matters except older matters of the same character; and when the same comes up for hearing the party obtaining the temporary restraining order shall proceed with the application for a preliminary injunction, and if he does not do so the court shall dissolve the temporary restraining order. Upon two days' notice to the party obtaining such temporary restraining order the opposite party may appear and move the dissolution or modification of the order, and in that event the court or judge shall proceed to hear and determine the motion as expeditiously as the ends of justice may require.

Section 263 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, is hereby repealed.

Nothing in this section contained shall be deemed to alter, repeal, or amend section 266 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

SEC. 16. That no restraining order or interlocutory order of injunction shall issue, except upon the giving of security by the applicant in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

SEC. 17. That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained, and shall be binding only upon the parties to the suit, their officers, agents, servants, employees, and attorneys, or those in active concert or participating with them, and who shall, by personal service or otherwise, have received actual notice of the same.

SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injuction shall prohibit any person or persons whether singly or in concert from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from peacefully persuading any person to work or to abstain from working; or from withholding their patronage from any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; or from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto; nor shall any of the acts specified in this paragraph be considered or held to be violations of the antitrust laws.

SEC. 19. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or thing therein, or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States, or under the laws of any State in which the act was committed, shall be proceeded against for his said contempt as hereinafter provided.

SEC. 20. That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer on lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged, with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: *Provided, however*, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

In all cases within the purview of this act such trial may be by the court, or, upon demand of the accused, by a jury; in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor; and such trial shall conform as near as may be to the practice in criminal cases prosecuted by indictment or upon information.

If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months: *Provided*, That in any case the court or a judge thereof may, for good cause shown, by affidavit or proof taken in open court or before such judge and filed with the papers in the case, dispense with the rule to show cause, and may issue an attachment for the arrest of the person charged with contempt; in which

event such person, when arrested, shall be brought before such court or a judge thereof without unnecessary delay and shall be admitted to bail in a reasonable penalty for his appearance to answer to the charge or for trial for the contempt; and thereafter the proceedings shall be the same as provided herein in case the rule had issued in the first instance.

SEC. 21. That the evidence taken upon the trial of any persons so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error, execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court, or by any justice, or any judge of any district court of the United States or any court of the District of Columbia.

SEC. 22. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all other cases of contempt not specifically embraced within section 19 of this act, may be punished in conformity to the usages at law and in equity now prevailing.

SEC. 23. That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this act.

Mr. BRANDEGEE. Mr. President, the Clayton bill should be considered at the same time that the Federal trade commission bill is considered. They are interrelated. The Clayton bill itself imposes certain duties upon the commission to execute, and nobody can intelligently comprehend the class of legislation hereby contemplated, or the effect of the legislation, unless he considers both bills at the same time.

Mr. President, I am opposed to the interstate commission bill, not only to section 5 of it but to the entire proposition of erecting a Federal trade commission in this country. I see no reason whatever for inflicting that sort of a burden upon the varied business interests of the land. There is at present a Commissioner of Corporations. He has many of the powers given to this Federal trade commission, but this proposition is to abolish the office of Commissioner of Corporations and confer all the powers that the present commissioner has and all his duties and others upon this expensive Federal trade commission.

In all seriousness, what demand is there in the country for the creation of a commission sitting here at Washington, the members of which are to be appointed by the President and confirmed by the Senate and who are to be paid $10,000 a year each? Would any man manage his private business, no matter how extensive, by a commission with such an absurdity as that?

The Senator from Nevada who reports this bill says that the commission will only investigate or exercise its powers over a very few of the vast number of corporations which the Senator from Massachusetts [Mr. WEEKS] showed by the statistics were to be subjected to this commission. Mr. President, if there is any such intention as that to limit the powers of the commission, it should be expressed in the bill. If it is only the intention to have this commission exercise jurisdiction over corporations whose gross receipts are a million or five million dollars, or to have the number of corporations subject to its jurisdiction limited in any other way, the bill should say so.

But the Senator from Idaho [Mr. BORAH] in opening the debate on this question the other day called the attention of the Senate and the country to what is happening in this country. The Government, through the Interstate Commerce Commission, exercises jurisdiction over all the interstate transportation of the country; the Government, through the Federal Reserve Board, has reached out and taken control of the entire banking and currency system of the country; and now it is proposed to set up this great Federal commission of five commissioners at $10,000 a year here in Washington to take control of all the private business of the people of this country which is conducted in corporate form, embracing trade associations and partnerships or any other combinations of citizens or of capital if they have capital stock.

It seems to me the creation of this commission is really embarking this Government upon a socialistic program of government. What is there to be left that is not regulated by the Government here at Washington? Mind you, Mr. President, this is all to be done under the commerce clause of the Constitution. The Constitution gives Congress the power to regulate commerce among the States. Everyone who is familiar with the reasons for putting that clause into the Constitution knows that it was put there for the purpose of keeping the channels of commerce among the States open and free from obstruction. The attention of the founders of the Government and the makers of the Constitution had been drawn to the fact that the old articles of confederation left the State of New York with authority to block South Carolina from the use of the Hudson River, the State of Connecticut to prohibit the State of Georgia from the use of the Connecticut River, and the object of conferring upon Congress the authority to regulate commerce among the States was to keep the great arteries of commerce among the States free from obstruction.

If the founders of the Constitution had been told that in the year 1914 the Congress of the United States was to be invoked to set up a Federal commission in Washington to order about private business men engaged in the thousands of occupations which engross the attention of the business men in this country, to tell them in what method they might compete among themselves for business, and how their salesmen should act out upon the road in getting contracts and orders, and that this Federal commission here in Washington was to have authority to send out its inspectors and examine and order the private business men in this country in their own offices to open their safes, their private letter books, reveal their correspondence, their contracts, their agreements with each other, to the inspection of a man bearing a card from this Federal commission here in Washington, they would have stood aghast at such a contention.

Mr. President, the Constitution of the United States provides in the fourth amendment:

> The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.

This bill provides that in any case this commission takes up for investigation all the documents and private papers of the party the commission thinks may be indulging in an unfair method of competition shall be open to the inspection of this Federal commission here in Washington.

The Democratic Party heretofore has claimed to be a party that believes in some personal liberty in this country. They were against sumptuary laws; they were against inquisitorial proceedings; they were against the concentration of power here in Washington. They had some respect for State rights. They had some idea that their own constituents at home were capable of doing some things for themselves. But if the Government is to manage the private business affairs of this country as they have managed the railroad affairs of this country, then I think the people will uprise and overthrow this whole theory of commission government here in Washington. It will become intolerable. What activity in the United States of America is left to the people? All the transportation is controlled by the Interstate Commerce Commission. It is now proposed to control the issue of securities by the railroads chartered by the States by the Interstate Commerce Commission.

I think it may be a good thing, if we have the power to do it, for the Interstate Commerce Commission, which is a commission already existing, to exercise some supervision over the question of securities by the railroads chartered by the States; but there is a grave question in my mind whether, under the Constitution, we have the power to do it. Whether the regulation of the issuing of the securities necessary for the building of the railroads chartered by a State is the regulation of an instrumentality of commerce among the States in the view of the Constitution may be, and is in my opinion, a very doubtful question. But if they can do that; if the Interstate Commerce Commission can say to the railroads at what price they shall sell what they have to sell, how many securities they shall issue, whether they shall be allowed to take in any other lines of railroad, and, if so, which railroads shall be allowed to take in another line, and where they shall build, and what securities they shall issue, and at what price they shall be marketed—if those things can be done by the Interstate Commerce Commission, then, with everything that the railroad company has to buy controlled by other powers beyond its control, with the board of directors, with what it has to sell fixed by the Government, with what it has to buy fixed by powers beyond its control, with the stockholders asking them to earn a dividend between the income and the outgo fixed by a power beyond their authority, the state of the railroads is indeed a bad one, because the Interstate Commerce Commission becomes practically the board of directors of the operating railroad corporation, and because the Government of the United States, acting through its Interstate Commerce Commission, is in fact operating the railroads by ordering the directors how to operate them, and the private people who own the stocks and securities of those roads, and their directors, who are their trustees and servants, are prevented from managing the property of the stockholders as they think it should be managed or for their own benefit, and the control of the Government is substituted for that of the owners.

But the Government declines to assume the deficit or the liability or the result of the management that it itself imposes upon the railroads.

Now, all the finances of the country are to be controlled by this other Government commission. I want to call the attention of the Senate to the fact that we have seen in the last few days one of the difficulties that is going to arise in this country if the country is to be governed by commissions. The things that we are putting commissions in charge of are fundamental things. The transportation of the country is fundamental. The currency, the lifeblood of the commerce of the country, is fundamental. We have decided that it shall be done by a commission, a Federal Reserve Board. We have not yet been able to fill the commission.

What will be the character of the commission if we are now to set up a Federal trade commission to manage all the other business of the country which is in corporate form? For let no one think that only the big trusts are going to be managed by this Federal trade commission. There is nothing in the bill about a trust. There is nothing in the bill about a monopoly. There is nothing in the bill about the Sherman law, except that if the commission thinks it has been violated they shall so advise the Attorney General, who already has that duty imposed on him by law.

The bill operates upon corporations engaged in commerce, which commerce is to be defined as that commerce which Congress has the power to regulate, which is commerce among the States. What corporation that is doing a business of $10,000 a year is not engaged in commerce among the States? There is no corporation but what is engaged in commerce among the States in these days. Either they buy their raw material or they sell their manufactured product beyond the State line. There is no corporation so small but what it is buying or selling something over State lines.

Now, what sort of men will be put on this Federal trade commission if it is created with these powers? The President is to choose them. Who will satisfy the Senate of the United States and the business of the United States to sit in judgment with this arbitrary and indefinite authority of saying what is fair or what is unfair and what the power to issue their peremptory order for one of these corporations to stop doing what in the opinion of three out of five of these men is unfair?

Mr. President, if that authority is ever given to anybody in this country, we have ceased to be a free country. The opinions of the business men are at variance. What would Mr. Jones, who was a candidate for the Federal Reserve Board here, with his ideas about the methods of competition indulged in by the Harvester Trust, which he says he approves of, consider to be an unfair method of competition? He says he thinks what he is doing now is fair. What would a great business man like George W. Perkins, if he were appointed on the Federal trade commission, say about practices which are fair or unfair? What sort of men are to be placed on the board? If men who approve of the large business units and of the present methods of operation of the great corporations of this country are to be excluded from the membership of the board, what sort of men are to be put on the board? What is to happen if a complaint is made before this Federal commission that the Harvester Trust is engaged in an unfair method of competition, and the commission, after inspecting the whole process which constitutes the method and their acts, say that it is a fair method of competition? Is, then, the Attorney General and the Department of Justice to file a suit against them under the Sherman law if there is criticism of the opinion of the Federal trade commission? Are these people who have been adjudged to be in fair competition by the Federal trade commission to be sent to jail for violating the Sherman law as committing a restraint of trade? Of what use is this commission, then, in removing from the minds of the business men of the country the apprehension that they may be violating the law?

Mr. President, the business men of this country have asked for some sort of a commission which would give them relief from the restrictions and limitations placed upon them by the Sherman law. That was the origin of the demand for a trade commission. That was what the Progressive platform demanded. That was what the great majority of the witnesses said who appeared before the Interstate Commerce Committee in response to the resolution introduced by the Senator from Minnesota [Mr. CLAPP] calling upon Congress to say whether any other legislation was necessary in relation to the Sherman law. They all said that they wanted a commission which would authorize agreements. All sorts of methods were proposed there. If I remember correctly, the Senator from Mississippi [Mr. WILLIAMS] advocated a plan which had been suggested by some gentleman in New York whose name now escapes me, who had given great attention to this question, by which Congress should prohibit from interstate commerce corporations that were chartered by the respective States with powers that did not accord with some standards that the national law was to lay down. That was one way of preventing the operations of trusts and of making it plain what business men could do. But there were a thousand ways suggested. The minds of the business men of this country are not made up upon this question at all.

The Commissioner of Corporations a few years ago wrote a letter to the chairman of the Senate Committee on Interstate Commerce which he has made a part of his report, and that Commissioner of Corporations, after his experience in the office, among the suggestions that he had to make, said:

> Shall an interstate trade commission be organized?
> If the work is to be simply that of investigation and publicity, my experience would indicate that an organization under a single head would be decidedly more efficient.

That is just where the Commissioner of Corporations has it now. Then, in discussing whether any sort of quasi judicial power should be attempted to be conferred upon this commission, he said:

> Thus, as stated in paragraph 5 above, rules of action and grounds for cancellation of registration should be set forth in the bill itself, with sufficient definition to make clear the intention of Congress as to the class of acts to be covered thereby. For example, the word "overcapitalization" is perhaps sufficiently definite in itself, while "unfair or oppressive methods of competition" would perhaps be too indefinite.

He knows it is too indefinite. The decisions and authorities which the Senator from Nevada [Mr. NEWLANDS] has put into his report are from the courts, where they have upheld certain duties imposed upon commissions created by Congress as not being clear delegations of legislative authority and are not at all in point as to the construction of this phrase "unfair competition." In every one of these authorities the court has held that the Congress must prescribe the primary standard or rule within which the commission may exercise its discretion in taking up the particular objects to come within the rule.

There is no rule whatever laid down here. This bill does not accord with the recommendations of the President of the United States in his message to Congress. The President asked the Congress to lay down the definite rule by which business men should be governed. That is a law. This lays down no rule.

If they who claim that the junior Senator from Missouri [Mr. REED] is right, that unfair competition has a definite meaning in the law, that it means something, that there must be the element of deceit or fraud or attempt to impose upon somebody in order to make it unfair to bring it within the decisions of the courts upon that subject—if that is what is proposed to be conferred upon this Federal trade commission, then it is a clear attempt by the legislative branch of the Government to impose judicial powers now exercised by the judiciary upon this executive administrative commission.

If "unfair" means something else less defined than that—if it means, as the Senator from Iowa said the other day, what it means as used in the English language—then it means what the dictionaries say "unfair" means in the English language. If anyone will look in the dictionary, as I did the other day, and put into the RECORD the definitions and synonyms given by even but one dictionary of what "unfair" means in the English language, this commission is sent out to roam the fields of fancy and to extract any meaning they choose to give, provided it can be found in the dictionary after the use of the word "unfair," if that loose term, as thus popularly used, is to be the guide of this commission, and there is no use in passing this section 5 unless it is to be. Then it would be intolerable to any American people to be governed by what three out of five men about whose appointment they have nothing to say should guess, from instance to instance and from day to day, about what that word might mean.

It is not proposed to confer this judicial power or even any quasi judicial power upon this Federal trade commission; there is no excuse whatever for the creation of it. The commission would degenerate simply into a smelling committee, to be dragged around to investigate people who were complained of by their competitors. As I said, if private business, charged with no use of common carriers at all, simply because it operates beyond State lines, is to have this Federal commission imposed upon it as its guide and as its boss, you will simply raise up in this country such a protest against the whole idea of government by commission as was never seen in the country before, and it ought to rise up. I have sufficient confidence in the independence, in the virility, in the high respect of the ordinary American citizen to be confident that after what he has been through to obtain liberty, guaranteed by law and constitutional limitations, he will never submit to government by irresponsible

commission of that nature. It is nothing but despotism, Mr. President, in a free country, from start to finish.

As provided by this bill, there is no opportunity for any judicial power to be exercised from the time a complaint is made of unfair competition until the time when the man against whom the complaint was made finds himself in jail. There has been no exercise of judicial power if this commission as thus constituted can be sustained in law. That can not exist in a free country. That leaves it to the Executive to appoint commissioners and put men in prison. Of course they can always find something in their judgment to be unfair, but the people will not tolerate to be governed by method, because here are commissioners to be appointed for terms of seven years.

The period of their tenure of office outlasts three terms of a Member of the lower House of Congress from his home district. It overlaps an entire senatorial term. It covers nearly all presidential terms. To whom are these commissioners responsible? There has been a great movement in this country and a great outcry about restoring the Government to the people. Is that restoring the Government to the people? That is taking the Government away from the people. That is erecting a Frankenstein and breathing the breath of life into it and turning it loose upon this country, responsible to no one. If they could have their way, they would prevent the courts from enjoining this commission. They want the mere ipse dixit of this commission to be final and conclusive in the premises.

Some people have thought they could remedy the glaring defects of section 5 by providing for some sort of a court review of the findings of the commission, and there are amendments pending here, offered by various Senators, to certify the record from the commission, together with all the testimony, to a judge of a United States court and have him examine the testimony that was taken and the decision to which the commission has come, and to have it reviewed, to have another trial about it; but the obvious answer to all that circumlocution is, if you have got to go into court and have a trial as to whether a method of competition is fair or unfair, why send a man around by this circuitous route? Why compel him to go to the trade commission and undergo a trial, and then have him go to court about it, where he can go now, before you ever establish a commission? What is the sense in that?

To be sure, the bill sets up five new grandees in this country at $10,000 apiece—Federal trade commissioners—at the expense of the Government; it provides $50,000 for this tribunal, to begin with, irrespective of any of its accouterments, or of any of its attachments, or of any of its vast army of field agents and inspectors and detectives. The cost of this commission, if it justifies its existence in its activities, will be perfectly tremendous, Mr. President, and will increase from year to year beyond all bounds. We know to what extent the Forestry Service developed under a previous administration.

These five commissioners, some people think, would simply attack or inspect or investigate the greatest of the existing corporations, but if they do only that, they are denying the relief that the proponents of this bill claim should be extended to all, to the largest number of people who claim they have been aggrieved in the country, because it is not a question of the amount of business that is done by a corporation or the extent of its capital stock; the question is, Is the method of competition fair or unfair? It is the moral quality of the act. Whether the complainant be an individual or a rival corporation, if this tribunal is to sit there to do justice, it has to hear his case as well as the case of the Standard Oil or the Tobacco Corporation or the Harvester Trust.

Mr. President, these three or four bills, or whatever the number of them may be, have been tagged by a name which is intended to appeal to the people who are against trusts; they are called trust bills. They go out to the country as though they were bills to hurt the great trusts. Well, this Federal trade-commission bill is in no sense an antitrust bill. As the Senator from Minnesota [Mr. NELSON] has observed, the trusts can flourish under that bill to their heart's content. It is not to be supposed that the commission would find one method fair if it were practiced by a trust and another unfair if it were practiced by some corporation that was not big enough in their opinion to be called a trust. The moral quality of the act will be the same, no matter by whom it is committed. Therefore, this commission, to justify its existence and to get the people to permit it to exist, will have to get busy. Those who think it will not be doing anything, in my opinion, are very much mistaken.

To the few business men who favor this bill, I can wish no greater calamity than to have it imposed upon them. Of course most of them do not know what it is; of course later on, if the bill should be passed, the very business men who have supposed they were for it will be coming to us and saying, "What in the name of heaven did you allow that thing to get through for? What did you ever set it up in this country for?" When you respond to them, "Why, you signed a petition for that bill; you asked that a law be passed so that you could know exactly what you could do and what you must not do," they will say, "Oh, well, you know I belong to the So-and-so Chamber of Commerce and the United States Chamber of Commerce, who had their committee in Washington send us around a form to approve favoring a Federal trade commission bill, and we got the secretary and the treasurer and the president together and unanimously adopted a resolution and sent it on to the United States Chamber of Commerce, and they published it in a very handsome pamphlet; but we did not know anything about it. We supposed, of course, they knew their business and would not ask for any kind of a trade commission that was going to be a persecution, a kind of a hairshirt, instead of a salve or a poultice to us. We thought they knew their business, and we thought you knew your business. We elected you to go down there and make laws for us; we did not suppose you would be bothered by any action we might take in order to save our faces and to stand well with the agitators, who get national prominence and conspicuity by hanging around Washington and keeping the Printing Office going with their suggestions and amendments and polings. We did not suppose you would pay much attention to those things and you ought not to have done so." And they will be right about it.

There is not any demand for this bill in the country. If so, where is it? Of course, the Senators who are on the committee which reported the bill, and who have perpetrated it, have got to stand by it and have got to claim that there is somewhere a tremendous uprising for this new imposition to be set up here, to prove the truth of the declaration of the fathers of the Democratic Party that that government governs best which governs least and minds its own business and lets its citizens try to make a living in their own way so long as they do not violate the law. Therefore we set up this commission of busybodies.

Mr. WEEKS. Mr. President——

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Does the Senator from Connecticut yield to the Senator from Massachusetts?

Mr. BRANDEGEE. I do.

Mr. WEEKS. It seems to me, Mr. President, that the Senator from Connecticut is engaged in a very interesting discussion of the merits of this legislation. There is far from being a quorum in the Chamber. I make the point of no quorum.

The PRESIDING OFFICER. The Senator from Massachusetts makes the point that no quorum is present. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	Nelson	Smoot
Bankhead	Gronna	Newlands	Stone
Brady	Hollis	Norris	Swanson
Brandegee	Hughes	Overman	Thomas
Bristow	Jones	Owen	Thornton
Bryan	Kenyon	Page	Tillman
Camden	Kern	Perkins	Vardaman
Catron	Lane	Pomerene	Walsh
Chamberlain	Lea, Tenn.	Reed	Weeks
Clapp	Lee, Md.	Shafroth	West
Clark, Wyo.	Lewis	Sheppard	White
Clarke, Ark.	Martin, Va.	Simmons	Williams
Crawford	Martine, N. J.	Smith, Ariz.	
Cummins	Myers	Smith, Md.	

Mr. KERN. Mr. President, I desire to announce the unavoidable absence of my colleague [Mr. SHIVELY]. He is paired. This announcement may stand for the day.

The PRESIDING OFFICER. Fifty-four Senators have responded to their names. A quorum is present.

Mr. STONE. Mr. President——

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BRANDEGEE. Mr. President, I think I have the floor.

Mr. STONE. I rise to make a statement.

Mr. BRANDEGEE. Before the Senator does so——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Missouri?

Mr. STONE. I rise to a question of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. STONE. I am not asking the consent of the Senator. My position is that the Senator from Connecticut [Mr. BRANDEGEE] is not entitled to proceed, as he has forfeited his right to the floor.

The PRESIDING OFFICER. For what reason?

Mr. STONE. I will state the reason, if the Chair will be patient for a moment.

The rules provide that no Senator can speak more than twice on a question before the Senate during the same legislative day. The Senator from Connecticut, while addressing the Senate this morning, yielded the floor; another matter was debated in the form of a parliamentary inquiry, and a point of order was made. The Senator resumed the floor and has yielded the second time, in order that the Senator from Massachusetts [Mr. WEEKS] might make the point that no quorum was present, which the Chair ought, in my judgment, to have ruled out of order. The Chair ought to have ruled it out of order because 30 minutes ago the Vice President, while in the chair, decided that the presence of a quorum having been disclosed on a previous roll call a second roll call was not in order until business had intervened, and that debate was not business. That very question was decided by a former Vice President; that very question was submitted to the Senate; and the Senate held that debate was not business within the meaning of the rule. Vice President Marshall, while presiding this morning, so held and denied the request for a roll call.

I suppose the attention of the Chair was not called to the matter. I happened for the moment to be in the Marble Room, having been called there by a couple of gentlemen from my State who desired to see me, and it was during my absence that the Senator from Massachusetts made the point of no quorum, which was not in order, but he could not make the point unless the Senator from Connecticut yielded to him. He did yield, and when he yielded his right to resume the floor was at an end.

Mr. WEEKS. Mr. President——

Mr. STONE. Now, Mr. President, I rise at this time not to press the point of order, but to give notice that if this thing occurs again I shall undertake to read the precedents upon that point, and will make the point of order, if the Senator yields the floor again, that he is not entitled to resume the floor.

Mr. WEEKS. Mr. President, I should like to inquire of the Senator from Missouri if it would make any difference in his conclusion if he knew that the Senator from Connecticut did not know for what purpose he yielded to me? The Senator from Missouri has stated that the Senator from Connecticut yielded to me for the purpose of making the point of no quorum. He did not know but that I was going to ask him a question in connection with the matter which he was discussing. He did not yield the floor.

Mr. STONE. The Senator from Massachusetts had no right to make the point of no quorum in the time of the Senator from Connecticut without his consent, unless he yielded to the Senator for that purpose; and it boots nothing to say now that the Senator from Connecticut was unaware for what purpose the Senator from Massachusetts rose. So far as the question of calling the roll is concerned, it makes no difference whether the Senator from Connecticut made the point of no quorum himself or whether some other Senator made it; it was not in order, under the ruling of the Chair.

The other point, Mr. President, to which I have referred, I do not now propose to urge. I merely mean to give notice that if the Senator yields the floor again, for any purpose, I shall undertake to make the contention that he is not entitled to resume it.

Mr. JONES. Mr. President, I desire to ask the Senator from Missouri, in view of the fact that he has been giving notice for 5 or 10 minutes, whether any business has been done in the Senate in the last 5 or 10 minutes?

The PRESIDING OFFICER. As the Chair understands, the Senator from Missouri now seeks only to admonish the Senate and does not press his point of order. The Chair will recognize the Senator from Connecticut.

Mr. CLARK of Wyoming. The Senator from Missouri made his point of order.

Mr. STONE. I said I rose to a question of order; but if the Senator understands that that is equivalent to making a point of order, I withdraw it.

The PRESIDING OFFICER. The Chair understands that the Senator from Missouri has withdrawn the point of order.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from New Hampshire?

Mr. BRANDEGEE. Mr. President, after the dire threats with which the Senator from Missouri has filled the Chamber I should hate to do anything that would offend his sensibilities. Would it be parliamentary for me to yield courteously to the Senator from New Hampshire, or would I be then subject to being threatened with having yielded the floor?

The PRESIDING OFFICER. The Chair understands that the point of the Senator from Missouri was as to whether the Senator had yielded the floor.

Mr. BRANDEGEE. Further than that "deponent saith not." One has to be very cautious.

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from New Hampshire?

Mr. BRANDEGEE. For what purpose? I desire to know; I do not yield to anybody to suggest the absence of a quorum, because I have not done so to-day; I do not want it done, and I can not yield to any Senator unless I know whether or not it would offend the Senator from Missouri; but I yield to the Senator from New Hampshire for a question.

Mr. GALLINGER. Mr. President, I do not know that it is a question.

Mr. BRANDEGEE. Well, if it is not a point of order, I yield.

Mr. GALLINGER. It is not a point of order, it is not to call for a quorum.

The PRESIDING OFFICER. There is no point of order now before the Senate; the point of order has been withdrawn.

Mr. GALLINGER. Mr. President, I desire to take cognizance, in a very frank, open way, of the threat with which the Senator from Missouri [Mr. STONE] has regaled us to-day. He has told us that not only is he going to do something revolutionary in reference to the matter of calling for a quorum, but that other things are to be done.

Mr. President, some of us have not intended to speak on this bill, but the rules of this body will permit each of us to speak twice on each day, and the Senator from Missouri will not hasten the consideration or the conclusion of this bill by undertaking to intimidate Senators on this side of the Chamber, and he may as well abandon that idea one time as another. We will proceed under the rules of the Senate as we understand them, and we will take such time as we think proper under those rules to discuss these bills, and, if we are forced to do so, some of us will take time that we had not intended to take.

Mr. STONE. I have not threatened anybody.

Mr. GALLINGER. The Senator did threaten.

Mr. STONE. More than that, all I have said has been that I would invoke the ruling made by the Chair, which the Senator from New Hampshire approved.

Mr. GALLINGER. Very well; the Senator from New Hampshire is on record, and he does not wish to change the record he made.

Mr. STONE. He is on record.

Mr. GALLINGER. But the Senator from Missouri went beyond that, and informed us that at a later time certain other procedure would be taken if we did not desist from a certain line of conduct in the Senate.

Mr. STONE. I absolutely did nothing of the kind.

Mr. GALLINGER. The RECORD shows it.

Mr. STONE. The RECORD does not show it.

Mr. GALLINGER. The RECORD does show it.

Mr. CLARK of Wyoming. I rise to a point of order.

Mr. STONE. The Senator ought to state the facts; he ought not to make such a statement as that, because it is not true.

Mr. GALLINGER. The Senator is stating what is untrue now.

The PRESIDING OFFICER. The Senator from Wyoming will state his point of order.

Mr. CLARK of Wyoming. My point of order is that Senators are indulging in colloquies without addressing the Chair and without the consent of the Senator having the floor.

Mr. GALLINGER. I beg the Senator's pardon. I had the consent of the Senator who had the floor.

Mr. CLARK of Wyoming. I did not have reference to the Senator from New Hampshire.

Mr. GALLINGER. Very well. I have said all I care to say.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BRANDEGEE. Mr. President, I am sorry that in my desire to be courteous to my fellow Senator I have precipitated such unseemly——

Mr. CUMMINS. I rise to make a parliamentary inquiry. Is the Senator from Connecticut now making his first or his second speech on the pending question on this day?

The PRESIDING OFFICER. The Chair is unable to say. The Secretary may be able to inform the Chair. The Chair thinks, however, it is a continuous speech and has taken up a good part of the day.

Mr. CUMMINS. I think it worth while to have that question determined at this time, and I assume it can be determined by the RECORD.

The PRESIDING OFFICER. The RECORD will show that. The Chair thinks, however, we might safely leave to the honor

of the Senator himself the question whether this is his first or second speech.

Mr. CUMMINS. I will be very glad to have the question answered by the Senator from Connecticut.

Mr. BRANDEGEE. I should hardly dignify my poor remarks by calling them either a first or a second speech. I have proceeded with some interruptions in attempting to give my views upon different portions of this bill.

I will say, Mr. President, that I entirely disagree with the facts as stated by the Senator from Missouri. I think the true state of facts will be necessary in the determination of the point of order or the various points of order which he has suggested in his remarks. I have not yielded the floor since I obtained it. There is a great difference in parliamentary terms between a Senator yielding the floor and yielding to another Senator who asks if the Senator yields to him. When the Senator who has the floor is addressing the Senate and another Senator rises and says "Mr. President," and the Vice President says to the Senator having the floor, "Does the Senator having the floor yield to his colleague?" that is not a yielding of the floor such as to constitute a second speech when the Senator yielding resumes the floor to proceed with the discussion. I will say in passing that to those to whom I have yielded so far I have done so without the slightest notion of what they were going to do and without caring what they did or what they said. I did not know that they were going to suggest the absence of a quorum; I did not desire anybody to suggest the absence of a quorum. I am able to take care of myself, if I understand myself, and I know my rights; and when I get through talking, which will be very quickly, for I am conducting no filibuster or anything of the kind, if I am treated with ordinary senatorial courtesy and civility, I shall resume my seat in good order, I think.

I take this opportunity, however, of expressing my regret at the effect the hot weather has upon the dispositions of some of the Senators. If they are thrown into this spasm of irritability on the threshold of the consideration of the first of this interrelated series of misbranded antitrust bills, I rather hate to contemplate what will be the last stage of those persons along about the middle of September or October, when we get to the real consideration of the last emancipation proclamation.

Mr. President, as I was saying when I was interrupted the last time, everybody knows that there is no real call in the country for this Federal trade commission legislation. I do not think I err in the slightest when I say that. Most of the great newspapers of the country have been begging Congress for weeks to dry up and shut up and go home. They realize perfectly well, as well as the people of the country realize, that in this sizzling August weather, when it is hard enough to get the proper amount of sleep to be able to perform any sort of intellectual effort, Congress is fatigued and irritated and ugly and disgusted and apprehensive, and is in no frame of mind to consider this kind of legislation at all.

That is manifested here by a refusal even to read the bill. I know Senators have not read the bill, because I have talked with several of them, and it was perfectly evident that they did not know what was in it. They had no conception of it at all, and I had to pull it out and show it to them before they would believe that what I said about it was true. Having read the bill, those of them who take any sort of interest in it or realize that it is a question that their constituents have any right to demand that they should have some idea about before they gulp it down without any consideration, they are thrown into a condition of catalepsy, apparently, where they just throw up their hands and cease thinking and say, "Well, what can we do? What can we do? If we adjourn without passing all of this program which the President says he has—a legislative program, which is our business and not his—he may say that we have not supported his administration, and that will queer us in our own localities." When they are told, "Well, I should think you would take the chance of satisfying your constituents that it was unwise to pass this stuff, that part of it was not in response to the demand of your President and the other part which was inadvisable," they say, "Well, we would rather hang together than hang separately."

There is no meeting of the minds of the Senators here as to what these bills mean or as to the advisability of passing them. On the contrary, the Congress of the United States is caught here at pretty nearly the 1st of August with the demand of the country that they should adjourn and with the demand of the President that they shall not adjourn until they have gulped down an undigested mass of miserable, interfering, intermeddling, busybody, amalgamated stuff hastily concocted and ill-thought out and turn it loose upon the country; and the subserviency of Congress is such that they are apparently perfectly willing to do it.

I am not willing to do it. I do not care what the President's legislative program is. He has no business to have one. I am sick of this domineering and bulldozing, and I will not submit to it, so far as I am concerned. Other people can if they want to. I do not believe the President has any business to have a legislative program. His business, under the Constitution, is to advise Congress of the state of the Union; and he can make any recommendations he has a mind to make, respectfully, as to what he thinks personally as President ought to be done or what he thinks it would be a good thing to do.

He did it in Mexico. He had a perfect right to communicate to Congress what he would like to have Congress do in Mexico, and he sent over here a message and a joint resolution at the same time, all drawn, "O. K., W. W.," and the House passed it right off the reel, and it came over here. He said in his message that he was not doubtful about his constitutional authority to do whatever was necessary in Mexico and to enforce amends, as he said, for the insults and slights and indignities that had been heaped upon the American flag and the American uniform. He wanted authority in his resolution to use the whole military power of the United States, to order the Army and the Navy down there to enforce amends for an insult.

When the Senate presumed to inquire whether that was a proper expedition, and what the amends were to be, the advisability of passing the resolution against one Victoriano Huerta, which seemed to us to be dignifying the issue somewhat, and somewhat inconsistent with the preservation of the glory of the flag and the honor of the uniform, we were told that the President had already done what he said he was afraid to do without getting the authority of Congress, because the consequences might be so grave, referring to war. We were told that he had already done it, and Senators stood up here and said: "You must pass the resolution at once, because the lives of our boys are being taken down there. They are weltering in their blood. Therefore, pass the resolution."

Why, there was no use in passing the resolution. The President had already exercised an act of war in a foreign country with which we were at peace. He had assaulted the city of Vera Cruz, captured it, killed a lot of innocent Mexicans who stood over on the hills, who were not participating in the fracas, but were killed by our shells, and some of our people were killed in this marauding expedition to enforce amends.

For six weeks or two months 40 great battleships flying the American flag, with steam up, have been wallowing in the trough of the sea down off the coast of Vera Cruz, with the thermometer 120 in the shade, and the Army Corps has dug a ditch for itself around Vera Cruz and our soldiers are standing there in the mud—those of them that are not in the hospitals—sweltering under the tropical sun, directed by Congress to enforce amends for the insults that have been heaped upon our flag and uniform.

What are they doing there? Why are they not in Canada? Are they enforcing any amends? Why, as soon as that pretext had become a little shopworn we were told that we were never engaged in a war of revenge, but we were really there in a war of service—service to the Mexicans—the message having stated to us that we never would be authorized to participate in the internal affairs of any foreign country with which we were at peace. Well, what service are we performing to them now? It looks to the people of the country as though all we were doing was meddling in a foreign country and holding the throat of one dictator or bandit while another dictator or bandit rushed to occupy his place.

I am not criticizing the President for having his views about his business, but I do say that a President who will dragoon Congress into doing what the country is not demanding, what the business interests of the country are not demanding, but who holds us here because he is able to prevent his party from adjourning when it wants to adjourn, to pass something that the public prints said this morning he had expected, when he announced his wishes to Congress, would have been concluded by the middle of July, but which he now thinks can not be done until the middle of September, is exceeding his constitutional prerogatives or else the Congress are abandoning theirs—one of the two.

Mr. President, the spasm into which some of my friends in this Chamber have been thrown by the fact that I insist on reading to the Senate the bill that we are supposed to be debating is entirely unjustified, it seems to me, unless we are to be compelled to pass these bills without reading them. All of the Senators have not read this bill, and I think the country is entitled to know what is in it. A bill comes out here, reported

out of a committee, and when it is laid before the Senate somebody moves that the first formal reading of the bill be dispensed with and that the bill be read for committee amendments. Then proceeds a jumble of amendments, page after page of fine print, and then individual amendments, and never a copy of the bill is printed in the RECORD so that the people at home can take the proposed amendment and fit it into the bill and see what you are talking about. I thought it was not exceeding the senatorial proprieties or decencies or common sense to read the bill into the RECORD, so that the people may see it as a consecutive, coherent bill, and then compare it with the jumble of amendments that are offered to it afterwards. When it comes up, if it is necessary, by the offering of amendments to the other bills, that the Clayton bill shall be again read into the RECORD, if under the modified rules which may be in force at that time in the Senate guaranteeing the freedom of debate, I may be permitted to do it without being taken to task and called to order and an attempt being made to remove me from the floor, I shall have the audacity to do it; and I shall hope Senators will be able to retain their self-possession at least fully as well as they have on my first attempt.

That is all I have to say about this bill at this time; but in the future I shall have several remarks to make.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada [Mr. NEWLANDS].

Mr. BRANDEGEE. Let the amendment be stated, Mr. President.

The PRESIDING OFFICER. The Secretary will state the amendment.

The SECRETARY. It is proposed to add, at end of section 5, the following *proviso*:

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada.

Mr. SMOOT. Mr. President, if we are going to vote upon it, I think the Senator having the bill in charge should be present in the Chamber, and I suggest the absence of a quorum.

Mr. BRANDEGEE. Why, under the ruling of the Chair the Senator can not do that.

Mr. SMOOT. Oh, yes; I can.

Mr. BRANDEGEE. No business has been transacted since it has been ruled that the absence of a quorum could not be suggested.

Mr. SMOOT. Yes, Mr. President; the amendment——

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gronna	Nelson	Simmons
Brady	Hollis	Newlands	Smith, Ariz.
Brandegee	Hughes	Norris	Smith, Md.
Bryan	Kenyon	O'Gorman	Smoot
Camden	Kern	Overman	Stone
Catron	Lane	Owen	Swanson
Chamberlain	Lea, Tenn.	Page	Thomas
Clapp	Lee, Md.	Perkins	Thornton
Clark, Wyo.	Lewis	Pittman	Tillman
Clarke, Ark.	Martin, Va.	Reed	Vardaman
Cummins	Martine, N. J.	Shafroth	Walsh
Gallinger	Myers	Sheppard	White

The PRESIDING OFFICER. Forty-eight Senators have responded to their names. A quorum is not present. The Secretary will call the names of absent Senators.

The Secretary called the names of absent Senators, and Mr. SMITH of Georgia answered to his name when called.

Mr. BANKHEAD and Mr. SHIELDS entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-one Senators have answered to their names. A quorum is present. The question is on the amendment offered by the Senator from Nevada [Mr. NEWLANDS].

Mr. CLARK of Wyoming. Let the amendment be stated.

The PRESIDING OFFICER. The Secretary will again state the amendment.

The SECRETARY. It is proposed to add, at the end of section 5, the following:

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. CLARK of Wyoming. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I have a general pair with the senior Senator from New Mexico [Mr. FALL]. In his absence, I withhold my vote.

Mr. GRONNA (when his name was called). I have a general pair with the senior Senator from Maine [Mr. JOHNSON]. I transfer that pair to my colleague [Mr. MCCUMBER] and will vote. I vote "nay."

Mr. KERN (when his name was called). I transfer my pair with the senior Senator from Ohio [Mr. BURTON] to the junior Senator from Louisiana [Mr. RANSDELL] and will vote. I vote "yea."

Mr. SAULSBURY (when his name was called). Has the junior Senator from Rhode Island [Mr. COLT] voted?

The PRESIDING OFFICER. He has not.

Mr. SAULSBURY. Having a pair with that Senator, I withhold my vote.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. I have been informed that if he were here he would vote as I do on this amendment. I will therefore vote. I vote "nay."

Mr. TILLMAN (when his name was called). I transfer my pair with the Senator from West Virginia [Mr. GOFF] to my colleague [Mr. SMITH of South Carolina] and vote. I vote "yea."

Mr. WALSH (when his name was called). I have a general pair with the Senator from Rhode Island [Mr. LIPPITT]. I transfer that pair to the Senator from Kansas [Mr. THOMPSON] and vote "yea."

The roll call was concluded.

Mr. SMITH of Georgia. I have a general pair with the senior Senator from Massachusetts [Mr. LODGE]. I therefore refrain from voting.

Mr. MYERS. I transfer my pair with the Senator from Connecticut [Mr. MCLEAN] to the Senator from Georgia [Mr. WEST] and vote "yea."

Mr. CULBERSON. I have a general pair with the Senator from Delaware [Mr. DU PONT]. In his absence I withhold my vote.

Mr. HOLLIS (after having voted in the affirmative). Since voting I have renewed my pair with the junior Senator from Maine [Mr. BURLEIGH]. I therefore withdraw my vote.

Mr. CHAMBERLAIN. I transfer my pair with the Senator from Pennsylvania [Mr. OLIVER] to the Senator from Nebraska [Mr. HITCHCOCK] and vote "yea."

Mr. SMITH of Maryland. I have a pair with the senior Senator from Vermont [Mr. DILLINGHAM], and for the present will withhold my vote.

Mr. SAULSBURY. I transfer my pair with the junior Senator from Rhode Island [Mr. COLT] to the senior Senator from Indiana [Mr. SHIVELY] and vote "yea."

Mr. LEA of Tennessee (after having voted in the affirmative). Has the Senator from South Dakota [Mr. CRAWFORD] voted?

The PRESIDING OFFICER. He has not.

Mr. LEA of Tennessee. I have a general pair with that Senator, and therefore withdraw my vote.

Mr. CHILTON. Under the terms of my pair with the Senator from New Mexico [Mr. FALL], which I have mentioned, I think I have a right to vote. I vote "yea."

The result was announced—yeas 40, nays 13, as follows:

YEAS—40.

Ashurst	Jones	Newlands	Shafroth
Bankhead	Kenyon	Norris	Sheppard
Brady	Kern	O'Gorman	Simmons
Bristow	Lane	Overman	Smith, Ariz.
Camden	Lee, Md.	Owen	Stone
Chamberlain	Lewis	Page	Swanson
Chilton	Martin, Va.	Perkins	Thornton
Clapp	Martine, N. J.	Pittman	Tillman
Cummins	Myers	Pomerene	Walsh
Hughes	Nelson	Saulsbury	White

NAYS—13.

Brandegee	Clarke, Ark.	Shields	Vardaman
Bryan	Gallinger	Smoot	
Catron	Gronna	Sutherland	
Clark, Wyo.	Reed	Thomas	

NOT VOTING—43.

Borah	Gore	Oliver	Smith, S. C.
Burleigh	Hitchcock	Penrose	Stephenson
Burton	Hollis	Poindexter	Sterling
Colt	James	Ransdell	Thompson
Crawford	Johnson	Robinson	Townsend
Culberson	La Follette	Root	Warren
Dillingham	Lea, Tenn.	Sherman	Weeks
du Pont	Lippitt	Shively	West
Fall	Lodge	Smith, Ga.	Williams
Fletcher	McCumber	Smith, Md.	Works
Goff	McLean	Smith, Mich.	

So Mr. NEWLANDS's amendment to section 5 was agreed to.

DEFICIENCY APPROPRIATIONS.

Mr. MARTIN of Virginia submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 158 to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"To pay the amounts ascertained and certified by the accounting officers of the Treasury during the fiscal year 1915, to be due under existing laws and pursuant to the provisions of the act to repeal section 3480 of the Revised Statutes of the United States, approved July 6, 1914, $175,000, or so much thereof as may be necessary: *Provided*, That no agent or attorney shall demand or accept for his services in connection with the prosecution or collection of claims hereunder any sum in excess of 10 per cent of the amount allowed by the accounting officers of the Treasury to any claimant under the said act of July 6, 1914. Any person violating this provision shall, upon conviction, be punished by a fine not exceeding $500 or imprisonment for a period not exceeding six months, or both, and shall be disbarred from practice before the Treasury Department."

And the Senate agree to the same.

THOMAS S. MARTIN,
N. P. BRYAN,
J. H. GALLINGER,
Managers on the part of the Senate.
JOHN J. FITZGERALD,
T. U. SISSON,
Managers on the part of the House.

The report was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 12579) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915, recedes from its disagreement to the amendment of the Senate No. 23, and agrees to the same with an amendment, in which it requests the concurrence of the Senate; further insists upon its disagreement to the amendments of the Senate Nos. 37, 81, 139, and 155; agrees to the further conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. STEPHENS of Texas, Mr. CARTER, and Mr. BURKE of South Dakota managers at the conference on the part of the House.

INTERNATIONAL CONFERENCE ON SOCIAL INSURANCE (H. DOC. NO. 1132).

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed.

To the Senate and House of Representatives:

In view of the provision of law contained in the deficiency act approved March 4, 1913, that "Hereafter the Executive shall not extend or accept any invitation to participate in any international congress, conference, or like event without first having specific authority of law," I transmit herewith for the consideration of the Congress and for its determination whether it will authorize the acceptance of the invitation a report from the Secretary of State, with accompanying papers, being an invitation from the Government of the French Republic to that of the United States to send delegates to the International Conference on Social Insurance, to be held at Paris in September, 1914, and a letter from the Department of Labor showing the favor with which that department views the proposed gathering.

It will be observed that the acceptance of this invitation involves no special appropriation of money by the Government.

WOODROW WILSON.

THE WHITE HOUSE, *July 27, 1914.*

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. SUTHERLAND. Mr. President, the pending bill, I think, may be mildly described as revolutionary in character. The fact, however, standing alone, that the bill may be revolutionary in character is no reason why it should not be passed if it be a wise and necessary measure.

An examination of the bill will demonstrate that the power which has been conferred or attempted to be conferred upon this trade commission is simply immeasurable in extent. I am aware of the fact that the Senator from Nevada [Mr. NEWLANDS] takes a cheerful, optimistic view of the matter and insists that in all probability the power which is conferred will not be exercised. Mr. President, we ought not to confer a power which is unwise upon the mere faith that it will not be exercised by the people upon whom it is conferred.

This trade commission, if it is created, will be given jurisdiction in one form and another over anywhere from 300,000 to 500,000 corporations, because it is given jurisdiction over all corporations which may be engaged in or—as I shall show later on by a provision of the act, whatever it may mean—"affecting" interstate commerce. Of course, nearly every trading corporation, manufacturing corporation, and business corporation in the country is to a greater or less extent engaged in interstate commerce. If a corporation in the course of a year should transact a single item of business in interstate commerce it would seem that it would be brought within the operation of this proposed law.

If this interstate trade commission shall exercise its powers to the full the expense which will be laid upon the Government of the United States can not be measured in dollars and cents. It will amount to a sum so large as to be appalling. To exercise this control and jurisdiction over all these corporations will entail the employment of a perfect army of agents. It was estimated during the hearings that it would require upon a very conservative estimate some thousands of employees, and the expense would run up into many millions of dollars.

The powers conferred upon this trade commission are very broad and far-reaching. The commission is to be constituted a sort of general residuary legatee of all interstate-commerce activities which are not now under the control of some other body. Rather it is constituted a general smelling society of all the acts of the corporations of the United States which may be engaged in interstate commerce that are not under the control of the Interstate Commerce Commission. It is to be, in addition to that, a general publicity bureau. It is to go smelling about the country, finding out the domestic affairs of the various corporations, and it is not restricted by the bill to finding out simply matters which concern interstate commerce. It may investigate its books; it may ascertain its business secrets; it may ascertain every act that it is engaged in performing, whether it has relation to interstate commerce or not, upon the hypothesis that in some remote way it may relate to interstate commerce. Then it is to be constituted a publicity bureau in its discretion to publish broadcast throughout the land all or so many of these facts as it may choose to publish.

In addition to that, it is to be constituted a sort of father confessor to the business men of the country who may be required under another provision of this extraordinary bill to make a report annually upon such matters and in such form as the commission may require. Not content with conferring upon the commission these multiform activities, it is also to be constituted a master in chancery to which certain cases may be referred by the court.

In addition to that, it is to be a general assistant, an all-around assistant, to everybody in the investigation and prosecution of corporations which may be engaged in interstate commerce, to advise the Attorney General when he shall act, to find out whether the orders and decrees of the courts are being carried out, and if not, to call attention to the fact and see that proceedings are taken to the end that they may be properly carried out. So it will be seen that the sponsors for this bill have put upon the interstate trade commission a pretty ambitious program of duties.

Now, Mr. President, all of that would not be sufficient to prevent our adopting a bill if it be expedient and wise, but it is necessary that we should go further and show that there are really specific objections to the powers which have been attempted to be conferred, and that in a very brief way I shall attempt to do.

I may say in the beginning that I have no intention of discussing this bill for the mere sake of occupying time. I am going to discuss it because I believe it to be a dangerous measure, and in many respects an unjust measure, and a measure which we ought not to pass.

Having stated to the Senate my views upon the matter I am content, of course, that it shall be voted upon at as early a date as the business of the Senate will permit.

I first of all call attention to section 3, which is the first of the substantive sections of the bill. The introductory clause of section 3 provides that—

The commission shall have power, among others—

Subdivision (a) of the section reads:

(a) To investigate from time to time, and as often as the commission may deem advisable, the organization, business, financial condition, conduct, practices, and management of any corporation engaged in commerce and its relation to other corporations and to individuals, associations, and partnerships.

Now, let me analyze and dissect that for a moment. It is to be given power not only in its discretion, without any general legislative standard or rule to control its action, but wholly in its own unrestricted discretion, as often as it may deem advisable, to investigate, of course in any way it pleases, not only the organization, business, and financial condition of a corporation engaged in interstate commerce but also its conduct and practices. There is no limitation upon the character of the conduct and practices which it may investigate. The conduct and practices may relate to interstate commerce, they may relate to intrastate commerce, or they may relate to neither.

In addition to that, it is given the power to investigate the relation of the corporation which is itself engaged in interstate commerce with any other corporation and with individual associations and partnerships. Again, whether those relations have any sort of connection with interstate commerce or not. In other words, it is given a roving commission to investigate all the affairs of all the corporations of the country which may be engaged in interstate commerce; and that is the sole and only test of its jurisdiction, namely, to inquire whether or not a particular corporation is engaged in interstate commerce; and if it is, then the power is given to investigate all of its multiform and multifold activities, whether they relate to interstate commerce or not.

Now, I undertake to say, Mr. President, that that is a power which Congress can not devolve upon a commission; it is a power which Congress can not itself exercise; and, after all, that is the primary test of the power which we may devolve upon a commission—whether the Congress itself may exercise the power. If it can not, it is a power which can not be devolved upon a legislative commission. We have by this provision undertaken to give to this commission a general power of visitation over all that class of State corporations which may be engaged in interstate commerce. That is a power which does not belong to the Federal Government, but is a power which belongs only to the sovereignty which creates the corporation, namely, the State. If this is not an attempt to confer visitorial powers upon this commission, then I must confess that I have no conception as to what that term means.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Does the Senator from Utah yield to the Senator from Ohio?

Mr. SUTHERLAND. I yield, if the Senator from Ohio desires to ask me a question.

Mr. POMERENE. I merely wish to ask a question. If I understand the Senator from Utah correctly, he objects to inquisitorial powers being conferred upon the commission as being unconstitutional in part?

Mr. SUTHERLAND. Yes.

Mr. POMERENE. My question is, Wherein are the powers conferred upon this commission in that behalf different from those now enjoyed by the Bureau of Corporations?

Mr. SUTHERLAND. Oh, Mr. President, that will not settle the difficulty. I think the powers conferred upon the Bureau of Corporations are entirely beyond the authority of Congress. The truth about it is—I have not made a very careful comparison, but so far as my general reading goes—the powers conferred upon this commission are pretty much the same as those which we have heretofore attempted to confer upon the Bureau of Corporations; but, as the Senator from Nevada [Mr. NEWLANDS] replied to me the other day when I put the question to him, the Bureau of Corporations has never undertaken to exercise its powers in any compulsory way. Of course, unless some case shall come up that can go to the courts, there is no way of determining whether or not the act creating the Bureau of Corporations and conferring power upon that organization is valid. So long as the Bureau of Corporations simply proceeds without antagonizing anybody, there is no opportunity of testing its powers; but I would make exactly the same criticism of the powers conferred upon the Bureau of Corporations that I make of the powers conferred upon the proposed trade commission.

Mr. NELSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Minnesota?

Mr. SUTHERLAND. I yield to the Senator.

Mr. NELSON. I want to say to the Senator from Utah that the only instance in which the Bureau of Corporations attempted to investigate a corporation was in the case of the Beef Trust. The result of that whole examination was to give them immunity. Judge Carpenter decided that because they had been called to give testimony about the operations of the Beef Trust therefore they were entitled to immunity.

Mr. BRANDEGEE and Mr. POMERENE addressed the Chair.

The PRESIDING OFFICER (Mr. WALSH in the chair). To whom does the Senator from Utah yield?

Mr. SUTHERLAND. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. I merely wish to offer an amendment to the pending bill and to have it printed. The amendment is, on pages 20 and 21, to strike out section 5.

The PRESIDING OFFICER. The amendment will be printed and lie on the table.

Mr. SUTHERLAND. I will yield now to the Senator from Ohio if he desires to interrogate me, but not for a controversy between himself and the Senator from Minnesota [Mr. NELSON].

Mr. POMERENE. My question was going to address itself rather to the Senator from Minnesota, but I will not now ask to interrupt the Senator from Utah for that purpose.

Mr. SUTHERLAND. I will ask the Senator from Ohio not to do so at this time.

Mr. President, I lay down the proposition that Congress has no more authority to regulate a corporation organized under the laws of a State because the corporation is engaged in interstate commerce than it has to regulate an individual who lives in a State because he happens to be engaged in interstate commerce. I know that there is a vague, popular notion that Congress has some greater authority over a corporation than it has over an individual, but I undertake to say that nothing in any of the law books can be found which will justify such a notion. Congress has precisely the same power—no more and no less—to regulate a corporation engaged in interstate commerce than it has to regulate a partnership, an association, or an individual who may be engaged in interstate commerce.

If this bill had been aimed at individuals, I venture to say that there are many of its provisions that would not have met with the assent of a good many Members of the Senate who will probably vote for the bill in its present form.

Upon that question, because it is stated so very succinctly, I desire to call attention to a statement or two made by Mr. Thomas C. Spelling, a very eminent legal author, a man very thoroughly familiar with this subject. The first statement that I call attention to is in a recent publication of his entitled "Political deceptions and delusions," in which he has taken up some of these proposed measures for discussion. He says:

The Federal Government can not regulate anything when not being used in interstate commerce, nor any person or corporation merely because engaging in interstate commerce. In requiring, for instance, that all trains carrying interstate freight or passengers shall be equipped with air brakes and safety couplers, Congress is not as a specific object regulating these devices nor even the trains, nor yet the corporate carriers. True, the statutes provide for the prosecution and punishment as for a misdemeanor the carriers who do not comply with the law, but that is the vindicatory part of the act. The subject matter of the regulation is the transportation—the interstate commerce. No more are they, the corporations, thereby regulated than are liquor dealers when required to take out a license by a State law.

In that case, I may interpolate, the thing which the State regulates is the business; and its jurisdiction over the business of selling liquor does not give it the right to regulate the person who engages in the selling of liquor. In the same way our power to regulate an interstate transaction does not give us any right to regulate the persons who may be engaged in interstate-commerce transactions. The writer proceeds:

Such a law is the regulation of the liquor traffic; and every person who goes into that business thereafter must, as a condition precedent, obtain a license, whether such a person be white or black, native or foreign born, engaged in the liquor business or in some other occupation. Safety appliances, carriers, and corporations are necessarily mentioned in interstate-commerce regulations just as are shippers of all classes and the articles shipped.

Now, I call particular attention to this:

But the mere fact that railroad companies are constantly carrying merchandise and passengers and are therefore continuously under the immediate operation of the laws does not give the Federal Government any control over them as corporations or their property, nor any over the private affairs of a shipper, except such of his affairs as are involved in the transportation of his property in interstate commerce.

Again, at page 261, he says:

Therefore any act of Congress which is not a regulation—that is to say, a regulation of that commerce which is interstate—is not a regu-

lation at all, but an interference with private affairs, which are either constitutionally protected by express language or exclusively under State control by implication, and therefore exempt.

And on the succeeding page he says:

Commerce, in any such sense as to call for congressional regulation, can not come into existence without an exercise of the will power of man, nor does any such thing exist in the absence of action and movement of men or of agencies set in motion by them. For purposes of congressional regulation the sphere of interstate commerce without transportation or transmission, either actual or contemplated, may be compared to a vacuum. There is no actual or operative interstate commerce until transportation has begun.

And he cites a number of decisions of the Supreme Court of the United States in support of that proposition.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Iowa?

Mr. SUTHERLAND. I do.

Mr. CUMMINS. I do not rise to ask a question so much as to make a suggestion. I hope the Senator from Utah, before he has finished, will show how the workman's compensation bill, of which he was more the author than any other person, the constitutionality of which is not seriously doubted, is brought within the principles he has just been reading from Mr. Spelling. I do that because I am sure that when he shows that the regulation contemplated in that bill is made to conform to these principles or is sustained by these principles, he will at the same time show how the regulation proposed in this bill is brought within them.

Mr. SUTHERLAND. Well, Mr. President, the answer, to my own mind, is a very simple one. That bill was constitutional upon exactly the same ground that the employers' liability law was constitutional.

Mr. CUMMINS. I agree to that.

Mr. SUTHERLAND. By the employers' liability law we undertook to say that railroad corporations engaged in interstate commerce shall be liable to their employees injured while such employees are also engaged in interstate commerce; they must both at the time of the injury be engaged in an interstate-commerce transaction; and the theory upon which both those laws can be supported is that by compelling the employer to be responsible, either under the enlarged common-law provisions of the employers' liability law or under the liability of the compensation laws the effect is to add to the safety and to the facility of interstate business. For example—and there are other illustrations, and they are all given in the report which I had the honor of presenting to the Senate upon the subject—for example, the employee while engaged in dangerous work is certain that if he be injured his family is not going to suffer unduly, but that they are going to receive compensation, and the theory of that is, or, at least, one of the theories is, that that will contribute to his peace of mind and will enable him to discharge his duties with greater facility than he otherwise would be able to do, and that in that way, and in other ways which I could illustrate if I were inclined to take the time, it contributes to the safety of the movement of things in interstate transportation. The Supreme Court held, however, in the first employers' liability case that the law then passed was unconstitutional because it undertook to impose a liability upon the carrier for an injury to an employee on the sole ground that the employer was engaged in interstate business, and they said that that would make the employer liable not only when an injury occurred to an employee when he was also engaged in interstate business but when an employee was engaged in intrastate commerce as well; and the court said one was within the power of Congress and the other was entirely without the power of Congress. So that the illustration to which the Senator from Iowa directs my attention, to my own mind, presents a very strong illustration against the position assumed by this bill and not in its favor. For example, I said, and I repeat, that the power of Congress is the same over corporations as it is over individuals. Have we any power to regulate the intrastate activities of a person who is a passenger or is about to become a passenger in interstate traffic simply because he is that sort of a passenger? When he is moving from one State to another we have a right within limits to regulate his activities, in so far as they have relation to his movements from one State to another, but the fact that he is a person traveling from one State to another or transporting his goods from one State to another does not give us any authority to interfere with him in any other activities. The power, therefore, is to regulate commerce and not the persons who may simply be engaged in commerce.

The difficulty with the subdivision (a), to which I have called attention, is that it confuses and unites in this one section the power on the part of the trade commission to regulate the activities of corporations engaged in interstate commerce without limiting the power to those activities which relate to interstate commerce. Of course, it gives them the power to investigate those things which relate to interstate commerce, but it does more; it gives them, in addition, the other power, and by combining the two the Supreme Court, if it follows the decision in the employers' liability case and in many other cases, the early trade-mark cases, and others, will, it seems to me, undoubtedly hold that this provision is utterly unconstitutional.

The trade commission are to be given the authority to investigate the conduct and practices of corporations engaged in interstate commerce, their relations with other corporations, and their relations with individuals, associations, and partnerships; in fact, any sort of relation, as I have said, whether they have any reference to interstate commerce or, indeed, whether they have any reference to commerce at all. I call attention upon both propositions to the decision of the Supreme Court in the case of Adair *v.* United States (208 U. S., 161). That was a case where Congress had undertaken to provide, among other things, that it should be an offense to discriminate against an employee on the ground that he was a member of a labor union. The Supreme Court held that that was utterly unconstitutional; that because we had the right to regulate the interstate activities of a corporation of that kind it gave us no right to regulate the employment of men who were to be engaged in both kinds of business, and that that was entirely outside of our power.

Mr. NEWLANDS. What case was that?

Mr. SUTHERLAND. The case of Adair against United States, Two hundred and eighth United States, page 161. I also direct attention to one of the trade-mark cases in One hundredth United States, at page 82, and to the employers' liability case, Two hundred and seventh United States, at page 463, and from that case I think I will read a brief extract:

Now, the rule which the statute establishes for the purpose of determining whether all the subjects to which it relates are to be controlled by its provisions is that anyone who conducts such business be a "common carrier engaged in trade or commerce in the District of Columbia, or in any Territory of the United States, or between the several States"—

And so forth. Now, listen:

That is, the subjects stated all come within the statute when the individual or corporation is a common carrier who engages in trade or commerce between the States, etc. From this it follows that the statute deals with all the concerns of the individuals or corporations to which it relates if they engage as common carriers in trade or commerce as between the States, etc., and does not confine itself to the interstate-commerce business which may be done by such persons.

In other words, the statute was in such broad terms that it included the activities of the employee in interstate commerce and intrastate commerce as well.

The court says:

Stated in another form, the statute is addressed to the individuals or corporations who are engaged in interstate commerce and is not confined *solely*—

Now, I emphasize that word—

is not confined *solely* to regulating the interstate-commerce business which such persons may do—that is, it regulates the persons because they engage in interstate commerce and does not alone regulate the business of interstate commerce.

As it seems to me, that is one vice of this provision—that it does not relate alone to interstate business, but relates to the corporation engaged in interstate business, and gives the commission power to investigate all its activities, its conduct, its practices, its relations to other corporations and individuals, whether those activities themselves have any relation to interstate commerce or not.

Mr. LEWIS. Mr. President, may I be permitted to ask the able Senator a question, the answer to which would interest me as a lawyer?

Mr. SUTHERLAND. Certainly.

Mr. LEWIS. I call the Senator's attention to the fact that the argument he is now making was made, with no more ability but with equal fullness, before the Supreme Court of the United States in what are known as the corporation-tax cases, where the argument was presented that the corporations which were taxed were corporations of the State of Illinois—and, as the Senator remembers, others intervened—having no interstate relation whatever, many of them being only corporations within the State, having their charters from the State, doing their business wholly within the State. The Supreme Court of the United States, considering the case in One hundredth United States, referred to by the able Senator, and the other cases cited, reached this conclusion, which is not at all in accord with my fundamental ideas of government, but it is the law for us—that wherever the subject matter connected with, or apparently connected with, or reasonably could connect with interstate affairs in the general discharge of the duties, that was sufficient. It was not essential that it should absolutely con-

nect with such affairs or that it should be absolutely interstate. It was enough that the subject matter was of a kind that could operate in connection with interstate commerce.

Does the able Senator recall those decisions?

Mr. SUTHERLAND. No; I do not. I have not in mind the decision to which the Senator refers. He said these were tax cases.

Mr. LEWIS. Yes; they were tax cases, brought under the corporation-tax law passed by Congress.

Mr. SUTHERLAND. The taxing power has no such limitations as to the power to regulate commerce. There are other limitations so far as the taxing power is concerned, but the fact that a corporation is engaged only in State business does not prevent its being taxed by the Federal Government. The matter must be tested by some other consideration than that.

Mr. LEWIS. The Senator does not think that would turn on the question of whether or not the corporation was engaged in interstate commerce?

Mr. SUTHERLAND. Oh, not at all. We have imposed a corporation tax upon all corporations falling within certain terms. I have forgotten the exact language.

Mr. LEWIS. That is the law to which I am now alluding.

Mr. SUTHERLAND. There is no doubt about the validity of such a law, because it is under the taxing power; and we are not limited to interstate corporations in exercising the taxing power.

Mr. SHIELDS. Mr. President, the question referred to by the Senator from Illinois just now has been before the courts, though not in a taxing case, but in a case involving the Sherman antitrust law. I call his attention to the Knight case, the Sugar Trust case——

Mr. SUTHERLAND. Yes; I remember that case very well.

Mr. SHIELDS. In which just the contrary of that which is suggested by the Senator from Illinois was held.

Mr. SUTHERLAND. Yes.

Mr. SHIELDS. And also the copper company cases—the Calumet and Hecla cases, I believe—in the United States Circuit Court for the Sixth Circuit, the opinion being delivered by Mr. Justice Lurton, where there were interlocking directorates and interchanging stockholders. In those cases it was attempted to hold the alleged combinations void under the Sherman law, on the possibility that they might engage in interstate trade, but the court held that they did not violate that law.

Mr. SUTHERLAND. Yes; the court in the Knight case very clearly distinguished between the power to regulate intrastate matters and interstate matters.

In the Knight case, as I recall, it was held that, although it was made perfectly apparent that there was a conspiracy and a combination to monopolize the manufacture of sugar within certain States, so long as they did not go beyond the manufacture, that was wholly an intrastate matter; that it was only when the manufactured article was set in motion from one State to another that the power of Congress attached.

Mr. SHIELDS. The point I desired to call attention to was that the mere possibility that the business of the corporation might become interstate will not bring it within the Sherman law or under the jurisdiction of any law passed by the Congress of the United States.

Mr. SUTHERLAND. Yes.

Mr. LEWIS. Mr. President, I desire, if I may be pardoned, to call the attention of both Senators to the fact that the Knight case has been practically distinguished out of existence, so far as concerns being at variance with the views expressed by me. I must insist that the Supreme Court of the United States has done this in the Westinghouse case, where the exact question was raised, where the electrical appliances were charged to be the direct product of a single State, and likewise in the two greater cases known as the Tobacco and the Standard Oil Co. cases. My inclination is to assume that the Knight case is practically distinguished in such a way that it can no longer be regarded as authority.

Mr. SUTHERLAND. I think myself that the Knight case was improperly decided, but I do not quarrel with the rule of law which the court laid down. I think, if I read the record correctly, that in that case there was shown a monopolization of interstate commerce, or an attempt to monopolize interstate commerce. So far as the decision of the court is concerned, however—that it is not within the power of Congress to deal with manufacture in a State because ultimately the manufactured article may enter into the channels of interstate trade—I think the decision is perfectly sound.

Mr. CUMMINS. Mr. President, it is that position which, I think, constitutes the entire ruling in the Knight case.

Mr. SUTHERLAND. It does.

Mr. CUMMINS. If it is sound, practically every decision rendered by the Supreme Court since that time is unsound. The Supreme Court held in the Knight case that a manufacturer in Pennsylvania, having monopolized the refining of sugar, was not within the antitrust law because that sugar, when refined, would pass into channels of interstate trade; that it did not violate the antitrust law, because the transportation of the sugar was not so directly connected with the monopolization of its manufacture as to bring it within the law. I understand that the Knight case has not only been distinguished, but that for 15 years and more the Supreme Court has utterly refused to apply its doctrine to the cases it has had under consideration.

Really, however, I did not rise to say that. I rose to express my assent to a part of the argument which the Senator from Utah is making. I think the power that we confer upon the commission must relate to or affect interstate commerce. I agree that it is not and can not be a regulation of the individual or of the corporation as distinguished from the interstate business which the individual or the corporation is carrying on. I did not want anyone to assume because I am for the bill that I dissent from that very sound and obviously well-established doctrine.

Mr. NEWLANDS. Mr. President, will the Senator from Utah yield to me?

Mr. SUTHERLAND. I yield to the Senator.

Mr. NEWLANDS. I will ask the Senator from Iowa——

Mr. SUTHERLAND. Mr. President, I will not yield for any such purpose. If the Senator desires to ask me anything I will yield, but I will not yield for a colloquy between the Senator from Nevada and the Senator from Iowa.

The PRESIDING OFFICER (Mr. WALSH in the chair). The Senator declines to yield.

Mr. NEWLANDS. Then I will ask the Senator from Utah a question. Assuming that his position is correct, that the investigation must be with reference to the subject matter of interstate commerce and not simply with reference to a person, natural or artificial, I will ask the Senator whether it is not a fact that this investigation may extend to matters relating to purely State commerce, where the matters of interstate and of State commerce are so mingled as to make it impossible to separate the one from the other, and whether the Supreme Court has not practically decided that question?

Mr. SUTHERLAND. I do not care whether the Supreme Court has decided it or not. I am very glad the Senator has asked me that question, because it enables me to state a distinction which otherwise I might have overlooked.

I answer the Senator's question, categorically, "Yes." The fact that in the investigation of interstate activities it is necessary to disclose intrastate matters, that intrastate matters are inextricably interwoven with the interstate matters, will not prevent the commission from investigating; but that is a very different thing from conferring upon the commission in terms the power to investigate both matters or to investigate all conduct of interstate corporations simply because they are engaged in interstate commerce.

I do not know whether I make myself clear or not, but I will put it in a little different form.

If we have the power to create the commission and the power to authorize it to investigate at all, we have the power to authorize it to investigate the conduct and the practices and the relations of interstate corporations in so far as those activities and relations may themselves relate to interstate commerce. Now, that is our legislative power; but in carrying the law into operation the commission itself may incidentally go outside of that power, because it is impossible to investigate the one without to some extent investigating the other. As I say, however, that is a very different thing from conferring such authority in terms of legislation.

Mr. CUMMINS. Mr. President, the Senator from Utah will notice that in paragraph (b) there is such a limitation.

Mr. SUTHERLAND. I was coming to paragraph (b) in another connection later along. I am simply criticizing this bill as it reads. I have no doubt that some amendments will be made to it hereafter that may improve it, although I do not believe it can be improved sufficiently to warrant me in voting for it.

I call attention, in that connection, to section 4, which reads:

> The powers and jurisdiction herein conferred upon the commission shall extend over all trade associations, corporate combinations, and corporations as hereinbefore defined engaged in—

Now, notice—

> engaged in or affecting commerce, except banks and common carriers.

Just what is meant by that I must leave those who prepared the bill to explain; but, as though the language of subdivision (a) of section 3 were not sufficiently broad to read

it out of the authority of Congress, section 4 has been added which gives it jurisdiction over all corporations and combinations and trade associations, not only upon the ground that they are engaged in interstate commerce, but on the ground that they "affect" interstate commerce. Since they use both expressions—"engaged in" and "affecting"—they must have intended that those two expressions are to have different or cumulative meanings. If the corporations are engaged in interstate commerce, they fall within the jurisdiction of the commission; or, not being engaged in interstate commerce, if they are affecting interstate commerce, still they fall within the jurisdiction of the commission.

I suppose some corporation might be doing a business which would affect interstate commerce, although itself never doing a single transaction in interstate commerce. Some person who manufactures a particular article and sells his entire output to a wholly independent trading company in the same State would be affecting interstate commerce, although he would not be engaged in interstate commerce; but under the terms of this bill even such a manufacturer is to fall within the terms of the law and be subject to the power of the commission.

Mr. CUMMINS and Mr. POMERENE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Utah yield, and to whom?

Mr. SUTHERLAND. I yield first to the Senator from Iowa.

Mr. CUMMINS. The Senator from Utah will remember that the Supreme Court of the United States has decided that exact thing—that any act of a State authority that is inseparably connected with or affects interstate commerce is within the jurisdiction of the United States under the power to regulate commerce.

Mr. SUTHERLAND. That would be a very different thing from the case I am supposing. The legislation of a State which affects interstate commerce affects a subject that is within the jurisdiction of Congress. Here, however, is jurisdiction given to a commission to deal with a corporation which is itself not engaged in interstate commerce, will never be engaged in interstate commerce, will never have a single, solitary transaction in interstate commerce, if it is doing anything which affects interstate commerce, however indirectly and however remotely.

Mr. CUMMINS. Precisely; but the Senator from Utah will remember that the antitrust law is founded on that very proposition—that any person who restrains trade or commerce—it makes no difference whether he is engaged in commerce or not—if he restrains commerce—that is, affects it in that way—he falls within the jurisdiction of the Federal authority, and it is within our power to prevent the restraint in the way of a regulation of commerce.

Mr. SUTHERLAND. Mr. President, I hope the Senator from Iowa will see the distinction between an act in restraint of interstate commerce and an act which merely affects interstate commerce, however remotely. It may affect it beneficially. It may affect it in the sense that the subsequent transactions in interstate commerce could not be had unless the article were manufactured. It affects it in that way, but take, for example, a policy of insurance issued by a State insurance company. It may affect interstate commerce, yet the Supreme Court has held repeatedly that the company issuing the insurance policy, or the policy itself, was not within the jurisdiction of Congress merely because it affects commerce.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Ohio?

Mr. SUTHERLAND. I do.

Mr. POMERENE. I do not have in mind the exact phraseology of the statute or of the decision of the Supreme Court, but it seems to me that we can get some light by analogy, at least, from the safety device decision of the Supreme Court rendered about a year ago. In that case it was held that in cars which were used wholly in intrastate commerce, if they were connected with a train that had cars on it which were used in interstate commerce, it was so affecting interstate commerce as to permit the Federal Government to have jurisdiction.

Mr. SUTHERLAND. Mr. President, I have not attempted to say, and I would not argue, that because the activities of a company or an individual affected interstate commerce that took it out of the power of Congress to deal with. I am saying that simply because it does affect commerce that does not of itself give Congress jurisdiction.

Mr. POMERENE. I said as a general proposition.

Mr. SUTHERLAND. But it does not give it, necessarily. A farmer is engaged in raising wheat in North Dakota. He raises an immense quantity of wheat. That affects ultimately interstate commerce, ultimately it will go into interstate commerce; but nobody would pretend that Congress has any jurisdiction over that farmer. Yet, if this language is to be literally construed, it will give us jurisdiction over a corporation of farmers, at any rate, if there be such a thing.

The next subdivision of section 3 of the bill is subdivision (b), and that reads as follows:

(b) To require any corporation subject to the provisions of this act which the commission may designate to furnish to the commission from time to time information, statements, and records concerning its organization, business, financial condition, conduct, practices, management, and relation to other corporations, or to individuals, associations, or partnerships, and to require the production for examination of all books, documents, correspondence, contracts, memoranda, or other papers relating to or in any way affecting the commerce in which such corporation under inquiry is engaged—

I stop at that point to say that the Senator from Iowa called my attention to the fact that in this subdivision, the limitation of which I complained was not to be found in subdivision (a), is to be found here, and I have read it down to that point. The provision is, "or in any way affecting commerce in which such corporation under inquiry is engaged," but it goes on—

or concerning its relations to any individual, association, or partnership, and to make copies of the same.

So far as its relations to any individual or association or partnership is concerned, they need not have the remotest relation to interstate commerce, yet the commission are given the power to investigate. This power is broadly conferred. There is not any paper or any number of papers of any corporations that this commission in the exercise of its arbitrary power desires to have before it for inspection that it can not compel to be brought. It has the power to go into the private affairs of every corporation, into its most detailed business affairs, and examine them.

Mr. President, my complaint about that is that it is in utter violation of the fourth amendment to the Constitution against unlawful searches and seizures. Let me read the provision of the Constitution. It will be found in the Manual at page 223:

The right of the people to be secure in their persons, and houses—

Now, listen—not only in their persons and houses, but in their—

papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

I call attention to a decision in the Thirty-second Federal Reporter in the matter of the Pacific Railway Commission. In that case Congress had undertaken to create a commission and had created a commission for the purpose of investigating the Central Pacific Railway Co., and perhaps others. They undertook to make the investigation and require the production of certain papers of that company. Mr. Justice Field in discussing their power referred to the case of Boyd against United States, in One hundred and sixteenth United States, page 616. That, by the way, is the leading case upon the subject of unlawful searches and seizures. The justice said:

In the recent case of Boyd *v.* United States (116 U. S., 616; 6 Sup. Ct. Rep., 524) the Supreme Court held that a provision of a law of Congress which authorized a court of the United States in revenue cases, on motion of the Government attorney, to require the defendant or claimant to produce in court his private books, invoices, and papers, or that the allegations of the attorney respecting them should be taken as confessed, was unconstitutional and void as applied to suits for penalties or to establish a forfeiture of the party's goods. The court, speaking by Mr. Justice Bradley, said:

"Any compulsory discovery extorting the party's oath or compelling the production of his private books and papers to convict him of crime or to forfeit his property is contrary to the principles of a free government. It is abhorrent to the instincts of an Englishman; it is abhorrent to the instincts of an American. It may suit the purpose of despotic power, but it can not abide the pure atmosphere of political liberty and personal freedom."

That is the end of the quotation from Mr. Justice Bradley. Then Mr. Justice Field proceeds:

The language thus used had reference, it is true, to the compulsory production of papers as a foundation for criminal proceedings; but it is applicable to any such production of the private books and papers of a party otherwise than in the course of judicial proceedings or a direct suit for that purpose. It is the forcible intrusion into and compulsory exposure of one's private affairs and papers without judicial process, or in the course of judicial proceedings, which is contrary to the principles of a free government and is abhorrent to the instincts of Englishmen and Americans.

Then he quotes that famous language of Lord Camden, from an early English case, in Nineteenth Howard State Trials, where it is said:

Papers are the owner's goods and chattels; they are his dearest property, and are so far from enduring a seizure that they will hardly bear an inspection; and though the eye can not, by the laws of England, be guilty of trespass, yet where papers are removed and carried away the secret nature of those goods will be an aggravation of the trespass and demand more considerable damages in that respect. Where is the written law that gives any magistrate such a power? I can safely answer there is none; and therefore it is too much for us,

without such authority, to pronounce a practice legal which would be subversive of all the comforts of society.

Then, after that quotation, Mr. Justice Field proceeds:

Compulsory process to produce such papers, not in a judicial proceeding, but before a commission of inquiry, is as subversive of "all the comforts of society" as their seizure under the general warrant condemned in that case. The principles laid down in the opinion of Lord Camden, said the Supreme Court of the United States, "affect the very essence of constitutional liberty and security. They reach further than the concrete form of the case then before the court with its adventitious circumstances; they apply to all invasions on the part of the Government, and its employees, of the sanctity of man's home and the privacies of life."

Mr. WHITE. Will the Senator from Utah give me that citation, please?

Mr. SUTHERLAND. Thirty-second Federal Reporter, page 251.

Mr. LEWIS. May I say to the able Senator that the decision referred to by Lord Camden, which was the case of Entick against Carrington, Nineteenth Howard State Trials, received more thorough consideration in the case of Weeks against United States, which came up to the Supreme Court of the United States only lately. The case is possibly familiar to the able Senator, and if not, I will be very glad, if he is not overburdened with labor, to place it before him.

Mr. SUTHERLAND. I have read the case, and I have it on my desk here, in Two hundred and thirty-second United States.

This rule applies to corporations as well as to individuals. That was expressly decided by the Supreme Court in a very recent case—the case of Hale against Henkel—where the court said, in Two hundred and first United States, page 75:

Although, for the reasons above stated, we are of the opinion that an officer of a corporation which is charged with a violation of a statute of the State of its creation, or of an act of Congress passed in the exercise of its constitutional powers, can not refuse to produce the books and papers of such corporation, we do not wish to be understood as holding that a corporation is not entitled to immunity, under the fourth amendment, against unreasonable searches and seizures. A corporation is, after all, but an association of individuals under an assumed name and with a distinct legal entity. In organizing itself as a collective body it waives no constitutional immunities appropriate to such body. Its property can not be taken without compensation. It can only be proceeded against by due process of law, and is protected, under the fourteenth amendment, against unlawful discrimination. Gulf, etc., Railroad Co. v. Ellis (165 U. S., 150, 154) and cases cited. Corporations are a necessary feature of modern business activity, and their aggregated capital has become the source of nearly all great enterprises.

It has been established, I think, beyond any question that, while the fifth amendment, with reference to compelling incriminating testimony, does not apply to a corporation, the fourth amendment, against unlawful searches and seizures, does, and a corporation, so far as its books and papers are concerned, has exactly the same immunity in that respect that an individual has.

Mr. WHITE. I would be glad if the Senator would give me the last citation.

Mr. SUTHERLAND. Two hundred and first United States, page 75.

While I have this volume before me I wish to call attention to one or two other cases. First, I will call attention to the case to which the Senator from Illinois [Mr. LEWIS] just referred, Two hundred and thirty-second United States, page 391, in which they quote from Mr. Justice Bradley:

The principles laid down in this opinion—

Referring to the decision of Lord Camden—

affect the very essence of constitutional liberty and security. They reach further than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the Government and its employees of the sanctity of a man's home and the privacies of life. It is not the breaking of his doors and the rummaging of his drawers that constitutes the essence of the offense, but it is the invasion of his indefeasible right of personal security, personal liberty, and private property, where that right has never been forfeited by his conviction of some public offense; it is the invasion of this sacred right which underlies and constitutes the essence of Lord Camden's judgment.

I will not stop to read at any length from the Weeks case, but it is a very instructive case, and is the last expression of the Supreme Court with reference to this subject.

The author that I have already referred to, Mr. Spelling, at page 303 of this book, also calls attention to this doctrine. After referring to some of the decisions of the Supreme Court, he says:

But clearly the power must be exercised with a definite purpose in view, a purpose to accomplish a result within the court's jurisdiction.

That is, it must be, as I understand it, to accomplish some specific thing. If a case is pending, then the court may require the production of papers relating to that case. The papers must be specified, however. The documents must be specified at least generally. It is not sufficient to send out a subpœna in general terms directing the party to bring in all his private papers. That was expressly condemned in the case of Hale against Henkel, to which I called attention.

I again call attention to the language of the Supreme Court in Two hundred and first United States, at page 71. The court says:

We held—

Referring to the Boyd case—

That a compulsory production of a man's private papers to establish a criminal charge against him, or to forfeit his property, is within the scope of the fourth amendment to the Constitution in all cases in which a search and seizure would be, and that the order in question was an unreasonable search and seizure within that amendment.

That is, the requirement to produce the papers, even the issuance of a subpœna, may be within the meaning of the fourth amendment of unreasonable search and seizure.

Further on:

We are also of opinion that an order for the production of books and papers may constitute an unreasonable search and seizure within the fourth amendment. While a search ordinarily implies a quest by an officer of the law, and a seizure contemplates a forcible dispossession of the owner, still, as was held in the Boyd case, the substance of the offense is the compulsory production of private papers—

Let me repeat that for the sake of emphasis—

the substance of the offense is the compulsory production of private papers, whether under a search warrant or a subpœna duces tecum, against which the person, be he individual or corporation, is entitled to protection. Applying the test of reasonableness to the present case, we think the subpœna duces tecum is far too sweeping in its terms to be regarded as reasonable. It does not require the production of a single contract, or of contracts with a particular corporation, or a limited number of documents, but all understandings, contracts, or correspondence between the MacAndrews & Forbes Co. and no less than six different companies, as well as all reports made and accounts rendered by such companies from the date of the organization of the MacAndrews & Forbes Co., as well as all letters received by that company since its organization from more than a dozen different companies, situated in seven different States in the Union.

That was condemned by the Supreme Court in that case. What would they say about language which does not even confine it to transactions between a number of different companies, but which authorize this commission to require any corporation "to furnish to the commission from time to time information, statements, and records concerning its organization, business, financial condition, conduct, practices, management, and relation to other corporations, or to individuals, associations, or partnerships, and to require the production for examination of all books, documents, correspondence, contracts, memoranda, or other papers relating to or in any way affecting the commerce in which such corporation under inquiry is engaged," and, moreover, require it to produce papers and documents which concern "its relations to any individual, association, or partnership, and to make copies of the same."

Under that they could issue an order to a corporation or to any number of corporations to bring before them all their books, all their papers, and every written thing which they may have.

Mr. STERLING. What case is that?

Mr. SUTHERLAND. It is Two hundred and first United States, Hale against Henkel. The court proceeds:

If the writ had required the production of all the books, papers, and documents found in the office of the MacAndrews & Forbes Co., it would scarcely be more universal in its operation or more completely put a stop to the business of that company. Indeed, it is difficult to say how its business could be carried on after it had been denuded of this mass of material, which is not shown to be necessary in the prosecution of this case and is clearly in violation of the general principle of law with regard to the particularity—

"With regard to the particularity"—

required in the description of documents necessary to a search warrant or subpœna. Doubtless many, if not all, of these documents may ultimately be required, but some necessity should be shown, either from an examination of the witnesses orally, or from the known transactions of these companies with the other companies implicated, or some evidence of their materiality produced, to justify an order for the production of such a mass of papers. A general subpœna of this description is equally indefensible as a search warrant would be if couched in similar terms.

Further on, in the dissenting opinion—although not on this point—of Mr. Justice Brewer and the Chief Justice, at page 86, they say:

Neither does the fact that a corporation is engaged in interstate commerce in any manner abridge the protection and applicable immunities accorded by the amendments.

The corporation of which the petitioner was an officer was chartered by a State, and over it the General Government has no more control than over an individual citizen of that State. Its power to regulate commerce does not carry with it a right to dispense with the fourth and fifth amendments, to unreasonably search or seize papers of an individual or corporation engaged in such commerce, or deprive him or it of any immunity or protection secured by either amendment.

It is true that there is a power of supervision and inspection of the inside workings of a corporation, but that belongs to the creator of the corporation. If a State has chartered it, the power is lodged in the State. If the Nation, then the Nation, and it can not be exercised by any other authority. It is the nature of the power of visitation.

From page 88 I quote this further statement:

The fact that a State corporation may engage in business which is within the general regulating power of the National Government does not give to Congress any right of visitation or any power to dispense with the immunities and protection of the fourth and fifth amendments. The National Government has jurisdiction over crimes committed within its special territorial limits. Can it dispense in such cases with these immunities and protections? No more can it do so in respect to the acts and conduct of individuals coming within its regulating power. It has the same control over commerce with foreign nations as over that between the States.

Now, I call attention also to a general statement contained in a memorandum which was prepared with great care by Mr. Carman F. Randolph, a very eminent lawyer. Everybody who knows him knows that his opinion upon a question of this kind is entitled to great weight. I call attention to one or two of his expressions. On page 9 of this brief or memorandum, he first quotes from another part of the case of Hale against Henkel, from which I have been reading, in which it is stated—this is a quotation from the Supreme Court—

But such franchises, so far as they involve questions of interstate commerce, must also be exercised in subordination to the power of Congress to regulate such commerce, and in respect to this the General Government may also assert a sovereign authority to ascertain whether such franchises have been exercised in a lawful manner, with a due regard to its laws. Being subject to this dual sovereignty, the General Government possesses the same right to see that its own laws are respected as the State would have with respect to the special franchises vested in it by the laws of the State. The powers of the General Government in this particular in the vindication of its own laws are the same as if the corporation had been created by an act of Congress. It is not intended to intimate, however, that it has a general visitorial power over State corporations.

Then, referring to another case, that of Harriman against the Interstate Commerce Commission, which I have here, this quotation is made from pages 417 to 421, Two hundred and eleventh United States Reports:

The legislation that the commission may recommend embraces, according to the arguments before us, anything and everything that may be conceived to be within the power of Congress to regulate, if it relates to commerce with foreign nations or among the several States.

I may pause here in reading to say that this was an attempt on the part of the Interstate Commerce Commission to compel the attendance of witnesses and to make an investigation without a specific case being before it, but with a view, among other things, of making a report to Congress to enable Congress to help to pass additional legislation. The court proceeds:

And the result of the arguments is that whatever might influence the mind of the commission in its recommendations is a subject upon which it may summon witnesses before it and require them to disclose any facts, no matter how private, no matter what their tendency to disgrace the person whose attendance has been compelled. If we qualify the statement and say only legitimately influence the mind of the commission in the opinion of the court called in aid, still it will be seen that the power, if it exists, is unparalleled in its vague extent.

How far Congress could legislate on the subject matter of the questions put to the witnesses was one of the subjects of discussion, but we pass it by. Whether Congress itself has the unlimited power claimed by the commission we also leave on one side. It was intimated that there was a limit in Interstate Commerce Commission *v.* Brimson (154 U. S., 447, 448, 479). Whether it could delegate the power, if it possesses it, we also leave untouched, beyond remarking that so unqualified a delegation would present the constitutional difficulty in most acute form.

I call especial attention to this:

The power to require testimony is limited, as it usually is in English-speaking countries, at least to the only cases where the sacrifice of privacy is necessary—those where the investigations concern a specific breach of the law.

The court goes on then and holds that the act does not authorize any such proceeding, and the intimation is very clear that it would not be warranted by the Constitution.

Mr. KENYON. From what case is the Senator from Utah reading?

Mr. SUTHERLAND. From Harriman *v.* The Interstate Commerce Commission (211 U. S. R.).

Mr. STERLING. What page?

Mr. SUTHERLAND. It begins on page 407. The court adds:

We could not believe on the strength of other than explicit and unmistakable words that such autocratic power was given for any less specific object of inquiry than a breach of existing law, in which, and in which alone, as we have said, there is any need that personal matters should be revealed.

I said I was going to quote from Mr. Randolph, and I have thus far quoted from quotations made by him; but this is his conclusion:

The conclusions of the opinion are strengthened by the later decisions cited. Hale *v.* Henkel, while maintaining a proper Federal right to see that State corporations respect the Federal law, disclaims any general Federal visitorial power over them and affirms to them the protection of the fourth amendment. And all the decisions follow the best tradition of our jurisprudence in condemning the dragnet and the short-cut quest, even—

Mark the word "even"—

even when a breach of the law is in question.

Of course, much more so if no breach of the law is in question; but we are simply investigating for some unknown purpose. Then he concludes:

If such rough and roving quests are forbidden, even when they are incident to a regular proceeding, for vindication of the law, how can they be permitted to a purely administrative body in a mere search for information, whether it be undertaken in problematic aid of legislation or on rumor or suspicion of wrongdoing?

And yet this commission, for almost any conceivable purpose, is given the power to compel the production of all the papers and of all the books and of all the documents of any corporation, and to investigate its relations with individuals and corporations, whether or not those relations relate to interstate commerce.

Mr. WALSH. Mr. President——

Mr. SUTHERLAND. Just a moment. And it may do that with a view of recommending legislation to Congress; it may do it with a view of exercising its power as a publicity bureau to acquaint the public with what they have found out or for any conceivable reason which may appeal to them. Now I yield to the Senator from Montana.

Mr. WALSH. Mr. President, I have before me the interstate-commerce act which gives to the Interstate Commerce Commission a like power—to compel the production of books and orders. Does the Senator involve the Interstate Commerce Commission in the condemnation directed against this bill, or does he discriminate in some manner?

Mr. SUTHERLAND. The decisions which I read from the Supreme Court were with reference to the Interstate Commerce Commission.

Mr. WALSH. Exactly.

Mr. SUTHERLAND. And they held, or they intimated, at any rate, that if any such power was conferred it was beyond the power of Congress.

Mr. WALSH. That is to say, the statute received such a construction as gave it a restricted effect within constitutional limits.

Mr. SUTHERLAND. They call attention to the different provisions of the statute which very clearly show that.

Mr. WALSH. So that those decisions clearly mark out the line in which the trade commission may operate under this bill, do they not? I understand the argument of the Senator, however, to be to the effect that the provision would have no force or effect at all because of the constitutional objections which he urges.

Mr. SUTHERLAND. The Senator evidently has not been here while I have been discussing the matter.

Mr. WALSH. I have been trying to follow the argument of the Senator.

Mr. SUTHERLAND. I undertook to point out why I thought it was invalid, and I made a general statement in the beginning as to why I thought so. I am now taking up these sections seriatim.

Mr. WALSH. I am speaking of the section the Senator is now canvassing, and I was simply curious to know whether the Senator involved the provision in the interstate-commerce act in the same condemnation or whether he discriminated between the two or whether he took the position that a different construction would have to be given to this act?

Mr. SUTHERLAND. I think that this bill goes entirely beyond the provisions of the interstate-commerce law.

Mr. WALSH. I have that act before me here.

Mr. SUTHERLAND. And I am now criticizing it in that view.

Mr. WALSH. If the Senator will pardon me, I will be very glad to read the provisions of the interstate-commerce act.

Mr. SUTHERLAND. I hope the Senator will not do that, because I should like to get through with what I have to say, and I have read the provisions of that act.

This bill gives the trade commission the power to compel the production of all papers, and, I repeat, it gives them the power to compel the production of papers whether or not they relate to interstate commerce or whatever they relate to. That power, it seems to me, can not be justified under any view of constitutional guaranties.

The next subdivision that I shall call attention to very briefly is subdivision (c) of section 3, as follows:

(c) To prescribe as near as may be a uniform system of annual reports from such corporations or classes of corporations subject to the provisions of this act as the commission may designate, and to fix the time for the filing of such reports, and to require such reports, or any special report, to be made under oath, or otherwise, in the discretion of the commission.

It seems to me that that is a power which at least admits of very oppressive use. No rule, no standard, is laid down; there is no provision by which the commission may be restricted to

any specific thing, but it is given the power to prescribe such uniform system of annual reports as they may designate; to fix the time for the filing of the reports; and to require such reports to be made under oath, or otherwise, in their discretion. I think there must be a standard in a matter of that kind as well as in the conferring of other substantive powers upon a commission. No such standard is provided here. Upon that general subject I call attention to the same writer, Mr. Randolph, who says:

The rule against delegating legislative power to administrative bodies has come to be more liberally construed under the tremendous pressure of *the functions* assumed by the modern State, but the principle and the range of their jurisdiction—whether of persons or of matters—should, if not fully mapped out by the legislature, be indicated sufficiently to preclude a loose right of selection. For if an act of the body be not rooted in jurisdiction duly conferred by the law-making authority it is without warrant—and this is equally true of classification for jurisdictional purposes.

I call attention in that connection to section 6:

SEC. 6. That if any corporation subject to this act shall fail to file any annual or special report, as provided in subdivision (b) of section 3 hereof, within the time fixed by the commission for filing the same, and such failure shall continue for 30 days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure—

And so forth.

That is a pretty drastic provision. A corporation can be required to furnish reports about all its business affairs, whether they relate to interstate commerce or something else, with the utmost detail; and if it fail to comply it is to be subject to this penalty.

Section 9 has a general bearing upon this and other sections. That section provides:

SEC. 9. The district courts of the United States, upon the application of the commission alleging a failure by any corporation, or by any of its officers or employees, or by any witness, to comply with any order of the commission for the furnishing of information, shall have jurisdiction to issue such writs, orders, or other process as may be necessary to enforce any order of the commission and to punish the disobedience thereof.

It occurs to me that that is rather a remarkable power to vest in a court. The commission is given the power to enforce any order that this administrative body may choose to make. I can not conceive how that can be a judicial power. If Congress makes an order, certainly Congress can not go to a court to enforce its order; if a committee of Congress makes an order, certainly it can not go to any court to enforce its order; and I do not think that Congress could pass a law which would authorize it to go to a court to enforce its order. I am aware of the fact that there is a comparatively recent decision in the Supreme Court which held, by a divided court, that a certain order for the production of testimony might be enforced by the court, and I shall have occasion in a moment or two to call attention to that case; but, first of all, I call attention to general statements made upon this subject in the case to which I have already referred in the Thirty-second Federal Reporter, at page 241. I call attention to that because that case grew out of the fact that the Congress had appointed the Pacific Railway Commission, which was authorized to investigate the affairs of the Pacific Railway companies, and directed that its orders might be enforced by application to the court. In the course of that decision it was stated:

The judicial power of the United States is therefore vested in the courts and can only be exercised by them in the cases and controversies enumerated and in petitions for writs of habeas corpus. In no other proceedings can that power be invoked, and it is not competent for Congress to require its exercise in any other way. Any act providing for such exercise would be a direct invasion of the rights reserved to the States or to the people, and it would be the duty of the court to declare it null and void. Story says in his Commentaries on the Constitution that "the functions of the judges of the courts of the United States are strictly and exclusively judicial. They can not therefore be called upon to advise the President in any executive measures or to give extrajudicial interpretations of law or to act as commissioners in cases of pensions or other like proceedings.

Then he goes on and quotes from some other authorities. Later on, at page 258, Mr. Justice Field says:

The provision of the act authorizing the courts to aid in the investigation in the manner indicated must therefore be adjudged void. The Federal courts under the Constitution can not be made the aids to any investigation by a commission or a committee into the affairs of anyone. If rights are to be protected or wrongs redressed by any investigation, it must be conducted by regular proceedings in the courts of justice in cases authorized by the Constitution.

Again, on page 259, he says:

It is enough that the Federal courts can not be made the instruments to aid the commissioners in their investigations. It also renders it unnecessary to make any comment upon the extraordinary position taken by them according to the statement of the respondent, to which we have referred, that they did not regard themselves bound in their examination by the ordinary rules of evidence, but would receive hearsay and ex parte statements, surmises, and information of every character that might be called to their attention. It can not be that the courts of the United States can be used in furtherance of investigations in which all rules of evidence may be thus disregarded.

In a concurring opinion by Mr. Circuit Judge Sawyer he says—and I call particular attention to this, not only in connection with this matter, but in connection with the other powers conferred upon the trade commission—

A general, roving, offensive, inquisitorial, compulsory investigation, conducted by a commission without any allegations, upon no fixed principles, and governed by no rules of law, or of evidence, and no restrictions except its own will, or caprice, is unknown to our Constitution and laws; and such an inquisition would be destructive of the rights of the citizen and an intolerable tyranny. Let the power once be established and there is no knowing where the practice under it would end.

The whole case is a very instructive one upon the general subject.

In the Brimson case, in One hundred and fifty-fourth United States, the Supreme Court held that the powers conferred by the interstate-commerce act, with reference to compelling the attendance of witnesses, could be enforced. That was a decision by five judges. Three judges—Chief Justice Fuller, Mr. Justice Brewer, and Mr. Justice Jackson—dissented. Mr. Justice Field, who undoubtedly would have agreed with them if he had been present, was not present at the argument, so that it may be regarded as a "five to four" decision. Nevertheless, it is the law; but I call attention to that case for the purpose of suggesting that the case should not be extended beyond what is decided. At least one circuit court refused to follow it in a case arising under the pension laws. I read, however, from page 478:

We do not overlook these constitutional limitations which, for the protection of personal rights, must necessarily attend all investigations conducted under the authority of Congress. Neither branch of the legislative department, still less any merely administrative body, established by Congress possesses or can be invested with a general power of making inquiry into the private affairs of the citizens. (Kilbourn *v.* Thompson, 103 U. S., 168, 190.) We said in Boyd *v.* United States (116 U. S., 616, 630)—and it can not be too often repeated—that the principles that embody the essence of constitutional liberty and security forbid all invasion on the part of the Government and its employees of the sanctity of a man's home and the privacies of his life. As said by Mr. Justice Field in In re Pacific Railway Commission (32 Fed. Rep., 241, 250;—

I call attention to that particularly, because that is the case from which I have just read. Quoting from Mr. Justice Field:

Of all the rights of the citizen few are of greater importance or more essential to his peace and happiness than the right of personal security, and that involves not merely protection of his person from assault, but exemption of his private affairs, books, and papers from the inspection and scrutiny of others. Without the enjoyment of this right all others would lose half their value.

One of the cases to which I have referred as having declined to follow that decision under other circumstances is found in Eighty-first Federal Reporter at page 847. I shall not stop to read it; it is rather lengthy.

I will, however, read this single extract from it:

Mr. Justice Harlan, in the opinion in the Brimson case, considers the constitutional objections that were made in the cases just cited to these statutes, invoking the aid of the courts for the production of testimony, and sustains the procedure directed by the interstate-commerce acts just referred to, upon the distinct ground that the commission was required, as the Supreme Court interprets the acts, by a petition to the circuit court, to distinctly set forth the particular questions to be answered, and the certain books and papers mentioned and named, and that it was then open to each witness to contend before that court that he was protected by the Constitution from making answer to the questions propounded to him, or that he was not legally bound to produce the books, papers, etc., ordered to be produced.

But here the attempt is made to invest the court with the general and sweeping power to enforce all of the orders with reference to furnishing information, no matter what the information may relate to, and without reference to its having application to some specific inquiry.

The next subdivision is subdivision (d). That is the provision which gives the commission power—

To make public, in the discretion of the commission, any information obtained by it in the exercise of the powers, authority, and duties conferred upon it by this act, except so far as may be necessary to protect trade processes, names of customers, and such other matters as the commission may deem not to be of public importance—

Not as Congress may deem proper, not as Congress may limit by some definite rule or standard, but as the commission, in its unrestricted discretion, may deem not to be of public importance—

and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation.

So this commission, in addition to prying into all the affairs of these various corporations, in its discretion, is given the power to publish broadcast the information it obtains, with certain specific limitations. I can not myself see what that general power had to do with interstate commerce—to publish these things to gratify somebody's curiosity as to what is going on. What has that to do with interstate commerce?

Mr. Spelling, referring to another phase of this bill or a similar bill, makes a remark which will apply to that when he says:

What has the manner in which books are kept to do with interstate commerce? If this is not merely an attempt to evade the Constitution,

why not just have Congress declare this duty as a regulation and impose a penalty for noncompliance? We should then see how long it could stand against an attack in the courts.

I now call attention to the language of the Supreme Court in One hundred and eighteenth United States, page 370. I think it is pretty good doctrine to consider in connection with all of these powers that are attempted to be conferred. The court says:

When we consider the nature and the theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power.

What is it but arbitrary power that we have conferred upon this commission?

Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power. It is, indeed, quite true that there must always be lodged somewhere and in some person or body the authority of final decision, and in many cases of mere administration the responsibility is purely political, no appeal lying except to the ultimate tribunal of the public judgment, exercised either in the pressure of opinion or by means of the suffrage. But the fundamental rights to life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous language of the Massachusetts bill of rights, the government of the Commonwealth "may be a government of laws and not of men," for the very idea that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails as being the essence of slavery itself.

Here is a bill which confers upon a commission almost unrestricted power without any rule or standard being laid down according to which it must be exerted, to do whatever they may deem they ought to do, whatever they may think they care to do in the way of prying into the affairs, the books, and papers of any and every corporation in the country.

I also insert an extract from the case of Fisher Co. *v.* Woods (187 N. Y., 90). I read from page 94:

The legislature may not, under the guise of protecting the public interest, arbitrarily interfere with private business or impose unusual or unnecessary restrictions upon lawful occupations. The legislative determination as to what is a proper exercise of the police power is subject to the supervision of the court and in determining the validity of an act it is its duty to consider not only what has been done under the law in a particular instance but what may be done under and by virtue of its authority.

That is a complete answer to the statement of the Senator from Nevada that these extraordinary powers may not be exercised by the commission. He is trusting them not to exercise to the full the powers which we have conferred upon them. The test of the validity of the law is, however, What are the powers we have conferred?—not What powers are likely to be exercised by the commission upon whom they are conferred?

The court proceeds:

Liberty in its broad sense means the right not only of freedom from servitude, imprisonment, or restraint, but the right of one to use his faculties in all lawful ways, to live and work where he will, to earn his livelihood in any lawful calling, and to pursue any lawful trade or avocation.

The next clause is that contained in the section lettered "(e)." That clause attempts to confer upon the commission the powers of a master in chancery. It provides:

In any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts, if the court finds for the complainant it may, upon its own motion or the motion of any party to such suit, refer the matter of the form of the decree to be entered to the commission as a master in chancery; whereupon the commission shall proceed in that capacity upon such notice to the parties and upon such hearing as the court may prescribe, and shall as speedily as practicable make report with its findings to the court, which report and findings having been made and filed shall be subject to the judicial procedure established for the consideration and disposition of a master's report and findings in equity cases.

I make this proposition preliminarily, and I think it can not be disputed: The appointment of a master in chancery is a judicial function. No legislature can appoint an assistant to a court. That is purely a judicial power. The Supreme Court of Wisconsin, and I think one or two other courts, went so far as to hold that even an assistant in the court room—not an assistant to the court in the discharge of its official duties, but an assistant in the court room—could not be appointed by the legislature or by an executive; that that power belonged to the courts. So, clearly, if this bill had attempted to make the appointment and to make it binding upon the court, it would have been utterly void, because it is clearly an attempt to exercise the judicial power of appointing as an assistant to the court a master in chancery, a power which belongs only to the court itself.

It may be said, however, and will be said, that the effect of this is simply to point out this commission as a body to whom a court may refer these matters as a master in chancery.

I make this suggestion about it, however, that if the appointment of a master in chancery be the exercise of judicial power, and be a function outside of the legislative power, then any litigant in the courts has a right to insist that the court shall exercise its judicial power. In other words, it does not lie with the court alone to say that it shall permit the legislative body to appoint its assistants. The litigants have something to say about it; and when one of these litigants concerned in the transactions that may be the subject of judicial investigation comes into the court, he will have a right to say that every function of the court must be performed by the court itself; that the court is not only not obliged to accept the appointee of the legislative body as a master in chancery, but that it can not accept the appointee of the legislature; that it must make the appointment itself.

I make that statement with some hesitation, although I believe there is force in the suggestion.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Iowa?

Mr. SUTHERLAND. I do.

Mr. CUMMINS. This paragraph of the section simply qualifies or renders competent the commission to receive an appointment by the courts. It does not appoint nor impose any restraint whatever upon the courts.

Mr. SUTHERLAND. I have said that, substantially.

Mr. CUMMINS. But the Senator, in the latter part of his remarks, seemed to imply that there was something here in the nature of an appointment. I desire to suggest this to him: The court has the inherent power to appoint an administrator; that is a judicial function; but does the Senator doubt the power of a legislature to make a corporation competent to act as an administrator?

Mr. SUTHERLAND. Oh, no.

Mr. CUMMINS. If the legislature can make a corporation competent to act as an administrator, why can it not make the commission competent to act as a master in chancery?

Mr. SUTHERLAND. I do not think the appointment of an administrator is necessarily the exercise of judicial power. In fact, the legislature might provide, and does provide, that certain persons shall not act as administrator.

Mr. CUMMINS. I have not any doubt that the legislature could disqualify certain persons from acting as master in chancery.

Mr. SUTHERLAND. In making a will the testator appoints an executor and the court is bound to execute the will.

Mr. CUMMINS. I am speaking not of the executor, but the administrator.

Mr. SUTHERLAND. The administrator does not assist the court in deciding cases in performing its judicial functions. The administrator is a business agent who handles the estate and makes his report to the court. At any rate, I make the suggestion that I think there is very great doubt about it.

One of the leading cases upon this general subject is that of the State ex rel. Hovey *v.* Noble (118 Ind., p. 350). There was an attempt on the part of the legislature to appoint a commission to assist the court in hearing and deciding cases. The legislature provided, however, that the court was not to be bound by its findings. It was to review, and then the court could make such decision as it pleased. In the course of the decision the court said, at page 159, Tenth American State Reports:

The people have a right to the courts established by and under the constitution, and this constitutional right the legislature can neither alter nor abridge. Constitutional tribunals can not be changed by legislation, and the supreme court is a constitutional court. It can be composed of judges only; for only judges can constitute a court. No part of the judicial duties of that court can be assigned to any other person than one of the duly chosen judges. The legislature has no power to change its organization, nor can that body, under the guise of creating commissioners, divide the duties of the judges, nor authorize it to be done.

I repeat that. It can not divide the duties of the judges nor authorize it to be done.

Mr. CUMMINS. On the question of the right of a court to appoint a master in chancery who was not a judge, how and where does the court secure that right?

Mr. SUTHERLAND. It acquires it as a court that exercises judicial power.

Mr. CUMMINS. But the extract the Senator was just reading says that the court can not receive aid from anybody but a judge in discharging its judicial functions.

Mr. SUTHERLAND. No; it does not say that. The legislature has no power to change the organization of the court, nor can the legislature, under the guise of creating a commission, divide the duties of the judges nor authorize it to be done.

This authorizes the duties of the judges to be done by dividing the duties of the judges between the judges and the commissioners appointed according to the act of the legislature.

Mr. CUMMINS. I will agree to that perfectly; but, inasmuch as it is a function of the court to appoint an aid in the form of a master in chancery, and that being undoubtedly true, I see no possible escape from the conclusion that the legislature may render a person or a corporation competent to receive the appointment.

Mr. SUTHERLAND. I think this does more than that. It does more than to render him eligible. The court proceeds:

Under our Constitution as amended the legislature may establish courts, but it can not destroy the constitutional courts—the circuit courts and the Supreme Court—nor can it change their organization nor redistribute their powers, for these courts owe their organization to the Constitution, and as the Constitution has ordained that they shall be organized, so they shall be.

* * * * * * *

It is clear to us that there is, and can be, no such offices as the legislature has assumed to create, and that the act is in all its parts utterly void.

There are some other statements in the case that I shall desire to insert in the RECORD. I will not stop to read them now.

Since the time of Queen Elizabeth, courts have appointed masters in chancery, and masters in chancery and master commissioners now are, and have always been, appointed by the Federal courts. Our own law has from the earliest years of the State recognized, as it does still, the right of the judiciary to select masters in chancery and master commissioners.

* * * * * * *

Proceeding still further upon the concession which we have provisionally made—and made simply for argument's sake—we affirm that the power to appoint the "ministers and assistants" of the judges is a judicial power, and was a judicial power when the Constitution was adopted. We assert, as a conclusion necessarily following from the proposition we have affirmed, that when the framers of the Constitution declared that the judicial power was vested in the courts, they invested this power in the judiciary as it then existed, and that this investment conferred upon the courts the exclusive power to choose their own ministers and assistants. We suppose no one will deny that the courts, from the earliest ages of the law, have possessed the power to appoint referees, receivers, commissioners, and all other like ministers or assistants, and that they possessed this power because it was a judicial power. If it was not a judicial power, it could not have resided in the courts, for courts have no other power.

* * * * * * *

Those who are chosen by the people to sit as judges must themselves discharge all the judicial duties of their offices. The trust is imposed upon them, and they can not share their judicial duties with any person. The people have a right to the judgment of those whom they have made judges, and this right the judges can not surrender, if they would, without a flagrant breach of a sworn duty. The trust is a personal one, inalienably invested in the persons selected by the people, and it can not be delegated by the judges themselves, nor by any one else for them.

The next section I desire to call attention to is section 7, which provides that—

Any person who shall willfully destroy, alter, mutilate, or remove out of the jurisdiction of the United States or authorize, assist in, or be privy to the willful destruction, alteration, mutilation, or removal out of the jurisdiction of the United States of any book, letter, paper, or document containing an entry or memorandum relating to commerce, the production of which the commission may require under this act, or who shall willfully make any false entry relating to commerce in any book of accounts or record of any trade association, corporate combination, or corporation, subject to the provisions of this act, or who shall willfully make or furnish to said commission or to its agent any false statement, return, or record, knowing the same to be false in any material particular, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding $5,000 or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

Now, what does that do? It provides that it shall be a criminal offense, punishable by imprisonment or a fine, or both, if any person shall willfully destroy any book, letter, paper, and so forth, not "fraudulently," but "willfully." That simply means that if he has a paper and tears it, knowing that he is tearing it, it is willfully done. If the most innocent individual imaginable shall destroy, alter, or remove out of the jurisdiction of the United States, or shall assist in or be privy to such a thing, he is guilty of this offense. There is no limit of time. The only test whether the paper can be thus willfully destroyed or removed is that it shall be a paper or memorandum which the commission may—nobody knows when, but at some time in the vast-extending future—require the production of. For all time, according to the language of this section, all these corporations must preserve all their papers and all their documents, if there be anything in them which relates to an interstate-commerce transaction, and therefore being a paper which the commission may sometime require.

Of all the extraordinary provisions of this bill, to my mind that is the most extraordinary. The idea is that a corporation must go on accumulating year after year and year after year a vast body of useless documents that have served their purpose and are no longer of use to anybody and that they must still, under this penalty of the law of imprisonment, continue to pile them up because perhaps sometime this commission may require their production.

Now, Mr. President, I come to the final question that I desire to discuss, and that is section 5 of this bill. It has been often read here and often commented upon. It provides "That unfair competition in commerce is hereby declared unlawful," and the commission is "empowered and directed to prevent corporations from using unfair methods of competition in commerce."

I presume by that that the commission may be authorized to prevent something which is not declared unlawful by this act, because the thing which is declared to be unlawful is unfair competition, and the thing which the commission is authorized and required to prevent is unfair "methods" of competition. I do not know whether it is the view of the framers of this bill that unfair competition and unfair methods of competition mean the same thing, but I do know that the words "unfair competition" have a very well settled meaning in the law and that the words "unfair methods of competition" have not. So if we accept that provision as to unfair methods of competition it seems to me very clearly that we have authorized the commission to legislate without laying down any primary standard.

What are unfair methods of competition? Can anybody tell me? Can anybody make a comprehensive list of the acts which will constitute unfair methods of competition? Of course we can frame a definition of what is unfair competition under the authorities. "Unfair competition," as I have said, has a very well settled meaning. It means simply and only, as I understand it, an attempt upon the part of one person or of a corporation to impose his or its goods or business upon the public as the goods or business of another. A violation of a trademark is an illustration of unfair competition. The element of fraud must exist. The courts have repeatedly held that if fraud does not exist it was not unfair competition. It is the palming off of something which you are attempting to sell to the public as being a product of somebody else. Here is Apollinaris water, which is a well-known brand of mineral water. If I should discover some other mineral water, whether it was as good as that or not, and should prepare a yellow label of the same color as the Apollinaris label and misspell the word, spelling it with one l instead of two l's, and put it out on the market and pretend, and give people reason to believe, that I was selling Apollinaris water as they understood Apollinaris water, that would be unfair competition.

Now, then, those things are perfectly well understood. They are within the control of the courts to-day. There is not a single instance of unfair competition that the courts are not fully competent to deal with.

What does this bill undertake to say with reference to the powers of the commission in that respect? It provides that—

Whenever the commission shall have reason to believe that any corporation has been or is using any unfair method of competition—

Not unfair competition but unfair methods; then it may issue a written order to the corporation which it suspects and compel that corporation to appear before it and show cause why it should not be restrained. I suppose that implies that there will be a hearing, and after the hearing if it finds that the unfair methods exist it shall issue an order restraining and prohibiting the use of the same.

But that is not all. Whenever the commission after the issuance of this order finds that the corporation is not complying with it, it may petition the district court within any district where the methods were in use praying the court to issue an injunction to enforce such order of the commission. Then follows this simple and comprehensive injunction of duty upon the part of the court:

And the court is hereby authorized to issue such injunction.

Mr. NELSON. I want to call the Senator's attention to this language in lines 8, 9, and 10, on page 21:

And if upon such hearing the commission shall find that the method of competition in question is prohibited by this act.

Now, what method of competition is prohibited by the act? Can the Senator or anyone else tell? It does not say that the commission shall find that it is unfair competition, but if they find that the method used is unfair——

Mr. SUTHERLAND. Nobody knows what that is.

Mr. NELSON. That method is prohibited by this act. There is no guide, no criterion.

Mr. SUTHERLAND. Not a thing. If it means, as I argued the other day about it, what the prohibitory part of the sec-

tion says, namely, unfair competition, then in view of the power that is conferred upon the commission, and the apparent provision of the bill, that the court shall simply enforce its orders, it would seem to me to be very clear that it is an attempt to confer judicial power.

Mr. NELSON. Will the Senator allow me?

Mr. SUTHERLAND. Yes.

Mr. NELSON. Suppose the commission should find that corporation A uses an unfair method in competition by selling its goods cheaper than its competitor across the street, what then? Is that a case that would be obnoxious to the law?

Mr. SUTHERLAND. I do not know.

Mr. NELSON. Does anybody know?

Mr. SUTHERLAND. No; I am afraid not.

Mr. NELSON. I should like to know if the Senator from Iowa [Mr. CUMMINS] would know in such a case.

Mr. CUMMINS. Yes; I know.

Mr. NELSON. If he would undersell his goods?

Mr. CUMMINS. It would not be unfair competition.

Mr. SUTHERLAND. Would it be an unfair method of competition?

Mr. CUMMINS. It would not. Is there any further inquiry to be made?

Mr. SUTHERLAND. I hope the commission will be as certain about these matters as the Senator from Iowa is.

Mr. CUMMINS. Mr. President, no sane, sensible man ever suggested that mere underselling constitutes unfair competition.

Mr. NELSON. Can the Senator give us an illustration of what would be an unfair method of competition?

Mr. CUMMINS. Yes; many. I was just reading one here from the very well-known case of the Mogul Steamship Co. against MacGregor, which is illustrative of the common law of England. I want to discuss it some day when my friend from Rhode Island is here.

Mr. SUTHERLAND. It is a long case, and I hope the Senator will let me finish.

Mr. CUMMINS. I had just reached that part of it in which one of the judges had recited what he regarded as an act of unfair competition.

Mr. SUTHERLAND. Mr. President, it seems that under this proposed bill when the commission determines that unfair competition or unfair methods of competition exist it issues an order which, in form, is an injunction, a thing which only a court can issue; and if that is not obeyed by the corporation enjoined, application is made to the court, and that court, so far as this bill is concerned, in a perfectly perfunctory manner itself issues a real injunction. There is no provision for citing the parties, taking testimony, trying the original case de novo; but if the order of the commission has not been complied with, the court is authorized to issue an injunction, and that is all there is to it.

Now, let me read a few decisions with reference to what is judicial power. It seems to me that that is judicial power, and if it is, the attempt to confer it upon a legislative commission is utterly void. In Fletcher *v.* Peck (6 Cranch, 87), the court says:

> It is the peculiar province of the legislature to prescribe general rules for the government of society; the application of those rules to individuals in society would seem to be the duty of other departments.

Now, then, the legislature, in compliance with that rule, as stated by the Supreme Court, has prescribed the general rule, which is that unfair competition in commerce is hereby declared unlawful. Having prescribed that general rule, the court says the application of that rule to individuals in society would seem to be the duty of another department, not the duty of the legislative department; and if it is not within the power of the legislative department, it can not be conferred upon one of these commissions.

And again, Tiffany on the Constitution, in section 117, says:

> Congress can enact any constitutional law and make it binding upon the people individually. But it has no authority to interpret, construe, or apply the law enacted. It can not judicially determine that there has been an infraction of the law by one upon whom it was obligatory. That power can only be exercised by the judiciary.

In Prentis *v.* Atlantic Coast Line (211 U. S., 226) it is said:

> The judicial inquiry investigates, declares, and enforces liabilities as they stand on present or past facts and under laws supposed already to exist. That is its purpose and end. Legislation, on the other hand, looks to the future and changes existing conditions by making a new rule to be applied thereafter to all or some part of those subject to its power. The establishment of a rate is the making of a rule for the future and, therefore, is an act legislative, not judicial, in kind.

When we created the Interstate Commerce Commission we laid down the primary standard that rates should be just and reasonable; that they should not be discriminatory. That was the general boundary which the legislative body erected, and it devolved upon the Interstate Commerce Commission to do what? Not to decide cases, but to make laws within these primary boundaries, laws which should comply with the primary standard which Congress laid down. When the Interstate Commerce Commission makes a rate, in effect it enacts a law. That has been so declared by the Supreme Court. It is a rule for the future. What do you find of that character in this provision:

> Unfair competition in commerce is hereby declared unlawful.

The trade commission, if it acts under that clause, is not making a rule or a law within this primary standard, but it is declaring when it acts that somebody has violated the law, and it is proceeding to render judgment that the violator shall be restrained and enjoined from the continuance of those acts which constitute a violation of the law.

In the Interstate Commerce Commission *v.* Railway Co. (167 U. S., p. 499) it is said:

> It is one thing to inquire whether the rates which have been charged and collected are reasonable—that is a judicial act; but an entirely different thing to prescribe rates which shall be charged in the future—that is a legislative act.

Here the transaction is completed when it is brought to them. They inquire whether or not the conduct of a given corporation squares with the declaration of Congress; whether it is a violation of the declaration that unfair competition is unlawful. Then it proceeds to render judgment.

Mr. CUMMINS. Will the Senator from Utah yield just a moment further?

Mr. SUTHERLAND. I hope the Senator will be brief.

Mr. CUMMINS. I know that I am trespassing upon the Senator's good nature, but the case that he just read from was, of course, decided prior to the act of 1906. Until then the Interstate Commerce Commission had the right to decide whether a particular rate was reasonable or unreasonable.

Mr. SUTHERLAND. I hope the Senator, if he is going to answer the argument, will do it in his own time. I am anxious to get through, and do not want to prolong the discussion any more than I can help.

Mr. CUMMINS. I was going to ask a question. In 1906 we conferred upon the Interstate Commerce Commission the right to prescribe what should be the rate in the future; and I want to ask the Senator whether the function exercised before that time by the commission of declaring a given rate unreasonable was not precisely what he is now saying that no commission can do?

Mr. SUTHERLAND. I am not saying what the commission can do. I am reading what the court said about it. The court says, in an opinion rendered by Mr. Justice Brewer, who was an able lawyer:

> It is one thing to inquire whether the rates which have been charged and collected are reasonable—that is a judicial act; but an entirely different thing to prescribe rates which shall be charged in the future—that is a legislative act.

Mr. CUMMINS. That is quite true; but that is just what the commission did from 1887 until 1906.

Mr. SUTHERLAND. The commission did not inquire as to whether or not past rates were reasonable and impose a penalty if they were unreasonable. They did not undertake to do that. They thereafter prescribed a rule for the future.

Mr. CUMMINS. They did not impose a penalty, but they ascertained whether the rate charged was reasonable or unreasonable, and then made an award——

Mr. SUTHERLAND. Made a law for the future.

Mr. CUMMINS. No; made an award in favor of the shipper who had been overcharged.

Mr. SUTHERLAND. Well, of course, the Senator can refine about it, but it seems to me it is a play upon words rather than dealing with the substance of the thing.

Mr. CUMMINS. That was not judicial power.

Mr. SUTHERLAND. I have simply read what the court said; and I am not aware that the Supreme Court has ever departed from it. In ex parte Fairbanks (194 Fed. Rep., 994) it is said:

> That which defines a judicial from a legislative act is that the one is the determination of what the existing law is in relation to some existing thing already done or happened, while the other is a predetermination of what the law shall be for the regulation of all future cases falling within its provisions. To adjudicate upon and protect the rights and interests of individual citizens and to that end to construe and apply the laws is the peculiar province of the judicial department.

In Merrill *v.* Shurburne (1 N. H., 199, 203) the court says:

> On general principles, therefore, those inquiries, deliberations, orders, and decrees which are peculiar to such a department must in their nature be judicial acts. * * * It is the province of judges to determine what is the law upon existing cases. In fine, the law is applied by one and made by the other. To do the first, therefore—to compare the claims of parties with the law of the land before established—is in its nature a judicial act. To declare what the act is or has been is judicial power; to declare what the law shall be is legislative power.

Here, as I have said, applying this case to the provisions of this bill, we declare that unfair competition is unlawful, and

the function of this commission in this aspect of the matter is to inquire whether or not the acts of the parties constitute a violation of the legislative declaration and then to issue their order upon that state of affairs; not to make a rule, not to make a law for the future.

As it seems to me, under this proposed law the power given is not to make a law within the limits of a certain primary standard, which would be a legislative act, but it is to interpret and apply and enforce a law already made, which is, in essence, a judicial act. If that be not the proper construction of it, and if the other view is to be taken of it, that by this provision with reference to unfair methods of competition or unfair competition we mean to give to this commission the power to make rules or to enact rules or laws within the limits of a primary standard, then the primary standard has not been laid down; and this amounts to an unlawful delegation of the legislative power of Congress; in other words, Congress could not say, "We appoint a commission and authorize that commission to pass such laws as it pleases or to deal with business conditions as it pleases." Obviouly that would be beyond our power, because that would be to delegate our power and our authority; but we may lay down a rule which marks accurately the limits to which the commission may go, and say, "This is our will, that unfair competition"—if that should be a definite term—"shall not exist, and within that standard you may make your subsidiary laws, so to speak."

As I have said, if the term "unfair competition" is not to be given its legal meaning, then nobody knows what the meaning is; we are upon a sea of uncertainty; it is left to the unrestricted discretion of this commission to declare anything that it pleases an unfair method of competition.

Now, I call attention upon that subject to a case in the Twenty-ninth Indiana Appeals Reports, page 217. That was a case where the law made it unlawful for any person to haul over a turnpike or over a gravel road, at any time when the road is thawing or is by reason of wet weather in a condition to be cut up and injured by the hauling, a load on a narrow-tired wagon of more than 2,000 pounds or on a broad-tired wagon a load of more than 2,500 pounds. The standard was that a narrow-tired wagon should not carry more than 2,000 pounds and a broad-tired wagon should not carry more than 2,500 pounds. That is about as definite, I think, as the provision in the bill authorizing the trade commission to deal with unfair methods of competition. The court said:

There must be some certain standard by which to determine whether an act is a crime or not; otherwise cases in all respects similar, tried before different juries, might rightfully be decided differently—

Just as different cases might be decided differently by different commissions or by commissions containing a different personnel—

and a person might properly be convicted in one county for hauling over a turnpike in that county and acquitted in an adjoining county of a charge of hauling the same load on the same wagon over a turnpike in like condition in the latter county, because of the difference in conclusions of different judges and juries based upon their individual views of what should be the standard of comparison of tires, derived from their varying experience on the opinions of witnesses as to what difference of width of tires would constitute one wagon a narrow-tired wagon and another a broad-tired wagon.

Again, Mr. Spelling, in the work to which I have already referred, says:

The original scheme of our Government was for rule by laws interpreted and enforced according to their true meaning; and that scheme has been thus far kept constantly in view. That details of administration have been provided for by rules and regulations adopted and put in force by executive departments under power clearly defined argues nothing inconsistent with persistent adherence to the original scheme. Such minor laws can not be arbitrary; they must rest upon some standard fixed in the statute conferring the authority. The executive officer or commission may have a considerable latitude of discretion in reaching conclusions of fact; but, after all, it can do little more than make a measurement, or mathematical ascertainment, or physical examination, either by personal inspection or upon taking evidence. Nor would a necessity for scientific investigation and finding render the conferring of such power invalid. The case of Field *v.* Clark (143 U. S., 649), and that of Union Bridge Co. *v.* United States (204 U. S., 364), are instructive authorities on the whole subject. But it will be seen that these cases go as far as it is possible to go toward sanctioning pure delegations of the law-making function. A reading of the opinions will also show how promptly the court would declare to be invalid an enactment which failed to fix some prehensible and unmistakable standard for executive guidance.

The Senator from New Hampshire [Mr. HOLLIS] has offered an amendment which, if it were adopted, would render the situation still more confusing. He proposes to substitute for the language now in section 5 the provision "that unlawful or oppressive competition is hereby declared to be unlawful," and "the commission is authorized to prevent unfair or oppressive methods of competition." If the words "unfair methods of competition" are indefinite, what can we say for the word "oppressive"? What is "oppressive competition"? Can anybody tell? And yet the object of this amendment, I presume, is to clarify the situation. It is almost on a parallel with the ancient Chinese law. The provision of the penal code of China which is a sort of a basket clause, as our friends who are learned in tariff matters might say—and I am not certain but that it ought to be offered as a substitute—is quite as definite:

Whoever is guilty of improper conduct and of such as is contrary to the spirit of the law, though not a breach of any specific part of it, shall be punished at least 40 blows; and when the impropriety is of a serious nature, with 80 blows.

Here is an Arkansas law which denounced as a crime the committting of any act injurious to public morals, such as a man leaving his wife and child without the means of support. The case is reported in Forty-fifth Arkansas, at page 162. The court says:

The warrant returned in this case describes the offense as "committing an act injurious to public morals by leaving his wife and child without the means of support and living openly and publicly with one Dolly Hare."

The court says:

There could be no harm in living openly and publicly with Dolly Hare or anyone else unless Dolly Hare were a woman and they were cohabiting as husband and wife, which is not charged. Many men live openly and publicly with very estimable ladies, who are either relations, dependents, or friends.

But the court said:

The warrant alleges that the petitioner was convicted of the crime of committing an act *injurious to the public morals* by leaving his wife, etc.

Then they quote the provision of the statute and continue:

We are not aware that this act has ever been judicially questioned or ever in any case heretofore enforced. It has trickled down unnoticed in practice through all the digests, and finds its place in Mansfield's, section 1961.

I am very much afraid that if we pass this bill it will not trickle down unnoticed, which would be a very good thing to happen to it; I am afraid somebody will undertake to enforce it.

For want of something more definite, the justice of the peace has brought it now to bear upon Andrew Jackson, and it must be noticed. We can not conceive how a crime can, on any sound principle, be defined in so vague a fashion. Criminality depends, under it, upon the moral idiosyncrasies of the individuals who compose the court and jury. The standard of crime would be ever varying, and the courts would constantly be appealed to as the instruments of moral reform, changing with all fluctuations or moral sentiment. The law is simply null. The Constitution, which forbids ex post facto laws, could not tolerate a law which would make an act a crime, or not, according to the moral sentiment which might happen to prevail with the judge and jury after the act had been committed.

I call attention to still another case, and then I think I am through. First, I will quote from Mr. Willoughby upon this subject. He says:

The doctrine thus declared is without objection so long as the facts which are to determine the executive acts are such as may be precisely stated by the legislature and certainly ascertained by the executive. When this is not so, the officer intrusted with the execution of the law is necessarily vested with an independent judgment as to when and how the law shall be executed; and when this independence of judgment is considerable there is ground for holding that the law is not simply one in presenti to take effect in future, but is a delegation by the lawmaking body of its legislative discretion.

It seems clear to me that section 5 of this bill falls within the condemnation I have just read.

Here was another decision in Minnesota (100 Minn., p. 445) in which the court said:

Any statute * * * which attempts to authorize the commission, in its judgment, to allow an increase of the capital stock of a corporation for such purposes and on such terms or conditions as it may deem advisable would be a delegation of legislative power and void.

Now, I come to the California case. In California the legislature passed a law which authorized the State medical board to revoke the license of any physician who should make "grossly improbable statements" in advertisements. The court held that that law was utterly void as laying down no primary standard. The case is reported in Eighty-fourth Pacific Reporter, page 39. The court said:

It is insisted by petitioner that this particular provision of the act is unreasonable, uncertain, and indefinite; that neither the act itself nor the law defines what shall be deemed "grossly improbable statements"; that the provision in question leaves it entirely to the opinion of the persons who at any time may constitute the board to determine whether a given statement is "grossly improbable," and confers authority upon such board to create an offense under the act and inflict punishment for its commission; and that for these reasons this particular provision of the act in question is void. We think this position of the petitioner must be sustained.

What more does this bill do? It declares that if the commission finds that unfair methods of competition exist it shall issue its order. By what standard shall it operate? If it declares that a particular sort of conduct on the part of a corporation in fact constitutes an unfair method of competition, is not its decision about the matter final, if the legislation is

valid, whether it would agree with the views of Congress if it were making the legislation itself or not?

The court continues:

The right of the physician to be secure in his privilege of practicing his profession is thus made to depend, not upon any definition which the law furnishes him as to what shall constitute "grossly improbable statements," but upon the determination of the board after the statement is made and simply upon its opinion of its improbability.

So here the trade commission is to determine, after the conduct has taken place, whether, in its opinion, the method adopted is an unfair method of competition, and if it thinks it is to forbid it.

No definite standard is furnished by the law under this provision whereby a physician with any safety can advertise his medical business; nor is there any definite rule declared whereby, after such an advertisement is had the Board of Medical Examiners shall be controlled in determining its probability or improbability.

* * * * * * *

And the provision of the act, even as to the judgment of the board, furnishes no standard by which that determination shall be arrived at. Taking the given advertisement by a physician the members of one board might conclude that it contained "grossly improbable statements," while another board might reach an entirely opposite conclusion. One might conclude that the statements while "improbable" were not "grossly" so. The advertisement of a physician which one board had determined did not come within the inhibition of the rule according to its judgment, a succeeding board might conclude did.

* * * * * * *

The right which a person possesses under the Constitution and the laws to practice his profession as a physician and surgeon can not be made to depend upon a provision of a statute as vague, uncertain, and indefinite as is the provision we have been considering.

Mr. KERN. Mr. President, will the Senator yield for me to make a motion for an executive session?

Mr. SUTHERLAND. I will yield to the Senator.

Mr. CUMMINS. Before the Senator from Indiana makes the motion he has in mind, I desire to submit a proposed substitute for section 5 for printing and future consideration. It is a substitute for all that part of section 5 preceding the amendment adopted to-day. I desire to have it printed and lie on the table.

Mr. POMERENE. I ask that the amendment may be read in order that we may inform ourselves about its provisions.

Mr. CUMMINS. It is very short.

The VICE PRESIDENT. Is there any objection to the reading? The Chair hears none.

The SECRETARY. In lieu of section 5, with the exception of the proviso agreed to this morning, insert the following:

Amendment intended to be proposed by Mr. CUMMINS to the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes, viz: In lieu of section 5 as reported by the committee, except the amendment adopted July 27 at the end of section 5, insert the following:

"SEC. 5. That unfair competition in commerce is hereby declared unlawful.

"The commission shall have authority to prevent such unfair competition in commerce in the manner following, to wit:

"Whenever it shall have reason to believe that any person, partnership, or corporation is violating the provisions of this section it shall issue and serve upon the defendant a complaint stating its charges in that behalf and at the same time a notice of hearing upon a day and at a place therein fixed. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint.

"If upon such hearing the commission shall find that the person, partnership, or corporation named in the complaint is practicing such unfair competition it shall thereupon enter its findings of record and issue and serve upon the offender an order requiring that within a reasonable time to be stated in said order that the offender shall cease and desist from such unfair competition. The commission may at any time set aside, in whole or in part, or modify its findings or order so entered or made. Any suit brought by any such person, partnership, or corporation to annul, suspend, or set aside, in whole or in part, any such order of the commission shall be brought against the commission in a district court of the United States in the judicial district of the residence of the person or of the district in which the principal office or place of business is located, and the procedure set forth in the act of Congress making appropriations to supply urgent deficiencies and insufficient appropriations for the fiscal year 1913, and for other purposes, relating to suit brought to suspend or set aside, in whole or in part, an order of the Interstate Commerce Commission, shall apply.

"If within the time so fixed in the order of the commission, the person, partnership, or corporation against which the order is made shall not cease and desist from such unfair competition, and if in the meantime such order is not annulled, suspended, or set aside by a court, the commission may bring a suit in equity in a district court in any district wherein such person or persons reside or wherein such corporation has its principal office or place of business to enforce its said order, and jurisdiction is hereby conferred upon said court to hear and determine any such suit and enforce obedience thereto according to the law and rules applicable to suits in equity. All the provisions of the law relating to appeals and advancement for speedy hearing in suits brought to suspend or set aside an order of the Interstate Commerce Commission shall apply in suits brought under this section."

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After 8 minutes spent in executive session, the doors were reopened, and (at 6 o'clock p. m., Monday, July 27, 1914) the Senate took a recess until to-morrow, Tuesday, July 28, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate July 27, 1914.

COLLECTOR OF INTERNAL REVENUE.

Emanuel J. Doyle, of Grand Rapids, Mich., to be collector of internal revenue for the fourth district of Michigan, in place of George Clapperton, superseded.

UNITED STATES ATTORNEY.

Myron H. Walker, of Grand Rapids, Mich, to be United States attorney, western district of Michigan, vice Edward J. Bowman, appointed by the court.

RECEIVER OF PUBLIC MONEYS.

George G. Beams, of Lincoln, Nebr., to be receiver of public moneys at Lincoln, Nebr., vice William M. Gifford, term expired.

APPOINTMENTS IN THE ARMY.

MEDICAL RESERVE CORPS.

To be first lieutenant in the Medical Reserve Corps, with rank from July 16, 1914.

S. Adolphus Knopf, of New York, to correct an error in the name of the nominee.

PROMOTIONS IN THE ARMY.

COAST ARTILLERY CORPS.

Maj. Frank G. Mauldin, Coast Artillery Corps, to be lieutenant colonel from July 25, 1914, vice Lieut. Col. Eugene T. Wilson, retired from active service July 24, 1914.

Capt. James B. Mitchell, Coast Artillery Corps, to be major from July 25, 1914, vice Maj. Frank G. Mauldin, promoted.

First Lieut. Edward E. Farnsworth, Coast Artillery Corps, to be captain from July 25, 1914, vice Capt. James B. Mitchell, promoted.

Second Lieut. Fenelon Cannon, Coast Artillery Corps, to be first lieutenant from July 25, 1914, vice First Lieut. Edward E. Farnsworth, promoted.

Second Lieut. Fredrick E. Kingman, Coast Artillery Corps, to be first lieutenant from July 23, 1914, vice First Lieut. Harold Geiger, detailed in the aviation section of the Signal Corps.

Second Lieut. Simon W. Sperry, Coast Artillery Corps, to be first lieutenant from July 23, 1914, vice First Lieut. Lewis E. Goodier, jr., detailed in the aviation section of the Signal Corps.

Second Lieut. Daniel N. Swan, jr., Coast Artillery Corps, to be first lieutenant from July 23, 1914, vice First Lieut. Hollis Le R. Muller, detailed in the aviation section of the Signal Corps.

Second Lieut. Charles M. Steese, Coast Artillery Corps (detailed first lieutenant in the Ordnance Department), to be first lieutenant from July 23, 1914, vice First Lieut. Townsend F. Dodd, detailed in the aviation section of the Signal Corps.

Second Lieut. Harry W. Stovall, Coast Artillery Corps, to be first lieutenant from July 23, 1914, vice First Lieut. Charles M. Steese, whose detail in the Ordnance Department is continued from that date.

INFANTRY ARM.

Second Lieut. Owen R. Meredith, Twenty-fourth Infantry, to be first lieutenant from July 23, 1914, vice First Lieut. Roy C. Kirtland, unassigned, detailed in the aviation section of the Signal Corps.

Second Lieut. James C. Williams, Ninth Infantry, to be first lieutenant from July 23, 1914, vice First Lieut. Benjamin D. Foulois, Seventh Infantry, detailed in the aviation section of the Signal Corps.

CONFIRMATIONS.

Executive nominations confirmed by the Senate July 27, 1914.

CONSULS.

Benjamin F. Chase to be consul at Fiume, Hungary.
John M. Savage to be consul at Sheffield, England.

POSTMASTERS.

ARKANSAS.

T. E. Haley, Paragould.
Robert B. Lawson, Bigelow.
Lucius Pilkington, Searcy.

ARIZONA.

Ida E. Carty, Fort Huachuca.
E. W. Phillips, Hayden.

Leonard D. Redfield, Benson.
John Towner, Naco.

CALIFORNIA.

Reuben E. Baer, Healdsburg.

FLORIDA.

J. R. Thompson, St. Andrew.
F. C. Wilson, Chipley.

INDIANA.

Levi T. Pennington, Spiceland.

MINNESOTA.

Charles Jesmore, Eveleth.

MISSISSIPPI.

Frances P. McNabb, Drew.

NEW JERSEY.

James L. Ackerman, Ridgefield.

HOUSE OF REPRESENTATIVES.

MONDAY, *July 27, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou God and Father of all, above all, through all, and in us all, lift us, we pray Thee, day by day by Thy presence within to a larger, grander conception of life and its great responsibilities, that we may the more perfectly fulfill our destiny and thus work out our own salvation with fear and trembling through the precepts and example of Jesus Christ, our Lord. Amen.

The Journal of the proceedings of Saturday, July 25, 1914, was read and approved.

The SPEAKER. This is District day——

Mr. JOHNSON of Kentucky. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering District legislation.

MANAGERS NATIONAL HOME FOR DISABLED VOLUNTEERS.

Mr. FOSTER. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Illinois rise?

Mr. FOSTER. To offer a privileged resolution from the Committee on Rules.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 581 (H. Rept. 1024).

The Committee on Rules begs leave to report the following in lieu of House resolution 545:

"*Resolved*, That immediately after the adoption of this resolution the House shall proceed to consider House joint resolution 241; that there shall not be exceeding one hour general debate on the resolution, to be equally divided between those supporting and those opposing the resolution; at the conclusion of such general debate the resolution may be read for amendments, and after consideration of the amendments thereto the previous question shall be considered as ordered on the resolution and amendments to final passage, without intervening motion, except one motion to recommit."

Mr. GARRETT of Tennessee. Will the gentleman yield to me for a moment?

Mr. FOSTER. I will.

CHANGE OF REFERENCE.

Mr. GARRETT of Tennessee. Mr. Speaker, I wanted to call the attention of the Speaker to House resolution No. 576, which was improperly referred to the Committee on Insular Affairs, and which should have been referred to the Committee on Rules.

The SPEAKER. There is no question about it having been referred to the wrong committee.

Mr. MANN. What is the resolution?

Mr. GARRETT of Tennessee. House resolution No. 576, to investigate appointments to and removals from Government service in the Philippine Islands. It was introduced by the gentleman from Minnesota [Mr. MILLER] on Saturday last and was referred to the Committee on Insular Affairs. It clearly should have been referred to the Committee on Rules.

Mr. MANN. For what does it provide?

Mr. GARRETT of Tennessee. It provides for the investigation by a committee of five Members, appointed by the Speaker, into the administration of the civil-service laws of the Philippine Islands, and so forth.

Mr. MANN. Of course, if it provides for the appointment of a special committee——

Mr. GARRETT of Tennessee. It does. The first section of it reads:

Resolved, That a committee consisting of five members, each of whom shall be a Member of the House of Representatives, be appointed by the Speaker to investigate and ascertain—

And so forth.

The SPEAKER. Without objection, the change of reference will be made from the Committee on Insular Affairs to the Committee on Rules.

There was no objection.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Illinois [Mr. MANN] makes the point of order that there is no quorum present, and evidently there is not.

Mr. UNDERWOOD. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The roll was called, and the following Members failed to answer to their names:

Adair	Difenderfer	Kinkead, N. J.	Roberts, Mass.
Aiken	Drukker	Kitchin	Rupley
Ainey	Dunn	Knowland, J. R.	Sabath
Anthony	Eagan	Kreider	Saunders
Ashbrook	Eagle	Lafferty	Scully
Aswell	Edmonds	Langham	Sherwood
Austin	Edwards	Langley	Shreve
Avis	Estopinal	Lazaro	Sinnott
Bailey	Fairchild	L'Engle	Slayden
Baker	Faison	Lenroot	Smith, Md.
Barchfeld	Fess	Lesher	Smith, J. M. C.
Bartholdt	Fields	Levy	Smith, N. Y.
Bartlett	Frear	Lewis, Pa.	Smith, Tex.
Beall, Tex.	Gallagher	Lindquist	Stafford
Bell, Ga.	Gallivan	Lobeck	Stanley
Borland	Gardner	Loft	Steenerson
Brockson	George	McAndrews	Stephens, Miss.
Brodbeck	Gerry	McClellan	Stephens, Nebr.
Broussard	Gill	McGillicuddy	Stevens, N. H.
Brown, N. Y.	Gillett	McGuire, Okla.	Stringer
Brown, W. Va.	Glass	McKenzie	Sumners
Browne, Wis.	Goeke	McLaughlin	Sutherland
Browning	Gorman	Mahan	Switzer
Bulkley	Graham, Pa.	Martin	Taggart
Burke, Pa.	Green, Iowa	Merritt	Talbott, Md.
Butler	Greene, Mass.	Montague	Taylor, N. Y.
Byrnes, S. C.	Griest	Moore	Temple
Byrns, Tenn.	Gudger	Morgan, La.	Thomas
Calder	Hamill	Morin	Thompson, Okla.
Callaway	Hamilton, Mich.	Moss, W. Va.	Townsend
Cantor	Hamilton, N. Y.	Mott	Underhill
Cantrill	Hardwick	Murray, Mass.	Vare
Carlin	Haugen	Murray, Okla.	Vaughan
Carter	Hayes	Neeley, Kans.	Vollmer
Cary	Henry	O'Shaunessy	Wallin
Chandler, N. Y.	Hinds	Padgett	Walsh
Church	Hinebaugh	Paige, Mass.	Walters
Clark, Fla.	Hobson	Palmer	Watson
Connelly, Kans.	Holland	Parker	Weaver
Connolly, Iowa.	Houston	Peters, Mass.	Whaley
Copley	Hoxworth	Phelan	Whitacre
Covington	Hughes, Ga.	Platt	White
Crisp	Hughes, W. Va.	Porter	Willis
Crosser	Humphreys, Miss.	Powers	Winslow
Curry	Jacoway	Prouty	Young, Tex.
Davenport	Johnson, S. C.	Ragsdale	
Deitrick	Jones	Rauch	
Dershem	Key, Ohio	Rayburn	
Dies	Kiess, Pa.	Reilly, Conn.	

The SPEAKER. On this roll call, 239 Members have answered—a quorum.

Mr. UNDERWOOD. Mr. Speaker, I move that further proceedings under the call be dispensed with.

The SPEAKER. The gentleman from Alabama moves that further proceedings under the call be dispensed with. The question is on agreeing to that motion.

The motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors.

MANAGERS NATIONAL HOME FOR DISABLED VOLUNTEERS.

The SPEAKER. The Clerk will report the resolution sent up by the gentleman from Illinois [Mr. FOSTER].

The Clerk read as follows:

Resolved, That immediately after the adoption of this resolution the House shall proceed to consider House joint resolution 241; that there shall not be exceeding one hour general debate on the resolution, to be equally divided between those supporting and those opposing the resolution; at the conclusion of such general debate the resolution may be read for amendments, and after consideration of the amendments thereto the previous question shall be considered as ordered on the resolution, and amendments to final passage, without intervening motion except one motion to recommit.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had still further insisted upon its amendment No. 158 to the bill (H. R. 17824) making appropria-

tions to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes, disagreed to by the House of Representatives, had agreed to the further conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. MARTIN of Virginia, Mr. BRYAN, and Mr. GALLINGER as the conferees on the part of the Senate.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 5899) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT as the conferees on the part of the Senate.

The message also announced that the Senate had disagreed to the amendments of the House to bills of the following titles, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHNSON, Mr. HUGHES, and Mr. SMOOT as the conferees on the part of the Senate:

S. 5501. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 4969. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; and

S. 5278. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the Senate had passed the following resolutions:

Resolved, That the Senate has heard with deep regret the announcement of the death of Hon. SEABORN ANDERSON RODDENBERY, late a Representative from the State of Georgia, which occurred September 26, 1913.

Resolved, That as a mark of respect to the memory of the deceased Representative the business of the Senate be now suspended in order to pay proper tribute to his high character and distinguished public services.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

The message also announced that the Senate had passed, without amendment, bill of the following title:

H. R. 15110. An act authorizing the Secretary of the Treasury to accept conveyance of title to certain land between the post-office site and Madison Street in the city of Thomasville, Ga.

INDIAN APPROPRIATION BILL—CONFERENCE REPORT.

Mr. STEPHENS of Texas. Mr. Speaker, pending that motion, I desire to call up the conference report on the Indian appropriation bill, H. R. 12579, and ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. Pending the consideration of this resolution, the gentleman from Texas calls up the conference report on the Indian appropriation bill and asks that the statement be read in lieu of the report. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. The Clerk will find the statement on page 16 of the report.

The SPEAKER. The Clerk will read the statement.

The statement was read.

The conference report and statement are as follows:

CONFERENCE REPORT (NO. 1007).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12579) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 18, 21, 30, 31, 33, 40, 43, 44, 47, 51, 52, 54, 55, 57, 60, 74, 75, 76, 77, 78, 79, 80, 87, 89, 90, 91, 93, 95, 96, 101, 102, 103, 107, 109, 110, 112, 113, 114, 115, 119, 127, 133, 135, 137, 142, 143, 146, 151, 153, 157, 164, 166, and 167.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 8, 9, 10, 11, 14, 15, 17, 20, 26, 34, 36, 42, 45, 49, 56, 61, 62, 63, 67, 83, 84, 85, 86, 94, 111, 117, 118, 120, 121, 124, 128, 129, 130, 141, 148, 150, 156, 158, 165, and 168, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the matter proposed insert the following:

"For the survey, resurvey, classification and allotment of lands in severalty under the provisions of the act of February 8, 1887 (24 Stat. L., p. 388), entitled 'An act to provide for the allotment of lands in severalty to Indians,' and under any other act or acts providing for the survey or allotment of Indian lands, $150,000, to be repaid proportionately out of any Indian moneys held in trust or otherwise by the United States and available by law for such reimbursable purposes and to remain available until expended: *Provided*, That hereafter no part of said sum shall be used for the survey, resurvey, classification, or allotment of any land in severalty on the public domain to any Indian, whether of the Navajo or other tribes, within the State of New Mexico and the State of Arizona, who was not residing upon the public domain prior to June 30, 1914: *Provided further*, That the surveys shall be made in accordance with the provisions for the survey and resurveys of public lands, including traveling expenses and per diem allowances in lieu of subsistence to those employed thereon."

And the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: In line 15 of the proposed amendment, after the word "project," strike out the period, insert a colon, and add the following: "*Provided further*, That in addition to what is herein required there shall be submitted to Congress on the first Monday in December, 1914, as to the Uintah, Shoshone, Flathead, Blackfeet, and Fort Peck reclamation projects, a report showing the status of the water rights of the Indians and the method of financing said projects, together with such other information as the Secretary of the Interior may deem necessary for a full and complete understanding of all the facts and conditions in connection therewith"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: In lieu of the matter proposed insert the following: "$300,000: *Provided*, That not to exceed $3,500 of the amount herein appropriated may be expended for the purchase of improvements on land to be deeded to the Government by the school board of district No. 57, State of Idaho"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows: In lieu of the matter stricken out insert the following: "*Provided further*, That not to exceed $100,000 of the amount herein appropriated may be expended in the erection and equipment of hospitals for the use of Indians; and no hospital shall be constructed at a cost to exceed $15,000, including equipment"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: In line 1 of the amendment proposed, after the word "including," insert the word "for"; in line 2 of the amendment proposed, after the word "children," insert the words "not to exceed $40,000"; in lieu of the sum proposed insert "$1,550,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$440,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$450,000"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: In lieu of the matter stricken out insert the following: "*Provided*, That after the passage of this act no part of the sum hereby appropriated shall be used for the maintenance of to exceed three permanent warehouses in the Indian Service"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: In line 3 of

the amendment proposed, after the word "confinement," insert the following: "on an Indian reservation or at an Indian school"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$135,000"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows: In line 5 of the amendment, after the word "the," strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior"; in line 22 of the amendment strike out the figures "$10" and insert in lieu the figures "$15"; in line 28 of the amendment, after the word "the," strike out down to and including the word "compel," in line 23, and insert in lieu thereof the following: "authority delegated to judges of the United States courts by section 4908 of the Revised Statutes is hereby conferred upon the Secretary of the Interior to require"; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$600,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: In lieu of the matter stricken out insert the following: "*And provided also*, That not to exceed $75,000 of the amount herein appropriated shall be expended on any one reservation or for the benefit of any one tribe of Indians"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows: Strike out all of the proposed amendment, and in lieu thereof, on page 6 of the bill, line 25, after the word "schools," strike out the period, insert a colon, and add the following: "*And provided further*, That $50,000 of the amount herein appropriated, in addition to any other funds available for that purpose, shall be used to provide school facilities for the children of the Papago Tribe of Indians in Arizona"; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows: In line 9 of the amendment proposed, after the word "have," insert the following: "approved the plans of said bridge and"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$25,000"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows: In line 3 of the amendment proposed, after the figures "$20,000," strike out the words "to be immediately available and"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment as follows: In line 4 of the proposed amendment, after the word "the," strike out the words "San Carlos and"; and in line 5 of the proposed amendment, after the word "Indian," strike out the word "Reservations" and insert in lieu thereof the word "Reservation"; and the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$108,125"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$118,125"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment as follows: In lieu of the amendment insert the following: "$20,500; for repairs and improvements, $3,600; in all, $24,100"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$25,000"; and the Senate agree to the same.

Amendment numbered 58: That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment as follows: In line 4 of the proposed amendment, after the word "improvements," strike out the figures "$13,500" and insert the figures "$11,000"; in line 5 of the proposed amendment, after the word "equipment," strike out the figures "$30,000" and insert in lieu thereof the figures "$25,000"; in line 5 of the amendment, after the word "all," strike out the figures "$171,250" and insert in lieu thereof the figures "$163,750"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: In line 4 of the proposed amendment, after the word "improvements," strike out the figures "$6,000" and insert in lieu thereof the figures "$5,000"; in line 5 of the proposed amendment, after the word "equipment," strike out the figures "$25,000" and insert in lieu thereof the figures "$20,000"; in line 6 of the proposed amendment, after the word "all," strike out the figures "$91,450" and insert in lieu thereof the figures "$85,450"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment as follows: Strike out all of the amendment proposed and in lieu thereof insert the following:

"For the payment of high-school teachers at the White Earth Indian School, Minnesota, for instruction of children of the Chippewa Indians in the State of Minnesota, $4,000, or so much thereof as may be necessary, the said sum to be reimbursable and to be used under rules to be prescribed by the Secretary of the Interior: *Provided*, That not to exceed $1,000 of this sum may be used to continue the education of boys appointed under the provisions of the act of Congress entitled 'An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914,' approved June 30, 1913."

And the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$205,000"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$40,000"; and the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment as follows: In line 2 of the proposed amendment, after the word "That," strike out all down to and including the word "necessary," in line 3, and insert in lieu thereof the following: "not to exceed $5,000 of the amount herein appropriated"; and the Senate agree to the same.

Amendment numbered 69: That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment as follows: In line 5 of the proposed amendment, after the word "by," strike out the word "a"; in line 6 of the proposed amendment, after the word "deed," strike out all down to and including the word "therein," in line 8, and insert in lieu thereof the following: "with a condition that the children of the Chippewa Indians of Minnesota shall have the privilege of attending at all times the school maintained therein on the same basis as white children attend the said school"; and the Senate agree to the same.

Amendment numbered 70: That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment as follows: In lieu of the matter proposed insert the following: "*Provided*, That any persons who were residing upon said land on January 1, 1914, shall not be required to remove therefrom except upon terms approved by the Secretary of the Interior"; and the Senate agree to the same.

Amendment numbered 71: That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment as follows: In line 9 of

the proposed amendment, after the word "the," strike out the words "duly elected"; in line 12, after the word "thirteen," strike out the balance of the matter proposed; and the Senate agree to the same.

Amendment numbered 72: That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to approve the assessments, together with maps showing right of way and definite location of proposed drainage ditches made under the laws of the State of Minnesota upon the tribal and allotted lands of the Fond du Lac Indian Reservation, Minn., in Carlton County judicial ditch No. 1. That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to pay the amount assessed against said allotted and tribal lands. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $13,080, to be reimbursable from any funds belonging to the individual allottees or their heirs or from any funds belonging to the tribe subject to be prorated, in the discretion of the Secretary of the Interior. That the Secretary of the Interior be, and he is hereby, authorized to approve deeds for right of way from such said allottees or their heirs as may be necessary to permit the construction and maintenance of said drainage ditch upon the payment of adequate damages therefor: *Provided*, That no patent in fee shall be issued for any tract of land under the terms of this paragraph until the United States shall have been wholly reimbursed for all assessments paid or to be paid on such tract under the terms hereof. That the Secretary of the Interior is hereby authorized to do and perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions hereof into force and effect."

And the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In line 4 of the amendment proposed, after the word "tribe," strike out the words "to be"; in line 5 of the amendment proposed, after the word "Minnesota," strike out the words "the second Tuesday"; and the Senate agree to the same.

Amendment numbered 88: That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"There is hereby appropriated the sum of $25,000, out of any money in the Treasury not otherwise appropriated, or so much thereof as may be necessary, for the purpose of purchasing cattle for the benefit of the Northern Cheyenne Indians: *Provided*, That said sum shall be expended under conditions to be prescribed by the Secretary of the Interior for its repayment to the United States on or before June 30, 1925: *Provided further*, That the Secretary of the Interior shall submit to Congress annually on the first Monday in December a detailed statement as to the expenditure of this fund."

And the Senate agree to the same.

Amendment numbered 92: That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"SEC. 10. For support and education of 375 Indian pupils at the Indian School at Genoa, Nebr., including pay of superintendent, $60,000; for general repairs and improvements, $4,500; for new laundry building and equipment, $4,000; for repairs and addition to hospital, $4,000; dairy barn, $6,000; for lavatory annex, $2,500; for industrial building for girls, $4,000; in all, $85,000."

And the Senate agree to the same.

Amendment numbered 97: That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$8,000"; and the Senate agree to the same.

Amendment numbered 98: That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$58,100"; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In line 4 of the proposed amendment strike out the figures "$8,000" and insert in lieu thereof the figures "$5,000"; in line 5 strike out the figures "$30,000" and insert in lieu thereof the figures "$25,000"; and in line 6 strike out the figures "$106,600" and insert in lieu thereof the figures "$98,600"; and the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In line 3 of the proposed amendment strike out the figures "$60,250" and insert in lieu thereof the figures "$59,550"; in line 4 of the amendment strike out the figures "$7,000" and insert in lieu thereof the figures "$6,000"; and in line 5 of the amendment strike out the figures "$72,850" and insert in lieu thereof the figures "$71,150"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"That the Secretary of the Interior is hereby authorized, within his discretion, to grant and convey to the Bismarck Water Supply Co., a corporation organized and existing under the laws of the State of West Virginia, an easement or right of way for use for pumping station and for other necessary buildings, railroad tracks, mains, water pipes, and wells on lands appertaining to the Indian school, Bismarck, N. Dak., and now occupied by said Bismarck Water Supply Co., for the purpose of pumping water from the Missouri River to its reservoir and to supply its patrons with water, such grant to be made upon such conditions as the Secretary of the Interior shall prescribe, and such easement to continue so long as used for the aforesaid purposes."

And the Senate agree to the same.

Amendment numbered 105: That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment as follows: In line 4 of the amendment proposed strike out the figures "$6,000" and insert in lieu thereof the figures "$5,000"; and in line 5 of the amendment proposed strike out the figures "$8,000" and insert the figures "$6,000"; and in line 5 of the amendment proposed strike out the figures "$82,500" and insert in lieu thereof the figures "$79,500"; and the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"For support and education of 200 Indian pupils at the Indian School, Wahpeton, N. Dak., and pay of superintendent, $35,200; for general repairs and improvements, $3,000; for extension of power plant, improvement of water system and addition to power plant, $15,000; in all, $53,200."

And the Senate agree to the same.

Amendment numbered 108: That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment as follows: In lieu of the matter proposed insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized to withdraw from the Treasury of the United States, not to exceed the sum of $100,000, or so much thereof as may be necessary, of the principal sum on deposit to the credit of the Indians on the Standing Rock Indian Reservation, in North Dakota and South Dakota, for the purpose of purchasing cattle for the use of said Indains to enable them to become self-supporting: *Provided*, That said sum shall be expended under conditions to be prescribed by the Secretary of the Interior for its repayment and placed into the Treasury to the credit of the said tribe on or before June 30, 1925: *Provided further*, That the Secretary of the Interior shall submit to Congress annually on the first Monday in December a detailed statement as to the expenditure of this fund."

And the Senate agree to the same.

Amendment numbered 116: That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following:

"That the Secretary of the Interior be, and he is hereby, authorized to contract for water rights for the irrigation of not to exceed 600 acres of land in the Fort Sill Indian School Reservation in the State of Oklahoma, within the proposed Lawton reclamation project, for the irrigation of not to exceed 2,500 acres of Indian and private lands, upon the same terms and conditions as those prescribed for the acquisition of water rights for other lands to be irrigated by said project: *Provided*, That operation and maintenance charges shall not be assessed against said Indian land prior to the completion of the lateral system so as to provide for actual delivery of water thereto, and the project shall include lateral construction for the Indian lands down to each legal subdivision thereof equal in area to the size

of the farm unit for lands in private ownership within said project."

And the Senate agree to the same.

Amendment numbered 122: That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$175,000"; and the Senate agree to the same.

Amendment numbered 123: That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment as follows: In line 1 of the amendment, after the word "effective," strike out the words "July 1" and insert in lieu thereof the words "September 1"; and the Senate agree to the same.

Amendment numbered 125: That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "$15,000: *Provided*, That $8,000 of this amount may be used for the purchase of additional land, not to exceed 80 acres"; and the Senate agree to the same.

Amendment numbered 126: That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment as follows: After the figures "$50,000," in line 1 of the amendment, strike out the colon and insert a period; strike out the proviso in lines 1, 2, 3, 4, and 5 of the amendment; and the Senate agree to the same.

Amendment numbered 131: That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment as follows: In line 1 of the proposed amendment strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior"; in line 25 of the proposed amendment, after the word "lands," strike out the period, insert a colon, and add the following: "*Provided further*, That any contract or contracts made by the Creek Nation or any individual member thereof, with any attorney or attorneys, providing for the payment of any amount for services in connection with the Creek equalization, shall be void and have no force or effect unless the same shall have been executed and approved in accordance with the law in existence at the time of the making of such contract with relation to contracts with Indians: *And provided further*, That the money paid to allottees as provided herein shall be exempt from any lien for attorneys' fees or other debt contracted prior to the passage of this act"; and the Senate agree to the same.

Amendment numbered 132: That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment as follows: In line 7 of the amendment proposed, after the word "thereon," strike out the colon and the following: "*Provided*, That $10,000 of the amount above appropriated shall be immediately available"; and the Senate agree to the same.

Amendment numbered 134: That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment as follows: Strike out the first two words of the proposed amendment, "*And provided*," and insert in lieu thereof the word "*Provided*"; and the Senate agree to the same.

Amendment numbered 136: That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment as follows: In line 5 of the proposed amendment, after the word "session," strike out the period, insert a colon, and add the following: "*Provided*, That when so enrolled there shall be paid to each and every such person out of the funds in the Treasury of the United States to the credit of the respective tribe with which such person is enrolled the following sums in lieu of an allotment of land: To each such person placed on the Creek rolls the sum of $800; to each such person placed on the Choctaw, Chickasaw, Cherokee, and Seminole rolls, a sum equal to twice the appraised value of the allotment of such tribe as fixed by the Commission to the Five Civilized Tribes for allotment purposes: *Provided further*, That in cases where such enrolled members, or their heirs, are Indians who by reason of their degree of Indian blood belong to the restricted class, the Secretary of the Interior may, in his discretion, withhold such payments and use the same for the benefit of such restricted Indian: *And provided further*, That the Secretary of the Interior is authorized, under such rules and regulations as he may prescribe, to determine whether any attorney or attorneys have actually rendered services of value to any of the persons herein enrolled, and to allow compensation therefor, including proper and necessary expenses incurred in connection with services rendered, in such amounts as he may deem proper, and to pay the amount so fixed and found to be due such attorney or attorneys and deduct the same from the amount paid to the person enrolled as herein authorized, by and with his consent and approval: *Provided*, That before payment is made to any attorney or attorneys there shall be filed a receipt in full of all claims or demands on the part of such attorney or attorneys in such form as may be prescribed by the Secretary of the Interior"; and the Senate agree to the same.

Amendment numbered 138: That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment as follows: In line 1 of the proposed amendment strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior"; and the Senate agree to the same.

Amendment numbered 144: That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert, on page 31, line 2, as a separate paragraph, the following:

"The Secretary of the Interior is authorized, in his discretion, to grant a further extension or extensions of time on the payments described in the act entitled 'An act authorizing the Secretary of the Interior to subdivide and extend the deferred payments of settlers in the Kiowa-Comanche and Apache ceded lands in Oklahoma,' approved April 27, 1912: *Provided*, That accrued and unpaid interest shall be treated as principal: *Provided further*, That no payment shall be deferred beyond the time prescribed in the act herein cited, and no forfeiture of entry shall be declared except for fraud."

And the Senate agree to the same.

Amendment numbered 145: That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "for addition to assembly hall, $10,000; in all, $124,000"; and the Senate agree to the same.

Amendment numbered 147: That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment as follows: In line 7 of the proposed amendment, after the figures "$10,000," strike out all down to and including the word "available," in line 8; and the Senate agree to the same.

Amendment numbered 149: That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$37,500"; and the Senate agree to the same.

Amendment numbered 152: That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment as follows: In lieu of the matter proposed by this amendment insert the following:

"The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, within his discretion, the sum of $300,000 of the principal funds to the credit of the Confederated Bands of Ute Indians and to expend the sum of $100,000 of said amount for the benefit of the Navajo Springs Band of said Indians in Colorado, and the sum of $200,000 of said amount for the Uintah, White River, and Uncompahgre Bands of Ute Indians in Utah, which sums shall be charged to said bands, and the Secretary of the Interior is also authorized to withdraw from the Treasury the accrued interest to and including June 30, 1914, on the funds of the said Confederated Bands of Ute Indians appropriated under the act of March 4, 1913 (37 Stats. L., 934), and to expend or distribute the same for the purpose of promoting civilization and self-support among the said Indians, under such regulations as the Secretary of the Interior may prescribe: *Provided*, That the said Secretary of the Interior shall report to Congress on the first Monday in December, 1915, a detailed statement as to all moneys expended as provided for herein."

And the Senate agree to the same.

Amendment numbered 154: That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert the following: "To enable the Secretary of the Interior to protect the north abutment of the bridge at Myton, on the Uintah Indian Reservation, Utah, from high water, $200"; and the Senate agree to the same.

Amendment numbered 159: That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment as follows: In lieu of the amendment proposed insert "$5,000; in all, $41,670"; and the Senate agree to the same.

Amendment numbered 160: That the House recede from its disagreement to the amendment of the Senate numbered 160, and

agree to the same with an amendment as follows: In line 1 of the proposed amendment, after the word "building," strike out the figures "$15,000" and insert in lieu thereof the figures "$10,000"; in line 2 of the proposed amendment, after the word "all," strike out the figures "$64,450" and insert in lieu thereof the figures "$59,450"; and the Senate agree to the same.

Amendment numbered 161: That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment as follows: In line 29 of the amendment proposed, after the word "patent," strike out the period and insert a colon and the following: "*Provided further*, That any land disposed of hereunder shall be subject to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country until otherwise provided by Congress"; and in line 31 of the amendment proposed, after the word "timber," strike out the words "on all unallotted lands" and insert the following: "on all lands allotted under the provisions of this act"; and in line 46 of the amendment proposed, after the word "said," strike out the word "tribal"; and in line 48 of the amendment proposed strike out the word "unallotted" and after word "Band" insert the following: "entitled to allotment hereunder" and a comma; and at the end of the said amendment, after the word "prescribe," strike out the period and insert a colon and the following: "*Provided*, That no sawmill shall be constructed at a cost to exceed $5,000"; and the Senate agree to the same.

Amendment numbered 162: That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment as follows: In line 21 of the proposed amendment, after the word "necessary," strike out all down to and including the word "act" in line 29; and the Senate agree to the same.

Amendment numbered 163: That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment as follows: In line 17 of the proposed amendment, after the word "issue," insert the word "trust," and in line 18, after the word "patents," insert the following: "as provided by the act of February 8, 1887, entitled 'An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes'"; and the Senate agree to the same.

The committee of conference have been unable to agree on the amendments of the Senate numbered 23, 37, 81, 82, 139, and 155.

JNO. H. STEPHENS,
C. D. CARTER,
CHAS. H. BURKE,
Managers on the part of the House.

HENRY F. ASHURST,
MOSES E. CLAPP,
Managers on the part of the Senate.

STATEMENT.

The bill as it passed the House carried appropriations as follows:

Gratuity	$6,373,129.66
Reimbursable	1,314,440.00
Treaty	850,560.00
Trust funds	988,000.00
	9,526,129.66

The bill as it passed the Senate carried appropriations as follows:

Gratuity	$7,436,897.76
Reimbursable	2,033,020.00
Treaty	855,560.00
Trust funds	1,586,999.07
	11,912,476.83

The bill as agreed upon in conference carries appropriations as follows:

Gratuity	$7,028,227.76
Reimbursable	1,571,520.00
Treaty	850,560.00
Trust funds	1,567,816.65
	11,018,124.41

The above figures do not include amendments Nos. 23, 37, 81, 82, 139, and 155, which are in disagreement.

The estimates for the fiscal year ending June 30, 1915, were $11,784,865.06. The bill as agreed upon in conference (outside of the amendments above enumerated on which there is a disagreement) is $766,740.65 less than the estimates of the department and $894,352.42 less than the bill carried when it passed the Senate.

The Senate conferees have receded on the following amendments: 18, 21, 30, 31, 33, 40, 43, 44, 47, 51, 52, 54, 55, 57, 60, 74, 75, 76, 77, 78, 79, 80, 87, 89, 90, 91, 93, 95, 96, 101, 102, 103, 107, 109, 110, 112, 113, 114, 115, 119, 127, 133, 135, 137, 142, 143, 146, 151, 153, 157, 164, 166, and 167.

The House conferees have receded unqualifiedly on the following amendments: 1, 5, 8, 9, 10, 11, 14, 15, 17, 20, 26, 34, 36, 42, 45, 49, 56, 61, 62, 63, 67, 83, 84, 85, 86, 94, 111, 117, 118, 120, 121, 124, 128, 129, 130, 141, 148, 150, 156, 158, 165, and 168.

The effect of the recession of the House conferees on the amendments on which they have unqualifiedly receded is as follows:

No. 1. This amendment was considered in connection with amendment No. 2, and by the adoption of amendment No. 2 it is eliminated.

No. 5. Corrects the language.

No. 8. Requires physicians employed in the Indian Service to be under civil-service rules and regulations.

Nos. 9, 10, and 11. Corrects the language of the bill in accordance with the powers conferred on the Secretary of the Interior to quarantine afflicted Indians.

No. 14. Corrects the language.

No. 15. Corrects the language with the intent of the paragraph so as to avoid future complications with the Comptroller of the Treasury.

No. 17. Correction of punctuation.

No. 20. Includes experimenting with cotton for the benefit of Indians.

No. 26. Provides for the employment of six additional inspectors.

No. 34. Sets aside certain land as a school farm for the Fort Yuma Indian School.

No. 36. Eliminates an investigation as to the building of a bridge across the Colorado River, Fort Mohave Reservation, Ariz.

No. 42. Provides for an investigation as to the feasibility of building the San Carlos irrigation project.

No. 45. Provides for 25 additional pupils at the Sherman Institute, Riverside, Cal.

No. 49. Provides for 25 additional pupils at the Fort Bidwell Indian School, California.

No. 56. Is to reimburse M. D. Colgrove for expenses incurred in connection with the retention of an Indian charged with murder.

No. 61. Pays certain attorneys fees for services rendered.

No. 62. Provides for certain repairs and equipment at the Pipestone School, Minnesota, destroyed or damaged by a tornado.

No. 63. Corrects the total appropriation for this school.

No. 67. Provides for the purchase of lands for homeless Mille Lac Indians to whom allotments have not heretofore been made.

Nos. 83 and 84. Strike out certain language and do not change the intent of the act.

No. 85. Provides for the allotment to children on the Fort Peck Reservation entitled thereto.

No. 86. Provides for the payment of tuition for Indian children who attended school in Flathead County, Mont.

No. 94. Provides for per capita payments to the Sac and Fox Indians after certain expenses have been paid.

No. 111. Is for the purpose of acquiring school sites on restricted Indian lands under the jurisdiction of the Quapaw Agency, Okla.

No. 117. To reimburse a former superintendent of the Armstrong Academy, Oklahoma, for furniture bought from his private funds and used by that school, payable from Choctaw tribal funds.

No. 118. For the purchase from Chickasaw tribal funds of certain property to be used as a boarding school for the Chickasaw Indians.

No. 120. Provides for the sale of the surface of a certain tract of land to the State of Oklahoma for military purposes.

No. 121. Is to reimburse William Volz for horse hire furnished the agency physician.

No. 124. Provides for the conveyance and purchase of additional lands for the Dwight Mission School, in Oklahoma.

No. 128. Corrects the language.

No. 129. Includes school facilities for the Osage Nation of Indians.

No. 130. Includes school facilities for the Quapaw Indians.

No. 141. Provides for the employment of six additional oil inspectors to prevent waste and for the protection of restricted Indians.

No. 148. Provides for the purchase of additional land for the Pierre Indian School.

No. 150. Provides for an investigation as to the necessity and practicability of constructing a wagon road through the Standing Rock Indian Reservation, S. Dak.

No. 156. Eliminates the extension and provides for the maintenance of the irrigation system on lands allotted to Yakima Indians in Washington.

No. 158. Provides for the issuance of a patent in fee for certain lands heretofore purchased.

No. 165. Is to reimburse Rev. M. S. Thomas for moneys expended in repairs on the Wind River Reservation, Wyo., and permission to remove a barn from said reservation.

No. 168. Repeals section 28 of the Indian appropriation act of June 30, 1913, requiring certain changes in the method of bookkeeping in the Indian Bureau, city of Washington.

On the following amendments the House conferees receded with modifying or substitute amendments:

No. 2. Reduces the appropriation to the amount allowed by the House; prevents the allotment of lands to Indians on the public domain in the States of Arizona and New Mexico (as carried in last year's appropriation act) and eliminates the employment of additional clerks in the Indian Bureau in the city of Washington.

No. 3. Provides for an annual detailed statement to be rendered to Congress as to irrigation appropriations, and also provides for a detailed report as to certain specified projects on the commencement of the next session of Congress.

No. 4. A decrease from $310,000 to $300,000 to relieve distress among Indians, and provides for the purchase of improvements on land to be deeded to the Government at Fort Lapwai, Idaho.

No. 7. Reinstates the House language and increases the amount that may be expended for the erection of hospitals for the treatment of Indians.

No. 12. Increases the general day and industrial school fund from $1,500,000 to $1,550,000, and provides $40,000 thereof for the support and education of deaf, dumb, and blind Indian children.

No. 16. Decreases the amount allowed by the Senate for the construction, lease, and repair of school and agency buildings from $480,000 to $440,000.

No. 19. Decreases the amount allowed by the Senate for industrial work and care of timber from $500,000 to $450,000.

No. 22. Provides that after the passage of this act not to exceed three permanent warehouses shall be maintained in the Indian Service.

No. 24. Requires a report to be made whenever an Indian is incarcerated in an agency jail or other place of confinement on an Indian reservation.

No. 25. Provides for an increased appropriation from $125,000 to $135,000 for the pay of special agents in the Indian Service and for employees not specifically provided for.

No. 27. Provides for determining the heirs of deceased Indian allottees, assesses a certain amount against the estate to cover the cost of such work, and gives the Secretary of the Interior authority to require the attendance of witnesses.

No. 28. Increases the lump-sum appropriation for the purpose of encouraging industry among the Indians and to aid them in becoming self-supporting from $100,000 to $600,000, at the same time decreasing the amount allowed by the Senate in special items throughout the bill for this purpose, $400,000.

No. 29. Limits the amount that may be used of the preceding appropriation at any one reservation.

No. 32. Provides school facilities out of the lump-sum appropriation for the Papago Tribe of Indians.

No. 35. Appropriates $25,000 for the payment of one-third of the cost of the construction of a bridge across the Colorado River at or near Topock, Ariz.

No. 38. Decreases the Senate appropriation from $50,000 to $25,000 for the development of the water supply of the Navajo Indians.

No. 39. Provides for the purchase of lands for the Camp Verde Indian School.

No. 41. Corrects a mistake in the Indian appropriation act, approved June 30, 1913.

No. 46. Provides for the support and education of 25 additional pupils at the Sherman Institute, Riverside, Cal.

No. 48. Corrects the totals caused by amendment No. 46.

No. 50. Provides for the support and education of 25 additional Indian pupils at the Fort Bidwell School, California.

No. 53. Decreases the Senate appropriation from $40,000 to $25,000 for the maintenance and operation of the Fort Hall irrigation system.

No. 58. Reduces the repairs and improvements from $13,000 to $11,000 and authorizes the building and equipment of a gymnasium at the Haskell Indian School, Lawrence, Kans., at a cost of $25,000.

No. 59. Decreases the repairs and improvements from $6,000 to $5,000 and provides $20,000 for a gymnasium and manual training building and equipment at the Indian school, Mount Pleasant, Mich.

No. 64. Provides for the employment of high-school teachers to instruct the children of the Chippewa Indians in Minnesota.

No. 65. Increases from $173,500 to $205,000 the amount that may be withdrawn from tribal funds belonging to the Chippewa Indians in Minnesota for the purpose of teaching them self-support and civilization.

No. 66. Provides that not to exceed $40,000 of the amount appropriated in amendment No. 65 may be used in the purchase of lands for homeless Mille Lac Indians, to whom allotments have not heretofore been made.

No. 68. Provides that not to exceed $5,000 of the amount appropriated in amendment No. 65 may be used for the removal and reinterment of the bodies of Chippewa Indians buried near Wisconsin Point, Wis.

No. 69. Provides for the transfer of a building and not exceeding 3 acres of land at Bena, Minn., to the village of Bena for school purposes, and provides that Indian children shall have free access to the school maintained therein at all times.

No. 70. Provides that persons who were residing on certain land to be transferred to the Northern Minnesota Conference of the Methodist Episcopal Church, on January 1, 1914, shall not be required to remove except upon terms to be approved by the Secretary of the Interior.

No. 71. Provides $1,500 from the tribal funds of the Chippewa Indians of Minnesota for the purpose of paying the expenses of delegates of said tribe to Washington.

No. 72. Provides for the approval and payment of the drainage assessments as required by the laws of the State of Minnesota on the allotted and tribal lands of the Fond du Lac Indian Reservation, Minn.

No. 73. Provides for the payment of the expenses of a general council of the Chippewa Indians in Minnesota from their tribal funds.

No. 88. Appropriates $25,000 from the funds of the Northern Cheyenne Indians for the purpose of purchasing cattle for their benefit.

No. 92. Reinstates the provisions of the paragraph as to the Genoa Indian school, Nebraska, as it passed the House, and in addition appropriates $2,500 for a lavatory annex and $4,000 for an industrial building for girls, and corrects the totals.

No. 97. Decreases the Senate appropriation from $10,000 to $8,000 for general repairs and improvements at the Carson City Indian School, Nevada.

No. 98. Corrects the totals as per amendment No. 97.

No. 99. Reinstates the House provisions as to the Albuquerque Indian school and provides $25,000 for the erection of an assembly hall and gymnasium.

No. 100. Reinstates the House provision as to the Santa Fe Indian school, and corrects a total in the paragraph as it passed the House.

No. 104. Provides for the conveyance of 1⅛ acres of the lands belonging to the Bismarck Indian school, North Dakota, to the Bismarck Water Supply Co. for use for a pumping station.

No. 105. Reinstates the House provision as to the Fort Totten Indian school, North Dakota, and provides $5,000 for the building of a dairy barn at said school.

No. 106. Reinstates the House provision as to the Indian school at Wahpeton, N. Dak., and provides $15,000 for the extension of the power plant and improvement of water system at said school.

No. 108. Corrects the paragraph as it passed the House (as the Standing Rock Indian Reservation is situated in North Dakota and South Dakota), which provided $100,000 of the tribal funds of the Indians of the Standing Rock Reservation for the purchase of cattle for the use of said Indians.

No. 116. Authorizes the Secretary of the Interior to contract for water rights for the irrigation of not to exceed 600 acres of land in the Fort Sill Indian School Reservation, Okla.

No. 122. Decreased from $200,000 to $175,000 the amount allowed by the Senate for paying the expenses of administration of the affairs of the Five Civilized Tribes in Oklahoma.

No. 123. Fixes the time when the consolidation of the office of Commissioner to the Five Civilized Tribes and the superintendent of the Union Agency, Okla., shall take effect.

No. 125. Provides for the purchase of additional lands for the Cherokee Orphan Training School, Oklahoma.

No. 126. Strikes out the provision reappropriating unexpended funds heretofore appropriated.

No. 131. Provides for the equalization of the Creek allotments.

No. 132. Provides for the advertising and sale of the land within the segregated coal and asphalt area of the Choctaw and Chickasaw Nations, Okla., and of the improvements thereon.

No. 134 is to correct the language.

No. 136. Provides for the enrollment of persons listed in Senate Document No. 478, Sixty-third Congress, second session, as

members of the Five Civilized Tribes, Oklahoma, and also for the payment of such persons when enrolled certain amounts in lieu of allotments; also compensation for attorneys.

No. 138. Appropriates $10,000 of the tribal funds belonging to the Creek Indians to pay the expenses of a national council of said Indians.

No. 144. Provides for an extension of time on deferred payments due by settlers in the Comanche, Kiowa, and Apache ceded lands in Oklahoma.

No. 145. Provides $10,000 for an addition to the assembly hall at the Indian school, Salem, Oreg.

No. 147. Strikes out a provision making $3,000 of an appropriation of $10,000 immediately available for repair of buildings and purchase of equipment destroyed or damaged by a tornado at the Indian school, Flandreau, S. Dak.

No. 149. Decreased from $40,000 to $37,500 for the care of insane Indians at the asylum at Canton, S. Dak.

No. 152. Provides for the withdrawal of $300,000 of the tribal funds of the Confederated Bands of Ute Indians, together with the accrued interest thereon, for the purpose of promoting civilization and self-support among the said Indians.

No. 154. Provides for the protection of the abutment of the bridge at Myton, Uintah Indian Reservation, Utah.

No. 159. Decreases the amount for repairs and improvements from $6,000 to $5,000 for the Indian school at Hayward, Wis., and corrects the totals.

No. 160. Provides for the construction of an employees' building at the Indian school, Tomah, Wis., and corrects the totals.

No. 161. Provides for the making of a complete roll of the unallotted members of the La Pointe or Bad River Band of Chippewa Indians in the State of Wisconsin, for their allotment, and for the sale of the merchantable timber on such allotments; also for the per capita distribution of the net proceeds of the sale of such timber, and for the construction and operation of sawmills.

No. 162. Directs an investigation of the condition and tribal rights of the so-called St. Croix Chippewa Indians in the counties of Polk, Burnett, Washburn, and Douglas, in the State of Wisconsin, and for a report thereon to Congress.

No. 163. Authorizes the setting apart of certain land on the La Pointe Indian Reservation, Wis., for an Indian town site, and for the platting and sale of lots to said Indians.

JNO. H. STEPHENS.
C. D. CARTER.
CHAS H. BURKE.
Managers on the part of the House.

Mr. STEPHENS of Texas. Mr. Speaker, I move the adoption of the conference report.

The SPEAKER. It does not have to be moved. The question is on agreeing to the conference report.

Mr. BURKE of South Dakota. Mr. Speaker, will the gentleman from Texas [Mr. STEPHENS] yield me a few moments' time? I would just as soon have it after the report is adopted, up to the disagreements, as now.

Mr. STEPHENS of Texas. I will make another motion for that.

Mr. BURKE of South Dakota. Let the report be adopted, and then let the gentleman yield.

The SPEAKER. The gentleman will not have any time to yield after the report is adopted.

Mr. STEPHENS of Texas. It is not a full report, Mr. Speaker.

The SPEAKER. The question is on agreeing to the conference report.

Mr. MILLER rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. MILLER. I rise to ask the gentleman from Texas [Mr. STEPHENS] to yield to me sufficient time to enable me to ask him two or three questions in reference to the conference report.

Mr. STEPHENS of Texas. What does the gentleman say?

The SPEAKER. The gentleman from South Dakota asks the gentleman from Texas to yield to him sufficient time to enable him to ask some questions in regard to the conference report.

Mr. BURKE of South Dakota. I simply desire to ask the gentleman from Texas a few questions in regard to the conference report.

Mr. STEPHENS of Texas. As to what items?

Mr. MILLER. There are several items on which I desire some information. I will refer first to amendment numbered 25, on page 13 of the bill, contained on page 3 of the report of the conferees. I find that the managers have raised the amount appropriated by the House, which amount is $116,000, not only up to the amount changed by the Senate, to $125,000, but even up to the amount of $135,000. In other words, the amount as contained in the conference report is $10,000 higher than the amendment made by the Senate, which in turn was $10,000 or thereabouts higher than the amount passed by the House. I have no doubt the reasons for this are ample, but I would like to inquire what they were. The report does not state.

Mr. STEPHENS of Texas. That is amendment numbered 25?

Mr. MILLER. Yes; that is the item for special agents—an item that has been attracting some attention when the bill has been considered during the past four years.

Mr. STEPHENS of Texas. That addition was made, as I remember, on a statement from the Indian Department, to the effect that it was necessary in connection with the revolving fund that they are now using to a great extent in the Western States for the purpose of improving the condition of the Indians in agriculture and irrigation and other matters on which we are spending a vast sum of money at the present time.

Mr. MILLER. Do I understand from the gentleman from Texas that these special agents are to devote their time exclusively to instructing the Indians in agriculture, stock raising, and various domestic and industrial pursuits, or are they to occupy some of their time in protecting the Indians from the rapacity of their white neighbors in the protection of their property?

Mr. STEPHENS of Texas. They are under the direction of the Secretary of the Interior, through the Indian Bureau.

Mr. MILLER. I will make the question still more specific. Would any of these special agents work in Oklahoma? Will any of them have an opportunity to protect the minor Indian children whose estates are being probated in the probate courts there?

Mr. STEPHENS of Texas. I will state to the gentleman that these special agents can be used in Oklahoma, or elsewhere, if the department so desires. There is no reservation in this language that would prevent sending them to Oklahoma on any special mission.

Mr. MILLER. May I ask the gentleman if the reason for increasing this appropriation so very materially was due to the fact that they desire to send these men into Oklahoma to look after probate estates, the special agents having been discontinued by another provision of the bill?

Mr. STEPHENS of Texas. I will say that the department has the special agents to look after various tribes. The Oklahoma Indians are under separate rules and regulations from the Indians in other parts of the United States; but there is nothing to prevent the interchange of the work of the special agents and sending them anywhere they please.

Mr. MILLER. Then, as a matter of fact, this increased appropriation will enable the department to maintain some of these special agents in Oklahoma to look after probate matters, if the department so desires, and they will take the place of the special agents discontinued by other parts of the bill?

Mr. STEPHENS of Texas. If the gentleman will read lines 14 and 15, I think that fully explains the object of it—

and for other necessary expenses of the Indian Service for which no other appropriation is available.

There is a special appropriation for Oklahoma, and it may be that there is special work required in Oklahoma, in some of these tribes, and this gives them an opportunity to send special agents there to do this work, in addition to the men who are already located there.

Mr. MILLER. I should like to ask the chairman of the committee with respect to amendment 24. When the bill passed the House the amount appropriated for the payment of Indian police was $150,000. The Senate increased that to $200,000. I could not see any possible reason for it, and I do not see any given in the report of the conferees. That is a very substantial and material increase over any amount carried for many years. I should like to inquire why that is.

Mr. STEPHENS of Texas. The evidence before the committee was to the effect that a great deal of the trouble originating on these Indian reservations is on account of bootleggers, men who unlawfully bring whisky on the Indian reservations, and it is necessary to have these Indian policemen to work in connection with the special police force for the purpose of preventing the sale of intoxicating liquors among Indians.

Mr. MILLER. That is the exact purpose of my inquiry. This bill appropriates $150,000 to suppress the liquor traffic among the Indians, a very legitimate and much needed work. Is it designed that this is another appropriation of $50,000 for the same purpose, under another guise?

Mr. STEPHENS of Texas. It is designed that the Indian police shall work in concert with the regular force for the pur-

pose of suppressing all kinds of crimes among the Indians. It is a police force that can be used for all purposes.

Mr. MILLER. Has the department furnished the conferees with evidence satisfactory to them that the present condition of morality or the present condition of crime among the Indian people requires this very enormous increase in the amount for police supervision?

Mr. STEPHENS of Texas. I will state to the gentleman that this was furnished to the Senate after the bill went over there. Gentlemen will remember that this bill was in the Senate for several months, and additional investigations have been made by the department, and additional amounts have been requested. The gentleman is one of the alert members of the House Committee on Indian Affairs, and very active in the work of that committee, and the gentleman knows that we gave all the amounts that were asked by the department when we believed that it was the proper thing to do; but the Senate had before it more and later information than our committee had when it passed the bill, therefore the conferees agreed to the item of the Senate for this increase. The gentleman will remember that this $150,000 is to be distributed all over the United States, and it covers an enormous territory.

Mr. MILLER. I should like to ask the gentleman also about amendment 22. That amendment relates to the old time-honored controversy over the warehouses.

Mr. STEPHENS of Texas. Yes.

Mr. MILLER. We fought that out, up hill and down hill, for a good many years, the House always deciding one way and the Senate another. It seems that the favored spots have had their representatives in a place of influence, and those representatives have prevailed, although I congratulate the conferees on having gained something in the nature of a concession on our side of the case. I see this limits the number of warehouses to three. Heretofore there have been five. Where is it proposed to maintain these three? Let us see how that will satisfy the various gentlemen who represent these pet projects.

Mr. STEPHENS of Texas. We thought we accomplished a great deal by getting rid of a part of them.

Mr. MILLER. I think the gentleman has accomplished something, but may I inquire where the remaining three are to be located?

Mr. STEPHENS of Texas. It leaves the matter entirely in the hands of the department. The department heretofore could have reduced the number of these warehouses——

Mr. MILLER. That is exactly the point. There has been no time when they could not have reduced the number to three or reduced it to none, but they have not had the strength or the courage to do it. In other words, they have been cowardly about it. Now, you are going to write into law authority that they may maintain at least three.

Mr. STEPHENS of Texas. They might have had three heretofore or they might have had only one.

Mr. MILLER. Because this provision here is tantamount to a recommendation on the part of Congress that there be three. But may I inquire where these three favored warehouses are going to be located? Has the department informed the gentleman as to where it is designed to maintain these three?

Mr. STEPHENS of Texas. The department has the right to maintain them wherever they will best serve the interests of the Indians. A great many supplies have to be furnished for the Indians, and two things have especially to be considered. One is the question as to where the best market is to purchase these supplies and the other is the most available route by which they can be shipped to the Indians.

Mr. MILLER. Can the gentleman inform the House where the department contemplates maintaining these three warehouses?

Mr. STEPHENS of Texas. I can not do that. It would be impossible. I am not a prophet nor the son of a prophet.

Mr. GRAHAM of Illinois. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GRAHAM of Illinois. The conference report shows that there has been no agreement on item 23. What I desire to know is, when it would be in order to make a motion in reference to that item?

The SPEAKER. As soon as we dispose of the conference report.

Mr. HARRISON. I want to ask the gentleman one question with respect to Senate amendment No. 139, the amendment dealing with the Mississippi Choctaws. I had expected to offer a motion to this amendment to recede and concur in the Senate amendment, but I think I will not, and will allow it to go back to conference, hoping that the conferees can then agree on a settlement of the question. Now, I want to call the gentleman's attention to the fact, because the conferees will have to do something with it in conference. In the latter part of that amendment No. 139 it says:

Provided, however, That the provisions of this act shall not be applicable to the members of the Choctaw Nation in Oklahoma until Congress shall have determined the rights of the Mississippi Choctaws whose names do not appear upon the approved rolls of the Choctaws in Oklahoma and until such of said Mississippi Choctaws as shall be found entitled to enrollment have been placed upon the rolls of citizenship of the Choctaw Nation.

I want to call the attention of the gentleman to the fact that the amendment read says "provisions of this act shall not be applicable." I think that ought to read "provisions of this paragraph shall not be applicable."

Mr. STEPHENS of Texas. The paragraph is a part of the act, and the greater includes the less, and this amendment is in disagreement.

Mr. HARRISON. I know it is in disagreement, and therefore I wanted to call the attention of the gentleman to it so that he could correct it in conference. It should be "provision" where the word now appears "act."

Mr. STEPHENS of Texas. We can take that into consideration.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

Mr. STEPHENS of Texas. Now, Mr. Speaker, I move to further insist on the disagreement to the other amendments and ask for a conference.

Mr. BURKE of South Dakota. Mr. Speaker, I ask that the gentleman now yield to me.

Mr. GRAHAM of Illinois. Mr. Speaker, would the motion that I suggested a while ago be now in order?

The SPEAKER. That is according to what the gentleman's motion is.

Mr. GRAHAM of Illinois. I move to concur in Senate amendment 23 with an amendment by striking out the figures "25,000" and substituting the figures "10,000."

The SPEAKER. That is in order unless some gentleman wants to make a flat motion to recede and concur.

Mr. MANN. Mr. Speaker, I ask for a separate vote on the motion of the gentleman from Texas.

The SPEAKER. The gentleman from Illinois asks for a separate vote on the various amendments, and, without objection, it will be so ordered.

There was no objection.

The SPEAKER. The Clerk will report amendment 23.

The Clerk read as follows:

Senate amendment 23, page 12, strike out line 16.

The SPEAKER. The gentleman from Texas moves to further insist on the disagreement of the House to the Senate amendment 23, and the gentleman from Illinois [Mr. GRAHAM] makes a preferential motion to concur with an amendment which the Clerk will report.

The Clerk read as follows:

Page 12, strike out the figures "25" and insert the figures "10."

Mr. GRAHAM of Illinois. Mr. Speaker, I am not very well informed as to the right of debate, but I would like to be heard.

Mr. STEPHENS of Texas. How much times does the gentleman want?

Mr. GRAHAM of Illinois. Ten minutes.

Mr. STEPHENS of Texas. I will yield to the gentleman five minutes.

Mr. MURDOCK. Will the gentleman from Texas give me three or four minutes?

Mr. MILLER. I want at least five minutes.

Mr. GRAHAM of Illinois. Mr. Speaker, the item in question is an appropriation for the expenses of the Board of Indian Commissioners. The House allowed $4,000 and the Senate increased that amount to $25,000. I am convinced that the first amount is too small, and that the second one is too large, and I have therefore substituted a motion for $10,000 as the proper amount.

The Board of Indian Commissioners is an independent body of men appointed by the President of the United States, who serve absolutely without any salary, and many of them are spending a good deal of their own money in investigating questions concerning the good of the Indians. In some of the work of investigation in Indian matters, in which I have had personal experience, I came in contact with several of these gentlemen.

At that time the president of the board was Dr. Draper, who had been president of the State University of Illinois, whom I knew personally, and talked with at length on this subject. Since then Dr. Draper has died and another has taken his place.

Another one was a Mr. Moorehead, connected with a theological seminary in Massachusetts. He did a great deal of very excellent work in connection with Indian affairs. The $4.000 allowed by the House would barely allow them to keep an office and employ a secretary, but do little else than that. I do not think they want as much as $25.000. With $4.000 they would be a good deal in the condition of an old farmer I heard of a number of years ago. He had quite a large bunch of very excellent stock on his farm. He also had a great big crib filled with splendid corn, but that year corn happened to be very high, about 75 cents a bushel, and he hated like the mischief to feed it out to the cattle. He finally compromised between his judgment and his inclination on the subject and he fed the cattle just a little corn from day to day, enough to keep them alive, and but little more than that. He kept on doing that until the corn was all fed out. The result was the cattle were barely kept alive, but did not grow, and the corn disappeared, so that he had little left on either side. If he had been wise he would have given the cattle enough to make them grow. Then he could have marketed them in time to save some of his corn and thus save something both ways.

If we give this board $4.000, you feed them the way the old farmer fed his stock, and will not get good results, whereas if we give enough to accomplish something, they can and will do a great deal in the field they are working in. They do a work that is done by no other body. They are supplementing the efforts of the Indian Bureau, and everything they have done is in the line of elevating the Indian race. It seems to me that if the board is to be continued at all they ought to have a reasonable appropriation. Ten thousand dollars is not a very large appropriation, when you consider what they must have to maintain an office, a secretary, and other expenses. As I understand it, this is one of the points, if not the one point in conference upon which the conferees seem unable to agree. I therefore propose to cut down the higher allowance and raise the lower allowance and give the board such a reasonable amount as will enable it to continue doing this useful work. [Applause.]

Mr. STEPHENS of Texas. Mr. Speaker, I desire to state that the amount asked for by the department for this commission was $5,000, and the House reduced the amount to $4.000, and that has been the amount carried for a number of years. The Senate, by amendment No 23, raised the amount to $25.000. I desire to state that this Board of Indian Commissioners was first known as a board of peace commissioners. It was authorized by Congress about 40 years ago under President Grant's administration. At that time many of the Indian tribes in the West were hostile to the whites, and, as they expressed it, had gone upon the warpath; and the Army officers were not very successful in quelling these disturbances. They had the idea that a good many western men entertained and freely expressed, that all the good Indians are dead Indians. The people of the East did not agree with that contention, especially the humanitarians of the East, and they urged that these uprisings could and should be prevented by peaceful means. This condition of affairs led to the creation of a board of peace commissioners selected from the East to go among these Indians and influence them by peaceful means to make treaties of peace with the United States Government. There was appropriated by Congress the sum of $30,000 the first year for that purpose. For a number of years this commission was known as the peace commission. It is now called the Board of Indian Commissioners. The Board of Indian Commissioners accomplished many years ago the purpose for which it was created; all of the Indians are now on their reservations, and there is not a hostile band of Indians in this country. Why, may I ask, should we continue to appropriate money annually to keep in office 10 useless men, described in the law creating the commission as "men eminent for their intelligence and philanthropy"? This useless body of official misfits only illustrates the fact that when the nose of a Republican camel once gets in the Treasury tent you can never pull it out again.

This body of men have been in office since 1869—45 years. These offices could and should have been abolished within 10 years after they were created. There is an old legal maxim, disputed by none, that "when the reason for a law ceases the law itself should cease." This board of so-called Indian Commissioners has too often contained men who did not desire the good of the Indians so much as they did the good of the party giving them their appointments or of the church to which they belonged. For that reason, instead of keeping it in existence and throwing away $4,000 upon it, it should be abolished. There is not another department of this Government, besides the Indian Department, that has to be supervised. Why should not the War Department, for instance, which annually spends multiplied millions of dollars for supplies, or the Navy Department that spends an immense amount of money annually without any supervision by a commission of "holier than thou" pretensions, be also supervised? Why do you only find in the Indian Department such a commission? Are the men in that department all crooks and in the other departments all saints?

Mr. MILLER. Will the gentleman yield for a question?

Mr. STEPHENS of Texas. Not at the present time. Mr. Abbott, the secretary of this board, at a banquet given him by the merchants of San Francisco recently stated he was out there for the purpose of helping the merchants of San Francisco to get their part of these Indian purchases. Now, that was certainly wrong, for he had no authority to speak for the commission. The Indian Department purchases these goods where they can be purchased cheapest and without regard to building up the trade of any special city. We have in the Indian Bureau the very best purchasing agents that can be had. So has the Army service and the Navy service, and if a special board of supervisors is necessary for the Indian Service why are they not also necessary for the other departments of the Government?

Mr. Moorehead, the commissioner mentioned by the gentleman from Illinois [Mr. GRAHAM] a few moments ago, went to Oklahoma last year and by unjust criticisms of Indian officials there stirred up more trouble for the Indian Bureau than has ever before occurred in the settlement of the matters of the Five Tribes.

Mr. Speaker, the Board of Indian Commissioners was created in 1869. Its members serve without salary and maintain an office in Washington, for the expenses of which and of travel Congress has made special or annual appropriations. Although the board reports to the Secretary of the Interior, it is not a bureau or division of the Interior Department, but rather a body of private citizens purposely kept reasonably free from governmental control, debarred from salaries, and afforded opportunities for investigation in order that they may freely express an intelligent and impartial opinion on matters pertaining to Indian administration. This advisory function of the board and its other duties are defined in the following extracts from an Executive order and laws:

[From Revised Statutes of the United States, 1874.]

SEC. 2039. There shall be a Board of Indian Commissioners, composed of not more than 10 persons, appointed by the President solely, from men eminent for intelligence and philanthropy, and who shall serve without pecuniary compensation. (Apr. 10, 1869, 16 Stat., 40.)

SEC. 2041. The board of commissioners mentioned in section 2039 shall supervise all expenditures of money appropriated for the benefit of Indians within the limits of the United States; and shall inspect all goods purchased for Indians, in connection with the Commissioner of Indian Affairs, whose duty it shall be to consult the commission in making purchases of such goods. (July 15, 1870, 16 Stat., 360.)

SEC. 2042. Any member of the Board of Indian Commissioners is empowered to investigate all contracts, expenditures, and accounts in connection with the Indian Service, and shall have access to all books and papers relating thereto in any Government office; but the examination of vouchers and accounts by the executive committee of said board shall not be a prerequisite of payment. (May 29, 1872, 17 Stat., 186.)

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[From act of May 17, 1882 (22 Stat., 70).]

And hereafter the commission shall only have power to visit and inspect agencies and other branches of the Indian Service, and to inspect goods purchased for said service, and the Commissioner of Indian Affairs shall consult with the commission in the purchase of supplies. The commission shall report their doings to the Secretary of the Interior.

—

[From Executive order of June 3, 1869.]

EXECUTIVE MANSION,
Washington, D. C., June 3, 1869.

A commission of citizens having been appointed, under the authority of law, to cooperate with the administrative departments in the management of Indian affairs * * *, the following regulations will, till further directions, control the action of said commission and the Bureau of Indians Affairs in matters coming under their joint supervision:

The commission will make its own organization and employ its own clerical assistants * * *.

The commission shall be furnished with full opportunity to inspect the records of the Indian Office and to obtain full information as to the conduct of all parts of the affairs thereof.

They shall have full power to inspect, in person or by subcommittee, the various Indian superintendencies and agencies in the Indian country * * *.

They are authorized to be present, in person or by subcommittee, at purchases of goods for Indian purposes, and inspect said purchases, advising with the Commissioner of Indian Affairs with regard thereto.

Whenever they shall deem it necessary or advisable that instructions of superintendents or agents be changed or modified they will communicate such advice, through the office of the Commissioner of Indian Affairs, to the Secretary of the Interior, and, in like manner, their advice as to changes in modes of purchasing goods or conducting the affairs of the Indian Bureau proper. Complaints against superintendents or agents or other officers will, in the same manner, be forwarded to the Indian Bureau or Department of the Interior for action.

The commission will, at their board meeting, determine upon the recommendations to be made as to the plans of civilizing or dealing with the Indians and submit the same for action in the manner above indicated * * *.

* * * * * * *

All the officers of the Government connected with the Indian Service are enjoined to afford every facility and opportunity to said commission and their subcommittees in the performance of their duties, and to give the most respectful heed to their advice within the limits of such officers' positive instructions from their superiors, to allow such commissioners full access to their records and accounts, and to cooperate with them in the most earnest manner, to the extent of their proper powers.

The commission will keep such records or minutes of their proceedings as may be necessary to afford evidence of their action, and will provide for the manner in which their communications with and advice to the Government shall be made and authenticated.

U. S. GRANT.

MEMBERS OF THE BOARD OF INDIAN COMMISSIONERS (NOVEMBER 1, 1911).

Andrew S. Draper, chairman, Albany, N. Y.
Albert K. Smiley, Mohonk Lake, N. Y.
Merrill E. Gates, Washington, D. C.
William D. Walker, Buffalo, N. Y.
George Vaux, jr., Philadelphia, Pa.
Michael E. Bannin, Brooklyn, N. Y.
Warren K. Moorehead, Andover, Mass.
Samuel A. Eliot, Boston, Mass.
James Gibbons, Baltimore, Md.
Frank Knox, Sault Ste. Marie, Mich.
H. C. Phillips, secretary, Washington, D. C.

Mr. Speaker, the Secretary of the Interior, through the Commissioner of Indian Affairs, has included in the estimates for the Indian appropriation bill (1913) an item of $5,000 for the expenses of the Board of Indian Commissioners. Since the fiscal year 1895 the appropriation has been $4.000 annually. For five years prior to 1895 it was $5,000. Before 1890 it varied from $2,000 to $25,000, some appropriations being made for irregular periods.

In defense of the proposed increase there is submitted the following statement:

The Board of Indian Commissioners, created in 1869, is unique in being probably the only commissioned body of the United States whose members draw no salaries. Its status is also unique in that it is not a bureau or division of any department and that its members are "appointed by the President solely, from men eminent for their intelligence and philanthropy." Its purpose. as stated by Congress in the act of April 10, 1869 (16 Stat., 40), was that "of enabling the President" to carry out the then new peace policy of dealing with the Indians. Its original duty, as defined by Executive order of June 3, 1869, was, in brief:

To "determine upon the recommendations to be made as to the plans of civilizing or dealing with the Indians, and submit the same for action," subject to approval "by the Executive or the Secretary of the Interior"; to communicate "advice as to changes in modes of purchasing goods or conducting the affairs of the Indian Bureau," and, if necessary, to file complaints against officers in the Indian Service.

The obvious intent of these unusual provisions was the creation of an advisory body, having the sanction of the Government and yet reasonably free from governmental restraint or influence, with the right and duty of forming and expressing an impartial opinion on Indian affairs, thereby assisting the administration to guard against the great danger of error, fraud, and injustice to which Indian adminstration is peculiarly exposed. This has always been the chief function of the board and the source of most of its public service.

That the board might properly carry out this duty it was given broad powers, including:

1. To inspect the records of the Indian Office and to obtain full information as to the conduct of all parts of the affairs thereof.
2. To inspect, in person or by subcommittee, the various Indian superintendencies and agencies in the Indian country.
3. To be present, in person or by subcommittee, at purchases of goods for Indian purposes, and inspect said purchases, advising with the Commissioner of Indian Affairs with regard thereto.
4. To provide for the manner in which their communications with and advice to the Government shall be made and authenticated.

It is especially significant that inspection of supplies was originally not a duty, but only an incidental right. Congress on July 15, 1870 (16 Stat., 360), made it mandatory.

Congress also, between 1870 and 1872 (Rev. Stat., secs. 2041, 2042), imposed on the board the strenuous additional duty of supervising all expenditures of money appropriated for Indian purposes, and gave it the right to investigate all contracts, expenditures, and accounts in connection with the Indian Service. When the great amount of clerical work thus involved seemed unnecessary, Congress passed the act of May 17, 1882 (22 Stat., 70), which reads in part:

And hereafter the commission shall only have power to visit and inspect agencies and other branches of the Indian Service, and to inspect goods purchased for said service, and the Commissioner of Indian Affairs shall consult with the commission in the purchase of supplies. The commission shall report their doings to the Secretary of the Interior.

This act has sometimes been interpreted alone as confining the board's work to cooperation with the Commissioner of Indian Affairs in the purchase of supplies. Generally, however, it was interpreted as restoring the board's status under the Executive order of June 3, 1869, and the act of July 15, 1870, with the following principal duties:

1. To determine upon and make recommendations as to methods of dealing with the Indians and of conducting the affairs of the Indian Bureau.
2. To cooperate with the Commissioner of Indian Affairs in the purchase of supplies.

That this interpretation was contemplated in the act of May 17, 1882, and is correct seems apparent because—

1. The act also appropriated $4,700 and specifically directed that $3,200 should be used for secretary's salary and office expenses and $1,500 for travel. Congress could hardly consider the maintenance of an office at an expense of $3,200 necessary to direct an expenditure of $1,500 for the single purpose of inspecting Indian supplies. Moreover, the apportionment compares very closely with the needs for which the board now asks $5,000.
2. The sweeping "power to visit and inspect agencies and other branches of the Indian Service" would seem to imply something beyond mere inspection of goods.
3. Every Congress since 1882 has made an appropriation for the expenses of the board which has all the time been acting under the liberal interpretation of the act of 1882. Had not this been warranted the fact would surely have been discovered in less than 30 years.
4. This interpretation has been recognized by every President, and, with one exception, by every Secretary of the Interior since 1882; and in the single exception noted the point was conceded in the board's favor.
5. Any other construction ignores the original reason for creating the board, its history, and common thought and usage concerning it.

The funadmental idea underlying the board's work and giving value to its recommendations is that of impartiality. It was designed and organized to furnish an impartial viewpoint, with special heed to the prevention of injustice and the recommendation of progressive measures. Its best work has been along that line. Its unsalaried members, as disinterested parties, are bound to take into consideration divergent views regarding Indian matters. This necessitates the maintenance of an office, which must keep in close touch with Indian legislation and administration and with the lines of thought represented by missionary and philanthropic societies and by private individuals interested in the Indians. The scattered residences of the members make such an office indispensable as a medium of communication and action. It is necessary that the board hold annually at least two meetings. It is equally important that one or more members make frequent trips to portions of the Indian field, in order that the board may have the benefit of first-hand observation and knowledge. The combined expense of maintaining the office and of travel incident to board meetings is usually between $3,700 and $3,800 annually. An appropriation of $4,000, therefore, allows a balance ridiculously small for the work of visiting and inspecting branches of the Indian Service and of assisting in the purchase of supplies. When this handicap is considered, it is submitted that the board has done its work with a fair degree of efficiency.

If the foregoing statement is correct, it would seem that since 1894 there has existed the anomalous condition of a board unable to fully perform its duties because it has lacked funds and of Congresses that have failed to provide adequate funds, presumably because they believed the board was not performing its duty. Certainly there should be no difficulty and every advantage in reaching a frank understanding as to the duties of the board and the amount of money needed to perform them.

There are appended to this statement:

(a) A table showing the average expenses of the board for the past five years.
(b) A copy of that portion, in full, of the act of May 17, 1882, referring to the board.
(c) A copy of the board's forty-second annual report, containing (pp. 11–13) excerpts from other acts and from the Executive order of 1869.

Board of Indian Commissioners, annual expenses.

(Average for five fiscal years, 1907–1911, inclusive.)

Rent		$295.00
Secretary		2,500.00
Stenographer		395.60
Care of office and repairs		27.16
Furniture and stationery		65.88
Telephone		40.99
Printing (of annual report)		93.75
Travel by members:		
(a) Incident to board meetings	$302.66	
(b) In Indian field and to inspect supplies	216.00	
		518.66

Covered back into United States Treasury (mainly a single refund in 1907 of $285, which had been reserved for an expense that did not accrue before the end of the fiscal year)	62.96
Total	4,000.00

Annual appropriation, $4,000.

The act of May 17, 1882 (22 Stat., 70), provided:

For the expense of the commission of citizens, serving without compensation, appointed by the President under the provision of the fourth section of the act of April 10, 1869, $4,700, to be distributed as follows, namely: For secretary, $2,000; for messenger, $600; for rent of office, $400; for traveling expenses of the commission, $1,500; and for contingent expenses of office, $200. And hereafter the commission shall only have power to visit and inspect agencies and other branches of the Indian Service and to inspect goods purchased for said service, and the Commissioner of Indian Affairs shall consult with the commission in the purchase of supplies. The commission shall report their doings to the Secretary of the Interior.

Mr. Speaker, I desire further to call the attention of the House to Senate amendment No. 37, on page 21 of the bill. The following letter from Commissioner Sells fully explains that item and explains why it should be retained in the bill:

MY DEAR MR. STEPHENS: I have the honor to invite your attention to the following item, originally in the pending Indian bill but stricken out by the Senate:

"For improvement and sinking of wells, installation of pumping machinery, construction of tanks for domestic and stock water, and for the necessary structures for the development of a supply of water for domestic use for eight Papago Indian villages in southern Arizona, $20,000." (H. R. 12579, p. 21, line 6.)

It appears from the Senate debate on this item (CONGRESSIONAL RECORD, June 22–23, 1914, pp. 11840–11843, 11915–11917) that this action was taken owing to certain objections to the item in its present form.

In view of the fact that this project is vitally important to the welfare of the Indians in these villages, I submit below further information in the premises, a portion thereof being taken from report of House hearings on the Indian appropriation bill (pp. 322–326) and repeated here for your convenience:

Statistics, eight Papago villages.

Census, 1913 (present irrigable area undetermined)	1,423
Irrigated area, acres (acres under completed project depend upon water found	873.7
Acres cultivated by Indians	873.7
Acres cultivated by whites	None.
Value of irrigated land per acre	$100
Expended to June 30, 1913	Nothing.
Estimate for fiscal year 1915	$35,600
Cost of completed project	$35,600

The Indians of this territory have had little or no aid from the Government and are a bright and energetic people, for Indians. Their principal source of revenue is that of stock raising, and this could be made a source of much greater revenue for them if it were not for the fact that the water supply for use of the stock is very limited and hard to obtain. Frequently the feed is ample in a locality, but water is at such a great distance that stock can not subsist. The estimate on this contemplates the sinking of wells, or the improvement of those already constructed, the installation of a pump and small distillate engine, the construction of excavated tanks for domestic and stock water, and the erection of a small structure over the pump and engine.

There are eight villages which are much in need of these improvements. Others might in the future require the same. The villages included are:

Name.	Location.	Population.	Cultivated acreage.
Cockleburr	Tp. 8 S. R. 4 S	200	200
Chiu-Chiuschu	Tp. 8 S. R. 5 E	200	188
Ko-Opke	Tp. 8 S. R. 5 E	75	104
Taht-Mohmeli	Tp. 9 S. R. 5 E	100	50
Komelih	Tp. 10 S. R. 4 E	150	4
Quajoti	Tp. 10 S. R. 4 E	100	245
Anegam	Tp. 12 S. R. 3 E	200	218
Santa Rosa	Tp. 12 S. R. 3 E	400	294

The cost of individual pumping plants is estimated as follows:

Sinking well 6 inches diameter 200 feet, at $5	$1,000
Pump	800
Gas engine	400
Domestic water-storage tank	500
Stock water-storage tank	750
Structures, buildings for pump, engines, etc	500
Engineering and incidentals	500
Total	4,450

This project is entirely distinct from the $50,000 item for similar work on the Papago Reservation, and can have no effect whatever upon the water supply of the city of Tucson, which has an elevation of 2,387 feet. These villages are located 75 miles north and west of Tucson, at considerably lower elevation, ranging from 1,450 to 1,800 feet. The designation "Nomadic Papagos" is perhaps something of a misnomer for these particular Indians, as they have resided in said villages for many years, only leaving them temporarily when forced to do so by lack of water. By rude methods they have developed a small water supply from shallow hand-dug wells only sufficient for their barest necessities.

An exhaustive report has been received in regard to water conditions among these Indians, and for your information there is attached hereto copy of extracts from that portion thereof relating to the eight villages in question, three of which are located on land already reserved for their exclusive benefit, viz: Cockleburr, Ko-Opke, and Taht-Mohmeli.

Many of these Indians own a few head of stock and cultivate small tracts of land. It will be noted that rudely constructed wells already exist in a number of these villages, and if the present wells can be improved, enlarged, and properly cased, other wells dug, and pumping plants installed, as contemplated, such action will contribute very materially to their well-being; and, in fact, is absolutely essential to their progress. Under present conditions it is extremely difficult for many of these Indians to maintain themselves and families owing to the lack of an adequate water supply for domestic and stock purposes.

In conclusion, I most earnestly recommend that this item be reinserted in the bill, for the following reasons: An additional water supply is vitally necessary to the welfare and progress of the Indians in these villages; this project can have no effect whatever upon the water supply of the city of Tucson, the villages being located about 75 miles north and west thereof at much lower elevation; and the contemplated withdrawal of the lands therein not already reserved for the Indians will not reduce the area of public domain available for homestead entry in that section, as the Indian's right of occupancy and use in a number of cases almost from time immemorial would be recognized in any event as against other parties, whether or not the land is ever formally set aside exclusively for such purposes by executive order or otherwise.

Very truly, yours,

CATO SELLS, *Commissioner.*

Hon. JOHN H. STEPHENS,
Chairman Committee on Indian Affairs,
House of Representatives.

COCKLEBURR.

This village is 14½ miles southwest of Casa Grande on the old Vekol road. These are the most thrifty and prosperous of any of the Papagos yet visited, which prosperity I attribute to a better water supply * * * than many of the other villages have.

Domestic water supply for this village is furnished by two wells 150 feet in depth, with 4 or 5 feet of water. These wells being open—the box or curbing supporting the windlass being crude, open affairs in poor repair—the wells are exposed to dust, dirt, and reptiles. None of the wells are walled up or lined, and earth from some of the softer strata is continually disintegrating and falling into the wells. All these causes render the water supply anything but pure and wholesome.

It is suggested that one of the first things done should be the protection of these wells and the installation of a quicker and more adequate method of drawing water. I am told on good authority that several head of live stock—horses and cattle—die every summer from lack of water, and I know that there is great suffering among the stock from this cause. If pumps, tanks, and watering troughs could be installed at these wells it would contribute more to the health, cleanliness, and so forth, of these Indians than anything I know of.

TAHT-MOHMELI.

This village is 1½ miles southwest of the Jack Rabbit Mine. These Indians are in a condition bordering on destitution. They have few fields, as their supply of water for irrigation is small and uncertain. This supply is obtained by a system of storm-water ditches, which intercept the branches of a small wash flowing through the village and carry it to the fields. Their crops this season are nearly a total failure. Their white neighbors state they are honest and industrious. Some of them are employed at the near-by mines when these are operating.

Few, if any, of these people have attended school. There is only one person in the village who can speak any English.

Water for domestic use and for stock is obtained from a well 84 feet in depth. This well, like the ones at Vahlwavaw or Cockleburr, is open, is not walled up or lined, and some of the softer strata are sloughing off and caving badly.

CHIU-CHIUSCHU.

Chiu-Chiuschu is one of the largest and most populous of the Indian villages along the Santa Cruz and tributaries. Although their water supply is small and uncertain, these Indians seem to enjoy some degree of prosperity. Their land is very fertile, and nearly all of the fields have produced fairly good crops this season. These people show considerable skill and industry in the cultivation of their fields and in irrigating them. Many of the fields are surrounded by levees for the purpose of holding the water until it thoroughly soaks into the ground. The principal crops are corn, cane, beans, squashes, melons, and so forth.

Several of these Indians have attended school and speak English. A mission is maintained by the Catholic Church.

Water for domestic use and for stock is obtained from two wells, 57 feet and 60 feet deep, respectively. Like all the others, these wells are open, and water is drawn in buckets.

QUAJOTI.

This village is about 7 miles west of the Jack Rabbit Mine and about 4 miles east of the Reward Mine. Water for domestic purposes is obtained from a well about 210 feet in depth, which was dug by these people about 15 years ago.

KOMELIH.

This village is about 7 miles southwest of the Jack Rabbit Mine. A well 160 feet deep was dug by whites in 1884–85 for station on the Quijotoa Road. The Indians moved in after the well was abandoned by the whites. Very little land—only a few garden patches—is in cultivation at this place, aggregating about 4 or 5 acres.

KO-OPKE.

This settlement is a short distance from the main road from Casa Grande to the Jack Rabbit Mine. There are in cultivation about 100 acres, irrigated by storm water from the surrounding territory. The water supply is deficient and uncertain. Domestic water is obtained from a well 78 feet in depth.

ANEGAM.

This village, usually called Upper Santa Rosa, is about 16 miles southwest of the Jack Rabbit Mine. Water is obtained from a wash of considerable size that emerges from the Sheridan Mountains, a short distance west of the village. The wash from which the water is obtained has a loose gravelly bottom and there is probably a considerable underflow. Water for domestic use and for stock is conserved in a tank or small reservoir. There is no well at this place, and the tank from which the domestic supply is secured is very insanitary, as it is not fenced in and all the Indians' cattle and horses secure water from the same source.

SANTA ROSA.

This is the largest and most populous of the Indian villages of the Santa Rosa Valley. Aside from being the most prosperous, it is probably one of the oldest. Near the village there are the remains of many ditches and tanks, said to be the remains of prehistoric irrigation systems. In the immediate vicinity also there have been found pottery and remains of weapons and implements supposed to have belonged to the ancient Aztecs.

There is no well here, and water for domestic use and the supply for the live stock is taken from the same tank. This tank is not fenced in and is very insanitary. The supply was practically exhausted in October, 1912, and these people were hauling water from Anegam and from Brownell.

I now yield to the gentleman from Kansas [Mr. MURDOCK] five minutes.

Mr. MURDOCK. Mr. Speaker, it happens I do not know Mr. Abbott, who has been mentioned, and I do not know any member of this board of commissioners, but I am for the motion offered by the gentleman from Illinois [Mr. GRAHAM].

Mr. STEPHENS of Texas. Will the gentleman yield to me then?

Mr. MURDOCK. I thought the gentleman had yielded to me.

Mr. STEPHENS of Texas. I had, but I desire to ask the gentleman a question. Does not the gentleman think other departments of the Government should be supervised also? If it is necessary to supervise the Interior Department, then let us have the War Department and the Navy Department and the White House and all the rest of them supervised.

Mr. MURDOCK. I will answer the gentleman from Texas, no; I do not think other departments should be supervised, but I do think that there is peculiarily in the Indian Service warrant for the existence of just this sort of supervisory commission. Now, it happens the gentleman from Texas and myself come from the same section of the country. He lives in northwestern Texas and I live in southern Kansas. Both of us have had our homes for years on the margin of the Indian country. Both of us know the early attitude of many of the pioneers of that section toward the Indians. I say to the gentleman from Texas that as a boy probably I shared that unfriendly attitude toward the American Indian; but as an adult and with a broader view in these later years, I have come to know that the way the American people have treated the aborigines of this country has been for the most part shameful.

It was natural, in the course of events, that the Indian should be segregated and removed to a small tract of territory, small compared with his original holdings. But in his guardianship the white man has not been kindly with the Indian. Our supervision over him in schools and on reservations is not pleasant to review. Here is a proposition, no matter what its origin may have been back in 1869, which gives to some 11 men—men of parts, men who serve without pay—the right to view the condition of these Indians—the remnant of the tribes, wherever they may be found in the United States—with a view of interceding with official Washington in their behalf. These men have done notable service, meritorious service, in the past. I think that their activities ought to be continued, and they ought to be given funds commensurate with their duties. Four thousand dollars will not go very far in making inquisition and investigation into Indian affairs; $10,000 will probably permit it, to some extent. I see no reason why Congress should hang back because of the difference.

We have driven the Indians into a little area. We have tried to civilize them. We have many of them segregated in schools. I want to say to the gentleman from Texas [Mr. STEPHENS] that during my service in Congress I have received more complaints about the conduct in Indian schools than I have over any other item of this Government.

Mr. STEPHENS of Texas. Does not the gentleman know that these commissioners have nothing to do with the Indian schools, but only with the purchase of supplies?

Mr. MURDOCK. They can investigate all parts of Indian affairs, I understand.

Mr. STEPHENS of Texas. So can I. But their investigation is only as to the purchase of supplies.

Mr. MURDOCK. They made a very meritorious and efficient investigation in Oklahoma in regard to probate, and conditions in that regard, I understand, have since been largely corrected as the result of these investigations. I hope the House will in this small measure, at least, do justice to the American Indian by giving him the benefit of supervision by men who are not hampered by Government red tape, and who are not hindered by bureau practices or bureau prejudices.

Mr. STEPHENS of Texas. Mr. Speaker, I yield five minutes to the gentleman from Minnesota [Mr. MILLER].

Mr. MILLER. Mr. Speaker, I desire to support the amendment offered by the gentleman from Illinois [Mr. GRAHAM] to increase the amount carried in the House bill from $4,000 to $10,000. I do it because, in my opinion, the Board of Indian Commissioners is an efficient and valuable adjunct to the Government of the United States in the administration of all Indian affairs. In the first place, this board is composed of men of the very highest standing in the respective parts of the United States in which they live. They are not narrow, prejudiced, small, biased men with an ax to grind. They are not men with preconceived notions that they desire to have put into effect. They are men whose broad spirit and high-minded character have caused them to enlist in a great humanitarian effort to see that justice, and pure justice, is done to the Indians. Go to the homes of every one of these men and you will find, I dare say, not a living being in the community in higher esteem than the member of this Board of Indian Commissioners. So much for the board.

Now, a word as to their work. I am not at all in accord with the distinguished chairman of the Indian Affairs Committee in his statement that the efficiency of this board is not of very great caliber and that its activities are to be restricted to a very few and minor matters. That was more than likely true at the inception and beginning of the workings of this organization, but it is not true to-day. It is not true to-day because the conscience of the American people has grown acute over Indian affairs. It is not true because to-day the American people have come to a new understanding and to cry "halt" upon the devastation of Indian property, the pauperizing of Indian minors, and the robbery of Indian full bloods throughout the United States. It is by reason of this changed condition of affairs that this board has come into being with strength and with a mission.

Now, let us see some of the activities of this commission during the past year or year and a half. Verily, they have been rendering an important work, and thereby we find a reason why they should be continued.

Mr. Speaker, ever since I have been a member of the Indian Affairs Committee of this House there have been many lines of Government activity dealing with Indian affairs about which I have known little or nothing, about which I could find no one who knew anything, but upon which no man on the floor of this House has a right to vote unless he knows something.

I refer, first, to the irrigation of Indian lands. How many men are there either on or off the Indian Affairs Committee of the House or Senate who can tell whether a project that has been tried or appropriated for is a feasible or proper one for the Indians, whether it is one that should be reimbursable from the funds of the Indians, and to what extent are the whites interested, rather than the Indians, in the project? Mr. Speaker, we have such a lack of information about these propositions for which each year we are spending literally millions of dollars that when we act we literally convict ourselves of incompetence. It was three years ago I asked the Committee on Indian Affairs to pass a resolution, and they passed it as a committee, but did not bring it into the House, calling for an in-

vestigation of the whole subject of the irrigation of these lands, in order that we might know something about it. I am very pleased to see that during the past year that work which the Indian Affairs Committee halted, or, rather, which they did not feel it was advisable to undertake, the Board of Indian Commissioners has undertaken. They have had an expert, a man skilled in Indian affairs, investigating conditions throughout the United States where these projects are located, and that gentleman has made an elaborate report, that is now available for the membership of the House. In that report alone he shows in the present bill where there can be saved to the Treasury of the United States a quarter of a million dollars. But gentlemen will stand on the floor of this House and say that this board is not of value to the Government.

Mr. Speaker, one thing more. Passing from that important item, there are many others that confront us immediately. One of the great points of controversy we have had buffeted back and forth during recent years is the condition of affairs in Oklahoma. I understand it was said a moment ago, in order that a little aspersion might be cast, perhaps, on the membership of this Board of Indian Commissioners, that one of its members, a distinguished professor from New England, traveled to Oklahoma and mussed things up. Thank God he "mussed things up." He mussed things up as they ought to have been mussed up long ago, and it is to be noted here and now that the present Democratic Commissioner of Indian Affairs put the sanction of his approval upon the report of that distinguished professor after he himself had made a personal investigation in Oklahoma; and, my dear sirs, if it is of any advantage to have in the consideration of Indian affairs knowledge, skill, advice from high-minded and disinterested men, whose thoughts are for the Indian and for the honor of the American people, then this Board of Indian Commissioners should be perpetuated with decency and distinction.

Now, another thing that this last year was performed by a member of the Board of Indian Commissioners. How many times has there appeared upon the floor of this House a controversy over whether or not the sawmill plant we built on the Menominee range in Wisconsin was a going concern or not, whether we had wasted and squandered the Indians' money, and whether we had squandered the Indians' property? What were the facts? I did not know. How many gentlemen here know? I have heard a great many conflicting statements made; but the subject, so far as I know, had never been investigated by a man who really understood the sawmill and lumbering business—until when? Until within the last year, when a member of this Board of Indian Commissioners, who is a distinguished and skilled lumberman, made such an investigation.

The SPEAKER. The time of the gentleman from Minnesota has expired.

Mr. MILLER. Mr. Speaker, I would like to have three minutes more, if I may. I ask the chairman of the Indian Committee to give me five minutes.

Mr. STEPHENS of Texas. I yield to the gentleman three minutes, Mr. Speaker.

The SPEAKER. The gentleman from Minnesota is recognized for three minutes.

Mr. MILLER. Then, Mr. Speaker, in addition to that, we have undertaken recently to do something in response to a demand that came from good people throughout the country that something should be done for the prisoners who are at the Fort Sill Reservation in Oklahoma, and the proposition was advanced to transport them from the prison reservation to the Mescalero Indian Reservation in New Mexico. We did it. I thought it was a wise step. But I think we squandered a lot of money in doing it. I think we were foolish in the way it was done. When I say "squandered" I do not think the object was inappropriate, but I think the amount appropriated was vastly in excess of the needs of the situation. There has, however, arisen a great deal of controversy over that. I have read it in the newspapers and have heard it stated on fairly decent authority that we had committed a great crime upon these people whom we have nursed in the lap of luxury for 50 years in setting them up in business for themselves, locating them on farms, and providing them with implements and equipments—that notwithstanding all this we had still committed a crime upon them. A member of this Board of Indian Commissioners went there and made an investigation of that, and his report is available.

So I might go on and show, item by item, how this board, composed of such men as I have described, have performed a notable service for the American Indians and the American people; and they have, every one of them, done it out of their own pockets, because not one cent has ever been paid by the Government, either for their expenses or for their time. They have had such a high-minded conception of their work that they have gone into their own pockets and paid for the work.

Now, it seems to me that under these circumstances we can in common decency only recognize them by giving them a decent appropriation; not $25,000, as suggested by the Senate, nor the paltry $4,000 that was passed by the House; but let us make it still a fair golden mean and grant the $10,000 suggested by the gentleman from Illinois.

The SPEAKER. The time of the gentleman from Minnesota has expired.

Mr. JOHNSON of Washington. Mr. Speaker, I would like to have five minutes.

Mr. STEPHENS of Texas. I yield five minutes to the gentleman, Mr. Speaker.

The SPEAKER. The gentleman from Washington [Mr. JOHNSON] is recognized for five minutes.

Mr. JOHNSON of Washington. Mr. Speaker, in the district I have the honor to represent we have some 12 or 13 tribes of Indians in one large and two or three small reservations. In spite of all the good work that is accredited to this Board of Indian Commissioners, I can not help but note the fact that the Indians away out on the Pacific coast seem to be getting a little bit worse off each year.

Regulations, rules, instructions, and orders are increasing in number. Nowadays the Quiniault Indians are even told when they may and when they may not go up and down their own river in their own boats. What the Indians have, or what they think they have, or what they hope to have, seems to be either controlled in one way or uncontrolled in another until each year the western Washington Indians seems to be in a little more distress or a little nearer starvation. I do not know that this board has ever been near the Quiniaults. I doubt if the board has, and if the board is so good and so valuable as has been stated, let me suggest that the great Quiniault Reservation offers a fine field of endeavor. Surely this board or any board of commissioners can not make matters worse and more uncertain than they are.

I am pleased to indorse what the gentleman from Texas [Mr. STEPHENS], the chairman of the Committee on Indian Affairs, has said in regard to the impossibility of getting rid of boards and commissions in all branches of the Government once they are started. Why, Mr. Chairman, we have before us this very day a rule brought in by the Democratic Rules Committee, which rule permits this Congress to act for the perpetuation and appointment of members of the Board of Managers of the National Home for Disabled Volunteer Soldiers. That is all very well, but it does seem as though the time should come when the number of members of that board could be reduced.

Who knows how many boards and commissions we have engaged in running this Government? More than anyone suspects, I venture, and still more being made. The State Department, I am told, has more commissions hanging onto it than any other, and some of them move in a mysterious way their wonders to perform. There is even now, I am informed, about to start for Great Britain a commission for the settlement of foreign claims. That commission was authorized originally, no doubt, for some particular reason, and it will never quit. There will always be claims ahead. I have heard that commission spent $180,000 last year to settle $8,000 worth of claims. I wish I had the exact figures. I am informed, too, that this commission expended $400 for inkwells. There must be some mistake about this report. Why, $400 worth of inkstands would be a carload of inkstands [laughter], and would provide for an awful lot of ink slinging.

But, Mr. Speaker, that is the way it goes—commission here and special board there; like the suckers, one is born every minute and none ever die, and if all these Federal commissions and boards have done no more for the whole country than the Board of Indian Commissioners have done for the fish-eating tribes of Washington State, then all should be abolished; the quicker the better. I support the position taken by the gentleman from Texas [Mr. STEPHENS].

The SPEAKER. The time of the gentleman from Washington has expired.

Mr. STEPHENS of Texas. Mr. Speaker, I move the previous question.

The SPEAKER pro tempore (Mr. WINGO). The gentleman from Texas demands the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question recurs on the amendment of the gentleman from Illinois [Mr. GRAHAM].

The question was taken, and the Speaker pro tempore announced that the "ayes" seemed to have it.

Mr. MILLER. Mr. Speaker, I demand a division.

The SPEAKER. A division is demanded.

The House divided; and there were—ayes 39, noes 24.

So the amendment was agreed to.

Mr. STEPHENS of Texas. Mr. Speaker, I ask that the next amendment be read.

The SPEAKER. The Clerk will report the next amendment.

Mr. MANN. Mr. Speaker, I asked for a separate vote a little while ago. I am willing that the rest of the amendments be considered together.

Mr. STEPHENS of Texas. Then I move, Mr. Speaker, that they be considered together.

The SPEAKER. The gentleman from Texas moves to further insist on the disagreement of the House to the Senate amendments—numbered what?

Mr. STEPHENS of Texas. Nos. 23, 27, 81, 82, 139, and 155.

Mr. BURKE of South Dakota rose.

Mr. STEPHENS of Texas. Mr. Speaker, I yield to the gentleman from South Dakota.

The SPEAKER. The gentleman from South Dakota [Mr. BURKE] is recognized.

Mr. BURKE of South Dakota. Mr. Speaker, I do not care to discuss any of the amendments that are still in disagreement, neither do I care to discuss the conference report, except to refer briefly to one Senate amendment which has been agreed to in conference with an amendment. I refer to Senate amendment 136, which as it has been agreed to is legislation that is just and that should have been enacted several years ago. It provides for the putting upon the rolls of the Five Civilized Tribes a number of persons who were omitted from the enrollment that closed on March 4, 1907. The Senate amendment only provided for enrolling these persons, but as agreed to in conference it not only provides for their enrollment, but fixes the amount of money each one will receive in lieu of an allotment, there being no tribal lands left for allotment. I have strenuously insisted for a number of years that these persons who are now added to the rolls should be enrolled before the affairs of the Five Civilized Tribes are closed up and the estate distributed. It was admitted that there were persons entitled to enrollment that were omitted from one cause or another, and it has always seemed to me that it was the duty of the Government to see that they were taken care of, and I have tried to convince the officials of the department, the tribal officials, and the Representatives from Oklahoma that they ought to make up a list of the persons that were manifestly entitled to be enrolled, and it is a source of much pleasure to me that this has finally been done and these persons will now be added to the rolls. This, in my opinion, will mean the closing up at an early date of the affairs of the Five Civilized Tribes, and will result in the final distribution of their estate. There may be some other claims for enrollment that ought to be inquired into and considered before there is a final settlement, notably the claim of the Mississippi Choctaws, but the provision agreed to in conference that I have just discussed will very materially facilitate the winding up of the affairs of the Five Tribes.

Mr. Speaker, I rose particularly to speak with reference to a portion of the bill on page 62, under the title, "Five Civilized Tribes." I was unavoidably absent from Washington when the Indian appropriation bill was reported from the Committee on Indian Affairs last January. I was also absent when the bill was considered in Committee of the Whole and when it passed the House. If I had been present when the bill was considered I would have opposed some of the legislation affecting the Five Civilized Tribes, and particularly the provision beginning on line 7, page 62, of the bill, which provides that the offices of the Commissioner of the Five Tribes and the Union Agency shall be consolidated and a commissioner authorized to be appointed by the President, by and with the consent of the Senate. My objection to this provision is that it proposes to take out of the classified service an important office and to fill it by a political appointment. I do not believe that it is in the interest of good administration or for the best interests of the Five Civilized Tribes. Our friends from Oklahoma defend this legislation by stating that it is in the interest of economy, eliminating an unnecessary position and making one official do the work that two now perform. When the last Indian appropriation bill was in conference there was a Senate amendment proposing this legislation, and I take some pride in saying that I was largely responsible, for the elimination in conference of that provision. We now have it, however, about to become a law, having passed the House and Senate, and know that after September 1 the position of Commissioner of the Five Tribes will be filled by an appointment by the President, to be confirmed by the Senate, and the position of union agent will be discontinued. This will mean that we will have a political appointee in place of the two efficient men who have served in these positions for so many years without a suggestion of corruption, malfeasance, or neglect of duty, whatsoever.

Mr. Speaker, when this matter was discussed in the House when the Indian appropriation bill was under consideration, gentlemen on the other side argued that it was in the interest of economy. I want to call their attention and the attention of the House to the fact that there is nothing to be saved by this legislation, and this is proved by the fact that the appropriation for the administration of the affairs of the Five Civilized Tribes is increased by this bill several thousand dollars over what it was in 1913 and over what it was in 1912. The Indian appropriation act approved August 24, 1912, appropriated "for expenses of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, $200,000." The act approved June 30, 1913, being for the fiscal year ending June 30, 1914, provides "for expenses of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, including such attorneys as the Secretary of the Interior may, in his discretion, employ in connection with probate matters affecting individual allottees of the Five Civilized Tribes, $250,000."

It will be noted that the appropriation for the last fiscal year includes such attorneys as the Secretary of the Interior may employ in connection with probate matters. This bill, as agreed to in conference, appropriates for expenses of administration and the compensation of employees $175,000, and, in addition thereto, $85,000 for salaries and expenses of attorneys and other employees as the Secretary of the Interior may deem necessary in connection with probate matters. Therefore, there is appropriated in this bill for administration purposes $265,000, or $15,000 more than was appropriated for the last fiscal year, and $65,000 more than appropriated for the previous fiscal year for the same purposes.

So, Mr. Speaker, it is certain that nothing is to be saved by this consolidation of offices, but, on the contrary, it is going to cost more money than it has cost heretofore.

There is another portion of this bill, providing for the administration of the affairs of the Five Civilized Tribes, that I do not indorse, although I am in favor of what is sought to be accomplished, and that is the provision that proposes an appropriation of $85,000 to enable the Secretary of the Interior to employ attorneys and other employees in connection with probate matters. I have heretofore strenuously advocated an appropriation to continue the employment of district agents, whose duty in part was to look after probate matters, and particularly with reference to the estates of minors. I favored such an appropriation against the opposition of my good friends from Oklahoma on the other side of the aisle. In connection with a discussion of this subject on a certain occasion it became necessary for me to present to the House charges that were very serious, and many now present will remember what I said in making public a report made by Mr. Mott, the national attorney for the Creek Nation, which showed a most deplorable condition in the different counties in that nation, demonstrating by the records of the county courts that it cost, on an average, to administer the estates of Indian minors about 20 per cent of the estate, as against about 3 or 4 per cent for administering the estates of white minors, this being about the average cost of administration throughout the United States. The gentlemen from Oklahoma on that side of the House denounced these charges as being false and without foundation, accused me of being sensational, and asserted that the courts of Oklahoma were competent to administer upon the estates of Indians without the interference of the Federal Government. I am very glad to know that these same gentlemen have apparently at last recognized that the charges as presented by the Mott report were true, which they now reluctantly admit, after having investigated them and after they were substantiated by an investigation made by the governor of Oklahoma, and after the present efficient Commissioner of Indian Affairs has declared publicly that the charges are true. And now our Oklahoma friends are supporting an appropriation of $85,000 to provide for the employment of attorneys, probate and others, to watch their county courts.

This is the only instance in American history where the Federal Government has been called upon to make an appropriation to protect the citizens of a State from being wronged by the courts of the State, and it would seem to me that the people

of Oklahoma ought to see to it that their courts do justice at the expense of the State, without calling upon the Government to provide an appropriation to pay for having their courts watched to see that minors are not robbed of what belongs to them. The district agents were employed in supervising the affairs of the Indians generally, and incidentally they were required to look after their interests in probate matters. I presume they received salaries of $1,200 or $1,500 a year, and they held their positions under the classified service. This appropriation of $85,000 to employ attorneys, like the provision consolidating the offices of commissioner and union agent, is undoubtedly for a political purpose. There are now, I believe, 21 of these probate attorneys, each drawing a salary of $2,500 per year and expenses, and all being political appointees. I maintain that everything that is being done at present with reference to the administration of the affairs of the Five Civilized Tribes in Oklahoma is with a view to political advantage and to create political jobs by doing away with those heretofore appointed through the classified service.

It will be remembered that when I made public in this House the report of Mr. Mott with reference to conditions in the Creek Nation the gentleman from Oklahoma [Mr. DAVENPORT] assailed Mr. Mott, referred to him as a carpetbagger, and boasted that he would be driven out of the service and out of Oklahoma. Mr. Mott's contract expired in February of this year. The principal chief of the Creek Nation, a Democrat in politics, wished to retain Mr. Mott as the attorney of the nation, but, notwithstanding this fact and that he was commended by the present Secretary of the Interior as having been an honest and courageous official, his contract was not approved, due to the protest that was made by Democratic Members of Congress from Oklahoma and other Democratic politicians from that State. The man selected to succeed Mr. Mott, I am pleased to say, is a good lawyer and a man of high character, and I compliment the administration on having apparently selected a good man for the position, but, Mr. Speaker, I want to emphasize that the change was made for a political purpose and also for the purpose of punishing Mr. Mott for being responsible for the charges that were brought to the attention of the House with reference to conditions in the county courts of the Creek Nation in Oklahoma in relation to the estates of Indian minors.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. BURKE of South Dakota. Yes.

Mr. STEPHENS of Texas. Is it not a fact that Judge Allen, who is now holding the position that Mr. Mott held, was elected as a judge by the citizens of his district and is one of the best judges in Oklahoma?

Mr. BURKE of South Dakota. I can not say any more of Judge Allen than I have. It is true he was occupying the position of district judge in Oklahoma and resigned to take this position, and, as I have said, he is a gentleman, a man of high character, and, I believe, a good lawyer. I am not criticizing Judge Allen. I am simply pointing to the fact, Mr. Speaker, that politics will dominate in the Indian Service in Oklahoma from now on. I do not want to have this opportunity go by without calling attention to it. For a number of years we have had a commissioner to the Five Tribes and a union agent, who have efficiently administered the affairs of their offices in a manner that could not successfully be criticized or assailed, for during their entire administration there has never been a suggestion against the character, honesty, or the efficiency of these officials, but it is now proposed to eliminate them by the appointment of a politician by the President, and it can not be said, as I have already asserted, that it is in the interest of economy when this bill, as agreed to in conference, carries a larger appropriation than has been made heretofore for the administration of the affairs of the Five Civilized Tribes.

The SPEAKER. The time of the gentleman from South Dakota has expired.

Mr. STEPHENS of Texas. I yield to the gentleman five minutes more.

Mr. BURKE of South Dakota. Mr. Speaker, before I leave the subject of Mr. Mott, I want to bring to the attention of the House a circumstance that I think will be of interest at this time and to emphasize that what I have said is true that he was not permitted to continue as the attorney for the Creek Nation because of politics, he being a Republican, and for the purpose of punishing him for having honestly discharged his duty. Secretary Lane, in writing to the principal chief of the Creek Nation, Moty Tiger, referring to Mr. Mott, said:

> Mr. Mott is an honest man, an able man, and a courageous man.

The Secretary also addressed a letter to Mr. Mott after the matter of a contract had been made with another attorney, and Mr. Mott was authorized to make any use of it that he saw fit. The letter is as follows:

WASHINGTON, *February 14, 1914.*

M. L. MOTT, Esq.,
Washington, D. C.

MY DEAR MR. MOTT: Chief Moty Tiger and myself have agreed upon Judge Allen as your successor as attorney for the Creek Nation. The reason for this change is set forth in my letter to the chief, a copy of which is inclosed.

I shall always take pleasure in contemplating the manner in which you conducted yourself during the inquiry here. That you have been honest under difficulties and fearless at all times in doing your duty seems to be admitted even by those to whom you have been most antipathetic.

I am glad to know that you are going to return to Oklahoma, and I trust that by mingling freely with those people they will come to see you as a man of ideals.

Cordially, yours, FRANKLIN K. LANE.

Now, Mr. Speaker, with relation to Mr. J. George Wright, the present Commissioner of the Five Tribes, I want to say a word. Anticipating that some of my good friends on the other side of the aisle, from Oklahoma, will probably rise and talk about the "horde of political employees" that are employed in his office, I want to make a very brief statement.

Mr. J. George Wright, the present Commissioner to the Five Civilized Tribes, has been in his position for many years, having been transferred from the position of inspector on July 1, 1907. His office has been inspected personally by different Secretaries of the Interior, by several of the Assistant Secretaries, and the Assistant Attorney General for the department, as well as other department representatives, and without exception his administration has been found entirely satisfactory, and there never has been during his entire service any suggestion of inefficiency or wrongdoing upon his part.

We have repeatedly heard it asserted on this floor and elsewhere that the office of the commissioner is filled with political appointees and a large force of useless employees are on the pay rolls. I have made a careful inquiry to ascertain definitely the number of employees employed in the office of the commissioner or under him, and whether or not there is any foundation for the suggestion that they are politicians appointed from many States other than Oklahoma, and positions distributed as political patronage to Senators and Congressmen, as has been so often asserted.

On July 1, 1907, when Mr. Wright assumed his office, there were 181 employees; 61 were Republicans, 47 Democrats, 56 women, 27 of whom were connected with families considered Democratic and 24 of Republican families. There were also 16 colored janitors or messengers.

Mr. Wright was instructed by the Secretary of the Interior to make no changes except in the interests of the service. From that time to the present not a single appointment to a position in that office has been made except from an eligible list furnished by the Civil Service Commission, with the exception of three temporary stenographers and a few temporary employees that were authorized by the present Commissioner of Indian Affairs and approved by the present Secretary of the Interior.

As the work has approached completion the force has been reduced, until at present only 50 persons are employed, all of whom, with the exception of the two or three recent temporary appointees just mentioned, were employed in 1907, and have been retained because they were considered the most efficient. Of those now connected with the office only 12 are Republicans, 17 are Democrats, 18 are women, 10 being from Democratic families and 8 from Republican, and there are three colored messengers.

Mr. Speaker, in conclusion we find that a very efficient attorney, who has rendered able and valuable service to the Creek Nation, an attorney whom the nation desired to continue, has been let out and a Democrat appointed in his place, mostly because he is a Republican. We find that there have been positions heretofore in the classified service to quite a considerable number, known as district agents, probably drawing not more than $1,200 or $1,500 a year, that have been displaced by the appointment of attorneys drawing salaries of $2,500 a year and their expenses, the appointments being political. We find in this bill a provision to do away with the present commissioner and the union agent and put in his place a politician appointed upon the recommendation of our good friends from Oklahoma.

Mr. Speaker, I will leave it for the House to conclude what will follow after that change takes place. I might mention, in passing, that last year, after a similar provision was put in the Indian appropriation bill after it left this House, a bill was immediately introduced in another place which provided that all the moneys belonging to the Indians in Oklahoma should be withdrawn from the Treasury and deposited in the banks of Oklahoma under the supervision of the Secretary of the In-

terior, who would get his recommendations from the commissioner we now propose to appoint from Oklahoma.

When it is considered that there are many millions of dollars in the Treasury of the United States belonging to Indians in Oklahoma, it is apparent what it would mean if it could all be distributed throughout that State by placing it in banks selected by the commissioner, who will probably be named by those recognized by the administration in the distribution of political patronage. I would like to discuss this matter at greater length, but will not ask a further extension of time, in view of the desire on the part of the House to get this conference report out of the way in order to proceed with other business.

Mr. STEPHENS of Texas. Mr. Speaker, I yield five minutes to the gentleman from Oklahoma [Mr. FERRIS].

Mr. FERRIS. Mr. Speaker, I shall not indulge in any political colloquy with my good friend from South Dakota. These questions pertaining to the Indian affairs ought to rise above politics. They ought to be considered wholly with reference to the Indian welfare. To make sure that I make no mistake in the record I will present, I want to say that the record which I hold in my hand is from the Indian Office, and it is signed by Mr. Hauke, who was under the preceding Republican administration and is now one of the assistant commissioners of the Indian Office. He is still in the Indian Office, and has been for many years in that office, so it must be authentic. I want to say on January 8, 1908, Theodore Roosevelt, then President of the United States, issued an Executive order placing 126 men in the civil service that had been prior thereto politically appointed and considered political appointees, and their names and salaries I have here, and I will put them in the RECORD.

Mr. BURKE of South Dakota. Does the gentleman mean that the letter——

Mr. FERRIS. Just let me proceed for a moment. I desire to say on July 12, 1910, William Howard Taft, then President of the United States, issued an Executive order covering 40 appointees that had been made by the Republican State chairman, the Republican national committeemen, the Republican Delegates in Congress, and the Republicans who had been looking after their faithful. There can not be any doubt about the fact, and they went into the civil service under that order, and the names of the men and the salaries are in my hands, which I will place in the RECORD, so there can not be any doubt about that. On October 9, 1908, again Theodore Roosevelt issued an Executive order, a copy of which I hold in my hand, and the names and salaries I have, covering an aggregate of 129 in number into the classified service by Executive order. That is the record of the Republican Party in Oklahoma in building up conditions in Oklahoma. That is an example of their strict adherence to civil service.

Mr. MILLER. Will the gentleman yield?

Mr. FERRIS. Let me proceed; the Chairman desires me to get through as soon as possible, and I want to get through, and I do not desire to get in any long-winded, civil-service, political controversy about this affair. I only do it now to let the truth come into a situation that needs to be understood. I want to say to the gentleman who complains of this exact provision for the Five Civilized Tribes that we reduced the item from $250,000 of last year to $175,000 this year and got rid of a duplication that should have been abolished years ago.

Mr. BURKE of South Dakota. Now, that is not fair. The gentleman does not want to make that statement.

Mr. FERRIS. I do want to make that statement.

Mr. BURKE of South Dakota. Then the gentleman is making a misstatement.

Mr. FERRIS. I do not do any such thing. The amount carried in the last Indian appropriation bill was $250,000. This is reduced to $175,000. There is no mistake about that. Figures can not lie. The gentleman can assail my integrity and the statement, but the bill speaks for itself. Now, let us proceed a little further. The gentleman says that this does not work economy, and says we do not get rid of any of the officers, and we do not do any good for the people of Oklahoma, and that it is a case of playing politics. If there ever has been a case in the country where politics ran at fever heat and politics knew no bounds, it has been the administration of the affairs of Oklahoma by the Republican Party. I do not wish to irritate anybody on the other side, but, Mr. Speaker, I am a Representative in Congress from Oklahoma. Oklahoma with her 117,000 Indians has been made the football of this House long enough. I do not say that there are no irregularities in Oklahoma; of course not. There are irregularities in Oklahoma; there is graft in places in Oklahoma, and probably always will be. There is no question about that. There is graft with the people of South Dakota. There is no doubt about that. There are in Minnesota, anywhere in the world, and in every State and in every country where we have a weak people and a strong people living side by side. There always will be irregularities and some graft. I have asserted before in this House, and I will assert it again now, that within our State there reside practically one-half of all the Indians of the United States; there are no more irregularities, there is no more graft, there is no more mistreatment of the Indians than there is in any other State in the Union, and I doubt if there is half as much. Now, another suggestion to this House: I had not intended to get into a general colloquy on this subject, but my heart runs over to hear our State assailed continuously with the same old speech every year, and it ought not to go unchallenged, and it shall not longer go unchallenged.

The SPEAKER. The time of the gentleman has expired.

Mr. FERRIS. May I have a couple of minutes more?

Mr. STEPHENS of Texas. I yield two minutes additional to the gentleman.

Mr. FERRIS. In most of the States the Indians have no part in society; in most of the States the Indians have no voice, for they can not even vote. In our State each and every one is a full citizen and is entitled to vote and can do anything that any other citizen is entitled to do. It so happens that our governor is an Indian; our lieutenant governor is an Indian citizen; our legislature has a large contingent of Indian citizens, a per cent proportionate to our population of State officers are Indian citizens, one of our United States Senators is an Indian citizen and three of our House Members of Congress are Indian citizens. You see how badly treated the Indians are in our State. Oh, it is easy for a man who knows little of the facts to assert it is filled with graft and all sorts of trouble. I again repeat, we admit we have some graft, we do admit some trouble, we have taxation burdens that are heavy to bear, a State that is less than 7 years of age, with more than 50 per cent of its property off the tax rolls, but in our new State our load is almost more than we can bear, still we are assaulted. There are no greater wrongs there than in any other State with a like Indian population. If there is a single thing that can be suggested by any man here or elsewhere that will improve the condition I want to say I am for it. I never bought a town lot or an acre of Five Tribes Indian land in my life, and I do not own one now that ever belonged to the Five Civilized Tribes.

I can speak dispassionately about this. Much of this noise is politics; much of it is to hold jobs for people who ought to be discharged. Too much ill-advised loose talk occurs here and in the papers by politicians and faddists. If they want to really help the Indians, they ought to help secure the fulfillment of his treaties and assure him his rights.

I say that the Five Civilized Tribes in Oklahoma—no Indian tribe has more money per capita—has as much intelligence per capita, has as much ability to play its part in society, as any Indian people in this country and as much as most white people of similar environments and training. To say that these people are dependent, depleted, and polluted is a lie on the lips of the man who utters it.

The Indian problem is everywhere where Indians are found. It is not alone in Oklahoma. I shall not try to say that there is no irregularity there, for there is, but it is not all in our State. [Applause.]

I will insert for the benefit of my Republican friends across the aisle the three Executive orders of their two Republican administrations, and let them know how these patriots got into the civil service.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, April 23, 1913.

Hon. SCOTT FERRIS,
House of Representatives.

SIR: In accordance with my letter of April 8, 1913, I am transmitting herewith copies of the Executive orders issued by ex-Presidents Roosevelt and Taft, affecting employees in the State of Oklahoma, and lists showing the names, positions, and salaries of persons classified thereunder.

Respectfully,

C. F. HAUKE, *Acting Commissioner.*

EXECUTIVE ORDER.

The 126 employees of the Union Agency, of which a list has been furnished the Civil Service Commission by the Secretary of the Interior, and who are carried in the agents' accounts as irregular labor outside the classified service, may be continued without examination under the civil-service rules as a temporary expedient, in view of the impossibility of dispensing with or changing the present force. No addition shall, however, be made to the force, except in accordance with the civil-service rules; nor shall the present employees be transferred to positions outside of that agency.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *January 8, 1908.*

List of persons classified by Executive order of January 8, 1908, affecting 126 employees at the Union Agency, Okla.

Name.	Position.	Salary per month.
Fred Rains	Chief clerk, leasing division	$135.00
M. F. Earley	Chief clerk, royalty division	125.00
Frank G. Janeway	Clerk	115.00
Henry G. Hains	....do	100.00
Russell I. Hare	....do	100.00
William F. Hurt	Stenographer	100.00
E. M. Morton	Clerk	100.00
W. S. Boren	....do	90.00
John H. Cunningham	....do	90.00
Charles R. Gilmore	....do	90.00
David Buddrus	....do	85.00
John E. Brasel	....do	85.00
Frank A. Kemp	....do	85.00
Edna E. Smith	Stenographer	85.00
Lucy M. Bowman	....do	85.00
F. H. Walkup	Clerk	85.00
Nellie M. Emerson	Stenographer	85.00
Elmer E. Merriss	....do	80.00
Breeze Peery	....do	80.00
John Q. Adams	Clerk	80.00
Cora E. Gendenning	Stenographer	75.00
John Martin	Clerk	50.00
John B. O'Neill	Chief clerk, sales division	125.00
E. C. Backenstoce	Appraiser	125.00
A. G. McGregor	....do	125.00
Raymond Short	Clerk	90.00
W. F. Shewey	....do	90.00
Arthur R. Taylor	....do	90.00
Robert W. Quarles, jr	....do	85.00
J. F. Kennedy	....do	85.00
Geo. C. Bullette	Stenographer	80.00
Blanche B. Morton	....do	80.00
James B. Myers	....do	80.00
A. A. Mitchell	Clerk	80.00
John Spangenberg	....do	80.00
Geo. M. McDaniel	....do	80.00
Louis F. Stempson	....do	80.00
Edward Short	....do	80.00
C. W. Moore	....do	80.00
James L. Granger	....do	75.00
R. R. Settle	....do	75.00
S. F. McCluney	Stenographer	75.00
L. Maude Hunter	....do	75.00
J. E. Williams	Clerk	65.00
Jayne Williams	Stenographer	60.00
Perry F. Hewitt	Chief clerk, Town Lot Division	110.00
Earl Bohannon	Clerk	100.00
W. L. Hammond	....do	85.00
Ada Powell	Stenographer	80.00
Byron E. Sheffield	Clerk	75.00
S. A. Mills	Field clerk	115.00
Frank Robb	....do	100.00
Wm. H. VanDoran	....do	100.00
Ernest Brown	Stenographer	85.00
W. W. Bennett	Chief clerk, Intruder Division	135.00
P. J. Hurley	Clerk	85.00
W. F. Harn	....do	85.00
Laurie Bronson	Stenographer	85.00
Loe May Long	....do	85.00
Agnes Schneider	....do	85.00
Anna E. Jay	....do	85.00
W. W. Cornelius	....do	85.00
Robert R. Bennett	Clerk	80.00
Leo Ludlow	....do	80.00
Georgia H. Coberly	Stenographer	80.00
W. D. Ford	Chief clerk, Restriction Division	125.00
H. C. Cusey	Clerk	135.00
Edward P. Champlin	....do	100.00
C. M. Smith	....do	90.00
R. F. Klatt	....do	85.00
Oliver K. Chandler	Stenographer	85.00
Katherine B. Porter	....do	85.00
Myrta Sams	....do	85.00
R. E. Semple	....do	85.00
Josie L. Goble	....do	85.00
Mary P. Bickford	....do	80.00
Elizabeth Knight	....do	80.00
Naomi Lammers	....do	65.00
Edith Hubbard	Clerk	65.00
Janet K. Langenberg	....do	60.00
Joe Leasley	....do	40.00
William Kremer	Stenographer	110.00
N. Lucelle Pagett	....do	80.00
Earl L. Woodruff	Clerk	75.00
Joe Jones	Janitor	40.00
Roy Cooper	....do	35.00
Robert Jones	....do	35.00
Goree Marsh	....do	25.00
Philip A. Harrison	Clerk	125.00
Emmett A. Fagin	....do	125.00
Henry H. Hubbard	....do	100.00
Emilie V. Corbut	Stenographer	90.00
Lilian M. Cass	....do	85.00
Snowden P. Morrison	Clerk	85.00
Marian B. Sawyer	....do	83.33
W. R. Snyder	....do	75.00
Geo. L. Hutchins	....do	65.00
Charles O. Shepard	....do	150.00
Vacant	Stenographer	85.00
John J. Lyons	Field clerk	85.00
Charles V. Pyle	....do	85.00
Louise Garry	Stenographer	50.00
John G. Hough	Field clerk	100.00
Minnie T. Bassett	Stenographer	90.00

List of persons classified by Executive order of January 8, 1908, etc.—Con.

Name.	Position.	Salary per month.
Ethel Daugherty	Stenographer	$75.00
John Viets	Field clerk	100.00
Hilda Nitchy	Stenographer	85.00
G. I. Ferguson	Clerk	75.00
Charles L. Reed	Chief clerk, Roads Division	100.00
Eldon Lowe	Field clerk	100.00
Homer J. Councilor	Clerk	85.00
Richard Kessel	Cashier	125.00
W. E. Hiskey	Assistant cashier	120.00
John W. Stewart	Clerk	80.00
Zac Farmer	....do	65.00
Chester J. Klick	....do	75.00
T. J. Tanner	....do	75.00
George W. Wachtel	....do	100.00
James F. McClean	....do	100.00
Charles B. Wilson	....do	85.00
Meda Potter	Stenographer	85.00
Lillian Stantorf	....do	75.00
William V. Stewart	Clerk	75.00
Horace Wilson	....do	50.00
Rachel Abbott	Stenographer	50.00
J. R. Taylor, jr	Clerk	100.00
Mabel L. Shoults	Stenographer	85.00

EXECUTIVE ORDER.

Those persons who were employed on June 30, 1910, or within the year preceding, as district agents and assistant district agents (local representatives of the Secretary of the Interior in Oklahoma) and who are certified by the Secretary of the Interior as competent and efficient may be retained, but shall not by such retention obtain a competitive status; and all vacancies which may occur in said positions shall be filled by the transfer of persons properly serving in the Indian Service under the Commissioner to the Five Civilized Tribes or in the Union Agency.

It was at first thought that the demand for the services of these employees would be temporary, but when it was found that the work would be likely to continue for several years it was deemed advisable by the Interior Department and the Civil Service Commission to make provision for the retention of those employees' services who have been found competent and efficient and to provide for filling future vacancies by transfer.

WM. H. TAFT.

THE WHITE HOUSE, *July 12, 1910.*

List of persons classified by Executive order of July 12, 1910, classifying district agents and assistant district agents (local representatives of the Secretary of the Interior in Oklahoma).

Name.	Position.	Salary.
William A. Baker	Supervising district agent	$2,000.00
Roscoe S. Cate	....do	2,000.00
Charles J. Hunt	Special assistant district agent	1,500.00
Henry C. Cusey	District agent	1,800.00
Frank B. Long	....do	1,800.00
James H. N. Cobb	....do	1,800.00
Thomas J. Farrar	....do	1,800.00
Fred S. Cook	....do	1,800.00
Arthur W. Dunnagan	....do	1,800.00
Nelson E. Sisson	....do	1,800.00
Vernon Whiting	....do	1,800.00
Charles Wilson	....do	1,800.00
Herbert G. House	....do	1,800.00
Sherman G. Brink	....do	1,800.00
John Cordell	....do	1,800.00
William H. Reynolds	....do	1,800.00
Daniel A. Crafton	....do	1,800.00
James E. Dyche	....do	(1)
Edmond C. Backenstoce	....do	1,800.00
Charles Bozarth	Assistant district agent	1,200.00
Van H. Johns	....do	900.00
Charles W. Kellogg	....do	900.00
C. E. Bearse	....do	900.00
Edward L. Gelder	....do	900.00
Charles L. Thompson	....do	900.00
Roy Lee Black	....do	900.00
Loyd B. Locke	....do	900.00
James W. Rodgers	....do	900.00
Doyle Norman	....do	900.00
Mac Seeley	....do	900.00
A. Lisle Irvine	....do	1,200.00
Earl H. Coulter	....do	1,200.00
Earl Lockwood	....do	900.00
Alexander Crain	....do	900.00
Harry T. Crittendon	....do	1,200.00
Clarence A. Stevens	....do	900.00
Grattan G. McVay	....do	900.00
D. E. Ackerman	....do	900.00
K. B. Drake	....do	1,020.00

[1] Resigned.

EXECUTIVE ORDER.

Prior to February 12, 1908, various places in the executive civil service were filled without compliance with the requirements of the civil-service act and rules, because the appointing officers were of the opinion that the terms of an appropriation act or some circumstance implied exception from such requirements. On February 12, 1908, the Attorney General rendered an opinion holding in effect that all places in the executive civil service except those mentioned in Schedule A of the rules and except persons employed merely as laborers and per-

sons whose appointments are subject to confirmation by the Senate, must be filed as a result of open competitive examinations held under the provisions of the law, and that Congress in the exemption of any position or class of positions from the operation of the civil-service act must use language indicating clearly and affirmatively its intention that the civil-service rules should not be applied.

Persons whose names are reported to the Civil Service Commission in response to this opinion and who are occupying places whose duties are similar to those of competitive positions may be classified upon approval by the commission, but may be transferred only when in the opinion of the Civil Service Commission such transfer is required in the interest of the service, and then only after an appropriate examination by said commission. Vacancies shall be filled in accordance with the civil-service act and rules. If said commission finds that any of these places can not be satisfactorily subjected to competitive tests they may be treated as excepted from examination and their occupants shall not acquire a competitive status.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *October 9, 1908.*

List of persons classified as additional farmers by Executive order of Oct. 9, 1908, who were employed in Oklahoma at that time.

Name.	Agency.	Salary per month.
William H. Wisdom	Cantonment	$50.00
Charles W. Ruckman	Cheyenne and Arapahoe	65.00
John P. Logan	do	60.00
Homer W. Dunbar	Kiowa	75.00
Thomas F. Woodard	do	60.00
Thomas J. Pritchett	do	60.00
Walter D. Silcott	do	60.00
Reuben R. Hickox	do	60.00
Aubra C. Birdsong	do	60.00
George S. Bennett	Otoe	60.00
Allen C. Thorp	Pawnee	60.00
Fred S. Bever	do	60.00
George W. Brewer	Ponca	60.00
Victor E. Norton	do	60.00
Garrett C. Brewer	do	60.00
John O. Arnold	Sac and Fox	60.00
John H. Seger	Seger	75.00
Henry H. Hiebert	do	50.00
Peter P. Ratzlaff	Shawnee	65.00
James H. Odle	do	65.00

List of persons classified in the office of the commissioner to the Five Civilized Tribes, Oklahoma, under the Executive order of Oct. 9, 1908.

Name.	Position.	Salary.
J. George Wright	Commissioner	$5,000.00
Dixon H. Bynum	Chief clerk	2,200.00
George N. Wise	Chief disbursing agent	2,000.00
W. S. D. Moore	Clerk	2,000.00
Arthur F. McGarr	Law clerk	1,800.00
Warren P. Chaney	do	1,800.00
William H. Angell	Clerk	1,800.00
William M. Crawford	do	1,800.00
Sterling C. Pitts	do	1,800.00
Emmett A. Fagin	do	1,620.00
Charles E. Bliss	Law clerk	1,600.00
John O. Rosson	Clerk	1,600.00
J. T. Hockman	Law clerk	1,500.00
Schuyler A. McGinnis	do	1,500.00
Philip A. Harrison	Clerk	1,500.00
Anna Bell	do	1,500.00
William T. Martin	do	1,500.00
Edwin C. Ryan	do	1,500.00
Frances R. Lane	do	1,380.00
Albert G. McMillan	Stenographer	1,320.00
William L. Martin	Clerk	1,320.00
Henry J. Ward	do	1,320.00
Henry McCoy	Draftsman	1,320.00
Lilian M. Cass	Stenographer	1,200.00
Emilie V. Corbut	do	1,200.00
O. C. Hinkle	do	1,200.00
Vester Rose	do	1,200.00
W. P. Covington	do	1,200.00
Julia C. Laval	do	1,200.00
A. Lisle Irvine	do	1,200.00
Charles Bozarth	do	1,200.00
Nina Ellen Coffey	do	1,200.00
Glen W. Hunt	Clerk	1,200.00
Wm. D. Johnston	do	1,200.00
Andrew J. Gardenhire	do	1,200.00
John E. Tidwell	do	1,200.00
Philip L. Snyder	do	1,200.00
Richard M. Phillips	do	1,200.00
James C. Kennedy	do	1,200.00
Martin J. Mueller	do	1,200.00
Edwin C. Motter	do	1,200.00
Rufus E. Bateman	do	1,200.00
Patrick E. Boyle	do	1,020.00
Edward C. Funk	do	1,200.00
John J. Johnston	do	1,200.00
Thomas C. Humphry, jr	do	1,200.00
John J. Kelly	do	1,200.00
William W. Folsom	do	1,200.00
Charles B. Gerard	do	1,200.00
Harry Hood	do	1,200.00
H. C. F. Hackbusch	do	1,200.00
Charles A. Burdine	do	1,200.00
A. P. Conant	do	1,200.00
S. E. Floren	do	1,200.00
Florence Hare	do	1,200.00
William C. Garrett	do	1,200.00

List of persons classified in the office of the commissioner to the Five Civilized Tribes, Oklahoma, etc.—Continued.

Name.	Position.	Salary.
Lacey P. Bobo	Surveyor	$1,200.00
Carl Patterson	do	1,200.00
Henry M. Tidwell	do	1,200.00
W. N. Brown	Clerk	1,080.00
Alma Miriam Kline	Stenographer	1,020.00
Blanch Ashton	do	1,020.00
Lenora B. Ashton	do	1,020.00
Louise Smith	do	1,020.00
Helen A. Smith	do	1,020.00
Raphael Lowrey	do	1,020.00
Lillian K. Pierce	do	1,020.00
Walter W. Chappell	Clerk	1,020.00
Pat E. Trent	do	1,020.00
Richard Shanafelt	do	1,020.00
Edwin G. Robbins	do	1,020.00
Martyn H. Bennett	do	1,020.00
Robert Muldrow, jr	do	1,020.00
William R. Snyder	do	1,020.00
James M. Conlin	do	1,000.00
Marian B. Sawyer	do	1,000.00
Fay E. Blanchert	Stenographer	900.00
Harry Montague	do	900.00
Wilma S. Smith	do	900.00
Susie E. Vaulx	do	900.00
Frank L. Doble	do	900.00
Lee G. Grubbs	do	900.00
Ella Bailey	do	900.00
Olive Bradley Moore	do	900.00
Mamie Tabor	do	900.00
Anna Vansant	do	900.00
Mattie M. Pace	do	900.00
Maggie Kennedy	do	900.00
Lucy Phillips	do	900.00
Grace G. Coberly	do	900.00
Lucile Walrond	Clerk	900.00
Milburn C. Harper	do	900.00
Walter A. Rambo	do	900.00
Lewis W. Pitts	do	900.00
Abbie Conner	do	900.00
Welcom C. Moore	do	900.00
W. F. Hassell	do	900.00
John Sharron	do	900.00
George W. Huckins	do	900.00
Charles H. Drew	Interpreter	900.00
Jacob Homer	do	900.00
Jesse M. Vance	Clerk	720.00
Lelia Cohenour	do	720.00
Elizabeth A. DeVasher	do	720.00
Harriett E. Drake	Stenographer	720.00
Helen C. Bradley	do	720.00
Ethel Hubbard Long	Clerk	600.00
Mary L. Davis	do	600.00
J. Whitney King	do	(1)

[1] $3 per diem.

Mr. McGUIRE of Oklahoma. Mr. Speaker, I would like to have five minutes.

Mr. STEPHENS of Texas. I yield five minutes to the gentleman from Oklahoma.

Mr. McGUIRE of Oklahoma. Mr. Speaker, I do not care to enter into any political discussion, but my colleague from Oklahoma has presented some figures of which I was not aware. But I do know something of the facts in respect to whether politics has entered into the Government control of the Indian affairs in Oklahoma in the last 12 years during my service in this House. I want to say that the Republican chairmen of the State of Oklahoma at no time have requested the President of the United States, either Mr. Taft or Mr. Roosevelt, to cover into the civil service by special order a single individual. And I take it that those names that the gentleman has presented—and I am not criticizing him, as he has the order—were covered into the service at the request of the Civil Service Commission, or rather, Mr. Wright, at the head of the Dawes Commission. And I want to say this: That I have made investigation a number of times, because I have been in politics in that State, as to the political complexion of those employed by the Dawes Commission. And there has never been a minute or a day in the last 12 years when a large majority of those people were not Democrats. Some years ago there was a bill passed creating special agents down there. We had a right under the bill to make those places political. I went to Mr. Wright and requested one person only of the number to be appointed, and I finally had to appeal to the President of the United States before I could get one man appointed as a district agent. And when they were through appointing, what was the personnel of the appointments, all of whom could have been appointed by reason of their political convictions? When they were through appointing them it was found that a large number of them were appointed by Mr. Wright from the civil-service employees at that time employed by the Dawes Commission.

There never has been a time in that State when there were not as many Indian superintendents who were Democrats as there were those who were Republicans. I have made no com-

plaint, but I say here and now that when it is charged at the doors of my party and my State that we have controlled the Indian Service in that State, and the Territory, when it was a Territory, or that it was controlled by the Republicans or the Republican Party, it is an unjust accusation, because it is just about as completely under the influence of the civil service and civil-service domination as you can ever hope to have the civil service dominate anything in this country.

Recently another bill was passed, as mentioned by the gentleman from South Dakota [Mr. BURKE]. I do not blame my good friends from Oklahoma, if they can get the jobs, and I want to tell you there are about as many boys that have jobs in that State as in any State in the Union; more officials, in my judgment, in my State, in proportion to the population, than in any other State in the Union. But under the recent provision, I say, the attorneys, whose duty it is to consult with the probate judges, to my knowledge are appointed from the most active politicians in that State. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEPHENS of Texas. How much time does the gentleman from Illinois [Mr. MANN] want?

Mr. MANN. Five minutes.

Mr. STEPHENS of Texas. Then I will move the previous question.

Mr. MANN. I may want a little more time. I wish to make an inquiry. There are three amendments in dispute that relate to the irrigation of Indian lands, and which I suppose will go back to the conference on the motion made to disagree. One of them is as to the Flathead Reservation, where we have provided for the reimbursement of the expenditures which we make out of the sale of the surplus land and the timber sold. Amendments 81 and 82 relate to that matter. So I want to ascertain, if I can, from somebody something about this expenditure. There are a number of these items in the bill where we advance the money to be reimbursed out of the Indian funds, and we pay the interest. Is that the way it goes? It is at our expense that we furnish the money, is it?

Mr. STEPHENS of Texas. It is a trust fund, as I understand, in the hands of the United States for the purpose——

Mr. MANN. This is not any trust fund. This is a fund appropriated out of the Federal Treasury, with the provision that it shall be reimbursed when the Indians have funds to their credit.

Mr. STEPHENS of Texas. You then speak of the reimburseable items. These two are the reimbursable items. As I understand it, these Indians all have property to be sold.

Mr. MANN. Here is what I want to get at: I will put a specific case. On the Flathead Indian Reservation there is an irrigation project which, I think, is to cost six or eight million dollars before it is finished. We have been advancing the money in small amounts, to be reimbursed out of the sale of the lands. Meanwhile, as the irrigation project proceeds, we sell the surplus land to people who get on there and cultivate it under the irrigation project. Those people pay back the money in the course of 20 years' time. If there is any fund belonging to the Indians, that is to be paid into the Treasury of the United States and reimburse the money that we have advanced. That may be before the 20 years have expired. Now, as the settlers only pay back their full amount in 20 years, and pay no interest upon it, the Indians will be out the interest for the use of their funds for a number of years. Who is going to pay that? If they have funds in the Treasury which are not used to reimburse advances, they draw interest upon them. It looks to me—and I ask for information—as though in our generosity we were advancing a large sum of money in this case, and large sums in other cases, in order to provide irrigation projects where we sell the lands to our white brothers, payable back in 20 years' time, and do it at the expense of the Indians.

We do not pay them any interest. As soon as they have any money we transfer it to our own account, and they are out the interest until the money is paid back into the fund.

Mr. BURKE of South Dakota. I want to say to the gentleman yield?

Mr. MANN. Yes; certainly; I yield to anybody who has information on this subject.

Mr. BURKE of South Dakota. I want to say to the gentleman that I do not think he has the correct conception——

Mr. MANN. Well, pass that by, and give me information——

Mr. BURKE of South Dakota. With reference to these Indian irrigation projects. I want to call the gentleman's attention to a fact that may have escaped his notice, and that is that no new Indian reclamation project has been commenced within the last few years. The projects referred to in this bill were all begun several years ago.

Mr. MANN. The gentleman is mistaken about that; but we will pass that by, too.

Mr. BURKE of South Dakota. Now, as to the situation on the Flathead Indian Reservation, here was a tribe of Indians on a reservation, roaming over the country, being supported mostly by the Government, and their lands not doing them any good. A law was passed by Congress—whether it was passed as the result of an agreement or not I do not remember—by which the Indians on that reservation were to be allotted, each receiving a certain amount of land. That did not do the Indian any good. He could not do anything with his land after it was allotted to him, so the law provided that the surplus lands should be opened to settlement under the homestead laws and the price of the land was to be fixed by appraisement. Then it was provided that the proceeds received from the sale of the land should be used for the purpose of constructing a reclamation project and furnishing water to the homesteaders and to the Indians, thereby making it possible for those people, Indians and whites, to exist.

Mr. MANN. Was that in the original law?

Mr. BURKE of South Dakota. Yes, sir. Now the homesteader pays, as I recall, upon this reservation $7 an acre for the lands as a price that goes to the Indian.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to move the previous question.

Mr. MANN. Oh, the gentleman should not do that. I desire to have at least five minutes more.

Mr. STEPHENS of Texas. Then at the end of that time I will serve notice on the House that I will move the previous question.

Mr. MANN. I would like to have a little time.

The SPEAKER. The gentleman from Illinois is recognized for five minutes more.

Mr. BURKE of South Dakota. The homesteader has to sign up and he has to pay the reclamation charge, in addition to the $7 an acre that goes to the Indian. The United States in the first instance advances the money. Then it is expected that as the homesteader pays for the surplus land and from the sale of the timber, for which there has been no market and never will be until we develop the country, the cost of the reclamation project will be reimbursed to the Government.

The loser in the transaction, in my judgment, is the United States, not the Indian. He does not part with anything. He is getting his land irrigated. He is getting his allotments made extremely valuable, not only so that he can support himself thereupon, but adding to the value so that lands that were worth $7 an acre will be worth from $100 to $150 an acre, and if the project works out as it is hoped it will the money will all be returned to the Indian, and he will have the benefit of the reclamation. It may be that for a certain time the United States will have considerable money in this project without any interest.

Mr. DONOVAN. Mr. Speaker, I would like to inquire who has the floor?

Mr. MANN. I submit, Mr. Speaker, that a parliamentary inquiry is not in order. The gentleman from Connecticut can not take me off the floor by a parliamentary inquiry.

The SPEAKER. The gentleman from Illinois is correct.

Mr. BURKE of South Dakota. I say, it may be that for a certain time the United States will have money in this project without any interest; but let me say to the gentleman that not in this generation and possibly not in the next would there be any money for anybody if there had not been legislation providing for the sale of the surplus land and the timber and providing for the construction of a reclamation project.

Mr. MANN. Mr. Speaker, the gentleman from South Dakota usually gives information, but in this case he has not given me any information. I knew all that he has stated, because I have looked it up, and it is a matter of record. But the gentleman has not yet told who will pay the interest on this sum while the Indians are out of its use. When the Indian land is sold there is taken out of their fund and reimbursed to the Treasury the amount of money which the Government of the United States has advanced, but the settlers have not yet paid in that money as a part of the construction charge, so that the Indians are out of the use of that money, and they lose the interest on it.

Mr. BURKE of South Dakota. Mr. Speaker, if the gentleman, from Illinois will permit, there is not any money until the purchaser and the settler pays it in.

Mr. MANN. The gentleman is mistaken about that. Of course they pay in some money, but the settler pays for the land, and where the Government sells timber the timber money

is also paid into the Treasury. That is used to reimburse the Treasury, but the settler has not yet paid in the construction charge in full and will not for years, and meanwhile the settler gets the benefit of the interest on the Indians' money. Now that is very generous treatment on our part, but is it quite fair to the Indian?

Mr. BURKE of South Dakota. Mr. Speaker, I will say to the gentleman, if he will permit me to interrupt him, that the United States will have to finance this proposition and will have to advance all of the money, and it will be years before it will be reimbursed. Therefore the Indian will never lose much, if anything, on account of interest.

Mr. MANN. Oh, as soon as the land is sold that sum will be taken to reimburse the United States Treasury to the extent that it will go, both from the sale of the land, from the sale of the timber, and from the payments that are made on the construction charge, but meanwhile the settler is getting the benefit of the money advanced by the Government and then reimbursed by the Indians and getting it at the expense, first, of the United States and, second, at the expense of the Indian Office. Now, I do not know whether that is the proper thing to do or not. I have been trying to find out what are the facts.

Mr. MILLER. If the United States advances the money, in the first place, the Indian paying no interest thereon, and it is repaid only as the funds come in and the settlers pay for it, how on earth is a penny of the Indian's money out at interest?

Mr. MANN. It is so simple that the gentleman will get it in a moment.

Mr. MILLER. No; I have been thinking of it for a long time.

Mr. MANN. When land is sold, the settler pays for the land. That is one thing. He pays for the construction charge of the irrigation project. That is another thing. The two are kept separate, and he pays for them separately. Now, there is no question about interest with respect to the land. The land is sold for so much an acre, payable at such and such a time, and as the money comes in from the sale of the land it is used to reimburse the United States for its advances for the construction charges, and on so much of the money as is used for this purpose the Indians lose the interest until the construction charge is repaid by the settlers, which is not until a series of years. The gentleman can not take a piece of paper and pencil and figure it any other way.

Mr. MILLER. If the gentleman will permit——

The SPEAKER. The time of the gentleman has expired.

Mr. STEPHENS of Texas. Mr. Speaker, I move the previous question.

Mr. DONOVAN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. DONOVAN. I want to ask the chairman of the Committee on Indian Affairs if he will yield to me a minute before he moves the previous question?

Mr. STEPHENS Texas. The previous question has already been moved.

Mr. BURKE of South Dakota. Mr. Speaker, I desire to submit a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BURKE of South Dakota. Is the motion of the gentleman from Texas to further insist to the disagreement of the House to the amendment of the Senate?

The SPEAKER. Yes.

Mr. BURKE of South Dakota. Does that include amendment No. 82?

The SPEAKER. It includes all of them.

Mr. BURKE of South Dakota. If I am not mistaken, the message which came over from the Senate announced that the Senate had receded from its amendment No. 82.

Mr. STEPHENS of Texas. Then I will modify my motion.

The SPEAKER. The gentleman from Texas modifies his motion so as to leave out amendment No. 82. Now, does the gentleman from Texas yield to the gentleman from Connecticut [Mr. DONOVAN]?

Mr. STEPHENS of Texas. I withhold my motion for a moment.

Mr. DONOVAN. Mr. Speaker, in the minute which is yielded to me I am going to ask unanimous consent that whenever the gentleman from South Dakota [Mr. BURKE] or the gentleman from Minnesota [Mr. MILLER] sees fit to inject remarks, they may be allowed to do so, notwithstanding the rules to the contrary.

The SPEAKER. That is an improper request.

Mr. MANN. The gentleman is out of order.

The SPEAKER. The Chair has just said that the request is an improper one.

Mr. MANN. Mr. Speaker, I make a point of order that the gentleman from Connecticut has no right under the rules of the House constantly to jump up and make statements of that sort, reflecting upon other Members of the House unfairly and untruthfully, and have them go into the RECORD.

The SPEAKER. The gentleman from Illinois is out of order——

Mr. MANN. No; I make a point of order.

The SPEAKER. What point of order does the gentleman make?

Mr. MANN. The gentleman can not have such matter go into the RECORD. It is the duty of the Speaker to order the reporters to omit it.

The SPEAKER. The rule about that is this: Of course the Chair can not tell when a Member gets up what his intention is, but after the Chair has ruled that a Member is out of order, then if he persists in talking, the Chair can have his subsequent remarks stricken out. He can not do so until he has ruled on it.

Mr. UNDERWOOD. Mr. Speaker, I think the rule is very clear that if one gentleman objects to the remarks of another on the floor it is his business to ask that the remarks be taken down.

The SPEAKER. Of course.

Mr. UNDERWOOD. If they are not taken down there is nothing out of order.

The SPEAKER. Of course, that has to be done.

Mr. STEPHENS of Texas. I have already moved the previous question.

The SPEAKER. The gentleman from Texas moves the previous question.

The previous question was ordered.

The SPEAKER. This vote is to be taken on all the remaining amendments except No. 82.

Mr. STEPHENS of Texas. All except No. 82.

The SPEAKER. That is omitted because it has been receded from by the Senate. The question is on the amendment of the gentleman from Texas that the House further insist on its disagreement to the remaining amendments.

The motion was agreed to.

Mr. STEPHENS of Texas. Now I move that the House agree to the conference asked by the Senate.

The SPEAKER. The gentleman from Texas moves that the House agree to the further conference asked by the Senate.

The motion was agreed to, and the Speaker announced the conferees on the part of the House, Mr. STEPHENS of Texas, Mr. CARTER, and Mr. BURKE of South Dakota.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. BAILEY, for three days, on account of important business.

ORDER OF BUSINESS.

Mr. JOHNSON of Kentucky. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering District of Columbia legislation.

Mr. FOSTER. Mr. Speaker, I call up the resolution which was laid aside.

The SPEAKER. The gentleman from Kentucky [Mr. JOHNSON] moves to go into Committee of the Whole to consider District of Columbia business, and the gentleman from Illinois [Mr. FOSTER] calls up the report from the Committee on Rules.

Mr. HAY. Mr. Speaker, I want to call the attention of the Chair to the fact that when this conference report came up the House was considering the resolution from the Committee on Rules.

The SPEAKER. That is what the Chair is stating.

LEAVE TO EXTEND REMARKS.

Mr. BURKE of South Dakota. Mr. Speaker, pending the motion, I ask leave to extend my remarks in the RECORD.

Mr. STEPHENS of Texas. Mr. Speaker, I make the same request.

Mr. FERRIS. Mr. Speaker, I make the same request.

The SPEAKER. The gentleman from South Dakota [Mr. BURKE], the gentleman from Texas [Mr. STEPHENS], and the gentleman from Oklahoma [Mr. FERRIS] ask unanimous consent to extend their remarks in the RECORD. Is there objection?

There was no objection.

FUR SEALS IN THE PRIBILOF ISLANDS.

Mr. McGUIRE of Oklahoma. Mr. Speaker, I ask unanimous consent to submit the views of the minority of the Committee on Expenditures in the Department of Commerce on the fur-seal investigation in the Pribilof Islands. (H. Rept. 500, pt. 2.)

Mr. JOHNSON of Kentucky. Mr. Speaker, reserving the right to object, does that carry with it any right of discussion?

The SPEAKER. No.

Mr. MANN. Simply to file the views of the minority.

The SPEAKER. If there be no objection, the gentleman will be allowed to file the minority views.

There was no objection.

MANAGERS OF HOME FOR DISABLED VOLUNTEER SOLDIERS.

The SPEAKER. Before the beginning of the consideration of the conference report on the Indian bill the gentleman from Illinois [Mr. FOSTER] got recognition for his report from the Committee on Rules, and then suspended operations to let the conference report on the Indian bill come in. The resolution from the Committee on Rules has precedence over the motion of the gentleman from Kentucky [Mr. JOHNSON]. The Clerk will report the rule.

The Clerk read as follows:

House resolution 581.

Resolved, That immediately after the adoption of this resolution the House shall proceed to consider House joint resolution 241; that there shall be not exceeding one hour general debate on the resolution, to be equally divided between those supporting and those opposing the resolution. At the conclusion of such general debate the resolution may be read for amendment, and after consideration of the amendments thereto the previous question shall be considered as ordered on the resolution and amendments to final passage without intervening motion except one motion to recommit.

Mr. FOSTER. I ask for a vote on the resolution.

The SPEAKER. The question is on agreeing to the resolution reported from the Committee on Rules.

The resolution was agreed to.

The SPEAKER. The Clerk will read the resolution.

The Clerk read the resolution, as follows:

House joint resolution (H. J. Res. 241) for the appointment of four members of the Board of Managers of the National Home for Disabled Volunteer Soldiers.

Resolved, etc., That James Steele Catherwood, of Illinois; John C. Nelson, of Indiana; Frederick J. Close, of Kansas; and Thomas S. Bridgham, of Maine, be, and they are hereby, appointed members of the Board of Managers of the National Home for Disabled Volunteer Soldiers of the United States, to succeed Oscar M. Gottshall, of Ohio; William Warner, of Missouri; Franklin Murphy, of New Jersey, whose terms of office expired April 21, 1912, and James Barry, whose resignation as a member of the said board has been accepted.

The Clerk read the following committee amendment:

On page 1, lines 3 and 4, strike out the words "John C. Nelson, of Indiana," and insert "George H. Wood, of Ohio."

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. MANN. Mr. Speaker, I think the name "Gottshall," in line 8, is spelled wrong. If you fire a man out of office, you ought at least to spell his name right.

Mr. HAY. How should it be spelled?

Mr. MANN. G-o-t-t-s-c-h-a-l-l.

Mr. HAY. I ask that the correction be made.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Insert a letter "c" after the letter "s" in the word "Gottshall," in line 8.

The amendment was agreed to.

Mr. O'HAIR. Mr. Speaker, I move to amend by striking out in line 1, page 2, the name "James" and insert "Patrick H."

The Clerk read as follows:

Page 2, line 1, strike out the word "James" and insert "Patrick H."

The amendment was agreed to.

Mr. O'HAIR. Mr. Speaker, I offer the following amendment:

The Clerk read as follows:

Page 2, line 3, after the word "accepted" insert the words "*Provided*, That four members of said board shall constitute a quorum for the transaction of business at any regular or special meeting thereof."

Mr. JOHNSON of Washington. Mr. Speaker, is this amendment designed to provide what is now the situation that makes it so urgent to bring in a rule for the passage of the bill?

Mr. O'HAIR. Mr. Speaker, the law as it now stands provides that a quorum shall consist of seven members. The law provides that the number of members shall be reduced by virtue of the expiration of the term of office, death, resignation, and so forth, until there are only five left. There are only two left whose terms have not expired and three whose terms have expired but who are holding over until their successors are appointed. There are only five members of the board to-day.

Mr. JOHNSON of Washington. Can not they provide a quorum by meeting with the ex officio members in Washington?

Mr. O'HAIR. I presume they might, if they could get the ex officio members to meet with them. The time will come when there will be only five members—in about a year from now.

Mr. JOHNSON of Washington. Is not this being hurried through here so that they can enjoy a quorum at a meeting up in Maine instead of in Washington?

Mr. O'HAIR. This is cutting a quorum from seven to four. The number has been reduced from 11 to 5.

Mr. JOHNSON of Washington. I do not object to the amendment.

Mr. O'HAIR. The number of the board was formerly 11 and a quorum was 7.

Mr. MANN. If the gentleman will yield, as I understand, the President of the United States is one of the ex officio members of the board?

Mr. O'HAIR. Yes.

Mr. MANN. It is hardly expected that by legislation you would require the President of the United States to meet with this board for the purpose of making a quorum. That would be absurdity run wild

Mr. JOHNSON of Washington. Why is it so provided?

Mr. MANN. It is not so provided.

Mr. O'HAIR. He is an ex officio member under the law. But the ex officio members can not be required to attend, anyway.

Mr. MURDOCK. I would like to ask the gentleman a question. How many men were originally on the board?

Mr. O'HAIR. Originally there were 9. That was in 1865. In 1867 the number was increased to 10 and in 1880 it was increased to 11. That does not count the 3 ex officio members. Under the present law it is cut to 5 members. A quorum has always been 7 members.

Mr. MURDOCK. There are now five members of the board actually serving?

Mr. O'HAIR. Yes; counting three whose terms expired in 1912 and who are holding over.

Mr. MURDOCK. This resolution proposes to substitute new appointees for those who are holding over?

Mr. O'HAIR. Yes.

Mr. MURDOCK. For how many?

Mr. O'HAIR. Four.

Mr. MURDOCK. That will leave only one hold over.

Mr. O'HAIR. There would be four holding over, but one resigned a year or so ago. There is one to fill his place and the other three are to fill the places of the three hold overs.

Mr. MURDOCK. After we have the new board completed, when do the terms of the members expire?

Mr. O'HAIR. Under the law they are appointed for six years, or until their successors are chosen. That is the organic law that created the board.

Mr. MURDOCK. The expiration of the terms of the new appointees will come at the same time?

Mr. O'HAIR. Yes.

Mr. HAY. Except the one elected to the place of the one that resigned, and his term expires in two years.

Mr. O'HAIR. There are two whose terms expire in 1816, and when their terms expire there will only be one appointed, because that will make the number five.

Mr. BURKE of Wisconsin. Mr. Speaker, I would like to ask the gentleman a question. I would like to inquire if this resolution and amendment contemplate filling a vacancy on the board which occurred three or four weeks ago by the recent death of a member?

Mr. O'HAIR. No, sir.

Mr. BURKE of Wisconsin. Did the death of that member create a vacancy?

Mr. O'HAIR. Under the law as enacted a year ago, there being 11 members, it provided that as vacancies occurred through expiration of terms of office, resignation, death, or from any other cause, until the number was reduced to 5, there should be no more appointments.

Mr. BURKE of Wisconsin. At the time of the death of the last member, three or four weeks ago, how many active members were on the board?

Mr. O'HAIR. Six.

Mr. BURKE of Wisconsin. And his death reduced it to five. There would have been seven, but one man resigned 18 months ago, and his place is to be filled. And there are now six.

Then there are three other members of the board whose terms expired in April, 1912, and under this law their places had to be filled.

Mr. BURKE of Wisconsin. Now, if the gentleman will yield for another question, did not the law or the rider attached to an appropriation in 1912 or 1913 provide that the membership should be reduced by reason of vacancies existing by death or resignation to five members? Now, if the gentleman's resolution passes, how many members will there be on the board?

Mr. O'HAIR. There will be six. There would be seven if that man had not died. He would have held until his time was out.

Mr. BURKE of Wisconsin. Then the purpose of the resolution is to increase the membership?

Mr. O'HAIR. No, sir. These named men take the places of those whom the law provides shall have their vacancies filled.

Mr. BURKE of Wisconsin. But the law says the membership shall be reduced through vacancies to five members.

Mr. O'HAIR. This law was passed about April, May, or June, 1913, and provides:

Hereafter vacancies occurring in the membership of the board of managers of the National Home for Disabled Volunteer Soldiers shall not be filled until the whole number of members of said board is reduced to five and thereafter the number of members constituting said board shall not exceed five.

These vacancies exist by reason of vacancies and expirations of terms of office before this law was passed, and all vacancies that occurred after the passage of that law will not be filled until the number is reduced to five.

Mr. CLINE. Will the gentleman permit a question?

Mr. O'HAIR. Certainly.

Mr. CLINE. I desire to ask a question in reference to the change in the original personality of these appointees. I see an Indiana man was selected in the original list of appointees.

Mr. O'HAIR. In the original resolution; yes.

Mr. HAY. Mr. Speaker, I can answer, perhaps, better than the gentleman from Illinois. I prepared the original resolution and introduced the resolution, and when it was considered by the Committee on Military Affairs that committee struck out the name I had put in and put in another name.

Mr. CLINE. On what authority?

Mr. HAY. On the authority that the committee had the right to make any change in it it saw fit.

Mr. CLINE. I suppose there must have been some good reason for taking the name off.

Mr. HAY. The committee considered the matter and thought it was right to strike out the name of Mr. Nelson and insert the name of Mr. Wood, just like the committee could make any other amendment.

Mr. O'HAIR. I can further state the argument before the committee. There is one in Kansas, one in Illinois, one in Ohio, and one in Maine. Now, there are homes in Illinois, Indiana, and Ohio, and we thought it would be better geographically to distribute these men around.

Mr. CLINE. That is the reason I am making inquiry. We have an old soliders' home at Marion.

Mr. O'HAIR. Also one at Dayton; and your home would be half way between——

Mr. CLINE. What salary do they get?

Mr. O'HAIR. Nothing.

Mr. CLINE. They have their expenses paid. I wanted to know how Indiana came to be left out.

Mr. DONOVAN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. DONOVAN. I want to ask if the gentleman from Illinois is in possession of the floor?

The SPEAKER. No; he is not in possession of the floor.

Mr. DONOVAN. I want to make an observation.

The SPEAKER. About what?

Mr. DONOVAN. The disorderly proceeding, led by the gentleman from Illinois, the minority leader——

The SPEAKER. That is out of order. The question is on the amendments offered by the gentleman from Illinois [Mr. O'HAIR].

The question was taken, and the amendments were agreed to.

The joint resolution as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. HAY, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

The SPEAKER. A good many Members do not seem to understand how to get at a Member when he is making invidious remarks. The Chair will state it over again. Whenever any gentleman says anything that any other gentleman thinks is in contravention of the rules, the proper thing to do is to ask that his words be taken down. That is the technical proceeding, and then harness him up and let the House determine what it is going to do about it; but for gentlemen to jaw backward and forward and accuse each other of intemperate remarks, with the thermometer 100 in the shade, does not contribute to the order of the House.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes, No. 158, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes by the two Houses thereon, and had appointed Mr. MARTIN of Virginia, Mr. BRYAN, and Mr. GALLINGER as the conferees on the part of the Senate.

REGULATION OF COTTON FUTURES.

Mr. LEVER. Mr. Speaker, I ask the Chair to lay before the House the conference report on the bill S. 110.

The SPEAKER. The gentleman from South Carolina calls up the conference report on the bill S. 110. The Clerk will read the report.

Mr. LEVER. Mr. Speaker, I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from South Carolina asks unanimous consent that the statement be read in lieu of the report. Is there objection?

Mr. MANN. Mr. Speaker, I object. The report is not long, and I think it ought to be read.

The SPEAKER. The gentleman from Illinois objects, and the Clerk will read the report.

The conference report was read, as follows:

CONFERENCE REPORT (NO. 1012).

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 110) to regulate trading in cotton futures and provide for the standardization of "upland" and "gulf" cottons separately, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same amended as follows:

In section 3, line 4, of the amendment strike out "1 cent" and insert in lieu thereof "2 cents."

In section 5, seventh line of fifth page, of the amendment, after the comma following "thereof," strike out all the rest of the paragraph and in lieu thereof insert the following: "fixed, assessed, collected and paid, in such manner and in accordance with such rules and regulations as may be prescribed by the Secretary of Agriculture."

In section 5, twenty-second line on the fifth page of the amendment, after "heard," insert the following: "by him or such officer, officers, agent, or agents of the Department of Agriculture as he may designate."

In section 9 of the amendment strike out the sentence beginning "That," in line 10 of page 8, and insert in lieu thereof the following:

"That the Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards of cotton by which its quality or value may be judged or determined, including its grade, length of staple, strength of staple, color, and such other qualities, properties, and conditions as may be standardized in practical form, which, for the purposes of this act, shall be known as the 'Official cotton standards of the United States,' and to adopt, change, or replace the standard for any grade of cotton established under the act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1909 (35 Stat. L., 251), and acts supplementary thereto: *Provided*, That any standard of any cotton established and promulgated under this act by the Secretary of Agriculture shall not be changed or replaced within a period less than one year from and after the date of the promulgation thereof by the Secretary of Agriculture: *Provided further*, That, subsequent to six months after the date section 3 of this act becomes effective, no change or replacement of any standard of any cotton established and promulgated under this act by the Secretary of Agriculture shall become effective until after one year's public notice thereof, which notice shall specify the date when the same is to become effective."

At the end of section 10 of the amendment insert a new paragraph as follows:

"This section shall not be construed to apply to any contract of sale made in compliance with section 5 of this act."

In section 11, line 8, of the amendment strike out "1 cent" and insert in lieu thereof "2 cents."

In section 11, first line on page 11, of the amendment strike out "quality" and insert in lieu thereof "quantity."

In section 20, line 9, of the amendment strike out "and" preceding "to."

In section 20, line 10, of the amendment strike out "permanent."

In section 20, line 12, strike out "and he shall" and insert in lieu thereof "to."

In section 20, line 13, of the amendment strike out "including" and insert in lieu thereof "to pay."

In section 20, line 13, of the amendment strike out "the employment of" and insert in lieu thereof "to employ."

In section 20, line 15, of the amendment, after the period, insert the following:

"The Secretary of Agriculture is hereby directed to publish from time to time the results of investigations made in pursuance of this act."

In section 21, line 5, of the amendment strike out "three" and in lieu thereof insert "six."

In section 21, line 6, of the amendment strike out the period and insert: ": *Provided*, That nothing in this act shall be construed to apply to any contract of sale of any cotton for future delivery mentioned in section 3 of this act which shall have been made prior to the date when section 3 becomes effective"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the title and agree to the same.

A. F. LEVER,
GORDON LEE,
G. N. HAUGEN,
Managers on the part of the House.

HOKE SMITH,
MORRIS SHEPPARD,
JAMES H. BRADY,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 110) to regulate trading in cotton futures and provide for the standardization of "upland" and "gulf" cottons separately, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to the amendment of the House:

The conference amendment to section 3 of the House amendment changes the rate of taxation from 1 cent a pound to 2 cents a pound.

The conference amendments to section 5 of the House amendment state more explicitly the authority of the Secretary of Agriculture to settle disputes under the seventh subdivision of that section.

The conference amendment to section 9 of the House amendment authorizes the Secretary of Agriculture to establish and promulgate standards of cotton from time to time and to make changes in such standards subject to two conditions, namely, first, that every standard established and promulgated must remain in force at least one year and, second, that, after the act has been in effect six months, no change of standards shall be made without at least one year's advance notice thereof.

The conference amendment to section 10 of the House amendment is a declaratory provision that section 10 shall not apply to contracts made in compliance with section 5.

The conference amendments to section 11 of the House amendment change the rate of tax on orders transmitted to foreign countries from 1 cent a pound to 2 cents a pound and correct a typographical error in the use of "quality" for "quantity."

Conference amendments to section 20 of the House amendments clarify the meaning by rearranging the grammatical construction and making clearly mandatory the duty of the Secretary of Agriculture to publish the results of investigations made pursuant to the act and, in order to conform section 20 to the change made in section 9, strike out "permanent" before the phrase "standards of cotton."

The first conference amendment to section 21 of the House amendment extends the time of going into effect of the regulatory provisions of the act from three to six months. This is in order to give the Department of Agriculture the time which it estimates will be necessary to enable it to promulgate standards under section 9 and to adopt the essential rules and regulations provided for in the act. No shorter period would be sufficient to enable the cotton industry to prepare to conduct its future business under the statute without unduly depressing the price of cotton by reason of the far-reaching changes necessitated by this legislation.

The second conference amendment to section 21 of the House amendment is a declaratory provision that the act shall not apply to contracts made prior to the taxing section of the statute becoming effective.

The title is amended so as more accurately to cover the provisions of the act.

A. F. LEVER,
GORDON LEE,
G. N. HAUGEN,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

Mr. WINGO. Mr. Speaker——

Mr. MURDOCK. Mr. Speaker——

The SPEAKER. Does the gentleman from Kansas desire to address the Chair?

Mr. MURDOCK. I want to get some time from the gentleman from South Carolina.

Mr. LEVER. How much time does the gentleman desire?

Mr. MURDOCK. I want five minutes.

Mr. LEVER. I yield the gentleman five minutes.

Mr. JOHNSON of Washington. Mr. Speaker, I would like to ask for two or three minutes.

The SPEAKER. The gentleman from South Carolina yields to the gentleman from Kansas five minutes and the gentleman from Washington three minutes.

Mr. LEVER. Mr. Speaker, I would like, if possible, to move the previous question at the end of 15 minutes debate and have a vote. The gentleman from Kentucky [Mr. JOHNSON] is very anxious to get on with his District bill this afternoon, although I will not unduly limit debate.

The SPEAKER. The gentleman from South Carolina gives notice that at the end of 15 minutes he will move the previous question.

Mr. MURDOCK. Mr. Speaker, I have been withholding here on the theory I would expedite matters by letting this arrangement for time be made. However, Mr. Speaker, I will now speed along. There is more dynamite politically wrapped up in this proposition for the Democratic side of this House than in any other proposition before the House in this Congress, and I am making the prediction now that if this measure becomes a law, and it probably will, that it will retire more men in the Democratic primaries in the South in 1916 than any other one thing this Congress or the next Congress will do. The previous question is to be moved after 15 minutes' debate on this measure. We spent over an hour at the time of the passage of the tariff bill on this same proposition, and on a subsequent occasion we spent another hour debating it.

Now, Congress having finally reached the point of giving the measure final form, we are to have 15 minutes of debate.

Mr. GARNER. Will the gentleman yield?

Mr. MURDOCK. Certainly, but I have only five minutes.

Mr. GARNER. Well, before the gentleman leaves that particular point that he started out on I would like him to give some reason why it is going to defeat so many gentlemen from the South.

Mr. MURDOCK. That is just exactly what I am going to explain.

This measure does not prohibit gambling in cotton futures, and the cotton raisers of the South, I will say to the gentleman from Texas, have been attempting for 20 years to suppress gambling in cotton futures. This measure legalizes such gambling, and the people of the South who have been praying for all these years for remedial legislation, who are given a stone when they have been asking for bread, will attend to the Democratic Members of this House who vote for it. I take it that this is an administration measure. I would like to have the attention of the gentleman from South Carolina [Mr. LEVER]. Is this an administration measure? Is it a measure that the administration stands for?

Mr. LEVER. This bill is indorsed by the Secretary of Agriculture very heartily. I do not know what the position of the President of the United States on this proposition is, except this: That a year ago, when the Underwood amendment was offered here to the tariff bill, the gentleman from Alabama [Mr. UNDERWOOD] stated that that amendment had been handed to him by the President of the United States. That amendment was almost on all fours with the present bill.

Mr. MURDOCK. That is what I wanted. I thank the gentleman from South Carolina. It is, then, virtually an administration measure.

Now, the farmers of the South, the cotton raisers, know what they want, and they have been attempting to get what they want for these 20 years; and what they want is a prohibition of gambling in cotton futures that will prohibit, and the best

plan proposed is through a prohibition of the use of the mails to the transactions of the cotton exchanges. There are millions of men and women down South who are engaged in the business of raising cotton. There is a leisurely coterie of rich men over in New York who gamble in cotton. Every expert who has examined this question in the last 20 years says that the gambling in cotton futures on the cotton exchanges does bearishly affect the price of spot cotton as received by the producer. And yet when the evil cries out here for correction, men of the South, who must know the needs of the South, men who represent the people of the South, bring before Congress this sort of a measure, which does what? It fixes standards of cotton which, I understand, practically all the cotton exchanges in the last three years have adopted without any law. It does not suppress gambling. I said that the farmer down South knows what he wants, and he does. The Farmers' Union of this country passed recently a resolution. Part of that resolution reads as follows:

Gambling in cotton and other farm products is a vicious, immoral evil that has been fully investigated and reported upon by congressional committees and executive branches of the Federal Government as well as testified to time and again before our national lawmakers.

Now, I call the attention of the Democratic Members from the South, particularly to this paragraph:

Such gambling in farm products threatens the very foundation of our financial and business and commercial prosperity, and should be abolished, not licensed or legalized by an internal-revenue duty short of one that would actually destroy.

Now, the excise-tax proposition which is incorporated in this bill will not stop gambling in cotton futures. A prohibition of the use of the mail would. The Republicans not so many years ago passed a bill, through the House at least, which would have prohibited this practice. And there was not a single Republican at that time, as I remember it, from the South.

The SPEAKER. The time of the gentleman has expired.

Mr. MURDOCK. I would like one more minute.

Mr. LEVER. I yield to the gentleman one minute more.

Mr. MURDOCK. This Congress is dominated by men from the South. Most of the chairmen of important committees are men from the South, men who have been sent here for years by southern constituencies, constituencies that have been asking for legislation that would reach this sore spot. In this legislation you are refusing them relief. What will be the result? The bill, like a good many other laws enacted here, will pass this year in the campaign successfully as an efficient measure. But in the campaign, or primary campaigns, in the South in 1916, after the law shall have been tried out, after it shall have been in effect for two years and has shown that it has not prohibited gambling, it will bring down upon the heads of the Democrats who vote for it condemnation, and it will bring that condemnation down upon them justly. Why, I ask, in heaven's name, when you Democrats from the South have a chance to correct one of the greatest evils in this country, why do you not do it? What holds you back? What prevents you? Why give to your constituents, when they ask for a real remedy, a sham remedy?

There is no cotton raised in my district. My district is not affected, so far as this bill is concerned, save as it is part of one of the States of the Union. But the people down South who have asked for this remedy and relief and who have a right to expect it are being fooled and shammed. And I say to you that this bill, if I can help it, will not pass the House without a roll call, and every man who votes for it will answer to his constituency, if not this year, then in 1916.

The SPEAKER. The time of the gentleman from Kansas has again expired.

Mr. LEVER. I yield to the gentleman from Washington [Mr. JOHNSON].

Mr. JOHNSON of Washington. Mr. Speaker, I have a letter signed by Charles S. Barrett, editor, apparently, of the National Field, and addressed to a southern Congressman who asked Mr. Barrett's opinion of this bill. Mr. Barrett, in a published reply, said:

This bill is a subterfuge.

He said:

There is not a line in the Lever bill to protect the farmer against fraudulent grading.

A little later this letter says:

There is no such thing as a legitimate future contract that is subject to settlement by a forfeiture of margins.

I will not read the whole of Mr. Barrett's letter now, but, with permission, will place it in the RECORD.

As I understand it, this bill has been amended so as to provide a 2 per cent tax instead of a 1 per cent tax—apparently still a subterfuge, if Mr. Barrett's premises are correct.

It seems that the southern cotton growers have been promised up and down that gambling in cotton shall stop. That seems to have been a platform promise, which must have echoed from every southern stump. Now, the point in the whole matter that particularly interests me, is why so much speed and so much hurry on this, when so many other Democratic platform promises have been permitted to go to seed. Why such hurry, this hot afternoon, on this cotton bill when the immigration restriction bill, which occupied so many strenuous and bitter hours on this floor last winter, and which was passed by the House, still sleeps in a Senate committee. Why? What has happened to it?

And the promised rural-credits bill. Where is it? What has happened? It was promised. Where is it? Nothing is heard of the good-roads proposition, except letters from all over the United States to Congressmen asking when and why and how they are going to get that legislation. Why is this? And why, here on this hot afternoon, shall we talk back and forth and hustle for the passage of a cotton bill which is said to be a subterfuge?

I add the letter from Charles S. Barrett, which is in the form of a signed editorial in the National Field, official organ of the Farmers' Union:

A SOUTHERN CONGRESSMAN ASKED BARRETT'S OPINION ON THE LEVER BILL; HE GOT IT.

DEAR SIR: I appreciate the fact that you ask for my opinion on the cotton-future bill, but we see it so differently that I fear you will not appreciate my views.

Perhaps I can best get the points by simply asking you a few questions.

Do you really believe that 75 per cent of the gambling done on those New York exchanges is done by the citizens of the State?

What do you mean by cotton of an "illegitimate character"?

Is not one grade of cotton just as legitimate as any other grade of cotton at some price?

Why discriminate between the grades that may be used to speculate on?

I know the excuse offered—that it will prevent unspinnable grades from being offered buyers to keep the buyers from demanding the delivery.

If you allow nine grades, is not that enough latitude to keep the merry game going?

You say it will save the farmers $50,000 a year. How? There is not a line in the Lever bill to protect the farmer against fraudulent grading by the buyer. I challenge you to show it. The protection is for the spinner, who is often "frisked" by grafting exporters.

Why does the bill not require the state of the grade when the contract is sold? Why require it only six days before delivery?

How will it affect the "scalper"?

I claim that there is no such thing as a legitimate future contract that is subject to settlement by a forfeiture of margins.

No; there is no getting together on this subterfuge.

You are headed one way and I another.

Stand up boldly and defend the thing as it is; don't straddle.

Why not amend the Senate bill by substituting the Scott bill for the Senate bill after the enacting clause and throw it in conference? If this Lever bill passes, you know it will not pass the Senate this session. The whole situation looks "punk" to me.

We may be wrong on this issue, but I shall not advocate the Government legalizing gambling and going in partnership for part of the swill. You say it is a prohibitory tax—then why not make it higher?

I have no compromise to offer.

Yours, very truly,

CHAS. S. BARRETT.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The gentleman yields back two minutes.

Mr. LEVER. Mr. Speaker, I yield five minutes to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Speaker, when this bill passed the House, on June 29, under a motion to suspend the rules and pass the bill I opposed its passage and gave my reasons for opposing it in the following words:

"Mr. SIMS. Mr. Speaker, the gentleman from Mississippi [Mr. HARRISON], who has just taken his seat, says that he is opposed to this bill. If the gentleman is sincere in that, and I know he is, then he should vote down this motion to suspend the rules, so we can amend it. Every good thing in this bill can be retained, and the chairman of the Committee on Agriculture knows it. Vote down this motion and let the bill be considered in the usual way, so it can be amended. It will remain on the calendar and can be acted on later in the usual way, and then we can keep everything that is good in it and put some additional things in it that are better than anything that is in it now. Let me read you from the Democratic platform. [Laughter on the Republican side.] Oh, that will do to laugh over there on the Republican side, but these gentlemen on the Democratic side can not laugh at it when they get home. That platform says:

"We favor the enactment by Congress of legislation that will suppress the pernicious practice of gambling in agricultural products by organized exchanges and others.

"Mr. Speaker, the chairman of the committee has just admitted that this bill regulates but does not suppress gambling in farm products. Keep all of the regulation in it, but give us an opportunity to put some suppression in it, whether through the tax-

ing power or otherwise. The Scott bill passed this House, and my distinguished friend from South Carolina supported it. The Beall bill, practically the same, passed this House, and the gentleman supported it; and why not take off the gag in the motion to suspend and give the Members an opportunity to offer amendments that will have a tendency to suppress gambling in cotton instead of galvanizing into respectability and giving legal status to the worst gambling machine that ever afflicted a civilized people? I defy you to take it off. The worst bills that have ever been passed in this House have been passed under suspension of the rules, because 20 minutes on a side does not give time to show what is wrong in them. When you gentlemen get back home and consult your farmer constituents and they find out that you voted with the president of the New York Cotton Exchange and that you have legalized, whitewashed, and federalized cotton gambling, wheat gambling, corn gambling, and oat gambling I fear you will have a long, hard time before you can explain to them your vote. The idea of this being the only chance to consider this bill! Such false claim as that ought to make every honest man blush for shame! Some gentlemen think the best thing we can do is to put off the consideration of the trust bills until the next session of Congress, the short session.

"Can not this little bill be considered at that session? Can not it be considered now at this session before we adjourn? Vote down the motion to suspend the rules and it remains on the calendar and can be considered in the regular order, in the regular way, open to amendment, and no man need say that this is the only opportunity to pass this bill. If it becomes the only opportunity, it is because by your vote you make it the only opportunity. Vote down the motion to suspend the rules and give us an opportunity, and then we will keep everything in that is of benefit to commerce and the farmer and take out those features that ought not to be in the bill. I want any man from the South or West or from the North to get up here on the floor of this House and say, 'I am not in favor of the suppression of the artificial fictitious gambling in farm products.' This bill only legalizes the gambling and will give the Federal courts jurisdiction as against your State laws, and I appeal to you to vote down this motion to suspend the rules and let us pass the bill with proper amendments."

At that time I had not seen nor read an editorial from the National Field, June 18, 1914, which I now read:

[Editorial from the National Field, June 18, 1914, official organ of the Farmers' Union.]

A SOUTHERN CONGRESSMAN ASKED BARRETT'S OPINION ON THE LEVER BILL—HE GOT IT.

DEAR SIR: I appreciate the fact that you ask for my opinion on the cotton-future bill, but we see it so differently that I fear you will not appreciate my views.

Perhaps I can best get the points by simply asking you a few questions.

Do you really believe that 75 per cent of the gambling done on those New York exchanges is done by the citizens of the State?

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Is not one grade of cotton just as legitimate as any other grade of cotton at some price?

Why discriminate between the grades that may be used to speculate on?

I know the excuse offered—that it will prevent unspinable grades from being offered buyers to keep the buyers from demanding the delivery.

If you allow nine grades, is not that enough latitude to keep the merry game going?

You say it will save the farmers $50,000,000 a year. How? There is not a line in the Lever bill to protect the farmer against fraudulent grading by the buyer. I challenge you to show it. The protection is for the spinner, who is often "frissed" by grafting exporters.

Why does the bill not require the stating of the grade when the contract is sold? Why require it only six days before delivery?

How will it affect the "scalper"?

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We may be wrong on this issue, but I shall not advocate the Government legalizing gambling and going into partnership for part of the swill. You say it is a prohibitory tax—then why not make it higher?

I have no compromise to offer.

Yours, very truly, CHAS. S. BARRETT.

In reply to the gentleman from Kansas [Mr. MURDOCK] I want to say that I am not fooled one bit. I do not know what this bill will do as to others in 1916 or what it will do in 1914; but under a bill like this, that only provides a tax upon cotton sold or bought otherwise than by a prescribed form of contract, as a matter of course everybody who wants to buy and sell phantom cotton futures will use the prescribed contract, and then no tax attaches, and even the difference in fluctuation can be settled in margins. That is all they do now, and that is all they will do.

This bill will not stop gambling in cotton if it has ever existed, and will not prevent it in the future, because men that are gambling do not care anything about the form of contract when they neither expect to accept delivery or make it. This is a bill with no joker in it, because the bill itself is a joker [laughter and applause]; and does not accomplish, and, in the very nature of things, will not accomplish, the purpose for which the legislation was sought, which was to suppress gambling in cotton, the product of the farm; not to legalize the form of a contract by which the tax can be avoided. That is all there is in this bill.

As I understand from the conference report the substance of the bill as it passed the House has not been changed at all. The only effect it will have is possibly to make the people who have been suffering by reason of these things think they have relief, until they find out afterwards that it is no relief at all. Of course it regulates the game, but the game is gambling. A tax upon the cotton bought and sold upon the exchanges, to be refunded upon the execution of the contract by the delivery of the cotton, would stop fictitious contracts. To make it unlawful to use the mails or the telegraph or the telephone in the doing of this business would so cripple it that these exchanges would pass out of business to the extent of the gambling they do, which is 99 per cent of their entire business.

Now, nobody wants to abolish any exchange or real exchange business. We have no objection to dealing in cotton on the exchange, but we object to dealing in the name of cotton by which cotton itself is affected, its price and commercial importance.

Now, I do not think that there is a man in the House who is for this bill that has any but the highest motives in so doing, but it is not going to do the thing that it purports to do. The people are not getting what they demanded and what was promised to them, which was suppression, not regulation.

Mr. CLARK of Florida. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Tennessee yield to the gentleman from Florida?

Mr. SIMS. Yes; I yield to the gentleman.

Mr. CLARK of Florida. I would like to ask the gentleman if section 3 of this act does not absolutely license gambling in cotton futures?

Mr. SIMS. I think it makes that which has always been called "gambling" legal, provided you use a particular form of contract.

Mr. CLARK of Florida. It licenses gambling in future contracts?

Mr. SIMS. It licenses what is the equivalent of gambling where you can settle by a specified margin, put up in advance, dependent upon the loss or gain in the contract. It is gambling and can not be anything else.

Mr. HOWARD. Mr. Speaker, will the gentleman yield there for a short question?

Mr. SIMS. Certainly.

Mr. HOWARD. By whom, in the gentleman's opinion, will this tax eventually be paid—by the gambler or the farmer?

Mr. SIMS. A tax must always be a burden upon the product upon which the tax is levied, directly or indirectly.

Mr. Speaker, I promised not to use much time. I regret that this bill falls short of what the good men behind it intended. I can not think it does what it purports to do, and therefore I can not support it. [Applause.]

The SPEAKER. The time of the gentleman from Tennessee has expired.

Mr. LEVER rose.

The SPEAKER. The gentleman from South Carolina is recognized.

Mr. LEVER. Mr. Speaker, I presume there is more misinformation in this House as to the terms of this bill than there has been upon any bill that has ever been brought before the House.

The gentleman from Kansas, my good friend MURDOCK, when this bill was before the House the other day, announced himself as in favor of the Senate proposition. The Senate proposition does not differ in its purpose one iota from the House proposition. The Senate proposition is—

That no person, firm, joint-stock company, society, association, or corporation, their managers or officers, who are members of any exchange, society, corporation, or association in which or through which any contract or contracts for the future delivery of cotton are made shall send through the United States mail any letter, document, pamphlet, or other matter in the promotion or furtherance of the making or enforcing of such contract or contracts unless such exchange, society, corporation, or association shall require all such contracts for future delivery of cotton to comply with the following conditions.

And these conditions are the adoption of Government standards, commercial different system, and many of the other restriction provisions of the House bill. The House proposition goes a good deal further in its restriction, and requires specifically that low-grade cotton, "dog-tail," "rejections," and the like, which for years and years have been held in the warehouses of the New York Cotton Exchange to depress the price of the cotton crop, shall not be deliverable upon these contracts.

Now, if the gentleman believed in the Senate proposition, he ought to believe all the more in the House proposition, because both propositions look to the same end. But the House proposition gets to that end a little bit more rigidly, that is all.

Now, then, my friend from Tennessee [Mr. SIMS], answering the gentleman from Georgia [Mr. HOWARD], says that this tax will be paid by the producers of cotton. I want to say that this tax of 2 cents a pound, amounting to $1,000 a contract, is not going to be paid by anybody, for the simple reason that the tax is absolutely prohibitive, and no one is going to be willing to violate the law and deal in such a contract and pay the penalty of a thousand dollars per contract for doing so, so that the exchanges of this country, in order to escape the taxation involved in the bill, are going to adopt the contract that this bill sets out as a proper contract to be dealt in.

Now, a statement is made also by my friend from Washington [Mr. JOHNSON], who, I imagine, would not know a cotton stalk from a jimson weed, but who has bloomed out as the great friend of the cotton farmer this afternoon. The gentleman reads a letter from the president of the farmers' union, saying that there is nothing in this bill in the interest of the farmer. I know the president of the farmers' union, and I do not hesitate to say this: I believe, in my capacity as a Representative from South Carolina of my immediate district, that I know as much about the needs and the wishes of the farmers of South Carolina, and of my district, as does Mr. Barrett or anybody else. I believe that the southern men on the Committee on Agriculture are as loyal to the farmers of the country and know their needs as well and have as much ability to represent their needs as Mr. Barrett or anybody else. I know the gentleman. I like him personally. He is all right. But I venture to assert that Mr. Barrett has not given to this subject the study and the thought that the Members from the South have given to it, or that the committee has given to it; and the reading of a letter from Mr. Barrett or Mr. Anybody else on a subject about which I am personally informed does not change my opinion.

Mr. JOHNSON of Washington. Mr. Speaker, will the gentleman yield for a question?

Mr. LEVER. I will.

Mr. JOHNSON of Washington. The gentleman is the chairman of the Committee on Agriculture?

Mr. LEVER. Yes.

Mr. JOHNSON of Washington. And that committee handles the forest reserves of the United States. I am very glad of this opportunity, if the gentleman will permit me, to make the point that in all probability, inasmuch as the gentleman said, and with some truth, that I would not know a jimson weed from a cotton stalk, that in all probability a letter signed by Mr. Barrett with regard to cotton matters should have fully as much weight as a letter from Mr. Gifford Pinchot to him on forestry matters in my State, and the other for Western States, which do not have cotton but do have timber. What is sauce for the goose is sauce for the gander.

Mr. LEVER. Yes; that is all right. I will say to the gentleman that I think the time ought to come in this House, and I believe has come, when the judgment of Members of Congress who are responsible to their constituents, and who answer to them every two years, ought not to be warped by letters sent to them. I am willing to receive information from my people. I am willing to get information from the people of this country upon matters in which I am interested; but when I have given years and years of thought to a question, when we have had before the committee the best expert testimony that can be had, when I have submitted this proposition to the experts of the Department of Agriculture, when their judgment agrees with my judgment, and that judgment is concurred in by practically every Democrat from the South, I am not willing to let a letter from somebody stop me in the performance of my duty in this matter or any other.

Mr. HUMPHREYS of Mississippi. Did Mr. Barrett, the president of the farmers' union, come before the Committee of Agriculture when they were framing this bill?

Mr. LEVER. Mr. Barrett was invited especially by myself and another member of the committee, as was the president of every farmers' union in every State of the South. They did not come, and they offered no objection to this bill before the committee.

Mr. HUMPHREYS of Mississippi. And no suggestion?

Mr. LEVER. And no suggestion. Now, one other thing. When this bill was before the House the other day the gentleman from Louisiana [Mr. ASWELL] made the statement that he desired to offer a bill which he had introduced at the request of the farmers' union. The gentleman from Louisiana [Mr. ASWELL] introduced two bills on the subject, as I ascertained after he made that statement. One was practically a copy of the Senate bill dealing with this question under the powers granted to Congress in its control of the postal system and of interstate commerce, and the other was almost identical in terms with the bill which I had the honor to introduce, and which passed this House. He said that he wanted to offer one of those bills, I do not know which, but both of them sought to do exactly the same thing, regulate and not destroy, and that he wished to do so at the request of the farmers' union. The statement was made that they were drawn by the officers of the farmers' union.

Mr. CLARK of Florida. Will the gentleman yield?

Mr. LEVER. I yield.

Mr. CLARK of Florida. I want to ask the chairman of the Committee on Agriculture for what purpose this tax of 2 cents per pound is levied in section 3.

Mr. LEVER. The members of the Committee on Agriculture, I will say very frankly to the gentleman from Florida, believe that certain cotton exchanges in this country dealing in future contracts are using a contract that is absolutely detrimental to the farmers of the South. I believe, and have so said repeatedly, that that contract is causing the southern farmers a loss of not less than $100,000,000 a year. We have levied the tax in section 3 to drive out of existence that kind of contract and—we have nothing to conceal—to make legal a contract which we think represents the value of the bulk of the cotton crop of this country.

Mr. CLARK of Florida. Now, will the gentleman answer another question? Section 3 makes the tax levied upon any contract for future delivery made on or in any exchange, board of trade, or similar institution. Suppose a contract is made somewhere else; then the tax does not apply, does it?

Mr. LEVER. It does not.

Mr. CLARK of Florida. Why that distinction?

Mr. LEVER. Simply because we did not believe your people or my people desire to levy a tax upon a private agreement between John Smith of your district, a cotton buyer, and William Jones, a cotton farmer.

Mr. CLARK of Florida. Does not the gentleman think the evils would be as great in a contract of that character made between individuals as if made on a cotton exchange?

Mr. LEVER. I will say to the gentleman that we did not want to write into this bill any provision taxing spot cotton transactions.

Mr. CLARK of Florida. This is not a spot cotton transaction.

Mr. LEVER. Oh, yes.

Mr. CLARK of Florida. No; it is a transaction for future delivery.

Mr. LEVER. But we did not want to tax a contract for the future delivery of actual cotton if made between private individuals and not through these exchanges or associations.

Mr. CLARK of Florida. Not necessarily. In section 3 you have taxed contracts made for future delivery, which, of course, will not be made if those contracts are made in an exchange or similar institution.

Mr. LEVER. Yes.

Mr. CLARK of Florida. Now, I ask the gentleman what is the difference in a contract of that character, whether actually made in a cotton exchange or board of trade, or made in a private office, if it is not intended to deliver the actual cotton?

Mr. LEVER. I think I see what the gentleman is driving at. The contract referred to in section 3 is a contract where delivery is contemplated, but, as a matter of fact, delivery is not ordinarily made.

Mr. CLARK of Florida. Yes.

Mr. LEVER. The contract that the gentleman refers to, or the other kind of contract, is a contract where delivery is always made.

Mr. CLARK of Florida. Oh, no; I refer to cases where delivery is not made and not intended to be made.

Mr. LEVER. I confess I never saw such a transaction.

Mr. CLARK of Florida. Made between individuals?

Mr. LEVER. I never have.

Mr. CLARK of Florida. It occurs every day.

Mr. LEVER. The gentleman is entirely mistaken.

Mr. CLARK of Florida. I am not mistaken at all.

Mr. LEVER. Perhaps I do not get the gentleman's meaning; but I never saw a contract such as is sought to be regulated by this bill between individuals in my life, unless it was the contract specified in section 3, where cotton was not delivered.

Mr. CLARK of Florida. Does not the gentleman know that contracts are made every day in the cotton section in the cotton season as between individuals, when the thing does not approach a board of trade or exchange at all, but is made simply between individuals?

Mr. LEVER. Is the gentleman talking about a bucket shop?

Mr. CLARK of Florida. You may call it a bucket shop or call it what you please; but these contracts are made as between individuals for future delivery, when it is never intended that there shall be any delivery at all; but they are not made in an exchange, not made in a board of trade, not made in any regularly constituted institution of this character——

Mr. LEVER. I think I catch what the gentleman is driving at. Such a contract made in a bucket shop, if an interstate transaction, would be reached by this bill, and even if an intrastate transaction, it would be reached. As a matter of fact, the bucket shops in this country in nearly every State have been driven out of business by State legislation.

Mr. CLARK of Florida. Not all of them; some are still in existence.

Mr. LEVER. If the court will hold that a bucket shop is a similar institution to an exchange or board of trade, then the bill would reach it.

Mr. CLARK of Florida. Yes; if the courts would hold that.

Mr. LEVER. And I believe the courts would hold that.

Mr. CLARK of Florida. The gentleman is entitled to that opinion; but I do not agree with him. Now, I want to ask this question, and it is the gist of the whole situation: How does the gentleman from South Carolina, or his committee, justify the levying of a tax upon the carrying on of a business which all of us denounce as absolutely illegal?

Mr. LEVER. I say to the gentleman frankly that there are transactions on future markets which I do not look upon as illegitimate. I believe that speculation, when it is fair speculation, is absolutely legitimate. I believe that this Congress could do no greater injury to the cotton farmers of the South than to say that people shall not express their optimism and hope in that great crop. I believe you would absolutely paralyze the price of cotton if you said that millions in the future could not believe in the higher price of cotton.

Mr. WINGO. Will the gentleman yield?

Mr. LEVER. Yes.

Mr. WINGO. The principal changes made in conference, as I understand, are these: You have changed the tax from 1 cent to 2 cents. A provision is put in which practically abolishes the present standards of nine grades which run from middling fair to good ordinary. You strike out that part of the bill which requires the contract to name as a basis some one of the nine Government grades fixed in the original House bill, and in lieu thereof you substitute a provision which authorizes the Secretary of Agriculture to establish new standard grades. Another change is that you remove the inhibitions against ring settlements, set out in section 10, on all the contracts drawn in compliance with the provisions of section 5. Those are the principal changes in conference.

Mr. LEVER. Yes; and we have added a provision that nothing in the bill shall interfere with existing contracts.

Mr. WINGO. I would like to ask this further question: We have had Government standard grades for practically four years past, the nine grades being from middling fair to good ordinary. Now, these standards have been adopted by all the cotton exchanges in this country.

Mr. LEVER. In answer to the gentleman's question I say that it is very doubtful, in my opinion and in that of the Solicitor of Agriculture, who is an able lawyer, whether or not we have ever had any official standard. The official standards, so called, were established or promulgated under authority of an item in the Agricultural appropriation bill. I began to look into that proposition, and I concluded that it would be unwise to adopt legislation predicated upon something that had any doubt whatever about its legality. I submitted the question to the solicitor of the department, and he concluded there was doubt about it, and hence we introduced into this bill a provision for the reestablishment or repromulgation of official standards.

Mr. WINGO. Is it not true that all the cotton exchanges of the country, including both New Orleans and New York, have already adopted what is now called the Government standard of nine grades?

Mr. LEVER. The New Orleans Cotton Exchange, immediately after the standards were established, did adopt them. The New York Cotton Exchange adopted them during this spring, and the spot cotton exchanges of the country adopted these standards only in the early part of May.

Mr. WINGO. I am talking about the exchanges where future contracts are dealt in. New Orleans adopted it immediately after their promulgation by the Government, and the New York Cotton Exchange some time this spring.

Mr. LEVER. To go into effect this next year.

Mr. WINGO. I thought it went into effect in September. The Liverpool Cotton Exchange has adopted the United States Government's standards, to go into effect the 1st day of September, except in the description of the standards they use the word "fully" instead of "strict" in three different grades.

Mr. LEVER. The standard of the Liverpool exchange is practically the same as the United States, except the basis middling is a little lower grade. A cotton man told me the other day that he would rather sell cotton on the basis of the Liverpool exchange than the New York Cotton Exchange, because the basis was a little lower.

Mr. WINGO. That is a little difference that comes by comparison of standards, and that will come anywhere. The gentleman stated a moment ago that there would be no tax collected, because the object of the tax is prohibitive. In other words, it would prohibit them from using contracts which you say are now complained of, and which will not be used any more, and therefore there will be no tax collected.

Mr. LEVER. I do not think there will be; of course there may be a little.

Mr. WINGO. If the members of the New York Cotton Exchange made the sale of 100,000,000 bales a year for future delivery, just so they comply with section 5, no tax will be collected.

Mr. LEVER. None whatever.

Mr. WINGO. Now, let us consider this amendment to section 10 proposed by the conference report:

> This section shall not be construed to apply to any contract or sale made in compliance with section 5.

Now, they can conduct all of their transactions under a form of contract provided by section 5. If they do that—and I am frank to say they can—then will the restrictions set out in section 10 apply to these contracts?

Mr. LEVER. Not at all.

Mr. WINGO. That is the object of the amendment proposed in conference.

Mr. LEVER. I will say to the gentleman this: That section 10 has reference only to future contracts which are not future contracts as we ordinarily know them. They are f. o. b. contracts, contracts to mature in the future. A cotton-mill man desires 1,000 bales from a farmer for delivery next March. He makes a contract with you. You buy this 1,000 bales of strict middling deliverable at a certain time in the future. We were afraid that unless we specifically set out in the bill a section which made that kind of a contract possible without any tax applying whatever to it that some courts somewhere might hold that the tax provided in section 3 would apply to that kind of a contract, and that is what we did not want to happen. Now, as to the amendment proposed, after the bill had gone through the House a good many letters came pouring in to members of the committee, to the gentleman from Georgia, the gentleman from Mississippi, the conferees of the Senate, and myself, saying that that kind of contract was not specifically exempted from taxation and asked us as a matter of precaution to put in the language we have. I personally do not think it makes a particle of difference, because I do not think that kind of contract is taxable.

Mr. WINGO. The only practical difference between section 5 and section 10 is contained in the fourth subdivision of section 10. The first proposition of section 5, page 7, practically is the same language as the first provision of section 10, page 13, is it not? The first provision in section 5 is this:

> First. Conform to the requirements of section 4 of and the rules and regulations made pursuant to this act.

Now, the second provision under section 5 is this:

> Second. Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary of Agriculture, except grades prohibited from being delivered on a contract made under this section by the fifth subdivision of this section, the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled: *Provided*, That middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

Now, the same section, the same subdivision of section 10, is practically the same——

Mr. LEVER. No. It is:

Second. Specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

Mr. WINGO. What is the distinction?

Mr. LEVER. The distinction is this: The gentleman will notice that section 5——

Mr. WINGO. I read section 5 first.

Mr. LEVER. Says that the contract shall specify the basis grade.

Mr. WINGO. Yes.

Mr. LEVER. And for the purpose of this act the basis grade shall be considered strict middling. Now, a basis grade is a representative—a grade from which grade grades are measured above and below.

That is the basis grade. The New York Cotton Exchange deals in a basis contract. The New Orleans Cotton Exchange deals in a basis contract.

Mr. WINGO. I note a provision in section 5 with reference to basis grade that if there is no basis grade specified in the contract then middling shall be considered the basis grade.

Mr. LEVER. Exactly.

Mr. WINGO. So there is no difference. Now, section 10 says that it shall specify the grade, but it does contain a provision as to what shall be the basis if it is not specified, but the first subdivision of section 10 covers that anyway by referring to the regulations and provisions of the act.

Mr. LEVER. The rules and regulations of the act.

Mr. WINGO. Well, assuming there is a difference——

Mr. LEVER. Let me get into the gentleman's head the real difference. The contract referred to in section 5, which the gentleman has read, is a basis contract; it is a future contract, as we understand the word "future." It is a contract which has written into it the idea there is going to be a delivery upon it, but it is a contract which everybody knows is not going to have cotton delivered in fulfillment.

Mr. WINGO. In other words, it is what is known as a "gambling contract."

Mr. LEVER. It is a New York Cotton Exchange contract; it is a New Orleans Cotton Exchange contract, a Bremen contract, a Havre contract, and a Liverpool Cotton Exchange contract. Now, we were afraid that the contracts between the millman and the farmer for future delivery might fall within the tax provisions of this bill and be taxed, hence we put into this bill section 10.

Now, the second subdivision of section 10 says that the contract shall specify the grade. It does not say the basis grade, but says it shall specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is to be bought or sold, the date of the purchase or sale, the time when shipment and delivery of such cotton is to be made, and so forth. Subdivision 3 says that when such a contract is made and delivery is made upon it that the cotton shall be within the grade or price or according to the sample or description specified in the contract. For instance, under the terms of section 5, subsection 7 of the bill, you would not be able to deliver on a contract on the New York or New Orleans Cotton Exchange cotton less in value than "good ordinary" in settlement of that contract for delivery, if delivery was called for. You could not, under that section, deliver what is known as "repacked" cotton or "water-packed" cotton, or what we know as "offings," "rejections," and "dog-tails" of the cotton crop. But it does not follow that we should prohibit the right of contract as to cotton that is denied delivery under the terms of section 5. For instance, we might want to make such cotton into padding for horse collars, or automobile tires, or something of that kind, and we did not want to run the risk of taxing it. So we say we can deal in that cotton free of taxation, if, when the delivery is made, it is of the contract grade.

Mr. WINGO. The contracts referred to in section 5 are——

Mr. LEVER. Are what you call "gambling" contracts.

Mr. WINGO. "Gambling contracts." In other words, that is intended to reform the gambling contracts on the New York Cotton Exchange?

Mr. LEVER. Yes, sir.

Mr. WINGO. Section 10 is intended to apply to those contracts when a planter comes in and wants to get advances and makes a contract for delivery in the fall. That is why you have two exempted classes? The New York Cotton Exchange is exempt if they have a contract like section 5 provides. Now, that being true, why is it that you put the provision on "ring" settlement in the planter's contract and leave it out of the "gambler's" contract?

Mr. LEVER. We put it in this contract because we did not want to leave a loophole in this bill which might result in the building up of quasi exchanges in this country where the present pernicious methods of the future markets could be pursued under color of law. However, every student of the question knows that if you force delivery upon one of the contracts of the New York Cotton Exchange by law, that that is the end of that exchange.

Mr. WINGO. Now, right there. In the matter of forcing delivery, a contract for the delivery of cotton is not such a contract of which a court of equity will require a specific performance? Now, is not that true?

Mr. LEVER. I am not sure that the gentleman is correct in his legal proposition. I am not a lawyer.

Mr. WINGO. Let us use an illustration. It will not take a lawyer to get at it, but I think you know the law. Suppose you make a contract under section 5 that by this bill you make legitimate and does not have to be taxed. Suppose I sell you on the New York Cotton Exchange 10,000 bales of December cotton at 10 cents. When December comes, the day of fulfillment, or settlement, or whatever you call it, December cotton is quoted at 12 cents. Now, you come to me and say, "I want my cotton." I say, "I have not any cotton, and I will not give it to you." I will say I will give you the 2 cents difference, and you will say, "I do not want that; I want my cotton." Do you not know that if you consulted a lawyer he would tell you that the measure of damages would be the difference between the contract price of the cotton and the price at which you could buy that cotton in the open market?

Mr. LEVER. On the contract, if such a contract is made between you and me, and I came to you and said, "I want my cotton, and I will not take anything else than my cotton; I will not take a difference settlement," I have a right under the present contract even to get my cotton unless the cotton can not be had on account of "providential hindrance"—a ship doing down, or something like that.

Mr. SIMS. You do not mean to say you can "replevy" on the exchange?

Mr. LEVER. Not on the exchange. The gentleman from Tennessee knows about this bill, because he has studied it sufficiently to realize that the contracts of the New York Exchange require now that if delivery is demanded delivery shall be made. The gentleman knows that. Will he not admit it?

Mr. SIMS. It is only a money damage, then. It is not a specific damage.

Mr. LEVER. You can not get something out of nothing, of course. But if cotton can be made, it can be had.

Mr. WINGO. My illustration was that I can go and sell to you something I do not have. I make my contract read like section 5 expresses it, and when December comes I have not the cotton, how is the exchange or any court on earth going to force me to deliver the cotton? Is it not true that the only relief would be an action for damages for breach of contract, and the measure of damages would be the difference between the contract price and the price at which you can get the cotton in the open market?

Mr. LEVER. Well, I will admit that you can not get blood out of a turnip, but there is not a member of the New York Cotton Exchange to-day, and I doubt if there is a member of any exchange in the world to-day, who would make a contract which he did not believe he could fulfill when delivery came, if delivery was called for, and if he did not he would be kicked off of the exchange so quickly it would make his head swim.

Mr. WINGO. Then, how do you explain the fact that they sell fifteen times more cotton on the New York Exchange than there is cotton actually made?

Mr. LEVER. On the same principle that I have seen a one-dollar bill discharge 40 debts.

Mr. WINGO. The proposition is to prohibit fake tenders? How are you going to force actual delivery on 100,000,000 bales?

Mr. LEVER. The gentleman does not understand my viewpoint at all.

Mr. WINGO. What I am trying to get at is your viewpoint.

Mr. LEVER. I will say to the gentleman frankly that we are going into the academic proposition, and I do not care how much cotton is bought and sold on the New York Cotton Exchange, when a cotton-mill man or a farmer, or a merchant, who engages in the use of a hedge upon that market, calls for his cotton, he is assured that he is not going to have delivered to him unspinnable, unmerchantable, unusable cotton.

Mr. WINGO. Now, one other question before I get through. Is not paragraph 4 of section 10 the only provision of your bill

prohibiting "set-offs" or "ring settlements"? That is the only place in your bill where you place any prohibition on "set-offs" or "ring settlements"?

Mr. LEVER. Yes; and we do that to save the country from having a dozen little gambling dens springing up everywhere.

Mr. WINGO. That is the only provision in the bill where you have any prohibition against "set-offs" and "ring settlements," and by this amendment to section 10, which the conferees propose, you seek to amend it by stating that the provisions of section 10 shall not apply to section 5 contracts; and then you have not a single inhibition in your bill against "ring settlements" and gambling contracts, because you expressly say that these "ring settlements" and gambling contracts shall not apply under section 5, which you say are gambling contracts.

Mr. LEVER. I thought the gentleman from Arkansas knew this, that this bill was not predicated upon the idea of preventing the dealing in future contracts if those contracts were contracts which represented the bulk of the value of the cotton crop of the South and whose value was not fixed by the low grades of the cotton crop, but by the bulk of the cotton crop. The gentleman knows that I am too frank to conceal it——

Mr. WINGO. Yes; I know that——

Mr. LEVER. That there is no intention whatever in this bill to destroy the New York Cotton Exchange, and there is no intention whatever in this bill to destroy the New Orleans Cotton Exchange. The intention of this bill is to regulate the transactions in such a way as to force them to use a contract which represents the bulk of the value of the cotton crop of Tennessee, South Carolina, and the other cotton-producing States.

Mr. CLARK of Florida. Mr. Speaker, will the gentleman yield for just one question?

The SPEAKER. Does the gentleman yield?

Mr. LEVER. Mr. Speaker, how much time have I?

The SPEAKER. Ten minutes.

Mr. LEVER. Yes; I yield to the gentleman.

Mr. CLARK of Florida. I want to ask the gentleman if he and his committee have any well-considered opinion as to the effect of this bill, if it should become a law, as to the closing of cotton exchanges? What effect will it have upon the cotton exchanges of the country in the gentleman's opinion?

Mr. LEVER. You mean New Orleans and New York particularly—that type of exchanges?

Mr. CLARK of Florida. Yes.

Mr. LEVER. It will not close either of them.

Mr. SIMS. Would it not increase their business?

Mr. LEVER. It would not surprise me a particle if it did increase their business. I would be glad if it would, and for this reason, that if there is going on, with respect to any commodity, a lively bidding, a lively buying, and a lively selling, you would never see the price of that commodity go down. Under all economic laws it would go up.

Mr. CLARK of Florida. I want to ask the gentleman this further question: Is it not a fact that in the hearings the president of the New York Cotton Exchange gave it as his opinion that the enactment of this bill into law would increase the business of the exchanges?

Mr. LEVER. I really could not say. It would not surprise me if he had said that. I will say to the gentleman this: I have had not one, but dozens of the biggest firms in New York, cotton people, say that the destruction of the New York Cotton Exchange and of the Liverpool Exchange, and exchanges of that type would increase their profits hundreds of millions of dollars a year, because it would give them an absolute monopoly of the cotton business.

Mr. CLARK of Florida. Can the gentleman give to the House his opinion as to whether that is true and some substantial reason upon which to base that opinion?

Mr. LEVER. I made the statement when the Underwood amendment was pending to the tariff bill, and I make it again, that if you destroy the future market of this country for cotton, you would build up the greatest monopoly in cotton that the world ever saw, and that that monopoly would consist of the big spot-cotton dealers of the country combining with the great cotton-mill people of the country.

Mr. CLARK of Florida. Then the gentleman's position is that in order to maintain respectable prices for agricultural products in this country we must maintain by law institutions designed to promote gambling in those products?

Mr. LEVER. No. The gentleman designates legitimate speculation as gambling. I do not. That is just where we differ.

Mr. SIMS. I want to ask the gentleman just one question. I know the gentleman is well informed.

Mr. LEVER. I will yield to the gentleman from Tennessee.

Mr. SIMS. Is it not a fact that no person can buy or sell cotton on these exchanges unless he is a member of the exchange?

Mr. LEVER. That is true.

Mr. SIMS. And therefore the exchanges, so far as this law is concerned, have the absolute monopoly of all dealing under this law?

Mr. LEVER. The gentleman knows that the exchanges make their business out of their commissions largely, and they appeal to the public. The gentleman knows more about this business than I do.

Mr. SIMS. And nobody can either buy or sell on the exchanges unless they are members?

Mr. LEVER. I said I believed that was true.

Mr. CARAWAY. Mr. Speaker, will the gentleman yield for a question?

Mr. LEVER. Yes.

Mr. CARAWAY. The question I have in mind is just this: Under this law the spinner can hedge on his contract safely, can he not?

Mr. LEVER. Yes; and he can not do so under the existing situation to-day.

Mr. CARAWAY. The bill meets the approval of the spinners?

Mr. LEVER. Yes.

Mr. CARAWAY. Will not this be true with the spinner under this bill—because he can hedge his contracts perfectly—that he will be able to wait and take his chance on the cotton crop being large and the price being low, and need not go into the market when the farmer is offering his cotton on the market, and need not be compelled to buy them? He can have a contract that will actually protect him, and he can wait until December or January or February, because he can buy on the future market in May, and have a contract that he can enforce, and he can wait until the farmer has not a bale in his hands before he is under the necessity of buying?

Mr. LEVER. The gentleman from Arkansas will understand that the cotton mill man is buying cotton and selling cloth every day in the year. Every time he buys a bale of cotton he uses the exchange as a hedge, and every time he sells a hundred bales of cloth he still uses the exchange as a hedge. He is hedging every day if he can find an opportunity. The difficulty has been that the New York Cotton Exchange contract with the spinner always underbids the value of cotton, because of the fear of that contract.

Mr. CARAWAY. I know the contract is bad, but do you not think there is some danger, because he has a perfect hedge now, that if the price of cotton in the hands of the farmer in September or October is high, he can safely wait?

Mr. LEVER. Not at all.

Mr. CARAWAY. You do not think so?

Mr. LEVER. I think, on the contrary, you will find that the price of cotton will be five or six dollars a bale higher when this bill gets into operation.

Mr. DAVIS. I have talked with quite a number of Members recently, and the question has arisen, after the passage of your bill, can anyone make a contract for the future delivery of cotton, or purchase it, without any intention of there being an actual delivery of the cotton?

Mr. LEVER. He can if his contract conforms to section 5 of the bill. The contract itself provides, and all the contracts of the exchanges provide, for the delivery of cotton. But you know and I know, and all of those who have studied the question know, that while the delivery is contemplated it is rarely made.

Mr. DAVIS. Then will there be any change in that future delivery by virtue of this bill if the contract is made in accordance with it?

Mr. LEVER. No; there will not.

Mr. DAVIS. And you can buy and sell without any purpose to deliver?

Mr. LEVER. Why, yes.

Mr. SISSON. Under this bill, if cotton is bought or sold on the exchange under one of these contracts, under the rules of the exchange you can give notice 10 days before the date of the delivery——

Mr. LEVER. Five.

Mr. SISSON. Five days before the date of delivery that you will demand the spot cotton?

Mr. LEVER. Yes.

Mr. SISSON. What assurance have you under this bill that you will get the cotton that you bought, and of the grade?

Mr. LEVER. None whatever, I will say to the gentleman frankly, because if we wrote in the law that delivery of cotton must be made, it would close the exchanges.

Mr. SISSON. That is not my question at all.

Mr. LEVER. I did not catch the gentleman's question.
Mr. SISSON. My question was this——
Mr. HEFLIN. The gentleman has agreed to yield some time to me, and I do not want it all taken up by questions.
Mr. SISSON. The gentleman wants some votes for his bill, does he not?
The SPEAKER. The gentleman has four minutes left of his hour. To whom does the gentleman yield?
Mr. LEVER. I yield to the gentleman from Mississippi.
Mr. SISSON. Suppose he does demand a delivery of the cotton?
Mr. LEVER. He will get the cotton and the grade or else he will be kicked off the exchange under their rules.
Mr. SISSON. Will he get exactly that grade?
Mr. LEVER. Yes; if he contracts for a specific grade.
Mr. SISSON. Suppose he buys it basis middling?
Mr. LEVER. Then he will get it fixed within the limits of this bill.
Mr. SISSON. What is that limit?
Mr. LEVER. From middling fair to good ordinary.
Mr. HUMPHREYS of Mississippi. All spinnable?
Mr. LEVER. All spinnable.
Mr. SISSON. How many points is that above or below basis middling?
Mr. LEVER. That varies. Good ordinary may be 150 points below basis middling. It has got to be good spinnable cotton. Now, I yield to the gentleman from Alabama [Mr. HEFLIN] three minutes.
Mr. HEFLIN. Mr. Speaker, I shall vote for this measure. It does not contain all the provisions that I would like to see in a bill of this kind, but I want to say to my good friend from Kansas [Mr. MURDOCK] that I have studied this question a great deal, and this bill has five propositions in it that will be of great value to the cotton producers; and when it comes to the grain bill, I shall try to aid the western gentlemen in getting what they want on the grain proposition. I believe I do know a little more about this cotton proposition than does my good friend from Kansas [Mr. MURDOCK]. There are five good provisions in this bill.
First. It requires the cotton exchanges to use the standard grades.
Second. It requires a record to be kept of all transactions on the exchange.
Third. It requires the Secretary of Agriculture to settle disputes as to grades named in the contract, and takes this power away from the committee on the exchange.
Fourth. It requires the delivery of spinable cotton on contracts, and prevents the tendering of dog-tail cotton to beat down the price of good cotton.
Fifth. It prevents the arbitrary fixed difference now employed on the New York Cotton Exchange and requires the commercial difference, and authorizes the Secretary of Agriculture to go to five spot markets in the South to obtain that commercial difference. These are all good provisions, and while there are some features of this bill I would change, I am so anxious to get some of these provisions enacted into law that I am going to vote for the measure; and if it does not work as I think it should, I will help to amend it.
I want to say to gentlemen on this side of the House that if you cast your votes against this bill you are voting to continue the present order of things on the exchanges. We have now on the cotton exchanges the rottenest rules in the world. [Applause.] The farmers are being robbed under these conditions every year in the South, and I beg you, gentlemen, not to oppose legislation on this question at this time. Do not be placed in the attitude of favoring the present conduct of the New York Exchange. You had better cast your vote for a measure that has some good in it rather than to vote to continue the present condition of things. [Applause.] Gentlemen from the West will want legislation on grain pretty soon, and I hope to help them get it, and I trust that they will not stand in the way of cotton-exchange legislation when we come from the cotton belt and ask for that regulation. [Applause.] It is not long until the December term of Congress. Let us take this long step in the right direction, and when we watch the bill in operation we can amend it, if it needs amending. [Applause.]
Mr. LEVER. Mr. Speaker, I move the previous question.
Mr. WINGO. I trust the gentleman will withhold that. Every time this question comes up, those in favor of absolute suppression have not been given any time. Mr. Speaker, I ask unanimous consent that I may proceed for five minutes.
Mr. MANN. Anybody is entitled to the floor. How much time does the gentleman from South Carolina want? Mr. Speaker, I ask that the time of the gentleman from South Carolina [Mr. LEVER] be extended 10 minutes.
The SPEAKER. The gentleman from Illinois asks unanimous consent that the time of the gentleman from South Carolina be extended 10 minutes. Is there objection?
Mr. SHERLEY. And I ask that at the end of that time the previous question be considered as ordered.
Mr. MANN. Mr. Speaker, I can not agree to that. The gentleman can move the previous question.
Mr. SHERLEY. This is an unusual request to extend the time, and I am trying to save the time of ordering the previous question.
Mr. MANN. Anybody is entitled to the floor, and I was doing it to save time.
Mr. SHERLEY. That was my object.
Mr. LEVER. I will say to the gentleman from Kentucky that I will move the previous question at the end of 10 minutes.
The SPEAKER. Is there objection to the request of the gentleman from Illinois, that the time of the gentleman from South Carolina be extended 10 minutes? [After a pause.] The Chair hears none.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries.

ENROLLED BILL SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:
H. R. 4988. An act to provide for the disposal of certain lands in the Fort Berthold Indian Reservation, N. Dak.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:
H. R. 17005. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Tug Fork of the Big Sandy River, at or near Williamson, W. Va.;
H. R. 16579. An act to authorize the construction of a bridge across St. John River at Fort Kent, Me.; and
H. R. 16294. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

SOCIAL INSURANCE CONGRESS (H. DOC. NO. 1132).

The SPEAKER laid before the House the following message from the President of the United States, which was read, ordered printed, and referred to the Committee on Foreign Affairs.
The message is as follows:

To the Senate and House of Representatives:

In view of a provision of law contained in the deficiency act approved March 4, 1913, that "Hereafter the Executive shall not extend or accept any invitation to participate in any international congress, conference, or like event without first having specific authority of law," I transmit herewith for the consideration of the Congress and for its determination whether it will authorize the acceptance of the invitation a report from the Secretary of State, with accompanying papers, being an invitation from the Government of the French Republic to that of the United States to send delegates to the International Conference on Social Insurance, to be held at Paris in September, 1914, and a letter from the Department of Labor showing the favor with which that department views the proposed gathering.
It will be observed that the acceptance of this invitation involves no special appropriation of money by the Government.

WOODROW WILSON.

THE WHITE HOUSE, *July 27, 1914.*

DISTRICT OF COLUMBIA BUSINESS.

Mr. JOHNSON of Kentucky. Mr. Speaker, I ask unanimous consent that next Saturday may be set aside for District of Columbia business.
The SPEAKER. The gentleman from Kentucky asks unanimous consent that Saturday next be set aside for the transaction of District of Columbia business. Is there objection?
Mr. GARRETT of Tennessee. Reserving the right to object, I would like to ask the gentleman from Kentucky if he has any very pressing matters on the calendar?
Mr. JOHNSON of Kentucky. We have a number of bills on the calendar that ought to be disposed of some way or other.
Mr. FINLEY. Reserving the right to object, Mr. Speaker, unless there is some matter of great importance and very pressing, I will be compelled to object.

Mr. BURNETT. I am not on the committee, but there is a matter relating to the Plaza awards in which are concerned many poor people whose money ought to be paid them. It is now the pending question carried over from the last District day.

The SPEAKER. Is there objection?

Mr. FINLEY. I hope the gentleman from Kentucky will withdraw his request, and perhaps we can come to some understanding, but for the present I shall be compelled to object.

LUCIEN P. ROGERS.

Mr. HULINGS. Mr. Speaker, I ask that the Speaker lay before the House the bill H. R. 8688.

The SPEAKER laid before the House the bill H. R. 8688, an act for the relief of Lucien P. Rogers, with a Senate amendment.

The Senate amendment was read.

Mr. HULINGS. Mr. Speaker, I desire to say that that was simply an error in the data, which has been corrected in the Senate. I move that the House concur in the Senate amendment.

The motion was agreed to.

EXTENSION OF REMARKS.

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the pending political issues.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none.

REGULATION OF COTTON FUTURES.

Mr. CLARK of Florida. Mr. Speaker, I make the point that there is no quorum present.

Mr. UNDERWOOD. Mr. Speaker, has the Speaker announced whether there was a quorum?

The SPEAKER. The Chair was about to count.

Mr. LEVER. I hope the gentleman from Florida will withdraw his point of no quorum and allow us to finish the debate.

Mr. CLARK of Florida. If the gentleman from South Carolina will withdraw his objection to setting aside Saturday as District day——

Mr. JOHNSON of Kentucky. Mr. Speaker, I withdraw the request to set aside Saturday as District day.

The SPEAKER. The gentleman from Kentucky withdraws his request to set aside next Saturday as District day, and the gentleman from Florida withdraws his point of no quorum.

Mr. CLARK of Florida. Oh, no, Mr. Speaker; I said if the gentleman from South Carolina would withdraw his objection to the request to set aside Saturday as District day.

Mr. MURDOCK. Mr. Speaker, what is the regular order?

The SPEAKER. The regular order is to proceed with this debate.

Mr. MURDOCK. Was objection made to that?

The SPEAKER. No; the way the objection came up was that the gentleman from Kentucky asked that Saturday next be set aside for District business, and the gentleman from South Carolina objected. Then gentlemen were asking to extend remarks when the gentleman from Florida raised the point of no quorum. The Chair will count. [After counting.] One hundred and eleven Members present; not a quorum.

Mr. UNDERWOOD. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Carter	Gardner	Hoxworth
Aiken	Cary	George	Hughes, Ga.
Ainey	Chandler, N. Y.	Gerry	Hughes, W. Va.
Anthony	Connolly, Iowa	Gill	Hulings
Ashbrook	Copley	Gillett	Humphrey, Wash.
Aswell	Covington	Glass	Jacoway
Austin	Cramton	Godwin, N. C.	Johnson, S. C.
Avis	Crisp	Goeke	Jones
Bailey	Crosser	Goldfogle	Keating
Barchfeld	Davenport	Goodwin, Ark.	Kennedy, Conn.
Bartholdt	Deitrick	Gorman	Kent
Bartlett	Dershem	Graham, Ill.	Key, Ohio
Beall, Tex.	Dies	Graham, Pa.	Kiess, Pa
Bell, Ga.	Difenderfer	Green, Iowa	Kinkead, N. J.
Borland	Dooling	Greene, Mass.	Kitchin
Brockson	Drukker	Griest	Knowland, J. R.
Brown, N. Y.	Eagan	Gudger	Kreider
Browne, Wis.	Eagle	Hamill	Lafferty
Browning	Edmonds	Hamilton, Mich.	Langham
Bulkley	Edwards	Hamilton, N. Y.	Langley
Burke, Pa.	Estopinal	Hardwick	Lazaro
Butler	Fairchild	Haugen	L'Engle
Brynes, S. C.	Faison	Hayes	Lenroot
Byrns, Tenn.	Fess	Henry	Levy
Calder	Fields	Hinds	Lewis, Pa.
Callaway	Fitzgerald	Hinebaugh	Lindquist
Cantor	Frear	Hobson	Linthicum
Cantrill	Gallagher	Holland	Lobeck
Carlin	Gallivan	Houston	Loft
McAndrews	O'Shaunessy	Shreve	Thacher
McClellan	Padgett	Sinnott	Thomas
McGillicuddy	Paige, Mass.	Slayden	Thompson, Okla.
McGuire, Okla.	Palmer	Smith, Md.	Tuttle
McLaughlin	Parker	Smith, J. M. C.	Underhill
Mahan	Peters, Mass.	Smith, N. Y.	Vaughan
Maher	Phelan	Smith, Tex.	Vollmer
Manahan	Platt	Stafford	Walker
Martin	Porter	Stanley	Wallin
Merritt	Powers	Steenerson	Walsh
Metz	Prouty	Stephens, Miss.	Walters
Montague	Ragsdale	Stephens, Nebr.	Weaver
Moore	Rauch	Stevens, Minn.	Whaley
Morgan, La.	Rayburn	Stringer	Whitacre
Morin	Reilly, Conn.	Sumners	White
Moss, W. Va.	Riordan	Sutherland	Willis
Mott	Roberts, Mass.	Switzer	Wilson, N. Y.
Murray, Mass.	Rupley	Taggart	Winslow
Murray, Okla.	Sabath	Talbott, Md.	Young, Tex.
Neeley, Kans.	Saunders	Taylor, Ala.	
Nelson	Scully	Taylor, N. Y.	
Oglesby	Sherwood	Temple	

The SPEAKER. On this roll call 231 Members, a quorum, have answered to their names. The Doorkeeper will open the doors.

Mr. UNDERWOOD. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

Mr. WINGO. Mr. Speaker, I regret we have not more time in which to consider this question. Unfortunately those of us who believe in carrying out the pledges which were made to the cotton farmers of the South to absolutely prohibit gambling in cotton have had very little opportunity at the two different times this question has come up at this Congress. We have not had opportunity on either occasion to even offer the legislation which is confessed by all to be a protection to the cotton farmer—that is, the Scott bill or the Beall bill. I am opposed to the adoption of this conference report, Mr. Speaker, and in the short time allowed me I want to give my reasons. It is admitted that section 5 of the bill deals with what are called gambling contracts on the New York Cotton Exchange. You will note that if these gambling contracts are in the form prescribed, then they are exempt from the prohibitive tax levied by this bill. The chairman of the committee is very sure of that. He is very sure that the gamblers will all comply, so that there will not be any tax collected. He is correct, and the gentleman from Alabama [Mr. HEFLIN] is wrong. The gentleman from Alabama undertook to say there were five different propositions in this bill and he gave two. One was that it would establish Government standard grades. Well, we already have Government standard grades and have had for three years and nine months.

Mr. HEFLIN. The New York Cotton Exchange has not had it.

Mr. WINGO. The bill as it passed the House recognized those Government standard grades. The conference report abolishes them and leaves it to the Secretary of Agriculture to establish in the future such standard grades as he may desire. The gentleman from Alabama [Mr. HEFLIN] says that this is going to require the cotton exchanges to adopt these standards. If the gentleman from Alabama had read Bulletin 591 of the Department of Agriculture, he would have seen that every cotton exchange in the country, including the New York Cotton Exchange, has already adopted the present Government standards, and the Liverpool Cotton Exchange has adopted the present United States Government standard grades, to take effect on September 1. So there is nothing in the contention that this bill will establish Government standards. The next proposition of the gentleman from Alabama is that we will make these gamblers settle their differences by commercial differences and not by fixed differences. What difference does it make to the cotton farmer how these gamblers settle their differences? The gentleman from South Carolina [Mr LEVER] admits that the operation of this bill will increase gambling operations upon the New York Stock Exchange, and I do not think any man can doubt that. He says this increased gambling will help the legitimate cotton market. There is the point of difference between us. Mr. Speaker, I want to submit that the most dangerous part of the conference report is that amendment proposed by the conferees, which provides that to section 10 shall be added a new paragraph, which reads, "that the provisions of this section shall not apply to contracts under section 5"; that is, gambling contracts. There is a difference between the provisions of section 10 and section 5. We will admit for the sake of argument that the gentleman from South Carolina stated correctly what they are, but paragraph 4 of section 10 is the only place in the bill where "ring settlements" or "set-offs" are prohibited, so what do you do by the adoption of the conference report?

You adopt the amendment to the bill which says the inhibition against "ring settlements" and "set-offs" shall not apply

to the gambling contracts of the New York Cotton Exchange. Do you want to do that? Why have an inhibition against "ring settlements" in section 10, which the gentleman says applies to a planter who might want to sell a spinner his cotton crop for future delivery, and leave the gamblers unrestrained? A "ring settlement," according to their own statement, is a settlement among members on the gambling exchange. How could you say that there is a ring settlement by the planter and the cotton buyer?

The SPEAKER. The time of the gentleman has expired.

Mr. WINGO. Mr. Speaker, I believe I will transgress upon the patience of the House and ask for five minutes additional time.

The SPEAKER. The gentleman from Arkansas asks unanimous consent that the time of the gentleman from South Carolina be extended for five minutes and that time be yielded to him. Is there objection? [After a pause.] The Chair hears none.

Mr. WINGO. Now, Mr. Speaker, do we want to exempt the gambling operations upon the New York Cotton Exchange from the restrictive provisions against "ring settlements" contained in subdivision 4 of section 10? Adopt this conference report and that is what you do. Why do you exempt these gamblers from the only provision in the bill requiring actual delivery of cotton? Oh, the gentleman from South Carolina says if you enforce actual delivery you would destroy the gambling exchanges. But you say that if anyone wanted actual cotton delivered he could go into court and force delivery of the cotton. Let us consider whether he can.

Is there a lawyer in this House who will contend seriously that a court of equity will enforce specific performance of a contract calling for the delivery of a commodity that can be bought in the open market? There is not a lawyer here that will stake his reputation as a lawyer upon any such assertion as that. If these gamblers make their contracts under the provisions of section 5, when settlement day comes what will happen? Will they undertake to deliver actual cotton? No; and it is not contended that they could. They could not deliver the 15,000,000 or more bales dealt in. I venture the assertion that on the New York Cotton Exchange on the 1st day of next December, when settling times comes on December contracts, there will be at least 20,000,000 bales of cotton settled for by "ring settlements" or "set offs." That will be 5,000,000 bales more than the entire cotton crop. What will happen? The man who has sold 1,000 bales, at 10 cents, December delivery, and December cotton is then selling at 12 cents, will do what? Settle by differences. But suppose one demands actual cotton; what will be the seller's answer? He will say, "You know it was a gambling contract. You know I am a gambler in 'phantom' cotton. You know I did not intend to deliver actual cotton. I will pay you the 2 cents difference." The purchaser says, "No; I want the cotton. The Lever bill requires you to deliver it to me. I will go into court and see if it will not." He will go into court. What will be the result? Every lawyer knows that he can not force actual delivery, but can only bring suit for damages for breach of contract, and the measure of damages is the difference between the contract price and the market price at the maturity of the contract—2 cents a pound.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield for a question?

Mr. WINGO. Not now. I think if the Members from the cotton-growing States would study this bill and study it carefully there would not be as many as five of them vote for a bill of this kind. Why? Because it legalizes and licenses gambling in cotton futures, which we promised to suppress. Is there a man in this House that will go before the cotton growers of the South and say, "I voted to license cotton gambling"? Dare you go to the raiser of the cotton—and I am talking of the farmer who makes from 1 to 20 bales of cotton a year—do you dare go to him and say, "I voted for a bill that permitted, legalized, and licensed gambling on the New York Cotton Exchange, a bill that will increase the number of 'phantom' bales dealt in"? Is there a man here that will tell the cotton farmer that he did that? That will be your position if you vote for this conference report. Every man here knows that the cotton growers of this country want the old Scott bill. Why do you not give it to us? You say the Senate will not pass it. You have not tried the present Senate. This bill was brought up at a time and under a rule that prevented us from offering the old Scott bill as a substitute. If you pass the old Scott bill to stop the gambling, it will go through the Senate, because they do not dare to obstruct it any longer. Do you think you are going to fool the cotton farmer much longer by this jockeying between the House and the Senate on this question? Do you think he is going to take with any degree of credence the statement that we can not possibly get the two Houses together on something that is admitted would absolutely destroy this pernicious evil, the thing that we as a party have pledged we would do? We promised the cotton growers of the South to suppress gambling in cotton, which it is admitted bears down the price of cotton, but by this bill you license the evil. You by this act legalize and protect that which you promised to destroy. For such a course there is neither moral nor political justification. [Applause.]

The SPEAKER. The time of the gentleman from Arkansas [Mr. WINGO] has expired.

Mr. LEVER. Mr. Speaker, for more than a quarter of a century the people of this country have been endeavoring to find a legislative method of dealing effectively with a situation which all admit to be bad. The old Hatch bill passed through the House, went to the Senate, was amended, sent to conference, and there died. The Scott bill was sent by this House to the Senate and it died in committee. The Beall bill, identical in terms, was likewise sent to the Senate, and it, too, died there. And yet the gentleman says, "Why not try the present Senate out?" I call his attention to the fact that the Senate during this year has expressed itself on this proposition and has sent us a bill identical in purpose, differing only in method from the bill we are considering in conference at this time. If the Senate wanted to pass the Scott bill and put it up to the House, why did it not do so? Why did it send to us a bill seeking to regulate and not destroy the exchanges, as it did in the Smith bill, for which this is a substitute. The position of the Senate at this time, according to its own record, is in line with the general purpose of the bill we are about to vote upon. We are nearer an agreement than ever before, and why not agree and get legislation?

Mr. HOWARD. Will the gentleman yield?

Mr. LEVER. I can not do so. I am sorry, but I have only five minutes.

I want to call the attention of the cotton men on the floor of this House to this fact: That this bill comes from the Committee on Agriculture with every Southern man behind it, and I believe that they are as true and accurate representatives of the cotton growers of the South as is my friend from Arkansas [Mr. WINGO]. More than that, this bill had its inception in the Senate, where it was introduced by Senator E. D. SMITH, of my State, who some years ago organized that great fight in the South for the cotton farmer, which has meant so much for him, and I want to say he is anxious for legislation at this session. No one can question his loyalty to the cotton farmer. He has proved his faith in works.

Another thing, two conferees of the Senate on this bill come from two of the biggest cotton-growing States in the Union, Senator SMITH of Georgia, from that great cotton State, and Senator SHEPPARD, of Texas, from a State which raises one-fourth of all the cotton produced in this country.

I call your attention to the fact that this is a unanimous report. It is agreed to by all of us. It may not represent all that we want, but I call your attention to the fact—and you can not get around it—that if you defeat this legislation to-day, with this Congress on the eve of an adjournment, there is not a sensible man here who does not know, who does not admit in his own heart, that that is the end of legislation in this session of Congress on this proposition.

Mr. Speaker, I ask that I be notified when my time is up, so that I can move the previous question.

The SPEAKER. The gentleman has half a minute remaining.

Mr. LEVER. I am willing to put it up to you, gentlemen. It is either this bill—and we believe it to be a good one—or it is no legislation. Which do you want?

Now, Mr. Speaker, I move the previous question on the adoption of the conference report.

The SPEAKER. The gentleman from South Carolina moves the previous question on the adoption of the conference report. The question is on agreeing to that motion.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. MURDOCK. A division, Mr. Speaker.

The SPEAKER. A division is demanded.

The House divided; and there were—ayes 91, noes 15.

So the previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. WINGO. A division, Mr. Speaker.

The SPEAKER. The gentleman from Arkansas [Mr. WINGO] demands a division.

The House divided; and there were—ayes 117, noes 45.

Mr. MURDOCK. Mr. Speaker, I make the point of no quorum.

The SPEAKER. The gentleman from Kansas [Mr. MURDOCK] makes the point that there is no quorum present. The Chair will count. [After counting.] One hundred and seventy-five Members are present—not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. Those in favor of agreeing to the conference report will, when their names are called, answer "yea"; those opposed will answer "nay."

The question was taken; and there were—yeas 146, nays 77, answered "present" 3, not voting 206, as follows:

YEAS—146.

Abercrombie	Dickinson	Heflin	Post
Adamson	Dixon	Helgesen	Pou
Alexander	Doolittle	Helm	Quin
Allen	Doremus	Hensley	Rainey
Ansberry	Doughton	Howell	Raker
Baker	Driscoll	Hull	Reed
Baltz	Dupré	Humphreys, Miss.	Reilly, Wis.
Barkley	Elder	Igoe	Rouse
Barnhart	Esch	Kettner	Rubey
Bathrick	Evans	Kindel	Rucker
Beakes	Fergusson	Konop	Russell
Blackmon	Ferris	Korbly	Seldomridge
Booher	Finley	Lee, Ga.	Shackleford
Borchers	Foster	Lee, Pa.	Sherley
Bowdle	Francis	Lesher	Sisson
Brodbeck	French	Lever	Sloan
Broussard	Gallivan	Lewis, Md.	Small
Bruckner	Gard	Lieb	Smith, Idaho
Brumbaugh	Garner	Lloyd	Sparkman
Buchanan, Ill.	Garrett, Tenn.	Lonergan	Stedman
Buchanan, Tex.	Garrett, Tex.	McCoy	Stephens, Tex.
Burgess	Gilmore	McKellar	Talcott, N. Y.
Burke, Wis.	Gittins	Maguire, Nebr.	Taylor, Colo.
Burnett	Gordon	Mitchell	Ten Eyck
Candler, Miss.	Goulden	Moon	Thacher
Carr	Graham, Ill.	Morgan, Okla.	Towner
Church	Gregg	Morrison	Townsend
Clancy	Griffin	Moss, Ind.	Underwood
Claypool	Hamlin	Mulkey	Watkins
Cline	Hammond	Norton	Watson
Coady	Hardy	O'Brien	Webb
Collier	Harris	Oldfield	Williams
Conry	Harrison	O'Leary	Wilson, Fla.
Curry	Hart	Page, N. C.	Witherspoon
Dale	Hawley	Patton, Pa.	Young, N. Dak.
Decker	Hay	Peterson	
Dent	Hayden	Plumley	

NAYS—77.

Barton	Farr	Kinkaid, Nebr.	Sells
Bell, Cal.	FitzHenry	Kirkpatrick	Sims
Britten	Floyd, Ark.	La Follette	Smith, Minn.
Brown, W. Va.	Fordney	Lindbergh	Stephens, Cal.
Bryan	Fowler	Logue	Stevens, Minn.
Burke, S. Dak.	Good	McKenzie	Stevens, N. H.
Campbell	Gray	MacDonald	Stone
Carew	Greene, Vt.	Madden	Tavenner
Clark, Fla.	Howard	Mann	Taylor, Ark.
Connelly, Kans.	Johnson, Ky.	Mapes	Thomson, Ill.
Cooper	Johnson, Utah	Mondell	Treadway
Cox	Johnson, Wash.	Murdock	Tribble
Cullop	Kahn	Neely, W. Va.	Vare
Danforth	Keating	Nolan, J. I.	Volstead
Davis	Keister	Park	Walker
Dillon	Kelley, Mich.	Payne	Wingo
Donohoe	Kelly, Pa.	Peters, Me.	Woodruff
Donovan	Kennedy, Iowa	Roberts, Nev.	
Dunn	Kennedy, R. I.	Rogers	
Falconer	Kent	Scott	

ANSWERED "PRESENT"—3.

Guernsey	Hill	Metz

NOT VOTING—206.

Adair	Caraway	Flood, Va.	Hobson
Aiken	Carlin	Frear	Holland
Ainey	Carter	Gallagher	Houston
Anderson	Cary	Gardner	Hoxworth
Anthony	Casey	George	Hughes, Ga.
Ashbrook	Chandler, N. Y.	Gerry	Hughes, W. Va.
Aswell	Connolly, Iowa	Gill	Hulings
Austin	Copley	Gillett	Humphrey, Wash.
Avis	Covington	Glass	Jacoway
Bailey	Cramton	Godwin, N. C.	Johnson, S. C.
Barchfeld	Crisp	Goeke	Jones
Bartholdt	Crosser	Goldfogle	Kennedy, Conn.
Bartlett	Davenport	Goodwin, Ark.	Key, Ohio
Beall, Tex.	Deitrick	Gorman	Kiess, Pa.
Bell, Ga.	Dershem	Graham, Pa.	Kinkead, N. J.
Borland	Dies	Green, Iowa	Kitchin
Brockson	Difenderfer	Greene, Mass.	Knowland, J. R.
Brown, N. Y.	Dooling	Griest	Kreider
Browne, Wis.	Drukker	Gudger	Lafferty
Browning	Eagan	Hamill	Langham
Buckley	Eagle	Hamilton, Mich.	Langley
Burke, Pa.	Edmonds	Hamilton, N. Y.	Lazaro
Butler	Edwards	Hardwick	L'Engle
Byrnes, S. C.	Estopinal	Haugen	Lenroot
Byrns, Tenn.	Fairchild	Hayes	Levy
Calder	Faison	Helvering	Lewis, Pa.
Callaway	Fess	Henry	Lindquist
Cantor	Fields	Hinds	Linthicum
Cantrill	Fitzgerald	Hinebaugh	Lobeck
Loft	O'Hair	Scully	Taylor, Ala.
McAndrews	O'Shaunessy	Sherwood	Taylor, N. Y.
McClellan	Padgett	Shreve	Temple
McGillicuddy	Paige, Mass.	Sinnott	Thomas
McGuire, Okla.	Palmer	Slayden	Thompson, Okla.
McLaughlin	Parker	Slemp	Tuttle
Mahan	Patten, N. Y.	Smith, J. M. C.	Underhill
Maher	Peters, Mass.	Smith, Md.	Vaughan
Manahan	Phelan	Smith, N. Y.	Vollmer
Martin	Platt	Smith, Saml. W.	Wallin
Merritt	Porter	Smith, Tex.	Walsh
Miller	Powers	Stafford	Walters
Montague	Prouty	Stanley	Weaver
Moore	Ragsdale	Steenerson	Whaley
Morgan, La.	Rauch	Stephens, Miss.	Whitacre
Morin	Rayburn	Stephens, Nebr.	White
Moss, W. Va.	Reilly, Conn.	Stout	Willis
Mott	Riordan	Stringer	Wilson, N. Y.
Murray, Mass.	Roberts, Mass.	Sumners	Winslow
Murray, Okla.	Rothermel	Sutherland	Woods
Neeley, Kans.	Rupley	Switzer	Young, Tex.
Nelson	Sabath	Taggart	
Oglesby	Saunders	Talbott, Md.	

So the conference report was agreed to.

The Clerk announced the following pairs:

Until further notice:

Mr. SUMNERS with Mr. TEMPLE.

Mr. TAYLOR of Alabama with Mr. HUGHES of West Virginia.

Mr. CLANCY with Mr. HAMILTON of New York.

Mr. BARTLETT with Mr. BUTLER.

Mr. MCGILLICUDDY with Mr. GUERNSEY.

Mr. SLAYDEN with Mr. BURKE of Pennsylvania.

Mr. HENRY with Mr. HINDS.

Mr. DAVENPORT with Mr. J. M. C. SMITH.

Mr. FAISON with Mr. GREENE of Massachusetts.

Mr. WEAVER with Mr. WALTERS.

Mr. PADGETT with Mr. MORIN.

Mr. MORGAN of Louisiana with Mr. LINDQUIST.

Mr. FIELDS with Mr. LAFFERTY.

Mr. EDWARDS with Mr. GRIEST.

Mr. BELL of Georgia with Mr. CALDER.

Mr. BYRNES of South Carolina with Mr. KREIDER.

Mr. JACOWAY with Mr. ANTHONY.

Mr. ESTOPINAL with Mr. FREAR.

Mr. KITCHIN with Mr. ROBERTS of Massachusetts.

Mr. CALLAWAY with Mr. WILLIS.

Mr. GOODWIN of Arkansas with Mr. PROUTY.

Mr. BROWN of New York with Mr. CHANDLER of New York.

Mr. ASWELL with Mr. CARY.

Mr. GORMAN with Mr. MCLAUGHLIN.

Mr. LOBECK with Mr. POWERS.

Mr. SAUNDERS with Mr. WINSLOW.

Mr. SABATH with Mr. SWITZER.

Mr. LAZARO with Mr. PARKER.

Mr. YOUNG of Texas with Mr. AINEY.

Mr. HARDWICK with Mr. J. R. KNOWLAND.

Mr. HUGHES of Georgia with Mr. MERRITT.

Mr. THOMAS with Mr. FAIRCHILD.

Mr. VAUGHAN with Mr. SHREVE.

Mr. STEPHENS of Nebraska with Mr. LEWIS of Pennsylvania.

Mr. SHERWOOD with Mr. DRUKKER.

Mr. AIKEN with Mr. BARCHFELD.

Mr. ASHBROOK with Mr. ANDERSON.

Mr. BAILEY with Mr. AVIS.

Mr. BORLAND with Mr. AUSTIN.

Mr. BULKLEY with Mr. BROWNE of Wisconsin.

Mr. BYRNS of Tennessee with Mr. EDMONDS.

Mr. CANTRILL with Mr. COPLEY.

Mr. CARAWAY with Mr. FESS.

Mr. CARTER with Mr. CRAMTON.

Mr. CASEY with Mr. GRAHAM of Pennsylvania.

Mr. CONNOLLY of Iowa with Mr. GREEN of Iowa.

Mr. DERSHEM with Mr. HAMILTON of Michigan.

Mr. DEITRICK with Mr. HAUGEN.

Mr. FLOOD of Virginia with Mr. HAYES.

Mr. GALLAGHER with Mr. HINEBAUGH.

Mr. GODWIN of North Carolina with Mr. HULINGS.

Mr. HOLLAND with Mr. HUMPHREY of Washington.

Mr. HOUSTON with Mr. LANGHAM.

Mr. JOHNSON of South Carolina with Mr. KIESS of Pennsylvania.

Mr. KEY of Ohio with Mr. LANGLEY.

Mr. LINTHICUM with Mr. MCGUIRE of Oklahoma.

Mr. MCCLELLAN with Mr. MANAHAN.

Mr. MONTAGUE with Mr. MARTIN.

Mr. MURRAY of Massachusetts with Mr. MILLER.

Mr. TUTTLE with Mr. MOORE.

Mr. WHALEY with Mr. MOSS of West Virginia.

Mr. WHITE with Mr. MOTT.

Mr. PALMER with Mr. NELSON.

Mr. PHELAN with Mr. PAIGE of Massachusetts.

Mr. RAUCH with Mr. PLATT.
Mr. RAYBURN with Mr. PORTER.
Mr. REILLY of Connecticut with Mr. SINNOTT.
Mr. RIORDAN with Mr. RUPLEY.
Mr. SMITH of Texas with Mr. BARTHOLDT.
Mr. STEPHENS of Mississippi with Mr. SAMUEL W. SMITH.
Mr. TAGGART with Mr. WOODS.
Mr. TALBOTT of Maryland with Mr. SUTHERLAND.
Mr. UNDERHILL with Mr. STEENERSON.
For the session:
Mr. GLASS with Mr. SLEMP.
Mr. SCULLY with Mr. BROWNING.
The result of the vote was announced as above recorded.
The SPEAKER. A quorum is present. The Doorkeeper will open the doors.
On motion of Mr. LEVER, a motion to reconsider the vote whereby the conference report was adopted was laid on the table.

EXTENSION OF REMARKS.

The SPEAKER. Some two or three hours ago the gentleman from Washington [Mr. JOHNSON] asked unanimous consent to extend his remarks in the RECORD. In the rush of the proceedings the Chair failed to put the request. Is there objection?
There was no objection.
Mr. PETERSON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of business conditions in northwestern Indiana.
The SPEAKER. The gentleman from Indiana [Mr. PETERSON] asks unanimous consent to extend his remarks in the RECORD on the subject of business conditions in northwestern Indiana. Is there objection?
There was no objection.

ADJOURNMENT.

Mr. JOHNSON of Kentucky. Mr. Speaker, at the request of the gentleman from Alabama [Mr. UNDERWOOD], who was compelled to leave the Hall for a moment, I move that the House do now adjourn.
The motion was agreed to; accordingly (at 5 o'clock and 37 minutes p. m.) the House adjourned until to-morrow, Tuesday, July 28, 1914, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:
Mr. DENT, from the Committee on Military Affairs, to which was referred the bill (H. R. 16510) to provide for recognizing the services of certain officers of the Army and Navy, late members of the Isthmian Canal Commission, to extend to them the thanks of Congress, to authorize their promotion, and for other purposes, reported the same without amendment, accompanied by a report (No. 1022), which said bill and report were referred to the Committee of the Whole House on the state of the Union.
Mr. HAWLEY, from the Committee on Agriculture, to which was referred the bill (H. R. 17780) providing for the use of certain portions or spaces of ground within the national forests for recreation purposes, reported the same without amendment, accompanied by a report (No. 1023), which said bill and report were referred to the Committee of the Whole House on the state of the Union.
Mr. FRENCH, from the Committee on the Public Lands, to which was referred the bill (S. 6106) validating locations of deposits of phosphate rock heretofore made in good faith under the placer mining laws of the United States, reported the same with amendment, accompanied by a report (No. 1020), which said bill and report were referred to the Committee of the Whole House on the state of the Union.
Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (H. R. 52) to establish the Peter Lassen National Park in the Sierra Nevada Mountains, in the State of California, and for other purposes, reported the same with amendment, accompanied by a report (No. 1021), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:
By Mr. HELVERING: A bill (H. R. 18084) to amend section 82, chapter 231, of the act to codify, revise, and amend the laws relating to the judiciary; to the Committee on the Judiciary.
By Mr. EVANS: A bill (H. R. 18085) to prevent the transportation by interstate carriers of certain persons and articles for the alleged prevention of so-called labor troubles; to the Committee on Interstate and Foreign Commerce.
By Mr. CARAWAY: A bill (H. R. 18086) to amend section 71 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 4, 1911; to the Committee on the Judiciary.
By Mr. WINGO: A bill (H. R. 18087) authorizing the Secretary of War to donate to the city of Mena, Ark., two cannon or fieldpieces; to the Committee on Military Affairs.
By Mr. ROBERTS of Nevada: Resolution (H. Res. 579) amending the Rules of the House of Representatives of the Sixty-third Congress; to the Committee on Rules.
By Mr. JOHNSON of Washington: Resolution (H. Res. 580) directing an investigation of the Chesapeake and Potomac Telephone Co.; to the Committee on the District of Columbia.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:
By Mr. BARTON: A bill (H. R. 18088) to correct the military record of Joseph Gorman; to the Committee on Military Affairs.
By Mr. BURKE of Wisconsin: A bill (H. R. 18089) granting an increase of pension to Aurilla Robbins; to the Committee on Invalid Pensions.
By Mr. BURNETT: A bill (H. R. 18090) for the relief of Amos L. Griffith; to the Committee on War Claims.
Also, a bill (H. R. 18091) granting a pension to D. A. Hollind; to the Committee on Invalid Pensions.
By Mr. CLAYPOOL: A bill (H. R. 18092) granting an increase of pension to Delliah Beecher; to the Committee on Invalid Pensions.
By Mr. DICKINSON: A bill (H. R. 18093) for the relief of the heirs of J. W. George, deceased; to the Committee on War Claims.
By Mr. FLOYD of Arkansas: A bill (H. R. 18094) granting an increase of pension to Calvin D. Weatherman; to the Committee on Invalid Pensions.
By Mr. FRANCIS: A bill (H. R. 18095) granting a pension to Elizabeth Lucas; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18096) granting a pension to Mary C. Hamilton; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18097) granting a pension to Winfield H. Handlay; to the Committee on Pensions.
Also, a bill (H. R. 18098) granting a pension to Newton L. Ingledue; to the Committee on Pensions.
Also, a bill (H. R. 18099) granting an increase of pension to Samuel Gooding; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18100) granting an increase of pension to Robert Hood; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18101) granting an increase of pension to John W. Beckett; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18102) granting a pension to Ida M. Gleaves; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18103) granting an increase of pension to Nathan Chaney; to the Committee on Invalid Pensions.
By Mr. GARD: A bill (H. R. 18104) granting a pension to Bennie Holman; to the Committee on Pensions.
By Mr. HULINGS: A bill (H. R. 18105) granting a pension to John Morgan; to the Committee on Invalid Pensions.
By Mr. LANGLEY: A bill (H. R. 18106) for the allowance of certain claims reported by the Court of Claims; to the Committee on Claims.
By Mr. McKELLAR: A bill (H. R. 18107) for the relief of the estate of James A. Robinson, deceased; to the Committee on War Claims.
Also, a bill (H. R. 18108) for the relief of the heirs or estate of David Jameson, deceased; to the Committee on War Claims.
By Mr. POWERS: A bill (H. R. 18109) for the relief of the heirs or estate of John Asher, deceased; to the Committee on War Claims.
By Mr. REED: A bill (H. R. 18110) for the relief of John Sullivan; to the Committee on Military Affairs.
By Mr. SELLS: A bill (H. R. 18111) granting a pension to Henry H. Collins; to the Committee on Pensions.
Also, a bill (H. R. 18112) granting a pension to William A. Wilson; to the Committee on Pensions.
Also, a bill (H. R. 18113) granting a pension to John B. Eakles; to the Committee on Pensions.
Also, a bill (H. R. 18114) granting a pension to Eli M. Blair; to the Committee on Pensions.
Also, a bill (H. R. 18115) granting an increase of pension to David G. W. Barnes; to the Committee on Invalid Pensions.
Also, a bill (H. R. 18116) granting an increase of pension to Ezekiel Goan; to the Committee on Invalid Pensions.

By Mr. SMITH of Idaho: A bill (H. R. 18117) granting an increase of pension to Charles E. Bradish; to the Committee on Invalid Pensions.

By Mr. SUTHERLAND: A bill (H. R. 18118) granting an increase of pension to James W. Ward; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolution signed by Roy L. Smith and others at Keota (Iowa) Chautauqua, protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. BRUCKNER: Petition of International Union of Journeymen Horseshoers, against national prohibition; to the Committee on Rules.

Also, memorial of department on compensation for industrial accidents and their prevention, the National Civic Federation, favoring passage of House bill 10735, to create a bureau of labor safety in the Department of Labor; to the Committee on Labor.

Also, petition of Claflin, Thayer & Co., of New York City, and F. A. Molitor, of New York City, protesting against legislation affecting business; to the Committee on the Judiciary.

Also, petition of sundry railway postal clerks, favoring amendment to House bill 17042, relative to free transportation for clerks to and from duty; to the Committee on the Post Office and Post Roads.

By Mr. DALE: Memorial of citizens of New York City, favoring Government ownership of the coal fields of Colorado; to the Committee on the Judiciary.

By Mr. DILLON: Petition of sundry voters of Carthage, S. Dak., favoring national prohibition; to the Committee on Rules.

By Mr. GOOD: Petition of 750 people of Cedar Rapids, Iowa, favoring national prohibition; to the Committee on Rules.

By Mr. GUERNSEY: Petition of Woman's Christian Temperance Union of Greenville, Me., favoring censorship of motion-picture films; to the Committee on the Judiciary.

Also, petition of Epworth Leagues of the Methodist Episcopal churches of Bangor, Brewer, North Brewer, Orono, Stillwater, and Oldtown, citizens of Calais, Caribou, Bangor, Castine, Methodist Episcopal Church, Calais, Yearly Meeting of Friends for New England at Vassalboro, all in the State of Maine, favoring national prohibition; to the Committee on Rules.

By Mr. HARRIS: Forty-six post cards from residents of the eighth congressional district of Alabama, in support of the Hobson prohibition amendment to the Constitution of the United States; to the Committee on Rules.

Also, petition of Missionary Federation of Decatur, Decatur, Ala., favoring national prohibition; to the Committee on Rules.

By Mr. HILL: Petition of the citizens of the twenty-fifth congressional district of Illinois, praying for the passage of House joint resolution 282, introduced by Representative SMITH of New York, to investigate claims of Dr. F. A. Cook that he discovered the North Pole; to the Committee on Naval Affairs.

By Mr. HOWELL: Petitions of sundry citizens of Ogden, Utah, in favor of national prohibition; to the Committee on Rules.

By Mr. LEE of Pennsylvania: Petition of International Union of Journeymen Horseshoers, against national prohibition; to the Committee on Rules.

Also, petition of citizens of New York City, favoring Government ownership of the coal fields of Colorado; to the Committee on the Judiciary.

By Mr. McCLELLAN: Petition of A. H. Bush and 16 others, representing Local Union No. 223, W. A. of Plumbers and Steam Fitters, of Kingston, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. MERRITT: Petition of Mrs. John S. Stetson, Mrs. Clarence H. Jones, Miss I. C. Migatt, Mrs. W. W. Jacques, W. W. Jacques, Mrs. N. H. Gass, Mrs. Carrie Barber, Mrs. P. H. Pordy, J. W. Talford, Mrs. J. W. Talford, J. B. Dickinson, Mrs. J. B. Dickinson, B. N. Dickinson, Mrs. B. N. Dickinson, Helen J. Dickinson, Janet M. Hinman, Mrs. Julia Trombly, Laura G. Ingles, Mrs. Isabella H. Graves, J. B. Ingles, R. W. Wheeler, John F. Hill, C. E. Hamilton, Mrs. C. E. Hamilton, Mrs. R. A. Wheeler, Charles A. Dominy, Nellie L. Dominy, Mrs. R. Simond, R. Simond, J. H. McCuen, R. A. Wheeler, Albert Beck, F. Beck, George R. Mott, and H. E. Myoick, all of Chazy, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. REED: Petition of Abraham Goldberg and 85 others, all from Manchester, N. H., protesting against national prohibition of the liquor traffic; to the Committee on Rules.

By Mr. SUTHERLAND: Papers to accompany a bill for relief of James W. Ward; to the Committee on Invalid Pensions.

By Mr. THOMSON of Illinois: Petition of 100 citizens of Millburn, Ill., favoring national prohibition; to the Committee on Rules.

By Mr. WHITE: Petition signed by A. N. Klein and J. B. Clark and about 34 others, of Marietta, Ohio, protesting against the enactment of any law reducing the postage on first-class mail matter or increasing it on second-class matter; to the Committee on the Post Office and Post Roads.

SENATE.

TUESDAY, *July 28, 1914.*

(Legislative day of Monday, July 27, 1914.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House agrees to the amendment of the Senate to the bill (H. R. 8688) for the relief of Lucien P. Rogers.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 110) to regulate trading in cotton futures and provide for the standardization of "upland" and "gulf" cottons separately.

The message further announced that the House had passed a joint resolution (H. J. Res. 241) for the appointment of four members of the Board of Managers of the National Home for Disabled Volunteer Soldiers, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 4988) to provide for the disposal of certain lands in the Fort Berthold Indian Reservation, N. Dak., and it was thereupon signed by the Vice President.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hollis	Perkins	Stone
Brady	Jones	Pittman	Sutherland
Brandegee	Kern	Pomerene	Swanson
Bryan	Lane	Reed	Thomas
Camden	Lea, Tenn.	Saulsbury	Thompson
Catron	Myers	Shafroth	Thornton
Chamberlain	Nelson	Sheppard	Tillman
Culberson	Norris	Simmons	Vardaman
Cummins	O'Gorman	Smith, Ga.	Walsh
Gallinger	Overman	Smoot	White
Gronna	Page	Sterling	

Mr. THORNTON. I desire to announce the necessary absence of my colleague [Mr. RANSDELL] on account of illness. I ask that this announcement may stand for the day.

Mr. KERN. I desire to announce the unavoidable absence of my colleague [Mr. SHIVELY]. He is paired. This announcement may stand for the day.

Mr. JONES. I desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent. He is paired with the junior Senator from Arkansas [Mr. ROBINSON]. I make this announcement for the day.

Mr. CATRON. I wish to announce the unavoidable absence of my colleague [Mr. FALL]. I wish this announcement to stand for this legislative day.

Mr. PAGE. I wish to announce the necessary absence of my colleague [Mr. DILLINGHAM]. He is paired with the senior Senator from Maryland [Mr. SMITH].

Mr. JONES. I desire to announce that the senior Senator from Wisconsin [Mr. LA FOLLETTE] is necessarily absent on account of illness.

Mr. GALLINGER. I make a similar announcement concerning the junior Senator from Maine [Mr. BURLEIGH].

The VICE PRESIDENT. Forty-three Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of the absentees.

The Secretary called the names of absent Senators, and Mr. LEWIS and Mr. NEWLANDS answered to their names when called.

Mr. CHILTON entered the Chamber and answered to his name.

Mr. CHILTON. It is proper I should explain that the Senator from Florida [Mr. BRYAN] and myself have been engaged upon the subcommittee of the Committee on Naval Affairs which was excepted from the Cummins resolution, and we were delayed.

The VICE PRESIDENT. Forty-six Senators have answered to the roll call. There is not a quorum present.

Mr. KERN. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will carry out the instruction of the Senate.

Mr. SMITH of Arizona, Mr. MARTINE of New Jersey, and Mr. OWEN entered the Chamber and answered to their names.

Mr. SWANSON. I wish to state that my colleague [Mr. MARTIN of Virginia] is absent on official business.

The VICE PRESIDENT. Forty-nine Senators have answered to the roll call. There is a quorum present.

Mr. BRANDEGEE. Mr. President, I do not know exactly in what shape to bring up the matter, but I will put it in the form of a parliamentary inquiry, because I can not rise to correct the RECORD, I suppose, as there is no reading of the Journal and no morning hour. Yesterday afternoon I sent to the desk an amendment, a copy of which I have here, proposing to strike out section 5. It was done during the remarks of the Senator from Utah [Mr. SUTHERLAND]. His remarks having been temporarily withheld from the RECORD, I am unable to quote to the Chair exactly what occurred. I notice the amendment I sent to the desk is stated to be "Amendment proposed by Mr. BRANDEGEE," whereas other amendments offered on the same afternoon are stated to be, for instance, "Amendment intended to be proposed by Mr. CUMMINS."

I should like to inquire the parliamentary status of the amendment which I sent to the desk. I am led to ask the question because on another part of the amendment it is stated, "Ordered to lie on the table and be printed"; and I am somewhat confused about the parliamentary status of it.

The VICE PRESIDENT. The Chair is of the opinion that possibly Senators do not understand the parliamentary status. For a Senator to send an amendment to the desk which is intended to be proposed as an amendment accomplishes no purpose save that of giving information to Senators as to what the Senator proposes hereafter to do; it is not a presentation of the amendment. The Senator from Connecticut [Mr. BRANDEGEE] yesterday, however, did propose an amendment to strike out section 5. In the present parliamentary situation the amendment of the Senator from Connecticut to strike out is the pending amendment before the Senate.

Mr. CUMMINS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. CUMMINS. If an amendment to the amendment proposed by the committee is offered, in order to perfect it, would not such an amendment be first voted upon?

The VICE PRESIDENT. That, of course, is a suppositious case; but the Chair believes that Rule VIII does provide that motions to amend the part proposed to be stricken out shall have precedence. If amendments shall be offered to perfect section 5, the Chair is of the opinion that they would have precedence over the motion of the Senator from Connecticut; but no such offer has as yet been made.

Mr. BRANDEGEE. Mr. President, merely in order to present my recollection of what occurred, for what it may be worth, I will state that I think when the remarks of the Senator from Utah are printed they will show what I said was—I am speaking only from memory—that I offered the amendment which I sent to the desk and asked that it might be printed.

The VICE PRESIDENT. The Chair has so ruled; but the Chair thinks the Senator from Connecticut will agree with the Chair that if any Senator desires to propose an amendment to the part of the bill which the Senator from Connecticut proposes to strike out, such an amendment would take precedence of the motion to strike out.

Mr. BRANDEGEE. I think the Chair is entirely correct about that.

The VICE PRESIDENT. That will be true if such an amendment is proposed. The Chair, however, does not know whether or not it will be proposed.

Mr. REED. Mr. President, if I can enlist the attention of the Senate for a moment, I want to call attention to what seems to me to have been an error committed on yesterday. We adopted an amendment to section 5, which provides:

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

The provision just referred to is in conflict, at least in its spirit, with a provision which was placed, after a great deal of care and work, in the Clayton bill, which has been reported from the Judiciary Committee. I do not claim there is an absolute conflict, but if one of these provisions should stand the other should not, because they are of the same class and kind and they deal with the same proposition in substance and in a diametrically different way. The provision of the Clayton bill which has just been reported is as follows:

That a final judgment or decree rendered in any suit or proceeding in equity brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

Now, you will observe that in the amendment adopted to section 5 we expressly provide that neither the finding of the commission nor the judgment of a court affirming the finding of the commission can be introduced in evidence in any proceeding. Of course, that only applies to section 5. When we come, however, to the antitrust bill, commonly called the Clayton bill, it will be seen that we have expressly provided that the decision of a court in any case in which the United States shall be a party may be introduced in evidence and shall constitute a prima facie showing. It seems to me that either the amendment adopted yesterday is wrong or the provision in the Clayton bill is wrong, because they are both of the same character.

Let me illustrate: In the Clayton bill, if a suit is brought by the United States and a decree is rendered, then any individual who might have been injured by any act of a trust or combination in restraint of trade may bring the record in that case and lay it down in a court where he is suing for his damages, or the Government in a similar controversy can introduce it as prima facie evidence, or any litigant can have the benefit of using the evidence once taken and a decree once rendered for the purpose of establishing a prima facie case or for the purpose of making a prima facie showing as to any fact involved in the case. When we come to section 5 we turn squarely around in the other direction; we say that, although the commission shall have made a most exhaustive investigation, although it shall have arrived at a conclusion of fact and of law, and although that conclusion of fact and of law shall have been solemnly affirmed by a court of the United States, it can not be used for any purpose.

It seems to me the amendment adopted yesterday emasculates the Newlands bill—I will refer to it by that name—to a considerable extent. It seems to me that the proper view is presented in the Clayton bill. Everyone understands that the ordinary individual litigant suing for damages on account of the wrongful conduct of a monopoly or an institution engaged in restraining trade and commerce is confronted by the fact that it may cost him ten times or a hundred times the amount of his claim to gather together the evidence, mass it, and bring it to court; and it seems absolutely fair to me that when the question has once been litigated and solemnly settled, the record in that case, in which the Government was the moving party, should be available to be laid down in order to make a prima facie showing. Thus, the private individual, or, indeed, the Government, in another suit involving similar matters would not be obliged to go over all the ground the second time.

I do not understand why the same rule should not apply to section 5 of the Newlands bill. It is my humble judgment that the principal benefit which we will obtain from the creation of a trade commission will be found in the fact that that commission will industriously gather facts; that it will investigate conditions; that it will make findings of fact; and that those findings of fact thus made are to be available to all of the people of the United States who desire to employ them in any litigation with those who have oppressed them.

Mr. CULBERSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Texas?

Mr. REED. I do.

Mr. CULBERSON. I will ask the Senator from Missouri if this amendment is not also in conflict with section 9b of the Clayton bill as reported from the Senate Committee on the Judiciary?

Mr. REED. I will be glad to come to that, and I am of the opinion that it is.

Mr. THOMAS. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Colorado?

Mr. REED. I do.

Mr. THOMAS. There is another phase of the amendment which was adopted yesterday that I hope the Senator will comment upon. I may be entirely at fault in my estimate of its serious character—if so, I want to be set right—but I regard it as one of the most amazing features of proposed legislation that was ever seriously contemplated in an Anglo-Saxon deliberative body.

It virtually denies to a man who is upon indictment for the violation of an act of Congress the benefit of a judgment in his favor in reference to the identical thing which constitutes the burden of the indictment, and which has decreed its validity. For example, if a corporation is haled before the commission proposed to be created, charged with unfair competition, and the commission sustains the charge, from which decision an appeal is taken to the Federal court having jurisdiction, and that court determines against the finding and authorizes the continuation of the practice, that is a judgment in favor of the corporation. Shortly afterwards the president of the corporation may be indicted, charged with violating the antitrust acts, the charge consisting of the very thing which the judgment of the court in the other case has authorized the company to do. Yet he can not, if this amendment becomes law and it is constitutional, plead the finding or judgment of that court in defense of the indictment, but may be found guilty, notwithstanding the protection of the judgment. If that is not kindling false lights upon a dangerous shore for the purpose of luring men to destruction, then I am greatly mistaken as to the practical effect of this amendment.

Mr. REED. Mr. President, I did not intend when I rose to make any extended remarks, and I do not intend to do so now; I am directing the attention of the Senate to the situation that exists. It seems to me that one of the great benefits to flow from the creation of the trade commission is to be found in the fact that that body of men will investigate certain questions; that they will try out certain issues of fact; that they will render a decision, and when that decision is affirmed in a court, then, that fact having been thus solemnly adjudicated, can be used by all other litigants, and thus the difficulty of going through these long, bitter controversies a dozen or a hundred times be avoided.

Let me illustrate: Suppose a dealer in steel felt that he had been aggrieved by the Steel Trust; that there was a combination to control prices. He files his complaint before the trade commission; the commission spends six months or a year and possibly a hundred thousand dollars of the Government's money to ascertain the truth of that complaint. It finally makes its finding of fact, and the court, after due review, affirms its finding of fact and its conclusion of law. Of course, that ends that one case; but now there are A, B, C, and D, and perhaps hundreds of men throughout the United States standing in exactly the same position as the complaining party in the case to which I have just referred. Shall they each go back to the commission and track the same ground? Shall they each, if they see fit to sue for damages under the Sherman Act, be compelled to mass that same evidence, bring the same witnesses, travel the same ground, and each of them expend a hundred thousand dollars in the trial of a case that has been once solemnly litigated and been solemnly adjudged, or should a judgment when once rendered at least carry with it sufficient weight so that it would constitute a prima facie showing of fact in any other litigation involving a similar proposition?

I think the language employed in the Clayton bill as amended in the Judiciary Committee is the kind of language that ought to appear in this bill. I have already read it; but in substance it provides that a final judgment, when rendered, may be introduced as a prima facie showing in other litigation to the same extent as to all matters in which it would constitute an estoppel between the original parties. That makes it available where the issues are the same. I see no wrong in that; I see no hardship in that; and if we do not avail ourselves of some such advantage as that from the trade commission, it seems to me we will get very little advantage from it.

It seems to me—and I say it with all due respect for my associates and for the author of this amendment—that the amendment, if it stands, almost completely emasculates the trade commission bill, and it is in effect the same thing as pulling the foundation out from under a house. We create vast *machinery*, an expensive tribunal, we provide for an immense amount of work, and then we deny the people the real advantage of that work.

I submit that some one who voted for this amendment ought to move its reconsideration.

Mr. SUTHERLAND obtained the floor.

Mr. THOMAS. Mr. President, will the Senator yield to me for one moment, in order that I may make a correction of the RECORD in a minor matter, but on one personal to myself?

Mr. SUTHERLAND. I yield.

Mr. THOMAS. On yesterday, when the vote was taken upon the amendment of the Senator from Nevada [Mr. NEWLANDS], I am reported, on page 13949, as having said, when my name was called, that it was my opinion that if my pair were present he would vote as I would, and I therefore cast my vote "nay." What I said was that I had been informed by those having the right to speak for the absent Senator that if he were present his vote would be as would mine. I did not express an opinion.

I should like to have that correction made.

Mr. REED. Mr. President, will the Senator yield to me for a moment, so that I may say a few words further in connection with what I said before?

Mr. SUTHERLAND. I yield.

Mr. REED. The Senator from Texas [Mr. CULBERSON], the chairman of the Judiciary Committee, has called my attention to another conflict, perhaps more marked than the one to which I referred.

I read from page 69 of the report, which contains an amendment proposed by the Judiciary Committee, known as section 9b. The part to which I am referring is as follows:

> On motion of the commission and on such notice as the court shall deem reasonable, the court shall set down the cause for summary final hearing.

Now, that is after the commission has acted.

> Upon such final hearing the finding of the commission shall be prima facie evidence of the facts therein stated, but if either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may allow such additional evidence to be taken before the commission or before a master appointed by the court and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem just.

Accordingly you will observe that in important particulars the Judiciary Committee, in preparing the amendments to the Clayton bill, have carefully provided that the finding of the commission shall be prima facie evidence in litigation other than that before the court when the evidence was taken. If those provisions are to stand, if it is wise that they shall stand, then it does seem to me that the amendment we adopted yesterday ought not to stand.

I thank the Senator for having yielded to me.

Mr. CUMMINS and Mr. NEWLANDS addressed the Chair.

The VICE PRESIDENT. Does the Senator from Utah yield, and to whom?

Mr. SUTHERLAND. I yield to the Senator from Iowa.

Mr. CUMMINS. It is somewhat irregular, I think, to make an argument upon an anticipated motion for reconsideration, and then make a condition in which those who are in favor of the amendment can not reply. I do not intend to interrupt the Senator from Utah by replying to the Senator from Missouri at this time, although I shall hope to have an opportunity to be heard if the motion to reconsider is made. I content myself at this time by saying there is no conflict whatsoever, in my opinion, between this amendment and any part of the Clayton bill, and especially is there no conflict between this amendment and that part of the Clayton bill last read by the Senator from Missouri. If the motion to reconsider is made I shall then expect to be heard upon it.

Mr. PITTMAN. Mr. President——

Mr. SUTHERLAND. Mr. President, I must decline to yield further.

Mr. PITTMAN. I simply desired to make a motion to reconsider, if the Senator will allow me, so as to throw this matter open to debate.

Mr. SUTHERLAND. I do not think I should yield for that purpose. I expect to occupy only a few moments of time.

Mr. President, on yesterday I undertook to discuss somewhat in detail the provisions of the so-called trade commission bill, and to point out to the Senate wherein I thought those provisions were unfair in many particulars, and invalid in many particulars. I substantially completed what I had to say with reference to the bill, but yielded the floor for a motion to go into executive session.

At the time that motion was made I was discussing section 5 of the bill with reference to unfair competition; and I had said

that if the language of the bill with reference to unfair competition were to be construed in one way the effect was to confer upon the trade commission judicial power, while if it were construed in the only other possible way that it could be construed, then it was open to the objection that it undertook to delegate legislative power. In other words, it seems to me that this section puts us upon the horns of a dilemma, and that it is void in either aspect.

The difference between judicial power and legislative power has been clearly defined by the courts and by law writers over and over again. There is no difficulty about the definition. There is sometimes some difficulty in determining whether or not the given case falls within or without the definition.

One of the best illustrations of a legitimate attempt to delegate the legislative power is the legislation creating the Interstate Commerce Commission and providing the powers which that commission shall exercise. The Congress of the United States in that legislation lays down a definite primary standard and gives to the Interstate Commerce Commission the power, not to inquire as to whether a law has been violated, but in effect to make subsidiary laws within the limits of the primary standard that has been laid down; and what the Interstate Commerce Commission does is to make a law to all intents and purposes.

I have said that that has been decided over and over again by the Supreme Court of the United States. Here is one decision, a comparatively recent one, in the case of Knoxville against Water Co., in Two hundred and twelfth United States. I refer to that decision because it deals with the general subject of devolving this character of power upon a body which is subsidiary to the legislative body.

At page 8 of that book the court said:

> The purpose of this suit is to arrest the operation of a law on the ground that it is void and of no effect. It happens that in this particular case it is not an act of the legislature that is attacked, but an ordinance of a municipality. Nevertheless the function of rate making is purely legislative in its character, and this is true, whether it is exercised directly by the legislature itself or by some subordinate or administrative body to whom the power of fixing rates in detail has been delegated. The completed act derives its authority from the legislature and must be regarded as an exercise of the legislative power.

What section 5 of the pending bill does is not to lay down a primary standard for the guidance of the interstate trade commission, but it is, first of all, to enact a law. The opening sentence is:

> That unfair competition in commerce is hereby declared unlawful.

I am proceeding thus far upon the theory that the words "unfair competition" are to be given their legal meaning; that is, that in order to determine whether or not a case falls within the inhibition against unfair competition we are to resort to the decisions of the courts and the law writers, and that it is a legal question; that the inquiry is whether or not the acts which are complained of violate the provisions of the statute.

In that view, what is the commission directed to do? It is empowered and directed to prevent corporations from using unfair methods of competition. Thus far I am proceeding upon the theory that "unfair methods of competition" means the same as "unfair competition," which I think it does not. Then, the bill further directs that whenever the commission shall have reason to believe that any corporation has been or is using any unfair method of competition in commerce it shall issue its order directed to the supposedly offending parties, and bring those parties before the commission for an inquiry, and if the commission finds that the parties cited before it are engaged in doing things which, in the language of the bill, are "prohibited by this act, it"—the commission—"shall thereupon issue an order restraining and prohibiting the use of the same." Then the commission is given power at any time to modify or set aside the order which it has issued.

What power have we conferred upon that commission that is legislative in character? Here is a law which denounces as an offense, though no penalty may be attached to it, unfair competition. The commission inquires in a given case whether or not the corporation cited before it has been guilty of such acts as to constitute a violation of that law. The function of the commission in that view of that matter is not to make a subsidiary law or rule for the guidance of corporations in the future within the limits of the primary standard, but it is to *ascertain whether an existing statute* has been, in fact, violated, and if so to issue an order which to all intents and purposes is an injunction, the power to issue which is a judicial power, and can reside in the courts and nowhere else.

Now, after the commission has decided the case and issued its order restraining and prohibiting the corporation from the continuance of the practice in violation of the law, if the corporation has failed to comply the framers of this bill recognize that the commission could be given no power to enforce it. The power could not be given to cite these parties as for contempt. That much was realized. Therefore the power is not given to the commission to enforce its own order. But nevertheless it is in substance and effect a judicial order and not a legislative act. When the commission becomes satisfied that the order is not being complied with, then it is directed to bring the matter by a petition before a district court of the United States, and that court apparently, as a mere perfunctory matter, is authorized to issue an injunction to carry into effect the preceding injunction of the trade commission.

The fact that the order can not be made finally effective except by the interposition of the court will not prevent the prior proceedings of the commission from being in the nature of an exercise of the judicial power.

Here is a case recently decided by the Supreme Court of Illinois, reported in Two hundred and twelfth Illinois, at page 638. The syllabus of the case is as follows:

> Section 2 of act requiring landowners to clean streams is unconstitutional. Section 2 of the act for the protection and maintenance of ditches and streams (Laws of 1897, p. 206), which authorizes the tax assessor and county clerk to assess a penalty against landowners failing to clean streams, as required by section 1 of the act, is unconstitutional, as delegating judicial power to tax assessors and county clerks.

Now, I want to read briefly from that decision, because, as I read it, it bears upon exactly the condition that I have been making. At page 640:

> Under article 3 of the constitution—

That is, the constitution of Illinois—

> Under article 3 of the constitution the powers of the government of the State are divided into three distinct departments—the legislative, the executive, and the judicial. Each of these departments has a well-defined and well-recognized function and power. The legislative department makes the laws, the executive department enforces them, and the judicial department interprets or construes them. The same section of the constitution which distributes the powers of government into these three classes also provides that no person or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as afterwards expressly directed and permitted.

I may pause at that point to say there is no such provision as that in the Constitution of the United States, but it is there by necessary implication, because under the Constitution of the United States all the legislative power of the United States is conferred upon Congress; and all the legislative power being conferred upon Congress, it necessarily follows that any legislative power is denied to any other of the departments of government. So the Constitution provides that all judicial power is conferred upon the Supreme Court of the United States and such other courts as Congress may from time to time ordain and establish; and all the judicial power having been conferred upon the courts, it necessarily follows that any judicial power has been denied to any other department of the Government, and quite as effectually as if there had been an express provision to the effect; and that is the ruling of the courts upon that question.

Now, the opinion proceeds:

> Assessors of taxes and county clerks are ministerial officers, and while in some respects their acts may be construed as judicial, yet they are not judicial officers as that term is used in the constitution. They have no power to inflict penalties for violation of laws or to determine when a law has been violated and adjudge persons guilty. The statute in question imposed a duty upon persons owning land on the borders of certain streams. If the owner does not comply with the statute, he is to be punished. This punishment is not a tax imposed upon his land, but is a penalty for the violation of law. This is apparent from the wording of the statute, which expressly stated that a penalty shall be inflicted and that the amount assessed is to go into the school fund of the district. Before the property owner can be found guilty there are several things to be determined, namely, that the offense has been committed, that the offender is the owner of the land, that the stream or run is more than 15 feet wide and is not a river of the State; and the provisions of the act do not interfere with fencing, floodgates, bridges, culverts, etc. All of these questions must be determined before the penalty can be inflicted. They are clearly questions for determination by the judicial power of the State. To hold otherwise would be to permit the assessor to levy a penalty and deprive the offender of his property without due process of law, as provided in section 2 of article 2 of the constitution.

Now, I call particular attention to the concluding paragraph of this decision, which reads:

> It is no answer to say that the property owner can object to the tax in the county court and there have these questions judicially determined, for the reason that if the assessor has the power to impose the penalty and the county clerk has the power to extend the taxes, there is nothing left for the county court but to overrule the objection, as the question of violation has been previously determined by these officers.

That is precisely what happens under this bill. The commission, having determined that the given corporation has been guilty of such acts as constitute unfair competition, which is forbidden by the law of the land, proceeds to issue its order, and the function of the court is not to try that case de novo, to hear the evidence as to whether or not there has been a

violation of the law of Congress, but to ascertain whether or not the order issued by the commission, which, as I say, in that view is a judicial decree, has been violated by the corporation; and having found that the corporation has violated the order, under this bill there is nothing for the court to do except to issue its injunctive order directing the corporation, in substance, to obey the order of the commission for the future.

Mr. BRANDEGEE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bankhead	Jones	Pittman	Swanson
Brady	Kenyon	Pomerene	Thomas
Brandegee	Kern	Reed	Thompson
Camden	Lane	Saulsbury	Thornton
Catron	Lee, Md.	Shafroth	Tillman
Chamberlain	Lewis	Sheppard	Vardaman
Colt	Martine, N. J.	Shields	Walsh
Crawford	Nelson	Simmons	Weeks
Culberson	Newlands	Smith, Ariz.	West
Cummins	Norris	Smith, Ga.	White
Gallinger	O'Gorman	Smith, Md.	Williams
Gronna	Overman	Smoot	
Hollis	Page	Sterling	
Hughes	Perkins	Sutherland	

Mr. TILLMAN. I was asked by the Senator from Florida [Mr. BRYAN] and the Senator from West Virginia [Mr. CHILTON] to announce that they are unavoidably absent on public business.

The VICE PRESIDENT. Fifty-three Senators have answered to the roll call. There is a quorum present. The Senator from Utah will proceed.

Mr. SUTHERLAND. Mr. President, if what I have said thus far about this section 5 is not correct, namely, if the words "unfair competition" do not mean the same as "unfair methods of competition," and the words "unfair competition" are not to be given their legal meaning, then it would follow that the commission is given the power to go beyond the legal meaning of the term and to declare practices as unfair competition which the law does not declare to be unfair competition, and to construe the words "unfair competition" in some popular or colloquial sense. When it does that and proceeds to issue an order, proceeds to declare the practices constitute unfair competition in some popular meaning of that expression, then it is making a law, and before it can be permitted to do that legally there must be in the congressional act a primary standard laid down which will limit, and clearly limit, the boundaries within which the commission must proceed to legislate.

It is self-evident that if the commission is permitted to declare as unfair competition any practices which it may think to be unfair competition, then there is no standard laid down in this law, because in that view of it the words "unfair competition" include everything which anybody charged with responsibility upon this commission may in his mind think to be unfair competition, and no business man can tell, even approximately, in advance whether the thing he is about to do will constitute a violation of law or not, because the law has not been made and its limits have not been defined by a congressional act. The law is not in existence until the commission has evolved it from the inner consciousness of its members—from their peculiar ethical views or their prejudices or from some other attribute of their minds.

Mr. President, I emphasize this and repeat it to some extent because I regard the proposition which I am making as absolutely fatal to the validity to this section 5.

Mr. REED. If it will not interrupt the Senator——

Mr. SUTHERLAND. Certainly not.

Mr. REED. The Senator used the expression, as nearly as I can quote it, "the law is not in existence until it is evolved by the commission." Now, law implies a rule of conduct. Is there anything in the bill as it now stands providing that when the commission has once decided a matter it shall then constitute a rule of conduct? Are we not relegated to simply this: The commission in each individual case, following the light of its own conscience, shall decide that particular case accordingly as it may at that particular moment feel?

Mr. SUTHERLAND. Oh, yes. The Senator is entirely correct in that statement. In that view of it, the commission may make a rule to-day governing a particular corporation and may make an entirely different rule to-morrow governing another corporation, or it might make even a different rule to-morrow for the same corporation that it had imposed its rule upon to-day. There is no boundary whatever prescribed in this proposed statute.

Mr. BRANDEGEE. Mr. President——

Mr. REED. If the Senator will pardon me, I was trying to draw the distinction between the commission, under this broad and general power, sitting down and writing and promulgating a series of rules and then undertaking to say they should be followed, this at least furnishing a rule of the commission, and the mere decision of the commission in particular cases, which I think is a very broad distinction.

I wanted to get the Senator's view on this point: Suppose the Congress of the United States was to say in this bill, "the commission is hereby authorized to pass such rules and regulations as it shall see fit for the government of the business of the United States, and shall have the power to prescribe that which is lawful and that which is unlawful," can the Senator doubt that that would be an express delegation or an attempt to delegate legislative authority?

Mr. SUTHERLAND. I have no doubt about it.

Mr. REED. If they can not make a rule general in its nature, how can it be held that they can issue a decree specific in its character?

Mr. SUTHERLAND. I think, Mr. President, that it can not be done. That has been the burden of my argument all the way through.

Mr. REED. I understand that.

Mr. SUTHERLAND. Let me, before the Senator from Connecticut interrupts, say that the Senator from Missouri was not in yesterday when I read some vague laws that had met with the condemnation of the courts, and among others I read a provision of the Chinese Penal Code, which, I think, is practically parallel with this proposed legislation. I think the Senator from Nevada [Mr. NEWLANDS] is probably deeply learned in the Chinese laws and is saturated with the learning and philosophy out of which those laws have grown. I think he must have had this very provision before him when he came to draw this bill, because it presents so precise a parallel. Let me read it:

> Whoever is guilty of improper conduct and of such as is contrary to the spirit of the law, though not a breach of any specific part of it, shall be punished at least 40 blows.

Then, notice this, which the Chinese legislators inserted for fear some person might escape or should not receive sufficient punishment under the rather narrow rule that they had laid down. They proceeded:

> And when the impropriety is of a serious nature, with 80 blows.

I shall expect, if this law goes into operation and shall be upheld by the Supreme Court of the United States, that we shall be called upon some time in the future to pass upon a proposed law of that character, because if we can pass this bill containing the unfair-competition provision and it can be upheld, there is no reason why we should not pass a more general law and, once for all, take from our shoulders the burden and responsibility of ourselves making laws.

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Connecticut?

Mr. SUTHERLAND. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. The bill, as the Senator from Utah knows, provides in reference to the orders which the commission may issue:

> The commission may at any time modify or set aside, in whole or in part, any order issued by it under this act.

So they can order a man to do a thing to-day or find a thing to be an unfair method of competition to-day and to-morrow they can change it. They can order one man to desist from an unfair method of competition and they can allow another man to persist in it.

Mr. SUTHERLAND. Oh, certainly.

Mr. BRANDEGEE. There is no provision that whatever order they make shall be uniform and shall bear upon all alike.

Mr. SUTHERLAND. Oh, they become the practical censors of public business morality, issuing their edicts from time to time and withdrawing them from time to time as may agree with their peculiar notions of the moment.

Mr. BRANDEGEE. And they can play their pets and favorites and punish those whom they do not like.

Mr. SUTHERLAND. Undoubtedly.

Mr. WEST. Mr. President——

Mr. SUTHERLAND. I yield to the Senator from Georgia, if he desires to interrupt me.

Mr. WEST. It would be the case that upon the same statement of facts they could punish one and let the other go scot free?

Mr. SUTHERLAND. I think undoubtedly so. I do not see how it can be avoided under this provision of the proposed law.

Mr. President, the Senator from Missouri [Mr. REED] a little while ago called attention to an amendment which we adopted on yesterday, which some of us strenuously opposed, but which was voted into the bill notwithstanding, and he showed that

that amendment would conflict with certain provisions of the so-called Clayton antitrust bill; as I remember, that it would conflict with more than one provision of that bill. That illustrates what I have said heretofore, that these three bills to a large extent overlap each other, and, dealing with the same subject, ought to be considered together. Considering each of them separately, we are sure to put into one or the other of the bills haphazard provisions of this character which will conflict with provisions in the other bills as they come up.

Mr. SHIELDS. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Tennessee?

Mr. SUTHERLAND. I yield to the Senator.

Mr. SHIELDS. I also call the Senator's attention to the fact that the provision in the Clayton bill as reported to the Senate is in harmony with the provisions upon that subject in the interstate-commerce law, while the amendment offered yesterday as to similar proceedings is in direct conflict with those measures.

Mr. SUTHERLAND. Yes. It is not fair to the business interests of this country that we should proceed to legislate in this way. The fair thing and the wise thing would be to take these three bills, or at least two of them, the so-called Clayton bill and the unfair competition bill, and refer them back to the Committees on the Judiciary and Interstate Commerce to act jointly on them, and then for Congress to adjourn and go home and let this whole question be thrashed out by those committees; let these provisions be reconciled; let these bills be dovetailed together, so that they will be harmonious one with the other and so that these many provisions, which I predict will be incapable of enforcement, or, rather, will not be enforced or will be enforced arbitrarily or will be held invalid by the courts, may be eliminated. If we will do that, we will be doing far more good for the country than we will to sit here, after all of us are tired out, when our brains are not operating as they ought to operate and as they would operate after a season of rest. We would be doing far more good for the country if we were to adjourn and let these bills be taken care of by those two committees and then be brought into the Senate at the incoming session in December. Then we would get some legislation that would mean something.

Mr. JONES. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Washington?

Mr. SUTHERLAND. I yield to the Senator from Washington.

Mr. JONES. Would it not also be of benefit to give the country the opportunity to find out just what is in these bills and have an opportunity to give expression to its views with reference to them independently?

Mr. SUTHERLAND. Certainly.

Mr. JONES. I want to call attention to the fact that under date of June 5 of this year (calendar day, June 6) Senate bill 4160, a bill to create an interstate trade commission, to define its powers and duties, and for other purposes, was reported by Mr. NEWLANDS with amendments. Then on June 13, six or seven days afterwards, House bill 15613 was reported, containing section 5. Section 5, which we are now discussing, was not in the bill at all as reported on June 6. So the first intimation which we had of any subject covered by section 5 came out in the bill as reported on June 13.

Mr. SUTHERLAND. That is correct, Mr. President. I venture to say that the business men of the country generally do not understand what is in these various bills, and particularly that they do not understand what is in the unfair-competition bill. They ought to understand that; we ought to get their point of view before we can intelligently act upon such legislation.

Mr. President, the original Sherman Antitrust Act was before Congress, as I remember, something like two years before it was finally acted upon. It was brought into the Senate and discussed day after day for a long time; amendments were proposed to it; some amendments were adopted, and after the bill had all been thrashed out—a statute like that, which was simple as compared with this trade-commission bill—after all that had been done, the Senate as then constituted saw the wisdom of sending the bill to another committee; and they sent it to the Committee on the Judiciary, from which it finally emerged in an altogether different shape, in many respects from the bill as it had been considered in the Senate. That is the way that body of men proceeded, because they did not want to pass any haphazard legislation; they took their time about it. Is the country going to suffer if the Newlands bill is not passed this week? Is anybody going to suffer if we take the time until next December to consider it? I see the Senator from Nevada is upon his feet, and I should like him to tell us.

Mr. NEWLANDS. Mr. President, I wanted to ask a question or two of the Senator, if he will permit me.

Mr. SUTHERLAND. Very well.

Mr. NEWLANDS. In the first place, I wish to ask the Senator whether he believes in any form of a trade commission, or whether he has any definite view as to how that trade commission should be constituted, and what functions it should perform?

Mr. SUTHERLAND. Mr. President, I am not certain that I believe in any form of a trade commission, but it is sufficient for my purpose now to say that I do not believe in the trade commission proposed by the pending bill.

Mr. NEWLANDS. Then, with reference to this bill, has the Senator as yet proposed any amendments to it?

Mr. SUTHERLAND. No; I recognize the utter futility of presenting amendments to this bill. I have called attention to what I consider to be very clear incongruities in it, and if the Senator from Nevada thinks I am right I know that an amendment offered by him will stand a far better chance of adoption than any offered by me.

Mr. NEWLANDS. I will state, Mr. President, that it is my purpose to look over very carefully all the amendments that are presented to this bill and present them to the committee before the bill is finally reported to the Senate. I am very desirous of receiving any suggestions from Members of the Senate regarding it. The bill in the committee was not considered in any partisan way; both Republicans and Democrats participated in its framing, and it is in no sense to be regarded as a partisan measure. The bill is comparatively simple in its framework.

Now, I should like to know, first, whether the Senator, for instance, believes that it is wise to give such a trade commission any powers of investigation over corporations engaged in interstate commerce, and, second, whether or not he thinks it is wise to enable this commission to be of aid to the courts in the preparation of decrees of dissolution, and, third, whether he thinks it desirable that this commission, if in its investigation it finds the antitrust laws being violated, should report to the Attorney General its findings?

Mr. SUTHERLAND. The Senator is asking me a great many questions, and I am afraid I will not be able to bear them all in mind.

Mr. NEWLANDS. All these are simple matters, and if the bill is not perfect in these particulars, or has any defect, I would be very glad if the Senator would suggest amendments and give us the benefit of his knowledge and experience. I am sure there is no lawyer in this body who would be listened to with greater respect than would the Senator from Utah.

What I would like to avoid is simply the assertion of critical faculties with reference to this bill; I should like to see the constructive faculties of those who are opposed to it employed in such a practical way as to give us the benefit of their suggestions, so that we can accept them if they are wise.

The bill itself, as I have said, is a very simple one, it seems to me, except so far perhaps as section 5 is concerned. There has been some discussion about the indefiniteness of the rule laid down there as to unfair competition. If the Senator would prefer that the offenses constituting unfair competition should be specifically stated, I am sure that we would value an amendment from him that would specifically state the unfair practices which he thought ought to be inquired into and condemned by the trade commission; and it is possible that such an enumeration might be made in the bill, together with a basket clause——

Mr. SUTHERLAND. Similar to the Chinese basket clause which I have read.

Mr. NEWLANDS. Together with a basket clause covering unfair competition either with or without the specific enumeration. I am not at all dismayed by the suggestion of the Senator that this legislation is rather of a Chinese character. I am sure that the words "unfair competition" present no greater complications than were presented by numerous words which have been employed in legal phraseology, such as "undue," "unreasonable," "reasonable care," or the phrase itself "restraint of trade"; but if the Senator desires really to reach this evil and would suggest to the Senate a better and more definite way of reaching it by an amendment, I am sure we would be very glad to consider it.

Mr. SUTHERLAND. I, perhaps, ought not to have characterized this proposed law as a Chinese law; I did not quite mean to do that; but I think the Senator from Nevada must agree with me that many of the expressions and the general

scope of the bill might be described as oriental imagery, to some extent.

Mr. NEWLANDS. The charge, then, will extend to the Supreme Court and to the other courts of the United States, which in their decrees have employed the term "unfair competition" again and again, and not only in the decrees but in decisions, as having a definite significance.

Mr. SUTHERLAND. The courts have very frequently said in their decisions that certain conduct was improper conduct; but does the Senator from Nevada think that a statute passed by Congress denouncing improper conduct would be a valid statute that the courts could lay hold of and enforce? The fact that the courts have used some expression does not make that expression so definite that it can be used in the framing of a statute.

Mr. NEWLANDS. Yes; but it seems to me that when a court in its decree forbids a defendant from engaging in "any other form of unfair competition," the court must have a pretty clear idea of what "unfair competition" is and what it will embrace, and that the court can hardly be charged with imitating the Chinese in the matter of their phraseology.

Mr. COLT. Mr. President——

Mr. SUTHERLAND. In a moment I will yield to the Senator. Can the Senator from Nevada call my attention to any case where a court has issued a decree enjoining "unfair competition"?

Mr. NEWLANDS. I can.

Mr. SUTHERLAND. By that description and nothing more?

Mr. NEWLANDS. I can. Such an instance has been referred to in the argument of this case, and later on I will refer the Senator to one.

Mr. SUTHERLAND. Mr. President, I will undertake to say that the Senator can not find any such decree, because such a decree would be manifestly void; it would be a decree no better than one enjoining the defendant from improper conduct. An injunction must tell the defendant what acts he must refrain from doing; it must not tell him in the language of a legal conclusion, but it must tell him in the language of fact what he must refrain from doing. Perhaps it may be true that an injunction has been issued enjoining the defendant from doing certain things, describing them, and then containing a general clause enjoining him from "other methods of unfair competition"; but that, of course, would be construed in connection with the preceding language and would be limited to the character of acts which were described in the detailed portion of the decree. No decree, however, would stand for one moment which would be couched in the language of this law, that the defendant "is restrained and enjoined from practicing unfair competition." If that was all of it, of course it would not stand.

I yield to the Senator from Rhode Island.

Mr. COLT. Mr. President, I merely wanted to ask the Senator from Nevada, the chairman of the committee, if there had been any hearings before the committee with respect to section 5, and especially with respect to the insertion of the words "unfair competition"? In the case of the Clayton bill I am aware that business men were asked to appear and testify as to the several provisions of that bill relating to discrimination in price, "tying" contracts, holding companies, and interlocking directorates. I wanted to ask if the business men of the country have been heard with respect to this new and indefinite phrase, "unfair competition"?

I am profoundly impressed with the view that our legislation should conform to the business usages and practices of the country, and that that should be our aim. If we have passed through a period where there have been sudden economic and industrial changes, then we should call upon the business men of the country to state how far they desire these changes to be incorporated into statute law.

In other words, our attitude toward the business of the country where great changes have taken place in the methods of business should be constructive and not wholly remedial or destructive. If, for instance, the principle of cooperation, as opposed to the principle of extreme competition, has become a tendency of modern economic and industrial development in this country and throughout the civilized world, and business men have recognized it, it is the duty of Congress to recognize this fact in making changes in the law.

I remember reading a speech of the Senator from Iowa [Mr. CUMMINS], in which he said that the tendency toward cooperation existed practically in every civilized nation in the world. If that is a fact, I would approach legislation *from the standpoint of recognizing* this tendency; in other words, from the standpoint of construction rather than destruction, and in so far as this tendency or principle is recognized by the business men of the country I would incorporate it into the law of the land. In other words, if that principle has become a part of the custom, usage, and practice of the best business men of the country, it should be recognized.

I did not intend to wander, Mr. President. I merely want to know what the business men of this country think of this phrase "unfair competition," which is new in the sense in which it is now used. I want to know what they think of it and how they are going to meet it if it is incorporated into law. I do not think the law should originate in the mind of some lawyer or group of lawyers in this body who may believe that certain changes in the law will meet and correct certain evils. That is not the way to approach this class of legislation.

Therefore I think we should all hesitate, in justice to the business men of the country, before incorporating these words into the law of the land. The prosperity of the country depends upon the business men. It is what they want, not what we want, that should be the law. We are in the field of customary law, and customary law has always been the custom and usages of the people. I think it would be dangerous if we should now incorporate this phrase into the law without at least giving the business men of this country a hearing.

Mr. SUTHERLAND. Mr. President——

Mr. NEWLANDS. Mr. President, of course I do not wish to take up the Senator's time, but the Senator from Rhode Island put a query to me.

Mr. SUTHERLAND. I yield to the Senator from Nevada.

Mr. NEWLANDS. The Senator says we should hesitate about this legislation. We have been hesitating for many years, and we have hesitated long enough. We have been having hearings upon this subject, both in the Senate and in the House, for years. The phrase "unfair competition" has become such a general phrase that in 1911, when I introduced the first trade commission bill, I provided for a commission that should restrain unfair competition. It had significance then among economists and among business men, and it had a legal significance then, and it has now.

The Senator inquires whether we have consulted the merchants of the country and the business men of the country. Look over the records of both the House and the Senate and observe the voluminous hearings that have been held upon this subject, in all of which unfair competition has been dealt with as an element in our economic life, a phrase perfectly understood by the business men of the country, understood by economists, and understood by the courts, as expressed in their decisions and in their decrees.

The time for hesitation, it seems to me, has gone by. The time for legislation is now upon us; and what I am asking is the helpful aid of the critics of this bill in constructive amendments that will perfect it.

Mr. JONES. Mr. President, will the Senator from Utah yield to me for just a moment?

Mr. SUTHERLAND. I yield to the Senator from Washington. Then I must resume the floor, for fear the statute of limitations will run against me.

Mr. JONES. I just wanted to ask the Senator from Nevada whether or not there was any provision similar to this relating to unfair competition in Senate bill 4160, introduced by the Senator, when it was introduced, or whether there was any such provision in it when it was reported to the Senate? I have examined it hastily, and I have been unable to find any provision anything like section 5 of the bill which we are now considering.

Mr. NEWLANDS. I can not identify these bills by number. The Senator asks about Senate bill 4160?

Mr. JONES. Yes.

Mr. NEWLANDS. No; there is not.

Mr. JONES. That is the trade commission bill introduced by the Senator on January 22, and reported by him to the Senate with amendments on June 5.

Mr. NEWLANDS. That is true.

Mr. JONES. So that neither the bill as introduced nor the bill as reported contains any provision similar to section 5 of this bill?

Mr. NEWLANDS. That is true.

Mr. BRANDEGEE. Mr. President——

Mr. SUTHERLAND. I yield to the Senator from Connecticut.

Mr. CLAPP. The Senator should file a disclaimer of any purpose to avoid the statute of limitations.

Mr. BRANDEGEE. I realize that it is almost forcing senatorial courtesy unduly to ask the Senator from Utah to yield; but the Senator from Rhode Island [Mr. COLT] has asked a very pertinent question. He asks whether the business men of this country have been heard as to section 5 of this bill, as to

what they think "unfair competition" means, and whether they want it prohibited in those words.

Mr. President, I take it upon myself to say that no such provision as that was in the bill which the Senator who is the chairman of the Interstate Commerce Committee himself introduced.

No such provision as that was in the bill which our committee reported to the Senate. That provision is a part of a bill known in the House as the Stevens bill. Without any hearing whatsoever before the Committee on Interstate Commerce it was taken by one of the members, after the bill had been completed by the committee and it was ready to report, and was engrafted upon this bill, with not one single witness having testified before the committee in relation to it. The discussion upon it in the Senate Committee on Interstate Commerce did not consume 20 minutes The yeas and nays were called, and it was voted right on. That is the history of section 5.

Mr. SUTHERLAND. Mr. President——

Mr. HOLLIS. Mr. President——

Mr. SUTHERLAND. Mr. President, I must refuse to yield for a moment. I will yield the floor in a very short time.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes.

SUNDRY CIVIL APPROPRIATIONS.

Mr. MARTIN of Virginia submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 45 and 91.

That the House recede from its disagreement to the amendments of the Senate numbered 138 and 146; and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "The President is authorized from time to time, as the exigencies of the service may require, to rearrange, by consolidation or otherwise, the several customs-collection districts and to discontinue ports of entry by abolishing the same or establishing others in their stead: *Provided*, That the whole number of customs-collection districts, ports of entry, or either of them, shall at no time be made to exceed those now established and authorized except as the same may hereafter be provided by law: *Provided further*, That hereafter the collector of customs of each customs-collection district shall be officially designated by the number of the district for which he is appointed and not by the name of the port where the headquarters are situated, and the President is authorized from time to time to change the location of the headquarters in any customs-collection district as the needs of the service may require: *And provided further*, That the President shall, at the beginning of each regular session, submit to Congress a statement of all acts, if any, done hereunder and the reasons therefor"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "For the administration and improvement of Glacier National Park, Mont., the construction of roads, trails, bridges, and telephone lines and the repair thereof, including the construction of a road, together with the necessary bridges and culverts, from the old town of St. Mary; thence in a general northerly and westerly direction through that part of the Blackfeet Indian Reservation east of lower St. Mary Lake to a point in or near section 35, township 36 north, range 15 west, on the boundary line between the Glacier National Park and the Blackfeet Indian Reservation, $75,000. The Secretary of the Interior is hereby authorized to accept patented lands or rights of way over patented lands in the Glacier National Park that may be donated for park purposes (acts May 11, 1910, vol. 36, p. 354, secs. 1 and 2; June 23, 1913, vol. 38, p. 49, sec. 17)"; and the Senate agree to the same.

THOMAS S. MARTIN,
LEE S. OVERMAN,
GEORGE C. PERKINS,
Managers on the part of the Senate.
JOHN J. FITZGERALD,
SWAGAR SHERLEY,
Managers on the part of the House.

Mr. MARTIN of Virginia. I move the adoption of the conference report.

Mr. CUMMINS. Mr. President, I will ask the Senator from Virginia what has become of the amendment of the Senate striking out the provision in the bill relating to passes and other favors for the officers of the Interstate Commerce Commission engaged in making physical valuations of railroads?

Mr. MARTIN of Virginia. That amendment is not involved in the present report. It was disposed of some days ago in a previous report that was adopted. A partial report was made on the bill some four or five days ago, and that matter was disposed of at that time and is not involved in the present report.

Mr. CUMMINS. May I ask how it was disposed of? I was not present at the time.

Mr. MARTIN of Virginia. My recollection is that the views of the Senator from Iowa were not adopted.

Mr. CUMMINS. And that we have made it lawful for the railroad companies to give passes and other courtesies to Government officials?

Mr. MARTIN of Virginia. We have not. That was not done. It has been some days ago since the report was adopted and my memory may not be exactly correct. The amendment of the Senator from Iowa provided for authority for modified agreements—for special rates.

Mr. CUMMINS. No; my amendment was one striking out the entire provision and providing quite another arrangement, so that the Government would pay fair compensation for the service rendered.

Mr. MARTIN of Virginia. It may have gone in. My memory does not serve me about the matter at the moment. It was disposed of some days ago, however, and is not involved in this report.

Mr. CUMMINS. It is not in this report?

Mr. MARTIN of Virginia. No; it is not in this report at all.

Mr. STONE. Mr. President, I should like to ask the Senator from Virginia a question so that I may understand clearly the disposition made of the amendment adopted by the Senate with respect to changes in the customs districts. I am not entirely sure that I understood the report. I will ask the Senator if it is a correct understanding that the President is by this provision given power and authority to rearrange the customs districts in such a way as he deems best but without authority to increase the number.

Mr. MARTIN of Virginia. Mr. President, that is correct. The amendment which was agreed on as a substitute for the Senate amendment gives the President power to rearrange the customs districts just so that the number now in existence be not increased.

Mr. STONE. Mr. President, of course I shall not attempt to antagonize the report made. The conferees, I am sure, have done the best they could in the circumstances. But I do not see that it accomplishes the purpose had in mind when the amendments referred to were placed on the bill by the Senate. There was opposition to those amendments, coming, as I am informed, from a source that ought to have been more modest in urging it than it was. This opposition is largely from States in which the total customs collections are about one-eighth, I think something less than one-eighth, the collections annually made in Kansas City. Why the representatives of States at whose ports all told only about $80,000 are collected annually and at an outlay in the nature of expenses of nearly 50 per cent of that sum should object to so arranging or rearranging the customs districts that a great city like Kansas City, the central point of an important tributary territory, and where eight or nine times as much revenue is collected at about the same or at less expense than in the States where $80,000 is collected, is somewhat mystifying to me.

The fact is, Mr. President, that Kansas City under the present arrangement is a subport. There are large importations into that city. It is a very important commercial point. More revenue is collected in Kansas City than in any other port between the Mississippi River, at St. Louis, for example, and San Francisco on the Pacific coast, with the possible excep-

tion—and I am not sure as to that—of St. Paul and Minneapolis. Not only is more collected at Kansas City than at any other port in that vast region lying between the Mississippi and the Pacific, but two and three times as much, with one or two exceptions, as is collected at any other port in that great territory.

The practical difficulty is that the merchants of Kansas City in importing goods and the transaction of business before the officials in charge of the port often find difficulty in adjusting differences that arise, and the deputy is not empowered to adjust them, but they are compelled to go 300 miles to the collector at the headquarters of the district, and there take up the questions of difference that arise, involving expense and annoyance and delay. I think it is exceedingly unjust and subject to criticism that such conditions should exist.

Mr. President, I can not see under this provision that any relief can be afforded in the case of Kansas City or in the case of Florida upon which the junior Senator from that State addressed the Senate when it was before us here. I see no door opening for relief. You can not increase the number of the districts. So you can not establish a collector of customs where a collector is actually needed without discontinuing one already established or consolidating it with one already existing. That, of course, would precipitate a contest before the President that would make it altogether unlikely that it would occur.

I am very sorry that this limitation has been put in this form, but I suppose there is nothing for me to do except to yield without contest to the action taken by the conferees. However, I do protest against it as working a gross injustice.

Mr. MARTIN of Virginia. Mr. President, the Senator from Missouri made an exceedingly strong case for an additional custom district with headquarters at Kansas City, but the best the conferees could do with the House conferees was to make it possible for the President to accomplish that result by abolishing some of the inconsequential customs districts. There is no doubt about the fact that there are quite a number that are of little consequence and which might be abolished without any detriment to the public service.

The amendment as agreed on by the conferees gives the President the power to abolish one or more of the inconsequential districts and to create new districts where they are urgently needed. I believe under this amendment a result ought to be accomplished which will meet the views of the Senator from Missouri. In any event it was the best we could arrange for.

Mr. STONE. I have no doubt of that.

Mr. MARTIN of Virginia. I will say to the Senator if there was any Representative or Senator from any particular State antagonizing this amendment of his I was not advised of it. I was advised by the House conferees that there are a large number of new districts desired, and if they allowed an increase in the aggregate number of districts it would open the door and the creation of these two, one for Florida and the other for Missouri, would be followed by new districts in other parts of the country. They would not agree to anything that permitted any increase in the aggregate number, but under the arrangement, as I stated, it is believed that the President can in the exercise of the discretion given him abolish some of the inconsequential districts and create new districts in important places like those in Missouri and Florida.

Mr. REED. Mr. President, I want to join in what my colleague [Mr. STONE] has said, and simply to remark that the claims not only of Kansas City but of a vast territory lying west of it which does its business through that port have been presented with all the force that my colleague and myself could bring to bear. The Senate conferees, I am satisfied, have done all they can do at this time. I am fearful that no genuine relief will result. It may be that the President will find the means of solving the difficulty and of equalizing conditions. If that is not done, we will have to trust to a future Congress perhaps to rectify the evil.

Mr. GALLINGER. Mr. President, as a member of the Committee on Appropriations, I want to emphasize the fact that the chairman of the committee, as well as the other members of the conference committee on the part of the Senate, always stand firmly for all amendments placed on appropriation bills by the Senate.

No outside parties, so far as I know, have interfered with conference committees in their work. Certainly no person ever approached me; but I have followed the chairman in his earnest endeavor to secure what the Senate has thought proper and desirable. I chance to know that the chairman and his associates on the conference committee did all in their power to secure what they thought was justice to Kansas City, which is a great commercial center.

But it must be remembered that when the Senate conferees are met with the statement on the part of the House conferees that they will not agree to what the Senate asks, the Senate conferees must of necessity yield, as they did in this case.

As I understand, the Senate conferees were assured that in all human probability the matter could be adjusted by the President by dropping one or more inconsequential collectorships, and in that way secure relief to Kansas City and to Florida. I hope that in that way the desired result will be accomplished.

Mr. STONE. Mr. President, I desire to add one word, and I wish to say that one word that I may not be misunderstood. I have not meant to say that Representatives or Senators have approached the conference committee or conferees to oppose the amendments put on the bill to which I have referred; but I do know with such reasonable certainty that I am justified in asserting it as a fact that influences in some quarters were exerted very strenuously on some gentlemen to prevent any reformation in the organization of the customs districts. That is what I had reference to.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. SUTHERLAND. Mr. President, we have drifted so far away from the series of questions which were submitted to me some time ago by the Senator from Nevada [Mr. NEWLANDS] that I am afraid that I can not recall precisely what they were. The Senator from Nevada, however, seems to think that no harm could possibly result from the bill. Nobody admires the clean and wholesome optimism of that Senator more than I do. He is not appalled in the presence of any sort of impending disaster. If he had been on earth at the time of the French Revolution he would have regarded that bloody business as though it were a perfectly peaceful and harmonious proceeding at The Hague. He thinks the bill is a simple bill. His philosophical and intellectual horizon is so broad that things which most of us regard as exceedingly complicated to the Senator from Nevada are exceedingly simple. So I am not weakened in my view of this bill by the way in which the senior Senator from Nevada regards it.

The Senator wants to know what specific things in the bill I am opposed to and how I would remedy them by constructive legislation. Mr. President, I have been attempting for several hours to point out the particular things I do object to, and I think if the Senator from Nevada will take the trouble to analyze what I have said he will find that I object to pretty nearly everything in the bill. If I had my way about it, I would simply strike out all after the enacting clause and then drop the enacting clause into the wastebasket. I think that would be the best disposition to make of this measure.

The Senator wants to know whether I think this commission ought not to be made an aid to the courts. Mr. President, I do not. I think the courts are quite capable of taking care of themselves. What an absurdity it is, when we come to reflect upon it, that we should set up here a legislative commission for the purpose of preparing decrees for a court.

Mr. President, when a case is brought before a judge he hears all the testimony and he is in a better situation to determine what form the decree should take than some outside board of administrative officers who have not been familiar with the litigation, and who must take it up again at first hand.

I have no doubt the courts are quite capable of selecting their own masters in chancery if the interposition of such an officer is necessary in any proceeding before them. I am inclined to think that the courts will resent, as I think they ought to resent, any attempt upon the part of the legislative branch of this Government to establish a commission as an aid to the court to prepare its decrees, to act as its master in chancery. The courts are not bound to accept any such appointee as that, and I think they will decline to accept, as I think they ought to do, any such appointee.

The Senator wants to know whether I think they ought not to be made an aid to the Attorney General. I think they ought not to be. There are three branches of our Government established by the Constitution. There is the legislative branch; there is the judicial branch; and there is the executive department. It is the peculiar function of the executive department to see that the laws are enforced. That is why we appoint an

Attorney General at the head of a vast force of skilled and learned men—district attorneys in every State and every district of the Union, with their assistants. Can not the Attorney General with that great force of lawyers at his command see that any infraction of the law is properly investigated and prosecuted?

Why do we need to create a commission to help the Attorney General perform his duties?

I am opposed to the bill from the beginning of it to the end of it, with its arbitrary powers, with its absurd requirements, among others, that every corporation in this country, numbering anywhere from 300,000 to a half million, must, apparently for all time to come, preserve every document and every paper that happens to have something in it relating to interstate commerce; that it must pile up that vast quantity of useless rubbish, because perhaps some time or other this prying commission may want to inspect some of its papers.

Mr. President, the Senate is in no condition to pass wisely and intelligently upon this measure. It should receive far greater consideration both at the hands of the Senate and at the hands of the country than it has yet received before we are in a position to act upon it.

The great difficulty, the underlying difficulty, in the whole matter of this proposed antitrust legislation is that the Congress of the United States under this administration has ceased to be an independent and coordinate department of the Government and has become a mere annex of the executive department of the Government. Will any Senator rise here and tell me one great piece of constructive legislation, one important piece of legislation of any character, beyond the appropriation bills, that has been originated in Congress? Congress sits here supinely doing nothing of its own initiative of any consequence, waiting for the word from the White House before it takes any step in legislative matters, and then legislates according to the behest from the White House.

Mr. LEWIS. Mr. President——

Mr. SUTHERLAND. I decline to yield.

The PRESIDENT pro tempore. The Senator from Utah declines to yield.

Mr. SUTHERLAND. We had in the early part of the Congress the tariff bill to consider. The Senators know that a very large number of Senators and Members of the House did not believe in putting sugar upon the free list; that they did not believe in putting wool upon the free list. Some of them said so. Yet because the order had gone forth from the Executive that the sugar industry of the country must be slaughtered and that wool must be put upon the free list legislation was enacted accordingly.

The Democratic Party had declared in favor of opening the Panama Canal to the ships of our country free of tolls. The Democratic Party had registered its opinion in favor of that policy by an overwhelming vote in both Houses of Congress, but at the crack of the Executive whip that policy was reversed, and we found ourselves in the humiliating condition of having yielded an American right to a British opinion.

And so with this legislation. The President has declared that trust legislation must be enacted at this session, and so it must be put through, whether it is wise to do so or not.

Mr. President, I hope the time will come, and I am sure it will come within a year or two, when another party will be in control of this Congress and of the White House, and I must content myself for the present by looking forward to that time when Congress will again resume its normal functions and legislate in accordance with its views and not in accordance merely with the views of another equal and coordinate, but not controlling, branch of the Government.

Mr. THOMAS. Mr. President, I shall not unduly prolong the discussion of this measure. I would be very glad to permit it to go to a vote without saying anything further upon it, but my views concerning it seem to be out of harmony with the majority of the Senators upon this side of the Chamber, and I have so much respect for their opinions and am so reluctant to occupy any position which is not in harmony with them that I feel it my duty to give some of the reasons why in my judgment this legislation is undesirable and undemocratic, for I believe that both these objections can be urged against it.

I shall not spend much time in a discussion of the contents of the bill, because that has been done very exhaustively by others and much more ably than I could expect to do it.

I am convinced, Mr. President, that, so far as the right of Congress to legislate against unfair competition is concerned, it has that power. The arguments of the senior Senator from Iowa [Mr. CUMMINS] and the junior Senator from New Hampshire [Mr. HOLLIS] have removed the original objections which seemed to me conclusive against legislation of so general a character. But the exhaustive investigation which these gentlemen have made of the subject, the great number of authorities, not only from our own but from other countries, sustaining their contention, on the one hand, coupled with the extreme difficulty of specifically defining the widespread evil against which legislation is demanded, would in all probability make it extremely dangerous to attempt to limit the evil of unfair competition to specific instances. But that very circumstance, Mr. President, is an argument against the enactment of such legislation by the use of a general description unless the need of it is overwhelming, because whenever a general statement of that sort is crystallized into a statute it necessarily imposes upon the courts of the country the added duty of applying their own definitions to the facts of particular cases and thus judicially defining what is and what is not "unfair competition."

We would have, then, a law of unfair competition consisting of the general provision of the statute, together with innumerable decisions declaring certain given acts to be or not to be an infraction of its prohibition. These in time will arouse the ingenuity of those who desire to evade both the statute and the decisions, thus presenting new and different combinations of fact from time to time for judicial solution, so that the statute may never become sufficiently explicit by judicial construction to carry out and subserve the purpose for which it was intended. My objection to it, therefore, is emphasized rather than removed by the fact that it is within the power of Congress to so legislate.

Mr. President, in that connection, and lest I should overlook it, I want to emphasize the fact that the bill which we are here considering is not the bill which passed the other House, but is reported by our committee as the House bill. A great deal has been said about the recommendation of the President concerning this particular topic of legislation, and contrasts have been drawn between what he then said and his utterances upon the same subject on previous occasions, the object, of course, being to establish a contradiction, a different position, a departure from one attitude and the adoption of another, and thus discredit the legislation, if not the President. I think one Senator said last week, in referring to this bill, that it would doubtless command the support of the Democratic side of the Chamber, because it was the President's wish that this bill should be enacted.

Whatever may be said of the attitude of the Executive with reference to the House bill, certainly there has been no expression, so far as my knowledge goes, either official or unofficial, from the White House concerning the merits of the bill reported here, and which is now the unfinished business of the Senate; but without regard to this, the objections, which seem to me to be fundamental to the bill, must determine my course concerning it.

Mr. President, the Senator who has just taken his seat [Mr. SUTHERLAND] took occasion to echo and repeat what has been stated here so many times from the other side of the Chamber, that we were here for the purpose of enacting legislation for which the country was not prepared, which the country really does not demand, which is ill-considered, and which, if enacted in its present shape, may produce more harm than benefit, simply because an edict from the White House has been issued which so concludes the Democratic majority of this body as to cause it to stay here under protest to enact legislation of which it does not fully approve. This reproach—for I think I am justified in so calling it—is not of recent origin. It has been repeated and re-repeated from the other side of the Chamber ever since the special session of this Congress convened in April of last year. We have been taunted with having surrendered our initiative, with having abandoned our constitutional functions, and with acting as automatons under the supine control of a coordinate branch of the Government. This is true neither in fact nor in appearance.

Mr. President, those who sent us here; those who make and express public opinion; those whose needs require legislation at the hands of the National Congress; those who understand and are in sympathy with the President of the United States approve his action and ask no explanation for our conduct. They know and we know that the President of the United States is peculiarly the representative of the people. They look to him to interpret and supply their needs. He is the only official for whom all the people vote; he is held responsible for what Congress does or fails to do; he is given credit for whatever is popular either in legislation or administration, and he is blamed for whatever is unpopular in legislation or administration. If we by our conduct here fail to meet the approbation of the people, it is the occupant of the White House who bears the blame. If our conduct here is such as to command the popular approbation, it is the administration which receives and should receive the credit. The President of the United States is becoming more and more the center of the people's hope, a

he is becoming more and more the object of the people's criticism; and just as he measures up to public demand; just as he exhibits the courage that is essential to the discharge of public duty; just as he perceives and assumes the responsibility of his great office, will he command the confidence and receive the support of the people; and just in proportion as he fails to measure up to those standards will he fall in public estimation. He is the leader of the people, the interpreter of their needs, the spokesman of their cause. They do not reproach him for urging us to remain at our post of duty until our task shall have been accomplished. They commend us when we respond to his appeals and give him the encouragement both of unlimited confidence and hearty support.

Who are the great Presidents of the United States, beginning with Washington and ending with Woodrow Wilson? Precisely those, Mr. President, who, recognizing the public needs, and keeping in touch with the public conscience, have stamped their individuality and their influence upon national legislation; those who, perceiving the need of a given policy, have had the courage to advise and to direct it; those who have prompted Congress to the performance of their duties as outlined in their public declarations and as demanded by the public needs; those who have proven their claim to leadership by wisely and courageously asserting it. We need but name Andrew Jackson, Abraham Lincoln, Theodore Roosevelt, and Woodrow Wilson as types of those Presidents who, keeping close to popular sentiment, have counseled wise and needed legislative reforms, and have commanded, because they have earned, the popular approval.

Mr. President, I glory in the fact that the President of the United States knows what the people want, communicates with Congress upon subjects of national concern, and reminds its Members of the duty which rests upon them, and calls upon them to perform it. The President, in calling our attention to needed legislation, keeping us in communion both with what we were elected to accomplish and what popular opinion demands, is always abreast of the times. He is abreast with but never behind the people, and bears with serene composure that criticism and denunciation which pronounces him a tyrant and a usurper and which reproaches a Democratic Congress for complying with and conforming to a common purpose. It is a happy circumstance, Mr. President, that we have a ruler who knows how to rule, and a leader who does not hesitate to lead. Such a man I for one am willing to follow and to aid as my poor abilities will permit in the observance of a common duty. We have had Presidents of the United States who have been unequal to these supreme requirements. Presidents who have misinterpreted popular sentiment and ran counter to the declarations upon which they were elected; and, Mr. President, the people, always just, have never failed to relegate such Executives to the oblivion which they have justly earned.

So long as the President of the United States keeps in close contact with the people, so long as he seeks to interpret and obey the popular expression of the popular will, so long as he leads in the development of needed legislation for the popular good, just so long will the people sustain and just so long will the Democratic Congress commend and follow him. Thus far he has kept the faith and shows no signs of weariness in well-doing.

Had the last President of the United States exhibited those qualities of courage, of command, and of leadership which have justly and highly distinguished his predecessor and his successor possibly the Senator from Utah would not have been obliged a few moments ago to express the hope that his party might again come into power, for it doubtless would have remained in power; but I beg to assure the Senator that whatever the fate of this bill may be, whatever the fate of the antitrust legislation of this Congress may be, the people asked bread from the party to which the Senator belongs and they received a stone; the people were promised relief by that party only to be betrayed. Therefore, while changes may come, political unheavals occur, the day is far distant when the Senator from Utah will be able to congratulate himself that the party which turned its back upon its promises and upon its constituency will again be entrusted with the affairs of the National Government.

But this, Mr. President, is a deviation from what I intended to say when I took the floor. I want to express my dissent from any legislation which has for its object the creation of a commission to exercise any prerogative whatever unless its creation is absolutely essential to the public good.

Mr. STONE rose.

Mr. THOMAS. Does the Senator from Missouri desire to interrupt me?

Mr. STONE. It is not important that I should do so. I simply desired to remark, however, that I was listening with a great deal of interest to the Senator's very timely speech, and inasmuch as it was directed, and very wisely directed, to Members on the other side of the Chamber, to express regret that they do not stay here to receive the benefit of the advice and admonitions so happily delivered by the Senator from Colorado.

Mr. THOMAS. Well, Mr. President, it is too much to expect Senators to remain in the Chamber when what we call debate is proceeding. We are more apt on both sides of the Chamber to seek the seclusion, if not the protection, of the cloakrooms, responding on both sides only when a roll call is demanded. I am sorry to observe that my brethren on the other side are not present; but, inasmuch as I have frequently absented myself at times when the most eloquent of periods were flowing from the lips of some Republican Senator, I certainly want to be consistent so far as to say that their absence at the present time is in harmony with my own example.

Mr. CLAPP. Mr. President——

The PRESIDING OFFICER (Mr. SHEPPARD in the chair). Does the Senator from Colorado yield to the Senator from Minnesota?

Mr. THOMAS. I yield.

Mr. CLAPP. I will ask the Senator if his remarks apply also as an excuse and palliation for the absence of the overwhelming majority of our Democratic brethren just at this moment?

Mr. THOMAS. Mr. President, I think I made the statement that honors were easy—I did not use that expression, but I intended to convey the idea that honors were easy—in the matter of attendance. I have noticed that on many occasions when the absence of a quorum has been suggested by a Senator on the other side, there were no more Senators present upon that side of the Chamber than were visible to the eye upon this side. That, of course, I understand to be designed to subserve a political purpose. I may say just now, however, that there are many times more Senators seated upon this side of the Chamber than upon the other.

Mr. CLAPP. Mr. President, personally I never have taken any particular interest in the repeated suggestions of the absence upon this side or the other side of a quorum, but sitting here in a sort of quasi judicial capacity I have about reached the conclusion that honors are easy.

Mr. THOMAS. Well, Mr. President, it is apparent that upon one matter, at least, the Senator from Minnesota and myself are in absolute harmony.

I stated, Mr. President, before this diversion occurred that, as a general proposition, we should not, if it can be avoided, establish any more commissions than we have at the present time. I go a step further, and say that we ought to abolish every commission which we have which we can, without doing injury to the public service, dispense with. We are becoming prone to pass legislation and then provide for a commission to make that legislation effective. It has become the custom, rather than the exception, to create a board to carry out the terms and provisions of whatever statute of a general character we may enact, and as a consequence we are rapidly becoming a Government by commission; and each commission, with its numerous subordinate officials and servants, spreads over the country like the lice of Egypt. We come in contact with them everywhere; and apart from the complication and delay which the public business necessarily encounters when it is filtered through so many channels, and apart from the item of expense which commissions necessarily incur, is the greater objection that commission government is not democratic.

I do not know how many commissions we have at present, Mr. President. We call some of them boards and some of them bureaus, but a family resemblance runs through them all. The West, perhaps, experiences more vividly than any other section of the country the presence of bureaucratic government. Some time ago the Government of the United States, appalled by the abuses of the land laws, determined to withdraw practically all of the remaining public domain from the use of mankind and lock it up by a series of statutes and regulations for the use of unborn generations. In order to do this it became necessary, of course, to create boards and bureaus, and we have them ad nauseam—reclamation bureaus, forestry bureaus, experimental bureaus, and I presume we will soon have a power bureau. We have a Geological Survey and a field division. I said the other day that a man can not walk down the streets of any city west of the Missouri River without encountering the representative of a bureau in every other man that he meets; and if he has any business to transact in which the Government is concerned, that business must begin with some understrapper, who sometimes assumes that the entire weight and responsibility of the Government is upon his shoulders, and then, through him, by successive stages until you reach the ultimate source of authority.

These bureaus and commissions, Mr. President, have become intertwined and complicated with each other. They form a net-

work which unites the War Department and the Interior Department and the Agricultural Department and the State Dement each with the other, so that in their distracting phases the public business is not only complicated, but it is hindered and expensive. Therefore I am constitutionally, as a member of the Democratic Party and by force of habit as a citizen of the great West, opposed to anything that looks like a new commission, if it can be avoided without injury to the public welfare.

Mr. President, when this objection of mine is urged in private my attention is called to the Interstate Commerce Commission, and I am asked whether that is not the best possible illustration, not only of the necessity but of the beneficence of a public commission. I want to say, with perfect candor, that the Interstate Commerce Commission is the best of all of them, and it is probably a necessary commission. It is, however, sui generis; it has charge and control of a great branch of the public service; its jurisdiction extends over quasi public corporations, exercising quasi governmental functions, controlling the means of communication between ninety-odd millions of people through agencies that never should have been delegated to private hands, and which, because they were so delegated, have required the Government to reassert, to some extent, its power and authority over them. It therefore created the Interstate Commerce Commission, which is a commission of tremendous power and has been an agency of tremendous good; but that it has accomplished all that was expected of it, and that because it is necessary we should, therefore, imitate the example of the Congress which created it by creating others for kindred purposes, I deny in toto.

The evils growing out of private control of the agencies of transportation are, many of them, still apparent, and many of them have sprung into existence and developed and expanded since the creation of the Interstate Commerce Commission and since the amplitude of its present powers was conferred upon it. One of the troubles with it—perhaps the most serious one—is that the business which demands its consideration is so vast in extent and so important in character that it is years behindhand in its work, and must continue to get further and further in arrears as its business increases with the growth of population. Take for illustration one instance——

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER (Mr. WEST in the chair). Does the Senator from Colorado yield to the Senator from Connecticut?

Mr. THOMAS. I yield.

Mr. BRANDEGEE. I do not wish to interrupt the Senator, except to interpolate this thought: Notwithstanding the overwhelming mass of duties imposed upon the existing Interstate Commerce Commission, there is a bill now pending to confer jurisdiction upon them to regulate the issuance of all kinds of securities by all the railroads in the country. I do not say that by way of criticism either of the commission or of the bill—I think it is necessary that some governmental authority should have some supervision over such matters—but simply to punctuate the Senator's remarks at this point, and to call the attention of the Senate to the fact that while I voted to report that bill, from the testimony before the committee I am quite certain that it will be perfectly impossible for the Interstate Commerce Commission to attend to the business, and to suggest that when the matter comes up the Senate should seriously consider the creation of a bureau within the Interstate Commerce Commission or some other great tribunal, which would have plenty to do if it devoted itself exclusively to the question of the issuance of railroad securities.

Mr. THOMAS. Mr. President, of course I am aware of the pendency of that bill, and I think I appreciate the extent of the added duties and responsibilities that it proposes to place upon the Interstate Commerce Commission. I think, however, it deals with an evil which Congress must meet and legislate about in some manner. The method of operation, of course, is a very serious one.

I was about to illustrate when interrupted the statement which I made by calling attention to the fact that something like a year and a half ago, if I remember correctly, the eastern trunk lines made application to the Interstate Commerce Commission for leave to increase their freight charges 5 per cent over the rates then existing. Their contention was not only that this increase was necessary, but imminently so; that they were obliged to have it and have it at once, not only for their own, but for the protection and benefit of the public through needed improvements upon their lines of transportation, which could not be made without the fund to be realized from such increase. If that were true, Mr. President, it was an exigent matter, and yet the commission, burdened with the pendency of many other duties and requirements, has been unable up to this time to reach and announce its conclusion upon that important proposition. During the time which elapsed between the presentation of the petition and the time of its final determination everything which made it exigent must have occurred; every demand, in other words, for summary action there presented, every danger feared, and every contingency expected would have occurred before it would have been possible for the Interstate Commerce Commission to give the application due consideration and to pronounce its conclusions. So that commission, which is the exemplar of the entire scheme of commission government—that commission whose usefulness and whose necessity are so apparent—has by no means proven the effective agency for the control and regulation of transportation that was hoped for it, and yet it has done its best. I think the great benefit we have derived from the work and the institution of the Interstate Commerce Commission has been its demonstration that the regulation of transportation in this country is impossible so long as it is in private hands; that so long as the owner of the thing which is to be controlled and regulated is in practically full charge of it so long can that owner, by his policy and by his direction, if not defeat, largely undermine and make ineffective the rules and regulations of the governing power designed for the public benefit.

I do not believe it is possible, by a commission or by anything else, to regulate the transportation interest of this country. It must be controlled. It may be that control means ownership. So be it. It may be that it is a dire alternative. So be it. The experience of the Interstate Commerce Commission, however, if I am any judge of the situation, is that regulation without control or ownership is a disappointment and to some extent a failure.

Of course I am not in favor of abolishing the Interstate Commerce Commission, but I am not disposed to accept its action and its usefulness as an argument in favor of the creation of other and different commissions having charge of matters of private concern.

What is the scope of the proposed trade commission? It is to be called a Federal trade commission. It is to consist of five men. It is a sort of duplication of the Interstate Commerce Commission, differing from it not as to power, for perhaps it has more power than the Interstate Commerce Commission, but in the class of business over which it is to exercise control. The commission is to prevent unfair methods of competition through machinery provided by the bill itself. It has control, too, of all corporations engaged in interstate commerce throughout the country.

A corporation may do a small business within two States and over the common boundary line; it comes within the purview of the commission. A corporation may be of such illimitable proportions that it does a world-wide business, with American interstate commerce as a mere incident to it; it comes under the control of the commission. Every corporation between these two extremes doing any sort of interstate-commerce business comes within the control of the commission.

Mr. President, apart from what unfair competition is or may be lies the fact that every man who suffers from competition regards it as unfair. If my friend the Senator from Massachusetts is conducting a business that comes in competition with mine, and his business prospers while mine languishes, and our customers are within the same radius, I would be more than human, whatever his abilities or his superior knowledge of the business and its requirements might be, if I did not feel that his competition was "unfair and oppressive," as the Senator from New Hampshire would have it. Feeling so, and desiring relief from this unfair competition, my appeal will go to this commission, which must give me a hearing and determine accordingly. What is true of the case supposed will be true of all classes of interstate commerce wherever there is such a thing as competition. Consequently the amount of business, the number of controversies, the multitude of complaints that will be filed before this commission and which it must hear will soon mount into the millions, with five men to look after them. They can not possibly transact it. They must do it by proxy, and, of course, the number of proxies must be commensurate with the amount of business that falls within the purview of the commission.

Talk about the number of civil-service employees at present! Why, Mr. President, I believe, without exaggeration, that this commission can not begin to do the work that will be accumulated upon its records within the short space of 12 months after this bill becomes a law without the employment of thousands upon thousands of assistants; and each assistant, to be effective, must virtually have and exercise conclusive control, because the five commissioners can not operate both as commissioners of

original and commissioners of appellate jurisdiction, or jurisdiction of review. I say they can not; I mean they can not do it physically. There are limitations upon the capacity and ability of all men, whether they be members of commissions or whether they be private individuals. The commission, in other words, is bound to break down under the load that will be placed upon it, because of the requirement that it shall prevent unfair methods of competition, before it will have been in office long enough to get a fair understanding of the law; and the amount of business must increase. Every order the commission makes will have a definite case in view, and will become a rule of action, and because it becomes a rule of action those who are affected by it will seek to evade it by those refinements and technicalities which men exercise everywhere in their efforts to overcome or evade the handicaps of the law.

It may be said that the fact that the amount of business the commission will have to transact is measureless is no argument against its necessity. That I concede; but if we can get along without it, if there is a better method of procedure, the fact that a commission if constituted will soon be overwhelmed and therefore will become incapacitated should be given great weight before the measure is enacted into law.

Just here let me again say that the bill we are considering is not the bill which came from the House. The statement has been made that the President approves the commission. He never approved this proposed commission. The House bill never assumed to place upon a commission any such burden as will fall upon it if we enact this law. The Interstate Commerce Committee, for the best of reasons, doubtless, and certainly because they felt that it was necessary to do so, have deliberately eliminated every word, every syllable, and every punctuation point of the House bill and substituted for it a bill of their own bearing very little resemblance to the original measure, and far more comprehensive and tremendous in its sweep and jurisdiction than the House bill ever contemplated. So that this is not the subject—or, if it is the subject, it has been so changed that its parents would not recognize it—which the House committee considered and which may have been submitted to the scrutiny and to the judgment of the President.

It may be that this plan is superior to that proposed by the House. I am not prepared to say whether it is or is not; but in view of the greater extension of responsibility and of power and of jurisdiction which the Senate bill proposes to place upon the shoulders of the commission, I should be inclined, if we must have one, to accept the proposition which came here from the House. And no one can charge that it was not well considered by the House committee.

Mr. President, is it democratic—and I use the term not in a partisan sense, but in its broader and more comprehensive meaning—to create a commission such as is here proposed and clothe it with the vast and inquisitorial powers with which we invest it by this bill? I think we should hesitate very long before making the final plunge. It will have a power and authority compared with which the power and the authority of the Congress of the United States is insignificant. It will have a power compared with which the judicial power of the United States becomes largely insignificant. It is true that there is a provision for court review, which makes me hesitate to emphasize the difference as strongly as I otherwise would; but when you consider that there is not a phase of interstate business, that there is not a corporation of any character engaged in it whose affairs are not subject to review and inspection and inquisition by this commission, and when you further consider what the vast sweep and extent of that business is, affecting 100,000,000 people, in every capacity of life, I deny that we should clothe five men with any such authority. I do not care how experienced or how wise they may be, how unimpeachable their integrity and their purposes, it is not democratic to do it, it is not safe to do it, it is not statesmanlike to do it, unless it is the dernier resort of a people suffering from a burden and who can not find relief in any other direction. In such a case, of course, we should not hesitate.

Then there is the question of expense. I have referred to the vast army of employees that will be necessary to constitute the machinery of this commission. The expenditures of this Government at present are enormous. We waste more money than any other nation in the world. There is not a private enterprise in the country whose business would survive 12 months if it were carried on as we administer the fiscal affairs of the Nation. We are profligate in many respects.

The other day we declined to give the Secretary of Commerce $75,000 which was absolutely necessary for the purpose of charting the uncharted waters of Alaska, for the preservation *of life* and property; but we had no difficulty in *giving* $75,000 for the celebration of the one-hundr*edth anniversary* of the Star Spangled Banner over here in Maryland or $250,000 for the erection of a monument to commemorate the Battle of Lake Champlain. It is true we do not pay much attention to the purposes of our expenditures; but when we consider that the machinery of this commission will require for its proper operation millions to be added to the volume of our expenditures as they now exist—and they are constantly increasing in other directions—I again ask whether it is necessary to commit the Democratic Party to a measure of this sort; for, Senators, it is we who must take the responsibility for this legislation. The friends of the bill upon the other side manfully and conscientiously support it; but for whatever mistake is made by the Sixty-third Congress the Democratic Party must answer, and the Democratic administration will be held responsible.

I do not believe that anybody except those who are in charge of the great combinations of the country has ever demanded this legislation. The speech to that effect which was made the other day by the Senator from Idaho [Mr. BORAH], and which is not yet completed, seems to me to be unanswerable. You must remember, too, that the action of this commission is as dependent upon the changing views of its members as has been the erratic action, or what in the view of the Senator from Nevada has been the erratic action, of the Department of Justice with reference to the enforcement of the antitrust laws.

Mr. President, I have another criticism to make of the proposed commission. It is that whatever its purposes may be—and I do not question the earnestness of the Senator from Nevada and the Senator from Iowa when they contend that it will have a contrary effect—my judgment is that the effect of the commission when established will be not to prohibit but to regulate monopolies.

It is true that the spirit in which the law is conceived and the purpose of the men who conceived it are to the contrary. It is true also that their judgment as to the effect of it is perhaps entitled to much more respect than my own, for they have given many years to the consideration of this question and are, therefore, justified when they speak by authority.

While I may be obtuse, however, I can not conceive the fine distinction between the evils of unfair competition and the evils growing out of restraint of trade and the creation of monopolies that seems to be so clear to some of my brethren in this Chamber. To my mind unfair competition, while it is not always the companion of monopoly, is nevertheless an element that always enters into restraints of trade and the creation and practices of monopoly. It precedes, it accompanies, and it follows every monopoly in existence. The very essence of monopoly is its power to compete unfairly, its power to prohibit competition by stifling and destroying it, its power to resort with impunity to unfair methods.

I complain of some corporation as being engaged in unfair competition, and I go before the commission. The corporation against which I complain is summoned to appear before it, and it states its case. A ruling is made. If my petition is dismissed, the order is, in effect, a license. It is an order—a lawful order, in fact—qualifying the concern of which I have complained to continue in the practices I have challenged. If my petition is sustained, the order prohibits the corporation from continuing those practices. What is that but regulation, and what is regulation but the acknowledgment of the existence of something that requires regulation?

If the Government issues a license to a corporation to do business, it is a grant to the extent to which the license goes. If a Government agency gives permission to do a certain thing within its authority, it is a license. All of this means regulation; and as a result these huge combinations against which we are pledged to wage an eternal and everlasting warfare until they shall cease to exist—a warfare along legal lines, of course—will be given a national standing and character, and will justify and fortify their theories and practices upon the orders of a commission created by a Democratic Congress for that purpose.

Mr. President, if I understand the English language the Democratic platform is positively against that sort of legislation, and it is the only platform that is against it; while the other two, one of them very emphatically and the other very candidly, have indorsed the scheme of legislation which we are here considering. Let us see.

The Democratic Party at Baltimore said:

> A private monopoly is indefensible and intolerable.

If it is, then it ought not to be permitted to exist. That conclusion, it *seems to* me, is inevitable if you admit the premise.

> We therefore favor the vigorous enforcement of the criminal as well as the civil law against trusts and trust officials, and demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States.

Yet we are not only not going to enact legislation making it impossible for such a thing to exist, but we are about to enact legislation that is going to make it impossible for private monopolies to disappear—to make it impossible for us to eradicate them from the commercial and political body.

It is true that there are other bills pending here which have for their purpose the removal of these evils; but it seems to me that very fact is one of the strongest possible arguments that can be urged against this measure, since if we enact both on the one hand we offer to the people what we promise them, and on the other we indirectly say to the existing combinations, "You can do business, provided you will obey the mandates of the commission which we have just created."

We favor the declaration by law of the conditions upon which corporations shall be permitted to engage in interstate trade, including, among others, the prevention of holding companies, of interlocking directors, of stock watering, of discrimination in price, and the control by any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions.

Precisely that sort of legislation is embodied in a measure introduced in this Congress by the senior Senator from Mississippi [Mr. WILLIAMS], being Senate bill 1138. It is a bill carefully prepared and carefully considered and corresponding in its every line and sentence with this declaration of the Democratic platform, fixing the conditions upon which these concerns may be permitted to engage in interstate commerce and enacting prohibitions by means of which those conditions may be made effectual.

I desire now to call attention to a part of the Progressive platform. It seems to me that if the Interstate Commerce Committee had had that platform before it as its guiding rule of action it could not have more completely conformed to it than it has done in the measure which is now the unfinished business of the Senate. After preliminaries, referring, among other things, to the abuse of monopoly, natural resources, and so forth, the Progressive Party said:

We do not fear commercial power, but we insist that it shall be exercised openly, under publicity, supervision, and regulation of the most efficient sort which will preserve its good while eradicating and preventing its evils.

That is what we are going to do here. Good competition is going to be decided and determined upon by this commission, and bad competition is going to be disposed of also by legal processes, which is regulation.

To that end we urge the establishment of a strong Federal administrative commission of high standing which shall maintain permanent active supervision over industrial corporations engaged in interstate commerce, or such of them as are of public importance, doing for them what the Government now does for the national banks and what is now done for the railroads by the Interstate Commerce Commission.

The Senator having charge of this bill declares that that is just what will be done here; that business is going to be placed in the hands of a commission paralleling the Interstate Commerce Commission and paralleling that which was created for the management of banks, and therefore being in entire harmony with the requirements of the Progressive platform. But that platform continues:

Such a commission must enforce the complete publicity of those corporate transactions which are of public interest—

That is provided for here through examinations and requirements of annual reports, and so forth—

must attack unfair competition—

That is proposed to be done here by section 5—

false capitalization and special privilege, and by continuous trained watchfulness guard and keep open equally to all the highways of American commerce. Thus the business man will have certain knowledge of the law and will be able to conduct his business easily in conformity therewith—

And so forth. I can understand, Mr. President, how the members of the Progressive Party, how Senators who supported Mr. Roosevelt in the campaign of 1912, can be content with and can support a bill of the sort I am now discussing, but for the life of me I can not understand how Democracy can do it in view of the fact that everywhere they emphasized their dissent during the campaign from this proposed regulation of monopoly, and in emphasizing it declared their purpose, inasmuch as it was indefensible and intolerable, to so legislate as to eradicate it entirely.

Now, I turn to the Republican platform, which, upon this subject, says:

In the enforcement and administration of Federal laws governing interstate commerce and enterprises impressed with a public use engaged therein there is much that may be committed to a Federal trade commission—

The Senator from Nevada has perhaps gone to the Republican platform in order to get a name for his commission—

thus placing in the hands of an administrative board many of the functions now necessarily exercised by the courts. This will promote promptness——

Mr. CLAPP. Mr. President——

Mr. THOMAS. Just a moment:

This will promote promptness in the administration of the laws, avoid delays and technicalities incident to court procedure.

So we have gone to the Republican platform for the name for our commission and to the Progressive platform for the substance of it.

Now I yield to the Senator from Minnesota.

Mr. CLAPP. I think I can testify in behalf of the Senator from Nevada and defend him from the charge of taking this name from the Republican platform. I have known the Senator now for about 12 years, and about the first thing I knew of him he was talking in behalf of a trade commission, calling it a trade commission, and he has been persistently and insistently talking trade commission ever since. Certainly he can be freed from the charge of having borrowed the name.

Mr. THOMAS. The charge I made was a very good-natured one. The Senator from Nevada knows that I would not if I could and could not if I would say anything that would intentionally reflect upon his integrity or his ability.

Mr. NEWLANDS. Mr. President, I will say that I accept in good nature the remarks of the Senator; I am very much interested in them; but I simply wish to call attention to the fact, though possibly it may involve something of egotism to assert it, that it is quite possible the Republican Party took that name of trade commission from the bill which I had previously introduced for this purpose.

Mr. THOMAS. That is possible. It is also possible that the Progressive Party may have taken its platform from some speech of the Senator from Nevada. I do not know.

Mr. NEWLANDS. Let me suggest another thing. The Progressive Party made a very remarkable declaration in its Chicago platform, in some matters extreme and perhaps almost socialistic in character, but in many other matters pointing out a line of reform that might be well undertaken by any other party. The Senator will bear in mind that the Democratic Party at the last election was a minority party, and in order to be a majority party it has got to win from the opposing organizations. It seems to me that it can accept any suggestion that is right from the Progressive Party, which is pursuing substantially the same lines of reform that the Democratic Party has been pursuing, and that it might well adopt a suggestion that would be to the public interest.

Mr. THOMAS. Mr. President, I would be the last man to even question the commendation of the Senator from Nevada of the Progressive platform. I fully agree with him in all that he has said concerning the merits of that declaration. I believe in many respects it is one of the most valuable and one of the greatest of our modern political documents. In many respects it is fundamental Democracy, and I am in absolute harmony with it as far as it is Democratic.

I will go further than that; I will say that the great Republican Senators who on the floor of the Senate in 1909, 1910, and 1911 fought the battles of the people in opposition to the requirements of their own party began a great political revolution in the United States that will not end until the fundamental things for which they stood are crystallized into the legislation and policies of the country, and that the people are under a debt, and a lasting debt, of gratitude and obligation to those great men which I hope they will never forget. But there are some fundamental points of difference between us, one of which I have just discussed. That party has committed itself to the regulation of monopoly. We have committed ourselves to the proposition that it is indefensible and intolerable. While we are a minority party, Mr. President, and need all the votes that we can get and all the support we can secure, we certainly do not want them—could not get them if we did—by a surrender of fundamental Democratic doctrines, to which we are largely indebted for the fact that we are in power to-day.

Mr. NEWLANDS. Mr. President, I would not in any way surrender one iota of Democratic principle. The Democratic Party is undoubtedly committed to the destruction of monopoly. My interpretation of the pending bill is, however, that the pending legislation tends toward the destruction of monopoly and not its maintenance.

Mr. THOMAS. I am quite aware of that.

Mr. NEWLANDS. The interstate trade commission is organized with a view to laying bare the methods and the organization and the practices that constitute monopoly. It is organized for the purpose of aiding the courts in destroying monopoly. It is organized for the purpose of aiding the Attorney General in the prosecution of his duties in the destruction of monopoly. All that it does in the accomplishment of the destruction not only of monopoly but of monopolistic practices which ultimately end in monopoly and which are the embryo of mo-

nopoly is to add to the condemnation of the practices which constitute unfair competition. The destruction of unfair competition does not give an immunity bath to monopoly anywhere. On the contrary, the destruction of unfair competition prevents these organizations from growing in strength and power and in the development of their monopolistic practices and control.

I claim that both the acts which are now pending are in harmony with the Democratic platform. It simply, with reference to a trade commission, puts into the law a conception which has been urged by Democrats for years, which happens to have been accepted by the Progressive Party and as a part of its pronunciamento of two years ago.

I am glad to say that I agree with the Senator from Colorado in his estimate of the rank and file of the Progressive Party and of many of the great leaders of that party. I should like to see them all become members of the Democratic Party. The Progressive Party now is in process of disintegration, and the question is whether the members of that party will return to the Republican Party and thus tend to maintain the policy of reaction or whether they will join themselves with the Democratic Party as the party of reform and of progress.

I would gladly facilitate the latter process; and let me say that wherever we can harmonize our principles with the methods which they have approved in such a way as to draw into our organization men who have been prominent in this reform we are serving the cause of the Democratic Party and Democracy throughout the entire country.

Mr. THOMAS. Mr. President, I have never doubted the sincerity of purpose or earnestness of my friend the Senator from Nevada. I know he intends to reach, if he can, the same end to which I am committed. Our difference lies in the process. His insistence is that this measure will carry out the general purpose and make it effective. My insistence is that it will result in perpetuating the evil of which we complain. He may be right and I may be wrong, but until I can see some light to the contrary I am unable to concur in the effect or in the character of the pending measures as he defines them.

Mr. President, I made the statement that this bill not only is in complete harmony with the Progressive platform and in a fair measure of harmony with the Republican platform, but that it was also in line with what the representatives of the great monopolies of the United States desire. We all recall the fact that shortly after the trend of decisions was in favor of the maintenance of the integrity of the antitrust law men like Judge Elbert H. Gary, George W. Perkins, and other great trust magnates began publicly to advocate it, and that part of the press devoted to the interest of these great concerns began also to advocate the regulation of interstate commerce, either by commission or by the enactment of a national incorporation law or both. There was an entire change of front on the part of the monopolistic interests of the United States; in other words, toward a trade commission and toward the regulation of these matters, just as soon as it appeared from the decisions of the courts that the Sherman law meant precisely what it said and that it would be enforced accordingly.

One of the instances attending the birth of the Progressive Party was the celebrated conference in the city of New York between Mr. George W. Perkins and Theodore Roosevelt, who shortly afterwards announced that "his hat was in the ring." If my information is correct, it was Mr. Perkins who drew this particular plank of the Progressive platform, and I have no doubt that his support and the support of others in sympathy with him went to the Progressive Party morally, physically, and financially because of the fact that Mr. Roosevelt stood for the regulation of monopoly.

Consequently this measure has for its support the general tendency of the combinations of the country, the Progressive Party, and the Republican Party. Does anybody believe that the Republican Party would have committed itself to a trade commission upon the theory that its establishment would lead to the extinction and destruction of monopoly? The whole history of the party is in the other direction. Does anyone believe that the Progressive Party expected anything more than the regulation of monopolies, its contention being that they were the inevitable development and evolution of manufactures and commerce and of trade, keeping pace with the demands and the progress of civilization?

No, Mr. President; ours is the only great national organization which committed itself squarely against monopoly, which declared it indefensible, which declared it intolerable, and which pledged itself to the people that it would legislate for its prevention. That is precisely what I hoped it would do, and which I fear it will not do in the enactment of the pending measure.

Now, Mr. President, the evil to be eliminated——

Mr. NEWLANDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Nevada?

Mr. THOMAS. I do.

Mr. NEWLANDS. Before the Senator proceeds to a new point I wish to call his attention to the fact that, while it is true that Mr. Gary of the Steel Trust and other chiefs of the great industrial concerns of the country immediately after the Standard Oil and the Tobacco Trust decisions declared in favor of some kind of an industrial commission which would regulate industries just as the Interstate Commerce Commission regulates railroads, the kind of a commission which they wanted was not the kind of a commission which this bill provides for.

Mr. THOMAS. Oh, I concede that. It does not go as far as they would have gone if they were in power. But the difference is in degree and not in kind.

Mr. NEWLANDS. The commission which they wanted was a commission which would recognize consolidation, which would recognize monopoly, but would regulate it even to the extent of regulating its prices. They saw before them destruction as the result of the decisions of the Supreme Court in those cases, far-reaching as they were, embracing every form of consolidation, of monopoly, and of device pending toward monopoly, and they saw that their organizations would be broken up if those decisions were made effective. Hence, with a view to saving their organizations and preserving the consolidations which they had effected, they said, "We surrender; let our form of organization stand; treat us as public utilities and fix our prices."

If the Senator will just permit me to go a step further, that is what they wanted, and they gathered hope only after the decrees were made when they found that practically the decisions of the court had become inoperative through faulty decrees and through a faulty enforcement of those decrees. The Senator has heard but little clamor since then, if any, in favor of a commission which would regulate prices, for they hoped to maintain practically their monopoly through the administrative inefficiency of the courts to carry into practical operation the dissolution which the courts had decreed. They relied upon faulty administration for protection, and since then they have not been so clamorous for the regulation of monopoly.

Now, this kind of a commission is an entirely different commission. This commission is not to recognize consolidation, but to destroy it. It is not to recognize monopoly, but to destroy it. It is creating a new commission which will aid the courts.

We will have a commission which will aid the courts where they are at present faulty in the administrative processes that are necessary to destroy these consolidations and to destroy these monopolies, and to aid both the courts and the Attorney General in the administration of the law. Instead of regulating monopoly we are regulating unfair competition. We are not taking these monopolies under the tutelage and the guardianship of this commission. On the contrary, this commission is organized to destroy them. It is so organized as not only to aid the courts and the Attorney General, but it will impair and destroy monopoly in the future in the embryo, for the monopolies of the future are not to be created by enormous consolidations. Those days have gone by. It would be utterly impossible to-day to create a consolidation of corporations such as was effected in the case of the Steel Trust; but it is possible through unfair methods of competition, with an entirely legal organization, to resort to these devices which the law has in repeated decisions condemned and by which it would be possible to build up the monopolies of the future just as effectively, though differing in character, as those at present organized.

Mr. THOMAS. Mr. President, the evil to be eliminated, as I stated before, is one about which we do not differ, but perhaps its definition will somewhat clear the atmosphere. For that purpose I want to read into the RECORD a statement of Mr. Robert R. Reed, of the New York bar, made before the Committee on the Judiciary of the House during the hearings upon the trust legislation then before it, and involving, I think, this identical bill. He said:

> That view is that the American trust grows out of the corporation and out of the corporation alone; that it grows out of the extension of the corporation to commercial and industrial business without requiring adequate safeguards against monopoly, without primarily so safeguarding an industrial or trade corporation that it must always remain an independent business unit. I believe that if that were done—and it could be done and has been done in times past—there would be no trusts in the United States.
>
> There are practically no trusts in England, which creates its own corporations and looks after them, in the first instance. We all know what the corporation situation has been in this country. By reason somewhat of our dual system of government, though unnecessarily so, we have had 48 States more or less competing, and several of those

States competing actively, in the sale of corporate charters, corporate rights, and special privileges, not for the benefit for their own citizens at all, but competing in the sale of corporate privileges to be used by citizens of other States, giving them powers which their own States would not give them and, incidentally, enabling them to harness the commerce of the United States. We have seemed to be helpless before that situation, and, as a matter of fact, I think we have been ignorant of it until the last few years.

* * * * * * *

Let us suppose, for an instant, that corporations formed by Brazil or France come into the United States with unsafe powers, blanket charters. Whose duty would it be to protect the commerce of the Nation against such corporations? Would it be the duty of the individual States or the duty of Congress?

Of course he makes the correct statement that it would be the duty of Congress. But that precise duty of Congress, Mr. President, applies also to corporations created in one State and doing an interstate business, and particularly to those corporations which are created in one State nominally but which do all their business, virtually, in other States.

If it be true, then, that the evil grows out of the formation of corporations by States and by foreign nations, and that these corporations are armed with extraordinary powers on the one hand and freed from the safeguards that ought to apply to all corporate action upon the other, then the remedy is a simple one. It is to so legislate as to prevent such corporations from carrying on interstate commerce and business. When that is done the requirement of the Democratic platform is absolutely complied with. No commissions are necessary, the enormous expense of national administration of the subject is eliminated, and the courts will be amply capable through their ordinary equipment to meet and overcome any conditions that would threaten the continuation of monopolies.

Mr. President, such a thing as monopoly at common law is inconceivable; it is impossible. At the common law all practices leading to an engrossment of the market, to the cornering of commodities, or to the establishment of monopolistic conditions were reachable and punishable by the common-law courts.

Monopolies, then, have their foundation and their origin in law and in express law. They are the outgrowth of royal grants, of licenses, or of statutes, and in this country they are the outgrowth of State legislation. They are the natural offspring of that competitive condition which at one time existed and which still exists between States, which, for the purposes of revenue, began to remove the safeguards and restrictions thrown around corporations necessary to the protection of the people in their action, until finally every safeguard disappeared from the laws of some of the States, which became at once a snug harbor for every corporate adventurer on the face of the earth who could obtain his charter and sail out of it to prey upon the commerce and the property and the citizens of the other States of the Union.

The fact that more than one State was engaged in granting these enormous privileges only served to increase the number and powers of the combinations, whose offenses make this legislation necessary.

In 1911 Judge Edgar H. Farrar, of New Orleans, at that time president of the American Bar Association, delivered an address to that body upon this identical subject, one of the most notable addresses ever directed to it. He discussed the genesis and growth of monopoly in America, which properly led up to the corporation and the corporation only.

Former Attorney General Wickersham laid down the same proposition as long ago as February, 1910, at which time he said that our modern monopolies grew from public grants, just as surely as monopoly in England came from royal grants, and he instanced the holding companies. A corporation, Mr. President, as originally designed was a very simple matter. It was the object of a special act of the legislature. Its powers were defined and strictly defined, and they were generally confined to one object. The amount of its capital stock was fixed and the price at which it was to be sold.

Within the orbit created by the statute it could conduct business, and beyond that orbit it could not transgress with impunity. It was, as I have stated, a most useful and essential agency for the development of commerce and for the progress of civilization. It was never permitted in those days to become the holder of shares in some other concern; it was never permitted to issue a share of stock that did not represent actual value received by the corporation generally in the form of cash; it was never permitted to transgress upon the possessions or the territory of other corporations, but the vast possibilities involved in the transaction of corporate business upon the one hand, coupled with the exemption from personal liability of the incorporators and stockholders upon the other, together with a decision of the Supreme Court of the United States to the effect that the charter was a contract which could not be violated, led to the enormous expansion of the corporations in the United States, until finally corporations were created under general law, so that instead of requiring a special act of the general assembly all that was necessary was to draw a charter in accordance with the requirements of the general statute available to everybody.

I have not the time, Mr. President, to trace the evolution of the corporation. Suffice it to say that its expansive power seemed to have no limitation until the time came during the latter part of the last century when in some of the States of the Union a corporation under general law could be created for the purpose of engaging at one and the same time in every pursuit and pastime of which the mind of man could conceive except one. That exception referred to the activities of the corporation in the States of their creation. I have drawn a number of these acts of incorporation myself, and I think I have some familiarity with the subject. You can take any corporation organized under the law of New Jersey, since the corporation law of that State that was in force until the administration of Gov. Wilson, and some parts of which are yet in force, and you will discover, Mr. President, that the powers of the New Jersey corporation are boundless. They include everything except the power to build a railroad in New Jersey; they can do business anywhere on the face of the earth and do any kind of business; they can carry on any pursuit whether it is business or not that they may see fit to carry on. Then there is an all-saving and all-embracing clause in the charter which provides, in substance, that they can do anything else not specifically mentioned which would have been mentioned if it had occurred to the incorporators at the time of their incorporation.

Mr. President, when creatures of that sort can find solid foundation upon an existing law and derive their strength and sustenance from the statutes of a sovereign State and are given access to every other State in the Union and to the other principalities of the world monopoly is just as sure to follow as that the night follows the day.

The fact that a corporation endowed with a roving commission could do what it pleased would result in monopoly was perceived at a very early period. In 1688 the people of Massachusetts protested against the charter of a trading corporation with power to open mines in New England, the objection to the charter being that it would tend to create a monopoly, and, therefore, to enhance prices. Unfortunately, the States being independent of each other, no State could by legislation interfere with and prevent the existence of monopoly within its borders so long as other States were free to organize and turn these creatures loose upon them.

Let me give an illustration of that fact. I think it was some time during the 90's—the last decade of the last century, in any event—that the Standard Oil Co. was declared to be a monopoly in the State of Ohio, and its dissolution was therefore ordered. It complied with the order and submitted to a dissolution, but it immediately went to New Jersey and there reincorporated in a more aggravated form and carried on its business just as it had done before in the State of Ohio, and of course spread its tentacles all over the United States.

Take another instance. The State of New York incorporated the New York Central Railroad and gave it powers of an undefined and sweeping and extensive character; the State of New Jersey created the United States Steel Corporation and authorized it, as I have said, under the terms of its charter to do anything anywhere throughout the wide universe, except that it could not build a railroad in New Jersey; the State of Pennsylvania created through the exercise of its sovereign power the Pennsylvania Railroad. Those three concerns, each the creature of a separate sovereignty, were able, nevertheless, under the forms of law and based upon law, to practically combine their various energies and enterprises, to increase their capital to suit their own sweet will, and by their cooperative action to extend their powers, industrial, economic, and political, without limitation from any source.

You can not find a monopoly, Mr. President, where the English language is spoken that is not a creature of law, based upon law, and existing by virtue of express authority conferred by law. That is so clear, and the remedy is so obvious, as it seems to me, that instead of considering three bills, one of which now before the Senate has for its purpose, whether intended or not, the regulation and perpetuation of these evils, we should enact a series of prohibitory provisions as applied to corporations engaged in interstate commerce, and go home.

If we declare that no corporation shall engage in interstate commerce which is possessed of more than certain enumerated powers; that no corporation shall engage in interstate commerce whose capital does not represent the actual amount of its assets; that no corporation shall engage in interstate commerce

that is one of a series of subsidiary corporations engaged in the same supposed competitive business; that no corporation shall engage in interstate commerce which is a holding company of a number of subsidiaries engaged in the same business; that no corporation shall engage in interstate commerce that is affiliated with any transportation company; that no transportation company engaged in interstate commerce shall be permitted to have an interest in any corporation dealing in any subject matter of traffic of that concern; and some other inhibitions of similar character, accompanied by appropriate penalties to be enforced by the courts in the event the laws are evaded or avoided or violated, we end the whole question of monopoly in the United States, in my judgment. Within 24 months from the time such an act went into effect every one of the huge predatory concerns would be compelled to revise its charter under the State of its creation or go out of business.

This, Mr. President, is not only within the power of Congress, but it is its duty. If the people of my State, by legislation of a pernicious character, can create institutions that invade the State of the Senator from Mississippi [Mr. VARDAMAN] and indulge in monopolistic or other injurious practices there, the State of Mississippi is powerless to do more than protect itself, in which event the institutions I speak of can easily cross the river into Louisiana or they can march eastward into Alabama or northward into Tennessee, while some other institution will come from some other State and take the Mississippi field which has been abandoned.

One conception that I have of the necessity for a General Government is the protection of all the people of all the States from the wrongs inflicted upon them by the people or by the legislature of any State; and since monopoly is founded and grounded upon law, upon statute, upon license, or upon grant, why should we not, as thinking, sensible beings, go to the root of the evil and see to it that such laws shall not have any operative effect outside of and beyond the jurisdiction of the States creating them?

It may be, Mr. President, that this remedy is so simple that it may not address itself to the reasoning faculties of the average man, but its simplicity should commend it. When it is contrasted with a measure that goes to the other extreme, a measure which creates a commission, which requires that commission to delve into the business of every concern in the United States engaged in interstate commerce, a commission to which is committed the duty of preventing unfair methods of competition among a hundred million people, from whose decision resort can be had to the courts, therefore making the courts the ultimate arbiter in the last instance, a commission which will require thousands upon thousands of employees properly to discharge its functions, a commission that is bound to be swamped and overburdened and overwhelmed by the multitude of controversies which will immediately seek relief through its agency, a commission which is absolutely undemocratic and opposed to the positive mandate of the Democratic platform—faced with such an alternative, the simplicity of the actual remedy which is suggested by Senate bill 1138 ought to be its chief recommendation. It needs no board for its enforcement, Mr. President. Woe unto the corporation which fails to comply with its requirements. It will put an end to the creation of these concerns in one State that they may do business and exercise their powers in the others.

Mr. President, one of the most shameful episodes in American history, in my opinion, is the disgraceful competition that has been going on for a good many years in some of the States of the Union in the business of creating corporations by offering special inducements to those who desire to utilize the corporate form to escape all personal responsibility to incorporate their concerns under the laws of the particular State.

I think New Jersey is perhaps the greatest of all sinners in this regard, and then Delaware and Maine and West Virginia, and at one time South Dakota and the former Territory of Arizona, all offering special inducements through legislation to every man desiring or willing to transact a dishonest business, to every man who is ready to take chances, to every individual who has a scheme which may or may not be successful, and, if not successful, who desires to escape from consequent liability—these States have been competing for corporate business from such characters. I do not know of a single safeguard that is left in the laws of some of these States for the protection of the man or the woman who deals with their corporations if those who manage them are disposed to be unscrupulous, dishonest, or monopolistic. The invitation has been, "Come unto us, organize your corporation, and then go forth and carry on your business as you please in our sister States under the shield and protection of our laws, for you are exempt from all responsibility and clothed with unlimited authority."

Why, Mr. President, monopoly is as sure as the procession of the seasons to follow such a condition.

Mr. President, I have spoken longer than I intended upon this subject, yet I have said but little. The views which I have expressed are not original ones. I do not know that anyone can claim that distinction; but they have been elaborated with exhaustive ability within the past three or four years by a distinguished member of the New York bar, Mr. Robert R. Reed, who, I understand, prepared the structure of Senate bill 1138. I have merely attempted in a somewhat crude way to emphasize the principal points of Mr. Reed's contentions, for they address themselves to the unqualified approval of my judgment. His argument is irrefutable. We should adopt such preventive legislation upon this great subject as its importance demands and set our faces against all commissions and other administrative agencies.

Mr. President, legislation such as is here proposed is destructive of the principle of State rights, a principle which the Democratic Party has always maintained. The term may be a somewhat indefinite expression; it certainly is susceptible of various definitions, and may mean one thing at one time and another thing at another time; but the fundamental concept of our community life is local self-government. All parties profess to believe in it; but every time that a law of this kind is enacted and matters of a local significance and character are transferred to the control of a national commission, we invade the ancient principle of local self-government, weaken the force of State authority, and extend the boundaries of Federal power.

You can not govern a hundred million people, Mr. President, from a great central point like Washington. It never was intended that national authority should be utilized for any other than essential national and general purposes; but we are becoming more and more a Government concerning itself with matters of a local character, matters which are the proper subject of State, of county, of municipal regulation and control; and just as surely as this commission is created, with its agents and representatives scattered all over the face of the United States, exercising its powers and wielding its authority, making its orders and enforcing them in every city and every village and in every crossroads of the country, each of them subject to supervision at Washington, we wrest a great field of local self-government from the States and their local subdivisions and transfer them to the General Government, there to remain forever as a part and parcel of the central and national authority and subject to all the objections, as it will be to all the delays and complications, that such a condition necessarily entails.

I have often wondered, Mr. President, whether any of the founders and framers of the Constitution ever entertained the remotest conception of the tremendous possibilities involved in the commerce clause of that document. I have often wondered whether the mind of man could then have conceived the idea that from this clause of the Constitution would come expansive forces of government encompassing all the activities of commerce and of industry, such as we have witnessed during the past 25 or 30 years. If the States as sovereign entities shall disappear from the political map of the United States, it will be through the construction given to the commerce clause of the Constitution, coupled with the tremendous extension of the jurisdiction of the Federal courts through interpretations of the fourteenth amendment. Between the two the Government at Washington, through legislation of this sort, is becoming the source as well as the center of all of the economic and industrial activities of the Republic.

Mr. President, I can not bring my mind to support this measure. If it be true that we must have a commission, then it were far better to go back to the House bill and enact that into law. I think it would be far better, Mr. President, if we could substitute for all three of the so-called antitrust measures Senate bill 1138, since it comprises the alpha and omega of the so-called trust program. It is simple, effective, complete. It meets every requirement, provides against every contingency, removes every evil. It destroys every existing monopoly and prevents the creation of others. It conforms with our platform, harmonizes with democracy, and will command the applause of every thinking man and woman who cares to examine its provisions.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House disagrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate No. 158 to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914, and for prior years, and for other purposes, and further insists

upon its disagreement to the amendment of the Senate numbered 158.

DEFICIENCY APPROPRIATIONS.

The PRESIDING OFFICER (Mr. WEST in the chair) laid before the Senate the action of the House of Representatives disagreeing to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate No. 158 to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914, and for prior years, and for other purposes, and further insisting upon its disagreement to the amendment of the Senate numbered 158.

Mr. MARTIN of Virginia. I move that the Senate recede from its amendment No. 158.

The PRESIDING OFFICER. The question is on the motion of the Senator from Virginia.

Mr. JONES. What is the amendment?

Mr. MARTIN of Virginia. I will say to the Senator that there was only one amendment in disagreement between the two Houses; and that was amendment No. 158, the object of which was to enable payments to be made of certain arrearages of pay due officers who left the Regular Army and became officers in the Confederate Army. This amendment, which was put on by the Senate, had no other purpose than to enable these officers to collect the balance standing to their credit on the books of the Treasury Department. The House has twice refused to concur in the amendment, and I think it is necessary to accept that determination on the part of the House. I therefore move that the Senate recede from its amendment.

The motion was agreed to.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. POMERENE. Mr. President, with many of the provisions of the pending bill I am in entire accord. I believe in its inquisitorial features so far as they apply to the investigation of the practices of corporations, trade associations, and corporate combinations; I believe in conferring power upon the proposed interstate trade commission to act as a master in chancery where the courts in their wisdom may desire to refer cases to them after a decree has been entered for the purpose of working out methods of dissolution. I believe also that the commission should be clothed with power to see to it that corporations which have been thus dissolved comply with the decree of the court. With such powers the commission may be of great assistance to the Department of Justice in enforcing the antitrust laws.

I wish this afternoon briefly to address myself to section 5. I recognize that there is a principle in this section which is worthy of our most serious consideration, but I can not support the provision in the bill as it is now drawn, and I want to call the attention of the Senate to a few of its features which I think are seriously objectionable.

I have offered an amendment in the nature of a substitute for this section. Some of the objections which I urge to the original section of the bill as reported to the Senate by the committee will apply with equal force to the amendment which I have proposed, but there are many other objections to section 5 which I have sought to avoid by the amendment proposed.

One of the most unsatisfactory features of this bill is that which declares unfair competition to be unlawful, without any attempt to define what unfair competition is; and I have seen no bill thus far which eliminates that objection. I was led to believe, and I believe now, that if it were to become the law of the land the courts would hold that the words "unfair competition" mean only such practices as are held to be unfair competition under the common law. I can not believe that the term "unfair competition" could be used in its colloquial or popular sense, if it has a colloquial or popular sense, which I do not believe.

Before I take up that feature of the bill, however, I desire to call attention to some other objections a little more in detail.

First, there is nothing in this section which requires a complaint to be filed with the commission setting forth what the alleged unfair competition is. There is a provision to the effect that if the commission shall have reason to believe a corporation has been guilty of unfair competition, then it shall serve a notice upon the corporation requiring it to show cause why an order should not be entered prohibiting the alleged unfair competition; and note this, please: If after this hearing the commission shall be of the opinion that the corporation was not guilty of any unfair practice, there is not to be entered any order showing that the corporation has been a law-abiding citizen. There is no provision at all for any order or record.

We know as members of the bar and as business men that the public is interested not only in knowing what things are prohibited by the law or by the courts, but when a practice has been passed upon by a tribunal of any sort the public is interested in knowing that that practice is a valid, legal practice.

Again, under this section if the commission shall be of the opinion that the practices are in fact unfair competition, an order is issued, and then the unfortunate corporation is in this predicament: Even though it was of the opinion that the practice which it had adopted in its business was legal and entirely ethical, the corporation would be compelled to comply with the order of the commission or openly defy it. I submit that no corporation should be put in the position of openly defying an order of any tribunal; but if that corporation feels itself aggrieved, it should have the right to have some sort of a review of the findings of which it complains.

It is true that if the corporation shall openly defy the law, then the bill before us provides that the commission may make its application to a court of proper jurisdiction for an order to compel obedience to its order. It seems to me, however, that in this country of ours the corporation or person complained of should have the right to go to a tribunal on its own motion for relief and not be compelled to defy the order of a commission in order that its future rights might be determined.

Mr. President, having these objections in mind, I have submitted an amendment in the nature of a substitute for section 5, which provides—to state briefly the substance of it—when the commission shall have reason to believe, either from information it may have gleaned or upon the complaint of some one, that a corporation has been guilty of unfair competition, then a complaint shall be filed in writing setting forth concisely the facts constituting the alleged unfair competition; that a notice shall be served upon the delinquent party; that a trial may be had; that the final judgment of the commission shall be entered, whether it be for or against the corporation; and then, if the corporation is not satisfied with the order of the commission, it shall have the right to go to the United States district court and file its petition setting forth the complaint and a certified copy of the proceedings before the commission, including the testimony and the order of the commission, and have the matter passed upon by that court the same as if a proceeding had been begun de novo by any complainant in the court.

Mr. KERN. Would the commission have the same right?

Mr. POMERENE. The commission will have the same right in the event that the order is not complied with. If it feels that in the proper administration of affairs it should be complied with, then the commission may file its petition, with a transcript of the proceedings before the commission, with like effect.

I further provide, after the analogy of the procedure adopted in the commerce act, that the mere filing of this proceeding shall not operate ipso facto as a suspension of the order of the commission, but that upon a hearing and upon a proper showing a suspension of the order in whole or in part may be ordered by the court for a period of 60 days, and that on a like showing it may be continued from time to time, if in the judgment of the court it seems proper.

I do not see how there can be any objection to that method of procedure, and I can never get away from the principle which I learned in the early days of my study of the law, that every man is entitled to his day in court.

I desire now to call attention to what I believe the phrase "unfair competition" means as contained both in the pending bill and in the amendment which I have proposed.

I recognize the fact that ordinarily if words are used in legislation which have a popular significance the courts will attach that meaning to them; but there is another principle equally well founded, and that is if words have a technical meaning the courts will give that technical meaning to them; and if words, phrases, or clauses have been given a particular meaning by the common law or by statute law, then, unless it clearly appears to have been the legislative intent to the contrary, the meaning will be given to those words in the statute which they had at the common law or in other statutes.

I want to call the attention of the Senate briefly to a few authorities upon this proposition.

Nims, in his work on Unfair Business Competition, in section 3, says that "the common law, not trade-mark statutes, is the basis of the law of unfair competition"; and as a general rule what we know on the subject of unfair competition comes to us from the common law, not from any statute. I recognize

the fact that at times we speak of unfair competition as being connected only with the law of trade-marks. Not so; it is very much broader.

Now, let me refer for a few minutes to some of the canons on this subject of construction, as contained in Sutherland's work on Statutory Construction. I read from page 752:

Where a word having a technical as well as a popular meaning is used in the constitution or a statute the courts will accord to it its popular signification, unless the very nature of the subject indicates, or the context suggests, that it is used in its technical sense.

Again, on page 753:

Words in common use and also having a technical sense will, in acts intended for general operation, and not dealing specially with the subject to which such words in their technical sense apply, be understood primarily in their popular sense unless they are defined in the act or a contrary intention is otherwise manifest.

Mr. COLT. Mr. President——

Mr. POMERENE. Pardon me until I shall have finished this. But note:

Such words, however, will be understood in a technical sense when the act treats of the subject in relation to which such words are technically employed.

I now yield to the Senator from Rhode Island.

Mr. COLT. I am much interested in what the Senator read from the textbook of Nims. I will ask him, if he will not go on for a section or two further in the book, where he will find that the author does not confine the words "unfair competition" strictly to the trade-mark cases, but broadens out the term to the view laid down in the Mogul Steamship Co. case. It was there held that unfair competition exists where one man interferes with the business of another by fraud, misrepresentation, physical obstruction, intimidation, and so forth. I think the author quotes the language of the opinion in the Mogul case. It was also said in that opinion that it was impossible to define unfair competition at common law unless you confine it to that which is illegal or fraudulent; in other words, that it is not a question of morals or good manners, and that if you are going to use "unfair competition" in that sense, it is beyond the power of the court to define it.

I think the Senator will find that Nims in his book adopts the meaning of unfair competition as laid down substantially in the Mogul Steamship case, and that it will be found that this is the meaning of these words as known in the common law.

Mr. POMERENE. I think the Senator has correctly stated the law. It is a matter of constant growth, undoubtedly; but I submit that when it comes to the question of the growth of the common law we should depend rather upon our courts than upon a mere commission that may be appointed when we know not who may be placed upon that commission, or what may be their qualifications.

I wanted, however, to go a step further with reference to the rules of construction.

Again, on page 757, Sutherland says:

"Where a statute uses a word which is well known and has a definite sense at common law or in the written law without defining it, it will be presumed to be used in that sense, and will be so construed unless it clearly appears that it was not so intended. Words having a precise and well-settled meaning in the jurisprudence of a country are to be understood in the same sense when used in statutes unless a different meaning is unmistakably intended."

And the author cites in support of this proposition, among other cases, Perkins *v.* Smith (116 New York, p. 441).

Believing as I do, that the words "unfair competition" are used in this bill and in the amendment which I propose just as they are used in the common law, I think the constitutionality of this section can be defended; but if we are going to give it a wider meaning, a wider scope, so that its limitations shall be only in the minds of this commission, in my humble judgment we are conferring upon this commission not only administrative functions but legislative and judicial powers as well.

To illustrate, I take it that Senators will agree with me that there is a certain line governing questions of competition upon the one side of which, under the rules of the common law, everything would be regarded as unfair competition, and on the other side of that line every practice which would be engaged in would be regarded as fair competition.

Now, let us suppose, for the sake of the argument, that it is the purpose of the Government to declare that many of the things which are now embraced within the subject of fair competition upon the one side of that line shall be no longer regarded as fair competition, but shall come within the inhibition of the law. Can it be said that a mere administrative tribunal may exercise this power and declare a thing unlawful which heretofore has been lawful? In my humble judgment, that is a legislative power.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Iowa?

Mr. POMERENE. I do.

Mr. CUMMINS. Returning to the observation made by the Senator from Ohio a few moments ago with regard to the construction that should be put upon a phrase or a word taken from the common law, when Congress in 1890 made unlawful a restraint of trade it took that phrase from the common law. I assume the Senator from Ohio will agree with me about that.

Mr. POMERENE. I do.

Mr. CUMMINS. Does the Senator from Ohio believe that the words "restraint of trade" in that act mean at the present time in the United States what they meant in the common law in 1890?

Mr. POMERENE. I do, and the majority of the court so held. The words "in restraint of trade" the Senator, if I understand him correctly, would define as they are defined in the popular sense. They were, in fact, defined by the Supreme Court as those words were used in the common law.

Mr. CUMMINS. Mr. President, I have often heard the Senator from Ohio criticize the Supreme Court for the introduction of the word "undue," or "unreasonable," as found in its later decisions, into the Sherman law.

Mr. POMERENE. Mr. President, with all due respect to the Senator's statement, I think he is not correct. I have on several occasions said that in my earlier study of this subject I preferred the opinion of the majority of the court in the Trans-Missouri case; but after having gone into this subject very carefully and very fully, as I believe, I think the majority of the Supreme Court have adopted the proper interpretation of that statute.

Mr. CUMMINS. Very well. I did not know that the Senator had reached that conclusion, and I may be mistaken about having heard him suggest otherwise; but I desire to call his attention to the fact that up to the present time, in construing those words in England, the courts have never held an arrangement or a contract or a combination to be in restraint of trade unless it was affirmatively shown, and the court could find, that the restraint of trade was injurious to the public interest and had detrimentally affected the public welfare. Does the Senator believe that the antitrust law, the act of 1890, should be construed in that way at this time?

Mr. POMERENE. Mr. President, the Senator is getting away from the bill that we have before us. The question which he suggests is purely an academic one at this time and during this discussion. I have no hesitancy in saying, however, that a restraint, in order to be within the prohibition of the Sherman law, must be an undue restraint. That is the general proposition; and the difficulty, of course, comes in the application of the law to a given state of facts—a difficulty which we have in every lawsuit that is ever tried.

Mr. CUMMINS. But the respect in which I thought my suggestion was material to the argument being made by the Senator from Ohio was when he stated that when we used a word or a phrase that has been known to common law we must forever thereafter attach to it the meaning, and only the meaning, that was understood at the time the act was passed.

Mr. POMERENE. The Senator must not thus represent me. I recognize the fact that the common law is a growing, vital system, that it is constantly developing; but I want it to be developed in the courts, and if it is to be modified I want the Congress of the United States to exercise its function in that behalf.

Mr. CUMMINS. I have no great quarrel with the Senator from Ohio in that respect; but we are in this situation: The Senator from Ohio feels that if we use the phrase "unfair competition" it must mean what it has been held to mean, or as it has been applied, in the common law.

Mr. POMERENE. As a general proposition, I do.

Mr. CUMMINS. Now, the United States as such has no common law, and there is no way in which the United States can develop such a common law as was developed by the judges of Great Britain or of England. My contention is that there is a principle underlying every such phrase if used in the common law; that there is an evil to be reached, and that when we employ such a word or such a phrase we must keep in view all the while the principle upon which the definition or application was given to the word or phrase, and apply it from time to time in consonance with that principle. If that be true, the words "unfair competition" can grow and broaden and mold themselves to meet circumstances as they arise, just as the words "restraint of trade" have grown and have been molded in order to meet the necessities of the American people.

Mr. POMERENE. Mr. President, technically, of course, lawyers say there is not any Federal common law. As a general proposition I concede that; but for more than 100 years in Federal courts as well as in the State courts cases involving

unfair competition have been before those courts. In that way there has been builded up what is in fact a common law, whether we are going to admit it technically or not.

Mr. President, I recognize the fact that in the able discussion of this subject by the senior Senator from Iowa [Mr. CUMMINS] and the junior Senator from New Hampshire [Mr. HOLLIS] many authorities have been cited in the effort to sustain the belief of the Senators citing those cases. I think the Senator from New Hampshire cited a number of cases from State courts which held that certain practices constituted unfair competition, and these were cited to sustain the view that the words "unfair competition" were here used not in the limited sense which I would attach to them, but in the broader, more comprehensive, popular sense. While I have not had the opportunity to examine all these authorities, I venture the assertion that nearly all those cases were based upon special legislation in the several States where those opinions were announced.

I recognize the fact that Congress in the past has legislated and given to certain executive or administrative officials certain authority which may have seemed in one sense of the word to have been legislative, but which the courts held to be administrative. I recognize the fact, further, that what may be legislative authority or administrative authority or judicial authority does not always clearly appear. There is a certain twilight zone between the legislative and the administrative, or between the administrative and the judicial, or between the legislative and the judicial, but I submit that there has been no piece of legislation which has been sustained by the courts which goes to the same extent that the pending bill does.

I am not going to take the time this afternoon to examine all these authorities. One of these cases, and perhaps a pioneer case, was Field *v.* Clark (143 U. S., 649), if I remember correctly the title of the case. The question there arose out of a tariff law. Sugar, hides, and a few other articles were placed upon the free list. Authority was given to the President of the United States by Executive or administrative order to take these articles out of the free list and place them upon the dutiable list if he found that other countries which were exporting to us were enforcing duties which the President deemed unfair or unreasonable in their relation to the commerce of the United States. It was contended in that case that there was a delegation of legislative authority to the President, but the court held that it was not a delegation of authority; that these articles were placed upon the free list and when a certain contingency arose, then certain duties, which had been named in the tariff law, were to prevail, and there was left to the President the mere administrative function of ascertaining whether or not these foreign countries had been guilty of unreasonable or unfair practices in their relation toward the commerce of the United States. In that law Congress fixed the landmarks by legislative authority to serve as a guide to the President.

Later on this question was discussed in Buttfield *v.* Stranahan (192 U. S., 470). The case was referred to some days ago in the debate on the pending bill. An examination of this case shows that Congress had provided by legislation that after a certain date it would be unlawful for any person to import tea which is inferior in purity, quality, and fitness for consumption to the standards provided for in section 3 of this act, and the importation was prohibited.

Section 2 provided that the Secretary of the Treasury should appoint a board of seven members, experts in tea, who were to fix the standards. Section 3 required that these standards so fixed should be deposited at the different customhouses, and section 4 provided that on making entry at the customhouse of all teas or merchandise described as tea the importer or consignee shall give bond, and so forth, and after the tea shall have been duly examined with reference to its purity, quality, and fitness for consumption it might be removed. If objection were made either on the part of the collector or on the part of the importer to the finding, then an appeal would lie to a board of general appraisers.

It will be noted, first, that the Congress had declared that no tea should be imported unless it measured up to certain standards in purity, quality, and fitness for consumption. It declared, secondly, that there should be certain standards adopted, and that all tea which would be imported must conform to those standards.

Again there was a later case to which I wish to call attention briefly. I refer to United States *v.* Grimaud (220 U. S., 506). The statute under consideration involved the validity of certain authority which was conferred upon the Secretary of Agriculture. I read only a portion of the statute, which is pertinent to the immediate question under consideration.

> The Secretary of Agriculture was authorized to—
>
> make provision for the protection against destruction by fire and depredations upon the public forests and forest reservations * * *.—
>
> And—
>
> he may make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use, and to preserve the forests thereon from destruction, and any violation of the provisions of this act or such rules and regulations shall be punished as prescribed in Revised Statutes, section 5388.

This was a statute to protect the forests from fire. It authorized the establishment of certain rules; in other words, standards were to be provided as in the tea case, and it provided for the punishment, in the event that these rules and regulations thus adopted were violated. The court held that these regulations were adopted within the limitations placed upon the statute and under the authority conferred upon the Agriculture Department and might be enforced. In the syllabus the court says:

> While it is difficult to define the line which separates legislative power to make laws and administrative authority to make regulations, Congress may delegate power to fill up details where it has indicated its will in the statute, and it may make violations of such regulations punishable as indicated in the statute; and so held, that regulations made by the Secretary of Agriculture as to grazing sheep on forest reserves have the force of law, and that violations thereof are punishable under act of June 4, 1897 (ch. 2, 30 Stat., 35), as prescribed in section 5388, Revised Statutes.
>
> Congress can not delegate legislative power (Field *v.* Clark, 143 U. S., 692), but the authority to make administrative rules is not a delegation of legislative power, and such rules do not become legislation because violations thereof are punished as public offenses.
>
> Even if there is no express act of Congress making it unlawful to graze sheep or cattle on a forest reserve, when Congress expressly provides that such reserves can only be used for lawful purposes subject to regulations and makes a violation of such regulations an offense, any existing implied license to graze is curtailed and qualified by Congress.

It will be noted that in this legislation the general law is laid down. The details are to be worked out by the department. We will look in vain to the bill as reported or to the amendment which I propose, if the broader construction is to be placed upon the words "unfair competition," for any detail to guide this commission. Everything is to be left to the commission. It is to make the law, decide the case, and enforce its orders.

Will it be said that practices which neither the courts nor Congress itself have held to be unfair competition shall by the mere ipse dixit of a commission be held to be unlawful? If that is not legislation then I known not what legislation is.

If the broader construction is to be placed upon this phrase, so as to clothe this commission with what is almost supreme power, then we are launching on a sea of doubt without any chart and without any compass to guide us.

Mr. President, my attention the other day was called by the junior Senator from Missouri [Mr. REED] to a recent case reported in 210 Federal Reporter, page 173. It is a decision by the Federal court, Judge Denison, and Sessions and Tuttle, district judges, involving the constitutionality of the so-called "Blue Sky" statute of the State of Michigan. The purpose of the law was "to stop the sale of stocks in fly-by-night concerns." A commission was appointed which was charged with the duty of administering the law.

I shall not take the time of the Senate to refer in detail to all the powers that were conferred upon this commission, but I desire to call attention to this one sentence on page 176:

> If the commission finds that the investment company is not solvent, or that its organization or plan of business is not fair, or that its proposed contracts or other securities are fraudulent or of such a nature that their sale would, in all probability, work a fraud upon the purchaser, or finds that such securities are of such a nature and character as would, in all probability, result in loss to the purchaser, then the sale thereof is to be permanently prohibited.

Note the language: If the commission finds that "its organization or plan of business is not fair."

I read now just a sentence or two from page 181. There is a pretty lengthy discussion of the question as to what constitutes "due process of law" in this opinion, but I will content myself with two or three sentences:

> Of like effect and subject to like infirmity is the provision forbidding the sale of securities if the commission thinks that the company's organization or proposed plan of business is not "fair." Broader and vaguer language could not be chosen. It subjects to the practically uncontrolled discretion of the commission every issue or general sale of stocks, bonds, or securities hereafter to be made in Michigan. For this and the provision regarding probable loss we heard upon the argument and we find in the briefs no claim of justification on grounds of public welfare, and we know of none. They deprive plaintiffs of property, and they do not carry the semblance of "due process of law."

Apply the doctrine of that case to the bill now before the bar of the Senate, which provides that "unfair competition" is unlawful; and I believe I am justified in saying that it is conceded by the friends of this measure that it is proposed to

give plenary power to this commission to declare what is and what is not unfair competition. Going into fields that have not yet been surveyed, attempting to declare the law, aye, not to declare the law even, because there is no such provision in this bill or in the amendment which I have offered—and I did not include it, because I believe that we should only give to these words the limited meaning which I attribute to them—Congress sets up for this commission no rules of any kind for its guidance.

The friends of the bill are enthusiastic in the belief that we will have a commission which in dignity and ability will compare favorably with the great Supreme Court of the United States. If this bill becomes a law, I hope that the five best equipped men in the country will be selected to constitute the commission; but there are no five men in this country, I care not what their ability or their character, upon whom I, as an American citizen, believing in American institutions, am willing to confer legislative, judicial, and executive authority at one and the same time. For that reason, if for no other, I would be opposed to giving to this commission, if we could, the unlimited legislative authority or the unlimited judicial authority, as well as the unlimited administrative authority, conferred by the language of this section.

Particularly am I opposed to the section of the bill under discussion which practically says to every corporation that is under suspicion that "we declare your practices illegal; we order you to cease and to desist from a further continuance thereof"; and then says to such corporations, "No; we will not provide a means whereby you can get into the courts unless we choose to begin suit against you for the enforcement of our order."

Mr. President, I recognize the fact that there is much sentiment in favor of a trade commission; I want a trade commission; I am willing to clothe it with all the other powers that are contained in the pending bill, and I am willing to give to it some of the powers contained in section 5 of this bill; but, in my judgment, the bill must be amended so as to give to the aggrieved corporation a right to be heard, and to be heard upon its own petition, and not be placed in the attitude of openly defying an organized tribunal under the Government.

The VICE PRESIDENT. The pending amendment is the amendment proposed by the Senator from Connecticut [Mr. BRANDEGEE] to strike out section 5.

Mr. CUMMINS. Mr. President, I inferred that the Senator from Ohio [Mr. POMERENE] intended to offer his amendment, but inasmuch as he has not done so, I now propose the amendment which I send to the desk to section 5, for the purpose of perfecting the section and having it disposed of before the motion of the Senator from Connecticut to strike out is voted upon. I ask that the Secretary read the amendment.

The VICE PRESIDENT. The Secretary will read as requested.

The SECRETARY. In lieu of section 5 as reported by the committee, except the amendment adopted July 27 at the end of section 5, it is proposed to insert the following:

SEC. 5. That unfair competition in commerce is hereby declared unlawful.

The commission shall have authority to prevent such unfair competition in commerce, in the manner following, to wit:

"Whenever it shall have reason to believe that any person, partnership, or corporation is violating the provisions of this section it shall issue and serve upon the defendant a complaint stating its charges in that behalf and at the same time a notice of hearing upon a day and at a place therein fixed. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint.

"If upon such hearing the commission shall find that the person, partnership, or corporation named in the complaint is practicing such unfair competition, it shall thereupon enter its findings of record and issue and serve upon the offender an order requiring that within a reasonable time, to be stated in said order, that the offender shall cease and desist from such unfair competition. The commission may at any time set aside, in whole or in part, or modify its findings or order so entered or made. Any suit brought by any such person, partnership, or corporation to annul, suspend, or set aside, in whole or in part, any such order of the commission shall be brought against the commission in a district court of the United States in the judicial district of the residence of the person or of the district in which the principal office or place of business is located, and the procedure set forth in the act of Congress making appropriations to supply urgent deficiencies and insufficient appropriations for the fiscal year of 1913, and for other purposes, relating to suits brought to suspend or set aside, in whole or in part, an order of the Interstate Commerce Commission shall apply.

"If within the time so fixed in the order of the commission the person, partnership, or corporation against which the order is made shall not cease and desist from such unfair competition, and if in the meantime such order is not annulled, suspended, or set aside by a court, the commission may bring a suit in equity in a district court in any district wherein such person or persons reside or wherein such corporation has its principal office or place of business to enforce its said order, and jurisdiction is hereby conferred upon said court to hear and determine any such suit and to enforce obedience thereto according to the law and rules applicable to suits in equity. All the provisions of the law relating to appeals and advancement for speedy hearing in suits brought to suspend or set aside an order of the Interstate Commerce Commission shall apply in suits brought under this section."

Mr. CUMMINS obtained the floor.

Mr. POMERENE. Mr. President, if I may ask the Senator a question, do I understand this to be the amendment which he presented last evening?

Mr. CUMMINS. It is the amendment which I proposed last evening, and which has been lying on the table since that time.

Mr. NEWLANDS. Does the Senator offer it as a substitute for the amendment of the Senator from Connecticut [Mr. BRANDEGEE]?

Mr. CUMMINS. I do not; I do not think it would be a substitute for that amendment.

The VICE PRESIDENT. The Chair ruled this morning that all amendments for the purpose of perfecting the text have precedence over amendments proposed to strike out the entire section.

Mr. BRANDEGEE. Mr. President, will the Senator yield for a moment?

Mr. CUMMINS. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. Inasmuch as the Senator from Iowa [Mr. CUMMINS] and several other Senators have submitted amendments to section 5 and I have offered an amendment to strike out that section, I will withdraw my amendment, if I may be allowed to do so, for the present at least.

The VICE PRESIDENT. The Senator has that right.

Mr. CUMMINS. Mr. President, before I close what I have to say on the amendment which I have just offered I shall review, with such brevity as I can, the arguments made by the Senator from Connecticut [Mr. BRANDEGEE], the Senator from Utah [Mr. SUTHERLAND], and the Senator from Massachusetts [Mr. WEEKS], but I feel that I ought, in the first instance, to give some attention to the observations just made by the Senator from Ohio [Mr. POMERENE], as they relate more directly and immediately to the amendment which I have proposed.

Mr. President, I do not quite understand the position of the Senator from Ohio. He asserts that he is in favor of section 5 if the words "unfair competition" are given the limited meaning which he has in mind, but that he is opposed to section 5 if those words are to be given the meaning which the people generally attach to them in business. Possibly I was not in the Chamber at the time when he stated what this limited meaning is and how it is to be ascertained by the commission. If he did state it during my absence, I regret that I did not hear that portion of his address.

Mr. POMERENE. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Ohio?

Mr. CUMMINS. Certainly.

Mr. POMERENE. I did not attempt to define it specifically, except to say that I attached to that phrase only such meaning as it now has under the common law. I further stated that if I thought that these words had the so-called popular meaning which the Senator from Iowa seeks to give to them, or the Senator could persuade me that they had that meaning, I would certainly vote against the entire section.

Mr. CUMMINS. Mr. President, I neither know to what popular meaning the Senator from Ohio refers, nor do I know the limited meaning to which he alludes. The courts have never declared a definition of unfair competition.

Mr. POMERENE. The Senator is correct as to that.

Mr. CUMMINS. The courts have often taken particular facts developed in a particular case, and have declared them to constitute unfair competition. I do not recognize any difference between the technical meaning of unfair competition, as that meaning may be derived from the decisions of the courts, and the so-called popular meaning. There is but one meaning of the phrase. These words relate to commerce, and they do not relate to any other subject, so far as this bill is concerned. The provision reads "unfair competition in commerce." What do the words "unfair competition" mean when applied to commerce?

Mr. POMERENE. Has not the Senator from Iowa, as well as other Senators, been contending that the words "unfair competition" embrace many practices which might not heretofore have been declared to have been unfair competition?

Mr. CUMMINS. Unquestionably. The Senator from Ohio, it seems to me, argues in a circle. If he means to assert that no practice or act that heretofore has not been declared by some court to be unfair competition is not and can not become unfair competition, he has announced, I fancy, his unalterable opposition to this section. If these acts are unlawful now, why do we seek to pass the section at all? Why are we endeavoring to furnish to the people of this country a further remedy, if they

already have a remedy for unfair competition which seems to the Senator from Ohio ample and adequate?

As I remarked during the course of his very clear and lucid statement, in every such instance as this there is a principle involved, just as there is one in the phrase "restraint of trade." There are acts which are now being denounced as restraint of trade which were never dreamed of when those words were first employed by the judges of the common law or in the language of commerce.

Does the Senator from Ohio mean to contend that we should draw nothing within the antitrust law, making it unlawful to restrain trade or commerce, that was not known to commerce and to the courts 100 years ago or 75 years ago? He can not, as it seems to me, insist upon any such rule for the interpretation of words and phrases. "Restraint of trade" meant something in England 100 years ago. There was underlying that term a thought. There was in the minds of the people a determination to protect society against a certain evil, and that evil might manifest itself in a thousand different forms. Because the courts prior to 1890 had no opportunity, no occasion to apply that principle to conditions as they now exist, is it to be said that our courts in endeavoring to keep free the channels of commerce in our country must be limited to the narrow scope, the narrow vision, of the judges of Great Britain in a former age? No! I dissent from any such canon of construction or interpretation.

Mr. HOLLIS. Mr. President——

Mr. CUMMINS. I yield to the Senator from New Hampshire.

Mr. HOLLIS. If the Senator will pardon me, I believe the Senator from Iowa and the Senator from Ohio are agreed as to the right of the court to say whether any given case is unfair competition; but what the Senator from Ohio objects to is leaving it to the trade commission to decide that question. His amendment very clearly indicates it, because he adopts the language that is agreeable to the committee, but he provides a method of appeal to the court, so that the decision of the commission may not have even a prima facie prohibition. So far as concerns the right of the court to say what is unfair competition, however, I believe the two Senators are in agreement.

Mr. CUMMINS. I did not quite so understand the Senator from Ohio. I understood him to assert that the phrase "unfair competition" as known in commerce did not furnish either a court or a commission with a guide adequate to enable it to apply the standard to a particular fact or combination of facts.

Mr. POMERENE. Mr. President, I regret exceedingly if anything I have said could be construed by the Senator from Iowa to mean a reflection upon the ability of our courts to declare what is unfair competition. I object to getting five men together, calling them a commission, accepting in good faith the fact that they are thereby clothed with omniscience, and allowing them to create all of this new growth of the common law or to extend it into new fields which heretofore have not been covered.

If we can define it, as a Congress, I shall be glad to have it defined. If we can not define it, I want the courts to define it. I do not want it to be left to the single judgment of the commission itself.

Mr. CUMMINS. Mr. President, I may have misunderstood the Senator from Ohio, although I listened to him very carefully, and I am glad to be corrected if I have drawn an erroneous conclusion. As I now understand him, he believes that the words "unfair competition" furnish a sufficient rule of law to govern the conduct of the people, but that in applying the law to the particular case we must in all instances resort to the courts and not to a commission. There can be fair difference of opinion with respect to that proposition. I do not believe there can be fair difference of opinion with regard to the adequacy of the phrase "unfair competition" to furnish a rule of law for the government and control of the people of the United States.

I remind the Senator from Ohio, however, that any rule of law sufficient for a court is also sufficient for a commission. I am not now suggesting that the order of the commission can be made final and enforced without review on the part of the courts. That is quite a different matter. I am suggesting, however, that there is no difference between a rule of law as assigned to a commission and a rule of law as assigned to the courts. They are both to be applied to control the conduct of the people over whom they have, respectively, jurisdiction.

If, however, I am wrong with regard to the position of the Senator from Ohio, I certainly have not misunderstood the position of the Senator from Utah [Mr. SUTHERLAND] and the Senator from Connecticut [Mr. BRANDEGEE]. They both insist still that the words "unfair competition" are so vague and so uncertain that they can not be declared by the legislative power as a rule of law.

Mr. SUTHERLAND. Mr. President, if the Senator will permit me, I have only made that claim in the alternative. I do not insist that the words "unfair competition" are not words well known to the law, but I insist that if the words in the bill are to be interpreted in their legal sense, then they confer judicial power. If they are not to be construed in their legal sense, as the Senator from Nevada [Mr. NEWLANDS] seems to contend they are not to be construed, but are to be given some popular meaning beyond that, then I insist that they are not sufficiently definite to furnish a standard.

Mr. CUMMINS. Precisely. I am not dealing now with the question whether we are delegating judicial power to the commission in this bill. I am speaking only of the meaning of these words as a rule of conduct for the people, as a law to be enforced anywhere, in any jurisdiction that is competent to enforce the law, and I understand the Senator from Utah says that these words are so uncertain and so indefinite that neither court nor commission could apply them to a particular case without exercising legislative power.

When the Senator from Utah was discussing this subject this morning his attention was called generally to the fact that these words had been employed by the courts in the sense which I think they take in the proposed act unaccompanied by any definition or any explanation.

I have in my hand the decree of the District Court of the United States for the Northern District of Illinois in the case of United States of America against Central West Publishing Co., Western Newspaper Union, American Press Association, and others, defendants. The decree was entered on the 3d day of August, 1912. The second paragraph of the decree reads in this way:

> That the defendants herein and each of them have, both separately and in concert, committed acts in unfair competition against mutual competitors, and that these defendants and each of them as to said matters be permanently and specifically enjoined and restrained from either directly or indirectly, separately or in concert, through their agents or employees, in any manner committing or doing any acts of unfair competition against the competitors of either of these defendants, and that specifically each be permanently enjoined from thus doing or aiding in doing any of the following acts.

I shall not read the subheads of that paragraph.

Then, turning further along to another part of the decree, I find this in paragraph V, an independent paragraph:

> That each of the defendants named in this petition be specifically and permanently enjoined and restrained from combining or joining in any acts—
> (a) Of unfair competition either against another or against any mutual competitor.

I assume that the court which entered this decree believed that these words had a sufficiently definite meaning to indicate to the defendants the course which they should not pursue and that a violation of this paragraph of the decree would subject the defendants to the process of contempt. How were these defendants to know what "unfair competition" is, how were they to avoid violating the decree of the court, if these words are not sufficiently well known in the language of business or commerce to enable them to avoid the things which the court meant they should be prohibited from doing?

The court knew what "unfair competition in business" is. Twenty years of legislation, 20 years of litigation, 20 years of judicial writing, 20 years of general discussion throughout the country, have crystallized the meaning of "unfair competition in commerce," so that it is vastly better understood by the average, the common man, than the words "restraint of trade." I affirm, after long years of examination and study and reflection, that I, at least, understand what "unfair competition" means much better than I understand what "restraint of trade" means; and yet there is no Senator here who questions that the prohibition against restraint of trade is sufficient as a rule of law, and concerning its application a commission may intervene to do anything that a commission may lawfully do. What a commission may lawfully do is a question that I shall discuss later on. I am now concerned only in endeavoring to establish the adequacy of the words "unfair competition," not in any limited sense, not in any technical sense, but as the business to which the words are to be applied understands their meaning.

I also refer to another item of information which indicates how rapidly these words are being applied to the business, not only of the United States but of the world. I desire to read a short extract from an English publication, the Journal of the Society of Comparative Legislation, a very conservative and careful compilation issued from time to time concerning legislation, with comments by distinguished and able authors. I

read from the issue (new series, No. XXIX) of October, 1913, a paragraph entitled "Unfair competition":

We have—

Says the author—

We have received from Mr. De Becker, the well-known authority on Japanese law, the text of a draft bill prepared in Japan with respect to unfair competition. It is substantially based on the German law of 1909, with a like object, and is intended to meet cases of fraud and deception not covered by copyright, patent, or trade-mark legislation. Some of the provisions are not much more comprehensive than our common law, but others are far more severe than our law, common or statutory, and give remedies to persons who might not, with us, be able to take proceedings. There is no provision exactly similar to the general provision in the German law, which prohibits all conduct in the way of competition "contrary to good faith."

That is a German provision—"all conduct in competition contrary to good faith." We have not yet in this country advanced far enough or retrograded far enough to justify the use of those words; but I instance them as words used by a civilized, enlightened, and progressive nation in order to accomplish the purpose.

But the terms of the bill—

Proceeds the author—

are so sweeping as to make actionable or penal most of the ordinary tricks of advertisers. The punishments proposed are very severe. For example, penal servitude for three years. Everywhere, it would seem, there are legislative efforts to raise the standard of commercial morality.

I also desire to put in the RECORD a little more fully than it has been heretofore the Australian statute. The Senator from Massachusetts [Mr. WEEKS] asked me the other day if I looked upon Australia as one of the progressive countries of the world. I very candidly answer that with "yes." It is a progressive community. It has not developed commercially, industrially, as has the United States, nor will it ever reach the development which we enjoy for obvious reasons, but its people are intelligent, are alert, and are endeavoring all the while to maintain the rights of the great mass of the human kind. This is the statute:

Any person who, either as principal or as agent, makes or enters into any contract, or is or continues to be a member of or engages in any combination in relation to trade or commerce with other countries or among the States—(a) in restraint of or with intent to restrain trade or commerce—

I want Senators who have thought that our antitrust law is all that is necessary in the way of legislation, to remember that Australia has a statute against restraints of trade and commerce practically like our own in the words that I have just read, but the Australian statute goes further—

or (b) to the destruction or injury of or with intent to destroy or injure by means of unfair competition any Australian industry, the preservation of which is advantageous to the Commonwealth, having due regard to the interests of producers, workers, and consumers, is guilty of an offense.

Then the act proceeds to mention some instances of unfair competition. It says:

For the purposes of section 4—

And what I have read is from section 4—

and section 10 of this act, unfair competition means competition which is unfair in the circumstances; and in the following cases the competition shall be deemed to be unfair unless the contrary is proved:

(a) If the defendant is a commercial trust.

(b) If the competition would probably or does in fact result in an inadequate remuneration for labor in the Australian industry.

(c) If the competition would probably or does in fact result in creating substantial disorganization in Australian industry or throwing workers out of employment.

(d) If the defendant, with respect to any goods or services which are the subject of the competition, gives, offers, or promises to any person any rebate, refund, discount, or reward upon condition that that person deals, or in consideration of that person having dealt, with the defendant to the exclusion of other persons dealing in similar goods or services.

Next:

(2) In determining whether the competition is unfair, regard shall be had to the management, the processes, the plant, and the machinery employed or adopted in the Australian industry affected by the competition being reasonably efficient, effective, and up to date.

(3) It shall be a defense to a proceeding for an offense under paragraph (a) of subsection (1) of this section and an answer to an allegation that a contract was made or entered into in restraint of or with intent to restrain trade or commerce, if the party alleged to have contravened this section proves—

(a) That the matter as therein alleged to have been done in restraint of, or with intent to restrain, trade or commerce was not to the detriment of the public; and

(b) That the restraint of trade or commerce affected or intended was not unreasonable.

This is the statute of the Commonwealth of Australia. I know that we have certain constitutional limitations which would prevent the enactment of such a statute in the United States, and I do not assert that it would be wise to enact a statute in all respects like the one I have just read. I am putting it before the Senate simply to show that in the great evolution of business, in the evolution of government and of society, the words "unfair competition" have come to possess a definite, clear, understandable meaning, so that any society can impose upon its members the obligation to refrain from unfair competition, feeling certain that it has given to its members a rule of conduct which they can observe without detriment or danger to themselves.

I have before me a most luminous opinion written by Lord Esher, of the Queen's Bench Division, in the very famous case of the Mogul Steamship Co. against McGregor, decided in 1889. It is a dissenting opinion, but it is just as valuable for the purposes for which I cite it as though it embodied the decision of the court.

While I am mentioning this case I want those Senators who feel so much veneration for the common law and who resist so strenuously any effort to enter new fields and make some laws of our own to remember that in England "restraint of trade" is construed in a way that would not be tolerated in the United States for a single moment. The common law, from which we drew the phrase "restraint of trade," is administered in England so as to permit the most obvious and the cruelest abuses of monopolistic power.

Do you remember what the Mogul Steamship Co. case was? I think we ought to have it in mind as we proceed with this investigation. I intend to read now the facts as found by the court in that case. The facts, as stated in the report of the case of the Queen's Bench Division, reported in 23 Queen's Bench Division, at page 598, are as follows:

The plaintiffs were a shipping company incorporated for the purpose of acquiring shares in certain steamships—the *Sikh*, *Afghan*, *Pathan*, and *Ghazee*—and became the owners of a large number of shares in these ships, which were built for and employed in the China and Australian trades. The defendants were an associated body of shipowners trading, among other places, between China and London, who formed themselves into a conference or association for the purpose of keeping up the rate of freights in the tea trade between China and Europe and securing that trade—

Now mark—

securing that trade to themselves by allowing a rebate of 5 per cent on all freights paid by shippers who shipped tea for Europe in conference vessels only.

That is, in the vessels of the companies which form this combination.

The defendants alleged (and, as it is found in the judgment of Lord Coleridge, C. J., truly alleged) that the large profits derived from the tea freights alone enabled them to keep up a regular line of communication all the year round between England and China, and that without a practical monopoly of the tea trade they must cease to do so. The plaintiffs were admitted to the benefits of this conference for the season of 1884.

I need not at this time read further from the facts. It is sufficient to say that this particular shipowner was compelled to retire from the combination, and that a few years afterwards he brought suit against the combination for the purpose of recovering damages, alleging that his trade had been ruined by the combination, that the tea growers or the exporters from China to England and to Europe would not ship their commodity by any other ships save those which returned the rebate of 5 per cent upon the freight earned during the year.

Is there a Senator or a lawyer anywhere who doubts that an agreement of that kind, if made in the United States and concerning our commerce, would be a violation of the antitrust law? I have never heard a lawyer who even suggested that a contract of that kind would be sustained under the act of 1890.

Mr. LEWIS. Mr. President, may I be pardoned for just a second? I beg to call the attention of the Senator from Iowa that he does great injustice to the conclusion in the opinion to which he has called attention. While it is true, as I remember the case, that the dissenting opinion sets forth views sustaining the view of the Senator, the majority opinion, decided by Lord Bramwell and Sir James Hennen, in that case merely makes a distinction between them and Lord Esher as to the ground whether damages could be recovered, but all of them condemn the thing as being unfair competition.

Mr. CUMMINS. Precisely. I may say that the case afterwards went to the House of Lords, and the opinion or opinions there delivered were of the same tenor.

Mr. LEWIS. The Adelaide Steamship Co. case, July 25, 1913, received such approval that the principles recited in it had their affirmance in the House of Lords.

Mr. CUMMINS. Before taking my seat, I may say that I have an opinion delivered in the House of Lords, I think in February of this year, in a case that would have received instant condemnation under the antitrust law, but which sustained the doctrine that under the proof there was no cause of action under the common law of England.

Mr. ASHURST. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Arizona?

Mr. CUMMINS. I yield to the Senator from Arizona.

INDIAN APPROPRIATION BILL.

Mr. ASHURST. Before I present the matter I wish to say to the Senator, and I thank him for yielding, that I wish to make a report from the conference committee on the Indian appropriation bill. I understand that it may entail some little discussion; I do not know how much; it may be 10 minutes. I do not want to have the Senator yield without knowing the time that might be covered.

Mr. CUMMINS. I understand that the consideration of the conference report is privileged as well as its presentation, and therefore if the Senator from Arizona desires to enter upon its consideration I shall make no objection.

Mr. ASHURST. I only wished to ask the pleasure of the Senator from Iowa. I would not do it unless the Senator from Iowa would be glad to have me present the report.

Mr. CUMMINS. It matters not to me. On the whole I think, as far as I am concerned, it would be wise to pursue a policy that would dispose of all the conference reports, and therefore I shall not interfere nor would it be at all inconvenient to me if the Senator desires to go on with the consideration of the report.

Mr. GALLINGER. Mr. President, I agree with the Senator from Iowa that the sooner we get these conference reports out of consideration the better; but I wish to suggest to the Senator that he is not quite right in his statement that the consideration of the conference report is privileged. The presentation of it is privileged, but I hope there will be no objection to the consideration of the conference report.

Mr. CUMMINS. I raised that question the other day and understood the Chair to say that under the rules if the Senator from Arizona, who presents the report, desired to make a motion to proceed to the consideration of the report the motion would have precedence over any other matter pending before the Senate.

The VICE PRESIDENT. That is what the Chair decided.

Mr. GALLINGER. To that I assent, when it is accompanied by a motion.

Mr. ASHURST. Do I understand that the senior Senator from New Hampshire has objected to the consideration of the conference report?

Mr. GALLINGER. Not at all.

The VICE PRESIDENT. There has been no objection at all.

Mr. GALLINGER. Quite the contrary, I will say to the Senator, I think he is acting wisely to get the conference report acted upon as soon as possible.

The VICE PRESIDENT. The conference report will be read.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12579) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 37.

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$200,000"; also in lieu of the sum proposed in the amendment of the Senate numbered 98 as agreed to in conference insert "$49,700"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment as follows: In lieu of the matter proposed insert: "That the Secretary of the Interior be, and he is hereby, authorized to make a per capita payment to the enrolled members of the Chickasaw and Cherokee Tribes of Indians of Oklahoma entitled under existing law to share in the funds of their respective tribes or to their lawful heirs, out of any moneys belonging to said tribes in the United States Treasury or deposited in any bank or held by any official under the jurisdiction of the Secretary of the Interior, said payment not to exceed, in the case of the Chickasaws, $100 per capita, and in the case of the Cherokees not to exceed $15 per capita, and all said payments to be made under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That in cases where such enrolled members or their heirs are Indians who by reason of their degree of Indian blood belong to the restricted class, the Secretary of the Interior may, in his discretion, withhold such payments and use the same for the benefit of such restricted Indians: *Provided further*, That the money paid to the enrolled members as provided herein shall be exempt from any lien for attorneys' fees or other debt contracted prior to the passage of this act"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 155, and agree to the same with an amendment as follows: In lieu of the matter proposed insert: "It appearing by the report of the Joint Congressional Commission created under section 23 of the Indian appropriation act approved June 30, 1913 (S. Doc. No. 337, 63d Cong., 2d sess.), that the Indians of the Yakima Reservation in the State of Washington have been unjustly deprived of the portion of the natural flow of the Yakima River to which they are equitably entitled for the purposes of irrigation, having only been allowed 147 cubic feet per second, the Secretary of the Interior is hereby authorized and directed to furnish at the northern boundary of said Yakima Indian Reservation in perpetuity enough water, in addition to the 147 cubic feet per second heretofore allotted to said Indians, so that there shall be during the low-water irrigation season at least 720 cubic feet per second of water available when needed for irrigation; this quantity being considered as equivalent to and in satisfaction of the rights of the Indians in the low-water flow of Yakima River and adequate for the irrigation of 40 acres on each Indian allotment; the apportionment of this water to be made under the direction of the Secretary of the Interior, and there is hereby authorized to be appropriated the sum of $635,000 to pay for said water to be covered into the reclamation fund; the amount to be appropriated annually in installments upon estimates certified to Congress by the Secretary of the Treasury. One hundred thousand dollars is hereby appropriated to pay the first installment of the amount herein authorized to be expended, and the Secretary of the Interior is hereby directed to prepare and submit to Congress the most feasible and economical plan for the distribution of said water upon the lands of said Yakima Reservation, in connection with the present system and with a view to reimbursing the Government for any sum it may have expended or may expend for a complete irrigation system for said reservation"; and the Senate agree to the same.

HENRY F. ASHURST,
MOSES E. CLAPP,
Managers on the part of the Senate.

JOHN H. STEPHENS,
C. D. CARTER,
CHARLES H. BURKE,
Managers on the part of the House.

Mr. VARDAMAN. Mr. President, I desire to ask the chairman of the committee, the Senator from Arizona [Mr. ASHURST]—for I could not catch it from the rapid reading of the report—what disposition is made of the Choctaw fund, and whether or not the agreement reached by the conferees excludes the Mississippi Choctaws?

Mr. ASHURST. Mr. President, in reply to the distinguished Senator from Mississippi I will state that amendment numbered 139, which provided for a per capita payment to the enrolled members of the Choctaw, Chickasaw, and Cherokee Tribes of Indians in Oklahoma, was the subject of much discussion. The conferees were unable to agree with reference to that amendment as incorporated in the bill by the Senate, but finally agreed to an amendment in substance as follows:

The Secretary of the Interior is hereby authorized to make a per capita payment to the members of the Chickasaw and Cherokee Tribes—

And so forth, leaving out any reference whatever to the Choctaws. Obviously, therefore, the Secretary of the Interior will be without power to make a per capita or other payment to the Choctaws, either in Oklahoma or Mississippi.

Mr. VARDAMAN. Mr. President——

Mr. ASHURST. Pardon me just a moment. The conferees felt, however, that because there was a disagreement as to whether or not the Mississippi Choctaws should share in the fund it would not be just or salutary legislation to deprive the Chickasaw and Cherokee Tribes in Oklahoma of the money which all admit is due them.

Mr. VARDAMAN. Then, the rights of the Choctaws, whatever they may be, are still protected?

Mr. ASHURST. Absolutely.

Mr. VARDAMAN. And under the terms of this agreement the fund belonging to the tribe will not be disbursed in any way?

Mr. ASHURST. Under no circumstances, so far as this pending legislation is concerned.

Mr. VARDAMAN. Very well. That is all I desire, Mr. President.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. WALSH. Mr. President, I have a word further to say in connection with the amendment in relation to the appropriation for carrying on the work of reclamation on the Flathead Indian Reservation, to which I invited the attention of the Senate when the previous conference report was made. The bill as it came from the other House carried an appropriation of $100,000 for the continuance of this work. That sum was increased by the Senate to $250,000. The conferees now agree on an appropriation of $200,000 for the work on that project.

I am not going to oppose the motion to adopt this conference report, but I am not willing to allow the present opportunity to pass without saying a word of protest in connection with that feature of the bill. Just exactly what actuated the Indian Bureau to recommend any such insignificant appropriation as $100 000 in the first place I have been unable to learn; but upon calling the attention of the Secretary of the Interior and the head of the Indian Bureau and the Director of the Reclamation Service to the condition of affairs, they all agreed, and very readily agreed, that the appropriation ought to be at least $250.000. The Director of the Reclamation Service said before the Committee on Indian Affairs that the appropriation, in fact, ought to be $500,000 in order to carry on work with the economy with which it ought to be prosecuted.

Mr. President, as I said here upon the floor the other day, this project contemplates the expenditure of probably $5,000,000. At the rate fixed by the present appropriation it will take just 25 years to finish up that project, upon which there has already been expended practically $1.500,000. It started with an appropriation of $50.000 in the year 1908, which was for the preliminary work only; in 1909 an appropriation of $250,000 was made; in 1910 there was an appropriation of $250.000; in 1911 there was an appropriation of $400,000; in 1912, for some unexplainable reason, that was cut down to $200,000; in 1913—Sixty-second Congress—the bill carried an appropriation of $400 000, but concert of action between the two Houses was impossible, and it failed in the expiring hours of the last Congress. That sum was again recommended, but was cut down a year ago to $325,000. Now we must content ourselves with $200,000.

Mr. GALLINGER. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from New Hampshire?

Mr. WALSH. Yes.

Mr. GALLINGER. May I ask the Senator from Montana to what particular project he is referring?

Mr. WALSH. The Flathead Indian Reservation project.

Mr. GALLINGER. A reclamation project?

Mr. WALSH. It is a reclamation project.

Mr. GALLINGER. And according to the way we are now appropriating, it will take some 25 years to complete it?

Mr. WALSH. At the present rate of appropriation we can not hope to have this project completed inside of 25 years.

Mr. GALLINGER. I will ask the Senator if the work which has already been done is being utilized, to any great extent, for the benefit of the people who reside on the project?

Mr. WALSH. It is not being utilized, and it will be impossible to utilize it until the great main canals are constructed. The money is now being expended in the construction of those canals.

Mr. GALLINGER. Then, we are manifestly, in view of the small appropriations that we are making annually, pursuing a wasteful policy in that matter?

Mr. WALSH. Altogether so. As a matter of course, the overhead charges are going to be enormous. I invite the attention particularly of the Senator from Vermont [Mr. PAGE] and the Senator from Oregon [Mr. LANE] to that feature of this matter. They have exhibited a devotion to the interest of the Indians there which is in the highest degree creditable to them; but they will bear in mind that the burden of all of this expense must fall upon the Indians, as well as upon the whites; they must each bear their due share of the extra cost involved in this wasteful method. By this system an inexcusable burden of overhead charges is imposed upon them.

Mr. GALLINGER. And the Government is losing the interest on the money that is being invested year by year?

Mr. WALSH. It is unproductive.

Mr. GALLINGER. It is unproductive.

Mr. WALSH. So, Mr. President, the appropriation ought to have been $400,000. We labored to get $250,000, and this body very readily agreed that that appropriation ought to be made. We are now compelled to acquiesce in this diminished appropriation, a most unjust discrimination against the people most directly interested.

But, Mr. President, while I am talking about that matter, I want to advert to a few other related wrongs.

The people upon this reservation have the most just cause of complaint, and of serious complaint, at the manner in which they have been treated by the Government of the United States. The Flathead Indian Reservation was opened by act of Congress in the year 1904. That act provided that the lands should be surveyed; that allotments should be made to the Indians; and that after allotments had been made to them the whites were to be permitted to enter and to select lands, paying the appraised value and complying with the homestead law to acquire title. At the same time the act made provision for carrying on this work of reclamation. The Indians were invited to select their lands under the irrigation project by reference to a map of the reservation indicating the area to be irrigated. The whites were invited to select their lands from among those under that irrigation project, all with the implied representation upon the part of the Government that the work of reclamation should be carried on with a reasonable degree of celerity, so that they might avail themselves of the water for the cultivation of their lands. They all did so, and now Congress pursues a policy which, if adhered to, means that the next generation, not this one, will enjoy the advantages that the works were intended to bring.

Not only that, Mr. President, but there was reserved from the lands open to appropriation those adjacent to the Pend d'Oreille River, for power sites—a very appropriate reservation—in the expectation that some legislation would be speedily passed by Congress looking to the disposition of the same, that the great possibilities of power there could be realized. People were attracted to that locality by reason of the prospects in that regard, but 10 years have passed without a law on the statute books to permit the appropriation of any of those lands. Within that reservation, at the outlet of Flathead Lake, is one of the greatest power sites, Mr. President, west of the Mississippi River; indeed, I might say, west of the Great Lakes. It lies there absolutely undeveloped. A rising city, the town of Polson, was built up near it, in the reasonable expectation that the reclamation project would be carried on and that the power possibilities would be speedily developed, or, at least, that Congress would pass some legislation that would permit them to be developed. These hopes have been very largely vain.

Furthermore, the act of 1904, opening this reservation, provided that the lands should be classified and that the timberlands within the reservation should be sold. It has been deemed wise down to the present time not to sell the timberlands. It was expected that sawmills would be constructed there and that the timber would be cut, and that the lumber industry would be extensively carried on.

Again, it was proposed that all around the Flathead Lake within the reservation, the lands should be surveyed and laid out in small plots for the construction of villas and cottages, the region affording unexcelled attractions for summer residences. Though the lands were reserved the work has been delayed unaccountably, so that the expected tourists have not come. Altogether disappointment upon disappointment has come upon those people until they are on the very verge of despair.

We hoped to get a reasonable appropriation at least for carrying on of this work of reclamation; but we have been obliged, in this situation of affairs, to fight at every stage of the proceedings in order to get recognition for it.

I do not like, Mr. President, at this time to oppose the adoption of this report upon the matter of a difference between $200,000 and $250,000 for this work; but I do not want to have this bill passed without the Senate being fully apprised of the situation which confronts us.

Mr. CLARKE of Arkansas. Mr. President, may I ask the Senator a question?

Mr. WALSH. Certainly.

Mr. CLARKE of Arkansas. Is there any reason to believe that after 75,000 acres of land have been reserved to the Indians there remains enough of the reservation, when converted under the terms of the statute to which the Senator has referred, to reimburse the Government for the $5,000,000 incurred to construct the irrigation project?

Mr. WALSH. The matter has all been figured out, and it has been ascertained that the lands under the irrigation project are ample to repay the amount; but, in addition to that, the timberlands are likewise in a way pledged, as are all the other resources of the Indians as well as the lands of the whites under the project.

Mr. CLARKE of Arkansas. The entire reservation and all the resources that may be carved out of it are available for that purpose?

Mr. WALSH. I entertain no doubt whatever with regard to that.

Mr. CLARKE of Arkansas. A great hue and cry has been raised here that there was a proposition to take away from the Indians valuable existing property rights that they had and to devote them to the uses and to the interests of the white settlers there. Is there any such plan as that at the bottom of that scheme?

Mr. WALSH. I had the honor to canvass that question with the Senate a few days since. The act is very plain in its terms. It originally provided for the construction of that irrigation work and for the reimbursement of the amount expended on it; then it provided that settlers could go in and take the unallotted lands. The law provides that the ratable amount chargeable against the lands of the whites should be paid by them in annual installments running over a period of 15 years, and that the amounts chargeable against the Indians' lands should be reimbursed to the Government out of the Indian funds realized by the sale of the unallotted lands, including the timber and other resources.

Mr. CLARKE of Arkansas. Why has it become necessary to construct this particular irrigation project at the expense of the general revenues of the Government instead of taking the necessary amount out of what is known as the reclamation fund?

Mr. WALSH. I will be glad to answer the Senator. That is exactly what is done in connection with all reclamation projects on Indian reservations. The general reclamation act can not be made applicable to an Indian reservation. I will explain to the Senator why. It provides that the amount expended shall be repaid to the Government by those who take the land under the reclamation project. The expense of the project is assigned and distributed to the lands watered by it. When the beneficiaries are white they may be relied upon to pay back the money in regular annual installments. When you come to a project, however, on an Indian reservation, while you may rely upon the whites to repay annually the amount which is chargeable against their lands, you can not rely upon the Indians to pay anything out of their own funds, so that the amount due from the Indians is made payable out of the tribal funds, and thus the general fund is reimbursed.

Mr. CLARKE of Arkansas. "Tribal funds" is a misleading phrase. Does not the existence or nonexistence of tribal funds depend upon an excess of acres or upon timber rights or water-power sites for the creation of such a fund?

Mr. WALSH. Exactly so. The Indian contributions come from the sale of the lands to the whites. A valuation is put upon the lands the whites take, and they are obliged to pay the price fixed, in addition to meeting the requirements of the homestead law. The money thus realized goes into the tribal fund; the amount received from the sale of timberland goes into the fund; the amount received from the sale of villa sites and any amount that may be paid for mineral lands—all of that goes into the fund. If that fund should be inadequate—that is to say, if the Indians' resources shall not——

Mr. CLARKE of Arkansas. Outside of the 75,000 acres reserved for occupancy by the Indians?

Mr. WALSH. If the Indian funds thus accumulated shall not be enough to pay the contribution that should come from the Indian lands, the Government makes just exactly that much expenditure for the Indian; that is all.

Mr. CLARKE of Arkansas. It makes a donation of that much to that particular scheme?

Mr. WALSH. It does.

Mr. CLARKE of Arkansas. Would it not be of value to the Senator presenting that matter to Congress hereafter to have made an accurate statement showing just exactly what the value of that reservation would be without the irrigation scheme, what it would cost to install it, and how much of it would never be repaid by reason of exempting from the lien or from the obligation of repayment the 75,000 acres of land reserved for the Indians, thereby giving the Congress some sort of reliable basis upon which to determine whether or not the Congress of the United States was not taking out of the general revenues an amount of money to create one of these irrigation schemes in that particular locality?

Mr. WALSH. The present bill contains a provision calling upon the Secretary of the Interior to report to Congress just exactly the details which the Senator suggests it is important to have.

Mr. CLARKE of Arkansas. The provision in the conference report provides for that?

Mr. WALSH. The bill as it now stands contains such a provision.

Mr. CLARKE of Arkansas. That is all I wanted to know.

Mr. WEST. Mr. President, do I understand that under no circumstances can the 75,000 acres that are set apart for the Indians be taken to pay the shortage to the Government?

Mr. WALSH. Absolutely none. The Indians are absolutely secure in their allotments, no matter what may be the result of this work. The only trouble is that it may be in the next generation before any of them get any water for use on their lands at the present rate of appropriation.

Mr. MYERS. Mr. President, I heartily concur in all that my colleague has said about this proposition, and wish to join him in all thereof.

I am thoroughly imbued with the justice and meritoriousness of this project. I am thoroughly acquainted with the project. I am acquainted with its history from its inception and the conditions that prevail under it. It lies in my part of the State, and is something with which I am more than ordinarily familiar. I have devoted a great deal of time, work, and attention to it since I have been in the Senate; but, particularly in the last year, at every inch of the proceedings I have been met with stubborn and persistent opposition, as though the project were a fraud and were something that was not based on right or merit. I know, however, that that conception is entirely erroneous and is due to a mistaken understanding.

I believe this project has been very unjustly dealt with and discriminated against by the Indian Bureau and by this Congress, and that it is unfair and unjust and a waste of money to deal with it as it has been dealt with. To begin with, this year the Indian Bureau started out by making the ridiculously small recommendation and estimate of $100,000 for it. The project would take 50 years to complete at that rate, and everybody connected with it who might get any benefit from it, either Indians or whites, would be dead before the expiration of that time. The bureau now admits that it was mistaken, that it was in error, and that $250,000 ought to be appropriated to the project; but owing to the fact that the appropriating legislation had started out on the basis and recommendation of $100,000 in the House, it is now hard to get what is due to the project, and get it right. It has been opposed at every stage of the proceeding.

I believe $200,000 is an inadequate appropriation, and nothing like what ought to be appropriated to this project in the interest of economy, fairness, and justice to both whites and Indians. It is the one project of the West from which there has been no complaint from either Indians or whites as to the basis of procedure on which it is conducted, the only complaint from either Indians or whites being in behalf of larger appropriations and quicker completion of the work, in order that all might get their benefits the sooner therefrom.

This project, I believe, has not received adequate consideration from the Indian Bureau or from the House or from the Senate; but, rather than have any further disagreement over this appropriation, I shall not oppose the report of $200,000.

From the beginning I have devoted my best efforts and labors and energies to explaining this project to the bureau and to Congress, and to trying to get it before the bureau and before Congress in the right light—not so forcibly and clearly, perhaps, as my colleague has done, but to the best of my ability—and yet it seems I have not been able to get either the bureau or Congress to see it in its true light according to its rights and merits.

While I believe the project is not getting what it ought to have in the interest of right and economy, under the circumstances, at this late day, I shall not make any objection to the report.

The VICE PRESIDENT. On yesterday the Chair laid before the Senate a message from the House of Representatives, in which the House receded from its disagreement to the Senate amendment numbered 23 and agreed to it with an amendment thereto—"in lieu of the sum proposed insert $10,000."

The original House bill contained the clause:

For expenses of the Board of Indian Commissioners, $4,000, including not to exceed $300 for office rent.

The Senate amended that to read "$25,000." The House receded from its disagreement, but inserted in lieu of that sum "$10,000."

It seems that the conferees have not taken this amendment into consideration in the conference. The Chair believes that the Chair has the right to put the question to the Senate as to whether the Senate will concur in the amendment of the House. [Putting the question.] The ayes have it, and the amendment is concurred in.

Now the question is on agreeing to the conference report. [Putting the question.] The ayes have it, and the conference report is agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the year 1914 and for prior years, and for other purposes, and it was thereupon signed by the Vice President.

PETITIONS AND MEMORIALS.

Mr. CHAMBERLAIN presented memorials of sundry citizens of Portland, Selwood, St. Johns, and Woodstock, all in the State of Oregon, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. GALLINGER presented a memorial of sundry citizens of Manchester, N. H., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

Mr. NELSON presented a petition of the Woman's Christian Temperance Union of Duluth, and a petition of sundry citizens of Detroit and Duluth, all in the State of Minnesota, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Duluth, Minn., remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. BRANDEGEE presented a petition of the Swedish Political Club of North Grosvenor Dale, Conn., praying that an appropriation be made for the erection of a monument to John Ericsson, which was referred to the Committee on the Library.

He also presented a petition of the Young People's Christian Union of Danbury, Conn., praying for the enactment of legislation to provide for Federal censorship of motion pictures; which was referred to the Committee on Education and Labor.

BILL INTRODUCED.

A bill was introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GALLINGER:

A bill (S. 6174) granting an increase of pension to Frank Pugsley (with accompanying papers); to the Committee on Pensions.

HOUSE JOINT RESOLUTION REFERRED.

H. J. Res. 241. Joint resolution for the appointment of four members of the Board of Managers of the National Home for Disabled Volunteer Soldiers was read twice by its title and referred to the Committee on Military Affairs.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 5 minutes spent in executive session the doors were reopened, and (at 6 o'clock p. m., Tuesday, July 28, 1914) the Senate took a recess until to-morrow, Wednesday, July 29, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate July 28, 1914.

SECRETARIES OF EMBASSIES.

George T. Summerlin, of Louisiana, now secretary of the legation at Santiago, to be secretary of the embassy of the United States of America at Santiago, Chile, to fill an original vacancy.

Perry Belden, of New York, now secretary of the legation at Tegucigalpa, to be second secretary of the embassy of the United States of America at Santiago, Chile, to fill an original vacancy.

SECRETARIES OF LEGATIONS.

Francis Travis Coxe, of Pennsylvania, now second secretary of the legation at Habana, to be secretary of the legation of the United States of America at Tegucigalpa, Honduras, vice Perry Belden, nominated to be second secretary of the embassy at Santiago.

Glenn Stewart, of Pittsburgh, Pa., to be second secretary of the legation of the United States of America at Habana, Cuba, vice Francis Travis Coxe, nominated to be secretary of the legation at Tegucigalpa.

COLLECTOR OF CUSTOMS.

Thomas F. Thomas, of Salt Lake City, Utah, to be collector of customs for the district of Utah and Nevada, in place of Jacob J. Greenewald, deceased.

CONFIRMATIONS.

Executive nominations confirmed by the Senate July 28, 1914.

CONSULS GENERAL.

Fred D. Fisher to be consul general at Tientsin, China.

P. Stewart Heintzleman to be consul general at Mukden, China.

Roger S. Greene to be consul general at large.

PROMOTIONS IN THE REVENUE-CUTTER SERVICE.

Cadet Engineer Chester Arthur Beckley to be a third lieutenant of Engineers.

Cadet Engineer Isaac John Van Kammen to be a third lieutenant of Engineers.

Cadet Engineer Aaron Matheis to be a third lieutenant of Engineers.

Cadet Engineer Paul Revere Smith to be a third lieutenant of Engineers.

MEMBERS OF THE BOARD OF CHARITIES FOR THE DISTRICT OF COLUMBIA.

Emile Berliner, for a term of three years from July 1, 1913.

George E. Hamilton, for a term of three years from July 1, 1914.

Walter A. Clephane, for a term of three years from July 1, 1914.

POSTMASTERS.

KENTUCKY.

E. P. Brown, Lancaster.

NEW YORK.

James Hulls, Niagara Falls.

James Lynch, Ithaca.

Harry J. Towner, Avoca.

WEST VIRGINIA.

Harry L. Van Sickler, Lewisburg.

HOUSE OF REPRESENTATIVES.

TUESDAY, *July 28, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Lord God Almighty, let Thy spirit come in all fullness in the hearts of Thy children; that wars and rumors of wars shall cease to be; since war is abhorrent to man's highest ideals and peace in accordance with his best thought. "Ah! when shall all men's good be each man's rule, and universal peace lie like a shaft of light across the land?"

"How beautiful upon the mountains are the feet of him that bringeth good tidings, that publisheth peace; that bringeth good tidings of good, that publisheth salvation; that saith unto Zion, Thy God reigneth!"

Hear us, O God our Father, in the name of the Prince of Peace. Amen.

The Journal of the proceedings of yesterday was read and approved.

SUNDRY CIVIL APPROPRIATIONS.

Mr. FITZGERALD. Mr. Speaker, I call up the conference report on the sundry civil appropriation bill (H. R. 17041), and I ask unanimous consent that the statement of the House conferees be read in lieu of the report

The SPEAKER pro tempore (Mr. UNDERWOOD). The gentleman from New York asks unanimous consent that the statement may be read in lieu of the conference report on the sundry civil appropriation bill. Is there objection?

There was no objection.

The Clerk read the statement of the conferees on the part of the House.

The conference report is as follows:

CONFERENCE REPORT (NO. 1025).

The committee of conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 45 and 91.

That the House recede from its disagreement to the amendments of the Senate numbered 138 and 146, and agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment as follows: In lieu of the matter inserted by the said amendment insert the following:

"The President is authorized from time to time, as the exigencies of the service may require, to rearrange, by consolidation or otherwise, the several customs-collection districts and to discontinue ports of entry by abolishing the same or establishing others in their stead: *Provided*, That the whole number of customs-collection districts, ports of entry, or either of them, shall at no time be made to exceed those now established and authorized except as the same may hereafter be provided by law: *Provided, further*, That hereafter, the collector of customs of each customs-collection district shall be officia ly designated by the number of the district for which he is appointed and not by the name of the port where the headquarters are situated and the President is authorized from time to time to change the location of the headquarters in any customs-collection district as the needs of the service may require: *And provided further*, That the President shall, at the beginning of each regular session, submit to Congress a statement of all acts, if any, done hereunder and the reasons therefor."

And the Senate agree to the same.

Amendment numbered 92: That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"For the administration and improvement of Glacier National Park, Mont., the construction of roads, trails, bridges, and telephone lines and the repair thereof, including the construction of a road together with the necessary bridges and culverts, from the old town of St. Mary, thence in a general northerly and westerly direction through that part of the Blackfeet Indian Reservation east of lower St. Mary Lake to a point in or near section 35, township 36 north, range 15 west, on the boundary line between the Glacier National Park and the Blackfeet Indian Reservation, $75,000. The Secretary of the Interior is hereby authorized to accept patented lands or rights of way over patented lands in the Glacier National Park that may be donated for park purposes (acts May 11, 1910, vol. 36, p. 354, secs. 1, 2; June 23, 1913, vol. 38, p. 49, sec. 17)."

And the Senate agree to the same.

JOHN J. FITZGERALD,
SWAGAR SHERLEY,
Managers on the part of the House.

THOMAS S. MARTIN,
LEE S. OVERMAN,
GEO. C. PERKINS,
Managers on the part of the Senate.

The Clerk read the statement, as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to each of the said amendments, namely:

On amendments Nos. 44 and 45: Strikes out the provisions, proposed by the Senate, creating the customs-collection districts of Kansas City, Mo., and of Tampa, Fla., and inserts the following general provision with reference to the customs service:

"The President is authorized from time to time as the exigencies of the service may require to rearrange, by consolidation or otherwise, the several customs-collection districts and to discontinue ports of entry by abolishing the same or establishing others in their stead: *Provided*, That the whole number of customs-collection districts, ports of entry, or either of them, shall at no time be made to exceed those now established and authorized except as the same may hereafter be provided by law: *Provided further*, That hereafter the collector of customs of each customs-collection district shall be officially designated by the number of the district for which he is appointed and not by the name of the port where the headquarters are situated, and the President is authorized from time to time to change the location of the headquarters in any customs-collection district as the needs of the service may require: *And provided further*, That the President shall, at the beginning of each regular session, submit to Congress a statement of all acts, if any, done hereunder and the reasons therefor."

On amendment No. 91: Strikes out the appropriation of $237,840, proposed by the Senate, for the Hot Springs Reservation in Arkansas.

On amendment No. 92: Appropriates $75,000, as proposed by the House, instead of $100,000, as proposed by the Senate, for Glacier National Park, including the construction of a road from the old town of St. Mary through a part of the Blackfeet Indian Reservation.

On amendment No. 138: Appropriates $25,000, as proposed by the Senate, for the fish hatchery in Utah.

On amendment No. 146: Inserts the provision, proposed by the Senate, with reference to the Government exhibit at the Panama-Pacific International Exposition, including authorization for an exhibit of the American National Red Cross.

JOHN J. FITZGERALD,
SWAGAR SHERLEY,
Managers on the part of the House.

Mr. FITZGERALD. Mr. Speaker, this is a final report on the sundry civil appropriation bill.

As finally agreed on the bill carries $110,072,377.39. It is reduced below the amount as it passed the Senate $2,198,911.17. It is increased over the amount as passed by the House $2,126,018.11. It is $16,303,650.44 less than the estimates and $14,617,571.48 less than the sundry civil bill for the last fiscal year.

Mr. MURDOCK. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. MURDOCK. I notice that in the agreement of the conferees the provision is made that hereafter the collector of customs of each customs-collection district shall be officially designated by the number of the district instead of by the name of the port. What is the effect of that?

Mr. FITZGERALD. The Senate incorporated two amendments creating new customs districts——

Mr. MURDOCK. Those at Tampa and Kansas City?

Mr. FITZGERALD. One at Tampa and one at Kansas City. A number of requests have been submitted to increase the number of districts, to create new districts, or to rearrange some of the existing districts. These are matters that should not be settled, and no attempt should be made to settle them, in the disposition of the appropriation bills, and yet such amendments are always placed upon appropriation bills. Under the law to-day the President has the authority to rearrange, or to modify, or to change the internal-revenue districts. So the conferees have inserted in this bill, in lieu of the two amendments creating new districts, a provision which gives the President authority from time to time, as the exigencies of the service may require, to rearrange districts, or to change the boundaries of districts, or to discontinue districts or ports of entry, but in no case to increase the number above that fixed by law, unless the number is increased by Congress.

Some of the complaints that have been made relative to the existing districts are due somewhat to the fact that two important cities which formerly were ports of entry are now included in one district, and there is some jealousy because the district is named after one city rather than the other; so that it is here provided that the district shall be known as district No. so-and-so.

Mr. MURDOCK. That obviates that jealousy.

Mr. FITZGERALD. That obviates that jealousy. The President is also given the authority, whenever the necessities of the service requires, to change the headquarters of the district from one city or place to another within the district. The result is that Congress having determined the number of districts and the number of ports of entry, it leaves to the executive officials the determination of what the district shall be and where the headquarters shall be, so that the public service may be administered in the interest of the public and not in the interest of any particular locality.

Mr. MURDOCK. While the gentleman is on this subject, I would like to ask him another question: A number of years ago we failed to pass through the House a bill diminishing the number of ports. An investigation had revealed that there were a great number of ports where the collections were practically nil and the salary of the official was many times the amount collected. What was the final outcome of that?

Mr. FITZGERALD. In the first regular session of the last Congress a provision was incorporated in the sundry civil bill authorizing the President to reorganize the districts, to rearrange them, and to abolish useless offices; and that was done by Executive order just before President Taft left office. In the closing days of the administration, in the hurry of doing some of the things that were done, it turned out that some things were done that perhaps ought to be modified.

Under that provision it has been held that the power was exhausted when once exercised. This provision does not permit any increase in the number of districts or ports of entry, but places in the Executive the same power it has relative to the internal-revenue districts; that is, the power to rearrange districts or to place the headquarters where best for the public interest, and to eliminate the jealousies that grow up out of this situation by abolishing the names of districts and to have them known by numbers.

Mr. MURDOCK. Can it be truthfully stated hereafter that virtually all of these small and unnecessary ports have been eliminated?

Mr. FITZGERALD. I think that is true. The statement was made before the Committee on Appropriations at this session of Congress that during the current fiscal year the customs service will be conducted for $10,150,000, which will be a saving of between $700,000 and $1,000,000 a year. Not only is there a saving but the customs officials contend that the efficiency of the service is very greatly improved.

Mr. MANN. Mr. Speaker, will the gentleman yield for one question?

Mr. FITZGERALD. Certainly.

Mr. MANN. This matter has occurred to me since I saw the original suggestion. This amendment provides—

That, hereafter, the collector of customs of each customs-collection district shall be officially designated by the number of the district for which he is appointed and not by the name of the port where the headquarters are situated.

Does the gentleman know whether that would require a new commission to be issued?

Mr. FITZGERALD. I should think not, because we merely give it the designation of a number. For instance, the collector of the port of New York has been commissioned as collector of the port of New York, and we provide that hereafter the collection district known as the collection district of New York shall be known by a certain number.

Mr. MANN. He is appointed as collector of the New York district by the name of New York, as I understand, and signs communications in that way. That is the personal official designation. Where we change the designation, is the gentleman sure whether it would not require a new commission to be issued, where there is no exception to it provided in the law? When we changed the names of certain solicitors recently, I think the bill carried a provision that it should not require a new appointment.

Mr. FITZGERALD. I do not believe that it would require a new appointment or commission. If it did it might have the advantage of curtailing the term of a number of hold-over Republicans.

Mr. MANN. It might not have that advantage, because it might result, if they had to be reappointed, in naming a lot of Republicans who would hold four years more.

Mr. FITZGERALD. I hope no such misfortune will be visited upon us as the result of this legislation.

Mr. MANN. The gentleman hopes that there will be no such misfortune. We hope that no such misfortune will be visited on the country for a good many years as resulted from the last election.

Mr. FITZGERALD. We will discuss that two years from now.

Mr. MANN. Oh, no; we will discuss that in November.

Mr. FITZGERALD. We will meet that issue without fear or worry.

Mr. PAYNE. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. PAYNE. The gentleman from New York spoke of a large saving of expense in the collection of customs duties. The gentleman does not mean to say that that comes from the provision in this bill, but that it was on account of previous legislation.

Mr. FITZGERALD. On account of previous legislation. But the gentleman from New York need not take any credit for that, because I believe that I originated it in a Democratic House.

Mr. PAYNE. I want to say for the benefit of the gentleman from New York and other gentlemen that I commenced the agitation of that years before he thought of it.

Mr. FITZGERALD. I know; and I recollect that my colleague as chairman of the Committee on Ways and Means labored industriously to have a Republican House pass such a bill, but he could not even get it considered in a Republican House, and it remained for a Democratic House to pass this salutary reform legislation.

Mr. PAYNE. That is partially true and partially otherwise. The Democrats were generally standing solid for their ports, and I am sorry to say that some Republicans were. I went at it in a straightforward fashion, but the gentleman from New York took advantage of the information I had given in several prior Congresses and was able to slip in this amendment in an appropriation bill, for which I commend him. It went through, because gentlemen interested in the ports knew nothing about it. I do not know whether the gentleman slipped it in or whether it went in in the Senate. This provision is to get rid of a little friction and jealousy located in the State of Florida between one or more Senators and some Representatives as to the location of the principal port—whether it should be at Tampa or at Jacksonville. Now, if it is left in the hands of the President, it can be used to advantage all around. Gentlemen have agreed to that in the interest of harmony and peace in the State of Florida, but I am not much interested whether there is harmony and peace there or not.

Mr. FITZGERALD. The gentleman from New York deplored the fact on several occasions when he tried to get the bill up that some Democrats apparently went wrong. Well, that unfortunate accident happens occasionally; and the gentleman states what is a notorious fact, that however few Democrats may lapse in virtue it is always certain that there are enough Republicans ready to join them to veto a meritorious proposition. If it had not been that we had the House, we would not have had this legislation.

Mr. PAYNE. I remember that Democrats came to me and said that they would have to stand by So-and-so's port, and I regret to say that Republicans came to me and said the same thing. There was not so much politics in that; it was a standing by each other in the interest of keeping useless offices.

Mr. FITZGERALD. The fact is the legislation was meritorious and was not political. If at the time it was enacted it had occurred to Members, I think they would have provided that after the districts had been established and the number had been fixed the same authority would have been given the Executive as is here provided; that is, to readjust and rearrange the districts as the interest of the public service may require. It may be at one time a district will be established because there is great necessity for it, and yet a change in business or trade conditions may eliminate the necessity for the district and make it necessary that a collector at a particular point should be at some other point. It is proper that the administrators of the law, the officials in charge of it, should have that authority.

Mr. PAYNE. The gentleman recognizes the fact that this thing was recommended by a Republican Executive through several terms, and I was trying all the time to get the legislation, but found difficulty; sometimes I could not get a vote for consideration in the House—the gentleman from Kansas will recollect something about that. Finally it was got through in an appropriation bill, because these watchdogs of public office did not get on to it and know that it was to be done. That was in a Democratic House, and was agreed to by a Republican Senate, and approved by President Taft. The Taft administration took advantage of that and made a readjustment, and it is only to straighten out the difficulty in Florida and some other State that this amendment is now made, and not for the general good of the service, but to take care of the jealousy and friction in those States.

Mr. FITZGERALD. Even that would be a meritorious reason.

Mr. PAYNE. Unfortunately it does not apply to the gentleman's own State.

Mr. GARNER. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. GARNER. I did not happen to be in the Chamber at the time the gentleman from New York gave his explanation of the meaning of this provision. This is not to create a new district?

Mr. FITZGERALD. No.

Mr. GARNER. It does not authorize the creation of new districts, but simply gives the President the right to readjust the present districts. Does that apply throughout the entire country?

Mr. FITZGERALD. Throughout the entire country.

Mr. GARNER. In other words, the President could amalgamate two districts that now exist and create another district simply to enable him to more conveniently and economically collect the customs of the country.

Mr. FITZGERALD. And it is the same authority that he has at present with reference to the internal revenues.

Mr. SPARKMAN. Mr. Speaker, will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. SPARKMAN. Mr. Speaker, I wish to say in response to the intimation of the gentleman from New York [Mr. PAYNE] that I doubt if the conferees on the part of the House had in

mind the settling or the removal of any ground for jealousy that might exist in the State of Florida.

Mr. FITZGERALD. They did not.

Mr. SPARKMAN. I fancy the purpose there was to permit the President, so far as Florida is concerned, to do justice to the Government of the United States rather than to remove any cause of jealousy that might exist between two cities in the State of Florida. I merely offer that as a suggestion.

Mr. PAYNE. That is not in accord with the confessions I heard before the Committee on Ways and Means when the matter was before that committee.

Mr. DONOVAN. Mr. Speaker, we have to have orderly proceedings here. These gentlemen must first address the Chair when they seek the Chair.

The SPEAKER pro tempore. The point of order is well taken.

Mr. MURDOCK. Mr. Speaker, will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. MURDOCK. For a number of years, or at least months, in this House we attempted to reduce the number of these districts and failed after, I think, a considerable struggle on the floor of the House. Then, if I understand the gentleman correctly, there was included in an appropriation bill an amendment, which was subject to a point of order, but the point of order was not made, and that provision became law; and the reform was accomplished by the executive department when the legislative department had failed. Is that true?

Mr. FITZGERALD. The legislative department had failed to specifically cut out the districts. I think the legislative department did its share of the reform when it conferred the authority upon the executive department, and in my opinion work of that character is much better done in this way.

Mr. MURDOCK. That may be true, but the remarkable thing about this is that there was once a very close contest on that proposition, and this body divided almost evenly, though the proposition was defeated, and afterwards, when anyone could have killed the legislation by making a point of order, no one made the point of order.

Mr. FITZGERALD. Mr. Speaker, there was a good reason for it. When the bill was brought into the House establishing districts and abolishing districts every Member who represented a district in which there was a port or a subport to be specifically abolished was put in a position where, unless the people of his district wanted those ports and subports abolished, he was compelled to antagonize the bill. By proceeding in the matter in an entirely different manner, and not singling out any district or subport to be abolished, but conferring the authority upon the Executive, it was much easier for everyone to acquiesce in what was proposed to be done.

Mr. MURDOCK. That is, every gentleman believed that his case was so fair and just that the Executive would sustain him?

Mr. FITZGERALD. Yes.

Mr. GARNER. Mr. Speaker, will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. GARNER. Mr. Speaker, I do not think the statement of the gentleman from Kansas [Mr. MURDOCK] ought to be left in the RECORD unchallenged, to the effect that the legislative branch of the Government did not have anything to do with this reform. The executive branch of the Government would not have accomplished this reform except for the initiative of the legislative branch, and the result is that the legislative branch ought to have the credit or the odium, as the case may be.

Mr. FITZGERALD. It ought to have the credit for passing the legislation, that is true; but it could not do in detail what the Executive did.

Mr. GARNER. It is so much easier for the Executive to determine where the customs can be collected most conveniently and economically that therefore it was left to the Executive to work out the different districts.

Mr. PAYNE. Mr. Speaker, I think the gentleman's recollection is at fault. The first bill I brought in here was against one of the most obnoxious of these ports. I think the cost of collecting was something over $1,000, and the amount collected was less than a dollar. I thought that would go through without any trouble, but when I tried to get the bill up I found that there was a combination all over the House against it, and I think I am justified in speaking from the RECORD and the history of it. The Treasury Department had reported against all of these little ports where there was nothing collected, or next to nothing, and a large salary or expense attached to its collection, but every man who had one of these ports got his friends to combine against the measure, and I could not get enough votes to enable me to have consideration of the bill, although the bill was so extremely meritorious, and my fight was made along that line, continuing through two or three Congresses. I want to acknowledge the greater power that my friend had by reason of his being on the Committee on Appropriations, and being able to get this thing through without these people knowing they were being hit.

Mr. FITZGERALD. Mr. Speaker, I may say to my colleague, that having failed dismally in the attempt to effect this reform, and made an equally dismal failure to reform the tariff, the Democratic Party proceeded to do both, to the satisfaction of the country.

Mr. PAYNE. And I want to say to my colleague in regard to that that he is recognizing that I initiated this reform, and that before a great many days have rolled around he will recognize that I initiated a great reform in 1909.

Mr. SHERLEY. Mr. Speaker, will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. SHERLEY. I think this ought to be stated: It has been repeatedly said and inferred that the passage of this provision was obtained by hiding from the House its true import. That is not the fact. The fact was that the report of the Committee on Appropriations, as is always true, showed plainly that it was legislation and subject to a point of order.

Now, when the committee put that in its report, it is not responsible if gentlemen have not either intelligence enough or diligence enough to understand what is proposed; but the thing was done with the perfect knowledge of all of those who took the trouble to inform themselves.

Mr. GARNER. Mr. Speaker, will the gentleman from New York yield?

Mr. FITZGERALD. I yield.

Mr. GARNER. I recall exactly the hour when that provision went through this Committee of the Whole House. There were not 20 Members on the floor of the House. It was about half past 1 o'clock, and I remember distinctly the gentleman from New York and one or two others got to the point just about when everybody was at lunch for the purpose of letting this get through without anybody making the point of order.

Mr. FITZGERALD. Mr. Speaker, if the gentleman will permit me, the gentleman from New York had no control over the matter. The bill was being read under the five-minute rule. The committee printed in its report the provision as new legislation, subject to a point of order. Simply because gentlemen think more of their stomachs than they do of legislation is no reason why they should criticize those who have effected reforms in the public service.

Mr. PAYNE. Mr. Speaker, if the gentleman will allow me, I want to say when the matter was up in the House I wanted to get on my feet and commend the gentleman and his committee for their action and urge that it be adopted, but for fear I would defeat the whole business I did not dare do so. [Laughter and applause.]

Mr. MANN. Will the gentleman yield?

Mr. FITZGERALD. I will yield.

Mr. MANN. Is the gentleman quite sure the provision which was enacted into law is the same provision which was reported by the committee?

Mr. FITZGERALD. That is my recollection.

Mr. MANN. The gentleman's recollection is usually very good and may be good in this case although that is not my recollection.

Mr. FITZGERALD. Well, I have refreshed my recollection.

Mr. MANN. If the clerk of the committee says so, that goes.

Mr. FITZGERALD. That is my recollection.

Mr. MANN. I remember very well when this particular provision was up, and I suppose the gentleman from New York will not undertake to say that either he or the Democratic side is entitled to all the credit of putting that into law?

Mr. FITZGERALD. Oh, no; there is something for which Members on both sides are entitled to credit. I will say to the gentleman I did not get the Marine Band to play when this item was reached in order to call attention to it.

Mr. MANN. I think it is fair to say, as a parliamentary proposition, that in view of the previous attempts that have been made to pass a bill of this kind, coming from the Ways and Means Committee, and coming up in the regular order and attracting considerable attention, that there was an understanding in the House among some gentlemen on both sides of the House that this desirable legislation, which might affect certain districts, should not be advertised, but should be put into law in an indefinite way, so that the reform might be accomplished, which never would have been accomplished by a direct bill in this House.

Mr. FITZGERALD. I believe, Mr. Speaker, that it is safe to say that no great administrative reform in 30 years has been accomplished that has not been accomplished by provisions incorporated in appropriation bills. That is not attributing any

particular credit to Members who serve on committees who have charge of these appropriation bills, but it seems to be the only effective manner of getting legislation that is beneficial and remedial. Mr. Speaker, I ask for a vote.

Mr. JOHNSON of Washington. Mr. Speaker, will the gentleman yield for a question?

Mr. FITZGERALD. I will.

Mr. JOHNSON of Washington. Does the President now have authority to rearrange a customs collection district?

Mr. FITZGERALD. No; he has not.

Mr. JOHNSON of Washington. Then, if a movement is under way on the Pacific coast by which it is proposed to take off a portion of the Puget Sound, Wash., district and attach it to the Portland, Oreg., district, and has progressed to such an extent that many commercial clubs are passing resolutions against such a step, I would like to ask the gentleman if that would indicate that some arrangement or knowledge of this had been had out there?

Mr. FITZGERALD. I do not know. I have no knowledge of a movement on the Pacific coast. This power is now possessed by the President relative to internal-revenue districts. It is a proper power for him to possess relative to collection districts, and it is assumed that whoever may be President will exercise this power in the interest of the public service.

Mr. JOHNSON of Washington. Well, now, I thought the last rearrangement was made after exhaustive examination——

Mr. FITZGERALD. It may be that on the Pacific coast there should be some rearrangement of the districts.

Mr. JOHNSON of Washington. It has been less than two years since a considerable effort was required to preserve the peace on Puget Sound in connection with the removal of the customs headquarters from Port Townsend, and now here comes an effort within the last two or three months to transfer a portion of that district to the Portland district, and this proposed clause would seem to make the way clear for the consummation of it, provided sufficient "puli" is exercised.

Mr. FITZGERALD. It was not inserted with any knowledge or any reference to the condition existing there.

Mr. JOHNSON of Washington. I am very glad to know it.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

On motion of Mr. FITZGERALD, a motion to reconsider the vote by which the conference report was agreed to was laid on the table.

LEAVE OF ABSENCE.

The SPEAKER. The Chair lays before the House the following personal request.

The Clerk read as follows:

Mr. WILLIAMS requests leave of absence for two weeks on account of personal business.

The SPEAKER. Is there objection?

Mr. DONOVAN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Connecticut objects.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 2359. An act for the relief of Rittenhouse Moore;

S. 6101. An act to grant the consent of Congress for the city of Lawrence, county of Essex, State of Massachusetts, to construct a bridge across the Merrimac River; and

S. 5701. An act providing for the disposal of certain lands in block 32 in the city of Port Angeles, State of Washington.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5701. An act providing for the disposal of certain lands in block 32 in the city of Port Angeles, State of Washington; to the Committee on the Public Lands.

S. 2359. An act for the relief of Rittenhouse Moore; to the Committee on Claims.

ENROLLED BILLS SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 8688. An act for the relief of Lucien P. Rogers; and

H. R. 15110. An act authorizing the Secretary of the Treasury to accept conveyance of title to certain land between the post-office site and Madison Street, in the city of Thomasville, Ga.

GENERAL DEFICIENCY APPROPRIATION BILL.

Mr. FITZGERALD. Mr. Speaker, I call up the conference report on the general deficiency bill, and ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from New York calls up the conference report on the general deficiency bill, and asks unanimous consent that the statement be read in lieu of the report. Is there objection? [After a pause.] The Chair hears none.

The conference report is as follows:

CONFERENCE REPORT (NO. 1026).

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 158 to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914, and for prior years, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

Amendment numbered 158: That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"To pay the amounts ascertained and certified by the accounting officers of the Treasury, during the fiscal year 1915, to be due under existing laws and pursuant to the provisions of the act to repeal section 3480 of the Revised Statutes of the United States, approved July 6, 1914, $175,000, or so much thereof as may be necessary: *Provided*, That no agent or attorney shall demand or accept for his services in connection with the prosecution or collection of claims hereunder any sum in excess of 10 per cent of the amount allowed by the accounting officers of the Treasury to any claimant under the said act of July 6, 1914. Any person violating this provision shall, upon conviction, be punished by a fine not exceeding $500 or imprisonment for a period not exceeding six months, or both, and shall be disbarred from practice before the Treasury Department."

And the Senate agree to the same.

JOHN J. FITZGERALD,
T. U. SISSON,
Managers on the part of the House.

THOMAS S. MARTIN,
N. P. BRYAN,
J. H. GALLINGER,
Managers on the part of the Senate.

The Clerk read the statement, as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate No. 158 to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1914, and for other purposes, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to the said amendment, namely:

In lieu of the amendment of the Senate the following is recommended as a substitute therefor:

"To pay the amounts ascertained and certified by the accounting officers of the Treasury, during the fiscal year 1915, to be due under existing laws and pursuant to the provisions of the act to repeal section 3480 of the Revised Statutes of the United States, approved July 6, 1914, $175,000, or so much thereof as may be necessary: *Provided*, That no agent or attorney shall demand or accept for his services in connection with the prosecution or collection of claims hereunder any sum in excess of 10 per cent of the amount allowed by the accounting officers of the Treasury to any claimant under the said act of July 6, 1914. Any person violating this provision shall, upon conviction, be punished by a fine not exceeding $500 or imprisonment for a period not exceeding six months, or both, and shall be disbarred from practice before the Treasury Department."

JOHN J. FITZGERALD,
T. U. SISSON,
Managers on the part of the House.

Mr. FITZGERALD. Mr. Speaker, this is a final report on the general deficiency bill, and as agreed on it carries $6,075,909.17, $242,056.12 less than the bill passed by the Senate. It was increased over the amount as passed by the House $1,481,543.75. In this sum is included $1,038,685 for public

buildings, $100,358.05 returned money deposited by the American Surety Co. as a result of a judgment, $75,000 toward the Francis Scott Key monument, $58,931.24 certified audited accounts, $175,000 for the pay of those Confederate officers of the Regular Army who afterwards entered the Confederate service. So that out of the $1,481,543.75 agreed to by the House, $1,147,974.29 are for the items just read. The total deficiencies *appropriated* at this session for 1914 and prior years, including $8,650,679.98 on account of the Mexican situation, aggregate $23,538,366.95. This sum is less than total deficiencies provided at last session of last Congress for 1913 and prior years by $4,536,545.36.

Mr. Speaker, when the bill was before the House the other day there was considerable discussion about the appropriation of $175,000 to pay certain longevity ration claims of officers who had been relieved from disabilities under the repeal of section 3480 of the Revised Statutes of the United States. The act repealing that provision was approved on the 6th of July. During the discussion there was some misapprehension on both sides as to what the actual situation was relative to the existence of the statute of limitations. At my request the law clerk of the Auditor for the War Department prepared a memorandum, in which he sets forth the history of the legislation under which these claims have arisen, together with the decisions of the United States Supreme Court and the various comptrollers which affect these claims.

Upon careful examination it was ascertained that, in addition to others, I had been somewhat in error as to the position I had taken and the statements I had made. So the managers upon the part of the House in conference with the Senate modified the amendment which was in controversy, so that those officers who had left the Regular Army and afterwards entered the Confederate service, and whose claims, if any, were barred by section 3480 of the Revised Statutes, and who had the disability removed by repeal of that section of the Revised Statutes, are enabled under the provision agreed upon to be treated exactly as if that section of the Revised Statutes had never been passed. The managers upon the part of the House agreed to the appropriation of $175,000, with appropriate langunge, so that the pending claims, which may be audited and certified during the current fiscal year, of this particular class of officers, may be paid. This puts these claims on exactly the same footing as certain claims of officers who did not leave the Regular Army. I stated in the discussion the other day that I understood that was the purpose of Congress in passing the act repealing section 3480 of the Revised Statutes. I believe I express the desire of this House to carry out the purpose of that act and to do nothing else. Conferences were had not only with those representing the Senate but with gentlemen who had taken part in that discussion the other day upon both sides, and this amendment carries out what was believed to be the intention of the Congress and acceded to by gentlemen upon both sides.

I ask unanimous consent to extend my remarks in the RECORD by printing this memorandum prepared by the law clerk of the Auditor for the War Department, so that there may be preserved in the RECORD an accurate statement of the law and the precedents under which these claims arise.

Mr. MANN. Will the gentleman yield?

Mr. FITZGERALD. I yield.

Mr. MANN. How long is the statement?

Mr. FITZGERALD. It is six and one-half typewritten pages.

Mr. MANN. And what is the effect of the statement?

Mr. FITZGERALD. I think the most important feature of it is that we were under the impression, in the discussion the other day, that there was a statute of limitations which affected these claims. It seems that there is no statute of limitations, but that decision on the 20th of June, 1890, by Comptroller Gilkeson, in which he overruled the decision of his predecessor of May 8, 1889, held that the Watson decision in the United States Supreme Court gave an officer of the Army a right to have cadet service credited in computing longevity pay if he brought suit in the Court of Claims within six years of the time his right accrued. And it went on to hold that in the claims over which the Court of Claims, and consequently the Supreme Court, had no jurisdiction, accounting officers were not legally bound to follow the conclusions in the Watson case. I believe the information contained in the statement will be of value to the Members of the House, so as to clear up any misunderstanding that may exist as to what the law actually is.

Mr. MANN. I will say to the gentleman I wish to be heard on the proposition. I am opposed to the conference report.

Mr. FITZGERALD. Does the gentleman object to inserting this statement in the RECORD?

Mr. MANN. I was not going to object to that. The only question was as to whether we were going to have it read.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent to print in the RECORD as a part of his remarks the statement referred to. Is there objection? [After a pause.] The Chair hears none.

Following is the statement referred to:

LAWS RELATING TO LONGEVITY PAY.

By the act of July 5, 1838 (5 Stat. L., 258), it was provided in section 15 thereof that "every commissioned officer of the line or staff, exclusive of general officers, shall be entitled to receive one additional ration per diem for every five years he may have served or shall serve in the Army of the United States * * *."

The first section of the act of March 2, 1867 (14 Stat. L., 434), directs that "in computing the length of service of any officer of the Army, in order to determine what allowance and payment of additional or longevity rations he is entitled to, and also in fixing the relative rank to be given to an officer as between himself and others having the same grade and date of appointment and commission, there shall be taken into account and credited to such officer whatever time he may have actually served, whether continuously or at different periods, as a commissioned officer of the United States, either in the Regular Army or, since the 19th day of April, 1861, in the Volunteer Service, either under appointment or commission from the governor of a State or from the President of the United States * * *."

By the ninth section of the act of March 2, 1867 (14 Stat. L., 423), it was enacted:

"That section 15 of the 'act to increase the present military establishment of the United States, and for other purposes,' approved July 5, 1838, be amended so that general officers shall not hereafter be excluded from receiving the additional ration for every five years' service; and it is hereby further provided that officers on the retired list of the Army shall have the same allowance of additional rations for every five years' service as officers in active service."

The twenty-fourth section of the act of July 15, 1870 (16 Stat. L., 320), provides, among other things, that "* * * there shall be allowed and paid to each and every commissioned officer below the rank of brigadier general, including chaplains and others having assimilated rank or pay, 10 per cent of their current yearly pay for each and every term of five years of service: *Provided*, That the total amount of such increase for length of service shall in no case exceed 40 per cent on the yearly pay of his grade as established by this act: *And provided further*, That the pay of a colonel shall in no case exceed $4,500 per annum, nor the pay of a lieutenant colonel $4,000 per annum, and these sums shall be in full of all commutation of quarters, fuel, forage, servants' wages and clothing, longevity rations, and all allowances of every name and nature whatever, and shall be paid monthly by the paymaster * * *."

These provisions of the act of July 15, 1870, were incorporated, with some slight changes in phraseology, in sections 1262 and 1263 of the Revised Statutes. As they appear in the revision of 1873 they are as follows:

"SEC. 1262. There shall be allowed and paid to each commissioned officer below the rank of brigadier general, including chaplains and others having assimilated rank or pay, 10 per cent of their current yearly pay for each term of five years of service.

"SEC. 1263. The total amount of such increase for length of service shall in no case exceed 40 per cent on the yearly pay of the grade as provided by law."

By section 7, act of June 18, 1878 (20 Stat. L., 150), it was provided that "on and after the passage of this act all officers of the Army of the United States who have served as officers in the Volunteer forces during the war of the rebellion, or as enlisted men in the Armies of the United States, Regular or Volunteer, shall be, and are hereby, credited with the full time they may have served as such officers and as such enlisted men in computing their service for longevity pay and retirement." * * *

In the Army appropriation act of February 24, 1881 (21 Stat. L., 346), under the subhead "For pay of the Army," provision is made for "additional pay to officers for length of service, to be paid with their current monthly pay, and the actual time of service in the Army or Navy, or both, shall be allowed all officers in computing their pay."

The Army appropriation act of June 30, 1882 (22 Stat. L., 117), makes a similar provision, and adds the following:

"*Provided*, That from and after the 1st day of July, 1882, the 10 per cent increase for length of service allowed certain officers by section 1262 of the Revised Statutes shall be computed on the yearly pay of the grade fixed by sections 1261 and 1274 of the Revised Statutes * * *."

In the acts making appropriations for the support of the Army passed since the act of June 30, 1882, supra, the language used as longevity pay has been substantially as follows:

"For additional pay for length of service, to be paid with their current monthly pay."

Since the passage of the act of August 24, 1912 (37 Stat. L., 569–594), cadet service has been eliminated from any computation in respect to length of service of an officer in the Army, section 6 of that act providing:

"That hereafter the service of a cadet who may hereafter be appointed to the United States Military Academy or to the Naval Academy shall not be counted in computing for any purpose the length of service of any officer of the Army."

CADET SERVICE AS AFFECTING LONGEVITY PAY.

Within a short time after the passage of the act of July 5, 1838, supra, the second comptroller was called upon to construe section 15 thereof in respect to its scope as to character of service to be counted in computing longevity rations. He held that service as a cadet at West Point could not be counted in such computation (1 Dig. Second Comp. Dec., sec. 1873), and the practice thus established obtained without exception until May 8, 1889 (15 Comp. Dec., 798). Longevity rations were allowable under the practice stated for service as a commissioned officer of the Regular Army only, and were calculated from the date of the acceptance of the officer's commission. (1 Dig. Sec. Comp. Dec., secs. 1874, 1875, 1876.) Until many years after the Civil War no one interested ever doubted the construction placed on the act of 1838 by the accounting officers who had thus committed the Government, on the Executive side at least, to the theory that longevity rations were allowable for service as commissioned officers only in the Regular Army. This construction was acquiesced in by Congress and

the courts over a long period, all of which strengthened the belief in the accounting and administrative officers of the Government that the practice referred to was correct in principle and just in fact.

The provisions of the act of March 2, 1867 (14 St. L., 434), giving to those officers of the Army who had served as volunteers during the Civil War the right to have counted in computing longevity rations and relative rank time served as a commissioned officer, whether regular or volunteer, were regarded by the accounting officers as a direct and positive affirmance by Congress of the then prevailing practice. It is worthy of passing note that this act of Congress was not considered by the Supreme Court when the Watson case (130 U. S., 80) was before it, which fact has led to considerable embarrassment in the Treasury Department in trying to effectuate the real intent of the longevity statutes.

After the passage of the act of February 24, 1881, supra, Charles Morton, who was admitted to the Military Academy as a cadet July 1, 1865, and who had not been credited in respect to longevity pay with the period spent at West Point, brought suit in the Court of Claims to recover the sum of $169.07, as withheld from him between February 24, 1881, and March 31, 1883, which sum represented the additional pay he would have been entitled to if service in the Military Academy had been counted as service in the Army. The Court of Claims gave judgment in his favor, and the case went to the Supreme Court of the United States on appeal. It was held by the Supreme Court (112 U. S., 1) that the time of service of a cadet in the Military Academy is to be regarded as "actual time of service in the Army" within the meaning of the act of February 24, 1881, and the act of June 30, 1882, in computing longevity pay, and the judgment of the Court of Claims was affirmed. No criticism can be offered to this decision, for it is apparent that since February 24, 1881, at least, cadet service being actual service in the Army, though not commissioned service, is nevertheless, under the act of that date, properly countable in computing longevity pay.

In the case of the United States *v.* Watson (150 U. S., 80) the court, without considering or having brought to its attention the act of March 2, 1867 (14 Stat. L., 434), passed upon section 15, act of July 5, 1838, and held that cadet service should be counted in determining longevity pay. This case gave rise to much misunderstanding and contrary holdings by the accounting officers. It was decided March 11, 1889. On May 8, 1889, Second Comptroller Butler directed that in computing longevity rations for service between July 5, 1838, and March 1, 1867, inclusive, prior service as a cadet, as an enlisted man, or as a commissioned officer, regular or volunteer, should be counted; that from March 2, 1867, to July 14, 1870, inclusive as to both dates, service as a commissioned officer only should be counted, a volunteer officer being restricted to service performed after April 19, 1861; and that after July 15, 1870, all services should be counted, whether as commissioned officer or otherwise.

On June 20, 1890, Second Comptroller Gilkeson overruled and reversed the decision of his predecessor of May 8, 1889, and directed the disallowance of all claims pending before his office or before the office of the Auditor for the War Department, numbering, it is said by Mr. Gilkeson, several thousand, and amounting in value, if allowable, at "any sum ranging between one million and a half to two million and a half dollars," all of which claims had been filed as a result of the decision of the Supreme Court in the Watson case, supra, and the decision of Mr. Butler defining the scope of the holding of the court as pertaining to the accounting officers of the Government.

The Gilkeson decision held, for the reasons therein stated, that the Watson decision gave to an officer of the Army the right to have cadet service credited in computing longevity pay, if he brought suit in the Court of Claims within six years from the time his right accrued, and that as to claims over which the Court of Claims, and consequently the Supreme Court, had no jurisdiction, the accounting officers were not legally bound to follow the conclusions of the Watson case.

The effect of the Gilkeson decision was to restore the practice which had prevailed before May 8, 1889, and the practice thus restored remained in force from June 20, 1890, to May 18, 1908, when Assistant Comptroller Mitchell held that the service of a cadet at the Military Academy is service within the meaning of the act of July 5, 1838, and should be counted in computing an officer's longevity pay. No discussion of the act of March 2, 1867 (14 Stat. L., 434), in its relation to the act of 1838 is to be found in the Mitchell decision, nor is mention made of the case of United States *v.* Sweeny (157 U. S., 281), wherein there is a later determination of some of the principles involved than will be found in the Watson case.

While the Sweeny case had to do with volunteer service, it refers to the practice obtaining under the act of 1838 before the passage of the act of 1867. Referring to officers of the Army, the court says of those who had previously had volunteer service:

"Their time of service as such volunteers never seems to have been computed in estimating the five years, after which they were entitled to longevity rations, until the act of March 2, 1867 (14 Stat., 434, ch. 159), entitled 'An act declaring and fixing the rights of volunteers as a part of the Army,' the first section of which provided that 'in computing the length of service of any officer of the Army in order to determine what allowance and payment of additional or longevity rations he is entitled to, * * * there shall be taken into account and credited to such officer whatever time he may have actually served, whether continuously or at different periods, as a commissioned officer of the United States, either in the Regular Army, or since the 19th day of April, 1861, in the volunteer service, either under appointment or commission from the governor of a State or the President of the United States.'"

It seems to us this act is decisive of the question. It provides in substance that in estimating the length of service for the payment of longevity rations he shall be credited both for his service as an officer of the Regular Army, or, since the 19th day of April, 1861, as an officer of the volunteer service. The object of the act was evidently, first, to extend to such volunteer officers as had served in the Army since the breaking out of the Civil War the same privilege with respect to longevity rations as had, by the act of 1838 been already secured to officers of the Regular Army; and, second, to limit that privilege to those who had served since that date.

The point of the Sweeny decision seems to be that it emphasizes the fact that the act of 1867, construed by it, did not set in force a new practice to be followed in computing longevity pay, but only gave to a new class of officers the right to have their longevity pay computed in accordance with the then prevailing practice under the act of 1838; and, as stated in this act of 1867, such computation was to be based on service as a commissioned officer.

ESTIMATES.

From the foundation of the Military Academy to the class of 1867, inclusive, there were graduated 2,218 cadets.

From the first to the class of 1881, inclusive, 2,931 cadets.

As has been said, there is no doubt now that the act of February 24, 1881, authorized the counting of cadet service after its passage in computing longevity pay, and the practice has been to do so.

Following the Watson decision in 1889 many hundred, according to Mr. Gilkeson several thousand, claims were filed for longevity pay, based on cadet service. These were all rejected with the exception of three claims, so far as known.

After the decision of Assistant Comptroller Mitchell in the Brodie case, May 18, 1908, about 1,000 claims were filed in which cadet service was a factor. Nearly all of these have been allowed. The CONGRESSIONAL RECORD of Friday, July 24, 1914, contains a list made up from claims certified to Congress for payment containing 953 names of those who graduated from West Point and whose claims presumptively were for longevity pay based on cadet service. It is said by the representative of a firm of local attorneys who is well posted in such matters that there are probably about 500 officers who have never made application for longevity pay in which cadet service is a factor and who, or whose heirs, might secure pay under the Mitchell decision. It is assumed that the beneficiaries under act of July 6, 1914, Public, No. 125, are included in the 500.

There were 266 officers of the United States Army who left it after November 1, 1860, to enter the service of the Confederacy, of whom 187 were graduates of the Military Academy. Of the remaining 99 there were several who had been at the academy for periods of varying length, and a number who served as volunteers during the Mexican War.

Under the Brodie decision the average sum allowed in each case certified is between $845 and $900, as nearly as can be ascertained. About $1,000,000 has been appropriated by Congress to pay these claims. Each claim, however, carried in it, probably, other items than longevity pay. If there are still 500 cases unadjudicated, and if the average value of each of them is not greater than the claims heretofore allowed, probably $500,000 would suffice to pay them; but if such an appropriation should be made the equally meritorious claims disallowed between June 20, 1890, and May 18, 1908, perhaps 1,500 in number, would be left forever barred under existing practice. If provision should be made to reopen and allow the 1,500 cases referred to, probably $2,000,000 would be needed to pay them.

Mr. FITZGERALD. Mr. Speaker, how much time does the gentleman from Illinois [Mr. MANN] desire?

Mr. MANN. I would like to have 10 minutes to begin with.

Mr. FITZGERALD. I yield 10 minutes to the gentleman from Illinois.

Mr. MANN. Mr. Speaker, I confess I do not know just what effect the provision in the conference report would be where it says to pay the amount ascertained and certified, and so forth, to be due under existing law and pursuant to the provisions of the act to repeal, which we recently repealed. The old longevity law under which they arise has been repealed and a new law substituted for it. I would like to ask the gentleman from New York, if I may, what his opinion is in reference to the expression "to be due under existing laws"? How far does that allow a claim under the act of 1838 which was long since repealed?

Mr. FITZGERALD. I will state to the gentleman that the opinion of the law officers in the Office of the Auditor for the War Department was that that expression was not necessary and was not of any value, but in order to get an agreement on the item it was inserted. The purpose of this is to permit the payment of those claims filed under the act of 1838, providing for additional longevity; that for every five years additional service——

Mr. MANN. What I am trying to get is light on this provision. If the gentleman says it is not necessary and is of no value, what is it inserted for, and at whose suggestion was it inserted?

Mr. FITZGERALD. Well, some harmless language is frequently inserted in some of these provisions in order to allay dissatisfaction with the provisions.

Mr. MANN. I will say that when harmless language is inserted in anything that claim agents have anything to do with, it is inserted for a reason. [Laughter.]

Mr. FITZGERALD. The mere statement that the act of July 6, 1914, had been passed did not seem to be sufficient. This was to make certain, if it could be done, the right which it was believed would have existed had it not been for the enactment of section 3480 of the Revised Statutes. The suggestion was made that there should be incorporated in the provision a reference to the decision of the Supreme Court in the Watson case.

Mr. MANN. I am not inquiring about what is not in the report, but what is in the report. As to that the gentleman has given no answer.

Mr. FITZGERALD. Sometimes it is informing to know what the motive was which actuated those who agreed to a thing.

Mr. MANN. I want to make a statement, and——

Mr. UNDERWOOD. If the gentleman from Illinois will yield to me——

Mr. MANN. I yield to the gentleman.

Mr. UNDERWOOD. I will state to the gentleman from Illinois that I had no desire in the beginning, and have no desire now, to have any appropriation made for this particular case

that does not apply to the Union officers under the present law. Now, when this proposition was written out, striking out the language of the Senate and inserting this new language, they described this case in the proposal as shown by the Clerk, I will say, as appropriating some $175,000 under the act of July 6, 1914. I think it was; that is, the act repealing section 3480 of the Revised Statutes. The suggestion came from myself to the committee, not from any claim agent, that I did not think that language alone was sufficient to define it, because these claims had no standing under section 3480 or the act repealing it It was under the general law that they had a claim at all, and that repeal of section 3480 only wiped out the bar or the impediment in the way. It was at my request that they put in the language that they should pay claims that were authorized under existing law, those cases where the bar of section 3480 was removed; so that I am personally responsible for the insertion, and no one else, whether it is wrong or right.

Mr. GARNER. Mr. Speaker, will the gentleman yield?

Mr. MANN. Yes.

Mr. GARNER. If I get the gist of the statement of the gentleman from New York [Mr. FITZGERALD] with reference to this provision, it is this, that——

Mr. MANN. I do not wish to yield to enable the gentleman to state the case.

Mr. GARNER. I wanted to see if the gentleman from Illinois understood the matter as I understand it.

Mr. MANN. The gentleman can tell better after I have finished my statement. [Laughter.]

Mr. GARNER. Well, if the gentleman does not desire to yield, all right.

Mr. MANN. Before I have stated my case I do not desire to have some one else state it.

Mr. GARNER. I wanted to state what I understood to be the interpretation of this provision by the gentleman from New York, and then to ask the gentleman from Illinois whether it was his interpretation. I do not care to take the time of the gentleman from Illinois if he does not want me to.

Mr. MANN. I think we would get along better not to discuss it in that way. I think if the Treasury officials will construe this amendment in the way it reads, it would amount to nothing. But as it is not to be supposed that Congress enacts a law with the intention of doing nothing, they can not, probably, and would not so construe it. These Federal officers have no claims under existing law. The claims are under laws which have long since been repealed.

Now, what are the facts in the case? Under the act of 1838 there was a longevity allowance of one extra ration a day for every five years of service in the Army.

Mr. SISSON. Mr. Speaker, will the gentleman yield for a question?

Mr. MANN. I will, although it seems to me that it would be better that I should be allowed to make a consecutive statement.

Mr. SISSON. The gentleman states that the act of 1838 was repealed. The act of 1838 was amended some time in the forties, was it not?

Mr. MANN. I think not. I am not sure about that.

Mr. SISSON. That act is still in existence, is it not?

Mr. MANN. I do not think so. The longevity act is entirely different now from what it was then, although the effect is probably very much the same. The act of 1838—and it is not to this point that I raised awhile ago that I am now devoting my discussion—provided an additional ration per day for every five years' service. I do not know what the ration was worth. Of course, it was commuted. Probably it was in the neighborhood of 40 cents a day. Since that time Congress passed a law so as to make the longevity pay amount to an increase of 10 per cent for each five years' service instead of an extra ration per day for each five years' service.

Some years ago the question arose as to whether West Point service, four years at West Point, was to be counted as service in the Army in fixing the longevity pay. The Supreme Court of the United States decided that it was. It first decided that it was under the present law providing for an increase of 10 per cent for each five years. It afterwards decided that the West Point service was to be counted in fixing the longevity pay under the act of 1838, which was one ration per day for each five years' service. Claim agents or some one filed a claim for Gen. Grant, or for his estate, and that claim was allowed.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. SISSON. Mr. Speaker, does the gentleman want some more time?

Mr. MANN. I would like to have 10 minutes. I want to proceed.

Mr. SISSON. I yield to the gentleman from Illinois 10 minutes.

The SPEAKER. The gentleman from Illinois is recognized for 10 minutes more.

Mr. MANN. The claim of Gen. Grant was allowed by the comptroller in 1889. At the same time the claim of Gen. Rosecrans, I think it was, was allowed. Those two claims were the only claims allowed by the comptroller in 1889. Having been allowed by the comptroller, nearly all, or at least a very large number of the officers and their estates, filed claims with the auditor. It is stated that these claims amounted, as filed, to the sum of $2,500,000, or from a million and a half to three million dollars. No one knows the exact amount. The matter came up again with the new comptroller a short time after the first decision, and in 1890 Comptroller Gilkeson made a decision that these claims were not allowable; that the claims had been settled and the accounts of the officers had been settled; that the matter was disposed of; and although if the claims were new and arising under current conditions they would have to be allowed under the decision of the Supreme Court; that they were barred; and the comptroller directed that all of these claims pending, to the extent of from $1,500,000 to $3,000,000, be disallowed, and they were disallowed.

A number of the people having these claims, or their claim agents, secured the passage of resolutions in the Senate referring them to the Court of Claims, and they were referred, and the Court of Claims made findings; and a great many of them finding the amounts, finding that, so far as the Court of Claims was concerned, they were barred by the statute of limitations.

Those claims have been coming over to the House from the Senate in omnibus claim bills now for some time. None of them has been paid in a claim bill, but in 1908 Officer Brodie, a friend of the then administration it is understood, filed a claim, and the comptroller reversed the former ruling, and held that this longevity claim was good, and that there was no bar by the statute of limitations, but that his ruling could not affect this large number of claims which had been disallowed. They could not reopen these claims, supposed to amount, as I said before, to $2,500,000.

Among those claims which were disallowed, and which can not now be paid, except by direct act of Congress, are the claims of Gen. Philip Sheridan, Gen. Sherman, and a great number of other Union officers whose names are household words in the country.

These claims had been filed through claim agents to this very large amount and were disallowed. They are barred. But claims which have not been filed and disallowed under the decision of Comptroller Gilkeson in 1890 might be filed afterwards under the decision of the Brodie case and allowed. Some of them have been so filed and allowed. I think no one knows how much they amount to. It was stated here the other day by the gentleman from Alabama [Mr. UNDERWOOD] that they amounted to the neighborhood of $1,000,000. I think that is based upon the appropriations which have been made in the deficiency bill in reference to the pay of the Army, which amounted to something over $900,000; but how much of that is for these claims I do not know.

Mr. UNDERWOOD. If the gentleman will refer to the RECORD——

Mr. MANN. I have the RECORD right before me.

Mr. UNDERWOOD I did not prepare the list, but I published a list showing the names and the amounts.

Mr. MANN. Yes; the gentleman from Alabama published in the RECORD the other day a list of the names and amounts; also a letter from Richard P. Whiteley, who is a claim attorney, as I understand it. It was a perfectly proper communication for the gentleman to print. I am taking no exception to it.

Mr. UNDERWOOD. I think Mr. Whiteley is a general attorney for the firm of Herbert & Micou, Mr. Herbert being formerly Secretary of the Navy.

Mr. MANN. But he is interested in these claims.

Mr. UNDERWOOD. Undoubtedly; he represents some of these claims.

Mr. MANN. He constantly refers to these claims, which he specifies as claims of northern officers. It runs through his letter in a number of cases, although he knew, if he knew anything about the claims when he wrote the letter, that they were not confined to northern officers, and that these claims which have been allowed under the Brodie decision have been allowed to estates of old officers in the South as well as in the North, and allowed to cadets who entered the academy up to 1897, after the war. There has been no distinction between the northern and the southern officers, so far as that is concerned. But the claims which have been disallowed, including the Sheridan and Sherman claims, to the extent of $2,500,000, are still

disallowed. There is no provision for their payment. There is no intention to pay them.

Now, of course, these Confederate officers, 173 of them I believe it is stated in the letter, did not have their claims disallowed under the Gilkeson decision, because they could not then file claims on account of section 3480 of the Revised Statutes. Congress having repealed that section, they may now file claims; and if they have claims, they have the same right now to file their claims in the auditor's office and have them allowed as anyone else whose claim has not been disallowed. But here is a proposition to separate out these few Confederate officers and make an appropriation in advance of the allowance of their claims to pay them, if the auditor shall allow them, when we make no provision for the payment of the $2,500,000 due to the officers, as stated here, many of them at least of the Northern Army. The proposition here is to pay the claim of the estate of "Stonewall" Jackson, for whom I have the highest regard, but not to pay the claim of Gen. Philip Sheridan; to pay the claim of the Gen. Lee estate, but not to pay the claim of the Gen. Sherman estate.

The SPEAKER. The time of the gentleman has expired.

Mr. SISSON. I yield to the gentleman five minutes more.

Mr. MANN. I am sorry to detain the House.

SEVERAL MEMBERS. Go on.

Mr. MANN. I do not believe myself that any of these longevity claims should be paid. Comptroller Gilkeson referred this matter to the Attorney General, and the Attorney General said, among other things:

> The principle that a man must be assumed to know the law is indispensable to the administration of government and to the finality of settlements made by it and by individuals.
>
> If, however, a party may thus enter into such a settlement, and when, afterwards, the law shall be ascertained to be more favorable to him than the view upon which he acted, that settlement may be wiped out and the parties required to settle de novo, the public policy which favors compromises would be reversed. It is better that no settlement be made than that one be made which is ineffectual.

All these claims of the officers were settled as they went along. They received the pay which they believed they were to get when they went into the Army and while they were serving in the Army. They received the pay which the Government understood it was paying to officers in the Army, which Congress appropriated for, and which it understood the officers were to receive. They received the pay that everybody understood they were to receive.

Now, after this lapse of nearly eight years, it is proposed, not to pay the officers, but to pay their estates, and to pay those particularly of officers who left the Army to join the Confederacy, which act we have now forgiven, as far as the North is concerned, but not to pay officers who remained in the Union Army. Sheridan and Sherman are not to have their claims paid, but the others who left are to have their claims paid, and payment authorized before they have been presented and audited.

I do not think we ought to pay any of them, but I am very sure that if we pay them, we ought not to refuse to pay the claims of those officers who remained in the Army and pay those of the officers who left the Army.

Mr. MURDOCK. Will the gentleman yield? I want to get this right.

Mr. MANN. Yes.

Mr. MURDOCK. These officers whose claims were disallowed by the Gilkeson decision could not be paid under this or any other existing law?

Mr. MANN. They could not, and they can not be reopened except by an act of Congress.

Mr. UNDERWOOD. Before the gentleman takes his seat, I want to take issue with the statement that the gentleman made, and I will ask him to cite me the authority. He stated that the act of July 5, 1838, had been repealed. I have been unable to find any such repeal, and the statement from the auditor's office does not cite any repeal. If the gentleman has the reference, I would like to have him give it.

Mr. MANN. I have no reference to it.

Mr. UNDERWOOD. I think, then, the gentleman is mistaken.

Mr. MANN. I am not mistaken; it is patent to anybody. That law is not now in force.

Mr. UNDERWOOD. It is not in force, but that is different; it is not repealed.

Mr. MANN. It was repealed by the new act. I am not saying that the repeal barred the payment of the claims which arose under the act.

Mr. UNDERWOOD. Certainly; and I take issue with the gentleman about the actual repeal.

Mr. MANN. Of course it has been repealed, for it is not in force.

Mr. UNDERWOOD. A good many statutes are on the books that are not in force and which are not repealed. I have never been able to find an act where it is repealed, and the statement which the gentleman printed in the RECORD does not disclose any such repeal.

Mr. MANN. If we fix the salary of the Secretary of State, as we did, at $10,000 a year—and I think that is the way it is printed in the statute—and then we fix it by an act of Congress at $12,500 a year, that repeals the former provision. When we enacted a law in 1838 providing for one extra ration per day for each five years and then afterwards changed it to 10 per cent for each five years of service, that is a repeal of the prior act. It is not existing law. If it were existing law it would be in force, but it is not existing law, and no one claims that it is.

Mr. SISSON. Mr. Speaker, I think the gentleman from Illinois is entirely mistaken about the repeal of that statute. The statute has been amended in that it has changed twice the amount of longevity pay; but every officer of the Army of the United States prior to that amendment did receive his longevity pay under the act of 1838. The act of 1838 is in force to-day, and is vital to-day. If the gentleman will read the entire history of all this legislation, he will find the basis upon which longevity pay is calculated, and that they have added to the ration which was provided for in 1838.

Mr. MANN. There is no substantial controversy between the gentleman and myself. I do not deny that there is a claim under the act. The gentleman uses the term "existing law." It is not important.

Mr. SISSON. There may be a question of importance about it, but the department takes a different view of it and the comptroller takes a different view of it. There is no difference of opinion as to the effect and force of the act of 1838, as it affects any claim that might arise.

Mr. MANN. There is no controversy between the gentleman and myself in regard to that. I referred to that, to begin with, under the term "existing law."

Mr. SISSON. The gentleman refers to the statute of limitations. There is no statute of limitations against any claim. Wherever the auditor decides against a claim it is simply stare decisis; it is a closed question.

The SPEAKER. The Chair would like to inquire how the gentleman from Mississippi got the floor?

Mr. SISSON. Because, Mr. Speaker, I have control of the time.

The SPEAKER. The gentleman will proceed.

Mr. SISSON. The statute of limitations does not run against any of these claims; but where a claim is presented to the auditor and the auditor decides against the claim, that is thereafter a closed question. Every claim of every kind involved in this present act, the one that is agreed to on this bill, every unaudited claim that may accrue to any Union officer that has not been settled, is to-day open for settlement by the auditor. He can audit these claims now under this bill, and the aim and object of the conferees on the part of the House was an honest effort to try and fix this law so that these men who resigned their commission would get what was due them at the time they resigned, no more and no less.

Mr. MURDOCK. Will the gentleman yield?

Mr. SISSON. Yes.

Mr. MURDOCK. The gentleman must see the injustice of this whole proposition, because at the time these Union men filed their claims which were disallowed the men who are now to be beneficiaries of this legislation could not under the law file their claims.

Mr. SISSON. No; they could not file them.

Mr. MURDOCK. If under the law they could have filed their claims, they would have been disallowed.

Mr. SISSON. Under the statute they could not file them, but that statute was repealed, and for the express purpose of permitting them to get what the United States Government owed them at the time they resigned their commissions.

Mr. MURDOCK. Yes; but the difficulty here is that the Government did not owe them any more than they owed the men who did file their claims.

Mr. SISSON. We do not ask that they get any more. It was not the intention of the conferees on the part of the Senate to give them any more. It was not the intention on the part of the department, that thoroughly agrees to this language used, but an honest effort was made simply to pay these men what was honestly due them. Under the Gilkeson decision there may be some cases that perhaps should be paid.

That decision of Gilkeson was the thing that prevented their getting the pay, not the law. There may be some cases, but few of them, that perhaps ought to be allowed; but since I have been

on the Committee on Appropriations, on the deficiency bill, claim after claim has been allowed by the auditor, and some of them were claims away back before the Civil War; every one of them was allowed except those claims included in the Gilkeson decision. They were audited claims, and we had to pay them or repudiate. All of the Gilkeson claims are not cases that would be involved here at all.

Mr. MADDEN. Mr. Speaker, will the gentleman yield?

Mr. SISSON. Yes.

Mr. MADDEN. If these men had filed their claims at the time the claims were filed which were rejected, they would also have been rejected, would they not?

Mr. SISSON. I could not tell about that. I do not know.

Mr. MADDEN. The same state of facts would exist.

Mr. SISSON. No; the gentleman is wrong about that. They would have gotten, as all of the Union officers got, the pay and allowance that was allowed under the auditor's decision in 1861. We get confused because there was a change of opinions of auditors as to whether or not the Military Academy service should be counted in counting the longevity pay, and that is the thing around which all of the difficulty is revolving now, because if it had not been for the act of 1867 these men would have been allowed this amount of money, and they would have been paid by the Treasury on the auditor's audit, just exactly what they would have gotten had they remained in the Union Army. Do I make myself clear?

Mr. MADDEN. Yes; but I can not very well get the thought out of my mind that if these men had the right to file their claims when other men did file their claims who had the right to do it, the same disposition would probably have been made of the claims that was made of the other claims.

Mr. SISSON. That is true if they had filed claims for longevity service while in the Military Academy, but every officer received his pay without having to file any claim, all along, right up until that decision of the auditor where they made an exception in the case of Gen. Grant and two other officers. Every other officer up to that time received everything that was due him when it became due. That is all that is intended, so far as I am concerned, and that was the honest intention of this statute—to include in it only those small amounts which were due the officers under the law at the time of the surrender of their commissions.

Mr. MANN. Mr. Speaker, will the gentleman yield?

Mr. SISSON. Yes.

Mr. MANN. As I understand the gentleman's statement now, it is that it is not intended to include these longevity claims based on West Point military service.

Mr. SISSON. That is my contention. I have not only said it in debate on the floor, but I have said it privately to the gentleman from Illinois, that I quite agree with him that the only thing that these men ought to be paid is what the Government owed them and what they would have gotten if they had received their salary on the day that they resigned their commissions.

Mr. MANN. The gentleman did not understand the chairman of his committee to take that view of it or the gentleman from Alabama [Mr. UNDERWOOD]?

Mr. SISSON. No. My understanding now is that this puts the commissioned officer who resigned his commission on the same basis that the present decision of the comptroller would put the Union officer, and the trouble, and the only trouble, in the case is that under the Gilkeson decision, where all the cases disallowed were not absolutely on longevity, though a great many of them were, some few Union officers will perhaps not be able to get what would be obtained if the construction which some gentlemen put on the language of this bill is correct, which the Confederate officers would get.

Mr. MANN. The gentleman said some few. How much is the amount of those claims that were disallowed?

Mr. SISSON. Does the gentleman mean "disallowed"?

Mr. MANN. Yes.

Mr. SISSON. There is some little controversy about that. I want to state to the gentleman that my information about it is second hand. It is contended by some that it will be something like $900,000, but I understand that these claims will amount to something like a little less than $3,000,000, of all kinds and character. I want the House to understand that I am giving it the benefit of information that may not be accurate, however, and I do not know. They say it is absolutely ascertainable now; but, if so, the reports that I have been able to get are conflicting about it.

Mr. MANN. The gentleman knows that Mr. Gilkeson, the comptroller, stated that they probably would amount to two million and a half?

Mr. SISSON. That is my recollection of his statement.

Mr. MANN. The gentleman said just a few Union officers.

Mr. SISSON. Oh, a great many of these Gilkeson claims that were disallowed, as I understand, were not altogether for longevity pay.

Mr. MANN. Most of them were.

Mr. SISSON. I could not tell about that.

Mr. MANN. Nearly all of them were.

Mr. SISSON. It is very much like this statement here in the RECORD. It is a difficult matter to segregate the older longevity claims from the later ones.

Mr. MANN. Of course they were not all Union officers. Many of them had probably died before the war commenced?

Mr. SISSON. Yes.

Mr. MANN. Some of them were claims that arose after the war was over.

Mr. SISSON. That is true.

Mr. MANN. But nearly all of the Union officers had claims pending, and they were disallowed.

Mr. SISSON. Mr. Speaker, I want my position to be perfectly well understood. I simply want the officers who resigned their commissions in 1861 to get what was due them, as if they had gotten the pay when they resigned their commissions.

Mr. MANN. To that we do not take any exception; but in view of the statement of the chairman of the committee and of the gentleman from Alabama [Mr. UNDERWOOD], that this would pay the longevity pay, where the same character of claims had been disallowed, does not the gentleman think we ought to be a little careful before we act?

Mr. SISSON. To be frank with the gentleman, I have no quarrel to make with him about making the legislation so that a Union officer shall get identically the same pay that a Confederate officer will get for the service rendered. That is what I am asking for, and all I want, and I will vote against any other proposition. I now yield to the gentleman from Alabama. How much time have I remaining, Mr. Speaker?

The SPEAKER. There are 10 minutes left.

Mr. SISSON. I yield 10 minutes to the gentleman from Alabama [Mr. UNDERWOOD].

The SPEAKER. The gentleman had better retain one minute.

Mr. SISSON. Then I yield the gentleman nine minutes. Would the gentleman from Alabama like to have more time than that?

Mr. UNDERWOOD. I think I can make that suffice.

Mr. SISSON. How much time does the gentleman want?

Mr. UNDERWOOD. Well, I would like to have 15 minutes.

Mr. SISSON. Mr. Speaker, I ask unanimous consent that the time of the gentleman from New York be extended 10 minutes.

The SPEAKER. The gentleman from Mississippi asks unanimous consent that the time of the gentleman from New York be extended 10 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SISSON. Mr. Speaker, I now yield 15 minutes to the gentleman from Alabama.

Mr. UNDERWOOD. Mr. Speaker, I do not like to take up the time of the House in discussing this claim. I think it is probably the first time I ever appeared before the House in reference to any claim, and I would not do so now if it were not for the act of this Congress itself. On July 6 last we repealed statute 3480, that prohibited a Union officer who afterwards entered the Confederate service from filing a claim against the United States Government. It was repealed by a unanimous-consent vote of this House under the statement in the report and under the statement made by the gentleman who presented the bill to this House that the intention of repealing that statute was to allow these officers who served in the Confederate army after their Union term of service to go back and get this longevity pay that was due them under the law as it stands to-day before they entered the Confederate service.

Now, that is all there is in this proposition. Of course we recognize the fact that at one time a comptroller decided that an officer was not entitled to longevity pay based on his West Point service, but the Supreme Court of the United States decided that he is. After the decision of the Supreme Court Gen. Grant's longevity pay was allowed, based on his West Point service. Then the Gilkeson decision came along, and Gen. Sherman's pay, according to the gentleman from Illinois, was rejected by Gilkeson, and his longevity pay was not allowed based on his West Point service. Then Mitchell came along and decided that the original decision was right, that the Supreme Court decision was right, and that longevity pay should be based on West Point service. And since that time, about six or

seven years ago, over 1,000 cases have been paid dating back to the time of the original service. Some of the men entered West Point dating nearly back to 1838——

Mr. MURDOCK. Eighteen hundred and twenty-nine.

Mr. UNDERWOOD. Dating back to 1829, and nearly $1,000,000 has been paid out. Now, of course, we recognize that under section 3480 of the Revised Statutes, passed immediately after the war, that these Confederate officers could not have gone back and collected anything that was due them when they left the service. As a matter of fact, in most cases where these officers left the service they were paid at that time once every three months, and most of them left the actual pay due them in the Treasury of the United States, that they have never collected up to this time for service to the Government. Well, this Congress graciously repealed that statute, repealed it to allow these claims to be paid. Now, if Congress had not done it—and it did not come from the South or our section of the country; it came very graciously from that side, a bill proposed by that side of the House, presented to the House, and voted for unanimously; but, having done it, I say it would be a most ungracious thing for this Congress, after passing this repealing law for this purpose, when it comes to make an appropriation to pay the claims, to refuse to do it. That is all there is to it. We all recognize the Civil War between the States is over, and we all rejoice in that fact. Men sitting here on the floor of this House are joint owners probably of grandchildren whose grandfathers fought on both sides of that war. It is only a question of whether these old men should be paid money that was due them for services rendered before the Civil War in accordance with the law that exists to-day, not the law that existed under the Gilkeson decision. Now, there are three classes of cases that are involved in these longevity claims. There is the class of claims of Confederate soldiers, whom the bar of disability was lifted on the 6th of this July. The other class of claims are the claims of Union soldiers who always stayed in the Union Army, who filed their claims either before Gilkeson became comptroller or after he went out of office. They have all been paid so far as their claims have been audited. This very Congress has paid some of them, as shown in the list I published on last Friday.

In the last Congress we paid something over $200,000 of them. Now, all of these men have been paid, but there are some unfortunates. There were a certain number of Union officers who filed their claims for audit when Mr. Gilkeson was comptroller, and he rejected them. Now, when an applicant's claim is audited that is the end of it so far as the comptroller's office is concerned. After that time it is only made a claim. Now, this case went off the other day on the supposition, as it was asserted here, that there was a bar of the statute of limitation, and these Union officers only drew their pay back for six years, whereas these Confederate officers could draw back to the beginning. Now, that was entirely a misapprehension of the fact. There is not any statute of limitation at all, so far as the comptroller is concerned, and these cases have all been paid under the comptroller's decision, and the ones you have paid have been paid from the very beginning. There is only one thing that stands in the way of any of them, and that is that the men who unfortunately went before Gilkeson and got reversed can not go back in the auditor's office and get a reaudited claim.

Mr. GOULDEN. Will my friend from Alabama yield?

Mr. UNDERWOOD. Certainly.

Mr. GOULDEN. I would like to ask my friend from Alabama why Congress could not include the compensation of those men who were barred by Gilkeson while he was comptroller, and why should it not be done now? Would not common justice and fairness demand this?

Mr. UNDERWOOD. There is no reason, in my judgment, why it should not. Now just eliminate, just wipe out entirely, these Confederate claims. I am not much of a claim man. As I say, this is the first time in 20 years that I have ever appeared on the floor of this House talking about a claim, and I would not do it now except I believe it would be an ungracious act of this Congress, after inviting these men to present their claims, not to pay them. But, leaving out these Confederate claims entirely, I agree with what the gentleman from New York says, that it was right for Gen. Grant's heirs to get his longevity pay based on his West Point service, which they got, and it is equally right for the heirs of Gen. Sherman to get his longevity pay based on his West Point service. Now, that is all there is to it.

Mr. KONOP. Will the gentleman yield?

Mr. UNDERWOOD. Certainly.

Mr. KONOP. You state there is no statute of limitations barring these claims. Now, since that section—3840—has been repealed, why can not these Confederate officers now file their claims, just like the Union officers, in the comptroller's office?

Mr. UNDERWOOD. They have, and they will, and it is recognized by the comptroller's office they will be allowed, and therefore the appropriation is being made to pay them.

Mr. KONOP. That was sought before the claims were allowed.

Mr. UNDERWOOD. It was sought because the claims were there. There was nothing to do with them except to add up the figures. They have been there since the beginning, and they will be due and payable before the next deficiency bill passes, and if you are going to pay them, why not pay them now? There is no question about it. There is no use of any controversy. That these men were in West Point is not controverted. The fact that they are entitled to longevity pay based on West Point service, as these other officers have been paid for the last few years, is not controverted. I ask the gentleman if, that being the case and we are going to pay them, why should we make them wait a year instead of paying them now?

Mr. BUTLER. Is it not unusual to pay these claims in this way? Are not they usually audited? Are we not anticipating them?

Mr. UNDERWOOD. I think you are probably anticipating them for about 90 days. I am free to say that. I do not see why we should not anticipate them.

Mr. BUTLER. It is not usual to pay claims in that way.

Mr. UNDERWOOD. It is usual to put into a bill whatever is expected will have to be paid out in the intervening months.

Mr. BUTLER. Before the claims are audited?

Mr. UNDERWOOD. If the claims have been audited. These claims have been audited, I will say to the gentleman.

Mr. COX. I take it, of course, that most of these particular generals who were graduates of West Point, both North and South, are dead?

Mr. UNDERWOOD. Yes.

Mr. COX. And probably most of their widows are dead?

Mr. UNDERWOOD. I do not think that is so.

Mr. COX. Now, here is the question: Suppose a general himself is dead and that his wife is dead, then whatever is due and would go to either of them if alive would go to their children?

Mr. UNDERWOOD. It would go to the estate, like any other claim.

Mr. COX. Would it go any further than to the children—that is, to his nephews, nieces, or aunts?

Mr. UNDERWOOD. I think this: If I were to die—I will not refer to my friend from Indiana—but if I were to die to-day, and there was some back pay due me as Congressman, as there is, and there was not a provision made for the Sergeant at Arms to pay it to my wife or my children, it would be an outstanding claim that my estate would have against the Government, and if for some reason they did not collect it now, there is no reason they should not collect it for my heirs, say, my grandchildren, 20 years from now.

Mr. COX. The gentleman's item follows the usual law, does it not?

Mr. UNDERWOOD. That is what it does.

Mr. GOULDEN. Will my friend yield for a brief question?

Mr. UNDERWOOD. I will.

Mr. GOULDEN. How were the claims of Gen. Grant and Gen. Rosecrans paid?

Mr. UNDERWOOD. The Supreme Court, as has been stated here very often, decided longevity pay should be based on West Point service, and the auditor who was in the office at that time decided that Gen. Grant and Gen. Rosecrans was each entitled to his pay. It went along smoothly. They were giving this longevity pay after accounts were audited until Gilkeson came in, and then he proceeded to reverse the Supreme Court of the United States.

Mr. MANN. Will the gentleman yield for a question?

Mr. UNDERWOOD. Certainly.

Mr. MANN. The gentleman stated it went along smoothly. Is it not a fact that the only claims that were allowed were those of Gen. Grant and Gen. Rosecrans?

Mr. UNDERWOOD. No; I think there were some others.

Mr. MANN. I will say to the gentleman, quoting from the report of Auditor Gilkeson, that he says there were only two claims allowed under that decision by the prior comptroller, and then one claim slipped through when he was comptroller that he did not know anything about. Those three claims were the only ones.

Mr. UNDERWOOD. I do not think there is necessity for any controversy on the fact as to how many claims there were.

Mr. SISSON. If the gentleman will yield, the gentleman stated in reply to a question a while ago that this was unusual. In the last five years in the sundry civil bill two items have

been carried for similar cases. As to officers of the Spanish-American War, an item is also carried anticipating arrears of pay. It is not only usual but it is a most unusual thing not to do.

Mr. UNDERWOOD. The gentleman refreshes my mind. I will say to the gentleman from Pennsylvania [Mr. BUTLER] that I have no doubt that he knows that we make appropriations here every year for private pension bills that may be passed by the Congress.

Mr. SISSON. It is in anticipation. It has been carried in the sundry civil bill for 25 years.

Mr. KONOP. But pensions are authorized.

Mr. BUTLER. Mr. Speaker——

Mr. UNDERWOOD. I will ask the gentleman not to interrupt me now. This is not only authorized, but it is a debt due. It does not require any authority. It is the law, and it is a debt due, just as much as your salary is due, the moment you repealed statute 3480 that stood in the way.

You repealed section 3480 of the Revised Statutes, and when you did it you made this debt due to them just as much as it was in 1861 when these men went out of the Federal Army. It is due to-day, because you repealed that statute.

Now, there is only one other thing that I wish to state to the House. There is a discrimination here, but not growing out of the repeal of section 3480. There is a discrimination between the claims of those officers that you have paid, like the case of Gen. Grant, and claims like those of Gen. Sherman and others, which were turned down, and you made the discrimination yourselves. Those claims are pending now in the omnibus claims bill in the Senate. You can pass them when that bill comes over here by passing that bill.

Now, a great deal has been said about the amount of these claims, and I want to state this, that they will amount to the total of the graduates from the Military Academy. The total number of graduates of the Military Academy between 1802, the first class at that institution, and 1879, inclusive, is 2,826. Of this total 636 have no claims, adjusted or unadjusted, for the reason that if they graduated before 1838 they either resigned, died, or were dismissed prior to 1838, or if they graduated after 1838 they remained in the Army one year or less. This leaves a total of 2,190 possible claims, paid and unpaid, northern and southern. Of this number 1,000 northern claims have been paid already, leaving 1,190 possible claims, northern and southern. Subtracting the 173 claims of Confederate officers, there would remain 1,017. From this number there would be deducted a certain number of possible claims that would never be presented, since they extend back over 100 years, and a certain number that have been presented and disallowed, for the reason that the officer was dismissed or died when his accounts were unsettled, and when he owed a balance to the United States Government which had been offset against his longevity claim. I can not tell the number of these disallowances, but I am informed that there have been some. This would reduce the number of outstanding northern claims certainly below 1,000.

It is also to be borne in mind in this connection that in this number the largest portion of these claims are those of officers who graduated in 1879, or the years immediately preceding, and whose claims are smaller than the others. This is so, because the claims disallowed by Comptroller Gilkeson are those of officers who were in active service in 1889 at the time of the Supreme Court's decision in the Watson case, and who immediately filed their claims with the comptroller.

The larger claims, extending back a great number of years, were those of officers who were in many cases dead, and so they were not filed and disallowed. This enabled them to be paid within the last six years under Comptroller Mitchell's decision.

It is, therefore, evident that the average amount involved in the unpaid northern claims will be less than the average amount already paid. The average amount of those already paid is $852 in each case; so that if the remaining 1,000 claims of officers, excluding the Confederate claims covered by the repeal of section 3480, were all to be presented and paid, the total amount involved would be $852,000.

Now, gentlemen, instead of the proposition being what the gentleman from Illinois [Mr. MANN] says when he asks, "Why should you pay these Union officers who served in the Confederate Army and not pay the heirs of Gen. Sherman?"—I say the proposition really is this: Why should you have paid the heirs of Gen. Grant and keep standing here the heirs of Gen. Sherman and not pay them? Now, you have paid in the last years $994,000 of actual claims. If you will look at Friday's RECORD you will find the claims that you paid to the men who were fortunate enough not to file their claims with Gilkeson, and you have standing at the door about $852,000 of claims of brother officers, with no distinction whatever between the two sets of claimants except that they were unfortunate in filing their claims with Gilkeson.

The SPEAKER. The time of the gentleman from Alabama has expired. All time has expired

Mr. SISSON. Has all time expired?

The SPEAKER. Yes.

Mr. FITZGERALD. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the Speaker announced that the "noes" seemed to have it.

Mr. FITZGERALD. Mr. Speaker, I ask for a division.

The SPEAKER. The gentleman from New York asks for a division.

The House divided; and there were—ayes 28, noes 46.

Mr. FITZGERALD. Mr. Speaker, I ask for tellers. No, Mr. Speaker; I will ask for the yeas and nays.

The SPEAKER. The gentleman from New York asks for the yeas and nays.

Mr. MANN. Let the gentleman make a point of order that there is no quorum present. It is easier to vote that way.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from New York makes the point of order that there is no quorum present. Evidently there is not. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. Those who favor the adoption of the conference report will, when their names are called, answer "yea"; those opposed will answer "nay."

The question was taken; and there were—yeas 89, nays 140, answered "present" 6, not voting 197, as follows:

YEAS—89.

Abercrombie	Fergusson	Howard	Sells
Adamson	Ferris	Hull	Sherley
Alexander	Finley	Humphreys, Miss.	Sims
Baltz	Fitzgerald	Johnson, Ky.	Sisson
Barkley	Floyd, Ark.	Lee, Ga.	Small
Blackmon	Garrett, Tenn.	Lewis, Md.	Sparkman
Broussard	Garrett, Tex.	Lloyd	Stedman
Bruckner	Gilmore	McKellar	Stephens, Tex.
Bryan	Gittins	Montague	Talbott, Md.
Buchanan, Tex.	Goodwin, Ark.	Moon	Taylor, Ala.
Burgess	Gregg	O'Brien	Taylor, Ark.
Burnett	Hamlin	Oglesby	Ten Eyck
Caraway	Hammond	Oldfield	Tribble
Carew	Hardy	Page, N. C.	Underwood
Clark, Fla.	Harris	Pou	Watkins
Coady	Harrison	Quin	Watson
Collier	Hart	Raker	Webb
Dale	Hay	Rothermel	Whaley
Decker	Hayden	Rouse	Wingo
Dent	Heflin	Rubey	Witherspoon
Dickinson	Helm	Rucker	
Elder	Hensley	Russell	
Evans	Holland	Saunders	

NAYS—140.

Allen	Drukker	Kelly, Pa.	O'Hair
Anderson	Dunn	Kennedy, Conn.	O'Leary
Ansberry	Eagan	Kennedy, Iowa	Patten, N. Y.
Bailey	Edmonds	Kennedy, R. I.	Payne
Baker	Esch	Kent	Peterson
Barnhart	Falconer	Kettner	Platt
Barton	Farr	Kiess, Pa.	Plumley
Bathrick	Fess	Kinkaid, Nebr.	Post
Beakes	FitzHenry	Kirkpatrick	Reilly, Wis.
Bell, Cal.	Foster	Konop	Roberts, Nev.
Booher	Fowler	La Follette	Rogers
Borchers	Francis	Lee, Pa.	Scott
Bowdle	French	Lesher	Seldomridge
Britten	Gallivan	Lieb	Shackleford
Brockson	Gard	Lindbergh	Sinnott
Brodbeck	Garner	Logue	Sloan
Brumbaugh	Good	Lonergan	Smith, Idaho
Buchanan, Ill.	Gordon	McCoy	Smith, Minn.
Burke, S. Dak.	Goulden	McKenzie	Stephens, Cal.
Burke, Wis.	Graham, Ill.	MacDonald	Stevens, Minn.
Butler	Gray	Madden	Stevens, N. H.
Cline	Greene, Vt.	Maguire, Nebr.	Stone
Connelly, Kans.	Griffin	Manahan	Stout
Conry	Haugen	Mann	Sutherland
Cooper	Hawley	Mapes	Tavenner
Cox	Helgesen	Metz	Taylor, Colo.
Cramton	Helvering	Miller	Thomson, Ill.
Cullop	Hill	Mitchell	Towner
Danforth	Howell	Mondell	Townsend
Dillon	Hulings	Morgan, Okla.	Treadway
Dixon	Humphrey, Wash.	Morrison	Tuttle
Donovan	Johnson, Utah	Murdock	Volstead
Doolittle	Johnson, Wash.	Nelson	Woodruff
Doughton	Kahn	Nolan, J. I.	Woods
Driscoll	Keating	Norton	Young, N. Dak.

ANSWERED "PRESENT"—6.

Donohoe	Guernsey	Prouty	Slemp
Doremus	Kreider		

NOT VOTING—197.

Adair	Dupré	Korbly	Reed
Aiken	Eagle	Lafferty	Reilly, Conn.
Ainey	Edwards	Langham	Riordan
Anthony	Estopinal	Langley	Roberts, Mass.
Ashbrook	Fairchild	Lazaro	Rupley
Aswell	Faison	L'Engle	Sabath
Austin	Fields	Lenroot	Scully
Avis	Flood, Va.	Lever	Sherwood
Barchfeld	Fordney	Levy	Shreve
Bartholdt	Frear	Lewis, Pa.	Slayden
Bartlett	Gallagher	Lindquist	Smith, J. M. C.
Beall, Tex.	Gardner	Linthicum	Smith, Md.
Bell, Ga.	George	Lobeck	Smith, N. Y.
Borland	Gerry	Loft	Smith, Saml. W.
Brown, N. Y.	Gill	McAndrews	Smith, Tex.
Brown, W. Va.	Gillett	McClellan	Stafford
Browne, Wis.	Glass	McGillicuddy	Stanley
Browning	Godwin, N. C.	McGuire, Okla.	Steenerson
Bulkley	Goeke	McLaughlin	Stephens, Miss.
Burke, Pa.	Goldfogle	Mahan	Stephens, Nebr.
Byrnes, S. C.	Gorman	Maher	Stringer
Byrns, Tenn.	Graham, Pa.	Martin	Sumners
Calder	Green, Iowa	Merritt	Switzer
Callaway	Greene, Mass.	Moore	Taggart
Campbell	Griest	Morgan, La.	Talcott, N. Y.
Candler, Miss.	Gudger	Morin	Taylor, N. Y.
Cantor	Hamill	Moss, Ind.	Temple
Cantrill	Hamilton, Mich.	Moss, W. Va.	Thacher
Carlin	Hamilton, N. Y.	Mott	Thomas
Carr	Hardwick	Mulkey	Thompson, Okla.
Carter	Hayes	Murray, Mass.	Underhill
Cary	Henry	Murray, Okla.	Vare
Casey	Hinds	Neeley, Kans.	Vaughan
Chandler, N. Y.	Hinebaugh	Neely, W. Va.	Vollmer
Church	Hobson	O'Shaunessy	Walker
Clancy	Houston	Padgett	Wallin
Claypool	Hoxworth	Paige, Mass.	Walsh
Connolly, Iowa	Hughes, Ga.	Palmer	Walters
Copley	Hughes, W. Va.	Park	Weaver
Covington	Igoe	Parker	Whitacre
Crisp	Jacoway	Patton, Pa.	White
Crosser	Johnson, S. C.	Peters, Mass.	Williams
Curry	Jones	Peters, Me.	Willis
Davenport	Keister	Phelan	Wilson, Fla.
Davis	Kelley, Mich.	Porter	Wilson, N. Y.
Deitrick	Key, Ohio	Powers	Winslow
Dershem	Kindel	Ragsdale	Young, Tex.
Dies	Kinkead, N. J.	Rainey	
Difenderfer	Kitchin	Rauch	
Dooling	Knowland, J. R.	Rayburn	

So the conference report was rejected.

The Clerk announced the following pairs:

For the session:

Mr. METZ and Mr. WALLIN.

Mr. GLASS with Mr. SLEMP.

Mr. SCULLY with Mr. BROWNING.

Until further notice:

Mr. ASHBROOK with Mr. AUSTIN.

Mr. BARTLETT with Mr. AVIS.

Mr. BYRNS of Tennessee with Mr. CAMPBELL.

Mr. CANDLER of Mississippi with Mr. BROWNE of Wisconsin.

Mr. CARLIN with Mr. CURRY.

Mr. CARTER with Mr. DAVIS.

Mr. CLAYPOOL with Mr. HAMILTON of Michigan.

Mr. CONNOLLY of Iowa with Mr. GREEN of Iowa.

Mr. RAINEY with Mr. FORDNEY.

Mr. DUPRÉ with Mr. GILLETT.

Mr. GODWIN of North Carolina with Mr. HAYES.

Mr. GOEKE with Mr. KEISTER.

Mr. JACOWAY with Mr. LAFFERTY.

Mr. LEVER with Mr. KELLEY of Michigan.

Mr. MCANDREWS with Mr. MCGUIRE of Oklahoma.

Mr. WILSON of Florida with Mr. MOSS of West Virginia.

Mr. SHERWOOD with Mr. MOTT.

Mr. PARK with Mr. PAIGE of Massachusetts.

Mr. REED with Mr. PATTON of Pennsylvania.

Mr. REILLY of Connecticut with Mr. PETERS of Maine.

Mr. RIORDAN with Mr. RUPLEY.

Mr. TAGGART with Mr. VARE.

Mr. WALKER with Mr. PORTER.

Mr. WILLIAMS with Mr. WINSLOW.

Mr. RAUCH with Mr. HUGHES of West Virginia.

Mr. IGOE with Mr. SAMUEL W. SMITH.

Mr. UNDERHILL with Mr. STEENERSON.

Mr. HOUSTON with Mr. LANGHAM.

Mr. GALLAGHER with Mr. HINEBAUGH.

Mr. CANTRILL with Mr. COPLEY.

Mr. AIKEN with Mr. BARCHFELD.

Mr. STEPHENS of Nebraska with Mr. LEWIS of Pennsylvania.

Mr. JOHNSON of South Carolina with Mr. GRAHAM of Pennsylvania.

Mr. THOMAS with Mr. FAIRCHILD.

Mr. HUGHES of Georgia with Mr. MERRITT.

Mr. HARDWICK with Mr. J. R. KNOWLAND.

Mr. YOUNG of Texas with Mr. AINEY.

Mr. LAZARO with Mr. PARKER.

Mr. SABATH with Mr. SWITZER.

Mr. LOBECK with Mr. POWERS.

Mr. GORMAN with Mr. MCLAUGHLIN.

Mr. ASWELL with Mr. CARY.

Mr. BROWN of New York with Mr. CHANDLER of New York.

Mr. STRINGER with Mr. PROUTY.

Mr. CALLAWAY with Mr. WILLIS.

Mr. KITCHIN with Mr. ROBERTS of Massachusetts.

Mr. ESTOPINAL with Mr. FREAR.

Mr. ADAIR with Mr. ANTHONY.

Mr. BYRNES of South Carolina with Mr. KREIDER.

Mr. BELL of Georgia with Mr. CALDER.

Mr. EDWARDS with Mr. GRIEST.

Mr. MORGAN of Louisiana with Mr. LINDQUIST.

Mr. PADGETT with Mr. MORIN.

Mr. WEAVER with Mr. WALTERS.

Mr. FAISON with Mr. GREENE of Massachusetts.

Mr. DAVENPORT with Mr. J. M. C. SMITH.

Mr. SUMNERS with Mr. TEMPLE.

Mr. PALMER with Mr. MOORE.

Mr. CLANCY with Mr. HAMILTON of New York.

Mr. SMITH of Texas with Mr. SHREVE.

Mr. MCGILLICUDY with Mr. GUERNSEY.

Mr. HENRY with Mr. HINDS.

Mr. FLOOD of Virginia with Mr. MARTIN.

Mr. SLAYDEN with Mr. BURKE of Pennsylvania.

Mr. STEPHENS of Texas with Mr. BARTHOLDT.

Mr. FIELDS with Mr. LANGLEY.

Mr. KREIDER. I voted no. I find that I am paired, and I desire to change my vote to "present."

Mr. PROUTY. I voted no; but I find I am paired, and I want to withdraw that vote and to vote "present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present. The Doorkeeper will unlock the doors.

Mr. FITZGERALD. Mr. Speaker, I move that the House further insist on its disagreement to the amendment of the Senate No. 158.

The SPEAKER. The gentleman from New York moves that the House further insist on its disagreement to Senate amendment 158.

The motion was agreed to.

COMMITTEE ON LABOR.

Mr. LEWIS of Maryland. Mr. Speaker, I ask unanimous consent that the Committee on Labor may sit during the sessions of the House.

The SPEAKER. The gentleman from Maryland [Mr. LEWIS] asks unanimous consent that the Committee on Labor be permitted to sit during the sessions of the House. Is there objection?

Mr. MANN. Reserving the right to object, on yesterday the Senate passed a resolution revoking all leave to sit during the sessions of the Senate. It seems to me that we are reaching a point where we have very hard work to get a quorum in the House, and it might be wise to do the same thing. What is the special reason or necessity for this?

Mr. LEWIS of Maryland. I will say to the gentleman that we have but one special reason or necessity. We have a matter on which we wish to have a hearing, and the probabilities of getting a quorum this afternoon are good, and perhaps they will not be so good later on.

Mr. MANN. This afternoon we are going to have a very important bill up for consideration and shall be voting on amendments constantly. It is not a party matter, and I am afraid we shall need the gentleman.

Mr. LEWIS of Maryland. I think I can assure the gentleman that we will be here when needed.

Mr. MANN. Yes; but the gentleman will come in then and vote unintelligently not having heard the discussion.

Mr. LEWIS of Maryland. The gentleman assumes a great deal when he assumes my want of intelligence on any subject. [Laughter.]

Mr. MANN. I do not mean to assume the gentleman's want of intelligence, but I assume that even the gentleman from Maryland, gifted as he is, can not always tell how to vote right on a subject which he had not heard anything about.

Mr. LEWIS of Maryland. If the gentleman from Illinois is going to speak, I rather fear his criticism may be true.

Mr. MANN. I take it the gentleman from Maryland has a discriminating mind, and that if I made a speech he would vote the other way; although that is not what the House has just done, and I will take that back.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

LEAVE OF ABSENCE.

Mr. LONERGAN, by unanimous consent, was given leave of absence for the remainder of the week, on account of a death in his family.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the conference report on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17041) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes.

THE GENERAL DAM ACT.

Mr. ADAMSON. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the general dam bill.

The SPEAKER. The gentleman from Georgia moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the general dam act.

The motion was agreed to.

Accordingly, the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GARNER in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill of which the Clerk will read the title.

The Clerk read as follows:

A bill (H. R. 16053) to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Kentucky [Mr. SHERLEY].

Mr. ADAMSON. Mr. Chairman, I would like to ask if we can not agree upon some time for limit of debate on this amendment.

Mr. STEVENS of Minnesota. Mr. Chairman, the requests on this side aggregate 40 minutes.

Mr. ADAMSON. And the requests amount to about the same on this side, but we are considerably behind. The other side has used about three times as much time as we have, and we want to equalize it. I ask unanimous consent that I may proceed unlimited.

Mr. STEVENS of Minnesota. Has the gentleman made any proposition for time?

Mr. ADAMSON. No; there was so much demanded on that side, and besides, I want to use some little time myself. I think we ought to even it up.

Mr. MANN. We are in committee; why not go ahead before you agree on a limit?

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that debate on this amendment be limited to 40 minutes on a side.

Mr. MANN. Oh, no, Mr. Chairman, the gentleman has made no request.

Mr. ADAMSON. The proposition of the gentleman from Minnesota is for an hour on a side, but before that is done I want to make a few remarks myself.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman from Georgia may proceed without limit.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the gentleman from Georgia may proceed without limit. Is there objection?

There was no objection.

Mr. ADAMSON. Mr. Chairman, I do not wish to consume very much time. I would rather have the attention of gentlemen than to have more time. When I undertook to address the committee in opening the debate, my friends were so inquisitive that I was never able to get further than half an answer to a question at one time. I do not wish, however, at this time to continue in general debate on the bill, but to address myself mainly to the pending amendment.

Mr. Chairman, I deprecate the exhibition of feeling and indulgence in violent language during the discussion of this bill. I do not think gentlemen mean it, nor do I believe any gentleman on this floor merits any such language as has been used here. No man believes any Member of Congress here desires to loot the public nor permit any graft nor hurt the General Government nor rob the people. So far as I am concerned I have had a clean bill of health from all, even the most violent of those who have criticized the bill. I will take the liberty, I believe with the universal concurrence of the Committee of the Whole, to extend that acquittal to the entire membership. Such language may be indulged with impunity by outsiders who have nothing to lose but everything to gain, and who enjoy access to the sensational papers, but it is improper and unmerited here.

I have no animosity against the Federal Government, nor am I disturbed by the question of State rights. Whatever the Constitution provides for should be observed. We have a dual form of government, and the Constitution is supported best by observing both elements. It is as much a violation to ignore one as the other. Whatever is right and proper for the Federal Government to do it should do. The States should do their duty, for they are possessed of all powers not expressly delegated to the Federal Government.

What we want is a good bill. Gentlemen here who are insisting on Federal taxation virtually admit that they are worshiping a fetish and not a practical reality. They say they want a mere nominal tax to preserve the principle. The trouble is, their insistence will prevent development. I would rather forego a doubtful right of Federal taxation, and permit something to develop that the States may tax whereby to support their institutions rather than obstruct and prevent any development for any Government to tax or any people to utilize. But the distinguished gentleman from Illinois [Mr. FOWLER] with a blunt frankness declares that he wants to tax them enough practically to support the Government—at least enough to pay off the indebtedness of the Government. There he drifts into the visionary. Gentlemen talk as though they had control of the capital of the world and could arbitrarily order capitalists to enter into contracts against their will. That is worse than idle talk. It is useless to discuss the constitutionality of the question. It is impossible for the exact question ever to get before the Supreme Court. If it could, I am sure that court would decide that the Government, having the power either to object or consent, when it professes to consent must be held to consent. Afterwards if a condition of that consent be held to be unconstitutional or void, the condition will be set aside and not the consent, because it will be presumed to have been the intention of the Government to consent, and the duty and burden was on the Government to prescribe a valid and reasonable condition.

There is little doubt that if capital enters into a contract the contract would be complied with unless bankruptcy prevents, for capital does not seek a lawsuit nor, in the presence of so many opportunities for profitable investment, will it enter a precarious field. Before capital will go into this development it will want to know what it can rely on. If the conditions are laid down at the start, certain and clear, then the capitalist, understanding what is before him, may intelligently enter into the contract or refuse to do so. If the amendment of the gentleman from Kentucky provided for fixing charges at the time of the approval of the specifications capital might be secured, but with an indeterminate scale, adjustable at the will of the Government, as he proposes, the proposition will be too uncertain to attract investment.

Two years ago, in order to secure action, Secretary Stimson and I agreed on some amendments to the general dam act and the application of those amendments to all pending projects. That was agreed to by all interested gentlemen in the House whom I could see, and I mailed a copy of the agreement to the gentleman from Wisconsin [Mr. COOPER], who, not going to his office for his mail before coming to the House and not being advised of the agreement, objected to unanimous consent for consideration of the bills. Afterwards, when he understood the situation, he undertook to withdraw his objection, but it was too late and the bills failed. In that agreement, however, we did not agree to a general tax, as proposed by the gentleman from Kentucky [Mr. SHERLEY], but provided merely for payments to be expended in promoting and maintaining the navigability of that stream, but the charge was to be fixed certain at the time. So far as I am concerned, I would have agreed to that at any time, but other Members since that time refused to concur even in that.

I have always agreed with the gentleman from Illinois [Mr. MANN] that the general dam act as originally passed, which I originated but which he perfected, reported out, and passed, was in itself all-sufficient for the purposes intended. Its terms would, in his judgment and mine, permit everything that the Sherley amendment would permit; but when President Roosevelt quit signing the bills passed under it and it began to be insisted that specific terms be placed in every special bill, the object of that bill to secure uniformity and simplicity was defeated, and by agreement between the gentleman from Minnesota [Mr. STEVENS] and Mr. Roosevelt the amendment of 1910 was made.

The Savannah River authorization, referred to by the gentleman from Illinois as now completed, was a renewal. It is, as I remember, one of the only three dams ever constructed under the dam act, original or amended. The gentleman is also

mistaken in stating that all projects authorized have been financed and completed. That is, however, possibly not the fault of the general dam act, but of the agitation about it. When progress under it was barred by the Executive and others and demand made for Federal taxation and more stringent terms, I immediately began to insist on the provisions for uniformity now contained in section 13 of the present bill; that the new conditions proposed should be made to apply to the dams already constructed; that the same conditions should apply both to the new and old structures alike. However, after the amendment of 1910, and even before that, after President Taft's inauguration, applications for consent continued to come in, and 19 in all, I think, were signed, including renewals, before President Taft changed his policy and adopted the Federal taxation idea. As I remember, only three dams were constructed since the act of 1906 was passed. All of those which have been criticized were constructed under special acts passed prior to that. When President Taft changed his policy, of course we quit reporting bills and addressed our efforts to trying to discover and utilize whatever terms could be agreed upon with the executive department. It little concerns me what particular details are in a bill, so developments are had and the public interests are protected. Of course men differ as to what the public interests may be. I think it is to the interest of the public to have three or four thousand miles of navigation on our principal rivers without incurring fifty or a hundred millions of dollars of expense in building dams and locks.

It is growing more difficult every year to secure the passage of river and harbor bills. There are people in opposition to river and harbor legislation who denounce as graft and pork barrels the most perfect bills the River and Harbor Committees can construct. In view of that fact, the necessity appears all the greater to utilize private capital to perfect that work without expense to the Government, but I do not see any graft in that. I think the contribution of fifty or a hundred millions of dollars to the improvement of several thousand miles of rivers is some compensation to the Government. It is true that the water power is valuable. If it were not valuable projects would not be attractive to capital, and the benefits to the people consist in the development of the country through the development of hydroelectric power, light, fuel, motive power for cars and manufacturing, which, if properly encouraged, would revolutionize the condition of the people and immeasurably improve their prosperity. Their interests are perfectly protected by this bill, because it provides that if the State in which the electricity is to be used fails in its duty properly to regulate the charges and practices of the company, the Secretary of War shall then do so. There is a great difference between the situation considered by the critics of this bill as advocated by them on the public lands and the conditions covered by this bill. In their case the land in the stream and out of the stream belongs to the Government. The Government is owner of the land and sovereign of the country. It can fix conditions both as sovereign and landowner, and I have no criticism of methods suggested by gentlemen as applicable to that condition, but in cases to which this bill applies the Government owns nothing except where it buys land, pays for what is overflowed, and becomes the owner as well as the sovereign, just as it did in the Chandler-Dunbar case. There is nothing new in that case. The holding that the Government is paramount in the bed of a navigable stream and that anybody who owns the land, whether individual or a State, owns it with notice that the right of navigation is paramount, and whatever rights are held or claimed must be subordinated whenever the Government chooses to exercise it, is both old and sound. So it is unnecessary to discuss whether the State or individual owns the adjoining land and the bed of the stream, for it is immaterial. The Federal Government has a paramount right in the bed of the stream for navigation, and for navigation only We know that no person, natural or artificial, can oostruct the bed of the stream without the consent of Congress, and it has long since been provided that if any obstruction is put in the bed of the stream without the consent of Congress it is a crime, and in addition to punishment the Government can have it removed, but it is equally certain that the Government has no paramount easement or ownership outside the bed of the stream. If a dam backs up water enough to make a large reservoir, the Government must pay for the land. Then, having become the owner and the financier of the development, the Government can use the installation as it chooses, and as owner it can sell or lease or do anything it pleases that any other constructor or owner can do. Therefore, we have provided in section 14 of the bill, in strict accordance with the Chandler-Dunbar case, that the Secretary of War may lease any water at any Government construction not needed for navigation. Now, in case the Government proposes to consent for private capital to construct these dams and locks, that capital must buy and pay for all these overflowed lands and everything else.

The Government pays for nothing and owns nothing except the lock that is constructed as one of its conditions. The lock must be operated free of cost to the Government, so with that uncertainty as to that residue of water and with that irregularity the power company may use the water. Owing to the paramount control by the Government of the level of the lake the profits of the enterprise are very much reduced in amount or certainty and makes the proposition for a contract much more difficult of acceptance.

Now, I believe I have made myself understood to those who have taken the trouble to follow. Having postponed all efforts to amend the general dam act until the incoming of the present administration we immediately took up the subject with this administration. Secretary of War Garrison, while agreeing with the proposition that it was entirely constitutional to include in the contract the payment of a tax, did not believe it a wise policy. He thought that improvement would be more rapid and the States would be more prosperous without detriment to the General Government, if the regulation of practices and rates as well as taxation were left to the States, but he agreed with us that if a State should fail to make proper regulation the Secretary of War should do so. There can be no safer nor more perfect guarantee of regulation than that. The only practical difference between that and the corresponding proposition in the Ferris bill is that a different Secretary enforces it. Notwithstanding the violent denunciation of some extravagant gentlemen, the interests both of the Government and the people are absolutely protected in this bill, and a reasonable prospect is left to secure contracts and progress. My greatest objection to the Sherley amendment is that it means no progress, and if such extreme views are to be insisted upon, in my judgment it is useless to try to proceed with the legislation. I am perfectly willing to reason with gentlemen and try to agree with those who are willing to have progress and who can see the difference between the Government as a sovereign only, and the Government as both sovereign and owner of riparian interests, or the difference between the Government selling and leasing land and water power untrammeled and unreduced in value by the demands of navigation on the one hand, and a contract on the other to secure private capital to promote continuous navigation for the Government in consideration of a consent to a remainder interest only in the use of the surplus water for hydroelectric purposes.

I would like to say to those who seek to disparage the President, in their criticisms of this bill, that this question of taxation was never taken up with the President at all. Neither was it taken up at any of our conferences. I thought that all those who challenged the bill were represented in these conferences and that all differences were agreed upon in the agreement reached. If the gentlemen who are insisting upon the Sherley amendment had submitted that question in the conferences, an agreement might have been reached as to that which would have supplied some provision favorable to development, while at the same time protecting the interests of the Government and the people. What the President's attitude would have been I am unable to say. Probably he would have agreed with Secretary Garrison that while we have the power to impose a tax it would not be the best policy to do so, especially as all the people in those parts of the country most interested and where the greatest development under the bill is expected were fearful that Federal taxation would prevent development, and preferred to leave that as one of the sources of State taxation and support and that private capital might be had in aid of navigation.

Some acrimonious complaint has been made about the character of the hearings before the committee in the consideration of this bill. It should be remembered that for 10 years there has been no dearth of literature on this subject. The press has teemed with opposition to the plan and scheme contemplated by the general dam act. The advocates of that legislation have in turn not been remiss in their efforts to furnish information as to their view of the case. In addition to that the National Waterways Commission has exhaustively considered and reported on the question. The committee saw no necessity for general hearings, as the rival camps were fully entrenched and each thought itself fully informed; each at least felt advised as to its own position and believed it understood the attitude of the other party.

The thing needed was not more information, but some accommodation or reconciliation of the conflicting demands so as to permit action. The former two administrations had vacillated on the question, each finally refusing to sign bills without certain drastic conditions. Our effort was to ascertain just what

demands would be made as to conditions in order for bills to be signed by the present administration. We had never been able to make the so-called conservationists understand the modus operandi of financing and constructing these dams and appurtenant works, nor did the Secretary of War seem to understand the situation, the idea being that a few transmission lines to light a few towns or run a few trolley cars constituted the full scope and limit of hydroelectric utility. In order to present that feature of the case to the Secretary of War the subcommittee invited two of the most eminent water-power experts in the United States to appear before it, and a representative of the Secretary of War was present to hear the testimony. The difficulties in the way of securing capital made an impression on the Secretary of War, and it is to be regretted that they have not had a like effect upon gentlemen who, by their objections and amendments, are in reality, whether they so intend it or not, opposing this plan and obstructing progress.

As to the promotion of navigation free of cost to the Government through the development of electricity, I suggest if the Government were able and willing to expend countless millions in opening the shoally rivers it would first have to raise those millions by taxing the people; second, it would have to buy all the necessary land on and near those streams for appurtenant works and backwater, removing all of that property from taxation by the State entirely. So that in order to erect the improvement it must take that much money away from the people and invest it in property that, no matter how valuable it might otherwise be, is exempt from taxation; then the people would have the navigation only and be out all the expense and be bereft of that resource for revenue. If the Government consents for private capital to do that, the people are not taxed at all, there is no drain on the Treasury, the dam and lock would be erected and operated free, the Government has the navigation without cost, the people enjoy it without cost, and all the valuable appurtenant works are private property and may be taxed in the State and bring in revenue. That is as far as the contrast has practical application, because under this bill if the Government, in accordance with section 14, leases the water power the people may have the same character of hydroelectric service with the same regulation as that which could be furnished under private construction, in which case the appurtenant works, transmission lines, and power houses would all be subject to taxation by the State, but if the Government insists on imposing that charge or tax and the States should also insist upon it, all hope of development would end.

Whoever may be right or wrong in this contention the matter ought to be settled definitely right now if progress is to be had in the future. If centralists intend, in the event this Sherley amendment is defeated, to insist on it every time a special bill for consent is presented, there can be no progress. Unless that theory is to be abandoned definitely and finally it is better to put it in the bill right now and try it out. If it proves a mistake we will save time by allowing experience to prove the mistake. Then with clearer ideas and opposition removed, we can renew the effort to secure fair legislation that will promote the development and prosperity of the country.

Strictures have been indulged during this debate on the administration's alleged connection with the pending bill, as well as the so-called domination of Congress by the President and our servile allegiance to Executive dictation. The authors of these strictures must be unfamiliar with the history of relations between the White House and Congress during the last two administrations. Both jurisprudence and legislation recognize a potent principle called custom, which by immemorial usage ripens into a sort of prescriptive authority. The precedents established by recent administrations were so bad that I chafed under them while they were growing up. I felt very much then about the practice as these eloquently complaining gentlemen claim to feel now. Who can forget the autocratic control of President Roosevelt when he outlawed Mr. Tawney, of Minnesota, by his arbitrary dictation, and drove Mr. Wadsworth, of New York, to frenzy and subjection about meat inspection? Sometimes his messages were so fast and furious as to suggest nothing short of the perpetual fire of a gatling gun. A striking instance of Executive dictation occurred when President Taft sent duplicate commerce bills to both Houses and ordered both to go to work simultaneously and pass them.

Two cases in point are the subject of the pending bill, and the Panama tolls exemption referred to in this debate. The exemption of tolls could never have been grafted as an amendment on the Panama Canal act without the previous urgent support of Presidents Taft and Roosevelt. Their utterances were quoted and sent back to us as the basis of argument by the lobbyist. Likewise the same two Presidents, by their vacillation and obstructive interference with Congress, prevented progress under the general dam act. Is it strange that having become accustomed to Executive counsel when unwisely uttered we should continue to consider it under the administration of a better and wiser President?

As under the domination of Presidents Taft and Roosevelt "we sinned and fell short" of our lawful duty in these two particulars, so under the guidance and intelligent counsel of a better President, Woodrow Wilson, the best since Jefferson, we are getting back to the practice of right and duty that our country may resume its course of prosperity and glory. We have under his leadership and advice restored honesty and equality in the canal management, and resumed our honorable and glorious position among the nations. Likewise, the President is wisely helping us to reach proper conclusions as to the development and utilization of water resources to the end that the people may prosper in the enjoyment of navigation and all the advantages which hydroelectricity can contribute to their wealth and happiness. [Applause.]

Gentlemen, I desire to thank you all for your attention, and say that during these remarks there has been the best attention and order I ever saw in this House. [Applause.]

Mr. LINDBERGH. Mr. Chairman, I would like to be recognized for 12 minutes.

The CHAIRMAN (Mr. BARKLEY). The gentleman from Minnesota asks unanimous consent to proceed for 12 minutes. Is there objection?

There was no objection.

Mr. LINDBERGH. Mr. Chairman, I direct my remarks to the amendment offered by the gentleman from Kentucky [Mr. SHERLEY].

The gentleman from Illinois [Mr. MANN] has correctly stated that water powers are developed at places where there are waterfalls or rapids, or both. Water-power sites do not exist everywhere. Some States have none of sufficient importance to be worth while mentioning. I believe that the localities where the water powers are should exclusively exercise the taxing power, but I do not believe in exempting the water powers from being properly taxed. If they are not so taxed by the local authorities, then I favor a Federal charge. My colleague [Mr. STEVENS of Minnesota] is undoubtedly as well informed as any Member on the question of legal powers of the United States to charge for the running waters in streams. He has a great fund of information upon this as well as on many other problems considered in the House. His statement of the law is unquestionably correct when he says that the Federal Government has no legal or constitutional power to levy a tax for the use of the running waters. Mr. UNDERWOOD and others state the same thing. They derive their positive information from decisions of the United States Supreme Court.

If we were seeking to enact a law to charge the owners of existing dams for the running waters, we would squarely meet with the constitutional objection referred to. But that is not what we seek to do. We are trying to make rules by authority of which dams may be constructed in the future, and as a condition for the United States, consent to private parties obstructing the streams with dams the consent may be coupled with a charge, which is neither immoral nor impossible because of the constitutional inhibition before referred to. The United States can couple its consent with the charge referred to by adopting the amendment.

Whether the principle of the amendment will be important or not can hardly be determined at this time, but it is exceedingly important to preserve the principle until it shall be determined. We should resolve the doubt in favor of the public.

That there should be provisions for the growing necessities of the general public in addition to those contained in the draft as the bill stands now seems to me to be imperative. Once the consent has been given for the construction of a dam under the terms of this bill, it becomes a binding contract with the Government, and, except for breach by the dam owners, the public would be tied to the conditions at least for 53 years.

Fifty-three years is a long time when measured on the basis of the lives of men and women, and conditions will change very much and new necessities arise. Before the expiration of any claim that would grow out of this act we shall all be at least 53 years older, and the United States will have a population of approximately 300,000,000. Some sections of our country can take an additional population without being overcrowded, but to increase the whole population three times its present number would, under the present social system, create distressing congestion. The country is well adapted to support several times its present population in a far more prosperous manner than we now do, but our social system would have to be materially changed in order to do it. We have not felt the crowding in

growth up to the present time, as we will feel it in the future. At all times we have had somewhere to go. When we found the congestion too great in any particular locality there were other localities to go to that were not so congested. To accommodate the growing population is primarily a problem of adjustment, but we can not adjust satisfactorily to a larger population on the present social and economic basis. In fact, we are not adjusting satisfactorily now. We are having trouble in many ways. The strain is getting tighter as the elbowroom decreases. We can not go on indefinitely with present practices. The men and women who are doing the work of the world are not enjoying the advantages due them. They know it and can not be fooled much longer. As legislators we should safeguard the future. It may be difficult to do that and at the same time secure the development by private enterprise of the water powers that the public now calls for; but the importance of it is more to be considered than the difficulty.

There is not yet a strong enough demand by the public for public ownership to secure the development of the water powers by the public for the public. Whatever the public now demands must be supplied by private enterprise. Private development can be secured only by tempting it with the promise of a premium; that is, profit. No private action will be taken without the prospect of profit, a profit sufficient to overcome all the risks. The public is forced to pay for that. It must grant the opportunity for profit if it expects the development of water powers by private enterprise.

Every uncertainty or doubt that may be incorporated into this act affecting the investment of capital, before capital will make a venture, will be resolved by capital into its greatest risk, and in the calculation of the cost of a production plant and dividend returns the estimate will include the risks, and the service to be performed will be charged with it. For that reason I consider the terms of the Sherley amendment less wise because of its uncertainty as to the amount of the charge than the principle involved in a charge. We can make laws now to regulate capital after the investments have been made, but we can not compel the initial investment. In order to get jurisdiction of specific capital the initial investment must be made. All the uncertainties and risks are calculated first by those contemplating it, and if they are too hazardous capital will not invest to give us jurisdiction. Once it enters into the enterprise it is at our mercy to the extent of our power over it. Some general principles should be calculated in connection with this amendment.

The period of unrestricted individualism in business of every character that concerns the general public may be practically at an end. If it is, the principle of the amendment is not very material. But there are three lines of thought upon this—first, those who believe in unrestricted individualism and who claim that competition should control prices; second, those who believe in private ownership, but in Government regulation of all business in which the public is concerned; and, third, those who believe in Government ownership and that the Government should do all the business in which the public is interested. In each of these schools of thought, if I may call them schools, there are many respectable adherents. Whatever our individual opinions may be upon either of the three contentions we have no right to foreclose the public of the privilege of taking which it pleases. We should safeguard the public by unblocking every avenue that it may seek to travel as well as provide for its growing necessities.

I think the amendment proposed by Mr. SHERLEY right in principle in view of the uncertainties of the future, but I believe the proposed amendment itself should be made more definite in the proposed change, and therefore I offer an amendment to it in order to make it read as follows:

The Secretary of War shall provide as a condition of such approval for the annual payment to the United States of a sum equal to 5 per cent of the net profits, for the benefit that shall accrue to the grantee under this act: *Provided, however,* That when it shall be made to appear that the local authorities collect from such grantee for State, county, municipal, or other purposes not related to the Federal Government, a tax which is not a special tax, the Secretary of War shall deduct from the amount to be collected by him such sum or sums paid to the local authorities not exceeding 5 per cent per annum.

The amendment that I offer preserves the principle and reduces itself to a certainty on which capital can calculate. I do not believe that capital would venture under the first amendment because of there being no limit to the charge which could be made. It has been repeatedly stated that the Secretary of War would be reasonable, but capitalists do not figure on what seems reasonable to others than themselves. They take no chances that they do not figure on charging the public with.

As the population increases and the difficulties multiply, as they will under our social system, the public will conclude that a great deal of the work now done to supply public demands must be done by the public itself, and that will be discovered long before the end of 53 years. Therefore we confront the problem here of offering a premium to private enterprise and at the same time saving to the public the opportunity to do these things which it may wish to do in the future.

These water powers should at all times be in a position to be recaptured by the public. My colleague [Mr. STEVENS of Minnesota], in response to a question, has stated that the Government may take by condemnation at any time any dams that may be constructed. I think that is true, but it may be claimed by the owners, once the consent has been given for the construction of a dam under the terms of this bill, that it becomes a binding contract, and except for a breach by the dam owners the public will be bound for 53 years unless some public necessity should arise that is not contemplated by the terms of the original grant. For that reason I have drafted and shall offer as additional to section 9 the following proposed amendment which will relieve the problem of doubt as to the amount of the charge and dispose of any possible dispute as to the right of the public to acquire. The amendment that I shall propose is as follows:

Provided, That nothing in this section or this act shall estop the United States, or any State or municipality within which any dam may be situated, from acquiring by condemnation or purchase any of the rights or properties secured by any grantee, association, or individual by authority of this act, as well as all the property of every character developed or created in connection with the reasonable operation of any dam: *And provided further,* That if such rights and properties are condemned or secured by a State or municipality the same shall not in any way release such State or municipality from the obligations imposed in favor of the United States upon any grantee under any of the provisions of this act.

In less than 50 years it is probable that the water powers will be taken over by the public, whether we incorporate the amendment into this act or not, because one generation has not the right to unnecessarily encumber another. But unless we provide for the acquisition to be accomplished in an orderly way there will be trouble, and some hardship and injustice would occur that it is our duty to prevent. The responsibility rests on us as legislators to anticipate the needs of the future. When we legislate and provide for the administration of public affairs, with only the present demands considered, we are sure to provide trouble for people in the future. A mere reference to the acts of those who have administered governmental affairs in the past is a most painful reminder of that fact.

Immense areas of the public domain were granted to the railways free; the vast mineral deposits were permitted to get into the control of private interests; most valuable patents and inventions were allowed to become licensed monopolies; the control of the money system itself—the means of exchange—has been made a licensed monopoly; and so on we could list all of the most useful agencies that serve mankind and find them so controlled and monopolized that they have made industrial slaves of men and women, and now we are about to add water powers to private control for another of the toll collectors from the toiling millions.

This bill would have been all right to have passed 50 years ago, but it will not, unless materially amended, meet the demands of the next 50 years. Still it will be passed, because the public wants a dam act, and since we can not get a good act, because things are not yet staged for that, let us remove one of the embarrassments that is sure to arise by adopting the amendments I propose. We have got to give a premium, to be paid by the public, if private enterprise is to develop water powers, but we can safeguard the public by providing that upon payment of a reasonable premium we may take over the water powers. [Applause.] Now I will yield to the gentleman from Michigan [Mr. WOODRUFF].

Mr. WOODRUFF. The gentleman has already answered in his argument the question I wished to ask.

Mr. GORDON. Will the gentleman yield?

Mr. LINDBERGH. Yes.

Mr. GORDON. Does not the gentleman think that the rapid development of means of utilizing this power and the means of transmitting it, which has gone on in recent years and is likely to be marvelously increased in the future, renders an amendment which may be offered very broad in scope? Can you limit it?

Mr. LINDBERGH. You have got to limit, that is, fix the charge, in order to induce capital to invest. You can not get capital to enter upon an uncertainty. The effect of providing uncertainties is to prevent capital going into an enterprise until something certain is agreed upon. Mr. Chairman, I offer the amendment that I send to the desk.

The CHAIRMAN. The Clerk will report the amendment.

Mr. ADAMSON. The gentleman does not have to lose the time in which his amendment is read.

Mr. LINDBERGH. The principal point I wish to make in this discussion is in favor of the local authorities to receive the income, or whatever tax is levied. I do not believe that the General Government should enter into a policy of collecting taxes upon local improvements, as I have shown in my argument before. I do believe, however, that there should be a tax collected upon these improvements, and that it should be safeguarded in whatever bill we pass.

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Was the amendment offered by the gentleman from Minnesota reported?

The CHAIRMAN. No; it has not yet been reported.

Mr. ADAMSON. Mr. Chairman, let us have the amendment reported. I understood the gentleman to offer it.

Mr. LINDBERGH. Yes.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Minnesota.

The Clerk read as follows:

Amend the Sherley amendment so as to make it read as follows:

"The Secretary of War shall provide, as a condition of such approval, for the annual payment to the United States of a sum equal to 5 per cent of the net profits for the benefit that shall accrue to the grantee under this act: *Provided*, That when it shall be made to appear that the local authorities collect from such grantee, for State, county, municipal, or other purposes, a tax which is not a special tax, the Secretary of War shall deduct from the amount to be collected by him such sum or sums paid to the local authorities not exceeding 5 per cent per annum."

Mr. SHERLEY. Mr. Chairman, I suggest that that is an amendment in the nature of a substitute.

Mr. LINDBERGH. I offer it as a substitute.

Mr. ADAMSON. Mr. Chairman, I would like to see now if we can not reach some agreement in respect to time for debate upon this paragraph and amendments thereto.

The CHAIRMAN. Does the gentleman from Georgia desire to submit a request for unanimous consent?

Mr. STEVENS of Minnesota. Mr. Chairman, there are requests for an hour and three minutes of time on this side of the aisle. I think we could cut that down to one hour.

Mr. ADAMSON. I have requests on this side of the aisle for 45 minutes, and if the gentleman can take the same amount I will ask that debate be limited to an hour and a half.

Mr. STEVENS of Minnesota. Mr. Chairman, I think that would be unfair to those gentlemen who have made requests for time.

Mr. ADAMSON. Are the requests made by gentlemen who are all in favor of the amendment or against it?

Mr. STEVENS of Minnesota. They are on both sides. We must have an hour.

Mr. ADAMSON. Then, Mr. Chairman, we will make it an hour a side.

Mr. MURDOCK. That will bring it to a quarter after 5, and we will have to have a quorum then if we take the vote.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that debate on the pending amendment be closed at the end of two hours' time, to be controlled one half by the gentleman from Minnesota and the other half by himself. Is there objection?

Mr. SHERLEY. Mr. Chairman, I do not know that I want any more time for debate, but I think that the debate ought to be divided equally between those for and against the amendment. I should like to have five minutes in which to conclude the debate.

Mr. ADAMSON. The gentleman must recollect that his side of the amendment is far ahead of ours in time.

Mr. SHERLEY. I think the gentleman is mistaken in that. That statement has been made several times, but I do not think the record will bear it out.

Mr. MANN. Under this request the gentlemen who have indicated a desire to speak will have plenty of time, because the gentleman from Georgia has 15 minutes extra.

Mr. MURDOCK. That does not shut off amendments.

Mr. STEVENS of Minnesota. That must include all amendments. Several gentlemen have amendments to offer.

Mr. ADAMSON. Yes. I want the debate to close inside of two hours.

Mr. STEVENS of New Hampshire. Mr. Chairman, I understood the request to be that all debate be closed on this amendment, and that is the way the Chair put it, but as I understand it now the gentleman desires to have all debate closed on the section.

Mr. ADAMSON. That will not shut off the opportunity to offer amendments, but I desire to end the debate.

The CHAIRMAN. Does the gentleman from Georgia request that all debate be limited to two hours upon the Sherley amendment?

Mr. ADAMSON. No; all debate on the section and amendments thereto.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that debate on this section and all amendments thereto be closed in two hours, one half to be controlled by himself and the other half by the gentleman from Minnesota [Mr. STEVENS]. Is there objection?

Mr. STEVENS of Minnesota. Mr. Chairman, the gentleman from Illinois [Mr. THOMSON] has just stated that under a misapprehension he did not ask any time, but if this closes debate on the section he does desire to have five minutes' time.

Mr. ADAMSON. Then we will make it 2 hours and 10 minutes.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that debate on this section and all amendments thereto be limited to 2 hours and 10 minutes, one-half to be controlled by himself and one-half by the gentleman from Minnesota [Mr. STEVENS]. Is there objection?

Mr. FOWLER. Mr. Chairman, I have an amendment myself that I desire to offer, and I desire to have a little time.

Mr. ADAMSON. I think we can save five minutes for the gentleman; and if not, then I will ask unanimous consent that he may have that time.

Mr. FOWLER. I want 10 minutes.

Mr. ADAMSON. I will do my best to accommodate the gentleman; and if I fail, I will ask unanimous consent that he may have the time.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia. [After a pause.] The Chair hears none, and it is so ordered.

Mr. ADAMSON. Mr. Chairman, I yield 15 minutes, or so much thereof as the gentleman may desire to use, to the gentleman from Illinois [Mr. GRAHAM].

Mr. GRAHAM of Illinois. Mr. Chairman, I have listened with much interest to the very clever discussion challenging the right of the Government to require the payment of money by private concerns for the use of power generated by moving water in navigable streams.

It is argued that the Government does not own the water, and yet attempts to collect a tax from it, or for the use of it, or, as one gentleman stated it, the Government is trying to sell something it does not own.

It is not accurate to designate as taxes the money paid to the Government by a hydroelectric company for the privilege of utilizing the energy of falling water in a navigable stream. The right of the Government to collect money for the pasturage use of forest reserves or of public lands will not be denied, but money so received can hardly be called taxes. I do not claim that the analogy between public lands and water rights is complete or that the Government owns the one in the same way it owns the other. Indeed it is difficult to find a case exactly parallel to the present one.

In the arguments made the word "taxes" is used in a rather confusing way. It is said the Government can collect taxes from the citizen only when it acts in its sovereign capacity; that when it leases water rights or when it contracts to get money for the development of hydroelectric energy it is acting not in its sovereign capacity, but in a private capacity, and therefore has no right to levy or collect taxes in that capacity.

The fallacy lies in calling such money taxes. It is not taxes any more than the pasture rent is taxes. But whether the Government is in such case acting in its sovereign capacity or in some other capacity is not the controlling question. The question of public policy involved is of greater moment.

It seems to me the logic of the gentlemen who argue that the Government can not do this carries them too far. They say the Government can collect taxes from a citizen only in the exercise of its sovereign power. They further say this money is a tax, and that it is not collected by virtue of the sovereign power, therefore it can not be lawfully collected at all.

If we accept this view, the inevitable result is that the Government is helpless in the premises, and must either prohibit the utilization of water in navigable streams for developing hydroelectric energy altogether or else sit idly by while private concerns get possession of these immense opportunities in perpetuity. The argument which leads to such an absurd conclusion is necessarily unsound. To admit either alternative as a solution of the problem is absurd and impossible, and no refinement of reasoning can make it otherwise.

I insist that the public good demands that all water-power opportunities not already captured by private interests must remain the perpetual property of the American people, and if no present way can be found to develop them without allowing them to pass into private ownership, then, for one, I say let

them remain undeveloped till such a way is found. Not one additional franchise should be given till some provision is made for preventing their monopolization or consolidation in private hands, otherwise they are certain to become the foundation of a trust so powerful as to make all other trusts seem insignificant. If developed at all it must be under strict governmental control, and under conditions which will carefully safeguard the rights and interests of the people to be served by them.

One of the pioneers in conservation and in the value of water power as a national resource, Dr. W. J. McGee, said, in 1909, relative to hydroelectric energy:

> The 37,000,000 horsepower to-day available exceeds our entire mechanical power now in use, and would operate every mill, drive every spindle, propel every train and boat, and light every city, town, and village in the country.

Surely we can not deal with such a question in the narrow, shortsighted spirit of insisting that every legal "i" shall be dotted and every constitutional "t" crossed.

I think a good deal of confusion in dealing with the subject arises from too much looking backward. We lawyers are very apt, perhaps too apt, to look back to see what the precedents are—to see what somebody did or said in the past on a similar matter. I do not belittle that tendency in the lawyers. It is all right in its way; but this is a case where looking back too much is more likely to confuse than enlighten.

The past sheds little or no light on this subject. Ten years ago hydroelectric energy was practically unheard of. We knew little or nothing about it. How, then, are decisions rendered at that time going to serve as a guide at this time in this matter—a matter of which the court then knew nothing? What is to be gained by groping in the dark in that fashion?

The gentleman from Virginia [Mr. MONTAGUE] made a most ingenious argument against the conclusions of the Supreme Court in the Chandler-Dunbar case, and seems to think that the opinion in that case is not a very sound one as measured by the precedents. But the precedents he would measure it by were written at a time when no one dreamed that falling water could be utilized to develop electric energy.

The Chandler-Dunbar case is the only one which has been decided in the light of the facts now before us. Would the distinguished gentleman from Virginia have us repudiate a unanimous opinion written in the light of full knowledge of the conditions affected and follow other decisions not involving this very question, and written when the court had no knowledge of the most material facts and conditions involved in it? Surely on second thought he would not do that.

The Chandler-Dunbar case is the John the Baptist of the law in regard to hydroelectric matters. It is the forerunner of a line of cases which must and will follow its doctrine, and it is not only the sound but the absolutely necessary view of the matter, if we are to continue to have government of the people rather than government by a water-power trust. There is wrapped up in this matter a question bigger than one of mere precedents, and that is the great, the paramount question of a sound public policy on a very vital matter.

Shall we adopt the policy of allowing private concerns to get and to hold in perpetuity the almost incredible opportunities for developing energy furnished by nature? Shall we surrender to a favored few the great and beneficial results which should accrue, as far as practicable, to the benefit of all? Shall we part with this birthright of the American people in order to conform to supposed precedents which have little or no application?

That would be too big a price to pay. This is really a matter which precedents do not reach. It is a new matter and should be dealt with as such. Have we not the capacity to deal with it in a new way, or are we bound to follow old ways which do not fit the case at all?

The business of developing hydroelectric energy is bound to become a basic industry on which very many other industries must depend.

Nearly every article of manufacture is bound in the end to be connected with, and more or less dependent on hydroelectric energy.

If we turn these water-power opportunities over to private interests, we give them the power to exploit the consuming public in such a way and to such an extent as never occurred before.

To give private interests the power to harness nature and make her work for them and for them alone would be to commit a very serious blunder, and to use the Constitution as a pretext for such a course would be adding insult to injury.

We have now reached the forks in the road. This bill as it stands leads to the camp of those who would enthrone privilege, who would give to a favored few the untold possibilities which lie in the control of water-power sites, of hydroelectric opportunities. Do not take that road. Let us take the other road leading to the good old Jeffersonian camp of fair and equal opportunity to all. Let us see to it at the very outset that these great natural opportunities are saved and dedicated forever to the use of the people. [Applause.]

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes to the gentleman from Minnesota [Mr. SMITH].

Mr. SMITH of Minnesota. Heretofore I have not been inclined to favor the imposition of a rental charge or royalty by the Federal Government in making water-power grants, because I fear the outcome of such a policy would impose an unfair charge on the consumer.

The people of my district get light and power, in a large measure, from hydroelectric development; therefore, I would naturally be opposed to any provision which would levy an extra Federal tax upon the consumer because of the fortunate situation of the people of that community as to water power.

But, after listening to the able arguments made by the gentleman from Wisconsin [Mr. LENROOT], the gentleman from Kentucky [Mr. SHERLEY], the gentleman from Oklahoma [Mr. FERRIS], and the gentlemen from Illinois [Mr. FOWLER and Mr. RAINEY], as well as others, I am convinced that there is a principle involved in this proposed amendment which reaches beyond the question of local expediency. I am still of the opinion that in the vast majority of projects a royalty charge would be unfair and inexpedient; nevertheless, I am forced to agree with the gentlemen named that cases may arise where the best method of giving the public a share of the benefits of water power granted to private interests would be by causing such companies to divide the excess profits with the public through a rental charge. Therefore it is my judgment that this bill should recognize the right and power in the Government to impose such charge and to exercise that right only in exceptional cases, to wit, where there is no other feasible way of permitting the people to share in the profits of the water power.

It has been argued by the opponents of the pending bill that the charge of such royalty would be unconstitutional because it is a tax. However, they contend that Congress has the constitutional power to refuse or permit the construction of a dam in a navigable river. Granting, as I do, that they are correct in this statement that Congress has power to grant a permit, will not the authority that enables them to permit or refuse such a grant also include the lesser power to construct, on such terms as Congress may see fit to exact, such as a charge for the use of the privilege granted?

For example, in the city of St. Paul the municipal ordinance granting the use of the city streets to the electric railway provides for an advance payment of $10 per car per annum for each and every car moved on the streets of the city of St. Paul. In Minneapolis this rental is $25 per car for the average number of cars moved in a year. These franchise rentals are not taxes. The Twin City Rapid Transit Co., which is the holding and operating company of the St. Paul City Railway and the Minneapolis Street Railway Co., which received the original charter ordinances, pays all real and personal property taxes just the same.

Indeed, in addition to taxes on all tangible property, the company pays a tax on the excess valuation of its capital stock amounting to $12,000,000 or more, and, in addition thereto, pays a gross-earnings tax on its suburban business, the same as any railroad company in Minnesota. The $10 per car in St. Paul and the $25 per average number of cars used in Minneapolis, as provided in the charter ordinances, is not considered by the company or the citizens as a tax, or having anything to do with that subject. The company, as I understand it, looks upon these car-license charges or rentals as the consideration in its charter which gives the municipal ordinances the force of contracts.

These companies accept these charter considerations as a part of the terms of their franchises, just as such royalties would be accepted by hydroelectric grantees as a part of their water-power grants and as partial consideration therefor.

The supporters of this bill have also contended that the power of Congress over navigable rivers relates to navigation only. If the power of Congress relates to "navigation only," Congress would have no constitutional authority to pass a water-power law. But the courts, as I read the cases, set the control of Congress over these streams as to navigation and other purposes "incidental thereto." This additional phrase is vital, because it is through this "incidental" use and purpose that Congress exercises its jurisdiction over water powers. And in naming the terms and conditions for such use Congress may constitutionally exercise its prerogative to exact a franchise rental as a part of the consideration for the grant. This

power Congress should not relinquish in this bill, although it may not often deem it wise to exact the rental for fear of taxing the consumer.

Mr. ADAMSON. Mr. Chairman, I yield 15 minutes, or so much thereof as he desires, to the gentleman from Alabama [Mr. BURNETT].

[Mr. BURNETT addressed the committee. See Appendix.]

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN (Mr. GARNER). The gentleman from Massachusetts offers an amendment, which the Clerk will report for the information of the committee.

The Clerk read as follows:

Strike out the amendment offered by the gentleman from Kentucky [Mr. SHERLEY] and insert the following:

"The Secretary of War may provide as a part of the conditions and stipulations of such approval for the payment to the United States of reasonable annual charges for the benefits which accrue to the grantee through authority given under this act. At the end of 25 years the Secretary of War may readjust the annual charges as may then be just and reasonable: *Provided, however,* That no charge made under this act shall be such as to deprive the grantee of a reasonable return upon the actual investment of the grantee in any project constructed and operating under the provisions of this act, including cost of maintenance, renewal, and depreciation charges."

Mr. STEVENS of Minnesota. Mr. Chairman, I reserve a point of order against that.

The CHAIRMAN. A point of order is reserved against the amendment.

Mr. TREADWAY. Mr. Chairman, I submit that the time provided for in the Sherley amendment, namely, readjustment of the charges at the end of 20 years and then two subsequent periods of 10 years, or three periods of 10 years, as the case may be, is altogether too short. If we are to interest capital in the development of hydroelectric water powers, we must have a period of time sufficient for a fair return to be found for the investment. There is ample law on the statute books now under the general dam act if we do not want to use the water at all. I for one want to see the water that is being aimlessly and wastefully allowed to flow away to-day made use of; and unless the Government intends to assume the whole expense of the general development, I for one can see no way in which that can be avoided unless we offer a sufficiently attractive proposition for investors.

The principle may be right and proper that there should be some form of return to the Federal Government; but do not let us put too much power in the hands of one official nor allow that power to be exercised too frequently, making it absolutely uncertain what result there may be for private capital.

It has been stated here time and time again that no return under the original act is to be given to the Federal Government. Now, the gentleman from Minnesota [Mr. STEVENS] demonstrated very clearly that the locks which will be insisted upon in navigable streams represent an additional 50 per cent of the cost of the dam. I submit that that alone is a tax upon the constructing permit. We ought to give some allowance for that feature of the case and not make the terms so hard to the constructing company as to be practically prohibitive; so that I ask that there be at least that period of rest, an opportunity for the investing company to secure a sufficient length of time under which its securities may be made attractive to the investing public.

I speak of this, as I stated to the House before, solely from the standpoint of one interested in navigation. The typical case that has been brought before the House in previous Congresses is in my district, and, as it stands, that power is practically idle to-day, and will continue to be idle; so that I ask that the House stray not too far away from the original bill as proposed by the committee. But if this principle of Federal taxation is recognized, which I think it is likely to be, then make it on a sane basis, so that the investing public, as I say, may have some return for the tax which will be placed upon it by the Federal Government. Let us conserve our natural resources by making such use of them as the opportunities offer. We want it possible to secure navigation upon the Connecticut River under proper conditions and restrictions.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield 10 minutes to the gentleman from Washington [Mr. BRYAN].

The CHAIRMAN. The gentleman from Washington [Mr. BRYAN] is recognized for 10 minutes.

Mr. BRYAN. Mr. Chairman, we have all talked a good deal about regulation. We want regulation. For some reason regulation has not been satisfactory in the past. We are trying to regulate the railroads. We are trying to regulate different forms of industry, and we have not been satisfied. We have not obtained the results that we wanted to obtain.

A few days ago I was looking over the New Freedom, by President Wilson. It is a compilation principally of campaign speeches by the President when he was a candidate in the last presidential election, and he attacked the idea of regulating monopoly. He proposed to do away with monopoly, to absolutely put monopoly out of business. That was his idea and that was his plan. He was criticizing the Progressive Party, claiming it stood for regulated monopoly. To-day we are considering a problem which, according to the leaders in this House and according to the authorities all over the country, partakes of a monopoly. It is to a certain extent a monopoly. There can not be competition in the construction of these dams within given localities, so that the matter of regulation becomes more essential and more important here than in ordinary cases. Nobody talks here about destroying, but they bring in an administration bill so weak and lame as to regulation that a Progressive would not give it a friendly look.

We have had rules of legislation and laws on the statute book for fixing rates, but it seems we have not been able to get at the problem in some way or other. We have not had power enough to compel a division of the profits, or to compel a price low enough that the people may use the utility and divide up among themselves the surpluses afforded.

The other day it was suggested by the gentleman from Alabama [Mr. BURNETT] that an organization down in his neighborhood had made a tremendous reduction in the rate, had reduced the rate to the people in one particular municipality from 16 cents per kilowatt hour to 12 cents per kilowatt hour. Yet the record of the cost of production of this current will show that it costs less than 1 cent to produce it. It costs less than 1 cent per kilowatt hour and they sell it for 16 cents until public sentiment compels a reduction. The Navy in the several navy yards of the country has entered into contracts for the purchase of this current, and they get it at an average of about 1 cent per kilowatt hour, and I understand that at Rock Island they make it at the Rock Island Arsenal for 3 mills per kilowatt hour. Yet such a tremendous reduction as that from 16 to 12 cents per kilowatt hour is called to our attention and cited as an argument in favor of giving our water power away to these favored few.

If we are going to let this water power go into the hands of parties to be utilized we propose to see to it that the difference between the cost and the selling price is not so great, and that the public will share in the benefits from the economy in the production of electricity by water power. If we consider the policy of the Government in developing the coal lands of the country we will see that we have not derived any benefit from them. We got rid of the coal lands in Pennsylvania. They have gotten into private hands, and now they are owned by a few railroads, and the price of coal has been put up from time to time.

If these same parties can get hold of the water powers of the country what is to prevent them from further raising the price of coal? If we retain an effective regulation, if we retain the ownership of these water powers in the Government of the United States, we will be able to put electric current into competition with coal. We will be able to reduce the price of coal. We will be able to take care of the people of the country. And so that is the reason why some of us here favor a charge by the Government. We do not care at the outset what the price is, but we want to be able effectively to take possession of the monopoly and reduce the price to the consumer when the price is too high. I believe the Government should own, not regulate, a monopoly, and this permit or lease for a reasonable charge for a definite term implies ownership.

The following resolution was adopted by the Fifth National Conservation Congress, which met here in Washington City recently:

Whereas concentrated monopolistic control of water power in private hands is swiftly increasing in the United States, and far more rapidly than public control thereof; and

Whereas this concentrating, if it is fostered, as in the past, by outright grants of public powers in perpetuity, will inevitably result in a highly monopolistic control of mechanical power, one of the bases of modern civilization, and a prime factor in the cost of living: Therefore be it

Resolved, That we recognize the firm and effective control of water-power corporations as a pressing and immediate necessity, urgently required in the public interest; that we recognize that there is no restraint so complete, effective, and permanent as that which comes from firmly retained ownership of the power site; that it is therefore the solemn judgment of the Fifth National Conservation Congress that hereafter no water power now owned or controlled by the public should be sold, granted, or given away in perpetuity, or in any manner removed from the public ownership, which alone can give sound basis of assured and permanent control in the interests of the people.

This bill has been pronounced an administration bill. I think the head of the administration has been ill advised. But one thing sure, this is too reactionary a bill to get the vote of any Progressive in the shape it is reported here, even in its amended form.

Regulation is said to be all right for the consumer. It is deemed all right to give some public-utility tribunal the right to say how much the current shall be sold at to the consumer, but we hesitate and have all kinds of qualms and fears when we come to allowing some public tribunal to say how much the charge shall be to the producer. The right to adjust the charge to the producer is called confiscation; but the other is excusable. We are not to object to regulating the price to the consumer, but when it comes to regulation of the charge to be paid by the producer there is a question of possible confiscation. Why is it necessary to pursue a different policy in one case than in the other? They say the right to fix a charge against the producer and to vary it would place the power in the hands of the Government officer to ruin the operator of the water-power plant; but how about 16 cents per kilowatt hour to the consumer? Such charges ruin the consumer, and there is no complaint.

My State of Washington is the third State of the Union in the production of electric energy by water power, and we find out there that the same corporations holding the water power, or the greater portion of it, in the State of Washington are holding water power in the State of Georgia and in New York and in Massachusetts. The interlocking of the directors and of the lines and of the plants manufacturing this electric current is such as to make it more and more a unified organization all over this country. Who are the men who are at the head of the water-power companies of the country? The General Electric Co., for instance; J. P. Morgan & Co., of the Morgan banking interests; the First National Bank of New York; the National Bank of Commerce, of New York; the Standard Trust Co., of New York; Drexel & Co., of Philadelphia; the Franklin National Bank, of Philadelphia; the Girard Trust Co., of Philadelphia. Those are the very identical men who have control of the railroads and of the coal.

We give away the timber in this way out in the West. We said that the best thing to do was to let the timber go; and what did we get out of it? The price of lumber has not been reduced; it has not caused timber to be sold to the mill at a cheaper price—not at all—but the faith and hope of the people, and the hope of posterity, lies in the United States forest reserves and in the timber that the Government still owns. If we ever are able to reduce the price it will be by that which we have held, and that which we are able to use in a legitimate way, but yet retain control of it.

The water power of the West is used in this way. We hear something about trouble sometimes, but we have plenty of utilized water power and plenty of applications for permits for water power on the public lands and in the rivers and waterfalls and rapids that are found on the public lands of the West, where the water power is. There is no occasion and no necessity for us to fall down at this particular time, and if we want really to control the water power of the country it is essential to do it with this amendment. If capital is a little slow we can wait. Of course, they will hurry if we will give them the Nation's valuable water power. Let us retain ownership. Give a permit only, and then reserve the right to charge the grantee what is right and fair for the privilege, revising the amount of the charge at intervals. I am for the Sherley amendment. [Applause.]

MESSAGE FROM THE SENATE.

The Committee informally rose; and Mr. Carr, one of its clerks, announced that the Senate had receded from its amendment to the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes, No. 158.

THE GENERAL DAM ACT.

The committee resumed its session.

Mr. STEPHENS of Minnesota. Will the gentleman from Georgia yield some time?

Mr. ADAMSON. I yield five minutes to the gentleman from Illinois [Mr. RAINEY].

Mr. RAINEY. A former Member of this Congress, Mr. Phillips, has written a most interesting book, and in the five minutes allotted to me I want to read a chapter from The Land and Labor, written by Mr. Phillips:

[From Land and Labor, by Phillips, one-time Member of Congress.]

"It is related that a certain eastern potentate fell into the impecunious condition common to many of his predecessors and all of his successors, and set his wits to work to devise a remedy. A farmer of imposts who had often aided him in this dilemma came to his rescue. He offered him 60,000 tomans for all the wind that should ever blow over Cashmere. The monarch at first affected to be staggered at the proposition. He was unable to find anything in precedents to warrant it; but, although a believer in the doctrine that whatever is is right, he was forced to admit that a monarchy may introduce useful innovations. Of course it was assumed that he was the supreme owner and disposer of all things in his dominions, not only for his own brief, erratic span of life, but for all time, and so he came to the conclusion that as everything in the world had been sold which could be sold there was no good reason why the winds, unstable though they might be, should be exempted if a purchaser could be found. After a proper amount of preliminary haggling a sale was made and the transaction legalized by all that signatures, seals, and parchment could do for it.

"Before the public had fairly got over laughing at the absurdity of this novel bargain the owner of the wind issued a proclamation forbidding all persons in Cashmere from using his wind to turn their windmills, winnow their corn, propel their vessels, or employ it in any other manner until they had first entered into agreements with him and obtained leases for the various localities, covenanting to pay certain amounts for the privilege. Then the laughing turned to lamentation. The monarch met the torrent of petitions and complaints by affecting to deplore the circumstances. He could not, of course, foresee all that had occurred, but his sacred word was involved. Rulers of that type are usually very particular about their sacred word. Driven to desperation, the inhabitants contributed the amount that had been paid for the wind and tendered it to their sovereign, so that this unheard of transaction could be canceled.

"The matter was not to be so easily arranged. The owner of the winds of Cashmere would not think of such a thing. He had acquired a vested right in them. Since it had become purchasable the wind had greatly risen, in price at least. Wind stocks were on an upward market. The owner insisted that his title was good. He did not claim it merely by his right of discovery of the commercial value of the wind, or that he had been the first to preempt this privilege, but he had fairly bought it from the representative of Government, and declared that his title was begirt and founded on all that was sacred in law or the theory of eminent domain and supreme authority. It would be altogether unfair to ask him to surrender this valuable privilege for anything less than what it might bring him in case he should be allowed to keep it. The proposition of the people was merely a bald scheme of robbery. It was subversive of all property rights; was socialistic, agrarian, and revolutionary; and to force him to accept of a price so inadequate would strike a fatal blow at the best interests of the society and undermine the whole fabric on which the rights of property rested.

"This reasoning was, of course, entirely conclusive to the monarch, who was undoubtedly the confederate of the farmer of imposts, but, as human endurance can only be stretched to certain limits, it was agreed between them that a fair price for the wind, at that date, would be 10 times what was originally paid for it. This amount was finally raised by a long-suffering people, who merely exacted a promise from the commercial monarch that he would never sell the wind again, but permit it in God's providence to blow over them free and unrestricted as of yore."

[Applause.]

I yield back the remainder of my time.

Mr. ADAMSON. Mr. Chairman, how much time did I save?

The CHAIRMAN. The gentleman yields back half a minute.

Mr. ADAMSON. I yield six and one-half minutes to the other gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. The gentleman offers an amendment which the clerk will report for the information of the committee.

Mr. FOWLER. As I understand, these amendments are not offered simply for the information of the committee, but they are intended to be pending.

The CHAIRMAN. As the Chair understands it, under this unanimous-consent agreement, when the gentleman gets time the amendment will be read in the gentleman's time, and at the proper time will be pending. There are several which have been read. They can not all be pending now.

Mr. ADAMSON. It is not my understanding of the agreement that the reading of amendments is to be taken out of the time of any gentleman. He has so much time at the conclusion of the reading of the amendment.

Mr. SHERLEY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SHERLEY. Do I understand the Chair to hold that it is in order to have any number of amendments pending at one time?

The CHAIRMAN. The Chair does not so hold and has stated the contrary. Other amendments have been read, and they can not all be pending at one time. The amendment can only be read for the information of the committee, and at the proper time, if the gentleman from Illinois gets a chance, he can offer his amendment. The Chair will say to the gentleman from Georgia [Mr. ADAMSON] that if he yields six and one-half minutes to the gentleman from Illinois, and the gentleman from Illinois wishes to offer an amendment and have it read, it may take all the six and one-half minutes to have it read, and the Chair thinks that ought to be counted against the gentleman's time.

Mr. ADAMSON. It is not my intention that the time consumed in reading amendments shall be counted against anybody.

The CHAIRMAN. It has got to be counted against somebody.

Mr. ADAMSON. In securing the unanimous consent I intended that there should be so much time exclusive of the time occupied in reading amendments.

The CHAIRMAN. The gentleman has yielded a certain amount of time to the gentleman from Illinois, which he can use in any way he desires.

Mr. ADAMSON. If I had offered an amendment, I think I should have offered it before commencing to speak.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] is running.

Mr. FOWLER. Mr. Chairman, I listened with a great deal of pleasure to the speech of the gentleman from Georgia [Mr. ADAMSON]. He is always entertaining and usually correct in his philosophy, in his language, and his pure diction. I am always charmed with him, but I can not agree with him in his position with reference to this proposition. I have sent up an amendment, which I desire to have read some time before this section is passed, and on which I desire to have a vote. That amendment provides that the grantees of this water power shall pay into the Treasury of the United States a sum not to exceed 10 per cent of the gross income of the business which is run in whole or in part by hydroelectric power generated by the water from these dams. I also provide in that amendment that the control and regulation of the percentage which is to be charged shall be under the jurisdiction of the Interstate Commerce Commission. I think that is where that power properly belongs. While I have no disposition to take away from the Secretary of War any of the powers which have been conferred upon that great department of the Government, yet we have an independent body, the Interstate Commerce Commission, which in my opinion is driving further away from political tendencies in government than any other body which has ever been organized since the beginning of this Government. [Applause.]

I have as much admiration and confidence in all of the heads of our Government as any other citizen, but they are usually handicapped in some way whereby they are not able to go direct at propositions and give that clear and unbiased consideration that I think ought to be given in cases of this character. For that reason, Mr. Chairman, I believe the control of this proposition ought to be under the jurisdiction of the Interstate Commerce Commission.

The distinguished gentleman from Georgia [Mr. ADAMSON] has characterized the position occupied by some of the gentlemen on the floor of this House, men who have in their wisdom decided that the great powers of nature ought to be conserved to the people of the country, as being somewhat visionary.

The gentleman from Georgia is usually sound, and stands upon propositions with much reason and judgment, but in this case I am afraid that his fears of the intervention of the Federal Government with what he terms State rights is driving him away from one of the greatest rights the people of this country have, and that is to conserve the powers of nature to the people so that these great rights will not be bartered away to the hands of the few perpetually.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FOWLER. Mr. Chairman, I suppose there is the right to extend?

The CHAIRMAN. Unanimous consent was granted to all who made remarks to extend.

Mr. FOWLER. Mr. Chairman, was there any of my time taken up in the colloquy that occurred?

The CHAIRMAN. No; the gentleman had used the whole of his time.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes to the gentleman from Kansas [Mr. MURDOCK].

Mr. MURDOCK. Mr. Chairman, I am for the Lindbergh amendment, and if that fails I am for the Sherley amendment. I am for the Sherley amendment because it establishes a principle—the right of the Government to make a charge for the concession, the privilege which it has granted to the grantee, the hydroelectric company. I am for it for the further reason that if the Sherley amendment is incorporated in this bill and the bill becomes a law, there will follow, by reason of the Sherley amendment, the right of the Government to supervise the conduct of the company and to oversee its affairs in many respects, among them in respect to overcapitalization and its evils and injustices.

For, however much the constitutional lawyers may derogate the idea, the minute the Government exercises its right to make a charge for the benefits accruing to the grantee, the Government becomes in part a partner in the business of power production.

This bill has had a curious history. From the beginning until this moment the history of the bill is one of conflict. Antecedent to the time that the bill made its appearance here there was a clash between the Secretary of War and the Secretary of the Interior. When the bill made its appearance here in its first form there was a conflict between two great committees over its provisions—the Committee on Interstate and Foreign Commerce, which presented it, and the committee which has been most zealous and tireless in attacking it, the Committee on the Public Lands.

After the bill was presented, an event which occurred one afternoon several weeks ago, and a couple of speeches had been made upon it, one by myself, there was a sudden cessation in operations. The bill was taken away from the House and consideration here, and was carried to the White House where there were one or two or three conferences, to which were invited by the President, if I am informed correctly, some of the members of the Committee on the Public Lands and some of the members of the Committee on Interstate and Foreign Commerce, and if I mistake not, the two Secretaries, or at least one of them.

In the White House the measure was given perfecting touches and was brought back here apparently with the idea that it was now in such a condition that the House would accept it without question. But from the moment the very first line in the bill was reached there has been a contest here on the floor of the House, which has raged with increasing ferocity. Contrary to the usual thing in the consideration of bills, this has been materially changed in all its major sections. Undoubtedly the amendment of the gentleman from Kentucky will be adopted. The House is not for the measure. I do not think the amendment of the gentleman from Kentucky or the others proposed will make the bill such that I shall vote for it. The measure was wrong at the start. And back of the conflict between the secretaries and the conflict between the committees and the emendations in the White House a greater conflict has grown in the imagination of the Members here, the conflict between the impersonal government and the powers which prey upon its resources, the battle between the voracious captains of industry who will finance these works and the interest of the Government and the people we represent. [Applause.]

Every one of the works which would be constructed under the provisions of this bill would be constructed only by the sufferance of the men who control the necessary capital, the financial kings who hold in their power the credit of the country. It is this sentiment, thoroughly aroused, which is demanding that the measure be made over. The first right of the Government to protect is in part taken care of by the amendment of the gentleman from Kentucky—giving the Government supervision over the work and its financial conduct. But there are other changes to be made. One of its most important sections has not been in controversy virtually at all. Neither the Committee on Public Lands nor the Committee on Interstate and Foreign Commerce has given the attention to the question of length of franchise that it deserves. We are granting a 50-year franchise. No one here will survive for 50 years. No one here to-day has discussed the matter of the rights of the people during the next 50 years under the provisions of the bill. There has been interminable discussion about the right to terminate the franchise at the end of 50 years, but what about the intervening time between the day of the construction of the work and the time the Government has the right to terminate the grant? One of the virtues of the amendment of the gentleman from Kentucky and the substitute offered by the gentleman from Minnesota is that they give the Government the right to look in during that period.

The amendment of the gentleman from Kentucky [Mr. SHERLEY] gives the Secretary of War the right at the end of 20

years to resurvey the affairs of the grantee, and every 10 years thereafter to put in a correcting and guiding hand.

Mr. Chairman, Gifford Pinchot, as president of the National Conservation Association, has issued the following statement on this measure:

Every friend of conservation will receive with keen disappointment the recent announcements from the White House that the administration indorses the Adamson dam bill in its amended form. This is an unfortunate and needless surrender to the power interests on the threshold of victory for the people. It is a direct reversal of the conservation policy which both President Roosevelt and President Taft supported and acted upon. The Adamson bill is a direct rebuff to the many patriotic men and women who for the last decade have fought the water-power grabbers.

In a statement on June 1, I called attention to the fact that the Adamson bill was much more favorable to the water-power interests than to the public interest. It was precisely the kind of bill the power people wanted. It did not protect the public, and therefore was indefensible. This was fully proved when the bill came before the House for consideration during the first week in July. Its most important provisions are in conflict with the present dam act and the policies now in force in the Departments of Agriculture and of the Interior. The recent amendments to the bill, approved at the White House conferences, unbelievable as it may seem, fail to bring the bill into line with these policies. The bill as it stands is a thoroughly bad bill.

It does not require the power companies to pay to the public for the valuable privileges they receive. It was largely for a like failure that the presidential vetoes were made of the James River Dam bill in 1909 and the Coosa River Dam bill in 1911. After the seven years' fight to make the power interests adequately compensate the Government for special privileges, they are now invited to help themselves to what they may chose on our navigable streams. Certainly the great power combinations who will ultimately get these franchises can well afford to pay for them.

The Adamson bill does not protect consumers within the States from extortion in case the State governments fail to act.

It makes substantially impossible the taking back of the public rights granted, even when the ostensible 50-year period of the grant has expired.

It gives the water-power people the right to saddle the Government with the unearned increment in land values if it ever should succeed in resuming its rights.

It would apparently require the Government to take over the whole electric-lighting plant of a city in order to get possession again of the water power owned by the people, if that power were the source from which the lighting plant was supplied.

This bill prevents the amendment or repeal of a grant or franchise except when Congress "determines that the conditions of consent have been violated."

The conservationists have always insisted that the grant should be made for a definite period, and that 50 years was a reasonable period. The Adamson bill provides that the grant shall be for "50 years from and after the date of the completion of the dam described in the original approval, and after the expiration of said 50 years such rights shall continue until compensation has been made to said grantee for the fair value of its property." This is substantially an indeterminate grant, and clearly not a grant for a 50-year period, for the grantee, at the end of the grant, can, by litigation of the question of "fair value," not only extend the grant to an indefinite period, but also tie the hands of Congress.

The Adamson bill in its present form is full of jokers, and is lacking in important safeguards to protect the public interest. It does not, for example, require publicity of accounts and capitalization. Above all, it is deeply to be regretted that the administration should have given its indorsement to a bill which is so directly opposed to the public interest. The Adamson bill embodies what the conservationists have been fighting against. Its passage would be a sweeping victory for the water-power monopolists.

There are other and many other amendments needed to put the measure in shape, if indeed it can be at all. But it is gratifying to see Congress at last alive to the question of conservation and open to suggestions.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes to the gentleman from Washington [Mr. LA FOLLETTE].

Mr. LA FOLLETTE. Mr. Chairman, one thing that has struck me more forcibly than anything else during the discussion of this bill is the unanimity with which lawyers in this House disagree as to our constitutional rights, and if the lawyers differ so greatly, I do not think it worth while for me to enter into the constitutional features of the bill, but I do sincerely hope that the bill will pass and become a law for the sake of the development of the West, if for no other purpose. The Members from the far West have gone before the Board of Navigation Engineers for years and have asked that certain great rivers which we have in the West shall receive recognition and be improved by the Federal Government and make possible navigation upon those streams, and invariably we find that we run up against the same answer when they make their final reports, that they have examined the streams and have decided that the population was not great enough to warrant the outlay or expense. We tried to impress on their minds that if the Government would improve these rivers it would be only a short time when the population would increase many fold, but that is not the policy of the Government. They want to wait until the population is there. If the Government of the United States would allow a bill of this kind to become a law and private capital to improve the rapids and falls of the Columbia River—the Priest Rapids and the Kettle Falls and other points on that river where they could develop water power—they could not only make that stream navigable for hundreds of miles where it is not navigable now, but they could furnish water to irrigate hundreds of thousands of acres of as fine land as there is on earth after the water is on it, and they could develop great hydroelectric power for the manufacture of fertilizer. We have immense deposits of limerock and those things from which that is manufactured.

But we can not get capital to interest itself in this development on account of too stringent restrictions, and, as far as the development of the West in concerned, it amounts to the acting of the dog in the manger. The dog can not eat the hay himself, and he will not let the horse eat it.

Mr. Chairman, I believe in conservation as much as any man, but I do not want that class of conservation which puts the development of this country so far into the future that neither we nor our children will benefit from it. [Applause.] I have come to think, and I believe history bears me out in it, that the American people are extremists. In the first place, we made it so easy to acquire everything under the Government that some abuses crept in, and then as soon as the cry was raised that there were abuses under the Government we swung to the other extreme, and now we have come to the point where any man who bobs up and asks for a franchise of any kind or who tries to make some development is immediately classed as a plutocrat, and he has no standing in the American Congress or before the American people. [Applause.]

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from Illinois [Mr. TAVENNER].

Mr. TAVENNER. Mr. Chairman, heretofore we have been giving away water-power sites forever. But now we are going to be progressive and give them away for 50 years. As reported from committee this bill provided for the giving away of these valuable rights for 50 years without one cent of compensation to the Government. To my mind this is an outrageous proposition.

On Saturday the gentleman from Oklahoma [Mr. FERRIS] read the following statement from the Secretary of War, who is represented as favoring this bill:

There is no justification for a policy of do nothing.

I can not agree with the Secretary of War. This bill presents an exception to the rule. If a bank employee was contemplating the looting of a bank, would it not be better for him to do nothing than to loot it?

If we can not to-day frame a bill without giving away the people's river for 50 years without a cent of compensation to the people for their property, then, I say, let us pass no bill at this time and permit this subject to go over to some subsequent Congress for final action. It will never be too late to give the rivers away to the capitalists, if that is all we desire to accomplish. If gentlemen here desire to be philanthropists, let them give away their own property; they have the right to be generous, but not with other people's property.

This is supposed to be a conservation bill. We propose to conserve the people's rivers by giving them away for 50 years without a penny of compensation to the people who rightfully own them. When we were elected to Congress by the people they did not delegate us to come here and give their property away for nothing. It is our sworn duty to protect the people's rights, not to allow the Water Power Trust to grab them, and grab them for 50 years without having to pay a cent of compensation to the Government. Every man born into the world inherits a part of it, and we have no right to sacrifice, at least without fair and adequate compensation, the people's natural God-given ownership of it. To do so would be to betray the people. This Congress has passed many measures in the interests of the masses of the people, but to pass this bill as reported from committee would be to injure the glorious record we have made. It would ruin us. I do not want it said of me, and it shall not be said of me, 5 years from now or 10 years from now, or ever, that I was one of those Members of Congress who voted to give the Water Power Trust a 50-year franchise on the rivers of this country without one cent of compensation to the Government.

I am in favor of passing a bill now if we can amend it so that it will be in the interests of the people, for whose welfare it is our duty to legislate, instead of wholly and absolutely in the interests of the water-power groups of the country.

Before many years come and go men will be occupying these seats that we now occupy who will not be willing to give away the rights of the people to the rivers for 50 years, or 25 years, or any number of years, without compensation. And if we can not do anything now but surrender everything to the water-power magnates, then let us permit the solution of this problem to await the coming of these men who will take a different view than the gentlemen who framed this bill.

I have for some time been working on a bill looking toward a huge Government power plant in the Mississippi River at a point near Rock Island and Moline to be determined by the Army Engineers. My idea is to have the Government build and operate this plant, and sell the power directly to consumers practically at cost. The Mississippi is, or should be, the people's property, and if it is to be harnessed, it should be in their interest. If a few capitalists are permitted to harness the river, it will, judging from past experiences, only enrich them at the expense of all the people; while if the Government can be induced to swing the project, the entire community will be benefited.

In the congressional district I represent we have both a Government owned and operated water-power plant and a privately owned one.

The Government owns its own power plant in the Mississippi River at the Rock Island (Ill.) Arsenal, and, according to a statement of the commandant, Col. George W. Burr, which I will insert in the RECORD, the Government is developing its power there at a cost of 3 mills per kilowatt hour.

Some 50 miles down the river is the great privately owned Keokuk Dam and power plant, the greatest on this continent. Using the same water in the same river, this private company to which Congress generously granted a franchise to harness the Mississippi forever without a cent of compensation to the Government is charging the consumers from 10 to 14 cents per kilowatt hour, which is from 30 to 50 times more than it costs the Government, or than it would cost the people at Rock Island if the Government was to sell it directly to the consumers at actual cost. Imagine what a stimulus a great water-power plant would be to any community if power was to be sold for 3 mills a kilowatt hour. It would mean great factories, increased employment, and added opportunities and happiness for all.

The statement of Col. Burr to which I refer was published as an interview in the Rock Island Argus of July 7, and was brought about as the result of an intimation made on the floor of the House that water power at the Rock Island Arsenal was more expensive than steam power.

Col. Burr states that by a comparatively small expenditure the capacity of the Rock Island power plant can be greatly increased, and that the additional power can be sold direct to users to the advantage of the Government, consumers, and all concerned. This statement is of intense interest to me, and I have already written Col. Burr to send me the necessary particulars so that I may ask Congress to provide for the increasing of the capacity of this water-power plant. The arsenal plant, however, is not the site I have in mind for a much larger Government-owned project, which is some distance away, and which project I intend to urge Congress to provide for.

The statement of Col. Burr as to the low cost of water power at Rock Island proves beyond successful contradiction that Rock Island is the logical site for a great central military manufacturing plant, which will become a necessity as soon as the Government enters upon the policy of taking the profit out of war and preparation for war by manufacturing all munitions in Government arsenals instead of buying a large part of such supplies from the ammunition ring and paying the outrageously excessive prices demanded for them. The article referred to reads as follows:

[Reprinted from the Rock Island Argus, July 7, 1914.]

"In speeches in Congress June 23 Congressmen DONOHOE and MOORE, of Pennsylvania, in an attempt to secure appropriations for the Frankford Arsenal, questioned the extent of the Rock Island Arsenal water power, and compared unfavorably the cost of power developed there with the cost of steam-generated power at the Frankford Arsenal, and in other ways made claims as to the superior advantages of the Frankford Arsenal as compared with the Rock Island Arsenal. Congressman CLYDE H. TAVENNER promptly replied to these gentlemen in a speech replete with facts and figures fully sustaining the reputation of the Rock Island Arsenal.

"To secure an independent statement on this subject, an Argus representative called on Col. G. W. Burr, the commanding officer of the Rock Island Arsenal, and requested an interview covering the subject of the comparison. Col. Burr declined to give such an interview, stating that Rock Island Arsenal needed no defense; that its record and work spoke for it and are being recognized in the constantly increasing volume of work being done at the arsenal, and stated that it would be manifestly improper for him to engage in a controversy on the relative merits of two arsenals of the Ordnance Department. Col. Burr, however, consented to talk about arsenal water power, as that is a matter concerning which the facts and figures are of public record, and the Argus is pleased to present the substance of his complete statement on this subject.

"It will be noted that, whereas the champions of the Frankford Arsenal claim that power at Rock Island Arsenal costs $0.024 per kilowatt hour, Col. Burr shows that it actually costs only $0.0036 per kilowatt hour, and that, by any proper method of accounting, it costs the Government nothing, but that, on the contrary, the Government really gets its power for nothing and is richer annually from owning the water power. An interesting point made by Col. Burr is that the Government at small expense could put in machinery on its water-power dam and sell power in this community to the great benefit of the community and to a large annual profit of the United States Treasury. Incidentally it is shown that steam-generated power, which is stated to cost $0.0108 at the Frankford Arsenal, is actually purchased for less than that sum at Rock Island and is understood to be manufactured at a cost not exceeding $0.008 per kilowatt hour, which goes far to substantiate the claims of Rock Island Arsenal's champions that the arsenal is the most economical place for Government manufacture.

"Mr. DONOHOE, in his speech in Congress, said:

"The maximum power that can be developed by the Rock Island Dam is 1,450 horsepower."

"Col. Burr shows that it is 9,000 horsepower, and that the arsenal power project as now developed will give 22,000 horsepower.

"Col. Burr's statement is as follows:

"I am unable to give any figures as to the exact cost of steam-generated power at this arsenal because we have not recently had any experience with steam plants. The arsenal has a contract with a commercial power distributing company to furnish it electrical power when required, and this electrical power is steam generated. The amounts used are small and are asked for at irregular times, so that the contract for furnishing the power can not be considered a desirable one. The contract calls for $0.01 per kilowatt hour. Since it must be assumed that the contractor is not in business for pleasure, and that he makes a profit on the power thus sold, which he delivers to the arsenal over a long transmission line, it would probably be safe to say that steam-generated power does not actually cost him over $0.008 per kilowatt hour. The arsenal water-power project is a much larger subject, but I give you facts and figures respecting it, which are a matter of record and can not be disputed. These are made for the purpose of giving a correct and comprehensive statement of the subject, which is of great local interest.

"The Mississippi River from the foot of Campbells Island to the foot of the arsenal island, a distance of 5 miles, has a fall of approximately 14 feet over a chain of rapids which, from the earliest times, has made navigation difficult. At the arsenal island the river divides, one branch which forms the navigation channel passing to the north and the other branch which forms the arsenal water-power pool passing to the south of the island. In 1867 the Government, by an agreement pursuant to authority of Congress, took over the water-power rights in this part of the river, and since that time the Ordnance Department, as represented by the Rock Island Arsenal, has endeavored to develop and perfect the water-power project. Congress from time to time has made appropriations for this purpose. The total of these appropriations for the development of the water power at the Rock Island Arsenal is $1,624,750, while the total of the appropriations for extraordinary repairs to this water power is $246,150. The contention that the power used at the arsenal is expensive is based on figures using the appropriations as a permanent investment in this water power and computing interest on this investment at 3 per cent as a part of the cost of the power.

"That any computations based on such assumptions are erroneous is clearly shown by a consideration of the facts. In systems of accounting it is considered necessary to charge off from capital accounts funds expended for purposes subsequently found ineffective or for appliances worn out or destroyed. The correct present-day capitalization of a railroad does not include the cost of buildings and equipments and bridges long since destroyed, of ties rotted, and rails and locomotives worn out and consigned to the scrap heap in years past, or of track constructed and subsequently abandoned, but includes only the property and equipment of the going concern. Similarly, the capitalization to be used in computing any correct cost of power at the arsenal power plant would charge off expenditures of a similar class. Yet the figures which have been used in an attempt to figure this cost include the cost of a dam washed away 30 years ago, of a power house with machinery destroyed by fire 15 years ago, of dikes erected for the protection of Government land and as an aid to navigation and in no wise connected with the water-power project, as well as moneys ineffectively spent in earlier days in the development of the power project itself.

"For many years, in fact until a few years ago, the Ordnance Department, in the attempt to develop the water power, sought to turn the waters of the Mississippi River into the branch of the river south of the island. On the other hand, that department of the Government charged with the improvement of the navigation of the river endeavored to improve the channel to the north of the island, or, in other words, to increase the flow of the river in that channel. Thus two departments of the Government were working at cross purposes, and Congress was impartially voting money to each for the furtherance of these opposing projects. Any money so spent for water power 30 or 40 years ago, and which proved ineffective for its permanent improvement, should be charged off and not included in present costs of power.

"About 1900, in the further development of the water power, the short dam extending up the middle of the river from the arsenal island was extended for a distance of about 2½ miles upstream to a point above the rapids. It was then suggested that the navigation of the river could be much improved and the almost insuperable navigation difficulties which the rapids presented could be effectively overcome by using the water-power pool as a navigation channel and passing boats up or down the river through a lock. This scheme was adopted, and in recent years the two departments of the Government concerned with the navigation and the water-power projects have worked in unison to increase the volume and amount of water in the pool. At the present time the north channel of the river has been considerably shallowed at the rapids and the waters of the river diverted to the water-power pool to increase the depth of the water there for navigation purposes. This increased

depth of water gives increased head at the arsenal water power. Since the power pool is now the navigation channel and the north branch of the river merely a spillway for excess or unused water and since the Government owns all the water-power rights in the pool it follows that the Government is entitled to use for water-power purposes all the flow of the river at this point not required for navigation purposes.

"The extreme low-water flow of the Mississippi River at this point is conservatively stated at 20,000 cubic feet per second. This low-water flow with the available head gives 28,000 theoretical horsepower that can be developed at the Government power project without any great additional expense and without any rebuilding of the existing dams, dikes, etc. This is the theoretical horsepower, and at least 22,000 of this theoretical horsepower can be actually generated if suitable machinery is installed. These figures are given for the extreme low-water stage of the river. At higher stages the amount of power that can be developed rapidly increases, and there is usually sufficient flow in the river to give 100,000 horsepower. Therefore the minimum horsepower that can be developed at the Government power project at any and all stages of the river is 22,000 horsepower. Of this amount 9,000 horsepower has been developed at the present arsenal dam.

"The arsenal water power was not used by the Government for many years. Its first practical use for Government purposes dates from about 1890. The plant for generating power was destroyed by fire in 1899, and the present installation dates from that time. Much of the moneys appropriated in the earlier years for the development of the power was lost in work which served its purpose at the time but has since been abandoned. Examples are the Moline Dam wall, not now used, the first Government dam, which was washed away 30 years ago, and the power-house machinery, destroyed by fire in 1899. Aside from the existing dam, which cost $275,000, practically all of the expenditures on this account prior to 1899 should properly be written off on account of obsolescence. The capital investment of the Government on this basis would, therefore, amount to the cost of the dam plus the congressional appropriations since that date, or a total of $426,850, and the interest on this sum at 3 per cent is $12,805.50. If the entire power which has been developed were utilized, this sum would be an annual charge against the cost of power at the arsenal, but, as will be hereafter shown, the arsenal is using only 15 per cent of the power which has been developed at its dam, and therefore only 15 per cent of the sum, or $1,875, should be so charged. In addition Congress makes an annual appropriation of $12,500 for the maintenance and operation of the power plant. This covers all expenses for material and labor for operation and repairs and includes the upkeep of the 85 per cent of developed power not used as well as the 15 per cent actually used. Obviously money spent in the ordinary upkeep of unused property is not a proper charge to present cost of power. Therefore, making a liberal charge for used power of $9,000 out of the $12,500 appropriated, the total annual cost of the arsenal power is $10,875. The arsenal uses annually 3,000,000 kilowatt hours of electricity, so that on this basis the cost is $0.0036 per kilowatt hour.

"In cost keeping it is customary to make allowances for depreciation and to take credit for appreciation in value. It is therefore pertinent to inquire as to the present value of arsenal power development. As stated, the minimum horsepower that can be developed in the arsenal power project at any and all stages of the river is 22,000 horsepower, of which it is roughly estimated that 18,000 is available for Government disposition. This power, if sold to a commercial distributing concern, would bring $15 per horsepower per year, or a total income of $270,000. Allowing $50,000 for maintenance, operation, and obsolescence of the plant would leave $220,000 profit, which on the 3 per cent Government basis would give a capital value of $7,666,000. This valuation for the arsenal power project is confirmed by the fact that the great Mississippi River dam and power project at Keokuk, Iowa, a short distance below Rock Island, has been built in the last few years at a cost of $25,000,000. Further, there is a bill now before Congress for permission to construct a dam at the foot of the Le Claire rapids of the Mississippi River, and only a short distance above the arsenal development. This proposed water-power project would be, in respect to power possibilities, a duplicate of the arsenal project. Yet, to develop this Le Claire project, it is proposed to construct a dam at an expense of $10,000,000. Therefore an estimated present value of $7,666,000 for the Rock Island Arsenal water power is exceedingly reasonable, and its development for the small total of $1,624,750 appropriated by Congress must be regarded as a most profitable investment. It is a permanent, indestructible property, increasing annually in value, and which will continue to increase in value after all existing steam plants are consigned to the scrap heap. The annual increment in value of the Government water-power holdings here has been and is and will continue to be so great as to make comparatively insignificant the small sums spent from time to time to perfect and protect this property. Any discussion of cost of power at this plant which omits consideration of this factor is valueless.

"The Government owns and has developed here an immense water-power project which is capable of furnishing all the power needed for the R. I. A., and in addition an immense surplus of power which should be disposed of to the profit of the Government. The present arsenal water-power dam has 41 openings. If modern water wheels were placed in these openings, 9,000 horsepower could be generated, and the cost of operation, maintenance, and repairs would be but little greater than it is at the present time when only 15 per cent of that power, or 1,400 horsepower, is being generated. If, out of this 9,000 horsepower, 2,000 should be reserved for the use of the arsenal and the remaining 7,000 sold to commercial power-distributing companies, which could be done at $15 per horsepower per year, the resulting income to the Government would be $105,000. Deducting from this $35,000, as a liberal allowance to cover the cost of all expenses of operation, repairs, and obsolescence, the Government would have left $70,000 annual profit, and at the same time would greatly benefit the community. This can be done at the present dam by merely putting in the necessary generating machinery. It would utilize a power which the Government now has and permits to go to waste.

"The water wheels and generating machinery at present installed in the power plant are antiquated and inefficient. Originally designed to give 2,200 horsepower, the plant is actually generating but approximately 1,400 horsepower; that is, just enough for the present requirements of the arsenal The surplus power, when there is any, is small in amount and is intermittent. The result is that, although the arsenal now has a contract to sell its surplus power, the contractor takes but a negligible quantity, because power so furnished in small quantities and at irregular times is of no value to him in his business. If, however, the Government would put in a plant which was capable of developing an assured surplus, a ready sale for it would be found at a price only slightly below the cost of steam-generated power.

"It is evident from the foregoing that the arsenal power instead of being expensive is cheap, actually costing in money paid out $0.0036 per kilowatt hour, which is a small fraction of what steam-generated power costs; that, if account be taken of the increased market value of the water-power property, the power used at this arsenal costs nothing, but that, on the contrary, the Government is several million dollars richer through its ownership; and, finally, that if the Government will put in modern machinery and handle its water-power property as a business proposition and for the benefit of the community, it will get its arsenal power for nothing, will enjoy the annual increment in value of the property, and will have turned into the Treasury annually cash profits of from $70,000 to $220,000."

Mr. STEVENS of Minnesota. Mr. Chairman, I have one more gentleman who is here, and there are three other gentlemen who desire time and who do not happen to be here at this moment. I yielded to my friend from Washington, who does not seem to be here, but his colleague [Mr. JOHNSON], who desires time, is here, and I yield him five minutes.

Mr. ADAMSON. I would like to borrow 10 minutes.

Mr. STEVENS of Minnesota. I can not give the gentleman 10 minutes, but I can yield him 5 minutes. I yield 5 minutes to the gentleman from Washington [Mr. JOHNSON].

Mr. JOHNSON of Washington. Mr. Chairman, I was very much interested in the statement just made by the gentleman from Illinois [Mr. TAVENNER] in reference to water power at Rock Island. It occurs to me to state at this moment out my way we have some rapids in one of the five great rivers of the United States—a water-power possibility that will take five, six, or seven million dollars to get under way and eighteen or twenty millions more to complete. This water has been running away ever since time began, and it will run away through the sagebrush for another two, three, or four hundred years if all of the restrictions which are proposed are placed in this bill.

Mr. TAVENNER. Will the gentleman yield?

Mr. JOHNSON of Washington. I would be glad to do so.

Mr. TAVENNER. Is it our fault we are permitting it to run on unused now? Should we not provide for the Government to develop that power?

Mr. JOHNSON of Washington. That is the exact point. Where is the great sum to come from for this badly needed development? If it were proposed that the United States should supply it, Members of Congress from some of the thickly settled communities would object immediately to any proposition that would expend so enormous a sum of the people's money in the sagebrush area. And yet the placing of water power there in a State where we sell the water power as low as a quarter of a cent per kilowatt would bring a population in four or five years of 100,000 thriving people in a place which is now almost unpeopled. We have there an enormous unharnessed water power. In spite of the claims of other gentlemen here I have not the slightest doubt in the world that one-sixth at least of the unharnessed water power of the United States is in the southwestern district of the State of Washington, and it will run unharnessed and be idle for the next thousand years, and our people will continue to ask and solicit capital to come there to look into it. They are trying and offering every inducement that they can. These bills come up and restrictions are put on so that the water will run away unused. We have had a great touch of timber conservation—enough, I think. And yet we talk about having men come to Congress in the years to come to do something to save unused water and lay it aside for our children's children's grandchildren. I do hope this bill will be passed one way or the other, so we will know in the far West whether we will go ahead or stand still.

Mr. ADAMSON. Mr. Chairman, I yield 10 minutes to the gentleman from New Hampshire [Mr. STEVENS].

Mr. STEVENS of New Hampshire. Mr. Chairman, there are, I think, three objections which have been made to the provisions of this amendment providing for compensation to the National Government. First, that it is unconstitutional. I have not the time to argue that question; in my own mind it is absolutely clear that we have the constitutional right so to do. It has been very fully argued during this debate and the constitutionality well sustained. Then there are those who believe the amendment interferes with State rights. Now, a word to my Democratic friends about State rights. I am as much in favor of State rights and State duties as any man, but I object to having a national question that can be handled for the public benefit of all only by the National Government made subject to the doctrine of State rights. I am opposed to seeing private interests and national wrongs hide behind the obsolete and worn-out barrier of State rights. [Applause on the Republican side.] I will point out some of the reasons why the entire water power upon navigable streams is a national question and can not be dealt with by States. In the first place, there is hardly a navigable stream in this country that is not an interstate

stream. It draws its source from many States; it is frequently a boundary between States. The National Government is spending millions of dollars acquiring watersheds in the East to feed these navigable streams. Not only is water power interstate in its source, but it is interstate in its distribution and use. Power can be distributed 300 miles profitably. Water power developed in my State is transmitted into Massachusetts, Maine, and Vermont, and we as a State can not regulate that, because we are interfering with interstate commerce. Therefore this question of the regulation of water power on navigable streams is one that can be handled only by the National Government.

A word on the question of taxation. I do not believe in the Federal Government taxing property which the State should tax. A clear and logical line can be drawn between the property of a water-power company within the State, which the State should tax, and the value of the franchise which the National Government should derive a revenue from. The National Government is the only one that can give the franchise to develop the power. The value of that franchise is given by the National Government, and any revenue from it should go to the National Government. The State can tax, and should tax, the actual physical property, but it should be denied the power to tax the value of a franchise which it did not grant and could not grant. [Applause.] Therefore, if this amendment should be adopted, I shall offer an amendment which is in Secretary Garrison's original bill, that the State may tax the physical property of these water-power companies, but it shall add no value for any franchise given under this act. That would distinguish properly between State taxation and Federal compensation.

There are other men who believe that while we have the constitutional right, it is bad policy at the present time to provide for any compensation, because it will prevent development. In the first place, let me point out to those gentlemen that you are deciding in this bill a question of public policy against the people that you represent, on your judgment to-day, for 50 years. If you adopt this bill as originally reported, you not only say that you do not believe in the policy, but you deny the right to every Congress of the United States that shall follow us for 50 years to vary your judgment in the matter. I believe we should lean toward the public interests, because we are here to protect public interest, and if we should make this bill so strict that no water-power development would go on, the very next Congress or the Congress after that could change it, and the damage would be but temporary. But pass this bill as the committee recommends it and you have given away the rights of the American people beyond recall for 50 years. That is a long time in the industrial development of America. The development of electrical power by water is only about 20 years old in this country. Who can foretell what the future will be, and who dare stake his judgment now and on that judgment bind the rights of the American people? [Applause.]

I believe in compensation, because it is the only way you can secure to the people who grant the franchise some of the benefits of development. Regulation by State authorities will not apply to over half of these water powers. They will be used for private manufacturing. And even for those that are used in public-service corporations the regulation amounts to nothing in a large part of the community. I can demonstrate beyond dispute by a concrete example. In my State there is a big water power upon the Connecticut River that transmits power to the city of Lawrence, to be used there for manufacturing purposes. It sells power. It has power enough to supply only a few of the many manufacturing companies in Lawrence. There are many textile mills competing with one another. Would the commission of the State of Massachusetts compel that water-power company to sell A, a textile manufacturer, the power 50 per cent less than it would cost B, his competitor? Of course it would not. Coal will fix the price of water power. Therefore regulation will not protect the public from excessive profits in that part of the country where the demand for power is above that which the water power can supply. That applies largely to the East, in the manufacturing part of the country. Therefore compensation to the Federal Government is the only way the Government can prevent excessive profits and secure to the people, who grant the franchise, some of the benefits thereof. [Applause.]

Now, Mr. Chairman, I believe we have the power to levy a tax or a charge upon these corporations. I believe that it is our duty to do so. I believe it does not interfere and will not interfere, under a proper amendment, with the State power to tax. For my own part I would prefer to see no legislation at all, and trust to a future Congress to enact the proper kind of a bill, than to have the bill in the shape that it was reported to the House adopted by this session of Congress.

This bill is based upon the principles, first, that the National Government has no interest in water power, because water is private property; and, second, that it is a State matter any way; and I do not believe that men who hold those views, however honestly, are the men to draft and enact a proper conservation bill for the development of the water powers which rightfully belong to all the people for the benefit of all. [Applause.]

Allow me to say another word. There is a great deal said about the stagnation of development. You might get the impression, if you did not know the facts, that the action of the Government is causing stagnation in the water-power development all over the country. But as a matter of fact no other business in this country has been so profitable and has had such a great development in recent years. Every great group of water-power interests, such as the Stone & Webster people, the General Electric Co., and the Southern Power Co., own to-day enormous undeveloped water powers in addition to those that they have developed. They are getting possession of every water power they can get their fingers on, and they are holding many of them for future needs. In some instances they will not develop them, even where there is a demand for their development.

Mr. FERRIS. Mr. Chairman, will the gentleman yield there for a short statement showing what the actual development of water power has been in the last five years?

Mr. STEVENS of New Hampshire. Yes.

Mr. FERRIS. In 1908, as is shown by our hearings, the total developed water power in the United States was 5,400,000 horsepower in round numbers, and in 1913 it was 7,000,000 horsepower, an increase of 33 per cent in five years. So that there has been no stagnation at all.

Mr. KENT. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from New Hampshire yield to the gentleman from California?

Mr. STEVENS of New Hampshire. Yes.

Mr. KENT. I would like to ask the gentleman to reply to that statement with the statement he made in his time, that what was being cold-storaged in 1909 is being cold-storaged to-day.

Mr. FERRIS. I have not that at hand.

The CHAIRMAN. The time of the gentleman from New Hampshire has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes to the gentleman from California [Mr. KENT].

The CHAIRMAN. The gentleman from California [Mr. KENT] is recognized for five minutes.

Mr. CULLOP. Mr. Chairman, will the gentleman permit a suggestion there?

Mr. KENT. Yes.

Mr. CULLOP. Is it not true that there has been no stagnation at all in the development of water powers, and that what delay there has been is because they could not get a right from Congress to develop them? There has been a conflict between Congress and the President over this question of a charge, and not a single water power has been stagnated because a charge was attempted to be exacted; not a single one.

Mr. KENT. Mr. Chairman, I shall vote for the Sherley amendment, which provides:

> The Secretary of War may provide as a condition of such approval for the payment to the United States of reasonable annual charges for the benefits that accrue to the grantee by the authority given under this act, and at the end of 20 years, and every 10 years thereafter, the Secretary of War may readjust the annual charges as may then be just and reasonable.

Mr. Chairman, for more than three years I have sat and listened to constitutional discussions. At first I used to be amused at their evident inconsequence, but I have ceased to be amused, because they waste so much time. What I have always wanted to know was what we can do and what it is our duty to do.

I am no wild-eyed theorist. I have been interested in business, sizable business, and I know that theory is essential in formulating lasting policies. The other day I stated what had been accomplished in Chicago in relation to the regulation of the traction system. We theorists, we dreamers, taught the traction people what they could do there in their own interest. We made them solvent and respectable.

Now, we have here a very simple, plain question: not a constitutional question, not a question of endlessly, foolishly quoting laws. The question is, Shall we grant or withhold? No one can deny that we have the right to refuse or a right to license. It is our choice. If we give privileges, we have the right to

name the conditions under which they should be given. [Applause.]

It is not only our right, but our duty, under this inherent power to control all grants in the public interest.

You have heard over and over again the statement—the gentleman from Wisconsin [Mr. LENROOT] made it, and I in my time made it—that there are certain cases where the cost of power from water power is vastly less than the cost of the additional power needed by any given community which must be secured by the burning of coal or other fuel. No abrogation of the right to derive revenue, to exact compensation from the water power granted by us, would in such a case relieve such a community that needs power, whether from both sources, from paying the higher charge based on the higher cost.

Here is a place where logic and common sense and not constitutional arguments go to show that the Federal Government for the interest of navigation and for a reduction of charges in a stuffed river and harbor bill ought to exact from the beneficiaries some payment toward improving navigation.

I for one hate the idea of indirect taxation. I have been absolutely consistent in that attitude. I have stood for every lowering of the tariff. I have stood against everything that means subsidy or an indirect taxation of the people, and to-day I would not place one cent of a burden upon the people who are ultimately to pay for water-power development. They should be given that water power at the lowest possible figure consonant with the proper earnings of the agencies that we permit to make the development.

As I stated in my remarks, which few heard or read, we have the right—nay, in my opinion, the duty—to develop this asset for ourselves. The Government is supreme in this matter, whether we put it on the ground of navigation or any other subterfuge or fiction. We know that the right to withhold means that we have the supreme control, and the consequent and clear duty to control in the interest of all the people of all the States and in the interest of the people of the several States, however short-sighted and foolish, back-numbered and oblivious those States may be.

The Chandler-Dunbar decision only clinches what has long been held—that the Federal Government can go onto the rivers, put in dams, and do whatever it chooses to do with the resultant power. I would never favor placing a tax upon users inconsonant with the cost of development plus a proper sinking fund. If we permit others to do for us what we can do for ourselves, they are our agents; we license them, and no discussion of constitutional law makes them anything different than licensees—agents. As such we ought to treat them squarely and protect them from the risks of unnecessary competition, give them a fair chance, and then hold them down to reasonable rewards for the service they render to the people by the license of the people. It is our duty to see to it that in granting these powers we do not rely upon State regulations. I am perfectly willing that the States should do their regulating, when they are willing to regulate.

But many of the States have no such idea. Many of them are still in the same backward condition that the Western States were when they approved of the great and scandalous railway land grants. They did not know that the people could build their own iron highways. They did not even know that such a theory was dangerously socialistic; and so in an imbecile blindness they argued that only through private agencies could real public highways be established, and they shouted in "Bandar-log" accord, "Please, private capital, we shall gladly pay anything on earth for building these railroads"; and so the railroads were built, at God knows what exorbitant cost to all the people forever.

We had better stand by our old original dam bill than to falter for a moment in forcing every amendment needed to make this foundling respectable. As the gentleman from New Hampshire [Mr. STEVENS] said, we had better hold things level than to open the field to extortion, to trusts, to combinations. There is not a man interested in conservation who does not wish the resources of this country opened up, who would not fight for proper development in every possible way; but we had better cold-storage our common assets for ourselves than to let the greedy ones cold-storage them for us, as would be the case if this sad parody of a bill should pass without fundamental amendments in the public interest. [Applause.]

Mr. ADAMSON. Mr. Chairman, I ask that the committee rise temporarily in order to allow the Speaker to lay a matter before the House.

The CHAIRMAN. The committee will rise informally.

The committee accordingly rose, and the Speaker resumed the chair.

ENROLLED BILL SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled the bill (H. R. 17824) making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes, when the Speaker signed the same.

THE GENERAL DAM ACT.

The SPEAKER. The committee will resume its sitting.

Mr. MANN. Was this rising by unanimous consent?

Mr. ADAMSON. Practically so.

Mr. MANN. I thought there was a motion made to rise.

Mr. ADAMSON. No; I asked that the committee rise temporarily.

Mr. MANN. The committee will not resume its sitting, then, without action by the House.

Mr. ADAMSON. I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the general dam bill, H. R. 16053.

The SPEAKER. The gentleman from Georgia moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of House bill 16053.

Mr. MANN. Pending that, by unanimous consent, may I ask the gentleman a question?

Mr. ADAMSON. Certainly.

Mr. MANN. I want to know how much time remains for debate.

Mr. ADAMSON. I think about 30 minutes. The Chair can state.

The SPEAKER. Forty minutes.

Mr. MANN. It is manifest that there will have to be a quorum of the committee here to vote on the amendments, and that probably would require a roll call. I simply want to get the gentleman's intention. Does the gentleman intend to stay until the matter is disposed of?

Mr. ADAMSON. I would like to finish the debate.

Mr. MANN. There is no object in finishing the debate unless you are going to have a vote. That is what I want to know.

Mr. ADAMSON. I do not know what will be done about that. I do not believe we can get a quorum to-night.

Mr. MANN. You could get a quorum of the Committee of the Whole by calling the roll, easily enough; but we would be running until after 6 o'clock, and I was desirous of knowing what the gentleman was going to do.

Mr. ADAMSON. It was my intention to move that the committee rise at the end of the debate.

Mr. MANN. I do not think we ought to rise as soon as we get through with the debate, without having a vote. We ought either to vote or else not finish the debate to-night.

Mr. ADAMSON. If the committee desire to vote, it is immaterial to me.

Mr. MANN. The gentleman would probably control that. I wanted to see whether he was willing that we go back into Committee of the Whole.

Mr. ADAMSON. There are a number of amendments. We can not get through with them to-night.

Mr. SHERLEY. I suggest to the gentleman that we ought at least to dispose of this amendment to-night. A great many gentlemen have come to me asking when the vote would be had, and have made arrangements to come back and vote. We will have just as much difficulty in the middle of the day to-morrow in getting a quorum as we will to-night.

Mr. MANN. To-morrow is "holy Wednesday." As far as I am concerned, I have no objection to finishing the voting to-night; but I would object decidedly to stay here and finish the debate and then immediately rise.

Mr. ADAMSON. Quite a number of Members have asked me about the vote on this amendment, and I stated that I did not know whether we would have a vote to-night or not.

Mr. MANN. The gentleman has the power to require us to stay after we go into committee, but he has not now.

Mr. ADAMSON. If we go on with the debate for half an hours and then a quorum is demanded, I think we would have trouble.

Mr. MANN. I am not willing to go back into Committee of the Whole unless it is made definite.

Mr. ADAMSON. If the House desires to adjourn now or wait until the end of the debate, it is immaterial to me.

Mr. SHERLEY. I do not think the debate is going to run 40 minutes.

Mr. STEVENS of Minnesota. I have requests from a number of gentlemen on this side, and they are ready now.

Mr. SHERLEY. Yes; and they were so ready that they were out when the gentleman was hunting for speakers.

Mr. STEVENS of Minnesota. But they are here now.

Mr. ADAMSON. I have requests for 20 minutes from several Members who are ready.

Mr. SHERLEY. Ten minutes of that is mine, and I am more anxious to get to a vote than I am to talk.

Mr. MANN. I have no objection, Mr. Speaker.

The SPEAKER. The question is on the motion of the gentleman from Georgia.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16053, with Mr. GARNER in the chair.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, I shall vote for the Sherley amendment, although I do not feel certain that I would do that without change if I were writing the law. But if the Sherley amendment goes into the bill it will be considered in another body, probably pass that other body, be considered in conference, and be before this body again.

As I said the other day, I drew the original dam law, and knowing the controversy that would naturally arise in reference to compensation, did not write into that bill a specific provision for compensation, although I wrote into the bill a provision authorizing the Secretary of War to make conditions and stipulations. I thought, and still think, that gave the Secretary of War the right to exact the stipulation from the grantee for the payment of compensation. I think the Government ought to reserve the authority if it has the legal power to do so. There is doubt about our constitutional authority, in my judgment. I do not think it is entirely free from doubt. Of course there is no direct constitutional authority for the Federal Government to exact compensation for the privilege in reference to rivers, where our only jurisdiction is over navigation. But, on the other hand, it would seem to be common sense that when the Government has the right to give or refuse to give, that it may give on condition, may exact a stipulation from the grantee, that it will pay such compensation as may be fixed. I do not see how the grantee, having accepted an act of Congress, having had its plans approved by the Secretary of War on the condition that it will pay compensation and with the stipulation on its part directly made that it will pay compensation, how such a company is permitted to raise the question so long as it enjoys the franchise and operates the plant.

That is one side of the question. No one ought to suppose that in the ordinary case the Government would exact any large compensation. Most of the water powers which will be developed ought to be developed in such a way that the local community gets the benefit of the power which is produced, not only of the power that is produced, but of the fair competition which ensues from the production of the power. And yet there may be, and perhaps are, a great many cases where it will not be practicable to make the competition effective. If you produce 10,000 horsepower in a community by water power, and the community must use 50,000 horsepower, it is not possible to base the charge made for the 50,000 horsepower on the production of 10,000 horsepower by hydroelectric method if that is much cheaper than coal or other methods of producing power. There are cases where there ought to be actual compensation made.

Now gentlemen are very much exercised for fear that the financiers will not take the opportunity to invest money in these enterprises. I do not know; no one can tell about that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEVENS of Minnesota. I yield five minutes more to the gentleman.

Mr. MANN. Nearly all the street railways of the country, I think, operate on short-term franchises. In our State they can not exceed 20 years. I do not know how much money has been invested in street railways, but enormous sums. I recollect no instance where the investor in a street railway upon a short-term franchise has been robbed of his investment. Sometimes he has not secured the value he thought he had in watered stock, or something of that sort, but the public, through its Government, can afford, and, I think, is interested that these people should accept franchises from them.

I do not say that the Secretary of War on his own part, or that a future Congress, possessed with possible hysteria, will run wild, and that there will ever be any attempt made to deprive the investor of the value of his investment, or not to give him a reasonable return upon his investment if the operation of the plant warrants it. We are legislating for the future. It were better that this question be not settled to-day than that it be settled wrong. [Applause.] While this franchise it is proposed now to issue shall have the life of only 50 years, yet in effect, when the plant is made, it has an indefinite life. No one else can compete with the owner of the plant at the end of 50 years if the owner desires to retain possession of the plant, and he can better afford to do it on such terms as may be named, whatever they be, than anyone else.

Who would have supposed a few years ago that electric power could be transported 20 miles, much less 150 miles? Only a few years ago no one dreamed, unless he had eaten something unusual, that we would ever navigate the air. No one can foretell what 50 years will produce. While I think we have coal enough to last indefinitely, we ought to conserve the water power. It is not unlikely that we will soon be conserving and putting into reservoirs a surplus power made from the wind or from the tides or from the sunshine, and yet the part of experience should teach us to carefully conserve those things which we now have. We now have control over the water power. I think we ought to preserve to the Government its rights, and that people who accept the opportunity must accept it with the belief on their part that the Government will, after all, treat them justly. [Applause.]

I yield back the remainder of my time.

The CHAIRMAN. The gentleman used nine minutes.

Mr. ADAMSON. Mr. Chairman, does the gentleman still think he can spare me five minutes?

Mr. STEVENS of Minnesota. No; I can not.

Mr. ADAMSON. Does the gentleman from Kentucky care to go ahead now?

Mr. SHERLEY. I would rather not speak at this time. I do not want to make any lengthy statement.

Mr. ADAMSON. Mr. Chairman, I yield five minutes to the gentleman from Pennsylvania [Mr. BAILEY].

Mr. BAILEY. Mr. Chairman, I propose offering an amendment, which I will now read for information, on page 3, line 16, to insert, after the words "United States," the following:

Provided, That the value of all privileges which may be acquired under the terms of this act shall be subject to assessment triennially, and a tax equal to 5 per cent on such value shall be collected annually, the proceeds to be paid into the miscellaneous receipts of the Government.

In offering this amendment I wish to call attention to the fact that for the first time in our history we are proposing in the pending bill to change our navigable streams from free highways, open to all on equal terms, into highways subject to private control. In all legislation down to the present day our water highways have been withheld from the monopolistic domination to which we have permitted our iron highways and in some cases even our dirt highways to be subjected. Just as we are about to break the strangle-hold of monopoly on our iron highways through legislation which has passed this House and is about to pass the Senate, we are here proposing to turn over all the navigable streams of this great country to the Water Power Trust, leaving it a practically free hand in employing the vast privileges so granted in the exploitation of the people.

In our several States the control of the public highways has been kept largely free from private hands, but in many, if not in most of them, the turnpike company was set up in business, with the power to levy tribute on every horn and hoof, on every bale and bushel, on every wheel and runner passing over the public ways. Not until within comparatively recent years has common sense revolted against this monstrous perversion of a public function. It was, in fact, only yesterday that the tollgate ceased to bar the progress of peaceful travelers and to hold up legitimate traffic for private profit.

The theory of the old turnpike is the theory of this bill. The people were told they could not afford to build and maintain a passable highway. But if they would grant a private company the right to collect tolls on traffic, this company could and would do what all the people were too poor to do. The utter absurdity of the proposition is apparent, yet we are proposing to perpetuate it in this bill, because we are saying that the people of the United States—the 95,000,000 who live and labor under this Government—are too poor to make adequate and proper use of the vast and immeasurable natural resources embodied in our water highways with their undeveloped power. The 95,000,000, forsooth, must throw themselves on the tender mercies of a private monopoly which we are asked to create for the purpose of chaining this power and leading it captive into the channels of industry.

I am not ready to do this, as far as I am individually concerned. At least, I am not willing to create this new monopolistic monster without putting a ring in its snout and a chain about its leg. Hence the amendment which I have offered. Under the terms of that amendment the monopoly privilege

will be subjected to a definite annual tax—the value of the privilege to be assessed every three years; the proceeds of the tax to go into the Public Treasury. This would insure a return to the public of the full value of the privilege conferred; and it would compel monopoly to render service in order to make profit. Kiting of bonds and other securities would be impossible.

Mr. STEVENS of Minnesota. Mr. Chairman, I can yield now to the gentleman from Illinois [Mr. THOMSON], but he has an amendment in respect to a subject different from that under discussion, and I would prefer that the gentleman from Illinois should have the last five minutes to discuss his new amendment.

Mr. ADAMSON. Mr. Chairman, I think I am entitled to close the debate or delegate some one else to do it.

The CHAIRMAN. The gentleman in charge of the bill is usually entitled to close debate.

Mr. STEVENS of Minnesota. The gentleman from Illinois informs me that he is willing to speak now, and I yield five minutes to the gentleman from Illinois.

Mr. THOMSON of Illinois. Mr. Chairman, I do not ask for this time for the purpose of discussing the Sherley amendment. It seems to me that the many reasons why that amendment should be adopted have been very ably presented, and I shall vote for the amendment. I have no doubt that it will be adopted. I ask for this time, because I have another amendment to that same section, and the time for the consideration of that section and all amendments thereto has been limited. I ask to have my amendment read for the information of the committee.

The CHAIRMAN. The Clerk will report the amendment for the information of the committee.

The Clerk read as follows:

Amend, page 3, line 11, by striking out the word "grant" in said line and inserting in lieu thereof the word "furnish," and also by inserting after the word "free" in said line the words "of cost."

Mr. THOMSON of Illinois. Mr. Chairman, if I may speak to this amendment for a moment, this does not change the meaning of the language in the bill. I would call the attention of the committee to the fact that on page 3, beginning with line 7, the bill says:

Whenever Congress shall deem such facilities necessary, the persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches, and shall grant to the United States free water power.

That language places the United States in the attitude of being a grantee of the water-power company. I think that such language is unfortunate, when, as a matter of fact, the United States is the grantor, and that instead of using the word "grant" it would be better to use the word "furnish," and then the phraseology in line 9 of the bill would provide:

That persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches, and shall furnish to the United States, free of cost, water power or power generated from water, etc.

The amendment is offered merely for the purpose of changing that phraseology. As I say, it does not change the meaning, and I think the committee may be willing to accept the amendment.

Mr. ADAMSON. Mr. Chairman, does the gentleman from Kentucky wish to proceed now?

Mr. SHERLEY. Is the gentleman going to conclude?

Mr. ADAMSON. Is that the last speech of the gentleman from Minnesota?

Mr. STEVENS of Minnesota. Yes.

Mr. ADAMSON. I am going to yield to the gentleman from Alabama [Mr. UNDERWOOD] for the conclusion of the debate.

Mr. SHERLEY. I suggest to the gentleman that while the gentleman has a right to conclude the debate he has not the right to yield to somebody else.

Mr. ADAMSON. I submit to the Chair if I can not yield to another gentleman to conclude debate?

The CHAIRMAN. Of course, the gentleman from Georgia is in control of the bill, and naturally the Chair recognizes him, and he controls the time. The gentleman from Georgia is fully familiar with the practice that an advocate of an amendment has the right to conclude the debate.

Mr. UNDERWOOD. Mr. Chairman, I think we had better have the regular order.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky.

The question was taken, and the Chairman announced that the ayes seemed to have it.

Mr. ADAMSON. Mr. Chairman, I ask for a division. Was not a substitute offered for that amendment?

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Did not the gentleman from Minnesota offer a substitute for it?

The CHAIRMAN. Well, the Chair understood the Sherley amendment was the only one pending, and that the others were offered for information.

Mr. MANN. No; the gentleman from Minnesota in his own time offered a substitute, and it ought to be voted upon first.

The CHAIRMAN. Of course, if the substitute was offered it would be voted upon first, and the question would come on the substitute offered by the gentleman from Minnesota. The question now is on the substitute offered by the gentleman from Minnesota.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. MURDOCK. Division!

The committee divided; and there were—ayes 3, noes 29.

Mr. CLARK of Florida. Mr. Chairman, I make the point of no quorum.

The CHAIRMAN. The gentleman from Florida makes the point of no quorum. The Chair will count.

Mr. ADAMSON. Let the gentleman from Alabama [Mr. ABERCROMBIE] offer a substitute.

Mr. CLARK of Florida. I withdraw the point.

Mr. ABERCROMBIE. Mr. Chairman, I desire to offer the following substitute.

The CHAIRMAN. The Clerk will report the substitute. The gentleman from Massachusetts offered an amendment as a substitute——

Mr. TREADWAY. Mr. Chairman, I desire to offer the amendment at the proper time.

The CHAIRMAN. It occurs to the Chair it ought to be voted upon. These amendments will be taken and voted upon in the order in which they were offered.

Mr. MANN. If this is an amendment to the amendment, ought it not to be considered before the substitute is voted on?

The CHAIRMAN. The Chair understands it is in the nature of a substitute.

Mr. WINGO. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WINGO. Is there not an amendment pending, the Sherley amendment, and then a substitute offered by the gentleman from Minnesota, and then a substitute read for information offered by the gentleman from Massachusetts?

The CHAIRMAN. Will the gentleman from Arkansas state who offered the amendment?

Mr. WINGO. I do not recall, but I remember the reading.

The CHAIRMAN. The Chair is not informed as to any amendment to the Sherley amendment except the one in the nature of a substitute offered by the gentleman from Massachusetts.

Mr. TREADWAY. I ask to have the amendment again reported.

Mr. BARKLEY. The gentleman from Minnesota offered an amendment in the nature of a substitute.

The CHAIRMAN. Without objection, the amendment in the nature of a substitute, offered by the gentleman from Massachusetts, will be again reported.

Mr. MANN. It has not been yet reported.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out the amendment offered by the gentleman from Kentucky [Mr. SHERLEY] and insert the following:

"The Secretary of War may provide as a part of the conditions and stipulations of such approval for the payment to the United States of reasonable annual charges for the benefits which accrue to the grantee through authority given under this act. At the end of 25 years the Secretary of War may readjust the annual charges as may then be just and reasonable: *Provided, however,* That no charge made under this act shall be such as to deprive the grantee of a reasonable return upon the actual investment of the grantee in any project constructed and operating under the provisions of this act, including cost of maintenance, renewal, and depreciation charges."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. TREADWAY].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The gentleman from Alabama [Mr. ABERCROMBIE] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 3, add at the end of line 16 the following:

"The Secretary of War and the governor of the State in which the proposed development is to be made may, as a condition of such approval, provide for the payment to the United States of reasonable annual charges for the benefits that accrue to the grantee through the authority given under this act; and at the end of 20 years, and every 10 years thereafter, the Secretary of War and the governor of the State in which the plant is located may readjust the annual charges as may then be just and reasonable; and, after deducting from such charges a sum sufficient to meet the actual cost of maintenance, the Treasurer of the United States shall pay the remainder to the State in which the plant is located: *Provided,* That when the dam is located between two

States the said remainder of charges shall be divided equally between those States."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama [Mr. ABERCROMBIE].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Chair is of the impression that the gentleman from Illinois [Mr. FOWLER] offered an amendment, which was not reported.

Mr. MURDOCK. The gentleman sent it to the desk.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Illinois [Mr. FOWLER] will be reported.

The Clerk read as follows:

Page 3, line 16, after the word States, insert the following:
"*Provided*, That such grantee shall pay into the Treasury not more than 10 per cent of the gross income from all business operated in whole or in part by the power generated by such dam; that the authority to regulate and control the rate to be charged shall be under the jurisdiction of the Interstate Commerce Commission."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will now report the amendment offered by the gentleman from Pennsylvania [Mr. BAILEY].

The Clerk read as follows:

Page 3, line 16, after the words "United States" insert:
"*Provided*, That the value of all privileges which may be acquired under the terms of this act shall be subject to assessment triennially, and a tax equal to 5 per cent on such value shall be collected annually, the proceeds to be paid into the miscellaneous receipts of the Government."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. MURDOCK. Division, Mr. Chairman.

The committee divided; and there were—ayes 12, noes 31.

So the amendment was rejected.

The CHAIRMAN. The question recurs on the amendment offered by the gentleman from Kentucky [Mr. SHERLEY].

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. ADAMSON. Mr. Chairman, I demand a division.

The committee divided; and there were—ayes 57, noes 24.

Mr. CLARK of Florida. Mr. Chairman, I make the point that there is no quorum.

The CHAIRMAN. The gentleman from Florida makes the point of no quorum. The Chair will count.

Mr. ADAMSON. Mr. Chairman, I dislike to call Members here at this hour.

Mr. MANN. We are willing to stay here.

The CHAIRMAN. The Chair will count. [After counting.] Seventy-one gentlemen are present, not a quorum.

Mr. ADAMSON. Mr. Chairman, I move that the committee do now rise.

Mr. SHERLEY. That motion is not in order. The Clerk should call the roll.

Mr. ADAMSON. I am in order, when the point of no quorum is established, if I move to rise.

The CHAIRMAN. The question is on the motion of the gentleman from Georgia [Mr. ADAMSON] that the committee do now rise.

The question was taken, and the motion was rejected.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Cantrill	Fields	Hinds
Aiken	Carlin	Fitzgerald	Hinebaugh
Ainey	Carr	Flood, Va.	Hobson
Ansberry	Carter	Fordney	Houston
Anthony	Cary	Francis	Hoxworth
Ashbrook	Casey	Frear	Hughes, Ga.
Aswell	Chandler, N. Y.	Gallagher	Hughes, W. Va.
Austin	Clancy	Gard	Hulings
Avis	Claypool	Gardner	Igoe
Barchfeld	Cline	George	Jacoway
Bartholdt	Connolly, Iowa.	Gerry	Johnson, S. C.
Bartlett	Copley	Gill	Jones
Beakes	Cramton	Gillett	Kahn
Beall, Tex.	Crisp	Glass	Keister
Bell, Ga.	Crosser	Godwin, N. C.	Kettner
Borchers	Dale	Goeke	Key, Ohio.
Borland	Davenport	Goldfogle	Kinkead, N. J.
Broussard	Deitrick	Graham, Pa.	Kitchin
Brown, N. Y.	Dershem	Green, Iowa.	Knowland, J. R.
Browne, Wis.	Dies	Greene, Mass.	Konop
Browning	Difenderfer	Griest	Korbly
Bruckner	Dooling	Gudger	Lafferty
Bulkley	Dunn	Guernsey	Langham
Burke, Pa.	Dupré	Hamill	Langley
Butler	Eagle	Hamilton, Mich.	Lazaro
Byrnes, S. C.	Edwards	Hamilton, N. Y.	L'Engle
Byrns, Tenn.	Elder	Hardwick	Lenroot
Calder	Estopinal	Hayes	Lever
Callaway	Evans	Helvering	Levy
Campbell	Fairchild	Henry	Lewis, Pa.
Cantor	Faison	Hill	Lindquist
Linthicum	Nelson	Rothermel	Talcott, N. Y.
Lobeck	Oglesby	Rucker	Taylor, Ala.
Loft	O'Leary	Rupley	Taylor, N. Y.
Lonergan	O'Shaunessy	Sabath	Temple
McAndrews	Padgett	Scully	Thacher
McClellan	Paige, Mass.	Sells	Thomas
McGillicuddy	Palmer	Sherwood	Thompson, Okla.
McGuire, Okla.	Parker	Shreve	Underhill
McKellar	Patten, N. Y.	Slayden	Vare
McKenzie	Patton, Pa.	Slemp	Vaughan
McLaughlin	Peters, Me.	Smith, Md.	Vollmer
Maguire, Nebr.	Peters, Mass.	Smith, J. M. C.	Wallin
Mahan	Peterson	Smith, Saml. W.	Walsh
Maher	Phelan	Smith, N. Y.	Walters
Martin	Plumley	Smith, Tex.	Weaver
Merritt	Porter	Stafford	Webb
Miller	Post	Stanley	Whitacre
Moore	Pou	Steenerson	White
Morgan, La.	Powers	Stephens, Miss.	Williams
Morin	Ragsdale	Stephens, Nebr.	Willis
Moss, W. Va.	Rauch	Stout	Wilson, N. Y.
Mott	Rayburn	Stringer	Winslow
Murray, Mass.	Reed	Sumners	Woods
Murray, Okla.	Reilly, Conn.	Switzer	Young, Tex.
Neeley, Kans.	Riordan	Taggart	
Neely, W. Va.	Roberts, Mass.	Talbott, Md.	

The committee rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill (H. R. 16053) to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910, and finding itself without a quorum, had caused the roll to be called, whereupon 207 Members had answered to their names, and he presented a list of the absentees.

The SPEAKER. A quorum is present, and the committee will resume its sitting.

The committee resumed its sitting.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Kentucky [Mr. SHERLEY].

The question was taken, and the Chairman announced that the "ayes" seemed to have it.

Mr. ADAMSON. A division, Mr. Chairman.

The committee divided; and there were—ayes 143, noes 45.

So the amendment was agreed to.

Mr. ADAMSON. Mr. Chairman, I move that the committee do now rise.

Mr. THOMSON of Illinois. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

Mr. MANN. The gentleman from Georgia moved that the committee rise.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 3, line 11, by striking out the word "grant" in said line and inserting in lieu thereof the word "furnish," and also by inserting, after the word "free," in said line, the words "of cost."

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was rejected.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 3. That as a part of said approval the Secretary of War and the Chief of Engineers shall require that the plans, specifications, and location for any dam shall be such as shall be best adapted to a comprehensive plan for the improvement of the waterway in question for the uses of navigation and for the full development of its water power and for other beneficial public purposes, and best adapted to conserve and utilize, in the interests of navigation and water-power development, the water resources of the region.

Mr. ADAMSON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R.16053 and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12579) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915.

EXTENSION OF REMARKS.

Mr. CLARK of Florida. Mr. Speaker, I ask unanimous consent to extend remarks in the RECORD on the subject of longevity pay.

The SPEAKER. The gentleman from Florida asks unanimous consent to extend his remarks in the RECORD on the subject of longevity pay. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of the effect of the tariff.

The SPEAKER. The gentleman from Wyoming ask unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. ADAMSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 5 minutes p. m.) the House adjourned until to-morrow, Wednesday, July 29, 1914, at 12 o'clock noon.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, a letter from the Acting Postmaster General, transmitting a schedule of papers and documents which are not needed in the transaction of public business and which, in the opinion of the department, have no permanent value or historical interest (H. Doc. No. 1133) was taken from the Speaker's table, referred to the Joint Select Committee on Disposition of Useless Papers, and ordered to be printed:

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (H. R. 16029) to authorize the Secretary of the Interior to set aside certain public lands to be used as national sanitariums by fraternal organizations, and for other purposes, reported the same with amendment, accompanied by a report (No. 1030), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. JOHNSON of Utah, from the Committee on the Public Lands, to which was referred the bill (S. 1807) for the relief of Daniel M. Frost, reported the same without amendment, accompanied by a report (No. 1027), which said bill and report were referred to the Private Calendar.

Mr. GARD, from the Committee on Military Affairs, to which was referred the bill (S. 1124) for the relief of G. L. Taneyhill, reported the same without amendment, accompanied by a report (No. 1028), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (S. 2472) for the relief of Herman von Werthern, reported the same without amendment, accompanied by a report (No. 1029), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. THACHER: A bill (H. R. 18119) authorizing the Secretary of the Treasury to disregard section 33 of the public-buildings act of March 4, 1913, as to site at Provincetown, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. KAHN: Joint resolution (H. J. Res. 307) authorizing the President to extend invitations to other nations to appoint delegates or representatives to the International Engineering Congress, to be held at San Francisco, Cal., September 20 to 25, inclusive, 1915; to the Committee on Foreign Affairs.

By Mr. POST: Joint resolution (H. J. Res. 308) providing for a commission to complete the acquisition of lands for the extension of the Capitol Grounds, and providing for the payment thereof; to the Committee on Public Buildings and Grounds.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 18120) granting an increase of pension to Clay A. Armstrong; to the Committee on Pensions.

By Mr. BARTON: A bill (H. R. 18121) to correct the military record of Stephen L. Noland; to the Committee on Invalid Pensions.

By Mr. BEAKES: A bill (H. R. 18122) granting an increase of pension to Henry H. Howes; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 18123) granting a pension to Thomas F. Cole; to the Committee on Pensions.

Also, a bill (H. R. 18124) granting a pension to Delia A. Nikirk; to the Committee on Invalid Pensions.

By Mr. DOUGHTON: A bill (H. R. 18125) granting a pension to James W. Walls; to the Committee on Pensions.

By Mr. GILMORE: A bill (H. R. 18126) granting a pension to Helen M. Cummings; to the Committee on Invalid Pensions.

By Mr. GREGG: A bill (H. R. 18127) granting an increase of pension to Nancy A. McQueen; to the Committee on Pensions.

By Mr. MONDELL: A bill (H. R. 18128) for the relief of Oliver Bates; to the Committee on Military Affairs.

By Mr. PATTON of Pennsylvania: A bill (H. R. 18129) granting a pension to Mary E. McCallum; to the Committee on Invalid Pensions.

By Mr. REILLY of Connecticut: A bill (H. R. 18130) providing for reimbursement of Parker Bros., of Meriden, Conn., for loss of gun barrels in customs; to the Committee on Claims.

By Mr. ROTHERMEL: A bill (H. R. 18131) for the relief of S. A. Phillippi; to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Petitions of sundry citizens of Glendale, Ohio, favoring legislation taxing mail-order houses; to the Committee on Ways and Means.

By Mr. ASWELL: Petition of the Sunday schools of Colfax, La., favoring national prohibition; to the Committee on Rules.

By Mr. CARR: Petition of 60 people of F. O. M. Bible Class of M. P. S. S., of Connellsville, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. CARY: Petition by the Milwaukee Web Pressmen's Union, of Milwaukee, Wis., unanimously adopted, vigorously protesting against the passage of House joint resolution 168, known as the Hobson resolution, or any other prohibition measure; to the Committee on Rules.

By Mr. DICKINSON: Papers to accompany bill for the relief of the heirs of J. W. George, deceased, late of Cass County, Mo.; to the Committee on War Claims.

By Mr. DONOVAN: Petitions of sundry citizens of Brookfield Junction and the Young People's Christian Union of the Universalist Church of Danbury, Conn., favoring national prohibition; to the Committee on Rules.

By Mr. ESCH: Petition of Epworthians of the La Crosse, Wis., district, favoring national prohibition; to the Committee on Rules.

By Mr. FLOYD of Arkansas: Papers to accompany H. R. 18094, for the relief of Calvin D. Weatherman; to the Committee on Invalid Pensions.

By Mr. GARNER: Petitions of voters of Kingsville, Tex., favoring national prohibition; to the Committee on Rules.

By Mr. GILL: Petition of International Association of Machinists, Lodge No. 41, St. Louis, Mo., favoring passage of Senate bill 5303, for the complete inspection of locomotives; to the Committee on Interstate and Foreign Commerce.

By Mr. HOXWORTH: Petitions of merchants of Oneida, Altona, London Mills, Alpha, Rio, Galva, Woodhull, Nekoma, Maquon, Yates City, Farmington, Cuba, Bishop Hill, Orion, Cambridge, Watapa, Fairview, Avon, and St. Augustine, Ill., favoring H. R. 5308, to tax mail-order houses; to the Committee on Ways and Means.

By Mr. KALANIANAOLE: Petition of Maui (Hawaii) Chamber of Commerce, protesting against establishment of a national leprosarium within its Territory; to the Committee on the Territories.

By Mr. LEE of Pennsylvania: Petition of S. M. F. Glover, secretary Central Labor Union, protesting against national prohibition; to the Committee on Rules.

By Mr. LONERGAN: Petition of C. T. Cook et al., of Seward Alaska, in favor of H. R. 15430, to prohibit sale of intoxicating liquors in Alaska; to the Committee on the Territories.

By Mr. J. I. NOLAN: Petition of the Woman's Christian Temperance Union of northern and central California, urging the passage of the Hobson prohibition resolution; to the Committee on Rules.

Also, resolutions of a citizens' mass meeting held in New York City July 17, 1914, urging Congress to institute such measures as may be necessary to take possession of the coal mines of the State of Colorado; to the Committee on Ways and Means.

By Mr. PATTON of Pennsylvania: Petitions of citizens of Luzerne County, Pa.; 109 citizens of Glen Richey; and 263 citizens of Houtzdale, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. REILLY of Connecticut: Petition of German-American Alliance of Connecticut, protesting against national prohibition; to the Committee on Rules.

By Mr. TALBOTT of Maryland (by request): Petitions of sundry citizens of Maryland, favoring national prohibition; to the Committee on Rules.

Also (by request), petitions of sundry citizens of Maryland, protesting against national prohibition; to the Committee on Rules.

By Mr. WINSLOW: Petition of 40 citizens of Mendon, Mass., favoring national prohibition; to the Committee on Rules.

SENATE.

WEDNESDAY, *July 29, 1914.*

(Legislative day of Monday, July 27, 1914.)

The Senate reassembled at 11 o'clock a. m. on the expiration of the recess.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12579) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1784) restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries.

The message further announced that the House insists upon its amendments to the bill (S. 4969) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. KEY of Ohio, Mr. KEATING, and Mr. SELLS managers at the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 5278) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. KEY of Ohio, Mr. KEATING, and Mr. SELLS managers at the conference on the part of the House.

The message further announced that the House insists upon its amendments to the bill (S. 5501) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. KEY of Ohio, Mr. KEATING, and Mr. SELLS managers at the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 5899) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. KEY of Ohio, Mr. KEATING, and Mr. SELLS managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

H. R. 8688. An act for the relief of Lucien P. Rogers;

H. R. 15110. An act authorizing the Secretary of the Treasury to accept conveyance of title to certain land between the post-office site and Madison Street, in the city of Thomasville, Ga.; and

H. R. 17041. An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hollis	Norris	Sutherland
Brady	Hughes	Overman	Thomas
Brandegee	Jones	Page	Thompson
Bryan	Kenyon	Perkins	Thornton
Catron	Kern	Pittman	Tillman
Chamberlain	Lane	Ransdell	Vardaman
Chilton	Lea, Tenn.	Reed	Walsh
Culberson	Lee, Md.	Shafroth	West
Cummins	Martin, Va.	Sheppard	White
Gallinger	Martine, N. J.	Simmons	
Gronna	Myers	Smith, Ga.	
Hitchcock	Newlands	Smoot	

Mr. KERN. I desire to announce the unavoidable absence of my colleague [Mr. SHIVELY] He is paired. This announcement may stand for the day.

Mr. PAGE. I desire to announce the unavoidable absence of my colleague [Mr. DILLINGHAM] and to state that he is paired with the senior Senator from Maryland [Mr. SMITH].

Mr. CHILTON. I wish to announce the necessary absence of the Senator from New Mexico [Mr. FALL]. I will let this announcement stand for the day.

Mr. JONES. I desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent. He is paired with the Senator from Arkansas [Mr. ROBINSON]. I make this announcement for the day.

I wish also to announce that the senior Senator from Wisconsin [Mr. LA FOLLETTE] is absent on account of illness.

The VICE PRESIDENT. Forty-five Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of the absent Senators.

Mr. NELSON and Mr. CRAWFORD entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-seven Senators have answered to the roll call. There is not a quorum present. The Sergeant at Arms will carry out the instruction of the Senate and request the attendance of absent Senators.

Mr. SMITH of Georgia. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The VICE PRESIDENT. There are two standing orders of that kind that have not yet been revoked.

Mr. SWANSON, Mr. CLARKE of Arkansas, Mr. POMERENE, Mr. SAULSBURY, Mr. STONE, Mr. O'GORMAN, Mr. WILLIAMS, Mr. BORAH, and Mr. BURTON entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty-six Senators have answered to the roll call. There is a quorum present.

Mr. KERN. I move that the order directing the Sergeant at Arms to request the attendance of absent Senators be vacated.

The motion was agreed to.

Mr. CULBERSON. Mr. President, I propose an amendment to the pending bill and ask that it be read and printed and lie on the table.

The VICE PRESIDENT. The Secretary will read the proposed amendment.

The SECRETARY. On page 20 strike out lines 20 and 21 in the following words:

SEC. 5. That unfair competition in commerce is hereby declared unlawful—

And insert in lieu thereof:

SEC. 5. That unfair competition in commerce, which is hereby declared to be unlawful, embraces every act which tends to create a contract, combination in the form of trust or otherwise, or conspiracy in restraint of commerce, and also every act which tends to the monopolization, or attempted monopolization, or to the formation of a combination or conspiracy for the monopolization of any part of commerce,

The VICE PRESIDENT. The proposed amendment will be printed and lie on the table.

Mr. BRANDEGEE. Mr. President, I ask consent to have House bill 16586, being the railway securities bill, printed in the RECORD.

The VICE PRESIDENT. Is there any objection? The Chair hears none.

Mr. BRANDEGEE. I should like to state, merely for the information of the printer, that the parts which are crossed out are not to be printed, but the bill as it would read if the amendments recommended by the Senate committee were agreed to.

The bill follows:

An act (H. R. 16586) to amend section 20 of an act to regulate commerce, to prevent overissues of securities by carriers, and for other purposes.

Be it enacted, etc., That section 20 of an act entitled "An act to regulate commerce," approved February 4, 1887, as amended, be amended so as hereafter to read as follows:

"SEC. 20. That the commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, and from the owners of all railroads engaged in interstate commerce as defined in this act; to prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the commission may need information. Such annual report shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees, and the salaries paid each class; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss, and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts affecting the same, as the commission may require; and the commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

"Said detailed reports shall contain all the required statistics for the period of 12 months ending on the 30th day of June in each year, or on the 31st day of December in each year if the commission by order substitute that period for the year ending June 30, and shall be made out under oath and filed with the commission at its office in Washington within three months after the close of the year for which the report is made, unless additional time be granted in any case by the commission; and if any carrier, person, or corporation subject to the provisions of this act shall fail to make and file said annual reports within the time above specified, or within the time extended by the commission for making and filing the same, or shall fail to make specific answer to any question authorized by the provisions of this section within the time fixed by the commission, such party shall forfeit to the United States the sum of $100 for each and every day it shall continue to be in default with respect thereto. The commission shall also have authority by general or special orders to require said carriers, or any of them, to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special, reports concerning any matters about which the commission is authorized or required by this law, or by any other law, to inquire or to keep itself informed or which it is required to enforce, including the matter of making public, by appropriate means, any information regarding the issuance by said carriers of stocks, bonds, or other evidences of interest or indebtedness. In such periodical or special reports the commission may require of the carrier, in addition to its income account, a balanced statement of its receipts and expenditures on capital account, and of the surplus of the income account accruing during the period covered by such statement, as well as of all other financial transactions that have taken place during such period, with whom had, whether in cash, in securities, or in other valuable consideration. The commission may also require the carrier to compile for the information of its stockholders such facts in regard to the financial transactions of the carrier for its fiscal year and in such form as the commission may direct.

"Such periodical or special reports shall be under oath whenever the commission so requires; and if any such carrier shall fail to make and file any such periodical or special report within the time fixed by the commission, it shall be subject to the forfeitures last above provided.

"Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of this act.

"The oath required by this section may be taken before any person authorized to administer an oath by the laws of the place in which the same is taken.

"The commission shall have the power to investigate all financial transactions of said carriers and to examine into the actual cost and value of property acquired by, or services rendered to, said carriers. The directors, stockholders, officers, agents, attorneys, employees, receivers, or operating trustees of any carrier may be required by order of the commission to disclose every interest, direct or indirect, which they have in any transaction under investigation. In addition to the certificates and reports herein mentioned, the commission may require the carrier to furnish any further statements of fact or evidence that it may deem necessary or appropriate relating to business transactions of, for, or with said carrier.

"The commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this act, including the accounts, records, and memoranda of the movement of traffic, as well as the receipts and expenditures of moneys, and it shall be unlawful for said carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the commission.

"In case of failure or refusal on the part of any said carrier to keep such accounts, records, and memoranda in the manner prescribed by the commission, said carrier shall forfeit to the United States the sum of $500 for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act.

"The commission shall at all times have access to all accounts, records, memoranda, correspondence, documents, papers, and other writings of the carrier, regardless of the dates thereof, relating to transactions of, for, or with said carrier kept or preserved by or for, or in the care, custody, or control of said carrier, or of any person for said carrier: *Provided*, That all communications between attorney and client, giving or seeking professional advice, shall be deemed privileged.

"The commission may employ special agents or examiners, who shall have authority under the order of the commission to inspect, examine, and take copies of any and all accounts, records, memoranda, correspondence, documents, papers, and other writings to which the commission has the right of access as above provided. Failure or refusal to afford such access shall constitute an offense for which the offender shall forfeit to the United States the sum of $500 for each such offense, and for each and every day of the continuance of the offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act.

"Any person or persons, natural or artificial, who shall willfully make, or cause to be made, any false entry in any accounts, records, or memoranda kept by a carrier subject to this act, or who shall willfully neglect or fail to make, or cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep or cause to be kept any other accounts, records, or memoranda of said business than those prescribed or approved by the commission, or who shall willfully file, or cause to be filed, any application, certificate, or other paper required under this act containing false or erroneous statements of fact, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify any accounts, records, memoranda, correspondence, documents, papers, or other writings to which the commission has the right of access as above provided, shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000 or, if a natural person, to imprisonment for a term of not less than one year nor more than three years, or to both such fine and imprisonment, in the discretion of the court. In construing and enforcing the provisions of this section, the act of any director, stockholder, officer, agent, attorney, employee, receiver, operating trustee, or other person acting for or employed by any carrier, corporation, joint-stock company, or other corporate combination, acting within the scope of his employment, shall be deemed the act of the carrier, corporation, joint-stock company, or other corporate combination, as well as that of the person so acting. The commission may, in its discretion, issue orders designating the operating, accounting, or financial papers, records, books, blanks, tickets, stubs, documents, or other papers or writings to which the commission has the right of access as aforesaid, which may, after a reasonable time, be destroyed, and prescribing the length of time that all or any of the same shall be preserved.

"Any examiner who divulges any fact or information which may come to his knowledge during the course of such examination, except in so far as he may be directed by the commission, or by a court or judge thereof, shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than $5,000 or to imprisonment for a term of not exceeding two years, or to both such fine and imprisonment, in the discretion of the court.

"The district courts of the United States shall have jurisdiction, upon the application of the Attorney General of the United States at the request of the commission, alleging a failure to comply with, or a violation of, any of the provisions of said act to regulate commerce, or of any act supplementary thereto or amendatory thereof, by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of said acts, or any of them.

"And to carry out and give effect to the provisions of the act to regulate commerce or any act supplementary thereto or amendatory thereof the commission is hereby authorized to employ special agents or examiners, who shall have power to administer oaths, examine witnesses, and receive evidence.

"Any common carrier, railroad, or transportation company receiving property for transportation from a point in one State or Territory or the District of Columbia to a point in another State, Territory, District of Columbia, or foreign country shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass, and no contract, receipt, rule, regulation, or other limitation of any character whatsoever, shall exempt such common carrier, railroad, or transportation company from the liability hereby imposed; and any such common carrier, railroad, or transportation company so receiving property for transportation from a point in one State, Territory, or the District of Columbia to a point in another State or Territory, or from a point in a State or Territory to a point in the District of Columbia, or to a foreign country, or for transportation wholly within a Territory shall be liable to the lawful holder of said receipt or bill of lading or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to such property caused by it or by any common carrier, railroad, or transportation company to which such property may be delivered or over whose line or lines such property may pass, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, regulation, or in any tariff filed with the Interstate Commerce Commission; and any such limitation, without respect to the manner or form in which it is sought to be made, is hereby declared to be unlawful and void: *Provided, however*, That if the goods are hidden from view by wrapping, boxing, or other means, and the carrier is not notified as to the character of the goods, the carrier may require the shipper to specifically state in writing the value of the goods, and the carrier shall not be liable beyond the amount so specifically stated, in which case the Interstate Commerce Commission may establish and maintain rates for transportation, dependent upon the value of the property shipped as specifically stated in writing by the shipper. Such rates shall be published as are other rate schedules: *Provided further*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law: *Provided further*, That it shall be unlawful for any common carrier to provide by rule, contract, regulation, or otherwise a shorter period for giving notice of claims than 90 days, and for the filing of claims for a shorter period than four months, and for the institution of suits than two years: *Provided, however*, That if the loss, damage, or injury com-

plained of was due to delay or damage while being loaded or unloaded, or damage in transit by carelessness or negligence, then no notice of claim nor filing of claim shall be required as a condition precedent to recovery.

"The common carrier, railroad, or transportation company issuing such receipt or bill of lading shall be entitled to recover from the common carrier, railroad, or transportation company on whose line the loss, damage, or injury shall have been sustained the amount of such loss, damage, or injury as it may be required to pay to the owners of such property, as may be evidenced by any receipt, judgment, or transcript thereof."

SEC. 2. That the act to regulate commerce as amended be further amended by inserting therein two new sections, to be designated sections 20a and 20b, respectively, to be placed after section 20 and before section 21, to read as follows:

"SEC. 20a. That from and after the 1st day of July, 1915, it shall be unlawful for any common carrier railroad corporation subject to the act to regulate commerce, as amended, to issue any stock, bond, or other evidence of interest in or indebtedness of the carrier (hereinafter collectively termed "securities"), or to assume any obligation for the securities of any other person, natural or artificial, even though permitted by the authority creating the carrier corporation—

"(a) Unless it be for some purpose within its corporate powers, and for the construction, extension, enlargement, betterment, or equipment of its railroad and facilities used or to be used in its business as a common carrier or some common carrier line comprised or to be comprised in the transportation system of which it forms a part, or the payment or refunding of valid indebtedness, or for the reimbursement of its treasury or the treasury of any company forming a part of its transportation system of moneys temporarily advanced from its earnings to accomplish the purposes herein specified, or for the lawful acquisition of the property of or interest in another common carrier corporation, or for the protection or improvement of property heretofore acquired not connected with its business as a common carrier if such last-named expenditure will not injuriously affect the public interest nor impair the ability of the corporation to perform its public service as a common carrier; and

"(b) Unless and until, and then only to the extent that, upon application by the carrier and after investigation by the commission of the purposes and uses of the proposed issue and the proceeds thereof, or of the proposed obligation, the commission shall find the same to be in compliance with the aforesaid provisions and reasonably necessary or appropriate for the purposes stated in said application, and if the commission so finds it shall issue and deliver to the carrier a certificate setting forth its findings, and thereupon the carrier may make such issue or issues of securities or assume such obligation and secure the same by mortgage, pledge, or otherwise, as it may deem appropriate and as the commission may approve.

"None of said securities or obligations hereby authorized, or the proceeds therefrom, shall be used for any purpose other than as set forth in the application of the carrier, without the consent of the commission thereto first obtained.

"The commission shall have power either to fix a minimum price below which said securities shall not be sold or disposed of or said obligations entered into by the carrier, or to require said securities to be offered for sale on competitive bidding, and to make such other rules and regulations relating to the sale or disposition of said securities, or entering into said obligation, and not inconsistent with this act, as in its judgment may be for the best interests of the carrier and the public; and in issuing the certificate aforesaid it may include its order in that behalf.

"Each such application shall be made in such form as the commission may from time to time determine and prescribe, and shall set forth such matters as the commission may require, including:

"First. (a) The total amount of proposed issue, and how authorized by or on behalf of the carrier.

"(b) The number, amount, and kind of all of its securities outstanding at the date of such application, the amount thereof then undisposed of, and whether such amount is held in the treasury of the corporation unincumbered or pledged, and if pledged, the terms and conditions of such pledge.

"(c) The number, amount, and kind of securities then to be issued, and whether to be sold, pledged, or held in the treasury of the corporation unincumbered, or otherwise disposed of or applied, as the case may be, specifying number, amount, and kind in each case; if any such securities are to be sold, the terms and conditions of sale; if any part of the consideration to be received therefor is other than money, an accurate and detailed description of such consideration; if any such securities are to be pledged, the terms and conditions of pledge; or if other disposition or application is to be made, a full and detailed explanation thereof.

"(d) The number, amount, and kind of its securities so authorized, but not then to be issued.

"(e) If the issue is of shares of stock, the number thereof, the face or par value thereof, if any, specifying whether common or preferred, and the number and kinds of then outstanding shares previously issued.

"Second. The preferences or privileges granted to the holders of any such securities; the dates of maturity, rates of interest, or fixed dividend, whether cumulative or not, and any conversion rights granted to the holders thereof, and the price, if any, at which any such securities may be retired or redeemed.

"Third. The purposes to which the proceeds of the issue are to be devoted, in such detail as the commission may require.

"Fourth. In case of proposed assumption of any obligation or liability in respect of the securities of any other person, natural or artificial, like showing shall be made as to the financial condition of said other person, as also of the objects sought and benefits to be realized by the carrier from such assumption, to be accompanied by copies of any agreements or contracts therefor.

"Every such application, as also every certificate of notification hereinafter provided for, shall be made out under oath, signed, and filed on behalf of the carrier by its president, a vice president, auditor, comptroller, or other executive officer having knowledge of the matters therein set forth and duly designated for that purpose by the carrier.

"Whenever any securities set forth and described in any such application or certificate of notification as pledged or held unincumbered in the treasury of the carrier shall, subsequent to the filing of such application or certificate, be sold, pledged, repledged, or otherwise disposed of by the carrier, such carrier shall, within 30 days after such sale, pledge, repledge, or other disposition, file a certificate of notification to that effect, setting forth therein all such facts as are required by subdivision (c) of the foregoing first paragraph, or as may be required by the commission.

"Upon such application, the commission shall cause notice thereof to be given to the railroad commission or public service or utilities commission, or other appropriate authority, of each State in which the applicant carrier operates, which State authorities shall have the right to appear before the commission and be heard upon such application. The commission may hold such hearings as it deems advisable.

"The commission is hereby authorized to make and put in force all proper rules and regulations pertaining to such application and investigation, and shall likewise have power from time to time to authorize a change of the purpose for which the proceeds of such securities or obligations, or any part thereof, may be used: *Provided*, That such different purpose be one which might have properly been included in an original application.

"To enable the commission to make such investigation and findings, it is authorized to employ such experts and other assistants as may be necessary, and to appoint examiners, who shall have authority to administer oaths, examine witnesses, and take testimony.

"Nothing herein shall be construed to imply any guaranty or obligation as to such issues on the part of the United States.

"The foregoing provisions of this section shall not apply to notes to be issued by any said carrier maturing not more than two years after the date thereof and aggregating not more than 5 per cent at any time of the securities of said carrier then outstanding. Within 30 days after the issue of such notes the carrier shall file with the commission a certificate of notification thereof, in such form as may from time to time be determined and prescribed by the commission.

"The commission shall require periodical or special reports from all carriers hereafter issuing any securities, including such notes, or entering into any obligations as aforesaid, which shall show, in such detail as the commission may require, the disposition thereof and the application of the proceeds therefrom.

"It shall be unlawful for any common carrier railroad corporation subject to the act to regulate commerce as amended, even though permitted by the authority creating such company, to acquire by lease, purchase, or otherwise any interest in any railroad, boat line, or electric line, or any stock, or any of the securities of any corporation or association owning, controlling, or operating the same, unless the commission, upon application and hearing, shall find that the acquisition will not impair the ability of either of said carriers to perform its service to the public as a common carrier: *Provided*, That such finding shall not affect the legality of such acquisition under the act to protect trade and commerce against unlawful restraints and monopolies, approved July 2, 1890, and the acts amendatory thereof and supplementary thereto.

"Any violation or proposed violation of this section may be enjoined in a suit in equity brought by the commission in any district court of the United States of competent jurisdiction, and any person who knowingly aids, abets, or procures any such violation shall be guilty of a misdemeanor and upon conviction be punished by a fine of not more than $10,000 or by imprisonment for not more than three years, or by both such fine and imprisonment, in the discretion of the court.

"The term 'common carrier railroad corporation' as used in this section shall not be construed to include street railway lines or electric interurban lines unless they form a part of a railroad system operated in part with steam.

"SEC. 20b. That it shall be unlawful for any officer or director of any such carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale by the carrier of any securities issued or to be issued by said carrier or to participate in the making or paying of any dividends of an operating carrier except from its profits or surplus. Any person who knowingly violates any provision of this section shall be guilty of a misdemeanor, and on conviction in any United States court having jurisdiction shall be punished by a fine not exceeding $10,000 or imprisonment for a term not exceeding three years, or by both such fine and imprisonment, in the discretion of the court.

Mr. CUMMINS. Mr. President, when I was interrupted last evening by the recess I was endeavoring to show that the words "unfair competition" present a rule of law adequate to meet all the demands of the law which requires a legislative declaration to state a rule of conduct that can be observed by the people upon whom it is to operate.

I desire this morning to recapitulate very briefly the course of my argument yesterday afternoon. In beginning, I ask Senators to carefully discriminate between the law and the instrumentalities which are provided for its enforcement. I desire to argue this disputed proposition for the time being without any reference to the existence of a commission. I will come to that later.

I want Senators to look at the question precisely as though no commission were proposed in the bill, just as though Congress were declaring that "unfair competition" is unlawful and that the law is to be enforced through the Department of Justice in precisely the way in which the antitrust act of 1890 is enforced. The two things are wholly separate and distinct. Congress must declare the law, must declare the rule by which the conduct of people subject to law is to be guided. When we come to the method of enforcing the law, of compelling obedience to it, then other questions arise; and I fear that the apprehension that some Senators have with regard to the validity of the provisions in this bill relating to the commission have colored somewhat their views and opinions with respect to the adequacy of the law itself.

The broad, general objection to the words "unfair competition" is that they are too vague, too indefinite, not sufficiently understood in commerce to constitute a safe and certain rule of conduct. I had called to the attention of the Senate a variety of opinions, literature, and statutes with regard to "unfair competition," in the hope that it would be manifest that the

world has reached a conclusion with regard to the meaning of the words "unfair competition," and that neither court nor commission in applying these words to the affairs of men would be at liberty, as some one has suggested here, to use its own peculiar economic or social opinions with regard to the character of the conduct under examination. One Senator has gone so far as to say that the words "unfair competition" would leave a court at liberty to denounce any conduct which, in the opinion of the court, was unethical or un-Christian or unneighbor like. I feel sure that a review of the matters that I have already brought to the attention of the Senate will disabuse the mind of any candid person of that view.

I have also called to the attention of the Senate one decision, a very prominent decision, the leading case in all the English authorities, with regard to the construction of the phrase "restraint of trade." I did so in order to show that that phrase was vastly more uncertain and vague than the phrase "unfair competition." I called the attention of the Senate to the minority opinion in the case of Mogul Steamship Co. against McGregor on account of its value as a discussion of the meaning of "unfair competition." I have also called to the attention of the Senate the opinion of the majority of the court—I am now speaking of the Queen's Bench Division—in order to show what restraint of trade actually means in the common law as declared by the judges and courts of Great Britain.

I repeat, without again reading from either of these opinions, that restraint of trade, in order to be illegal under the common law and in Great Britain at the present time, must be a restraint of trade injurious to the public welfare. Such is the test presented by the phrase "restraint of trade;" and the courts of Great Britain sustain contracts which in our country would be denounced instantly by the ordinary mind as in restraint of trade unless the charge is accompanied by proof that the contract or arrangement or combination is actually detrimental to the public welfare. It was so held in the case of Mogul Steamship Co. against McGregor; and I beg to read, in addition to the facts that I stated yesterday, the communication that was issued by the combination known as the Conference Steamship Companies which constituted the basis of the suit in that instance:

SHANGHAI, *May 11, 1885.*

Referring to our circular dated 10th May, 1884, we beg to remind you that shipments for London by the steamships *Pathan, Afghan,* and *Aberdeen,* or by other nonconference steamers, at any of the ports in China or at Hongkong, will exclude the firm making such shipments from participation in the return during the whole six monthly periods in which they have been made, even although the firm elsewhere may have given exclusive support to the conference lines.

As a result of that communication this particular plaintiff was entirely deprived of trade between China and the ports of Europe, but the court in this case held that it was not sufficiently shown that this combination, which was intended to restrict and which did restrict through a rebate to the shipper, business to the conference steamers, so called, was any foundation for a civil action; that there could be no recovery of damages because it was not shown to be detrimental to the public welfare.

As I remarked yesterday, I would be very glad if the junior Senator from Rhode Island [Mr. COLT] were here in order that he might see the beautiful certainty of the common law, where everything is fixed and plain and easy of understanding, according to his view of that foundation of our own jurisprudence. The fact is that when we commit to a court, as they have committed in England, and as I shall show they commit here under the recent decisions or opinions of the Supreme Court of the United States, the duty of determining whether a particular act or series of acts is prejudicial to the public interest, is opposed to the public welfare, we have committed to that tribunal the vaguest and the most uncertain rule of law ever announced for human guidance, because, in order to determine whether a particular arrangement prejudices the public interests, the judicial officer who is called upon to decide the question must bring into use his own view of social welfare, his own economic doctrine with regard to the proper adjustment of commerce and industry.

There could be no more indefinite rule submitted for the conduct of mankind than to say that whatsoever restraint of trade is injurious to the public interest is unlawful and whatsoever restraint of trade is not injurious to the people is lawful.

Now, let us look for a moment from the decision to which I have just referred to the opinion of the Supreme Court in the tobacco case or the Standard Oil case, wherein it is held that the restraint of trade, in order to fall within the antitrust law, must be found to be an "undue" restraint of trade. However much we may regret it, we can not escape from the conclusion that the word "undue" as used by the Supreme Court in these decisions is exactly equivalent to the phrase "detrimental to the public welfare"; so that the law of the United States at the present time is that every restraint of trade prejudicial to the public interest is unlawful and every restraint of trade that is not prejudicial to the public interest is lawful. I think there can be abundant material found in both these opinions to sustain what I have just said as to the equivalency of the word "undue" and the phrase "prejudicial or dangerous to the public interest."

But I do not stop there. I have before me an extract from an opinion rendered in the House of Lords in February, 1914, in the case of the Northwestern Salt Co. against the Electrolytic Alkali Co., reported in Appeal Cases, 461. The report itself is not accessible, but an advance copy in pamphlet form is in the Library. I read first the statement of the facts:

In this case the appellant company, a combination of salt manufacturers, made a contract with respondent company, an outside salt manufacturer, by which respondent agreed to sell appellant 18,000 tons of salt per year for four years at a fixed price and not to produce or sell other salt. Respondent under the contract had right to repurchase part of the salt at appellant's current prices, and then to sell the salt on terms fixed by appellant.

I should like to ask any Senator who may see fit to reply to me whether in his opinion a contract of the character I have just read is or is not in violation of the act of 1890. I rather think that the popular judgment among the members of the profession is that it is clearly and obviously in violation of the antitrust act. I proceed:

This was an action for damages by appellant against respondent for breach of the contract with regard to the sales.

That is to say, one of the parties to this contract refused to perform it, and thereupon action was brought by the other to recover damages.

The court of appeals held that the contract was unenforcable because in restraint of trade.

It was the opinion, therefore, of the court of appeals that a contract of this character is in restraint of trade. The case was taken to the House of Lords, the final judicial tribunal of Great Britain, and I read first from the opinion delivered by Lord Haldane. He said:

Unquestionably the combination in question was one the purpose of which was to regulate supply and keep up prices. But an ill-regulated supply and unremunerative prices may, in point of fact, be disadvantageous to the public. Such a state of things may, if it is not controlled, drive manufacturers out of business or lower wages, and so cause unemployment and labor disturbance.

Now, mark this:

It must always be a question of circumstances whether a combination of manufacturers in a particular trade is an evil from a public point of view. The same thing is true of a supposed monopoly. In the present case there was no attempt to establish a real monopoly, for there might have been great competition from abroad or from other parts of these islands than the part which was the field of the agreement. On material questions of fact such as these the court of appeals had not the proper evidence before it.

Says the learned judge further along in his opinion:

It may be, for all that appears, that agreements of this kind were the only effective method of preventing domestic competition from being carried to a length which would ultimately prove not merely ruinous to the parties themselves, but injurious to the public, even outside that portion of it which was dependent on the prosperity of the salt-manufacturing industry. No doubt, if there were a monopoly attempted to be set up which was calculated to enhance prices to an unreasonable extent, that would, if it so appeared on the face of the contract, be ground for refusing to enforce it. But an effective attempt to set up such a monopoly so as to enhance prices can but rarely appear on the face of an agreement between two traders. Whether such an attempt is really made is almost always a question of fact. It certainly does not appear as being made on the face of the agreement in question.

It will be seen that this learned judge declared that the common law of England does not make a contract of this sort unlawful unless it is shown that the monopoly or restraint of trade which it imposed or created is injurious to the public.

I wonder that some of my learned friends in this Chamber who fear unrestricted and unlimited power do not assail such decisions as this, and do not assert that the common law, when it reposes in a court the power to declare what is and what is not for the public interest, is an invasion of the liberties of the citizen, and is establishing a judicial tyranny under which it is intolerable for free people to live.

I will read a few words further from an opinion delivered in the same case by Lord Parker. He said:

The competition between salt producers within the area covered by the agreement of September 11, 1906, either inter se or with salt producers outside this area, may have been so drastic that some combination limiting output and regulating competition within the area so as to secure reasonable prices may have been necessary, not only in the interests of the salt producers themselves, but in the interest of the public generally, for it can not be to the public advantage that the trade of a large area should be ruined by a cut-throat competition.

I should like to have some of the Senators who feel that the antitrust law of this country needs no supplement, that there is

no room for additional legislation, answer and say whether they believe that the antitrust law of 1890 will finally receive the interpretation which the courts of Great Britain have now given to the common law of that country, and whether in the future the courts of the United States, under charges that a combination or conspiracy or contract in restraint of trade has been entered into, may inquire whether the performance of the contract will be injurious to the public interest, whether the suppression of the competition which the contract involves is one that will help or hurt the public, or whether it will enter into an inquiry as to the reasonableness of the prices which are fixed by the monopolistic power created by the combination or by the agreement.

Mr. NELSON. Mr. President, is not the doctrine to which the Senator refers the old Roosevelt doctrine that if it is a good trust it should live, and if it is a bad trust it should be exterminated?

Mr. CUMMINS. Perhaps, Mr. President. It bears a very striking resemblance to that doctrine. It may not be material to the point I am now arguing, but if we accept this interpretation of the common law then it is for the courts in each instance to say whether the monopoly which has been established is a good monopoly and helpful to the public, or whether it is a bad monopoly and destructive of the interests of the public; whether a restraint of trade established is a good restraint of trade, or whether it is an evil restraint of trade that will interfere with the welfare of the people of the land. I do not believe in the doctrine; and if that is the common law, as much as we revere this fountain of judicial wisdom, I am in favor of changing the common law in that respect.

I see that the junior Senator from Rhode Island [Mr. COLT] is here; and as I listened to his argument the other day with the greatest interest, and as I feel for his judgment the greatest respect, I should like him to tell the Senate whether the word "undue," as used now in the interpretation of the antitrust law, is the equivalent of "injurious to the public welfare." In other words, when our Supreme Court says that a restraint of trade is not prohibited unless it is an undue restraint, does that mean the same thing as declared in the opinion of the House of Lords to which I have just referred, when the judge there used the words "injurious to the public welfare"?

Mr. COLT. Mr. President, "restraint of trade" or "attempt to monopolize" at common law carries with it the proposition that it is detrimental to the public. This is the very essence of these terms. At common law a contract in restraint of trade, as, for example, where a man contracted not to carry on his business in a given locality, was nonenforceable, because it was injurious to himself and injurious to the public. Monopoly was also forbidden, because it was injurious to the public, in that it restrained the whole people from carrying on a trade and conferred it upon a single individual or corporation. Hence we find in contracts in restraint of trade and in attempts to monopolize that the essence of the offense is injury to the public.

If that is not the criterion, I should like to have the Senator from Iowa tell me what criterion he would adopt in determining what is restraint of trade and what is monopoly within the Sherman Act.

Mr. CUMMINS. Mr. President, it is perfectly evident, from the answer just made by the distinguished Senator from Rhode Island, that he does regard the word "undue," as now interpolated into our statutes, as the equivalent of the phrase "injurious to the public welfare."

Mr. COLT. If I may answer the Senator—and then I will not interrupt him further—he has asked me with respect to "undue" restraint of trade under the Sherman law. Why, Mr. President, if you take the words "contracts in restraint of trade" of that statute in their literal sense, the law is absolutely nonenforceable. Every partnership, every one of the ordinary transactions in trade and commerce, is in its essence a restraint of trade. Further, every act of competition may be said to be in restraint of trade. Competition is a race, a rivalry. It is a struggle for existence, and successful competition means the defeat of a rival in trade. Why, not to qualify "restraint of trade" by "undue" or by the great law of reason, by which the law has always been adjusted to human transactions, would make the Sherman Act nonenforceable.

The Senator may forget that it is easy enough to frame a law, but that the judges have to apply that law to life. They have to apply it to human transactions. The problem is to bring the law into harmony with custom. The great forces which move and give direction to the life of a people are beyond the control of legal rule. The laws must advance toward the conceptions of right, justice, public policy, and economic policy which the great body of business men of the country believe in. Therefore "undue" or "unreasonable" cover principles which lie at the basis of all adjustments of fixed rules of law to civilization and to progress, and they must, by inference, at least, be inserted in every statute.

Mr. CUMMINS. Mr. President, the Senator from Rhode Island has just stated a truism or a series of truisms. It unquestionably is difficult to apply any law to the manifold interests of the United States or any great country, but I am now discussing the question of the certainty of a rule of conduct, and we have reached this conclusion, that the antitrust law prohibits those restraints of trade which are injurious to the public welfare, as believed by the court which administers the law.

I do not say whether there is any method of escape from reposing that power in the courts or not. It is not material for the purposes of my inquiry. Everything must be determined by the rule of reason. The rule of reason is just as imperative and obligatory upon the Senate of the United States as it is upon any court. The rule of reason commands every human being in all his conduct and all his relations to his fellow men. It is the rule of reason invoked by the British courts through which they have reached the conclusion that there is no illegal restraint of trade that is not injurious to the public welfare; and it is for each judge to determine, as he comes to consider the case, under the rule of reason, whether or not the particular act or contract or combination is injurious to the public welfare.

Mr. President, when we have laid down a rule of that kind, when it is of acknowledged constitutionality, when we are applying it every day in our courts, how vain is it, how futile is it, to assert that the rule contained in the words "unfair competition" gives to the courts or commission a guide which they will be unable to apply to these same affairs of men.

Why, Mr. President, the two contracts which I have read and which were passed upon in the two cases to which I have referred are obviously restraints of trade. They are declared by the courts——

Mr. COLT. Mr. President, I do not know whether the Senator was referring to the Australian case or not.

Mr. CUMMINS. No; I have been reading from two cases; one the case of Mogul Steamship Co. against McGregor, decided some 20 years ago in Great Britain, and which is the leading case upon the subject, and the other a case recently decided in the House of Lords, I think, in February of this year.

Mr. COLT. I simply desired to state that I do not quite agree with the Senator's proposition that if the courts found a contract to be in restraint of trade, then it was simply their own rule of reason as to whether or not it was detrimental to the public. The question of being detrimental to the public would turn upon whether it was detrimental to the producer, to the consumer, to the wage earner; all those facts, and perhaps others, being taken into consideration in determining whether the given contract was detrimental to the public.

In Australia they framed their recent law after the Sherman Act, but they put in a provision that a contract in restraint of trade must be to the detriment of the public. Under that statute the courts examine the facts from every standpoint to determine whether the contract is detrimental to the public, and in a recent case a contract in restraint of trade was upheld because it was found not to be detrimental to the public While the court held the contract to be in restraint of trade it declared that it was not such a restraint of trade as to be injurious to the public.

Mr. CUMMINS. Mr. President, nevertheless the rule of reason must be gathered by the judge. It must be the rule of reason as he understands it and as he applies it to the welfare of the people whose laws he is administering.

Mr. NELSON. Mr. President, will the Senator yield to me?

Mr. CUMMINS. I yield to the Senator from Minnesota.

Mr. NELSON. I think the Senator from Iowa misapprehends the issue that was involved in the *Mogul Steamship* case. I quote the following from the opinion of Lord Hennen, which contains a clear statement of the issues involved in that case. Here is what he states:

> It was contended that the agreement between the defendants to act in combination which was proved to exist was illegal as being in restraint of trade. I think that it was so, in the sense that it was void, and could not have been enforced against any of the defendants who might have violated it. (Hilton v. Eckersley.) But it does not follow that the entering into such an agreement would, as contended, subject the persons doing so to an indictment for conspiracy, and I think that the opinion to that effect expressed by Crompton, judge, in Hilton against Eckersley is erroneous.
>
> The question, however, raised for our consideration in this case is whether a person who has suffered loss in his business by the joint action of those who have entered into such an agreement can recover damages from them for the injury so sustained. In considering this question it is necessary to determine upon the evidence what was the object of the agreement between the defendants and what were the means by which they sought to attain that object. It appears to me

that their object was to secure to themselves the benefit of the carrying trade from certain ports. It can not, I think, be reasonably suggested that this is unlawful in any sense of the word. The object of every trader is to procure for himself as large a share of the trade he is engaged in as he can. If, then, the object of the defendants was legitimate, were the means adopted by them open to objection? I can not see that they were. They sought to induce shippers to employ them rather than the plaintiffs, offering to such shippers as should during a fixed period deal exclusively with them the advantage of a rebate upon the freights they had paid. This is, in effect, nothing more than the ordinary form of competition between traders by offering goods or services at a cheaper rate than their rival.

Now, under the antitrust law we have not a right of action in such cases. It was not a right given by the common law. In section 8 of the antitrust law we have provided that whoever is injured in his trade or business by any such monopoly or combination in restraint of trade can bring an action and recover triple damages. That is a statutory right which is not contained in the common law of England, and, in my opinion, the issue as stated by Lord Hennen here does not sustain the point the Senator tries to make from it.

Mr. CUMMINS. I think the Senator from Minnesota misunderstands the point I was endeavoring to make.

Mr. NELSON. Probably I do.

Mr. CUMMINS. I was endeavoring to show that under the common law as administered in Great Britain it was necessary to establish the fact that restraint of trade was prejudicial to the public interest before it became unlawful under the common law, and there is nothing in that portion of the opinion of Lord Hennen just cited that in the slightest degree impairs the soundness of my conclusion as stated.

Mr. COLT. Mr. President——

Mr. CUMMINS. I understand perfectly that there was no action at common law under these circumstances. The Senator from Ohio [Mr. POMERENE] yesterday stated that there was an action at common law for unfair competition. There was no such action. There is no such action at this time for unfair competition in the sense in which we are using that term. I have the opinion from one of the English courts and two opinions from the Federal courts of the United States so holding, but I do not regard that question as material to the point I am discussing.

I am simply trying to show that the guide or standard which is declared in the antitrust act, namely, restraint of trade as interpreted in the English court and as now interpreted in our own courts is more uncertain, less known, less capable of definite application, than is the phrase "unfair competition." I am not attempting to persuade the Senate that the Supreme Court of the United States is either right or wrong in its interpretation of the law. I am simply using the law as it has now been laid down everywhere as a standard by which to measure the competency or adequacy of the words "unfair competition."

I yield to the Senator from Rhode Island.

Mr. COLT. In the Mogul case the issue turned upon such unfair competition as would be in restraint of trade. One of the companies there had been practicing certain things that were regarded——

Mr. CUMMINS. I read the entire statement of the case from the report itself yesterday, and it is now in the RECORD.

Mr. COLT. That case held that the difference between fair and unfair competition at common law was this: That unfair competition included acts that were tainted with fraud, misrepresentation, intimidation, conspiracy, such acts as the ordinary mind would regard as unlawful, and that everything else was fair competition. The court said it was not speaking of morals or good manners, but of the line between fair and unfair competition at common law.

Now, one word more and I will not interrupt the Senator again. The beauty about the rule of reason is that it enables the law to change as society changes. The beauty about the rule of reason is that a contract which might be held in restraint of trade to-day would not necessarily be a contract which would be held in restraint of trade 15 years from now. The beauty about the rule of reason is that if the Supreme Court had before them the case of the fruit growers of California and a contract or an agreement which on its face was manifestly in restraint of trade—if they found that this agreement was beneficial to the small fruit grower as well as the large fruit grower, was beneficial to the producer as well as to the consumer, and if they further found that it did not result in an unreasonable enhancement of prices, which is the very essence of monopoly, that agreement, within the law of reason, should stand; and the same would be true in the case of agreements between the Kentucky tobacco growers.

It is by invoking this rule of reason that this great fundamental Sherman statute is made adjustable to the progress and the moral ideas of the American people.

Sometimes, Mr. President, we do not think what competition really means. Adam Smith laid down a wrong rule when he spoke about "free competition between equal industrial units." The difficulty with that proposition is that it is free competition between unequal industrial units; and right here you meet with the great law of nature, the most difficult law for any society or Government to overcome, that the Almighty created men of unequal capacity and energy, unequal physically, mentally, and morally; and it follows that if you do not allow these unequal industrial units some method of combining together whereby the strong will protect the weak, then the result is cutthroat competition, the most disastrous thing which can happen to any society.

Mr. CUMMINS. Mr. President, I am sincerely grateful to the Senator from Rhode Island. He has just made the most persuasive argument in favor of the proposition I am endeavoring to maintain that I have heard upon this floor. If the rule of reason—and I am not quarreling with the rule of reason, because it must prevail everywhere—if the rule of reason is used to interpret the phrase "restraint of trade," likewise will the rule of reason be used to interpret the phrase "unfair competition."

I agree with the Senator from Rhode Island that what may have been restraint of trade 50 years ago may not be considered restraint of trade now. I agree with him that what was harmless and innocent under the conditions of a half century ago may have become vitally harmful and injurious to the commerce of the people of this country now, and therefore when the courts take the phrase "unfair competition" they will apply it according to the rule of reason.

I hope the Senator from Rhode Island will not forget that I am not attempting to discuss or determine what the antitrust law ought to mean. I am only attempting to enforce this one thought upon the Senate and upon the people, and that is that if the antitrust law furnishes a rule of conduct capable of application in the courts, so does the phrase "unfair competition" furnish a rule of conduct equally capable of application.

I repeat what I said yesterday, that for myself, having been a somewhat close student of this subject for many years, I understand what unfair competition means much better than I understand what restraint of trade means. If I were applying the law, I would find it less difficult to characterize specific conduct as unfair competition than I would in characterizing other conduct as restraint of trade, for the field of investigation is narrower. It is not necessary to consider such broad, sociological, industrial conditions and consequences as are necessary in determining whether a particular contract or combination is in restraint of trade.

I might well pause now in the establishment of this particular proposition, for the Senator from Rhode Island has in his eloquent and his forcible way, I am sure, removed every doubt that has been lingering in the minds of Senators with regard to the adequacy of this phrase as a rule of conduct, interpreted, as it will be and as it must be, by the rule of reason. It is the effort to ascertain and make efficient the underlying principle which this phrase is intended to express. But inasmuch as the entire country will not have the benefit of what has just been said, I desire to go one step further and apply other instances.

In the New York Penal Code, article 54, section 580, I find the following:

> If two or more persons conspire to commit any act injurious to trade or commerce * * * each of them is guilty of a misdemeanor.

This is a rule which has been repeatedly affirmed in the courts of New York. I suggest that a collection of the cases passing upon and applying this statute will be found in Bender's Penal Law and Criminal Code of 1914, under section 580, at page 116.

But that is not all. I beg to call to the attention of the Senate an article which is found in the Bulletin of the American Association of Commerce and Trade, founded in 1903 by American citizens for the promotion of commerce and trade, published in the number of June of the present year. It is entitled "Unfair competition." I read the first paragraph, but will not read more:

UNFAIR COMPETITION.

> Unfair trading or unfair competition and the contest against this peril to honest trade is of recent date; not that a century ago there were no unfair business men, but the inventions of later times have revolutionized trade conditions. Formerly the firms of the country could be sure to monopolize the domestic market, and, to a certain extent, the city, which trade belonged to the firms of the city. Now the entire world is almost like one great city. Salesmen from America can reach England within five days, telegraph and telephone minimize the distance between the countries, railroad and shipping transport goods in as many days now as months were required little more than half a century ago. This, of course, has served to intensify competition where it does not create it.
>
> Competition in itself is not at all unfair. Far from it. Competition is good and necessary. Competition makes for progress and perfection. Notwithstanding the money spent in advertising and soliciting, compe-

tition has contributed to the lowering of prices, because it creates a market and a demand. Competition may be sharp and unscrupulous, but there is a limit where mere competition ends and brutality and robbery begin. That is what has been called unfair trading.

I ask to have printed as a part of my remarks the entire article from which I have just read an extract, as well as an article upon the same subject in a publication of the same association in the July number, and in this connection I desire to insert as a part of my remarks the opinion of Lord Esher in the case of the Mogul Steamship Co. against McGregor, to which I have referred and from which I have read.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. CUMMINS. Mr. President, just one more reference upon this subject and I will have finished. I read from an article, entitled "The Standard of Reason versus Restraint of Trade," published in the Law Magazine and Review, of London, No. 371, February, 1914. The article is by Mr. C. A. Hereshoff-Bartlett. He says, at page 199:

> Several of the United States have adopted laws providing that any person, firm, company, or corporation engaged in the business of buying milk, cream, or butter fat for manufacture, or poultry, eggs, or grain for sale or storage, that shall, for the purpose of creating a monopoly or destroying the business of a competitor, discriminate by purchasing such commodities in one section or locality at a higher price than they pay for the same articles in another section or locality, is liable to fine or imprisonment. Thus Minnesota has confined her law to the purchase of milk, cream, and butter fat; Iowa has extended it so as to include poultry, eggs, or grain; while South Dakota has made the first determined radical advance by not limiting the discrimination to the purchase of specified commodities, but embracing the sale of any commodity in general use. * * * These laws are aimed at unfair competition in trade, and come within the general constitutional power of the State.

Again, at page 201, the same author says:

> The right to compete in any legitimate business in lawful ways and by lawful means is sacred and can not be interfered with, but this right to compete in business does not justify unfair competition.

I shall pursue this subject no further, Mr. President, for I feel that there can no longer be doubt with respect to the sufficiency of the declaration, the sufficiency of the law. Whether it is wise to make unfair competition unlawful is another question. I have not heard it questioned during this debate that we ought to make unfair competition unlawful in order to preserve in full strength and vigor the force which we all desire to preserve, namely, full, free, and fair competition in the business of the United States.

I now pass to the second division, properly speaking, of the argument. We now have the law declared by Congress. It is the will of Congress that it shall be unlawful for any person, partnership, association, or corporation to indulge in or to practice unfair competition.

The next question is, How shall that law be enforced? Here we approach the very much disputed proposition as to the propriety and constitutionality of a commission, for, I repeat, that the commission has no other office in the proposed legislation save to assist in the enforcement—in the application—of the law. The inquiry naturally arises, How can it assist, how can it help, in the enforcement of the law upon which we have now passed, upon which, I think, we are nearly all agreed?

The Senator from Utah [Mr. SUTHERLAND] finds in the proposed legislation either a delegation of judicial power or a delegation of legislative power. I am sorry that he is not in the Chamber, for I would be glad if he could hear what I am about to say. The Senator declares—and with his general declarations I have no quarrel whatever; they are absolutely sound—that the ascertainment of the fact of the violation of the law is a judicial function; that the declaration of what rule shall guide a particular person or corporation in its future conduct is a legislative function. In both those propositions every lawyer must concur.

This bill does not propose to invest the commission with any legislative power. The commission will not exercise any quasi-legislative authority; it will not under any circumstances or any conditions prescribe what a person or a corporation shall in the future do; it will not attempt to declare in what practices one engaged in commerce may in the future indulge. Its sole function is to determine the fact whether a given practice, a given method, is unfair competition.

The Senator from Utah in his analysis of the interstate-commerce law entirely overlooked one of the most important and vital differences between the jurisdiction which the Interstate Commission exercises now and the jurisdiction which it exercised prior to 1906. I agree with him that under the law of 1906, when the Interstate Commerce Commission comes to prescribe a rate which shall be charged by the common carriers in the future it is exercising a legislative function; such a legislative function, however, as the Supreme Court has declared may be delegated to a tribunal of that character. The commission proposed in this bill does not perform any such office.

Mr. SUTHERLAND entered the Chamber.

Mr. CUMMINS. I note that the Senator from Utah is now here, and I beg to remind him that there is nothing in this bill which attempts to give to the trade commission the power to say to any person or to any corporation "You must do so and so in the future." Its only power is to declare the legality of an act already committed or the commission of which is threatened and concerning which the commission is given the power to institute proceedings that will arrest the performance of the act, or to condemn the act as unlawful, and to require that it shall no longer be committed.

I return to the interstate-commerce law. Prior to 1906, under a decision rendered in the Supreme Court in 1897—a decision with which every lawyer is familiar and from which I need not read, because it formed the basis of the long campaign for the amendment of the interstate-commerce law that began in 1897 and culminated in the amendment of 1906.

The law, as construed by the Supreme Court in 1897, gave to the Interstate Commerce Commission a certain power with respect to railway or common-carrier rates. What was that power? The power was to compare the rate actually charged by the carrier with the law which provided that no carrier should charge an unreasonable rate and to announce its finding; namely, to make the inquiry, Is the rate charged by the carrier in conformity with the law, or is it in violation of the law? Is it a reasonable rate, or is it an unreasonable rate? And if unreasonable, to condemn it. The commission during the whole period from 1887 to 1896 exercised precisely that power and that jurisdiction. It denounced a rate as unlawful, as contrary to the law, because it was unreasonable and because the law had prohibited the carrier from charging more than a reasonable rate; but further than that it could not go, and its attempt to go further was checked and overthrown in the decision to which I have referred, delivered in 1897.

This power was exactly the same as the power which we seek to confer upon the trade commission, namely, the power to compare an act of a corporation or of a person with the law and declare whether it is in conformity or in harmony with the purpose of Congress as found in the statutes. So, we find in the jurisdiction of the Interstate Commerce Commission, a jurisdiction which was affirmed in repeated decisions of the Supreme Court of the United States, an authority precisely the same as we are now attempting to confer upon the commission.

I rather agree with the Senator from Utah that if we were to attempt to go further in this act and to give the commission the authority to prescribe a code of rules governing the conduct of the business men of this country for the future, we would clash with the principle that we can not confer upon the commission in that respect legislative authority; but we have not made any such attempt as that, and no one proposes any attempt of that sort. We propose to give to the commission in this bill precisely the same quality, the same kind of authority that we gave to the President of the United States with regard to the administration of the tariff law, and whose action was the foundation of the suit in the case of Field against Clark in One hundred and forty-third United States. There we prescribed a statute governing the introduction of imports into the United States, but at the same time provided that if the President of the United States should find that the laws of any particular country governing the admission of our exports into that country were not reciprocally equal and fair and just, then another schedule of duties should prevail with regard to imports of certain articles into this country.

Mr. COLT. Mr. President——

Mr. CUMMINS. I yield to the Senator from Rhode Island.

Mr. COLT. The Senator from Iowa is discussing a very interesting phase of this subject, and I should like to have him illustrate what would be the mode of procedure of the proposed commission from a practical standpoint. I have understood that the framers of this provision in a general way defined "unfair competition" to this extent: They have said that all the practices which the courts of the United States under the Sherman Act have found to be unfair as set forth in the decrees of the courts are instances of unfair competition.

In other words, taking a practical illustration, I should suppose, from the intent of the framers of this provision as outlined in their speeches, that the proposed trade commission would at once, if you please, prepare a circular setting out the various practices which have been laid down by the courts as unfair under the Sherman Act; that such circular would be sent to the different corporations of the country engaged in interstate commerce, and that the commission would say, "These practices and all similar practices are 'unfair competition' within the intent of this law." I would like to ask the Senator if that is the purpose of the act? In other words, if you drift

away from the common law, under which there must be some element of fraud, and enter the field of what is popularly called "unfair competition," what would any business man think if he should get a circular setting out all these unfair practices, running up into the hundreds perhaps, and then stating in effect that this list is not complete because the business men can invent a great many more of such practices? I should like to ask the Senator if he thinks it is fair by the commission or fair by the courts to undertake to apply to the business of this country the rule of law that each one of these different trade transactions—for instance, in one case I notice it was forbidden to send out samples of goods to purchasers in excess of the value of 5 per cent of their purchases—is going to be unlawful under the term "unfair competition"? Are the courts or is the proposed trade commission going to be asked to apply such a standard to the business affairs of this great country? I merely ask what method would be employed by the proposed trade commission?

Mr. CUMMINS. Mr. President, I can readily perceive now the source of the opposition of the Senator from Rhode Island to this section, for if he has been under the impression that we are about to confer upon a commission the authority to do the thing which he has just described or to command it to do the thing which he has just mentioned, his objection is obvious and is sound.

Why, Mr. President, if I thought that the commission which we hope to create would sit down and attempt to write out an instruction to the business men of this country as to the things they could lawfully do and the things which it would be unlawful for them to do, there is no power that could induce me to favor it. It is absurd; it would be in the highest degree subversive of all the principles of government for any department to do what has just been suggested by the Senator from Rhode Island, and I assure him, first, that it is not the purpose of those who are favoring this bill that any such course shall be pursued. Such a course would be just as intolerable to those who are trying to maintain this section as it is to those who are opposing the section.

Secondly, there is not the vestige of authority given in the section to the commission to do any such things as has just been mentioned by the Senator from Rhode Island. The commission is authorized to inquire into these practices in any given case, and if it believes that the law which we enact—namely, that unfair competition is unlawful—is being violated, it calls the offender before it upon a complaint, and there it investigates, in the presence of the offender, the charge of unfair competition.

Mr. COLT. Mr. President, I am only seeking light. I should like to ask the Senator how the court would determine what was fair and what was unfair in trade practices? That is my inquiry.

Mr. CUMMINS. By applying the rule of reason.

Mr. COLT. But when you are dealing with a restraint of trade or an attempt to monopolize, you have a foundation as to what those terms mean in the common law. You have also defined in the common law the meaning of fair and unfair competition. When, however, you go beyond that, to these practices which have been held under the Sherman Act to be unfair practices, the difficulty is to know any criterion that the court would have as a guide. I mean to say that if I were on the bench I would not know by which criterion to judge the meaning of what was fair or unfair competition as contemplated by this trade commission bill.

Mr. CUMMINS. The Senator from Rhode Island has stated the general rule or principle more than once. It would be idle for me to attempt to enumerate all the things which I regard as unfair competition and which I think the civilized sense of commerce regards as unfair competition.

Mr. COLT. It was stated by the Senator from New Hampshire [Mr. HOLLIS] and by the Senator from Arkansas [Mr. ROBINSON] that the practices that were forbidden in the decrees of the courts referred to by them were the unfair practices contemplated by this statute.

Mr. CUMMINS. In part.

Mr. COLT. I should like, if I had the time, to call attention to some of these unfair practices and to show what they are, considering each by itself, not as showing an intent to monopolize, but as showing a practice which is forbidden by this proposed law under the words "unfair competition."

The business men want to obey the law, and it should be made clear to them what the law means.

Mr. CUMMINS. I think if the Senator from Rhode Island would ask any business man whether he regarded a particular act as fair or unfair competition, he would find no doubt in the mind of the business man. Every business man recognizes the standard just as unerringly as a court would.

Mr. COLT. Would the standard in a real-estate trade, or in trading horses, be the same as the standard in a banking transaction?

Mr. CUMMINS. No; it would not. Therein lies the pliability of the rule of reason; but the same principle would apply. Now, I do not say that each of the things which have been mentioned in any of the decrees which go to make up restraint of trade would separately constitute unfair competition. There the issue is quite different; but the principle of unfair competition is well established in all of these cases.

Coming back now to the constitutional point, the trade commission does just exactly what the Interstate Commerce Commission did prior to 1906, and a part of which it still does, namely, it compares the act with the law, and ascertains whether the act is in conformity with the law. Prior to 1906 it could only denounce the act as unlawful, as being a violation of the law. Since 1906 it can prescribe a rule for the future, namely, it can determine the charge that shall be made by the carrier in the future.

I repeat, however, that this bill does not attempt to confer the latter phase of jurisdiction upon the trade commission, and I doubt whether we could constitutionally do it, because there is a difference between prescribing a rule for business so far as competition in commerce is concerned and prescribing a rate which a common carrier may charge for its service.

Again, we have prescribed certain rules which govern the admittance of aliens into the United States. They are complicated rules. They are more vague than the rule which we here set up for trade and commerce. How do we enforce the law? I am dealing now simply with the enforcement of the law. What instrumentalities have we employed in order to enforce the law? We have established the standard of admission into the United States so that it is theoretically true, anyhow, that everybody can understand just what the qualifications are; but when an alien presents himself at one of the ports of the United States, how do we determine whether or not he conforms to the standard which the law has created? We commit the finding of that fact to the Commissioner of Immigration, and finally to the Secretary of the Department of Labor; and there is no act that can be performed by the trade commission under this section that is more judicial in its character than the determination upon the part of the Commissioner of Immigration or the Secretary of the Department of Labor as to the admissibility of an alien; and yet it is not contended that the Commissioner of Immigration is exercising judicial powers in fitting the standard to the particular case under consideration.

Again, we have certain laws with regard to the mailability of matter offered to the United States for transportation through the mails. In some respects they are more uncertain than the words "unfair competition" possibly can be. Who determines whether a particular letter, circular, paper, periodical, or commodity offered for transportation in the mails is in accordance with the law? Who determines whether the person offering it is about to violate the law? The Postmaster General determines it, and his decision—unfortunately, as I have sometimes thought—is final. It is not reviewable in any court, and yet the act which the Postmaster General thus performs savors more of the judicial power than does any act which we authorize the commission to perform in this section.

All laws must be enforced in some manner. They are enforced in the courts to a comparatively small degree. Only a few of the instances in which the law is imposed on the individual find their way into the courts. Happily, the courts are always open to preserve the constitutional rights of the citizen. No act of Congress can deprive any citizen or any corporation of his or its constitutional protection, and within that limit we have full power and authority to confer upon the commission the jurisdiction to determine whether a particular person or corporation is guilty of unfair competition, so as further to enforce the law. Obviously, the commission can not enforce the law alone. If its finding is not heeded, it has no power, and we can confer upon it no power to coerce the individual or the corporation. Under our form of government, before the coercive hand is laid upon the citizen under such circumstances, we must invoke the processes of the courts, and the commission is given the authority in this section to appeal to the courts to render effective the order which it has entered.

I am utterly unable to perceive any unconstitutionality in the section. I have not yet discussed what effect we may give to the order of the commission. I may not do that at this time; but if not at this time, at some later time.

Further, with regard to the argument of the Senator from Utah [Mr. SUTHERLAND] upon the bill, I desire to say here—and I do it in no idle humor, nor do I say what I am about to say for the purpose of compliment or flattery—that there is no

Senator in this Chamber whose judgment respecting the Constitution of the United States I value more highly than that of the Senator from Utah. Whenever he declares his reflective, mature opinion upon any such question I always accept it with more than ordinary weight, and the general principles which he has announced are unassailable.

Admitting that, I approach now the only other point that the Senator made respecting the constitutionality of this bill. It refers to section 3 and involves the inquisitorial powers of the commission, the powers of investigation.

I concede at once that we can not confer upon a commission the power to investigate simply for the purpose of securing interesting or valuable information. I do not think we can confer upon a commission all the powers that Congress itself has with regard to investigation, because Congress can investigate any subject that may develop facts which may be material in determining what our legislation ought to be in the future. In my opinion, we can not confer that power upon a commission. We must limit our delegation of authority, so far as inquisition is concerned, to a subject not only upon which we have the constitutional right to legislate, but upon which we have legislated, so that the investigation is connected with the enforcement of a law.

I think the Senator's criticism of the first paragraph of section 3 is a just one, and I believe the paragraph ought to be amended.

I think we have the right to confer upon the commission the authority to investigate any person, corporation, partnership, or association in order to ascertain whether that person, corporation, partnership, or association is violating a valid law of the United States. We have regulated commerce, both in the interstate-commerce law and in the antitrust law, and any investigation which it is necessary to make in order to enforce either of those laws or any other law regulating commerce this commission has the right to make, in my judgment. I agree, however, that the investigation must be limited to the respects over which Congress has jurisdiction, and that we can not inquire of a person or corporation engaged in interstate commerce generally without limit and without purpose.

Let us see. A weakness of the argument of the Senator from Utah lies in this omission: He had in his mind, as I thought, as a test of the investigation that could be properly made by the commission, the interstate-commerce law, and his illustrations were all drawn from the interstate-commerce law; but I now put with it the act of 1890, to prevent restraints of trade and monopolies. It also is a regulation of commerce, and we may investigate anything which pertains to a corporation engaged in interstate commerce and which relates to any effort, any attempt, to obstruct the channels of commerce.

I suggested to the Senator from Utah during the course of his argument that the bill which he introduced relating to the compensation of injured employees of common carriers was in itself, if constitutional, a complete refutation of the argument that he made. He was not inclined to that belief, and replied that the law substituting compensation for liability was constitutional because it affected the efficiency and the safety of transportation. So it does, and as the basis of its constitutionality, if the substitution of compensation for liability with a common carrier engaged in commerce among the States did not in some way relate to the ability of the common carrier to perform its service to the public, there would be no foundation for the legislation.

Of course the investigation proposed in the bill before us does not relate to the safety or the convenience or the efficiency of transportation, but transportation is only one of the phases of interstate commerce. Another phase is the freedom of intercourse, the preservation of independence and competition in the business of the country. The statute which we passed, and to which I have referred so often, in 1890 is a regulation of commerce because it is intended to preserve the freedom of commerce. It is intended to maintain free and fair competition in commerce, and it is just as clearly within our constitutional authority to prevent combinations, contracts, arrangements, conduct which interferes with the freedom of commerce, as it is to see to it that the instrumentalities of transportation are efficient, safe, and convenient. The two things represent different forms of the same constitutional authority. Therefore, when we come to inquire——

Mr. WHITE. Mr. *President*——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Alabama?

Mr. CUMMINS. I yield.

Mr. WHITE. Is it not a fact that transportation is a little further removed from the source of power than commerce itself, in that transportation is but the handmaid of commerce or the agency of commerce?

Mr. CUMMINS. I am much obliged to the Senator from Alabama. The suggestion is most forcible. Commerce is the process of exchange among the people. A common carrier is but the instrumentality that effects the exchange. So to support the bill in the respects which the Senator from Utah criticized it, I bring forward the antitrust law of 1890 and the law which we now propose to enact, all of which are directed toward the same general object, namely, commerce itself, the maintenance of its independence and the preservation of its vital force, namely, rivalry—honest, reasonable rivalry—among those who are engaged in it. Therefore, when we come to determine whether these powers of investigation are properly exercised by the commission, we must remember these regulations of commerce as well as the regulations which convey the articles of commerce from one State to another.

I read paragraph (a) of section 3, upon which my learned friend commented with so much force:

(a) To investigate from time to time, and as often as the commission may deem advisable, the organization, business, financial condition, conduct, practices, and management of any corporation engaged in commerce and its relation to other corporations and to individuals, associations, and partnerships.

I think that paragraph is weak in this, that it does not contain the clause which is found in the succeeding paragraph, and which I supposed related to both paragraphs, and I think that was the general view of the committee. I will read the next paragraph in order to point the remarks I have just made:

(b) To require any corporation subject to the provisions of this act which the commission may designate to furnish to the commission from time to time information, statements, and records concerning its organization, business, financial condition, conduct, practices, management, and relation to other corporations, or to individuals, associations, or partnerships, and to require the production for examination of all books, documents, correspondence, contracts, memoranda—

Now, mark—

or other papers relating to or in any way affecting the commerce in which such corporation under inquiry is engaged or concerning its relations to any individual, association, or partnership, and to make copies of the same.

The words "relating to or in any way affecting the commerce in which such corporation under inquiry is engaged" ought to be in paragraph (a). I think they are by inference in the paragraph, but the suggestion of the Senator from Utah will lead me, if it does not lead the chairman of the committee, and I think he is equally impressed with it, to insert in paragraph (a) the same or equivalent language of paragraph (b), so that the inquiry will be limited to the commerce among the States in which the particular corporation or association may be engaged.

Mr. SUTHERLAND. Now, what does the Senator say with reference to the concluding phrase of subdivision (b), which is, "or concerning its relations to any individual, association, or partnership"?

Mr. CUMMINS. I assume——

Mr. SUTHERLAND. I had not quite finished.

Mr. CUMMINS. I beg the Senator's pardon.

Mr. SUTHERLAND. The preceding part of that subdivision seems to be qualified by this language, "affecting the commerce in which such corporation under inquiry is engaged," but it goes on and provides, "or concerning its relations to any individual, association, or partnership," which association of course will not be, as far as the language of the subdivision is concerned, in any manner connected with interstate commerce.

Mr. CUMMINS. I catch the thought of the Senator from Utah, and I do not intend to assert that the phrase is happily drawn, but I think, so far as paragraph (b) is concerned, the investigation of the relation of any such corporation to an individual, association, or partnership is necessarily limited by the preceding clause, "relating to or in any way affecting the commerce in which such corporation under inquiry is engaged." If it be not perfectly clear, then it ought to be made clear in that respect, and I have no doubt that the committee, under the suggestion, will do so. I have always understood that the clause that I read was a part of paragraph (a) or controlled paragraph (a) as well as paragraph (b). I see, however, that it is so separated from the first paragraph as to create some doubt in that regard, and therefore I intend, as I have said, to suggest to the committee a slight amendment in that respect, and if it does not commend itself to the committee I shall offer it upon the floor upon my own responsibility.

But that does not touch the real question, which is, Can we give the commission the power to investigate a person, partnership, or corporation engaged in commerce among the States in so far as the investigation pertains to any regulation which Congress has constitutionally made respecting commerce among the States? I affirm, without much fear of contradiction, that

our power of investigation is as broad as the power which we have exercised in legislation. Whatever we have imposed as a rule of conduct is the limit of our inquiry, and it has no other limit, save the limit of the Constitution preserving the papers of individuals from unnecessary search or seizure; and that, of course, controls every act of Congress, and there is no attempt here to pass beyond it.

Mr. President, I think I have now referred to all the constitutional suggestions that were made by the Senator from Utah. I do not mean that I have embraced them all in detail, but I think what I have said is fairly expressive of my view of the principle which controls all of them. I now come for a few words to a point made by the Senator from Colorado [Mr. THOMAS] yesterday with regard to the bill. I wish he were here.

Mr. THOMAS. The Senator is here.

Mr. CUMMINS. I beg pardon; he was not in his accustomed seat and I did not notice his presence. I was astonished to hear it said that this bill was intended or would have the effect of regulating monopoly instead of maintaining and preserving competition. I understand that some prejudice can be created, although that was not the purpose of the Senator from Colorado, by suggesting that the bill follows the desires or the economic views of such captains of industry as Mr. Gary, of the United States Steel Corporation, and Mr. Perkins, of the International Harvester Co., who appear to believe that the day of competition has passed and the era of complete cooperation has been ushered in. I know the mere suggestion that this bill is a compliance with the wishes and the views of these men is apt to surround it and to impregnate it with a prejudice that it is difficult to overcome. I therefore intend to take a few moments in order to show how illusory, how unfounded, how baseless a claim of that sort is.

There is a war of economic thought in progress, and a battle has been on for years between cooperation and competition. It is the old struggle between competition and socialism, in essence, for whenever we attempt to regulate monopoly, establish monopoly, and endeavor to protect the people against its assaults through regulation, the day of State socialism has dawned, for the people of this country will never tolerate any monopoly in industry save the monopoly of the Government itself.

I think I fairly comprehend the field in which the battle is being fought. I am for competition, and I am unalterably opposed to monopoly and monopolistic power in any form, to any extent, in the fields of industry. I can not but feel that either my sincerity or my intelligence is impeached when I hear it stated upon the floor of the Senate that the bill to which I have given my approval, which I have helped to compose, and for which I intend to vote is an expression of a school of thought which I have repudiated all the days of my public life.

I assert that this bill is a vigorous and honest effort to make competition stronger in its fight against monopoly. I assert—and that no one, I am sure, will question—that it is the purpose, the motive of every member of the committee who believes in the bill, to vitalize competition and to make it enduring and effective. That, however, is not enough. I assert that this will be the effect of the bill when it is carried faithfully into execution.

Let us see about the views of Mr. Gary and Mr. Perkins. I do not speak of them disparagingly. I speak of them as types of a great number of men who have reached the conclusion that we ought to abandon competition, admit monopoly, and endeavor to see that monopoly does not enforce its power unreasonably or oppressively upon the people.

It is an error to believe that this movement began with the American Tobacco Co. case or the Standard Oil case or the Northern Securities case. It is a movement that has been in progress in the United States actively for more than 15 years. It has been supported upon every rostrum; it has been exploited in every part of the United States. It is a propaganda in which many earnest and sincere, devoted friends of good government have joined. Those who think that it is of recent origin have not inquired carefully into its history.

It is true that Mr. Gary and Mr. Perkins and many others whose names I could mention if I cared to consume the time to do it have urged upon the Congress of the United States and upon the people of the United States the policy of permitting these great combinations to continue and of conferring upon some governmental function or tribunal or department the authority to curb their avarice and selfishness. It is true that they have urged upon Congress and upon the people the wisdom of permitting manufacturers—producers—to join together in agreements that will limit output, that will divide territory, that will fix prices, in order to escape what they call the devastation of competition. All this is true.

What do they propose? They recognize that these things are in violation of the antitrust law. They have urged that we create a tribunal that will be given the power to approve agreements of the character I have described, of combinations such as I have described, admittedly in violation of the antitrust law, provided the commission shall believe that the things to be done by or through the contract or through the combination will not be oppressive, will not result in the exaction of unjust or unreasonable prices for the things in which they deal.

This is the movement of the gentlemen to whom I have referred. I will not consume the time to turn to the hearings and read their testimony. No one will dispute that I have stated it with substantial accuracy. A commission or a law that would result in accomplishing the purpose that I have stated would be intolerable to me, and I believe it would be intolerable to every member of the committee. It would be founded upon the socialistic theory of permitting monopoly and of controlling it, of making it just by an order of the commission or a court.

What have we done here? We have announced a commission that is intended to strengthen the antitrust law in the first instance. Its most valuable work will be in the disocvery of offenses against the law and in rendering assistance to the courts and to the Department of Justice in the administration of the law. Not a line of the law is to be repealed. Not a principle of the law is to be overturned. It is to remain in all its vigor, untouched, unimpaired, with the additional force in administration which this commission will confer upon it.

What is the purpose of the antitrust law? Is it to permit monopoly and regulate it? Is it to permit these agreements to be made and control them? No; the purpose of the antitrust law is free, full, complete competition in the business of the United States.

How, then, can it be said that in this respect at least we are following the desires and are accomplishing the purposes of those who want to establish monopoly and then regulate it?

Further, this bill proposes to make an additional offense—unfair competition. Is the suppression of unfair competition the regulation of monopoly? Unfair competition is the antithesis of fair, free competition. Unfair competition is the pursuit of that practice which destroys competition and establishes monopoly. Unfair competition is the deadliest enemy of independence in business. Unfair competition is never employed save by those who have some degree of monopolistic power to exercise.

And yet, notwithstanding all these things, it is said that this bill is a proposal to acknowledge monopoly and regulate it. I have found no other argument, no other objection urged against the bill so difficult to hear with composure as the one to which I have just referred.

Mr. President, I am sure that upon reflection those who have allowed their minds to be filled with a suspicion of this sort will dismiss it. It has no foundation; it is but an apprehension, and it is wholly unjustifiable. Having said what I have with regard to it, I can not but refer to the platforms of the three political parties brought before the Senate yesterday.

I am not very solicitous about platforms when it comes to legislation. I shall not undertake to determine how far I am complying with any platform which any political party has ever announced. I am simply endeavoring to do what I believe to be right; to do what I believe to be for the best interests of the American people; but just a word with regard to the Progressive platform, which the Senator from Colorado [Mr. THOMAS] put before the Democrats of the Senate with the suggestion that they were following that platform rather than their own. It is for them to say, of course, what platform they desire to follow, and I am not a very good judge in comparing platforms; but in my opinion this legislation is in exact harmony with the Republican platform and it is in exact harmony with the Democratic platform, for I believe those two platforms on this subject are substantially alike.

I do not recognize the subject as a partisan one at all; I can not conceive that the people of the United States can be divided into political parties upon this issue; but I beg to remind the Senator from Colorado that if the Progressive platform means—and I do not say that it does—that the same powers ought to be conferred upon a trade commission as have been conferred on the Interstate Commerce Commission—that is to say, the power of fixing prices for the commodities of commerce—then it is obvious that the commission proposed to be created by this bill is in direct opposition to the Progressive platform. I do not assert that is what was intended by those who met in Chicago

and framed that platform; but it has been charged that the followers of the Progressive Party believe that a commission should be organized to fix the prices of commodities in commerce precisely as the Interstate Commerce Commission fixes rates to be charged by common carriers. I have heard a great many members of that party declare that it had no such meaning; that the analogy intended to be drawn was a general one, and that it was not thought that it commanded the exercise of any authority of that sort; but if it does, then it is obvious that the commission which we propose to establish here is not the commission proposed in that platform; that it is not formed in accordance with the principle of the Interstate Commerce Commission; that is to say, the trade commission is not to be organized to do the things for general industry that the Interstate Commerce Commission does for public service, for the latter commission does determine the charge to be made for the service, while the proposed trade commission not only is not to be charged with any such authority, but it is organized upon a directly opposite principle, namely, that prices shall be determined by honest competition among those who are engaged in commerce.

Mr. President, I have now covered the field which I had in mind when I rose.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER (Mr. JONES in the chair). Does the Senator from Iowa yield to the Senator from Montana?

Mr. CUMMINS. I yield.

Mr. WALSH. I have not been in the Chamber during the entire discussion of the Senator from Iowa, but I noticed that he remarked that he had canvassed all the objections made by the Senator from Utah [Mr. SUTHERLAND] founded on constitutional grounds. The Senator from Utah made a very severe criticism of subdivision (b) of section 3, upon the ground that it attempted to give to the commission the power to conduct unreasonable searches and seizures, contrary to the provisions of amendment 4 of the Constitution. I do not know whether the Senator from Iowa has canvassed that in detail.

Mr. CUMMINS. I referred to that in only one aspect. The Senator from Utah claimed that these investigations or searches could not be made by a commission created by Congress, except in so far as the person or corporation was engaged in commerce and in so far as the investigation covered the commerce in which the person or corporation was engaged; and he claimed that we had not connected the power of investigation with any congressional enactment that would authorize the investigation to be made. I did not refer to the broader ground as to whether we conferred upon the commission—assuming now that the Constitution of the United States were out of the way—so far as the regulation of commerce is concerned, a power that would be in violation of that clause of the Constitution to which the Senator from Montana has just referred.

Mr. WALSH. Mr. President, I listened to the discussion of the Senator from Iowa of the feature to which he now adverts; but, reading again the address of the Senator from Utah, I am confirmed in the opinion which I gathered in listening to him, that his criticism went far beyond that; that, even conceding the power granted by the act extended no further than to such books and papers as referred to commerce between the various States, it was still open to the constitutional objection, because, as it was expressed, it gave a roving power to require the production of books and papers.

In connection with that matter, I inquired of the Senator from Utah, in the course of his address, as to how, if at all, he discriminated between the provisions of this bill and the similar provisions found in the interstate-commerce act.

Mr. CUMMINS. Precisely.

Mr. WALSH. I was not able to get any direct answer to that. I am myself unable, except in the respect to which the Senator now alludes, to distinguish between the provisions of this bill and the similar provisions found in the interstate-commerce act; and it is well known that those provisions of the interstate-commerce act have been the subject of careful inquiry by the Supreme Court of the United States, and that they have been entirely justified. Unless some difference can be pointed out between the provisions of this bill and the provisions of the interstate commerce act, we must regard the general question of power as entirely foreclosed.

Mr. CUMMINS. Mr. President, I am very much obliged to the Senator from Montana. I suggested to the Senator from Utah that he had overlooked, as it seemed to me, the fact that the statute of 1890 and these proposed statutes are regulations of commerce, and that investigations under them and for the purpose of enforcing them were just as competent as are similar investigations made under the interstate commerce law for the purpose of enforcing that law, which relates to transportation. I think the present statement of the Senator from Montana is conclusive.

The powers proposed to be conferred upon the trade commission are no greater than the powers conferred upon the Interstate Commerce Commission; and if they are conferred for a constitutional purpose, namely, the regulation of commerce, then the decisions which have sustained the power of the Interstate Commerce Commission necessarily will sustain a similar power granted to the commission proposed to be created in this bill.

Mr. WALSH. Will the Senator pardon a further interruption?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Montana?

Mr. CUMMINS. I yield.

Mr. WALSH. In that connection, Mr. President, I simply desire to refer to the direct adjudication of the Supreme Court in the case of Interstate Commerce Commission against Brimson, reported in the One hundred and fifty-fourth United States, at page 447, in which the provision of section 12 of the interstate-commerce act, giving the commission power to require the production of books and papers, is sustained, and the case of the Interstate Commerce Commission against Baird, in One hundred and forty-ninth United States, at page 25, in which the prior decision is affirmed.

The question, then, Mr. President, it seems to me is simply as to whether this bill deals with the general subject of interstate commerce and whether the provisions of this bill in that regard are in any respects essentially different from the provisions of the interstate-commerce act. If they are, it would be wise that that difference should be pointed out by some one, so that the appropriate amendment may be made and the power granted may fall within the constitutional limits as defined in those decisions.

Mr. CUMMINS. Mr. President, upon the whole I believe that the commission which we propose to create will be helpful to the people of the country; that its work will result in a more rigid and beneficial enforcement of the act of 1890. I believe that its administration of section 5 will prevent the growth and development of many a mighty power which the Government would be almost powerless to overcome if we permit it to strike its roots so deeply in the business of the United States as many a combination has now planted itself in the body of our commercial fabric.

I do not believe the bill is complete. I am not satisfied with the court procedure provided in section 5. I have offered an amendment which is now pending, which embodies my views of the proper course in the courts for the better and more complete enforcement of the section.

I believe also that there ought to be added to the bill a prohibition against a community of directors in competitive corporations, a provision which, in a somewhat emasculated and unsatisfactory form, is found in the bill reported from the Judiciary Committee. I believe there ought to be in the bill a prohibition against one corporation holding the stock of another, the two corporations being engaged in a like business. In a degree that prohibition is found in the bill reported from the Judiciary Committee, but it does not conform to my views, because, among other things, it relates only to future acquisitions of stock by corporations, and I want it to apply to existing conditions. I want a corporation that holds stock in violation of that principle to be required, within a reasonable time in a reasonable way, to dispose of it, so that we may restore competition among existing corporations, as well as to preserve it among future corporations. These things, however, will arise for discussion as we proceed with the consideration of this bill and the one which is shortly to follow.

I desire now, Mr. President, to withdraw the amendment I offered in the nature of a substitute for section 5. I do so for this reason: It embraces a matter of serious importance. While it does not concern the declarative part of the bill, it does concern the enforcement of the law which we are about to make; but I am very anxious, if possible, that the members of the committee at least shall be able to agree upon a proper procedure, upon what they regard as the most effective and the most just procedure. Hoping that before the amendment which I have offered and in which I believe thoroughly shall be voted upon we shall have an opportunity to consider it and other proposals of like character submitted by the Senator from Ohio [Mr. POMERENE] and the Senator from New Hampshire [Mr. HOLLIS], I withdraw my amendment, making it clearly known, however, that in doing so I do not abandon it. I am thoroughly convinced that in substance it ought to be adopted, but I am sure the Senate wants the last and the best and the maturest judgment of the members of the committee, and if we can agree upon a proposal in that regard which we

can recommend with unanimity to the Senate I doubt not that it will have weight in the conclusions to which Senators may come. Therefore, Mr. President, I renew my request for the withdrawal of the amendment.

The PRESIDING OFFICER (Mr. JONES in the chair). The Chair understands that a Senator has a right to withdraw an amendment which he has offered.

APPENDIX.

UNFAIR COMPETITION.

[By Dr. Paul Marcuse, attorney and counselor at law.]

Unfair trading or unfair competition and the contest against this peril to honest trade is of recent date, not that a century ago there were no unfair business men but the inventions of later times have revolutionized trade conditions. Formerly the firms of the country could be sure to monopolize the domestic market and, to a certain extent, the city, which trade belonged to the firms of the city. Now the entire world is almost like one great city. Salesmen from America can reach England within five days, telegraph and telephone minimize the distance between the countries, railroad and shipping transport goods in as many days now as months were required little more than half a century ago. This, of course, has served to intensify competition where it does not create it.

Competition in itself is not at all unfair. Far from it. Competition is good and necessary. Competition makes for progress and perfection. Notwithstanding the money spent in advertising and soliciting, competition has contributed to the lowering of prices, because it creates a market and a demand. Competition may be sharp and unscrupulous, but there is a limit where mere competition ends and brutality and robbery begin. That is what has been called unfair trading.

It is interesting to observe how unfair trading was met by the courts, when such cases began to occur regularly. English and American courts found relief in the fundamental principles of the law and applied the old law to the newly arising conditions and the decisions of the courts have embodied what may be called a code against unfair trading. The French courts also contended against unfair trading by applying section 1382 of the Code Napoleon, according to which everybody has to make good the damages he wrongfully did to another person. Not so the German courts. It is a well-known fact that the German law is written law, and that the judges are rather reluctant to adapt the law to facts which do not expressly come within the words of a certain paragraph, even if such facts were not foreseen or could not be foreseen by the legislator because they did not exist when the law was enacted. As a matter of fact the German courts usually held that competition was permissible—which is an unquestionable fact—and that, as the law of tort did not contain a clause for the protection of business or trade, there was no possibility of preventing or prosecuting unfair trade.

A relief, however, was needed and was found by enacting a special law against unfair trading. The law as originally passed in 1896 deals with four different phases of unfair trading.

(1) Falsely representing one's own business.
(2) Running down a competitor's business.
(3) The deceptive use of a firm name, trade-mark, etc.
(4) The betrayal of business secrets.

The law was successful in combating unfair trading, but as it granted relief in four specific cases only, the courts held that cases not within the law could not be prohibited. It can be imagined that ingenious heads were quick in replacing old methods by new schemes not mentioned in the law. Therefore a change of the law was advocated, moreover as some provisions seemed to require a clearer and more accentuated wording and in fact a new law was passed in 1909 which is still in operative force.

The new law deals with seven different cases of unfair trading which are preceded by a general provision prohibiting any competitive act which is "against morals." Immoral within the meaning of this law is not what a business man of high character and standing would not do, it is a breach against what decent and just people would consider repugnant. The same act may be immoral in a certain case, and moral in another; not that an immoral act can become moral for a certain line of business, because it has become customary in this branch; but a competitive act may be considered permissible against the large industrial concern and immoral against a small retail store. Among others the German courts have applied this general clause in the following cases:

(1) Libeling another business—which is more than the running down of a business, for which see below—for instance, "A. & Co. are doing a dishonest business" or "are selling absolutely worthless goods."

(2) Inducing others to break a contract, for instance, by asking a competitor's employee to break his contract with his firm or by inducing the agent to sell at lower prices than prescribed in his contract with the manufacturer. It can not be unfair, of course, to engage a clerk who is still in the service of another firm. Unfairness is only established when such advantage is sought by means of breach of an existing contract. It is not unfair either to try to buy goods as cheap as possible and thus beat the competitor on the market. There are, however, certain goods, usually sold at standard prices, such as books, certain kinds of soap, perfumery or drugs, certain makes of gloves, etc., which the manufacturer sells to a middleman under special agreement not to sell them for less than a certain price. The retailer who induces the middleman to break his contract with the manufacturer and to sell him a glove cheaper so that he can sell for 85 cents what otherwise costs $1 is considered guilty of unfair trading. Also the retailer who, being obliged to sell at a certain price, sells cheaper and is not supplied any longer by the manufacturer, and who induces other firms to sell him goods, although the manufacturer has pledged his customers not to supply him. On the other hand, it can not come within the law if, the retail prices being regulated only for the domestic trade, a domestic firm tries to get the goods from abroad at export prices and reimports them, unless, of course, the foreign firm is under contract not to sell to the manufacturers' country.

The selling at prices below the usual prices or even below the cost price (preisschleuderei), cut prices, is not unfair trade, either; the opposite question, whether it is unfair trading to charge excessive or discriminating prices, plays but a small rôle in the jurisdiction of the German courts. The reason is that almost all railroads, telegraphs, telephones, gas, electricity, street car companies, are owned by the Government or the municipalities. As to shipping, a concern which in order to discriminate against an inconvenient competitor charged prices detrimental to trade was found guilty of unfair trading, because shipping was considered a quasi monopoly. But it was not considered unfair to exclude from rebates firms which also shipped goods on other lines.

(3) While, as stated before, one may engage a competitor's employee, it is unfair to take the employee from the competitor's works for the sole purpose of causing inconvenience or expense, e. g., without the intent of giving him a place in your own factory, just paying him the salary for a week or two. It is also unfair competition to engage a competitor's clerk for one's own factory and to promise a reward for inducing the competitor's customers to buy goods from him. A firm giving a good character to an employee who was discharged for incompetency or stealing to an inquiring competitor will also be held responsible for this breach of good faith.

(4) Boycotts and lockouts are permitted; they are immoral, however, if they purport or effect the complete ruin of a competitor. Conventions between several bidders to the effect that one of them shall make a serious bid while the others do not bid or make excessive bids, for the sake of dividing the profit, are not necessarily immoral, because the prevention of mutual underbidding and competition is a goal for which business men may loyally contend. Such conventions are immoral, if they comprise every possible bidder, and if the one serious bid made is far above what is an honest and fair price.

The seven different cases of unfair trading are as follows: Falsely representing one's own business (reklameunfug); i. e., deceitful misstating the quality, source of supply, etc., of the goods in order to attract trade, whether such misstatements are made in advertisements, pamphlets, window announcements, or by the salesman or auctioneer.

Examples: "Linen collars for 8 cents," when the goods are really cotton; "patented for us," "used by the royal family," "recommended by every firm of high standing," "we sell at factory prices, or at wholesale prices," thus making people believe that they can save the profit which otherwise would go to the manufacturer" in business since 1785"; "goods damaged by fire," "we keep a larger stock than any other firms in the city," "largest output in the world," etc.

While these statements, if they are untrue, decidedly constitute unfair trading, any business man is entitled to think his goods are the best, and to praise them accordingly. Thus announcements as "perfume of unsurpassable aroma," "daintiest children's apparel," "high-grade men's clothing store," can not come within the law, even if the goods so exaggerated are only fairly average goods. Now, there is often but a slight difference between a misstatement and a glorification; "hotel in magnificent neighborhood" is one, "hotel magnificently situated in the mountains" can be the other; nor is it often easy to decide what is one thing and what is the other. The German courts hold that a statement is to be taken and taken seriously, while the glorification is not. The traveler will not be considered deceived if the neighborhood does not appeal to him, but he is deceived when he expected to find mountain scenery and hardly sees hills. It further depends upon whom such announcements are addressed to; wholesale buyers familiar with manufacturing often will not be deceived when consumers are. Fifth Avenue walkers won't believe that certain goods are indestructible, while east side customers may believe so. If a piece of china is offered as Capo di Monte for $10, the buyers in an auction house know that the piece is not real, and that the auctioneer wants to say "type Capo di Monte." The average public in a second-class store may, however, believe that the piece is real, and that they are offered an excellent opportunity of buying cheap. In the first case it would not be unfair trading; in the second it would be so. It may be added that in a village, where hardly anybody knows what Capo di Monte is, the piece can be offered as Capo di Monte, and nobody will be deceived as long as it is really worth $10.

An exceptionally interesting point is the question of the so-called designation of origin. "Waltham watch" means a standard watch made by a certain well-known factory in the city of Waltham; "swiss cheese," however, means only a cheese of a certain taste, color, and shape. Therefore any New York farmer may call the cheese he has produced "swiss cheese" (of course, not "imported Swiss cheese") as long as it looks and tastes like the type known as swiss cheese, while nobody may call his watches "Waltham watches," even if they are manufactured in Waltham and are like the original Waltham in quality and design. It is often hard to decide whether a certain name is considered a designation of origin or of type, because in many cases the name has changed from the former to the latter. Wiesbaden preserves originally meant fruit preserved in Wiesbaden in a certain fashion in bottles of a certain shape. It now means high-class preserves, preserved and bottled like the imported ones. Aachener printer, Lübecker marzipan, were cakes made by the bakers of those places in a certain shape and of a certain taste; they gained fame and now designate only types which may be made by anybody and anywhere. Buchara rugs are rugs manufactured in Buchara; Cuban cigars, cigars grown and manufactured in Cuba, so that a firm which sells as "Cuban cigars" cigars manufactured in Bremen out of Cuban tobacco leaves will be guilty of unfair trading. "Munich beer" means beer from Munich, while in Berlin "Bayrisch beer" means domestic beer having the color of light Bavarian beer. "Pilsener beer" is not yet a type of beer, but a brewery in Radeberg which is manufacturing beer of the quality and taste of Pilsen beer was allowed to call its product "Radeberger Pilsener."

The law controlling the sale of wine (weingesetz) contains similar provisions, the details of which, however, would lead too far.

[Concluded from June number.]

The first part of this brief analysis of the law on unfair competition dealt with the so-called general clause prohibiting any competitive act against morals and with one of the seven specific cases of unfair trading mentioned in the law. We shall now consider the six remaining cases and the relief afforded by the law.

II. Sales: The announcement of a sale is a means to attract customers, expecting to find an exceptional opportunity for buying cheaply. It is a universal and standing complaint in Germany, as it was and is in America, that legitimate trade is endangered by stores continually advertising bargains or clearance sales or of others twice a year of goods bought specially or sales at 50 per cent reduced prices which before such reduction were marked up to 100 per cent. The law of unfair competition contains what may be called a "code of sales."

1. A "receiver's sale" is a sale held by a receiver; whereas a sale of goods bought of the receiver of a bankrupt firm may not be called a "receiver's sale."

2. The reasons for each and every sale must be clearly set forth in all announcements, and a list of the goods for sale must be filed with the local authorities.

3. As a sale is a disposal of stock which the owner wishes to dispose of by sale, it is illegal to take on a new stock for an intended

sale or to replenish such stock during the sale. It must be admitted that the latter clause may render it difficult to dispose of the stock, as in the case of goods of various sizes, such as collars, shoes, shirt waists, etc., but it was thought better to go a little too far than not far enough.

4. "Season sales" or "inventory sales" do not come within the above provisions as long as such sales are customary and are advertised as such. Their number and duration, however, may be regulated by the local authorities.

Announcements such as "linen week" and "remnant days" do not contain the word "sale" and do not come within the law, as held by the courts. "Clearance sales" and "only a few days more," on the other hand, are synonymous with sale, and therefore the law is applicable to such announcements.

Certain goods are usually sold in standard quantities, measure, or packing, such as matches, yarn, bottled beer, and pens. It was an old trick of unfair trading to sell 75 per cent of the standard quantities at 90 per cent of the customary price, resulting, of course, in extra profit, while people were being made believe they were being offered an exceptional bargain.

The law therefore authorizes the local authorities to forbid the sale of certain classes of goods in other than the standard quantities or measures.

III. The bribing of employees: It has become customary in more than one branch of business to pay a consideration to employees of another firm for any orders placed with them. While no one would object to calling the attention of a business acquaintance to take the trouble to examine your goods and make his stay pleasant in town it has developed in certain branches that such "consideration" amounted to the employee's salary, and, furthermore, that such consideration was regarded as a matter of course. Suffice it to say that the principal has to pay a price which has been estimated to include the bribe paid to his employee.

The law provides that both the giving and acceptance of a bribe in the shape of money or extra consideration is illegal.

IV. It has already been shown that falsely representing one's own goods is illegal; so is also the false representation of a competitor's goods, as, for instance, the patent applied for by A has been denied; B. C. & E. Co.'s furnace has been blown off for lack of work. Criticism is, of course, allowed, such as D's goods are mediocre, while E sells second-class suits, would be a statement and, if falsely stated, would come under the law.

V. Firm names are protected by the commercial code. The law, however, can not cover every case that may arise. For instance, Augustus Taylor, a manufacturer of pencils in Nuremberg, will be sufficiently protected, provided no Nuremberg firm assume the firm name "Augustus Taylor"; so that the commercial code protects only the firm at the place of business; but if Augustus Taylor should be a firm well known all over the country, people might think that the firm of Augustus Taylor, of Berlin, also pencil manufacturers, is a branch of the well-known Nuremberg house and will take the Berlin Taylor's goods for goods of the Nuremberg firm. A Richard Kennedy, manufacturer of shirt waists, can not prevent another Richard Kennedy and Robert Brown from opening a competitive factory under the style of "Richard Kennedy & Co." or "Richard Kennedy & Brown." If, however, this new firm should rent the premises previously occupied by the old firm, it is clear that Richard Kennedy should be protected from losing the good will and patronage of persons patronizing the new place of business in the belief that Richard Kennedy has taken a partner. The law of unfair trading forbids the use of any deceptive firm name and, for instance, would force Richard Kennedy & Brown to adopt the firm name of Brown & Kennedy or R. Kennedy, jr. & Brown. This also applies to the law of trade-marks. A trade-mark admissible under the trade-mark law may be successfully challenged under the law of unfair trading, provided it appears that a trade-mark was adopted for deceptive purposes. Other ways to identify a business or to attract attention even better than by a trade-mark by using the name of a business, as "Monopol Hotel," "Goethe Theater," "Germania Pharmacy," all being names which are neither part of a firm name or protectable by means of a trade-mark. Fancy carriages or liveries, typical letterheads or billheads may also be recognized as belonging to the firm first using them and become known through them. The same has been held of titles of books and periodicals. A medical monthly may prohibit the use of this title by any medical journal published monthly, and may also prohibit the use of a similar cover or even print by any "medical quarterly" or "medical monthly news."

VI. The last point which the law deals with is the right of an employee to make use of what he has seen, heard, or learned in his firm, his knowledge of the market, of manufacturing methods, business secrets, unprotected patents, receipts, price lists, names of customers, etc. The law tries to compromise between the interests of the employee and his firm.

During his stay with a firm the employee is bound to absolute secrecy; afterwards he may make use of his knowledge. Therefore it would be unfair trading for an employee to give price lists or a list of customers of his former firm to a competitor, who in inducing the former to do this would be guilty of the same offense. It would not be unfair trading to advise the new firm of the superiority of his former principal's methods in advertising or manufacturing or to suggest or to make an offer to a customer of the former firm. It is not lawful to give such advice while in service. It would therefore be unfair trading to copy lists of customers or descriptions of patents in order to in the future use such information.

The relief granted by the law is as follows: In all cases of unfair trading the plaintiff has an action for damages or for an injunction of the court.

Preliminary injunctions, whenever there is a necessity for them before a final decision can be attained.

In the following cases the offender is subject to criminal punishment: Conscious fake-representation; offense against the law governing sales, especially the buying of stock for sale. In case of bribery, giving and taking constitute a misdemeanor, the punishment for which may be a fine of 5,000 marks or a year imprisonment.

Are American firms entitled to take action against a German competitor for unfair trading?

Paragraph 28 of the law reads:

"That a foreign firm is protected when a German firm is protected under the foreign law."

Germany and the United States are both members of the so-called Paris Convention, modified by the Brussels acts of 1900, according to which any State member grants to the subjects of all other State members protection against unfair trading enjoyed by its own citizens. Therefore any relief granted under the law is shared by Americans as well as by German firms, so that American firms are fully protected against any unfair method of which German firms may be guilty.

JUDGMENTS.

1889. July 13. The following judgments were now read:

"Lord Esher, M. R.: In this case the evidence is voluminous and complicated. On carefully dissecting it, it seems to prove the following facts: At some time before an agreement, which will hereafter be referred to, was entered into between the defendants it appeared to the defendants that if more than a certain number of ships loaded tea at Hankow or Shanghai for England, the freights before charged could not be maintained. This is shown by 'suggestions to be considered as strictly confidential between the managers of the Peninsular & Oriental, the Glen, and the Ocean Steamship Cos.' It begins: 'So long as there is a glut of tonnage at Hankow, whether "conference" or not, it is impossible to maintain freights.' The defendants, therefore, resolved upon a plan, by which the number of vessels loading at those places should be limited. The plan was that a certain number of shipowners' firms—namely, the defendant firms—should enter into an agreement with each other that each of them should send an agreed number of ships to Hankow in the season, and that they should not admit more than a certain number of firms to be parties to the agreement, and that they should do certain things then agreed upon, and certain other things which should be afterwards agreed upon if thought necessary, in order to prevent any of those whom they did not admit to be parties to the agreement from being able to load tea at Hankow with any profit. Thus they would after a time drive any of such parties out of the carrying trade from Hankow or Shanghai to England, and then they, the confederated firms, could maintain the high freights which a free competition would inevitably lower. The means of prevention first agreed upon were an agreement that any shipping agent or shipping principal who agreed to ship, and who shipped only on Conference steamers throughout a season, should receive a rebate of 5 per cent on the agreed rate of freight of each shipment; but if any such agent, though directed by his principal to do so, or if any principal should ship any one cargo in a named period on board a nonconference steamer, he should not receive any rebate in respect of any cargo he had, either before the shipment on a nonconference ship or after it, during the period, shipped on board a conference ship. The means afterwards agreed upon and added were that if any nonconference steamer should proceed to Hankow to load independently, any necessary number of conference steamers should be sent at the same time to Hankow, in order to underbid the freight which the independent steamer might offer, without any regard to whether the freight they should thus bid would be remunerative or not. The plan was reduced into a written agreement signed by the defendants, dated originally April 7, 1884, and renewed or enlarged by verbal agreement, before May, 1885. This agreement stipulated that it was to bind each defendant until he should give a particular notice—namely, to all the principals at home. The agreement having been entered into by the defendants, they in May, 1885, refused to admit the plaintiffs to be parties to it. The plaintiffs thereupon resolved to send, and did send, two of their steamers, the *Pathan* and the *Afghan*, to Hankow, in order to obtain freights independently. The defendants issued circulars on May 11, 1885: 'That shipments by the steamships *Pathan*, *Afghan*, and *Aberdeen*, or by other nonconference steamers at any of the ports in China, or at Hongkong, will exclude the firm making such shipments from participation in the return during the whole six-monthly period in which they have been made, even although the firm elsewhere may have given exclusive support to the conference lines.' Besides this, the defendants agreed to send, and did send, as many vessels as their agents thought necessary for the purpose to Hankow, for the express purpose of obtaining the carriage of all tea at any freight, however small, which might underbid and so oust the *Pathan*, the *Afghan*, or any other vessel of the plaintiffs from the carrying trade. The ultimate object of the defendants was no doubt to benefit themselves; but the immediate purpose was to drive out the plaintiffs. (See letters of May 1, 1885 (from the chairman of the Peninsular & Oriental Steamship Co., defendants, threatening to close their relations with their agents at Hankow if they carried out their intention of loading home direct from Hankow for the plaintiffs); May 8, 1885 (from the representative of the Ocean Steamship Co., defendants, containing the following expression, 'to successfully oppose these outsiders it is necessary to have considerably more conference tonnage at Hankow'); and May 8, 1885 (from agents at Shanghai to one of the defendant firms containing the following expression, 'the best way to meet the case is to sanction a few more conference vessels going to Hankow, as with this supply of tonnage they would stand but little chance of getting full cargoes').) By the means agreed upon by the action directed by the defendants, the freight from Hankow to England was lowered from 50s. and upward to 25s., which was a wholly unremunerative freight, which could not be called an ordinary business freight, which was an artificial freight produced by the action of the defendants in order to carry out their immediate purpose of driving out the plaintiffs. The plaintiffs carried at the 25s. freight on that occasion, rather than sail their ships, which were already there, home empty. But it is obvious that if the contest were to be continued, the plaintiffs could not send their ships again to Hankow; they must be effectively driven out of the Hankow carrying trade, just as certainly and effectively as if their ships were physically stopped from going there. The plaintiffs being by the acts of the defendants driven from the trade, the defendants would resume their old rates of freight, rates fixed without competition. The plaintiffs on the season of 1885 would have earned a higher freight than 25s. In respect of subsequent years they were prevented from attempting to earn, according to circumstances and their own judgment, any freight from Hankow to England. The question is whether what the defendants did, and its consequences to the plaintiffs, gave the latter any legal cause of action.

"It seems to me well to consider, first, what view the law takes of the agreement of April 7, 1884, renewed or enlarged in 1885. In Hilton *v.* Eckersley (6 E. & B., 47) a bond was executed by certain masters, by which they agreed to be bound to each other in a penalty, nominally payable to one of them, if any one of them should carry on his works, in regard to amount of wages to be paid to persons employed therein, and as to the times or periods of the engagement of workpeople and the hours of work, otherwise than in conformity with the resolutions of the majority of the said masters. The defendant, one of the signing masters, carried on his works contrary to a resolution of the others, whereupon he was sued on the bond for the penalty. Crompton, J., said: 'I am of opinion that the bond is void, as being against public policy. I think that combinations like that disclosed in the pleadings in this case were illegal and indictable at common law, as tending directly to impede and interfere with the free course

of trade and manufacture.' 'One of the most objectionable parts of this bond is that it takes away the freedom of action of the individual to carry on the trade, and to open and close his works according as it may be for his interest or that of the public.' He held that the bond was void as between the parties to it, because it was illegal as being in restraint of trade. Lord Campbell doubted whether the bond was illegal to the extent of rendering the parties to it indictable, but agreed that it was illegal as between the parties, and was, therefore, void. In the court of exchequer chamber, Alderson, B., gave the judgment. 'The question,' he said, 'is whether this is a bond in restraint of trade; and we think it is so. Prima facie, it is the privilege of a trader in a free country, in all matters not contrary to law, to regulate his own mode of carrying it on according to his own discretion and choice.' Speaking of the regulations, he said: 'All these are surely regulations restraining each man's power of carrying on his trade according to his discretion for his own best advantage, and therefore are restraints on trade, not capable of being legally enforced.' 'We do not mean to say that they are illegal, in the sense of being punishable and criminal. The case does not require us, and we think we ought not, to express any opinion on that point.' He then goes on to say that the fact of the combination of masters being formed to counteract a combination of workmen can not render the masters' combination legal. 'The maxim injuria non excusat injuriam, is a sound one, both in common sense and at common law.' Hornby *v.* Close (Law Rep. 2 Q. B., 153) is to the same effect. These cases decide that there is still, according to law, a restraint of trade which is contrary to law. They decide that an agreement whereby traders bind themselves not to carry on their trade according to their own judgment, but according to the judgment of others, is an agreement in restraint of trade. They decide that if such an agreement is made out, it is not made legal because it is entered into as a countermove against another similar agreement. Applying these propositions to the agreement of 1885, the defendants by it agree to carry on their trade of shipowners, not each according to his own judgment as circumstances may arise, but according to an agreed rule arrived at by the consent of others, not to be departed from without the consent of all. Unless the law holds this agreement to be void, the defendants have bound themselves to it by mutual agreement, which would be a sufficient consideration to bind each of them. They have bound themselves not to depart from the agreement without a particular kind of notice. The agreement, in accordance with the cited cases, must be held to be in restraint of trade, and therefore void as between the parties to it. The only reason why it can be held void is because it is illegal. A legal agreement voluntarily come to can not be held by law to be void. The cited cases leave open the question whether such an agreement amounts to an indictable conspiracy. They do not hold that it is not. But before considering that point it must be observed that the agreements held to be illegal because in restraint of trade must have been so held, not because there was any wrong done to the traders who agreed—for they all agreed to what was to be done—but because there was a wrong to the public. The restraining themselves from a free course of trade was held to be a wrong to the public. If that be so when parties agree to restrain themselves, it must be much more so when they agree to do acts which will restrain and are intended to restrain another trader from a free course of trade. That restraint is equally a wrong to the public. The present agreement is therefore illegal and void as in restraint of trade on that ground also.

"The cases cited do not determine whether an agreement which is void as between the partics to it because it is in restraint of trade is or is not an indictable offense. But if such an agreement is illegal because it is a wrong to the public, it seems to me impossible to say that it is not indictable. An illegal act which is a wrong against the public welfare seems to have the necessary elements of a crime. If, however, all agreements in restraint of trade are not necessarily indictable offenses, yet some may be. And if the agreement is one intended to interfere with the free course of trade of a trader who is not a party to the agreement, and can, if carried out, have that effect, then if such an interference is an illegal act as against the trader, it seems clear that the act of agreement is a wrongful act, both as against an individual and as against the public welfare, and then I am of opinion it must be an indictable conspiracy. 'There seems,' says Sir William Erle, in the most admirable essay styled "The Law Relating to Trade-Unions" (Macmillan & Co., 1869), a book more full of careful and accurate law than is to be found in many judgments, 'also to be authority for saying that a combination to violate a private right, in which the public has a sufficient interest, is a crime, such a violation being an actionable wrong' (Erle, p. 32). Unless the public has an interest in traders being left to their own judgment, and to a free course of trade, there is no foundation for the law as to agreements in restraint of trade being illegal. The public, therefore, has an interest which such agreement injures. It follows that if the agreement be an agreement to violate the right of an independent trader by restraining his trade, there is a sufficient public interest which is also injured, and the agreement is an indictable conspiracy. It becomes necessary now to consider what interference with an independent trader will be a violation of his private right. Now, a long line of cases has determined that every trader in the Queen's dominions has by law a legal right to carry on his trade in ordinary course of trade according to his own will and judgment, and the law has decided that for some kinds of interference with that right the trader interfered with has a right of action. Alderson, B., in the exchequer chamber, in Hilton *v.* Eckersley (6 E. & B., 47, at p. 74), says: 'Prima facie, it is the privilege of a trader in a free country, in all matters not contrary to law, to regulate his own mode of carrying it on according to his own discretion and choice.' Turning again to the careful analysis of law in Sir William Erle's book, I agree with him (p. 13) that 'these propositions assume that a person has a right to do as he chooses with his own, whether labor or capital, within the limits set by law; that a right involves a prohibition against the infringement thereof; and that a prohibition involves a remedy for the violation thereof.' The particular right of a trader—which we are considering—is his right to carry on his trade according to a free course of trade. The plaintiffs had that right on their side; but so also had the defendants on their side. The next question is, What will amount, as between rival traders, to an encroachment by the one on this right of the other? Each has a right to carry on his trade in a free course of trade, according to his own free will and judgment. So long as the one so carries on his trade, the other can not, without infringing on the right of his rival, effectively complain. So long as each so carries on his trade, though such carrying on produces the utmost extent of competition, and consequent lowering of gain, neither can validly complain. Each is exercising the free course of trade. But if one goes beyond the exercise of the course of trade, and does an act beyond what is the course of trade, in order—that is to say, with intent—to molest the other's free course of trade, and which does molest the other's free course of trade, he is not exercising his own freedom of a course of trade; he is not acting in, but beyond, the course of trade; and then it follows that his act is an unlawful obstruction of the other's right to a free course of trade; and if such obstruction causes damage to the other, he is entitled to maintain an action for the wrong. 'At common law,' says Sir W. Erle (p. 6), 'every person has individually, and the public also have collectively, a right to require that the course of trade should be kept free from unreasonable obstruction.' 'Every person has a right under the law, as between him and his fellow subjects, to full freedom in disposing of his own labor or his own capital according to his own will. It follows that every other person is subject to the correlative duty arising therefrom, and is prohibited from any obstruction to the fullest exercise of this right which can be made compatible with the exercise of similar rights by others. Every act causing an obstruction to another in the exercise of the right comprised within this description—done, not in the exercise of the actor's own right, but for the purpose of obstruction—would, if damage should be caused thereby to the party obstructed, be a violation of this prohibition; and the violation of this prohibition by a single person is a wrong, to be remedied either by action or indictment, as the case may be. It is equally a wrong whether it be done by one or by many—subject to this observation, that a combination of many to do a wrong, in a matter where the public has an interest, is a substantive offense of conspiracy' (p. 12). The limitation of the competing rights, then, is that the act which has in fact obstructed the full right of the one must, in order to be actionable, be an act done by the other beyond the exercise of the actor's own right, and for the purpose of obstruction. In Lumley *v.* Gye (2 E. & B., 216) and in Bowen *v.* Hall (6 Q. B. D., 333) the act done which obstructed the plaintiff's right was the persuading a person employed by the plaintiff, under contract, to break that contract. Such persuasion is not in ordinary course of trade. The ordinary competition of trade is a fair competition, not a secret persuasion of others to do wrong. The next question in those cases was whether what was done was intended to obstruct the plaintiff. With regard to that point, it is laid down in Bowen *v.* Hall (6 Q. B. D., 333, at p. 338): 'The act of the defendants which is complained of must be an act wrongful in law and in fact. Merely to persuade a person to break his contract may not be wrongful in law or fact. * * * But if the persuasion be used for the indirect purpose of injuring the plaintiff, or of benefiting the defendant at the expense of the plaintiff, it is a malicious act which is in law and in fact a wrong act, and therefore a wrongful act, and therefore an actionable act if injury ensues from it.' The law there is laid down that a malicious motive in the defendant may make an act which would not be wrongful without the malice a wrongful act when done with malice. It was thought that the judgment in Lumley *v.* Gye (2 E. & B., 216) was founded on the view that there was malice in the defendant, and that view was adopted and approved in Bowen *v.* Hall (6 Q. B. D., 333). The word 'malice' is satisfied by the thing being done with the knowledge of the plaintiff's right and with intent to interfere with it 'maliciously,' or, which is the same thing, 'with notice,' per Crompton, J., in Lumley *v.* Gye (2 E. & B., 216, at p. 224). This effect of malice is adopted by Sir W. Erle, and so long ago as by Lord Holt in Keeble *v.* Hickeringill (11 East, note, p. 574). 'Suppose,' he says, 'the defendant had shot in his own ground; if he had occasion to shoot, it would have been one thing; but to shoot on purpose to damage the plaintiff is another thing, and a wrong.' In truth I have never known this rule doubted.

"The propositions applicable to the present case which are to be deduced from the above considerations are the following: First, that the head of law, which we are considering, applies only to trade and to traders; second, that the law has a peculiar care for the preservation of a free course of trade as between traders, because such freedom is for the benefit of the public; third, that the principal formula of law for the purpose of enforcing this peculiar care is that every trader has a legal right to a free course of trade, meaning thereby a legal right to be left free to exercise his trade according to his own will and judgment; fourth, that if anyone, by an act wrongful as against that right, interferes with it to the injury of a trader, an action lies against such person by such trader; fifth, that any act of fair trade competition, though it injure a rival trader even to the destruction of his trade, is not a wrongful act as against such rival trader's right, but is only the exercise of the first-mentioned trader's equal right, and is therefore not actionable; sixth, any act, though of the nature of competition in trade, but which is an act beyond the limits of fair trade competition, and which is therefore not an act of any real course of trade at all, and the immediate and necessary effect of which is such an interference with a rival trader's right to a free course of trade as prevents him from exercising his full right to a free course of trade, leads to an almost irresistible inference of an indirect motive, and is therefore—unless, as may be possible, the motive is negatived—a wrongful act as against his right, and is actionable if injury ensue; seventh, an act of competition, otherwise unobjectionable, done not for the purpose of competition, but with intent to injure a rival trader in his trade, is not an act done in an ordinary course of trade, and therefore is actionable if injury ensue; eighth, an agreement among two or more traders, who are not and do not intend to be partners, but where each is to carry on his trade according to his own will, except as regards the agreed act, that agreed act being one to be done for the purpose of interfering, i. e., with intent to interfere with the trade of another, is a thing done not in the due course of trade, and is therefore an act wrongful against that other trader, and is also wrongful against the right of the public to have free competition among traders, and is therefore a wrongful act against such trader, and, if it is carried out and injury ensue, is actionable; ninth, such an agreement, being a public wrong, is also of itself an illegal conspiracy, and is indictable.

"It follows that in the present case the agreement of 1885 was within the rules 8 and 9 an indictable conspiracy, and that when it was carried out to its immediate and intended effect, which was an injury to the plaintiffs' right to a free course of trade, the plaintiffs had a good cause of action against the defendants.

"It follows that the act of the defendants in lowering their freights far beyond a lowering for any purpose of trade—that is to say, so low that if they continued it they themselves could not carry on trade—was not an act done in the exercise of their own free right of trade, but was an act done evidently for the purpose of interfering with, i. e., with intent to interfere with, the plaintiffs' right to a free course of trade, and was therefore a wrongful act as against the plaintiffs' right; and as injury ensued to the plaintiffs, they had also in respect of such act a right of action against the defendants. The plaintiffs, in respect of that act, would have had a right of action if it had been done by one defendant only; they have it still more clearly when that act was done by several defendants combined for that purpose. For these reasons I come to the conclusion that the plaintiffs were entitled

to judgment. The damages, if that be the correct conclusion as to the right of action, are to be ascertained. They are, in my opinion, the difference between the freight of 25s., which the plaintiffs were forced to accept, and the freight they would have obtained without other interference than a legal fair competition in 1885, and damages at large for being prevented from endeavoring to earn freight from Hankow to England in subsequent years, after taking into account the probability of using their ships in some other trade. I am of opinion that the appeal should be allowed."

INTERNATIONAL SANITARY CONFERENCE.

Mr. STONE. I desire to report from the Committee on Foreign Relations a joint resolution and to ask that it may be referred, with the accompanying papers, to the Committee on Appropriations. The accompanying papers are as follows:

A letter dated April 8, 1914, from the Secretary of the Treasury to the Speaker of the House of Representatives; a letter dated March 30, 1914, from the Secretary of State to the Secretary of the Treasury, both of which are in print, and also a letter from the Secretary of the Treasury to the chairman of the Committee on Foreign Relations.

Mr. CATRON. Mr. President, if it is necessary that Members of the Senate should know what the Senator from Missouri is saying, we should like to be able to hear him.

Mr. STONE. I beg pardon. I was asking to report from the Committee on Foreign Relations a resolution with the request that the resolution, with the accompanying papers, which I have indicated, may be referred to the Committee on Appropriations.

Mr. SMOOT. I object to any business at this time except the regular order.

The PRESIDING OFFICER. Objection is made.

Mr. STONE. If the Senator will permit me, this is an international matter. It relates to an invitation to the Government of the United States to attend an international convention to be held at Montevideo, and if it is to be complied with it must be done at once or it will be too late. It is a mere matter of international courtesy.

Mr. SMOOT. Mr. President, inasmuch as the Senator says he desires to have the resolution referred to the Appropriations Committee, I will withdraw the objection to its being reported at this time.

Mr. STONE. That is my request.

The PRESIDING OFFICER. The Senator from Missouri asks unanimous consent to report from the Committee on Foreign Relations a resolution which he asks may be referred to the Committee on Appropriations. Is there objection? The Chair hears none. The Secretary will read the resolution by title.

The SECRETARY. A joint resolution (S. J. Res. 166) authorizing the President to designate two officers connected with the Public Health Service to represent the United States at the Sixth International Sanitary Conference of American States to be held at Montevideo, Uruguay, in December, 1914, and making an appropriation to pay the expenses of said representatives, and for other purposes.

The PRESIDING OFFICER. The joint resolution and accompanying papers will be referred to the Committee on Appropriations.

INTERNATIONAL CONFERENCE ON SOCIAL INSURANCE.

Mr. SUTHERLAND. I ask permission to introduce and have referred to the Committee on Foreign Relations a joint resolution authorizing the President to accept an invitation and to appoint delegates to participate in the International Conference on Social Insurance. I hope no objection will be made, because the convention is to be held in September of this year, and if this Government is to accept the invitation it will have to do so speedily. It is necessary that the Foreign Relations Committee should act upon it. The time is very short, and I hope no objection will be made.

The PRESIDING OFFICER. Is there objection?

Mr. SMOOT. I will have to object to the introduction of the joint resolution at this time.

The PRESIDING OFFICER. Objection is made.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. LEWIS. Mr. President, as was confessed by the able Senator from Iowa [Mr. CUMMINS] for himself, I, too, confess for myself that I am somewhat responsible, in common with the industrious members of the Committee on Interstate Commerce, for the legislation which is now under assault. As to section 5, I am particularly responsible, in view of the fact that in the preparation of portions of that section I feel I imposed my legal opinion upon a subcommittee and had it accepted possibly for more than its value. I wish, therefore, to refer to a few objections which have been urged from the floor with great industry and ability by certan Senators in opposition to this legislation. I rise to reply to the able Senator from Utah, and the equally capable Senator from Missouri, both of whom have just concluded their presentation against the bill.

At the outset, Mr. President, let me frankly say that I am not unconscious of where the weakness really lies in form of legislation. There is a lack of public opinion behind these measures. There is a want of knowledge, upon the part of the country at large, as to what these measures purport, what are the objects of them, and what they are intended to accomplish. There is a greater misapprehension as to what they are not intended to accomplish.

The able Senator from Rhode Island, whether consciously or not, really voiced the want of confidence that there is in the country at large among those who are called business men as to any legislation attempted in this body. There is an opinion prevailing in rather eminent quarters that there are but two motives which animate and inspire this assemblage to legislation: One is on the part of certain Senators who seek to cultivate the favor of the thoughtless and impulsive in order to obtain a political following and popular support; another is on the part of those who possess the muniments of wealth and can not possibly conceive how any man can have an honest objection either to what they do or to the methods they undertake. These ever assert that our only purposes are to execute resentment against all prosperity; to level an assault against all affluence, and to introduce and advance legislation for the purpose only of perpetrating some revenge upon those who have succeeded and gratifying some vengeance upon those who possess. So long as this country or any respectable portion of it shall be invested with this false belief and be possessed of this dangerous illusion there will be no support of thoughtful public opinion behind the attempt to enact remedial legislation such as we are now undertaking. Public papers in this Nation of great eminence, of great influence, through their editorial expressions have very frankly conveyed the idea that this whole form of antitrust legislation, or this legislation having for its purpose the regulation of the whole trust commercial system, has only the effect of retarding business progress; that its ultimate effect is to confuse business enterprise; that in itself it discourages initiative, and is an evidence on the part of the Senate of its want of appreciation of the rights of the business interests on the one hand, or its lack of a sense of public duty and what it owes these great business interests on the other.

The public at large, therefore, have become educated to the belief that we have no real purpose to remedy the ills of man in this legislation; that our object is to perpetrate an ill upon a selected class of men; that our real purpose is not to frame a legal measure that may be executed with ease and consummated within the law, but that it is to propose a measure, without regard to its constitutional fundamentals, which shall attract to us a form of political following for election purposes, and that we are quite content that the law shall be illegal in many features and that its ultimate fate before the court shall be what it may, providing we can merely achieve the passage of some measure to claim immediate credit for the achievement.

I am aware, Mr. President, that such views held as to certain other legislative bodies in this country might not be very effective or harmful; but in all my reading or public observation I can conceive of no legislative body so wounded in its strength, so powerless in its ultimate results, by such public opinion honestly indulged by this high class of our citizens as this, the Senate of the United States.

It was in the dream of the fathers who founded this body that it might serve ever as a temple of confidence, and by its very presence inspire mankind with the feeling that however the storms of vengeance might rage without, and however popular clamor might succeed in another branch, that here, in the safe, solid, reflective body of the Senate would be a recourse and a refuge against all of these things that stormed against the rights of man in haste or in fury. This being the ideal, there was a feeling of respect for the Senate as an institution for the preservation of property and for the maintenance of the constitutional rights of the citizen.

I deplore to confess that this confidence by the country at large has been seriously diminished, if not completely destroyed. The Senate has ceased to be that heretofore understood deliberative and conservative body, exercising restraints within the Constitution and preserving the rights of man within the charter of human liberties. The Senate has gotten to be regarded as the extreme radical wing of the Federal Government, with the particular object charged to it of having one

body of this legislature vie with the other as to the most radical methods which can be proposed in legislation and the most daring and audacious legislation in itself that can be conceived by the mind as having the most popular claim or that might be followed by the greatest applause of the crowds.

Mr. President, this picture is not true to its original; but we can not deny that it is true as to the popular feeling among the thoughtful and reflective citizens of our time.

One of the things which has produced this has been the tendency of the courts, voluntarily, or at least without serious justification, to find a chance to hold legislation invalid, either upon the ground that it violates the Constitution or upon the ground that it is an inexpedient form of legislation; also, where the courts will not hold a law unconstitutional, the same act is oftentime decimated and emasculated by rulings which rob the law of its practical effects to the people. The public conclude that one of two things must exist: That if they are to continue in respect for the courts, with their decisions against the laws of the legislative body, they must lose their respect for the learning and wisdom of the legislative body. If they must continue to respect the legislative body as wise and patriotic, they must withdraw their confidence from the courts as being either learned or patriotic.

This condition has been brought about by a general tendency on the part of certain large institutions—I use the word "large" in the sense of power—which have found a safe refuge in the general charge of "unconstitutionality" against all forms of legislation which seek to remedy public wrongs or to punish public offenses. These institutions have found a ready audience in certain courts throughout this country, and they have readily found great support from certain of the eminent press of America. Thus a popular atmosphere can be created that nothing the United States Senate can do is respectable in its undertaking and nothing it has accomplished is legal in its determination.

Mr. President, I regret to admit that there is much foundation for this general suspicion and general accusation. Heretofore this body has too hastily passed legislation at the dictates of what appeared to be popular clamor, or to serve what might appear at the time to be the uses of political organization. After the temper of the time has cooled down, the fury has been assuaged, and the popular will, like a receding tide, has calmed itself into peaceful waters, and there could be a view cast over the whole surface as to the rightfulness of the thing, many of the acts, much of the legislation, passed by this body must be condemned as lacking judgment in the consideration of the interests of mankind, as wanting practicality in the methods of its execution, and, finally, as being utterly without regard to the general rights of the general citizens of the United States of America, which this body was primarily constituted to consider and conserve.

While that is true, however—and I concede it reluctantly, and can name instances to justify my impeachment—I do deny that, because there have been these several instances, that every instance attempted here in this body looking to remedying of wrongs against the great mass of citizenship is to be impeached, either by the accusation of unconstitutionality within the fundamental law or want of judgment, measured by the standard of business sense; and I assert that if there had not been in the past such success attending the efforts of certain favorite institutions and favorite interests of this country in their assaults on every law that was passed to remedy the wrongs of the public, we would not have these interjections of "unconstitutionality" so frequently introduced to every measure attempted or proposed in a legislative body.

Now, sir, let us contemplate for a moment the spirit behind these assaults. To the Senators who make them, every honesty of motive must at once be ascribed, integrity of mind must be conceded, patriotism of purpose must be admitted; but at the outset it is claimed that the law is unconstitutional for stated reasons. I use the words of the able Senator from Utah [Mr. SUTHERLAND], to whom I grant, as did the Senator from Iowa, great certificate of merit as to his legal ability, and the able Senator from Missouri [Mr. REED], whose capacity as a lawyer can be attested by anyone who has ever been thrown within the zone of his accomplishments. These distinguished gentlemen, representing the objections urged from each side of the Chamber, are impressed with the idea that this form of legislation violates the fundamentals of the Constitution in this:

First. That it is an attempt to transfer purely judicial powers from the courts to administrative bodies which have not been created under the Constitution as courts.

Second. That it is an attempt to vest in a general body of citizens somewhere the exercise of discretion in control over the affairs of mankind without that discretion being specifically defined as to how they shall act, where they shall act, by what rule they shall act, and what shall be the exact limitation beyond which they shall not act.

Naturally there arises to the Anglo-Saxon mind——

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Missouri?

Mr. LEWIS. Surely.

Mr. REED. If the Senator is endeavoring to state my position, he is unfortunate in his expression. All that I have ever said with reference to this bill is that the legislative body must at least lay down the general rule. That is very different from saying, as I understand the Senator to say, that I have insisted that the legislature must specify every act and lay down a limitation as to everything. What I have contended—I know the Senator means to state my position fairly, and I merely referred to that in my remarks—is that there must be a general rule laid down; and I think the Senator will hardly dispute that proposition.

Mr. LEWIS. It may be, Mr. President, that I have misapprehended, to a degree greater in detail than was intended by the able Senator, his position; but that I have stated generally the viewpoint of the Senate as to that which was gathered from the able Senator, I think will be admitted.

I wish, therefore, to allude to both positions as stated by the able Senator himself, and as we heard elaborated by the very full and copious presentation of the Senator from Utah.

This bill, as the Senator from Iowa [Mr. CUMMINS] stated, has for its purpose a regulation of commerce. Mr. President, it is an interesting thing to recall that every attempt at the regulation of any commerce by any law of this body has been invariably met by the objection of the want of constitutionality. I concede, as heretofore I have observed in my reply some days ago to the able Senator from Idaho [Mr. BORAH], that if this Government were now situated as it was in the days of the fathers, with the distances between the States; when the citizen in the State found all his necessities gratified by what a State could produce or what its laws could afford, I should be found opposing the Federal Government entering into the domain of the control of the private citizen's affairs under the guise of national supervision. I have been forced to the conclusion, however, that the day has passed in this my Government when there ever will be again a distinctive line of political geography to be drawn upon legislation as a test of its constitutionality or validity. There never again will exist in this country as the standard of power the mere geographical line of where one State ends and another State begins. Instead of its being a geographical division that shall be the test as to whether legislation is within or without the power of any legislative body, it will be the subject matter of the legislation, rather than the domain and zone in which it is to operate.

Thus we are confronted; and we recall the history that when the interstate-commerce act originally was in this body, as far back as 1887 and 1888, it was assailed upon the ground that it was unconstitutional; and so ferocious were the assaults that when the time came to vote on that measure—as is reported by my distinguished predecessor in his memoirs; Heaven grant peace to his final rest—so great was the assault, said Senator Cullom, one of the authors of the bill, that when the vote came in the Senate Senators deserted the Chamber, leaving a quorum of but two, by which the interstate-commerce act was passed. So able a lawyer as Senator George, of Mississippi, than whom there was no abler, measured by the standard of constitutional learning, refused to remain in the Chamber. He did not find it agreeable to assail the law. He could not, however, from his viewpoint of constitutionality, give it his approval.

The assault that it was unconstitutional for the reasons laid down by the able Senator from Utah [Mr. SUTHERLAND] as to section 5, and the able Senator from Connecticut [Mr. BRANDEGEE] as to the general purpose of this similar bill, was led by Senator Evarts, of New York, accredited to be a distinguished lawyer and head of the American bar, former Secretary of State. So confirmed was Senator Evarts that it was not in the power of the Government to vest this form of inquisition—to use the words of the able Senator from Utah—within an administrative body, that he denounced the act as being a reflection upon the intelligence of this body. Not only would he not support it, but at home, before the bar association of the State of New York, he gave the passage of the act as an evidence of a decadence of wisdom on the part of the Senate.

We saw the Supreme Court of the United States, however, overrule the able Senator from New York, the head of the American bar. We saw that court pause and consider what the American people needed rather than what the distinguishing minds of lawyers demanded. We saw that court listen to the needs of the country in order to give relief to its people, rather than that which merely prescribed distinctive lines of demarkation in construction that would give justification to refined distinctions.

So, finally, these gentlemen who had cried out "unconstitutional" as to the main act, and been confounded, said, when the court had declared the law valid: "Well, there is one clause that never can be sustained—the long and short haul clause."

I call the attention of my able friends—and I refer to both Senators from Utah, who live in a zone that has had to fight for its very life against the unjust exactions of railroads upon that western country—I call the attention of those able Senators to the fact that there was a constant assault on the long and short haul clause of the interstate-commerce act upon two grounds: First, that it vested in the Interstate Commerce Commission judicial power to determine what was a long and what was a short haul, and how much should be equitably charged for the short haul as compared to the long; second, that it placed within them an unlimited form of discretion by which they were to determine within themselves what was equivalent to a long and a short haul and to say, without control upon their discretion, where they would draw the limit of one charge and where they would assert the other.

Able minds of the Senate felt that that whole clause would have to be held invalid. There were those who so insisted upon it that there was little doubt in their minds, and they kept away from the courts, fearing the consequences. Finally, from the State that once I had the honor to represent in Congress, the State of Washington, in litigation in which I was incidentally connected in the lower court, and where my views were denied in the lower court, the question was squarely brought to test. The Supreme Court of the United States, after 12 years of litigation through the intermediate tribunals, finally decided that case. That court held the only remaining clause of the commerce act as to which there was held a charge of unconstitutionality to be valid and constitutional and overruled the objections urged against it, which were of the very nature, though probably not so potently put, as now urged by the distinguished Senators who have made their charge of unconstitutionality and inoperativeness against the bill now before the Senate—like in form to that one previously assailed upon similar grounds.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Utah?

Mr. LEWIS. Certainly.

Mr. SUTHERLAND. My recollection is not quite as clear as it ought to be upon the subject, but, as I recollect, the original long and short haul clause was practically inoperative, and it was not until we amended the law two or three or four years ago that a long and short haul clause was written into the law which stood the test. That long and short haul clause was debated here in the Senate, and I remind the Senator from Illinois that I defended upon the floor of the Senate the constitutionality of that particular long and short haul clause, and the Supreme Court recently held the long and short haul clause in the present law to be constitutional. That was not the case, however, as I recall, with reference to the original long and short haul clause.

Mr. LEWIS. Mr. President, I will, of course, accept the declaration of the able Senator from Utah as to a matter in which he personally participated. I did not have the honor of being in this body at that time. This much, however, I am able to assure him from the history recorded, that the particular assaults upon the last amendment, which he supported in legislation, were of the very nature as the assault against the older, and the older and the new contained practically the same clauses, so far as the forms of legal assault permitted. It may be true that there was another feature—and I accept the Senator's statement as to that without qualification—which it was regarded as inoperative, in that it would produce impractical conclusions. As to that I have no knowledge.

But now, say the Senators, as their next point upon which they insist to support their claim of general unconstitutionality is a delegation of power. It is charged that there is a delegation on the part of a legislative body to this commission of either legislative or judicial powers.

Mr. President, who says the delegation of any power by the Congress to any other body is wrong? What an inclination there is in the human mind merely to engage in a thought, and to assume that because that has been an expression of the past its philosophy must be right. There is no fundamental law against delegating authority. All government is based on the theory of the delegation of some authority to some sources, otherwise authority never could be executed by any agency. What the Senators mean to say is that power specifically delegated to one body can not be delegated by that body to another body, because the theory of delegata potestas non potest delegari is born of this idea, that where the people vest a certain confidence in a certain source and place in it the authority to execute certain duties, they will not allow that particular body to transfer to some other body which has not been chosen and which has not been selected for the exercise the discharge of those particular discretions. The charge generally, however, that when a legislative body delegates some duties to another body this can be urged as a reason for holding those duties unauthorized is error.

It will be remembered that we have had this test. I heard the able Senator from South Dakota [Mr. STERLING], if I recall, go far back to sustain the proposition of illegality because delegated. I recall his reading the case In re Locke, from Seventy-fifth Pennsylvania. That was a case in which the prohibition laws were at stake, and the question was how far you could delegate to certain individuals the right to say when a law should go into effect. But we in the West have that question ever with us, and the Supreme Court of California, in the case of Ex parte Wall (44 Cal.), if I am not deficient in recollection, laid down the law that that delegation could not be; that it would not be in the power of the legislature to transmit to some other body—to wit, the electorate—the right to say how a law should be executed or when. In after considerations, however, our courts began to see that after the frame of our Government that doctrine could not be longer maintained; that the only way we could execute an administrative government was to declare a policy general in its application and then to commit to some source which had our trust the discretion as to how that policy was to be applied and when. Consequently both of the rulings alluded to by the able Senator have not been the law for 20 years in this country. In every State, city, and village we now leave to a popular vote the ratification or rejection of a law passed by the legislative bodies or submit to the electorate to say upon what event or time the law should go into effect.

Senators in this body call attention to the doctrine of delegation. The able Senator from Utah refers to this question of the delegation of legislative power to an administrative body, but I invite his learned consideration to the fact that while originally there were views of that kind, and in Field *v.* Clark (143 U. S.) there was a very serious consideration of the thought, where the court practically intimated that a mere delegation of power which had been given to one could not be transmitted by that one to another, it did not deny the right of President McKinley or the President then in power to exercise the delegated authority under the McKinley reciprocity clause so far as executing the power under the conditions made necessary as conditions precedent. Subsequently, as the able Senator will recall, the question came squarely before the Supreme Court of the United States as to the power of this body to transmit or delegate some partly legislative and partly judicial function to an administrative body. It came, in the case of Goodrich Transit Co., to the Supreme Court of the United States, where the interstate commerce law was assailed, as the able Senators recall, upon the ground that it authorized the Interstate Commerce Commission to prescribe the manner of keeping accounts, to sit in judgment as to when they were properly kept, when they were properly maintained, and when their violation existed, and the form of punishment to be visited on the infractions.

It was contended that that was a delegation and came within the ancient theories which had been interdicted and prohibited by our theory of government. But the Supreme Court of the United States, in Two hundred United States, leave us no longer in doubt and lay down the doctrine which I assume the able Senators will admit I state accurately, that wherever the delegation is a mere delegation of the exercise of a direction as to when and upon what thing the law shall apply when within terms of a law already passed by the legislative body, that is not a delegation of legislative power nor a delegation of judicial right. It is a mere authorization to an arm of government to say when and where and under what facts the particular law passed by the legislative body shall be called into operation.

That is the exact situation here. No mind, however individuated or discriminating, can find a difference. Therefore however might have been the wise reasonings of able Senators

which had been most influential for 20 years past, I must say that we have outlived them. I regret it because I am a defender of what I feel to be the fundamental divisions of government. If I had my mere ipse dixit, I would assert it never should be departed from and no limitations would ever be leaped beyond.

However, Mr. President, if all divisional lines are wiped out, all demarcations of power lost sight of, we will have the mere commingling of all forms of power. Then finally those who have the greatest power will exercise it in any manner they can against those who have the least.

But unfortunately my Government seems to no longer pay heed to these things. We have reached this point that I lay down now what I believe to be the axiom of the times. The popular mind of our Nation is more centered upon laws which fit the institutions of our people than that which fits the constitution of the lawyers. They have reached sadly the idea that many clauses of the Constitution have become obsolete and are unfitted to the demands of modern days. They insist that to the extent that in the instances of obsolete paragraphs it is an injustice to array such sections as an obstruction against the advance of that which is necessary as remedy and relief to a people who demand reform and rescue, aye, refuge from threatened destruction and impending dangers. In the era which is swirling about us the mere cry of unconstitutionality offered to regulation and barrier against public wrongs will not avail. This refuge resort to privilege has been broken down and shattered into such heaps as can not be molded into shape for the protection of the public offender against private justice. Therefore I most respectfully urge that there is nothing in the assertion as to the delegation because of the adjudications I have cited.

Now, I come to the third suggestion and I dispose of it with a mere statement. The able Senator from Utah [Mr. SUTHERLAND] raised, to my mind, a most interesting point. It was likewise made by my friend the able Senator from Delaware [Mr. SAULSBURY] in committee work upon this bill. That was whether the clause under the bill which permits examinations of books and calls for the inspection of documents and brings forth the individual to make known and clarify certain personal matters of his own is not a violation of what the able Senator from Utah calls the right of private protection, whether it did not violate the constitutional spirit against unreasonable search and seizure, and whether, finally, it did not force him to reveal and betray private affairs of life, which it was the object of our Government, among other things, to protect him inviolate in.

I say if this bill as it is framed worked that result, by calling forth any individual and forcing the individual to divulge his private affairs merely for the obedience to a prosecution on the part of the Government or to serve the competition of rivals, I would be among those who would first denounce it as violative not only of the letter of the Constitution but of what I regard to be one of the most fundamental spirits that sanctify this Government in all the sacrifices of the past which has made all the splendor of the present. But I must discriminate and individuate between the section now before us for consideration and the fundamental doctrine which is urged by the Senator.

What is the position? I contend that interstate commerce is specifically reserved to the Federal Government in the Constitution, by it to be regulated, and I do urge that when the word "regulated" was written in the Constitution it carried with it all the word "regulated" could be conceived in meaning. It meant to assert that anyone engaged in interstate commerce in any form was the subject of constitutional regulation when he touched interstate commerce. Regulation has ever been construed to mean all those things which are essential to keep regular the conduct of one man, upon the theory that he should not use his property in a manner that would injure or destroy that of another.

If this were a provision that had for its mere object the calling forth of any citizen to betray his private affairs, to disclose his personal dealings concerning his personal affairs at the instance of curiosity seekers, or of obtaining evidence for the purpose of prosecuting the citizen, I would join heartily with the distinguished Senators in every form of denunciation which human imagination could conjure or anathema might phrase.

But I pause to ask, What is this? As the able Senator from Montana [Mr. WALSH] has brought forth, the Supreme Court of the United States has, in 159 and 145, specifically taken for consideration the clause requiring the producing of books before the Interstate Commerce Commission and has held it legal, valid, and appropriate.

I take it the learned Senator from Utah does not contend but what that may be true, but he draws an artful and apt distinction fortified with copious learning and conceived facts to sustain the line of distinction advanced. That is that the section compels the individual to produce his books or to produce the corporation's books, and from these books to have the information gathered from it, and likewise his private papers.

For what purpose? I answer only when there has been some complaint that the law has been violated and the protection of commerce taken from some citizen and conferred as a favor to another. Then upon complaint of such, and only then, will there arise the privilege of the examination. Then it arises only after complaint, and upon this form of complaint comes the examination.

We pause, then, to consider the two cases the able Senator read. The case of United States against Boyd, One hundred and sixteenth United States, was where a man was forced at the instance of the Government to bring his books and to disclose the record respecting distillations disclosing his own violations of the criminal law. Surely that is entirely wrong, and no one could justify it.

The Weeks case, in Two hundred and thirty-second United States, was where the officers of the law seized the defendant without authority or without warrant of the court, then proceeded to invade his home and business place, and seized his papers, and with them seized the man and produced the papers in evidence against the man. Surely that was as complete a violation of the fundamental rights of a man within the Constitution as we can imagine. Why? Because it was an unreasonable search and seizure. It was with no form of previous complaint, and under no warrant of arrest or search based on a complaint properly framed, setting forth the description of the alleged things desired.

I invite my learned brother lawyers' attention to a governmental fact: There is no law in this Government against search and seizure. There could not be without destruction of our form of government, for there must come a time when search and seizure of certain kinds of persons and places are essential and saving to every form of freedom. The law is against "unreasonable search and seizure." The test therefore should turn on whether the Government is unreasonable in its search or its seizure.

The test of that then must depend on whether there is reason within the law for that search and seizure, where that reason is sufficient under any law looking to the prohibition of the violation of public rights by a corporation or by an individual seeking to violate public rights by standing upon what he calls his constitutional privilege to do so. So the learned Senator must see that it would never do for the Government to say, "We shall allow interstate commerce between the States to any citizen within any State and allow him to serve as an agent in behalf of the people"—say, for instance, a railroad company, and to it to say, "You are a mere agent of the public; your highway is the people's; we, the people, authorize you to use it and take compensation for your work for serving the public, and yet we allow you as the agent of the public to come in and deny to the people the very information that belongs to them. You are serving as their agent and representative, yet you are to be exempted from disclosing to them their papers upon the claim that they are your private papers; that their books in your control are your private books; that their knowledge held by you for their service and public welfare is your private information." That is intolerable in its conception. It is denied by every form of legal judgment. It is without every form of guarantee within the law, and I am not able to give it the countenance even of the claim of common sense.

I recall that the learned Senator relies much upon Hale against Henkel, Two hundred and one United States. I call his attention to this point, that wherever there is complaint that there has been a violation of public law and there is an attempt to procure books in order to get such facts as serve the public welfare, the individual can not, either in behalf of the corporation or himself, contend against it, nor would enforced production of the books or papers under such necessity be an unreasonable search or an unreasonable seizure.

I ask the Senator's attention to a case criticizing, or rather distinguishing, the case he read—the case of Wheeler against the United States—which, I think, meets the exact point of the able Senator, word for word, at least the spirit of it, and with such aptness that there can be no discrimination afforded that shall possibly construe it out of its application. The defendant's witnesses were called forth to bring the books to a grand jury. Mark you, this is a criminal case. They were called to bring them before the grand jury in order to ascertain what this corporation had been doing respecting certain matters, and a subpœna duces tecum was issued. The corporation had transferred its books to certain persons. The point is made, first, that they are private books, private information; second, that

the corporation no longer possessed them, that they were in the hands of a private individual; and the private individual makes the point that they were corporate books, and he can not be forced to deliver them. The particular point, that they are private papers, is raised, as by the able Senator. I read the point raised by counsel for the defense:

If the books and papers described in the subpœna were the private property of appellants, the court's order requiring their production before the grand jury, and the judgments of contempt based upon the disobedience of that order, violated their rights under the fifth amendment not to be compelled in any criminal case to be a witness against oneself, and under the fourth amendment to be exempt from unreasonable searches and seizures.

I think that states the exact position of the able Senator as made by him here. Now, says the court:

The position that the orders of the court of commitment and imprisonment deprived defendants of their liberty without due process of law seems to be based upon the contention that the corporation was in no way obliged to obey the subpœna, and that, after its dissolution, it was not subject to any subpœna requiring the production of books and papers before the grand jury. But we do not think there is any merit in this objection. If the Government had the legal right to demand the production of the books and papers in question, with a view to the investigation of the alleged offense of Wheeler and Shaw in the proceedings before the grand jury, whether the subpœna was drawn in proper form or not or whether the corporation, in view of its dissolution, could have been compelled to comply with its requirements, in the attitude which the case has taken, is immaterial. It is apparent from the facts already recited that Wheeler and Shaw were required by the subpœna duces tecum to bring before the grand jury the books and papers of the corporation which had been dissolved and that they so understood the subpœna; that they were in possession of such books and papers which could be by them produced before the grand jury, and that before the order of commitment was made the defendants were allowed a full hearing in a court of competent jurisdiction. No objection was taken to the technical form of the subpœna in directing it to the corporation and not the individuals. There is nothing to show it was so broad as to be objectionable, as was indicated of the subpœna in Hale v. Henkel (201 U. S., 43). The defendants, in possession of the books and papers, were denying the right of the court to compel their production because of the dissolution of the corporation, because the title and possession of the books and papers had passed to the defendants individually and were their private property as tenants in common, and they had no possession or custody of the documents as officers of the corporation, and because, as against them, the compulsory production of such books and correspondence would violate their rights under the fourth and fifth amendments to the Constitution of the United States.

We think the questions of substance now presented are whether the rights of the defendants as individuals to be exempt from unreasonable search and seizure of their property and from being compelled to be witnesses against themselves would be violated by the compulsory production of the documents in question.

We are of opinion that this case is virtually ruled by Wilson against United States, supra. In that case it was held that there was no unreasonable search or seizure where the officer of a corporation, whose guilt of an offense against the laws of the United States was under investigation, was compelled to produce books and papers of the corporation of which he was president, because, as against the corporation, the true owner of the books and papers, their production might lawfully be compelled, and that there was no self-incrimination of such officer, because he was not compelled to produce his private books, but the books of the corporation, which were not within the protection given to the private books and papers of an individual. We are unable to see that this case differs in principle from that one. It is true the corporation in the present case had ceased to exist, but its books and papers were still in existence and were still impressed with the incidents attending corporate documents. Wheeler and Shaw had been officers of the corporation, and the books of the company had before the dissolution been made over to them; but this did not change the essential character of the books and papers or make them any more privileged in the investigation of crime than they were before.

Wheeler and Shaw, it may be admitted, could no longer be officers of the corporation, although the record shows that they had never resigned their positions. The corporation, however, had gone out of existence, leaving its books and papers in the possession of the defendants, and, it may be conceded, for many purposes such books belonged to them; but, as was held in the Wilson case, the privilege of the Constitution against unreasonable searches and seizures does not protect against the lawful examination, in due course, of books of this character, nor does the privilege of individuals against self-incrimination in the production of their own books and papers prevent the compulsory production of the books of a corporation with which they happen to be or have been associated. It was the character of the books and papers as corporate records and documents which justified the court in ordering their production, as this court ruled in the Wilson case—

And so forth. We can see no difference in this case.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER (Mr. JONES in the chair). Does the Senator from Illinois yield to the Senator from Utah?

Mr. LEWIS. Surely.

Mr. SUTHERLAND. Accepting the statement of the Senator from Illinois, for the sake of argument, as being correct, then, as I understand him and as I understand the authorities to which he refers, the subpœna to produce the books and papers must be in connection with an investigation of some kind for a specific violation of law. Am I correct?

Mr. LEWIS. An investigation of some kind for a specific violation or under some specific complaint. It may not be a violation.

Mr. SUTHERLAND. Yes; a specific violation of law of some character.

Mr. LEWIS. Or a specific complaint of some kind.

Mr. SUTHERLAND. The case to which the Senator has just alluded was a proceeding before a grand jury. I call the Senator's attention to the fact that under section 3 of this trade commission bill the power which is conferred upon the trade commission to require the production of books and papers of a corporation is a substantive power; that is, it is not a power incidental to some other power. The provision of the section is:

The commission shall have power, among others—

Then (a) states a specific substantive power.

Then (b) states a specific substantive power:

To require any corporation subject to the provisions of this act which the commission may designate to furnish to the commission from time to time information, statements, and records concerning its organization, business, financial condition, conduct, practices—

And so on—

affecting the commerce in which such corporation under inquiry is engaged or concerning its relations to any individual, association, or partnership, and to make copies of the same.

Then follows another distinct power after that. The Senator will observe that the power is not given to this trade commission in connection with an investigation as to whether or not unfair competition had been practiced by a corporation or in connection with any charge that it has violated a law or for any other specific purpose, but it is given as a power substantive and absolute in itself. Another power conferred upon the commission is to make public any statement or information which it may obtain in that way. Another power is to recommend to Congress legislation.

Now, does the Senator think that to gratify the mere idle curiosity of this commission or to gratify the public desire for gossip about some corporation Congress can constitutionally confer upon a trade commission power to investigate the books and private papers and documents of all the corporations of the United States, simply because they happen to be engaged in interstate commerce?

Mr. LEWIS. I answer the able Senator by saying that if I could accept the premises laid down by him as existing here I would answer in the negative, certainly not. But the premises suggested by the able Senator, I must insist, with no desire for levity, are like the expression from The Mikado:

The flowers that bloom in the spring, tra la,
Have nothing to do with the case.

The able Senator can not distinguish one section of the law from the whole act. He can not lop a limb off the tree and say, "There is no tree; I turn my back to the tree; I hold the limb only in my hand," and say, "'Tis all of the tree."

The paragraphs read by the able Senator are paragraphs (a), (b), (c), and (d), and relate to the first four sections of the bill, which specifically set forth that the object of the bill is to protect unfair competition. This commission can never take jurisdiction of anything until there has been put before it in some form the complaint of a violation of the spirit of the act, to wit, of unfair competition by some source somewhere.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Illinois yield further to the Senator from Utah?

Mr. LEWIS. Oh, surely.

Mr. SUTHERLAND. Let me understand the Senator. Does the Senator think that if we should strike out of the bill section 5 these other powers of the commission to investigate the affairs of corporations and examine their books would go with it?

Mr. LEWIS. My judgment is that section 5 defines the soul of the bill—its object—to wit, to prevent unfair competition; and if you should strike out of the bill the very heart of the bill the body would die.

Mr. SUTHERLAND. Then, as I understand the Senator, if we strike out section 5 from the bill, the power which is conferred upon the commission by section 3, subdivision (b), to require the corporation to produce books and documents, and so on, will disappear. Am I correct?

Mr. LEWIS. If the purpose of the bill justifying the demand for its instrumentalities were excluded, the purpose would end.

Mr. SUTHERLAND. That is perhaps an answer.

Mr. LEWIS. It may assume what the Senator did not have in his mind.

Mr. SUTHERLAND. But may I still ask the Senator again whether——

Mr. LEWIS. I may have misapprehended the statement. Will the Senator interrogate me again for the purpose he has in view?

Mr. SUTHERLAND. If I understand the Senator, he thinks that this power that I have read, contained in subdivision (b), section 3, is a power to be exercised in connection with an in-

quiry as to whether or not unfair competition has been practiced.

Mr. LEWIS. That I answer in the affirmative; yes.

Mr. SUTHERLAND. And that it is only to be exercised in connection with such an inquiry?

Mr. LEWIS. With some inquiry.

Mr. SUTHERLAND. An inquiry as to whether unfair competition has been practiced.

Mr. LEWIS. Unfair competition, or whether there have been some violations of the other section of the law which compel certain obedience in order to avoid unfair competition.

Mr. SUTHERLAND. I do not recall any other provision in the bill, but at any rate if the section which defines unfair competition and any other section which there may be in the bill which inhibits a corporation from any particular practice were stricken from the bill does the Senator think that the power conferred by subdivision (b), which I have just read, would fall with those provisions?

Mr. LEWIS. I answer the Senator that if there were stricken from the bill the object and purpose for which books and papers could be required, the books and papers could not then be required except for mere curiosity's sake, and for that purpose men's private papers could not be brought before any tribunal.

Mr. SUTHERLAND. Again let me see if I understand the Senator. One of the powers given to this commission is to make public the facts that they may learn. Does the Senator think the commission may require the production of all books and papers, and so on, in order that what it discovers may be made public?

Mr. LEWIS. No; I answer the Senator. He misapprehends the purport of the bill completely if that is his idea. The matters made public in the bill relate only to those things that have been brought before the commission for one of two purposes, or aid to legislation, which would not be a matter which anyone could complain of, or to demonstrate a violation complained of as touching unfair competition. It does not allow, as I apprehend the bill, that matters may be made public without any regard to any object whatever except publicity.

Mr. SUTHERLAND. That is what I understood the Senator to say before. Then I understand the Senator does not regard the powers conferred by subdivision (b) as being substantive powers in and of themselves.

Mr. LEWIS. I can not so accept them.

Mr. SUTHERLAND. They are only to be exercised in connection with some specific violation of this law on the part of a corporation?

Mr. LEWIS. Some specific complaint of wrong put before the commission.

Mr. SUTHERLAND. Some specific complaint of wrongdoing against the terms of the law?

Mr. LEWIS. Such is my conception of the act. Otherwise I could not see its justification. I must say this: I do not hold my views infallible, because I recognize oftentimes on an investigation of things of which I previously had absolute conviction that I had to change my mind.

I recall in Lord Campbell's Lives of the Chief Justices a recitation concerning a fellow named Ezey. He was very interesting, though he was not regarded well at the bar. Lord Eldon, as was his habit, was at one time talking to himself during argument before him—thinking out loud, rather, as he was listening to Ezey's argument. Eldon was overheard, soliloquizing to himself, "What an ass you are, Ezey"; but Ezey proceeded and finally disclosed a capacity that distinguished his argument with logic and conviction. His lordship was heard to say to himself: "Ezey is not such an ass as I thought he was"; and finally Ezey proceeded to disclose an absolute reason for his position and clearly convinced the judge. When in similar soliloquy his lordship muttered: "Egad, it's myself that's the ass." [Laughter.]

I have long since concluded that this particular condition applied to me so frequently that I declined to be arbitrary and to absolutely assert as an irrefutable matter my legal opinion. But in this matter I feel fortified by the labors I have given to the question, by the consideration I have conferred on the bill, and by my investigations of the law and my convictions as to the uses and purposes.

Mr. President, I now turn to the last question, the one upon which able Senators seem to dwell so severely. It is that the words "unfair competition" are of themselves so general that they set it up, as it were, a trap for the allurement and then the destruction of the victim. One would imagine from the able Senators and their particular method of bringing forth the argument against the provision that it was an absolutely unheard-of form of legislation; that we were weaving some form of spiders' enticement of innocent flies, crawling about in all directions, wherein they were to be assembled; that being invited in innocence they were to be finally held enthralled until destroyed, and that there was no method beforehand by which they could be saved.

Or rising to a higher magnitude of expression it is as though we were investing our legislation with something of a Frankenstein having for its object the bringing forth of these victims in hope of relief prior to placing them in this machine of their own creation, to wit, the creation of their agents, but from which they could never be extricated save in their mangled and severed parts or as completely destroyed.

I can not accept that, and I will give to the Senators, with a degree of confidence in which I feel justified, a reason which I fancy they can accept.

Now, what becomes of the able Senator's argument? Take the position, for instance, of my honorable friend from Connecticut [Mr. BRANDEGEE] against the word "unfair" or of my very able friend from Missouri [Mr. REED], and the Senator from Utah, accentuating the views of that Senator on the ground that this is a general clause of confusing uncertainty and ridiculous deformity. The able Senator from Utah produces as an evidence of his erudition and midnight industry a law of China, and he reads the provision of the Chinese law, which provides that if a man should be guilty of some conduct of impropriety he should be lashed 40 lashes; and if the impropriety be great, he should be lashed 80 lashes. Then, says the learned Senator, "Really the distinguished Senator from Nevada, the chairman of this committee, must have investigated the oriental laws, and from those extracted a form of this bill"; and one would have imagined from the gleeful amusement upon the face of his colleagues that the able Senator from Utah had found a marvelous indication of the antiquity of this body or disclosed how it had gone back into the dusty tomes of generations before constitutions were born to bring forth a precedent upon which to put a modern Anglo-Saxon law.

I assure my friend that I appreciate the industry disclosed by his research, and I was really interested in its presentation, but I invite his attention to really what that law was. It may interest the learned Senator. It has nothing to do with China in its original legislation. The law is a copy of the municipal laws prevailing in the cities of London, Sheffield, Manchester, and Leeds, England, which were copied by the commission sent forth at the instance of China by the English lawyers who made for them a little municipal code, except as to form of punishment. They copied the English law touching general disorderly conduct as it applies to every fish market and wharf in the city of London. I likewise advise my friend that that law was not Chinese, but English, and was the mere codification of those laws made by the commission for the Government of China and in the revision reenacted just 18 years ago.

In order that my friend may see how modern that law was I call the learned Senator's attention to the fact that he voted that exact law upon his own people with a very slight change of phraseology. The distinguished Senator put into the code of Alaska which passed this body, with the aid of his able research and labor, in the provisions touching the municipal conduct, a clause not using the word "impropriety," but the word "disorderly."

Likewise here in the District of Columbia I invite his attention to the fact that that very Chinese law to which he alludes applies in Washington City to this day with the single exception that the lashes are not applied, but fine, imprisonment, or hard labor. The lash is not applied. Delaware has been thinking of applying the lash. It has been argued that such should be applicable to the District of Columbia.

What is the law? It is that any person guilty of disorderly conduct shall have either 5 days in jail and pay $10 fine or 30 days in jail and no dollars. If it shall be accompanied with malicious conduct, it shall be 60 days in jail.

Will my able friend tell me where there is a more general word than "disorderly"? What is disorderly? Does it mean a fight with the fist on the street? It may be. Does it mean an affront to a lady in a street car? It may be. Does it mean some misconduct on the sidewalk? It may be. Does it mean any other loud and boisterous conduct? It may be. The general term "disorderly" is no more general than the word "impropriety" as applied to the municipal practices which my learned friend brought forth from China. They are practically all the same.

This substantive law presented here bears no relation whatever to the precedent that my distinguished friend traveled so far to the dynasty of Ming, in China, to obtain. He could have looked to the municipal code of Washington City itself, and also to the code of Alaska, which he helped to pass, to find

practically the very same enactment with the very same effect. Now, therefore, we ask the question, What is there in this expression "unfair"? I say to the learned Senators, all my friends, that if you go to equity you find discretion lodged in a judge. If you bring a bill in equity seeking to restrain unfair competition, you do so, when you do, on the ground that competition is oppressive and unjust. Who sits in judgment as to what makes it oppressive? The one human being—the man judge. He decides as to what particular acts enter into the question of oppression. Who decides what is "unfair" and unjust? That particular human being; his discretion determines it. It may be, as the able Senator said in reply to the Senator from Missouri, that the very thing that is considered unfair and unjust to-day under one set of circumstances might by that very same judge in another set of circumstances be not so considered because of the changed situation; yet the law would not deny the right of that chancellor to sit in equity and himself decide whether these particular acts met the definition of the phrases of the law, to wit, "unjust," "oppressive," "unfair," "inequitable," "irreparable injury," and "to the great disadvantage," and similar terms stated in any pleading following special statements of a wrong.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Utah?

Mr. LEWIS. I yield gladly to the Senator from Utah.

Mr. SUTHERLAND. Does the Senator from Illinois think that a bill in equity against a defendant for unfair competition would be sufficient as against a demurrer if it simply alleged that the defendant was guilty of unfair competition?

Mr. LEWIS. Recalling Fogg *v.* Blair (152 United States), a very conclusive decision upon that question, saying that the charge "fraud" was not sufficient without detail, I answer the Senator "no"; but the complaint would be sufficient if it alleged unfair competition and proceeded to set forth wherein it was unfair by stating specific acts—the same as a complaint against "disturbing religious worship." The statute states no definition by particular description, yet the acts charged would have to be set up in the complaint.

Mr. SUTHERLAND. Precisely.

Mr. LEWIS. The complaint would have to take the usual form, which would be the common-sense form. It would set forth unfair competition, as charged, and then set forth the details as evidence of the charge, to be thereafter sustained by the proof introduced under the allegations.

Mr. REED. May I ask the Senator a question?

Mr. LEWIS. Certainly. I yield to the Senator from Missouri.

Mr. REED. If the matters detailed were not prohibited by any substantive law, but were all sanctioned by substantive law, would not the petition then be equally demurrable as it would be if the plaintiff filed no specifications?

Mr. LEWIS. What the Senator means to indicate to me is that the specific acts set forth are acts which have received the sanction of the law?

Mr. REED. Of the present law.

Mr. LEWIS. I would have to say, if they had received the sanction of law they would not be unlawful.

Mr. REED. Can you wipe out a law now existing by a general phrase that has so little meaning that if you employed it in drawing a bill in equity you would have charged nothing, unless you followed it by a specification?

Mr. LEWIS. The able Senator from Missouri misapprehends the premise. If the acts set forth were in themselves not unfair competition there would be no reason for the bringing of suit, and we could not conceive of a man doing such an idle thing. If they did constitute unfair competition they would then be lawless and not lawful, and the commission would have jurisdiction.

Mr. REED. Mr. President, the Senator from Illinois gets to this point, that the only thing that will be covered by the term "unfair competition" is that it is to-day illegal. If that be the case, he gets nowhere by the term "unfair competition," because he ends where he starts.

Mr. LEWIS. The Senator is indulging a proper respect for his own argument, made some weeks ago, wherein he contended that the term "unfair competition" would be limited to those matters which relate to trade-marks involving the imposition of fraud of one merchant by assuming to advertise the goods of one man as really being those of another; but I must say to the able Senator that while that construction was possible in years past, before the present conditions of unfair competition were understood, it is not now the modern conception. If the Senator will be patient with me, I, in a few moments, will bring to his attention what, I feel, will be reasoning from an eminent decision, an eminent authority, which will foreclose that question in his very able mind.

This is what I answer: Suppose the able Senator from Missouri or the Senator from Utah were to-morrow morning forced to bring an action charging duress. What is a more general expression than "duress"? If a person is charged with an offense and is put in prison and while actually impaled within its walls is forced to an act and does it under duress, that we understand would be imprisonment and duress; but the mother of this unfortunate individual could have another individual approach her in her home and tell her that he knew something wrong about her son and that if she did not sign a note of $10,000 the son would be delivered to the officers of the law and imprisoned and disgraced and dishonored. There is no imprisonment in that case, but it likewise is duress. Yet there is no imprisonment or even laying hands on the person. Another person may be given to understand that if he does not do a certain thing influence will be exercised by which he will lose his position here in Washington. He yields to the threat and fear and promises the thing sought. That likewise is duress. Shall it be said that there shall be no remedy against duress because every form of definition of duress that the mind might conceive as coming within duress could not be specifically detailed in the statute or law using the word "duress"?

Mr. REED. May I call the Senator's attention to a fact?

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Missouri?

Mr. LEWIS. Certainly.

Mr. REED. Every act which the Senator has now specified as constituting duress is illegal; aside from coming within the definition of duress, it is against the law itself. Applying that to the colloquy which has just passed, if you use the term "unfair," and it carries with it no meaning sufficient to sustain a bill, and if you then file a specification, then unless the things you specify are illegal you have gained nothing by employing the term "unfair," and if they are illegal they are illegal because of the present substantive law. Therefore, when the Senator has recourse to the term "duress," he, I think, avoids the question—of course, he means to be perfectly candid—because the word "duress" in the law has a fixed meaning.

It has been held always to embrace the particular acts the Senator has specified and all that class of acts. Hence, when you prohibit duress, you prohibit all that class of acts, because the word has a fixed meaning.

The question, then, comes, of course, whether the term "unfair" has that fixed meaning. I do not want to interrupt the Senator, but I wish the Senator would tell us now what is included in the term "unfair competition," as he would construe it. I am interested. If I have been wrong, I want to be convinced.

Mr. LEWIS. My able friend flatters me with a concession, affording me great delight when he indicates that I could convince him; so this much, I will admit, I have in my mind, that the Senator from Missouri fails to distinguish between the thing that is unlawful because it is wrongful and the thing that is unlawful because there has been some specific act of legislation or previous decision of courts declaring against it. When I use the word "unlawful" in connection with "unfair competition," I mean that kind of acts which by the rules of reason, common sense, and justice are wrongful.

My able friend says that my definition of duress carried with it some legal definition of duress. I beg to say that I use the last illustration to convey just the contrary. Where is there any law against one intimating that he had influence enough to have another removed from a political position, and by that means secure from him a kind of promise or obedience? There is no law against that anywhere. The intruder may never have such influence; he may never exercise such influence; and yet the individual threatened might not be aware of that fact.

Mr. REED. But I think the Senator avoids the question.

Mr. LEWIS. I am reaching it.

Mr. REED. There is plenty of law against duress. The word "duress" has a specific meaning in the law; it has been defined thousands of times, and it covers all that class of coercion which deprives an individual of his freedom of action and which is calculated to compel him to do something against his will. I do not mean that is an absolutely accurate legal definition but that expresses it; the word has that meaning. When we apply it in the law it covers that class of acts, just as if you used the term "fraud" or "fraudulent," all of which have been defined.

The whole question between the Senator from Illinois and myself and other Senators seems to resolve itself into this: Has the term "unfair competition," aside from the restricted meaning which the books have given it, another meaning so definite

that when you employ it you reach certain kinds of conduct? If it has, I have granted from the first it can be employed in this act. If it does not have such a meaning, then, of course, we are left to the conjecture of the reader as to what it covers. That is the real point between us.

The Senator from Illinois is not flattered at all by my saying that he might convince me. I have not stood here opposing legislation of this kind, but I have stood here insisting that when we do pass a bill we shall pass one that will stand the test. It may be that the general term will stand the test; but I am anxious to know what the Senator now includes, or what he thinks would be included, in the term "unfair competition."

Mr. LEWIS. I meant, Mr. President, when I said my able friend flattered me, knowing him to be so eminent a lawyer, that I felt flattered that he should assume that I, who mingle so many other things with whatever I am as a lawyer, should be able to really convince one whom I recognize as a specialist.

I remind him as I revert for a little relief to the Senators from a dry legal argument to Brizzolari, the Italian wit and student, who used an illustration which has been partly appropriated by one of our American humorists. He said he had often heard the ancient expression that "the half was better than the whole," but he never understood it until he contemplated painters, and then he recalled that there was Raphael, who was only a painter, but he was a much greater man than some painters he knew who were both painters and glaziers. [Laughter.]

I am in this position: My distinguished friend is a very able lawyer, and specialist as such, while I have been obsessed to a great degree with what I think are the purposes and objects to society of the bill, and may for that reason be largely commingling too many matters in my legal construction. This is my direct answer to the Senator, and I shall for a few minutes elaborate it, I hope to his greater satisfaction: The phrase "unfair competition," to which we are now alluding, in the sense in which we use it in the bill will be construed by the courts to mean that which in its general sense it is now understood at the time of the enactment to mean in the ordinary usage of the term in connection with business affairs. That such will be arrived at by recourse to the late decisions, where courts have adopted such expressions, certainly within the last five years.

It is true that originally the term had a limited application, but that limited application was originally applied to many other phrases which now have a much more enlarged significance, such as the word "undue" or the word "restraint." Then I come to the question how would we reach the definition of the phrase "unfair competition" unless we adopt those particular things which are now regarded, or heretofore have been regarded, as coming within its meaning? Can we imagine a more general clause than "due process of law"? Who shall define "due process of law"? Where is the definition specifically? I ask my brother lawyers how would you get at it? You would be compelled to accept the views urged by the Supreme Court of the United States, which, in a late case reported in Two hundred and thirty-second United States, say:

> This court has recognized the difficulty of satisfactorily defining in general terms which shall apply to all cases what is meant by the term "due process of law" and the desirability of judicial determination upon each case as the questions arise. Davidson *v.* New Orleans (96 U. S., 97). If the exercise of judicial power be such "as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs," there has been no deprivation of due process of law.

I am therefore strongly impressed with the idea that here we have a complete parallel and that if "unfair competition" shall be so construed and applied by those to whom its construction is committed within the light of the reason of business affairs, then such does no wrong. There is no discrimination by definition of reaching one set of unfair acts and exempting or omitting others. We thus carry out equitably the definition as it is understood in the business world. There we have all the definition demanded. It is impossible to have a specific definition of everything that in detail would constitute unfair competition set forth in a law.

Now, I ask my learned friend's attention to what I feel will have some influence with him. There seem to have been overlooked some observations by the Supreme Court of the United States. I need not say to the able lawyers around me how we have evolved various expressions and senses used in the law.

The words "due restraint" and "undue restraint of trade" once had a certain limited and defined meaning. Then, in the case referred to by the able Senator from Tennessee [Mr. SHIELDS], the Knight case, the court gave them a rather restricted meaning. We recall how in the trans-Missouri case, previously, a still further restricted meaning was given to them; but gradually the courts began to realize that there were conditions in this country which had to be met by general legislation, and that the citizen had to know that a general phrase which he understood in the private affairs of his life would be accepted within the meaning of the law; that the law would be applied to him to the full extent of that meaning, as he applied it to himself and to his neighbor in ordinary affairs, man to man; that there was no other way to have a definition of the general policy of the dealings between mankind in matters such as relate to commercial intercourse is apparent. All because commerce has increased, science has expanded, invention has multiplied, new conditions surround us, everything forced upon us a situation under which it would be impossible to enumerate the expressions of these changed and added conditions unless one had the category of all eternity, the different forms and methods which might be applied. Consequently general phraseology, not apt because of legal scientific application, but apt because of its general homely understanding. This has become to be a criterion of the law; and among these criteria of general phrases was this particular one of "unfair," a general clause touching the trade affairs of man, employed and adopted because of the growth of the necessity.

The Supreme Court of the United States, our final arbiter, had before it the argument that the word "restraint" did not define. It was urged in reply that "restraint of trade" had been defined in past decisions in one way, but that now new conditions were brought before the court that were not within its contemplation at the time of the previous definition, and these new conditions were to be embraced in the definition. This was met with the rejoinder that such would probably have an ex post facto effect and create a criminal of one who only a few years before, by similar conduct, was regarded as being in a legitimate or certainly a licensed business. The Supreme Court of the United States, speaking through a very learned member of that body, Mr. Justice White, as Chief Justice, considered all these views and changes, and agreed to the necessity of accepting this form of change in order to work the best will of mankind along general lines through and along these lines because there was no other way in which plain justice could be done to plain American civilization.

Keep in mind, sirs, as I have given expression in my wandering parenthesis, that there must be in the minds of legislators, as there surely was in the minds of the courts, that a Government, founded as is ours upon the discretion of its manhood, because it is a Government directly deriving its powers from the consent of those who are governed, such government is compelled to expand to the necessities of the hour to meet the thing consented to, therefore directed, all in order to prevent revolt by those who can otherwise obtain no relief, to avoid insurrection within, riot from without, and destruction of liberty, to the death of freedom. To achieve this, here and there mankind must surrender something of the individual protection it had and the personal security in assurance of exactness of law which had been previously theirs, and for society's sake take a risk and wander forth on the broad highway of human need to ascertain what would be the rights of their fellow men, where the particular citizen would invade them, and beyond which they might not go, to ascertain within what general limits they should serve and sacrifice in order to preserve the general rights of their fellow men. Without this general concession to man, without this general duty imposed upon man, without this consciousness embedded in the soul of him, there could be no free government, because government would be by rule of words, not by rule of reason, by the letter which killeth when the spirit maketh the law. Consequently, the Supreme Court of the United States, speaking through human beings, ordained by the people to speak their will for the Government, and from reason springing from the soul, came to the conclusion that mankind must be not only borne along with the tide of advance, but must yield to inexorable conditions that call for a mutual surrender of exactness, in order that there would not be the oppression born of limitations. It is such that would lead to revolt of reason and destruction of government. For that reason modern society recognizes the process of growth and moves, ruling mankind, as it were, into the niches of the wall that lines the route of advance and ordered this official to hold his place, that he may salute the passing procession of time with its changes and to pay his obeisance to the demands of new needs and adopt the commanded innovations essential to established rights and universal justice. I also invite Senators to consider that the kind of thing charged in the Standard Oil case is of the very thing which we call "unfair competition." These had not at the time of the enactment of the words "restraint of trade" been so understood, as comprehended in the general

expression. The question was, Could the phase now be said to have moved forward with the change of conditions and apply to the new condition, and the new condition to be held violated if such becomes an infraction of the law; or does the general law meet the new condition? In other words, that, if violating the general law, the new condition is to be held within the act or without the act because of no specific definition of such. Then, said Mr. Justice White:

We shall endeavor then first to seek their meaning, not by indulging in an elaborate and learned analysis of the English law and of the law of this country, but by making a very brief reference to the elementary and indisputable conceptions of both the English and American law on the subject prior to the passage of the antitrust act.

Then he enters into a general discussion of the legislation of the English race, coming to our own:

In this country also the acts from which it was deemed there resulted a part, if not all, of the injurious consequences ascribed to monopoly came to be referred to as a monopoly itself. In other words, here, as had been the case in England, practical common sense caused attention to be concentrated, not upon the theoretically correct name to be given to the condition or acts which gave rise to a harmful result, but to the result itself and to the remedying of the evils which it produced. The statement just made is illustrated by an early statute of the Province of Massachusetts—that is, chapter 31 of the laws of 1778–79, by which monopoly and forestalling were expressly treated as one and the same thing.

Then, proceeding, he says what I beg to say ratifies my reasoning:

It will be found that as modern conditions arose the trend of legislation and judicial decision came more and more to adapt the recognized restrictions to new manifestations of conduct or of dealing which it was thought justified the inference of intent to do the wrongs which it had been the purpose to prevent from the beginning. The evolution is clearly pointed out in National Cotton Oil Co. *v.* Texas (197 U. S., 115) and Shawnee Compress Co. *v.* Anderson (209 U. S., 423); and, indeed, will be found to be illustrated in various aspects by the decisions of this court which have been concerned with the enforcement of the act we are now considering.

Without going into detail and but very briefly surveying the whole field, it may be, with accuracy, said that the dread of enhancement of prices and of other wrongs which it was thought would flow from the undue limitation on competitive conditions caused by contracts or other acts of individuals or corporations, led, as a matter of public policy, to the prohibition or treating as illegal all contracts or acts which were unreasonably restrictive of competitive conditions, either from the nature or character of the contract or act or where the surrounding circumstances were such as to justify the conclusion that they had not been entered into or performed with the legitimate purpose of reasonably forwarding personal interest and developing trade, but, on the contrary, were of such a character as to give rise to the inference or presumption that they had been entered into or done with the intent to do wrong to the general public and to limit the right of individuals, thus restraining the free flow of commerce and tending to bring about the evils, such as enhancement of prices, which were considered to be against public policy. It is equally true to say that the survey of the legislation in this country on this subject from the beginning will show, depending as it did upon the economic conceptions which obtained at the time when the legislation was adopted or judicial decision was rendered, that contracts or acts were at one time deemed to be of such a character as to justify the inference of wrongful intent which were at another period thought not to be of that character. But this again, as we have seen, simply followed the line of development of the law of England.

I may omit reading the portions of the decision which do not relate to the point which I wish to press upon your attention. Says the court upon this question of general definition:

The merely generic enumeration which the statute makes of the acts to which it refers and the absence of any definition of restraint of trade as used in the statute leaves room for but one conclusion, which is that it was expressly designed not to unduly limit the application of the act by precise definition, but while clearly fixing a standard—that is, by defining the ulterior boundaries which could not be transgressed with impunity—to leave it to be determined by the light of reason, guided by the principles of law and the duty to apply and enforce the public policy embodied in the statute in every given case, whether any particular act or contract was within the contemplation of the statute.

I am unable to observe, by any line of reasoning, a stronger fortification or a more forcible justification within law for the provision I urge than this which the highest body of our law gives us, as justified in law by the general form of general statement, we have here given us reason for the advance of the law justifying such expanding application.

One more reference to this opinion and I have done. I call the attention of my very able friend from Utah [Mr. SUTHERLAND] to it.

Yet—

Says the court—

let us demonstrate that which needs no demonstration, by a few obvious examples. *Take, for instance, the familiar cases where the judiciary is called upon to determine whether a particular act or acts are within a given prohibition, depending upon wrongful intent. Take questions of fraud. Consider the power which must be exercised in every case where the courts are called upon to determine whether particular acts are invalid which are, abstractly speaking, in and of themselves valid, but which are asserted to be invalid because of their direct effect upon interstate commerce.*

And the court, *reasoning therefrom, says that these particular acts must be ascertained, and from them must be derived whether they serve the general definition of that restraint.*

It seems to me, therefore, that the argument made that the act is unconstitutional from all the positions taken by the able Senators is answered—not by me, do I assume, but answered by the decisions of the highest arbiter we have, and answered to such a degree that no man need have serious doubt as to the duty of giving to the public this law.

Now, I say to my able friends on the other side of this Chamber a parting word: I hear a great deal from time to time about the pressure of the President upon us to pass this legislation, and that other constant invocation, invoking us to freedom from such restraint. I would impress upon this able body this thought that is in my mind: If this Government is to endure to the objects for which it is founded, it can do so only by the conception that all representatives are bound by the declaration of their masters—the people—when such direction is given by that people. When the people voted at the last election that there should be a change in the affairs political of this country, and gave to the party at present in power a commission to execute certain laws of relief, they gave that commission, as the able Senator from Colorado [Mr. THOMAS] well said yesterday, to the whole of the public representatives. There are no exceptions in the case of my able friends on the other side. In the platforms of all the political parties, as has been pointed out, there was at least the expression of the spirit demanding this form of relief. The agonies suffered by our people for years cried for relief. The persecutions endured by commerce demanded that they should be stopped. The embarrassments—aye, more, the disgrace—the criminal experiences visited upon the Republic by those who heedlessly and defiantly violated every law of justice and equity in this Republic for years, all demanded the reform. We had come to a point where the patience of mankind had ceased. There was disrespect of the law exhibited throughout every avenue of life, and a threat of absolutely overturning the courts, because of the want of reverence for and obedience to their decrees. This all called for a remedy. That call was answered in the declaration that came from the people asking for some law, and then demanding that there be created a tribunal which should execute that law, some instrumentality that could summarily enforce it. One in its existence that would tender an assurance to the hearts of the people that their rights were to be rescued and preserved. It is that which is demanded in this hour.

The eminent Senators on the other side should realize the mandate sent to them, for when the people decreed that they should have this relief it was a decree to all of the representatives to obey it. It will not do for able men who merely differ from some line of this bill, some technical expression of this bill, to find in that refuge an exemption from the duty they owe to aid in carrying out the will of the people who trusted us here to give them the form of relief long before the present administration was put in power. For such the people had declared in different forms of protest. These came from every street corner and alley, from every counting house and exchange, from every court and rostrum, wherever the will of the public could be voiced.

Mr. President, I am strongly of opinion that it were better, indeed, to give to the public the benefit of a doubt, that we may give them security in conscience, nobler to give them the feeling that they have protection and guidance from their representatives, and that this honorable body does not stand long upon the technical methods by which they may avoid a public duty; that they will not resort to the guise that a law may not be as exact as they would have it, but that we should rather look to the spirit of the purpose and give relief to mankind, in order that we may not have—as I now answer my able friend from Missouri—that form of unfair competition which he defined as being the opinions of the Supreme Court of his country touching the Harvester Trust, and what he charged to be their manifold wrongs upon this country. From his arraignment there was defined as both unfair and unjust conduct in detail. He takes a quiet consolation that by virtue of his splendid argument he demonstrated what was really unfair competition. That by his flaming pillory my particular constituent, Mr. Jones, need not have hope for public elevation from this body.

My learned and distinguished friend from Missouri, constituting one of the "three musketeers," composed of the distinguished Senator from New York [Mr. O'GORMAN] and the able Senator from Nebraska, made it absolutely impossible for any man not to understand that "unfair competition" within this law means all those hideous and indescribable wrongs portrayed by him with livid tongue when he was flashing forth his charged reasons for objection to Mr. Jones in respect to his nomination as a member of the Federal Reserve Board.

I say, more seriously, that I hold that "unfair competition" means that course of conduct which undermines a man by mis-

representing him and his methods by seeking to obtain advantages through rebate systems through private contracts—"tying" contracts, as they are sometimes called—or by any other form of competition which places the individual at such a disadvantage that he can not obtain equal rights in transportation, equal opportunities in the city where he lives, equal opportunities for trade and sale, or any other form of conduct which would be so oppressive and unjust in its application as would be entitled, under the law of humanity, to be designated unfair.

That is my answer. Such is the purpose of this law. It is submitted to the common sense and the justice of men who, upon their solemn oaths, with their responsibility to God in heaven, and with their due sense of justice to mankind on earth, will not be presumed to be different from any other just mankind in dealing out to their fellow men equal and exact justice. This is the object of the law, and for this I speak. May it survive its assailants and be long preserved as a blessing to our countrymen.

Mr. REED obtained the floor.

Mr. SHAFROTH. Will the Senator yield to me for the purpose of introducing some bills? It will take no time whatever.

Mr. REED. Yes.

The VICE PRESIDENT. Is there any objection?

Mr. JONES. Mr. President, if unanimous consent is asked, I shall have to object.

The VICE PRESIDENT. There is an objection.

Mr. REED. I am going to occupy the floor only a few moments, and after I have concluded every one can get his bills in.

Mr. SHAFROTH. Very well.

Mr. REED. Mr. President, I want to thank the Senator from Illinois for his polite characterization of myself and two other Senators as "Three Musketeers." I do not desire to bring up the unpleasantness of the Jones case nor to draw out of the grave a corpse that was well buried and ought to be allowed to sleep.

If the Senator is no more accurate in his law than he is in his history he should not be followed blindly hereafter. He told us a moment ago that the Chinese law quoted by the Senator from Utah was written 18 years ago by English jurists, carried to China, and adopted in a municipal code. Unfortunately for that statement—and I have not undertaken to trace the history of it very far, as it is not sufficiently interesting to require any exhaustive examination—I find that the reference which the Senator read is in the Thirty-fifth Federal Reporter and is quoted in a case that was decided 26 years ago; so it hardly could have been written 18 years ago by an Englishman, carried to China, and then adopted.

Mr. LEWIS. Mr. President, the Senator wholly misunderstood me. I specifically stated that my friend had gone back into the dusty tomes and had gotten a municipal regulation which had been reincorporated by an English commission and put into their municipal code 18 years ago. It is a mere matter of disorderly conduct provision.

Mr. REED. I thought I heard the Senator accurately.

Mr. LEWIS. I merely meant to intimate that it was adopted in a modern day as well as an ancient one. The English act had to be written in Chinese and then translated for our tongue into English.

Mr. REED. I also find in a book by Mr. Francis Lieber, the second edition of which was published in 1839, this reference to that same law, at page 156:

> There is a law in the Chinese penal code, *as translated* by Sir George Staunton—

In other words, an Englishman translated a Chinese book. He did not write an English book and translate it into Chinese. He took a Chinese book and translated it into English—

> a work which has many praiseworthy traits—that may fairly be considered as a model of ambiguous laws, to which all others approach, more or less. The Chinese code says, "Whoever is guilty of *improper conduct* and such as is contrary to the *spirit* of the laws, though not a breach of any specific article, shall be punished, at the least, with 40 blows; and when the *impropriety* is of a *serious nature*, with 80 blows." This is a law—

Says the author—

> clearly emanating from the spirit which pervades the whole Chinese Empire, that the Emperor is the father, the whole country but a family—a principle which necessarily always leads to absolutism and tyranny, the moment we go beyond the family, in which affection, not legal rule, gives the measure of justice; while personal affection can not form a fundamental principle where personal connection ceases, and Government acts by delegation, as I have endeavored to show ere this. This ambiguous and dangerous law would be, in its spirit of discretionary power, not in its form of discipline, a perfectly proper family rule.

Now, I am unwilling, even if the Senator's modified statement be correct, even if an Englishman translated a Chinese law which suited the Chinese people, to impose that kind of Chinese jurisprudence upon the American people or to follow the illustrious example.

I am anxious that the question whether section 5 be sound shall be settled, and I am anxious that it shall be settled right, because there is not in the Senate of the United States a single man who can more earnestly than myself desire that all those oppressive, dishonest, dishonorable practices by which monopoly has extended its power shall be prohibited. Senators get nowhere by impugning the motives of those who refuse to accept the particular phraseology they have advanced. You might as well say, if a patient be sick and needs physic, that a man is an enemy of the patient who insists that he shall not be bled to death, as to say that a man is an enemy of proper legislation because he insists that the legislation, when it is drawn, shall be in accordance with the Constitution, to the end that it may not turn to ashes upon the lips of those who have promulgated it.

I want to see these oppressive practices stopped. Hence I want to define them so that when we have written a law it will do the work we intend it to do, and not be discovered in the end to have accomplished nothing. I do not think I put myself among the friends of monopolies and trusts and combinations because I have the temerity to suggest that the language now employed is not sufficiently specific, definite, and certain, and, therefore, that it ought to be made clear.

Neither have I ever said, by direction or indirection, by innuendo, by expression of countenance, or otherwise that we must specifically define in this bill every act of unfair trade or the law will be invalid. I have said that you must either specifically describe the acts or you must lay down some general principle which will enable a court to decide whether a particular act comes within that principle. I have argued that the term "unfair competition" either has a meaning so restricted as that it will not embrace the acts of which we complain and under which we suffer, or else that it is a term with no definite meaning, and, being a term with no definite meaning, it will not reach any act; for a court or a commission can not be allowed simply to exercise their discretion and judgment with reference to whether, in their opinion, a thing is right or wrong, for that is the substitution of opinion government for government by the law and the Constitution.

I regret that my friend should undertake even for a minute to classify all those who insist that the law shall contain a proper definition as opposed to the enactment of any law, or assumes that because we are not contented with the language of this bill we are therefore enamored of the evil practices which the bill probably is meant to reach. I say "probably," because nobody reading it can tell, and nobody following this debate can tell just what the law is intended to punish.

I have heard a number of Senators ask the question I asked the Senator from Illinois: "Please define 'unfair competition'"; and I have heard as many definitions as there have been answers. The best definition I have heard came from the lips of the Senator from Illinois near the close of his remarks; and if the Senator from Illinois would substitute for the first two clauses of section 5 the language he employed in his definition he would undoubtedly have a law sufficiently definite to constitute rule of action, and that could, in my opinion, be enforced by courts. I say "undoubtedly"; I hesitate ever to say that a question is beyond doubt, but that is my judgment.

The trouble is, the authors of this bill and the sponsors for it stand, I had almost said, stubbornly saying that they will not dot an "i" nor stroke a "t" nor write in any kind of definition, and then they accuse all who differ from them of being in conspiracy, not in restraint of trade, but in restraint of any and all remedial legislation.

Then, I am just a trifle wearied by the oft-repeated arguments, made here at different times, that when the interstate-commerce bill was being discussed some Senators thought it was unconstitutional; ergo, every man is foreclosed hereafter so that he may not be heard to declare that any other law is unconstitutional. "The argument was made once and was not in that instance sound. Consequently," say these learned gentlement, "it can never again be made."

Following that logic to its legitimate conclusion, no one can now appeal to the Constitution, because it was once falsely invoked. Consequently, we no longer have a Constitution. Yet that has been the line of argument followed by the Senator from New Hampshire [Mr. HOLLIS], and the intellectual meanderings of the Senator from New Hampshire were carefully tracked by the Senator from Illinois [Mr. LEWIS].

The Constitution has been invoked on thousands of occasions where the courts have afterwards said the Constitution was not at all violated. On the other hand, it has been invoked thousands of times where the courts have said that it was prop-

erly appealed to. You can not settle the right or wrong of this question by crying aloud from the housetops that at some other time, with reference to some other law, some other Senators thought the Constitution was being violated when it was not.

The whole question comes back to whether or not we are now violating the Constitution; and no light is thrown upon that question by the mistakes or by the wisdom of the opinions of other men at other times, with reference to whether other laws were unconstitutional.

We shall gain nothing here if at this time, when public opinion is ripe and pressing for remedial legislation, we adopt something which turns out to be of no force or validity. We shall have abandoned the field; the opportunity will have gone; and a year or two years or four or five years from now we shall find that we adjourned without doing anything. The entire argument of my friend from Illinois that we ought to resolve doubts in favor of the people might well be made if the law had been enacted and if it was all there was to protect the people. If he were standing before a court, he might make that sort of appeal, although it would not be a very forceful one to make to a court, unless it were the court of a justice of the peace. We are sitting here now, however, to write the law; and if we have not wisdom enough to write a law, how can we suppose, out of our intellectual vagaries and failures, a commission is to construct a law? We would better remain here until we adjourn for the Christmas holidays working out the problem of section 5 than to adopt it if it accomplishes nothing.

I have no patience with that kind of argument.

Mr. THOMAS. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Colorado?

Mr. REED. I do.

Mr. THOMAS. Can the Senator say how many substitutes for or amendments to section 5 have been offered for consideration since the bill was reported?

Mr. REED. I can not. I have not undertaken to keep track of them.

When I rose I did not intend to take more than three or four minutes; but, since I am on my feet, I call the attention of my friend from Illinois, who is always fair, and particularly fair to me—he could not be otherwise; he could not be unfair to one who so much loves and admires him—to the fact that when I was discussing the case of a particular trust, which shall be nameless here as far as I am concerned, I called the attention of the Senator who is in charge of this bill to the various acts catalogued there for the purpose of pointing out to him the fact that here was a very catalogue of oppressive practices, and that every one of them had been condemned by the court as illegal because they were parts of a general scheme to restrain trade, and that if he wanted to catalogue them in a bill he had here an encyclopedia which probably embraced every practice known to the gentlemen who progagate monopolies or engage in restraint of trade.

I have not the slightest doubt, however, that if the Senator from Illinois will take the very definition he gave and, working it over with care, put it in section 5, thus defining "unfair competition" substantially as he here defined it, we will have an act under which many of the abuses complained of can be reached.

With reference to my alleged opposition I have this to say: I came into the Senate one day and found section 5 under discussion. It looked as though it might pass at that time. I made some desultory remarks upon it without any special preparation. At a later time I discussed the phrase "unfair competition," endeavoring to show that it does have a restricted meaning, and that if you adopted it in this law without qualifying that meaning the courts will probably follow that restricted meaning, and thus we would have a law at the end of all our labors which simply reached the substitution of the goods of "A" for the goods of "B." I knew that was not the purpose of the author of this act, hence I called attention to the defect. I am surprised to find myself suddenly catalogued here as an enemy of remedial legislation.

The difference between some of my friends and myself is that I am willing to stay here all summer, if need be, to perfect a law so that it will accord with the Constitution, believing that if it accords with the Constitution we will have a law that protects the liberties of the American people. If, however, we make a law that violates the Constitution, we will have done a stupid thing, and if we shall have done it deliberately we will have violated our oaths of office.

I do not pretend to say that I am necessarily right. I may be mistaken in my view. The courts may undertake to define "unfair competition" for themselves, but I think that is the province of the legislative body.

Mr. President, suppose we were to use this term and a court should undertake to find what it means. Suppose the court should proceed according to the theory of the gentlemen who advocate section 5. The court would go back to the common law and find the term "unfair competition" related simply to those practices by which one man substitutes his goods for those of another. The court would then wander through all the decisions that have been made, and wherever it found a court had in any decision employed the term "unfair competition" arguendo and as a mere descriptive phrase, write that down also as included within the term "unfair competition." The court would also turn to the statutes of the various States in which the term "unfair competition" is employed for more light. Here the court would find that for the most part those statutes had described as "unfair competition" the sale of goods in one community at a less price than is being charged by the same concern in another community. Unfortunately the court would find also that the term had in many instances been used to cover many other practices and devices, so that when it took the statutes as a guide they would be confronted by some 18 or 20 different definitions of "unfair competition."

Then the court should, according to these gentlemen, read through the works of all the writers on economy, and I suppose we might include in that the modern magazine writers, ex-presidential and otherwise. In this fruitful field the court would find hundreds of different things embraced with the expression "unfair trade." Out of this labyrinth of contrariety the court is to be expected to evolve a rule of law. The fact would be that, instead of finding a definite meaning which would make definite the law, the court would be faced by as many different meanings as there were decisions, statutes, and writers. Consequently the commission would have no rule to go by, and if it proceeded to do anything it would have no guide save its own opinion as to what was fair and unfair.

Now, there is something to be considered beside the commission, and that is the people of the United States. The great difference between an absolute monarchy and a republic, after all, is found in the fact that under a despotism the question of what is legal or illegal reposes in the brain of one man. He can declare an act legal or illegal as he thinks it is right or wrong, and the citizens, even in the most benighted and enslaved countries history tells us of, even in the most tyrannical, have always, at least, been favored by the decree of the tyrant, and have had some opportunity to know what that decree was, to the end that they might conform to it.

But, nevertheless, the source of the law was the will of the despot. The question as to what was right and what was wrong was settled by the will of one man. Whereas in a free country the citizen has the right to have a rule written down that applies to him and to every other citizen alike, and having that rule of the law he then has the opportunity of observing it. He knows what his rights are and he knows when he is doing wrong. But if you have no rule of law and erect a tribunal empowered to say what is right and what is wrong, the citizen no longer can tell what is right or what is wrong until that tribunal has spoken with reference to his particular act. In other words, you have wiped out the government of law and substituted for it a government by individuals.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Montana?

Mr. REED. I do.

Mr. WALSH. I have been following the remarks of the Senator with great interest, particularly that part in which he stated that it would be necessary to go to the works of economists and magazine writers and other sources of information of that character to ascertain what is meant by the expression "unfair competition." But are we not confronted with exactly the same condition of affairs with reference to every word and phrase which we put into a law? If we put a phrase into a law, we go to dictionaries, or go to encyclopedias, we go to the works of standard writers, and we go to every source that we can to understand what the expression signifies and whether it does, indeed, cover a certain state of facts or not. What is the difference?

Mr. REED. Mr. President, there is just the difference between expressing an idea in plain words and not expressing an idea at all. There is the difference between writing a rule of conduct and not writing a rule of conduct. The Senator from Montana, for whose opinion I entertain the most profound regard, astounds me by his question. Everybody knows that there are limitations to the human tongue. Everybody knows that we can not with the degree of accuracy possible when we may weigh an article in the balances be able to express an idea.

But that does not avoid the proposition that before you can have a law you must within the limits of our speech fairly express an idea. Neither is there anything in the argument adduced that because we have employed certain words and phrases in our laws which are short and terse thereby we have established the principle that we need not write a rule of conduct. In every instance cited, even in the opinion read by the Senator from Illinois [Mr. LEWIS], where terms have been employed in a law without explanatory context the word has had a meaning in the law. It has always been defined, and it has been so thoroughly defined that when it was employed in the law all people could understand at least the nature and character of the thing that was to be prohibited or permitted.

I will refer briefly to that. If we say in a law "Any man convicted of burglary shall not be permitted thereafter to exercise the privilege of suffrage," we do not need to write into that statute a definition of burglary, and why? Because burglary is already defined. Its meaning is known. It is defined in other statutes. Therefore when we use the term "burglary" we incorporate the definition with the word. But if burglary never had been defined either by a court or by a statute, and if it had no fixed meaning in the English tongue, and you employed it, then what would you have? Would you have a law? Could you turn such a statute over to a board and let the board say that it meant whatever the board pleased to have it mean?

When we come to the phrase so often referred to in this discussion, "restraint of trade," which is discussed by Mr. Justice White in the opinion frequently cited, I have no hesitation in saying that the lawyer who reads that opinion, and reads it candidly, who wipes the dust from his glasses and sits down to determine what is the fundamental thought running through the reasoning of Justice White, he will come to the conclusion that the court held that the term "restraint of trade" had been for years well defined in the law. He will find that originally it had been employed with reference to certain restricted and particular acts, but that the principle embraced within the term at that time was the same principle which, being gradually extended, was held to reach other acts, and that that same fundamental thought and principle which was there from the first, and which constituted the soul of the rule and of the term, was broad enough to cover and embrace the particular new devices and new practices which had been set up and which were being attacked in the case then pending before the Supreme Court.

If the term "unfair competition" had such a fixed meaning in the law, if it was held to embrace the character of the things which the Senator from Illinois defined when he gave his definition, then the adoption of it here would be unobjectionable; but no one has found a law book giving any such definition, and no such law book can be produced, in my opinion. On the contrary, we find a meaning given whenever we touch the law books which utterly fails to embrace the acts we now seek to prohibit.

I call the attention of my very distinguished friend from Montana, and I break no confidence, I trust, when I say that he tells me he wrote the Montana statute on unfair competition. Very well. When he sat down in his room as a lawyer and wrote that statute he did not write "unfair competition is hereby prohibited," as is now proposed, but being a lawyer, as he is every inch of him, he proceeded to define unfair competition in the most explicit terms.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Montana?

Mr. REED. I yield.

Mr. WALSH. The Senator scarcely states it with accuracy. I was not endeavoring in the framing of that statute to aim at every practice in trade that might properly be denominated as unfair competition, making one sweeping generalization to condemn them all. We were seeking simply to make penal one particular practice which had some local significance, and it was that particular act which we declared to be penal.

But it is exceedingly significant, Mr. President, that we denounced that particular practice as unfair competition; and I find that in the State of California, for instance, they denounce certain other practices and penalize them, and characterize those as unfair competition. In the State of South Dakota they denounce certain other practices and penalize them, and they denounce them as unfair competition. When a statute is passed denouncing, in general terms, all unfair competition, may we not properly go to these various statutes to gather from them the idea as to what the legislature meant and what Congress meant by denouncing unfair competition in general terms?

Now that I am speaking about that, I should like to understand, if I could clearly, the position taken by the Senator from Missouri. I undertake to say that he does not hold that this is unconstitutional. It does not offend, so far as I have been able to follow him, any provision of the Constitution. If it is not unconstitutional it simply becomes a question of construction. When the matter comes before the court it is simply a question as to what the Congress of the United States did mean when it said "unfair competition."

If I gather the Senator aright, he means to assert now that the court will be obliged to say, "We are helpless; we do not know what the Congress of the United States meant when it used that term." There are certain acts brought to our attention, as price cutting, "tying" contracts, bogus independent corporations. Various things of that kind are brought to our attention. We are asked to say whether these acts will fall within the significance of the term "unfair competition" as used by the Congress of the United States, and if I gather the Senator aright, he says the court will be obliged to say, "We do not know."

Mr. REED. Mr. President, why should not I say the court will be obliged to say, "We do not know," when there is not a single Senator who can write his definition and say what he means now. How is the court to know what our inner consciousness is when we can not disclose it ourselves or write it in a statute?

Mr. WALSH. Do I understand the Senator's contention to be that a statute must fall because of its insensibility?

Mr. REED. My position is that the statute would fall, because it is absolutely indefinite and because whoever undertakes to act under it is acting, not in accordance with the rule of law laid down, but is simply left to follow the rule of his own reason, and that whenever you can clothe any tribunal with the power to interfere with a citizen's property or property rights, and you do not back that with a law, but simply leave it to the discretion of an individual, then you have violated the Constitution of the United States, for you are depriving the citizen of his property without due process of law; indeed, without any law whatever.

But, Mr. President, the Senator has made a statement here which I can not believe, on sober reflection, he will adhere to; that is, when a court comes to construe the term "unfair competition," finding that it is defined in Montana in one way, finding that it is defined in South Dakota another way, finding that it is defined in California another way, and finding that it is defined in 20 different States in 20 different ways, that the court will say that it embraces all of the definitions; that it means all that all of the statutes added together mean. It seems to me the court would say, "The term has no meaning; it means one thing in one place, another thing in another place, another thing in a third place, and so on ad infinitum. Therefore, when it is employed in this way by Congress, we can not tell what it means or what Congress intended."

Let me call my learned friend's attention to this: I want him to put himself in his office with his client. The client comes to him and asks him whether he can do a certain thing in the management of his business. He looks up the laws of his own State; then he turns to the statutes of the United States—the only laws that can possibly affect his client being the laws of his own State and the laws of the United States. When he gets to the term "unfair competition" I can not imagine my friend saying to his client, "I do not know what that means, but we will see what it means. I will read the law of South Dakota, and, if I find it means one thing, I will then read the law of California, and, if I find it means another thing, I will then read the law of Montana, and, if I find it means another thing, I will then be sure that the term 'unfair competition' means all of those things."

Now, if the term "unfair competition" embraces all those things, there is an easy way out of it; that is, to take all of the acts denounced in the statutes of those States and write them in here, and not leave the citizen to go meandering through the law libraries of the country to find what the legislature of some other State has enacted.

But let me follow that. If the laws now enacted by these States in which they each give their own definition of what they are pleased to term "unfair competition" are to be the guide of the courts, then it seems to me that the laws that will be enacted hereafter might just as well be embraced, so that any State would hereafter have the power to amend the laws of the United States by amending the statutes of that State. That will not do.

I do not believe there is any well-settled law to the effect that in construing any statute of the United States you must

take into consideration the statutes of the States. You take into consideration the decisions of our States upon statutes that are similar and give them such weight as you see fit, but it has never been held that when we pass a statute of the United States we are to go to the statutes of the States for our construction, except in a case of this kind: We might copy a statute from a State; then the construction given to that statute, previously enacted and which we copied, might have effect upon the decisions of the courts, but that would be because we adopted the statute and made it our statute.

Mr. President, I want to see this law, if it is passed, so written that some rule of conduct, some guide, shall be set up so that the citizen will know when he reads the law what his rights are. I do not want to assist in writing a statute here that I can not construe until I have read the statutes of all the States, particularly when the statutes of each of the States are radically different. That can not be done; at least, it so seems to me.

I confess I have heard so many strange and new doctrines here that I am beginning to think that all I ever believed is perhaps without substance. I sometimes doubt my own judgment when I hear good lawyers and sound men advocate views that seem to me so utterly unsound. I do not know whether the attention of the Senate has been called to the case—I know the Senate is in no humor to deliberate—but I put the citation in, as my attention was called to it by the Senator from Colorado [Mr. THOMAS]. I refer to the case of Alabama & New Orleans Transportation Co. *v.* Doyle, Two hundred and tenth Federal Reporter. I read just a clause:

> Of like effect and subject to like infirmity is the provision forbidding the sale of securities if the commission thinks that the company's organization or proposed plan of business is not "fair." Broader and vaguer language could not be chosen. It subjects to the practically uncontrolled discretion of the commission every issue or general sale of stocks, bonds, or securities hereafter to be made in Michigan. For this and the provision regarding probable loss we heard upon the argument and we find in the briefs no claim of justification on grounds of public welfare, and we know of none. They deprive plaintiffs of property, and they do not carry the semblance of "due process of law."

It would take too much time to read the case, but I commend it to the consideration of my associates.

I was asked what my position is. It is my opinion that if we employ the term "unfair competition" as it is employed in this bill, without adding anything to it, the courts will adopt as the meaning of Congress that meaning which has been affixed to the term by all of the law dictionaries and by a great many legal authorities, which I cited and which I do not propose to weary myself to repeat nor to weary the Senate to hear. If, however, the court should take the view that there is not to be given the restricted meaning, then I think we are turned loose in the broad field of conjecture, and that the bill attempts to repose in this board authority to decide a thing to be right if the board feels it is right and to decide it to be wrong if the board feels it is wrong. There is not to be found within the whole of this proposed statute any guide or statement to indicate such a purpose in the legislation as will enable a court to determine the meaning of this term.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER (Mr. HOLLIS in the chair). Does the Senator from Missouri yield to the Senator from Montana?

Mr. REED. Certainly.

Mr. WALSH. With the permission of the Senator, I should like to address to him another question concerning this matter. Let us assume that this controversy came before a court upon an order made by the commission enjoining a corporation from, we will say, for instance, the operation of a bogus independent concern; or we will say that it is brought before the court upon an order enjoining price cutting, as that term is understood—the selling of goods in a community at even less than the cost for the obvious purpose of driving another competitor out of the trade. The court is then called upon to say whether the language "unfair competition" denounces and makes unlawful that kind of practice. I apprehend that if the Senator were a judge upon the bench he would have no hesitancy in saying that Congress intended to denounce that practice. Whatever meaning may be assigned to the words, they do at least embrace that thing.

Mr. REED. How do they embrace it, and where is the language in the bill that says they embrace it? If the Senator will show me a line in the bill referring to either one of those practices or referring to any principle embracing those practices, I will concede his point; indeed, I might concede the whole case if you put into this bill enough to indicate such a purpose.

Mr. WALSH. Of course, if that is done, the Senator might very well concede the whole case; but I do not want to put anything in the bill except what is there. The Senator, we will say, is now a judge sitting upon the bench; such an order as the one to which I have referred has been made by the trade commission; the party against whom it has been made has appealed to the court to vacate and annul that order, and the contention is made that the law is without effect; that the words "unfair competition" have no meaning; that they do not express anything. Would the Senator, as a judge upon the bench, say "That is right; I do not find that acts of this character are denounced by the law; I do not believe it was intended they should fall within the meaning of the words "unfair competition"? In other words, do we not know now, from the use of the words, that they do embrace a large number of practices generally spoken of as "unfair competition"? They may embrace a lot more of which we do not know; there will be a field for speculation; but, within certain defined limits, do we not know that we are now denouncing and rendering unlawful price cutting, the management of bogus corporations, tying contracts, and other devices of that character which are well known to those who have endeavored to fasten monopoly upon the people?

Mr. REED. Mr. President, if we now know it, why do we not say it? How is a court to know what we have in mind? How would I know, if I were upon the bench and this question were submitted to me, what Congress had in mind? The trouble with the bill is its utter failure to designate, either by general or specific phrase, the acts the Senator refers to; all is left to conjecture. The Senator from Montana, from his viewpoint—and it is a most exalted and splendid one—will say at once it embraces the practices he names. The Senator from Iowa [Mr. CUMMINS] might say that, in his judgment, it did not embrace any of them, and that when he voted for the bill he had in mind an entirely different kind of practice. The Senator from Nevada [Mr. NEWLANDS], within the all-embracing sweep of his intellect, would undoubtedly gather in thousands of acts which the Senator from Montana would not include in the condemnation of this bill. We then get back to this: You must put some definition in the law, because otherwise everybody will have his own definition, just as everybody now entertains different views. Suppose that we were to adopt the Senator's suggestion, I might vote for this bill, believing and intending it should only stop the character of price-cutting of which he spoke, while my friend in front of me [Mr. SAULSBURY] might vote for it, thinking that it did not affect price-cutting; that that was honest competition.

My friend from Illinois [Mr. LEWIS] might conclude that it embraced the practices referred to, and that it also embraced some others; and accordingly, instead of having a law the meaning of which we could determine by reading the law, we would have to go around and ask everybody what he meant when he voted for the law, and what he intended to embrace in it, and at the end of that time we would have just as many different definitions as there are Senators.

Everybody knows that a law is not construed in that way. When the courts come to construe a law they take into consideration primarily the purpose and intent of the legislative body in passing it. How do they determine that intent? They determine that intent from the law itself. On occasions, where there is ambiguity, they will look at the history of the legislation and of the times for light upon the ambiguity. They have even been known in rare instances to refer to the debates, but that is never done, as I understand, beyond the mere employment of it for the purpose of removing an ambiguity. It is never used to create a meaning.

Mr. WALSH. Mr. President, I should like to address another question to the Senator. The Senator has referred to the different views that might obtain among different Senators, for instance, with respect to the scope of this language. Some of them would give it a very narrow construction, believing that it was intended to denounce only a few practices. Other Senators would give it a wider scope and application, believing that it would include others. Reference was made to the Senator from Nevada, who might give it a still wider scope, and believe that it included many others. But, Mr. President, that is the condition with all laws.

Mr. REED. Oh, no; I utterly deny that.

The PRESIDING OFFICER. Does the Senator from Missouri further yield to the Senator from Montana?

Mr. REED. Oh, yes.

Mr. WALSH. Contentions, of course, arise again and again—they are arising in the courts every day—as to whether you are to give a narrow construction to a law, confining it in its operation to a few things, or whether you are to give it an expansive construction, including many other things. Why, the Constitution of the United States presents that very situation. For years a controversy has been going on, even from the birth of

the Republic, as to whether a narrow construction should be given to the language there used, or whether it should embrace many, many powers. So the fact that different minds would reach different conclusions with respect to the particular practices embraced within it is no reason for denouncing this proposed law.

Mr. REED. Oh, Mr. President, the Senator must know that he has not at all met the question. Here is a law that lays down no rule; and the Senator says it ought to be adopted, although it lays down no rule and gives no definition, because, says the Senator, after you have made the best rule and given the best definition possible, doubts may still arise. That is the logic of his position.

Why not, then, just get rid of all our difficulties at once? Why not provide forthwith that hereafter the courts shall have the power to prohibit all that is wrong and wipe out these long law books that we have written and just say: "Well, we have had to cavil over statutes; we have not always understood the Constitution. They have been matters of debate; and so, in order to get rid of that difficulty we have just adopted a general law which empowers a commission to do whatever it pleases"?

The difference between the two propositions is this: In one case you lay down no rule of conduct, no guide for a court, no guide for a citizen. In the other case you lay down a rule and a guide, but in the application of that particular rule there are, of course, frequently met grave difficulties. Often the facts lie in the shadow ground so that it is hard to decide whether they come within the rule or without the rule laid down.

The difficulty is generally not in the rule, but in the application of it. This is the first time, however, that I have ever heard the doctrine announced that because it is difficult to apply a specific and definite rule therefore we should wipe out all laws; and this is the first time I have ever heard it seriously argued that you can vest in a board or in a court the powers to do that which it believes it ought to do, without laying down a single rule by which it is to proceed.

Mr. KENYON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Iowa?

Mr. REED. If the Senator will pardon me while I finish what I am saying, I will yield in a moment.

Mr. KENYON. Certainly.

Mr. REED. Let me illustrate: A man is brought into court. Does the judge decide the case as the judge may conclude he himself would have done? Not at all. The citizen of this Republic coming into court plants himself upon the law, and the judge decides whether or not he has violated that law. If the citizen feels aggrieved, he goes to a higher court, and says: "I come here declaring that I have been deprived of my lawful rights." If you have no rule of law, if you have no Constitution, if you have not prescribed what his rights are by any general rule or any specific rule, and the decision is against him, how, then, can he appeal? He can not appeal because his legal rights have not been invaded, for where there is no law there can be no legal rights, hence there is nothing on which to base his appeal. There is nothing upon which he can stand.

I now yield to the Senator from Iowa.

Mr. KENYON. The Senator has passed the point about which I wanted to ask his opinion, because his opinion is sound on law, as it is on everything else.

It seems to me the Sherman Act and the words of the Sherman Act, "restraint of trade," are somewhat of an answer to the argument of the Senator, and I should like to hear his view of that matter.

The term "restraint of trade," or, as the court now construes it, "unreasonable restraint of trade," is indefinite and uncertain and vague, and lays down no rule. The Sherman law has been attacked, and it has been charged in the courts and tried out that it is a void statute because of that very thing; that it is so uncertain and so vague that the parties can not understand what the crime is, and consequently the law is void.

The Supreme Court, however, in rather a late case, has taken up that contention and disposed of it very speedily. It held that that general statement and that general use of language, which it seems to me is fully as general and fully as indefinite as the term "unfair competition," does not render the statute void; and yet there is no rule of conduct laid down in that statute, which is not only a civil statute but a criminal statute.

Mr. REED. Was the Senator out when I discussed that matter a moment ago?

Mr. KENYON. I beg the Senator's pardon if he has discussed it. I was not in the Chamber at the time he discussed it.

Mr. REED. I did in a brief way. For the benefit of the Senator, I will say that if he will examine the cases—as he undoubtedly has—if he will review them, he will find out that the first way the court met the objection was by asserting that the term "restraint of trade" did have a definite and fixed meaning in the law years before it was incorporated into the Federal statute.

Mr. KENYON. That was as to the civil action.

Mr. REED. Yes.

Mr. KENYON. Did the Senator discuss the criminal phase of the matter?

Mr. REED. No; but if it had a definite meaning as to the civil action and could be employed in construing the law in the civil action, of course it could be likewise in the criminal action, the point being not the statute in which it was used, but whether or not it had a meaning. I stated, further, that as I read those decisions the court holds that while the term "restraint of trade" at common law was somewhat restricted, nevertheless it condemned, in principle, all of those practices which have now been held to be embraced within the Sherman Act; that the practices had varied, but that the principle had continued, and could be extended to cover those practices.

Another view that I want to suggest, and which I think the Senator will find reflected in the decisions, is this: In the very language of the Sherman Antitrust Act the purpose and intent, the thing with which they were dealing, is made manifest. Congress was dealing with monopolies, the term being a well-defined and known term. It was dealing with "combinations and monopolies" in restraint of trade. The terms were linked together so that one of them threw light upon the other; and no one reading the Sherman Act could doubt that it was intended to stop at least a large number of the practices which have since been condemned.

The general principle is plain upon the surface of the statute. It does not depend for its meaning upon the one term "restraint of trade," but it depends upon the term "restraint of trade" coupled with the term "conspiracy"; and in the other sections of the statute it is provided that—

> Every person who shall monopolize or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of the trade or commerce—

And then—

> Every contract, combination in form of trust or otherwise, or conspiracy in restraint of trade or commerce—

Is condemned. Out of the context you get an immense amount of light as to the intent and purpose of Congress in passing this legislation.

You can hardly say that, however, for the bill under consideration. If you examine it you find that the first section simply creates the commission. The second section relates to the terms and salaries of the commissioners.

The third section confers the power, in paragraph (a), to investigate from time to time, and as often as the commission may deem advisable, the organization, business, financial condition, conduct, practices, and management of any corporation, and so forth.

Paragraph (b) requires the corporation to furnish the commission such information as it may demand.

Paragraph (c) provides a uniform system of annual reports.

Paragraph (d) provides for making public these reports under certain conditions.

Paragraph (e) confers upon the Attorney General the power, in any suit in equity brought under the antitrust acts, to refer the matter to the commission to act practically as a master in chancery. That is the first reference at all to the antitrust acts; but, notice, the language restricts their power there. The power of the commission is simply to act in aid of the court, in aid of an existing law, simply as a master in chancery might find the facts, or recommend the form of decree, not under this law, but under the antitrust laws of the United States.

Then it gives the commission power, if its finds from its inquiries and investigations that any concern has violated any of the laws of the United States regulating commerce, to report its findings; but, plainly, that would refer to a violation of the laws now existing, to wit, the Sherman Antitrust Act, and would be restricted to that meaning. I think that is the fair construction.

The commission is then given the power to investigate trade conditions in foreign countries where associations, combinations, or practices of buyers or dealers may injuriously affect our export trade. Plainly, that throws no light upon this phrase. This commission has no extraterritorial jurisdiction. It is, in respect to the last power mentioned, a mere body created to collect information. Thus far the commission is a mere gatherer of information.

Then section 4 says that its jurisdiction shall extend to all trade associations, corporate combinations, and corporations as

hereinbefore defined, engaged in or affecting commerce. Now, applying that, we get no further than this: We have given it the power to investigate, and now we have defined the kind of corporations and the kind of associations it can investigate. Still we have no light as to what is fair or unfair competition. Still we have have no light as to this new jurisdiction that is to be conferred—not a word.

Then you come to section 5. There you leap into the midst of a new subject. Here, for the first time, we propose to enact a law which says that "unfair competition in commerce is hereby declared unlawful," and then the commission is empowered to prevent it.

In one line, disassociated from every other part of the bill, without a single ray of light reflected upon it by anything that preceded it or follows it, you find this broad and sweeping term: Unfair competition is hereby declared to be unlawful. In these eight words is granted more of power than was ever possessed by king or potentate of this earth. If they mean what my friends say. Yet I venture to assert that if my friend from Montana will go into his room and write down what he thinks he is prohibiting, and my friend from Nevada will go into another room and write down what he thinks he is prohibiting, they will be much farther apart in their definitions than their respective States are geographically.

Mr. NEWLANDS. Mr. President, I should like to ask the Senator from Missouri whether he is prepared to go into his room and write down what he would like to have prohibited under this section. I ask the question in entire good faith. I am very anxious to have the judgment of the Senator from Missouri, and I trust of many other Senators upon this floor, who are critical of this section, that they will suggest some language which will cover all the unfair practices which they think ought to be covered by this statute.

We have had no difficulty in having a suggestion from different Senators as to the method of court review. We have some four or five amendments pending on that subject, but only two Senators thus far essayed the task of defining what unfair practices specifically should be prohibited; one, the Senator from North Dakota [Mr. MCCUMBER], who confined his proposed legislation simply to price discrimination, and the other, the Senator from South Dakota [Mr. STERLING], who also confined his definition to price discrimination, although differently phrased.

I assume from the interest that has been taken in the discussion of this question, if it were easy to define comprehensively all that every Senator has in his mind which ought to be included within the term "unfair competition," we by this time would have had numerous amendments to that effect, and I can only assume that those who have thought upon this subject have come to the conclusion that we should either not legislate at all, or if we did legislate we would have to be contented with some general phrase; otherwise if we attempted to define it we would leave out numerous practices that ought to be prohibited, and particularly the Protean forms of unfair competition that are likely continually to arise as one unfair practice after another is condemned by the law and by the court.

Mr. REED. Mr. President, the Senator frequently has recourse to the position he has taken. Whenever this provision is hard pressed my good friend the Senator tucks it under his arm and takes refuge in the declaration that we ought to pass the bill as he has drawn it, whether it be sound or unsound, unless we are prepared to write a law that is sound.

It does not follow that because the Senator has brought in something that is bad we must take that or produce something that is perfect. We ought not to be asked to take that which is bad at all. We are under no obligation to accept a thing that is bad, and the fact that there are evil and wicked practices in this world does not at all give the Senator the right to assume that those who are not willing to take his particular variety of physic are in favor of those practices.

For the present I am confining my remarks to pointing out the defects of the Senator's bill. I have not been upon the committee which drew and reported this bill. I have been working upon the Judiciary Committee that had before it an antitrust law, and in that antitrust law we have reached, I think, very thoroughly a number of the very practices and conditions which are disturbing the mind of the Senator. That is my best thought upon the question up to this day, and I gave my earnest effort to the reporting of that bill, and unless some error is pointed out in it I shall give it my earnest support upon the floor.

Mr. NEWLANDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield further to the Senator from Nevada?

Mr. REED. I yield.

Mr. NEWLANDS. I may be mistaken, but if my recollection is right, the bill which has been before the Judiciary Committee only reports two forms of unfair practices, one relating to price discrimination and the other relating to "tying" contracts. If that is the fact, or if there are only three or four, I should regard that as hardly covering all the ground that we want to cover by a proposal with reference to unfair practices. It simply strengthens my assumption, knowing the able lawyers upon the committee and the time they have given to this subject, that they find it exceedingly difficult and almost impracticable to define with exactness the protean form to which I have alluded of unfair competition.

I wish to assure the Senator that I have not the slightest criticism to make regarding the attitude he has assumed. I always regard criticism as helpful, and I am sure that I always listen with great interest to any suggestion that is made by the incisive mind of my friend from Missouri. All that I ask is that in addition to the critical faculties the constructive faculties should be utilized, and that we should have the aid of his talent and ability and experience in framing a substitute for the term "unfair competition" that will meet the requirements of the situation. I ask that not in the way of faultfinding at all but simply because I want the help and the cooperation of the Senator from Missouri. I am sure that he is in sympathy with our purpose. I do not believe for a moment that he has any obstructive purpose. I believe his argument to be in entire good faith with reference to the accomplishment of the purposes that the Interstate Commerce Committee have in view, and we will only welcome his cooperation in the work of securing a more general and comprehensive and at the same time a definite and specific phrase that will cover this important subject.

Mr. REED. Mr. President, it has seemed to me, as these criticisms were made, that if they were conceded to be well taken we might properly then start upon the question of writing, or trying to write, a provision that would cover the evils we all want to prohibit. In that event, the natural thing would be for the committee to bring in an amendment. But the committee does not do that. They continue to praise this bill, and they continue to say to everybody who criticizes it, "You ought not to criticize this bill; you ought to go and prepare an amendment;" and yet every moment that one would be out of the Chamber writing the amendment the effort would be going on to force the bill through just as it is.

If my poor services will be of any value, I am perfectly willing to try and aid, but how can you aid a man who insists that he already has an absolutely perfect remedy, that his bill is the perfection of human reason? How are you going to help a man of that kind? Of course, I could not bring any additional knowledge or learning to the committee. I would be guilty of an act of supreme impudence to undertake to act as legal adviser to the committee. I have been trying to get the Senator to concede that this bill needs amendment. When he concedes that, I take it there will either be an amendment offered by somebody else or brought in by the Senator or the section will be withdrawn or defeated.

The Senator says that the antitrust bill which is reported here and over which we worked a long while does not touch everything. That is true. No mind of finite man has ever been able to draw a statute so all embracing that it would prevent all wrong and remedy all evil. Nobody can draw such a statute as that; but if we can reach the principal evils, I think we will have accomplished much.

I rose, as I said to talk two or three minutes, simply to call attention to a remark made by my friend from Illinois. Let me show for a minute what the antitrust bill does: I am referring to the bill that is before the Senate following this one.

It makes it "unlawful for any person engaged in commerce to lease or make a sale or contract for sale of goods, wares, merchandise," and so forth, "for use, consumption, or resale within the United States or any Territory," and so forth, to "fix a price charged therefor or discount from or rebate upon such price on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, or supplies" of another.

If I may have the attention of the Senator from Nevada, who thinks there is nothing in the bill, I call his attention to the fact that that one provision reaches a vast field in which those who have engaged in restraint of trade have operated, that it reaches the oppressive means they have employed to shut out of business thousands of people, and that it opens to a very large extent the trade and commerce, so that it shall be without restriction made by contracts that are imposed by those who happen to have the advantage of manufacturing or

selling an article. It reaches a vast number of these very practices which are condemned by the Senator.

I call the attention of the Senator to section 5 of the antitrust bill, which gives additional rights to litigants. It provides—

That any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

What does that section mean? What will be its effect? It means, for all practical purposes, that every man who is hereafter injured by any concern violating the antitrust statutes can bring suit in the great majority of cases in his own district, and when he brings that suit he can recover triple damages and his attorney's fees. It follows that the Argus eyes of thousands of business men now being injured will be upon the powerful concerns, and the thousand arms of the courts will be employed to prevent their evil practices. We will no longer be left merely to action by the Attorney General.

Mr. NEWLANDS. Mr. President——

Mr. REED. If the Senator will pardon me, I desire to put this into the RECORD, and then I will yield. I do not like to break this part of my remarks up into parts.

It is further provided that when the United States has brought a proceeding in equity under the antitrust act, and there has been a decision that there has been a violation of the law, that that decision "shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto."

Thus we have furnished the injured party with a weapon of tremendous power. He no longer is to be obliged out of his own purse to expend thousands of dollars and months of time in running out the ramifications of a conspiracy in restraint of trade, but that question having been once ascertained and judgment rendered he can establish in his suit a prima facie case as to all matters involved in the previous controversy by merely laying down a copy of the judgment. We have been putting some teeth into this law. We have been strengthening the arm of the man who has felt the evil effect of these great concerns.

I want to say that, fully and completely enforced, the present laws in my judgment will remedy many of the evils of which my good friend the Senator from Nevada justly complains.

We have extended the statute of limitations so that either in civil suits or in criminal suits the action may be brought within six years. Thus we have avoided a condition which has enabled many of these institutions to escape, because frequently their evil practices have never been unearthed until the statute of limitations has operated as a bar.

We have provided that no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or shares of capital of another corporation engaged also in commerce when the effect of such acquisition is to eliminate or substantially reduce competition.

We have also reached to the holding company. Thus we have struck at the conditions out of which have grown a multitude of the evils to which the Senator has referred, for it has been by virtue of interlocking directorates and by virtue of holding companies that, to a large extent, the power has been accumulated which has enabled the successful practice of the oppressive measures complained of by the Senator, and properly and justly complained of.

We have provided here a section which, I think, will stop some of the most vicious practices ever indulged in and which if it had been upon the books a few years we probably would not have had the scandals and outrages growing out of the transactions of the New Haven Railroad and other deals of like character. I refer to section 9a, which makes every officer of a corporation "engaged in commerce as a common carrier" guilty of theft who "willfully misapplies any of the moneys, funds, credits, or securities" of the corporation or firm.

We have also extended the powers of the Interstate Commerce Commission. There are, too, other wholesome provisions in the bill. It is not of the limited character that my friend thinks.

So I believe we are traveling in the right direction. I am willing to travel as fast and as far as I can go, always having due regard for the safety of the country, for the maintenance of law, and for the Constitution of the United States.

Mr. NEWLANDS rose.

Mr. REED. I yield to the Senator; indeed, I yield the floor.

Mr. NEWLANDS. Mr. President, I hope the Senator from Missouri did not think that I was endeavoring in any way to belittle the admirable bill which the Judiciary Committee has presented to this body. All that I claimed was that that committee had given consideration to certain practices which are included in the term "unfair competition"; and so difficult was the task, apparently, of covering the entire ground, that they have covered in the bill which they have presented to this body only two practices which can be catalogued under the head of "unfair competition": One relating to the process of discrimination, the other relating to "tying" contracts. I simply stated that as an indication of the difficulty of attempting specifically to define every practice which comes under the general term "unfair competition" and as a practical illustration of the wisdom of accepting a general phrase which has undergone the process of evolution, the meaning of which is far advanced beyond the meaning attached to it under the common law in medieval times, as indicated by the decision to which the Senator has alluded, which now, in the common vernacular, in economic discussion, and in decrees of the courts, has a wide and general significance, which can be enforced and will be enforced by the courts.

I believe that in these practices are the germs of future monopolies. I believe that the monopolistic organization of the past is at an end—the monopolistic organization created by the gathering together of numerous plants and the amalgamation of numerous corporations with a view to absorbing a large proportion of the business of the country, and by their very gigantic size intimidating business; that the monopolistic devices of the future will be the devices of deceit and of cunning and of fraud. Those devices are as numerous as the imagination of man can suggest. We will simply narrow their field of operation by attempting to define each individual practice.

I wish to disclaim altogether any disposition to criticize the bill presented by the Judiciary Committee. I would not hesitate to criticize it if I thought it deserved criticism; but I have not criticized it; I have not even criticized it as a meager bill. All I can say is that when the Judiciary Committee of the other House has been in session for six months considering the quest on of specifically defining the practices that constitute unfair competition and the Judiciary Committee of the Senate has been in session for weeks on this subject, and the output is only two individual cases of unfair practice, it is an evidence of the fruitlessness of an attempt specifically to define each practice that is to come under the control of this commission and of the courts, and that there must be employed some general phrase, as has been the custom of the law from time immemorial, to cover acts which it is the intention of the law to condemn.

I have stated time and time again that I believe all acts in business contra bonos mores, acts which would constitute a basis for an action at law or in equity, whatever they may be and whatever may be their form, involving unfair competition, will come within this phrase. I believe that immense benefit will come from making unlawful unfair competition; that it will protect the pygmies against the giants of business, and that it will do more to open the lines of competition and the paths of commerce than all other legislation that we have upon the statute books upon this subject.

Mr. CLAPP. I submit two proposed amendments to the pending bill and ask that they may be printed and lie on the table.

The VICE PRESIDENT. Without objection, the amendments will be received, ordered to lie on the table, and be printed.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

Mr. NEWLANDS. I ask that the amendment which has been agreed upon and presented by the committee, proposing an additional section to the pending bill, to be known as section 11, be considered at this time.

Mr. KERN. I withhold my motion.

Mr. NEWLANDS. I ask that the Secretary read the amendment.

Mr. SMOOT. I presume the Senator does not expect to secure a vote on that amendment to-night?

Mr. NEWLANDS. I thought we might have a vote on it.

Mr. SMOOT. We can not get a quorum here to-night. It is half past 5 o'clock now.

Mr. SAULSBURY. I do not think there will be objection to it. It is purely a formal amendment, adding a section to the bill, to provide that nothing contained in the bill shall interfere with prosecutions under the antitrust law.

Mr. SMOOT. That amendment can be considered at any time; there will not be any objection to it, I think, when there is a quorum present; but I think it would be very much better if the Senator would let it go over at this time.

Mr. CUMMINS. Mr. President, the suggestions upon the other side of the Chamber are made in so low a tone that it is impossible for those of us on this side to hear what is going on.

Mr. NEWLANDS. My suggestion was that we should now adopt the additional section that the committee agreed upon, to the effect that the proposed act shall not affect in any way the antitrust act. The Senator from Utah has suggested that it would be necessary to have a vote upon that, and has requested that it go over for the present.

Mr. SMOOT. I do not think there will be any question about it, and no time will be lost by having it go over to-night. I think it will be impossible to secure a quorum at this time. The Senator from Indiana has already moved that the Senate proceed to the consideration of executive business.

Mr. KERN. I withhold the motion for the present.

Mr. NEWLANDS. I should like to ask if it will not be possible to fix an hour to-morrow at which we can commence to vote?

Mr. SMOOT. If the Senator even suggests that, we will have to have the roll called to ascertain the presence of a quorum. I will state that an agreement to that effect would be out of the question now.

Mr. NEWLANDS. I understand that debate is very nearly exhausted.

Mr. SMOOT. I think, Mr. President, that we can get a vote upon the amendments and upon the bill in a very short time by allowing matters to take their regular course. That is the way I feel about it.

Mr. CUMMINS. Mr. President, I suppose the pending question is upon the amendment of the committee to the House bill. I do not want, and I am sure no one else wants, to vote upon that question or any other of any great concern to-night. I am quite prepared to go forward with an amendment which I shall offer if the leader on the other side does not desire to suspend at this time.

Mr. NEWLANDS. The amendment to which the Senator refers is the holding-company amendment, is it not?

Mr. CUMMINS. Does the Senator from Indiana suggest that we now go into executive session?

Mr. KERN. I was about to make that motion. I withheld it to see if any further progress could be made with the pending measure.

Mr. CUMMINS. To go into executive session would be very agreeable to me; I think it would be the very best thing to do at this time.

PETITION.

Mr. CLARK of Wyoming (for Mr. WARREN) presented a petition of sundry citizens of Bonneville, Wyo., praying for national prohibition, which was referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. JONES:

A bill (S. 6175) granting a pension to Leander Alexander; to the Committee on Pensions.

By Mr. CLARK of Wyoming (for Mr. WARREN):

A bill (S. 6176) for the relief of the owners of lighter *No. 128;* to the Committee on Claims.

By Mr. CHILTON:

A bill (S. 6177) granting a pension to Harry B. Robb; to the Committee on Pensions.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts:

On July 27, 1914:

S. 5462. An act to authorize the county of Barry, State of Missouri, to construct a bridge across the White River in Barry County, Mo., at or near a point known as Goldens Ferry; and

S. 5957. An act to authorize the Frost-Johnson Lumber Co. to construct a bridge across the Sabine River, in the States of Louisiana and Texas, about 2 miles west of Hunter, La.

On July 28, 1914:

S. 785. An act to relinquish, release, and quitclaim all right, title, and interest of the United States of America in and to certain lands in the State of Mississippi;

S. 1087. An act authorizing the exchange of certain lands within the Fishlake National Forest, Utah; and

S. 5316. An act authorizing the survey and sale of certain lands in Coconino County, Ariz., to the occupants thereof.

LANDS IN MINNESOTA.

Mr. MYERS submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1784) restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House and agree to the same.

H. L. MYERS,
M. A. SMITH,
REED SMOOT,
Managers on the part of the Senate.
SCOTT FERRIS,
JAMES M. GRAHAM,
Managers on the part of the House.

The report was agreed to.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 25 minutes spent in executive session the doors were reopened, and (at 6 o'clock p. m., Wednesday, July 29, 1914) the Senate took a recess until to-morrow, July 30, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate July 29 (legislative day of July 27), 1914.

CONSULS.

Arthur J. Clare, of the District of Columbia, now consul at Bluefields, to be consul of the United States of America at Port Antonio, Jamaica, vice Cornelius Ferris, jr., nominated to be consul at Bluefields.

Cornelius Ferris, jr., of Colorado, now consul at Port Antonio, to be consul of the United States of America at Bluefields, Nicaragua, vice Arthur J. Clare, nominated to be consul at Port Antonio.

PROMOTIONS IN PUBLIC HEALTH SERVICE.

[These officers have served the required time in their present grades and have passed the necessary examinations for promotion.]

Passed Asst. Surg. Richard H. Creel to be surgeon in the Public Health Service, to rank as such from August 5, 1914.

Passed Asst. Surg. Ruel E. Ebersole to be surgeon in the Public Health Service, to rank as such from August 7, 1914.

Passed Asst. Surg. William C. Rucker to be surgeon in the Public Health Service, to rank as such from August 9, 1914.

Passed Asst. Surg. Arthur M. Stimson to be surgeon in the Public Health Service, to rank as such from August 6, 1914.

Passed Asst. Surg. John W. Trask to be surgeon in the Public Health Service, to rank as such from August 21, 1914.

Asst. Surg. Warren F. Draper to be passed assistant surgeon in the Public Health Service, to rank as such from July 23, 1914.

Asst. Surg. Julian M. Gillespie to be passed assistant surgeon in the Public Health Service, to rank as such from July 30, 1914.

Asst. Surg. Lewis R. Thompson to be passed assistant surgeon in the Public Health Service, to rank as such from September 16, 1914.

Asst. Surg. Richard A. Kearny to be passed assistant surgeon in the Public Health Service, to rank as such from July 20, 1914.

PROMOTIONS AND APPOINTMENT IN THE NAVY.

Commander Casey B. Morgan to be a captain in the Navy from the 1st day of July, 1914.

Lieut. (Junior Grade) Lemuel M. Stevens to be a lieutenant in the Navy from the 5th day of March, 1914.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 5th day of June, 1914:

John J. Saxer,
George B. Keester,
John Borland,
Charles H. Maddox, and
James R. Barry.

First Lieut. Alexander M. Watson to be a captain in the Marine Corps from the 15th day of June, 1914.

Second Lieut. Donald F. Duncan to be a first lieutenant in the Marine Corps from the 9th day of June, 1914.

Robert A. Torrance, a citizen of New York, to be an assistant surgeon in the Medical Reserve Corps of the Navy from the 23d day of July, 1914.

CONFIRMATIONS.

Executive nominations confirmed by the Senate July 29 (legislative day of July 27), 1914.

MINISTER.

Boaz W. Long to be envoy extraordinary and minister plenipotentiary to Salvador.

CONSUL GENERAL.

Julean H. Arnold to be consul general at Hankow, China.

COMMISSIONER OF IMMIGRATION.

Henry J. Skeffington to be commissioner of immigration at the port of Boston.

ASSISTANT CHIEF OF BUREAU OF FOREIGN AND DOMESTIC COMMERCE.

Edward A. Brand to be (First) Assistant Chief of Bureau of Foreign and Domestic Commerce in the Department of Commerce.

POSTMASTERS.

ILLINOIS.

Frank G. Pierski, La Salle.

PENNSYLVANIA.

Walter K. Ashton, Fairchance.
J. Thomas Butler, Coraopolis.
George N. Coryell, Darby.
Thomas P. Delaney, Castle Shannon.
Lewis Dilliner, Point Marion.
Charles L. Fox, Daisytown.
William H. Hartman, Bentleyville.
H. R. Hummel, Watsontown.
James W. Hutchinson, Springdale.
Edmond Jeffries, Monessen.
Joseph A. McLain, Fredericktown.
Joseph Rodgers, jr., Lansdale.
James P. Van Etten, Milford.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *July 29, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, incline Thine ear and hear our petition. Open Thou our spiritual eyes, that we may discern beneath the rough exterior in every human being the image of his Maker; that a profounder love, a broader charity may prevail in the hearts of all mankind; that the ties of fraternity may have a broader scope, a deeper significance; that the genius of the Christian religion may find its full fruition in every heart, and Thy kingdom come and Thy will be done in earth as it is in heaven, to the glory and honor of Thy holy name. Amen.

The Journal of the proceedings of yesterday was read and approved.

INDIAN APPROPRIATIONS.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent for the present consideration of the conference report on the Indian appropriation bill (H. R. 12579), which was printed in yesterday's proceedings of the House.

The SPEAKER. This is Calendar Wednesday, and the gentleman from Texas [Mr. STEPHENS] asks unanimous consent for the present consideration of the conference report on the Indian appropriation bill. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent to dispense with the reading of the conference report, and that the statement be read in lieu of it.

The SPEAKER. The gentleman asks unanimous consent to dispense with the reading of the conference report, and to read the statement in lieu of it. Is there objection?

Mr. MANN. The report is short. I object.

The SPEAKER. The gentleman from Illinois objects. The Clerk will read the conference report.

The Clerk read the conference report.

CONFERENCE REPORT (NO. 1031).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12579) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 37.

Amendment numbered 81: That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$200,000."

Also, in lieu of the sum proposed in the amendment of the Senate numbered 98 as agreed to in conference, insert "$49,700"; and the Senate agree to the same.

Amendment numbered 139: That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment as follows: In lieu of the matter proposed insert:

"That the Secretary of the Interior be, and he is hereby, authorized to make a per capita payment to the enrolled members of the Chickasaw and Cherokee tribes of Indians of Oklahoma entitled under existing law to share in the funds of their respective tribes, or to their lawful heirs, out of any moneys belonging to said tribes in the United States Treasury or deposited in any bank or held by any official under the jurisdiction of the Secretary of the Interior, said payment not to exceed, in the case of the Chickasaws, $100 per capita, and in the case of the Cherokees, not to exceed $15 per capita, and all said payments to be made under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That in cases where such enrolled members, or their heirs, are Indians who by reason of their degree of Indian blood belong to the restricted class, the Secretary of the Interior may, in his discretion, withhold such payments and use the same for the benefit of such restricted Indians: *Provided further*, That the money paid to the enrolled members as provided herein, shall be exempt from any lien for attorneys' fees or other debt contracted prior to the passage of this act."

And the Senate agree to the same.

Amendment numbered 155: That the House recede from its disagreement to the amendment of the Senate numbered 155, and agree to the same with an amendment as follows: In lieu of the matter proposed insert:

"It appearing by the report of the Joint Congressional Commission created under section 23 of the Indian appropriation act approved June 30, 1913 (Senate Document No. 337, Sixty-third Congress, second session), that the Indians of the Yakima Reservation in the State of Washington, have been unjustly deprived of the portion of the natural flow of the Yakima River to which they are equitably entitled for the purposes of irrigation, having only been allowed 147 cubic feet per second, the Secretary of the Interior is hereby authorized and directed to furnish at the northern boundary of said Yakima Indian Reservation in perpetuity enough water, in addition to the 147 cubic feet per second heretofore allotted to said Indians, so that there shall be during the low water irrigation season at least 720 cubic feet per second of water available when needed for irrigation; this quantity being considered as equivalent to and in satisfaction of the rights of the Indians in the low water flow of Yakima River and adequate for the irrigation of 40 acres on each Indian allotment; the apportionment of this water to be made under the direction of the Secretary of the Interior, and there is hereby authorized to be appropriated the sum of $635,000 to pay for said water to be covered into the reclamation fund; the amount to be appropriated annually in installments upon estimates certified to Congress by the Secretary of the Treasury. One hundred thousand dollars is hereby appropriated to pay the first installment of the amount herein authorized to be expended, and the Secretary of the Interior is hereby directed to prepare and submit to Congress the most feasible and economical plan for the distribution of said water upon the lands of said Yakima Reservation, in connection with the present system and with a view to reimbursing the Government for any sum it may have expended or may expend for a complete irrigation system for said reservation."

And the Senate agree to the same.

JNO. H. STEPHENS,
C. D. CARTER,
CHAS. H. BURKE,
Managers on the part of the House.
HENRY F. ASHURST,
MOSES E. CLAPP,
Managers on the part of the Senate.

STATEMENT.

The Senate conferees have receded on amendment No. 37.

On the following amendments the House conferees receded with qualifying or substitute amendments:

No. 81: Decreases from $250,000 to $200,000 the amount appropriated for continuing the construction of the irrigation system on the Flathead Indian Reservation, in Montana. Also corrects an error in Senate amendment No. 98.

No. 139: Provides for a per capita payment of $15 to the enrolled members of the Cherokee Tribe of Indians and a $100 per capita payment for each enrolled Chickasaw Indian in the State of Oklahoma, and exempts such payments from liability for attorneys' fees and other debts contracted prior to the passage of this act. Also provides that the Secretary of the Interior may, in his discretion, withhold such payments from restricted Indians and use the same for their benefit.

No. 155: Provides a certain specified amount of water in perpetuity for irrigation purposes on the Yakima Indian Reservation, authorizes a certain sum for such purpose to be paid in annual installments, and appropriates $100,000 as the first installment.

JNO. H. STEPHENS,
C. D. CARTER,
CHAS. H. BURKE,
Managers on the part of the House.

Mr. MANN. Mr. Speaker, I reserve a point of order on the conference report.

Mr. STEPHENS of Texas. To what particular item does the gentleman refer? There are four or five items.

Mr. MANN. I have reserved a point of orde: to the conference report. I think it is subject to a point of order, but I do not know whether I shall insist upon it.

Mr. STEPHENS of Texas. Is there any particular item about which the gentleman desires information?

Mr. MANN. I want to ask in reference to two items, one in reference to the Choctaws and the other in reference to the Yakima reclamation plant.

Mr. STEPHENS of Texas. The Choctaw matter is amendment 139. The trouble over that amendment arose from the fact that the Mississippi Choctaws were involved. That has been entirely eliminated from the bill. We give the Cherokees $15 per capita and the Chickasaws $100 per capita, and omit the Choctaws, so there is no controversy in either House now as to amendment 139.

Mr. MANN. I was not aware that both Houses had agreed to that item, and as the House has twice rejected it, I would like to know about it.

Mr. STEPHENS of Texas. The conferees of the House and Senate have both agreed to this.

Mr. MANN. That is an entirely different proposition.

Mr. STEPHENS of Texas. The Senate adopted the conference report last evening, which is now before the House for final action.

Mr. MANN. It was stated on the floor, during the discussion of amendment 139, that the Choctaw fund in the Treasury and the Chickasaw fund in the Treasury were one—both one fund. Is that true?

Mr. STEPHENS of Texas. That is not correct. Originally the land belonged to all the Indians, that is, the two tribes were granted the land together by the United States; but afterwards they were separated, and a dividing line run between the two nations, and now the lands have been separated for 40 or 50 years.

Mr. MANN. As I understand the conference report, the question in reference to the disposition of the Choctaw fund remains in abeyance until further action by Congress.

Mr. STEPHENS of Texas. Yes; without being interfered with in any way by this bill. It remains in statu quo.

Mr. HARRISON. I want to say, with respect to the question asked by the gentleman from Illinois about the fund being a common fund between the Chickasaws and Choctaws, that I inquired of the Commissioner of Indian Affairs whether or not any complications would arise in the event the Chickasaws should receive their per capita payment out of this fund, and the commissioner informed me that it would not cause any complication, that it was merely a matter of bookkeeping and would be charged against the account of the Chickasaw Indians.

Mr. BURKE of South Dakota. Mr. Speaker, before that item is passed, I want to suggest that whatever may be paid to the Chickasaws will be charged to them and there will still be due them something like $1,500,000 to be paid at some future time after the payment that this authorizes. Consequently, if there should be any money paid out on account of claims that may be paid to Mississippi or other Choctaws the matter can still be adjusted.

I want to call attention to one provision in the amendment that has been incorporated in conference that was not in the Senate amendment, and that is the last proviso, which was put in after we struck out the so-called Williams amendment.

It is as follows:

Provided further, That the money paid to the enrolled members as provided herein shall be exempt from any liens for attorneys' fees or other debts contracted prior to the passage of this act.

I think the House will recognize that that is a wise provision, and that it will insure this money going to the Indians in the first instance, at least, even if it gets away from them very soon after they receive it.

Mr. MILLER. Mr. Speaker, will the gentleman yield for a question?

Mr. STEPHENS of Texas. I yield to the gentleman.

Mr. MILLER. From a statement made by the gentleman from Mississippi [Mr. HARRISON] just now, I understood that he had been advised by the Commissioner of Indian Affairs that it would make no legal difference in the status of the Indians and their property rights if the Chickasaws should at this time receive a payment of $100 per capita and the Choctaws not.

Mr. STEPHENS of Texas. I think the gentleman is correct in that statement.

Mr. MILLER. Was any further attempt made by the conferees to ascertain the legal effect of this action, other than to secure the opinion of the Commissioner of Indian Affairs?

Mr. STEPHENS of Texas. What information we received was from the department, and Mr. Meritt, Assistant Commissioner, was present.

Mr. MILLER. I will say to the gentleman that I have given some thought to the matter, as it has been up for consideration on several occasions, and I am far from being persuaded that the position taken by the Commissioner of Indian Affairs is correct, although it is likely that it shades a little that way. The fact is that every Chickasaw and every Choctaw is a joint owner of every blade of grass, every grain of sand, every rock, every bit of asphalt, every pound of coal, and every acre of land possessed by these two great tribes. That is in the law and in the agreement. They own it jointly—together. Now, at various times in distributing the proceeds we have roughly given one-fourth to the Chickasaws and three-fourths to the Choctaws, but that has not been exact justice. I think there is very grave danger in making a payment of $100 per capita to the Chickasaws now.

Mr. STEPHENS of Texas. Is the gentleman aware that they have in the Treasury about $265 per capita?

Mr. MILLER. I understand, and I understand that the courts might view that as liquidated assets, subject to be distributed; but this is a guardian administrating the affairs of people who own jointly. Now, have we any expression from the Choctaws that they are willing that this payment be made notwithstanding they are denied any payment? To my mind that is a very serious proposition. We do not want to create a claim running into the millions on the part of the Choctaws against the United States.

Mr. HARRISON. Mr. Speaker, will the gentleman yield?

Mr. STEPHENS of Texas. It was their money, and we are acting under the treaty.

Mr. MILLER. That is true. It is not only the Chickasaws' money but the Choctaws'.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. STEPHENS of Texas. Yes.

Mr. CAMPBELL. While it is true that the property is jointly owned by the Choctaws and the Chickasaws—that is, the coal, the asphalt, and the land—in the ratio of 3 to 1, roughly speaking, yet when money is received for land or coal, or anything else, it is placed in the Treasury to the credit of the Choctaws and to the credit of the Chickasaws, as their interest may appear.

Mr. MILLER. As their joint fund.

Mr. CAMPBELL. No; it is not placed in a joint fund. It is placed in separate funds.

Mr. MILLER. I beg the gentleman's pardon, but I understand it is placed in a joint fund.

Mr. STEPHENS of Texas. I will state to the gentleman from Minnesota that they are carried as separate items on the books.

Mr. CAMPBELL. The money is not deposited in a joint fund, but in separate funds.

Mr. STEPHENS of Texas. That is correct.

Mr. CAMPBELL. One-fourth of the proceeds arising from the sale of any property belonging to the Choctaws and Chickasaws is placed to the credit of the Chickasaws, and three-fourths to the credit of the Choctaws.

Mr. MILLER. Mr. Speaker, I will say that that is very doubtful bookkeeping, and may result in a very good-sized claim against the United States, and I do think it is serious whether we should out and out appropriate this money. It does not matter what kind of bookkeeping we follow, the fact remains that the Choctaws own a part of that fund in about the proportion of 3 to 1.

Mr. BURKE of South Dakota. Mr. Speaker, will the gentleman yield?

Mr. STEPHENS of Texas. Yes.

Mr. BURKE of South Dakota. Will the gentleman permit me to ask the gentleman from Minnesota a question? Does the gentleman think that there would be any injustice to the Chickasaws if we authorized a per capita payment of $25 or $50 to the Choctaws? Would that not be charged to the Choctaws, and when a future payment was authorized, would we not take into consideration that they had received a per capita payment of $25 or $50, which the Chickasaws had not received, and we would therefore direct that the Chickasaws be paid an amount to equal what the Choctaws had received?

Mr. MILLER. Unquestionably that is the theory upon which this provision is drawn. There is no doubt about that.

Mr. BURKE of South Dakota. If there is still in the Treasury, after this $100 payment is made to the Chickasaws, a million and a half dollars in round numbers, does not the gentleman think, if there should be any injustice done to the Choctaws, there will be an opportunity of correcting it and equalizing the matter, so that the Chickasaws will bear any share that they ought to pay of claims that may be presented that ought to be paid out of the common fund?

Mr. MILLER. If after paying $100 apiece to the Chickasaws they still have a million and a half dollars, that may be a sufficient guaranty, a gold bond in our possession, upon which we can take a chance; but I think nevertheless it is an extremely dubious procedure, and if it were proposed to pay out all of the amount due the Chickasaws in this way, I think it would be a very critical thing.

Mr. STEPHENS of Texas. Is the gentleman aware that they have an immense amount of coal and oil and asphalt?

Mr. MILLER. Oh, yes; I understand that.

Mr. STEPHENS of Texas. And timberlands?

Mr. MILLER. That was worth a whole lot more before certain theories of government that now prevail existed.

Mr. HARRISON. Mr. Speaker, I want to say that it is to avoid that very complication that the gentleman from Minnesota has asserted might arise that prompted me to go to the Commissioner of Indian Affairs and ascertain from him his opinion. I talked with three of the attorneys in the office, and they told me, as did the commissioner, that they did not believe that this per capita payment to the Chickasaws would cause any difficulty. I want to say in that connection that while we made a fight in behalf of the Mississippi Choctaws against the distribution of this fund, until the Mississippi Choctaws could be taken care of, I do not believe it is a matter of right and justice to the Chickasaws or any other tribes that their per capita payment of distribution should be tied up pending the settlement of the question.

Mr. MILLER. Let us assume a hypothetical and perhaps extravagant case. Let us assume that 20,000 people should be added to the rolls of the Choctaws and the Chickasaws.

Mr. FERRIS. The gentleman need not assume that, for that will never happen.

Mr. MILLER. I say that it is an extravagant proposition. There are a good many times that many seeking to get on and have been for a number of years, but assuming that, then what position would the Government be in, having paid this out?

Mr. HARRISON. I think this amount that is paid to the Chickasaws will be charged up against them and in the final distribution it will be merely a matter of bookkeeping, to be charged back against them.

Mr. McGUIRE of Oklahoma. Mr. Speaker, will the gentleman from Texas yield?

Mr. STEPHENS of Texas. Yes.

Mr. McGUIRE of Oklahoma. Pursuing further the statement of the gentleman from Minnesota [Mr. MILLER], the hypothetical proposition, suppose that a large number of Mississippi Choctaws are placed on the rolls, the gentleman will concede that that immediately changes the ratio between the Choctaws as they now are in numbers and the Chickasaws?

Mr. HARRISON. Yes.

Mr. McGUIRE of Oklahoma. Suppose the Chickasaws have received practically their share at the ratio of three to one. A large number of Choctaws are put upon the roll and the ratio is changed, and we find that the Chickasaws then have received more than their proportion. To whom, then, would the Choctaws come for the residue belonging to them? It seems to me to the Government.

Mr. HARRISON. I think that probably there will be enough left for them. I have looked into that. I am under the impression that there will be enough left of the Chickasaws' part of the fund to take care of them.

Mr. MANN. Mr. Speaker, may I ask the gentleman from Mississippi a question?

Mr. STEPHENS of Texas. I yield to the gentleman from Mississippi for that purpose.

Mr. MANN. The gentleman from Minnesota just stated that the land, and so forth, belonged to the Chickasaws and Choctaws jointly. Does the gentleman from Mississippi understand that is jointly by tribes or jointly by individuals?

Mr. HARRISON. I think originally they were jointly by tribes, and I think now they are jointly by tribes, but——

Mr. MILLER. Let me say it is jointly by individuals, each individual.

Mr. HARRISON. I desire to say I am not thoroughly familiar with that phase of the question, and no doubt the gentleman from Minnesota is correct in that.

Mr. MILLER. It is jointly by individuals.

Mr. MANN. It is perfectly patent, if it is jointly by tribes, it does not make a particle of difference to the Choctaw Indians how much per capita distribution is made to the Chickasaws, or vice versa; but if they own this jointly as individuals, and you add a large number of new names to the rolls of the Choctaws, that then the distribution to the Chickasaws may result in a diminution of the fund for distribution to the Choctaws. That is perfectly patent.

Mr. HARRISON. I think that would be true if a large number should be put upon the rolls.

Mr. MANN. How many are seeking to get on the rolls?

Mr. HARRISON. I do not think at the outside there are over 2,000 that would be able to prove their claims.

Mr. MANN. The gentleman's opinion about that is very good; but how many are seeking to get on the rolls?

Mr. HARRISON. I do not know; there is quite a number seeking; a great many are seeking to get on the rolls without any warrant to do so.

Mr. MANN. I understood that a gentleman said a moment ago in the House that there were 100,000 seeking to get on the rolls.

Mr. HARRISON. I think that is grossly exaggerated.

Mr. MANN. In the opinion of some gentlemen there was no chance for the Mississippi Choctaws to get on the rolls, and it appears there might be now. How about the others seeking? Somebody must think they have a chance or they would not be seeking.

Mr. HARRISON. My opinion is there will be probably 2,000 that ought to be placed on the rolls, if the gentleman asks my opinion about it.

Mr. MANN. The gentleman gives his well-considered opinion, but he would not say he has made an investigation to know whether——

Mr. HARRISON. There are about 1,100 who have been identified by the Dawes Commission and who certainly ought to be on the rolls.

Mr. MANN. The gentleman says 1,100 in his locality.

Mr. HARRISON. In Mississippi.

Mr. MANN. How many does the gentleman know there are throughout the United States? It is a fact, is it not, that the Government is taking a chance on this, because if the distribution in the end is to be a per capita between the two tribes and not per capita for each tribe considered separately, if they paid too much to the Indians of one tribe, they in the end will be asked to make that up?

Mr. HARRISON. I think so, and I think the opinion of the department was based on that fact—that is, that they thought there would probably be no more placed upon the rolls than could be taken care of.

Mr. MILLER. May I inquire of the gentleman from Texas whether any showing has been made before the conferees indicating the urgency requiring this per capita payment to the Chickasaws at this time? Was there any failure of crops or any famine or anything of that kind?

Mr. STEPHENS of Texas. There was a representation made by the department that it is right that this money should be paid to these Indians. Not only that, but we are under treaty obligations to pay this money to these Indians. It is argued it is a very great injustice to these Indians to have this money in the United States Treasury that should have been paid them years ago, and that it should not be withheld from them now. As I stated before, there is $265 coming to each one of these

Indians, and we only propose a payment of $100, which leaves $165 per capita still due. And not only that, but the land, timber, oil, and asphaltum, which is estimated all the way from ten to fifty or sixty million dollars, belong to these Indians, and there can certainly be no chance in any way by which the United States could be mulcted in damages for paying out this $100. I now yield to the gentleman from Oklahoma [Mr. FERRIS].

Mr. FERRIS. Mr. Speaker, I would not consume the time of the House but for the fact I do not want the House during this debate to get in an avenue of a misapprehension of the facts. Sixteen years ago the Federal Government promised by two treaties—not one, but two—to distribute these funds that belong to these Indians among them and finally settle their affairs. Sixteen long years have these Indians waited for that to be done and have been refused. What do these five tribes ask? Aid from the Government? Not at all; but are asking Congress to give them their own money which belongs to them. It is their money. No one here or elsewhere asserts or dares to assert that it is not their money. They need their money now, not after they are all dead. Statehood has come; white people have come in and have purchased the surplus lands, and the Indians are forced to smaller reservation or allotments. They need this money, and it ought to be paid to them—at least to the competent ones, and to the incompetent ones it ought to be capitalized and used for their benefit by the department. This would shield them from graft or sharp dealing. The present Indian Commissioner is on the job, and he will secure justice in the handling of the funds. Practically all the Five Civilized Tribes are intelligent people who know what they are about, and it is a farce and a farcical performance to longer try to administer their affairs 2,000 miles away. I am not here criticizing the conferees. Now the question arises—and I want to say that the holding up of these moneys, and particularly the Choctaw money, at this time is in direct violation of the treaty stipulations between the United States and the Choctaw Indians, and that instead of the payment of it being made a claim arising by reason of the payment of their money, we had better fear a claim for the injury and damage that may result to the Indians by reason of Congress breaking a direct treaty stipulation in not paying it to them at all. This matter is getting tedious to the Indians, who thought this Government would do what it promised to do with a people wholly within its charge.

The gentleman from Mississippi [Mr. HARRISON] and his colleagues no doubt feel that they have some kind of an imaginary claim against these funds. But it has been adjudicated five or six times. I do not want to go into that argument, but this identical fourteenth article of the treaty of 1830 has been adjudicated in every forum that ever had authority to sit on it, and they have always rendered a verdict adverse to them. But 16 years have elapsed without doing what the Federal Government agreed to do, to wit, to settle with the Five Tribes, and I presume they will have to hold on a little longer without the Federal Government doing what they ought to do. They ought to give these Indians, who are practically white Indians, their money and let them alone, and cut them loose from the Federal Government and have nothing more to do with their affairs. They are full citizens, all voters, most of them competent. But I have neither the ability, influence, nor power to now make this House understand the situation sufficiently to do that. The conferees have probably done the best they could. The Mississippi Choctaw claim is not easily understood, and it would not be fair to force Congress to act hastily. When the matter is once understood I have no fears of the result. There can be but one verdict and that will be that the Oklahoma Indians are entitled to their peace.

Now, one word further. The Choctaws and Chickasaws have always maintained separate tribal governments, and they do to-day. They have their separate principal chiefs. Douglas H. Johnson is the governor, or principal chief, of the Chickasaws, and they have a Chickasaw legislature regularly elected and still holding office. The principal chief, or the governor, of the Choctaws is Victor H. Locke, and they have a Choctaw legislature. True, their property since 1837 has been held in common since the Chickasaws bought into the Choctaw Tribe. The Choctaws acquired their title in 1820 and 1830. The Chickasaws bought their interest in that estate in 1837. The Indian Office has kept the two funds separate. They put one-fourth to the credit of the Chickasaws and three-fourths to the Choctaws, due to the fact that the ratio of population was about one-fourth Chickasaws and three-fourth Choctaws of the aggregate population.

As was suggested by the gentleman from Mississippi [Mr. HARRISON] the Indian Office says there will be no difficulty in this payment to the Chickasaws. Personally I think they all ought to have been paid. I have no doubt the conferees think so. At this late period of the session we have not the time to properly debate this matter and thrash it out, and after conferring with some of the leaders of the House on both sides of the Chamber this course was agreed upon, with very much sorrow and reluctance on my part. I do not think the people ought to be longer held up by the claim which to my mind is totally spurious and without merit. And to my mind as long as there is a dollar left or as long as there is a pound of meat on the Indians' bones, there will be a lot of vultures trying to get on the roll, trying to rob the Indians under one guise or another. As long as it is worth from $3,000 to $5,000 to get on the roll, that long every dirty-faced hybrid will try to do so whether he is with or without Indian blood.

It is my earnest hope, and I am sure it is the hope of every Indian of my State, that this Mississippi Choctaw claim may soon be understood and disposed of, so that this Government can keep faith with the Choctaws and give them their money.

Mr. MANN. Mr. Speaker, I would like to ask the gentleman from Texas [Mr. STEPHENS] in reference to amendment No. 155—the Yakima irrigation project. I notice that the Senate amendment originally proposed an appropriation of $100,000 for one purpose in connection with that, and then another $100,000 for another purpose, making $200,000, while the conferees' report makes an authorization, to be paid from the Government Treasury, of $635,000.

Mr. STEPHENS of Texas. To be paid in annual payments hereafter by Congress. The gentleman is correct.

Mr. MANN. What is the theory of that? Why are we called upon to do that?

Mr. STEPHENS of Texas. That follows the report and suggestions made by the joint committee on the part of the two Houses to investigate this special matter during the first session of this Congress, and this follows the report. It makes it definite that the Indians are entitled to one-half of the natural flow of the river. They had only received 147 cubic feet per second, which was entirely too small an amount, and we design by this legislation to do justice to the Indians by giving them the amount of water that that commission has found should have been given to them. And, in addition to that, I will state that the reclamation engineers, headed by Mr. Newell, and the Indian engineers have arrived to these figures that we have adopted here. It is satisfactory to the House and satisfactory to the Senate and satisfactory to the Reclamation Service and the Indian Reclamation Service, and they have all agreed to this amendment.

Mr. MANN. Usually all of these people will agree to any proposition that takes money out of the Federal Treasury instead of their funds. As I understand, here is the Reclamation Service that has a reclamation fund, and the Indian Service has various Indian funds, and they both agree that the money shall be paid out of the Federal Treasury and not out of their funds. I think we ought to have more information on the subject than the gentleman has given us so far as to why we should stand the gaff.

Mr. STEPHENS of Texas. Is the gentleman aware that this commission spent more than 10 days upon this reservation and took a volume of testimony and made the following report to Congress:

[Senate Document No. 337; Sixty-third Congress, second session.]

IMPOUNDING WATERS AND INDIAN TUBERCULOSIS SANITARIUM.

Report presented by Mr. ROBINSON, of the joint congressional commission created under section 23 of the Indian appropriation act approved June 30, 1913, "For the purpose of investigating the necessity and feasibility of establishing, equipping, and maintaining a tuberculosis sanitarium in New Mexico for the treatment of tuberculous Indians, and to also investigate the necessity and feasibility of procuring impounded waters for the Yakima Indian Reservation or the construction of an irrigation system upon said reservation to impound the waters of the Yakima River, Wash., for the reclamation of the lands on said reservation, and for the use and benefit of the Indians on said reservation."

THE NECESSITY AND FEASIBILITY OF PROCURING IMPOUNDED WATERS FOR THE YAKIMA INDIAN RESERVATION OR THE CONSTRUCTION OF AN IRRIGATION SYSTEM UPON SAID RESERVATION, TO IMPOUND THE WATERS OF THE YAKIMA RIVER, WASH., FOR THE USE AND BENEFIT OF THE INDIANS OF SAID RESERVATION.

The second part of the task assigned this joint commission of Congress relates to a subject quite distinct and disconnected from any question of health or sanitation. It involves many disputed facts, complicated questions of law, and policies of far-reaching importance.

* * * * * * *

A brief historical statement of the subject will be of value and importance.

TREATY OF 1855 WITH YAKIMA AND ASSOCIATED INDIAN TRIBES.

In 1855 the United States made a treaty, ratified in 1859, with the Yakima and Associated Indian Tribes, in the State of Washington, by the terms whereof said Indians ceded a large area of lands to the United States, reserving to themselves what is known as the Yakima Indian Reservation, the same being definitely described.

Said reservation comprises about 1,092,819 acres, of which approximately 120,000 acres in the basin of the Yakima River are irrigable.

The exclusive right of taking fish in all the streams running through or bordering the reservation was expressly reserved by the treaty to the Indians.

At the time of this treaty irrigation was little known, and it does not appear that the subject of water rights bore any important relation to the treaty. It is certain that the value of water rights was not foreseen either by the Indians or the Government.

The controlling purpose of the treaty, however, was to make possible the permanent settlement of the Yakima Indians and their transformation into an agricultural people.

"The treaty was not a grant of rights to the Indians, but a grant of rights from them—a reservation of rights not granted." (U. S. *v.* Winans, 198 U. S., 381.)

Only a small area of the lands reserved by the Indians was susceptible of profitable cultivation without irrigation.

In the course of time much of the land on the Yakima Indian Reservation was found to be subject to irrigation. Some of these lands having been patented passed into the ownership of white men.

Above the Yakima Indian Reservation, on the Yakima River and the Ahtanum Creek, white men settled and diverted water for irrigation purposes. On the opposite side of the Yakima River from the said reservation is located the Sunnyside irrigation project, embracing 102,000 acres, irrigated from the Yakima River and now having under cultivation about 75,000 acres. This project began under the auspices of a corporation known as the Washington Irrigation Co., but was taken over by the Reclamation Service about 1906. The Reclamation Service has in contemplation three large units in addition to the Sunnyside, namely, the Kittitas, with an approximate area of 82,000 acres, the Benton, with an area of 90,000 acres, and the Tieton, embracing probably 35,000 acres. The latter project is located on the same side of the Yakima River as the Yakima Indian Reservation, while the Sunnyside, Benton, and Kittitas units are on the opposite side of said river. All of these units are embraced in the so-called Yakima Basin.

It is conceded that the natural flow of the Yakima River and its tributaries is not sufficient at low-water stages to irrigate all of the irrigable land within said basin. The shortage of water has led to a controversy extending over many years and causing the appointment of this commission to inquire into the facts and recommend an adjustment of the dispute.

While the history of irrigation on the Yakima Indian Reservation is involved in the obscurity unavoidably incident to the beginning and progress of such affairs, it appears reasonably certain that irrigation by the Indians on the reservation began about 1859. In 1865 approximately 1,200 acres on the reservation were under irrigation. About the time the United States took over the Sunnyside project irrigation work was commenced on the reservation by the Indian Service. This was in May, 1896. It was estimated by William Redman, engineer, in a report June 30, 1897, that by constructing more lateral ditches, 50,000 acres could be irrigated from the system then in existence.

In the meantime white settlers on the other side of the Yakima River from the reservation had made appropriation of water from the river under the laws of the State of Washington.

February 19, 1903, the then superintendent of the Yakima Reservation filed on 1,000 cubic feet per second of water for the use and benefit of said reservation. This was more than the entire low water of the river at a given point in the river adjacent to the reservation. Water users having appropriated almost the entire low-water flow of the Yakima River adversely to the reservation instituted in the State courts injunction suits against the water users on the reservation. While these suits were pending the then Secretary of the Interior, Mr. Hitchcock, undertook to compromise all disputed claims to water rights from the Yakima River. He awarded only 147 second-feet to the reservation and 650 second-feet to the adverse claimants. This allowance of only 147 second-feet was inadequate to meet the actual demands for water on the reservation at the time and totally failed to make provision for future needs. Great dissatisfaction resulted. It is not deemed practicable or profitable here to set forth in detail the history of this important controversy. It continued and gathered volume until development was embarrassed throughout the Yakima Basin.

Your commission visited the State of Washington, inspected the several units in the Yakima Basin, and especially the Wapato and Sunnyside units. Public notice was given that all parties interested in the subject matter would be heard. Hearings were had at the city of North Yakima and at Toppenish. Many witneseses and attorneys representing the various interests involved appeared before the commission and submitted their views in detail.

A part of this testimony has already been printed, and the remainder is herewith submitted.

After a careful consideration of the whole subject and the entire record, the following findings of fact and recommendations are submitted for such consideration and action as the Congresses may deem necessary and advisable.

1. That the allowance by the former Secretary of the Interior, Mr. Hitchcock, of 147 second-feet of water of the low-water flow of the Yakima River for the use and benefit of the irrigable lands on the Yakima Indian Reservation was when made and now is inadequate, inequitable, and unfair to said Indian reservation.

2. From a consideration of the whole subject we believe that vested rights have accrued to water users other than those on said reservation and that the low-water flow of the Yakima River is insufficient to supply their needs and the requirements of said reservation. We therefore believe that the United States should provide, for the use and benefit of the irrigable portion of said reservation, free from storage cost and storage maintenance cost, sufficient water to equal the amount to which said reservation was equitably entitled when the finding of Secretary Hitchcock was made.

While it is difficult to determine what this amount should be, we are convinced that it should not be less than one-half of the natural flow of the Yakima River and should be sufficient to irrigate one-half of each allotment of irrigable land on said reservation. That this will cost approximately $500,000, and we recommend that an appropriation of said amount for this purpose be authorized, payable in five annual installments, as the needs of irrigation on said reservation may demand, and on estimates to be submitted, said $500,000 being the amount we believe necessary to purchase such free water in addition to the amount now available for the irrigable land on said reservation from the Reclamation Service as will be required for this purpose.

3. As to the portion of the irrigable allotments in excess of the area to be furnished water free, the allottees may be permitted, but should not be required, to sell the same or any portion thereof, under such terms and conditions as the Secretary of the Interior may prescribe. The cost of furnishing water for such area not to be furnished water free shall be apportioned equitably according to benefits.

4. As to all allottees on the said Yakima Indian Reservation, the equitable proportionate cost, both as to storage water in addition to such amount as shall be furnished free and as to the cost of maintenance and distribution of all water furnished for said irrigable lands on said reservation, shall be charged to the allottees, respectively, and payable from their proportionate individual shares of tribal funds when distributed.

5. In the event any allottee shall receive a patent in fee to an allotment of irrigable land before the amount so charged against him has been repaid to the United States, then such amount remaining unpaid shall become a first lien on his allotment, and the fact of such lien and the amount thereof shall be recited on the face of each patent in fee issued.

As to all grantees of allottees to whom patents have been issued, the cost which would be charged against the proportionate individual shares of allottees if the lands were not patented shall be fixed as a lien upon the lands so patented.

The repair and extension of the irrigation distribution system for the Yakima Indian Reservation and the maintenance of the same should be under the control of the Indian Service.

The expenses incurred by this commission are approximately $2,500. The exact amount can not at this time be stated, for the reason that a part of the bills for stenographic service have not yet been ascertained and audited.

Respectfully submitted.

Senator JOE T. ROBINSON, *Arkansas (chairman)*,
Senator CHAS. E. TOWNSEND, *Michigan*,
Representative JNO. H. STEPHENS, *Texas*,
Representative CHAS. H. BURKE, *South Dakota*,
Joint Commission of Congresses.

Attest:

ROSS WILLIAMS, *Arkansas*,
Special Clerk and Stenographer for the Commission.

DECEMBER 20, 1913.

Mr. MANN. I do not care if they spent 10 months on the reservation. I read the report of the commission hastily without understanding it, and without pretending to understand it. But that is no reflection on the report. I read it when it came in. However, that is not sufficient. Why do we pay these expenses for this irrigation project out of the Federal Treasury?

Mr. STEPHENS of Texas. For the reason that those Indians were in that country long before the country was ever settled, possibly for hundreds of years. They were entitled to one-half of the flow of this river. The whites had deprived them of one-half of the flow, and we thought it proper to give each Indian's 40-acre allotment, that had heretofore been made to him, water free in perpetuity. In order to do that and guard the safety of the Indians in the future we have agreed to give them this as a first installment for the purpose of building ditches and taking the water out of the river. It is of no benefit unless it is taken out of the river and put on the Indian lands, and it will require that much money to furnish the water to 40 acres for each Indian.

Mr. MANN. Let me see if I understand the situation. Here was your Indian reservation and the river, and the Indians were entitled to the use of the water for the purpose of irrigating their land; the Reclamation Service seizes the water for another purpose and uses it, or proposes to use it, for another reclamation project, or something of that sort; now we authorize irrigation works for the benefit of the Indians and advance the money, to be reimbursable out of the proceeds of the sale of their lands. Then we go along in this proposition and provide that they shall have more water than they are now using, and that they shall get that from the Reclamation Service. Then we say we will pay into the Reclamation Service, which I will not say has stolen the water, but has taken it for their purposes, and instead of charging the cost either to the Indians who got their lands irrigated, or to the whites who got their lands irrigated, we charge the cost to the Federal Treasury, and nobody is really to imburse it. Is that correct?

Mr. STEPHENS of Texas. I will yield to the gentleman from South Dakota [Mr. BURKE], who was a member of that commission and who has the figures before him as well as the report made by our committee.

Mr. MANN. Was not the gentleman from Texas a member of that commission?

Mr. STEPHENS of Texas. I was; but the gentleman from South Dakota has the papers before him, and he can give you the exact figures.

Mr. BURKE of South Dakota. Mr. Speaker, this is a very important matter, and I think some explanation ought to be made of it before the House adopts the amendment in the form it has been agreed to in conference. I am going to try, Mr. Speaker, to make a very brief and comprehensive statement of the matter, and then I shall be glad to answer any questions that may be propounded.

Mr. Speaker, an Indian reservation was set aside many years ago in the State of Washington for the occupancy and use of the Yakima Indians. In consideration therefor the Indians ceded to the United States a large area. This was by treaty

made with the United States in 1855 and ratified in 1859. In the treaty between the United States and the Indians it was declared that the purpose of the treaty was to encourage agriculture among the Indians.

As the country developed, white persons moved in and began appropriating water from the Yakima River, which bounds the Yakima Reservation, for irrigation purposes. One project, known as the Sunnyside project, is on the opposite side of the Yakima River from the Indian reservation, and a few years ago it was taken over by the Reclamation Service, and a complete system of irrigation was installed, and the project has since been operated under the Reclamation Service. Congress authorized the construction of an irrigation system for the benefit of the Yakima Indians upon the irrigable area of the Yakima Reservation, comprising 120,000 acres of land, all of which was allotted to individual Indians. This reclamation project was directed to be paid for from the proceeds received from the sale of surplus lands. It was wholly an Indian project and for the benefit only of the Indians. It developed that on account of prior appropriations there would not be sufficient water in the Yakima River to furnish in the low-water season a quantity necessary to irrigate the Indian lands. A conflict arose between the water users and other irrigation projects that became very bitter, and there was such a controversy that the matter was taken into the courts. The Prosser Falls Land & Power Co. and the Washington Irrigation Co. brought suits against the officials of the Yakima Indian Reservation and canals higher up on the river for alleged illegal division of water from the river At the request of the Reclamation Service action under these suits was suspended. Agreements were entered into by these litigants to dismiss the suits in case an agreement could be reached adjusting the questions involved. This resulted in negotiations between all the parties in interest, the Secretary of the Interior acting for and representing the Indians, and at the same time being the head of the department of which the Reclamation Service is a part. The whole question of the rights of the several parties was considered and adjudicated, and an apportionment was made on March 26, 1905, by which 650 second cubic feet was apportioned to the Sunnyside project, while only 147 second feet of the low-water flow of said river was apportioned to the Yakima Indian Reservation. This was inadequate to meet the actual demands for water on the reservation, at least it was not adequate for future needs, and much dissatisfaction resulted.

In order that you may understand the proposition so far as the project of the Sunnyside is concerned, I will say that it is immediately opposite the Yakima project, being upon the public domain, or what was the public domain before it was acquired by the settlers who are now there. There is about the same amount of land that is irrigable in the Sunnyside project as there is in the Indian project on the reservation. The apportionment of water as between the two projects was adjudicated by the Secretary of Interior by apportioning 650 second cubic feet to the Sunnyside and only 147 second cubic feet to the Indians; and that was based, as I understand, upon the question of prior appropriation, prior use, and because of prior use the Sunnyside project was entitled to 650 second cubic feet.

A few years ago an amendment was incorporated in the Indian appropriation bill in the Senate, authorizing an appropriation of $1,800,000 for the purpose of constructing a storage reservoir at the headwaters of the Yakima River for the purpose of supplying water sufficient for the needs upon the reservation to irrigate the irrigable area. The provision was eliminated in conference, and on subsequent occasions, when the same amendment was incorporated in the Indian appropriation bill it met a like fate. In the Indian appropriation act approved August 24, 1912, this matter having then been several times presented by the Senate in conference, a provision was adopted that became the law, authorizing and directing the Secretary of the Interior to investigate the conditions on the Yakima Indian Reservation with a view of determining the best, most practicable, and most feasible plan for providing the water for said reservation, and in response to that provision a very elaborate and comprehensive report was submitted to Congress on January 23, 1913, it being House Document No. 1299, Sixty-second Congress, third session. A recommendation was made for a storage system costing $1,800,000, and following the recommendations of the Secretary of the Interior a provision was again incorporated in the Indian appropriation bill providing an appropriation of $1,800,000 for the construction of the storage system proposed. In conference the provision was eliminated, and in its place a provision was agreed to which became section 23 of the Indian appropriation act approved June 30, 1913, by which a commission was created, consisting of two members of the Senate Committee on Indian Affairs and two Members of the House of Representatives, for the purpose of investigating the necessity and feasibility of procuring impounded water for the Yakima Indian Reservation, or the construction of an irrigation system upon said reservation, and so forth. The commission was appointed, visited the reservation, and made a report to Congress on December 20, 1913, being House Document No. 337, Sixty-third Congress, second session. This commission reported that the allowance by the Secretary of the Interior of 147 second feet of water of the low water flow of the Yakima River for the use and benefit of the Yakima Indian Reservation was when made, and now is, inadequate, inequitable, and unfair to said Indian reservation.

The commission also found that vested rights have accrued to water users other than those on said reservation and that the low-water flow of the Yakima River is insufficient to supply their needs and the requirements of said reservation, and that the United States should provide for the use and benefit of the irrigable portion of said reservation, free from storage cost and storage maintenance cost, sufficient water to equal the amount to which said Indian reservation was equitably entitled when the finding of the Secretary of the Interior was made. The commission stated that it was difficult to determine just what portion of the river the Indians were entitled to, but said that it ought to be sufficient to irrigate one-half of the irrigable area upon said reservation, and a finding was made that it would cost approximately $500,000 to purchase such free water in addition to the 147 second cubic feet already available from the Reclamation Service. This amount was arrived at from figures given by the Director of the Reclamation Service. Since the report of the commission was made the Director of the Reclamation Service stated that he was in error when he stated before the commission what it would cost to furnish such water, and there is no doubt but what he was mistaken, and that $500,000 would not be a sufficient amount to furnish the required quantity of water, and in order that it might be finally determined and to preclude a claim being made to a future Congress that the amount authorized to be appropriated was inadequate, we have authorized by the amendment agreed to in conference that there may be appropriated $635,000, which is the amount that the Director of the Reclamation Service says will be required to furnish the necessary quantity of water.

The amendment appropriates $100,000 of the amount, and provides that future appropriations shall be based upon estimates to be furnished by the Secretary of the Treasury as estimates are usually furnished for public works.

One of the purposes in putting this matter in the form in which we have is to keep it separate from the question of a reclamation project to provide storage and a distributing plant for the whole 120,000 acres, as contemplated by the Senate amendment, that would cost between $5,000,000 and $6,000,000, if it did not cost more than the department has estimated. The figures are something over $5,000,000; and, judging by the estimates that have been submitted in the past in connection with the construction of reclamation projects, I think it is quite safe to say that this might cost $6,000,000, or even more.

The Senate amendment contemplated making this a reclamation project the same as if the land were public domain and subject to homestead entry, or land in private ownership, and it contemplated making the Indian allotments bear the reclamation cost, except I may say it was not intended to make the land pay for the storage of water that it is claimed the Indians were deprived of and that they are entitled to.

It proposed creating a lien upon the Indian allotments for the reclamation cost, and the Senate amendment also provided that this lien should be foreclosed as a mortgage lien. Our theory is that it is not within the power of Congress to create a lien upon land which, by a declaration of law or by a treaty, possibly, is exempt from any lien for a period of 25 years, and it was the opinion of the commission unanimously that whatever was done the United States ought to pay whatever it is going to cost, because of the wrong that was done to these Indians in their having been deprived of the water that they were justly entitled to from the Yakima River, and appropriate it and pay it over to the Reclamation Service, so that when they get ready to go ahead with the reclamation project to irrigate the balance of the land, which will be the other one-half of the area, this amount will be credited to the fund, and the balance of the land will bear the expense of the construction and the distribution, and also the additional water that will be required.

Mr. BATHRICK. Mr. Speaker, will the gentleman yield there?

The SPEAKER. Does the gentleman from South Dakota yield to the gentleman from Ohio?

Mr. BURKE of South Dakota. Certainly.

Mr. BATHRICK. Up to the time the gentleman got to talking about $5,000,000 or $6,000,000 the gentleman's statement was remarkably clear; but I wish to understand whether the gentleman means that it will cost $5,000,000 or $6,000,000 to complete this storage project, or whether the $635,000 is all that it will cost?

Mr. BURKE of South Dakota. I want to say to the gentleman that the estimate of the cost for a storage system necessary to provide for water sufficient to irrigate this 120,000 acres would be $1,800,000. There is 120,000 acres of land, and it will cost $24 an acre for distributing the water upon the land in addition to the storage charge. This proposition does not contemplate either the construction of a storage reservoir or the construction of a distributing system. It is simply taking out of the Treasury of the United States a sum of money and paying it to the Reclamation Service to deliver to these Indians along the river the water that they have been unjustly deprived of; and the reason why there is no other recourse except to the Government is that there are other settlers all up and down that river that have now vested rights, and we can not say to them that they must come in and pay additional cost over what they have contracted to pay, which is all that ought to be expected of them. We could not enforce it if we tried to impose upon them the additional cost. The United States being at fault in not protecting the rights of the Indians in the matter of their water rights in that river, the United States has got to pay the bill.

What I was desirous of accomplishing—and I think that was what the commission desired—was to keep this matter separate from the question of a reclamation project, including the 120,000 acres, and provide for paying the amount require to put in the river the water the Indians had been deprived of and let some future Congress, acting through the committees that we have in both branches of Congress that have jurisdiction in relation to the irrigation of arid lands, work out some system by which all the lands may be irrigated.

Mr. KEATING. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. KEATING. The gentleman suggested that by expending $635,000 you will place the water in the river. How will the Indians use the water after you place it in the river?

Mr. BURKE of South Dakota. I will say to the gentleman that under the law opening the surplus lands of the Yakima Indian Reservation it is provided that there shall be constructed an irrigation plant, to be paid for by the Government and reimbursable from the proceeds from the sale of the lands of the Indians, and there has been constructed upon the Yakima Reservation what is to my notion one of the cheapest and most practicable reclamation projects, perhaps temporary in character, that we have anywhere in the country. We have a project there constructed under the Indian Bureau that has cost only about $250,000. There is a dam and there is a main canal and there are laterals, and about 32,000 acres of the Indian lands are irrigated at the present time. The Reclamation Service say that with sufficient water and at a slight expense the area that could be irrigable from the project now already constructed would probably be in the neighborhood of 80,000 acres, but the difficulty is that in July and August—and that was what the commission encountered when they were upon the reservation—the Indians can not get sufficient water for the lands that they now have under cultivation, because it has already been appropriated and taken from the river. The project is already there, sufficient for the present, I think, to irrigate one-half the irrigable area. What the Reclamation Service contemplates is just wiping off the slate this project that has been constructed by the Indian Service, and that, we think, is working fairly satisfactorily as an Indian proposition, discarding it as being of no account and starting anew and constructing an irrigation project, such as they do construct, that will cost from their own estimates not less than $5,100,000. We do not care to go into that.

Mr. KEATING. If the gentleman will bear with me just a moment, it seems to me the proposition contains two points. You propose to purchase water for the Indian reservation. Now, if you have a system with which you can distribute that water, I understand how you can put it to a beneficial use, but perhaps the Members of the House who are not from western States do not understand that the title to this water rests absolutely upon its beneficial use and that if you were to turn into the stream at this point a thousand cubic feet per second for the use of the Indians and the Indians did not have the distributing system to take care of the water after it was placed at their disposal any settler could seize that water and put it to a beneficial use, and it would at once become his property. So it is very essential, if we purchase this water for the Indians, that the Indians shall have a distributing system to take up the water immediately and put it on the land and be prepared to defend title to that water because they are putting it to a beneficial use, and that is the point I want the gentleman to make clear. If the Indians have not a distributing system, if they are not prepared to use the water and put it to a beneficial use, every western Member of the House knows that the Indians can not retain title to that water.

Mr. BURKE of South Dakota. I think the gentleman will understand the statement which I am about to make. The Reclamation Service now have a storage system. That is, they have the water in storage at the present time that they can furnish for this project. It amounts to this, that we propose to purchase from the Reclamation Service the amount of water that is necessary to supply one-half of the irrigable portion of the reservation. Of course, in the face of this legislation, the Reclamation Service will not attempt to make any other disposition of it, and we will appropriate this $635,000 in such amounts annually as may seem necessary to pay for the water that is being used.

Mr. KEATING. And when the water is delivered by the Reclamation Service, it is the purpose of the Government to have a distributing system prepared, is it?

Mr. BURKE of South Dakota. I may say to the gentleman that there is a distributing system there now, sufficient to irrigate one-half of the irrigable area of this project, if it is properly cleaned out, as the Secretary's report says, and with some slight extensions that would cost only a very small amount.

Mr. KEATING. One more point, if the gentleman will bear with me. That is as to the question of the liability of the Government. The gentleman says that the decision of the Secretary of the Interior which divided the water between the white farmers and the Indians was an unfair decision. Now, on what does the gentleman base that proposition? Before the gentleman answers that, if he will pardon me just a moment, did the Indians make any filings on the water at any time?

Mr. BURKE of South Dakota. I will say to the gentleman that in 1903 the agent for these Indians did make a filing for 1,000 second cubic feet. I think that is not disputed. I want to say to the gentleman—and I think I am in accord with his view of the law—that if you are going into a discussion of the right of the Indians to any portion of the Yakima River as against prior appropriators, we will get into a discussion here that will be long and complicated.

Mr. KEATING. I have no desire to do that.

Mr. BURKE of South Dakota. The gentleman is undoubtedly familiar with the decision of the Supreme Court in the Winters case.

The SPEAKER. The time of the gentleman has expired.

Mr. STEPHENS of Texas. I move the previous question.

Mr. MANN. Oh, no; there are two or three gentlemen on this side who want to be heard.

Mr. MONDELL. I should like to ask the gentleman a question.

The SPEAKER. The gentleman from Texas [Mr. STEPHENS] has four minutes left.

Mr. TAYLOR of Colorado. The understanding was that this matter was to take only two or three minutes. We did not agree to yield Calendar Wednesday.

Mr. MANN. Who had the understanding that it would take only two or three minutes?

Mr. TAYLOR of Colorado. The chairman of the Committee on Indian Affairs gave me that understanding.

Mr. STEPHENS of Texas. I did not suppose there would be any difficulty in putting this through.

Mr. TAYLOR of Colorado. We want to go on with the other bill. We do not want Calendar Wednesday taken up.

Mr. MONDELL. I do not know where the gentleman got the idea that an Indian conference report could be disposed of in two or three minutes. It never has been done.

Mr. TAYLOR of Colorado. That was the impression the gentleman gave me.

Mr. BURKE of South Dakota. Mr. Speaker, I do not desire to consume time, but this is an important matter; and it is important that the conference report be disposed of, because the appropriation bill ought to become a law by August 1.

Mr. TAYLOR of Colorado. But this is a privileged matter. It can be called up at any time, but we can not get any time except on Wednesday.

The SPEAKER. Yes; but the trouble is that the gentleman from Texas [Mr. STEPHENS] got unanimous consent after the Chair warned the House that this was Calendar Wednesday.

Mr. BURKE of South Dakota. We are in now.

Mr. TAYLOR of Colorado. I want to ask unanimous consent that to-morrow be considered as Calendar Wednesday, or else get the rest of to-day for the consideration of the regular order. This is a privileged matter, and we do not want to yield Calendar Wednesday.

Mr. MADDEN. You have already yielded.

Mr. STEPHENS of Texas. How much time does the gentleman want on that side?

Mr. MANN. I want 15 minutes and the gentleman from Washington wants 5 minutes, and the gentleman from Wyoming wants 15 minutes.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent that all debate close on this report in 30 minutes.

The SPEAKER. The gentleman from Texas asks unanimous consent that his time be extended 30 minutes. Is there objection?

Mr. MANN. Who is to have the time?

Mr. STEPHENS of Texas. I will yield the time to the gentleman.

Mr. MANN. I have indicated a desire on this side for 35 minutes.

Mr. STEPHENS of Texas. I will extend it 35 minutes. Mr. Speaker, I ask that the time be extended to 35 minutes.

The SPEAKER. The gentleman from Texas asks that the time be extended 35 minutes. Is there objection?

Mr. BURKE of South Dakota. Reserving the right to object, I do not intend to object. I have no desire to discuss the matter further. Of course I am for the amendment, and I thought that some gentleman might want to use the time in opposition.

Mr. STEPHENS of Texas. I ask that all debate close in 35 minutes, and at the end of that time the previous question be considered as ordered.

The SPEAKER. The gentleman from Texas asks that his time be extended 35 minutes, and at the end of that time the previous question shall be considered as ordered.

Mr. MANN. While I have reserved a point of order, I will not insist or object.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

ENROLLED BILL SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 17041. An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 4988. An act to provide for the disposal of certain lands in the Fort Berthold Indian Reservation, N. Dak.; and

H. R. 17824. An act making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes.

FEDERAL RESERVE BOARD (H. DOC. NO. 1134).

The SPEAKER laid before the House the following letter from the reserve bank organization committee, which was read, and, with the accompanying documents, was ordered printed and referred to the Committee on Banking and Currency.

The letter is as follows:

RESERVE BANK ORGANIZATION COMMITTEE,
Washington, D. C., June 24, 1914.

To the SPEAKER HOUSE OF REPRESENTATIVES.

SIR: The reserve bank organization committee has the honor to acknowledge the receipt of a copy of the resolution of the House of Representatives, dated April 15, 1914, which reads as follows:

"*Resolved*, That the organization committee of the Federal Reserve Board be, and it is hereby, directed to send to the House of Representatives the ballots, or a tabulated statement thereof, cast by the various national banks of the United States to determine their choice for reserve cities according to a request made to said banks by the organization committee of the Federal Reserve Board."

In compliance therewith there is herewith transmitted the information called for.

Respectfully,

W. G. MCADOO,
D. F. HOUSTON,
JNO. SKELTON WILLIAMS,
Reserve Bank Organization Committee.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I yield to the gentleman from Wyoming five minutes.

Mr. FERRIS. I want to ask the gentleman from South Dakota a question.

Mr. BURKE of South Dakota. The time is limited, and I do not care to discuss it further.

Mr. MONDELL. I must have 15 minutes if I am going to discuss the matter at all.

Mr. STEPHENS of Texas. I will yield to the gentleman from Wyoming 15 minutes.

Mr. MONDELL. Mr. Speaker, the conference report provides that the Secretary of the Interior is authorized and directed to deliver in perpetuity at the northern boundary of the Yakima Indian Reservation 720 cubic feet of water per second, and an authorization is made of $600,000 in pursuance of that provision. Of course gentlemen must understand that it is immaterial if that provision becomes a law whether we authorize $6 or $6,000,000 the Treasury must pay for the delivery of that much water, no matter how much it may cost to deliver it.

Aside from the question as to the wisdom of guaranteeing this flow of water, there is the objection to be made against the manner in which it is done—contrary to all previous rules or provisions or laws, as far as I recall them, relative to irrigation. If it is wise and it is the duty of the Government to pay enough to insure the delivery of the amount of water stated, what ought to be done is to make an arrangement under the law we have on the statute book known as the Warren Act, which provides for the purchase of water in perpetuity from the Reclamation Service. That is in harmony with general reclamation laws and regulations. This, it seems to me, with all due deference to gentlemen who have suggested it, is a very extraordinary provision, to bind the Secretary of the Interior in perpetuity to protect certain Indians in the delivery of a certain amount of water at a given point, no matter what may happen.

Mr. BURKE of South Dakota. Will the gentleman permit an inquiry?

Mr. MONDELL. Yes.

Mr. BURKE of South Dakota. If the Indians have been deprived of the water they were entitled to by the nonaction or negligence on the part of the Government, ought not the Government in perpetuity furnish the water that they have been unjustly deprived of?

Mr. MONDELL. I am inclined to agree with the gentleman that if, through the act of the Government as guardian of the Indians, the Indians have lost waters to which they were entitled, it is incumbent on the Government to make some provision with regard to it; but I do not think we should make it in this way, and I say that without any desire to criticize the gentlemen, because I realize that they have had a difficult situation to deal with. But it does not seem to me that the method they have adopted is the proper one. It lays an obligation on the Government for all time for this water. It differentiates this 720 cubic feet of water from any other irrigation waters that I have any knowledge of in the arid region.

Mr. KEATING. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. KEATING. In selling storage water, is it not a fact that you sell it by the acre-foot and not by the cubic foot, as provided in the bill?

Mr. MONDELL. That is quite frequently done, I will say to my friend from Colorado; but whichever way you do it, if the Government is under any obligation in the matter the obligation is to provide the Indians under the law a water right which they thereafter must protect. Some day these Indians are going to pass out from under the control of the Secretary of the Interior. Some day these lands will be occupied by American citizens of more or less Indian blood, but they will not differ greatly from the people of the surrounding territory, nor will their lands or region differ. Then we will have in that particular locality a water right guaranteed by the Federal Government. It seems to me if it is proper to provide for this water at public expense, it should have been done so as to provide for the purchase under the terms of the statute now on the statute books relating to such matters. This water right should be fixed on the same basis of other water rights in the arid region. I do not like a special and peculiar sort of a water right. It is possible the Secretary of the Interior can, under this authorization, sell and contract for rights so as to place them in the same position as other rights in the region. If he can, I hope he will. Of course, it may be suggested that the form of this right is not material or important. I think it is very important, because it sets up here a perpetual obligation on the Federal Government which will run through all time, after Indians have ceased to be regarded as Indians and when that part of the country is in no respect different as to its civilization, cultivation, and settlement from the balance of the country.

The gentleman from South Dakota [Mr. BURKE] has asserted that there is an obligation. I have not gone into the matter carefully. I assume that he is right. The obligation, I would say, can hardly be based on the action of the Secretary of the

Interior in assuming to divide these waters. What does the gentleman understand the act of the Secretary really was? Did the Secretary, representing the Government, say that in his opinion these Indians had title to 147 cubic feet of the flow of the stream, and that they were entitled to no more? Did he, representing them and acting for them, accept that as their part of the flow?

The Secretary of the Interior was at the same time the head of the Reclamation Service, and when he rendered that decision, if it were an inequitable decision under the rights existing, what he did was to give to the people who will eventually occupy the Yakima lands a gift which, as you have figured out, amounts to $650,000, and as much more as it may be necessary in perpetuity to establish and maintain those water rights. If the Secretary was right, if he was correct from a legal standpoint, in assuming that is all the water the Indians were entitled to, then the obligation, if there is any obligation, on the part of the Government is an obligation due to the fact that prior Secretaries and prior Indian Commissioners had not, on the part of the Indians, filed on sufficient water and held sufficient water rights. So there is, whichever way you look at it, something of an obligation.

Mr. BURKE of South Dakota. There had been a filing made of 1,000 second cubic feet by the Indian agent at one time.

Mr. MONDELL. What Secretary was this?

Mr. BURKE of South Dakota. This apportionment was made under Secretary Hitchcock. The gentleman will understand that at the time there was litigation.

Mr. MONDELL. As between the rights of the Indians and others?

Mr. BURKE of South Dakota. As to the rights of the Indians; an action was brought against the official in charge of the Indians for a diversion of the water by certain companies that claimed that they were not getting the amount of water they were entitled to.

Mr. MONDELL. What I want to emphasize is this: There is no earthly reason why any Indian on any irrigable lands in the West should lose his water rights, if there ever have been any water rights available. All it has ever required was action by the department in making the proper water-right applications and in pursuing them reasonably toward utilization in order to protect them.

Mr. BURKE of South Dakota. The gentleman makes his statement, I presume, by assuming that the decision of the Supreme Court in the Winters case is not a proper interpretation and construction of the law with relation to the rights of the Indians to waters in rivers that bound Indian reservations. Is that correct?

Mr. MONDELL. I will say that to me it is funny, not to characterize it otherwise, and I doubt if the Supreme Court would have said just what it did say under any other state of facts than those existing in that particular case, because I can not believe that any court anywhere, in a matter affecting an arid region, would finally say that there is a power existing anywhere that may stay development until the crack of doom because there is somebody too indolent or too indifferent to develop or allow development. That kind of theory is monstrous when you attempt to apply it to a country whose very life depends upon the useful application of water; it is contrary to the natural law of things. There can not be any power of that kind anywhere.

Mr. BURKE of South Dakota. Mr. Speaker, that is the opinion and statement of the gentleman which is in conflict with the decision of the Supreme Court of the United States.

Mr. MONDELL. I do not think it is altogether in conflict with the decision of the Supreme Court, but I have not the time or disposition to discuss that decision of the Supreme Court. What I want to emphasize is this. We have heard a good deal of discussion of late in respect to the necessity of fixing by law rights to water Indian lands, so that they never can, through lack of use, be lost.

The SPEAKER pro tempore (Mr. GARRETT of Texas). The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Speaker, I think a provision of that kind would be most unfortunate and unnecessary. It would, in the long run, bring great loss to the Indians and greatly retard development of the western country.

Mr. STEPHENS of Texas. Mr. Speaker, I yield five minutes to the gentleman from Washington [Mr. LA FOLLETTE].

Mr. LA FOLLETTE. Mr. Speaker, I have no desire to consume the time of the committee further than to say that I have lived in this particular country where this reservation is for the past 37 years, and I do know that this was the home of these Indians for many years prior to my going there, and probably for hundreds of years, and I do know that they did make use of all of that great valley of the Yakima. The Government made a treaty with them and put them on a reservation, and of course the rest of the valley was opened to the whites. At that time this was a great feeding ground for the Indians' stock. By and by it was fenced up and taken over by the whites, and they—the whites—began to procure water rights and utilities of that kind. During his entire life the poor Indian had lived in an environment that gave him no opportunity to know the necessity of acquiring water rights, and he never thought of or had knowledge that he should have to acquire the right to use the water which had been running by him since the beginning of time, and which he had done with as he pleased.

I maintain that if the Government through its agents committed wrongs against the Indians, and did not protect them, and that fact is brought to the attention of Congress, Congress should in some way try to make amends and take care of those wards of the Government.

The gentleman from Wyoming [Mr. MONDELL] says that the Government never has granted a water right in this way. I want to say that there has been no similar case under reclamation in the United States, and this would naturally be a precedent. There could not have been anything like it, because this is the only case of the kind that I have ever heard of. I think this is only a simple act of justice, that the United States Government should provide sufficient water there in perpetuity for the benefit of these Indians who have given up this great valley to the United States Government for the benefit of the white race.

And I beseech the membership of this House to do this act of justice. I have no desire to take up the time of the House, because I am as much interested in the reclamation extension bill as anybody, and in this same valley are two of these reclamation projects, but my sense of justice in this case to my district compels me to ask for time in order that I might beg that justice be done to these Indians, just as I would ask that justice be done to the white residents of that valley under like circumstances. Mr. Speaker, I will not take up any further time and will yield back any time I may not have used.

Mr. STEPHENS of Texas. May I ask the gentleman a question?

Mr. LA FOLLETTE. Certainly.

Mr. STEPHENS of Texas. Is the gentleman satisfied with the amendment that has been proposed and agreed to by the Senate?

Mr. LA FOLLETTE. I am willing to accept it, as I think that is the best we can do at this time. I might wish it even more liberal to these Indians, but I will offer no objection, as I am anxious that they should get much-needed relief.

The SPEAKER. The gentleman has consumed four minutes.

Mr. STEPHENS of Texas. I now yield to the gentleman from Illinois 15 minutes.

Mr. MANN. Mr. Speaker, probably I shall not consume all of that time. I want to know whether I understand this situation correctly. As I understand it the Yakima Indians, on their reservation, have about 120,000 acres of irrigable land, which is subject to be irrigated with water from the Yakima River, and that they have more or less of an adequate irrigation system, but that under a decision of the Secretary of the Interior some years ago they were given in a decision the right to 147 cubic feet of water per second for irrigation purposes, that not being anything like one-half of the water which was available. I understand that just across the river is other land which is subject to be irrigated and upon which there were some private irrigation projects which have since been absorbed by the Government as a reclamation project under the Reclamation Service, and that the other side of the river was receiving four, five, or six times, whatever the amount was, I do not remember exactly, of water which the Indians were receiving on their side of the river, though, naturally, the lands on both sides of the river were equally available for irrigation. Now, we have discovered that the Secretary of the Interior made an unfair and inequitable division of the water, and that the Indians ought to have enough water to permit each Indian allotee on these 120 000 acres to irrigate 40 acres of land, which, as I understand, would amount to somewhere in the neighborhood of sixty, seventy, or eighty thousand acres of land to be irrigated, and that first the commission which was appointed and now the conferees of the committee propose to guarantee to these Indians in perpetuity 720 cubic feet of water per second, instead of 147 cubic feet of water which they are now receiving or to which they are entitled. But that there is not water enough in the river under natural conditions to furnish this amount of water. In other words, if there were to be a new division now and no one was in occupancy of the land on either side we probably would give the Indians half and reserve half to be used on the other side

of the river for the public lands, but the other side of the river having been settled upon and being now tilled by the people who went there under the original private reclamation project, now a public reclamation project which absorbed them, with a fixed charge agreed upon both as to construction and as to maintenance, that it would be unfair for us now to put any extra charge upon those people, and that it would be unfair for the Government, as it seems to me, to make those people who went there, not in contemplation of an injustice which had been done to the Indians, but with the understanding they would receive a certain amount of water at a certain rate, it would be unfair to try to cut off the amount of water which they are to receive or to increase the charge that is to be made against them for that water. We want to do justice to the Indians.

According to the report of the commission we have to provide additional water, and the way to provide additional water is by impounding the water in reservoirs, because the shortage of water is at the season of low water, and as I understand there is plenty of water if it is impounded and there is opportunity to impound it, and, as a matter of fact, a part of it has been already impounded. Now, the Reclamation Service, under a decision of the Secretary of the Interior, got a larger proportion of this water than it was fairly entitled to when that decision was made. The decision gave the Reclamation Service a much larger proportion of the water than it gave to the Indian reservation, although the two were occupying identically similar positions on opposite sides of the river, and each lot of land should have been entitled to half.

Mr. FERRIS. Will the gentleman yield?

Mr. MANN. I will.

Mr. FERRIS. How much irrigable land was on each side?

Mr. MANN. About 120 000 acres on each side.

Mr. FERRIS. Subject to irrigation?

Mr. MANN. Subject to irrigation. As we can not add to the charge against the white settlers on their side of the river so likewise we can not charge the Indians on their side of the river for the cost of impounding the water that we may furnish to them when if we had not taken it away from them they would have received it without that cost, and it seems to be perfectly sure in both cases. But it is an odd thing in the end in all of these claims that it is Uncle Sam who is to be touched. The reclamation project, as it were, robbed the Indians of the water. I say "robbed." There is nothing criminal about it. This is under a decision of the Secretary of the Interior who was at the head of both services. Now, what do we propose to do? We propose to take out of the General Treasury and pay into the reclamation fund the cost of restoring those conditions.

Mr. FERRIS. Will the gentleman yield there?

Mr. MANN. I will.

Mr. FERRIS. There are about 2,300 of these Indians.

Mr. MANN. I do not know how many.

Mr. FERRIS. I understand there are that number. Do they farm at all?

Mr. MANN. I understand they do.

Mr. FERRIS. It seems to me, under the gentleman's statement—and I have followed him very closely; I do not know anything about it—but it seems to hinge largely on whether or not the Indians will get the benefit of the money that is proposed to be appropriated, because if it is appropriated for a lot more white people it ought not to be done.

Mr. MANN. Undoubtedly the Indians will get the benefit of it. In other words, it is not possible to furnish water to the Indians to irrigate the 40-acre tract for each of the allottees without taking the water from the white settlers on the other side of the river, or else impounding the water so that they will have a greater supply than they would have under low-water conditions. But I can not understand why the reclamation fund should not have this appropriation charged to it. This is an appropriation here to take out of the General Treasury and turn into the reclamation fund a sum of money in order to restore conditions to what they were before the Reclamation Service robbed the Indians of their share of the water.

Mr. FERRIS. Where was the Indian Service, with their reclamation bureau, that they were not on the job to see to it that the Indians got their rights?

Mr. MANN. I expect that was before they got started very far. That was before anybody knew very much about the irrigation service at all.

Mr. STEPHENS of Texas. Before the irrigation service was completed.

Mr. MANN. Nobody knows much about the reclamation business now, and they have known less since the sad experience we have had since 1905.

Mr. FERRIS. Under the law, if the gentleman will yield, the question of water rights in the West is one of use, is it not?

Mr. MANN. I am not going to deal with that question. I do not agree with half of these gentlemen about the matter. I think the Government has the right to reserve the water, if it wants to do so, for the benefit of the Indians, just as much of a right, or a greater right, as to reserve the land if it wants to do so. Of course, I know these States out there operated by the white settlers are endeavoring to put up a different theory of law in order to rob the Indians of their water.

Mr. BURKE of South Dakota. Does the gentleman think there is really anything in the suggestion that this ought to come out of the reclamation fund? Does it not come out of the Treasury anyway, ultimately? For instance, I would just as soon the gentleman would pay me, if he owed me an obligation, out of his salary fund as out of the great fund that he may have from his private investment.

Mr. MANN. Unfortunately, I do not owe the gentleman from South Dakota any money, but if I did it would have to be paid out of my salary

Mr. MONDELL. Will the gentleman yield to me?

Mr. MANN. Yes.

Mr. MONDELL. The gentleman made a statement a moment ago that I wish he would modify a little, because I do not think he means it.

Mr. MANN. I have not time to stop to modify statements, because I am not through with them yet.

Mr. MONDELL. The gentleman said we took this position because we wanted to rob the Indians. Of course, the gentleman knows that is not our standpoint, but that what we want to do is to see these lands yield crops.

Mr. FERRIS. The gentleman does not object to a mild statement like that?

Mr. MANN. Here is an actual case where a commission of both Houses of Congress have decided in polite language that we did rob the Indians of their right to the water, and it is now proposed, instead of taking the cost of restoring the right to the Indians out of the reclamation fund which received the benefit of the water which was taken, that we shall take the cost out of the General Treasury and pay it into the reclamation fund. I do not see how anybody can defend the proposition. The reclamation fund has received the benefit of this extra water. Now, of course I do not think that the settlers on this reclamation project there now, with certain charges fixed, ought to have this extra cost put upon them, because very likely they never would have taken the land if they had been compelled to meet these high costs. But the reclamation fund, which we set aside, consisting of the proceeds of the sale and lease of the public lands, for reclamation purposes, having received the benefit of this water taken away from the Indians, and now having restored it by a reservoir, wants the General Treasury to pay back to the general reclamation fund this expense and to restore the conditions that were there before it mixed in with it.

Mr. FERRIS. Will the gentleman yield at that point?

Mr. MANN. Certainly.

Mr. FERRIS. If the gentleman's premises are right, this land got the extra water in that particular project, but I understand he finally proposes to charge it up to them. With what consistency can the gentleman say that some project in Colorado ought to pay for some project over in the State of Washington?

Mr. MANN. There would not be any consistency in that, and if the gentleman thinks for a moment it would not be charged to any project in Colorado——

Mr. FERRIS. Be charged to the whole fund.

Mr. MANN. If that comes out of the fund in the Treasury, it does not add to the cost of any project or is not charged to any project.

Mr. BURKE of South Dakota. Suppose this was to be paid out of the reclamation fund, and there is not any money in the reclamation fund, then what are you going to do? We want this water furnished to these Indians.

Mr. MANN. The gentleman says, "Suppose it should be paid out of the reclamation fund." And I suppose he means that there is no money in the reclamation fund; but there is money in the reclamation fund.

Mr. BURKE of South Dakota. Has not that fund been drawn from so that there will not be anything to spare from it in this generation?

Mr. MANN. Not at all. It is a question merely in these cases, in regard to the reclamation fund, whether we authorize the commencement of a lot of new projects that cost the Lord knows how much. We have got to finish the existing projects, although they cost a great deal more than was anticipated.

We have not only got to finish these projects, but we have got to finish them upon terms much more favorable to the settlers than was contemplated. That is carried in the irrigation bill now pending in the House. But upon what theory can anyone say, the money being in the Treasury, just a certain amount there, whether it is in the reclamation fund or otherwise—and it is only a matter of bookkeeping—upon what theory can gentlemen say that in order to reduce the total cost for all reclamation service, that when the reclamation fund has received the benefit of taking water which the Government has to restore, then we have got to pay for that out of the General Treasury, and, as a matter of bookkeeping, turn into the reclamation fund?

Mr STEPHENS of Texas. Will the gentleman permit me to answer that by saying it is a gratuity?

The SPEAKER. The gentleman's time has expired. All time has expired. The question is on agreeing to the conference report.

The conference report was agreed to.

On motion of Mr. STEPHENS of Texas, a motion to reconsider the vote by which the conference report was agreed to was laid on the table.

DISPOSITION OF USELESS PAPERS.

The SPEAKER laid before the House, from the Joint Select Committee on the Disposition of Useless Executive Papers, a report (No. 1042) on House Document No. 1006, relative to letter of Acting Secretary of the Treasury, which was ordered printed.

Mr. KEY of Ohio. Mr. Speaker, I ask unanimous consent to take from the Speaker's table four Senate pension bills of similar title granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, namely, the bill S. 4969, the bill S. 5278, the bill S. 5501, and the bill S. 5899, with House amendments thereto, and ask that the House insist upon its amendments and agree to the conference asked for by the Senate.

The SPEAKER. The Clerk will report the bills by title.

The Clerk read as follows:

S. 4969. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 5278. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 5501. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; and

S. 5899. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The SPEAKER. The gentleman from Ohio [Mr. KEY] asks unanimous consent to take from the Speaker's table the Senate bills just reported, to insist upon the House amendments thereto, and agree to the conference asked for. Is there objection?

There was no objection.

The SPEAKER. The Chair announces the following conferees on the part of the House: Mr. KEY of Ohio, Mr. KEATING, and Mr. SELLS.

LANDS AT HEADWATERS OF THE MISSISSIPPI RIVER.

Mr. FERRIS rose.

The SPEAKER. For what purpose does the gentleman from Oklahoma rise?

Mr. FERRIS. I rise for the purpose of calling up the conference report on the bill S. 1784.

The SPEAKER. The gentleman from Oklahoma asks unanimous consent to call up the conference report on the bill S. 1784. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, where is my friend from Colorado [Mr. TAYLOR]?

Mr. TAYLOR of Colorado. The gentleman from Oklahoma has agreed that if the consideration of his conference report shall take more than three minutes he will yield the floor.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1784) restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House and agree to the same.

SCOTT FERRIS,
JAMES M. GRAHAM,
Managers on the part of the House.

H. L. MYERS,
M. A. SMITH,
REED SMOOT,
Managers on the part of the Senate.

Mr. MANN. Reserving the right to object, Mr. Speaker, what is the effect of the bill?

Mr. FERRIS. It is a bill similar to one introduced by Mr. LINDBERGH. It is a Senate bill. The House put on an amendment, and the Senate refused to agree to the amendment, and the House asked for a conference, and the Senate receded from its disagreement to the House amendment. All that the House needs to do now is to occupy the same position it occupied before.

The SPEAKER. Is there objection to the present consideration of the conference report?

There was no objection.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

PAYMENT UNDER RECLAMATION PROJECTS.

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes.

The SPEAKER. The gentleman from Colorado [Mr. TAYLOR] moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of Senate bill 4628. The question is on agreeing to that motion.

The motion was agreed to.

The SPEAKER. The gentleman from Virginia [Mr. FLOOD] will take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill S. 4628, with Mr. FLOOD of Virginia in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill S. 4628, which the Clerk will report by title.

The Clerk read as follows:

S. 4628. An act extending the period of payment under reclamation projects, and for other purposes.

The Clerk proceeded with the reading of the bill for amendment, as follows:

INCREASE OF CHARGES.

SEC. 4. That no increase in the construction charges shall hereafter be made, after the same have been fixed by public notice, except by agreement between the Secretary of the Interior and a majority of the water-right applicants and entrymen to be affected by such increase, whereupon all water-right applicants and entrymen in the area proposed to be affected by the increased charge shall become subject thereto. Such increased charge shall be added to the construction charge and payment thereof distributed over the remaining unpaid installments of construction charges: *Provided*, That the Secretary of the Interior, in his discretion, may agree that such increased construction charge shall be paid in additional annual installments, each of which shall be at least equal to the amount of the largest installment as fixed for the project by the public notice theretofore issued. And such additional installments of the increased construction charge, as so agreed upon, shall become due and payable on December 1 of each year subsequent to the year when the final installment of the construction charge under such public notice is due and payable: *Provided further*, That all such increased construction charges shall be subject to the same conditions, penalties, and suit or action as provided in section 3 of this act.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I should like to ask the gentleman from Arizona what is the effect of this proposed legislation as compared with the existing law? If the Reclamation Service makes a mistake about what the cost is going to be, who is to pay that?

Mr. HAYDEN. If the public notice fixing the construction charge has been issued, any expenditure made thereafter will result in a direct loss to the reclamation fund, because the water users on the projects can only be required to pay the amount fixed in the public notice. But if it is necessary to expend additional money on the project, we provide that the water users shall be consulted about the matter. If a majority of them agree to the increased charge, all shall be bound by the new contract.

Mr. MANN. And if they do not agree to it?

Mr. HAYDEN. Then this bill provides that the expenditure shall not be made.

Mr. MANN. What is the time of giving public notice now?

Mr. HAYDEN. Section 4 of the reclamation act provides:

That upon the determination by the Secretary of the Interior that any irrigation project is practicable, he may cause to be let contracts for the construction of the same, * * * and thereupon he shall give public notice * * * of the charges which shall be made per acre upon the said entries, and upon lands in private ownership which may be irrigated by the waters of the said irrigation project.

In practice, however, the Secretary has not followed the letter of the law, but has delayed issuing the public notice until the work on projects is almost completed.

For instance, on the projects in Arizona no public notice has yet been issued, although the first contracts for their construction were made over 10 years ago. Anything that is expended is still chargeable to the water users.

Mr. MANN. There has been a great deal of complaint in reference to this increased cost. Now, has that increased cost come before or after public notice has been given on these projects?

Mr. TAYLOR of Colorado. Before.

Mr. HAYDEN. All expenditures on the Arizona project have been made prior to the issuance of the public notice.

Mr. MANN. The gentleman is not answering for the Arizona project alone.

Mr. HAYDEN. I understand that on one project in Wyoming where a public notice was issued some further expenditures were undertaken thereafter for drainage, under a special agreement that the increased charge would be paid. As a rule, but little expenditure has been made by the Reclamation Service after the public notice has been issued. I understand there are some cases, however, where there might be loss to the Government unless a new contract is made with the water users as provided in this section.

Mr. MANN. What is the necessity for making this provision?

Mr. HAYDEN. In order that all the water users shall be bound by the new contract. When the water user accepts the provision of his act he agrees that if a majority of the water users under his project request the Government to make an additional expenditure, and it is made, he will be bound to pay his share of the increased cost, although he may individually vote against the increase.

Mr. MANN. Are they not bound by it now?

Mr. HAYDEN. As the law stands at present there is a possibility of loss to the reclamation fund if the Government spends any money on a project after the public notice is issued, because the water users are not bound to return that money to the fund. We have tried to cure that defect in the law by this provision that no such expenditure shall be made unless the water users first agree to it. If they do agree, then they ought to pay.

Mr. MADDEN. It might amount to half of the total expenditure.

Mr. HAYDEN. Possibly; but this provision remedies that defect in the law.

Mr. MADDEN. This simply puts the water user in the position of being compelled to return the money which may be expended after the public notice is issued.

Mr. HAYDEN. If a majority of the water users agree to pay for additional construction on a project, then all are bound by that agreement.

Mr. FOSTER. Suppose a reclamation project is started, after public notice has been given that it will cost so much per acre, and then it is found that it will require more than that to finish it. Under this provision, how is that managed?

Mr. HAYDEN. The proposition is submitted to the water users by the Secretary of the Interior, who says that a certain expenditure must be made in order to complete the project. And he asks them, "Do you consent that this expenditure be made?" If a majority of them consent to it, the expenditure can be made, and they will all be charged with the cost of the work

Mr. FOSTER. Suppose they refuse to consent to it?

Mr. HAYDEN. Then the expenditure can not be made. This bill prohibits the Secretary of the Interior from spending additional money on a project unless a majority of the water users give their consent.

Mr. FOSTER. Then what becomes of the project?

Mr. HAYDEN. It will be an incomplete project. They have got to get along with what they already have.

Mr. FOSTER. Then they would be assessed to pay for the uncompleted project?

Mr. HAYDEN. Yes; the water users will pay for the work already done.

Mr. NORTON. I find that in the case of several of the projects which have already been undertaken the Reclamation Service has made preliminary surveys of near-by projects and has incurred very large expenses in making these surveys, and then in the construction of the approved projects has made gross mistakes of engineering and has incurred large and unnecessary and unjustifiable expenses in attempting to carry out certain theories and experiments pertaining to irrigation. Then at the time of the notice to the settlers of the cost of construction of the project all these expenses of preliminary surveys of near-by and abandoned projects and the useless and unjustifiable expenses occasioned by wild and impractical theories of officers and employees of the Reclamation Service are covered into the grand total purported cost of construction and imposed as a part of the construction charges upon the settlers on the project. This is preeminently unfair to these settlers, who ordinarily have so many other burdens and difficulties to contend with. Why has the committee seen fit not to provide in this bill any relief for the settlers from these unjust charges?

Mr. HAYDEN. We have not take up that question in this bill.

Mr. MONDELL. I move to strike out the last word.

As I understand the situation affected by the section which has just been read, it is this: There has been a great deal of difference of opinion as to the proper interpretation of section 4 of the original irrigation law. In the first place, there has been a question as to whether we contemplated the return to the fund of all the expenditure on a project or a return to the fund of the estimated cost of the project. The language of the section is:

The said charges shall be determined with a view to returning to the reclamation fund the estimated cost of construction and shall be apportioned equitably.

Now, it has been my view that after the Secretary of the Interior had given the public notice provided in the reclamation law and had fixed the charge per acre, that thereafter no additional charge could be made which the entryman was obliged to pay, even though the project might cost more than the amount fixed. But the fact is that in practice the service has in a number of cases where the public notice had been given increased the charges under the project. In the majority of these cases, however, that has been done where work undertaken was not contemplated, or the necessity for which could not be foreseen at the time the project was undertaken. In the case of the project in my State, which has been referred to, the additional expense was for drainage, an expense which could not well have been foreseen.

Now, section 5 of the so-called bond act, the act under which a loan was made to the reclamation fund at 3 per cent, they changed the law somewhat in regard to the issuance of notice by a provision that thereafter no entryman should be permitted to go on the land until the Secretary should have established the unit of entry and the water charge and the date when the water could be applied. That provision was to prevent, in the first place, the location of a large number of settlers on the land prior to the time when they could be supplied with water. But it was intended also to prohibit the Secretary from fixing charges until he had proceeded so far with the construction that he could accurately estimate the cost. Under these circumstances if an estimate was carefully made there would be little question of increased charges thereafter.

Now, this provision of section 5 of the bond act and the experience of the Secretary and the Reclamation Service has led them to be careful about fixing charges until the time had arrived when they could be certain as to the ultimate and final cost of the project. They have been so careful in that respect that on the great project in Arizona—the Salt River project—and on a number of other projects the final notice has not yet been issued.

Now, there has been this difficulty in connection with additional costs which were really necessary. I refer again to the Wyoming project where the drainage was necessary and essential. There were some tracts that did not need to be drained, but the project as a whole needed extensive draining. It has been the view of some that such an additional cost could not be legally placed upon all the settlers unless they agreed to it. On most of the projects the settlers have agreed to these increased costs. This section, if it becomes a law, will enable the Secretary when the necessity for additional expenditures becomes apparent, necessity for additional storage, additional supply, or for the drainage of the land after it has been irrigated—whenever these expenditures become necessary it will

be possible under the law to present the matter to the settlers and have them decide whether they will be content to take the project as it is, with possibly a slightly insufficient amount of water, or with insufficient drainage, whether they will bear these handicaps or remove them themselves, or by agreement under this section bring all the lands under the project subject to the additional cost necessitated by these improvements and these betterments.

Mr. MADDEN. Mr. Chairman, I move to strike out the last two words. It seems to me, Mr. Chairman, that if there is any doubt anywhere about the right of the Government to charge all the money expended on a project or projects, that it ought to be cleared up. There is no more reason on earth why the Government should spend money it receives from the sale of public land for irrigation projects without the right to charge it all to the project, than there is that a private individual in the United States should have the right to the payment of money out of the Public Treasury without any consideration. The question ought to be settled definitely, and the gentleman from Wyoming, I understood, said there was some doubt about whether in some cases even now the Government could charge moneys expended on irrigation projects to the projects or assess it against the land.

Mr. MONDELL. Will the gentleman yield?

Mr. MADDEN. Yes.

Mr. MONDELL. This paragraph is intended to remove any question in the future in regard to that matter, and the questions in the past have been, so far as I know, all cleared up.

Mr. MADDEN. The way to remove any doubt about it, in my mind, is to require in this bill that the Secretary of the Interior come before the Congress of the United States every year with the estimate of what it is going to cost to do the work for the current year and give the opportunity to Congress to learn in advance what projects are under way and what they are likely to cost, and what it is hoped to accomplish by the expenditure of the money.

Mr. SMITH of Idaho. If the gentleman will yield, I want to say that that is all set forth in the annual reports.

Mr. MADDEN. We do not have to pass upon the annual reports. We ought to pass on them in advance. The time has come when the Interior Department ought not to be permitted to spend money on projects for reclamation where it is absolutely impossible to obtain water. I understand that such expenditures have been made. I believe that all such extravagances could be avoided if the Congress, through one of its important committees had the right to pass upon the question in advance. It may be fairly assumed that the cost of the project is what is expended upon it, not what it is estimated it will cost; and to say that there is any doubt whether the proper charge should be the estimate of the cost or the cost itself is absurd. There ought to be but one conclusion on the question, and that is that every dollar expended should be charged to the project.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. I have not the time to yield. As far as I am concerned, I hope the House will never adopt any measure which limits the charge to the estimated cost, for it does not matter how expert the man who makes the estimates may be conditions are likely to arise that he could not have foreseen, and I never yet saw an engineering project in which changes had not to be made before it was concluded; and it is fair to assume that projects of the kind sought to be made under the pending bill will have similar difficulties, which the engineers will be obliged to surmount. While nobody here has any disposition to impose any undue burdens upon the people who live upon these lands—and, on the contrary, I believe everybody here is anxious to alleviate all of their troubles, so far as it is consistent with right and justice—yet there should be, and I hope there will be before this bill is passed, a provision inserted in it to require the men in charge of the Reclamation Service to come annually before the Committee on Appropriations with a full statement of just what it is hoped to accomplish by the expenditure sought to be made in any given year.

The Clerk read as follows:

OPERATION AND MAINTENANCE.

SEC. 5. That in addition to the construction charge, every water-right applicant, entryman, or landowner under or upon a reclamation project shall also pay, whenever water service is available for the irrigation of his land, an operation and maintenance charge based upon the total cost of operation and maintenance of the project, or each separate unit thereof, and such charge shall be made for each acre-foot of water delivered; but each acre of irrigable land, whether irrigated or not, shall be charged with a minimum maintenance and operation charge based upon the charge for delivery of not less than 1 acre-foot of water: *Provided*, That, whenever any legally organized water users' association or irrigation district shall so request, the Secretary of the Interior is hereby authorized, in his discretion, to transfer to such water users' association or irrigation district the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as he may prescribe. If the total amount of operation and maintenance charges and penalties collected for any one irrigation season on any project shall exceed the cost of operation and maintenance of the project during that irrigation season, the balance shall be applied to a reduction of the charge on the project for the next irrigation season, and any deficit incurred may likewise be added to the charge for the next irrigation season.

With the following committee amendments:

Page 5, line 11, strike out the word "maintenance" and insert the word "operation," and in the same line strike out the word "operation" and insert the word "maintenance."

The CHAIRMAN. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I suppose those committee amendments which we just adopted are very important. The Senate proposes that we charge the cost of "maintenance and operation" and the great committee of the House insists that we shall charge the cost of "operation and maintenance." Possibly the Senate went upon the theory of putting the two words according to their alphabetical order, with the first letter of the word, and I suppose the House committee just thought that they would reverse it?

Mr. TAYLOR of Colorado. No. I may say to the gentleman that throughout the bill the phrase "operation and maintenance" is referred to, and in that particular place the words were transposed and we made it uniform.

Mr. MANN. What is the present law with reference to this operation and maintenance and minimum charge which is put upon land which is not irrigated?

Mr. HAYDEN. Mr. Chairman, the original reclamation act made no provision for segregating the construction charge from the charges for operation and maintenance, but in this section we differentiate between these charges. The Supreme Court of the United States decided in the Sweigert case that the Reclamation Service could collect an operation and maintenance charge prior to issuing the public notice and that it was not necessary to pay operation and maintenance expenses out of the reclamation fund and then wait 10 or 20 years to have the money repaid. The court was able to make this decision on account of some Indian irrigation legislation, which the court construed as amendatory of the reclamation act.

Mr. MANN. What is the existing law with reference to the operation and maintenance charge?

Mr. HAYDEN. It is based on this Supreme Court decision that the Reclamation Service can charge for operation and maintenance and collect the amounts due annually. We follow this decision and make it clear in this bill by segregating the charge for construction from the charges for operation and maintenance.

Mr. MANN. What is the existing law with reference to the minimum charge where the water is not actually used?

Mr. HAYDEN. There is no law upon the subject. Under certain projects the water users have agreed that where water is available for the land a minimum charge shall be made for the use of the water that the United States is ready to serve the people with. There is no reason why a man should be permitted to speculate on his land by holding it out of cultivation and let people who are actually farming their land bear the entire cost of operation and maintenance.

Land seekers in new countries can be divided into two classes: Those who are interested chiefly in opportunities to speculate in land and those who sincerely desire to make homes on the land and engage in agriculture or stock raising as their principal means of livelihood.

I do not say that the speculator has no proper place in the existing scheme of things. Upon the contrary, I have great admiration for the man who will take a chance. This does not mean, however, that we should provide by law that such men shall always have the best seat in the car of prosperity. They can take care of themselves and need no paternalistic help from the Government. The man who honestly desires to make a home is the one who needs and should receive our assistance. The provision to which the gentleman refers is to strike at speculation in land.

Mr. MANN. I am trying to get at specific information as to whether there is any law on that subject at the present time. This proposes to put a charge on land which is not actually irrigated of 1 foot per acre.

Mr. HAYDEN. Yes.

Mr. MANN. What is the average amount of water used on these projects—how many feet per acre?

Mr. HAYDEN. In the southern projects about 4 acre-feet; farmers in Montana and Idaho could get along with 2½ or 3 acre-feet.

Mr. MANN. This would be from 20 per cent to 25 per cent.

Mr. HAYDEN. The minimum charge ought to be at least that high.

Mr. MANN. And if the man who pays this minimum charge desires to get water thereafter he is entitled to that water?

Mr. HAYDEN. Yes; up to the minimum amount he paid.

Mr. MANN. The gentleman from Colorado stated this morning that where a man did not use water under the law out there and somebody else did use it, the man who did not use it lost his right to it. Here is a project where, say, half the land is not irrigated, half the water is not used at the time. Does the land which pays for this 1 acre-foot of water thereby become entitled to such water as may be necessary whenever it wants it?

Mr. HAYDEN. No. The law in the West generally is that if land lies out of irrigation for five years it loses its water rights. The right lapses in that time.

Mr. MANN. Then the owner of the land pays for 1 acre-foot of water for five years, and not having received it, thereafter he is cut out?

Mr. HAYDEN. Yes; he would be, because the right to use the water depends upon its use on the land and not upon the payment of assessments. This provision is designed to prevent speculation. On some projects as much as 20 per cent of the land that the Government is ready to serve with water is not being cultivated, and the result is that the other four-fifths are required to carry the burden of the operation and maintenance for the sake of speculators. The Government is ready to deliver the water and there is no reason why these men should be allowed to hold their lands out of cultivation. We propose to assess a minimum charge against such land.

I am also informed that under certain projects where the country is not entirely arid and where wet years sometimes occur, that a part of the settlers will sometimes decide that they will not irrigate their lands, but will take the chances and dry farm them. The result is that the whole burden of operation and maintenance is placed upon a part of the landowners. These charges are like taxes and should be borne by all alike. It is as if a part of the citizens of this city would decide that they did not need police or fire protection this year and so would pay nothing toward the maintenance of the municipal government. This provision will make it possible to do justice in such a situation.

Mr. MANN. I believe usually, where we have water furnished in a city where the water mains are laid, they charge a certain amount against the property whether it is connected or not.

Mr. HAYDEN. The minimum operation and maintenance charge provided for in this bill is based on the same theory.

Mr. MANN. But in a city when a man does need the water he can get it.

Mr. HAYDEN. He could here.

Mr. MADDEN. He could not after five years.

Mr. MANN. I understood the gentleman to say he could not.

Mr. HAYDEN. If the land is withheld from cultivation and for speculation after five years it might lose the right to water.

Mr. MANN. There might be speculation and there might not be speculation. Now, the gentleman says the law—of course we are making law in reference to this. When we impound water I suppose we have some authority to do it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, I rise in opposition to the pro forma amendment offered by the gentleman from Illinois. The situation, as I understand it with regard to this matter of maintenance and operation, is this: The reclamation law contains no reference to operation and maintenance. When we first undertook these projects the practice was to include 10 years' operation and maintenance in the construction charge. In other words, to the estimated cost of construction was added the estimate of the maintenance charge for the period within which payments were to be made. That was not found practicable. The maintenance and operation charge was not always paid, as the construction charge was not always paid. Furthermore, the landowner who did not apply for a water right was not required to pay any operation and maintenance charge. The water ran past the land, and the owner was in the position, as the gentleman from Illinois illustrated, of the owner of a city lot who got the benefit from the building of a public main and was not required to pay anything if he did not use water.

Mr. MANN. He is required.

Mr. MONDELL. I know he is. I said the situation was the same as it would be if he were not. Now, it is to cure that general situation that we have this provision, and the effect of it is to compel the landowners who have not applied for water to pay at least the minimum charge for the water that runs past their land if they decline to use it.

Mr. MADDEN. Does it limit the right of the use of the water after a period of nonuse?

Mr. MONDELL. No; the situation in regard to that is this: The receiving of water under an operation and maintenance charge does not necessarily give to the owner of the land any right to the water in perpetuity. He acquires the right to water in perpetuity under an application for a water right and under a contract under which he agrees to pay for the water right over and above the yearly cost for maintenance.

Mr. MADDEN. Will the gentleman yield for another question right there?

Mr. MONDELL. In just a moment—and a man might be charged operation and maintenance charges who refuses to apply for a water right for a series of years without getting any right at all to the perpetual use of the water.

Mr. MADDEN. Is he prohibited by anything in this bill from making application to get a right to the use of the water?

Mr. MONDELL. No; on the contrary. Under a section which follows this we endeavor to persuade him to make his application for a water right by increasing his charges 5 per cent each year that he neglects to make his application. In other words, if he does not apply this year, if the water is ready for him, he will have to pay 5 per cent more in building charges when he applies next year, and each year he fails adds 5 per cent to the building charges he must ultimately pay.

Mr. MADDEN. So that he might be compelled to pay 200 per cent increased building charges?

Mr. MONDELL. His charges would grow every year, but the probability is under this provision for an increased building charge we will get these people who now are endeavoring to hold their land for speculation to apply for water rights. They must pay at least the minimum charge for water for an acre-foot, and under the section that follows we also add to their building charge unless they do apply for water rights. This really has no reference to the acquirement of a water right. It has no reference to the question of loss of water right by nonuser.

Mr. MADDEN. Is there anything anywhere that refers to the loss of a water right?

Mr. MONDELL. Oh, yes; the reclamation laws of all the States provide for that.

Mr. MADDEN. In our law; in the United States laws?

Mr. MONDELL. Section 8 of the reclamation law puts all these things, rights and loss of water rights, under the local laws which are in force in all the States.

Mr. MADDEN. So that is equivalent to a prohibition of the use of the water.

Mr. MONDELL. Oh, no. The gentleman understands that under the reclamation law the Secretary of the Interior applies for a water right for these lands under the State law, just as a private individual does, in accordance with the State statute. These people do not differ in their rights at all from their neighbors, who also use water. The only difference is that they are dealing with the Secretary of the Interior, where the others are dealing with private parties or cooperative associations.

The Clerk read as follows:

PENALTIES.

SEC. 6. That all operation and maintenance charges shall become due and payable on the date fixed for each project by the Secretary of the Interior, and if such charge is paid on or before the date when due there shall be a discount of 5 per cent of such charge; but if such charge is unpaid on the first day of the third calendar month thereafter, a penalty of 1 per cent of the amount unpaid shall be added thereto, and thereafter an additional penalty of 1 per cent of the amount unpaid shall be added on the first day of each calendar month if such charge and penalties shall remain unpaid, and no water shall be delivered to the lands of any water-right applicant or entryman who shall be in arrears for more than one calendar year for the payment of any charge for operation and maintenance or any annual construction charge and penalties. If any water-right applicant or entryman shall be one year in default in the payment of any charge for operation and maintenance and penalties, or any part thereof, his water-right application, and if he be a homestead entryman his entry also, shall be subject to cancellation, and all payments made by him forfeited to the reclamation fund. In the discretion of the Secretary of the Interior suit or action may be brought for the amounts in default and penalties in like manner as provided in section 3 of this act.

Also the following committee amendment was read:

Page 6, line 18, strike out the word "default" and insert the word "arrears" in lieu thereof.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to strike out the last word. In fixing the operation and maintenance charges, which

I suppose are fixed annually, is the Secretary supposed to fix them at what they are or a good deal above what they are?

Mr. HAYDEN. I know what the gentleman is alluding to. In providing for a discount of 5 per cent we adopted the same plan as you find when you pay your gas or electric-light bill here in Washington. A great many public-service corporations adopt this scheme, with the idea that if a man can get a rebate he will pay a little bit more promptly than if he is charged a penalty for failure to pay on time.

Mr. MANN. And if there is an excess, that is credited the next year to the fund?

Mr. HAYDEN. Yes; and cared for in that way.

Mr. MONDELL. Or if there is a loss, it is added.

Mr. MANN. If there is a loss, it is added.

Mr. HAYDEN. It was believed that this plan would facilitate collections on the reclamation projects.

Mr. MANN. Now, what does this mean where it says that the water right or the entry shall be subject to cancellation? Does that mean it shall be canceled, or is that discretionary?

Mr. HAYDEN. That provision is in all of the public-land laws, and we repeat the language used in the original reclamation act when we say that the entry shall be subject to cancellation.

Mr. MANN. When you say that it "shall be subject to cancellation," it is directory to the department. It does not leave it discretionary with the department as to whether it shall exercise the power or not.

Mr. HAYDEN. An entry may be canceled if the entryman does not comply with the law. The law does not say "shall be canceled." If it did, the Secretary would have no option at all, but would be compelled to cancel the entry immediately.

Mr. MANN. Does the Secretary have discretionary authority as to whether it shall be canceled or not?

Mr. HAYDEN. Yes. The Secretary can give an entryman further time in which to comply with the law.

Mr. MANN. Suppose that he violated the law and somebody else wanted to enter the land, the other man has the right.

Mr. HAYDEN. Some Government inspector may think the law has been violated, or the man who is contesting the entry may think so, but if upon investigation it is found that the law has been complied with, the entryman has an opportunity to prove his good faith, and the entry will not be canceled.

Mr. MANN. But here is a proposition: A man could have gone upon this property and built a house upon it and barns upon it and reduced it to tillable condition and had everything in good order, and then died, and there would be no possible way of raising money to pay operating charges for more than a year's time; now, there could be no controversy as to whether money has been paid or not, as that is a matter of open books, and you say that if this charge is not paid within a year the entry shall be subject to cancellation and all payments made by him forfeited to the reclamation fund. Now, is there any exception for the case that I have stated?

Mr. HAYDEN. It seems to me that the Secretary would not immediately order the entry canceled on the day the time expired.

Mr. MANN. Very likely he would not. The question is whether somebody else has the right to make an entry; whether the man or his estate has forfeited its or their rights and somebody else can come in.

Mr. TAYLOR of Colorado. I may say that the Secretary of the Interior has those matters pending before him on every project now, all the time, and it was the opinion of the committee—of all of us who live adjacent to these projects—that it should be left to his discretion; and we thought it better and safer to give the Secretary of the Interior the power to forfeit and also the power to bring suit and obtain judgment for the amount, and he can hold that as against the property.

Mr. MANN. But I do not see where any discretion is lodged. It says that all payments made by him shall be forfeited to the reclamation fund.

Mr. TAYLOR of Colorado. In case the Secretary does declare it is a forfeiture and proceeds to wipe him out, then the man loses everything he put in.

Mr. KINKAID of Nebraska. Will the gentleman yield for a suggestion?

Mr. MANN. Certainly.

Mr. KINKAID of Nebraska. The last sentence in section 6 says:

> In the discretion of the Secretary of the Interior, suit or action may be brought for the amounts in default and penalties in like manner as provided in section 3 of this act.

Section 3 provides, in the proviso:

> That if the Secretary of the Interior shall so elect, he may cause suit or action to be brought for the recovery of the amount in default and penalties; but if suit or action be brought, the right to declare a cancellation and forfeiture shall be suspended pending such suit or action.

I call attention to this to show that it is recognized to be discretionary with the Secretary of the Interior throughout as to whether there is to be any cancellation or suit brought or not.

Mr. MANN. According to the statement of the gentleman from Nebraska, when the right to cancel arises the Secretary can bring a suit if he wants to do so. Pending that suit he need not forfeit, but unless he brings a suit he must forfeit?

Now, that seems like a ridiculously harsh proposition. There will be many cases arise where the Secretary ought not to be required to bring a suit or a forfeiture, and gentlemen from the Western States will be annoyed themselves and will come before Congress and insist upon our granting them special relief.

Mr. NORTON. Mr. Chairman, I insist that it would be very well to place in section 6 an amendment similar to that in section 3. In line 19, section 3, the proviso is made that on account of default the entry will not be subject to contest; that no entryman for homestead shall be subject to contest on account of such default.

Mr. MANN. I think some such provision ought to be put in. What does the gentleman from Colorado [Mr. TAYLOR] say to that?

Mr. TAYLOR of Colorado. We have no objection especially, but we do not think it is necessary. We have confidence in the Secretary of the Interior.

Mr. MANN. Very well. I will give the gentleman fair notice that if I should be in the House when these special bills come up I shall object to them.

Mr. TAYLOR of Colorado. We do not object to that amendment, but we do not look upon it as necessary.

Mr. MANN. We have this situation coming up all the time—a few distinguished gentlemen from those States where you have these public-land laws coming in constantly and wanting this legislation or that legislation which is inexorable in its terms, and the moment the terms become operative you want to be released from them, and when it is suggested that a proper provision be inserted in the first place you decline to agree to it.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. The phrase "subject to cancellation" has been in the land laws from time immemorial, and its character and effect are well understood. Rendering an entry subject to cancellation is necessarily not providing for its cancellation. It is simply putting in the discretion of the Secretary of the Interior the right to cancel.

Mr. NORTON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from North Dakota?

Mr. MONDELL. Yes; in just a moment. The only reason why under the homestead law—but not applying to the reclamation entries, because we have expressly so provided—the only reason why under the homestead law the provision, "subject to cancellation" is equivalent to cancellation under certain conditions arises from the right of contest under which an entry having been made subject to cancellation and an intervening adverse right having attached, it must be canceled if the contest is successful. But we have specifically provided that these entries can not be contested for failure to comply with the law, and therefore no intervening adverse right can attach and make absolute the liability to cancellation.

Mr. NORTON. Mr. Chairman, will the gentleman yield right there?

Mr. MONDELL. Yes.

Mr. NORTON. The gentleman says that we have provided that on account of these defaults no contest can be entered. Now, will the gentleman tell me, where has the provision been made that because of the defaults in payment in operating and maintenance charges no contests can be initiated?

Mr. MONDELL. Not in any place, because it is unnecessary.

Mr. NORTON. Why unnecessary?

Mr. MONDELL. Well, it was unnecessary, in my opinion, in section 3 because it has been continuously held that failure to comply with the provisions of the reclamation law does not give the right to contest. No contest has been allowed against any reclamation homestead for failure to comply with the provisions of the law.

Mr. NORTON. Does the gentleman maintain that that is the practice of the Interior Department?

Mr. MONDELL. Well, the law on the subject—and I want to call it to the attention of the gentleman from Illinois, because he is charging us with being severe to our settlers, which we are not, because we are trying to be fair and not severe. I want to call the gentleman's attention to the fact that this provision is the present law. We are not changing it. It has been

the law since the reclamation law was put on the statute book, and under this provision the Secretary of the Interior need never cancel an entry. It makes the entry subject to cancellation. There is no mandatory provision that it shall be canceled, and without a mandatory provision that it shall be canceled there is no way in which anyone can compel the Secretary to act.

Mr. HULINGS. Mr. Chairman, I want to ask the gentleman a question.

The CHAIRMAN. Does the gentleman yield?

Mr. MONDELL. In a moment. This is just a continuation of the present law. It authorizes the Secretary of the Interior to cancel for failure to comply with the law by making the entry subject to cancellation. The operation of the law is this, that in a condition such as the gentleman from Illinois [Mr. MANN] has referred to, where death or dire misfortune makes it difficult for the entryman to comply with the law, the Secretary can give the entryman such time as he sees fit within which to make his payments, during which time, however, his entry is suspended, although he may have the use of it. In order to afford further relief in difficult cases, a provision was made under which suit might be brought. But it is not necessary to bring suit, because in the Secretary's discretion he can delay action upon the proposition of cancellation for any reasonable length of time.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. I would like to have two minutes more, Mr. Chairman. I will yield to the gentleman from Pennsylvania then.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent to proceed for two minutes more. Is there objection?

There was no objection.

Mr. HULINGS. Mr. Chairman, this discussion seems to be as to what the words in the text mean. Will the gentleman permit me to offer this suggestion, that the phraseology be changed in line 21 so as to read "may, in the discretion of the Secretary, be canceled; and if canceled, all payments made by him forfeited"? That makes it plain.

Mr. MONDELL. Well, as a matter of fact, Mr. Chairman, that language would not, in my opinion, in any way affect or change this legislation or change the provision we have. We have used the language that has been used since the beginning of the land laws relative to the cancellation of entries, rendering them subject to cancellation. Now, we have gone further in regard to certain classes of land, and we have required their cancellation and provided that they shall be subject to cancellation, and upon proof of certain facts shall be canceled. But we have not done that in this case.

We of the West are certainly anxious to give the entryman every chance and opportunity, and the bill is evidence of it. It is necessary, as everyone knows, to make an entry subject to cancellation if the law is not complied with; but the Secretary has full discretion to give the parties an opportunity to cure the default. There is one change I would like to have made, and that is to have a provision under which an entryman who has made considerable payments and loses out may get back a reasonable amount of what he has paid.

We have left that discretion with the Secretary, as we have under other laws as to cancellation. Now, it is true that under the general homestead law the right to initiate a contest may put in operation an adverse right, so that if the Secretary holds that the entry is subject to cancellation and an adverse right intervenes, then it must be canceled. But so long as you fail to give the right, or do not give the right, which you should not give, to contest, then under this provision the Secretary can take care of it, does take care of it, and only cancels cases where there is no reasonably satisfactory attempt made to comply with the law.

Mr. NORTON. Will the gentleman yield?

Mr. MONDELL. The gentleman asks why we do not put in this provision with regard to operation and maintenance penalties. They have nothing to do with the entry itself. That is a penalty on operation or maintenance charge. It does not go to the entry. It affects lands upon which no entries have ever been made. It affects the landowner who never applied for a water right. It affects the landowner whose title you could not take from him except under this suit that is provided here; so that there is not only no necessity for it, but it would not, I think, be logical to accept that sort of an amendment, though I do not object.

Mr. NORTON. Mr. Speaker, will the gentleman from Wyoming yield for a question?

Mr. MONDELL. Yes.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NORTON. I ask unanimous consent that the gentleman's time may be extended for one minute, so that he may reply to a question.

The CHAIRMAN. The gentleman from North Dakota asks unanimous consent that the time of the gentleman from Wyoming [Mr. MONDELL] be extended one minute. Is there objection?

There was no objection.

Mr. NORTON. How, if the gentleman knows, would anyone desiring to initiate a preference right to land the entry to which is in default, and that subject to cancellation, proceed if there is no right of contest?

Mr. MONDELL. There is no way to proceed.

Mr. NORTON. No way to initiate a preference right?

Mr. MONDELL. You must simply wait until the entry is clear.

Mr. NORTON. I think the gentleman is somewhat in error as to the present law and practice.

Mr. MONDELL. No; I am not. I will say to my friend I happen to know about this particular thing. There can be no preference right established until after the entry has been canceled and the land restored to entry.

The CHAIRMAN. If there be no objection the pro forma amendment will be considered as withdrawn.

Mr. NORTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from North Dakota offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 6, line 22, after the word "fund," insert the words "but no homestead entry shall be subject to contest because of such arrears."

The CHAIRMAN. The question is on the amendment.

Mr. TAYLOR of Colorado. I accept the amendment.

Mr. MONDELL. Mr. Chairman, I understand the desire of the gentleman from Colorado [Mr. TAYLOR] to have this bill passed and to expedite its passage, but I do not know that that should incline him to accept amendments that are without rhyme or reason and that simply confuse the statute.

Mr. TAYLOR of Colorado. It does not do any harm.

Mr. MONDELL. I think it always does harm to put into a statute something that will require interpretation, when there is no logical interpretation to be put upon it.

The CHAIRMAN. The question is on the amendment of the gentleman from North Dakota [Mr. NORTON].

Mr. MANN. Just a word. I should like to ask the gentleman from Wyoming [Mr. MONDELL] why he did not move to strike out that language in section 3? Because, of course, it leaves it open to future construction, and no one can tell how it will be construed.

Mr. MONDELL. Does the gentleman want an answer?

Mr. MANN. Certainly.

Mr. MONDELL. Because section 3 refers to entry. It is a provision with regard to entry, and, therefore, while I think it is entirely superfluous, it is entirely logical. This has no reference to entry.

Mr. NORTON. I differ with the gentleman.

Mr. MANN. I have the floor. Let me read the language and get it into the RECORD, and gentlemen can quarrel about it afterwards. Under the head of "Construction charge," in section 3, the one provision says:

And if he be a homestead entryman his entry also shall be subject to cancellation, and all payments made by him forfeited to the reclamation fund, but no homestead entry shall be subject to contest because of such default.

The other reads:

And if he be a homestead entryman his entry also shall be subject to cancellation, and all payments made by him forfeited to the reclamation fund.

If there ever were two things on earth on all fours and just alike, these two are.

Mr. TAYLOR of Colorado. Certainly.

Mr. MANN. My distinguished friend from Wyoming ought either to concede the propriety of this amendment or else ask unanimous consent to return to section 3 for the purpose of striking out the sentence there.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I do not know that it is particularly material whether we do or do not adopt illogical amendments that will have no effect, but when the gentleman says this is a logical proposition, because when you are referring to an entry and to the payment on the entry and to the right under the entry you prohibit contests; therefore it is logical when you are legislating about a maintenance charge, which applies not only to entries but to land in private ownership, to lands that have not as yet applied for water, to adopt a similar amendment.

Mr. MANN. Will the gentleman from Wyoming yield?

Mr. MONDELL. Yes.

Mr. MANN. The gentleman would not contend that language in regard to a homestead entryman and his entry, and so forth, would apply to land in private ownership, or apply to the homesteader if he had obtained a patent for his land.

Mr. MONDELL. No; but the provision is a provision not with regard to homesteads but with regard to a maintenance charge. It has nothing to do with the other. Of course, we do not want anyone to have the right to contest under this section, but that right does not now exist.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota [Mr. NORTON].

The amendment was agreed to.

The Clerk read as follows:

RECLAMATION REQUIREMENTS.

SEC. 8. That the Secretary of the Interior is hereby authorized to make rules and regulations governing the irrigation of the lands within any project, and may require the reclamation for agricultural purposes and the cultivation of one-fourth the irrigable area under each water-right application or entry within three full irrigation seasons after the filing of water-right application or entry, and the reclamation for agricultural purposes and the cultivation of one-half the irrigable area within five full irrigation seasons after the filing of the water-right application or entry, and shall provide for continued compliance with such requirements. Failure on the part of any water-right applicant or entryman to comply with such requirements shall render his application or entry subject to cancellation.

The Clerk read the following committee amendments:

On page 7, line 16, after the word "make," insert the word "general."

In line 17, after the word "the," insert the words "use of water in the."

Line 19, after the word 'of," strike out "one-fourth" and insert "one-half."

Page 7, line 12, strike out the word "one-half" and insert "three-fourths."

The committee amendments were agreed to.

The Clerk read as follows:

WATER SERVICE.

SEC. 11. That whenever water is available and it is impracticable to apportion operation and maintenance charges as provided in section 5 of this act, the Secretary of the Interior may, prior to giving public notice of the construction charge per acre upon land under any project, furnish water to any entryman or private landowner thereunder until such notice is given, making a reasonable charge therefor, and such charges shall be subject to the same penalties and to the provisions for cancellation and collection as herein provided for other operation and maintenance charges.

Mr. RAKER. Mr. Chairman, my understanding was that there should be an amendment to this section, on line 16, after the word "thereunder." It was taken up and thoroughly considered by the committee, and my recollection is that it was agreed to.

Mr. TAYLOR of Colorado. I will say on behalf of the committee that I do not recall any such agreement.

Mr. RAKER. The point is that no entryman or landholder holding more than 160 acres should have the water right for more than 160 acres. In other words, he should not be permitted to hold 500 acres or 1,000 acres of land, with the right to have it irrigated.

Mr. MANN. If the gentleman will yield, I think I can give him some information. In the House bill the language was inserted after the word "thereunder" "for not to exceed 160 acres."

Mr. RAKER. It was taken up and discussed in the committee, and my understanding was that it was agreed to.

Mr. MANN. It never was a committee amendment to the House bill.

Mr. HAYDEN. The gentleman may remember that after the Senate bill was referred to the House Committee on Irrigation of Arid Lands we had a hearing, at which Mr. Burgess, of El Paso, Tex., appeared before the committee and objected to that language. He contended that there were conditions prevailing in certain parts of the country, and particularly under the El Paso project, where it would work an injustice. We talked it over and agreed to leave that language out.

Mr. MONDELL. Will the gentleman yield?

Mr. HAYDEN. Yes.

Mr. MONDELL. My recollection is that after some discussion of that matter it was concluded on the part of some gentlemen who discussed the matter that these words in section 5 of the reclamation law still controlled:

No right to the use of water for land in private ownership shall be allowed for exceeding 160 acres to any one landowner.

Mr. RAKER. That would not control. I might be mistaken, but I know it was in the original House bill, and there are many reasons in my mind why it should be in this bill. The only objection that can be made against the Reclamation Service, and that is being corrected, is that large tracts of land are held by private individuals when they agreed to sell them. Now, we are disposing of the balance, and we now permit the individuals holding large tracts of land and direct the Secretary of the Interior to furnish them water for that land, not 160 acres, but it may be 500 or 1,000 acres.

Mr. TAYLOR of Colorado. We thought section 13 of the bill was sufficient to care for that matter and let it go at that.

Mr. RAKER. If the gentleman thinks that is already covered in the bill I shall offer no amendment.

The Clerk read as follows:

ADMISSION OF PRIVATE LANDOWNERS TO NEW PROJECTS.

SEC. 12. That before any contract is let or work begun for the construction of any reclamation project hereafter adopted the Secretary of the Interior shall require the owners of private lands thereunder to agree to dispose of all lands in excess of the area which he shall deem sufficient for the support of a family upon the land in question, upon such terms and at not to exceed such price as the Secretary of the Interior may designate; and if any landowner shall refuse to agree to the requirements fixed by the Secretary of the Interior, his land shall not be included within the project if adopted for construction.

Mr. MANN. Mr. Chairman, I do not know how it is printed in the Senate engrossed bill, but in this print in the words "Secretary of the Interior" the word "Interior" begins with a small "i," in line 18. I ask unanimous consent that the word be capitalized.

The CHAIRMAN. Without objection, it will be so ordered.

There was no objection.

The Clerk read as follows:

SEC. 13. That all entries under reclamation projects containing more than one farm unit shall be reduced in area and conformed to a single farm unit within two years after making proof of residence, improvement, and cultivation, or within two years after the issuance of a farm-unit plat for the project, if the same issues subsequent to the making of such proof: *Provided*, That such proof is made within four years from the date as announced by the Secretary of the Interior that water is available for delivery to the land. Any entryman failing within the period herein provided to dispose of the excess of his entry above one farm unit, in the manner provided by law, and to conform his entry to a single farm unit shall render his entry subject to cancellation as to the excess above one farm unit: *Provided*, That upon compliance with the provisions of law such entryman shall be entitled to receive a patent for that part of his entry which conforms to one farm unit as established for the project: *Provided further*, That no person shall hold by assignment more than one farm unit prior to final payment of all charges for all the land held by him subject to the reclamation law, except operation and maintenance charges not then due.

The following committee amendment was read:

Page 10, line 18, after the word "delivery" strike out the word "to" and insert the word "for."

The committee amendment was agreed to.

The Clerk read as follows:

SEC. 16. That the district court of the United States for the district where the lands or some portion of the lands included within any reclamation project are situated shall have jurisdiction of all suits brought by the United States or the Secretary of the Interior for the enforcement of the provisions of this act, and jurisdiction of all suits now pending or which may be hereafter instituted by any legally organized water users' association or irrigation district in behalf of the water users and settlers thereon for the enforcement of the provisions of this act and of the provisions of the reclamation law as referred to and defined in section 1 of this act.

The committee amendment was to strike out all of section 16.

Mr. BURKE of South Dakota. Mr. Chairman, I desire to discuss the proposed amendment, being opposed to the amendment of the committee, and would like to proceed for 20 minutes.

Mr. TAYLOR of Colorado. Could not the gentleman reduce that somewhat?

Mr. BURKE of South Dakota. I have consumed no time whatever since this bill has been under consideration. I stated when the general debate began that I would not consume any time, with the understanding that under the five-minute rule I might have some time to discuss this particular part of the bill.

Mr. MONDELL. Mr. Chairman, I think it is understood by those in charge of the bill that the gentleman from South Dakota was to have some time.

Mr. TAYLOR of Colorado. That is true.

Mr. BURKE of South Dakota. I might have taken this time by piecemeal on different sections by motions to strike out the last word and consumed much more time.

Mr. UNDERWOOD. Mr. Chairman, reserving the right to object, I have no desire to cut off reasonable time for debate, but I desire to offer an amendment to section 16, which I would like to have pending. I will ask that section 16 be disposed of, and then I will offer my amendment.

Mr. MANN. The gentleman wants to offer an amendment as a new section?

Mr. UNDERWOOD. Yes.

Mr. MANN. Why not offer it; he does not have to have it numbered?

Mr. UNDERWOOD. I would like to have section 16 stricken out first.

Mr. BURKE of South Dakota. But I want section 16 to remain in the bill. I am opposed to the committee amendment.

Mr. UNDERWOOD. Oh, very well.

Mr. BURKE of South Dakota. I will ask the gentleman from Alabama if it will inconvenience him if we dispose of this matter first?

Mr. UNDERWOOD. No; it will not; but I would like to try and get an early adjournment.

The CHAIRMAN. The gentleman from South Dakota asks unanimous consent that he may proceed for 20 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. BURKE of South Dakota. Mr. Chairman, before I begin I ask unanimous consent to extend my remarks in the RECORD, as I desire to elaborate somewhat on other portions of the bill in addition to discussing this particular section.

The CHAIRMAN (Mr. TOWNSEND). The gentleman from South Dakota asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. BURKE of South Dakota. Mr. Chairman, before discussing the amendment of the committee to strike out section 16 of the Senate bill I want to talk for a few minutes on the bill as a whole.

The hearings disclose that on most of the reclamation projects the settlers, in their efforts to make the necessary improvements on the land and keep up their payments to the Government, have exhausted their resources and find themselves unable to continue the 10 per cent annual payments and continue their improvements without borrowing money, and it is difficult to obtain loans on the lands except at very high rates of interest—rates that are practically prohibitive.

The bill divides settlers on irrigation projects into two classes: First, those who are yet to come; those who are to file homestead entries and water-right applications upon those projects where there are Government lands and private lands which have not yet come under the provisions and conditions of the reclamation law. The second class comprises those who are already on the land either as homestead entrymen or as landowners whose lands are subject to the provisions of the reclamation law. It might appear that this bill was prompted in the interests of the settlers and water users that come within the second class affected by its provisions. Naturally we are more apt to be concerned for the interests of those directly involved rather than because of the interests of those who may come after. I think, however, that it can not be said that this bill was principally intended to affect and relieve those that have undertaken to acquire homes in the arid sections of the country and comply with the requirements of the homestead law and meet their payments required under the existing reclamation law.

I make this statement because I believe that more good will come to those who have not yet made homestead entries or water-right applications within any reclamation project than the benefit that will inure to those that have made entries. I also think that the effect of the passage of this bill will be to stimulate and encourage settlers to undertake acquiring homes under the reclamation law. Conditions will be more inviting, more reasonable, and more possible to comply with than the conditions in the law as it stands at present.

I happened to be a Member of the House and a member of the Committee on the Public Lands in the Fifty-sixth Congress when the subject of reclamation was first considered, and there were many hearings and numerous discussions before and in this committee at that time with relation to the enactment of some law that would mean the reclaiming of the arid lands throughout the West and provide homes for those who might be ambitious to acquire homes for themselves and thereby better their condition and also aid in developing the country by adding to its wealth. As is usual with those who are intensely and deeply interested in any subject, those who were urging the legislation were more or less optimistic in their views, and represented that in their opinion a law that would divide the cost of reclamation into 10 annual payments without interest could be complied with by the settler without incurring any hardship or embarrassment upon him.

It was not until the Fifty-seventh Congress that the reclamation law was enacted, and it has now been upon the statute books for about 12 years. While it has not worked out as satisfactorily from any standpoint as its friends and advocates predicted, it has accomplished a great deal and enough to justify the wisdom of its enactment. Everyone realizes that there has been a great advance in the cost of all kinds of building material during the past 13 years, and that labor has also greatly increased in cost, and this has resulted in materially increasing the cost of construction of reclamation projects over what they were originally estimated to cost, and, consequently, the cost to the water user or the settler has been considerably more than he expected or anticipated when he made his entry and water-right application.

The same is true as to maintenance. There may be cause for criticism of extravagances on the part of the service, but no more than might be expected where large sums of public moneys are being expended by a governmental bureau or department without the supervision of Congress; and I think one of the mistakes of the reclamation law was because annual apropriations were not required upon estimates submitted to Congress, as appropriations are usually made in connection with the Government in all its branches. I believe it would have been better for the service—I mean the Bureau of Reclamation—if it had been required to come to Congress for appropriations each year. In any event, it is better administration from every standpoint, and it would save the service from much criticism if a check could be had upon expenditures, as would be the case if Congress was called upon annually to make the appropriations.

To come back to the pending bill and its advantages over the law as it now exists, so far as the settler or water user is concerned, I want to say that the provision dividing the cost of reclamation into 20 annual installments is not only wise but, I believe, necessary, if the reclamation act is to work successfully and accomplish what its friends hope for. It can not be expected that when a person settles in a country with which he is not familiar, coming perhaps from a humid section to an arid region, that he can prosper from the beginning, even under the most favorable conditions. To expect one to do so where he goes upon land perhaps covered with sagebrush, that has to be first cleared and then leveled after it is put in cultivation, considering the great expense attached thereto, in addition to building a house and a barn and the other things essential to a farm, to be required to pay one-tenth of the reclamation cost of his land, including maintenance, each year, is certainly unreasonable, and an experienced, thinking man would hardly undertake it. The wonder is that so many of those who have gone upon the different reclamation projects of the country have survived, as so many of them have.

The proposed change in existing law that extends the time of payment to 20 years and requiring an initial payment at the time of making the application for entry of 5 per cent of the total cost is all right. The allowance of a period of 4 years before a further payment is required is not only reasonable but wise, in my opinion. I believe if a settler makes the initial payment of 5 per cent and survives the 4 years following that he can then meet his installments annually, the first five being 5 per cent and the next ten 7 per cent each. The hearings disclose the reason for requiring no payment for the first five years, except the initial payment, and as stated, it is to enable the newcomer to utilize the returns from the land in further improvements upon the land, instead of requiring him to exhaust his resources each year in payments to the Government, as has been the case heretofore, and further, because, it is rightly asserted, that the first five years are years of very meager return, because of the necessity of preparing the land for proper irrigation and to get the soil in a condition to make it productive, which requires a few years of cultivation and preparation to make it produce to its highest capacity.

I am not in sympathy with those who are declaring that there should be an interest charge in connection with the deferred payments under the reclamation act, or as proposed by the pending bill; to require the settler to pay interest would not only be an added hardship to the burdens that he already has to bear, but in effect it would destroy, I am afraid, the benefits sought to be acquired by the change in the law. This is not a proposition of the Government loaning money without interest, and those who endeavor to create the impression that it is are not only unfair, but, in my opinion, are seeking to defeat the legislation. The reclamation act provides that the proceeds received from the sale of public lands shall be used for the purpose of reclaiming the arid lands of the country, and the benefit to the country is sufficient to justify the use of the money without interest in the added wealth that it brings to the Nation, which is beneficial to all of the people and the Nation as a whole.

There were those when the original homestead act was first suggested, and when that beneficent law was enacted, who opposed it on the grounds that it was unconstitutional to give away the public domain, and yet where is there anywhere a person who will say that the homestead law was not a wise measure and that its enactment has not been justified ten thousandfold? Where would this country be to-day without the homestead law? What would there be throughout the great West had that law not been enacted? I suppose our theoretical conservation friends would say that it would have been better for our posterity had the Government been less generous

in the disposition of the public domain, and who assert that all of our natural resources should have been conserved and disposed of under restrictions that would have retarded the development of the country and made what has been accomplished throughout the West impossible.

Mr. Chairman, I rose to discuss this amendment that proposes to strike from the bill section 16, and having confidence, as I have, in the members of the committee that reported the bill, and having the utmost confidence in their conserving and protecting the rights and the interests of the water user, I am at a loss to understand why they have reported the amendment striking section 16 out of the bill. I am of the opinion that they were influenced in their action by yielding to the wishes of the Reclamation Service, who did not wish this provision to become a part of the law. I am going to discuss briefly why section 16 should not be stricken from the bill, and in doing so I want to speak particularly of conditions as they obtain within the Belle Fourche irrigation project in South Dakota, which presents ample justification for the Senate having made it a part of the measure.

At the time the construction of the Bellefourche project was under contemplation by the Secretary of the Interior there were approximately in private ownership something over 40,000 acres of the 100,000 acres of lands included in said project. The representatives of the Reclamation Service represented that before said project could be undertaken the owners of said private lands would have to cooperate with the department to the extent of incorporating and placing their lands in said project and agreeing to take water for the purpose of irrigating their lands from said project. The officials of the Reclamation Service represented to the private landowners that the entire cost of the construction of the completed works, including their maintenance and operation for a period of 10 years after completion, would not be to exceed the sum of $34 per acre, to be paid in 10 annual payments, at the rate of $3.40 per year. Sixty thousand acres of the lands included in the project were public and unappropriated, of an arid character, which the Reclamation Service was desirous of reclaiming; and in order to make the project feasible it was necessary that the private landowners should participate in the construction, operation, and maintenance of the project. Representations were made by representatives and agents of the Reclamation Service upon numerous occasions, and mass meetings were held by the private landowners for the purpose of considering the advisability of entering into an arrangement and aiding and participating in the construction and promotion of the project.

The private landowners were men with families, generally prosperous, engaged in stock raising, and were using their lands profitably, and it was with some hesitancy that they finally consented to enter into an arrangement to include their holdings in the reclamation project. Before doing so, and not being satisfied with the verbal representations and statements made by those representing the Reclamation Service, they required a written statement with reference to the proposed project, its cost, both for construction, operation, and maintenance, the time when it would be completed, and when they would be required to make their annual payments.

In response to this demand they were furnished with a circular entitled "The Bellefourche project, a part of the great Government scheme of irrigation, under an act of Congress approved June 17, 1902." This was signed by the Reclamation Service by Raymond F. Walter, engineer, he being in active charge of said proposed project. In the circular issued by Mr. Walter was the following question, propounded by the landowners:

> Q. How much will it cost to put water on 160 acres of land?—A. The cost will not exceed $3.40 per acre per year for 10 years, and may be as low as $2.25 per acre per year, if landowners subscribe for water to the full amount of their holdings and the water supply be sufficient. For 160 acres, therefore, the cost would be $544 per year at the maximum figure or $360 per year at the minimum figure.

It is claimed that the statements and representations contained in this circular were also ratified and approved by C. J. Blanchard, who was at the time statistician of the Reclamation Service and who at that time—1904—it is said, made a house-to-house canvass, interviewing private landowners upon said proposed project and trying to induce them to enter into the same, and discussing the details at length as to the cost of construction, operation, and maintenance, and the great advantage they would derive by participating in the project.

The private landowners were required to incorporate, and a company was organized with a capital stock of $3,400,000, divided into 100,000 shares, with a par value of $34 each, that being the outside estimated cost of the construction and of the operation and maintenance for 10 years of the said project, the estimates having been made by the Reclamation Service in accordance with the act of June 17, 1902. While $34 per acre was the outside estimated cost, it was represented by the representatives of the Reclamation Service that the cost of construction, including cost of operating and maintenance, for a period of 10 years, would probably not exceed $22.50 per acre. It was further represented that the project would be completed within two or three years after the commencement thereof—about the year 1907. Payments were not to begin until the project was completed. It has not yet been completed, but in 1907 an assessment for 1908 of $3.40 per acre was levied against about 12,000 acres of land under said project, and assessments were levied for subsequent years on the 12,000 acres and other lands within the units that were said to be completed.

The water users complain that the outside estimate of cost of the project has been exceeded in an amount of about $78,000 as to the operation and maintenance charge, and that this amount should not be so charged. Notwithstanding the protest of the water users and an alleged violation of the representations made by the Reclamation Service, an assessment was levied for the year 1911 of $3.60 an acre. That because the water users refused to pay this charge they were notified by the Reclamation Service on July 1, 1913, that unless they paid the charge water for irrigating purposes would be shut off on July 21. This was a critical time, as the shutting off of the water at that particular season would mean the destruction of crops, and it was a serious situation. The water users, believing that they were being wronged, caused to be instituted a proceeding for the issuance of a temporary injunction restraining the officials of the Reclamation Service from cutting off the water and enjoining them from collecting any charge until the final completion of the project. This action was instituted in the State court, and upon the motion and application of the defendants, who were officials or agents of the Reclamation Service, it was transferred to the United States district court for the district of South Dakota.

The amendment proposed by the committee to the bill of the Senate is to strike out section 16, which proposes to give to the courts jurisdiction to determine just such questions as are involved in this litigation. The only excuse, the only explanation that I can imagine why the committee consented to report this amendment is because one of the representatives of the Reclamation Service appeared before the committee and urged it to do so. He was summoned from Denver. The Reclamation Service spares no expense when any legislation is proposed affecting the service, and will bring its representatives from any part of the United States in order to prevent legislation that the service does not desire to have enacted. The water users are not so well situated. They were unable to send representatives here, and if I read correctly what the representative of the service stated to the committee, he endeavored to give the committee the impression that there is sufficient remedy under the law as it now exists, and that the legislation is not necessary to give the courts jurisdiction.

When this suit at Bellefourche was commenced and was transferred to the United States court a demurrer was filed on the part of the Government, the United States district attorney representing the Reclamation Service; and he plead want of jurisdiction and stated that the courts had no jurisdiction; and I quote from the brief that has been filed by the attorneys for the United States for the purpose of showing their position when presenting their contention to the court. I read from the brief, as follows:

> That the corporation plaintiff is not the proper plaintiff to claim or to receive the interlocutory injunctive relief granted by the lower court.
>
> That the judiciary can not interfere by injunction with the exercise of proper governmental functions of a coordinate branch of the Government of the United States, to wit, the executive branch thereof, as to the acts of the officers of the executive branch not uniawful nor ministerial, but requiring the exercise of judgment and discretion on the part of its officers. Defendants assert that the matters complained of in the amended bill are within the exclusive control of the executive department of the Government, free from the control of the courts.
>
> That this action is a suit against the United States to compel specific performance of this contract by enjoining the breach thereof.
>
> That the United States district court was without jurisdiction to give the interlocutory relief appealed from.

We find them, when they get into court, stating that the courts have no jurisdiction, maintaining that this function ought to be in the executive or administrative department of the Government. What does that mean? It means that the representatives of the Reclamation Service go out into the country, as they did in connection with this reclamation project at Bellefourche, when they induced people who owned half the land they wanted to consent that they might begin construction of a reclamation project there; and they induced them to relinquish their riparian rights to the water of the Bellefourche River and surrender their lands and agree that they would re-

duce their holdings to not more than 160 acres each, that being the farm unit in that project.

Mr. RAKER. Mr. Chairman, will the gentleman yield there?

Mr. BURKE of South Dakota. For a brief question.

Mr. RAKER. Have all these private owners reduced their holdings to 160 acres?

Mr. BURKE of South Dakota. I believe that they have two years within which to do that after the project is completed.

Mr. RAKER. They have not done it up to the present time?

Mr. BURKE of South Dakota. So far as I know, I do not think they have.

Mr. RAKER. Is it the gentleman's contention, now, the reason he wants this legislation, on the ground that the Government officials misrepresented to these people what should be taken, and, therefore, they are going into court to be relieved from this?

Mr. BURKE of South Dakota. I want these water users to have the right to go into court and have their rights adjudicated. They claim that expenses are being charged to this project that ought not to be charged. Some of the charges may be the extravagances that the gentleman from Illinois and some others have referred to in connection with reclamation projects generally. They have increased the annual maintenance cost per acre over and above what they assured and contracted the rate would be, and when the water users refuse to pay these excessive charges and go into court, they say that the courts have no jurisdiction, and it is for the Reclamation Service to determine whether or not they are violating their own contract.

Mr. RAKER. Some contention was made as to the charge of maintenance and operation in the same suit. Is it not a fact that all of these people had the opportunity to have that question fairly and squarely settled, and it was decided by the Supreme Court that they must pay their proportion of the cost of operation and maintenance?

Mr. BURKE of South Dakota. I will say to the gentleman that it was not so decided. This case has not yet reached the Supreme Court.

Mr. RAKER. Not this case, but all of the other cases.

Mr. BURKE of South Dakota. One case went to the Supreme Court involving the question of what the Reclamation Service might do in view of the law which apparently gives them latitude to do most anything they want to do. I believe it was the case of Baker *v.* Swigart. It is my contention that the Government of the United States, through the Bureau of Reclamation, ought to be required to live up to its contract just the same as the water users are required to live up to their contract, and when there are questions involving their property rights such questions ought to be determined by a judicial tribunal, and not by the department that makes the contract on the part of the Government. For the purpose of showing what the Belle Fourche water users complained of that caused them to go into court, I want to read an extract from the affidavit made by one O. E. Farnham that was filed in the court. It reads as follows:

> Threatening to cancel all water-right applications of the stockholders and members unless the demand for the payment of all operation and maintenance charges, together with all penalties, are paid, and that the amount demanded was unjust and illegal and was an attempt on the part of the representatives of the Government to coerce the water users into paying charges, if not illegal, that might very properly be questioned; that other measures of duress were resorted to, including the shutting off of the water supply, forfeiting all payments previously made (when the rights were attached to lands owned absolutely in private ownership), canceling homestead entries, and adding penalties of from 1 cent per acre to 5 cents per acre per month.

It would certainly seem that there is enough in that affidavit to demonstrate the wisdom of the Senate putting section 16 in the bill, and again I want to say I can not understand why the committee proposed striking it out, unless they were more desirous of pleasing the Reclamation Service than they were the water users, whose rights ought to govern in a matter so vital to their interests.

Mr. POST. Will the gentleman yield?

Mr. BURKE of South Dakota. Yes.

Mr. POST. Has the court passed on the merits of the demurrer?

Mr. BURKE of South Dakota. I will say to the gentleman from Ohio that the judge of the United States district court of South Dakota overruled the demurrer. The case is now on appeal before the circuit court of appeals at St. Louis and the attorneys for the Government are there contending that the district court did not have jurisdiction. This bill proposes to fix the jurisdiction and settle it beyond all question, and it seems to me we ought to do that.

Mr. POST. As a lawyer does the gentleman think there is merit in the demurrer filed?

Mr. BURKE of South Dakota. I will say to the gentleman that I am inclined to think, in view of the decision of the Supreme Court referred to by the gentleman from California, that there may be something in the demurrer. The Belle-f urche water users raised the question of vested rights, and in the brief filed by the Government commenting upon this question the attorneys say:

> The homesteader has no vested rights against the Government. His position is one of grace and not of right.
>
> Private landholders are permitted "bounty of a generous Government" for the reclamation primarily, at the public expense of their private land.

I presume very few homesteaders now upon some reclamation project would appreciate the sentiment if told their position is one of grace, and private landowners would hardly submit that they are enjoying the "bounty of a generous Government."

It would seem to me, Mr. Chairman, that in this case the people who owned 50,000 acres, or about one-half of the land that was subsequently included in the Bellefourche project, who were enjoying the use of it, had the rights of water appropriated from the river and who surrendered all of their rights, that they have rights that ought not to be disregarded or disposed of by the Reclamation Service, with whom they made their contract.

The whole trouble with the Reclamation Service, in my opinion, is that there is too much jurisdiction and too much power in the service itself. There ought to be some tribunal that could be appealed to finally when they feel that they are being wronged and deprived of their vested rights. As I have already stated, I think Congress made a mistake in providing in the law that the proceeds from the sale of the public domain should be available for expenditure by the Reclamation Service without annual estimates and appropriations being made. Had the law required this Congress could have kept fully informed on what was being done in the way of construction of projects, and kept a check on the expenditures. It would not have done any harm for Congress to have known what was going on, and the fund would not have been exhausted, as it was, and it would not have been necessary to issue bonds for the purpose of replenishing the fund.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURKE of South Dakota. Just a moment, Mr. Chairman. I do hope that if this committee does not see fit to disagree to the recommendation of the committee striking out section 16 that the bill will go to conference and that the conferees will see to it that the section will remain in the bill, or one that will give the courts jurisdiction in cases such as the one that is now pending affecting the Belle Fourche water users. [Applause.]

Mr. RAKER. Mr. Chairman, so that the committee might know the exact facts the record shows that there are 100,000 acres of land in private ownership; when it was started only 44,000 acres were in public ownership, so that the contention of misrepresenting and deceiving the owners of privately owned lands must be very weak, indeed. I am for the committee amendment, which strikes out section 16 of the Senate bill. But the question now is that there is a suit pending, and the parties are desiring to have special legislation in regard to that particular suit. This amendment was not considered by the committee of the Senate; it was simply placed in on the floor of the Senate after practically but little discussion, and it practically changes the policy of the Government in relation to these matters. The case I spoke of a moment ago is the case of Sweigert against Baker, wherein there was a contention that the homesteader and this privately owned land must not pay for the upkeep and the maintenance and operation of the ditches. They then contended as now that there would be no opportunity for a hearing, and this case was taken to the Supreme Court of the United States, and after an elaborate argument and reargument the Supreme Court finally decided that the homesteader and water user must pay for operation and maintenance, and it was provided for under the reclamation law, that therefore they should pay for operation and maintenance of these projects, and the Government should not be responsible for many hundred thousand dollars—even running into the millions—for the purpose of operating and maintaining these reservoirs, ditches, and works for the privately owned land and the entrymen, and that has been one contention and one reason why some of our eastern friends think that the people in the West were trying to get out of paying the actual cost and all expense back to the Government. But a few men are always ready to reject and avoid legitimate or certain expenses——

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. RAKER. Just after I conclude this sentence I will yield. But they agreed to pay back the cost of constructing the dams

and reservoirs but they did insist, most of them, against the proposition of paying for the maintenance and operation pending the absolute completion, before the works are turned over to them by the Government. Now, here comes this special legislation which intends to change the law governing litigation in the United States courts by a special act. I yield to the gentleman from South Dakota.

Mr. BURKE of South Dakota. I want to ask the gentleman if he will state to this committee that he is not in favor of giving the courts jurisdiction in regard to this law?

Mr. RAKER. I want to answer——

Mr. BURKE of South Dakota. I would like the gentleman to answer the question.

Mr. RAKER. I will answer the question by saying that until it is determined that the present statutes are not sufficient to give every man an opportunity to obtain redress in court I would not be in favor of amending the bill by putting on special legislation in regard to conferring special jurisdiction upon the courts, and giving one particular case a standing in court where some attorney may have some doubt upon the matter.

Mr. BURKE of South Dakota. Will the gentleman yield further?

Mr. RAKER. I yield.

Mr. BURKE of South Dakota. I will say to the gentleman it is not a question of amending the bill; it is a question of striking out of the bill the provision that was in it when it passed the Senate.

Mr. RAKER. Oh, no; that is not the status of it. It was put on in the Senate without any discussion by the Senate committee. Along in the last moments of its consideration, the fervid presentation of it in a few moments by the Senator from the State in which this project was located caused it to be placed upon the bill. This provision has not been considered by the Senate Committee on the Judiciary or the House Committee on the Judiciary; but you ask to put it on a special bill conferring jurisdiction or taking away jurisdiction from the Federal courts in relation to a particular subject without such due and orderly consideration as is given to legislation on a question that is so vital as this.

Mr. BURKE of South Dakota. Will the gentleman permit another suggestion?

Mr. RAKER. I yield.

Mr. BURKE of South Dakota. It occurs to me it is rather unusual for a gentleman on the floor of the House to criticize and question a provision in a bill that comes from another body and then state it has not had consideration.

Mr. RAKER. Well, I have a right to read the RECORD, and from the RECORD it shows that the matter was not on the bill as the committee reported it, but it was placed on the bill after it was in the Senate. And I call the gentleman's attention particularly to the fact that practically all of the western Representatives, both Senators and Members of the House, appeared repeatedly for counsel at the Secretary of the Interior's office, with all the assistants that were needed, and this bill was thrashed out, this subject was brought before the committee, and my recollection is that in the discussion down there it received a vote or two by those present.

The CHAIRMAN. The time of the gentleman from California [Mr. RAKER] has expired.

Mr. RAKER. Mr. Chairman, I ask unanimous consent for two minutes more.

The CHAIRMAN. The gentleman from California asks unanimous consent for two minutes more. Is there objection? [After a pause.] The Chair hears none.

Mr. RAKER. Now, Mr. Chairman, that being the case, and it being special legislation, so extended in its character, so special in its character——

Mr. FALCONER. Will the gentleman yield?

Mr. RAKER (continuing). With the reasons that are presented against it, it ought not to pass. The Secretary of the Interior has gone over the matter, as well as the attorney for the Reclamation Service, Judge King—and no one can question his ability and learning, and he is anxious to help these reclamation projects—and he believes it would be injurious to the Government and to the reclamation projects. And as to this particular case—let us dwell on that—he thinks we should not overturn the legislation now on the statute books in regard to the jurisdiction of the court for one special project.

Now I yield to the gentleman from Washington [Mr. FALCONER].

Mr. FALCONER. Why does the gentleman from California call it special legislation?

Mr. RAKER. Simply because, so far as my information goes, I have found only one project and one suit involved, and that is the one in relation to the Belle Fourche project.

Mr. FALCONER. As I understand section 16, it simply provides taking away the hearings and the proceedings from the department here and having them in the particular State or district of the State where these projects exist. That is the gist of section 16. What is the objection to that proposition?

Mr. RAKER. We are not so sure about that. But even if that were true, there are, including Texas, some 18 land States. Now, the district courts might decide upon these things differently, and the result would be that eventually some one would take a case to the Supreme Court for adjudication. Why do we want that condition? Now, as to the statement made by my friend in regard to the representations. There has not been a contract shown, and is it possible we are now going to open up the field and provide by legislation the means by which an imaginary grievance can be aired in the courts? And you can say that the representations of Smith and Brown and Jones, who claim to represent the Department of the Interior and the Reclamation Service, are binding upon the Government, and that you are going to force them into court after 8 or 10 years of service. Full hearing has been had on all these matters by the Secretary of the Interior. In this particular case 100,000 acres of public land are in this project and only 40,000 in the public domain. How many homesteads have been filed? Who has been deceived?

Mr. FALCONER. Will the gentleman yield?

Mr. RAKER. Not now. It is not a question of going into court. It is a question of trying to divide the money out of the money they have expended, and the decision in this case of Swigert against Baker was one of the most righteous decisions ever rendered in behalf of this Government or in behalf of the reclamation project, that these men who went on there, doing what they were doing, ought not at this late day to say, "We are not responsible for what the Secretary of the Interior did or what the Director of the Reclamation Service did; we want our money back, and do not want to pay it," because Jones or Brown or some other irresponsible man, who could not bind the Secretary of the Interior or the Reclamation Service, might in his enthusiasm have made some statement that 90 per cent of the landowners on those tracts wanted them to make.

The Department of the Interior is of the opinion that this is not wise legislation upon this bill. Secretary LANE, in a note of March 27, 1914, to Hon. M. R. SMITH, chairman House Committee on Irrigation, states that—

Personally I see no reason for the adoption of the amendment.

He also transmits a memorandum from Judge Will R. King, who states that the proposed amendment is objectionable in the following particulars:

1. It will produce great confusion, as the United States district and appellate courts may have decisions wholly inconsistent, which must govern within their several jurisdictions until the Supreme Court has decided the specific question.

2. Any water users' association or irrigation district may bring suit and delay the application of necessary rules and regulations. In many such cases the Secretary must either refuse to furnish water or furnish it without payment for an indefinite period.

3. It confers no right on the United States that it does not now enjoy. The water users and water users' association have now the same rights of suit as other persons dealing with the department under the public-land laws

Many of the reclamation projects are interstate in character, the storage reservoir being in one State and the irrigated lands partly in the same and partly in another State. The proposed section 16, in the opinion of many familiar with this subject, will enable any legally organized water users' association or irrigation district, even though not directly connected with Government works, to greatly hamper the delivery of water and may produce far-reaching complications with added expense.

On this point I submit the following:

First. The plan proposed will produce an increased amount of litigation and involve the Department of the Interior and the Department of Justice in considerable expense. It will enable the water users' associations or irrigation districts, whether connected with Government work or not, if so inclined, to hold up indefinitely the disposition of large areas of public land. This jurisdiction is conferred in the case of "any legally authorized association or irrigation district," these being titles frequently used by private enterprise.

Second. A promoter might organize a water users' association of his own, having no connection whatever with any Government project, and take advantage of this amendment to precipitate litigation in regard to water rights, rights of way through proposed reclamation reservoirs, irrigable Government lands, and so forth, and delay the Government work for years by injunction pendente lite and other embarrassments incidental to litigation. The speculator might take advantage of it to delay the Secretary in an enforcement of the provisions of

the law in regard to residence and cultivation, and thus be enabled to continue his holding for a greater profit at the expense of the incoming settler.

Third. The amendment is not consonant with or in keeping with the United States judicial code or court decisions, but is a radical departure, hedged about with no restrictions. It gives the United States court jurisdiction of causes arising in the future between individual water users and the association and others.

Fourth. It confers no rights on the United States that it does not now enjoy.

Fifth. The water users now have a method of enforcing the law. Under the code and equity rules one or more settlers may sue on behalf of all concerned who are similarly situated; water users' associations represent all water users thereunder, and costs are apportioned against all; a few may wish to sue or be in a position to benefit by the suit, yet the association would be under obligations to bring these suits, however small or personal in their character.

Sixth. It permits any such organization, legally constituted under State law, to bring suit against the United States officials regarding water rights; makes many legal complications, and will entail large expense without compensating benefits.

Seventh. In the enforcement of the homestead laws under projects the general and the local land offices will be forced to follow decisions of United States courts in the various States which may be different in the various jurisdictions, and this department would thus be burdened with enforcing different constructions in different States.

Eighth. The amendment will greatly complicate the disposition of Government business and interfere with its dispatch. It is entirely foreign to the general purpose of the bill to which it is attached, and it will prevent the exercise by the Secretary of such discretion as the bill specifically vests in him.

Ninth. When it is realized that the reclamation projects are located in 17 different States, and some in 2 States, it will be appreciated that the resultant effect of the several district courts being called upon independently to interpret and pass upon contracts and regulations affecting the authority of the Secretary of the Interior, it is not reasonable to anticipate that there would be an agreement of decisions in the various courts. A regulation intended to be uniform for all projects could thus be held to be legal and proper on one project and invalid as to another; or, to have one effect on one project and another effect on another project, thus resulting in the engendering of animosities and rivalries as between the water users of the various projects, and confusion and conflict in the administration. Such conflict of decisions would necessarily compel delay until said decisions had been reconciled by the appellate courts on appeal, probably necessitating in some cases a decision of the United States Supreme Court. Such loss as would be so occasioned would fall upon the water users.

Tenth. It would seem inadvisable to legislate specially relative to jurisdiction of the United States courts in purported behalf of one class of citizens.

Eleventh. It is difficult to understand wherein section 16, if enacted, will aid the water users under any Government project. It would open the way for private corporations, contractors, and others, to embarrass the work of the Government, organizing under the name of a water-users' association or irrigation district, and through litigation professing to represent certain settlers or water users, add to the burden of the real water users.

Twelfth. It is easy to foresee the effect, if the several district courts independently interpret and pass upon contracts and regulations affecting the actions of the Secretary of the Interior, and it is distinctly inadvisable.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. RAKER. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from California asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Chairman——

Mr. DONOVAN. Mr. Chairman, I think debate has been exhausted. The gentleman from Wyoming [Mr. MONDELL] has been on the floor about a dozen times.

Mr. UNDERWOOD. Mr. Chairman, I ask unanimous consent that debate on this amendment close in five minutes.

Mr. FALCONER. Can I have one minute?

Mr. UNDERWOOD. Make it six minutes.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent that the debate on this amendment close in six minutes. Is there objection? [After a pause.] The Chair hears none. The gentleman from Wyoming [Mr. MONDELL] is recognized for five minutes.

Mr. MONDELL. Mr. Chairman, it is true, as the gentleman from California has stated, that in the conferences had in the office of the Secretary of the Interior by western Members in connection with this bill, and in the consideration of the bill in the committee, a provision for appeal from the decisions of the Secretary of the Interior was discussed, and it was concluded it would not be practicable on this bill to provide for such an appeal.

That decision did not, however, reflect the views of all the gentlemen who participated in those discussions relative to the propriety and righteousness of such a provision, and I shall vote with the gentleman from South Dakota [Mr. BURKE] against striking out this section, because I believe, and have long believed, that there is not a citizen under the flag who is not entitled to his day in court. I do not like the form of this provision placed in the bill in the Senate. If I were to draft a provision, it would be quite different. And yet this reaches the point.

Several years ago I introduced a bill which was reported unanimously by the Committee on the Public Lands providing for appeals from final decisions of the Secretary of the Interior in all cases relating to the land laws. I regret it did not become a law. It is not simply a question of the case of the constituents of our friend from South Dakota. This amendment involves the very much larger question as to whether these people and all others who are affected in their property and in their rights by decisions of the Secretary of the Interior shall finally have an opportunity to take their cases and their causes and their claims before a court. We all understand that it is not humanly possible for the Secretary's office under any possible organization to be entirely free from bias or prejudice in cases where the Secretary's office is the inquisitor, the prosecutor, the judge, and the jury. That is the situation in all land cases.

While this refers only to the reclamation entries and entrymen, a general provision covering all claimants before the Interior Department would be still better. I do not believe that it would be greatly confusing. I do not apprehend that the courts would hold that entrymen must not pay for proper expenditures on projects. No such outcome of these cases would be anticipated by me. But there are many questions arising on these projects between entrymen and claimants and the service in regard to which the entryman should have an opportunity to place his case before a court. We give all other American citizens whose rights are challenged, whose property is involved, an opportunity to present their case before a court, there to be calmly and judicially decided, and I know of no reason why it should not be done in cases of this kind.

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. FALCONER. Mr. Chairman, I have had a number of communications from my State concerning section 16, and they all favor the section as it was put in by the Senate.

Objection has been made to it on the ground that if the section were adopted it would complicate matters, particularly where a project was interstate, or extend into one or more different States. But certainly there ought to be no objection to section 16 if it were amended to apply to projects all of which were within one State.

I want to ask the chairman of the committee if, in his opinion, there would be any objection to an amendment providing that section 16 should apply to these projects within a State?

Mr. TAYLOR of Colorado. Personally I would not say that I would object, but I have no authority on behalf of the committee to make any concessions. The committee considered it and had a full hearing of the reclamation people, and they felt it was entirely unnecessary. They felt that it was a special section put in there by the Senator from South Dakota to meet one particular case, and that it would have a tendency to complicate matters. It was held to be unnecessary, and it was suggested that if any such legislation was necessary we ought to take it up in a more systematic way than we have done. But personally I am not especially afraid of it.

Mr. FALCONER. Mr. Chairman, I never have been able to understand why a man in the State of Washington, 3,000 miles to the west, should be obliged to carry his case to the Capital of the Nation, when there are United States district courts in that State. It is a burden that breaks the spirit of bona fide homesteaders—the costs are terrific.

Only to-day, sir, a constituent of mine came into my office, and in the course of conversation it developed that this is his third trip during the past two years. His sole business is in

the endeavor to get title to a homestead on which he and his wife had lived, actual residence, for over five years.

He has his attorneys in the West and has also employed attorneys here at a good, substantial conditional fee. This is characteristic of land matters. While the question involved in section 16 is somewhat different from cases above referred to, yet, Mr. Chairman, when we consider the penalties of sections 3 and 6 as applying to defaulters, defaulting sometimes, no doubt, through conditions that can not be helped, it occurs to me that in view of the severity of these penalties, even going to the extent of a deficiency judgment, that a locator should have the advantage of the local United States courts. However, Mr. Chairman, I have had the matter up with the department, and I ask unanimous consent to insert certain correspondence from Director Newell and Secretary Lane.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The matter referred to is as follows:

DEPARTMENT OF THE INTERIOR,
UNITED STATES RECLAMATION SERVICE,
Washington, D. C., July 27, 1914.

Hon. J. A. FALCONER,
House of Representatives.

MY DEAR MR. FALCONER: Your letter of July 23 has been received regarding Senate bill 4628, in which you state that you hope there well be no opposition from this department to having section 16 restored to the bill.

The matter is one to which I have personally given little attention, as it is largely a legal proposition and one to which I understand the department is already opposed. Secretary Lane, in a note of March 27, 1914, to Hon. M. R. SMITH, chairman House Committee on Irrigation, states that, "Personally I see no reason for the adoption of the amendment." He also transmits a memorandum from Judge Will R. King, who states that the proposed amendment is objectionable in the following particulars:

"1. It will produce great confusion, as the United States district and appellate courts may have decisions wholly inconsistent which must govern within their several jurisdictions until the Supreme Court has decided the specific question.

"2. Any water users' association or irrigation district may bring suit and delay the application of necessary rules and regulations. In many such cases the Secretary must either refuse to furnish water or furnish it without payment for an indefinite period.

"3. It confers no right on the United States that it does not now enjoy. The water users and water users' association have now the same rights of suit as other persons dealing with the department under the public-land laws."

Many of the reclamation projects are interstate in character, the storage reservoir being in one State and the irrigated lands partly in the same and partly in another State. The proposed section 16, in the opinion of the legal men, will enable any "legally organized" water users' association or irrigation district, even though not directly connected with Government works, to greatly hamper the delivery of water, and may produce far-reaching complications with added expense.

On this point the accompanying memoranda have been prepared.

Cordially, yours,

F. H. NEWELL, *Director.*

MEMORANDA ON PROPOSED SECTION 16 OF S. 4628.

1. The plan proposed will produce an increased amount of litigation and involve the Department of the Interior and the Department of Justice in considerable expense. It will enable the water users' associations or irrigation districts, whether connected with Government work or not, if so inclined, to hold up indefinitely the disposition of large areas of public land. This jurisdiction is conferred in the case of "any legally authorized association or irrigation district," these being titles frequently used by private enterprise.

2. A promoter might organize a water users' association of his own, having no connection whatever with any Government project, and take advantage of this amendment to precipitate litigation in regard to water rights, rights of way through proposed reclamation reservoirs, irrigable Government lands, etc., and delay the Government work for years by injunction pendente lite, and other embarrassments incidental to litigation. The speculator might take advantage of it to delay the Secretary in an enforcement of the provisions of the law in regard to residence and cultivation, and thus be enabled to continue his holding for a greater profit at the expense of the incoming settler.

3. The amendment is not consonant with or in keeping with the United States judicial code or court decisions, but is a radical departure hedged about with no restrictions. It gives the United States court jurisdiction of causes arising in the future between individual water users and the association and others.

4. It confers no rights on the United States that it does not now enjoy.

5. The water users now have a method of enforcing the law. Under the code and equity rules one or more settlers may sue on behalf of all concerned who are similarly situated. Water users' associations represent all water users thereunder, and costs are apportioned against all. A few may wish to sue, or be in a position to benefit by the suit, yet the association would be under obligations to bring these suits, however small or personal in their character.

6. It permits any such organization, legally constituted under State law, to bring suit against the United States officials regarding water rights, makes many legal complications, and will entail large expense without compensating benefits.

7. In the enforcement of the homestead laws under projects, the general and the local land offices will be forced to follow decisions of United States courts in the various States which may be different in the various jurisdictions, and this department would thus be burdened with enforcing different constructions in different States.

8. The amendment will greatly complicate the disposition of Government business, and interfere with its dispatch. It is entirely foreign to the general purpose of the bill to which it is attached, and it will prevent the exercise by the Secretary of such discretion as the bill specifically vests in him.

9. When it is realized that the reclamation projects are located in 17 different States, and some in 2 States, it will be appreciated that the resultant effect of the several district courts being called upon independently to interpret and pass upon contracts and regulations affecting the authority of the Secretary of the Interior, it is not reasonable to anticipate that there would be an agreement of decisions in the various courts. A regulation intended to be uniform for all projects could thus be held to be legal and proper on one project, and invalid as to another; or, to have one effect on one project and another effect on another project, thus resulting in the engendering of animosities and rivalries as between the water users of the various projects, and confusion and conflict in the administration. Such conflict of decisions would necessarily compel delay until said decisions had been reconciled by the appellate courts on appeal, probably necessitating in some cases a decision of the United States Supreme Court. Such loss as would be so occasioned would fall upon the water users.

10. Further, it would seem inadvisable to legislate specially relative to jurisdiction of the United States courts in purported behalf of one class of citizens.

11. It is difficult to understand wherein section 16, if enacted, will aid the water users under any Government project. It would open the way for private corporations, contractors, and others to embarrass the work of the Government, organizing under the name of a water users' association, or irrigation district, and through litigation, professing to represent certain settlers or water users, add to the burden of the real water user.

12. It is easy to foresee the effect if the several district courts independently interpret and pass upon contracts and regulations affecting the actions of the Secretary of the Interior, and it is distinctly inadvisable.

Mr. BURKE of South Dakota. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BURKE of South Dakota. The amendment is to strike out section 16?

The CHAIRMAN. That is the amendment.

Mr. BURKE of South Dakota. Those who wish to strike it out will vote "aye" and those opposed will vote "no."

The CHAIRMAN. Yes. The question is on agreeing to the amendment to strike out section 16.

The question was taken, and the Chairman announced that the ayes seemed to have it.

Mr. BURKE of South Dakota. A division, Mr. Chairman.

The committee divided; and there were—ayes 26, noes 20.

So the amendment was agreed to.

Mr. UNDERWOOD. Mr. Chairman, I move to insert in the bill a new section No. 16. Section 16 has been stricken out, and I move to insert as section 16 the amendment that I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Alabama [Mr. UNDERWOOD] offers an amendment for the purpose of inserting a new section 16. The Clerk will report the amendment.

The Clerk read as follows:

Insert as a new section the following:

"SEC. 16. That from and after July 1, 1915, expenditures shall not be made for carrying out the purposes of the reclamation law except out of appropriations made annually by Congress therefor, and the Secretary of the Interior shall, for the fiscal year 1916 and annually thereafter, in the regular Book of Estimates submit to Congress estimates of the amount of money necessary to be expended for carrying out any or all of the purposes authorized by the reclamation law, including the extension and completion of existing projects and units thereof and the construction of new projects. The annual appropriations made hereunder by Congress for such purposes shall be paid out of the reclamation fund provided for by the reclamation law."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. UNDERWOOD. Mr. Chairman, I desire to say just a word to explain my amendment. Under the existing law the reclamation fund amounts, I am informed, to something like $80,000,000. There is in the law an annual appropriation that allows the Interior Department to expend this money as they see proper on such projects as they determine to expend it on.

I do not wish to criticize the bureau that has had this matter in charge. I have no doubt it is composed of good engineers, capable men, to plan and execute the projects. But they are natural enthusiasts in behalf of their work; otherwise they probably would not be good men for their places. They naturally want to expand as far as they can, and, more than that, there is of necessity a great deal of pressure that will come on them from political sources to expand the projects as far as possible.

Now, I think that under these circumstances the bureau has overreached itself and will continue to do so in the future. More than that, I think the bureau has at times entered upon projects that were unwise, and has expended more money on projects than conditions authorized or warranted. I do not believe it is wise for us to continue practically in the hands of one bureau—although I believe the Secretary of the Interior has the signing of the orders, but it is the bureau chief that directs the matter—the control of $80,000,000 to-day, a sum that in a few years will amount to $100,000,000.

Mr. MADDEN. Two hundred million dollars on these projects.

Mr. UNDERWOOD. At any rate, $100,000,000 at least. Now, this amendment simply does this: It does not destroy the integrity of the irrigation fund. It keeps it set apart as a separate fund, as it is to-day. It does not authorize its use for any other purpose, except for the irrigation purposes fixed under the law and in this bill; but it provides that instead of the annual appropriation law, which is repealed under the provisions of this amendment, the Secretary of the Interior shall submit to the Congress every year his estimates as to where this $80,000,000, or whatever the reclamation fund amounts to, shall be used, and then the Congress shall determine on what projects to use it. I think that is the proper place to lodge this authority and the place to use it.

Mr. FRENCH. Does the gentleman think the Congress could determine wisely upon the particular projects to be undertaken by the Government? Is not that a matter that ought to be left with the bureau which has charge of the work now?

Mr. UNDERWOOD. If we conform to the gentleman's ideas, we ought to stop passing river and harbor bills and send down $50,000,000 every year to the engineers of the United States Army. If we conform to the gentleman's ideas, we ought to stop making specific appropriations for the Navy and send down a lump sum to the Secretary of the Navy to use as he sees fit. I do not know of any other place in the Government where a large sum is being left to the discretion of a bureau chief.

Now, to come right down to the question, I do not think for a moment that the Congress would act on this matter without being advised by the head of the bureau as to his judgment and opinion about the matter. The amendment I send to the Clerk's desk requires that the Interior Department, which in this case means the bureau chief, shall submit estimates as to where this money had best be expended, and I have no doubt that those estimates will largely govern the decision of Congress, but not necessarily so; and the only thing is that you gentlemen from the West, who control this $80,000,000, may be fighting over a small hog barrel of your own, and the balance of us sitting on a jury to determine where it shall go; but the disposition of the fund will be in responsible hands, in the Congress of the United States, in the place where it ought to be.

Mr. FRENCH. Mr. Chairman, the very illustration used by the gentleman from Alabama in referring to the work of the Government in the improvement of our rivers and harbors, it seems to me, is a very pertinent suggestion that the policy which has been followed by the Government in the reclamation work of the past is better than that followed by the Government in connection with the improvement of rivers and harbors. No one can deny the fact that a very large sum of money appropriated by the Congress from year to year for the improvement of rivers and harbors is wasted, not on account of any weakness in the department that has to do with the expenditure of that money, but because of the fact that we do not have clearly defined a long distance ahead a system in the prosecution of which the money can be and should be expended. It seems to me we are going to have a weakness in that same connection if we attempt to make annual authorizations for the expenditure of money in the Reclamation Service.

Many river and harbor improvements will cost twice as much as they ought, twice as much as they would have cost if we had looked ahead and anticipated the work that should have been done on a particular river or harbor for a period of 8 or 10 years, and had then authorized the completion of that work and made an appropriation or authorization sufficient for it. And so it is with these projects. If the Reclamation Service must come to Congress every year to know whether or not every man who is at work with a grader grading a ditch, and every man who is at work with a shovel in the development of some particular part of an irrigation system must lay down his tools at the end of the fiscal year, and not know whether the work shall be continued, the western people who are interested in this subject will, in my opinion, be called upon to pay larger sums of money for the reclamation of their land than under the policy which we have been following in the past.

Now, Mr. Chairman, while possibly mistakes have been made, and necessarily, on account of the new character of the work which we have carried on, yet, at the same time under that policy, we have been able to look ahead over a period of several years, and, as I see it, do far better than under the policy that is suggested, in anticipating the expenses necessary on each and all of the projects, and, therefore, more wisely expend the money.

Mr. GORDON. Mr. Chairman, will the gentleman yield?

Mr. FRENCH. I am glad to yield.

Mr. GORDON. How do you get around the provision of the Constitution which says that no money of the United States shall be spent except upon appropriations made annually by Congress?

Mr. MANN. There is no such provision in the Constitution.

Mr. GORDON. I supposed there was.

Mr. MANN. The gentleman has inserted the word "annually." That is not in the Constitution.

Mr. UNDERWOOD. That is only in relation to war expenses.

Mr. GORDON. I accept the amendment; but no money can be spent lawfully except what has been appropriated by Congress.

Mr. FRENCH. That is true; but, of course, in this law as it now is there is complete authority vested in the department to handle this money. My point is that the system that we have been following, and that I think ought to be followed in the future, enables the department the better to anticipate the moneys that it will have to expend and the places where it ought to be expended, and so bring down to the very minimum the cost of reclamation work on the various projects.

Mr. UNDERWOOD. Mr. Chairman, I should like to see if I can get debate closed on this amendment. I should like to get it closed up this afternoon. I suggest that the amendment be voted on in 30 minutes, one-half of the time to be controlled by the gentleman from Colorado [Mr. TAYLOR], who is opposed to it, and one-half by the gentleman from Illinois [Mr. MADDEN], who is in favor of it.

The CHAIRMAN. The gentleman from Alabama [Mr. UNDERWOOD] asks unanimous consent that debate on this amendment close in 30 minutes, half of it to be controlled by the gentleman from Colorado [Mr. TAYLOR] and half by the gentleman from Illinois [Mr. MADDEN]. Is there objection?

Mr. BRYAN. Mr. Chairman, reserving the right to object, I should like some time on this.

Mr. UNDERWOOD. I do not expect that everybody will get five minutes, but they can get leave to extend.

Mr. BRYAN. I feel that this is a matter of great importance, and I have views upon it, and I want to get five minutes if possible.

Mr. UNDERWOOD. I suggest that the debate on this amendment close in 40 minutes.

Mr. BRYAN. Probably I can get in within that time, if the committee will yield. I certainly am opposed to this amendment.

The CHAIRMAN. The Chair will ask the gentleman from Alabama who is to control the time in favor of the amendment?

Mr. UNDERWOOD. The gentleman from Illinois [Mr. MADDEN]. I do not care to control it, because I have made my speech.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent that the time for debate on this amendment shall be limited to 40 minutes, 20 minutes to be controlled by the gentleman from Colorado [Mr. TAYLOR] and 20 minutes by the gentleman from Illinois [Mr. MADDEN]. Is there objection?

There was no objection.

Mr. MADDEN. Mr. Chairman, I yield five minutes to my colleague [Mr. MANN].

Mr. MANN. Mr. Chairman, I think this amendment should be agreed to. It will not place the appropriations for the Reclamation Service in the same position as other appropriations are, because the appropriations will still be payable out of the reclamation funds, which funds can not be used for any other purpose. This amendment is not subject to the criticism which will be leveled against it, which criticism will be that Congress may not make the appropriations, and that they will have to fight all the time for the appropriations.

This amendment does not change the law that the funds coming in from the sale of public lands, and so forth, are covered into the Treasury as a reclamation fund, and it can be used for no other purpose than for the Reclamation Service. All this amendment does, in effect, is to require the Reclamation Service to make this estimate in advance for the money it needs for various projects, make these public as they are submitted to Congress, then appear before the Appropriations Committee and give the reasons why they need the money for particular projects and submit to the action of Congress in making the appropriations.

There is no other service in the Government now that enjoys to any extent these permanent appropriations. Since the gentleman from Alabama and I have been Members of the House Congress has repealed nearly all the laws that made permanent appropriations, such as the law that provided for the collection of customs, which used to be a permanent appropriation; such as the law providing for the permanent appropriation for the Immigration Service, and various other permanent appropriations.

Now, what is the possible objection to giving Congress control over it? The gentleman from Idaho [Mr. FRENCH] compares

tl.is with the river and harbor service, and says that no one will deny that in many places the river and harbor expenditures have been twice what they ought to be. Well, that is wild talk. The gentleman from Idaho is not informed as to the river and harbor projects anywhere in the United States. No such correct statement can be made. It is possible that we provide authorization for river and harbor improvement sometimes which might wait or which may not be profitable.

Mr. FRENCH. Will the gentleman yield?

Mr. MANN. No; I have not the time. I think the gentleman made an incorrect statement, but I did not interrupt him because I knew he had not much time. There has never been any such extravagant expenditure, any such useless expenditure, any such wild expenditure, in the river and harbo. service as there has been in the Reclamation Service. Projects have been commenced which gentlemen admit by this bill are not profitable enough to pay interest. Projects have been commenced where the Government owned only a little land, and it was for the benefit of private owners of land. Take the Yakima case up here this morning, where in order to let the Government purchase—for that is what it was—the rights of private corporations they got the Secretary of the Interior—and that meant the Reclamation Service—to attempt to defraud the Indians and give them an excuse for paying the price for private enterprises.

Now, all these things ought to run the scrutiny of Congress. It should have the figures of the estimates; the estimates should be submitted in the open to the public, permitting criticism of these estimates in the House and in the Senate. There will not be much criticism of them, because when they are submitted in this way they will be carefully prepared, which they have not been in the past. The fund will not be lost gentlemen. The fund is there. It could not be used for any other purpose without a change of the law. But the fund, being there, will come under the scrutiny of the department, of the Secretary, above the chief of the service, and of the Congress, and it will lead to a far wiser use of the money than has been the rule in the past. [Applause.]

Mr. TAYLOR of Colorado. Mr. Chairman, I yield four minutes to the gentleman from Arizona [Mr. HAYDEN].

Mr. HAYDEN. Mr. Chairman, if this amendment is to be adopted, I am frank to say that its language is in good form, but it seems to me that the burden of proof is on those who are proposing to make the change. They ought to be able to demonstrate that there would be a saving in annual appropriations by Congress.

I seriously doubt that if the various expenditures made by the Reclamation Service during the past 12 years had been scrutinized by the Committee on Appropriations any saving would have been made. That committee would have done as all other committees do, taken the word of the department officials, and the appropriations would have been made that they asked for.

I know that Congress does not conduct its business in an efficient manner. If any corporation had a board of directors as inefficient as Congress it would become bankrupt in a year.

The gentleman from Illinois [Mr. MANN] says that the expenditures made by the Reclamation Service have been extravagant, wild, and useless.

The gentleman has made a most serious charge. In the heat of debate one may indulge in loose talk, but this is a case where the burden of proof is on him, and he should be able to demonstrate to the House that he knows what he is talking about. I want him to prove that there has been greater waste, greater extravagance, and less efficiency in the work done by the Reclamation Service than in similar Government work done under annual estimates and appropriations.

The Reclamation Service claims that there has been no greater number of errors and mistakes of judgment in their work than in similar enterprises by private contractors. We would expect this service to make such a claim and we can take it with a grain of salt, but I would rather believe this claim to be true than to imagine that they have been more extravagant in their expenditures than those who disburse the funds of the Government on rivers and harbors or on public buildings.

The cost of Government work is notoriously high. It is not necessary for me to stop here to prove this statement. Every Member of this House can recall instances that have come to his knowledge. We excuse this state of affairs by saying that the Government builds more substantial structures than the ordinary individual or corporation, and this excuse covers a multitude of sins.

I would like to read some testimony as to the work of the Reclamation Service by Mr. T. H. Corey, for many years one of the engineers of the Southern Pacific Railway system, who made this statement in the printed proceedings of the American Society of Civil Engineers in March, 1913:

> Nevertheless, based on a fairly complete knowledge of only the Salt River, Yuma, and Orland projects of the service, and the observation and study of data examined during eight years with the Harriman lines in California, Arizona, and Mexico—six years as a maintenance and operation official, with unusual opportunities to observe—the writer is convinced that in these three projects at least the Reclamation Service gets more actual work for a dollar than do the Harriman lines.

The unit costs of various types of work are given in the annual reports of the Reclamation Service. In the last printed report for the year ending June 30, 1913, on page 311, are given prices paid for moving earth. These range from less than 10 cents per yard under favorable conditions up to 20 cents per yard or over where the excavation is more difficult.

The yardage cost of moving earth is almost identical with that paid by the large transcontinental railroads who are building new lines of road in the same country.

For the next largest item of construction, loose rock or indurated material, the prices paid range from 17 cents per yard up to 50 cents, these prices being also practically identical and sometimes a little less than those paid by railroad companies.

I have a statement here which I shall put into the RECORD relative to the cost per million cubic feet of masonry construction in the United States, which shows that on the average the cost is $406, and the cost per million feet for work done by the Reclamation Service is $61.

Cost of American storage reservoirs.

[James D. Schuyler, in Engineer and Contractor, vol. 38, p. 258.]

Name and location.	Character.	Cost.	Cost per million cubic feet.
Asokan Reservoir, New York	Masonry and earth	$12,669,775	$792
Wachusett Dam, Massachusetts	Masonry	2,270,116	269
Ariscohos Dam, Maine	Masonry and earth	1,000,000	125
New Croton Dam, New York	Masonry	7,631,000	173
Buena Vista Lake, California	Earth	150,000	21
Laranie River Dam, Wyoming	do	117,200	23
Indian River, N. Y	Masonry and earth	83,555	19
Croton, N. Y	do	4,150,573	972
Lake McMillan, Pecos River, N. Mex.	Rock fill and earth	180,000	47
Bear Valley Dam, Cal	Masonry	68,000	39
Windsor, Colo	Earth	75,000	75
Sweetwater, Cal	Masonry	264,500	269
Titicus, N. Y	Masonry and earth	933,065	972
Bowman, Cal	Rock-fill crib	151,521	164
Eureka Lake, Cal	Rock fill	35,000	53
Sodom, N. Y	Masonry and earth	366,990	565
English, Cal	Rock-fill crib	155,000	230
San Leandro, Cal	Earth	900,000	1,550
Bog Brook, N. Y	do	510,430	927
Larimer and Weld, Colo	do	89,782	179
Cuyamaca, Cal	do	54,400	111
Hemet, Cal	Masonry	150,000	326
Canistear, N. J	Earth	341,000	1,060
Cache la Poudre, Colo	do	110,266	447
Round Hill, Pa	Masonry and earth	240,548	1,367
Glenwilde, N. Y	Earth	47,360	296
Escondido, Cal	Rock fill	100,059	658
Cedar Grove Reservoir, N. J	Earth	660,000	7,020
Tyler, Tex	Hydraulic fill	1,140	15
Faucherie, Cal	Rock fill	8,000	136
La Mesa, Cal	Hydraulic fill	17,000	298
Yuba, Cal	do	38,000	745
Peblar River, Va	Masonry	103,708	2,115
Wigwam, Conn	do	150,000	3,333
Saguache, Colo	Earth	30,000	732
Monument, Colo	do	33,121	849
Seligman, Ariz	Masonry	150,000	4,835
Walnut Canyon, Ariz	do	55,000	2,620
Apishapa, Colo	Earth	14,772	739
Williams, Ariz	Masonry	52,838	3,522
Boss Lake, Colo	Earth	14,654	1,628
Ash Fork, Ariz	Steel	45,776	9,155
Hardscrabble, Colo	Earth	9,997	1,999
Average		784,096	406

Cost of 12 reservoirs completed by United States Reclamation Service.

Name.	Cost.	Cost per million cubic feet.
Roosevelt	$3,809,323.60	$68
Clear Lake	136,120.44	7
East Park	276,617.77	139
Deer Flat	918,359.03	122
Lake Walcott	577,128.05	88
Hondo	154,844.67	89
Cold Springs	442,889.00	203
Bellefourche	1,253,183.64	141
Bumping Lake	440,077.15	298
Pathfinder	1,775,713.61	40
Shoshone	1,194,763.50	60
Snake River storage	464,982.88	28
Total	11,444,003.34	[1]61

[1] Average.

I am not here to deny that there has been unjustifiable waste on the reclamation projects, but I am confident that the waste has been no greater than on similar enterprises undertaken by the Government.

We have the best check on this work in the farmers themselves—better than any Appropriations Committee. They have protested against extravagant expenditures on every project, but nobody listened to them at first. The Appropriations Committee would have dismissed them as a lot of kickers. Now we have a Secretary of the Interior who has listened, and I know that he will never approve of anything but the strictest economy and the highest efficiency on work done by the Reclamation Service.

There is no virtue in this amendment. It surely will mean delay, because Congress will not always be prompt in making the appropriations. In this very Congress we have been compelled to pass continuing resolutions because four great appropriation bills were not passed before the end of the fiscal year. Is this such a model of congressional efficiency that we can point to it with pride?

Let us look for a moment at the practical operation of this proposed change. An estimate will be sent to the Appropriations Committee, consisting of 21 estimable gentlemen, only 1 or 2 of whom have the slightest knowledge of irrigation; and later a bill will be reported to this House, consisting of 435 Members, of which 400 have never seen an irrigated acre.

It then becomes the duty of every Member from the arid West to see that his district is properly cared for in the bill. Eastern Members complain that their patience is wearied by the discussion of public-land bills, but just wait until the annual reclamation bill comes along. Then we will give you some field days of oratory on a subject in which you are even less interested.

It takes no great prophet to foretell what will happen when the bill goes to the Senate. I warn you here and now that the adoption of this amendment is but the inception of another pork barrel, and that before this scheme has been in operation five years you will see raids made on the Treasury for no other reason than that those who speak for the West in another body will be determined to get their share.

We had better let well enough alone. Now we have a fund that is limited by the receipts from the sale of public lands. This fund is apportioned by the Secretary of the Interior according to the feasibility of the projects. The only mistake ever made was in the authorization of too many projects, but under the original reclamation act the Secretary was required to distribute the funds among the States. It was soon realized that this was a mistaken policy, and in 1910 section 9 of the reclamation act was repealed. Since that time no project without merit has been authorized.

Will anyone deny that it is not better to let a department be responsible for the work and say where the money should be spent rather than leave this vital matter to the decision of Members of the House and Senate whose political lives depend on their ability to bring home the bacon to their districts and States.

The adoption of this amendment will lead to nothing but logrolling. Political pull and not merit will determine the projects to be constructed. Just as we now complain because money is wasted on shallow creeks and harbors without commerce, so will scandal come because expensive irrigation works are built where they can not be profitably used. The cry in river and harbor improvement is for a "policy, not a project," but the river and harbor bill still enumerates projects by the score, and the only policy in it is that each State shall get its share.

It has been seriously proposed that all of our river and harbor work be turned over to a commission with authority to expend a lump sum each year to the best advantage. I, for one, believe this to be a proper solution of this vexed problem. Certainly such a plan would relieve Congress of a vast amount of worry. Such a commisison would stand between the Congressman and his desire to get something for his district whether the improvement was legitimate or not. Certainly such a plan could work no worse than the present system.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. HAYDEN. I can not yield at this time. Let me repeat that I am not here to defend any reckless expenditures heretofore made by the Reclamation Service. I admit that money has been wasted by this service on the various projects, as on all other Government work, but the question is whether, by bringing these appropriations to Congress, we will save any money. I can not see from what I have observed in my brief experience in this House that any economy will come from this change.

Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. TAYLOR of Colorado. Mr. Chairman, I yield four minutes to the gentleman from Washington [Mr. BRYAN].

Mr. BRYAN. Mr. Chairman, my judgment may not be as good as that of some of the other Members of this House. Of course, it is not; but I do believe that if you pass this amendment you will cripple the Reclamation Service and deprive it of its greatest efficiency by requiring the officers of that service to come here and take up with the various committees and with the Members of this House the proposition of expending this money that is in this revolving fund—take up with men who do not know anything about the Reclamation Service, take up with a large body of men who are not acquainted with any of the problems and who will not study them, the question of how this money shall be spent. When you require that, it seems to me that you are going to decrease the efficiency of this service. We now have long sessions of Congress, and it has been suggested that we are not able to study these details, that we have not the time. If we add this reclamation appropriation bill, which it will amount to, to the details of Congress, we will have that much more to do, which we have not the time to perform. We have out there in those districts these various projects, and they have been successful. I did not ask for a release from the payment of interest, because of the charge that unusual estimates had been made, and lay the blame for that on the Reclamation Service. I do not believe they are to blame. Every time a project has been established those who naturally depend upon the service came and asked for an additional dam or for an improvement, and the price of labor and supplies went up, and of course the expenses increased, but the Reclamation Service stands as a monument to the efficiency of the Interior Department in the West, and a great success has been made. In one case, for instance, they are operating a coal mine; they are mining their own coal, and they are connecting it with a Government railroad out there; and they are doing things that if you were to come here to get permission of Congress to have done you never would get done.

Congress could not come to the point of considering the proposition, and when you submit that to the Committee on Appropriations and have that committee parcel out the money in the midst of a lot of other appropriations it will be found that men will have to use their patronage and ability to get something for each particular enterprise—something for their constituency. I hope that will not be done. I hope this work that has been carried on so efficiently in the past will be continued as it is and that Congress will not adopt this amendment. How embarrassing it will be for Members to fight the entire bill and to filibuster on it because their home project is not included. By compromises you will let in unworthy projects. The bill will be amended on the floor and in the Senate and in conference. No business enterprise could succeed if administered in that way, and this is a business enterprise.

In passing our Federal reserve bank bill we especially called attention to the fact that important matters were left in the hands of the department and were not placed in the hands of Congress because we did not want Congress to logroll on the locating of the banks and all of those things that would be pulled from place to place on account of politics. We gave to the President the right to expend $35,000,000 in Alaska on the Government railroad and left with him the matter of locating it, because we felt that it could be done better in that way by delegating that authority, and the time has come when Congress has got to delegate some of this authority, when we have to depend on some of the departments, and this Reclamation Service, where the money is to be paid back and is not to be appropriated in the pork-barrel methods that have obtained always in the river and harbor appropriations, is exactly the department where we ought to extend rather than withdraw the delegation of authority and the right to proceed without asking Congress every step that is to be taken. Take water-power permits in the West, for instance. If we required the Secretary of the Interior to come here every time a water power was to be established out there we would never get through, and we would never be able to adjourn. I think we ought not to abandon the policy that we have been following. The passage of this amendment will strike a death blow to efficiency in the Reclamation Service. The whole proposition would have gone by the board long ago if we had been compelled to come to Congress at every step. We ought not to mix up these executive details with legislation.

Mr. MADDEN. Mr. Chairman, I yield five minutes to the gentleman from Washington [Mr. LA FOLLETTE].

Mr. LA FOLLETTE. Mr. Chairman, I have in my district three or four of these reclamation projects, and up to this time I have not attempted to take one minute of the time of the committee, for I have been so anxious to have this measure get through in order that the people out there could get the relief to which they are entitled. As to this particular amendment, I am not going to attempt to discuss it, for I have not given it that thought which I would consider necessary in order to be able to discuss it intelligently, but at first blush I would be in favor of the amendment.

As I said, I have no idea of discussing this amendment. I want to touch on one or two things that have been brought out here, and that is that the people in favor of this bill and some of those who are against it have probably not been as considerate in their remarks as they should have been. There has been a great deal of abuse of the Reclamation Service, and there has been a great deal of abuse of the settlers who have gone on these projects. I was considerably impressed by the remarks of the gentleman from Kentucky [Mr. SHERLEY] and the gentleman from Illinois [Mr. MADDEN], when they spoke of the lack of business methods that there were in connection with these projects, in not charging interest on the investment against these settlers, and the inconsistency of the settlers and their representatives in protesting against such a charge. I could not help but think, as I heard them, that if either one of those gentlemen had been placed in similar circumstances, had gone on the projects, and had a certain estimate given for cost, and that cost had exceeded from 50 to, in some cases, 300 per cent more than the estimate, they would think that there was a considerable lack of business methods somewhere else than on the part of the water users.

Mr. Chairman, these water users had no word in the expenditure of this money they have to return. They were forced, if they went in at all, to sign up their lands and trust all to the ability, integrity, and judgment of the employees of the Reclamation Service, and I maintain that under a condition of that character they were entitled to a fair and reasonably accurate estimate of cost, and where those estimates fell short of the actual cost from 50 to 300 per cent they should not be held to the same business code and subject to the same ethics they should have been had they been equal participants in the contract with representation when the advisability of expenditures under the contract were under consideration, with rights of protest, and so forth. Now, I am not throwing any rocks at the Reclamation Service, but I do want to say that the settlers should have every consideration in this case, because they were in most every case misled. This was an entirely new proposition in the United States. The engineers made their estimates no doubt honestly, but each project was of a different nature practically. They could not judge one by the other, and they had no precedents to go by; they thought that they made allowances for all contingencies, but, as I said before, they exceeded their estimates from 50 to 300 per cent, and I think the settlers on these projects who in good faith are attempting to carry out their part of the contract deserve not only consideration at the hands of Congress, but every assistance that can be given them consistently, because the burden on them has been made exceedingly heavy. As I said before, I do not desire to take up the time of the committee. I am more than anxious that this bill pass and become a law, and I believe that it will become a law. I yield back any time I may have remaining.

The CHAIRMAN. The gentleman yields back the balance of his time.

Mr. TAYLOR of Colorado. I yield four minutes to the gentleman from Wyoming.

Mr. MONDELL. Mr. Chairman, this is an exceedingly important amendment. It proposes to make of the reclamation fund a new congressional pork barrel. We are to have one more pork-barrel scramble per annum in Congress if this becomes a law. I think gentlemen are not happy when they refer to the appropriations under the river and harbor bill as a sample of the blessings of pork-barrel legislation. It is true that a majority of the projects appropriated for under the river and harbor bill are proper, and yet it is also true that not only are some of these projects of a character that smell to heaven but that honest men and well-intentioned men who have good projects are obliged to defend those miserable projects that are not justified, because they secure their projects by reason of the fact these other projects are in the bill. There is no justification whatever in making a grab bag and pork barrel out of these expenditures, unless it lie in the fact that the service has been unwise in taking up projects. I am as well satisfied as I ever was in my life that if we take the 27 primary projects of the Reclamation Service, you will find that the service has made fewer mistakes in regard to them than Congress [applause], subject to the pulling and hauling, would have made in the same class of work. Out of 27 projects there are 3 projects which are somewhat questionable. One in Kansas, a pumping project, on which we have spent a lot of money; and yet if Congress had been legislating on this subject, we would have not one but half a dozen of these projects along the twilight zone between aridity and humidity, because that is where Members of Congress come from that have demand upon them for irrigation. We have tried one project of that kind up to the present time, and it is not successful; but it is essential that that should be tried by placing a pumping project in that region for irrigation, and we still hope that there may be something saved out of the Garden City project. There is the Hondo project, which has not been entirely successful. We would have had a dozen Hondos if that matter had been up to Congress.

Take the Missouri River project. Does anybody believe Congress would not be wise to try at least one river-pumping project? Why, we would have had 20 instead of 1 if Congress had been passing upon it. Taking these projects as they stand, we have not been compelled to make an effort to secure them. The projects have been taken up in the judgment of the service without regard to what our views were. We prefer to have it that way rather than to have to come here every session of Congress and attempt to secure new projects which we believe are all right, but which may be unjustifiable, or to secure appropriations larger than necessary for projects already under way. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. MADDEN. I want to yield to my colleague [Mr. MCKENZIE] one minute. He desires to ask the gentleman from Wyoming a question.

Mr. MCKENZIE. I desire to ask the gentleman from Wyoming a question. He says this will be a "pork-barrel" proposition. I want to ask him whether the Reclamation Service will not have the right to initiate projects, and Congress will not have the right, even if this amendment is adopted?

Mr. MONDELL. Oh, yes; the Reclamation Service will recommend this as the Chief of Engineers now recommends river and harbor works, but that does not prevent all of the evils of river and harbor expenditure.

Mr. MCKENZIE. It protects it, though.

Mr. MONDELL. It protects it.

Mr. TAYLOR of Colorado. Mr. Chairman, I yield to the gentleman from Nebraska [Mr. KINKAID].

Mr. KINKAID of Nebraska. Mr. Chairman, I am opposed to the amendment. In my judgment, its adoption would prove obstructive to the operation of the law and very demoralizing to the development of projects. I hardly think any Member will gainsay that the effect in many cases would be to necessitate the suspension of work upon existing projects while awaiting the determination of the Congress as to whether any moneys would be permitted for the completion of projects at the commencement of a new fiscal year. What would be authorized to be expended by one Congress would not constitute a safe criterion for what should be expected of the succeeding Congress or a third or fourth Congress thereafter. We are well aware that the membership of the Congress, or rather of the House, changes more or less every two years, and sometimes the change is very great, while a policy once inaugurated by a bureau or department with so large a percentage of the officials and employees holding their positions under the civil-service law is apt to be continued when under the exclusive administration of such bureau or department, at any rate until experience has shown how improvements may be made.

Mr. Chairman, our legislative experience ought to sufficiently admonish us that such a system as the amendment provides would be conducive of a scramble and competition by the membership, each for his share, and more than his share if he could prevail upon the committee, of available moneys to be expended in his district. It is evident that interested localities would be kept in suspense while awaiting the determination, first of the Committee on Appropriations, and thereafter the vote of the Congress upon the committee recommendations.

Mr. Chairman, it is clear there is no legal necessity for action by the Congress as the amendment provides, because the reclamation act is self-operating, to the extent that no further legislation is needed to authorize the expenditure of reclamation funds. In this respect the law is similar to statutes of various States devoting moneys derivable from a certain source, say for the granting of licenses for the sale of intoxicating liquors, to the public-school fund. No legislation is required

to authorize the disposition of such school moneys, but the proper administrative officers proceed under the statutes to use and utilize the moneys as the statutes rovide. But I am not permitted time to here express my views at length, and I wish to reiterate that, in my judgment, the effect of the amendment, duly enacted, would prove obstructive and demoralizing to the operation of the law. I hope that it will be voted down.

Mr. JOHNSON of Washington. When the Reclamation Service was originally inaugurated it might have carried a scheme of congressional regulation as now proposed, but now is not the time to decide upon such a plan of handling the money which shall be paid in If the resolution proposed by Mr. UNDERWOOD prevails the estimates of the Chief of the Reclamation Service will go to the great Committee on Appropriations, a committee which has been and will be for years to come made up largely of Members from east of the Missouri River. The irrigation projects will be subjected to much pull-hauling, and the detailed appropriations will be made by a subcommittee which will get much of its information from a chief clerk. In no time the various projects will be treated in the up-and-down way that the national parks are now treated. In fact, the Secretary of the Interior is endeavoring to provide a special board to devise and estimate these park appropriations and prevent what now happens. Under the proposed amendment the West will find new and unimportant irrigation projects bobbing up and receiving support and appropriations.

Mr. TAYLOR of Colorado. Mr. Chairman, I yield to the gentleman from Nevada [Mr. ROBERTS].

Mr. ROBERTS of Nevada. Mr. Chairman, I believe in leaving these questions to the people who have charge of the irrigation projects and who understand them, and who have for a considerable length of time studied the irrigation of arid lands in the Western States. They know what they are about, notwithstanding the fact that they have made mistakes. There have been many mistakes in other lines of work for wh'ch we have made large appropriations without even offering apologies. I am opposed to this question of "You tickle me and I'll tickle you." It will at once become a question not of appropriating for meritorious projects, but for the particular district which has the largest representation and the district which has the best "logrollers" in Congress. That is what I think will be the result of the amendment which has just been offered. I believe that Mr. Lane, Mr. Newell, and the engineers who have the irrigation projects in charge, are doing a great work, a work that will last long after them, and I do not believe that this body will vote in favor of the amendment. I hope you will vote it down and continue as before, and by the light of experience carry into fruition the hopes of those who first saw the wonderful possibilities of irrigation and extend and broaden the work rather than to hamper and hinder it. We do not want this great proposition converted into a game of "chuck-a-luck."

Mr. TAYLOR of Colorado. Mr. Chairman, how much time have I left?

The CHAIRMAN. Seven minutes.

Mr. TAYLOR of Colorado. I yield to the gentleman from Oregon [Mr. SINNOTT].

Mr. SINNOTT. Mr. Chairman, I am particularly opposed to this amendment at this time, especially during the incumbency of Secretary Lane. I believe that it will interfere and trammel him in the equitable administration of the Reclamation Service which he has inaugurated.

Secretary Lane has made a study of reclamation projects such as no other Secretary has heretofore made. He spent several weeks last summer in interviewing the settlers on the various projects. After that consultation was held he spent a month or two in the West investigating each and every project in the various States, and I believe that he is possessed of knowledge of reclamation projects such as no other Secretary has heretofore possessed I believe that this amendment will only result in interfering with the wise policy of an equitable distribution of reclamation funds which he has inaugurated. That it will further jeopardize the rights of such States as Oregon, which have been most unjustly discriminated against in the allotment of reclamation funds.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. TAYLOR of Colorado. Mr. Chairman, I yield four minutes to the gentleman from California [Mr. RAKER].

Mr. RAKER. Mr. Chairman, for 12 years the reclamation projects have been in operation, have expended something over $80,000,000, have been an absolute success, and at no time and under no circumstances has there been the slightest suspicion against the administration or against the work. That is a record of which this country ought to be proud. The projects, generally speaking, have been in splendid shape. The director has heretofore handled the matter under the present administration, and I want to call my friend's attention to the fact that the Secretary of the Interior is the final arbiter; he has secured five men who deal with every subject that comes before the Reclamation Service, every expenditure, every contract, and the decision as to what shall be done goes to these five men, and they must act before anything can be done. No complaints are made. The service is a success.

Now, as to the cheapness of the work, I will say to the gentleman who is opposed to it that the material is cheaper than that used by any other organization in the United States to-day, railroad corporation or otherwise, for these projects. It has been one-third cheaper than any irrigation project under the Carey Act, or any project carried on by a private individual. Look at the record, and it is from 25 to 30 per cent cheaper all along the line. It is a monument to the integrity, to the ability, to the worth and economy of this department, because they have been in shape where they could make their contracts running from one to three years, and depending entirely upon the receipt of the money, and would not have to wait until the year expired and be compelled to say, "We will have to wait, inasmuch as we do not know what our appropriation will be next year." They are familiar with the subject.

And another thing I feel ought to be considered, generally speaking. The Committee on Appropriations is practically unfamiliar with this question. It may seem strange, and some Member might think it funny, but look at the last five years and he will find that the West on these projects has had to take absolutely the word of the Reclamation Service. Some one raised an objection here three years ago, and asked how the funds were being expended.

The President of the United States appointed a board of engineers. That board of engineers went over every reclamation project and investigated the estimates, investigated the work, the amount of money expended, the work to be done, and reported that this Government had not lost a dollar, that the work had been efficient, and yet the expenses had been less than in any other character or kind of work not only in the United States but in every foreign country where they have been dealing in reclamation work. Now, after 12 years of successful operation, why should we turn around and place this money into the fund that should go to the Committee on Appropriations, which, as the record of the House shows, has not had a man on it, except one in this Congress, from the public-land States? And where will they get the information? From the Department of the Interior, of course. The law is all right as it now stands. I am opposed to this amendment. There is no real reason for this change, as I now see it. Figures and statistics are sometimes used unfairly and are very misleading.

The man not fully informed concerning irrigation can use the statistics of it in a way which misleads and leads to delay or injury to the development of the country. The chief fallacies arise from lack of knowledge as to what an irrigation project really is.

An irrigation project is a living, going organism which, like a city, is in one sense never finished. Every year sees changes, some of which may be radical in their nature. Conceived and planned by men of vision, to be built in an undeveloped country of unproved capabilities, away from lines of transportation, without full knowledge of the markets which may be created or even of the kind of crops which will ultimately be developed, the men who originate these must necessarily have optimism tempered by experience.. Even with the spirit of prophecy they can not foresee all the developments which may take place. After the work is well under way there may be far-reaching changes, such as those due to the building of new lines of railroad, which necessarily modify the whole plan, bringing, as they do, new areas within reach of market or removing from cultivation other areas for use as railroad rights of way, for town building, or for other industrial purposes.

In one sense, at no time is the project ever finished. Each year sees new opportunities, new extensions, new restrictions, due to changing conditions of crops, of seepage of the land, of building of drains, or providing additional water supply. It is necessary, of course, in the case of works being built by the Government to arbitrarily assume some point when the project will be finished so far as the Government is concerned, but on many of the projects this point has not yet arrived, because the country has not yet developed to the degree where it can be safely said that the project is finished and that it is not wise to spend further money upon it.

A consideration of the above shows why it is that the comparisons of the estimated cost, made 10 or 12 years ago, with

present estimates are wholly unfair and unprofitable. Take, for example, the Salt River project in Arizona. Originally conceived as a small storage reservoir, this plan was later enlarged, and during construction the dam built higher. This was done at the request of the people in the valley who were confident that they could utilize the extra water.

Later extraordinary floods swept away the heads of their principal canals. They importuned the Secretary of the Interior to put in a new heading to save the country from ruin. This he did. When this was done the next request was that he complete and extend the distribution system to the lands.

Originally it was the idea that water would be provided by storage, and that the water users would go to the reservoir, 50 or 100 miles away, and take the water out in canals built by themselves, and in distributing systems to the lands. Later this was found not to be practical, and the Secretary of the Interior was requested to use the reclamation fund for this purpose. This was done.

At a later date it was found that, with the great strides in electrical development, hydroelectric power could be developed at the reservoir and brought to the valley for pumping and for industrial purposes. It was shown that here was an opportunity for notably reducing the acreage cost of the work as well as for extending the area to be irrigated. Accordingly the hydroelectric plant was built.

Now we have the figures of the original conception, namely, for a small dam, brought into comparison with those of the extension works approaching completion. Of course, there is no fair comparison possible other than to show that the original plans have been so materially modified that they are not recognizable in the present work.

The same thing may be said of each of the projects in succession. It is not necessary to go into details, but a man familiar with the conditions can see why it is that the original estimate based on certain assumptions has been greatly exceeded, namely, because the labor and materials have cost more than they did at the time the plans were prepared, but more largely because these plans have been materially modified and many additional structures built which were not originally contemplated.

In the same way the attempt to compare acreages of land anticipated and actually irrigated can not be fairly made unless knowledge is had regarding these elementary facts. In the first instance, large areas of land were found to be capable of irrigation, and it was stated that in a tract of, say, 100,000 acres there would be ample land for irrigation. Later, as the works were developed and built, some of these lands were found to be less valuable than others and were eliminated. Again, it was found that, with the building of railroads and towns and bringing in new lines of transportation, lands which were at first excluded could be taken in. It was found that some of the crops required less water than others, and that the water supply could be carried to other areas, or the reverse. Thus it happens that these early figures, made in anticipation of results, can not be compared fairly with those which have been made later.

The whole conclusion, however, is not that the early estimates were wrong, but that, with larger and more complete knowledge gained year by year, they have been greatly modified. Whatever the cost per acre may now be, the lands are fairly worth it, and are better capable of paying the larger charges per acre than were the original estimates which contemplated the owners of the land going to a distant reservoir or distant main-line canal and providing the distribution system.

I insert the following table to show the exact conditions of each and all the projects on December 31, 1913:

Balance sheet showing financial conditions on Dec. 31, 1913.

	Project accounts.				
	Debit.				
	Cost of project.[1]		Inventory of stock on hand.	Accounts receivable.	
	Building.	Operation and maintenance.		Miscellaneous.	Water-right charges.
PROJECTS.					
Arizona, Salt River	$11,323,387.05		$202,966.41	$91,790.49	
Arizona-California, Yuma	6,285,333.17	$173,724.72	298,350.65	2,795.41	$149,558.85
California, Orland	621,915.35		13,922.21		
Colorado:					
Grand Valley	758,601.52		63,082.20	19.00	
Uncompahgre	5,403,606.69		94,400.92		
Idaho:					
Boise	8,656,760.67		367,502.41	52,299.37	
Minidoka	4,532,481.31	975,750.36	109,319.11	149,024.24	173,965.21
Kansas, Garden City	378,638.92		6,080.58		
Montana:					
Huntley	961,806.86	340,021.59	25,144.05	14.38	112,065.58
Milk River	2,228,324.27		190,006.18	8,156.15	
Sun River	1,112,919.93	61,867.86	147,423.00	524.77	57,087.41
Montana-North Dakota, Lower Yellowstone	2,784,032.70	424,435.90	34,498.12	14.28	172,182.23
Nebraska-Wyoming, North Platte	6,097,206.90	282,559.75	128,510.27	9.80	527,258.07
Nevada, Truckee-Carson	5,219,781.95	294,569.46	147,557.45	1,113.99	130,512.16
New Mexico:					
Carlsbad	856,932.78	110,160.73	16,599.17	2.62	92,753.15
Hondo	366,195.12		394.00	687.43	
New Mexico-Texas:					
Rio Grande	1,889,030.59		325,239.61	169.02	
Rio Grande Dam appropriation	1,000,000.00				
North Dakota, North Dakota pumping	696,061.79	252,250.29	13,331.20		109,243.77
Oregon, Umatilla	1,433,710.27	169,873.10	36,702.51		113,655.72
Oregon-California, Klamath	2,383,542.11	146,890.21	38,900.74	416.50	79,517.75
South Dakota, Bellefourche	3,162,049.71	211,064.14	47,732.88		187,326.57
Utah, Strawberry Valley	2,302,474.12		83,553.91	1,496.32	
Washington:					
Okanogan	663,423.87	56,949.03	9,185.86	1,437.00	52,387.70
Yakima	6,479,970.52	577,350.46	220,863.98	91,919.22	427,817.42
Wyoming Shoshone	3,713,171.03	415,459.70	88,712.09	7,009.83	146,271.87
Preliminary investigations	80,488.73				
Secondary projects	694,571.46		6,636.54		
Town-site development	17,038.31				
General expenses			57,113.15	97.36	
Jackson Lake enlargement			64,600.00	[2]179,589.15	
Montana:					
Blackfeet Indian	7,071.78		45,500.00	43,400.00	
Flathead Indian	22,238.48		106,413.02	61,862.82	
Fort Peck Indian			31,320.39	34,407.01	
	82,132,767.96	4,492,927.30	3,021,562.61	309,077.86	2,531,603.46

[1] To get net cost, deduct "Revenues" and "O. and M. collections" on credit side.

[2] Advance receipts.

Balance sheet showing financial conditions on Dec. 31, 1913—Continued.

	Project accounts.							Treasurer United States.	
	Credit.							Debit.	Credit.
	Accounts payable.	Revenues.		Water-right repayment accounts.			Net investment of the United States.	Reclamation fund, appropriations, and repayments of water-right charges.	Investment and cash balance.
		Power and light.	Water rentals.	Uncollected.	Collected.				
					Building.	Operation and maintenance.			
REVENUES.									
Public lands, fiscal years 1901 to 1914								$80,505,627.30	
Town-site lots, fiscal years 1907 to 1914								249,173.38	
Special reclamation fund—reimbursable								1,000,000.00	
Appropriation, Rio Grande Dam								1,000,000.00	
PROJECTS.									
Arizona, Salt River	$76,544.50	$370,873.39	$1,098,144.69		$100,000.00		$9,972,581.37	100,000.00	
Arizona-California, Yuma	31,731.07		190,040.00	$149,558.85	142,006.16	$41,417.67	6,355,009.05	142,006.16	
California, Orland	11,702.47		33,887.60				590,247.49		
Colorado:									
Grand Valley	73,708.29						747,904.43		
Uncompahgre	45,235.97		180,814.57				5,271,957.07		
Idaho:									
Boise	166,451.37		185,863.45				8,724,247.63		
Minidoka	45,729.13	31,008.41	264,048.16	173,965.21	520,911.64	191,311.32	4,713,566.36	326,483.90	
Kansas, Garden City	3,702.25						381,017.25		
Montana:									
Huntley	21,437.62		48.00	112,065.58	233,173.46	62,896.12	1,009,431.68	233,173.46	
Milk River	104,642.82		5,746.97				2,316,096.81		
Sun River	20,423.67		349.25	57,087.41	86,916.11	27,033.53	1,158,013.00	86,916.11	
Montana-North Dakota, Lower Yellowstone	38,207.96		12.50	172,182.23	33,524.07	35,544.23	3,135,692.24	33,524.07	
Nebraska-Wyoming, North Platte	44,736.16		17,028.20	527,258.07	200,459.88	203,363.98	6,042,698.50	188,130.40	
Nevada, Truckee-Carson	76,223.68	5,313.71	4,853.46	130,512.16	229,774.49	107,616.52	5,239,240.99	218,179.63	
New Mexico:									
Carlsbad	6,589.93		12,060.03	62,753.15	106,555.95	95,293.55	763,195.84	106,555.95	
Hondo	88.35		6,352.68				360,835.52		
New Mexico-Texas:									
Rio Grande	51,036.08	1,375.18	82,551.24				2,039,476.72		
Rio Grande dam appropriation							1,000,000.00		
North Dakota, North Dakota pumping	493.91	16,755.70	196.75	109,243.77	6,019.63	12,562.90	925,614.39	6,019.63	
Oregon, Umatilla	8,261.50		3,026.40	113,655.72	181,641.94	52,241.37	1,395,114.67	181,641.94	
Oregon-California, Klamath	12,581.53		28,727.51	79,517.75	267,490.32	91,015.68	2,109,934.52	260,785.25	
South Dakota, Belle Fourche	84,291.93		726.64	187,326.57	104,075.01	80,446.56	3,145,306.59	104,075.01	
Utah, Strawberry Valley	35,461.61	17,184.60	250.00				2,334,628.14		
Washington:									
Okanogan	6,159.45		53,601.00	52,387.70	23,951.70	34,566.87	612,716.74	23,951.70	
Yakima	62,859.40	2,164.20	53,736.14	427,817.42	725,914.17	460,236.40	6,065,193.87	717,773.34	
Wyoming, Shoshone	25,760.47		200.87	146,271.87	200,618.63	72,525.42	3,925,247.23	200,618.63	
Preliminary investigations							80,488.73		
Secondary projects	1,595.02						699,612.98		
Town-site development							17,038.31		
General expenses	8,175.69						49,034.82		
Jackson Lake enlargement	16,400.00						[1]131,389.15		
Montana:									
Blackfeet Indian	7,500.00						88,471.78		
Flathead Indian	14,908.78						175,605.54		
Fort Peck Indian	2,014.68						63,712.72		
Total investment, all projects									$84,367,388.04
Balance with Treasurer United States, reclamation fund									337,824.34
Balance with special fiscal agents, reclamation fund									979,432.43
	1,174,745.29	444,675.19	2,222,266.11	2,531,603.46	[2]3,163,033.16	1,574,072.12	81,437,543.86	85,684,644.86	85,684,644.83

[1] Credit balance.

[2] $323,188.98 of total paid-in certificates.

The following statement is most important as showing area of irrigable lands under the projects, net investment to December 31, 1913, and approved expenditures for the calendar year 1914:

Statement showing by projects the area of irrigable lands, investment, Dec. 31, 1913, and proposed expenditures during calendar year 1914.

Projects.	Area of irrigable lands under project.			Net investment to Dec. 31, 1913.	Approved expenditures for calendar year 1914.[1]
	Total.	Public.	Private.		
	Acres.	*Acres.*	*Acres.*		
Salt River	218,600	20,074	198,526	$9,972,581.37	$909,846.17
Yuma	131,000	74,000	57,000	6,355,009.05	831,126.25
Orland	20,000	4	19,996	590,247.49	255,700.18
Grand Valley	53,000	30,070	22,930	747,904.43	1,873,184.18
Uncompahgre Valley	140,000	34,000	106,000	5,271,957.07	750,861.30
Boise	207,000	67,711	139,289	8,724,247.63	3,600,057.35
Minidoka	118,725	96,725	22,000	4,713,566.36	476,874.30
Garden City	10,667		10,667	381,017.25	1,000.00
Huntley	32,405	29,213	3,192	1,009,431.68	281,000.50
Milk River	219,557	72,000	147,557	2,316,096.81	2,236,713.76
Sun River	106,346	74,974	31,372	1,158,013.00	1,712,337.27
Lower Yellowstone	60,116	17,913	42,203	3,135,692.24	103,800.00
North Platte	129,270	83,358	45,912	6,042,698.50	733,875.70

Statement showing by projects the area of irrigable lands, investment, Dec. 31, 1913, and proposed expenditures during calendar year 1914—Continued.

Projects.	Area of irrigable lands under project			Net investment to Dec. 31, 1913.	Approved expenditures for calendar year 1914.[1]
	Total.	Public.	Private		
	Acres.	*Acres.*	*Acres.*		
Truckee-Carson	206,000	140,451	65,549	$5,239,240.99	$807,706.17
Carlsbad	20,277		20,277	763,195.84	149,100.21
Hondo	10,000	240	9,760	360,835.52	110,001.11
Rio Grande	155,000	13,039	141,961	3,039,476.72	3,683,192.17
North Dakota, pumping	12,239	982	10,357	925,614.39	70,000.00
Umatilla	55,500	22,336	33,164	1,395,114.67	572,000.00
Klamath	70,700	32,000	38,700	2,109,934.52	175,219.62
Belle Fourche	100,000	44,631	55,369	3,145,306.59	163,039.07
Strawberry Valley	60,000		60,000	2,334,628.14	686,641.41
Okanogan	10,071	1,234	8,837	612,716.74	149,000.37
Yakima, storage				1,270,772.47	608,657.61
Sunnyside	102,824	2,565	100,259	1,874,906.66	658,085.38
Tieton	34,537	2,175	32,362	2,852,514.62	113,997.79
Shoshone	104,122	155,469	8,653	3,925,247.26	593,399.20
Total	2,447,966	1,015,064	1,432,902	80,327,968.01	22,306,417.07

[1] Includes $5,054,000, unexpended amount of loan authorized June 25, 1910.

I submit the following statement and tables on the question of cost, and so forth, as printed in Engineering and Contracting of date of June 4, 1913:

COST OF IRRIGATION WORKS PER ACRE OF LAND SUPPLIED WITH WATER.

The cost of irrigation works per acre of land irrigated has been tabulated by the United States Reclamation Service for some 140 projects, of which 87 are Carey Act projects, 39 are private projects, and 14 are projects of the service. The data are given in Tables I, II, and III, and from the text accompanying them we take the following:

Under the present conditions of construction the cost per acre of water rights, or of water for irrigation in the arid region, is far higher than is usually appreciated. During earlier decades, before any considerable number of large irrigation canals had been built, it was a relatively simple and inexpensive matter for farmers to join together and build small canals that could be enlarged as the demand for water increased. All such easily available opportunities, however, have been utilized, and development has proceeded to a point where on most of the recent irrigation systems it has been necessary to provide storage, thus adding materially to the cost.

There has also been a notable increase in the cost of labor and of materials used in construction. This condition has been pointed out in various hearings before Congress, notably in the series before the Ways and Means Committee of the House of Representatives at the time of the granting of the $20,000,000 loan. It is there shown, notably in a statement submitted by Representative MONDELL, that one of the arguments for increase of the reclamation fund was in the fact that common labor had advanced from the time of the preparation of the plans for works in 1903 and 1904 from 20 to 50 per cent, and that the efficiency of such labor had fallen off in greater proportion. Costs were also affected by the increased price of materials and equipment.

The figures in Tables I, II, and III, obtained from printed reports of State engineers and public data, show that on over 90 modern irrigation systems being built by private or corporate capital the cost per acre averages nearly $53. This cost does not include the annual cost for operation and maintenance.

The cost to the settler is increased by the fact that payment is made on most of these projects in installments bearing interest at 6 per cent or even more. The total payments made for such a water right with simple interest at 6 per cent would be about $70.50 per acre on the basis of 10 equal annual installments of the principal as compared to $53 without interest.

For comparison with the cost of the foregoing private and Carey Act projects, there is given in table 3 a partial list of the projects being built under the terms of the reclamation act, showing the total acreages in them and the charges for water rights for completed portions of such projects, as far as these have been fixed by public announcement of the Secretary of the Interior. These figures are seen to average a little over $41 per acre.

It is interesting to note that the average cost of water from the Government works is about $12 per acre less than from the recent private works of comparable size. The real difference is still greater, because of the fact that deferred payments on Government works do not draw interest.

This difference is further accentuated by the greater probability of the water users under the Government projects receiving an adequate water supply, as this matter has been given more careful consideration and deficiency guarded against with greater care than in the private investments. In fact, it is known that in a few cases at least there is not water enough for the entire area of land included in these projects. Also, on the Government works provision in many cases has been made for drainage such as has not been provided by the private works, and the water is, as a rule, brought nearer to the land to be irrigated, still further reducing the cost to the water user.

Summing up all of these advantages—lower first cost, absence of interest, more dependable water supply, and more complete works—it would appear to be fair to state that water from the Government projects is obtained at one-half to two-thirds the cost of that from private works here listed, including those built under the terms of the Carey Act.

TABLE I.—*Cost of private irrigation projects.*

Name of project or company.	Acreage in project.	Cost or water-right charge per acre.
COLORADO.		
Amity Canal	80,000	[1] $100
Beaver Land & Irrigation Co	20,000	[1] 175
Catlin Canal	25,000	100
Colorado Cooperative Co	5,200	60
Denver Reservoir & Irrigation Co	200,000	45
East Palisade irrigation district	645	63
MONTANA.		
Fort Lyon Canal	70,000	[2] 100
Grand Valley Canal	40,000	[3] 60
Greeley Poudre Irrigation Co	125,000	45
Mesa County irrigation project	2,568	73
Orchard Mesa irrigation district	9,122	119
Otero irrigation district	20,000	40
Palisade irrigation district	6,000	41
Paradox Valley Irrigation Co	30,000	45
Pueblo-Rocky Ford Irrigation Co	100,000	[4] 150
Redlands Irrigation & Power Co	5,000	[5] 100
Routt County Development Co	39,000	45
South Palisade Heights irrigation district	700	127
Conrad Land & Water Co		40
Great Falls Land & Irrigation Co	36,000	50

[1] Estimated at from $75 to $150 per acre. Includes land.
[2] Estimated at $75 to $150 per acre.
[3] Per miner's inch.
[4] Includes land.
[5] Estimated at from $65 to $150 per acre.

TABLE I.—*Cost of private irrigation projects*—Continued.

Name of project or company.	Acreage in project.	Cost or water-right charge per acre.
NEBRASKA.		
Belmont Canal & Irrigation District	20,000	[1] $35
Tri-State Canal	60,000	42
NEW MEXICO.		
French Land & Irrigation Co	40,000	50
OREGON.		
Bonanza project	20,000	39
Eagle Valley	21,700	80
Turnish	6,000	[2] 60
Paradise	100,000	60
Willamette Valley	20,000	50
SOUTH DAKOTA.		
Red Water Irrigation Association	4,000	40
UTAH.		
Provo Reservoir	12,000	80
Utah Lake Pumping	8,000	[3] 40
WASHINGTON.		
Cascade Canal Co	10,000	50
Congdon Canal Co	4,200	121
Kennewick Canal	14,000	163
Lower Yakima Irrigation Co	12,500	129
Selah Moxie	7,000	86
Selah Valley Development Co	10,000	150
Union Gap Irrigation Co	5,000	135
Washington Irrigation Co	50,000	46

[1] For river rights only. Purchase of Pathfinder Reservoir water will increase this to $35.
[2] Estimated at from $50 to $70 per acre.
[3] Estimated at from $40 to $50 per acre.

TABLE II.—*Cost of Carey Act projects.*

	Acreage.	Cost.
Colorado Land & Water Supply Co	16,278	$45
Two Butte Irrigation & Reservoir Co	22,000	35
Valley Investment Co	24,000	60
COLORADO.		
Great Northern Irrigation & Power Co	2,121	55
Colorado Realty & Security Co	45,875	45
Toltec Canal Co	14,853	40
IDAHO.		
American Falls Canal & Power Co	57,242	40
Big Lost River Irrigation Co	78,242	40
Birch Creek Irrigation Co	20,000	50
Blackfoot North Side Irrigation Co	22,280	.....
Black Canyon Irrigation district	98,492	72
Blaine County Irrigation Co	14,720	40
Boise City Carey Act project	151,000	.....
Bruenau Irrigation Co	40,000	60
Emmett Irrigation district	5,800	50
Grandview Extension Irrigation Co	1,000	65
Grassmere Irrigation Co	47,500	65
Hansen, C. V., Mackay project	3,456	40
Hegsted, Victor, project	3,140	40
High Line Pumping Co. (Ltd.)	3,860	45
Houston Ditch Co. (Ltd.)	1,884	35
Idagon Irrigation Co. (Ltd.)	9,000	60
Idaho Irrigation Co. (Ltd.)	130,000	50
Keating Carey Land Co	15,597	30
Kings Hill Extension Irrigation Co	9,655	65
Kings Hill Irrigation & Power Co	13,359	65
Lemhi Irrigation Co	3,500	50
Little Lost River Land & Irrigation Co	20,000	30
Marysville Canal & Improvement Co. (Ltd.)	6,134	20
Owsley Carey Land & Irrigation Co	8,600	35
Owyhee Land & Irrigation Co	29,535	55
Owyhee Irrigation Co. (Ltd.)	3,236	45
Pahsimeral project	6,000	30
Portneuf-Marsh Valley Irrigation Co	11,914	35
Pratt Irrigation Co. (Ltd.)	4,674	40
Snake River Irrigation Co. (Ltd.)	6,500	50
Thousands Springs Land & Irrigation Co	6,300	30
Twin Falls Land & Water Co	244,000	25
Twin Falls-North Side Land & Water Co	207,144	45
Twin Falls-Oakley Land & Water Co	45,000	65
Twin Falls-Raft River Irrigation Co	99,668	50
Twin Falls-Salmon River Land & Water Co	127,707	40
West End-Twin Falls Irrigation Co	46,000	50
MONTANA.		
Billings Land & Irrigation Co	27,000	[1] 40
Big Timber project	17,194	60
Valier project	115,100	40

[1] Estimated at from $50 to $60 per acre.

TABLE II.—*Cost of Carey Act projects*—Continued.

	Acreage.	Cost.
OREGON.		
Central Oregon Irrigation Co	139,204	$40
Do	74,198	60
Columbia Southern Co	27,000	50
Deschutes Land Co	31,082	36
Deschutes Reclamation & Irrigation Co	1,280	.....
Desert Land Board	27,000	
Portland Irrigation Co	12,000	46
Powder Land & Irrigation Co	65,000	100
UTAH.		
Mosida Pumping Plant	8,000	[1]150
WYOMING.		
Big Horn County Irrigation Co	20,411	50
Boulder Canal	6,120	30
Burch Canal	35,887	50
Carbon County Land & Irrigation Co	7,793	30
Cody & Salsbury Canal	77,199	.....
Cody Canal	26,429	50
East Fork Irrigation Co	4,901	30
Eden Land & Irrigation Co	95,658	30
Elk Canal	2,724	30
Fisher Ditch	320	10
Green River Land & Irrigation Co	75,257	35
Hammitt Canal	6,295	60
Hanover Canal	10,682	50
Hawk Springs project	12,238	50
Hubbard Canal	38,604	40
James Lake Irrigation Co	14,554	35
La Prele Ditch & Reservoir Co	18,558	50
Lovell Irrigation Co	11,320	25
McDonald Canal	15,159	50
Medicine Wheel Canal Co	22,385	30
North Laramie Canal Co	4,133	50
North Platte Canal & Colonization Co	14,424	30
Big Horn Basin Development Co	204,650	50
Paint Rock Canal	53,162	50
Platte Valley Canal	18,171	30
Rock Creek Irrigation Co	11,696	45
Sahara Ditch Co	7,920	50
Sidon Canal and extensions	20,559	30
Tinsleep-Bonanza Canal	16,486	40
Uinta County Irrigation Co	26,000	35
Wheatland Industrial Co	33,115	45
Wyoming Land & Irrigation Co	4,526	50

[1] Estimated at from $50 to $60 per acre.

TABLE III.—*Reclamation Service projects.*

State.	Project.	Approximate acreage.	Cost per acre.	
			From—	To—
Arizona-California	Yuma	131,000	$55	$66
Idaho	Minidoka	118,700	22	30
Montana	Sun River	216,346	30	36
Montana-North Dakota	Lower Yellowstone	60,116	45	.....
Nebraska	North Platte	129,270	45	55
Nevada	Truckee-Carson	206,000	22	30
New Mexico	Carlsbad	20,277	32	45
Oregon	Umatilla	25,000	60	70
Do	Klamath	72,000	30	.....
South Dakota	Belle Fourche	100,000	30	35
Washington	Okanogan	9,900	65	.....
Do	Sunnyside	102,824	52	.....
Do	Tieton	34,613	93	.....
Wyoming	Shoshone	164,122	45	50

The CHAIRMAN. The time of the gentleman has expired.

Mr. MADDEN. Mr. Chairman, I yield one minute to the gentleman from Washington [Mr. FALCONER].

Mr. FALCONER. Mr. Chairman, I hesitate somewhat in opposing the amendment offered by the gentleman from Alabama [Mr. UNDERWOOD], because that gentleman has been friendly to this measure and, I think, understands thoroughly the problems confronting the men in the West as well as in the new South who are trying to develop the country. But I want to say, Mr. Chairman, if we pass this amendment, which limits the action of the reclamation board and handicaps effective service, I believe we can tack at the top of this reclamation bill the words "red tape," which is altogether too much in evidence in governmental matters. Red tape strikes terror and disappointment and discouragement to the heart of every man who contemplates qualifying under these reclamation projects.

Mr. Chairman, the average Congressman knows little or nothing about the details of reclamation work, nor does he have the time to become expert. Congressional knowledge is insufficient and congressional interference will result in uncertainty. Expert control by Secretary Lane and Director Newell spells success.

Four hundred and thirty-five men have been here for 500 days trying to enact legislation, and if there is any one feature of it that has been exploited over the country as working to the disadvantage of the country it is that recent legislation has been done in an unfinished and unscientific way.

Gentlemen speak of river and harbor improvements; the details of this line of work differ greatly from those of river and harbor improvements. The gentleman from Alabama [Mr. UNDERWOOD] or any other man knows that river and harbor improvements have to do with the rivers and harbors of the United States. On the other hand, these projects have to do with the private property of a thousand different men under each project, and little disappointing features come up from time to time and from day to day that change the conditions and tend to embarrass those that are at the head of the Reclamation Service.

Now, sir, I believe that the Secretary of the Interior and the officials of the Reclamation Service thoroughly understand the situation. I think they are better qualified to carry on this work than are Members of Congress. They are specialists in their particular line. They have expert workmen, and I would sooner at any time take the judgment of an expert on this question than run the risk of partial consideration and hurried attention by 435 Congressmen.

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. FALCONER. Mr. Chairman, will the gentleman from Illinois give me another minute?

Mr. MADDEN. I have not the time.

Mr. FALCONER. I ask unanimous consent, Mr. Chairman, to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Washington [Mr. FALCONER] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. MADDEN. Mr. Chairman, I yield two minutes to my colleague, Mr. FOSTER.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] is recognized for two minutes.

Mr. FOSTER. Mr. Chairman, I am very much in favor of the amendment offered by the gentleman from Alabama [Mr. UNDERWOOD]. It seems to me that one of the best arguments that could be made for an amendment of this kind is the fact that we have just listened to the appeals made by gentlemen advocating this bill before the committee, when it is admitted that even under the system that they now have, which they now say is so good, they have expended much more money than has been necessary, until finally the homesteaders on the projects have gotten in such a condition that they are unable to pay interest, and their representatives are here asking an extension of time for 10 years on these reclamation projects.

Now, I do not believe that Congress is so inefficient; I do not believe that Members would consider lightly these reclamation projects. They are important projects, and I do not think they would consider them in such a way as to do harm to the Reclamation Service. I believe that the Congress of the United States wants to encourage the making of more homes in the West, and one way to do that is through the successful execution of these irrigation projects. Anyone who has seen that country, where but a few years ago there was nothing but sagebrush and sand, and to-day see the beautiful farms that have been developed there, can not help but believe that a great work is being done in that section.

But the representatives of those people come now and ask for 10 years' additional time in which the homesteaders may pay for the expense of the projects. They ask that the Government shall give this money 10 years longer without interest, and the plea in justification of it is made that it has cost so much more per acre than was estimated for originally, and that these people are now unable to pay for it. They come forward and say that because you want to change the system and let Congress appropriate and require that estimates be submitted each year you are doing an injustice to these homesteaders. It seems to me there is an inconsistency somewhere in the argument of our friends from the West. No man is more interested in the success of the Reclamation Service than I am, but in my judgment Congress should know each year just what is being done.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. TAYLOR of Colorado. Mr. Chairman, how much time is left on each side?

The CHAIRMAN. The gentleman from Colorado has two minutes, and the gentleman from Illinois [Mr. MADDEN] has eight minutes.

Mr. MADDEN. Mr. Chairman, I am going to use all my time.

Mr. TAYLOR of Colorado. Mr. Chairman, I have yielded to various Members all the time I have except two minutes. I only desire at this time to say that I look upon this amendment as ill advised and unnecessary, and if it is adopted by Congress, I believe that it will be looked upon hereafter as a mistake.

The trouble is going to be that if this amendment is adopted it will simply force all the Western States into a pork-barrel scramble for this money, and from this good hour on the water users and the Representatives from those States where the irrigation projects are being constructed will organize a systematic plan of operations to get as much money as possible for each one of these projects; and a State like Texas—a great big State, which furnishes not a dollar to this fund and which has a large and strong delegation in Congress—will have a great advantage over the other Western States. The State of California, for example, will have an advantage over each of the other Western States by reason of its large delegation in Congress.

Mr. MANN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Colorado yield to the gentleman from Illinois?

Mr. TAYLOR of Colorado. I can not yield a part of only two minutes.

Mr. MADDEN. I will yield to the gentleman a couple of minutes.

Mr. TAYLOR of Colorado. Very well. What is the gentleman's question?

Mr. MANN. The gentleman says that this amendment will lead to a pork barrel.

Mr. TAYLOR of Colorado. Yes; so far as we of the arid States are concerned. It will lead to a pork-barrel scramble among us, each logrolling to get all he can.

Mr. MANN. Is not this the fact: That the amount of money in the reclamation fund is so much, and no more can be appropriated? How, then, does that make a pork barrel?

Mr. TAYLOR of Colorado. It will compel an unseemly scramble among us to determine to what States that money will go and which will get the most.

Mr. MANN. A pork barrel is where they all combine, not where they determine among themselves how a fixed sum of money shall be applied.

Mr. TAYLOR of Colorado. There will be a free-for-all scramble, a perpetual strife among us, to get that money.

Mr. MANN. That will probably lead to a careful examination of the merits of each project.

Mr. TAYLOR of Colorado. I think it will lead to logrolling and scheming, and the projects in those States which have the larger delegations will, I fear, get the larger amounts. I fear that merit may not always control the division of that fund.

Mr. MANN It will not lead to a scramble when there is no more money

The CHAIRMAN. The time of the gentleman from Colorado has expired.

Mr. MADDEN. Mr. Chairman, did the Chair count the minute I yielded to the gentleman from Colorado?

The CHAIRMAN. The Chair did not.

Mr. TAYLOR of Colorado. I want to say in conclusion, Mr. Chairman, that the Committee on Appropriations will have its time taken up with listening to delegations both of Congressmen and people from all of these projects and every Western State, whereas this matter ought to be and can be in a more systematic way determined by the reclamation engineers and officials, as it has been heretofore. I admit that in former years considerable money has been wasted, but at the present time the Reclamation Service is in a splendid condition, and I feel it is more or less of a reflection on the service for Congress at this time to take this action in this hasty manner. If the reclamation law needs amending in this respect it should be in a separate bill. I feel that this amendment ought not to go into this bill. I hope it will be voted down.

The CHAIRMAN. The gentleman from Illinois [Mr. MADDEN] is entitled to seven minutes.

Mr. MADDEN. Mr. Chairman, we have already expended $375,000,000 on the Panama Canal. Every dollar of that sum had to be estimated for every year. If we had not had supervision by the Committee on Appropriations there is not any doubt in the world but that we would have spent twice as much as we have expended on the construction of the Panama Canal.

Nobody can say that the Committee on Appropriations of this House is a pork-barrel committee. There is no committee in this House or in any other House that is so diligent in the discharge of its duty as is the Committee on Appropriations of the House. It is always anxious to conserve the expenditures of the public money. There is no man anywhere in the executive branch of this Government too big to be called before that committee. Every man, either in business or in public life, who knows that he has somebody watching him and to whom he is obliged to report, will perform his duty with more economy and better dispatch and with more system than he will if he is allowed to go untrammeled and do as he pleases. And so it is no reflection on the Department of the Interior for its officials to be called before the Committee on Appropriations of the House.

As to the pork-barrel scramble referred to by my friend from Wyoming [Mr. MONDELL] and by other gentlemen on the floor in opposition to this amendment, I want to say that there are only about 30 men representing the States in which the land is being reclaimed and upon which this money is being expended.

The other 405 Members of the House are only indirectly interested in the reclamation. They are interested in seeing that the money is properly expended and where it ought to be expended.

Mr. RAKER. Will the gentleman yield?

Mr. MADDEN. I decline to yield. And we, if we are here, or whoever may be here, will act as a jury to see that no reclamation projects are entered upon except those which are meritorious; and if you gentlemen in the arid regions want to enter upon a logrolling proposition in order to get a pork-barrel scheme into your reclamation project, all right, enter upon it, but we will see that you do not do it successfully. We are here as an American jury to prevent your packing the pork barrel with pork. There never was a more meritorious amendment than the one now pending.

It simply provides that the money received from the sale of public lands shall be expended for the reclamation of other public lands after estimates have been made as to what lands are necessary to be reclaimed and the amount of money necessary to be expended upon them; and to say that the Congress of the United States, whose Members come from every section of the Union, are, 405 of them, to be subject to the control of these 30 men, and that no Member is to have anything to say about the reclamation of the arid lands, except the 30 men coming from the arid region, is unfair. It is unjust and unfair for them to say or even to suppose the rest of us are going to be unfair and discriminating, except in so far as discriminating means that we are going to see that the public funds are expended economically and wisely. I will venture to say that if we had had jurisdiction over the expenditure of this money from the beginning of these reclamation projects, several million dollars—I do not know how much, but more than $1,000,000—would not have been expended on projects where it has been discovered that there is no water and never will be any. The Committee on Appropriations will be able to ascertain by communications from the Secretary of the Interior or the Chief of the Bureau of Reclamation what the conditions are. This committee has jurisdiction over the expenditure in every department of the Government, and I have yet to hear anyone say that it has ever acted unwisely or extravagantly, or that it has entered into any combination for the improper expenditure of public money; but every statement made about that committee has been to the effect, no matter what the politics of the committee may have been, that if anything it was rather more parsimonious than it ought to be; and I would infinitely prefer to have the charge made against me that I was more parsimonious in the expenditure of public money than that I was extravagantly reckless in its expenditure. And I think that is where we have to draw the line now. We have already reached the point where we must conserve the expenditure of the public moneys received from the sale of the public lands and to see that no dollar of that money is expended by any single individual; because, as I said in the beginning of my remarks, no matter how patriotic or able a public official or private individual may be, if he knows that he is compelled to report to somebody else what he is doing, he will be thinking the whole year round just how he can economize, and how he can expend the money to get the best results, so that when he appears before the body that has the right to interrogate him, he will be able to make a report that will stand the light of the sun, instead of being subject to criticism for undue extravagance in the expenditure of public money. We are about to expend $200,000,000 for the reclamation of public lands in the irrigation region; and to say that the people of the United States ought not to know in advance how this money is to be expended is to say that they are not to be trusted.

I hope the amendment will prevail. [Applause.]

The CHAIRMAN. The time of the gentleman has expired. All time has expired. The question is on the amendment offered by the gentleman from Alabama [Mr. UNDERWOOD].

Mr. SMITH of Idaho. Mr. Chairman, let the amendment be reported again.

The Clerk again reported the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama [Mr. UNDERWOOD], just reported.

The question was taken; and, on a division (demanded by Mr. BRYAN), there were 40 ayes and 21 noes.

The CHAIRMAN. On this vote the ayes are 40 and the noes are 21, and the amendment is agreed to.

Mr. BRYAN. Mr. Chairman, I make the point of order that there is no quorum present.

Mr. UNDERWOOD. I make the point of order, Mr. Chairman, that that comes too late to affect the vote.

The CHAIRMAN. The Chair thinks that the point of order made by the gentleman from Washington is too late.

Mr. MANN. Oh, Mr. Chairman, the gentleman from Washington made the point of no quorum as soon as the Chair announced the result; and while it is true there may be a form to be used, that is the practice that has been followed.

Mr. UNDERWOOD. Mr. Chairman, rather than have any question about it, I withdraw the point of order.

The CHAIRMAN. The gentleman from Washington makes the point of order that no quorum is present. The Chair will count.

Mr. BRYAN. Mr. Chairman, all the friends of reclamation around me insist that I shall withdraw my point of no quorum, although I think it is a mistake——

Mr. MANN. I ask for the regular order.

Mr. BRYAN. I am going to withdraw the point of order.

The CHAIRMAN. The gentleman from Washington withdraws his point of no quorum.

Mr. SINNOTT. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by adding the following section:

"SEC. 17. That it is hereby declared to be the duty of the Secretary of the Interior in carrying out the provisions of the reclamation law, so far as the same may be practicable, and subject to the existence of feasible irrigation projects, to expend the major portion of the funds arising from the sale of public lands within each State contributing thereto for the benefit of arid and semiarid lands within the limits of such State: *Provided*, That the Secretary may temporarily use such portion of said funds for the benefit of arid or semiarid lands in any particular State contributing thereto as he may deem advisable, but when so used the excess shall be restored to the fund as soon as practicable, to the end that ultimately, and in any event within each 20-year period after the passage of this act, the expenditures for the benefit of the said States shall be equalized according to the proportions and subject to the conditions as to practicability and feasibility aforesaid: *Provided*, That this section shall not affect any existing established project."

Mr. SINNOTT. Mr. Chairman, I offered this same amendment in the committee when this bill was being considered in the committee some months ago, after its passage through the Senate. I then reserved the right to offer it on the floor of the House. In explanation of this amendment I desire to state that its object is to restore the old repealed section 9 of the original reclamation act as far as it can be done consistently with the proposed 20 years' extension period for payments by settlers. Section 9 of the reclamation act passed in 1902 contemplated that within each 10-year period after its passage there should be an equitable and equal expenditure of the reclamation funds in the States contributing to this fund. Section 9 was repealed June 25, 1910. This repeal and its effect on my State has been a matter of the most bitter debate and controversy in the State of Oregon, and ever since its passage has been a vital issue in every senatorial and congressional election there. The people of Oregon feel keenly the discrimination practiced against them since section 9 of the reclamation act was repealed. The report of the Reclamation Service for the fiscal year ending June 30, 1913, shows Oregon second in the list of contributors to the reclamation fund. It contributed the sum of $10,317,387.18. Up to that time Oregon stood tenth in the list of allottees of reclamation funds, having been allotted but $4,334,218.77; of this amount $1,277,132.61 were repaid, leaving a net investment of $3,057,086.16.

Secretary Lane, at the urgent solicitation of the Oregon delegation in both Houses, has recognized this unjust discrimination made against the State of Oregon and in a great measure has endeavored to mete out justice to us. Since this last report of the Reclamation Service, of April 30, 1913, there have been allotted to various States up to April 30, 1914, by Secretary Lane, $10,307,396.73. Out of this sum Oregon has been allotted $1,294,724.08.

Mr. MANN. Will the gentleman yield?

Mr. SINNOTT. Yes.

Mr. MANN. What State has turned in the most money?

Mr. SINNOTT. North Dakota has turned in the most money. The amendment which I have offered will give equal justice to North Dakota, Oklahoma, and the other States that have been discriminated against.

The Twelfth Annual Report of the Reclamation Service, for the fiscal year ending June 30, 1913, on page 296, shows the following contributions to the reclamation fund by the various States:

1. North Dakota	$11,821,801.07
2. Oregon	10,317,387.80
3. Montana	8,335,000.00
4. South Dakota	6,753,352.65
5. Colorado	6,483,000.00
6. Washington	6,386,566.63
7. Oklahoma	5,765,000.00
8. California	5,184,693.44
9. Idaho	4,940,585.11
10. Wyoming	4,287,140.75
11. New Mexico	3,856,000.00
12. Utah	1,728,093.61
13. Nebraska	1,635,149.31
14. Arizona	1,111,412.37
15. Kansas	951,993.44
16. Nevada	519,633.85

The same report, on page 296, shows the allotment of said fund by States to be as follows:

Order of allotment.	Amount.	Order of contribution.
1. Arizona	$16,003,004.15	14
2. Idaho	15,783,336.92	9
3. Montana	8,825,663.40	3
4. Washington	8,329,607.38	6
5. Colorado	8,130,357.00	5
6. Wyoming	7,377,417.38	10
7. Nevada	6,218,503.63	16
8. Nebraska	6,012,377.01	13
9. New Mexico	4,493,343.12	11
10. Oregon	4,334,218.77	2
11. Utah	3,453,877.02	12
12. South Dakota	3,388,000.00	4
13. California	2,595,962.24	8
14. North Dakota	2,273,351.01	1
15. Texas	2,103,200.00	.....
16. Kansas	419,000.00	15
17. Oklahoma	71,933.26	7

It will thus be seen from the report ending June 30, 1913, that while Oregon contributed $10,317,387.80 to the reclamation fund, up to that date Oregon was only allotted $4,334,218.77.

I have been furnished by the Reclamation Service with a statement showing the changes in the allotments since the report of June 30, 1913, which shows:

Allotments from reclamation fund and bond loan, by States, to Apr. 30, 1914.

State.	Allotments to June 30, 1913.	Changes since June 30, 1913.		Total allotments to Apr. 30, 1914.
		Increases.	Decreases.	
Arizona	$16,003,004.15	$1,601,011.11	.....	$17,608,015.26
California	7,595,962.24	449,036.71	.....	8,045,038.95
Colorado	8,130,357.00	945,331.75	.....	9,075,688.75
Idaho	15,785,396.92	2,173,488.00	.....	17,958,884.92
Kansas	419,000.00	.....	.....	419,000.00
Montana	8,825,663.40	2,470,125.00	.....	11,295,788.40
Nebraska	6,012,377.01	.....	$410,000.00	5,602,377.01
Nevada	6,218,503.63	71,973.00	.....	6,290,476.63
New Mexico [1]	4,493,343.12	201,065.91	.....	4,694,409.03
North Dakota	2,273,351.01	4,703.13	.....	2,278,054.14
Oklahoma	71,933.26	100,284.00	.....	172,217.26
Oregon	4,334,218.77	1,294,724.08	.....	5,628,942.85
South Dakota	3,388,000.00	178,534.04	.....	3,566,534.04
Texas [1]	2,103,200.00	.....	19,742.00	2,083,458.00
Utah	3,459,877.02	.....	.....	3,459,877.02
Washington	8,329,607.98	792,785.11	.....	9,122,393.09
Wyoming	7,377,417.38	482.00	.....	7,377,899.38
Preliminary investigations	81,000.00	.....	80,488.73	511.27
Secondary projects	129,787.11	19,782.89	.....	149,570.00
Town-site development	23,000.00	.....	23,000.00	.....
General accounts	392,790.00	.....	.....	392,790.00
Total	100,445,790.00	10,307,396.73	533,230.73	110,219,956.00

[1] Does not include $1,000,000 appropriated for Rio Grande Dam (34 Stat., 1357), $600,000 which has been allotted to New Mexico and $400,000 to Texas.

The April, 1914, number of the Reclamation Record, a magazine published under the auspices of the Reclamation Service, gives in round numbers the receipts or contributions and allot-

ments by States to the reclamation fund, also the percentages of contributions allotted to each State. It shows:

Expenditures and receipts by States.

State.	Total allotment.	Total receipts.	Per cent.
Arizona	$17,525,000	$1,300,000	1,348
California	3,026,000	5,777,000	52
Colorado	9,076,000	7,090,000	128
Idaho	17,155,000	5,488,000	327
Kansas	419,000	988,000	42
Montana	11,294,000	10,025,000	113
Nebraska	5,593,000	1,815,000	308
Nevada	6,291,000	590,000	1,067
New Mexico	4,695,000	4,261,000	110
North Dakota	2,278,000	12,071,000	19
Oklahoma	173,000	5,828,000	3
Oregon	5,629,000	10,656,000	53
South Dakota	3,564,000	7,192,000	50
Texas	2,084,000	.....	.....
Utah	3,460,000	2,083,000	166
Washington	9,123,000	6,665,000	137
Wyoming	7,377,000	4,643,000	159

I have rearranged these last figures to show the order in which each State has received and contributed reclamation funds.

Order of allotment.	Amount.	Order of contribution.
1. Idaho	$17,955,000	9
2. Arizona	17,525,000	14
3. Montana	11,294,000	3
4. Washington	9,123,000	6
5. Colorado	9,076,000	5
6. Wyoming	7,377,000	10
7. Nevada	6,291,000	16
8. Oregon	5,629,000	2
9. Nebraska	5,593,000	13
10. New Mexico	4,695,000	11
11. South Dakota	3,564,000	4
12. Utah	3,460,000	12
13. California	3,026,000	8
14. North Dakota	2,278,000	1
15. Texas	2,084,000	0
16. Kansas	419,000	15
17. Oklahoma	173,000	7

Order of contribution.	Amount.	Order of allotment.
1. North Dakota	$12,071,000	14
2. Oregon	10,656,000	8
3. Montana	10,025,000	3
4. South Dakota	7,192,000	11
5. Colorado	7,090,000	5
6. Washington	6,665,000	4
7. Oklahoma	5,828,000	17
8. California	5,777,000	13
9. Idaho	5,488,000	1
10. Wyoming	4,643,000	6
11. New Mexico	4,261,000	10
12. Utah	2,083,000	12
13. Nebraska	1,815,000	9
14. Arizona	1,300,000	2
15. Kansas	988,000	16
16. Nevada	590,000	7
17. Texas	.....	15

Mr. Chairman, in the State of Oregon there are some 17,000,000 acres of public lands, and 13,000,000 acres additional in the forest reserves. Upon the forest reserves there stand nearly 140,000,000,000 feet of timber, worth from $2.50 to $3 a thousand feet. We expect that the proceeds of these great resources within the boundaries of our State will ultimately reach and swell the reclamation fund. We feel, as was originally contemplated by the reclamation act, that we should have the right to demand, as a matter of law, our share of our magnificent resources pouring into the reclamation fund; that we should not be dependent solely on the bounty or benevolence of any Secretary of the Interior for our share of the reclamation funds. My amendment will place all States on an equal footing without favoritism. Oregon has streams possessing over 3,000,000 water horsepower. In such a State it is idle to contend that there are no feasible irrigation projects. There are innumerable projects capable of development in my district, in Crook County, in the Deschutes Basin, on the John Day River, in Malheur County, in Baker County, and other counties of eastern Oregon.

To develop these projects we feel that we are entitled to know that we will receive our share of the reclamation funds by virtue of statutory law and not at the pleasure of some official occupying the office of Secretary of Interior 10 or 15 years hence.

The people of my State are not envious of the liberal, free-handed manner in which these funds have been allotted to some of the other States, but we are certainly jealous of what we consider to be our rights, and feel that our rights will be assured to us only by the passage of this amendment.

Mr. Chairman, I ask for three minutes more.

The CHAIRMAN. The gentleman from Oregon asks that his time be extended three minutes. Is there objection?

Mr. TAYLOR of Colorado. Mr. Chairman, I would like to agree on a limit of debate. Can not we agree on 10 minutes?

Mr. MORGAN of Oklahoma. I want five minutes.

Mr. TAYLOR of Colorado. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 10 minutes.

The CHAIRMAN. The gentleman from Colorado asks unanimous consent that debate on this amendment close in 10 minutes. Is there objection?

There was no objection.

Mr. MORGAN of Oklahoma. Mr. Chairman, I wish to express my approval of the amendment that has been offered by the gentleman from Oregon [Mr. SINNOTT]. I can see no harm that will come from restoring section 9 of the original reclamation act to the present law. As a matter of good faith, the section never should have been repealed. Now, since we are remodeling the reclamation act, and extending the time for 20 years, instead of 10 years, in which the settlers shall pay the cost of construction of a project, this would be the proper time for this House to restore section 9 or the principle upon which it is based.

In the Sixty-second Congress when this proposition came up to repeal section 9, the bill was pending before the Committee on Ways and Means. I appeared before that committee and urged that the bond bill be so amended as to leave that section in the law. The committee believed the provisions of the section had led to abuses. When the bond bill came before the House I tried to amend the bill by striking out section 6, which repealed section 9. My amendment did not prevail, so section 9 was repealed. The repeal of section 9 was a mistake. It appeared much like an act of bad faith on the part of the Government.

As I said the other day at the beginning of the discussion of this bill, when the reclamation act was passed, there was an understanding between the Representatives from the 16 States and Territories of the West as to what this bill should contain, as to what principle should control in the distribution of this fund, and it was distinctly stated in the report and in the discussion that it was the design of section 9 to guarantee that the benefits arising from this great new policy the National Government was about to undertake should be, so far as possible, distributed equitably among the States from which that fund came. Oklahoma has contributed $6,000,000, or practically that amount, to that fund. So far no irrigation project has been undertaken in the State. If this section is reenacted it does not mean that this fund must go to Oklahoma, because the fund can only be used there on condition that a practicable and feasible project can be found and approved by the Department of the Interior. We have just passed an amendment to the pending bill requiring the reclamation fund to be appropriated by Congress before it can be used. We are thus putting an additional restraint and safeguard on this fund. We do not ask any of this fund to be expended uselessly in our State; we only ask that section 9 be restored as an act of good faith. It seems to me Representatives from those States wherein the bulk of this fund has been expended should show their magnanimity by voting for this proposed amendment.

Mr. HAYDEN. Mr. Chairman, on behalf of the committee I will state that we are opposed to the amendment offered by the gentleman from Oregon [Mr. SINNOTT], proposing to reenact section 9 of the original reclamation law, which requires the expenditure of the money in the States in which the funds originated. Section 9 was repealed in 1910 as a part of a bill creating certificates of indebtedness against the reclamation fund. Extensive hearings were had before the Committee on Ways and Means, and in a report made after those hearings this statement was made by Mr. PAYNE:

> The part of the act referred to which required that moneys should be expended in the several States in fair proportion to the amount contributed by each State to the fund led to an insistent demand by representatives from the various States and Territories affected for the expenditure within their borders of their just pro rata share.
>
> In yielding to this demand the department was led to undertake the simultaneous construction of works involving cost far beyond the current receipts of the fund.

For this reason section 9 was repealed.

Mr. MORGAN of Oklahoma. Will the gentleman yield?

Mr. HAYDEN. I can not yield when I have but two minutes. Section 9 led to the beginning of work on some 32 projects, and the money in the reclamation fund has not been large

enough to carry all of these projects promptly to completion. If we restore this abandoned section to the law, we will return to the same bad system and create a demand for a large number of new projects. We believe it is better to complete projects that have now been initiated and then to take up new projects one at a time as we have the money in the reclamation fund. I hope the amendment will be defeated and I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon.

The question was taken, and the Chairman announced that the noes seemed to have it.

On a division (demanded by Mr. MORGAN of Oklahoma) there were—ayes 8, noes 40.

So the amendment was rejected.

Mr. SINNOTT. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD on this amendment.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. TAYLOR of Colorado. Mr. Chairman, I move that the committee do now rise and report the bill as amended to the House with the recommendation that the amendments be agreed to, and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. FLOOD of Virginia, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes, and had directed him to report the bill with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. TAYLOR of Colorado. Mr. Speaker, I move the previous question on the amendments and bill to final passage.

The question was taken, and the previous question was ordered.

Mr. UNDERWOOD. Mr. Speaker, I desire to ask, the previous question having been ordered, if this bill will be the unfinished business to-morrow morning?

The SPEAKER. It will be the first thing after the reading of the Journal.

Mr. MANN. I am not sure——

The SPEAKER. The Chair is.

Mr. MANN. The Speaker ruled the other way.

The SPEAKER. No; the Speaker ruled the way the Speaker is ruling now; he has just looked it up.

Mr. MANN. I know the Speaker did rule the other way.

The SPEAKER. To be fair with the gentleman, there was some dispute about that question of the Speaker ruling that way once, but the Chair knows he ruled the other way last week, and he thinks the last ruling is the better practice.

Mr. UNDERWOOD. I understand the gentleman from Illinois desires to make a motion to recommit and probably would desire a roll call, and I prefer to get a quorum here to-morrow morning.

Mr. MANN. Let us dispose of the amendments.

Mr. RAKER. I want a separate vote on the last amendment; not to-night, though.

The SPEAKER. Is it desired to vote on the amendments now? Is a separate vote demanded on any amendment?

Mr. BRYAN. Mr. Speaker, I demand a separate vote on the Underwood amendment.

The SPEAKER. The gentleman from Washington desires a separate vote on the Underwood amendment, which the Clerk will report.

Mr. MANN. No; let us dispose of the other amendments first.

The SPEAKER. That is right. Is a separate vote demanded on any other amendment; if not, the Chair will put them in gross.

The question was taken, and the other amendments were agreed to.

The SPEAKER. The Clerk will report the Underwood amendment.

The Underwood amendment was again reported.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. BRYAN. Mr. Speaker, a division; I am against the amendment.

The SPEAKER. The gentleman had a chance to vote against it.

Mr. BRYAN. I asked for a division.

The SPEAKER. That is a different thing; the gentleman from Washington demands a division.

The House divided; and there were—ayes 40, noes 24.

Mr. BRYAN. Mr. Speaker, I make the point of no quorum; and pending that, I want to make a parliamentary inquiry.

Mr. MANN. The gentleman can not do that.

The SPEAKER. The gentleman from Washington raises the point that there is no quorum present. The Chair will count.

The Speaker proceeded to count.

During the counting,

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

Mr. BRYAN. Pending that, Mr. Speaker, I wish to make a parliamentary inquiry.

Mr. MANN. The gentleman can not do that now.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 15110. An act authorizing the Secretary of the Treasury to accept conveyance of title to certain land between the post-office site and Madison Street, in the city of Thomasville, Ga.;

H. R. 8688. An act for the relief of Lucien P. Rogers; and

H. R. 17041. An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes.

ADJOURNMENT.

The SPEAKER. The gentleman from Colorado moves that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 25 minutes p. m.) the House adjourned until Thursday, July 30, 1914, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. OLDFIELD, from the Committee on Patents, to which was referred the bill (H. R. 18031) amending sections 476, 477, and 440 of the Revised Statutes of the United States, reported the same without amendment, accompanied by a report (No. 1041), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. McKELLAR, from the Committee on Military Affairs, to which was referred the bill (S. 725) to correct the military record of Aaron S. Winner, reported the same without amendment, accompanied by a report (No. 1032), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (S. 2715) to amend the military record of John P. Fitzgerald, reported the same without amendment, accompanied by a report (No. 1033), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (S. 4023) for the relief of Waldo H. Coffman, reported the same without amendment, accompanied by a report (No. 1034), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 5753) to correct the military record of John Minahan, alias John Bagley, reported the same with amendment, accompanied by a report (No. 1035), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 6652) to remove the charge of desertion from the military record of Luke O'Brien, reported the same with amendment, accompanied by a report (No. 1037), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 12566) for the relief of John C. Shea, reported the same without amendment, accompanied by a report (No. 1038), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 14711) for the relief of Miles A. Hughes, reported the same with amendment, accompanied by a report (No. 1039), which said bill and report were referred to the Private Calendar.

Mr. HULINGS, from the Committee on Military Affairs, to which was referred the bill (H. R. 6421) for the relief of Thomas M. Jones, reported the same with amendment, accompanied by a report (No. 1036), which said bill and report were referred to the Private Calendar.

Mr. GREENE of Vermont, from the Committee on Military Affairs, to which was referred the bill (H. R. 17464) for the relief of Fred Graff, reported the same without amendment, accompanied by a report (No. 1040), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. WINGO: A bill (H. R. 18132) authorizing the Secretary of War to donate to the city of Van Buren, Ark., two cannon or fieldpieces; to the Committee on Military Affairs.

By Mr. FOWLER: A bill (H. R. 18133) to amend section 413 of the Postal Laws and Regulations of 1913, being a part of the act approved August 24, 1912, entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes"; to the Committee on the Post Office and Post Roads.

By Mr. SELLS: A bill (H. R. 18134) authorizing and permitting John R. Sanders, his successors and assigns, to build and maintain a dam and water-power development in and across Holston River, in Hawkins County, State of Tennessee; to the Committee on Interstate and Foreign Commerce.

By Mr. KEATING: A bill (H. R. 18135) for the establishment of a farm-loan bureau in the United States Treasury, to reduce the rate of interest of farm mortgages, and to encourage agriculture and the ownership of farm homes, and for other purposes; to the Committee on Banking and Currency.

By Mr. BUCHANAN of Illinois: A bill (H. R. 18136) to regulate the wages of all mechanics and laborers employed in or under certain departments of the Government; to the Committee on Labor.

By Mr. MOON: Joint resolution (H. J. Res. 309) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DOOLITTLE: A bill (H. R. 18137) granting an increase of pension to Katharine A. Ringhiser; to the Committee on Invalid Pensions.

By Mr. GILMORE: A bill (H. R. 18138) granting a pension to Delia M. Mullarkey; to the Committee on Pensions.

By Mr. MANN: A bill (H. R. 18139) granting an increase of pension to Elma A. Dockstader; to the Committee on Invalid Pensions.

By Mr. OLDFIELD: A bill (H. R. 18140) for the relief of the heirs of John E. Stewart, deceased; to the Committee on War Claims.

By Mr. TAVENNER: A bill (H. R. 18141) for the relief of Harry C. Twomey; to the Committee on Military Affairs.

By Mr. VOLLMER: A bill (H. R. 18142) for the relief of the heirs of Jacob Thomas; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petitions signed by certain citizens of Connecticut urging the passage of the Hobson prohibition amendment; to the Committee on Rules.

Also (by request) resolution signed by pastors of certain churches at Oakland, Cal., and East Liverpool, Ohio, protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. BELL of California: Petition of 53 citizens of Los Angeles and 42 people of Yorba Linda and Second United Presbyterian Church of Los Angeles, Cal., favoring national prohibition; to the Committee on Rules.

Also, memorial of Los Angeles Chamber of Commerce, urging passage of water-power legislation at this session of Congress; to the Committee on Interstate and Foreign Commerce.

Also, memorial of Nelson A. Miles Camp, No. 10, Spanish War Veterans, of California, asking that the frigate *Independence* be brought to San Francisco for use in connection with the Panama-Pacific Exposition; to the Committee on Naval Affairs.

By Mr. BRUCKNER: Petition of Railway Age Gagette, New York City, relative to replacing of wooden passenger cars by steel ones; to the Committee on Interstate and Foreign Commerce.

Also, petition of Woman's Christian Temperance Union of the State of New York, favoring national prohibition; to the Committee on Rules.

Also, petition of Daggett & Ramsdell, of New York City, favoring passage of the Ransdell-Humphreys river-regulation bill; to the Committee on Rivers and Harbors.

Also, petitions of I. F. Moritz, the O. J. Gude Co., and I. Greenberg, all of New York City, protesting against national prohibition; to the Committee on Rules.

Also, petition of William Barthman, of New York City, favoring passage of the Owen-Goeke bill, relative to fraud in gold-filled watchcases; to the Committee on Interstate and Foreign Commerce.

Also, memorial of Cotton Belt Lodge, No. 204, Brotherhood of Locomotive Firemen and Engineers, relative to equipping all engines on railroads with electric headlights; to the Committee on Interstate and Foreign Commerce.

Also, petition of Bricklayers' Benevolent and Protective Union, No. 1, of Brooklyn, N. Y., favoring approval of amendment to the Sherman law in relation to trade-unions; to the Committee on the Judiciary.

Also, resolution of masters, mates, and pilots of the Pacific, favoring amendment to H. R. 16346; to the Committee on the Merchant Marine and Fisheries.

By Mr. BURKE of South Dakota: Petition of business men of Pierre, S. Dak., favoring the passage of H. R. 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

By Mr. CURRY: Petitions of 17 residents of California, in favor of prohibition; to the Committee on Rules.

Also, petition of Miss Mary T. Hawley, of Lodi, Cal., in favor of equal suffrage; to the Committee on the Judiciary.

Also, petition of the congregation of the Seventh-day Adventist Church of Lodi, Cal., in favor of prohibition; to the Committee on Rules.

Also, petition of R. Rose, of Sanitarium, Cal., in favor of prohibition; to the Committee on Rules.

Also, petition of the Woman's Christian Temperance Union of northern and central California, representing more than 5,000 women, in favor of prohibition; to the Committee on Rules.

By Mr. HOWELL: Petition of sundry citizens of Ogden, Utah, favoring national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Iowa: Petition of sundry citizens of Keokuk, Iowa, protesting against national prohibition; to the Committee on Rules.

By Mr. J. R. KNOWLAND: Petitions of 20 citizens of the State of California, favoring national prohibition; to the Committee on Rules.

Also, petitions from the Southern California Conference of the Free Methodist Church, and the Melrose Methodist Episcopal Church, of Oakland, Cal., favoring national prohibition; to the Committee on Rules.

Also, petition of the Colonel John B. Wyman Circle, No. 22, Ladies of the Grand Army of the Republic, of Oakland, Cal., protesting against any change in the national flag; to the Committee on the Judiciary.

By Mr. PROUTY: Petitions of the Woman's Christian Temperance Union of East Peru, 150 people of Milo, and citizens of Indianola and Altoona, Iowa, favoring national prohibition; to the Committee on Rules.

Also, petition of citizens of Perry, Iowa, favoring Poindexter resolution to adjust the polar contention; to the Committee on Naval Affairs.

By Mr. RAKER. Resolution in re water-power legislation, adopted by the Los Angeles Chamber of Commerce at its regular meeting, July 8, 1914, relative to water-power legislation at this session of Congress; to the Committee on Interstate and Foreign Commerce.

Also, resolution by the Department Veteran Army of the Philippines, at the thirteenth annual convention, held at Baguio, P. I., relative to civil-service conditions in Philippine Islands; to the Committee on Reform in the Civil Service.

By Mr. THOMAS: Petition of Ernest E. Green, of Edmonson County, Kentucky, protesting against national prohibition; to the Committee on Rules.

By Mr. THOMSON of Illinois: Petition of members of Millburn Church, of Millburn, Ill., favoring national prohibition; to the Committee on Rules.

By Mr. WALLIN: Petition of Methodist Episcopal Churches of Mayfield and Cranberry Creek, N. Y., favoring national prohibition; to the Committee on Rules.

SENATE.

THURSDAY, *July 30, 1914.*

(Legislative day of Monday, July 27, 1914.)

The Senate reassembled at 11 o'clock a. m. on the expiration of the recess.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Brady	Gronna	Nelson	Simmons
Brandegee	Hitchcock	Newlands	Smith, Ga.
Bristow	Hollis	Norris	Smoot
Bryan	Hughes	O'Gorman	Stone
Burton	Jones	Overman	Sutherland
Chamberlain	Kenyon	Page	Thomas
Crawford	Kern	Perkins	Thornton
Culberson	Lane	Ransdell	Vardaman
Cummins	Martine, N. J.	Reed	West
Gallinger	Myers	Sheppard	Williams

Mr. PAGE. I wish to announce the necessary absence of my colleague [Mr. DILLINGHAM]. He has a general pair with the senior Senator from Maryland [Mr. SMITH].

Mr. KERN. I wish to announce the unavoidable absence of my colleague [Mr. SHIVELY]. He is paired. This announcement may stand for the day.

Mr. JONES. I desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent. He is paired with the junior Senator from Arkansas [Mr. ROBINSON]. I will let this announcement stand for the day.

The VICE PRESIDENT. Forty Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of the absent Senators, and Mr. CAMDEN, Mr. LEA of Tennessee, Mr. THOMPSON, Mr. TILLMAN, and Mr. WHITE answered to their names when called.

Mr. CATRON entered the Chamber and answered to his name.

Mr. WHITE. I desire to announce the unavoidable absence of my colleague [Mr. BANKHEAD] and to state that he is paired. This announcement may stand for the day.

Mr. SHAFROTH entered the Chamber and answered to his name.

The VICE PRESIDENT. Forty-seven Senators have answered to the roll call. There is not a quorum present.

Mr. KERN. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will carry out the instruction of the Senate.

Mr. OWEN and Mr. JOHNSON entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-nine Senators have answered to the roll call. There is a quorum present.

COMMITTEE SERVICE.

Mr. OVERMAN was, on his own motion, relieved from further service upon the Committee on Claims and the Committee on the University of the United States.

Mr. STONE was, on his own motion, relieved from further service upon the Committee on Indian Affairs.

Mr. HOLLIS was, on his own motion, relieved from further service upon the Committee on Immigration.

Mr. HUGHES was, on his own motion, relieved from further service upon the Committee on Public Health and National Quarantine.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. HOLLIS. I desire to introduce an amendment to the pending bill to be laid on the table and printed. It will be offered at some later time.

The VICE PRESIDENT. It will be so ordered. The question is on agreeing to the amendments in the nature of a substitute reported by the committee as amended.

FRANK WOODRUFF KELLOGG.

Mr. BRISTOW. Out of order I should like to introduce the following bills——

The VICE PRESIDENT. Is there objection?

Mr. SMOOT. I am compelled to object.

The VICE PRESIDENT. There is objection.

Mr. BRANDEGEE. I send to the desk a bill and ask the Secretary to read it. Then I will ask the Chair if it comes within the rule as to bills which may be introduced.

The SECRETARY. A bill for the relief of Frank Woodruff Kellogg.

Mr. SMOOT. Is it a personal relief bill, I will ask the Senator from Connecticut?

Mr. BRANDEGEE. Let the Secretary read the bill.

The VICE PRESIDENT. The bill will be read.

The bill was read, as follows:

Be it enacted, etc. That the President be, and he is hereby, authorized to appoint Frank Woodruff Kellogg, now a captain on the retired list of the United States Navy, to the active list of captains of the United States Navy, to take rank next after Capt. Thomas Snowden, United States Navy: *Provided*, That the said Frank Woodruff Kellogg shall be carried as additional to the number in the grade to which he may be appointed under this act and as additional to any grade to which he may at any time hereafter be promoted.

The VICE PRESIDENT. Is there objection to the introduction of the bill?

Mr. SMOOT. Mr. President, I object to the bill if it does not fall within the class of "personal relief" measures.

The VICE PRESIDENT. The Chair rules that the bill, being a bill for the correction of a naval record by an act of Congress, may be left with the Secretary as are other similar bills.

Mr. BRANDEGEE. I will state that the bill proposes to reinstate an officer who was "plucked," together with several others in regard to whom the House Committee on Naval Affairs is having hearings. I have promised to introduce the bill. Of course, if the rule under which the Senate is operating precludes its introduction I shall have to submit.

The VICE PRESIDENT. The Chair does not believe it does.

The bill (S. 6178) for the relief of Frank Woodruff Kellogg was read twice by its title and referred to the Committee on Naval Affairs.

Mr. BRISTOW. May I inquire if pension bills come under the rule?

The VICE PRESIDENT. They do. They may be left with the Secretary.

Mr. JONES. I make the point that bills can not be introduced on the floor, but that they may be introduced by leaving them with the Secretary.

The VICE PRESIDENT. That is all the Senator from Kansas asks to do, as the Chair understands.

COMMITTEE SERVICE.

Mr. KERN. I ask to be relieved from further service upon the Committee on Public Buildings and Grounds.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Senator is excused.

Mr. BRANDEGEE. Mr. President, I will not make a point of order on this proceeding, but it seems to me excusing Senators from serving on committees is just as much morning business as is anything else. I shall not object, however, but it certainly is not the consideration of the trade commission bill.

FEDERAL TRADE COMMISSION.

Mr. NEWLANDS. Mr. President, I ask for the regular order.

The VICE PRESIDENT. The Chair lays before the Senate House bill 15613, commonly known as the Federal trade commission bill.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. THOMAS. Mr. President, the Senator from Iowa [Mr. CUMMINS] devoted a part of his discussion yesterday to the consideration of some criticisms which I made on the day before to that part of the bill now before the Senate which provides for the creation of a Federal trade commission, one of which was that its effect would be the regulation instead of the prevention of monopoly. The Senator's view of the proposition is, of course, diametrically opposite to my own, and the bill was no doubt drawn in accordance with the Senator's theory. I know that he, in common with a majority of the Interstate Commerce Committee, in drafting and presenting this measure had no other object in view than the prevention and removal of monopolistic conditions. I have no quarrel whatever with those who believe that such is the object to be subserved, and which will be subserved if this bill becomes a law; and, much as I object to the establishment of any more commissions, unless their creation be absolutely necessary to safeguard the public welfare, I might be constrained to vote for it if I were convinced that the position taken by the Senator from Iowa is the correct one.

Mr. President, the so-called antitrust act or Sherman law of 1890, which did not create a commission, was designed to prevent monopoly; its object was to interdict all restraints of trade or combinations which would result in monopoly. The administration of that law, at first ineffective and ultimately more vigor-

ous, has served neither to prevent the existence of monopolies nor to limit them to those which were in existence at the time of its enactment. Speaking generally, the effect of that law upon trade conditions has been to regulate instead of remove the evils which brought it into existence; and the Supreme Court, in defining and applying that law, has seen fit to interpolate into the text of it a word which the Congress of the United States deliberately refused to put into it; a change which necessarily makes it a regulative instead of a prohibitory act. I fear, Mr. President, that the outcome of the bill now pending, in its practical application to our industrial and economic affairs, will be along the same lines, and will ultimately, therefore, regulate, as the Progressive platform provides for, instead of prevent the evils of which we complain and which we all desire to avoid.

The commission is to be equipped both with the power and the duty of preventing unfair competition or unfair methods of competition, which may be, but which I do not think are, tantamount to the same thing. It must operate through an investigation of complaints, either initiated by itself or which are to be initiated before it by those having or presuming to have knowledge of the things which need investigation. It operates, in other words, by trying, by examining into, and by investigating given infractions of the law against unfair competition, as those infractions may be brought to its attention; and, of course, as the power to determine involves the power to hear, the result is that after the testimony is received and the commission is advised as to the given instance, it passes judgment upon that instance, either against or for the contention of the petitioner; either as declaring that the particular act or acts violate or do not violate the law.

This means, Mr. President, that competition is to be made lawful by a process of elimination. The things which are within the statute and the things which are without the statute are to be determined as the result of individual instances of investigation; and out of the statute, therefore, we are going to establish a sort of common law of competition, if I may use that term in connection with decisions based upon a statute. So that the monopolies of the country, the corporations which are not monopolistic engaged in interstate commerce, and, if the last amendment of the Senator from Iowa is to be adopted, individuals and partnerships are to have their competitive powers regulated—perhaps I should not say regulated; are to have their competitive powers and opportunities defined, not permanently but continuously by a continuing series of investigations. The result of that, to my mind, must be the regulation of competition, which involves the regulation of those within the jurisdiction of this commission, the determination by its acts and by its decrees of what is fair and what is unfair in the rivalry of commercial forces for the markets of the country. It is therefore inevitable that the logical outgrowth of the creation of this commission is the perpetuation of monopolistic conditions in this country.

It may be said that monopoly and fair competition can not coexist; but those who make that assertion also declare that unfair competition is an element in business that is separate and apart from restraints of trade and combinations which lead to monopoly and at which the Sherman Act was aimed; in other words, that it is independent of and covers different subjects from those which are covered and intended to be covered by the antitrust laws. It seems to me, Mr. President, that these positions are not reconcilable. I am of the opinion that the subject matter of the statutes and of this bill must to a large degree be identical. I can not conceive of a monopoly that does not practice unfair competition, whether it be lawful competition or not; it is difficult to conceive of the creation or the progress of a monopoly except by processes which, to some extent, consist of what is generally known as unfair competition, and so long as the institutions which practice it are permitted to exist just so long must those practices continue.

You can not do away with unfair competition and at the same time tolerate the existence of huge aggregations of manufacturers and of capital. You can not tolerate their existence, on the one hand, as they are at present constructed, and by any sort of process, whether operated by a commission or otherwise, eliminate the practice of unfair competition. You may define what it consists of; you may define what it does not consist of; but just so long as they continue, Mr. President, will these conditions to a greater or less extent continue, and the living example and illustration of the fact is the impotence of the Interstate Commerce Commission in the face of these difficulties.

It tries to, but it does not, so regulate transportation that it is fair and equal to all sections of the country and to all its patrons; it tries to define, but it is unable to enforce, all those things which every man of common sense engaged in business knows to be wrong, as it is not competent to require the observance of all those which are and which the public instinctively recognize as being fair and just. Consequently it is engaged in an impossible scheme of satisfactory regulation, and yet it can do nothing more than to regulate; we can not very well regulate an evil by recognizing or permitting the existence of the evil itself. We can minimize its results, but we can not abolish them. Hence I am not convinced, although the argument is a good one, and certainly a most earnest and sincere one, that this commission, if created, will result in an extinction of the monopolistic conditions of which we complain.

I concede, Mr. President—and I think I said so the other day—after listening to the argument of the Senator from Iowa and of some of the other Senators upon the subject, that to provide for the prevention of unfair competition in terms is perhaps as definite as a statute upon that subject ought to be. Hence I am not combating the phraseology proposed by the committee. I content myself with the assertion that in the administration of the law it will resolve itself into one which regulates but does not remove monopoly.

Mr. CUMMINS. Mr. President——

Mr. THOMAS. I yield to the Senator.

Mr. CUMMINS. I must have misunderstood the Senator from Colorado, I think, and I desire to be certain about it. I understood him to say, in the beginning of his remarks, that the act of 1890 prohibited restraints of trade but not monopoly.

Mr. THOMAS. No, Mr. President; if I said so, I was unfortunate. What I think I said and what I intended to say was that the purpose of the antitrust law of 1890 was to prohibit restraints of trade and monopolistic combinations also.

Mr. CUMMINS. The second section of the act of 1890, as the Senator of course knows, is a direct prohibition of any attempt to monopolize or any monopolization of the commerce of the United States or any part of the commerce of the United States. If that statute was made effective, it seems to me to be as perfect an effort to destroy monopoly as we could possibly make. I can not conceive of any more direct attack upon monopoly than is contained in the second section of the antitrust law; and if it remains in full force and effect, and if it is efficiently administered, have we not all the instrumentalities that we can have to destroy monopoly and to prevent any attempt to monopolize?

Mr. THOMAS. Mr. President, I think that the second section of the act to which the Senator calls my attention was designed to, and if rigidly enforced perhaps would, meet the evil and make our present attempts at further legislation unnecessary. I believe, however, that if it were supplemented by the enactment of such a measure as the Williams bill, now pending in the committee, the two together would certainly, if observed and enforced, do away with monopolistic conditions in this country if they can rid it of them by legislation; but the unfortunate fact remains that, notwithstanding the prohibitory statute of 1890, and in spite of it, perhaps 75 per cent of the monopolies with which the country is overrun have been conceived, brought forth, and reached their maturity in the face of it; and this has been made possible by the privileges, permissions, and encouragement of State legislation.

When the State of New Jersey creates and confirms such a combination as the Harvester Trust as lawful under its statutes, when the State of New Jersey and other States arm and equip such a combination with power to invade the commerce of every State in the Union and exercise all the vast and unrestrained power and authority conferred upon it by State charter, the prohibitive statute of the United States has been powerless to cope with such a condition; which justifies the humorous, but decidedly philosophic, suggestion of Mr. Dooley, that it might be well for the United States to incorporate under the laws of New Jersey in order to secure sufficient power and authority to cope with, restrain, and overcome its other artificial and far-reaching creations.

Therefore, I say that the Williams bill should supplement this measure; and the two together, in all probability, I firmly believe, would offer a statutory corrective not only for future, but for existing present conditions.

I was about to ask when interrupted, having referred not only to the judicial construction, but to the interpolation of words in another section of the antitrust act, which never should have been put there, and which were put there by judicial authority, that inasmuch as evidently all of the cases and controversies which come before this commission must find their way to the courts, and there be ultimately decided, what warrant have we for supposing that the Supreme Court of the United States will not declare that when we said here that "unfair competition shall be unlawful," we meant that "un-

reasonably" unfair competition should be unlawful, or "unduly" unfair competition should be unlawful; that we did not mean what we said, and did not say what we meant?

Upon the assumption that such may be the construction of the statute, what would remain of it but a mere power on the part of the commission to regulate the manner in which these companies shall do business hereafter in the United States, the regulation itself being in terms subject to an appeal to the courts. I go further, and ask why should we establish a commission which will be nothing but an intermediary? No matter what its decision may be, the courts must ultimately determine whether that decision shall or shall not become effective. This means delay, discouragement, and demand for fresh and supplemental legislation.

I do not for a moment want to be understood as counseling a denial to citizens of the right to appeal to the courts from these orders. What I have objected to is that we are to create a commission which will occupy practically the position of a subordinate court of appeals, one more intermediary between litigants and the court of final resort, when in the ultimate analysis of things it is the Supreme Court of the United States that must determine each individual case.

Regulation seems to me to be as inevitable from these conditions as the succession of the seasons. Hence I am unable, as yet, to perceive the wisdom, the expediency, or the necessity of launching another commission upon the commission-ridden people of the United States, armed with power and authority exceeding that of all the rest of them put together, and yet subordinated to a tribunal whose dockets are already crowded with the accumulated appeals of several years.

Mr. SUTHERLAND. Mr. President, I have had occasion to comment at some length on the vague character of section 5 of this bill, if the term "unfair competition" shall not be limited by construction to its strict legal meaning. The confusion which will result, the vague character of the term which is employed in that view of the bill, can not be better illustrated than by some of the statements made by the various proponents of the measure.

President Wilson, in his address to Congress of January 20, 1914, used the following language:

> The business of the country awaits also—has long awaited, and has suffered because it could not obtain—further and more explicit legislative definition of the policy and meaning of the existing antitrust law. Nothing hampers business like uncertainty. Nothing daunts or discourages it like the necessity to take chances, to run the risk of falling under the condemnation of the law before it can make sure just what the law is.

Those are words of wisdom, Mr. President, with which I am most heartily in accord.

> Surely we are sufficiently familiar with the actual processes and methods of monopoly and of the many hurtful restraints of trade to make definition possible—

Definitions, however, do not seem to be possible to the Senators who prepared or assisted in preparing this measure—

> at any rate up to the limits of what experience has disclosed. These practices, being now abundantly disclosed, can be explicitly and item by item forbidden by statute—

I commend that statement to the Senator from Nevada [Mr. NEWLANDS], that these practices can be explicitly and item by item forbidden by statute—

> in such terms as will practically eliminate uncertainly, the law itself and the penalty being made equally plain.
>
> And the business men of the country desire something more than that the menace of legal process in these matters be made explicit and intelligible. They desire the advice, the definite guidance, and information which can be supplied by an administrative body, an interstate trade commission.

The idea of the President seems to have been that any law which we might pass upon this subject should be clear and definite and explicit in its terms; that it should, item by item, in plain, unambiguous English phrase, tell the business men of this country what they could and what they could not do. In response to that this bill has been presented.

The Senator from Nevada, in his first discussion of this measure, referring to "unfair competition," made this statement:

> Now, then, the question is what unfair competition covers. It covers every practice and method between competitors upon the part of one against the other that is against public morals.

Let me repeat that, because I regard it as a gem—

> It covers every practice and method—

That is, every method—

> between competitors upon the part of one against the other that is against public morals, in my judgment, or is an offense for which a remedy lies either at law or in equity.

So that the meaning of the term "unfair competition" is not to be arrived at by consulting the decisions of the courts or the law writers. It goes beyond that. It not only includes an offense for which a remedy lies either at law or in equity, but, according to the view of the Senator from Nevada, it includes every other practice that is against public morals—a pretty broad category.

The Senator, later along, said:

> My individual opinion is that an interlocking directorate would come under this provision.

How, in the name of heaven, an interlocking directorate, in and of itself, could be regarded as unfair competition I do not know; but we have the statement of the Senator from Nevada—who is the author of this bill, and whose interpretation of it will be given great weight by the trade commission hereafter—that it does include interlocking directorates.

Mr. NEWLANDS. Mr. President——

Mr. SUTHERLAND. Let me finish the quotation, and then I will yield to the Senator.

> My individual opinion is that an interlocking directorate would come under this provision with reference to unfair competition. If an interlocking directorate were used for the purpose of creating a community of interest between two or three or four corporations, that would make them more powerful in their competition with an individual competitor; and I wished the test to be not simply the fact that there were common directors in numerous corporations, but the fact that the creation of that common directorate involved oppression to the independent concern, and thus involved unfair competition.

So that "oppression" is to be regarded as unfair competition, whatever meaning may be included within that word.

I now yield to the Senator from Nevada.

Mr. NEWLANDS. Mr. President, I observe that what the Senator has read since I first rose explains what I intended to state, namely, that a mere interlocking directorate would not necessarily constitute unfair competition, but an interlocking directorate created between two corporations with a view to substantially lessening or eliminating competition would do so.

The Senator objects to the term "public morals" or "good morals" as a test. I think it is a very good test. I think there are certain practices that shock the universal conscience of mankind, and the general judgment upon the facts themselves would be that such practices are unfair.

I do not see much difficulty, when you appeal to the conscience of mankind, in determining what is fair and what is unfair in business practices. I think almost every well-regulated mind can determine it, particularly where you get together five men of capacity and learning and experience and present to them the facts regarding a certain business practice. I see no difficulty about such an organization determining what is fair and what is unfair, and determining it in such a way as to satisfy the universal judgment of mankind, except possibly the parties interested.

I claim, then, that that is a definite standard if the practice is against good morals and against public morals and tends to the injury of a competitor unfairly. Then, as to the numerous other things to which an action of tort or an action in equity to restrain can lie, it seems to me where those actions involve competition, where there would be a cause of action by the individual against his competitor, almost all those would be included in the term "unfair competition."

If we were to attempt to enumerate the numerous fraudulent practices which constitute unfair competition, we would be just as much at sea as if we endeavored to state distinctly every series of facts that by any possibility of human experience could constitute fraud. Something must be left to human judgment; something must be left to human conscience in the determination of these questions; and when you have organized a tribunal in such a way that it is composed of men of skill and education and training and experience and character, you get the machinery for the establishment of proper rules and standards.

Mr. SUTHERLAND. Mr. President, I think I may say without offense to the Senator from Nevada that his idea seems to be that philosophic reflections about things in general can be written into a statute and made good law. I think a statute must depend upon something more definite than that. The Senator has added now, however, another line of cases which come under the description of "unfair competition"—in fact, two or three others that may come under the term—in addition to those that he has already stated—for example, anything which shocks the conscience of mankind. I wonder if the Senator thinks that a statute in those terms would be a good statute—that "anything which shocks the conscience of mankind is hereby declared to be unlawful and punishable by fine and imprisonment"? If "unfair competition" means that, it is less definite than I have ever imagined it to be.

But the Senator proceeded at a later time and stated:

> There are numerous practices tending toward monopoly that may not come within the provisions of the antitrust law and amount to a monopoly or to monopolization. We want to check monopoly in the embryo.

So that according to the view of the Senator from Nevada there are included within the term "unfair competition," first, all violations of the antitrust laws, including even wrongs which may arise from interlocking directorates and intercorporate relationships; second, it includes, apparently, any acts which affect a competitor for which a remedy now lies either at law or in equity; third, it includes all other acts affecting a competitor that are against public morals and, I may add now, that "shock the conscience of mankind," though they may be, under existing laws, quite legal.

That is the view, very briefly stated, of the Senator from Nevada.

The Senator from Iowa [Mr. CUMMINS], who, I may say, of those who have stood sponsors for this legislation is, in my judgment, the only one who has measurably put coherence into what I regard as a hopelessly incoherent proposition, says:

We have chosen to report a rule for the trade commission in the language which has been suggested, namely, "unfair competition." It is that competition which is resorted to for the purpose of destroying competition, of eliminating a competitor, and of introducing monopoly. That is the "unfair competition" in its broad sense which this bill endeavors to prevent. * * * The unfairness must be tinctured with unfairness to the public, not merely with unfairness to the rival or competitor. * * * We are not simply trying to protect one man against another; we are trying to protect the people of the United States, and of course there must be in the imposture or in the vicious practice or method something that has a tendency to affect the people of the country or be injurious to their welfare. (CONGRESSIONAL RECORD, June 25, 1914, pp. 12150–12151.)

That is a coherent statement, although I do not believe it to be a precise limitation of what unfair competition will include. Later along, the Senator from Iowa said:

And the attempt is to go further and make some things offenses that are not now condemned by the antitrust law. That is the only purpose of section 5—to make some things punishable, to prevent some things, that can not be punished or prevented under the antitrust law. (CONGRESSIONAL RECORD, June 30, 1914, p. 12454.)

There may be unfair competition which does not constitute restraint of trade. Unfair competition must usually proceed to great lengths and be destructive of competition before it can be seized and denounced by the antitrust law. In other cases it must be associated with, coupled with, other vicious and unlawful practices in order to bring the person or the corporation guilty of the practice within the scope of the antitrust law. The purpose of this bill in this section and in other sections which I hope will be added to it, is to seize the offender before his ravages have gone to the length necessary in order to bring him within the law that we already have. (CONGRESSIONAL RECORD, July 2, 1914, p. 12622.)

But we propose to do one thing more. We propose to make it an offense. We propose to make it unlawful for any corporation, or any person, indeed, to practice unfair competition, and wherever the practice of unfair competition has not reached a point that constitutes a violation of the antitrust law, then we intend to do what we can to maintain fair, full, free competition through the intervention of the trade commission. (CONGRESSIONAL RECORD, July 2, 1914, p. 12625.)

Now, I call attention to those statements of the Senator from Iowa not for the purpose of criticizing them but for the purpose of showing the irreconcilable conflict which exists between the Senator from Iowa and the Senator from Nevada as to the meaning of the term "unfair competition."

The Senator from Arkansas [Mr. ROBINSON] has still a different idea of its meaning, which in many respects is at war with the view of the Senator from Iowa and the Senator from Nevada. The Senator from Arkansas said:

The term "unfair competition" in trade will embrace every practice which may be held by a court to be unjust, inequitable, or dishonest; and when Congress legislates on this subject I can see no reason for limiting the statute to one or two practices, when there are many which are equally objectionable. (CONGRESSIONAL RECORD, June 25, 1914, p. 12153.)

He quoted in that connection from the work on Words and Phrases, volume 8. These are the quotations which he read, and I invite the attention of the Senate to them because they state what I understand to be the meaning of "unfair competition":

With respect to articles placed upon the market for sale it is only—

Mark the word "only"—

it is only when the one article is dressed so as to represent the other and to deceive a proposing purchaser as being that other that there can be said to be a case of "unfair trade." (Sterling Remedy Co. *v.* Eureka Chemical & Manufacturing Co. (U. S.), 80 Fed., 105, 108; 25 C. C. A., 314.)

Again, he cited:

The doctrine of unfair competition in trade rests on the proposition that equity will not permit anyone to palm off his goods on the public as those of another. Unfair competition in trade as distinguished from infringement of trade-marks does not involve the violation of any exclusive right to the use of trade-marks or symbols. The word may be purely descriptive and the mark or symbol indicative only of style, size, shape, or quality, and as such open to the public. Yet there may be unfair competition in trade by an improper use of such mark or symbol.

That is a quotation from Ninety-fourth Federal Reporter, page 656. And, again, he quoted:

The term "unfair competition in trade" includes the simulation by defendant of the packages of plaintiff, putting up and selling packages of the same general appearance as those of the plaintiff. The court will only interfere to protect the plaintiff and the public and for the suppression of unfair and dishonest competition when "the resemblance is such that it is calculated to deceive and does, in fact, deceive the ordinary buyer making his purchases under the ordinary conditions which prevail in the conduct of the particular traffic to which the controversy relates. (T. B. Dunn Co. *v.* Trix Manufacturing Co., 63 N. Y., Supp. 333, 335; 50 App. Div., 75; Cong. Rec., June 25, 1914, p. 12153.)

That I understand to be, according to the decisions and the law writers, the meaning of "unfair competition." I have already stated it briefly in the remarks that I submitted to the Senate a day or two ago.

But the Senator from Arkansas [Mr. ROBINSON] upon a later occasion ignored these definitions that he had read to us from the law books and began to draw definitions of "unfair competition" from the economists, and he quoted from Mr. William S. Stevens, of Columbia University. He said:

Mr. William S. Stevens, of Columbia University, in an article called to my attention by Congressman STEVENS of New Hampshire, who introduced this provision in the House, discusses the subject of "unfair competition" from an economic point of view—

Not from a legal point of view. We have the words "unfair competition" to be considered from the legal point of view—from the economic point of view, according to the Senator from Arkansas, and from the ethical point of view, according to the Senator from Nevada—

from an economic point of view, and classifies, according to their elementary characteristics, 11 forms of "unfair competition," as follows. I read now from his article on page 283 of the Political Science Quarterly for June, 1914:

"1. Local price cutting.
"2. Operation of bogus 'independent' concerns.
"3. Maintenance of 'fighting ships' and 'fighting brands.'
"4. Lease, sale, purchase, or use of certain articles as a condition of the lease, sale, purchase, or use of other required articles.
"5. Exclusive sales and purchase arrangements.
"6. Rebates and preferential contracts.
"7. Acquisition of exclusive or dominant control of machinery or goods used in the manufacturing process.
"8. Manipulation.
"9. Black lists, boycotts, white lists, etc.
"10. Espionage and use of detectives.
"11. Coercion, threats, and intimidation."

The Senator from Arkansas proceeds:

The terms used fairly define without detailed discussion the various practices thus classified, and undoubtedly embrace nearly all—

"Nearly all." Unfortunately they do not embrace all, but according to the view of the Senator from Arkansas they embrace nearly all—

of the methods of "unfair competition" now in use. * * *

Unfortunately we are not enlightened as to the residue. So the unfortunate business man, after this act shall have been passed, must not only consult a lawyer, who will in turn consult the law books in order to ascertain whether or not the thing he intends to do is a valid and proper thing under the law, but he must retain an economist. The value of the services of economists will go up. Each of these great business concerns, in addition to carrying a lawyer on the pay roll, must carry an economist in order to determine what is unfair competition according to the view of the economist. In addition to that he must employ probably by the year also somebody skilled in ethics, who must advise him from time to time whether or not the thing that he proposes to do is ethical.

The Senator from Arkansas proceeds:

Nearly all normal business men can distinguish between "fair competition" and "unfair competition." Efficiency is generally regarded as the fundamental principle of the former—efficiency in producing and in selling—while oppression or advantage obtained by deception or some questionable means is the distinguishing characteristic of "unfair competition." (CONGRESSIONAL RECORD, June 27, 1914, p. 11231.)

According to the view of the Senator from Arkansas, therefore, unfair competition will consist of the act of palming upon the public the goods of the offender as the goods of somebody else, which is the legal meaning of the expression. It will also include within it everything which the economist regards as unfair competition, and also any act which normal business men might deem inconsistent with efficiency in producing and in selling.

Now, those are the views of these three Senators with reference to the meaning of this expression. But the Senator from Delaware [Mr. SAULSBURY], who also ardently supports this bill, has his view as to the meaning of unfair competition. He said:

Courts have always recognized the customs of merchants, and it is my impression that under this act the commission and the courts will be called upon to consider and recognize the fair and unfair customs of merchants—

So we have another test, the fair and unfair customs of merchants must be considered—

manufacturers and traders, and probably prohibit many practices and methods which have not heretofore been clearly recognized as unlawful.

Every man in his own business knows when a competitor is pursuing unfair methods.

Sometimes it is the case that he may know; sometimes he may suspect that unfair methods are being used, when in fact they are not. That is my suggestion, not the suggestion of the Senator from Delaware.

Every professional man knows when a competitor is guilty of unfair, unprofessional, and unethical conduct. It may be that heretofore we have been satisfied to allow only the usual punishment to come upon such persons as the violation of the ethics of a profession or a business in time naturally brings; but it is undoubtedly true that sentiment in this country has come to the point where it will, if it can, by law prohibit, prevent, make unlawful, and punish unfair practices in competitive business. (CONGRESSIONAL RECORD, July 3, 1914, p. 11593.)

So that according to the view of the Senator from Delaware unfair competition would include all customs of merchants which were in violation of the ethics of a profession or a business.

The distinguished Senator from New Hampshire [Mr. HOLLIS], differing in many respects from all his colleagues upon this matter, announces his view of what is meant by unfair competition, and says:

Competition is unfair when it resorts to methods which shut out competitors who by reason of their efficiency might otherwise be able to continue in business and prosper. Without the use of unfair methods no corporation can grow beyond the limits imposed upon it by the necessity of being as efficient as any competitor. The mere size of a corporation which maintains its position solely through superior efficiency is ordinarily no menace to the public interest. * * *

The Sherman Antitrust Act does not become effective until a monopoly is full grown, in full panoply, so that you can prove to the court that it is a monopoly and is in restraint of trade; but if the proposed trade commission has its attention called to some unfair method of competition it can immediately investigate, and if it decides that it is unfair competition and may lead to monopoly or restraint of trade it may prohibit it.

If anything is going on which unchecked may lead to monopoly or restraint of trade, it is to be included within the term "unfair competition."

Mr. WEST. Mr. President——

Mr. SUTHERLAND. I will yield in just a moment. I will yield to the Senator as soon as I complete this statement:

And then the court will come in and put that prohibition into effect. * * *

The Sherman Act applies only to restraint of trade by a combination and to monopolization of commerce. Unfair competition is a means of restraining or of monopolizing trade. But there may be some doubt as to whether the mere use of an unfair method, without more, by a corporation of no conspicuous size, would be held to fall within the scope of the Sherman Act. (CONGRESSIONAL RECORD, July 15, 1914, p. 12146.)

So that, according to the view of the Senator from New Hampshire, the term "unfair competition" includes a means of restraining or monopolizing trade, which may now be forbidden by the Sherman law.

Second, methods which fall short of being a violation of the Sherman law but which the proposed trade commission may determine may lead to monopoly or restraint of trade; and

Third, any other acts which interfere with efficiency.

Now I yield to the Senator from Georgia.

Mr. WEST. Referring to what the Senator just said with reference to unfair competition, I should like to ask a concrete question. Suppose a corporation set up in the manufacturing of grain drills, which corporation had been fairly prosperous, with business improving, and had made a large quantity of drills; the demand in a large measure ceases, and in order to meet their obligations they must sell them for less than the cost—would that be regarded as unfair competition?

Mr. SUTHERLAND. I do not know. The Senator from Nevada [Mr. NEWLANDS] could probably enlighten the Senator from Georgia about that.

Mr. WEST. I should like to have the Senator's view.

Mr. SUTHERLAND. But I do not know. This trade commission will evolve from their inner consciousness some view of that matter, I presume.

Mr. WEST. I will say to the Senator if it does, I can see where the bill would work a hardship on the corporation of limited means and yet allow the large corporation, the corporation of ample means, to go on and exist, because it could hold its grain drills and tide over the general stagnation in business.

Mr. CUMMINS. Mr. President——

Mr. SUTHERLAND. I yield to the Senator from Iowa.

Mr. CUMMINS. While the question was not put to me I can not allow it to go without a suggestion. There is no element of unfairness whatever in the transaction suggested by the Senator from Georgia. It has never been intimated by any writer or any court with which I am familiar that the transaction which he describes would be regarded as unfair competition or unfair in any way.

Mr. WEST. If the Senator will allow me, it is admitted that when the Standard Oil Co. goes into cities and sells kerosene below the price of production it is engaging in unfair competition. Might it not mean that for doing that sort of business, as I suggested a few moments ago, they could be haled before this commission, the commission saying that they were selling their output below the cost of production?

Mr. CUMMINS. I can not conceive that a manufacturer selling agricultural implements under the circumstances stated by the Senator from Georgia could be brought before the commission or could be charged with unfair competition. That illustrates how necessary it is to use the general term instead of attempting to denounce a particular practice.

If the Standard Oil Co., doing business throughout the United States, should attempt to crush a competitor in a particular locality—a competitor who had come into existence for the purpose of honestly carrying the trade—by putting down the price of its commodity in that locality, and at the same time maintaining a higher price in other localities, that would be a very clear instance of unfair competition. It is not a theory either, because it is a practice or was a practice which the Standard Oil Co. for years imposed upon its competitors, and through it did drive out a great many worthy rivals.

While I am on my feet I desire to say that I understood the Senator from Utah to commend in high terms the recommendation of the President with respect to defining each instance of wrongdoing that we had become familiar with, and that we ought to prohibit that particular thing. I believe that that is possible to do with regard to some things. It is not possible to do with regard to a great many. If the Senator from Utah will examine section 2 of the bill that has been reported by the Judiciary Committee, he will see some of the difficulties in trying to prevent a particular practice. Take the case of a discrimination in price that I have just suggested to the Senator from Georgia [Mr. WEST]. We all recognize that there are circumstances in which to discriminate in price between buyers and between localities is the most effective means of crushing competition; but if the Senator from Utah will attempt to put in the form of a law a prohibition against that practice, he will encounter a great deal more difficulty than he has encountered in fully understanding some of the definitions that have been proposed for unfair competition.

Mr. SUTHERLAND. Mr. President, I concede the correctness of what the Senator from Iowa has said. It is an exceedingly difficult thing, because it is true that certain acts committed by corporations under some circumstances ought to be denounced by the law and under wholly different circumstances ought not to be; but we do know that there are certain practices that, with the exceptions that could be, I think, enumerated, are bad. For example, I thoroughly agree with the Senator from Iowa and with other Senators as to the vice of the interlocking directorates. It has resulted in great abuses, and, so far as Congress has control over the subject—that is, in so far as it relates to interstate commerce—it is a practice that ought to be forbidden; and yet there may be, as, for example, in the case of banks—I am not going into it at any length—but there may be cases there where there ought to be an exception made. Intercorporate stockholding has resulted in abuses. We would have to draft the language covering these practices with some care. There are certain specific things which are done by corporations and by traders in interstate commerce which ought to be forbidden, but, in my view of it, they ought to be specifically forbidden, so that the business man may know what he can do. We should not crowd everything of an immoral character or of an unethical character into some vague phrase which will simply involve the business men of the country in a greater degree of uncertainty than that which now exists.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER (Mr. SAULSBURY in the chair). Does the Senator from Utah yield further to the Senator from Iowa?

Mr. SUTHERLAND. Yes.

Mr. CUMMINS. I agree with the Senator from Utah; but even the simple case of preventing interlocking directorates is not so easy of solution as many people imagine. What we desire is to keep competitive corporations, or corporations that ought to be competitive, really independent of each other. It is easy enough to say that a man shall not be at the same time a member of the board of directors of two corporations which do a competitive business, but somebody will have to define "competitive." I suppose it is not so hard to define "competitive" as it is to define "unfair," but it is only a little less difficult. There is the widest difference of opinion with regard to the elements that constitute competition in business. When we have made that simple prohibition, we are then bound to create some tribunal to determine whether the two corporations of which the person is a common member are in fact competitive.

We must take into account the location and nature of the business. When we come to consider even that little thing the Senator from Utah will perceive how complicated any regulation of commerce is.

Mr. SUTHERLAND. Mr. President, what the Senator from Iowa has just said emphasizes, in my own mind, a view which I expressed the other day, and that is that the congressional mind is not at this moment sufficiently instructed upon this question to pass fair and wise and intelligent legislation. Neither one of these bills ought to be passed at this session of Congress. I predict—and it is always an unsafe thing to predict—but I venture to predict that if these two bills, the unfair-competition bill and the Clayton bill, shall be passed in their present form indescribable confusion will result to the business world. The problems involved have not been sufficiently digested. We have had a discussion here in the Senate which has been helpful, I think. We all of us agree that there are evils in the business of this country that ought to be remedied; but now, after this discussion, these bills ought to be laid aside; they ought to be recommitted to the committees of this body in which they originated; and those two committees ought to sit down, probably by a joint subcommittee, and make a thorough investigation of this whole problem. If it takes a year to do it, the matter is of sufficient importance to justify us in doing that. The end of the world is not going to come if these bills are not passed at this session. I think it would be the part of wisdom if the Senate could now stop further consideration of these measures and send them back to the committees to be dealt with as I have indicated.

While I am upon that general subject, Mr. President, I want to say that I am a thorough believer in competition; I believe in the most thoroughgoing competition among rivals in business of all kinds. I may say, however, that competition among railroads is not so important when it comes to the mere matter of charges for service as it is among the producers of commodities, because the railroad is under the regulation of the Interstate Commerce Commission; its charges can be fixed; and so long as the law is as it is, there can be, in reality, no competition in the matter of charges among railroads. There may be very important competition between two parallel lines of railroad with reference to the matter of facilities. One railroad may carry freight more speedily than another; another may furnish better cars for passengers, better accommodations, better facilities. So upon those matters there may be real competition, and such competition ought to be preserved; but the competition among manufacturers, trading and distributing corporations, and others ought to be preserved and ought to be enforced, because, I think, that is the only way in which we can effectually prevent the monopolization of trade.

Mr. WEST. Mr. President——

Mr. SUTHERLAND. Just a moment and I will yield to the Senator. I take no stock whatever in the statement that has been sometimes made by very distinguished gentlemen that mere size is not objectionable. I think that mere size may be exceedingly objectionable.

I think that when any group of men, calling themselves a corporation or a partnership, or anything else, have put together such an enormous amount of capital that they practically dominate the production and trade in some particular article of prime necessity, even though they may be able to furnish it at a less price than it could be furnished by thoroughgoing competition, that that in and of itself is an exceedingly objectionable thing, because primarily it puts an end to opportunity for individual initiative; it is a blow at individualism, upon which, in the last analysis, our civilization has been builded. Therefore I am opposed to these great combinations.

Mr. President, I may go further and say that my own view of it is that there is only one thoroughgoing method of reaching that evil, and that is by passing a law that will be difficult to put into terms of legislation, I grant you—but by passing a law which will make it unprofitable for these combinations to grow beyond a certain size.

The Senator from Nebraska [Mr. HITCHCOCK] has the right idea about it. When the tariff bill was pending he introduced an amendment for which I very cheerfully voted, which proposed to impose a tax upon great corporations graduated in proportion to the amount of their product. For example, here is a great corporation which, we will say, is producing to-day 80 per cent of a given commodity. I think that is unfortunate; I think it is bound to result in an unwise curtailment of individual opportunity, and we shall in the end pay dearly for the very cheapness which may result. If we could pass a law which would say that whenever that corporation was producing—finding out first what the aggregate amount of the entire production would be, $500,000,000 a year, or whatever it may be—that whenever that corporation produced more than $100,000,000, for example, it should be taxed upon the excess at a certain rate; if it produced $150,000,000, the tax should be increased, and increased and increased until finally it would become so burdensome that it would no longer be profitable for a corporation to produce an excessive quantity. By a law of that kind, effectually administered, not for the purpose of collecting taxes but for the purpose of destroying the evil, a power which Congress has exercised time and time again, we could regulate the size of these combinations.

We imposed a tax of 10 per cent upon State bank issues, not for the purpose of the revenue but for the purpose of destroying what we conceived to be an evil. We imposed a tax upon oleomargarine, not for the purpose of collecting revenue or encouraging the trade but for the purpose of destroying what we considered to be an evil. The courts will not inquire as to the purposes of Congress if the law itself upon its face be under some power of the Constitution. In some such way I think the evil that I have spoken of may be reached. I doubt very much whether it can be effectually reached by such measures as we are considering here to-day.

I now yield to the Senator from Georgia.

Mr. WEST. Mr. President, referring to the matter of competition between railroads, it has been the policy of the Government, acting through the Interstate Commerce Commission, not to allow the ownership of competing lines. If the Interstate Commerce Commission fixes the rates, what hurt would come to the Government or to the people whom the railroads serve through the ownership of competing lines?

Mr. SUTHERLAND. I will say to the Senator what I think is the evil, and that is because they compete as to other matters than rates. They compete in the matter of facilities, as I have already illustrated. For instance, here are substantially two parallel lines running between Chicago and Omaha. Of course, those two lines must charge exactly the same amounts for carrying freight or passengers between those two points. We all concede that; so that there can be no competition in that respect, and if that were all there would be no objection, perhaps, to the same company owning both lines; but they compete and compete very materially with one another about other things. If they were owned by the same company, and those were the only two lines, then both of them might cut down their running time; both of them would very likely deteriorate in the facilities which they furnish. It is for that reason, to preserve that sort of competition, which in many aspects is quite as important as competition in the matter of rates, that there ought to be no common ownership of competing lines. With that policy I am in entire accord.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Iowa?

Mr. SUTHERLAND. Certainly.

Mr. CUMMINS. Mr. President, is the Senator from Utah quite accurate when he says there is no competition between railroads with respect to rates? I have often heard that asserted, but I do not accept it as strictly sound. It is true that competing railroads as to competing points must charge the same rate, but so long as railroads are independent of each other and so long as each of them is at liberty to prescribe for itself its schedule of rates there is competition. Take the case of the Baltimore & Ohio and the Pennsylvania systems. It is entirely competent for the Pennsylvania Railroad to put in whatever rates it sees fit to establish, subject only to the review of the Interstate Commerce Commission. The law does not contemplate that it shall consult either the Baltimore & Ohio, a competitor, or the New York Central Railroad, a competitor, in determining what rates it will establish. Therefore there is a potential competition in theory, and our law is intended to preserve it. I know very well that in practice, when one road thinks of changing its rates between competitive points, there is some sort of conference preceding the change, but that conference is not contemplated by the law, and, indeed, if it proceeds to the extent of creating any obligation on the part of either road to observe the rates that are established by the other it is contrary to the law.

I do not want to enter upon an argument as to whether there ought to be competition in rates, but I do not think it ought to be generally accepted throughout the country that there is no competition in rates, so long as each railroad is at liberty to establish its own rates.

Mr. SUTHERLAND. Mr. President, I recognize that there is much force in what the Senator from Iowa says; and he would be entirely accurate if the railroad companies were not

subject to the regulating power of the Interstate Commerce Commission. Under the law, however, a railroad company can not change its rates except upon filing its schedule and making it public for a certain time before it goes into effect. It follows from that that in one way or another the various railroads do reach a common opinion about it; and I do not know any law we could pass that would prevent it, for there is such a variety of ways in which it may be done.

A lot of traffic managers interested in roads that are competing more or less with one another get together in a room and one of them says in a casual way: "We are going to make a rate on wheat from such and such a point to such another point of 5 cents a bushel," or whatever it may be. Well, that is notice. If every other railroad is willing to do the same thing, it is accepted silently; but if not another says: "Well, that is a pretty low rate. I think we will put in force a rate of 6 cents a bushel"; and in some mysterious way they finally reach the conclusion that really the fair rate is 5½ cents a bushel. There are so many ways of doing it that I think, in view of the situation, I am accurate in saying that there is no real competition, and there can be no real competition, between railroad companies in the mere matter of charges.

But, Mr. President, I have been led entirely away from the thing I was discussing. I had been undertaking to show the variety of views of the gentlemen who stand sponsor for this bill as to the meaning of the term "unfair competition." If you take them all together now, and make a sort of composite statement of all their views, we shall find that under the term "unfair competition" there is forbidden——

First, every act of passing off one's goods or business for another's. That is the primitive and the primary meaning of the term, and the sole meaning, as I believe.

Second, all methods of competition tending to restraint of trade or monopoly, which are now forbidden by the Sherman law.

Third, substantially all violations of the antitrust laws, including even wrongs arising from interlocking directorates and allied intercorporate directorships.

Fourth, all other acts which the "commission * * * decides * * * may lead to monopoly or restraint of trade," although they may not now be subject to the penalties of the Sherman Act.

Fifth, all other acts affecting a competitor for which "a remedy lies either at law or in equity."

Sixth, all other acts that either affect a competitor and are "against public morals," or that in any way interfere with economic "efficiency," though they may be now quite lawful, and not forbidden by the Sherman law or by any other law.

And I will add a seventh item, which the Senator from Nevada has given us this morning—anything which "shocks the conscience of mankind."

If these Senators who have deeply studied this subject disagree so much among themselves as to what constitutes unfair competition, what is the trade commission going to do? What is the unfortunate business man going to do about it? If he follows the view of the Senator from Iowa, he will run counter to the view of the Senator from Nevada. If he follows the view of the Senator from Nevada, he will run counter to the view of the Senator from Arkansas. If he follows the view of the Senator from Arkansas, he comes into collision with the Senator from Delaware. If he follows them all, he runs up against the Senator from New Hampshire [Mr. HOLLIS]. So he is in rather an unfortunate condition to know what he can do.

I desire now to read from an article written by Mr. A. W. Shaw upon the general subject of this bill. He says, in the course of his article:

> But much of the legislation now proposed as supplementary to the Sherman Act will affect noncombatants. The average business man will be policed by the methods for regulating unfair business.
>
> Many of these methods do not give proper consideration to his everyday work. One section of the Newlands bill decidedly suggests government by suspicion. It assumes all business guilty until shown to be innocent. Its proposal for broadcast annual reports burdens the innocent with the cost of searching out the guilty.
>
> If Congress were to pass a law forcing every citizen to go to court once a year on a sort of day of judgment, explain his work against the criminal code and finally justify himself or stay in a cell, there would probably be a revolution. Most certainly the courts would be so occupied investigating the innocent that the guilty might escape. Still the proposed antitrust legislation provides that business men go through a procedure similar in principle. From every corporation of whatever size engaged in interstate commerce a detailed annual report of its acts and practices is provided for.
>
> An unfair business with a full treasury—

Now, mark—

> An unfair business with a full treasury does not view with alarm the cost of preparing reports for the Government, but the average business man must figure to dollars and cents the work involved.
>
> The majority of the 100,000 corporations which might be affected are the bread and butter of business men. It will average to cost each at least $200—$20,000,000 out of the net profits of the going concerns of the country, just when rising costs are most troublesome.

I think the Senator from Nevada will probably doubt that last statement—that rising costs are just now most troublesome—because I know that he and his colleagues promised that we should be no longer troubled with rising costs:

> If the reports are not complete enough to cost at least this amount, they will be inadequate. Thus, from the practical viewpoint, an indirect legislative problem is summed up as a direct tax on the average business and stated as a dollars-and-cents cost that measures work to be done and work to be paid for from sales. And $20,000,000 is an exceedingly conservative estimate; executives' supervision and bookkeepers' wages alone can eat up $200 in no time.
>
> If the reports are to be of full value to the Government, uniform accounting methods must be used. It took millions to install uniform accounting in the railroad offices—

I may interpose there to say that in dealing with railroads we are dealing with a single kind of business, in which the problem of providing for uniform accounts is a very simple one. This bill undertakes to deal with corporations of vast number, engaged in a multiplicity of activities, where in many instances uniform reports would be a practical impossibility—

> and there the different companies faced similar problems. The cost of unifying the varying accounting practices of business concerns handling activities as diversified as the roster of the Nation's market list is little short of prohibitive.
>
> Having secured reports from the hundred thousand corporations, at a cost exceeding $20,000,000, a trade commission would be in danger of strangulation from the flood of resulting work. To analyze and study the reports can not fail to take the entire time of many experts and directors. The results they secure will not hasten court procedure and can not supply more than a roundabout means for searching out actual violators of the antitrust laws.
>
> When the average business man looks at this proposed antitrust legislation he sees two needs: First, protection from business pirates operating in violation of the rules of fair competition; and, second, a method of punishing unfair business of this type by a plan which will not burden the man who operates in strict conformity with the law. He believes that the broad principles laid down in the Sherman Act, if efficiently enforced under the rules of unfair competition already worked out by the courts, satisfy these needs. He looks with suspicion upon legislation which condemns specific practices as unfair competition, because he fears that, without enlarging his real protection, the language employed will serve to render of doubtful legality certain well-established and legitimate trade usages not condemned by the Sherman Act.
>
> He wants some sort of an instrument that will apply the Sherman Act in a manner which makes justice prompt. He has no objection to—in most instances he wants—a constructive commission which will hold public hearings as the result of complaints of high Federal officials or concerns that believe themselves aggrieved. He urges that this commission be given the power to instigate action against firms and individual business men it believes to be violating our laws.
>
> But the administration needs clearly to recognize the difference between the average business and unfair business and so shape legislation in practical detail as in principle that from the seed of bad practices which certain "big" businesses have sown the average business man of this country will not reap a crop of expensive details and cumbersome impediments.

Further on he says:

> In his turn the business man must assume a wider sphere of action and give more of his time to external problems, including the Government's plans. He needs at Washington a department to consult rather than to fear. It has been suggested that the trade commission be given power to tell when the ice is thin, to determine in advance what specific practices are or are not in violation of the antitrust laws. But the average business man is not interested in testing thin ice. He desires specific assistance that will help him to stand, regardless of the thickness of the ice—usable, profit-bringing, down-to-the-ground assistance, such as the Department of Agriculture gives the farmer. This means separating the Government's accusatory functions for controlling business from the Government's constructive and advisory functions for helping business. The trade commission now proposed can not legally undertake constructive work of this type.
>
> The Department of Commerce as it stands is a composite of policing and assistance, of upbuilding and suspicion. It raises fish, measures boats, and keeps the lighthouses going at the same time it is policing business, investigating the clothing industry, and taking the census. There is no question of the high ideals of those in charge of the Department of Commerce. In the department now, headed as it is by a man who has successfully directed large business enterprises, conditions are, indeed, unusually favorable. But it is a very serious question whether or not it will ever be possible to crowd from the present group of diverse and unrelated activities much constructive work helpful to the business man.

Mr. President, I had occasion the other day to call attention to some laws of a vague character which have met the condemnation of the courts; and, among other things, I referred to a Chinese law which I thought had been before the Senator from Nevada when he drew this bill. I do not understand that he has admitted that charge, but he has not denied it; and I therefore take the liberty of reiterating that he must have had that Chinese law before him. I think, however, he had another law before him as well.

During the French Revolution some very peculiar laws were passed. They seemed to lose sight of the distinction between the legislative and the judicial power. Their laws were couched usually in the rather indefinite phrase of Jean Jacques Rousseau and similar philosophers. To put them into operation required not so much an act of judgment as it did an edict on the part of the tribunals which were charged with their administration.

I am inclined to think that the Senator from Nevada in some way obtained that law which was passed during the French Revolution, and is denominated the "22 Prairial," which means, as I understand, the law of June 10, 1794. It is true that the law to which I am going to call attention is difficult to find. It is not, so far as I have been able to examine the matter, to be found in the ordinary historical works. This copy was given to me by a gentleman who happened to be in Paris, digging into the musty records of that period, and who discovered it. He was a scholar of ripe learning, who delighted in research; and, happening to find this among those musty records, he copied it and gave me this copy.

The law was passed, as I have said, on June 10, 1794. Article 1 provides:

The revolutionary tribunal shall have a president and 4 vice presidents, a public accuser, 4 assistant public accusers, and 12 judges.

It was a more ambitious organization than that proposed by the Senator from Nevada.

2. The jurors shall consist of the number of 50.

The Senator from Nevada has seen fit to reject that part of the law. He has provided for no jurors, of the number of 50 or of any other number.

3. The different functions shall be exercised by the following-named citizens:

President, Dumas; vice presidents, Coffinhal, Sellier, Naulin, Ragmey.

The Senator has not gone so far as to name the gentlemen who shall compose this commission. He might well have done so.

Public accuser, Fouquier; assistants, Gribauval, Royer, Liendon, Givois.

Then in this law follow the names of the judges and the 50 jurors—they were named, too.

The revolutionary tribunal will be divided into sections composed of 12 members; that is to say, 3 judges and 9 jurors, which jurors can not judge in less number than 7.

Now, notice the simple, comprehensive character of the statement which I am about to read and which the Senator from Nevada, in a general way, must have had in mind:

4. A revolutionary tribunal is instituted to punish the enemies of the people.

But they went further than the Senator from Nevada. They defined what should constitute the enemies of the people:

5. The enemies of the people are those who seek to destroy public liberty, either by force or by ruse.

They not only dealt with the enemies of the people, but they went further:

6. The reputed enemies of the people are those who would induce the reestablishment of royalty or seek to debase or dissolve the national convention and the Republican Revolutionary Government, of which this is the center.

Those who would betray the Republic in the command of places and of armies or in all other military functions, carrying on correspondence with the enemies of the Republic, or endeavoring to deprive the armies of their provisions.

Those who seek to interfere with the provisioning of Paris or to cause scarcity of food in the Republic.

Those who aid the projects of the enemies of France, or who favor the escape of conspirators and of the aristocracy—

He need not assist, but let anybody favor the escape of some poor devil of an aristocrat who was in danger of the guillotine and be was an enemy of the people—

or in calumniating patriotism—

There is a beautiful phrase, which I commend to the Senator from Nevada—

or in calumniating patriotism, either by corruption of the mandates of the people or in abusing the principles of the revolution, of their laws, or of the measures of the Government, by efforts false and perfidious.

I want the Senator to mark that word "perfidious." It will come in very handily some of these days in some legislation. Now notice this:

Those who have deceived the people or the representatives of the people to induce them to take steps contrary to the interests of liberty.

There is no difficulty about enforcing that, I would think, according to the philosophy of the Senator from Nevada.

Those who have sought to induce discouragement by favoring the enterprises of tyrants leagued against the Republic.

Now this:

Those who would spread false news in order to divide or vex the people.

Those who seek to mislead the opinion and to obstruct the instruction of the people, to deprave the manners and to corrupt the public conscience, to hurt the energy and purity of the revolutionary and republican principles, or by arresting progress either by writings counter-revolutionary or insidious—

Anybody who makes a writing that is insidious in character. I feel sure that corporations ought to be compelled by some sort of a law to refrain from putting anything into their writings of an insidious character. That has been overlooked—

or by any other machinations.

Mr. BRANDEGEE. Does the word "reactionary" occur?

Mr. SUTHERLAND. No; the word "reactionary" was not in the minds of these gentlemen at that time. That is a word of modern evolution.

The contractors of bad faith who compromised the safety of the Republic, and the destroyers of the public fortune, and others comprised in the dispositions of the law of the seventh frimaire.

Those who being charged with public functions abused the service to aid the enemies of the revolution, to vex the patriots, or to oppress the people.

At length all those who are designated in the preceding laws, relative to the punishment of conspirators and counter-revolutionaries.

Now follows this. The Senator from Nevada, unfortunately, has provided for no penalty for this vague offense of "unfair competition." It is made unlawful apparently by way of gentle admonition only. There ought to be a penalty prescribed. This is the penalty which the French Assembly provided:

7. The punishment for all these misdemeanors is death.

8. The necessary proof is every kind of document, either material, or moral, or verbal, or written.

Now, that is something the Senator ought to put into this bill—the necessary proof to hold a corporation responsible for unfair competition, I may interpolate—

is every kind of document, either material, or moral, or verbal, or written—

The Senator might have some difficulty in determining just what was a verbal document, but that is the language of this law—

which can naturally obtain the assent—

This will commend itself, I know, to the Senator's philosophic mind—

which can naturally obtain the assent of every just and reasonable mind.

That is the test. That is the rule of evidence.

The rule of judgment is the conscience of the jurors enlightened by the love of country—

That is a beautiful and comprehensive test, a very good test, to be sure, but rather difficult of application—

by the love of country, their intention, the triumph of the Republic, and the ruin of its enemies.

A beatific state of mind for a juror to decide a case in. The test is to be his love of country and the triumph of the Republic and the ruin of its enemies. That is the rule of judgment.

The procedure—

Which is delightfully simple—

The procedure, the simple means which good sense indicates to the conscience of truth in the forms which the law determines.

However, that was a little too broad. They had narrower notions than the Senator from Nevada about this matter. So they said:

It is circumscribed by the following points:

9. Every citizen has the right to seize and to arraign before the magistrates conspirators and counter-revolutionaries. He is held to denounce them from what he knows of them.

10. No person can arraign a prisoner at the revolutionary tribunal except the national convention, committee of public safety, the committee of general security, the representatives of the people, commissioners of the convention, and the public accuser of the revolutionary tribunal.

That is rather a lengthy list of people who are thus brought within the magic circle of circumscription.

11. The constituted authorities in general can not exercise this right without having previously obtained authority of the committee of public safety and the committee of general security.

They are a little circumscribed again.

12. The accused shall be interrogated before the court and in public. The formality of the secret interrogation which precedes is suppressed as superfluous; it can have place only in the particular circumstances where it will be judged useful to the knowledge of truth.

13. If there exists any proof, either material or moral, independent of the testimony—

That ought to go into this bill.

13. If there exists any proof, either material or moral, independent of the testimony, it will not be heard by witnesses unless it appears necessary either to discover some accomplices or for some other greater considerations of public interest.

That is, they are not permitted to consider improper testimony unless it is necessary to do so. If it is necessary to do so, then they may consider it.

14. In the cases where this proof is given the public accuser can call the witnesses who can enlighten justice.

15. All the depositions are made in public, and no written deposition will be received unless it is impossible to bring the witness before the tribunal, and in this case it will be necessary to secure express authority from the committees of public safety and general security.

Those committees on public safety and general security had a pretty large contract on their hands, evidently.

16. The law for the defense of calumniated patriots does not extend to conspirators.

A calumniated conspirator evidently was given short shrift. If he was a calumniated patriot, he could make his defense. You could calumniate a conspirator as much as you pleased, but you had to stop when you came to a patriot.

17. The debates finished, the juries will form their verdict, and the judges will pronounce the penalty in the manner determined by law. The president will charge the jury with clearness, precision, and simplicity. If he presents his charge in an equivocal or inexact manner, the jury can demand that it be expressed in another manner.

18. The public accuser can not on his own authority renew a previous application addressed to the tribunal or where he would have made an arraignment himself in the case where there would have been no matter of an accusation before the tribunal. He will make a written report and motion to the chamber of council, who will pronounce their judgment; but no defendant can be placed beyond judgment before the decision of the chamber has been communicated to the committees of public safety and general security which examined him.

19. There will be made a double register of the persons arraigned before the revolutionary tribunal, one for the public accuser and the other for the tribunal, on which will be inscribed all the names of the defendants.

20. The convention repeals all those preceding laws which are inconsistent with the present laws and extends only the laws concerning the organization of the ordinary tribunals, applying themselves to the crimes of counter-revolution and to the action of the revolutionary tribunal.

21. The report of the committee will be joined to the present decree as instruction.

If I am mistaken in my view that the Senator from Nevada has had this law before him and has become more or less saturated with its precision and its humanity and its lack of arbitrary power, then I commend it to his consideration when he comes to frame amendments to the bill, which I understand are impending to a greater or less extent.

The VICE PRESIDENT. The question is on the amendment of the committee as amended.

Mr. JONES. The question is on the entire substitute, is it not?

The VICE PRESIDENT. Yes; on the committee substitute.

Mr. NEWLANDS. There is an amendment pending as an additional section.

Mr. GALLINGER. Let it be read, Mr. President.

Mr. LIPPITT. Mr. President, I suggest the absence of a quorum.

Mr. THOMAS. Mr. President, I rise to a question of order. I wish to know whether any business has been transacted under the rule.

The VICE PRESIDENT. No business has been transacted under the rule.

Mr. GALLINGER. I rise to ask the Chair to point us to the rule which requires that business shall be transacted.

The VICE PRESIDENT. The Chair quoted the Senator from New Hampshire a few days ago as being in favor of this ruling when he held that business had to intervene.

Mr. GALLINGER. I think bills have been introduced, have they not?

Mr. JONES. I wish to suggest that several Senators were relieved from service on committees, and that certainly is business.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hughes	Norris	Stone
Brandegee	Johnson	Overman	Sutherland
Bryan	Jones	Owen	Swanson
Camden	Kenyon	Page	Thomas
Catron	Kern	Perkins	Thornton
Chamberlain	Lane	Pomerene	Tillman
Chilton	Lea, Tenn.	Ransdell	Vardaman
Clark, Wyo.	Lee, Md.	Reed	Walsh
Colt	Lewis	Saulsbury	West
Cummins	Lippitt	Shafroth	White
Gallinger	Martin, Va.	Sheppard	Williams
Gronna	Martine, N. J.	Simmons	
Hitchcock	Nelson	Smith, Ga.	
Hollis	Newlands	Smoot	

Mr. CAMDEN. I desire to announce the unavoidable absence of my colleague [Mr. JAMES]. He is paired with the Senator from Massachusetts [Mr. WEEKS]. I will let this announcement stand for the day.

The VICE PRESIDENT. Fifty-three Senators have answered to the roll call. There is a quorum present. The question is on the amendment of the committee, which is in the nature of a substitute.

Mr. NEWLANDS. I understand the amendment pending is the additional section.

The VICE PRESIDENT. That has never been offered to the Senate.

Mr. BRANDEGEE. Some Senator asked that the amendment might be read. It was not read to the Senate.

The VICE PRESIDENT. There seems to be a misapprehension. It seems to be in the mind of Senators that they can send an amendment to the desk and have it printed and lie on the table, and that then it is pending before the Senate. It is not pending in that way, and can not pend in that way. The only question that is now pending before the Senate is the substitute offered by the committee. There are a large number of amendments that have been sent up to the desk and printed, but they have never been offered.

Mr. BRANDEGEE. I understand; but I wanted to know which committee amendment was pending, which substitute, at what page it comes in.

The VICE PRESIDENT. It is the substitute for the bill.

Mr. BRANDEGEE. Oh.

The VICE PRESIDENT. That is the only question that is now pending before the Senate.

Mr. BRANDEGEE. And its adoption is equivalent to the passage of the bill.

Mr. NEWLANDS. I ask for a vote upon the amendment which I offered to insert as an additional section—section 11.

The VICE PRESIDENT. Does the Senator from Nevada offer it now?

Mr. NEWLANDS. I offer it now.

Mr. GALLINGER. I ask that it be read.

The VICE PRESIDENT. The Secretary will read the amendment.

The SECRETARY. It is proposed to add at the end of the bill a new section, as follows:

SEC. 11. That nothing contained in this act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust acts or the acts to regulate commerce, nor shall anything contained in the act be construed to alter, modify, or repeal the said antitrust acts or the acts to regulate commerce or any part or parts thereof.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Nevada.

Mr. BRANDEGEE. Mr. President, what necessity is there for this amendment? Does anyone think that this committee amendment would affect the Sherman law or modify it, I would ask the chairman of the committee?

Mr. NEWLANDS. I do not think it does.

Mr. BRANDEGEE. I wondered what is the reason for using this language, if there is no reason given for it, that is all.

Mr. NEWLANDS. Mr. President, an amendment was offered by the Senator from Iowa [Mr. CUMMINS] covering this subject. That amendment was divided into two parts. One part has already been adopted, being an addition to section 5, providing that no order made under that section shall be admissible as evidence in any suit under the antitrust acts. That amendment has been adopted. The remaining portion was accepted by the committee as an additional section, and is in the language read at the desk. It is simply for the purpose of absolutely insuring the fact that this bill does not in any way affect or interfere with the enforcement of the antitrust laws.

Mr. BRANDEGEE. I have no objection whatever to it, except that I consider it purely surplusage.

Mr. LIPPITT. I should like to ask if this is a committee amendment or a personal amendment?

Mr. NEWLANDS. It is a committee amendment.

Mr. LIPPITT. When was it adopted by the committee?

Mr. NEWLANDS. It was recommended by the committee at a recent meeting, a week or so ago.

Mr. LIPPITT. Where was that committee meeting held?

Mr. NEWLANDS. It was held at the office of the committee in the Senate Office Building.

The VICE PRESIDENT. The question is on the adoption of the amendment of the Senator from Nevada to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. NEWLANDS. I have another amendment, a committee amendment, to offer, and that is the insertion, in line 9, page 17, after the word "commerce," of the words "relating to or in any way affecting the commerce in which such corporation under inquiry is engaged."

That amendment is offered in response to the criticism upon the phraseology of subdivision (a) of section 3, made by the Senator from Utah [Mr. SUTHERLAND]. As amended it will read as follows:

Subdivision (a) To investigate from time to time, and as often as the commission may deem advisable, the organization, business, financial condition, conduct, practices, and management of any corporation engaged in commerce relating to or in any way affecting the commerce in which such corporation under inquiry is engaged, and its relation to other corporations and to individuals, associations, and partnerships.

The VICE PRESIDENT. The question is on the adoption of the amendment to the amendment.

Mr. BRANDEGEE. Mr. President, I may not have understood the amendment correctly as read; but before asking for the rereading of it I will state that it seems to me it does not meet the suggestion raised by the Senator from Utah for this reason: The commerce in which the corporation may be engaged may be both intrastate and interstate, and I do not think the amendment is appropriate. If the corporation is engaged in both intrastate commerce and commerce among the States, then what good does the amendment of the Senator from Nevada do that they shall investigate the practices of the party in relation to the commerce in which it is engaged?

Mr. NEWLANDS. The word "commerce," the Senator will recollect, is defined in lines 14 and 15, on page 13, as follows:

"Commerce" means such commerce as Congress has the power to regulate under the Constitution.

Mr. BRANDEGEE. I know.

Mr. NEWLANDS. The commerce there referred to is interstate and foreign commerce.

Mr. BRANDEGEE. If the effect of this amendment is to restrict the investigation of the commission to the practices of a corporation engaged in commerce among the States, I have no objection to it, of course.

The PRESIDENT pro tempore. The question is on the adoption of the amendment.

Mr. GALLINGER. Let the amendment be read. It has not been read at the desk.

The PRESIDENT pro tempore. It will be read.

The SECRETARY. On page 17 of the proposed committee amendment, line 9, after the word "commerce" and the comma, insert the words "relating to or in any way affecting the commerce in which such corporation under inquiry is engaged."

Mr. SUTHERLAND. Mr. President, that would seem to take care of the provisions of subdivision (a) in that particular down to where the insertion is made; but what does the Senator say of the succeeding language and its relation to other corporations and to individuals, associations, and partnerships? Does the Senator desire to limit it in one particular and leave it unlimited in the other?

Mr. NEWLANDS. The committee is satisfied with that subdivision.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Nevada to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. NEWLANDS. I will also offer to amend the title of the bill so as to read: "An act to create a Federal trade commission, to define its powers and duties, and for other purposes."

Mr. GALLINGER. That will come later.

The PRESIDENT pro tempore. The question on the amendment of the title will come after the bill has been disposed of. The question now is on agreeing to the amendment of the committee as amended.

Mr. CUMMINS. I offer the following amendment as section 6 of the bill.

Mr. OVERMAN. Is it in lieu of section 6?

Mr. CUMMINS. No.

Mr. OVERMAN. It is another section 6?

Mr. CUMMINS. The other sections are to be numbered consecutively thereafter.

The PRESIDENT pro tempore. The Secretary will read the amendment to the amendment.

The SECRETARY. On page 21, after the amendment already agreed to at that point, in line 22, insert as section 6 the following:

SEC. 6. It shall be unlawful for any corporation engaged in commerce to acquire, own, hold, or control, either directly or indirectly, the whole or any part of the capital stock, or other share capital, or any other means of control or participation in the control, of any other corporation also engaged in commerce if the business of such corporations is naturally and by reason of character and location competitive.

The commission is hereby empowered and directed to forbid and prevent such unlawful conditions in commerce in the manner following, to wit:

Whenever it shall have reason to believe that any corporation so engaged in commerce has acquired or is owning, holding, or controlling, either directly or indirectly, the whole or any part of the capital stock, or other share capital, or any other means of control or participation in the control of any other corporation also engaged in commerce, and that the business of the two or more corporations is naturally and by reason of character and location competitive, it shall issue and serve upon the corporation a complaint stating its charges in that behalf and at the same time a notice of hearing upon a day and at a place therein fixed. The corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such corporation to cease and desist from the violation of the law so charged in said complaint. If upon such hearing the commission shall find that such corporation has acquired or is holding, owning, or controlling the capital stock, or other share capital, or other means of control or participation in the control of any other corporation contrary to the provisions of this section it shall thereupon enter its findings of record and issue and serve upon the corporation an order requiring that within a reasonable time, to be stated in such order, that the corporation shall cease and desist from acquiring, owning, holding, or controlling the whole or any part of the capital stock, or other share capital, or other means of control, or participation in the control of such other corporation or corporations.

The commission may at any time set aside, in whole or in part, or modify its findings or order so entered or made. Any suit brought by any corporation to annul, suspend, or set aside, in whole or in part, any such order of the commission shall be brought against the commission in a district court of the United States in the judicial district wherein the complainant corporation has its principal office or place of business, and the procedure set forth in the act of Congress making appropriations to supply urgent deficiencies and insufficient appropriations for the fiscal year of 1913, and for other purposes, relating to suits brought to suspend or set aside, in whole or in part, an order of the Interstate Commerce Commission shall govern the procedure in such cases.

If within the time so fixed in the order of the commission the corporation against which the order is made shall not cease and desist from the acquisition, owning, holding, or controlling of the whole or any part of the capital stock or other share capital or other means of control or participation in the control of such other corporation or corporations and comply with the order of the commission by bringing itself in such respect into conformity with the law, and if in the meantime such order is not annulled, suspended, or set aside by a court, the commission may bring a suit in equity in the district court of the United States in any district wherein the defendant corporation has its principal office or place of business to enforce its said order, and jurisdiction is hereby conferred upon such court to hear and determine any such suit and to enforce obedience to any such order according to the law and rules applicable to suits in equity.

All the provisions of the law relating to place and advancements for speedy hearing in suits brought to suspend or set aside an order of the Interstate Commerce Commission shall apply in suits brought under this section: *Provided*, That this section shall not apply to banks, banking institutions, or common carriers: *Provided further*, That no order or finding of the court or commission in the enforcement of this section shall have any force or effect or be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

The PRESIDENT pro tempore. The question is on the adoption of the amendment offered by the Senator from Iowa to the amendment of the committee.

Mr. OVERMAN. Is not that amendment covered by section 8 of the antitrust bill reported by the Judiciary Committee?

Mr. CUMMINS. I was about to make some observations in regard to the question just propounded by the Senator from North Carolina. The subject is dealt with——

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Ohio?

Mr. CUMMINS. I will yield if the Senator will wait until I finish my sentence. The subject is dealt with in the bill reported by the Judiciary Committee known as the Clayton bill. I now yield to the Senator from Ohio.

Mr. POMERENE. Mr. President, with the permission of the Senator from Iowa, I wish to say that a number of the members of the Committee on Interstate Commerce, with the very valued assistance of the junior Senator from Montana [Mr. WALSH], have redrafted section 5 of this bill. Not intending to take the time of the Senator from Iowa now, I ask that the section as redrafted may be ordered printed and lie on the table, to be called up at a later hour in the day.

The PRESIDENT pro tempore. The Senator from Ohio offers an amendment, which will be printed and lie on the table.

Mr. NEWLANDS. Mr. President, I presume the Senator from Ohio did not wish to give the impression that the amendment as drawn has been as yet accepted by the Interstate Commerce Committee?

Mr. POMERENE. Oh, Mr. President, I had no such intention. I simply stated that the amendment was drawn up after a conference held by a number of the members of the committee and the Senator from Montana [Mr. WALSH]. Lest there be any misunderstanding at all about it, I desire to say that the amendment, as redrafted, has not as yet been acted upon by the committee.

Mr. GALLINGER. Does the Senator from Ohio offer the amendment in his own name?

Mr. POMERENE. I simply give notice of my intention to offer it at a later hour.

Mr. CUMMINS. Mr. President, as I said, the subject of the amendment which I have just offered is embraced in the Clayton bill. I have offered the amendment for two reasons: First, because I think the legislation upon that subject ought to be a part of the bill now under consideration rather than a part of the Clayton bill; second, because I am not at all satisfied with the provisions of the bill reported by the Judiciary Committee.

It will be observed that I have excepted from the operation of this amendment banks, banking institutions, and common carriers.

Mr. OVERMAN. So has the Judiciary Committee in the bill reported by them.

Mr. CUMMINS. I have excepted the latter because I believe that the provisions of the bill with regard to common carriers ought to be a part of the interstate-commerce act, and I intend

to offer an amendment in substantially similar terms applicable to common carriers when we reach the consideration of what is known as the railroad securities bill, which is a revision of certain parts of the interstate-commerce law.

With regard to banks and banking institutions, whatever changes we make in the law with regard to them, in my judgment, should be made in the banking and currency law, and the enforcement of such provisions should be committed to the Federal Reserve Board.

The difference between the provision of the Clayton bill and the provisions of the amendment which I have just offered, so far as the substantive law is concerned, I mean—entirely apart from the commission and the procedure before the commission and the jurisdiction of the courts and the procedure in the court—lies principally in two things. I will be compelled to take up for consideration in a degree the provisions of the Clayton bill in order to indicate in what respects my amendment differs from the Clayton bill. The subject is covered in section 8 of the measure to which I have just referred. Section 8 provides:

That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce.

I pause in the reading to point out the first difference. It will be seen that the Clayton bill renders unlawful the future acquisition of stock or of share capital. It does not attempt to regulate those instances in which corporations have already acquired and now hold the capital stock of competitive corporations. I regard that as a fatal weakness. The people of this country will not be satisfied with a mere prohibition against acquisitions of stock made by these corporations in the future; it is the existing condition of which they complain. They desire to be relieved of some of the hardships, some of the wrongdoing which grows out of the absorption by one corporation of the stock of another engaged in a competitive business. If we are to withhold our hands and make no effort to readjust the onerous and hard conditions which have grown up we might almost as well abandon all regulation of the subject.

Mr. President, it must not be assumed that I am suggesting that there should be a confiscation of any stock now held by any corporation contrary to the provisions of my amendment. My contention is that corporations which apparently are independent, but which are, in fact, inter-related in the way I have described, ought to divorce themselves and pursue an independent course; that if a corporation owns the stock of another engaged in similar business, within some reasonable time, which I have provided for in my amendment, to be prescribed by the commission, the corporation shall sell or otherwise dispose of that stock, the holding of which constitutes a violation of the principle we are endeavoring to announce and enforce. There can be no hardship to a corporation in requiring it to observe that principle. If it is against public policy that a corporation shall in the future control another through the medium of the ownership of its capital stock, it is likewise against public policy that a corporation which now holds this means of control shall continue to hold it.

I put the question to the Senate by my amendment so sharply that it can not be misunderstood, and I intend that the people of this country shall understand the difference between a provision which simply prohibits future acquisitions of stock under such circumstances and a provision which compels a corporation holding the stock of another corporation in violation of the principle established to part with that capital stock and to bring itself into harmony with the policy that we are now establishing.

Mr. CHILTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from West Virginia?

Mr. CUMMINS. I yield.

Mr. CHILTON. The Senator recognizes, does he not, that both the trade commission bill and the Clayton bill proceed upon the theory, expressed in both of them now, that no part of the Sherman law shall be amended or modified by anything contained in either or both of them?

Mr. CUMMINS. I think so.

Mr. CHILTON. Does the Senator not think that holding companies and the owning of the stock of one corporation by another so as to lessen competition already come within the purview of the Sherman law?

Mr. CUMMINS. I do not.

Mr. CHILTON. The Senator does not agree to that?

Mr. CUMMINS. Not at all.

Mr. CHILTON. If such practices restrict trade or lessen trade or create or tend to create monopoly, do they not come within the Sherman law?

Mr. CUMMINS. They then do.

Mr. CHILTON. Well, does the Senator think we have any jurisdiction over such a practice, if it does not restrain trade?

Mr. CUMMINS. Unquestionably we have—that is, from my standpoint.

Mr. CHILTON. I merely wanted to get the Senator's position.

Mr. CUMMINS. We have no constitutional or moral right to confiscate the property of a person or of a corporation, nor would any Senator tolerate the suggestion; but we have the right to prescribe the conditions upon which a corporation shall engage in commerce among the States, and one of those conditions ought to be that the corporation is not holding the stock or other means of control of another corporation with which it is ostensibly in competition.

In response further to the Senator from West Virginia, I may say that the mere purchase on the part of one corporation of the stock of another engaged in competition is not a violation of the antitrust law. There may be a dozen or 20 corporations engaged in the same business, and it is the commonest thing known that 1 of these 20 shall own the stock of 1, 2, or 3 of the others; it is a favorite method of consolidation, of unifying the control; but that does not establish restraint of trade; that does not establish monopoly, although the practice is plainly opposed to public policy. I have now named the first respect in which my amendment differs from the provision in the bill reported by the Judiciary Committee.

The second respect is that in the Clayton bill the standard set up as the test of illegality is this:

Where the effect of such acquisition is to eliminate or substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to create a monopoly of any line of commerce.

Of course the latter, Mr. President, is purely superfluous, because whenever there is anything done that creates a monopoly in any line of commerce it falls within the prohibition of the antitrust law; but in order to make the acquisition even in the future unlawful, the Government must show that the effect of the acquisition is either to eliminate or to substantially lessen competition. While every sensible man knows that the ownership by one corporation of the stock of another does eliminate to a great extent competition and does substantially lessen competition, it will be practically impossible in 99 cases out of 100 for the Government to show that the effect of the stockholding upon the part of the one corporation destroys competition between it and another corporation. It is one of those things that are not susceptible of proof; and if I were not well assured of the patriotic purposes of the men who used that expression in the original bill as it came from the House, I could not resist the belief that its use was intended to delude the people of the country into the belief that we are doing something for them, when, as a matter of fact, we are doing nothing at all.

I regard the proposal as it is now in the Clayton bill as a "gold brick." It can have no beneficial effect; it will be innocuous and its enforcement will, in my judgment, never be attempted; for if Senators will simply busy their minds in attempting to imagine or in attempting to forecast what proof the Government must bring forward in order to show that the ownership of the stock of one corporation by another has actually lessened competition between those two corporations, they will perceive at once how difficult if not impossible the task will be. I can not think that Senators desire to approve the custom of business through which one corporation holds the stock of another, the two corporations being engaged in the same kind of commerce or traffic. Why should one corporation hold the stock of another when they are engaged in a common business? I challenge an answer to that question. I want somebody who believes in the provision of the Clayton bill to answer the question, Why should one corporation be permitted to hold the stock of another?

Mr. CHILTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from West Virginia?

Mr. CUMMINS. I yield to the Senator from West Virginia.

Mr. CHILTON. In no sense accepting the challenge of the Senator, I want to call his attention to the discussion in which the Senator engaged in the Committee on the Judiciary. In the first place, the Senator will recall that the committee discussed very fully the constitutional difficulty in the way of going that far under the interstate-commerce clause of the Constitution. The Senator will further recall the fact that it was shown before the committee—and there is no doubt about it being true—that some of the States specifically authorize one corporation to hold the stock of another; for instance, the State of West Virginia under its laws specifically authorizes one corporation to hold the stock of another. It is recognized that whatever may be

the construction of the Sherman antitrust law upon that point and whatever may be our opinion as to the manner in which it has been enforced, the fact is that such holdings exist.

This legislation is in part experimental. Everybody recognizes that we are going out into a field to try to give relief to the people in obedience to the promise of political parties and in answer to what seems to be a public demand growing out of a danger to commerce. Now, we find this condition: There are hundreds of thousands of corporations, and it has been proved by the evidence taken that many of these corporations probably own the stock of other corporations. That is a condition which has grown up; whether right or wrong, it is here.

In the first place, we had to consider the possible disturbance of business involved in making a rule at least of doubtful propriety. It is very doubtful whether or not we have the constitutional power to go into the States and say, "Notwithstanding the fact that you have a law here which permits a corporation engaged in business to own the stock of another corporation, we say by a law of Congress that that shall not be permitted, and, notwithstanding the fact that you have built up a business here, notwithstanding the fact that you have acquired a large amount of property, we are going to say from now on not only that you shall not own the stock of another corporation but that you must unscramble this condition which has grown up under the laws of the State and under the permission of the Federal Government."

The general rule is that all laws shall have a prospective effect. It is very unusual for Congress to enact a law reaching a condition which has grown up in the past under authority of law. The usual rule is that laws have a prospective and not a retrospective effect, and we did not think that the reasons urged before the committee were sufficient to make an exception at this time. We thought it very doubtful whether or not we had the power to go as far as does the amendment. In the second place, we thought it very doubtful whether or not it would be best for the country, for all of the people, if it should be done, even if we did have the power. In the third place, we thought it very doubtful whether or not there should be brought about that kind of a conflict between the laws of the States and the regulation of commerce now to be made by the Congress of the United States.

Mr. CUMMINS. Well, Mr. President, I never heard the constitutional question suggested. I can not believe that there is any real doubt with regard to the power of Congress to prescribe a rule of that character. Otherwise, we have no power to regulate commerce; otherwise, our power to regulate commerce is subordinate to the legislation and sovereignty of the States. The Senator from West Virginia can not doubt our right to say that no monopoly shall exist, even if the law of a State permitted monopoly. Of course the law of a State can not declare what shall be done or not done in interstate commerce. The law of the State is supreme only with regard to its own affairs. It is supreme with respect to its own commerce, but it can not limit or prescribe the extent to which Congress may go in regulating interstate commerce. Upon interstate commerce the power of Congress is as unquestioned and unlimited as is the power of the State with regard to intrastate commerce; and that we can say that it shall be unlawful for any corporation holding the stock of another and competitive corporation to engage in interstate commerce I feel is so certain that it must be accepted as a fundamental proposition.

Mr. THOMAS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Colorado?

Mr. CUMMINS. I yield.

Mr. THOMAS. If that be done, I am in entire accord with the Senator. That is precisely the course which I think this legislation should take. This amendment is one which goes very far toward satisfying my views as to the character of our national antitrust legislation. The principal criticism I have to make of the amendment is that it does not prohibit all corporations engaged in interstate commerce business from holding stock in any other corporation. I do not think a corporation should be permitted to hold stock in any other corporation. It is foreign to the purposes for which it is created and must necessarily lead to the control, or at least to the influencing, of the operations and policy of the corporation in which the stock is held.

Mr. CUMMINS. I go quite as far as the Senator from Colorado. It was the common law. It is now the opinion of the ablest students of the whole subject as they review the wonderful growth of corporate power and the intertwining of corporate interests, so that by accumulating into one corporation the stock, or a part of the stock, of many others a monopoly is easily effected.

I am in favor of absolutely prohibiting any corporation from owning the stock of any other corporation whether competitive or not if the acquiring corporation desires to engage in commerce among the States; but I have not sought to do that in my amendment. I have limited it to those cases in which the two corporations or more are engaged in business that ought to be competitive, and my whole desire is to strengthen the competitive force in the business of the United States.

There can be no reason given for the amendment as limited by the Judiciary Committee except this, that we do not want to further disturb these monopolistic powers, and want to leave them to be dealt with only by the antitrust law. I concede that it leaves them subject to the antitrust law.

I have no apprehension with regard to the alleged disturbance. There are no hundred thousand corporations in this country holding the stock of other competitive corporations. There is not a line in the evidence anywhere that indicates any such thing. There are a great many of them, I agree. Some of the most prominent of them are well known upon the floor of the Senate. I remember hearing just the other day a most graphic story with regard to the International Harvester Co. It had acquired the stock, the means of control, of another and competitive corporation. It permitted the latter corporation to go on and do business as an independent, intending that the public should believe that there was rivalry between the two, and in that way endeavored to compose and alleviate some of the complaints that are not only Nation-wide, but world-wide, against consolidations of that character. Yet under this bill, so far as this amendment is concerned, the International Harvester Co. could continue to hold the stock of these other corporations and continue this course of deception and fraud which characterized its business for a period at least.

Mr. CHILTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from West Virginia?

Mr. CUMMINS. I yield.

Mr. CHILTON. I have no controversy with the Senator as to the great desirability of abolishing the holding company. I think it is a great abuse, and, so far as I am concerned, the Senator knows that he and I would have no controversy whatever on that subject. But, Mr. President, the power of the Congress is limited to interstate commerce; and assuredly the Senator does not mean to say that there has been no controversy as to where the power of the Federal Government shall end and the power of the State shall begin, or, vice versa, where the power of the State shall end and where the power of the Federal Government shall begin.

In every question and in every law, in every discussion of this subject, we have got to meet the fact that we can deal only with interstate commerce. Now, the Senator certainly will recollect the argument that if we can deal with the organization of a corporation we can deal with its plant. If we can deal with its plant we can deal with its men. If we can deal with its men we can regulate their hours of employment. If we can regulate their hours of employment we can say who shall work and who shall not.

In other words, certainly the Senator does not mean to say that the power to regulate interstate commerce goes to the extent of allowing Congress to go down into the States and regulate the hours and conditions of labor and the conditions of employment in the States. In the opinion of many these things would be as much a part of interstate commerce as would be the regulation of the organization of a corporation created by the State, regulated by the State, which must go to the State for its powers and must go to the laws of the State for the charter of its existence, and where it can work, and what it can do.

If we can go into a State and regulate all such affairs of corporations, many contend that we can go still further and can regulate every one of the conditions of employment as well as the conditions and means of manufacture. On that point we did think there was a serious controversy; and to show the Senator——

Mr. CUMMINS. Will the Senator pause for a moment just at that point?

Mr. CHILTON. Yes.

Mr. CUMMINS. The argument the Senator has just been making is as potent against what the committee has done as against what I think ought to be done.

If it is not a valid regulation of interstate commerce to say that it shall be unlawful for a corporation engaged in such commerce to hold the capital stock of another corporation; if

that can not be done, neither can you say to the corporation: "You shall not in the future acquire capital stock of a corporation engaged likewise in commerce." If that is a matter for State regulation alone, we can neither interfere with it, as has been done in the past, nor can we prevent it if it is attempted in the future.

I never heard our authority in that respect questioned. I have often heard it questioned whether we could regulate hours of labor, and I have heard it questioned whether we could regulate the issues of stock and bonds, and things of that sort; but I never heard it questioned that Congress could lay down any rule that was necessary to preserve the freedom of commerce, to preserve competition in business. The Senator from West Virginia is the first Senator I have ever heard challenge that proposition.

Mr. CHILTON. Mr. President, I certainly have heard it questioned in the committee; and I want to call the Senator's attention to this fact:

The language of the Clayton bill confines it to matters as to which there is no doubt about the power of Congress. There can be no question, under the decisions now, as to the power of Congress wherever the act substantially lessens competition or restrains trade. We are following in a beaten path when we go that far.

Mr. CUMMINS. In what beaten path?

Mr. CHILTON. I will ask the Senator what he thinks of this proposition: Suppose it were lawful for a corporation to buy stock in another corporation a year ago; suppose it were lawful under the laws of the United States and under the laws of the States. Could you, by any act now, divest it of that property?

Mr. CUMMINS. No.

Mr. CHILTON. Could you take from it a vested right?

Mr. CUMMINS. No, Mr. President; we could not.

Mr. CHILTON. Does not that present essentially a constitutional question?

Mr. CUMMINS. Not at all. We can not divest them of the property, but we can say to them, "If you do not get rid of that property you can not continue to engage in interstate commerce."

Mr. CHILTON. Is that what the Senator's amendment says?

Mr. CUMMINS. That is precisely what it says.

Mr. CHILTON. I do not so understand it.

Mr. CUMMINS. That it shall be unlawful for a company to continue to engage in interstate commerce if these things are true.

Mr. CHILTON. Mr. President, while I am on my feet, if the Senator will pardon me, upon the other point to which I called his attention——

Mr. CUMMINS. Certainly.

Mr. CHILTON. I do not want to read it, but I should like to put in the RECORD, simply as the authority for the question which I raised as to the constitutionality of the proposed legislation, a quotation from the decision——

Mr. CUMMINS. I do not yield for that purpose. I am perfectly willing that any authority, any case which the Senator has in mind, shall be put in, but——

Mr. CHILTON. Without reading, I mean.

Mr. CUMMINS. I would rather the Senator from West Virginia would put it in in his own time.

Mr. CHILTON. Very well, then.

Mr. CUMMINS. For that would be to put in my argument the argument of some one else. I would be necessarily required then to pause to consider it and answer it if I could.

Mr. President, for these two reasons, which seem to me very grave reasons, I have offered my amendment. I do not intend to debate the matter further. It seems to me the merit of what I have said is so obvious that it ought not to be required of me that I should consume further time to demonstrate its soundness and wisdom. I simply want Senators to feel, as I want the country to know, that when they vote against this amendment and in favor of the amendment proposed by the Judiciary Committee they are legalizing, in so far as they can, the iniquities of the past.

Mr. OVERMAN. Mr. President, if the Senator is in earnest about this—and I know he is—instead of offering his amendment to the trade commission bill, I think he might amend section 8 of the other bill by adding simply one word or two words, which would accomplish exactly what he wants.

Mr. CUMMINS. It would. It would cover that point.

Mr. OVERMAN. So as to make it read:

That no corporation engaged in commerce shall own, directly or indirectly, the whole or any part of the stock—

And so forth.

Mr. CUMMINS. Certainly.

Mr. OVERMAN. That is all you have to put in there—the word "own."

Mr. CUMMINS. The Senator from North Carolina remembers, I am sure, that in the Judiciary Committee—if I am permitted to speak of it—the amendment he has now outlined was unanimously adopted. There was no dissent whatever. Then, at some time—I did not happen to be present at that time—it was stricken out, and I was amazed when I discovered that the members of the committee had changed their minds in that regard. Still, the amendment just suggested by the Senator from North Carolina, while it would tremendously improve the section, and while it would cure the one defect which we have been discussing, would not remove what I regard as a serious mistake in the standard which is sought to be applied in order to determine whether one corporation can hold the stock of another.

I do not believe there should be put upon the people of this country the burden of proving that ownership on the part of one corporation of stock of another and competitive corporation has the effect of lessening competition between them before any remedy can be administered. You know, every Senator knows, that where one corporation holds the stock of another, and where they are engaged in the same kind of business, it is against public policy, and that does result in destroying competition between them. It may be impossible to prove it. I think in most instances it would be impossible to establish it; but down in our hearts we all know, and the whole American people know, that a relation of that sort does destroy independence of action and that full, complete, and vigorous competition to which we are entitled in the commerce of the country.

I do not intend to pursue my amendment and point out the difference between the method of enforcing the law as shown in the report of the Judiciary Committee and as set forth in the amendment that I have proposed. That question, I assume, will arise upon another amendment. When it does arise I expect to point out my views somewhat fully and express my opinions as to the best procedure, both in the commission and in the courts, for the enforcement of the law. Just now I am concerned only in the two things: First, the escape of all corporations which now hold the stock of their rivals in business; and, second, in requiring the Government to prove that the effect has been to lessen competition before the law declares the relation illegal.

Mr. CHILTON. Mr. President, just at this point I should like permission to put into the RECORD the quotation from the decision of the Supreme Court in the case of Kidd *v.* Pearson (128 U. S., 1), being part of the decision of Mr. Justice Lamar, to which I referred during the remarks of the Senator from Iowa, and I did not object that he preferred not to have it made part of his speech.

The PRESIDENT pro tempore. Without objection, permission is granted.

The matter referred to is as follows:

In the case of Kidd *v.* Pearson (128 U. S., 1), Justice Lamar, writing the opinion of the court, says (p. 16):

"The line which separates the province of Federal authority over the regulation of commerce from the powers reserved to the States has engaged the attention of this court in a great number and variety of cases. The decisions in these cases, though they do not in a single instance assume to trace that line throughout its entire length, or to state any rule further than to locate the line in each particular case as it arises, have almost uniformly adhered to the fundamental principles which Chief Justice Marshall, in the case of Gibbons *v.* Ogden (9 Wheat., 1), laid down as to the nature and extent of the grant of power to Congress on this subject, and also of the limitations, express and implied, which it imposes upon State legislation, with regard to taxation, to the control of domestic commerce, and to all persons and things within its limits of purely internal concern.

"According to the theory of that great opinion the supreme authority of this country is divided between the Government of the United States, whose action extends over the whole Union, but which possesses only certain powers enumerated in its written Constitution, and the separate governments of the several States, which retain all powers not delegated to the Union. The power expressly conferred upon Congress to regulate commerce is absolute and complete in itself, with no limitations other than are prescribed in the Constitution; is to a certain extent exclusively vested in Congress, so far free from State action; is coextensive with the subject on which it acts, and can not stop at the external boundary of a State, but must enter into the interior of every State whenever required by the interests of commerce with foreign nations, or among the several States. This power, however, does not comprehend the purely internal domestic commerce of a State which is carried on between man and man within a State or between different parts of the same State.

"The distinction is stated in the following comprehensive language: "'The genius and character of the whole Government seem to be that its action is to be applied to all the external concerns of the Nation and to those internal concerns which affect the States generally, but not to those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere for the purpose of executing some of the general powers of the Government. The completely internal commerce of a State, then, may be considered as reserved for the State itself' (p. 195).

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"No distinction is more popular to the common mind or more clearly expressed in economic and political literature than that between manu-

factures and commerce. Manufacture is transformation, the fashioning of raw materials into a change of form for use. The functions of commerce are different. The buying and selling and the transportation incidental thereto constitute commerce, and the regulation of commerce in the constitutional sense embraces the regulation at least of such transportation. The legal definition of the term as given by this court in County of Mobile *v.* Kimball (102 U. S., 691, 702) is as follows: 'Commerce with foreign countries and among the States, strictly considered, consists in intercourse and traffic, including in these terms navigation and the transportation and transit of persons and property, as well as the purchase, sale, and exchange of commodities.' If it be held that the term includes the regulation of all such manufactures as are intended to be the subject of commercial transactions in the future, it is impossible to deny that it would also include all productive industries that contemplate the same thing. The result would be that Congress would be invested, to the exclusion of the States, with the power to regulate not only manufactures, but also agriculture, horticulture, stock raising, domestic fisheries, mining—in short, every branch of human industry. For is there one of them that does not contemplate, more or less clearly, an interstate or foreign market?

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"The power being vested in Congress and denied to the States, it would follow as an inevitable result that the duty would devolve on Congress to regulate all of the delicate, multiform, and vital interests, interests which in their nature are and must be local in all the details of their successful management.

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"This being true, how can it further that object so as to interpret the constitutional provision as to place upon Congress the obligation to exercise the supervisory powers just indicated? The demands of such a supervision would require, not uniform legislation generally applicable throughout the United States, but a swarm of statutes only locally applicable and utterly inconsistent. Any movement toward the establishment of rules of production in this vast country, with its many different climates and opportunities, could only be at the sacrifice of the peculiar advantages of a large part of the localities in it, if not of every one of them. On the other hand, any movement toward the local, detailed, and incongruous legislation required by such interpretation would be about the widest possible departure from the declared object of the clause in question. Nor this alone. Even in the exercise of the power contended for Congress would be confined to the regulation, not of certain branches of industry, however numerous, but to those instances in each and every branch where the producer contemplated an interstate market. These instances would be almost infinite, as we have seen; but still there would always remain the possibility—and often it would be the case—that the producer contemplated a domestic market. In that case the supervisory power must be executed by the State, and the interminable trouble would be presented that whether the one power or the other should exercise the authority in question would be determined, not by any general or intelligible rule, but by the secret and changeable intention of the producer in each and every act of production. A situation more paralyzing to the State governments and more provocative of conflicts between the General Government and the States, and less likely to have been what the framers of the Constitution intended, it would be difficult to imagine.

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"These questions are well answered in the language of the court in the license-tax cases (5 Wall., 462, 470): 'Over this commerce and trade (the internal commerce and domestic trade of the States) Congress has no power of regulation, nor any direct control. This power belongs exclusively to the States. No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature. The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject.'"

In Wilkerson *v.* Rahrer (140 U. S., 545) the justice, in writing the opinion of the court, says (p. 554):

"The power of the State to impose restraints and burdens upon persons and property in conservation and promotion of the public health, good order, and prosperity is a power originally and always belonging to the States, not surrendered by them to the General Government nor directly restrained by the Constitution of the United States, and essentially exclusive.

"And this court has uniformly recognized State legislation, legitimately for police purposes, as not in the sense of the Constitution necessarily infringing upon any right which has been confided expressly or by implication to the National Government.

"The fourteenth amendment, in forbidding a State to make or enforce any law abridging the privileges or immunities of citizens of the United States, or to deprive any person of life, liberty, or property without due process of law, or to deny to any person within its jurisdiction the equal protection of the laws, did not invest and did not attempt to invest Congress with power to legislate upon subjects which are within the domain of State legislation.

"As observed by Mr. Justice Bradley, delivering the opinion of the court in the Civil Rights cases (109 U. S., 3, 13), the legislation under that amendment can not 'properly cover the whole domain of rights appertaining to life, liberty, and property, defining them and providing for their vindication That would be to establish a code of municipal law regulative of all private rights between man and man in society. It would be to make Congress take the place of the State legislatures and to supersede them. It is absurd to affirm that, because the rights of life, liberty, and property (which include all civil rights that men have) are by the amendment sought to be protected against invasion on the part of the State without due process of law, Congress may therefore provide due process of law for their vindication in every case; and that, because the denial by a State to any persons of the equal protection of the laws is prohibited by the amendment, therefore Congress may establish laws for their equal protection.'

"In short, it is not to be doubted that the power to make the ordinary regulations of police remain with the individual States and can not be assumed by the National Government, and that in this respect it is not interfered with by the fourteenth amendment. (Barbier *v.* Connolly, 113 U. S., 27–31.)

"'Commerce undoubtedly is traffic,' said Chief Justice Marshall, 'but it is something more; it is intercourse. It describes the commercial intercourse between nations and parts of nations in all its branches and is regulated by prescribing rules for carrying on that intercourse.' Unquestionably, fermented, distilled, or other intoxicating liquors or liquids are subjects of commercial intercourse, exchange, barter, and traffic between nation and nation and between State and State, like any other commodity in which a right of traffic exists, and are so recognized by the usages of the commercial world, the laws of Congress, and the decisions of courts. Nevertheless, it has been often held that State legislation which prohibits the manufacture of spirituous, malt, vinous, fermented, or other intoxicating liquors within the limits of a State, to be there sold or bartered for general use as a beverage, does not necessarily infringe any right, privilege, or immunity secured by the Constitution of the United States or by the amendments thereto. (Mugler *v.* Kansas, 123 U. S., 632, and cases cited.) 'These cases,' in the language of the opinion in Mugler *v.* Kansas (p. 659), 'rest upon the acknowledged right of the States of the Union to control their purely internal affairs, and in so doing to protect the health, morals, and safety of their people by regulations that do not interfere with the execution of the powers of the General Government or violate rights secured by the Constitution of the United States.' The power to establish such regulations, as was said in Gibbons *v.* Ogden (9 Wheat., 1, 203), reaches everything within the territory of a State not surrendered to the National Government."

Mr. WALSH. Mr. President, the question presented by the amendment offered by the Senator from Iowa introduces into the discussion at this time practically the wisdom of the provision made in the Clayton bill to meet the evil to which the amendment is addressed.

It occurs to me that the decision of that question ought to wait until we have the Clayton bill before us for consideration. I do not mean to assert that the subject is not quite as germane to the trade commission bill as it is to the so-called antitrust or Clayton bill; but I think everyone will recognize that in order to arrive at results in this proposed legislation we ought to adhere as closely as we can, consistently with the preparation of proper measures, to the bills which have come to us from the House. I think it would be eminently unwise to transport a whole subject matter from the Clayton bill, for instance, and give it a place in the trade commission bill, separate and apart from the other provisions of the Clayton bill to which it must bear a more or less direct relation.

I would not like to have it understood that, speaking for myself at least, I do not consider as having very great force indeed the suggestions made in this behalf by the distinguished Senator from Iowa. As has been said by him, both of these subjects received consideration by the Judiciary Committee. I do not think I was myself present when the change was made which eliminated the amendment prohibiting the holding as well as the acquisition by a corporation of the stock of a competing company, and I am disposed to believe that the Senator from Iowa was not present—that is my recollection, at least—when final consideration was given to the other feature of the section which has been made subject to his criticism.

I call the attention of the Senator, however, to the fact that the whole purpose of the amendment now offered by him, so far as it is intended to correct what he believes to be defects in section 8 of the Clayton bill, can be met by just a simple change in the language of section 8; and it occurs to me that that would be the advisable course, rather than to inject into this bill the very extensive provisions which are found in the amendment now offered by the Senator from Iowa.

Mr. CUMMINS. Mr. President, I realize the force of what the Senator from Montana is saying, as I have realized the embarrassment of trying to deal with these subjects in two independent bills. The reason I have offered this amendment—and I had hoped, really, that the subject would be considered by the Judiciary Committee or those who are in charge of affairs upon the other side—is this:

I believe that interlocking directorates and the holding of the stock of one corporation by another are two of the great evils that need a remedy. I am sure the Senator from Montana will agree with me about that. If we deal with them in the Clayton bill and commit their enforcement to a trade commission, as the Clayton bill does, what would be our situation if the trade commission bill should not become a law? We would have done, as it seems to me, one of the most ridiculous things that can be imagined of a legislative body.

It is clear to me that these things which are inseparably connected with the trade commission, that depend for their life upon the action of the trade commission, ought to be in the trade commission bill, so that they will all become law together. That seems to be a very logical and reasonable suggestion.

Mr. WEST. Why not consolidate and unify the two into one, then?

Mr. CUMMINS. I answer the Senator from Georgia that I have been from the beginning earnest in the effort to consolidate them. Our committee, the Interstate Commerce Committee, originally voted to report the section that I have just read, not in terms but covering that subject, as a part of this bill as well as that relating to interlocking directorates. I knew that we would be in just the position we now find ourselves if we did not embody all such legislation in one measure. I do not want to be an obstructionist; I want to help bring this legislation into the wisest possible form; but I can not imagine how it would

hurt—I can see how it would help—if sections 8 and 9 of the Clayton bill were lifted out of that measure and put into the trade commission bill.

Mr. WALSH. Mr. President, I will say to the Senator from Iowa that I would not be prepared to dispute that it might not be as appropriately placed there. Indeed were we called upon originally to draft these measures perhaps we might deem it wise to put it there, but I submit it is simply a question into which bill the subject ought to be treated. It is treated in the Clayton bill as it comes to us, and I can see no good reason now for departing from the consideration of it in connection with that measure, particularly, Mr. President, as the objections the Senator now offers to the bill can be presented by a very simple amendment to section 8 of the Clayton bill when that comes up for consideration. For instance, to consider the last objection that is made first, I shall myself, being in entire accord with the Senator from Iowa in respect to that matter, offer to amend that by simply putting the word "competing" in line 15 between the words "another" and "corporation," so that section 8 will read:

That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another competing corporation.

That meets all the requirements of the case. I appreciate the justice of the criticism which is offered with respect to this matter. Even in the antitrust cases it is not necessary to establish that, by reason of the combination or conspiracy that is attacked, competition has actually been lessened or that monopoly has actually been established, if by reason of the combination or the contract the power is given to suppress competition, if those controlling it desire to exercise that power. So here the power being acquired by the acquisition of the stock, the acquisition of the stock of the competing company ought to be condemned by the law, in my humble judgment.

I simply desire to say that in voting against the amendment now offered by the Senator from Iowa I should not like to be understood as opposing the principle that he embodies, but simply as expressing the idea that it ought to be taken up in the consideration of the Clayton bill, when that is before the Senate.

Mr. THOMAS. Does the Senator think it wise to permit a corporation to invest in the stocks of any competing corporation?

Mr. WALSH. The Clayton bill, I will advise the Senator, contains a large number of exceptions. For instance——

Mr. THOMAS. I know it does. I was asking the Senator his view of that policy.

Mr. WALSH. I am not prepared to vote for a rule which absolutely prohibits one corporation from owning the stock of another corporation under any and all circumstances.

Mr. THOMAS. I can conceive of a mining company investing in the stock of a concern devoted to the manufacture of cyanide of potassium, for example, or of a local transportation company. I can also conceive of a manufacturing concern investing its money in some manufacturing concern with which it could have no trade relation or connection whatever. I do not believe that it is the function of a corporation, which is presumably a public institution or a quasi-public institution, to become so identified with any other corporation or any other corporate enterprise. One of the great evils of the day, the monopolistic evil, has its germ, in my judgment, its origin, in the removal of the old and salutary restriction which prevented one corporation from investing in the stock of another under any circumstances. I think the way to handle this evil is to go to the root of it and to restore, if possible, those conditions which existed before it arose.

Mr. WALSH. There is not the slightest doubt in the world that the origin of all these troubles springs from the power given to one corporation to hold stock in another corporation.

Mr. THOMAS. If the Senator will permit another interruption, just so long as we stop short of the condition which we abandoned, and the abandonment of which led to this evil, will our remedy, I am afraid, prove ineffectual.

Mr. WALSH. But I understand the Senator himself to say that he sees no evil in the holding of the stock of some corporations by other corporations.

Mr. THOMAS. Oh, no; I did not so state. I instanced those as illustrations of investments which might still be made if the suggested amendment of the Senator limiting this restriction to competing corporations were enacted into law, but I did not approve of them. My reason for referring to it was that there could be such an investment, which should not be permitted, because it will inevitably ultimate in reproducing the abuses at which this bill is aimed in some other shape.

Mr. WALSH. Mr. President, I rose simply to endeavor to avoid the discussion of those questions at this time, indicating my belief that they ought to be deferred until the Clayton bill is before us for consideration.

The PRESIDENT pro tempore. The question is on the adoption of the amendment offered by the Senator from Iowa to the amendment of the committee.

Mr. CUMMINS. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHAMBERLAIN (when his name was called). Transferring my general pair with the junior Senator from Pennsylvania [Mr. OLIVER] to the Senator from Indiana [Mr. SHIVELY], I vote "nay."

Mr. CHILTON (when his name was called). I have a general pair with the Senator from New Mexico [Mr. FALL]. In his absence I withhold my vote.

Mr. HOLLIS (when his name was called). I transfer my pair with the junior Senator from Maine [Mr. BURLEIGH] to the junior Senator from Kentucky [Mr. CAMDEN] and vote "nay."

Mr. SMITH of Maryland (when his name was called). I transfer my pair with the Senator from Vermont [Mr. DILLINGHAM] to the Senator from Alabama [Mr. BANKHEAD] and vote "nay."

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. In his absence I withhold my vote. If I were at liberty to vote, I would vote "yea."

Mr. TILLMAN (when his name was called). I transfer my general pair with the Senator from West Virginia [Mr. GOFF] to my colleague [Mr. SMITH of South Carolina] and vote "nay."

Mr. WILLIAMS (when his name was called). Announcing my pair with the Senator from Pennsylvania [Mr. PENROSE], I transfer it to the junior Senator from Virginia [Mr. SWANSON], and I vote "nay."

The roll call was concluded.

Mr. GALLINGER. I will inquire if the junior Senator from New York [Mr. O'GORMAN] has voted?

The PRESIDENT pro tempore. He has not.

Mr. GALLINGER. I am paired with that Senator, but I will transfer the pair to the Senator from California [Mr. WORKS] and vote "yea."

Mr. CLARK of Wyoming. I desire to announce the unavoidable absence of my colleague [Mr. WARREN]. He is paired with the Senator from Florida [Mr. FLETCHER].

Mr. SMITH of Georgia. I desire to transfer my pair with the Senator from Massachusetts [Mr. LODGE] to the junior Senator from Tennessee [Mr. SHIELDS] and vote "nay."

Mr. SIMMONS. I have a general pair with the junior Senator from Minnesota [Mr. CLAPP], but by agreement that pair is suspended as to all votes upon amendments to this bill and the bill itself. I will not make this announcement as to other votes upon the bill.

Mr. MYERS. I have a pair with the Senator from Connecticut [Mr. MCLEAN] who is necessarily absent from the city. I transfer that pair to the junior Senator from Nevada [Mr. PITTMAN] and vote "nay."

Mr. WEEKS. I have a general pair with the senior Senator from Kentucky [Mr. JAMES]. I transfer that pair to the Senator from Illinois [Mr. SHERMAN] and vote. I vote "nay."

Mr. THORNTON. I was requested to announce the unavoidable absence of the junior Senator from New York [Mr. O'GORMAN].

Mr. GRONNA (after having voted in the affirmative). May I inquire if the senior Senator from Maine [Mr. JOHNSON] has voted?

The PRESIDENT pro tempore. He has not.

Mr. GRONNA. I have a general pair with that Senator. I will transfer it to my colleague [Mr. MCCUMBER] and allow my vote to stand.

Mr. GALLINGER. I have been requested to announce the following pairs:

The Senator from Delaware [Mr. DU PONT] with the Senator from Texas [Mr. CULBERSON];

The Senator from West Virginia [Mr. GOFF] with the Senator from South Carolina [Mr. TILLMAN];

The Senator from Michigan [Mr. SMITH] with the Senator from Missouri [Mr. REED];

The Senator from Wisconsin [Mr. STEPHENSON] with the Senator from Oklahoma [Mr. GORE];

The Senator from South Dakota [Mr. STERLING] with the Senator from Mississippi [Mr. VARDAMAN]; and

The Senator from Michigan [Mr. TOWNSEND] with the Senator from Arkansas [Mr. ROBINSON].

Mr. WALSH (after having voted in the negative). I voted in the belief that the Senator from Rhode Island [Mr. LIPPITT] with whom I have a general pair had voted. I am informed that he has not voted. Accordingly I withdraw my vote.

Mr. KENYON. I desire to announce the unavoidable absence of the senior Senator from Wisconsin [Mr. LA FOLLETTE], on account of illness.

The result was announced—yeas 16, nays 38, as follows:

YEAS—16

Brady	Crawford	Jones	Norris
Burton	Cummins	Kenyon	Perkins
Catron	Gallinger	Lane	Smoot
Clark, Wyo.	Gronna	Nelson	Sutherland

NAYS—38.

Ashurst	Lea, Tenn.	Pomerene	Stone
Brandegee	Lee, Md.	Ransdell	Thompson
Bryan	Lewis	Reed	Thornton
Chamberlain	Martin, Va.	Saulsbury	Tillman
Clarke, Ark.	Martine, N. J.	Shafroth	Weeks
Colt	Myers	Sheppard	West
Hitchcock	Newlands	Simmons	White
Hollis	Overman	Smith, Ariz.	Williams
Hughes	Owen	Smith, Ga.	
Kern	Page	Smith, Md.	

NOT VOTING—42.

Bankhead	Fletcher	Oliver	Stephenson
Borah	Goff	Penrose	Sterling
Bristow	Gore	Pittman	Swanson
Burleigh	James	Poindexter	Thomas
Camden	Johnson	Robinson	Townsend
Chilton	La Follette	Root	Vardaman
Clapp	Lippitt	Sherman	Walsh
Culberson	Lodge	Shields	Warren
Dillingham	McCumber	Shively	Works
du Pont	McLean	Smith, Mich.	
Fall	O'Gorman	Smith, S. C.	

So Mr CUMMINS's amendment to the amendment was rejected.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

S. 1784. An act restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and its tributaries; and

H. R. 12579. An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915.

COMMITTEE SERVICE.

Mr. WALSH was, on his own motion, relieved from further service upon the Committee on the Philippines.

Mr. CHILTON was, on his own motion, relieved from further service upon the Committee on Post Offices and Post Roads, the Committee on Expenditures in the Post Office Department, and the Committee on Expenditures in the Department of Commerce.

Mr. POMERENE was, on his own motion, relieved from further service upon the Committee on the Census.

Mr. MYERS was, on his own motion, relieved from further service upon the Committee on Civil Service and Retrenchment.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

The PRESIDENT pro tempore. The question is upon the adoption of the committee amendment as amended.

Mr. JONES. That is, on the substitute, I understand, as amended thus far?

The PRESIDENT pro tempore. Yes, sir.

Mr. JONES. There has been no substitute offered for section 5. The Senator from Iowa——

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Ohio?

Mr. JONES. Certainly.

Mr. POMERENE. I was going to say that I expected to offer the amendment of which I gave notice a few minutes ago.

Mr. JONES. I understood there was to be an amendment offered, but the question was about to go to a vote, and the Senator from Iowa was absent. He ought to be here, and I was going to suggest the absence of a quorum simply to give him an opportunity to be present. I will not do that now if the Senator wants to offer an amendment.

Mr. POMERENE. I ask that the amendment which I sent to the desk a little while ago be now laid before the Senate.

Mr. OVERMAN. Has the amendment been printed?

Mr. POMERENE. It was sent to the Printing Office, and I think it will be here in a very little while.

The PRESIDENT pro tempore. The Senator from Ohio offers an amendment as a substitute for section 5, which will be read.

The SECRETARY. In lieu of section 5 it is proposed to insert:

SEC. 5. That unfair competition in commerce is hereby declared unlawful. The commission is hereby empowered and directed to prevent corporations from using unfair methods of competition in commerce.

Whenever the commission, either upon information furnished by its agents or employees, or upon complaint duly verified by affidavit of any interested person, has reason to believe that any corporation is violating any of the provisions of this section, it shall issue and cause to be served a notice accompanied with a written statement of the violation charged upon such corporation, which shall thereupon be called upon within a reasonable time fixed in such notice, not to exceed 30 days thereafter, to appear and show cause why an order should not issue to restrain and prohibit the violation charged, and upon a hearing held pursuant to such notice the commission shall make and file its findings of fact and conclusions of law, and if it shall appear that such corporation is guilty of the violation charged, then the commission shall issue and cause to be served on such corporation an order commanding it forthwith to cease and desist from such violation within the time and in the manner prescribed in such order. Any such order may be modified or set aside at any time by the commission issuing it for good cause shown.

If any corporation charged with obedience thereto fails or neglects to obey any such order, the said commission, by its attorneys, if any it has, or by the appropriate district attorney, acting under the direction of the Attorney General of the United States, may apply for an enforcement of such order to the district court of the United States for the district wherein such corporation has its domicile, or wherein any of the acts complained of were committed, or wherein it transacts any business, and therewith transmit to the said court the original record in the proceedings, including all the testimony taken therein and the report and the order of the commission duly attested by it. Upon the filing of the record, the court shall have jurisdiction of the proceeding and of the questions determined therein and shall have power to make and to enter upon the pleadings, testimony, and proceedings such orders and decrees as may be just and equitable. On motion of the commission, and on such notice as the court shall deem reasonable, the court shall set down the cause for summary final hearing. Upon such final hearing the findings of the commission shall be prima facie evidence of the facts therein stated, but if either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is competent and material, and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may allow such additional evidence to be taken before the commission or before a master appointed by the court, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem just. Disobedience to any order or decree which may be made in any such proceeding, or any injunction or other process issued therein, shall be punished by a fine not exceeding $100 a day during the continuance of such disobedience or by imprisonment not exceeding one year, or by both such fine and imprisonment.

Any party to any proceedings brought under the provisions of this section, including the person upon whose complaint such proceedings shall have been begun, if begun on such complaint, as well as the United States, by and through the Attorney General thereof, may obtain a review of any final order made by such commission in any district court having jurisdiction to enforce any order which might have been made in the proceeding by such commission as hereinbefore provided, by serving notice upon the adverse party, if there be one, and filing the same with the said commission at any time within 30 days from the date of the entry of the order to be reviewed, and thereupon the same proceedings shall be had as are prescribed herein in the case of an application for the enforcement of an order made by the commission.

The pendency of such application for review shall not of itself stay or suspend the operation of the order of the commission, but the district court in its discretion may stay or suspend, in whole or in part, the operation of the order of the commission pending the final hearing and determination by the court. No order or injunction so staying or suspending any such order shall be made by the district court except upon notice and after hearing, save that in cases where irreparable damage would otherwise ensue to the applicant, said court may, on hearing, after not less than three days' notice to the commission and the adverse party, if there be such, allow a temporary stay or suspension, in whole or in part, of the operation of the order of the commission for not more than 60 days from the date of the order of such court, in which case the said order shall contain a specific finding that such irreparable damage would result to the applicant. The court may, upon like application and showing, continue the temporary stay or suspension, in whole or in part, to such further period as it may deem proper.

Any final order or decree made by any district court, in any proceeding brought under this section, may be reviewed upon appeal, as in cases in equity, by the circuit court of appeals having jurisdiction to review the judgments and decrees of the district court making such order, provided that such appeal shall be taken within 60 days from the entry of such order or decree, and the judgment of the circuit court of appeals shall be final except that the same shall be subject to review upon certiorari or certificate, as provided in sections 239 and 240 of the judicial code.

The commission may provide for the publication of its reports under this section in such form and manner as may be best fitted for public information and use.

No order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

The PRESIDENT pro tempore. The question is on the adoption of the amendment offered by the Senator from Ohio [Mr. POMERENE].

Mr. SUTHERLAND. May I ask for the rereading of the latter part of the amendment?

The PRESIDENT pro tempore. It will be read.

The Secretary read as follows:

Any final order or decree made by any district court, in any proceeding brought under this section, may be reviewed upon appeal, as in cases in equity, by the circuit court of appeals having jurisdiction to review the judgments and decrees of the district court making such order, provided that such appeal shall be taken within 60 days from the entry of such order or decree, and the judgment of the circuit court of appeals shall be final except that the same shall be subject to review upon certiorari or certificate, as provided in sections 239 and 240 of the judicial code.

The commission may provide for the publication of its reports under this section in such form and manner as may be best fitted for public information and use.

No order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

Mr. SUTHERLAND. I should like to ask the Senator from Ohio whether he means by that last clause, that the findings shall not be admissible in evidence, to announce the same rule that is contained in the amendment which we have already adopted on that subject.

Mr. POMERENE. The amendment as adopted was added to the amendment after it was prepared by those having it in charge.

Mr. SUTHERLAND. I am very sorry that the Senator from Ohio has included that provision in his amendment. I should like to have voted for this amendment, but I can not vote for it with that provision in it, because I regard it as bad legislation, for the reasons that I have already expressed with reference to the amendment which we already adopted.

Mr. WEST. Are not the words included in another amendment that has already been adopted?

Mr. SUTHERLAND. Exactly; the amendment has been adopted, and I hoped the Senator from Ohio might see his way clear to eliminate those words from this amendment, which are really not necessary. It is really a repetition of what the Senate has already adopted.

With that exception, Mr. President, I would vote for this amendment, not because I think it removes all the objectionable features that are to be now found in section 5 of the bill, but because I think it vastly improves it; and as between the two propositions, I prefer the amendment proposed by the Senator from Ohio, although I do not mean to say by that that if perfected I would vote for it as a proposition by itself.

Mr. POMERENE. Mr. President, I am very glad to hear the Senator from Utah [Mr. SUTHERLAND] express his approval of the principle of the amendment. The objectionable paragraph has already been adopted by the Senate, and at this moment stands with the approval of the Senate. Of course it was not necessary that we should attach to this amendment the part to which the Senator objects.

I desire to say briefly, in explanation of the amendment, that after the pending bill was reported to the Senate by the Interstate Commerce Committee several amendments to section 5 as therein contained were offered. Among these was one by the junior Senator from New Hampshire [Mr. HOLLIS], another by the junior Senator from Delaware [Mr. SAULSBURY], and another by the junior Senator from South Dakota [Mr. STERLING]. I myself offered an amendment to the bill embracing many of the features contained in the pending amendment. The Judiciary Committee had this subject matter before it for consideration, and it drafted a similar section, with special reference to the provisions contained in the Clayton bill on the subject of interlocking directorates and stockholding companies. I think the amendment as presented contains, perhaps, the best features of all of those amendments. I say "best" from the standpoint of those who favor legislation of this character.

Mr. WEEKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Massachusetts?

Mr. POMERENE. I do.

Mr. WEEKS. I am familiar with the amendments to which the Senator from Ohio has referred, and I should like particularly if during his comments he will explain the difference between the amendment which he previously offered and the one which is now pending. It is difficult to follow the various phases of a long amendment being read from the Secretary's desk; at least it is so for a layman, and I should like to have some explanation of the difference.

Mr. POMERENE. Mr. President, perhaps I ought to say that in the main the principles contained in the first amendment I offered and in the amendment just now proposed and in the Clayton bill are in substance the same. The differences are rather in detail. The pending amendment provides that, either upon information gathered by the commission through its agents and representatives or upon the complaint of some one else, duly certified, setting forth the fact that a corporation has been guilty of unfair methods of competition, a notice shall be served upon such corporation, with a copy of the written complaint, requiring it to show cause within 30 days why an order should not be made compelling it to desist from further unfair methods of competition.

Provisions are made for the taking of testimony and for the summary hearing of the case. If the commission shall find that the complaint has been sustained, then it is the duty of the commission to issue an order against the accused corporation. If such corporation should fail to comply with the order, then the commission has the right to make application to the United States district court to enforce the order, filing with the application the record in the case below, including the testimony, the complaint, and the order which the commission made.

A hearing is provided for, and this order shall be prima facie in its effect. Additional testimony may be taken by any party concerned only when it is made to appear that the testimony was not known to the party offering to produce it at the time of the hearing below, or, if it was known, that it could not, by the exercise of reasonable diligence, be procured.

There is also a provision whereby the accused corporation, if it feels aggrieved, can file its application in a similar way in the district court for a review of the findings of the commission.

The party that files the complaint and the United States, by its Attorney General, also have the right to ask for a review. Provision is made in case of disobedience of the order of the commission for enforcing it by contempt proceedings.

After the analogy of the interstate-commerce law, it is likewise provided that the mere filing of the application in the district court shall not operate to suspend or annul the order which was theretofore made by the commission, but the court shall have the right, upon the motion of the aggrieved party and upon proper showing, to grant a suspension, in whole or in part, of the order of the commission for a period of 60 days, pending the final determination of the case. This order of suspension can, upon like showing, be continued for a further period, if the court in its wisdom deems proper.

There is also a provision to the effect that an appeal may be taken from the decree of the district court to the circuit court of appeals, and such decree shall be final, except that it may be reviewed, either on certiorari or upon a certificate, after the manner of obtaining reviews by the Supreme Court of the proceedings of the United States Circuit Court of Appeals as set forth in the circuit court of appeals act.

Mr. President, the differences to which I have referred as between the original amendment offered by myself and the pending amendment lie in these respects: First, my original amendment referred to the proceedings as the filing of a bill in equity. That language has been modified. The Clayton bill referred to the proceeding as an appeal from the commission to the United States court. The pending amendment refers to it simply as filing an application for review.

In the first amendment proposed by myself I did not attempt to state the effect that the order of the commission would have in the United States district court. I assumed, of course, that the burden of proof would be on the party having the affirmative of the issue. In the Clayton bill it was provided that the findings of fact before the commission should be prima facie proof in the court above, and that is the provision of the pending amendment.

In the Clayton bill there was no provision as to the effect which the so-called appeal to the district court would have upon the order of the commission. In the amendment which I have presented this afternoon, as well as in an amendment presented by me a few days ago, there is a provision that the appeal shall not stay the proceeding without the filing of a motion by the aggrieved party and a hearing thereon.

The Clayton bill and the pending amendment differ very radically from the provision of the bill as reported to the Senate by the committee, in that the committee bill did not have any provision for a review or an appeal by the accused corporation. In the committee bill there is no provision even for the filing of a complaint. The commission, if it had information to the effect that there was unfair competition, which seemed to justify its intervention, could simply serve a notice on the corporation to come before it within a period of 30 days and show cause why an order should not be issued against it to desist from the alleged unfair competition; but there was no provision in the committee bill requiring the commission to give any detailed information to the accused corporation which would advise it of the offense charged or give it an opportunity to meet its accuser in a reasonably fair way.

Under the committee bill, if the decision should be in favor of the accused corporation, there was no provision for any record whatever. The corporation would have been put to the expense of a trial without the benefit of any record in its behalf

in the event that it was found to have complied with the law. On the other hand, if the finding of the commission should be against the corporation then the corporation was put in this unfortunate predicament: It was either compelled to comply with the order of the commission, though it might have felt it was aggrieved thereby, or it would be compelled to openly defy the order of the commission and await a proceeding by the commission in the United States district court in order to compel it to comply. I think most of the Senators who have investigated this subject felt that it would be doing a very great injustice to an accused corporation not to provide that it should have its day in court.

I think that, briefly stated, those are the principles contained in each of the bills and amendments which have been presented to the Senate on this subject; and I believe that, upon careful consideration, it will be found that the pending amendment contains the best parts of each of the several amendments to which I have referred.

Mr. REED. Mr. President, I wish to ask, before the Senator takes his seat——

The PRESIDING OFFICER (Mr. CHILTON in the chair). Does the Senator from Ohio yield to the Senator from Missouri?

Mr. POMERENE. I do.

Mr. REED. Has this amendment made any change in the definition of "unfair competition" as that phrase was contained in the section to which this is offered as an amendment?

Mr. POMERENE. It has not. The provision in that behalf is just the same as it was in the original provision.

Mr. REED. I listened to the Senator's remarks the other day, in which I understood him to take the position that the provision "unfair competition in commerce as hereby declared to be unlawful" would be restricted in its meaning to the meaning which has been given to that term by the courts. I understood him to hold at that time that there was a fatal defect in the bill because it did not give a definition for that phrase. I find it now copied in the same manner in the amendment which the Senator offers, and I am anxious to know whether the Senator has changed his mind with reference to the construction of that phrase.

Mr. POMERENE. Mr. President, I have not changed my mind as to the construction which I then placed upon the language of this bill. Without attempting to go into a rehearsal of my argument of the other day, I may state briefly that my position then was that the phrase "unfair competition" as contained in this bill would be restricted by the courts to such practices as were regarded as unfair competition under the common law; and, believing that it should have and would have that restricted meaning, I stated that I felt that it could be constitutionally defended.

I stated further that if it were to have the broader signification which is attached to those words by other Members of the Senate, then I should doubt its constitutionality, because, under the broader construction, in my judgment, it would be a delegation both of legislative and judicial power.

I do not think, however, in view of the fact that it can be defended with the restricted limitation which I believe the court will place upon the words "unfair competition" we ought to hesitate, because the court might give them the broader construction.

I recognize the fact that when it comes to the question of constitutional law and the courts are seeking to determine whether the statute is constitutional or not, if it is susceptible of two constructions, one of which would make it constitutional and the other make it unconstitutional, then the court would adopt the former construction.

Mr. WALSH and Mr. REED addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Ohio yield; and, if so, to whom?

Mr. WALSH. I merely want to say a word in view of what has been stated by the Senator from Ohio.

Mr. POMERENE. I will yield to the Senator from Montana in a moment. If the Senator will pardon me further, I desire to say that I understand a number of Senators on the committee have views differing from mine on this subject. I was simply voicing my own views the other day, as I am now, in that behalf.

Mr. WALSH. Mr. President, it was in reference to that feature of the matter that I desired to say a word, because the authorship of the amendment was attributed by the distinguished Senator from Ohio [Mr. POMERENE] partly to myself in some remarks he made sometime ago. Speaking for myself, I do not at all agree that the phrase "unfair competition" will receive or can receive so restricted a construction by the courts, and I do not believe that it will be construed as that phrase was understood at common law, if under the common law it was restricted in its meaning to include only the substitution of the goods of one man for the goods of another. I believe that when construed by the court it will be given the meaning which it has to-day in common parlance and the accepted significance that it has in the literature of this, our day.

Mr. POMERENE. Mr. President, I desire to say, in answer to the Senator, that I had known what his view was on that subject well, and I do not believe under the common-law construction that the phrase would be given even the narrow and limited meaning which the Senator would attach to it by his expressed words.

Mr. REED. Mr. President, I understood the argument of the Senator from Ohio the other day upon this particular question to be in substantial agreement with the position I have taken, with the possible exception that perhaps the Senator from Ohio held the view that the term "unfair competition" had by some courts or court been extended slightly beyond the mere matter of the substitution of the goods of one man for the goods of another, but I thought he held to the view that it had an exceedingly narrow and limited meaning and that the courts in construing the term would look to the definitions which had been given to that term by the courts.

I therefore can not withhold an expression of surprise that he will bring in an amendment using identically the same language, because if the words have the exceedingly restricted meaning that I contend they have, or if they have the limited meaning the Senator from Ohio holds they have, if I understand him correctly, then we would accomplish but little by all this legislation, because we would not reach into that field which all concede ought to be carefully embraced in any law that is to be passed. I can not understand the position of the Senator from Ohio now. I say that, of course, in all kindness.

Mr. POMERENE. Mr. President, I am very sorry that the Senator does not understand me. I think I understand my own position in this matter, and I recognize the fact that the construction I would place upon these words is a narrow construction compared with the field which it is hoped to cover by other members of the committee; but, on the other hand, if we will examine the authorities, whether they be text writers or adjudications upon the subject of what is unfair competition, we will find that that expression has a pretty broad scope, and it is because I believe that fact that I am willing to subscribe to this amendment as it is. I think that it is a step in the right direction, and I hope to see it passed by this Congress. I think that, with our future experience under it, we will get much more light, and I hope that in the near future the discussion of this subject will enable some one to define with exactness the words "unfair competition." I can not do so, and I have not seen anyone yet who has been able to define those words; at least to my satisfaction.

Mr. REED. Mr. President, in view of the statement made by the Senator from Ohio, I wish he would tell the Senate—he has served on the Committee on Interstate Commerce and is a very fine lawyer—what he thinks is embraced within this term; what practices outside of the substitution of the goods of one man for the goods of another, and, if he can, I hope he will tell me where I can find the rule settled in the books.

Mr. POMERENE. Mr. President, the Senator might just as well ask me to define what cases were embraced in the word "fraud." No court has been able to define it. No legislative body has been able to define it. We have got to depend very largely upon the light we have gotten from the adjudications upon the subject; and the same rule must apply when it comes to what is to be embraced in the phrase "unfair competition."

Mr. REED. But, Mr. President, if I were to ask the Senator to state what acts or classes of acts are embraced within the term "fraud," the Senator would have not the slightest hesitation in naming a great number. He could give numerous illustrations. For instance, he could say that if an attorney employed to represent a client were to deal with the client's property it would be fraudulent, unless he dealt with the client's full acquiesence and knowledge. He could say that if a man put his property out of his hands for the purpose of defeating his creditors, that was an act of fraud; and I need not multiply instances. Indeed, I could stand here, I suppose, until night and think of instances of fraud that have been condemned by the books.

One specific instance to which the term applies has been repeatedly cited. I read here the definition of "unfair competition" from three of the law dictionaries, and they all agreed that it covered simply the substitution of one man's goods for those of another. The Senator says he thinks it is broader than that, and yet he gives us no bound, no limit, no indication of how far it will go.

If that is his view I am a little surprised that he brings in a bill with that kind of language repeated in it. I understood he was opposed to section 5 because of the very vagueness and indefiniteness of that language. I may have misunderstood him.

The importance of section 5, in my judgment, does not rest in the details as to how it is to be enforced. The importance of section 5 rests in the question as to the scope of the authority and the jurisdiction we are about to confer. Indeed, the other matters are matters of detail; and I had hoped, when this committee of learned gentlemen, whether it is a voluntary committee or a regular committee, got together last night that they were going to bring us in either a specification of the acts and practices that are to be prohibited, or at least a general definition which would enable the business man and the lawyer and the citizen generally to know what authority the commission had and what his rights were. Instead of that we have the same old vague language, and three of the men who worked upon this bill last night have three different ideas about it now.

It seems to me that there is not such a dearth of talent that we can not at least write down what we intend to cover. I am disappointed. I hope this matter will lie over until to-morrow and be printed, and that the Senate will have a chance to examine it.

Mr. POMERENE. Mr. President, if the Senator from Missouri is able to define the phrase "unfair competition," there will never hereafter be any task which he can not perform. I do not think it is possible to define those words in the present state of the law so as to embrace everything which anyone might feel ought to be included within the prohibition of this bill; but the mere fact that some of my colleagues and myself agree that certain things are embraced within its terms, and we differ upon the question whether certain other things are embraced within its terms, is no reason why we should not try to legislate upon the subject and thereby put a stop to those things about which we do agree.

I understand, from the views that I entertain upon this subject, that there are many, many branches of deception and fraud which are covered by the term "unfair competition." We can say generally that it refers to that class of acts whereby one dealer seeks to make the public believe that his goods are the goods of another. There are hundreds of different kinds of practices which may be embraced within that classification. It goes to questions of espionage upon the business of another. It touches upon the question of trade-marks. That is only a very small part of the kind of acts which are now known as "unfair competition."

I regret that I am not able to define the words more explicitly, and I should be glad to have some one else do it; and I know of no one who could venture upon that field with greater prospects of success than my very learned friend from Missouri.

Mr. REED Mr. President, every time there is an objection raised to the language the answer is, "Well, it is true we do not know what it means; we do not know what we mean ourselves; but we are going to do it, and if you do not like it you write a law that is all right." That is the spirit.

Mr. President, as long as I live I do not intend to vote to vest in a board of men the power to do something of great moment and great sweep and great gravity when I do not myself, at least, entertain a clear idea as to the powers I have granted.

Is it possible that Senators charged with writing a law are willing to write a law about which they confess in advance they have not the slightest conception as to its scope or meaning, and that they will do that simply because they find difficulty in expressing a rule? Is it possible that we are willing to confer upon any board of men, whether they be lawyers or commissioners or judges of courts, a power which we can neither understand nor bound nor describe? Are we willing to confer that kind of power on human beings? Is there any man here who has ever practiced before a court, who has ever seen the inside of law books, who is willing to subscribe his name to a bill when he says in advance that he has no idea as to what is covered by that bill?

It seems to me that is an utterly indefensible position. I can understand the Senator from Nevada, and I can understand his position. It is logical, whether it be sound or not; it is coherent, and each part of it can be reconciled with each other part of it, if you can divide up an opinion. You certainly can divide a theory. The Senator from Nevada holds to the doctrine, broadly, that we have the right to confer upon these three men the absolute power, in their discretion and guided by their judgment, to say to all of the business men of the United States what they can do and what they can not do. He has a definite idea. He is willing to confer that vast and limitless power upon five men. But my friend from Ohio astounds me when he says that he does not believe we are vesting these powers within the discretion of a commission, but that he thinks we are conferring some power, and he has no idea how far that power goes, or what it embraces, or to what extent it may be exercised.

I heard the Senator's speech, and I heard him say:

> One of the most unsatisfactory features of this bill is that which declares unfair competition to be unlawful, without any attempt to define what unfair competition is; and I have seen no bill thus far which eliminates that objection. I was led to believe, and I believe now, that if it were to become the law of the land the courts would hold that the words "unfair competition" mean only such practices as are held to be unfair competition under the common law. I can not believe that the term "unfair competition" could be used in its colloquial or popular sense, if it has a colloquial or popular sense, which I do not believe.

And so on throughout this very interesting address the other day the Senator from Ohio held to the limited construction. If it is limited to the definitions laid down in the common law, if that is what this term means, then, of course, we know what we are legislating about; but that meaning is so limited that it will work no benefit to write it in this bill.

The Senator intimates, without exactly saying, that he thinks the language will go further than that, but he does not know how far it will go. He does not know where it will lead us. It seems to me that it is a case of the blind leading the blind. It seems to me that we are wholly unjustified in taking a position of that kind.

Mr. President, I have talked upon this bill until I have no right to take the time of the Senate further. The Senate is not considering this bill, Mr. President. The Senate is largely absent. The Senate has been largely absent, or the Senators; and when the discussion is on Senators largely remain away from the Chamber.

I attended a meeting the other night when there were a great many gentlemen present who said they were going to be in this Chamber and attend to their duties.

Mr. THOMAS. All of them.

Mr. REED. And yet this discussion has gone on, and there have been many very able addresses made to empty benches. We are about to vote upon a proposition that affects the welfare of every man, woman, and child in the United States, affects all our business policies, reaches out into a new field that is radically different from those we have occupied, and I regret to say the Senators are not analyzing and considering this legislation.

I appeal to my friends on this side of the Chamber whether we can afford to make a great mistake. I appeal to every man who understands—and we all do understand—the fundamentals of our Government whether we are prepared to grant an unlimited and unbounded power to a board of men; whether we are willing to enact a law when the four or five or six authors of that law all entertain different views as to what it means, and those opinions, not as to mere shadow ground, not as to doubtful questions, are as far apart as the North Pole and the Southern Cross.

Of course there is a shadow ground about every law. We reach a point where complicated facts may fall upon the right side of the line or upon the left. You can not draw a law as to which that condition will not arise, but you can draw laws that are plain as to their rules, and then the only question of doubt arises from applying that plain rule to a complicated condition of facts.

Mr. WEEKS. Mr. President, a few moments ago I directed an inquiry to the Senator from Ohio, asking him to explain the provision which is now under consideration and how it differed from an amendment which he had heretofore offered. While he was making the explanation—and I think it was clear and concise—I tried to place myself in the position of a client and to place him in the position of my attorney telling me what I could do under this law. The longer I heard his explanation the more convinced I became that its title should be—

> A bill to boom the legal profession and to increase the emoluments of the members thereof.

The Senator from Ohio has assured us that he does not know just exactly what this is going to mean or what the results will be. I am inclined to vote for the amendment which he has offered. I want to read it over once or twice before doing so, to try to come to a conclusion as to what it means, but I am inclined to vote for it, for it seems to me that it is an improvement on section 5 of the bill. In fact, I think anything would be an improvement on that section. I am willing to take the assurance of the Senator from Ohio, who is a good lawyer, that possibly it will remove the constitutional objection which rests against the bill.

Now, we talk about the "new freedom" or some kind of freedom which is going to surround the business men of this country who are surrounded by a maze now. That condition

will be increased by this legislation. Somebody has prepared a letter which, I think, was first published in the New York Sun—I found it in the Boston Traveler of yesterday—which illustrates about the condition that the business man will be in when this legislation is adopted. I will read it to the Senate. It is from one corporation to another—directed to the Smith Manufacturing Co.—of course a hypothetical company—of Rochester, N. Y.:

SMITH MANUFACTURING CO., *Rochester, N. Y.*

GENTLEMEN: Referring to your letter (see Postal Regulation, p. 126, pp. 44) of the 28th, we (a corporation organized under the laws of Ohio certificate filed in the office of the secretary of New York State, N. Y.) beg to advise you that we can quote the price of $20 (see U. S. R. S., laws of 1914, sec. 18) per ton, carload lots (see Interstate Commerce ruling 256; see also dicta in 128 U. S., 264; Brown *v.* Pennsylvania R. R. Co., 168 Pa., 267). This quotation is special to you (see ruling of Department of Justice in the matter of Brown Milling Co.), and is made subject to our right to claim immunity (see N. Y. Penal Code, p. 48). If you receive a better quotation from any other of our competitors, you will, of course, advise us under the authority of United States Revised Statutes, page 2247, subdivision 2. We shall be glad to fill your order (subject to rule laid down in leading case of Jackson *v.* Cobb, 126 U. S., 232), and will ship according to your instruction (see Rule 37, N. Y. Publicity Commission).

Very truly, yours,

J. P. JONES,
President Jones Manufacturing Co.

[Laughter.]

STATE OF OHIO, *County of Fairfield, ss:*

J. P. Jones, being duly sworn, deposes and says that he has submitted the foregoing letter to his counsel, and has been advised that it is legal; that deponent is not a director of any bank, trust company, or transportation company; that the Jones Manufacturing Co. has never had its charter forfeited, nor has deponent ever been indicted by either State or Federal grand jury.

P. P. WHITE, *Notary Public.*

[Laughter.]

Mr. SUTHERLAND. Mr. President, I judge from the article which the Senator from Massachusetts has read that the supposititious gentleman who wrote the letter must have thought this proposed statute, with reference to "unfair competition," was pretty nearly as elastic as the Senator from Nevada regards it. I think he must have had in mind the rules of construction laid down in a note on the construction of exemption statutes to a case found in Forty-fifth American Decisions, and which rules I think the Senator from Nevada must also have had in mind, because he has given a meaning quite as liberal and elastic to this term "unfair competition," according to the statements which he has from time to time made.

I think I will trespass on the patience of the Senate long enough to read it:

The rule that statutes in derogation of the common law shall be strictly construed, has no application to homestead exemption laws. The right to sell the real property of the debtor for payment of his debts was not a common-law right, but is purely statutory, and hence the rule can have no application, and such statutes will be liberally construed.

This reason for the nonapplication of the rule does not apply to statutes exempting personal property. It was at common law subject to execution and undoubtedly its exemption is in derogation of it.

Then the note goes on further and says:

They are humane in their nature and are generally liberally construed.

Thus, under the broad and liberal construction of these laws, terms supposed to be very definite in their meaning, have become exceedingly elastic.

As I think this term is definite in the strict meaning of the law.

In the sheltering ægis of statutory construction it has been found that a statute exempting a "team" will also exempt a two-horse wagon, probably because the team draws the wagon after it, or, in the language of the laws of conveyances, the wagon is attached to and runs with the team. (Dains *v.* Prosser, 32 Barb., 290.) Under the magical shadow of a statute construed in the case of humanity, a heifer not 2 years old and wholly unknown to her masculine affinity, the bull, has been transformed into a cow. (Freeman *v.* Carpenter, 10 Vt., 433; S. C., 33 Am. Dec., 210. Carruth *v.* Grassie, 11 Gray, 211.)

[Laughter.]

Two calves 9 months old, having but lately undergone the process of weaning, have suddenly been promoted to the dignity, have been clothed with the toga virilis, as it were, of "a yoke of oxen or steers."

[Laughter.]

The bucolic judge learnedly remarks: "They are calf-steers or steer-calves. * * * These steers were not heifers, they were not bulls, and therefore must be steers" (Peck, J., Mundell *v.* Hammond, 40 Vt., 641); and they were held exempt.

[Laughter.]

Under the term "a yoke of oxen," a wild and untamed steer, 20 months old, whose neck ne'er knew the yoke nor back the lash, has taken shelter and been protected from execution. (Mallory *v.* Berry, 16 Kan., 293.) And as if the statute were an Aladdin's lamp to effect a transformation, or judges jugglers to mix up words and meanings, a cart was held to include a four-wheeled wagon. (Favers *v.* Glass, 22 Ala., 624.) A yoke of oxen included a single ox. (Wolfenbarger *v.* Standifer, 3 Sneed, 659.) A mule is a horse in Texas. (Allison *v.* Brookshire, 38 Tex., 199.) But Tennessee goes Texas one better. There a jackass is cosmopolitan in his nature, and may be either "horse, mule, or a yoke of oxen."

[Laughter.]

An explanation might be found for a jackass being a horse in the mathematical axiom that things which are equal to the same thing are equal to each other, and each is a half brother to the mule; and so one might be found for a jackass being a mule under the statute which considers half blood the same as whole blood; but why a jackass is an ox or a yoke of oxen must forever remain shrouded in deep and inscrutable mystery. (Richardson *v.* Duncan, 2 Heisk., 220.)

[Laughter.]

Mr. HOLLIS. Mr. President, the amendment offered by the Senator from Ohio is intended to define more precisely than the committee bill does the jurisdiction of the court over the orders of the proposed Federal trade commission. The bill as reported by the committee is indefinite in that respect.

The three views that are offered for the consideration of the Senate are these. The first bestows upon the commission the greatest possible power to determine what is a method of unfair competition and leaves to the court as little appellate jurisdiction or revisory power as possible. That method might be compared to the average case at law which is sent to the appellate court by writ of error to determine whether there is sufficient evidence to warrant the verdict or the finding of the court below. That is the extreme view in that direction.

The extreme in the other direction is the one which proposes to give to the finding of the commission nothing more than a complaint, where the record is to be transferred to the appellate court, and that court is to try the case de novo on such evidence as may be offered at that time by one side or the other.

The third method, and the one which has been adopted by the Judiciary Committee and is found in the Clayton bill as reported to the Senate, gives to the findings of the commission a prima facie weight, and the court is then to take the record from the commission and accept the findings at their prima facie value, but may admit other evidence, newly discovered, if it seems to the court to be just.

The Judiciary Committee has struggled with this problem and has reported a very fair and definite method of review of the findings by the Federal trade commission. The amendment proposed by the Senator from Ohio, as I understand it, differs from the mode adopted by the Judiciary Committee in only two or three minor particulars. One is the review from the decision of the court. The Judiciary Committee allows an appeal, I believe, directly from the United States district court to the Supreme Court of the United States. The amendment offered by the Senator from Ohio provides that the review of the district court's decision shall be by the circuit court of appeals, with the usual resort to certiorari, or by certificate from the circuit court of appeals to the Supreme Court of the United States. The amendment proposed by the Senator from Ohio follows the order of the Judiciary Committee's amendment. It adopts the phraseology and is very nearly the same.

I shall vote for the amendment offered by the Senator from Ohio with pleasure, and I hope that it will be adopted, because in one or two particulars it seems to me to be an improvement upon the Judiciary Committee's method.

But I wish to give notice to the Senate that if the amendment proposed by the Senator from Ohio be not adopted, I shall offer an amendment which is modeled exactly upon the proposed method of review that has been reported by the Judiciary Committee, so far as it applies to the case in hand, and ask that that be adopted. That amendment I offered this morning, and it has now been printed and is available.

I ought to say that I did omit from the Judiciary Committee's amendment one paragraph, but I have no objection to having that reinserted, which provides a penalty for disobedience. In the Clayton bill the disobedience which was intended to be punished was of a much more inclusive character than the disobedience under the trade-commission bill, and the penalty of $100 a day, while it is all right in the Clayton bill, where it will remain, would be rather drastic in the trade-commission bill. I think that is the only particular in which I have varied.

While I am on my feet, Mr. President, I desire to have put in the RECORD, where it may be available for the Senate, the entire decree by Judge Kenesaw M. Landis in the case of the United States of America, petitioner, against The Central West Publishing Co. and others. This decree has been already referred to in the Senate, but it may be well for me to call attention directly to five different kinds of methods of unfair competition that were thought by Judge Landis to come under the term "unfair competition." I will read from the second paragraph of that decree:

2. That the defendants herein and each of them have both separately and in concert committed acts in unfair competition against mutual competitors, and that these defendants and each of them as to

said matters be permanently and specifically enjoined and restrained from either directly or indirectly, separately or in concert, through their agents or employees, from in any manner committing or doing any acts of unfair competition against the competitors of either of these defendants, and that specifically each be permanently enjoined from thus doing or aiding in doing any of the following acts.

I ask the Senate to note that that is exactly the form that is followed by any court in equity when it enjoins a trespass. It first enjoins the committing of trespass upon the property of the complainant in general terms, and then goes ahead and specifically indicates the particular forms of trespass that the defendant is commanded not to do; for instance, breaking down a fence, treading down the grass, cutting a tree, picking berries, or what not.

Judge Landis after laying down the general injunction that the defendants must refrain from committing any acts of unfair competition and leaving it to the defendants at their peril to know what are those unfair acts of competition, as a rule of guidance to make it more specific and to give them less chance to come into court and make excuses if they are cited for contempt, lays down these particular acts:

(1) From underselling any competing service with the intent or purpose of injuring or destroying a competitor of either of these defendants.

(2) From sending out traveling men for the purpose or with instructions to influence the customers of such competitors of either of these defendants, so as to secure the trade of such customers, without regard to the price.

(3) From in any manner or for any length of time selling his or its service in either plate, ready print, or matrices, either separately or one service with another, at less than a fair and reasonable price, with the purpose or intent of injuring or destroying the business of any competitor of either of these defendants.

(4) From threatening any customer of a competitor with starting a competing plant unless he patronizes one or the other of these defendants.

(5) From threatening the competitors of either of these defendants that they must either cease competing with defendants or sell out to one or the other of the defendants herein, and from threatening that unless they do their industries will be destroyed by the establishment of near-by plants to actively compete with them or by any other method of unfair competition.

That is, Judge Landis, one judge on the Federal bench, and a judge of great ability and great experience, first enjoins the defendants from committing any acts of unfair competition. He then defines five specific classes of unfair competition and winds up by saying, "or by any other method of unfair competition."

Quoting, now, from the fifth paragraph:

5. That each of the defendants named in this petition be specifically and permanently enjoined and restrained from combining or joining in any acts—

(a) Of unfair competition either against another or against any mutual competitor;

(b) Looking toward a combination between any of these defendants;

(c) Any acts done with the intent or purpose of driving out of the industries in which they are now engaged of either of these defendants, or of any of their competitors.

The Senate should note that Judge Landis in this formal and solemn decree put each of the defendants at his peril to know what was unfair competition.

This decree merely indicates a part of the things that a man who is fit to sit upon the bench may decide to come within the general term "unfair competition."

Before I sit down I ask leave to have printed in the RECORD as a part of my remarks an editorial from the World-Herald of Omaha, Nebr. This editorial was offered by me about a week ago and was objected to by the Senator from Michigan [Mr. SMITH], probably because he thought it might be offensive in some way to the Senator from Nebraska [Mr. HITCHCOCK]. I have shown it to the Senator from Nebraska, and I offer it now without reading, with his approval and knowledge.

The PRESIDENT pro tempore. Unless there is objection the decree of Judge Landis and the editorial will be printed in the RECORD. The Chair hears none, and it is so ordered.

The matter referred to is as follows:

In the District Court of the United States for the Northern District of Illinois.

United States of America, petitioner, *v.* Central-West Publishing Co., Western Newspaper Union, American Press Association, et al., defendants. No. 30888. Decree.

This cause, coming on for hearing on this 3d day of August, A. D. 1912, before the Hon. K. M. Landis, district judge of this court, and the petitioner having appeared by its district attorney, James H. Wilkerson, and by William T. Chantland, special assistant to the Attorney General, and having moved the court for an injunction in accordance with the prayer of its petition, and it appearing to the court that the allegations of the petition state a cause of action against the defendants under the provisions of the act of July 2, 1890, known as the antitrust act, and that the court has jurisdiction of the persons and the subject matter, and that the defendants have each been regularly served with proper process and have filed their answers to the petition, and that the defendants, Central-West Publishing Co., Western Newspaper Union, Western Newspaper Union of New York, George A. Joslyn, John F. Cramer, H. H. Fish, and M. H. McMillen, by their attorneys, J. H. Cowin, John J. Sullivan, and Charles F Harding, and the defendants, American Press Association, Courtland Smith, W. G. Brogan, and Maurice F. Germond, by their attorney, Charles A. Brodek, have given and do now give in open court their consent to the rendition and entering of the following decree:

Now, therefore, it is ordered, adjudged, and decreed:

I. That the defendants, and each of them, are found and they are hereby declared to have been and to be now engaged in an attempt to monopolize interstate trade and commerce in the business of shipping ready-print papers, matrices, and stereotyped plates, and in the dissemination of news among the several States of the Union, all done and carried on in violation of the act of Congress of July 2, 1890, commonly known as the antitrust act.

II. That the defendants herein and each of them have both separately and in concert committed acts in unfair competition against mutual competitors, and that these defendants and each of them as to said matters be permanently and specifically enjoined and restrained from either directly or indirectly, separately or in concert, through their agents or employees, from in any manner committing or doing any acts of unfair competition against the competitors of either of these defendants, and that specifically each be permanently enjoined from thus doing or aiding in doing any of the following acts:

(1) From underselling any competing service with the intent or purpose of injuring or destroying a competitor of either of these defendants.

(2) From sending out traveling men for the purpose or with instructions to influence the customers of such competitors of either of these defendants, so as to secure the trade of such customers, without regard to the price.

(3) From in any manner or for any length of time selling his or its service in either plate, ready print, or matrices, either separately or one service with another, at less than a fair and reasonable price, with the purpose or intent of injuring or destroying the business of any competitor of either of these defendants.

(4) From threatening any customer of a competitor with starting a competing plant unless he patronizes one or the other of these defendants.

(5) From threatening the competitors of either of these defendants that they must either cease competing with defendants or sell out to one or the other of the defendants herein, and from threatening that unless they do their industries will be destroyed by the establishment of near-by plants to actively compete with them or by any other method of unfair competition.

III. That the defendants, Western Newspaper Union, Western Newspaper Union of New York, Central-West Publishing Co., George A. Joslyn, John F. Cramer, H. H. Fish, and M. H. McMillen, be, and they are hereby, permanently enjoined from either directly or indirectly, by themselves or through their agents or employees, from in any manner continuing to do any acts in unfair competition against the other defendant company in this petition named, to wit, American Press Association, as alleged in divisions 6 and 7 of this petition, and particularly that they be thus enjoined from doing any of the following acts:

(a) From combining or attempting to combine with said defendant American Press Association, either by purchase, stock ownership, or in any other manner.

(b) From holding out inducements, in the way of control or otherwise, to the said American Press Associations, or either of them, or any of their officers, agents, or employees, to induce or compel a combination between the Western Newspaper Union and its allied concerns and the American Press Associations.

(c) From selling any of their product or services at less than a fair and reasonable profit, or at cost, or less than cost, with the purpose or intent of injuring or destroying the interstate trade and commerce of the American Press Association, or of any other competitors.

(d) From in any manner, either directly or indirectly, causing any person or persons or company to purchase stock or become interested in the American Press Association for the purpose of or with the effect of harassing the said American Press Association by unconscionable or unreasonable demands for an examination of its books or inquiry into its business methods, or the institution of suits, with such or like purpose in view.

(e) From in any manner, either directly or indirectly, instructing, causing, or permitting their agents or employees or traveling salesmen throughout the country, to circulate reports or to intimate or convey the impression that these defendants will put the American Press Association out of business, or that the American Press Association will not be able to continue in business against the competition of the defendants, or that the American Press Association intends to or is about to combine with the defendants or the defendants with them, or to intimate or convey the impression that unless publishers approached by such salesmen deal with these defendants, they will be discriminated against as soon as the American Press Association shall be put out of business by the competition to which it is being subjected.

(f) From sending out traveling men for the purpose or with instructions to influence the customers of the other defendants hereto, so as to secure the trade of such customers, without regard to the price.

(g) From in any manner threatening or intimating that they will start competing papers at points where customers of the American Press Association or other competitors refuse to deal with them, either in plate or ready-print matter, or both.

(h) From in any manner promising or intimating to any publisher or other person who is a customer of the American Press Association, or any other competitor, that they will protect such customer against expenses and costs in any suit that may arise by reason of the repudiation of any contract between such competitor and such customer.

(i) From in any manner retaining or permitting the retention by their agents or employees of plate metal or other property belonging to the American Press Association or other competitor of said defendants.

(j) From in any manner offering bonuses of paper or plate service free or at a nominal price with the purpose and intent of inducing or enabling customers of the American Press Association or any other competitor to temporarily change to home-print papers and thus to assist them in breaking contracts with the said American Press Association with lessened chance of liability for breach of contract; and, furthermore, from offering in connection with such bonus to sell their service at less than the usual price to such customer of such competitor, and from offering as a part of such plan the continued use of free plate for the home-print side of the papers of such customer.

(k) From purchasing or acquiring stock in any other corporation, or interest in any other concern, engaged in the manufacture or sale of plate matter or ready prints, and not a party hereto; and from acquiring the property and business of any such company, unless application be made to and permission to make such purchase be granted by this court.

(l) From in any manner unfairly criticizing and abusing the method of the said American Press Association with reference to advertising,

or from doing any of said things through its weekly house organs, known as the Publishers' Auxiliary and the Western Publisher, and particularly from misrepresenting through said means the business and business methods of the American Press Association, with the intent and for the purpose of taking away the customers of the said American Press Association, or otherwise injuring its business.

(m) From in any manner continuing or participating in unfair attacks upon the said American Press Association, with the purpose of injuring or depreciating or destroying the value of the property and securities of the said American Press Association.

(n) From maintaining any auxiliary plant in any cities of the United States apparently independent, but in fact the property of the Western Newspaper Union, or its officers and stockholders, for the purpose and with the intent of making the newspaper trade generally believe such institutions to be independent.

IV. That the defendants American Press Association, Courtland Smith, W. G. Brogan, and Maurice F. Germond be perpetually enjoined from in any manner, either personally or as officers, or through their agents or employees, from continuing to commit or assisting in the commission of any acts of unfair competition directed against the defendants Central-West Publishing Co., Western Newspaper Union, or any other of these named defendants' competitors, and that they be permanently enjoined particularly from in any manner doing or committing any of the following acts:

(a) From selling its adless ready-print or plate service for less than a fair and reasonable price, or at cost, or below cost, with the purpose or intent of injuring the business of these named defendants or other competitors of the said American Press Association.

(b) From in any manner unfairly criticizing and abusing the method of the said Western Newspaper Union with reference to advertising through these defendants' circulars relating to its bureau of foreign advertising, or from doing any of said things through its weekly house organ, known as the American Press, and particularly from misrepresenting through said means the business and business methods of the Western Newspaper Union, with the intent and for the purpose of taking away the customers of the said Western Newspaper Union or otherwise injuring its business.

(c) From in any manner continuing or participating in unfair attacks upon the said Western Newspaper Union with the purpose of injuring or depreciating or destroying the value of the property and securities of the said Western Newspaper Union.

(d) From maintaining any auxiliary plant in any cities of the United States apparently independent but in fact the property of the American Press Association, or its officers and stockholders, for the purpose and with the intent of making the newspaper trade generally believe such institutions to be independent.

(e) From sending out traveling men for the purpose or with instructions to influence the customers of the other defendants hereto, so as to secure the trade of such customers, without regard to the price.

(f) From in any manner retaining or permitting the retention by their agents or employees of plate metal or other property belonging to the Western Newspaper Union or other competitor of said defendants.

(g) From in any manner offering bonuses of paper or plate service, free or at a nominal price, with the purpose and intent of inducing or enabling customers of the Western Newspaper Union or any other competitor to temporarily change to home print papers and thus to assist them in breaking contracts with the said Western Newspaper Union with lessened chances of liability for breach of contract, and, furthermore, from offering in connection with such bonus to sell their service at less than the usual price to such customer of such competitor, and from offering as a part of such plan the continued use of free plate for the home print side of the papers of such customer.

(h) From purchasing or acquiring stock in any other corporation or interest in any other concern engaged in the manufacture or sale of plate matter or ready prints and not a party hereto, and from acquiring the property and business of any such company, unless application be made to and permission to make such purchase be granted by this court.

V. That each of the defendants named in this petition be specifically and permanently enjoined and restrained from combining or joining in any acts—

(a) Of unfair competition either against another or against any mutual competitor;

(b) Looking toward a combination between any of these defendants;

(c) Any acts done with the intent or purpose of driving out of the industries in which they are now engaged of either of these defendants or of any of their competitors;

And as to each of the above acts defendants, and each of them and their officers and agents, are enjoined from doing them, either separately or in concert or conjunction with either of the other defendants.

It is further ordered that the defendants, Western Newspaper Union and the American Press Association, each pay one-half the cost of this suit to be taxed.

When in this decree the American Press Association is mentioned, reference is had to both the American Press Association organized under the laws of New York and the American Press Association organized under the laws of West Virginia, or if such portion of the decree is not appropriate to both, the one is intended to which it is appropriate.

KENESAW M. LANDIS, *Judge.*

[From the Omaha (Nebr.) World-Herald, Tuesday, July 7, 1914.]

FOR FAIR TRADE.

The World-Herald is very glad to acknowledge receipt of a letter from the American Fair Trade League, an organization of successful and widely known business men evidently in sympathy with the general purpose of the antitrust legislation now under consideration at Washington.

The letter, signed in behalf of the league by its secretary, Edmond A. Whittier, and mailed from headquarters in New York, is, in part, as follows:

"Admittedly the most far-reaching development in the formulation of antitrust legislation is the President's approval of the incorporation in the Federal trade commission bill of provisions declaring 'unfair competition' to be 'unlawful,' and prescribing that 'the commission is hereby empowered and directed to prevent corporations from using unfair methods of competition in commerce.' The commission, under these new sections of the bill, is further empowered to call upon the Federal courts to enforce its order in the event of disobedience.

"Senator Newlands, chairman of the interstate commerce committee, has reported the bill to the Senate thus amended. This legislation, now assured by this agreement between the executive and the legislative leaders of the majority party will be an admission by Congress of the evils which are the cause of the country-wide support of the Stevens bill 'to prevent discrimination in prices and to provide for publicity of prices to dealers and to the public.' * * * This new turn of affairs at Washington has resulted from constant pressure by consumers and small business men for laws which will really penetrate to the roots of dishonest business practices."

The letter quotes approvingly an editorial from a St. Paul newspaper—the News—which declares that "the nub of the legislation" now before Congress is this: "Declaring unfair competition in commerce unlawful and creating a commission to drag it into the open." "That's all there is," declares the editorial incorporated into this letter of the Fair Trade League, "to this awful threatened interference with prosperity."

The letter to the World-Herald from this organization of business men concludes in this wise: "A word from you will help every honest merchant and every consumer in the country. Will you say it?"

We will cheerfully. And we have repeatedly. And we will, furthermore, call to the attention of our readers the standing of some of these American business men who, rather than throw stones at a Democratic President and Congress for "interfering with business," are standing back of their efforts to set honest business free.

The president of the league is Charles H. Ingersoll, manufacturer of the famous "dollar watch." The vice president is Dr. Lee Galloway, professor of commerce and industry in New York University. On the executive committee list appear such names as these:

J. P. Archibald, ex-president National Retail Jewelers' Association.
Bartlett Arkell, president Beech-Nut Packing Co.
J. E. Baum, president Supplee Hardware Co., of Philadelphia.
Frank B. Connolly, vice president National Retail Grocers' Association.
Abraham Erlanger, president the "B. V. D." Co.
Henry B. Joy, president Packard Motor Car Co.
W. K. Kellogg, president Kellogg Toasted Corn Flake Co.
Alfred Lucking, counsel Ford Motor Car Co., and a number of others of similar high standing.

And on the advisory committee appear the names of officers of such well-known corporation as the Glastenbury Knitting Co., the Contoocook Mills Corporation, the Kryptok Co., the Interwoven Stocking Co., the Globe-Wernicke Co., and a great many others.

These business men want fair trade, regulated and honest competition—precisely what President Wilson and a Democratic Congress are striving to promote. They want to make it possible for men to do business in this country without fear of being crushed by trusts and monopolies, which is what the Democratic Party has been demanding for these many years. They are not asking that legislation to this end be delayed or defeated; they are asking that it be passed. They realize that such legislation will "interfere" not with honest and legitimate business, but with business that is neither and that is now interfering with business that is both. They are urging the country to support the President and Congress in passing laws that will stop the interference with business that is making prosperity lopsided, that has made trustified and monopolized business all-powerful, and that has all but closed the gates to independent and genuinely competitive enterprise.

The condition that has been, as well as the condition the Democratic Party is striving to establish, are well described in an editorial in the Indianapolis News, which says:

"A great, and in some respects a wonderful, system had been built up largely on privilege—tariff and other. Through enormous contributions to campaign funds the great trusts and railroads purchased favors from the Government. A few men, with a direct and selfish interest in the matter, decided what our taxes should be. It was a veritable feudal system, based not on birth but on wealth and usurped power. It is against this system that the national administration, backed by the people, has arrayed itself. We are seeking some measure of democracy in trade and commerce, as we have it in politics. We have to-day—and may we continue to have—a Government that is at least stronger than the Steel Trust. And with it we shall have a more widely diffused prosperity and a greater command of the good things of life than we have ever had. The people have resolved that this country shall be what it was meant to be, the country of the average man. Whatever suffering there is is due to the fact that the evils were allowed to grow to such enormous proportions as to make their eradication extraordinarily difficult. The blame must rest not on those who are now trying to right the wrongs, but on those who sat still and allowed them to reach their present proportions."

The World-Herald is rejoiced to have the evidence that many of the foremost business men of the country, business men who do business by adding to the national wealth rather than by gambling in and juggling with the wealth others have produced, understand and are in sympathy with the purposes of the Democratic Party.

Mr. WEEKS. Before the Senator from New Hampshire takes his seat I wanted to make one inquiry. I understood from his reading that one of the acts which Judge Landis described as unfair competition was a traveling man approaching the customers of another corporation and offering to sell to those customers at a lower price than they were purchasing.

Mr. HOLLIS. No; selling to them at all hazards, without regard to the price. Now, that is a well-known method of unfair competition.

Mr. WEEKS. What do you mean by all hazards?

Mr. HOLLIS. To make the sale without regard to the price; to make the sale anyway, so as to drive the other fellow out, and after you have driven him out and gotten rid of the competition, then have the field to yourself, and put your price up and charge extortionate rates. That is what is enjoined and very clearly put. I will read it again if the Senator would like to hear it.

Mr. WEEKS. That particular case I was interested in.

Mr. HOLLIS. I would be very glad to read it again:

From sending out traveling men for the purpose or with instructions to influence the customers of such competitors of either of these defendants, so as to secure the trade of such customers without regard to the price.

Those are the words that were overlooked by the Senator. I have no doubt he would agree that that was not fair practice. If not, he will disagree with Judge Landis.

Mr. WEEKS. I wanted to ask how a corporation would get new business in the ordinary course of affairs unless it did in some way shave the price at which it sold its goods.

Mr. HOLLIS. The Senator there qualifies and has just shown where the line is. "Without in some way." Some ways are perfectly fair, just as some restraints of trade are perfectly fair, but you must apply the rule of reason, which every judge has in his head, for the very purpose. It is perfectly easy in any definite case laid down before the judge, in connection with the other practices, to decide whether it is a reasonable and fair method of competition.

This statute leaves it to the judge to apply the rule of reason, precisely as our courts have under the Sherman antitrust act, and there can not be any difficulty in the application. There is no more difficulty than there is with all laws that are meant to reach evil practices. There is difficulty in the application of all of them. The humorous description read by the Senator from Utah [Mr. SUTHERLAND] shows how people in Texas, who ought to know, can not always tell how to class a jackass and a mule. We do not have great trouble here in Washington telling one from the other.

Mr. WEEKS. Let me ask the Senator from New Hampshire how much shave in price he should think would be fair, and where the line would be drawn.

Mr. HOLLIS. I could not tell until the Senator should tell me the class of goods and tell me in what district the sale was made and for what purpose the sale was made and many other things. I should not know enough about that until the evidence was put before me, but I will be frank to say that if the evidence was put before the Senator he could tell very quickly.

Mr. THOMAS. Mr. President, I would ask the Senator from Ohio [Mr. POMERENE] whether he is not willing to strike out lines 21, 22, and 23 on page 5 of his amendment? It is the paragraph providing for the publication of the reports of the commission.

Mr. President, I should like to see, if we are to refer to that subject at all, a paragraph prohibiting the publication of the reports of this commission. The people of the United States are buried under an avalanche of reported cases, ground out with constant and monotonous regularity by 50 or 60 tribunals, to which are added those of the Interstate Commerce Commission and those of some nisi prius tribunals. The result of this grist of decided cases upon American law is to reduce it to a state of chaos and confusion.

There is not a lawyer in the sound of my voice who is not able to advise his clients what the law is. But not a single one of them is able to advise his clients what the courts will determine the law to be. In appellate cases attorneys were accustomed at one time to prepare what was called a brief, which was submitted to the court for its guidance and instruction. The attorney's brief of to-day consists always of one and occasionally of two volumes, made necessary because of the multitudinous reported decisions upon every conceivable question which can vex the brain of the average attorney.

Now, every added decision serves to increase the confusion, and the time has come when authorities can be gathered, and able ones, too, in unqualified support of both sides of every conceivable human proposition. Practicing law nowadays entails a degree of labor and investigation upon the part of the practitioner and the courts that is appalling. If we are going to have a fresh batch of them coming from another source, let us rather suppress them and see to it that they are not published in official form.

One of the greatest men of this generation, Mr. President, is the former President of the Mexican Republic, Porfirio Diaz, and to my mind one of the chief evidences of his wisdom and statesmanship was his interdict upon the publication of all the decisions of his courts. The judges were required to pass upon and determine the controversy according to the written law and their understanding of it, without regard to precedents found in former opinions. While Mexico is not in any particular a model government, and never has been, yet I venture to say that in the administration of justice the courts were able to proceed quite as intelligently without, as our courts are able to proceed, with so many reported cases.

Mr. WALSH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Colorado yield to the Senator from Montana?

Mr. THOMAS. I yield.

Mr. WALSH. Are we to understand that the Senator from Colorado is seriously urging that the publication of the reports of the supreme court of his State should cease?

Mr. THOMAS. Indeed, Mr. President, I am. I wish we could pass an amendment to our constitution making it a capital offense to issue another volume of reports. I never was more serious in my life. I want to say, and to repeat, and reiterate if necessary, that the increasing number and accumulation of reports is a curse to American law.

There are great judges, and there are great decisions; there are many reported cases which are really the fountain of much that is important and necessary in law; but, on the other hand, there is a vast quantity of reported cases, some of which are good, some of which are indifferent, and some of which are execrable. The Senator from Montana, one of the ablest and one of the most industrious lawyers I ever knew, will, I think, sustain the proposition that no important legal question comes to him for solution that does not, because of the multitude of cases, entail upon him a degree of labor that is necessary in a way but which ought not to be and would not be necessary if these cases had not been issued and circulated in published form.

Mr. WALSH. Mr. President, upon the assurance that the Senator speaks his earnest convictions, I desire to ask if he would like to see the body of the mining law that we have built up in the West swept out of existence and that we should be put back where we were when the present mining law was originally enacted?

Mr. THOMAS. Mr. President, I am glad the Senator from Montana has asked me that question. The so-called law of the Apex, founded upon the mining statute of 1872, has been construed by all the courts in the mining West, and by the courts of the United States for 42 years, and we know less to-day about the meaning of that statute than we did before the first reported case construing it was handed down.

Mr. President, no better illustration of the position that I am assuming can be offered here than the character of our law of mining as it has been construed and reconstrued and then construed some more, and still other constructions reconstrued, until a man with an Apex case to-day has a job before him that equals a Chinese puzzle.

Take our laws on irrigation. There are Senators here who come from arid States where the laws of waters under our statutes were fairly plain until court after court passed judgment upon them, until the reports of those courts were published, and until we confronted the impossible task of reconciling them. So, for heaven's sake—I will take that out; I do not want to trespass upon the favorite expression of my friend, the Senator from New Jersey [Mr. MARTINE]—but for the sake of the peace of the profession and for the welfare of business, which some Senators think is going to be harried to death, do not inflict upon them such a punishment as will be involved in the report of cases to be determined by this commission that you propose to create.

Mr. MARTINE of New Jersey. Mr. President, my legal friend from Colorado refers to New Jersey. I will say that some of us laymen are getting——

Mr. THOMAS. I did not refer to New Jersey, but to the Senator from New Jersey.

Mr. MARTINE of New Jersey. Very well. I only have to say that some of us laymen are getting great comfort out of the entanglements which my friend demonstrates are impending on our land from the overadjudication of our law. I feel that the public at least will agree with me, in view of the thoughts advanced by the Senator from Colorado, that consideration should be given to the sentiment expressed by the fellow who said "Here's that every preacher may kill a lawyer and be hanged for it." [Laughter.]

Mr. THOMAS. The Senator from New Jersey is in no danger, because I do not think he ever was or ever will be a lawyer. [Laughter.]

Mr. CRAWFORD. Mr. President, while I am in sympathy with the purposes of this bill, I find a good deal of trouble in reconciling myself to a proposition embodied in the amendment offered by the Senator from Iowa [Mr. CUMMINS], also in the one offered by the Senator from Ohio [Mr. POMERENE], and in the one presented by the Senator from New Hampshire [Mr. HOLLIS]. In every one of these amendments it is—

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

While I have listened with all the charity I could to the explanations given for destroying the value of these orders and judicial decisions, I am not persuaded.

I notice in what is called the Clayton antitrust bill, of which there are many prints, that there is a provision known as section 6, in which, with great care, they preserve the value of every decision, so that it may be utilized in other litigations; but in the amendments to which I have referred by this exclusive language we practically destroy the value of a decision, no matter how many years have been occupied in bringing it to a culmination or how enormous has been the expenditure incurred. No matter how necessary it may be to some poor litigant who is struggling against the identical abuse decreed against in a given case—an abuse he may be suffering from at the hands of the same corporation—although the Government has litigated everything and has secured a decision of which he might, if the language of the statute would permit, have the benefit, he is excluded in this bill from having any benefit whatever. Its whole effect is to circumscribe and confine a decision to the particular issue in that particular case. I can not, somehow, believe that that is a limitation which we ought to incorporate in the law. In the antitrust bill, section 6, I read as follows:

SEC. 6. That whenever in any suit or proceeding in equity hereafter brought by or on behalf of the United States under any of the antitrust laws there shall have been rendered a final judgment or decree to the effect that a defendant has entered into a contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce, or has monopolized, or attempted to monopolize or combined with any person or persons to monopolize, any part of commerce, in violation of any of the antitrust laws, said judgment or decree shall, to the full extent to which such judgment or decree would constitute in any other proceeding an estoppel as between the United States and such defendant, constitute against such defendant conclusive evidence of the same facts and be conclusive as to the same questions of law in favor of any other party in any action or proceeding brought under or involving the provisions of any of the antitrust laws.

And in the pending bill——

Mr. WALSH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Montana?

Mr. CRAWFORD. I yield.

Mr. WALSH. The Senator from South Dakota has not been here at all times; and I will ask, does he understand that that amendment has already been adopted by the Senate?

Mr. CRAWFORD. The amendments to which I am calling attention are one offered by the Senator from Ohio and another offered by the Senator from New Hampshire containing this language:

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

Mr. WALSH. I am asking the Senator, does he know that this amendment simply embodies that language, the same language having already been adopted by the Senate?

Mr. CRAWFORD. Adopted by the Senate in the pending bill?

Mr. WALSH. Yes.

Mr. CRAWFORD. Then, how do you harmonize the language of the two provisions?

Mr. WALSH. The amendment is offered as a substitute for section 5. Section 5 has already been amended by incorporating therein that language, and it is simply carried into the amendment now proposed.

Mr. CRAWFORD. Why is it necessary in the amendments which are submitted to us now to have the language which I read, for instance, in the amendment offered by the Senator from New Hampshire:

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

Mr. WALSH. I inquire of the Senator if he knows that the Senate has already adopted that language?

Mr. CRAWFORD. I did not, as a matter of fact; but if the Senate has, my query is still pertinent. Why do we insert this language? Is it proposed to adopt this language in the pending amendment?

Mr. HOLLIS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from New Hampshire?

Mr. CRAWFORD. I do.

Mr. HOLLIS. If I may answer the Senator from South Dakota, I will say that the amendment referred to by him has already been adopted by the Senate by a vote of 40 to 13, which seems to be a very fair index of the way the Senate looks upon it. When I prepared my substitute, naturally I did not want to encounter any more opposition than was necessary; so I inserted whatever the Senate had already adopted, and made it a part of my amendment. I do not care much about that particular amendment, but I can state the reason for it, I think.

Mr. CRAWFORD. Well, if the Senator will permit me, I want to get myself located. If I understand correctly, what I have just read from what is known as the Clayton antitrust bill has been adopted as an amendment to the pending bill, known as the trade commission bill.

Mr. CLARK of Wyoming. No.

Mr. CRAWFORD. Then, what am I to understand?

Mr. HOLLIS. Mr. President, I will endeavor to explain it to the Senator if he will permit me. The Federal trade commission bill has been before the Senate for several days, and a day or so ago the amendment to which the Senator has referred was adopted to section 5, so that those Senators who have proposed amendments to that section have embodied in them the amendment already agreed to.

Mr. CRAWFORD. I am sure I was not here when the roll was called on that proposition.

Mr. HOLLIS. Mr. President, I should like to explain to the Senator what I think to be the reason for the amendment. The provision which has just been read by the Senator from the Clayton antitrust bill involves a completed monopoly, a completed restraint of trade to be prosecuted under the solemn penalties of the Sherman antitrust law, and it is to be presumed that when a man is attacked under the Sherman antitrust law he will put his best foot foremost and make all the defense that he has. Under the trade-commission bill there is no pnalty, except an injunction; there is no punishment of any kind; and a man might well be excused for saying, "Well, I do not think this amounts to very much, and I will not trouble much about it; but I will go up and hear what they have to say." He will have a right to appeal in any event, if the pending amendment is adopted. The Senator can well see that under such circumstances a man might not put on all his witnesses or produce all his evidence, not thinking that the charge of employing an unfair method of competition was as serious as a charge of having created a monopoly or having restrained interstate commerce, for which he might be put in jail. That is my reason for thinking that this amendment is wise.

Mr. CRAWFORD. Mr. President, if this matter is foreclosed, I do not care to take up the time of the Senate unnecessarily; but I think it is a mistake. I hold in my hand, and I am going to ask to have incorporated in the RECORD as a part of my remarks without reading, a letter, a copy of which I presume every Senator has received, written to the President of the United States by Mr. Gustavus A. Rogers, a gentleman with whom I am not acquainted, who was of counsel in some motion-picture litigation, together with a letter from the then Attorney General, Mr. Wickersham, attached to it, showing, to my mind, one of the gravest cases of unfair competition yet brought to light, just such a case as has been referred to in connection with this bill, and just such a case as is sought to be reached by this legislation.

I do not know what the present status of this litigation is, but that is immaterial; it will illustrate the thought I have in mind just as well. Suppose after a long series of years which may have involved as much expense and struggle and litigation as the suit against the Tobacco Trust or the suit against the Standard Oil Trust, an action brought under this bill which we are now proposing to enact had resulted in a finding that the Motion-Picture Trust was guilty of unfair competition; suppose that enormous expense had been incurred; that the matter had ran through a long period of time, perhaps several years, and finally the commission had found deliberately that the Motion-Picture Trust was guilty of unfair competition under this law; that then that trust went into court to have the order of the commission reviewed by the court, and that the case had pursued its long and tortuous career through all the courts in which it could be heard, and finally it had been determined by the Supreme Court of the United States that the trust was guilty of unfair competition in violation of this act. That has settled the issue between the United States and the Motion-Picture Trust; but here is John Brown, or John Smith, or John Jones, who wants to get motion-picture films, and who in some subsequent proceeding desires the benefit of the decision which has been rendered in the previous case. He has not the money to incur the enormous expense of relitigating this whole subject, and here is a finding of the commission and here is the decision of the highest tribunal of this land in a case in which this whole matter has been thrashed out, and yet he can not use them.

Mr. CUMMINS. Mr. President, the provision does not touch such a case at all.

Mr. CRAWFORD. Why not?

Mr. CUMMINS. Simply because it does not.

Mr. CRAWFORD. I am not referring to the antitrust act. I say, suppose under the trade-commission bill an action were brought against the great Moving-Picture Trust, accusing it of unfair competition.

Mr. CUMMINS. The provision to which the Senator has referred would not preclude the use of the order of the commission or the judgment of the court in such a case.

Mr. CRAWFORD. No; but in any subsequent proceeding brought against that trust under the antitrust law this provision would not allow the previous finding or judgment to be used.

Mr. CUMMINS. If the Government of the United States brings a suit under the antitrust law of 1890, this provision would prevent the judgment of the commission or of the court being used in that case.

Mr. CRAWFORD. Yes; or if a suit were brought by an individual to recover damages.

Mr. CUMMINS. Not for unfair competition, because such a suit can not be maintained under the antitrust law.

Mr. CRAWFORD. It looks to me as though we are closing the doors unnecessarily to a class of people who may be absolutely helpless because of their lack of financial ability to prosecute a separate action. After a proceeding is had before the commission, the issue is fought out, and judgment is obtained, why should not it be available, just as judgments and decrees are available in all other procedure, without any limitation?

Mr. CUMMINS. It will be, except that the judgment of the court or the judgment of the commission is not admissible in evidence in a suit, civil or criminal, brought under the antitrust law.

Mr. CRAWFORD. The Senate has acted upon this matter, but I want to express my doubt about the propriety of such a provision being placed in the bill. I ask to incorporate a copy of the letter of Mr. Rogers and the letter of the Attorney General as a part of my remarks.

The PRESIDENT pro tempore. The Senator from South Dakota asks unanimous consent that the letters which he sends to the desk may be printed in the CONGRESSIONAL RECORD. Is there objection? The Chair hears none, and the order is made.

The matter referred to is as follows:

NEW YORK, *July 27, 1914.*

Hon. WOODROW WILSON,
President of the United States.

YOUR EXCELLENCY: May I have your permission to place before you a situation which, I believe, will have some points of interest to you in your very commendable campaign in the interest of the people as against the "big interests" that are unlawfully operated in the form of vicious monopolies?

While the matter to which I will refer herein is a recital of facts regarding the so-called Motion Picture Trust, I am convinced that its operations are illustrative of what is generally being resorted to in other fields of industry and endeavor, prompting me to make the following recommendation for your consideration:

(1) That the word "hereafter," in section 6 of the antitrust bill, be stricken out, so that it shall read as follows: "That whenever suit or proceedings in equity brought or now pending * * * such judgjudgment or decree shall * * * constitute prima facie (conclusive) evidence of the same facts * * *." (I am informed that "conclusive" in the original draft has been changed to "prima facie.")

(2) That the language in section 3, which now provides penalties only against the owner or operator of any mine, etc., who refuses arbitrarily to sell his products to a responsible person, firm, etc., be broadened so that it shall provide against the refusal to sell any commodity where there are trade relations between the parties sought to be terminated by a combination for the purpose of creating or furthering a monopoly.

(3) That the bill provide that where trade relations have been once established between parties, it be not only unlawful to terminate these relations or refuse to sell the commodity for the purpose of creating or furthering a monopoly, but that the injured party may have a preliminary and final injunctive relief under the act compelling the continuance of the delivery of the commodity.

Prefatory to my further statement I beg leave to be permitted to say that I understand from newspaper reports that you are being importuned to suggest a modification of some of the provisions of the Clayton bill now before the Senate for action.

To my mind weakening any part thereof would be an unfortunate step, and I believe it should be made more comprehensive, as above suggested, in support of which I beg leave to refer you to my statement before the Judiciary Committee of the House of Representatives on its hearings on trust legislation, and which appears in the printed report at pages 470 to 502, inclusive, volume 1, together with a list of recommendations which I submitted and which appears at page 1777, volume 2, together with the opinions of Judge Hand and Chief Judge Lacombe, which appears at pages 1778 and 1779, volume 2.

A reading of the matter to which I refer immediately demonstrates that unless some specific statutory provision is made preventing persons or corporations controlling a considerable percentage of a commodity from refusing to sell their goods to a purchaser who applies in good faith to buy on the same terms that they are selling to others that the small business man had no hope of remaining in his business should the combination seek to prevent him from doing so either in its own interest or because of some dislike to the intending purchaser.

The effect of some of the operations of the General Film Co. is referred to in House Report No. 627, which appears at page 1965 of the printed volumes above referred to, the pertinent portion of which reads as follows:

"Where the concern making these contracts is already great and powerful, such as the United Shoe Machinery Co., the American Tobacco Co., and the *General Film Co.*, the exclusive or 'tying' contract made with local dealers becomes one of the greatest agencies and instrumentalities of monopoly ever devised by the brain of man. It completely shuts out competitors, not only from trade in which they are already engaged, but from the opportunities to build up trade in any community where these great and powerful combinations are operating under this system and practice. By this method and practice the Shoe Machinery Co. has built up a monopoly that owns and controls the entire machinery now being used by all great shoe manufacturing houses of the United States. No independent manufacturer of shoe machines has the slightest opportunity to build up any considerable trade in this country while this condition obtains. If a manufacturer who is using machines of the Shoe Machinery Co. were to purchase and place a machine manufactured by any independent company in his establishment, the Shoe Machinery Co. could, under its contracts, withdraw all their machinery from the establishment of the shoe manufacturer and thereby wreck the business of the manufacturer. *The General Film Co.*, by the same method practiced by the Shoe Machinery Co. under the lease system, has practically destroyed all competition and acquired a virtual monopoly of all films manufactured and sold in the United States. When we consider contracts of sales made under this system, the result to the consumer, the general public, and the local dealer, and his business is even worse than under the lease system." (The italics of the "General Film Co." are mine.)

Briefly stated, what occurred in the motion-picture film industry is: That in the latter part of 1908 all of the then manufacturers of the American-made film, 10 in number, combined, got out a form of so-called license agreement on pretended patents (I say pretended, because the main patent had been declared invalid in the first place by the Federal court of the southern district of New York, and later its invalidity was also declared by the Court of Appeals of the District of Columbia), and gave the dealers their choice between subscribing to this agreement, most harsh and arbitrary in its terms, or getting out of the business entirely for want of a supply of the commodity.

Among the more drastic provisions of the agreement were:

(1) That those dealing with the so-called licensed manufacturers (the combination which then controlled at least 95 per cent of American-made film and a large percentage of the foreign importation) would not be permitted to deal with or handle any other film.

(2) That the film which had theretofore been sold outright would thereafter be leased, and by artifice compelling the dealers to return to the manufacturers the film which they then had on hand and which they owned outright, and replacing it in the future with films which were only leased by the manufacturers, so that when the combination got ready to cut off the supply the dealer would have no other film with which to compete.

(3) A provision under which the manufacturers claimed the right to terminate the agreement, with or without cause, on 14 days' notice.

After driving the dealers into signing this agreement, the manufacturers thereupon formed a company known as the General Film Co., to which the manufacturers agreed to make its supply, the company being organized on paper and with little or no capital stock actually paid in, and thereupon proceeded, by means of the agreement and its power, to drive all of their dealers out of business. This was usually accomplished by an enforced sale under threat of invoking the 14 days' termination clause in the contract.

There are many instances referred to in the record in the Government action, to which I shall hereafter refer, in which notice was sent to take effect immediately, without giving the dealer 14 days' time and destroying him immediately, his customers being taken up by the General Film Co. On the enforced sale it was not a cash transaction with the General Film Co., but, on the contrary, they forced the man to turn his business over to it and then agreed to pay him certain installments extending over a period of five years, and gave him some preferred stock in the company. As a result of these operations, in the space of little more than a year every one of the dealers in the United States, of whom there were about 150 in number originally, were bought up or arbitrarily driven out without buying them up, until there remained only one, our client, i. e., the Greater New York Film Rental Co., which the General Film Co. tried to buy out in the autumn of 1911. Our client refusing to sell, an attempt was made to terminate the agreement and refusal announced by the manufacturers to deal further with our client.

We thereupon took the matter to court, and through the process of the State supreme court, and the injunction order of his honor Learned Hand, of the Federal court of the southern district of New York, we succeeded in compelling delivery of the film by these manufacturers until February, 1913, when the manufacturers again announced their refusal to deliver films to our client in the interest of its own company, i. e., General Film Co. Whereupon, the Department of Justice, Mr. George W. Wickersham at that time Attorney General, writing under date of February 20, 1913, to Mr. George R. Willis, of counsel for the General Film Co., directed the manufacturers during the pendency of the suit instituted, on our complaint in the meantime, by the Government under the Sherman Act, to do business with our client, the Greater New York Film Rental Co. under the same terms and conditions as it was doing business with any of the branches of the General Film Co. and to make no discrimination against our client and in favor of the General Film Co. The portion of the letter referred to reads as follows:

"Of course, while the suit brought by the United States against the Motion Picture Patents Co., and others, is pending, the department expects each of the licensed manufacturers and importers, each of whom is a party to such suit, to do business with the Greater New York Film Rental Co. on the same terms and conditions as it is doing business with any of the branches of the General Film Co. and to make no discrimination against the Greater New York Film Rental Co. and in favor of the General Film Co."

I am attaching a copy of the letter for your perusal.

For a short time after writing the letter, the manufacturers, possibly under the advice of their counsel, complied with the request therein made, continued to make deliveries, but in the autumn of the same year they resorted to the subterfuge of getting out so-called special or exclusive films, which were widely advertised by the manufacturers as being supplied exclusively to or by the General Film Co., and since our client was the only remaining competitor of the General Film Co. was equivalent to advertising that our client could not get these goods.

Having arranged this plan, the General Film Co. began to and did use these special goods to induce the customers of our company to leave it and become customers of the General Film Co. That was accomplished by offering the special features free of charge, or else by giving them free to some competitor of our client's customers free of charge to use in competing against the other man's business.

In the Government suit there was direct testimony of at least one employee of the General Film Co., and in the suit between my client and the General Film Co. testimony of another employee, to the effect that they were instructed specifically as employees of the company to use these special features to win away the customers of our client. I

could recite a great many other instances of this method of unfair competition employed at a time not when the Government agency was inactive, for however reprehensible it would be before that time, the conduct becomes more objectionable when I tell you that these things which I am reciting have occurred since the action was instituted by the Government.

Before I close I would like to call your attention to an incident of recent occurrence. Lately a demand was created for a certain type of film known as the Pickford films, manufactured by one of the ten in the combination. Our client ordered a quantity of these films from that manufacturer, i. e., the Biograph Co., and they were told abruptly and in a letter in cold type that the manufacturer refused to deliver them—this despite Mr Wickersham's letter referred to. In addition to its refusal, the Biograph Co. circularized the exhibitors, as I am informed, throughout the United States with the information that the Pickford film which had been previously manufactured would now be reissued, but distributed exclusively by the General Film Co.

NOTE.—The Biograph Co. referred to (one of the manufacturers in the combination) and the General Film Co. (the sole selling agent of the 10 combined manufacturers) have a common officer, to wit, Mr. Jeremiah J. Kennedy, who is the president of both companies. The holding company owning the patents, i. e., the motion picture patents, and the Biograph Co., have a common officer, i. e., Mr. Harry N. Marvin, who is the vice president of both companies. The General Film Co. and the manufacturers have common officers, for the principal officer of every of the manufacturers is also a director of the General Film Co.

The recital of this situation carries its own force, and I will not burden you with a characterization of it, but will leave that to your experienced and trained mind.

Of course, my object in writing this letter to you I hope will not be construed as a mere recital of the wrongs or grievances, actual or fancied, committed against my client, nor as a reflection or criticism upon the conduct of any public official, although I must say that no better handling of the situation could have been expected by the people of this country than that of Mr. Edwin P. Grosvenor, Assistant Attorney General, who had charge of the prosecution of the Government suit, and the masterly way in which it was generally handled by the Department of Justice.

The purpose intended to be served in writing at this time to you is that since I have observed in the newspapers that you have received delegations from time to time and that you are to receive another on Wednesday next who seek to convince you that the bills as presently drawn or contemplated are either too drastic or that their effect would be serious to the business interests of the community, that you might, honored sir, have before you to combat their argument some concrete examples of the operations of powerful combinations when they are unrestrained and unbridled by law, or believe themselves so to be. What higher demonstration can there be of the disregard of the well-being of another man than what I have put before you in this letter as the nefarious practices and operations engaged in at a time when the defendants were actually in a court of equity, being brought there by the Government for an alleged past violation of law? The explanation can be found only in that their acts are the expression of the belief in the minds of those engaged in these operations or those advising them that no law presently prevents this conduct, however wrong it may be. If this be so, all fair-minded men must agree that the time has come to change the law, so that these practices shall come within the condemnation of both the civil and criminal laws, if they do not now.

May I without further imposing on your patience add a few additional paragraphs as argument in support of the three recommendations I submit to you?

As to the first, the proposed legislation as framed in actions now in court at the suit of the Government under the Sherman Act, the decree would not be available for use by injured parties in private suits. To my mind this seems wrong on principle. In a large number of suits now pending undoubtedly the Government will be successful. The prosecution of these suits has cost the Government several hundred thousand dollars, the expense of which would have to be incurred over again by private individuals to get an adjudication in suits for damages under the treble-damage provision. In many instances, if not in nearly every one the cost of this litigation is so expensive as to be almost prohibitive. No good reason can be advanced from an economic standpoint as to why injured parties should not have the benefit of decrees that may hereafter be entered in suits already brought. I am advised by others and my own research leads me to the conclusion that no constitutional question can be raised against provision being made for the use of decrees hereafter entered in Government suits now pending as evidence in suits hereafter brought by private parties. The legislation would not be ex post facto, and merely relates to a rule of evidence or procedure.

My views upon the subject are shared by Special Assistant Attorney General Grosvenor, whom I am informed has written a letter on the subject, under date of May 14, 1914, to Judge Clayton, as chairman of the Judiciary Committee of the House of Representatives, in which he recommends that the word "hereafter" be stricken out of section 3. I assume the letter is on file with Judge Clayton's committee. I have not a copy thereof or I would transmit it. I believe that Mr. Grosvenor's connection with the Department of Justice for several years and his activity in the Harvester, the Bathtub, and the Motion Picture Trust suits, which were in his charge, entitle his suggestion to serious consideration.

As to recommendations 2 and 3 that I have made, it must be apparent that in a situation such as I have described in the pages of this letter the instrumentality which makes monopolistic combinations so complete and secure in their operation and the achievement of the result they seek, is the power given to cut off the supply of its commodity at a moment's notice, thereby compelling its customer or competitor to yield to every wish and exaction of the combination formed against him and the people generally.

Take away from the trust the right to arbitrarily refuse its commodity to responsible persons and you uproot the very foundation on which the combination stands and you also destroy the most oppressive instrumentality it employs.

The State and Federal courts have ruled that a person can not be compelled, in the absence of contractual obligation, to maintain business relations with another, and unless this obligation is created by statute the evil practice can not be prevented unless the courts shall in future cases determine that the obligation exists irrespective of statute, a view for which I have always and still contend for.

In closing, I desire to give expression to the thought that I realize that representation is being made by the business men throughout the country that an attempt at legislation at this time, drastic in its nature, would involve us in business depression and possible panic, and that the interests of the people at large demand that cautious action be taken. While I am mindful of the duty that we owe as citizens of our country to prevent it being plunged into financial disaster, if the term is not too strong, I can not subscribe to the argument advanced, for I believe that we are at a point in our economic career which requires that we should either have a complete surgical operation, forever removing the evil business growths about us, and preventing their recurrence; or confess that the disease of depredation prevalent has such a firm hold on us that we must submit resignedly to "big business" and "big interests" for fear that otherwise they will make their disfavor apparent to the detriment of the people and the Government. I, for one, refuse to believe that any man, or any set of men, however numerous or financially great, are entitled to occupy such a position of power in our country and under our system of government. I know that you will not be misled by such specious argument. It may be that if you stand firm and insist, as our Chief Magistrate and Executive, that the statute shall be written on the books in no uncertain language, that the country and possibly even you may suffer temporarily; but the lasting good and benefit that will eventually and surely come will place upon your head a crown of esteem and respect that no man will dare to attempt to remove; the present and future generations will profit thereby; the door of opportunity in trade now closed against the poor and small business man will be opened for him, and new hope will be kindled that will create an unequaled era of prosperity.

Again apologizing to you for the length of this letter and thanking you for such consideration that you may give the subject, I have the honor to subscribe myself.

Obediently, yours,

GUSTAVUS A. ROGERS.

COPY OF LETTER OF FORMER ATTORNEY GENERAL HON. GEORGE W. WICKERSHAM RELATING TO A CONTINUANCE OF THE SUPPLY OF FILM TO THE GREATER NEW YORK FILM RENTAL CO.

FEBRUARY 20, 1913.

GEORGE R. WILLIS, Esq.,
239 Cortlandt Street, Baltimore, Md.

DEAR SIR: The department is in receipt of your letter of the 19th instant, addressed to Mr. Grosvenor, relating to the cancellation by the Motion Picture Patents Co. of the license of the Greater New York Film Rental Co.

I note your statement that in view of the conference at this office on February 18, 1913, the directors of the Motion Picture Patents Co., who issued the notice to the Greater New York Film Rental Co., have decided to withdraw that notice, and to notify the licensed manufacturers and importers of such withdrawal, and to withdraw the notices instructing licensed manufacturers and importers that they were not authorized to supply motion pictures to the Greater New York Film Rental Co. after February 28, 1913. This action is satisfactory to the department.

I desire, however, to direct your attention to that paragraph in your letter in which you state that the Motion Picture Patents Co. is not empowered to force the licensed manufacturers and importers to supply motion pictures to the Greater New York Film Rental Co., and that if any licensed manufacturer or importer should refuse to supply motion pictures to the Greater New York Film Rental Co., such an act of any licensed manufacturer or importer should not preindice the Motion Picture Patents Co. or its directors, and such refusal ought to be considered by the Department of Justice on its own merits as to the act of the manufacturer or importer so refusing.

Of course, while the suit brought by the United States against the Motion Picture Patents Co. and others is pending the department expects each of the licensed manufacturers and importers, each of whom is a party to such suit, to do business with the Greater New York Film Rental Co. on the same terms and conditions as it is doing business with any of the branches of the General Film Co., and to make no discrimination against the Greater New York Film Rental Co. and in favor of the General Film Co. If any of the licensed manufacturers or importers should so discriminate, in the apparent effort to accomplish the purposes set out in the Government's petition and therein alleged to be unlawful, it may be necessary for the Department of Justice to apply for a temporary injunction in the suit, or to take such other action under the Sherman Act as may seem expedient in the premises.

I am sending copies of your letter of the 19th, above referred to, and of this letter, to each of the counsel representing one or more of the defendants in the suit, and also copies to counsel for the Greater New York Film Rental Co.

Respectfully,

GEORGE W. WICKERSHAM,
Attorney General.

Mr. SUTHERLAND. Mr. President, I desire to submit a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state his parliamentary inquiry.

Mr. SUTHERLAND. I desire to inquire whether or not it would be in order to ask to have the question involved in the amendment proposed by the Senator from Ohio [Mr. POMERENE] divided, so that the Senate might vote first upon the amendment down to and including line 23 and then upon the part of the amendment covered by lines 24, 25, and 26, the last lines including the matter to which the Senator from South Dakota [Mr. CRAWFORD] objects and to which many of us were opposed?

The PRESIDENT pro tempore. Unquestionably. The amendment presents two distinct propositions, which can be separated and a separate vote taken at the instance of any Senator.

Mr. SUTHERLAND. Well, I ask that that be done.

Mr. POMERENE. Mr. President, if the Senator will permit me, I think I can simplify the matter somewhat by striking out, with the permission of the Senate——

The PRESIDENT pro tempore. The Senator can amend his amendment, no amendment to it having been offered.

Mr. POMERENE. By striking out lines 24, 25, and 26 on page 5 and then offering the amendment in lieu of all of section 5, save the amendment heretofore adopted, and to be inserted immediately before that amendment.

Mr. WEST. Mr. President, what are the lines the Senator proposes to strike out?

Mr. POMERENE. The three lines embracing the matter to which the Senator objected a moment ago.

Mr. CUMMINS. Mr. President, when we enlist in a man's war I think we ought to carry a man's weapons and use them with all the effectiveness of which we are capable. It seems to me that those who favor this amendment are verifying the classical allusion of Daniel Webster that oftentimes the conduct of the war does not come up to the sounding phrase of the manifesto.

I am not in favor of that part of section 5 which prescribes the court procedure, and I rather think I would prefer the amendment offered by the Senator from Ohio, if I were compelled to choose between the two. In my judgment, however, we are crippling the enforcement of the law when we adopt the pending amendment.

Passing now the question of the sufficiency of the law itself, assuming that "unfair competition" is a sufficient declaration of law, and looking only to the enforcement, I believe we ought to pursue one or the other of two courses—we ought either to clothe the commission with the authority to institute a suit in the courts of the United States for the enforcement of the law and to enjoin offenders, as we have provided in the antitrust act, or we ought to give to the action of the commission all the effect which under the Constitution we can give it. To make the commission simply the open door for reaching the court is, in my opinion, to impose upon both the public and the private interest an unnecessary and indefensible burden and to retard the execution of the statute with unreasonable delay.

I personally favor the policy that will give to the order of the commission all the effect which under our institutions we can give it. I desire to follow the policy of the interstate-commerce law and to give to the trade commission and its order all the authority and all the effect which we give to the orders of the Interstate Commerce Commission in determining matters of unjust preference, unjust discrimination, or unreasonable rates. I believe we have the constitutional right to give the order that effect. I believe it will be for the welfare of business, for the stability of commerce, to do so, and I am sure that it will be for the general interest to do so.

I have an amendment, Mr. President, which I offered yesterday, and then withdrew in order to give opportunity for a further conference with regard to this particular subject, which, if it be in order under the rules, I shall present as a substitute for the amendment of the Senator from Ohio; but if it be not in order at this time I shall offer it at a later time. This is a proper occasion, however, to express the difference between my view of the most effective procedure on the part of the commission and the view embodied in the amendment of the Senator from Ohio.

The amendment which I shall propose is not essentially different from the amendment of the Senator from Ohio until we reach the stage of a finding and an order by the commission. In so far as the proceedings which occur before that time are concerned, the difference between the two amendments is largely a matter of phraseology; but then the separation begins.

I regret very much that I feel impelled to part from those with whom I have been associated in the defense of this bill. I have not forgotten the memorable struggle of 1906—a struggle that never will be forgotten by the people of the country; a struggle that continued on the floor of the Senate for days and for weeks—between those who were representing the views of the railroads, and those who were representing the views of the people. The issue was whether there should be what was then termed a broad review or whether there should be a narrow review of the orders and acts of the Interstate Commerce Commission.

Those who were arguing the matter from the standpoint of the railroad companies insisted that the cases tried by the Interstate Commerce Commission should be tried de novo in the courts. Those who were enlisted on the side of making an effective statute of regulation insisted that the jurisdiction of the courts should be limited to the constitutional field; that is to say, that the action of the commission in determining what are reasonable rates and what are unjust preferences or discriminations should have some effect, and that, in so far as we could do it constitutionally, we should make the orders of the commission final.

I realize that we can not make the order of a commission final in all respects, and we ought not to make it final; but there is a vast difference between confining the jurisdiction of the court as narrowly as we can and opening it up to a complete new trial whenever we reach a judicial tribunal. The amendment which I have offered or will offer is fashioned upon the policy of the interstate-commerce law, and follows the powers of the Interstate Commerce Commission.

In my amendment it is provided that—

> If upon such hearing the commission shall find that the person, partnership, or corporation named in the complaint is practicing such unfair competition, it shall thereupon enter its findings of record and issue and serve upon the offender an order requiring that within a reasonable time, to be stated in said order, that the offender shall cease and desist from such unfair competition.

Then I provide, exactly as is provided in the interstate-commerce law:

> Any suit brought by any such person, partnership, or corporation to annul, suspend, or set aside, in whole or in part, any such order of the commission shall be brought against the commission in a district court of the United States in the judicial district of the residence of the person or of the district in which the principal office or place of business is located, and the procedure set forth in the act of Congress making appropriations to supply urgent deficiencies and insufficient appropriations for the fiscal year of 1913, and for other purposes, relating to suits brought to suspend or set aside, in whole or in part, an order of the Interstate Commerce Commission shall apply.

Senators will remember that the statute to which I refer here is the one which abolished the Commerce Court, restored the jurisdiction of the district court, and reenacted the procedure which should be followed in such cases.

This is not a fanciful difference. You will mark my amendment says that upon the entry of the order of the commission if any corporation or person aggrieved desires to bring a suit against the commission to set aside or annul its order he can do so, just as the interstate-commerce law provides; but the vital inquiry is, What may the court examine when a person aggrieved by the order of the commission institutes a suit of that character?

Under the amendment of the Senator from Ohio there is a retrial. It is a trial de novo. The order of the commission counts for nothing, except that it becomes prima facie evidence. That is keeping the promise to the ear and breaking it to the hope. Prima facie evidence in a suit in equity in which all the evidence is before the court confers no advantage upon the person in whose behalf the findings are said to be prima facie evidence. The court must take the record as it is finally made and decide the case according to the very right of the matter.

There are some instances in the law in which the burden of proof is of value or where it is of advantage to have under the law a prima facie case upon a certain showing. It is not so in suits that are brought or will be brought to set aside or annul the action of the commission. It is technical rather than substantial. The real effect of the amendment of the Senator from Ohio, as I think he will concede, is to open to the court a retrial of the entire case upon its merits, just as it was contended in 1906 that when a railroad company assailed the order of the commission with respect to discriminations or with respect to rates there ought to be an open field and a retrial in any court to which the case might be brought.

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Ohio?

Mr. CUMMINS. I yield.

Mr. POMERENE. Permit me to call the Senator's attention to this limitation: Under the provisions of the pending amendment, after the application is made, the proceeding in the district court will be based entirely and exclusively upon the record as made before the commission, except that the court above may permit the introduction of new evidence that was not known to the party offering it at the time of the trial below, or which, if known, could not have been produced with reasonable diligence. My belief is that that is going to place a limitation upon the number of new trials, and it avoids the temptation which exists in some jurisdictions where there are two trials of not in fact trying the case upon its merits in the tribunal below, but reserving the evidence until the last trial.

Mr. CUMMINS. I understand that, Mr. President, perfectly. It is a mere detail. When finally the evidence has been taken and it has been laid before the court it matters not whether it was taken before the commission or whether it is subsequently adduced, the court has the record, and the court has a free, open field to enter just such decree upon the record before it as in its opinion ought to have been entered by the trade commission. It is precisely like the practice in my own State of an appeal from a justice of the peace to the district court.

I desire now to point out what the difference is.

Mr. STONE. Before the Senator enters on that——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Missouri?

Mr. CUMMINS. I yield.

Mr. STONE. If I correctly understand the Senator from Iowa in explaining his amendment, it follows substantially, if

not literally, the methods of the interstate-commerce act, so far as courts are authorized to review the findings of the commission, and the Senator from Iowa contends that the amendment offered by the Senator from Ohio provides a different method of judicial interference, enlarging the power and jurisdiction of the courts over the action of the commission.

If that contention is true, if the Senator from Iowa is correct, then I submit to the Senator from Ohio this question: Why would it not be safer and in every way better to adopt that method of judicial procedure which has been tested out, which has been established, with regard to the Interstate Commerce Commission and the courts; in other words, to let exactly the same rule, as far as the courts go, apply in the case of the trade commission that do apply in the case of the Interstate Commerce Commission?

I am assuming now that the criticism which the Senator from Iowa makes on the amendment of the Senator from Ohio is correct, and that his statement of his own amendment is likewise correct.

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Ohio?

Mr. CUMMINS. I yield.

Mr. POMERENE. If I may be permitted to reply just briefly, the class of questions, both legal and of fact, which are triable before the Interstate Commerce Commission, while great in number, are not very varied in character. In the matters involved in the pending legislation we are seeking to correct methods of unfair competition. This legislation is criticized, and with great force, from certain directions, because we are not able to define definitely what unfair competition is. I recognize that uncertainty; but I also recognize the fact that the proposed bill is indefinite in that respect. It is no more indefinite than the law is now on the subject.

Recognizing that this criticism is justified in many respects, that the law is more or less uncertain, I, for one, am not willing to submit to the exclusive jurisdiction of a commission composed of five men without a reasonably complete method of review.

We do not know that this commission is going to be composed of trained lawyers, and I do not believe it ought to be composed entirely of trained lawyers. I recognize the fact that business men of great ability and experience may be of assistance upon this commission in deciding questions of fact. But I have never yet been able to arrive at that point where I am willing to ascribe all wisdom to five men because they may be called a commission and cast a reflection upon judges because they are called judges.

Until we are able to define more explicitly what unfair competition is, and until we are able to lay down some more specific rules than we seem to now, I want the corporation which may be ruled against to have an opportunity to have its rights adjudicated in a proper tribunal. For that reason, I believe that we ought to provide for a review somewhat after the nature of what has been set out in the amendment.

Mr. SAULSBURY rose.

Mr. CUMMINS. Will the Senator not allow me just a moment to make a suggestion upon this particular question?

Mr. SAULSBURY. I can not help it, sir.

Mr. CUMMINS. The Senator from Missouri can have no doubt, after hearing the statement of the Senator from Ohio, that I accurately stated the real issue between these amendments. I do not, of course, believe that any commission that may be selected will be omniscient, neither do I believe that any court is omniscient, neither do I believe that either commission or court can be found entirely free from the possibility of mistake. The Senator from Ohio, however, in lauding the court and in rather disparaging the commission, left the inference that my amendment withdrew all jurisdiction from the court, and I desire at once to point out just what the court would be authorized to do, just what jurisdiction the court would have over the order of the commission under the amendment that I have proposed.

Mr. POMERENE. Mr. President, I certainly did not intend to leave the impression that I was of the opinion that the Senator was trying to exclude the courts from the power to review entirely; by no means.

Mr. CUMMINS. I yield to the Senator from Delaware, if he desires to interrupt me at this point.

Mr. SAULSBURY. Mr. President, I thought just where we were brought by the question of the Senator from Missouri it might be well enough to call the attention of the Senate to the fact that the method proposed by the Senator from Ohio of making the finding and order of the trade commission practically final, to be reviewed only as he will describe, is not the only method in which the orders of the Interstate Commerce Commission are reviewable. There are two methods, one that proposed by the Senator from Iowa and the other in a case where the finding is for the payment of money, in which case there is practically a trial de novo in the district court, and, just as in the case of the amendment of the Senator from Iowa, the order and finding of the commission is made prima facie evidence in the case.

In fact, I think the amendment of the Senator from Ohio goes further than in the other branch of appeals taken from the Interstate Commerce Commission in that the whole record, the transcript of the evidence, and the finding, and the order, are sent up and are all before the court, subject only to such additions as the person against whom the order is made may obtain leave to introduce by way of new evidence which could not be produced at the original trial.

I did not want the Senator from Missouri to understand that the method proposed by the Senator from Iowa was the only way in which any order of the commission could be reviewed.

Mr. CUMMINS. Mr. President, I still insist upon my statement. I know that the interstate-commerce law provides that upon the complaint of a shipper the Interstate Commerce Commission may ascertain whether there has been an overcharge or not, and if it finds there has been, it may determine the amount, and that then the shipper may sue the railroad company in the court, and then the judgment of the Interstate Commerce Commission is prima facie evidence of the amount due. But that has no relevancy or similarity to the question we are now discussing. Whenever the interstate-commerce law clothes the Interstate Commerce Commission with the authority to pass upon the lawfulness of any particular act of a common carrier, then the order of the commission, wherever it is challenged, has a certain effect, and it ought to have a certain effect, or it is idle to create the commission and go through the ceremony of trying a case before it.

I propose to find out just what effect under the interstate-commerce law an order, which is as nearly similar to the orders that are to be made by the trade commission as two human affairs can be, may have in the courts when they are called upon to revise or review the action of the commission.

I repeat, that under the plan of the amendment now pending there is practically a trial de novo.

I desire to call to the attention of the Senate the opinion in the Supreme Court of the United States in the case of the Interstate Commerce Commission against the Illinois Central Railroad. It is reported in Two hundred and fifteenth United States Supreme Court Reports, beginning at page 452. This case originated in a complaint filed against the railroad company charging it with unjust discrimination or undue preference in the distribution of its cars.

I want that to be remembered. The charge was unjust discrimination in the treatment of its patrons in furnishing them the cars necessary to carry on their business. I will not enter into the details of the charge, because its simple statement furnishes all the information that is necessary for the argument I am making.

I pause here a moment to recall some of the criticisms that have been made upon the phrase "unfair competition." The interstate-commerce law, in a part of it that has been enforced for years, declares it to be unlawful for a common carrier to unjustly discriminate. I would like to know whether that statement of the law is more certain or definite than unfair competition. Unjust discrimination. Some discrimination is permitted, but the commission is to determine whether the discrimination is unjust, and I would like to hear some of the ridicule, some of the sneers, and some of the wit that have been expended upon the phrase "unfair competition" expended on "unjust discrimination." I would like to hear some of the critics of this section attempt to define unjust discrimination.

Is there a Senator here, was there ever a writer or a student able to define "unjust discrimination"? No; it can no more be defined than "unfair competition." It can no more be defined than "undue restraint of trade." These phrases are primary. They all embody a principle, and it is nothing less than absurd to insist that in order to satisfy the demands of the law we must be able to define words that contain in themselves the primary meaning sought to be expressed.

I need not pursue that thought further, because it has been commented upon until it has become tiresome to the Senate.

I recall myself to the argument. In the case from which I am reading the complaint filed with the Interstate Commerce Commission was that the Illinois Central Railroad Co. had been guilty of unjust discrimination. The commission proceeded to

the investigation and the trial of that cause, and it rendered a finding against the company. Thereupon the company brought its suit against the Interstate Commerce Commission, as it had a right to do at the time the suit was brought, although it would now, under the act of 1910, I think, be brought against the United States. It brought its suit against the Interstate Commerce Commission to set aside, annul, and cancel the order that had been made by the commission adjudging that the railroad company had been guilty of unjust discrimination in its dealings with the public.

Is there any difference between the finding of unjust discrimination and the finding of unfair competition? Is there any reason why a court should be given a broader jurisdiction or a greater right in reviewing the order of the trade commission, in finding one guilty of unfair competition, than there is for giving the court a similar jurisdiction in reviewing the finding of the interstate commerce tribunal that the defendant had been guilty of unjust discrimination? I can perceive no reason. It is utterly impossible for me to understand that there is a difference between these two cases.

Mr. COLT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Rhode Island?

Mr. CUMMINS. I yield.

Mr. COLT. The Senator is speaking of unjust discrimination, and I desire to ask if unjust discrimination would not be largely a question of mathematics? For example, if a railroad company charged one customer 2 cents a mile—I am only giving a crude illustration—and another customer 2½ cents, you would have something to guide you, and the question would be whether this difference in charges was just under the circumstances.

Mr. CUMMINS. Where do you get anything to go on?

Mr. COLT. The question under those circumstances would be whether the discrimination was justified.

Mr. CUMMINS. I think so.

Mr. COLT. Now, suppose a case arises involving unfair competition and I want to have the commission determine as to the legality of some of the practices which have been referred to in the decrees of the courts in cases arising under the Sherman Act, upon what principle are you going to determine whether these practices are fair or unfair? I will read a few of these practices:

> From sending out traveling men for the purpose or with instructions to influence the customers of such competitors of either of these defendants, so as to secure the trade of such customers, without regard to the price.
>
> From appointing or authorizing the appointment of any officer, agent, or committee of said Elgin Board of Trade, whether of one or more persons, to fix or suggest the price or prices of butter.
>
> From maintaining a quotation committee or any other committee or agency of said Elgin Board of Trade or its membership which shall fix a price or prices of butter.
>
> From making or causing to be made any offer to buy or sell butter on said Elgin Board of Trade at a price which has been agreed upon by any two or more of the members of said board or by any one or more of said members, and any other person or persons, prior to the making of said offer.

I really think the Senator from Iowa must admit that the phrase "unfair competition" is used in a legal as well as in a colloquial sense, and that its meaning is indefinite, vague, and indeterminate; that the phrase means one thing in the region of morals or good manners, while in the department of law it means quite another thing; at any rate, there being a dispute as to the meaning of this phrase, it does not seem to me fair to put it into a great statute affecting the business of the country.

Mr. CUMMINS. Mr. President——

Mr. COLT. I desire to quote a statement, if the Senator will pardon me, from a very eminent judge:

> To draw a line between fair and unfair competition—

This is in a case, I think, cited by the Senator yesterday—

> To draw a line between fair and unfair competition, between what is reasonable and unreasonable, passes the power of the court. Competition exists when two or more persons seek to possess or to enjoy the same thing; it follows that the success of one must be the failure of another, and no principle of law enables us to interfere with or to moderate that success or that failure so long as it is due to mere competition. I say mere competition, for I do not doubt that it is unlawful and actionable for one man to interfere with another's trade by fraud or misrepresentation, or by molesting his customers, or those who would be his customers, whether by physical obstruction or moral intimidation.

I merely wish to say one word more. The Senator from New Hampshire [Mr. HOLLIS] as well as the Senator from Iowa spoke about the rule of reason.

Mr. CUMMINS. I do not want a reply to the Senator from New Hampshire interjected in my speech.

Mr. COLT. The Senator from Iowa said the other day that the difficulty as to the construction of the phrase "unfair competition" could be solved by the same rule of reason that was applied under the Sherman Act. The difference between the two cases, to my mind, is this: Under the Sherman Act, in applying the rule of reason you have principles to guide you; it is not the absolute reason of the judge; you have a foundation upon which to rest. The issue in these cases is a combination in restraint of trade or an attempt to monopolize, and the facts must tend to prove such a scheme or plan, a scheme or plan by which the defendant undertakes to get control of a certain article of commerce. The injury to the public from these combinations in restraint of trade and attempts to monopolize are enhancement of price, deterioration of the article, and limitation of output, as well as the further injury that the people are restrained from their liberty of trading in this article. That is monopoly in the sense of the Sherman law.

Under the rule of reason, as applied to the Sherman law, you have legal guides and principles to go by, but if a case of "unfair competition" came before the court I would ask how would a judge know what to do in the present condition of uncertainty as to the meaning of those words, and the different definitions which are given to them by the ablest Members in this body?

Mr. CUMMINS. Mr. President, there have been no definitions given of "unfair competition" by anybody, and I hope no one has been or will be adventuresome enough to attempt to give a definition to those words, any more than anyone would attempt to give a definition of "fraud" or "reasonable" or "undue restraint of trade" or "unjust preferences." It is beyond the capacity of man to define any of these phrases, because they define themselves. There is difficulty in their application to a particular state of facts. Men will differ, employing the rule of reason, in their application to a given case. Judges all over the country have differed with regard to the application of the phrase "restraint of trade." One judge has held that a given state of facts constitutes a restraint of trade; another judge, sitting on the same bench, has decided by the same rule of reason that such given state of affairs does not constitute a restraint of trade. There have been scores of instances in which one judge has said that a given practice by a railroad company was an unjust discrimination, and another judge has said that the same practice was not an unjust discrimination. We can not conceive a law that all judges will apply to the same state of affairs in the same way. Possibly when we reach the heavenly shore—and I hope we all will reach it, in the long distant future—we may find that infallibility and unerring judgment that will enable us to reach a like conclusion upon a like state of facts, but we have not as yet attained that perfection.

I did not, however, rise to discuss the meaning of the words "unfair competition"; I rose to ask the attention of the Senate to a most important inquiry relating to the jurisdiction that we should give the courts over the orders of the commission. I have instanced now the character of the case from which I intend to read; and if anyone can perceive any difference in principle between that case and the action of the commission under the law that we are proposing to pass, I have yet to hear it stated.

Mr. WALSH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Montana?

Mr. CUMMINS. I do.

Mr. WALSH. I rose a few moments ago to address the Senator in relation to the matter to which he has just now arrived. The Senator recognizes, as a matter of course, the very essential difference between declaring existing rates or existing practices unreasonable and prescribing a rule for the future.

Mr. CUMMINS. A very great difference.

Mr. WALSH. The one is a judicial act and the other is a legislative act. To declare that an existing rate is unreasonable is a judicial act; to prescribe a rate which shall govern for the future is a legislative act. That legislative powers may be confined to a commission and its decision made final there can be no question. Now, is it not true that in the case the Senator is now canvassing the court prescribed the rule which should guide the railroad company in the future; and was it not the rule thus laid down to guide the company for the future that was attacked?

Mr. CUMMINS. Not in the sense in which the Senator from Montana uses that phrase. The essential part of the order was to denounce or condemn what had been done by the railroad company.

Mr. WALSH. Mr. President——

Mr. CUMMINS. Just a moment. I want to read from the opinion. On page 470, the court said:

> The statute endowing the commission with large administrative—

Not legislative—

large administrative functions, and generally giving effect to its orders concerning complaints before it without exacting that they be previously submitted to judicial authority for sanction, it becomes necessary to determine the extent of the powers which courts may exert on the subject.

Beyond controversy, in determining whether an order of the commission shall be suspended or set aside, we must consider (a) all relevant questions of constitutional power or right, (b) all pertinent questions as to whether the administrative order—

Not legislative order—

is within the scope of the delegated authority under which it purports to have been made, and (c) a proposition, which we state independently although in its essence it may be contained in the previous one, viz, whether, even although the order be in form within the delegated power, nevertheless it must be treated as not embraced therein, because the exertion of authority which is questioned has been manifested in such an unreasonable manner as to cause it, in truth, to be within the elementary rule that the substance, and not the shadow, determines the validity of the exercise of the power. (Postal Telegraph Cable Co. v. Adams, 155 U. S., 688, 698.) Plain as it is that the powers just stated are of the essence of judicial authority, and which therefore may not be curtailed, and whose discharge may not be by us in a proper case avoided, it is equally plain that such perennial powers lend no support whatever to the proposition that we may, under the guise of exerting judicial power, usurp merely administrative functions by setting aside a lawful administrative order upon our conception as to whether the administrative power has been wisely exercised.

Power to make the order and not the mere expediency or wisdom of having made it is the question. While, as we have seen, the court below reasoned that the transportation of coal bought from a mine by the railroad company for its own use, after delivery to it in its coal cars at the tipple, was not commerce, because "commerce under these circumstances ends at the tipple," it yet reasoned that such coal was within the control of the interstate-commerce law to the extent that a regulation compelling its consideration, for the purpose of rating the capacity of a mine as a basis for fixing its pro rata share of cars in times of shortage, would be valid. Because of this reasoning, it is insisted, it appears that the court below but substituted a regulation which it deemed wise for one which it considered the commission had inexpediently adopted, and this upon the assumption by the court that its authority was not limited to determining power. Without intimating an opinion as to the merits of the proposition, we put it aside as irrelevant, since we must decide whether the action of the court below was correct, irrespective of the reasoning by which such action was induced.

I need not pursue this opinion further, because what I have read indicates the definite conclusion of the Supreme Court of the United States with regard to the power of the court over the orders of the Interstate Commerce Commission. This opinion has been followed in at least three cases, and in one of them the matter is reasoned upon and elaborated much more than in the opinion from which I have read, but it is in further application of the rule; and I think it is perfectly well known now among lawyers just what jurisdiction the courts can exert over the orders of the Interstate Commerce Commission, whether they are orders establishing unjust discriminations or orders announcing railroad rates or orders with regard to the application of safety appliances to trains, or in any other respect in which the commission is given authority over common carriers.

All that I suggest is that we follow the same rule with regard to the trade commission and its finding of unfair competition that we have already adopted with regard to the finding of the Interstate Commerce Commission as to unjust discrimination and other unfair or improper practices pursued by a common carrier.

Mr. NEWLANDS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Nevada?

Mr. CUMMINS. I yield.

Mr. NEWLANDS. I wish to ask the Senator from Iowa whether he regards section 5, as reported in this bill by the committee, as providing for any court review; and, if so, to what question that review is confined?

Mr. CUMMINS. Mr. President, I have difficulty in answering that question. My objection to the form of the bill, as it now is, is this: In the latter part of the section it provides that if the corporation does not obey the order of the commission within a time to be fixed, thereupon the commission may apply to the district court of the United States, which shall issue an injunction to enforce the order. If the court should construe that to be a mandate upon it to issue an injunction, without any consideration whatever save the mere presentation, save to inquire as to the existence of the order, I should say that it would be unconstitutional, and would fall. I am not prepared to assert, however, that a court would nullify the statute on that account, for it might well hold that nevertheless the court could exercise all the jurisdiction which it must exercise to fulfill the Constitution. We ought not, however, to take any chances of that kind.

Mr. NEWLANDS. Assuming that it took the latter position, then, that it would have the power to assume such jurisdiction as it must exercise in order to carry out and enforce the Constitution, to what questions, then, would the court be confined, in the judgment of the Senator?

Mr. CUMMINS. Precisely those which I read a moment ago from the opinion of the Supreme Court.

Mr. NEWLANDS. First, as to whether the action was confiscatory?

Mr. CUMMINS. It is, after all, a matter of jurisdiction. If the court should find that upon the conceded facts there was no unfair competition, it would have the right to do it. It can do that, and does that, with the orders of the Interstate Commerce Commission. If it should find that notice had not been given as required by the law, and that therefore the commission had not acquired the right to enter upon the investigation, it would annul the order. If it were to find that the commission acted arbitrarily, without any evidence to warrant its finding, it would annul the order of the commission. If, however, it found that the commission had acquired jurisdiction in the way pointed out by the law, and that there was fair, substantial evidence to sustain the order as to unfair competition, it would not substitute its judgment for that of the commission with respect to the sufficiency of the proof in establishing unfair competition.

Mr. NEWLANDS. But the Senator is of the opinion that if the facts were such as not, in the judgment of the court, to constitute unfair competition, it would deny the writ of injunction? Is that the Senator's position?

Mr. CUMMINS. I think it would have the right to do so under the amendment I have proposed.

Mr. NEWLANDS. I am speaking now of the bill as it stands.

Mr. CUMMINS. It would either deny the injunction or it would declare the law unconstitutional.

Mr. NEWLANDS. Then I ask the Senator whether the corporation has not every protection under the existing provision of the bill?

Mr. CUMMINS. I do not think so, except through that tortuous interpretation to which we ought not to be driven. I think the provision in the bill is much more nearly what the provision should be than the amendment offered by the Senator from Ohio; but we ought to cure the defect that is palpably there, so that we will be in no danger of meeting an overthrow when we reach the courts.

I hope the Senator from Nevada understands just what my position is.

Mr. NEWLANDS. As I understand the Senator, in any event, whether it is a limited court review or a broad court review, the court can determine, first, whether the action of the commission is confiscatory in character and can annul it on that ground; second, whether it was within the limits of its authority, and can annul it upon that ground; third, whether the conceded facts constitute unfair competition, and if, in the judgment of the court, they do not, the court can annul the order or refuse to enforce it?

Mr. CUMMINS. I do not care to affirm the statement of the Senator from Nevada just as he has made it. I do not think the inquiry into confiscation will often arise under the "unfair competition" section.

Mr. NEWLANDS. I do.

Mr. CUMMINS. This is the question that will arise: Does the order of the commission take the property of the complainant without due process of law; does it deny to him some right which he may assert under the Constitution? In the pursuit of those inquiries the court will practically ascertain what has been stated by the Senator from Nevada.

Mr. LIPPITT. I offer an amendment to the pending bill, to be numbered section 5a; also an amendment to the pending bill to be inserted on page 15, after line 3; and I ask that they may be printed and lie on the table.

The PRESIDENT pro tempore. The amendments will lie on the table and be printed.

Mr. POMERENE. In view of the fact that I suggested an amendment striking out a certain paragraph in the amendment which I submitted awhile ago, I ask that the amendment may be reprinted, as modified, for the information of the Senate.

The PRESIDENT pro tempore. The amendment will be reprinted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4261) granting pensions and increase of pensions to certain sol-

diers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4845) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5207) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message further announced that the House agrees to the port of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5446) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5575) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5843) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

PETITIONS AND MEMORIALS.

Mr. WEEKS presented a resolution of the Chamber of Commerce of Lawrence, Mass., regretting the action taken by the Senate of the United States in delaying the passage of the river and harbor appropriation bill, and favoring action thereon at the present session of Congress; which was ordered to lie on the table.

He also presented petitions of sundry citizens of Blackstone, Fitchburg, North Attleboro, Boston, Fall River, and Haverhill, all in the State of Massachusetts, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. JOHNSON presented a petition of the congregation of the Methodist Episcopal Church, of Sanford, Me., praying for national prohibition, which was referred to the Committee on the Judiciary.

He also presented a petition of the Grand Army of the Republic, Department of Maine, praying for the enactment of legislation granting pensions to widows of Civil War veterans who were married since June 27, 1890, which was referred to the Committee on Pensions.

He also presented a petition of the Knox County Board of Underwriters, of Rockland, Me., praying for the enactment of legislation prohibiting the use of mails in connection with the effecting of insurance in companies not authorized to do business in the several States, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of Local Branch No. 209, National Association of Civil Service Employees, of Augusta, Me., praying for the enactment of legislation to provide pensions for civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

Mr. JONES presented telegrams in the nature of petitions from the Commercial Club of Walla Walla, the Commercial Club of Kennewick, and the Chamber of Commerce of Seattle, all in the State of Washington, praying for the passage of the river and harbor bill at this session of Congress, which were ordered to lie on the table.

Mr. OWEN presented petitions of sundry citizens of Oklahoma, praying for national prohibition, which were referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SHAFROTH:

A bill (S. 6179) to pay Edward Booth $200 back bounty; to the Committee on Claims.

A bill (S. 6180) granting an increase of pension to Callie E. Kooken;

A bill (S. 6181) granting a pension to Seraphina Kain; and

A bill (S. 6182) granting an increase of pension to Ellen Milam; to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 6183) granting an increase of pension to William Crouch (with accompanying papers);

A bill (S. 6184) granting a pension to Frank Ferris (with accompanying papers);

A bill (S. 6185) granting an increase of pension to Catharine Potter (with accompanying papers);

A bill (S. 6186) granting an increase of pension to James N. Yates (with accompanying papers);

A bill (S. 6187) granting a pension to Mathias Allacher (with accompanying papers);

A bill (S. 6188) granting a pension to Mattie J. Johnson (with accompanying papers); and

A bill (S. 6189) granting an increase of pension to Thomas Jefferson Stafford (with accompanying papers); to the Committee on Pensions.

INTERNATIONAL CONFERENCE ON SOCIAL INSURANCE.

Mr. SUTHERLAND. I desire to introduce a joint resolution, of which I spoke yesterday, because it is necessary that it should be disposed of speedily if it is disposed of at all. I ask that the joint resolution may be referred to the Committee on Foreign Relations.

The joint resolution (S. J. Res. 169) authorizing the President to accept an invitation and to appoint delegates to participate in the International Conference on Social Insurance was read twice by its title and referred to the Committee on Foreign Relations.

RIVER AND HARBOR APPROPRIATIONS.

Mr. JOHNSON submitted an amendment intended to be proposed by him to the river and harbor bill, which was ordered to lie on the table and be printed.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following act:

On July 30, 1914:

S. 485. An act to amend section 1 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

EXTENSION OF RECLAMATION PROJECTS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes.

Mr. SMITH of Arizona. I move that the Senate disagree to the amendments of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. SMITH of Arizona, Mr. LANE, and Mr. JONES conferees on the part of the Senate.

PENSIONS AND INCREASE OF PENSIONS.

Mr. JOHNSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4261) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 3, 7, 13, 14, 15, 16, 19, and 20, and agree to the same.

That the House recede from its amendments numbered 2, 4, 5, 6, 8, 9, 10, 11, 12, and 18.

That the Senate recede from its disagreement to the amendment of the House numbered 17, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$36"; and the House agree to the same.

BENJ. F. SHIVELY,
THOMAS STERLING,
Managers on the part of the Senate.

JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.

The report was agreed to.

Mr. JOHNSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4845) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 5, 6, 8, 9, and 14, and agree to the same.

That the House recede from its amendments numbered 1, 2, 3, 4, 7, 10, and 12.

That the Senate recede from its disagreement to the amendment of the House numbered 11, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$40"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 13, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$36"; and the House agree to the same.

BENJ. F. SHIVELY,
THOMAS STERLING,
Managers on the part of the Senate.
JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.

The report was agreed to.

Mr. JOHNSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5207) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 3, 12, 13, 15, 21, and 22, and agree to the same.

That the House recede from its amendments numbered 1, 2, 4, 5, 7, 8, 9, 10, 11, 14, 16, 17, 18, and 19.

That the Senate recede from its disagreement to the amendment of the House numbered 6, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$24"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 20, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$30"; and the House agree to the same.

BENJAMIN F. SHIVELY,
THOMAS STERLING,
Managers on the part of the Senate.
JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.

The report was agreed to.

Mr. JOHNSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5446) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 4, 6, 7, 9, 12, 14, 15, 16, and 17, and agree to the same.

That the House recede from its amendments numbered 2, 3, 5, 11, 13, and 18.

That the Senate recede from its disagreement to the amendment of the House numbered 8, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment and in lieu of the sum proposed therein insert the sum "$12"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 10, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment and in lieu of the sum proposed therein insert the sum "$24"; and the House agree to the same.

BENJAMIN F. SHIVELY,
THOMAS STERLING,
Managers on the part of the Senate.
JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.

The report was agreed to.

Mr. JOHNSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5575) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 3, 4, and 5, and agree to the same.

That the House recede from its amendments numbered 2, 6, 8, 9, 10, 11, and 12.

That the Senate recede from its disagreement to the amendment of the House numbered 1, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment and in lieu of the sum proposed therein insert the sum "$30"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 7, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$20"; and the House agree to the same.

BENJ. F. SHIVELY,
THOMAS STERLING,
Managers on the part of the Senate.
JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.

The report was agreed to.

Mr. JOHNSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5843) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 5, 6, 7, 11, and 15, and agree to the same.

That the House recede from its amendments numbered 2, 3, 4, 8, 9, 10, 13, and 14.

That the Senate recede from its disagreement to the amendment of the House numbered 12, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$36"; and the House agree to the same.

BENJAMIN F. SHIVELY,
THOMAS STERLING,
Managers on the part of the Senate.
JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.

The report was agreed to.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent

in executive session the doors were reopened, and (at 6 o'clock p. m., Thursday, July 30, 1914) the Senate took a recess until to-morrow, Friday, July 31, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate July 30 (legislative day of July 27), 1914.

PROMOTION IN THE ARMY.

First Lieut. Edgar D. Craft, Medical Corps, to be captain from July 8, 1914, after three years' service.

APPOINTMENTS IN THE PUBLIC HEALTH SERVICE.

Thomas Francis Keating to be assistant surgeon in the Public Health Service. (New office.)

Clarence Henry Waring to be assistant surgeon in the Public Health Service. (New office.)

George Alexander Wheeler to be assistant surgeon in the Public Health Service. (New office.)

Roland Edward Wynne to be assistant surgeon in the Public Health Service. (New office.)

Henry Charles Yarbrough to be assistant surgeon in the Public Health Service. (New office.)

CONFIRMATIONS.

Executive nominations confirmed by the Senate July 30 (legislative day of July 27), 1914.

CONSUL.

John F. Jewell to be consul at Chefoo, China.

COLLECTOR OF INTERNAL REVENUE.

Emanuel J. Doyle to be collector of internal revenue for the fourth district of Michigan.

SECOND ASSISTANT CHIEF OF BUREAU OF FOREIGN AND DOMESTIC COMMERCE.

Frank R. Rutter to be (Second) Assistant Chief of Bureau of Foreign and Domestic Commerce in the Department of Commerce.

POSTMASTERS.

MINNESOTA.

Henry P. Dunn, Brainerd.
John B. Hughes, Lake Benton.
Halvor T. Moland, Buffalo.
Frank Plotts, Blooming Prairie.

NEBRASKA.

John Conroy, Shelton.
George W. Ewing, Nelson.
Edward P. Fitzgerald, Elm Creek.

HOUSE OF REPRESENTATIVES.

THURSDAY, *July 30, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We thank Thee, O God our heavenly Father, for this day, with its gracious privileges. Strengthen us, we beseech Thee, that we may be able to discharge its obligations in accordance with Thy will and pleasure. In the spirit of Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. LEVER, by unanimous consent (at the request of Mr. LEE of Georgia), was granted leave of absence on account of sickness.

LEAVE TO EXTEND REMARKS.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of woman suffrage.

The SPEAKER. The gentleman from California [Mr. RAKER] asks unanimous consent to extend his remarks in the RECORD on the subject of woman suffrage. Is there objection?

Mr. GORDON. Mr. Speaker, I object. It is a State question; a State issue.

The SPEAKER. The gentleman from Ohio [Mr. GORDON] objects.

PAYMENT UNDER RECLAMATION PROJECTS.

The SPEAKER. When the House adjourned yesterday it was voting on the Underwood amendment to the bill (S. 4628) extending the period of payment under reclamation projects. There was no quorum present, and that left it hanging up. The Clerk will report the Underwood amendment.

The Clerk read as follows:

Amend, on page 11, by adding, after section 15, a new section, as follows:

"SEC. 16. That from and after July 1, 1915, expenditures shall not be made for carrying out the purposes of the reclamation law except out of appropriations made annually by Congress therefor, and the Secretary of the Interior shall, for the fiscal year 1916 and annually thereafter, in the regular Book of Estimates submit to Congress estimates of the amount of money necessary to be expended for carrying out any or all of the purposes authorized by the reclamation law, including the extension and completion of existing projects and units thereof and the construction of new projects. The annual appropriations made hereunder by Congress for such purposes shall be paid out of the reclamation fund provided for by the reclamation law."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. BRYAN. A division, Mr. Speaker.

The SPEAKER. The gentleman from Washington [Mr. BRYAN] demands a division. Those in favor of the amendment will rise and stand until they are counted. [After counting.] Forty-four gentlemen have risen in the affirmative. Those opposed will rise and stand until they are counted. [After counting.] Fifteen gentlemen have risen in the negative.

Mr. BRYAN. Mr. Speaker, I make the point of no quorum.

The SPEAKER. On this vote the ayes are 44 and the noes are 15. The gentleman from Washington [Mr. BRYAN] makes the point of no quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. Those in favor of the Underwood amendment will, when their names are called, vote "yea"; those opposed will vote "nay."

The question was taken; and there were—yeas 178, nays 49, answered "present" 2, not voting 203, as follows:

YEAS—178.

Abercrombie	Dent	Helvering	Peters, Mass.
Adamson	Dickinson	Hensley	Peters, Me.
Alexander	Difenderfer	Hill	Peterson
Allen	Dixon	Holland	Platt
Ansberry	Donohoe	Howard	Plumley
Anthony	Donovan	Hull	Post
Bailey	Doolittle	Humphreys, Miss.	Prouty
Baker	Doremus	Jacoway	Quin
Baltz	Doughton	Johnson, Ky.	Rainey
Barkley	Drukker	Kennedy, Conn.	Reed
Barnhart	Dunn	Kennedy, Iowa	Reilly, Wis.
Bathrick	Eagan	Kennedy, R. I.	Rogers
Beakes	Elder	Kent	Rubey
Blackmon	Esch	Key, Ohio	Rucker
Booher	Farr	Kiess, Pa.	Russell
Bowdle	Fergusson	Kindel	Saunders
Britten	Fess	Kirkpatrick	Scott
Brockson	Finley	Konop	Shackleford
Brodbeck	Flood, Va.	La Follette	Sims
Broussard	Floyd, Ark.	Lee, Ga.	Sisson
Brown, N. Y.	Foster	Lee, Pa.	Smith, Md.
Brumbaugh	Fowler	Lesher	Smith, Saml. W.
Buchanan, Ill.	Gallagher	Lewis, Md.	Sparkman
Buchanan, Tex.	Gallivan	Lieb	Stedman
Burgess	Garner	Linthicum	Stone
Burke, S. Dak.	Garrett, Tenn.	Lloyd	Talcott, N. Y.
Burke, Wis.	Garrett, Tex.	Logue	Tavenner
Burnett	Gilmore	McCoy	Taylor, Ark.
Butler	Godwin, N. C.	McKenzie	Towner
Campbell	Good	Madden	Treadway
Candler, Miss.	Goodwin, Ark.	Maguire, Nebr.	Tribble
Cantor	Gordon	Mahan	Tuttle
Caraway	Goulden	Mann	Underwood
Clark, Fla.	Graham, Ill.	Mapes	Walsh
Claypool	Gray	Mitchell	Watkins
Cline	Greene, Vt.	Montague	Watson
Coady	Gregg	Moon	Webb
Collier	Hamlin	Moss, Ind.	Whaley
Connelly, Kans.	Hardy	Moss, W. Va.	White
Conry	Harris	Mulkey	Wilson, Fla.
Cooper	Harrison	Neely, W. Va.	Wingo
Cox	Haugen	O'Hair	Witherspoon
Cullop	Hay	Oldfield	Woods
Danforth	Heflin	Page, N. C.	
Decker	Helm	Park	

NAYS—49.

Anderson	Hayden	Miller	Stephens, Cal.
Barton	Hayes	Mondell	Stevens, Minn.
Bell, Cal.	Helgesen	Nolan, J. I.	Stevens, N. H.
Bryan	Howell	Norton	Stout
Church	Hulings	Patton, Pa.	Sutherland
Curry	Johnson, Utah	Raker	Taylor, Colo.
Dillon	Johnson, Wash.	Roberts, Nev.	Thomson, Ill.
Evans	Keating	Seldomridge	Volstead
Falconer	Kelly, Pa.	Sells	Woodruff
Ferris	Kinkaid, Nebr.	Sinnott	Young, N. Dak.
French	Lindbergh	Sloan	
Hammond	MacDonald	Smith, Idaho	
Hawley	Manahan	Smith, Minn.	

ANSWERED "PRESENT"—2.

Clancy Guernsey

NOT VOTING—203.

Adair	Fairchild	Lafferty	Reilly, Conn.
Aiken	Faison	Langham	Riordan
Ainey	Fields	Langley	Roberts, Mass.
Ashbrook	Fitzgerald	Lazaro	Rothermel
Aswell	FitzHenry	L'Engle	Rouse
Austin	Fordney	Lenroot	Rupley
Avis	Francis	Lever	Sabath
Barchfeld	Frear	Levy	Scully
Bartholdt	Gard	Lewis, Pa.	Sherley
Bartlett	Gardner	Lindquist	Sherwood
Beall, Tex.	George	Lobeck	Shreve
Bell, Ga.	Gerry	Loft	Slayden
Borchers	Gill	Lonergan	Slemp
Borland	Gillett	McAndrews	Small
Brown, W. Va.	Gittins	McClellan	Smith, J. M. C.
Browne, Wis.	Glass	McGillicuddy	Smith, N. Y.
Browning	Goeke	McGuire, Okla.	Smith, Tex.
Bruckner	Goldfogle	McKellar	Stafford
Bulkley	Gorman	McLaughlin	Stanley
Burke, Pa.	Graham, Pa.	Maher	Steenerson
Byrnes, S. C.	Green, Iowa	Martin	Stephens, Miss.
Byrns, Tenn.	Greene, Mass.	Merritt	Stephens, Nebr.
Calder	Griest	Metz	Stephens, Tex.
Callaway	Griffin	Moore	Stringer
Cantrill	Gudger	Morgan, La.	Sumners
Carew	Hamill	Morgan, Okla.	Switzer
Carlin	Hamilton, Mich.	Morin	Taggart
Carr	Hamilton, N. Y.	Morrison	Talbott, Md.
Carter	Hardwick	Mott	Taylor, Ala.
Cary	Hart	Murdock	Taylor, N. Y.
Casey	Henry	Murray, Mass.	Temple
Chandler, N. Y.	Hinds	Murray, Okla.	Ten Eyck
Connolly, Iowa	Hinebaugh	Neeley, Kans.	Thacher
Copley	Hobson	Nelson	Thomas
Covington	Houston	O'Brien	Thompson, Okla.
Cramton	Hoxworth	Oglesby	Townsend
Crisp	Hughes, Ga.	O'Leary	Underhill
Crosser	Hughes, W. Va.	O'Shaunessy	Vare
Dale	Humphrey, Wash.	Padgett	Vaughan
Davenport	Igoe	Paige, Mass.	Vollmer
Davis	Johnson, S. C.	Palmer	Walker
Deitrick	Jones	Parker	Wallin
Dershem	Kahn	Patten, N. Y.	Walters
Dies	Keister	Payne	Weaver
Dooling	Kelley, Mich.	Phelan	Whitacre
Driscoll	Kettner	Porter	Williams
Dupré	Kinkead, N. J.	Pou	Willis
Eagle	Kitchin	Powers	Wilson, N. Y.
Edmonds	Knowland, J. R.	Ragsdale	Winslow
Edwards	Korbly	Rauch	Young, Tex.
Estopinal	Kreider	Rayburn	

So the amendment of Mr. UNDERWOOD was agreed to.

The Clerk announced the following pairs:

For the session:

Mr. SCULLY with Mr. BROWNING.

Mr. GLASS with Mr. SLEMP.

Mr. METZ with Mr. WALLIN.

Until further notice:

Mr. TAYLOR of Alabama with Mr. HUGHES of West Virginia.

Mr. DALE with Mr. MARTIN.

Mr. SHERLEY with Mr. GILLETT.

Mr. ASHBROOK with Mr. AUSTIN.

Mr. BARTLETT with Mr. AVIS.

Mr. DAVENPORT with Mr. J. M. C. SMITH.

Mr. CANTRILL with Mr. COPLEY.

Mr. HOUSTON with Mr. LANGHAM.

Mr. CLANCY with Mr. HAMILTON of New York.

Mr. MCGILLICUDDY with Mr. GUERNSEY.

Mr. SLAYDEN with Mr. BURKE of Pennsylvania.

Mr. HENRY with Mr. HINDS.

Mr. FAISON with Mr. GREENE of Massachusetts.

Mr. PADGETT with Mr. MORIN.

Mr. MORGAN of Louisiana with Mr. LINDQUIST.

Mr. EDWARDS with Mr. GRIEST.

Mr. WEAVER with Mr. WALTERS.

Mr. BELL of Georgia with Mr. CALDER.

Mr. ESTOPINAL with Mr. FREAR.

Mr. KITCHEN with Mr. ROBERTS of Massachusetts.

Mr. SABATH with Mr. SWITZER.

Mr. LOBECK with Mr. POWERS.

Mr. GORMAN with Mr. MCLAUGHLIN.

Mr. LAZARO with Mr. PARKER.

Mr. ASWELL with Mr. CARY.

Mr. CALLAWAY with Mr. WILLIS.

Mr. THOMAS with Mr. FAIRCHILD.

Mr. HUGHES of Georgia with Mr. MERRITT.

Mr. HARDWICK with Mr. J. R. KNOWLAND.

Mr. YOUNG of Texas with Mr. AINEY.

Mr. STEPHENS of Nebraska with Mr. LEWIS of Pennsylvania.

Mr. STEPHENS of Texas with Mr. BARTHOLDT.

Mr. FIELDS with Mr. LANGLEY.

Mr. SHERWOOD with Mr. MOTT.

Mr. WILLIAMS with Mr. WINSLOW.

Mr. UNDERHILL with Mr. STEENERSON.

Mr. ADAIR with Mr. BROWNE of Wisconsin.

Mr. AIKEN with Mr. CARY.

Mr. BYRNES of South Carolina with Mr. SHREVE.

Mr. BYRNS of Tennessee with Mr. BARCHFELD.

Mr. CARTER with Mr. DAVIS.

Mr. DUPRÉ with Mr. CRAMTON.

Mr. FITZGERALD with Mr. KAHN.

Mr. FRANCIS with Mr. CHANDLER of New York.

Mr. GOEKE with Mr. EDMONDS.

Mr. IGOE with Mr. GREEN of Iowa.

Mr. LEVER with Mr. KELLEY of Michigan.

Mr. MCANDREWS with Mr. KREIDER.

Mr. MCKELLAR with Mr. MCGUIRE of Oklahoma.

Mr. POU with Mr. NELSON.

Mr. RAUCH with Mr. PAIGE of Massachusetts.

Mr. PALMER with Mr. MOORE.

Mr. ROUSE with Mr. PORTER.

Mr. SMALL with Mr. VARE.

Mr. SMITH of Texas with Mr. TEMPLE.

Mr. TALBOTT of Maryland with Mr. PAYNE.

Mr. JOHNSON of South Carolina with Mr. KEISTER.

Mr. TAGGART with Mr. FORDNEY.

On this vote:

Mr. MORRISON (for the Underwood amendment) with Mr. HUMPHREY of Washington (against).

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present. The Doorkeeper will unlock the doors. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time.

Mr. MANN. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER. The gentleman from Illinois [Mr. MANN] offers a motion to recommit which the Clerk will report.

The Clerk read as follows:

Mr. MANN moves to recommit the bill S. 4628 to the Committee on Irrigation of Arid Lands, with instructions to that committee to report the said bill back to the House forthwith, with the following amendments, to wit:

"Strike out all of section 1 after the enacting clause down to and including line 16, page 2, and insert in lieu thereof the following:

"'That any person whose lands hereafter become subject to the terms and conditions of the act approved June 17, 1902, entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," and acts amendatory thereof or supplementary thereto, hereafter to be referred to as the reclamation law, and any person who hereafter makes entry thereunder shall at the time of making water-right application or entry, as the case may be, pay into the reclamation fund 5 per cent of the construction charge fixed for his land as an initial installment, and shall pay the balance of the principal of said charge in 35 annual installments, the first 10 of which shall each be 2 per cent of the construction charge and the remaining 25 shall each be 3 per cent until the whole amount shall have been paid. In addition to the principal of the construction charge, there shall be paid in each case annually interest upon the balance of the construction charge remaining unpaid from time to time at the rate of 3 per cent per annum. The first of the said annual installments shall become due and payable on December 1 of the fifth calendar year after the initial installment: *Provided*, That any water-right applicant or entryman may, if he so elects, pay the whole or any part of the construction charges owing by him within any shorter period: *Provided further*. That entry may be made whenever water is available, as announced by the Secretary of the Interior, and the initial payment be made when the charge per acre is established.'

"Strike out section 2 and insert in lieu thereof the following:

"'SEC. 2. That any person whose land or entry has heretofore become subject to the terms and conditions of the reclamation law shall pay the principal of the construction charge, or the portion of the principal of the construction charge remaining unpaid, in 40 annual installments, the first of which shall become due and payable on December 1 of the year in which the public notice affecting his land is issued under this act, and subsequent installments on December 1 of each year thereafter. The first 10 of such installments shall each be 1 per cent and the remaining 30 installments shall each be 3 per cent of the total construction charge, or the portion of the construction charge unpaid at the beginning of such installments: *Provided*, That, in addition to the principal of the construction charge, there shall be paid in each case annually interest at the rate of 3 per cent per annum upon such portion of the balance of the construction charge as remains unpaid beyond the time or times fixed for the payment thereof under the reclamation law in force when such land or entry became subject to the terms and conditions of such reclamation law: *Provided further*, That such person may, if he so elects, pay the whole or any part of the construction charge owing by him prior to the time herein required.'"

Mr. TAYLOR of Colorado. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit.

The question being taken, the Speaker announced that the noes appeared to have it.

Mr. MANN. Mr. Speaker, I ask for the yeas and nays.

The SPEAKER. The gentleman from Illinois demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until they are counted. [After counting.] Forty-eight Members rising to second the demand.

Mr. MANN. If there is any question about it, I ask for the other side.

The SPEAKER. The Chair was just figuring to see whether 48 was a sufficient number. Those opposed to ordering the yeas and nays will rise and stand until they are counted. [After counting.] One hundred and nine in the negative. Forty-eight being more than one-fifth of those voting, the yeas and nays are ordered. The question is on the motion of the gentleman from Illinois [Mr. MANN] to recommit with instructions.

The question was taken; and there were—yeas 81, nays 140, answered "present" 2, not voting 209, as follows:

YEAS—81.

Anderson	Dunn	Konop	Rainey
Bailey	Eagan	Lewis, Md.	Reilly, Wis.
Baltz	Esch	McCoy	Rogers
Bathrick	Fess	McKellar	Saunders
Beakes	Flood, Va.	McKenzie	Sells
Borchers	Foster	Madden	Sisson
Bowdle	Gallagher	Manahan	Smith, Minn.
Britten	Garrett, Tenn.	Mann	Smith, Saml. W.
Brockson	Good	Mapes	Stevens, N. H.
Buchanan, Tex.	Gordon	Moon	Talcott, N. Y.
Burgess	Gray	Moss, Ind.	Tavenner
Burnett	Greene, Vt.	O'Hair	Thomson, Ill.
Butler	Hardy	Page, N. C.	Townsend
Candler, Miss.	Haugen	Park	Treadway
Cantor	Hay	Patton, Pa.	Tribble
Conry	Holland	Peters, Mass.	Watson
Covington	Hull	Peters, Me.	Webb
Cox	Johnson, Ky.	Platt	Witherspoon
Danforth	Kennedy, Iowa	Plumley	
Doughton	Kennedy, R. I.	Prouty	
Drukker	Kent	Quin	

NAYS—140.

Abercrombie	Difenderfer	Hensley	Post
Adamson	Dillon	Hill	Raker
Alexander	Dixon	Howard	Reed
Allen	Donohoe	Howell	Roberts, Nev.
Ansberry	Donovan	Hulings	Rubey
Anthony	Doolittle	Humphreys, Miss.	Rucker
Baker	Doremus	Jacoway	Russell
Barkley	Elder	Johnson, Utah	Scott
Barnhart	Evans	Johnson, Wash.	Seldomridge
Barton	Falconer	Keating	Shackleford
Bell, Cal.	Farr	Kelly, Pa.	Sims
Blackmon	Fergusson	Kennedy, Conn.	Sinnott
Booher	Ferris	Key, Ohio	Sloan
Brodbeck	Floyd, Ark.	Kindel	Smith, Idaho
Broussard	Fowler	Kinkaid, Nebr.	Smith, Md.
Brown, N. Y.	French	Kirkpatrick	Sparkman
Bryan	Gallivan	La Follette	Stedman
Buchanan, Ill.	Garner	Lee, Pa.	Stephens, Cal.
Burke, S. Dak.	Garrett, Tex.	Lesher	Stevens, Minn.
Burke, Wis.	Gilmore	Lieb	Stone
Campbell	Godwin, N. C.	Lindbergh	Stout
Caraway	Goodwin, Ark.	Linthicum	Sutherland
Church	Goulden	Lloyd	Taylor, Ark.
Clark, Fla.	Graham, Ill.	Logue	Taylor, Colo.
Claypool	Hamlin	MacDonald	Towner
Cline	Hammond	Maguire, Nebr.	Underwood
Coady	Harris	Mahan	Volstead
Collier	Harrison	Mitchell	Watkins
Connelly, Kans.	Hawley	Mondell	Whaley
Cooper	Hayden	Montague	White
Cullop	Hayes	Morgan, Okla.	Wilson, Fla.
Curry	Heflin	Mulkey	Wingo
Decker	Helgesen	Nolan, J. I.	Woodruff
Dent	Helm	Oldfield	Woods
Dickinson	Helvering	Peterson	Young, N. Dak.

ANSWERED "PRESENT"—2.

Guernsey	Morrison

NOT VOTING—209.

Adair	Chandler, N. Y.	George	Johnson, S. C.
Aiken	Clancy	Gerry	Jones
Ainey	Connolly, Iowa	Gill	Kahn
Ashbrook	Copley	Gillett	Keister
Aswell	Cramton	Gittins	Kelley, Mich.
Austin	Crisp	Glass	Kettner
Avis	Crosser	Goeke	Kiess, Pa.
Barchfeld	Dale	Goldfogle	Kinkead, N. J.
Bartholdt	Davenport	Gorman	Kitchin
Bartlett	Davis	Graham, Pa.	Knowland, J., R.
Beall, Tex.	Deitrick	Green, Iowa	Korbly
Bell, Ga.	Dershem	Greene, Mass.	Kreider
Borland	Dies	Gregg	Lafferty
Brown, W. Va.	Dooling	Griest	Langham
Browne, Wis.	Driscoll	Griffin	Langley
Browning	Dupré	Gudger	Lazaro
Bruckner	Eagle	Hamill	Lee, Ga.
Brumbaugh	Edmonds	Hamilton, Mich.	L'Engle
Bulkley	Edwards	Hamilton, N. Y.	Lenroot
Burke, Pa.	Estopinal	Hardwick	Lever
Byrnes, S. C.	Fairchild	Hart	Levy
Byrns, Tenn.	Faison	Henry	Lewis, Pa.
Calder	Fields	Hinds	Lindquist
Callaway	Finley	Hinebaugh	Lobeck
Cantrill	Fitzgerald	Hobson	Loft
Carew	FitzHenry	Houston	Lonergan
Carlin	Fordney	Hoxworth	McAndrews
Carr	Francis	Hughes, Ga.	McClellan
Carter	Frear	Hughes, W. Va.	McGillicuddy
Cary	Gard	Humphrey, Wash.	McGuire, Okla.
Casey	Gardner	Igoe	McLaughlin
Maher	Paige, Mass.	Shreve	Thacher
Martin	Palmer	Slayden	Thomas
Merritt	Parker	Slemp	Thompson, Okla.
Metz	Patten, N. Y.	Small	Tuttle
Miller	Payne	Smith, J. M. C.	Underhill
Moore	Phelan	Smith, N. Y.	Vare
Morgan, La.	Porter	Smith, Tex.	Vaughan
Morin	Pou	Stafford	Vollmer
Moss, W. Va.	Powers	Stanley	Walker
Mott	Ragsdale	Steenerson	Wallin
Murdock	Rauch	Stephens, Miss.	Walsh
Murray, Mass.	Rayburn	Stephens, Nebr.	Walters
Murray, Okla.	Reilly, Conn.	Stephens, Tex.	Weaver
Neeley, Kans.	Riordan	Stringer	Whitacre
Neely, W. Va.	Roberts, Mass.	Sumners	Williams
Nelson	Rothermel	Switzer	Willis
Norton	Rouse	Taggart	Wilson, N. Y.
O'Brien	Rupley	Talbott, Md.	Winslow
Oglesby	Sabath	Taylor, Ala.	Young, Tex.
O'Leary	Scully	Taylor, N. Y.	
O'Shaunessy	Sherley	Temple	
Padgett	Sherwood	Ten Eyck	

So the motion to recommit was lost.

The following additional pairs were announced:

Until further notice:

Mr. BRUCKNER with Mr. NORTON.

Mr. FINLEY with Mr. MILLER.

Mr. DEITRICK with Mr. KIESS of Pennsylvania.

Mr. GRIFFIN with Mr. HAMILTON of New York.

On this vote:

Mr. AVIS (for motion to recommit) with Mr. CLANCY (against).

Mr. MORRISON (for motion to recommit) with Mr. HUMPHREY of Washington (against).

Mr. WALSH. Mr. Speaker, I would like to vote.

The SPEAKER. Was the gentleman in the Hall listening when his name should have been called?

Mr. WALSH. No; I was not.

The SPEAKER. The gentleman does not qualify himself.

Mr. WALSH. I would have voted "aye," if I could.

The result of the vote was then announced as above recorded.

The SPEAKER. The question now is on the passage of the bill.

The question was taken, and the bill was passed.

On motion of Mr. TAYLOR of Colorado, a motion to reconsider the vote whereby the bill was passed was laid on the table.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I call up the conference reports on the several bills, S. 5843, S. 5575, S. 5446, S. 4845, S. 4261, and S. 5207.

The SPEAKER. The Clerk will read the first report.

The Clerk read as follows:

CONFERENCE REPORT (NO. 1048).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5843) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 5, 6, 7, 11, and 15, and agree to the same.

That the House recede from its amendments numbered 2, 3, 4, 8, 9, 10, 13, and 14.

Amendment numbered 12: That the Senate recede from its disagreement to the amendment of the House numbered 12, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment and in lieu of the sum proposed therein insert the sum "$36"; and the House agree to the same.

JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.

BENJ. F. SHIVELY,
THOMAS STERLING,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on certain amendments of the House to the bill (S. 5843) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, submit the following written statement in explanation of the effect of the action agreed upon by the con-

ference committee and submitted in the accompanying conference report as to each of the said amendments, viz:

On amendment No. 1: The Senate concurs in the House amendment, on account of soldier's short service and the fact that he has some income aside from his pension.

On amendment No. 2: The House recedes, as the evidence filed in support of the bill shows that the widow is in ill health and is unable to earn a living, and has practically no income outside of her pension; that her husband served more than three years in the Civil War and at his discharge was holding the rank of captain. The claim is a meritorious one, and the proposed increase from $12 to $20 fully justified.

On amendment No. 3: The House recedes, as the evidence filed justifies the allowance of the proposed pension of $12 per month to soldier.

On amendment No. 4: The House recedes, as the evidence filed in support of the bill shows that soldier's death was due to his service, and the proposed pension is fully justified.

On amendment No. 5: The Senate concurs in the House amendment, as the evidence fails to justify the allowance of proposed increase of pension from $12 to $20.

On amendment No. 6: The Senate concurs in the House amendment, as proposed increase of pension from $13 to $24 is not warranted by the evidence on file.

On amendment No. 7: The Senate concurs in the House amendment, as proposed increase of pension from $12 to $20 is not warranted by the evidence on file.

On amendment No. 8: The House recedes, as soldier is shown by additional evidence filed to be almost blind and practically helpless and the owner of no real estate or property of any kind.

On amendment No. 9: The House recedes, as the circumstances disclosed by the evidence on file in support of this bill fully justify the allowance of proposed pension of $12.

On amendment No. 10: The House recedes, as the evidence in the case clearly shows that proposed pension of $12 should be allowed.

On amendment No. 11: The Senate concurs in the House amendment, as the evidence is not deemed sufficient to warrant proposed increase.

On amendment No. 12: The Senate concurs in the House amendment with an amendment allowing widow a pension of $36 per month. The Senate passed this bill at $40. The House struck the item from the bill. The widow is now pensioned at $30. The conferees believe the evidence filed in support of this bill fully justifies an allowance of $36 per month.

On amendment No. 13: The House recedes, as the evidence filed in support of this measure warrants the allowance to the widow of proposed pension of $12.

On amendment No. 14: The House recedes, as the proposed pension of $12 to widow is fully justified by the evidence on file.

Amendment No. 15 is a typographical correction.

JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

The SPEAKER. The Clerk will report the next bill.

The Clerk read as follows:

CONFERENCE REPORT (NO. 1047).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5575) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 3, 4, and 5, and agree to the same.

That the House recede from its amendments numbered 2, 6, 8, 9, 10, 11, and 12.

Amendment numbered 1: That the Senate recede from its disagreement to the amendment of the House numbered 1, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$30"; and the House agree to the same.

Amendment numbered 7: That the Senate recede from its disagreement to the amendment of the House numbered 7, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$20"; and the House agree to the same.

JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.
BENJ. F. SHIVELY,
THOMAS STERLING,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on certain amendments of the House to the bill (S. 5575) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to each of the said amendments, viz:

On amendment No. 1: The Senate concurs in the House amendment with an amendment at $30, as the facts in the case presented by the proof are not deemed sufficient to warrant an increase above said amount.

On amendment No. 2: The House recedes, as the proof filed in support of the bill clearly shows that the proposed increase to $20 is justified.

On amendment No. 3: The Senate concurs in the House amendment of $24 per month, as the proofs do not justify a higher rate.

On amendment No. 4: The Senate concurs in the House amendment, as the facts presented by the proof are not deemed sufficient to warrant the proposed increase from $12 to $20.

On amendment No. 5: The Senate concurs in the House amendment, as the proofs on the file do not bring the case within the rules of the committee relating to widows who married Civil War soldiers subsequent to the act of June 27, 1890.

On amendment No. 6: The House recedes, as the proofs filed in support of the bill show that soldier's death was due to his service and that the pension of $12 is fully justified.

On amendment No. 7: The Senate concurs in the House amendment with an amendment allowing widow $20. This is to conform with the rule of the committee.

On amendment No. 8: The House recedes, as the evidence on file shows this claim to be meritorious.

On amendment No. 9: The House recedes, as the claimant is blind and the evidence fully justifies the allowance of the proposed pension of $12.

On amendment No. 10: The House recedes, as the evidence presented in support of the bill warrants the allowance of proposed pension of $12.

On amendment No. 11: The House recedes, as the evidence on file in support of this bill justifies proposed increase from $12 to $20.

On amendment No. 12: The House recedes, as the evidence filed in support of this measure fully justifies the allowance of the proposed pension of $12 per month.

JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.

The conference report was agreed to.

The SPEAKER. The Clerk will read the report on the next bill.

The Clerk read as follows:

CONFERENCE REPORT (NO. 1046).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5446) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 4, 6, 7, 9, 12, 14, 15, 16, and 17, and agree to the same.

That the House recede from its amendments numbered 2, 3, 5, 11, 13, and 18.

Amendment numbered 8: That the Senate recede from its disagreement to the amendment of the House numbered 8, and

agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$12"; and the House agree to the same.

Amendment numbered 10: That the Senate recede from its disagreement to the amendment of the House numbered 10, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$24"; and the House agree to the same.

JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.
BENJ. F. SHIVELY,
THOMAS STERLING,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on certain amendments of the House to the bill (S. 5446) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to each of the said amendments, viz:

On amendment No. 1: The Senate concurs in the House amendment, as widow was not the wife of soldier during his service and the facts in the case do not seem to warrant an increase of her pension from $30 to $40 proposed by the bill.

On amendment No. 2: The House recedes, as it is shown by the evidence that soldier is suffering from paralysis, is totally blind in one eye and almost helpless, that he is without income, and unable to work.

On amendment No. 3: The House recedes, as the proofs show that soldier is suffering from paralysis and requires the aid and attention of another person.

On amendment No. 4: The Senate concurs in the House amendment, as the facts presented by the proof in the case do not seem to justify proposed pension.

On amendment No. 5: The House recedes, as proposed increase of pension is fully justified by the proof on file.

On amendment No. 6: The Senate concurs in the House amendment, as the proposed increase of pension does not seem to be justified by the evidence presented.

On amendment No. 7: The Senate concurs in the House amendment, as the proposed increase of widow's pension from $12 to $20 does not seem to be justified by the evidence on file.

On amendment No. 8: The Senate concurs in the House amendment with an amendment allowing widow $12 per month. The conferees believe the facts in this case fully justify the allowance of the pension of $12 to widow.

On amendment No. 9: The Senate concurs in the House amendment, as the facts presented by the proofs do not seem to justify proposed increase.

On amendment No. 10: The Senate concurs in the House amendment with an amendment allowing soldier $24 per month pension. The Senate passed this bill at $30; the House struck the item from the bill. As soldier served more than one year in the Civil War and is shown by the files in the Bureau of Pensions to be suffering from rheumatism, disease of the heart, enlarged prostate, and double inguinal hernia, and to be totally disabled and prevented from performing manual labor, and is now past 74 years of age, without any property or income other than his pension, the conferees believe a rating of $24 per month is fully justified.

On amendment No. 11: The House recedes, as the proof on file in support of the bill show that claimant is crippled and is in such enfeebled condition that she needs the aid and attention of another person and that she has no income and is dependent largely upon contributions from charitable friends for her support. The case is a meritorious one and the allowance of the proposed pension of $12 is fully justified.

On amendment No. 12: The Senate concurs in the House amendment, as soldier is dead.

On amendment No. 13: The House recedes, as it is shown by proofs on file that soldier is old and totally disabled and wholly incapacitated for the performance of any kind of labor, and by reason thereof is obliged to have a personal attendant most of the time. He has no property or income other than his pension for the support of himself and wife, and the proposed increase of his pension to $30 per month is fully justified.

On amendment No. 14: The Senate concurs in the House amendment, as the facts presented by the proofs are not deemed sufficient to warrant proposed increase.

On amendment No. 15: The Senate concurs in the House amendment, as the proof does not justify an increase of soldier's pension to more than $24.

On amendment No. 16: The Senate concurs in the House amendment, as the facts in the case do not warrant a rating above $30.

On amendment No. 17: The Senate concurs in the House amendment, as the proposed increase from $12 to $20 is not justified by the proof on file.

On amendment No. 18: The House recedes, as the facts in the case fully justify the allowance of $30 to soldier.

JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.

The conference report was agreed to.

The SPEAKER. The Clerk will read the next conference report.

The Clerk read as follows:

CONFERENCE REPORT (NO. 1044).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4845) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 5, 6, 8, 9, and 14, and agree to the same.

That the House recede from its amendments numbered 1, 2, 3, 4, 7, 10, and 12.

Amendment numbered 11: That the Senate recede from its disagreement to the amendment of the House numbered 11, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$40"; and the House agree to the same.

Amendment numbered 13: That the Senate recede from its disagreement to the amendment of the House numbered 13, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$36"; and the House agree to the same.

JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.
BENJ. F. SHIVELY,
THOMAS STERLING,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on certain amendments of the House to the bill (S. 4845) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to each of the said amendments, viz:

On amendment No. 1: The House recedes, as the evidence on file with the bill shows that the widow is entitled to the proposed increase.

On amendment No. 2: The House recedes, as the proofs on file in support of the bill disclose that soldier is clearly entitled to the $50 proposed.

On amendment No. 3: The House recedes, as the facts in the case justify the allowance of proposed pension of $12 to widow.

On amendment No. 4: The House recedes, as the evidence on file shows that soldier is almost blind and practically helpless and requires the care and assistance of another person, and that he is without property or income of any kind except his pension.

On amendment No. 5: The Senate concurs in the House amendment, on account of soldier's short service.

On amendment No. 6: The Senate concurs in the House amendment, as the soldier is dead.

On amendment No. 7: The House recedes, as the proofs on file disclose that the proposed pension of $12 to widow is fully justified.

On amendment No. 8: The Senate concurs in the House amendment, on account of soldier's short service and because he is an inmate of the Soldiers' Home.

On amendment No. 9: The Senate concurs in the House amendment, as additional proofs filed show the proposed pension of $45 to be fully justified.

On amendment No. 10: The House recedes, as the evidence on file in support of this measure shows that the proposed pension should be allowed.

On amendment No. 11: The Senate concurs in the House amendment with an amendment allowing $40 per month to widow. The Senate had passed the bill at $50 and the House reduced this to $30. The conferees believe that $40 per month is fully justified by the proofs on file.

On amendment No. 12: The House recedes, as the proofs show that soldier is totally disabled and entirely unable to perform manual labor for his support and has no income other than his pension.

On amendment No. 13: The Senate concurs in the House amendment with an amendment allowing widow $36 per month. The Senate had passed the bill at $50, which amount was reduced by the House to $24. The conferees believe that the facts in the case fully justify an allowance of $36 to widow.

On amendment No. 14: The Senate concurs in the House amendment, as the soldier is dead.

JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.

The conference report was agreed to.

The SPEAKER. The Clerk will read the next report.

The Clerk read as follows:

CONFERENCE REPORT (NO. 1043).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4261) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 3, 7, 13, 14, 15, 16, 19, and 20, and agree to the same.

That the House recede from its amendments numbered 2, 4, 5, 6, 8, 9, 10, 11, 12, and 18.

Amendment numbered 17: That the Senate recede from its disagreement to the amendment of the House numbered 17, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$36"; and the House agree to the same.

JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House,
BENJ. F. SHIVELY,
THOMAS STERLING,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on certain amendments of the House to the bill (S. 4261) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to each of the said amendments, viz:

On amendment No. 1: The Senate concurs in the House amendment, as soldier is dead.

On amendment No. 2: The House recedes from its amendment, as soldier is shown by evidence on file to be totally disabled and to have no income excepting his pension.

On amendment No. 3: The Senate concurs in the House amendment, as the evidence on file in the case shows that the amount of property owned by the beneficiary does not justify special legislation in her behalf.

On amendment No. 4: The House recedes, as the evidence on file in support of this bill fully warrants the increase proposed.

On amendment No. 5: The House recedes, as the evidence in support of the bill shows that soldier requires the aid and assistance of another person for his care, while for the past three months he has been confined to his room. He has no income other than his pension.

On amendment No. 6: The House recedes, as the proof on file in support of this measure discloses that soldier is totally disabled and has no income other than his pension.

On amendment No. 7: The Senate concurs in the House amendment, as the beneficiary is dead.

On amendment No. 8: The House recedes, as the proof filed in the case shows conclusively that the amount allowed by the Senate is justified.

On amendment No. 9: The House recedes, as the evidence on file in this case shows that soldier is totally disabled and has no income other than his pension.

On amendment No. 10: The House recedes, as it is shown by the proof on file in support of this bill that while soldier only had 86 days actual service, from the time he was enlisted until the time he was discharged 92 days had elapsed, and the proposed pension is justified.

On amendment No. 11: The House recedes, as additional proof presented in support of the bill shows that soldier has no income other than his pension and that he is totally disabled, and the amount proposed by the bill is fully justified.

On amendment No. 12: The House recedes, as the evidence on file clearly shows that proposed pension of $12 per month is justified.

On amendment No. 13: The Senate concurs in the House amendment, on account of the short service of soldier.

On amendment No. 14: The Senate concurs in the House amendment, as the statement as to claimant's financial condition is not considered sufficient to bring the case within the rules of the committees of both Houses as to destitution.

On amendment No. 15: The Senate concurs in the House amendment to reduce the amount from $30 to $24 per month, as the evidence on file does not warrant a higher rate.

On amendment No. 16: The Senate concurs in the House amendment, as the facts in the case presented by the proofs do not justify special legislation for claimant.

On amendment No. 17: The Senate concurs in the House amendment, with an amendment allowing $36 per month pension to the widow. The Senate proposed an allowance of $50 per month, which was reduced by the House to $24 per month. The conferees believe the evidence on file fully justifies the proposed allowance of $36.

On amendment No. 18: The House recedes, as additional evidence filed with the committee clearly shows that proposed pension of $30 is fully justified by the facts in the case.

On amendment No. 19: The Senate concurs in the House amendment, as soldier is dead.

On amendment No. 20: The Senate concurs in the House amendment, as the evidence shows that the widow is not in destitute circumstances and that special legislation in her behalf is not justified.

JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House,

The conference report was agreed to.

The SPEAKER. The Clerk will read the next report.

The Clerk read as follows:

CONFERENCE REPORT (NO. 1045).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5207) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 3, 12, 13, 15, 21, and 22, and agree to the same.

That the House recede from its amendments numbered 1, 2, 4, 5, 7, 8, 9, 10, 11, 14, 16, 17, 18, and 19.

Amendment numbered 6: That the Senate recede from its disagreement to the amendment of the House numbered 6, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$24"; and the House agree to the same.

Amendment numbered 20: That the Senate recede from its disagreement to the amendment of the House numbered 20, and agree to the same with an amendment as follows: Restore the

matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$30"; and the House agree to the same.

JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.
BENJ. F. SHIVELY,
THOMAS STERLING,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on certain amendments of the House to the bill (S. 5207) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to each of the said amendments, viz:

On amendment No. 1: The House recedes, as the evidence on file fully justifies an allowance of proposed pension.

On amendment No. 2: The House recedes, as the proofs on file in support of the bill justify the allowance of proposed pension of $36 to soldier.

On amendment No. 3: The Senate concurs in the House amendment, as beneficiary is dead.

On amendment No. 4: The House recedes, as it is shown by the proof on file with the bill that soldier is totally disabled and unable to perform manual labor for his support, and that he has dependent upon him an invalid wife, and no income other than his pension.

On amendment No. 5: The House recedes, as the evidence on file discloses that allowance of the proposed pension of $12 to the widow is meritorious.

On amendment No. 6: The Senate concurs in the House amendment with an amendment allowing $24, which is believed to be justified by the evidence on file.

On amendment No. 7: The House recedes, as it is shown by the evidence on file that the allowance of the proposed pension is justified.

On amendment No. 8: The House recedes, as the proofs on file in support of the bill show that the soldier is totally disabled and unable to perform manual labor and has no income other than his pension.

On amendment No. 9: The House recedes, as the evidence on file in support of the bill fully justifies the allowance of the proposed pension of $30 to soldier.

On amendment No. 10: The House recedes, as the facts in the case, as shown by the proofs on file, show that the case is a meritorious one and that the proposed pension is justified.

On amendment No. 11: The House recedes, as the proof on file in support of the bill clearly shows that the proposed pension to the widow should be allowed.

On amendment No. 12: The Senate concurs in the House amendment, to conform with the rules of the committee.

On amendment No. 13: The Senate concurs in the House amendment, as the evidence on file discloses that widow is possessed of sufficient property that her case is not considered to come within the rules of the committees.

On amendment No. 14: The House recedes, as the facts in the case, shown by proofs on file, fully justify the allowance of proposed pension of $36 to soldier.

On amendment No. 15: The Senate concurs in the House amendment, as the proof fails to show facts sufficient to warrant proposed increase of pension.

On amendment No. 16: The House recedes, as the evidence filed shows soldier to be totally disabled and unable to work and without income.

On amendment No. 17: The House recedes, as the proposed allowance of $40 is fully justified by the evidence on file in support of the bill.

On amendment No. 18: The House recedes, as the evidence on file clearly shows the proposed pension of $30 to be fully justified.

On amendment No. 19: The House recedes, as the proposed pension is clearly shown to be meritorious by the proof on file.

On amendment No. 20: The Senate concurs in the House amendment with an amendment allowing soldier $30 per month, as it is shown that he is totally disabled and unable to work and has no income.

Amendment No. 21 is a typographical correction.

On amendment No. 22: The Senate concurs in the House amendment, as the facts in the case do not justify proposed increase of pension.

JOE J. RUSSELL,
GUY T. HELVERING,
M. P. KINKAID,
Managers on the part of the House.

The conference report was agreed to.

EXTENSION OF REMARKS.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to extend in the RECORD my remarks upon the right of women to vote.

The SPEAKER. The gentleman from California asks unanimous consent to extend his remarks in the RECORD on female suffrage. Is there objection?

Mr. MANN. Reserving the right to object, does the gentleman intend to extend in the RECORD what was objected to the other day?

Mr. RAKER. What was that?

Mr. MANN. The gentleman from Wyoming objected, and I see that he is here.

The SPEAKER. Is there objection?

Mr. MONDELL. Mr. Speaker, reserving the right to object, does the gentleman from California intend to include in his remarks the statement of the premier, the Secretary of State, on this subject?

Mr. RAKER. That is my purpose.

Mr. MONDELL. I have no objection to having illustrious converts to the faith, the more illustrious the better.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I would like to ask the gentleman whether it would be perfectly agreeable to him to insert in connection with the statement of the Secretary of State the resolution or action of the Democratic caucus in this House, which the gentleman, of course, is familiar with?

Mr. RAKER. I will say to the gentleman that that will be taken up as a separate matter.

Mr. MANN. The gentleman from California wants to have circulated, for political purposes in his State, the statement of the Secretary of State, which might lead people in California to think that the Democratic Party in the House was in favor of woman suffrage. Does not the gentleman think that in fairness to his constituents he ought to insert in connection with his speech the record of the Democratic caucus declining to favor woman suffrage and declaring that it was not a national issue?

Mr. HEFLIN. Mr. Speaker, I would like to say to the gentleman from California that the Democratic caucus did not declare for or against woman suffrage. It was my resolution that the caucus adopted, and it simply declared that the question of suffrage is a State and not a Federal question.

Mr. MANN. That is what I stated when the gentleman said that the caucus took no such action.

The SPEAKER. Is there objection to the request of the gentleman from California? [After a pause.] The Chair hears none.

Mr. TALCOTT of New York. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing a letter from the Secretary of Commerce.

The SPEAKER. The gentleman from New York asks unanimous consent to extend his remarks by printing a letter from the Secretary of Commerce. Is there objection?

Mr. MANN. Reserving the right to object, in relation to what?

Mr. TALCOTT of New York. In relation to the statement issued by the Department of Commerce a week or so ago in relation to imports and exports.

Mr. MANN. I have been trying to get from the Department of Commerce for two months a statement which it issues and gives to the press. It no longer publishes its monthly information, as it used to. It says that it is willing to furnish it to me, but does not do so. Until it furnishes that information I shall object.

GENERAL DAM ACT.

Mr. ADAMSON. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the general dam bill.

The SPEAKER. The gentleman from Georgia moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of House bill 16053, the general dam bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GARNER in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of a bill of which the Clerk will read the title.

The Clerk read as follows:

A bill (H. R. 16053) to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FOSTER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1784) restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries.

GENERAL DAM ACT.

The committee resumed its session.

Mr. TALCOTT of New York. Mr. Chairman, I move to strike out the last word. Last week the gentleman from Nebraska [Mr. SLOAN] placed in the RECORD certain tables which related to the imports——

Mr. MANN. Mr. Chairman, I make the point of order that the gentleman is not in order.

Mr. TALCOTT of New York. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The Chair thinks the point of order of the gentleman from Illinois to be well taken. The gentleman from New York asks unanimous consent to proceed for five minutes. Is there objection?

Mr. MANN. In order, of course.

The CHAIRMAN. The gentleman did not put that condition in his request.

Mr. MANN. I shall object unless——

The CHAIRMAN. Is there objection to the request of the gentleman from New York to proceed for five minutes? [After a pause.] The Chair hears none.

Mr. MANN. Oh, Mr. Chairman, the gentleman has the floor for five minutes. I ask whether it is to be in order or out of order?

Mr. DONOVAN. Mr. Chairman, reserving the right to object, I think the gentleman from Illinois is a bit previous in raising the question of order, for if there is one man who violates the rules of order in this House it is the gentleman from Illinois.

Mr. MANN. Mr. Chairman, I decline to be lectured by the gentleman from Connecticut. I am not out of order.

The CHAIRMAN. The gentleman from New York is recognized for five minutes.

Mr. TALCOTT of New York. Mr. Chairman, as I was saying, the gentleman from Nebraska [Mr. SLOAN] placed in the RECORD last week on two occasions tables which related to the imports of breadstuffs into the United States——

Mr. MANN. Mr. Chairman, I make the point of order that the gentleman is not proceeding in order.

The CHAIRMAN. The point of order is sustained, and the Clerk will read.

The Clerk read as follows:

SEC. 4. That as a part of the conditions and stipulations such approval shall provide—

(a) For reimbursement to the United States of all expenses incurred by the United States with reference to the project, including the cost of any investigation necessary for the approval of the plans as heretofore provided, and for such supervision of construction as may be necessary in the interest of the United States.

(b) For the payment to the United States of reasonable charges for the benefits which may accrue to such project through the construction, operation, and maintenance in and about such streams by the United States of headwater improvements of every kind nature, and description, including storage reservoirs or forested watersheds or land owned, located, or reserved by the United States at the headwaters of any navigable stream for the development, improvement, or preservation of navigation in such stream in which such dam may be located. Such charges shall be fixed from time to time by the Secretary of War and Chief of Engineers and to be based upon a reasonable compensation equitably apportioned among the grantee and others similarly situated upon the same stream receiving benefits by reason of increase of flow past their water-power structures artificially caused by such headwater improvements, the total charges to all such beneficiaries from any such headwater improvement not to exceed in any one year an amount equal to 5 per cent of the total investment cost in addition to the necessary annual expense of the operation of such headwater improvement.

Mr. RAINEY rose.

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. The Clerk has read only paragraphs (a) and (b) of section 4, and under the rules I think the whole section should be first read before amendments are offered.

Mr. ADAMSON. That is my understanding.

The CHAIRMAN. The Clerk will complete the reading of the section.

The Clerk read as follows:

That in the construction, maintenance, and operation of any project under this act for the promotion of navigation the grantee may, with the consent of the Secretary of War, use and occupy, when necessary for carrying out the project, lands acquired by the United States through purchase or condemnation and any part of the public lands withdrawn by the President from entry or disposition for the sole purpose of promoting navigation, which the President may do, as provided in the act entitled "An act to authorize the President of the United States to make withdrawal of public lands in certain cases," approved June 25, 1910. For any of such lands so used the grantee shall pay to the United States such charges as may be fixed by the Secretary of War.

(d) For the payment or securing the payment to the United States of such sums and in such manner as the Secretary of War and the Chief of Engineers may deem reasonable and just substantially to restore conditions upon such stream as to navigability as existing at the time of such approval, whenever the Secretary of War and the Chief of Engineers shall determine that navigation would be injured by reason of the construction, maintenance, and operation of such dam and its accessory works.

Mr. RAINEY. Mr. Chairman, I move to strike out the language from line 24, on page 4, down to and including line 19, on page 5.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend by striking out, on page 4, lines 24 and 25, and down to and including line 19 on page 5.

Mr. MANN. Mr. Chairman, I ask that the Clerk report the language which it is proposed to strike out.

The CHAIRMAN. Without objection, the Clerk will report the language proposed to be stricken out.

The Clerk read as follows:

For the payment to the United States of reasonable charges for the benefits which may accrue to such project through the construction, operation, and maintenance, in and about such streams by the United States of headwater improvements of every kind, nature, and description, including storage reservoirs or forested watersheds or land owned, located, or reserved by the United States at the headwaters of any navigable stream for the development, improvement, or preservation of navigation in such stream in which such dam may be located. Such charges shall be fixed from time to time by the Secretary of War and Chief of Engineers and to be based upon a reasonable compensation equitably apportioned among the grantee and others similarly situated upon the same stream receiving benefits by reason of increase of flow past their water-power structures artificially caused by such headwater improvements, the total charges to all such beneficiaries from any such headwater improvement not to exceed in any one year an amount equal to 5 per cent of the total investment cost, in addition to the necessary annual expense of the operation of such headwater improvement.

Mr. ADAMSON. Mr. Chairman, can we not reach some agreement as to the time for debate upon this section?

Mr. RAINEY. I think I can get through in 10 minutes.

Mr. ADAMSON. How much time will gentlemen on the other side of the aisle require on this section?

Mr. RAINEY. I mean on this amendment. I have two other amendments.

Mr. ADAMSON. How much more time will the gentleman want on the entire section?

Mr. RAINEY. I think I would like to have at least 20 minutes.

Mr. STEVENS of New Hampshire. I have one amendment which I desire to offer.

Mr. STEVENS of Minnesota. Mr. Chairman, I think we had better proceed for the present. There are several amendments to be offered upon this side.

Mr. ADAMSON. I have no desire to cut off the offering of amendments.

Mr. STEVENS of Minnesota. I think we can proceed a little better if we proceed on each amendment by itself.

Mr. UNDERWOOD. Mr. Chairman, I think it is important that we should get through with this bill. I do not want to unduly cut off debate, but I think that the debate ought to be limited to five minutes on a side on each amendment, and I wish to give notice that I shall insist upon the enforcement of the rule.

Mr. ADAMSON. Mr. Chairman, I do not want to be drastic at all, but we have consumed lots of time in debate, and the whole subject has been exhausted. I would be very glad if we could have some amicable agreement for time on every section.

Mr. STEVENS of Minnesota. Mr. Chairman, I think the quicker way would be to proceed in order on each amendment as it is offered.

Mr. DONOVAN. Mr. Chairman, I wish to make an observation. The gentleman from New York [Mr. TALCOTT], who is

here every session of the House and who seldom addresses the House, asked a short time ago to be permitted to proceed for five minutes. I think we had better have a quorum here to do business. There is not a Member of this House who is more faithful in attendance but who takes up less time than the gentleman from New York.

Mr. FOSTER. Mr. Chairman, I demand the regular order.

Mr. DONOVAN. I am going to make the point of order of no quorum.

Mr. TALCOTT of New York. Oh, I ask the gentleman not to do that.

Mr. DONOVAN. Well, what is the use of violating the rules forty times a day?

The CHAIRMAN. Does the gentleman from Connecticut insist upon his point of order?

Mr. DONOVAN. No; I withdraw the point of order.

Mr. RAINEY. Mr. Chairman, this is the one clause in the bill as reported by the committee which provides for revenue. At this point in the bill I intended, as I stated during the general debate, to move to strike out this entire provision for revenue and to substitute another provision similar to the Sherley amendment, which has already been adopted.

Mr. MANN. Mr. Chairman, will the gentleman yield for a question?

Mr. RAINEY. Yes.

Mr. MANN. Is this provision in the substitute which the gentleman has moved to strike out——

Mr. RAINEY. I have simply moved to strike out certain language. I have not offered any substitute.

Mr. MANN. The gentleman does not understand me. The Clerk is reading the substitute?

Mr. RAINEY. Yes.

Mr. MANN. And the gentleman has moved to strike out certain language?

Mr. RAINEY. Yes.

Mr. MANN. Is the provision which the gentleman moves to strike out in conflict with the Sherley amendment?

Mr. RAINEY. No; it is not in conflict with anything in the world. It is not in conflict with anything that anybody can possibly imagine.

Mr. MANN. I do not mean the gentleman's amendment, but I mean the provision in the substitute.

Mr. RAINEY. No; it is not in conflict with the Sherley amendment, nor with anything else, and that is the reason I am moving to strike it out. I intended to offer an amendment of my own similar to the Sherley amendment, striking out what I have now moved to strike out and inserting a provision similar to the Sherley amendment, but I am moving now to strike this out because it means absolutely nothing. The Sherley amendment accomplishes what I wanted accomplished. Every time the general dam bill is amended this particular provision is carefully rewritten, and it has been rewritten two or three times in this proposed bill before the bill has reached its present stage.

I do not think this clause ought to remain in the bill, thereby creating the impression that we at some future time expect to get revenue out of it. The Chief of Engineers holds that we can never expect any revenue from this clause, and I called attention during the speech of the gentleman from Minnesota [Mr. STEVENS] to the recent letter to me from the Chief of Engineers on this question. Here is an attempt to collect from dams located along a river returns for benefits they may derive from headwater improvements or reforested headwaters. There are no headwater reservoirs on any river in the United States except on the Mississippi River. The Chief of Engineers holds these reservoirs do not benefit in the least dams that may be below them, and in effect holds that no headwater reservoirs will ever benefit any dam so far as water power is concerned, because during the period of low water, and that is always in the wintertime, these storage reservoirs are closed in order to store up water for the ensuing period of navigation, and they therefore hold that headwater reservoirs do not do any good so far as the development of water power is concerned. The only other improvements that can possibly be imagined are reforested headwaters, and the Chief of Engineers holds it is impossible to determine from the data they have whether reforested headwaters will ever be of any assistance to water-power projects upon rivers below the headwaters so reforested, and in his letter to me, in effect, he states that there is only one way to determine that question, and that is to denude the headwaters of rivers, cut off all vegetation, and then make observations for a period of 100 years; then reforest the same hills and make observations for another period of another 100 years. Now, it will take 100 years, as anybody knows, to properly reforest these headwater sections again. Therefore, before we can determine whether the dams in the river where headwaters have been reforested will be benefited by the reforesting of the headwaters we will have to wait 300 years. I want to read what the War Department holds——

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAINEY. May I have five minutes more?

Mr. UNDERWOOD. Mr. Chairman, I do not like to object to the request of my friend, but I think we ought to move along with this bill, and I stated before the gentleman started——

Mr. MANN. I think when debate is legitimate and a gentleman wants to discuss some amendment he ought to have five minutes more.

Mr. UNDERWOOD. I have no objection in the world to the gentleman proceeding, but we never will get through if we have unlimited debate in the committee; but as the gentleman had taken the floor I will yield to the gentleman's request, but after this I intend to insist.

Mr. MANN. Mr. Chairman, the gentleman from Alabama will remember——

Mr. DONOVAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. DONOVAN. The gentleman from Illinois has not the floor, and yet——

The CHAIRMAN. The gentleman from Illinois asked unanimous consent to proceed for five minutes. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object, the gentleman from Alabama will remember when the matter of debate was under consideration it was stated that there would be fair liberality of debate under the five-minute rule.

Mr. UNDERWOOD. I desire to do that now, but I will say to the gentleman candidly what my purpose is. It is not so much the desire to push this bill. I know this bill will go to the Senate and be largely amended and come back finally on a conference report. If it goes through, these questions will be thrashed out, but I will say very candidly a good many Members want to get home——

Mr. MANN. I understand——

Mr. UNDERWOOD. There is following this bill, which can not come up until this bill is out of the way, the Moon bill in reference to railway mail pay and with reference to parcel post and other matters, and I would like it passed by the House before we agree that a quorum can drop out for a few weeks. Now, I am anxious to get this bill through.

Mr. MANN. I understand, but why not follow the custom which has prevailed largely, and I think quite successfully, in reference to this, and that is to limit the time for debate by unanimous consent and give gentlemen time who desire to have it.

Mr. UNDERWOOD. I am very willing to do that if the House will agree on a reasonable time for debate. We spent two days in debating one item, and I think the first two or three gentlemen who spoke gave all that probably could be stated in reference to it.

Mr. MANN. Oh, well, the gentleman from Alabama spoke in general debate, and then spoke again, and I do not know, but I thought, he gave us fuller information. The gentleman spoke and gave us all the information possible.

Mr. UNDERWOOD. I am not speaking of general debate, but I am sure that my speech, if carefully read, will bring some information to the House, but I am anxious, if the House is willing, to agree to a reasonable amount of debate. I ask unanimous consent, Mr. Chairman, that general debate on this amendment close in 15 minutes, 5 minutes to be given to the gentleman from Illinois, 5 minutes to myself, to be yielded——

Mr. STEVENS of Minnesota. Mr. Chairman, since I am responsible for the numerous changes described, I think I ought to have an opportunity to say something, since I am responsible for the original proposition.

Mr. UNDERWOOD. Then I will ask that general debate close in 30 minutes on this amendment, half the time to be controlled by the gentleman from Illinois and half of the time by the gentleman from Minnesota.

Mr. STEVENS of Minnesota. I do not think we need take as much time as that. If the gentleman can be satisfied with 10 minutes I think we can be.

Mr. UNDERWOOD. Well, say 20 minutes.

Mr. LIEB. May I have five minutes?

The CHAIRMAN. The gentleman from Alabama asks unanimous consent that all debate close in 20 minutes, 10 minutes to be controlled by the gentleman from Illinois and 10 minutes by the gentleman from Minnesota. Is there objection?

Mr. COOPER. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. COOPER. Does that relate to the amendment offered by the gentleman from Illinois [Mr. RAINEY] only?

Mr. UNDERWOOD. Solely.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none. The gentleman from Illinois [Mr. RAINEY] is recognized.

Mr. RAINEY. Mr. Chairman, I simply want to read some extracts from a letter on the subject of headwater reservoirs and reforested headwaters from the Chief of Engineers:

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, May 14, 1914.

The SECRETARY OF WAR.

SIR: 1. Referring to letter of the 8th instant from Hon. H. T. RAINEY, M. C., to you, asking for certain information in regard to reservoirs and forests at the headwaters of navigable streams, and particularly with reference to the Mississippi River, I have the honor to report that no charges have ever been imposed by this department on the operators of power developments on navigable streams on account of any advantage which may accrue to them through the maintenance of reservoirs or forests.

2. There are extensive reservoirs at the headwaters of the Mississippi River, which were built for the purpose of benefiting navigation. Whether the operation of these reservoirs in the interest of navigation will produce any beneficial effect on the power development at Keokuk is a question which has not been investigated, but it is known that the effect of the operation of these reservoirs is not beneficial to power developments at Minneapolis.

3. The season of lowest water on the upper Mississippi, i. e., the time when water is most needed for the power developments, is during the winter, the season at which navigation is closed. During this season the outlets of the reservoirs are closed to the minimum for the purpose of storing water in the reservoirs in order that it may be released during the low stages of the navigation season. The result is that the natural low-water flow during the winter is still further reduced, thereby reducing the amount of power which can be developed from the water wheels. These reservoirs are the only ones in the United States which have been built in the interest of navigation.

4. The effect of forests on the flow of navigable streams has been very thoroughly investigated by the Engineer Department in connection with the improvement of navigable streams, and these investigations fail to show that forests have any beneficial effect upon the stream flow, particularly during low water. I presume that before a charge should be made to the operators of a power dam on a navigable stream for additional water due to forests established at its headwaters it would be necessary to prove that the forests had contributed a definite additional flow to the low-water volume. The effect of forests on the flow of any stream can only be told by a series of observations extending over a sufficient period of time to eliminate changes due to varying amounts of rainfall. Such a series of observations should be not less than 100 years in length, and preferably longer than this, for each condition—that is, in forested and denuded condition—in order to arrive at any results which would be of positive value.

Very respectfully,

DAN C. KINGMAN,
Chief of Engineers United States Army.

That is all there is to this. We can not expect the engineers to hold for at least 300 years that reforested headwaters would be of any benefit to power dams located on streams, and before that time we are liable to amend this bill again.

I reserve the balance of my time.

Mr. STEVENS of Minnesota. Mr. Chairman, the proposition of the gentleman from Illinois [Mr. RAINEY] is a singular commentary on the progress of this bill. He moves to strike out one of the provisions inserted by the committee, because he does not think it will prove effective in raising revenue, and he objects to any method the committee proposes to raise revenue from the use of the property of the United States. When he previously brought the matter before the committee I addressed the committee briefly in the time of the gentleman from Georgia, and notified the committee that I did not take much stock in the original measure to acquire forest reservations at the headwaters of streams for the benefit of navigation, and I have not seen much reason yet to change my mind. But these reservations have been acquired for the benefit of navigation at an expenditure of $8,000,000, and we thought it was our duty to get the utmost out of them for power purposes as well as for navigation.

I am familiar with the situation on the Mississippi River and especially as to the use of the navigation reservoirs at its headwaters. After about 17 years' experience and participating in two careful investigations of these reservoirs I find the situation is this: Those reservoirs were constructed, six of the largest in the world, to provide suitable water at the head of navigation at St. Paul, at the levee, 18 inches of water, for about 100 days during the dry season of the summer, from about the 1st of July until about the 1st of October. That was the design of the reservoirs, and they have fulfilled their mission. They do send that amount of water down, and they have improved navigation. Now, the mills below those reservoirs necessarily use that water during the dry period of the summer, and it occurred to your committee that such water should equally benefit those mills, and they ought to pay for the use of that water which may benefit them during the summer. I know the mills will maintain that they receive no benefit from it. Of course they will, since they do not wish to pay for what heretofore they have received for nothing. But it seemed to me a matter of common sense that they do receive some benefit during the dry season of the summer and not during the winter. We never have claimed that they do receive benefit during the winter, but during the summer they do, and they ought to pay for it.

And it is not a question to be determined by the Chief of Engineers or any departmental official. The question is a question of fact and law to be determined by the courts, and one thing which we have done in the framing of this amendment is to make it compulsory that these charges shall be fixed from time to time by the administrative officials, compelling the engineers to make a record of what these charges should be, and fixing the standard from the benefits received. There are numerous gauges along the river that determine exactly how much water comes down, how much water is let out of the reservoirs, and how the water proceeds down the stream, and it can be accurately determined by measurement. So that will be a question for the courts to determine, and not for the Chief of Engineers. It will be his duty to fix a charge and to enforce it in the courts. The letter of the gentleman from Illinois amounts to nothing but the opinion of the Chief of Engineers. Other officials of other departments and of high standing differ on that point and believe that that value does exist. Nothing will settle this matter but the decision of the courts as to whether or not this provision will be made effective, and such benefits can be paid for by those who receive them.

One thing more. The gentleman remembers, and I presume that he voted for, the so-called Weeks bill when it was before the House. The claim was made that the bill was designed to benefit navigation. The United States has spent $3,000,000 in securing forest reserves in the Appalachian and White Mountain Ranges, and the basis of the contention is that these reservations do benefit navigation.

The Geological Survey and their engineers under the law are obliged to certify that they do benefit navigation. Undoubtedly that department differs from the opinions of the engineers. Now, if the waters from those reserves do benefit navigation, it seems extremely probable to me that they equally benefit water power. And the same question will be determined, not by the engineers, but by the courts, as to whether or not there is an actual benefit to these water powers.

I hold in my hand the July number of the Review of Reviews, in which there is an article by Philip W. Ayres, the forester of the State of New Hampshire, on this very subject, in which he shows at considerable length and force the benefits which will accrue to navigation and water power by means of these forest reserves. Of course he is a very ardent admirer of Mr. Pinchot and follows his doctrine. And he shows to his own satisfaction that this $8,000,000 has been wisely spent. And I will just read this sentence:

With this new use water power increases greatly in value.

Now, Mr. Chairman, we ought to have a chance in order that this $8,000,000 should realize some benefit to the Treasury, some benefit to the people, and that the $2,000,000 expended upon the reservoirs should pay some benefits, and this amendment accomplishes that fact.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. UNDERWOOD. Does the gentleman from Illinois [Mr. RAINEY] desire to use the rest of his time?

Mr. RAINEY. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has seven minutes.

Mr. RAINEY. I shall not need it all.

Mr. STEVENS of Minnesota. Mr. Chairman, I will yield to the gentleman from Alabama [Mr. UNDERWOOD] the rest of my time.

Mr. UNDERWOOD. Does the gentleman from Illinois [Mr. RAINEY] expect to conclude in one speech?

Mr. RAINEY. I will conclude in one speech; yes, sir.

Mr. UNDERWOOD. Mr. Chairman, my view about this dam bill is that we want to put some restriction on it or we will not get capital to invest, and I do believe in doing the fair thing by the Government.

Now, the gentleman proposes to strike out the language that reads as follows:

For the payment to the United States of reasonable charges for the benefits which may accrue to such projects through the construction, operation, and maintenance, in and about such streams by the United States of headwater improvements of every kind, nature, and description, including storage reservoirs—

And so forth.

Now, I think the gentleman has the Mississippi River in his mind, and he is only talking about the Mississippi River, and he thinks there is no purpose in this proposition because he can not see much to be accomplished from the Government outside the Mississippi River. I am talking for the interests

of my State, so far as paying part of this charge is concerned. I want to tell you of a concrete case.

The Alabama River flows through low land. It is difficult to build dams and dikes on it. The Coosa River flows into the Alabama. At the headwaters of the Coosa River, in the State of Georgia, near my friend's district, there is a possibility of making great storage reservoirs. The plans of the United States engineers to-day, for the purpose of creating navigation on the Alabama River, have in them that proposition and they have gone so far as to perfect plans, although no work has been done on them as yet.

They propose to make these storage reservoirs in Georgia that will let loose the water in the dry season, to furnish sufficient water to give annual navigation in the Alabama; that is, when the water flows low. Well, now, the water out of those reservoirs will come down the Coosa before it reaches the Alabama. It will go right through Lock No. 12 on the Coosa River, which is already built, which is already controlled by a private corporation, which is already furnishing light to the city of Birmingham; and if that plan is carried out it will not increase the present primary power in that dam, but it will make a great deal of its secondary power primary power, because a dam, of course, in the rainy season, has a greater flow and more water, which is called secondary power. That can not be used for lighting purposes or street-car purposes, but could be used for manufacturing purposes.

We had built these dams in the State of Georgia not in any way connected with the dam on the Coosa River, and really the plan was agreed upon before this dam was built originally by the engineers. It will increase the primary power of that dam very greatly. The power of the dam now amounts to about 10,000 horsepower. It has a very large secondary power because of the flow of water in certain seasons of the year. I do not know exactly—it is merely a guess on my part—but the building of these storage dams for the improvement of the Alabama River would probably increase the primary horsepower at that time 10,000 horsepower.

Now, all that this section says is that if that is done at the Government expense, these dams, located between the reservoir at the head of the stream and that part of the stream which is going to be profited by it shall pay a reasonable charge to the United States Government. Now, I did not agree to the Sherley amendment, because I think it will keep capital out of those dams, but I want to do what is fair to the Government of the United States, and if they build a reservoir at the head stream and it increases the primary power of that dam and is of benefit to the owner, I am perfectly willing, and I think it is perfectly just, that the owner of that dam should pay to the United States Government a reasonable contribution therefor. I think that is all that there is in it.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. RAINEY rose.

The CHAIRMAN. The gentleman from Illinois [Mr. RAINEY] is recognized.

Mr. RAINEY. Mr. Chairman, it is amusing to me the strenuous manner in which these gentlemen, who were opposed to a compensation amendment that means nothing, insist upon this item in this bill, which has never meant anything and never will mean anything.

Now, there are storage reservoirs at the headwaters of only one river, and therefore I have discussed that matter in my correspondence with the Chief of Engineers, and he says that the reservoirs at the headwaters of the river are closed in the wintertime—that is the period of low water—and the water-power possibilities at a dam are regulated by how much power you can develop at low water. That is the only thing that counts, and the period of low water is in the wintertime, during the period when there are rains at the headwaters and when there are snows; during the season when they impound water they close these reservoirs. That is all there is to it. You can not get anything from reservoirs that will benefit dams downstream.

I have just read the holding of the Chief of Engineers to the effect that it will take 300 years to find out whether reforested headwaters will assist in the development of water power downstream. So what is the use of keeping this provision in here? This is a gold brick; it always has been and always will be. It is holding out to the people an evidence of strenuous efforts on the part of this Congress to collect something that never can possibly be collected.

We can not decide this question by reference to articles in the Review of Reviews nor by saying it should be referred to the courts. If it should ever get to the courts the opinion of our engineers would settle it there. They would testify that power dams would not be benefited by headwater reservoirs nor by reforested headwaters, and that would be the end of it, even if the questions were ever submitted to a court.

Now, if they have already found that the headwater improvements on the Mississippi River do not benefit the water power at Minneapolis, by what mysterious sort of reasoning will they find that dams located above Minneapolis will be benefited and therefore ought to pay? The same water that goes over the dams above Minneapolis comes down over the dam at Minneapolis. How can you keep this clause in this bill on the theory that at some time in the future those dams may be benefited when the department holds otherwise?

Now, I want this stricken out, because it means nothing and because it obscures the issue of compensation for the Government. The committee stands strenuously for this, which means nothing, and that is the reason, I think, they stand for it. They are opposed to the Sherley amendment, which means something, and that is the reason they are opposed to it. The Sherley amendment, as the position of the committee seems to me to be, was unconstitutional for the reason that it will produce revenue, and this clause the committee holds to be constitutional because it produces no revenue and never will produce any. In the interest of conservation and in order that the compensation issue may not be obscured and in order to assist the Government in getting something that it ought to get, I am asking that this clause be stricken out.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. RAINEY].

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. RAINEY. A division, Mr. Chairman.

The CHAIRMAN. A division is demanded.

The committee divided; and there were—ayes 8, noes 24.

So the amendment was rejected.

Mr. THOMSON of Illinois. Mr. Chairman, I move to amend this paragraph (b), which was the subject of the amendment of the gentleman from Illinois [Mr. RAINEY], by striking out the word "to," so that it would read:

Such charges shall be fixed from time to time by the Secretary of War and Chief of Engineers and be based upon a reasonable compensation equitably apportioned—

And so on.

Mr. ADAMSON. Why not strike out "and to be," and let it just say "based upon"? It will then read:

Such charges shall be fixed from time to time * * * based upon—

That is the best reading. Strike out "and to be." That is the best possible reading.

Mr. THOMSON of Illinois. If you put a comma after "Engineers."

Mr. ADAMSON. I do not object to the comma.

Mr. THOMSON of Illinois. I am willing to change my amendment, to put a comma after the word "Engineers" and strike out the words "and to be."

Mr. ADAMSON. That makes it better.

The CHAIRMAN. Is there objection to the modification of the amendment?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment as modified.

The Clerk read as follows:

Page 5, line 10, place a comma after the word "Engineers" and strike out the words "and to be."

The amendment was agreed to.

Mr. THOMSON of Illinois. Mr. Chairman. I send to the desk three brief amendments, all relating to paragraph (d), on page 6.

Mr. BRYAN. I have an amendment to paragraph (b). Would the gentleman object to taking that up first and finishing with paragraph (b)?

Mr. THOMSON of Illinois. All of the section has been read. My amendment is in order.

The CHAIRMAN. The Clerk will report the first amendment proposed by the gentleman from Illinois [Mr. THOMSON].

The Clerk read as follows:

Amend, page 6, line 22, by striking out the word "just" and inserting in lieu thereof the words "necessary to," and also by striking out the word "to," in the same line, after the word "substantially."

Mr. ADAMSON. The gentleman insists on splitting the infinitive. I wrote the words in that way to avoid splitting the infinitive.

Mr. THOMSON of Illinois. Mr. Chairman, I think that the splitting is being done by the gentleman from Georgia [Mr. ADAMSON].

Mr. ADAMSON. I think not. "To restore" is in the infinitive, and I object to splitting it.

Mr. THOMSON of Illinois. Mr. Chairman, if the amendment I have suggested is adopted, the language will read this way, which seems to me to be much smoother:

(d) For the payment or securing the payment to the United States of such sums and in such manner as the Secretary of War and the Chief of Engineers may deem reasonable and necessary to substantially restore conditions upon such stream as to navigability as existing at the time of such approval.

Mr. ADAMSON. That plays havoc with the grammar. It splits the infinitive, and I object to it.

The CHAIRMAN. The question is on the amendment of the gentleman from Illinois.

The amendment was rejected.

The CHAIRMAN. The Clerk will report the next amendment offered by the gentleman from Illinois [Mr. THOMSON].

The Clerk read as follows:

Amend, page 6, line 23, by striking out the words "as existing" and insert in lieu thereof the words "which exist."

Mr. THOMSON of Illinois. So that the line will read:

Such stream as to navigability which exist at the time of such approval——

Mr. ADAMSON. I think it is much better to strike out the word "as" and to insert a comma.

Mr. THOMSON of Illinois. That is satisfactory to me.

Mr. ADAMSON. So that is will read:

Such stream as to navigability, existing at the time of such approval.

The CHAIRMAN. Is there objection to striking out the word "as," after the word "navigability," in line 23, and inserting a comma in lieu thereof?

There was no objection.

The CHAIRMAN. The Clerk will report the next amendment offered by the gentleman from Illinois [Mr. THOMSON].

The Clerk read as follows:

Amend, page 6, line 25, by striking out the word "would" and inserting in lieu thereof the word "might."

Mr. THOMSON of Illinois. Mr. Chairman, it seems to me that with the word "would" in there it would mean that the Secretary of War and Chief of Engineers could not make the requirements specified in this paragraph unless in their judgment the dam that was going to be put in would actually, by reason of its construction, interfere with navigation. I think they ought to have the power to bring this clause into operation if in their judgment the construction of the dam might interfere with navigation.

Mr. ADAMSON. I am opposed to weakening the language. It is conditional anyhow, and if you are going to change it I prefer to go back to the old formula "might, could, would, or should." If you do not do that, it ought to stand as it is. It is a matter of opinion with the engineers as to whether the change, if made, will injure navigation.

Mr. THOMSON of Illinois. Yes; but unless he believes it would as a matter of fact injure navigation, unless he is certain enough about it to be able to say that it actually would interfere with navigation, he can not require the security for the payment. It would not weaken it to change it, but inserting the word "might" would strengthen it. The Chief of Engineers and the Secretary of War ought to have this power, not only when they believe that the construction of the dam would interfere with navigation, but whenever they think it might interfere with navigation. There may be a case where they could say that the construction of the dam in a certain place might injure navigation, where they do not know that it would, but they believe it might, and in such a case they should be able to exact compensation or insist that the Government be secured. In this case, with the word "would" in there, they practically could not exact compensation or security for compensation unless they were sure enough about it to say that it actually would, in their judgment, interfere with navigation.

Mr. MANN. Mr. Chairman, I will confess that when I read section (d) I could not understand what it meant, in the form of the language. It refers to a stipulation exacted by the Secretary of War to require the payment of money to restore conditions of navigation on the river, after the dam is constructed and in operation, to the conditions existing before the dam was constructed. It then says that whenever the Secretary of War shall determine that navigation would be injured by reason of the construction, they shall obtain payment or security for payment. It is then a question of fact. There is no difference between "might" and "would" as far as that is concerned. It is then a question of fact whether navigation is injured or not. It projects into the future a proposition to be determined on the facts as then existing, and uses language in the subjunctive mood, when it should refer to a question of actually existing facts. I would ask my friend from Illinois or my friend from Georgia if that is not the case?

Mr. THOMSON of Illinois. I do not wish to answer the gentleman if the gentleman from Georgia [Mr. ADAMSON] does.

Mr. ADAMSON. What is the question?

Mr. MANN. This refers to a condition which may exist after the dam is constructed and in operation.

Mr. ADAMSON. Undoubtedly.

Mr. MANN. Giving the Secretary of War authority to restore conditions if navigation is then injured by the dam.

Mr. ADAMSON. He does not determine it now, whether it will be or not.

Mr. MANN. No.

Mr. ADAMSON. But if after the thing happens navigation would be injured, as afterwards determined, he obtains security to meet it.

Mr. MANN. But when he determines it, he determines the question as to whether navigation is injured or not.

Mr. THOMSON of Illinois. This is a condition that is going originally to prevail before the dam is built; and, going back to the beginning of the section, it says that as a part of the conditions of such approval it shall provide for the payment or securing the payment to the United States of such sums and in such manner, and so on, as they may deem reasonable and necessary substantially to restore conditions upon such stream as to navigability existing at the time of such approval.

Whenever the Secretary of War and the Chief of Engineers shall determine at the time of the approval——

Mr. MANN. That navigation is injured.

Mr. THOMSON of Illinois. No; that this dam, that has not been built——

Mr. MANN. That has been built.

Mr. ADAMSON. If the gentleman will permit me, I will give him the exact grammar of the situation. A bond for payment is required at the time of the approval of the specifications.

Mr. MANN. A stipulation is required.

Mr. ADAMSON. And whenever the Secretary of War and the Chief of Engineers afterwards shall determine—and they determine after the dam is built—I think the word "would" is wrong, and it should be "shall have been."

Mr. MANN. No bond is required, but there is a stipulation.

Mr. ADAMSON. It says for the payment or securing the payment.

Mr. MANN. They may exact a bond, but the stipulation is that the grantee shall pay or secure the payment to the United States of such sum of money as the Secretary of War and the Chief of Engineers may deem reasonable to restore conditions upon such stream as to navigability after the dam is constructed, if the construction of the dam then injures navigation.

Mr. ADAMSON. The language should be "shall have" injured. When you are talking about the future the grammar of the situation is that in case of a future event, if the condition arises, you use the words "shall have been"—if navigation shall have been injured.

Mr. MANN. The future is indicated in the word "shall"—whenever the Secretary of War shall determine that something then exists. It is perfectly plain.

Mr. THOMSON of Illinois. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. THOMSON of Illinois. Mr. Chairman, the question in paragraph (d) is whether or not there shall be placed in the original approval a condition or stipulation for the payment of certain sums to the Government under given circumstances. This question is to arise at the time of the approval of the proposition in the first place. At that time no dam has been built, but the Secretary of War and the Chief of Engineers, in determining whether they shall put a clause in the approval to secure payment, must depend on whether their opinion is that the building of the dam is going to interfere with navigation.

Mr. MANN. Will the gentleman yield?

Mr. THOMSON of Illinois. Yes.

Mr. MANN. Does not the gentleman think that the stipulation has to go into every approval?

Mr. THOMSON of Illinois. No; I do not.

Mr. MANN. The word "whenever" refers to a time after the dam is constructed and not whenever the stipulation goes in. The stipulation goes into every approval.

Mr. THOMSON of Illinois. I do not think so. I think that in some cases the Secretary of War and the Chief of Engineers may determine that the construction of these works, this dam and lock that are included in the plans, can not possibly interfere with navigation, in which case there would be no need of

the stipulation. Perhaps they might determine that it was going to be of great assistance to navigation, and in that case there would be no necessity of putting the stipulation in.

Mr. McKENZIE. Will the gentleman yield?

Mr. THOMSON of Illinois. Yes.

Mr. McKENZIE. Is it not the purpose of this provision to serve notice on the grantee when he makes the application to construct a dam that if, after he has the dam constructed, navigation is found to have been interfered with by such construction, then, and in that case, he shall comply with what is laid down in this section?

Mr. THOMSON of Illinois. It does not read that way. If it were so intended, the word "would" is not the correct word.

Mr. ADAMSON. Is not the gentleman from Illinois willing to use the words "has been"?

Mr. BRYAN. Mr. Chairman, I offer a substitute.

Mr. THOMSON of Illinois. Is this a substitute for my amendment?

Mr. BRYAN. No; I will withhold it for the present.

Mr. ADAMSON. I suggest that the gentleman from Illinois agree to modify his amendment to the words "has been"——

Mr. THOMSON of Illinois. I am willing to do that.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to modify his amendment so as to use the words "has been." The question is on the modified amendment.

The question was taken, and the amendment was agreed to.

Mr. BRYAN. Mr. Chairman, I offer an amendment to paragraph (d) while we are on it.

The Clerk read as follows:

Strike out paragraph (d) and insert:

"(d) For the payment to the United States of such charge or charges as the Secretary of War and the Chief of Engineers may deem reasonable, and as may be sufficient to restore conditions upon such stream as to navigability as existing at the time of such approval whenever they shall determine that navigation has been or will be injured by reason of the construction, maintenance, and operation of such dam and its accessory and appurtenant works."

Mr. BRYAN. Mr. Chairman, I do not know how many people read the CONGRESSIONAL RECORD, but if anybody reads this debate, such person can come to only one conclusion, and that is that there are many irregularities in this bill. Gentlemen are having considerable discussion over a matter of tense, but that is not all involved in this particular paragraph. The paragraph (d) in the Adamson bill is as follows:

(d) For the payment or securing the payment to the United States of such sums and in such manner as the Secretary of War and the Chief of Engineers may deem reasonable and just substantially to restore conditions upon such stream as to navigability as existing at the time of such approval, whenever the Secretary of War and the Chief of Engineers shall determine that navigation would be injured by reason of the construction, maintenance, and operation of such dam and its accessory works.

Now, what I propose here is for the payment to the United States of such charge or charges as the Secretary of War and the Chief of Engineers may deem reasonable, and as may be sufficient to restore conditions upon such stream as to navigability as existed at the time of such approval whenever they shall determine that navigation has been or will be injured by reason of the construction, maintenance, and operation of such dam and its accessories and appurtenant works.

There is nothing definite about this security arrangement. There is nothing following the term or securing the payment that can have any meaning or definiteness as to bond or anything of that kind, and if the engineers when they make the survey conclude that there has been or will be a benefit, then the charge comes, and if they do not, there is no charge. I think the substitute is definite and means something, and that the language in the other section will be subject to interpretation, all kinds of interpretation, and that there never will come anything satisfying from it.

Mr. ADAMSON. Mr. Chairman, I do not see any improvement in that, and I hope the amendment will be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington.

The amendment was rejected.

Mr. BRYAN. Mr. Chairman, I have another amendment, which I spoke of a few minutes ago, and which I send to the desk and ask to have read.

The Clerk read as follows:

Strike out paragraph (b), pages 4 and 5, and insert the following:

"(b) For the payment to the United States of reasonable annual charges for the benefits which may accrue to such project from the construction, operation, and maintenance by the United States of headwater improvements on any such stream, including storage reservoirs and forest watersheds or lands acquired or held by the United States, such charges to be fixed from time to time by the Secretary of War and be based upon a reasonable compensation apportioned among the grantee and others similarly situated upon the same stream receiving direct benefits by reason of the development, improvement, or preservation of navigation in such streams in which such dam or appurtenant or accessory works may be constructed."

Mr. BRYAN. Mr. Chairman, the first proposition involved in this substitute is that instead of a provision for such reasonable charge, there is provision for such reasonable annual charges, which evidently the committee means, I should think, but it is essential to make it definite.

Mr. STEVENS of Minnesota. We make it from time to time.

Mr. BRYAN. Then, over on page 5, they refer to such lands as are—

owned, located, or reserved by the United States at the headwaters of any navigable stream.

The United States is continually acquiring lands for that purpose, and holding other lands for that purpose, and "owned, located, or reserved" I do not believe is as definite as the words "acquired and held." But that may be considered only a matter of construction.

Down further in the bill, in lines 12 and 13, this charge is to be based on benefits by reason of increase in the flow past "their water-power structures artificially caused by such headwater improvements." That may not be all of the benefits. The gentleman from Alabama believes that these benefits ought to be apportioned, but in assessing benefits they ought to be able to determine what the total benefits are and not just simply what benefits may accrue from the increase in the flow of water past the dam. But there is a further and important divergence. The original bill reads:

Not to exceed in any one year an amount equal to 5 per cent of the total investment cost—

That means what? Does that mean total investment cost of impounding headwaters or the lands reserved? Suppose we have a large lot of lands that have been obtained from the Indians. We do not know what the investment cost is. There is no reason for making any such restriction as that. The board in fixing it ought to be able to rely, and ought only to be required to rely, on benefits derived as in our laws for assessing benefits, where benefits are apportioned, and the suggestion that it be on the total investment is indefinite. Is it to be based on the land owned or the land acquired, or what is the meaning of it? There is nothing here about bonds, so that this security feature, it seems to me, is not worth anything.

Mr. ADAMSON. Mr. Chairman, I reckon that it is unnecessary to discuss grammar any further with the gentleman. It is supposed that that refers to the last thing mentioned, and I ask for a vote.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Washington.

The question was taken, and the amendment was rejected.

Mr. FOWLER. Mr. Chairman, in subdivision (d) the bill provides practically for the maintenance of the condition of the river as to navigability as it was at the time when the dam was constructed; and if injury is done to the navigability of the stream after the dam has been constructed, the bill provides that the Secretary of War may assess a reasonable sum, such as is sufficient to restore the navigability of the stream to the condition it was before the dam was constructed.

Mr. ADAMSON. Mr. Chairman, what is the gentleman's amendment? I do not understand that he has offered any?

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. This question arose in my mind: Suppose the navigation of the stream at the time the dam was constructed was not very good and not very secure and not very profitable. Is there anything in the bill that gives the Government the right to make a better condition of navigation than there was at the time when the dam was constructed, or does improvement to navigation, by virtue of the construction of the dam, cease? I raise this question seriously, because I have not been able anywhere to find a reservation of power to improve the navigation of the stream and make it better than it was at the time when the dams were constructed.

Mr. ADAMSON. Section 2 provides fully for that, at the bottom of page 2:

To protect the present and future interests of the United States, which may include the condition that the persons constructing or maintaining such dam shall construct, maintain, and operate in connection therewith, without expense to the United States, a lock or locks—

And so forth.

Mr. FOWLER. Yes; that is true; but the gentleman does not answer the question that I raised. I know in my own district on the Ohio River there are places where the navigation is not good. If a dam should be constructed across the river at that place, the bill provides for the maintenance of navigation up to the standard that it now is, but it does not provide for an additional improvement of navigation of the river.

Mr. ADAMSON. Why, the gentleman takes a single case where a lock and dam may not be necessary and where other conditions may be put on them. In cases where a lock and

dam is necessary or where there would be really some consideration demanded they will require them to put them in, and the language there is expressly put in that it is to protect the present and future interests of the United States in the stream.

Mr. FOWLER. I know that is true, that a lock is likely to be put in there if they destroy or prevent navigation of a stream, but you still do not rise to the magnitude of answering my question.

Mr. ADAMSON. What is the gentleman's question?

Mr. FOWLER. My question is, Do you preserve by this bill anywhere the right of the Government to step in when a dam has been built and make the navigation of the river better than it was at the time when the dam was built?

Mr. FERRIS. Will the gentleman yield?

Mr. FOWLER. Yes.

Mr. FERRIS. Does the gentleman think, in addition to the payment for the service to the Government and placing it back in its original state—does not the gentleman think that is onerous enough? I do not want this bill made so harsh it will not work.

Mr. FOWLER. But the gentleman does not make any progress by his question or by the answer.

Mr. FERRIS. Why not?

Mr. FOWLER. If it is a necessity to preserve the navigation of a stream, it is evident that the progress of time will demand a progress in the navigability of streams. Now, here is a provision in subsection (d) that only reaches a state of navigation or keeps up a state of navigation equal to that at the time when the dam was constructed, but maybe the navigation was poor at the time of constructing the dam and the Government might want to make it better.

Mr. ADAMSON. May I answer the gentleman further?

Mr. FOWLER. Yes.

Mr. ADAMSON. The gentleman must remember that in places where there is not fall enough to require a lock and dam nobody will find any inducement to put up a water-power plant. He has to have falls or there is no enticement to install a water-power plant at all, and the instance the gentleman mentions is an extreme one not likely to occur.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOWLER. Mr. Chairman, I ask for an extension of five minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for five minutes. Is there objection? [After a pause.] The Chair hear none.

Mr. ADAMSON. Now, this subparagraph, I understand, is intended to meet just such a case as that where there is not much inducement to put in a dam, because there is not any fall and a lock may not be necessary.

Mr. FOWLER. Yes; but it may become necessary thereafter to navigate the river more extensively than it was navigated in the past. Now, you provide by subsection (d) for keeping up the standard of navigation which existed at the time when the dam was built.

Mr. ADAMSON. I understand the gentleman; but it is a case where there is not much inducement for water power. There may be a very small dam which could be built, and a very small lock. Now, you can not——

Mr. HULINGS. Will the gentleman yield?

Mr. FOWLER. I can not yield to two gentlemen at one time.

Mr. ADAMSON. Now, you can not expect to have a heavy investment in a thing that has not much prospect of a profit, because the project would not be constructed if it did not offer a profit.

Mr. FOWLER. The gentleman absolutely tries to throw off——

Mr. ADAMSON. No; the gentleman is mistaken.

Mr. FOWLER (continuing). And refuses to meet——

Mr. ADAMSON. No.

Mr. FOWLER (continuing). The issue squarely, because I know that conditions will arise in the future, if we continue to transport by water, wherein the Government will want to improve navigation and make it better than it is now and better than when the dam or dams are constructed.

Mr. ADAMSON. The gentleman has no right, and I do not think he means, to say that I am trying to evade anything.

Mr. FOWLER. Well, I do not.

Mr. ADAMSON. I am trying to understand and answer the gentleman.

Mr. FOWLER. But I do mean to say——

Mr. ADAMSON. The Government does not waive any right to do anything which belongs to it in a stream.

Mr. FOWLER. I am trying to get it distinctly——

Mr. ADAMSON. What does the gentleman wish to know?

Mr. FOWLER. The provision with reference to keeping up the state of navigation equal to when the dam was built. Now, in the future suppose the Government should want to make navigation better than it was at the time when the dam was built. The owner of the dam might cite this act and say it was the intent of Congress to keep up navigation to the standard only as it existed at the time the dam was built. Now, I want to preserve the right to make the navigation better than it was at the time when the dam was built if the wants of the people demand it.

Mr. ADAMSON. Well, now, if I understand the gentleman, the Government does not have to preserve the right to do anything it chooses to improve the navigation of the river. It can not make the grantee stand the expenses of it unless they put it in the contract.

Mr. FOWLER. That may be true, but there is this point in section (d). It might be construed by the owner of the plant or dam that it was the intent of Congress only to keep up the standard of navigation that existed at the time when the dam was constructed, and that no intent was contemplated to raise it to a greater efficiency. But the progress of time may require deeper water or a wider current or some other valuable improvement, and we should conserve the right to the Government without hinder.

Mr. ADAMSON. I do not think so——

Mr. FOWLER. And the Government has no right to step in with this plan, if it would interfere, to increase the navigability of the stream?

Mr. ADAMSON. In conditions other than those I have described in my answer other sections would control the situation.

Mr. FOWLER. Well, I can not understand it.

Mr. COOPER. Mr. Chairman——

Mr. HULINGS. Mr. Chairman, I want to ask the gentleman if section 3 on page 4 does not answer the question that he has asked?

Mr FOWLER. I did not think it did. I yield to the gentleman from Wisconsin [Mr. COOPER].

Mr. COOPER. I will say to the gentleman that the original consent of the Government, as I understand it, in that subdivision (d), is that he shall restore the navigation facilities to what they were when the consent was given.

Mr. FOWLER. That is exactly the point.

Mr. COOPER. On page 15 it is provided that Congress shall have the right to alter, amend, or repeal the act with relation to any dam whenever Congress determines that the conditions of consent have been violated. If you restore it, you shall leave the navigation as it was before.

The CHAIRMAN. All debate is exhausted on this question of moving to strike out the last word.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I move to strike out the last two words. I would like to ask the gentleman from Georgia [Mr. ADAMSON] a question, in answer to the criticism of the gentleman from Illinois [Mr. FOWLER]. I want to ask the gentleman if section 2 as amended by the committee the other day does not cure his objection?

Mr. FOWLER. That was by the Sherley amendment?

Mr. HUMPHREYS of Mississippi. No. Section 2 was so amended the other day as to provide that whenever in the opinion of the Chief of Engineers and the Secretary of War it was desirable, the contractor or the lessee, without expense to the United States, might be required to put in a lock or locks, booms, sluices, or any other structure or structures.

Now, as originally written it read:

> Which the Secretary of War and the Chief of Engineers or Congress then may deem necessary.

That has been amended so that it will read:

> At any time it may be deemed necessary.

So that the bill as it now stands provides that whenever in a future Congress the Secretary of War or the Chief of Engineers conclude that the interests of navigation require that other locks and other dams and other facilities for navigation should be put in they can be put in without expense to the Government. It occurs to me that that answers the gentleman's criticism entirely. Section (d) simply means that if the structures they have put there, in the opinion of the Government, become a menace to navigation, they can be ordered to remove them and restore the conditions just as they were to start with. We can do that, or we can require them to put in additional locks or dams. I do not think the gentleman's objection or criticism is tenable.

Mr. Chairman, I withdraw my motion to strike out the last two words.

Mr. RAINEY. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN (Mr. FOSTER). The gentleman from Illinois offers an amendment which the Clerk will report.

Mr. ADAMSON. Mr. Chairman, have we not spent enough time now on this section to limit the debate?

The CHAIRMAN. The Chair is not informed as to that.

Mr. ADAMSON. I will ask if we can not limit debate now? How much time does the gentleman from Illinois want?

Mr. RAINEY. I want only five minutes.

Mr. ADAMSON. How much on the other side?

Mr. MANN. Say five minutes.

Mr. ADAMSON. Mr. Chairman, I ask unanimous consent that debate on the section and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the amendment.

The Clerk read as follows:

Amend, on page 7, by inserting after line 2 the following:

"No dam erected under this act shall be used as a railroad bridge or wagon road bridge, and no piers shall be built in any river in connection with the construction of any such dam to be afterwards used for bridge purposes; and all bridge piers heretofore constructed in any river in connection with any water-power dam shall be removed within such reasonable time as the Secretary of War may fix for said purpose."

Mr. ADAMSON. I would like to ask the gentleman if that is to prevent the company itself from using the dam for its own purpose in connection with the bill?

Mr. RAINEY. No, sir; not at all. On the contrary, there is no such objection to this amendment. This is intended to meet a condition that may arise at the building of any dam. In building the dam at Keokuk they so constructed the dam as to permit it to be used as a wagon road or railroad bridge, and they have built in the fore bay two piers to support a movable bridge of some kind that crosses the fore bay. It is a menace to navigation. They stand there in 40 feet of water, imperiling all the boats that come down the stream. The committee has already had the matter under consideration. This does not keep that company or any other company from applying to Congress to build a bridge on their dam, but that company did it without any such permission.

I have here a series of letters, written by steamboat owners on the Mississippi River, complaining of those piers and calling attention to the dangers of them. The boats of one line struck those piers, as its officers say in a letter here to me, seven times during the last season. This does not prevent the company from building a bridge, of course, for its own use.

Mr. Chairman, I reserve the balance of my time.

Mr. MANN. A point of order, Mr. Chairman. The gentleman can not reserve time under the five-minute rule.

Mr. RAINEY. The gentleman is right about that, of course.

I read from a letter written by the Streckfus Steamboat Line, referring to those piers. This is the principal company navigating on the upper river, and navigates packets all the way to St. Paul:

ST. LOUIS, *March 19, 1914.*

GEORGE M. HOFFMAN,
Major, Corps of Engineers, Rock Island, Ill.

DEAR SIR: Yours of the 9th regarding bridge piers in the fore bay at Keokuk.

Beg to explain that we have already gone on record as objecting most seriously to the present location of those piers as dangerous, this position being sustained by the report of every pilot and master of our steamers, as well as by other boats using that lock, and we can see now no way by which we can conscientiously agree to the arrangement proposed by the power company as outlined in your letter.

As before stated, the plan agreed upon (or agreed to under protest), by Capt. John Streckfus in January of last year in Maj. Keller's office was one of expediency only, as Maj. Keller said then that that was all he could get Cooper to do, and "it looked like that or nothing."

Neither the spirit nor the letter of that agreement was carried out by Mr. Cooper, and Maj. Keller wrote us in August that he did not intend to ask Cooper to put in the booms, etc.

Now, our boats struck those piers seven times last season, which is proof of our contention that they are dangerous.

The water there is 40 feet deep, and an accident could cause a great loss of life as well as property, and we certainly feel that those piers (at least the first two west of the center span) should be removed and the span on both sides then be protected by booms.

We wish to impress the fact that only two boat owners were consulted by Maj. Keller when the so-called agreement was made after a large number of pilots, masters, and owners had insisted upon a 300-foot opening in a straight line only the day previous at a hearing in Maj. Keller's office), and one of these owners, Capt. Blair, operates two small boats in that district, either one of which can go through the 175-foot draw broadside without striking.

While two of our steamers are over 75-foot beam and three of them over 250 feet in length, one of them 235 feet, and for this reason especially we feel that our protest should carry weight at this time after we have proved by one season's operation the danger of the arrangement and the error of the claim on the part of Mr. Cooper and Maj. Keller that it was safe.

In addition to this, the power company absolutely disclaims any liability whatever for damages or delays resulting from any cause incident to the construction at Keokuk and has refused payment of claims filed with them by this company.

Under these circumstances we do not feel that in justice to ourselves and the interests of river navigation in that section that boat property should in this way be exposed to risk and lives of passengers endangered by allowing those piers to remain in the middle of the navigable channel, pending the legalizing of them by congressional action.

Our understanding of the thing is that they are there contrary to law; and if this is so, we feel that boat property which must use that portion of the river should receive first consideration as to safety.

The Government booms referred to will unquestionably be urgently needed below the locks this season (as requested last year) to prevent other accidents similar to the one in which our steamer *Dubuque* tore a 20-foot hole in her hull by striking a drill boat after booms had been requested.

Those booms were never placed below the lock last season, but should by all means be put there now.

Should the old booms be used above the lock, new ones should be placed below.

In view of your having already recommended approval of the plan to leave the piers as they are, with certain booms added, we are to-day protesting to the Secretary of War and others at Washington against the adoption of the plan, and are urging the objections as stated in this letter.

We are sorry, indeed, to not be able to meet the power company's proposal in this instance, but we know the situation to be dangerous, and the proposed plan betters the present condition but little.

Our objections are not based upon theory at all, but upon the experience and reports of a dozen of the very best pilots in the profession, plus the repair bills for damages already sustained there by our boats.

Yours, very respectfully,

STRECKFUS STEAMBOAT LINE.

Mr. ADAMSON. Will the gentleman let me ask him another question?

Mr. RAINEY. With pleasure.

Mr. ADAMSON. The gentleman does not think that under the terms of this bill or any existing law such a bridge could be built on a dam without express authority of Congress, does he?

Mr. RAINEY. I do not think so, but my amendment limits the right of the Secretary of War to permit it to be done. He can not permit it except by the authority of Congress. If this is added here to the provisions which regulate the building of dams, then in the future the Secretary of War can not permit this to be done. It can not then be done without the permission of Congress. The Secretary of War has done it without the permission of Congress, but afterwards the company expects to come here and ask permission to complete their bridge, and this will probably occur in connection with any bridge that may be built.

Mr. BURNETT. Mr. Chairman, will the gentleman permit a question there?

Mr. RAINEY. Yes.

Mr. BURNETT. I did not catch from the reading exactly what the amendment provided. Is the gentleman sure that unless there is an expression in that amendment that it does not prevent the company from getting that permission, under the language the company would not be permitted to do that? Is it not so general, in other words, that it would prevent the company building a dam from even getting the permission? I suggest that possibly——

Mr. RAINEY. I do not so understand it. If my friend will call my attention to anything that will make it any clearer, I shall be glad to make it clearer.

Mr. BURNETT. I did not catch it distinctly.

Mr. RAINEY. I am trying to prevent the Secretary of War from authorizing this to be done unless the company first gets the consent of Congress. There is no dispute about the facts.

Mr. STEVENS of Minnesota. Mr. Chairman, the gentleman from Illinois says there is no dispute. I want to say that not one single statement that the gentleman made is correct. There is not one.

Mr. RAINEY. I got my view of the facts from the chairman of the committee. If I am mistaken, I must have misunderstood him.

Mr. ADAMSON. I have my views about allowing one company, one corporation, to put a bridge on top of a dam constructed by another corporation, but I do not see any use in putting an amendment in this bill to take care of it. In other words, I think we shall be able to take care of the trouble at Keokuk without the gentleman putting an amendment in this bill.

Mr. RAINEY. And the committee will try to do hereafter what I am trying to do now, to prevent the company from doing this very thing?

Mr. ADAMSON. I am trying, so far as I am concerned, to take care of the situation, and I am not going to vote for another corporation to put a bridge on top of that dam.

Mr. RAINEY. Nor am I going to vote for another corporation to be allowed to put a bridge on top of that dam. It ought not to be permitted to do it without the permission of Congress. That is the only thing I want to research.

Mr. ADAMSON. The matter is before our committee, and we are at work on it as well as we know how, and we will work it out all right. If the gentleman will only restrain his impetuosity I think we shall work it out all right.

Mr. RAINEY. The gentleman should restrain the impetuosity of the War Department in this regard.

Mr. ADAMSON. I think they will work it out.

Mr. RAINEY. They do not seem to be able to.

Mr. ADAMSON. The gentleman says he is familiar with my attitude. I just wanted to say what my attitude was.

Mr. BURNETT. Mr. Chairman, I would like to have a reading of the amendment.

The CHAIRMAN. Without objection, the amendment will again be reported.

The Clerk read as follows:

Amend, on page 7, by inserting after line 2 the following: "No dam erected under this act shall be used as a railroad bridge or a wagon-road bridge, and no piers shall be built in any river in connection with the construction of any such dam to be afterwards used for bridge purposes; and all bridge piers heretofore constructed in any river in connection with any water-power dam shall be removed within such reasonable time as the Secretary of War may fix for said purpose."

Mr. RAINEY. After the words providing for the bridge I ask unanimous consent to amend it by inserting the words "unless the consent of Congress shall be had therefor."

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to modify his amendment. Is there objection?

There was no objection.

Mr. STEVENS of Minnesota. Mr. Chairman, does the gentleman from Georgia [Mr. ADAMSON] control the time?

Mr. ADAMSON. I understand the gentleman from Minnesota has five minutes.

Mr. STEVENS of Minnesota. Mr. Chairman, a moment ago I made the statement that the gentleman from Illinois [Mr. RAINEY] was in error about the facts. Our subcommittee went to Keokuk last winter. I found that I sympathized with the position of the gentleman from Illinois. The district which I have the honor to represent is vitally interested in the navigation of the Mississippi River, and some of our people have complained about the very thing which was described by the gentleman from Illinois. So I went there determined to find out exactly what the facts are and to do the best I could to promote and protect navigation. While we were there we met the representatives of all the steamboat lines and talked over with them what ought to be done. They told us that if the pier should be protected by booms they would be satisfied. They told us so at that time there.

Now, the pier has never been used as a public bridge or for a public bridge. It has always been used as a part of the plant for the construction of the dam. In order to get its men and its material back and forth from the Iowa shore to the dam under construction a pier was placed in the fore bay, and a temporary bridge was constructed from the Iowa shore to the main part of the dam and the power house, and upon that pier a temporary bridge was constructed. I understand that temporary bridge has been torn down. It never has been used as a highway bridge for the public, and it never has been used as a railway bridge or for any such purpose except work trains, and it has never been used by the public or anybody else or for anything else except for the construction of the dam.

Mr. RAINEY. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of Minnesota. Yes.

Mr. RAINEY. I will ask the gentleman if it is not true that the piers are still there, and that before the gentleman's committee there is pending a bill asking permission to use them?

Mr. STEVENS of Minnesota. Yes. The gentleman is correct. What is known as the Interstate Bridge Co., whatever it may be, composed of the citizens of Keokuk, did ask us to authorize that dam to be used as a bridge. The bill has been pending before our committee and has not been acted upon. There is a bridge below which it is contended satisfies the demands of the situation, so the bill has not been acted upon. What the future may bring forth no one can foretell, but I can assure this committee that nothing will be permitted which will obstruct navigation. That will be our primary purpose.

The gentleman made the statement the other day that the Government was forced to protect the pier by booms at its own expense. I think that was incorrect. Representatives of the bridge company told us they would do it for themselves. So I requested the other day the Chief of Engineers to forward to me a statement as to the situation, and I will read it. He forwarded the following:

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, July 27, 1914.

Hon. F. C. STEVENS,
United States House of Representatives.

SIR: In response to your oral request, I have the honor to inclose herewith a copy of a telegram just received from Maj. Hoffman, the district engineer officer at Rock Island, Ill., relative to installation of booms in fore bay of lock at Keokuk, Iowa.

Very respectfully,

DAN C. KINGMAN,
Chief of Engineers, United States Army.

Then I will read this telegram:

ROCK ISLAND, ILL., *July 25, 1914.*

CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, D. C.:

Booms have been installed in fore bay Keokuk power plant as per my indorsement department letter of March 2, 35003, and map therewith, apparently perfectly satisfactory to steamboat line; no complaints received. Booms are old ones, belonging to Government; were borrowed, repaired at considerable cost, and installed by power company without any expense to United States.

HOFFMAN, *Engineer.*

I judge from this that the fact is that part of the old booms that belonged to the United States were installed and were taken over and fixed up by the power company, so that the gentleman from Illinois is correct to that extent; and to that I wish to change my statement that the old Government boom was installed by saying that it was fixed up at the expense of the power company, and has since been installed at the expense of the power company, and is now there at their expense.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly; I yield.

Mr. MANN. I understood my colleague to state the other day—and I am quite sure that he did—that this installing of booms was to be done at the expense of the United States.

Mr. STEVENS of Minnesota. Yes; he made that statement, and I am here showing what the exact facts are by the official report, and that is what the House wants to know.

Mr. RAINEY. I suppose that the main cost is the cost of booming. Merely tying to the piers does not amount to anything. The gentleman says he does not know of any complaints. I have a number of letters complaining as to the width of the span and saying that it ought to be 300 feet.

Mr. STEVENS of Minnesota. I have had no complaints, and evidently the engineers have not had any.

The CHAIRMAN. The question is on the amendment of the gentleman from Illinois [Mr. RAINEY].

The question was taken; and on a division (demanded by Mr. RAINEY) there were—ayes 5, noes 14.

Accordingly the amendment was rejected.

The Clerk read as follows:

SEC. 5. That the operation of navigation facilities which shall be constructed as a part of or in connection with any such dam, whether at the expense of such grantee or of the United States, shall at all times be subject to such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by any such dam, as shall be made by the Secretary of War and Chief of Engineers, and in the use and operation of such navigation facilities the interests of navigation shall be paramount to the uses of such dam by such grantee for power purposes. Such rules and regulations may include the maintenance and operation by such grantee, at its own expense, of such lights and other signals as may be directed by the Secretary of War and Chief of Engineers and such fishways as shall be prescribed by the Secretary of Commerce, and for failure to comply with any such rule or regulation such grantee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than $500 for each month's default, in addition to other penalties herein prescribed or provided by law.

Mr. ANDERSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report.

Mr. ADAMSON. Mr. Chairman, I should like to see if we can agree on time for debate on this question.

Mr. ANDERSON. I think we had better have the amendment read first.

Mr. ADAMSON. There are several amendments to be offered. I do not want to count the time used in reading the amendments.

Mr. FERRIS. May I inquire what the gentleman's amendment is?

Mr. ANDERSON. Let it be read.

Mr. ADAMSON. I ask unanimous consent that debate on this paragraph and amendments thereto conclude in 20 minutes.

Mr. FERRIS. I hope the gentleman will withdraw that request until this amendment is read.

Mr. ADAMSON. I withdraw the request at the suggestion of the gentleman from Oklahoma.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Minnesota [Mr. ANDERSON].

The Clerk read as follows:

Amend, section 5, by inserting after the word "that," in line 3, on page 7, the following: "the right is hereby reserved to the United States to construct, maintain, and operate, in connection with any dam built in accordance with the provisions of this act, a suitable lock or locks, booms, sluices, or any other structures for navigation purposes and."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

Mr. ADAMSON. What is the necessity for this amendment? We already have it in the law.

Mr. ANDERSON. I should be glad to have the gentleman point out where it is in the law.

Mr. MANN. It is in the existing law, but not in this bill.

Mr. ANDERSON. It is in the existing law, but not in this bill.

Mr. ADAMSON. I had an idea that it was in the bill.

Mr. ANDERSON. No; if the gentleman will remember, the other day we adopted an amendment which reserved to the Government the right to require the grantee to construct locks, booms, sluices, and so forth, at its expense, but we did not reserve to the Government itself the right to construct a lock, boom, sluice, or anything of that kind in connection with the dam of the grantee, and the only purpose of this amendment is to restore the existing law, reserving to the Government the right itself to construct a lock at its own expense in connection with the dam of the grantee. It is conceivable that conditions might arise under which it would not be proper or fair to require the grantee to build a lock, sluice, or boom at its expense, and the purpose of this amendment is to permit the Government to build it under such conditions.

Mr. ADAMSON. If the gentleman will look on page 3——

Mr. STEVENS of Minnesota. Pages 2 and 3.

Mr. ADAMSON. I think he will find it all adequately expressed. We prescribe that the Government may require it done by the grantee, because, beginning at line 7, page 3, we provide that—

Whenever Congress shall deem such facilities necessary, the persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches.

Mr. ANDERSON. But that merely has reference to the banks, and the title to the land for such purposes.

Mr. ADAMSON. I understand that.

Mr. ANDERSON. It does not reserve to the Government the right to construct the dam.

Mr. ADAMSON. You do not need authority for the Government to construct a dam whenever it wants to.

Mr. ANDERSON. That is so; but where you have granted to the grantee the right to build a dam the Government can not go in afterwards and build a lock itself in connection with such a dam unless it reserves the right to do so.

Mr. ADAMSON. Let the amendment be reported again.

The CHAIRMAN. If there be no objection, the Clerk will again report the amendment.

The amendment of Mr. ANDERSON was again read.

Mr. ADAMSON. I do not think it is necessary at all, but I see no objection to it.

Mr. MANN. Will the gentleman yield to me?

Mr. ADAMSON. Certainly.

Mr. MANN. In section 2 there is a provision in regard to the construction of locks, booms, sluices, or any other structure or structures, and so forth. Then following that is a provision that the persons owning such dams shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches. Now, if the Government acquires the title to the land for the construction of a lock, why do we have to ask permission of the grantee that we may construct the lock?

Mr. STEVENS of Minnesota. Let me ask one further question. In section 2 it is provided—

That as a part of such approval such conditions and stipulations may be imposed as the Secretary of War and the Chief of Engineers may deem necessary to protect the present and future interests of the United States, which may include the condition that the persons constructing or maintaining such dam shall construct, maintain, and operate in connection therewith, without expense to the United States, a lock or locks, booms, sluices, or any other structure or structures which the Secretary of War and the Chief of Engineers or Congress then may deem necessary in the interests of navigation.

Now, that, attached to the statement that the gentleman has just read, gives all the authority that is necessary, does it not?

Mr. MANN. We thought it did when we drew the original act.

Mr. ANDERSON. But you put the reservation in the original act.

Mr. MANN. It is put in here, but in a different place; that is all.

Mr. STEVENS of Minnesota. It ought to be there.

Mr. MANN. If we give the right to the grantee to build a dam and say that if we construct a lock the grantee shall furnish us with the title to the land that we think necessary for the construction of the lock, and we get the title to the land, why do we have to ask the grantee for license to build the lock?

Mr. ANDERSON. We might have to tear up half of his dam.

Mr. MANN. That is left to the Secretary of War. If we get the title to the land, it does not require the consent of anybody else.

Mr. ANDERSON. It seems to me that it does require the consent of the grantee. If you are going to destroy his property, you have to reserve the right to do it, and if you intend to change his property you must reserve that right. That is all my amendment does.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

The question was taken, and the amendment was agreed to.

Mr. DILLON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 7, line 19, after the word "shall," strike out the following: be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than" and insert the following: "pay damages for the breach thereof, and in addition thereto a penalty of."

Mr. ADAMSON. That is a bad mixture of criminal and civil law, and I am against it.

Mr. DILLON. If this amendment is adopted, it will eliminate from the section the criminal penalty and fix in lieu thereof a penalty for the violation of the contract. If I understand the purport of this bill, it makes a grant on certain conditions of certain privileges. It is a grant of a franchise, and a franchise is a contract. I see no necessity of trying to make a criminal act when the elements of a crime do not exist.

I would like for the gentleman from Georgia [Mr. ADAMSON] to point out where there is any act of criminality in this bill. It does not say that it must be intentionally done; it does not say that it must be maliciously done; it does not say that it must be a malicious destruction of property. There is not a single criminal act specified, and yet it says that a man is guilty of a criminal offense simply because he is unable to carry into effect a contract. It might just as well be said that a man who executes a promissory note is guilty of a misdemeanor when he fails to pay it. The mixture of criminal and civil law is in the bill, and there is no necessity of trying to make an act a crime when it is not a crime. Congress, or any legislative body, has not the right to say that an act is criminal when it is not an offense against the public.

Again, the Government has reserved its right in various ways. It has the right of mandamus, the right of injunction; it can go into court and exercise the right at any time it may choose to do so by these remedies. I want to say to the gentleman that, in my judgment, he can not convict anybody simply because he is unable to comply with his contract.

Mr. MANN. Will the gentleman yield?

Mr. DILLON. In a moment. For instance, suppose a party became insolvent, would you say he was a criminal because he could not comply with his contract? These are contractual relations, and it is not a criminal act.

Mr. ADAMSON. Upon what language does the gentleman base his opinion or construction making this a contract?

Mr. MANN. It refers to the lights, other signals, and fishways, and so forth.

Mr. DILLON. These are elements in the specifications and plans.

Mr. MANN. The gentleman is entirely mistaken as to its being a contract.

Mr. DILLON. This simply specifies the plans that may be promulgated and become a part of the contract.

Mr. MANN. Will the gentleman yield?

Mr. DILLON. Yes.

Mr. MANN. Suppose this was enacted into law to-day without this provision in it—does the gentleman doubt our authority to put it in a separate act to-morrow, requiring them to furnish lights, fishways, and so forth, under penalty for violation?

Mr. DILLON. You should go further than you do in this connection and put some act of criminality into it, because this is contractual; it does not belong to the Criminal Code.

Mr. ADAMSON. This section does not mention a contract at all.

Mr. DILLON. This is a contract. A grant is a contract.

Mr. ADAMSON. This section is an independent proposition that requires rules and regulations to be made by the War Department and makes it a crime if they are violated by the owner of the dam. There is no contract about it or in it.

Mr. DILLON. If the gentleman will allow me to make a further suggestion, this is a grant on the part of the Government. Now, the grantee is unknown. It is a float, so to speak; but when the grantee is found and comes up and says, "I will comply with these conditions," then he becomes the grantee.

Mr. ADAMSON. He does not have to say so under this section.

Mr. DILLON. Then you have the grantor and the grantee, and you have a contract without any element of criminality in it.

Mr. ADAMSON. We make laws to cover unborn generations. They do not agree to comply with them; but if they do not, they are punished.

Mr. DILLON. This is a contractual relation, but it is not a contractual relation until the other party is found who will take up the grantee part of it.

Mr. ADAMSON. This does not depend on contractual relations; it says that when they do not such things as the Secretary of War shall require they shall be convicted.

Mr. DILLON. The Supreme Court of the United States decided in the Dartmouth College case many years ago that a franchise or grant of privilege is a contract.

Mr. MANN. Mr. Chairman, my friend from South Dakota is entirely mistaken.

Mr. COOPER. The "grantee" is in the bill.

Mr. MANN. There is no grantee in this bill.

Mr. DILLON. There will be. Let me ask the gentleman when the party who accepts these conditions comes in, then have you not your grantee?

Mr. MANN. Why, certainly. This is not a contract. This is a provision authorizing the provisions under which a contract may be entered into hereafter. First, it may be an act of Congress giving authority to construct a dam, or the authority may be obtained from the Secretary of War without an act of Congress in certain cases, and this fixes the terms of the contract when it is entered into; but this section has nothing to do with the contract. This section is a regulation of commerce, and on all or any of the navigable streams wherever an obstruction has been or is hereafter placed we have the right to require lights and signals. We have the right to require fishways. We do not get that under a contractual relation at all. We get that under the power to regulate commerce.

While I was helping to bring such bills out of the Committee on Interstate and Foreign Commerce, we passed a provision requiring everybody who now or heretofore had a bridge or other obstruction over or in navigable waters to furnish such lights as should be authorized by the Lighthouse Bureau and under penalty of the law. If we shou'd pass this law to-day, and grant a permit to some one to-morrow, and he should build a dam the next day, then the next day after that we could pass this criminal provision of the law as a new law requiring lights. We want a criminal provision of the law to make people put lights and signals up. Suppose there is a great dam or a great bridge and a steamboat runs into it for lack of a light. It is very little satisfaction to say that you can sue the company. You want to be able to convict for a criminal offense.

Mr. COOPER. Mr. Chairman, when I said the word "grantee" was used in the bill, I was looking straight at the bill, and I find the word "grantee" in line 14 and also in line 19.

Mr. MANN. I did not doubt that the word "grantee" was in the bill. I knew that it was.

Mr. COOPER. If the gent'eman did not doubt it, he has a queer way of expressing his acquiescence in my views. [Laughter.]

Mr. MANN. I did not say the word "grantee" was not in the bill.

Mr. COOPER. Because he absolutely contradicted me. He said the word "grantee" was not in the bill.

Mr. MANN. Oh, I made no such statement.

Mr. COOPER. Then I can simply shake my hand and look up and say, "I appeal to the RECORD."

Mr. MANN. Well, appeal to the RECORD. I shall not change it.

Mr. COOPER. Of course, the gentleman did not mean to say it, but he said it.

Mr. HUMPHREYS of Mississippi. He said it all right.

Mr. COOPER. I have the statement of the gentleman from Mississippi, and with him I am a clear majority on this proposition. [Laughter.]

Mr. Chairman, this provides that the grantee shall be guilty of a misdemeanor. I have not studied this very closely, but could not the grantee in this case be a corporation, I will ask the gentleman from Georgia?

Mr. ADAMSON. I do not think there is any doubt about that. It could be fined.

Mr. COOPER. But the gentleman from Illinois said it would not amount to very much to collect the money, but that "we propose to imprison." How are you going to imprison a corporation?

Mr. ADAMSON. If the gentleman from Wisconsin will permit, I suggest also that the remedy suggested by the gentleman from South Dakota [Mr. DILLON] exists anyway by law. If anybody is damaged by violation of this law, a suit can be brought.

Mr. COOPER. Yes; but I did not understand the force of the argument of the gentleman from Illinois [Mr. MANN] that the mere collection of money would not amount to anything where a steamboat, because of the absence of a light, collided with an obstruction in a river. He said we wanted something more than the collection of money.

Mr. ADAMSON. I understood him to mean a suit for damages would not be a suffic'ent satisfaction.

Mr. MANN. Mr. Chairman, I did not say anything about "imprisonment." I do not change my remarks as they are made to the reporter. I did not say the word "grantee" was not in this bill, and I do not change my remarks, notwithstanding my friend from Wisconsin [Mr. COOPER] and my friend from Mississippi [Mr. HUMPHREYS]. I said there was no grantee in this bill. I repeat it for the benefit of the two gentlemen. If they can find a grantee in this bill, I will take it back.

Mr. COOPER. Mr. Chairman, what I said was that this was the language of the bill. I did not say there was not any grantee. I said that was the language of the bill. The gentleman disputed that statement.

Mr. ADAMSON. Let us have peace.

Mr. DILLON. Mr. Chairman, I would like to ask the gentleman from Illinois a question. He says there is no grantee in this bill. Will there not be a grantee when one is found to comply with the conditions?

Mr. MANN. There will be a grantee, undoubtedly, regulated by the provisions of the bill. There can be no dispute about that.

Mr. DILLON. He becomes a grantee when he complies with the conditions of the bill.

Mr. MANN. Undoubtedly he becomes a grantee.

Mr. DILLON. Does the gentleman think a man should be declared to be a criminal when he is without notice of what the Secretary of War may promulgate in reference to rules and regulations?

Mr. MANN. I do not think he could be without any notice.

Mr. DILLON. But you are making him a criminal without giving him notice.

Mr. MANN. Oh, no; not at all. He will not have any notice of this bill, except the theoretical notice of the law, but it is his business to know what signals are required to protect navigation from the obstructions that he puts in the river, and if he does not learn them he takes his chance of punishment for it.

Mr. ANDERSON. Mr. Chairman, I move to strike out the last word of the amendment.

Mr. ADAMSON. Mr. Chairman, I ask unanimous consent that all debate on this section and amendments end in five minutes.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that all debate on this section and amendments thereto close in five minutes. Is there objection?

Mr. ANDERSON. Reserving the right to object——

Mr. THOMSON of Illinois. Reserving the right to object——

Mr. ADAMSON. We have had over half an hour of debate on this section.

Mr. THOMSON of Illinois. I have not had half a minute.

Mr. ANDERSON. Mr. Chairman, I simply want to direct the attention of the chairman of the committee to a situation which seems to me to exist in both this section and the following section.

Mr. MANN. Had we not better dispose of this amendment? Mr. Chairman, I ask for the regular order.

The CHAIRMAN. The regular order is the gentleman from Minnesota.

Mr. MANN. No; there is an amendment pending.

The CHAIRMAN. The gentleman from Minnesota moved to strike out the last word of the amendment, and that gave him the floor for five minutes.

Mr. MANN. I think we ought to dispose of the amendments one at a time as we get to them.

Mr. ANDERSON. If the gentleman wants to dispose of the amendment, I am perfectly willing to withdraw my motion; but I do not want to be cut off.

Mr. MANN. That will not cut the gentleman off.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota.

The question was taken, and the amendment was rejected.

Mr. ANDERSON. Mr. Chairman, I move to strike out the last word.

Mr. ADAMSON. Mr. Chairman, can we get an agreement on this section and amendments?

Mr. ANDERSON. I shall want but a few minutes. I merely want to call the attention of the committee to a situation which exists in both this section and section 7.

Mr. ADAMSON. Mr. Chairman, I ask unanimous consent that debate on this section and all amendments thereto end in 25 minutes.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that all debate on this section and all amendments thereto close in 25 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. ANDERSON. Mr. Chairman, my purpose in rising is to call the attention of the chairman and other members of the committee to a situation which arises both under this section and section 7. In the subsequent section the committee has changed the language of the existing law which provides that "any person who shall fail to comply with the lawful order of the Secretary of War" to "any grantee who shall fail or refuse to comply." Now, both section 5 and section 7 are penal sections, and they only apply to the persons who are specifically designated in them. What I want to direct the attention of the committee to is this: Under either of those sections would it be possible to convict an assignee of a grantee under this act? He is not mentioned, the bill does not apply to him. The section is penal, and it would only apply to persons specifically denominated by the section itself; and it seems to me that the word "grantee" in both of these sections to conform with the general policy of the law ought to be changed to "person." The bill itself defines persons so that it applies to both singular and plural and includes incorporations, companies, and associations.

Mr. ADAMSON. Has the gentleman noticed the language at the top of page 10, which reads—

whether by voluntary transfer, judicial sale, or foreclosure sale or otherwise, shall be subject to all the conditions of the approval under which such rights are held, and also subject to all the provisions and conditions of this act to the same extent as though such successor or assign were the original owner hereunder.

Mr. ANDERSON. Well, that may be applicable, so far as contractural relations are concerned.

Mr. ADAMSON. It says "the provisions of this bill."

Mr. ANDERSON. I want to know whether it is applicable to the penal provisions of the act. I confess I am somewhat in doubt about the proposition myself, and I merely wanted to direct the attention of the committee to it.

Mr. RAINEY. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

After the word "purposes," in line 13, of page 7, strike out the period, insert a comma, and add: "the storage of water back of any such dam shall not be permitted to be accomplished in such a way as to interfere with the natural flow of the waters of the stream in which such dam is located, but at all hours of the day and night there shall be permitted to pass through or over such dam the ordinary natural flow of said stream: *Provided*, That the interests of navigation require the entire ordinary flow of said stream in the day and in the night."

Mr. RAINEY. Mr. Chairman, I ask unanimous consent to proceed for 10 minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for 10 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. ADAMSON. The agreement included 10 minutes to the gentleman.

Mr. RAINEY. I thank the gentleman.

Mr. Chairman, this amendment, if adopted, does not interfere with the storage of water in rivers where storage may be accomplished without interfering with navigation. This amendment is offered to reach a condition in the Mississippi River and perhaps in other rivers. At Keokuk the company there has been permitted by an order of the War Department to store water at night and to materially stop the flow of the Mississippi River. They did it last year and they are doing it this year, in order to enable the company to have more water to use in the daytime. This is desirable, of course, considered from the standpoint of generating as much power as the river will produce, but it has at that point a disastrous effect upon navigation. I want to read what some officers of steamboats and some steamboat companies navigating this river have to say about this storage of water. Frequently vessels navigating below the dam have great difficulty in reaching the dam, especially in the nighttime. I read from the Waterways Journal, referring to an article in the Keokuk Gate City. The Waterways Journal says:

If the Keokuk Gate City had had a representative with us to go to bed on the steamer *Keokuk* on the morning of September 12, 1913, at 3 a. m., he would have found the boat afloat. On arising at 6 a. m. the boat was hard aground, as was the Streckfuss Line steamer *Dubuque*. That morning we saw launches out on the river at 3 a. m., and at 6.30 a. m. they were high and dry. The writer, manager of the Waterways Journal, will make this affidavit. We will also swear that the stage of water at Alton, Ill., is also affected by the storage of water by the power company at night.

Again, I want to read from a letter written by the traffic manager of the Streckfuss Steamboat Line to me, of recent date:

The increase and reduction of the flow having caused unusual raising and lowering of the water level, which at the same time affected the current in the river in such way as to give an unusual speed to the flow during some hours of the day and to produce practically a slack-water channel during other hours.

Our boats have frequently been delayed by reason of this variation in the channel, some of them having been left aground at their landings through sudden fall in the water level.

In one instance it was necessary to hold one of our big St. Paul steamers five hours at the lock until enough water could be allowed to pass the dam as to raise the channel below the dam some 18 inches.

The principal actual delays were brought about by the shoal conditions at certain times of the day, when the minimum quantity of water was allowed to pass through the dam.

As to complaints regarding the method of operating the dam, would explain that these complaints have borne upon the channel conditions produced by the operation of the dam, but not upon anything pertaining to the dam itself.

We discontinued our St. Paul service about two weeks earlier than anticipated this season, due to the uncertainty of getting through the Keokuk district without injury or delay to steamers, and because of these delays having come about with considerable frequency during the month of August, we deemed it unwise to attempt to handle any material freight business, as the increase draft of vessels so laden seem to assure further delays and possibly injury in the Keokuk vicinity.

We know of no additional boats under construction or contemplation for use on the upper river through any affect the completion of the dam may have had upon navigation.

The dam has benefited navigation for a distance of only about 40 miles. Above this it has had absolutely no affect upon the channel.

This company operates five boats in the district between St. Louis and St. Paul, and we have not been able this season to find any indication of benefit by reason of increase to our business in which the Keokuk Dam or power plant could have possibly contributed anything by way of betterment.

The completion of the dam will have no effect upon navigation on the river as regards either the volume or the rates for the reason, as we already stated, it has so far influenced the river above by way of betterment for a distance of 40 miles, and during the past season it has unquestionably proved a serious interference with navigation for approximately a like distance below Keokuk.

The fact of difficulty or interference with navigation at any point between St. Louis and St. Paul interferes with the traffic over the entire area, for the reason that in this section of the country business originates below Keokuk and is destined for points above Keokuk, or vice versa, and if a steamer has difficulty in getting through the channel to Keokuk, the result is the same as though the river were in that condition for its entire length.

Your letter does not touch upon the other difficulty at Keokuk, which gives indication of being one of the most unfavorable and undesirable conditions bearing upon navigation at Keokuk.

By this we refer to the bridge piers which have been placed across the channel in the fore bay, between the power house and the Iowa shore at Keokuk.

These piers are most unfortunately arranged and have been in position all this season, practically without protection work, and have seriously endangered steamers a number of times this season through their unfortunate location, mainly and partly through the absence of protection work.

Our steamers have struck these piers seven times, and in each instance narrowly escaped a most serious accident.

We seem this season to have been unable to make these conditions clear to the proper authorities or to the power company.

This, notwithstanding the fact that we strenuously objected to the arrangement before navigation opened and subsequent experience during the season, seems to have borne out our contentions perfectly.

I read again from a letter written by A. V. Fetter, who operates a boat on the Mississippi River, as follows:

In our opinion navigation of the river has not been improved. We do not know of any vessels having to wait for a rise of water before being able to make the locks. Navigation above the dam has been improved, but below the dam it is more difficult because of the various stages of water each day.

I read from a letter of recent date written by Bert Edwards, a river pilot:

I think that holding the water back at night this summer caused the river between St. Louis and Keokuk to be in bad shape, because the rising and falling caused the channel to fill up; a fall of any length causes the channel to cut out, but as soon as a rise comes the channel stops cutting and fills up.

Always before in low water the channel was very close, but good except in a few wide places. This summer there was no good channel below Keokuk except in a few places where the water has always been deep.

There is no question in my mind but what the addition of more turbines and the holding back of more water will not only interfere with but stop all navigation of boats of any size between Keokuk and St. Louis when there is less than 2 feet on the gauges.

I think that the holding back of the water affected the channel down to the mouth of the Illinois River. I am going by my experience in former seasons, when the river was as low and lower than this season. I mean the reading of bridge gauges, not by condition of channel, as the channel was very bad this summer with the gauges showing more water.

I can not say that I noticed any sudden change in the stage of water. But our time always got us through the lock before dark, and the first night out of St. Louis we were too far below to have the sudden change affect the channel, as I am told it did above.

The difficulties of navigation this summer were caused by the channel being very bad; or, in other words, it did not cut out when the water fell as in former seasons.

The bridge piers above the lock should be placed so that the dam span would be in line with the lock.

As the bridge piers are now, also the opening in the ice breaker, makes it very bad with a big boat or a tow. You have to come in headed for the power house and then turn to the right to get into the lock, and if the wind is blowing off the Iowa shore it is almost impossible to keep from striking the power-house wall. The only protection I have seen on the bridge piers this summer was put there to protect the piers, not the steamboats, as they offered no protection to boats.

Yours, respectfully,

BERT EDWARDS,
Pilot Steamer "St. Paul."

I read an extract from a letter of the Interstate Material Co.—a letter written by Capt. Dipple, of that company—a company which operates boats on the Mississippi River:

Boats had no difficulty in navigating before this improvement was brought about by the dam, but they will not be able to navigate below the dam if the water is held back at night during low-water period.

We appreciate your effort in protecting the river and will be glad to furnish you any information that may help you.

Again, I read from a letter of Harry F. Lancaster, pilot of the steamer *Dubuque*, written to me:

ST. LOUIS, *October 10, 1913.*

GENTLEMEN: The question has been brought before me as to the effect the power dam at Keokuk, Iowa, has on the river below Keokuk.

I can say that the water at Keokuk, Iowa, has a fall of 18 or 20 inches during the time the power company holds the water back at night. I know this to be a fact, as I have seen it; and was pilot on the steamer *Dubuque* this season for five months; and this steamer made three landings a week at Keokuk; and in the morning the steamer *Dubuque* had to back for some time to free herself from being aground at that landing. This has delayed steamer each time.

At times we have landed or tried to land so that we could place the steamer gangplank on the runway; but this was impossible to do, because of the water having lowered so as to cause the gangplank to come 5 or 6 feet short of reaching the water's edge.

About the power company's bridge above the lock:

This bridge, I can say, is one of the worst obstructions to steamboats I ever saw on the Mississippi River, and if this bridge opening is not straightened or taken out it will cause some great disaster, loss of life or boat.

This bridge is hard to run at any time, wind or no wind, as these large boats flank a great deal in that deep and dead water.

If this bridge was in line with the lock and the opening at the ice breaker it would be safe for steamboats to run.

Steamer *Dubuque* damaged her starboard guard on one of these piers while she was trying to back through, and I know that it was not the fault of the pilot. I myself was the pilot on duty, and I took every precaution I could, but the wind caught me and blew me on to the Iowa side pier, and the captain and the owners of the *Dubuque* will state this as the fact.

Yours, truly,

HARRY E. LANCASTER,
Pilot Steamer "Dubuque."

I read from a letter written by C. H. Magee, captain of the steamer *Quincy*, operating on this part of the river:

STRECKFUS STEAMBOAT LINE, *St. Louis, Mo.*

GENTLEMEN: Your letter of the 11th received, and in regard to steamer *Quincy* being delayed at the entrance to the lock, will say that we tried three times to enter the lock, but couldn't get over, as we hit the rocks that were blasted out. We also sounded and couldn't find more than 3 feet.

We then tied up and got Maj. Meigs out and he had the power company open up the wickets and raised the water 18 inches, and we got over all right.

Yours, truly,

C. MCGEE,
Captain Steamer "Quincy."

Mr. ADAMSON. Mr. Chairman, will the gentleman tell of the date of that statement?

Mr. RAINEY. That was dated in October last.

Mr. ADAMSON. Have not satisfactory regulations been adopted and acquiesced in since that?

Mr. RAINEY. I did not understand it so.

Mr. ADAMSON. That is my impression.

Mr. RAINEY. I understand the storing of the water still goes on.

Mr. ADAMSON. I am talking about the use and regulation of the dam so as to provide for the flow of water below.

Mr. RAINEY. I do not understand that there have been any changes. At any rate, if there have been, there can not be any objection to this amendment, because it seeks to reach only such storage of water as affects navigation and is advisory in its character, in order to produce some better regulations hereafter, if water is to be stored at night, than there has been heretofore.

Now, I have a number of letters from companies operating on the river, as to the varying tides in the river below the dam caused by storing the water there in the nighttime, in order to enable this company to produce 104,000 horsepower, which is all they can produce even if permitted to store the way they have been permitted to store heretofore. That sort of storage, if it interferes with navigation, ought not to be permitted, and if this is a bill to promote navigation, as the committee insists it is, then, in connection with the statement in this bill which comes just ahead of this amendment, to the effect that the interests of navigation shall be paramount, there can be no objection to an amendment of this character.

The CHAIRMAN. The question is on the amendment.

Mr. STEVENS of Minnesota. Mr. Chairman, the gentleman's amendment goes to the root of the difficulty which always has existed and always must exist in the use of dams for water power, and navigation also, in navigable streams, and if such an amendment be adopted of course it would completely end the construction of any more dams in any navigable streams in this country and destroy those which now are so used.

The situation is this: I have had several years of experience in such a controversy, as I narrated to the committee the other day, upon the St. Croix River, between Minnesota and Wisconsin, of which the western part is in my district. Every dam which is constructed in a navigable stream where navigation exists necessarily impedes the navigation somewhat. Both navigation and power want all the water. Both of them can not have all the water. There must be, in order that both shall exist—and both ought to exist in the proper use of a stream—a proper division. If only one shall exist, a very large part of the water resources of that section are wasted, so that it is the business of the Government, in order to utilize to the utmost the water resources of that region, to take hold and regulate how that water ought to be used for the best advantage of the people and encourage all interests properly in the best use of the water which is for the public use.

Now, in the St. Croix River we had the same trouble years ago; both navigation and the power interests wanted to be first considered. After various hearings the War Department adopted a set of rules and regulations which have worked fairly well ever since, navigation being given the preference in the use of the water. The same condition will necessarily exist at Keokuk. Of course, the steamboat owners wish to use that water and go as they please all the time. Naturally, I do not blame them at all. The power interest wishes to use that water all the time. Neither of them can do so. If the gentleman's amendment passes, that will eliminate the Keokuk Dam as a power proposition. If the Keokuk Dam people would have their way, it almost would wipe out the steamboats unless we shall be careful. Neither of them ought to have their own way. Both of them should exist and flourish. It is the business of the Government to decide what ought to be done and cause them all to be good and all to prosper, and our committee had that very situation in mind in framing the present law, where it provides:

And in the use and operation of such navigation facilities the interests of navigation shall be paramount to the uses of such dams by such grantee for power purposes.

In other words, we provide that in the disposition of the water the War Department shall give first consideration to the interests of navigation. Now, we had this same complaint last winter when the committee went to Keokuk, and we found the same condition had existed, and we found undoubtedly that the power company was to blame in doing or allowing that to be done. We jumped on them just as hard as we knew how, and we told them that that condition ought to stop and must stop and that navigation ought to be cared for, and the engineer was informed and the power company was informed and the steamboat people were informed of the rules by which they can have the right to have power at such times as may be deemed reasonable by the Chief of Engineers. We were informed that the situation last fall, of which the gentleman from Illinois complains, was due in large part to the experiments in the use of water with a new dam, to the closing or adjusting parts of the works, which was necessary then, and would not occur again. We examined the situation and believed it to be true and that such difficulties will not occur again to the detriment of navigation.

But if the law places a hard-and-fast rule on the use of water, of course that disposes of the use of the water for power, and but little power could be generated; so the value of the plant for that purpose would be destroyed. The result is, we believe, that this amendment placed by the committee in the bill would notify the engineers that that water must be conserved, that it must be utilized to the greatest advantage for both navigation and power, and that navigation should be paramount. But if we attempt to make a hard-and-fast rule that the natural flow for navigation must be maintained all the time, that completely destroys all power.

Now I yield to the gentleman from Illinois.

Mr. RAINEY. I do not think the gentleman understood the amendment as read.

Mr. STEVENS of Minnesota. I listened to it carefully.

Mr. RAINEY. It seeks to accomplish exactly what the gentleman wishes.

Mr. STEVENS of Minnesota. But I will say to the gentleman that the Keokuk Dam is not the only dam in the United States. Remember that this bill covers all the dams. The War Department and the Chief of Engineers, with their officers and civil engineers of ability and experience on the ground, who have had experience in that kind of work—and they have it all over the United States under all sorts of conditions—can adopt rules and regulations to preserve this water to the best advantage of the people better than can be done by an arbitrary rule laid down by the House.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of Minnesota. Certainly.

Mr. ESCH. Does not the law now authorize the Secretary of War to determine and regulate the level of the boom?

Mr. STEVENS of Minnesota. Yes: that was provided in the first water-power bill that was passed, and we continue it in this bill. But now we lay down the rule as to preference. I believe the preference ought to be given to commerce; and, fitting in with this situation all over the United States, I think it would accomplish just exactly what my friend from Illinois [Mr. RAINEY] desires to accomplish, and yet give some benefit to the power resources.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. RAINEY].

The question was taken, and the amendment was rejected.

Mr. THOMSON of Illinois. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 7, by striking out the word "such" after the word "any," in line 5 of said page, and by inserting, after the word "dam," in said line, the following: "built under the provisions of this act."

The CHAIRMAN. All debate on this paragraph and amendments thereto has closed.

Mr. THOMSON of Illinois. I beg pardon. I have five minutes.

Mr. ADAMSON. There is five minutes' time left.

The CHAIRMAN. Yes. The gentleman from Illinois will proceed.

Mr. THOMSON of Illinois. Mr. Chairman, in connection with the amendment offered by the gentleman from Minnesota [Mr. ANDERSON], on line 3 it seems to me this amendment should be made. Unless this amendment be made in connection with the amendment offered by the gentleman from Minnesota and adopted, the section would read this way:

That the right is hereby reserved to the United States to construct, maintain, and operate in connection with any dam built in accordance with the provisions of this act a suitable lock or locks, booms, sluices, or any other structures for navigation purposes and the operation of navigation facilities which shall be constructed as a part of or in connection with such dam.

In other words, the word "such" would seem to limit what follows to such dams as the Government might put a lock in.

Mr. ADAMSON. Mr. Chairman, will the gentleman yield there for an interruption?

Mr. THOMSON of Illinois. Certainly.

Mr. ADAMSON. Does the gentleman think that the insertion of the amendment of the gentleman from Minnesota changes the preceding sense or the object to which the word "such" refers?

Mr. THOMSON of Illinois. With the amendment of the gentleman from Minnesota, the word "such" confines what follows to the dam that the Government might put a lock in.

Mr. ADAMSON. Let me hear the gentleman read it as he has amended it.

Mr. THOMSON of Illinois. I read:

That the right is hereby reserved to the United States to construct, maintain, and operate in connection with any dam built in accordance with the provisions of this act a suitable lock or locks, sluices, booms, or other structures for navigation purposes and the operation of navigation facilities which shall be constructed as a part of or in connection with such dam.

And so on.

Mr. ADAMSON. What do you put in there?

Mr. THOMSON of Illinois. I strike out the word "such" and put in the words "built under the provisions of this act" after the word "dam."

Mr. ADAMSON. If you do not strike out the word "such," it still will not refer to anything except "under the provisions of this act." Does not the word "such" mean the same thing?

Mr. THOMSON of Illinois. No, sir; it does not. The word "such," with the amendment inserted in line 3 by the gentleman from Minnesota, would seem to relate to the language in lines 3, 4, and 5—to such dams as the Government would build a lock in.

Mr. ADAMSON. You have added in there "in connection with the construction," and so forth.

Mr. MANN. The amendment offered by the gentleman from Minnesota says "any dam built in accordance with the provisions of this act." That is the dam referred to. That is "such" dam.

Mr. THOMSON of Illinois. I do not think so. If I did, I would not offer my amendment, certainly.

Mr. MANN. "Such dam" must refer to that, because that is what it is.

Mr. THOMSON of Illinois. No. The first words of the section, with the amendment adopted offered by the gentleman from Minnesota, provide that the Government reserves the right to build a lock in a dam, and then it goes ahead and says that "the operation of navigation facilities which shall be constructed in any such dam," namely, the dam that the Government decides to build a lock in, and so on.

Mr. MANN. How does the gentleman propose to change it?

Mr. THOMSON of Illinois. I propose to change it so as to read "any dam built under the provisions of this act."

Mr. MANN. I do not think there is any objection to that.

Mr. ADAMSON. I do not think it makes any difference.

Mr. THOMSON of Illinois. It removes the possibility of raising a question; and at least there is a possibility of contending that the word "such" in there means——

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. THOMSON].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 6. That the persons constructing, maintaining, or operating any dam or appurtenant or accessory works, in accordance with the provisions of this act, shall be liable for any damage that may be inflicted thereby upon private property, either by overflow or otherwise.

Mr. LIEB. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Indiana moves to strike out the last word.

Mr. LIEB. Mr. Chairman, the committee, in its report, urges the passage of this bill for two reasons, namely:

First and primarily, to promote navigation on streams which otherwise would never be navigable. * * * And, secondly, to permit the development of the resources and the progress of the industries of the countries through which those streams run by encouraging the development of possible water power on those streams.

I am opposed to the measure for two reasons: First, because it is absolutely hostile to time-honored Democratic principles, and, secondly, because it does not square with sound, practical business methods.

My disagreement with the first reason advanced by the committee is clear-cut. I do not believe that this bill will "first and primarily, promote navigation." I am firmly convinced that that very desirable result will be subordinated, and that the first and primary effort will be to promote water power for private gain. The committee's second premise is in reality not a premise at all but merely a tail to the first kite, so that the proposition is that of whether or not this bill, if enacted into law, will or will not have the beneficent effect predicted by the committee.

Has this House, composed of men of wide experience, forgotten that immortal doctrine of the father of Democracy with which every school child is familiar: "Equal rights to all; special privileges to none"? This sentiment has been reiterated by the Democratic Party at every opportunity since its utterance. Witness this paragraph from the platform adopted by the Democratic Party at Baltimore in 1912:

We insist upon the full exercise of all the powers of the Government, both State and National, to protect the people from injustice at the hands of those who seek to make the Government a private asset in business. There is no twilight zone between the National and State in which exploiting interests can take refuge from both.

I can not conceive how it would be possible to engineer a more brazen attempt to create a "twilight zone" than in the case of this bill. Why give this special privilege to water-power monopolists at the expense of equal rights to all our citizens, so that our streams will be made navigable? Oh, shades of Jefferson, behold the water-power monopolists in the light of public benefactors

Under the present policy of river and harbor improvement rivers are not improved unless the territory through which they pass is evidently able to originate sufficient traffic to compensate for the cost of the improvement. That being the case, this bill seeks to secure the navigability of a stream which is manifestly unproductive of commerce by giving to the water-power monopolists one of the greatest natural resources of which the country boasts. The benefits that might be derived from making a given stream navigable can be pretty fairly gauged. The loss through giving away the people's heritage can not even be estimated. Yet it is here proposed to make the exchange. It is a similar proposition to that of the small boy whose pocketknife has a broken blade proposing to swap "sight unseen" with the boy whose knife he knows to be in perfect condition. It is the sale of a birthright for a mess of pottage. [Applause.]

I now propose that if we are to give away our birthright we find a more worthy object for our bounty than the Water Power Trust. If we must make a gift, let it be to the people. Let us improve every navigable stream at the expense of the people of the several States and then let us declare the several States and their people the owners of the water power that has been thus developed The income derived by the States would ultimately compensate for the cost of the improvement, and the people would still hold title to the water-power right and have the

benefit of a vast system of navigable streams by means of which to carry on their commerce. If the water-power monopolists can pay for the cost of making these streams navigable from revenue derived from the water power, the people can do the same thing, and in addition keep these great natural resources for themselves and posterity.

Mr. ADAMSON. Mr. Chairman, will the gentleman permit a question?

Mr. LIEB. Excuse me for the present.

The CHAIRMAN. The gentleman declines to yield at this time.

Mr. LIEB. I call to Members' attention as a concrete example the case of this good city of Washington. A few miles above the city there is what is known as the Great Falls of the Potomac River. Every Member of the House knows the possibility of that section as to the development of water power, and, further, that the Potomac is only navigable up to that section. Under the terms of this bill water-power monopolists can secure the right to build locks and a dam at or near Great Falls of such a character as to form a pool that will make that section of the Potomac navigable. They then have a monopoly of the water power that might be developed there. This water power could then be sold in the city of Washington at a considerable profit. As a result a section of the country which is not largely productive of commerce would have for the development of its commerce a navigable stream, but the people would have lost the water-power right and extended special privileges to the water-power monopoly.

My proposal is that the Federal Government build that lock and dam and then give to the government of the District of Columbia the water power thus created. Let the District government derive whatever profit is to be made from the project. But the argument is advanced that the people would be compelled to bear the burden of the cost of construction. That can not be gainsaid. But what of lightening those burdens by means of the sale of the water power, and so forth? I repeat that on this basis, if the project should be carried to a conclusion, we would find here a navigable river, cheaper and better light and power facilities, and ultimately, through the retention of the water-power rights in the hands of the people, a lower rate of taxation. [Applause.]

In my judgment there are innumerable legal and technical weaknesses in this measure that are of themselves sufficient to condemn it, but I base my opposition on broad, economic ground. I say render unto the people that which is the people's, remain true to the Democratic faith, and husband for posterity the priceless heritage that is theirs. Let us not follow in the footsteps of our predecessors by creating a "twilight zone," where special privilege can mulct the people unrestrained.

I can not believe that a bill so undemocratic as this will ever become law during a Democratic administration. Should it pass this House I predict for it a peaceful end in the Senate, but should it by mischance reach the Executive, I feel confident that the great statesman and friend of the people now occupying the White House will find expression for a righteous wrath by exercising his constitutional prerogative of the veto. [Applause.]

In this connection I desire to quote an article on Waterway Improvement written by Gen. William H. Bixby, former Chief of Engineers of the United States Army, for the Engineering News:

For future development in river transportation it is far more essential to increase the total mileage for the use of medium draft vessels in the United States than it is to secure deeper draft improvements along the comparatively short stretches of the ocean and Great Lakes water fronts. Ideal transportation will not be accomplished until all rivers and canals may be utilized by vessels drawing from 6 to 9 feet.

The most important function of a river is its use as a free, or nearly free, route of transportation, but at the same time the river is exceedingly useful as a means of water supply for household, municipal, factory, and farm consumption, as a means of dynamic power, and as a means of drainage and sewerage. On the other hand, the river is detrimental and often dangerous as regards its power to destroy riparian properties by erosion, and a source of mixed benefit and danger from its overflow.

As a general rule, the availability of the river for irrigation and power is greatest in the upper quarter of its length, where navigation is impracticable. The river is usually most dangerous to property in the upper quarter and lower half; and its usefulness for drainage, sewerage, or refuse removal is greatest in its lower three-quarters. For direct consumption of its water by people and factories, quantity and uniformity of flow and purity of water are important features; for irrigation purposes the purity usually becomes nonessential; for power alone the quantity of water, its uniform flow, and height of fall are important.

Droughts injure the usefulness of the river for alimentation, irrigation, drainage, and navigation purposes and have but few, if any, redeeming qualities. Floods, though often causing great damage by bank erosion and by property destruction, are yet often of great benefit by reason of their fertilizing deposits, which so enrich the river bottom lands that even one good crop in three years will sometimes render the land profitable to the landowner.

The special conditions most favorable to each of the above functions of a river are so divergent that it is usually impossible to establish any river improvement without detriment to one or more of such functions. A reasonable compromise in such matters is all that can be expected.

Under such circumstances Federal conservation and control of water interests, as a whole, seems difficult and impracticable, except within public lands; and State control within State limits, subject only to Federal control of the interests of public navigation, now seems the only immediate, and possibly final, solution of the question.

While storage reservoirs for irrigation purposes, for city and factory use, for navigable canals, or for power on the upper nonnavigable portions of rivers, are used to a moderate extent throughout Europe, artificial reservoirs at river headwaters merely to prevent low-water stages in the lower navigable river are not in general or extensive use.

The weakest point of any storage-reservoir system for flood prevention is that the most dangerous and injurious floods in a river basin are often produced by heavy rainfall in the middle areas of such basin, while the reservoirs near the headwaters of the river are too high up the river to be of use when most needed.

In many European countries, such as Austria-Hungary, the protection of property from river overflow is secured generally by levees on each side of the river bank of such height and distance apart that the space between them is sufficient to hold as much water as can fall during several days of heavy rainfall in the basin above, the result of such levees being practically to form a long, narrow, temporary, and intermittent reservoir, requiring several days to fill or to empty, along the full length of the river in the place where most needed. The cost of such reservoirs between levees being no more than the cost of upstream reservoirs necessary to produce an equally useful effect.

Such water control by levees for reducing to a minimum the property damage from floods appears to have proved the most satisfactory solution up to the present time.

In France, Germany, and Austria the General Government and improvement associations acquire the riparian properties before commencing or completing the river improvements, by which process the reclaimed lands become sources of profit to the improvement work and help to pay therefor. This practice, so far as legal and practicable, seems worthy of being followed in the United States, and legislation in that direction should be enacted or encouraged for all locations.

The ownership of water powers on existing streams, while a question of great importance, is still not at all uniform throughout the various individual States and, perhaps, not fully settled in the courts.

Except where the Federal Government is the original owner, as within the forest reserves under charge of the Department of Agriculture, or on other public lands under charge of the Department of the Interior, or by special acquisition and act of Congress, the Federal Government has not at present any absolute undisputed ownership of undeveloped water powers.

But on all navigable streams and on those which affect navigation the Federal Government has a limited control of water and water powers. As a general rule, throughout the United States, the public right to the use of a river for purposes of navigation to the extent deemed proper by the Federal Government, takes precedence over all other rights; and the use and control of the water and of its flow within the river takes precedence over other uses and controls.

The general dam act of June 23, 1910, recognized the fact that the ownership of power developed by dams constructed wholly at private expense is a matter for control by the individual States and not by the Federal Government. In accordance with this act, the United States, through the War Department, is empowered to require the dam owner to furnish free of cost such water and such locks, log sluices, fishways, and other auxiliary constructions as are necessary in the interest of navigation and the fisheries, and the act reserves to the United States the control of water levels.

What is most essential is not so much the present development of the water power as it is such an early action by each State as shall assure the conservation of all potential water powers in such a way as to prevent them from being monopolized by private parties during present disuse, and as to make possible at any future day their use to the fullest extent allowable and to the greatest benefit to the general public.

As levees and drainage are built principally for the reclamation of farm land and of other private properties; as irrigation systems are built principally for the development of farm property and the building up of communities; and as water powers are developed principally for the building up of corporations and business concerns concerned mainly with developments within a single State, it seems very proper that all these engineer constructions should be regulated, if at all, by State authority rather than by Federal authority, and that the Federal Government should intervene only as an advisor or a controller, and should be an executive only so far as such constructions reach within the limits of several States or directly affect the development and prosperity of several States.

Because of the present growing probability that the natural resources of land and water must eventually be handled in some such manner as above outlined, it is already urgently necessary that every State of the Union, which has not already done so, should establish at an early date an office of State engineer, or its equivalent, to investigate, report results, advise the State legislature, direct construction operations, and exercise State control of all work or drainage, irrigation, water-power construction, and other water utilities within each State, leaving to the Federal Government the control of only such of these constructions as concern such rivers and harbors as do not properly come under control of a single State.

Mr. LINDBERGH. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Minnesota offers an amendment which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. LINDBERGH:

Page 7, line 24, after the word "works" insert "and lessees under section 14 of this act."

Mr. ADAMSON. Will the gentleman yield?

Mr. LINDBERGH. Yes.

Mr. ADAMSON. Did you examine the language at the top of page 10, where you will see that that provision is already amply made—

and also subject to all the provisions and conditions of this act to the same extent as though such successor or assign were the original owner hereunder?

Mr. LINDBERGH. The gentleman may be correct about that, but there are six of these Government reservoirs in my district——

Mr. ADAMSON. The purpose of this language is to meet that.

Mr. LINDBERGH. And I should like to have the same rule of damages apply to those who take leases, as applied to the owners of the original structures, and if there is any doubt about it, I should like to have that doubt removed.

Mr. ADAMSON. If the gentleman will notice the language preceding that—

And any successor or assign of such property or project, whether by voluntary transfer, judicial sale, or foreclosure sale or otherwise, shall be subject to all the conditions of the approval under which such rights are held.

Mr. LINDBERGH. Where is that?

Mr. ADAMSON. At the top of page 10. It was put in there for the very purpose for which the gentleman suggests his amendment.

Mr. LINDBERGH. That applies to permits to construct dams. I refer to section 14, where there is a provision for the leasing of the power from the reservoirs, and I have not yet concluded that the right to secure damages applies against the people who secure lease rights under section 14.

Mr. ADAMSON. When the gentleman gets to section 14 he will find that it also is amply guarded to meet these conditions. If not, we can amend it when we get to it.

Mr. LINDBERGH. With that understanding, I withdraw the amendment.

Mr. MANN. I object. I want to be heard on the amendment.

The CHAIRMAN. The gentleman from Illinois objects to withdrawing the amendment.

Mr. MANN. We might as well discuss it now as when we get to section 14.

The gentleman from Minnesota [Mr. LINDBERGH], who has just succeeded, with his influence, in passing through this House a bill authorizing homestead entries upon some of the lands where the Government has flowage rights and reserving the flowage rights to the Government, has now proposed an amendment which would require the Government to pay for overflowing any of these lands where it has reserved the flowage rights. That is in effect the proposition now pending. The gentleman proposes to make any lessee of the Government pay for any damage that may be inflicted by overflow or otherwise. These lessees are lessees of Government projects. In effect it is the Government itself, because if the lessee has to pay a certain amount of damages, of course the lessee will not pay as much.

Mr. LINDBERGH. I do not ask to have my amendment apply particularly or alone to those who take homesteads on these lands; but there are many other people whom this section will affect, who have lands that may be damaged by the overflow. A comparatively small part of the land will be owned by the people who take homesteads.

Mr. MANN. I believe my friend from Minnesota [Mr. LINDBERGH] is going up to make an investigation of some of these overflow matters. I do not doubt that there may be cases where the Government is equitably bound to make reparation for overflow, if the Government did not have the right to overflow a reservation, in reference to these reservoirs in the gentleman's district. But if the Government is under that obligation, the Government must assume it. It can not pass it on to the lessee down on the Mississippi River, away below the reservoirs. The Government must remain under the obligation, and if there be any obligation it ought to settle; but where the Government has reserved the right to overflow there ought not to be any obligation on the part of the Government. Now, there is no object in putting this burden on the lessee, because with that burden imposed the Government gets that much less money for the lease of the power it has reserved or created.

Mr. LINDBERGH. Does not the gentleman think this section establishes a rule of damages different from the common law?

Mr. MANN. I do not. I will say to the gentleman frankly that I put this provision, or one like it, into the first law, as a matter of extra precaution. I doubt whether the Government has any jurisdiction over the subject at all.

Mr. STEPHENS of Minnesota. Is there any doubt that it has not?

Mr. MANN. It is perfectly plain that if we give to a grantee the authority to build a dam, and he injures private property in a State, under the State constitution he must pay for the damage to the private property.

In most of the States if he takes or injures the property he is liable for it. The Government has no control over these laws, because they are State laws affecting only the personal property in the State. But in order that we might put the grantees on notice that they were obliged to pay for these damages inflicted, we put it into the various laws originally that have been passed so that they would know that we recognize the fact that they were liable to damages, although I do not think you could bring a suit under that provision.

Mr. ANDERSON. If I understand what my colleague is after it is to make the Government liable where it builds reservoirs in connection with the dam and its overflows.

Mr. MANN. Undoubtedly the amendment offered by the gentleman's colleague would be effective, because while we have no power over damages to private property in a State, we have control of the question of recovering damages against the United States or its lessees.

Mr. LINDBERGH. I am not seeking to make it apply to the Government, but to make it apply to those who acquire the leases.

Mr. MANN. That is the same effect; they are the lessees of the Government property.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 7. That any grantee who shall fail or refuse to comply with the lawful order of the Secretary of War, made in accordance with the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $1,000, and every month such grantee shall remain in default shall be deemed a new offense and subject such grantee to additional penalties therefor; and in addition to said penalties the Attorney General may, on request of the Secretary of War, institute proper proceedings in the district court of the United States in the district in which such structure or any of its accessory works may, in whole or in part, exist, for the purpose of having such violation stopped by injunction, mandamus, or other process; and any such district court shall have jurisdiction over all such proceedings and shall have the power to make and enforce all writs, orders, and decrees necessary to compel the compliance with the requirements of this act and the lawful orders of the Secretary of War and the performance of any condition or stipulation imposed under the provisions of this act; and if the unlawful maintenance and operation are shown to be such as shall require a revocation of all rights and privileges held under authority of this act, the court may decree such revocation. In case of such a decree, the court may wind up the business of such grantee conducted under the rights in question, and may decree the sale of the dam and all appurtenant property constructed or acquired under authority of this act, and may declare such dam and accessory works to be an unreasonable obstruction to navigation and cause their removal at the expense of the grantee owning or controlling the same, except when the United States has been previously reimbursed for such removal, or may provide for the sale of the dam and all accessory and appurtenant works constructed under authority of this act for the further development of water power, and may make and enforce such other and further orders and decrees as equity demands; and in case of such a sale for the further development of water power the vendee shall take the rights and privileges and shall perform the duties which belonged to the previous grantee, and shall assume such outstanding obligations and liabilities arising out of the maintenance and operation of said dam and accessory works for power purposes as the court may deem equitable in the premises.

Mr. ANDERSON. Mr. Chairman, I move to strike out the word "and," in line 4, page 9, and insert the word "or."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 9, line 4, strike out the word "and" and insert in lieu thereof the word "or."

Mr. ANDERSON. Mr. Chairman, I think the necessity of that amendment must be obvious to the committee. I do not want to take much time.

Mr. ADAMSON. I do not think it is worth debating. The two propositions are coupled with the word "and," meaning that they can do either one or both.

Mr. THOMSON of Illinois. Mr. Chairman, I have an amendment in the way of a substitute.

The CHAIRMAN. The Clerk will report the amendment by way of a substitute.

The Clerk read as follows:

Amend, page 9, lines 2, 3, and 4, by striking out everything after the word "and," in line 2, down to and including the word "and," in line 4.

Mr. THOMSON of Illinois. Mr. Chairman, the part that is stricken out includes the word "and" that would be changed under the amendment of the gentleman from Minnesota to the word "or." The language stricken out is as follows:

may decree the sale of the dam and all appurtenant property constructed or acquired under authority of this act, and——

Mr. ADAMSON. Why does the gentleman object to that if the Government can find a better party to conduct it?

Mr. THOMSON of Illinois. Because the same proposition is contained in lines 9, 10, and 11 on page 9, where it says—

or may provide for the sale of the dam and all accessory works constructed under authority of this act.

Mr. ADAMSON. I have been pretty good in regard to the gentleman's doubling up language two or three times. We are not stingy about the use of language.

Mr. THOMSON of Illinois. I would not charge the gentleman with being stingy, but I am certain that he does not want to use the same language two or three times with no purpose. I wish the gentleman would permit me to read the section beginning at the bottom of page 8 with this language left out:

In case of such a decree, the court may wind up the business of such grantee conducted under the rights in question, and may declare such dam and accessory works to be an unreasonable obstruction to navigation and cause their removal at the expense of the grantee owning or controlling the same.

That merely says that in such case he may wind up the business concern and by decree provide for a removal of the dam, or he may sell it. The language I propose to strike out is left in the bill almost word for word. I call the gentleman's attention to the fact that in one place it is in the bill in italics and in another place in roman. The italics were added after the other part, and maybe they put in the same language twice by mistake.

Mr. ADAMSON. If the gentleman will permit, I will ask the gentleman from Minnesota to apologize.

Mr. STEVENS of Minnesota. I think the gentleman from Illinois is correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois as a substitute.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. ANDERSON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 8, lines 10 and 11, after the word "penalty," strike out the words "the Attorney General may on request of" and insert the word "may" after "Secretary of War."

Mr. ANDERSON. Mr. Chairman, the pending section changes in a very vital particular the present law with respect to the enforcement of the orders of the Secretary of War in connection with the water power in navigation projects. The present law provides that in case of a violation of the lawful order of the Secretary of War he may cause the removal of the property erected under the act. The pending section provides that he may apply to the Attorney General to institute an action to cause the enforcement of the order.

It is perfectly obvious that it is of absolutely no avail for the Secretary of War to make an order requiring the grantee to perform any particular act if he has not the power to compel the enforcement of that order. Under the pending section he can do absolutely nothing except apply to the Attorney General to institute the necessary proceedings in mandamus or injunction, whatever it may be, to compel the enforcement of his order, because the section reads:

And in addition to the penalties, the Attorney General may, on request of the Secretary of War, institute proper proceedings in the district court of the United States—

And so forth.

Mr. ADAMSON. What is the gentleman's suggestion?

Mr. ANDERSON. I simply propose to strike out the language, "the Attorney General may, on request of" and insert after the words "the Secretary of War" the word "may," so that it will read:

In addition to the penalties, the Secretary of War may institute proper proceedings—

And so forth.

Mr. ADAMSON. He would have to do it through the Attorney General, would he not?

Mr. ANDERSON. I do not think he would necessarily, but even if he did, it is at least mandatory in that event, which it certainly is not now.

Mr. ADAMSON. I am perfectly willing to substitute the word "shall" for the word "may," but it means the same thing.

Mr. MANN. Oh, not at all.

Mr. ADAMSON. But I do not think we ought to use mandatory language to a Cabinet officer.

Mr. ANDERSON. Of course, as far as I am concerned, I object to the whole proposition, which changes the enforcement of the law from an administrative enforcement to a judicial enforcement.

Mr. ADAMSON. Does the gentleman imagine that he could get up a legitimate section that would dispense with the possibility of litigation?

Mr. ANDERSON. Not at all.

Mr. ADAMSON. You can not deny a citizen of the United States access to the courthouse. You have to file suit against him and let him plead.

Mr. ANDERSON. The present law—and I understand the gentleman had something to do with the passage of that law—provides that the Secretary of War may, upon the refusal of the persons owning or controlling any such dam, and so forth, to comply with any lawful order, cause the removal of such dam, accessory works, and so forth.

Mr. ADAMSON. He would have to do it just exactly as we have expressed here—by a lawsuit.

Mr. ANDERSON. I do not think he would at all. It is an administrative proposition. This section changes absolutely the general policy with respect to the enforcement of these orders of the Secretary of War. There can not be any question about that.

Mr. STEVENS of Minnesota. All it changes is the burden. It does not change going into court at all.

Mr. MANN. Mr. Chairman, I am not sure that I recall exactly all of the provisions in the original dam law, but my recollection is that it authorized the Secretary of War to remove a dam where the Secretary thought it was an obstruction to navigation, if he choose, and it put a penalty upon the obstructor or the owner of the dam who did not remove it when he was notified to, and that was the second remedy. The third remedy was to authorize the Secretary of War, through the Attorney General, to go into court through mandamus, injunction, or any other summary or other kind of proceedings, so that there could be no rights lost on the part of the Government to remove obstructions where they ought to be removed. Of course, if the Secretary of War should come in and remove an obstruction to navigation illegally, he would be responsible for that act, and probably the officials under him would be personally responsible. The Secretary of War would not do that where there was any possible controversy. There might be cases, however, where the Secretary of War would direct the officials to remove an obstruction to navigation, as he does now, in the case of a sunken vessel or things of that kind in a river, where he does not wish to go into court to get authority to do it.

Mr. ADAMSON. What does the gentleman think of the suggestion of the gentleman from Minnesota [Mr. STEVENS] that this merely changes the burden, that under the provision to which the gentleman refers the grantee himself could go in and restrain an illegality if it was illegal to do so.

Mr. MANN. The grantee will not come in.

Mr. ADAMSON. The point is that you can not deprive a man of his rights in court.

Mr. MANN. You can not deprive a man of his rights theoretically, but you can sometimes remove his obstruction to navigation, whether he consents or not. The gentleman from Minnesota [Mr. ANDERSON] has suggested in the amendment that he proposed, as I understand it, to make the statute read that the Attorney General shall commence the suit.

Mr. ANDERSON. Oh, that was suggested by the gentleman from Georgia.

Mr. MANN. I understood the gentleman from Minnesota to suggest that.

Mr. ADAMSON. No; the gentleman from Minnesota wants to leave it so that the Secretary of War may or shall commence suit without going to the Attorney General.

Mr. MANN. The Secretary of War, of course, can not commence a suit. Suit has to be commenced by an attorney. The Secretary of War is not officially an attorney. He might commence a suit, I suppose, if we authorized him to do so by the Judge Advocate General, but the suits on behalf of the Government of the United States are brought through the district attorneys of the United States, and they are under the jurisdiction of the Attorney General. It would be ridiculous, it seems to me, to say that all over the United States the Secretary of War should be obliged to send the Judge Advocate General to commence a suit in any district in the United States, instead of having the regular attorneys attend to those suits. Nor do you want to say that the Secretary of War "shall," because it will be a constant practice where anything is done at all for the Secretary of War to refer certain facts to the Attorney General with the request that if the facts warrant it the Attorney General shall commence a suit on behalf of the United States, and it will be the Attorney General, or the lawyers, who must determine in the end whether the facts warrant the beginning of a suit.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 8. That no property or project installed and operated under the provisions or benefits of this act shall be assigned or transferred except upon the written consent of the Secretary of War, except by trust deed or mortgage issued for the purpose of financing the business of such

owner, and any successor or assign of such property or project, whether by voluntary transfer, judicial sale, or foreclosure sale or otherwise, shall be subject to all the conditions of the approval under which such rights are held, and also subject to all the provisions and conditions of this act to the same extent as though such successor or assign were the original owner hereunder.

Mr. STEVENS of New Hampshire. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 9, line 21, after the word "that," by inserting the words "no rights granted under the provisions of this act and."

Mr. STEVENS of New Hampshire. Mr. Chairman, this section is intended to prevent the transfer of property or any project without the consent of the Secretary of War, and it should be so amended as to include not only the property, but any rights granted under the act. The grantees have at least one year in which to begin the actual project. It would be possible under this section as now written for promoters to get the franchise under the act and dispose of it, quite a usual proceeding in the development of water power, and I think that this ought to be prevented.

Mr. ADAMSON. That is all right.

Mr. STEVENS of Minnesota. If the gentleman will permit me to ask, does not the word "project" include rights? Was not that the intention?

Mr. STEVENS of New Hampshire. I think that was the intention, but the words "install and operate" clearly restrict it to the actual property.

The question was taken, and the amendment was agreed to.

Mr. THOMSON of Illinois. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 10, line 2, by inserting, after the word "project," the following: "or any rights accruing hereunder."

Mr. THOMSON of Illinois. Mr. Chairman, that amendment is merely following out the amendment offered by the gentleman from New Hampshire, and if one is adopted the other should be.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 9. That the rights herein granted shall continue for a period of 50 years from and after the date of the completion of the dam described in the original approval, and after the expiration of said 50 years such rights shall continue until compensation has been made to said grantee for the fair value of its property, as hereinafter provided, or until said rights and privileges are revoked as provided in this act, or until action by Congress shall have provided for the disposition of the project or for extending the consent of Congress and fixing the period of extension, as well as providing such additional terms and conditions of consent as Congress may deem wise.

Mr. STEVENS of New Hampshire. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend section 9, page 10, by striking out all of said section and substituting in place thereof the following:

"SEC. 9. That the rights granted herein shall continue for a period of 50 years from and after the date of the original approval unless sooner revoked or forfeited, as provided for in this act."

Mr. STEVENS of New Hampshire. Mr. Chairman, this amendment makes two rather important changes in this section. The original section provided that the 50 years should begin to run from the date of the completion of the dam. That is changed by the amendment to the date of the original approval. The date of the completion of any particular dam or project is necessarily more or less vague. There might be disputes arising as just when the dam is or is not completed; and it is very essential in fixing the term of any charter that the date and time from which the charter began to run should be very definite and possible to ascertain, and therefore it is changed by this amendment to the date of the original approval. Under section 9 as originally written the charter, though for 50 years, is really in fact an indefinite charter. It runs for 50 years, or until the Government shall take the property away, or until Congress shall pass some other act, some other law. I believe a charter granted under this act, which is for 50 years, and a long term, should be not only definite when it begins, but absolutely definite when it closes, and the time should be fixed certainly for the end of the charter. If the Government should not see fit to take the property over, and if Congress should not have provided for a disposition of the project for extending the consent of Congress or fixing the period of extension, the grantees would then be merely tenants by sufferance, which is really all the rights they ought to have under such a long-term lease. One other benefit, I think, would be derived from accepting this amendment. I have no doubt that the rights of the grantees under this charter will be in many instances a valuable right, and the conditions and terms which we would fix to-day are likely to be much more generous to capital than those that would be fixed 50 years from now. Consequently the grantees under this act without exception, in my opinion, will desire no further legislation on the part of Congress.

They will prefer to have this charter run as long as possible. Therefore they will be in a position to obstruct or desire no legislation by Congress. But if their term absolutely expires, they are merely tenants by sufferance, and in order to get a definite extension of the rights of a new charter it will require affirmative action by Congress, these interests themselves will be anxious for action by Congress.

Mr. UNDERWOOD. Will the gentleman allow me to ask him a question there?

Mr. STEVENS of New Hampshire. Yes.

Mr. UNDERWOOD. My desire in reference to this bill is entirely on the question of making it sufficiently liberal to get capital to invest its money. Now, as I understand the gentleman's proposed amendment, he proposes to have the grantee's rights entirely cease at the end of 50 years. Now, the proposition herein contained is that the grantee can have his rights taken away from him at the end of 50 years on the happening of an event, to wit, the paying him back of the fair value of his property. Now, if your provision goes in there and he is required to get further legislation and there is no provision in there that the Government at the end of the happening of this event should absolutely pay him back his money, do you think anybody would put their money in there?

Mr. STEVENS of New Hampshire. Yes; I think they would.

Mr. UNDERWOOD. In view of the fact that he can not amortize this proposition because of the regulation of the rate?

Now, it seems to me, if the gentleman will allow me——

Mr. STEVENS of New Hampshire. Is this on my time or the gentleman's time?

Mr. UNDERWOOD. I did not propose to talk in the gentleman's time. I just wanted to call that to his attention as a business proposition.

Mr. STEVENS of New Hampshire. I am willing for the gentleman to proceed, but I did not want it to come out of my time. If it is my time, I wish to make a suggestion in answer to the argument. The fact that the charter terminates, and the rights terminate under the charter, does not of itself, of course, deprive the corporation of its rights in the property that it has constructed and built. If the termination of the charter also forfeited the rights of the property, I think it is true that no capital would be put in. As a matter of fact, if this amendment were adopted, I think there would be no doubt that Congress would either take the property over or would actually provide new terms for its extension. And I believe my amendment would force the adoption of new terms and conditions, and the gentlemen who have their money in it would be asking for legislation rather than making objections to legislation.

Mr. UNDERWOOD. I do not accord at all with the view sometimes expressed here that Congresses of the future will not act in the interests of the people. I think this Congress to-day mainly acts in the interests of the people, and I think we can safely say that Congress in the future is going to do so.

But, if the gentleman's amendment should be adopted and the rights of the grantee are cut off absolutely at the end of 50 years, without he comes to Congress to get a further extension, I take it, then, if his amendment means anything, that the grantee could no longer operate the dam. He might own the machinery, he might own the plants, but he could not continue his operation; and that would be worse than confiscation, because he would be compelled to continue maintenance charges to protect his property, at the same time not being allowed to use his property. Now, if it does not mean that, if the gentleman's amendment does not mean that he is going to cease operations, it does not mean anything more than this bill does, that at the end of 50 years he can use his property until the Government takes it away from him.

Mr. STEVENS of New Hampshire. The tenancy could be stopped not only by Congress but by the action of the Secretary of War.

Mr. UNDERWOOD. That can not be done now, provided he has paid for his property. I take it the only thing in the world, as this bill stands to-day, at the end of 50 years, that prevents the Government or somebody designated by the Government from taking the property is the payment of the money. I think the gentleman will concede that under the terms of this bill the property ought not to be taken from the grantee until he has paid back the money according to the terms of the bill. And it seems to me that that would put an unnecessary burden and an unnecessary equation here. Certainly the gentleman from New Hampshire would not want to write into this law a

proposition that at the end of the 50 years would make a man, although he owned the property, cease to use it until he came to Congress and got a new permit to use it, when he might be perfectly willing to give it up if the Government wanted him to do so, provided he got his money.

Mr. STEVENS of New Hampshire. He would be a tenant in sufferance, and the gentleman just said that Congress would make wise laws in the future. I think that no doubt Congress will provide for the extension or renewal of these franchises. I think they will be more apt to do it, not only if the public interests demand action, but also the private interests of the gentlemen who have their money in there.

Mr. UNDERWOOD. I will say to the gentleman this, that there may be some cases where there is sufficient influence brought to produce immediate action by Congress. But the lone owner of one dam, who has got one Congressman to look after his interests, will often knock at the door of the Congress for a remedy. I do not know of anyone who is in a more hopeless attitude in this House than a man that has a private claim bill. I admit that there are many such bills that ought not to pass. But when there is a just claim a man has very great difficulty in getting the attention of the House.

The CHAIRMAN. The time of the gentleman from New Hampshire has expired.

Mr. UNDERWOOD. Mr. Chairman, I am opposed to the amendment of the gentleman from New Hampshire.

Now, Mr. Chairman, I disagree with some of my brethren on this bill about the penalties that they are putting on the bill, but I am really anxious to get as good a bill as we can to allow the utilization of the water that is being wasted by going down these streams. I think that is true conservation.

But I do not think that we can afford to put provisions in this bill that are either so restrictive that no man can use them, or so indefinite that no man can risk his property in them.

Now, it seems to me that this clause clearly fixes a fair and reasonable determination of this grant, "that the rights herein granted shall continue for a period of 50 years"—from when? From and after the date of the completion of the structure described in the original approval; "and after the expiration of 50 years such right shall continue until compensation has been made by said grantees for the fair value of the property herein."

Now, I take it that the Secretary of War under this bill has the right to fix the date of the completion of the dam. I think that is fairer than to say the date shall begin with the original grant. There are some dams that could be built in this country and completed in one year. Those are the smaller dams. Possibly they could be completed in two years. But the great structures, the great developers of horsepower that would be more beneficial to the country, to the people, and to business are the structures that take years to complete. I happen to know of one that is a possibility which will probably cost $20,000,000, and I have no doubt it will take at least 10 years to complete its construction.

Now, to say that the 50-year term on such a vast project should begin at the time the project is put into practical operation—a project which perhaps would take 10 years to complete—would practically limit the term to 40 years; and to say to the man on a small project, "You shall run from the time of the signing of the contract," where it takes only one year to build the dam, would be equivalent to saying that he would have 49 years in which to get something back, and that, it seems to me, is clearly putting the cart before the horse. The big project is the one on which you ought to regulate the time so as to get your money back.

I do not believe in the argument that there is not enough money in this country, that money can not be obtained to recapture these projects. If the owner of a dam earns small profits and there be not much money in the enterprise, I take it that at the end of 50 years he will go on, because neither the Government nor anybody else would want to take it away from him, since by doing so you would accomplish nothing if he were making only a small profit or no profit at all. But if there be one of these great enterprises that has greatly increased in value and there is a good profit in the enterprise, and that is shown, I do not think there will be any doubt in the world but that somebody will come to Congress, if Congress itself does not want to deal with the people, and say: "I can make better terms with you; I can make better terms with the Government than the man who has got it." There is no question about that. That is human nature. The desire to get a good thing will bring the bidders here, or the desire to get a good thing will make Congress put up the money itself in order to let the people have the benefit of it.

But I think it would be most injurious, if we want to build these dams, to say to capital: "Although we give you 50 years and agree to pay back to you the value of your property when we recapture it at the end of 50 years, you shall cease to use this dam until you come back and get the permission of Congress." That is practicable, because we are the owners of the property. Do you suppose you could rent a house to a man for a year, or rent the ground for a year to build the house on, or for 10 years, with a contract that if you took it away from him at the end of 10 years you would pay him a fair value for the structure, and then provide in the contract that he had to cease using the house until he came back and made a new contract with you? Nobody would accept it. He would not risk his money. Why should you put him out?

In the case of a dam, if you did not want it, why not let him go along and use it in the interest of the people? He is operating this dam. What condition would my friends put the users of that power in? Suppose that dam was being used to light a town, and at the end of 50 years, by the terms of this contract, you say, "Although you own the project you shall not use it," and he has to shut down his dam and say to the people of that town, "You can not have any more electricity to light up your houses and schools and churches until the consent of Congress is given to use it again."

Mr. FESS. Mr. Chairman, will the gentleman yield?

Mr. UNDERWOOD. Certainly.

Mr. FESS. Is there anything in the contention that if you do not begin the period at the time of the approval of the contract rather than at the completion of the project the work would be expedited?

Mr. UNDERWOOD. There is something in that; but, on the other hand, there is something on the other side. If all those dams could be built in the same length of time, and it would take a short time or a long time—for instance, if we all knew that we were getting back 10 years of our use from the beginning of the project, making it 60 years—that would be one thing; but the indefiniteness in the time of building makes the other a fair proposition.

Mr. FERRIS and Mr. LEWIS of Maryland rose.

The CHAIRMAN. The gentleman from Maryland has been seeking recognition, and the Chair will recognize him before recognizing the gentleman from Oklahoma.

Mr. LEWIS of Maryland. Mr. Chairman, I desire to discuss the amendment as well as the original clause.

Mr. COOPER. Will the gentleman permit one question right there?

Mr. LEWIS of Maryland. Surely.

Mr. COOPER. While the gentleman is discussing it, will he please discuss the provision, on page 14, which requires the dams to be completed within the further time of three years, making four years altogether?

Mr. LEWIS of Maryland. I shall have to decline to go into that point.

I quite agree with the statement of the distinguished gentleman from Alabama [Mr. UNDERWOOD], that it is child's play to pass this bill and seem to grant privileges under it unless its terms are sufficiently liberal effectively to attract private capital. If we are to proceed according to the rules of private finance, we must respect those rules as much as if we were dealing with the principles of chemistry itself. I quite agree with the gentleman, therefore, on the general proposition which he states. But, now, with reference to the facts of a 50-year franchise, do the rules of private finance actually require that this Nation, so far as its now living component parts are concerned, shall surrender irretrievably during a term of half a century control over the subject matter?

I have not heard the discussions on this point. Perhaps if I had heard them I should not be in doubt; but I can not help thinking in that connection that franchises granted by municipalities are not frequently of as great a length of time as 50 years, and yet, despite a limitation of 20 or 25 years, the subject matter is sufficiently attractive to get plenty of capital. Why, sirs, under the laws of Maryland corporations that might seek the privileges accorded in this bill for a franchise of 50 years would have their own corporate lives blown out 10 years before the franchise itself expired, because in Maryland there is a limitation of corporate charters to 40 years. Perhaps Representatives from other States will have other experiences of that kind to apply to the argument.

I would like to ask the gentleman from Alabama, in view of the very extensive attention he has given to this subject, whether he feels assured that the legislation will be useless unless a period as long as 50 years is granted for the enjoyment of the franchise?

Mr. UNDERWOOD. I will say to the gentleman from Maryland that the present law fixes the date at 50 years; and, more than that, this bill puts into the law of the land what is not in the law of the land to-day, and that is the right of regulating the price. Now, that is what the people of the United States are interested in. You may say that the price is not going to be properly regulated. If you say that, why, we might as well abandon legislation and say that we can not legislate in the interests of the people. But if you admit what I believe will be the case—that a reasonable price will be fixed under this law—then the corporation can not amortize its investment, because that regulation will prevent its doing so, in view of the fact that it is going to be paid the fair value of the property at the end of its term, and it should not be allowed to do so.

Then, what are the people interested in—your constituents and mine? They are primarily interested in but two things, in my judgment. One is that at the end of a fixed period the Government may again put its hand on the proposition and reconstruct it. The other is that during the life of that franchise they may receive the power generated by the plant at a fair and reasonable rate, and that is all they are interested in, because if they get their service at a fair price it is a matter of little concern to them who owns the dam and who controls it. Now, that being so, both of these propositions are in this bill without a contest. If the American people can get capital to develop the water power to furnish them light and heat, to create factories and foundries and employ labor, if they are assured that at the end of the fixed period they may recapture the franchise and readjust the conditions, and if during that period there is a fair and reasonable regulation of the price by public authority, I contend that it is not necessary to go further, and that when you put in your contract, as my friend from New Hampshire [Mr. STEVENS] would have you do, the proposition that at the end of 50 years possibly Congress will not for years afterwards live up to its contract and give you back the fair value of the property—not of the franchise or good will, but merely of your property that you put in there—and that you must sit around and can not use your property while you are waiting for Congress to take it away from you—it seems to me that that is absolutely unreasonable.

Mr. LEWIS of Maryland. Will the gentleman yield for a question?

Mr. UNDERWOOD. Certainly.

Mr. LEWIS of Maryland. Is it the gentleman's opinion that this law would not be reasonably effective in attracting private capital to develop the water power if the limit were 30 years instead of 50 years?

Mr. UNDERWOOD. I do not think it would. I am free to say that there are cases where it will probably take a small consideration to create a very great horsepower. You might invite men in to invest for 30 years or for 20 years, but this bill is being built for all cases. There are a great many cases that may be developed where it is of doubtful expediency, where electric power has no market, where one must create use for the power before he can get any money out of it. It takes time to do that. We are not writing the bill for a particular case. If you had a fall creating a great horsepower situated close to the city of Baltimore, I can see how you might grant a franchise in that instance and have it a valuable proposition lasting only 20 years. But suppose you have it in an interior county in Alabama, where there is no great city built to consume the power; where, after you create an immense horsepower, you must invite capital and invite people to come there and consume it. You must have time to build up your market. Therefore I say let us be reasonable about this proposition; let us give the opportunity on the average to invite capital to put its money into these projects clearly in the interest of the American people, if the promise of this bill is carried out, and reasonable regulation is furnished that will insure the users of that power a fair and reasonable value.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield?

Mr. UNDERWOOD. Yes.

Mr. HUMPHREYS of Mississippi. There is a limitation put in section 12 of the bill that the dam must be completed within three years.

Mr. UNDERWOOD. I overlooked that proposition. It was not in the original bill, but was put in by amendment. I am not objecting to that, although I think that very provision limiting the building of a dam to three years will wipe out some of the largest structures of this country.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I ask that the gentleman's time be extended two minutes.

Mr. DONOVAN. Mr. Chairman, the gentleman from Maryland had the floor.

The CHAIRMAN. The gentleman from Connecticut is right, if he makes that point. The gentleman from Mississippi asks unanimous consent that the time of the gentleman from Alabama may be extended two minutes. Is there objection?

There was no objection.

Mr. HUMPHREYS of Mississippi. There are a number of great water-power possibilities in this country that the gentleman is familiar with; Muscle Shoals, for instance. That dam could not possibly be built within three years.

Mr. UNDERWOOD. I agree with the gentleman. I think this bill would exclude a dam at Muscle Shoals, because it could not be constructed within three years.

Mr. HUMPHREYS of Mississippi. All authority, however, to build a dam has to be given by a special act of Congress, and in such case we would be compelled to provide in the special bill additional time for such project.

Mr. UNDERWOOD. I think so.

Mr. STEVENS of Minnesota. What was the time recommended by the engineers in the report to the Committee on Rivers and Harbors as to the construction of a dam at Muscle Shoals, and the term of the grant?

Mr. HUMPHREYS of Mississippi. I do not recollect.

Mr. STEVENS of Minnesota. I think it was 5 to 10 years for construction, and 100 years for the grant, or it could not be financed. That report was made after a very careful and thorough examination by a very able board of engineers, and President Roosevelt advised a term of 99 years for the Rainy River Dam.

Mr. UNDERWOOD. I recognize that some of the biggest dams, like that at Muscle Shoals under the report of the engineers of the War Department, could not be built within three years. I am anxious that the bill should go to the Senate. I realize that we will have to face many things, and that the bill will be largely written in conference, where such things are taken care of. That is the reason I have not offered amendments.

Mr. FERRIS. Mr. Chairman, when the length of the term of 50 years was first suggested to me as an appropriate term, I thought it was too long. At the beginning of the hearing before the Public Lands Committee I thought it was too long, and I had intended to offer an amendment to make it shorter, because the truth is that hydroelectric power is only 24 years old. It was born at Ames, Colo., in 1890, when the first project in the whole world was started. As I say, I thought 50 years was too long, but upon consultation, and having before us authorities which we thought were the best, like ex-Secretary Fisher, the present Secretary Lane, and ex-Forester Gifford Pinchot, who were all of the opinion that the maximum should be 50 years, I have become convinced that 50 years as a maximum is the proper term. It is the maximum. I am not in favor of more. I want 50 years to be the outside, to be the maximum—I want it to be the end. I am fearful as I read section 9 that it is much more. I know that the House wants to get through with this bill and I am sorry to detain the committee, but to my mind this is of so much more importance than the question of the charge for rental that I feel it incumbent on me to say a word. The section starts out with a 50-year term, but it does not stop there. Listen to the reading of the provision on page 10, line 12:

> And after the expiration of said 50 years such rights shall continue until compensation has been made to said grantees for the value of its property as hereinafter provided.

Mr. Chairman, it is fair to say that in time the Federal Government when it has exercised the right to retake or to take the property at all if a public purpose or interest may be shown may take it by condemnation, and this may be done irrespective of any recapture section that we may write into the law. So in the last analysis as that language reads, or at least as I understand it, it is not 50 years, but I fear it is forever, until the Federal Government comes in and appropriates money to take it away. I do not think the committee ought to ask that that be done. Water power as applied to hydroelectric power is only 24 years old. We are in this bill granting a term of 50 years. With that additional language we are granting a much longer term. Why? Because at the end of 50 years what does Congress have to do? It has to appropriate a sufficient sum of money to buy that plant and pay the fair value for it, and that means nothing more nor less than condemnation proceedings. Does anyone think that the American Congress at the end of 50 years would appropriate sufficient money to buy water-power plants and all of the accessory works that go with them? My thought is that when the 50-year term expires Congress will do what it often does—just stand by and let

them go on and on, and probably not even fix the conditions that are due the American people at the expiration of the term.

Mr. UNDERWOOD. Mr. Chairman, will the gentleman yield?

Mr. FERRIS. Yes.

Mr. UNDERWOOD. The gentleman has himself introduced a bill in this House that provides for a 50-year grant and that at the end of that time if the power is taken away the reasonable value shall be paid for it. What is the difference between the "reasonable" and "fair" value of it?

Mr. FERRIS. I will deal with that. In the first place, section 5 of our bill does not say for 50 years. It says for a period not greater than 50 years, and it leaves it to the Secretary to say whether or not it shall be even the full term of 50 years; but at the end of 50 years it provides three things that Congress can do. First, Congress may take it over, if it wants to, which it probably will never do; second, Congress can fix new conditions, and allow the same company to re-lease it under a new lease or grant, and that is something that Congress ought to do; and third, Congress can lease it to a third and new party altogether, which is a thing that it probably might want to do. Those are the three specific things provided for in sections 5 and 6 of our bill.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. FERRIS. Let me first reply to the gentleman from Alabama. Mr. Chairman, the gentleman from Alabama [Mr. UNDERWOOD] suggests to this House and seems to think that at the expiration of 50 years a standstill would come, whereby havoc and disaster would come to the water-power company. No one favors that. I think no such thing would or could happen. If I thought that he was right in that contention, I would stand with him immediately and continue to stand with him. But he is not right about that. What will happen at the end of 50 years or before the end of 50 years? The water-power companies will come to Congress, or to the Secretary of War, or to the body that has control of the matter at that time and secure an additional franchise or extension of the franchise. The reason and the advisability of having that provided for is so that Congress or anyone may then apply the safeguards; may then apply the regulations that in the light of the experience of 50 years we will know should be applied.

Is there anyone here who knows what the growth and development of water power will be in 50 years? It is only 24 years old to-day. Its uses multiply with the close of each day. We light our cities with it and our homes. We heat our homes with it and we cook our food with it; run our street cars; run our railroads, our sewing machines, our electric fans; run our vehicles and do every conceivable thing with it when it is yet an infant only 24 years old. Who knows what we will use it for at the expiration of 74 years, the age it will be plus the 50-year term provided for herein. For that reason I greatly hope that this House may pause for a moment and look at section 9, and I greatly hope that the chairman of the committee and the leader of the House [Mr. UNDERWOOD] may both pause for a moment and see to it that instead of granting a 50-year term we do not grant a much longer term.

Mr. HUMPHREYS of Mississippi. The gentleman recalls that this bill requires that the rates and prices are subject to regulation and change every 10 years.

Mr. FERRIS. Oh, no.

Mr. HUMPHREYS of Mississippi. Oh, yes; according to the amendment that has been adopted.

Mr. FERRIS. That is true only as to the charge. The Sherley amendment provides that we may regulate it at the end of 20 years, and every 10 years thereafter. That refers to the charge and none of the other regulations. That may bring about the very thing that the gentleman from Alabama fears it will—namely, scare away capital, but I believe that 50 years is enough. I do not believe there ought to be any entangling threads or alliances that will let the water-power concern continue to hold it after the 50 years have passed. It is so easy to contend that Congress intended that their rights be perpetual we can scarcely be too careful about what we do. Fifty years is a good, long franchise. It is a franchise that will run beyond the lives of most, if not all, of us here to-day. I repeat we can not be too careful.

Mr. HUMPHREYS of Mississippi. The gentleman provides in his bill that at the expiration of 50 years there are three things which may be done. One is a lease may be granted to another party and other parties than the one originally granted.

Mr. FERRIS. That is one of the things; yes, sir.

Mr. HUMPHREYS of Mississippi. Now, what becomes of the property of the original grantee?

Mr. FERRIS. We provide for that and it is a rule that ought to be laid down——

Mr. HUMPHREYS of Mississippi. What is it?

Mr. FERRIS. We provide that we pay the actual cost for all the property that is nonperishable in character—land, water rights, and anything that will not perish by age and use—and we provide for the fair value for that which is perishable in character, such as machinery, buildings, and so forth. Now, let me proceed further. Both of those provisions are in the interest of the public as distinguished from being in the interest of the power companies.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield for a question there?

Mr. FERRIS. Let me finish this. Both are in the interest of the public. First, because if we get the land back and the nonperishable stuff back at actual cost the public gets the benefit of the growth and increase of the value under the 50-year provision instead of the water-power company; and on the other hand, when we take the perishable property back, such as the buildings, houses, and machinery, which may decay or rust away, we get that at the depreciated value which is the fair value in the interest of the public, because that property is more apt to depreciate than to go up and we give the fair value when we take it over. Does that answer the gentleman? Is not that in the public interest? Is not that what we ought to do?

Mr. HUMPHREYS of Mississippi. Yes.

Mr. UNDERWOOD. I have just referred to the gentleman's bill and I find no language in section 5 that sustains the statement the gentleman made a moment ago.

Mr. FERRIS. Will the gentleman let me take the copy for just a moment?

Mr. UNDERWOOD. Certainly.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FERRIS. Mr. Chairman, may I have two or three minutes more?

The CHAIRMAN. Is there objection to the gentleman from Oklahoma proceeding for five minutes? [After a pause.] The Chair hears none.

Mr. UNDERWOOD. I ask the gentleman to read section 5 to the House.

Mr. FERRIS. I will be glad to do so, and this section——

Mr. UNDERWOOD. That is the section about recapture.

Mr. FERRIS. I will be glad to read it to the House. Section 5 of the bill reported by our committee, and I desire Members of the House not to think there is anything antagonistic between the committee, because there is not. These bills are not in conflict over subject matter. One of them deals with the navigable waters of the United States and the other bill has reference to the nonnavigable waters on public lands. There is no navigation in my State, and there is not a bit of water power in my State, so I have no interest in that.

Mr. UNDERWOOD. I do not think there is any conflict between the two bills. Neither charges anything whatever for the good will or franchise. Now, the bill of the gentleman provides that the land on which the house is built, the land acquired, which is small, shall be repurchased at the actual cost, and that for the balance of the property a reasonable price shall be paid. This bill simply provides there shall be nothing paid for franchise or good will and the fair value of the property. Now, that is the only distinction. But if the gentleman will read section 5 of his bill he will see that he makes a condition precedent to the Government taking up the franchise that it shall be paid for.

Mr. FERRIS. I will read the section so that we can understand it.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. FERRIS. I will.

Mr. COOPER. The gentleman from Alabama has just said there is no conflict between the bill reported by the Public Lands Committee and the bill reported by the Committee on Interstate and Foreign Commerce. The reason is because the subject matter is different.

Mr. FERRIS. That is what I intended to say.

Mr. COOPER. It is very important it should be put in there, because a reader of the debates would not so understand it.

Mr. FERRIS. I thought I had already stated that these two bills dealt with a different subject matter, and hence, so far as the subject matter is concerned, I think there is no conflict.

Mr. ADAMSON. The gentleman has stated that before.

Mr. FERRIS. The gentleman from Alabama suggested I read section 5, and I will read it:

SEC. 5. That upon not less than three years' notice prior to the expiration of any lease under this act the United States shall have the right to take over the properties which are dependent, in whole or in part, for their usefulness on the continuance of the lease herein pro-

vided for, and which may have been acquired by any lessee acting under the provisions of this act, upon condition that it shall pay, before taking possession, first, the actual costs of rights of way, water rights, lands, and interests therein purchased and used by the lessee in the generation and distribution of electrical energy under the lease, and, second, the reasonable value of all other property taken over—

I think that is what I said—

including structures and fixtures acquired, erected, or placed upon the lands and included in the generation or distribution plant, and which are dependent as hereinabove set forth, such reasonable value to be determined by mutual agreement between the Secretary of the Interior and the lessee, and, in case they can not agree, by proceedings instituted in the United States circuit court for that purpose: *Provided*, That such reasonable value shall not include or be affected by the value of the franchise or good will or profits to be earned on pending contracts or any other intangible element.

And I make no point of that.

Mr. UNDERWOOD. The gentleman has read as far as I wanted him to go, because the question as to whether it should be reasonable value or fair value is a question that comes in section 10 of this bill, and is not involved. But the question, I said, was in the first bill, and there is a condition precedent that the property should be paid for in section 5.

Mr. FERRIS. Let me proceed just a moment further. Section 6 was the thing that the gentleman thinks the bill does not do. Section 6 does the precise thing I said it did.

Mr. UNDERWOOD. Let me call your attention to your own bill just a moment. It was the proposition I was calling the gentleman's attention to:

SEC. 5. That upon not less than three years' notice prior to the expiration of any lease under this act the United States shall have the right to take over the properties which are dependent, in whole or in part, for their usefulness on the continuance of the lease herein provided for, and which may have been acquired by any lessee acting under the provisions of this act, upon condition that it shall pay, before taking possession—

And so forth.

That is what I said. The gentleman writes in a bill here a condition precedent that the Government must pay a reasonable price for the property. He proposes to support the gentleman from New Hampshire, and he says that you can destroy the property by its nonusage and you can make the man who took it wait until he gets consent to use it. Now, your very bill provides as a precedent, no matter what you do afterwards—and I admit you do provide for other conditions—a condition precedent that the Government must pay for the property. And that is right. You were right to put it in there.

Mr. FERRIS. Now, Mr. Chairman, I did lay down two propositions in my first speech. I will now refer directly to the gentleman. I first say that we provide actual cost for nonperishable property and a fair value for all perishable property. I also assert this to be the proper rule in the interest of the public.

Mr. MADDEN. Will the gentleman yield right there? I wanted to know what the gentleman means by actual cost?

Mr. FERRIS. Actual cost to the power people at the time of purchase.

Mr. MADDEN. You do not say so.

Mr. FERRIS. There is no question about it, as you will find if you read the bill. Section 5 does not say precisely what I said it did, but it was my error in stating it was section 5. I should have stated it was sections 5 and 6. Sections 5 and 6 do the exact things that I stated the bill did. Let me read that:

SEC. 6. That in the event the United States does not exercise its right to take over, maintain, and operate the properties as provided in section 5 hereof, or does not renew the lease to the original lessee upon such terms and conditions and for such periods as may be authorized under the then existing applicable laws, the Secretary of the Interior is authorized, upon the expiration of any lease under this act, to lease the properties of the original lessee to a new lessee upon such terms, under such conditions, and for such periods as applicable laws may then authorize, and upon the further condition that the new lessee shall pay for the properties as provided in section 5 of this act.

Mr. UNDERWOOD. The gentleman is getting away from the proposition.

Mr. FERRIS. No; I am not. I am right on the question.

Mr. UNDERWOOD. If you want the Government to lease it to somebody else, that is a different question. But the question involved here is whether you can start the machinery before the Government pays for it, and in your own bill you provide as a condition precedent that it shall be paid for before the machinery stops.

Mr. FERRIS. The leader of the House is so much more able as a debater that I hope he will let me go on. I assert that section 5 does precisely what I said it did in the first instance, provides for the nonperishable property at actual cost and the other at fair value, and I again assert that both are in the interests of the public. And I now assert, as I should have done before, but I did not have the bill before me, that that section authorizes the Government—to do what? Three separate and distinct things. I assert that under its terms the Government can take it itself if it desires to do so. I assert that in all probability it will not do that, although many municipalities may want to do so. Second, we authorize the Government to re-lease it on new conditions to the first grantee. Third, it authorizes the Government to take it away entirely and let it go to a new man or a new company if that first company fails to do its full duty. In this instance the Federal Government and the public interests have three definite alternatives, whereas under the section as written you can do but one thing, and that is that the Federal Government appropriate enough money to pay for the property and take it over, a thing that they will probably never do.

Mr. LEWIS of Maryland. I want to ask you if under the terms of this act a municipality would have the power to condemn the property privileges? Would they have the right to do so under the license conferred by this act?

Mr. FERRIS. I do not think so. The chairman of the committee having this bill in charge would be much better authority than I on that subject.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired. All time has expired on this amendment.

Mr. DONOVAN. Mr. Chairman——

The CHAIRMAN. The gentleman from Georgia [Mr. ADAMSON] has the floor.

Mr. ADAMSON. Mr. Chairman, I am ready to vote if the committee is ready. I do not want to cut off the gentleman from Connecticut [Mr. DONOVAN].

Mr. DONOVAN. Mr. Chairman, I move to strike out the last word.

Mr. STEVENS of Minnesota. I think there are some things that should be stated before a vote is taken.

Mr. ADAMSON. I wanted to ask the gentleman from Oklahoma a question or two if I could get a minute, and then I want the gentleman from Connecticut [Mr. DONOVAN] recognized and the gentleman from Minnesota [Mr. STEVENS] recognized.

Mr. FERRIS. If I can answer the question, I will.

Mr. ADAMSON. I think you recognize, from your remarks, that the Secretary of War may do just what your bill provides, elect some other person to take the property.

Mr. FERRIS. If that be true, and I do not think it is, it should be modified. Section 9 provides that the Government can do but one thing. I thought if that language does appear elsewhere undoubtedly this section should be amended.

Mr. ADAMSON. In reality there are not two substantial differences in the provisions of the two bills.

Mr. STEVENS of New Hampshire. Mr. Chairman, will the gentleman yield?

Mr. ADAMSON. Yes; I yield to my friend from New Hampshire. But I want to ask the gentleman from Oklahoma [Mr. FERRIS] or the gentleman from New Hampshire—either one of them—a question first.

Mr. FERRIS. I will yield to the abler of the two.

Mr. ADAMSON. I have heard you gentlemen, as I heard the gentleman from Kentucky [Mr. SHERLEY], talk about the inertia of Congress. I understand that you propose that the rights of the parties shall absolutely lapse at the end of 50 years. The enterprise is to go out of business, and it will have nothing at the end of that term. Now, suppose Congress takes the property over. That is confiscation.

Mr. FERRIS. The owner of the dam can do precisely what the street-car franchisees do. We do not grant an indefinite franchise to a street-car company. We grant a franchise for a certain period of time. Nobody assumes that they have to tear up their tracks when the term is out. They simply must come back and submit to the new conditions that are imposed.

Mr. ADAMSON. We have it provided in the bill that Congress shall have the right at the end of 50 years to make new terms and conditions. If you can not trust Congress, I do not know whom you can trust.

Mr. UNDERWOOD. They would say that at the end of 50 years you must stop the wheels.

Mr. ADAMSON. Yes; you say that at the end of 50 years the lights must go out, and the cars that are run by electricity must stop, and the plant must cease operations, because if the man's property is confiscated he will not keep it in repair, and for 10 years before the expiration of the period he will not keep it in repair; and until the gentleman from Oklahoma and the gentleman from New Hampshire can answer me clearly and reasonably and assure me that some provision will be provided or made to prevent this contingency, I can not see any merit in their reasoning.

Mr. FERRIS. Mr. Chairman, will the gentleman yield right there?

Mr. ADAMSON. Certainly.

Mr. FERRIS. Every word that the gentleman says is in support of a perpetual grant, to the end that there may be no difficulty in the exercise of this permit. The gentleman ought to know that there is no more difficulty in making new negotiations at the end of 50 years than there would be at the end of 100 years.

Mr. ADAMSON. The gentleman from Oklahoma knows that I do not favor a perpetual grant. I have announced many times that I do not favor a perpetual grant. This provision is written in harmony with his own bill, with one provision in addition to that in his bill, covering the use of dams on the public domain. What I want to see is that it is made definite and certain enough, so that a man's property will not be cut off at the end of 50 years, so as to induce him to build the dam. If Congress should fail to renew the consent and provide additional conditions, of course the fellow has got to pull up and leave, and leave his property there. Now, instead of answering that, the gentleman from Oklahoma states that I am in favor of a perpetual grant.

Mr. FERRIS. I did not say that.

Mr. ADAMSON. You say that my argument sustains that position. My argument is in favor of allowing the other side to know what his rights will be at the end of 50 years, so that we can persuade him to build the dam.

Mr. STEVENS of Minnesota. Will the gentleman allow me one sentence, to make an argument?

Mr. ADAMSON. The gentleman from Minnesota can get all the time he wants.

Mr. STEVENS of Minnesota. If such conditions as the gentleman states will ever happen, if this amendment be adopted, new legislation will be enacted for the proper extension of the franchise, and this will enforce it.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, there are two matters which the committee should have clearly in mind before it votes on the amendment offered by the gentleman from New Hampshire [Mr. STEVENS]. The first is that a proposition of this kind of any importance can not get under way to do a profitable business for a term of years. The gentleman from Alabama [Mr. UNDERWOOD] showed that every water-power project requires some time in which to fairly start its business. It needs to be organized and worked up, which requires time and money. Some of them require 10 years before they can get fairly on their feet. Any man with any sense in constructing a dam costing two or three million dollars will try to have it finished as soon as he possibly can, because the expense of interest and fixed overhead charges is running, and he can get no returns until the dam shall be finished. So that it is safe to assume that the dam will be finished by the owner as soon as possible.

Now, at the end of 50 years what will happen under this bill? Just what the gentleman from Oklahoma [Mr. FERRIS] stated would happen under the terms of his bill. If you will examine page 10, you will find that Congress has the option of doing three things: First, of taking the property for public use at a fair value; second, to allow it to be taken by any person authorized by Congress, turning it over to anybody else who can handle it better, also for a fair value; and, third, by making terms, as Congress may deem wise, as provided by lines 18, 19, and 20, exactly as the gentleman from Oklahoma contends is the case under his bill. In the franchises in Massachusetts and New Hampshire there is an indeterminate term, subject to practically the same conditions provided here. That is exactly what we try to do—to grant a fair, definite, fixed term, and then an indeterminate term, subject to recall or change on a year's notice.

Mr. STEVENS of New Hampshire. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of Minnesota. I can not yield now. That is exactly what we wish to do. We have, first, a fixed term, and then Congress can do as it pleases, as stated by the gentleman from Oklahoma [Mr. FERRIS] in his bill, so that the Government and the people served by it can enjoy all the benefits accruing from the operation of this franchise. Otherwise the property used under franchise will run down and deteriorate and the people can not get the service, and the water resources of the region will not be developed and adequately used. Remember, the people have a right to good service, sure service, as well as low prices, and they can not get them with a plant running down toward the end of its term.

Now, what do you plan shall happen at the end of 50 years? Right now in this House there are several measures pending to extend the time for finishing dams already commenced. Nobody can tell when Congress will act upon matters of that kind. They may never be acted upon, and the owners who began in good faith may be ruined by our delay and nonaction. I instanced the other day in the general debate the fact that we from Minneapolis and St. Paul have been trying for three years to induce Congress to act upon the disposal of the power of one of its Government dams between our cities.

Nobody can tell or prophesy what Congress will do in a matter of this kind, or when it will act, though I have urged it in and out of season. The power will be wasted, fair understanding will be violated, and plans in larger public improvements will be frustrated. Remember these are matters actually before you right now in which these losses are being suffered. Why can you assume a better condition at any time hereafter? A prudent man will not. None of you dare to fairly assume any improvement, for the very good reason that we are unfitted by our pressure of business to deal with the details of such matters. These must be left to our administration officials if we desire efficient public service. That condition is always possibly to be expected. It will grow worse instead of better with the increased pressure of our business. No one can foresee; and it seems to me if we compel Congress to act affirmatively at any fixed time in the future, these projects are almost sure to fail on that account.

We ought to provide that the projects shall continue under proper regulations, that proper service and prices shall continue, and then give Congress the right, or give some official of the Government the right, to interfere at any time on proper notice, under proper conditions, to protect the interests of the public. Remember, too, that if you fix a limited term without a definite arrangement for the value of the property, at its termination the property must be amortized or paid for during such term. That will compel high rates and possibly inadequate service to the people. The rates must be inordinately high to pay for the property. Then it would be a gamble as to how much could be saved for the owners. That is not the proper way to handle the matter. Make long, sure terms, with low rates, regulated by public authority, partial amortization, with good service. That is the best practice. Now I yield to my friend from Maryland.

Mr. LEWIS of Maryland. I want to ask the gentleman if he does not think it desirable that the cities of the country, on proper occasion, should have the legal power to condemn these plants for their own use?

Mr. STEVENS of Minnesota. We have no constitutional authority to do that under this bill or any other bill. We could not do it though we considered something similar. We can discuss that when we come to section 14, but we could not do it in any other way.

Mr. LEWIS of Maryland. I want to suggest that we ought to take care of that feature of it.

Mr. STEVENS of Minnesota. I doubt whether we have the constitutional power to do it. The States can attend to that themselves, subject to our sovereign and paramount rights of navigation.

Mr. LEWIS of Maryland. If this Congress can make a grant to a private grantee, then in making that grant can it not write into it as a part of it the condition that the State's sovereign privilege of condemnation shall be extended to everything covered by the Federal license?

Mr. STEVENS of Minnesota. We can not extend the authority of the State, nor can we take it away, and we do not need to, for the State has authority to protect her own interests and citizens and do what the gentleman desires, subject to the rights of commerce.

Mr. ADAMSON. If the gentleman will yield, I will state that I submitted that question to the Attorney General, and he held in a letter to me that the States already had the authority to provide for condemnation, and that it is not a Federal function at all connected with this bill.

Mr. STEVENS of Minnesota. The States have the right to make terms as to what shall be done as to the use of the water in navigable streams, subject always to the natural rights as to commerce, and they can make that provision if they please. Congress has no right to fix conditions for the use of the States' power of eminent domain in a matter of this kind.

Mr. LEWIS of Maryland. Why can we not put it in as a condition, when we put property under a Federal license?

Mr. STEVENS of Minnesota. We could not make use of the States' power as a part of our contract, and it is unnecessary, as the way I have suggested is easier and surer, and enables the States and their various subdivisions to get exactly what they want if they go at it properly.

Mr. DONOVAN. Mr. Chairman, I offer the pro forma amendment. I think the committee ought to know the value of a plant of this character. If people in Alabama pay 12 cents per

kilowatt hour for the product of a plant of this character, it is a very valuable franchise. A few days ago, during the debate here, I asked a member of the committee about the prices paid for electricity by consumers. There has been no answer. He stated that he would publish it in his speech and put it in the RECORD.

Mr. STEVENS of Minnesota. I shall do so as soon as I can get the time.

Mr. DONOVAN. How are we going to vote intelligently without this information? Most of us are jurymen in this matter. We know little or nothing about it. From what little information I can get, I believe that 12 or 16 cents per kilowatt hour is an extraordinary price. The gentlemen who appeared before the committee mentioned 50 years as the proposed life of the franchise, and from the evidence it would seem that this committee is more generous than the promoters themselves suggested. The two gentlemen who appeared before the committee giving information are speculators in that line. So far as I can find out, they get two or three times as much out of the public for their product as other like concerns get out of the people

Now, if this bill and this report are based on that evidence, it is surely for the purpose of assisting a corps of promoters and financiers who are not going to have any actual money in this enterprise. We have in South Norwalk, Conn., a plant of this character that has no water to create power. The coal and oil which create the power have to be brought several hundred miles. That plant was started by a municipal government, and to-day it is paid for. It sells its power to its customers for 3 cents per kilowatt hour, and they sell to the little storekeeper and the little householder—the men who live in the small houses—for 5 and 6 cents per kilowatt hour.

Now, this great committee, and it is an intelligent committee, seems to have forgotten or has not thought that the customers in this country are the ones to be considered. They should have said, "Are we giving something to our people so that they are going to get power for light, power for the factory, at a lower rate than they are getting anywhere else?" That does not seem to have been in their minds. If you take pains to look at the report, you will see that 30 or 40 companies refuse to do certain things on certain work, but you will not find a single line as to the cost of electricity or as to its being delivered as power at any particular rate.

The truth is that while we are a government of the people and for the people, you have to go across the line to Canadian territory, under a monarchy, to find a place where the people are safeguarded and all these things sold to its people at a lower rate than we sell in this country. It would seem, Mr. Chairman, as if our great statesmen have nothing in mind except caring for the great and protecting the strong.

Fifty years is the testimony before the committee, but I admit that later on they asked for more at the prompting and suggestion of the chairman. When the gentleman from Tennessee asked the gentlemen about creating a trust or combination they had so much money in the business that some one started to develop it——

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

Mr. DONOVAN. Mr. Chairman, I ask unanimous consent for two minutes more.

The CHAIRMAN. The gentleman from Connecticut asks that his time be extended two minutes. Is there objection?

There was no objection.

Mr. DONOVAN. Now, to show you an instance where the people and their interests are looked after, here is what they do for them in the State of Connecticut. This is a Connecticut proposition. You can not always tell just what electricity will cost by comparison with other places. Here is what we furnish: We furnish tungsten lamps at a price much below cost. We give them incandescent lamps free. We give them arc lamps without charge, and we replace meters at the will of the patrons without charge. Nor do we charge for running service wires to premises unless it is difficult, and, besides all that, we furnish power electricity at 3 cents per kilowatt, and at 5 or 6 cents per kilowatt we furnish the little housekeeper and the little storekeeper. Now, in this committee the price to consumers has been forgotten. The whole aim has been to strengthen, to intrench, and to lengthen for promoters of these projects, because they will not be caught with the stock themselves, but will unload it on the unsuspecting public.

Mr. COOPER. Did I understand the gentleman from Georgia to say that the Attorney General has held, as a matter of law, that the State could authorize the condemnation of a dam constructed under a Federal statute in a navigable stream?

Mr. ADAMSON. No; I did not say that. I said I consulted him about the question of putting in the bill a provision for condemnation of land, and he held that the State ought to provide for the condemnation of land for these water-power projects.

Mr. COOPER. What land?

Mr. ADAMSON. The land necessary to forward the project. Somebody has to own the land.

Mr. COOPER. When it comes to condemnation of this improvement, the dam is the one thing. Condemnation of that would not go to any State.

Mr. ADAMSON. I did not mention the condemnation of dams after construction.

Mr. COOPER. That is the point in this case. The people do not want the property without the dam.

Mr. ADAMSON. You do not need to condemn a dam after it is constructed; all you have to do is to confiscate it.

Mr. COOPER. I do not think anybody in this House wants to confiscate private property.

Mr. ADAMSON. Will the gentleman reciprocate and let me ask him a question?

Mr. COOPER. And I have not seen any indication of that kind.

Mr. ADAMSON. The gentleman asked me a question. Let me play Yankee and ask him a question. If we do not provide some way for him to be settled with at the end of his term, and his right lapses and he has to wait for a new act of Congress and take any such concessions as Congress will give him, might it not result in confiscation if Congress did not act?

Mr. COOPER. There are so many "ifs" in that question that do not rise in the situation before the House that I do not want to take time to answer it. Nobody in the House of Representatives or in the United States of America, I believe, proposes to confiscate private property.

Mr. ADAMSON. Begging the gentleman's pardon, there is no "if" in it. The proposition is that at the end of 50 years his rights terminate.

Mr. ANDERSON. Mr. Chairman, I would like to be heard briefly on this amendment. The vital question in this amendment is one of placing the burden of initiating the action to extend or terminate the term. It is a question of whether at the end of 50 years it is going to be the move of the grantee or the move of the Government. It is a question of whether at the end of 50 years the grantee is going to come to Congress and ask for a new lease of life or whether at the end of 50 years the Congress is going to take some action to terminate the grant. The recapture clause will not accomplish the result expected from this amendment.

I think that the value of the recapture clause in this bill is very much overestimated. The Government does not want these water-power plants. It does not want to operate these water-power plants. It wants the right of recapture simply as a protection to the Government in case the grantee does not fairly operate the plant. It wants it merely as a reservation in the interest of the public. Nobody expects that the Government is ever going to have to use the recapture power. We are simply putting it in this bill as an additional precaution, and that is all. It is a means of bringing the grantee to terms acceptable to the Government in the public interest, but it is a means that the Government would have great difficulty in making effective because of the continuance of the grant until it is exercised. Gentlemen claim that men will not invest their money in these enterprises if there is an absolute cut-off in the grant at the end of 50 years. The answer to that proposition is that men are investing their money every day under just exactly such conditions. I have in my hand a copy of a contract made by the Forest Service with the Pacific Light & Power Co. of California. Article 2 of that contract provides:

Unless sooner revoked by the Secretary, this permit shall terminate and become void at the expiration of 50 years from October 7, 1910.

That is an absolute cut-off.

Mr. ADAMSON. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON. Yes.

Mr. ADAMSON. That is on the public domain, and that contract is not hampered by the paramount obligation to navigation, is it?

Mr. ANDERSON. Not at all.

Mr. ADAMSON. It is an absolute power right without having its benefit reduced by obligation to navigation.

Mr. ANDERSON. But the gentlemen who are arguing for an indefinite term are doing so upon the theory that men will not invest their money under the proposed amendment. Exactly the same argument was made with respect to the Sherley amendment, and exactly the same situation exists there with respect to leases made by the Forest Service in the Agricultural Department, and while we are on that proposition I will read the provision in the contract with respect to that proposition:

To pay annually in advance from the 1st day of January, 1913, to the First National Bank of San Francisco, Cal. (United States depository),

or such other Government depository as may be hereafter legally designated, to be placed to the credit of the United States, a rental charge for the occupancy and use of the lands of the United States described and shown upon the maps hereinbefore referred to, which rental charge shall be calculated from the "rental capacity of the power site" as defined in article 1 hereof, at the following rates per horsepower per year——.

It being understood that said estimated rental capacity may be adjusted annually by the Secretary to provide for changes in ownership of lands in reservoir sites and on water-conduit lines, and for changes in length of primary transmission; and it being further understood that at any time not less than 10 years after the issuance of the permit, or after the last revision of rates of rental charge thereunder, the Secretary may review such rental rates and impose such new rental rates as he may decide to be reasonable and proper.

In other words, the Secretary may change the rates every 10 years under this permit. The gentleman from Oklahoma the other day put into the RECORD a number of water-power projects which were being built and operated under just such a provision as this.

Mr. STEVENS of Minnesota. Will the gentleman yield for a question?

Mr. ANDERSON. Certainly.

Mr. STEVENS of Minnesota. Does not the gentleman realize this difference between projects such as he describes that may cost $50,000, $100,000, or $200,000, where the grantee can get 100 per cent of the potential power out of it, and a project on a navigable stream that may cost $2,000,000 or $3,000,000 or $5,000,000 out of which the man can probably get only 50 per cent of the potential power?

Mr. ANDERSON. Well, I think some of the projects authorized by the Forest Service are just as big as projects authorized on navigable streams. I do not recognize any fundamental difference with respect to the termination of a grant or terms under which a grant may be made; in other words, in the conditions which the Government may exact in permitting the use of something in which it has some kind at least of a property right and which can not be used without its consent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire.

The question was taken, and the Chairman announced the noes appeared to have it.

Mr. STEVENS of New Hampshire. Division, Mr. Chairman.

The committee divided; and there were—ayes 26, noes 26.

Mr. ANDERSON, Mr. RAINEY, and Mr. STEVENS of New Hampshire. Mr. Chairman, I demand tellers.

Tellers were ordered.

The committee divided; and the tellers [Mr. ADAMSON and Mr. STEVENS of New Hampshire], reported that there were—ayes 25, noes 35.

So the amendment was rejected.

Mr. RAINEY. Mr. Chairman, I make the point of order there is no quorum present. This is one of the most important features of this bill, and it is 6 o'clock. Mr. Chairman, I believe I will withdraw the demand.

Mr. DONOVAN. Mr. Chairman, I make the point of order there is no quorum present.

Mr. ADAMSON. I was going to move to rise when we finish this section.

Mr. DONOVAN. No; I make the point.

The CHAIRMAN. Does the gentleman from Connecticut insist upon his point of no quorum?

Mr. ADAMSON. If the gentleman will let us finish this section I will move to rise.

Mr. GARRETT of Texas. Mr. Chairman, a motion to rise leaves this question pending?

Mr. ADAMSON. No; it is ended, but I wanted to pass the section.

Mr. GARRETT of Texas. But the point of no quorum applies to this section.

Mr. ADAMSON. No; the gentleman from Illinois withdrew it.

Mr. GARRETT of Texas. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARRETT of Texas. The gentleman from Illinois made a point of no quorum, which if sustained, would give a yea-or-nay vote on this amendment.

The CHAIRMAN. No; there is no such thing as a yea-or-nay vote in the committee.

Mr. DONOVAN. Mr. Chairman, I suggest that these gentlemen make a motion to adjourn if they want to get out of this trouble.

Mr. ADAMSON. The gentleman will not let me make the motion.

The CHAIRMAN. The gentleman from Connecticut renews his point of no quorum.

Mr. GARRETT of Texas. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARRETT of Texas. My parliamentary inquiry is this, that if the point of no quorum is good, we vote on this tomorrow in the Committee of the Whole House on the state of the Union again, because this does not settle this question.

Mr. ADAMSON. But the point was withdrawn

Mr. GARRETT of Texas. But I make the point of order he can not withdraw the point of no quorum without unanimous consent after he has made it.

Mr. ADAMSON. But he did do it.

The CHAIRMAN. The point is simply this, if the Chair understands what the gentleman from Texas is trying to get at, and that is whether or not the amendment has been defeated——

Mr. GARRETT of Texas. That is the point.

The CHAIRMAN (continuing). If the point of no quorum is made.

Mr. GARRETT of Texas. Yes.

The CHAIRMAN. The amendment would have to be voted on again after you got a quorum.

Mr. GARRETT of Texas. That is what I want.

The CHAIRMAN. Now, if the point of order of no quorum is withdrawn, then the amendment is adopted. The question is whether the gentleman wants to make a point of no quorum.

Mr. DONOVAN. Mr. Chairman, the point is made. I call for the regular order.

The CHAIRMAN. The gentleman from Connecticut [Mr. DONOVAN] makes a point of no quorum. The Chair will count. [After counting.] Sixty-seven Members are present, not a quorum.

Mr. ADAMSON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16053, an amendment to the general dam act, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 12579. An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 1784. An act restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bill:

H. R. 12579. An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915.

EXTENSION OF REMARKS.

Mr. FOWLER. Mr. Speaker, during the consideration of the Post Office appropriation bill I made a speech on the floor of the House, but have been so busy that I never have extended it in the RECORD. I ask unanimous consent now to do that.

The SPEAKER. The gentleman from Illinois asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. TALCOTT of New York. Mr. Speaker, I ask unanimous consent to proceed for five minutes.

The SPEAKER. The gentleman from New York asks unanimous consent to proceed for five minutes. Is there objection?

Mr. MANN. Mr. Speaker, I shall object to that, but I will not object to the gentleman printing the letter in the RECORD.

Mr. TALCOTT of New York. That is the purpose for which I wished to proceed. Mr. Speaker, and that will be all I care to do. I ask unanimous consent, then, to extend my remarks in the RECORD by printing a letter from the Secretary of Commerce addressed to me.

The SPEAKER. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD by printing a letter from the Secretary of Commerce. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. ADAMSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 57 minutes p. m.) the House adjourned until Friday, July 31, 1914, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HAY, from the Committee on Military Affairs, to which was referred the bill (H. R. 17765) to regulate details of majors in the Ordnance Department, reported the same without amendment, accompanied by a report (No. 1049), which said bill and report were referred to the House Calendar.

Mr. FERRIS, from the Committee on the Public Lands, to which was referred the bill (H. R. 16738) to provide for the payment of certain moneys to school districts in Oklahoma, reported the same without amendment, accompanied by a report (No. 1050), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. TAYLOR of Colorado, from the Committee on the Public Lands, to which was referred the bill (S. 2651) providing for the purchase and disposal of certain lands containing the minerals kaolin, kaolinite, fuller's earth, china clay, and ball clay, within portions of Indian reservations heretofore opened to settlement and entry, reported the same without amendment, accompanied by a report (No. 1051), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 16720) granting an increase of pension to William McCabe; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17947) granting a pension to Louis N. Hickey; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 18121) to correct the military record of Stephen L. Noland; Committee on Invalid Pensions discharged, and referred to the Committee on Military Affairs.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. WICKERSHAM: A bill (H. R. 18143) providing for a survey and report upon Dry Straits, Alaska, and an estimate of the cost of dredging said channel, and for other purposes; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 18144) for the control and conservation of the fisheries of Alaska, and for other purposes; to the Committee on the Merchant Marine and Fisheries.

By Mr. KEY of Ohio: Resolution (H. Res. 582) authorizing the Clerk of the House to pay, out of the contingent fund of the House, to Jennie Mercer, widow of Philip Mercer, certain sums of money; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 18145) granting an increase of pension to Jacob Burrier; to the Committee on Invalid Pensions.

By Mr. BAKER: A bill (H. R. 18146) granting an increase of pension to Ida C. Wilcox; to the Committee on Invalid Pensions.

By Mr. CLANCY: A bill (H. R. 18147) to pay a certain sum of money to certain railway post-office employees; to the Committee on Claims.

By Mr. FERRIS: A bill (H. R. 18148) granting an increase of pension to William Hardenbrook; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18149) granting an increase of pension to William Zuker; to the Committee on Invalid Pensions.

By Mr. FOWLER: A bill (H. R. 18150) granting an increase of pension to David C. Monroe; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18151) granting an increase of pension to Hugh M. Parkinson; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 18152) granting an increase of pension to William S. Crowe; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18153) granting an increase of pension to Washington Kellogg; to the Committee on Invalid Pensions.

By Mr. GALLIVAN: A bill (H. R. 18154) granting a pension to Agnes Hedman; to the Committee on Pensions.

By Mr. GREGG: A bill (H. R. 18155) for the relief of Jennie McC. Harrison; to the Committee on War Claims.

Also, a bill (H. R. 18156) for the relief of certain citizens of Brenham, Washington County, Tex.; to the Committee on War Claims.

By Mr. HAY: A bill (H. R. 18157) for the relief of the trustees of Lebanon Evangelical Lutheran Church, of Shenandoah County, Va.; to the Committee on War Claims.

By Mr. HOLLAND (by request): A bill (H. R. 18158) for the relief of the trustees of Urbanna Episcopal Church, Middlesex County, Va.; to the Committee on War Claims.

Also (by request), a bill (H. R. 18159) for the relief of the trustees of Carmel Baptist Church, Caroline County, Va.; to the Committee on War Claims.

By Mr. REED: A bill (H. R. 18160) for the relief of Israel Henno; to the Committee on Military Affairs.

By Mr. REILLY of Connecticut: A bill (H. R. 18161) granting an increase of pension to Mary J. Finnegan; to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 18162) granting a pension to James Morrison; to the Committee on Pensions.

By Mr. STONE: A bill (H. R. 18163) granting an increase of pension to John C. Clark; to the Committee on Pensions.

By Mr. WALKER: A bill (H. R. 18164) for the relief of the heirs of Solomon Cohen; to the Committee on Claims.

By Mr. WILSON of Florida: A bill (H. R. 18165) for the relief of Mattie E. Johnson, administratrix; to the Committee on Claims.

By Mr. YOUNG of North Dakota: A bill (H. R. 18166) to correct the military record of A. J. Henry; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANTHONY: Petition of J. Dorcas and other citizens of Holton, and Minnie Howard and Otto Wiley and others, of Everest, Kans., favoring national prohibition; to the Committee on Rules.

By Mr. COOPER: Petitions of Joseph F. Klus and others, of Kenosha, Wis., protesting against national prohibition; to the Committee on Rules.

By Mr. FESS: Petitions of citizens of Lebanon, Mason, Waynesville, Spring Valley, Cedarville, and Jamestown, all in the State of Ohio, favoring the passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

By Mr. GILL: Petition of San Francisco Metal Trades Council, relative to apprentice system in Navy Department; to the Committee on Naval Affairs.

By Mr. GILMORE: Petition of citizens of the State of Massachusetts, favoring national recognition of Dr. F. A. Cook's polar efforts; to the Committee on Naval Affairs.

By Mr. HART: Petition of the Woman's Christian Temperance Union of the State of New Jersey, 10,700 members, favoring Federal censorship of motion pictures; to the Committee on Education.

By Mr. HAYES: Petitions of 1,080 citizens of San Jose, Cal., protesting against national prohibition; to the Committee on Rules.

Also, petitions of 540 citizens of the State of California, favoring national prohibition; to the Committee on Rules.

By Mr. MAGUIRE of Nebraska: Petition of citizens of College View, Nebr., favoring national prohibition; to the Committee on Rules.

By Mr. MERRITT: Petitions of Rev. E. J. Goodell, L. G. Carpenter, Arthur Goodell, Miss Eliza Carpenter, Henry Carpenter, Henry Cashman, Goldwin Arnold, Miss Cornelia McPherson, Lafayette L. McKinney, Earl Hobbs, C. J. Matthews, Mrs. Maria Welch, Miss Mary R. Lillie, Mrs. May Vosburg, Eliza Goodell, Mrs. A. Goodell, F. D. Matthews, Mrs. Edna Arnold, Mrs. Grace Curry, Mr. F. L. Curry, Mrs. A. G. Dodge, William Matthews, Mrs. H. Cashman, Mrs. E. Cubit, Edward Cubit, W. H. Coolidge, E. E. Hobbs, Mrs. E. E. Hobbs, W. W. McKinney, C. C. Carpenter, Mrs. Florence Vorce, Mrs. W. H. Hobbs, Mrs. W. H. Coolidge, Clara J. Carpenter, Geo. M. Carpenter, E. I. Dominy, and Cora

B. Dominy, all of Ellenburg Center, N. Y., favoring national prohibtion; to the Committee on Rules.

By Mr. MILLER: Petitions from the employees of the Oliver Iron Mining Co., Virginia district, Minn., and Canisteo district, Minn., opposing the dissolution of the United States Steel Corporation; to the Committee on the Judiciary.

By Mr. O'HAIR: Petitions of sundry citizens of the State of Illinois, favoring national prohibition; to the Committee on Rules.

By Mr. PLATT: Petition of Baptist Church of Poughkeepsie, N. Y., favoring national prohibition, to the Committee on Rules.

By Mr. RAKER: Papers to accompany House bill 17865, a bill for increase of pension for Martha Ann Benjamin; to the Committee on Invalid Pensions.

By Mr. REILLY of Connecticut: Petition of International Union of Journeymen Horseshoers against national prohibition; to the Committee on Rules.

By Mr. WHITE: Petitions of W. P. Rice and 3 others, of Lowell; J. W. Barloe and 10 others, of Malta and McConnelsville; Lee L. Cassady and 12 others, of Dresden; Ora Blizzard and 4 others, of Frazeysburg; A. P. Ong and 2 others, of Stockport; J. L. Scott and 8 others, of Beverly and Waterford; S. H. Windelkin and 15 others, of Marietta; C. W. Adams and 7 others, of McConnelsville, all of the State of Ohio, favoring legislation to tax mail-order houses; to the Committee on Ways and Means.

SENATE.

FRIDAY, *July 31, 1914.*

(Legislative day of Monday, July 27, 1914.)

The Senate reassembled at 11 o'clock a. m. on the expiration of the recess.

Mr. SMOOT. Mr. President, I believe we ought to have a quorum present this morning. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Utah suggests the absence of a quorum. Let the Secretary call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	Newlands	Smoot
Brady	Cummins	Norris	Stone
Brandegee	Gallinger	Overman	Thomas
Bristow	Hitchcock	Page	Thornton
Bryan	James	Perkins	Tillman
Burton	Jones	Pomerene	Vardaman
Catron	Kenyon	Reed	Walsh
Chamberlain	Kern	Shafroth	West
Chilton	Lane	Sheppard	White
Clapp	Lea, Tenn.	Shields	
Clarke, Ark.	Martine, N. J.	Simmons	
Crawford	Myers	Smith, Ga.	

Mr. THORNTON. I was requested to announce the unavoidable absence of the junior Senator from New York [Mr. O'GORMAN]. I ask that this announcement may stand for the day.

Mr. KERN. I desire to announce the unavoidable absence of my colleague [Mr. SHIVELY]. This announcement may stand for the day.

Mr. JONES. I desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is absent from the city. He is paired with the junior Senator from Arkansas [Mr. ROBINSON]. I will let this announcement stand for the day.

Mr. WHITE. I desire to announce that my colleague [Mr. BANKHEAD] is absent, unavoidably. He is paired. This announcement may stand for the day.

Mr. PAGE. I wish to announce the necessary absence of my colleague [Mr. DILLINGHAM]. He is paired with the senior Senator from Maryland [Mr. SMITH].

Mr. CLAPP. I desire to announce the unavoidable absence, on account of sickness, of the senior Senator from Wisconsin [Mr. LA FOLLETTE]. I desire this statement to stand for the day.

Mr. GALLINGER. I wish to announce the unavoidable absence of the junior Senator from Maine [Mr. BURLEIGH]. He is paired with the junior Senator from New Hampshire [Mr. HOLLIS].

Mr. SMOOT. I desire to announce the unavoidable absence of the junior Senator from Wisconsin [Mr. STEPHENSON].

Mr. JAMES. I desire to announce the unavoidable absence of my colleague [Mr. CAMDEN]. I will let this announcement stand for the day.

The PRESIDENT pro tempore. Forty-five Senators have answered to their names. There is less than a quorum of the Senate present. The Secretary will call the roll of absentees.

The Secretary called the names of absent Senators, and Mr. SAULSBURY and Mr. SUTHERLAND answered to their names when called.

Mr. GRONNA, Mr. MCCUMBER, and Mr. RANSDELL entered the Chamber and answered to their names.

The PRESIDENT pro tempore. Fifty Senators have answered to their names. A quorum of the Senate is present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by A. C. Johnson, one of its clerks, announced that the House insists upon its amendments to the bill (S. 1644) for the relief of May Stanley, and for other purposes, disagreed to by the Senate, and agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. POU, Mr. STEPHENS of Mississippi, and Mr. SCOTT managers at the conference on the part of the House.

COMMITTEE SERVICE.

Mr. KERN. I desire to have unanimous consent to arrange some committee assignments for the Senator from Kentucky [Mr. CAMDEN] and the Senator from Alabama [Mr. WHITE].

The PRESIDENT pro tempore. The Senator from Indiana asks unanimous consent at this time to arrange assignments on certain committees.

Mr. BRANDEGEE. Will the Senator permit any morning business to be done other than what he is asking should be transacted?

Mr. KERN. It is not for the Senator from Indiana to permit; the Senator from Indiana is asking permission.

Mr. BRANDEGEE. The Senator asks us to give unanimous consent to his morning business, and I wondered whether he would withhold his consent if we asked leave to transact morning business.

Mr. KERN. If it were a matter of this kind, I certainly would yield to it.

Mr. BRANDEGEE. Of course, we can have no matter of that kind, I assume, at present.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Indiana? The Chair hears none.

Mr. KERN. I am authorized by the junior Senator from Nevada [Mr. PITTMAN] to request that he be relieved from further service upon the Committee on Pacific Railroads and also upon the Committee on Industrial Expositions.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Indiana? The Chair hears none, and the junior Senator from Nevada is relieved from further service upon the committees named.

Mr. KERN. I move the adoption of the following order.

The PRESIDENT pro tempore. The Senator from Indiana presents an order which the Secretary will read to the Senate.

The Secretary read as follows:

Ordered, That Senator FRANCIS S. WHITE, of Alabama, be, and is hereby, appointed to membership on the following committees of the Senate:

Committee on Indian Affairs, to fill the vacancy occasioned by the resignation of Senator STONE therefrom.

Committee on Claims, to fill the vacancy caused by the resignation of Senator OVERMAN therefrom.

Committee on Public Buildings and Grounds, to fill the vacancy caused by the resignation of Senator KERN.

Committee on Civil Service and Retrenchment, to fill the vacancy caused by the resignation of Senator MYERS.

Committee on Public Health and National Quarantine, to fill the vacancy caused by the resignation of Senator HUGHES.

That Senator JOHNSON N. CAMDEN, of Kentucky, be appointed to membership on the following named committees of the Senate:

Committee on Post Offices and Post Roads, to fill the vacancy caused by the resignation of Senator CHILTON therefrom.

Committee on Immigration, to fill the vacancy caused by the resignation of Senator HOLLIS.

Committee on the Census, to fill the vacancy caused by the resignation of Senator POMERENE.

Committee on Industrial Expositions, to fill the vacancy caused by the resignation of Senator PITTMAN.

Committee on the Philippines, to fill the vacancy caused by resignation of Senator WALSH.

Committee on Pacific Railroads, to fill the vacancy caused by the resignation of Senator PITTMAN.

Committee on the University of the United States, to fill the vacancy caused by the resignation of Senator OVERMAN.

The PRESIDENT pro tempore. The question is on agreeing to the order. Unless there is objection it is adopted. The Chair hears none.

Mr. WILLIAMS. I ask unanimous consent out of order to introduce a bill for proper reference.

Mr. SMOOT. I object.

The PRESIDENT pro tempore. The Senator from Utah objects.

Mr. MARTINE of New Jersey. I do not suppose there is any use for me to ask unanimous consent, but I wish to report a

bill relating to the coinage of souvenir coins for the Panama Exposition.

The PRESIDENT pro tempore. The Senator from New Jersey asks unanimous consent to submit a report.

Mr. SMOOT. I object.

The PRESIDENT pro tempore. Objection is made. The Chair lays before the Senate the regular order—the trade commission bill.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. NEWLANDS. Mr. President, on behalf of the Committee on Interstate Commerce I have several amendments to the pending bill which I desire to offer.

The PRESIDENT pro tempore. The pending amendment is the amendment offered by the Senator from Ohio [Mr. POMERENE].

Mr. CUMMINS. Will the Senator from Nevada state a little more clearly what he is proposing?

Mr. NEWLANDS. I am proposing the amendments which the committee determined upon this morning.

The PRESIDENT pro tempore. The amendments can be offered at this time and will be considered in their order.

Mr. CUMMINS. What is the amendment?

Mr. GALLINGER. There is an amendment pending, is there not?

The PRESIDENT pro tempore. There is an amendment now pending.

Mr. NEWLANDS. I will offer the following amendments——

Mr. GALLINGER. Let them be read for information.

Mr. NEWLANDS. On page 17, lines 9, 10, and 11, strike out the words "and its relations to other corporations and to individuals, associations, and partnerships."

Mr. BURTON. May I ask in what lines?

Mr. NEWLANDS. In lines 9, 10, and 11, on page 17. The proposal is to strike out the words "and its relations to other corporations and to individuals, associations, and partnerships."

Mr. BRANDEGEE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Connecticut?

Mr. BRANDEGEE. I wanted to ascertain the parliamentary situation. The Senator says he offers that amendment. He does not mean that he offers it now?

Mr. NEWLANDS. I offer that amendment now.

Mr. BRANDEGEE. I should have to make a point of order that it can not be offered at this time.

The PRESIDENT pro tempore. The Chair thinks the Senator from Nevada understands that. The amendment is simply offered to be pending until it can be reached in order.

Mr. BRANDEGEE. Very well.

Mr. NEWLANDS. On lines 22 and 23, page 17, strike out the words "or concerning its relations to any individual, association, or partnership."

On page 20, lines 11, 12, and 13, strike out the words "and also to investigate whether American exporters have combined with each other or with foreign producers or dealers to control prices abroad."

On page 22, line 21, insert after the word "commerce" the words "with intent to prevent"; in the same line, after the word "production," insert the word "thereof"; and strike out, in lines 21 and 22, the words "of which the commission may require under this act."

Mr. REED. Will not the Senator have those amendments printed so that we may see them before he asks for action. Stated in that way, it is impossible to understand them, because we can not even follow the bill sufficiently to write them in.

The PRESIDENT pro tempore. The several amendments proposed by the Senator from Nevada will be noted and the order taken to print, which may be done before they are reached in order.

Does the Chair understand the Senator from Iowa [Mr. CUMMINS] to offer his amendment as a substitute for the amendment offered by the Senator from Ohio? If so, that is the pending question.

Mr. CUMMINS. My amendment covers the same subject as the amendment of the Senator from Ohio. I offer it as a substitute for the amendment proposed by the Senator from Ohio.

The PRESIDENT pro tempore. The question is on its adoption if it is offered. The Chair was in doubt whether the Senator had offered it or whether he had indicated that he would offer it.

Mr. CUMMINS. I was in doubt myself whether I could under the rule of the Senate offer it, but I said I intended to ascertain by offering it.

The PRESIDENT pro tempore. The Chair will dispose of that question when the Senator determines whether he will offer it.

Mr. CUMMINS. I offer the amendment which I have proposed.

The PRESIDENT pro tempore. The question is on the adoption of the amendment

Mr. BRANDEGEE. On that I want to be heard.

The PRESIDENT pro tempore. It will not be necessary to be heard on the ruling.

Mr. BRANDEGEE. I do not want to say anything until the Senator from Iowa has finished.

The PRESIDENT pro tempore. The Senator from Iowa will send his amendment to the desk, if it has not already been printed.

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Ohio?

Mr. CUMMINS. I do.

Mr. POMERENE. I was not quite certain that I understood the ruling of the President pro tempore a moment ago. I did not understand whether his statement had reference to the amendment offered by the Senator from Iowa [Mr. CUMMINS] or to the amendment offered by myself.

The PRESIDENT pro tempore. It included both. The amendment of the Senator from Ohio is pending and the Senator from Iowa now proposes a substitute for it. The question will be upon the adoption of the substitute.

Mr. POMERENE. The question I had in my mind was whether the ruling of the Chair was that I had simply indicated that I would offer the amendment or that I had offered it.

The PRESIDENT pro tempore. The Senator's amendment has been regularly offered and is pending. The Senator from Iowa now offers a substitute for it, and the question is upon the adoption of the substitute.

Mr. NEWLANDS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Nevada?

Mr. CUMMINS. I yield to the Senator from Nevada.

Mr. NEWLANDS. I wish to state that the Committee on Interstate Commerce this morning by a vote acquiesced in the amendment offered by the Senator from Ohio [Mr. POMERENE].

The PRESIDENT pro tempore. As a substitute for section 5?

Mr. NEWLANDS. Yes.

The PRESIDENT pro tempore. Very well. That does not change the parliamentary situation. The question is still on the amendment offered by the Senator from Iowa.

Mr. CUMMINS. There can be no doubt, then, Mr. President, that my amendment is in order?

Mr. JONES. Mr. President, may we have the amendment offered by the Senator from Iowa read?

The PRESIDENT pro tempore. The Chair understands it has been printed.

Mr. JONES. Has the amendment been printed in the RECORD?

The PRESIDENT pro tempore. The Chair is not sure about that. The Senator from Iowa can inform the Senator from Washington more definitely as to that than can the Chair.

Mr. JONES. I ask that the amendment may be read.

Mr. WALSH. Mr. President, before the amendment is read, in view of the statement made by the Chair a moment ago, and lest any misapprehension may arise, I wish to state that the amendment offered by the Senator from Ohio [Mr. POMERENE] is a substitute for all of section 5, save the amendment to that section heretofore adopted.

The PRESIDENT pro tempore. The amendment of the Senator from Iowa has not been stated from the desk, as the Chair is informed by the Secretary.

Mr. JONES. I should like to have the amendment read.

Mr. CUMMINS. I now send the amendment to the desk. I offered it on yesterday and I think it was then read, but possibly not technically stated to the Senate.

The PRESIDENT pro tempore. The amendment has not only been offered, but it has been printed. The Secretary will read.

The SECRETARY. In lieu of section 5, as reported by the committee, except the amendment adopted on July 27, at the end of section 5——

Mr. CUMMINS. That phraseology, of course, was used at a time when it was supposed that section 5 as reported by the committee would be adhered to.

The PRESIDENT pro tempore. The introductory phraseology will be modified to meet the requirements of the occasion as it now is.

Mr. CUMMINS. The amendment is now offered as an amendment to the amendment of the Senator from Ohio.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. In lieu of the amendment proposed by Mr. POMERENE it is proposed to insert the following:

SEC. 5. That unfair competition in commerce is hereby declared unlawful.

The commission shall have authority to prevent such unfair competition in commerce in the manner following, to wit:

Whenever it shall have reason to believe that any person, partnership, or corporation is violating the provisions of this section it shall issue and serve upon the defendant a complaint stating its charges in that behalf and at the same time a notice of hearing upon a day and at a place therein fixed. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint.

If upon such hearing the commission shall find that the person, partnership, or corporation named in the complaint is practicing such unfair competition it shall thereupon enter its findings of record and issue and serve upon the offender an order requiring that within a reasonable time to be stated in said order that the offender shall cease and desist from such unfair competition. The commission may at any time set aside, in whole or in part, or modify its findings or order so entered or made. Any suit brought by any such person, partnership, or corporation to annul, suspend, or set aside, in whole or in part, any such order of the commission shall be brought against the commission in a district court of the United States in the judicial district of the residence of the person or of the district in which the principal office or place of business is located and the procedure set forth in the act of Congress making appropriations to supply urgent deficiencies and insufficient appropriations for the fiscal year of 1913 and for other purposes relating to suits brought to suspend or set aside, in whole or in part, an order of the Interstate Commerce Commission shall apply.

If within the time so fixed in the order of the commission the person, partnership, or corporation against which the order is made shall not cease and desist from such unfair competition, and if in the meantime such order is not annulled, suspended, or set aside by a court, the commission may bring a suit in equity in a district court in any district wherein such person or persons reside or wherein such corporation has its principal office or place of business to enforce its said order, and jurisdiction is hereby conferred upon said court to hear and determine any such suit and to enforce obedience thereto according to the law and rules applicable to suits in equity. All the provisions of the law relating to appeals and advancement for speedy hearing in suits brought to suspend or set aside an order of the Interstate Commerce Commission shall apply in suits brought under this section.

The PRESIDENT pro tempore. Let the Chair state the pending question. The Senator from Ohio originally offered a substitute for section 5, which has now been accepted by the committee and becomes the main question. That acceptance on the part of the committee involves an acquiescence in the adoption of the amendment heretofore agreed to which is in the following language:

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

The rejection of the substitute offered by the Senator from Ohio would leave section 5 as it now stands with the amendment to that section heretofore adopted as part thereof. The adoption of the substitute offered by the Senator from Iowa will eliminate the entire section, including that added provision. The Senator from Iowa has the floor.

Mr. CUMMINS. I did not quite understand the last statement of the Chair.

The PRESIDENT pro tempore. A reading of the amendment offered by the Senator from Ohio satisfies the Chair that it is a substitute for the entire section 5, with the exception of the provision adopted a few days since, to which the Chair referred; that is to say, the provision which prevents the use of the record in any suit, civil or criminal, based on the antitrust acts.

Mr. CUMMINS. So that, with the exception of the amendment adopted by the Senate a day or two ago, the issue is directly between the plan proposed in the amendment of the Senator from Ohio, and now adopted by the committee, and the plan proposed in the amendment which I have presented.

I do not intend to repeat the argument that I made yesterday with regard to this subject, further than to say that it is the old, well-known controversy between what is commonly known as the broad review, which submits to the courts the case upon its merits without restriction, and the narrow review, which gives to the order of the commission all the effect in the court proceeding that we constitutionally can give it.

I had referred to the rather famous controversy upon this subject which occurred in the Senate in 1906, and respecting which every Senator is familiar. I had also referred to the decision of the Supreme Court of the United States in the case of the Illinois Central Railroad Co. against Interstate Commerce Commission, in which that court had carefully reviewed and carefully stated the law upon the subject and defined just what power the court had over an order of the commission under the interstate-commerce law; that is, an order of the commission other than for the payment of money. The question, however, does not rest there. It appeared in the Supreme Court again in the case of the Interstate Commerce Commission against the Union Pacific Railroad Co., United States Supreme Court Reports, volume 222, at page 541. I read first a paragraph or two from the syllabus:

The act to regulate commerce makes the findings of the Interstate Commerce Commission as to reasonableness of a rate prima facie correct.

Orders of the Interstate Commerce Commission are final unless beyond the power that the commission can constitutionally exercise, beyond its statutory power, or based upon a mistake of law.

An order of the commission, regular on its face, may be set aside if it appears that the rate is so low as to be confiscatory and in violation of the constitutional prohibition against taking property without due process of law; or if the commission acted so arbitrarily and unjustly as to fix rates contrary to evidence, or without evidence to support its conclusion; or if the authority was exercised in an absolutely unreasonable manner.

This court, in determining the validity of an order of the Interstate Commerce Commission, confines itself to the ultimate question as to whether the commission acted within its power. It will not consider expediency, nor will it consider facts further than to determine whether there was sufficient evidence to support the order.

I read very briefly from the opinion, inasmuch as it contains the argument in support of the conclusions that are stated in the syllabus. Mr. Justice Lamar delivered the opinion of the court. He said:

These appeals raise the single question as to whether, in making the 45-cent rate, the commission acted within or beyond its power. As the statute makes its finding prima facie correct, it will be more convenient to consider the case from the standpoint of the carriers, who insist that the order was void, because made without evidence or finding that the 50-cent rate was unreasonable.

There has been no attempt to make an exhaustive statement of the principle involved; but in cases thus far decided it has been settled that the orders of the commission are final unless (1) beyond the power which it could constitutionally exercise, or (2) beyond its statutory power, or (3) based upon a mistake of law. But questions of fact may be involved in the determination of questions of law, so that an order, regular on its face, may be set aside if it appears that (4) the rate is so low as to be confiscatory and in violation of the constitutional prohibition against taking property without due process of law; or (5) if the commission acted so arbitrarily and unjustly as to fix rates contrary to evidence or without evidence to support it; or (6) if the authority therein involved has been exercised in such an unreasonable matter as to cause it to be within the elementary rule that the substance and not the shadow determines the validity of the exercise of the power.

The court then proceeds to cite many cases, among them the Illinois Central Railroad case, to which I referred on yesterday:

In determining these mixed questions of law and fact the court confines itself to the ultimate question as to whether the commission acted within its power. It will not consider the expediency or wisdom of the order, or whether—

I call the attention of Senators to this sentence—

or whether, on like testimony, it would have made a similar ruling.

Further, the court says:

Its conclusion, of course, is subject to review, but when supported by evidence is accepted as final; not by its decision, involving as it does so many and such vast public interests, can be supported by a mere scintilla of proof—but the courts will not examine the facts further than to determine whether there was substantial evidence to sustain the order.

This probably is the clearest and most satisfactory expression of the law that can be found, and in my amendment I am endeavoring to make this law applicable to the orders of the proposed trade commission. I am endeavoring to limit the jurisdiction and power of the court to such matters as have been declared by the court always open to the investigation and decision of a judicial tribunal no matter what the congressional action may be—that is to say, we can take away by our legislation an effect from the order of the commission, but we can not add an effect to the order of the commission beyond the limits which are here so clearly set forth.

I refer now to the next case which was decided by the court, which involved——

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. HITCHCOCK in the chair). Does the Senator from Iowa yield to the Senator from Missouri?

Mr. CUMMINS. I do.

Mr. REED. Without desiring to interrupt the Senator unduly, I understand his proposition is this: He wants to vest in this board of five men the unlimited power to declare what is fair and what is unfair trade and to take away the right of a court in any case to interfere, unless the court shall hold that there was no evidence whatsoever on which to base the order of the commission; so that the order of the commission is to be a finality with the single qualification that there must have been some evidence going beyond a mere scintilla of evi-

dence to sustain it—that is to say, it would vastly increase the power of the board over the amendment which is now pending offered by the Senator from Ohio.

Mr. CUMMINS. To the latter statement of the Senator from Missouri I at once say "Yes." It does give the commission greater power or, rather, it gives its order greater effect than is given to it by the amendment of the Senator from Ohio.

I do not, however, recognize in the first part of the observation of the Senator from Missouri a reproduction of the law as I have just read it from the Supreme Court of the United States. I do not pause to say in just what respects it is different, but I have just read the law as it has been determined by our highest judicial tribunal with reference to the orders of the Interstate Commerce Commission, denouncing practices as unjust discrimination and denouncing rates as unreasonably high and establishing other practices in their stead, and I desire, for the stability of business, for the protection of the people of the United States, for the efficiency of the regulation of commerce that we are about to ordain, that the jurisdiction of the courts shall be confined within exactly the same limits as is the jurisdiction of the courts with respect to the Interstate Commerce Commission.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I do.

Mr. SUTHERLAND. I should like to get the view of the Senator from Iowa with reference to this phase of the matter: Of course the making of a rate is a legislative act, and so far as that part of the action of the Interstate Commerce Commission is concerned I am in hearty accord with the notion that the court may not review the action of the Interstate Commerce Commission further than has been laid down by the authorities to which the Senator has referred. I understand it to be the view of the Senator from Iowa, however, that the expression "unfair competition" has a well-settled legal meaning, and that when the commission shall hold in any particular case that there has been a violation of this prohibition against unfair competition the order which the commission will enter will be in the nature of a judicial finding rather than a legislative act. Now, if that be so, if it is in the nature of a judicial finding, can it be said that the commission may be authorized to discharge any greater function than that which is discharged by an ordinary referee of a court, which would not be binding upon the court in any phase, but after the report of the referee or the report of the commission is in the court may review the whole case?

Mr. CUMMINS. I think that is the provision, substantially, found in the amendment of the Senator from Ohio.

Mr. SUTHERLAND. I wanted to ask the Senator from Iowa whether or not, in his judgment, there was any distinction between the power of Congress to limit the authority of the court to review the action of a body which in a particular proceeding was exercising substantially the power of a referee of the court and its power to review the action of an administrative body which, in effect, was an act of legislation?

Mr. CUMMINS. Mr. President, the administrative body known as the Interstate Commerce Commission exercises powers of a mixed character. They are often termed administrative. Some of them are quasi judicial. Others are of a legislative character. It is true, also, that there is a difference between the quality of the act performed by the Interstate Commerce Commission when it prescribes a rate for the future and the quality of its act when it condemns an existing rate; that is, when it applies the law to an existing rate and declares it to be unreasonably high. The former is in the nature of a legislative act. The latter is in the nature of a judicial act. Nevertheless, they are both within the power of the Interstate Commerce Commission, and both powers have been constitutionally conferred upon that tribunal.

Before the Interstate Commerce Commission can exercise what is termed by the Senator from Utah—and to which I am inclined to agree—its legislative power, it must first perform its so-called judicial power. It must first examine the rate which has been established or promulgated by the carrier itself; compare that rate upon the evidence submitted with the law which makes it illegal to charge more than a reasonable rate, and reach the conclusion, in the nature of a judicial conclusion, whether the carrier is or is not violating the law.

I do not believe that the trade commission which we propose to establish can enter an order upon certain evidence, and, upon the court reviewing in the way I have proposed in my amendment, protect its order from the investigation of the court, if the facts established, in the opinion of the court, clearly, unmistakably show that these facts do not constitute unfair competition. No more can the Interstate Commerce Commission do so in respect of its orders.

I affirm again, however, that there is no difference whatsoever from the legal standpoint between the order of the Interstate Commerce Commission finding that a practice of a railroad company is unjust discrimination or a finding that a rate is unreasonably high and the action of the proposed trade commission in finding that a certain practice is unfair competition.

I know that the Senator from Missouri will not agree that the phrase "unfair competition" furnishes a sufficient rule or guide to the people or to the courts or to the commission, but I am not arguing that now. I am assuming that the phrase "unfair competition" is just as certain in the law as the phrase "unjust discrimination," and it is upon that assumption that the conclusion I have just stated is based.

Mr. REED. Now, if the Senator is through answering the Senator from Utah, since I am very anxious to get clearly his viewpoint and theory, not to argue the question or try to interfere with his speech, I want to ask him a question or two.

As I understand the Senator from Iowa, he is of the opinion that the phrase "unfair competition" is not limited as some of us have argued, but that it is a broad phrase which will embrace all practices indulged in for the purpose of driving anybody out of business or of destroying his trade. It is a broad, general term that embraces all these evils. I understand that to be the Senator's theory.

Mr. CUMMINS. That is so.

Mr. REED. Of course the Senator will agree that the power to declare a thing illegal implies the power to declare the same thing or practice legal; will he not?

Mr. CUMMINS. That depends upon the legislation, of course.

Mr. REED. I mean, under this bill.

Mr. CUMMINS. If either a commission or a court is investigating a certain practice upon a charge that it is illegal, and if the commission or the court dismisses the complaint and holds that it is not illegal, the converse is necessarily true; it holds it to be legal.

Mr. REED. Certainly; the power to declare a thing illegal of course involves the power to say that it is legal. We reach this condition, then, if I understand the Senator: First, he thinks this language is so broad that it covers all of those things which are now considered in common parlance as unfair methods of competition; second, he is willing to vest in a board of five men, three of whom will constitute a majority, the right to declare any of those practices either legal or illegal, as the board in its judgment may see fit; third, I understand his position to be well set forth in this decision which he just read from Two hundred and twenty-second United States, and particularly in the language which he quoted:

> In determining mixed questions of law and fact, the court confines itself to the ultimate question as to whether the commission acted within its power. It will not consider the expediency or wisdom of the order, or whether, on like testimony, it would have made a similar ruling.

The Senator read that language with great emphasis. So I understand his position to be this: First, that this statute is broad enough to cover all of those things which in common parlance may be referred to as "unfair competition"; second, that the power conferred upon the commission is broad enough so that it can declare any of those practices to be legal or illegal, as it may see fit; third, that the power of the commission can not be interfered with under any circumstances or conditions, provided there is evidence to sustain the commission—not the weight of the evidence, not the preponderance of the evidence, but simply substantial evidence. That is about where we come out, is it not?

Mr. CUMMINS. Mr. President, I have long ago learned that one ought not to assent to a rather complicated statement without having had an opportunity to examine every part of it. My view of the matter I have endeavored to make just as clear as I can make it. I want the order of the commission, when it reaches the court, to have all of the effect we can constitutionally confer upon it; but it must not be assumed that we can constitutionally make it final.

I give an illustration. Suppose a trader had published an advertisement in some newspaper, and it was charged that it constituted an unfair method or practice in competition, and complaint was made with respect to it, there being no question with regard to the facts; if the commission were to hold that the insertion of this advertisement, without anything more, constituted unfair competition, and there was no question whatever in the case except such a one as would arise upon a demurrer to the evidence, which is perfectly well known to the Senator from Missouri, then the court would have the right to say whether

upon that conceded evidence the defendant was or was not guilty of unfair competition.

Mr. REED. I understand that the Senator, if it were not for the Constitution, would not give the court any right of review at all.

Mr. CUMMINS. I do not so say, but I think the Constitution prescribes the very reasonable limits of the court's review when we are attempting to regulate commerce.

Mr. REED. Now, Mr. President, with the Senator's permission, I will say that I think I understand the Senator's position, and I think the Senate understands it. I want to put this question to the Senator: If we happened to get a board three members of which were of that bent of mind which leads them to believe in all of these methods of "big business" which are now complained of, and which we are trying to reach in this bill, and which leads them to believe they are perfectly fair and perfectly proper, does he not think the country would be in a pretty bad condition?

Mr. CUMMINS. Yes, Mr. President; I do.

Mr. REED. If the Senator will let me finish this question, because it relates to the other. If you write down no definition of what is unfair competition, if you leave it a wide-open phrase, and leave that to the discretion of a board, and provide no means by which their action can be reviewed by a court, what is there to save this country or to protect this country in the event a majority of that board see fit to declare all of these practices to be absolutely legal or proper?

Mr. CUMMINS. I can very well, Mr. President, retort that if the court to which the case is brought is of the economic view suggested by the Senator from Missouri, what is there to save this country from the disaster of that opinion?

Mr. REED. Will the Senator let me answer that right here?

Mr. CUMMINS. Certainly.

Mr. REED. If you pass a law, even in the present vague terms, and it is turned over to a court, you not only have the chance to get a proper construction by the court trying the case, the nisi prius tribunal, but you have the opportunity to have that decision reviewed by the appellate court. You have that much.

But that is not my real objection. I would not vest this arbitrary power in a court any more than I would vest it in a commission. I would never give to a court, to any judge on earth, the power to say what he thought was right and what he thought was wrong and make that the law of the land. I would prescribe by a statute what is right and what is wrong, or at least a rule, and then if a commission decide wrongfully you may rectify that before a court, or if a court, in the first instance, decides wrongfully you may appeal it. But if you do not have that kind of rule, if you do not have any milestone set up as a guide, you then repose the power in a commission that is without limit, and if you strike down even the right to appeal from that judgment as long as there is any possibility of its being sustained, you have put this country in the hands of a commission which, like any other tribunal vested with arbitrary power, may do good, but, like any other tribunal possessing arbitrary power, it may do bad.

If the Senator will pardon me one word further, let us assume that a President should be elected in the future, as they have been in the past, who believes honestly that all these practices against which the Senator inveighs—and I join him in nearly all he has said—are perfectly legitimate and perfectly proper. If he were to appoint a board of this kind, with these unlimited powers, with no right of appeal, in what condition would the business of the country be placed?

I add this, and I am adding it earnestly and as courteously as I can, for I admire greatly the Senator. I ask the question, Does not the Senator think it is our duty to write a rule now that will afford a legal protection against these things?

Mr. CUMMINS. Mr. President, I have no doubt it is the duty of the Senate to write a rule. All legislation is the declaration of a rule of conduct. The Senator from Missouri and myself, however, differ with respect to what constitutes a rule of conduct. I affirm that when we say no man shall be guilty of unfair competition in commerce we have laid down a rule that is as well understood and as capable of definite application as the great majority of the statutes which we have enacted. We are dealing with commerce, with business. It has manifold forms. It is of infinite variety; and it is utterly impossible to prescribe a rule of conduct relating to commerce so definite that there can be no difference of opinion respecting its application. We never have done it. No country ever did it. We never will be able to do it.

When we declared in 1890 that it should be unlawful for any person to restrain trade we used as difficult a term to apply as it is easily possible to imagine. The courts have taken that term, have differed as widely as the poles in its application and construction, and have applied it from time to time, and around it has gradually grown up what we may call a common law of the United States. It has been greatly expanded as compared with the law as it existed in 1890.

When we declared that common carriers should not be guilty of "unjust discrimination" we laid down a law, a rule, which everybody recognized as sufficient, but it was more difficult even to apply than the phrase "restraint of trade." Our judicial authorities are full of the sharpest conflicts with regard to the meaning and the application of the phrase "unjust discrimination," for the very moment that you admit any discrimination and begin to inquire what is just and what is unjust you have entered exactly the same field as when you begin to investigate the phrase "unfair competition." In either case we are compelled to draw upon our civilized sense of what is right and fair and honest.

I am not now attempting to give a construction to unfair competition any more than I give a definition to unjust discrimination. No man can define either. There are hundreds of phrases in our law of that indefinite character which it would be utterly futile to attempt to define.

Mr. REED. Now, Mr. President——

Mr. CUMMINS. Will the Senator wait a moment? I have not yet answered the Senator.

Mr. REED. Certainly; I thought the Senator had.

Mr. CUMMINS. I have been answering his last suggestion, that we ought to lay down a rule of law, and to that I agree. I was about to say that we do not repose under the amendment I have suggested or under the law with which I am familiar arbitrary power in any tribunal. Arbitrary power is, of course, intolerable.

To say that we give the commission arbitrary power is simply to reassert in another form that unfair competition does not constitute a sufficient rule of conduct or of law. If we are right with regard to the adequacy of that term, then we do not give to the commission arbitrary power, for the commission is bound under the law to apply that standard to conduct precisely as a court would be compelled to apply it.

I understand that all power may be abused, but the fact that power may be abused furnishes no argument for the refusal to bestow it, if the power properly exercised is necessary for the welfare of the people. The power of the President may be abused; the power of Congress can be abused; the power of the courts can be abused; but each of these departments of the Government must have power in order to perpetuate organized society.

I am one of those who believe that in a regulation of commerce where there must be in its administration an intimacy between the Government and the persons who are regulated, which would be entirely improper in an adversary proceeding before our courts, we will be able more efficiently to prevent these evils and bring about a conformity with the law through a commission than through the courts. I do not believe that the courts are organized for any such purpose. I do not believe that their processes are fitted for that purpose.

I will not go beyond the present amendment, but I know, or feel that I know, that a commission might be very helpful to the people of this country in the administration of the antitrust laws. I feel profoundly that if we had established in 1890 a trade commission in connection with the antitrust law of that year we would not be plagued with the great combinations, the monopolistic aggregations of which we are now complaining. I do not believe it would have been possible for these consolidations to have come into existence under the eye of a trade commission, assuming, of course, that the commission is composed of honest and faithful men.

I realize that if these five men were either unfaithful to the trust reposed in them or if their economic thought or trend of thought was contrary to the best interests of the people, the commission might do great harm. I realize that just as I realize that the trend of economic thought upon the part of some judges has done and will continue to do great harm, or rather will continue to render ineffective to a degree a statute that it was believed by its authors would exterminate the monopolies then in existence and prevent the establishment of others.

I would rather take my chance with a commission at all times under the power of Congress, at all times under the eye of the people, for the attention of the people is concentrated to a far greater degree upon the commission which is organized to assist in the regulation of commerce or to administer the law regulating commerce than it has upon the abstract propositions, even though they be full of importance, argued in the comparative seclusion of our courts. If we find that the people are be-

trayed either through dishonesty or through mistaken opinion, the commission is always subordinate to Congress. I do not mean subordinate in the sense that Congress can compel a decision of a particular kind at a particular time, but Congress can always destroy the commission; it can repeal the law which creates it; and the wrong which has been suggested by the Senator from Missouri could not long be perpetuated, whereas we have no such power or control over the judiciary, nor would I desire that Congress should have any such control.

These are the reasons, which might be amplified to any extent, that lead me to believe that the commission should be clothed with all the power that we can give it.

The Senator from Missouri, if he will allow me to say so, and I do not mean it as a fulsome compliment, has but stated in a more eloquent and possibly a more forcible way the arguments that were made in this Chamber in 1906 against the narrow review. If he will consult the CONGRESSIONAL RECORD, he will find that every thought which has been announced in this Chamber in favor of giving to the courts an unlimited jurisdiction over the orders of the commission was uttered here then. It was claimed then that if the orders of the commission could not be reviewed in fullness and in completeness by the courts the commission would annihilate the railroads, that the commission would destroy this great property upon which we are so dependent for commerce. The argument is not new, but it has been again put before the Senate. I agree, in a more persuasive way than we have heretofore heard it.

Now I yield to the Senator from Missouri.

Mr. REED. Mr. President, the Senator was so long in answering that I have almost forgotten what I intended to ask him. The question, however, could be put in this way: The bill as it is now prepared, and the language of which the Senator has accepted in his amendment, simply contains this statement:

That unfair competition in commerce is hereby declared to be unlawful.

The Senator says that is a rule to govern this board. Is there any rule now as to what is fair or unfair except what the commission may regard as unfair or fair?

Mr. CUMMINS. I think there is. I think there is a clear, positive rule, because I believe that underlying these words there is a principle.

Mr. REED. Will the Senator cite me to where I can find that clear and positive rule which defines what is fair and what is unfair?

Mr. CUMMINS. It has never been defined. I can say that in my opinion it never will be defined.

Mr. REED. Then, if there is no rule that has ever been defined, why am I not correct in my assumption that by the adoption of this language you have placed in a majority of the board the power to say what they think is fair and what they think is unfair?

Mr. CUMMINS. No; it will be the duty of the board to consult the decisions of the courts, the learning of the time, the custom of merchants, the habits of trade, the writings of studious and thoughtful men, all of which go to make up our understanding of the words "unfair competition." It will be the duty of the commission to apply those words in that sense precisely as it is now the duty of the court to apply the words "undue restraint of trade" in the sense in which we commonly understand that phrase.

Mr. REED. Now the Senator says that it will be the duty of the commission to read all that the writers say and all that the law books have said and all that everybody else has said and may say and apply that as a rule, yet have we any rule and can we have any rule developed in that way? When we find here serving upon the committee which reported this bill one class of men who believe that this language embraces only a very narrow field and another class of men who believe that it embraces the entire field, and when we know that outside of this committee there are men like one who testified the other day who asserts that all of the practices of a certain corporation, which shall be nameless, for five years have been of a highly ethical character and in accordance with the highest morals, although there had been price cutting of the character we have described, although there had been the running of corporations which owned and were controlled by other corporations, while the public had been led to believe that they were independent and competitive, although flying squadrons of agents had been sent into the territory of an opponent for the purpose of beating down its trade to such an extent that its agents would become discouraged and would hire out to the opposing concern, and so on—I might extend that—with large numbers of men believing that that kind of competition is perfectly legitimate, how can the Senator say we have any rule?

I do not think the Senator meets this question at all when he goes back to the point of saying that we vested in the Interstate Commerce Commission the power to declare what was a reasonable rate. To my mind that has never been a vague term. It has never been a vague term for the reason that from the first common carriers have been subject to governmental control, and their rates for centuries have been subject to governmental regulation.

The Government has always asserted the right to make a rate which was a fair and reasonable rate, and it has been long ago determined by the courts that a fair and reasonable rate was such a one as would enable the carrier to make a fair and just return upon its investment. That was all determined long before we passed the interstate-commerce law. Therefore the question of what was a reasonable or an unreasonable rate was little more than a question of bookkeeping. It simply required an administrative agent to cast up the accounts, to determine what the assets were, what the receipts were, what the expenditures were, and what was a fair return upon the investment. That did furnish a rule. It may not have been absolutely clear in every respect, but the milestones pointing out the road were set up all along the way. I do not think we answer this objection by this illustration. I do not think, if the Senator will pardon the interruption, that we answer it at all by referring to the Sherman Antitrust Act.

It is true that when that act was passed there were those who held to the doctrine that it was too vague and uncertain; and yet that act was drawn by three of the greatest lawyers who ever sat in the Senate. They employed in the statute terms that did have a meaning in the law; and I repeat what I said the other day, that in the Standard Oil case, if I read it correctly, the plain indication is that if the term "restraint of trade" had not a meaning in the law the court would have held the act unconstitutional; but Mr. Justice White held that it did have a meaning in the law, and that it was a well-defined meaning, although, as I read his opinion, he indicated that that meaning had been somewhat broadened in recent years. Here, however, we employ now, not a term like "restraint of trade," which had a meaning, not a term like "unreasonable rate," which had a meaning, but we employ for the first time in our law the term "unfair competition."

I have said from the first, and I repeat now, that if the Senator will cite me to the decision of a single respectable court clearly defining what is unfair competition, I shall be largely content, although it would require more than one decision to overturn the hundreds of decisions that have been cited here. But in using the term "unfair competition," with no rule of law in the books in regard to its meaning, I come back to the point, How does the Senator escape the conclusion that you are vesting in this board the right to say what it thinks is fair and what it thinks is unfair? And then the Senator proposes to say that its decision shall to all intents and purposes be a finality, and that there shall not be an appeal to the courts, although the members of this board may all be men who never saw the inside of a law book. It might be composed of plumbers and board-of-trade men and trust magnates, and it is not required that any one of them shall possess any learning.

If the Senator will pardon me a further interruption—I will not interrupt him again—I should like to say this: In considering the creation of such boards as the one proposed, when we are about to create them we assume always that the appointive power will select good men, wise men, and disinterested men, and that these good, wise, and disinterested men will do exact justice through all the coming years; but after the board has been created we frequently find that those named are merely human beings—that they have bodies, parts, passions, prejudices, and shortcomings. Here is a board given more power than it has ever been proposed to confer upon a board in the history of this country, and it is not even provided that they shall have any special qualifications of any kind. Now, conceding, as I do concede, that the present President of the United States would exercise his highest faculties of heart and mind in the selection of this board, I can not forget that there will be others to follow him, and that we are not here legislating for to-day or to-morrow, but we are legislating for many years to come.

Neither does the argument appeal to me that if the board does very wrongly we can then repeal the law, because we know how difficult it is to repeal laws of this kind; and I think that I know that before sentiment could be created to repeal the law and strike down the board and wipe out this legislation millions upon millions of damage would have been done; chaos would have come into our business life; every sort of injury would

have been inflicted; and I say we have no right here to do a thing and say "We admit it is reckless; we admit it is dangerous; but we do it in this way and trust to the future to justify its enactment."

I hope the Senator will join with me in putting something into this statute, if it is to be passed, which will furnish a limit beyond which this board can not go. Surely we are going too far in setting up a board of this kind with unlimited powers, and then denying the citizens any court review, for that is in effect the purpose of the Senator's amendment. A court review which permits a reversal only when there is no evidence whatever for the board to act upon is a court review that will amount to little, for I can not imagine a case coming under this board's eye as to which somebody could not be found who would insist that the practice under investigation was perfectly fair or, on the other hand, some one could not be found to furnish evidence that it was unfair.

I thank the Senator, and I apologize for the long interruption.

Mr. CUMMINS. Mr. President, I am tempted to return again to a discussion with regard to the sufficiency of the phrase "unfair competition" and the entire impossibility of defining it. We can not define it. If we should put into the law a provision that a white man must do so and so, there is not a human being who could define what "white man" means; there is not a man in the world who is white. Even if you were driven to define the word "white," it would be found impossible to do it; but "white man" has a well-defined meaning in the minds of the people of the world, and therefore that phrase would be a most certain and definite guide.

I do not admit that we are doing a reckless or dangerous thing. I think we are doing a very conservative and sane thing. I say to the Senator from Missouri that I shall be glad if before this bill is passed he is able to produce another phrase which will meet the evil more certainly and one which is less capable of being misdirected or misapplied. I have no pride or claim of authorship in these particular words. I agree with him that we ought to bend our best thoughts upon the discovery of the best words, the best phrase, to reach the thing that we are endeavoring to overcome. At this time, however, the phrase "unfair competition" is to me more certain, as well as more comprehensive and safer, than any other suggestion which has been made.

Mr. President, the commission——

Mr. CLAPP. Mr. President, will the Senator pardon an interruption?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Minnesota?

Mr. CUMMINS. I do.

Mr. CLAPP. I inquire if the Senator has concluded his reference to the term itself?

Mr. CUMMINS. Not quite.

Mr. CLAPP. When the Senator has finished that I should like the privilege of asking him a question.

Mr. CUMMINS. Very well. The Senator from Missouri said that we but lately had an illustration of the danger of appointing to a board of this sort men holding such opinions as would destroy their usefulness upon the board and might impose great harm upon the people. That is true; that is true of the Interstate Commerce Commission as well, and, if the Senator from Missouri will recall the fact, he will agree with me that when the Standard Oil Co. and the American Tobacco Co. were charged with "undue restraint of trade," or with "restraint of trade," there were many eminent men in the United States who otherwise were entitled to the esteem and the confidence of their fellow men, who declared that the practices of those corporations did not constitute a restraint of trade and defended their methods, defended their accomplishments, and eulogized the victories which they had won in the great battle of business. We will have such men always with us, no matter what phrase or what word we employ in our regulatory statutes.

The word "unfair," as has been said so often, is certainly not more uncertain or indefensible than the words "fraud" or "fraudulent." All these things call upon the judicial tribunal or the commission which is to enforce them for the exercise of good common sense, good judgment, or, as I have so often said, the application of the rule of reason which has been vaunted here so highly in defense of the word "undue" in certain decisions of the Supreme Court of the United States. Still, notwithstanding all that has been said, I am of the opinion that "unfair competition" does furnish a sufficient guide, and that we can safely commit it to the administration of a commission, and that we ought to give the orders of that commission the effect necessary in order to make the regulation effective.

I am now about to pass to another question, if the Senator from Minnesota desires to interrupt me.

Mr. CLAPP. With the Senator's permission, I should like to get his view, with reference to some subsequent remarks that I may make.

Taking the case of an advertisement, suppose a corporation was running an advertisement which some one in competition with it felt was in itself unfair competition, and the commission should not find that it was unfair competition. I want to ask the Senator whether he believes that action of the commission would be an act such as could be the subject of judicial review, provided we authorized it?

Mr. CUMMINS. I think we could authorize it, Mr. President. The amendment which I have proposed does not create any plan for its review.

Mr. CLAPP. Now, I want to ask the Senator another question. Without any provision at all in this bill for a judicial review except a mere provision that the commission could apply to a court for an injunction to supplement its order and carry it out, what would be the jurisdiction of the court? What questions could the court inquire into?

Mr. CUMMINS. The Senator from Minnesota assumes, I believe, that the commission has entered an order finding that certain persons or corporations are guilty of unfair competition.

Mr. CLAPP. Yes.

Mr. CUMMINS. They then bring a suit in the courts to annul that order?

Mr. CLAPP. No; the commission brings a suit to enforce that order.

Mr. CUMMINS. Precisely the same questions, Mr. President, that could be examined if the person against whom the order is directed were to bring a suit to set it aside.

Mr. CLAPP. Exactly. Now, does the amendment of the Senator enlarge the jurisdiction of the court beyond the jurisdiction conferred in the bill without either the amendment of the Senator from Iowa or the amendment of the Senator from Ohio upon the occasion either of the commission bringing a suit to enforce its order or the party against whom the order is made bringing a suit to enjoin it?

Mr. CUMMINS. The bill as it now is contains no suggestion of any right upon the part of a person against whom an order is directed to bring a suit to set it aside. I do not say, however, that the omission of such a provision would preclude a person or corporation invoking a constitutional right to appear in a court and assail the order of the commission.

Mr. CLAPP. Of course we could not take away the right to invoke a constitutional right, could we?

Mr. CUMMINS. Certainly not.

Mr. CLAPP. No. Then, what I want to get at is this: What is there in the Senator's amendment in excess of the constitutional right, in excess of the jurisdiction which a court would have if a party invoked his constitutional right? Does it enlarge the jurisdiction?

Mr. CUMMINS. There is nothing, except making the trade commission suable, fixing the venue of the suit, and describing the court in which the suit is to be brought. My amendment, however, very materially affects the order of the commission when the commission brings a suit to enforce it. I am now comparing it with the amendment proposed by the Senator from Ohio.

Mr. CLAPP. No; I ask a comparison between the Senator's amendment and the bill as it stands.

Mr. CUMMINS. The bill does not stand that way now. The amendment of the Senator from Ohio has been accepted by the committee, reported by the committee, and is now a part of the bill.

Mr. CLAPP. I was unfortunate in my language. What I meant was, Wherein does the Senator's amendment enlarge the jurisdiction of the court under the bill as it was originally drawn, which simply provided that the commission could bring a suit to enforce its order and left the party against whom the order was made to his or its constitutional right to appeal to a court of equity under the Constitution itself?

Mr. CUMMINS. I do not think it enlarges it at all. It removes from the bill as it was originally reported a grave, serious, constitutional objection in that the bill as we had it before us until this morning seemed to imply that when the commission brought a suit to enforce its order the court should have no power to do anything in connection with the order; that it became its imperative duty at once to order an injunction upon the mere presentation of the case. We all agree that that could not be done constitutionally. We all agree that there are certain things that the court has the right to review and that we can not withdraw from the jurisdiction of the court. I feared that under the bill as it came from the committee originally the court might declare that we were attempting to take from the court all jurisdiction of a judicial charac-

ter, leaving it merely the administrative office of issuing an injunction, and might overthrow the entire legislation upon that ground.

My amendment is mainly intended, first, to make it clear that any person who is aggrieved by the order can bring a suit to set it aside or annul it, and can bring it in a certain tribunal therein stated, making the commission itself suable as a defendant; second, to take away from the bill as originally reported the implication that upon presenting an order of the commission the court must at once, and without any inquiry save to ask whether it had actually been entered, issue an injunction to enforce it.

These are the two important respects in which the amendment I propose differs from the bill as it came from the committee. I omitted one other. The amendment proposed by the Senator from Ohio, as well as the amendment as it was originally proposed by the committee, limits the order of the commission to corporations. I make it as broad as the antitrust law, and say that persons or partnerships who are guilty of unfair competition may also be prosecuted by the commission, and ultimately restrained by the courts. In that respect my amendment takes the same view of this subject as the bill reported from the Judiciary Committee. I can not understand why we should allow a person or a partnership to be guilty of unfair competition and go unchecked and unpunished, and attempt to visit our wrath only on corporations.

Mr. CLAPP. I am quite in accord with the Senator on that proposition. The point I was getting at was this:

First of all, I am not at all embarrassed over the definition in this bill. I do not even think, as the Senator from Iowa does, that the commission would have to go to books to find out what an unfair practice was; but I am concerned in this: We are dividing responsibility. We are creating one more body to confuse the public as to who is responsible for the nonenforcement of the law. We are vesting power in a body that has not the traditions of the judiciary to protect it from either the approach of sinister purpose or the exaltation of its own ideals. I do not fear the effect of this commission upon business; but what I fear—to paraphrase the language of the present Executive of the United States—is the effect of business upon this commission.

It does seem to me, if there is anything in the Senator's amendment beyond curing the mere constitutional defect of creating a commission without in the law itself authorizing an examination by the courts, that the party who seeks an order to declare a practice unfair competition should have the same right of review as the party against whom the order is sought. If there is any reason for giving what we call business a review, there should be, to my mind, the same reason for giving the party who complains of the practices of business a review.

I am free to say to the Senator that while I am very much in sympathy with him, and very prone to yield largely to his judgment in these matters, as the matter presents itself to me at this time, as between the amendment of the Senator from Ohio, which, I understand, attempts to give the party who seeks the order and against whose interest the order is withheld the same right of review which is given to the combination or trust that gets a review when the order is made against it, and the amendment of the Senator from Iowa, which contains no such provision, I should prefer the amendment of the Senator from Ohio.

Mr. CUMMINS. Mr. President, the point suggested by the Senator from Minnesota is, in my opinion, in neither amendment. I look upon the enforcement of this regulation as a matter of governmental concern. The Government is represented in the trade commission, and the Government ought to be satisfied with the action of the trade commission.

This is not a statute intended to afford remedies in damages to those who may be injured by the wrongdoing of trusts and monopolies. I have no objection whatever to—indeed, I would hail with pleasure—the introduction into the bill of a provision similar to that in the antitrust law, which confers upon anyone who is injured the right to sue in the courts of the United States and recover treble damages; but I hope the Senator from Minnesota will not confound that weakness in the bill with the question we are now considering. We are trying here to make the regulation effectual, not for the benefit of an individual, but for the benefit of society. We are trying to establish a law which all the people will recognize and obey. We are trying to create a standard for the defense of honest business against the assaults of monopoly and concentrated power.

I hope the Senator from Minnesota will carefully differentiate the enforcement of a law penal in every sense except that it has no imprisonment or fine attached, the enforcement of a law for the purification of business, from the recovery of damages upon the part of one who has been injured by the wrongdoer. I will join him in every effort he can possibly make to bestow the right to bring a suit for damages; but just so surely as the amendment of the Senator from Ohio is adopted, and we have first a trial before the commission, then an appeal to the district court, and then an appeal to the several circuit courts of appeal of the United States, this statute will be innocuous; it will fail, because the procedure for its enforcement involves such delay and such disappointment that it will speedily be abandoned.

Mr. CLAPP. I should like at this point, if the Senator is willing——

The PRESIDING OFFICER. The Senator from Iowa yields to the Senator from Minnesota.

Mr. CLAPP. The Senator, I trust, will not confuse the point that was suggested by my inquiry with the question of the right of a party to recover damages. I had not suggested that, although I do have an amendment pending for that purpose.

I agree with the Senator from Iowa that this is to be a public law and that the public is interested in the enforcement of the law. What I am getting at is to invoke those agencies and instrumentalities which will result in the law being effective and being enforced. Clearly the combination against which a complaint is made of unfair practice has no earthly interest in correcting that unfair practice. The commission, acting for the Government, of course, has an interest; but it is only human that its interest, at the most, can be subject to those influences that ever are about abating the activity and interest of those upon which the enforcement of law devolves.

What instrument, then, is there, what agency can be invoked, so certain to lead to the enforcement of the law as the right of the individual upon whom the unjust practice has fallen to have a review of the decision, the action, the order of this commission?

Joining with the Senator from Iowa in the broad purpose of the law, which is to purify and clarify the commercial industrial life, I believe that no agency can be invoked that will be such a spur to the active, thorough administration of this law, when an individual complains of an unjust practice and the commission refuses to declare it an unjust practice, as to bring into the avenues of the administration of the law the interest of the individual who has complained and against whom the unfairness is being practiced.

I believe, therefore, as a part of the instrumentality of this law, from the Senator's own viewpoint, the party who complains of an unfair practice should have the same opportunity for a review in the courts as the party against whom the unfair practice is alleged.

Mr. CUMMINS. Mr. President, I do not concur with the Senator from Minnesota wholly. The reason I do not agree with him is that what he suggests destroys entirely the value of the order of the commission. We investigated the same subject with regard to the orders of the Interstate Commerce Commission, and all those who were in favor of withdrawing from the orders of the Interstate Commerce Commission the effect which they now have when they come before the court, either upon the action of the railway company or the action of the commission, would at the same time and naturally favor a similar provision in this statute. You can not allow a complainant before the Interstate Commerce Commission, in the event that the commission declines to award him the relief which he seeks, to appeal to the court from the finding or order of the commission without opening the whole subject to a trial de novo.

I know there are many people who believe we ought to do that with regard to the interstate-commerce law, and the reasoning just suggested by the Senator from Minnesota is persuasive. It seems to be founded upon good reason, and yet, however advantageous it might be to allow an appeal of that kind in a particular case, you must put over against it the disadvantage of permitting a court to review or retry every case brought and determined by the commission, for if the Interstate Commerce Commission says to the shipper, "We have investigated your complaint, and we find that the rate of which you complain is a reasonable rate," and if then you allow the shipper to appeal from the order of the commission to the district court, the only question that can be tried there, the only issue that can be made, is whether the rate is reasonable or not. If we reach that point, if that seems to be wise, I am in favor of abolishing the Interstate Commerce Commission entirely. I would not be in favor of establishing this commission if that is the rule to be applied. I would, on the other hand, allow every shipper to file his petition directly in the court, just as I would

allow every complainant against unfair competition to file his petition directly in the court, and have the court investigate and determine whether the defendant was guilty or not of the practice charged.

We must choose one or the other of these courses. Each of them has some advantage. It is very difficult, of course, to deny the soundness of the general view announced by the Senator from Minnesota, but the course that I have outlined in my amendment seems to me not only to have greater advantages than the other but to be essential to the effective regulation of commerce, for whenever all the questions which relate to commerce are open for the general jurisdiction of the courts and are triable under the tedious processes of the courts we will soon abandon the effort to restrict trade within the limits to which we believe it ought to be confined.

Mr. McCUMBER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from North Dakota?

Mr. CUMMINS. I yield to the Senator from North Dakota.

Mr. McCUMBER. Before the Senator closes, I wish to obtain from him the benefit of his investigation of the judicial decisions which have limited or circumscribed or so defined the words "unfair competition" used in this bill that we may know exactly what the phrase means, at least that we may know what its limit is. Have they been along a certain line reaching to a definite principle the same as the phrases "unjust or unreasonable rates" or "unjust discrimination"? Does the Senator think that the decisions have been so clear and so definite that we will understand that term as well as we understand the others?

Mr. CUMMINS. I do, Mr. President. Certainly we will understand it at the end of 20 years of experience as well as we now understand the words "restraint of trade."

Mr. McCUMBER. Undoubtedly.

Mr. CUMMINS. I may say that in my view of it the Senator from North Dakota has expressed with great accuracy the evolution or development of the meaning and application of the phrase "unfair competition." I have referred to so many cases in the course of the long time that I have occupied the floor of the Senate that I could not at this moment recall them, but if the Senator will do me the honor to read even a part of what I have said during the course of the debate he will find all these cases collected.

Mr. McCUMBER. I wish to say to the Senator that I have been absent for some 10 days, and therefore I have not had the benefit of the arguments which have been made during that particular period. But let me make my point clear to the Senator, and then possibly he can answer my question directly. If I am called upon to apply the term "unreasonable rate," I immediately have in my mind two great principles: First, the cheapest possible rate for the shipper; second, a reasonable return upon the investment for the company doing the shipping. I find no great difficulty in applying that rule. If I am called upon to apply the rule of nondiscrimination, I simply have in my mind the freedom of action of the company to the greatest extent consistent with absolute equality of treatment of all the individuals. In both those cases I am dealing in every instance between the company serving and the mass of people to be served, but in this bill I am brought face to face with another proposition, and that is the dealing between two competing companies, whether in interstate trade or commerce, or whatever it may be. I can conceive many instances in which competition may be unfair as between the individuals, and yet it may be absolutely beneficial to the public. I want some limit, if I can get it, as to how far this commission can reach into that vast field to apply its jurisdiction.

If I understand the Senator correctly, and he can correct me if I do not, his view is that the unfair competition must in every instance reach toward either crippling competition or destroying competition; and if I understand the few authorities that I did hear cited, they were all along that direction.

There may be unfair competition between parties which does not cripple competition and which does not destroy competition. Now, would the Senator have any objection to limiting the meaning of these words by some apt language so that it will limit the jurisdiction of the commission over those competitive methods which either mean crippling competition or destruction of competition, so that after all it is in every instance simply protecting the people against what in the end would be the destruction of competition; or would he allow the commission to go into the old field of ethics of trade as between two competing companies and determine what is right and what is wrong?

If the Senator agrees with me that it should be limited to those questions in which the competition purposely, either directly or indirectly, stifles or destroys competition, what possible objection could there be to so defining it that we will know it will be applied only to those cases?

Mr. CUMMINS. Mr. President, as I stated in response to an interruption from the Senator from Missouri [Mr. REED], I do not say that the phrase "unfair competition" is the best that can be discovered. I only say that it is the best that has been discovered up to this moment; and if the Senator from North Dakota can present some phrase or words that will properly circumscribe it, I think he will be a benefactor, and I will be very glad to consider, so far as I am individually concerned, any suggestions which he may make. But I will not attempt to assent to or dissent from the general idea which he has expressed.

Mr. STONE rose.

Mr. CUMMINS. I yield to the Senator from Missouri.

Mr. STONE. Mr. President, pertinent to what the Senator from North Dakota says and what the Senator from Iowa has said in response, I would like to have the opinion of the learned Senator from Iowa as to this suggestion, for I intend it only as a suggestion: If the first clause of section 5, namely, "that unfair competition in commerce is hereby declared unlawful," should be eliminated and displaced by the expression which I now read or some other equivalent phrase, would not that come more nearly meeting the objections which have been raised against the term "unfair competition"? I read as follows:

It shall be unlawful for any corporation to engage in any unfair or oppressive trade practice in the course of commerce as herein defined with the intent and purpose of destroying or unreasonably hindering the business of another or preventing another from engaging in business; and it shall also be unlawful for any corporation to engage in any unfair or oppressive trade practice in the course of intrastate commerce with the intent, purpose, and probable direct effect of destroying or unreasonably hindering the interstate or foreign business of another, or of preventing another from engaging in such business.

Following that by striking out the second clause in section 5 and inserting:

The commission is hereby empowered and directed to prevent any corporation from using any trade practice herein and hereby declared to be unlawful.

And so phrasing the remaining clauses of the section as to conform to that general purpose.

Mr. CUMMINS. Mr. President, I do not want to express an opinion with regard to the matter just suggested by the Senator from Missouri. It is entitled to consideration. There is in my mind, though, all the while, the idea that was brought forward by the Senator from North Dakota [Mr. McCUMBER]. The unfair competition with which the public is concerned is unfair competition that is inconsistent with or repugnant to the continuance of competition as a force in the business life of the country. I do not think of it so much as a wrong upon the individual as I do as an offense against the whole people.

But, Mr. President, I have unwittingly and unintentionally occupied a vast amount of time this morning already, discussing things that were not within my purpose when I rose.

Mr. McCUMBER. Before the Senator concludes, he said he would be glad if I would make some suggestion in the line of definition which would indicate the suggestions that I made, and I ask the Senator what objection there would be to this definition:

The words "unfair competition" as used herein shall be construed to mean such unfair means or methods as shall be intended to or which shall directly or indirectly stifle or destroy competition.

That would at least bring it clearly within what I would at least like to limit the jurisdiction of this commission, so that it shall be a commission more to protect the public than to protect one great trading company as against another trading company.

Mr. CUMMINS. I think, Mr. President, that the phase of the subject just brought forward by the Senator from North Dakota, as well as the phase presented by the Senator from Missouri, are very good illustrations of the general difficulty in defining these words, although every Senator here has a perfectly clear conception of what he would do in a particular case if he were asked to apply the test—unfair competition. However, I commend these things to the Senator from Nevada [Mr. NEWLANDS], who leads the committee with regard to the bill, and I proceed simply now to cite the cases from which I intended to read, but I shall not consume the time to do so. I cite these cases to show clearly just what jurisdiction the courts have over the orders of the Interstate Commerce Commission, and I cite them further because they present most persuasive arguments in favor of continuing the policy that we have already adopted.

First, in addition to the opinions already mentioned I cite the case of Procter & Gamble Co. against the United States, in Two hundred and twenty-fifth United States Supreme Court Reports, at page 282; also the case of the Interstate Commerce Commis-

sion against the Louisville & Nashville Railroad Co., in Two hundred and twenty-seventh United States Supreme Court Reports, at page 88; also the case of the Kansas City Southern Railway Co. against the United States, in Two hundred and thirty-first United States Supreme Court Reports, at page 423.

Mr. President, I have concluded what I desire to say with regard to the amendment I have offered. I believe that it is in harmony with the best interests of commerce. I believe it will result in a better administration of the law which we are about to pass. I believe that unfair competition will be more adequately and efficiently dealt with under the procedure of my amendment than it can be under the procedure of the amendment of the Senator from Ohio [Mr. POMERENE]. There are other objections to the amendment proposed by the Senator from Ohio, but I do not pause to consider them, for they are not important in comparison with the objections I have attempted to present.

Mr. WALSH. Mr. President, the principal question presented by the amendment offered by the Senator from Ohio [Mr. POMERENE] touches the review of any order which may be made by the commission. At least the essential difference between the amendment offered by the Senator from Iowa and the amendment offered by the Senator from Ohio concerns the matter of the review and the extent of the review of such order.

I trust, Mr. President, in the further consideration of the amendment we shall endeavor to rivet our attention upon that question, dismissing for the present, so far as we can, the much-mooted question as to whether the term "unfair competition," as used in this statute is sufficiently definite to meet the requirements of the case.

I shall be very glad to answer any inquiry that may be addressed to me in the course of the few remarks I may make by any Senator touching the particular features of these amendments, but I hope to be excused from entering into any discussion with any Senator concerning the subject of unfair competition, feeling, as I do, that that matter has been canvassed sufficiently before the Senate to afford all an opportunity to form an advised judgment.

Mr. President, to state the matter as clearly as I can, the original bill simply provides that whenever an order is made by the commission declaring a particular practice to fall within the condemnation of the statute to be unfair competition, the commission may apply to the court, in case the order is not complied with, for a process called an injunction to enforce obedience to it. The amendment offered by the Senator from Iowa [Mr. CUMMINS] contains the same provision, but it contains an additional provision to the effect that whenever a corporation against whom the order goes is dissatisfied with the order and desires to bring suit to annul or set it aside, that suit must be brought within a district court designated in the amendment. It is then provided and declared that the practice in such action shall be in accordance with the practice which now obtains in the case of similar suits brought to sustain or annul an order of the Interstate Commerce Commission.

There is really no substantial difference between the original bill and the amendment offered by the Senator from Iowa, except that the amendment offered by the Senator from Iowa fixes the venue within which the action can be brought to annul or suspend. There is nothing said in the original bill about an action of that character, and there is no express authority given in the amendment offered by the Senator from Iowa to bring the action; it simply recognizes that such action may be brought. I do not regard that as essential at all, because there can be no question that the right to bring an action in the courts to annul or set aside an order of the commission exists, whether it is expressly stated in the act or not. So far as I am able to discern, there is no real material difference between the provision in this respect reported by the committee and the amendment offered by the Senator from Iowa.

The amendment offered by the Senator from Ohio [Mr. POMERENE], however, provides that either party to the proceedings before the commission may have a review of its decision in any district court named in the amendment; but on the review in the district court, exactly the same evidence is considered as was heard before the commission, except that either party may make a showing to the court of his inability to secure material evidence which he now offers to produce, and the court may, in its discretion, permit the additional evidence to be admitted.

It becomes a question, Mr. President, as to which of these two systems shall be pursued. I want to state, as clearly as I can, the essential difference between the two, and my reasons for believing that the review which is permitted by the amendment offered by the Senator from Ohio ought to be authorized by the bill.

The Senator from Missouri [Mr. STONE] asked on yesterday whether it would not be wise to follow the practice and the procedure and to be governed by the precedents already established in connection with the interstate-commerce act. Undoubtedly, Mr. President, it would. It is, of course, lawyerlike that, so far as those precedents can guide us, we should follow them here.

Here let me say, Mr. President, the procedure I have indicated, which is outlined in the amendment offered by the Senator from Ohio, follows substantially the procedure which now obtains in connection with a review of the orders of the Interstate Commerce Commission, except in this particular, that, as pointed out now, whenever a suit is instituted for the purpose of annulling an order of the Interstate Commerce Commission, the question is confined to whether the constitutional rights of the party against whom the order goes have been invaded and whether there is any evidence whatever to sustain the order which has been made. Under the amendment offered by the Senator from Ohio the court will be permitted to go beyond that and reverse the order, though there is evidence which would sustain it, whenever the great weight of the evidence is contrary to the decision rendered; in other words, the difference between the two is substantially the difference between the review of a case at law upon a writ of error and the review of a case in equity upon appeal. Of course we all, as lawyers, understand that, in the first instance, the only question is whether there is any evidence to sustain the finding of the jury, while in the second case, the question is whether the judgment made is contrary to the great weight of the evidence, conceding to the judgment of the lower court in the equity case and to the commission, when its order is under review, the presumption which naturally attaches to the decision of tribunals constituted as they are respectively.

Mr. President, I am not here going to assert that if we should deny the right to a complete review of the findings of the trade commission before a court, both upon the facts and the law, the act would be unconstitutional. I greatly fear that it would be. I entertain the gravest doubt as to whether it is within our power to take away from one charged with having violated this law, with having committed what is here condemned as an unlawful act—I entertain the gravest kind of doubt as to whether you can deprive a man so charged of the right to try that question before a court constituted under the Constitution.

Mr. President, there is an essential difference between an order made by the proposed trade commission condemning certain acts already done as unlawful and prohibiting the continuance of those acts and the declaration of a rule to guide future action, such as commonly emanates from the commission whose work is so well known and commended. The Interstate Commerce Commission is authorized under the law not to condemn what has been done in the past, except incidentally, but it declares a rule which is to guide in the future. The Interstate Commerce Commission says to the railroad: "In the future you can charge only such-and-such rates." That, Mr. President, is a legislative or an administrative act. A legislative or an administrative act looks to things to be done in the future. A judicial act inquires into things that have been done in the past, and either countenances or denounces them.

Let me refer you to what was said by the Supreme Court upon this matter for the purpose of making it entirely clear. I read from Interstate Commerce Commission against Cincinnati Railway Co., One hundred and sixty-seventh United States, page 499:

> It is one thing to inquire whether the rates which have been charged and collected are reasonable—that is a judicial act; but an entirely different thing to prescribe rates which shall be charged in the future—that is a legislative act.

So, likewise, Mr. President, when complaint is made that a certain practice, for instance, in the distribution of cars, is unreasonable, the Interstate Commerce Commission will find, perhaps, that it is unreasonable; but the relief that it gives looks to the future. That was the case in the opinion to which your attention has been invited in the case of the Illinois Central Railway Co. against Interstate Commerce Commission. They required the company to make a rule which should be operative in the future and which should control and guide in the distribution of cars for the future.

Mr. President, under this bill we are not going to undertake to regulate corporations and lay down rules under which they can conduct their business in the future. We have not yet determined to enter that domain.

Let me point out here that there is an essential difference between a common carrier corporation that is dealt with by the Interstate Commerce Commission and an ordinary trading corporation. Everybody recognizes that the property of the former

is affected with a public use and the Government can regulate the conduct of a business in which the public interest so largely enters. We are now, however, attempting to deal with corporations whose business is not affected in any way with a public use. Our power extends to them simply because they are engaged in the business of interstate commerce. That being the case, I undertake to say, sir, that to invest a commission with the power of condemning as unlawful what has been done in the past, of adjudging that a practice which has been pursued is unfair and contrary to this law, and to issue its order prohibiting it from continuing the practice in the future, is dangerously near to authorizing this commission to perform judicial duties. If that is the case, if the duties are purely judicial, Congress can not constitutionally preclude anyone against whom the order goes from a review of the accusation against him before a constitutional court. Mr. President, when we are confronted with so doubtful a legal proposition, why should we imperil the ultimate fate of this bill, unless there are overweening considerations that impel us to withhold this power of review?

Let me state what the objections urged are. It has been suggested, in the first place, that if you give the power of general review there will be interminable delay, that the case will go to each of the successive courts, and that a final result will scarcely be attained until after a lapse of years. Why, Mr. President, let us not deceive ourselves about that. You will travel just exactly the same route; you will travel just exactly as slowly and tediously, no matter which of these systems you adopt.

Let us assume, now, that you have what is spoken of as the narrow review instead of the broad review; let us assume that you adopt the bill as it stands or that you adopt the amendment offered by the Senator from Iowa, what will follow? An order is made by the commission and, no matter what you do, you can not take away from anybody the right to have that order reviewed in the court.

Whether you expressly authorize it or impliedly authorize it, as is done in the amendment offered by the Senator from Iowa, or whether you say nothing at all about it, the man against whom that order goes has a right to go into court and ask that the order be annulled and that its enforcement be enjoined because he is deprived of his constitutional rights by reason of it. Then the district court goes on to try the case, to ascertain whether the commission acted within the scope of the law, whether it denied the constitutional rights of the party against whom the order went, whether there is any evidence to sustain the conclusion at which the commission arrived, and whether, as a matter of law, the facts shown to exist constitute unfair competition. A decree is entered sustaining the order. Under the existing law the party enjoined has the right to sue out an appeal to the circuit court of appeals and have the matter reviewed there. Then he may go to the Supreme Court of the United States and have the judgment reviewed there, because the jurisdiction rests upon a statute of the United States and not upon diversity of citizenship. So under the procedure which would be pursued on the adoption either of the amendment or the original bill the entire route can be traveled to the Supreme Court of the United States in connection with every order that is made by the commission. That is all that can be done under the amendment of the Senator from Ohio. Indeed, his amendment provides that the judgment of the circuit court of appeals shall be final, except the Supreme Court itself should deem the matter of such grave importance as that it should send down for the record by a writ of certiorari or the court below should be so troubled in arriving at a decision as to send up on a certificate a question of law for the opinion of the Supreme Court. So there is not any difference at all in the course that must be pursued, nor in the time that will be taken to get to final determination, except for the advantage indicated in favor of the amendment of the Senator from Ohio.

Mr. President, I want to inquire for a moment what the difference is between the two methods of review. The order made by the commission with the evidence taken goes before the court in some form or other. It is simply a question as to whether the court is to be confined in its review to considering only the evidence offered to sustain the claim that the practice is unfair competition or whether it shall be permitted to inquire into the other evidence, as well that going to establish that the act complained of was not unfair competition as that making for the contrary contention. It is simply a question as to whether the court shall be entitled to review the question of the right of the order as well as the power to make it, whether the evidence is such as that a man ought to reach the conclusion that the practice is indeed unfair competition such as is denounced by the law.

I desire to say in that connection that, speaking for myself, I have no sort of apprehension with respect to what the result will be. I am not at all fearful that our courts may hurriedly and thoughtlessly reverse the judgments that may be rendered by the trade commission because the judges do not concur in the conclusions reached in conflicting evidence. I am not apprehensive in that regard; but, Mr. President, it will be borne in mind that if the order should be reversed a right of review is still given in the circuit court of appeals, and there is no reason to apprehend that that court will approve any unwarrantable interference with the work of the commission.

The courts have time and again declared that when an order is made by a special commission, constituted of men particularly fitted for the work intrusted to it, chosen because they are skilled in that particular line of work, experienced by reason of their daily vocation in the determination of such problems as are brought before them, the very greatest degree of weight and credit is to be given the orders which they make. Speaking for myself, I am not apprehensive at all that they will be lightly and inconsiderately set aside. I do not think that we have any just cause to put the fate of this bill in peril by reason of any apprehension of what may be done in that regard.

It has been suggested, Mr. President, that this amendment makes the proposed trade commission simply a gateway by which one may get into the courts, and that the commission will be like a court having power only to conduct a preliminary examination, the whole controversy being again open to review in the court above. I do not think that that is a just criticism of this amendment. It may fairly be assumed that when the trade commission decides a matter and issues its order its action will have great weight and significance with the court that is asked to vacate and annul that order. The procedure prescribed by the amendment can not justly be characterized as a mere route through which one may eventually get into the courts.

On a preliminary examination one may withhold his evidence and put it in when the defendant comes to trial in the court above. He can not do that here, however. The case is tried before the court upon the review authorized upon just exactly the same evidence as that upon which it was heard before the commission, unless, indeed, a showing is made above of newly discovered evidence or of evidence that could not have been produced upon the hearing before the commission. I believe that that provision might very properly be left out of this amendment, and yet I do not believe that it is harmful at all.

It is said, Mr. President, that corporations will take advantage of that provision and that they will withhold their testimony before the commission, and then will surprise the opposing party by making an application above and having permission to introduce it there, but, in the first place, that supposition contemplates that perjury by testifying deceitfully in the court of inability to secure the evidence offered at the trial before the commission that its existence was not known at the time of that trial, and, in the second place, it contemplates that the judge before whom the case is heard will be quite easily imposed upon by evidence of that character or will be quite ready to join in that of perverting the law. If objectionable, however, that provision of the amendment might be eliminated.

My own opinion about the matter is that it might with entire safety be left in the bill, and if experience should demonstrate that it is being used fraudulently it would be very easy in the light of that experience to amend the law later on.

Another point to which I wish to call attention is that this amendment gives a right of review to the man who makes the complaint, and it gives a right of review to the Government of the United States. You will understand that under the provision as it stands and under the amendment offered by the Senator from Iowa, if one complains before the commission of unfair practices pursued against him by which his business is being ruined, by which he is being wrongfully driven out of the market, and the commission decides against him, determining that the practice complained of is not unlawful, that it is not unfair competition, and dismisses his complaint, that ends the matter as to him. He can never be heard in a court at all upon his complaint. On the other hand, if the decision goes against the corporation and it is adjudged to be guilty of unfair practices in violation of the law it may have a review in the courts—true a limited review, true a review as upon a writ of error in a law case, but still a review.

Mr. President, I feel that we ought carefully to guard the rights of the party making the complaint lest at some time or other we should have a commission that has no interest in the

maintenance of the law; a commission not desirous of enforcing it against the great combinations, not desirous of enforcing it against those who may sustain friendly relations with members of the commission or those influential with it. So the man who makes the complaint ought to have a right to go into court upon appeal and ask the court to adjudge whether the facts as he has brought them to the attention of the commission constitute unfair competition and whether they ought not to be suppressed by a proper order.

So, likewise, Mr. President, the amendment offered applies only to corporations. It authorizes corporations to be brought before the commission for the purpose of restraining them in the performance of acts alleged to be unlawful. Complaint is made because it does not likewise include persons, individuals, and associations. The Clayton bill as reported by the Judiciary Committee applies to all; it applies to individuals, partnerships, and corporations. The amendment offered by the Senator from Ohio, however, is directed against corporations only. If you put the question in this way, "Why should an individual or why should a partnership be allowed to do those things which you condemn when done by a corporation?" there is no answer to be made to the question. They should not be; they should all be regarded in exactly the same light, but the fact is that we have not found any evils yet arising in our body politic by reason of any oppressive acts by one individual engaged in business against another individual engaged in business, by one partnership against another individual or another partnership or against a corporation, and this legislation, Mr. President, is intended to reach evils which we know to exist. It never was intended to reach evils which we think may possibly under some circumstances arise in the future, but of which our experience has not yet given us any warning.

In other words, as has been repeatedly said here, the evils complained of are those that are practiced by corporations, and the act is intended to reach those only.

However, it is very easy to amend this amendment by making it applicable to individuals and partnerships as well as corporations, if that should be deemed advisable. In my own humble judgment, however, we might very well abide the future with respect to that, and if in the course of time we should find evils growing up in the business system by reason of practices that have been pursued or are being pursued by individuals or partnerships, no doubt an amendment to meet that evil could be incorporated.

Mr. JONES. Mr. President, may I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Washington?

Mr. WALSH. I do.

Mr. JONES. Is not the declaration in the amendment offered by the Senator from Ohio, as well as in the proposition as originally reported, "that unfair competition in commerce is hereby declared unlawful," a general declaration of the unlawfulness of unfair competition whether by individuals, persons, or corporations; or does it mean "that unfair competition among corporations in commerce is hereby declared unlawful"?

Mr. WALSH. Undoubtedly the language is general, and would apply to all of them.

Mr. JONES. It would apply to all; but the only method of enforcement that we provide applies to corporations.

Mr. WALSH. Apparently so.

Mr. JONES. Would there be, under that general declaration, a punishment that could be inflicted by the courts upon an individual practicing unfair competition? I ask that question, because I do not know whether or not we have a general law like they have in some of the States, that where an act is declared unlawful and no specific penalty is prescribed the general law fixes the penalty. In other words, would there be any penalty that could be inflicted upon an individual for practices that this language declares to be unlawful?

Mr. WALSH. I know of none.

Mr. CUMMINS. Mr. President——

Mr. NEWLANDS. Mr. President, I would suggest, however, that in that case, under this first sentence, an individual would have a right of action to recover damages against another individual for unfair competition.

Mr. JONES. That is, a civil action?

Mr. NEWLANDS. Yes.

Mr. CUMMINS. That is the suggestion I was about to make. While there is no way of enforcing it as a public regulation, it would characterize the quality of the act as between individuals, or as between an individual and a corporation, and it would undoubtedly give rise to personal actions.

Mr. SUTHERLAND. Mr. President, I am not certain that I made myself entirely clear to the Senator from Iowa [Mr. CUMMINS] in the suggestions which I made to him with reference to the difference between the functions which were conferred upon the Interstate Commerce Commission and those which are attempted to be conferred upon this trade commission.

As I understand, under the interstate-commerce law the reviewing power of the courts over an administrative or legislative act of the Interstate Commerce Commission does not include the power to review the facts upon conflicting evidence; and I think that is because the order of the commission is not an order in the nature of a judicial decision or a judicial decree, but is an order in the nature of an act of legislation. In that case the authority of the court very naturally should be confined to determining whether or not the order, first of all, is within the scope of the power of the commission, and whether or not it deprives the defendant of any constitutional right.

The statement made in Two hundred and twenty-second United States from which the Senator from Iowa read, at page 547, is:

> In determining these mixed questions of law and fact the court confines itself to the ultimate question as to whether the commission acted within its power. It will not consider the expediency or wisdom of the order or whether on like testimony it would have made a similar ruling. "The findings of the commission are made by law prima facie true, and this court has ascribed to them the strength due to the judgments of a tribunal appointed by law and informed by experience."

In Two hundred and fifteenth United States, in the case of Interstate Commerce Commission against The Illinois Central Railroad—which, as I remember, is the first of the series of cases which dealt with the power of the courts under the amendments of 1906—the court, after laying down the same general rule with reference to the power of the courts to review the action of the commission, went on to say what I am about to read, and I invite the attention of the Senator from Iowa to this language.

Mr. CUMMINS. I read it.

Mr. SUTHERLAND. Two hundred and fifteenth United States, the language that I am about to read?

Mr. CUMMINS. I think so. If I did not, however, I shall be very glad to have the Senator do so.

Mr. SUTHERLAND. The court went on to say:

> Plain as it is that the powers just stated are of the essence of judicial authority—

Now, those are the powers to determine whether or not the commission has proceeded within the scope of its powers, whether or not the carrier has been deprived of any constitutional right. They say:

> Plain as it is that the powers just stated are of the essense of judicial authority, and which, therefore, may not be curtailed, and whose discharge may not be by us in a proper case avoided. It is equally plain that such perennial powers lend no support whatever to the proposition that we may, under the guise of exerting judicial power, usurp merely administrative functions by setting aside a lawful administrative order upon our conception as to whether the administrative power has been wisely exercised.

So I think in all of these decisions the court was dealing with an administrative order, and not with an order that could be designated as an exercise of the judicial power.

Mr. KENYON. Mr. President——

Mr. SUTHERLAND. I yield to the Senator from Iowa.

Mr. KENYON. The point the Senator is making is very interesting, of course; but in that line of cases the investigation as to whether or not there were unfair practices in the distribution of cars would be a judicial power. Then the laying down of an order, which could be done under the interstate-commerce act, providing that for two years in the future a certain plan of car distribution and car accounting should be adopted, would be a legislative power; but did not the court pass on the question of the judicial power?

Mr. SUTHERLAND. No; I think not, Mr. President.

Mr. KENYON. I think it did both.

Mr. SUTHERLAND. I defer to the recollection and judgment of the Senator from Iowa, because I know that he participated in that case and, I think, argued it before the Supreme Court.

Mr. KENYON. It has passed from my mind, however, as to the details of it. My remembrance is that both questions were involved.

Mr. CUMMINS. Mr. President——

Mr. SUTHERLAND. If I may answer the Senator's colleague first, here is the syllabus upon that question, at page 452:

> The act to regulate commerce has delegated to the Interstate Commerce Commission the authority to consider, where a complaint is made on that subject, the question of distribution of coal cars, including the carrier's own fuel cars, in times of car shortage, as a means of prohibiting unjust preference or undue discrimination.

The order which the commission would make after such an investigation and consideration would be as to the distribution of the cars, which would be in its nature a legislative order and not a judicial decree. The purpose of making the legislative order or enacting the law, which in effect it would be, was to prevent undue preference or undue discrimination; but the order itself is legislative or administrative in character.

Mr. KENYON. There is no question about that; but, at the same time, the court condemned the practice that had existed and investigated that practice; and if that be true, then I assume the Senator would feel that that was the exercise of a judicial power.

Mr. SUTHERLAND. But the court did not quite do that, Mr. President.

Mr. CUMMINS. Mr. President——

Mr. SUTHERLAND. I will yield to the senior Senator from Iowa in a moment.

Mr. CUMMINS. I was about to suggest the same thing. The question was whether the Illinois Central Railroad was practicing unjust discrimination. It was doing a certain thing that was complained of; and the commission held that it was violating the law, because it was considering its own business in determining the pro rata apportionment of cars among its customers. Now, of course the commission necessarily had to enter a finding of unreasonable or unjust discrimination before it proceeded to declare rules for the future.

Mr. SUTHERLAND. Mr. President, I can not agree with the Senator from Iowa about that. The Interstate Commerce Commission did no more in that case than the Congress itself would have done under the same circumstances. Of course Congress, before it passes a law, may investigate, may ascertain the facts, and, in a sense, may declare what the facts are; but it has no right to enter a judgment upon those facts. What it has a right to do is to pass a law in view of the facts, and that is what the Interstate Commerce Commission does. It is, in effect, to pass a law in view of the facts. So far as this line of decisions is concerned, the court, as it seems to me, very plainly distinguished between their authority to review judicial acts and mere administrative acts, because they say that their view—

> lends no support whatever to the proposition that we may, under the guise of exerting judicial power, usurp merely administrative functions by setting aside a lawful administrative order upon our conception as to whether the administrative power has been wisely exercised.

I think there is a very good illustration of the distinction between the two classes of power, and therefore of the reviewing power of the courts, to be found in that part of the interstate-commerce law which authorizes the Interstate Commerce Commission to award damages under certain circumstances. With reference to that, the power of the court is stated in this way. I read from section 16 of the act as amended as late as 1910:

> If a carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file in the circuit court of the United States for the district in which he resides or in which is located the principal operating office of the carrier, or through which the road of the carrier runs, or in any State court of general jurisdiction having jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the commission in the premises.

The order of the commission therefore can not be enforced as such. An execution could not issue upon the order of the commission. If a carrier chooses to comply with it, it is a purely voluntary proceeding upon its part. If it does not choose voluntarily to comply with it, then a proceeding must be had in court.

The section I am reading proceeds:

> Such suit in the circuit court of the United States shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the findings and order of the commission shall be prima facie evidence of the facts therein stated, and except that the petitioner shall not be liable for costs in the circuit court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal.

So that there is a very different power conferred upon the court in that case and in the case of purely administrative or legislative orders.

Mr. CUMMINS. Mr. President, no power at all is conferred upon the court. The court exercises its original jurisdiction under the general act of Congress.

Mr. SUTHERLAND. I shall not quarrel with the Senator from Iowa about a refinement of that kind.

Mr. CUMMINS. The only thing the act does in that respect is to prescribe a rule of evidence.

Mr. SUTHERLAND. Then, if it will please the Senator better, I will say that the power of the court is not limited in the way that it is limited in dealing with purely administrative or legislative orders. The only limitation upon the power of the court, if that can be regarded as a limitation, is that the finding and order of the commission shall be regarded as prima facie evidence of the facts; but in that kind of a case the court will try the suit, will hear the evidence, and will determine after the evidence has been submitted on which side of the controversy the weight of the evidence is.

In every judicial proceeding which calls for the action of a court, the judicial power involves two things: First, to determine what the law is; second, to determine what the facts are. The determination of what the facts are in a legal proceeding is just as much the exercise of judicial power as the ascertainment and declaration of what the law it. The two things are both necessary. Now, if this be an exercise of judicial power, we can not, as it seems to me, deny ultimately to the courts the authority to discharge the power in full. If we have the right to say to the courts that a given case may be concluded by the finding of a mere administrative body upon the facts, upon what theory can we say that they shall not also be precluded from reviewing the opinions of the commission or administrative body as to the law?

Mr. KENYON. Mr. President——

Mr. SUTHERLAND. I yield to the Senator from Iowa.

Mr. KENYON. While the Senator has the interstate-commerce act there, I wish he would go back to section 15, to the question he was discussing a moment ago, with reference to the line of cases commencing with that of the Illinois Central Railroad Co. against the commission. Section 15 provides, among other things:

> Whenever * * * the commission shall be of opinion that any individual or joint rates or charges whatsoever demanded, charged, or collected by any common carrier or carriers subject to the provisions of this act for the transportation of persons or property or for the transmission of messages by telegraph or telephone as defined in the first section of this act, or that any individual or joint classifications, regulations, or practices whatsoever of such carrier or carriers subject to the provisions of this act are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act—

And so forth.

Now, if they find that, and not until they find that, they can go ahead with the order providing what individual or joint classification, regulation, or practice is just, fair, and reasonable to be thereafter followed.

What I want to get the Senator's opinion on is this: Referring to that language at the bottom of page 26, as to whether these practices are unjust or unreasonable or unjustly discriminatory, what kind of power is that?

Mr. SUTHERLAND. The Senator must read further. To what end must the commission ascertain these facts? That is the test of whether a power is judicial or whether it is legislative. Of course a legislature has the power to ascertain a condition or to ascertain facts, to the end that it may pass legislation. An executive officer has a right to ascertain conditions and facts, to the end that the executive may perform his function. A court ascertains facts and conditions, to the end that it may discharge its judicial power. Therefore the Senator must read further and ascertain to what end is the commission authorized to ascertain the facts.

The section proceeds:

> The commission is hereby authorized and empowered to determine and prescribe what will be the just and reasonable individual or joint rate or rates, charge or charges, to be thereafter observed in such case as the maximum—

And so on.

So that what the Interstate Commerce Commission does is to ascertain the facts, to the end that it may perform a legislative or administrative function, and not to the end that it may perform a judicial function, so far as that part of the law is concerned.

I think the question is analogous to that which arises in a case where we undertake to confer authority upon a justice of the peace, for example. The Constitution says that in all cases which involve $20 or more the right of trial by jury shall be preserved. Now, that means, as the courts have held, first, a jury of 12 men. It means, second, a unanimous verdict. I am not certain but that it must, in addition to that, include something that an effort is now being made to get rid of—that it means a jury instructed by the judge as to the law and advised as to the facts. However that may be, it does involve the other two things—that there must be a jury of 12 men, and that their verdict must be unanimous. That is included within the common-law notion of a jury.

We passed an act in the District of Columbia which confers jurisdiction upon a justice of the peace. I do not recall the precise language of the act in this District, but we have had such acts in various States, and therefore I will assume that it may be the same here. We passed an act, I will assume, providing that a justice of the peace shall have jurisdiction

up to $300; that he may determine such cases up to that amount without a jury at all or with a jury of six men. Many of the State laws provide for a jury of six men. If we were to stop there and make that judgment final, there could be no doubt that it would be in violation of that constitutional provision, because it would deprive the parties of the right of trial by jury. The statutes go further, however, and provide that an appeal shall lie, and upon that appeal the case shall be tried de novo.

Does the Senator from Iowa think that in a case of that kind we could limit the power of the reviewing court, where the parties were entitled to a trial by jury, so as to provide that it should have no power to review the conflicting testimony? The right of the court to investigate the conflicting facts, to weigh the evidence, and to determine where the preponderance lies is of the very essence of judicial authority. I mean the court and the jury together, if it is a case where a jury may be called for; or if a case where the court sits alone, then that is the very essence of the power of the chancellor to ascertain where the preponderance of the evidence lies in a civil suit and award judgment accordingly. We could not take away that power, in the case I have supposed, by a statute which would deprive the appellant from the justice of the peace of the right to have his case completely heard both upon the law and upon the facts—upon the law by the judge who presides and upon the facts by the jury.

I think the same result would occur here if we accept the opinion of the Senator from Iowa—and I am always stating these things in view of that particular contention—that the provision declaring "unfair competition" to be unlawful has used a term which has a definite legal meaning. If it has a definite legal meaning, then the inquiry as to whether or not a corporation has violated that provision of the statute is a judicial inquiry, and its finding upon it and its order upon it is a judicial decree in substance and effect.

I do not doubt that legislation may be passed which would authorize a commission to ascertain in a preliminary way facts of that character, and to issue an order which, until it was enforced by a court, would have no enforceable effect upon anybody; that would simply be, in effect, a notice to the parties concerned that if they would comply with the order that would be the end of the matter, and that if they did not the courts would be appealed to. We do substantially that in this provision in the interstate commerce law with reference to the award of damages by the commission under certain circumstances. In that view of it, and to that extent, this trade commission is nothing more than a referee—a referee of all the courts in the country—to ascertain the facts; but now, having ascertained them and having issued its order, the vice of the original section 5 was that the courts were given no authority to try the original case, to hear the evidence, to determine where the weight of it lies, and themselves to enter the judgment. So far as the language of section 5 in the original bill is concerned, the authority of the court was purely perfunctory. If we took that language, the court would simply inquire whether or not the order had been made by the commission and whether or not it had been violated by the corporation; and if the court found those two facts, it would issue its injunction. Hence the need of providing for a review, and, as it seems to me, for providing for a complete review of these orders on the part of the court.

Now, Mr. President, for these reasons, which I have, perhaps, not very clearly stated, I intend to support the amendment proposed by the Senator from Ohio, because I think that, so far as that single question which I have heretofore raised is concerned, it rids the bill of the objection. In that single view of its unconstitutionality it renders the bill constitutional. I say nothing of the other constitutional objections which I have raised, but, I think, with that provision in the bill section 5 will no longer be open to the objection that it confers judicial power upon the commission, because under that amendment its orders amount to nothing more than good advice to the corporation, which the corporation can follow or not, as it pleases; and if it does not choose to follow it, then the courts are open and they may take hold of the entire case.

But if the amendment proposed by the Senator from Iowa be adopted, then, if I have not misunderstood his contention, we have given to the commission not only the power to give good advice to these corporations upon the matter of law and upon constitutional rights which the courts may review, but we have conferred absolute judicial power upon the commission, so far as the facts are concerned, because we deny the right to the courts to review the facts, which, as I have already said, is as much of the essence of judicial power as the right to determine what is the law.

Mr. SHIELDS. Mr. President, while I have no special admiration for government by commission, I have no serious objections to the bill passed by the House creating a trade commission, as I think the one there provided for might serve a useful purpose in aiding the Department of Justice in investigating violations of the Sherman law, compiling facts and statistics necessary for the prosecution of such violations, and also in ascertaining whether combinations which have been adjudged unlawful have ceased their unlawful conduct and complied with the decrees of the court.

However, it is my opinion that all this is a proper matter for the Department of Justice and for the courts; and I believe that legislation which would enable the Department of Justice to prosecute violations of the antitrust laws with greater facility and vigor would be more efficient and beneficial to the country than any commission which can be created.

While I am perfectly willing to support the bill as it came from the House to the Senate, I am not in favor of the substantive law proposed to be enacted by section 5 of the bill reported as a substitute for that measure. I do not see that any material change in that respect has been made in the amendment offered by the Senator from Ohio. I think that the proposed substantive legislation is not only vicious in a constitutional sense, but that it is arbitrary and oppressive and has potentialities of great harassment and oppression of business, especially if it is to be given the interpretation insisted upon by its friends.

The first paragraphs of section 5 of this bill are in these words:

> That unfair competition in commerce is hereby declared unlawful.
> The commission is hereby empowered and directed to prevent corporations from using unfair methods of competition in commerce.

The subsequent paragraphs of this section provide for summary procedure to enforce those quoted, and I will call attention to them later.

There are two views of the proper interpretation of the words and phrases "unfair competition" and "unfair methods of competition in commerce" here used. The advocates of the bill, as I understand them, insist that they should be interpreted and construed by the commission and the courts to cover every possible act which may be indulged in by one competitor in commerce against another, in contesting for trade, to the prejudice of the latter. The bill, however, contains no definition of any kind of these phrases.

The other contention is that these phrases have a fixed and definite meaning in law and cover only cases where a competitor fraudulently passes off his goods and business for those of another by misrepresentation of some character. I believe the latter view to be sound, and if the paragraphs be confined to this class of wrongs, I have no objection to them.

The rule, repeatedly stated in the discussion of this question, that words and phrases which have a technical signification and those having a settled and well-known meaning at common law or by judicial decisions, when used in a statute are presumed to be used in that sense, unless the context compels to the contrary, is so well established by the textbooks and the adjudged cases that citation of authority is unnecessary. Indeed, I do not understand this rule of statutory interpretation to be controverted by anyone. When the phrases, "unfair competition in commerce" and "unfair methods of competition in commerce," are subjected to this test there is not in my mind any doubt but that the position of the Senator from Missouri [Mr. REED], that they refer solely and exclusively to cases where one dealer imposes or attempts to impose upon the public his goods or business as and for the goods or business of another by some character of fraudulent misrepresentation. The subject was given extensive consideration in a well-considered article, to be found in volume 38 of Cyclopedia of Law and Procedure, from which I will read a few excerpts:

> Unfair competition consists in passing off or attempting to pass off upon the public the goods or business of one person as and for the goods or business of another. It consists essentially in the conduct of a trade or business in such a manner that there is either an express or implied representation to that effect. And it may be stated broadly that any conduct the natural and probable tendency and effect of which is to deceive the public so as to pass off the goods or business of one person as and for that of another constitutes actionable unfair competition. The definition is comprehensive enough to reach every possible means of effecting the result. Unfair competition as thus defined is a legal wrong, for which the courts afford a remedy. It is a tort and a fraud. The basic principle is that no one has a right to dress up his goods or otherwise represent them in such a manner as to deceive an intending purchaser and induce him to believe he is buying the goods of another. No monopoly is created or fostered by protection against unfair competition; but the court should be careful not to interfere with free and fair competition, and should confine itself to preventing fraud and imposition from some real resemblance in name or dress of goods. Nothing less than conduct tending to pass off one man's goods or business as that of another will constitute unfair competition. Actual or probable deception and confusion on the part of customers by reason of defendant's practices must appear. Of course

there must be actual competition before there can be any unfair competition.

* * * * * * *

Relief against unfair competition is properly afforded upon the ground that one who has built up a good will and reputation for his goods or business is entitled to all the benefits therefrom. Such good will is property, and, like other property, is protected against invasion. The deception of the public injures the proprietor of the business by diverting his customers and depriving him of sales which he otherwise would have made. This, rather than protection of the public against imposition, is the true and sound basis for the private remedy, although it is often said that the remedy proceeds in part upon the theory of protection to the public against fraud. No one has a right to avail himself of another's favorable reputation in order to sell his own goods. A demand for goods created by advertising belongs to the advertiser, and he will be protected therein against unfair competition by another who seeks in any way to take advantage of such advertisement to sell his own goods.

Mr. KERN. Will the Senator give the name of the author of the article?

Mr. SHIELDS. It was written by William B. Hale, Esq., of the New York bar. But the value of this article consists not in the ability and learning of the distinguished author, but the adjudged cases cited to support the text. Glancing casually over the four or five pages on which the text I have read is found, I judge that there must be four or five hundred of them. I have examined many of them, and I find that they fully support the text. Of course, I have not examined them all. This definition of unfair competition is in accord with many authorities which have been presented since the discussion of this question began.

Mr. BRANDEGEE. Among the authorities which the Senator says he has examined, are there any cases decided by the Supreme Court of the United States?

Mr. SHIELDS. There are cases from that court. On account of the great number of cases and the very concise and terse statement of the text I will not occupy the time of the Senate in reading from any of them. They are accessible to all desiring to examine them.

Mr. President, if "unfair competition in commerce" and "unfair methods of commerce" have the fixed meaning attributed to them by these authorities, when this bill comes before the courts to be construed, in the event it is enacted into law, its application will be confined to cases of the misrepresentation by false and fraudulent means of the goods of one competitor for those of another, conduct which is unlawful under the common law, and to redress injuries sustained by it the common-law remedies are ample and adequate. It seems to me folly to create this expensive commission for this one unnecessary purpose.

But, Mr. President, if these phrases, "unfair competition" and "unfair methods of competition in commerce," are to be given the interpretation which the friends of the bill say they should have, then, in my opinion, the legislation is in clear contravention of the fundamental law, uncalled-for, unwise, arbitrary, and oppressive, and I can not give it my support.

The other paragraphs of section 5, and other sections of the bill, which I will not read, clearly, in my opinion, empower the commission, whenever it may conclude that a corporation has been guilty of what the commissioners may in their uncontrolled and unconfined judgment and discretion declare to be unfair competition or unfair methods of competition, from information obtained by their agents in investigating the books, papers, and business affairs of the corporation, or the reports which they may require to be made at any time, and as often as they please, or from any other source, to prefer charges against a corporation, summon it before them to answer the charges they have preferred for conduct which they have declared unlawful, perhaps after it was committed, proceed to hear and determine its guilt or innocence, acting at the same time as prosecutor, and, if the corporation is found guilty by them, pronounce judgment against it, and, if necessary, bring a suit in the district court of the United States to enforce its judgment.

Mr. President, the provisions of this bill, in my opinion, attempt to delegate to this commission legislative, judicial, and executive powers in clear contravention of our organic law.

The powers of the Federal Government, like those of the States, are divided among three coordinate branches—the legislative, which makes the laws; the judicial, which construes, declares, and applies them; and the executive, which executes them; and the powers and prerogatives of the one can not be conferred upon or exercised by the others. This construction has long been declared and followed by the courts. It will not be controverted by anyone. The importance of maintaining this separation of powers can not be overestimated. The perpetuity of the Republic has on more than one occasion been made possible by its strict and vigorous enforcement. Concerning its importance, I wish to read a short extract from Mr. Willoughby's work on the Constitution, section 739, where he says:

A fundamental principle of American constitutional jurisprudence, accepted alike in the public law of the Federal Government and of the States, is that, so far as the requirements of efficient administration will permit, the exercise of the executive, legislative, and judicial powers are to be vested in separate and independent organs of government. The value of this principle or practice in protecting the governed from arbitrary and oppressive acts on the part of those in political authority has never been questioned since the time of autocratic royal rule in England. That the doctrine should govern the new constitutional system established in 1789 was not doubted.

Washington, in his Farewell Address, said:

"The spirit of encroachment tends to consolidate the powers of all governments in one, and thus to create, whatever the form of government, a real despotism."

Madison, in the Federalist, wrote:

"The accumulation of all powers, legislative, executive, and judicial, in the same hands, whether of one, a few, or many, whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."

John Adams wrote:

"It is by balancing one of these three powers against the other two that the efforts in human nature toward tyranny can alone be checked and restrained and any degree of freedom be preserved."

Hamilton asserted:

"I agree that there is no liberty if the powers of judging be not separated from the legislative and executive powers."

Webster states the same doctrine when he says:

"The separation of the departments (of government) was so far as practicable, and the preservation of the clear line between them is the fundamental idea in the creation of all our constitutions, and doubtless the continuance of regulated liberty depends upon maintaining these boundaries."

It was not necessary for me to read from Mr. Willoughby upon this subject in order to show the importance of carrying out this principle of our Government, but it could not be more strongly stated, and more eminent authorities than are there given can not be cited.

Mr. President, I believe that the powers of all three of the coordinate branches of the Government are proposed to be delegated to and vested in this commission. The commission is authorized to declare what constitutes unfair competition or unfair methods of competition, thus exercising legislative powers in creating offenses, both civil and criminal, and it also has the power to repeal such legislation by altering or vacating any order it may make in any particular case. The worst part of this legislative power, however, is that the commission is authorized to give it a retrospective effect; in other words, the commission may, after the act is done or committed for the first time, declare that such act constitutes unfair competition and a violation of law.

The commission is given judicial power by the authority to call the offender before it, to hear proof, and determine his guilt or innocence. Executive power is conferred by the authority to bring suit in the district courts of the country to enforce such orders as it may make. It is difficult for me to conceive a more pronounced and unlawful confusion and delegation of the powers of the three coordinate branches of our Government than is here attempted to be done.

The power of Congress to authorize commissions created by it and certain of the chief officials of the Government to apply and carry into effect in an administrative capacity rules and regulations previously enacted and defined, is well established and not controverted. The objection to this bill is that it, in effect, authorizes the commission created to make the laws to be administered and enforced by it. Mr. Willoughby, in the work from which I have quoted, section 759, upon this subject says:

Generally speaking, it may be said that while wide discretionary power may constitutionally be granted to administrative agents, that discretion must be one which must be guided by reason, justice, and impartiality, and must be exercised in the execution of policies predetermined by legislative act or fixed by the common law.

The Supreme Court of the United States in Yick Wo against Hopkins, in holding a municipal ordinance void, laid down the doctrine that the legislative investment of purely personal and arbitrary power in the hands of any public official is a denial of the due process of law. "The very idea," say the court, "that one man may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life at the mere will of another, seems to be intolerable in any country where freedom prevails as being the essence of slavery itself."

In that case the court say:

They seem intended to confer, and actually do confer, not a discretion upon consideration of the circumstances of each case, but a naked and arbitrary power to give or withhold consent not as to places but as to persons.

It seems as if that opinion were written directly in view of the provisions of section 5 of this bill.

There are cases in which commissions of this kind have been vested with what apparently seems to be legislative and judicial powers. The Interstate Commerce Commission is the most

notable instance of the kind. It is difficult to reconcile it with the constitutional division of the powers of the Government and also of the constitutional limitations of the power of the Congress to delegate its legislative power. It perhaps was thought to be justified by the necessities of the case, which, however, should never justify the violation of the fundamental law.

The Government has always exercised control over common carriers and regulated their charges and rates perhaps to a greater extent than it has done of any other private interest.

The number and the magnitude of the power of the railroad companies of this country demanded greater governmental control than common carriers had had in past years, which could not be exercised in any other way than by an administrative commission because of the vast, varied, and complicated details to be considered and the continuous investigation and oversight required. What weight was given these considerations in the enactment of the Interstate Commerce Commission and by the courts in sustaining it I do not know. I will not undertake to go into the questions that have been presented in the construction of this statute at this time.

Generally speaking, I venture the assertion that in every case involving the powers conferred on commissions and departmental officers it will be found that they extend no further than the authority to administer and apply laws previously enacted by Congress, and that in no case will be found an unmixed delegation of legislative power.

The Lottery cases, which have been so often referred to in this discussion as sustaining the proposition to vest judicial and legislative power in the proposed trade commission, are authority just to the contrary. There Congress, by express enactment, prohibited the transportation through the mails of letters or other papers for the purpose of carrying on a lottery, as well as certain other mail deemed hurtful to public morals and the general welfare, and gave the Postmaster General power to exclude it. Here the prohibition and the offense are declared and defined by the Legislature in fixed terms, and the power vested in the Postmaster General is merely administrative.

The difference between that law and this bill is unmistakable. If the act of Congress prohibiting the use of the mails by lotteries had merely declared that the Postmaster General might exclude objectionable matter, or couched the prohibition and authority in some other general terms, and authorized the Postmaster General to determine and declare what character of mail should be considered objectionable, the law would have been void and unenforceable because a delegation of legislative power.

As the most flagrant violation of the fundamental law in section 5 is the delegation of legislative powers to the commission to create new offenses and new causes of action, restrain freedom of contract and property rights of citizens, I will read what Judge Cooley says in his work on Constitutional Limitations, page 163:

> One of the settled maxims in constitutional law is that the power conferred upon the legislature to make laws can not be delegated by that department to any other body or authority. Where the sovereign power of the State has located the authority, there it must remain, and by that constitutional agency alone the laws must be made until the Constitution itself is changed. The power to whose judgment, wisdom, and patriotism this high prerogative has been entrusted can not relieve itself of the responsibility by choosing other agencies upon which the power shall be developed, nor can it substitute the judgment, wisdom, and patriotism of any other body for those to which alone the people have seen fit to confide this sovereign trust.

Mr. President, the phrases "unfair competition" and "unfair methods of competition in commerce," other than as stated in the authorities which I have read at length, are wholly undefined by the common and the statute laws of this country. They are not defined even in the bill, wherein conduct supposed to be covered by them is proposed to be made unlawful. In fact, these phrases, as now proposed to be used and left to the interpretation of the commission created for the enforcement of the offenses, causes of action, and prohibitions understood to be denounced by them, are wholly new in our jurisprudence. They are here used without definition and without limitation of their application.

Who, whether he be lawyer or layman, can undertake to say what is "unfair competition" or "unfair methods of competition," or what the commission proposed to be authorized to enforce the law will declare the statute to mean? The language is so vague and so general that it can not be said to mean anything in a legal sense. It is nothing more than a general power to the commission to declare what shall be the law. This is an unmixed as well as an unwarranted delegation of the legislative power. If the bill is to be given the interpretation and effect of its advocates, it creates new criminal offenses and causes of civil action. It is a general rule that all acts denounced as unlawful by statute, without more, are misdemeanors. Whether this applies to the criminal jurisprudence of the Federal Government I am not clear, for I have not investigated it, but it is a general principle of universal application in the States. I do not, however, believe that it would be held valid as a criminal statute because of its vagueness.

When the legislature creates an offense which was not one at common law the statute must be sufficiently certain to show what was intended to be prohibited and punished, otherwise it is void for uncertainty. In the case of the State *v.* Mann (2 Oreg., 238) it is said:

> It is a well-settled rule of law that no one can be punished for doing an act unless it clearly appears that the act sought to be punished comes clearly within both the spirit and letter of the law prohibiting it. The act constituting the offense should be clearly and specially described in the statute, and with sufficient certainty at least to enable the court to determine, from the words used in the statute, whether the act charged in the indictment comes within the prohibition of the law.

A Texas statute purporting to prescribe a punishment for "murder by mob violence" was held void for uncertainty in the case of Augustine *v.* State (41 Texas Criminal). That was more certain in its terms than this bill. Who can know when he reads this law what conduct he must refrain from to keep out of jail?

There can be no question but that it will create a multitude of causes of action for damages if given the broad meaning proposed. When a statute declares a thing to be unlawful, those who sustain injuries the natural and proximate effect of a violation of the law may recover damages therefor against the wrongdoer. The Senator from Minnesota [Mr. CLAPP] has offered an amendment creating such a cause of action, but it is unnecessary. It is already the law.

Now, we have here a statute declaring all unfair competition and all unfair methods of competition unlawful. We have no definition of these words in the act.

What business man will know how to conduct himself under these conditions? It is impossible for him to get advice from his lawyer how to conduct his business, for there are no authorities, there are no law books, which lay down or state the law upon the subject which they can consult. The whole thing is at sea and is left to the determination of this commission after the act is committed.

This is a most serious objection to this proposed law. To my mind there can be no greater embarrassment to the people of any country than the uncertainty of the laws which govern them. The bill should not pass without an amendment defining with reasonable certainty what conduct it is intended to prohibit.

It has been said that the words are equally as definite as "restraint of trade" and "monopoly." I do not think that position can be maintained. The words and phrases "restraint of trade" and "monopoly" have for more than a century had well-defined, fixed, definite meanings in our jurisprudence. There are hundreds of cases to be found in the English reports and in the reports of all the courts of this country, State and Federal, involving restraint of trade and monopoly under the common law. They are there used and defined and applied, and any lawyer, by ordinary industry, can ascertain what conduct or act comes within them.

The Supreme Court had no trouble in applying the Sherman law after it construed these words to be therein used in their common-law sense, for that was well defined in the books and known to all lawyers and most business men.

An ordinary illustration of restraint of trade can be found in cases involving the sale in usual and normal business of the stock of goods and the good will of the concern, with a contract upon the part of the vendor that he will not engage in the same business at the same place within a limited time, by one competing merchant to another. Such contracts have always been held to be valid because the tendency to restraint of trade and competition is not unreasonable and the transaction not detrimental to the public. Innumerable cases of this character in which the phrases are used are found in all reports of judicial decisions.

It has also been said the phrases "unfair competition" and "unfair methods of competition" convey a meaning as definite and as well known as the words "fraud" and "fraudulent." That is a mistake. There are no words known to our laws which have been more frequently and accurately defined and applied. There is no uncertainty in their meaning, the sole difficulty being in their application to the facts of each particular case. I will read from volume 20 of Cyclopedia of Law and Procedure, pages 8 and 12, where these words are defined:

> Fraud as a generic term, especially as the word is used in courts of equity, properly includes all acts, omissions, and concealments which involve a breach of legal or equitable duty, trust, or confidence,

justly reposed, and are injurious to another, or by which an undue and unconscientious advantage is taken of another.

* * * * * * *

While the rules governing the essential elements of actionable fraud are in the main well settled, the distinctions drawn in particular cases are, however, often very fine, in many instances it being practically impossible to reconcile or distinguish decisions based on very similar states of fact; and this difficulty has been frankly conceded by the courts.

The general rule is that to constitute actionable fraud it must appear: (1) That defendant made a material representation; (2) that it was false; (3) that when he made it he knew that it was false, or made it recklessly without any knowledge of its truth and as a positive assertion; (4) that he made it with the intention that it should be acted upon by plaintiff; (5) that plaintiff acted in reliance upon it; and (6) that he thereby suffered injury. Each of these facts must be proved with a reasonable degree of certainty, and all of them must be found to exist; the absence of any one of them is fatal to a recovery. A maxim announced in an early English case and ever since recognized as correct is that fraud without damage or damage without fraud is not actionable, but that where both concur an action of deceit will lie.

Mr. President, if we could find in the books as clear a definition as this of unfair competition in commerce or of unfair methods of competition, we would have no trouble in administering this proposed law; lawyers would have no trouble in advising their clients what conduct and what character of competition they could indulge in and in what they could not; the business men of the country would know when they were subjecting themselves to a civil action; but it is frankly admitted here upon the floor that there is no such definition to be found in the textbooks or in the reported cases. No one has been able to give a definition that anything like approaches that of fraud, although the two are somewhat analogous of "unfair competition" in the sense in which I understand this phrase is undertaken to be used by the friends of this bill. It seems to me if this bill is enacted and this restricted construction is not given to it that we have created an engine of oppression and not enacted a law for the protection or advancement of the commerce of the country. The wrong, the evil, the injury to the public which the rules of the common law, the Sherman anti-trust law, and all laws of the character we are considering are intended to prevent and to remedy, is the creation of private monopolies and the monopolization of commerce. While monopoly in its original sense meant a grant of the exclusive right to pursue some vocation, or deal in some article of prime necessity of commerce, it is now applied to all cases where persons or corporations obtain by any means the exclusive or partial control of commerce. The injury to the public is the tendency and effect of such control to limit production, deteriorate quality, and control prices, which do or may result in oppression and extortion, to the detriment of the public.

Contracts in restraint of trade which tend to create or do create monopolies are unlawful under the common law. The first section of the Sherman law is declaratory of the common law upon this subject as applicable to interstate commerce and imposes a severe penalty upon all those who make such contracts. It is clear from a reading of this section that it only applies to restraints of trade effected by contract, which includes combinations, trusts, and conspiracies.

The second section is declaratory of the common law concerning monopolies and attempts to monopolize commerce, and also makes the creation of such monopolies criminal and prescribes a punishment.

The criminal part of both sections is new and was unknown to the common law. There is nothing in either section concerning fraudulent or tortious acts unless such acts can be said to be included in the prohibition of monopolies and attempts to monopolize commerce. The civil remedies unknown to the common law provided by the act are a suit in equity by the United States to enjoin and prohibit restraints of commerce and monopolies and an action by the aggrieved party or parties to recover threefold damages for the injuries sustained from the unlawful act committed.

The object of section 5 of the bill, as I understand it, is to go further and make unlawful and prohibit fraudulent or tortious acts committed by corporations whereby a competitor in the same business is injured, and this regardless of the fact whether the wrongful act prohibited tends to monopoly and detriment to the public. Certainly there is nothing in the bill indicating that in order to be unlawful the injury must be one to the public.

If enacted, this legislation must be under what is known as the police power. While, generally speaking, the Congress can not exercise the police power, it not being one of the enumerated powers conferred upon it by the Constitution, but an inherent, governmental function reserved to the States, it may establish police regulations, confining their operations to the subjects over which it is given control by the Constitution. Therefore it may exercise such police power as is necessary to regulate and protect interstate commerce. It is not insisted that this legislation has any connection with any other of the enumerated powers of the Federal Government other than that to regulate commerce, and it must be a regulation of that kind in order to be sustained.

The police power is a very broad one, and it is difficult to define its limitations. The Government, in the exercise of it, may to some extent invade and limit the constitutional rights of the citizen. It may restrain his personal liberty, his freedom of contract, and his control of his property and property rights when necessary to promote the public interest or the general welfare, but it can not do any of these things to advance or protect private interests.

I read again from Willoughby on the Constitution, section 726:

Though, as we have seen, there are necessarily many circumstances under which the political power, in behalf of the public interest, may interfere with the freedom of action of the individual and the use by him of his own property, in no one of these cases may this interference be an arbitrary one; that is to say, in each case the propriety of the interference may be questioned by the individual, and when so questioned the official whose act constitutes the interference must be able to justify his act by referring to a valid law and to some consideration of public necessity or convenience.

* * * * * * *

If a contract formerly valid is refused enforcement it must be shown to be opposed to public policy. If property is taken under eminent domain, it must be for public use and compensation must be given. If the rates charged by public-service corporations are regulated by law, the regulation must be a reasonable one and not one, in its effect, confiscatory of private property. Finally, to constitute a valid exercise of the so-called police power of the State, there must be shown some public advantage to be gained by thus interfering with the personal liberty and property rights of the individual.

The law is stated in the same terms, in effect, by Mr. Freund in his work on police powers, at section 494, and numerous decisions of both the Federal and State courts.

The principle is analogous to that in the power of eminent domain, which, indeed, is sometimes said to come under the police power; that is, that private property can only be taken for the public use.

The police power extends not only to the commission of fraud upon the public in commerce, but to measures for the prevention of the consummation of such frauds.

Mr. Tiedeman, in his work on Limitations of Police Power, says:

Fraud is, of course, a trespass upon another's private rights and can always be punished when committed. It is therefore but rational to suppose that the State may institute every reasonable preventive remedy when the frequency of the frauds or the difficulty experienced in circumventing them is so great that no other means will prove efficacious. Where, therefore, police regulations are established which give to private parties increased facilities for detecting and preventing fraud, as a general proposition these laws are free from all constitutional objections.

Mr. Freund, in his work on police power, section 275, in treating of this character of legislation, says:

The private and the criminal law, as well as the police power, undertake to afford protection against fraud. They deal, however, with fraudulent practices only by remedial relief, treating a transaction as void or setting it aside, giving a claim for damages or inflicting a penalty after the fraud has been committed. In either case the element of fraudulent intent is essential. The police power undertakes to give an ampler protection both by adopting precautionary measures and by forbidding certain practices, irrespective of an actual intent to defraud. It does not in the first instance punish fraud, but prescribes regulations and punishes their violation. The intervention of the law proceeds upon the theory that everyone who invites the confidence of the public may be compelled to submit to such regulations as will guard the public as far as possible against misapprehension. Where the confidence of the public is invited to an exceptional degree the regulations may be made especially stringent, on the ground that the business is affected with a public interest.

In People *v.* Lurhs (195 N. Y.) it is said:

The enactment of statutes to prevent fraud is a proper exercise of the police power of the State, which is under the control of the legislature. The power to pass laws upon the subject necessarily carries with it the choice of methods to make the legislation effective. The right is not without limitation, for it must be exercised so as not to deprive a citizen of life, liberty, or property without due process of law, or to deny any person the equal protection of the laws. A reasonable regulation to protect the rights of all, however, does not deprive anyone of his property, simply because it intereferes with the use thereof to the extent necessary to protect the public from fraudulent practices. Legislation which interferes only to a reasonable extent with the enjoyment of property in order to promote the general welfare, and which, in fact, tends to promote the general welfare, violates neither constitution.

All these authorities predicate the right to exercise the police power for the prevention and prohibition of wrongs of this character upon the ground of public necessity, and it can not be exercised in any other case.

This is an attempt to enact a police regulation for the prevention of fraudulent practices by competitors in commerce.

The interest or welfare of the general public, the consumers, is not benefited, or certainly only to a very slight degree, and

that in a very indirect and remote manner that is a possible destruction of competition which might result in monopoly.

Considering the legislation in this light, there may well be entertained serious doubt of its constitutionality as a valid police measure for the regulation of interstate commerce. It is very doubtful whether its provisions relate to any public interest or to interstate commerce. Certainly the vague terms of the provisions of the bill open the door for the exercise of the power in cases to which it can not constitutionally apply. It is almost impossible to conceive that a commission will be able to discriminate between practices which merely affect the interests of the parties concerned and those which are detrimental to the general public. It is almost certain that an attempt of a commission to execute this law will lead to the greatest confusion in the business world.

What appears and appeals to the judgment of one man as being unfair in striving for business, which constitutes competition, often seems to another perfectly legitimate. There are methods of competition which some men consider unfair, and they may be so in an ethical sense, but which are clearly within the rights of the citizen and can not be restrained. An illustration of this is presented in the case of Chicago against Netcher, reported in One hundred and eighty-third Illinois, page 104, which involved the validity of an ordinance of the city of Chicago prohibiting the sale of groceries and liquors in a department store. This ordinance was passed, evidently, in the interest of the ordinary retail dealer in groceries and liquors, a substantial class and number of the inhabitants of the city, and was clearly calculated to protect and promote their private interests. The Supreme Court of Illinois, however, held, and correctly held, that no public interest was involved and that the ordinance was void as an invasion of the personal liberty and property rights of the owners of department stores.

Among other things, the court said:

> In order to sustain legislative interference with the business of the citizen by virtue of the police power, it is necessary that the act should have some reasonable relation to the subjects included in such power. If it is claimed that the statute or ordinance is referable to the police power, the court must be able to see that it tends, in some degree, toward the prevention of offenses or the preservation of the public health, morals, safety, or welfare. It must be apparent that some such end is the one actually intended, and that there is some connection between the provisions of the law and such purpose. If it is manifest that the statute or ordinance has no such object, but, under the guise of a police regulation, is an invasion of the property rights of the individual, it is the duty of the court to declare it void.

The power attempted to be exercised, then, must always have a reasonable relation to the public interest. It must not be for a private interest, and when exercised by Congress under the commerce clause it must have a reasonable bearing upon interstate commerce for its protection and regulation. Can this act stand this test?

When a commission, if appointed, comes to construe this statute, how many men can be found to discriminate between practices or methods of competition which relate solely to intrastate commerce and those which relate to interstate commerce? How difficult it will be to determine whether the practice or conduct complained of is confined merely to the prejudice of a dealer and not to that of the general public! It is true that in all cases these interests are somewhat commingled, but in many they are distinct and independent of each other. If, however, we create this commission, acting as they must without any guide, without any definition of "unfair competition" in the books or in this statute, I venture to say that in a majority of cases in which they act and which may be appealed or transferred to the courts for further decision, if the procedure proposed in the fifth section is adopted, we will find that they have exceeded their jurisdiction and powers.

This illustrates the impracticability of executing the authority vested in this commission in this indefinite and vague way. If this bill, enacted into law, will subserve the public interest and affect interstate commerce to such a material extent as to save it from constitutional objections, it is without doubt upon the border line, and its limitations should be carefully guarded. There should be some practicable, some workable definition of "unfair competition" placed in it. There should be some limitation on the powers of the commission.

So far as the rights of the dealers are concerned, there is no necessity for this legislation. The State laws furnish ample remedies for all possible wrongs growing out of fraudulent acts.

The delegation of the police power must always be definite, or so that it can be made so. The most common and usual delegation of this power is to municipalities, which is proper, as they are but arms of the State, necessary for efficient local government. The legislature, however, can not delegate the power to municipalities in the general manner here attempted to be given a mere commission. It can not give a municipality the unlimited power to create and punish offenses. The power can only be delegated to cities and towns to pass ordinances making all offenses under the laws of the State offenses against the municipality. Thus the legislature may authorize a municipality to declare and abate nuisances; but this does not carry with it the power to create a nuisance not known to the laws of the State. Certainly these limitations upon the delegation of legislative power ought not to be less rigid when it is delegated to a mere commission, if, indeed, this can be constitutionally done. The provisions of the bill merely declare a general policy. They refer to no fraudulent practices known and defined by the common or the statute law. They leave it to the commission, in the exercise of their arbitrary and, it may be, capricious judgment, to determine what is and what is not unfair competition and unfair methods of competition in commerce after the thing is done, and then to summon before them the offender, hear the charges they have preferred, and enter up an order of condemnation; and having done this, proceed to institute a suit in court to execute the judgment they have rendered under the retrospective law they have made. Certainly the policy and righteousness of such a law can not well be defended, even if warrant can be found for it in the Constitution.

This bill, as I understand it, is administrative and remedial in its nature, and it seems to me that it would be more orderly legislation not to embrace in it any substantive law of the kind under consideration. I think it will result in confusion to the country to do so. The Clayton bill, which will be enacted into law by the present Congress, is intended, as it purports in its title, to supplement the Sherman law. I think that is the bill where all substantive law of this kind should find a place. I offered an amendment to that bill some weeks ago that I think should be adopted, and I propose to press it when the Senate comes to consider the bill. That amendment is in these words:

> That all contracts, agreements, arrangements, acts, and fraudulent practices which tend, separately or with one or more other transactions for like purposes, to lessen competition in commerce, or restrain or monopolize commerce, or which may form a material part of a conspiracy or combination to restrain or monopolize commerce contrary to the provisions of the antitrust acts, and made or carried on with that intent, are hereby declared unlawful and are prohibited.

This is a statement of a proposition of generic law. It seems to me it would be a valuable supplement to the Sherman law. It is preventive in its nature. It provides for the prevention of all preliminary steps that may lead up to the consummation of the acts forbidden and prohibited by the Sherman law. It prohibits the first step in restraints of commerce, in contracts, combinations, and trusts, for that purpose. It prohibits all fraudulent methods used for that purpose. It prohibits attempts at monopolization of commerce. It prohibits all those things which finally result in monopoly.

If such a provision should be incorporated in this bill, it certainly would make it much plainer, much more practicable and workable, and would certainly create less embarrassment to the country; and I believe it would relieve the act of some of the constitutional objections that have been urged against it.

While I think that a commission with reasonable powers of investigation may aid the Department of Justice in the enforcement of the antitrust laws, I think it should be subservient to that department, and in no way and to no extent supersede it or oust it of its legitimate place and powers. I believe, however, that a law authorizing the Attorney General to appoint a corps of competent lawyers, to be paid salaries that would command able men, and a liberal appropriation to defray the expenses, would be more efficient in the suppression of trusts and monopolies than any commission that can be devised. It would certainly be less expensive. It is estimated that to carry out the provisions of this bill it would require a force of two or three thousand men, with salaries of from two to three thousand dollars each, which alone would call for an expenditure of $6,000,000 annually, which I think is excessive. But take one-third of this—$2,000,000. For that sum the Department of Justice could be so aided that there would be no doubt about the enforcement of all these laws. That is the practical and economic way to effect our purposes.

I also agree with the Senator from Utah [Mr. SUTHERLAND] in his strictures upon the sections of the bill authorizing drastic search and oppressive inquisition into the private affairs of the people, and requiring them, under heavy penalties, to make constant reports of their private affairs, and to preserve every paper and memorandum used by them in their business, without limit as to character or the period covered. I can add nothing to the criticism so forcefully made by him upon these sections. These provisions, it seems to me, are proposed to be enacted upon the theory that the business men of this country are all engaged in fraudulent practices and conspiracies against their fellow men.

I do not believe this. The presumption of law is that all men are honest and obey the laws of their country, and not that they are dishonest and criminals. The presumption of innocence stands as a witness for the accused, and the burden is upon the Government to prove guilt. Have our business men a lower standing than criminals at the bar of justice? I am unwilling to support any law that casts such an unjust reflection upon the hundreds of thousands of citizens of this country engaged in commerce, and who have contributed so much to the development and building up of the greatest Nation of the world.

It is estimated that there are 160,000 corporations that will be subject to the powers of this commission which have annually, in the aggregate, net earnings of not less than $3,000,000,000 and have in their service, at a conservative estimate, not less than 8,000,000 people. The stockholders in these several corporations also number hundreds of thousands, perhaps more than a million. Many of them have the savings of a lifetime so invested. These stockholders and employees are directly interested in the prosperity of these corporations, and whatever embarrasses the corporations embarrasses them. This to some extent indicates the far-reaching effects of this legislation, the great number of people affected, and the tremendous powers of good or evil that are proposed to be vested in five men sitting here in Washington.

The jurisdiction of the commission, in my opinion, should be limited to corporations having exceeding $500,000 capital stock. It is only great and powerful corporations that restrain trade and monopolize commerce. The small corporations of less capital than that stated have not the power, and in few instances the disposition to do so, and, in addition, they can easily be controlled by the laws of the several States where they are located. Every State in the Union, in addition to the common law there in force, has enacted ample legislation for this purpose. I do not believe that, because certain great corporations have monopolized the commerce of the country and oppressed the people, the Government should presume that all others are guilty of like offenses and compel them to prove their innocence and otherwise embarrass and oppress them with regulation, espionage, and surveillance heretofore unknown in a free country.

Mr. President, for the reasons I have stated, I think the first paragraphs of section 5 to be in contravention of the organic law; but even if they were constitutional I would not be able to give them my support, because I think more opportunity for embarrassment of the business of this country is to be found in the power here vested than in any legislation that has ever been proposed. The powers vested in a commission of this kind ought to be distinctly defined. The corporations that the commission will have jurisdiction over ought to be limited to those that are a menace to the country. There is no possible reason for causing every little corporation, from $5,000 in capital stock up, to make the reports here required, or for subjecting them to visitation by the employees, emissaries, and spies of this commission. The small corporations as well as the large ones do interstate business. They can ill bear such expense. Their property and business belongs to their stockholders, and ought not to be destroyed in this way.

There is another serious consideration. Whenever it is known in the neighborhood of these corporations that the Federal trade commission has one of its agents going through their papers and books investigating their affairs, a cloud is immediately cast upon their credit, and their business and property injured. This ought not to be done. Your antitrust laws can be enforced and monopoly restrained and destroyed without such drastic measures, and it is against the interest of the people to enact them into law.

Mr. CLAPP. Mr. President, in order to consider the pending bill we have to consider the Sherman antitrust law, which, of course, is based upon and presupposes that there is that element of human nature against which organized society in the form of government has to protect itself.

The Sherman antitrust law, so far as the creation of the law was concerned, came at a very opportune time. It came at a time when there was little of bitterness, resentment, rancor, or popular hysteria in the situation. Men were in a position calmly to see that there was a condition which needed legislation. The great combinations had not then developed, and their power and influence did not have to be encountered by the legislative branch of the Government.

On the other hand, the great combinations then not having developed, there was but little resentment on the part of the people; and it would be perhaps difficult to find a time in the history of our country when the legislative thought was so free and untrammeled and had so complete an opportunity to develop itself along natural lines as at the time of the enactment of the Sherman antitrust law. Thus framed in a spirit of calmness and due deliberation, free from those influences calculated to interfere with the exercise of legislative judgment, the law was a splendid tribute to the skill and patriotism of those who enacted it.

Unfortunately, however, while the law was passed at a most opportune time, with reference to its framing, it came at a most inopportune time for a test of the law itself. The law had scarcely been enacted when we entered upon a great industrial panic, a period of intense depression; and during that period of depression, which lasted several years, there was, of course, no thought along the line of repressing, controlling, or regulating.

When the American people began to emerge from that great period of financial and industrial distress they had but one thought before them, and that was the restoration of our industrial and commercial activities. That was supplemented by the fact that about that time we engaged in the Spanish War, which also took our attention from these internal conditions. Under those circumstances, when the mind of the people was diverted along the line of developing activities rather than controlling them, and when the public mind was diverted by a foreign war, great combinations were growing up.

I do not think it is any reflection upon any administration. I do not know just where an analysis of that history would lay the most blame, if blame is to be laid upon anyone, for the failure to enforce the Sherman antitrust law through those years was largely due to the conditions I have referred to. Administrations, of course, in the long run only reflect public sentiment, and public sentiment during those years was not directed toward the enforcement of the Sherman antitrust law. So that when we began to discover, as we resumed our more normal industrial life, that these great combinations had grown up in the very shadow of the Sherman antitrust law, many were disposed to condemn the law as inefficient and not a sufficient weapon to prevent the growth and development of these combinations.

Along with that condition of affairs came the work of the Interstate Commerce Commission. The Interstate Commerce Commission, fortunately, was made up, in the main, of very high-class men; and that commission, as a rule, had to deal with acute conditions. A rate is something that everybody can comprehend. The difference between a dollar per thousandweight and a dollar and a half per thousandweight presents no twilight zone of doubt and uncertainty. It is an acute fact, that is easily grasped by the mind of everyone.

Dealing with that kind of a problem, and in the manner in which the Interstate Commerce Commission dealt with it, it was natural that the Interstate Commerce Commission came in time to hold a very strong place in the confidence, esteem, and respect of the American people. Failing to discriminate between the action of a commission that was thus dealing with an acute fact, which everyone could comprehend, and other commissions, there grew up in this country unquestionably a general sentiment in favor of commissions, and we have had commissions galore. Yet it is a sad commentary upon Congress, and I might say upon the sentiment back of Congress, that in that growth and development of a sentiment for a commission we have failed up to this time to secure a commission in the one function where a commission would well serve the public, and that would be in taking tariff schedules out of the haphazard of legislative mishaps and legislative log rolling, although for a number of years a large number of us worked in season and out of season to secure a tariff commission.

Meantime, however, the suggestion of a trade commission came to the American people, and, influenced by the success of the Interstate Commerce Commission and the confidence which that commission had inspired in the people, this thought of a trade commission grew with great force and rapidity. The present chairman of the Interstate Commerce Committee of the Senate [Mr. NEWLANDS] at all times was active, earnest, and insistent for the establishment of a trade commission. Pursuant to that thought and that purpose, a bill coming over from the House and coming before the committee of the Senate was finally reported out.

I do not think there is a man in this Chamber who is more fair at heart than the chairman of the Interstate Commerce Committee of the Senate, but time and again during the last three or four weeks the Senator from Nevada has insisted that this is a matter that has been in the public mind until the American public is thoroughly in favor of this commission. The American public could not have known up to a short time ago of the one section of this bill that alone gives the bill vitality. I refer, of course, to section 5.

Without section 5 this trade commission bill is little more than a codification of laws, every one of which can be found somewhere in the Federal statutes, except the one provision which authorizes the court to refer to this commission as to a master in chancery. Of course, that provision was in no statute, because up to this time the trade commission has not been named in any statute, but the other powers, the powers of visitation, the powers of investigation, are in various officials of this country, and about all there is of this trade commission bill up to section 5 is a codification of existing law and the creation of an expensive, top-heavy commission.

Section 5 as reported by the Senate committee was practically a reprint of the bill introduced in the House by Congressman STEVENS of New Hampshire. The Senate committee met one afternoon. I was there with the committee and we voted to report section 5 out, not with consideration. Among others I voted to report it out, simply because I did not believe that Senate or House committees should be catacombs in which proposed legislation lies buried. I believe that proposed legislation should come out and that the Senate should discuss it in the open forum. Therefore, for one I was anxious to have that amendment brought out. It was brought out without consideration. The country could not have known of it.

The trouble with the Senator from Nevada is this: For years he has believed that a trade commission should have the power to pass upon whether acts were within law or without law, and he has urged that so long and it has been in his mind so associated with the thought of a trade commission that I can readily understand that a public demand for some kind of legislation became associated in his mind with a commission having power to declare what is lawful and what is not lawful; that is, he naturally accepted the public approval of a commission with his own idea of what a commission should be.

At this point we discover a singular condition with reference to this amendment. When the amendment came before the Senate, I think almost every Senator believed that it was the attempt to confer upon the commission power to legislate.

I remember one afternoon the distinguished Senator from South Dakota [Mr. STERLING]—and probably there is no man in this body more competent to pass upon such a question—in response to an inquiry from me as to whether the commission under section 5 could permit or prohibit what is called local underselling, answered that that power would be vested in the commission and that there was given the commission the power to say what should be the law and what should not be the law—an exercise of legislative power.

But in the last few days, sitting here and noting the drift of the discussion, I find that there is a gradual drawing back from that, and that now the prevailing thought seems to be that the only thing which the commission can do with reference to this clause in regard to unfair competition is simply to make a declaration, and that declaration has force only so far as it may comport with the facts, the circumstances, and the general acceptance of what is unfair competition.

For one I have had no difficulty in dealing with the expression "unfair competition." I differ in that respect from my friend from Missouri [Mr. REED] and some of the other Senators. I think it is as plain a designation as the designation of unreasonable rates or the designation of acts in restraint of trade.

Here we stand at the threshold of what I regard as the most vital change proposed in the policy of this Government. If there is any force in section 5, if it is worth our while to spend the time and use the paper upon which section 5 is printed, it is a departure from the policy of the past.

The language of some of the arguments, the language of the President's message, I think clearly foreshadows that while we do not put it in express terms in section 5, it is the thought and purpose that under section 5 the commission shall take "big business" by the arm and carry on a personally conducted excursion into the doubtful realms of forbidden transactions. I will read from the President's message of last February and from his speech of two years ago, and let me say I do it not to develop any suggestion of reflection upon the President or anyone else. I am reading this to interpret by the force which an administration utterance has as to the real purpose of this bill, and I shall read another address to illustrate what I believe is a fundamental, sound proposition in regard to government. In his message he says:

Nothing daunts or discourages—

Speaking of business—

Nothing daunts or discourages it like the necessity to take chances, to run the risk of failing under the condemnation of the law before it can make sure just what the law is. Surely we are sufficiently familiar with the actual processes and methods of monopoly and of the many hurtful restraints of trade to make definition possible, at any rate up to the limits of what experience has disclosed.

The Senator from Nevada, every time this proposed bill has been criticized, has met the criticism by the suggestion that whoever criticizes the measure should offer something in the place of it. I propose before this contest is over to offer an amendment in spirit with the declaration of the President:

Surely we are sufficiently familiar with the actual processes and methods of monopoly and of the many hurtful restraints of trade to make definition possible, at any rate up to the limits of what experience has disclosed.

Fortunately following that discussion of the question we have this interwoven:

These practices, being now abundantly disclosed, can be explicitly and item by item forbidden by statute in such terms as will practically eliminate uncertainty, the law itself and the penalty being made equally plain.

If the President had paused there there would have been no question as to what his purpose was, but he adds, and he seems to add with approval:

And the business men—

For it is connected with "and"—

And the business men of the country desire something more than that the menace of legal process in these matters be made explicit and intelligible. They desire the advice, the definite guidance and information which can be supplied by an administrative body, an interstate trade commission.

There is no way in which "definite guidance" can be given save at the hands of some power clothed with the authority to make that guidance definite. The lawyer in his office in Wall Street can not give "definite guidance." He may with his long experience and vast research give views that it is safe perhaps to follow, but it is only the man clothed with the power of supplementing his guidance by a declaration of what is or is not the law who can give "definite guidance."

These two paragraphs are somewhat confusing. So I am inclined to think that back of the language of this bill, while it is not in express terms, it is only as we analyze the bill and see what the power is, how it is to be exercised and how controlled, we find the warrant for the suggestion that there lies the purpose that this trade commission shall in some way give "definite guidance." In other words, be in a position to say what is law and what is not law, and I feel that this is a fair deduction from the manner in which the authority is conferred, especially in the light of the Executive declaration which I have quoted.

If that is intended, then I repeat we stand at the threshold of a change the most vital and important in the history of this country. If Congress is to absolutely take the power and authority and function of legislation and turn it over to a handful of men, five or seven in number, and practically place their judgment beyond recall by the great lawmaking power of this country, theoretically at least, then we certainly stand at the threshold of a most remarkable change in the fundamental plan of government.

It may be that in dealing with this subject, where the work is largely subterranean, where the methods are hidden and concealed, we have reached the point where Congress must thus abdicate the lawmaking function and turn it over to a commission. If we have, then of course it should be done, but I, for one, contemplate it with reluctance and hesitation. I may vote for the bill—it may be improved before the final vote—but I certainly hesitate to place the lawmaking and law-enforcing power in a position so fraught with danger, so liable to become the instrument of that very spirit which we are seeking to control and regulate.

Law has to be framed not with reference to the character of the man who to-day is to administer the law, but law has to be framed in the face of the fact that every policy and purpose and activity in free Government has to be wrought out of that sphere of humanity that at one extreme embraces the worst and at the other extreme embraces the best. We have to frame laws not with reference to the character of this President or that President, or possibly this commission or that commission, but we have to frame them with reference to the broad law of human nature that has its average of equation of good, bad, and indifferent in human nature.

In coming over the gulf that separates monarchy from the republic we brought with us that old tradition born of centuries of monarchical government that somehow, somewhere in government there is something that is somewhat above and beyond the human. Man has been slow to get away from that old tradition. In crossing that gulf we brought that tradition in a measure with us, and we took that tradition and enveloped the judiciary in it. It was well that we did, although that tradition is hostile to the fundamental spirit of democracy.

The consequence has been that the judiciary has been especially immune from the approach of sinister force and purpose. Many a man who would go to a President, a governor, a Representative, or Senator, without any thought that he was transgressing any rule of propriety, hesitates to approach a judge on the same subject, and our judiciary has been unusually exempt from those forces which have constantly surrounded other functions of our official life.

Not only that, but that tradition has had its influence upon the mind of the judge himself. There is not a Senator who has practiced law but knows, in his experience, that men of ordinary ideals elevated to the position of judge have suddenly developed a higher ideal, and between those two forces, the one protecting the other, inspiring the judiciary, our judiciary has been relieved from much of the force that surrounds men in other walks of official life.

But there is no such protection to a commission, and we can not afford to recognize a change in our fundamental theory of law where we may expect at the hands of an official who is not thus protected by this tradition that same high, lofty ideal which we find so thoroughly worked out in the judiciary.

Either section 5 amounts to something or it amounts to nothing. If, as the distinguished Senator from South Dakota [Mr. STERLING] the other evening, in response to my inquiry, admitted it did, it in effect gives this commission power to say to-day that a thing is the law and to-morrow to say that it is not the law, or to-day to say either that it is no law, or, by refusing to say that it is the law, let it remain outside the pale of the law, then it is the transfer to that commission of pure legislative power, a great power which I do not believe the time has yet come which warrants us in making that surrender.

Take, for instance, the question of local underselling. A bill of mine has been pending here for two years to apply to interstate traffic generally the prohibition against local underselling found in the statutes of Iowa, Minnesota, North and South Dakota, and, I think, Nebraska and Kansas, as to petroleum products, the bill pending here to apply to all subjects in interstate commerce. It is now embodied in the so-called Clayton bill. But if the Clayton bill should not pass, will anyone question but what this commission could denounce that as an unfair practice or unfair competition? Will anyone doubt that they could withhold their denouncement of that as unfair practice or unfair competition? If, then, that is true, we are seeking to vest this commission with the absolute power of declaring what is the law or by refusing to make that declaration keep that principle without the pale of the law.

Now we come to the question of review by the courts. In 1906 for several weeks in this Chamber we listened to a discussion involving the question of a broad review or a narrow review. Day by day great Senators took their lofty flights skyward, and among the clouds indulged in a shadow dance over the question of narrow or broad equity review, when there is not a lawyer in the sound of my voice, or in the land, for that matter, but knows that so long as the court takes to itself the function of saying whether an act be constitutional or unconstitutional, so long as it exercises that function, it is beyond the power of Congress to enlarge or take away the constitutional rights of an American citizen. He gets those rights by virtue of the Constitution and the construction which the court places upon the Constitution. You can no more enlarge them than you can restrict them. He gets them not by virtue of statutory legislation, but by virtue of claiming his rights under the Constitution in the face of the fact that the court has taken upon itself the function of saying what are or what are not constitutional rights. In saying that they have taken upon themselves that function, I am not criticizing nor finding fault with them for having done so. I am dealing with the historical fact that the Constitution never vested them directly with that authority. The effort was made to give them the authority and it was refused at the time the Constitution was framed, but they have taken that authority unto themselves.

Now, again, we hear this same discussion of a broad review or a narrow review, and yet when you pin one discussing that question down you find that this review is based upon the constitutional right which the citizen may insist upon at the hands of a court of equity.

The amendment of the Senator from Iowa seeks to provide this review in express terms. The bill as it was reported to the Senate from the committee simply provided that the commission could go into court to enforce its orders. The amendment of the Senator from Iowa, I say, attempts to define this power of review.

The court has laid down its own power in several of the cases read by the Senator from Iowa, and among those things which the court says it can pass upon, while it disclaims the function of weighing evidence, while it disclaims the function of deciding differently had it been called upon in the first instance to decide the question, still it retains the function of saying whether there is evidence to support the finding or not, and so long as the court retains that authority and that jurisdiction no terminology in a bill can define or limit the exercise of that jurisdiction or that power.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Iowa?

Mr. CLAPP. With pleasure.

Mr. CUMMINS. Unwittingly, I think, the Senator from Minnesota has inaccuately stated in one particular the amendment which I have proposed. My amendment does not attempt to say what jurisdiction or power the court shall have over the orders of the commission.

Mr. CLAPP. No.

Mr. CUMMINS. It simply says, with regard to applications for the enforcement of an order of the commission, that—

> the commission may bring a suit in equity in a district court in any district wherein such person or persons reside or wherein such corporation has its principal office or place of business to enforce its said order, and jurisdiction is hereby conferred upon said court to hear and determine any such suit and to enforce obedience thereto according to the law and rules applicable to suits in equity.

If, as urged by some Senators, the order of such a commission as we propose to establish could not have the effect which has been given to an order of the Interstate Commerce Commission, then, of course, the court would not give it that effect. I have desired that when the order of the commission comes before the court it should then have just such effect as the law of the land, as declared by the judicial tribunals of the land, gives to it. I am protesting against the amendment of the Senator from Ohio [Mr. POMERENE], now the committee amendment, because it distinctly and affirmatively enlarges and defines the jurisdiction of the courts. I believe, of course, under my amendment when the order of the commission would come before the court that it would be given just the effect that we have found similar orders of the Interstate Commerce Commission have had in what I regard as parallel instances; but I do not attempt, nor do I think it is safe to attempt, to define or prescribe what effect an order of a body of that kind shall have. We did not try to do so in the interstate-commerce law, and we ought not to try to do so here.

Mr. CLAPP. Mr. President, I certainly do not intend what I am about to say as in any sense a reflection upon the Senator from Iowa [Mr. CUMMINS]. For years and years he has labored in season and out of season to serve the American people in endeavoring to solve the great problem literally of preserving their independence; for, sir, it matters not whether the purple robe and diamond crown adorn a person in the White House or a person in Wall Street, it is a mere question of form and not of substance. The Senator has struggled during all these years to save the liberty, industrial and commercial, of the American people. To this cause he has consecrated his great ability and tireless energy, subordinated every interest, even his strength and health. His former great colleague, Mr. Dolliver, gave his life to that struggle; but, Mr. President, we are confronted now with the proposition that in dealing with this innovation, in dealing with this giant problem, men of years of experience and of learning differ as to the terms, the meaning of the law to be enacted, and differ as to the interpretation which will be placed upon it.

In all the ages during which man has carved his pathway to free government there has been but little trouble, because as society recognized the necessity of meeting this or that condition society condemned the wrong in explicit terms and provided the governmental instrumentality for protecting the people by the enforcement of the law that thus condemned the wrong. I believe yet, with the President, that that is the true solution of this problem.

We can define wrongs, although we may lack the ability to frame legislation for a copartnership between government and big business, and that is what this measure is looking to in the last analysis. It is either that or it is nothing. If this proposed body has only the power to formulate a declaration, that then goes into court, as though the Attorney General in his office should make up his mind that some combination was violating the law, and such conclusion had no force save to move him to the prosecution of that offense, then we are building up this cumbersome, and, I may add, dangerous machinery, without securing any benefit thereby.

On the other hand, if this proposed law does mean something, if it does mean that this commission may declare a thing unlawful which Congress has not declared unlawful, if it means

that it can refuse to declare something unlawful which subsequently in its experience and wisdom Congress would declare unlawful, then it is the abdication of legislative power, pure and simple, and is the most revolutionary proposition that has come before Congress in the long history of this Republic.

I agree with the Senator that we can not limit nor can we grant in respect to this question the power of the court over the findings of the commission. The court has said time and again that while it will not consider the expediency or wisdom of the order or whether on like testimony it would have made a similar ruling, yet its conclusions in review involve the question of whether the order is supported by evidence, whether it has been arbitrary, whether it has been in excess of the authority of the commission. So far as attempting to enlarge or define or limit the equity power of the court, when an American citizen appeals to that court upon the ground that his constitutional rights have been taken away, I insist now, as I insisted on this floor in 1906, that it is beyond the power of Congress to either limit or enlarge that power of the court.

Now, turning to the amendment of the Senator from Ohio [Mr. POMERENE], he seeks in that amendment to give all parties to the proceedings the right of review. If I believed that that could be done under the provisions of this bill I would gladly support his amendment, but I do not believe that can be done, for the reason that if the commission fails to declare an act in violation of the law there is no violation of the law.

Take the matter of local underselling. If Congress neglects to pass upon that question in the Clayton bill, so that it then becomes an open question, and the commission should refuse to declare that practice an act of unfair competition, no court could declare that it was, because, while we have declared that unfair competition is unlawful and is forbidden, we have not declared, nor do we attempt to declare, what particular act falls within the ban of that prohibition. Consequently, if the trade commission, upon a complaint filed, should refuse to hold that underselling was unfair competition there would be nothing for the jurisdiction of a court to attach to or to act upon. So, while the amendment of the Senator from Ohio professes to give a review to the party suffering because of this unfair practice, in effect it does not do that, because that act in the law is not declared unfair and unlawful, that question being left to the commission, and until the commission says that it is unfair there is no violation of the law. It seems to me that there can be no question as to the soundness of that position.

Again, take the tying-contract practice. If the commission on a complaint fails to prohibit that as an unfair practice, there is then no declaration of law that it is an unfair practice, and to say that the party upon whom it is practiced has a right to have the decision of the trade commission reviewed by the court is simply to give him what in theory is a privilege but what in fact is not. So, under that view of this bill, you give big business two arrows in its quiver—one the commission and the other the courts—but the man who has suffered from the evil practices of big business has no remedy and no redress whatever.

Where did the Sherman law break down? Not in the attempt to enforce it. Such giant combinations as the Tobacco Trust and the Steel Trust, with their ramifications extending all over the country, were powerless to stay the hand of justice. In all history there never was a more splendid demonstration of the majesty of the law than when those great combinations were brought to the bar of justice; but what happened? When the smoke of battle had cleared away we found the stock of the various constituent companies of those organizations soaring skyward. There is only one thing that puts the price of stock up, and that is supposed value in the stock itself. As a result of the manner in which those corporations were reorganized there was a positive benefit to the stockholders, and there can be no benefit to a monopoly except there is a corresponding wrong done to somebody who is the object of the activities of that monopoly. In other words, we find that, so far as vindicating the majesty of the law is concerned, while the law was sufficient, while the courts were efficient, it was when the Attorney General of the United States—and I am not seeking to condemn or to criticize him; we are all apt to be obsessed with our relations to important affairs—it was when the Attorney General and the court, going beyond the purview of a mere judgment of prohibition, undertook to frame up a system wherein government and business were joined. With the example of the failure of the Sherman antitrust law at that point, I think we may well afford to shrink from the establishment of another relation between government and "big business" through the medium of an interstate trade commission.

The Senator from Nevada [Mr. NEWLANDS] the other day disclosed the whole situation in one brief sentence. He said that the Department of Justice had been "slow"—I think he used that term—to prosecute; but that now we were going to have a commission that would stimulate activity along that line. It reminded me of the man who sent his younger son to hunt up the older son who ostensibly had gone after the cows, but inadvertently had stopped to amuse himself at a swimming pool. It is like placing some new guard rails along the top of a rotten bridge; they may improve the appearance, but add nothing to the strength of the structure below.

If the Attorney General will not enforce the law, how do you expect the law to be enforced by a commission that is still further removed from the one source of power that makes law enforceable, and that is the great rank and file of the people of the United States? If government is so weak that the one man standing out in bold relief, where the entire public can condemn him and him alone, will not enforce the law, what shall be said of the probability of enforcing the law at the hands of a commission, working in the "twilight zone" behind the scenes and sharing with the Attorney General, in a measure, responsibility for the enforcement of the law? It will simply confuse the public mind as to who is responsible and lessen the force of public opinion as a factor in securing the enforcement of law.

In free government, while it must ever be a government by man in the last analysis, we should make it just as automatic as it is possible to make it; leave just as little discretion as it is possible to leave in the mechanism of government and law, in order that the responsibility may be direct, and, the responsibility being direct, the law enforcing power may respond to the will and purpose of the only force that in the last analysis makes law enforceable, and that is public opinion itself.

Now, I am going to read a word from a speech made by the President in 1912. I do not read this in any spirit of criticism. I do not know the date of the speech; it appears in a work entitled "The New Freedom," which I have always assumed is a compilation of speeches made by the President in the campaign of 1912. As bearing upon this question of responsibility, the President says:

> If the Government is to tell big business men how to run their business, then, don't you see that big business men have got to get closer to the Government even than they are now?

Mr. Woodrow Wilson made no mistake in laying down that proposition. As I said this morning, in no spirit of humor, I do not fear that this commission will interfere with business; my fear is that business will interfere with the commission. If the commission has the power that some contend it has, it will at once become the object of the insidious attack of "big business," not that the men appointed commissioners will knowingly and dishonestly violate their oaths of office, but it so happens that the representatives of "big business" are ever able to hover around public officials, while the great rank and file of humanity, scattered in the shops, in the stores, and on the farm, have no such opportunity.

The only representatives they have are those who are sent here to serve them in the lawmaking and law-enforcing power, and it should be our duty to represent them. It should be our duty, in framing legislation, to frame it from the viewpoint, not of "big business," but of the great rank and file of the American people.

We no longer melt gold into a golden calf, but we seem to have been seized in this country with an obsession. We talk about "big business." It confronts us at every corner. There are two groups of business men in this country. I am reminded of the relation of "big business" to the general business of the country by an inquiry a school-teacher out in Minnesota once made of her class, as to whether any of them could tell the difference between a farmer and an agriculturist. One of them promptly threw up his hand, and when asked to define the difference replied: "A farmer is a man who farms a farm; an agriculturist is a man who farms the farmer."

We have in this country millions of business men, men whose interests are vitally involved in the welfare and prosperity of this country. They are the merchants, the mechanics, the laborers, the farmers, the bankers. Their prosperity is interwoven. We have another class of men in this country who do not build, who do not develop, but who only combine and manipulate those things which are the product of the energy and the ambition of the real business men of the country; who combine the instrumentalities created by others, binding them together, not to serve the people, but to serve themselves; not so much to make more things, but that they may often limit the making of things for the American people; speculating and gambling,

capitalizing the statutes, capitalizing wind and water, capitalizing the future energy and ambition of the American people, capitalizing monopoly; and then, when the natural headache comes which follows a financial debauch, they mop their fevered brows and exclaim: "Oh, if they would only let business alone in this country."

Senators, in dealing with those men we have only one thing to consider, and that is their operations as they affect the body, rank and file, of the American people. So far as their manipulation of affairs goes, they will have financial headaches just as long as they have financial debauches. You may give a temporary relief with bromo seltzer, but if you are going to get permanent relief from the debauch headache the only thing to do is to cut out the debauch. Just so long as matters like the New Haven and similar exploitations go on, there will follow in the wake of such exploitations ruin and disaster. Yet this class, arrogating to themselves the trusteeship of the real business of the country, insist that they shall be the sole beneficiaries of legislation and administration solicitude. Our real solicitude should be the real business of the country.

If Congress had years ago passed the bill which my distinguished colleague has offered as a substitute for this bill, providing for the licensing of interstate corporations and requiring publicity to the transactions of men engaged in such enterprises as the New Haven and similar enterprises, there would have been no widespread disaster throughout New England to-day because of the collapse of that enterprise. What we want is plain laws defining what is right, and prohibiting what is wrong. Then, if the Attorney General does not enforce those laws, put in the hands of every individual who is injured by the violation of the law a right of action for the recovery of damages, and you would have an inspiration that would see to it that our legislation as to restraint of trade, monopoly, and unfair practices was carried out and enforced.

In response to the repeated requests of the Senator from Nevada that if we could not agree with him we should present some substitute, I have drawn a very simple bill:

SECTION 1. That unfair competition in interstate commerce is hereby declared unlawful.

From there on, either your trade commission bill is absolutely meaningless, a delusion and a snare, or else it is conferring upon five men, beyond the power of the voters of this country to reach, the power of legislation.

Then section 2:

That the Attorney General is hereby authorized and directed to bring a suit to enjoin any corporation, firm, partnership, or person to prevent any act forbidden or declared unlawful by this act. Such action may be brought in the district court of the United States in any district where the corporation, firm, copartnership, or person against whom the suit is brought may have its or his principal place of business, resides, or may be found.

Under this bill, as you have now accepted the amendment of the Senator from Ohio, every order of the commission is supposed to run the gantlet of the courts. Why confound and confuse this situation by creating the commission and then putting these people to the expense of a review in the courts? Why not simply, in the language of the President, define clearly and unmistakably what offenses are, and then, in accordance with the spirit of our institutions, as they have been pursued for over a century, clothe the law-enforcing branch of our Government with the power to bring suit to enforce the law?

Back of that, however, I would place a stimulant; I would place a force so that if, in the infirmities of human nature, in the weakness of our institutions, the Department of Justice did not move promptly enough I would have this provision:

SEC. 3. That any person who shall be injured in his business or property by any other person, firm, partnership, or corporation by reason of anything forbidden or declared to be unlawful by this act may sue therefor in any district court of the United States in the district in which the defendant has its principal place of business, resides, or is found, without respect to the amount in controversy, and shall recover threefold the damages sustained and the costs of suit, including a reasonable attorney's fee.

Of course I recognize that this legislation is not designed primarily to reach the individual. It is to secure a condition free from those practices that break down competition. Still you can not have a wrong, however, but that somewhere that wrong rests upon some individual. You can not, therefore, remedy a wrong without bringing relief to those who have been wronged. I care not whether it is a conspiracy in restraint of trade or whether it is the evil practices forbidden by this bill, in the last analysis it is a wrong because it is a wrong to some individual. You can not imagine an act that was worthy prohibition at the hands of Federal legislation unless somewhere the commission of that act was wronging some one. But it is not so much to correct that wrong as it is to put behind the law-enforcing function of our Government a stimulation that will result in activity in the enforcement of the law that I have proposed that provision.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER (Mr. KERN in the chair). Does the Senator from Minnesota yield to the Senator from Iowa?

Mr. CLAPP. With pleasure.

Mr. CUMMINS. I desire to state at this point, as I stated yesterday, that if the amendment of the Senator from Ohio is adopted I would vastly rather have the procedure just stated by the Senator from Minnesota. It is the procedure under the antitrust law.

Mr. CLAPP. Yes.

Mr. CUMMINS. And, in my opinion, if we go to the court with its jurisdiction broad enough to try every case upon its merits, we ought to go to the court in the first instance, and not be bothered or delayed by passing through the portals of the commission.

Mr. CLAPP. I quite agree in that respect with the Senator from Iowa. I can not vote for the amendment proposed by the Senator from Ohio, because I do not believe it gives the remedy which, on its face, it purports to give. In saying that, of course it is needless for me to remark that no reflection is intended upon the Senator from Ohio. He, too, for years has been earnest in his effort to find some remedy for the evils that confront us in our industrial and economic life; but we have been carried away with this idea of a commission, developed largely, as I pointed out in the earlier portion of my remarks this afternoon, until we have become blinded. You ask men, "What do you want with this commission?" Their answer is, "Why, if you will just put these men in a commission they will do their duty; but put them in other offices, and they will fall short of their duty."

Why, Mr. President, there is nothing in the mere office of commissioner that is going to revolutionize human nature. These men will be no worse than the worst, and they can be no better than the best of men, surrounded by influences as they will be. You will simply add another lever in the mechanism of government; and in government, as in physical affairs, every time you add a lever you lose power. You can make levers working ever so easily, and multiply them until you can not move the extreme lever. So, in affairs that relate to the will and purpose and welfare of the people, you can multiply these governmental levers until the power of the people is absolutely lost and wasted. Nor is this any reflection upon the character of the men who will be selected to serve as commissioners. The weakness of the situation is in the condition in which they will be placed. All human experience has shown that the wrong ever seeks to narrow down the human equation it has to deal with, and all human experience has demonstrated that in proportion as you broaden the human equation you insure and make certain the establishment and maintenance of human rights. This is the fundamental of democracy. Then let us retain the lawmaking power in that broader equation which our fathers ordained, namely, Congress.

Let us make our laws plain and direct; let us provide for their enforcement plainly and directly, that the public may not be confused as to where they shall go or to whom they shall look for the enforcement of law; and then, not so much upon the theory that this is a personal contest between two individuals in trade, but as an incentive, as an inspiration, as a stimulant to the enforcement of the law, place it in the power of the citizen to move in the premises, and you will have no difficulty in securing a due enforcement of the law.

Mr. STONE. Mr. President, I desire to offer an amendment which I ask may be printed in the RECORD and printed as an amendment in the usual form and lie on the table.

The PRESIDING OFFICER. If there is no objection, it is so ordered. Does the Senator desire it read?

Mr. STONE. I do not care for that; I read it this morning.

The PRESIDING OFFICER. It will be printed in the RECORD.

Mr. STONE. I wish to say this: I am not sure that I shall offer the amendment. I simply desire to give, by this means, an opportunity to such Senators as may care to examine the suggestion to do so.

I am in favor of the general principles embraced in this bill, and am desirous of having legislation upon the lines proposed. I have no wish to start a new line of discussion which might disturb the present situation, as it seems we are drawing pretty well toward the close of the consideration of this measure. Possibly to-morrow morning, if the consideration of the measure is not completed to-night—as I hardly think it will be—I shall say something upon the subject of the bill.

Mr. CULBERSON. Mr. President, I ask that the amendment proposed by the Senator from Missouri may be read. I have not heard it read.

The PRESIDING OFFICER. It will be read.

The SECRETARY. On page 20, it is proposed to strike out all of that part of section 5 from and including line 20 to and including line 24, and in lieu thereof to insert:

SEC. 5. It shall be unlawful for any corporation to engage in any unfair or oppressive trade practice in the course of commerce, as herein defined, with the intent and purpose of destroying or unreasonably hindering the business of another or preventing another from engaging in business; and it shall also be unlawful for any corporation to engage in any unfair or oppressive trade practice in the course of intrastate commerce with the intent, purpose, and probable direct effect of destroying or unreasonably hindering the interstate or foreign commerce of another, or of preventing another from engaging in such business.

The commission is hereby empowered and directed to prevent any corporation from using any trade practice herein and hereby declared to be unlawful.

Mr. NEWLANDS. Mr. President, I wish to say but a few words. I do not propose to say anything regarding "unfair competition." I regard the argument as exhausted upon that subject. I wish to address myself simply to the question of court review.

There are three methods that we can pursue. One is to have no court review. Another is to have a limited court review. The other is to have a broad court review.

The bill reported by the Interstate Commerce Committee to this body provided for no court review. It simply provided that, so far as the order of the commission is concerned, if it was not obeyed the commission could apply to a court for a writ of injunction compelling obedience to the order.

The amendment proposed by the Senator from Iowa is a limited court review patterned after that which exists in the interstate-commerce act. The amendment offered by the Senator from Ohio, and which is the joint product of himself and the Senator from Montana and which has been approved to-day by the Interstate Commerce Committee, provides for a broad review.

I wish to say, so far as I am individually concerned, that I stood with the Senator from Iowa in the memorable contest of some years ago regarding the Commerce Court bill for a limited court review, and we won. In framing this bill I proposed to make the order of the commission as final and conclusive as it could be made, but enforceable only by an application to a court of equity, leaving it to that court to determine what defense could be interposed by the corporation ordered to desist. I was conscious of the fact that such court would first consider as a judicial matter whether the constitutional rights of the corporation were invaded by the order; second, whether the order made was within the authority conferred by the statute; and third, whether the facts found in the order constituted the offense of unfair competition. I believed that that was all that the court could act upon under the bill as reported, and that is all that I wanted the court to act upon.

But we found ourselves met by the views of the Judiciary Committee which had been laboriously considering the Clayton bill, a bill containing provisions regarding interlocking directorates and holding companies, and also covering two practices in unfair competition, one relating to price discrimination and the other relating to tying contracts. Whilst originally they proposed to make those offenses unlawful and to visit them with criminal punishment, they concluded to change their bill and to make those provisions enforceable through the Federal trade commission, and they provided for a system of fairly broad court review. It was the opinion of the members of the Judiciary Committee almost unanimously—I believe the opinion of that committee was unanimous with the exception of the Senator from Iowa; so I am informed—that a broad court review should be given.

This difference of opinion existed between the friends of the bill. So far as I am concerned, I was willing to go further than the Senator from Iowa and provide for no court review, and allow the court in the judicial proceeding instituted for the enforcement of the commission's order to take such judicial action as it thought proper, and as it would take whether we provide for it by statute or not. But the friends of the bill were divided, as I have stated, and so five or six of us, members of the Judiciary Committee and members of the Interstate Commerce Committee, met the other evening to confer upon this subject, and we concluded to turn over the shaping of a measure with reference to court review to the Senator from Ohio and the Senator from Montana, their action to be submitted later on to the Interstate Commerce Committee. They framed the amendment as presented by the Senator from Ohio. Action was taken upon that by the Interstate Commerce Committee this morning and the Interstate Commerce Committee approved of that amendment.

So, for this reason, I stand for the amendment as presented by the Senator from Ohio.

Mr. CUMMINS. Mr. President——

Mr. NEWLANDS. If the Senator will permit me to complete my statement——

Mr. CUMMINS. Certainly.

Mr. NEWLANDS. Then, where does the difference lie between the questions which the court will consider without a court review and the questions which the court will consider with the court review? As I understand it, practically upon a suit brought by the commission to enforce the order under the provision of the bill as reported by the committee the court would simply consider the constitutional right, the question of authority, and the question as to whether the facts constituted the offense. Now, little more will be presented to the court under the broad review, the difference being that if the court finds upon the sworn affidavit of the corporation that there is newly discovered evidence which the corporation could not have produced at the trial below, an opportunity is given to present that. That is substantially about the only difference between the two, except that under the broad review not only the commission has the power to apply to the court to enforce the order, but the complainant upon whose petition the charge was originally made and the corporation affected by the order can also have the matter reviewed in the case.

Mr. CUMMINS. Mr. President, I desire to ask the Senator from Nevada a question.

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Iowa?

Mr. NEWLANDS. Certainly.

Mr. CUMMINS. Inasmuch as he has stated that at a meeting of the Interstate Commerce Committee all its members voted for the amendment of the Senator from Ohio save myself——

Mr. NEWLANDS. No; I beg the Senator's pardon. I did not state that with reference to the Interstate Commerce Committee. That statement was with reference to the Judiciary Committee. I stated that I understood all the members of the Judiciary Committee except the Senator from Iowa were for a broad review. I made no statement whatever with reference to the Interstate Commerce Committee. I will state now that we had only six members present this morning, but we were authorized to count two others present, which would constitute a quorum, and that of the six who were present five voted for the broad court review and the Senator from Iowa voted against it.

Mr. CUMMINS. I think that is true, Mr. President. The Senator from Nevada might go further and state who were there. However, I will not press that inquiry. Possibly he had full warrant for stating the views of members of the Judiciary Committee with regard to the subject. I was not present in the Judiciary Committee when it was considered; I did not vote for it either one way or the other; and I am slow to believe that all the members of the Judiciary Committee prefer the broad review to the narrow review. However, the Senator from Nevada may know just how they feel about it; I do not.

Mr. NEWLANDS. I merely stated that I was so informed. I do not pretend to know what the action of the committee was.

Mr. CULBERSON. Mr. President, I simply wish to state, as the matter has been gone into by the Senator from Nevada, that in the Committee on the Judiciary at first the committee adopted the proceeding for a review similar to that provided for the Interstate Commerce Commission, drafted not exactly by me, but under my direction. Afterwards it was changed to the form in which it now appears in section 9b of the Clayton Antitrust Act.

But there are material differences between section 9b and the amendment proposed by the Senator from Ohio. I will not stop to go into detail, except to state that there was no provision in section 9b as originally written and as it now stands for an appeal to the circuit court of appeals of the United States. There was a distinct provision that the section should apply to persons and partnerships and associations engaged in interstate commerce as well as to corporations.

For these two reasons, if for no other, I shall support the amendment offered by the Senator from Iowa.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Iowa [Mr. CUMMINS] to the amendment.

Mr. CUMMINS. Upon that amendment I ask for the yeas and nays.

Mr. CLARKE of Arkansas. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hitchcock	Nelson	Smith, Md.
Brandegee	Hollis	Newlands	Smoot
Bristow	Hughes	Norris	Stone
Bryan	James	Overman	Sutherland
Burton	Johnson	Owen	Thomas
Chamberlain	Jones	Perkins	Thornton
Chilton	Kenyon	Pomerene	Vardaman
Clapp	Kern	Ransdell	Walsh
Clark, Wyo.	Lane	Reed	Weeks
Colt	Lea, Tenn.	Saulsbury	West
Crawford	Lee, Md.	Shafroth	White
Culberson	Lewis	Sheppard	Williams
Cummins	McCumber	Shields	
Gallinger	Martine, N. J.	Simmons	
Gronna	Myers	Smith, Ga.	

Mr. WHITE. I desire to announce the necessary absence of my colleague [Mr. BANKHEAD], and to state that he is paired.

The PRESIDING OFFICER. Fifty-seven Senators have answered to their names. A quorum is present. The question is on the amendment proposed by the Senator from Iowa to the amendment, upon which the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. CLARKE of Arkansas obtained the floor, but after a pause said:

The Senator from Nevada [Mr. NEWLANDS] makes a suggestion to me that will carry this bill over until to-morrow, and it will be satisfactory for me to say what I have to say at that time. I will yield for that purpose, with the understanding that no vote is to be taken on the pending amendment this afternoon.

Mr. NEWLANDS. I will state that the Senator from Oklahoma [Mr. OWEN] wishes to present a very important matter for the immediate consideration of the Senate, and I have promised to yield to him.

AMENDMENT OF FEDERAL RESERVE ACT.

Mr. OWEN. Mr. President, I am authorized by the Committee on Banking and Currency to report and ask the Senate to proceed to the consideration of a bill amending the Vreeland-Aldrich Act so as to enable banks which have not 40 per cent of their capital invested in United States bonds and circulating medium issued against it to be permitted to receive emergency circulation under the Vreeland-Aldrich Act by the consent of the Treasury Department. The stock exchanges of all Europe have been closed; the Bank of England has suspended specie payment; the Bank of France has suspended specie payment; the Bank of Germany the same; and there is a possibility of some disturbance in our country unless we take immediate steps to prevent it.

With the permission of the Senate, I will read what has been prepared by the officers of the Treasury Department bearing upon this subject. It is a proposed amendment of section 27 of the Federal reserve act, the Federal reserve act in section 27 having amended the Vreeland-Aldrich Act and continued it until June 30, 1915; but the Vreeland-Aldrich Act provided that banks which have not an amount equal to 40 per cent of their capital invested in United States bonds, with circulation issued against it, might not avail themselves of emergency circulation. With the permission of the Senate, I should like to read this measure and ask for its immediate consideration.

A bill to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 27 of the act approved December 23, 1913, known as the Federal reserve act, is hereby amended and reenacted to read as follows—

The first part of the proposed amendment is merely a repetition of section 27, and I will indicate where the amendment begins.

SEC. 27. The provisions of the act of May 30, 1908, authorizing national currency associations, the issue of additional national-bank circulation, and creating a national monetary commission, which expires by limitation under the terms of such act on the 30th day of June, 1914, are hereby extended to June 30, 1915, and sections 5153, 5172, 5191, and 5214 of the Revised Statutes of the United States, which were amended by the act of May 30, 1908, are hereby reenacted to read as such sections read prior to May 30, 1908, subject to such amendments or modifications as are prescribed in this act: *Provided, however,* That section 9 of the act first referred to in this section is hereby amended so as to change the tax rates fixed in said act by making the portion applicable thereto read as follows:

National banking associations having circulating notes secured otherwise than by bonds of the United States shall pay for the first three months a tax at the rate of 3 per cent per annum upon the average amount of such of their notes in circulation as are based upon the deposit of such securities, and afterwards an additional tax rate of one-half of 1 per cent per annum for each month until a tax of 6 per cent per annum is reached, and thereafter such tax of 6 per cent per annum upon the average amount of such notes.

That is the act as it now stands. The proposed amendment is:

Provided further, That whenever in his judgment he may deem it desirable the Secretary of the Treasury shall have power to suspend the limitations imposed by section 1 and section 3 of the act referred to in this section, which prescribe that such additional circulation secured otherwise than by bonds of the United States shall be issued only to national banks having circulating notes outstanding secured by the deposit of bonds of the United States to an amount not less than 40 per cent of the capital stock of such banks, and may permit national banks, during the period for which such provisions are suspended, to issue additional circulation under the terms and conditions of the act referred to.

I will say that many of the large banks—banks which are holding the reserves of the country banks—have not thought it desirable to have a large volume of United States bonds, but these bonds are practically absorbed now by the banks; $730,000,000 of them are held as security now by the Government of the United States for circulation and for advances made to national banks. So there is a very small volume of them available.

I therefore ask, in order to protect the country, that we may have immediate consideration of this measure.

I will state that the bill is a unanimous report of the committee.

The PRESIDENT pro tempore. The Senator from Oklahoma reports a bill, which will be read by title.

The bill (S. 6192) to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act, was read the first time by its title.

Mr. SMOOT. Mr. President, I should like to ask the Senator from Oklahoma if it is expected that this bill will be acted upon by the House to-night?

Mr. OWEN. Possibly so. The House committee is now considering the matter.

Mr. SMOOT. The same bill?

Mr. OWEN. The same bill.

Mr. SMOOT. Mr. President, in my opinion the situation in the world to-day, perhaps, would justify this hasty action on the part of Congress. I have, however, thought that rather than quiet the fears of our people this precipitate action might have the opposite effect as to many people, they thinking, perhaps, that the financial affairs of this country were in such condition that action of this kind was absolutely necessary to protect the banks. If the people understood that it is a precautionary measure for the protection of the banks, and thus secure their confidence in them, of course, there would be no evil effects from this hasty action, but if the bill is acted upon in this way and the idea should spread throughout the country that our financial affairs were in such a condition that immediate action of this character was necessary, and that the banks were not capable of meeting their obligations, I am afraid it would have the opposite of a quieting effect. However, as the matter has now been brought to the attention of the Senate and of the country, I think, of course, the only thing to do is to act upon the bill at once, though I believe the best way would have been to have introduced the bill, had it referred to the committee, and have it take the usual course of such legislation rather than to have had it acted upon in this manner.

Mr. OWEN. Mr. President, I agree with the Senator from Utah in that respect, but I should like to say in connection with the suggestion as to the financial affairs of the country, that the Nation never was in such a magnificent condition to meet this world-wide disturbance as it now is. We have over $1,500,000,000 of gold and silver in the Treasury in our trust funds. Besides that we have $150,000,000 of reserve gold. We have in addition to that $130,000,000 of free gold in the current funds of the Treasury. The banks of the country are in splendid condition generally, but to have them know that if they need it they can get $500,000,000 of emergency circulation will absolutely prevent anybody demanding currency, for they will not want it. The mere fact that they know they can get it will be all that will be necessary.

Mr. SMOOT. I was going to call the Senate's attention to what the Senator from Oklahoma has already stated, for I hold in my hand the statement of the Treasury Department at the close of business on July 29, 1914. One purpose I had in rising was to call attention to the splendid condition not only of the United States Treasury but of the banks of the country. As to bank reserves, the amount which the banks are carrying is greatly more than the law requires, and nothing can disturb the banking business of this country so long as the confidence of the people is maintained in the banking institutions. There is no need whatever of any kind——

Mr. NELSON. Mr. President, will the Senator yield to me?

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Minnesota?

Mr. SMOOT. I yield to the Senator.

Mr. NELSON. Mr. President, I desire to say to the Senator from Utah that the Committee on Banking and Currency have just met, have considered this matter, and are of one accord that under present circumstances it is proper to enact this legislation.

The situation is this: All the stock exchanges in the countries abroad have suspended; the banks of France, of England, and of Germany have practically suspended specie payment, and, while there is no immediate danger in this country, and while I agree entirely with the Senator from Utah that we are in a sound financial condition, I think it is very wise to take this precautionary step now.

The Treasury Department recommends the passage of this bill, and I can see no harm in enacting it. It is simply a matter of safety, to guard against any contingency or mishap. We do not know how far the war cloud may overspread Europe. If the present situation should eventuate into a general European war and be of a prolonged character, it is well that we should put ourselves in a position where we can continue to maintain our present financial supremacy. Therefore, I trust that we can pass this bill unanimously to-night because of its moral effect, not that I consider it immediately necessary, but it will have a steadying influence on the financial affairs of the country.

I desire to say, further, to the Senator from Utah that I am authorized, I think, by the Republican members of the Committee on Banking and Currency to express these sentiments.

Mr. SMOOT. Mr. President, I fully agree with all that the Senator has stated, and my only purpose in rising was this: If the bill had been acted upon without any explanation and without any assurance upon the part of those who really know as to the condition of the Treasury of the United States and the banks of the country, the people might have taken alarm at this hasty action if nothing whatever had been said from the floor of the Senate. I desired, if possible, to assure the country that the action here taken, while unusual, is not taken because of the banks of the country being in financial trouble, but is taken as a precautionary measure only. That, Mr. President, is about all that I desire to say, and I am perfectly willing, so far as I am concerned, that immediate consideration shall be given to the bill.

Mr. SMOOT subsequently said:

Mr. President, I ask unanimous consent that I may have printed in the RECORD as a part of my remarks the daily statement of the United States Treasury for July 29, 1914, showing the cash assets and liabilities, also the currency trust funds, the general fund, and the gold-reserve fund.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Utah? The Chair hears none, and it is so ordered.

The statement referred to is as follows:

Cash assets and liabilities.

GENERAL FUND.

ASSETS.

Cash in Treasury offices:	
Gold coin	$88,377,668.37
Gold certificates	40,938,452.00
Standard silver dollars	8,445,937.00
Silver certificates	12,392,134.00
United States notes	9,686,982.00
Treasury notes of 1890	12,940.00
Certified checks on banks	604,465.84
National-bank notes	32,498,121.41
NOTE: This includes $24,775,422.41 which the Treasury has redeemed and for which it will receive payment from the national banks.	
Subsidiary silver coin	22,366,063.03
Fractional currency	78.19
Minor coin	2,206,664.70
Silver bullion (available for subsidiary coinage)	3,319,856.40
	220,849,362.94
In national-bank depositaries:	
To credit of Treasurer, United States	55,096,485.36
To credit of postmasters, judicial officers, etc	6,985,352.50
In Treasury, Philippines:	
To credit of Treasurer, United States	1,780,016.90
To credit of disbursing officers	2,595,141.55
Total	287,306,359.25

LIABILITIES.

Current liabilities in Treasury offices:	
Disbursing officers' balances	$58,684,162.02
Outstanding warrants	1,430,714.19
Outstanding Treasurer's checks	3,176,619.17
Outstanding interest checks	279,502.93
Post Office Department balances	9,752,689.97
Postal savings balances	1,747,347.75
Judicial officers' balances, etc	7,842,950.01
National-bank notes: Redemption fund[1]	15,557,720.50
National-bank 5 per cent fund	24,253,445.71
Assets of failed national banks	1,655,117.72
Miscellaneous (exchanges, etc.)	7,106,773.07
Total	131,487,043.04
Subtract: Checks not cleared	758,959.11
	130,728,083.93
In national-bank depositaries:	
Judicial officers' balances, etc	6,985,352.50
Outstanding warrants	118,428.39
In Treasury, Philippines:	
Disbursing officers' balances	2,595,141.55
Outstanding warrants	1,713,870.25
	142,140,876.62
Net balance in general fund	145,165,482.63
Total	287,306,359.25

THE CURRENCY TRUST FUNDS, THE GENERAL FUND, AND THE GOLD-RESERVE FUND.

ASSETS.

Currency trust fund:		
Gold coin	$786,549,522.00	
Gold bullion	236,352,347.00	
Total gold	1,022,901,869.00	
Silver dollars	487,356,000.00	
Silver dollars of 1890	2,433,000.00	
Total currency trust fund		1,512,690,869.00
General fund:		
Total cash assets, as above		287,306,359.25
Gold-reserve fund:		
Gold coin	100,000,000.00	
Gold bullion	50,000,000.00	
Grand total cash assets in Treasury		1,949,997,228.25

LIABILITIES.

Outstanding certificates:		
Gold certificates outstanding		$1,022,901,869.00
Silver certificates outstanding		487,356,000.00
Treasury notes outstanding		2,433,000.00
Total outstanding certificates, etc		1,512,690,869.00
General fund liabilities and balance:		
Total liabilities, as above		142,140,876.62
Balance in general fund, as above	$145,165,482.63	
Gold reserve	150,000,000.00	
NOTE: Reserved against $346,681,016 of United States notes and $2,433,000 of Treasury notes of 1890.		
Total net balances		295,165,482.63
		1,949,997,228.25

[1] The act of July 14, 1890, provides that deposits made by national banks to redeem circulating notes shall be covered into the Treasury as miscellaneous receipts and that the Treasury shall redeem from the general cash the circulating notes which come into its possession subject to redemption.

Mr. THOMAS. Mr. President, I merely wish to say that the statement of the Senator from Oklahoma [Mr. OWEN] concerning the available reserve of the United States is in the last degree gratifying. I want to emphasize the fact that in giving the amount of available financial resources of this country the Senator stated that there were in the Treasury fifteen hundred million dollars of gold and silver.

Mr. President, the silver money of this country, fortunately, although its coinage has been suspended, is nevertheless available at par and upon the ancient ratio; and if the countries of the Old World, instead of setting aside one of the two money metals of the world, had continued the old régime, the vast quantity of gold and silver available would, even under the present conditions, have made it unnecessary to suspend specie payment.

It is a lesson which we may take to heart, perhaps, and by learning from experience go back to the good old methods of finance and use both the metals, which the Almighty in His wisdom gave to the world for that purpose.

The PRESIDENT pro tempore. The bill will be read at length.

The bill was read the second time at length, as follows:

An act (S. 6192) to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act.

Be it enacted, etc., That section 27 of the act approved December 23, 1913, known as the Federal reserve act, is hereby amended and reenacted to read as follows:

"SEC. 27. The provisions of the act of May 30, 1908, authorizing national currency associations, the issue of additional national-bank circulation, and creating a National Monetary Commission, which expires by limitation under the terms of such act on the 30th day of June, 1914, are hereby extended to June 30, 1915, and sections 5153, 5172, 5191, and 5214 of the Revised Statutes of the United States, which were amended by the act of May 30, 1908, are hereby reenacted to read as such sections read prior to May 30, 1908, subject to such amendments or modifications as are prescribed in this act: *Provided, however*, That section 9 of the act first referred to in this section is hereby amended so as to change the tax rates fixed in said act by making the portion applicable thereto read as follows:

"'National banking associations having circulating notes secured otherwise than by bonds of the United States, shall pay for the first three months a tax at the rate of 3 per cent per annum upon the average amount of such of their notes in circulation as are based upon the deposit of such securities, and afterwards an additional tax rate of one-half of 1 per cent per annum for each month until a tax of 6 per cent per annum is reached, and thereafter such tax of 6 per cent per annum upon the average amount of such notes: *Provided further*, That whenever in his judgment he may deem it desirable, the Secretary of the Treasury shall have power to suspend the limitations imposed by section 1 and section 3 of the act referred to in this section, which prescribe that such additional circulation secured otherwise than by bonds of the United States shall be issued only to national banks having circulating notes outstanding secured by the deposit of bonds of the United States to an amount not less than 40 per cent of the capital stock of such banks, and may permit national banks, during the period for which such provisions are suspended, to issue additional circulation under the terms and conditions of the act referred to.'"

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. NELSON. Mr. President, now that we have passed this bill I desire to state that we have passed it, not because there is any immediate danger, but as a precautionary measure.

The difference between us and Europe in this emergency is this: Europe is engaged in mobolizing its armies and navies, while we are simply engaged in mobolizing our bank reserves.

PROPOSED ROUTINE BUSINESS.

Mr. CATRON. Out of order I ask leave to report a bill from the Committee on Military Affairs and have it placed on the calendar.

The PRESIDENT pro tempore. The Senator from New Mexico asks unanimous consent at this time to make the following report——

Mr. SMOOT. I object.

The PRESIDENT pro tempore. The Senator from Utah objects.

Mr. WILLIAMS. I ask unanimous consent to introduce a bill for proper reference.

Mr. SMOOT. I object.

The PRESIDENT pro tempore. The Senator from Utah objects.

PETITIONS AND MEMORIALS.

Mr. GRONNA presented petitions of sundry citizens of Linton, Temvik, and of the Evangelical Brotherhood of Fargo, all in the State of North Dakota, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. BRANDEGEE (for Mr. OLIVER) presented petitions of sundry citizens of Pennsylvania, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also (for Mr. OLIVER) presented a petition of the Upholsterers' Local Union No. 124, of Philadelphia, Pa., praying for the passage of the so-called Clayton antitrust bill, which was ordered to lie on the table.

He also presented a petition of Local Union No. 259, International Union of the United Brewery Workmen of America, of Easton, Pa., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

Mr. CHAMBERLAIN presented a petition of the City Council of Astoria, Oreg., praying for the enactment of legislation to provide pensions for civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WILLIAMS:

A bill (S. 6190) for the relief of Mary Maynor; to the Committee on Claims.

By Mr. JONES:

A bill (S. 6191) granting an increase of pension to William Lockwood; to the Committee on Pensions.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 20 minutes spent in executive session the doors were reopened, and (at 6 o'clock p. m., Friday, July 31, 1914) the Senate took a recess until to-morrow, Saturday, August 1, 1914, at 11 o'clock a. m.

CONFIRMATIONS.

Executive nominations confirmed by the Senate July 31 (legislative day of July 27), 1914.

CONSUL.

Cornelius Ferris, jr., to be consul at Bluefields, Nicaragua.

RECEIVER OF PUBLIC MONEYS,

George G. Beams, to be receiver of public moneys at Lincoln, Nebr.

POSTMASTERS.

ILLINOIS.

Robert Selby, Lovington.

IOWA.

J. Brady Piatt, Tipton.
Sterling P. Moore, Villisca.
Isaac N. West, Mount Vernon.

PENNSYLVANIA.

Peter V. Abel, Hastings.
John J. Kinney, South Fork.
Abraham H. Nyce, Vernfield.

HOUSE OF REPRESENTATIVES.

FRIDAY, *July 31, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We seek the uplift of Thy spirit, Almighty God, our heavenly Father, that with clear vision, pure motives, and earnest endeavor we may do the work of the hour, with an eye single to Thy glory, in the betterment of conditions; that peace and prosperity may unite our people in the making of good government, to the end that righteousness may live and grow in the hearts of all. And Thine be the praise, through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

MAY STANLEY.

Mr. SCOTT. Mr. Speaker, on the 15th of the present month the bill (S. 1644) for the relief of May Stanley, with House amendments, was returned from the Senate and a conference asked. I desire to move that the request of the Senate for a conference be agreed to.

The SPEAKER. The Chair lays before the House the bill (S. 1644) for the relief of May Stanley, which the Clerk will report.

The Clerk read the title of the bill, as follows:

S. 1644. An act for the relief of May Stanley, and for other purposes.

The SPEAKER. The gentleman from Iowa [Mr. SCOTT] asks unanimous consent that the House agree to the conference asked by the Senate. Is there objection?

There was no objection, and the Speaker announced as conferees on the part of the House Mr. POU, Mr. STEPHENS of Mississippi, and Mr. SCOTT.

PRIVATE CALENDAR.

Mr. POU rose.

The SPEAKER. The gentleman from North Carolina.

Mr. POU. Mr. Speaker, I move that the House resolve itself into Committee of the Whole for the consideration of bills on the Private Calendar.

The SPEAKER. The gentleman from North Carolina [Mr. POU] moves that the House resolve itself into Committee of the Whole for the consideration of bills on the Private Calendar. The question is on agreeing to that motion.

The question was taken; and the Speaker announced that the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I make the point that there is no quorum present.

The SPEAKER. The gentleman from Illinois [Mr. MANN] makes the point of order that there is no quorum present. The Chair will count. [After counting.] Ninety-seven gentlemen are present—not a quorum.

Mr. GARRETT of Tennessee. Mr. Speaker, is the House dividing?

The SPEAKER. Yes. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. Those in favor of the motion that the House resolve itself into Committee of the Whole for the consideration of bills on the Private Calendar will, when their names are called, answer "yea"; those opposed will answer "nay."

The question was taken; and there were—yeas 200, nays 8, answered "present" 9, not voting 216, as follows:

YEAS—200.

Abercrombie	Dixon	Humphreys, Miss.	Prouty
Alexander	Donohoe	Jacoway	Quin
Allen	Donovan	Johnson, Ky.	Rainey
Ansberry	Doolittle	Johnson, Utah	Raker
Bailey	Doremus	Johnson, Wash.	Reed
Baker	Doughton	Kelly, Pa.	Reilly, Conn.
Baltz	Elder	Kennedy, Conn.	Reilly, Wis.
Barnhart	Esch	Kennedy, Iowa	Roberts, Nev.
Barton	Evans	Kennedy, R. I.	Rubey
Bathrick	Falconer	Kent	Rucker
Beakes	Fergusson	Kettner	Rupley
Bell, Cal.	Ferris	Kindel	Russell
Blackmon	Fess	Kinkaid, Nebr.	Scott
Booher	Fields	Kirkpatrick	Seldomridge
Borchers	FitzHenry	Konop	Shackleford
Britten	Flood, Va.	La Follette	Sims
Brockson	Floyd, Ark.	Lee, Ga.	Sinnott
Brodbeck	Foster	Lee, Pa.	Sloan
Broussard	Fowler	Lesher	Smith, Idaho
Brown, W. Va.	French	Lewis, Md.	Smith, Md.
Brumbaugh	Gallagher	Lieb	Smith, Minn.
Bryan	Gallivan	Lindbergh	Sparkman
Buchanan, Ill.	Garner	Linthicum	Stedman
Buchanan, Tex.	Garrett, Tenn.	Lloyd	Stephens, Cal.
Burgess	Garrett, Tex.	McKellar	Stone
Burke, S. Dak.	Gerry	McKenzie	Stout
Burke, Wis.	Gilmore	McLaughlin	Sutherland
Burnett	Good	MacDonald	Talbott, Md.
Campbell	Goodwin, Ark.	Maguire, Nebr.	Talcott, N. Y.
Candler, Miss.	Gray	Mapes	Tavenner
Cantor	Greene, Vt.	Miller	Taylor, Ark.
Caraway	Gregg	Mitchell	Taylor, Colo.
Carter	Hamlin	Mondell	Ten Eyck
Clark, Fla.	Hammond	Moon	Thomson, Ill.
Cline	Hardy	Morrison	Towner
Coady	Harris	Moss, Ind.	Tribble
Collier	Harrison	Moss, W. Va.	Tuttle
Connelly, Kans.	Haugen	Mulkey	Volstead
Cooper	Hawley	Neely, W. Va.	Walsh
Cox	Hay	Nolan, J. I.	Watkins
Cramton	Hayden	Norton	Watson
Cullop	Helgesen	O'Hair	Webb
Curry	Helm	Oldfield	Whaley
Danforth	Helvering	Page, N. C.	White
Davis	Hensley	Park	Wilson, Fla.
Decker	Hill	Patton, Pa.	Wingo
Dent	Holland	Peters, Mass.	Woodruff
Dickinson	Howard	Plumley	Woods
Difenderfer	Howell	Post	Young, N. Dak.
Dillon	Hulings	Pou	The Speaker

NAYS—8.

Anderson	Hayes	Montague	Smith, Saml. W.
Farr	Madden	Morgan, Okla.	Witherspoon

ANSWERED "PRESENT"—9.

Butler	Glass	Hull	Taylor, Ala.
Clancy	Guernsey	Mann	Treadway
Claypool			

NOT VOTING—216.

Adair	Byrnes, S. C.	Fooling	Godwin, N. C.
Adamson	Byrns, Tenn.	Driscoll	Goeke
Aiken	Calder	Drukker	Goldfogle
Ainey	Callaway	Dunn	Gordon
Anthony	Cantrill	Dupré	Gorman
Ashbrook	Carew	Eagan	Goulden
Aswell	Carlin	Eagle	Graham, Ill.
Austin	Carr	Edmonds	Graham, Pa.
Avis	Cary	Edwards	Green, Iowa
Barchfeld	Casey	Estopinal	Greene, Mass.
Barkley	Chandler, N. Y.	Fairchild	Griest
Bartholdt	Church	Faison	Griffin
Bartlett	Connolly, Iowa	Finley	Gudger
Beall, Tex.	Conry	Fitzgerald	Hamill
Bell, Ga.	Copley	Fordney	Hamilton, Mich.
Borland	Covington	Francis	Hamilton, N. Y.
Bowdle	Crisp	Frear	Hardwick
Brown, N. Y.	Crosser	Gard	Hart
Browne, Wis.	Dale	Gardner	Heflin
Browning	Davenport	George	Henry
Bruckner	Deitrick	Gill	Hinds
Bulkley	Dershem	Gillett	Hinebaugh
Burke, Pa.	Dies	Gittins	Hobson
Houston	Logue	Payne	Steenerson
Hoxworth	Lonergan	Peters, Me.	Stephens, Miss.
Hughes, Ga.	McAndrews	Peterson	Stephens, Nebr.
Hughes, W. Va.	McClellan	Phelan	Stephens, Tex.
Humphrey, Wash.	McCoy	Platt	Stevens, Minn.
Igoe	McGillicuddy	Porter	Stevens, N. H.
Johnson, S. C.	McGuire, Okla.	Powers	Stringer
Jones	Mahan	Ragsdale	Sumners
Kahn	Maher	Rauch	Switzer
Keating	Manahan	Rayburn	Taggart
Keister	Martin	Riordan	Taylor, N. Y.
Kelley, Mich.	Merritt	Roberts, Mass.	Temple
Key, Ohio	Metz	Rogers	Thacher
Kless, Pa.	Moore	Rothermel	Thomas
Kinkead, N. J.	Morgan, La.	Rouse	Thompson, Okla.
Kitchin	Morin	Sabath	Townsend
Knowland, J. R.	Mott	Saunders	Underhill
Korbly	Murdock	Scully	Underwood
Kreider	Murray, Mass.	Sells	Vare
Lafferty	Murray, Okla.	Sherley	Vaughan
Langham	Neeley, Kans.	Sherwood	Vollmer
Langley	Nelson	Shreve	Walker
Lazaro	O'Brien	Sisson	Wallin
L'Engle	Oglesby	Slayden	Walters
Lenroot	O'Leary	Slemp	Weaver
Lever	O'Shaunessy	Small	Whitacre
Levy	Padgett	Smith, J. M. C.	Williams
Lewis, Pa.	Paige, Mass.	Smith, N. Y.	Willis
Lindquist	Palmer	Smith, Tex.	Wilson, N. Y.
Lobeck	Parker	Stafford	Winslow
Loft	Patten, N. Y.	Stanley	Young, Tex.

So the motion of Mr. POU was agreed to.

The Clerk announced the following pairs:

For the session:

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. SCULLY with Mr. BROWNING.

Mr. GLASS with Mr. SLEMP.

Mr. METZ with Mr. WALLIN.

Mr. BARTLETT with Mr. BUTLER.

Mr. UNDERWOOD with Mr. MANN.

Until further notice:

Mr. CONRY with Mr. AVIS.

Mr. DALE with Mr. MARTIN.

Mr. TAYLOR of Alabama with Mr. HUGHES of West Virginia.

Mr. SHERLEY with Mr. GILLETT.

Mr. HARDWICK with Mr. J. R. KNOWLAND.

Mr. YOUNG of Texas with Mr. AINEY.

Mr. STEPHENS of Nebraska with Mr. LEWIS of Pennsylavnia.

Mr. FIELDS with Mr. LANGLEY.

Mr. STEPHENS of Texas with Mr. BARTHOLDT.

Mr. ESTOPINAL with Mr. FREAR.

Mr. BELL of Georgia with Mr. CALDER.

Mr. WEAVER with Mr. WALTERS.

Mr. EDWARDS with Mr. GRIEST.

Mr. MORGAN of Louisiana with Mr. LINDQUIST.

Mr. PADGETT with Mr. MORIN.

Mr. FAISON with Mr. GREENE of Massachusetts.

Mr. HENRY with Mr. HINDS.

Mr. SLAYDEN with Mr. BURKE of Pennsylvania.

Mr. MCGILLICUDDY with Mr. GUERNSEY.

Mr. CLANCY with Mr. HAMILTON of New York.

Mr. HOUSTON with Mr. LANGHAM.

Mr. CANTRILL with Mr. COPLEY.

Mr. DAVENPORT with Mr. J. M. C. SMITH.

Mr. ASHBROOK with Mr. AUSTIN.

Mr. BYRNS of Tennessee with Mr. BARCHFELD.

Mr. KITCHIN with Mr. ROBERTS of Massachusetts.

Mr. GORMAN with Mr. MCLAUGHLIN.

Mr. LAZARO with Mr. PARKER.

Mr. ASWELL with Mr. CARY.

Mr. CALLAWAY with Mr. WILLIS.

Mr. THOMAS with Mr. FAIRCHILD.

Mr. HUGHES of Georgia with Mr. MERRITT.

Mr. IGOE with Mr. GREEN of Iowa.

Mr. SHERWOOD with Mr. MOTT.

Mr. JOHNSON of South Carolina with Mr. GRAHAM of Pennsylvania.

Mr. LOBECK with Mr. POWERS.

Mr. SABATH with Mr. SWITZER.

Mr. UNDERHILL with Mr. STEENERSON.

Mr. ADAIR with Mr. BROWNE of Wisconsin.

Mr. BYRNES of South Carolina with Mr. SHREVE.

Mr. FRANCIS with Mr. CHANDLER of New York.

Mr. GOEKE with Mr. EDMONDS.

Mr. LEVER with Mr. KELLEY of Michigan.

Mr. MCANDREWS with Mr. KREIDER.

Mr. RAUCH with Mr. PAIGE of Massachusetts.

Mr. PALMER with Mr. MOORE.

Mr. ROUSE with Mr. PORTER.

Mr. SMITH of Texas with Mr. TEMPLE.

Mr. ADAIR with Mr. DRUKKER.

Mr. BARKLEY with Mr. ANTHONY.

Mr. BULKLEY with Mr. DUNN.
Mr. CARLIN with Mr. HAMILTON of Michigan.
Mr. CARR with Mr. KEISTER.
Mr. DUPRÉ with Mr. HUMPHREY of Washington.
Mr. FINLEY with Mr. KAHN.
Mr. FITZGERALD with Mr. FORDNEY.
Mr. GORDON with Mr. KIESS of Pennsylvania.
Mr. HEFLIN with Mr. NELSON.
Mr. PATTEN of New York with Mr. MCGUIRE of Oklahoma.
Mr. PETERSON with Mr. MANAHAN.
Mr. SAUNDERS with Mr. PAYNE.
Mr. SISSON with Mr. PETERS of Maine.
Mr. TAGGART with Mr. ROGERS.
Mr. WALKER with Mr. SELLS.
Mr. WILLIAMS with Mr. VARE.

Mr. MANN. Mr. Speaker, I voted "yea," but I am paired with the gentleman from Alabama, Mr. UNDERWOOD. I desire to withdraw my vote and to be recorded "present."

The SPEAKER. The Clerk will call my name.

The Clerk called the name of Mr. CLARK of Missouri, and he voted in the affirmative.

The result of the vote was announced as above recorded.

The SPEAKER. The Doorkeeper will unlock the doors.

Accordingly the House resolved itself into the Committee of the Whole for the consideration of bills on the Private Calendar, with Mr. TAYLOR of Colorado in the chair.

Mr. POU. Mr. Chairman, under the rules to-day would be devoted to the consideration of bills from the Committee on Claims. I ask unanimous consent to begin at No. 318 on the Private Calendar and to consider, by unanimous consent, from 318 to the end of the calendar, the bills from the Committee on Claims.

I think it is due the House that I make a brief explanation of my reason for making that request. The bills on the Private Calendar have been considered by unanimous consent up to No. 318. Now, in order to give every bill one opportunity for consideration by unanimous consent the call should begin at 318 and continue until the calendar is disposed of. Then we can go back to the beginning and start in the regular way.

The CHAIRMAN. The gentleman from North Carolina [Mr. POU] asks unanimous consent that the committee begin with No. 318 on the Private Calendar and take up the bills in order from that number on, by unanimous consent. Is there objection?

Mr. MANN. Reserving the right to object, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Does that mean all bills on the calendar?

Mr. POU. The request that I made was, bills from the Committee on Claims.

The CHAIRMAN. Only bills reported from the Committee on Claims.

Mr. MANN. That would not give every bill a chance, as the gentleman has suggested.

Mr. POU. I qualified it by saying from the Committee on Claims; but if the gentleman insists on it, then I will ask unanimous consent to proceed with the Private Calendar, beginning at No. 318, by unanimous consent, after which I shall insist that bills from the Committee on Claims be given the preference.

The CHAIRMAN. Does the gentleman modify his request?

Mr. POU. I modify it by asking unanimous consent to begin with No. 318 and continue the call of the Private Calendar by unanimous consent.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to begin on the calendar at No. 318 and to call the calendar from that number on. Is there objection?

There was no objection.

F. W. SCHULTZ.

The first business in order on the Private Calendar was the bill (H. R. 15513) for the relief of F. W. Schultz.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Postmaster General be, and he is hereby, authorized and directed to cause the account of F. W. Schultz, postmaster at Junius, State of South Dakota, to be credited with the sum of $244.90, and that he cause said credit to be certified to the Auditor of the Treasury for the Post Office Department, being on account of loss by robbery of said post office on the 17th of October, 1909, it appearing that said loss was without fault or negligence on the part of said F. W. Schultz, postmaster.

The CHAIRMAN. Is there objection?

Mr. MANN. Reserving the right to object, I would like to ask the gentleman from South Dakota in reference to this bill. There seems to be some controversy as to whether the postmaster locked his safe or only put it on what they call a day lock. What information does the gentleman have?

Mr. DILLON. I will say that since this matter was up I have investigated more fully the files of the Post Office Department. Mr. Caldwell made three affidavits. The first one was made at the instance of the inspector. Upon examination of the papers in the Post Office Department I find an affidavit of that kind. Mr. Caldwell within six months thereafter made another affidavit stating that the dial to the safe was turned both ways and was not left upon the day lock. He then made another affidavit that the dial was thoroughly turned. I recently called his attention to the claim that he had made an affidavit before the inspector. I have an affidavit here in which he says that he has no recollection of making such an affidavit, but if he did, that portion of it is an error.

The facts are as set forth in the affidavit of July, 1910. I succeeded also in having the department locate the inspector's report—that the Committee on Claims did not have—and I would like to read a few lines of what the post-office inspector said in his report. He says:

> The loss would be hard upon him, as I understand he is working for wages. I realize that it would be out of place to recommend credit in this case, but as the loss sustained consisted of postage stamps only, some consideration might be given the postmaster, especially as I believe the safe would have been blown had the combination not been worked. The risk of detection at Junius was less than at Ramona, and the burglar who can work a combination can certainly blow up a safe. The postmaster and assistant bear excellent reputations, and I am satisfied that they were in no way responsible for the robbery.
>
> As near as I can determine, this robbery was committed by professional burglars, and the probability of arrest at this date is too remote to warrant holding the case longer.
>
> D. A. COLLIER, *Post-Office Inspector.*

Mr. MANN. I will say to the gentleman that that part of it does not appeal to me in the slightest degree. If under the post-office regulations the postmaster deposits his money and stamps in a safe, turns the lock of the safe so that all the tumblers are turned and it is thoroughly locked, he is entitled to remuneration. If he turns only one tumbler, what they call a day lock, under the regulations he is not entitled to reimbursement. I understand the gentleman from South Dakota says that he has an affidavit now from the assistant postmaster who closed the safe that the safe was thoroughly locked.

Mr. DILLON. It was thoroughly locked.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. DILLON. Certainly.

Mr. BURKE of South Dakota. I wish to state that I introduced a bill for this claim in a former Congress. My recollection is that the assistant postmaster stated at that time, in explanation of the affidavit that was made before the inspector, that the inspector requested an affidavit, and the inspector prepared it, but that he did not seem to recall that he had made the statement in the affidavit. He did make two affidavits subsequently in which he sets forth that the safe was thoroughly locked.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. SMITH of Minnesota. I object.

WYLLYS A. HEDGES.

The next business in order on the Private Calendar was the bill (H. R. 13352) to allow credit in the accounts of Wyllys A. Hedges, special disbursing agent.

The Clerk read the bill, as follows:

Be it enacted, etc., That the accounting officers of the Treasury are hereby authorized and directed to allow and credit in the accounts of Wyllys A. Hedges, ex-receiver and special disbursing agent at the United States land office, Lewistown, Mont., the sum of $290, being the amount disallowed by the Auditor for the Interior Department in the settlement of his accounts for the period ended June 30, 1913, under the appropriation for "Contingent expenses of land offices, 1913," on account of salary paid Joseph E. Lamb as clerk at $1,200 per annum from January 5, 1913, to March 31, 1913, inclusive.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MANN. Reserving the right to object, there is more or less information in the report, but there is nothing in it to show that the payment was ever made or ever disallowed.

Mr. STOUT. He did make the payment.

Mr. MANN. There is nothing to show that the Government disallowed it.

Mr. STOUT. It was disallowed, and the receiver paid the money upon the receipt of the telegram which is contained in the report.

Mr. MANN. The gentleman has information that the disbursing officer made the payment to this man and the officer disallowed it?

Mr. STOUT. I have personal information, because it occurred in the town in which I live.

Mr. MANN. The fact that it occurred in the town in which the gentleman lives would be hearsay evidence.

Mr. STOUT. I have official information from the department.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be laid aside with a favorable recommendation.

EPPS DANLEY.

The next business in order on the Private Calendar was the bill (H. R. 17110) to reimburse Epps Danley for property lost by him while light keeper at the Pascagoula River (Miss.) Light Station.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized to pay to Epps Danley, of the city of Pascagoula, Jackson County, Miss., out of any money in the Treasury of the United States not otherwise appropriated, the sum of $331.70 for property losses sustained by him during a storm on September 27, 1906, while light keeper of the East Pascagoula River (Miss.) Lighthouse Station.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MANN. Reserving the right to object, there are a number of these bills on the calendar, and I would like to get some information in regard to them. Does the Government become insurer of property of a lighthouse keeper, no matter what the property is? Some of these bills cover chickens, horses, cows, and property of that sort. When the Government employs a man as a lighthouse keeper, puts him in the lighthouse, furnishes him house rent or a dwelling, does it thereby insure all the property that he may accumulate in and around the lighthouse?

Mr. POU. I suppose the gentleman is proposing that question by way of indicating that he is opposed to the bill.

Mr. MANN. I do not know; at one time I was favorably inclined to this bill which has been before Congress a great many years in some shape or other.

In this case there was a great storm on the Gulf of Mexico a number of years ago, and a number of lighthouses were destroyed, and the property of the keepers was destroyed. In some cases the keepers were maintaining little gardens and various domestic animals, which was perfectly proper for them to do. In the case of fire or storm, do we guarantee that we will return the value of that property to these keepers, or should we? I would like to have the gentleman's opinion upon that.

Mr. POU. Mr. Chairman, the view that the committee took was that it is unjust to a man when the Goverment puts him into a Government lighthouse and he takes his property there and a storm sweeps it away that he should not have reimbursement. It looks as if the Government should do one of two things, either make good the loss, or put him in a house that would be safe against storm.

Mr. MANN. But this was safe against any usual storm. Suppose the Government, instead of furnishing him quarters, as it does in many cases, should make him rent his house, as it does in some cases, and his house should burn; would the Government be expected to insure the property?

Mr. HARRISON. Mr. Chairman, the gentleman speaks of a "usual" storm. He should remember that this was a most extraordinary storm.

Mr. MANN. I understand that this was a terrific storm.

Mr. HARRISON. It was the worst that that country ever experienced. In 1906 this man was stationed on this island, going about his duty assigned to him by the Government, and all of his property was swept away. It seems to me that this is a most reasonable claim.

Mr. MANN. The gentleman will notice what the man himself says about it:

Although it was no fault of the Government, I think that I should not bear the entire loss. I would be very glad indeed if I could get one-half, if not all, as part reimbursement.

Mr. HARRISON. I think that was due to the fact that the man was of a generous disposition and did not think that he could get all, or did not know that he could get any. He needed it, and rather than lose it he thought he would take half.

Mr. MANN. Of course he would take anything that we give him, which is perfectly proper. The gentleman knows that immediately following this storm, which was seven or eight years ago——

Mr. HARRISON. It was in September, 1906, that it happened.

Mr. MANN. The Lighthouse Board in its annual report gave a list of losses by reason of this storm and recommended their payment. I believe at one time I introduced a bill—having then, in the Committee on Interstate and Foreign Commerce, charge of lighthouse matters—for the payment of the claims. I do not remember whether this bill was ever reported favorably or not.

Mr. HARRISON. I think it was.

Mr. MANN. It did not pass. This was one of the claims.

Mr. HARRISON. Yes.

Mr. MANN. There are several of these claims on this calendar.

Mr. HARRISON. There are two of this kind on the calendar—this one and the case of Poitevin.

Mr. MANN. There are at least two. I wonder whether the Government is to become an insurer of all the property belonging to a lighthouse keeper which is not only in the lighthouse but around the lighthouse or in the reservation. Does the gentleman himself think that we ought to become an insurer?

Mr. HARRISON. I think each case ought to stand on its own footing; and in this instance, this being such an unprecedented storm and these people being on the island and discharging the duties that go with the keeping of a lighthouse, and their property being destroyed and swept away, I think the Government ought to pay.

Mr. MANN. The gentleman would not draw a distinction between one kind of a storm and another. What is the difference to the lighthouse keeper if the storm destroys his property?

Mr. HARRISON. I think a man ought to exercise some diligence and precaution about taking care of his property, and if it were not a very bad storm he could have done it.

Mr. MANN. If it was a bad enough storm to destroy his property, what difference does it make to him? Suppose the property burns.

Mr. HARRISON. That would be a different proposition.

Mr. MANN. Why? It would be through no fault of his, and he is put out there where he can not get the assistance of any fire company or fire engine.

Mr. HARRISON. Because of this man's very location, out on this island, he could not take care of the property. Because of the magnitude of the storm——

Mr. MANN. The gentleman says "on this island." Was the other man on the island, too?

Mr. HARRISON. Yes. As I recollect it, one was the assistant lighthouse keeper and the other was the lighthouse keeper. I think each case ought to stand on its own footing.

Mr. MANN. Oh, well, the gentleman has been here long enough to know as well as I do that when we pass a bill of this kind we create a precedent, where we can not draw a distinction, and we have to pay all similar claims, if we do justice. When they are once passed the committee, as a rule, reports them, as a matter of course; and Congress passes them, as a matter of course.

Mr. HARRISON. I realize that that is true.

Mr. MANN. And to-day we pass a good many bills the passage of which no one in the House 10 years ago probably would have advocated at all; but in course of time one bill went through and that created a precedent, and when we create a precedent we feel that we ought to proceed along those lines. I will ask the gentleman—well, I will not further question the gentleman who introduced the bill, but I am sure, if it were my bill——

Mr. HARRISON. Oh, if it were the gentleman's bill I would be in favor of its passage.

Mr. MANN. Oh, there would be 40 men who would think it ought not to pass if it were my bill.

The CHAIRMAN. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

Mr. POU. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The motion was agreed to; and the bill was ordered to be laid aside with a favorable recommendation.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. OLDFIELD having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. SMITH of Arizona, Mr. LANE, and Mr. JONES as the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4845) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

SANFORD F. TIMMONS.

The committee resumed its session.

The next business in order on the Private Calendar was the bill (H. R. 15735) to correct the military record of Sanford F. Timmons.

The bill was read.

The CHAIRMAN. Is there objection?

Mr. MONDELL. Mr. Chairman, I object.

Mr. POU. Mr. Chairman, I suggest to the committee we can complete this call by unanimous consent very much more rapidly if gentlemen will intervene objections after the reading of the title. If gentlemen have made up their minds to object it will save a great deal of time by not reading the entire bill, and I would like to complete this call if possible.

The CHAIRMAN. It is suggested by the gentleman from North Carolina that those who have definite views in opposition to measures will announce them before the reading of the entire bill, in order to save time. The Clerk will report the next bill.

JOHN OURSLER.

The next business in order on the Private Calendar was the bill (H. R. 16430) for the relief of John Oursler.

The Clerk read the title of the bill.

The CHAIRMAN. Is there objection?

Mr. MONDELL. Mr. Chairman, I object.

FRANCIS A. GRENNEN.

The next business in order on the Private Calendar was the bill (H. R. 10328) for the relief of Francis A. Grennen.

The Clerk read the title of the bill.

The CHAIRMAN. Is there objection?

Mr. MANN. Mr. Chairman, I ask to have the bill read.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Francis A. Grennen, who was permanently disabled while engaged in the employment of the United States Government at Frankford Arsenal, in the State of Pennsylvania, on or about January 7, 1910, the sum of $5,000.

The committee amendment was read, as follows:

Page 1, line 9, strike out "$5,000" and insert "$1,500."

The CHAIRMAN. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object, can not the gentleman make a very brief statement?

Mr. DONOHOE. Mr. Chairman, I am very familiar with this case, and I believe it is a most meritorious one. This young man is a veteran of the Spanish-American War and the son of a veteran of the Civil War. He lost his arm at the Frankford Arsenal while employed there, and now he is in very poor circumstances, with a wife and several children dependent upon him. His earning capacity, of course, is materially reduced, and in case he gets out of the arsenal, which is likely to happen any day, I do not know what will become of him. If this accident had happened to him in an industrial establishment in Pennsylvania, he would get a much larger sum than that which the committee has recommended in this bill. I trust the bill will be allowed to pass.

Mr. MANN. Let me see. This man was employed in the arsenal and is still employed in the arsenal. He is receiving as high compensation now as he did before he received the injury at the arsenal, and if my recollection is correct he is receiving a higher compensation, but I may be mistaken.

Mr. DONOHOE. No; $1.76 a day.

Mr. MANN. He has already been paid the amount allowed to him under the general law providing for compensation for employees injured in the Government service. He has received that amount in full. Now, having received that full amount which the law allows for compensation, and although he is still employed in the arsenal and has lost no money, whatever pain he may have suffered, he wants us now to make a special appropriation apart from all other people for an injury received in the Government service and be paid additional compensation.

Mr. DONOHOE. Well, the testimony shows that he is not very well able to work, that he suffers greatly at times from the loss of this arm, and that he has to have a doctor's attendance occasionally. As before stated, in case he gets out of the arsenal I do not know what he could turn his hand to.

Mr. MANN. Well, he might go out if he had the extra compensation, but as he is, he is likely to stay there.

Mr. DONOHOE. He might start some little business that would keep body and soul together if he got this little money. I know that his is a most deserving case.

Mr. MANN. If we start in to pay extra compensation after allowing a man full compensation that the law allows him——

Mr. DONOHOE. That is, one year's salary.

Mr. MANN (continuing). Under the act passed only a few years ago, and then in addition keep him in employment, which they ordinarily do not do, I do not see how we can proceed on that theory.

Mr. DONOHOE. If he lost an arm in the employ of a railroad, for instance, he would get fairly liberal damages in Pennsylvania.

Mr. MANN. If he lost an arm in private employment the way he did lose the arm he would not get anything.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. I shall object.

COLUMBUS, DELAWARE & MARION RAILWAY CO., OF COLUMBUS, OHIO.

The next business in order on the Private Calendar was the bill (H. R. 17102) for the relief of the Columbus, Delaware & Marion Railway Co., of Columbus, Ohio.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any moneys in the Treasury not otherwise appropriated, to the receiver of the Columbus, Delaware & Marion Railway Co., of Columbus, Ohio, the sum of $119.26, taxes illegally collected under the excise tax act of August 5, 1909, for the years ending December 31, 1909 and 1910, under the decision of the Supreme Court of the United States in the case of the United States against Whitridge, receiver, reported in Two hundred and thirty-first United States Statutes, page 144.

The CHAIRMAN. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object, there are a number of bills like this upon the calendar, and I think the gentleman ought to give some explanation of them, and why we should pay them, all involving electric street car lines.

Mr. POU. I can perhaps explain better by reading from the report. "The object of this bill is to refund"——

Mr. MANN. There is very little information in the report on this bill, and I do not think you get much information by reading the report on this bill. I think possibly there may be some information in the reports on some similar bills, but there certainly is not much on this one.

Mr. POU. Well, the only explanation that can be made is that this tax was illegally paid by this corporation, and it had two years within which to obtain a refund of the tax, and for some reason it did not obtain that refund.

Mr. MANN. I would like to ask the gentleman from North Carolina what the purpose is of putting into a general statute a provision that if a man wants to have a claim paid he shall file his claim within a certain length of time if, the moment that it is applied, for that reason, the Committee on Claims reports a bill to pay the claim? That is the only excuse given in this report.

Mr. POU. I will say to the gentleman from Illinois the particular point was discussed in the Committee on Claims, and we took a vote on it. The majority of the committee decided that, in view of the fact that it was a pure technicality, they were in favor of returning this tax.

Mr. MANN. Here is a case where the Government collected a corporation tax. The law providing for the corporation tax authorized the Secretary of the Treasury to refund tax improperly collected, if the claim was made in two years. In this case the claim was not made in two years, and without giving, apparently, in this report any reason why the claim should be paid, it simply says because there is a statute of limitations they waive that statute of limitations. What is the object of having the statute of limitations if the moment it is applied, and for no other reason, it is to be waived? I regret that the gentleman from Ohio, who introduced the bill, is not here, because I would like to call his attention, and also the attention of the committee, to the fact that there is no such thing as "Two hundred and thirty-first United States Statutes."

The CHAIRMAN. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

Mr. POU. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

Mr. MANN. I propose an amendment which I think ought to go in. I move to strike out, on page 2, line 3, the word "Statutes" and insert the word "Reports."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 3, strike out the word "Statutes" and insert the word "Reports."

Mr. MANN. I am not sure whether that is correct or not. The bill says it refers to a case reported in the Two hundred and thirty-first United States Statutes. The report refers to it as reported in the Two hundred and thirty-first United States Reporter. I do not know whether they have reference to the United States Reports or not. Somebody ought to be able to tell. What does the gentleman from North Carolina [Mr. POU] say?

Mr. SCOTT. There is no such thing as United States Reporter of that number or statute of that number.

Mr. MANN. I assume that my amendment is a correct one.

Mr. POU. I will say to the gentleman I can not answer his question just at the moment.

Mr. MANN. As there is no such thing in the books as Two hundred and thirty-first United States Statutes, according to my recollection, and there is no such thing as Two hundred and thirty-first United States Reporter, I judge you mean "Reports."

Mr. POU. I am sure there is not.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

RICHMOND, FREDERICKSBURG & POTOMAC AND RICHMOND & PETERSBURG RAILROAD CONNECTION CO.

The next business in order on the Private Calendar was the bill (H. R. 16370) for the relief of the Richmond, Fredericksburg & Potomac and Richmond & Petersburg Railroad Connection Co.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Richmond, Fredericksburg & Potomac and Richmond & Petersburg Railroad Connection Co., a corporation created by and organized under the laws of the Commonwealth of Virginia, the sum of $255.81, the said sum being taxes illegally collected under the excise-tax act of August 5, 1909, for the year ending December 31, 1909.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Chairman, reserving the right to object, of course the distinguished gentleman from North Carolina [Mr. POU], with all of the bills on his mind, does not recall the reasons for the payment of these taxes collected from the street railway company. I think that the gentleman from Virginia [Mr. MONTAGUE], who introduced this bill, ought to tell us why we are paying this money back.

Mr. MONTAGUE. As I understand, Mr. Chairman, this money is to be paid back pursuant to the decision of the United States Supreme Court in the case of McCoach, collector of internal revenue, against Minehill & Schuylkill Haven Railroad Co. (228 U. S. Repts., p. 295). The statute of limitations had precluded this case; at least it was not presented until a few months after the statute of limitations had expired.

Mr. MANN. What was the decision?

Mr. MONTAGUE. That the tax was illegally collected. If the gentleman will permit me to say it, the House, on June 12, 1914, passed a bill similar to the one now under consideration, to refund to the Chicago, Milwaukee & St. Paul Railway Co. taxes similarly collected.

Mr. MANN. I will say to the gentleman that the Milwaukee case was different, and there was a complete and full report in that case, showing that on a reexamination of the books by the Treasury officials they had made a mistake theretofore. Whether it was paid under this decision or not, I do not know. What was the decision of the Supreme Court?

Mr. DILLON. Will the gentleman from Virginia yield to me?

Mr. MONTAGUE. Yes.

Mr. DILLON. I have the decision here to which the gentleman from Virginia refers, and I will read the syllabus of the portion that is involved in this case. This comes from Two hundred and twenty-eighth United States Reports, on page 295, and is as follows:

A railway corporation which has leased its railroad to another company operating it exclusively, but which maintains its corporate existence and collects and distributes to its stockholders the rental from the lessee and also dividends from investments, is not doing business within the meaning of the corporation-tax act.

Mr. MANN. I did not quite get that. Do not read it, but tell me what it is.

Mr. DILLON. It comes from the rental of the properties, and the court holds that that is not included within the meaning of the corporation-tax law of 1909.

Mr. MANN. What is not? I would like the gentleman's own statement as to what was the tax that was illegally collected.

Mr. DILLON. Well, I have not gone into the details of this case.

Mr. MANN. I mean from the gentleman's gathering of the opinion.

Mr. DILLON. I simply read the syllabus of the case here. I sent over for it. I have not examined it technically or fully as to the text of the opinion. I simply read the syllabus.

The CHAIRMAN. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none. Without objection, the bill will be laid aside with a favorable recommendation.

There was no objection.

MONTGOMERY & ERIE RAILWAY CO.

The next business in order on the Private Calendar was the bill (H. R. 17085) for the relief of the Montgomery & Erie Railway Co.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Montgomery & Erie Railway Co. the sum of $45.81 illegally collected from said company under the excise-tax act of August 5, 1909, for the years ending December 31, 1909, and December 31, 1910, by reason of the decision of the Supreme Court of the United States in the case of McCoach, collector, against the Minehill & Schuylkill Haven Railroad Co., reported in Two hundred and twenty-eighth United States Reports, page 295.

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The bill was ordered to be laid aside with a favorable recommendation.

WILLIAM S. COLVIN.

The next business in order on the Private Calendar was the bill (H. R. 12949) for the relief of William S. Colvin.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Postmaster General be, and he is hereby, authorized and directed to credit the postal account of William S. Colvin, postmaster at Hamilton, Kans., with the sum of $424.06 for postal funds and stamps, and with the further sum of $23.60 for money-order funds, on account of losses resulting from a burglary on November 18, 1910.

SEC. 2. That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $447.66 for the purposes specified in this act.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Reserving the right to object, Mr. Chairman, apparently this is a case where the postmaster made no attempt to comply with the postal regulations.

Mr. DOOLITTLE. I think he made a bona fide attempt and did comply as best he could with the regulations.

Mr. MANN. Well, here is a statement credited to the postmaster. It is stated by the postmaster in his affidavit here:

Stamps and money lost by this robbery were in the safe, and the bolt was turned on. The safe could be opened without working the combination.

That is one statement. Another is:

The stamps and money were in the safe, and the lock was turned on, but the combination was not turned.

Mr. DOOLITTLE. There was a reinspection, in which the whole matter was gone over again; and I remember he stated in his affidavit that the safe was locked. The inspector made a report that it was not entirely locked.

Mr. MANN. I have not been able to find any such statement as that in the report. Here is a letter from the Postmaster General, dated May 25, 1914, and apparently the Postmaster General had never heard of such a statement.

Mr. DOOLITTLE. Mr. Colvin has always complained of the report made by the inspector, and I am satisfied that, regardless of the locking of that safe down there in this little fourth-class post office, where the loss was possibly as much as the entire annual salary, it would have made no difference. The burglar could have gone right on in, anyhow. It was one of those little fireproof safes not even advertised as being burglar proof.

Mr. MANN. Oh, whether it is advertised to be burglar proof or not, the postmaster is appointed and he knows what the regulations are, and he is frequently informed by the inspector as to what he must do with the money and postage stamps. He must put them in the safe and lock the safe. This man put them in the safe and did not lock the safe, and they were taken out of the safe. Now he seeks to excuse himself by saying that if he had locked the safe the burglar would probably have broken it open.

Mr. DOOLITTLE. That is what I said; those are my words, not his.

Mr. MANN. In that case you might just as well say you should leave the money lying out on the table, because he could break in and get the money, anyway.

Mr. DOOLITTLE. Those were my words about the burglar getting the money, anyway.

Mr. MANN. That is what the postmaster stated. I am not taking the gentleman's words. That is the excuse he gave for not locking the safe. He said that if the safe had been locked it would doubtless have been blown open and destroyed. That may be considered a very good reason for never locking the safe, but it hardly appeals to me.

Mr. DOOLITTLE. Does the gentleman think that this postmaster should stand this loss where he made a bona fide effort to comply with the regulations?

Mr. MANN. But he did not make a bona fide effort to comply with the regulations. He did not attempt to lock the safe. He said it was a hard lock to handle, and therefore he did not try to lock it.

Mr. DOOLITTLE. He was afraid he could not get it open, or something of that kind.

Mr. MANN. He ought to have had somebody there who could open it.

Mr. DOOLITTLE. I hope the gentleman will not object to the consideration of the bill.

Mr. MANN. Oh, "Hope springs eternal in the human breast."

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MANN. I object.

The CHAIRMAN. Objection is made. The Clerk will report the next one.

HENRY WEAVER.

The next business in order on the Private Calendar was the bill (H. R. 16305) to reimburse Henry Weaver, postmaster at Delmar, Ala., for money and stamps stolen from said post office at Delmar and repaid by him to the Post Office Department.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Henry Weaver, of Delmar, Ala., out of any money in the Treasury not otherwise appropriated, the sum of $94.67, the amount of money and postage stamps stolen from the post office at Delmar, Ala., on the night of September 26, 1910, while he was postmaster at Delmar, and which money and stamps belonged to the said post office, and which said sum he was required to repay, and did repay, to the Post Office Department of the United States.

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The bill was ordered to be laid aside with a favorable recommendation.

ANATASIA HOGAN.

The next business in order on the Private Calendar was the bill (H. R. 14956) to reimburse the postmaster at Kegg, Pa., for money and stamps taken by burglars.

The Clerk read the bill, as follows:

Be it enacted, etc., That the sum of $72.54 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of reimbursing Anatasia Hogan, postmaster at Kegg, Bedford County, Pa., for money and stamps stolen from that office by burglars March 7, 1910, the said Anatasia Hogan having made good the loss to the Post Office Department out of her own funds by the payment of the aforementioned sum to an inspector of the said department February 28, 1912.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Reserving the right to object, Mr. Chairman, here is a case where there is no pretense that the regulations were complied with. The excuse for it is that at the time the burglary occurred the mother of the claimant, the claimant being the postmistress, was at the point of death and died shortly after the burglary. The postmistress on that account was spending the night at her mother's house and did not remove the stamps and money from the post office. Of course, that is a good reason for spending the night at her mother's house; but is that a reason why the Government should take the chances on the loss?

Mr. BAILEY. Well, Mr. Chairman, it may not be a very good reason. The postmistress was undoubtedly under great stress at the time. She had no safe in the office, and never had one.

Mr. MANN. I understand; it is not a case of a safe.

Mr. BAILEY. The stamps had to be kept in her bedroom. Under the stress of sickness in her home she forgot the ordinary duties and was thinking only of the duty she owed to her mother. I suppose that all the regulations were violated in that instance. This is a case of pure charity, I think, to a deserving woman.

Mr. MANN. Well, Mr. Chairman, I was once in charge of a country post office, and I violated the regulations all the time in reference to keeping money, because I thought I could keep it more safely without complying with the regulations than I could by complying with them; and I was frequently notified by the department that the postmaster would be dismissed because I violated the regulations. But I knew I was taking my chances on it. I thought it was safer to keep the money in a bank than it was to keep it in my jeans. The Post Office Department had a regulation that I should carry it in my pocket instead of putting it in a bank. Well, I put the money in a bank, but I took the chances. If the money was lost, I did not expect that I would ask the Government to reimburse me for it.

Mr. BAILEY. We are bound to allow something to a woman that we would not allow to a mere man.

Mr. MANN. We are getting to that point now where we are going to give women the right to vote and everything else and put them on an equality in business with everybody else.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BAILEY. I offer an amendment. There is an error in the bill in not including all that was taken.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 1, line 3, after the word "of," strike out "$72.54" and insert in lieu thereof "$84.54."

Mr. BAILEY. That was the amount that was lost.

Mr. MANN. This bill proposes to reimburse her for the postage stamps that were lost, but not for the money that was taken.

Mr. BAILEY. There was $12 in postal funds.

Mr. MANN. Oh, well, I know; but there is absolutely no excuse for paying her the money. If we reimburse her for the stamps that were lost, I think she is in great luck.

Mr. BAILEY. Well, if the gentleman objects, I will withdraw the amendment.

Mr. MANN. No; I am not objecting.

The CHAIRMAN. The gentleman withdraws the amendment. The question is on laying aside the bill to be reported to the House with a favorable recommendation.

The bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

ESTATES OF JOHN FRAZER AND ZEPHANIAH KINGSLEY, DECEASED.

The next business in order on the Private Calendar was the bill (H. R. 12679) to give the Court of Claims jurisdiction to hear and adjudge the claims of the estate of John Frazer, deceased, and of the estate of Zephaniah Kingsley, deceased.

The bill was read, as follows:

Be it enacted, etc., That jurisdiction be, and is hereby, given to the Court of Claims (notwithstanding any statutory bar of limitations) of the claims of the estate of John Frazer, deceased, and of the estate of Zephaniah Kingsley, deceased, known as east Florida claims, and which were the subject of and provided for in the treaty of 1819 between the United States and Spain, to provide for the complete execution of the ninth article of the said treaty, with power to find the facts therein and to render judgment against the United States in accordance with the law of nations for the unpaid portion or residue of the awards as made for said claimants by the judges of the Superior Court of St. Augustine, in the Territory of Florida, and by the judge of the District Court of the United States for the Northern District of Florida, under and by virtue of the acts of Congress passed to carry into effect the ninth article of said treaty.

SEC. 2. That in considering the said claims the Court of Claims is directed to consider the findings of fact and all evidence submitted to and now on file within the United States or of record with and on which said awards were in whole or in part based.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Reserving the right to object, in view of the fact that this bill seeks to confer upon the Court of Claims authority to reverse a decision of the Supreme Court of the United States, various decisions of Secretaries of the Treasury, and the opinions of various Attorneys General, it seems to me that some one ought to explain the purpose of the bill.

Mr. FOSTER. As I understand, the statute of limitations has barred this claim here.

Mr. MANN. Inasmuch as it arises out of a treaty of 1819 it is quite likely that it has been barred; but I do not know. Gentlemen were trying the other day to pay some claims that were a hundred years old, and the statement was made that they were not barred.

Mr. FOSTER. This is with the intention of recovering interest on a claim the principal of which was allowed at that time, is it not?

Mr. MANN. Oh, much more than that.

Mr. FOSTER. I thought that was one of the principal things.

Mr. MANN. That is one of the things; but the Supreme Court of the United States decided one way, various Secretaries of the Treasury decided the same way, and various Attorneys General decided the same way. This seeks to reverse the whole theory of the case.

Mr. FOSTER. This is a recall of decisions.

Mr. MANN. Yes. The Supreme Court decided in this case that the Secretary of the Treasury had authority to do or not to do, and the Secretary of the Treasury decided against the claims several times, as I now recall, under opinions of the Attorney General. I dislike very much to object to all these bills, but I think somebody ought to be prepared to give some reason for passing a bill like this.

The CHAIRMAN. Is there objection to the present consideration of this bill?

Mr. MANN. I object.

The CHAIRMAN. The gentleman from Illinois objects.

W. W. TAYLOR.

The next business in order on the Private Calendar was the bill (H. R. 17028) for the relief of W. W. Taylor.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to W. W. Taylor, of Whitefish, Mont., the sum of $316, to compensate him for surgical and hospital services rendered Mary Bull, an Indian ward of the Government.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Reserving the right to object, I should like to ask the gentleman who has charge of the bill whether he thinks the Government whenever an Indian gets drunk and gets injured ought to pay the doctor's bill, whoever the doctor may be?

Mr. EVANS. I do not think so, necessarily. I think this particular claim ought to be paid, for the reason that this doctor was called in. He had nothing to do with the matter. He found a woman mangled by a train, and he took her to the hospital and cared for her. She was a ward of the Government. It was an act of humanity. He had either to let the woman die or render the service.

Mr. MANN. I would have very little respect for a doctor, and I would not be willing to pay him a cent, if he took the position that he would let some one die because he did not know who was going to pay the bill, in a case where a leg had been cut off.

Mr. EVANS. He did not take that position. He took the woman to the hospital and paid the hospital bill.

Mr. MANN. He took the woman to the hospital, but I do not suppose he paid the hospital bill, although he has put in a bill for it.

Mr. EVANS. He is responsible for it.

Mr. MANN. He was one of the officials of the hospital, was he not?

Mr. EVANS. I do not think he was. This was a charity hospital, and he was a doctor there at Whitefish.

Mr. MANN. This is a case where an Indian woman got drunk and lay down on the track of the Great Northern Railway, and a train struck her and cut off her leg. The doctor was called and took her to a hospital, as any humane doctor ought to do. Supposing it had been a white man, would the Government have to pay that bill?

Mr. EVANS. No; I do not think so.

Mr. MANN. Why does the Government have to pay this bill then?

Mr. EVANS. Because this woman was an Indian and a ward of the Government, and I think the Government is responsible to a degree for the care of these people in case of sickness and accident.

Mr. MANN. No; the Government is not responsible at all. I do not even know whether this woman belonged to an Indian tribe or not. There is no information here on that subject, nor whether the Indian tribe had any funds, nor whether the funds are liable for any services rendered to the Indians. Does the gentleman claim that when an Indian comes to Washington and gets drunk and gets injured the Government has to pay the doctors who attend him?

Have we reached that point where whatever happens to an Indian they can come to the Treasury of the United States for reimbursement?

Mr. EVANS. I do not think so, Mr. Chairman, but this case does appeal to me.

Mr. MANN. I think the doctor has appealed to the gentleman.

Mr. EVANS. I think that some one should take care of this party, the Indian being a ward of the Government.

Mr. MANN. I suppose if this person had been a white person without money precisely the same thing would have been done that was done in this case.

Mr. EVANS. I anticipate that that is so.

Mr. MANN. If anybody is to pay the bills, it ought to be the municipal authorities of the city or of the State of Montana. Doctors have to furnish more or less services of this kind free, and they aim to make it up off the rich, because they made their bills according to the size of the pile of the patient.

Mr. EVANS. I take it from the report of the Indian Office that if they had had any funds available they would have paid the bill. They thought the bill was a just bill, but said they had no funds. The matter was investigated by the Indian agent.

Mr. MANN. They said that there was no fund applicable for the payment of this matter, but whether there were any funds that could be appropriated I do not know.

Mr. FOSTER. I notice that the railroad company paid $40. If there was no liability, why did they pay $40?

Mr. EVANS. I do not know. They paid that much and declined to pay more.

Mr. CANTOR. There is no liability in this case on the part of the Government.

Mr. FOSTER. No; it would be just a gift.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. I object.

GOSHEN & DECKERTOWN RAILWAY CO.

The next business in order on the Private Calendar was the bill (H. R. 17086) for the relief of the Goshen & Deckertown Railway Co.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Goshen & Deckertown Railway Co. the sum of $158.41, illegally collected from said company under the excise tax act of August 5, 1909, for the years ending December 31, 1909, and December 31, 1910, by reason of the decision of the Supreme Court of the United States in the case of McCoach, collector, against the Mine Hill & Schuylkill Haven Railroad Co., reported in Two hundred and twenty-eighth United States Reports, page 295.

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

PATERSON & HUDSON RIVER RAILROAD CO.

The next business in order on the Private Calendar was the bill (H. R. 17074) for the relief of the Paterson & Hudson River Railroad Co.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Paterson & Hudson River Railroad Co. the sum of $481, taxes illegally collected under the excise tax act of August 5, 1909, for the year ending December 31, 1909, under the decision of the Supreme Court of the United States in the case of McCoach, collector, against the Mine Hill & Schuylkill Haven Railroad Co., reported in Two hundred and twenty-eighth United States Reports, page 295.

The CHAIRMAN. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

The bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

PRESTON B. C. LUCAS.

The next business in order on the Private Calendar was the bill (H. R. 1108) for the relief of Preston B. C. Lucas.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to pay to Preston B. C. Lucas the sum of $500, which sum is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The CHAIRMAN. Is there objection?

Mr. FOSTER. Reserving the right to object, I think we ought to have some explanation of this matter.

Mr. HAWLEY. This claim arises out of the resurvey of public lands. Mr. Lucas took a homestead claim, on which he made proof in 1906. This land had been surveyed by the Government in 1898 and the corners established as Mr. Lucas had found them when he filed on the land. He had taken the lines as they had been established by the survey of 1889. He built his house and other improvements on the corner where there was a little stream furnishing good water and where there was a good piece of land to cultivate.

After he had filed on the land, proved up on it under the survey, and got his patent, the question was raised as to the accuracy of the survey of 1898. Another party filed on a piece of land just north of his and claimed that the improvements made by Lucas was on the land of the second party and to which he was properly entitled.

The question of the line between the two claims was tried out in the court after the county surveyor had run the lines over again and reestablished the corners, and the court and the surveyor decided in favor of Mr. Lucas. The party who made the second entry appealed to the United States Government Land Office, on the ground that a former survey had been made in 1878, and that under the survey of 1878 the land as entered by the second entryman should be delimited by the survey of 1878 instead of the survey of 1898. A deputy inspector of surveys was sent out and decided on the lines of the original survey. That took away from Mr. Lucas some 20 acres of his patented land with all of his improvements on it. He took every precaution before locating his house or improvements. He privately employed a surveyor to go over the lines, and went

down to the land office in Portland and examined the records, and there found that the second survey had been made in 1898, accepted by the Government, and paid for. I do not know whether he was aware of any former survey or not, but he knew about the latest survey accepted by the Government, and undoubtedly, in his mind, that was the final and controlling survey.

Mr. FOSTER. As I understand from the reading of the report, he settled on this land and, as he thought, had gotten a piece of land described by the surveyor of the United States, and afterwards some one filed a claim to a part of the land which this man claimed belonged to him.

Mr. HAWLEY. Yes.

Mr. FOSTER. And he secured the services of the county surveyor, and he went over the land and found that the lines were 20 rods over on Mr. Lucas, and thereby the other party secured some of the improvements that were made on the land.

Mr. HAWLEY. Mr. Lucas went on the land and located his entry under the survey of 1898, which lines were run by Branson in that year. That survey was accepted by the Government, paid for, and became public notice to everybody that that was the survey and boundary of that particular quarter section. Mr. Lucas proved up on it and got his patent. After all this happened, the party locating north of Mr. Lucas raised the question that the Branson survey was not the true line; that there had been a former survey in 1878 by Meldrum. The question of what the county surveyor may have done would have no bearing on this question as far as the United States Government was concerned.

But Mr. Lucas, as I said before, took every precaution to ascertain where the line established by the United States ran. After he had proved up and gotten his patent this person on the north, claiming the Meldrum line was the true line, asked the United States Government to rerun the line or reexamine the surveys, and go out there and establish a line. That examiner was assigned to do the work, and he went out there and decided in favor of the Meldrum line, run in 1878, as against the Branson line, run in 1898, and that decision of the examiner as between the two lines took away some 20 acres of land patented to Mr. Lucas.

Mr. FOSTER. This man knew about the two surveys when he went onto the land.

Mr. HAWLEY. I have no special word from him, but I think that it might be supposed that he had some knowledge that there was a former survey.

Mr. FOSTER. He knew the two surveys differed, and he took his chances on the last survey, as I understand.

Mr. HAWLEY. Mr. Chairman, if the gentleman will permit, when the Government makes a resurvey of a piece of land, that is almost uniformly accepted as the real survey. It is rerun on account of the corners of the original survey having been obliterated, the witness trees destroyed, or some other thing having happened that makes the former survey no longer traceable. Then they send out a man to resurvey the line, and the new or latest survey is the official survey in almost every instance. I know of a number of resurveys, and I do not recall of any case other than this one where they have held the second survey was not the official survey, and it was put on the records of the Government and became public notice to everybody that that was the boundary line.

Mr. FOSTER. That was the second survey?

Mr. HAWLEY. Yes.

Mr. FOSTER. But it seems the man did not take any precaution to find out which one was right.

Mr. HAWLEY. Oh, he took every precaution. He made every examination as to where the lines were, and went to the land office in Portland and got in touch with the officials there, or did so through his representative, I have forgotten which, and they told him about the Branson survey and where the lines ran.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. MONDELL. Perhaps the record discloses the fact, but I have not gone over it carefully. Can the gentleman tell me when the entryman discovered that his lands were north of the tract which he had sought to enter?

Mr. HAWLEY. After he got his patent.

Mr. MONDELL. In the meantime had some one settled upon the other tract?

Mr. HAWLEY. Yes; after he had gotten his patent.

Mr. MONDELL. And this other man was claiming the land on which his improvements were?

Mr. HAWLEY. Yes.

Mr. MONDELL. And the other party did hold the improvements and utilize them?

Mr. HAWLEY. Yes. The other party, after the Government decided in favor of the Meldrum survey, was sued by Mr. Lucas in the State district court for the value of the improvements in order that he might exhaust every remedy he had in the local courts, and the court held that Mr. Lucas was damaged without recourse, and that the party taking the new claim to the north was entitled to the improvements, and he has them now without any compensation to Lucas.

Mr. MANN. Did not Mr. Lucas win the suit?

Mr. HAWLEY. That was about the boundary, but not about the improvements.

Mr. MANN. May I ask the gentleman a question?

Mr. HAWLEY. Yes.

Mr. MANN. As I understand this case, Mr. Lucas made a homestead entry, and made it in accordance with the boundary line as fixed by the surveyor who had surveyed a certain township under contract with the Government?

Mr. HAWLEY. Yes.

Mr. MANN. And that surveyor had fixed the northern boundary line of that township on a certain marked line, and he ran his homestead entry up to that north line?

Mr. HAWLEY. Yes.

Mr. MANN. And that the Government also had another surveyor under contract to survey the township to the north, and that surveyor had fixed the south boundary line of the township to the north farther south than the Lucas surveyor, if I may use that term, had fixed the northern line of the township?

Mr. HAWLEY. Yes.

Mr. MANN. So that there was an overlapping of the township lines?

Mr. HAWLEY. Yes.

Mr. MANN. And that subsequently the Government sent a new surveyor there and he established the township line as true, according to the southerly boundary of the township lying to the north?

Mr. HAWLEY. Of the first survey.

Mr. MANN. That being the case, does the Government, when it makes a survey of land, insure the correctness of that survey?

Mr. HAWLEY. When the Government makes a survey of lands and accepts entries by an entryman and the entryman goes on the land and puts on valuable improvements, the Government, after he has gone on there and accepted the survey last established by the Government, the one most plainly marked, ought not to deprive him of that land.

Mr. MANN. But the Government does not deprive him of any land, for he never had it.

Mr. HAWLEY. Oh, yes; they patented it to him.

Mr. MANN. Oh, no; the Government patented him the northeast corner of a certain section, if it happened to be the northeast corner.

Mr. HAWLEY. But the patent run under the last survey.

Mr. MANN. The patents do not say under the last survey. The patent runs describing a certain piece of a section in a certain township. I dare say that the Government surveys throughout the portion of the country where I was raised have all been corrected, that there is not a single line now running the way it ran 75 years ago, and that no one of them was absolutely accurate; and I dare say that very few of them are accurate now. What does the Government do? It lets a contract to a surveyor to go and survey so much for a certain consideration on a contract basis. There is no guaranty on the part of the Government that the surveys so made are absolutely accurate and they never are. Now, does the Government became a guarantor when it gives a man a piece of property that the survey which the Government has caused to be made, according to a time-established custom, must be accurate, and, if not accurate, must the Government pay the man any damage that he has been put to or any damage for property that he loses?

Mr. HAWLEY. When the Government establishes a survey and accepts an entry under it and a man makes improvements on it, and then it is resurveyed in order to establish a true line, and the man makes every possible effort to find out where the true line runs, and the Government issues to him a patent on that land as applied for under the latest accepted survey, it ought not thereafter to change the line last run, plainly established and accepted by the Government, and thereby deprive him of a portion of the land, especially that on which his improvements are made, and give it to some other person who makes entry after this first entryman has received patent.

Mr. MANN. Of course the Government ought to have people who do everything perfectly, but the Lord has not made that kind yet. Now, you have two sets of surveyors working toward the same line. One of them establishes a line at a certain place

and the other one, coming from the other direction, establishes what should be the same line a few feet away. Of course that is inaccurate, but that has been the way the world over from time immemorial. Of course the Government does not guarantee that is correct——

Mr. FOSTER. The Government in issuing a homestead patent does not guarantee.

Mr. MANN. No; it does not state what the line is.

Mr. FOSTER. It does not give the line——

Mr. HAWLEY. Oh, yes; the Government does give the line.

Mr. FOSTER. It gives the patent——

Mr. MANN. By description

Mr. FOSTER. By description.

Mr. HAWLEY. No; it goes further than that. You can not make entry before the land is surveyed and the survey accepted. The surveyor comes and makes a survey and the examiner approves it and the General Land Office accepts it. The Government establishes the lines, and under the established lines the entryman is entitled to make his entry. So the Government establishes the lines before the entryman gets the land, and the Government ought not to change the boundary and deprive the man of his land after he goes on the land, proves up on it, and receives patent for it as applied for under a survey accepted by the Government.

Mr. FOSTER. I do not believe we ought to establish such a question by this kind of a bill.

Mr. MONDELL. Mr. Chairman, reserving the right to object, the gentleman from Oregon is correct that ordinarily the Government does guarantee to a man the monumented area that he enters. That is the only guaranty they can give him, that if he enters a piece of land that is described correctly, the land he receives is the tract as monumented. It may be described differently on a plat somewhere, but the land he receives is the land that is monumented. The Government does not guarantee the acreage. There may be more or less, but it does guarantee him that the land within certain limits is his. This is a very unusual case. There are very few cases of this sort where one survey overruns another and both surveys are accepted, or where there have been two Government surveys overlapping each other, both approved. I know of many cases where there is a hiatus between township and range boundaries. I do not remember having heard of a case where township boundaries of accepted surveys overlapped each other with monuments in place. There is certainly an equity here, and it is not the sort of case that is going to occur very often, though there are many cases where there is a question as to the location of the lines of survey and where the determination by the settler as to survey corners is afterwards proven to be erroneous.

Mr. HAWLEY. Where the change was made and in reference to not finding the corners.

Mr. MONDELL. There are many cases where it is practically impossible to find the corners and he afterwards suffers serious loss by reason of that fact.

Mr. HAWLEY. This is on the Government corner.

Mr. MONDELL. This is a case where there is no doubt about the Meldrum survey having been accepted, and Meldrum was a man who made a good many surveys for the Government and has a good reputation, as I recall it, as a surveyor. Then there came a subdivision survey, where a man was supposed to have closed on the Meldrum line. The Government assumed that its agent closed on the Meldrum line or the survey would not have been accepted. As a matter of fact, he did not close on the Meldrum line, but ran beyond it. The Government is clearly bound by what he did. It established two separate and distinct surveys. It is a very unusual case, and it is not a case that will establish a serious precedent. In many years experience in public-land matters and in public-land States I do not recall I ever heard of just such a case. This man located on land as the Government described by monuments. There is no question about that. Then a Government surveyor came along, and they held that the former survey was the official township line and must stand. The Government saw fit to accept the Meldrum or former survey as the official survey, and in so doing they deprived this man of property that had been patented to him.

Mr. DILLON. Mr. Chairman, I made somewhat of an investigation of this claim as a member of the subcommittee. As I understand the facts, they are these: The Meldrum survey was made in 1878, and the township lines were established; the Government accepted the survey of the township lines. In 1898 Branson became the surveyor of the interior sections of the township and made a survey of the same, and when Branson made his survey the Government accepted it. Mr. Lucas made his filing and received his patent under the Branson survey. Now, they had a suit in court, Lucas winning the suit. The patent was issued to him. The party who borders him on the north claimed that the corner was farther north, and he appealed to the department. The department then ordered a retracing of the township lines, and Mr. Douglass was sent there for that purpose—to ascertain where the true corner was on the township line—and when that was ascertained it was moved farther south. That survey was approved, and they deprived Mr. Lucas of his land. It seems to me that this is an equitable claim.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. FOSTER. I object, Mr. Chairman.

F. W. SCHULTZ.

Mr. DILLON. Mr. Chairman, I ask unanimous consent to go back to the bill H. R. 15513, No. 318 on the calendar, for the relief of F. W. Schultz.

The CHAIRMAN. The gentleman from South Dakota asks unanimous consent to return to No. 318 on the calendar. Is there objection?

Mr. FOSTER. Reserving the right to object——

Mr. MANN. Reserving the right to object, what is that claim?

Mr. DILLON. The gentleman from Minnesota [Mr. SMITH] made an objection, and I ask to return to it in order that it may be reconsidered.

Mr. FOSTER. What is that?

Mr. DILLON. That is a post-office case, No. 318 on the calendar.

Mr. FOSTER. I object to that myself.

ESTATES OF JOHN FRAZER AND ZEPHANIAH KINGSLEY, DECEASED.

Mr. CLARK of Florida. Mr. Chairman, I ask unanimous consent to go back to the bill which is No. 330 on the calendar, H. R. 12679, to give the Court of Claims jurisdiction to hear and adjudge the claims of the estate of John Frazer, deceased, and of the estate of Zephaniah Kingsley, deceased.

The CHAIRMAN. The gentleman from Florida asks unanimous consent to revert to bill with calendar No. 330. Is there objection?

Mr. MANN. Reserving the right to object, what does that mean—to ask unanimous consent for its consideration?

The CHAIRMAN. The gentleman asks to revert to it.

Mr. MANN. I have no objection to having the question stated again as to whether or not there is objection. I do not wish to foreclose.

The CHAIRMAN. The gentleman from Florida asks unanimous consent to revert to Calendar No. 330. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 12679) to give the Court of Claims jurisdiction to hear and adjudge the claims of the estate of John Frazer, deceased, and of the estate of Zephaniah Kingsley, deceased.

The CHAIRMAN. The bill has already been reported. Is there objection to the present consideration of the bill?

Mr. MANN. I object.

Mr. CLARK of Florida. Mr. Chairman, will not the gentleman withhold his objection?

Mr. MANN. I will reserve the right to object.

The CHAIRMAN. Does the gentleman from Florida [Mr. CLARK] desire to make a statement?

Mr. CLARK of Florida. Mr. Chairman, I think there must have been some misunderstading as to the purpose of this bill. I want to state to the gentleman from Illinois [Mr. MANN] that I think he misunderstands its purpose. The bill, Mr. Chairman, is simply to refer to the Court of Claims this case for the purpose of having the court consider the unpaid portion or residue of the awards heretofore made. It is not a question of interest; it is not a question of the Government paying interest to a private claimant, but it is for the purpose of the Government paying a portion of an award which has absolutely been made. And I might talk for a great length of time and I think I could not make it any plainer than that. I sincerely trust the gentleman will not object, but will let this matter go to the Court of Claims. The court can investigate the whole situation, and if a part of the award has not been paid and the Government still owes that portion of the award, the Government ought to pay it. It is not a question, as I stated a moment ago, of a private individual seeking to recover interest upon a claim against the Government, but a private individual seeking to recover a portion of an award given against the Government which has never been paid. And I hope the gentleman will allow the court to pass on it.

Mr. MANN. Mr. Chairman, of course my information in regard to the bill comes from the report. In this case I know nothing whatever about the bill except from the report and gen-

eral historical information which we all have in reference to the treaty under which we acquired Florida. I notice the report says that by the treaty of 1819 between Spain and the United States, by which Spain ceded Florida to the United States, the United States was obligated to make full satisfaction to the citizens of Spain for injuries by the unlawful operations of the American Army in Florida. Congress provided that these claims should be examined and adjusted by the judges of the courts of Florida, and the awards were made for the claimants. The judges allowed damages, and as a part of the damages they allowed interest on the value of the property destroyed.

The Treasury Department paid the face or principal value of the judgment, but refused to pay that part of the damages which was assessed as interest. This ruling was made by the then Secretary of the Treasury. It has frequently been followed by other Secretaries of the Treasury. Opinions of the Attorneys General, various ones, have been given, sustaining the ruling of the Secretary of the Treasury, though Daniel Webster, according to the report, thought that it should be paid. The question went to the Supreme Court of the United States, and that court decided that it was for the Treasury Department to determine. Now, the only claim they wish to refer to the Court of Claims is the right to recover interest on these awards. Of course, if there is any reason for the Government paying interest on the original awards, there is the same reason for our paying interest on the interest from 1819 down to date. There might be the same reason for compounding, although I will not say that. It might be quite a tidy sum by now.

Mr. CLARK of Florida. Mr. Chairman, if the gentleman will permit me, this is not a claim for the interest on the awards.

Mr. MANN. That is what the report says it is.

Mr. CLARK of Florida. No; I beg the gentleman's pardon.

Mr. MANN. Let me read what the report says. I think the gentleman must have been reading some other portion of the report. I read:

> In those cases in which awards were made for claims the judges allowed damages and, as part of the damages, interest on the value of the property destroyed.

Mr. CLARK of Florida. Which became a part of the awards

Mr. MANN. Well, that is interest.

Mr. CLARK of Florida. There was no award until the court rendered its decision.

Mr. MANN. There was no legal award in that case at all.

Mr. CLARK of Florida. We are not claiming the interest on the award.

Mr. MANN. The gentleman is claiming interest on the value of the property which was destroyed. I read again from the report:

> The Treasury Department paid the face or principal value of these judgments, but refused to pay that part of the damages which was assessed as interest.

Now, I do not guarantee the correctness of the report, which I assume the gentleman from Florida had something to do with preparing.

Mr. CLARK of Florida. No; I had not.

Mr. MANN. He should have had. In a complicated case like this a gentleman introducing a bill ought to see that the report is correct. That is what the report stated.

Mr. CLARK of Florida. Well, I had seen the report before it was made.

Mr. MANN. The Treasury paid the principal of this judgment, but refused to pay that part which was assessed as interest. Is there any more reason why we should pay interest from 1819, when this property was destroyed, down to 1834 than there is why we should pay interest during the balance of the time? The interest on this sum, if compounded, whatever it was to begin with, would amount to quite a tidy sum. Now the gentleman proposes to send this to the Court of Claims in a way where the judgment has no chance at all. As the boys say, it "would not have a show for its white alley." It is fixed so that the Court of Claims would be required to enter judgment.

Mr. CLARK of Florida. Mr. Chairman, if my friend will permit me——

Mr. MANN. I was trying to obtain information.

Mr. CLARK of Florida. I want to say this, if the gentleman will permit me—the record says this:

> By the treaty of 1819 Spain ceded Florida to the United States. The ninth article of that treaty obligated the United States to make full satisfaction to the citizens of Spain for the injuries by the unlawful operations of the American Army in Florida.

Now, the United States assumed that obligation to pay to the citizens of Spain the damages which had accrued to them by the unlawful operations of the American Army in Florida. These cases went to the courts of Florida, and in these cases in which the awards were made for claims the judges allowed damages, and, as part of the damages, interest on the value of the property destroyed.

Now, this was a question of two nations dealing with each other, not a question of a claim of a private citizen in the beginning as against the Government of the United States or any other Government. They were adjusting the claims of one nation as against the other, and the court, in construing this ninth article of the treaty, held that these parties were entitled, as a part of the damages, to interest up to the time that the awards were made.

Now, there is no pretense here of claiming interest on the awards that were made, but an accounting officer of the Treasury saw fit to eliminate the interest up to the time of the award and simply paid the principal amount of the damages, the actual value of the property, whatever it was.

Mr. MANN. Do I understand that the gentleman from Florida thinks these were judicial awards—judgments that were entered?

Mr. CLARK of Florida. These were awards made by the courts of Florida.

Mr. MANN. Well, the gentleman is in error.

Mr. CLARK of Florida. I think not.

Mr. MANN. Congress provided for the judges——

Mr. CLARK of Florida. In these claims where awards were made to the claimants the judges allowed damages, and, as part of the damages, interest on the value of the property destroyed.

Mr. MANN. That is correct, that Congress provided in 1832 or 1834, or about that time——

Mr. CLARK of Florida. In 1823 and in 1832 and 1834 it provided that the claims should be examined and adjusted by the judges of the courts of Florida named in the acts.

Mr. MANN. They could not render judgments. That was the very thing that the Supreme Court of the United States decided.

Mr. CLARK of Florida. The Supreme Court decided that they had no jurisdiction.

Mr. MANN. I beg the gentleman's pardon. The Supreme Court decided that the judges of the courts of Florida could not render judgments. They could make findings of fact; that those findings of fact were reviewable by the Secretary of the Treasury; and the Secretary of the Treasury, reviewing the findings of fact, allowed the face of the claim as awards.

Mr. CLARK of Florida. Yes.

Mr. MANN. And declined to allow the interest. Now, they took the case to the Supreme Court for the purpose of getting these awards declared to be judicial awards and not within the control of the Secretary of the Treasury. The Supreme Court decided against them. I should like to ask the gentleman a question. Here are the French spoliation claims, arising under a treaty of 1803, I believe, with France, by which this country bound herself to pay the damages of our merchant-marine owners in the contests between this country and France. We have paid some of them. We have findings in a good many. Does the gentleman think that if we pay them we ought to pay interest on them? The cases are on all fours.

Mr. CLARK of Florida. Mr. Chairman, I think that if the Government of the United States establishes a tribunal to adjust claims of this character between one nation and another, which claims the United States assumes, the United States in all honor ought to be bound by the decisions of its own tribunal, created by itself, acting for it, having knowledge of all of the facts, and when that tribunal makes an award the United States ought surely to keep faith.

Mr. MANN. Agreeing with the gentleman entirely and finding that the Supreme Court of the United States has decided that the tribunal of last resort in this case was the Secretary of the Treasury and that we have paid all claims that the Secretary of the Treasury found to be due, why is not the gentleman willing to take that decision, which he says we ought to take?

Mr. CLARK of Florida. Does the gentleman say the Supreme Court of the United States ever decided that this interest ought not to be paid up to the time of the award?

Mr. MANN. The Supreme Court never decided one way or the other about it.

Mr. CLARK of Florida. No; they held that they had no jurisdiction.

Mr. MANN. They held that it was within the control of the Secretary of the Treasury.

Mr. CLARK of Florida. If the gentleman will permit me, a case involving the point was taken to the Supreme Court, which held that they had no jurisdiction of the matter. That was the case of the United States *v.* Ferreira (14 How., 40, 47).

Mr. MANN. I do not know what the gentleman is reading from.

Mr. CLARK of Florida. I am reading from the report.

Mr. MANN. They entertained jurisdiction of the case. They decided the case. To say that they had no jurisdiction of the case is idle.

Mr. CLARK of Florida. I am reading from the report.

Mr. MANN. They said they had no jurisdiction to render judgment, because it was a matter not for the courts, but for the administrative officers. Now, the gentleman seeks by an act of Congress to reverse that decision of the Supreme Court.

Mr. CLARK of Florida. If the gentleman will permit, I am going to read all of this.

Mr. MANN. I hope not all of that decision.

Mr. CLARK of Florida. No; all of this paragraph of the report:

A case involving the point was taken to the Supreme Court, which held that it had no jurisdiction of the case. (U. S. *v.* Ferreira, 13 How., 40, 47.) The court, however, proceeded to render an opinion in the case, holding that the power of revision and control had been vested in the Secretary of the Treasury. If the court had no jurisdiction in the case, then it would seem that any opinion it might give therein would be nothing more than a mere dicta and not law.

Mr. MANN. The gentleman is reading the opinion of an attorney now.

Mr. CLARK of Florida. I am reading the report, with which I agree. Here is the Court of Claims, organized by the United States; and surely we can trust the Court of Claims to do ample and exact justice in this matter. These are old matters that have been hanging for years. There has been no laches on the part of these claimants, and I wish the gentleman would not object, but that he would let this matter go to the Court of Claims, and let that court say whether or not the Government, under the law, is bound to pay this part of the award, interest up to the time of the making of it, if the gentleman desires to call it interest, but no interest on the award itself. They held that that was a part of the measure of damages up to that time, and rendered the award accordingly. I think the gentleman——

Mr. MANN. It is really impossible——

Mr. CLARK of Florida. The Government can risk nothing by allowing this to go to the Court of Claims.

Mr. MANN. I am really becoming convinced that the gentleman from Florida is in earnest in urging this. I thought at first that it was pro forma.

Mr. CLARK of Florida. I am in earnest.

Mr. MANN. I am now convinced that the gentleman is in earnest.

Mr. CLARK of Florida. I have quite a number of constituents who have claims of this character.

Mr. MANN. They ought to put them in a basket with the French spoliation claims.

Mr. CLARK of Florida. No. The gentleman must know that this question is by no means free from doubt. Here was Daniel Webster differing entirely from these accounting offices of the Treasury.

Mr. MANN. I suppose he had the French spoliation claims in mind.

Mr. CLARK of Florida. I would rather take his legal opinion than that of some others. But be that as it may, it certainly envelops the whole situation in doubt, and these claimants will be here hammering at Congress for years and years to come unless a case like this can go to the Court of Claims to be judicially determined once and for all. I can not for the life of me see any possible objection to that.

Mr. MANN. Would the gentleman be willing to add to this bill a provision that the French spoliation claims should go to the Court of Claims with authority to render judgment?

Mr. CLARK of Florida. That would simply mean to kill the bill. The gentleman knows that.

Mr. MANN. Oh, well, I would not be in favor of doing it myself, if the gentleman would. Do not misunderstand me.

Mr. CLARK of Florida. If those cases came here for a hearing I should expect to pass on them in view of the facts in the case. These are the facts in this case: These people believe they are entitled to this money. There is certainly doubt as to whether they are or not, and I believe this great Government ought to be fair in this matter.

I think there is too much of a disposition in the House to attempt here to keep the courts of the country from passing on claims against the Government. I want to say that the Government of the United States ought to do what the Government requires the citizens of this country to do. A citizen of the country is forced into court. He must abide by its decision. Here are a great number of cases dependent on the settlement of this one principle. What harm can there be to allow the Government to go into its own court with its own citizens and determine the question as to liability once and for all? The Government ought to do right when the Government expects the citizens of the country to do right.

Mr. MANN. If the Government was not a soft mark such a statement as the gentleman from Florida makes would not be made. Anybody who can sue a citizen can sue the Government, except in a case of fraud. But in this case, where you can not sue a citizen under similar conditions, then the people want special legislation to get into the Court of Claims against the Government. There would be no suit here lie against a citizen if this were a matter between two citizens.

Mr. CLARK of Florida. Why not?

Mr. MANN. You can bring a suit in the Court of Claims now.

Mr. CLARK of Florida. And run up against the statute of limitations.

Mr. MANN. Yes; but that is not all. If it was between two citizens and the matter had been delegated for adjudication to one of the officers of the Covernment and he had decided it, that would end it as to the citizen. But not so as to the Government. Here is a case where the Supreme Court has decided against the people, where several Secretaries of the Treasury have decided against them, where several Attorneys General of the United States have decided against them, and yet my friend from Florida says this Government ought to treat them as well as citizens. If this had been between two citizens there never would have been but one decision, and yet they have had half a dozen decisions or more already.

Mr. CLARK of Florida. Will the gentleman name a Supreme Court decision where they have decided against the payment of these claims?

Mr. MANN. I did not say that. It went to the Supreme Court and the court decided against you and said it was a matter for the Secretary of the Treasury to determine. Several Secretaries of the Treasury have decided against these claimants.

Mr. CLARK of Florida. But the award had been rendered in their favor. How does the gentleman get rid of the award?

Mr. MANN. Has the gentleman ever read the award?

Mr. CLARK of Florida. Let me ask the gentleman a question: Suppose two individuals agree to arbitrate a matter, solemnly enter into it under the statutory regulation, and the award is made under that arbitration, would not the gentleman think that the parties were bound by it; would not they be held to it?

Mr. MANN. That is not this case. In this case they made a finding as the Court of Claims makes findings every day as to the value of property taken. It did not take any brains to say that interest ought or should not amount to so much.

Mr. CLARK of Florida. Will the gentleman answer this question?

Mr. MANN. I will if I can, although I am not on the witness stand in this case.

Mr. CLARK of Florida. At whose instance were these awards made; who provided the tribunal?

Mr. MANN. Congress provided that these people could go to the courts in Florida and have the findings made, but the court could not render judgment; it was simply to make findings. The Supreme Court of the United States decided that they were not awards.

Mr. CLARK of Florida. Will the gentleman point out the decision and the name of it?

Mr. MANN. I will read from the report:

The fact that these claims are old should not militate against them if they are just. That they are just has been frequently held by committees of Congress. The main question in issue, or one of the questions, has been whether the findings of the judges who were given jurisdiction to hear the cases were judicial awards or whether they were mere administrative findings, subject to the supervisory authority of the Secretary of the Treasury.

Mr. CLARK of Florida. On what page of the report?

Mr. MANN. Page 2 of the report. The gentleman ought to be as familiar with it as I am. I am reading from the second complete paragraph from the top, on page 2.

Mr. CLARK of Florida. Daniel Webster when Attorney General held strongly that they were judicial awards.

Mr. MANN. Certainly. He and the Supreme Court did not agree.

Mr. CLARK of Florida. The Supreme Court did not pass upon that. Will the gentleman read where it did?

Mr. MANN. I have read it three times from the report of the House committee. I do not guarantee whether the report is correct or not.

Mr. CLARK of Florida. If the gentleman will show me where the Supreme Court has decided that question, I will withdraw.

Mr. MANN. I have shown the gentleman where the committee claims that the court decided it. I do not think the gentleman from Florida or myself has examined the Supreme Court opinion.

Mr. CLARK of Florida. I have not.

Mr. MANN. I have not.

Mr. CLARK of Florida. Neither of us know anything about it except what we get from the report; but I do know that the Congress of the United States fixed this tribunal of Florida judges to adjudicate and adjust this matter, and they found what was due and declared what was due; but the accounting officer of the Treasury eliminated a portion of it, and now we are simply asking nothing but to go to the Court of Claims to determine whether it is just or not.

Mr. DONOVAN. Mr. Chairman, the regular order. The gentlemen ought not to take up the whole day with just one case when there are so many meritorious cases on the calendar.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. I object.

EDWARD A. THOMPSON.

The next business in order on the Private Calendar was the bill (H. R. 7287) for the relief of Edward A. Thompson.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 to Edward A. Thompson, to compensate him for the loss of his son, Harold A. Thompson, late a seaman on the U. S. S. *Georgia*, who was killed in the performance of his duty on said ship.

The following committee amendments were read:

In line 5 strike out the figures "$10,000" and insert in lieu thereof the figures "$125.40." In line 6, after the word "Thompson," strike out the remainder of said bill and substitute the following words: "and said Edward A. Thompson shall be regarded as the duly designated beneficiary of the late Harold A. Thompson, a seaman on the U. S. S. *Illinois*, who was killed in the performance of his duty on said ship."

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Reserving the right to object, I would like to ask the committee if it is the intention where the law does not provide for payment as a beneficiary who is dependent to always report special bills? If so, what is the object of having the law in relation to the Army and Navy provide that people shall be dependent in order to get this sum? Here is a case where the law provides that on the death of a man in the Navy his father or mother, dependent upon him, shall receive six months' pay if he designates some one as a beneficiary. Several times where the man has failed to designate a beneficiary we have ordered the payment of the money, but in this case the father frankly admits that he was not dependent upon the boy, but it is proposed to pay him as though he were. Of course, that is a nice thing, but what is the object in having the law?

Mr. POU. Mr. Chairman, I know nothing about the matter except what appears in the report.

Mr. REILLY of Connecticut. Mr. Chairman, it is true that the law is such that payment can not be made except where the beneficiary is dependent. The father of this boy, who was killed while performing his duty on board ship, is not dependent and never was dependent upon that boy. He is a man in ordinary circumstances. It appears to me that this is a mighty small award for the loss of a son, yet the committee saw fit to make the award.

I do not know what the policy of the committee is, because I am not a member of it. I simply know the fact, as the father very honestly stated that he was not dependent upon his son, and that his son lost his life in the service of the Government.

Mr. MANN. We have changed the law so that now the beneficiary is not required to be dependent. The boy can name the father or the mother as the beneficiary without any evidence to show that either was dependent. But this bill is considered by unanimous consent. Is this committee amendment satisfactory to the gentleman?

Mr. REILLY of Connecticut. It is not satisfactory to me, for I think an award of $125 for the loss of a son is a mighty small one.

Mr. MANN. I do not mean if it is wholly satisfactory, but whether the gentleman is going to resist it.

Mr. REILLY of Connecticut. I will not resist it, as it is the customary six months' pay award, though I think there should be a much larger amount given.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. SISSON. Mr. Chairman, without going into any lengthy discussion of the matter, I will state that I have had matters very similar to this upon several occasions, and I object.

The CHAIRMAN. The gentleman from Mississippi objects.

RICHARD RIGGLES.

The next business in order on the Private Calendar was the bill (H. R. 13728) for the relief of Richard Riggles.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $5,000 to Richard Riggles, in full payment for injuries sustained by him on the 6th day of February, 1885, while in the discharge of his duties at the navy yard, Washington, resulting in the loss of his right leg.

With the following committee amendments:

In line 5 strike out the figures "$5,000" and insert in lieu thereof the figures "$500.80."

In line 9, after the word "leg," strike out the period, substitute a colon, and add the following:

"*Provided*, That no agent, attorney, firm of attorneys, or any persons engaged heretofore or hereafter in preparing, presenting, or prosecuting this claim shall, directly or indirectly, receive or retain for such service in preparing, presenting, or prosecuting such claim, or for any act whatsoever in connection with this claim, any fee or compensation whatsoever."

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Chairman, reserving the right to object, let me see if I understand it. Here is a man who was working in the Washington Navy Yard at $1.60 per day. He lost his leg, and as a result of that he is now working in the navy yard at the rate of $3.28 a day. That probably does not compensate him for the loss of his leg. If he gets paid this sum, they may consider themselves justified in discharging him. He is already getting more than twice as much pay without the leg as he did before with the leg.

Mr. POU. But he has not got his leg back.

Mr. MANN. No; but he has gotten consideration from the Government because of the loss of his leg.

Mr. POU. We thought in view of the fact that he was injured without any fault on his part that the man ought to have some compensation, and that is all there is to it.

The CHAIRMAN. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOSEPH A. POWERS.

The next business in order on the Private Calendar was the bill (H. R. 11594) for the relief of James A. Powers.

The Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $312.17 as compensation to James A. Powers, a letter carrier in the city of New York N. Y., for loss of salary and for medical services resulting from injuries received by him on February 23, 1912, from the breaking of a stool which he was using in his employment.

With the following committee amendments:

In line 5 strike out the figures "$312.17" and insert in lieu thereof the figures "$256.17." In line 5, after the word "to," strike out the words "James A. Powers" and insert in lieu thereof the words "Joseph A. Powers."

In line 7, after the word "salary," strike out the words "and for medical services."

Amend the title so as to read: "A bill for the relief of Joseph A. Powers."

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Chairman, reserving the right to object, I would like to ask one question in reference to this amendment. The amendment limits the reason for the amount which is to be paid to compensation for loss of salary while in the hospital. Is it intended by the committee to leave this open so that the man may hereafter have another bill brought for injury, hospital charges, and surgeons' bills, or is it intended that this sum is in full payment of all that the Government ought to pay?

Mr. POU. Mr. Chairman, it is intended as full discharge of any possible obligation that the Government might be under in the premises.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN P. EHRMANN.

The next business in order on the Private Calendar was the bill (H. R. 13591) for the relief of John P. Ehrmann.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any moneys in the United States Treasury not otherwise appropriated, the sum of $520.50 to John P. Ehrmann, in full of all claims he may have against the Government for injuries received by him while employed by the United States as foreman, gun shop, Watervliet Arsenal, N. Y., for loss of salary, hospital charges, and surgeon bills resulting from said injuries.

With the following committee amendments:

In line 6 strike out the figures "$520.50" and insert in lieu thereof the figures "$245.50."

In line 6, after the name "Ehrmann," strike out remainder of said bill and add the following words: "for loss of salary while in hospital suffering from injuries received by him while employed by the United States as foreman, gun shop, Watervliet Arsenal, N. Y."

The CHAIRMAN. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

H. E. JOHNSON ET AL.

The next business in order on the Private Calendar was House resolution 551, referring the bill H. R. 1049 to the Court of Claims.

The Clerk read as follows:

House resolution 551.

Resolved, That the bill (H. R. 1049) for the relief of H. E. Johnson, John F. Shelley, Jane M. Johnson, and Duff Quinn, with the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts and conclusions of law.

The CHAIRMAN. Is there objection to the present consideration of the resolution?

Mr. MANN. Mr. Chairman, reserving the right to object, there are several of these resolutions on the calendar. Does the gentleman from Idaho think it would be doing anybody a favor to refer to the Court of Claims a claim for $25 for a resident of Idaho?

Mr. FRENCH. Mr. Chairman, these claims will be considered as one, the total amount being upward of $600. Of course, personally I would much prefer to see the bill introduced passed instead of the resolution, but there is a desire on the part of the committee to secure a finding of facts in the case, and so the committee reported the resolution in lieu of the bill.

Mr. MANN. Has the Reclamation Service made any report on this?

Mr. FRENCH. This is a matter that is directly under the Indian Department, because the Indian Department has——

Mr. MANN. Well, has the irrigation service in the Indian Office made any report?

Mr. FRENCH. I understand so.

Mr. MANN. What do they say?

Mr. FRENCH. I understand the facts are such as to substantiate the bill.

Mr. MANN. Well, if this is a matter that must be in the end really determined by the Government administrative officers, here is an irrigation service either in the Indian Office or the Reclamation Service that overflows land and a claim is made for $25 that is to be referred to the Court of Claims in Washington.

Mr. FRENCH. Of course, as I say, I much prefer that the bill be passed instead of the resolution, but I yielded to it with the belief that the entire amount of the claims will be considered as one.

The CHAIRMAN. Is there objection to the present consideration of the resolution? [After a pause.] The Chair hears none.

The resolution was ordered to be laid aside with a favorable recommendation.

OFFICERS AND CREW OF STEAMER "HANCOCK."

The next business in order on the Private Calendar was the bill (H. R. 16717) authorizing and directing the Secretary of the Treasury to pay certain moneys to the officers and crew of the steamer *Hancock* or their legal representatives.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any moneys in the Treasury not otherwise appropriated, to the following-named members of the crew of the steamer *Hancock* or their legal representatives the sums set opposite their respective names: E. S. Wheeler, $162.81; Bamlet Kent, $114.87; Charles L. Wilson, $193.61; A. R. Crook, $248.81; John H. Sanner, $111.55; George Simpson, $101.01; Ellery Dewitt, $71.53; Harlow N. Davock, $29.16; David Tindall, $83.20; together with interest thereon from August 16, 1905.

The committee amendment was read, as follows:

Page 1, strike out lines 8, 9, and 10, and on page 2, strike out lines 1, 2, and 3, down to the word "five," and insert the following: "E. S. Wheeler, $142.31; Bamley Kent, $83.87; Charles L. Wilson, $118.72; A. R. Crook, $160.13; John H. Sanner, $70.07; George Simpson, $63.26; Ellery Dewitt, $45.78; Harlow N. Davock, $19.04; David Tindall, $49.32; said payments being in the nature of relief for losses sustained through the sinking of the U. S. S. *Hancock* on the 16th day of August, 1905."

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Chairman, reserving the right to object, as I understand the case, and if I am in error I wish to be corrected, these men were serving upon a vessel of the engineers in the War Department. They had a collision with a steamer called the *Hancock*. A suit was brought by the Government against the owners of the *Hancock*, and the suit was settled so that the *Hancock* owners paid half the loss, including the loss to the Government employees on the Government vessel, and that that money they have received.

Mr. POU. That is correct, only the steamer was named the *Binghamton*.

Mr. MANN. These men hired an expensive attorney—possibly not an expensive attorney—and now seek to have the Government pay the other half of the loss as well as their attorney fees. In the first place, Mr. E. S. Wheeler's loss was $41. His proportion of the attorney's fees was $121.81, and he wants us to pay the total amount. His loss was $41. He has got half of that already. His attorney's fees were $121.80, and he wants us to pay $142.31. That is the way I understand the case. Is that correct?

Mr. DOREMUS. The gentleman is correct, in a measure. The amount specified in the bill is one-half the loss sustained by the members of the crew.

Mr. MANN. That is just what I just stated.

Mr. DOREMUS. And their proportionate share of the attorney's fees which they contributed. I will state to my friend from Illinois that this attorney was employed by the interveners with the consent and approval and, if I am not mistaken, upon the recommendation of the district attorney. The interveners paid the attorney out of their own pockets, and the attorney practically conducted the case on behalf of the Government.

Mr. MANN. The attorney did what?

Mr. DOREMUS. Conducted the case practically on behalf of the Government.

Mr. MANN. Well, he should get paid, then, through the Department of Justice.

Mr. DOREMUS. But they could not get paid through the Department of Justice for the loss.

Mr. MANN. Now, the total loss, to begin with, of all of these men, on their own statement, was $715. They recovered half of this. They paid $395 for a special attorney, and there remains unpaid $357.50.

Mr. DOREMUS. That is correct.

Mr. MANN. Mr. Wheeler is a United States assistant engineer, or was, who recommended the payment of this claim. That is the way we get it.

Mr. DOREMUS. The payment of this claim has been recommended by the Chief Engineer of the Army——

Mr. MANN. Oh, yes.

Mr. DOREMUS. And by the Judge Advocate General of the Army, and all others who have to do with it.

Mr. MANN. To start with, Mr. Wheeler had lost $41. He had an attorney's fee of $121.81. If I had been in Mr. Wheeler's place, I would have pocketed the loss——

Mr. DOREMUS. I do not know what part he played in this matter.

Mr. MANN. I am only reading from his statement, and I have not raised any question about his veracity at all.

Mr. DOREMUS. The fact is that these men suffered the loss through no fault of their own. They paid the attorney fee with the consent and approval of the Department of Justice. So what good reason can exist for not reimbursing them?

Mr. MANN. This reason exists: If this was a suit the Department of Justice had anything to do with, the Department of Justice should have attended to it, and I think they did. And if the Department of Justice had any authority to hire an outside attorney, it had authority to pay him.

Mr. DOREMUS. Well, I would not say positively that they hired him, but I know that the attorney was engaged in behalf of the interveners with the consent and approval of the district attorney's office, and that the attorney whom they engaged practically prosecuted the case against the owners of the *Binghamton* on the part of the men.

Mr. MANN. Here was a case where there was no liability on the part of the Government at all. Nobody pretends there was. Certain people suffered loss. They brought suit against the people who were liable. They settled that suit for less than they said their damages were, and then turn around and want the United States, which was not liable in the first instance, to pay them more than it would have paid if it had paid the full claim that they made in the first instance against other parties.

Mr. DOREMUS. The gentleman has no right to assume that there is no liability at all on the part of the Government.

Mr. MANN. The gentleman does not claim there was any liability?

Mr. DOREMUS. This case was prosecuted against the owners of the *Binghamton*.

Mr. MANN. Yes. But the Government was not liable. The Government did not own the *Binghamton*.

Mr. DOREMUS. The owners of the *Binghamton* claimed there was negligence on the part of the Government. Now, the question of negligence was never judicially determined, but the suit was compromised.

Mr. MANN. But if there had been negligence on the part of the Government, the Government would not have been liable to the very men who were negligent. These men were operating the boats. They were the men who had that collision.

Mr. DOREMUS. The gentleman assumes, in his argument, that the gentlemen named in this bill are the responsible parties in that they were negligent. There is no proof in the record or in the report to bear him out.

Mr. MANN. I think there is. The man who was in charge was the United States assistant engineer. He was the chief officer there.

Mr. SISSON. If the gentleman will permit, the report ought to show the exact relations they bore to this vessel, because that would determine absolutely the question which is in the mind of the gentleman from Illinois.

Mr. DOREMUS. I will say to my friend from Mississippi that the question of negligence was never judicially determined. After the case was tried, and before a final determination, the parties got together and compromised by the owners of the *Binghamton* paying one-half of the loss.

Mr. MANN. This claim covers the officers and men on board Government vessels.

Mr. DOREMUS. That is true.

Mr. MANN. Of course there was only liability on the part of the Government, whether they were or were not negligent. If anybody was negligent they were negligent. I will say to the gentleman that under the precedent we could pay to the men one-half of the loss. They have already recovered the other half, but under the precedent which Congress has followed for years it will not pay attorneys' fees.

Mr. DOREMUS. Will the gentleman object?

Mr. MANN. Certainly, I will object. If I did not object 40 other men here would do so, unless it is reduced to the amount of the actual loss.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MANN. I object.

The CHAIRMAN. Objection is made. The Clerk will report the next bill.

PATRICK J. FITZGERALD, DECEASED.

The next business in order on the Private Calendar was the bill (H. R. 13350) for the relief of the widow and heirs at law of Patrick J. Fitzgerald, deceased.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to pay to the widow and heirs at law of Patrick J. Fitzgerald, deceased, out of any money in the Treasury not otherwise appropriated, the sum of $2,000, in full compensation for the death of said Patrick J. Fitzgerald, on January 3, 1907, caused by injuries received on December 31, 1906, while employed as a chain maker, fourth class, in the navy yard of the United States at Boston, Mass.

The CHAIRMAN. Is there objection to the consideration of the bill?

There was no objection.

The following committee amendment was read:

Page 1, line 6, strike out "$5.000" and insert "$2,000."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

THOMAS C. HYDE.

The next business in order on the Private Calendar was the bill (H. R. 11158) for the relief of Thomas C. Hyde.

Mr. POU. Mr. Chairman, I ask unanimous consent to pass this bill over without prejudice.

The CHAIRMAN. The gentleman from North Carolina [Mr. POU] asks unanimous consent that the bill may be passed without prejudice. Is there objection?

Mr. MANN. What does that mean; to pass over without prejudice?

The CHAIRMAN. The Chair does not know.

Mr. POU. I do not want it to appear that there was any objection to the consideration of the bill, because there is some additional information which the gentleman would like to give.

Mr. MANN. Just pass it, then.

The CHAIRMAN. Without objection the bill will be passed over, and retain its place on the calander.

There was no objection.

GEORGE T. LARKIN.

The next business in order on the Private Calendar was the bill (H. R. 305) for the relief of George T. Larkin.

The bill, with committee amendments, was read in full.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. I object.

WICKLIFF FRY.

The next business in order on the Private Calendar was the bill (H. R. 10025) for the relief of Wickliff Fry, for horse lost while hired by the United States Geological Survey.

The Clerk read the bill, as follows:

Be it enacted, etc., That the sum of $185 be, and the same hereby is, appropriated, out of any money in the Treasury of the United States not otherwise appropriated, and the Secretary of the Treasury is hereby directed to pay Wickliff Fry, a citizen of Delroy, Carroll County, in the State of Ohio, in compensation for one horse owned by him and which lost its life while hired by the United States Geological Survey.

With a committee amendment, as follows:

Amend, line 3, by striking out "$185" and inserting "$135."

The CHAIRMAN. Is there objection?

Mr. MANN. Reserving the right to object, I would like to ask if this bill was ever referred to the Interior Department? It is for the loss of a horse hired by a couple of men in the Geological Survey, who deliberately hitched the horse in a place where no man who knew anything about horseflesh would fail to know that it would kill the horse, and it did. Now, does the department recommend that the Government pay this, instead of the employees?

Mr. POU. I will say to the gentleman that it was referred to the Geological Survey.

Mr. MANN. Here is a statement from the report. It says:

The testimony of Mr. Fry and two witnesses who were with him immediately upon hearing that the horse was dead was to the effect that the place where they hitched this horse was boggy, and that the horse had mired up to his body, and that in the struggle had been choked to death; that the rope by which he had been tied had been tied around his neck and had not been placed through the bridle ring, and claim that if ordinary care had been exercised in the care of this horse he would not have been killed.

That is perfectly patent to anybody who knows enough to drive a horse or hitch it. If the Geological Survey wants to send out men who know nothing about hitching a horse, either as to the method of hitching or the place of hitching, they ought to so report.

Mr. POU. The committee thought that the owner of the horse ought not to suffer.

Mr. MANN. The owner of the horse ought not to suffer. He ought to sue these men.

The CHAIRMAN. Is there objection to the present consideration of this bill?

Mr. SISSON. Mr. Chairman, I object.

The CHAIRMAN. Objection is made. The Clerk will report the next bill.

MICHAEL F. O'HARE.

The next business in order on the Private Calendar was the bill (H. R. 6530) for the relief of Michael F. O'Hare.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury of the United States not otherwise appropriated, to Michael F. O'Hare, of Tyngsboro, Mass., the sum of $200, in full compensation for loss of cow and injury to his business through negligence on the part of employees of the United States Department of Agriculture, Bureau of Entomology, on June 11, 1911.

With a committee amendment, as follows:

Amend, line 7, by striking out "$200" and inserting "$85."

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. SISSON. Mr. Chairman, reserving the right to object, what were the facts of this case?

Mr. POU. I will say to my friend from Mississippi that I know nothing about it except what appears in the report.

Mr. SISSON. It says:

Some days after Dr. Harris called at the office, Mr. O'Hare came in and told of the death of the cow and asked what we could do in reimbursing him for the loss of the animal. I expressed my regret concerning his loss and told him he had better see his Congressman, Butler Ames, of Lowell, and ask him to introduce a bill for relief.

How did the Agricultural Department get hold of the cow? How did it become liable for the loss of this cow?

Well, Mr. Chairman, I withdraw the objection. I notice here that the employees of the Agricultural Department left some arsenate of lead exposed and the cow got hold of that.

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next one.

LOUIS JONES.

The next business in order on the Private Calendar was the bill (H. R. 13483) for the relief of Louis Jones.

The bill was read, with committee amendments.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. I object.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] objects. The Clerk will report the next one.

FRED HENDERSON.

The next business in order on the Private Calendar was the bill (H. R. 13482) for the relief of Fred Henderson.

The bill was read, with committee amendments.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. I object.

The CHAIRMAN. The gentleman from Illinois objects. The Clerk will report the next one.

FEED LARSEN.

The next business in order on the Private Calendar was the resolution (H. Res. 552) to refer H. R. 1052, a bill for the relief of Fred Larsen, to the Court of Claims.

The Clerk read the resolution, as follows:

House resolution 552.

Resolved, That the bill (H. R. 1052) for the relief of Fred Larsen, with the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts and conclusions of law.

The CHAIRMAN. Is there objection to the present consideration of the resolution?

Mr. MANN. I reserve the right to object.

Mr. FRENCH. Mr. Chairman, the question arises on account of a reservoir site and lands that were owned, or rather entered, by Fred Larsen being taken by the Government in the construction of a reservoir in connection with an irrigation system. There is a difference between Mr. Larsen and the Government as to the value of the property destroyed, Mr. Larsen claiming that he was damaged to the amount of $4,700 and the department raising not only the question as to the amount of damages, but also raising the question of entryman's rights to the land; raising the question of whether or not he had forfeited his rights to the land. Altogether it seems a question, in view of the conflicting report of the department and the evidence submitted by Mr. Larsen, that should go to the Court of Claims.

Mr. MANN. This is just for a finding of fact?

Mr. FRENCH. Yes; simply for a finding of fact and conclusions of law. This case and the next one are alike, and they arise from the same irrigation project.

The CHAIRMAN. Is there objection to the present consideration of the resolution?

Mr. FOSTER. Mr. Chairman, reserving the right to object, in the securing of these rights in reservoir sites the Government agrees with the claimants upon what damages there shall be?

Mr. FRENCH. Ordinarily, yes; and most of the claims were settled.

Mr. FOSTER. When they are not settled, and there is disagreement, how is it managed—by referring it to the Court of Claims?

Mr. FRENCH. Ordinarily not. Here is a case, however, where the Government has taken the position, apparently, that these entrymen have not complied with the law sufficiently to acquire title to the lands in order to be entitled to damages. Now, there is a question there.

Mr. FOSTER. They were paid damages?

Mr. FRENCH. No. This man has been paid no damages.

Mr. FOSTER. He held this land as a homestead site?

Mr. FRENCH. He had taken it as a homestead entry.

Mr. FOSTER. He had entered upon the land?

Mr. FRENCH. Yes; he had entered upon the land, and had made improvements. His affidavit in evidence sets forth that he is damaged to the extent of $4,700. The department's report is adverse, raising not only the question of the amount of damages, but the title that this man may have to the land itself; and I think under the circumstances it is a very fair case to go to the Court of Claims for the finding of facts.

Mr. FOSTER. Have they had other cases of this kind?

Mr. FRENCH. I do not know. Most of the cases, I will say, were determined by the Government and the settlers through a representative of the department being sent there.

Mr. FOSTER. To settle what damages there were?

Mr. FRENCH. Yes; to settle and arrange a basis for payment.

Mr. FOSTER. What was the claim here? Did the department set up a claim that it was an illegal entry for a homestead?

Mr. FRENCH. Rather that the entryman had not complied with the law. Mr. Larson did not see the representative of the department at all. In fact, both Mr. Larson and Mr. Anderson were in that situation. Neither one of them saw the representative of the department at all, and consequently did not present the facts in the cases to the representative of the department.

Mr. FOSTER. Is this to ascertain whether the damages are well founded?

Mr. FRENCH. Yes.

The CHAIRMAN. Is there objection to the present consideration of the resolution?

There was no objection.

The resolution was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next one.

PETER W. ANDERSON.

The next business in order on the Private Calendar was the resolution (H. Res. 553) to refer H. R. 1051, a bill for the relief of Peter W. Anderson, to the Court of Claims.

The Clerk read the resolution, as follows:

House resolution 553.

Resolved, That the bill (H. R. 1051) for the relief of Peter W. Anderson, with the accompanying papers, be, and the same is hereby, referred to the Court of Claims for the finding of facts and conclusions of law.

The CHAIRMAN. Is there objection to the present consideration of the resolution?

There was no objection.

The resolution was ordered to be laid aside with a favorable recommendation.

EUGENE A. FREUND AND ALFRED F. ROEMMICH.

The next business in order on the Private Calendar was the bill (H. R. 10475) for the relief of Eugene A. Freund and Alfred F. Roemmich.

The Clerk read the title of the bill.

Mr. MANN. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Illinois objects.

GATTLEIB SCHLECT AND OTHERS.

The next business in order on the Private Calendar was the bill (H. R. 5058) for the relief of Gattleib Schlect and Maurice D. Higgins, and for the relief of the heirs and legal representatives of William Bindhammer and Valentine Brasch.

The Clerk read the title of the bill.

Mr. MANN. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Illinois objects.

MATTHEW LOGAN.

The next business in order on the Private Calendar was the bill (S. 3761) for the relief of Matthew Logan.

The bill was read, as follows:

Be it enacted, etc., That in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, Matthew Logan shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of Battery H, First Regiment Rhode Island Volunteer Light Artillery, on the 25th day of July, 1865: *Provided*, That no pension shall accrue prior to the passage of this act.

The CHAIRMAN. Is there objection to the present consideration of the bill.

There was no objection.

The bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

ANNIE E. WHITE AND HEIRS OF PATRICK WHITE, DECEASED.

The next bill in order on the Private Calendar was the bill (H. R. 13257) for the relief of Annie E. White and the heirs of Patrick White, deceased.

The Clerk read the title of the bill.

Mr. MANN. Mr. Chairman, I object.

Mr. HAYDEN. Will the gentleman withhold his objection for just a moment?

Mr. MANN. I will, but I will renew it.

Mr. HAYDEN. This is a most meritorious measure. It is an attempt to do justice to one who has been greviously wronged by the military authorities of the United States.

Mr. MANN. Oh, this is not a bill that can pass by unanimous consent. I do not think it would pass if I could get a few minutes in the House to explain it. It is a little older than the hills and not quite as old as some of the mountains and never had any merit in it.

Mr. HAYDEN. If the gentleman from Illinois intends to object, it is, of course, useless to delay the consideration of other bills by discussing the matter at this time, although I do not at all agree with the statement that he has just made. If a suitable opportunity is given me I believe that I can convince a majority of the Members of this House that Mrs. White is entitled to this relief.

Mr. MANN. I object.

The CHAIRMAN. The gentleman from Illinois objects. The Clerk will report the next bill.

HUNTON ALLEN.

The next business in order on the Private Calendar was the bill (H. R. 17424) for the relief of Hunton Allen.

The bill was read, as follows:

Be it enacted, etc., That the Auditor of the Treasury for the Post Office Department is hereby authorized and directed to credit the account of Hunton Allen, the postmaster at Williamson, in the State of Georgia, with the sum of $237.16, the amount and value of postage stamps stolen from said post office by a burglar on May 13, 1913, without any fault on the part of said Allen; and said amount is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The bill was ordered to be laid aside to be reported to the House with favorable recommendation.

CLARA DOUGHERTY AND OTHERS.

The next business in order on the Private Calendar was the bill (S. 23) for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13; of Ernest Kubel, owner of lot No. 41; and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District.

The bill was read, as follows:

Be it enacted, etc., That under and in accordance with the terms and provisions of the act of Congress approved April 22, 1904, entitled "An act to provide for payment of damages on account of change of grade due to construction of the Union Station, in the District of Columbia," as amended by the act of Congress approved June 29, 1906, the commission appointed under said act is hereby authorized and directed to meet and view the property known as lots Nos. 13 and 41 and the south 17.10 feet front by the full depth thereof of lot No. 14, all in square No. 724, in the city of Washington, in the District of Columbia, improved by premises Nos. 323, 325, 327, 329, and 337 First Street NE., city of Washington, D. C., and hear testimony touching the damages to said property which have resulted from changes in the grade of streets, avenues, or alleys authorized by the act of Congress Approved February 28, 1903, relating to the construction of a union railroad station in the District of Columbia, and to appraise and determine the amount of damages, if any, to which the owner of said property so affected by change of grade may be entitled.

SEC. 2. That if any of the parties interested, their personal representatives, or the Commissioners of the District of Columbia, shall be dissatisfied with the appraisement or award of said commission the court shall, on motion of the parties so dissatisfied, direct the United States marshal to summon a jury of seven disinterested men, not related to any person in interest, to meet and view the said property and to appraise and determine the amount of damages to which the owner of said property so affected by change of grade may be entitled, as provided in and by the aforesaid act of Congress so amended as aforesaid.

SEC. 3. That a sufficient sum to pay the compensation and expenses of said commission and the compensation of said jurors and the amount of any appraisement or award of damages made in favor of the owner of said property is hereby appropriated out of the revenues of the District of Columbia, and 50 per cent thereof shall be refunded to said District of Columbia by the United States.

With the following committee amendment:

Page 2, line 9, strike out the words "and forty-one."

Page 3, line 18, after the words "United States" insert: "*Provided however*, That from such sum or sums as may be awarded to said owners there shall be deducted the compensation and expenses of said commission and the compensation of said jurors.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. SISSON. Mr. Chairman, reserving the right to object, this bill comes from the Committee on the District of Columbia. The only point in the case, as I understand it, is that the statute of limitations has run against these people.

Mr. COADY. Yes.

Mr. SISSON. Did they have proper notice?

Mr. COADY. There was notification by publication only in the Washington newspapers.

Mr. SISSON. Was there no personal service?

Mr. COADY. No. One of the women, Mrs. Meder, a very poor woman, is a charwoman in one of the departments here. She testified that she rarely read the newspapers and never read the legal notices, and that was substantially the testimony of the others.

Mr. SISSON. There was no personal service on these parties?

Mr. COADY. No personal service at all.

Mr. SISSON. Service by publication only?

Mr. COADY. Service by publication only.

Mr. MANN. Why does the House committee propose to strike out lot 41?

Mr. COADY. For the reason at the hearing it appeared that the owner of that lot has since sold it. It was a vacant and unimproved lot.

Mr. MANN. Sold it before or after this bill passed the Senate?

Mr. COADY. I think he sold it before the bill was introduced.

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The committee amendments were agreed to.

The bill as amended was ordered to be laid aside to be reported to the House with a favorable recommendation.

RATHBUN, BEACHY & CO.

The next business in order on the Private Calendar was the bill (H. R. 2312) for the relief of Rathbun, Beachy & Co.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Rathbun, Beachy & Co., of Webster, S. Dak., the sum of $1,000, in full compensation for loss in sale of cattle illegally placed in quarantine by Government inspector at the stockyards in Chicago, Ill., and said amount is hereby appropriated.

With the following committee amendment:

Page 1, line 6, strike out "$1,000" and insert in lieu thereof "$975."

The CHAIRMAN. Is there objection to the present consideration of this bill?

Mr. FOSTER. I think this bill ought to have some explanation. As I understand it, these people shipped these cattle to Chicago without their being inspected, and then they were put in a pen from which they were afterwards sold at a loss, and this represents the loss. Is that it?

Mr. POU. Dr. Galloway, Acting Secretary of Agriculture, says:

I may say in this connection that the cattle in question were placed in quarantine through error, and from all the circumstances in the case the claim appears to be a just one.

Mr. FOSTER. They were shipped to Chicago without first being inspected, and the authorities at Chicago were so notified; and then they were placed in this pen, were they not?

Mr. DILLON. They were uninspected cattle at the time of shipment, and they reached Chicago in the middle of the night and were put into infected pens under the order of Dr. Dyson, and they were then forced to be sold for immediate slaughter. The committee has fixed the lowest estimate of the damages.

Mr. FOSTER. But they were shipped there as uninspected cattle.

Mr. DILLON. Yes; under the regulations.

Mr. FOSTER. And then, of course, they had to go into quarantine when they got there.

Mr. MANN. Oh, no.

Mr. DILLON. Not at all.

Mr. MANN. All cattle are inspected when they come to the market at Chicago, and not at the point from which they are shipped.

Mr. FOSTER. That is what I was trying to get at. In reading the bill I judge that they arrived there and were not inspected; that there was no inspection made.

Mr. DILLON. Oh, yes there was; but not in the middle of the night, when they arrived. They were inspected in the morning, and the inspector's report was favorable. There was no disease and no objection to the shipment of any character, but they were placed through mistake in the quarantine pen, and they were sacrificed and sold for immediate slaughter.

Mr. FOSTER. Whose mistake was it?

Mr. DILLON. Dr. Dyson; he ordered them to be placed there.

Mr. FOSTER. For what reason?

Mr. DILLON. He misinterpreted the instructions that had been received. The instructions were applicable to Colorado, but he interpreted them to mean Chicago. It was the only instance of the kind. Secretary Wilson investigated it and ordered them to be released from quarantine, but they had to be sold at a sacrifice.

Mr. FOSTER. They were cattle sent in for slaughter?

Mr. DILLON. No; they were sent in to sell for feeders, but they had to be sold for slaughter, and hence the loss.

Mr. SISSON. How do you arrive at the amount of the loss? It is an uncertain amount.

Mr. DILLON. There were various estimates. One company received four carloads and another company received six carloads, and the estimates ran from $1,000 up to $2000. The department admits in one of its communications that there is a liability to the extent of $975 to $1,000, and the committee has adopted the lowest amount mentioned by the department.

Mr. SISSON. It is, of course, a difficult matter to determine what might or might not happen to a carload of cattle placed on the market, nor is it fair to compare it and show what other carloads of cattle would bring. You might have a dozen carloads of cattle from some farm and one carload would bring a great deal more than another carload of cattle.

Mr. MANN. If the gentleman will permit me, my information is—I do not know anything about this particular case except from the report—that these cattle were placed in a diseased pen, but not sufficiently diseased to order their destruction, and they would sell for about 75 cents a hundred less than they would sell if they were not put in that pen.

Mr. SISSON. Is it absolutely certain that they would bring less?

Mr. MANN. It is absolutely certain that when they go into that pen they bring a less amount of money. There is no question about that.

Mr. SISSON. There is no question but that the buyer might take advantage of the situation.

Mr. MANN. I hope some day I can take the gentleman through the stockyards.

Mr. SISSON. I have been through them.

Mr. MANN. The gentleman knows that they do not spend much time in buying a few cattle; they buy them in the pen. They do not move them until they are purchased. These cattle were put in the pen where they would bring a smaller amount of money. They could not get them out of the pen anywhere else without killing them.

Mr. POU. They were ordered slaughtered prematurely anyway.

Mr. MANN. They could not get them out of the quarantine pen except by killing them.

Mr. SISSON. That is an unusual sort of a claim. Have there been any claims of this kind before?

Mr. DILLON. I never knew of any.

Mr. SISSON. This case may become a precedent for a great many losses.

Mr. DILLON. I will state that this was the only case under this mistaken order, as is clearly shown in the records of the department.

Mr. SISSON. Was there no way in which the Government could have these orders communicated so that advantage might not be taken of them? In other words, are we not opening up a possible opportunity for a great many damage claims of this kind in the enforcement of this law?

Mr. DILLON. I do not know; possibly other cases might arise, but in reference to this one order this is the only case in which an error was committed.

Mr. SISSON. What method was pursued by these people to determine this loss; what evidence did they have?

Mr. DILLON. We had an affidavit, which is set out in the report of the committee specifying the amount of damages. The amount of damages would be the difference between the value of the cattle if sold for feeders and if sold for slaughter. That is the measure of damages.

Mr. FOSTER. I will say that I think they arrived at it by taking the probable value of that class of cattle that day.

Mr. DILLON. Yes; and the committee took the lowest estimate.

Mr. FOSTER. Let me say to the gentleman from Mississippi that this amount ranges from $975 to $2,000, and the bill carries the minimum amount.

Mr. SISSON. Mr. Chairman, the question of unliquidated damages is always a difficult one to arrive at. How many of these cattle were put in the pen?

Mr. DILLON. All of them; the entire 10 carloads.

Mr. SISSON. Making up how many cattle?

Mr. DILLON. Something over 100, I think.

Mr. SISSON. What grade of cattle?

Mr. DILLON. They were feeders shipped for that express purpose to put on the market as feeders, but they were compelled to be sold for slaughter.

Mr. SISSON. They were sent there to be fed and fattened.

Mr. DILLON. They were shipped there to be sold as feeders.

Mr. SISSON. Then they were sold as canners. That would be about $10 loss on each animal, and if there was 100 that would be $1,000.

Mr. DILLON. We took the lowest estimate.

Mr. POU. We took the department's figures.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. FOWLER. Mr. Chairman, reserving the right to object, I do not quite understand yet why these cattle could not have been sold for feeders.

Mr. DILLON. Under the quarantine rules they were not permitted to be sold.

Mr. FOWLER. They were put in a quarantine pen through mistake. Why could not the mistake have been corrected and then the cattle sold as feeders instead of for slaughter?

Mr. DILLON. The trouble about that was that the purchasers took advantage of that situation, and the consignors could not order them to be shipped back, and they had to go on the immediate market.

Mr. FOWLER. Who placed them in the quarantine pen?

Mr. DILLON. It was done under the order of the superintendent of the stock yards.

Mr. FOWLER. And that was under the authority of the United States?

Mr. DILLON. Yes.

Mr. FOWLER. Was it not made known to the United States that these cattle were not subject to quarantine?

Mr. DILLON. Yes.

Mr. FOWLER. And that was done at the time, was it not?

Mr. DILLON. Yes; by telegraphic order to the Secretary of Agriculture.

Mr. FOWLER. And then they were released, were they not?

Mr. DILLON. They were ordered to be released, but held for immediate slaughter.

Mr. FOWLER. And there was no authority on the part of the United States to direct what should be done with the cattle, was there?

Mr. DILLON. Oh, yes; under the quarantine regulations.

Mr. FOWLER. Did the United States direct that they should be slaughtered?

Mr. DILLON. Yes; sold for immediate slaughter. They were in the quarantine pen; that is, the infected pen.

Mr. FOWLER. But does the fact that they were placed in the quarantine pen absolutely pass judgment on them that they must be slaughtered?

Mr. DILLON. Oh, yes.

Mr. FOWLER. That is the first time that I ever heard of such an unreasonable rule.

Mr. DILLON. They were exposed, and hence must be sold for immediate slaughter.

Mr. FOWLER. Does the gentleman mean that they were exposed to other cattle that were diseased, and that because of that fact they were sold for immediate slaughter?

Mr. DILLON. That is an infected pen, and they are thus exposed.

Mr. FOWLER. Were there any other cattle in there that were diseased?

Mr. DILLON. There had been.

Mr. POU. It is just like a man being put in the pesthouse.

Mr. BURKE of South Dakota. Mr. Chairman, the shipper of these cattle was absolutely at the mercy of the inspector or official of the Department of Agriculture, and these cattle were put in this quarantine pen by his direction and order. Subsequently it was found that they were not infected cattle and should not have been put there, and they were sold for

slaughter at a reduced price over what they would have brought if sold when they arrived as feeders.

Mr. FOWLER. As I understand, these are about the facts: The cattle, through mistake, were put in the quarantine pen?

Mr. BURKE of South Dakota. Yes.

Mr. FOWLER. And afterwards it was found that they were placed there through mistake, and they were released?

Mr. BURKE of South Dakota. Yes.

Mr. FOWLER. And that simply because they had been placed in the quarantine pen they were then sold for slaughter, and the gentleman says that the buyers took advantage of that condition and bought at a less price?

Mr. BURKE of South Dakota. Naturally.

Mr. FOWLER. That is the condition, is it not?

Mr. BURKE of South Dakota. I do not understand that they were released as feeders. They were released for slaughter, and they had to be sold for slaughtering purposes. There were 10 cars of cattle, and the weight is given at 205,160 pounds.

Mr. FOWLER. It does not make any difference about the size, or anything of that kind, if they were healthy cattle. I have been on the market myself with cattle and hogs and sheep and everything else that I could buy and put on the market, and I have always had control over my cattle and hogs when on the market, and if put in pens that I did not like, I have had them transferred to another pen and sold under my order, and not under the order of somebody else.

Mr. BURKE of South Dakota. I am telling the gentleman what happened in this case, and the Secretary himself, who had the matter brought to his attention, immediately ordered the cattle released, and, as is stated in the report, there is no question but that the owner of the cattle ought to have redress from somebody, and I do not know who it would be unless it be the United States.

Mr. FOWLER. If the owner of the cattle has a herd of cattle which is sound and without disease, there is no right on the part of anybody to condemn the cattle without some good reason for it, and if a mistake has been made, the only thing that can be done is to right that mistake and release the cattle, if they have been unjustly impounded in some pen or somewhere else where they ought not to have been placed.

Mr. BURKE of South Dakota. The gentleman, of course, knows that detaining these cattle as infected or diseased cattle for a day necessarily affected their market value?

Mr. FOWLER. Probably there might have been a drift for a day. I know that cattle drift considerably in shipping.

Mr. BURKE of South Dakota. I will say that has already been stated, that the amount of damage was estimated as high as $2,000, and the lowest amount of the damage is placed at $975, the amount allowed by the committee.

Mr. FOWLER. I have heard that; but that is not the question that I am after. After a wrong has been done, I do not understand why that wrong can not be righted with a sound, healthy herd, because I have been on the market myself with cattle, as I say.

Mr. BURKE of South Dakota. Can the gentleman conceive how you could right a wrong after the cattle have been placed in quarantine, even if they were released the next day?

Mr. FOWLER. The amount of damages that I get from the gentleman's statement is that they have been kept for one day unjustly in quarantine.

Mr. BURKE of South Dakota. Yes.

Mr. FOWLER. And for that reason they were deprived of sale during that day.

Mr. BURKE of South Dakota. No; that is not the point.

Mr. FOWLER. And that is the amount of damage from the gentleman's statement; that is all I can see.

Mr. BURKE of South Dakota. The gentleman does not see the point.

Mr. FOWLER. But I do see the point.

Mr. BURKE of South Dakota. It changed the character of the cattle.

Mr. FOWLER. I know that you can have a stigma placed on yourself or on an animal by unjust treatment. I know that is true; and if the cattle were placed within a quarantine pen it was unjust to the cattle, and the owner had a right to complain, and I suppose did so; and he had the cattle released from that stigma.

Mr. BURKE of South Dakota. Was not their value affected by that?

Mr. FOWLER. It is probable that the cattle were unjustly treated. I could not say about that.

Mr. HAY. As I understand the point of the case, it is this: The cattle were placed in an infected pen, and having been placed in an infected pen, under the regulations of the United States quarantine laws they had to be sold and butchered immediately.

Mr. BURKE of South Dakota. That is it.

Mr. FOWLER. Mr. Chairman, I can not understand any such doctrine as that. I have never run up against such a ruling as that since I have been on the market.

Mr. HAY. But that is the law, and those people who owned the cattle suffered from the application of that law to their cattle, and that is the whole of it.

Mr. FOWLER. If the conditions were as have been stated here, the fact that they were placed in a quarantine pen did not change the condition of the cattle. In other words, the quarantine pen is a pen where cattle are placed in order to be inspected. That is its purpose.

Mr. BURKE of South Dakota. Mr. Chairman, I do not think the gentleman understands the case yet. These cattle were sent there to be marketed as feeders.

Mr. FOWLER. I understand the situation.

Mr. BURKE of South Dakota. Now, by placing them in the quarantine pen they had to be sold and slaughtered when they were released, and consequently the owner of the cattle had to take a less price for them than he would have received if they had been sold as feeders.

Mr. FOWLER. I know that statement was made here, and I do not understand the statement to correspond with the regulations.

Mr. BURKE of South Dakota. The statement is substantiated by the correspondence of the department and never has been questioned, and the only question apparently there was in the case was to determine the amount of damage, and the Committee on Claims took the lowest estimate and inserted it. I know the gentleman with his large business experience and his experience in handling live stock will see that the manner in which 10 cars of cattle—243 head in numbers—were handled in this instance, that $975 or $1,000 is a very small amount for the owner to have to accept 9 or 10 years afterwards.

Mr. FOWLER. I will say to the gentleman from South Dakota I can see the cattle might have been damaged in having the stigma placed upon them of being diseased cattle. But I can not understand——

Mr. DONOVAN. Mr. Chairman, regular order. These lawyers when they get to talking are worse than women; they talk all day.

The CHAIRMAN. The regular order is, Is there objection to the present consideration of this bill?

Mr. FOWLER. Mr. Chairman, I reserve the right to object.

The CHAIRMAN. Just a moment; the gentleman can not further reserve the right to object under the demand for the regular order. That is what we have been proceeding under for about half an hour.

Mr. FOWLER. Well, I object, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois objects.

ELWIN CARLTON TAYLOR.

The next business in order on the Private Calendar was the bill (H. R. 7194) for the relief of Acting Asst. Surg. Elwin Carlton Taylor, United States Navy.

The bill and amendments were read.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Chairman, I object.

Mr. BUTLER. Mr. Chairman, is there anything I could say to the gentleman from Illinois that would induce him to change his mind?

Mr. MANN. I will reserve the right to object, although I shall object in the end.

Mr. BUTLER. If the gentleman will object in the end, that will dispose of it; but the restoration of this young man to the Navy has been asked for. This bill and the next one, introduced by Speaker CLARK, asks for restoration to the service.

Mr. MANN. I am familiar with the facts. He is now in the service, by the way.

Mr. BUTLER. He is acting assistant surgeon.

Mr. MANN. He went in and resigned and went out.

LLOYD C. STARK.

The next business in order on the Private Calendar was the bill (H. R. 16424) for the relief of Lloyd C. Stark.

The bill and committee amendments were read.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Chairman, I object.

Mr. CLARK of Missouri. Mr. Chairman, I wish the gentleman would reserve his objection.

Mr. MANN. I will reserve the right to object.

Mr. CLARK of Missouri. Mr. Chairman, the truth about this young man is this: He was in the Navy and stood very high in it. He did not want to resign from it, but his father was part owner and manager of the largest nursery in the world, and his father's health broke down, he had nervous prostration, and he died not very long ago. His business was very large and intricate, and the family insisted that this young man resign and come home to take charge of the work that naturally fell to his father, one of the three or four managers of this great nursery. The report of the committee shows that he was a very efficient naval officer and he is anxious to get back into the Navy. His father has died, and that part of the estate has been arranged for by others as managers. I understand—I am not dead sure I am right about it—that there is a shortage of naval officers.

Mr. BUTLER. There is.

Mr. CLARK of Missouri. It seems to me that where a trained man, an experienced officer, wants to go back into the Navy, who is in the prime of life and in good health, that it would be the part of wisdom to permit him to go back. That is about all there is to it. The report of the committee gives his character and his military history.

Mr. MANN. Mr. Chairman, I think I can subscribe to every statement that the distinguished Speaker has made, both as to the facts and opinion. I am inclined to think there ought to be a way by which this and other good men could get back into the Navy. But what are the facts? No one can get back into the Navy under circumstances now unless he has political influence. I am not in favor of putting men into the Navy because of political influence which gets them there, and when a man goes into the Navy or the Army the first thing that he needs to learn is that that which is, is; that he can not change facts, and if he disobeys an order or a regulation he has to suffer the consequences.

This man did not disobey an order or a regulation, but he resigned. Now, it is proposed to put him back at an additional number in the rank to which he is credited, and whatever rank he goes into he will go as an additional number over the number now authorized by law. Of course, the committee proposes that in order to save what they think would be an injustice to those now in the Navy. It will increase, if the man should remain in the Navy long enough, the number of rear admirals, if he should be named as a rear admiral, and perhaps that ought to be done. Every man who is plucked now by the "plucking board," every man who resigns, every man who has had ill health and goes out and has had his health restored, or many of them, at least, see the retired pay at the end of the service. I doubt whether that is the case here or not, because I assume this young man is well off. But they want to go back in. Well, I think such things ought to be done under a general law. I am perfectly willing to let the President name anybody he pleases in the Army or the Navy as an officer, and let him be the judge. I am not willing to let Congress judge of individuals.

Mr. McCOY. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. McCOY. I want to say to the gentleman that the bill immediately preceding this one was introduced by me. I will say to him, so far as political influence is concerned, that what happened in that case was this: This young man himself went to the department, and I never saw the Secretary or anyone in the department for him at all.

Mr. MANN. I am not using the term "political influence" in any bad sense, the gentleman understands.

Mr. McCOY. I understand that; but in the sense that a man may be able to influence a Member of the House to go there. Now, I never saw anyone there, but the people in the department have written the letter which they did write to the committee, and I know from what I have heard from other sources they are very anxious to get him back in there.

Mr. MANN. I will say to the gentleman from New Jersey, that there is more politics in the Army or in the Navy, either one, than there is in Congress.

Mr. McCOY. My friend from Pennsylvania [Mr. BUTLER] tells me that the Surgeon General came and asked, on account of the need for surgeons in the Navy, that this young man, with his very excellent record, and now in the contract service and rendering efficient service, be restored, because they wanted him, and in a way not to hurt anybody else in the Navy.

Mr. MANN. Because they needed an additional man in the Navy they took one who is now in the Navy, and proposed to put him in the Navy, although he is now there.

Mr. McCOY. The gentleman is mistaken. He is in the Navy in one sense of the word, but he is simply under contract. He is not in the regular service.

Mr. MANN. He is doing nothing else but acting as assistant surgeon?

Mr. McCOY. What he is doing is this: Examining those who apply for enlistment.

Mr. MANN. And he is not in line for promotion.

Mr. McCOY. Not at all; he can not be promoted.

Mr. MANN. And can not go on the retired list; and if he remained in the service he could. He and other naval officers ought to find out that when they have resigned they have resigned, and when they have disobeyed orders they have disobeyed orders, and when they meet the enemy they meet the enemy, and when they meet a thing which is over and gone by they can not change it and stand in the same position as before.

Mr. McCOY. There is a difference between meeting the enemy and resigning. In meeting the enemy you may be killed; in resigning you have another chance.

Mr. MANN. Some of these days these gentlemen who will be killed will be haunting us and asking us to pass these bills to return them to life.

Mr. McCOY. I will vote for such a bill if the gentleman will introduce one.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MANN. I object.

Mr. CLARK of Missouri. Mr. Chairman, I ask unanimous consent to publish a report of the committee as an extension of my remarks.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

The following is the committee report referred to:

Report to accompany H. R. 16424.

The Committee on Naval Affairs, to whom was referred the bill (H. R. 16424) to authorize the President to reinstate Lloyd C. Stark to the active list of the United States Navy, having had same under consideration, report it to the House with the following amendments, with the recommendation that the bill as amended do pass:

Amend by striking out, in line 6, all after the word "after," all of line 7, and the first three words in line 8, and insert in lieu thereof the words "Charles Lewis Best, lieutenant, junior grade." Following that, insert the following:

"*Provided*, That the said Lloyd C. Stark shall establish to the Secretary of the Navy, by the usual examination prescribed by law for the grade of lieutenant (junior grade) in the United States Navy, his physical, mental, moral, and professional fitness to perform the duties of said grade."

Insert in line 8, after the word "*Provided*," the word "*further*."

The fact that the Navy Department has very wisely ruled that promising young officers should not resign after the expenditure of many thousands of dollars by the Government for their training and education meets with the approval of this committee. If that course is wise, then it appears equally proper that young officers who have received this training should be welcomed back to the Navy, where their valuable training may be utilized to the greatest possible extent.

The committee finds upon careful investigation that extraordinary circumstances necessitated the resignation of Ensign Stark; that he very reluctantly resigned; that those compelling circumstances no longer exist and he now desires to return to the service for which he is trained and especially qualified; that he is actuated by purely patriotic motives, and that by returning to the service he gives up a business position which entails far greater remuneration than he will receive as a lieutenant in the Navy; that he has had an exceptionally varied naval experience for a young officer and a most excellent record, as reported by his various commanding officers.

Lloyd C. Stark completed his four years' course at the United States Naval Academy and graduated "with credit" in 1908. Prior to his graduation he developed exceptional skill with firearms and was selected as one of 12 men to represent the United States Naval Academy in the national rifle matches. The team, of which he was a member, made such a remarkably good record that Mr. Stark, together with the other members of the rifle team, received a letter of commendation from the President of the United States. Mr. Stark was later selected as one of the 12 most expert shots in the United States Navy to compete in the national rifle matches, in which matches the Navy team, of which he was a member, made a good record.

It appears that he was attached to the U. S. S. *Montana* shortly after that vessel went into commission, at which time Mr. Stark, because of his experience in marksmanship, was selected to fire the ship's guns on her calibration practice. That Mr. Spark performed this important duty in a most efficient manner is evidenced by the fact that the *Montana* shortly thereafter made the highest gunnery record of any ship in the Navy. The gunnery records show that at the time the U. S. S. *Montana* made the record Mr. Stark was the assistant battery officer of the starboard 6-inch battery. This battery made the highest record of any in the Navy. Upon the subsequent detachment of the lieutenant in charge of the battery Mr. Stark, at that time only a midshipman, was because of his recognized ability, placed in charge of this battery.

In examining the record of Mr. Stark the committee has made the following excerpts from the various official reports of his several commanding officers:

"(a) Mr. Stark is an excellent divisional officer, and since the detachment of officer in charge of 6-inch battery has, owing to this ability, been given charge of division.

"(b) I consider him a very promising young officer.

"(c) Very attentive to duty and a very promising young officer.

"(d) During this quarter this officer has been assigned to engine-room duties. In these duties he has so progressed in knowledge and usefulness that the senior engineer officer has reported him competent to take charge of an engine-room watch, which duty he has performed with entire satisfaction.

"(e) This officer shows a real interest in all of his duties. He has been officer of the deck, midshipman of the watch, assistant engineer,

and has had electrical and navigational duties. In all he has constantly progressed in knowledge and usefulness."

In all these reports the committee finds that Mr. Stark was 75 times given the rating of "excellent," was 17 times rated "very good," and received no lower ratings than these. The various ratings used in the Navy are as follows: "'Excellent," "very good," "good," "tolerable," "indifferent," "bad," and "failure."

Mr. McCOY. Mr. Chairman, as the Speaker always sets a good example. I make a similar request in the case of my bill.

The CHAIRMAN. The gentleman from New Jersey [Mr. McCoy] makes a similar request. Is there objection? [After a pause.] The Chair hears none.

The following is the report referred to:

Report to accompany H. R. 7194.

The Committee on Naval Affairs, to whom was referred the bill (H. R. 7194) for the relief of Acting Asst. Surg. Elwin Carlton Taylor, United States Navy, having had the same under consideration, report it to the House with the following amendments, and as amended recommend that the bill do pass:

Lines 6, 7, 8, and 9, strike out the words "to take rank in the grade of passed assistant surgeons as an extra number next after the name of Winfield Scott Pugh, jr.," and in lieu thereof insert the following: "as an additional number, to rank next after the fifty-ninth officer in lineal standing on the list of passed assistant surgeons."

Line 10, after the word "act," change the period to a semicolon and add the following proviso:

"*And provided further*, That the said Elwin Carlton Taylor shall be required to satisfactorily pass the usual examinations required by law to determine his physical, mental, moral, and professional fitness to perform the duties of the grade to which he is to be appointed."

Dr. Taylor was appointed an assistant surgeon in the Navy October 12, 1903, and promoted to the grade of passed assistant surgeon October 12, 1906, and voluntarily resigned on March 12, 1908. Since June 27, 1912, he has been serving in the Navy as an acting assistant surgeon and is serving in that capacity at the present time, giving him a total naval service of about six years. The Navy Department reports that his record as an officer in the Navy has been excellent, and also reports upon the urgent need of more medical officers in the Navy, and in view of Dr. Taylor's special fitness for the service the department recommends favorable consideration of the bill as is set forth in the following letter:

DEPARTMENT OF THE NAVY,
Washington, March 4, 1914.

MY DEAR MR. CHAIRMAN: In further reference to your letter inclosing a copy of the bill (H. R. 7194) for the relief of Acting Asst. Surg. Elwin Carlton Taylor, United States Navy, and requesting the views and recommendations of the department thereon, I have the honor to inform you as follows:

Elwin Carlton Taylor was born May 7, 1875, and is now approximately 38 years and 10 months of age. He was appointed an assistant surgeon in the Navy October 12, 1903; was promoted to passed assistant surgeon October 12, 1906; and resigned March 12, 1908. He entered the Navy again June 27, 1912, as an acting assistant surgeon and is serving in that capacity at the present time. His total naval service amounts to about six years and his record as an officer in the regular service and as an acting assistant surgeon is excellent.

It is desirable that the bill be amended in the following particulars: First, in lines 6, 7, 8, and 9, strike out the words "to take rank in the grade of passed assistant surgeons as an extra number next after the name of Winfield Scott Pugh, jr.," and in lieu thereof substitute the words "as an additional number, to rank next after the fifty-ninth officer in lineal standing on the list of passed assistant surgeons"; and, second, after the word "act," line 10, change the period to a semicolon and add the words "*And provided further*, That the said Elwin Carlton Taylor shall be required to satisfactorily pass the usual examinations required by law to determine his physical, mental, moral, and professional fitness to perform the duties of the grade to which he is to be appointed." These amendments are deemed essential, for in addition to requiring Dr. Taylor to demonstrate his present fitness for a commission in the regular service, the first amendment recommended provides that he be placed on the list of passed assistant surgeons in exactly the same numerical or lineal position which he occupied on the date he resigned from the service, March 12, 1908.

Owing to the excellent record of Dr. Taylor while a member of the Medical Corps of the Navy, and in view of his special fitness for the service and of the urgent need of more medical officers in the Navy, the department recommends that the measure (H. R. 7194), amended as suggested above, be favorably considered.

Faithfully, yours,

JOSEPHUS DANIELS,
Secretary of the Navy.

THE CHAIRMAN COMMITTEE ON NAVAL AFFAIRS,
House of Representatives.

The committee has adopted the amendments recommended by the department in the above letter and as amended recommend that the bill do pass.

JOSEPH ELIOT AUSTIN.

The next business in order on the Private Calendar was the bill (H. R. 2642) authorizing the President to reinstate Joseph Eliot Austin as an ensign in the United States Navy.

The bill was read, as follows:

Be it enacted, etc., That the President be, and is hereby, authorized to reinstate former Midshipman Joseph Eliot Austin in the United States Navy with the rank of ensign.

SEC. 2. That he take position in the grade of ensign at the foot of the class which graduated from the United States Naval Academy in June, 1908.

Mr. BUTLER. Mr. Chairman, there is a mistake made as to the committee which made this report. It was made in the Naval Affairs Committee.

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Strike out all after the enacting clause and insert the following: "That the President be, and he is hereby, authorized, by and with the advice and consent of the Senate, to reinstate former Midshipman Joseph Eliot Austin in the United States Navy with the rank of ensign, and, after one year's service as ensign, he shall be promoted to the grade of lieutenant, junior grade, to take rank with and next after Aquilla Gibbs Dibrell, lieutenant, junior grade: *Provided*, That the said Joseph Eliot Austin, after one year's service as ensign, shall establish to the satisfaction of the Secretary of the Navy, by examination pursuant to law, his physical, mental, moral, and professional fitness to perform the duties of lieutenant, junior grade, in the Navy."

The CHAIRMAN. Is there objection to the present consideration of this bill?

Mr. FOSTER. Mr. Chairman, I reserve the right to object.

Mr. BRITTEN. Mr. Chairman, I would like to call attention to this particular bill as briefly as possible, and say that this young man, Joseph Eliot Austin, graduated from the Naval Academy in June, 1908, and immediately thereafter was ordered on the U. S. S. *South Dakota*. It appears that about a year and a half after that time he married a young lady in the Philippine Islands. At that time the law provided that a midshipman could not marry within two years after his graduation. The law has subsequently been changed, and they can marry at any time after their graduation now.

It appeared from the hearings before our committee that there was an insert called insert No. 5, or regulation No. 5, in the ship's book of regulations providing that midshipmen could not marry within two years after their graduation. It appears that young Austin did not have, or could not find in the book of regulations held and owned by him, this insert No. 5. He and his friends looked through several other books of regulations on board, and they did not have this insert No. 5. The captain of the ship knew that the wedding was about to take place and did not tell the young man that he was getting married contrary to the Navy regulations, and the captain of the ship was invited to attend the wedding. The hearings show that he was sorry that he could not attend, but that he said he would allow other officers on board to attend the wedding.

Some time after the wedding the young man was informed that he had violated regulation No. 5, and he was requested to state his case to the commanding officer. He did not state his case to his commanding officer, assuming that he would be court-martialed and that he would then have an opportunity to tell just what transpired on board ship and show that everybody knew that he was going to get married, including his commanding officer; that there was no one on board the ship who knew that he was violating the regulations.

During the past two years the young man has been assistant instructor at the Culver Military Academy, in Indiana, and has also been in charge of the U. S. S. *Yantic*, in the Michigan Naval Militia, where he has done very good service and where his service on board the ship is very much of the same character as the service he would have been required to perform if he had remained in the Navy as a midshipman.

This bill provides that he be reinstated as an ensign at the bottom of the class at which he graduated in 1908.

Mr. FOSTER. Mr. Chairman, this is rather a peculiar case from several standpoints. One is that the young man looked at the regulations, but page 5, which had reference to getting married, was missing. Then he was called upon to make a defense, and he did not make any because he thought he was going to be court-martialed. I think under the regulations of the Navy a case of dismissal goes to the Secretary of the Navy for his approval, and then goes finally to the President. In this case the young man was unable to find out, in the first place, whether he had the right to get married or not, and then the commanding officer of the vessel and his other superior officers seem to have known nothing about it, and he was told nothing about it. It is rather a strange kind of a case, coming up in this way.

Mr. BUTLER. I ask that justice may be done to this young man, whom I do not know, but whom I pity.

Mr. FOSTER. I do not know him, either.

Mr. BUTLER. In justice to him, let it be said that the officer of the ship approved his marriage and sent the executive officer to the wedding as best man. They misled this young fellow, and the men who did it ought to be punished.

Mr. FOSTER. That is substantially what I stated a moment ago.

Mr. BUTLER. Excuse me. The young man did not know this naval regulation.

Mr. FOSTER. I said that he did not.

Mr. BUTLER. He was absolutely ignorant of it, and it was the business of the superior officer of the ship to have told him that.

Mr. FOSTER. I said he did not, but at the same time, in the regulations that were there it seemed that the particular page he was looking for was gone, and when he could have made an explanation he did not do it, but was waiting for a court-martial.

Mr. BRITTEN. I will say to the gentleman that in cases of this kind, for violation of the regulations on board ship, a court-martial invariably follows, so that the officer or enlisted man has a chance to defend himself. This young man expected a court-martial. There is no question about that; but the court-martial never occurred. Since then that regulation, No. 5, or whatever the number is, has been repealed, and young men graduating from the academy are permitted to marry at any time thereafter. This young man has kept himself in touch with the service all the time since he has been out of the Navy. He is at present connected with the Naval Militia of Michigan and is rendering very good service. I have here a letter from his superior officer aboard the U. S. S. *Yantic* that I would be pleased to read to the gentleman, if he cares to hear it.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. FOSTER. Certainly.

Mr. ESCH. This bill was given very careful consideration in the Sixty-second Congress, and voluminous testimony was taken, and it was favorably reported in that Congress. I reintroduced the bill in this Congress, and it again has been favorably reported.

In reference to the reason why this young officer did not find in the regulations the prohibition against marriage during his term as midshipman, I wish to state that he consulted his file of instructions and changes, and the officers of his mess also consulted their files, and they did not find sheet No. 5 of the instructions. Whose fault it was I do not know. This ship was away from Continental United States. It had been cruising in Pacific waters. The instructions would be sent, of course, from the authorities here in Washington, and possibly that sheet may have been omitted and was not distributed to these mess officers. This young man made an effort to find the law. He did not find the law, and when he went to his superior officer and invited him to attend the ceremony he was not advised of the existence of such a law, nor did any other superior officer on that vessel advise him of the existence of the law.

It seems to me that this young man used due diligence in ascertaining the law, and ought not to be held accountable under those circumstances. The commanding officer of this vessel, the *South Dakota*, was soon thereafter dismissed for the good of the service.

Mr. FOSTER. Will the gentleman state that again? I did not hear it.

Mr. ESCH. The commanding officer of this vessel was subsequently dismissed from the service.

The committee sought to get the testimony of the commanding officer and held this case open for four weeks seeking to find him in order to get his testimony, but were unsuccessful in finding him.

Mr. FOSTER. There seems to have been a sort of mystery about this case. Here was a young man who had graduated from the Naval Academy in 1908, and this occurred in 1909, a year after he graduated at Annapolis. It seems to me the young man ought to have known something about the regulations, but I realize that his commanding officer ought to have known and ought to have informed him if it was a violation of the regulations. It seems to me a strange thing that an officer of the Navy would not do so. I do not know anything about this commanding officer, what sort of a character he had, or anything about him.

Mr. BUTLER. We tried to find the commanding officer, but could not.

Mr. FOSTER. In view of the statement of the gentleman from Wisconsin [Mr. ESCH], who introduced this bill, I am going to withdraw my objection to it and let it be considered.

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The committee amendments were agreed to.

The bill as amended was ordered to be laid aside to be reported to the House with a favorable recommendation.

RATHBUN, BEACHY & CO.

Mr. BURKE of South Dakota. Mr. Chairman, I ask unanimous consent to return to Calendar No. 359.

The CHAIRMAN. The gentleman from South Dakota [Mr. BURKE] asks unanimous consent to return to Calendar No. 359, which is H. R. 2312, for the relief of Rathbun, Beachy & Co. Is there objection?

There was no objection.

The bill and the committee amendment, which appear earlier in to-day's proceedings, were again read.

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The committee amendment was agreed to.

The bill as amended was ordered to be laid aside to be reported to the House with a favorable recommendation.

SARAH M'LAUGHLIN.

The next business in order on the Private Calendar was the bill (H. R. 10897) for the relief of Sarah McLaughlin.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Sarah McLaughlin, widow of John McLaughlin, deceased, who was instantly killed in February, 1912, by reason of a defective cable, while engaged in the employment of the United States Government, in the Reclamation Service, at the Pathfinder Dam, Wyoming, the sum of $5,000.

With the following committee amendment:

Page 1, line 10, strike out "$5,000" and insert "$936.96."

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Reserving the right to object, as I understand it this is a personal injury case where the Government has already paid to the claimant the amount allowed by the general law, to wit, one year's salary, and the claimant now seeks to recover an additional amount. I think the committee possibly computes it at one year's salary.

Mr. GOOD. The Government has already paid one year's salary. A large part of it, however, was paid, not to the widow, but for the funeral expenses of the deceased. The amount paid was $936.96. Of that amount $350 was necessary to pay the funeral expenses of the decedent and the railway fare to the former home of the family. The decedent was killed without any fault on his part at Pathfinder Dam, Wyo. He was engaged on a little platform that was constructed overhanging the canyon. A cable was attached directly above his head, and while a heavy load was being carried across the canyon the cable broke and struck Mr. McLaughlin and knocked him from the platform on which he was standing to the bottom of the canyon—160 feet below. He was instantly killed.

He left two children, one 2 years old and one 6 years old, as I recall. Immediately after the death of her husband the widow was ill for some time, and what little remained of the year's salary after paying these expenses was used in paying every dollar of indebtedness owing by the husband during his lifetime. So there was hardly a penny left for the poor widow, who to-day is working on a farm for $3 a week trying to support the two minor children. These are the facts. Under an Executive order in accidents of this kind on the Panama Canal two years' salary is paid to the widow or the heirs. It seems to me there ought not to be any objection to this small claim being paid to the widow under the circumstances. I do not think that all the salary was paid to the woman; but whether it was or not, she turned around and paid the rest to her husband's creditors.

Mr. FOSTER. Mr. Chairman, I realize with the gentleman from Iowa that this is, of course, a case which excites the sympathies of every one of us, and I realize the gentleman desires to see this woman helped. I sympathize with him in his object in this case. I believe that under the compensation law which the Government has in existence now it does not pay a sufficient amount in cases of death or injury. But I also realize that if we commence now to open up these cases, which have all been settled on the same basis, although this may be a worthy one, as I believe it is, we ought to adjudicate all those that we have gone over in the past and allowed the one year's salary.

I remember in the district in which I live not very long ago a widow who was destitute, with minor children, wrote me in reference to a case similar to this, where her husband had lost his life in river and harbor work, which, I think, is under this law, and I could secure nothing more for her. I had passed through this House a bill a year or two ago for the widow of a man who lost his life while employed by the Bureau of Mines in Pennsylvania, and they paid but a year's salary. These two cases were cases that excited my sympathy as much as this case, and I regretted I could not secure more, but had to be content with the year's salary. I would be glad to consider a measure which would vote a larger amount for the widows or heirs of these people who lose their lives and leave them de-

pendent. I do not believe that we do right in not paying these people more, but I do not think that we ought to single out any one particular case, but that if we take up one we should take up all of them. I can furnish the gentleman from Iowa just as sad a case as his own. I would like to see that widow with her little children receive more money. I know that treating the cases in this way there must be a favored few that would come in here, and for that reason, until we do get a proper law to determine to go back and adjudicate all the cases, I can not consent to have one go through without the others, and for that reason I must object to the consideration of this bill at this time. I hope that Congress will not long delay the passage of a law that will give ample compensation for death or injury. Our Government ought to be just to those in hazardous occupations. It is wrong for the Government to have these people in its employ and when they are killed not to make sufficient provision for those who are dependent, or if crippled they should be paid a due compensation.

PAYMENT FOR CERTAIN SERVICES, NAVY DEPARTMENT.

The next business in order on the Private Calendar was the bill (H. R. 15309) providing for the payment for certain services arising under the Navy Department.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the following sums of money to the respective claimants enumerated herein, the same being the amount due said claimants for service rendered under the Navy Department as certified to the House by letter from the Secretary of the Treasury March 25, 1914: To W. F. Durand, Stanford University, California, $228.05; to Burton McCullom, Bureau of Standards, Department of Commerce, $325; to Pay Director J. S. Phillips, United States Navy, $70; to Pay Inspector Z. W. Reynolds, United States Navy, $529.93; to R. P. Andrews Paper Co., Washington, D. C., $21.15.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. SMITH of Minnesota. I object.

EDWARD A. THOMPSON.

Mr. REILLY of Connecticut. Mr. Chairman, I ask unanimous consent to return to Calendar No. 335, H. R. 7287, for the relief of Edward A. Thompson.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent to go back to Calendar No. 335. Is there objection?

Mr. MANN. What is it?

Mr. REILLY of Connecticut. The case of Edward A. Thompson, a claim to which objection was made by the gentleman from Mississippi.

Mr. MANN. I do not object.

The Clerk read the bill, as follows:

A bill (H. R. 7287) for the relief of Edward A. Thompson.

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 to Edward A. Thompson, to compensate him for the loss of his son, Harold A. Thompson, late a seaman on the U. S. S. *Georgia*, who was killed in the performance of his duty on said ship.

With the following committee amendments:

In line 5 strike out the figures "$10,000" and insert in lieu thereof the figures "$125.40." In line 6, after the word "Thompson," strike out the remainder of said bill and substitute the following words: "and said Edward A. Thompson shall be regarded as the duly designated beneficiary of the late Harold A. Thompson, a seaman on the U. S. S. *Illinois*, who was killed in the performance of his duty on said ship."

The CHAIRMAN. Is there objection?

Mr. BUTLER. Reserving the right to object, and I do not intend to object, I want to ask the gentleman if this bill was introduced to pay the sum of $10,000?

Mr. REILLY of Connecticut. Yes.

Mr. BUTLER. And the committee reported $125. That is quite a compromise.

Mr. REILLY of Connecticut. It was not a compromise; it was a necessity.

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The committee amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

MORRIS DIETRICH.

The next business in order on the Private Calendar was the bill (H. R. 10327) for the relief of Morris Dietrich.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Morris Dietrich, who was permanently disabled while engaged in the employment of the United States Government at Frankford Arsenal, in the State of Pennsylvania, on or about July 25, 1913, the sum of $5,000.

With the following committee amendment:

In line 10 strike out "$5,000" and insert in lieu thereof "$1,500."

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. I object.

BENJAMIN E. JONES.

The next business in order on the Private Calendar was the bill (S. 1803) for the relief of Benjamin E. Jones.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay Benjamin E. Jones, junior engineer, United States Geological Survey, the sum of $70, and said amount is hereby appropriated out of any money in the Treasury not otherwise appropriated, said sum to be in full of all losses incurred and damages sustained by him in an accident while engaged in the Government service.

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

THOMAS E. PHILIPS.

The next business in order on the Private Calendar was the bill (H. R. 858) for the relief of Thomas E. Philips.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws Thomas E. Philips shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a corporal in Company B, Sixteenth Ohio Volunteer Infantry, on the 11th day of January, 1863: *Provided*, That no pension, bounty, or allowance shall accrue prior to the passage of this act.

With the following committee amendments:

Strike out of line 7 the words "11th day of January" and insert in lieu thereof the words "20th day of October."

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The committee amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

S. L. BURGARD.

The next business in order on the Private Calendar was the bill (H. R. 17004) for the relief of S. L. Burgard.

The Clerk read the title of the bill.

Mr. MANN. Mr. Chairman, I object.

JOHN MITCHELL.

The next business in order on the Private Calendar was the bill (H. R. 12161) to remove the charge of desertion against John Mitchell.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Navy be, and he is hereby, authorized and directed to remove the charge of desertion against John Mitchell, late of United States gunboat *Oriole*, and issue to him an honorable discharge from the Navy of the United States.

With the following committee amendment:

Strike out all after the enacting clause and insert:

"That the Secretary of the Navy be, and he is hereby, authorized to remove the charge of desertion against John Mitchell, who served in the United States ships *Great Western*, *Oriole*, and *Huntress*, and to issue to the said John Mitchell, or in case of his death to his heirs or other legal representatives, a certificate of discharge: *Provided*, That no pay or bounty for any period of time during which the said John Mitchell was absent from his command without leave of absence shall accrue or be payable by virtue of the passage of this act."

The CHAIRMAN. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object, I do not know that I have any objection to passing a proper bill. This bill in the form that it is in would not do the man an earthly bit of good, if we passed it, because it does not provide for an honorable discharge, and it also purports to remove the charge of desertion and change the records, when the War Department holds that you can not do that. It is true the bill was drawn by the Navy Department. I do not know whether the President would veto it, but it would not grant the man a pension, and probably that is what he wants.

Mr. HAY. I will state that the President has vetoed similar bills heretofore drawn for the purpose of removing the charge of desertion from soldiers.

Mr. MANN. If this bill related to the Army, this would be vetoed.

Mr. HAY. Undoubtedly; and I do not see any reason why the same rule should not apply to the Navy.

Mr. MANN. There is none, probably, except that in this case the Secretary of the Navy sent this over to the committee, but I do not suppose he knew anything about it personally.

But it does not provide for an honorable discharge nor does it provide that he shall be considered as having had an honorable dicharge. It would not do the man any good.

Mr. REILLY of Wisconsin. Mr. Chairman, in answer to the gentleman from Illinois, I will state that this bill was drawn to conform to the statute passed in 1888, providing for the relief of certain men of the Navy or Marine Corps from the charge of desertion.

This law gave the Secretary of the Navy the right, in his discretion, to remove the charge of desertion standing on the records of the Navy against any enlisted man in the Navy or the Marine Corps who served in the Civil War, under certain conditions.

One condition required to exist in order that the Secretary of the Navy might exercise his discretion was that the enlisted man seeking relief must have faithfully served until May 1, 1865, having previously served six months or more.

This law also provided that when the charge of desertion was removed it was the duty of the Secretary of the Navy to issue a certificate of discharge to the said enlisted man, or, in case of his death, to his heirs or to his legal representatives.

The facts concerning the case of John Mitchell are as follows:

John Mitchell, in May, 1861, enlisted as a private in Company D, Third New York Volunteer Infantry, and after serving two years received an honorable discharge.

In March, 1865, Mitchell enlisted in the Navy for two years as a landsman, and served until August 26, 1865, when he deserted at Mound City, Ill.

Shortly before Mitchell's desertion his father had died, and prior to that one of his brothers had died in the war, and he went home at the urgent request of his mother, and, as he thought at the time, when there was nothing more for him to do, the war being over. It appears that he did not know that it was required to be mustered out.

Notwithstanding his honorable discharge for previous services in the war, Mitchell could not get the charge of desertion against him on the records of the Navy Department removed under the statute of 1888, because he had not served in the Navy six months prior to May 1, 1865.

The object of this bill is to clear up the Navy record of this man by removing the charge of desertion and by issuing to him a discharge certificate as provided by the law of 1888.

Mr. MANN. Mr. Chairman, the gentleman wants an honorable discharge. This bill would not give it to him. It would not do the man any good to pass the bill. The President has repeatedly vetoed bills in this form. I am not willing to pass this bill in this form by unanimous consent and then say to the next man that I will not consent.

Mr. REILLY of Wisconsin. This man already has one honorable discharge, and he is not asking for an honorable discharge in this bill. While the bill as originally introduced called for an honorable discharge, the change was made to the present form of the bill on the suggestion and recommendation of the Secretary of the Navy, the idea of the Secretary of the Navy being that while Mr. Mitchell's case did not come within the letter of the statute of 1888, it came within the spirit of that statute.

Mr. MANN. But they were honorably discharged.

Mr. REILLY of Wisconsin. The gentleman from Illinois is mistaken. The men who come within the spirit of the statute of 1888 did not get an honorable discharge. The statute simply requires that it was the duty of the Secretary of the Navy to issue to these men a discharge.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. I object.

I. C. JOHNSON, JR.

The next business in order on the Private Calendar was the bill (H. R. 11767) for the relief of I. C. Johnson, jr.

The Clerk read the title of the bill.

Mr. MANN. Mr. Chairman, I object.

RICHARD PHILLIP M'CULLOUGH.

The next business in order on the Private Calendar was the bill (H. R. 12064) for the relief of Lieut. Richard Phillip McCullough, United States Navy.

The Clerk read the title of the bill.

Mr. MANN. Mr. Chairman, I object.

COL. DAVID L. BRAINARD, QUARTERMASTER CORPS, UNITED STATES ARMY.

The next business in order on the Private Calendar was the bill (S. 5293) for the promotion and retirement of Col. David L. Brainard, Quartermaster Corps, United States Army.

The Clerk read the title of the bill.

Mr. MANN. Mr. Chairman, I object.

SETH WATSON.

The next business in order on the Private Calendar was the bill (S. 1149) for the relief of Seth Watson.

The Clerk read as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Seth Watson, who was a first lieutenant of Company B, Twenty-eighth Regiment United States Colored Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 24th day of June, 1864: *Provided*, That no pay or bounty shall accrue or become payable by reason of the passage of this act.

The CHAIRMAN. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

The bill was ordered to be laid aside to be favorably reported to the House.

THOMAS G. RUNNING.

The next business in order on the Private Calendar was an act (S. 663) for the relief of Thomas G. Running.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Thomas G. Running the sum of $720 for injuries received while employed in the United States Forest Service during the year 1904.

The committee amendment was read, as follows:

Page 1, line 6, strike out "$720" and insert "$2,500."

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Chairman, reserving the right to object, this is where I suppose, in an inadvertent moment, the committee decided to put in $2,500 instead of a year's salary. Does the gentleman desire to insist on that amendment?

Mr. POU. Mr. Chairman, I will say to the gentleman this is a little different from the ordinary run of these cases. This man has totally lost his eyes. He is out there alone, and the committee thought in view of the fact he had lost the sight of both of his eyes that $720 was totally inadequate.

Mr. MANN. Oh, well, "totally inadequate." Of course it is totally adequate to recompense a man if we paid $50,000 for the loss of his eyesight.

Mr. POU. Well, there is a great deal of difference between $720 and $2,500 to a man who has nothing.

Mr. MANN. I object.

Mr. POU. Mr. Chairman, I will ask the gentleman if he will object in the event we agree to the Senate bill?

Mr. MANN. That is what I asked the gentleman, but I could not get an answer.

Mr. POU. I did not so understand the gentleman from Illinois. I am willing to accept the Senate bill if I can put it through without objection. Mr. Chairman, I ask unanimous consent that the bill be laid aside with a favorable recommendation carrying the sum of $720, as provided for in the Senate bill.

Mr. BUTLER. And that man is blind.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that the bill be laid aside with a favorable recommendation in the amount of $720, as provided in the Senate bill. Is there objection? [After a pause.] The Chair hears none.

So the bill was laid aside with a favorable recommendation.

BENJAMIN A. SANDERS.

The next business in order on the Private Calendar was the bill (H. R. 12198) for the relief of Benjamin A. Sanders.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Benjamin A. Sanders, the sum of $2,500, in full compensation for injuries received by him on December 26, 1912, while in the performance of his duties as an employee of the United States Government, being principal of the Uintah Indian boarding school, Whiterocks, Utah, by a flying piece of a broken emery wheel used as a part of the equipment of said school.

The committee amendment was read, as follows:

Page 1, line 6, strike out "$2,500" and insert "$1,000."

The CHAIRMAN. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

The committee amendment was agreed to.

The bill as amended was ordered to be laid aside to be reported favorably to the House.

V. E. SCHERMERHORN AND OTHERS.

The next business in order on the Private Calendar was an act (S. 4930) for the relief of V. E. Schermerhorn, E. C. Caley, G. W. Campbell, and Philip Hudspeth.

The Clerk read the title of the bill.

Mr. MANN. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Illinois objects.

Mr. HELVERING. Mr. Chairman, I hope the gentleman will withhold his objection for just a moment.

Mr. MANN. I will be very willing to do so, although it is now 5 o'clock, but I shall object in the end. There is no merit in the bill, according to my opinion. I thought possibly I was expediting the rest of the calendar by objecting at this moment. I am not otherwise interested in it.

Mr. HELVERING. I do not know, but perhaps the gentleman has read this report very carefully.

Mr. MANN. I have read the report and I know what it is.

Mr. HELVERING. The gentleman undoubtedly believes the property was destroyed by the employees of the Government?

Mr. MANN. I have no doubt the property was burned, not the slightest, but there is no evidence to show the Government had anything to do with it. If they had, they are not responsible. The people ought to carry insurance.

Mr. HELVERING. Mr. Chairman, I ask unanimous consent to extend my remarks by printing the Senate report on this bill.

The CHAIRMAN. The gentleman asks unanimous consent to extend his remarks in the manner indicated. Is there objection? [After a pause.] The Chair hears none.

The Senate report is as follows:

[Senate Report No. 461, Sixty-third Congress, second session.]

The Committee on Claims, to whom was referred the bill (S. 4930) for the relief of V. E. Schermerhorn, E. C. Caley, G. W. Campbell, and Philip Hudspeth, having considered the same, report thereon with the recommendation that the bill do pass with the following amendments:

In line 7, strike out the figures "$6,250" and insert in lieu thereof the figures "$2,767.45."

On page 2, line 2, strike out the figures "$7,592" and insert in lieu thereof the figures "$3,109.45."

The facts in the case are fully set forth in the following proceedings of a board of officers convened at Fort Riley, Kans., which is appended hereto and made a part of this report:

Proceedings of a board of officers convened at Fort Riley, Kans., pursuant to the following orders:

Special Order No. 213. HEADQUARTERS, *Fort Riley, Kans., October 16, 1908.*

A board of officers is appointed to inquire into and report upon the origin and circumstances of a prairie fire which occurred on this military reservation, near the northern boundary, on the 15th instant, and which is reported to have spread to and caused serious damage on the farm of Mr. Schermerhorn, adjoining the reservation.

The board will, if possible, determine the responsibility for the occurrence and estimate the amount of damage done outside of the reservation.

Detail for the board: Maj. John E. McMahon, Sixth Field Artillery; Capt. Charles R. Lloyd, Sixth Field Artillery; First Lieut. James W. Riley, Sixth Field Artillery.

By order of Col. Ward:

ERNEST HINDS, *Adjutant General.*

—

Special Order No. 240. HEADQUARTERS, *Fort Riley, Kans., November 18, 1908.*

* * * * * * *

2. Capt. Charles R. Lloyd, Sixth Field Artillery, is, on account of absence from the post, relieved as a member of a board of officers appointed by Special Order No. 213, current series, these headquarters, and Capt. Louis T. Boiseau, Sixth Field Artillery, is detailed in his stead.

By command of Gen. Kerr:

N. K. AVERILL, *Captain, Seventh Cavalry, Acting Adjutant General.*

The board convened pursuant to the above order has the honor to submit the following report:

Upon investigation the board finds that a grass fire was started on the morning of October 15, 1908, by Pvt. Marcele Bxdek, Battery A, Sixth Field Artillery. While the battery was engaged in target practice on Packers Hill, this soldier was standing near his wheel pair, in the position occupied by the limbers. While engaged in lighting his pipe, he was compelled to drop it suddenly in order to attend to his horses, and the fire from the pipe was communicated to the long grass. A high wind, which was blowing at the time, spread the fire rapidly, but it was eventually put out and guards stationed around the edges of the burned area to prevent the recurrence of the fire from stray sparks. These guards were removed when the battery returned to the post. In the afternoon of the same day another grass fire broke out, which spread rapidly, owing to the high wind, and which, in spite of the efforts made to extinguish it, extended to the farms north of the reservation, owned, respectively, by V. E. Schermerhorn, Philip Hudspeth, and G. W. Campbell. Part of Mr. Schermerhorn's farm is leased by E. C. Caley.

The amount of damage is estimated as follows:

G. W. Campbell, 2 loads of sorghum, at $8	$16
Philip Hudspeth, 16 tons hay, at $8	128
Philip Hudspeth, 20 bushels corn, at $0.30	6
E. C. Caley, 15 tons hay, at $8	120
E. C. Caley, 240 bushels corn, at $0.30	72

As regards the injury done the Schermerhorn orchard, the board has found considerable difficulty in determining the value of the damage. The fire spread irregularly through the orchard, singeing the trees and injuring the crop of apples at the time on the trees. Mr. Schermerhorn submitted a sketch of the burned area, together with an affidavit of his father, E. R. Schermerhorn, stating that the trees were valued at $10 each. The sketch and affidavit are forwarded herewith, marked "Inclosure 1." A careful examination of the burned area was then made by F. E. Conter, forester, quartermaster department, whose report and sketch are forwarded herewith, marked "Inclosure 2."

From these data it appears that there were 12.25 acres over which the damage was spread, but that the 637 tree spaces burned over cover an area of 9.12 acres. From the accompanying letter (inclosure 3) of Mr. Albert Dickens, head of the department of horticulture and forestry, Kansas State Agricultural College, it appears that the value of orchard lands similar to Mr. Schermerhorn's varies from $200 to $250 an acre. On this basis, allowing the claimant the 12.25 acres burned over, the actual damage done would be between $2,450 and $3,062.50. To this should be added $11.20, the value of 28 bushels of apples at 40 cents per bushel.

If, on the other hand, the damage be estimated by considering the number of trees actually destroyed, and allowing $10 per tree, as claimed by Mr. Schermerhorn, the damage would be as follows:

422 trees, 8 to 9 years, at $10	$4,220.00
6 trees, 1 to 2 years, at $1	6.00
31 sprouts, at 20 cents	6.20
28 bushels apples, at 40 cents	11.20
Total	4,243.40

Allowing a stand of 70 trees to the acre, the valuation of the trees at $10 each would make the orchard worth $700 per acre, which is believed to be excessive.

The board is of the opinion that it would be just to all parties concerned to assess the damage done as follows:

12.25 acres, at $225 per acre	$2,756.25
28 bushels apples, at 40 cents	11.20
Total	2,767.45

From an examination made of the burned area and the testimony of the several officers and enlisted men who were detailed to superintend the putting out of the first fire, the board is not prepared to say that the second fire originated from the first. The evidence shows that all due precautions were taken to extinguish the original fire and to prevent its spread, and that when the second fire broke out in the afternoon immediate steps were taken to put it out. It is the experience of the members of the board that grass fires are continually breaking out on the reservation during the dry season, and that it is generally found impossible to determine their origin or cause. In view of the above, the board is unable to determine definitely the responsibility for the fire which caused the damage.

At the time of the fire Col. F. K. Ward, Seventh Cavalry, was in temporary command of the post, the commanding general being on sick report.

JNO. E. MCMAHON, *Major, Sixth Field Artillery.*
L. T. BOISEAU, *Captain, Sixth Field Artillery.*
J. W. RILEY, *First Lieutenant and Battalion Quartermaster, Sixth Field Artillery.*

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HEADQUARTERS, *Fort Riley, Kans., March 10, 1909.*

Approved.

It is not shown that either Col. F. K. Ward, Seventh Cavalry, commanding Fort Riley at the time of the fire; First Lieut. B. F. Browne, Sixth Field Artillery, the officer in command of Battery A, Sixth Field Artillery, on the drill day in question; or the United States is responsible for the loss referred to from fire.

J. B. KERR, *Brigadier General, Commanding.*

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[First indorsement.]

HEADQUARTERS, *Fort Riley, Kans., March 15, 1909.*

Respectfully forwarded to the adjutant general, Department of the Missouri, Omaha, Nebr.

The board has very carefully investigated this matter, and the proceedings are forwarded for the information of higher authority.

J. B. KERR, *Brigadier General, United States Army, Commanding.*

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[Second indorsement.]

HEADQUARTERS DEPARTMENT OF THE MISSOURI, *Omaha, Nebr., March 23, 1909.*

Respectfully returned to the commanding general, Fort Riley, Kans.

The board will make an examination after June 1 and ascertain the number of fruit trees actually killed by the fire.

The board will also obtain the statements of the owners of the damaged property, as to the origin of the fire, and as to the efforts made by them to extinguish it and to protect their own property from destruction.

By command of Brig. Gen. Morton.

C. W. KENNEDY, *Adjutant General.*

—

[Third indorsement.]

HEADQUARTERS, *Fort Riley, Kans., March 25, 1909.*

Respectfully returned to Maj. John E. McMahon, Sixth Field Artillery, president of the board, inviting attention to preceding indorsement.

By command of Brig. Gen. Kerr.

ERNEST HINDS, *Adjutant General, Commanding.*

FORT RILEY, KANS., *June 23, 1909.*

The board met at 11.30 a. m.

Present: Maj. John E. McMahon, Sixth Field Artillery; Capt. Louis T. Boiseau, Sixth Field Artillery.

Absent: First Lieut. J. W. Riley, Sixth Field Artillery, absent with leave, per S. O. 96, headquarters Department of the Missouri, May 19, 1909.

The evidence of the property owners as to the measures taken to protect their property against damage by fire is forwarded herewith, marked "Inclosures 8, 9, 10, 11, and 12."

From an inspection made by the board, assisted by two foresters of the Quartermaster's Department, of the Schermerhorn orchard, it appears that an area of about 12 acres of the orchard has been cleared and planted in corn since the fire. The board found that the fruit trees had been removed from this area and were piled in three heaps on the adjoining ground. These trees were counted as carefully as possible and the number found to be about 625. From this it would appear that

the amount of damages estimated by the board in the original proceedings is apparently correct.

There being no further business, the board adjourned sine die.

JNO. E. MCMAHON,
Major, Sixth Field Artillery, President.
L. T. BOISEAU,
Captain, Sixth Field Artillery, Member.

HEADQUARTERS,
Fort Riley, Kans., June 26, 1909.

Approved.

F. K. WARD,
Colonel Seventh Cavalry, Commanding Post.

JACOB M. COOPER.

The next business in order on the Private Calendar was an act (S. 754) for the relief of Jacob M. Cooper.

The Clerk read the title of the bill.

Mr. MONDELL. Mr. Chairman, I object.

MIRICK BURGESS.

The next business in order on the Private Calendar was an act (S. 5065) for the relief of Mirick Burgess.

The bill was read, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Mirick Burgess, who was a private of Company I, Third Regiment New Hampshire Volunteer Infantry, and of Company H, Twelfth Regiment United States Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of the last-named company and regiment on March 28, 1863: *Provided*, That no pay nor bounty shall accrue or become payable by reason of the passage of this act.

The CHAIRMAN. Is there objection to the present consideration of this bill?

Mr. MONDELL. Mr. Chairman, I object.

Mr. STEVENS of New Hampshire. Will the gentleman reserve his objection?

Mr. MONDELL. Mr. Chairman, I will withhold my objection long enough to say that this seems to me a clear case of desertion. As soon as the man had secured his bounty on his second enlistment and what was coming to him on his first enlistment he deserted from his second enlistment. He received, I believe, a bounty on his second enlistment; and as soon as he was sure of that bounty, a month or two after he enlisted and immediately after he secured his back pay, he deserted.

Mr. STEVENS of New Hampshire. If the gentleman will examine the report, he will find——

Mr. MONDELL. I have examined it.

Mr. STEVENS of New Hampshire. He will see that this soldier after about a year's service was wounded and was in the hospital for quite a long while.

Mr. MONDELL. I saw that.

Mr. STEVENS of New Hampshire. While he was in the hospital he was reenlisted in another regiment, but he never joined the regiment. He remained at the hospital.

Mr. MONDELL. I was of the opinion he did join the regiment and was with the regiment for a short time, and the very day or the day after he received his full pay for his first enlistment, having in the meantime secured his bounty on his second enlistment, he deserted——

Mr. STEVENS of New Hampshire. I think the record shows——

Mr. MONDELL. The very day or day after.

Mr. STEVENS of New Hampshire. I think the record shows that he never joined the Second Regiment.

Mr. MONDELL. Assuming that he never joined the Second Regiment, so much the worse.

Mr. STEVENS of New Hampshire. He was not fit for service, and remained for a considerable time in the hospital.

Mr. MONDELL. Then he should not have been accepted as a veteran volunteer and given a bounty if he was not in condition to join his company or his organization.

Mr. STEVENS of New Hampshire. I think if the gentleman will read the record——

Mr. MONDELL. Mr. Chairman, I do not want to take the time of the committee except to say this, that a common sort of desertion—and I have gone over many cases in former years—are those of men who having served one brief enlistment, then enlisted as veterans, secured bounties, and a few days afterwards deserted.

Mr. STEVENS of New Hampshire. I do not think that is the case here. I think if the gentleman will read the report he will be convinced that is not the case.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MONDELL. I object.

PHILIP COOK.

The next business in order on the Private Calendar was an act (S. 1063) for the relief of Philip Cook. The bill was read in full.

The CHAIRMAN. Is there objection to the present consideration of this bill?

Mr. MONDELL. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Wyoming objects, and the Clerk will report the next bill.

CALEB T. HOLLAND.

The next business in order on the Private Calendar was the bill (H. R. 17752) for the relief of Caleb T. Holland.

The bill was read, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers Caleb T. Holland, who was a private of Company E, Sixteenth Regiment Illinois Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 18th day of April, 1864.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MONDELL. Mr. Chairman, this man deserted three separate and distinct times. I object.

Mr. HILL. Will you reserve your objection for a minute?

Mr. MONDELL. I will reserve my objection.

Mr. HILL. I know this man personally, and if you will read the record carefully—and if that is not sufficient I will get the complete report from The Adjutant General—you will find one of those desertions was at the time he was sick with typhoid pneumonia, and they lost track of him; but he went back to his company in a short time. The desertion you speak of was one that happened on the 18th of April, 1864, over in Indiana, when the regiment was moving. At this time, as the affidavit sets out fully—and the evidence is overwhelming—the captain of the company had a grudge against this man. He was charged with breaking into a barrel of rum, which I suppose he did not do, from overwhelming evidence, and it was charged he was going to be put in the guardhouse. Now, this man did not do any more than leave the service and join another company up at Indianapolis.

Mr. MONDELL. That is what all the bounty jumpers did.

Mr. HILL. I deny that this man was a bounty jumper, and this record says he did not receive any bounty. He did not receive any bounty at all.

Mr. MONDELL. There is no record from the War Department saying he did not receive a bounty.

Mr. HILL. They so stated in the report here.

Mr. MONDELL. Somebody might be mistaken. But if this man when he deserted and then reenlisted under an assumed name did not receive a bounty or some cash consideration, then I am very, very much mistaken.

There is nothing in the War Department records that I can see to indicate that he did not. He seems to have been an habitual deserter. He may be an exemplary citizen now. That is the unfortunate feature of some of these cases—that men who did things in their youth that they should not have done afterwards become very good citizens. But I do not believe that we should cure records of that kind. I do not think we should correct a record of that kind and place a man who was almost a professional deserter on the same footing with regard to the benefits of the pension laws and otherwise as a man who has honorably served his country.

Mr. DONOVAN. Mr. Chairman, the regular order.

The CHAIRMAN. The regular order is demanded. Is there objection?

Mr. MONDELL. I object.

The CHAIRMAN. The gentleman from Wyoming objects. The Clerk will report the next bill.

TITLE TO CERTAIN LAND IN ST. LOUIS, MO.

The next business in order on the Private Calendar was the bill (H. R. 11765) to perfect the title to land belonging to the M. Forster Real Estate Co., of St. Louis, Mo.

The Clerk read the bill, as follows:

Whereas it appears by satisfactory evidence adduced that the M. Forster Real Estate Co., of St. Louis, Mo., a corporation existing under and by virtue of the laws of the State of Missouri, is the equitable owner of all right, title, and interest in and to a parcel of land situated in city block No. 57 of the city of St. Louis and the State of Missouri, more particularly described as follows: Beginning at a point on the west line of Second Street north 17° 10′ east 64 feet 2 inches from the northeast corner of Second and Myrtle Streets; running thence north 72° 12′ west 160 feet 10 inches; thence north 17° 11′ east 6 feet 2 inches; thence south 72° 3′ east 160 feet 10 inches; thence south 17° 10′ west 6 feet 2½ inches to the place of beginning; bounded on the north by the claim of Fanny Deaver, on the south by the claim of Alexis Lalande's legal representatives, on the east by Second Street, and on the west by the claim of Marie Rose Lajoye and Helen Leroux's representatives. And it appearing further that legal title to said parcel of land is now vested in the United States of America, said legal title at no time having been granted, released, confirmed, or in any wise relinquished to the owner or owners of said land, and no survey thereof having been made by the United States; and

Whereas it appears further that said M. Forster Real Estate Co. and Marquardt Forster, its grantor, have owned and been in open, notorious, and continuous possession of said land for a period of more than 20 years, to wit, since the 9th day of June, 1890: Now, therefore,

Be it enacted, etc., That all the right, title, and interest of the United States in and to a certain parcel of land situated in the city of St. Louis and State of Missouri, said land being more fully described as follows, to wit: Beginning at a point on the west line of Second Street north 17° 10′ east 64 feet 2 inches from the northeast corner of Second and Myrtle Streets; running thence north 72° 12′ west 160 feet 10 inches; thence north 17° 11′ east 6 feet 2 inches; thence south 72° 3′ east 160 feet 10 inches; thence south 17° 10′ west 6 feet 2½ inches to the place of beginning; bounded on the north by the claim of Fanny Deaver, on the south by the claim of Alexis Lalande's legal representatives, on the east by Second Street, and on the west by the claim of Marie Rose Lajoye and Helen Leroux's representatives, for which no confirmation has heretofore been granted or no survey made by the United States, be, and the same is hereby, granted, released, relinquished, and confirmed by the United States to the M. Forster Real Estate Co., a corporation existing under and by virtue of the laws of the State of Missouri, owners of the equitable title thereto, and to its successors and assigns, forever, as fully and completely in every respect whatever as could be done by patent issued therefor according to law: *Provided*, That the confirmation granted shall amount only to a relinquishment of any title that the United States has or is supposed to have in and to said land and shall not be construed to abridge, impair, injure, prejudice, or divest in any manner any valid right, title, or interest of any person or body corporate whatsoever, the true meaning and intent of this act being to concede and abandon all right, title, and interest of the United States to said corporation, the M. Forster Real Estate Co., its successors and assigns, who would be the true and lawful owners of said land under the laws of the State of Missouri, including the laws of prescription, in the absence of said interest, title, and estate of the United States.

With committee amendments, as follows:

Amend by striking out all of the preamble.

Amend, page 3, line 8, by inserting, after the word "representatives,' the following: "as shown on the plat of the town of St. Louis, approved by the United States surveyor general on April 14, 1859, and on file in the General Land Office."

Amend, page 3, lines 9 and 10, by striking out the words "or no survey made by the United States."

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The CHAIRMAN. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next bill.

COMMODORE T. E. DE WITT VEEDER.

The next business in order on the Private Calendar was the bill (H. R. 7848) for the relief of Ten Eyck De Witt Veeder, commodore on the retired list of the United States Navy.

The bill was read.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. I object, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois objects. The Clerk will report the next one.

IDA SEYMOUR TULLOCH ET AL.

The next business in order on the Private Calendar was the bill (H. R. 16755) authorizing and directing the Secretary of the Interior to execute and deliver a deed in favor of and to Ida Seymour Tulloch, Roberta Worms, and Ethel White Kimpell for sublot 38 of original lot 17 in reservation D, upon the official plan of the city of Washington, in the District of Columbia.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to execute and deliver a deed in favor of and to Ida Seymour Tulloch, Roberta Worms, and Ethel White Kimpell, conveying to them in fee, as tenants in common, sublot 38 of original lot 17 in reservation D, laid out upon the low grounds of the city of Washington, in the District of Columbia, which lot was sold to Ambrose White on December 11, 1830, under the provisions of the act of Congress of May 7, 1822 (3 Stat. L., 691), but no deed of said lot was ever made under said act or under the act of Congress of July 1, 1879 (21 Stat. L., 47), to him or his successors in the equitable title thereof.

With a committee amendment, as follows:

Amend, page 1, line 4, by striking out the words "and directed" and inserting the words "at his discretion."

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

The CHAIRMAN. The Clerk will report the next one.

OTTO L. WOLFSTEINER AND LILLIE M. THOMSON.

The next business in order on the Private Calendar was the bill (H. R. 6201) to authorize the Secretary of the Interior to issue a deed to the persons hereinafter named for part of a lot in the District of Columbia.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized and directed to execute and deliver to Otto L. Wolfsteiner and Lillie M. Thomson, of the city of Washington, D. C., as tenants in common, a deed conveying to them in fee the following-described part of lot 39, of reservation 10, of the low grounds, District of Columbia, on the west side of Third Street, north of Pennsylvania Avenue, city of Washington: Beginning at the northeast corner of said lot 39, thence south on the west side of Third Street 25 feet to the south end of said lot; thence west 150 feet; thence north 25 feet; and thence east 150 feet to the place of beginning, and known as the eastern part of said lot 39, which lot with others was sold to Judge Buckner Thruston in 1822, under the provisions of the act of Congress of May 7, 1822 (3 Stats., 691), but no deed was ever made to him, or his successors in title, from these United States for such eastern part of said lot 39.

With the following committee amendment:

Page 1, lines 3 and 4, strike out the words "and directed" and insert in lieu thereof the words "in his discretion."

The CHAIRMAN. Is there objection to the present consideration of the bill?

There was no objection.

The committee amendment was agreed to.

The bill as amended was ordered to be laid aside to be reported to the House with a favorable recommendation.

DANIEL M. FROST.

The next business in order on the Private Calendar was an act (S. 1807) for the relief of Daniel M. Frost.

The bill was read, as follows:

Be it enacted, etc., That Daniel M Frost be authorized to make a homestead entry for an unappropriated quarter section of public land, subject to said entry, as though his former entry No. 6595, Larned (Kans.) series, had not been made.

SEC. 2. That the Secretary of the Interior is authorized and directed to allow said Frost credit for the residence and cultivation had by him in connection with said Larned entry as though it were had on said second entry when proof is submitted on the latter.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Reserving the right to object, I have some doubt as to the propriety of the first section of this bill to give this man the right to make another homestead entry, but on the facts stated in the report I have no doubt whatever that the second section ought not to be enacted, because it practically gives him scrip for 160 acres which he is not entitled to.

Mr. JOHNSON of Utah. I do not understand that it gives him any such right. It gives him the right to go upon the public domain and make a homestead entry, and it authorizes the Secretary of the Interior to allow him credit for residence upon this new entry of the same length of time that he formerly resided on the other entry.

Mr. MANN. He was there long enough to buy the land—to commute.

Mr. JOHNSON of Utah. Yes.

Mr. MANN. It is just like issuing to him scrip for the land.

Mr. JOHNSON of Utah. But that he might get after a year's residence; but on a homestead entry he would have to reside for five years.

Mr. MANN. The fact of the matter is that probably the man was guilty of collusion in making his first homestead entry, and he did not get it.

Mr. JOHNSON of Utah. I hope the gentleman from Illinois will not object. The record discloses the fact that this man went upon this land believing it was subject to homestead entry and that another man by the name Weine attempted to make a preemption filing a month or so after Frost had made the homestead entry. This matter was contested and went before the Commissioner of the General Land Office and before the Secretary of the Interior, who both held that Mr. Frost had the right to make his entry. Afterwards, under a new Secretary of the Interior, Mr. Frost offered to pay or commute the price of the land—$110. An appeal was taken from that, and the new Secretary of the Interior then held on appeal that this land was not subject to homestead entry, but that it was subject to preemption. This man Frost having no right of preemption, having exhausted his right, of course could not take the land. Meantime, as the report shows, he had erected a house on the land and had lived there with his family. After this holding of the Secretary of the Interior, and after a patent had issued to this man Weine, Mr. Frost brought an action, which he carried to the Supreme Court of the United States, claiming that this man Weine held the land as a trustee for him—Frost. The court decided against him,

He pursued the matter for 10 years, attempting to get title to this land. He is now a resident of Uinta County, in my State. He is a very aged man and a poor one, and it seems to me under these circumstances, having acted in good faith, he certainly ought to have the right conferred by this bill. He carried his contest to the court of last resort. It seems to me that under these circumstances he ought to be allowed whatever residence he can prove to apply on the new homestead when he proves up.

Mr. MANN. Mr. Chairman, of course I do not know as to the value of the land which was in controversy for these 10 years. The controversy went to the Supreme Court of the United States. But I suspect it was more valuable than the ordinary homestead entry. This man made a homestead entry, and it was charged he made it by collusion with the land office. The report says:

It was charged that Frost made his entry by collusion with the register of the United States land office at Larned, who suggested to him the making of an entry for the land involved and accepted an application executed at Dodge City, instead of at the local office.

It is true that the department was not able to say that there was collusion. I think that what is stated in the report shows that there was collusion and that he was not a bona fide settler on the land. I am willing to let him have the right to make a homestead entry, but if what he wants is scrip worth a few dollars an acre, I do not think he is entitled to it.

Mr. JOHNSON of Utah. I would prefer to have the second section stricken out rather than to have the bill lost.

Mr. HOWELL. Mr. Chairman, the man has a right now to make a homestead entry even if this bill did not pass. The only relief at all afforded by the bill is contained in section 2. If that were stricken out, the bill would be a nullity. A man who has heretofore lost his homestead right for any cause other than by fraud or for a valuable consideration has the right to make a second homestead entry under existing law. The fact is, Mr. Frost, now well advanced in years, and a pioneer in the Uinta Indian Reservation, recently opened to settlement, made a homestead entry and established a home on land which he believed was subject to homestead entry. His entry was contested on the ground that these lands under the terms of their cession as formerly a part of an Indian reservation could only be acquired under the preemption land law then in force. The question was by no means a clear one, and after several favorable decisions the case finally, on appeal to the Secretary of the Interior, was decided adverse to him and he lost the land and improvements he had made and the time he had devoted to his entry in good faith. He now asks in this bill to simply have the time of residence on his former homestead apply on another homestead entry. He exhausted every remedy in defense of his former entry, and surely, from the decisions in his favor, he was justified in believing he had the right to make his former entry.

Mr. MANN. He seems to have been in this business a good deal.

Mr. HOWELL. No; there is nothing in the report in the case that warrants this imputation. The Assistant Secretary exonerates him from any charge of collusion. His chief and only offending was to make a bona fide homestead entry on lands that were afterwards held to be subject only to acquisition under the preemption law. It is true he had previously exhausted his right of preemption, but had a perfect right to make a homestead entry. Now that in his advanced age he has gone into a new country to aid in its development and settlement it is only fair and just that the time of residence on his former entry should be credited to him in making a home in the wilderness. He lost his former homestead, made in good faith, through no fault of his, but by the ambiguity of the laws applicable to the area embracing it, besides sustaining the heavy expense of protracted litigation in which the decisions varied for and against him. This bill provides but a small measure of relief, and I appeal to the gentleman from Illinois [Mr. MANN] not to interpose his fiat of objection to its consideration.

Mr. DONOVAN. Mr. Chairman, the regular order.

The CHAIRMAN. The regular order is, Is there objection?

Mr. MANN. I object.

G. L. TANEYHILL.

The next business in order on the Private Calendar was an act (S. 1124) for the relief of G. L. Taneyhill.

The Clerk read the title to the bill.

Mr. MANN. I object.

HERMAN VON WERTHERN.

The next business in order on the Private Calendar was an act (S. 2472) for the relief of Herman von Werthern.

The Clerk read the title to the bill.

Mr. MANN. Mr. Chairman, I object.

AARON S. WINNER.

The next business in order on the Private Calendar was an act (S. 725) to correct the military record of Aaron S. Winner.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws Aaron S. Winner, who was a private in Company H, One hundred and forty-ninth Regiment Indiana Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of that company and regiment on the 25th day of July, 1865.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. SMITH of Minnesota. I object.

JOHN P. FITZGERALD.

The next business on the Private Calendar in order was an act (S. 2715) to amend the military record of John P. Fitzgerald.

The Clerk read the bill.

The CHAIRMAN. Is there objection?

Mr. SMITH of Minnesota. I object.

WALDO H. COFFMAN.

The next business in order on the Private Calendar was an act (S. 4023) for the relief of Waldo H. Coffman.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Waldo H. Coffman, formerly a private of the Ninety-third Company, Coast Artillery Corps, United States Army, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company on the 18th day of August, 1913: *Provided*, That all pay and allowances due him on said date shall be allowed him.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. SMITH of Minnesota. I object.

Mr. CAMPBELL. Will not the gentleman withhold his objection?

Mr. SMITH of Minnesota. I will.

Mr. CAMPBELL. This is a Senate bill. It has been reported and acted upon in that body; it has been favorably reported by the Committee on Military Affairs of the House. This party was tried in June and July, 1913, for two alleged statements. It was alleged that he had made some disparaging statement concerning the flag, and that he had made some disparaging statements concerning the Vice President of the United States who had just died. He was tried and dishonorably discharged from the Army and sentenced to imprisonment for two years. Afterwards, in reviewing the record, the Secretary of War came to the conclusion that the testimony did not justify the sentence, at least that portion of it that imprisoned the soldier, and that part of the sentence was remitted by the Secretary of War.

In reviewing the matter the question was raised as to whether or not the testimony showed that the soldier was at all guilty of the matter with which he was charged. The fact is that the principal charge against the young man was that he was a Socialist, and he, it seems, had become obnoxious on that account to some of his comrades. I appeal to the gentleman from Minnesota [Mr. SMITH], to the Members of the House, that we should not try men for political offenses in the Army or out of it, and the worst that this young man was guilty of, it seems, was that he was a Socialist and did not hesitate on occasions to say so The bill has been favorably reported by the Senate and passed by the Senate, and has been favorably reported by the House, and it simply provides that hereafter in the administration of the laws he shall be considered to have been honorably discharged, and have his pay up to the time of the trial. The War Department, while not recommending the bill, thinks that is not an unreasonable thing to do in this case, and I sincerely hope that the gentleman from Minnesota will not object.

Mr. SMITH of Minnesota. Mr. Chairman, in view of what the gentleman from Kansas has said, I withdraw the objection.

Mr. MONDELL. Mr. Chairman, I think we are going far afield, when, by act of Congress, we set aside court-martial decisions. I do not happen to know anything about this case, and therefore I am not justified in objecting, but I do think it is a very extraordinary proceeding.

The CHAIRMAN. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

The bill was ordered to be laid aside with a favorable recommendation.

JOHN MINAHAN.

The next business in order on the Private Calendar was the bill (H. R. 5753) to correct the military record of John Minahan, alias John Bagley.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to correct the military record of John Minahan, alias John Bagley, late a private in Company K, Eighth Regiment New Hampshire Volunteer Infantry, and to issue to said John Minahan, alias John Bagley, an honorable discharge of date August 24, 1864: *Provided*, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

With the following committee amendments:

Strike out all after the enacting clause and insert:

"That in the administration of the pension laws John Minahan, alias John Bagley, late a private in Company K, Eighth Regiment New Hampshire Volunteers, be held and considered to have been honorably discharged from the military service of the United States as a private in said company and regiment on the 24th day of August, 1864: *Provided*, That no back pay, back pension, back allowances, or emoluments shall accrue by reason of the passage of this act."

Amend the title so as to read: "A bill for the relief of John Minahan, alias John Bagley."

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Chairman, I object.

Mr. KINKAID of Nebraska. Mr. Chairman, I hope the gentleman will reserve his objection for a moment.

Mr. MANN. I will reserve my objection for a moment.

Mr. KINKAID of Nebraska. Mr. Chairman, I regard this as a very worthy case. It has been pending for a good, long time.

Mr. MANN. I will call the attention of the gentleman from Nebraska to what is bothering me in connection with this bill. This man deserted. That is admitted. He enlisted again under a different name, as a substitute for another man who was subject to draft, and the Navy Department says that he did this for the purpose for securing a bounty. Of course he says he did not get the bounty. That is what is bothering me.

Mr. MONDELL. Mr. Chairman, the gentleman from Nebraska understands that if as a matter of fact that he did not get the bounty, then there is no necessity for passing this bill, because there is a general act under which a man having an honorable discharge from his last contract of service and desertion from a former enlistment is forgiven. This man has not been able to prove that he did not receive a bounty.

Mr. KINKAID of Nebraska. Nor has the Government been able to prove that he did receive a bounty.

Mr. MANN. Why does a man desert from one command and enlist in another under a different name unless it be for the purpose of deceiving somebody and getting something? It is too plain for argument.

Mr. GARRETT of Tennessee. Mr. Chairman, I demand the regular order.

The CHAIRMAN. Is there objection?

Mr. MANN. I object.

THOMAS M. JONES.

The next business in order on the Private Calendar was the bill (H. R. 6421) for the relief of Thomas M. Jones.

The Clerk read the bill.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. I object.

LUKE O'BRIEN.

The next business in order on the Private Calendar was the bill (H. R. 6652) to remove the charge of desertion from the military record of Luke O'Brien.

The Clerk read the title of the bill.

Mr. MANN. I object.

JOHN C. SHEA.

The next business in order on the Private Calendar was the bill (H. R. 12566) for the relief of John C. Shea.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of any laws conferring the rights, privileges, or benefits upon honorably discharged soldiers, John C. Shea, who was a private in Company D, Forty-sixth Regiment Massachusetts Volunteer Infantry, shall be hereafter held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 30th day of May, 1863.

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Chairman, reserving the right to object, I notice, first, that the bill does not contain an amendment which the committee reported. I would like to inquire of some gentleman who is familiar with the matter what is designed to be accomplished by this bill. This man enlisted in Company D, Forty-sixth Regiment Massachusetts Militia Infantry, and obtained an honorable discharge from it. He then enlisted in another regiment and deserted.

This bill gives him an honorable discharge from a regiment from which he already has an honorable discharge, and it does not propose to give him an honorable discharge from a regiment from which he deserted. As the whole purpose is to get him within the pension law, he would not get a pension, but it only gives him an honorable discharge from a regiment from which he has an honorable discharge. What is the point of it?

Mr. REILLY of Connecticut. Mr. Chairman, what the gentleman from Illinois states is absolutely correct in regard to this bill——

Mr. MANN. If it had not been I would not have stated it.

Mr. REILLY of Connecticut. We know the gentleman is usually correct but not always infallible. The committee reported on this bill only within a few days, and this is the first time I have seen it, but the department recommends that his record be amended in regard to the other enlistment instead of the one which the committee have reported.

The CHAIRMAN. Is there objection?

Mr. MONDELL. Mr. Chairman, reserving the right to object, I wish to call attention to the further fact that this gentleman served two whole days after his enlistment and receiving the bounty; it was two entire days before he finally deserted. [Laughter.]

The CHAIRMAN. Is there objection?

Mr. MONDELL and Mr. MANN. I object.

MILES A. HUGHES.

The next business in order on the Private Calendar was the bill (H. R. 14711) for the relief of Miles A. Hughes.

The Clerk read as follows:

Be it enacted, etc., That in the administration of the pension laws Miles A. Hughes shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private of Company A, Sixteenth Regiment Kentucky Volunteer Infantry, on the 27th day of June, 1864.

The committee amendment was read, as follows:

Amend, page 1, line 8, after the word "sixty-four," by inserting the following: "*Provided*, That no back pension, back pay, or back allowances shall accrue by reason of the passage of this act."

The CHAIRMAN. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Chairman, reserving the right to object, did I hear the Clerk read an amendment? The copy of the bill which I have has no amendment.

The CHAIRMAN. The Clerk informs the Chair the amendment is in the bill which he has before him.

Mr. MANN. Well, the Clerk read the amendment.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be laid aside to be reported to the House with a favorable recommendation.

FRED GRAFF.

The next business in order on the Private Calendar was the bill (H. R. 17464) for the relief of Fred Graff.

The Clerk read as follows:

Be it enacted, etc., That in the administration of the pension laws Fred Graff, who was commissioned by the governor of the State of New York as second lieutenant in the Seventy-eighth Regiment New York Volunteer Infantry, shall hereafter be held and considered to have been duly enrolled and mustered in and attached to that regiment from the 25th day of October, 1863, until the 11th day of July, 1864.

The CHAIRMAN. Is there objection to the present consideration of this bill?

Mr. MANN. Mr. Chairman, reserving the right to object, I thought I inquired about this bill a moment ago. The usual amendment is not inserted in connection with this bill.

Mr. GREENE of Vermont. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The gentleman from Vermont offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 1, line 10, after the word "sixty-four," insert the following: "*Provided*, That no back pay, back pension, or back allowances of any kind shall accrue by reason of the passage of this act."

The CHAIRMAN. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

The amendment was agreed to.

The bill as amended was ordered to be laid aside, to be reported to the House with a favorable recommendation.

Mr. TAYLOR of Arkansas. Mr. Chairman, I ask unanimous consent that the committee return to Private Calendar No. 303.

The CHAIRMAN. The gentleman from Arkansas asks unanimous consent to return to Private Calendar No. 303. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object, what is the bill?

The CHAIRMAN. The Chair will say that we did not consider that bill to-day, but began with Calendar No. 318.

Mr. MANN. Well, I shall object.

Mr. TAYLOR of Arkansas. I will state to the gentleman from Illinois this is a bill which I called up not so long ago to which objection was made by the gentleman in reference to a grant of certain land to the Masonic lodge at Hot Springs.

Mr. MANN. Yes; and I objected to it.

The CHAIRMAN. The gentleman from Illinois objects.

Mr. MANN. It is too late to take it up now.

Mr. POU. Mr. Chairman, I move that the committee do now rise, and that the Chairman be directed to report to the House that the committee has had under consideration various bills and resolutions upon the Private Calendar which were laid aside, that sundry amendments have been agreed to, and that the committee recommends to the House that the said bills and resolutions, some with amendments and some without amendments, do pass.

The motion was agreed to; and the Speaker having resumed the chair, Mr. TAYLOR of Colorado, Chairman of the Committee of the Whole, reported that that committee had had under consideration sundry bills and resolutions, and that he reported the same back to the House, some with amendments and some without amendments, with the recommendation that the amendments be agreed to and that the bills and resolutions do pass.

Mr. POU. Mr. Speaker, I ask unanimous consent that the previous question may be considered as ordered on all the bills and resolutions reported, to final passage.

The SPEAKER. Is there objection?

There was no objection.

So the previous question was ordered.

Mr. TAYLOR of Colorado. Mr. Speaker, Senate bill 4628 was reported——

Mr. MANN. No more business to-night.

Mr. TAYLOR of Colorado. I want to ask to agree to a conference report.

Mr. MANN. Then I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Illinois makes the point of order that there is no quorum present.

ADJOURNMENT.

Mr. POU. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 45 minutes p. m.) the House adjourned until Saturday, August 1, 1914, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. FLOOD of Virginia, from the Committee on Foreign Affairs, to which was referred the bill (H. R. 15418) authorizing Maj. Clyde S. Ford, Medical Corps, to accept and wear the decoration tendered him by the Ottoman and Bulgarian Governments for services rendered in the Balkan wars, reported the same without amendment, accompanied by a report (No. 1053), which said bill and report were referred to the House Calendar.

Mr. FLOYD of Arkansas, from the Committee on the Judiciary, to which was referred the bill (H. R. 16244) to amend section 98 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, reported the same without amendment, accompanied by a report (No. 1055), which said bill and report were referred to the House Calendar.

Mr. RAINEY, from the Committee on Ways and Means, to which was referred the bill (H. R. 12674) to provide for the allowance of drawback of tax on articles shipped to the island of Porto Rico or to the Philippine Islands, reported the same without amendment, accompanied by a report (No. 1056), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CHURCH, from the Committee on the Public Lands, to which was referred the bill (S. 5254) authorizing the Secretary of the Interior in his discretion to sell and convey a certain tract of land to the Mandan Town and Country Club, reported the same without amendment, accompanied by a report (No. 1052), which said bill and report were referred to the Private Calendar.

Mr. LOGUE, from the Committee on Public Buildings and Grounds, to which was referred the joint resolution (H. J. Res. 308) providing for a commission to complete the acquisition of lands for the extension of the Capitol Grounds, and providing for the payment thereof, reported the same with amendment, accompanied by a report (No. 1054), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. NEELY of West Virginia: A bill (H. R. 18167) to extend aid to the several States in the building of public highways by authorizing the working of certain Federal convicts thereon or in the preparation of road materials; to the Committee on the Judiciary.

By Mr. SELLS: A bill (H. R. 18168) to amend an act entitled "An act granting pensions to certain enlisted men, soldiers and officers, who served in the Civil War and the War with Mexico," approved May 11, 1912; to the Committee on Invalid Pensions.

By Mr. GRIFFIN: A bill (H. R. 18169) authorizing and directing the President to appoint an advisory board of consulting engineers to report to him at the earliest possible moment and to the next session of Congress upon plans and methods for the control of the Mississippi River below St. Louis, Mo., particularly with a view to facilitating the adoption of definite, effective remedies and scopeful plans for such purposes and to determine the merits, feasibility, and cost of the plans of the Mississippi River Commission, and of the plans presented and known as the Mississippi spillway and ramifications; making an appropriation for the expenses of such advisory board of consulting engineers and defining its powers and duties; to the Committee on Rivers and Harbors.

By Mr. ALEXANDER: A bill (H. R. 18170) amending section 4132 of the Revised Statutes of the United States, as amended by section 5 of the act of August 24, 1912; to the Committee on the Merchant Marine and Fisheries.

By Mr. BUCHANAN of Illinois: A bill (H. R. 18171) to amend an act entitled "An act relating to the liability of common carriers by railroad to their employees in certain cases," approved April 22, 1908, and amended April 5, 1910; to the Committee on Interstate and Foreign Commerce.

By Mr. DIXON: A bill (H. R. 18172) to increase the limit of cost of the United States post-office building at Seymour, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. FLOOD of Virginia: Joint resolution (H. J. Res. 310) authorizing the President to accept an invitation and to appoint delegates to participate in the International Conference on Social Insurance; to the Committee on Foreign Affairs.

By Mr. ALEXANDER: Joint resolution (H. J. Res. 311) instructing American delegate to the International Institute of Agriculture, to present to the permanent committee for action at the general assembly in 1915 certain resolutions; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANTHONY: A bill (H. R. 18173) to reinstate Frederick J. Birkett as third lieutenant in the United States Revenue-Cutter Service; to the Committee on Interstate and Foreign Commerce.

By Mr. BATHRICK: A bill (H. R. 18174) to transfer Capt. John Calvin Leonard from the retired to the active list of the United States Navy; to the Committee on Naval Affairs.

By Mr. BROWN of West Virginia: A bill (H. R. 18175) granting an increase of pension to Eli Phillips; to the Committee on Invalid Pensions.

By Mr. BURKE of South Dakota: A bill (H. R. 18176) granting a pension to Phillip Wells; to the Committee on Pensions.

By Mr. CLAYPOOL: A bill (H. R. 18177) granting an increase of pension to Delliah Beecher; to the Committee on Invalid Pensions.

By Mr. COADY: A bill (H. R. 18178) granting an increase of pension to Samuel Stallings; to the Committee on Invalid Pensions.

By Mr. GILMORE: A bill (H. R. 18179) granting a pension to Jane A. Carney; to the Committee on Invalid Pensions.

By Mr. GOULDEN: A bill (H. R. 18180) for the relief of John J. Nanry; to the Committee on Military Affairs.

By Mr. HAY: A bill (H. R. 18181) for the relief of the trustees of Lebanon Evangelical Lutheran Church, of Shenandoah County, Va.; to the Committee on War Claims.

By Mr. HOBSON: A bill (H. R. 18182) for the relief of A. J. Tidwell, sr.; to the Committee on War Claims.

By Mr. HULL: A bill (H. R. 18183) granting an increase of pension to John R. McReynolds; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18184) for the relief of the estate of Erastus S. Smith; to the Committee on War Claims.

By Mr. JONES: A bill (H. R. 18185) for the relief of David R. Mister; to the Committee on War Claims.

Also, a bill (H. R. 18186) for the relief of the trustees of Carmel Baptist Church, Caroline County, Va.; to the Committee on War Claims.

Also, a bill (H. R. 18187) for the relief of the trustees of Urbanna Episcopal Church, Middlesex County, Va.; to the Committee on War Claims.

By Mr. OLDFIELD: A bill (H. R. 18188) granting an increase of pension to Joseph L. Hall; to the Committee on Invalid Pensions.

By Mr. TEN EYCK: A bill (H. R. 18189) granting a pension to Morgan A. Harris; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clark's desk and referred as follows:

By Mr. BELL of California: Petition of 850 citizens of Los Angeles, Cal., protesting against national prohibition; to the Committee on Rules.

Also, petition of 1,000 citizens of the ninth congressional district of California, favoring national prohibition; to the Committee on Rules.

By Mr. CONNELLY of Kansas: Petition for the passage of the Sheppard-Hobson amendment to the Constitution for national prohibition, 180 names, Colby; 150 names, Bunker Hill; 21 names, Seldon, all in the State of Kansas; to the Committee on Rules.

By Mr. DILLON: Petition of sundry voters of Union County, S. Dak., protesting against national prohibition; to the Committee on Rules.

By Mr. DIXON: Petition of 50 Civil War veterans of Bartholomew County, 71 citizens of Providence, 150 of Mount Auburn, and 150 of Glade, all in the State of Indiana, favoring national prohibition; to the Committee on Rules.

Also, petition of Miss Vida Newson, Mrs. H. E. Arthur, and others, of Columbus Branch of Woman's Franchise League of Indiana, favoring woman-suffrage legislation; to the Committee on the Judiciary.

By Mr. DONOHOE: Petitions of sundry citizens of Philadelphia, Pa., protesting against national prohibition; to the Committee on Rules.

By Mr. DUNN: Petitions of Frank W. McHugh Co. and Teutonia Liedertafel Society, both of Rochester, N. Y., and Central Federation of Labor, of Cohoes, N. Y., protesting against nation prohibition; to the Committee on Rules.

Also, memorial of Women's Missionary Society, Third Presbyterian Church of Rochester, N. Y., relative to amendment prohibiting polygamy in the United States; to the Committee on the Judiciary.

By Mr. FRENCH: Petition of citizens of Cœur d'Alene, Idaho, protesting against national prohibition; to the Committee on Rules.

By Mr. GUERNSEY: Petitions of citizens of Dover, Foxcroft, and Bangor, Me., favoring national prohibition; to the Committee on Rules.

By Mr. HAWLEY: Petitions of G. A. Seavey and others of Springfield, Oreg., protesting against national prohibition; to the Committee on Rules.

By Mr. MERRITT: Petition of Frederick R. Griffiths, Samuel Orr, Frank Backus, W. F. Chaffee, G. W. Muir, Floyd Patterson, T. N. Madill, Noah Walker, Charles E. Wheater, J. B. Wheater, L. B. Ginn, Robert Merrifield, O. L. Dickinson, James Weatherup, Newton Stone, Joseph Ross, R. R. Ormsbee, William Graham, L. W. Seaman, L. N. Stone, C. E. Sunderland, J. L. Wood, T. Hutchinson, John McAllister, James Dame, Henry Parkhill, E. M. Bagley, John Cline, W. A. Burlingame, E. H. Dexter, G. H Simpson, C. B. Doty, R. S. Murray, Richard Kelly, Fred N. Bockus, E. M. Spry, F. W. Laidlaw, E. D. Hanson, Allen Bill, S. R. McCrea, and V. L. Lyttle, all of Rensselaer Falls, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. J. I. NOLAN: Resolutions of the International Union of Journeymen Horseshoers of America, protesting against the passage of the Hobson nation-wide prohibition resolution; to the Committee on Rules.

By Mr. SELLS: Memorial of the Woman's Home Missionary Society, First Methodist Episcopal Church, Johnson City, Tenn., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. STEPHENS of California: Petitions of sundry citizens of Wilmington and San Pedro, Cal., favoring national prohibition; to the Committee on Rules.

By Mr THACHER: Memorial of Quarterly Conference of Methodist Episcopal Church, Marstone Mills, and Quarterly Conference of Methodist Episcopal Church, Osterville, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. WILSON of New York: Memorial of citizens of New York City, favoring Government ownership of the coal mines in Colorado; to the Committee on the Judiciary.

SENATE.

SATURDAY, *August 1, 1914.*

(Legislative day of Monday, July 27, 1914.)

The Senate reassembled at 11 o'clock a. m. on the expiration of the recess.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills:

S. 663. An act for the relief of Thomas G. Running;

S. 1149. An act for the relief of Seth Watson;

S. 1803. An act for the relief of Benjamin E. Jones;

S. 3761. An act for the relief of Matthew Logan;

S. 4023. An act for the relief of Waldo H. Coffman;

S. 6084. An act to grant the consent of Congress for the county of Pulaski, State of Arkansas, to construct a bridge across the Arkansas River between the cities of Little Rock and Argenta, Ark.; and

S. 6101. An act to grant the consent of Congress for the city of Lawrence, county of Essex, State of Massachusetts, to construct a bridge across the Merrimac River.

The message also announced that the House had passed the bill (S. 23) for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13; of Ernest Kubel, owner of lot No. 41; and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House further insists upon its amendments to the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. TAYLOR of Colorado, Mr. BAKER, and Mr. KINKAID of Nebraska managers at the conference on the part of the House.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 858. An act for the relief of Thomas E. Philips;

H. R. 2312. An act for the relief of Rathbun, Beachy & Co.;

H. R. 2642. An act authorizing the President to reinstate Joseph Eliot Austin as an ensign in the United States Navy;

H. R. 6201. An act to authorize the Secretary of the Interior to issue a deed to the persons hereinafter named for part of a lot in the District of Columbia;

H. R. 6530. An act for the relief of Michael F. O'Hare;

H. R. 7287. An act for the relief of Edward A. Thompson;

H. R. 11394. An act for the relief of Joseph A. Powers;

H. R. 11765. An act to perfect the title to land belonging to the M. Forster Real Estate Co., of St. Louis, Mo.;

H. R. 12198. An act for the relief of Benjamin A. Sanders;

H. R. 13350. An act for the relief of the widow and heirs at law of Patrick J. Fitzgerald, deceased;

H. R. 13352. An act to allow credit in the accounts of Wyllys A. Hedges, special disbursing agent;

H. R. 13591. An act for the relief of John P. Ehrmann;

H. R. 13728. An act for the relief of Richard Riggles;

H. R. 14711. An act for the relief of Miles A. Hughes;

H. R. 14956. An act to reimburse the postmaster at Kegg, Pa., for money and stamps taken by burglars;

H. R. 16305. An act to reimburse Henry Weaver, postmaster at Delmar, Ala., for money and stamps stolen from said post office at Delmar and repaid by him to the Post Office Department;

H. R. 16370. An act for the relief of the Richmond, Fredericksburg & Potomac and Richmond & Petersburg Railroad Connection Co.;

H. R. 16755. An act authorizing and directing the Secretary of the Interior to execute and deliver a deed in favor of and to Ida Seymour Tulloch, Roberta Worms, and Ethel White Kimpell for sublot 38 of original lot 17 in reservation D, upon the official plan of the city of Washington, in the District of Columbia;

H. R. 17074. An act for the relief of the Paterson & Hudson River Railroad Co.;

H. R. 17085. An act for the relief of the Montgomery & Erie Railway Co.;

H. R. 17086. An act for the relief of the Goshen & Deckertown Railway Co.;

H. R. 17102. An act for the relief of the Columbus, Delaware & Marion Railway Co., of Columbus, Ohio;

H. R. 17110. An act to reimburse Epps Danley for property lost by him while light keeper at East Pascagoula River (Miss.) Light Station;

H. R. 17424. An act for the relief of Hunton Allen; and

H. R. 17464. An act for the relief of Fred Graff.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its power and duties, and for other purposes.

Mr. HUGHES. Mr. President, I make the point of no quorum.

The PRESIDENT pro tempore. The Senator from New Jersey suggests the absence of a quorum. Let the Secretary call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	Nelson	Smith, Ariz.
Brady	Gronna	Newlands	Smith, Ga.
Brandegee	Hitchcock	Norris	Smoot
Bristow	Hollis	Overman	Stone
Bryan	Hughes	Page	Sutherland
Burton	Jones	Perkins	Thompson
Chamberlain	Kenyon	Pittman	Thornton
Chilton	Kern	Pomerene	Vardaman
Clapp	Lane	Reed	West
Clarke, Ark.	Lea, Tenn.	Saulsbury	White
Colt	Lee, Md.	Sheppard	Williams
Crawford	Martine, N. J.	Shively	
Cummins	Myers	Simmons	

Mr. THORNTON. I was requested to announce the unavoidable absence of the junior Senator from New York [Mr. O'GORMAN]. I ask that this announcement may stand for the day.

Mr. JONES. I desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent from the city. He is paired with the junior Senator from Arkansas [Mr. ROBINSON]. This announcement I will let stand for the day.

Mr. KENYON. I desire to announce the unavoidable absence of the senior Senator from Wisconsin [Mr. LA FOLLETTE] on account of illness.

Mr. PAGE. I wish to announce the unavoidable absence of my colleague [Mr. DILLINGHAM]. He is paired with the senior Senator from Maryland [Mr. SMITH].

Mr. WHITE. I desire to announce that my colleague [Mr. BANKHEAD] is necessarily absent and is paired. This announcement may stand for the day.

Mr. GALLINGER. I desire to announce that the junior Senator from Maine [Mr. BURLEIGH] is unavoidably absent. He is paired with the junior Senator from New Hampshire [Mr. HOLLIS].

The PRESIDING OFFICER (Mr. HITCHCOCK in the chair). Fifty-one Senators have answered to their names. A quorum of the Senate is present. The pending question is the amendment of the Senator from Iowa [Mr. CUMMINS] to the amendment, on which the yeas and nays have been ordered. The Senator from Arkansas [Mr. CLARKE] is entitled to the floor.

[Mr. CLARKE of Arkansas addressed the Senate. See Appendix.]

Mr. REED. Mr. President, there has been so much discussion about the term "unfair competition," what it means and what it does not mean, that I have undertaken to prepare a suggestion in the nature of an amendment to be inserted preceding the text of section 5. I am not offering it as the perfection of definition, but as a suggestion which I hope may meet with favor.

I want to say that the Senator from West Virginia [Mr. CHILTON] worked out some definitions some time ago which he has at various times kindly handed to me, and in part this definition is, I think, adopted from the suggestions he has made. However, I have no notion as to whether this definition will suit him or not. I desire to read it and then send it to the desk in order that it may at the proper time be taken up.

I should like to have the attention of the chairman of the committee, because he has challenged me several times to define "unfair competition," and out of pure love of the chairman, more than anything else, I have undertaken it.

The term "unfair competition" is hereby defined to embrace all those acts, devices, concealments, threats, coercions, deceits, frauds, dishonest practices, false representations, slanders of business, and all other acts or devices done or used with the intent or calculated to destroy or unreasonably hinder the business of another or prevent another from engaging in business, or to restrain trade or to create a monopoly.

Mr. President, I do not at this time care to discuss it. I wish to make a correction in it.

Mr. WALSH. I wish to suggest to the Senator from Missouri that he left out "espionage," which is a rather offensive form of unfair competition.

Mr. REED. I think that would come under the head of dishonest practices.

Mr. CHILTON. Of fraud.

Mr. REED. It might come under the head of fraud. I have not endeavored to classify every possible thing, but I have put enough of those practices in there so as to characterize the term and what the term is aiming at. I do not claim that it ought not to be amended; I do not claim that somebody can not produce a better one; but I do claim that it is infinitely better than nothing.

The PRESIDING OFFICER. The Senator's amendment is in order at the present time as an amendment to the substitute offered by the Senator from Iowa.

Mr. CUMMINS. I do not think it is.

Mr. NEWLANDS. I will ask the Senator whether in his judgment his amendment or his definition would cover any other unfair practices than those enumerated?

Mr. REED. Oh, yes; because the term is universally stated, "and all other"——

Mr. NEWLANDS. I hope the Senator will have his amendment printed immediately.

Mr. REED. "And all other acts or devices" is the language, and here is where you get a chance for a court to have a rule of construction:

And all other acts or devices done or used with intent or calculated to destroy or unreasonably hinder the business of another or prevent another from engaging in business, or to restrain trade or to create a monopoly.

I will say to the Senator from Montana, if he desires to put additional words in here I have no objection.

Mr. WALSH. I merely made the suggestion to indicate to the Senator how difficult it is to make a definition that will cover all cases.

Mr. SMOOT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Utah will state his inquiry.

Mr. SMOOT. Has the Senate accepted the substitute of the Senator from Ohio? Has it been acted upon?

The PRESIDING OFFICER. The committee has accepted it and withdrawn the original committee amendment.

Mr. SMOOT. But it has not yet been acted upon by the Senate?

The PRESIDING OFFICER. It has not.

Mr. CUMMINS. I do not understand that the Senator from Missouri offered that amendment at this time. I have no disposition to preclude the fullest inquiry with regard to the subject of his amendment, but the issue between the amendment offered by the Senator from Ohio and afterwards adopted by the committee and my amendment relates to another matter. It seems to me that it would be better to have the issue determined. Then, another matter, whether my amendment prevails or that of the Senator from Ohio, it can be amended in the respect found in the proposal of the Senator from Missouri.

Mr. REED. Mr. President, it had not been my purpose to ask that this amendment be at this time voted upon. Indeed, I would very greatly prefer if it could lie over and be printed and have the full consideration and inspection of the Senate. I have no pride of authorship in it.

Mr. NEWLANDS. I suggest to the Senator that the amendment be printed immediately.

Mr. CUMMINS. The Senator from Missouri wants his amendment made no matter whether my amendment is adopted or whether the amendment of the Senator from Ohio stands.

Mr. REED. Certainly. As I understand the parliamentary situation, we can vote on the amendment offered by the Senator from Iowa, and if that is accepted this amendment could then be properly offered, and if that amendment which is offered by the Senator from Iowa is defeated the amendment of the Sen-

ator of Ohio would then be before the Senate, and this amendment would be fully admissible at that time. So I do not care now to have it voted upon. I will ask that it be immediately printed.

The PRESIDING OFFICER. The Senator is correct in part but incorrect in part. Should the amendment of the Senator from Iowa be adopted it will not be subject to further amendment until the bill gets into the Senate. But the Chair was in error in stating that the amendment of the Senator from Missouri is in order. The Chair now thinks it is not in order, because the yeas and nays have already been ordered on the amendment of the Senator from Iowa.

Mr. McCUMBER. Mr. President, I wish to direct my remarks to the Senator from Missouri. I agree with the Senator that there ought to be some definition of the words "unfair competition." I further agree that the definition ought to be such as will exclude all the ordinary efforts of competition except those which are directed to the destruction of competition in some way and at some particular point. But here is the danger that I see in the draft that has been made by the Senator from Missouri: By including a number of specified things that come within the definition it is easy to construe that other things which are left out are not within it.

Now, I am going to suggest a definition which I have drawn and which at least seems to me to be more apt in a general law. I want the attention of the Senator from Missouri to this language:

> The words "unfair competition" as used herein shall be construed to mean any acts or practices in trade or commerce which are intended or the natural consequences or results of which are to stifle or destroy competition at any point.

That is general, and yet it goes directly to the point that the competition must be such as is intended or the natural result of which will be to destroy or cripple competition at any particular point. Any of these acts or practices in commerce or trade are broad enough in a definition of that kind to include any possible practice the effect or result of which would be to stifle or destroy competition.

It seems to me, Mr. President, that it would be better that we should not attempt to include certain defined practices, but leave all practices which have a general result or effect to come clearly within the definition.

Mr. REED. Mr. President——

Mr. BRANDEGEE. With the permission of the Senator from Missouri, would not the adoption of the definition as indicated by the Senator from North Dakota make successful competition unlawful?

Mr. McCUMBER. Oh, no.

Mr. BRANDEGEE. The mere success of the competition would be included in the Senator's definition, it seems to me, if in effect it destroyed competition, if it was a perfectly legitimate competition and was successful, where one man got the business the effect of which had been to destroy competition. Do we want to declare successful competition to be unlawful if it is fair?

Mr. McCUMBER. No, Mr. President; I do not think that criticism should be directed more to this definition than to the one which has been read.

Mr. BRANDEGEE. Will the Senator read his definition again, then, and see?

Mr. McCUMBER. The whole idea is that the competition must be unfair, it must be unjust, and it must be for the purpose of destroying competition.

Mr. BRANDEGEE. But the Senator is trying to give a definition of what unfair competition is, and, if I understand it, his definition of "unfair" is if the effect of the competition is to destroy competition.

Mr. McCUMBER. On the contrary, I am trying not to extend or expand the meaning but to limit it to those cases only in which the purpose or the natural and logical result of it is to destroy competition.

Mr. BRANDEGEE. Will the Senator kindly have his definition repeated?

Mr. CUMMINS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Iowa will state it.

Mr. CUMMINS. The amendment that has been suggested by the Senator from Missouri is not before the Senate, save to be printed and thereafter considered. The question is on the amendment that I have offered as a substitute for that of the Senator from Ohio. Is this debate upon the proposed amendment of the Senator from Missouri in order?

The PRESIDING OFFICER. The Chair would hardly rule on a question of that character, but the Chair is clear that it would be more appropriate to discuss this amendment later, after the vote is had.

Mr. McCUMBER. Mr. President, the whole question is on the amendment of the Senator from Iowa [Mr. CUMMINS]. Of course, that is open to discussion until the roll call has commenced. One of the phrases which is used in the amendment of the Senator from Iowa is "unfair competition." It may be, as has already been indicated by the Chair, that some of us would prefer to have that term defined before voting on the amendment of the Senator from Iowa; in other words, we would like to have some kind of a definition to indicate what the courts are to consider "unfair competition" to mean. It does not make any difference whether that definition is made in the amendment of the Senator from Iowa or in any other amendment that may be agreed upon, whether in the substitute or in the original. There ought to be some kind of a definition of "unfair competition," so that the average business man may know what it means.

Mr. NEWLANDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Nevada?

Mr. McCUMBER. I yield.

Mr. NEWLANDS. If the Senator will permit me to make a suggestion, I will say that I find a very general sentiment expressed regarding an immediate vote upon the amendment offered by the Senator from Iowa, which relates, of course, to the question of court review. The question of the definition itself will come up later on. I suggest to the Senator from North Dakota, in the interest of expedition, that the roll call has been ordered.

Mr. McCUMBER. Let me ask the Senator a question. Suppose the amendment of the Senator from Iowa should carry, could his amendment then be amended, after it had been adopted, before the bill is reported to the Senate? I think not.

Mr. NEWLANDS. I understand not.

Mr. McCUMBER. I think the proper place to perfect an amendment that is to be voted upon is before that amendment is disposed of as in Committee of the Whole.

Mr. NEWLANDS. The Senator is correct in that view. If the amendment is sought to be pressed before the bill gets into the Senate, it will have to be urged now.

Mr. McCUMBER. But I will say that if the Senator is desirous of taking a vote at the present time, really, in the end, there will be very little difference whether the other proposition is voted on now or voted on in the Senate. I shall not urge the amendment at this time, if that will facilitate a vote.

Mr. NEWLANDS. I am greatly obliged to the Senator.

Mr. REED. Mr. President, the Senator from North Dakota asked me a question some time ago, and I have been trying to answer it. The Senator's question is a very proper one, which naturally occurs to a lawyer—whether by specifying certain acts we do not exclude others; whether if we undertake to include others by a general clause, the rule of ejusdem generis does not apply? It is true that if you specify certain acts, and stop with that, others are held to be excluded, but where you add a general term the rule or doctrine of ejusdem generis does not apply if you make it plain that it is not intended that it should apply. The Senator has not the amendment before him, but when it is printed I think he will find on examination that both of those difficulties have been avoided, because after these various acts have been specified follows a general phrase:

> And all other acts or devices done or used.

Now, we get the intent and we get the definition of those other acts and devices in these words:

> Done or used with the intent or calculated to destroy or unreasonably hinder the business of another or prevent another from engaging in business or to restrain trade or to create a monopoly.

I say to the Senator that I had both of those qualifications in my mind, and I sought to draw this amendment so that it will avoid both of them. It is very broad in its terms, and yet it is not so broad that there is not a guide set up by which the business man and the lawyer advising the business man has the path marked out. It is intended to prohibit everything in the nature of concealment—that is, secret, underhanded methods, threats and coercion, which is a weapon often employed, deceits, frauds, dishonest practices, false representations, and slanders of business. Those terms will cover, I undertake to say, every practice that has ever been indulged in, if you stop there; but I do not stop there. I have included in the amendment general language, so that any man reading it can tell the character of acts that are prohibited, and any commission enforcing the law can tell the general character of acts, as can any court. While I do not claim that the amendment is neces-

sarily perfect, I trust the Senator from North Dakota will carefully examine it when it is printed.

The PRESIDENT pro tempore. The Chair will make an announcement at this point. The Senator from Nebraska [Mr. HITCHCOCK], who has been occupying the chair, has ruled that an amendment to the so-called Cummins amendment was not in order at this time, because the yeas and nays had been asked for on its adoption. The Secretary now advises the Chair that there has been no such order of record, either in the RECORD or in the Journal.

Mr. CUMMINS. Will the Chair kindly repeat his statement. I was engaged for a moment.

The PRESIDENT pro tempore. The Chair made an announcement to correct a misapprehension under which the Senator from Nebraska, while occupying the chair, labored. A Senator offered an amendment to the amendment, and the Senator then occupying the chair decided it was not in order, because the yeas and nays had been ordered on the adoption of the so-called Cummins amendment. The Secretary now advises the Chair that there is no such order of record.

Mr. CUMMINS. That accords with my recollection, Mr. President.

Mr. PITTMAN. Mr. President, I should like to ask the Senator from Iowa if his amendment provides for any form of appeal by one making complaint to the trade commission, in the event that the trade commission does not grant the remedy to which the complainant believes he is entitled?

Mr. CUMMINS. It does not. As I said yesterday, that involves opening up everything for a trial de novo. It is impossible to avoid that, if one who is denied relief is given the right to appeal; but I may say that this is not an adversary proceeding. The complaint is initiated by the commission and not by a third person.

Mr. PITTMAN. Is there any provision for a complaint being made by a third person?

Mr. CUMMINS. Oh, certainly; anyone has a right to file a complaint with the commission, and if the commission has reason to believe that this section of the law is being violated, it then serves notice of the complaint upon the person or corporation violating it and calls him or it before the commission.

Mr. PITTMAN. What would be the remedy of the complainant—that is, the individual or corporation suffering from oppressive acts complained of—if it should transpire that the trade commission had tendencies in favor of the oppressive corporation?

Mr. CUMMINS. Such a person would sue the offending corporation or association to recover damages.

Mr. PITTMAN. But he would have no remedy through the proposed commission?

Mr. CUMMINS. I think not; I hope not. This is a proceeding, as I said yesterday, for the benefit of the people of the country. It is intended to prevent unfair competition. Its enforcement is precisely like that of a criminal statute; society enforces the statute; society, through the commission or through the Government, enforces the law, leaving each individual to the recovery of his damages according to the law, but not through the commission, which is a representative of the Government. That is the theory of the interstate-commerce law, and that is the theory of this proposed law.

The PRESIDENT pro tempore. The question is on the adoption of the substitute offered by the Senator from Iowa.

Mr. CUMMINS. I ask for the yeas and nays.

Mr. POMERENE. Mr. President, just a moment, before the question is submitted. The Senator from Arkansas [Mr. CLARKE] expressed his views this morning very forcefully and very learnedly, as he always does when he discusses a legal proposition, and I want to submit to the Senate just a few words in reply. I am not going to take the time to discuss the measure in full, because that has been done heretofore.

The Senator from Arkansas and others seem to be content with the practice under the interstate-commerce act and to feel that the practice under the proposed act should be patterned after it. I accept that theory in part, but not in full. It does seem to me that there is a very radical difference between the classes of questions which will come before the two commissions. In the case of the Interstate Commerce Commission, on one side of the controversy there is always a common carrier and on the other side a shipper.

I recognize the fact that for many years there has been great resentment against the common carriers because of the discrimination practiced by carriers as between shippers and because of the exorbitant rates charged in many localities; but the situation, so far as it applies to the pending bill, is entirely different, in my judgment. Except for the amendment which has just been proposed by the Senator from Missouri [Mr. REED], there has been no attempt to define what "unfair competition" means, and, with all due respect to his effort, I do not believe that we could satisfactorily define that term now if we were to attempt to do so. Then, we are compelled to place one of two constructions upon this phrase—either the one for which I contend or the one which is broader and more comprehensive and embraces every sort of practice that may now be in vogue or which may hereafter be conceived in the commerce of the country.

We can not think of business without thinking of competition. If two corporations are engaged in selling articles of the same kind, there is necessarily competition of some kind. There are between 300,000 and 400,000 corporations in this country, and there are 100,000,000 people all engaged more or less actively in some kind of business. Under the amendment which is proposed by the committee, of course, we limit the application of the provisions of this bill to corporations, while under the amendment proposed by the Senator from Iowa there is no limit; it applies to individuals and partnerships as well as to corporations.

Now, what is the situation? We are proposing to refer to a commission of five men every question which is involved in the multifarious practices of a hundred million people for those five men to determine, in their judgment, what is fair competition and what is unfair competition. I submit that to give all of this power over all the business of this vast country to the keeping of five men, a part of whom may be learned in the law and a part of whom may not be, dependent upon the wisdom of the President as his wisdom may be approved by the Senate of the United States, and to say that the Congress is going to surrender its legislative power and the courts are to surrender their judicial power in large part to this body of five men without an opportunity for a full review on the record below is to me incomprehensible.

Senators who have been favoring this bill on the floor of the Senate have time and time again spoken against the encroachments by the executive power upon the legislative power of Congress, and now, by one single act, they are seeking to transfer all the legislative power and much of the judicial power to this single commission of five men. With all due respect to their judgment—and I have a profound respect for the judgment of those Senators who differ from me upon this subject—I feel that we have not arrived at that time in the history of this problem when we should be willing to clothe this commission with almost superhuman power. It is proposed to give to this commission a power which is greater in its consequences than that which now devolves upon the Supreme Court of the United States.

On the other hand, the Senator from Arkansas is no more zealous than I am in the desire to expedite litigation. The law's delay has been a menace, not only to the profession of the law but to all branches of business. I agree with him that when we do anything toward limiting the law's delay we are doing a service to our country; but I can not get away from the fact that this commission should be subject to a full and a complete review by the courts of the land.

Mr. CLARKE of Arkansas. Mr. President, does the Senator understand that "the courts of the land," to which he refers, consist in the first instance of one district judge?

Mr. POMERENE. Oh, no; not at all.

Mr. CLARKE of Arkansas. And, upon appeal to the court of appeals, of three judges? It leaves it at least to four persons instead of five; primarily to one, because the cast which is given to a case by the nisi prius judge is in very rare instances changed. It is only his obvious errors in assuming certain things to be true. You would appeal, in other words, from five to one.

Mr. POMERENE. That is very true; but the Senator from Arkansas would leave to this tribunal the right to pass upon the facts, and substantially declare that certain practices are or they are not a violation of what they may conceive the law to be, without giving to the commission any guide whatsoever, and without giving to the courts above the full power of review, which, I think, they should have upon the record below.

I believe that the amendment which I have proposed can be modified so as to meet to some extent the views of the Senator from Arkansas; and since the Senate convened this morning——

Mr. CLARKE of Arkansas. Permit me to say that I have not any views about it. My views are entirely borrowed from the beaten path laid down by the Congress of the United States, and confirmed and clarified by the decisions of the Supreme Court of the United States. I simply accept an opinion that has been handed over to me by tribunals that I am bound to respect.

Mr. POMERENE. That is all very true; and if we were to follow the Senator's logic to its final conclusion, we would say, as to all questions which may be the subject of litigation, "We shall refer them to a commission of five men and allow them to pass upon and determine the merits of the case."

To meet in part the views of some of the Senators, after conferring with members of the committee, I am going to ask the permission of the Senate to modify the amendment which I offered the other day by striking out, on page 3, the following language, beginning on line 7 and ending on line 18:

Upon such final hearing the findings of the commission shall be prima facie evidence of the facts therein stated, but if either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is competent and material, and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may allow such additional evidence to be taken before the commission or before a master appointed by the court, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem just.

And by inserting in lieu thereof, before the period on line 7, the following:

On the record of the testimony so returned.

So that the hearing in the district court will be upon the record as it comes to that court from the commission.

I ask permission to modify the pending amendment in that behalf.

The PRESIDING OFFICER (Mr. LEE of Maryland in the chair). Is there any objection? The Chair hears none.

Mr. STONE. Where does that amendment come in? Where is it inserted?

Mr. POMERENE. On page 3, beginning on line 7. I propose to strike out all of the bill beginning with the words "Upon such final hearing" and going down to the word "just" in line 13.

Mr. CULBERSON. Beginning in line 8.

Mr. KERN. Line 9.

Mr. POMERENE. No; line 7. I think perhaps the Senators may have a different print.

Mr. KERN. The Senator proposes to strike out those words?

Mr. POMERENE. To strike out the sentence beginning with the words "Upon such final hearing," on line 7, and ending on line 18 with the words "conditions as to the court may seem just."

Mr. KERN. That is stricken out?

Mr. POMERENE. That is stricken out; and then there is inserted, on line 7 before the period and after the word "hearing," the words "on the record of the testimony so returned."

Mr. CUMMINS. Mr. President, I shall not prolong the debate on the amendment. I rise simply to say that the change just suggested by the Senator from Ohio makes his amendment worse rather than better, and it does not in any degree change the essential issue between the plan which he has proposed and the plan which I have proposed.

I again ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. BRANDEGEE. Mr. President, I have listened with great interest to what the Senator from Ohio has said. I agree, if I understand what he has said, with his criticism upon the powers conferred upon the commission in this bill. I do not, however, understand how he, entertaining the views which he has expressed so eloquently and so incisively and so clearly as to the undesirability and unlawfulness of the attempt to confer upon this commission the jurisdiction contained in section 5 of the bill, can think that the criticism he has made is at all alleviated by the amendment which he proposes.

If section 5 does confer or attempt to confer judicial power upon this commission, it is absolutely void. If it attempts to confer legislative power without laying down the standard or primary rule within which the power conferred may be exercised in the discretion of the commission, it is absolutely void. The Senator from Ohio apparently thinks it attempts to confer both judicial and legislative power upon the commission. The Senator from Tennessee [Mr. SHIELDS] yesterday, in a lawyerlike and statesmanlike exposition of section 5, argued that it confers judicial, legislative, and executive power upon the commission, and authorizes the commission to bring suits in the courts of the United States in addition to the exercise of legislative and judicial power. I agree with him. How any lawyer who wants to preserve separately the three departments into which the powers of the Government of the United States are divided by the Constitution can consent to see them scrambled together in section 5, as they are in this bill, and criticize the scrambling process, and then vote for it on the ground that there can be a review of an order of the commission by a court, I fail to comprehend.

Mr. President, I think section 5 should be stricken from the bill. I do not think it is any answer to that to say that the bill would be emasculated if that were done. That is the fault of the bill. If the bill has an unconstitutional section in it, and if there is no cause for the creation of such a great and expensive commission except that it may be allowed to exercise powers which are unconstitutional, then there is no cause for the creation of that expensive and meddlesome commission. Of course, if the commission is to exercise or attempt to exercise the powers attempted to be conferred upon it by section 5, it is better, in my opinion, that there should be some sort of a court review, although I think there will be a way of testing the constitutionality of the act without the review provided by either of the pending amendments.

I think the first time the bill encounters the Supreme Court of the United States, as it will, it will be declared to be void in section 5. Then, in my opinion, the chief reason for the existence of the bill, in the opinion of its friends, will have been removed, and it will have no reason for its existence except as a wasteful, extravagant, meddlesome, undemocratic, un-American concern in this country. It is suggested that according to some Senators the balance of the bill will go with the body; and if section 5 is the body, the sooner the balance does go with it the better, in my opinion.

Mr. President, at first I was inclined to vote for the so-called Cummins amendment, the pending amendment, because at least that is consistent with itself. Instead of saying, as section 5 of the pending bill does, that unfair competition is the thing that is declared unlawful, and then, as section 5 of the bill does, proceeding to empower the commission to prohibit only unfair *methods* of competition, which in my opinion may be an entirely different thing, I prefer the Cummins amendment in that respect, because the Cummins amendment authorizes the commission to prohibit what the bill declares to be unlawful. The pending bill authorizes the commission to prohibit one thing, and declares to be unlawful another, and results in an absurdity, in my opinion, and a jumble; and I think that is dangerous to the bill, if anybody wants to see it preserved.

The Cummins amendment provides that unfair competition is declared unlawful, and the commission is given authority to prevent such unfair competition, which I think is a correct use of language in the sense that it is uniform. The Cummins amendment also authorizes the commission to prohibit what the bill declares to be unlawful by whomsoever the offense is committed. The Pomerene amendment does not. The Cummins amendment provides that whenever the commission shall have reason to believe that any person, partnership, or corporation is violating the provisions of the section it shall issue and serve upon the defendant a complaint. The Pomerene amendment simply provides that when a *corporation* has committed unfair competition it shall have the complaint served upon it. If, however, the Pomerene amendment prevails, and section 5 of the bill is left as it is, the multimillionaires of the country may compete unfairly in commerce to their hearts' content, whereas some small corporation that is competing with another of medium size will have the commission upon its back in no time. If unfair competition is an offense at law, if anybody can ascertain what it is, it ought to be prohibited and punished, no matter by whom committed.

In the multiplicity of the *cul de sacs* into which one wanders while he is trying to steer his way through the intricacies and contradictions of this bill, one is really at times in some difficulty to point out clearly all the troubles that occur to him as he attempts to tread the labyrinth.

Mr. CLARK of Wyoming. Mr. President, will the Senator yield to me for a moment?

Mr. BRANDEGEE. I yield.

Mr. CLARK of Wyoming. Does the Senator understand that under the Pomerene amendment if a corporation is engaged in the same line of business and in active competition with a partnership engaged in a like business and in like competition that would be condemned by the law as to one competitor and would not be condemned by the law as to the other? Suppose they were both pursuing the same practices, and both, as a matter of fact, were unfair, and they were in competition with each other. The unfair competition of the corporation would be under the ban of the law and the equally unfair competition of the partnership would not be.

Mr. BRANDEGEE. That is perfectly true unless the term "partnership" would be included within the definition of what constitutes a corporation in the first part of the bill.

Mr. CUMMINS. It is not contended that a partnership would be within the definition of a corporation.

Mr. BRANDEGEE. I was led to make the observation I did because a few days ago the Senator from Tennessee [Mr.

SHIELDS], in commenting upon the definition contained in the first part of the bill, said that the term "corporation"—the bill providing that it shall include joint-stock associations and all other associations having shares of capital or capital stock organized to carry on business for profit—would, in some of the States, take in partnerships, because in his State and in some other States to which he referred partnerships had shares of capital, whether they issued stock against the interest or the shares or not.

Mr. CLARK of Wyoming. Then I will change my inquiry and make it as to an individual engaged in a like business with a corporation.

Mr. BRANDEGEE. Absolutely so, as to that distinction. Under the Pomerene amendment and under the bill the only unfair competition that is prohibited is that of corporations. As I say, rich men——

Mr. CLARK of Wyoming. Then, to be concise, the bill aims, not at the practice but at the association or corporation which engages in the practice. The bill, then, does not aim per se to stop or punish unfair competition, but only to stop it when it is performed by certain associations or corporations?

Mr. BRANDEGEE. Yes; that is true. The bill aims to punish it when it is committed by corporations, because that is the only case in which the commission is authorized to prohibit it; but the bill in its terms prohibits it without limitation, because section 5 begins by saying:

SEC. 5. That unfair competition in commerce is hereby declared unlawful.

Mr. CLARK of Wyoming. Yes; but the purport of the bill is that unfair competition in commerce refers only to such competition as is carried on by corporations or associations. The same act or series of acts carried on by an individual would not, under the terms of the bill, be unfair competition, and would not come under the ban of the bill.

Mr. BRANDEGEE. I think it would come under the ban of the bill, and if the Senator will allow me I will be very brief in elucidating why I think so. What comes under the purport of the bill is perhaps to be inferred from what the Senator's interpretation of all the provisions of the bill may be. Section 5 is the only section which attempts to prohibit or to stop unfair competition, and it is that section I am discussing. The bill provides in other parts of it about other things, but section 5 sets up a new offense in this country, if the friends of the bill are to be believed, to be known as unfair competition, and it is declared by the bill to be unlawful.

As the Senator from Tennessee [Mr. SHIELDS] said yesterday, the bill does not say whether it is a crime or a misdemeanor or whether it is unlawful, and the only penalty is that it may be prohibited. There appears to be no penalty in the bill for it except an order to desist and stop. If we can have a crime or a misdemeanor in this country with no penalty attached to it, it apparently is not a very serious offense. But yesterday the Senator from Tennessee gave it as his opinion, in his very able speech, that anybody who was injured, the competitor who was injured, or anybody else who was injured by the unlawful competition would have a remedy at law and could sue in damages in a civil action and collect merely by proving that his opponent had committed an offense at law, that he had done something which was unlawful, and the Senator cited the cases which have held that a person injured by a trolley car, for instance, if the company operating the car which had committed the injury were violating a city ordinance, could recover because the company had broken the law. So, in my opinion, neither of these amendments, if adopted, will cure the inherent and constitutionally incurable defects of section 5 if it is permitted to stand.

I shall vote for one or the other of them, because then, at least in the bill on the face of it, it will purport not to make the judgment of this commission absolutely final, and it will give a chance for some court, some legal officer, as distinguished from whoever may constitute the membership of this commission, to state what Congress meant when it declared something to be unlawful. However reactionary or old-fashioned it may be, I must admit that I have within my being something that tells me that it is safer for society and for the rights of individuals who may be oppressed to be allowed in an orderly manner to have a court adjudicate whether they have committed an offense or not, rather than to have an administrative commission appointed by the President do it.

I may be entirely wrong in that feeling. It may be that the decisions as to violations of statutes in this country ought to be taken away from the courts and that a commission should be established here, whose judgment should be final, to decide whether men have or have not violated the law of this country; but that theory is utterly antagonistic to everything that I have been taught, and to everything that I believe, and to everything that I thought our fathers had fought for when they obtained the liberties that we supposed had been guaranteed by the Constitution of the United States.

I think everyone would feel safer with the orderly process and judgment of a court. If these words mean anything or can be judicially decided to mean anything, then it would be left to the arbitrary notion of three out of five of some commissioners who have not yet been appointed and who, the friends of the bill say, are to be appointed, not because they are lawyers but because they may be skilled in the practice of business, experts in business methods. Whatever may be the value of having expert advice or expert opinion upon a matter, I do not think a mere expert in business is per se and on that account a better judge of the interpretation of the statutes that Congress may pass than the duly constituted judiciary of the country.

As I said, I suppose that is utterly out of touch with modern thought; but if it is, so be it. I do not believe in this sort of government. I do not care what the consequences are or what the penalties are for my disbelief, or whether it is schismatic or what not, I in my conscience am satisfied that my view is right. I am satisfied of it when the attempt is made to have commissions in this country interpret what the law phrases of Congress mean, and who have committed offenses that Senators stand here from day to day and admit their utter inability to define. It is a process which the able Senator from Tennessee, who has been the chief justice of the supreme court of that great State, says is equivalent to making a retroactive statute, a process which, to my mind, is equivalent to the passing of an ex post facto law, a process which upon the mere printing in the Government Printing Office here of the words "unfair competition" and the declaration that it is unlawful, accompanied by a debate in which nobody here is wise enough to define the offense, is perilous to enter upon. It gives this commission the power to summon a person before it and to find him guilty of a violation of the law and order him to stop it for an offense committed a week or a year before that time, before anybody had decided that the facts which they say constitute a violation of the law would, in fact, be a violation of the law.

I do not think that is American. I think if Congress wanted to set up a new offense in this country, it is the business of Congress to tell the people what shall constitute that offense. That may be all wrong. I know when we say murder is unlawful and shall be punished by death, we say what shall constitute the offense of murder.

We say it shall be the unlawful, premeditated killing of a person. That is some definition to a man. He knows now what murder is. We say that stealing shall be the taking and carrying away of some personal property in the possession of another. People of ordinary intelligence can tell what it is when we would prohibit stealing, if we did it. We do not, of course, but State laws do. We say that burglary is the unlawful breaking and entering into an inclosure or a building, and that is made a felony. But here we say unfair competition is unlawful, and there is not one of us, or all of us together, able to tell the people who the commission may in the future decide have committed that offense what things they are to do in order to commit it, or what things they are to refrain from doing in order to be sure that they have not violated the law, and that in a bill in response to a message of the President of the United States calling upon Congress to help the poor, puzzled business man, who is now under the operation of the Sherman law prohibiting restraints of trade, by illuminating him as to exactly what he can do and what he can not do.

The junior Senator from Minnesota [Mr. CLAPP] yesterday read the President's message in which he stated substantially that the experience of the country had now sufficed, and the people of the country demanded that the Congress should lay down a definite, precise rule, should define the offenses, the specific acts which should be prohibited, so that the honest business men of the country who do not want to violate the law may not be trapped or punished for doing an unlawful thing when they had no intention of doing an unlawful act.

Mr. President, I regard this bill as utterly irresponsive to the message of the President. I regard the bill as seriously defective in many other parts. This is one of the worst of them; but I think the inquisitorial features of the bill are simply outrageous.

I think the point made by the Senator from Tennessee yesterday in his speech, that Congress, having no jurisdiction whatever over intrastate commerce, but only over commerce among the States, in conferring upon this commission the authority to investigate every corporation which at all is engaged in commerce among the States, as to its organization, its relation to other corporations, and its practices, its methods, its

financial standing, and so forth, it is impossible to limit the examination there to be made to the constitutional function of Congress to regulate commerce among the States.

The intrastate commerce of these corporations is adequately protected now, and the people of the States are adequately protected by their own State laws; but all those things, including the organization of the company which is organized by the home State, are attempted to be placed under the jurisdiction and control of this commission, and the two things are inextricably mingled.

The attempt is made all the way through this legislation and the debates on it to justify it on the ground that it is analogous to and almost perfectly parallel with the establishment of the Interstate Commerce Commission. Mr. President, it differs as broadly from that as the night does from the day. This is the attempt and the first assertion of the wisdom of the Congress of the United States to reach out and regulate the details of private business. The private business of this country is charged with no public use.

Mr. WEST. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Georgia?

Mr. BRANDEGEE. I do.

Mr. WEST. Does not the Senator think there is a difference as wide as the gulf between private business and corporations in the nature of a public utility?

Mr. BRANDEGEE. I do, Mr. President. Of course nobody will deny the right of Congress to regulate commerce among the States, no matter by whom conducted. The question is as to the wisdom of this Central Government here at Washington setting up a Federal tribunal to visé the transactions and approve or disapprove the practices and methods of the various trade associations of this country in private business, business that men engage in with no idea of benefiting the public at large in any way except that it is a good thing to have business in a country, charged with no public use, not offering to serve everybody alike, not common carriers, with the right to sell to whom they please at the price they please and to compete in any way they please within the law. The question is as to the wisdom of the Federal Government here at Washington attempting to regulate all the attempts of the different corporations which are rivals for business to get business.

Mr. President, I do not believe that the business of this country can be conducted by a Federal commission sitting here at Washington. I do not believe if the business men understand this bill that they favor it. I do not believe that it will be possible over 48 sovereign States, with their rights to charter their own corporations to do their business as they want and as they are accustomed to do it, for a Federal tribunal at Washington, with men appointed by the President of the United States to hold office for seven years apiece, adjudicating from day to day upon complaint before that commission of the hundreds of thousands and millions of devices which the various agents and drummers of these corporations competing among themselves by mail by all sorts of different business devices can use. I do not believe that the business of the country can be conducted in that way. It is insufferable and intolerable. The only reason I can give why the business men have not protested against this more vigorously than they have is, first, they do not know what is in the bill; second, many of them would not thoroughly understand the legal points involved if they did; third, they fear to come on here to make a fight against what they do not want and what would be injurious.

Mr. GALLINGER. They would be called lobbyists if they came, would they not?

Mr. BRANDEGEE. They would not come because they would fear they would be headlined in the newspapers over the country as insidious lobbyists.

Mr. GALLINGER. And haled before the committee.

Mr. BRANDEGEE. And investigated by the "lobby" committee or some other Federal institution. They have their wives and their families and their reputations and their standing in their communities, and they are not anxious for that sort of notoriety. Many of them are trusting in the Lord in some way to avert this calamity. Many of them are sticking their heads under the sand and hoping that it will hit the other fellow and that they will escape. Many of them are under the delusion that this inquisition is simply going after the fellow whom they regard as the fellow who is using unfair methods to compete with them, while they themselves think that their methods, of course, are all fair and all right, and think no doubt that the commission would always find that they were all right and that it was their competitor who was doing the unfair thing.

As I said the other day, no lawyer ever had a client who would admit that he intended anything except what was just and right and reasonable and fair, and he could not understand how the other fellow who was claiming the other thing could be an honest man if he claimed it.

We do not agree about what is right and fair. We do not agree among ourselves about what constitutes senatorial courtesy. We are all the time complaining of each other that our fellow Senators do not treat us fairly. I am not always disposed to leave it to some Federal tribunal, but this offense is not made one capable of definition, and therefore it can not be ultimately made an offense.

Everybody agrees with the Senator from Arkansas [Mr. CLARKE] or was it the Senator from Ohio [Mr. POMERENE], who stated this morning that what was fair or unfair would vary with the moral perceptions of the people who decided it, and, of course, it will. You might just as well attempt to get the men who differ about religion to agree upon a common religion that they would all adopt as to agree upon a thing that they would all say was fair. You can not go to a ball game without fearing that the umpire will get mobbed because he has made an unfair decision.

This tribunal, this unknown tribunal—five men—are to be selected from somewhere, from men familiar with large business, in which case the cry will at once be raised that the administration has sold out to the interests, or else men who do not know anything about business and hence are unfit to judge of their fellow business men, in which case the business men will say that they are being persecuted.

I am perfectly certain that this sort of government by commission can not go on in a free country. I am perfectly certain that a commission of honorable men with the best intentions can not perform, to the satisfaction of the country, the duties imposed upon it here.

The Supreme Court of the United States, charged with enforcement of section 5, could not administer it for one year without producing riot in the country. You can not legislate a moral perception about which men may differ, which we admit our inability to define, and make it unlawful, and let it go at that, and run away from the definition, and say we know we can not define it; we do not know what it means, therefore we will shovel it onto the court, and then we will denounce the court and "sick" the people on the courts if they set the law aside as being void for uncertainty, when we admit ourselves that it is so uncertain that we can not touch it with a definition; and when the courts decide that it is absolutely void, un-American, unpatriotic, and an outrage upon a free country, then the demagogues will raise their voices against the courts. But the courts will do their duty regardless of the consequences—I am certain of that—and if they do not the people will do their duty.

They will send men down here who will decline to vote to perpetrate such outrages upon a free country. They will demand the repeal of this sort of government by commission, the people being put in leading strings all over this country.

We are told about business being poor and nothing but confidence lacking to its being good. Do you suppose you can make business men move freely, with confidence, go out with enthusiasm to compete with each other by putting upon every one of them a hair shirt which is going to itch at every pore every minute, and put a Federal detective back of him and expect him to harry him by every competitor with whom he competes, writing him letters saying if he does not submit to that particular thing he will complain and the Federal trade commission will drag him down to Washington? Is that what is called the "new freedom" in this country? That is what I want to know. If it is, we are getting our new freedom, emancipation proclamations, declarations of independence, and all that twaddle talk from ancient Egypt, buried 10,000 years ago, where it ought to have stayed buried, with its back to the resurrection.

There is no sense in this sort of government, or attempt at government, of a free, intelligent people by such half-baked legislation as that. I shall vote for one of these amendments, so that at least the man who has been arbitrarily sentenced by this commission can get before a civil tribunal if the bill has to be passed, and then I shall vote against the bill on its passage.

Mr. STONE. Mr. President, I wish to say just a few words and only a few words with reference to the amendment as now proposed by the Senator from Ohio. Ordinarily I am disposed to follow the lead of the committee of the Senate which has devoted much time and thought to the preparation of a bill or an amendment to a bill. Ordinarily I do that unless my own

judgment is so at variance with that committee as to be irreconcilable.

As I understand the amendment of the Senator from Ohio as he now proposes to amend it, it would not permit the district judge to open up a case coming to him in such way as to hear new or additional evidence from that heard by the commission.

Mr. POMERENE. Mr. President, the Senator is correct except that perhaps I should add that the commission on the introduction of any new evidence may at any time modify any former order it may have made.

Mr. STONE. The commission itself is authorized to modify the order. I was addressing myself particularly to the jurisdiction of the court.

Mr. POMERENE. The court would hear and determine the case upon the record as it came from the commission.

Mr. STONE. I so understand. The apprehension I have and the criticism I make of the Pomerene amendment in the form now proposed is that it would in effect substitute one man, namely, the judge, for the commission composed of five or more men. The judge would take the exact testimony heard by the commission, preserved in the record, and decide whether the order made by the commission was warranted by that testimony and whether it should stand.

In other words, the judge would decide whether he would decide the issues as they were decided by the commission. That would be the substantial and practical effect of the Pomerene amendment with the elimination of the words that he desires to have stricken out.

I am very much in favor of the principles involved in this legislation. There is no doubt that there are in the country evils of the kind intended to be cured by this bill—great evils that do immense harm—and I think within the Constitution the Congress can enact legislation along this line to put an end to or to minimize these evil practices. I am very much afraid, however, that if we are to authorize this commission to hear a case and decide it, and then allow either party to the litigation an appeal to a district judge, to take the record up for his examination, and empower him on that exact record to say that the findings and order of the commission were not warranted, it would very much embarrass the administration of this proposed law. I can not get my mind away from the belief that it is wiser to pursue the practice which has been established and followed in cases originating in the Interstate Commerce Commission. If the so-called Pomerene amendment is agreed to it will very much enlarge the field over which the court would exercise jurisdiction, far beyond the limitations that have been placed upon judicial construction and action by the Supreme Court in cases reviewed by the court originating in the Interstate Commerce Commission.

This bill, if enacted into law, will be experimental—too much so, I fear—and I very much wish that the committee and the able Senators who have prepared this amendment could have adjusted the form of their proposal more nearly to the rules of practice and of construction followed in railroad cases originating in the Interstate Commerce Commission.

It is because of this fear that I reluctantly hesitate to give my assent to the amendment of my friend from Ohio.

Mr. MYERS. Mr. President, I have the honor of being one of the members of the committee who voted in the committee for the amendment offered by the Senator from Ohio [Mr. POMERENE], and I intend to vote for it here. I think it highly desirable.

While I do not agree with the scathing arraignment of this bill made a while ago by the Senator from Connecticut [Mr. BRANDEGEE], I believe that what he says makes it all the more imperative that this amendment should be adopted. By the pending bill Congress is about to lay the heavy hand of the Government on the business of the country and to declare how business may be conducted and how it may not, and to say that that shall be done without full right of recourse, by those to be affected, to the courts, is, to my mind, inconceivable. We are undertaking to remedy certain wrongs of which the people complain; but, while the people have their rights, business, too, has its rights. To provide that those rights shall be passed upon and adjudicated without the full right of recourse to the courts is, to my mind, a novel proposition. The right of a man or of a corporation to conduct business in such way as he or it may think proper, provided it does not interfere under the law with the rights of others, is a valuable property right; it is an inherent property right. To enact that that right may be taken away from a man or from a corporation without the full right of recourse to the courts of the country and without a final judgment of the courts is, to my mind, an anomaly. I do not believe that any property right ought to be taken away from anybody, whether individual or corporation, without full right of recourse to the courts of the land.

The proposed trade commission will not be a court; it will not have judicial powers; it will not necessarily conduct its inquiries according to the rules of court procedure or the rules of evidence or any rules of law. There does not need to be a single member of the commission a lawyer; all may be laymen. To provide that these men shall pass on valuable property rights, which may affect the investments of millions of dollars, without full right of recourse by those affected to the courts, to be there passed upon according to law, is, to me, incomprehensible.

We are entering upon a new field, a new scene of action, an unknown sea of legislation that has never before been explored in this country. Some of our Republican friends characterize it as a most reprehensible and obnoxious venture. While I do not agree with them in that, I think we should proceed carefully and allow everybody who may be affected by this new venture in the field of governmental regulation the full right of recourse to our courts. I do not believe that anyone should be denied the right to conduct his business in such manner as he may see fit without the final judgment of the courts upon the question. To do so would be unparalleled, unprecedented. It would infringe natural, inherent rights of men. It would disregard rights which are justly entitled to protection.

Mr. THOMAS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Colorado?

Mr. MYERS. With pleasure.

Mr. THOMAS. Let me ask the Senator whether if we must have a commission that which is proposed by the other House is not preferable to that which is proposed by the Senate? Taking the House bill in its entirety, which was framed after very careful consideration and very careful hearings, is not the commission therein constituted preferable to the one which is proposed by the Senate? In other words, in view of the character and the nature of the duties of the commission as outlined in the House bill as compared with the powers which are imposed upon the commission by the Senate bill, is not the commission provided for by the House bill preferable?

Mr. MYERS. That is altogether a matter of opinion, Mr. President.

Mr. THOMAS. Of course, and I want the Senator's opinion upon it.

Mr. MYERS. I do not think so. The House bill does not provide for any prohibition of unfair competition, and that, I think, is one of the most valuable features of the pending bill. It is based on one of the most widespread and extended complaints of the people of this country, and is intended to remedy that; but to say that a board or a commission of five men, not one of whom need be a lawyer or know anything about law, and which may conduct its hearings in a summary manner and not necessarily according to rules of law or court procedure or the rules of evidence, may pass upon and make a final adjudication without the full right of recourse to the courts of the country, upon questions involving valuable property rights, involving the investment of millions of dollars—aye, many millions of dollars, is, I think, unjust to the business interests of the country that are to be subjected to this governmental regulation.

Certain malignant growths have appeared in the commercial life of the country, of which the people justly complain, and we are now applying the surgeon's knife to eliminate them, but I think it ought to be applied very carefully and discreetly and with some power of reviewing the acts of the commission according to the law of the land.

It has been said here, I understand, this morning—I could not be present all of the time—that if the courts are allowed to pass upon the acts of the trade commission it will start a complainant upon an endless career of litigation that it will take years to settle. That may be true, but that is not so bad as saying to citizens of this country, with millions of dollars invested, "You shall not see the inside of a court room. Valuable property rights may be taken away from you upon the decision of five men, but you shall not take the matter into court at all; you shall never see the inside of a court."

I know that long litigation is oppressive and distressing and disastrous; a man does not like to bring a lawsuit if he knows it is going to run the gamut of the courts for years before reaching a final adjudication; but that is not so bad as to have written over the courthouse door, "You shall not enter here; you shall not bring your complaints here at all." I had rather have the prospect of a long-drawn-out court proceeding, with a final adjudication some time, if I had a grievance, than to go

to court and see written above the courthouse door, "Thou shalt not enter here," and never get into court at all. That would be far more destructive of the inherent rights of man than to be subjected to some delay by court procedure.

Mr. STONE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Missouri?

Mr. MYERS. With pleasure.

Mr. STONE. If what the Senator from Montana says is true, then the amendment pending would be intolerable, but I do not understand that litigants before the commission will be excluded from the courts and that the courthouses will have over their doors, "You can not enter here." There is no provision of that kind, nor is there any effect of that kind.

Moreover, I should like the Senator to answer me this—and I am not saying this in a critical way, in a controversial way, but desire to obtain the judgment of the Senator—if we are going to try the case wholly, in all of its details, on its merits before the district judge, why not go before him in the first instance?

Mr. MYERS. Because this bill provides for a summary disposition of complaints by the commission in a manner much more expeditious and convenient than they could be handled by court procedure, and the probability is that many of the complaints will be finally adjudicated by the commission and will go no further.

Mr. STONE. But the amendment of the Senator from Ohio, as amended, provides for a summary hearing before the district judge.

Mr. MYERS. Yes. The amendment of the Senator from Ohio so provides, and wisely so; and there may be other amendments that so provide; but the amendment of the Senator from Ohio is the only one, I believe, which provides for a full right of review as a matter of course and of right by any aggrieved party. It provides for a review by a court a good deal like the review by an appellate court of the proceedings of a trial court.

These are my views of the matter. I regret that I was not able to be present to hear the able argument which I understand was made this morning by the Senator from Arkansas [Mr. CLARKE], in whom I have great faith and for whose opinions I have great respect. I regret, too, that in this instance I can not agree with the Senator from Iowa [Mr. CUMMINS], who has rendered very valuable service in the construction of this bill and for whose opinions I have the greatest respect and whose views always have great weight with me. I have been in accord with him on nearly everything in regard to the bill; but in this particular instance I regret that I can not agree with him. It seems to me that the inherent right of a man to a full court review of his grievances, passed upon by a board, is so strong and sacred that the amendment of the Senator from Ohio best answers the purpose. I think it in accordance with right and justice, that nobody will suffer from it, and that prudence requires its adoption. Let us be careful in the framing of this new legislation, designed to enter upon a new field of governmental regulation fraught with some risk.

Mr. WHITE. Mr. President, if the proposed amendment of the Senator from Ohio to his amendment is to be adopted, it seems to me that we will be doing that which is unnecessary; in other words, we will be providing for two trials, receiving the benefit of but one. We will be increasing the expense and trouble of having a trial before the commission, although the decision of that commission may be set at naught by an appeal to the court that will try the case on the record and be deprived of the advantage of having heard the testimony at first hand from the witnesses themselves and thereby enabled to form a more correct conclusion, such as the commission could form by hearing the testimony as it was delivered by the witnesses.

Lawyers all understand that appellate courts can never decide a question of fact nearly as well as the trial court can, for the reason that the trial court has before it the witnesses, and has an opportunity of seeing them when they testify. It can reach a better conclusion as to their intelligence, their interest, their fairness, and disposition to speak truthfully. The appellate court has none of these advantages in weighing the evidence. It sees only the cold, lifeless record, and by this record determines where the truth abides.

Mr. MYERS. Mr. President, may I make a suggestion there?

Mr. WHITE. Certainly.

Mr. MYERS. I understand it to be a general rule of law in all jurisdictions where the common law prevails that the appellate court is largely guided as to questions of fact by the conclusions of the court below, and the court in this instance would doubtless follow that rule and not disturb the findings of fact on the evidence before the commission unless there were overwhelming reasons for doing so.

Mr. WHITE. But, Mr. President, the difference is that the record of the trial of the case by the commission is transferred to the court without having any of the safeguards thrown around it that would be thrown around a trial in an ordinary case, where the judge decides the questions of law presented and where the jury decides upon the questions of fact.

I think, really, we had better not create the commission if we are to adopt the amendment which the Senator from Ohio has suggested. It will render the commission absolutely useless; it will embarrass the situation and make more difficult and more tedious and tortuous the route to the end of the litigation. It will necessitate two trials, the first one before the commission composed of gentlemen who are not lawyers and who can not throw around the trial many of the safeguards which lawyers think should be thrown around it. All kinds of testimony may be admitted, illegal as well as legal. Valuable testimony may have been improperly denied by the commission; the court trying the case would not have the benefit of that evidence, but would be bound, as an appellate court is ordinarily bound, to try the case upon the record presented.

I think, Mr. President, to adopt the amendment would be a mistake. If we are going to have a commission we had better give it such authority as will give it life. Give its decisions the weight that will make them effective and cause them to be respected.

I am not, Mr. President, one of those who believe that all the virtue of the country is embodied in the lawyers or the courts, and yet I have as high regard for my profession as any man, and I believe as sincerely as one man can believe in the fairness and integrity of the courts. But they are human; they are just as likely to err as other men. Experience has taught us—we are admonished by it—that courts are not the best triers of facts. That idea was brought to us by our English ancestors when they came to this country.

In England, for centuries before this country was discovered, experience had demonstrated to our ancestors that juries were better triers of facts than judges. The mind of the judge is too technical to properly consider and weigh the common affairs of everyday life.

Mr. President, not only was the idea brought to us by our English ancestors that the judge is not the best trier of facts, but, sir, we have written that principle in the Constitution of the United States. It has been standing there since the foundation of this Government, and no man, so far as I know, has ever yet undertaken to say that it was wrong. No man of intelligence or at all familiar with the administration of justice has so declared.

Not only that, sir, but every one of the 48 States of this Union has written in its organic law that the judge is not the best trier of facts, but, on the contrary, they should be left to a jury. That is the fundamental law of every State in the Union. Are we now to depart from that and say that the decisions and findings of these triers of facts the most intelligent business men that we can find, men trained in business affairs, peculiarly qualified to decide questions of fact, are to be overturned by the decision of a judge, and that judge himself denied the privilege that the commission had of looking into the faces of the witnesses and observing them while testifying?

For that reason, Mr. President, I am in favor of the amendment offered by the Senator from Iowa [Mr. CUMMINS]. I think it is in line with what we are attempting to do. I believe that the adoption of the amendment offered by the Senator from Ohio will clog the wheels of progress and prevent the accomplishment of things that are intended to be accomplished by this legislation.

Mr. MYERS. Mr. President, I would suggest to the Senator that in every jurisdiction in this country the findings of fact of a jury are subject to the review of the appellate court and are sometimes set aside.

Mr. WHITE. Only, sir, when there is no evidence to support the findings. The court can not say how much evidence or what evidence is necessary; the court only has the power to say that there is no evidence.

Mr. MYERS. Mr. President, I submit to the Senator that the courts have said that there must be some substantial evidence, not a mere scintilla of evidence.

Mr. WHITE. That is true; but when I say no evidence I mean "no substantial evidence." But who is to judge of its substantiality; the judges or the juries? The courts can say that there is no evidence; that there is no substantial evidence; that there is nothing beyond a mere scintilla of evidence; but the courts can not undertake to say, and they have never un-

dertaken to say, and they will not say that the verdicts of juries rendered on facts are wrong. The amendment offered by the Senator from Ohio gives the court the right to say whether the findings of the commission are right or wrong, without regard to the evidence or without regard to the policy involved in the finding.

I am not one of those, Mr. President, who believe that the words "unfair competition" are incomprehensible, nor do I believe, sir, that they are too comprehensive.

Mr. MYERS. Mr. President, I should like to make one more suggestion to the Senator, as he is making a very interesting argument.

Mr. WHITE. Certainly.

Mr. MYERS. This proposed commission would pass upon questions of law as well as of questions of fact.

Mr. WHITE. Yes; but they pass on questions of fact as well as questions of law, and if the reviewing courts were to pass upon questions of law alone that would not be so bad, but they are to pass on questions of fact as well as law under the amendment offered by the Senator from Ohio.

Mr. MYERS. Mr. President, I will say that, in a large majority, litigation in this country involves questions of law and questions of fact.

Mr. WHITE. That is true; and by the amendment of the Senator from Ohio all of that is transferred from the commission to the court. It opens up a new avenue of danger, which is avoided by the amendment of the Senator from Iowa.

Mr. President, I am not apprehensive on account of any supposed uncertainty produced by the use of the words "unfair competition." They are not more indefinite than are many expressions encountered by the courts in administering the law. When we use the phrases "reasonably safe," "reasonably sound," or "reasonably adequate," we are using terms quite as indefinite and uncertain as is the phrase "unfair competition," but they have never balked the courts nor held in abeyance the enforcement of law.

In what respect, I ask, is "unfair competition" more indefinite, more uncertain, than the word "negligence"? Yet the courts have worked out a standard; they tell the jury—or, if the case is being tried by the court, the court will adopt the same standard—that "negligence" is that which a reasonably prudent man would or would not do under similar circumstances. "Unfair competition" can be applied by a like standard—that is, what a reasonably intelligent, honest, business man would do under similar circumstances. Take that as your guide, take that as your standard, and you have no more indefinite standard than you have in many other cases. Why, men are indicted, municipalities are tried, for not keeping highways in a reasonably safe condition. What is "reasonably safe"? That which would be so considered by a reasonably prudent man having in view similar circumstances.

I do not think there is anything that we need be afraid, Mr. President. I do not think the country is going to be frightened by shadows that are being cast so numerously at the feet of business men. They understand what is meant by the expression "unfair competition" as they know what is intended by this legislation. It is well known that unfair competition is being indulged in. The question presented to Congress is whether it will prevent selfish, greedy, wicked men from continuing to determine that their practices are legitimate or whether we will leave that question to the judgment and decision of five intelligent, honest, disinterested men, men to be selected by the Government. The question must be decided by one or the other. Which shall it be? I do not believe that Congress is rendered helpless because of its inability to find language sufficiently definite to deal with a situation such as is presented by the greed and avarice of those who are stifling competition in our business world.

Mr. President, I have said more than I intended, but I want to say that I think the amendment of the Senator from Iowa is far preferable to that offered by the Senator from Ohio, and I hope it will be adopted.

The PRESIDENT pro tempore. The question is on the adoption of the amendment of the Senator from Iowa [Mr. CUMMINS], in the nature of a substitute, on which the yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I have a general pair with the senior Senator from New Mexico [Mr. FALL], which I transfer to the senior Senator from Virginia [Mr. MARTIN] and will vote. I vote "nay."

Mr. CULBERSON (when his name was called). I transfer my general pair with the senior Senator from Delaware [Mr. DU PONT] to the senior Senator from Alabama [Mr. BANKHEAD] and will vote. I vote "yea."

Mr. GALLINGER (when his name was called). I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. I transfer that pair to the senior Senator from Illinois [Mr. SHERMAN] and will vote. I vote "nay."

Mr. HOLLIS (when his name was called). I am paired with the junior Senator from Maine [Mr. BURLEIGH]. If I were at liberty to vote, I should vote "yea."

Mr. KENYON (when Mr. LA FOLLETTE'S name was called). I desire to announce the absence of the senior Senator from Wisconsin [Mr. LA FOLLETTE] on account of illness. Were he present, he would vote "yea."

Mr. MYERS (when his name was called). I transfer my pair with the junior Senator from Connecticut [Mr. MCLEAN] to the junior Senator from Kentucky [Mr. CAMDEN] and will vote. I vote "nay."

Mr. REED (when his name was called). Mr. President, I am not certain whether my pair is out of the city or not. I have a qualified pair, which is effective only when either my pair or myself is out of the city.

Mr. GALLINGER. The Senator from Michigan [Mr. SMITH] is out of the city.

Mr. REED. Under those circumstances I will withhold my vote; but if permitted to vote, I should vote "nay."

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. In his absence I withhold my vote. If the Senator from New York were present, I would vote "yea," believing this amendment to be better than the original.

Mr. VARDAMAN (when his name was called). I have a pair with the junior Senator from South Dakota [Mr. STERLING]. In his absence I shall withhold my vote. Were I at liberty to vote, I should vote "yea."

Mr. WILLIAMS (when his name was called). I transfer my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the junior Senator from Virginia [Mr. SWANSON] and will vote. I vote "nay."

The roll call was concluded.

Mr. JAMES. I wish to announce the necessary absence of my colleague [Mr. CAMDEN].

Mr. CHAMBERLAIN. I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER], and in his absence I withhold my vote. If permitted to vote, I should vote "yea."

Mr. SAULSBURY. I am requested to announce the unavoidable absence of the senior Senator from Maryland [Mr. SMITH] and his pair with the senior Senator from Vermont [Mr. DILLINGHAM].

Mr. OWEN. I am paired with the junior Senator from New Mexico [Mr. CATRON]. If I were at liberty to vote, I should vote "yea."

Mr. SMITH of Georgia. I have a general pair with the senior Senator from Massachusetts [Mr. LODGE]. I transfer that pair to the junior Senator from South Carolina [Mr. SMITH] and will vote. I vote "nay."

Mr. REED. I transfer my pair with the senior Senator from Michigan [Mr. SMITH] to the junior Senator from Tennessee [Mr. SHIELDS] and will vote. I vote "nay."

Mr. GALLINGER. I have been requested to announce the following pairs:

The senior Senator from Vermont [Mr. DILLINGHAM] with the senior Senator from Maryland [Mr. SMITH];

The senior Senator from Delaware [Mr. DU PONT] with the senior Senator from Texas [Mr. CULBERSON];

The senior Senator from New Mexico [Mr. FALL] with the senior Senator from West Virginia [Mr. CHILTON];

The junior Senator from West Virginia [Mr. GOFF] with the senior Senator from South Carolina [Mr. TILLMAN];

The junior Senator from Pennsylvania [Mr. OLIVER] with the senior Senator from Oregon [Mr. CHAMBERLAIN];

The senior Senator from Michigan [Mr. SMITH] with the junior Senator from Missouri [Mr. REED];

The junior Senator from Wisconsin [Mr. STEPHENSON] with the junior Senator from Oklahoma [Mr. GORE];

The junior Senator from South Dakota [Mr. STERLING] with the junior Senator from Mississippi [Mr. VARDAMAN];

The junior Senator from Michigan [Mr. TOWNSEND] with the junior Senator from Arkansas [Mr. ROBINSON];

The junior Senator from Wyoming [Mr. WARREN] with the senior Senator from Florida [Mr. FLETCHER]; and

The junior Senator from New Mexico [Mr. CATRON] with the senior Senator from Oklahoma [Mr. OWEN].

The result was announced—yeas 33, nays 25, not voting, 38, as follows:

YEAS—33.

Ashurst	Gronna	Lee, Md.	Simmons
Brady	Hitchcock	Lewis	Smith, Ariz.
Bristow	Hughes	Martine, N. J.	Stone
Clapp	James	Norris	Thompson
Clark, Wyo.	Johnson	Overman	Weeks
Clarke, Ark.	Jones	Page	White
Crawford	Kenyon	Perkins	
Culberson	Kern	Sheppard	
Cummins	Lane	Shively	

NAYS—25.

Brandegee	Lippitt	Ransdell	Thornton
Bryan	McCumber	Reed	Walsh
Burton	Myers	Saulsbury	West
Chilton	Nelson	Shafroth	Williams
Colt	Newlands	Smith, Ga.	
Gallinger	Pittman	Smoot	
Lea, Tenn.	Pomerene	Sutherland	

NOT VOTING—38.

Bankhead	Goff	Penrose	Sterling
Borah	Gore	Poindexter	Swanson
Burleigh	Hollis	Robinson	Thomas
Camden	La Follette	Root	Tillman
Catron	Lodge	Sherman	Townsend
Chamberlain	McLean	Shields	Vardaman
Dillingham	Martin Va.	Smith, Md.	Warren
du Pont	O'Gorman	Smith, Mich.	Works
Fall	Oliver	Smith, S. C.	
Fletcher	Owen	Stephenson	

So Mr. CUMMINS's amendment, in the nature of a substitute, was adopted.

The PRESIDENT pro tempore. The question is on the adoption of the substitute proposed by the committee, as amended.

Mr. SUTHERLAND. Mr. President, on this question I intend to vote for the amendment proposed as a substitute for section 5 as it appears in the bill. Since I spoke upon this subject yesterday I have gone over the amendment proposed by the Senator from Iowa with care, a thing which I had not done when I discussed it yesterday. I took the statement of the Senator from Iowa as to what he thought would be accomplished by it, and concluded from that statement that the amendment would limit the power of the court to what has been denominated the narrow review. Upon a careful examination of the amendment I doubt very much whether it will accomplish that result, but I am inclined to think that under the terms of the amendment the court will be left free to adopt such rule as it believes it ought to adopt under the provisions of the Constitution without any express legislative limitation.

I voted against it as a substitute, and thereby intended to express my opinion in favor of the amendment proposed by the Senator from Ohio, which I preferred to this amendment because the amendment of the Senator from Ohio made it perfectly plain that the court was not to be restricted to the narrow review, but was left free to exercise its full judicial powers.

The provisions of the Cummins amendment, so far as that matter is concerned, are as follows:

> Any suit brought by any such person, partnership, or corporation to annul, suspend, or set aside, in whole or in part, any such order of the commission shall be brought against the commission in a district court of the United States in the judicial district of the residence of the person or of the district in which the principal office or place of business is located and the procedure set forth in the act of Congress making appropriations to supply urgent deficiencies and insufficient appropriations for the fiscal year of 1913 and for other purposes relating to suits brought to suspend or set aside, in whole or in part, an order of the Interstate Commerce Commission shall apply.

Thus far it has related to the procedure, to the method of bringing the suit, to the number of judges who shall be compelled to hear the case, and so forth. Up to that point it does not establish any rule of evidence.

The next provision is:

> If within the time so fixed in the order of the commission, the person, partnership, or corporation against which the order is made shall not cease and desist from such unfair competition, and if in the meantime such order is not annulled, suspended, or set aside by a court, the commission may bring a suit in equity in a district court in any district wherein such person or persons reside or wherein such corporation has its principal office or place of business to enforce its said order, and jurisdiction is hereby conferred upon said court to hear and determine any such suit and to enforce obedience thereto according to the law and rules applicable to suits in equity.

That apparently leaves open the question as to the rule which the court itself shall follow in determining a case of this character.

Perhaps the matter is not wholly free from doubt; but there is, at any rate, no express provision in the proposed amendment which undertakes to limit the court to the narrow review. I think, therefore, the court will take hold of the matter when a case is brought before it, and if the court finds that the order which has been issued by the trade commission is of a judicial character it will then exercise its full judicial power over that matter. I do not think any act of Congress could constitutionally restrict the power of the court in that particular. If any action which may be taken by the commission is in the nature of the exercise of legislative power, and if the court should find—a thing which I think it can not find under this bill—that the primary standard has been laid down, and that the legislative act of the commission is within the primary standard, then I think the court would follow the rule which it has followed with reference to proceedings before the Interstate Commerce Commission. In other words, I think the section may be so construed by the court as to permit the court to adopt either method, in accordance with the character of the order which it may find the commission has adopted.

I utterly dissent from the doctrine which was maintained here this morning by the Senator from Arkansas [Mr. CLARKE], that we have any authority to confer upon any body but the courts judicial power, or any part of the judicial power. The authorities which the Senator from Arkansas read followed a well-known line of decisions, to the effect that, so far as the Constitution of the United States is concerned, a State may confer judicial power upon a person or body other than the courts, and may confer legislative power upon a body other than the legislature. Whether a State can do that or not would depend on the State constitution. The provisions of the Federal Constitution which divide these three general powers—the legislative, the judicial, and the executive—among these departments are a limitation upon the Government of the United States, and are in no manner a limitation upon the State governments. The State governments may provide for any method of distribution that they please, so long as what they do will not come within the inhibition of some other provision of the Federal Constitution which is directed against the authority of the State to do the particular thing; but under the Constitution of the United States judicial power—and that means all judicial power—is conferred upon the courts.

The Senator from Arkansas says there is nothing in a name; that we do not have to call a man a judge. That may be true; but the Constitution of the United States has also provided that the judicial power is vested in the Supreme Court and such other courts as Congress may from time to time ordain and establish. Now, it may be true that Congress may confer judicial power upon a body without calling its members judges; but the Constitution also provides that these judges who exercise the judicial power shall be appointed during good behavior. The members of this commission are not appointed during good behavior. Each member of it is appointed for a period of seven years; and that alone shows that it is not a court in any sense, and that judicial power can not be conferred upon it.

It is true that in the case of the Territorial judges we limited their term of office to four years; but we proceeded, in doing that, under an altogether different power of the Constitution, namely, the power which gives Congress authority to dispose of and make all needful regulations for the Territory and other property of the United States. We may limit the tenure of office of a judge in the District of Columbia, because we govern the District of Columbia under a separate provision of the Constitution; but when we are undertaking to confer the judicial power of the United States upon a body of men we can only confer it upon a body of men who, in substance and effect, constitute a court, whether we call them a court or not. The maintenance of the rule which forbids the commingling of these three, or any two of these three, powers in the same hands is of vital importance.

I want to read into the RECORD a very brief statement from Bondy on The Separation of Governmental Powers, where he quotes from Blackstone and some other writers. I shall read only the quotation from Blackstone.

He says:

> Wherever the right of making and enforcing the law is vested in the same man or one and the same body of men, there can be no public liberty. The magistrate may enact tyrannical laws and execute them in a tyrannical manner, since he is possessed, in his quality of dispenser of justice, with all the power which he as legislator thinks proper to give himself.

As to the necessity of the separation of the judicial from the legislative and executive power, he says:

> Were it joined with the legislative, the life, liberty, and property of the subject would be in the hands of arbitrary judges whose decisions would be regulated only by their opinions, and not by any fundamental principles of law, which, though legislators may depart from, yet judges are bound to observe. Were it joined with the executive, this union might soon be an overbalance of the legislative.

Then I call attention to these words of strength and wisdom which the author of this work himself uses:

> Thus where the legislative and judicial powers are exercised by distinct bodies the general laws are made by one body of men without foreseeing whom they may affect, and when made they must be applied by the other let them affect whom they will. The legislature will then have no private interests to serve, consequently its laws will be suggested by

considerations of universal effects and tendencies which always produce impartial and commonly advantageous laws.

So, Mr. President, while I very much prefer the amendment which was proposed by the Senator from Ohio [Mr. POMERENE], because that made certain what to some extent may be left in doubt by this amendment, for the reasons I have stated I intend to vote for it. When it is incorporated into the bill, however, I intend to vote against the bill, because while it will remove one of the objections which I made to the bill, and while the amendments proposed by the Senator from Nevada the other day, which are now pending, and for all of which I shall vote, will remove certain other objections, they do not by any means remove all of the objections which I think justly lie against this measure. They do not reach the question of the violation of the provision of the Constitution against unlawful search and seizure to which I called attention. They do not reach the objections I have made as to the inquisitorial powers of this body of men. They do not reach several of the objections I have heretofore made and which I shall not now undertake to repeat.

I am opposed to the idea of putting into the hands of a mere administrative body of men such far-reaching powers of espionage and control over the private business of this country as this bill seeks to do. I think we might very well define certain improper practices, as, for example, interlocking directorates, intercorporate holdings, and some particular forms of objectionable practice which might be specified.

All those definitions would have to be very carefully guarded, because if we were to inhibit broadly all intercorporate holdings and all interlocking directorates, I think that would result in great hardship in many respects and in injustice in many respects. Some provisions of that kind, carefully drawn and carefully safeguarded, Congress might very well adopt and then primarily turn over to a trade commission, if we undertake to create one, for administration. But when we write into the law this phrase "unfair competition," which the various sponsors of this bill each have a very clear notion about, but with reference to which they unfortunately disagree, we are putting into the statute books of the country a law which, in my judgment, if it be enforced, is bound to result in indescribable confusion to the business interests of the United States.

Mr. NEWLANDS. Mr. President——

Mr. SUTHERLAND. I yield.

Mr. NEWLANDS. May I ask the Senator whether he regards the so-called Cummins amendment as giving a broader court review than section 5 of the bill as reported from the committee?

Mr. SUTHERLAND. Section 5 as reported from the committee gives no review at all. That was the basis of the criticism which I made upon the subject of its conferring judicial power. Let me illustrate——

Mr. NEWLANDS. But is the Senator of the opinion that under section 5 of the bill, as it was reported, the court would have no power whatever over the order? Section 5 as reported provides that the order can only be enforced by the court. What power does the Senator think the court could exercise with reference to such an order?

Mr. SUTHERLAND. I think under section 5 as originally reported the court would have the power to declare it utterly unconstitutional, and that would be the end of it. The courts are not given the authority to review in any way the findings of this commission. They are simply given the authority, when they find that an order of the commission has been made and that that order has been disobeyed by the corporation, to perfunctorily issue an injunction commanding obedience to the order. That is all there is about it, so far as the original section 5 is concerned. It is that fact that was the basis of the objection which I made, that it undertook to confer judicial power. I can illustrate——

Mr. NEWLANDS. Does the Senator doubt at all that upon the petition of the commission to the court for an injunction to issue upon its order the court could consider in that case whether the constitutional rights of the corporation were invaded? Does the Senator doubt that the court in that case could consider the question as to whether the order was within the authority conferred by the statute? Does the Senator doubt that the court in that case could determine whether or not the facts upon which the order was based constituted the offense of unfair competition?

Mr. SUTHERLAND. Has the Senator finished?

Mr. NEWLANDS. That is all.

Mr. SUTHERLAND. Mr. President, I doubt all those things. The court would have before it no case which presented those questions, because upon examining the statute which was the basis of the order that they were called upon to review they would find that that statute was void, and that would be the end of it. Of course, if a statute was passed which is unconstitutional and therefore utterly void, the proceedings under the void statute would not present a case which the courts could review. The only thing the courts could do and should do—and I am quite sure in my own mind that they would do—would be to declare that section 5 was entirely outside of the constitutional authority of Congress.

Mr. BRANDEGEE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Connecticut?

Mr. SUTHERLAND. Yes.

Mr. BRANDEGEE. I will say to the Senator from Utah that my impression is that the friends of the amendment known as the Cummins amendment, which has just been adopted, do not think that under it the court could look at the facts and say whether the facts would constitute the offense.

Mr. SUTHERLAND. I know that is their position. If the amendment proposed by the Senator from Iowa had said in so many words that the court was in its review confined to determining, first, whether or not the commission has acted within its power, and whether or not its action is in conformity to the Constitution, I would unhesitatingly have voted against the amendment. I am going to vote for it, because I think after a careful examination of it the amendment will not be construed by the courts as some of the proponents for it have construed it. I may be mistaken about that, but I have tried to read it with some care, and I think I am right.

But I was going to call the attention of the Senator from Nevada to the distinction between these powers that I am speaking about. Under the interstate-commerce act it is true there are two classes of powers that are conferred upon the commission. One is to inquire as to whether or not given rates are reasonable, whether given practices are fair, and then not to pass judgment against the railroad company guilty of extorting unreasonable rates or of indulging in unfair practices, not to impose a penalty, not to issue an injunction, but to fix a rate for the future, to lay down a course of conduct for the future, both of which are in essence legislative acts. As to that character of acts, the court will not review the facts upon which the action of the commission was taken any more than the courts would review the facts which might have moved the Congress of the United States in taking similar action.

A State legislature, for example, investigates the railroad situation and adopts a law which requires a railroad company to charge only 2 cents a mile for passengers. That is a legislative act. The courts would review that action in order to determine whether or not the charge which they have allowed the railroad company to make is so low as to be confiscatory and therefore in violation of the provisions of the Constitution, but they will not inquire as to the evidence upon which the legislature acted in passing the law.

Now, it is altogether different when we come to the quasi judicial functions of the Interstate Commerce Commission. Let me call the Senator's attention to section 16, which is—

That if after hearing on a complaint made as provided in section 13 of this act, the commission shall determine that any party complainant is entitled to an award of damages under the provisions of this act for a violation thereof, the commission shall make an order directing the carrier to pay to the complainant the sum to which he is entitled on or before a day named.

Now, mark:

If a carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file in the circuit court of the United States for the district in which he resides or in which is located the principal operating office of the carrier, or through which the road of the carrier runs, or in any State court of general jurisdiction having jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the commission in the premises. Such suit in the circuit court of the United States shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the findings and order of the commission shall be prima facie evidence of the facts therein stated, and except that the petitioner shall not be liable for costs in the circuit court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal.

The effect of that is simply to make the Interstate Commerce Commission, as I said the other day, a sort of referee to investigate the facts and making a finding upon them, or a so-called order upon them, which the carrier is at perfect liberty to disregard or to follow.

The Senator from Arkansas [Mr. CLARKE] seemed to find some fault this morning with my statement that it would be simply in the nature of good advice. Yet, after all, that is all it is. It is not a judgment upon which execution shall issue or which can be enforced as such. It is simply good advice to the carrier to the effect that after investigating this subject it is our opinion that you owe these complainants some money, and we think you ought to pay it, but if the common carrier

does not choose to follow that advice the whole matter is open to the courts.

I think if the words "unfair competition" have any legal meaning and are to be confined to their legal meaning, what this commission does when it inquires whether or not somebody has violated this section 5 is similar to what the Interstate Commerce Commission does when they investigate the question of a money claim. When the commission issues an order upon that it simply issues a piece of advice to the corporation involved, saying, in substance and effect, we think you have violated this law and you had better cease the practice; and if the corporation does not see fit to do that under this proposed amendment the case goes to the courts. Without any amendment the whole thing stops there, except that you have attempted to put into your provision a perfectly abortive thing, namely, a direction to the court to enforce the order of the commission, without any inquiry as to the facts upon which it was originally based.

Mr. President, I discussed that question at some length on yesterday and on preceding days. I did not intend to go over it again. For reasons I have given, I intend to vote for the amendment, and then I intend to vote against the bill.

The PRESIDENT pro tempore. The Chair desires to make a statement. In view of the fact that the Senator from Nevada, the chairman of the committee, accepted the so-called Pomerene amendment as a part of the committee amendment, it became the text of the bill. The amendment offered by the Senator from Iowa, therefore, was to strike out and insert. It requires no additional concurrence, the affirmative votes on that having the effect of striking out from the committee report the Pomerene amendment accepted by the chairman, and the Cummins amendment is now a part of the text of the bill.

There is another statement the Chair desires to make. On yesterday the Chair was under the impression that the adoption of the Cummins amendment would have the effect of eliminating, if that amendment should be adopted, the proviso prohibiting the admittance of the order or finding of the court or commission in the enforcement of section 5 as evidence in any suit, civil or criminal, brought under the antitrust acts. An inspection of the amendment shows that it was not intended to interfere with the adoption of that amendment.

Mr. BRANDEGEE. Mr. President, as I understand the Chair, he holds that when any committee, after it has reported a bill to the Senate and which was in the possession of the Senate, had agreed to recommend that the report of the committee to the Senate should be amended in a certain way, thereby the bill pending in the Senate becomes amended without any action by the Senate.

The PRESIDENT pro tempore. The proposer of an amendment may modify it.

Mr. BRANDEGEE. The amendment is a committee report, and while I agree that an individual Senator may modify any amendment that he proposes——

The PRESIDENT pro tempore. The Senator from Nevada said the matter had been presented to the Interstate Commerce Committee, and the request submitted by him was on behalf of that committee. The Chair presumes that the committee has the same control over its amendments that an individual Senator would have over his own amendment.

Mr. BRANDEGEE. If I may be allowed to state coherently my notion about the matter, it is this: The committee reported the House bill to the Senate recommending that all after the enacting clause be stricken out and that certain matter printed in italics be inserted in lieu thereof. That is the measure before the Senate. That was done on June 13. The other day, within three days certainly, the Committee on Interstate Commerce, or a quorum, met and agreed to report to the Senate a proposed amendment to what they had previously reported. It seems to me that the mere subsequent report of a committee of a proposition to amend what they had previously reported should be amended on the floor of the Senate; that the committee can not ipso facto act for the Senate as though it was the action of the Senate; that it must be acted upon as any other committee amendment would be acted upon. When the committee has reported, it has lost jurisdiction or control of what it has reported, and it must make recommendations as to changes which it may desire to have made.

What the committee had originally reported June 13 was merely a recommendation to the Senate that the House text should be amended as indicated. Having done that, it takes me by surprise to have it asserted that the committee may subsequently recommend that what they have already recommended should be modified, and that that modification shall be made without the consent of the Senate or any action by the Senate. That in brief is my point.

Mr. SMOOT. Mr. President, I rose to a parliamentary inquiry some time ago. In my inquiry at that time I asked the Chair if the amendment offered by the Senator from Ohio had been acted upon by the Senate and the Chair——

The PRESIDENT pro tempore. It was made the text of the committee amendment by the action of the Committee on Interstate Commerce. The committee proposed to amend its amendment under the right given to that committee or to any individual Senator to modify an amendment. That is the ruling made yesterday, and it was not excepted to.

Mr. SMOOT. I understand that the chairman of the committee had a perfect right to perfect his amendment, but in perfecting the amendment it must be agreed to by the Senate.

That is the parliamentary inquiry to which I rose before, as to whether it had been acted upon by the Senate. If it had been acted upon by the Senate then the amendment of the Senator from Iowa was simply an amendment to strike out and insert, but if it had not been acted upon by the Senate, then it was an amendment in the second degree.

The PRESIDENT pro tempore. The Pomerene amendment was made a part of the proposal of the committee. But that is a moot question at this time. The Senator from Nevada proposes certain amendments to the bill.

Mr. SUTHERLAND. Mr. President, it does not seem to me that we have finally acted upon the Cummins amendment.

The PRESIDENT pro tempore. We have, for this reason: The Pomerene amendment was made the text of the committee report by the withdrawal of the original section 5 and by the adoption by the committee of the Pomerene amendment. The parliamentary attitude of the amendment offered by the Senator from Iowa was to stike out the so-called Pomerene amendment, it having been made a part of the text of the bill, and to insert the amendment offered by him. That has been done.

Mr. SUTHERLAND. Very well.

Mr. BRANDEGEE. It may be that it is only a moot question, but I think it is an important question. I had supposed that when a committee had reported to the Senate, the report was in the possession of the Senate and it was for the Senate to perfect the matter which had been reported by the committee.

I am not going, of course, to appeal from the ruling of the Chair, but I simply want it recorded in the RECORD that I protest against it, and I do not want it to serve as a precedent.

The PRESIDENT pro tempore. It will be noted. The Chair understands that the Senator from Nevada proposed certain amendments yesterday. The clerks say that they have not been noted as having been proposed by the Senator.

Mr. CLARK of Wyoming. Mr. President, simply to make the ruling of the Chair perfectly plain, and for my own information of the parliamentary procedure, do I understand that it is the ruling of the Chair that the committee having made a report upon a bill to the Senate the committee can thereafter at any time before the Senate acts upon the bill change the text of the reported amendment?

The PRESIDENT pro tempore. The Chair proceeded under this rule:

> Any motion or resolution may be withdrawn or modified by the mover at any time before a decision, amendment, or ordering of the yeas and nays, except a motion to reconsider, which shall not be withdrawn without leave.

The Senator from Nevada, in charge of the bill on behalf of the Committee on Interstate Commerce, modified the amendment reported by the committee by striking out certain matter and inserting other matter.

Mr. CLARK of Wyoming. The question in my mind right now is, Did the Senator from Nevada ask permission of the Senate to do that?

The PRESIDENT pro tempore. That was done yesterday without any objection, and we can not go back of that action at this time.

Mr. NEWLANDS. I ask whether it is in order now to offer any amendment to section 5, the Cummins amendment?

The PRESIDENT pro tempore. An amendment of that nature is not in order as in Committee of the Whole.

Mr. NEWLANDS. The Chair rules that it will not be in order until we get the bill into the Senate.

The PRESIDENT pro tempore. The Chair so rules.

Mr. NEWLANDS. I offer an amendment on page 17, line 22. After the word "engaged" I move to strike out the words "or concerning its relation to any individual, association, or partnership" and substitute the words "relating to or in any way affecting the commerce in which such corporation under inquiry is engaged."

The PRESIDENT pro tempore. The Senator will indicate the page and line so that the clerks may get the amendment.

Mr. NEWLANDS. Upon page 17, line 22, after the word "engaged."

The PRESIDENT pro tempore. In the printed amendments proposed by the Senator from Nevada an amendment appears that, on page 17, line 9, after the word "commerce," to strike out the words "and its relation to other corporations and to individuals, associations, and partnerships."

Mr. NEWLANDS. I see.

The PRESIDENT pro tempore. The amendments now offered by the Senator from Nevada have been printed, and if he will send them to the desk and let them be read it will be much more easy to grasp what is being done.

Mr. NEWLANDS. I wish to add some words to that amendment.

Mr. MYERS. Will the Senator from Nevada yield?

Mr. NEWLANDS. Certainly.

Mr. MYERS. Before we get away from this matter, I desire to reserve the right to have a separate vote in the Senate, when the bill is reported from the Committee of the Whole, upon the amendment of the Senator from Iowa [Mr. CUMMINS] which was adopted.

The PRESIDENT pro tempore. Notice will be taken of the suggestion of the Senator from Montana. The Chair suggests to the Senator from Nevada that he send his amendments to the desk that they may be reported.

The SECRETARY. The Senate has already agreed to the amendment on page 17, line 9, to insert after the word "commerce" the words "relating to or in anyway affecting the commerce in which such corporation under inquiry is engaged."

Mr. NEWLANDS. Has that already been adopted?

The PRESIDENT pro tempore. The recollection of the Chair is otherwise. It has been proposed.

Mr. NEWLANDS. I will ask whether that amendment struck out the words "and its relation to other corporations and to individuals, associations, and partnerships"?

The PRESIDENT pro tempore. There is some confusion about the record, and the confusion will be increased unless the Senator reduces his amendments to writing and sends them to the desk so that they may be presented in the regular way. The Chair can not entertain an amendment unless the Senator conforms to the rule of the Senate.

Mr. NEWLANDS. Then, on page 17, line 9, after the word "commerce," I move to strike out the comma and the words "and its relations to other corporations and to individuals, associations, and partnerships."

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. On page 17 of the proposed committee amendment, lines 9, 10, and 11, strike out the words "and its relation to other corporations and to individuals, associations, and partnerships."

The PRESIDENT pro tempore. The amendment is agreed to unless there is objection. The Chair hears none. Are there further amendments to be proposed?

Mr. NEWLANDS. On page 17, line 22, after the word "engaged," I move to strike out the words "or concerning its relations to any individual, association, or partnership."

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 17, in the committee amendment, lines 22 and 23, strike out the words "or concerning its relations to any individual, association, or partnership."

The PRESIDENT pro tempore. The amendment will be agreed to unless there is objection. The Chair hears none.

Mr. NEWLANDS. On page 20, line 11, after the words "United States," I move to strike out the words "and also to investigate whether American exporters have combined with each other or with foreign producers or dealers to control prices abroad."

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. In the proposed committee amendment, page 20, beginning with line 11, after the words "United States" and the comma, strike out the words "and also to investigate whether American exporters have combined with each other or with foreign producers or dealers to control prices abroad."

Mr. LANE. I should like to ask the Senator why he proposes to strike out that clause.

Mr. NEWLANDS. The reason for striking out that clause is because the power of investigation is given in the previous subdivision. This provision is as to the investigation of trade practices abroad.

Mr. LANE. The bill already provides for it and there is no need of it?

Mr. NEWLANDS. That is the case.

The PRESIDENT pro tempore. The amendment will be agreed to unless there is objection. The Chair hears none.

Mr. NEWLANDS. On page 22——

Mr. BRANDEGEE. I ask the Senator from Nevada if these are committee amendments?

Mr. NEWLANDS. Yes.

Mr. BRANDEGEE. Under the ruling of the Chair they have become parts of the text without the action of the Senate.

The PRESIDENT pro tempore. The Senator from Nevada will proceed.

Mr. NEWLANDS. On page 22, line 21, after the word "commerce," I move to insert the words "with the intent to prevent."

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. On page 22 in the proposed amendment of the committee, line 21, after the word "commerce" and the comma, insert the words "with the intent to prevent."

The PRESIDENT pro tempore. The amendment will be agreed to unless there is objection. The Chair hears none.

Mr. NEWLANDS. In the same line, after the word "production" I move to insert the word "thereof."

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. In the same line—line 21—page 22, after the word "production" insert the word "thereof."

The PRESIDENT pro tempore. The amendment will be agreed to unless there is objection. The Chair hears none.

Mr. NEWLANDS. In the same line after the word "thereof," just inserted, I move to strike out the words "of which the commission may require under this act."

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. In lines 21 and 22, page 22, strike out the words "of which the commission may require under this act."

The PRESIDENT pro tempore. The amendment is agreed to unless there is objection. The Chair hears none. The bill is still in Committee of the Whole and open to amendment.

Mr. CUMMINS. Mr. President, a few days ago I offered an amendment to be known as section 6, relating to a regulation prohibiting one corporation from holding or owning the stock of another, the two being engaged in like business. I debated the matter to some extent and we had a vote upon it and the amendment was rejected. I think largely because the same subject was dealt with in the bill reported by the Judiciary Committee.

It was then stated—and, I think, with a good deal of force—that whatever changes should be made in the report of the Judiciary Committee ought to be made through amendments when that bill is before the Senate for consideration. I think that all these regulations touching holding companies and interlocking directorates that are to be worked out through the commission should be in this bill; but I appreciate the difficulty and the embarrassment of accomplishing that end at this time.

I have two amendments in my hand, one touching what are known as holding companies, the other relative to interlocking directorates. I desire to offer these amendments, in their order, for I can not satisfy myself without indicating in this manner how I think this bill should be composed; but I do not intend to either argue them or to ask a roll call upon them. I accept the decision of the Senate made the other day with regard to a similar amendment relating to intercorporate stockholding as indicative of its desire to deal with those subjects in the Clayton bill. I present these amendments simply to show what I think the bill ought to contain. I offer the amendment I send to the desk as section 7.

The PRESIDENT pro tempore. The Secretary will read the amendment.

The Secretary proceeded to read the amendment.

Mr. CUMMINS. Mr. President, I will ask unanimous consent that the remainder of the amendment may not be read. It is precisely in the procedure it provides like the amendment that has been substituted for the committee amendment with regard to unfair competition. I think we could save time if we could consent that the amendment should not be further read.

The PRESIDENT pro tempore. Is there objection? The Chair hears none.

The amendment is as follows:

SEC. 7. It shall be unlawful for any corporation to acquire, own, hold, or control, either directly or indirectly, the whole or any part of the capital stock or other share capital, or any other means of control or participation in the control of two or more corporations engaged in commerce, the business of which latter corporations is naturally, and by reason of character and location, competitive.

The commission is hereby empowered and directed to forbid and prevent such unlawful conditions in commerce in the manner following, to wit:

Whenever the commission shall have reason to believe that any corporation has acquired, or is owning, holding, or controlling, either

directly or indirectly, the whole or any part of the capital stock or other share capital, or any other means of control or participation in the control of two or more corporations engaged in commerce, and that the business of the two or more corporations is naturally, and by reason of character and location, competitive, it shall issue and serve upon such corporation a complaint stating its charges in that behalf and at the same time a notice of hearing upon a day and at a place therein fixed. The corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such corporation to cease and desist from the violation of the law so charged in said complaint. If upon such hearing the commission shall find that the corporation named in the complaint has acquired, or is owning, holding, or controlling the capital stock or other share capital, or other means of control or participation in the control of two or more corporations engaged in commerce and contrary to the provisions of this section, it shall thereupon enter its findings of record and issue and serve upon the corporation an order requiring that within a reasonable time, to be stated in said order, the corporation shall bring itself into conformity with the law by ceasing to acquire, own, or control the whole or any part of the capital stock or other means of control or participation in the control of such other corporations so engaged in commerce.

The commission may at any time set aside, in whole or in part, or modify its findings or order so entered or made.

Any suit brought by any corporation to annul, suspend, or set aside, in whole or in part, any such order of the commission shall be brought against the commission in a district court of the United States in the judicial district wherein the corporation has its principal office or place of business, and the procedure set forth in the act of Congress making appropriations to supply urgent deficiencies and insufficient appropriations for the fiscal year of 1913, and for other purposes, relating to suits brought to suspend or set aside, in whole or in part, an order of the Interstate Commerce Commission shall apply.

If within the time so fixed in the order of the commission the corporation against which the order is made shall not have complied therewith, and if in the meantime such order is not annulled, suspended, or set aside by a court, the commission may bring a suit in equity in a district court of the United States in the district wherein such corporation has its principal office or place of business to enforce its said order, and jurisdiction is hereby conferred upon said court to hear and determine any such suit and to enforce obedience thereto according to the law and rules applicable to suits in equity; all the provisions of the law relating to appeals and advancement for speedy hearing in suits brought to suspend or set aside suits brought in the Interstate Commerce Commission shall apply to suits brought under this section: *Provided*, That this section shall not apply to corporations acquiring, owning, and holding capital stock or other share capital, solely for investment, and not using same in bringing about or in attempting to bring about a common control of the corporations whose stock or other share capital it owns and holds; nor shall it apply to banks, banking institutions, or common carriers; nor shall it be construed to prevent the formation of subsidiary corporations for the actual carrying on of the immediate and lawful business of the principal corporation: *Provided further*, That no order or finding of the court or commission in the enforcement of this section shall have any force or effect, nor be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. CUMMINS. Mr. President, I now offer as section 8 an amendment relating to interlocking directorates, and ask that the same consent with regard to reading the part of the amendment relative to the procedure prescribed in the amendment be given. I ask that there be read only the substantive part of the amendment.

The PRESIDENT pro tempore. In the absence of objection, the Secretary will read as requested.

The amendment is as follows:

SEC. 8. It shall be unlawful for any person to be at the same time a member of the board of directors or other managing board, or an officer of two or more corporations, either of which is engaged in commerce, the business of which corporations is naturally and by reason of character and location competitive.

The commission is hereby empowered and directed to forbid and prevent such unlawful conditions in commerce in the manner following, to wit: Whenever the commission shall have reason to believe that any person is at the same time a member of the board of directors or other managing board, or an officer of two or more corporations, the business of which is competitive, as hereinbefore set forth, it shall issue and serve upon such person and the corporation with which he is so connected a complaint stating its charges in that behalf and at the same time a notice of hearing upon a day and at a place therein fixed. The person so complained of and the said corporation shall have the right to appear at the time and place so fixed and show cause why an order should not be issued by the commission requiring such person or persons to cease and desist from being at the same time a member of such boards or from being at the same time an officer of such corporation. If, upon such hearing, the commission shall find that any such person is a member of the boards or an officer of such corporations and that the business of said corporations is a competitive business as herein defined, it shall thereupon enter its findings of record and issue an order requiring that within a reasonable time, to be stated in said order, that such person shall bring himself into conformity with the law by ceasing to be at the same time a member of the boards or an officer of such competitive corporations.

The commission may at any time modify or set aside, in whole or in part, any order entered or made by it under this section.

In any suit brought by any such person to annul, suspend, or set aside, in whole or in part, any such order of the commission shall be brought against the commission in the district court of the United States in the judicial district wherein the said person resides, and the procedure set forth in the act of Congress making appropriations to supply urgent deficiencies and insufficient appropriations for the fiscal year 1913, and for other purposes, relating to suits brought to suspend or set aside, in whole or in part, an order of the Interstate Commerce Commission shall apply.

If within the time so fixed in the order of the commission the person against whom it is directed fails to comply therewith, and if in the meantime such order is not annulled, suspended, or set aside by a court, the commission may bring a suit in equity in the district court of the United States in the judicial district wherein such person resides to enforce its said order; and jurisdiction is hereby conferred upon said court to hear and determine any such suit and to enforce obedience to any such order according to the law and rules applicable to suits in equity. All the provisions of the law relating to appeals and advancement for speedy hearing in suits brought to suspend or set aside an order of the Interstate Commerce Commission shall apply to suits brought under this section: *Provided*, That this section shall not apply to banks, banking institutions, or common carriers: *Provided further*, That no order or finding of the court or commission in the enforcement of this section shall have any force or effect, nor be admissible as evidence in any suit, civil or criminal, brought under the antitrust act.

Mr. CUMMINS. Mr. President, I suggest that when we reach the consideration of the Clayton bill, or that part of it dealing with intercorporate stockholding and holding companies and interlocking directorates, that I intend again to offer these amendments as substitutes for those portions of the Judiciary Committee bill; but I do not at this time ask for a roll call upon the amendment.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Iowa.

The amendment was rejected.

Mr. CLAPP. Mr. President, I send to the desk a proposed amendment to be inserted at the end of section 5. I shall not take the time of the Senate to discuss the amendment, nor shall I take the time of the Senate to ask for a yea-and-nay vote upon it. I will simply say that it is a copy of the provision contained in the Sherman antitrust law, giving an aggrieved party the right of action.

While I agree with the Senator from Iowa [Mr. CUMMINS] that the bill we are now considering, if enacted, will be a public law and should be enforced for the public, at the same time I see no reason why the party who has been injured by an unlawful act should not have a right to recover. I also believe that putting this remedy in the hands of the aggrieved party will be a very strong incentive to the observance of and obedience to the law by those against whom the law is directed as a regulating and controlling force.

Mr. CUMMINS. Mr. President, if the amendment proposed by the Senator from Minnesota is what I understand it to be, I very much hope that he will ask for a vote upon it, and I believe it will be adopted.

Mr. STONE. Let the amendment be read.

Mr. CUMMINS. I think, however—and I will make the suggestion to the Senator—that the amendment ought to be a separate section, just as it is in the antitrust law. If I have correctly understood the Senator, he now proposes to give to an aggrieved party a right of action, with the recovery of treble damages. I think such a provision ought to be a part of this bill. I do not believe anybody will oppose it; but it should be a separate section.

Mr. CLAPP. Then, Mr. President, I will offer the amendment for the purpose of the RECORD at this time as section 5½, the sections to be properly numbered when the bill is completed. Of course, I have no objection and think myself it would be well to make this amendment a separate section. The amendment reads:

SEC. —. Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act may sue therefor in any district court of the United States in the district in which the defendant resides or may be found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained and the costs of the suit, together with a reasonable attorney's fee.

Mr. NEWLANDS. Does the Senator from Minnesota insist upon the phrase "threefold the damages"? Does not the Senator think that actual damages incurred would be sufficient in these new cases of unfair competition?

Mr. CLAPP. Mr. President, I do not care particularly. I said at the outset that I simply copied this amendment from the antitrust law. I believe that if we are going to place the administration of this law in the hands of the commission, we can not attach to the law too many forces that will tend to its observance and its execution and administration. I believe that the possibility of a threefold recovery would be a strong factor in making men cautious in regard to the violation of the proposed law. At the same time, I have no pride of opinion in the matter, if the Senate generally thinks the damages should be reduced to twofold, or I would rather even see no multiplication of damages than not to have the amendment adopted at all.

Mr. NEWLANDS. Mr. President, I am prepared on behalf of the committee to accept the amendment.

Mr. CLAPP. If the Senator desires, however, he can submit an amendment to the amendment.

Mr. NEWLANDS. I am prepared to accept the amendment if the Senator will strike out the word "threefold." I think it

is unwise at this stage of the proceeding with reference to this form of legislation by law to inflict upon every offender threefold the damages that are actually suffered by the complainant. I should much prefer that such action should take place hereafter, as the result of the investigation and the experience and the recommendation of the commission, if they should deem it advisable. It seems to me that we ought to move along rather cautiously in the early stages of this legislation. I shall be prepared to accept the amendment if the Senator will confine it to actual damages.

Mr. CLAPP. Mr. President, it is not the sums that will be recovered, but it is the adoption of such an amendment as a factor in preventing the violation of this law, which is important. Personally I believe that the damages had better be threefold. The Senator from Nevada or any other Senator, of course, can propose to amend the amendment by making the damages twofold.

Mr. McCUMBER. Mr. President, I want to ask the Senator from Minnesota if he contemplates that this action may be brought only after the commission has determined that an act constitutes unfair competition, or can any person go into court in the first instance and test the question whether it constitutes unfair competition by an action without reference to the commission?

Mr. CLAPP. Mr. President, that is going to depend upon whether, in the last analysis, the courts are going to hold that we have delegated to this commission the legislative function of declaring what is and what is not the law. If they hold that we have, then, of course, there can be no recovery, because there is nothing forbidden until the commission has declared that a given act is in violation of the law.

Mr. McCUMBER. The Senator is mistaken. We declare in this bill that "unfair competition is unlawful," and whenever we make a public declaration that an act is unlawful, if I understand the law correctly, that of itself gives a right of action to a person who is injured by the unlawful act. Even though there was not a single word more in the statute, the right of action follows the declaration that the thing done is unlawful.

Having declared that unfair competition is unlawful, can I go into court under the amendment which the Senator offers and proceed on my own volition to bring an action against my competitor and obtain from him treble damages for an act of unfair competition of the unlawful character of which he knows nothing by any form of definition?

Mr. CLAPP. Mr. President, I repeat my answer, that if this is the delegation of legislative authority, then, while we say that unfair competition is unlawful, it remains for the commission to declare what is unfair competition. If, on the other hand, this bill can be construed as a declaration by Congress, for instance, that local underselling, with all the accessories, which I will not enumerate, is unfair competition without any declaration of the commission, then, of course, a party injured by local underselling, in the terminology that would be involved in the technical description of that act, can proceed to seek recovery.

If the Senator from North Dakota is correct, that we have defined and declared by our act that local underselling is an offense, then the man who engages in local underselling knows that he is committing an offense, because he knows he is violating the statute. I undertake to say that no man living knows whether we have declared that practice an offense or whether we have not. It will have to be determined by the courts whether we have delegated that authority to the commission or whether Congress, by its own declaration that unfair competition is unlawful, has made underselling a prohibited transaction.

Mr. McCUMBER. Then, Mr. President, if no man on earth can know whether he is disobeying the law or not until some time in the future, when some commission finds out and tells him that he is disobeying the law, does not the Senator think that mulcting him in treble damages is a little bit harsh?

Mr. CLAPP. No; because he can not be mulcted in treble damages until the commission has declared the particular act unlawful.

Mr. McCUMBER. Not according to the Senator's amendment. His amendment does not provide that after the commission has determined that a certain act is unlawful, then any person injured by a continuance of that act may have treble damages.

Mr. CLAPP. But my amendment provides that any person who shall suffer by reason of any act forbidden or made unlawful by this act may sue and recover treble damages.

I repeat—and I can not make it any plainer—that if it remains for the commission first to say whether local underselling—and I use that as a familiar illustration—is forbidden, then local underselling is not forbidden until the commission has so declared; and the same thing would apply to any other practice. It is in analogy with the antitrust law. There is no suggestion in the provision relating to the recovery of damages in the Sherman Act that such damages may be recovered after an act has been declared illegal. I have copied verbatim the language found in the Sherman antitrust law, and I leave the matter there.

Mr. McCUMBER. Well, Mr. President, the jumble in which we find ourselves plunged in this legislation all comes from the fact that we do not dare to define what we mean by "unfair competition." Now it is proposed to punish an individual for an offense when no one will dare to say what that offense is or will attempt to define it. It is proposed to subject him to a suit for treble damages if at some time in the future five men to whom Congress has given the legislative authority—which it has no right to give—determine that an act he has committed constitutes the offense. If we are granting any authority at all in the matter of determining what that offense is, it must be legislative authority pure and simple. No standard is fixed, and certainly the mere broad assertion of unfairness does not furnish a standard under which a man ought to be punished.

Mr. CLAPP. Mr. President, I confess there is some force in the suggestion of legislative chaos, not due, however, in my judgment, to any cowardice in the matter of furnishing definitions, but because we have not the courage to assert our independence as a legislative body and take our own time in calm deliberation in the preparation of important legislation. That is why we find ourselves confronted with these apparent inconsistencies.

But for myself—and I am only speaking now for myself—I do not believe, under this bill, if it passes in its present form, that any crime is committed until the commission declares a specific act is within the prohibition of the law.

Mr. McCUMBER. Is not that legislative authority?

Mr. CLAPP. Unquestionably.

Mr. McCUMBER Can we grant such authority?

Mr. CLAPP. Ten years ago, even five years ago, not a Member of this body could have been brought to contemplate the vesting of such authority in a board or a commission, but we have progressed; the courts have advanced along this line, and I am inclined to think—I am quite certain, or as certain as a man can be in such a matter—that when this bill reaches the courts the courts will hold that we have not exceeded our authority in delegating this power to the commission.

In the bill providing for the opening of the Panama Canal we used quite as broad language as this. We provided that certain restrictions were to be suspended so long as the Interstate Commerce Commission felt that the suspension of those limitations was for the public good and did not materially interfere with competition.

Mr. McCUMBER. So far, Mr. President, there has been no declaration in the bill the effect of which would punish the individual until this commission itself has determined what the offense is and whether the offense has been committed.

Mr. CLAPP. Clearly the amendment does not do that.

Mr. McCUMBER. And after that nothing can be done except to enjoin the individual from committing offenses of like character; but now it is proposed to go a step further. If this amendment is incorporated in the bill, you immediately provide for the punishment of an offense of which the offender can know nothing, at least until some quasi legislative body has passed judgment upon the question whether or not he has a right to do a particular thing.

I think the Senator from Minnesota entirely agrees with me that if two competitors are seeking business and one of them advertises in glowing terms or makes claims for his goods that are not founded upon exact facts, he is undoubtedly guilty of some kind or in some degree of unfair competition; and yet I do not believe that the Senator from Minnesota would include that within the terms of this bill as unfair competition, over which the proposed trade commission would be given jurisdiction. I confess I think they probably would have jurisdiction over it unless the term "unfair competition" is defined.

If the one great object to be sought is the prevention of competition by unfair methods, then I can see no reason on earth why a definition can not be formulated which will bring the acts prohibited clearly within the understanding of all, so that the Senator from Minnesota or I or any other person in business would be able to know beforehand whether our actions were in the end calculated to destroy competition and whether we were guilty of a wrong.

I say that the very argument which the Senator is making in behalf of the right of the aggrieved party to recover treble damages emphasizes the necessity for a definition that will

make clear to business men exactly what the law means. I believe I have as comprehensive an idea of what constitutes "unfairness" as have average business men, and yet I confess I do not know what the term "unfair competition" means; and, inasmuch as there are no two Senators who agree as to what that expression does mean, there can not be more than 1 out of the 96 of us who is correct. If that be true, it does seem to me, in all candor, that we ought not to impose such a law upon the public without providing any definition or any guide to recommend itself to their judgment. To follow the broad provision in regard to "unfair competition" with an enactment proposing to inflict treble damages upon the person who is guilty of it appears to me to be going very far. I agree with the Senator that it is all right to fix a penalty of treble damages, provided you will let the person know beforehand what the offense is which renders him liable to such damages.

Mr. CLAPP. Mr. President, I would have no quarrel with the Senator from North Dakota if he were to attempt to define those acts which would be included within the expression "unfair competition."

Personally, I think it is a very plain designation, as plain as "restraint of trade" or "reasonable rate." At the same time, believing, as I always have, in making laws just as plain as they can be framed, I should be glad to see this law framed in a way that would place it beyond any question.

One thing is certain, however, we are not going to be able to do that. This bill is going to pass substantially in its present form. I have an amendment pending which first prohibits unfair competition and then leaves it directly to the courts, without the intervention of any commission, but I know that the amendment has no more chance of being adopted than an ordinary snowball in the realm of torture would have of developing into an avalanche. [Laughter.]

Mr. McCUMBER. Mr. President, does not the Senator believe that when we declare that unfair competition is unlawful, and follow that up with a declaration that any person who is injured by that unfair competition may proceed in court to collect from the person injuring him treble damages, he can go immediately into court under that provision, without waiting until some commission has determined it?

If "unfair competition" is a sufficient definition so that the court itself can say that it has a general meaning in the law which the public understands, then it seems to me the Senator must agree with me that the right would follow to go into court immediately, under his amendment, to secure his rights, and that the question as to whether or not there has been unfair competition can be tested in that way.

Mr. CLAPP. Mr. President, my amendment does not change the law itself or the terms of the bill as now framed. Either from the moment this bill is signed local underselling, for instance, becomes a forbidden act, or it does not become forbidden until the commission forbids it. I simply take the law as I find it, and give to this proposed amendment of mine the same relation to the law which everything else sustains to it. If those engaged in business can not tell until the commission has told them what is an offense, then no action can be sustained here until the commission has told them. If, on the other hand, they are bound by the terms of this law, then, knowing this to be the law, and under the rule that men must know the law, they will have no difficulty in avoiding violations of the law. My amendment is not designed so much as a penalty, so much as a recovery, as it is that, standing there, it may be a factor in deterring men from violating the law.

So far as the definition is concerned, as I said before, I should be glad to see "unfair competition" more plainly defined, if it can be. So far as the right of recovery is concerned, while I have taken it as threefold from the Sherman antitrust law, and shall submit it as threefold, of course it is in the power of the Senate to modify that as it sees fit.

Mr. BRANDEGEE obtained the floor.

The PRESIDENT pro tempore. Let the amendment be reported to the Senate.

Mr. BRANDEGEE. I have it here, and was just about to read it.

The PRESIDENT pro tempore. Let the Secretary read it.

Mr. BRANDEGEE. I shall be very glad to have that done.

The SECRETARY. It is proposed to add in the bill a new section, to be known as section 6, and subsequent sections to be numbered:

SEC. 6. Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act may sue therefor in any district court of the United States in the district in which the defendant resides or may be found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained and the costs of the suit, together with a reasonable attorney's fee.

Mr. BRANDEGEE. Mr. President, it appears, from the proposed amendment, that—

Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act may sue therefor in the district court of the United States—

And recover treble damages.

The language is—

Who shall be injured * * * by * * * anything forbidden or declared to be unlawful by this act.

Section 5 of the act says:

Unfair competition in commerce is hereby declared unlawful.

So, if this amendment is adopted, clearly any person who is injured by unfair competition in commerce may go to the court, independently of any commission, and recover treble damages.

The fact that the act provides, in section 5, that whenever the commission shall have reason to believe that any corporation or person—now that the Cummins amendment has been agreed to—is guilty of unfair competition, the commission shall order it to cease, is not an exclusive remedy. This would clearly give an independent remedy to any person against any other person or corporation who has committed any act of unfair competition.

Of course, as has been repeatedly pointed out here, there is at present something that the courts issue injunctions against as unfair competition, and in equity I suppose they would compensate the man who has been injured by it; but I assume that at present, under existing law, the compensation is not treble. If this amendment is adopted it would, in my judgment, give treble damages as compensation to anybody against whom the courts shall say an act of unfair competition has been committed, and who has been injured thereby.

Mr. CLAPP. Mr. President, as I said before, this amendment is not original with me. I copied it out of the Sherman antitrust law, and precisely the same provision is in the Clayton bill, I think, as reported.

Mr. BRANDEGEE. I am not claiming that it is original with the Senator, Mr. President. I understand that it is taken from the Sherman law and that it was intended to give that remedy to a party who had been injured by a restraint of trade or an attempt to monopolize under that statute. My object here is simply to point out, in answer to the inquiry of the Senator from North Dakota [Mr. McCUMBER], that no judgment of the commission would be necessary for the individual to go right into court, as a personal right conferred by this amendment, and conduct his own litigation and get the judgment of the court. There would, of course, arise at once, as a judicial question—where, in my opinion, it should be determined—whether "unfair competition," as used in this statute, means anything other than the unfair competition which is now prohibited by courts of equity upon application.

There is one suggestion which, while I am on the floor, I will offer for what it may be worth. The Senator from Nevada [Mr. NEWLANDS] has expressed repeatedly during the discussion of this matter his confidence that the parties who are prohibited by the commission from continuing in the methods which the commission might think were unfair would submit to the commission's decree and that there would be very few appeals. If this amendment is adopted it will compel every corporation, at least, whose practices have been so extensive as to injure a large number of people, to fight to the death every order that the commission may make. They will have to appeal every case, even if they are willing to abandon the practice when it is called to their attention, and go to a court to have it reversed, and use every means in their power to have it reversed, or else they will be liable in threefold damages to everybody in the country that they may have injured. It would do more than anything else to absolutely neutralize any beneficial result that the Senator from Nevada and the other friends of the bill think will flow from it.

Mr. NEWLANDS. Mr. President, I am opposed to this amendment. I do not believe in the principle of assessing threefold damages. If we are to apply it to unfair competition, why should we not apply it to all cases of tort? Why should we not declare by law that in every case of tort where injury is done and damage is proved the judgment should be entered up for three times the amount? Why should we not in every action for deceit, every action for fraud, every action for personal injury, provide by law that a judgment shall be entered up for three times the damages actually sustained?

Mr. CLAPP. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Minnesota?

Mr. NEWLANDS. Certainly.

Mr. CLAPP. The Senator, of course, is aware that in a great many States, for malicious trespass, willful trespass, there follows recovery of three times the amount of the injury. More than that, this is a public offense; and a penalty may well attach as it would attach to any other public offense.

Mr. NEWLANDS. Mr. President, I do not believe that practice is a general practice, and whether it be or not I do not believe it is to be extended. Certain penalties can be properly attached in a case, such as infliction of the expenses of the suit, the attorney's fee, and so forth; but when it comes to assessing three times the actual damages suffered, it outrages every man's sense of justice.

We are entering now upon a new field of inquiry as to what constitutes unfair competition. This commission, and ultimately the courts, will be called upon to make nice distinctions with reference to this matter for the purpose of determining what set of facts and circumstances constitute unfair competition. Here we hold this sword of Damocles above every business man in the country, and either compel him to abandon a practice which perhaps he thinks is right, or to pursue litigation to the bitter end, when we want through this instrumentality not to punish, but to secure higher standards of conduct, by rules that will be laid down by this commission and sustained by the court, and which will have an educational effect upon the commerce of the country.

There is another reason why I am opposed to such amendments as this. I am opposed to loading down this bill. The country now is in an embarrassed industrial condition, accentuated by conditions that are world-wide. I would not add a single ounce to the weight the business men throughout the country are carrying now. I do not want to see this bill accepted by the business community as carrying terror and destruction. I hope they will feel, as I feel, that it will be an instrumentality of beneficence.

It was for that reason that we confined the operation of the unfair-competition clause, so far as the powers of this commission were concerned, to corporations, and exempted associations of individuals, simply because we realized that the practices that are complained of are largely the practices of consolidated wealth in the shape of corporations; that it was the war of the giants against the pygmies with reference to practices that were prejudicial to good business morals, and since we realized that any movement of this kind would have some disturbing effect upon the business of the country we wanted to confine it to as small an area as possible. We knew that the effect of this legislation would be exaggerated, and that every effort would be made to impress the average business man of the country with the idea that this law meant inconvenience and distress and disturbance to him. Realizing that the average business man of the country is an honest man, and that few of the dangers of unfair competition come from individuals and firms that are engaged in business, and that almost all of them come from corporate organizations, we determined to apply the powers of this act only to corporations, less than 300,000 in all, of which probably not one-third are engaged in interstate commerce, instead of extending it so as to embrace millions of business men who would suffer under exaggerated apprehension regarding the effect of this bill upon their business.

For this reason I oppose any enlargement of the scope of the bill. It is true that we have recently adopted an amendment extending the operations of section 5 to firms, associations, and individuals, and beyond the corporations. I regret that that amendment has been adopted. I hope it will be corrected in the Senate. I want to see this bill confined, as far as possible, to the area of actual business degeneracy.

Mr. President, I hope the friends of this bill will not permit it to be loaded down. This whole matter will go through an evolutionary process, just as the control of railroads went through an evolutionary process. I think it probably would have been a great mistake to have given the railroad commission at the very start the large powers which it now enjoys. I very much fear it would have exercised them unwisely, or in such a way as probably to have resulted in the speedy repeal of the act. I have seen many bills, whose authors were animated by the highest spirit of reform, repealed because of too aggressive enforcement of the reform sought to be obtained. I believe this commission should go through the same evolutionary process and gradual advance that the Interstate Commerce Commission has gone through, and that it will be better for the commission and better for the business of the country if we do not enlarge too extensively the area of its operations or make its powers too severe.

Mr. CLAPP. Mr. President, after several weeks of discussion and committee activity we now reach the point where it is suggested that we shall play fast and loose with conditions that the administration, those out of the administration, and the country generally, have recognized call for some remedy.

One of two things is absolutely certain: Either there are men and corporations in this country engaged in unfair competition which should be forbidden and prevented, or else there are not; one or the other.

To pass a law against unfair competition is no more to brand everybody as prone to unfair competition than, in the creation of a new State, the passage of a law against murder would be branding all the inhabitants of the State as murderers. This law simply reaches those who are prone to violate it. It simply reaches those who, if unrestrained, will continue unfair competition. There is no halfway ground upon that proposition.

It is about time to explode this idea that we can bring in these trust magnates and convert them to industrial and commercial altruism. Either we should legislate against that spirit and that course or we ought to stop this agitation and this debate.

The existence of the Sherman antitrust law, the presence in this Chamber of the Clayton bill, the incoming of the bill to regulate the issue of securities, the presence of this bill in the Senate, all stand as evidence that in public opinion and in the judgment of this body there is a spirit in this country that should be regulated and controlled; and there is no way to regulate and control that force so effectively as not to hang a sword above these people, but to stand at the gateway of commercial integrity with a flaming sword, that they may be deterred from violating the law in its letter and in its spirit.

If it is worth while to legislate against any individual or corporation, if they actually need restraining, then we should bring to our aid everything that will make that attempted restraint effective and of some force and some value. This law does not affect the man who is not violating it. This law is no threat hanging over the head of the honest business man who does not want to resort to unfair practices to crush out his smaller and weaker competitor; and the same reason exists for a penalty here to deter violation of the law that exists for passing the law prohibiting these things that are sought to be prohibited.

If it is thought that the penalty is too severe, as I said before, that is a matter for the Senate to deal with. In case the Senate is in favor of the amendment at all, it can deal with it by an amendment to the amendment.

When I offered this amendment I had not thought, and at that time disclaimed a purpose, to call for the yeas and nays; but in view of the trend which this discussion has taken I shall ask for the yeas and nays upon this amendment.

Mr. WALSH. Mr. President, I fear the Senator from Minnesota, who has offered this amendment, coming as it does from the antitrust act, has overlooked the very important fact that the organization of a conspiracy or combination in restraint of trade or the establishment of a monopoly denounced by the Sherman antitrust law is made criminal, and heavy penalties are imposed by the act upon anyone who shall be guilty of a violation of it. It is quite consistent with legislation with which we are all familiar to give double or treble damages to anyone suffering injuries by reason of an act denounced by the statute as criminal.

The Senator has referred to the case of malicious mischief. That is a very familiar one. That is to say, when one destroys the property of another out of malice, he is ordinarily subjected to a criminal prosecution; and, if it is established, this is imposed by way of a penalty. It is a further penalty imposed upon the defendant who commits a crime. Likewise, there are other circumstances and conditions where the law frequently imposes double or treble damages. They all embrace a case that is ordinarily denounced by the statute as criminal or one that is declared to involve a high degree of moral turpitude. It is of the same character as punitive or exemplary damages.

Mr. President, for some reason or other, the nature of which it is not necessary now to canvass, we have deemed it not the part of wisdom to denounce unfair competition as criminal, to subject the person against whom the charge may be made to prosecution as for crime. Several reasons have been urged. In the first place, it has been suggested, and very properly suggested, that, try as anyone may, we can all understand a large group of practices which all of us would say will fall under the condemnation of this act; and yet, beyond those, many will arise concerning which opinions will vary and differ as to whether they do or do not fall within the condemnation of the act. There a man is subjected to a severe burden by this provision.

Mr. President, I dare say the Senator will agree with the rule laid down by the Senator from Tennessee [Mr. SHIELDS] on yesterday. No one can question its soundness. The law having denounced unfair competition as unlawful, anyone who suffers damage by reason of the doing of an unlawful act has a right of action. He has a right of action without any express declaration in the statute. Not only has he a right of action, but he has a right of action which he may prosecute in any court, State or National.

I think it is very questionable whether this right of action for damages, no matter how inconsequential or trifling it may be, should be given to the Federal courts. I think it exceedingly unwise to throw into that court the possibility of the trial of an action involving little claims of $100 or $200.

For that reason, Mr. President, I think that that provision is particularly objectionable, and I do not think triple damages ought to be imposed so long as we have not deemed it wise to denounce these acts as criminal. If we leave the damages to be recovered only to those actually suffered, you are not doing anything at all by the incorporation of this section in the law, and, accordingly, it ought not to be adopted.

The PRESIDENT pro tempore. The question is on the adoption of the amendment proposed by the Senator from Minnesota [Mr. CLAPP].

Mr. CLAPP. On that I call for the yeas and nays.

Mr. MYERS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Montana suggests the absence of a quorum. Let the Secretary call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hitchcock	Nelson	Smith, Ariz.
Brady	Hollis	Newlands	Smith, Ga.
Brandegee	Hughes	Norris	Smoot
Bristow	James	Overman	Stone
Bryan	Johnson	Owen	Sutherland
Chamberlain	Jones	Page	Thomas
Chilton	Kenyon	Perkins	Thornton
Clapp	Kern	Pittman	Vardaman
Clark, Wyo.	Lane	Pomerene	Walsh
Clarke, Ark.	Lea, Tenn.	Ransdell	Weeks
Crawford	Lee, Md.	Reed	West
Culberson	Lewis	Shafroth	White
Cummins	McCumber	Sheppard	Williams
Gallinger	Martine, N. J.	Shively	
Gronna	Myers	Simmons	

Mr. KERN. I desire to announce the unavoidable absence of the senior Senator from South Carolina [Mr. TILLMAN]. He is paired with the Senator from West Virginia [Mr. GOFF]. This announcement should have been made earlier. It will stand for the balance of the day.

The PRESIDENT pro tempore. Fifty-eight Senators have answered to their names. A quorum of the Senate is present.

Mr. McCUMBER. I move to amend the amendment of the Senator from Minnesota by striking out the word "threefold."

Mr. CLAPP. That simply would be, of course, to eliminate the amendment, because undoubtedly a suit for the actual dam ages could be recovered without any direct authorization. I hope the amendment to the amendment will not be adopted.

Mr. JONES. I make the point of order that the amendment of the Senator from North Dakota is an amendment in the third degree, the amendment of the Senator from Minnesota being an amendment to the committee amendment.

The PRESIDENT pro tempore. Under the ruling made heretofore that is not the case. The point of order is not well taken.

Mr. McCUMBER. Before voting upon the question I will state to the Senator from Minnesota that if the bill itself would define an offense that the average man could understand I would favor the amendment of the Senator from Minnesota fixing a threefold punishment for a disobedience of the law, but inasmuch as up to this time there is no definition of the words "unfair competition" which any Senator understands or which anyone else can be supposed to understand at the present time, I should vote against punishing a man for committing an offense which he does not understand.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from North Dakota to the amendment of the Senator from Minnesota [Mr. CLAPP].

Mr. GRONNA. May I ask to have the amendment read?

The PRESIDENT pro tempore. The Secretary will read the amendment and the amendment to the amendment.

The SECRETARY. It is proposed to insert as section 6 the following:

SEC. 6. Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act may sue therefor in any district court of the United States in the district in which the defendant resides or may be found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained and the costs of the suit, together with a reasonable attorney's fee.

It is now proposed to strike out the word "threefold" where it appears, so that it will read:

And shall recover the damages by him sustained and the costs of the suit, together with a reasonable attorney's fee.

Mr. REED. Mr. President, the Sherman Act contains this clause. The bill which is now being considered, if it means anything, if it means what its authors think it means, will embrace a very large number of acts which are now covered by the Sherman Antitrust Acts. If you place in this bill a clause similar to that contained in the antitrust acts and a suit is brought by a citizen for damages there can be no question as to the rule of damages; whether it is held that his action is based upon the antitrust acts as they now exist or whether based upon this act the measure of damages will be the same. But if you strike out the clause "threefold damages," it is easy to imagine a case brought by a citizen where it will be a matter of doubt whether the act complained of comes under the rule of damages as expressed in this bill, or whether it will come under the rule of damages as expressed in the Sherman Antitrust Acts. For that reason I think the amendment offered by the Senator from Minnesota ought not to be emasculated.

Mr. President, I have for the last two or three years been impressed with the thought that the real enforcement of the antitrust laws of this country would ultimately be found in the fact that the citizen injured will begin to insist upon his rights in the court and enforce the damages clauses of that act. In a number of instances suits of that kind have been brought, and whenever the way is clearly marked out and the road is made easy by virtue of certain provisions that have been written in the Clayton bill which is soon to come before the Senate, and I refer especially to those provisions which specify that when a matter has been once adjudicated the judgment can be used as evidence in suits by parties who were not named in the action; whenever we arrive at that condition where the enforcement of the remedy for the injury of the citizen is made easy, it is my opinion that there will be found great force and vitality in the antitrust acts. So I think the most valuable provision there is to-day in the antitrust acts of this country is that provision which gives the citizen the opportunity to sue and recover threefold damages.

Mr. President, why should not that apply to this bill? If we can judge what this bill is intended to cover by the statements of its authors and the members of the committee it is in every instance intended to reach unfair, dishonest, crooked, oppressive, coercive acts. It is not intended to cover mere mistakes. It is intended to reach acts which are in their nature tortious and wicked and wrong, not to say villainous.

Mr. CHILTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from West Virginia?

Mr. REED. Let me finish this sentence.

The PRESIDENT pro tempore. The Senator from Missouri declines to yield.

Mr. REED. I will yield in a moment.

Why, then, should we deal gently with that kind of practice? Why should we not allow threefold damages as we do under the antitrust acts?

I yield to the Senator from West Virginia.

Mr. CHILTON. I wanted to ask the Senator if he recalls that this is identical with section 5 of the Clayton bill, which has been reported to the Senate, and does he not think that it would be more nearly in its right place in the Clayton bill than here? This is identical with section 5 of the Clayton bill as passed by the House and which section was reported to the Senate without amendment by the Judiciary Committee.

Mr. REED. But I do not think that clause of the Clayton bill is so drawn that it will cover the matters coming within the purview of this bill.

Mr. CHILTON. It reads this way:

SEC. 5. That any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

That is section 5 of the Clayton bill that has been passed by the House and has been reported to the Senate without any amendment by the Judiciary Committee.

Mr. CLAPP. That would not cover accidents under this bill by any means. It has not and never will be called one of the antitrust laws. This is an interstate trade commission bill.

Mr. CHILTON. I beg the Senator's pardon. I think by the definitions it is an antitrust law.

Mr. CLAPP. It is not aimed at trusts. It is aimed at a practice that has grown up outside of the trust combination practices, and that is why it is necessary to prohibit unfair competition in addition to the antitrust legislation of the country. There is no quesion about that.

Mr. CUMMINS. Mr. President, if the Senator from Missouri will yield, the point suggested by the Senator from West Virginia is settled, I think, in this way: The first section of the Clayton bill defines what are called antitrust laws. That definition includes the antitrust act of 1890, the similar provisions in the two tariff laws, and the law, if it becomes one, embraced in the Clayton bill, but it does not embrace the act which we are now considering, but, if I may be permitted to say so at this time, I think that a section exactly like the one in the Clayton bill ought to be put in this bill if the amendment of the Senator from Minnesota is adopted, so that an order of the court under section 5 will become prima facie evidence in favor of a person who sues for damages under section 5, and I have no doubt that will follow.

Mr. REED. Mr. President, I was about to make a statement similar to that which has been made. When we turn to the Clayton bill, which has not yet been passed, but which, I hope, will in some form become a law, we find the first section defines antitrust laws. It reads:

> That "antitrust laws," as used herein, includes the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; sections 73 to 77, inclusive, of an act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," of August 27, 1894; an act entitled "An act to amend sections 73 and 76 of the act of August 27, 1894, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913; and also this act.

That will embrace all of the antitrust statutes now upon the books, and if adopted will embrace the Clayton act, but it has no words incorporating into that definition or description the so-called trade commission act.

When we come to the trade commission act we find that the term "antitrust acts" is defined substantially as it is defined in the act I have just read. I hardly think it worth while to read it, because there can be no dispute.

Mr. CHILTON. I want to say to the Senator that, after looking at it, I believe he is right.

Mr. REED. Mr. President, that brings us squarely down to the question of whether this amendment ought to be adopted, and, if so, whether we ought to eliminate the threefold damage clause and provide simply for ordinary damages. I was observing, when I was interrupted, that I believed we will within a few years learn that the antitrust acts in this country find their most potential enforcement through the suits of private parties. If you can ever establish a system by which it is easy for the private individual to prove his case, a system that does not require him to expend months of time and labor to prove matters that have already been once proven in court and solemnly adjudicated, the number of those suits will be such that men will find there is no profit to be made in organizing trusts and monopolies, because after they have organized them, and after they shall have "plucked" the public, they will be liable to lose all they have made, and, in addition to that, be mulcted in damages. That seems to me to be the most hopeful solution the future holds.

Now, we are enacting new legislation here. We are declaring that we intend to do something that will strike a death blow to monopoly; we propose to arrest its progress in its infancy. We are dealing not with honest mistakes of judgment, but with acts which are in their nature malicious, with the same class of conspiracies exactly as the Sherman Antitrust Act deals with, except that we propose to strike those acts in their incipiency instead of after they have been actually worked out into a complete system of monopoly or restraint of trade.

Therefore, I am in favor of passing this amendment and of passing it as it is written, not of emasculating it. I have no tenderness in my heart for those people who start out deliberately to monopolize trade or to embark upon a scheme of destroying competition; who proceed not by honest and fair means, but by oppressive and dishonest and fraudulent methods.

Moreover, there is a reason for giving threefold damages. In many instances the damage which can be proven is small in dollars and cents; not sufficient to warrant a suit, because the net has been so spread that it does not take much from one individual, but takes a vast aggregate from all of the people. So, I think that, in order to make it worth while to sue, we ought to do as was done by the wise men who wrote the Sherman Antitrust Act. We should follow their same example and adopt the rule of damages which they laid down.

Mr. WILLIAMS. Mr. President, I rise for the purpose of asking the Senator from Minnesota a question. I do not know that I understand precisely the object of his amendment. This proposed act declares that unfair competition is unlawful, and the amendment proposes that "any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act" may sue and recover threefold damages.

Does that mean that that suit may begin after the commission has declared a given method to be an unfair method of competition, or is the man to be punished for having employed a method which, in any opinion of the commission, may be pronounced and declared to be unfair? It looks to me as if this provision might be retroactive in a rather oppressive manner. If the commission, for example, were to decide soon after it was organized, or at any time, that the practice of some corporations in making a purchaser from them agree not to sell the goods which they sell to him for less than a certain price was unfair competition, as I think it would decide, then could that man be punished for the act to which that decision was applicable which he had performed before the commission had rendered its decision?

Mr. CLAPP. Mr. President, in answer to the Senator's inquiry I can only say what I have said in answer to the same inquiry by others. The same question would probably arise under the Sherman antitrust law, where the same provision is found, or it might arise possibly under the Clayton bill, where the same provision is also found. Congress declares that unfair competition is unlawful and forbids it, but I believe that the courts will finally hold that no act is a violation of this proposed law until the commission has made its declaration to that effect. Take the case that I used in the former discussion here this afternoon of what is called "local underselling" for the purpose of destroying competition, transportation accounted for, and all that.

If this law of its own force makes local underselling an offense, then, of course, it does not depend upon the subsequent decision of the commission, and any man engaged in local underselling—with the technical terminology which would make the offense complete, of course—does it at his peril and should take the responsibility of his act. On the other hand, as I am inclined to view this proposed law, local underselling is not made an offense per se by the law, although it will be made so in the Clayton bill if it goes through in its present form; but, eliminating the Clayton bill, then, while we have made unfair competition unlawful, we have not per se made local underselling unlawful until the commission declares that it is one of the practices prohibited by this act, just as the Congress declares that a rate must be reasonable. A rate can not be said to be reasonable as a matter of law, even in the initiative, until the Interstate Commerce Commission has so declared.

This amendment simply shares the fate of all the provisions of this bill. Men must construe this proposed law; they must be bound by it, and I do not think men engaged in the subterranean methods of crushing competition will themselves have any difficulty about knowing whether they are engaged in unfair competition.

Mr. WILLIAMS. Mr. President, the Clayton bill pronounces, for example, that local underselling, with the intent of stifling and destroying competition, is punishable in a certain way——

Mr. CLAPP. Yes.

Mr. WILLIAMS. According to that bill; but you can not punish anybody for local underselling under the provisions of the Clayton bill until after that becomes by pronouncement of the Clayton bill a penalized offense. Therefore you can not punish anybody for local underselling when the local underselling had taken place prior to the time at which Congress pronounced underselling to be a penalized offense.

Mr. CLAPP. No.

Mr. WILLIAMS. Now, if the Senator will pardon me for just a moment——

Mr. CLAPP. Certainly.

Mr. WILLIAMS. There has been a great deal said about the definition of "unfair competition," and it seems to me that much has been said unnecessarily. There are a whole lot of things in this world that are indefinable which are yet not inapplicable. I could not define in a satisfactory way what a fraudulent device is; I could not satisfactorily define what the getting of money under a fraudulent pretense is, nor even fraud itself; but I could give anybody a great many instances of acts that would be included within either of those phrases.

Mr. CLAPP. Mr. President, as a rule the Senator would have very little difficulty in advising a client whether a contemplated act was or was not one of those offenses.

Mr. WILLIAMS. Oh, I would probably have very little difficulty as to that, although sometimes I might conclude that some act was or was not an offense, and the court might hold otherwise; that has frequently happened with some better lawyers than I am.

Unfair methods of stifling competition is what is meant by this bill or what is sought to be intended by the phrase "unfair competition." Before the Commerce Committee of the Senate I cited a great many such methods; and I want to put some of them in the RECORD to-day, so that, although man after man has been challenged to define the phrase "unfair competition," and has failed to do so, the country may understand, or that small part of the country that reads the CONGRESSIONAL RECORD may understand, that while the expression is not capable of an abstract definition, it is capable of concrete application all the way through. For example, the Sugar Trust has held its power over trade very largely by prescribing that its customers shall sell sugar at a price to be dictated by it from week to week and from day to day. I think that is an unfair method of stifling competition.

Again, many great concerns in this country sell goods to merchants at a certain price, upon the condition that they shall export those goods and shall not sell them in the United States, nor give American citizens the benefit of the price at which they were bought. That, I hope, this commission will decide to be an unfair practice. It is certainly an unpatriotic one.

Many others of the so-called trusts keep their throat-hold upon American industry by prescribing that their customers shall not sell outside of a certain territory; some of them, that they shall not buy outside of a certain territory; some others, that their customers shall not buy from others engaged in producing competing articles. Others have gone so far as to sell upon the condition that their customers shall not sell even within the United States below a retail price to be fixed by them.

Since these instances were originally given, the Supreme Court has decided that under existing law that practice is unlawful in a case which went up from Memphis, Tenn.

Another example, familiar to most of us, is to be found in the great shoe industry of this country, which is to-day shackled by the fact that the United States Shoe Manufacturing Machinery Co. will not sell them at all certain machinery for bottoming shoes, a device which, because of its great value, has become absolutely necessary to the shoe industry, or even lease that machine to them unless the shoe factory leasing it agrees to buy a whole lot of other machinery from the same company and not to buy machinery like it from competing companies. That, again, strikes me as one of the things that constitute unfair competition.

In clause 3 of section 1 of a bill which I have introduced here it was intended to meet all of these evils, as far as I could draw upon my imagination for them.

The Clayton bill meets most of them. Most of the very practices that constitute unfair competition are substantially declared by the Clayton bill to be penalized.

The difference, however, between this amendment with regard to the retroactive feature and the other bills is this: We adopted an amendment this morning by means of which some of the court rights of a man were cut off, and it was done because it was stated that by analogy with the interstate commerce law it ought to be done; and my friend, the Senator from Arkansas [Mr. CLARKE], made a very eloquent and a very profound legal argument, but during his legal argument he forgot one distinction which was very clearly made by the Senator from Montana [Mr. WALSH] the other day, and that was that the action of the Interstate Commerce Commission applies only to the future, while this bill declares unlawful acts that have been committed in the past. If men are to suffer a threefold damage before the commission has defined an act to be one of the acts which involve unfair competition, then the argument made by the Senator from Missouri has a great deal of force in it.

I am glad to say that I was one of the men at the other end of this building who had a great deal to do with the enactment of the so-called Hepburn bill. We sent it from that end of the Capitol as if it came from a catapult, with a united, unanimous vote, to the doors of this Chamber; and that had much to do with its passing here. When in connection with that legislation we discussed the jurisdiction of the courts upon review, and confined and limited it, we did so because in that case the commission did nothing except to say, "Hereafter this rate shall not be charged; and hereafter, if this rate is charged it shall be punishable; and hereafter if the rate which we prescribe as reasonable is varied from such action, will be punishable." This bill does not do that; this bill refers to the past.

Mr. REED. Mr. President, I do not understand this bill exactly as does the Senator. I do not understand that the trade commission will have any jurisdiction over any act or that this bill will cover any act except such an one as shall have been committed after the bill has been passed. I do not know of any retroactive clause in it.

Mr. WILLIAMS. I beg the Senator's pardon. Of course, upon that question there can not be any dispute between him and me, or between any two sensible men. No act could do that if it wanted to. It can not make anybody punishable ex post facto. What I am talking about, however, is not that this act goes back beyond its passage, but that a thing which is for the first time defined by the commission to be unfair competition, and therefore for the first time defined to be unlawful, is punishable before the commission so pronounces it.

Mr. REED. Do I understand the Senator, then, to mean that the act itself is so vague, indefinite, and uncertain that it gives no notice to any man as to the things coming within its domain?

Mr. WILLIAMS. No; I hope the Senator does not so understand me.

Mr. REED. If it does give a notice, then they ought to be punished. If it does not give a notice, it ought not to be passed.

Mr. WILLIAMS. Mr. President, I do not care about being kept on my feet. I did not rise for the purpose of making a speech at all. Of course, I do not take the position that the phrase "unfair competition" is so vague that it gives no notice, but I do say, and every man must know, that it does not give specific notice with the accuracy of an indictment. It is very possible that many things that are done all over the business world now, and that most business men regard as fair and lawful, may be held by this commission to be unfair and unlawful.

Take the case of the man who carried that case up from Memphis, who had bought certain goods from wholesalers who sold only on condition that he should sell at a certain retail price, and who said: "Why, I can make money selling below that retail price; I have bought these goods; they are my property, and after you have parted with them I do not care what contract you made me make in order to buy them; they are my property." When the Supreme Court held that the contract which the wholesalers had made with him, attempting to force him to sell at a certain price, was contrary to public policy and nullified it, and upheld the man in selling at whatever price he chose, there was an illustration of a practice that was quite prevalent, which the majority of the business men of this country thought was lawful and fair; and yet the Supreme Court pronounced it, even without this law, unlawful and unfair.

It strikes me that if the Senator would just vary the language of his amendment somewhat, so that it would cover the idea of prohibiting "anything declared to be unlawful by this act or declared by the commission to be an unfair method of competition," and then go on and fix its punishment, it would be more nearly in accord with the universal law of justice.

Mr. CLAPP. The trouble with that is that it might establish one rule for the man who was aggrieved and an entirely different rule as to the fact of the law itself taking effect. I do not know whether the courts are going to hold that a particular act which could be illustrated is or is not of itself forbidden by this act; whether or not it must wait until the commission has made its declaration; and the two should stand or fall together. There should not be one rule of action for the man who seeks a recovery and another rule of action with reference to the operation and effect of the law itself as governed by the decision of the courts.

Mr. STONE. Mr. President, I can not escape the conviction that it would be better not to incorporate this proposed provision, in any of the forms suggested, in this bill. There is such a provision in laws that have been passed heretofore and in the so-called Clayton bill; but the situation presented in those laws and in that bill, it seems to me, is radically different from that which confronts us when we consider the pending measure.

This proposed trade-commission law is an experimental legislative enterprise upon which we are entering, and it is far wider in the field it will cover than the interstate-commerce law or the Sherman antitrust law or the Clayton bill. It deals with a far greater variety of subjects. Innumerable cases will arise under this statute, if it becomes one, forbidding unfair competition, wholly different in their facts and in the real principles involved than can possibly arise under the antitrust laws, under the interstate-commerce law, or under the Clayton bill.

I am impressed with the belief that, as a matter of public policy, it would not be advisable at this time in this statute to give to every man who felt that he was in some wise oppressed or imposed upon by what he might be pleased to designate "un-

fair competition" the right to institute a suit in court. The learned junior Senator from Montana [Mr. WALSH] contended, in some remarks he made recently, that in his opinion the right to sue, if this bill becomes a law in its present form, even without inserting the proposed amendment, would exist as completely as if the amendment should be put in. I think I correctly understood him. The Senator indicates by nodding his head that I did. If that be true, then, Mr. President, there would be no need of incorporating this amendment in the bill. I am not satisfied in my own mind that the right to sue in the absence of the amendment would exist, though I express that opinion with greater hesitation than I otherwise would because of the conviction expressed by the Senator from Montana and one or two other able lawyers in the Senate.

Mr. WALSH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Montana?

Mr. STONE. Certainly.

Mr. WALSH. If the Senator will pardon me, I speak with some degree of confidence about the matter, because I had occasion to appeal to the principle in a proceeding of this character:

A hotel was destroyed by fire. The local statute required that every hotel should have in each of its rooms a rope or other contrivance which would permit guests to escape in case of fire, and a penalty was prescribed for failure to observe the act. That was all there was to it. We contended, and successfully contended, that one injured who would have escaped conveniently if the fire escape had been provided, had a right of action against the owners of the hotel. The act of not having the fire escape being denounced by the statute as being unlawful, the right to recover for injuries received by reason of the fact that the fire escape was not there was sustained by the court.

Mr. STONE. I am not sure by any means that the case stated by the Senator from Montana would run parallel with cases that would arise under this bill. In the case to which he refers there was an act requiring fire escapes in structures such as the one in question in that case——

Mr. WILLIAMS. And it was denounced as unlawful not to have them.

Mr. STONE. And, as the Senator from Mississippi says, the statute made it unlawful not to have the fire escapes. A guest at the hotel was injured, in a fire which destroyed the hotel, because of the absence of the fire escape. I should think that the right to sue in such a case would be clear, but I am not entirely certain that it is so clear in cases that would arise under this bill.

Mr. President, if suit can be brought anyhow, as the Senator from Montana thinks, then I suppose no harm would result by asserting the right to sue in the statute itself; but if there is a question about it, as it seems to me there is, then I halt when the proposal is made to confer the right in terms by the statute.

As I said a moment ago, innumerable instances will arise where individuals and corporations may contend that they have been injured by some oppressive misconduct of a business nature, leveled at them by some other corporation. The number of these suits that might be brought no man can estimate. Is there not a real danger that if the right to bring such a suit is conferred, whether the Federal trade commission has passed on the case or not—that is, independently of the trade commission—a certain class of lawyers, especially in large communities, will arise to ply the vocation of hunting up and working up such suits?

Mr. WEST. "Razorback" lawyers.

Mr. STONE. My friend calls them "razorback" lawyers. The Senator from Mississippi [Mr. WILLIAMS] suggests the designation of "ambulance chasers," and other designations have been applied to them. The kind of lawyers to whom I refer are well known. When these attorneys or their agents hear that complaint has been made that somebody has been imposing upon somebody else through what is called "unfair competition," they will offer to stop it by suit for damages, and possibly by a suit for injunction; for, I suppose, if you can bring a suit for damages in such cases you can also seek to prevent the continuance of the wrong complained of. Thus we would have opened up two tribunals to which appeals might be made, one the commission and the other the district court.

Now, Mr. President, if we should find that some individual had gone into a district court with a suit for damages under the provisions of this law, which he clearly would have a right to do if this amendment is inserted, and the court should hold that on the facts developed at the hearing the statute had been violated, that the acts complained of did constitute unfair competition and were therefore unlawful, and let the case go to the jury to determine the damages, there would be a rule judicially established. It is not difficult to suppose that in the future—not a great while thereafter, perhaps—some proceeding would be instituted before the trade commission in which exactly the same state of facts would be developed, and if the commission should hold on the hearing that the facts did not constitute unfair competition, you would have another rule established by the commission. Thus you would have two rules of action established by two tribunals, each having a jurisdictional right to hear and pass upon the complaints severally made to them.

I fear it would lead to confusion; and inasmuch as this is an experimental kind of legislation we are entering upon, may we not undertake to do too much? Let us get the commission, and give to it all reasonably necessary authority, and stop there. With the right of appeal to the courts given to the parties it seems to me that in due time a system of judicature would be developed around the statute, building up just such a system as has been developed around the interstate-commerce law. I am fearful about putting amendments of this nature in the bill. I have a well-formed conviction that if we attempt to do too much we will accomplish less for the public good.

Mr. REED. Mr. President, I do not intend to argue this question, but it seems to me that the difficulty suggested by my colleague is unescapable if this law means what its authors claim it means. It has been said here by the authors of the bill that it is intended to prohibit every kind of unfair and oppressive trade practice. They have proceeded to catalogue all those acts which have been condemned by the courts in the various antitrust decisions as coming within the purview of this act. Among those acts so catalogued which these gentlemen say will come within the meaning of the term "unfair competition" are many acts now actionable at law. As to those acts now actionable by law there is no way you can deny the citizen the right to go into the courts, and if he does go into the courts he will obtain a decision, and that decision might be in conflict with a decision of a trade commission, just as a decision rendered by a court in a case brought under the Clapp amendment might be in conflict with a decision of the commission.

That is the defect I see in the very persuasive observations made by my colleague. To illustrate that defect, I call attention to the fact that it is claimed this bill will cover the imitation of goods of A by B in trade, so that A in fact defrauds B of his trade and defrauds the public. That is already actionable.

It can be prevented in equity and damages can be recovered at law. It is claimed that the term covers trade slanders. That is already actionable both at law and in equity. It is claimed that it covers the practice of spying upon another's business, coupled with the use of that information in a way to injure and destroy the business of another. That is certainly actionable. Now, as this is the present legal situation, we can not escape the difficulty suggested by my colleague. Indeed, it seems to me that if we could have court decisions for a guide, they would serve as milestones which might be followed by this commission; the members of the commission are not required under the terms of this bill to be either learned in the principles of the law or of equity; neither is the commission required to proceed in accordance with the rules of law. Therefore I do not think the objection is a sound one.

But I can not refrain from expressing my astonishment that it is actually proposed to set up a tribunal and give it a power which affects nearly all the business of the United States, and that power is to be exercised under a so-called statute which is so indefinite, so vague, that the authors of the bill say it would be unjust to punish any citizen for violating it.

That, sir, is a pitiable plea. That is a confession of judgment. That is an admission you are doing a dangerous thing. Whoever puts upon the statute books of this country a law so vague that the citizen can not understand that law, so vague that he dare not punish the citizen for violating it, has done that which seems to me is not only unjustifiable, but reprehensible in the highest degree.

Mr. MYERS. I should like to ask the Senator a question. I understand the Senator's chief complaint here has been that the term "unfair competition" is so vague and indefinite that nothing of a settled nature can be derived therefrom. How, then, can the Senator consistently advocate that a man under the clause can be mulcted in triple damages?

Mr. REED. I can make that argument and yet be very consistent. I have said that this law is vague and is indefinite and is uncertain, and therefore that it ought to be made definite and certain, and I am still contending for that. But Senators on the other side say it is not vague, that it is not indefinite, that its meaning will be easily understood, and therefore they

justify themselves in forcing it upon the country, and having by that argument justified themselves in forcing it upon the country they now turn squarely around and in the same breath say that it is so meaningless, so vague, and so uncertain that no man ought to be punished for its violation.

That is equivalent to saying that you fear your own law; that you are creating a Frankenstein; and that you tremble lest its giant strength will be used to strike and destroy. You now admit that you do not know how far you are going nor what mischief may follow.

I appeal to the Senate to put a guide in this law, a definition in this law, which will enable a citizen to know what it means, without first going to a tribunal that may be 3 000 miles from his home in order to ascertain what that tribunal may guess it means. If you pass a law that is so meaningless that it can not be understood, and yet power is conferred by it, then its meaning is not to be gained from the terms of the law itself, but must be gained from the decision of a commission. Stated differently, you have given the commission the power to make a law, for you have given it power to construe a meaning into a law which is, in fact, without meaning. That is but another way of saying that you have given the commission power to make anything legal or illegal, according to its own will. How can you escape the conclusion that you are conferring upon the commission a grant of arbitrary power? Such a law is at war with every principle of American Government.

It is a startling thing, an astonishing thing, to find men willing to confer upon an unnamed and perhaps an unlearned commission authority to enforce upon the people of the United States their construction of a law which is so vague that its authors dare not give the right to a citizen to sue under it, or a court the right to enforce it for the benefit of the citizen.

We can set up a guide. We can define these wrongs. We can set forth the long list of dishonest and oppressive acts that has been rehearsed during this debate and specifically prohibit them. Thus we will have reached the great evils that now confront us, or we can in general terms describe the character and nature of the acts and practices which are prohibited.

No tribunal of earth should be intrusted with authority to enforce a law the ordinary citizen can not understand. No law is fit for a free people that can not be read and understood by the people. What tyrant was it who nailed his laws so high the people could not see them, and then punished the people for violating a law they had no chance to know existed and hence could never have understood? We make a law so vague it can not be understood; we stand here admitting it can not be understood by the ordinary citizen of the country or by the lawyer learned in all the principles of law, and say then that man shall be held to such a law as that.

The vouchers for this bill not only admit the citizen and lawyer can not understand what it means, but they now tell us it is so very bad, vague, obscure, misty, uncertain, and indefinite that no court can understand it or be trusted to construe it.

Mr. WALSH. I understand the Senator wants to impose penalties on them as well.

Mr. REED. Sir, I take this position: That this bill as it now is written must have a guide put in, and I am seizing this opportunity, if possible, to point out the fact that those who insist upon the vague phrase "unfair competition is hereby declared unlawful" are embarking upon an enterprise the end of which they can not even guess.

Mr. President, I do not like to differ from so many of my friends on this side. It is not pleasant. But surely we ought not to be passing laws which we are forced in advance to admit that no human being can know what they mean until a commission guesses at what they mean.

Let us see whether there are any hardships connected with such an enactment. Here is a man engaged in business in San Francisco. It may be a small business, nevertheless interstate. He is served with a notice, and thereupon he must travel across the continent to the city of Washington where this commission sits. He must bring his witnesses or he must bring their depositions. He must employ his attorney. All this to meet what? To meet a charge of violating a law he can not understand and that nobody in the world understands; to answer for a practice he did not know was prohibited and nobody else knew was prohibited; to be tried for doing a thing under a law that is so meaningless he did not have the slightest idea of violating it. He can not know. He never had a chance to know until after he has traveled across the continent and the commission advises him what its guess is.

How many of these cases will you have? Who shall undertake to count them? Who will number them? There are millions of business transactions taking place in this country every day. The aggregate of each day's business runs into billions, and for every single act there is the possibility of a complaint before this commission. What does the law mean? What is included within the term of the act?

A man is engaged in selling coal in California and also in four or five other States. He is selling it at $5 a ton. He is making a profit of 25 cents a ton. He has been established a long time. Another man enters the city of San Francisco to compete with him. He is only selling in the city of San Francisco. In order to get the first man's trade he is willing to cut his price to $4.75, knowing that if he can establish his coal at $4.75 the other man will be obliged not only to cut the price of coal in San Francisco but under the rule which it is said is embraced within these vague terms, if he cuts the price at San Francisco he must cut it in all the States where he is doing business just as he cuts it in San Francisco. Accordingly he withdraws from San Francisco because he would better lose the trade of San Francisco than to cut the price at all other places to a point where he can not make a penny. Accordingly the competitor who has come into San Francisco now occupies the field alone and is able to sell coal at $5.50 a ton. Thus, in this instance, the law intended to destroy monopoly has resulted in creating monopoly.

When a condition like that used in my illustration is presented and the merchant is confronted with the question whether he can meet the cut in San Francisco or not, he turns to that law. He finds no rule. No lawyer can tell him what it means. He only knows that here at Washington sit those who are privileged to interpret its Delphic language. He does not know what that august board will say. He only knows the board may at any time summon him to come before it, and that he must come upon peril of having his business ruined by an injunction. He only knows he must cross the continent and bring his lawyers and evidence and submit himself to the arbitrament of five gentlemen who can construe a law any way they please and prohibit anything they do not like.

Mr. President, the illustration I gave is not the best which might be imagined. It is true this bill affects great trusts and great combinations, but it also affects every man and corporation engaged in interstate commerce. Many of them are small. A complaint may be lodged against a dealer whose yearly profits may not be $5 000 or may not be $3 000. Upon a complaint being made, perhaps by a malicious rival, the dealer must be dragged across this continent for what? For violating the law that he can understand? No. For violating a law the Senate can understand? No. For violating a law that the different authors of this bill and the committee themselves understand? No. But for violating a rule that is so vague that only the infinite God, who can look into the future and read the minds of the commission and know what their decision will be, could advise him in advance with reference to.

I do beseech Members of the Senate, and in what I say I know I weary them, and perhaps disgust them, that we shall write a rule here that somebody can understand. When you talk about giving 90 per cent of the business concerns of this country or 60 per cent or 40 per cent over to the control of a commission acting under a law so vague that you admit the citizen can not understand it and therefore you fear to give the citizen the right to sue under it; I say, as I have said before, and as others have said, you are conferring a power more arbitrary and more dangerous than is possessed by any despot of this earth. You are setting up a commission here, and if you will give it a proper rule that it must follow I shall welcome the commission; but when you lay down the rule that is to be followed, that rule ought to be so plain that the ordinary man can have a reasonable conception of its meaning. It should be so plain that if this commission proceeding under it denies to a citizen his substantial rights or ravishes him of his constitutional privileges he can have his recourse to courts where the law is known and administered.

I know there are men—and good men and wise men—who have a great prejudice against our Federal courts. I agree that much of the criticism leveled against the Federal courts has been just. I think it is true, and that I can say with entire propriety, that for a number of years the tendency of the Federal courts was too much in favor of great property interests. Why was that? It was, at least in part, because great interests had been able to control to some extent the appointment of Federal judges. If that is true, if great interests could control in part or in toto the selection of men for the Federal judiciary, the same great interests, the same great influences can be, and ultimately may be, equally potential in the selection of this commission.

Then where will we be? Surely in an infinitely worse situation than we are now or ever have been, and why? Because when a Federal court has decided a question it has necessarily

been decided with the litigants upon both sides in court; it has been decided with the full right of appeal, with rules of law and precedents to be appealed to in the appellate courts. Every decision has become a precedent and the courts have always had before them the thought that if they wrote bad law they wrote it not for that case alone but for all the cases that were to come after.

So we have never found a time when in the end the courts have not come around to about what was right. Any man who reads the late decision of the Supreme Court upon the trust act will see that step by step they have been advancing into that field which has been occupied by combinations and trusts, and day by day they have been striking them down.

But if it be true, as is charged by some, that the courts have been unduly influenced and swerved, if their appointment has been controlled, if evil influences have been able to reach into the very temple of justice itself, what will some day happen with a commission appointed in the same way and proceeding under a rule of law so vague that no man dare hazard a guess as to what it means?

A commission is all right within its proper sphere. But what is its proper sphere? First, a law should be written, a rule to guide this commission; second, it could investigate and could undoubtedly produce a vast fund of information that might not only be used by it in the enforcement of that rule of law, but that could also be used by litigants when they went into the court.

I never expected to see the day when the law of the land would not be preferred over the decree of five gentlemen, or when the courts of justice would be distrusted by those who were willing to turn over the business of this country to five men, empowered to construe a meaningless and vague law as they may see fit, to declare that to be valid which suits their taste, and to strike down all who dare differ from their arbitrary and unbridled power.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from North Dakota [Mr. MCCUMBER] to the amendment of the Senator from Minnesota [Mr. CLAPP].

BUREAU OF LABOR SAFETY.

Mr. KERN. Mr. President, I move that the Senate proceed to the consideration of executive business.

Mr. SHIVELY. Mr. President——

Mr. KERN. I withhold the motion temporarily and yield to my colleague.

Mr. SHIVELY. I ask unanimous consent to submit a favorable report from the Committee on Education and Labor on House bill 10735, to create a bureau of labor safety in the Department of Labor, and to submit a report (No. 712) thereon.

The PRESIDENT pro tempore. The Senator from Indiana asks unanimous consent to submit at this time a report from the Committee on Education and Labor. Is there objection? The Chair hears none. The report will be received and the bill will be placed on the calendar.

PETITIONS AND MEMORIALS.

Mr. BRISTOW presented petitions of sundry citizens of Eureka, Colby, Kanorado, Formoso, and of the first congressional district, all in the State of Kansas, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a memorial of Plumbers' and Steamfitters' Local Union No. 609, of Manhattan, Kans., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Kansas, praying for the enactment of legislation to recognize Dr. Cook in the matter of the discovery of the North Pole, which were referred to the Committee on the Library.

Mr. BRANDEGEE presented a petition of sundry citizens of Brookfield Junction, Conn., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. BURTON presented a petition of Local Union No. 330, International Molders' Union, of Ironton, Ohio, praying for the passage of the so-called Clayton antitrust bill, which was ordered to lie on the table.

PENSIONS AND INCREASE OF PENSIONS.

Mr. JOHNSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 15959) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 7, 10, and 15.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 8, 9, 11, 12, 13, 14, 16, 17, and 18, and agree to the same.

CHARLES F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.
JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The report was agreed to.

Mr. JOHNSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 16345) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1 and 16.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, and 18, and agree to the same.

CHARLES F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.
JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The report was agreed to.

Mr. JOHNSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17482) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 15, and 30.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35; and agree to the same.

CHARLES F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.
JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The report was agreed to.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Military Affairs:

H. R. 858. An act for the relief of Thomas E. Philips;

H. R. 14711. An act for the relief of Miles A. Hughes; and

H. R. 17464. An act for the relief of Fred Graff.

The following bills were severally read twice by their titles and referred to the Committee on the District of Columbia:

H. R. 6201. An act to authorize the Secretary of the Interior to issue a deed to the persons hereinafter named for part of a lot in the District of Columbia; and

H. R. 16755. An act authorizing and directing the Secretary of the Interior to execute and deliver a deed in favor of and to Ida Seymour Tulloch, Roberta Worms, and Ethel White Kimpell for sublot 38 of original lot 17, in reservation D, upon the official plan of the city of Washington, in the District of Columbia.

The following bills were severally read twice by their titles and referred to the Committee on Claims:

H. R. 2312. An act for the relief of Rathbun, Beachy & Co.;
H. R. 6530. An act for the relief of Michael F. O'Hare;
H. R. 7287. An act for the relief of Edward A. Thompson;
H. R. 11394. An act for the relief of Joseph A. Powers;
H. R. 12198. An act for the relief of Benjamin A. Sanders;
H. R. 13350 An act for the relief of the widow and heirs at law of Patrick J. Fitzgerald, deceased;
H. R. 13352. An act to allow credit in the accounts of Wyllys A. Hedges, special disbursing agent;
H. R. 13591. An act for the relief of John P. Ehrmann;
H. R. 13728. An act for the relief of Richard Riggles;
H. R. 14956. An act to reimburse the postmaster at Kegg, Pa., for money and stamps taken by burglars;
H. R. 16305. An act to reimburse Henry Weaver, postmaster at Delmar, Ala., for money and stamps stolen from said post office at Delmar, and repaid by him to the Post Office Department;
H. R. 16370. An act for the relief of the Richmond, Fredericksburg & Potomac and Richmond & Petersburg Railroad Connection Co.;
H. R. 17074. An act for the relief of the Paterson & Hudson River Railroad Co.;
H. R. 17085. An act for the relief of the Montgomery & Erie Railway Co.;
H. R. 17086. An act for the relief of the Goshen & Deckertown Railway Co.;
H. R. 17102. An act for the relief of the Columbus, Delaware & Marion Railway Co., of Columbus, Ohio;
H. R. 17110. An act to reimburse Epps Danley for property lost by him while lightkeeper at East Pascagoula River (Miss.) Light Station; and
H. R. 17424. An act for the relief of Hunton Allen.
H. R. 2642. An act authorizing the President to reinstate Joseph Eliot Austin as an ensign in the United States Navy, was read twice by its title and referred to the Committee on Naval Affairs.
H. R. 11765. An act to perfect the title to land belonging to the M. Forster Real Estate Co., of St. Louis, Mo., was read twice by its title and referred to the Committee on Public Lands.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

Mr. KERN. I move that the Senate adjourn to meet on Monday at 11 o'clock a. m.

The motion was agreed to; and (at 5 o'clock and 33 minutes p. m.) the Senate adjourned until Monday, August 3, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate August 1 (legislative day of July 27), 1914.

ASSISTANT SECRETARY OF AGRICULTURE.

Carl Schurz Vrooman, of Bloomington, Ill., to be Assistant Secretary of Agriculture, vice Beverly T. Galloway, resigned.

RECEIVER OF PUBLIC MONEYS.

Owen E. Thomas, of Fortine, Mont., to be receiver of public moneys at Kalispell, Mont., vice Robert M. Goshorn, term expired.

REGISTERS OF THE LAND OFFICE.

A. P. Tone Wilson, jr., of Topeka, Kans., to be register of the land office at Topeka, Kans., vice George W. Fisher, term expired.

Frank M. McHaffie, of Missoula, Mont., to be register of the land office at Missoula, Mont., vice Josiah Shull, term expired.

UNITED STATES ATTORNEY.

Arthur L. Oliver, of Caruthersville, Mo., to be United States attorney, eastern district of Missouri, vice Charles A. Houts, whose term has expired.

UNITED STATES MARSHAL.

John E. Lynch, of Moberly, Mo., to be United States marshal, eastern district of Missouri, vice Edward F. Regenhardt, whose term has expired.

CONFIRMATIONS.

Executive nominations confirmed by the Senate August 1 (legislative day of July 27), 1914.

CONSULS.

John K. Caldwell to be consul at Vladivostok, Siberia.
Arthur J. Clare to be consul at Port Antonio, Jamaica.

PROMOTIONS IN THE ARMY.

INFANTRY ARM.

Lieut. Col. Omar Bundy to be colonel.
Maj. Evan M. Johnson, jr., to be lieutenant colonel.
Capt. John K. Miller to be major.
First Lieut. Franklin P. Jackson to be captain.
Second Lieut. Blaine A. Dixon to be first lieutenant.
Second Lieut. Owen R. Meredith to be first lieutenant.
Second Lieut. James C. Williams to be first lieutenant.

COAST ARTILLERY CORPS.

Maj. Frank G. Mauldin to be lieutenant colonel.
Capt. James B. Mitchell to be major.
First Lieut. Edward E. Farnsworth to be captain.
Second Lieut. Fenelon Cannon to be first lieutenant.
Second Lieut. Fredrick E. Kingman to be first lieutenant.
Second Lieut. Simon W. Sperry to be first lieutenant.
Second Lieut. Daniel N. Swan, jr., to be first lieutenant.
Second Lieut. Charles M. Steese to be first lieutenant.
Second Lieut. Harry W. Stovall to be first lieutenant.

MEDICAL CORPS.

First Lieut. Edgar D. Craft to be captain.

APPOINTMENTS IN THE ARMY.

MEDICAL RESERVE CORPS.

To be first lieutenants.

Lester Julian Efird.
Maurice Eby Heck.
Charles Henry Hecker.
Robert John McAdory.
Richard Weil.
Justus Marchal Wheate.
S. Adolphus Knopf.

HOUSE OF REPRESENTATIVES.

SATURDAY, *August 1, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou great Spirit, from whom proceedeth life and its marvelous possibilities, impress us with the individual responsibility resting upon us as citizens of a great Republic, that each may strive earnestly and patriotically to add somewhat to its intellectual, moral, and spiritual life; that good may increase, evil diminish, harmony prevail; that as a nation we may advance steadily toward the ideal in Christ Jesus, our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 6192. An act to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act.

The message also announced that the President of the United States had approved and signed bills of the following titles:

On July 30, 1914:

S. 485. An act to amend section 1 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

On July 27, 1914:

S. 5462. An act to authorize the county of Barry, State of Missouri, to construct a bridge across the White River in Barry County, Mo., at or near a point known as Goldens Ferry; and

S. 5957. An act to authorize the Frost-Johnson Lumber Co. to construct a bridge across the Sabine River in the States of Louisiana and Texas, about 2 miles west of Hunter, La.

On July 28, 1914:

S. 785. An act to relinquish, release, and quitclaim all right, title, and interest of the United States of America in and to certain lands in the State of Mississippi;

S. 1087. An act authorizing the exchange of certain lands within the Fishlake National Forest, Utah; and

S. 5316. An act authorizing the survey and sale of certain lands in Coconino County, Ariz., to the occupants thereof.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 6192. An act to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act; to the Committee on Banking and Currency.

LEAVE OF ABSENCE.

The SPEAKER. The Chair lays before the House the following personal requests, which the Clerk will report.

The Clerk read as follows:

WASHINGTON, D. C., *August 1, 1914.*

Mr. TALCOTT of New York requests leave of absence for five days on account of the unveiling of statue to Baron von Steuben.

CHARLES A. TALCOTT.

—

BATH, N. Y., *July 30, 1914.*

Hon. CHAMP CLARK,
Washington, D. C.

MY DEAR MR. SPEAKER: I am going to sail for London to-morrow with my wife to attend the annual meeting of the Interparliamentary Union at Stockholm. I expect to be absent about five weeks. Will you kindly present my request to the House to be excused for that length of time?

With kind regards, I remain,
Very cordially, yours,

EDWIN S. UNDERHILL.

The SPEAKER. Is there objection to the granting of these requests?

Mr. DONOVAN. Mr. Speaker, I am going to object to the last request—the request of the gentleman who wants to go abroad. We are afraid the dogs of war will get hold of him. [Laughter.]

The SPEAKER. The gentleman from Connecticut [Mr. DONOVAN] objects to the last one, and not the first one. Without objection, the first one will be granted.

There was no objection.

BRIDGE ACROSS THE MERRIMAC RIVER, MASS.

Mr. PHELAN. Mr. Speaker, I move to take from the Speaker's table Senate bill 6101, to grant the consent of Congress for the city of Lawrence, county of Essex, State of Massachusetts, to construct a bridge across the Merrimac River, and pass the bill. I may say, Mr. Speaker, this bill is identical with a House bill on the calendar which has been reported by the Committee on Interstate and Foreign Commerce.

The SPEAKER. The gentleman from Massachusetts [Mr. PHELAN] moves to take from the Speaker's table Senate bill 6101, a similar House bill being on the House Calendar.

Mr. MANN. I understand the gentleman asks the Speaker to lay it before the House?

The SPEAKER. Yes. The Clerk will report it.

The Clerk read as follows:

A bill (S. 6101) to grant the consent of Congress for the city of Lawrence, county of Essex, State of Massachusetts, to construct a bridge across the Merrimac River.

Be it enacted, etc., That the consent of Congress is hereby granted for the city of Lawrence, county of Essex, State of Massachusetts, and its successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Merrimac River, at a point suitable to the interests of navigation, at or near the foot of Amesbury Street, in the city of Lawrence, in the county of Essex, in the State of Massachusetts, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. ADAMSON, a motion to reconsider the vote whereby the Senate bill was passed was laid on the table.

Mr. ADAMSON. Mr. Speaker, I move that House bill 17882 be laid on the table.

The SPEAKER. Without objection, the House bill of similar tenor will lie on the table.

There was no objection.

BRIDGE ACROSS THE ARKANSAS RIVER, ARK.

Mr. ADAMSON. Mr. Speaker, there is another bill in the same condition, introduced by the gentleman from Arkansas [Mr. JACOWAY]. It is Senate bill 6084. I ask that the Speaker lay it before the House.

The SPEAKER. The gentleman from Georgia [Mr. ADAMSON] moves that the bill S. 6084 be taken from the Speaker's table and passed, a similar bill being on the House Calendar. The Clerk will report the bill.

The Clerk read as follows:

A bill (S. 6084) to grant the consent of Congress for the county of Pulaski, State of Arkansas, to construct a bridge across the Arkansas River between the cities of Little Rock and Argenta, Ark.

Be it enacted, etc., That the consent of Congress is hereby granted for the county of Pulaski, State of Arkansas, and its successors and assigns to construct, maintain, and operate a bridge and approaches thereto across the Arkansas River at a point suitable to the interests of navigation from Broadway Street, in the city of Little Rock, Ark., to a point on the north bank of the said river, in the city of Argenta, county of Pulaski, Ark., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. ADAMSON, a motion to reconsider the vote whereby the bill was passed was laid on the table.

Mr. ADAMSON. Mr. Speaker, I move to lay House bill 17637, of similar tenor, on the table.

The SPEAKER. Without objection, that will be done.

There was no objection.

PAYMENTS UNDER RECLAMATION PROJECTS.

Mr. TAYLOR of Colorado. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Colorado rise?

Mr. TAYLOR of Colorado. To call up Senate bill 4628, extending the payment under reclamation projects, and for other purposes, and to ask that the House agree to the conference asked for by the Senate.

The SPEAKER. The gentleman from Colorado calls up Senate bill 4628 and asks that the House agree to the conference asked by the Senate. The Clerk will report it.

The Clerk read the title of the bill, as follows:

S. 4628. An act extending the period of payment under reclamation projects, and for other purposes.

The SPEAKER. Without objection, the request——

Mr. MANN. Mr. Speaker, just a quarter of a second. I shall not raise any question with reference to the conferees to be named, because I shall have faith that the conferees will support the position of the House, which position was announced by a very large vote on the Underwood amendment, although all the gentlemen named as conferees on the part of the House voted against the amendment, and all the Senators who are named as conferees on the part of the Senate are also known to be against it.

Mr. TAYLOR of Colorado. Mr. Speaker, I will say to the gentleman from Illinois that——

Mr. MANN. The gentleman need not express any opinion to me. I accept in good faith his sense of responsibility.

The SPEAKER. Is there objection to the request of the gentleman from Colorado [Mr. TAYLOR]?

Mr. FALCONER rose.

The SPEAKER. For what purpose does the gentleman from Washington rise?

Mr. FALCONER. Reserving the right to object, I would like to ask unanimous consent to insert a little clipping from the Washington Herald on this question that is involved in the query propounded by the gentleman from Illinois.

The SPEAKER. The gentleman from Washington [Mr. FALCONER] asks unanimous consent to insert in the RECORD a clipping from the Washington Herald on the subject. Is there objection?

Mr. FOSTER. Mr. Speaker, I do not think the gentleman ought to do that under this proceeding.

The SPEAKER. The gentleman was reserving the right to object.

Mr. TAYLOR of Colorado. The gentleman from Washington does not object to the bill going to conference.

The SPEAKER. It does not require unanimous consent, anyhow.

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House agree to the conference asked for by the Senate.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Colorado [Mr. TAYLOR] that the House agree to the conference asked by the Senate.

The motion was agreed to; and the Speaker announced as conferees on the part of the House Mr. TAYLOR of Colorado, Mr. RAKER, and Mr. KINKAID of Nebraska.

The SPEAKER. The Clerk will report the first bill reported yesterday by the Committee of the Whole.

Mr. FALCONER. Now, Mr. Speaker, I renew my request for unanimous consent to insert a newspaper article on this question of annual appropriations for the Reclamation Service.

The SPEAKER. The gentleman from Washington [Mr. FALCONER] asks unanimous consent to insert in the RECORD a newspaper article on the subject of annual appropriations for the Reclamation Service. Is there objection?

There was no objection.

DR. THOMAS J. KEMP.

Mr. WEBB. Mr. Speaker, I desire to present from the Committee on the Judiciary a privileged adverse report (No. 1058) on House resolution 572, and ask that it be printed and that its consideration go over until next week; and I now give notice that I shall call up the resolution next week. I also ask unanimous consent that the gentleman from Minnesota [Mr. VOLSTEAD], the ranking Republican member of the Committee on the Judiciary, have the right to file a minority report.

Mr. MANN. If it is an adverse report, under the rule he can ask to have it placed on the calendar. I hope that the gentleman will ask that it be so placed.

Mr. MURDOCK. What is the resolution?

Mr. WEBB. It is a resolution calling upon the President for all papers on file with him or with the Department of Justice in relation to the application for pardon of Dr. Kemp.

The SPEAKER. The Clerk will read the report by title.

The Clerk read as follows:

Report No. 1058 (to accompany H. Res. 572), calling upon the President for papers in the Kemp pardon case.

Mr. DONOVAN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. DONOVAN. To ask unanimous consent to have read from the Clerk's desk an article that I have sent up.

The SPEAKER. The gentleman from Connecticut asks unanimous consent to have read from the Clerk's desk a certain chapter from Thirty Years in the United States Senate, by Thomas Hart Benton. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman from Georgia what is his intention in relation to adjournment to-day?

Mr. ADAMSON. I think that all patriots ought to unite, in view of the momentous events to follow this afternoon, to complete the bill in time to go to the baseball. There has been so much debate that I think if gentlemen will offer their amendments and have them voted on we will get through at an early hour.

Mr. MANN. I understand there is to be a baseball game between the Members of the House this afternoon for charitable purposes, and I wondered whether the gentleman would move to adjourn in time to attend the game.

Mr. BUTLER. Will charity be helped much?

Mr. MANN. I think so; and I think we should adjourn early enough, so that Members may attend the game.

Mr. ADAMSON. I think it would be doubly charitable if Members were to be so stimulated as to abstain from debate and offer their amendments and get through with the bill.

Mr. MANN. I will agree to talk less than the gentleman from Georgia does.

Mr. ADAMSON. And I will agree not to debate it at all. Let us offer the amendments and vote on them.

Mr. MANN. But the gentleman has not answered my question.

Mr. ADAMSON. I am going to do my best to get through and get out of the way of the baseball game.

Mr. MANN. Very well; I shall make the point of no quorum a little before 3 o'clock.

Mr. ADAMSON. Then I guess we will have to adjourn.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut? [After a pause.] The Chair hears none.

The Clerk read as follows:

"PAIRING OFF.

"At this time, and in the House of Representatives, was exhibited for the first time the spectacle of Members 'pairing off,' as the phrase was; that is to say, two Members of opposite political parties agreeing to absent themselves from the duties of the House, without the consent of the House and without deducting their per diem pay during the time of such voluntary absence. Such agreements were a clear breach of the rules of the House, a disregard of the Constitution, and a practice open to the grossest abuses. An instance of the kind was avowed on the floor by one of the parties to the agreement, by giving as a reason for not voting that he had 'paired off' with another Member, whose affairs required him to go home. It was a strange annunciation and called for rebuke; and there was a Member present who had the spirit to administer it; and from whom it came with the greatest propriety on account of his age and dignity and perfect attention to all his duties as a Member, both in his attendance in the House and in the committee rooms. That Member was Mr. John Quincy Adams, who immediately proposed to the House the adoption of this resolution: '*Resolved*, That the practice, first openly avowed at the present session of Congress, of pairing off, involves, on the part of the Members resorting to it, the violation of the Constitution of the United States, of an express rule of this House, and of the duties of both parties in the transaction to their immediate constituents, to this House, and to their country.' This resolve was placed on the calendar to take its turn, but not being reached during the session was not voted upon. That was the first instance of this reprehensible practice, 50 years after the Government had gone into operation; but since then it has become common, and even inveterate, and is carried to great length. Members pair off, and do as they please—either remain in the city, refusing to attend to any duty, or go off together to neighboring cities, or separate, one staying and one going; and the one that remains sometimes standing up in his place and telling the Speaker of the House that he had paired off, and so refusing to vote. There is no justification for such conduct, and it becomes a facile way for shirking duty and evading responsibility. If a Member is under a necessity to go away, the rules of the House require him to ask leave; and the Journals of the early Congresses are full of such applications. If he is compelled to go, it is his misfortune, and should not be communicated to another. This writer had never seen an instance of it in the Senate during his 30 years of service there; but the practice has since penetrated that body, and 'pairing off' has become as common in that House as in the other, in proportion to its numbers, and with an aggravation of the evil, as the absence of a Senator is a loss to his State of half its weight. As a consequence, the two Houses are habitually found voting with deficient numbers—often to the extent of a third—often with a bare quorum.

"In the first age of the Government no Member absented himself from the service of the House to which he belonged without first asking and obtaining its leave; or, if called off suddenly, a colleague was engaged to state the circumstances to the House, and ask the leave. In the Journals of the two Houses for the first 30 years of the Government there is in the index a regular head for 'absent without leave,' and turning to the indicated page every such name will be seen. That head in the index has disappeared in later times. I recollect no instance of leave asked since the last of the early Members—the Macons, Randolphs, Rufus Kings, Samuel Smiths, and John Taylors of Caroline—disappeared from the Halls of Congress."

ORDER OF BUSINESS.

Mr. TAYLOR of Colorado rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent to be allowed to address the House for five minutes.

Mr. ADAMSON. Mr. Speaker, I think he can be heard in the Committee of the Whole after we go into committee.

The SPEAKER. The gentleman from Georgia objects.

Mr. ADAMSON. I do not object. I just ask him to take that course.

Mr. TAYLOR of Colorado. Very well.

Mr. ADAMSON. He agrees. [Laughter.]

The SPEAKER. Does the gentleman from Colorado withdraw his request?

Mr. TAYLOR of Colorado. Yes; for the present.

BILLS PASSED.

The following Senate bill, reported from the Committee of the Whole with amendments, was considered, the amendments agreed to, the bill ordered to be read a third time, read the third time, and passed:

S. 23. An act for the relief of Clara Dougherty et al.

The following Senate bills, reported from the Committee of the Whole without amendment, were severally considered, the bills ordered to be read a third time, read the third time, and passed:

S. 3761. An act for the relief of Matthew Logan;

S. 1803. An act for the relief of Benjamin E. Jones;

S. 1149. An act for the relief of Seth Watson;

S. 663. An act for the relief of Thomas G. Running; and

S. 4023. An act for the relief of Walter H. Coffman.

The following House bills, reported from the Committee of the Whole with amendments, were severally considered, the amendments agreed to, the bills as amended ordered to be engrossed and read the third time, read the third time, and passed:

A bill (H. R. 17102) for the relief of the Columbus, Delaware & Marion Railway Co., of Columbus, Ohio;

A bill (H. R. 7287) for the relief of Edward A. Thompson;

A bill (H. R. 13728) for the relief of Richard Riggles;

A bill (H. R. 13591 for the relief of John P. Ehrmann;

A bill (H. R. 11394) for the relief of James A. Powers;

A bill (H. R. 13350) for the relief of the widow and heirs at law of Patrick J. Fitzgerald, deceased;

A bill (H. R. 6530) for the relief of Michael F. O'Hare;

A bill (H. R. 2312) for the relief of Rathbun, Beachy & Co.;

A bill (H. R. 2642) authorizing the President to reinstate Joseph Eliot Austin as an ensign in the United States Navy;

A bill (H. R. 858) for the relief of Thomas E. Philips;

A bill (H. R. 12198) for the relief of Benjamin A. Sanders;

A bill (H. R. 16755) authorizing and directing the Secretary of the Interior to execute and deliver a deed in favor of and to Ida Seymour Tulloch, Roberta Worms, and Ethel White Kimpell for sublot 38 of original lot 17 in reservation D, upon the official plan of the city of Washington, in the District of Columbia;

A bill (H. R. 6201) to authorize the Secretary of the Interior to issue a deed to the persons hereinafter named for part of a lot in the District of Columbia;

A bill (H. R. 14711) for the relief of Miles A. Hughes; and

A bill (H. R. 17464) for the relief of Fred Graff.

The following House bills reported from the Committee of the Whole without amendment, were severally considered, the bills ordered to be engrossed and read a third time, read the third time, and passed:

A bill (H. R. 13352) to allow credit in the accounts of Wyllys A. Hedges, special disbursing agent;

A bill (H. R. 17110) to reimburse Epps Danley for property lost by him while light keeper at East Pascagoula River (Miss.) Light Station;

A bill (H. R. 16370) for the relief of the Richmond, Fredericksburg & Potomac and Richmond & Petersburg Railroad Connection Co.;

A bill (H. R. 17085) for the relief of Montgomery & Erie Railway Co;

A bill (H. R. 16305) to reimburse Henry Weaver, postmaster at Delmar, Ala., for money and stamps stolen from said post office at Delmar and repaid by him to the Post Office Department;

A bill (H. R. 14956) to reimburse the postmaster at Kegg, Pa., for money and stamps taken by burglars;

A bill (H. R. 17086) for the relief of the Goshen & Deckertown Railway Co.;

A bill (H. R. 17074) for the relief of the Paterson & Hudson River Railroad Co.; and

A bill (H. R. 17424) for the relief of Hunton Allen.

The following House resolutions, reported from the Committee of the Whole without amendment, were severally considered and agreed to:

A resolution (H. Res. 551) in lieu of H. R. 1049, to refer the claims of H. E. Johnson, John F. Shelley, Jane M. Johnson, and Duff Quinn to the Court of Claims;

A resolution (H. Res. 552) in lieu of H. R. 1052, to refer the claim of Fred Larsen to the Court of Claims; and

A resolution (H. Res. 553) in lieu of H. R. 1051, to refer the claim of Peter W. Anderson to the Court of Claims.

FORSTER REAL ESTATE CO.

The following House bill with amendments, reported from the Committee of the Whole, was reported by the Clerk:

A bill (H. R. 11765) to perfect the title to land belonging to the M. Forster Real Estate Co., of St. Louis, Mo.

Mr. MANN. Mr. Speaker, my recollection is that in this bill there is a preamble which should be stricken out.

The SPEAKER. That will be in the nature of an amendment.

Mr. MANN. The striking of it out will come after the vote on the bill.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The SPEAKER. Without objection, the preamble will be stricken out.

There was no objection.

Mr. DONOVAN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. DONOVAN. To make the point of no quorum, for this reason: The great State of New York is represented on this floor at the present moment by only one Member—that great commercial State.

The SPEAKER. Does the gentleman make the point that there is no quorum present?

Mr. GALLAGHER. I should like to ask the gentleman a question.

SEVERAL MEMBERS. Regular order!

The SPEAKER. No one has the floor. The Chair is trying to find out whether the gentleman from Connecticut adheres to the point of no quorum.

Mr. DONOVAN. I withdraw it, Mr. Speaker.

Mr. MANN. If the gentleman withdraws it I shall make it. I am through with this kind of tomfoolery. I make the point of no quorum present.

The SPEAKER. The gentleman from Illinois makes the point of no quorum present. Evidently there is not a quorum present.

Mr. ADAMSON. I move a call of the House.

The SPEAKER. The gentleman from Georgia moves a call of the House.

The question was taken; and on a division (demanded by Mr. ADAMSON) there were—ayes 64, noes none.

Accordingly a call of the House was ordered.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Adair	Estopinal	Kreider	Rayburn
Aiken	Fairchild	Lafferty	Reed
Ainey	Faison	Langham	Reilly, Wis.
Anthony	Fields	Langley	Riordan
Ashbrook	Fitzgerald	Lazaro	Roberts, Mass.
Aswell	Fitzhenry	L'Engle	Rogers
Austin	Floyd	Lenroot	Rothermel
Avis	Fordney	Lever	Rouse
Baker	Francis	Levy	Sabath
Barchfeld	Frear	Lewis, Md.	Saunders
Barkley	Gallivan	Lewis, Pa.	Scully
Bartholdt	Gard	Lindbergh	Sells
Bartlett	Gardner	Lindquist	Sherley
Beall, Tex.	George	Linthicum	Sherwood
Borland	Gill	Lobeck	Shreve
Brodbeck	Gillett	Loft	Sisson
Broussard	Gittins	Logue	Slayden
Brown, N. Y.	Goeke	Lonergan	Smith, Md
Browne, Wis.	Goldfogle	McAndrews	Smith, J. M. C.
Browning	Gordon	McClellan	Smith, N. Y.
Bruckner	Gorman	McGillicuddy	Smith, Tex.
Bulkley	Goulden	McGuire, Okla.	Stafford
Burke, Pa.	Graham, Ill.	Mahan	Stanley
Byrnes, S. C.	Graham, Pa.	Maher	Steenerson
Byrns, Tenn.	Green, Iowa	Manahan	Stephens, Miss.
Calder	Greene, Mass.	Martin	Stephens, Nebr.
Callaway	Gregg	Merritt	Stringer
Cantrill	Griest	Metz	Sumners
Carew	Griffin	Montague	Switzer
Carr	Gudger	Moore	Taggart
Cary	Hamill	Morgan, La.	Talbott, Md.
Casey	Hamilton, Mich.	Morin	Talcott, N. Y.
Chandler	Hamilton, N. Y.	Mott	Taylor, N. Y.
Clancy	Hardwick	Murray, Okla.	Temple
Clark, Fla.	Hart	Neeley, Kans.	Ten Eyck
Coady	Heflin	Neely, W. Va.	Thacher
Connolly, Iowa	Henry	Nelson	Thomas
Conry	Hinds	O'Brien	Thompson, Okla.
Copley	Hinebaugh	Oglesby	Tribble
Covington	Hobson	O'Leary	Underhill
Crisp	Houston	O'Shaunessy	Underwood
Crosser	Hoxworth	Padgett	Vare
Dale	Hughes, Ga.	Paige, Mass.	Vaughan
Davenport	Hughes, W. Va.	Palmer	Vollmer
Dershem	Humphrey, Wash.	Park	Walker
Dies	Igoe	Parker	Wallin
Difenderfer	Johnson, S. C.	Patten, N. Y.	Walsh
Donohoe	Kahn	Payne	Walters
Dooling	Keister	Peters, Me.	Weaver
Driscoll	Kelley, Mich.	Peters, Mass.	Whitacre
Drukker	Kent	Platt	White
Dupré	Kiess, Pa.	Plumley	Williams
Eagan	Kindel	Porter	Willis
Eagle	Kinkead, N. J.	Post	Wilson, N. Y.
Edmonds	Kitchin	Powers	Winslow
Edwards	Knowland, J. R.	Ragsdale	Young, Tex.

COLORADO DAY.

Mr. TAYLOR of Colorado. Mr. Speaker, on August 1, 1876, 38 years ago to-day, the State of Colorado was admitted into the Union by the proclamation of President Grant, and has ever since been known as the Centennial State. [Applause.]

This is, in my State, a legal holiday, known as "Colorado Day," and at this hour in our capital city, and in many other cities and towns throughout the State, business is suspended, and practically the entire population is celebrating this thirty-eighth anniversary of our statehood. This afternoon in the city park, of our magnificent capital, the bands are playing, there is speaking by public officials, State flag raisings, songs, and parades; the young people are enjoying various kinds of sports; 50 civic, patriotic, and fraternal societies are taking part in the day's festivities; and it is a gala celebration of a happy, patriotic, and prosperous people. [Applause.] The exercises are under the management and auspices of the patri-

otic order known as the Sons of Colorado, of which I am pleased to be one.

Thirty-eight years ago to-day our State had a population of only a few thousand hardy pioneers, who were nobly battling against the hardships and privations of frontier life. To-day we have a population of nearly a million progressive, well-educated, splendid twentieth-century American citizens. [Applause.] Denver, our State capital, is, we think, the newest, cleanest, and most beautiful city on this continent. It is known throughout the world as "The Queen City of the Plains."

To-day Colorado is the front door of the West, the gateway to the Pacific, the playground of the Nation, and the Switzerland of America. The Centennial State is the top of the world, and the crest of the American continent, the land of bright skies, and 330 sunlit days in every year. The paradise of healthful climate and gorgeous scenery. [Applause.] All mankind bows before Colorado's scenic shrine. Our mountains are filled with minerals, and our valleys are the most fruitful in the world.

Nature has lavished upon our State nearly all of her choicest gifts, and it is indeed the land of inspiration and opportunity. [Applause.] As loyal sons of our beloved Commonwealth the Colorado delegation in the Senate and House of Representatives have just been celebrating this day by presenting to the Union and dedicating the memorial tablet recently furnished by our State and placed in the Washington National Monument; and at this hour a salute of 21 guns is being fired in Denver to commemorate this occasion. [Applause.]

On behalf of my State I want to express to the Marine Band our appreciation of their courtesy in furnishing us the splendid soul-inspiring patriotic music of the occasion, and to thank our beloved Chaplain, Dr. Couden, for his kindness in joining with us in invoking a fervent blessing upon our Commonwealth and the memorial emblem of our State's loyalty to the Union and reverence for the Father of his Country. [Applause.]

The tablet which we have to-day dedicated is placed in the east wall of the Monument at the 290-foot level. It contains the word "Colorado," the figures "1876," and our State's coat of arms, all artistically sculptured upon a block of absolutely spotless pure-white marble, a sample of which I hold in my hands. [Applause.] It is the marble selected by the most distinguished body of men this Nation has ever had upon any commission, to be the material used in the Abraham Lincoln Memorial in this Capital city. And when that structure is completed it will be one of the most magnificent monuments on this planet. This material comes from a solid mountain of pure-white marble near my home in western Colorado. A mountain from which could be taken—if there was powerful enough machinery—a solid block of pure-white marble as large as this Capitol Building. [Applause.]

But I will not delay the proceedings of the House to recite the material wealth or myriads of attractive features of our superb State, but will, on behalf of the entire population of Colorado, extend to you all a cordial invitation to some time visit our State and our people and see for yourself the marvelous scenery, the bright sunshine, the health and wealth that we enjoy.

COME TO COLORADO.

Come up a mile where the air is pure,
Where the skies are clear and blue;
Come up above the smoke and dust,
Where good health waits for you.

[Applause.]

Mr. MANN. Say when!

Mr. TAYLOR of Colorado. At the first opportunity after this session adjourns. [Applause.] When you enter our capital city you will be greeted with a magnificent bronze arch extending to you a "Welcome," and on your departure you will receive the ancient and heartfelt blessing, "Mizpah"—God be with you till we meet again. [Loud applause.]

Mr. Speaker, I will insert in the RECORD as a part of my remarks a brief recital of the ceremonies in commemoration of the dedication of Colorado's memorial tablet in the Washington National Monument. The exercises were held within the monument, on the 290-foot level, adjoining the tablet. I was accorded the honor of presiding and welcoming the Coloradans and our guests and presenting the various speakers.

After music by the Marine Band, the chaplain of the House of Representatives invoked divine blessing upon the occasion, as follows:

PRAYER BY REV. HENRY N. COUDEN.

"Eternal God, our heavenly Father, ever present in the hearts of Thy children to uphold, sustain, and guide them in every onward and upward movement toward the betterment of mankind, we thank Thee for our Republic and the men whose souls live in its sacred institutions 'conceived by our fathers in liberty and dedicated to the proposition that all men are created equal.'

"We gather here this morning to add in marble the gratitude of the great State of Colorado to this splendid monument erected to the memory of him whom we delight to call the 'Father of his country.' May this tablet be a perpetual memorial of the loyalty and patriotism of the Centennial State to the Union, whose genius is liberty, justice, righteousness, peace, and good will to all mankind. May its brain and brawn contribute strength, glory, and prosperity to our Nation and honor itself by honoring the Nation whose flag floats in triumphant peace over its fertile soil, lofty mountains, mines of wealth, its schools, colleges, and churches dedicated to the worship of God, now and evermore, in the Spirit of the Lord Jesus Christ. Amen."

Thereupon the proclamation of Gov. Ammons, of Colorado, was read by the presiding officer, as follows:

COLORADO DAY PROCLAMATION.

August 1 will be Colorado's thirty-eighth birthday. Some years ago the lawmakers of the State, believing a proper observance of the day would promote a better spirit, greater cooperation among our people, and inspire a higher degree of State pride, provided that the 1st day of August of each year should be a holiday. Having confidence in the wisdom of this purpose, I urge all patriotic societies and all good citizens to join in appropriate exercises, not only to commemorate the splendid accomplishments of the past, but to direct a better spirit of community interest in future progress, that we may secure labor and capital for development, build and maintain needed public institutions, increase the efficiency of State and local governments, improve our social conditions, and make available the wealth of opportunities our matchless climate and varied industrial conditions offer to the enterprising homeseekers of the world.

Let it be our ambition to build worthily upon the broad foundation laid by our far-seeing pioneers, and so conduct our public affairs that we may take just pride in the State, become more loyal in our citizenship and more earnest, patriotic Americans.

We believe in Colorado. Let us show our faith and patriotism by the manner in which we celebrate the natal day of our Commonwealth.

In witness whereof I have hereunto set my hand and caused the great seal of State to be affixed at Denver, this 21st day of July, A. D. 1914.

ELIAS M. AMMONS,
Governor.

Attest:

JAS. B. PEARCE,
Secretary of State.

Mrs. Edward T. Taylor recited the following poem on the Columbine, the State flower of Colorado:

THE COLUMBINE.

An idle angel, one sunny day,
Sought new means to pass the time away;
And cut a patch from heaven's blue
And looked for something else to do.

Then from a cloud he took some white
And into its center he put sunlight;
Then in the azure he placed the two,
Producing this flower—gold, white, and blue.

This was the birth of the Columbine,
And as it follows its mission divine,
Originating at heaven's gate,
Let it ever be emblem of this grand State.

—J. M. White.

At the conclusion of her recitation, and in the absence of Miss Etta Taylor, who had been designated by the Sons of Colorado for that purpose, she unveiled the memorial tablet, while the band played "The Star-Spangled Banner."

Thereupon Senator CHARLES S. THOMAS made the official presentation of the tablet to the Nation as follows:

SPEECH OF SENATOR CHARLES S. THOMAS IN PRESENTING COLORADO'S MEMORIAL TABLET TO THE NATION.

"Mr. Chairman and Coloradons: The Washington Monument is the expression in stone of an undivided national sentiment reaching back to the days of seventy-six and woven into the fabric of American institutions. It typifies the reverence of a great people for the name and their gratitude for the achievements of their most illustrious character. Like the man whose name it bears, its outlines are massive and its proportions majestic. The materials which compose its external structure are uniform and symbolize the structure of the Union. Those which crowd the recesses of its interior are contributed by the several States and represent the distinctive Commonwealths clustering beneath and supporting the shield of the great Republic. It is more than a monument to the memory of a man; it is the towering emblem of the American Government, a sisterhood of States 'distinct as the waves but one as the sea.'

"To-day we of Colorado are gathered at the shrine of Washington to present to the Nation her contribution to his memory. From her varied and exhaustless mountain stores the Centennial State has chosen a block of marble hewn from a Gargantuan quarry, squared to the shape of her own dimensions, white as the driven snow, and solid as the fame of the man to which it is now dedicated. The love which her people bear to his memory,

their loyalty to the cause he so signally vindicated, their devotion to the land whose independence he secured and of which she is now a part, their zeal for the institutions which his valor secured, all these are embodied in this offering.

"Colorado is herself a monument along the pathway of the Nation's life. Her Territorial government was forged in the fires of the Civil War and thrown upon the western frontier as a bulwark against Indian aggression. Right valiantly did she defend the outpost. She acquired her statehood in 1876, the centennial year of the Republic. Her domain was acquired from France, from Texas, and from Mexico, by treaty, by cession, and by conquest. One of her rivers marks the northernmost reach of Spanish dominion, from which it retreated before the aggressions of the Anglo-Saxon. She spreads over the roof tree of the continent, and the melting snows of her mountains feed alike the streams of the Atlantic and Pacific slopes. The walls of her southwestern canyons are crowded with the ruins of a prehistoric civilization that was old when Egypt was without her pyramids. Her mountains dwarf the pinnacles of the Alps; her vast plains have been wrested from the solitude of the desert, and yield abundant harvests to a thriving and industrious yeomanry. Her people are descendants of the pioneers. They were drawn to her borders by the lure of gold and silver, by a soil, a sky, and an atmosphere whose blended glories eclipse the sunlit climate and fertile slopes of the Riviera. They hold their heritage as a trust for posterity. They have their problems, but confront them undaunted and unafraid. They have their trials, but will emerge from them purified as by fire. They are Americans all—bone of your bone, flesh of your flesh, inspired by the same aspirations, professing the same faith, and prepared when the need shall demand it to make common sacrifice to preserve and perpetuate what Washington with his Continentals wrested from the reluctant hands of kingly power.

"Mr. Chairman, in behalf of the people of Colorado, in the name of the Centennial State, born on the hundredth anniversary of the American Union, beginning her expansive and ever-expanding career under every auspicious omen, I present to the people of the United States this tablet as a tribute of our affection, our loyalty, and our devotion to the Father of his Country."

Brig. Gen. John M. Wilson, United States Army, retired, as a member of the Washington National Monument Society, accepted the tablet on behalf of the people of the United States.

Gen. Wilson in his remarks called attention to the fact that he was present at the laying of the corner stone of the Monument on July 4, 1848, when the Hon. Robert C. Winthrop, of Massachusetts, then Speaker of the House of Representatives, delivered the formal oration; and that he was also present at the dedication of the monument on February 21, 1885, when the Hon. Robert C Winthrop prepared the oration which was read in the House of Representatives by Hon. John D. Long, of Massachusetts.

Gen. Wilson was Chief of the Corps of Engineers, United States Army, and in charge of the monument at the time of its dedication, and superintended the final work of completion. He also superintended the insertion in the walls of the Monument of the many memorial tablets that have been presented by various States, and he gave an interesting history of the construction of the Monument, and paid a beautiful tribute to the Centennial State.

The following addresses were then delivered:

ADDRESS OF SENATOR JOHN F. SHAFROTH.

"Mr. Chairman, the tablet we unveil to-day was taken from a quarry in Colorado the extent of which is not equaled anywhere in the world. The deposit is not a quarry, but consists of a series of huge mountains composed of solid white marble 99.97 pure. The industry promises to become one of the greatest of its kind on earth. That marble is now being sold all over the United States and as far as Australia and New Zealand. It has been used for the interior finish of the great 26-story municipal building in New York City and of some of the large buildings in every city in the Union. It has been used for the construction of the new post-office building in Denver, which has been pronounced the most beautiful and artistic edifice in the United States, and has been selected over many competitors as the material from which to construct the great Lincoln Memorial at the Nation's Capital. It is likely to become one of the fine sculptural marbles of the world.

"But this is only one of the resources of Colorado.

"The Geological Survey at Washington estimates that we have within the limits of our Commonwealth 371,000,000,000 tons of coal, sufficient to supply the world at the present rate of consumption for 300 years.

"The Reclamation Service has estimated that the mountain streams of Colorado, through water-power plants, are capable of generating 2,117,000 horsepower and transmitting the same to our large towns and cities for commercial uses. As there is now being manufactured from each horsepower generated in the United States products of the value, on the average, of $1,142 each year, the possibility of output from this resource in Colorado, if we utilize the power to the same advantage, will equal $2,417,641,000 a year. As the amount expended for labor in the manufacture of the products of each horsepower is, on the average, $548 a year, there is a possibility in our State of ultimately having from this resource a pay roll for wages of $1,160,116,000 a year. We are therefore destined to become one of the greatest manufacturing States in the Union.

"We have in our Commonwealth about 4,000,000 acres of irrigated lands. Egypt has about the same amount and supports therefrom 9,000,000 people. As the yield per acre is about 50 per cent more than from lands in humid climates, and as the duty of water by economic use is becoming greater each year, the possibilities of the agricultural resources of our State, when all our flood waters are conserved, can hardly be estimated.

"Colorado has produced from her mines more than $1,000,000,000 of the precious metals. We who live there know that there are many Leadvilles, Aspins, Cripple Creeks, and Creedes yet undiscovered. We further know that by cheapening processes of extraction and treatment our production from low-grade ores will be almost unlimited. Besides we have large deposits of copper, zinc, lead, pitch blend, and carnolite ores.

"Our mountains will always be the grazing lands for our cattle. With $75,000,000 now invested by our citizens in that business, our State will always rank high in that industry.

"While Colorado is destined to become great in all these lines of industry, it is sure to always attract a large population of rich and well-to-do people on account of its almost eternal sunshine and health-giving climate.

"The tourist travel yields an income to Switzerland sufficient to support most of its population of 3,000,000 people. Colorado is seven times as large as that Republic and its scenery is more magnificent and grand. More and more each year her mountains, plateaus, and canyons are becoming the playground of America.

"It is said that the birthplace of liberty is in the highlands and mountains of the world. As expressed by Drake:

"When Freedom from her mountain height
Unfurled her standard to the air,
She tore the azure robe of night
And set the stars of glory there.

"It is therefore fitting that a liberty-loving people from the crest of the continent should have a tablet in the monument dedicated to the memory of the man who sacrificed so much that his country might be free."

ADDRESS OF CONGRESSMAN H. H. SELDOMRIDGE.

"Mr. Chairman, the thoughts which come to us on this occasion are inspiring and uplifting. In this presence we open the temple of the mind and give entrance to characters and events of potent force in American history. As the years go by and yield their product of national growth and development we think more impressively of those who, under the providence of God, gave this Nation being and laid broad and deep the foundations of constitutional government.

"The strength and majesty of this beautiful shaft are but symbolic of the enduring principles of freedom, justice, and equality which underlie our civic structure. We gladly welcome every occasion which serves to remind us of these fundamentals of national faith, and we summon ourselves to renewed consecration in supporting and defending those agencies which seek to perpetuate and develop them.

"While we rejoice in this privilege of patriotic recollection we must not lose the lessons it should bring us. As we look upon this national memorial can we not in some measure put into our life and thought some portion of the spirit and self-sacrifice that controlled the life of Washington? As we think of his patriotism, his courage, his patience, and his unselfishness must we not confess that we have fallen far short of the standard that guided his life and determined his attitude toward his fellow countrymen?

"When we see on every side the striving for power and place; when we realize the strength of the forces at work to dominate and control functions of government for selfish purposes; when we hear the discordant murmurings of those who are not in sympathy with American institutions we must invoke the presence of the same patriotic spirit that found expression in Washington and other fathers of the Republic.

"We are in touch this morning with one of our great national shrines. We have come in thought and purpose to make

an offering on behalf of the people of our beloved Commonwealth. We have brought this piece of Colorado marble to place it in familiar association with similar contributions from other States, and thus share with them in actual presence the honor and power of this memorial shaft.

"We not only here establish in symbol this bond of physical unity, but behind these tablets and stones there is the more enduring bond of civil unity. There is national vitality in this thought of statehood participation in honoring the life and achievements of Washington. All share the reward of his patriotism. His honor and fame belong to the youngest as well as to the oldest Commonwealth.

"We are not adding to the strength or beauty of this monument by this contribution but we are placing our State and her people into vital fellowship with other States in this noble and patriotic enterprise. As we dedicate this Colorado stone to the place assigned to it in this structure let us pray that there may come upon our people and those of other States as well such an inrush of patriotic feeling and purpose that the spirit of Washington may live and breathe anew in all our borders.

"Colorado modestly, yet proudly, claims the honor of this occasion. As her representatives we pledge her citizenship to the observance of every national obligation and their consecration to every national endeavor."

ADDRESS OF CONGRESSMAN GEORGE J. KINDEL.

"Mr. Chairman, on this auspicious occasion, Colorado Day celebration, and the dedication of Colorado marble slab, which is the purest and finest grained on earth, and now a part of the greatest monument on earth, I am reminded of Thomas Jefferson, who said that 'agriculture, manufacture, commerce, and navigation, the four pillars of prosperity, are the most thriving when left most free to individual enterprise.'

"Without the success of the above, art, religion, science, and so forth, are of no avail.

"The matchless and inexhaustible wealth of Colorado in addition to sunshine, scenery, and health-producing atmosphere, have been matters of interest and attraction to the people of all parts of the world. Fortune seekers and fortune multipliers have found here a lucrative field for operation, until law and order was ignored, and anarchy prevailed, such as we have suffered for the past 12 months. Nowhere, and at no time, to my knowledge, has the Government restricted the development of industries as is now being done in Colorado, obviously at the behest of labor agitators, which is much deplored and criticized.

"What we pray for and are entitled to is law and order, fair transportation rates, and a square deal to all—labor and capital alike.

"Therefore, I conclude with Holland's lines, which I have repeated over a hundred thousand times:

"God give us men. The time demands
Strong minds, great hearts, true faith, and willing hands;
Men whom the lust of office does not kill;
Men whom the spoils of office can not buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie;
Men who can stand before a demagogue
And dam his treacherous flatteries without winking;
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking.

"In corroboration of my statement concerning conditions in Colorado, I want to read a telegram which I received this morning, as follows:

"DENVER, COLO., *July 31, 1914.*

"Hon. GEORGE J. KINDEL,
"*House of Representatives, Washington, D. C.:*

"The restrictions of the War Department in regard to employment of labor and the fine line drawn makes it impossible for us to secure men sufficient to get on a working basis, whereby we sustain nothing but losses. Many men come into our Denver office, voluntarily seeking employment, but they lack money for transportation to the mine. They are willing that the railroad fare should be deducted from their first two weeks' pay, and will go to the mine unaccompanied. These men apply for work voluntarily and unsolicited, but according to the ruling of the officer in command of the Government troops at Trinidad, we can not take them on. If they apply to the superintendent at the mine, it is considered regular, but we can not employ labor at our headquarters in Denver and advance transportation. The fact that these men reimburse us for this advanced transportation at the end of two weeks' time, practically amounts to their paying their own fare, and as our mine is 12½ miles from Walsenburg, is it fair for a man to go that distance and voluntarily make application for work. Before he can get there he is beset by union pickets, and every influence used to turn him back. Our principal operations are in Denver, and when men voluntarily apply here, we think that we should be permitted to send them to the mine. Can you assist us in clearing up this point?

"THE SUNSHINE COAL MINING CO.,
"By W. F. OAKES, *President.*"

ADDRESS OF CONGRESSMAN EDWARD KEATING.

"Mr. Chairman, ladies, and gentlemen, I came here this morning to attend a birthday party—Colorado's birthday party. Naturally I did not anticipate that the harmony of the proceedings would be disturbed by the raven-like croakings of the calamity howler. It is unfortunate that my colleague from Colorado [Mr. KINDEL] has seen fit to refer to the domestic difficulties which have plagued our State during the last year, and it is especially unfortunate that in referring to those difficulties he has seen fit to be so intemperate in the expression of his views.

"Mr. Chairman, the gentleman would have you believe that the law is not being enforced in Colorado and that order is not being maintained. The gentleman's statement is without foundation, for, thanks to President Wilson, law and order reign within the borders of Colorado. Not a lopsided law and order, not the kind of law and order which protects one man and punishes another, but the law and order which recognizes neither race nor creed nor class, the law and order which bears as heavily on the rich man as on the poor man. In a word, Mr. Chairman, the kind of law and order guaranteed to us by the Constitution and laws of the land.

"I want to take this occasion to say that I unequivocally indorse what President Wilson has done in Colorado. He responded to what was well-nigh a unanimous appeal from our people, and the administrative officers under him have won the respect and admiration of our people by the way they have handled a most trying situation.

"It is very unfortunate when any man, especially a man in public life, loses his sense of proportion and fails to longer recognize the eternal fitness of things. When a man gets in that condition he is very apt to permit his idea, his hobby, his prejudice, to blind him to everything else that is going on in this glorious old world of ours. That is the mental condition of the gentleman from Colorado [Mr. KINDEL]. He reminds me very much of the country bumpkin who succeeded in persuading some girl to marry him and took her on a honeymoon trip to Niagara Falls. Under the direction of competent guides he was given an opportunity to view that masterpiece of nature, and when he returned to his accustomed place beside the stove in the village grocery his old cronies gathered around him and begged him to tell them something about the wonders of Niagara.

"'Tell us what impressed you most about Niagara Falls, Bill,' demanded one of his friends.

"Bill was lost in thought for several moments while he ransacked his brain to discover the one most impressive scene which he had been privileged to view during that marvelous trip. 'Well,' he said finally, 'I think the most impressive thing I saw at Niagara Falls was an Indian wearing a pair of red suspenders.'

"Now, the trouble with Bill was that he had lost his sense of proportion, and that is the trouble with the gentleman from Colorado. He does not seem to understand that it is shockingly bad taste to disturb the gayety of a birthday party with a bitter and inaccurate recital of the troubles which disturb the tranquillity of our State.

"If he will just take his eyes off the red suspenders for a moment, he will be able to appreciate what a splendid Commonwealth we have in Colorado and how proud her sons should be to claim this glorious daughter of Columbia as their very own.

"I think of Colorado as a man thinks of his mother. I was only 5 years old when she first opened her arms to receive me, a fatherless lad. She fed me, she clothed me, she sheltered me, she taught me my letters, she indulged the whims and fancies of my youth, she gave me my first job, she opened the portals of an honorable profession for me and bade me enter, and, while the responsibilities of middle age still rested lightly on my shoulders, she honored me with a commission to represent her in part in the most exalted legislative body on earth.

"Is it any wonder that I love Colorado?

"The very mention of her name makes me homesick. Van Dyke must have had Colorado in mind when, finding himself marooned in Europe, he wrote the lines:

"Oh, its home again and home again,
America for me;
I want a ship that's westward bound
To plough the rolling sea
To the blessed land of Room Enough
Beyond the ocean bars,
Where the air is full of sunshine
And the flag is full of stars."

ADJOURNMENT.

Mr. ADAMSON. Mr. Speaker, does the roll call develop a quorum?

The SPEAKER. On the roll call 205 gentlemen, not a quorum, have answered to their names. Two have come in since, and the Speaker could count himself, and that would reduce the minus quantity to 9.

Mr. ADAMSON. Mr. Speaker, I do not believe I can get the House to pass a motion to send for the absentees. It is Saturday afternoon, and I suppose the best thing I can do is to move that the House do now adjourn. I make that motion.

The motion was agreed to; accordingly (at 1 o'clock and 10 minutes p. m.) the House adjourned until Monday, August 3, 1914, at 12 o'clock noon.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, a letter from the Acting Secretary of Labor, transmitting a report upon the Federal workman's compensation act of May 30, 1908, covering the first five complete years of its operation (H. Doc. No. 1135), was taken from the Speaker's table, referred to the Committee on the Judiciary, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. MULKEY, from the Committee on the District of Columbia, to which was referred the bill (H. R. 17309) to amend section 3 of the act of Congress approved February 28, 1898, entitled "An act in relation to taxes and tax sales in the District of Columbia," reported the same with amendment, accompanied by a report (No. 1057), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rules XXII,

Mr. SMITH of Maryland introduced a bill (H. R. 18190) granting 30 days' annual leave to employees of the Washington Navy Yard, United States Naval Academy, and Indianhead Proving Grounds, which was referred to the Committee on Naval Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BAILEY: A bill (H. R. 18191) granting an increase of pension to Barton Spidle; to the Committee on Invalid Pensions.

By Mr. BOWDLE: A bill (H. R. 18192) granting an increase of pension to Ann E. Thomas; to the Committee on Invalid Pensions.

By Mr. FERRIS: A bill (H. R. 18193) for the relief of the heirs of Josiah Short; to the Committee on Claims.

By Mr. HARRISON (by request): A bill (H. R. 18194) for the relief of the estate of J. M. Fortinberry, deceased; to the Committee on War Claims.

By Mr. JONES: A bill (H. R. 18195) for the relief of Thomas Johnson or his legal representatives; to the Committee on Claims.

By Mr. McGILLICUDDY: A bill (H. R. 18196) granting an increase of pension to Margaret Sweeney; to the Committee on Invalid Pensions.

By Mr. SMITH of Maryland: A bill (H. R. 18197) for the relief of Arthur W. Fowler; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. DALE: Petition of D. R. K. Staatsverland, of New York State, against national prohibition; to the Committee on Rules.

Also, petition of the Stationers' Association of New York, favoring Stevens price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. DANFORTH: Petition of William B. Rider, of Castile, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. EAGAN: Petition of Charles H. Van Tassell, West New York, N. J., favoring free transportation to and from duty for railway postal clerks; to the Committee on the Post Office and Post Roads.

Also, petition of International Union of Journeymen Horseshoers, protesting against national prohibition; to the Committee on Rules.

By Mr. ESCH: Petition of Manufacturers and Jobbers' Club of La Cross, Wis., protesting against national prohibition; to the Committee on Rules.

By Mr. GARDNER: Petition of People's Methodist Episcopal Church of Haverhill, Mass., favoring national prohibition; to the Committe on Rules.

By Mr. GREENE of Vermont: Petition of Mrs. Mary M. Kavanagh and other residents of the first congressional district of Vermont, urging the adoption of a national constitutional prohibition amendment ;to the Committe on Rules.

By Mr. HAYES: Petition of 500 citizens of Oxnard and 150 citizens of Piru and sundry citizens of the State of California, favoring national prohibition; to the Committee on Rules.

Also, petition of J. P. Lacerda, San Jose, Cal., protesting against national prohibition; to the Committee on Rules.

Also, petition of J. Buchler and sundry citizens of the State of California, protesting against a national health department; to the Committee on Agriculture.

Also, petition of Advent Sabbath School and Baptist Sunday School, of Palo Alto, Cal., favoring Federal censorship of moving pictures; to the Committee on Education.

By Mr. MERRITT: Petition of Mrs. Wallace McKinney, Mrs. C. B. Hobbs, Mrs. L. R. Peryn, Mrs. E. J. Goodell, Mrs. Kate Lillie, Mary R. Lillie, Mrs. May Vosburg, Mrs. J. D. Haig, Mrs. Maria Welch, Mrs. Florence Vorce, Miss Eliza Carpenter, Mrs. E. E. Hobbs, Mrs. George O'Connor, Miss Julia Dengate, Mrs. Alvira H. Cole, Mrs. C. E. Cashman, Mrs. W. H. Matthews, Mrs. Fred Honsinger, and Mrs. Julia Gurlick, all of Ellenburg Center, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. NELSON: Petitions of Charles Beining and George Kammann, of Platteville, Wis., protesting against national prohibition; to the Committee on Rules.

By Mr. RAKER: Petition of the Old Age Co., Lancaster, Pa., favoring pensions for citizens over 60 years of age; to the Committee on Pensions.

By Mr. SMITH of Maryland: Petitions of citizens of Maryland, favoring national prohibition; to the Committee on Rules.

Also, petitions of citizens of Maryland, against national prohibition; to the Committee on Rules.

SENATE.

MONDAY, *August 3, 1914.*

The Senate met at 11 o'clock a. m.

Rev. J. L. Kibler, D. D., of the city of Washington, offered the following prayer:

O Lord God of nations, we thank Thee for our blessings. We thank Thee for our domestic peace and for the encouraging status of our relations with other nations. Standing where we are, amidst the mercies of God, we are emboldened to pray for the peace of the world. Grant that there may be a tranquil adjustment of difficulties among the nations abroad. May peace and prosperity and commercial enterprise be established and maintained everywhere and may our influence and example be such as to favor righteousness to the ends of the earth. We ask it in the name of Christ the Lord. Amen.

The VICE PRESIDENT resumed the chair.

The Journal of the proceedings of the legislative day of Monday, July 27, 1914, was read and approved.

AFFAIRS IN MEXICO (S. DOC. NO. 561).

The VICE PRESIDENT. The Chair lays before the Senate a communication from the Secretary of the Navy, which will be read.

The Secretary read as follows:

THE SECRETARY OF THE NAVY,
Washington, July 28, 1914.

MY DEAR SIR: On July 20, in response to Senate resolution of July 16, I forwarded to you copy of telegram from Admiral Badger, giving the result of the investigation ordered by this department on the 9th of July with reference to the publication by Mr. Fred L. Boalt and alleging that Ensign Richardson had put into practice the law of flight. In sending you copy of that telegram I stated that as soon as the full report had been received from the board it would be forwarded. I am sending herewith a full record of the proceedings of the board of inquiry convened on board the U. S. S. *Texas* at Vera Cruz, Mexico, by order of the commander in chief, to inquire into "the truth of certain allegations made by Fred L. Boalt, correspondent for the Newspaper Enterprise Association in Vera Cruz, relative to the shooting of certain prisoners by the naval forces of the United States during the occupation of Vera Cruz on or about April 22, 1914."

Very respectfully,

JOSEPHUS DANIELS.

The VICE PRESIDENT. The communication and accompanying papers will lie on the table and be printed.

RIVER AND HARBOR IMPROVEMENTS (S. DOC. NO. 560).

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 18th ultimo, a statement of the balances re-

maining unexpended and available on June 30, 1914, to the credit of the respective river and harbor projects of the country now under improvement, which, with the accompanying papers, was referred to the Committee on Commerce and ordered to be printed.

REPORT OF PUBLIC UTILITIES COMMISSION.

The VICE PRESIDENT. The Chair lays before the Senate the report of the Public Utilities Commission of the District of Columbia, submitting information of its official proceedings for the 10 months ended December 31, 1913, together with information relating to the regulation and operation of the public utilities in the District of Columbia coming under the jurisdiction of the commission. The report having already been printed, it will be referred without printing to the Committee on the District of Columbia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the bill (S. 6192) to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

S. 663. An act for the relief of Thomas G. Running;
S. 1149. An act for the relief of Seth Watson;
S. 1803. An act for the relief of Benjamin E. Jones;
S. 3761. An act for the relief of Matthew Logan;
S. 4023. An act for the relief of Waldo H. Coffman;
S. 4261. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;
S. 4845. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;
S. 5207. An act granting pensions and increase of pesions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;
S. 5446. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;
S. 5575. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;
S. 5843. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;
S. 6084. An act to grant the consent of Congress for the county of Pulaski, State of Arkansas, to construct a bridge across the Arkansas River between the cities of Little Rock and Argenta, Ark.; and
S. 6101. An act to grant the consent of Congress for the city of Lawrence, county of Essex, State of Massachusetts, to construct a bridge across the Merrimac River.

PETITIONS AND MEMORIALS.

Mr. NEWLANDS presented memorials of sundry citizens of Nevada, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. SHAFROTH presented petitions of sundry citizens of Colorado, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SHEPPARD presented petitions of sundry citizens of Texas, and of sundry citizens of Delmer and Nilmore, in the State of Kentucky, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of C. A. Burrows, of Lancaster, Pa., praying for the enactment of legislation to provide pensions for persons over 65 years of age, which was referred to the Committee on Pensions.

He also presented memorials of sundry citizens of Houston and Beaumont, in the State of Texas, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. THOMPSON presented petitions of sundry citizens of Kansas, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. JONES (for Mr. TOWNSEND) presented petitions of sundry citizens of Muskegon and Jackson, in the State of Michigan, praying for the enactment of legislation to recognize Dr. Cook in the discovery of the North Pole, which were referred to the Committee on the Library.

Mr. McLEAN presented memorials of the German-American Alliance, of Hartford; of Waiters and Cooks' Local Union No. 304, of Hartford; and of sundry citizens of Collinsville, Meriden, Unionville, Kensington, and Hartford, all in the State of Connecticut, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of New Haven County, Conn., praying for national prohibition, which was referred to the Committee on the Judiciary.

He also presented a petition of Local Lodge No. 30, International Association of Machinists, of Bridgeport, Conn., praying for the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

He also presented a petition of the Swedish Political Club, of North Grosvernordale, Conn., praying for an appropriation for the erection of a suitable monument to the memory of Capt. John Ericsson, which was referred to the Committee on the Library.

He also presented petitions of the Cigar Makers' Local Union No. 180, of Danbury; of the Pattern Makers' Local Association, of New Haven; of Local Division No. 425, Amalgamated Association of Street and Electric Railway Employees, of Hartford; of Metal Polishers' Local Union No. 58, of Shelton; and of Pattern Makers' Local Association of Bridgeport, all in the State of Connecticut, praying for the passage of the so-called Clayton antitrust bill, which were ordered to lie on the table.

Mr. SMITH of Arizona presented memorials of sundry citizens of Tucson and Flagstaff, in the State of Arizona, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. SHIVELY presented a petition of the congregation of the Church of the Brethren of Middlebury, Ind., praying for the enactment of legislation regulating motion-picture films, which was referred to the Committee on Education and Labor.

BUSINESS OF RELIANCE BUGGY CO., ST. LOUIS.

Mr. STONE. Mr. President, I desire to ask unanimous consent to have read a communication from the president of the Reliance Buggy Co., of St. Louis, addressed to the president of the Business Men's League of St. Louis.

I feel that this is a time when business men ought to be busy, and I wish that the business men of the country could take some inspiration from the closing paragraph of the communication.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Secretary will read the communication.

The Secretary read as follows:

RELIANCE BUGGY CO., VEHICLE MANUFACTURERS,
St. Louis, July 17, 1914.

Mr. SAM D. CAPEN,
President Business Men's League, St. Louis, Mo.

DEAR SIR: Replying to your letter of the 15th requesting our opinion as to the advisability of a committee going to Washington to confer with the President of the United States on present business conditions and pending legislation:

First. We believe that this idea is being overworked, as Mr. Wilson is receiving and has received voluntary delegations daily, who have this one purpose in view.

While the President is willing and anxious to lay his views and to some extent his plans before the business men of the country and any others who may be interested, the sending of a committee to Washington without invitation from the President himself would not meet with our approval.

Taking up the questions contained in your letter:

1 and 2. We do not know whether business conditions are good or bad in St. Louis, as we do very little local business.

3. Our business has been pleasantly normal this season. We have just completed 10 months of our fiscal year with very satisfactory results so far. From our point of view, the feeling on the part of some business men that business is unsettled is not borne out by our own results. We are inclined to believe that a great deal of this calamity stuff is imaginary and mischievous.

6. If his business conditions are unsatisfactory to the business man, the most effective remedy is to dig in and remedy it. We stated in reply to question 3 that our business is pleasantly normal. We can truthfully add to that reply that our business is increased almost 20 per cent to date over last year, and we thought we produced our capacity the previous year. Sitting around dinner tables criticizing the Government, and the President in particular, on subjects the fundamentals of which we might know little about, did not bring about these results, but instead consistent work directed in the field we cover; and we are inclined to believe that this remedy is in the hands of every business man if he will pay less attention to the troubles of the railroads and leave the affairs of the Government in the hands of those who are placed there to look after them.

Yours, truly,

RELIANCE BUGGY CO.,
P. E. EBRENZ, *Manager.*

REPORTS OF COMMITTEES.

Mr. CATRON, from the Committee on Military Affairs, to which was referred the bill (H. R. 12009) to correct the military record of James W. McGreevey, reported it without amendment and submitted a report (No. 714) thereon.

Mr. SAULSBURY, from the Committee on the District of Columbia, to which was referred the bill (S. 5705) authorizing

the health officer of the District of Columbia to issue a permit for the removal of the remains of the late Elsie McCaulley from Glenwood Cemetery, District of Columbia, to Philadelphia, Pa., reported it without amendment and submitted a report (No. 715) thereon.

Mr. CHAMBERLAIN, from the Committee on Public Lands, to which was referred the bill (H. R. 13717) to provide for leave of absence for homestead entrymen in one or two periods, reported it without amendment and submitted a report (No. 716) thereon.

He also, from the Committee on Military Affairs, to which was referred Senate resolution 420, instructing the Secretary of War to ascertain if the waters of the Great Kanawha, Gauley, or New Rivers, in West Virginia, are being polluted, and if certain ore washings on the New River have been stopped, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce, which was agreed to.

Mr. WEST, from the Committee on Military Affairs, to which was referred the bill (S. 5028) for the relief of Harry T. Herring, reported it without amendment and submitted a report (No. 717) thereon.

EARL A. BANCROFT.

Mr. CLAPP. On behalf of the chairman of the Committee on the District of Columbia, I beg to report back favorably with an amendment the bill (S. 5798) authorizing the health officer of the District of Columbia to issue a permit for the removal of the remains of the late Lewis Bancroft from Glenwood Cemetery, District of Columbia, to Mantorville, Minn., and I submit a report (No. 713) thereon. The bill relates to the circumstance of the burial of a soldier in the District of Columbia, and the relatives in Minnesota ask permission to remove the remains. Under the law the Commissioners of the District of Columbia can not grant the privilege without the express authorization of Congress. To the relatives of the deceased soldier it is, of course, a matter of intense interest and concern, and I hope there will be no objection to the present consideration of the bill.

Mr. GALLINGER. Let it be read.

The VICE PRESIDENT. The Secretary will read the bill.

The Secretary read the bill, as follows:

Be it enacted, etc., That the health officer of the District of Columbia be, and he is hereby, authorized to issue a permit for the removal of the remains of the late Lewis Bancroft from Glenwood Cemetery, District of Columbia, to Mantorville, Minn.

Mr. CLAPP. The bill is recommended by the Commissioners of the District of Columbia in a letter.

Mr. GALLINGER. I assume that the person did not die of any contagious disease.

Mr. CLAPP. I assume it, certainly, in view of the recommendation. I had the bill referred to the commissioners and they recommend its passage.

Mr. GALLINGER. It is all right.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The amendment was, in line 5, before the name "Bancroft," to strike out "Lewis" and insert "Earl A."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill authorizing the health officer of the District of Columbia to issue a permit for the removal of the remains of the late Earl A. Bancroft from Glenwood Cemetery, District of Columbia, to Mantorville, Minn."

ELIZABETH P. DURFEE.

Mr. SHAFROTH, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 428, submitted by Mr. SMOOT on the 21st ultimo, reported it favorably without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay to Elizabeth P. Durfee, widow of Benjamin Durfee, late messenger, United States Senate, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral and all other expenses.

COMMITTEE ON CORPORATIONS ORGANIZED IN THE DISTRICT OF COLUMBIA.

Mr. SHAFROTH, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 425, submitted on the 17th ultimo by the Senator from Kansas [Mr. BRISTOW] for the senior Senator from Wisconsin [Mr. LA FOLLETTE], I report it back with an amendment, and I ask for its present consideration.

The Senate, by unanimous consent, proceeded to consider the resolution.

The amendment was, in line 5, to strike out "two weeks after" and insert "with," so as to make the resolution read:

Resolved, That the Committee on Corporations Organized in the District of Columbia be, and it hereby is, authorized and directed to employ an additional stenographer at the rate of $100 per month, the term of service of such stenographer to conclude with the final adjournment of the second session Sixty-third Congress.

The amendment was agreed to.

The resolution as amended was agreed to.

INTERNATIONAL CONFERENCE ON SOCIAL INSURANCE.

Mr. SUTHERLAND. From the Committee on Foreign Relations I report back favorably without amendment the joint resolution (S. J. Res. 169) authorizing the President to accept an invitation and to appoint delegates to participate in the International Conference on Social Insurance, and I ask for its present consideration.

The VICE PRESIDENT. The joint resolution will be read.

The Secretary read the joint resolution, as follows:

Resolved, etc., That the President be, and he is hereby, authorized to accept an invitation extended by the Republic of France to the Government of the United States to be represented by delegates to the International Conference on Social Insurance to be held at Paris, France, in September, 1914, and to appoint delegates thereto: *Provided*, That no appropriation shall be granted at any time for expenses of such delegates or for other expenses incurred in connection with said conference.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

Mr. BRANDEGEE. I should like to ask the Senator who reports the joint resolution whether the delegates will get to the conference by wireless? How do they propose to get together?

Mr. SUTHERLAND. The Senator from Connecticut has as accurate information on that subject as I have. The invitation has been extended, and I am authorized by the committee to report the joint resolution favorably and to ask for its immediate consideration. Whether the delegates will get to Paris in time to attend the convention I do not know.

Mr. GALLINGER. Mr. President, when in the last administration the Secretary of State went to South America to try to promote and enlarge our commerce in that part of the world he went on a battleship. We did not have an American merchant marine steamship suitable to carry him there, so we sent him on a battleship. Of course we can send these delegates on battleships of the United States, and in that way we can demonstrate to the world the magnificent success we have had in building up the American merchant marine.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. JONES. I wish to ask the Senator from Utah whether these delegates would have any moral right, or any other right, by going to this conference to bind this Government to send delegates to future congresses?

I will say that when the diplomatic appropriation bill was under consideration by the committee we found that almost countless commissions had been started in this way, and we have been making appropriations from year to year. We were told that when the delegates got together they would form an agreement or convention, under which each country was bound to pay a pro rata part of maintaining it, and that they were started very largely in this way by a resolution passed by Congress. I want to know whether there is anything likely to develop from this convention of that particular kind or not?

Mr. SUTHERLAND. I think not. These conventions have been held from year to year for the past 15 years, and they are very useful. They are investigating the subject of workmen's compensation, old-age pensions, and a variety of things of that kind that the whole world is greatly interested in at present.

An arrangement has been made that the convention will be held in the United States next year. Of course, unless we accept the invitation and send delegates to the convention this year we can not very well ask the other Governments to send delegates to the convention next year. The joint resolution does not involve the Government in any expense whatever. Nothing has ever been appropriated heretofore for those delegates, and they have been meeting from year to year. There is not, in my judgment, the slightest probability that Congress will ever be called upon, either directly or indirectly, to expend a dollar for this purpose.

Mr. JONES. If the convention is to be held in this country next year, does the Senator think Congress will be called upon

to make an appropriation for the entertainment of the convention?

Mr. SUTHERLAND. Congress has already made an appropriation for that purpose. As I recall, an appropriation of $10,000 was made toward defraying the expenses of that convention. That has already been arranged for.

Mr. JONES. That has already been taken care of. Then, I simply invite the attention of the Senator from North Carolina [Mr. OVERMAN] to this proposition, because he is pretty familiar with the situation, as it relates to the diplomatic and consular appropriation bill.

Mr. OVERMAN. Mr. President, I am glad the Senator from Washington has called attention to the situation which has grown up in this country during the last 20 years. At The Hague to-day the United States has half a dozen bureaus, to the maintenance of which we are contributing, at very large expense to this Government. We have a bureau in Rome which is the outgrowth of a convention of this kind held abroad. Following conventions of this character, it is frequently concluded that we ought to establish a permanent bureau at The Hague. We undertook to abolish, and we did abolish, half a dozen of such bureaus; but where Congress on behalf of the United States has accepted invitations, and other Governments have accepted them, we have felt, at the suggestion of the Secretary of State, that we were bound to appropriate the money to continue many bureaus established abroad. We know nothing about their employees; whether they are Englishmen or Americans, we do not know; yet in every appropriation bill we appropriate money to maintain such bureaus, some half dozen of which, I repeat, have been established merely as the result of resolutions which have been passed by Congress similar to the one now pending.

I am not going to oppose this joint resolution, but I think notice ought to be given that we do not intend to appropriate any more money to provide for the maintenance of bureaus in Rome or in Switzerland or anywhere else. If such notice were given, we would not be called upon to make appropriations for this purpose hereafter, and I think notice ought to be given now that no more of these bureaus to which we are contributing will be established, but that they will be abolished. So far as I am concerned, I expect to request the Secretary of State to call attention to the fact that the United States Government does not intend to encourage these bureaus abroad.

Mr. SUTHERLAND. Mr. President, this joint resolution expressly provides that no appropriation shall be granted.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

Mr. OVERMAN. I should like to ask the Senator from Utah why this joint resolution does not take the usual course of being referred to the Committee on Foreign Relations?

Mr. SUTHERLAND. The joint resolution has been referred to the Committee on Foreign Relations.

Mr. OVERMAN. And reported favorably from that committee?

Mr. SUTHERLAND. And the Committee on Foreign Relations has made a favorable report on the joint resolution. That is what I have presented.

Mr. OVERMAN. I have no objection to the consideration of the joint resolution.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

Mr. MARTINE of New Jersey. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey object to the present consideration of the joint resolution?

Mr. MARTINE of New Jersey. No, Mr. President. It seems to me this would be a very fitting and proper time to promote social intercourse and social insurance on the other side of the water; and I think an objection on my part to the consideration of the joint resolution would come with very ill grace at this time.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SOUVENIR COINS OF PANAMA-PACIFIC EXPOSITION.

Mr. MARTINE of New Jersey. From the Committee on Industrial Expositions I report back favorably without amendment the bill (S. 6039) for the coinage of certain gold and silver coins in commemoration of the Panama-Pacific International Exposition, and for other purposes, and I ask for its immediate consideration.

The VICE PRESIDENT. The Secretary will read the bill.

The Secretary read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury shall cause to be coined at the United States mint at San Francisco not exceeding 2,000 gold coins of the denomination of $50 each, 10,000 gold coins of the denomination of $2.50 each, 25,000 gold coins of the denomination of $1 each, and not exceeding 200,000 silver coins of the denomination of 50 cents each, all of legal weight and fineness; said coins to be struck in commemoration of the Panama-Pacific International Exposition. The words, devices, and designs upon said coins shall be determined and prescribed by the Secretary of the Treasury, and all provisions of law relative to the coinage and legal-tender value of all other gold and silver coins shall be applicable to the coins issued under and in accordance with the provisions of this act; and one-half of the issue of $50 gold coins herein authorized shall be similar in shape to the octagonal $50 gold pieces issued in California in 1851; and the entire issue of said $50, $2.50, and $1 coins herein authorized shall be sold and delivered by the Secretary of the Treasury to the Panama-Pacific International Exposition Co. at par, under rules and regulations and in amounts to be prescribed by him, the delivery of said coins to begin not later than December 1, 1914. Said 50-cent coins herein authorized shall be issued only upon the request of the Panama-Pacific International Exposition Co., and shall be delivered to it by the Secretary of the Treasury, at par, during the period when said Panama-Pacific International Exposition shall be officially open.

SEC. 2. That medals and diplomas, with appropriate devices, emblems, and inscriptions commemorative of said Panama-Pacific International Exposition and of the awards to be made to the exhibitors thereat, shall be prepared by the Secretary of the Treasury at the United States mint at Philadelphia and the Bureau of Engraving and Printing, said medals and diplomas to be delivered to said Panama-Pacific International Exposition Co. subject to the provisions of section 52 of the coinage act of 1873 and upon payment of the cost of the material composing said medals or diplomas.

SEC. 3. That the 50-cent silver coins herein authorized may, in the discretion of the Secretary of the Treasury, be coined or finished and issued from the machinery to be installed as a part of the exhibit of the United States mint at said exposition, and for the purpose of maintaining the exhibit as an educative working exhibit at all times the coins so minted may be remelted and reminted. All of said 50-cent silver coins herein authorized not issued to and at the request of said Panama-Pacific International Exposition, whether the same are coined as a part of said working exhibit or coined at the mint in San Francisco, shall be remelted upon the official closing of said exposition. All provisions hereof in regard to the coinage, finishing, or issue of said 50-cent silver coins from machinery installed as a part of the said exhibit shall be coined, finished, and issued under such regulations as the Secretary of the Treasury may prescribe; and the Secretary of the Treasury shall cause to be prepared a suitable souvenir medal (of such metal or composition of metals as he may prescribe), to be struck off by the machinery in said mint exhibit, and all of said medals shall be delivered to said Panama-Pacific International Exposition Co. upon payment of the cost of the material composing the same, and all other souvenirs which may be coined, stamped, printed, or otherwise issued from any portion of the United States Government exhibit shall be delivered to said exposition company upon payment of the cost of the material composing said souvenirs, and said souvenir medals and other souvenirs shall be delivered to said Panama-Pacific International Exposition Co. subject to such regulations as to disposition thereof as the Government exhibit board may prescribe. All provisions, whether penal or otherwise, or the laws prohibiting the counterfeiting or imitating of coins or securities of the United States shall apply to the medals, diplomas, and souvenirs provided for under sections 2 and 3 of this act.

SEC. 4. That the Secretary of the Treasury is hereby authorized to obtain suitable designs for the coins and medals herein authorized, and the sum of $5,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the cost of said designs.

Mr. SMOOT. Mr. President, I inquire from what committee has the bill been reported?

Mr. MARTINE of New Jersey. The bill was referred to the Committee on Industrial Expositions.

Mr. SMOOT. Is the report from that committee a unanimous one?

Mr. MARTINE of New Jersey. It is practically a unanimous report, as all of the members of the committee who were present voted in favor of reporting the bill.

Mr. SMOOT. I will say to the Senator that it seems to me the bill ought to have been referred either to the Committee on Finance or to the Committee on Banking and Currency. It involves——

Mr. MARTINE of New Jersey. I beg to say, Mr. President, that the Secretary of the Treasury has warmly approved the bill, and it has been indorsed and recommended by all Senators, I believe, who are present in the Senate. It is founded on the precedents established in connection with other expositions when similar action was taken. Further than that, there can be no loss to the Government. The Panama-Pacific Exposition bids fair to be the grandest industrial exposition our country has ever seen. The time is exceedingly short in which to secure fitting and appropriate designs to commemorate the work, and hence your committee have deemed it wise to ask for the immediate consideration of the bill.

Mr. SMOOT. Mr. President, I realize the importance of the exposition, and I have no objection to the substance of the bill. The objection I have is that the subject matter covered by the bill was referred to a committee which I do not believe has any jurisdiction over it; but I shall not object now to the consideration of the bill.

Mr. MARTINE of New Jersey. I thank the Senator. Of course, I would not attempt to argue the question as to the

wisdom of the bill having been referred to the Committee on Industrial Expositions, but the Senate in its wisdom made that reference, and the Secretary of the Treasury has approved the bill.

Mr. OVERMAN. Mr. President, I will inquire if this is not copied from bills of similar character which have been passed in reference to other expositions?

Mr. MARTINE of New Jersey. It is almost identical with them.

The Vice PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

INTERNATIONAL DRY-FARMING CONGRESS.

Mr. STONE. I report back favorably from the Committee on Foreign Relations, and without amendment, the joint resolution (S. J. Res. 164) authorizing the President to extend invitations to other nations to send representatives to the International Dry-Farming Congress, to be held at Wichita, Kans., October 7 to 17, inclusive, 1914.

I am directed by the committee to ask unanimous consent for the immediate consideration of the joint resolution. I will say in order that Senators may be advised before the request for unanimous consent is submitted, that the joint resolution relates to the very interesting and important subject of dry farming, in which sections of the arid and semiarid West are interested, and some Senators from those sections desire to have the measure acted upon.

The VICE PRESIDENT. The joint resolution will be read:

The Secretary read the joint resolution, as follows:

Resolved, etc., That the President is hereby authorized to extend invitations to other nations to appoint delegates or representatives to the International Dry-Farming Congress, to be held at Wichita, Kans., October 7 to 17, inclusive, 1914: *Provided*, That no appropriation shall be granted for the expenses of delegates or for other expenses incurred in connection with the said congress.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

Mr. SMOOT. Mr. President, I wish to ask the Senator from Kansas if there has not already been an appropriation made for this dry-farming congress?

Mr. THOMPSON. A small appropriation has been made to enable the Government to make an exhibit there, that appropriation being carried in the general agricultural appropriation bill; but nothing has been appropriated pertaining to the expenses of the delegates to be appointed.

Mr. SMOOT. Mr. President, I wish to give notice that if there is any claim made against the Government, because of the invitation extended, I shall oppose it with all the power I have. It is because of such invitations as the one extended in the joint resolution that year in and year out claims have been presented to the Committee on Appropriations. Although resolutions of this character in the past have specifically stated that there was no appropriation to be made, claims have been made against the Government and pressed here by the department, and we have felt under obligations to pay them. So, in connection with other members of the Appropriations Committee, I wish to give notice at this time, that, so far as paying expenses incurred under this resolution is concerned, I shall never consent to it so long as I have a vote in this body.

Mr. STONE. Mr. President, while I am not a member of the Appropriations Committee, I entirely concur in what the Senator from Utah has said with respect to the matter. If I should happen to have the good fortune to be in the Senate at any time in the future when a claim may be presented growing out of this resolution, I will join him in opposing it.

Mr. OVERMAN. I shall not object to the consideration of the joint resolution, but the trouble about all these matters is that, although they are couched in simple and definite language, yet Senators come before our committee, supported by recommendations of the Secretary of State, and seek appropriations, notwithstanding the specific language of the law enacted by Congress. Therefore I think the Senator from Utah is eminently right in having given the notice.

Mr. THOMPSON. I can assure the Senate that, so far as the Senator from Kansas is concerned, there will never be any claim for an appropriation on account of representation at the dry-farming congress. The resolution expressly provides that no appropriation of any kind shall be made for this purpose.

Mr. SMOOT. They all do that.

Mr. THOMPSON. And there is none intended.

The VICE PRESIDENT. Is there any objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

UNITED STATES NAVY MAIL LINES.

Mr. THORNTON. From the Committee on Naval Affairs I report back favorably without amendment the bill (S. 5259) to establish one or more United States Navy mail lines between the United States and South America, and I submit a report (No. 718) thereon, together with the accompanying document, being the opinion of the Navy Department on the question. I ask unanimous consent for the present consideration of the bill.

The VICE PRESIDENT. The Secretary will read the bill.

The Secretary read the bill (S. 5259) to establish one or more United States Navy mail lines between the United States and South America, as follows:

Be it enacted, etc., That the Secretary of the Navy is hereby authorized to establish one or more United States Navy mail lines, by employing such vessels of the Navy as in his discretion are available, without impairment to the paramount duties of the Navy, and as are necessary and appropriate, for the purpose of establishing and maintaining regular communication between the east or west coast, or both coasts, of the United States and either or both coasts of South America. The vessels so employed shall carry United States mail, passengers, and freight under such regulations and at such rate or rates as the Secretary of the Navy may prescribe. Such civilians, such officers of the naval auxiliary service, and such officers and enlisted men of the Navy, including officers on the retired list, as the Secretary of the Navy may deem necessary shall be employed in the business of the said mail line or lines and retired officers of the Navy so employed at sea or on shore shall in all respects be held and considered to be in an active-duty status and shall receive the pay and allowances of officers of the active list of the same rank and length of service: *Provided*, That officers placed on the retired list on account of wounds or disability incident to the service, or on account of age, or after 30 years' service shall not be ordered to such duty without their consent.

The enlisted strength of the Navy, as now or hereafter authorized by law, is hereby increased by the number of men required to man the vessels so employed, and the Secretary of the Navy is hereby authorized to enlist such number of men in the Navy for such terms of enlistment, not to exceed four years, as may be desirable, and to distribute the number of men so enlisted among the various ratings of the Navy.

SEC. 2. That in addition to and as a part of the line of the Navy there is hereby established an active reserve list. Line officers placed on the active reserve list under the provisions of this act shall be held to be in an active-duty status in all respects, except that officers on the active reserve list shall not be advanced on the active reserve list except for eminent and conspicuous conduct in battle or extraordinary heroism, when their advancement thereon for these causes shall be governed by the provisions of law governing the advancement of officers on the active list for like causes. All laws now in effect with reference to the retirement of officers from the active list are hereby extended to include officers on the active reserve list.

SEC. 3. That sections 8 and 9 of the act approved March 3, 1899, entitled "An act to reorganize and increase the efficiency of the personnel of the Navy and Marine Corps of the United States," as amended by the act approved August 22, 1912, entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes," are so far amended that officers who hereafter volunteer or are selected for retirement as therein provided shall be held and considered to have volunteered for transfer to the active reserve list or shall be selected for transfer to the active reserve list, respectively; and the transfer of such officers to the active reserve list in lieu of their retirement shall be made subject to the restrictions imposed by the provisions of the said sections as amended.

SEC. 4. That in addition to such part of existing appropriations as may be available for the expenses of operating the line or lines herein provided for the sum of $100,000 is hereby appropriated, to be paid out of any money in the Treasury of the United States not otherwise appropriated, to be expended in the discretion of the Secretary of the Navy for the purpose of organizing, inaugurating, and carrying on the traffic provided for in this act and in defraying the operating expenses incident thereto: *Provided*, That all money received for the transportation of mail, passengers, and freight, as provided in section 1 of this act, and for such other services as may be incident to the operation of the said line or lines, is hereby made available, in addition to the aforesaid sum of $100,000 herein appropriated, for expenses incident to the proper conduct of the business contemplated in this act: *Provided further*, That any sum of money herein appropriated which remains unexpended at the end of the third fiscal year after the passage of this act, and at the end of each fiscal year thereafter, shall be covered into the Treasury of the United States.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. GALLINGER. Mr. President, I will ask the Senator from Louisiana what class of ships in the Navy will be available for this service at the present time?

Mr. THORNTON. I will answer that there is a full report from the department covering the question, and I think perhaps it would be better to have it read, so that the Senator will understand.

Mr. GALLINGER. We have not an adequate auxiliary Navy. We had not enough ships to accompany our battleship fleet around the world. I can not quite see what ships we are going to utilize without seriously weakening our meager auxiliary fleet.

Mr. THORNTON. Mr. President, I will say to the Senator from New Hampshire that the author of the bill is the Senator from Massachusetts [Mr. WEEKS], and I think probably he

would like to answer any question which the Senator asks; so I will ask him to do so.

The VICE PRESIDENT. The Secretary will read, for the information of the Senator, the list of ships that the department says can be used.

Mr. GALLINGER. I should be glad to have that done.

The Secretary read as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, April 11, 1914.

Hon. B. R. TILLMAN,
Chairman of the Committee on Naval Affairs,
United States Senate.

MY DEAR SENATOR: 1. Referring to Senate resolution No. 317, Sixty-third Congress, second session, I have the honor to forward to your committee a report embodying the information requested.

2. It is practicable, by the use of naval vessels, to carry out the purpose indicated in the resolution, and the following vessels will be available for the service, viz, *St. Louis, Charleston, Milwaukee, Columbia, Minneapolis, Salem, Chester, Buffalo, Rainbow, Ancon, Cristobal, Hector, Mars, Vulcan, Cyclops,* and *Neptune* (or two equally good), and the *Nanshan.*

3. The *St. Louis, Charleston, Milwaukee, Columbia,* and *Minneapolis* are fast cruisers; the *Salem* and *Chester* are fast scout cruisers; the *Buffalo* and *Rainbow* are transports; the *Ancon* and *Cristobal* are steamers employed by the Panama Railroad Co. to be turned over to the Navy Department; and the others are naval colliers.

4. The cruisers are suitable for carrying only a small number of male passengers—15 to 20 each—and could not be fitted for carrying bulky freight without interfering materially with their military value; but they could carry the mails and a limited amount of express freight and parcels, about 150 tons each.

5. The *Buffalo, Rainbow, Ancon,* and *Cristobal* are suitable for carrying a limited number of passengers and any kind of freight: *Buffalo,* 20 first-class passengers and 4,000 tons of freight; *Rainbow,* 25 passengers and 2,500 to 3,000 tons of freight; *Ancon* and *Cristobal* each 74 first class and 32 steerage passengers and between 10,000 and 11,000 tons of freight. The naval colliers are not suitable for carrying any passengers, but are well adapted to a freight service; the first three carrying 6,500 to 10,000 tons each; the two of the *Cyclops* class 10,000 to 12,500 tons of freight and 2,900 tons of fuel oil in bulk each; and the *Nanshan* about 3,000 tons.

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JOSEPHUS DANIELS.

Mr. WEEKS. Mr. President, I may add to the statement from the department that there are carried on the Navy list, under the head of "fuel ships," 22 vessels having a total displacement of something like 230,000 tons, varying in size from 6,000 to 19,000 tons. Many of these ships are in active service in connection with the fleet, but they would be available for any service of the character outlined in this bill, if it is passed, provided the fleet were not in actual service on the Mexican coast.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. GALLINGER. Just a word.

Mr. President, this is a makeshift that perhaps we ought to agree to. It is a deplorable fact that our mails to South America, including the official mail, are sent to Europe and transshipped from there to South America, covering 6,000 instead of 3,000 miles by direct line. I can not help saying, however, that it is a makeshift of which we ought not to be proud.

This question of steamship service to South America has been agitated a great deal. I have agitated it myself. The Senator from New York [Mr. ROOT] has agitated it. Presidents of the United States have agitated it. Both Republican and Democratic statesmen have agitated it. Yet we are without a line from either the Gulf, the Pacific, or the Atlantic coast of the United States to South America.

This bill proposes to put in service a few inadequate ships, if we can spare them from other service; ships that will carry a handful of passengers and a little freight; slow ships, I take it, almost every one of them; and we are to be put in competition with the great countries of the world, with their magnificent steamships, by calling together this conglomeration of third-class or fourth-class ships for this service.

I shall not oppose it, because I think if we can do anything to give us a chance in the markets of South and Central America, we ought to do it; but I can not refrain from saying that it is almost a tragedy that this great country of ours, in its rivalry with these other nations in the effort to secure trade, should be compelled to be handicapped by a fleet, even if we can muster them, of ships that are so inferior and so poorly prepared for the service to which we call them.

As I say, I shall not oppose the passage of the bill; but I shall not vote for it with the sense of gratification and pleasure that I would if it were a proposition to establish a line of steamships that would be a credit to the Government between the North Atlantic coast or the Gulf coast of this country and South America.

Mr. STONE. Mr. President——

Mr. WEEKS. I yield to the Senator from Missouri.

Mr. STONE. Mr. President, the immediate pressing importance of maintaining our mail connections with Central and South America is apparent, and the difficulty of doing so in the way heretofore followed, at least in so far as many foreign mail-carrying vessels are concerned, is likewise apparent.

There can be no difference of opinion as to the importance of some legislation of this kind. This, however, is a bill covering more than one subject, and it is brought before the Senate so suddenly that we have little opportunity for examining or discussing it. I do not wish to object to its consideration, nor to oppose its passage; but I should like to know whether, in the opinion of the Senator from Massachusetts, any serious disadvantage would result if the consideration of the bill should be postponed for a day or two?

Mr. WEEKS. Mr. President, this bill results from a resolution which was considered by the Senate three or four months ago. The resolution went to the Navy Department. The purposes of the resolution were approved by the department, which prepared the bill which is now under consideration. It has not been on the calendar because of the difficulties of getting reports from committees, and because we were in a condition where possibly these ships would be needed in Mexican waters. In fact, many of them are on the coast of Mexico at this time; but apparently the time has passed when they are going to be needed for that service, and this is the first practicable opportunity the Naval Affairs Committee has had to consider the bill and to make a report.

If it were possible to have a morning hour every day when legislation of this kind could be considered, or if those who control the legislative program were willing to take up these matters, which I think are of immediate and pressing importance, and give them precedence over legislation which I think ought to be deferred until next winter, I should not feel like urging the Senator not to make an objection against this bill; but I think the sentiment of those who have thought of this legislation and its purposes has been unanimously in favor of the adoption of this proposition. Unless we are going to have an immediate opportunity to discuss it, and to discuss it fully, I hope the Senator will withhold his objection.

Mr. STONE. I have not made any objection.

Mr. WEEKS. No; I understand the Senator has not.

Mr. STONE. And it is not my purpose to object. I simply submit a question to the Senator who is the author of the bill, according to the statement of the Senator from Louisiana.

As to the unfinished business before the Senate, and the bills associated with it, which it is generally understood are to be considered at this session, should be postponed to another session of Congress, that is a question that I do not care now to discuss. We have been over that time and again, and it would be a waste of time. I think, expressing my own opinion only, that in the face of the almost world-wide conditions of tumult now prevailing, and which unhappily we have every reason to believe will be intensely accentuated, any question of this character of such grave international moment could by practically unanimous consent find time for consideration. I do not mean by that there will be need for any undue postponement of the consideration of the trade commission bill or the Clayton bill or any other; but between times it may become necessary, it is very likely that it will become necessary, for the Senate to take up questions like that involved in the pending bill and dispose of them. The public interest and welfare may absolutely require that to be done.

I express the view that there will be no serious difficulty about that. I am informed that a measure is likely to be introduced at an early day in the House of Representatives intended to meet the needs of our commerce arising under the circumstances confronting us. If that measure shall be introduced and come before Congress, I have no doubt it will embrace such matters as are covered by this bill, and which measure as a whole will, I take it, be very much broader and more comprehensive than this measure. If that is true and the attention of Congress is to be directed to a measure of that kind, it occurs to me it might be better to embrace all these questions in one measure rather than to take them up piecemeal.

Mr. President, I simply make that as a suggestion, having no intention, however, of obstructing the passage of the pending bill if it is thought best to proceed with it at this time.

Mr. WEEKS. Let me ask the Senator this question: Even if his supposition is correct, and the press reports indicate that it is, does not the Senator think it might facilitate the action of the House if the Senate had passed this bill which going to the House then might be incorporated, or such part as had value, in the general proposition to which he refers?

Mr. STONE. That might be true; possibly it is true. Before the bill pending is disposed of, if there should be no objection to its consideration, I think it is due to the Senate that the Senator from Massachusetts should, as concisely and briefly as he can, state the general provisions of the bill, so the Senate may be better informed when it comes to vote upon it.

In concluding, Mr. President, I wish to make this observation: I sympathize with what the Senator from New Hampshire has said. With him, I think that the situation confronting us at this time is one that we not only have no reason to be proud of, but one that we might very well be heartily ashamed of. With almost the whole of Europe involved, or about to become involved, in a tremendous conflict, which may be prolonged, resulting almost inevitably in seriously crippling all, and, maybe, destroying many, of their industries, there must of necessity in the near future be a very great demand upon the resources of this country, agricultural and manufacturing, not only in Europe, but in other parts of the world. Mr. President, a very large commerce has been carried on for years between the South American States and Europe, an immense volume of European productions being sold in the markets of South America, and their respective products have been exchanged in great quantities, and so it seems to me that one manifest effect of this great struggle in Europe will be not only to interrupt, but for an indefinite period to put an end to commercial communication between South America and the great marts of the manufacturing countries of Europe. Without any fault of ours a most opportune time has arisen for the United States to render a great public service and at the same time to enlarge its commercial intercourse with the Republics of the south. But right at this point we are terribly embarrassed by a lack of transportation facilities. The only difference between the Senator from New Hampshire and me, if we came to discuss the subject, which I shall not do now, would arise as to the causes blamable for this condition. It would boot nothing for us to enter upon a discussion of that kind at this time. Whatever the Senator's opinion may be as to the causes, or whatever mine may be, or that of any other Senator, we will all be agreed that by reason of the lack of a merchant marine we face at this time a most unfortunate if not desperate condition in the commercial world.

Mr. NEWLANDS. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Nevada?

Mr. WEEKS. I yield.

Mr. NEWLANDS. If the Senator will permit me, I wish to say that I am very anxious to proceed with the trade commission bill, but I realize that this is a matter of great importance——

Mr. GALLINGER. Of greater importance.

Mr. NEWLANDS. And I would be glad to expedite it, if it can be passed during the morning hour.

I wish to say, Mr. President, in this connection that for many years I have been urging, in the form of resolutions and amendments to pending legislation and bills, the creation of an auxiliary Navy, composed of transports, colliers, scouts, and other ships, which would aid the fighting ships in case of war and would be useful in time of peace in opening up new routes of commerce and as training schools for our merchant marine. This bill is not so ambitious as the project contemplated by the resolutions and amendments which I have offered from time to time, but I regard it as a step in that direction. It is a utilization by the Navy of certain ships now in the Navy for the purpose of opening up commercial routes and mail routes, new routes of transportaton through which American commerce can be developed.

We all know that the great difficulty in establishing a merchant marine in the United States is, first, the initial cost of the ships, which, under our protective system, is much larger than that in other countries; and, second, the cost of operation, because of the more liberal wages which we pay. But it is perfectly apparent that, so far as our Navy is concerned, it is a badly proportioned Navy, composed almost entirely of fighting ships and lacking the auxiliary ships necessary to support the fighting ships in case of war, and without the ability upon the part of the United States in case of war to call in the ships of its merchant marine, because, practically, we have no merchant marine.

I look upon this legislation, therefore, as a step in the direction of a larger policy, which will result in the construction by the United States of commercial ships, transports, colliers, ships that can be used for scouts, and so forth, in time of war and their utilization in time of peace; and I expect that in the progress of events the opening up of these commercial routes through our Navy will gradually lead to the establishment of a substantial merchant marine belonging to the United States.

I am warmly for this measure, and hope that no objection will be interposed against its present consideration.

I should like also to insert in my remarks the resolutions that I have offered and amendments that I have proposed on this subject during previous years, with extracts from previous remarks concerning them.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

Motion made by Mr. NEWLANDS, Fifty-ninth Congress, first session, February 14, 1906:

That S. 529 be recommitted to the Committee on Commerce, with instructions to report in connection therewith an estimate of the cost of the vessels required for service in the ocean mail lines provided for in section 6, and as to whether it is practicable for the United States Government to construct such ships as a part of the Navy, supplementary to the war ships, to be used as colliers, transports, scouts, etc., in the emergency of war, and as to whether it is practicable to lease such ships to private corporations in times of peace for the service of the mail lines contemplated in section 6, and as to whether it is practicable to organize a naval reserve to be enlisted in the United States in the service of such ships whose wages shall be paid three-fourths by the private corporations leasing such ships, and one-fourth by the United States Government; such naval reserves to be composed of citizens of the United States, or those who have declared their intention to become such—and to be subject to the training of naval officers in order to fit them to respond to the call of the Government in case of war, and the rentals received from such ships to form a fund for the gradual enlargement of the number of supplementary ships required by the Navy in case of war, as colliers, transports, scouts, etc., and generally to report the comparative cost of such method of enlarging our merchant marine as compared with the method of subvention provided by section 6.

Amendment to the ship subsidy bill, Sixtieth Congress, first session, offered by Mr. NEWLANDS on March 20, 1908:

That the Secretary of the Navy, the Postmaster General, and the Secretary of Commerce and Labor shall hereafter constitute a commission to be known as the Foreign Commerce Commission, and that they are hereby authorized to provide for the construction, either in the private shipyards of the country or in the shipyards of the Navy, or both, of 27 vessels, not exceeding 6,500 tons capacity each and costing in the aggregate not exceeding $27,000,000; that such vessels shall be so constructed as to be useful to the Navy as auxiliary vessels, such as transports, colliers, dispatch boats, cruisers, and scouts, and also useful in times of peace in opening up new routes of commerce between United States ports and the ports of South America, New Zealand, Australia, and the Philippines; that such commission make to Congress such recommendations as to it seem advisable regarding the manning of such vessels in whole or in part by the Naval Reserve and the leasing of them so manned in times of peace to shipping companies for the purpose of promoting foreign trade and commerce, and for the incorporation of such shipping companies under national law, and for reports on their operations.

Amendment offered by Mr. NEWLANDS to the ship subsidy bill, Sixtieth Congress, first session, April 27, 1908:

For an auxiliary navy consisting of transports, colliers, scouts, dispatch boats, and other vessels necessary in aid of the fighting ships in case of war, $20,000,000, and the Secretary of the Navy, the Secretary of Commerce and Labor, and the Postmaster General are hereby constituted a commission to recommend to Congress a plan for utilizing such ships in times of peace.

Amendment offered by Mr. NEWLANDS to the naval appropriation bill, Sixtieth Congress, second session, February 15, 1909:

Strike out the clause relating to battleships, page 68, lines 14 to 21, inclusive, and insert: "That for the purpose of increasing the efficiency of the Naval Establishment of the United States the President is authorized to have constructed such auxiliary ships, including transports, colliers, dispatch boats, cruisers, and scouts, as will be necessary in case of war to support the fighting ships, at a total cost not to exceed $12,000,000; and that the President make such recommendations to Congress as to him seem advisable regarding the manning of vessels belonging to such auxiliary navy, in whole or in part, by the Naval Reserve and the leasing of them so manned in times of peace to shipping companies for the purpose of promoting foreign trade and commerce."

In the Sixty-first Congress, second session, on June 10, 1910, Mr. NEWLANDS introduced S. 3721, to authorize the construction of auxiliary ships for the Navy:

A bill (S. 3721) providing for the construction of auxiliary ships of the Navy and for their use in times of peace in opening up new routes of commerce.

Be it enacted, etc., That the Secretary of the Navy, the Postmaster General, and the Secretary of Commerce and Labor shall hereafter constitute a commission to be known as the foreign commerce commission, and that they are hereby authorized to provide for the construction, either in the private shipyards of the United States or in the shipyards of the Navy, or both, of 30 vessels, not exceeding 6,500 tons capacity each and costing in the aggregate not exceeding $30,000,000; that such vessels shall be so constructed as to be useful to the navy as auxiliary vessels, such as transports, colliers, dispatch boats, cruisers, and scouts, and also useful in times of peace in opening up new routes of commerce between United States ports and the ports of South Africa, South America, New Zealand, Australia, and the Philippines; that such commission make to Congress such recommendation as to it seem advisable regarding the manning of such vessels in whole or in part by the Naval Reserve and the leasing of them so manned in times of peace to shipping companies for the purpose of promoting foreign trade and commerce, and the incorporation of such shipping companies under national law, and reports of their operation.

In the Sixty-first Congress, third session, on February 2, 1911, Mr. NEWLANDS offered the following as an amendment to the ship-subsidy bill:

That the Secretary of the Navy, the Postmaster General, and the Secretary of Commerce and Labor shall hereafter constitute a commission to be known as the foreign commerce commission, and that they are hereby authorized to provide for the construction, either in the private shipyards of the United States or in the shipyards of the Navy, or both, of 30 vessels, not exceeding 6,500 tons capacity each and costing in the aggregate not exceeding $30,000,000; that such vessels shall be so constructed as to be useful to the Navy as auxiliary vessels, such as transports, colliers, dispatch boats, cruisers, and scouts, and also useful in times of peace in opening up new routes of commerce; that such commission make to Congress such recommendations as to it seem advisable regarding the manning of such vessels in whole or in part by the Naval Reserve and the leasing of them so manned in times of peace to shipping companies, or otherwise utilizing them for the purpose of promoting foreign trade and commerce.

Extract from Senate resolution No. 41, Sixty-second Congress, first session, introduced by Mr. NEWLANDS, May 11, 1911:

Resolved, That it is the sense of the Senate that during the extra session legislation should be enacted upon the following subjects:

* * * * * * *

(7) Providing for the upbuilding of the American merchant marine by free entry to American registry of all ships, wherever constructed, and by the construction of auxiliary ships for our Navy, to be used in time of war in aid of the fighting ships and in time of peace in establishing new routes of commerce through lease to shipping companies; such legislation to involve the temporary diminution of the construction of fighting ships and the substitute of auxiliary ships, with a view to the creation of a well-proportioned and self-sustaining Navy.

Extract from Senate resolution No. 159, offered by Mr. NEWLANDS, Sixty-second Congress, second session, December 7, 1911:

Resolved, That it is the sense of the Senate that during the present session the appropriate committees shall consider and Congress enact legislation upon the following subjects:

* * * * * * *

Twelfth. Providing for the construction of auxiliary ships for our Navy, to be used in time of war in aid of the fighting ships and in times of peace in establishing necessary service through the Panama Canal and new routes of commerce to foreign countries through lease to shipping companies; such legislation to involve the temporary diminution of the construction of fighting ships and the substitution of auxiliary ships, with a view to the creation of a well-proportioned and efficient Navy.

Extract from Senate resolution No. 4, introduced Sixty-third Congress, special session of the Senate, by Mr. NEWLANDS, on March 13, 1913:

6. *Resolved*, That the Committees on Military and Naval Affairs report at as early a date as possible during the extra session upon the following questions:

* * * * * * *

(b) A plan for the construction of auxiliary ships for the Navy, to be used in time of war in aid of the fighting ships and in time of peace in establishing necessary service through the Panama Canal and new routes of commerce to foreign countries through lease to shipping companies; such legislation involving the temporary diminution of the construction of fighting ships and the substitution of auxiliary ships with a view to the organization of a well-proportioned and efficient Navy.

Mr. GALLINGER. Will the Senator from Massachusetts yield to me for a moment?

Mr. WEEKS. I yield.

Mr. GALLINGER. Mr. President, as I said a moment ago, I am not going to oppose any proposition that promises us any reasonable degree of relief. I have no apologies to make for my attitude on this great question of the merchant marine. The Senator from Missouri [Mr. STONE] wisely says this is not the time to discuss the causes which led to the decay of our merchant marine. The Senator and I have crossed swords before on that proposition. When the more comprehensive and, as I think, the more important bill that is promised us, according to the newspapers and in accordance with the suggestion of the Senator from Missouri, comes before the Senate I may have something to say on the general proposition. I have no disposition to say it now.

Mr. President, I have on my desk four speeches of greater or less importance, and probably of less importance rather than greater, which I have made in this Chamber, and I am gratified to observe that in those speeches, among other things, I called attention to two possible complications which might arise if we did not have an adequate merchant marine. One was that in the event of a great European war we would not have any ships to transport the products of our farms and our factories. Those are the words that I used. That is exactly the situation which confronts us at this very moment. The other suggestion I made was that in the event of a war between a great foreign nation and our Nation we would have no adequate auxiliary ships to supplement our battleship fleet, and that is exactly the situation which exists to-day.

This proposition takes some of the few auxiliary ships we have and puts them into commercial work, and if they can be called back to the Navy when they are needed no substantial harm, as I see it, will be done. But, as I said a moment ago, it is a pitiable situation; it is a pitiable proposition, considering the great emergency which is upon us. The Senator from Missouri properly says that this great war will interrupt trade between South America and the European countries. That is inevitable, and if we only had adequate steamship lines between the United States and South America, there would be a boom in American trade which would astonish not only our own people but the world. I have labored, in season and out of season, to have our country prepared for this very emergency, but I labored in vain.

If this makeshift can do some good, if it can accomplish something for American trade and American commerce, of course we ought all to agree to it; and I certainly shall vote for it.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. WILLIAMS. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Mississippi?

Mr. WEEKS. I yield.

Mr. WILLIAMS. I thought the Chair had asked if there was any objection to the passage of the bill, and I thought I had a right to the floor in my own name.

The VICE PRESIDENT. The Chair is not always correct. The Senator from Massachusetts had the floor and he has been yielding.

Mr. WILLIAMS. I will wait until the Senator from Massachusetts is through.

Mr. STONE. Mr. President——

Mr. WEEKS. I will yield to the Senator from Missouri.

Mr. STONE. If the Senator from Massachusetts will allow me, I should like to put into the RECORD without reading an article clipped from a New York paper of yesterday morning, from Mr. Lewis Nixon, in respect to this very situation.

The VICE PRESIDENT. Is there objection? The Chair hears none.

The matter referred to is as follows:

OUTLINES WAY TO PROTECT COMMERCE OF AMERICA—LEWIS NIXON, STUDENT OF THE MERCHANT MARINE, SAYS PRESIDENT CAN ACT UNDER AMENDED PANAMA CANAL ACT TO PROVIDE NECESSARY VESSELS—EMERGENCY CALLS FOR IMMEDIATE ACTION.

Lewis Nixon, for 25 years one of the closest students of the American merchant marine and active in promoting its regeneration, presented yesterday a series of arguments to show what can be done in the present emergency to meet the imperative needs of American commerce, and to forestall another such predicament as now faces this country through lack of ocean shipping facilities.

He finds in the Panama Canal act full authority for action, and suggests that an amendment suspending during national emergencies the five-year limit placed by that law on purchase of foreign ships would place in the hands of the national administration the fullest opportunities to protect American foreign trade in supplying bottoms for its transportation and at the same time keep foreign ships out of the American coastwise trade, which they have sought for a generation to invade.

"In the past, when just such a contingency as now exists was suggested," Mr. Nixon said, "the idea was ridiculed. The United States can never be dependent upon her own ships, they said. It is better to have foreigners do our ocean carriage, because they can do it cheaper, was the argument.

"Naturally the foreign interests so well served by such sophistry keep their grinding hand upon legislation, and never permit any legislation favorable to American shipping to slip through. They got free ships in the foreign trade in the Panama Canal act. But they had to be available for governmental purposes in time of war, so as yet this has not been availed of.

UNDERWOOD BILL EMASCULATED.

"The Underwood bill as first drawn would have brought into play the successfully tried policy of discriminating duties, but this being seen, cunningly suggested changes caused the emasculation of its constructive features.

"A tremendous revival would have followed the earlier draft of the Panama Canal act as it passed the Senate, as this provided free tolls in the foreign trade; but the influence of foreign countries, exerted through those who profit by it here, had this changed in the House, and even free tolls in the coasting trade have now been given up.

"The pretext of war's reprisals in the Boer War put up freights and insurance in such way as to make our people pay largely for that war.

"A small section on the west coast paid more than $2,000,000 increase in freight and insurance rates on this account. A European Government would have called the influences that levied such tribute of us to sharp account, but we seem supine and helpless as soon as foreign transportation is mentioned.

"However, we are now faced with a situation that will destroy even the potentialities of our great harvest of this year. It will be wanted at high prices. The productive capacity of European countries, except Russia, will be demoralized for some time, even though the war does not burst into full flame.

"So we must send forth our freights and our people. In 1910, at Buenos Aires, I started a movement at the Pan-American Conference to make the Western Hemisphere independent. It is to be hoped that the lesson may now be brought home and that the studies of a lifetime may no longer be sneered at as academic.

WESTERN HEMISPHERE TO SUFFER.

"The Western Hemisphere will suffer terribly from the withdrawal of transportation facilities from both North and South America.

"What can be done immediately, and what are the dangers?

"In the Panama Canal act we have already power to buy foreign ships and run them in the foreign trade under the United States flag. They must not be more than five years old. This was to prevent our

becoming the dumping ground or junk heap for old and worn-out vessels which, if sold, would furnish money to our rivals to buy up-to-date vessels with which the old ones could not compete. We can not get enough vessels under existing conditions to do our work.

"The great tank vessels of the Standard Oil Co. could carry grain in bulk if it be not contraband, but they could take our grain to some neutral port. But these are only a handful. The new vessels of the United Fruit are splendid boats and could take care of a small part of the passenger traffic. As regards our coasting trade, the vessels there could be attracted off at a price, but the people would pay it many times over in railroad rates.

"We must not relinquish the slight hold on West Indian and Mexican trade, upon which Canada, with common-sense banking and commercial laws, is making such inroads.

"So we are face to face with the problem of attracting foreign vessels that war conditions limit in profit making to purchase by Americans, for they must be owned outright.

POWER FOR THE PRESIDENT.

"The Congress should empower the President, when a condition exists which interferes with free navigation of the oceans to such an extent as to militate against the country's interests, to permit the registry of foreign vessels owned entirely by American citizens or State corporations. This would require only that the limit regarding age should be omitted at the President's discretion. Of course when the alarm of war was ended he would permit no more such entries.

"No age limit should be stated in such amendment at all, as there are vessels 20 years and older that with the use of modern appliances in machinery could render us needful service under existing conditions."

Mr. JONES. Mr. President——

Mr. WEEKS. I yield to the Senator from Washirgton.

Mr. JONES. I wish to ask the Senator from Massachusetts what provision the bill makes with reference to the establishment of these lines; that is, the sailing points of ships.

Mr. WEEKS. Replying to the Senator from Washington, the bill does not provide anything definite about the sailing points of the ships or how many lines shall be established; it leaves it optional with the Secretary of the Navy to use such vessels as are available for the purpose to establish and maintain lines as from the west coast of the United States to the east coast of South America, through the canal, or from the east coast of the United States to the west coast of South America, through the canal.

Mr. JONES. Does it confine the Secretary to establishing lines from points on the west coast to the east coast of South America? Would it prevent him from establishing a line from points on the west coast of the United States to points on the west coast of South America also?

Mr. WEEKS. I will read the wording of the bill, and the Senator can judge for himself. In regard to the discretion which I have spoken of the bill says:

That the Secretary of the Navy is hereby authorized to establish one or more United States Navy mail lines, by employing such vessels of the Navy as in his discretion are available, without impairment to the paramount duties of the Navy, and as are necessary and appropriate, for the purpose of establishing and maintaining regular communication between the east or west coast, or both coasts, of the United States and either or both coasts of South America.

Mr. JONES. Does the bill make any provision with reference to taking care of any trade that may be established if these boats should have to be taken off the trip lines?

Mr. WEEKS. It can not make provision for that, because under such conditions the Government would have no means of carrying on the trade. It must be remembered that these are naval vessels, that their primary purpose is use in time of war, and that this plan proposes to make some commercial use of them in time of peace. If war should break out, then necessarily they must be withdrawn from the service which they are in.

Mr. JONES. So it is simply a makeshift.

Mr. WEEKS. It is a makeshift.

Mr. JONES. But as a makeshift, if it works out some good, of course we will be glad to have it; it will be better than nothing.

Mr. THOMAS. Mr. President——

Mr. WEEKS. I yield to the Senator from Colorado.

Mr. THOMAS. Mr. President, I will not make any objection to the immediate consideration of this bill, but in view of the conditions which are now prevalent in Europe and which, as the Senator from Missouri [Mr. STONE] well says, are probably going to become worse and interfere with, if not destroy, trade relations between Europe and other countries, I venture to suggest to the Senator from Massachusetts the propriety of removing a restriction in the bill. In the bill as it is drawn, communication may be had between ports of the United States and those of other countries. I think it is a step in the right direction, and while it may be a makeshift, I feel very sure that the experiment is going to be so satisfactory that it will lead sooner or later to the establishment of lines operated by the Government itself, a policy which I have always favored and which I hope to live to see inaugurated.

Mr. WEEKS. In view of the suggestion made by the Senator from Missouri [Mr. STONE] that there is under consideration in the other House, or in a committee of the other House, legislation more comprehensive than that which we are now considering, I think we may safely, if we do it at all, pass the bill in its present form, with the expectation that it will be extended or changed to conform to the conditions which have arisen since the bill was introduced.

Mr. THOMAS. Very well, Mr. President; I will defer to the Senator's superior judgment concerning the subject, but I hope the bill will be immediately considered and passed.

Mr. WILLIAMS. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Mississippi?

Mr. WEEKS. I yield.

Mr. WILLIAMS. I thought the Senator was through. I wanted to say something upon the bill itself. I did not want to ask a question.

Mr. JONES. I wish to ask the Senator from Massachusetts another question. I note that the bill provides that the passengers, mail, and freight shall be carried "under such regulations and at such rate or rates as the Secretary of the Navy may prescribe," leaving the matter of rates entirely to be fixed by the Secretary regardless of the question whether they are reasonable or not. Was there any consideration given to the question in committee as to whether rates which are reasonable should be provided?

Mr. WEEKS. I am not a member of the Naval Committee, and I can not tell whether that subject was discussed or not; but necessarily we can not fix rates unless we know what ships are going to be used, how they are going to be used, from what ports they are going to start and to what ports they are going to run; and unless Congress fixes the rates in the law, we must leave the authority to some one to make the rates.

Mr. JONES. Does the Senator think we ought to leave to the Secretary of the Navy the fixing of the rates without prescribing some rule by which he shall be governed?

Mr. CLAPP. If the Senator will pardon an interruption, of course this being our own property there would be no tribunal to pass upon the reasonableness of the rates charged, and it was thought to be just as well to leave it to the Secretary without any limitation, because there could be no limitation that would not be left to the discretion of the Secretary. There being no power above that to review his judgment, it was thought best to put it in that form. That is the reason why it was put in that shape. That applies only to freight, of course.

Mr. WEEKS. If the Senator from Mississippi wishes to discuss the bill, I will yield the floor to him for that purpose.

Mr. WILLIAMS. Has unanimous consent yet been given for the present consideration of the bill?

The VICE PRESIDENT. Unanimous consent has not yet been given.

Mr. WILLIAMS. Mr. President, reserving the right to object, I want to make a few remarks and to suggest an amendment or two to the Senator from Massachusetts.

It is a time-worn phrase that emergencies give rise to bad law. We are facing now a great emergency; there is no doubt about that. Our wheat is accumulating and the countries of Europe are wanting it, and it can be sent to them only at immense risk and at immense expense. Insurance rates are almost prohibitive.

I would have no objection to the passage of this bill if it went through as a temporary measure; if it recited that it was to be in force during the pendency of the present European war. To make permanently of our sailors a set of stevedores and handlers of freight when they are enlisted for other purposes, or to enlist men in the Navy with the rank of sailors whose business shall be to handle freight, and to make that a permanent policy of the United States, seems to me to be very objectionable.

Mr. WEEKS. Mr. President, if the Senator will permit me the suggestion, sailors on seagoing ships never handle freight in this day. Freight is handled by stevedores, who are shore men, at both ends of the line. Sailors run the ship and have nothing whatever to do with handling the freight at either end of the voyage.

Mr. WILLIAMS. Well, I believe the Senator is right about that; in fact, he must be, because he knows precisely about it, and I think that I, too, knew that, but had temporarily overlooked it. You are proposing, however, to take sailors of the United States in the uniform of the United States and put them to work on a freight vessel. If the Senator from Massachusetts is willing, I suggest that on line 5, page 1, right after the last syllable of the word "employing," which occurs at the beginning of that line, to insert the words "during the pendency of the present European war," until Congress can make permanent provision in a more satisfactory way than this.

Then, I would suggest to the Senator another amendment, to strike out the period on line 10, page 1, and to add the words "and between the United States and the countries of Europe." The bill at present would enable the naval ships that are temporarily to be engaged in carrying mails and passengers and freight to maintain "regular communication between the east or west coast, or both coasts, of the United States, and either or both coasts of South America." The crying need right now is to get our foodstuffs to Europe in neutral ships.

I myself think a much more satisfactory way of dealing with this crisis would have been to have passed a joint resolution putting into the hands of the United States Government a given sum of money to buy ships of belligerent powers that will be laid up in our ports and be for sale cheap, and during the war, at any rate, granting authority to the Government to lease them to people who would operate them, or otherwise, to satisfy the present emergency; but I do not want to stand in the way of anything that anybody thinks will help out. It seems to me if the Senator will add, at the point I have indicated, the words "and between the United States and the countries of Europe," he will broaden the scope of his bill and will meet the immediate exigencies much more fully. Then, if he accepts the previous amendment, he will make the bill temporary in its character; it will appear simply as an emergency bill.

Mr. WEEKS. Mr. President, I do not know that the Senator from Mississippi heard the suggestion made by the Senator from Missouri [Mr. STONE], that in the other House there is now in contemplation legislation much broader in its scope than this.

Mr. WILLIAMS. That is the very reason I want this to be temporary.

Mr. WEEKS. The reason why this bill was originally suggested to my mind was that we are about to open the Panama Canal. No attempt has been made by American citizens or American capital to provide a line of steamers which can make use of the canal. It seems to me a shameful condition for us to be in, not to have a line of steamers or lines of steamers from the United States to the east and the west coasts of South America ready for service when the canal is ready for business.

Mr. WILLIAMS. Mr. President, I heard the remarks made by the Senator from Massachusetts upon a previous occasion when this matter was up, and, frankly, he and I do not agree about that. I do not agree with any idea of making a part of the United States Navy freight handlers or passenger or mail carriers as a permanent policy of the United States Government.

Mr. WEEKS. Mr. President, I do not wish the Senator from Mississippi to understand that I approve of that as a general policy either; I do not; but I am trying to take advantage of the situation with the only means we have at hand to do it.

Mr. WILLIAMS. I should like to ask the Senator if he would not agree to both these amendment, the one making this legislation applicable during the pendency of the present European war, and the other amendment making it possible now to use these ships across the Atlantic to European countries as well as to the other coast of North America and the east and west coasts of South America?

Mr. WEEKS. I will agree to the second one of the amendments. The Senator will note from a reading of the bill that whether or not these lines are established or maintained is entirely in the hands of the Secretary of the Navy; if other means of transportation are furnished by private capital, these ships can be withdrawn at any time; but I think it would be inadvisable to enter upon this enterprise for the comparatively brief time which may ensue between now and the termination of the European war. I hope the Senator will not press the amendment which he has suggested making the application of the bill temporary.

Mr. WILLIAMS. Mr. President, if the Senator from Massachusetts accepts the second of the two amendments, then I shall not object to the immediate consideration of the bill; but when the bill is read and considered by the Senate, I will move to amend it by offering the first amendment as well as the second amendment.

Mr. GALLINGER. Will the Senator state the second amendment? I did not hear it.

Mr. WILLIAMS. The second amendment is to insert the words "and between the United States and the countries of Europe," so that the vessels proposed to be used shall be available for trans-Atlantic service. The main thing, I think, we ought to have in view now is getting our breadstuffs across the sea at high prices when people are needing them.

Mr. WEEKS. I will call the attention of the Senator from Mississippi to the fact that we have something like 225,000 tons of auxiliary craft connected with the Navy that could be used for that purpose.

Mr. WILLIAMS. That is all the greater reason for extending the scope of the bill.

Mr. WEEKS. I accept the second amendment suggested by the Senator from Mississippi.

Mr. WILLIAMS. Very well. Then, I shall not object to the immediate consideration of the bill; but I repeat that when the bill is up for consideration I shall move the first amendment.

Mr. NORRIS. Mr. President, I should like to know what the second amendment is. I think the Senate ought to know something about this bill.

Mr. GALLINGER. Let the amendment be stated.

The VICE PRESIDENT. The Secretary will state the second amendment proposed by the Senator from Mississippi.

The SECRETARY. The second amendment is, on page 1, line 10, after the words "between the east or west coasts, or both coasts, of the United States and either or both coasts of South America," to insert the words "and between the United States and the countries of Europe."

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. LEWIS. Mr. President, pending the submission of the request for unanimous consent, may I be permitted to interrupt the Senator from Massachusetts to make an inquiry? I desire to say that some time ago I introduced a bill in this body having for its object the construction by the Government of 100 ships, to be built by the Government and leased to private operators, for purposes similar to those certainly implied by the pending bill. I desire to ask the Senator if there is any provision in this bill that permits the President to have the discretion as to when these vessels may be impressed into the service of the Government should any necessity require, while they are being used for commercial purposes?

Mr. WEEKS. Mr. President, that power is left in the hands of the Secretary of the Navy. The vessels may be recalled at any time for their primary purpose, which is the service of the Government.

Mr. LEWIS. Such being the provision of the bill introduced by me, that was the information I sought at this time, and I am satisfied with it.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The VICE PRESIDENT. Is there objection to the amendment proposed by the Senator from Mississippi? In the absence of objection, the amendment is agreed to. The bill is in the Senate as in Committee of the Whole, and open to amendment.

Mr. WILLIAMS. I now move the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. After the word "employing," in line 5, page 1, it is proposed to insert "during the pendency of the present European wars."

Mr. WILLIAMS. Mr. President and Senators, I have already stated my reasons for that amendment, and I think the reasons are conclusive. I do not think the policy of having the Navy used for the purpose of freight handling and passenger transportation and mail carrying is a policy which should recommend itself to the people of the United States as a permanent thing. A great emergency and a great crisis excuse bad legislation, if it is temporary, when it accomplishes a purpose which seems essential for the country; but I think it bad policy to put upon the statute books this sort of legislation, especially when you consider the provision on page 2, which reads:

> The enlisted strength of the Navy, as now or hereafter authorized by law, is hereby increased by the number of men required to man the vessels so employed, and the Secretary of the Navy is hereby authorized to enlist such number of men in the Navy for such terms of enlistment, not to exceed four years, as may be desirable, and to distribute the number of men so enlisted among the various ratings of the Navy.

When you consider that that clause is in the bill giving the Secretary of the Navy a power to increase the Navy to indefinite extent—while it is a power that might be given in the face of a great crisis, to give it to one of the executive departments permanently strikes me as almost as bad policy as the other feature to which I referred, to wit, the converting of a part of the Navy into freight handlers.

There is a great deal in the esprit du corps of a body of men serving in the Army and Navy. Men enlist in the Army or the Navy because they regard that as a noble and patriotic pursuit; they have not enlisted, and probably would not enlist, if they were to go upon ships that were to be freight handlers and passenger carriers. That pride which the sailor has in his

business, which is his country's business and which ought to be a public business, entirely devoted to the meeting of the enemies of his country, ought not to be torn down; and this sort of policy does tear it down to a very large extent. It decreases the sailor's self-respect. I might be willing to go into the Navy and serve there or into the Army, but I would not be willing in either capacity to go and do something else that had nothing to do with the profession of arms. So I think it is but right and proper that this measure should be confined to the emergency that is now facing us.

I have no doubt of the fact that every sailor in the Navy will be glad to do this service for the country in time of war or in time of the possibility of war as affecting his own country, or in times of war between other peoples; but, speaking for myself, if I were one of the enlisted men of the Navy, that would strike me as having taken a very unfair advantage of me.

Mr. HITCHCOCK. Mr. President, will the Senator yield?

Mr. WILLIAMS. Yes.

Mr. HITCHCOCK. Does the Senator think that any officers or men in the Amy have felt that they were being degraded by being put to a useful purpose?

Mr. WILLIAMS. Oh, no.

Mr. HITCHCOCK. The officers of the Army of the United States are in charge of the engineering work on our rivers and harbors.

Mr. WILLIAMS. Yes; but the enlisted men of the Army do not go down and build the levees.

Mr. HITCHCOCK. If the Senator will allow me to finish. They have been in charge of the engineering work on the Panama Canal.

Mr. WILLIAMS. I know that.

Mr. HITCHCOCK. They have been in charge of the engineering work recently on irrigation projects.

Mr. WILLIAMS. I know that.

Mr. HITCHCOCK. They have built wireless telegraph lines to Alaska.

Mr. WILLIAMS. Yes.

Mr. HITCHCOCK. And cable lines to the Philippine Islands.

Mr. WILLIAMS. Yes.

Mr. HITCHCOCK. And I can see no reason why the officers and men engaged in an honorable pursuit, carrying on a very worthy enterprise for the people, should feel degraded by being used for that purpose.

Mr. WILLIAMS. Mr. President, the illustrations which are furnished by the Senator from Nebraska "have nothing to do with the case," any more than "the flowers that bloom in the spring." An Army officer who performs engineering work is doing work in the line of his chosen profession, of which he is very proud. When an officer goes upon the Mississippi River Commissiou or the Panama Canal Commission and takes charge of great engineering undertakings, or when he goes to Alaska, for example, to lay out the line of the railroad which is to be built there and to supervise its construction, it is a part, and the very proudest part, of the profession which he has embraced. He is not only an officer, but he is an engineer, and he is doing engineering work for this country. That is a totally different thing from putting soldiers to working building levees. If you should carry it that far, the soldier would feel that he had been taken advantage of.

I do not mean that the work degrades. The man who is building a levee is just as good a citizen and doing just as useful work as a soldier wearing the uniform of the United States; but one of them wanted to volunteer to build levees and to get paid for it, while the other wanted to volunteer to wear the uniform of his country in a position where his pay does not amount to anything or is so small that it does not enter into it as a consideration at all. I hope that the amendment making the provisions of the bill temporary will be adopted by the Senate.

Mr. WEEKS. Mr. President, this bill was introduced long before there was any expectation of European trouble. It has been extended by the amendment offered by the Senator from Mississippi so that the ships may be used to assist in preventing any distress which may arise on account of our people being unable to get transportation from Europe. But the purpose of the bill is not temporary; the purpose of the bill is to establish, until private capital undertakes to do so, a line of steamers to South America. So I hope the amendment offered by the Senator from Mississippi will not prevail.

Mr. SMITH of Georgia. Mr. President, I think that it is extremely wise to pass this bill, and to pass it at once; and, in connection with passing it, we may well consider the responsibility which falls upon us even beyond this bill. I think the responsibility falls on this Congress to see that provision is made to insure the transportation of the agricultural products and the manufactured products of this country during the war, if it shall last. It is very timely to pass this measure; and I hope that that committee of the Senate which would naturally have jurisdiction of this subject and that Senators generally will consider the question of enacting legislation that will facilitate the movement of all of our wheat which must go abroad, the movement of all our cotton and tobacco that must go abroad, and the movement of the manufactured products as well. I do not think any subject can be considered by us that is of greater importance, and I believe it is our duty to see that such legislation is passed.

Mr. WILLIAMS. Mr. President, I wish to modify my amendment, by unanimous consent, by adding to it the words "and for the period of three months thereafter," because there might be some question as to just when the European wars did close. I ask unanimous consent to modify it to that extent, so that it shall read "during the pendency of the present European wars and for the period of three months thereafter."

Mr. WEEKS. My objection would rest in the same way against the amendment as modified.

Mr. NORRIS and Mr. CLAPP addressed the Chair.

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Nebraska?

Mr. WEEKS. I yield first to the Senator from Nebraska.

Mr. NORRIS. I was not aware that the Senator from Massachusetts had the floor. I thought I was entitled to the floor in my own right.

Mr. CLAPP. I addressed the Chair.

The VICE PRESIDENT. The Chair will recognize the Senator from Minnesota, for a change.

Mr. CLAPP. What I desired to say was this——

Mr. WEEKS. Have I not the floor, Mr. President?

The VICE PRESIDENT. The Senator from Massachusetts yielded to the Senator from Mississippi. The Senator from Mississippi desired to take the floor and speak on the bill, and the Senator from Massachusetts said he would yield to him.

Mr. WEEKS. I supposed I took the floor again.

Mr. CLAPP. The Senator can take it again.

In response to what the Senator from Georgia said, I desire to make this suggestion: Is it not possible that we are drifting away from the real purpose of this bill, and yet in connection with the real purpose of the bill we can serve the purpose of the hour that has so suddenly arisen? By amending the bill so as to use these vessels in trade with other nations we meet this sudden emergency. I do not believe we should permit that sudden emergency to draw us away from the real purpose of this bill, which is to take these vessels as they can be utilized from time to time and put them into the channels of trade. This would not at all conflict with the suggestion of the Senator from Georgia that, in addition to this, we ought at this time to take up the question of meeting more fully the European situation.

So I hope we will pass this bill with the amendment already offered by the Senator from Mississippi, which makes the bill applicable to the new condition, still maintaining the original theory and purpose of the bill, and not interfering at all with the committee taking up at this time the earnest consideration of making other necessary provision to meet the condition due to the war in Europe.

Mr. NORRIS. Mr. President, there is very much that I should like to say on this bill were it not so near the close of the morning hour; but, inasmuch as I do not want to be instrumental in bringing about its defeat by delay, I shall not consume much of the time and shall not be able to say what I should like to say on this occasion.

I am delighted to hear so many Senators express themselves in favor of the principle involved in this bill. I remember that for several years I have been trying to get, as an amendment on various bills, something similar to this—to have the ships leased to the Panama Railroad Co., a corporation already engaged in commerce, and use them for the identical purposes that are provided for here. I have always met with such terrible opposition, however, from many of the men who now seem to be favorable to this idea that it affords me a great deal of pleasure to recognize the conversion of so many legislators to the idea that we ought to take advantage of the opening of the Panama Canal by providing Government ships for the purpose of engaging in commerce between the ports of North and South America.

On the 24th day of January I offered an amendment to the then pending Alaska railroad bill providing for the building of 10 ships, I think, that should be leased to the Panama Railroad Co., and should be used by them in commerce between the ports of North and South America. The amendment was debated at considerable length, and had only 11 votes in its

favor when it finally came to a vote. An examination of the roll call on the amendment on that day will disclose that many who seemed to be opposed to the idea then are favorable to it now.

Shortly afterwards, within a very few days after that amendment was defeated, the junior Senator from Massachusetts [Mr. WEEKS] introduced a resolution that was the forerunner of the bill that is now before the Senate. It was reported to the Senate a few days later by the senior Senator from Massachusetts [Mr. LODGE], and that resolution was passed, calling on the Secretary of the Navy for information. The Secretary of the Navy seemed to be favorable to it and the result was a favorable report and this bill, which was then introduced and referred to the Committee on Naval Affairs and is now reported back to the Senate with a unanimity both of the committee membership and of the membership of the Senate that assures its passage within the next few moments.

Mr. WEST. Mr. President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Georgia?

Mr. NORRIS. I yield to the Senator for a question.

Mr. WEST. That is all I wish to ask. If the 10 ships referred to were built and run in conjunction with railroads in Alaska, would not that come under the same objection as to these transcontinental railroads having vessels to run through the Panama Canal?

Mr. NORRIS. The Senator must understand, and I presume the Senator does understand, that the stock of the Panama Railroad Co. is owned entirely by the United States. I think it would have been much better to have provided that these ships should be leased to the Panama Railroad Co. and operated by them. They are Government boats. The Government owns all the property of the Panama Railroad Co., but it is a regular corporation organized under the laws of the State of New York. It would have been much better to have permitted that corporation, already engaged in commerce, already the owner of ships and of a railroad, to have operated these ships in the regular business way between the ports of North and South America. It was said then, however, "Why, that is going into Government ownership; that is approaching socialism," and some said, "That is almost anarchy." We have advanced so rapidly, however, that now we come to the proposition that we will eliminate this intermediary corporation and turn the matter over to the Secretary of the Navy, who is to be supreme in the rates he shall charge, the ports he shall make, and the ships he shall use. He can do anything he pleases. He can commence where he likes and stop where he pleases.

That is better than nothing, I think. I have faith in the Secretary of the Navy. I believe he will take up this work in a good, businesslike way, and accomplish something. I think, however, it would have given the project a much better show in the business world and would have developed our commerce very much better if we had turned it over to a corporation controlled by the Government already and for a good many years engaged in commerce, and whose business it is to deal in things of this kind.

The proposition to let the Government build ships—and the Government has built the ships, or some of them, and owns all of them—and turn them over to the Panama Railroad Co. was objected to, as I have said, because it looked like Government ownership. That did not appeal to me. If it was a good thing, whether it was Government ownership or not, it seemed to me that it was proper. It seemed to me that it was the proper way to develop commerce between North and South America. The provision that I offered then as an amendment to the bill also provided for the shipping of coal from Alaska through this same modus operandi.

If, however, we want to take a step further and turn over the matter to the Secretary of the Navy, I for one am delighted that so many of these ultraconservative Senators have not only been converted to the idea, but have taken a step in advance, and have gone further than had ever been proposed before. Instead of opposing their plan, as they always did mine, I shall to the best of my ability be very glad to support them in their efforts in this connection, which I believe to be commendable.

I want to say while I am on my feet that I am opposed to the amendment, now pending, of the Senator from Mississippi. If that amendment prevails, the Secretary of the Navy will have this authority only during the present war in Europe, and for three months thereafter. It seems to me that we ought to make it permanent. If we are going to trust these matters to the Secretary of the Navy during the existence of a foreign war, there is no reason why we should not trust him in the same way in time of peace. It will be just as important, in my judgment at least, as far as the trade between North and South America is concerned, after the European war is over as it is during the existence of the European war.

Mr. SWANSON. Mr. President, I am very earnestly in favor of the passage of this measure as it has been amended. It was reported from the Naval Affairs Committee, of which I am a member. I think it meets an emergency that is very urgent at this time. It will enable us to make it immediately available for the exportation of our wheat, our tobacco, and our cotton.

I am glad the Senator from Massachusetts accepted the amendment offered by the Senator from Mississippi, and I simply wish to express my cordial support of the measure.

Mr. MARTINE of New Jersey. Mr. President, I desire to dissent from the thought advanced by my friend the Senator from Mississippi. I feel that it will not hurt a naval officer to handle a bushel of wheat, or a bag of grain, or a bag of potatoes. I do not believe he will have much occasion to do it; but at least it will tend to develop muscle in the man, and from the looks of many of them God knows I think they need it. [Laughter.] I think they would be better men, I think they would be more considerate men, if sometimes they had found occasion to put on a pair of overalls.

Mr. President, I consider that a Senator is quite as good as a naval officer, but I want to say that there is one Senator in this body who has worn overalls on many occasions, handling grain, if you choose, and potatoes. I do not believe the naval officer would have much to do in that direction, for the work would be done by stevedores and sailors; but this nonsense that because a man happens to wear, through the grace of the country, a pair of epaulets he is a little too good to handle that which makes food for himself and the rest of mankind is absolutely disgusting to me.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. WHITE. Mr. President, I desire to hear the amendment read.

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. After the word "employing," in line 5, it is proposed to insert a comma and the words "during the pendency of the present European wars, and for the period of three months thereafter."

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. WILLIAMS. Mr. President, before the bill passes the title ought to be amended.

Mr. GALLINGER. After it passes.

Mr. WILLIAMS. It ought to be made to read "between the United States, South America, and Europe."

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to establish one or more United States Navy mail lines between the United States, South America, and Europe."

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WHITE:

A bill (S. 6193) granting a pension to Elmina Swan; to the Committee on Pensions.

By Mr. LANE:

A bill (S. 6194) to provide for the acquisition of a site and erection of a public building thereon at Hood River, Oreg., to the Committee on Public Buildings and Grounds.

By Mr. McLEAN:

A bill (S. 6195) granting an increase of pension to Mary C. Hills (with accompanying papers);

A bill (S. 6196) granting an increase of pension to Cynthia Buel (with accompanying papers);

A bill (S. 6197) granting an increase of pension to Cornelia S. Hitchcock (with accompanying papers); and

A bill (S. 6198) granting a pension to Grace S. Wood (with accompanying papers); to the Committee on Pensions.

By Mr. HUGHES:

A bill (S. 6199) to reinstate Elwin Carlton Taylor as a passed assistant surgeon in the United States Navy; to the Committee on Naval Affairs.

A bill (S. 6200) granting an increase of pension to John McGuire; to the Committee on Pensions.

By Mr. WILLIAMS:

A bill (S. 6201) authorizing and directing the Secretary of War to make certain provisions for the care of the participants in the celebration of the semicentennial close of the War between the States and the centennial close of the last war between Great Britain and the United States, to be held at Vicksburg, Miss., on the 6th, 7th, 8th, and 9th days of October, 1915, and making an appropriation of a sum sufficient to carry out the provisions of this act (with accompanying papers); to the Committee on Appropriations.

Mr. WALSH. I introduce a bill for appropriate reference. It was my purpose to have submitted some remarks in connection with the bill, but so much of the morning hour has been occupied that I shall defer them until later.

The bill (S. 6202) to repeal an act entitled "An act to amend section 3 of the act of Congress of May 1, 1888, and extend the provisions of section 2391 of the Revised Statutes of the United States to certain lands in the State of Montana embraced within the provisions of said act, and for other purposes," was read twice by its title and referred to the Committee on the Judiciary.

By Mr. THOMPSON:

A bill (S. 6203) to amend section 82, chapter 231, of the act to codify, revise, and amend the laws relating to the judiciary, fixing a term of court at Salina, Kans.; to the Committee on the Judiciary.

By Mr. SAULSBURY:

A bill (S. 6204) for the relief of the owners of commercial motor boats; to the Committee on Commerce.

By Mr. SMITH of Arizona:

A bill (S. 6205) authorizing the issuance of a patent to the city of Phoenix to certain land in the county of Maricopa, State of Arizona; to the Committee on Public Lands.

By Mr. STONE:

A bill (S. 6206) for the relief of Lloyd C. Stark; to the Committee on Naval Affairs.

By Mr. NEWLANDS:

A bill (S. 6207) for the relief of Storey County, Nev.; to the Committee on Claims.

By Mr. SHIVELY:

A bill (S. 6208) granting an increase of pension to Benjamin McClellan; and

A bill (S. 6209) granting an increase of pension to James M. Watkins (with accompanying papers); to the Committee on Pensions.

By Mr. SAULSBURY:

A bill (S. 6210) to encourage American commerce; to the Committee on Commerce.

By Mr. SHAFROTH:

A joint resolution (S. J. Res. 171) declaring the purpose of the United States to cease exercising sovereignty over the Philippine Islands and to establish an independent republic therein and requesting the President to endeavor to obtain the cooperation of the principal nations of the world; to the Committee on the Philippines.

KATHARINE K. ESTES.

Mr. JOHNSON submitted the following resolution (S. Res. 433), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay to Katharine K. Estes, widow of J. Stanley Estes, late clerk to the Committee on National Banks, a sum equal to six months' salary, at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

HEARINGS BEFORE COMMITTEE ON FINANCE.

Mr. THOMAS. I submit a resolution and ask unanimous consent for its immediate consideration. I may add that I am directed to do so by the Committee on Contingent Expenses.

The VICE PRESIDENT. The Secretary will read the resolution.

The resolution (S. Res. 434) was read, as follows:

Resolved, That the Committee on Finance be, and it is hereby, authorized, by subcommittee or otherwise, to administer oaths and to employ a stenographer at a price not exceeding $1 per printed page to report such hearings as may be had in connection with the consideration of the nomination of Henry P. Keith, of Hempstead, Long Island, N. Y., to be collector of internal revenue for the first district of New York; that the expenses of such hearings be paid out of the contingent fund of the Senate on vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. SMOOT. What is this resolution about, Mr. President?

Mr. THOMAS. It is relative to a contest over the appointment of a collector of internal revenue for the first district of New York.

Mr. SHAFROTH. I will state to the Senator that the majority of the members of the Committee to Audit and Control the Contingent Expenses of the Senate have had this resolution under consideration, find that it is in the regular form, approve of its provisions, and ask that it may be agreed to.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

WAR BETWEEN EUROPEAN POWERS.

Mr. GALLINGER. Mr. President, I submit the following as an expression of the sense of the Senate of the United States. I ask that it may be read, and I shall be pleased to have it acted upon, if there is no objection.

The VICE PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

The Senate of the United States, dedicating itself to the principles of peace and good will among men, deeply deprecates the war between certain European powers, and expresses the earnest hope that existing differences may be speedily adjusted, to the end that the fearful destruction of human life and the great waste of property may be averted.

The VICE PRESIDENT. The motion of the Senator from New Hampshire is unanimously adopted.

RELIEF OF AMERICAN CITIZENS ABROAD (H. DOC. NO. 1136).

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read, and on motion of Mr. STONE, was referred to the Committee on Appropriations and ordered to be printed:

To the Senate and House of Representatives:

The present disturbances in Europe, with the consequent interruption of transportation facilities, the increase in living expenses, coupled with the difficulty of obtaining money from this country, have placed a large number of American citizens, temporarily or permanently resident in Europe, in a serious situation and have made it necessary for the United States to provide relief and transportation to the United States or to places of safety.

The situation has also thrown upon our diplomatic and consular officers an enormous burden in caring for the interests of Americans in the disturbed areas and makes it necessary to provide for greatly increased expenses.

In view of the exigency of the situation as above outlined, I recommend the immediate passage by the Congress of an act appropriating $250,000, or so much thereof as may be necessary, to be placed at the disposal of the President, for the relief, protection, and transportation of American citizens, for personal services and for other expenses which may be incurred in connection with or growing out of the existing disturbance in Europe.

WOODROW WILSON.

THE WHITE HOUSE, *August 3, 1914*.

INTERNATIONAL ENGINEERING CONGRESS, 1915.

Mr. NEWLANDS. I send to the desk a joint resolution, with the request for its immediate consideration.

The VICE PRESIDENT. The Secretary will read the title of the joint resolution.

The joint resolution requesting the President of the United States to invite foreign Governments to participate in the International Engineering Congress, 1915, was read the first time by its title.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

Mr. SMOOT. If that is all there is to the joint resolution, I object.

Mr. NEWLANDS. There is a proviso that there shall be no appropriation whatever.

Mr. SMOOT. That was not read. I ask for the further reading of the joint resolution in full.

Mr HUGHES. I ask that it be read at length.

Mr. OVERMAN. Read the entire resolution.

The joint resolution (S. J. Res. 170) was read the second time at length, as follows:

Joint resolution (S. J. Res. 170) requesting the President of the United States to invite foreign Governments to participate in the International Engineering Congress, 1915.

Resolved, etc., That the President of the United States is hereby authorized and requested to invite foreign Governments to appoint delegates and otherwise participate in the International Engineering Congress, to be held at San Francisco, Cal., September 20 to 25, 1915, under the auspices of the American Society of Civil Engineers, the American Institute of Mining Engineers, the American Society of Mechanical Engineers, the American Institute of Electrical Engineers, and the Society of Naval Architects and Marine Engineers: *Provided*, That no appropriation shall be granted at any time hereafter in connection with said congress.

Mr. SMOOT. Mr. President——

The VICE PRESIDENT. The hour of 1 o'clock having arrived the Chair lays before the Senate the unfinished business, which is House bill 15613.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. CLAPP. Mr. President, I should like to have the attention of the Senate for a moment. The amendment which I introduced on Saturday provided that any person injured in his business or property by any act declared unlawful or forbidden by this act might have a right of action and recover threefold the damages. My own view of section 5 is that nothing under that section is an offense until the commission shall first designate it as an offense, and believing that, and believing that the law should also be as plain and explicit as it is possible to make it, rather than to leave the amendment on that point in any doubt I ask unanimous consent to modify the amendment so that it will read as follows:

SEC. 6. That any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden by or declared to be unlawful by the commission under this act may sue therefor—

And so forth.

That puts it beyond any question that the action for damages could only be maintained after the commission has declared the act unlawful or forbidden. That is my own construction of the law, and I prefer to make it plain, so that there can be no question about it.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Montana?

Mr. CLAPP. With pleasure.

Mr. WALSH. I desire to inquire of the Senator from Minnesota whether under the language which he now proposes the liability would not arise after the adjudication of the commission on account of acts theretofore committed?

Mr. CLAPP. I think not.

Mr. WALSH. It seems to me that is quite clear from the reading.

Mr. McCUMBER. I wish the Senator would read the amendment again. I do not know that I caught the full purport of it.

Mr. CLAPP (reading):

That any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden by or declared to be unlawful by the commission under this act may sue therefor—

And so forth.

Mr. NEWLANDS. I wish to ask the Senator a question.

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Nevada?

Mr. CLAPP. With pleasure.

Mr. NEWLANDS. I wish to ask the Senator from Minnesota whether he does not think this provision will have the effect of compelling a corporation that is charged with unfair practice before the commission to fight the case to the bitter end lest it should, by yielding, practically bring into existence a large number of suits against it under the provision which the Senator proposes, and would it be good policy in framing a statute that is intended to be correctional to gradually establish an administrative law upon this subject so that the vast body of business corporations can know as the result of these decisions what they can do and what they can not do? Would it not, as a matter of public policy, be a mistake to force these corporations and individuals and firms into an attitude where they are practically compelled to fight against the charges of the commission lest a finding be made which will insure a large obligation upon their part?

I submit that consideration to the Senator from Minnesota. It seems to me that legislation of this kind might well be deferred until later on, when the commission, having acquired experience in these matters, will, under the power of recommendation, suggest legislation to Congress that will make the act more efficient.

Mr. CLAPP. Mr. President, in response to the Senator's inquiry, of course it must be conceded that in all cases the larger the sum which a defendant may be called upon to pay or the greater the penalty imposed upon a defendant in the case of conviction the more earnestly he will resist the conviction or judgment. That pertains to all litigation. If a concern has been engaged in a practice forbidden by this act, and has invested a large amount of money in the development of that practice, of course it would resist more strenuously an order of the commission which was being made against it than if it had just initiated the practice without any expense when the abandonment of it would involve only the abandonment of possible future profits. But we do not withhold penalties for a violation of law upon the theory that by penalizing an act the man committing the act is going to resist the effort to convict him. We have to meet that in all legislation.

Mr. McCUMBER. Mr. President——

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from North Dakota?

Mr. CLAPP. With pleasure.

Mr. McCUMBER. If I understand the amendment as the Senator now proposes it, it provides that the liability shall be dependent upon the declaration of the commission.

Mr. CLAPP. Yes, sir.

Mr. McCUMBER. In other words, no right of action will accrue until the commission has in some manner declared that an act is unlawful or that it is unfair competition. There is no particular method, I understand, by which the Senator would require them to so declare. Suppose they say in a letter or otherwise that this act is unlawful in that it is unfair competition, and that the person against whom that declaration is made goes into the court, as I believe he absolutely will have a right to do. I do not believe we can deprive the citizen of the right to go into the court to determine whether or not he has been guilty of an offense in some form. The court might hold differently from the commission. What, then, would become of the case of the party who has brought his action in reliance upon the declaration of the commission?

Mr. CLAPP. It would go along with the prohibition of the commission itself. This amendment of mine simply takes the law as it finds it; it simply adapts itself to the law. Whatever weakness there is in the law attaches to the amendment so far as they are related. The law itself provides that the commission upon its hearing shall, if it regards the act as coming within the definition prescribed by the bill, make an order. Whatever order it makes, whether it is a letter or otherwise, if it is an efficient order under the bill, would give the right of action. If it is not an efficient order under the bill, then, of course, it would not give a right of action.

Mr. McCUMBER. Is it not a little broader than that? I think the Senator's amendment provides for the mere declaration of the commission.

Mr. CLAPP. I have put the word "order" in, so that it reads "forbidden by or declared to be unlawful by an order of the commission under this act."

Mr. McCUMBER. I think that would meet the particular suggestion that I made.

Mr. KENYON. Mr. President——

The VICE PRESIDENT. Will the Senator from Minnesota yield to the Senator from Iowa?

Mr. CLAPP. With pleasure.

Mr. KENYON. Will the commission declare any action unlawful? Does not the commission merely find if unfair competition has taken place, and will there not be an objection that will render recovery very difficult to a claimant under the wording the Senator employs? The commission must find it unlawful before any action can be taken.

Mr. CLAPP. No.

Mr. KENYON. I do not understand that the commission ever finds anything unlawful. If it does, we have given it judicial power. We say that unfair competition is unlawful. Now, the commission finds what is unfair competition. I fear there might be difficulty there.

Mr. CLAPP. Ipso facto what the commission says is unfair being forbidden by the act becomes unlawful.

Mr. KENYON. But the commission does not decree it to be unlawful, and under the wording of the Senator's amendment there can be no recovery until the commission decree a matter to be unlawful, as I understand it.

Mr. CLAPP. It is declared to be forbidden by or declared unlawful by order of the commission. I followed the language of the law.

Mr. McCUMBER. Suppose the Senator would simply say what the commission by its order has declared to be unfair competition, that would meet the objection. Then the law itself declares that that shall be unlawful. By that wording the commission would not need to go further than their authority to determine whether or not competition is unfair.

Mr. CLAPP. Congress, if this bill passes, makes unfair competition unlawful. It either defines that or it does not. My own judgment is that it does not, and it requires the subsequent act of the commission to ascertain the fact.

Mr. POMERENE. Mr. President——

Mr. CLAPP. I will yield in just a moment. The moment the commission forbids an act as unfair competition that moment that act does become unlawful. Even under either view of the case it may have been unlawful before the commission made that declaration, but surely after the commission has forbidden it on that ground, it shall not then become lawful. It is to

narrow down the uncertainty and make the provision more certain that I have suggested this amendment.

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Ohio?

Mr. CLAPP Surely.

Mr. POMERENE. I understand the Senator's position to be that the legality or illegality of a given state of facts depends upon whether or not the commission has made an order to that effect.

Mr. CLAPP. That is my view of it.

Mr. POMERENE. Then, if that be so, are we not clearly delegating to this commission authority to legislate?

Mr. CLAPP. That is a question it is impossible to answer "yes" or "no." Congress declares that a rate must be reasonable. Clearly Congress has made an unreasonable rate illegal, but the specific rate before it falls within the ban of that prohibition must be defined by the Interstate Commerce Commission. You may call it a delegation of legislative authority; you may call it a delegation of judicial authority. My own theory of it always was, until we passed the bill for the opening of the Panama Canal, that we prepared the law and simply left to an administrative board the ascertainment of the fact; we declared in advance that the law applied to that fact with certain force, namely, that if made the rate illegal. But in that case we went further; we practically gave the commission the power, upon the ground of the public welfare, to say how long certain limitations should exist.

Of course what is involved in the Senator's question goes to the very meat of section 5. It is not for myself or any one Senator to say, but whether that is a delegation of judicial or legislative authority and how far in such a delegation we have exceeded the right of Congress in delegating power, is a question that has to be settled later by the courts of course. I simply, as I have said before, take the bill with all its doubt and uncertainty, just as I find it, and this provision stands or falls with the bill. It is only to remove any doubt as to whether it was intended that a suit could be brought before an order was made that I have suggested this amendment, so as to place that particular subject beyond the pale of doubt and uncertainty.

Mr. BRANDEGEE. Mr. President, I think in one sense the modification which is submitted by the Senator from Minnesota to his proposed amendment does narrow the effect of his amendment. As it stands as he originally introduced it the party who had been injured in his business or property by the other party could recover damages for any injury that had been committed previously to the order of the commission. The amendment now proposed by the Senator from Minnesota would clearly limit the damages to be collected to such as accrued after the commission had issued its order. In that respect only is it a limitation.

The Cummins amendment, which has been adopted and now stands in section 5, says:

> That unfair competition in commerce is hereby declared unlawful, and the commission after a certain hearing within a reasonable time to be stated in said order shall order the offender to cease and desist from such an unfair competition.

That is the order the commission is authorized to make, and the only one. What the Senator from Minnesota now proposes is that any person injured in business or property by any other person by reason of anything forbidden by the commission, or declared to be unlawful by the commission under this act, may sue and recover. The commission, under this act, has no authority whatever to declare anything to be unlawful. The act itself declares unfair competition to be unlawful. The commission may order the defendant to cease from unfair competition, but it has no authority to declare anything unlawful. If this act attempted to give the commission the authority to say what was lawful and what was unlawful, I think it would be clearly unconstitutional. I think it is unconstitutional now, in that it is to declare what constitutes unfair competition, instead of Congress exercising its legislative function in defining that unlawful act; but under the modification proposed by the Senator from Minnesota it contemplates that clear judicial power shall be vested in the commission.

Mr. CLAPP. Mr. President——

The PRESIDING OFFICER (Mr. CHILTON in the chair). Does the Senator from Connecticut yield to the Senator from Minnesota?

Mr. BRANDEGEE. I do.

Mr. CLAPP. It no more contemplates judicial power in the commission than if we provided in the law regulating transportation that certain things should take effect, that certain rights accrue after it had made an order declaring a rate unreasonble, or now, under the law of 1906, declaring it reasonable. In that act we simply made the broad declaration, leaving it to the commission to ascertain the fact, and no consequences attached by reason of any rate until the commission made its order either declaring the rate unreasonable or declaring the rate reasonable. It is no more a delegation of judicial power than that. We simply give this right of action contingent upon the happening of an event, that event in this case being the declaration that an act is unlawful, or an order forbidding an act under the provisions of the bill itself.

Mr. BRANDEGEE. While the Senator is on the floor let me ask him a question. Does he think that Congress has power to authorize one party to sue another when the President of the United States declares something to be unlawful?

Mr. CLAPP. I have no question at all but what, if in regulating some matter we had declared an act under certain conditions to be unlawful and left it for the President to ascertain the fact upon which our declaration attached, we could give a right of action upon the declaration being made.

Mr. BRANDEGEE. Does the Senator think that Congress can confer upon the executive branch of the Government the power of saying and determining what is lawful and what is unlawful?

Mr. CLAPP. I do not believe myself that there is any sanctity under the Constitution. In the case of the Interstate Commerce Commission, for illustration, we could have decided unreasonable rates unlawful and then have referred it to any body to ascertain that fact. We could refer it to the President, to one of the Secretaries, or to a commission. We simply devolve upon somebody the ascertainment of a fact, saying in advance when you find this fact we declare the law to be so-and-so. It is just as in the case of the maximum and minimum tariff. We fixed a tariff. We can not delegate to the President of the United States the making of tariffs, but we can provide in advance that when any country acts unfairly or discriminates against us in its tariff law a maximum tariff shall go into effect, and we can provide that the evidence of that discrimination shall be the proclamation of the President. It is not delegating to the President the power to put a maximum tariff into effect. We do that under the law. We simply leave him by proclamation to declare a fact in advance, saying when that declaration is made we now declare the maximum tariff shall go into effect.

Mr. BRANDEGEE. Mr. President, in order to make clearly my point again, for I think the attention of the Senator from Minnesota was diverted to some extent by another Senator talking to him when I first arose, I read now from that part of the bill which was the Cummins amendment, but which is now incorporated in the bill. It is upon page 2 of the print of the Cummins amendment. I will read it:

> If upon such hearing the commission shall find that the person, partnership, or corporation named in the complaint is practicing such unfair competition it shall thereupon enter its findings of record and issue and serve upon the offender an order requiring that within a reasonable time, to be stated in said order, that the offender shall cease and desist from such unfair competition.

That is all we have empowered this commission to do. We have declared unfair competition to be unreasonable. We have left it to the commission to determine what, from the testimony before it, may constitute unfair competition. We have ordered, or authorized, them, when they have discovered, in their opinion, a case of unfair competition, to order it to cease.

Now, the Senator says that when the commission shall declare something to be unlawful——

Mr. CLAPP. Or forbid a thing.

Mr. BRANDEGEE. I am reading the part that I object to. I do not object to the Senator including when the commission forbids anything, because I think we have given them the power in the bill to forbid something—that is, to order them to desist from unfair competition—but the Senator proceeds to say when anything has been declared to be unlawful by the commission one party may sue another. There is nothing in the bill authorizing the commission to make any declaration as to what is lawful or unlawful. That is what I object to.

Mr. CLAPP. Under the Cummins amendment there is no question in my mind but what the commission may adopt one of two forms. It can in express terms say this act is unlawful, and we order that it be desisted from, or it might omit the words "this act is unlawful," because we having declared unfair competition unlawful, the commission may content itself with simply forbidding this particular transaction. That is why I used both the expression forbidden by or declared to be unlawful by order of the commission.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from North Carolina?

Mr. CLAPP. With pleasure.

Mr. SIMMONS. I was going to suggest to the Senator from Minnesota language that I think would cover the purpose and remove the objection that has been made.

Mr. CLAPP. What other objections would I then encounter? That is something to consider with reference to the language here.

Mr. SIMMONS. This is by way of suggestion and only by way of suggestion:

Which by order of the commission shall be prohibited as in violation of this act.

Mr. CLAPP. The commission may never make an order in its whole history.

Mr. SIMMONS. That is what it is authorized to do.

Mr. CLAPP. But it may never make an order reciting that the act is forbidden by this law. It may simply forbid the act. It may say the act is unlawful. It may use any form of language which amounts to a prohibition of a continuation of the act.

That is why I adhere to these very terms. They embrace either the one or the other. If the commission declares in express terms that an act is unlawful, then it comes within the purview of those acts declared to be unlawful. If, on the other hand, they simply make an order saying to the defendant, "You must desist from this act, from continuing these transactions"—and, no doubt, they could make such an order, and it would be perfectly effective—it would have the effect of a declaration by them that it did come within the purview of the first provision.

Mr. SIMMONS. If the commission should make an order requiring the respondent to desist, and used that identical language, would not that be really a prohibition?

Mr. CLAPP. Certainly.

Mr. SIMMONS. Then why would not the purpose of the Senator be accomplished if he said, "When the commission shall by order prohibit the unfair competition as being in violation of this act"?

Mr. CLAPP. If they used that language, it would fall within the term "forbidden by"; but they would not have to use that language. They could declare an act unlawful, and the effect of that declaration would be to make it unlawful; there is no question about that, if this bill is good under the Constitution—and, mind you, I am considering it all the time in the light of the objections that may be raised to it in relation to the Constitution.

Mr. McCUMBER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from North Dakota?

Mr. CLAPP. Certainly.

Mr. McCUMBER. Two things we will agree upon: First, that the question whether or not a thing is unlawful is to be determined by Congress and not by the commission. Congress determines by this bill that unfair competition is unlawful; the commission does not determine that unfair competition is unlawful, but Congress determines that. The only thing that is devolved upon the commission is to ascertain a fact; that fact is whether any person or corporation has been guilty of unfair competition. Inasmuch as the only thing that the commission can base its order upon, or take any steps upon, is upon a condition precedent which it must find, that there has been unfair competition, why would not the Senator reach everything that he hopes to reach by his amendment by the simple declaration that whenever the commission has determined by its order that any practice of any person or corporation is unfair competition, the right of action then shall follow? It does not seem to me that it is necessary in order to accomplish what the Senator from Minnesota desires to accomplish to authorize the commission to make a legal declaration as to whether or not an act is unlawful, when everything that it is desired to obtain will be secured by the mere finding of fact as to whether or not a practice constitutes unfair competition. As that is the only thing that the commission can determine, and is the basis of all of its action, it seems to me that that one determination ought to be the basis of any kind of an action for damages.

Mr. CLAPP. Mr. President, that is true in the ultimate scope of the declaration; there is no doubt about that. As a concrete illustration, suppose we take the matter of local underselling. Complaint is made, and the commission finds, in its own mind, that that is a violation of the law. Clearly if the commission could prohibit that in one form of language, it could prohibit it in the other form. It could say, "This is unlawful"; or, instead of saying that, it could say, "This is unfair competition"; or, instead of saying either of those things, the commission could say, "We order you to desist from this practice." There is no question about that.

Mr. WEST. Without ever saying what the practice was?

Mr. CLAPP. Oh, they would describe the practice, of course; but they would not necessarily have to repeat the terms of the law. We have prescribed those terms ourselves. So they could use either of those three forms. That being the case, why should we waste time upon words here when this provision covers it all?

Mr. McCUMBER. Let me ask the Senator a question, coming right to his own illustration of the Interstate Commerce Commission. The Interstate Commerce Commission, when it decides a question, does not declare that a given act is contrary to law; it declares, if a rate is involved, that that rate is unreasonable; and upon that declaration it proceeds to do whatever is necessary to prevent the continuance of the thing which the law has declared to be unlawful. In this case, in every instance, the only thing, it seems to me, that the commission can determine as the basis of its action is that the act constitutes unfair competition. Then, if it has got to declare that an act is unfair competition, I do not believe that it could enter an order saying simply that this act is unlawful; it would have to comply with the statute; it would be compelled simply to find what the law instructs and delegates it to find—whether a certain act constitutes unfair competition, not whether it is unlawful.

Mr. CLAPP. Suppose it did not say, in express terms, "This is unlawful"; then this language simply has no application to such language by the commission. The Interstate Commerce Commission has developed the custom of saying that a given rate, for instance, is unreasonable; but there is no question that the Interstate Commerce Commission, under the law, could say, "This rate is illegal because we find it to be unreasonable." The Interstate Commerce Commission, however, does not repeat the word "illegal," because we have put that into the law; and it follows of its own force that when they find an act unreasonable we have declared it to be illegal.

Mr. CLARKE of Arkansas. Mr. President——

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Arkansas?

Mr. CLAPP. I yield.

Mr. CLARKE of Arkansas. Would it disturb the Senator if I should ask him a question or two?

Mr. CLAPP. Not at all.

Mr. CLARKE of Arkansas. I was very much impressed by the suggestion made by the senior Senator from Missouri [Mr. STONE] when this amendment was last under discussion. He said if a person who was the victim of an unfair trade practice that was subsequently condemned by the commission should bring action in advance of that finding by the commission the courts might decide that the practice of which he complained was not unfair competition, whereas subsequently the commission might decide that it was, and vice versa. It seems to me, therefore, that some notice should be taken of the existence of the commission, either by prohibiting a suit to be brought until after the commission has declared a practice to be unfair competition, and then give a cause of action to all who may have previously suffered, or to give a cause of action dating from that time in the event the offender should persist in the practice after the commission had condemned it. I think full justice would require that after the commission had declared a certain practice to be unfair competition, there should be a right of action on the part of all who have suffered from that particular form of unfair trade; but I am not committed at all to the view that in advance of some finding of that kind everybody could sue everybody else who he supposed to be engaged in unfair competition with him.

Mr. CLAPP. The Senator from Arkansas was out of the Chamber this morning when the matter first came up?

Mr. CLARKE of Arkansas. Yes, sir.

Mr. CLAPP. Personally, I do not believe that any act can be construed as a violation until the commission has passed on it——

Mr. CLARKE of Arkansas. That is quite right.

Mr. CLAPP. But to make that plain in the amendment I have inserted these words:

Anything forbidden by or declared unlawful by an order of the commission under this act.

Mr. CLARKE of Arkansas. That is all right.

Mr. CLAPP. Mr. President, if the Senate is ready for a vote I shall call for the yeas and nays on the amendment offered by the Senator from North Dakota [Mr. McCUMBER] to the amendment offered by me, with the suggestion that if that amendment should be adopted it is very doubtful whether it would add anything to the law; it is very probable at least that, without any express language, a person wronged by a declared violation of the law would be able to recover actual damages, anyway.

Mr. BRADY. Mr. President, I should like to ask the Senator from Minnesota if he does not believe that it would simplify the amendment if he would use the word "unfair" instead of the word "unlawful"?

Mr. CLAPP. No; and for this reason: If this bill passes in its present form, we shall then have declared that an unfair practice is unlawful. The commission acting under that would do one of three things in case it found for the complainant. It would either find that the practice was unlawful—and no doubt it could use that term; it could find that it was unfair and it might use that term; but in all cases it would forbid the continuance of the practice.

Mr. BRADY. Mr. President, I understand the Senator's position very thoroughly; but, on the other hand, in the bill we declare unfair competition unlawful.

Mr. CLAPP. Yes.

Mr. BRADY. We give the commission power only to declare what unfair competition is, and after they have declared that a certain practice is unfair competition, that practice immediately becomes unlawful. So, it seems to me, that it would answer the same purpose which the Senator desires to have the amendment answer to use the word "unfair," and would make it very much more simple and plain.

Mr. CLAPP. But, Mr. President, one of two things is certain: Either, in a concrete illustration that I might call to mind, a given practice becomes unlawful the moment this bill passes or it does not become unlawful until the commission finds that it is an unlawful practice. In either view, when they do find that it is an unfair practice it is unlawful, assuming now that this bill is constitutional.

Mr. BRADY. That is quite true; but we give them power to define what is fair and what is unfair competition; and why not have the amendment so state? The bill so states. Let us have the amendment provide that when the commission finds that competition is unfair, then this amendment shall be effective.

Mr. CLAPP. The amendment is not a grant of power; the amendment acts upon the power previously granted under the bill.

Mr. BRADY. That is exactly my position.

Mr. CLAPP. If the trade commission under the Constitution can find that an act is unfair and that act becomes unlawful, then they have declared that act unlawful.

Mr. BRADY. Certainly.

Mr. CLAPP. If they have not that power, then we declare it unlawful, provided the bill accomplishes anything at all. I have no pride of opinion in the language which I have used here, and I never do have. What I want to do is not to load this bill, but to put at least about a one-horse motor power somewhere in this legislation; and I believe the way to do it is to give the citizen who has been injured the right of action for threefold damages; and to place it beyond any question, both for his sake and for the sake of the public generally, I have, following my view as to the construction of the law, provided in this amendment this morning that that right of action can only be invoked after the commission has made its order.

Mr. BRADY. Personally I have the highest regard for the Senator's judgment in these matters, and I quite agree with him that this amendment should be adopted, and I expect to vote for it; but, on the other hand, I am convinced that it would simplify the amendment very much and make it more satisfactory to this body to use the word "unfair" instead of the word "unlawful," for in the bill we give the commission specific power to determine what "unfair competition" is, and as soon as they have determined that, then in this very bill we say that it is unlawful.

Mr. CLAPP. Mr. President, I have no earthly objection to putting it in this form:

> Forbidden by, declared unlawful, or declared to be unfair competition by an order of the commission under this act.

Mr. BRADY. I think that would make the amendment much more satisfactory and effective.

Mr. CLAPP. I ask unanimous consent to modify the amendment in that way.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. SHIELDS. Mr. President, in my remarks on Friday last in regard to section 5 of this bill I stated that if the first paragraph of that section was not void because of its vagueness and uncertainty, if it was constitutional and meant anything in a legal sense, it created a multitude of new civil and criminal causes of action. I presented no authorities at that time, not having investigated the question. I now wish to call attention to some authorities upon the subject, for I think the proposition I then announced is sound and is well sustained by the authorities.

In my opinion, the amendment offered by the Senator from Minnesota [Mr. CLAPP] does not enlarge the bill, but rather has a restrictive effect, except as to the measure of damages.

I will read first from a case decided by the Supreme Court of Tennessee, the opinion having been delivered some years ago, in 1895, by Judge William K. McAlister, a very distinguished jurist, then a member of that court. It is to be found reported in Ninety-fifth Tennessee Reports. It has, however, on account of its importance and the sound reasoning and logic contained in the opinion, been selected as one of the cases to be reported in the Bancroft and Whitney series of reports. It has also been selected to appear in the Lawyers' Reports Annotated.

This case arose under the child-labor law of Tennessee. The statute prohibited the employment of children under a certain age in the mines. A child under this age was injured while in such employment, and an action was brought against the mining company to recover damages. The theory of the case was that the defendant company was engaged in an unlawful act when it employed a child, an act prohibited by law, as this bill undertakes to prohibit unfair competition, and that that was negligence per se, and entitled the plaintiff to recover if a causal connection could be shown between the violation of the law and the injury sustained, which, of course, must be done in all these cases.

The counsel for plaintiff requested the court to charge as follows:

> I instruct you that the laws of the State of Tennessee prohibit the employment of any child under 12 years of age in any mine in this State, and any such employment by the defendant company would be gross negligence.

That proposition was not altogether sound law, but the response of the court contained error, for which judgment in favor of the defendant below was reversed. I read from the opinion:

> The refusal of the court to give the instruction asked and the remarks made in refusing it constitute the basis of the principal assignment of error. The question presented is one of first impression in this State, but it has been frequently adjudged in other States, and is well settled upon principle. It is laid down in Comyn's Digest "that in every case where a statute enacts or prohibits a thing for the benefit of a person, he shall have a remedy upon the same statute for the thing enacted for his advantage or for the recompense of a wrong done to him contrary to the said law." Mr. Francis Wharton, the eminent text-writer, in his work on Negligence, section 443, states the rule thus: "Where a statute requires an act to be done, or abstained from, by one person for the benefit of another, then an action lies, in the latter's favor, against the former for neglect in such act or abstinence, even though the statute gives no special remedy. Thus in an action against a public officer for neglect, whereby the plaintiff was injured, it is no defense that the defendant contracted, not with the plaintiff, but with the Government; the action being founded not on contract, but on breach of duty. Even the imposition of a penalty by the statutes does not oust the remedy by indictment, nor, a fortiori, by suit for negligence, unless the penalty be given to the party injured in satisfaction for injury."
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> Says Mr. Bishop, in his work on Noncontract Law, section 132: "Whenever the common law or a statute imposes on one a duty, if of a sort affecting the public within the principle of the criminal law, a breach of it is indictable, and a civil action will lie in favor of any person who has suffered especially therefrom; or if the matter of the law involves only the interests of individuals, anyone who has received harm from another's disobedience may have his suit against him for the damages." This question was considered in Pauley *v.* Steam Gauge, etc., Co. (131 N. Y., 90). In that case it appeared that a statute of New York required that fire escapes should be provided on the outside of all factories three or more stories in height. The act imposed penalties for a disobedience of its provisions. The defendant failed to construct fire escapes on its building, as required by the statute. It caught fire, and plaintiff, intestate, was burned to death. The court said: "I am unable to agree with the contention of appellant that the sole remedy under the statute was the public remedy, which consisted of an enforcement of the penalties provided. The requirement of fire escapes was for the direct and special benefit of the operatives in such factories, and intended for their protection, and the rule applies that when a statute commands or prohibits a thing for the benefit of a person he shall have a remedy upon the same statute for the thing enacted for his benefit, or for a wrong done him contrary to its terms." See also Willy *v.* Mulledy (78 N. Y., 310; 34 Am. Rep., 536).
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> As another illustration of the rule, it has been repeatedly held that the running of a railroad train within city limits at a rate of speed prohibited constitutes negligence per se, and gives a right of action to anyone suffering injuries in consequence thereof. (1 Thompson on Negligence, sec. 8, p. 506.)
>
> So we think the employment of this minor in violation of the provision of the statute in question was an act of negligence on the part of the defendant; and a casual connection between the employment and the injuries sustained by the boy being shown, a case of liability is made out.

Again the court, in conclusion, says:

> A proper request would have made the breach of the statute actionable negligence or negligence per se.

In looking into the matter this morning I not only found this case, which of course I remembered, but quite a number of others to the same effect from several different States, and there seems to be no doubt about the principle being well settled and well sustained by the authorities.

I am also of the opinion, Mr. President, that section 5 creates a misdemeanor, and that if this bill becomes a law and the court holds that the first paragraph of section 5 is constitutional and means something, and that the commission to be created in the legislative discretion and power clearly vested in it has the right to declare what conduct shall be in violation of it, then anyone who may have done what they may declare to be unfair competition is subject to indictment for a misdemeanor and to prosecution in the Federal court.

Now, I wish to read from the case of State against Peter Fletcher, to be found reported in Fifth New Hampshire. The facts and the statute are stated in the opinion:

But there is another clause in the statute, which provides "that it shall be unlawful for any person to exercise the business of a taverner, etc., without license." And it is declared that the selectmen of any town, on application, may license any person of good moral character to exercise the business of a taverner in such town on the receipt for the use of the town of a sum not exceeding five nor less than two dollars. And the question is whether the indictment can be sustained upon these clauses in the statute. There is no doubt that these clauses in the statute were intended by the legislature to prohibit the exercise of the business of a taverner without a license. And although no penalty is enacted by the statute for any disobedience to its provisions in this respect, yet still it is settled that such disobedience is an indictable offense. The rule is that wherever a statute prohibits a matter of public grievance to the liberty and security of the people or commands a matter of public convenience without enacting any penalty for disobeying its prohibitions or commands, an offender against such statute is punishable by way of indictment for his contempt of its enactments and may be sentenced to pay a fine for his offense.

And to sustain this holding the Supreme Court of New Hampshire cites Hawkins, P. C., and quite a number of English cases.

With the indulgence of the Senate, I shall read a little further about the same subject from Russell on Crimes under the heading of "Test of indictability" for breach of statutes:

In R. *v.* Hall (e), Charles, J., adopted the rule laid down in Second Hawkins, chapter 25, section 4, that "it seems to be a good general ground that wherever a statute prohibits a matter of public grievance to the liberties and security of a subject, or commands a matter of public convenience, as the repairing of the common streets of a town, an offender against such statute is punishable not only at the suit of the party aggrieved, but also by way of indictment for his contempt of the statute, unless such method of proceeding do manifestly appear to be excluded by it"; and the law as laid down in R. *v.* Hall has been accepted as correct.

Where an act or omission, which is not an offense at common law is made punishable by a statute, the questions arise whether the criminal remedies are limited to the particular remedy given by the terms of the statute; or, in other words, whether the remedy given by the statute is exclusive of or alternative to other remedies given by other statutes or the common law. It has been laid down that where an act or omission is not an offense at common law, but is made an offense by statute, an indictment will lie where there is a substantive prohibitory clause in such statute, though there be afterwards a particular provision and a particular remedy given. "Where a duty is created by statute which affects the public as the public, the proper mode, if the duty is not performed, is to indict or take the proceedings provided by the statute." Thus an unqualified person may be indicted for acting as an attorney contrary to the solicitors' act, 1843 (6–7 Vic., c. 73), section 2, although section 35 and section 36 enact that in case any person shall so act he shall be incapable of recovering his fees, and that such offense shall be deemed a contempt of court and punishable accordingly. And a clerk to borough justices has been held liable to indictment for being interested in the prosecution of offenders committed by borough justices, as he was not liable to the particular penalty prescribed by section 102 of the municipal corporation act, 1835 (5–6 Will. IV, c. 76). When a new offense is created by statute and a penalty is annexed to it by a separate and substantive clause, it is not necessary for the prosecutor to sue for the penalty; but he may proceed on the prior clause on the ground of its being a misdemeanor. And wherever a statute forbids the doing of a thing, the doing it willfully, although without any corrupt motive, is indictable.

And for a page more cases are cited sustaining the proposition that wherever by statute an act is commanded or prohibited which at common law was not unlawful, it immediately, without further provision in the law, creates both civil and criminal action; and, there being no penalty prescribed, in criminal actions the punishment is by fine.

Now, if this bill creates a criminal offense, the common law will apply just as it was applied in the Standard Oil case. When Congress declares an act to be unlawful, we look to the common law to see what would be the proper construction of the act and what would be the result.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER (Mr. WALSH in the chair). Does the Senator from Tennessee yield to the Senator from Iowa?

Mr. SHIELDS. I do.

Mr. CUMMINS. The Senator from Tennessee, as I understand the matter, is entirely right, so far as the common law is concerned. When an act was declared to be unlawful, even though there were attached to it no provisions for indictment or punishment, it became indictable and punishable under the common law. I think most of the States of the Union have a statute which declares that anything which is pronounced unlawful becomes a misdemeanor and punishable by either fine or imprisonment, according to the terms of the statute; but we have no such statute, as I think, of the United States. I supposed there was a general statute of that sort in the Federal law, but I have looked in vain for it, and I think the search of others has been equally unsuccessful.

Mr. SHIELDS. In an examination of the statutes this morning I found none.

Mr. CUMMINS. We have, therefore, no statute in the United States making an act declared to be unlawful punishable by either fine or imprisonment, and we have no common law, so far as crimes are concerned, in the United States. I believe, therefore, the act that is here declared to be unlawful, while it would give rise to a civil action for damages—I have no doubt about that—could not be punished as a criminal act. I reached that conclusion after a somewhat careful investigation when these bills were in course of preparation. I ask the Senator from Tennessee whether he has examined and reflected upon that phase of the matter?

Mr. SHIELDS. I was proceeding, when the Senator interrupted, to give the reasons why I thought this statute created an offense against the United States. Upon the authority of the Standard Oil case and the cases there cited and others to be found in the books, we look to the common law to aid us in construing an act of Congress. We look to see what construction the common law has given statutes couched in similar words and phraseology. We will in this case look to the common law to see what "unlawful" means in the sense here used. We have just as much right and there is as much authority for looking to the common law to aid in the interpretation and construction of a statute of this kind as one creating a civil action. The Sherman law is primarily a criminal statute. When we do this we find that it is clear and plain that the declaration that a certain act is unlawful, or prohibiting it, which is the same thing, makes it a misdemeanor and punishable by fine. It seems to me, therefore, that this bill broadly makes all conduct that at any time the commission may say is unfair competition a misdemeanor and a cause of civil action sounding in damages. The district courts of the United States under section 24, subsections 1 and 2, will have jurisdiction of all such cases. It is said that acts of unfair competition are so many that they can not be numbered, as well as that it is impossible to define them. Then here, by one fell swoop, we create innumerable causes of both civil and criminal actions. We make misdemeanors and civil actions of matters that have heretofore been thought innocent and that have been practiced by many of the business men of this country. More than that, the statute is so vague and so indefinite that we give no notice to the people who are to be affected of the offenses of which they may be guilty.

If I properly comprehend the amendment of the Senator from Minnesota [Mr. CLAPP], it is a limitation of civil actions to those cases only wherein the commission, after considering the matter, say the facts constitute unfair competition; and without considering it fully, it seems to me that would lessen the evil of this statute to that extent.

However, if we grant that the statute of itself does not create a misdemeanor, this amendment would make it quasi-criminal. The damages that a man ordinarily has a right to recover is compensation for the injury he actually sustains. That is the proper measure of damages in all actions that are purely civil in their nature. By this amendment threefold damages are given. Two-thirds of this is penal. It is to punish; and if it be adopted we certainly will have criminal offenses as well as civil actions created by the law.

Mr. President, under the substitute that was offered by the Senator from Nevada [Mr. NEWLANDS], only corporations were within the law. Now, under the amendment offered by the Senator from Iowa [Mr. CUMMINS], every little trader throughout all the States of this Union is brought within it. Every farmer living along the border line of States who is in the habit of dealing in stock, and sells to his neighbors over on the other side of the line, is subject to visitation and to have his books inspected. He is required to keep all the papers upon which he has made a calculation in regard to a bunch of cattle that he has sold to his neighbor across the line, or he is guilty of a high misdemeanor.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Iowa?

Mr. SHIELDS. I do.

Mr. CUMMINS. I think the Senator from Tennessee is in error about that. The amendment which I proposed, and which has been adopted, does not enlarge the inquisitorial powers of the commission in any fashion. Those powers are still confined to corporations.

Mr. SHIELDS. The Senator misunderstood me. I meant it extended to individuals, while the amendment offered by the Senator from Nevada referred to corporations only.

Mr. CUMMINS. But the Senator from Tennessee has just said that the books and accounts of the private farmer who might live along the line of a State would be opened for investigation.

Mr. SHIELDS. Yes; and I so understand the bill.

Mr. CUMMINS. Under, I assume, the previous sections of the bill.

Mr. SHIELDS. Is there anything in the bill that limits these searches and investigations to corporations?

Mr. CUMMINS. Why, certainly. The bill, so far as investigations are concerned, is limited to corporations. It has not been changed in that respect. When, however, we come to announce a rule with regard to unfair competition and declare it to be unlawful, it is applied to all persons, partnerships, and corporations, because a person or a partnership may be guilty of unfair competition just as a corporation may, and if so, that person or partnership ought to be controlled and governed by the same rule of law. With regard to inquiries made by the commission into the affairs of business, however, the bill is still limited to corporations.

Mr. SHIELDS. Mr. President, I do not so understand it; but I hope that such is a proper construction of it, for I wish to see the evil of this bill limited as much as possible. But whether the visitation, the searching of private papers, the annoyance of reports authorized by this bill extends to partnerships and individuals who do business in more than one State is immaterial. The penalties apply to them.

Mr. WEST. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Georgia?

Mr. SHIELDS. I do.

Mr. WEST. If an individual were charged with being guilty of an unlawful act, how could that be ascertained, unless he were investigated, unless they went into his books and his accounts?

Mr. SHIELDS. I think all the provisions of the bill apply to individuals. I will not state this positively. When this amendment was adopted upon Saturday I was necessarily absent from the Chamber, and I have not gone over it and compared it with the other provisions of the bill. The Senator from Iowa, the author of the amendment, and who has taken great interest in this bill, knows more about it than I do; but it is immaterial as to the visitation and searches. The farmers and stock traders who do business in two States are all included and are all subject to the first paragraphs of the bill, denouncing unfair competition, as construed by the advocates of the bill.

Mr. McCUMBER. Mr. President, differing from the Senator from Minnesota, whose conclusion is that under the bill as it now stands and as it has been amended by the amendment offered by the Senator from Iowa no right of civil action would accrue until after an order or finding had been made by the commission, I am equally certain that as the bill now stands an action would lie immediately by any person aggrieved in a civil action to recover simple damages for whatever injury he had sustained through the unlawful acts of a competitor.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Iowa?

Mr. McCUMBER. I yield.

Mr. CUMMINS. I hope the Senator from North Dakota will not think that I have held or announced any doctrine different from the one just stated by him.

Mr. McCUMBER. Oh, no. I was stating the position of the Senator from Minnesota, not that of the Senator from Iowa.

Mr. CUMMINS. I believe that when the act of unfair competition is declared to be unlawful anyone who is injured by the act can sue for his damages and recover them.

Mr. McCUMBER. I know of no general principle of law that is better established than that when the legislative department of a State declares that a mere ethical or moral wrong shall become a legal wrong, that declaration gives a right under the law to recover damages whenever damages have been sustained by reason of the act which is made a legal wrong. It is taken without the category of mere moral wrongs and becomes a legal wrong, and as such a right of action must necessarily ensue, or else we are in the position that there are some legal wrongs without a remedy.

Mr. CLAPP. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Minnesota?

Mr. McCUMBER. In just a moment.

Mr. CLAPP. I want to correct the Senator as to my view. I quite agree with the Senator. The only question is whether or not this act, per se, does make certain things a violation of it. That is where he and I would differ.

Mr. McCUMBER. Yes; I understand that. But there is one clear declaration standing unconditioned, namely, that unfair competition is unlawful. That being so, it makes unfair competition illegal and a legal wrong; and a remedy, according to my construction of the law, must necessarily follow in case an injury has been committed. But, Mr. President, as the bill now stands no one knows what unfair competition is. No one will ever know until that question has been determined in some manner, either by a court or by this commission. It was under that state of affairs that I thought the doing of an act which the offender could not by any possibility know was an offense under the law ought not to be followed with such heavy punishment as treble damages.

The amendment as modified by the Senator from Minnesota at least has the virtue that it does make the matter definite, that no right of civil action will accrue until the commission has crystallized the idea of unfair competition into some kind of an action which constitutes the unfair competition, so that the party suing and the offender will at that time know at least what the commission believes to be unfair competition

With that change of condition, if both the parties understand beforehand what constitutes unfair competition, at least through the advise of this commission, I am not prepared to say that treble damages would be wholly improper. Therefore, with the consent of the Senate, if the amendment is to be adopted by the Senator himself, or if he is to ask that his own amendment be modified—and I understand he has done that——

Mr. CLAPP. I have made that request.

Mr. McCUMBER. And that there is no objection to it—if it is so modified, I would then ask to withdraw my amendment striking out the word "threefold."

The PRESIDING OFFICER. The Senator from North Dakota asks leave to withdraw his amendment. The Chair hearing no objection, the amendment is withdrawn.

Mr. NEWLANDS. Mr. President, I wish to ask the Senator from Minnesota whether his amendment as finally shaped will subject a man whose practice is determined to be unlawful by the commission to damages for acts committed prior to the order of the commission?

Mr. CLAPP. Why, Mr. President, there would be no deterring force in the amendment if it applied only to acts committed after they had been practically enjoined by operation of law. My purpose in this amendment is not so much to give the right to people to recover damages as to put into the law a deterring force or a stimulus, an inspiration of obedience to the law and to the enforcement of the law.

Mr. HUGHES. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from New Jersey?

Mr. NEWLANDS. I yield.

Mr. CLAPP. Just a moment. The man who violates this law must be in precisely the same position as the man who commits a willful trespass. He has to respond in threefold damages—not for what he does after the court has stopped the trespass, but for what he did while he was committing the trespass, of course.

Mr. HUGHES. Will the Senator permit me to ask him a question?

Mr. CLAPP. Yes.

Mr. HUGHES. Do I understand that the Senator wishes, by means of the pending amendment, to permit a man to recover threefold damages for some conduct or practices which took place before the passage of this law, for instance?

Mr. CLAPP. Before the passage of the law? Why, no; of course not. I could not do that.

Mr. HUGHES. I am not so sure that the Senator could not.

Mr. CLAPP. That would violate the Constitution.

Mr. HUGHES. I do not know that it would. There is a very interesting decision on that very point, and I want to make that clear, because that seems to me to be the great objection to the Senator's amendment. If certain practices are going on now and those practices should afterwards be declared unlawful or unfair competition, or, in other words, should come within the provisions of the Senator's amendment, would not his amendment then give a right of action for unfair competition to some men who were injured by those practices going on now, subsequently declared unlawful, and afterwards sued upon?

Mr. CLAPP. Why, no; because that would apply a penalty to something at a time when there was no legal prohibition.

Mr. HUGHES. I am not speaking of a criminal offense. I am speaking of a civil action.

Mr. CLAPP. Well, this is criminal in the sense that it is a violation of the law, and a penalty attaches.

Mr. HUGHES. If the Senator does not mean to do that, I think he ought to modify his amendment.

Mr. CUMMINS. Mr. President, may I interject a word?

The PRESIDING OFFICER. Does the Senator from Nevada yield, and to whom?

Mr. NEWLANDS. I yield to the Senator from Iowa.

Mr. CUMMINS. These acts do not become unlawful until the passage of the law.

Mr. CLAPP. Of course not.

Mr. HUGHES. Not necessarily.

Mr. CUMMINS. They can not become unlawful under the law until it is passed.

Mr. HUGHES. Very well; but this does not make it unlawful. It seeks to give a man a right to recover damages for certain conduct; and if that conduct afterwards is declared to be unlawful, any man who has been injured by that conduct—it does not say since it was unlawful, but any man who was injured by that conduct—shall have his remedy. Now, if the Senator does not want to reach back into the past, as I did not think he did, he should say so, it seems to me.

Mr. CUMMINS. There is no possibility that the act could receive a construction of that kind. So long as the suit under the act concerns conduct made unlawful by the act there could be no right of action under the act until it becomes a law.

Mr. HUGHES. I should like to clear up this point. The amendment reads that—

> Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act.

The acts complained of have been performed. Here is the law and these are the practices, and they were afterwards declared unlawful by the terms of this amendment. We give simply the right to sue upon it, regardless of the statute of limitations which runs against them, regardless of when the acts were done or performed.

Mr. CLAPP. This is a prohibition making things unlawful. We pass a law to-day making a thing unlawful. No one would think of saying in that law that it should not apply to acts heretofore committed, per se under the spirit of our laws it can only make it unlawful from this time on.

Mr. HUGHES. I certainly would like to see the provision made clear. I wish to call the Senator's attention to a decision of the Supreme Court. I will give the Senator the citation and he can look it up. The United States Supreme Court has held that a change in a statute of limitations might operate to revive a cause of action otherwise barred.

Mr. CLAPP. Certainly a change in the statute of limitations may revive what once existed, but there will never be a moment when these things are unlawful until the bill is passed.

Mr. HUGHES. But the Senator's amendment changes all that.

Mr. CLAPP. Not at all.

Mr. HUGHES. But by the Senator's amendment certain conduct, certain practices, are declared unlawful.

Mr. CLAPP. Suppose instead of this amendment some one would suggest a complete penal clause that anyone guilty under this act should be punished by a fine of $1,000, would the Senator think it was necessary to insert there that that penalty should not apply to acts done before they were declared unlawful?

The PRESIDING OFFICER. The Chair feels like admonishing Senators that the Senator from Nevada [Mr. NEWLANDS] has the floor.

Mr. CLAPP. I have been occupying it in the time of the Senator from Nevada.

The PRESIDING OFFICER. It has been occupied simply by his courtesy. The Senator from Nevada will proceed.

Mr. NEWLANDS. Mr. President, I hope this amendment will not be adopted. I do not think it is in accord with the general theory of this bill. This bill is not intended to be a bill defining crimes and misdemeanors, nor is it a bill that is intended to be punitive in character. It is a bill that is educational and corrective in character, and we wish through it to establish administrative law upon the subject so that every man engaged in trade in the country can have a proper understanding of what the law allows and what the law forbids.

We have the antitrust law, which is not only a civil but a criminal statute, and which provides against monopolies and restraints of trade by civil remedy. It provides a civil remedy to be pursued by the Attorney General and also provides for criminal punishment. Any of these acts complained of covered by this section which amount to restraint of trade can be punished under the antitrust law. It seems to me it might well be left to the process of evolution, to the process through which this commission will go in the next few years to determine whether or not it should be strengthened by provisions that are punitive in character.

It is true that the provision added by the Senator from Minnesota [Mr. CLAPP] does not constitute an offense a crime or a misdemeanor, but it is highly punitive. It gives every man who is aggrieved a cause of action for three times the damages.

Mr. President, there are many practices that are on the borderland between fair and unfair. I hope that line, in the process of evolution and of administration, will be in the future very clearly defined; but until it is clearly defined I do not think it quite fair to subject the merchants and business men of the country to the danger of an imposition of a judgment aggregating three times the actual damage sustained. If that rule is to prevail why should not we apply it generally? The man who refuses to pay his debt does a dishonest and fraudulent thing. Why should we not recover judgment in three times the amount due? Why should we not give every action of tort recovery in the actual damage three or four times the amount of the damage actually sustained?

It does seem to me that this principle can be generally applied, but experience has not shown that we ought to apply it in this particular class of cases. When it does show it then we can avail ourselves of that experience.

Mr. President, so far as competition is concerned, we know that for a long time it has been almost the accepted doctrine of business men that competition means warfare, that it is characterized by the brutality of warfare, and we propose gradually, through the enlightened processes this commission will pursue, to establish civilized warfare. Now, why can not we wait until we make some progress on that line before we bring to bear upon this question of unfair competition either the terrors of the criminal law or the terrors of the civil law by imposing upon possible offenders three times the damage actually sustained?

This is a measure that it would be better to consider when the Clayton bill is up. The purpose of this bill is simply to give this commission inquisitorial powers not over business in general but over corporations, with a view to checking restraints of trade, and with a view of doing away with unfair competition. It seems to me we ought to confine this bill to that purpose, and make it educational and corrective and not highly punitive in character.

Mr. CLAPP. Mr. President, as the suggestion has been made by the Senator from New Jersey, and you can not make a law too plain to suit me, while I do not think this law could be construed retroactive, I am going to ask permission, in line 1, after the word "shall," to insert "hereafter," so that it will read "any person who shall hereafter be injured," and so forth.

The PRESIDING OFFICER. In the absence of objection, the amendment will be so modified.

Mr. CLAPP. I do not care to discuss it further, except in response to the Senator from Nevada to say that when we passed the Sherman antitrust law we put this same provision in it. That was aimed at combinations, conspiracies, and agreements. It has been found that a condition of subterranean practices have been put into operation, and it is now necessary to reach them.

I am in hearty accord with the spirit which actuated the Senator from Nevada in reaching that condition. Instead of waiting until the horse has been stolen and then locking the door, my impression is that the thing to do is to lock the door in advance. Instead of waiting until the practices have grown up under this commission, I believe the provision should be put into the law at this time, and that is the purpose of this amendment.

I call for the yeas and nays.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Minnesota, on which he demands the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHAMBERLAIN (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. In his absence I transfer that pair to the Senator from Indiana [Mr. SHIVELY] and vote "nay."

Mr. SMITH of Georgia (when his name was called). I have a general pair with the senior Senator from Massachusetts

[Mr. LODGE]. I transfer that pair to the junior Senator from Kentucky [Mr. CAMDEN] and vote. I vote "nay."

Mr. SMITH of Maryland (when his name was called). I have a pair with the Senator from Vermont [Mr. DILLINGHAM] which I transfer to the Senator from Alabama [Mr. BANKHEAD] and vote "nay."

Mr. STERLING (when his name was called). I am paired with the junior Senator from Mississippi [Mr. VARDAMAN]. Not knowing how he would vote on this question, I withhold my vote.

Mr. STONE (when his name was called). I have a general pair with the Senator from Wyoming [Mr. CLARK] and withhold my vote.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT], who is absent. I am informed that he is in accord with me upon this amendment. I will therefore vote. I vote "nay."

Mr. JONES (when Mr. TOWNSEND's name was called). I desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent. He is paired with the junior Senator from Arkansas [Mr. ROBINSON]. I will let this announcement stand for the day.

Mr. CHAMBERLAIN (when Mr. VARDAMAN's name was called). I was requested to announce that the junior Senator from Mississippi [Mr. VARDAMAN] has been called away on official business. He is paired.

Mr. WILLIAMS (when his name was called). Announcing my pair with the senior Senator from Pennsylvania [Mr. PENROSE], and transferring it to the junior Senator from South Carolina [Mr. SMITH], I vote "nay."

The roll call was concluded.

Mr. SAULSBURY (after having noted in the negative). Has the junior Senator from Rhode Island [Mr. COLT] voted?

The VICE PRESIDENT. He has not.

Mr. SAULSBURY. I thought he was in the Chamber. I have a general pair with that Senator. I transfer my pair to the Senator from Virginia [Mr. MARTIN] and allow my vote to stand.

Mr. SWANSON. I desire to announce that my colleague [Mr. MARTIN of Virginia] is unavoidably detained from the Senate. If he were present, he would vote "nay."

Mr. PAGE. I wish to announce the necessary absence of my colleague [Mr. DILLINGHAM], and to state that he is paired with the senior Senator from Maryland [Mr. SMITH].

Mr. WHITE. I wish to announce that my colleague [Mr. BANKHEAD] is necessarily absent and that he is paired.

Mr. KERN. I desire to announce the unavoidable absence of my colleague [Mr. SHIVELY], who is paired. This announcement may stand for the day.

Mr. SUTHERLAND (after having voted in the negative). I inquire whether the Senator from Arkansas [Mr. CLARKE] has voted?

The VICE PRESIDENT. He has not.

Mr. SUTHERLAND. I have a pair with that Senator. I will transfer it to the Senator from Illinois [Mr. SHERMAN] and allow my vote to stand.

Mr. JAMES. I desire to announce the necessary absence of my colleague [Mr. CAMDEN], and to state that he is paired. This announcement may stand for the day.

Mr. GALLINGER. I was requested to announce the following pairs:

The junior Senator from Maine [Mr. BURLEIGH] with the junior Senator from New Hampshire [Mr. HOLLIS];

The Senator from Delaware [Mr. DU PONT] with the Senator from Texas [Mr. CULBERSON];

The Senator from West Virginia [Mr. GOFF] with the Senator from South Carolina [Mr. TILLMAN];

The Senator from Michigan [Mr. SMITH] with the Senator from Missouri [Mr. REED]; and

The Senator from Wyoming [Mr. WARREN] with the Senator from Florida [Mr. FLETCHER].

Mr. REED (after having voted in the affirmative). I voted without noticing that the Senator from Michigan [Mr. SMITH] is out of the Chamber. I will therefore withdraw my vote unless it is necessary to cast it to make a quorum.

Mr. CATRON (after having voted in the affirmative). I have a pair with the senior Senator from Oklahoma [Mr. OWEN], and when I voted I understood that he was in the Chamber. I understand that he has not voted. I transfer my pair to the Senator from California [Mr. WORKS] and allow my vote to stand.

Mr. REED (after having voted in the affirmative). I transfer my pair to the Senator from Arizona [Mr. ASHURST] and allow my vote to stand.

The result was announced—yeas 18, nays 41, as follows:

YEAS—18.

Brady	Cummins	Kenyon	Norris
Bristow	Fall	Lane	Reed
Catron	Gronna	McCumber	Thompson
Clapp	James	Martine, N. J.	
Crawford	Jones	Nelson	

NAYS—41.

Brandegee	Lee, Md.	Ransdell	Swanson
Bryan	Lewis	Saulsbury	Thomas
Burton	Lippitt	Shafroth	Thornton
Chamberlain	McLean	Sheppard	Walsh
Chilton	Myers	Shields	Weeks
Gallinger	Newlands	Simmons	West
Hitchcock	O'Gorman	Smith, Ariz.	White
Hughes	Overman	Smith, Ga.	Williams
Johnson	Page	Smith, Md.	
Kern	Perkins	Smoot	
Lea, Tenn.	Pomerene	Sutherland	

NOT VOTING—37.

Ashurst	du Pont	Penrose	Sterling
Bankhead	Fletcher	Pittman	Stone
Borah	Goff	Poindexter	Tillman
Burleigh	Gore	Robinson	Townsend
Camden	Hollis	Root	Vardaman
Clark, Wyo.	La Follette	Sherman	Warren
Clarke, Ark.	Lodge	Shively	Works
Colt	Martin, Va.	Smith, Mich.	
Culberson	Oliver	Smith, S. C.	
Dillingham	Owen	Stephenson	

So Mr. CLAPP's amendment was rejected.

Mr. NEWLANDS. I offer as an amendment, on page 14, line 1, that the word "approved" be stricken out and the word "of" be inserted. The word "approved" is an improper word in that place. It is used with reference to the so-called Wilson Act which was not approved by the President but which became a statute by operation of law.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 14 in the committee amendment, line 1, strike out "approved" and insert "of."

The amendment to the amendment was agreed to.

Mr. CRAWFORD. I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. Amend section 6 by adding at the end thereof the following:

That whenever in any suit brought by or on behalf of the United States under this act there shall have been rendered a final judgment or decree to the effect that a defendant has been guilty of unfair competition or used unfair methods of competition, said judgment or decree shall, to the full extent to which such judgment or decree would constitute in any other proceeding an estoppel as between the United States and such defendant, constitute against such defendant evidence of the same facts, and be conclusive as to the same questions of law in favor of any other party in any action or proceeding brought under or involving the provisions of this act.

Mr. CRAWFORD. Mr. President, that is so drawn that it can not interfere with the antitrust act, so called. I understand that is the reason why language has been placed in this bill making the orders and decrees ineffectual so far as the enforcement of the antitrust act is concerned. But it seems to me that if this law is to amount to anything at all, after an issue has been adjudicated between the Government and the defendant, when the time has been spent and the money has been expended and a judgment in the courts has been rendered, that judgment ought to be available to an aggrieved party so far as it is conclusive upon that particular issue and the facts established by it. It seems to me when we refuse to go that far we are simply admitting in advance that we are firing blank cartridges and receive no results.

The VICE PRESIDENT. The question is on the amendment presented by the Senator from South Dakota.

Mr. CUMMINS. I ask that the amendment be again read.

The VICE PRESIDENT. The Secretary will state the amendment.

The Secretary again read Mr. CRAWFORD's amendment.

Mr. NEWLANDS. I should like to have an opportunity of looking over it carefully and conferring with my associates on the committee. It is my present impression that I will be opposed to it, but I am not sure of its significance.

Mr. SUTHERLAND. Before the matter goes over I should like to ask the Senator from South Dakota a question. Do I understand that it is the purpose of the amendment to make the judgment—the action between the Government and the corporation—not only conclusive evidence as to the fact, but conclusive upon questions of law involved?

Mr. CRAWFORD. On questions of law also. It is practically a copy of a section of the Clayton bill as it passed the House, but confining it to actions brought under this act.

Mr. SUTHERLAND. I think we can probably make the judgment evidence so far as questions of fact are concerned, but

does the Senator from South Dakota think that upon questions of law we can preclude the courts from acting upon their independent judgment as to what the law is in another case between different parties?

Of course, the rule is well settled that where the court has determined the law in a particular controversy that determination becomes the law of the case in all subsequent proceedings in that controversy; it becomes the law of the case whether it be in fact the law or not—that is, whether it should turn out afterwards to be in conformity with the principles of law, the rule is undoubted that it becomes the law of that case. If I understand the amendment of the Senator, it undertakes to make the law of the case not only the law of that particular case, but the law of all subsequent cases which may come up involving the same state of facts, although between different persons.

Mr. CRAWFORD. I will say, if the Senator will permit me, that what I had in mind when I drew the amendment was the possibility of the amendment offered by the Senator from Minnesota [Mr. CLAPP] being adopted. Under that amendment, suppose the Government brought an action charging the defendant with unfair competition, established the charge, and proved a given state of facts, then a citizen would have the right to bring a suit for treble damages growing out of that same state of facts, and the judgment in favor of the Government and the findings, both as to matters of law and fact, would be competent and conclusive in the suit of the citizen as evidence to establish what had been determined in the previous suit; that is, it could be offered in behalf of the complainant who had brought his suit for damages.

Mr. SUTHERLAND. I have not observed the reading carefully, but does the Senator's amendment also include the findings and judgment of the commission?

Mr. CRAWFORD. No.

Mr. SUTHERLAND. Only the court?

Mr. CRAWFORD. Just merely the decision of the court upon the law and facts.

Mr. SUTHERLAND. Well, it seems to me that there will be a distinction between the effect of the judgment upon matters of fact and its effect upon matters of law. In other words, to say that a judgment shall be evidence upon matters of fact is to lay down the rule of evidence, while to say that it shall be conclusive in a given case upon the question of law that was decided, it seems to me, would present an altogether different question. The effect of it would be an attempt to preclude the court from deciding the law in a different case.

Mr. CRAWFORD. It is practically the same case, so far as the facts and so far as the law are concerned, except that the first case was between the Government and the defendant and this case is a case brought by an individual to recover upon exactly the same facts, and the judgment and findings are made competent testimony in the second suit.

Mr. CUMMINS. Mr. President, the point suggested by the Senator from Utah [Mr. SUTHERLAND] presents the only objection which I think could reasonably be urged against the amendment offered by the Senator from South Dakota [Mr. CRAWFORD]. If the Senator would change his amendment in that regard, I think it would be rather a helpful addition to the bill. The Senate has just voted down—unwisely, I think, but nevertheless it has done so—the amendment offered by the Senator from Minnesota [Mr. CLAPP], but still a right of action remains in behalf of any person who may be injured by an act of unfair competition.

If the Government institutes a suit against a person or corporation for unfair competition and establishes the fact of unfair competition, it seems to me entirely right that the adjudication of that matter in that respect shall be prima facie evidence in favor of any person who sues the defendant for damages for such unlawful act; I think the judgment ought to be made admissible in evidence for that purpose; but I do not think that it is within our legislative power to say that it constitutes an adjudication as between the parties so that it becomes conclusive instead of prima facie. We can not make a judgment between the United States and an individual or corporation conclusive evidence or an adjudication between other parties. In order to make the former judgment conclusive as to matters of law it would be necessary for us to hold that we had the authority to make the judgment between the United States and an offender an adjudication between the offender and some third person who must sue for damages.

I feel sure that the Senator from South Dakota, upon looking over his amendment, will see that if he desires to make it useful he must limit it to facts and not to making it a complete and conclusive adjudication.

Mr. CULBERSON. Mr. President, before the Senator from Iowa takes his seat, I desire to ask him if this amendment can apply to the trade-commission bill at all, inasmuch as this proposed act does not authorize the United States to institute a suit and to enforce it? The suit is by the commission, and the language employed by the Senator from South Dakota has no application to the bill which is now pending.

Mr. CUMMINS. That is true; but I assume the Senator from South Dakota has used the words "United States" as the equivalent of the Federal trade commission. I think when the Federal trade commission brings a suit it is in its essence a suit by the United States, but the comment of the Senator from Texas is quite justified.

Mr. NELSON. Will the Senator from Iowa yield to me a moment?

Mr. CUMMINS. Certainly.

Mr. NELSON. I want to call the Senator's attention to the further fact that at most a judgment of the commission is simply upon the fact as to whether there has been unfair competition. Whoever sues for damages must go further than that and not only show that there has been unfair competition, but must show how and to what extent he has been thereby damaged; so that the judgment in any view of the case can only help him upon one part of the issue, and that is upon the fact of unfair competition. He would still have to go on and prove what damages have resulted to him from that fact.

Mr. CUMMINS. Unquestionably that is true, and I think that the Senator from South Dakota will, upon more carefully looking over the language of his amendment, be quite willing to change it.

Mr. BRANDEGEE. Mr. President, the language of the bill as amended by the adoption of the so-called Cummins amendment is:

> If within the time so fixed in the order of the commission the person, partnership, or corporation against which the order is made shall not cease and desist from such unfair competition, and if in the meantime such order is not annulled, suspended, or set aside by a court, the commission may bring a suit in equity in a district court in any district wherein such person or persons reside or wherein such corporation has its principal office or place of business to enforce its said order, and jurisdiction is hereby conferred upon said court to hear and determine any such suit and to enforce obedience thereto according to the law and rules applicable to suits in equity.

If I understand correctly the theory of the friends of the amendment, it simply authorizes the application by the commission to the court for an order to enforce the order of the commission. The court does not go into the question of whether the practices complained of before the commission did or did not constitute a violation of the act of Congress or the commission of an act of unfair competition. If the judgment of the court in acceding to or denying the issuance of an order to enforce the order of the commission is to be final and conclusive upon a third party in another suit in another court, it would seem to me to be exceedingly unfair, even if it could legally be done, because no such trial would have been had as a party in an independent suit would be entitled to. He would be entitled to present all his evidence and to have the judgment of the court upon all the legal questions in a full, free, and fair trial. Under this application by the commission the questions at issue would not have had the kind of trial which the other party in the other court would be entitled to at all.

I think, therefore, that the Senator from South Dakota, upon a more complete examination of his proposed amendment, will redraft it to comply with the theory of the act so far as it has been framed up to this point by the Senate.

Mr. WHITE. Mr. President, before the Senator from Connecticut takes his seat, I should like to ask him whether he thinks that Congress has the power to determine what effect shall be given by a court to a particular state of facts; in other words, whether Congress has the power to say to the court what effect it shall give to facts in a trial that was never had before that particular court?

Mr. BRANDEGEE. I think it is exceedingly doubtful. It strikes me offhand as though they have not. Without having had any chance even to read the amendment, which I have heard rapidly read at the desk, certainly I would not want to express a final opinion upon any provision of the amendment; but I think the suggestion made by the Senator from Alabama is correct.

I notice another thing about it, Mr. President. As I heard the amendment read at the desk—I am not sure that I am correct in my recollection about it—it provides that the judgment of the court in a suit by the United States shall be conclusive as to the facts; but the facts which might have been presented before the commission in its proceedings or investigations to determine whether an act was or was not unfair competition, might not be at all the facts, and probably would not be the facts, presented in the other suit.

I can not, of course, express any particular definite opinion about the amendment until I have seen the redraft of it and compared it critically with the bill. The amendment ought to be printed and carefully examined, for certainly it is not a proposition to be lightly adopted.

Mr. WHITE. Mr. President, I have not investigated the question especially, but it occurs to me that the amendment devolves the exercise of judicial power on Congress, which, of course, is beyond its powers. Moreover, the amendment itself is very difficult to understand, in that it provides that the judgment or decree of the court—and I assume by that that it does not mean any decision arrived at by the commission—shall be conclusive as to the facts. To what facts does it refer? The facts in one trial may be very different from the facts in another trial. I will not say they are necessarily different, but I will say that they are almost invariably different. Consequently it would be inadvisable, if not dangerous, to conclude one case by the facts of another.

Another defect in the amendment is that a judgment or decree in favor of the defendant would not be available to it; it is only when the court finds against the defendant that the judgment or decree is to have effect. I think that is wrong. There may be cases where the facts are almost identical. They are well illustrated by an accident on a railroad in which a great number of persons may be injured or killed. The same may result by explosions in mines. In cases even of this character it would be very unfair for the legislature to say that a decision reached in any one particular case growing out of accidents of these kinds should be conclusive upon the parties or court. The amendment is unwise. I think it should not be adopted.

Mr. CRAWFORD. Mr. President, if the Senator will permit me, I should like to perfect the amendment I have offered by presenting it in redrafted form, in which I follow the language used by the Committee on the Judiciary in reporting the Clayton bill, whereby they change the language of the provision in section 6 so as to make a judgment prima facie evidence. I drew my amendment in the first place after the original clause in the Clayton antitrust bill as it passed the House, but I now change it to conform to the change made in the Clayton antitrust bill by the Committee on the Judiciary, as reported by that committee to the Senate, making the judgment of the court in proceedings under the trade commission act of the same force and effect in subsequent proceedings that may be brought by any party under the act as the Judiciary Committee propose to give to judgments rendered in cases arising under the Clayton bill in other proceedings brought to enforce the antitrust laws. I submit this new draft as a perfection of the amendment.

Mr. SUTHERLAND. Let it be read.

Mr. NEWLANDS. I will ask that the amendment be stated as modified.

The VICE PRESIDENT. The Secretary will state the amendment as modified.

The SECRETARY. It is proposed to add at the end of section 6 the following:

That whenever, in any suit brought by or in behalf of the commission or of the United States under this act, there shall have been rendered a final judgment or decree to the effect that a defendant has been guilty of unfair competition or used unfair methods of competition such final judgment or decree shall be prima facie evidence against such defendant in any suit or proceeding by any other party against such defendant brought under or involving the provisions of this act.

Mr. NEWLANDS. Mr. President, I hope that this amendment will not be added to this bill. This is a matter which, it seems to me, ought to be seriously considered by the Judiciary Committee, if at all. The Judiciary Committee has had under consideration legislation supplemental to the antitrust laws, and it has prepared a provision making a judgment rendered under the antitrust laws in favor of the United States and against the defendant prima facie evidence. That has been presented by the Judiciary Committee of the Senate as an amendment in the nature of a substitute for the original House provision, which made such a judgment conclusive evidence.

This whole matter has been thoroughly discussed and considered in the Judiciary Committee; it has not been discussed and considered in the Interstate Commerce Committee. It is a question that belongs more peculiarly to the jurisdiction of the Judiciary Committee than it does to the jurisdiction of the Interstate Commerce Committee. When the Clayton bill comes before the Senate, the Senate will find that there are four, and perhaps more, sections of that bill that are to be enforced through the Federal trade commission, and when that bill is before the Senate after this bill has been passed, in connection with the section which relates to the effect that shall be given to a judgment under the antitrust laws, the Senate can consider the effect which should be given to an order or decree made by the court upon an order issued by the commission, and the whole matter can then come up for discussion and consideration.

For this reason, Mr. President, without expressing myself at all regarding the merits or the demerits of the proposition, I move that the amendment offered by the Senator from South Dakota be laid on the table.

The VICE PRESIDENT. The question is on the motion of the Senator from Nevada to lay on the table the amendment proposed by the Senator from South Dakota.

The motion was agreed to.

Mr. NELSON. Mr. President, I have had a suspicion that the provisions of section 5 will be used as a cloak to secure immunity for offenders under the Sherman antitrust laws. To make certain that that section can not be so used, I offer the amendment which I send to the desk as an addition to section 5.

The VICE PRESIDENT. Does the Senator offer it as an amendment to section 5?

Mr. NELSON. I offer this as an amendment to come in at the end of section 5, as amended, by the adoption of a substitute.

The VICE PRESIDENT. Section 5, as the Chair understands, has been agreed to.

Mr. NELSON. But the bill is still in the Senate as in Committee of the Whole, and the amendment is still open to amendment, because I simply propose to perfect the entire substitute as one amendment.

Mr. NEWLANDS. I make the point of order, Mr. President, that section 5 has been adopted and can only be reconsidered in the Senate.

Mr. GALLINGER. Mr. President, it can be reconsidered as in Committee of the Whole if the Senate chooses to do so, but it can only be amended in the Senate, unless it is reconsidered.

Mr. NEWLANDS. That is the suggestion I intended to make.

Mr. NELSON. My amendment is very short and comes in at the end of section 5.

Mr. CULBERSON. Let the amendment be stated. It might be stated before we consider the point of order.

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. It is proposed to add at the end of section 5 the following:

Provided further, That neither the orders of the commission nor the judgment of the court to enforce the same shall in anywise relieve or absolve any person or any corporation from any liability under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890.

The VICE PRESIDENT. The present occupant of the chair has not been in the chair all the while, but has been informed that this is the condition of section 5: Section 5 is a part of the substitute bill as presented from the Committee on Commerce; various amendments have been proposed and one or two, at least, adopted to section 5, and after those amendments were adopted, then the section as amended was adopted as in Committee of the Whole. The Chair believes that that precludes further amendment as in Committee of the Whole to section 5, unless the vote whereby that amendment was adopted is reconsidered by the Senate as in Committee of the Whole.

Mr. OVERMAN. The Senator can offer the amendment in the Senate.

Mr. NELSON. I should think those who have this bill in charge would be glad to have this amendment adopted.

Mr. NEWLANDS. The Senator can offer it in the Senate; but I wish to call the Senator's attention to the fact——

Mr. NELSON. If the Senator is in favor of the amendment, there is no need of making a point of order against it now. I ask unanimous consent that the amendment I have offered to section 5 may be now considered.

Mr. NEWLANDS. I object, Mr. President.

Mr. NELSON. Very well; that settles it.

Mr. NEWLANDS. I will state to the Senator from Minnesota that an amendment was offered to section 5 by the Senator from Iowa [Mr. CUMMINS] and was adopted, which, in my judgment, entirely covers the field covered by the amendment presented by the Senator from Minnesota.

Mr. CUMMINS. Mr. President, I think the amendment which has already been adopted to section 5, and which I offered, does precisely what is proposed by the Senator from Minnesota; but I am so anxious that there shall be no doubt whatever about it that I would be very glad to see the amendment proposed by the Senator from Minnesota adopted, and I suggest to him that if he desires to offer it as an independent section it would be in order and would have exactly the same effect as though it were attached to section 5.

Mr. NELSON. Mr. President, if the chairman of the committee has no objection to the principle of the amendment pro-

posed by me, I can see no reason why he should make a technical objection, and I throw the burden on him on that account.

Mr. NEWLANDS. Mr. President, I want to look at the section as already adopted. My impression is that the amendment presented by the Senator from Iowa covers the entire ground, and that there is no need of duplicating terms in this bill.

The proviso added to section 5 through the amendment offered by the Senator from Iowa is as follows:

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

Mr. NELSON. That only relates to the question of evidence. It does not relate to the question of liability.

Mr. NEWLANDS. But could there be anything more sweeping than that?

Mr. NELSON. If the Senator will read it, he will see the difference.

Mr. NEWLANDS. The provision suggested by the Senator from Minnesota is as follows:

Provided further, That neither the orders of the commission nor the judgment of the court to enforce the same shall in any wise relieve or absolve any person or corporation from any liability under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890.

How could any judgment or decree rendered by a court under the trade commission bill be effective in any suit brought to enforce the Sherman Antitrust Act unless it were offered in evidence and admitted as evidence? The proviso offered by the Senator from Iowa, and adopted, absolutely prevents either the order or the decree from being admissible in evidence in any suit, civil or criminal, brought under the antitrust acts. Can the Senator from Minnesota suggest any loophole of escape under the proviso offered by the Senator from Iowa? I assume that when the Senator from Minnesota offered his amendment, while he wished to accomplish the same purpose that the Senator from Iowa had in view, he was not aware that this proviso had been added to section 5 upon the motion of the Senator from Iowa. Reading, as I do, these two provisions as practically identical in effect, it seems to me that I ought to object to the duplication of language and the duplication of provisions in the bill.

Mr. NELSON. Mr. President, the Senator is confounding the matter of evidence with another matter. I was not unaware that the last provision, the amendment of the Senator from Iowa, was inserted in that amendment. It simply provides, however, that the order or finding can not be used as evidence. I want to go a step further, in order that no corporation can say before the prosecuting attorneys of this country or before anybody else: "We demand immunity, because we have been brought before this trade commission, and the trade commission has found that we have not been guilty of unfair competition.

My suspicion all along has been that section 5 of this legislation will be used as a shield to protect these corporations, these great trusts and monopolies, against the enforcement of the antitrust law. I can not see any other purpose in it. Ever since the decision of the Supreme Court in the Northern Securities case there has been a clamor and a demand on the part of the business interests that we should change that legislation, that we should modify the antitrust law, that we should give them some legislation by which business may know how to be conducted without violating the law. The business interests have affected to believe that the antitrust law was so doubtful, so uncertain, and the interpretation of the courts so doubtful and uncertain, that without further legislation, without help from Congress, the business interests would not know how to conduct business.

What does section 5 propose to do? It proposes simply to take up one side, and possibly only one side, of violations of the antitrust law. In a case where the question is whether a corporation that is engaged in enterprises hostile to trade and commerce is a trust or monopoly under the law, the question as to whether it is guilty of unfair competition is only a collateral question; it is only one matter that is considered in the case.

Take the big Harvester Trust that we have in Missouri. That trust has practically swallowed all its rivals in the harvester and the mowing-machine trade and in a great many other lines of industry. It has swallowed them to such an extent that when the Supreme Court of Missouri lately found that it was a trust and monopoly it first rendered a judgment in the quo warranto case against it of an ouster; that is, to prohibit it from doing business in the State. It was afterwards found that that would not do, because the farmers of Missouri could not get any agricultural machinery except what they got from the trust. It would have been like driving the farmers of Missouri into the Desert of Sahara. Now, what can you do with that corporation? Can you make out a case of unfair competition where it simply made itself into a boa constrictor and swallowed all its rivals—absorbed them? What help can you get from this legislation?

This legislation can be used in a lot of cases where there is no trust or monopoly. It can be used by corporations or individuals to pester their rivals in business. It can be used in another way, and that is the way in which I am most fearful it will be used, because I am heartily in favor of maintaining the Sherman antitrust law, as it is called, in all its force and vigor. What I fear, and what I think will come to pass—because this is the legislation that some of the great interests want—is that they will come before the Department of Justice, they will come before the United States attorney, they will come before the public, and say: "Oh, you ought not to prosecute us. We have been before the Federal trade commission, and they have found that we were not guilty of unfair competition; so let us alone. We ought to receive immunity."

That is the argument that will be used; and it is because of that fact that I want to fortify this act so that if you go on with this side show of passing upon the question of unfair competition, if the unfair competition is by a trust or monopoly, I do not want that trust or monopoly to get any moral, legal, or other immunity under this law. It seems to me that those who agree with me as to preserving the vigor and vitality of the antitrust law ought to be willing to accept this amendment.

We have heard much said lately about the lack of definition and the uncertainty of the antitrust law, and of the interpretations of the court. Why, Mr. President, the uncertainty does not come from the law. It does not come from the decisions of the court. It comes from the great variety of the methods and schemes to which these concerns have resorted in the matter of violating the antitrust law.

Lately we had a case which seemed on its face very mild. It was the Lumber case, in which the retail lumber dealers of the country had sent out a kind of mild circular among their fellows and associates indicating to them that such a manufacturer of lumber or such a wholesaler of lumber was guilty of selling directly to the consumers without selling to the retail dealers.

They had accomplished this in a very roundabout, genteel, artificial manner. I have no doubt that under the advice of skillful counsel they had come to the conclusion that they had done it in such an evasive and such a peculiar manner that they would escape prosecution; but when the case came before the courts, especially before the court of the United States, it held that was simply a method of evading the antitrust law, and that they were guilty in substance not only of blacklisting but of boycotting.

Mr. NEWLANDS. Mr. President, I will say that the committee is desirous of accomplishing just what the Senator from Minnesota wants to accomplish. In my judgment the language of these two provisos constitutes a duplication; but if the language of this proviso, put into the shape of an additional section, meets with the approval of the Senator from Iowa, I shall interpose no objection.

Mr. NELSON. I have offered it in that shape. If it is not satisfactory, you will have to adopt it in any shape you may desire.

Mr. CUMMINS. Mr. President, I am very willing to see the amendment of the Senator from Minnesota adopted; but inasmuch as he has forced the issue by suggesting that the amendment which I offered to the section is not adequate and sufficient to accomplish the purpose, I must say a word upon that question.

With great deference to the opinion of the Senator from Minnesota, I reassert that the amendment to the section offered by me will be more efficient than would the amendment offered by him in accomplishing the purpose that he has in view and that I have had in view. It was prepared with considerable care; and I can not conceive how any proceeding under this section can have the effect of giving immunity in a suit brought under the antitrust law of 1890 if no order or judgment rendered in the proceeding before the trade commission, or afterwards before the court in a case growing out of a proceeding before the trade commission, is admissible in evidence in a suit brought under the antitrust law. If all judicial knowledge of what has taken place in a proceeding before the trade commission is excluded in every transaction brought under the antitrust law, it is inconceivable to me how any immunity can be brought about through such a proceeding under the trade commission.

I want—and it has been my insistence from the beginning—to leave the antitrust law untouched in all its vigor, so that every offense which it prescribes can be prosecuted hereafter just as it has been prosecuted heretofore.

I have felt impelled to say this because it might be inferred from the argument of the Senator from Minnesota that I had offered this amendment with the purpose that the enforcement of the antitrust law might be in some manner impaired by the enactment of the bill now under consideration. I am sure the Senator from Minnesota does not hold that opinion with respect to my purpose.

Mr. COLT. Mr. President, is the bill before the Senate?

The VICE PRESIDENT. The bill is in Committee of the Whole and open to amendment.

Mr. NEWLANDS. Will the Senator permit me for a moment? We are just considering an amendment offered by the Senator from Minnesota, against which I made a point of order. Will it suit the convenience of the Senator from Rhode Island to proceed a little later, after we have disposed of this?

Mr. COLT. Certainly.

Mr. NEWLANDS. I will ask the Senator from Iowa whether he has any objection to the insertion of the following words as an additional section—section 6—taken from the amendment offered by the Senator from Minnesota:

Neither the orders of the commission nor the judgment of the court to enforce the same shall in anywise relieve or absolve any person or corporation from any liability under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890.

Mr. CUMMINS. Mr. President, I have said three times that I have no objection to the adoption of the amendment proposed by the Senator from Minnesota as a part of this section, although I do not understand that it is in order to offer it as a part of a section, or as a separate section. I am entirely willing that it shall be adopted. That is just what I want to accomplish.

Mr. NEWLANDS. Very well.

Mr. NELSON. I asked unanimous consent to offer it as an amendment to section 5, and the Senator from Nevada objected. If he withdraws his objection, what the Senator from Nevada suggests covers the case, and I am satisfied.

Mr. CUMMINS. That is not in lieu of my amendment?

Mr. NEWLANDS. No; it will be in the shape of an additional proviso.

Mr. NELSON. Mr. President, I want to say to the Senator from Nevada that I think the words "*Provided further*" should be put in to segregate it from the proposition that precedes it.

Mr. NEWLANDS. Then, I understand the Senator from Minnesota to offer the following as an additional proviso at the end of section 5——

The VICE PRESIDENT. The Chair has ruled on that question once. Without an appeal from the ruling of the Chair, the Chair is not going to rule again.

Mr. NELSON. I have asked unanimous consent.

The VICE PRESIDENT. If it is desirable to add this language to section 5, why not reconsider the vote by which section 5 was adopted and get it in shape so that the RECORD will show that it was properly made a part of the bill?

Mr. GALLINGER. I make that motion, Mr. President.

The VICE PRESIDENT. All in favor of the reconsideration will say "aye."

The motion to reconsider was agreed to.

The VICE PRESIDENT. The Senator from Minnesota offers an additional amendment, which will be stated.

The SECRETARY. It is proposed to add at the end of section 5 the following proviso:

Provided further, That neither the orders of the commission nor the judgment of the court to enforce the same shall in anywise relieve or absolve any person or corporation from any liability under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890.

The VICE PRESIDENT. The question is on the amendment of the Senator from Minnesota [Mr. NELSON].

The amendment to the amendment was agreed to.

The VICE PRESIDENT. The question is on the amendment as amended.

The amendment as amended was agreed to.

Mr. COLT. Mr. President, a number of Senators have said that they thought it would be perfectly easy for a court to understand what the words "unfair competition" meant in this proposed bill. It then occurred to me that I would put myself in the position of a court and see how many different interpretations might fairly be given to these words.

Mr. President, "unfair competition" as used in this bill is capable of four different constructions by a court:

First. A court may take the view that the words "unfair competition" are used in a legal sense as understood in the law, and that Congress, under a well-established rule, must be presumed to have used these words in this sense. This will limit the construction of "unfair competition" to transactions based upon fraudulent practices; and if the court should be inclined to take a narrow legal view of these words they would be limited to the practice of palming off the goods of one man for those of another. I think that all actions for unfair competition which are now known to the law are based upon this fraudulent practice in one or another of its various forms.

Second. A court may take the view that Congress intended to give these words a broader meaning; that what Congress intended was that the court itself should decide whether a given transaction was fair or unfair, according to its own conscience, its own sense of right or wrong. Whether a transaction is fair or unfair thus becomes a moral question, to be solved by the conscience of each individual judge. This is a very uncertain rule, because the consciences of men differ very much as to what is fair or unfair. Unfair conduct means disingenuous or tricky conduct, and the consciences of men differ widely as to what would constitute such a disingenuous or tricky transaction as should be considered unlawful under this law.

Third. A court may take the view that these words were not used in a legal sense or in a moral sense, but that they plainly refer to such transactions as are regarded by society as unfair; that is, such transactions as are regarded as unfair according to the customs and usages of merchants or in trade generally. Under this construction the court would seek by proof to find whether a given transaction was recognized as fair or unfair in trade, and would determine a given case according to the facts presented upon this issue.

Fourth. A court may take the view that it was not the intention of Congress to use these words in a legal sense or in a moral sense or in a sense as known to trade and commerce, but that it was plainly the intention of Congress to use these words in the broad sense of comprising the various steps which lead up to monopoly; and hence that "unfair competition" within the meaning of this law signifies the various things which have been forbidden by the courts in decrees entered under the antitrust laws and all transactions of a similar nature. That such was the intention of Congress clearly appears, a court may say, from the arguments in the Senate. And in support of this construction it may be further urged that Congress was engaged in a general scheme of legislation supplementary to the Sherman law, and hence that it intended that these words should cover all those transactions which any person may employ in a scheme or plan to establish a monopoly in violation of law.

Mr. President, we are now dealing with a subject which vitally affects the commerce of 48 States and the business men of the country; and to place upon the statute books a law capable of so many different constructions would certainly lead to endless confusion, and its effect would be most injurious to the business of the whole country.

If Congress desires to enlarge the meaning of "unfair competition" as now known to the law, it should do so in express terms, so that the business community may know what is legal and what is illegal.

To pass this trade-commission bill, giving five men the power to exercise a police supervision over the business of the country and to regulate commerce by prohibiting any act which they may deem to be unfair competition in a legal sense or a moral sense or a trade sense or an antitrust sense, would be as unwise and as uncalled-for a piece of legislation as was ever enacted by an American Congress; and, further, if this is to be the character of our legislation in the future, I believe that all of us must change our ideas as to what constitutes Anglo-Saxon liberty under a democratic form of government.

AMENDMENT OF FEDERAL RESERVE ACT.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 6192) to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act, which were, on page 3, line 9, after "and," to insert "to suspend also the conditions and limitations of section 5 of said act and," and on page 3, line 12, after "to," to insert ": *Provided further*, That the Secretary of the Treasury, in his discretion, is further authorized to extend the benefits of this act to all qualified State banks and trust companies which have joined the Federal reserve system or which may contract to join within 15 days after the passage of this act."

Mr. OWEN. Mr. President, I am authorized by the Committee on Banking and Currency to recommend the approval of the House amendments with an amendment and to ask an immediate conference.

Mr. CLAPP. Mr. President, without intending any objection, but as I do not now recall, what are the restrictions of section 5?

Mr. OWEN. Section 5 has two restrictions. One is that no bank shall receive any currency over an amount equal to its capital and surplus, and the other is that an excess of $500,000,000 shall in no contingency be allowed. The Senate committee recommends that the first limitation be adhered to in the law, but that the second one, limiting it to $500,000,000, may be exceeded if necessary.

Mr. CLAPP. I was not asking with any view of objecting.

Mr. OWEN. That is the proposed amendment.

Mr. LEWIS. May I ask the Senator from Oklahoma a question? I have been receiving so many telegrams from my State that I am impelled to ask the Senator from Oklahoma to give me some information that I may communicate it. What effect, in his judgment, will this legislation now suggested have in its operation toward the restraining of the gold flow that is streaming from this country to Europe at this particular time? In what way would he suggest that it would operate to prevent such?

Mr. OWEN. In answer to that I will say that the representatives of 40 banking houses having large foreign connection and representing foreign interests were here yesterday, and they have agreed among themselves and with the Government representatives that they will do everything in their power to prevent any further shipments of gold until the war condition has abated.

Mr. SHAFROTH. The danger of the capture of the gold will evidently deter shipments.

Mr. OWEN. The very high rate of insurance also deters it.

Mr. LEWIS. I may say that the fears communicated to me are the following: First, our gold going abroad, to be there placed in the war chests; the nations taking the same from the business sources, giving bonds of the country in exchange, then impounding our gold in war chests, and we to lose it altogether. Second, as the Senator from Colorado just remarked, being retarded by the fear of our people of the capture of the gold and the impressment of the gold by the captors, or its being sent to a prize court; and, thirdly, as the Senator from Oklahoma remarked, the rates of insurance increasing to the effect as though such were discount rates.

The fear which has been communicated to me is that we are not in anywise attempting to prevent this outflow of gold from our people to foreign nations. Of these conditions I have not sufficient knowledge to answer the inquiries.

Mr. OWEN. This provision now offered is made necessary until the new reserve act goes into effect. The Government can not put into force the provisions of the Federal reserve act, under which we may hereafter restrain gold shipments.

Mr. LEWIS. The Senator is of the opinion that with that act in effect and the appointees in performance of their duties the conditions could be met?

Mr. OWEN. Undoubtedly.

Mr. LEWIS. I appreciate the Senator's information.

Mr. NEWLANDS. Do I understand from the Senator from Oklahoma that the amendment offered by the Senator removes the limit of $500,000,000 upon the issue of circulating notes?

Mr. OWEN. It does. The proposed amendment is to strike out the word "and" and insert the words "in so far as the total issue of said notes is limited to $500,000,000."

Mr. NEWLANDS. I think that is a very desirable amendment, and am very glad to know that it is made.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Oklahoma.

The amendment was agreed to.

Mr. OWEN. I move that the Senate request a conference with the House on the disagreeing votes of the two Houses and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and Mr. OWEN, Mr. HITCHCOCK, and Mr. NELSON were appointed the conferees.

LAND IN THE DISTRICT OF COLUMBIA.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 23) for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13; of Ernest Kubel, owner of lot No. 41; and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District, which were, on page 2, line 6, to strike out "and forty-one"; on page 3, line 15, after the word "States," to insert: "; *Provided, however*, That from such sum or sums as may be awarded to said owners there shall be deducted the compensation and expenses of said commission and the compensation of said jurors."

Amend the title so as to read: "An act for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13, and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District."

Mr. GALLINGER. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House insists upon its amendments to the bill (S. 657) to authorize the reservation of public lands for country parks and community centers within reclamation projects, and for other purposes, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two House thereon, and had appointed Mr. FERRIS, Mr. TAYLOR of Colorado, and Mr. FRENCH managers at the conference on the part of the House.

The message also announced that the House had passed a joint resolution (H. J. Res. 312) for the relief, protection, and transportation of American citizens in Europe, and for other purposes, in which it requested the concurrence of the Senate.

RELIEF OF AMERICAN CITIZENS ABROAD.

H. J. Res. 312. Joint resolution for the relief, protection, and transportation of American citizens in Europe, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

Mr. OVERMAN. I desire to report back favorably the joint resolution from the Committee on Appropriations, and I ask unanimous consent for its present consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which is as follows:

Resolved, etc., That for the relief, protection, and transportation of American citizens, for personal services, and for other expenses which may be incurred in connection with or growing out of the existing political disturbances in Europe, there is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $250,000, to be expended at the discretion of the President: *Provided*, That American citizens to whom relief is extended or transportation is furnished hereunder shall pay to or reimburse the United States all reasonable expenses so incurred, respectively, on their account, if financially able to do so.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. KENYON. Mr. President, I would hesitate to take any time at all of the Senate if a vote was imminent, but the Senator from Rhode Island [Mr. LIPPITT] is about to proceed with a somewhat extended address, and hence I want to take just a brief time for some observations with reference to the question that troubles me concerning this bill, principally because of the observations of the Senator from Minnesota [Mr. CLAPP] and other Senators in this Chamber who are as vitally interested in preserving the integrity and the power of the Sherman Act as any other Senators here. If I felt that this bill was to be, as suggested by the Senator from Minnesota, a sort of a harbor of refuge for the violators of the Sherman Act, or that this bill had arisen by reason of the suggestion of eminent financiers who feared the effect of the Sherman Act and were trying to create a sort of buffer between them and the Sherman Act, I would vote against this bill.

The Sherman Act has been a sort of a legal fetish of mine for a good many years and I have made some sacrifices in trying to do my part to help bring about an enforcement of that act. I believe, Mr. President, in this bill as to its general purpose of a commission. It is suggested that we are running commission mad. Perhaps that may have some truth in it, but we have reached a point, as evidenced by this bill, which would have been a startling innovation 10 years ago, where the Government of the United States has found it necessary to attempt a regulation of what may be strictly private business. It seems to be recognized by the general progress of our times that there is no particular divinity that surrounds private business in wrongful practices; that private business can do harm to society in general and to human welfare by practices which should be for-

bidden and keep private business from gathering to itself the fruit of the earth.

In an address by former Attorney General Wickersham before the Michigan State Bar Association, and I think the former Attorney General can not be accused of being a radical progressive, though I believe he is a sound one, he said:

Yet the experience of the remote as well as of the recent past demonstrates the necessity of some governmental regulation of private enterprise, in order that the fruits of industry may not be entirely garnered into a few hands, and that the freedom of individual effort may not be unduly restrained.

Of course we are entering upon a new field, a radical field, I believe a proper field, and I want to see this commission given just as much power as we can constitutionally give it.

I will go further and predict that this is the commencement of an era of still further regulation of great business. I do not believe anybody in this Chamber has anything against what is termed big business. I know I have not. It is against big, crooked business that we have been complaining. The majority of business men of this country of course are honest, but there have been a few who wanted to indulge in high finance, in crooked business, and wanted to get crooked business into crooked politics, and they have brought upon the country a desire for a stringent regulation of business practices.

I believe in a commission with even more power than this one. If this commission is to determine what is unfair competition in business, why should it not deal with unfair practices between the employer and employee in matters of business where interstate commerce is affected? And why should it not be empowered to do so? If we can constitutionally deal, as I believe we can, with competition in business and unfair methods in business, we can deal with unfair methods between the employer and the employee, and this commission I hope in the days to come will be given the power to investigate industrial conditions and the power to fix a minimum wage for the man who toils and to fix hours of service for those who engage in the great industrial labor of the Nation.

Of course, this commission has to act in a dual capacity. It has to act toward the corporation and toward the public. While we are placing enormous power in the hands of the commission, I think it is well that we have guarded one of the strategic points in this matter by the adoption of the amendment of my colleague [Mr. CUMMINS]. If the amendment commonly known as the Pomerene amendment had been adopted, it would have simply led to litigation upon litigation. It would have been a good thing for the lawyers and a good thing for the stenographers. While I can not agree with my dearly beloved friend from New Jersey [Mr. MARTINE] that everybody should be permitted to kill one lawyer and not be punished for it, yet I do believe that if we can limit litigation and make it so plain that it deprives the lawyers of some of their business, the public will not be discommoded.

If the Interstate Commerce Commission's orders could have been reviewed de novo in the courts, as was contended on this floor that they should be at the time of the old railroad fight, what relief would the shipper ever have had? He would have had lawsuits galore, and he would have been lost in the maze of legal intricacy and would have given up his claim, no matter how meritorious he might have felt it to be. So we have saved this act from that very serious complication.

The gentlemen on the other side of the Chamber who have exhibited that large patriotic purpose not to refuse to accept an amendment because it came from this side, I believe have performed a great service to this country that they will be glad of in the years to come. You have now made this commission a real thing to the extent of its power. You have put teeth in it. I wish you had put the further teeth in it that have been suggested by the Senator from Minnesota [Mr. CLAPP]. So as the act now stands, or will stand with the amendments that have been adopted, it will do good in this country in stopping unfair practices. If, as my good friend from Minnesota suggests, it is to injure the Sherman law; if, as the Senator from Colorado [Mr. THOMAS] has suggested, in whose judgment I have such confidence, this is in the nature of legalizing monopoly, then we are committing a very bad piece of work. I do not believe it.

I am not troubled, Mr. President, over the question of unfair competition in this act. Regardless of the suggestions of my distinguished friend from Rhode Island [Mr. COLT], to whom, because of his great experience on the bench, I suppose we ought to defer, I have not been able, since listening to the argument of my colleague who collated these matters, to see any difficulty in that proposition, and I am not going to spend any time discussing it. It is no more difficult to me than the question of restraint of trade. It is no harder to define and no more difficult than has been suggested—undue influence, unsound mind, fraud, human affection. I can not define that, but I know what it means.

So it seems to me that a court will have but little difficulty in applying the term "unfair competition." I shall support the amendment of the distinguished Senator from Missouri [Mr. REED] as tending to make that a little plainer, although it seems to me it is not necessary. It is no more difficult than reasonable care, negligence. It has been used in the decrees of the courts, as has been pointed out, and decrees of courts are drawn with great care. The language "fair competition" has been used by the Supreme Court. In the discussion of the Sherman Act, when passed, it was used in the definition given at that time. I think it was used by Senator Hoar. So it is a well-established term and has a well-established meaning.

I want to add to the decrees that have been used here a little language from the decree in the case of United States of America against The Aluminum Co. There the court very carefully goes ahead in this decree and sets out some 12 or 14 different kinds of unfair competition. I will not take up all of them, and I should like to have the right to insert them in the RECORD. I shall read just a few.

The defendants were enjoined, among other things, from—

(a) Combining either by stock ownership or otherwise with any one or more manufacturers for the purpose or with the effect of controlling or restraining the output of any product manufactured from aluminum, or fixing or controlling the price thereof.

(b) Delaying shipments of material to any competitor without reasonable notice and cause, or refusing to ship or ceasing to continue shipments of crude or semifinished aluminum to a competitor on contracts or orders placed, and particularly on partially filled orders, without any reasonable cause and without giving notice of same, or purposely delaying bills of lading on material shipped to any competitor, or in any other manner making it impossible or difficult for such competitor promptly to obtain the material upon its arrival, or from furnishing known defective material.

(c) Charging higher prices for crude or semifinished aluminum from any competitor than are charged at the same time under like or similar conditions from any of the companies in which defendant is financially interested, or charging or demanding higher prices for any kind of crude or semifinished aluminum from any competitor for the purpose or which under like or similar conditions will have the effect of discriminating against such manufacturers in bidding on proposals or contracts to the advantage of said defendant or any company in which it is financially interested.

(d) Refusing to sell crude or semifinished aluminum to prospective competitors in any branch of the manufacturing aluminum goods industry on like terms and conditions of sale, under like or similar circumstances, as defendant sells such crude or semifinished aluminum to any firm or corporation engaged in similar business in which defendant is financially interested.

(e) Requiring, as a condition precedent to selling crude or semifinished aluminum to a competitor, that such competitor divulge to defendant the terms which such competitor proposes to make in order to secure the work in which the desired aluminum is to be used, and from imparting to anyone the purpose or purposes for which said competitor is intending to use said metal.

(f) Requiring or compelling the making of agreements by competitors not to engage in any line of business, nor to supply any special order in competition with defendant or with any company in which it is financially interested as a condition precedent to the procurement of aluminum metal.

(g) Representing or intimating to competitors that unless they dealt with defendant or with companies in which defendant has a financial interest for their supply of metal such competitor will not be able to obtain a sufficient supply of metal or obtain it at a price that will permit them to engage in competition with defendant or with companies in which defendant is financially interested, or in like manner representing or intimating to consumers of aluminum in any stage of manufacture that unless they deal with defendant or with a company in which it is financially interested their supply of material or manufactured products will be cut off for that reason.

(h) Taking the position with persons, firms, or corporations engaged in the manufacture of any kind of aluminum goods that if they attempt to enlarge or increase any of their industries or engage in enterprises that are or will be competitive with defendant or with the business of any firm or corporation in which defendant is financially interested, such persons, firms, or corporations will for that reason be unable to procure their supply of material from defendant or any of the companies in which it is financially interested.

Mr. REED. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Missouri?

Mr. KENYON. Certainly.

Mr. REED. That was a case brought under the Sherman Antitrust Act?

Mr. KENYON. It was.

Mr. REED. And all these acts were condemned because they were acts committed by the company in restraint of trade.

Mr. KENYON. That is true.

Mr. REED. They were not defined as unfair trade in the sense that we are now using that term, but they were various oppressive practices which had resulted in what the court held was restraint of trade.

Mr. KENYON. That is true; but I doubt if any one of these acts would have been held sufficient to have established restraint of trade. That, it seems to me, is the difference between the Sherman Act and the present act. This can take hold of matters that are not in themselves sufficient to amount to a monopoly or to amount to restraint of trade.

Mr. REED. I agree with the Senator that it is possible in the law to strike at those things which directly tend to restraint of trade without making it at the same time necessary to prove that an actual restraint of trade has taken place; but the various practices which are prohibited were in this case prohibited because, either taken singly or in connection with the others, they constituted a restraint of trade. It is not professed that they were defined by a court as acts of unfair competition.

Mr. KENYON. Oh, no; I am not pointing them out as different acts of unfair competition that enter into the question of restraint of trade.

Mr. REED. The Senator characterizes them as acts of unfair competition?

Mr. KENYON. I do.

Mr. REED. But the court characterizes them as acts in restraint of trade.

Mr. KENYON. Well, the court does not take up each one of them as an act in restraint of trade, but takes the series as tending to show a restraint of trade.

In the case that was cited the other day by the Senator from New Hampshire [Mr. HOLLIS], Judge Landis goes ahead and undertakes to point out different acts of unfair competition, but the same thing will apply—that they are elements merely entering into the question of restraint of trade.

In my own State, in the case of State *v.* Fairmount Creamery Co. (153 Iowa, 702), the court says:

> One of the great legislative problems of the day is to protect fair competition in the business world without unduly interfering with the freedom of contract. We may properly presume that the practice is greater in some lines of business than in others. In the purchase of commodities, the methods of business adopted are quite as various as the different commodities. Methods are adopted which are peculiar and limited to dealings in a certain commodity. Evil practices, therefore, may arise in the business methods pertaining to one commodity, which do not obtain at all in relation to other commodities. Practices may obtain which contravene no statute, and which, nevertheless, would be deemed as morally dishonest and detrimental to the public interest. * * * The temporary maintenance of artificial prices for the sole purpose of destroying a weak competitor and creating a monopoly is one of the modern evil inventions.

I refer to this only to show the use of the term "fair competition."

Mr. REED. Will the Senator pardon me a moment? Have you a statute in the State of Iowa which uses the term "unfair competition"?

Mr. KENYON. Yes; we have.

Mr. REED. Was this decision under that statute?

Mr. KENYON. I think it was.

Mr. REED. Then, of course, that presents a different question, does it not? Does not the Senator think that it is quite a different question?

Mr. KENYON. There may be some difference.

Mr. REED. If you have a statute which defines local price cutting to be "unfair competition" that covers that practice. A decision is rendered under that statute which treats of unfair competition in that limited sense. Does the Senator think that decision would afford us any definition that would be at all illuminating with reference to this bill which does not give a definition?

Mr. KENYON. I grant it would not have force and effect, of course, beyond a statement on that subject; but I refer to it to show the familiarity with which the courts use the terms "fair competition" and "unfair competition," and to establish the fact that they seem to have no trouble with the term even if the distinguished Senator from Missouri does. In the decree in the General Electric Co. case the term is also used.

Mr. STERLING. Where is it cited?

Mr. KENYON. I do not believe I can give it to the Senator at this moment, but I will hand it to him later. I was merely referring to this in passing, Mr. President, to show that, so far as I am concerned, there is no difficulty in my mind in arriving at what the term "fair competition" means any more than I have any difficulty in arriving at what a "square deal" means. I do not think the Senator from Missouri, with his cast of mind, who looks at things from every angle, and is so fair, would have any trouble in deciding what a "square deal" in business is.

Mr. REED. I have not the slightest knowledge of gambling terms.

Mr. KENYON. A very distinguished American, who has no knowledge whatever of gambling, has given us that term.

Mr. BRANDEGEE. Why does not the Senator substitute "an unsquare deal is hereby declared to be unlawful," and let it go at that?

Mr. KENYON. Because the entire humor of the situation is afforded by the Senator from Connecticut. If he desires to substitute those words, very well.

Mr. BRANDEGEE. I think the humor is afforded by the bill.

Mr. KENYON. I am not trying to convert the Senator from Connecticut. I pass by that with a reference as to the suggestion that this statute, if enacted, will be so vague because of its terms that it will be void. In that connection there has not as yet been put into the RECORD the case of Nash *v.* The United States (229 U. S., 373). That is the first case in which the Sherman Act was construed by the Supreme Court as to its criminal features. It is one of the first cases where the defendants were sentenced to jail, they being very eminent millionaires engaged in the turpentine industry. The Supreme Court had absolutely no trouble with that proposition, and it certainly could not be claimed that the term "restraint of trade" is not as vague as is the term "unfair competition."

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Connecticut?

Mr. KENYON. I yield.

Mr. BRANDEGEE. Does the Senator from Iowa see no difference between allowing the judiciary to construe what "restraint of trade" means and allowing a commission to construe what "unfair competition" means?

Mr. KENYON. I do; but I am not discussing that feature of it. I am discussing the question of the vagueness of the statute when adopted. I think the Government had hesitated for a good many years to really press the question of the vagueness of the Sherman Act as affecting its constitutionality as a criminal statute, because many of the best lawyers in the country felt that it was too vague, but at last the statute reached the Supreme Court, and the Supreme Court said this:

> The objection to the criminal operation of the statute is thought to be warranted by The Standard Oil Co. *v.* United States (221 U. S., 1) and United States *v.* American Tobacco Co. (221 U. S., 106). These cases may be taken to have established that only such contracts and combinations are within the act as, by reason of intent or the inherent nature of the contemplated acts, prejudice the public interests by unduly restricting competition or unduly obstructing the course of trade.

That question was settled, of course, in those cases.

> But apart from the common law as to restraint of trade thus taken up by the statute, the law is full of instances where a man's fate depends on his estimating rightly—that is, as the jury subsequently estimates it—some matter of degree. If this judgment is wrong, not only may he incur a fine or a short imprisonment as here, he may incur the penalty of death. "An act causing death may be murder, manslaughter, or misadventure, according to the degree of danger attending it," by common experience in the circumstances known to the actor.
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> But, without further argument, the case is very nearly disposed of by Waters-Pierce Oil Co. *v.* Texas, No. 1 (212 U. S., 86, 109), where Mr. Justice Brewer's decision and other similar ones were cited in vain. We are of opinion that there is no constitutional difficulty in the way of enforcing the criminal part of the act.

That question was squarely presented to the Supreme Court and was settled for all time.

Mr. President, I say it in no spirit of criticism, but every time there is a great progressive measure brought forward some one always thrusts the Constitution in front of it. I have just as much respect and veneration for the Constitution as has anyone. If we are satisfied that a measure is unconstitutional, of course, we should not vote for it; but if we merely have a doubt as to whether or not it is constitutional, then, it seems to me, it is not our province to vote against it for that reason.

We have heard a good deal of just criticism as to the infringement upon legislative power by the Executive power, and there has been much said as to the necessity of keeping the three departments of the Government separate and distinct. That applies also as to encroachments of the legislative branch on the judicial. I think, however, we ought not, because of the mere suggestion that a thing may be unconstitutional, refuse to support it, but should leave that for the proper tribunal to decide.

We never would have had any employers' liability bill if we had hesitated on the question of its constitutionality; we would have had no pure-food act or pure-drug act; nor shall we have any workmen's compensation act, if we ever get that, as I hope we may, if we hesitate on constitutional doubts. The Constitution has kept pace in its march to some extent with the great forward economic thought of this country.

Now, I want to say just a word about the question that does trouble me, and I would not be troubled by it if it had not been suggested by such a good friend of the Sherman Act as the Senator from Minnesota [Mr. CLAPP].

I can not conceive how this bill will help monopoly. It is beyond my comprehension, for a moment, to understand how striking down a wrongful practice and unfair competition can in any way help monopoly, as has been suggested here on the floor.

Mr. President, in this country there is, of course, a school of political thought preaching the doctrine that competition has ceased; that it is foolish to talk about competition; that co-operation and combination are the fairest children of our advanced civilization. We can not get back to some of the old methods of competition, it is true, but, nevertheless, fair competition is the business law of this country, and the Supreme Court utters just two or three lines bearing on that thought which I will put into my remarks. In the case of The United States *v.* The Union Pacific Railroad Co. (226 U. S., 83) the court said:

Of the Sherman Act and kindred statutes, this court, speaking by Mr. Justice McKenna, said in National Cotton Oil Co. *v.* Texas:

"According to them"—

That is, these cases—

"competition, not combination, should be the law of trade. If there is evil in this, it is accepted as less than that which may result from the unification of interest and the power such unification gives. And that legislatures may so ordain this court has decided."

Of course it is a troublesome question. It has been suggested here that some eminent gentlemen, who had been prominent in the organization of trusts, after the decision of the Standard Oil and the Tobacco Trust cases had started a propaganda that has brought about this bill. It is true that Mr. Gary, after those decisions, made some suggestion with reference to a trade commission, but a trade commission had been talked of before that time; and I have not observed any wild enthusiasm on the part of Mr. Gary or on the part of Mr. Perkins for this particular measure. The trade commission they desired was quite different. I am not going to subscribe, if I know myself, to the doctrine that monopoly is in this country to stay, that we can not help it, and, consequently, that the thing to do is to regulate it. If we are going to concede, after all these years, that this Government is powerless to destroy monopoly, then we have got to concede that monopoly is powerful enough to destroy this Government; and, for my part, I believe that the Sherman Act is an effective law, if enforced, to destroy monopoly.

Mr. CLAPP. Mr. President, will the Senator pardon an interruption?

Mr. KENYON. Gladly.

Mr. CLAPP. The Senator has no doubt, I take it, that the words "unfair competition" are as susceptible of a practical application as are the words "restraint of trade"?

Mr. KENYON. I have no question about that, in my mind.

Mr. CLAPP. I have not, either. I may vote—I rather expect to vote—for this measure, because ofttimes we have to take the less of two evils; but if the words "unfair competition" are as practical in application as are the words "restraint of trade," then, so far as that phase of the trade commission bill is concerned, what would stand in the way of the Department of Justice enforcing a statute in addition to the existing law declaring unfair competition to be unlawful and the subject of governmental interference?

Mr. KENYON. I do not feel quite certain as to that. While the mere declaration of unfair competition as unlawful would give, I think, unquestionably a civil action, yet does the Senator think it would justify a criminal action?

Mr. CLAPP. I think we could use the same language with reference to unfair competition that we have used with reference, for instance, to restraint of trade and prohibit unfair competition.

Mr. KENYON. Making unfair competition a crime?

Mr. CLAPP. Making it a crime; just as restraint of trade is made a crime.

Mr. KENYON. I think we could.

Mr. CLAPP. Now, there are a great many things in this bill that perhaps a commission—I would rather refer them to the Secretary of Commerce—could handle better than the Department of Justice, such as investigations, the exercise of the inquisitorial powers conferred, and similar matters; but when it comes to enforcing a law, that we claim here in the Senate is a plain law and plainly defines an offense, and one which is just as easy of practical application as are the terms we have used in the Sherman antitrust law, why not deal with it as we have dealt with it in the Sherman antitrust law, and relegate it to the Department of Justice?

Mr. KENYON. Of course there are many people who believe that the Sherman antitrust law is a failure; I have heard it so argued on this floor; and the chairman of the committee who has charge of this bill suggested that he would like to see the enforcement of the Sherman antitrust law put into the hands of a commission.

Mr. CLAPP. Yes; but I am making my inquiry now of one who I understand believes that the Sherman antitrust law has been efficient.

Mr. KENYON. I do.

Mr. CLAPP. Now, to one believing in the efficiency of the Sherman antitrust law, why does it not appeal with some force to declare an unfair practice an offense, and leave the enforcement of the statute directly to the Department of Justice, just where we have left the enforcement of our prohibition against restraint of trade?

Mr. KENYON. Of course that question is not here now.

Mr. CLAPP. But it will be.

Mr. KENYON. It may be; that will give an opportunity to reflect upon it, and I should want to reflect upon it a little before making up my mind.

Mr. CLAPP. But, Mr. President, if I am not wearisome in my inquiries——

Mr. KENYON. The Senator is very delightful.

Mr. CLAPP. We have a fixed system here; we have declared against restraint of trade; we have turned the enforcement of that prohibition over to the Department of Justice, and, in the opinion of the Senator from Iowa and in my own opinion, we agree that it has been an effective law. Now, why should we depart from the enforcement of the law at this point and take it away in its initiative from the Department of Justice and vest it in a body of men further removed from the effective responsibility than is the Department of Justice? If it is true that a law just as plain as the Sherman antitrust law, just as easy of application as a practical question in the enforcement of that law, should be turned over in the first instance to a commission, then it strikes me that by the logic of sequence the Sherman antitrust law, in the initiative of its enforcement, would be better in the hands of a commission.

Mr. KENYON. We had not reached the era of commissions at that time, or it might have been.

Mr. CLAPP. But we have now.

Mr. KENYON. I am not going to dispute the proposition of the Senator, because I might agree with him upon reflection; yet I think it is true that a law against unfair competition would be even more difficult of enforcement than an act against restraint of trade, because there would be more of the hidden things that would be difficult to get at. Now, this commission investigates, while the court would not investigate. The Attorney General's office would do the investigating.

Mr. CLAPP. Exactly. If the Attorney General's office has not the force with which to investigate in this new field of legislative prohibition, we should give it the force. What I am getting at is this: To my mind, one thing or the other is always true where they are opposite things. If we have reached the point where we believe that the Sherman antitrust law has seemed inefficient in its administration, and that it would lead to the efficiency of administration in this new field to employ in the first instance a commission instead of men under the direct supervision of the Attorney General, it strikes me we should consider the same thing with reference to the Sherman antitrust law.

Mr. KENYON. I am inclined to believe that if there had been a commission charged with the enforcement of the antitrust law better results might have been secured, because Congress has never equipped the Attorney General's office sufficiently to enforce the law as I think it should be enforced.

Mr. CLAPP. That brings me right to the conclusion: If that is true, then we owe it to this country to turn the whole matter of the enforcement of antitrust legislation into the hands of this commission, or else at this point sufficiently equip the Department of Justice.

Mr. KENYON. "Sufficient unto the day is the evil thereof."

Mr. CLAPP. That is true; sufficient unto the day has been the evil thereof too much in legislation. We should deal with these things fundamentally. Either one policy or the other is the wise policy. We propose to go on with a policy that is condemned by the adoption of this policy, and to take up this policy and apply it only to a certain phase of the industrial situation.

As I say, I may vote for this bill; I rather expect to vote for it; but it does seem to me we are putting ourselves in a most illogical position by sustaining the necessity for this bill upon the want of efficiency of the law that already exists and make no step toward perfecting that law where it is deficient.

Mr. KENYON. I hope the Senator will prepare an amendment along the line he has in mind, and let us all discuss it.

Mr. CLAPP. I have one.

Mr. LANE. Mr. President, I should like to ask the Senator if it is not true that it would be just as easy to equip the Attorney General's department fully by giving it additional help as it is to create a new commission and start it out upon unknown seas without a chart?

Mr. KENYON. Well, that may be true. I am not prepared to deny it.

Mr. NORRIS. Mr. President, will the Senator permit me to interrupt him?

Mr. KENYON. I yield.

Mr. NORRIS. I want to suggest to the Senator that it seems to me the suggestion made by both the Senator from Minnesota [Mr. CLAPP] and the Senator from Oregon [Mr. LANE] is partially met, at least, if not wholly, by the suggestion that the Attorney General is part of the political, partisan administration, and cares more for the reelection or success at the polls of the administration of which he is a part than it is supposed, at least, this commission will be. It is supposed that it will operate without regard to politics.

Mr. KENYON. I do not believe that is a good answer, with all deference to the judgment of my friend from Nebraska.

Mr. CLAPP. If it is, it is a serious arraignment.

Mr. NORRIS. It is an arraignment. I believe it is an arraignment.

Mr. KENYON. That is just what I was going to say; but even under those circumstances I would a great deal rather have the Attorney General charged with the enforcement of the law than to have a commission with a Harvester Trust director or one of the organizers of the money trust upon it.

Mr. NORRIS. Of course, if the Senator will permit me, the success or failure of this commission, especially when it begins its operations, and has no precedents of actions established, will depend, in my judgment, upon the personnel that the President selects.

Mr. KENYON. Absolutely.

Mr. NORRIS. He will have it in his power, in my judgment, to make a permanent tribunal of this commission or to make it a temporary one, as President Taft did in the case of the Commerce Court.

Mr. KENYON. But of course the Senator realizes that we can not stop in legislation because of what the President may do, whatever party he may belong to.

Mr. NORRIS. No.

Mr. KENYON. The same thing may be said of the Interstate Commerce Commission. Its success is dependent on the character of the men who are placed there. The same may be said of our courts. The same may be said of Congress itself. It would be an indictment of our whole form of government.

Mr. CUMMINS. Mr. President, will my colleague allow me to make a suggestion at this point which seems to be pertinent to the inquiry of the Senator from Minnesota?

Mr. KENYON. Very gladly.

Mr. CUMMINS. The commission proposed in the bill has a very important function to perform that could not possibly be performed by the Attorney General. I assume that if the office of the Attorney General were equipped with a sufficient force it could make investigations as efficiently as the commission; but after it had made the investigation it must then resort to the court and present its complaint, and no one knows better than my colleague how long and tedious is the process before there can be any conclusion that influences even the conduct of the defendant.

The commission under this bill is given certain power to make an investigation or hold a hearing and issue an order. That will be done in very much less time and in a much more summary way than it could possibly be done in the courts. It is to be hoped—and I believe that in that hope is a great part of the value of the commission—that when a commission of the kind we will have enters an order commanding a corporation or a person to cease a vicious practice in business, its order will be obeyed and the practice will cease, and we will gradually see better morals in the commerce of the country.

I beg the pardon of my colleague for making this suggestion, but I think that is one of the great merits of the commission.

Mr. KENYON. I thank my colleague for the suggestion, and I want to add to it. While the Senator from Minnesota assumes, and possibly rightfully so from what I have said, that the term "unfair competition," in my judgment, has as well-defined a meaning as "restraint of trade," I want to limit that to this extent: "Restraint of trade," of course, has a well-fixed judicial meaning, but it has taken years to work out that meaning. I want to call attention to a speech of Mr. Taft at Bath, Me., in September, 1906, before he was President, in which he said:

> It would seem as if Congress itself knew that the evil existed but had a most indefinite idea of how it was to be described.

Then, referring to the Sherman Act:

> And the matter was apparently turned over to the courts, as the cases arose and decisions were invoked, to work out the exact character of the offenses denounced and the limitations which were to be introduced into the statute in order that the interpretation of it might accord with what was practical and reasonable. * * * It was not to be expected that such a statute, dependent as it was upon judicial interpretation to make it clear, could operate effectively at once, and the slow course of judicial decision had to be awaited before the general purpose of the act could be attained.

And it did take some 15 years, through the slow process of judicial interpretation, to work out just what those words meant.

As the Senator from Rhode Island said the other day, the Sherman Act, in its literal interpretation, as demanded by that school of thought, was practically an unenforceable statute. I agree with him; but when the meaning was put in by the Supreme Court of an unreasonable restraint of trade, it became an enforceable statute; and when the Supreme Court decided the criminal features in the Nash case, it became an enforceable criminal statute.

This, however, is what I rose to say more than anything else: I would not want to see a single thing happen to the Sherman Act. The Sherman antitrust law has never had a fair chance in this country. I wonder what any law would amount to if it had been enforced no more than the Sherman antitrust law at times has been enforced. Now, it may be true that it was not an enforceable statute. It may be true that after the decision in the Knight case it was generally accepted in this country that it could not be enforced, and some Attorneys General in their opinions and in their reports so said; but if they had kept on trying to enforce it, we would have had the rule of reason established before we did have it established, and then there would have been some power in the act.

Now, Mr. President, everybody knows—it is not a matter of criticism, and I am not criticizing anybody—that the campaign of 1896 was carried by what is called "big business" in this country, which we are so solicitious about just now. Big business cared not for the Sherman Act. Big business won a great victory. It moved in; and during that administration—and I am casting no reflection on any man, living or dead—during the four years following that campaign I think I am correct when I say that there were only three small cases brought under the Sherman Act. In any event, I know I am correct when I say there were not over six cases brought.

The Sherman Act, it is claimed by many, could have been easily repealed during those years.

I feel that I am really trespassing on the time of the Senator from Rhode Island [Mr. LIPPITT]. I did not expect to take up so much of the time of the Senate, but I want just to finish up these observations as to the Sherman Act.

It had not been enforced in the preceding administration. What would become of any law that for four years had only from three to six little cases brought under it?

If the law against sending obscene literature through the mails had no better enforcement than that, it would not amount to anything, or the law against murder, or anything else. So it is not fair to say that the Sherman antitrust law has been an absolute failure.

When it came along to the Northern Securities case, under the administration of President Roosevelt, there was some life put into the law by that decision; but, Mr. President, I stand here to say that a President who has been maligned as being controlled by special interests in this country did more to enforce the Sherman Act that any other President we have ever had. In the administration of President Taft—for I refer to him—there were 89 cases, civil and criminal, brought against the trusts and combinations in this country; more cases in that one administration than had been brought in all the preceding administrations and the present administration up to this time. Mr. President, the influences that could stop a prosecution of the Harvester Trust in a preceding administration were unable to stop that prosecution or that case in the administration of President Taft; and when the chief organizer of the Harvester Trust——

Mr. LIPPITT. Mr. President, will the Senator yield to me for just a minute?

Mr. KENYON. Yes.

Mr. LIPPITT. I am glad to hear what the Senator says in regard to the enforcement of the antitrust law during President Taft's administration, but I wonder if he is aware that the gentleman to whose ability and industry the success of those cases was due—I am referring to Mr. Wickersham—says in the most positive manner that in order to control the trusts and monopolies of this country the Sherman law is fully capable of meeting every demand, and in the most positive way asserts that there is absolutely no necessity for the passage of the measures that are under consideration at this time in this body?

Mr. KENYON. I am familiar with the views of former Attorney General Wickersham upon that proposition. I cordially indorse what the Senator says as to his course of conduct in enforcing the Sherman Act. But the Senator interrupted me right in the center of a good sentence.

Mr. LIPPITT. I beg the Senator's pardon. I will say that the Senator has uttered so many good sentences that it will do no harm to have one spoiled.

Mr. KENYON. I am glad at this time in this public place to pay tribute to President Taft and to Attorney General Wickersham for what they tried to do in enforcing the Sherman Anti-trust Act. The organizer of the Harvester Trust, who had been able to stop that prosecution in a previous administration was not able to stop it in the administration of President Taft. So he turned aside from his former work in organizing trusts and organized a new party to assist in punishing Mr. Taft for trying to enforce the Sherman Act. While people may disagree concerning President Taft, I know, he with his back to the wall did everything within his power to enforce the Sherman Act; and if we did not have this trade commission and if the same effort were kept on to enforce the Sherman Act, we would not have many new combinations and trusts in this country.

It is all moonshine to say that the big business interests of this country do not understand what this Sherman Act means. Lawyers in the past have been employed to advise them just how to get within the law, but with the present decisions of our courts an honest lawyer can sit down with an honest client and he will not have any trouble understanding what the Sherman Act means. I believe in that act. I know it is difficult to enforce a statute of that kind. Juries hesitate because they see no moral turpitude. Courts hesitate to send trust magnates to jail and prefer to place a fine upon them. So all through the history of this great act not a single man has ever gone to jail for its violation. There have been convictions. There are men now sentenced to jail under the act. When a man is convicted immediately there is a propaganda to show what a great philanthropist he is and how he ought not to be interfered with. But if the criminal features of that act could be enforced, if the courts would give jail sentences instead of fines that are merely transferred to the back of the consumer and amount to nothing, we would not have so many trusts and combinations organized in this country.

Since the decision of the Standard Oil case there has not been much difficulty with the courts in enforcing the rule of reason. They have applied it in many cases, and the Supreme Court has decided some dozen cases since that time. I wish to put in the RECORD, and that is why I refer to this, some of these cases.

The United States *v.* Terminal Railroad Association (224 U. S., 383). There the rule of reason was applied to the terminal facilities of St. Louis, and it was held that a terminal association of railroads unifying all the terminal facilities of a great city was an illegal restraint unless it acted as an impartial agent of every line compelled to use its instrumentalities. There was some effectiveness, I assume, to that.

The Standard Sanitary Manufacturing Co. *v.* United States (226 U. S., 20), decided in 1912. There the parties sought to protect themselves behind a patent, having a right to lease their patent rights, but going beyond that and using that as a device to create a monopoly, and the Supreme Court held that a price-fixing trade agreement in the form of licenses under patents, controlling 85 per cent of the commerce in enameled iron ware, fixing prices, and so forth, was in violation of the Sherman Act—the rule of reason, which is nothing more than the rule of common sense.

Then The United States *v.* Union Pacific Railroad Co. (226 U. S., 61). It was held by the Supreme Court that the two railroads were competing systems and that the domination of the Southern Pacific by the Union Pacific was within the prohibition of the antitrust act.

The United States *v.* Reading Co. and others (226 U. S., 324), where a number of coal-carrying railroads and mining companies combined to prevent the construction of an independent line into the anthracite region, by means of the instrumentality of the Temple Iron Co., a corporation whose stock was owned by defendants. It was held that this was a violation of the Sherman Act.

In the case of the United States *v.* Patten (226 U. S., 525), which is a famous case, it was held that a conspiracy to corner the available supply of cotton, what is commonly known as a cotton corner, and thereby to enhance its price throughout the country, was within the terms of the prohibition of the Sherman Act, because these men had gathered to themselves the control of cotton and had power to keep it out of commerce if they desired to do so.

The United States *v.* Winslow (227 U. S., 202), United States *v.* Pacific & Arctic Railway & Navigation Co. (228 U. S., 87), and Nash *v.* United States, the last case to which I have referred. In all the rule of reason was applied.

Mr. President, as before stated, I did not intend to take up so much time. I have no particular trouble in my mind in supporting this bill because of the term "unfair competition" or because of the vagueness of it, or because of the question as to the delegation of power, and I have not any doubt about the other question that I have suggested, and that has been suggested here, viz, that this act really helps monopoly. It is only because of the character and the ideas of the men who have suggested that on this floor that it has troubled me—the distinguished Senator from Idaho [Mr. BORAH], than whom there is no greater foe of monopoly in this country; the Senator from Colorado [Mr. THOMAS], of like turn of mind—but it seems to me that there is no foundation for such a charge, and this act when it becomes a law complements the Sherman Act, that it will operate together with this law and assist in many ways in the enforcement of the Sherman Act, as my colleague has so well said here. He has had much to do with this act. No man in this country in long years of official life and public activity has shown himself a greater enemy to wrongful monopoly than has my colleague. And so I have no particular hesitancy in supporting this bill. I would not vote for the bill if I believed that it did injure the Sherman Act or lessen its power. I shall cheerfully vote for this bill, and shall cherish the hope that the power of this commission in the future will be enlarged to deal with industrial conditions, with unfairness between employer and employee. If this act shall do even a little to help in stopping monopoly in this country by getting at the unfair practices before they have fully ripened and blossomed, then it will do good and it will justify the long time that has been taken in its discussion.

Mr. LIPPITT. I have an amendment, Mr. President, that has already been proposed and sent to the desk, but which in an amended form has been accepted by the Interstate Commerce Committee. I do not understand that the Senator from Nevada as yet has offered it for incorporation in the bill. I ask the Senator from Nevada if he will not now offer it, or if I may offer it myself on behalf of the committee?

Mr. NEWLANDS. The committee, Mr. President, will be very glad to assent to the amendment which the Senator from Rhode Island proposes to offer.

Mr. LIPPITT. I will send it to the desk and ask that it be read.

Mr. CLAPP. I could not hear what the Senator from Nevada said.

Mr. NEWLANDS. I stated that the committee would be very glad to assent to the amendment which the Senator from Rhode Island offered.

Mr. CLAPP. Let it be read.

The VICE PRESIDENT. The Secretary will read the proposed amendment.

The SECRETARY. On page 15, at the end of line 3, after the word "each," insert:

> And no person who is or has been a member of the commission shall be eligible for any other office under the United States until after a period of one year from the time he ceases to be a commissioner.

Mr. CLAPP. I wish to suggest to the Senator that if it is essential to put such a restriction in the bill, and personally I am very much in favor of it, it strikes me it ought to be a somewhat longer period than one year; it ought to be at least two years.

Mr. NEWLANDS. I will state that it was fully discussed in the committee, and the committee came to the conclusion that one year is long enough. They were opposed to any further time.

Mr. CLAPP. If the Senator from Rhode Island will pardon me, of course the object of this, and we may as well be plain about it, is to prevent the probable election or the campaign for election of a man serving on the commission in relation to his decision as a member of the commission. We may just as well be frank about it. If that is not the purpose it ought not to be in the law. It seems to me that one year as the period between which a vital decision may be made and the election is altogether too short.

Mr. LIPPITT. I would say to the Senator from Minnesota that as I originally drew the amendment it made the period three years. Personally, I think that three years is not too long; I think it is almost necessary to carry out the purposes of the amendment. The members of the Interstate Commerce Committee felt that period was longer than was necessary, and as I preferred to have their approval and indorsement of the amendment in the form nearest to what I could obtain, I consented to the proposal. I myself agree with what the Senator from Minnesota says. Perhaps three years is a trifle too long, I think one year is not long enough. It may be that it would be a happy compromise if the period were made two years; but the reason why it was presented in this particular form is because the committee, after a few minutes' deliberation on the

subject, agreed to accept it and report it in that form. I would be very glad if the chairman of the committee thought himself authorized to make the period two years.

Mr. CLAPP. I take it the statement of the Senator from Rhode Island might be enlarged by saying in addition to a few minutes' consideration that it was the consideration of a few minutes by a few members of the committee. I do not think there has been anything like——

Mr. LIPPITT. I will say that there was a quorum of the committee present.

Mr. CLAPP. There might have been a quorum there.

Mr. LIPPITT. It has not always been the case that even on more important matters in connection with this measure we have had a quorum.

Mr. CLAPP. That is true; but personally I rather deprecate the necessity for taking a position with reference to official positions of this kind—that we have to place such a limitation. However, if we do place one, as I said a moment ago, there is no disguising the purpose of placing it. This prohibits the holding of an elective or an appointive office, and it does seem to me if we are confronted by a condition where we feel that it is necessary to say to a public official he shall not fill another office within a given period after he retires from one office, the time ought to be more than one year, especially in our view of election purposes. I will move to amend the amendment, if in order, by making the period two years.

Mr. REED. If I understand the amendment aright, it prohibits one who has been a member of this board from holding any office under the United States Government.

Mr. LIPPITT. Yes, Mr. President.

Mr. REED. If a man has the constitutional qualifications to hold an office under the United States Government, how can you by statute prohibit him from filling any constitutional office?

Mr. LIPPITT. I will say in reply to that question that that very point was considered by the lawyers on the committee, and it was their opinion that it was well within the power of Congress to make that stipulation in providing for this new commission. Of course I am myself not a lawyer, and I would have great deference for the opinion of the distinguished Senator from Missouri, but the matter, I can only say, was considered and the opinion of eminent authorities was passed upon it. I think I was informed at the time that there had been similar cases.

Mr. SMOOT. Mr. President, I think the Senator from Missouri is a member of the Banking and Currency Committee. He will remember that in the Federal reserve act any member of the reserve board was prevented from holding an office under the Government of the United States for a certain period after his term of service.

Mr. REED. Oh, no; the Senator is in error.

Mr. SMOOT. I may be mistaken, of course; but that is as I remember it.

Mr. O'GORMAN. I understand, with the permission of the Senator from Missouri, the provision in the banking and currency act prohibiting officials connected with the reserve banks from continued activity is confined alone to employment in national banks. That is an entirely different proposition, because, the national banks being subject entirely to congressional regulation by legislation, it was very proper for Congress to provide that they should not be employed in the national banks.

Mr. SMOOT. It is the same principle, only to a limited degree. In other words, they are prevented from holding office in national banks, and I take it for granted that in the question of qualification to serve upon the board it would not be proper immediately to enter upon some kind of business which they have been directly supervising. If you prevent them from holding any office, the principle, I think, is the same.

Mr. O'GORMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Rhode Island yield further to the Senator from New York?

Mr. LIPPITT. Certainly.

Mr. O'GORMAN. With the permission of the Senator from Rhode Island, I wish to express my very strong dissent against any piece of legislation such as he proposes and such as the chairman of the committee sanctions. It is a most serious reflection upon the citizens of the land, it is a reflection upon all congressional action of the past, that men who are to be selected for high and important public stations are so much under suspicion that they are to be debarred from holding any other office within a given time. I can not allow myself to vote for it. I think it is a vicious, unwise piece of legislation. I can not in this connection fail to express my surprise that the committee has given it its sanction.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Iowa?

Mr. LIPPITT. I do.

Mr. CUMMINS. In the constitutions of many of the States will be found a provision which makes a judge ineligible for any other office, some of them during the term for which the judge is appointed and elected, and others of them for a period after the term has expired. It is a common provision, I think, in our policy and is intended to relieve the incumbent of an important office that is either judicial or quasi judicial from the temptation to favor anyone in his decisions in order to improve his chances for election to some other office. I do not regard that as a disparagement of judicial officers.

Mr. O'GORMAN. Mr. President, may I ask the Senator if he can indicate any State which has provided by its constitution that the holder of a judicial position is disqualified and prevented from being reelected or reappointed?

Mr. CUMMINS. No. On the contrary, the constitutional provisions that I have in my mind do not interfere with the eligibility of a judge for election or appointment to a judicial office, but render the judge ineligible to election to any other office.

Mr. O'GORMAN. Can the Senator cite any constitutional provision going to the length indicated by him?

Mr. CUMMINS. No.

Mr. O'GORMAN. I do know, if the Senator will pardon me, that in several of the States there are constitutional prohibitions against a judicial officer being a candidate for any other place during the time for which he is elected or appointed to a judicial position.

Mr. CLAPP. Or within one year thereafter. I am very positive, is the provision in the constitution of my own State. That constitution also prohibits a member of the legislature for one year after the end of his term from being elected to any office created during his term of office, which involves this same principle.

Mr. O'GORMAN. May I ask the Senator from Iowa, who, as I understand, favors this provision, why we should pursue any different course from that which has been observed in respect to the members of the Interstate Commerce Commission?

Mr. CUMMINS. Mr. President, I do not know of any reason why this course should not have been pursued with regard to the Interstate Commerce Commission. I wish it were a part, and had been from the first, of the interstate-commerce law, although I am not suggesting that its omission from the law has brought any trouble or disaster upon the people. I believe that it is a wise provision. The nature and character of the powers exercised by the trade commission will be judicial; they will involve the decision of great questions between the Government and the people of the country; and I should like to see the commission barred from all sources of temptation against which we can protect them.

Mr. REED. Mr. President——

Mr. CUMMINS. Now, may I say a word to the Senator from Missouri with regard to the constitutional point? I do not understand that our Constitution prescribes the qualification for any officer of the United States. The Constitution says that no person shall be elected a Member of the House of Representatives unless he is 25 years of age and has been a citizen, and so forth. It prescribes a similar negative qualification for a Senator, but there is nothing more in our Constitution, as I remember it, than this negative qualification. I hardly think that it is beyond the power of Congress to prescribe a qualification that is not in itself repugnant to or inconsistent with the constitutional provision.

Mr. REED. Mr. President——

The VICE PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Missouri?

Mr. LIPPITT. I yield; yes.

Mr. REED. The question was raised as to the banking and currency act; and in order to clear that up, because it has been stated that there was a similar provision in that act to the one now offered, I call attention to the language of that act as found in section 10:

> The members of said board—

That is, the Federal Reserve Board—

> The members of said board, the Secretary of the Treasury, the Assistant Secretaries of the Treasury, and the Comptroller of the Currency shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any member bank.

That is a very different proposition from saying that they can not hold any office under the Government of the United States.

Mr. O'GORMAN. And, Mr. President, if the Senator will pardon me a suggestion at this point, in that provision of the law just read by the Senator from Missouri we do not impose disqualifications upon the individual, but we indicate the rules and the regulations under which the national banks shall be operated.

Mr. REED. Certainly. We can reach the member bank and prescribe who its officers shall be at any time; that is all we undertake to do; but no matter how heartily one may be in sympathy with the thought expressed by the Senator from Iowa [Mr. CUMMINS], and with the purpose of this amendment, he can not escape the effect of the Constitution, if the Constitution is in the way. I simply sk the question whether it has been considered, because, of course, if the Constitution of the United States prescribes the qualifications of a man who shall hold office then that is paramount——

Mr. LIPPITT. Mr. President——

Mr. REED. If the Senator will allow me to finish a sentence—that is paramount, and, of course, it can not be changed by a statute.

I have not recently examined the question; it has been a good many years since my attention was directed to it; but, so far as I have a recollection about it, it is that it has been held that where there is a constitutional qualification set forth, no statute can enlarge it or take from it.

Mr. LIPPITT. Mr. President, it seems to be pretty well demonstrated that, at least in the case of the States, similar provisions are enforced, and, so far as State constitutions go, are not unconstitutional.

Mr. REED. Mr. President, if the Senator will pardon me, the reason why the State prohibitions have been sustained is found in the fact that the disqualification is not in a statute which conflicts with the State constitution, but is found in the State constitution itself. Of course, a State adopting a constitution can put whatever limitations it sees fit upon the right of any of its officers to hold office under its own constitution. I do not desire to interrupt the Senator further, but I thought it important to state this distinction.

Mr. KERN. Mr. President——

Mr. LIPPITT. I think I have the floor.

The VICE PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Indiana?

Mr. LIPPITT. For what purpose?

Mr. KERN. To offer a motion pertaining to adjournment.

Mr. LIPPITT. Before I yield I should like to know what the nature of that motion is.

Mr. KERN. I will ask the Secretary to read it.

Mr. LIPPITT. I am perfectly willing to yield for a question or for discussion of the subject which we are considering.

Mr. KERN. I announced that I desired to make a motion pertaining to the adjournment of the Senate.

Mr. LIPPITT. Mr. President, I will be perfectly frank. It has been intimated to me that there is a disposition to keep the Senate in session indefinitely to-day until a vote is had upon the pending bill. If that is the motion the Senator from Indiana has in mind, I prefer not to yield.

Mr. KERN. My resolution is to rescind the order heretofore made providing for a recess at 6 o'clock.

Mr. LIPPITT. I will be very glad to yield for that purpose; but I wish to say to the Senator from Indiana that I have been waiting here all day for an opportunity to make some remarks on the pending bill. I understand from the Senator's statement that his only purpose in trying to obtain the floor is simply to make a motion that the session close to-day at 6 o'clock.

Mr. KERN. No; I rose for the purpose of making a motion that the order heretofore made providing for a recess at 6 o'clock each day until 11 o'clock the next day be rescinded.

Mr. LIPPITT. I did not understand that was the purpose of the Senator. I decline to yield for that purpose.

Mr. STONE. Mr. President, I rise to a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Missouri will state his parliamentary inquiry.

Mr. STONE. I understand that the order for taking a recess at 6 o'clock each evening until 11 o'clock the next morning was to remain as the rule of procedure until otherwise ordered.

Mr. KERN. Yes.

Mr. STONE. On Saturday last I think it was otherwise ordered when the Senate adjourned until 11 o'clock to-day.

Mr. KERN. That is so.

Mr. STONE. As the result of that adjournment we had a morning hour.

The VICE PRESIDENT. The Chair sustains the point of order, and rules that the order heretofore made was set aside by the adjournment on last Saturday night.

Mr. SUTHERLAND. Mr. President——

Mr. LIPPITT. I yield to the Senator from Utah.

Mr. SUTHERLAND. I desire to take an appeal from that ruling, and I wish to be heard upon it.

The VICE PRESIDENT. The question is, Shall the ruling——

Mr. LIPPITT. I myself am quite sure that the Chair is in error in that ruling, but I yield to the Senator from Utah.

The VICE PRESIDENT. The question is, Shall the ruling of the Chair stand as the decision of the Senate? Those in favor will say "aye"——

Mr. SUTHERLAND. Mr. President, that question is debatable, as I understand.

The VICE PRESIDENT. It is.

Mr. HUGHES. I make the point of order that a vote has been taken, just as though the roll had been called.

The VICE PRESIDENT. The Chair will not enforce the point of order if the Senator from Utah desires to speak upon the question.

Mr. HUGHES. I move to lay the appeal on the table.

Mr. SUTHERLAND. I have the floor. I was recognized by the Chair, and I decline to yield to the Senator from New Jersey.

The VICE PRESIDENT. Just one moment.

Mr. HUGHES. The Senator from Rhode Island [Mr. LIPPITT] has the floor.

Mr. SUTHERLAND. Mr. President——

Mr. STONE. If the Senator from Utah will pardon me, I did not make a point of order, and there was no ruling. There was nothing on which to make a point of order. With the permission of the Senator from Rhode Island, I rose merely to make a parliamentary inquiry, and stated what I thought would be the effect of the adjournment on Saturday last. The question would properly arise, I think, at 6 o'clock.

Mr. LIPPITT. I think the Senator might not have intended to do so, but I am quite sure that his statement as he rose was that he rose to a point of order.

Mr. STONE. No; I said I rose to a parliamentary inquiry.

Mr. LIPPITT. I thought the Senator rose to a point of order, or I should not have yielded.

Mr. SUTHERLAND. Mr. President, I should like to understand the parliamentary situation. The Senator from Missouri now says that he did not make a point of order, but simply made a parliamentary inquiry. If that be true, then may I ask whether or not the Chair has ruled upon a point of order that was not raised?

The VICE PRESIDENT. No; the Chair did not rule on any point of order that was not raised, or did not do so intentionally, at least. The Chair thought the point of order was as to whether the order heretofore made had been set aside by the motion to adjourn on Saturday night, and the Chair ruled accordingly. The Senator from Utah took an appeal from the ruling of the Chair, and the Senator from New Jersey moved to lay the appeal on the table.

Mr. SUTHERLAND. Mr. President, I again would like to understand the situation. If the Senator from Missouri did not raise a point of order, but simply submitted a parliamentary inquiry, then the Chair would not be warranted in ruling that a point of order which was not taken was well taken, but would simply be warranted in answering the parliamentary inquiry. If the answer of the Chair was simply an answer to a parliamentary inquiry, then I have nothing to say; but if the Senator from Missouri did raise a point of order, and that was ruled upon by the Chair, then I desire to take an appeal.

Mr. STONE. I understood the Chair to answer the parliamentary inquiry by saying that he held that the adjournment on Saturday was in effect a setting aside of the order for a recess at 6 o'clock each evening; but I did not see then, and I do not see now, just what there was immediately before the Senate concerning which a point of order could be raised to the extent of calling for a ruling from which an appeal could be taken. I think at 6 o'clock the question will arise as to whether or not the Senate shall stand in recess, and at that time the point may be raised as to whether the Chair could declare the Senate in recess until 11 o'clock to-morrow morning under the order of last week.

Mr. SUTHERLAND. If the Senator from Missouri be correct—and I, of course, give him credit for understanding what he did—then what the Chair did was simply to answer a parliamentary inquiry, and there is no ruling upon the subject.

Mr. LIPPITT. The Chair made a ruling.

Mr. STONE. I am perfectly willing to accept it as a ruling.

Mr. SUTHERLAND. Of course, I will submit the question, as I must submit it, to the Chair. Is it the view of the Chair that a ruling has been made from which an appeal will lie, or simply that the Chair made an answer to a parliamentary inquiry?

The VICE PRESIDENT. The Chair believed at the time of the ruling that a point of order was pending before the Senate and made a ruling which the Chair thought could be appealed from to the Senate. That is what the Chair still thinks. The Senator from New Jersey has moved to lay the appeal on the table. The Chair believes that motion is in order.

Mr. SUTHERLAND. Mr. President, does the Chair take the position that a Senator upon his feet and declining to yield can be taken from the floor for the purpose of making a motion of that character? I did not yield to the Senator. I expressly declined to yield to him. A motion to lay an appeal or a motion upon the table certainly can not be made until the Senator who desires to make it has taken the floor in his own right.

The VICE PRESIDENT. The Chair is not going to be technical about the matter. If the Senator from Utah desires to discuss the question, he may proceed.

Mr. SUTHERLAND. Mr. President, as it seems to me, the order that was made by the Senate is perfectly plain and can not admit of the construction which the Chair has put upon it. The language of it is:

Ordered, That until otherwise ordered the sessions of the Senate shall be from 11 o'clock a. m. until 6 o'clock p. m., at which last hour a recess shall be taken.

Now, on last Saturday night the Senate made no order about it. The order was not rescinded as to the rule to be observed in the future, but an exception was made.

Mr. LIPPITT. Mr. President, if the Senator will allow me, I should like to ask him the date of that order?

Mr. SUTHERLAND. The order was made on Monday, July 27.

Mr. LIPPITT. Is it not a fact that the Senate has adjourned since that order was made?

Mr. SUTHERLAND. The Senate did not adjourn until Saturday night, but each day, at the hour of 6 o'clock, a recess has been taken until the following morning. On Saturday, instead of the Senate observing its rule or rescinding it, it violated the rule, or created an exception to it. That does not make a new order. If, for example, on Friday night the Senate, instead of taking a recess at 6 o'clock, had in fact taken a recess at 5, that would not have been a new order. It would have been a violation of a continuing order. This order has not been rescinded. It is still in operation, and it is the rule under which the Senate is operating—that at 6 o'clock upon each day, until the Senate shall otherwise order, it shall take a recess.

Mr. President, there is no occasion for our friends upon the other side to undertake to hold the Senate in continuous session, as I understand it to be their plan to do. There is no disposition upon this side to filibuster upon this bill. There has not been a word of debate thus far that has not been entirely legitimate. The bill has been debated at some length, it is true, and as a result of the debate the committee itself has recognized that certain very important amendments should be made to the bill, and those amendments have been made. We are meeting here now at an unusual hour every morning, and we are continuing in session for an unusual time—until 6 o'clock each day. That ought to be enough. Whenever it develops that there is a manifest intention upon this side or upon the part of Senators on this side to filibuster, it will be time enough, as it seems to me, for the majority to undertake to hold the Senate in continuous session.

There are some very important questions pending about this bill. The Senator from Rhode Island has risen for the purpose of discussing it. He has been waiting here all day while the friends of this measure have been talking about it. In the main the argument of to-day has been devoted to a discussion upon the part of those who are friendly to the bill. There has been no attempt upon the part of those who are opposed to it to occupy time.

It is not quite fair, it seems to me, when the Senator from Rhode Island has just obtained the floor in this way, to insist that he shall go on for an unreasonable length of time, or that the remainder of us who may desire legitimately to discuss the bill shall not have a fair opportunity of doing so. I do not think our friends upon the other side will make headway by that sort of procedure. Of course they have the votes, I presume, and if they desire to enforce a proposition of that kind they perhaps will be able to do so, but I doubt very much whether they will make any time in the long run by it.

Mr. NEWLANDS. Mr. President, if the Senator from Rhode Island will permit me, we have now had this bill under consideration for six weeks. That is a very long time in such weather as we have been having. We have been hoping to bring the bill to a vote for the past week. We hoped to bring it to a vote last Saturday night, and there was a general understanding when we met to-day, at all events upon this side of the Chamber, and full notice was given to the other side, that the bill would be pressed to a vote to-day.

Mr. LIPPITT. Mr. President, if the Senator will allow me just at that point, I had no such understanding. I have been ready for two days here, since Friday, to address the Senate, and the time has been otherwise taken up.

Mr. NEWLANDS. I have no disposition to attempt to limit the Senator from Rhode Island, or to put him under any pressure. I will ask whether we can not agree to take a vote to-morrow at 6 o'clock on the bill and pending amendments?

Mr. LIPPITT. I should like to say, in reply to that, that the time which the Senator from Nevada refers to has been almost entirely taken up by a discussion on the part of the lawyers in this body of the legal meaning of one clause in the bill: that is, one clause of section 5. That discussion has gone on for day after day in an endeavor on their part to elucidate the meaning of those words. I had desired to discuss an entirely different part of this bill. As a matter of fact, in all these discussions that have occurred so far the question of the propriety of creating a trade commission has scarcely been touched upon, and it was with a view of saying something briefly upon that side, and a very important side, of the legislation that is included in this bill that I wished to address the Senate.

Further than that, I have proposed an amendment here that goes to the principle upon which legislation of this kind ought to be based. I believe it touches the most vital point that there is in connection with this whole subject.

I have been for three or four years now, as a member of the Interstate Commerce Committee, listening to the evidence in regard to these matters. I believe there is the greatest divergence of opinion upon the kind of legislation which ought to be passed here, but that, if there is an agreement upon any part of it, it is upon the propriety of the principle included in the amendment I wish to have passed upon being part of a measure of this sort.

The questions that are included in this bill are of the most far-reaching kind, and we can well afford to take an opportunity to thoroughly discuss at least the basic principles in connection with it.

The Senator from Nevada knows that I have not occupied any time in connection with this bill. I have scarcely said a word about it, and yet it is a subject upon which I have been spending a large part of my time since I have been a Member of this body. I do not think it is quite fair dealing to attempt at this time to shut me off.

Mr. NEWLANDS. Mr. President, I am very sorry we have not had the benefit of the views of the Senator from Rhode Island earlier in the debate. We all know that he is a man of affairs, a man of large business experience, and I am sure we would have been glad to listen to his views.

We have been debating this matter for six weeks. The Senator says the debate has been mainly taken up by the lawyers; but there was plenty of opportunity for the business men and merchants, as many as there are in this body, to have submitted their views.

I repeat that I do not want to put the Senator at all under pressure: but certainly, under the circumstances, he can not object to naming an hour for a vote upon the bill. We want to give the Senator full opportunity to debate it.

Mr. LIPPITT. Mr. President, just a word in reply to the statement of the Senator from Nevada that this bill has been under discussion for six weeks.

Early in the debate that was going on upon this bill I stated to the Senate, on an occasion when a similar agreement was asked for, that I did not feel that I could discuss the bill until I knew what was going to be reported in regard to the matter from the Judiciary Committee. The bill under consideration by the Judiciary Committee was reported here on July 22. That was about a week ago. In that bill there are important duties assigned to the trade commission. I think the duties that are assigned to the trade commission in that bill are a very strong argument against the establishment of a trade commission at all. Instead of there being, as the Senator very properly said as regards the trade commission bill, six weeks devoted to the discussion of this question, the whole subject has been before the Senate for only about a week, which is a very different proposition.

Under the circumstances, in the position in which I am, I shall object to any such agreement.

Mr. NEWLANDS. Will the Senator state whether he would be willing to fix an hour to-morrow for a vote?

Mr. LIPPITT. No; I shall object to any hour being fixed to-morrow. As I have just said, the amendment which I have offered covers a very basic principle. I shall want to discuss it a little myself. I know that some of the other Senators here wish to discuss it also, and I think that the debate can go on here upon these other bills. Here is the judiciary bill, the Clayton bill; they are all involved together. The instant you pass this bill you have got to go on and consider the Clayton bill, which is interlocked with it.

As a plain matter of fact, in consideration of the situation that now faces the civilized world, I believe this legislation ought not to be considered at all in this body. We are facing perhaps the greatest catastrophe that the world has known since the days of Noah and the great flood. We are facing a situation where the business men, the trade, and the commerce of this country are going to be called upon to face problems of whose importance no one can make an estimate at this time. Whatever is going to be the ultimate result of this legislation, the immediate result is going to be to present a number of new and very trying problems to the people actively engaged in the business of this country.

It seems to me that in view of the unparalleled situation—unparalleled so far as the records of authentic history go—to attempt to force these disturbing measures upon the business of the country at this time is very ill advised. I had hoped that in view of the situation the gentlemen on the other side who are responsible for the affairs of this country would have taken it under consideration and would perhaps have decided that the action upon this legislation should go over until next December. I think it is the only proper way for this body to act on the subject at this time.

Mr. NEWLANDS. Mr. President, if the Senator will permit me, I wish to say that I believe the adjustment of these questions now will tend toward industrial peace, and that it would be a great mistake to postpone their consideration.

I will ask the Senator whether he can name the time that he desires, and the time that those desire who he is informed wish to speak upon the bill? Are we to understand from the Senator that he is so much opposed to the present consideration of the bill that he will resort to every parliamentary means to prevent its passage?

Mr. LIPPITT. I will say to the Senator right here that I will resort to no parliamentary means that are in the nature of a filibuster in connection with the consideration of this bill, unless the other side of the Chamber attempts to resort to cloture measures. I have no disposition to do it, and I think no Member on this side of the Chamber has the slightest intention of doing anything of the kind. I will say frankly to the Senator that such a thought was brought up a short time ago in an informal conference of some of the Senators on this side who are opposed to this bill, and it was decided that no such step should be resorted to.

So far as I am concerned, I have no doubt that in the course of two or three days I shall have said all I can think of or want to say on this matter; and I have no doubt that in due course shortly, if this bill continues to be pushed on the other side, it will come to a vote. But, Mr. President, the distinguished Senator from Nevada is very anxious to have the bill go through, and he has listened with some credulity to the whispers of fancy in regard to the matter, and I think he has thought something was going to happen, when there was little possibility of it.

Mr. NEWLANDS. Mr. President, is the Senator willing to fix a time—day after to-morrow—when we can vote?

Mr. LIPPITT. No, Mr. President, I am not ready to-day to fix a time in regard to the matter at all.

Mr. NEWLANDS. Then I see no recourse——

Mr. LIPPITT. So far as I am concerned, I shall be quite willing to vote upon the bill in the course of two or three or four days—some time this week. I have no doubt of that.

Mr. NEWLANDS. I see no recourse, then, but to go on with the bill.

Mr. SUTHERLAND. Upon the appeal I ask for the yeas and nays. I simply want to make this final observation about the matter. Of course our friends on the other side think it is within their power to declare that a violation of an order is a rescission of it, but I warn them that if that is made the rule of the Senate by a vote of the Senate the day will come when it will not be a very creditable precedent to point to.

Mr. SWANSON. Let me ask the Senator a question. The rule said "until otherwise ordered." "Otherwise ordered" by whom? Otherwise ordered by the Senate. The Senate ordered an adjournment under the terms of the rule.

Mr. SUTHERLAND. Does the Senator from Virginia think that if we had taken a recess at 5 o'clock that would have been a rescission of the order? Does not the Senator from Virginia understand the difference between a violation of an order and setting it aside?

Mr. SWANSON. It is no violation, because the very order itself provides that it shall continue until otherwise ordered. It is no violation of an order when the Senate orders it otherwise. It was no violation of the order, but it was simply to continue until the Senate should otherwise order. Does the Senator think we can make a rule like that that will continue eternally and have unanimous consent for it?

Mr. SUTHERLAND. The Senator may be satisfied with his own reasoning. Without intending to be at all offensive, because I am very fond of the Senator, I want to compliment him by saying that he is the prince of sophists.

Mr. SWANSON. I will compliment the Senator further by saying that he has a great deal of force and a great deal of insistence to argue against doing precisely what the Senate had a right to order to do. I now ask the Senator this question: Could the Senate get rid of this order except by unanimous consent under the Senator's theory?

Mr. SUTHERLAND. It can get rid of it my unanimous consent, of course, or by another order.

Mr. SWANSON. It did make another order.

Mr. SUTHERLAND. Oh, no.

Mr. SWANSON. It ordered otherwise.

Mr. SUTHERLAND. No.

Mr. SWANSON. It did. It made another order for adjournment.

Mr. SUTHERLAND. Oh, no. An adjournment over one day will not put an end to an order that recess shall be taken from day to day, which is a general and continuing order.

Mr. SWANSON. Is not that an order?

Mr. SUTHERLAND. Any vote of the Senate is an order.

Mr. SWANSON. What is the difference between one order and another?

Mr. SUTHERLAND. Does the Senator think that if we had taken a recess on Saturday at 5 o'clock instead of 6 o'clock that would have put an end to the order?

Mr. SWANSON. Yes; if we had taken a recess at 5 o'clock that would have been another order; yes.

Mr. KERN. With the permission of the Senator from Rhode Island, who has said something about the action of this side of the Chamber and has made some statements as to what he will do, provided Members on this side do so-and-so, I want to assure him that the proposition to proceed with the discussion of this measure to-night came from both sides of the Chamber. It was not a partisan proposition. There is nothing partisan about it. There is a very general desire that this legislation shall be put behind us.

Mr. GALLINGER. Will the Senator be willing to state who were the Members on this side of the Chamber?

Mr. KERN. I do not propose to be cross-examined. The friends on this side who have spoken to me on this subject will know to whom I refer.

Mr. GALLINGER. I should like to know who they were.

Mr. KERN. The Senator can find out from them. The Senator will not question me, however, on the proposition, but the proposition is simply actuated by a desire to get this bill behind us.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Iowa?

Mr. LIPPITT. Just a minute before the Senator from Iowa speaks, if I may be allowed to continue. I should like to state to the Senator from Indiana that what I meant was the Senators on this side of the question, not on this side of the floor, though I may have said "floor." By Senators upon this side of the question I meant the Senators who are opposed to the passage of this measure. They have not filibustered or in any way attempted to do it, and they have no disposition to do it and will not throw any impediment in the way of the passage of the bill unless such measures are resorted to on the other side. Then I do not know what they will do. I yield to the Senator from Iowa.

Mr. CUMMINS. Mr. President, I believe that the ruling of the Chair is right, and I intend to vote to sustain the ruling. At the same time I feel that it is very unfortunate and very unfair in view of all the circumstances that the Senator from Rhode Island should be required to proceed to-night with an argument that I know he has had it in mind to make during all the while that the bill has been under consideration. I think

the ruling of the Chair is right, because when the Senate voted to adjourn it ordered otherwise than to take a recess at 6 o'clock and convene the next morning without the morning hour. The Senator from Utah will remember that there was a similar order made by the Senate some time before the order of a week ago to-day, which required the Senate to take a recess at 6 o'clock and convene at 11 o'clock, and that one afternoon when there was no quorum here the Senate was finally adjourned in the absence of a quorum, and that adjournment was by common consent held to be a recision of the former order for a recess.

Mr. SUTHERLAND. Will the Senator permit me?

Mr. CUMMINS. I yield to the Senator.

Mr. SUTHERLAND. The order that was in force at that time was an order for that day, and that day only. It was an order made in the morning that when the hour of 6 o'clock arrived at that day a recess should be taken until the following day. Of course that was not a continuing order. When the Senate adjourned that was the end of that order. It would have been the end of it if we had taken a recess. It did not operate the next day.

Mr. CUMMINS. I know there was a difference between the former order and the last one, but it seems to me there is a striking similarity still between the effect the adjournment had because there was no quorum and the adjournment Saturday night.

I dislike to see any difference of opinion with regard to this technical matter, and I appeal to the other side of the Chamber with regard to the further consideration of this bill—a bill in which I am just as deeply interested as anyone here—that it would be most unhappy at this juncture to enforce the further consideration of the bill to-night and require the Senator from Rhode Island to continue with his observations. I know, and all of you know, that the Senator from Rhode Island has made no attempt to obstruct the consideration of the bill. I accept his assurance, given in a public way, as I have heard him frequently express himself in a private way, that he had no purpose to delay a final vote upon the bill beyond the period of fair and adequate argument and consideration. I hope there will be some way in which this matter may be adjusted, and that we can come together to-morrow morning and hear the Senator from Rhode Island for the length of time he desires to address the Senate.

Mr. HUGHES. Mr. President, a parliamentary inquiry.

Mr. NEWLANDS. I wish to ask the Senator from Iowa——

The VICE PRESIDENT. The Senator from New Jersey will state his parliamentary inquiry.

Mr. HUGHES. I should like to inquire what is before the Senate.

The VICE PRESIDENT. The regular order is the appeal from the ruling of the Chair.

Mr. HUGHES. Has a motion to lay the appeal on the table been entertained by the Chair?

The VICE PRESIDENT. Not yet.

Mr. SUTHERLAND. I have asked for the yeas and nays on the appeal.

The VICE PRESIDENT. The Senator from Utah has demanded the yeas and nays.

Mr. HUGHES. On the appeal, not on the motion to lay on the table?

The VICE PRESIDENT. No motion to lay upon the table has been entertained.

Mr. CLARKE of Arkansas. Mr. President——

Mr. LIPPITT. I think I have the floor.

Mr. CLARKE of Arkansas. I shall not keep the Senator from the floor long.

Mr. LIPPITT. By yielding to the Senator from Arkansas I do not want to lose the floor.

Mr. CLARKE of Arkansas. The Senator will soon have it. Mr. President, I can not treat with seriousness the proposition that the ruling of the Chair is in the slightest doubt. The fiction of taking a recess from day to day and preserving the parliamentary day or establishing distinctions between a parliamentary day and a calendar day so far was for the purpose of getting rid of a certain rule requiring the consideration of morning business. It has a certain definite use when there is a protracted debate on hand and when the expectation is that time will be unnecessarily consumed. The rule of the Senate is a courteous recognition of the right of every Senator as measured by his own demand until it becomes perfectly evident that there is a concerted movement to delay proceedings, as they have been delayed for the betterment of the laws and institutions of this country on certain occasions. I do not know that an occasion of that importance will occur again in a short time, but the filibuster has been worth all it has ever cost up to the present time.

I believe that when there is a change in the processes of the Senate there ought to be fair notice given. The intention to have this night session has been agitated for about two hours, so far as my knowledge extends. I do not believe that the Senator from Indiana and the Senator from Nevada ought to insist upon a night session to-night. I think that the usual order to take a recess until 11 o'clock to-morrow should be made, with a definite understanding that at that time, if the conditions of the bill seem to make it proper, we will, without any attempt to take snap judgment on anybody, continue the session until the bill has been disposed of. I think it can be disposed of at to-morrow's session on that condition, but I do not believe we would well preserve the high recognition of the rights of Senators, as we have heretofore understood them, by common consent if we should proceed to-night.

I hope the Senator from Indiana will relieve us of the necessity of remaining here to-night. I intend to stand by this bill and do whatever those in charge of it think we ought to do to pass it, but I would prefer to do some other things to-night.

Mr. NEWLANDS. The Senator is mistaken in his assumption that this matter was considered but two hours ago.

Mr. CLARKE of Arkansas. I only heard it about two hours since. If I did not say that I say it now.

Mr. NEWLANDS. Last Saturday night there was a general understanding that we would have a night session to-night and dispose of the bill.

Mr. CLARKE of Arkansas. Nothwithstanding that I think we ought not to insist on a session to-night. There is other work that some of us can do. There is an important meeting of Senators from the cotton region to-night for the purpose of determining whether or not there is anything which can be done to relieve an acute situation that will soon begin to make itself manifest in the cotton-growing district. The time will not be lost.

Mr. NEWLANDS. Mr. President——

Mr. LIPPITT. I think I have the floor, but I shall be very glad to yield to the Senator.

Mr. NEWLANDS. I am exceedingly reluctant to press the Senator from Rhode Island to speak to-night. He is a member of the Interstate Commerce Committee and has taken a prominent part in all our deliberations. He has a right to be heard, and we want to hear him. I regret that he has not seized an opportunity, however, prior to this time. I think there is a general sentiment on this side, after a discussion of the matter, that we should not press a continuous session to-night, but I give notice that from this time we shall press a continuous session, and that to-morrow night we shall have a night session.

Mr. LIPPITT. Mr. President, I wish to call attention for just a minute to the parliamentary situation also. As the amendment which I started to speak on about an hour ago has been accepted by the committee and by the chairman of the committee, that, in accordance with the previous ruling of the Chair that the acceptance of an amendment by the chairman of the committee does away with the necessity of any vote, the chairman having accepted it, it is now a part of the bill.

The VICE PRESIDENT. No; the Chair has never so ruled.

Mr. SWANSON. I make the point of order that an appeal is pending and that it is not subject to debate.

Mr. STONE. Mr. President, if I have made the point of order the Chair thought I had, and the Senators generally think I did, and an appeal was taken from it, to relieve that situation I will withdraw the point of order.

Mr. SMITH of Georgia. Mr. President——

Mr. LIPPITT. I think I have the floor.

The VICE PRESIDENT. The Senator from Rhode Island has the floor.

Mr. SWANSON. Mr. President, I rise to a point of order. Rule XX provides that all appeals shall be decided without debate.

Mr. SMOOT. The appeal has been withdrawn.

Mr. SWANSON. The appeal has not been withdrawn. The Senator from Utah [Mr. SUTHERLAND] made an appeal from the decision of the Chair.

Mr. SUTHERLAND. I took the appeal. What is the proposition of the Senator? I do not understand it.

Mr. SWANSON. I understand the Senator made an appeal from the decision of the Chair that the order made last Monday was revoked by adjournment last Saturday. The Senator from Utah made an appeal from that decision?

Mr. SUTHERLAND. I did.

Mr. SWANSON. I make the point of order that it is not debatable. I ask for the decision of the Chair upon my point of order.

Mr. GALLINGER. There is no point of order before the Senate.

Mr. NEWLANDS. Mr. President, I give notice that there will be a continuous session maintained to-morrow until this bill is disposed of. I now move that we take a recess.

Mr. GALLINGER. That is, the Senator means an attempt will be made.

Mr. NEWLANDS. Yes.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House disagrees to the amendment of the Senate to the amendment of the House to the bill (S. 6192) to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. GLASS, Mr. KORBLY, and Mr. HAYES managers at the conference on the part of the House.

ENROLLED JOINT RESOLUTION SIGNED.

The message further announced that the Speaker of the House had signed the enrolled joint resolution (H. J. Res. 312) for the relief, protection, and transportation of American citizens in Europe, and for other purposes, and it was thereupon signed by the Vice President.

RECESS.

Mr. NEWLANDS. I move that the Senate take a recess until 11 o'clock to-morrow morning.

The motion was agreed to; and (at 6 o'clock and 16 minutes p. m.) the Senate took a recess until to-morrow, Tuesday, August 4, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *August 3, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almighty Father, ever present in the hearts of Thy children to uphold, sustain, and guide them in right thinking and noble living, we thank Thee for the holy Sabbath day, which takes us, if we will, out of the busy whirl and turmoil of life's activities not only to quiet and rest, but to a contemplation of the sacred relationship to Thee and our fellow men. Lead us by Thy counsels through this day that we may reflect Thy glory in thought and deed and leave behind us something noble, something that shall live a blessing to mankind. For Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of Saturday, August 1, 1914, was read and approved.

MINORITY VIEWS—H. R. 15191.

Mr. WINSLOW. Mr. Speaker, I rise to present the views of the minority of the Committee on the District of Columbia in reference to House bill 15191, in accordance with the special action of the House. (H. Rept. 917, pt. 2.)

The SPEAKER. That goes through the basket.

CLERK PRO TEMPORE.

The SPEAKER. The Chair submits the following communication from the Clerk of the House.

The Clerk read as follows:

JULY 31, 1914.

Mr. SPEAKER: Desiring to be absent for a time from my office, I hereby designate D. K. Hempstead, one of my assistants, to act in my official capacities during my absence.

Very respectfully, SOUTH TRIMBLE,
Clerk of the House.

PERSONAL PRIVILEGE.

Mr. KINDEL. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. KINDEL. To a question of personal privilege.

The SPEAKER. The gentleman will state his question of privilege.

Mr. KINDEL. Mr. Speaker, I have been charged by the press, or rather by my colleague, Mr. KEATING, who is quoted in the press of the country and more specifically in the New York Sun of July 10 last, as follows:

Representative KEATING, of Colorado, who has been at odds with Representative KINDEL over the strike situation in the State, took occasion to-day to make some caustic comments about his colleague. In the debates in the House on the Colorado strike situation Mr. KEATING upheld the cause of the miners. Mr. KINDEL assailed the labor unions and took occasion one day to eulogize John D. Rockefeller.

"Any man who eulogizes John D. Rockefeller has no place in the Democratic Party," said Representative KEATING to-day. Referring directly to Mr. KINDEL, Mr. KEATING said:

"He is an attorney for the express companies in the House and never knew for a moment what the Democratic platform contained."

Mr. KEATING'S excuse for mentioning Mr. KINDEL'S name in connection with the express companies is the activity shown by Mr. KINDEL in opposing extensions of the parcel-post system.

My being an employed agent of the express companies or opposing extension of parcel post is absurd and malicious, all of which I deny. If that were true, I should not be a worthy Member of this body, and I should summarily be impeached. I challenge the allegation. I challenge the proof. Not only have these reports come to me from various parts of the country, but I see in Saturday's CONGRESSIONAL RECORD he again states what I have stated as to the Colorado situation to be untrue, and I take exception to that.

The SPEAKER. That is not a question of privilege unless it involves something said in the House, but the gentleman's first statement is a question of privilege.

Mr. KINDEL. The first statement I did not want to pay any attention to at all, but since his false assertion in his Monument speech was repeated in the RECORD of Saturday I could not let it go unchallenged.

The SPEAKER. The Chair thinks that is a question of privilege.

Mr. KINDEL. I accept the Speaker's correction.

The SPEAKER. Has the gentleman any speech to make about it?

Mr. KINDEL. Yes; very briefly. I want to say I hereby challenge Mr. KEATING or the newspapers that quoted him to make proof; to make good what they have said as to my being the hired attorney of any or all express companies. I want to say that, on the contrary, I was the first man in these United States to attack the rates of the express companies before the Interstate Commerce Commission after the Hepburn law went into effect; that by my first effort I succeeded in reducing the express rate from New York to Denver from $8.50 a hundred to $8, and by my second attempt at a correction of these outrageous rates toward my city and State we succeeded in reducing rates from $8 to $5.70 a hundred. I want to say that if either of three of my graduates of parcel-post rates were adopted there would be no need of any express companies, that I could take the express rates as received by them and pay to the railroads 50 per cent more than the express companies are paying them, and if Mr. Burleson's statement is right in the pickup and delivery cost I can beat the express rates by 30 per cent and the parcel-post rate by 50 per cent in the eastern territory, and also substantially reduce those in the western territory. I propose to go into this parcel-post rate matter more fully on a later day. I want to deny most emphatically the absurd or malicious allegation of Mr. KEATING that I am the hired man of any corporation of any kind, and I stand here ready to be investigated and challenge the proof. [Applause.]

EMERGENCY CURRENCY.

Mr. GLASS. Mr. Speaker, I ask unanimous consent to discharge the Committee on Banking and Currency from the further consideration of the bill (S. 6192) and to call it up for immediate action.

The SPEAKER. The gentleman from Virginia [Mr. GLASS] asks unanimous consent to discharge the Committee on Banking and Currency from the further consideration of Senate bill 6192 and to take up the same for immediate consideration. Is there objection?

Mr. MURDOCK. Mr. Speaker——

Mr. MADDEN. Mr. Speaker, reserving the right to object——

Mr. MANN. Mr. Speaker, let the Clerk report the bill.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 6192) to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act.

Be it enacted, etc., That section 27 of the act approved December 23, 1913, known as the Federal reserve act, is hereby amended and reenacted to read as follows.

"SEC. 27. The provisions of the act of May 30, 1908, authorizing national currency associations, the issue of additional national-bank circulation, and creating a National Monetary Commission, which expires by limitation under the terms of such act on the 30th day of June, 1914, are hereby extended to June 30, 1915, and sections 5153, 5172, 5191, and 5214 of the Revised Statutes of the United States, which were amended by the act of May 30, 1908, are hereby reenacted to read as such sections read prior to May 30, 1908, subject to such amendments or modifications as are prescribed in this act: *Provided, however*, That section 9 of the act first referred to in this section is hereby amended so as to change the tax rates fixed in said act by making the portion applicable thereto read as follows:

"National banking associations having circulating notes secured otherwise than by bonds of the United States shall pay for the first three months a tax at the rate of 3 per cent per annum upon the average amount of such of their notes in circulation as are based upon the deposit of such securities, and afterwards an additional tax rate

of one-half of 1 per cent per annum for each month until a tax of 6 per cent per annum is reached, and thereafter such tax of 6 per cent per annum upon the average amount of such notes: *Provided further*, That whenever in his judgment he may deem it desirable, the Secretary of the Treasury shall have power to suspend the limitations imposed by section 1 and section 3 of the act referred to in this section, which prescribe that such additional circulation secured otherwise than by bonds of the United States shall be issued only to national banks having circulating notes outstanding secured by the deposit of bonds of the United States to an amount not less than 40 per cent of the capital stock of such banks, and may permit national banks, during the period for which such provisions are suspended, to issue additional circulation under the terms and conditions of the act referred to."

Mr. MURDOCK. Mr. Speaker, reserving the right to object—and I do so because I want a record vote upon this bill—can the gentleman from Virginia tell us a way in which we can have a record vote upon this bill by allowing his request for unanimous consent?

The SPEAKER. Why, the bill is to be voted upon like any other bill. If anybody demands the yeas and nays, and gets enough to stand up with him he can get a record vote.

Mr. GLASS. I am sure I have no objection to a record vote.

The SPEAKER. This is simply unanimous consent to consider the bill.

Mr. MURDOCK. I would like to hear from the gentleman from Virginia his purpose in reference to the bill. What does he propose to do?

Mr. JOHNSON of Kentucky. To pass it.

Mr. GLASS. To pass it and let it be sent to the Senate.

Mr. MURDOCK. Is the gentleman in favor of a record vote upon this proposition?

Mr. GLASS. I have no objection whatever, but it has not occurred to me anybody would object to it.

Mr. UNDERWOOD. If the gentleman will yield to me——

Mr. GLASS. Certainly.

Mr. UNDERWOOD. I will say to the gentleman from Kansas that it is necessary to pass this bill this morning on account of the financial conditions in New York. Nobody, of course, would object to a record vote. Now, the banking and currency bill, known as the Glass bill, under the ruling of the Attorney General, can not become effective until the full board is made up, and it can not relieve this situation for that reason. Even if the full board were confirmed and sworn in this morning it would take 30 days to print the notes under that bill and get them in circulation.

Now, the critical part of the situation in New York rose out of the war conditions in Europe. The exchanges in all of Europe have closed, necessitating the closing of the New York Exchange. As the gentleman well knows, a large amount of money is loaned in New York on call loans on securities that are sold in the exchange. When the New York Exchange closed indefinitely it closed that market. All call loans became immediately time loans, and there is no chance for the New York banks to realize on them. The banks in the balance of the country are calling for their reserve on New York, with no opportunity for New York to realize on these securities. It is therefore necessary to have an emergency currency that can take effect at once. Five hundred million dollars have already been printed and are ready for use under the Aldrich-Vreeland currency law. The Secretary of the Treasury is now in New York City. If this bill goes through immediately that situation can be relieved before the banks close.

Now, if it is not relieved it may produce a financial panic in this country such as we have not known heretofore. I do not know whether there is a quorum in town or not. The gentleman from Kansas [Mr. MURDOCK] can insist on a call if he desires to do so. If a quorum is here, it will not injure the situation, but if it develops that a quorum of this House is not here, and it forces this bill to go over until to-morrow, the gentleman would be responsible for a very grave situation.

Mr. MURDOCK. Now, I will say to the gentleman from Alabama that I shall vote against this bill. I think I understand, in part, at least, the situation in New York City and in the world. I would like to have a record vote upon this proposition, and I will ask him if he will help me get the record vote.

Mr. UNDERWOOD. I will state to the gentleman that I have no objection to a record vote. I shall vote for the bill, and am perfectly willing to go on record for it. I have no doubt that every Member on this side of the House is willing to go on record to show that he is willing to meet an emergency condition in this country. [Applause.] But I can not agree, unless it is forced, that I shall ask for a record vote when I do not know whether it will develop in a quorum being in this House or not.

Mr. GARNER. Will the gentleman yield?

Mr. UNDERWOOD. I will.

Mr. GARNER. Is not this proposition now to ask unanimous consent for the consideration of this bill out of order?

Mr. MURDOCK. I understand that perfectly.

Mr. GARNER. The gentleman from Kansas is sufficiently familiar with the rules to know that when a vote upon this bill is taken in the House, if he should make a point of no quorum, he will take the responsibility on himself when he raises the point.

Mr. MURDOCK. "The gentleman from Kansas" also knows that if he objects probably the gentleman from Virginia [Mr. GLASS] will make a motion to suspend the rules, and there will be at least 20 minutes debate on each side, which I think ought to be given to the measure.

Mr. UNDERWOOD. As I understand, there is no desire on the part of the gentleman from Virginia not to allow 20 minutes on a side if unanimous consent is given.

Mr. MURDOCK. I regret that the gentleman from Alabama will not join in getting a record vote. You can do it in this House very easily. I am going to get a record vote if I can.

Mr. UNDERWOOD. I will say to the gentleman that I will not object to a record vote, but I think it is a dangerous proposition at this time.

Mr. LINDBERGH. Will the gentleman yield?

Mr. GLASS. I will.

Mr. LINDBERGH. The gentleman, of course, knows this is a very important bill, and I have no desire to obstruct it at all. What I want to know is this: It seems to me there ought to be some little time for the consideration of the bill. I do not mean sufficient time to pass it over for a day or anything of that kind, but if there is not time, on account of the financial stringency, I think the Members ought to have the right to put in the RECORD a few lines in regard to it, so that they may be understood.

Mr. GLASS. I will say that I have no desire to foreclose debate on the proposition. I suggest we have an hour's time, although I can not imagine why we should want to debate the proposition for an hour. I have no objection to discussion or leave to print.

Mr. LINDBERGH. I think that ought to be sufficient.

Mr. MURDOCK. Does the gentleman from Virginia [Mr. GLASS] purpose to have some debate on this proposition?

Mr. GLASS. I have just suggested that we may have an hour's debate on it if it is desired on that side. I do not think anybody on this side wants to discuss the proposition. I had not wished to discuss it further than to explain it, but that has already been done by the gentleman from Alabama [Mr. UNDERWOOD].

I will say to the House that I made every possible effort to get a meeting of the Banking and Currency Committee on Saturday to consider this bill and failed twice to get a quorum. Then I communicated with all the members in town whom I could reach by telephone, explained what the bill was, and none of them objected to the immediate consideration and passage of it.

Mr. BUCHANAN of Illinois. Reserving the right to object, I would like to ask the gentleman from Virginia [Mr. GLASS] what effect this will have on the application of the new currency bill if the new reserve board is organized?

Mr. GLASS. I do not think it will affect it at all. The fact is, if the board were organized and the new reserve system in force, there would be no necessity for repealing this statute. It is only because the system is not completely organized that we must resort to this.

Mr. MADDEN. Will the gentleman yield?

Mr. GLASS. For a question.

Mr. MADDEN. The board would have exactly the same power to suspend the law that this bill gives now if it was organized?

Mr. GLASS. Exactly.

Mr. MADDEN. That is all. This bill gives the authority to suspend the law before the organization of the board? As a matter of fact, under the Glass bill, the bill as——

Mr. GLASS. This bill confers on the Secretary of the Treasury the same powers that the reserve act confers on the Federal Reserve Board.

Mr. HAUGEN. I would like to ask the gentleman the reason for the proposed reduction in the rate of interest. I inferred from the resolution that the rate of interest is to be materially reduced.

Mr. GLASS. Not at all. The rate of interest was reduced by an amendment embodied in the Federal reserve act.

Mr. HAUGEN. I had reference to the Vreeland bill, and it is the Vreeland bill we are now undertaking to amend.

Mr. GLASS. That was done last December, when we passed the Federal reserve act.

Mr. HAUGEN. Why not make the rate of interest what it ought to be and make it a real emergency currency and not to accommodate certain speculators?

Mr. GLASS. The rate is what Congress determined last December it should be.

Mr. HAUGEN. Why not correct the error now?

Mr. GLASS. We see no necessity for it.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman permit an inquiry?

Mr. GLASS. Yes.

Mr. GARRETT of Tennessee. The currency act recently passed repealed all parts of the so-called Aldrich-Vreeland bill inconsistent therewith.

Mr. GLASS. It extended the operation of the act 12 months—from June 30 1914, to June 30, 1915.

Mr. GARRETT of Tennessee. Then there is nothing inconsistent with it?

Mr. GLASS. No. There is nothing inconsistent.

The SPEAKER. Is there objection?

Mr. MURDOCK. I object, Mr. Speaker.

The SPEAKER. The gentleman from Kansas [Mr. MURDOCK] objects.

Mr. GLASS. Mr. Speaker, I move to suspend the rules and discharge the committee from the further consideration of the bill, and pass it with amendments, which I send to the Clerk's desk.

The SPEAKER. The gentleman will send them up and have them read into the bill.

Mr. GLASS. I send them up to the Clerk's desk.

The SPEAKER. The gentleman from Virginia [Mr. GLASS] moves to suspend the rules, discharge the Committee on Banking and Currency from further consideration of Senate bill 6192, and pass the same, including the amendments which the Clerk will read into it.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Is the engrossed copy of the Senate bill here?

The SPEAKER. Yes. The gentleman from Virginia [Mr. GLASS] has it. It was on its way over to the committee. The Clerk will read the Senate bill, and read it with the amendments. Where does the proviso come in?

Mr. GLASS. At the end of the bill.

Mr. PAYNE. Mr. Speaker, the bill has already been read.

The SPEAKER. It has not been read under this motion.

Mr. PAYNE. It seems to me it would be more intelligible if it were read in its amended form.

The SPEAKER. It has not been read under this motion. The Clerk will read the bill, and read the amendments into it.

The Clerk read as follows:

An act (S. 6192) to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act.

Be it enacted, etc., That section 27 of the act approved December 23, 1913, known as the Federal reserve act, is hereby amended and reenacted to read as follows:

"SEC. 27. The provisions of the act of May 30, 1908, authorizing national currency associations, the issue of additional national-bank circulation, and creating a National Monetary Commission, which expires by limitation under the terms of such act on the 30th day of June, 1914, are hereby extended to June 30, 1915, and sections 5153, 5172, 5191, and 5214 of the Revised Statutes of the United States, which were amended by the act of May 30, 1908, are hereby reenacted to read as such sections read prior to May 30, 1908, subject to such amendments or modifications as are prescribed in this act: *Provided, however*, That section 9 of the act first referred to in this section is hereby amended so as to change the tax rates fixed in said act by making the portion applicable thereto read as follows:

"National banking associations having circulating notes secured otherwise than by bonds of the United States, shall pay for the first three months a tax at the rate of 3 per cent per annum upon the average amount of such of their notes in circulation as are based upon the deposit of such securities, and afterwards an additional tax rate of one-half of 1 per cent per annum for each month until a tax of 6 per cent per annum is reached, and thereafter such tax of 6 per cent per annum upon the average amount of such notes: *Provided further*, That whenever in his judgment he may deem it desirable, the Secretary of the Treasury shall have power to suspend the limitations imposed by section 1 and section 3 of the act referred to in this section, which prescribe that such additional circulation secured otherwise than by bonds of the United States shall be issued only to national banks having circulating notes outstanding secured by the deposit of bonds of the United States to an amount not less than 40 per cent of the capital stock of such banks, and to suspend also the conditions and limitations of section 5 of said act, and may permit national banks, during the period for which such provisions are suspended, to issue additional circulation under the terms and conditions of the act referred to: *Provided further*, That the Secretary of the Treasury, in his discretion, is further authorized to extend the benefits of this act to all qualified State banks and trust companies which have joined the Federal reserve system, or which may contract to join within 15 days after the passage of this act."

The SPEAKER. Is a second demanded?

Mr. MURDOCK. I demand a second, Mr. Speaker.

Mr. GLASS. I ask unanimous consent, Mr. Speaker, that a second be considered as ordered.

The SPEAKER. The gentleman from Virginia asks unanimous consent that a second be considered as ordered.

Mr. MANN. Reserving the right to object, Mr. Speaker, can we not have some understanding about an extension of the time for debate? We want a little time; I want a little time.

Mr. MURDOCK. I want only four or five minutes.

Mr. GLASS. I will yield to the gentleman half of my time.

Mr. HAYES. I want a few minutes.

Mr. MURDOCK. I will yield half of my time.

Mr. MANN. All right.

The SPEAKER. Is there objection to considering a second as ordered?

There was no objection.

The SPEAKER. The gentleman from Virginia [Mr. GLASS] is recognized for 20 minutes, and the gentleman from Kansas [Mr. MURDOCK] for 20 minutes.

Mr. MURDOCK. Mr. Speaker, this bill was passed by the Senate by unanimous consent. It came to the House, and the understanding we have from the press is that the measure was to pass the House without further amendment. The chairman of the Committee on Banking and Currency, however, has presented it to the House this morning with an amendment which appears to improve it materially. As the bill passed the Senate, and as it was intended in the first instance to propose it for passage in the House, it was unmistakably giving aid to the investment bankers, principally in New York City, at the expense of the discount bankers over the country.

Now, I am not easily rushed off my feet by the cry of great exigency. I know that from dynastic or from personal or from racial reasons Europe has come to the brink of war, and I am aware that, incident to that conflict which is impending, for four or five days of last week American stocks were unloaded upon the stock market in New York City, in particular on one day—Thursday of last week—because practically all the other stock exchanges in the world were closed although London was not. Friday the New York exchange was closed. Since there has followed rumor of financial difficulty in New York City, as was to be expected, and a demand from that source for money. Under the provisions of existing law for the issue of emergency currency the New York banks could not obtain the amount they desired, because under that law banks are not entitled to this emergency currency unless they have outstanding in national-bank notes based on Government bonds not less than 40 per cent of their capital—one of the chief safeguards of stability in the old Vreeland law. Now, the New York banks do not have a sufficient amount of Government bonds on hand. They want this provision repealed. This bill takes that safeguard away. Ordinarily its repeal would not pass Congress without days of debate if it could be passed at all. But there now arises here in Washington the cry of necessity for immediate action. There is apparently now no emergency equaling the necessity of immediate succor for those whose practices in New York City in 1907 resulted in the original passage of the Vreeland emergency currency measure.

In 1908, following the money flurry of 1907, there appeared in the House the original Vreeland bill. It was not possible to get a report favorable to that bill out of the Committee on Banking and Currency, and the Republican machine in this House forced it through the House under the cry of "exigency" without a report from the committee. It was opposed upon the Democratic side of the House largely—I think unanimously—because it did not sufficiently safeguard the redemption funds in the United States Treasury, because it gave too great a power to the Secretary of the Treasury, and because it discriminated in favor of the speculating investment bankers as against the discount bankers of the country. The bill was put through the House and finally became a law. When the time came to pass the Glass currency bill the provisions of this law were incorporated in the Glass currency bill and passed the Congress.

Now, again, under the cry of "exigency," taken in good faith by many, we are to change it again, granting greater power than ever to the Secretary of the Treasury, exposing again the redemption funds of the United States, and putting a further burden upon them, possibly to the hurt of the credit of the United States; and despite the amendment offered here this morning by the gentleman from Virginia, making it still possible to say of the bill that it is a life line to investment bankers as against the men who do a discounting business in the country, and a life line which, if any such difficulty as is alleged exists, will not reach and will not remedy.

This bill will pass. It will pass against an unavailing protest here, as it passed one time previously when the camel was getting his nose into the flap of the tent. The measure is back here once more, with its provisions relaxed in favor of those in New York, who, in part, have brought this condition upon the

country. I say to gentlemen here, after you have passed this bill, after you have tried to cure this situation by the remedy of inflation, which is ordinarily, in situations of this kind, no remedy at all, a remedy before which gold always hides and moves out of the country, it will be only a few months until the camel will be entirely in the tent, until the men from New York, who are here to-day asking for this legislation, will be back asking that the tax-retirement rate be repealed, and in that emergency we will be asked again to vote in their behalf. I shall vote against this bill, and my present intention is that there shall be a record vote.

I reserve the remainder of my time.

The SPEAKER. The gentleman reserves 14 minutes.

Mr. GLASS. I would be glad to have the gentleman from Kansas yield further time, because there will be but one speech on this side. I expect to yield 10 minutes of my time to the gentleman from Illinois [Mr. MANN].

Mr. MURDOCK. I yield to the gentleman from Minnesota [Mr. LINDBERGH] five minutes.

The SPEAKER. The gentleman from Minnesota [Mr. LINDBERGH] is recognized for five minutes.

Mr. LINDBERGH. Mr. Speaker, this bill is merely an enlargement of the Aldrich-Vreeland emergency act, as the bill itself shows. I voted against that act, and shall, for the same reasons which guided me then, vote against this bill.

It is rather strange that Congress acts so quickly to help out the speculators in emergencies, when neither the farmers nor the wage earners can secure legislation, however urgent it may be, if it is opposed by the same interests that seek this legislation. Our finances are on a wrong basis. I have so stated many times here. The very fact that this bill is demanded proves it. But this bill would not correct the financial system. The system, as it is, promotes speculation, and every few years speculators get into a tight place by reason of complications of one kind and another. Nine times out of ten it is of their own creation. In 1907 we had a panic, when all the natural conditions were the very best for good times. It was of Wall Street creation. The farmers, wageworkers, smaller business interests, and some of the larger business interests that were not under the wings of the Money Trust magnates were the losers. Now, we have a foreign war scare, which is assuming immense magnitude, so we are again asked to aid the speculators. Already they have been buying stocks in quantities which they had previously sold to Europe. They have used the deposits that the plain people have in the banks to make purchases. They use that money, the people's deposits, to send abroad for the stocks. It is paid in gold. Now they wish $500,000,000 and more of United States notes to be issued to pay the depositors if the depositors demand cash; and if they do not, then for the reenforcement of further speculation.

We probably have an emergency. I really think there is one; but it is one created by the speculators having put themselves in a position to be affected by a foreign war; and if they can get this act passed, they will dare to speculate more on the results of the war, for if they get cornered they can come to Uncle Sam for $500,000,000 and upward. If they do not get cornered, they need not take this money. It gives them the option. I am in favor of meeting the emergency, but not with more legislation in favor of the speculators. I will support any measure that would supply the people with all the credit and money that are needed to make the exchanges that arise out of the country's legitimate commerce. The legislation that is proposed this morning is to bridge the speculators over an emergency they have encountered. Let us pass a bill instead to bridge over any emergency that may come to the farmers, the wageworkers, the commerce, and other legitimate enterprises.

Some of us have been working for years to pass a rural-credit bill, to form a system that would really accomplish permanent good to the farming and other interests that form the basis for our existence, but the rural-credit bill can not be gotten on the floor for consideration by unanimous consent nor by any other means that the House adopts. Every obstacle is put in its way. Why? Simply because it is opposed by the speculators, the very ones whom it is proposed to pass this emergency bill for. Congress acts for them when, by obstructive methods, the farming and other legitimate business interests are left without a remedy for any emergency. The speculators are mere parasites, but still they get what they ask. The farming and other legitimate interests render the service that civilization demands, but when they wish credit or money they are forced to pay exorbitant prices because speculators are given a monopoly in the supply of credit and money.

I would adopt no obstructive measures to stop the passage of a bill that the majority wishes, for every Member is the representative of a district, and a majority have authority and power, if they exercise it, to pass through the House any kind of a bill they wish.

It has been indicated by some of the speeches this morning that Wall Street has notified us that a panic will start before night unless this bill is passed. That would be another panic started by Wall Street. It is about time that we passed a bill that would forever prevent Wall Streeters from turning up here every few years demanding the passage of measures to suit their purposes in order to stop panics started by their instrumentality. I am ready to vote for such a bill, but not this bill. It has become more and more difficult for the "special interests" to secure special legislation in their interest in normal times, but now, with a war scare on, they come out boldly, and, under the guise of the scare, they expect Members to give them what they ask.

We are passing a large number of bills in this Congress with big and popular names but with mighty little material substance of value. Most of them are harmless, except that they serve to make believe and cause the public to wait to try them. No one finds it easier to make a living after these bills are passed. They will not give the relief that the public demands.

Mr. MURDOCK. I yield five minutes to the gentleman from California [Mr. HAYES].

Mr. HAYES. Mr. Speaker, I can see no objection to the passage of this bill. The reserve act passed some eight months ago extended the Vreeland-Aldrich Act, which by limitation would have expired on June 30 of this year, to June 30, 1915, so that this bill, although the language might give such an impression, does not have the effect of extending the Vreeland-Aldrich bill one day.

Two things are accomplished by this bill. One is to permit banks which have less than 40 per cent of national-bank notes based on United States bonds in circulation to take advantage of the act, which under the present law they could not do. This will give relief to such banks as the Chemical National Bank. As I recall, that bank is one of those having less than 40 per cent of circulation based on bonds. This bill will give them an opportunity to come in on the same basis as banks which have more than 40 per cent and get some of this emergency currency.

The other effect will be to permit the State banks and trust companies, which, under the reserve act if it were in operation, would be entitled to currency, to come in and get currency when otherwise they could not.

I regret that the gentlemen on the other side of the House thought it necessary to pass this sort of legislation at this time. All except a very small percentage of the national banks are entitled to emergency currency under the present law, and the rush to get this legislation on the statute book may, I am afraid, give the country a wrong impression of the present situation, which, I think, is not so critical as to cause great apprehension on the part of anybody. There is an unprecedented condition abroad, to be sure, but our banks are all in fine condition. There has been no great speculation for months. Liquidation has been going on for years in this country, and if we are not in a position now to stand the strain that is put upon us I do not know when we shall be.

It seems to me it is proper that I should call to your attention the fact that the Federal reserve act was passed eight months ago by this Congress, and I believe that the party in power has been almost criminally negligent in that at this time the Federal Reserve Board is not even appointed, and no adequate steps have been taken to organize under the law that was passed at that time. It seems to me that the exercise of ordinary diligence would have had the system inaugurated by the Federal reserve act in full operation long before this, which would have provided, I hope, for all emergencies at this time without the necessity of this piecework legislation. But, as I say, in the situation in which we find ourselves, I can see no possible objection to the passage of this bill. It is not in the interest of any particular class of our people or of any particular class of banks. It simply puts all the banks on the same basis and gives them all the chance to help themselves and the business of the country by the issuance of the emergency currency which the present law provides, and that is all. Therefore I shall vote for the bill. [Applause.]

I yield back the remainder of my time.

The SPEAKER. The gentleman yields back one-half minute.

Mr. GLASS. I yield 10 minutes to the gentleman from Illinois [Mr. MANN]. [Applause.]

Mr. MANN. Mr. Speaker, the world is to-day confronted with the most serious situation which history records. There never has been a time during the life of humanity when there was

such danger to nations, to individuals, to economic situations, to trade and commerce as threatens the world to-day. In times like this certainly we ought to rise above partisanship [applause] and seek to do that which is for the good of our own people, our own country; aye, of the world itself. [Applause.] I think I might properly criticize the present administration for not having put into force the currency law. And yet this is not the time for criticism. This is the time to follow the lead of men who must be in command [applause] and to do those things which may render the threatened disaster of less effect than it would be if we did nothing. [Applause.] I do not know whether this bill is necessary or not. I do not pause to ascertain. It certainly does no more than would be done under the existing law if that were in actual operation. [Applause.] It seeks to meet the emergency by giving more effective operation to a law which we Republicans passed following the panic of 1907. There was partisanship when it was enacted, and properly so. Now, in face of the emergency, the majority side of Congress and the administration properly seek to make use of that law which is upon the statute books, amending it slightly so as to make it more effective. I hope that war in Europe will not come. I hope that the clouds that now are so black and threatening may clear away before the sunshine of common sense and prudence, but when the threat comes, when the danger exists, let us be statesmen, put aside partisanship, and remember only the good of our people and the good of our country. [Loud applause.] I yield back the balance of my time.

The SPEAKER. The gentleman from Illinois yields back five minutes.

Mr. MURDOCK. Mr. Speaker, I yield three minutes to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Speaker, to-day we are neither Democrats nor Republicans. [Applause.] We are American patriots. We are following the lead of the man who is in control of the affairs of the Nation, whose duty it is to tell us what the emergency is. The emergency is here. It ought to be met and should be met promptly, and it will be. There ought to be no division of sentiment as to what is the best thing to do. The emergency is not of our creation. It is created by conditions abroad. We must not let that condition embarrass us and our people, and we can prevent that embarrassment best by the enactment of this legislation. I am heartily in favor of the immediate consideration and enactment of this law [applause], which gives the Secretary of the Treasury the power to suspend the existing law.

This power now given to the Secretary of the Treasury is but temporary in its character. That same power exists under the Glass law in the Federal Reserve Board. If they were organized they would have the power to suspend the law for 30 days, and if the emergency then was not over they would still have the power for 15 days at a time to continue that suspension indefinitely.

Our people look to the Congress of the United States to meet whatever emergency may arise, and we can not cover up our responsibility or evade it by the mere statement of the fact that the recommendation was made either by a Democrat or a Republican. [Applause.] Patriotism should be on guard now as never before, for I know of no such emergency as that which now exists having existed in the history of this Nation. I hope that the wisdom of the people abroad will lead to the cessation of hostilities and that peace will prevail, not only there but everywhere throughout the world. [Applause.] Our duty, so long as the emergency does exist, is to protect inviolate American institutions and to do that which is for the best good of every American, man, woman, and child, wherever they may be. [Applause.]

Mr. GLASS. I yield five minutes to the gentleman from Alabama [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Speaker, I wish to congratulate the gentleman from Illinois and his party in the patriotism they are showing to-day [applause] in laying aside party lines and party differences and recognizing that under the stress of present conditions there are no party lines; that there is but one country and one Commander in Chief. [Applause.]

The situation that confronts us to-day is not of our creation and does not arise from conditions that are existent on this side of the ocean. We all know that a vast deal of our business is done by credit and not by money; that our credit system far exceeds our money conditions. As long as conditions are normal there is a dollar in existence to take care of credit conditions when the necessity arises.

But all Europe has begun to hoard gold. Every demand will be made on this country for its gold supply. If we were in a condition to market our crops, that gold supply would return to us shortly, but in this hour and this time we yet have that condition to face. Every man in this House knows that under the present reserve system, which will be eliminated when the full terms of the Glass currency bill take effect, a large amount of reserves in the country are in the city of New York. New York lends these reserves on call loans on securities that are sold on the stock exchange.

It was a national necessity that the stock exchange should close, in order that Europe should not dump its securities on us and take away our gold. The closing of the exchange has made time loans in place of call loans; and although these banks are solvent, there is no place for them to get the money to-day to meet the demand of your banks throughout the country when they call for the reserve.

Now, if the new currency law was in effect, that would be all taken care of. But, as I said a while ago, it will take 30 days at least to put it into effect. Something must be done, and done immediately. The Glass currency bill fortunately extends the time of this present law. The only question involved is that a good many of the banks have not issued national-bank notes up to the requirements of the law to take advantage of the Aldrich-Vreeland bill, and we did not want them to. We are proposing to retire that currency ultimately under the Glass bill. We were glad to have them dispose of the bonds and gradually contract that currency. We invited them to do it by passing the Glass bill last winter; and yet, under the conditions under which we invited them to do it under our own legislation, they can not take advantage of the present law.

This bill proposes to give them an opportunity to take advantage of it, to issue an asset currency to meet present conditions. It is not what the gentleman from Kansas [Mr. MURDOCK] says—to relieve the speculative banks in New York—but it is an effort to relieve your constituency and my constituency, to prevent cotton from selling for 5 cents a pound and wheat from selling for 25 cents a bushel. [Applause.]

The SPEAKER. The time of the gentleman from Alabama has expired.

Mr. MURDOCK. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. TEMPLE].

Mr. TEMPLE. Mr. Speaker, I certainly feel as deeply as any man in this House the necessity of disregarding all kinds of partisanship and considering this bill only with reference to its effect upon the business interests of the country. There are some things in the bill of which I am afraid, and I think that entire frankness is the only thing that is proper at the present time. The issuing of $500,000,000 of new currency is, of course, a long step toward an inflated currency.

Mr. KORBLY. Mr. Speaker, will the gentleman yield?

Mr. TEMPLE. Yes.

Mr. KORBLY. Can it be inflation if it is based upon commercial paper, in the gentleman's opinion?

Mr. TEMPLE. Mr. Speaker, the relation between money and credit is so close, and at the same time the relations are so complicated, that it is hard to answer that question without making a longer speech than I have time to make now.

Mr. KORBLY. Is it not the conversion of one form of credit into another form?

Mr. TEMPLE. The conversion of one form of credit into another form; but the public will not recognize these emergency bank notes as credit instruments. The general impression will be that we have issued $500,000,000 of money.

Mr. KORBLY. But the substance is what counts, is it not?

Mr. TEMPLE. No; psychology counts; the psychological condition is worthy of much consideration, and the fact that the public look upon these $500,000,000 as money will make considerable difference between these bills and other forms of credit. If this is not so, why issue it at all; why not leave the banks to get along with other forms of credit only?

However, there is one thing that will help to diminish or perhaps prevent inflation, and that is the tax on bills issued under this act. They will not go out in indefinite quantities. There is a limit of $500,000,000. That amount may all be called for, but it will not stay in circulation longer than men are willing to pay the tax upon it. That is the one safeguard that the bill affords. Another danger that I am afraid of is the encouragement of the exportation of gold. If we furnish a sufficient quantity of paper money to do the business of the country we will release the gold for foreign export. Foreign necessities will not be met with our paper money.

There are, however, the same possibilities in emergency currency that could be issued under the law as it stands to-day. Almost everything could be done under existing law that can be done under the bill now under consideration. This bill changes existing law only so far as it authorizes the Secretary of the Treasury to disregard certain limitations, so that he may issue these bills not only through banks that have 40 per

cent of their authorized circulation already out, but that he may issue it through any national bank, and with the pending amendment he may issue it through State banks also. The difference between this and existing law is, after all, not very great, so far as the nature of the issue is concerned, and, Mr. Speaker, in spite of my misgivings, and in spite of my fears of certain things that are in the bill, I have no desire to say or do anything that will embarrass the administration in the course which it has made up its mind to take. In any case, I could not prevent it. I should prefer less haste; I should like to have the members of the House committee have time to consider this bill; but, in view of the existing conditions, and of the urgent representations of those who speak for the administration, I shall vote for the bill. [Applause.]

Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. MURDOCK. Mr. Speaker, I yield to the gentleman from California [Mr. STEPHENS].

Mr. STEPHENS of California. Mr. Speaker, I greatly regret the necessity for passing currency legislation at this time and with so little debate and consideration; but a remarkable, and probably unprecedented, condition has arisen in the banking circles of the world. Congress must throw out a life line to the bankers of the United States, else all of our people may be seriously crippled in most of their business relations. We are assured by those at the head of our Government and at the head of our Government finances, and in whom we have a right to have every confidence at a time like this, that such a situation now exists as to make this proposed legislation extraordinarily emergent. Under other circumstances I might ask for further consideration and amendment; but believing the relief asked for is needed, and needed now, and because I am further assured that genuine relief will thus be afforded to all our people, I shall vote for the bill. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from California asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. MURDOCK. Mr. Speaker, I yield to the gentleman from Washington [Mr. FALCONER].

[Mr. FALCONER addressed the House. See Appendix.]

Mr. GLASS. Mr. Speaker, I altogether participate in the broad views expressed by the gentleman from Illinois [Mr. MANN], and I am gratified to find in this House, without respect to party, a determination to protect the interests of the American people in this emergency. I, too, could wish that we had more time for consideration of so grave a subject as is involved in the amendment of this Federal statute relating to our currency issues. But we have not the time. We are facing an exigency. I desire, however, to say that the country was never in better condition to meet an emergency. We have $1,500,000,000 of certificate gold in the United States Treasury. We have $150,000,000 of reserve gold. We have $130,000,000 of free gold, so that the Public Treasury was never in a stronger state to meet an emergency of this sort, nor were the banks of the country ever in better condition. This, however, is more than an emergency. It is a difficulty of such stupendous nature as that the like never before confronted the world. Like the gentleman from Illinois [Mr. MANN], I do not know whether it is absolutely necessary to take this action. I wish I did know; but whether it is necessary or not, it is desirable; it is a wise precaution, and this Congress should not hesitate one moment in view of the representations that have been made to the administration, and in turn have been made by the administration to the Congress.

We ought to pass this act without cavil and without delay. [Applause.] I am glad to observe there is little of a partisan tone in the discussion we have heard here, and I want to dissent totally and emphatically from the proposition advanced by the gentleman from Kansas [Mr. MURDOCK] that this is an effort to "protect the investment bankers of the country." I want to be frank enough to say if it were an effort to protect the investment bankers of the country, I am in favor of protecting every American interest, whether it is the investment banker or some other banker or person or class. [Applause.] But it is not an effort to protect the investment banker. Under the provisions of the statute the Secretary of the Treasury is required to apportion this emergency fund to the various geographical sections of this country, so that the proposition here is one not to protect simply the investment bankers of New York State but to protect the planters, the wheat growers of the gentleman's own State, and to enable them to move their crops and to get a just return for their labor.

Mr. MURDOCK. Will the gentleman yield?

Mr. GLASS. Yes.

Mr. MURDOCK. I want to say to the gentleman from Virginia that the bankers of Kansas have United States bonds upon which they can get emergency currency, and I have had no telegrams from Kansas asking for this legislation.

Mr. GLASS. Mr. Speaker, the bankers of the great money centers are not to be criticized for their failure to take out circulation at this time. The banking capital of this country has so rapidly and largely increased that there is not a sufficient amount of United States 2 per cent bonds to meet such an emergency as this, and for that reason the banks of the country can not put out the additional circulation required at this time. [Applause.] Of the nearly eight hundred millions of 2 per cent bonds available for circulation, seven hundred and thirty-six millions are now owned by the banks. Hence banks have little basis for additional circulation, and could not help themselves if they would, and could not help the country if they would, without this additional legislation. There is nothing extraordinary about this legislation aside from the fact that we are proposing to lodge with one public official—the Secretary of the Treasury—discretionary power, such as under the Federal reserve act we have lodged with the Federal Reserve Board. In other words, the Federal reserve system has not been fully organized, for which failure neither the administration nor this House of Congress is responsible. If the Federal reserve system were fully organized, there would be no earthly necessity for the action proposed here to-day, but the Attorney General of the United States, having expressed the opinion that the Federal Reserve Board can not organize until all seven members shall have been appointed and confirmed, we are now proposing to bridge the difficulty by lodging with the Secretary of the Treasury, for immediate use should occasion demand, this power already vested in the Federal Reserve Board, but which can not now be exercised by that board to meet this emergency. I do not know, Mr. Speaker, that it is necessary for me to further amplify the purposes——

Mr. HULINGS. Mr. Speaker, will the gentleman yield?

Mr. GLASS. I do.

Mr. HULINGS. It has been stated here in a rather vague way that there was a great emergency. Perhaps there is. Will the gentleman be good enough to state, so that the House may learn just what he thinks that emergency is, and will the gentleman also state in what particular this bill differs from the situation that now would supervene if the Federal reserve currency law were in operation?

Mr. GLASS. If the Federal reserve act were in full operation—if organization of the system had been completed—every member bank of the system, without regard to its capitalization, could rediscount every dollar of its available commercial assets under the limitations——

Mr. HULINGS. I am speaking now in respect to this particular $500,000,000.

Mr. GLASS. Well, now, I have just stated that no State bank can avail itself of the existing law at all, and no national bank that has not already outstanding 40 per cent of its capital in circulation based upon United States bonds can avail itself of the provisions of the so-called Vreeland-Aldrich Act.

Mr. HULINGS. By this bill those limitations are removed.

Mr. GLASS. Are removed by these amendments; and it is provided by one of these amendments that not only the national banks of the country but all State banks and trust companies that contract to come into the Federal reserve system may avail themselves of the provisions of this law.

Mr. HULINGS. And the Secretary of the Treasury may suspend the operations of the law how long? Under this bill how long may he suspend it?

Mr. GLASS. It is, I think, possible that he will not suspend its operations at all. I very much hope that he will not have occasion to suspend. I very much hope that there may not be one dollar of this emergency currency issued. [Applause.] I apprehend that the moral effect of this action here to-day will be such that we may not have to issue one dollar of this currency.

Mr. MANN. Mr. Speaker, will the gentleman yield for a question?

Mr. GLASS. I do.

Mr. MANN. Suppose the currency were issued under the Vreeland-Aldrich law? As I understand, the Vreeland-Aldrich law expires by limitation next year; and would not the currency have to be retired?

Mr. GLASS. It will have to be retired then under the limitations of the act; and I will say that the probability is it will be speedily retired under the tax provisions of the law.

Mr. MANN. And therefore could not possibly result in a permanent inflation——

Mr. GLASS. It could not.

Mr. MANN. Under the limitations of the law?

Mr. GLASS. It could not, because the law expires in one year.

The SPEAKER. The time of the gentleman has expired. The question is on the motion to suspend the rules, discharge the Committee on Banking and Currency from the further consideration of this bill, and pass it as read from the Clerk's desk, including what was read into it.

Mr. MURDOCK. Mr. Speaker——

The question was taken.

The SPEAKER. In the judgment of the Chair——

Mr. MURDOCK. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The Chair will count.

Mr. MURDOCK. Mr. Speaker, I withdraw that, and I ask for the yeas and nays.

The SPEAKER. The gentleman from Kansas demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] Evidently a sufficient number, and the yeas and nays are ordered.

The question was taken; and there were—yeas 231, nays 6, answered "present" 5, not voting 190, as follows:

YEAS—231.

Abercrombie	Dixon	Kennedy, Conn.	Quin
Adamson	Donohoe	Kennedy, Iowa	Rainey
Alexander	Donovan	Kennedy, R. I.	Raker
Allen	Doolittle	Kettner	Rauch
Anderson	Doremus	Key, Ohio	Reilly, Conn.
Ansberry	Doughton	Kindel	Reilly, Wis.
Bailey	Edmonds	Kinkaid, Nebr.	Roberts, Nev.
Baker	Esch	Kirkpatrick	Rogers
Baltz	Evans	Konop	Rubey
Barnhart	Falconer	Korbly	Rucker
Barton	Fergusson	La Follette	Russell
Bathrick	Ferris	Lee, Ga.	Scott
Beakes	Finley	Lee, Pa.	Seldomridge
Bell, Cal.	FitzHenry	Lesher	Shackleford
Blackmon	Foster	Lever	Shreve
Booher	Fowler	Levy	Sims
Borchers	French	Lewis, Md.	Sinnott
Bowdle	Gallagher	Lieb	Sisson
Britten	Gallivan	Lloyd	Slemp
Brodbeck	Garner	Lobeck	Sloan
Broussard	Garrett, Tenn.	Logue	Small
Brown, W. Va.	Garrett, Tex.	Lonergan	Smith, Idaho
Brumbaugh	Gilmore	McClellan	Smith, Minn.
Buchanan, Ill.	Glass	McCoy	Smith, Saml. W.
Buchanan, Tex.	Godwin, N. C.	McGuire, Okla.	Smith, Tex.
Burgess	Goldfogle	McKellar	Sparkman
Burke, S. Dak.	Good	McKenzie	Stedman
Burke, Wis.	Goodwin, Ark.	McLaughlin	Stephens, Cal.
Burnett	Gray	Madden	Stevens, Minn.
Butler	Greene, Vt.	Maguire, Nebr.	Stone
Campbell	Gregg	Mann	Stout
Candler, Miss.	Guernsey	Mapes	Sutherland
Cantor	Hamlin	Miller	Talbott, Md.
Caraway	Hardy	Mitchell	Tavenner
Carr	Harris	Mondell	Taylor, Ark.
Carter	Harrison	Montague	Taylor, Colo.
Church	Haugen	Moon	Temple
Clancy	Hawley	Moore	Thacher
Clark, Fla.	Hay	Morgan, Okla.	Thomson, Ill.
Claypool	Hayden	Morrison	Towner
Cline	Hayes	Moss, Ind.	Townsend
Coady	Helgesen	Moss, W. Va.	Tribble
Collier	Helm	Mulkey	Tuttle
Connelly, Kans.	Helvering	Murray, Mass.	Underwood
Conry	Hensley	Neely, W. Va.	Volstead
Cooper	Holland	Nelson	Walters
Cox	Howard	Nolan, J. I.	Watkins
Cramton	Howell	Norton	Watson
Cullop	Hulings	O'Hair	Webb
Curry	Hull	Page, N. C.	Whaley
Danforth	Humphreys, Miss.	Park	Wilson, Fla.
Davis	Jacoway	Patten, N. Y.	Wilson, N. Y.
Decker	Johnson, Ky.	Patton, Pa.	Winslow
Deitrick	Johnson, Utah	Payne	Witherspoon
Dent	Jones	Phelan	Woodruff
Dickinson	Kahn	Plumley	Woods
Difenderfer	Keating	Pou	Young, N. Dak.
Dillon	Keister	Prouty	

NAYS—6.

Bryan	Lindbergh	Murdock	Rupley
Kelly, Pa.	MacDonald		

ANSWERED "PRESENT"—5.

Henry	Johnson, Wash.	Stephens, Tex.	Wingo
Hughes, W. Va.			

NOT VOTING—190.

Adair	Barkley	Browning	Carew
Aiken	Bartholdt	Bruckner	Carlin
Ainey	Bartlett	Bulkley	Cary
Anthony	Beall, Tex.	Burke, Pa.	Casey
Ashbrook	Bell, Ga.	Byrnes, S. C.	Chandler, N. Y.
Aswell	Borland	Byrns, Tenn.	Connolly, Iowa
Austin	Brockson	Calder	Copley
Avis	Brown, N. Y.	Callaway	Covington
Barchfeld	Browne, Wis.	Cantrill	Crisp
Crosser	Green, Iowa	McAndrews	Sells
Dale	Greene, Mass.	McGillicuddy	Sherley
Davenport	Griest	Mahan	Sherwood
Dershem	Griffin	Maher	Slayden
Dies	Gudger	Manahan	Smith, J. M. C.
Dooling	Hamill	Martin	Smith, Md.
Driscoll	Hamilton, Mich.	Merritt	Smith, N. Y.
Drukker	Hamilton, N. Y.	Metz	Stafford
Dunn	Hammond	Morgan, La.	Stanley
Dupré	Hardwick	Morin	Steenerson
Eagan	Hart	Mott	Stephens, Miss.
Eagle	Heflin	Murray, Okla.	Stephens, Nebr.
Edwards	Hill	Neeley, Kans.	Stevens, N. H.
Elder	Hinds	O'Brien	Stringer
Estopinal	Hinebaugh	Oglesby	Sumners
Fairchild	Hobson	Oldfield	Switzer
Faison	Houston	O'Leary	Taggart
Farr	Hoxworth	O'Shaunessy	Talcott, N. Y.
Fess	Hughes, Ga.	Padgett	Taylor, Ala.
Fields	Humphrey, Wash.	Paige, Mass.	Taylor, N. Y.
Fitzgerald	Igoe	Palmer	Ten Eyck
Flood, Va.	Johnson, S. C.	Parker	Thomas
Floyd, Ark.	Kelley, Mich.	Peters, Mass.	Thompson, Okla.
Fordney	Kent	Peters, Me.	Treadway
Francis	Kiess, Pa.	Peterson	Underhill
Frear	Kinkead, N. J.	Platt	Vare
Gard	Kitchin	Porter	Vaughan
Gardner	Knowland, J. R.	Post	Vollmer
George	Kreider	Powers	Walker
Gerry	Lafferty	Ragsdale	Wallin
Gill	Langham	Rayburn	Walsh
Gillett	Langley	Reed	Weaver
Gittins	Lazaro	Riordan	Whitacre
Goeke	L'Engle	Roberts, Mass.	White
Gordon	Lenroot	Rothermel	Williams
Gorman	Lewis, Pa.	Rouse	Willis
Goulden	Lindquist	Sabath	Young, Tex.
Graham, Ill.	Linthicum	Saunders	
Graham, Pa.	Loft	Scully	

So, two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

The Clerk announced the following pairs:

For this session:

Mr. TAYLOR of Alabama with Mr. HUGHES of West Virginia.

Mr. SCULLY with Mr. BROWNING.

Mr. METZ with Mr. WALLIN.

Until further notice:

Mr. SHERWOOD with Mr. MOTT.

Mr. JOHNSON of South Carolina with Mr. GRAHAM of Pennsylvania.

Mr. LOBECK with Mr. POWERS.

Mr. SABATH with Mr. SWITZER.

Mr. UNDERHILL with Mr. STEENERSON.

Mr. ADAIR with Mr. BROWNE of Wisconsin.

Mr. FLOOD of Virginia with Mr. FAIRCHILD.

Mr. FRANCIS with Mr. CHANDLER of New York.

Mr. SHERLEY with Mr. GILLETT.

Mr. MCANDREWS with Mr. KREIDER.

Mr. RAUCH with Mr. PAIGE of Massachusetts.

Mr. ROUSE with Mr. PORTER.

Mr. HENRY with Mr. HINDS.

Mr. DUPRÉ with Mr. HUMPHREY of Washington.

Mr. HARDWICK with Mr. J. R. KNOWLAND.

Mr. YOUNG of Texas with Mr. AINEY.

Mr. STEPHENS of Nebraska with Mr. LEWIS of Pennsylvania.

Mr. FIELDS with Mr. LANGLEY.

Mr. STEPHENS of Texas with Mr. BARTHOLDT.

Mr. ESTOPINAL with Mr. FREAR.

Mr. BELL of Georgia with Mr. CALDER.

Mr. EDWARDS with Mr. GRIEST.

Mr. MORGAN of Louisiana with Mr. LINDQUIST.

Mr. PADGETT with Mr. MORIN.

Mr. FAISON with Mr. GREENE of Massachusetts.

Mr. SLAYDEN with Mr. BURKE of Pennsylvania.

Mr. PETERSON with Mr. PETERS of Maine.

Mr. DALE with Mr. MARTIN.

Mr. HOUSTON with Mr. LANGHAM.

Mr. CANTRILL with Mr. COPLEY.

Mr. DAVENPORT with Mr. J. M. C. SMITH.

Mr. ASHBROOK with Mr. AUSTIN.

Mr. KITCHIN with Mr. ROBERTS of Massachusetts.

Mr. LAZARO with Mr. PARKER.

Mr. ASWELL with Mr. CARY.

Mr. CALLAWAY with Mr. WILLIS.

Mr. BYRNS of Tennessee with Mr. BARCHFELD.

Mr. HUGHES of Georgia with Mr. MERRITT.

Mr. IGOE with Mr. GREEN of Iowa.

Mr. FITZGERALD with Mr. FORDNEY.

Mr. WINGO with Mr. AVIS.

Mr. GITTINS with Mr. JOHNSON of Washington.

Mr. SAUNDERS with Mr. ANTHONY.

Mr. WALKER with Mr. DRUKKER.

Mr. AIKEN with Mr. DUNN.

Mr. BULKLEY with Mr. FESS.

Mr. WEAVER with Mr. FARR.

Mr. BARTLETT with Mr. HAMILTON of Michigan.
Mr. BARKLEY with Mr. HAMILTON of New York.
Mr. BYRNES of South Carolina with Mr. KELLEY of Michigan.
Mr. GOEKE with Mr. KIESS of Pennsylvania.
Mr. HEFLIN with Mr. MANAHAN.
Mr. MCGILLICUDDY with Mr. PLATT.
Mr. OLDFIELD with Mr. SELLS.
Mr. PALMER with Mr. VARE.
Mr. REED with Mr. HINEBAUGH.
Mr. RIORDAN with Mr. TREADWAY.

Mr. STEPHENS of Texas. Mr. Speaker, I am paired with the gentleman from Missouri, Mr. BARTHOLDT, and I desire to withdraw my vote of "yea" and vote "present."

The name of Mr. STEPHENS of Texas was called, and he answered "Present."

Mr. JOHNSON of Washington. Mr. Speaker, I desire to ask if the gentleman from New York, Mr. GITTINS, is recorded?

The SPEAKER. He is not recorded.

Mr. JOHNSON of Washington. I have a pair with him. I voted "yea," but I desire to withdraw that and vote "present."

The name of Mr. JOHNSON of Washington was called, and he answered "Present."

Mr. HUGHES of West Virginia. Mr. Speaker, I have a general pair with the gentleman from Alabama, Mr. TAYLOR. I find he did not vote. I now wish to withdraw my vote of "yea" and vote "present."

The name of Mr. HUGHES of West Virginia was called, and he answered "Present."

The result of the vote was announced as above recorded.

Mr. FOWLER rose.

The SPEAKER. For what purpose does the gentleman from Illinois rise?

Mr. FOWLER. I rise for the purpose of asking unanimous consent for the consideration of a resolution.

The SPEAKER. The gentleman will send it up.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Does the Speaker on unanimous-consent day, before the calling of the Unanimous Consent Calendar, recognize Members on the floor ad libitum to ask unanimous consent for the immediate consideration of anything?

The SPEAKER. He does not. After we get through with this motion of the gentleman from Missouri [Mr. ALEXANDER] and call part of the Unanimous Consent Calendar, the Chair might recognize the gentleman from Illinois [Mr. FOWLER], but not now.

The Chair wants to state in regard to this suspension business upon the Unanimous Consent Calendar that we are not going to interrupt the Unanimous Consent Calendar generally unless it is a matter of pressing interest. The Chair has a perfect right to entertain motions all day to-day to suspend the rules, but he is not going to do it.

ADMISSION OF FOREIGN-BUILT SHIPS TO AMERICAN REGISTRY.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent for the present consideration of the bill that I send to the Clerk's desk.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill, as follows:

A bill (H. R. 18202) to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes.

Be it enacted, etc., That the words "not more than five years old at the time they apply for registry," in section 5 of the act entitled, "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone," are hereby repealed.

SEC. 2. That the President of the United States is hereby authorized, whenever in his discretion the needs of foreign commerce require, to suspend by order, so far and for such length of time as he may deem desirable, the provisions of law prescribing that all the watch officers of vessels of the United States registered for foreign trade shall be citizens of the United States.

Under like conditions, in like manner, and to like extent the President of the United States is also hereby authorized to suspend the provisions of the law requiring survey, inspection, and measurement by officers of the United States of foreign-built vessels admitted to American registry under this act.

SEC. 3. This act shall take effect immediately.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object——

Mr. BUCHANAN of Illinois. Mr. Speaker——

Mr. MANN. I was going to ask how much debate was desired.

Mr. ALEXANDER. Any reasonable length of time will suit me.

Mr. BUCHANAN of Illinois. I want to reserve, Mr. Speaker, the right to object.

Mr. ALEXANDER. We shall be content on this side with any reasonable time.

Mr. MANN. I do not know how much time will be required.

Mr. ALEXANDER. There is no extended time desired for debate on this side.

Mr. MURDOCK. Mr. Speaker, will the gentleman yield?

Mr. MANN. If unanimous consent should be given for the consideration of this bill now—and I suppose the bill would be considered in the House—the gentleman would have the right to move the previous question at any time. Is the gentleman willing to say that he would grant reasonable debate?

Mr. ALEXANDER. Certainly; it is my wish to do that.

Mr. UNDERWOOD. I think it would be well, if unanimous consent is granted, to agree upon the time for debate and let it be controlled.

Mr. MANN. I have no objection.

Mr. UNDERWOOD. I think this side of the House would be satisfied with an hour's debate, to be equally divided, if there is any opposition, or to be in the control of the gentleman from Illinois.

Mr. MANN. Judging from expressions that I have heard, there may be some desire for time to debate on the bill; how much time I do not know.

Mr. UNDERWOOD. Would 30 minutes on a side be sufficient?

Mr. MANN. I do not know. I shall try to find out.

Mr. BUCHANAN of Illinois. Mr. Speaker, reserving the right to object, I want to ask the gentleman from Missouri [Mr. ALEXANDER] if he would be willing to couple with his request the La Follette seamen's bill, providing for the safety of men at sea and for the safety of the public at sea—to couple with that a request that it be given a continuing order, so that after the passage of this bill we may have the matter before the House—say, after the Moon bill is considered—and take it up with amendments, and so forth, and pass it?

Mr. ALEXANDER. I will state to the gentleman from Illinois that I am as much interested in having the seamen's bill passed as he can possibly be, and I think an arrangement has been made by which it will be passed in the near future. But I do not want at this time to complicate this situation by injecting that measure into the consideration of this bill, and I could not agree to do so under the request for unanimous consent. This is an emergency matter, and should receive the prompt attention of the House, and it ought not to be prejudiced by or connected with any other subject of legislation.

Mr. BUCHANAN of Illinois. Mr. Speaker, further reserving the right to object, I want to say that, in my judgment, a bill protecting the liberties and the life of the working people on the vessels at sea and also protecting the life of the public is an emergency. No doubt we shall pass this measure that will give the shipowners of the world an opportunity to collect a war rate, and still they want to employ cheap foreign officers and have other privileges that they have had in the past. One of the reasons why they have not been floating under the American flag is that they want to employ those foreign employees for the purpose of operating their ships cheaply. We have neglected to equalize that by not passing the seamen's bill, which should have been passed about one year ago, and still we talk about there being an emergency when other things come up for the profit of the financial pirates of the country that want to take advantage of a very bad condition; and now it is said that the protection of the life and liberty of the working people of the country and the life of the public is not an emergency. Such an argument does not appeal to me by any means, and I want to say that unless there is some understanding that we are going to have an opportunity to pass the seamen's bill in some shape that will give the proper protection to the life and liberty of the seamen and the traveling public, in my judgment, this measure ought to be defeated until such time as gentlemen are ready to consider such a measure to protect the working people of the country and the traveling public, unless it is only the profit of the profit-seeking corporations and of the financial and commercial pirates of the country that appeals to this body here.

The seamen's bill has three purposes: First, freedom of the seaman; second, safety of life at sea; third, to create a condition under which an American mercantile marine may be built up without a subsidy. S. 136—the La Follette seamen's bill—is so framed that these purposes will be accomplished. The accomplishment will come gradually, and it will not administer such a shock as would be likely to seriously upset existing business relations or methods. There would be ample time for readjustment. Under the name of the Wilson bill, it was passed by the House of Representatives of the Sixty-second Congress by a practically unanimous vote, after having been drafted by the Democratic Committee on Merchant Marine.

It passed the Senate on the 23d of October—that is, in the latter part of the extra session of the present Congress—after having been perfected, and again it received a practically unanimous vote.

Foreign and American shipowners are opposing it, first, through domestic agitation, using for this purpose organizations such as merchants' exchanges, maritime exchanges, boards of trade, and other organizations of big business; second, through shipowners' meetings in European countries, condemning the legislation before the American Congress, and calling upon their own Governments to intervene with their protests through proper diplomatic channels. Shipowners say that the legislation is unnecessary, destructive of discipline, tending from safety, imposing a useless number of boats, an unreasonable number of sailors, and that it will increase the cost of transportation. Those who favor the bill say that it is necessary for the preservation of seamanship, for safety, in the interest of national defense, and to preserve the power of the seas to the white race. They point to the fact, admitted by all, that there is a growing deterioration in the personnel and skill; that boys are shunning and men are leaving the sea, hence the increasing number of disasters, with the great losses of human life. They point to the further fact of a steady, growing employment of orientals at sea, and that this can have but one result, the dominance of the sea by the oriental.

The Alexander substitute would abolish the involuntary servitude of seamen by abolishing their arrest, detention, and surrender back to the vessels from which they had deserted, but it would forfeit the seaman's wages to the ship, and hold him to his vessel by refusing him any percentage of his earned wages in foreign ports or in foreign vessels in ports of the United States. Thus, it would make freedom an illusion, giving promise to the ear but denying fulfillment to the hope. Being destitute, unable to pay for board and lodging, he would be held to his vessel by his economic need or placed back on the vessel under our immigration laws.

The La Follette bill guarantees to the seaman one-half of his earned wages, leaving him to forfeit the other half for violating his contract.

The Alexander substitute, even with its contemplated amendment, provides only one able seaman or licensed deck officer for each boat. To assist in lowering a boat, getting it away from the ship's side, and managing it in a rough sea, it provides two or three "lifeboat men." They may be waiters, stewards, cooks, firemen, oilers, coal passers who have received a certificate as skilled lifeboat men under rules and standards of skill which may be practiced and attained in about a week's time by any landsman, practicing with an empty boat in smooth water. The crew generally is to have a semimonthly training and thus become perfected in the most difficult and most important of all the seaman's work.

The Senate bill provides that each boat shall be provided or shall have in its crew two men of the rating of able seaman or higher. It then provides a weekly drill in port and at sea for all the crew in the handling of boats and other life-saving appliances.

The Alexander substitute provides that on the sea, within 20 miles of land, 35 per cent of boats, 35 per cent of rafts, and 30 per cent of persons on board are to be provided with neither, but they are to be provided with life jackets; and this in spite of the number of people drowned within 2 miles of shore in the St. Lawrence in the disaster that occurred to the *Empress of Ireland*. On the Lakes it provides 20 per cent of boats, 30 per cent of rafts, and 50 per cent of neither, leaving to those 50 per cent nothing but the life jackets, in all vessels that go 3 miles and more from shore.

The number of persons that may be carried on the Lakes and on the seas within 20 miles from shore is so large under the rules prescribed that it will be a pure matter of discretion with the shipowner. Thus a vessel like the *Monroe* would, under these new rules, which are to be statutory, be permitted under certain conditions to carry about four times as many people as she was permitted to carry when she was lost—that is, on the sea, within 20 miles of land. On the Lakes she would be permitted to carry ten times as many.

The Senate bill provides seaworthy lifeboats for all persons on board, making the number of people carried dependent upon the ability of the vessel to give to every person at least a promise of an opportunity to escape any disaster in which the vessel would have to be abandoned.

If the House should accept the Alexander substitute, even assuming that the mooted amendments were inserted, the conference committee would be compelled to deal with the question as to whether a seaman should be entitled to one-half of his pay in ports of the United States, with the number of skilled men for each lifeboat, the number of lifeboats and rafts, and the number of people to be carried—that is, freedom, skill, and life-saving appliances would go into conference.

The moment it became apparent that Europe was going into a general war, in which such maritime nations as Russia, Austria, Italy, Germany, France, and England would be involved, an agitation was set on foot here in the United States to so amend the laws governing registration of vessels that the European ship-owning companies, largely owned and controlled by Wall Street capitalists, might place their vessels under the American flag and thus induce the United States to undertake the guarding of such vessels at the risk of getting into difficulties with one or more of the contending powers, more especially with England. The transfer of ships from one nationality to another under such circumstances is always open to the suspicion that the transfer is merely colorable and that the real ownership remains where it was, in which case the vessels are still subject to seizure. This proceeding would involve probable international complications, with the possibility of the United States being drawn into the conflict. The pretended reason put forward by the shipowners is the necessity for vessels to carry our produce to European ports. There is a further proposal made, namely, the suspension of the law which provides that American vessels must be officered by American citizens; that is to say, that the deck officers and engineer officers standing a watch must be citizens of the United States. For 20 or more years American shipowners have hoped for and worked for such amendment of existing law as would permit them to employ as officers on their vessels men who were not citizens.

So they are going to try to get cheap vessels, regardless of whether they be good or bad, cheap officers, and war rates for freight. Before this is consented to the proponents ought to answer satisfactorily, at least, the following questions:

First. Will Great Britain be forced to abandon the sea, or will her merchant vessels continue carrying freight and passengers? France and England being allies, who is to drive the French and English flag off the ocean? Can Germany do it? Can Germany, Italy, and Austria do it jointly? What nation's vessels would we be taking over if not the German?

Second. Would not Great Britain inquire very carefully into the transaction? To what extent would the vessels taken over reduce the freight rates insisted upon by English and French vessels if they were able to keep the sea?

These propositions come from the same interests that so far have successfully resisted such changes in the American laws as would give to the United States an equal chance upon the ocean.

From a national point of view the proposition is questionable. From a business point of view it is profitable—to those engaging in it. To the shipper it promises little relief, if any.

The SPEAKER. Is there objection?

Mr. BUCHANAN of Illinois. I object, Mr. Speaker.

Mr. ALEXANDER. Mr. Speaker, I want to say just one word. I have given years to the consideration of the welfare of the seamen, and I am just as much interested in the passage of the seamen's bill as the gentleman from Illinois can be. I want a rational bill, and I think we will have a rational bill. But I insist that we do not want the seamen's bill complicated with this one.

Mr. BUCHANAN of Illinois. Mr. Speaker, will the gentleman yield.

Mr. ALEXANDER. Yes.

Mr. BUCHANAN of Illinois. Does the gentleman think the measure he supported in the Sixty-second Congress is a reasonable bill?

Mr. ALEXANDER. I thought so at the time.

Mr. BUCHANAN of Illinois. I will support the gentleman in that.

Mr. ALEXANDER. There is not such a bill in Congress now.

Mr. BUCHANAN of Illinois. There will be if the gentleman's committee does its duty.

Mr. ALEXANDER. That is not correct, Mr. Speaker, because the bill was very materially amended in the Senate. If it had passed the Senate in the form in which it was introduced in the House, it might have been a law to-day. No just criticism can be lodged against the Committee on the Merchant Marine for any delay in the consideration and passage of the seamen's bill. The committee has done its whole duty in the premises.

Mr. RUPLEY. Will the gentleman yield?

Mr. ALEXANDER. Yes.

Mr. RUPLEY. May I ask what chance we will have, if this session continues until the 15th of September, to have the seamen's bill brought before the House?

Mr. ALEXANDER. It depends largely on the attitude of the seamen themselves.

Mr. RUPLEY. What have the seamen themselves got to do with the action of a committee of Congress?

Mr. MANN. I ask for the regular order, Mr. Speaker.

Mr. ALEXANDER. The members of the committee who have given greatest consideration to the seamen's bill have been in conference with Mr. Furuseth, president of the seamen's union, and we hope to come to an agreement about amendments to the House substitute for the seamen's bill that will clear up some provisions in the bill and remove objections thereto and bring it in and pass it if we can get recognition to suspend the rules for that purpose.

Mr. RUPLEY. I have been informed that the seamen themselves——

Mr. HOWARD. Mr. Speaker, I demand the regular order.

The SPEAKER. The regular order is, Is there objection?

Mr. BUCHANAN of Illinois. I object.

The SPEAKER. The gentleman from Illinois objects.

Mr. ALEXANDER. I move to suspend the rules and pass the bill.

The SPEAKER. The gentleman from Missouri [Mr. ALEXANDER] moves to suspend the rules and pass the bill just read by the Clerk. Is a second demanded?

Mr. MANN. I demand a second.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. The gentleman asks unanimous consent that a second be considered as ordered. Is there objection?

Mr. BUCHANAN of Illinois. I object, Mr. Speaker.

The SPEAKER. The gentleman from Illinois objects, and the Chair appoints the gentleman from Missouri [Mr. ALEXANDER] and the gentleman from Illinois [Mr. BUCHANAN] to act as tellers.

Mr. BUCHANAN of Illinois. I withdraw the objection.

The SPEAKER. The gentleman from Illinois [Mr. BUCHANAN] withdraws his objection. Is there objection?

There was no objection.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the time for debate be extended, so that there may be 45 minutes on each side.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent that instead of having the usual 40 minutes' debate we have 90 minutes. Is there objection?

There was no objection.

Mr. BRYAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BRYAN. Is it going to be possible to offer any amendments at all to this measure?

The SPEAKER. It is not. That is one of the things that can not be done.

Mr. BRYAN. There is one little amendment that ought to be agreed to, Mr. Speaker. It should have been read into the bill when it was read from the Clerk's desk.

Mr. MURDOCK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURDOCK. It is possible for the gentleman who offers the bill, however, to change the bill at the time he offers it.

Mr. HUMPHREYS of Mississippi. But he has already offered it.

Mr. MURDOCK. Can he not offer to amend it now?

The SPEAKER. He can not. On this motion there will be 90 minutes' debate, 45 minutes to be controlled by the gentleman from Missouri [Mr. ALEXANDER] and 45 minutes by the gentleman from Illinois [Mr. MANN].

Mr. ALEXANDER. Mr. Speaker, on Friday last——

Mr. DONOVAN. Mr. Speaker, I do not think there has been any action taken on the gentleman's motion. He asked unanimous consent, and that was objected to, and then he moved to suspend the rules.

The SPEAKER. Yes; but that motion will not be put until the debate is over. Ninety minutes from now the Chair will put that motion.

Mr. ALEXANDER. Mr. Speaker, on Friday last, when I regarded war in Europe as imminent, I introduced the bill (H. R. 18170) to amend section 5 of the Panama Canal act by striking out the limitation which requires foreign-built ships admitted to American registry to be not more than five years old at the time of their admission to registry. Later in the day I received a telegram from the American Exporter, of New York, as follows:

JULY 31, 1914.

Hon. J. W. ALEXANDER,
Chairman Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.:

On behalf of American manufacturers engaged in export trade we earnestly and respectfully suggest that a bill be introduced in Congress for immediate action admitting to American registry any steamships engaged in foreign trade and owned by American individuals, firms, or corporations, no matter when or where such steamships were built. Prompt action must be taken to offset the demoralization of shipping communications not only to Europe but to Latin America and the Far East.

AMERICAN EXPORTER,
17 Battery Place.

Following the receipt of this telegram, I undertook to inform myself more fully about the situation and to ascertain if the emergency was such as would demand immediate action.

The above telegram and information gathered from other sources, including the newspapers, convinced me that something should be done, and promptly, to meet the emergency.

Our foreign commerce was threatened with paralysis. I called a meeting of the Committee on the Merchant Marine and Fisheries for 10.30 o'clock Saturday morning to consider H. R. 18170 introduced by me. A majority of the committee were not present, but those who were present—eight in number—considered the bill which I introduced on Friday and adjourned until Saturday afternoon at 2.30 o'clock, at which time we considered informally the draft of the bill which I have sent to the Clerk's desk as a substitute for H. R. 18170, but no action was taken, as there was not a quorum of the committee present.

On Saturday evening I received the following telegram from Chicago, which further emphasizes the necessity for prompt action to meet the extraordinary situation created by the war in Europe:

CHICAGO, ILL., *August 1, 1914.*

Hon. J. W. ALEXANDER,
Chairman Committee on the Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.:

The following resolution was adopted at a meeting of the foreign trade committee of the Chicago Association of Commerce to-day:

Resolved, That the Chicago Association of Commerce, upon the recommendation of its foreign trade committee, urges upon the Congress of the United States the immediate enactment of such legislation as will most readily procure the registration under the American flag of such vessels as are not now so admitted to registration and under such regulations as may be prescribed by the Secretary of Commerce.

EDWARD E. GORE,
Acting President.
JOHN J. ARNOLD,
Vice President Foreign Trade Division.

I called another meeting of the committee for this morning at 10.30 o'clock. Ten members of the committee were present. It takes 11 to make a quorum. Of the 10 present all but 1 agreed to the pending bill as an emergency measure; but a quorum not being present, of course, we did not formally report it to the House as a substitute for H. R. 18170. If a quorum had been present, the bill now pending would have been reported to the House as a substitute for the bill which I introduced on Friday.

This bill is simple in its provisions. The first section provides that the words "not more than 5 years old at the time they apply for registry," contained in section 5 of the Panama Canal act, shall be stricken out, so that foreign-built ships, without reference to their age, may be admitted to American registry for the foreign trade. It was thought that under the five-year limitation it would not be possible for American citizens to purchase foreign-built ships to meet the present emergency. Hence the demand that that limitation be removed.

It also was considered that it might not be possible to secure American officers for these ships when brought under the American flag to meet this emergency. Hence the second section of the bill provides:

That the President of the United States is hereby authorized, whenever, in his discretion, the needs of foreign commerce may require, to suspend, by order, so far and for such length of time as he may deem desirable, the provisions of law prescribing that all the watch officers of vessels of the United States registered for foreign trade shall be citizens of the United States.

Immediately when this matter was brought to my attention I communicated with Capt. Wescott, who represents the masters and mates of the Pacific, and Mr. Yates, who represents the marine engineers, on the question whether it would be possible to supply American officers for the ships that might be registered under section 1 of the bill.

They gave it to me as their opinion that it could be done; that there were enough masters, mates, and marine engineers out of employment to supply the need, but that it would require some time to get the accurate information. They were both in my office this morning, and they agreed that they would obtain that information; and should this bill become a law in its present form, they would furnish that information to me to convey to the President or convey it direct to the President or to the Secretary of Commerce, under whose department the provisions of the law would be administered.

I assume that it is not the wish of anyone that foreign officers should be employed on American ships unless a real emergency exists. Up to April, 1864, our navigation laws required the offi-

cers and seamen on American ships to be American citizens, but in the emergency created by the Civil War that law was repealed. In 1898 the law was reenacted providing that the watch officers on American ships should be American-born citizens or naturalized citizens, and that is the law to-day.

Mr. TOWNER. Will the gentleman yield?

Mr. ALEXANDER. With pleasure.

Mr. TOWNER. In order to clear up some misapprehension on the part of some Members of the House, let me ask the gentleman if it is not the existing law that Americans who desire to purchase a foreign ship can not put it into the American registry unless it has been five years registered?

Mr. ALEXANDER. A foreign ship may not be admitted to American register unless it is owned by an American citizen or citizens or by a corporation organized under the laws of the United States or of some State, and the managing officers of which are American citizens, and the ship less than five years old.

Mr. TOWNER. That was my understanding; and this provision does not change the requisite for ownership?

Mr. ALEXANDER. Not at all.

Mr. TOWNER. A man registering a foreign-built vessel under the terms of this bill must purchase it in good faith, must be an American citizen or citizens or corporation which are operating under American law.

Mr. ALEXANDER. That is true. In other words, we are not offering belligerent nations an asylum for their ships, but are giving American citizens an opportunity to purchase ships abroad to carry our commerce, now paralyzed by war in Europe.

Mr. TOWNER. Nor are we offering an opportunity to other nations to operate under the American flag.

Mr. ALEXANDER. Not at all. We want American citizens who contemplate the purchase of foreign ships to fully understand the responsibility involved. Now I will quote from Glenn's International Law (pp. 238–239):

> It may be said that a neutral has the general right to carry on trade with a belligerent during war, but this general right of trade is subject to the right of the other belligerent to prevent such trade as may be of direct benefit to his enemy in the prosecution of the struggle, and the above rule may be said to be particularly applicable to such property as may be liable to capture at sea, as this is the class of property with the transfer of which fraud is most likely to be connected. The rules of war permit a belligerent to seize the property of his enemy, so that if the transfer of property by a belligerent enemy to a neutral is attended with fraud, the other belligerent is authorized to refuse recognition of it.
>
> According to the English and American practice, sales of vessels follow the same rule, but according to the rule of France and some other States such sales are forbidden on the ground of fraud, unless made before knowledge of the commencement of war can be imputed to the purchaser.
>
> In the two countries named the right to transfer vessels is admitted in principle, because of the right of neutrals to carry on trade with belligerents, vessels being considered as legitimate objects of trade. The nature of such a transfer, when made in time of war, is such that a belligerent can with good reason make a most searching examination of all the circumstances connected therewith. The temptation and opportunities for committing fraud in such transfers being very great they are not considered as valid unless the title and interest of the vendor has passed absolutely. In case there is any covenant, condition, or understanding of any kind that the vendor retains an interest in the vessel or profits, or any control over it, or a right of restitution at some future period, or a power of revocation, the transfer would be invalidated.

Mr. McKENZIE. Will the gentleman yield?

Mr. ALEXANDER. With pleasure.

Mr. McKENZIE. Suppose that a vessel is owned by American citizens with a British captain and a Chinese crew. Under this proposed law could the President of the United States suspend the rule and permit that vessel to be registered and continue in the service with the British captain and the Chinese crew in competition with other American vessels that are now handicapped by the laws we have?

Mr. ALEXANDER. If we pass this act, we could.

Mr. STEVENS of Minnesota. Is there any limit to it?

Mr. ALEXANDER. It is a temporary measure, the provision for watch officers, and I hope the President will have no occasion to invoke the power vested in him under this act to suspend the provisions of section 4131, Revised Statutes, as amended by section 1 of the act of May 28, 1898, because, as I have said, I have started the inquiries which I hope will develop the fact that it will not be necessary to suspend the provisions of existing law in that regard.

The Commissioner of Navigation doubts our ability to meet the need without this emergency provision in the law. I conferred with Mr. Hoover, of the Steamboat-Inspection Service, who informed me that there is a serious question whether the need can be met. As far as some trades are concerned, it might not be important, but not so in other trades.

As I have already stated, up to July 28, 1864, the officers and crews of merchant vessels of the United States were required to be citizens of the United States. The restriction of the crew to American citizens was removed as an urgent war measure by the act of 1864 (13 Stats., 201), and since that time citizens or subjects of any country may act as members of the crew of American merchant vessels. In this respect our law is similar to the British law. American ocean mail steamships, however, under the postal subsidy act of 1891 (Navigation Laws, 1911 edition, top of p. 298) are required to carry a certain percentage of American citizens (at the present time 50 per cent) as members of their crews.

In fact, over half of the men composing the crews of American merchant vessels are now foreigners. The right of foreigners to serve upon neutral vessels unmolested by belligerent powers whose subjects they may be is not now questioned. Indeed, the Eleventh Hague Convention, promulgated by the President on February 23, 1909, makes the following liberal provisions for the protection of crews of merchant vessels of even belligerent States (Treaties and Conventions, Vol. II, p. 2, 348):

> ART. 5. When an enemy merchant ship is captured by a belligerent, such of its crew as are nationals of a neutral state are not made prisoners of war.
>
> The same rule applies in the case of the captain and officers likewise nationals of a neutral state if they promise formally in writing not to serve on an enemy ship while the war lasts.
>
> ART. 6. The captain, officers, and members of the crew, when nationals of the enemy state, are not made prisoners of war, on condition that they make a formal promise in writing not to undertake while hostilities last any service connected with the operations of the war.
>
> ART. 7. The names of the persons retaining their liberty under the conditions laid down in article 5, paragraph 2, and in article 6, are notified by the belligerent captor to the other belligerent. The latter is forbidden knowingly to employ the said persons.
>
> ART. 8. The provisions of the three preceding articles do not apply to ships taking part in the hostilities.
>
> ART. 9. The provisions of the present convention do not apply except between contracting powers, and then only if all the belligerents are parties to the convention.

All the watch officers of the United States must be citizens of the United States. Section 4131 of the Revised Statutes, as amended by the act of May 28, 1896 (Navigation Laws, p. 54), provides:

> All the watch officers of vessels of the United States who shall have charge of a watch, including pilots, shall in all cases be citizens of the United States.
>
> The word "officers" shall include the chief engineer and each assistant engineer in charge of a watch on vessels propelled wholly or in part by steam; and after the 1st day of January, 1897, no person shall be qualified to hold a license as a commander or watch officer of a merchant vessel of the United States who is not a native-born citizen or whose naturalization as a citizen shall not have been fully completed.
>
> [NOTE.—Under British law the citizen or subject of any nation may be an officer of a British merchant ship if he is proved competent, but the laws of nations generally limit officers of their merchant vessels to their own citizens or subjects.]

Section 2 of the pending bill in a guarded manner gives the President the discretionary power to waive the requirement of citizenship. While the need for this departure from a principle we have always followed is to be regretted, it is essential to give any efficacy to the measure.

Our export trade to Europe is almost wholly conducted in foreign steamships. For the past 20 years we have not at any one time had more than eight American steamships continuously employed in trade with Europe. Our mariners have had few opportunities to qualify themselves for the command of trans-Atlantic steamships, and it is not surprising therefore that there are relatively few men qualified by experience to take command as masters or first or second officers—mates—of the large steamers which carry our cotton and wheat to Europe. This situation would be serious at any time. It is doubly serious in a time of pending general European conflict, as at present. You have probably noted in the newspapers that even on the British coasts the lights on the lightships and lighthouses have been extinguished and buoys and other aids to navigation removed. The press reports may not be correct to-day, but these precautions will undoubtedly be taken very soon if the war is general. Under these conditions ships ought to be trusted only with captains and officers familiar by experience with European coasts and ports, and, of course, shipowners will not risk their vessels with others in command.

American investors in ships under foreign flags have for 20 years maintained that, even if allowed by law to take out American registry, they would be reluctant to dismiss faithful and experienced captains and officers and supply their places with new and untried men.

Even in the matter of supplying the extra mates required by the act of March 3, 1913, on certain classes of American coastwise steamers, the Department of Commerce has found difficulty in enforcing the law, partly on account of the scarcity of qualified men at certain times and certain places.

The second section of the bill is carefully guarded. The President is not authorized to suspend the law under any conditions

as to the coasting trade. As to the foreign trade he may suspend the law only—

First. Whenever in his discretion the needs of foreign commerce may require;

Second. In so far as he may deem desirable.

Under this provision he may, for example, suspend the law only as to ships of large tonnage or only as to certain ratings of officers—that is, captains but not third officers, or chief engineers but not first, second, or third assistants—or he may suspend it only in the case of a particular position to be filled on a particular ship. In every case he is to be guided by the pressing needs of our foreign trade on which the country's prosperity is to a great extent dependent, and which must not be embarrassed for lack of a few men competent to conduct ocean transportation under conditions of abnormal difficulty.

Mr. McKENZIE. There is one thing that I want to get clear in my mind. Suppose we enact this bill into law. I want to know whether or not the navigation laws in force now in this country will be binding upon the American who has his ships registered under the American flag. He will have to comply with those laws; and will the ship that comes in now, American owned, manned by foreigners, be permitted to compete with this other man, regardless of our navigation laws, with his foreign crew?

Mr. ALEXANDER. The gentleman is suggesting a condition that does not exist, because we have only six ships in the North Atlantic trade.

Mr. MANN. Mr. Speaker, if the gentleman will permit, as I understand this bill, it makes no distinction in this respect about watch officers being American citizens as between vessels now registered under the American flag and vessels that may be purchased and registered under the first section.

Mr. ALEXANDER. Certainly not.

Mr. McKENZIE. The President can suspend them for such time as he may deem necessary.

Mr. MANN. That applies to all vessels.

Mr. ALEXANDER. The American-Hawaiian Steamship Co. have 26 ships at the present time. They are preparing for the trade through the Panama Canal from the east to the west coasts of this country. I had a conversation on Saturday morning with the treasurer of that company, and I asked him if it would not be possible for them to withdraw some of their ships and put them into the foreign trade to meet this emergency, and he said they might do so. If they should do that, and they did not have the officers with the necessary knowledge to meet the requirements of the new trade routes, the President could relax the rules, with reference to those ships which are American ships, as well as he could do it with reference to ships which may now be foreign ships and may be purchased by American citizens and registered under our flag.

Mr. MANN. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. Yes.

Mr. MANN. Does the gentleman understand that under this provision the President has any authority to relax the rule as to a particular vessel, or has he general authority to relax the rule?

Mr. ALEXANDER. That is it—just to relax the rule.

Mr. MANN. He can not select particular officers or vessels?

Mr. ALEXANDER. I would say he could not.

Mr. TOWNSEND. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. Yes.

Mr. TOWNSEND. Would there be any restriction in the nature of commerce that a ship registered under this proposed law could carry on? What I mean is, could such ships as may be registered under this proposed amendment engage in the coastwise trade?

Mr. ALEXANDER. They could not.

Mr. TOWNSEND. Why not?

Mr. ALEXANDER. Because the law expressly says that they shall not.

Mr. MANN. The Panama Canal act says that.

Mr. STEVENS of Minnesota. The law of a hundred years says that.

Mr. MANN. Oh, no, the Panama Canal act which admitted them to register provided that they could not engage in coastwise trade.

Mr. ALEXANDER. No; they could not be admitted to that trade at all.

Mr. TOWNSEND. What is the legal process by which ships engaged in the coastwise trade, such ships as the gentleman referred to as belonging to the Hawaiian Steamship Co., can enter the foreign trade?

Mr. ALEXANDER. It requires only the disposition to do so.

Mr. TOWNSEND. Do they not have to yield up some nature of registration?

Mr. ALEXANDER. None whatever.

Mr. TOWNSEND. Then this Hawaiian company's ships could immediately enter the foreign trade?

Mr. ALEXANDER. To-morrow, if they wished to, or any other American ships under the American flag. Is not that correct, I will ask the gentleman from New York, Mr. PAYNE?

Mr. PAYNE. I understand the same requirements only are necessary that they have to go through in order to engage in the coastwise trade?

Mr. ALEXANDER. Yes.

Mr. J. I. NOLAN. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. Yes.

Mr. J. I. NOLAN. Has the gentleman information that there are 53 American vessels and 400 licensed officers at the present time idle on the Pacific coast?

Mr. ALEXANDER. I have a telegram here to that effect.

Mr. J. I. NOLAN. That will be inserted in the RECORD?

Mr. ALEXANDER. Yes; I will do so now. The telegram is as follows:

SAN FRANCISCO, CAL., *August 1, 1914.*

Capt. W. A. WESCOTT,
National Hotel, Washington, D. C.:

Fifty-three vessels laid up; can furnish 250 licensed deck officers at two hours' notice from here; from information received, 100 more from Puget Sound; about 50 from San Pedro.

DUERRBECK.

Mr. J. I. NOLAN. I would like to ask the gentleman if the licensed officers of the American merchant marine at the present time should not have some opportunity of promotion?

Mr. ALEXANDER. I agree with the gentleman that they should.

Mr. J. I. NOLAN. And if he does not think they are qualified to navigate ships upon the Atlantic Ocean from American ports to foreign ports?

Mr. ALEXANDER. Under ordinary circumstances I should say yes.

Mr. J. I. NOLAN. What extraordinary circumstances confront us now that differ from other times?

Mr. ALEXANDER. I have mentioned the conditions on the coast of England, where it is said all the safeguards of navigation have been removed, the lights in the lighthouses and on the lightships extinguished.

Mr. J. I. NOLAN. Will their pilot service over there be discontinued?

Mr. ALEXANDER. I do not know about that.

Mr. J. I. NOLAN. Is it not a fact that under ordinary circumstances pilots board those ships and take them into a safe harbor?

Mr. ALEXANDER. That is true.

Mr. FALCONER. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. Yes.

Mr. FALCONER. Will the pilots be confined to foreign waters? For instance, will the captains of these ships take the ships across the ocean, or will they simply be confined to foreign ports, to come out and meet the ship and take it in, and bring it out into the open sea? What is the intent of the bill in that respect?

Mr. ALEXANDER. It is to provide the necessary officers to navigate the ships when they leave this country.

Mr. FALCONER. From this country to foreign countries?

Mr. ALEXANDER. Certainly.

Mr. MURDOCK. And in the discretion of the President they do not have to be Americans.

Mr. ALEXANDER. No. Now, I do not wish to detain the House, but the last clause of paragraph 2 simply permits the President to suspend the law with reference to inspection and measurement of ships.

Section 4498 of the Revised Statutes, as amended by section 9 of the act of March 3, 1905 (Navigation Laws for 1911, p. 114), provides:

> A register, enrollment, or license shall not be granted or other papers be issued by any collector or other chief officer of customs to any vessel subject by law to inspection under this title (Rev. Stats., 4399–4500) until all the provisions of this title applicable to such vessel have been fully complied with and until the certificate of inspection required by this title for such vessel has been filed with said collector.

The Panama Canal act (sec. 5) provides as a condition to registry that foreign-built vessels shall be "certified by the Steamboat-Inspection Service as safe to carry dry and perishable cargo." This provision offers a convenient and easily administered rule for the determination of seaworthiness by our inspectors. Practically all foreign steamers and many American steamers are classed or rated in Lloyd's Register. Lloyd's Society and Lloyd's Register of British and Foreign Shipping is an association which for 80 years has maintained a body of skilled naval architects and men trained to shipbuilding at maritime ports throughout the world for the purpose of in-

specting vessels and determining their seaworthiness according to the society's rules for the guidance of marine insurance companies. This society must be sharply distinguished from a totally different organization or exchange, also known by the name of Lloyds, at whose headquarters it is possible to lay speculative odds on almost any proposition.

The first general regulation of Lloyd's Register for 1914 reads:

Steel vessels built in accordance with the society's rules and regulations, or with alternative arrangements equivalent thereto, will be classed 100A so long as they are found upon careful and periodical survey to be in a fit and efficient condition for the safe conveyance of dry and perishable cargoes.

This classification applies to passenger ships as well as cargo ships. By turning to the current volume of Lloyd's Register, our inspection service can at once secure from the rating 100A prima facie evidence of the seaworthiness of a vessel applying for register. Nearly all the great cargo carriers in trans-Atlantic trade will be found to have this rating. German ships, as a rule, are classed by a corresponding German association, the Germanischer Lloyd, and French ships in a corresponding French association, the Bureau Veritas, the essential rules of which are similar to Lloyd's rule. If in any case, however, the Panama Canal provision should cause delay, the pending bill, second section, second paragraph, gives the President power to waive that requirement, as well as section 4498, Revised Statutes, and permit the American registration of the ship on her foreign certificate of seaworthiness. Probably few occasions requiring the exercise of this power will arise, and then only in the case on a smaller cargo steamer or when inspectors are not immediately available. Our laws already provide for the recognition of foreign certificate of inspection of passenger ships. The act of March 17, 1906, provides:

* * * That when such foreign passenger steamers belong to countries having inspection laws approximately those of the United States, and have unexpired certificates of inspection issued by the proper authorities in the respective countries to which they belong, they shall be subject to no other inspection than necessary to satisfy the local inspectors that the condition of the vessel, her boilers, and life-saving equipments are as stated in the current certificate of inspection. * * *

Section 4148, Revised Statutes, provides (Navigation Laws, p. 22):

Before any vessel shall be registered she shall be measured by a surveyor, if there be one, or by the person he shall appoint, at the port or place where the vessel may be, and if there be none, by such person as the collector of the district within which she may be shall appoint. * * *

The laws of other maritime nations contain similar provisions, and, broadly speaking, the Moorsom system of measuring the tonnage of vessels has been in use through the maritime world for some years. The application of the broad principles of the system is the same everywhere, but in some particulars there are minor differences.

The second section of the bill, second paragraph, enables the President, if necessary, to direct a suspension of section 4148, Revised Statutes, in any given case. If a vessel be loaded with cargo, it is, of course, difficult or impossible to measure her internal contents in cubic feet. If measurement in any case be waived, the foreign measurement certificate, which every foreign ship carries, will be temporarily accepted. This provision of the bill involves no departure from a principle already established by section 2 of the act of August 5, 1882 (Navigation Laws, p. 31):

Whenever it is made to appear to the Secretary of Commerce (and Labor) that the rules concerning the measurement for tonnage of vessels of the United States have been substantially adopted by the Government of any foreign country, he may direct that the vessels of such foreign country be deemed to be of the tonnage denoted in their certificates of registry or other national papers, and thereupon it shall not be necessary for such vessels to be measured at any port in the United States; and when it shall be necessary to ascertain the tonnage of any vessel not a vessel of the United States, the said tonnage shall be ascertained in the manner provided by law for the measurement of vessels of the United States.

Mr. STEVENS of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I will.

Mr. STEVENS of Minnesota. What limitation is there upon the power of the President to extend this provision as to inspection?

Mr. ALEXANDER. There is none in this bill—that is, he may do so when he believes an emergency exists. I will further answer the gentleman's question by calling his attention to section 2 of this bill, which provides:

That the President of the United States is hereby authorized, whenever in his discretion the needs of foreign commerce may require, so far and for such length of time to extend by order as he may deem advisable, the provisions of law prescribing that all the watch officers of vessels of the United States registered for foreign trade shall be citizens of the United States.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I will.

Mr. MOORE. I assume this is an emergency measure.

Mr. ALEXANDER. Yes.

Mr. MOORE. We can not obtain copies of the bill, and therefore we must depend very largely upon the gentleman for information; but I would like to ask the gentleman just what the emergency is, since the passage of this bill, which seems to embody substantive law, makes a very radical change in existing law.

Mr. ALEXANDER. I will say to the gentleman if he was here when I read the telegrams——

Mr. MOORE. I heard part of what the gentleman said, but there was so much confusion I could not hear it all.

Mr. MURDOCK. There was a great deal of confusion.

Mr. ALEXANDER. I read telegrams from the American Exporter, of New York, a publication which undertakes to reflect the views of exporters and manufacturers. I also read telegrams from Chicago saying that this legislation is necessary on account of the present congestion of traffic; in other words, to move our manufactures, cotton, and grain to foreign countries. One of the great difficulties in the financial situation grows out of the congestion of our foreign commerce occasioned by the war in Europe and the interruption of the normal course and channels of trade, and it is absolutely necessary to make some provision to move our commerce.

The gentleman knows that 92 per cent of our commerce is carried in foreign ships. Now, the condition of war existing in Europe has partially paralyzed our foreign trade, and unless some provision is made to move our cotton and wheat and other exports in the ships of other neutral nations, or in ships under the American flag, we are going to suffer a very great loss.

Mr. MOORE. Assuming that the condition of war that now prevails in Europe will prevent the use by American exporters of such ships as now sail under foreign flags, and that we will be thrown upon our own resources in the American merchant marine for the carrying of cotton, grain, and so forth, why should we pass a measure of this kind that will change substantive law when only an emergency prevails? Why should there not be some limitation upon the discretion of the President? For instance, he is given discretion here——

Mr. ALEXANDER. He is simply given discretion in reference to officers, foreign officers on the ships, and inspection and the measurement of ships.

Mr. MOORE. I think the gentleman will see that very large questions of shipbuilding and of wages paid to labor are involved here, and will be involved permanently if we adopt this legislation by reason of war conditions in Europe. Why should we pass a permanent law to meet an emergency?

Mr. ALEXANDER. I do not think it will affect these questions materially. In fact, I am not so certain that this bill will in any substantial way build up the American merchant marine, as far as that is concerned.

Mr. MOORE. I am glad the gentleman has made that answer because if the effect of the passage of this bill will not be to aid in the upbuilding of the American merchant marine, will we not then be resorting to the subterfuge of using foreign-built ships that will bring us in conflict with nations now at war?

Mr. ALEXANDER. I think not, if we act in good faith. It is simply a question now if such an emergency exists to the extent that Americans will buy foreign ships and bring them under the American flag to carry our commerce. There is a large element of patriotism involved in this situation as well as dollars.

Mr. MOORE. Does the gentleman know whether there are ships of foreign construction now available and men with American capital ready to buy them to meet this emergency?

Mr. ALEXANDER. Are there?

Mr. MOORE. Yes.

Mr. ALEXANDER. I do not know of a single man who wants to buy a ship, but the commercial bodies of New York and Chicago, who are vitally interested in moving our commerce, insist that they should have this chance. Now, whether they will avail themselves of it or not I do not know.

Mr. MOORE. In the first paragraph of the gentleman's bill it is proposed to repeal absolutely the five years' limitation in the Panama Canal Act.

Mr. ALEXANDER. Yes.

Mr. MOORE. In the second section of the bill it is proposed to give the President of the United States discretion to suspend the order, and so forth, with reference to watch officers. The second paragraph of section 3 also gives the President discretion under like conditions, in like manner, and so forth, with regard to the survey and inspection and measurement of vessels. Does the gentleman insist on the passage of these two paragraphs, giving the President discretion in two separate mat-

ters, that will have all the effect of permanent legislation, coming as it does in what is now regarded as an emergency?

Mr. ALEXANDER. Mr. Speaker, I assume the President will never suspend it except in the event of an emergency. If I thought otherwise I would want the limitation myself. If I had drawn the bill, I am frank to say, I would have placed the limitation in it, but I am assuming that the President will administer the law in its spirit, and not permit it to be abused by the use of foreign officers on American ships unless an emergency exists. As I have stated, I have taken steps to ascertain what officers are available.

I reserve the balance of my time.

Mr. FALCONER. Will the gentleman yield just for a question?

Mr. ALEXANDER. I do not wish to consume all the time.

Mr. FALCONER. Have the producers of the country requested the passage of this bill, or who is back of the bill?

Mr. ALEXANDER. The exporters in New York and Chicago are immediately back of it. They are urging legislation along the lines proposed in this bill. For a time the price of wheat was going up—it advanced 7 or 8 cents a bushel—but when it was demonstrated that we could not get ships to move it abroad, the price fell again. And now we want to restore our commerce.

Mr. Speaker, I reserve the balance of my time.

Mr. MANN. Mr. Speaker, I yield five minutes to the gentleman from Minnesota [Mr. STEVENS].

Mr. STEVENS of Minnesota. Mr. Speaker, I am somewhat familiar with the provisions of the existing law which are to be changed by this bill before the House, since I was on the conference committee which considered and reported the law as it stands. The bill changes the existing law in three particulars: First, it removes the five years' limit. The Panama bill provides that no foreign vessel shall be admitted to American registry for foreign trade which is more than five years old. The reason that was then inserted was that we did not believe the American merchant marine should or could be upbuilded by a lot of old worthless ships placed in American foreign commerce for the sake of having the number of ships increased upon our foreign register. Secondly, this bill changes the existing law by granting to the President the authority to allow foreigners to act as watch officers instead of requiring Americans, including naturalized citizens, as has been the law for 50 years; and, thirdly, it gives the President the authority to suspend the law as to inspection, survey, and measurement of ships, by this means not requiring a certain standard of efficiency, thus practically allowing the President in an emergency to admit almost any sort of ships, with any sort of officers and men. Now, I agree with the gentleman from Missouri [Mr. ALEXANDER] that an emergency does exist, and I also agree with him that I do not think this measure will greatly help it. But that some help is necessary, I can inform the House of some information which has come to me within the last hour. I was called to the telephone and informed by a representative of some of the largest exporting flour concerns of our section of the country that three cargoes of American flour were now in one of the ports of a nation now in state of war, billed, for its final destination, to a neutral port in one of the smaller countries which is not likely to be engaged, and that that flour was held there; that no ships could be had and so it could not be forwarded. There were no neutral ships available, and they wanted some assurance by our Government in order that the flour might be protected until neutral ships can be obtained that it may be forwarded as it was ordered. All agree such a step is necessary, and ought to be done. No one can question that. No one can doubt that at the present time there are no American ships with which to do that work. So our merchants and exporters must depend upon the chance of securing a suitable vessel under a neutral flag. So we realize that a real emergency does exist which involves vitally the welfare of our own people. Our grain, our flour, our cotton, and lumber, and like exports, must be sent abroad to be sold or prices at home will drop tremendously and the whole business of this country will be demoralized. This will mean ruin to large sections of our country.

Mr. SELDOMRIDGE. Substantiating what the gentleman has said I wish to say that the Atchison, Topeka & Santa Fe Railroad and the Rock Island Railroad have refused to receive shipments of wheat destined for Galveston in view of the congested condition of that port. They can not get the wheat out of the country

Mr. STEVENS of Minnesota. I am glad of the statement of my friend from Colorado. It is because a great portion of the country needs and wants and must have its crops marketed. I shall vote for this bill, yet I do it with reluctance. That reluctance extends to every one of its three positive provisions, that it permits foreign officers to man American vessels, and that it lowers the standard and safety of vessels under our flag in the foreign trade. It has been the policy of our country—and it ought to be—and we never can build up an American merchant marine under any other policy than that American citizens should be put on the vessels and perform the service of officers for the American merchant marine. We know that a foreigner can be naturalized, and a great many of the best of the officers are naturalized, and they become good American citizens. But for the present I presume we shall be obliged to dispense with that qualification, much to my regret. Also, the standard of inspection is here reduced, which should not be done. Under that it will be allowable that a lot of old worthless vessels which are now in the English, German, and French merchant marine can be given American register for the sake of carrying our commerce. That is not creditable to us, but it seems to now be necessary. But the thing I most am afraid of is that this will be used as a method of violating the laws of neutrality and involve the United States in international difficulty at this critical time. I will state why I am of this opinion: While the Panama bill was under discussion one of the great German lines was here, through its representatives, in a perfectly proper way—I think it was the Hamburg Line—and conferred with some of the conferees. And I think they conferred with the gentleman from Missouri, Judge ALEXANDER. They desired that this act should be used to place quite a large number of vessels then under the foreign flag under the American flag to engage in the foreign trade and in the Panama trade, but that the stock should be owned and controlled, as much as required or allowable under our laws, by the great German corporation, but that the concern and business should be American; that while the management should be American, as the law requires, the real management of it should be under the control of the great foreign corporation.

Now, exactly that can be done under this bill, and I am afraid will exist under it. If this be done, it will encourage some of the subsidiary lines of the great foreign companies to dispose of their ships and the new concern taking them involve us in international disputes. The question of good faith would be raised at once. This bill allows these countries and these great companies to avoid terrible losses, to place their old vessels under our flag and transfer them and use their officers and crews now manning them and involve us in difficulty with contending parties. This bill may be the means of sending to market a good shipload of many products, but it can not be a method of building up the American merchant marine. But it may be the means in this terrible catastrophe of awakening the American people to the necessity of strengthening their position in the carrying trade of the world. Our farmers and exporters and the people of the Central States may now realize its importance.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STEVENS of Minnesota. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. The gentleman from Minnesota asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. STEVENS of Minnesota. It can not be done by a petty, temporary makeshift, but by a broad, liberal, generous policy which can extend for a long term into the future. Petty discrimination proposed in the Underwood tariff bill will accomplish nothing, and far different methods must be considered for our freight than for our passenger and mail steamers. We realize that it costs more to construct our ships here than abroad. If we can encourage our shipyards to build better and cheaper, that will help some; for that reason the policy lately adopted for political purposes of building many of our naval vessels in navy yards should be reversed. Only enough should be constructed there to prevent extortion of the Government. The rest should be constructed in private yards.

That would be some help toward the cheaper construction of our ships and providing suitable private yards for all emergencies in our own country. It costs more in this country to maintain and operate our ships. So far as we can fairly do so, we should insist on similar conditions as to crew space, food, and so forth, in our competitors as in our own vessels. That will help some. We want and insist on our seamen being treated as human beings. If this costs more, then we must fairly pay for it and know what we are about. We need mail and passenger ships under our own flag to secure our own business. Unless we do have it, we must expect discrimination against us

by our rivals, which will place our commerce at a great disadvantage, if not cripple us. This should be met by adequate lines of our own to all parts of the world. This means mail subsidies, if one cares to apply that most obnoxious and hostile term to them. But is not it a public duty to have this service? Is not it now a necessity, call it maintenance by any term you please? The people will now be awakened when they will realize and not be misled by epithets. We profit annually several million dollars by mail pay on postal sea business. It should be expended then, with enough more, to supply vessels for emergencies such as we had a few months ago in the Mexican crisis or as we have now in selling and sending our goods. The people may listen now to some sensible, sound, and sane plan for the reconstruction of an American merchant marine.

Mr. FALCONER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on this subject.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. FALCONER. Mr. Speaker, this is another extraordinary presentation of a bill. We are asked to-day, because of emergency existing, to pass a bill through the Congress of the United States before it has been printed.

The great foreign war that is now stirring all Europe places a premium on the Stars and Stripes on the high seas.

We are asked in this bill to amend our maritime laws to the extent of permitting foreign officers to man our ships, or, at least, to permit foreign ships, irrespective of age, to be purchased by the citizens of the United States.

It develops in the discussion, however, that the bill provides that while these ships are to be officered by Americans and the organization controlling them is to be American the real owners or holders in the company may be foreigners, and, further, that foreign pilots may be employed.

The statement is made that it is necessary to have pilots familiar with foreign ports, because the buoys and lights on foreign coasts are to be removed, and it would be necessary to have officers familiar with foreign ports, in order that the American ships may enter without danger of injury.

It has occurred to me as I have heard the brief discussion here to-day that the passage of this bill places much power in the hands of the President of the United States. It is urged that we can consistently make an effort and again place our merchant marine on the high seas.

In reply to an inquiry the gentleman from Missouri [Mr. ALEXANDER] states that the men who are back of the movement to enlarge our shipping facilities are the producers of the country.

We are told by the gentlemen that the railroads over the country are refusing consignments of grain for seaport cities, shipping points, on the ground that there is a lack of storage facilities to store grain in the absence of sufficient ships to remove the grain as fast as it reaches the shipping points.

There is no question but that the producers of the country desire to remove their products, but I am very certain, sir, that the producers do not wish to lower the standards of seamen, nor do they wish to profit at the expense of American standards of accommodations of American seamen, nor to bring conditions to the lower standards of foreign shipping.

It is to be regretted that the La Follette seamen's bill has not been reported out of the committee and presented to the House for consideration before this "emergency matter" has come up. It would have been an excellent time to have impressed upon the maritime powers of the world the par excellence conditions of American seamen over the lower standards of foreign shipping laws as regards protection to seamen.

The administration should have urged the consideration of the seamen's bill before this time.

We, as legislators, can very readily grasp the necessity for relief to the farmer and other producers of the country by arranging more means whereby more ships may be employed in our foreign trade. Ninety-two per cent of American commerce has been carried by foreign ships. That, Mr. Speaker, is an astounding condition of affairs and emphasize the fact that we have rapidly declined in the matter of merchant marine.

It is very evident that we must needs find a means of getting cotton, wheat, and other crops to foreign markets, and this necessity is the only reason that I can see for such a measure as this, and yet a very substantial reason why the bill should pass the House.

It gives much power to the President of the United States, but in a day like this, when conditions abroad produce emergencies, we willingly vote the President power, believing that he has full appreciation of the fact that the American producers, including farmers and manufacturers, are not willing to sacrifice American standards to the maritime slave conditions of some foreign countries.

We fully appreciate that belligerents can not operate shipping without the loss of ships and cargoes. The United States being neutral has an advantage.

The closest consideration should be given to the proposition of keeping the American flag free from all foreign entanglements that might involve us in a controversy with any party to the contest now taking place in Europe. There is just a shade of danger that we may become involved in taking even foodstuffs and wearing apparel into England, Germany, or France, but the exigency of moving our products is before us.

One might suggest that if our coastwise ships should engage in foreign shipping we would feel the effect in interstate transportation.

The responsibility of holding aloof from foreign complications and of preserving the standards of American shipping is *before* the administration. We give it the power by supporting this bill, and we support the measure in an emergency at the solicitation of the administration.

Mr. MANN. Mr. Speaker, I yield five minutes to the gentleman from Iowa [Mr. TOWNER].

Mr. TOWNER. Mr. Chairman, I think *there are no* Members on the floor of this House who would be ready to vote for this bill if in any sense it was to be considered as the determined attitude of the American people with regard to the things to which it refers. It is, as everyone understands, an emergency measure. You have heard the statement made by the chairman of the committee that over 90 per cent of all the foreign commerce of the United States is carried in foreign bottoms.

I think it is true that more than 75 per cent of all of that commerce is carried by the three great maritime nations—England, Germany, and France—which will soon probably be belligerants in this conflict. We have in this country now ready for export the greatest crops that this country has ever offered to the markets of the world. Millions of bales of cotton, hundreds of millions of bushels of wheat and of corn and of other grains, are being offered and are in the market. We can not send them to the foreign market. Already we hear through the press that cotton has gone down $4 a bale upon the news that it can not be exported. This will be the case with all the products of America unless we can provide, and provide now and at once in this emergency, to meet it.

It may be that the reservations that have been made by gentlemen who have spoken are justified, but I am willing to relax the rules that American vessels should be officered by American citizens for the time being.

Mr. J. I. NOLAN. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER pro tempore (Mr. BUCHANAN of Illinois). Does the gentleman yield?

Mr. TOWNER. Yes.

Mr. J. I. NOLAN. The question is, If the three great maritime nations are involved in war, will not cotton and wheat and corn be contraband of war, and in that case how can they get them to market?

Mr. TOWNER. They are not contraband.

Mr. J. I. NOLAN. Will they not be if they are destined to those ports?

Mr. TOWNER. That class of products is not inherently contraband of war and will not be made so unless by declaration of the belligerent powers themselves.

But, Mr. Speaker, let me go further and say that these other questions that gentlemen refer to about selling old and abandoned vessels to American citizens are not questions that are concerning us now. I judge that Americans who are to purchase vessels will not purchase that kind of vessels. They will not be compelled to. They will exercise their judgment in the purchase of vessels and will take only such vessels as they think will justify the investment of American capital; and when it comes to American seamen and American officers officering these vessels, those things can be taken care of later.

This is but giving the President the temporary power to act in this emergency. It seems to me that there can be no possible question of the wisdom of this act. If it shall be found that we have a President who is not patriotic enough—which I do not believe—to protect the interests of American citizens and the American people, then this Congress can act at any time it desires and repeal this law which we are now about to place upon the statute books. It is within our power to protect ourselves, and if we shall not now act in this emergency as any other nation would act, we shall certainly be derelict in our duty to the best interests of the people of this country.

I hope that this act will pass by an overwhelming majority. I hope that there will be no man here on either side of the House at this time that will regard this as anything else than

what it professes to be—a temporary act to meet a great emergency, in which we can subserve the interests of American citizens by doing what we are asked to do without any danger to the permanent interest of American commerce or American citizenship. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the time be extended 10 minutes on each side.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the time may be extended 10 minutes on each side. Is there objection?

There was no objection.

Mr. MANN. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. PAYNE].

The SPEAKER pro tempore. The gentleman from New York [Mr. PAYNE] is recognized for five minutes.

Mr. PAYNE. Mr. Speaker, I think perhaps I appreciate the gravity of the situation as much as any man who has spoken, and yet I do not think it is of such pressing importance to pass this bill to-day that we should pass it without further consideration. I shall vote against the motion to suspend the rules and pass the bill.

The gentleman from Missouri [Mr. ALEXANDER] introduced a bill on Saturday. He has introduced a bill to-day, this morning, with radically different provisions from those of the bill he introduced on Saturday, and I should have much more confidence in the bill if it had the indorsement of his mature judgment, because I highly appreciate the judgment of the distinguished gentleman from Missouri and the care and study which he has given to these matters.

Now, I am afraid that this legislation will lead us into difficulties. It is evidently almost a subterfuge. We are extending our laws in regard to these vessels, bringing them in under our registration, to be run by foreign seamen—that is, seamen of the countries that run them now. It is a mere temporary change of ownership for a purpose—the purpose of admitting them to American registry and of sailing them under the American flag.

Suppose the countries under which these ships are sailing now do not take kindly to this kind of legislation. Suppose some country seizes some of these ships, claiming that they are ships under the flag of their enemies and not under the flag of a neutral country like the United States, although they are waving the American flag. Are we to have a repetition of that little misunderstanding that we had awhile ago with Huerta and undertake to compel them to apologize for seizing these vessels?

We can not be too scrupulous at this time. We can not be too scrupulous about our relations with these belligerents across the water. Here is a great war, involving all Europe, involving all the great foreign nations of the earth. We want to remain neutral. We want to keep out of it. We want no entanglements with it. I think we ought to consider these matters more thoroughly before we make such a radical departure.

The bill to-day has all the earmarks of a subterfuge to get these vessels under the American flag for the protection of the American flag, because we waive all the present prohibitions of law about a large proportion of the crews being American citizens and we waive all the conditions about a survey. We are admitting all vessels, no matter what their age may be, and then the President can modify the law so that there shall be no survey of these old hulks that we may get in under the American flag.

This bill has not attained perfection nor anything near it yet. It ought to be considered carefully by the committee of which the gentleman from Missouri [Mr. ALEXANDER] is the capable chairman, and when brought in here it ought to be considered for at least a day, so that all these questions, which naturally present themselves to the mind of any man who has any information on the subject, may be carefully examined; and it ought not to be rushed through the House and an immature bill be passed. I hope that the House will go slowly in these matters. While we want to protect our own people and our own markets, and to protect the people who purchase grain and manufactures to ship them abroad, still we do not want to do it in any such manner as possibly to involve our country in war on either side of this great conflict that is taking place. Therefore I shall vote against this motion, and against passing the bill in this form, hoping that after more mature deliberation the gentleman will bring in a bill which can be considered by the House, perhaps by unanimous consent; or if not that, then under the authority of the Committee on Rules. In that way it can be done in ample time to meet this emergency, when we know what we want and what we want to do, so that we can safely act in this direction.

They say this is temporary. Why, if these vessels get under the American flag, they will stay there as long as the owners desire to have them stay there; and if these restrictions are removed, they will stay there as long as the restrictions are suspended in regard to sailing them under the American flag with foreign crews. We ought to go slowly, Mr. Speaker. [Applause on the Republican side.]

Mr. MANN. I yield five minutes to the gentleman from Washington [Mr. JOHNSON].

Mr. JOHNSON of Washington. Mr. Speaker, the gentleman from New York [Mr. PAYNE], in asking that the House take sufficient time to carefully consider this emergency measure, has said very largely what I had in mind to say. An emergency exists, but, in my opinion, not one so immediate as to sweep us off our feet.

How unfortunate it is that it takes so great a situation as all Europe at war to force us to a knowledge of what a headless, heedless, worthless, down-and-out, landlubber marine policy we have. A little less than 100 years ago we bid fair to be supreme on the seas. Now we are face to face with what everyone who has looked into it has known for years past—we have no merchant marine. Our shipping policy has been controlled from the interior, and it is now the interior that seems likely to suffer first.

There is one reason which warrants the passage of this emergency measure, and that is this: Our American shipping policy is so bad that we can not possibly make it any worse. Perhaps the efforts to solve a situation which finds us with no ships in which to carry abroad wheat, corn, or cotton, or any other commodity, will make us decide, not as an emergency, but seriously, to put the American flag back on the sea to stay there.

It is not at all likely that this emergency measure will do much good. We are too late.

It is said that Congress must now prolong its session. Why not do something for a real, permanent merchant marine? We have the South American trade to look after. If Europe goes into involved war, we may expect a great increase in trade with the South American Republics, provided we can produce the necessary ships.

In the last few months we have seen a great consolidation of the subsidized shipping of Japan for business through the Panama Canal, and almost every problem that comes up now will naturally run to the Panama Canal problem.

What ships have we? The Government records show that the total number of owners of registered American vessels is 1,076; owners of single vessels number 721, while persons owning two or more ships number 355. This latter class owns 1,187 vessels registered in the different States and of gross tons as follows:

Maine, 191; tonnage, 157,720. Massachusetts, 271; tonnage, 208,524. Rhode Island, 6; tonnage, 2,344. Connecticut, 93; tonnage, 104,107. New York, 476; tonnage, 1,067,448. New Jersey, 80; tonnage 67,136. Pennsylvania, 155; tonnage, 168,591. Delaware, 37; tonnage, 27,535; Maryland, 106; tonnage, 121,371. District of Columbia, 3; tonnage, 5,671. Virginia, 2; tonnage, 252. Georgia, 4; tonnage, 556. Alabama, 7; tonnage, 3,909. Florida, 6; tonnage, 5,322. Mississippi, 2; tonnage, 653. Texas, 14, tonnage, 30,881. Minnesota, 8; tonnage, 13,549. California, 315; tonnage, 409,761. Arizona, 2; tonnage, 990; Oregon, 17; tonnage, 12,387. Washington, 67; tonnage, 7,988. Alaska, 3; tonnage, 482. The Hawaiian Islands, 22; tonnage, 14,194. The net tonnage is approximately two-thirds of the gross.

The total number of vessels registered in principal cities is shown as follows: New York, 550; San Francisco, 403; Boston, 204; Philadelphia, 185; Baltimore, 110; Portland, Me., 46; Bangor, 34; Bath, Me., 37; Rockland, Me., 26; New Bedford, 32; Fall River, 33; Gloucester, 59; New Haven, 37; New London, 36; Perth Amboy, 59; Wilmington, Del., 31; Port Townsend, Wash., 39, making 1,921 out of the whole number of 2,608 in 17 cities.

Mr. TOWNER. The list that the gentleman has read includes the vessels engaged in the coastwise trade, does it not?

Mr. JOHNSON of Washington. Yes. I think it includes all.

But, as a matter of fact, the records show the total number of vessels registered in the Bureau of Navigation is 2,608, with a total net tonnage of 2,239,992. This number includes all seagoing craft, whether engaged in coastwise or foreign trade or traffic on inland waters, and includes those of from 10 tons net up.

There are but three American vessels of more than 8,000 tons. The largest is 13,328 tons, which is the *Minnesota*, owned by the Great Northern, and running from Puget Sound to the Orient. The other two larger than 8,000 tons are the *Mongolia* and *Manchuria*, each of 8,750 tons, and owned by the Pacific Mail Steamship Co.

Of 17 other ships of more than 5,000 tons, 2 are owned and operated by the Panama Railroad Co., a Government corporation; 2 by the Pacific Mail Steamship Co.; 4 by the International Mercantile Marine Steamship Co.; 8 by the American-Hawaiian Steamship Co.; and 1 by the Matson Navigation Co., of San Francisco.

While we are taking up—picking up—old foreign ships for use under the American flag we should consider the matter of insurance. If we pass such legislation that foreign vessels can come under American registry, I do not think that the insurance will drop to any such figure that the people of the United States will feel warranted in sending great cargoes into the ports of war-ravaged countries.

I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. The gentleman from Washington [Mr. JOHNSON] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. JOHNSON of Washington. I desire to insert an article on this subject from the New York Sun of this date, as follows:

OPINION IS UNANIMOUS.

The councils of the nations have heretofore foreseen just such a situtation as now exists, where one nation seeks profit for itself and transportation for its goods by inviting vessels of belligerent countries to shift to a neutral flag and thus escape the ordinary consequences of war.

Consequently the most stringent provisions have been made in international agreements for meeting this situation. These provisions all tend to make such emergency transfers well-nigh impossible by declaring them to be of a character which the belligerents need not recognize as valid and permitting the belligerents to treat vessels thus hastily transferred from a hostile to a neutral flag as the enemy's vessels.

The form of American law has little to do with the situation, according to international lawyers, as the proposed transactions must be measured by their international standing. Consequently they assert that a modification of the United States law regarding registry of American vessels will not in the least relieve the present situation, though it may have helpful effects after the hostilities are ended.

The United States thus faces the prospect of being unable to get anything like an adequate number of ships in which American crops and American manufactures may be carried into the world's markets. The situation constitutes one of the biggest problems now confronting the United States and is a forceful demonstration of the utter dependence of the United States upon foreign shipping.

The prohibitions against the plan are contained first in the general acceptance by all nations that no transfer of an enemy ship to a neutral flag is valid unless there is an actual sale.

That is, the control of and profits from the ships must be passed into new hands to make such a transfer recognizable by belligerents.

The theory of this established principle of international law is that ships must not be permitted by subterfuge to escape the consequences of their country being at war. The United States Government is on record in specific instances as confirming this principle and insisting upon its being adhered to.

DECLARATION OF LONDON.

This principle was elaborated and its workings made more specific and drastic by the provisions of what is known as the declaration of London. This declaration is a set of rules for maritime warfare, which were drawn up at a conference in which all the maritime powers were represented at London from December 4, 1908, to February 26, 1909.

Its provisions were signed by all the delegates present, including the Americans, and the convention was consented to by the United States. Thus it is binding upon the United States. All the Governments likewise consented to the convention with the exception of Great Britain, and as a result of British objections formal notifications of the convention have never been exchanged.

The declaration is regarded, however, as the expression of the world's thought on the questions therein disposed of, and there is not the slightest doubt, according to the authorities in Washington, that in the present conflict it will be the guide for the action of all the powers.

Each power, it is said, will insist that its provisions be lived up to, and it is asserted here that on the day of final reckoning disputes arising out of the war will be decided in accordance with the provisions of this agreement.

Article 55 provides:

"The transfer of an enemy vessel to a neutral flag effected before the outbreak of hostilities is valid unless it is proved that such transfer was made in order to evade the consequences to which an enemy vessel, as such, is exposed. There is, however, a presumption, if the bill of sale is not on board a vessel which has lost her belligerent nationality less than 60 days before the outbreak of hostilities, that the transfer is void. This presumption may be rebutted."

The article further provides:

"Where the transfer is effected more than 30 days before the outbreak of hostilities there is an absolute presumption that it is valid if it is unconditional, complete, and in conformity with the laws of the countries concerned, and if its effect is such that neither the control of nor the profits earned by the vessel remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than 60 days before the outbreak of hostilities and if the bill of same is not on board the capture of the vessel gives no right to demand damages."

TRANSFER AFTER OUTBREAK.

Regarding the transfer of vessels of a belligerent country after the outbreak of hostilities, the rule is simple. Such transfers are void and need not be recognized by any of the belligerents if it can not be proved that the transfer was not made to evade the consequences of the war.

There is not, of course, any pretense that the present plan is for any other purpose in the world except to avoid the consequences of the war.

Article 56, containing this rule, is as follows:

"The transfer of an enemy vessel to a neutral flag effected after the outbreak of hostilities is void, unless it is proved that such transfer was not made in order to evade the consequences to which an enemy vessel is exposed, provided that there is an absolute presumption that the transfer is void—

"If the transfer has been made during a voyage or in a blockade port.

"If a right to repurchase the vessel is reserved to the vendor.

"If the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing have not been fulfilled."

NO ESCAPE SEEN.

These provisions are so clear and positive that there is likely to be no escape whatever from them, in the opinion of international lawyers and certain experienced men here.

Furthermore, it will not be possible even for the United States to get American-owned vessels which fly foreign flags—as practically all of them do—under American registry at this late date and secure for them exemption from the consequences of war.

Article 57 of the declaration of London provides that "the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly."

In other words, American-owned ships flying foreign flags are subject to the same conditions of transfer as vessels flying the same flag but not owned by Americans. The American ownership gives no relief.

Mr. MANN. Mr. Speaker, I yield five minues to the gentleman from Washington [Mr. BRYAN].

Mr. BRYAN. Mr. Speaker, the great question of the War of 1812 was the problem of free ships and free trade, the question of the United States Government having a right to sail its ships with full and untrammeled authority on those ships in all the ports of the world. In the final settlement that we got out of that war we did not get the rights and privileges that we thought we were entitled to when we began the War of 1812. The treaty of Ghent was a compromise.

Now, the question comes up again as to whether we have the right not only to accept foreign sailors and naturalize them, and meet the whole world and prevent them from impressing those sailors into their service, but whether we have the further right to register foreign ships under our flag, to send them forth under the protection of this country, supported by the naval power of this country. If this bill is passed, that complicated question comes up. I am willing to meet that under the circumstances and the emergency that exists. I am willing to agree to the proposition that a foreign-built ship that is older than five years may come under American registry. I do not care how old a ship is that comes under American registery, if it is a good ship, if it is able to go over the sea with safety to passengers, and if it is worthy of American registry. But it is here proposed to pass a permanent law providing that hereafter, for all time to come, or until this act is repealed, we shall not only recognize the principle of foreign officers and foreign crews on our ships, but give to the President of the United States the right, without the consent of Congress, whenever he deems it right and proper, to waive the rules and regulations requiring the watch officers to be either native-born or naturalized American citizens.

I do not believe we ought for one moment to permit foreign officers to take charge of vessels in the American merchant marine. I do not think we ought to pass an amendment providing for that at any time. But they say that this is an emergency, that the existing conditions require it, and that under the circumstances we should support it, and that it will be unpatriotic if we do not support it. Very well. I suggested to the gentleman in charge of this bill that he put into it an amendment providing that the privilege or authority given to the President of the United States to suspend the laws with reference to American citizens on these vessels should expire in one or two years, so that it would not be permanent law, and in that event I think I could see my way to yield my own judgment to the argument of emergency. But that could not be agreed to. We can not in connection with this bill have an amendment that provides that at the end of two years the President shall cease to have the authority to waive the law which requires that the officers on these ships shall be Americans.

Under present law we permit Chinese crews. The gentleman from Illinois [Mr. MCKENZIE] was asking about Chinese crews. We can have nearly any kind of a crew that a dollar-seeking shipowner wants, but the watch officers are required to be American-born citizens or naturalized citizens. Now it is proposed to permit the President to waive that requirement whenever a delegation comes to him and convinces him that it is

right, appropriate, and proper to waive it. I do not believe that Congress ought to waive it, and far from permitting the President to waive it. If it was only for two years, it would be a different thing, but after the present administration is gone and passed out and another new one has come in, and others come and go, that will still stay on the statute books until all the provisions established in this House for getting legislation through the House and before the Senate and through the Senate are complied with and the bill we are enacting is repealed.

I do not believe we ought to go that far. It is true the other provision is full of possibilities of conflict and trouble. The London convention of 1910, as I heard it read this morning, provides that the transfer of registry of a belligerent ship to a neutral ship within 60 days before war has been declared or during war is presumptive evidence or prima facie evidence of fraud, and so it is a dangerous and perilous mission we are engaging in.

Mr. MANN. I yield five minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Chairman, for a great many years we on this side of the House have realized the importance of building up the American merchant marine, and at various times bills have been offered intended to accomplish that laudable and useful and patriotic purpose. We have foreseen just such conditions as these that have now arisen. We have realized year after year the loss of opportunity on the part of our workmen, on the part of our steel and lumber interests, and in the building of ships. We have realized the great loss to the American public in the payment of sums of money to foreign shipowners, and we have realized that the time might come when all Europe would be in arms and might deprive us of our facilities for transporting our vast surplus of foodstuffs and manufactured articles.

We are now face to face with such a situation, and it is an emergency. It is said that something ought to be done. I am inclined to think that is true. I scarcely feel like taking the responsibility of saying, so far as my vote goes, that we shall not do what is suggested, and yet I doubt very much indeed whether it will have any considerable helpful effect. In the first place, I doubt if there is sailing under any foreign flag any new first-class ships that will take advantage of this opportunity. We may bring temporarily under our flag a lot of old hulks now sailing under flags of various belligerent nations; they will carry the American flag; but that will be the only thing about them that we will have reason to be proud of. They may help somewhat in carrying our goods should general war come, as seems likely, but that is doubtful, and there is a danger that the moment one of these ships sets forth from our ports with an American cargo she will be captured and libeled by one of the belligerents. I doubt if under the laws of war relating to merchant ships, as they exist and are interpreted, the owners of a ship now belonging to a citizen of a belligerent power may properly and in good faith take advantage of the opportunity that we propose to offer.

It seems to me that the transfer we encourage would be considered a subterfuge. It would not be intended to be permanent. They would come under our flag simply to escape the fear or danger of capture under their own flag. They would retain their foreign officers and their crews. They would retain all these conditions of employment and with regard to space for crew and passengers which are abhorrent to us and which we have not heretofore tolerated.

The moment they were compelled to comply with the conditions as to the personnel and officers and as regards space and conditions that we have believed to be essential in ships carrying the American flag they would probably surrender their American register and go back under the flag under which they are now sailing. I doubt if the code of morals of the maritime world or the laws of war would justify any of the exchanges of flags contemplated or hoped for under this bill. I should rather expect, if it was attempted to any considerable extent, the result would be that the vessel so changing her citizenship would be likely to be captured and libeled, and we would fail in our efforts to give relief to the American merchant marine and get ourselves into complications with foreign nations.

Still there is a condition that needs remedying, and if we can remedy or in any wise relieve the situation which we have brought upon ourselves by refusing to pass legislation to build up the American merchant marine I shall not stand in the way. Therefore I shall vote for the bill in the hope that it may to some extent at least aid in affording means for the transportation of American exports, and that it will not either permanently establish a bad precedent as to crews and conditions on American ships or get us into foreign complications without materially helping our trade.

Mr. MANN. Mr. Speaker, I yield five minutes to the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE. Mr. Speaker, I want to thank the gentleman from Missouri for answering a few questions when, a little while ago, I robbed him of some of his time, but there was one question I desired to ask him which I was not able to propound, and that was as to the authorship of the bill.

I did not want to press the gentleman as to whether the bill came from the White House or from the Secretary of the Treasury or whether it came from any outside source, but I did want to know whether it originated in the committee. An answer to that question would have been important, because the bill comes into the House without being printed and we had no opportunity to study the effect of it.

Mr. UNDERWOOD. Mr. Speaker, does the gentleman desire to have his question answered?

Mr. MOORE. Yes.

Mr. UNDERWOOD. Mr. Speaker, I will state to the gentleman that on last Friday the President of the United States requested me to investigate this situation and report the facts to him in a bill. Judge ALEXANDER and myself conferred with Mr. Chamberlain, the head of the Navigation Bureau of the Commerce Department, and this bill was prepared by Mr. Chamberlain in accordance with the suggestions that Judge ALEXANDER and myself made to him. Subsequently, after it was prepared, it was submitted to the President as it now stands and was drawn and met with his entire approval, and he authorized me to say that he desires its passage.

Mr. MOORE. Mr. Speaker, I thank the gentleman very much for that statement and would ask him this further question, whether his view of this bill is that it is an emergency bill, pure and simple?

Mr. UNDERWOOD. Absolutely, so intended.

Mr. MOORE. I thank the gentleman. That answers the question which to my mind is of great importance in this matter. We have come into the House this morning, each one of us with knowledge through the newspapers that a great international foreign war is impending, and everyone with a desire to keep as far aloof from that war, so far as American interests are concerned, as is possible. Two measures of very great importance have been brought in on stress of the news of which each one of us is possessed. The first was an emergency measure with reference to the extension of the currency system, as provided for in a previous Congress for the relief of the people of the United States and for their protection. That was passed by the almost unanimous vote of the House. Under the same cover of an emergency comes this bill, which proposes to amend several of the navigation laws of the country—laws that were intended for the protection of American shipping, to safeguard the interests of those who build ships and of those who sail the ships, as well as to protect the interests of those who do shipping business in the United States. Gentlemen have spoken of the great preponderance of business that is carried in foreign bottoms. That is true. The American merchant marine is not what we would like it to be, but the great American market is so vastly superior to the foreign business carried in foreign bottoms that we have reason to consider protecting what we have in that American market.

The main business that comes to and goes from our shores in foreign bottoms, vast as it is, is insignificant compared with the business of the United States. I assume, also, that we want to protect that business of the United States against any international trouble. Therefore, if we are about to revise our navigation laws by a measure that is intended to cover only on emergency, but which will, as some of us believe, prove to be permanent law, then we have to consider whether by the enactment of that legislation, be it emergency or permanent law, we shall involve ourselves with foreign nations. It is proposed that we proceed to buy up foreign ships; to put on them foreign seamen; to give the President of the United States discretion with regard to survey and measurement. And for what purpose? To enable some of our exporters to carry out the orders they have with foreign countries, orders concerning which they have notice now that there is very great risk. I say, there is a question whether in the enactment of this law we are so safeguarding ourselves that immediately we secure these foreign-built ships, these foreign-manned ships, these foreign-measured ships, and they pass beyond the 3-mile limit with American cargoes for belligerents, they are not subject to seizure and will not involve us in international complications.

I do not want to stay any patriotic move made by gentlemen on the other side. I trust, however, this is only an emergency

measure. I want to see the welfare of this country advanced and its interests protected upon land and sea, but we should be careful to avoid entangling this Nation in this foreign turmoil.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. MANN. Mr. Speaker, I yield five minutes to my colleague, the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Speaker, the American manufacturers, the American farmers, mechanics, artisans, financiers—all—are looking to the Congress of the United States to-day to do something which will enable them to meet the emergency which is upon us. We have the greatest crop the country has ever known. We can not use all of the cereals that we have raised. We want to ship them abroad. The world needs them. We have not the vessels with which to make these shipments. The enactment of this law will furnish these vessels, if men in this country are willing to invest their money in the ships needed for American registry. We are not buying ships; we are not passing any law that obligates the Government of the United States to buy ships. We are simply affording the American people an opportunity to invest their money in an enterprise that will maintain the prosperity of America and its people.

I am going to vote for the bill. I do it with some misgivings, however, because of the fear that we may find ourselves in complications with the nations abroad, but if the enactment of this law or any other law will give greater assurance of continued American prosperity than could exist without the enactment of the law, then, I say, without fear of successful contradiction, we have only performed our duty when we vote for it, and if we fail to pass the law that will give assurance of continued American prosperity, we have failed in the performance of our duties, as men who sit here and speak for the American people.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. Certainly.

Mr. MOORE. Suppose we buy one of these foreign ships, put the American flag upon it, load it with a cargo of grain for belligerents in France, and it is seized by the German Navy, what then?

Mr. MADDEN. Well, that is a contingency we will have to meet when we reach it.

Mr. MOORE. Will not we have to defend that ship and defend that flag?

Mr. MADDEN. The flag of the United States will be defended in every land and on every sea by all the power of the American Government. [Applause.] And I take it that when we fly the American flag on a ship carrying goods made by the American people we are going to protect that ship and that flag, no matter where the ship may be.

Mr. MOORE. The gentleman spoke——

Mr. WEBB. Will the gentleman yield?

Mr. MADDEN. I do not yield to anybody now.

Mr. MOORE. The gentleman spoke of peace this morning——

Mr. MADDEN. And I am for peace always, never for war; but I am for peace with honor and only for war when the honor of the Nation is involved, but I am for the prosperity of the American people, and if from prosperity war comes, I am for war. I am first an American, then a Republican. [Applause.] I am for the flag wherever it may be, and if we can register ships made abroad and fly the American flag on those ships for the transportation of American products I am for the registration of those ships to carry our goods to the end of the world under any and every circumstance. [Applause.] I yield back the balance of my time.

Mr. MANN. How much time has the gentleman yielded back?

The SPEAKER pro tempore. One minute.

Mr. MANN. I yield four minutes to the gentleman from California [Mr. CURRY].

Mr. CURRY. Mr. Speaker, it seems that the enactment of this law is asked for by American shippers. I am fearful that it is one that will embroil us with European belligerents. King Solomon was a very wise old King, and he said in one of his proverbs:

> He that passeth by, and meddleth with strife belonging not to him, is like one that taketh a dog by the ears.

It may not be hard to take hold of the dog by the ears, but it may be hard and dangerous to let go. This proverb may with propriety be applied to nations as well as to individuals. I do not think it will do the American people and Members of Congress any harm once in a while to read Washington's Farewell Address and become conversant with the Monroe doctrine. The greatest danger that confronts America to-day is our recent proneness to interfere in the politics, quarrels, and wars of non-American States.

Section 55 of the International Naval Conference, signed at London February 26, 1909, ratification advised by the Senate April 24, 1912, not ratified by the Senate of the United States, but ratified by some of the foreign nations, reads as follows:

> The transfer of an enemy vessel to a neutral flag, effected before the outbreak of hostilities, is valid, unless it is proved that such transfer was made in order to evade the consequences to which an enemy vessel is exposed. There is, however, a presumption, if the bill of sale is not on board a vessel which has lost her belligerent nationality less than 60 days before the outbreak of hostilities, that the transfer is void. This presumption may be rebutted.
>
> Where the transfer was effected more than 30 days before the outbreak of hostilities, there is an absolute presumption that it is valid if it is unconditional, complete, and in conformity with the laws of the countries concerned, and if its effect is such that neither the control of nor the profits arising from the employment of the vessel remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than 60 days before the outbreak of hostilities, and if the bill of sale is not on board the capture of the vessel gives no right to damages.

Now, what is contraband of war? We all know, but here is what the protocol says:

CONTRABAND OF WAR.

ARTICLE 22.

The following articles may, without notice, be treated as contraband of war under the name of absolute contraband:

(1) Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.
(2) Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.
(3) Powder and explosives specially prepared for use in war.
(4) Gun mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts.
(5) Clothing and equipment of a distinctively military character.
(6) All kinds of harness of a distinctively military character.
(7) Saddle, draft, and pack animals suitable for use in war.
(8) Articles of camp equipment, and their distinctive component parts.
(9) Armor plates.
(10) Warships, including boats, and their distinctive component parts of such a nature that they can only be used on a vessel of war.
(11) Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land or sea.

ARTICLE 23.

Articles exclusively used for war may be added to the list of absolute contraband by a declaration, which must be notified.

Such notification must be addressed to the Governments of other powers, or to their representatives accredited to the power making the declaration. A notification made after the outbreak of hostilities is addressed only to neutral powers.

ARTICLE 24.

The following articles, susceptible of use in war as well as for purposes of peace may, without notice, be treated as contraband of war under the name of conditional contraband:

(1) Foodstuffs.
(2) Forage and grain suitable for feeding animals.
(3) Clothing, fabrics for clothing, and boots and shoes suitable for use in war.
(4) Gold and silver in coin or bullion; paper money.
(5) Vehicles of all kinds available for use in war and their component parts.
(6) Vessels, craft, and boats of all kinds; floating docks, parts of docks, and their component parts.
(7) Railway material both fixed and rolling stock, and material for telegraphs, wireless telegraphs and telephones.
(8) Balloons and flying machines and their distinctive component parts, together with accessories and articles recognizable as intended for use in connection with balloons and flying machines.
(9) Fuel; lubricants.
(10) Powder and explosives not specially prepared for use in war.
(11) Barbed wire and implements for fixing and cutting the same.
(12) Horseshoes and shoeing materials.
(13) Harness and saddlery.
(14) Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

ARTICLE 25.

Articles susceptible for use in war as well as for purposes of peace other than those enumerated in articles 22 and 24 may be added to the list of conditional contraband by a declaration, which must be notified in the manner provided for in the second paragraph of article 23.

ARTICLE 26.

If a power waives, so far as it is concerned, the right to treat as contraband of war an article comprised in any of the classes enumerated in articles 22 and 24 such intention shall be announced by a declaration, which must be notified in the manner provided for in the second paragraph of article 23.

ARTICLE 27

Articles which are not susceptible of use in war may not be declared contraband of war.

ARTICLE 28.

The following may not be declared contraband of war:

(1) Raw cotton, wool, silk, jute, flax, hemp, and other raw materials of the textile industries, and yarns of the same.
(2) Oil seeds and nuts; copra.
(3) Rubber, resins, gums, and lacs; hops.
(4) Raw hides and horns, bones and ivory.
(5) Natural and artificial manures, including nitrates and phosphates for agricultural purposes.
(6) Metallic ores.
(7) Earths, clays, lime, chalk, stone, including marble, bricks, slates, and tiles.
(8) Chinaware and glass.
(9) Paper and paper-making materials.
(10) Soap, paint, and colors, including articles exclusively used in their manufacture, and varnish.

(11) Bleaching powder, soda ash, caustic soda, salt cake, ammonia, sulphate of ammonia, and sulphate of copper.
(12) Agricultural, mining, textile, and printing machinery.
(13) Precious and semiprecious stones, pearls, mother-of-pearl, and coral.
(14) Clocks and watches other than chronometers.
(15) Fashion and fancy goods.
(16) Feathers of all kinds, hairs, and bristles.
(17) Articles of household furniture and decoration; office furniture and requisites.

If this bill should pass, a foreign corporation could sell its ships to an American corporation and have the benefit of the protection of the American flag, while all of the stock of the corporation, with the exception of the few shares necessary to be held by its officers to qualify them to act, might be held by the original foreign stockholders, and still the transfer might be held by this Government to be made in good faith. But would it be so looked on by the belligerents? Would it be so held according to international law? Would our country so look on it if conditions were reversed?

There is no doubt in my mind that as soon as we pass this law some foreign Governments will immediately pass laws making it treason for their subjects to take advantage of it, and the American flag will not protect vessels so transferred from seizure as contraband of war. The seizure of one such ship would immediately embroil us in trouble with the nation that made the capture.

Should this bill be enacted, and I think it will be, I wish to call the attention of Congress to the fact that there are sufficient deck officers and engineers unemployed in the United States to officer all such ships likely to take advantage of the law. On the Pacific coast there are at the present time 400 unemployed merchant marine deck officers—250 in San Francisco, 50 in San Pedro, and 100 on Puget Sound.

If it were in order under the rule under which the bill is being considered, I would offer a substitute for it. The substitute would provide that $30,000,000, or so much thereof as may be necessary, be appropriated and placed in the hands of the President to be used by him to build, purchase, and operate ships for commerce and trade. Under that provision ships bought by the Government would certainly be bought in good faith, notwithstanding the fact that the law was enacted as an emergency and temporary measure.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. CURRY. I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? [After a pause.] The Chair hears none.

Mr. ALEXANDER. Mr. Speaker, I make the same request.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. MOORE. Mr. Speaker, I make the same request.

Mr. MONDELL. Mr. Speaker, I make the same request.

Mr. UNDERWOOD. Mr. Speaker, may I make a general request? I ask unanimous consent that all gentlemen who have spoken on the bill may have the right to revise and extend their remarks and other gentlemen may have the right to print within five days on the bill.

Mr. MANN. I am going to object to that.

The SPEAKER pro tempore. The gentleman from Alabama asks unanimous consent that all Members who have spoken on this bill be given the right to extend and revise their remarks and that all gentlemen may be given the privilege of printing their remarks for five days. Is their objection?

Mr. MANN. I object. Mr. Speaker, I yield five minutes to the gentleman from Pennsylvania [Mr. TEMPLE].

Mr. TEMPLE. Mr. Speaker, for the second time in one day we are called upon to vote for an emergency measure in haste, and this time in such haste that the bill has not been printed and is not available for examination by Members of the House. Now, there may have been some reason for great haste with regard to the emergency currency bill, but it is hard to see how the shipping interests of the country could suffer very much if we should take time to print this bill and study it.

The bill provides for American registration, under certain conditions, for foreign-built vessels, and the reason given for the proposed legislation is that our foreign commerce is likely to be very much disturbed by the war that has already begun and which, before long, is likely to involve most of the great maritime nations of the world. Why will that war disturb our foreign commerce? The reason is obvious. Ninety per cent of our $4,000,000,000 of exports and imports is carried in foreign bottoms, and these vessels, many of them, will be taken out of commercial channels. They are subsidized vessels of the powers whose flags they fly, and they will be subject to duty as auxiliary vessels of the navies. Of course, they can not be of much use as fighting vessels, but some of them are fast and can serve as scouts, while others will be used as transports or supply ships. That is where some of them will go. Those that remain in the carrying trade will, of course, be subject to capture by the warships of their enemies, and therefore very much disturbed in their attempt to carry our trade.

Other disturbances to sea-borne commerce will affect American vessels as much as those of any other power. There will be blockades of many or all of the ports of the warring nations, and it makes no difference what flag the vessel carries that attempts to run a blockade, it will be subject to capture. American vessels will have no privileges above the vessels of any other country.

Also vessels that carry contraband—and foodstuffs may be contraband—will be subject to capture. The continental doctrine of contraband and the American doctrine are not the same. According to the one, for example, food will be contraband if it is destined for the use of a fleet or for troops in the field; according to the other, the destined use of the article will have no bearing on the question, whether it is contraband or not contraband. Therefore owing to the difference which prevails on the Continent and in our own country disputes will arise, and the neutral character of our ships will not save us from these disputes.

Mr. MOORE. Will the gentleman yield?

Mr. TEMPLE. For a question.

Mr. MOORE. Suppose we were sending raw cotton to Germany under the American flag in one of these foreign-built ships which had secured American registry, which was to be made up into army uniforms, and it was seized on the high seas by a warship of France, what would be the consequence?

Mr. TEMPLE. If we did not recognize the seizure as legitimate, we would have a controversy with Germany about it.

Mr. JOHNSON of Washington. Is it not a fact that American ships flying the flag of the United States and loaded with flour were seized and held in Asiatic waters during the Russo-Japanese War?

Mr. TEMPLE. If they are carrying contraband, or if they try to break through a blockade, the neutral vessels of the United States are just as subject to capture as any other. Now, it seems to me that if this bill is passed it will not create any more vessels. We will have to buy, if we buy at all, either vessels that belong to some of these belligerents, in which case the question of fraudulent transfer will be raised, or we will buy vessels that belong to citizens or subjects of some neutral power. They will be just as free from capture under any other flag as they would under ours. If we buy belligerent vessels, we are hunting trouble. The neutral vessels we do not need to buy, because we can ship our goods in them without buying them.

To illustrate the danger of transferring vessels of a belligerent to a neutral flag, I would like to call attention to section 344 of our consular regulations, as quoted in the second volume of John Bassett Moore's Digest of International Law, as follows:

Consul's responsibility: The authority of a consular officer to authenticate the transfer of a foreign vessel is wide in its effects and imposes great responsibility in making him, in the first instance at least, the sole judge of the good faith of the transaction. The question of the honesty and good faith of such a sale rises into the gravest importance in the event of a war between two or more powers in which the Government of the United States is a neutral. In such a war experience justifies the expectation that the citizens or subjects of one or more of the belligerents will seek to protect their shipping by a transfer to a neutral flag. In some instances this may honestly be done, but the sales of the vessels of belligerents in apprehension of or in time of war are always and properly liable to suspicion, and they justify the strictest inquiry on the part of the belligerent who may thereby have been defrauded of his right to capture the enemy's property. The acceptance of the pretended ownership of a vessel under these circumstances may be very profitable, and the temptation to abuse his trust in such a case to which a consular officer is subjected may be too great for persons of ordinary integrity, discernment, and firmness to withstand. Instances are not wanting in which citizens of the United States who were wholly incapable, from their previous well-known condition and pursuits, of making such a purchase have appeared as owners under sales of this character and have sought for them the protection of the Government.

Now, it seems to me, with the definite announcement which has been made here that this bill is intended to be an emergency bill to meet the situation caused by the European war, the presumption of fraud in the transfer of foreign vessels to American registry would be held by a belligerent to be very great. Therefore the dangers that lie in this bill seem to me to be so great that I must vote against it.

To recapitulate: There are four ways in which the war is going to interfere with our foreign commerce. First, many merchant ships of the belligerents will be called into the naval services of their respective countries. Second, those that continue in the merchant marine will be subject to capture. Third,

neutral ships carrying contraband will be subject to capture. Fourth, blockades will seriously interfere with all commerce bound to any of the countries engaged in the war.

We can not buy merchant ships of the class first mentioned; they will be in the navies. If we buy ships of the second class, we buy trouble. It will be of no use to buy vessels of the third and fourth classes, because as neutrals they already have all the rights they would have with American registry.

The SPEAKER pro tempore (Mr. BOWDLE). The time of the gentleman has expired.

Mr. MANN. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] has 10 minutes and the gentleman from Missouri [Mr. ALEXANDER] has 20 minutes.

Mr. MANN. I hope the gentleman from Missouri [Mr. ALEXANDER] will use some time now.

Mr. ALEXANDER. We have but one speech on this side.

Mr. MANN. But one speech to close?

Mr. ALEXANDER. Yes.

Mr. MANN. Mr. Speaker, we export $2,000,000,000 worth of products a year and over. We import a billion and a half dollars' worth a year. And while a portion of these exports and imports are from Canada and Mexico, a great bulk of them must go on the high seas because of the fact—at least, that is my opinion—that men in this country receive higher pay than they do elsewhere, and that commerce on the high seas must be open to the world, and we do not have the foreign commerce in American bottoms. American capital has been better paid in other enterprises; or, if invested in shipping, by the purchase of stock in foreign companies, where the men operating the ships receive lower pay than Americans will work for when they get higher pay at home. Whatever may be the reason, not 10 per cent, it is said, of this commerce is carried in American bottoms.

Now, we are confronted with a situation where those nations of the world owning the bulk of the shipping may be at war, and their vessels be subject to capture as prizes by their enemies. Hence it is not practicable for them to engage in regular and safe commerce on the high seas. Shall we, then, destroy our foreign commerce? Shall we let our goods and produce, ready for export, rot or rust on our own shores? Or shall we endeavor to provide some method by which our cotton and our grain may be sent abroad, together with those manufactured products which we have been sending abroad to a large extent? American vessels on the high seas, so long as we are neutral, are free from seizure, unless they are carrying contraband of war.

I do not know whether it is possible to get American capital to buy these foreign vessels, many of which will be practically useless otherwise for some years if war actually occurs. But they can not buy them now and use them. Unless there is some ship room furnished, we can not send abroad our exports; we can not get rid of our cotton and our wheat. To-day the elevators are filled with wheat at all of the export points. To-day the railroads are refusing to carry wheat at all, because there is no place to store it. We have the foreign demand for it. It is sold abroad, but the foreign vessels are not safe in carrying it. Will we authorize, under these conditions, our citizens to invest American capital in the purchase of foreign vessels and carry abroad our produce that we wish to sell to foreign peoples?

The question ought to answer itself. Here is an emergency which we all recognize. It is idle to say we would not do this under normal conditions, because we do not have normal conditions. We want to send abroad our produce and our manufactures. We can only do it, if this war occurs, in vessels flying the American flag. We can not build them in time to meet the emergency. We can not send our stuff abroad unless we own them. Other people have them who want to sell. Will we buy? It is to our financial interest to make the money which is made out of the carrying trade. It is to the interest of our country to sell our produce abroad. Both interests join in favor of giving the American citizen and American capital the opportunity which the world has offered to enrich our own country and protect our own people. Therefore I think the bill ought to pass. [Applause.]

The SPEAKER pro tempore. The gentleman from Alabama [Mr. UNDERWOOD] is recognized for 20 minutes.

Mr. UNDERWOOD. Mr. Speaker, for many years I have favored legislation that would build up an American merchant marine that would be commensurate with the needs of our commerce and in keeping with the wants of this great Nation. I do not contend for one moment that the bill that is now pending before the House supplies that demand. It does not. If the American people and the American Congress really desire a merchant marine, there is legislation needed in the future to accomplish that result.

But to-day we face an emergency. To-day the question that confronts us is the question as to whether your elevators will be crowded with wheat this fall, selling at 25 cents a bushel and a surplus stock on hand that destroys the price; as to whether your warehouses will be filled with cotton that this country can not consume, and whether the price of your cotton shall go to 4 and 5 cents a pound, with all the attendant evils that may come from that condition; or whether, at least to some extent, you will attempt to relieve the situation.

I do not contend for a moment that this bill more than attempts to relieve the present situation. I have some figures here in my hand that were prepared by the Bureau of Navigation of the Department of Commerce showing our exports for last year and the countries that consumed them:

Figures for fiscal year ended June 30, 1913, are the latest available.

Exports from the United States to Europe	$1,479,074,761
To Great Britain	597,149,059
To Germany	331,684,212
To France	146,100,201
To the Netherlands	125,909,862
To Italy	76,285,278
To Belgium	66,845,462
To Spain	31,471,723
To Russia	25,363,795
To Austria-Hungary	23,320,696
All other Europe	54,944,473
Total	1,479,074,761

Value of our principal articles of export to Europe for fiscal year ended June 30, 1913.

Cotton (unmanufactured)	$224,783,000
Breadstuffs	142,108,000
Copper	128,421,000
Meats, etc	117,765,000
Oils	86,251,000
Oil cake	27,934,000
Woods, lumber, etc	47,406,000
Iron, steel, etc	53,824,000
Tobacco	37,792,000
Leather	33,907,000
Agricultural implements	18,867,000
Naval stores	17,191,000
Fruits and nuts	7,375,000
Furs	6,256,000
Coffee	7,571,000
Cars, autos, etc	4,500,000
Hops	4,171,000
Coal	1,288,000
All other articles	505,178,000
Total exports	1,479,074,000

They show that our exports to Europe last year were $1,479,000,000. Of that amount we exported $224,000,000 of cotton, $142,000,000 of breadstuffs, and $117,000,000 of meats.

Now, there are three agricultural products, amounting to over $602,000,000, nearly half of your exports, and how are you going to get them to Europe?

The Bureau of Foreign and Domestic Commerce does not print the value of exports to Europe according to the flag of the exporting ship. The following table of the number of voyages and net tonnage of the ships gives a fair measure of the distribution by flag of our export transportation to Europe:

Clearances of vessels from the United States for Europe during the fiscal year 1912 (note these figures were not printed in detail by the Bureau of Foreign and Domestic Commerce for 1913. The totals for the two years are nearly the same, and national proportions will not vary much). The figures, of course, include the repeated voyages of the same ship to Europe in a year. The ship's tonnage is 100 cubic feet, which will carry 80 bushels of grain or 2¼ tons of coal.

Nationality.	Number of clearances.	Net tonnage.
British	2,504	9,814,537
German	593	3,026,907
French	238	881,645
Dutch	178	827,949
Italian	195	674,303
Belgian	46	318,409
Danish	90	310,209
Austrian	97	302,125
Spanish	112	266,018
Norwegian	78	188,397
Russian	33	101,120
Greek	26	89,859
Swedish	20	48,611
Uruguayan	7	7,966
Portuguese	6	3,079
Total	4,223	16,861,794
American	56	303,754
Grand total	4,279	17,165,548

For the fiscal year 1913 our exports to Europe were valued at $1,479,074,761, the net tonnage of clearances from the United States to Europe, 19,072,439 ship net tons, so each net ton of ship space averaged $78 worth of cargo carried per trip.

Clearances for Europe, 1913.

Countries.	American vessels.		Foreign vessels.		Aggregate.	
	Number.	Net tons.	Number.	Net tons.	Number.	Net tons.
Austria			80	372,807	80	372,807
Azores	3	691	5	9,256	8	9,947
Belgium	25	187,017	257	986,350	282	1,173,367
Denmark			142	368,874	142	368,874
France:						
Atlantic			390	1,326,339	390	1,326,339
Mediterranean			94	302,058	94	302,058
Germany	2	10,262	818	3,822,212	820	3,832,474
Gibraltar			2	5,202	2	5,202
Greece			15	50,901	15	50,901
Iceland and Faroe island			2	1,133	2	1,133
Italy	2	4,485	368	1,532,531	370	1,537,016
Malta			1	3,446	1	3,446
Netherlands	3	13,763	486	1,840,710	489	1,854,473
Norway			34	146,840	34	146,840
Portugal			49	73,789	49	73,789
Roumania			4	9,561	4	9,561
Russia			52	152,311	52	152,311
Spain			175	392,713	175	392,713
Sweden			41	76,521	41	76,521
Turkey in Europe			3	16,039	3	16,039
Great Britain	45	226,142	1,529	7,153,272	1,674	7,378,491
Total	80	442,365	4,636	18,630,074	4,716	19,072,439

The net tonnage for the year 1912—the figures were not printed for 1913, so that I have to give the figures of 1912—show that, of your commerce carried to Europe in that year, 9,814,000 net tons were carried in British ships, 3,026,000 net tons were carried in German ships, and 881,000 net tons were carried in French ships. In other words, over 51 per cent of your tonnage to Europe was carried in British ships and 17 per cent in German ships, making two nations alone carrying 68 per cent of your export tonnage to Europe.

On the other hand, the lamentable condition confronts us that the tonnage carried in American ships amounted to only 303,000 net tons, or 1.7 per cent of your European export trade that was carried in American vessels.

Now, from these figures I want to call your attention to this fact, that if you exclude the ships of Great Britain, France, Germany, Russia, and Austria from the sea, only enough ships are left from the balance of the world that were in the foreign trade in 1912—and the same conditions existed in 1913—to carry about 14 per cent of your European exports.

What does 14 per cent of your European exports mean? That tonnage, if it continued all the year round, would carry about 190,000,000 busbels of wheat—not enough to carry your export wheat that is to go out this year. If the entire tonnage of those ships were devoted to carrying your export cotton, it would carry only about 7,000,000 bales—about the normal export of the crop of America to Europe to-day—and no wheat.

The passenger steamers on regular lines are, of course, the most valuable ships and those most likely soon to be withdrawn.

The Cunard fleet is retained under postal and admiralty subventions by the British Government as naval cruisers. British subjects only can own Cunard shares.

The faster North German Lloyd steamships are German naval auxiliaries.

The mail steamers of the Compagnie Generale Transatlantique are French naval auxiliaries.

Following are the clearances of passenger ships from the United States for Europe during the calendar year 1913:

Trans-Atlantic passenger voyages from the United States to Europe during the calendar year 1913.

VOYAGES FROM UNITED STATES TO EUROPE.

British:	
White Star Line (International Mercantile Marine Co.)	127
Cunard Line	108
Anchor Line	68
Leyland Line (International Mercantile Marine Co.)	53
Atlantic Transport Line (International Mercantile Marine Co.)	47
Philadelphia (International Mercantile Marine Co.)	23
British Red Star Line (International Mercantile Marine Co.)	24
Uranium Steamship Co	22
Warren Line	6
	478
German:	
North German Lloyd	172
Hamburg-American	130
	302
Italian:	
Lloyd Italiano	18
Navigazione Generale Italiana	18
Lloyd Sabando	14
La Veloce	14
Sicula Americana	16
Italia	11
	73
French:	
Compagnie Generale Transatlantique	114
Fabre Line	44
	158
Norwegian:	
Norwegian-American Line	7
Norway-Mexico Gulf Co	5
	12
Greek:	
Greek Line	7
National Greek Line	6
	13
Belgian: Belgian Red Star Line (International Mercantile Marine Co.)	30
Austro-Hungary: Austro-American Line	31
Dutch: Holland-American Line	49
Danish: Scandinavian-American Line	31
Russian: Russian-American Line	30
Spanish: Compania Transatlantica de Barcelona	12
United States:	
American Line (International Mercantile Marine Co.)	40
American Red Star Line (International Mercantile Marine Co.)	23
	63
Total	1,300

I have carefully gone over the American seagoing merchant fleet; a very small number may afford relief under our own flag.

Our only trans-Atlantic steamers are the four American Line steamships, *St. Louis*, *St. Paul*, *New York*, and *Philadelphia*, and the American Red Star S. S. *Finland* and S. S. *Kroonland*. The four mail steamships do not carry much cargo, say, 6,000 ton avoirdupois; the *Finland* and *Kroonland*, 7,927 net, can carry about 16,000 tons avoirdupois each per voyage.

Our ships on the Pacific and in trade with Cuba, Mexico, and the coastwise ships, in the main, already are employed. None of our coastwise ships are now adapted to the export of grain or cotton across the Atlantic. They would require fitting for the purpose, and most of them have not the coal capacity. Again, our spare coastwise ships, if any, must be used to fill up gaps in our near-by foreign trade; for example, German ships to the British West Indies will withdraw.

The available fleet for relief is the American-Hawaiian fleet of 26 cargo steamers, built for the Panama Canal trade, soon to be open. Bull & Co. and Luckenbach have a few small tramp steamers for miscellaneous cargo, but they are not grain or cotton ships.

The probable European neutral maritime flags: Norway, Sweden, Denmark (?), Netherlands (?), Belgium (?), Spain. Admission to the flag of these countries, especially Norway, is relatively easy.

Now, that is the condition that confronts us. Some gentlemen say that this is not an emergency measure. If you do not ship your agricultural products to the European markets, it means disaster to every agricultural community in the United States.

Before I explain the bill I wish to call to your attention the further fact that this not only means the admitting of foreign ships to American registry, it means the admission of ships that are owned to-day by American citizens and American corporations to American registry, and authorizes them to fly the American flag instead of a foreign flag.

I have in my hand a letter, which was delivered to me a few moments ago, from the Bureau of Navigation of the Department of Commerce, in which the fact is called to my attention that the New York & Pacific Steamship Co. (Ltd.), an American corporation, has 11 ships under the British flag that have a capacity of 36,444 net tons, and yet there are only three of them that could come in under the present law, because the

remainder of them were built more than five years ago. I will print the names and tonnage.

New York & Pacific Steamship Co. (Ltd.) (W. R. Grace & Co., New York).

Name.	Gross.	Net.	Year built.	Flag.
	Tons.	*Tons.*		
Chipana	7,040	5,243	1907	British.
Chincha	6,395	4,064	1912	Do.
Curaca	6,383	4,067	1912	Do.
Cacique	6,202	4,543	1910	Do.
Colusa	5,732	3,622	1913	Do.
Charcas	5,057	3,054	1906	Do.
Celia	5,004	3,185	1904	Do.
Chimu	4,251	2,781	1900	Do.
Condor	3,053	1,958	1893	Do.
Capac	3,052	1,951	1893	Do.
Coya	3,040	1,945	1895	Do.
	55,230	36,414		

The United Fruit Co.'s vessels, owned by an American corporation flying the British flag, are nearly two dozen in number, which could come in under this law, if you pass it; but most of them could not come under our flag if you do not pass this bill, because the ships are over 5 years old. I will present the names and tonnage:

Vessels owned by subsidiary companies of the United Fruit Co.

Name of vessel.	Gross.	Net.	Year built.	Flag.	Speed.
	Tons.	*Tons.*			*Knots.*
Tenadores	7,783	5,891	1913	British	15
Calamares	7,782	5,891	1913	...do	15
Pastores	7,782	5,888	1912	...do	15
Patia	6,103	4,858	1913	...do	14
Patuca	6,103	4,858	1913	...do	14
Bavano	5,948	4,741	1913	...do	14
Chagres	5,288	4,331	1912	...do	14
Sixaola	5,017	3,804	1911	...do	14
Tivives	5,017	3,804	1911	...do	14
Santa Marta	5,013	3,903	1909	...do	14
Zacapa	5,013	3,903	1909	...do	14
Carrillo	5,013	3,894	1911	...do	14
Metapan	5,011	3,903	1909	...do	14
Almirante	5,010	3,901	1909	...do	14
Atenas	4,962	3,902	1909	...do	14
Turrialba	4,961	3,899	1909	...do	14
Abangarez	4,955	3,835	1909	...do	14
Heredia	4,944	3,936	1908	...do	14
Parismina	4,937	3,936	1908	...do	14
Cartago	4,937	3,935	1908	...do	14
Tortuguero	4,175	3,765	1909	...do	13½
Aracataca	4,151	3,724	1911	...do	13½
Barranca	4,124	3,751	1905	...do	13
Manzanares	4,004	3,668	1911	...do	13½
Reventazon	4,050	3,797	1906	...do	13
Chirripo	4,050	3,698	1906	...do	13
Nicoya	3,911	3,595	1905	...do	12½
Pacuare	3,891	3,576	1905	...do	12½
Zent	3,890	3,576	1905	...do	12
Matina	3,870	3,620	1904	...do	12
Manistee	3,869	3,627	1904	...do	12
Miami	3,762	3,540	1904	...do	12
Greenbriar	3,332	2,703	1893	...do	.....
Esparta	3,298	3,095	1904	...do	14
Limon	3,298	3,095	1904	...do	14
San Jose	3,293	2,107	1904	...do	14
Saramacca	3,284	2,467	1908	...do	13
Suriname	3,275	2,457	1908	...do	13
Coppename	3,192	2,527	1908	...do	13
Marowijne	3,192	2,527	1908	...do	13
Orleanian	2,293	1,939	1880	...do	.....
Total (41)	182,879	154,108			

The Red Star Line is, I understand, an American-owned line now flying the Belgian flag. Of course, that is a neutral flag at this time, although nobody can predict what it will be a week or a month from now. That line has five large vessels, all of them built more than five years ago, with a tonnage capacity of nearly 42,000 net tons, that can come under the American flag if we pass this law, and now owned by American citizens. I will print the names and tonnage:

Red Star (Belgian).

Name.	Gross.	Net.	Year built.	Flag.	Speed.
	Tons.	*Tons.*			*Knots.*
Lapland	18,694	13,120	1908	Belgian	17
Vaderland	12,017	8,288	1900	...do	15
Zeeland	11,905	7,511	1901	...do	15
Samland	9,748	7,421	1903	...do	14
Gothland	7,660	5,489	1893	...do	14
Total (5)	60,024	41,829			

These ships alone would bring to our flag and to our country vessels that to-day belong to American citizens, flying a foreign flag, with a net tonnage of 232,000 tons. So it is futile for gentlemen to say that nothing will be accomplished by this bill. Every bit of tonnage that we bring to the American flag will help in this emergency. But the contention is made here that we are going to violate the neutrality laws if we pass this bill. What are we about to do? We have already, two years ago, passed a bill authorizing foreign ships that were not over 5 years of age to take American registry. This bill merely wipes out the 5-year limitation, and allows all foreign-built vessels to take American registry——

Mr. BRYAN. If they are owned in America.

Mr. UNDERWOOD. Provided, in both instances, they are owned by American citizens or American corporations.

Mr. HARDY. Will the gentleman yield right there?

Mr. UNDERWOOD. For a question.

Mr. HARDY. In doing that, are we not placing the United States in the same category as is now every other nation?

Mr. UNDERWOOD. So far as I know, identically the same. Other nations to-day admit foreign ships to their registry without limitation. We are merely passing a law to-day to put our country on the same basis as the ships of foreign countries. Can any European country complain of that?

Mr. TEMPLE. Does not the gentleman think that when we are asked to pass a bill which changes the general policy of the United States in a matter so important as this we ought to have printed copies of the bill?

Mr. UNDERWOOD. I think it is not undue haste to ask any man of average intelligence in this House to consider a bill of three sentences. Is there any man in this House who does not understand the proposition? We are not affecting the law of to-day as to ownership. There is not one word on that subject in this bill. We are eliminating the time limit. That is all there is on that. The other propositions are just as simple. They authorize the President of the United States, in case of an emergency, in his discretion to waive temporarily the law that requires American officers to man these ships. The other proposition is one that will probably not have to be availed of. That is to authorize the President to waive the question of survey, inspection, and measurement. Most of these ships are already surveyed and measured by the Lloyds Society. Their surveys and measurements are printed and known, and the probability is that the President will never have to waive that requirement. It is only put in here as a matter of precaution and nobody can complain if it is waived.

Mr. CAMPBELL. Will the gentleman yield for a question?

Mr. UNDERWOOD. Yes.

Mr. CAMPBELL. Is there any danger that this bill will invite a contravention of the convention of 1909–10?

Mr. UNDERWOOD. Not at all. I do not mean to say for one minute that the present European situation may not invite difficulties, but it would invite it just as much with ships flying the American flag to-day as it would with ships coming under this bill. I have in the last two days carefully examined Moore's International Law, and have gone over it thoroughly with the Chief of the Bureau of Navigation. The question of ownership is the real question involved. We do not in this bill change the question of ownership one iota. Every ship that takes American registry must be owned by an American citizen or an American corporation. There never has been any question from the beginning of time that citizens of one country may not buy the ships of another country if the laws of his own country will permit him to do so.

I have not time in this discussion to call your attention to all that might be said on this subject, but I wish to invite your particular attention to the fact that the only question involved in international law as to whether a citizen of a neutral nation may buy a ship in a belligerent country is the question of good faith. If an American citizen or an American corporation in good faith buys a foreign ship the title can not be questioned. Of course, if it is a subterfuge, then international complications may arise. It has been suggested that the recent convention in London provided that all vessels purchased must have been transferred to the new owner more than 60 days before the declaration of war. That proposition was suggested, but it was vetoed by Great Britain and is not a part of international law to-day.

Mr. TOWNER. Will the gentleman yield for a question?

Mr. UNDERWOOD. Just for a question.

Mr. TOWNER. Is it not true that the question of the good faith of the transfer will first have to be examined by our own registry officers?

Mr. UNDERWOOD. Certainly.

Mr. TOWNER. And is it likely that they would determine in a questionable case that the vessel was eligible to registry, especially in view of war?

Mr. UNDERWOOD. I think not, if they were protecting the rights of our people. But let me call your attention for a moment to what Secretary of State Thomas Jefferson said in reference to this matter. You will find this quotation in Moore's International Law, volume 2, page 1007. Mr. Jefferson said:

The persons and property of our citizens are entitled to the protection of our Government in all places where they may lawfully go. No laws forbid a merchant to buy, own, and use a foreign-built vessel. She is then his lawful property, and entitled to the protection of his Nation whenever and wherever he is lawfully using her.

That was the law when Thomas Jefferson was Secretary of State, and it is the law of nations to-day.

I shall print as a part of my remarks a statement furnished me by the Bureau of Navigation, of the Department of Commerce, concerning the bill under discussion:

STATEMENT OF BUREAU OF NAVIGATION, DEPARTMENT OF COMMERCE.

The bill has been drawn carefully in accord with recognized principles of international law, affirmed by the Supreme Court of the United States and by eminent Secretaries of State (Thomas Jefferson, Marcy, Cass, Evarts, and Fish).

The first section provides for the admission to American registry without restriction as to age of foreign-built vessels, "to engage only in trade with foreign countries or with the Philippine Islands and the islands of Guam and Tutuila." Section 5 of the Panama Canal Act of August 24, 1912, contained this provision with the limitation that such foreign-built vessels, to be entitled to registry, must not be "more than 5 years old at the time they apply for registry." The Panama Canal Act, it will be recalled, was not a party measure, but in both branches of Congress received the support and some of its provisions met the opposition of Members of all parties, respectively. The limitation of registry to relatively new ships, not always 5 years old, was to an extent a compromise based on the fact that while the House was Democratic, the Senate and Executive were Republican. The principle of free ships for foreign trade and for the Philippines (to which the coastwise-trade laws do not apply) was affirmed, but its application was limited to relatively new ships partly as a concession to those who questioned the general principle, but mainly to remove the chance to delay the passage of the Panama Canal Act through a general debate on the merchant marine and the policy of free ships. Under the Panama Canal Act there have been no applications for American registry of foreign-built ships less than 5 years old, although large amounts of American capital are known to be invested in such ships under foreign flags. In some instances those controlling such ships have taken the position that as part of their steamships were under and part over 5 years old, they did not care to divide the nationality of their fleets, putting part under the American and leaving part under foreign flags. This position is not unreasonable.

The laws of maritime nations generally at the present time admit vessels built in other countries to their registries and the use of their flags, respectively. This provision of the bill accords with the laws of other nations.

The question of the admission of foreign-built vessels to the coastwise trade has been carefully excluded from the pending measure. That question is purely domestic and admits of a wide difference of views, and would involve long discussion and delay action upon a situation which calls for immediate action. It ought not to be raised at this time.

OWNERSHIP.

American ownership, of course, is a necessary condition to the use of the American flag on a ship. Under section 5 of the Panama act, amending section 4132, Revised Statutes, the ship must be "wholly owned by citizens of the United States or corporation organized and chartered under the laws of the United States or of any State thereof, the president and managing directors of which shall be citizens of the United States." Foreigners, of course are not prohibited from owning shares of stock to any extent in an American corporation, shipping, railroad, manufacturing, or otherwise. Our law is similar to that of other maritime nations. [By their subsidy contracts, however, with the British Government the Cunard Steamship Co., Royal Mail Steam Packet Co., and Peninsular & Oriental Steamship Co., are required to keep all their stock in the hands of British subjects.] The rough-and-ready rule is that the flag of the ship and nationality of the owner must agree. Moore's Digest, volume 2, pages 1002–1076, goes fully into ownership and nationality. The "meat" of this for your purposes, I think, is in the following instructions of Mr. Marcy, Secretary of State, to our minister at France during the Crimean War (Moore, vol. 2, p. 1061):

"The law of nations does not require a register or any other particular paper as expressive of the ship's national character. Laws describing the kind of papers vessels must carry are considered as regulations purely local and municipal, for purposes of public policy, and vary in different countries. As evidence that the vessel has changed owners, the bill of sale is required by the practice of maritime courts, and is generally satisfactory. Sir William Scott says: 'A bill of sale is the proper title to which the maritime courts of all countries would look. It is the universal instrument of transfer of ships in the usage of all maritime countries.'"

Also Secretary of State Thomas Jefferson (Moore, vol. 2, p. 1007):

"The persons and property of our citizens are entitled to the protection of our Government in all places where they may lawfully go. No laws forbid a merchant to buy, own, and use a foreign-built vessel. She is, then, his lawful property and entitled to the protection of his nation whenever he is lawfully using her."

NATIONALITY OF OFFICERS AND CREWS.

Up to July 28, 1864, the officers and crews of merchant vessels of the United States were required to be citizens of the United States. The restriction of the crew to American citizens was removed as an urgent war measure by the act of 1864 (13 Stats., 201), and since that time citizens or subjects of any country may act as members of the crew of American merchant vessels. In this respect our law is similar to the British law. American ocean mail steamships, however, under the postal subsidy act of 1891 (Navigation Laws, 1911 edition, top of p. 298), are required to carry a certain percentage of American citizens (at the present time 50 per cent) as members of their crews.

In fact, over half of the men composing the crews of American merchant vessels are now foreigners. The right of foreigners to serve upon neutral vessels unmolested by belligerent powers whose subjects they may be is not now questioned. Indeed, the eleventh Hague convention, promulgated by the President on February 23, 1909, makes the following liberal provisions for the protection of crews of merchant vessels of even belligerent States (Treaties and Conventions, Vol. II, p. 2348):

"ART. 5. When an enemy merchant ship is captured by a belligerent such of its crew as are nationals of a neutral State are not made prisoners of war.

The same rule applies in the case of the captain and officers likewise nationals of a neutral State, if they promise formally in writing not to serve on an enemy ship while the war lasts.

"ART. 6. The captain, officers, and members of the crew, when nationals of the enemy State, are not made prisoners of war on condition that they make a formal promise in writing not to undertake, while hostilities last, any service connected with the operations of the war.

"ART. 7. The names of the persons retaining their liberty under the conditions laid down in article 5, paragraph 2, and in article 6 are notified by the belligerent captor to the other belligerent. The latter is forbidden knowingly to employ the said persons.

"ART. 8. The provisions of the three preceding articles do not apply to ships taking part in the hostilities.

"ART. 9. The provisions of the present convention do not apply except between contracting powers, and then only if all the belligerents are parties to the convention."

All the watch officers of the United States must be citizens of the United States. Section 4131 of the Revised Statutes, as amended by the act of May 28, 1896 (Navigation Laws, p. 54), provides:

"All the watch officers of vessels of the United States who shall have charge of a watch, including pilots, shall in all cases be citizens of the United States.

"The word 'officers' shall include the chief engineer and each assistant engineer in charge of a watch on vessels propelled wholly or in part by steam; and after the 1st day of January, 1897, no person shall be qualified to hold a license as a commander or watch officer of a merchant vessel of the United States who is not a native-born citizen or whose naturalization as a citizen shall not have been fully completed."

(Note.—Under British law the citizen or subject of any nation may be an officer of a British merchant ship if he is proved competent, but the laws of nations generally limit officers of their merchant vessels to their own citizens or subjects.) Section 2 of the pending bill, in a guarded manner, gives the President the discretionary power to waive the requirement of citizenship. While the need for this departure from a principle we have always followed is to be regretted, it is essential to give any efficacy to the measure.

Our export trade to Europe is almost wholly conducted in foreign steamships. For the past 20 years we have not at any one time had more than eight American steamships continuously employed in trade with Europe. Our mariners have had few opportunities to qualify themselves for the command of trans-Atlantic steamships, and it is not surprising, therefore, that there are relatively few men qualified by experience to take command as masters or first or second officers (mates) of the large steamers which carry our cotton and wheat to Europe. This situation would be serious at any time. It is doubly serious in a time of pending general European conflict, as at present. You have probably noted in the newspapers that even on the British coasts the lights on the lightships and lighthouses have been extinguished and buoys and other aids to navigation removed. The press reports may not be correct to-day, but these precautions will undoubtedly be taken very soon, if the war is general. Under these conditions ships ought to be trusted only with captains and officers familiar by experience with European coasts and ports, and, of course, shipowners will not risk their vessels with others in command.

American investors in ships under foreign flags have for 20 years maintained that even if allowed by law to take out American registry they would be reluctant to dismiss faithful and experienced captains and officers and supply their places with new and untried men.

Even in the matter of supplying the extra mates required by the act of March 3, 1913, on certain classes of American coastwise steamers the Department of Commerce has found difficulty in enforcing the law, partly on account of the scarcity of qualified men at certain times and certain places.

The second section of the bill is carefully guarded. The President is not authorized to suspend the law under any conditions as to the coasting trade. As to the foreign trade he may suspend the law only:

(1) Whenever in his discretion the needs of foreign commerce may require.

(2) In so far as he may deem desirable.

Under this provision he may, for example, suspend the law only as to ships of large tonnage, or only as to certain ratings of officers—e. g., captains, but not third officers; chief engineers, but not first, second, or third assistants, etc.—or he may suspend it only in the case of a particular position to be filled on a particular ship. In every case he is to be guided by the pressing needs of our foreign trade on which the country's prosperity is to a great extent dependent and which must not be embarrassed for lack of the men competent to conduct ocean transportation under conditions of abnormal difficulty.

INSPECTION AND SURVEY.

Section 4498 of the Revised Statutes, as amended by section 9 of the act of March 3, 1905 (Navigation Laws for 1911, p. 114), provides:

"A register, enrollment, or license shall not be granted or other papers be issued by any collector or other chief officer of customs to any vessels subject by law to inspection under this title (R. S., 4399–4500) until all the provisions of this title applicable to such vessel have been fully complied with and until the certificate of inspection required by this title for such vessel has been filed with said collector."

The Panama Canal act (sec. 5) provides as a condition to registry that foreign-built vessels shall be "certified by the Steamboat-Inspection Service as safe to carry dry and perishable cargo." This provision offers a convenient and easily administered rule for the determination of seaworthiness by our inspectors. Practically all foreign steamers and many American steamers are classed or rated in Lloyd's Register. Lloyd's Society and Lloyd's Register of British and Foreign Shipping is an association which for 80 years has maintained a body of skilled naval architects and men trained to shipbuilding at maritime ports throughout the world for the purpose of inspecting vessels and determining their seaworthiness, according to the society's rules for the guidance of marine insurance companies. (This society must be sharply distinguished from a totally different organization or exchange, also known by the name of Lloyd's, at whose headquarters it is possible to lay speculative odds on almost any proposition.)

The first general regulation of Lloyd's Register for 1914 reads:

"Steel vessels built in accordance with the society's rules and regulations or with alternative arrangements equivalent thereto will be classed 100–A so long as they are found, upon careful and periodical survey, to be in a fit and efficient condition for the safe conveyance of dry and perishable cargoes."

This classification applies to passenger ships as well as cargo ships. By turning to the current volume of Lloyd's Register, our inspection service can at once secure from the rating 100–A prima facie evidence of the seaworthiness of a vessel applying for register. Nearly all the great cargo carriers in trans-Atlantic trade will be found to have this rating. German ships, as a rule, are classed by a corresponding German association, the Germanischer Lloyd, and French ships in a corresponding French association, the Bureau Veritas, the essential rules of which are similar to Lloyd's rule. If in any case, however, the Panama Canal provision should cause delay, the pending bill, second section, second paragraph, gives the President power to waive that requirement, as well as section 4498, Revised Statutes, and permit the American registration of the ship on her foreign certificate of seaworthiness. Probably few occasions requiring the exercise of this power will arise, and then only in the case of a smaller cargo steamer or when inspectors are not immediately available. Our laws already provide for the recognition of foreign certificate of inspection of passenger ships. The act of March 17, 1906, provides:

"* * * That when such foreign passenger steamers belong to countries having inspection laws approximating those of the United States, and have unexpired certificates of inspection issued by the proper authorities in the respective countries to which they belong, they shall be subject to no other inspection than necessary to satisfy the local inspectors that the condition of the vessel, her boilers, and life-saving equipments are as stated in the current certificate of inspection." * * *

MEASUREMENT.

Section 4148, Revised Statutes, provides (Navigation Laws, p. 22):

"Before any vessel shall be registered, she shall be measured by a surveyor, if there be one, or by the person he shall appoint, at the port or place where the vessel may be, and if there be none, by such person as the collector of the district within which she may be shall appoint." * * *

The laws of other maritime nations contain similar provisions, and, broadly speaking, the Moorsom system of measuring the tonnage of vessels has been in use through the maritime world for some years. The application of the broad principles of the system is the same everywhere, but in some particulars there are minor differences. The second section of the bill, second paragraph, enables the President, if necessary, to direct a suspension of section 4148, Revised Statutes, in any given case. If a vessel be loaded with cargo it is, of course, difficult or impossible to measure her internal contents in cubic feet. If measurement in any case be waived, the foreign measurement certificate, which every foreign ship carries, will be temporarily accepted. This provision of the bill involves no departure from a principle, already established by section 2 of the act of August 5, 1882 (Navigation Laws, p. 31):

"Whenever it is made to appear to the Secretary of Commerce (and Labor) that the rules concerning the measurement for tonnage of vessels of the United States have been substantially adopted by the government of any foreign country, he may direct that the vessels of such foreign country be deemed to be of the tonnage denoted in their certificates of register or other national papers, and thereupon it shall not be necessary for such vessels to be measured at any port in the United States; and when it shall be necessary to ascertain the tonnage of any vessel not a vessel of the United States, the said tonnage shall be ascertained in the manner provided by law for the measurement of vessels of the United States."

EXEMPTION OF PRIVATE PROPERTY.

While it is not immediately pertinent to the bill, it may be worth noting that since the Paris conference of 1856 the United States has stood generally in favor of the principle of exempting all private property at sea (except contraband or blockade runners) from capture, but nations have not yet agreed. Our latest expression was House joint resolution of April 28, 1904 (33 Stats., 592):

"Joint resolution relating to the exemption of all private property at sea not contraband of war from capture or destruction by belligerent powers:

"*Resolved, etc.*, That it is the sense of the Congress of the United States that it is desirable, in the interest of uniformity of action by the maritime States of the world in time of war, that the President endeavor to bring about an understanding among the principal maritime powers with a view of incorporating into the permanent law of civilized nations the principle of the exemption of all private property at sea not contraband of war from capture or destruction by belligerents."

SALES IN FOREIGN PORTS.

The attached from the State Department instructions (1896) gives the regulations for consuls when American citizens buy ships abroad. While not directly pertinent to the bill, some question about it may come up in debate.

Consular regulations of 1896.

ARTICLE 20.

AMERICAN OR FOREIGN BUILT VESSELS TRANSFERRED ABROAD TO CITIZENS OF THE UNITED STATES.

341. Right to acquire property in foreign ships: The right of citizens of the United States to acquire property in foreign ships has been held to be a natural right, independent of statutory law, and such property is as much entitled to protection by the United States as any other property of a citizen of the United States.

* * * * * * *

344. Consul's responsibility: The authority of a consular officer to authenticate the transfer of a foreign vessel is wide in its effects and imposes great responsibility in making him, in the first instance, at least, the sole judge of the good faith of the transaction. The question of the honesty and good faith of such a sale rises into the gravest importance in the event of a war between two or more powers in which the Government of the United States is a neutral. In such a war experience justifies the expectation that the citizens or subjects of one or more of the belligerents will seek to protect their shipping by a transfer to a neutral flag. In some instances this may honestly be done; but the sales of vessels of belligerents in apprehension of or in time of war are always and properly liable to suspicion, and they justify the strictest inquiry on the part of the belligerent who may thereby have been defrauded of his right to capture the enemy's property. The acceptance of the pretended ownership of a vessel under these circumstances may be very profitable; and the temptation to abuse his trust in such a case to which a consular officer is subjected may be too great for persons of ordinary integrity, discernment, and firmness to withstand. Instances are not wanting in which citizens of the United States who were wholly incapable, from their previous well-known condition and pursuits, of making such a purchase have appeared as owners under sales of this character and have sought for them the protection of the Government.

* * * * * * *

346. Certificate, when to be issued: When a consular officer shall have satisfied himself, after the investigation with which he is charged, that the sale of a vessel is not fictitious and is made in good faith, and that the purchaser is a citizen of the United States, it is his duty, when requested, to record the bill of sale in the consulate, and to deliver the original to the purchaser, with his certificate annexed thereto, according to Form No. 35. A copy of the bill of sale, together with any other papers belonging to the transfer, and of the consular certificate should be sent without delay to the Department of State, with a report of the facts and circumstances of the transaction.

347. Right to fly the flag: The privilege of carrying the flag of the United States is under the regulation of Congress, and it may have been the intention of that body that it should be used only by regularly documented vessels. No such intention, however, is found in any statute. And as a citizen is not prohibited from purchasing and employing abroad a foreign ship, it is regarded as reasonable and proper that he should be permitted to fly the flag of his country as an indication of ownership and for the due protection of his property. The practice of carrying the flag by such vessels is now established. The right to do so will not be questioned, and it is probable that it would be respected by the courts.

348. Disabilities of foreign-built vessels: It should be understood that foreign-built vessels not registered, enrolled, or licensed under the laws of the United States, although wholly owned by citizens thereof, can not legally import goods, wares, or merchandise from foreign ports, and are not allowed in the coasting trade. (R. S., secs. 2497, 4311.)

349. Forfeiture and tonnage duties: On arrival from a foreign port undocumented foreign-built vessels, if laden with goods, wares, or merchandise, may, with their cargoes, be subjected to forfeiture. (R. S., sec. 2497; see Tariff Act of 1894, sec. 15.) If in ballast only, or with passengers without cargo, they will be subject to a discriminating tonnage duty. (R. S., sec. 4219; 19 Stat. L., 250.) When in foreign ports they are also subject to tonnage and other consular fees from which regularly documented vessels are exempt. For instructions respecting the shipment and discharge and relief of seamen on vessels of this character, and the collection of extra wages, consular officers are referred to the several articles on these subjects.

The SPEAKER. The time of the gentleman from Alabama has expired. All time has expired.

Mr. BUCHANAN of Illinois. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Illinois asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause]. The Chair hears none.

Mr. BURKE of Wisconsin. I ask unanimous consent to extend my remarks in the RECORD.

Mr. SMALL. I make the same request.

The SPEAKER. The gentleman from Wisconsin and the gentleman from North Carolina ask unanimous consent to extend their remarks in the RECORD. Is there objection?

Mr. MANN. Mr. Speaker, I shall object to those requests until after the bill is passed, so that they will not appear to have been made before the bill was passed.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken, and two-thirds having voted in the affirmative, the rules were suspended and the bill was passed.

TRANSPORTATION OF AMERICAN CITIZENS IN EUROPE (H. DOC. NO. 1136).

The SPEAKER laid before the House the following message from the President of the United States, which was read, ordered printed, and referred to the Committee on Appropriations:

To the Senate and House of Representatives:

The present disturbances in Europe, with the consequent interruption of transportation facilities, the increase in living expenses, coupled with the difficulty of obtaining money from this country, have placed a large number of American citizens, temporarily or permanently resident in Europe, in a serious situation, and have made it necessary for the United States to provide relief and transportation to the United States or to places of safety.

The situation has also thrown upon our diplomatic and consular officers an enormous burden in caring for the interests of Americans in the disturbed areas and makes it necessary to provide for greatly increased expenses.

In view of the exigency of the situation as above outlined, I recommend the immediate passage by the Congress of an act appropriating $250,000, or so much thereof as may be necessary, to be placed at the disposal of the President, for the relief, protection, and transportation of American citizens, for personal services, and for other expenses which may be incurred

in connection with or growing out of the existing disturbance in Europe.

WOODROW WILSON.

THE WHITE HOUSE, *August 3, 1914.*

Mr. PAGE of North Carolina. Mr. Speaker, I ask unanimous consent for the present consideration of the joint resolution which I send to the Clerk's desk.

The Clerk read as follows:

Joint resolution (H. J. Res. 312) for the relief, protection, and transportation of American citizens in Europe, and for other purposes.

Resolved, etc., That for the relief, protection, and transportation of American citizens, for personal services, and for other expenses which may be incurred in connection with or growing out of the existing political disturbances in Europe, there is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $250,000, to be expended at the discretion of the President: *Provided*, That American citizens to whom relief is extended or transportation is furnished hereunder shall pay to or reimburse the United States all reasonable expenses so incurred, respectively, on their account, if financially able to do so.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. PAGE of North Carolina, a motion to reconsider the vote whereby the joint resolution was passed was laid on the table.

EXTENSION OF REMARKS.

Mr. SISSON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Mississippi asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. FOWLER. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The SPEAKER. The gentleman from Illinois will please wait until we dispose of some minor matters.

Mr. BURKE of Wisconsin, Mr. BAILEY, Mr. SMALL, Mr. HARDY, Mr. CANTOR, Mr. BEAKES, Mr. GOODWIN of Arkansas, Mr. DONOHOE, Mr. LOGUE, and Mr. THACHER severally asked unanimous consent to extend remarks in the RECORD.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I would like to inquire where these remarks will be inserted in the permanent RECORD.

The SPEAKER. The Chair has already ordered such extension of remarks to be printed at the end of the RECORD.

Mr. MANN. I do not mean printed in the daily RECORD, but I mean inserted in the permanent RECORD. Here is what I want to get at: We passed this bill as an emergency measure without much debate. When the permanent RECORD is issued it may show debate enough to last a week. I do not want it to show that. I want it to show the fact that it was an emergency matter. I have no objection to gentlemen extending their remarks in the RECORD, provided that it does not appear that the debate continued a long time.

Mr. PAYNE. I am in favor of these gentlemen extending remarks, for it acts as a safety valve.

The SPEAKER. The Chair has directed the people who have charge of the RECORD to print these speeches that are never delivered at the last end of the RECORD. Now, that applies to the daily RECORD, and I do not see why it should not apply to the permanent RECORD.

Mr. MANN. It does not apply to the permanent RECORD.

The SPEAKER. Where a Member makes a speech on the floor and then wants to extend his remarks a little, it ought to be put in where the debate occurred.

Mr. MANN. I take it that these speeches will be inserted in the RECORD, if permission is given under the order now granted, at the place at which the request is made.

Mr. BARNHART. Mr. Speaker, the gentleman from Illinois objected to the requests of two Members, and now the request is made by these Members with others that their remarks may be extended in the RECORD, and under the rule adopted it will be necessary that their remarks appear under a headline of "Extension of remarks."

The SPEAKER. At the end of the RECORD.

Mr. MANN. The gentleman from Indiana is mistaken. In the permanent RECORD these headlines do not appear.

Mr. BARNHART. Then, they would appear in the order that they come in the RECORD.

Mr. MANN. If the speeches are to be printed in the order in which the requests are made I have no objection, but gentlemen assume that they can go back and have the speeches inserted in the permanent RECORD before the passage of the bill, and I do not wish to consent to that.

Mr. BARNHART. If there is not a rule against such a procedure there ought to be.

Mr. MANN. There is not any.

The SPEAKER. The gentleman from Indiana [Mr. BARNHART] has more control over the RECORD than anybody else.

Mr. BARNHART. And that is nothing at all.

The SPEAKER. It seems to the Chair that some one ought to have the power to put these speeches where they belong.

Mr. BUCHANAN of Illinois. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BUCHANAN of Illinois. I made a few remarks before the House decided to consider this bill. Afterwards I asked unanimous consent to extend those remarks in the RECORD. Can I extend those remarks that I made before the House decided to consider the bill and have them appear at that place?

The SPEAKER. The Chair thinks so. Is there objection to the requests of these several gentlemen to extend their remarks in the RECORD?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had agreed to the reports of the committees of conference on the disagreeing votes of the two House on the amendments of the Senate to bills of the following titles:

H. R. 15959. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and to widows of such soldiers and sailors;

H. R. 16345. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and to widows of such soldiers and sailors; and

H. R. 17482. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and to widows of such soldiers and sailors.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House that the President had approved and signed bills of the following titles:

On July 21, 1914:

H. R. 11006. An act authorizing the disposal of a portion of the Fort Bidwell Indian School, Cal.;

H. R. 12166. An act for the relief of Jennie S. Sherman or her heirs; and

H. R. 13133. An act for the approving and payment of the drainage assessments on Indian lands in Salt Creek drainage district No. 2, in Pottawatomie County, Okla.

On July 22, 1914:

H. R. 11317. An act to increase the limit of cost of the United States post-office building at Newcastle, Ind.

On July 23, 1914:

H. R. 1694. An act to amend an act approved October 1, 1890, entitled "An act to set apart certain tracts of land in the State of California as forest reservations"; and

H. R. 9362. An act for the relief of R. B. Whitacre & Co.

On July 25, 1914:

H. R. 8660. An act to amend section 4 of an act entitled "An act granting a franchise for the construction, maintenance, and operation of a street railway system in the district of South Hilo, county of Hawaii, Territory of Hawaii," approved August 1, 1912; and

H. R. 15320. An act authorizing the Secretary of the Treasury to disregard section 33 of the public-buildings act of March 4, 1913, as to site at Owego, N. Y.

On July 29, 1914:

H. R. 17824. An act making appropriations to supply deficiencies in appropriations for the fiscal year 1914 and for prior years, and for other purposes.

On July 30, 1914:

H. R. 16579. An act to authorize the construction of a bridge across St. John River at Fort Kent, Me.;

H. R. 17005. An act authorizing the fiscal court of Pike County, Ky., to construct a bridge across Tug Fork of the Big Sandy River at or near Williamson, W. Va.; and

H. R. 16294. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain

widows and dependent children of soldiers and sailors of said war.

On July 31, 1914:

H. R. 15110. An act authorizing the Secretary of the Treasury to accept conveyance of title to certain land between the post-office site and Madison Street in the city of Thomasville, Ga.; and

H. R. 8688. An act for the relief of Lucien P. Rogers.

On August 1, 1914:

H. R. 12579. An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1915; and

H. R. 17041. An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes.

On August 3, 1914:

H. R. 4988. An act to provide for the disposal of certain lands in the Fort Berthold Indian Reservation, N. Dak.

MAINTENANCE OF A QUORUM.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent to proceed for three minutes.

The SPEAKER. The gentleman from Alabama asks unanimous consent to proceed for three minutes. Is there objection?

There was no objection.

Mr. UNDERWOOD. Mr. Speaker, some days ago in answer to a question propounded by the gentleman from Illinois [Mr. MANN] I stated that I hoped the appropriation bills and urgent matters would soon be concluded, and that the membership of the House would have an opportunity to go home for a short time. That may mislead some gentlemen, and I desire to correct the matter. I think under existing conditions it is not safe not to have a quorum in Washington, and I hope that the membership will stay here at least until we can see further into the future.

I think the gentlemen who have stayed here through this long summer and have answered the roll calls and "stayed on the job" deserve great credit for it, and the commendation of the country and their constituents, but I want to say also that I think the gentlemen who have not been here, who have been away the greater part of the last 60 days, ought to be willing to do their turn at the wheel [applause], and I say this in the hope that what I say will be carried by the press of the country, and that in this critical time the absentees who are with their own people will return to the roll call of the House. [Applause.]

The SPEAKER. With the consent of the House, the Chair would like to add a sentence or two to the statement made by the gentleman from Alabama. Two or three times we have considered the proposition of issuing warrants for absent Members. The only reason that was not done on Saturday last was on account of the peculiar circumstances in which we found ourselves. The gentleman from Illinois [Mr. MANN] had announced that at 3 o'clock he was going to raise the point of no quorum. There was not a quorum present, and it was 1 o'clock when we found we had none. It would have taken an hour or two to obtain a quorum, so it would have been ineffectual. The Chair desires to state, however, that the next time there is no quorum present, if no Member does voluntarily, the Chair will ask some Member to move to issue warrants to arrest the absentees and drag them into the House. [Applause.] It will not do any Member any good to be arrested and brought in here, for it will not add a particle to his renown or to his comfort.

ORDER OF BUSINESS.

Mr. MANN. Mr. Speaker, I ask unanimous consent to proceed for two minutes.

The SPEAKER. The gentleman from Illinois asks unanimous consent to proceed for two minutes. Is there objection?

There was no objection.

Mr. MANN. Mr. Speaker, I do not want to address the House, but I desire to get a matter before the House. This is unanimous-consent day. There is a long calendar of unanimous-consent bills—I do not recall how many, but there are five and a half pages of the calendar. I am told that there are seventy-odd bills. The day is mostly gone with emergency matters. It would probably take a day or two, and perhaps more, to get through this calendar. It has always been customary, as I recall, before Congress adjourns, to run through the calendar of bills to be considered by unanimous consent. As this day is practically gone, I would ask the gentleman from Alabama [Mr. UNDERWOOD] and other gentlemen in the House if it would not be practicable to reach an agreement that at the end of the consideration of the general dam bill, or the post-office bill, which is to follow, the Calendar for Unanimous Consent shall be called and proceeded with until completed?

Mr. UNDERWOOD. Mr. Speaker, I think the suggestion of the gentleman from Illinois is a good one.

Before answering his question, if he will permit, I would like to make a statement to the membership of the House. I understand that just at this moment the Senate has placed upon the currency bill an amendment. It may be necessary for the House to act upon it to-night, or to send it to conference, and I want to ask the Members not to break a quorum until that bill gets through here to-night. It will be here in a few minutes.

Mr. MANN. It depends upon when it comes over here as to whether we will have a quorum.

Mr. UNDERWOOD. I just wanted to call the matter to the attention of the House, so that the membership would know that the bill had not been finally disposed of.

Mr. Speaker, I should like very much to get the dam bill out of the way to-morrow, if possible, and the post-office bill out of the way on Thursday. I ask unanimous consent that business that is in order to-day may be in order on Friday next.

Mr. MANN. Why not make it so that following the disposition of the post-office bill, assuming that follows the dam bill, it shall be in order to proceed with the Calendar for Unanimous Consent until completed, not to interfere with privileged business?

Mr. UNDERWOOD. That is satisfactory to me.

Mr. JOHNSON of Kentucky. Mr. Speaker, I would be glad to have any such arrangement, with the understanding that it would not interfere with District of Columbia day.

Mr. MANN. Not to interfere with District day or Calendar Wednesday.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent that when the general dam bill is disposed of and the Moon bill in reference to railway mail pay, etc., is disposed of, it shall be in order to take up bills that are on the Unanimous Consent Calendar at that time and consider them for unanimous consent as if it were of to-day, until disposed of, not to interfere with District day or Calendar Wednesday.

Mr. MANN. Until the calendar is disposed of?

Mr. UNDERWOOD. Yes.

Mr. GARNER. Mr. Speaker, reserving the right to object, does the gentleman's request include business of to-day—that is to say, not only unanimous consent but suspension of the rules?

Mr. MANN. Oh, no.

Mr. GARNER. Why not take up some business that is in order under suspension of the rules for to-day and include that in this unanimous-consent request?

Mr. UNDERWOOD. I will say to the gentleman that if we did that there would be suspension days until the end of the session. You can not include that. I would be very glad to have a suspension day a little later on, and I will be glad to ask unanimous consent for one if we can get it, but you could not include it in this order.

Mr. HOWARD. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Alabama what disposition, if any, can be made of bills reported from the Committees on Military Affairs and Naval Affairs and certain other committees that are now upon the Private Calendar, that calendar having been previously considered by unanimous consent, and the calendar has been entirely gone through, and now is starting back from the beginning, but there has been no time to consider bills to which objection is made? I am sorry to state there appears to be one Member who seems to be conscientiously opposed to the passage of any bills emanating from the Committee on Naval Affairs or the Committee on Military Affairs which seek to correct the wrongs that have been done certain military and naval officers in reference to their reinstatement or otherwise, and some of these bills are very just and important bills. In a great many instances the War Department and the Navy Department have insisted upon having these bills passed and we can get no consideration. What opportunity will there be to consider the Private Calendar where one Member only has interposed an objection to these bills to which the committees have given serious consideration and recommend them favorably for passage?

Mr. UNDERWOOD. I will say to the gentleman from Georgia that I do not think that can be relieved by a unanimous-consent order at this time, and I think that the only relief is either under suspension or by a rule at a later day.

Mr. HOWARD. Does the gentleman think there will be an opportunity where these bills can be finally considered upon their merits on the floor of the House without the interposition of the objection of one Member?

Mr. UNDERWOOD. I will be glad to see an opportunity given for reasonable consideration of these bills, but I can not say whether there will be an opportunity.

Mr. BARTON. Mr. Speaker, I call for the regular order.

Mr. FERRIS. Mr. Speaker——

The SPEAKER. The regular order is demanded.

Mr. FERRIS. I hope the gentleman will withhold that for a moment in order to enable me to ask the floor leader a question.

The SPEAKER. If the gentleman withholds it, well and good; if he does not, the Chair will put the question.

Mr. BARTON. Make it brief; we do not want discussion.

The SPEAKER. Does the gentleman withhold it?

Mr. BARTON. I will temporarily withhold it.

Mr. FERRIS. Mr. Speaker, I want to call the attention of the House, before any agreement is made precluding the conservation bills, that this is the situation: In a word, the House has heretofore appropriated $35,000,000 for a Government railroad in Alaska, as the House will recall. I did not vote for it or support it. I do, however, feel that we ought to unlock that coal and at least give the new railway a chance to succeed. As the matter stands now, you can not get a bushel of coal to build a fire in a cook stove. The coal fields are all tied up, and it would be a travesty to adjourn without doing something. There has been on the calendar for a long time the Alaska coal-leasing bill and other like conservation bills, and I believe the gentleman from Illinois [Mr. FOSTER] has a radium bill with reference to the conservation of the West, and inasmuch as we have to stay here all summer I very much hope that no agreement or arrangement will be made whereby we can not have some consideration of at least the Alaskan coal bill. We are pledged to an opening of Alaska in our platform. We owe it to Alaska and the people up there to open it. No one can defend our failure to open it after the railway has been authorized. I repeat, this Congress should not adjourn without action. I hope things will soon clear up here, so there will be a chance to take up the conservation program.

The SPEAKER. The Chair will state for the enlightenment of everybody concerned that, judging the future by the past, we get through with two or three pages of this Unanimous Consent Calendar a day, and that is all the House will get through with ordinarily, too. Now, the gentleman from Illinois [Mr. MANN] stated that there are five pages and one-half, which will make it certain to run about two days, and possibly more. Now, can the gentlemen make up their opinion on that state of facts?

Mr. UNDERWOOD. I will state to the gentleman from Oklahoma [Mr. FERRIS] that I think he is in better condition to-day and has better chances to get up his bill than on Saturday or the day before

Mr. FERRIS. I think that is true.

Mr. UNDERWOOD. Because it looks now that we will have to keep a quorum here, and in that event, and as the rule has been agreed upon for the consideration of his bill, I think there is a better opportunity for him to get it up than if the necessity for a quorum had not arisen.

Mr. FERRIS. I am glad to hear the leader of the majority say that.

Mr. FOWLER. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. FOWLER. If this unanimous consent is given for bills on the Unanimous Consent Calendar, will there be any opportunity for considering other business while that unanimous-consent agreement is in force?

The SPEAKER. The Chair thinks not.

Mr. MANN. I think the request was as to privileged matter.

The SPEAKER. There are certain sorts of business that are excepted by the request of the gentleman from Alabama.

Mr. FINLEY. Mr. Speaker, I wish to ask the gentleman a question, and I think it would clarify matters somewhat. The unanimous-consent proposition, reasonably speaking, would be disposed of in a week or 10 days, would it not?

Mr. UNDERWOOD. I think so, but I see no objection. We have taken this day away from the Unanimous Consent Calendar. I would be willing to substitute Friday for it, or dispose of the calendar. I will say this to the gentleman, that the Unanimous Consent Calendar, so far as the transaction of business is concerned, is the best calendar we have, and although it does not help some of us, it helps out more Members of this House than any other proceeding we go through.

Mr. FINLEY. But in the main the gentleman's request covers the dam bill and the post-office bill?

Mr. UNDERWOOD. Yes.

Mr. FINLEY. And provides for the consideration of those two bills first, and then unanimous consent follows?

Mr. UNDERWOOD. Yes.

The SPEAKER. The gentleman from Alabama [Mr. UNDERWOOD] asks unanimous consent that when the Adamson dam bill and the Moon post-office bill are disposed of, the Unanimous Consent Calendar will be in order, except on Mondays and Wednesdays.

Mr. JOHNSON of Kentucky. Except, if I understood it correctly, on District days and Calendar Wednesdays?

The SPEAKER. Unanimous Consent Calendar would be in order on the other two Mondays anyway. The request excepts District day, Wednesdays, and privileged matters. Is there objection?

Mr. FOWLER. I object.

PUBLIC LANDS IN MONTANA.

The SPEAKER. The gentleman from Oklahoma [Mr. FERRIS] asks unanimous consent to take from the Speaker's table the bill which the Clerk will report, and agree to the conference asked for by the Senate.

The Clerk read as follows:

S. 657. An act to authorize the reservation of public lands for country parks and community centers within reclamation projects within the State of Montana, and for other purposes.

Mr. MANN. What is the Senate amendment?

Mr. FERRIS. I do not know. It is a Senate bill with House amendments, to which the Senate disagrees. I ask unanimous consent that the House consent to the conference asked for by the Senate.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the title.

The Clerk read as follows:

S. 657. An act to authorize the reservation of public lands for country parks and community centers within reclamation projects within the State of Montana, and for other purposes.

The SPEAKER. The Clerk will announce the conferees.

The Clerk read as follows:

Mr. FERRIS, Mr. TAYLOR of Colorado, and Mr. FRENCH.

CORRECTION OF VOTE.

Mr. BROWN of West Virginia. Mr. Speaker, the RECORD of Saturday last, August 1, on page 13126, shows that I was absent and not voting. I desire to have the RECORD corrected to show that I was present and did vote.

The SPEAKER. Without objection, the correction will be made.

There was no objection.

Mr. BARTON rose.

The SPEAKER. For what purpose does the gentleman from Nebraska rise?

Mr. BARTON. To submit a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTON. The gentleman from West Virginia [Mr. BROWN] just requested that he be recorded as having been present and voting "aye." Now the query came to me, supposing that was a tie vote, would you still count that vote? Does that vote count?

The SPEAKER. That vote does not count. The way of it is that the statement goes into the RECORD.

Mr. BARTON. But the vote is not counted?

The SPEAKER. No. The Clerk will report the next bill.

SCHOOL LANDS IN OREGON.

The first business on the Calendar for Unanimous Consent was the bill S. 49, an act to provide for the exchange with the State of Oregon of certain school lands and indemnity rights within the national forests of that State for an equal area of national forest land.

Mr. SINNOTT. Mr. Speaker, I ask unanimous consent that the bill may be passed over without prejudice.

The SPEAKER. The gentleman from Oregon [Mr. SINNOTT] asks unanimous consent that the bill be passed over without prejudice. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the next bill.

INTERSTATE TRANSPORTATION OF IMMATURE CALVES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 1818) to regulate the interstate transportation of immature calves.

The Clerk read the title of the bill.

Mr. MANN. Mr. Speaker, the gentleman from Michigan [Mr. HAMILTON], who has charge of this bill, is not here, and I ask unanimous consent that it be passed over without prejudice.

Mr. ADAMSON. Mr. Speaker, I will say that the gentleman from Texas [Mr. GARNER] had an agreement with the gentleman from Michigan [Mr. HAMILTON] by which he would offer an amendment, and with the amendment accepted the bill would be allowed to pass.

Mr. MONDELL. Mr. Speaker, I understand that the gentleman from Michigan [Mr. HAMILTON] had an agreement with the gentleman from Texas [Mr. GARNER] by which the gentleman from Texas was to offer an amendment.

Mr. ADAMSON. That is what I understand.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That no person, firm, or corporation shall ship or deliver for shipment, nor shall any common carrier, nor the receiver, trustee, or lessee thereof, receive for transportation or transport from one State or Territory or the District of Columbia into or through another State or Territory or the District of Columbia any live calf not accompanied by its mother unless the same is 6 weeks old or over: *Provided*, That the Secretary of Agriculture may make rules and regulations permitting, in cases of emergency only, the shipment in interstate commerce of live calves less than 6 weeks old; and the Secretary of Agriculture may also permit, under such restrictions as he may deem proper, one shipment in interstate commerce of live calves less than 6 weeks old and over 3 weeks old when the entire time consumed in such interstate shipment to final destination, including time of loading and unloading, does not exceed 12 hours.

SEC. 2. That any person, firm, or corporation, or any common carrier or the receiver, trustee, or lessee thereof, who shall violate any of the provisions of this act shall, upon conviction, be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than $20 nor more than $50 for each calf offered for shipment, shipped, or received for transportation or transported in violation of any of the provision of this act.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. FOSTER. Reserving the right to object, Mr. Speaker, I would like to know something about this bill and the proposed amendments.

Mr. GARNER. Mr. Speaker, on two former occasions I objected to the consideration of this bill. On the last unanimous-consent day the gentleman from Michigan [Mr. HAMILTON] was very anxious to have the bill passed, and I agreed with him then that if we could agree upon an amendment changing the word "six," on page 1, line 12, to the word "four," and the word "six," on page 2, line 3, to the word "four" I would have no objection to the passage of the bill.

In the meantime, I have had communication with the Cattle Raisers' Association of Texas and with the National Cattle Raisers' Association, and while a great many of their members object to any limitation as to age whatever, a considerable number thought that to meet the evil that the gentleman from Michigan sought to reach it would be advisable to accept the bill with a four months' limitation; and with that understanding I have agreed not to object to the consideration of the bill.

Mr. JOHNSON of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. GARNER. Yes.

Mr. JOHNSON of Kentucky. Is there anything in this bill requiring an affidavit on the part of the shipper, or anything to show the age of the calf that is shipped?

Mr. GARNER. Nothing that I know of.

Mr. JOHNSON of Kentucky. Without that, would not the bill be absolutely useless?

Mr. GARNER. I am inclined to think that the Secretary of Agriculture, in whose hands the enforcement of this law would rest, would be likely to enforce it under the general provisions of law authorizing him to inspect and pass upon the proper cattle to be killed.

Mr. JOHNSON of Kentucky. I am in favor of the bill, providing there is some provision by which it can be enforced; but when a calf is shipped from one point to another no one knows its age.

Mr. GARNER. I am informed by the gentleman from Georgia [Mr. ADAMSON], chairman of the Committee on Interstate and Foreign Commerce, that under the general statute now governing the interstate shipment of cattle the Secretary of Agriculture has certain powers to enforce rules and regulations and inflict penalties therefor, and this would come under that regulation.

Mr. JOHNSON of Kentucky. Under this bill I do not know how they can arrive at the age of a calf.

Mr. GARNER. Well, the gentleman from Kentucky is not very familiar with the age of cattle. From the time a calf is 4 weeks old until it is 12 weeks old it is difficult to tell the age, but before 4 weeks it is not difficult. With a yearling it is difficult to tell the age, except by "toothing it."

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolution:

Resolved, That the Senate agrees to the amendments of the House to the bill (S. 6192) to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act, with an amendment:

"In House amendment No. 1 strike out "and" and insert "in so far as the total issue of said notes is limited to $500,000,000."

The Senate insists upon its amendment to the amendment of the House No. 1, and asks a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. OWEN, Mr. HITCHCOCK, and Mr. NELSON as the conferees on the part of the Senate.

EMERGENCY CURRENCY.

Mr. GLASS. Mr. Speaker, I ask unanimous consent that the conference asked for by the Senate in the message just read as to the bill S. 6192, to amend section 27 of the act approved December 23, 1913, be agreed to.

Mr. MANN. Let us hear the Senate amendment read.

The SPEAKER. The Clerk will report the Senate amendment.

The Senate amendment was read.

Mr. MURDOCK. Mr. Speaker, can we not have read the perfected text?

Mr. MANN. Let me ask the gentleman from Virginia a question?

The SPEAKER. Will the gentleman from Virginia give the gentleman from Illinois his attention?

Mr. GLASS. Yes.

Mr. MANN. Does this keep the limit on or remove the limit of $500,000,000?

Mr. GLASS. It removes the limit as to the aggregate amount of $500,000,000, but it leaves the restriction as to the individual bank.

Mr. MANN. Under the Federal reserve act there is no limit?

Mr. GLASS. No.

Mr. MANN. This follows the lines of the Federal reserve act?

Mr. GLASS. Exactly.

The SPEAKER. Is there objection to the request of the gentleman from Virginia [Mr. GLASS]?

There was no objection; and the Speaker announced as the conferees on the part of the House Mr. GLASS, Mr. KORBLY, and Mr. HAYES.

Mr. GLASS. Mr. Speaker, I would like to state that we expect to bring the bill back to the House in a little while.

Mr. MANN. I do not think you can do that to-night.

INTERSTATE TRANSPORTATION OF IMMATURE CALVES.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. MURDOCK. The bulls and the bears having been taken care of. [Laughter.]

There was no objection.

The SPEAKER. The gentleman from Texas [Mr. GARNER] will send up his amendments.

Mr. GARNER. Mr. Speaker, I can indicate the amendments orally: On page 1, line 12, strike out the word "six" and insert the word "four."

Mr. MANN. You want to commence with line 9.

Mr. GARNER. Yes; on line 9, thanks to the gentleman from Illinois; on line 9, page 1, strike out the word "six" and insert the word "four."

The SPEAKER. The Clerk will report the amendments offered by the gentleman from Texas [Mr. GARNER].

The Clerk read as follows:

Page 1, line 9, strike out the word "six" and insert the word "four."
Page 1, line 12, strike out the word "six" and insert the word "four."
Page 2, line 3, strike out the word "six" and insert the word "four."

The SPEAKER. Without objection, the amendments are agreed to.

Mr. HOWARD. Mr. Speaker, so far as the amendments are concerned, I object to an agreement to the amendments.

The SPEAKER. The question is on agreeing to the amendments.

Mr. HOWARD. Mr. Speaker, just one word on this amendment.

The SPEAKER. The Clerk will report amendment No. 1.

Mr. MANN. Let them all go together.

Mr. HOWARD. All of them may be considered together, as far as I am concerned.

Mr. Speaker and gentlemen of the House, this bill, in my judgment, is one of great importance to the people of this country, and I think the adoption of the amendment will destroy the beneficent effect of this act to a very large extent. We all know that annually there is a decrease in the production of beef cattle in this country. We know that the real reason is the slaughter of young calves.

Mr. GARNER. Will the gentleman yield?

Mr. HOWARD. Yes.

Mr. GARNER. I know that the gentleman from Georgia is fair, and that he would not seek to take advantage of a situation

that might be obtained by unfair means. The gentleman knows that we are considering the Unanimous Consent Calendar. I interviewed the gentleman from Michigan [Mr. HAMILTON], the author of the bill, and also the chairman of the committee that reported the bill, the leader of the minority, and others who I thought were interested in this bill. I asked them if they would accept an amendment making it four weeks, and they said they would. The result was that I gave my consent to the consideration of the bill with the understanding that "four weeks" be inserted in the place of "six weeks." My objection would have prevented the consideration of the bill at all. Now, if the gentleman from Georgia [Mr. HOWARD] wants to take advantage of that situation, or if the House wants to do it, I shall have to submit, but I suggest to the gentleman that that is a little unfair.

Mr. HOWARD. Mr. Speaker, I do not assume that any agreement that four or five gentlemen may have made about a piece of general legislation that my constituency is as much interested in as the constituency of the gentleman from Texas will bind me in my vote or my action on this floor. I am no party to this agreement.

Mr. ADAMSON. Will my colleague yield?

Mr. HOWARD. Certainly.

Mr. ADAMSON. I wish to suggest to my colleague that I am in hearty sympathy with his statement about the increase of beef cattle by preserving the infants of the species, and I will say to him that our committee have under consideration several bills to prevent the slaughter and shipment in interstate commerce of calves of the male persuasion under a certain age and of the females as long as they will procreate. What we will do with those bills depends on the degree of favor and support which Members give to them; and a number of us are in favor of some means of the sort similar to those in force in Argentina, where they preserve their calves until they grow up to cowhood and steerhood. If something is not done in that line, the price of meat will continue to soar in time of peace as well as in time of war; and if the gentleman will permit the passage of this little bill, of local benefit in certain sections, we will consider the other matters as fast as we can; and if he will help us, we will get something done on the subject.

Mr. HOWARD. I do not want to appear to be a party to the breaking of any agreement. I do not want to be a party to impeding the progress of the passage of this bill, but I think the amendment is a bad one. When this bill is up for consideration I think this House has a perfect right to pass upon the amendment, and if in their wisdom they think it ought to be six weeks instead of four weeks they ought to be allowed to make the bill read in that way without having their motives impugned. I wish the limit were 12 months instead of 4 or 6 weeks. [Applause.] I think it would be the best piece of legislation that we have passed in years. The slaughter of calves a week or 10 days old in this country is the real reason for the decrease in the production of beef cattle.

Mr. NORTON. Will the gentleman yield for a question?

Mr. HOWARD. Yes.

Mr. NORTON. Do the provisions of this bill prevent the shipping of calves under 4 weeks old?

Mr. HOWARD. Yes. That is what I understand by the amendment of the gentleman from Texas [Mr. GARNER].

Mr. NORTON. I call attention to the fact that it prohibits the shipping of calves only in case they are alive. It does not apply to the slaughtered calves at all.

Mr. TOWNSEND. It does not prevent their being slaughtered when they reach their destination. The shipments may be for the purpose of slaughter. I do not see a particle of use in the bill myself. I think the gentleman from Georgia is quite right, that we are wasting time in futile and useless legislation on this kind of a bill.

Mr. HOWARD. Absolutely, the bill as presented now with the amendment of the gentleman from Texas is not worth the snap of your finger. It does not amount to a row of pins. It gives no relief. You destroy the efficacy of the bill by reducing the age, and as far as any effect of increase in the production of beef is concerned, it will be an absolute failure. I am going to vote for this bill if I can do nothing better, but when I vote for it I realize I am voting for a piece of legislation that amounts to absolutely nothing, and let it go at that. [Laughter.]

The SPEAKER. The question is on the amendments.

The question was taken; and on a division there were 57 ayes and 12 noes.

So the amendments were agreed to.

Mr. MANN. Mr. Speaker, I move to amend, on page 2, line 2, by striking out the word "one" and inserting the word "veal."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 2, at the end of the line, strike out the word "one" and insert the word "veal."

Mr. MANN. That amendment is necessary, is it not?

Mr. ADAMSON. I do not see any harm that can be done by it.

Mr. MANN. Can not the gentleman see harm if it is not adopted?

The SPEAKER. The question is on the amendment offered by the gentleman from Illinois.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. ADAMSON, a motion to reconsider the vote whereby the bill was passed was laid on the table.

SALE OF KLAMATH RIVER INDIAN RESERVATION.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 10848) to amend an act entitled "An act to provide for the disposition and sale of lands known as the Klamath River Indian Reservation," approved June 17, 1892 (27 Stat. L., 52-53).

The Clerk read the title to the bill.

Mr. MANN. Mr. Speaker, reserving the right to object——

Mr. STEPHENS of Texas. Does the gentleman desire information?

Mr. MANN. No; I want to give some. I do not know whether it would be agreeable to the gentleman and other Members of the House to authorize the expenditure of not to exceed $10,000 for the construction of road or trails to connect this reservation with the ocean. I would not be willing to give unanimous consent for any more than that. Of course the bill is not in a shape to amend by the insertion of a few words. It would require a redrafting of the bill to do that.

Mr. STEPHENS of Texas. I would not object. I would be willing to accept $10,000, although the department has asked for $25,000.

Mr. MANN. The department has not done that. The department asked for the building of a road and doing a lot of other things. The trouble is you can not get anything out of the department.

Mr. STEPHENS of Texas. I am willing to accept an amendment limiting it to $10,000.

Mr. MANN. The gentleman had better ask that the bill go over without prejudice.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent that this bill may be passed without prejudice.

The SPEAKER. The gentleman from Texas asks unanimous consent that the bill be passed without prejudice. Is there objection?

There was no objection.

REGULATION OF THE CATCHING OF SPONGES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16269) to regulate the taking or catching of sponges in the waters of the Gulf of Mexico and the Straits of Florida outside of State jurisdiction; the landing, delivering, curing, selling, or possession of the same; providing means of enforcement of the same, and for other purposes.

The Clerk read the bill, as follows:

Be it enacted, etc., That on and after the approval of this act it shall be unlawful for any citizen of the United States or person owing duty of obedience to the laws of the United States, or any boat or vessel of the United States, or person belonging to or on any such boat or vessel, to take or catch, by any means or method, in the waters of the Gulf of Mexico or the Straits of Florida outside of State territorial limits, any commercial sponges measuring when wet less than 5 inches in their maximum diameter, or to land, deliver, cure, offer for sale, or have in possession at any port or place in the United States, or on any boat or vessel of the United States any such commercial sponges.

SEC. 2. That the presence of sponges of a diameter of less than 5 inches on any vessel or boat of the United States engaged in sponging in the waters of the Gulf of Mexico or the Straits of Florida outside of State territorial limits, or the possession of any sponges of less than the said diameter sold or delivered by such vessels, shall be prima facie evidence of a violation of this act.

SEC. 3. That every person, vessel, or boat guilty of a violation of this act shall be liable to a fine of 50 cents for each sponge of a less diameter than 5 inches found in the possession of such person, vessel, or boat, and such fine shall be a lien against the vessel or boat on which the offense is committed, and said vessel or boat shall be seized and proceeded against by process of libel in any court having jurisdiction of the offense.

SEC. 4. That any violation of this act shall be prosecuted in the district court of the United States of the district wherein the offender is found or into which he is first brought.

SEC. 5. That it shall be the duty of the Secretary of Commerce to enforce the provisions of this act, and he is authorized to empower such officers and employees of the Department of Commerce as he may designate, or such officers and employees of other departments as may be detailed for the purpose, to make arrests and seize vessels and sponges, and, upon his request to the Secretary of the Treasury, may employ the vessels of the Revenue-Cutter Service or the employees of the Customs Service to that end.

SEC. 6. That the act approved June 20, 1906, entitled "An act to regulate the landing, delivery, cure, and sale of sponges," and all other laws in conflict herewith, be, and the same hereby are, repealed.

The SPEAKER. Is there objection?

Mr. MONDELL. Reserving the right to object, I should like to ask a question of the gentleman in charge of the bill. I would like to ask the gentleman if it was the intent of the framers of this bill to bring within its provisions and under its penalties any person anywhere in the United States who might have in his or their possession, at least for the purposes of sale, sponges less than 5 inches in diameter?

Mr. ALEXANDER. The bill provides that it shall be unlawful—

That on and after the approval of this act it shall be unlawful for any citizen of the United States, or person owing duty of obedience to the laws of the United States, or any boat or vessel of the United States, or person belonging to or on any such boat or vessel, to take or catch, by any means or method, in the waters of the Gulf of Mexico or the Straits of Florida outside of State territorial limits, any commercial sponges measuring when wet less than 5 inches in their maximum diameter, or to land, deliver, cure, offer for sale, or have in possession at any port or place in the United States, or on any boat or vessel of the United States, any such commercial sponges.

Mr. MONDELL. Let me call the gentleman's attention to the first three lines of the bill, reading as follows:

That on and after the approval of this act it shall be unlawful for any citizen of the United States, or person owing duty of obedience to the laws of the United States—

Then go over to the second page, line 4—

or have in possession at any port or place in the United States, or on any boat or vessel of the United States, any such commercial sponges.

It was not intended, as I understand, to render liable to punishment a dealer in sponges who might have for sale a sponge less than 5 inches in diameter?

Mr. ALEXANDER. It was not.

Mr. MONDELL. Is the gentleman from Missouri certain that the first section is not subject to such a construction?

Mr. ALEXANDER. I hardly think so. The bill provides that it shall be unlawful for any citizen of the United States or person owing duty or obedience to the laws of the United States, or any boat or vessel or person belonging to any such boat or vessel, to take or catch, by any of the means mentioned, sponges measuring, when wet, less than 5 inches in their maximum diameter, or to land, deliver, cure, or offer for sale, or have in their possession at any port or place in the United States, any such commercial sponges. It can not by any construction apply to a merchant or dealer in the United States who may have in his possession sponges less than 5 inches in diameter.

Mr. MONDELL. Mr. Speaker, I am perfectly willing to take the opinion of the gentleman from Missouri with regard to the matter, but it seemed to me that the language might be interpreted possibly to bring within its penalties persons who in good faith might have sponges in their possession less than 5 inches in diameter—dealers in that sort of thing, druggists, and so forth. If the gentleman from Missouri is very certain that the act will not bear such construction, I have no disposition to object, because I understand that this bill is intended to cure a bad practice and put an end to an abuse of a legitimate industry, that is very largely reducing the output of sponges along the Gulf. In view of the importance of the legislation and the assurance of the gentleman from Missouri that the act will not warrant the construction I have suggested, I shall not object.

Mr. ALEXANDER. Mr. Speaker, I am quite sure that it will not. A question was raised by the gentleman from Illinois [Mr. MANN] the other day as to the application of the bill to foreigners. This will be provided for by amendment later on.

The SPEAKER. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that the bill S. 5313, of similar tenor, be considered in lieu of the House bill.

The SPEAKER. The gentleman from Missouri asks unanimous consent that the bill S. 5313 be considered in lieu of the House bill. Is there objection?

There was no objection.

The Senate bill is as follows:

An act (S. 5313) to regulate the taking or catching of sponges in the waters of the Gulf of Mexico and the Straits of Florida outside of State jurisdiction; the landing, delivering, curing, selling, or possession of the same; providing means of enforcement of the same; and for other purposes.

Be it enacted, etc., That on and after the approval of this act it shall be unlawful for any citizen of the United States, or person owing duty of obedience to the laws of the United States, or any boat or vessel of the United States, or person belonging to or on any such boat or vessel, to take or catch, by any means or method, in the waters of the Gulf of Mexico or the Straits of Florida outside of State territorial limits, any commercial sponges measuring when wet less than 5 inches in their maximum diameter, or to land, deliver, cure, offer for sale, or have in possession at any port or place in the United States, or on any boat or vessel of the United States, any such commercial sponges.

SEC. 2. That the presence of sponges of a diameter of less than 5 inches on any vessel or boat of the United States engaged in sponging in the waters of the Gulf of Mexico or the Straits of Florida outside of State territorial limits, or the possession of any sponges of less than the said diameter sold or delivered by such vessels, shall be prima facie evidence of a violation of this act.

SEC. 3. That every person, vessel, or boat guilty of a violation of this act shall be liable to a fine of 50 cents for each sponge of a less diameter than 5 inches found in the possession of such person, vessel, or boat, and said fine shall be a lien against the vessel or boat on which the offense is committed, and said vessel or boat shall be seized and proceeded against by process of libel in any court having jurisdiction of the offense.

SEC. 4. That any violation of th's act shall be prosecuted in the district court of the United States of the district wherein the offender is found or into which he is first brought.

SEC. 5. That it shall be the duty of the Secretary of Commerce to enforce the provisions of this act, and he is authorized to empower such officers and employees of the Department of Commerce as he may designate, or such officers and employees of other departments as may be detailed for the purpose, to make arrests and seize vessels and sponges, and upon his request to the Secretary of the Treasury may employ the vessels of the Revenue-Cutter Service or the employees of the Customs Service to that end.

SEC. 6. That the act approved June 20, 1906, entitled "An act to regulate the landing, delivery, cure, and sale of sponges" and all other laws in conflict herewith be, and the same hereby are, repealed.

Mr. ALEXANDER. Mr. Speaker, I offer the following amendments to the Senate bill, which I send to the desk and ask to have read.

The Clerk read as follows:

Between the words "or" and "to," in line 1, page 2, insert the words "any person or vessel," so that the Senate bill as amended will read "their maximum diameter, or any person or vessel to land, deliver, cure, etc."

The SPEAKER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The Clerk read as follows:

Amend, page 2, line 12, by striking out after the word "person" the words "vessel, or boat," and inserting in lieu thereof the words "partnership or association" so that the line will read "that every person, partnership, or association guilty of a violation of this act, etc."

The SPEAKER. Without objection the amendment will be agreed to.

There was no objection.

The Clerk read as follows:

On page 2, strike out the words beginning with the figures "50," in line 13, down to and including the word "said," in line 15, and in lieu thereof insert the words "not less than $5 nor more than $500, in addition and such," so that the bill as amended will read "violation of this act shall be liable to a fine of not less than $5 nor more than $500 in addition, and such fine shall be a lien against the vessel or boat, etc."

Mr. MANN. Mr. Speaker, in respect to this amendment fixing the fine at not less than $5 nor more than $500, I will state that in the codification of the criminal code there is no place where there is a minimum fine. We had carried minimum fines in acts of Congress for many years, and the codifiers, which was ratified by Congress, decided that the way to do was to make a maximum fine. Of course, it is immaterial whether a minimum fine of $5 is fixed here or not, yet it is desirable to have the criminal laws where they have been codified enacted in a uniform manner. Would not the gentleman be willing to amend the bill by providing that the fine shall be not more than $500?

Mr. ALEXANDER. That is all right.

Mr. MANN. Mr. Speaker, I ask unanimous consent to amend the amendment by fixing it so that it would read, if agreed to, that the fine be not more than $500.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend the amendment by striking out the words "less than $5 nor," so that the amendment as amended will read "not more than $500, and in addition such," etc.

The question was taken, and the amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. ALEXANDER, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. ALEXANDER. Mr. Speaker, I move that the House bill be laid on the table.

The SPEAKER. Without objection, a similar House bill will lie on the table.

There was no objection.

ISSUANCE OF HOMESTEAD PATENTS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16296) to provide for issuing of patents for

public lands claimed under the homestead laws by deserted wives.

The Clerk read as follows:

Be it enacted, etc., That in any case in which persons have regularly initiated claims to public lands as settlers thereon under the provisions of the homestead laws and the wife of such homestead settler or entryman, while residing upon the homestead claim and prior to submission of final proof of residence, cultivation, and improvement as prescribed by law, has been abandoned and deserted by her husband for a period of more than one year, the deserted wife shall, upon establishing the fact of such abandonment or desertion to the satisfaction of the Secretary of the Interior, be entitled to submit proof upon such claim and obtain patent therefor in her name in the form, manner, and subject to the conditions prescribed in section 2291 of the Revised Statutes of the United States and acts supplemental thereto and amendatory thereof: *Provided*, That in such cases the wife shall be required to show residence upon, cultivation, and improvement of the homestead by herself for such time as when, added to the time during which her husband prior to desertion had complied with the law, would aggregate the full amount of residence, improvement, and cultivation required by law: *And provided further*, That the published and posted notices of intention to submit final proof in such cases shall recite the fact that the proof is to be offered and patent sought by applicant as a deserted wife, and a copy of the said notice shall be mailed to the last known address of the husband of applicant.

The committee amendment was read, as follows:

Page 2, lines 15, 16, and 17, strike out the words "and a copy of said notice shall be mailed to the last known address of the husband of the applicant" and insert "and, prior to its submission, notice thereof shall be served upon the husband of the applicant in such a manner and under such rules and regulations as the Secretary of the Interior shall prescribe."

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I would like to ask the gentleman from California whether anyone has any idea how many of these cases there are? Is it a very common practice in the West for husbands to run away from their wives after making a homestead entry? Is that the usual thing?

Mr. RAKER. No; that is not the usual thing. There are a few cases, as in all other parts of the West, and the various registers and receivers of the various land offices have had experience——

Mr. MANN. Well, is it a very common practice in that section of the country?

Mr. RAKER. I could not say it was a common practice. There are always a few cases of this kind in every locality.

Mr. MANN. Well, I notice that this bill is warmly supported by Mr. John F. Armstrong, register, and Mr. Samuel Butler, receiver, of the land office at Sacramento. Of course, that is included within the general jurisdiction of the gentleman from California. In the letter they make this statement, referring to the troubles between husbands and wives and where wives are left. "Many of them do not know the whereabouts of their derelict spouses." And again the letter says: "And it frequently happens that many of these unfortunate women," and so forth; and again it says: "This office is in receipt of numerous inquiries on this subject." Now, I just wondered if out in the gentleman's section when a man and wife went on a homestead to make an entry it was a general practice, as intimated by the register and receiver, for the husband to run away and leave his wife there?

Mr. RAKER. In answer to the gentleman's question, I will say that Mr. Armstrong and Mr. Butler are the register and the receiver, respectively, at the land office at Sacramento, which is the capital of the State. A number of offices have been abandoned and they have been consolidated into a land office at Sacramento and, of course, they are in a position where they have an opportunity to observe more of these kind of cases than others. I know a number of cases in my part of the country, and they have been pitiful.

Mr. MANN. I judge from what these gentlemen said when they slopped over that it was the usual thing out there, if one can believe them. Now, I notice this letter says, referring to these women:

Many of them do not know the whereabouts of their derelict spouses.

Mr. RAKER. I think that is a true statement.

Mr. MANN. But the gentleman does not give those people any relief.

Mr. RAKER. Yes; this gives them relief.

Mr. MANN. Oh, no. The gentleman is not familiar with his own bill. Let me read the gentleman what his committee has reported:

And prior to its submission notice thereof shall be served upon the husband of the applicant.

Now, how is it possible for the wife, when the husband has run away, to serve a notice upon him, when nobody knows where he is?

Mr. RAKER. In answer to the gentleman's question, the Land Office rules and regulations provide for publication, which is a service of the notice. Now, the department has suggested an amendment, which is found here, that service be had under the rules and regulations provided for by the Secretary of the Interior. In all contests on homestead matters where the homesteader can not be found the rule provides that publication of notice is sufficient notice to the entryman, and therefore they can proceed.

Mr. MANN. Certainly, where the law provides a publication notice may be made it is sufficient, but where it says you must serve a man you must serve him, and that is what you propose here. It says it shall be served upon the husband of the applicant in such a manner and under such rules and regulations as the Secretary of the Interior shall prescribe.

Mr. RAKER. Let me answer the gentleman upon that.

Mr. MANN. You can not serve a notice upon a man without knowing where he is.

Mr. RAKER. Let me call the gentleman's attention to this fact. The law as it now stands in regard to contests provides that the notice must be served upon the homestead entryman, and then when he can not be found the rules and regulations provide that a service by publication ordered by the register and receiver on affidavit is equivalent to sufficient service. That is the same way with all the court proceedings. And we have used that language, which is the same as is in the law now relative to contests of homestead entries and otherwise.

Mr. MONDELL. Will the gentleman yield to me for a suggestion?

Mr. RAKER. I will.

Mr. MONDELL. I doubt if the committee improved this bill by amending it. It seems to me that the law as it is is in better form than it is proposed to make it.

Mr. DONOVAN. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. DONOVAN. To demand the regular order. Mr. Speaker, if we could have facts instead of so much air, that would be better under the circumstances.

Mr. RAKER. In answer to the question of the gentleman from Wyoming——

The SPEAKER. Does the gentleman from Connecticut [Mr. DONOVAN] withdraw his demand for the regular order?

Mr. DONOVAN. Yes.

Mr. RAKER. When I drew the original bill I put it in as suggested. Now, the department went over it and thought that it would be better to serve notice under the rules and regulations adopted by the Secretary, which would be that where the wife did not know the present whereabouts of the husband an affidavit would be made and filed with the register and receiver, and then upon that affidavit public notice would be given.

Mr. MONDELL. Well, the gentleman knows that the husband would have the same public notice that anyone else had, and that other than that the notice given to claimant and contestant is a notice in every case, under the law, at the last known address, and there is no reason why you should depart from that universal rule or practice in a case of this sort.

Mr. RAKER. I am willing to put it in either way, because I do not think it makes much difference which way it goes in.

Mr. MONDELL. Now, in answer to the very proper inquiry made by the gentleman from Illinois [Mr. MANN], I want to say that whatever may be the situation in California, in the balance of the public-land States there are not many of these cases; but what few of them have come to my attention have been very meritorious, and the majority will relieve deserted wives and make provisions for them when there is no provision for them now under the law. The cases are few but meritorious.

The SPEAKER. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. RAKER. Mr. Speaker, I move that this be considered in the House as in the Committee of the Whole.

The SPEAKER. The gentleman from California moves that the bill be considered in the House as in the Committee of the Whole. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the committee amendment.

The Clerk read as follows:

Page 2, in lines 17, 18, and 19, strike out the following language beginning in line 17: "and a copy of said notice shall be mailed to the last known address of the husband of the applicant," and insert the following: "and, prior to its submission, notice thereof shall be served upon the husband of the applicant and in such a manner and under such rules and regulations as the Secretary of the Interior shall prescribe."

Mr. MONDELL. Mr. Speaker, I believe the bill is in better form as it was introduced and that it would be a mistake to

adopt the committee amendment. I therefore hope the amendment will not be adopted.

Mr. MANN. Mr. Speaker, here is a letter from the Assistant Secretary of the Interior; and by the way, I sometimes wonder why, on matters of public policy, we can not get a report from the Secretary of the Interior himself, instead of some one who is a mere Assistant Secretary. The Assistant Secretary of the Interior says:

> Under the proposed bill, the published and posted notice of intention to submit proof must recite that it is to be offered, and patent sought, by the applicant as a deserted wife, and a copy of the notice must be mailed to the husband's last-known address. This does not appear to fully cover the subject, since there will be many cases where personal service of notice on the husband will be feasible, and no justification for constructive notice will exist. It is suggested that there should be a general provision for notice to the husband under such rules as to the method of service as the department may prescribe.

Now, I understood from that, in reading it—although it may not say so, because very seldom are these letters clear that come from the First Assistant Secretary of the Interior—that he intended, under the provisions of the bill, that there should be constructive notice, but he thinks there ought to be actual notice, and therefore he suggested the amendment which the committee has offered. Now, do I understand the gentleman from California [Mr. RAKER] to say that under existing law in similar cases the words "constructive notice" are used and authorized?

Mr. RAKER. Under the bill as originally introduced, under the lines stricken out, the practice would be permitted just as the Secretary says, namely, a notice would be posted in the office, stating the description of the land, and when proof was to be had, and service at the last-known address of the deserting husband. That is all that would be necessary. Under the rules that now exist in the department relating to all land matters, where the right of the party is involved, if service can not be had personally, then an affidavit is made, showing want of knowledge of the location of the party, and the register and receiver then orders publication to be had, say, for 30 days, and sometimes for 2 months, and that is then considered to be constructive notice sufficient to permit the land office to proceed and adjudicate the rights, just as it is the practice in our courts to secure constructive service upon a defendant involved in litigation as to the right to property, divorce, or otherwise.

Mr. FERRIS. Mr. Speaker, I do not hold any brief to defend the Department of the Interior, and I do not take it upon myself to do so; but I think the gentleman from Illinois [Mr. MANN] would not want to be so severe in his criticism of the department when I call his attention to the fact that during the preceding administration of the Interior Department the practice was almost uniform fo the Assistant Secretary of the Interior to make reports on these bills; not always, of course, and neither is it always in this administration. Samuel Adams, Assistant Secretary under Secretary Fisher, drew and signed nearly all of the reports, as the reports themselves will show. That practice was quite uniform under that administration. It has not been to so great an extent under this administration.

I want to say to the gentleman from Illinois that I have great respect for the preceding Secretary and the preceding Assistant Secretary, and I likewise have the same respect for the present Secretary and the present Assistant Secretary; and if the gentleman should make it so notorious that he would have the Secretary himself sign all of the reports, in all probability the same man would draw the reports, and the result would be the same as if you would carry them in and have a very busy Secretary sign them.

Mr. MANN. Mr. Speaker, will the gentleman yield there?

Mr. FERRIS. Yes.

Mr. MANN. I have not used anything like as harsh language concerning the present Secretary as I did concerning the former Secretary. I think it is a burning shame that these Secretaries of departments that we create and who are put at the head of the departments shirk the duty of giving information and opinions to Congress and put it on an Assistant Secretary, who says, "I think so-and-so," and nobody knows who he is, while we do know who the head of a department is.

Now, I made a much stronger statement on this subject concerning the last administration than I have made concerning the present one, and I took the matter up at one time with Secretary Fisher, who wrote to me and said, "You are mistaken; I sign more of these reports than you think." I called his attention to more than 30 bills where he had not sent more than two or three of the reports and where Mr. Samuel Adams, Assistant Secretary, had sent all the others. I do not care the snap of the finger for the opinion of the Assistant Secretary, although I value the Secretary's opinion.

Mr. FERRIS. He came from the gentleman's own State.

Mr. MANN. Well, I never knew him, and I would not know him now if I saw him.

Mr. FERRIS. Well, I will say that even if the gentleman from Illinois was wrong in his criticism of the Secretary under the Republican administration, it is no sign he should be wrong in regard to the Secretary under this administration.

Mr. MANN. I am talking about the policy of the administration. A clerk down there fixes it. I am opposed to allowing clerks to fix the policy of an administration.

Mr. FERRIS. It is true that the practice has grown up here of allowing departments to say what ought to be done. What Congress is in need of is information furnished by the departments to the legislative branch of the Government, so that Congress can draw its own conclusions. I do not care whether it is a Secretary or an Assistant Secretary who says this or that ought to be done. Congress ought to have something to do with it and something to say about it.

The membership of the Congress has to go out in the country and win its seats. Some one in the department who knows the details ought to furnish an information sheet on each bill, without saying whether they are for it or against it, because Congress does not care so much whether they are for or against it, as it desires accurate information. Of course it is an easy, slack way of doing things to ask how does the department stand and lean on them. That practice is very prevalent around this Capitol, and we of the Congress are to blame for it. The department as a rule does not inflict themselves upon us, but only report on bills when asked to do so. The department's load is not a light one. They do pretty well in every case where I have run them down. Our Interior Department as now constituted is especially strong. Secretary Lane is probably the greatest Secretary the department has had in a generation. I think none has or could work harder or accomplish more.

His First Assistant Secretary Jones is a strong lawyer and a conscientious officer.

I repeat the department as constituted is strong, honest, and on the job. I am proud of them, they are serving the country well.

Mr. MANN. Mr. Speaker, I move to strike out the last word. My friend from Oklahoma [Mr. FERRIS] says it ought not to make any difference what the opinions of these officers are. I do not think it does make much difference what the opinion of an assistant secretary is, but we have just passed a reclamation bill that was drawn by the Secretary of the Interior. If the gentleman has his way, we are shortly to pass two or three mining bills and land bills proposed by the Secretary of the Interior. It makes a great deal of difference what they think about it. They draw a bill, and that becomes to a large extent the policy of Congress, not always even as a partisan matter, and we ought to have the opinion of the Secretary when it comes to fixing a policy. It is true that we do not have to follow the opinion of the Secretary, but there is no man on the Democratic side of the Public Lands Committee who would vote to report a bill involving a policy without wanting to know in advance the opinion of the Secretary, and properly so if it was an important matter. Now, we have assistant secretaries in various departments giving their opinions. We do not want the opinion of the man, but it is the opinion of the department we want. That opinion of the department is voiced through the Secretary of the Interior, and ought to be.

Mr. TAYLOR of Colorado. Will the gentleman yield for a suggestion? Does not the gentleman realize that the heads of these departments are so tremendously busy that they can not possibly prepare or hardly take time to read these opinions or reports on bills?

Mr. MANN. I do not realize any such thing. I know to the contrary.

Mr. TAYLOR of Colorado. The Secretary of the Interior has something like 18,000 employees under him in the various bureaus, and he can not possibly give his personal attention to all these matters. The First Assistant is a lawyer, the one who does this very work. He is the one who naturally prepares the opinion. It comes from the commissioner first. The law clerks in the commissioner's office take it up first and go through the records; then it comes up to the Secretary's office, to the First Assistant Secretary, and he is the one who finally passes upon the report in detail.

Mr. MANN. There is nothing more important in the duties of the Secretary of the Interior than to give information to Congress. Here we have bills referred by the Committee on the Public Lands, the Committee on Indian Affairs, and so forth, and according to my friend from Colorado [Mr. TAYLOR]

the Secretary of the Interior spends his time discussing patronage with somebody——

Mr. TAYLOR of Colorado. Oh, no.

Mr. MANN. He ought to be spending his time discussing legislation in Congress.

Mr. TAYLOR of Colorado. He has a thousand things on his mind to attend to and very great responsibility.

Mr. MANN. What does he do with all his time? He has 24 hours in the day. There is considerable of that time when he is attending to the public business, and he does no more important public business than when he is sending communications to the great legislative body of the country—to Congress.

Mr. TAYLOR of Colorado. I think the Secretary of the Interior works harder than any other Cabinet official.

Mr. MANN. The gentleman is no greater friend of Secretary Lane than I am, and I am hoping I can help to guide him to perform the duties of his office in the way they ought to be performed and to treat Congress with ordinary respect. When I came here there was not a Secretary of any executive department who would permit an Assistant Secretary to write a letter to a Member. The Secretaries themselves always signed communications to Members of Congress; but now it has gotten so that a great committee of the House can not get a communication signed by the Secretary, but it is put on to a clerk to sign it.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken; and on a division (demanded by Mr. FERRIS) there were—ayes 37, noes 10.

Accordingly the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

On motion of Mr. RAKER, a motion to reconsider the last vote was laid on the table.

Mr. DONOVAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DONOVAN. No debate is allowed on a bill that is up by unanimous consent, is there?

The SPEAKER. There may be debate.

Mr. DONOVAN. Is debate allowed on the Unanimous Consent Calendar?

The SPEAKER. It is this way: When a bill is read, the Speaker asks if there is objection, and gentlemen reserve the right to object, and talk about it; but when the consent is given, then it depends on whether the bill is on the House Calendar or on the Union Calendar. If it is on the Union Calendar and the House goes into Committee of the Whole House on the state of the Union, or if it is considered in the House as in Committee of the Whole House on the state of the Union, then it is considered under the five-minute debate; but if it is a House bill, it can be debated as long as the House pleases.

BRIDGE ACROSS MISSISSIPPI RIVER, NEW ORLEANS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16172) to give the consent of the Congress to the construction of a bridge across the Mississippi River at or near New Orleans, La.

The Clerk read the title to the bill.

Mr. ADAMSON. Mr. Speaker, at the request of the gentleman from Louisiana, I ask that this bill be passed without prejudice.

Mr. MANN. Did the gentleman from Louisiana state that he would like to have it passed without prejudice?

Mr. ADAMSON. Yes; because he is looking up information about which the gentleman from Illinois raised an objection when it was up the last time.

Mr. MANN. He is not looking up the information; it was sent to him. I supposed he was going to move to lay the bill on the table.

The SPEAKER. Is there objection to the request of the gentleman from Georgia? [After a pause.] The Chair hears none.

FORT BRIDGER MILITARY RESERVATION.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 92) to extend the general land laws to the former Fort Bridger Military Reservation, in Wyoming.

The Clerk read the bill, as follows:

Be it enacted, etc., That the lands on the former Fort Bridger Military Reservation in Wyoming are hereby made subject to appropriate entry under the land laws of the United States.

With the following committee amendments:

At the end of the bill add the following proviso:

"*Provided*, That nothing in this act shall be held to provide any refundment of moneys heretofore paid for lands in the said reservation or to relieve entrymen from payments due or to become due on entries heretofore made."

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. MONDELL. Mr. Speaker, I ask that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection?

There was no objection.

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

RESTORATION OF HOMESTEAD RIGHTS IN CERTAIN CASES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 15983) to restore homestead rights in certain cases.

The Clerk read the title to the bill.

Mr. FERRIS. Mr. Speaker, I ask unanimous consent that that bill be passed without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

LOCATORS OF OIL AND GAS LANDS.

The next business on the Calendar for Unanimous Consent was the bill (S. 5673) to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest," approved March 2, 1911.

Mr. CHURCH. Mr. Speaker, I ask unanimous consent that the committee amendment be read instead of the original bill.

The SPEAKER. Is the committee amendment in the nature of a substitute?

Mr. CHURCH. Yes.

Mr. MANN. I think it all ought to be read.

The Clerk read the bill and committee amendment, as follows:

Be it enacted, etc., That an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest," approved March 2, 1911, be amended by adding thereto the following section:

"SEC. 2. That where applications for patents have been or may hereafter be offered for any oil or gas land included in an order of withdrawal upon which oil or gas has been discovered, prior to such application for patent, and where there has been no final determination by the Secretary of the Interior upon such applications for patent, said Secretary, in his discretion, may enter into agreements, under such conditions as he may prescribe, with such applicants for patents in possession of such land or any portions thereof relative to the disposition of the oil or gas produced therefrom or the proceeds thereof, pending final determination of the title thereto by the Secretary of the Interior, or such other disposition of the same as may be authorized by law."

COMMITTEE AMENDMENT.

Strike out all of the foregoing and insert the following:

"That an act entitled 'An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest,' approved March 2, 1911, be amended by adding thereto the following section:

"'SEC. 2. That where applications for patents have been or may hereafter be offered for any oil or gas land included in an order of withdrawal upon which oil or gas has heretofore been discovered, or is being produced, or upon which drilling operations are in actual progress at the date of the passage of this act, and oil or gas is thereafter discovered thereon, and where there has been no final determination by the Secretary of the Interior upon such applications for patent, said Secretary, in his discretion, may enter into agreements, under such conditions as he may prescribe with such applicants for patents in possession of such land or any portions thereof, relative to the disposition of the oil or gas produced therefrom or the proceeds thereof, pending final determination of the title thereto by the Secretary of the Interior, or such other disposition of the same as may be authorized by law.'"

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I understand that the gentleman from California has an amendment which he proposes to offer.

Mr. CHURCH. Mr. Speaker, I have two short committee amendments which I propose to offer to this bill. I will send them up and have them read for information. They are amendments to the committee amendment.

The Clerk read as follows:

Page 2, strike out all after the word "progress" in line 25.

Strike out the following words, page 3, line 1, "passage of this act," and insert in their place the words "on October 3, 1910."

Also, after the words "by law," line 13, page 3, insert the following: "Any money which may accrue to the United States under the provisions of this act from lands within the naval petroleum reserves shall be set aside for the needs of the Navy and deposited in the Treasury to the credit of the fund to be known as the 'Navy petroleum fund,' which fund shall be applied to the needs of the Navy as Congress may from time to time direct, by appropriation or otherwise.

The SPEAKER Is there objection?

Mr. MANN. Reserving the right to object, the effect of the first amendment is to require that these operations shall have been in progress in 1910.

Mr. CHURCH. The actual drilling must have been in progress at that date.

Mr. MANN. And not down to date?

Mr. CHURCH. Not down to date; that is, from the passage of the bill back to October, 1910. I would say that is an amendment that was suggested by the Navy Department, and after the Public Lands Committee had it under consideration it thought it was wiser to make the amendment.

Mr. MANN. What is the effect of it?

Mr. CHURCH. It simply shortens the time.

Mr. MANN. What does the gentleman mean by shortening the time?

Mr. CHURCH. I will state that under the original amendment anyone who was actually engaged in boring at the time of the passage of this bill could take advantage of this present bill, and it was thought that that was rather liberal, and that it would give people opportunity, even since this legislation was brought on, to start up boring operations, and so we dated it back within 90 days—the 3d of October in 1910—of the congressional withdrawal.

Mr. MANN. Let us see how it reads, and see whether the gentleman has it in good shape; I know it is not grammatical:

That where applications for patents have been or may hereafter be offered for any oil or gas land included in an order or withdrawal upon which oil or gas has heretofore been discovered—

That is, down to date—

or is being produced—

That is, down to date—

or upon which drilling operations are in actual progress in October, 1910.

Mr. CHURCH. The word "are" should be "were."

Mr. MANN. That is the grammatical error to which I called attention.

Mr. CHURCH. I would be glad to have that corrected.

Mr. MANN. This would still leave this act so that this will give it effect upon any land upon which oil or gas has been heretofore discovered prior to the passage of the act, or on which oil is being produced at the time of the passage of the act.

Mr. CHURCH. As I understand it.

Mr. MANN. But if they were merely drilling operations, without knowledge that oil was there, then those drilling operations must have been in progress in 1910.

Mr. CHURCH. That is the way I understand the act.

Mr. MANN. I do not know. If there is a man on earth who can tell what that means in the end he is a daisy, but I am not going to object.

Mr. CHURCH. I am sure the committee will be very glad to accept any amendment that will clarify it.

Mr. MANN. I do not know what they want. I think the amendments offered make it a good deal better than the original bill. The gentleman wants to put in his amendment a provision changing the word "are," in line 25, to "were."

Mr. CHURCH. Yes.

The SPEAKER. Is there objection?

Mr. MONDELL. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from California where the first amendment ended on page 3—if it ended at the word "act"?

Mr. CHURCH. Yes.

Mr. MONDELL. That amendment, it seems to me, in order to be harmonious and logical, should strike out all down to and including the word "thereon" in line 2, page 3.

Mr. MANN. Oh, no.

Mr. FERRIS. That would not fit with the other page.

Mr. MONDELL. Then you must change that language as to its grammar. It is not clear what is intended. If the intent is to relate back to a condition of drilling operations at the time of what is known as the congressional withdrawal and including any lands where oil or gas has been heretofore discovered, and not cases where oil or gas is hereafter discovered, then it would be necessary to correct the amendment down to the word "thereon" in line 2. If the gentleman will follow that language:

Where applications for patents have been or may hereafter be offered—

We have many areas in our State that are affected by this legislation, and I would like to have it in form so that it will afford real relief—

That where applications for patents have been or may hereafter be offered for any oil or gas land included in an order of withdrawal upon which oil or gas has heretofore been discovered, or is being produced, or upon which drilling operations are in actual progress on October 3, 1910, and oil or gas is thereafter discovered thereon.

Mr. CHURCH. That refers to where the drilling operations were enforced.

Mr. MONDELL. What does it mean—thereafter or hereafter, or what?

Mr. CHURCH. After that date—after October 3, 1910.

Mr. MONDELL. Then that is the past tense and it is not the present or future tense.

Mr. RAKER. Will the gentleman yield? That last subdivision says "upon which drilling operations are in actual progress October 3, 1910, and oil or gas is thereafter discovered thereon," and means that any time after October 3, 1910, but the only condition is that there must be drilling operations on October 3, 1910, and thereafter at any time if they continue in good faith and discover oil or gas, then they come within the provisions of this bill.

Mr. MONDELL. Perhaps the Secretary could figure it out; I can not.

Mr. MANN. You might strike out "is" and put nothing in its place. What the committee intends, I think, is not quite clear.

Mr. CHURCH. Yes——

Mr. RAKER. The suggestion of the gentleman from Illinois is to strike out "is" in this clause.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. CHURCH. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole House on the state of the Union.

The SPEAKER. The gentleman from California asks unanimous consent that this bill be considered in the House as in the Committee of the Whole House on the state of the Union. Is there objection? [After a pause.] The Chair hears none.

Mr. CHURCH. Now I offer the amendments which have been sent to the Clerk's desk and which have been already read.

Mr. FERRIS. Ask unanimous consent to modify the first one.

Mr. CHURCH. No; the second one.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, strike out all after the word "progress" in line 25.

Strike out the following words, page 3, line 1, "passage of this act," and insert in their place the words "on October 3, 1910."

Also, after the words "by law," line 11, page 3, insert the following: "Any money which may accrue to the United States under the provisions of this act from lands within the naval petroleum reserves shall be set aside for the needs of the Navy and deposited in the Treasury to the credit of the fund to be known as the 'Navy petroleum fund,' which fund shall be applied to the needs of the Navy as Congress may from time to time direct, by appropriation or otherwise."

The question was taken, and the amendments were agreed to.

Mr. CHURCH. Mr. Speaker, I ask unanimous consent that on page 2, line 25, where the word "are" appears, the third word in the line, the word "were" be inserted in its place.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 25, strike out the word "are" and insert the word "were."

The question was taken, and the amendment was agreed to.

Mr. MONDELL. Mr. Speaker, I move to strike out the word "is," page 3, line 1, and insert the word "was."

Mr. RAKER. Mr. Speaker, just a moment. The gentleman does not want that word "was." I am satisfied——

Mr. MONDELL. Just let me call the gentleman's attention to this fact: This act will be read by the Secretary of the Interior as a continuing act. It must be; it is not an act relating to matters in the past altogether. It relates to conditions that exist in a particular case that comes to him.

Mr. RAKER. Let me call attention to this: Suppose, when this act passes, a man has been in actual operation from the 3d of October, 1910——

Mr. MONDELL. Yes.

Mr. RAKER. And he discovers oil after this bill passes, and then proceeds to get a patent. Under this bill they will say, Here we intended to mean you must have discovered oil before this bill became operative.

Now, there is one case that appeared before the committee, and it was a just one, from all the testimony, where the man had spent $350,000 and had a high-class, up-to-date derrick and drilling machinery, and everything upon the field he is working to-day, and was working two months ago, hoping every day to discover oil.

Mr. MONDELL. Mr. Speaker, I am anxious to have this legislation enacted. I do not agree with the view of the gentleman from California, but I think the Secretary of the Interior may be able to understand what the committee meant if we do

not change this language; furthermore, the bill goes to conference and can be modified there if it seems necessary, and so I ask unanimous consent to withdraw the amendment in order to avoid delay or a prolonged discussion of the matter.

The SPEAKER. The gentleman from Wyoming [Mr. MONDELL] asks unanimous consent to withdraw the amendment. Is there objection? [After a pause.] The Chair hears none.

The question is on the committee amendment as amended.

Mr. MONDELL. Mr. Speaker, I desire to be heard a moment in opposition to the committee amendment.

The SPEAKER. The gentleman has five minutes.

Mr. MONDELL. Mr. Speaker, I shall not offer an amendment, and I shall not oppose the committee amendment, and yet I regret the bill is not in a somewhat different form. I have no very clear idea, and I doubt if the members of the committee, all of them, have a very clear notion, what the Secretary of the Interior would do under the bill in the matter of impounding the product of wells or the receipts from such products. What seems to me he ought to do is to impound such a proportion of the receipts from these wells as would equal a good royalty, and retain that in event final decision as to title is against the claimant. What I fear is that the Secretary of the Interior might feel that, under the language of the bill, he was authorized and that it was his duty to impound the entire receipts.

Mr. RAKER. Will the gentleman yield right there?

Mr. MONDELL. In just a moment. And in case of an adverse decision, to retain the entire receipts, which in the case of expensive wells would mean bankruptcy to the claimant. Now, I hope the Secretary does not write that kind of an interpretation into the legislation, and I would like to have the view of the gentleman from California [Mr. RAKER] on that point.

Mr. RAKER. Why, the matter was thrashed out thoroughly before the committee. The officers of the Secretary of the Interior were present, and from the statement of the gentlemen from California who were here when the legislation was under consideration, it was understood that the condition was such that these men could not now sell their oil because——

Mr. MONDELL. I understand those conditions.

Mr. RAKER. But on that very proposition; and that the Secretary of the Interior, under this bill, would retain what would be a fair royalty in proportion to the amount of money that had been expended, and holding that until a final determination was had. Then, if the Government wins, it takes that proportion of the oil, and it goes into that fund, and if it is not in these two reserves, goes into the fund provided for by law.

Mr. MONDELL. This is an important matter, and I will say to my friend from California that two different people have written me in regard to it, asking me the same question—as to what portion of the receipts the Secretary is to impound. So the doubt does arise in the mind of one reading the bill whether it was anticipated under any circumstances that the Secretary could impound the entire receipts of a well and hold them, provided the case was against the entryman. That would be a gross injustice.

Mr. RAKER. It was intended that he could not do it.

Mr. FERRIS. I think there is no question he has the power to do it, and I think there is no question but that he ought to have the power to do it, but I do not think he has any intention of doing it.

Mr. MONDELL. Then you think he could retain the entire surplus?

Mr. FERRIS. I do not think there is any question about it; and even so, it would be better than it is now. The gentleman was the chairman of the committee and knows about these things, and I think the judgment of the commissioner ought to be considered sufficient, and it read to me as if it were sufficient. But the Land Department does not so hold. These gentlemen have courageously spent their money in the oil wells of the West. They are tied up, and they will be ruined unless you do something for them. This bill makes a working arrangement where the Secretary of the Interior can reserve the rights of the Federal Government and permit them to go forward.

Mr. MONDELL. I am in accord with the gentleman. I simply wanted it to be understoood that the interpretation of the committee was that there was to be impounded an amount that would be equivalent to a fair royalty in these cases. I only wish I could prevail on the House to accept an amendment that would make it clear that only a fair royalty could be retained.

Mr. FERRIS. Mr. Speaker, it is not ordinarily a good thing to talk after your case is won, and I know that is a good rule to follow, but I want to say a word in the face of things that have been said here. It is said the bill is meaningless to our understanding. This bill was put up to the Interior Department, next to the Navy Department, and next to the Department of Justice, and next to the commissioner, and it has run the gantlet of the committee and the gantlet of the gentleman from Illinois [Mr. MANN], who has gone over it. The bill is intelligible, and the department will know what to do under it, and in conjunction with the three orders—two Executive orders and the one known as the Pickett bill—the bill will accomplish what is desired.

Mr. BELL of California. May I ask if this bill is satisfactory to a number of gentlemen who came on and who are directly interested?

Mr. FERRIS. It is; and it is their burning desire to get it through, and if it goes through it will help them wonderfully.

The SPEAKER. The question is on agreeing to the committee amendment, in the nature of a substitute, as amended.

The committee amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. CHURCH, a motion to reconsider the vote whereby the bill was passed was laid on the table.

Mr. CHURCH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from California [Mr. CHURCH] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. CHURCH. Mr. Speaker:

Never stoops the soaring vulture
On his quarry in the desert,
On the sick or wounded bison,
But another vulture, watching
From his high aerial lookout,
Sees the downward plunge, and follows;
And a third pursues the second,
Coming from the invisible ether,
First a speck, and then a vulture,
Till the air is dark with pinions.
So disasters come not singly;
But as if they watched and waited,
Scanning one another's motions,
When the first descends, the others
Follow, follow, gathering flockwise
Round their victim, sick and wounded,
First a shadow, then a sorrow,
Till the air is dark with anguish.

The oil producers of California have had demonstrated to their hearts' content that "disaster comes not singly," for since the presidential withdrawal of September, 1909, the very air to them has been dark with anguish. Embraced within this withdrawn territory were many oil-producing wells for which patents had not yet been received; also several thousand acres on which locations in good faith had been made and boring and other development work were in actual progress. This condition, of course, was not contemplated or foreseen by the President when he made the withdrawal; nevertheless it closed all such oil wells, stopped all development, and spread consternation in the minds of those whose interests were thus involved. A number of operators and developers thus affected, who were financially able, started on what has proved to be an oft-repeated pilgrimage to Washington. Their purpose was to have corrected, if possible, the wrong which had been done them.

After the delegation had lobbied in Washington for four or five months they had the pleasure of seeing, on the 25th of June, 1910, what is known as the Pickett bill approved by the President of the United States. This bill gave them adequate protection along the present line of attack, and provided—

That the rights of any person who, at the date of any order of withdrawal heretofore or hereafter made, is a bona fide occupant or claimant of oil or gas bearing lands, and who at such date is in diligent prosecution of work leading to the discovery of oil or gas, shall not be affected or impaired by such order so long as such occupant or claimant shall continue in the diligent prosecution of said work.

Thus through the energy, intelligence, and self-sacrifice of the oil operators the relief law was passed, the wrong was in a belated manner corrected, and the oil men for a time escaped financial ruin.

The committee returned to the West, located their wives and children, gathered up the fragments of their broken business, opened up the old wells, and resumed development work again.

But no sooner had they replenished their pocketbooks, depleted by the expense and tips of travel, than another vulture of trouble, coming from a clear sky, pounced upon them. It did not first appear, however, in the form of a "speck," as in the poem, but came with all the hideous outlines of sure destruction. The trouble was simply this: The Interior Department made a

rule that the transfer of an oil claim was void, as far as passing title is concerned, unless prior thereto an actual discovery of oil had been made. This decision turned upside down all past theories and procedure and left the oil fields of the West in a hopeless and helpless condition. This decision, if it remained the law, meant the destruction and confiscation of the fortunes of thousands of people who had purchased land in the best of faith, buying, possibly, from parties who, after locating it in good faith and spending from twenty thousand to a hundred thousand dollars in the search for oil, were compelled to sell by reason of the fact that their available money was entirely gone. The present holders, whose titles were thus declared worthless, had spent in some instances hundreds of thousands of dollars and finally had been rewarded by the discovery of oil in large and paying quantities.

Be it remembered, the predicament in which the oil operators thus again found themselves was not their fault, but was caused through the gross negligence of the Government in not having laws applicable to the discovery of oil. There being no such laws, the prospector for oil was obliged to conform to the placer-mining law, which was only meant to apply to the discovery of gold, which provided first for a discovery, then the filing of a location notice, and last the performance of $100 worth of work each year in order to hold the claim. The discovery of oil before a legal claim to the land can be established is an impossibility, for the reason that oil is found from 2,000 to 4,000 feet underground instead of at the grass roots as in the case of gold, and an expense of from $20,000 to $100,000 is usually incurred in sinking the well before the discovery is made.

With this view of the situation it is clear the decision of the department rendered null and void nine out of ten of all of the claims in the various fields, owing to the fact that at least that per cent of the claims had been transferred by the original locator before the discovery of oil, it being generally the case that the fortune of the original locator was not great enough to bore a well of sufficient depth, after expending four or five thousand dollars for a derrick and drilling outfit. One can well imagine the plight of the purchaser who had reimbursed the locator for his time and money and had gone on with a multiplied expense as he went farther down, and after reaching his goal woke up to the fact that because of the transfer by the original locator he had no title, and that his well was located on withdrawn Government land.

What was to be done—another trip to Washington to correct a mistake made by the oil operator? No, but to correct a mistake made by the Government in not providing the operator with adequate and appropriate laws.

So the committee journeyed 3,500 miles across the continent to do lobbying again at the Capitol. And let me say right here, I believe that lobbying is necessary. We have little enough real information in regard to the subject matter of these far-reaching laws that we pass. I am persuaded that most of us are half clad with knowledge on many of the great subjects about which we legislate, and for one I like to have the persons most interested come to me and talk and give me facts and figures and reasons why. It is frequently through the activity of persons most interested that wrong conditions are corrected and oppressive laws repealed. I do not think our cup of knowledge is apt to become too full. I do not think the laws we pass are always right and just. I wish the Californians had done more lobbying before the passage of the late tariff law. I wish the great committee had been better supplied with knowledge in regard to some of the great western industries before they spoke. Shortsighted as we are, we never see too far. Dull of comprehension, our cup of information is never full. I do not believe in the infallibility of political parties any more than I do in the infallibility of men. I believe in the Democratic Party because it is nearly always right; but if I had the writing of the next Democratic national platform I would leave the time-worn tariff plank completely out, not because our views are wrong but because no political party should hold the destiny of all the business interests in this country in its hand. It causes instability, financial uncertainty, and unrest. It paralyzes business of all kinds during general election times. Generally men are politicians, not statesmen, when they first come as Representatives to Washington. Little do they know and little opportunity have they had to know the details of the complex tariff schedules and general bewildering tariff law. The majority of us would have to employ five years or more of constant study before we would be well enough informed to cast a real intelligent vote.

I want to see this matter in the future handled in a business way by a nonpartisan commission, composed of the wisest and all-around biggest men this country can produce, and have them serve during good behavior for a long period of years. Pay them an annual salary sufficient to guarantee the best business brains that can possibly be found, and let them, without fear or favor, dig and work the matter out.

But I have wandered from the subject of oil. What did the committee do on this second trip to Washington? They remained for several months, and finally had the situation satisfactorily cleared up by seeing the Smith bill approved by the President on the 2d of March, 1911, which provides:

That in no case shall patent be denied to or for any lands heretofore located or claimed under the mining laws of the United States containing petroleum, mineral oil, or gas solely because of any transfer or assignment thereof or of any interest or interests therein by the original locator or locators, or any of them, to any qualified person or persons or corporation prior to discovery of oil or gas therein; but if such claim is in all other respects valid and regular, patent therefor, not exceeding 160 acres in any one claim, shall issue to the holder or holders thereof as in other cases: *Provided, however*, That such lands were not at the time of inception of development on or under such claim withdrawn from mineral entry.

And thus again the vultures were driven from the sky and again the oil operators began to breathe the air of content.

But, alas, little did they know what the future had in store. Detectives clad with gum shoes were quietly working in their midst, and it was soon discovered that in originally locating these oil lands some locators had used the names of parties who really were not interested in the land. In other words, in following the placer-mining law in locating 160 acres by the joint effort of eight, some of the eight in some instances were uncles, cousins, or aunts, who really did not know or care a rap about the claim.

Two or three suits were brought—properly, I do not doubt—against parties holding such claims, the theory being the claims were not legally located. In these suits those who had purchased the oil taken from such land in question were also made codefendants. As a result of this last act the oil fields were again thrown into utter and hopeless confusion. These new oil fields have entailed an overwhelming amount of work on the Interior Department, and it is several years behind in passing upon the application for patents, and as a result hundreds have not applied for patents who otherwise would have, and hundreds who have applied have not had the matter settled in the Interior Department, and as a result about half of the claims and oil wells in these western fields are held and operated under the original claim, the owner not having yet received his patents. The result of making the oil purchasers codefendants caused oil buyers to cease to purchase oil from any of these lands to which a patent has not yet been issued, the prospective purchaser not knowing, as long as the patent had not been issued, but that the Government might some time in the future institute suit against the holder of the well and make him, in case he bought the oil, a codefendant in the suit. This fear has worked like a temporary injunction to prevent any further sale of oil on lands to which a patent has not yet been granted.

And so the last state of the oil men is worse than the first.

What could they do? Another trip to Washington! And so the committee came again and have been here six months or more. They have appeared before the Public Lands Committee on several occasions, and I have worked out, with the aid of the committee, two bills calculated to give to them the much-needed relief. The one we are now considering, Senate bill 5673, companion to House bill 15469, provides that the Secretary of the Interior may enter into an agreement with all parties who have not yet received a patent, pending their application for the same, whereby they may sell their oil, the Secretary holding enough of the same so the Government will be safe in case the patent application is finally not allowed.

This plan enables the operator to open up his now closed wells and start his rusty machinery and begin to work and live again. No one can lose anything by the passage of this bill. Its passage is necessary in order to relieve an intolerable situation which, as in the case of all the other calamities which have befallen the oil operators of my district, was brought on not through the fault of the oil men but through the act of the Government.

House bill 15661, which will come up and pass, I hope, in the near future, is another relief measure which has been reported favorably by our committee. It in substance provides that any person who has an oil well but as yet has not received a patent for his claim, may, if he sees fit, surrender his right for a patent and take a lease from the Government with the understanding that the Government is not to receive more than an eighth royalty of the oil produced. There is no legitimate argument that can be urged against the passage also of this bill. Before the operator can take advantage of its provisions he must have bored a well and discovered oil, the very thing the Government is encouraging everywhere.

Gentlemen, the oil operators in the West do not deserve the treatment they have received. The obstacles which nature has placed in their way are quite enough. Their oil fields are located in a desolate and forbidden land, on a desert bleak and bare, where nothing but sagebrush grows, and the oil man's derrick is all that can be seen to interrupt the wailing, lonesome winds. Drinking water is many miles away, and in summer time the sun's rays can scarcely be endured. At the start there were no railroad nor wagon roads nor transportation lines. The oil is deep, often hidden beneath 4,000 feet of earth and rock.

The men for whom I speak have redeemed this land. Their energy, money, and pluck have made it rich. The natural obstacles have been cast aside as men of straw, but the legal entanglements have perplexed and vexed them sore. Their cause is just, unquestioned as far as I know by any honest, thoughtful man. The passage of these bills will clear up the situation and enable the operators to feel their labors have not altogether been in vain. I sincerely trust the gentlemen of this House, realizing the embarrassing situation under which my constituents have been placed, will freely grant the relief which is so necessary and so much desired.

The SPEAKER. The Clerk will report the next bill.

ADDITIONAL LAND FOR PUBLIC BUILDING, RICHMOND, VA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 11822) to acquire, by purchase, condemnation, or otherwise, additional land for the post office, courthouse, and customhouse in the city of Richmond, Va.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed, in his discretion, to acquire, by purchase, condemnation, or otherwise, the remainder of the block bounded by Main, Tenth, Eleventh, and Bank Streets, in which the post office, courthouse, and customhouse in the city of Richmond, Commonwealth of Virginia, is located, at a cost not exceeding $600,000.

With a committee amendment, as follows:

Page 1, line 9, after the word "exceeding," strike out the figures "$600,000" and insert "$450,000," and add the following proviso: "*Provided*, That in the judgment of the Secretary of the Treasury the public interest would be better served by acquiring said property than by acquiring another site for additional post-office facilities."

The SPEAKER. Is there objection to the consideration of the bill?

There was no objection.

The SPEAKER. This bill is on the Union Calendar.

Mr. MONTAGUE. I ask unanimous consent, Mr. Speaker, that it may be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Virginia [Mr. MONTAGUE] asks unanimous consent that the bill be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Page 1, line 9, after the word "exceeding," strike out "$600,000" and insert "$450,000," and add the following proviso: "*Provided*, That in the judgment of the Secretary of the Treasury the public interest would be better served by acquiring said property than by acquiring another site for additional post-office facilities."

The SPEAKER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. MONTAGUE, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The SPEAKER. The Clerk will report the next bill.

FORT HAYS MILITARY RESERVATION, KANS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 14155) to amend an act of Congress approved March 28, 1900 (Stat. L., p. 52), entitled "An act granting to the State of Kansas the abandoned Fort Hays Military Reservation, in said State, for the purpose of establishing an experiment station of the Kansas State Agricultural College and a western branch of the State Normal School thereon, and for a public park."

The Clerk read the bill, as follows:

Be it enacted, etc., That an act of Congress approved March 28, 1900 (Stat. L., p. 52), entitled "An act granting to the State of Kansas the abandoned Fort Hays Military Reservation, in said State, for the purpose of establishing an experiment station of the Kansas State Agricultural College and a western branch of the State Normal School thereon, and for a public park," be, and the same is, amended to read as follows:

"That the abandoned Fort Hays Military Reservation and all the improvements thereon, situated in the State of Kansas, be, and the same are hereby, granted to said State upon the conditions that said State shall establish and maintain perpetually thereon, first, an experiment station of the Kansas Agricultural College or a State agricultural college and experimental station; second, a western branch of the Kansas State Normal School or a State normal school, and that in connection therewith the said reservation shall be used and maintained as a public park: *Provided*, That said State shall, within five years from and after the passage of this act, accept this grant, and shall by proper legislative action establish on said reservation an experiment station of the Kansas Agricultural College or a State agricultural college and experimental station, and a western branch of the State Normal School or a State normal school; and whenever the lands shall cease to be used by said State for the purpose herein mentioned the same shall revert to the United States: *Provided further*, That the provisions of this act shall not apply to any tract or tracts within the limits of said reservation to which a valid claim has attached, by settlement or otherwise, under any of the public-land laws of the United States.

With a committee amendment, as follows:

Add at the end of the bill, line 1, page 3, the following proviso:

"*Provided*, That nothing contained in this act shall be construed to entitle the State of Kansas to any additional appropriation out of the Treasury of the United States."

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. This bill is on the Union Calendar.

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent that the bill may be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Kansas [Mr. CAMPBELL] asks unanimous consent that the bill may be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Add, at the end of the bill, line 1, page 3, the following proviso:

"*Provided*, That nothing contained in this act shall be construed to entitle the State of Kansas to any additional appropriation out of the Treasury of the United States."

Mr. MANN. Mr. Speaker, I would like to ask the gentleman from Kansas [Mr. CONNELLY], who is the author of this bill, whether this does any more than change the present authority from a branch of a normal school to a State normal school? I will ask the gentleman's colleague [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Speaker, answering the question of the gentleman from Illinois, the bill simply makes this grant to a branch for an independent institution for an agricultural school. The object of the bill is to establish an independent school at Hayes City. Heretofore there have been some branch schools in the State, and a year or two ago the policy was adopted of making these schools independent instead of branches in the State, and it was necessary in order to carry out that policy to get this grant made to the independent schools as well as to the branch, as provided in the original act.

The sole purpose is to give the authority to establish an independent school.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

On motion of Mr. MURDOCK, a motion to reconsider the last vote was laid on the table.

MALAMBO FIRE CLAIMANTS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 12060) to enable the Secretary of War to pay the amount awarded to the Malambo fire claimants by the joint commission under article 6 of the treaty of November 18, 1903, between the United States and Panama.

The Clerk read the title of the bill.

Mr. MANN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois objects. The bill will be stricken from the Calendar for Unanimous Consent, and the Clerk will report the next bill.

PUBLIC BUILDING AT BANGOR, ME.

The next business on the Calendar for Unanimous Consent was the bill (S. 3176) to increase the limit of cost of the public building at Bangor, Me.

The bill was read, as follows:

Be it enacted, etc., That the limit of cost of the public building at Bangor, Me., be, and the same is hereby, increased $40,000, and the building shall be so constructed that all of its exterior facades shall be faced with stone.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. This bill is on the Union Calendar.

Mr. GUERNSEY. I ask unanimous consent to consider it in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Maine asks unanimous consent that the bill be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

On motion of Mr. GUERNSEY, a motion to reconsider the last vote was laid on the table.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

Mr. FOSTER. Will the gentleman withhold that?

Mr. MANN. I withdraw the point of no quorum for the present.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 6084. An act to grant the consent of Congress for the county of Pulaski, State of Arkansas, to construct a bridge across the Arkansas River between the cities of Little Rock and Argenta, Ark.;

S. 5446. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 5207. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 4261. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 4845. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 5843. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 5575. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 3761. An act for the relief of Matthew Logan;

S. 1149. An act for the relief of Seth Watson;

S. 6101. An act to grant the consent of Congress for the city of Lawrence, county of Essex, State of Massachusetts, to construct a bridge across the Merrimac River;

S. 663. An act for the relief of Thomas G. Running;

S. 4023. An act for the relief of Waldo H. Coffman; and

S. 1803. An act for the relief of Benjamin E. Jones.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution of the following title, when the Speaker signed the same:

H. J. Res. 312. Joint resolution for the relief, protection, and transportation of American citizens in Europe, and for other purposes.

ENROLLED JOINT RESOLUTION PRESENTED TO PRESIDENT FOR APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following House joint resolution:

H. J. Res. 312. Joint resolution for the relief, protection, and transportation of American citizens in Europe, and for other purposes.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House of Representatives was requested:

S. J. Res. 169. Joint resolution authorizing the President to accept an invitation and to appoint delegates to participate in the International Conference on Social Insurance;

S. 5798. An act authorizing the health officer of the District of Columbia to issue a permit for the removal of the remains of the late Earl A. Bancroft from Glenwood Cemetery, District of Columbia, to Mantorville, Minn.;

S. J. Res. 165. Joint resolution authorizing the President to extend invitations to other nations to send representatives to the International Dry Farming Congress to be held at Wichita, Kans., October 7 to 17, inclusive, 1914; and

S. 5259. An act to establish one or more United States Navy mail lines between the United States and South America and between the United States and the countries of Europe.

HOUR OF MEETING TO-MORROW.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent that when the House adjourns to-night it adjourn to meet at 11 o'clock to-morrow.

The SPEAKER. The gentleman from Alabama asks unanimous consent that when the House adjourns to-day it adjourn to meet to-morrow morning at 11 o'clock. Is there objection?

There was no objection.

LEAVE OF ABSENCE.

By unanimous consent (at the request of Mr. BARNHART) leave of absence was granted to Mr. PETERSON, on account of illness.

LEAVE TO EXTEND REMARKS.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from California asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 17 minutes p. m.) the House adjourned until Tuesday, August 4, 1914, at 11 o'clock a. m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. WEBB, from the Committee on the Judiciary, to which was referred the bill (H. R. 17869) providing for the appointment of an additional district judge for the southern district of the State of Georgia, reported the same without amendment, accompanied by a report (No. 1059), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. GRAHAM of Illinois, from the Committee on the Public Lands, to which was referred the bill (H. R. 17330) to authorize the sale and disposal of an island in the Coosa River in the State of Alabama, reported the same with amendment, accompanied by a report (No. 1067), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. POU, from the Committee on Claims, to which was referred the bill (S. 604) for the relief of Sarah A. Clinton and Marie Steinberg, reported the same without amendment, accompanied by a report (No. 1068), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. CRAMTON: A bill (H. R. 18198) authorizing the Secretary of War, in his discretion, to deliver to the city of Bad Axe, in the State of Michigan, four condemned bronze or brass cannon, with their carriages and outfit of cannon balls, etc.; to the Committee on Military Affairs.

By Mr. FERGUSSON: A bill (H. R. 18199) to enlarge and extend the Federal building for post office and other purposes at Albuquerque, N. Mex.; to the Committee on Public Buildings and Grounds.

By Mr. HAYDEN: A bill (H. R. 18200) authorizing the Secretary of the Interior to issue patent to the city of Phoenix, Ariz., for certain lands, and for other purposes; to the Committee on the Public Lands.

By Mr. McCOY: A bill (H. R. 18201) to authorize the appointment of shorthand reporters for the district courts of the United States and for the Supreme Court of the District of Columbia, to fix the manner of their appointment, their duties and compensation, and for other purposes; to the Committee on the Judiciary.

By Mr. HELM: A bill (H. R. 18203) amending sections 1, 2, 3, 7, and 8 of an act entitled "An act to authorize the Director of the Census to collect and publish additional statistics of tobacco," approved April 30, 1912; to the Committee on the Census.

By Mr. DEITRICK: A bill (H. R. 18204) authorizing the Secretary of Commerce to rent, lease, build, or purchase ocean-going vessels or ships and to man and equip the same for the purpose of engaging in the foreign and domestic commerce of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. KAHN: A bill (H. R. 18205) to authorize the Commissioners of the District of Columbia to make regulations defining the rate of speed of vehicles within the District of Columbia; to the Committee on the District of Columbia.

By Mr. SUTHERLAND: A bill (H. R. 18206) to authorize the President to transport citizens of the United States and their families from ports of Europe and Great Britain to ports of the United States; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GRAY: A bill (H. R. 18207) granting an increase of pension to Mary C. Kitchen; to the Committee on Invalid Pensions.

By Mr. HOWARD: A bill (H. R. 18208) granting a pension to Allen M. Jackson; to the Committee on Pensions.

By Mr. HUMPHREYS of Mississippi: A bill (H. R. 18209) for the relief of S. Ellen Boyd, administratrix of the estate of Mary Dean, deceased; to the Committee on War Claims.

By Mr. KENNEDY of Rhode Island: A bill (H. R. 18210) granting an increase of pension to Henry S. Merrill; to the Committee on Invalid Pensions.

By Mr. KIRKPATRICK: A bill (H. R. 18211) granting an increase of pension to Edward A. Duncan; to the Committee on Invalid Pensions.

By Mr. LANGHAM: A bill (H. R. 18212) granting a pension to Mary Edith Myers; to the Committee on Invalid Pensions.

By Mr. McGILLICUDDY: A bill (H. R. 18213) granting an increase of pension to Hattie E. Pray; to the Committee on Invalid Pensions.

By Mr. MOON: A bill (H. R. 18214) granting an increase of pension to James Layne; to the Committee on Invalid Pensions.

By Mr. PAIGE of Massachusetts: A bill (H. R. 18215) granting a pension to Susan A. Thompson; to the Committee on Invalid Pensions.

By Mr. REILLY of Connecticut: A bill (H. R. 18216) granting an increase of pension to Anna Z. Monson; to the Committee on Invalid Pensions.

By Mr. STEPHENS of Texas: A bill (H. R. 18217) granting a pension to Julia A. Buckles; to the Committee on Invalid Pensions.

By Mr. TAVENNER: A bill (H. R. 18218) for the relief of Harry C. Twomey; to the Committee on Naval Affairs.

By Mr. WALKER: A bill (H. R. 18219) for the relief of the heirs at law of S. S. Barnard; to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions of the Interstate Cotton Seed Crushers' Association, urging the repeal of the present oleomargarine law, etc.; to the Committee on Ways and Means.

Also (by request), petition of the International Longshoremen's Association, urging the speedy passage of the rivers and harbors bill; to the Committee on Rivers and Harbors.

By Mr. ALLEN: Petitions of sundry citizens of Cincinnati, Ohio, protesting against national prohibition; to the Committee on Rules.

Also, petition of 104 citizens of Cincinnati, Ohio, protesting against national prohibition; to the Committee on Rules.

By Mr. BURKE of Wisconsin: Petition of 1,002 citizens of the second congressional district of Wisconsin, protesting against national prohibition; to the Committee on Rules.

By Mr. BUTLER: Petition of Wilde Circle, No. 129, Ladies of the Grand Army of the Republic, of Chester, Pa., protesting against any change in the flag; to the Committee on the Judiciary.

By Mr. CARY: Petition of Gus Recchart, John Pelkofer, Andrew Pfenning, jr., Christ Mylin, all of Milwaukee, Wis., protesting against House joint resolution No. 168 or any other prohibition measures; to the Committee on Rules.

By Mr. EAGAN: Petition from Branch No. 19, at West Hoboken, N. J., of the Workmen's Sick and Death Benefit Fund of the United States, against national prohibition; also petitions of the First Baptist Church of West Hoboken, and Christian Endeavor Society of First Baptist Church of West Hoboken, favoring nation-wide prohibition; to the Committee on Rules.

By Mr. FERGUSSON: Petitions of the Methodist Episcopal Church, by its pastor, Rev. Thomas L. Lallance; of the First Methodist Episcopal Church, by its pastor, Rev. H. Van Valkenburgh; of the Woman's Christian Temperance Union, by its president, Mrs. E. Werline, and its secretary, Miss Marie Holt, all of Roswell, N. Mex., favoring national prohibition; to the Committee on Rules.

Also, petitions of 201 citizens of Farmington, N. Mex., transmitted by Miss Daisy Smith, of Farmington, N. Mex., favoring national prohibition; to the Committee on Rules.

By Mr. KETTNER: Petitions of citizens and organizations of San Diego, Cal., against national prohibition; to the Committee on Rules.

Also, petitions of citizens of California, favoring national prohibition; to the Committee on Rules.

By Mr. LOBECK: Petition of Franciscan Monastery and St. Joseph's Catholic Church, 75 people, and sundry citizens, of Omaha, Nebr., protesting against national prohibition; to the Committee on Rules.

Also, petition of 30 citizens of Elk City, Nebr., favoring national prohibition; to the Committee on Rules.

Also, memorial of Denver (Colo.) Branch of the National Association of Bureau of Animal Industry Employees, favoring H. R. 9292; to the Committee on Agriculture.

By Mr. McGILLICUDDY: Memorial of citizens of Lewiston, Me., protesting against national prohibition; to the Committee on Rules.

By Mr. MERRITT: Petition of the Advent Christian Church, of Massena, N. Y., favoring national prohibition; to the Committee on Rules.

Also, petition of Allen B. Cook, of Massena, N. Y., favoring national prohibition; to the Committee on Rules.

Also, petition of Allen B. Cook, of Massena, N. Y., favoring the appointment of a national motion-picture commission; to the Committee on Education.

By Mr. MOON: Papers to accompany bill granting increase of pension to James Layne, of Marion County, Tenn.; to the Committee on Invalid Pensions.

By Mr. MOORE: Thirty-six circular letters from sundry citizens of Philadelphia, Pa., protesting against national prohibition; to the Committee on Rules.

By Mr. NEELY of West Virginia: Petitions of W. H. Jenkins, Charles E. King, and Allen A. Everhart, of Cameron; S. E. Falch, Wheeling; and Lockwood Emmons, of Clarksburg, all in the State of West Virginia, protesting against national prohibition; to the Committee on Rules.

By Mr. J. I. NOLAN: Protest of John W. Maher, 229 Twelfth Street, San Francisco, Cal., and sundry other citizens, against the passage of the Hobson nation-wide prohibition amendment; to the Committee on Rules.

Also, protest of the Retail Delivery Drivers' Union, San Francisco, Cal., against the passage of the Hobson nation-wide prohibition amendment; to the Committee on Rules.

Also, petitions of sundry citizens of the State of California, favoring the passage of the prohibition constitutional amendment; to the Committee on Rules.

By Mr. PAIGE of Massachusetts: Petitions of 85 citizens of Fitchburg, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. PAYNE: Petition of citizens of Hopewell Center, Seneca Castle, Baptist and Disciple Churches at Keuka Park, and E. D. Avery, of Phelps, all in the State of New York, favoring national prohibition; to the Committee on Rules.

By Mr. PETERS of Maine: Petitions of sundry citizens of Monroe, Waldo County, Me., favoring national prohibition; to the Committee on Rules.

By Mr. SCULLY: Petitions of John J. Keller and others, of New Brunswick, N. J., protesting against national prohibition; to the Committee on Rules.

By Mr. TEN EYCK (by request): Petition of the Halderberg Reformed Church, Guilderland Center, N. Y., signed by the pastor, Rev. E. O. Moffett, in favor of the Hobson prohibition resolution; to the Committee on Rules.

SENATE.

TUESDAY, *August 4, 1914.*

(Legislative day of Monday, August 3, 1914.)

The Senate reassembled at 11 o'clock a. m. on the expiration of the recess.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

The VICE PRESIDENT. The Senator from Rhode Island [Mr. LIPPITT] is entitled to the floor.

Mr. SMOOT. Will the Senator from Rhode Island yield?

Mr. LIPPITT. I yield.

Mr. SMOOT. Before the Senator begins his remarks I believe the Senate ought to have a quorum present, and I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Brady	Gronna	Nelson	Smoot
Brandegee	Hitchcock	Newlands	Stone
Bristow	Johnson	Norris	Sutherland
Burton	Jones	O'Gorman	Swanson
Camden	Kenyon	Overman	Thomas
Chamberlain	Kern	Page	Thompson
Chilton	Lane	Perkins	Thornton
Clapp	Lea, Tenn.	Pittman	Tillman
Clark, Wyo.	Lee, Md.	Pomerene	Vardaman
Clarke, Ark.	Lippitt	Reed	Walsh
Colt	McCumber	Saulsbury	West
Culberson	McLean	Shafroth	White
Cummins	Martin, Va.	Sheppard	
Fall	Martine, N. J.	Simmons	
Gallinger	Myers	Smith, Ga.	

Mr. PAGE. I announce the necessary absence of my colleague [Mr. DILLINGHAM]. He is paired with the senior Senator from Maryland [Mr. SMITH].

Mr. JONES. I desire to announce that the Senator from Michigan [Mr. TOWNSEND] is necessarily absent. He is paired with the junior Senator from Arkansas [Mr. ROBINSON]. This announcement will stand for the day.

Mr. CLARK of Wyoming. I desire to announce the unavoidable absence of my colleague [Mr. WARREN], who is paired with the Senator from Florida [Mr. FLETCHER].

I was also requested to announce the unavoidable absence of the junior Senator from West Virginia [Mr. GOFF], who is paired with the senior Senator from South Carolina [Mr. TILLMAN].

Mr. GALLINGER. I wish to announce the unavoidable absence of the junior Senator from Maine [Mr. BURLEIGH], who is paired with the junior Senator from New Hampshire [Mr. HOLLIS].

Mr. KERN. I desire to announce the unavoidable absence of my colleague [Mr. SHIVELY]. He is paired. This announcement will stand for the day.

Mr. WHITE. I wish to announce the necessary absence of my colleague [Mr. BANKHEAD] and to state that he is paired. This announcement may stand for the day.

Mr. JONES. I desire to announce that the senior Senator from Wisconsin [Mr. LA FOLLETTE] is necessarily absent on account of illness. This announcement will stand for the day.

The VICE PRESIDENT. Fifty-seven Senators have answered to the roll call. There is a quorum present. The Senator from Rhode Island will proceed.

Mr. LIPPITT. Mr. President, last night I introduced an amendment to the pending bill, as follows:

On page 15, at the end of line 3, after the word "each," insert:

> And no person who is or has been a member of the commission shall be eligible for any other office under the United States until after a period of one year from the time he ceases to be a commissioner.

That is a committee amendment.

Mr. NEWLANDS. That amendment is acceptable to the Committee on Interstate Commerce, and I ask for a vote upon it.

The VICE PRESIDENT. The question, then, is on the amendment.

Mr. GALLINGER. What is the amendment?

Mr. CULBERSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Texas?

Mr. LIPPITT. I yield.

Mr. CULBERSON. I understood the Senator had yielded the floor on this amendment. We can not take a vote while a Member occupies the floor.

Mr. LIPPITT. I offered the amendment, and it was accepted by the committee. I do not know what the technical situation about it is. The Senator from Texas wants the floor?

Mr. CULBERSON. I wish to suggest an amendment to the amendment—before the word "office" to insert the word "statutory."

Mr. NEWLANDS. I have no objection to that.

Mr. CULBERSON. So that the amendment would not apply to offices where the Constitution names the qualifications.

Mr. NEWLANDS. I think the Senator from Rhode Island had better accept it.

Mr. LIPPITT. To what offices would it apply?

Mr. CULBERSON. The purpose of the amendment would be to exclude Senators and Representatives, because they are constitutional officers. Their qualifications in my judgment are fixed by the Constitution and are beyond the reach of Congress.

Mr. GALLINGER. Mr. President, an amendment is being discussed that at least one Senator has not the least knowledge of. I wish that it might be read.

The VICE PRESIDENT. The Secretary will reread the amendment.

The SECRETARY. The Senator from Rhode Island offers the following amendment to the proposed substitute of the committee:

> On page 15, line 3, after the word "each" and the period, at the end of the line, insert:
> "And no person who is or has been a member of the commission shall be eligible for any other office under the United States until after a period of one year from the time he ceases to be a commissioner."

To that proposed amendment the Senator from Texas [Mr. CULBERSON] offers the following:

> Before the word "office" insert the word "statutory," so that if amended it will read:
> "And no person who is or has been a member of the commission shall be eligible for any other statutory office under the United States," etc.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Texas to the amendment.

Mr. LIPPITT. Mr. President, the purpose of this amendment was to relieve as far as possible the members of this commission from being in a position where they would be suspected of being not entirely fair in their proceedings by the possession of any ambition or desire to occupy a political office. One point I had in my mind was that they should not be candidates for Representative and Senator or for any other elective office before the people. It is of the greatest importance to the establishing of the confidence of the people in the impartiality of their judgment, their decisions and actions, that they should be free from any taint of political ambition in connection with it.

So far as the legal aspect of this matter goes, of course I am not competent to pass upon it. If it is unconstitutional to make such a provision as this amendment calls for, to apply to such officers as Representatives and Senators, of course it is useless for us to pass the amendment in a form that would do that. But when the subject was under discussion by the committee on two or three occasions I was informed by men of high standing in the legal profession that it did not conflict with any constitutional provision. If it does not conflict with a constitutional provision, I hope the amendment to the amendment will not be favorably acted upon.

Mr. SUTHERLAND. Mr. President, as I understand the purpose of the amendment offered by the Senator from Rhode Island, it is, among other things, to render ineligible any member of this commission to the office of Member of Congress in either branch. I am very much in sympathy with the purpose which the Senator from Rhode Island has in view. I think if we have the power to impose such a limitation it would be a very wholesome provision. But I call the attention of the Senator from Rhode Island to the fact that the Federal Constitution prescribes the qualifications of Members of Congress—that a Member of the House shall be of a certain age and a resident of the State for a certain number of years—and there is the same sort of a provision with reference to a Member of the Senate. It has been repeatedly held in the Senate, and I think in the House, but I know in the Senate, that there is no power to superadd to those constitutional qualifications, if for no other reason, because there is another provision of the Constitution which provides that—

> Each House shall be the judge of the elections, returns, and qualifications of its own Members.

Each House being the judge, and that would mean of course the sole judge, Congress is powerless to pass a law which would in any manner interfere with that authority upon the part of each House.

In other words, if we passed a law of this kind, and notwithstanding it a member of this commission were elected to the

Senate, the Senate under the constitutional provision which makes it the sole judge could simply disregard the congressional law.

That question has arisen in a number of election cases that have come up from time to time in the Senate, and the proposition which I am stating, I think, can not be doubted.

Therefore, while I am in entire sympathy with the Senator's proposition, if we have the power to pass it, because I take that view of it, I should feel constrained to vote against it in the terms in which the Senator presents it.

Mr. McCUMBER. Mr. President——

Mr. LIPPITT. If I may be allowed, I understand the Senator from Utah thinks that the amendment the Senator from Texas suggests, introducing the word "statutory," would cover that ground.

Mr. SUTHERLAND. Undoubtedly it would take from the amendment the objection which I have suggested. Whether or not it would then limit it to such an extent as to be practically of no consequence is another question.

Mr. McCUMBER. If the Senator will allow me, admitting, as I think we all do, that Congress has no authority to fix limitations or qualifications for the position or office of Senator or Representative, nevertheless would it not be a good thing to place this provision in the bill just as it is offered by the Senator from Rhode Island? The very most that its operation could do would be to deter an officer who has accepted a position under the provisions of the law from voluntarily becoming a candidate for the office of Senator or Representative. As a matter of course, if, despite the law which admonishes him against accepting such a position, he nevertheless would become a candidate and be elected, the law which we have passed would not, of course, unseat him or prevent him from taking the oath of office and serving.

But, Mr. President, I do not believe that there are many persons who would accept a position under a law of this kind which, while it could not legally prevent a man from becoming a candidate, would in effect indicate to him that the law was passed with the idea and that he has been appointed with the idea that he shall not become a candidate for either of these positions. Certainly it would not make the entire law unconstitutional. The very most that could be claimed for it would be that it would be ineffective if one of these officers desired to become a candidate. Therefore I hope, even though it would not be effective against the officer, for its good effect upon the service which he is to perform, that the amendment may go through as proposed by the Senator from Rhode Island [Mr. LIPPITT].

Mr. LIPPITT. Mr. President——

Mr. CULBERSON. Question!

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Texas [Mr. CULBERSON] to the amendment of the Senator from Rhode Island [Mr. LIPPITT].

Mr. REED. Has the Senator from Rhode Island yielded the floor, or is he on his feet to make a speech?

Mr. LIPPITT. I was going on to make some remarks about the bill, but this amendment has been brought up, and I presume that I do not retain the floor under the circumstances. So I yield the floor for the consideration of the amendment, and intend, after the amendment is disposed of, with the consent of the Senate, to make a few remarks on the bill.

Mr. REED. Mr. President, I want to make a suggestion regarding this proposition. With the purpose of the author I have no quarrel. If it is desired to place this board in a position where it is entirely above and beyond influence, isolated from all of those things which usually affect human beings, and if that can be accomplished by the amendment, well and good; but it seems to me that the amendment will have just the opposite effect from that which is intended by its author.

What do we propose to do? We propose to say to the members of this commission, "You can not accept any public office after you have served upon this commission until one year's time has elapsed; we bar you from seeking honors or profits from the public." Therefore we cut off every incentive to serve the public, and to serve the public so well that the public might desire to reward by further honors the individual holding the office.

There are two opposing forces working constantly on a commission of this kind. One is the great public, desiring its rights protected; the other is the trust, the combination, the gentleman who is restraining trade, the individual who has, as we think, made this commission a necessity under our system of government. You can not cut that influence off. You can say to these men, "No matter how well you do by the public, no matter how thoroughly you protect the public interest, you can not have any public office"; but you can not say to them, "If you serve well the interests that have to be brought before this tribunal and decide questions in their favor, you can not take employment from them." As long as the employment is open and the temptation is present, springing from the great interests that will have their cases before this board, I think we ought to leave also open to these men the chance for popular favor and popular advancement; and I think the people, when they come to an election, as suggested by the Senator from Mississippi [Mr. VARDAMAN], are fully capable of taking care of their business.

It seems to me utterly wrong to say to a member of that board, "You can not obtain political favor or advancement," and leave the question open for favor and advancement from the opposing interests, to wit, the great trusts and combinations.

Mark you, the evil that we have had illustrations of in this country, and which led to a clause being written into the banking and currency act, was not an evil arising from the public advancement of these men, but from the advancement by the great financial interests of men who had held public office. It grew almost into a scandal here that men who held certain positions in the Treasury Department would be taken from those positions at a higher salary and placed in great banks and trust companies; and the suspicion arose that men might be tempted by the offer of such positions to modify their judgments while in official positions. Consequently we sought to prohibit that. Now, we turn around and say, under this bill, "You shall not have any public position, but the temptation which has been the occasion of restrictive legislation along this line will still exist. You can serve the public never so well upon this commission, but you can not have a public office and the public can not advance you, no matter how necessary you may be. Nevertheless, you can leave this commission at any hour and go to work for the interests that have had litigation before the commission."

Of course, I would like to take the view that men would not be swerved by either motive, but if we are to deal with them as though they would be swerved by such methods, then, certainly, we ought not to cut off the opportunity to public advancement while we leave open the door for private emolument and profit.

Mr. LIPPITT. Mr. President, what the Senator from Missouri [Mr. REED] so concisely points out is true, that the members of this commission will be subject to influences of various kinds; it is true that they may be subject to influences of bribery, which may take the form either of dollars and cents or some important position in connection with private affairs. We want to guard against that in every way that it is possible to guard against it. I raise no objection to that position at all. I would surround this commission with every safeguard of which I could think to prevent them being subjected to any influence, public or private.

The fact is that the members of this commission are going to be in a peculiar position, because they are, in the first place, going to have the duty and power of investigating and collecting material upon which to bring charges against people in this country, and after they have collected that evidence they then begin to act in their judicial capacity and themselves pass upon the weight of that evidence.

Their power is greater, therefore, in this respect than the power of the courts or the power of the Attorney General; and, in a peculiar way, the necessity arises for taking every step that we can take to remove them not only from the danger of being actuated by improper motives, but from the suspicion of improper motives on the part of the public at large. The proper performance of the duties of this commission will depend very largely upon their having the confidence of the public.

There are laws against bribery; and although sometimes they are very difficult to enforce, still they exist. It did seem to me that it would be eminently proper, in putting into the hands of this commission the enormous and unparalleled powers we propose to give them, to see if some precautionary steps might not be taken, at least, to indicate to them that in accepting a position on the commission they set themselves apart, so far as it is possible for human nature to set itself apart, from the ordinary influences that govern the actions of private individuals in such a way as sometimes to make them partial and prejudiced and unfair; to insure that these men in reaching their conclusions shall render verdicts based on the facts of the case alone, uninfluenced by any desire to secure a reward of any kind for themselves.

The Senator from Missouri well knows that there are frequently times of popular excitement in this country when the people, uninformed perhaps of the real status of the case, think they want something which a short time afterwards

they are very glad they failed to get. Sectional influences may have their effect in connection with such matters. It is not necessary for me to detail them to so astute a mind as that of the Senator from Missouri; but, as I think, Mr. President, it is a very wise thing to try to eliminate from this commission every suspicion of unfairness that we can.

That was all the motive I had in suggesting the amendment. I will be glad to support any amendment which the Senator from Missouri can think of that will make it difficult for the members of this commission to be subject to the influence of any private individual. I have no quarrel with him on that ground.

Mr. O'GORMAN. Mr. President, if the suggestion embodied in the amendment offered by the Senator from Rhode Island were made general law, it would be far less offensive than it is in its present shape, when it is directed to officials provided for in a pending piece of legislation. If the Senator from Rhode Island believes that public confidence in the commission will be promoted by his suggestion, I think he is likely to be disappointed. How can we promote or invite public confidence in the integrity of public officials when in the particular act of their creation we indicate great doubt as to the integrity which will mark their performance of official actions?

We say they are unworthy to hold or will not be permitted to hold office for a particular period after the termination of their immediate employment.

It is believed that the safeguards furnished by the Constitution are ample to insure the selection of worthy and proper citizens for the discharge of public duties. It is to be assumed that the President in naming these commissioners will first satisfy himself that they are capable; that they are honest; that they are faithful to the Constitution; and it should be equally assumed that when those nominations come into the Senate, before they are confirmed, Senators will satisfy themselves that the persons so selected by the President are honest, capable, and faithful to the Constitution.

Of course, there have been times in the past when the expectations regarding public officials have been disappointed, but we have a remedy in the Constitution. Where men are faithless to their trust, they may be impeached and removed; and why, in addition to these safeguards, should we attempt to impose upon these particular officials this manifestation of our avowed doubt of their integrity, their fairness, and their devotion to the public?

Mr. LIPPITT. Mr. President, in answer to that question, I will say that we are not imposing upon the members of the commission a condition that implies doubt of their integrity; but we are giving to them the reason why we should surround them with greater safeguards, which is that we are intrusting to them greater power than we have ever intrusted to any other men in the country.

Mr. O'GORMAN. Does the Senator think that they will possess greater powers than are now confided to the justices of the Supreme Court of the United States?

Mr. LIPPITT. I do, for this reason: These men are first put in a position where they collect the evidence and then they may bring charges. Having by the authority of the law been put in that position, they then turn around and are put in the position of judging of the integrity of the very evidence that they themselves have collected. That is an extraordinary position to put men in; and under such circumstances the Senator from New York, as much as anybody in this country, wants to uphold the integrity and the fair reputation of these judges or these quasi judges—if I may call these commissioners such.

That is all that I am trying to do. I do not think that by merely suggesting in this amendment one form of temptation which may come before them, and trying to remove that temptation, we are doing anything to imply any distrust of the integrity of the members of the commission.

Mr. O'GORMAN. Mr. President, it is distinctly avowed here on the floor of the Senate by the proponents of this suggestion that this is intended to restrain those infirmities to which, perhaps, the best of men may at some time be exposed when under temptation. The point that I desire to make is that if we have reached a time in this country when we can not with perfect confidence select worthy, honest, and capable men for the discharge of any public duty without imposing such further restraints as are expressed in this proposition, then we have reached an unhappy day in the life of the Republic.

Mr. LIPPITT. Well, Mr. President, that is, perhaps, true; but in legislation now pending we are trying to remove from the field of temptation men who are honorable and of high integrity. We are saying that a man shall occupy but one directorship, because, however great his integrity may be, as it has been expressed, it is impossible for a man to serve two masters; that in two directorships he can not be fair to both sides. I personally do not quite agree with that. Nevertheless, the whole purpose, the whole process, of the law is to surround men with barriers over which they are not intended to pass; to say to them, "Within this sphere is the ground of your duties, and you must not go outside of it."

Certainly, Mr. President, whatever we can do to make these men have the sole ambition of performing well the duties of this office, and look to no other reward except the reward of the verdict of the public of "Well done, thou good and faithful servant," is greatly to be desired.

Mr. O'GORMAN. Does not the Senator from Rhode Island recognize, as pointed out by the junior Senator from Missouri, that by his proposal he is not only excluding these men from public approbation, but he is holding wide the opportunity of preference through private enterprises?

Mr. LIPPITT. Mr. President, I shall be delighted to have the Senator from New York suggest some further amendment to the bill that will remove these men from the possibility of being overpersuaded by any private inducement.

Mr. O'GORMAN. The Senator recognizes that that is a defect in his proposal?

Mr. LIPPITT. But the fact that in one little amendment we can not cover all the ground of temptation is no reason for not covering the ground we can cover. If there is any law needed to prevent bribery, to prevent undue influence on the part of great interests or of small interests, and the Senator will formulate the language by which that is to be accomplished, I have no doubt I shall be glad to vote for it.

Mr. O'GORMAN. The Congress of the United States can not prohibit a citizen from entering private employment after he leaves public employment, unless it be with respect to those matters, such as national banks, which are under congressional control because they operate through congressional permission and action; so it is impossible to remedy the Senator's proposal in the way indicated.

Mr. LIPPITT. I was aware of that, Mr. President, or I should have enlarged this amendment so as to include some such thing.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Texas to the amendment of the Senator from Rhode Island.

Mr. VARDAMAN. I ask that the amendment may be stated.

The VICE PRESIDENT. The Secretary will state the amendment to the amendment.

The SECRETARY. In the proposed amendment of the Senator from Rhode Island, which reads as follows:

> And no person who is or has been a member of the commission shall be eligible for any other office under the United States—

And so forth, the Senator from Texas proposes, before the word "office," to insert "statutory," so that it will read "any other statutory office."

Mr. VARDAMAN. Mr. President, it strikes me the amendment is unnecessary. I realize that the powers given to this board are very great, and that the benefit which the public shall derive from this law will depend entirely upon the administration of it. It is a case where, as expressed by Pope—

> For forms of law let fools contest;
> Whate'er is best administered is best.

I think we can very well afford to leave the settlement of this matter to the people of the country. I do not think all the wisdom and all the patriotism is bottled up in the Senate. I think the American people can be trusted to make their own selection; and if a man, in the performance of the function of that place, has done his duty well, has shown himself fit for official station, there is no reason why he should not be called to serve the people in some other capacity.

As said by the junior Senator from Missouri, if a man is prohibited from taking employment at the hands of the people as a reward for service well rendered, you can not by any law prohibit him from taking employment from a corporation that he may have served there. If you could do that, you could say that he should not be employed by anybody. Then there would be nothing left for the man to do except to go to the poorhouse, to the lunatic asylum, to the penitentiary, or somewhere else. He would be entirely debarred from taking employment at all. With all due respect to the proponents of the measure, it is absurd.

I repeat, we can well afford to leave this matter to the common sense, the patriotism, the honesty, and the good judgment of the American voter. It is useless to try to tie a man who is inherently dishonest. If he can be bribed with the hope of office, he can be bribed with money; and as you can not prohibit him from taking employment with a corporation which

he may serve in the capacity of commissioner, I think it is futile, it is unnecessary, to say that he should not be employed by the people, if he has shown himself to be capable and worthy of their confidence and they want him for further service.

Mr. SUTHERLAND. Mr. President, in saying what I did a few moments ago with reference to this matter I spoke merely from my recollection. Since then I have sent for the first volume of Watson on the Constitution, in which this subject is discussed. At page 157 he discusses the question as to the power of the State to add to the qualifications of Members of Congress, and calls attention to numerous authorities which hold that that can not be done. At page 160 he says:

> If a State could require a candidate for Congress to have additional qualifications to those prescribed by the Constitution, its power would be equal to that of the Constitution, and it could add any additional qualifications it chose.

I think the same statement would apply to an act of Congress. If Congress could superadd to the qualifications, it would then possess a power equal to that of the Constitution, and, indeed, would possess a power practically to amend the Constitution.

Further on, however, this general statement is made, being a quotation from the case of Thomas *v.* Owens (4 Md., 23), and that states this general rule:

> When a constitution defines the qualification of an officer, it is not within the power of the legislature to change or superadd to it.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Texas to the amendment of the Senator from Rhode Island.

Mr. LIPPITT. Mr. President, in the light of what the Senator from Utah has said and the authority that he quoted, I will accept the amendment proposed by the Senator from Texas.

The VICE PRESIDENT. Then the question is on the amendment as modified.

Mr. BRISTOW. Mr. President, I should like to make an inquiry. As modified, does the amendment leave the officer or member open to receive an appointive office? I am asking the author of the amendment.

Mr. LIPPITT. I beg pardon; I did not hear what the Senator said.

Mr. BRISTOW. The amendment as it reads now, as I understand, provides that a member of this commission shall not be eligible to hold a statutory office.

Mr. CULBERSON. That means any office which is created by a statute, in contradistinction to the Constitution.

Mr. BRISTOW. I think he ought to be permitted to be elected to any office to which the people want to elect him, but I do not believe he ought to be eligible to be appointed and transferred from one office to another, because that gives the executive branch of the Government authority to influence his decision through the hope of promotion. I am perfectly willing for him to be promoted by the people of the United States whenever they want to promote him at an election, but I do not want advancement by appointment to be held open to men in order to influence their action as public officials.

Mr. REED. Mr. President, may I ask the Senator from Kansas a question?

Mr. BRISTOW. Certainly.

Mr. REED. I trust he will not take the question as offensive, for it is not so meant. If he was the proprietor of a trust and knew that he was likely to be called before this board at any time, would he not like to have a provision in the law which prohibited members of the board from ever holding public office and left it entirely open for members of the board to take employment from his trust? Does not the Senator think that a trust interest that expected to be called before this board would be the very interest that would want to have the members of the board deprived of any chance for public office or public honors rather than that that cry should come from the people who are supposed to be protected?

Mr. BRISTOW. My observation is that a trust, when it wants to get its friends in public office, does it through the Executive. I cite the Interstate Commerce Commission as it is now constituted, referring to the last appointee, and incidentally to his decision in regard to the rate case the other day.

Mr. WEST. Mr. President, I would propose to change the amendment that says "for one year after the expiration of his appointment," so as to make the appointee ineligible to hold office during the term for which he was appointed. That principle is embodied in the organic law of many of the States of this Union. It seems to me that would be sufficient, and it would occasion no reflection on the great men who are appointed to this office. Besides, it would keep these men, after they have become efficient in this office, in there during the term, and they would not be seeking some higher elevation in other positions.

The VICE PRESIDENT. The Senator from Georgia will send his amendment to the desk.

Mr. REED. Mr. President, let me call the attention of the Senate to just one illustration. I do not want to prolong this debate; but if this rule is good as to this commission, it ought to be good as to the Interstate Commerce Commission. Suppose we had had such a rule about the Interstate Commerce Commission, Mr. Lane could not have been appointed to his present position. Has the country been wronged in any way by that appointment? I think not. Suppose we organize this board, and we develop upon it some master mind, and he could be of great use upon the bench, do you propose to say he shall not be advanced upon the bench? Why, even with all the safeguards we have thrown around our courts we have never denied the judges the right of being advanced.

It seems to me that this amendment is exactly the wrong thing. At the risk of repetition let me say that there are two influences that probably are at work on every man who holds a public position. I do not mean that the influences are directly asserted, but they exist. Applying the statement particularly to this board, one of those influences would be the great combinations and great trusts brought before the board. The other is the general influence of the public. Now, if I were a trust magnate I would want the influence of the public absolutely cut off. I would want to fix it so that no man upon this board could ever hold another public office. I would want to fix it so that if he ever got any reward in the world he would have to get it through some other source than public favor or public confidence. Then I would want to have the door wide open, so that as he sat and looked out upon the world and saw his term of office expiring he would see no place where he could hope to get employment or make a livelihood except to go to work for me.

That is the situation that is presented here. Why should not a man who serves well and faithfully upon this board be advanced to office, become a Member of Congress, be appointed to the bench, or become a member of the Cabinet? We surely can trust something to the public conscience in matters of this kind.

Mr. NEWLANDS. Mr. President, with the Senator's permission I will state that with the consent of the author of the amendment I ask that it be referred back to the committee.

Mr. REED. That course is satisfactory to me.

The VICE PRESIDENT. Is there objection? The Chair hears none.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by I. K. Hempstead, its enrolling clerk, announced that the House had passed the bill (S. 3176) to increase the limit of cost of the public building at Bangor, Me.

The message also announced that the House had passed the bill (S. 5673) to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest," approved March 2, 1911, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendments of the House to the bill (S. 6192) to amend section 27 of the act approved December 23, 1913, and known as the Federal reserve act.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 92. An act to extend the general land laws to the former Fort Bridger Military Reservation in Wyoming;

H. R. 1818. An act to regulate the interstate transportation of immature calves;

H. R. 11822. An act to acquire, by purchase, condemnation, or otherwise, additional land for the post office, courthouse, and customhouse in the city of Richmond, Va.;

H. R. 14155. An act to amend an act of Congress approved March 28, 1900 (Stat. L., p. 52), entitled "An act granting to the State of Kansas the abandoned Fort Hays Military Reservation, in said State, for the purpose of establishing an experiment station of the Kansas State Agricultural College and a western branch of the State Normal School thereon, and for a public park";

H. R. 16296. An act to provide for issuing of patents for public lands claimed under the homestead laws by deserted wives; and

H. R. 18202. An act to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Public Lands:

H. R. 92. An act to extend the general land laws to the former Fort Bridger Military Reservation, in Wyoming;

H. R. 14155. An act to amend an act of Congress approved March 28, 1900 (Stat. L., 52), entitled "An act granting to the State of Kansas the abandoned Fort Hays Military Reservation, in said State, for the purpose of establishing an experiment station of the Kansas State Agricultural College and a western branch of the State Normal School thereon, and for a public park"; and

H. R. 16296. An act to provide for issuing of patents for public lands claimed under the homestead laws by deserted wives.

H. R. 1818. An act to regulate the interstate transportation of immature calves was read twice by its title and referred to the Committee on Interstate Commerce.

H. R. 11822 An act to acquire by purchase, condemnation, or otherwise additional land for the post office, courthouse, and customhouse in the city of Richmond, Va., was read twice by its title and referred to the Committee on Public Buildings and Grounds.

REGISTRY OF FOREIGN-BUILT VESSELS.

H. R. 18202. An act to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes, was read twice by its title.

Mr. O'GORMAN. I desire to offer an amendment to the bill just read and to have it referred to the appropriate committee.

Mr. BURTON. May I ask that the notice be repeated?

Mr. O'GORMAN. I ask that the Secretary may read the amendment which I send to the desk.

The VICE PRESIDENT. Without objection, the amendment will be read.

The SECRETARY. It is proposed that section 2 be amended by inserting after the second paragraph of said section a new paragraph reading as follows:

Under like conditions the President of the United States and the Secretary of the Navy are hereby authorized to direct that the navy yards of the United States and all their equipment and dockage facilities be used for the purpose of repairing and keeping in a seaworthy condition all merchant vessels to be or now registered under the American flag under such conditions as in their discretion are just and equitable: *Provided*, That such additional use of said navy yards and their equipment shall not in any way interfere with the paramount purposes of the Navy of the United States.

The VICE PRESIDENT. The bill and the amendment will be referred to the Committee on Interoceanic Canals.

MEDIATION IN EUROPEAN WAR.

Mr. McCUMBER. I ask unanimous consent to offer a Senate resolution, to be referred to the Committee on Foreign Relations, so that it may be printed to-day and we may have it before the committee at our meeting to-morrow.

Mr. SMOOT. Unless there is some special reason why it should be offered now, I must object.

Mr. McCUMBER. The special reason is that I should like to bring it up to-morrow at the committee meeting. It is very short. The purpose of the introduction is simply that it may be printed. I hope the Senator will not object.

Mr. SMOOT. I will ask the Senator in what shape it is. Is it a resolution to be acted upon by the committee?

Mr. McCUMBER. By the committee. I want to have it referred to the Committee on Foreign Relations.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. McCUMBER. I ask that it may be read, so that it may go into the RECORD.

The VICE PRESIDENT. The Secretary will read the resolution.

The Secretary read the resolution (S. Res. 435), as follows:

Whereas a war is now pending in Europe, the magnitude of which threatens a destruction of life and property and a devastation of resources greater than any disaster that has overtaken the world during all of its recorded history; and

Whereas the people of the whole world must in the end share in the appalling suffering and loss thus entailed upon future generations; and

Whereas the United States is the only great power of the world whose national interests are not directly affected by the causes or results of said war; and

Whereas the interest of the peace, prosperity, and happiness, as well as the dictates of humanity, demand that every possible effort shall be made to check and prevent the horrors and devastation of such war; and

Whereas by race, blood, and affinity the citizenship of the United States represents all of the warring elements in that strife, and the friendly offices of this country would be thereby freed from the imputation of unfair sympathies with or prejudices against either of the contending countries: Now, therefore, be it

Resolved by the Senate of the United States, That it is the judgment of the Senate that the President diplomatically approach the said countries of Europe and offer the good services of this country in securing, by mediation or arbitration, the friendly settlement of their international differences, to the end that this calamitous war may be averted.

The VICE PRESIDENT. The resolution will be referred to the Committee on Foreign Relations and printed.

AMENDMENT OF FEDERAL RESERVE ACT.

Mr. OWEN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6192) to amend section 27 of the act approved December 23, 1913, and known as the Federal reserve act, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House numbered 1, and agree to a substitute therefor as follows, to wit: After the word "and," in line 9, page 3, insert: "to suspend also the conditions and limitations of section 5 of said act, except that no bank shall be permitted to issue circulating notes in excess of 125 per cent of its unimpaired capital and surplus. He shall require each bank and currency association to maintain on deposit in the Treasury of the United States a sum in gold sufficient in his judgment for the redemption of such notes, but in no event less than 5 per cent. He"; after the word "to," line 12, page 3, insert "as herein amended."

That the House recede from its amendment numbered 1, and agree to the substitute as above set forth.

ROBERT L. OWEN,
G. M. HITCHCOCK,
KNUTE NELSON,
Managers on the part of the Senate.

CARTER GLASS,
C. A. KORBLY,
E. A. HAYES,
Managers on the part of the House.

Mr. OWEN. I ask that the conference report be agreed to.

The VICE PRESIDENT. The question is on agreeing to the report.

Mr. BRISTOW. Mr. President, because of the earnest desire of the Treasury Department for legislation I do not intend to oppose the conference report, except to express my views. I think that 125 per cent of its capital and surplus is too large an issue to permit a bank to make. I think the Senate amendment should have been adhered to. I also believe that the gold reserve which was not incorporated in the original bill is a desirable feature, but that the per cent should have been more than 5—that it should have been at least 10.

The VICE PRESIDENT. The question is on agreeing to the report.

The report was agreed to.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. LIPPITT. Mr. President, until recently upright American business men regarded the American Government as their friend, and justly so, for the prosperity of industry was recognized by the Government as a necessity to all parts of the public. The officials of the Government were predisposed to assist in bringing it about. To help in creating and maintaining it was regarded as one of the first duties of Government employees. Thus, the Agricultural Department was devising means to help the farmers by scientific study of farm operations, by distributing reports of investigations, by special examinations where they were asked for. The Forestry Bureau was established to assist in bringing about better forestry methods; it studied the subject and sent its agents out to teach more scientific systems. In the same way our Consular Service was utilized. It began to gather information from foreign countries, and a most excellent and efficient system of daily reports was established to make the information available. The Pan American Union was established to promote Central and South American trade, to give aid and information to the exporters of this country, and to help them in extending their markets. Irrigation projects of great importance were under-

taken, holding out the promise of great benefit to the people of certain sections of the country. The construction of the Panama Canal was undertaken. All of these and other things like them created an atmosphere of friendliness and helpfulness throughout the official world. Nothing perhaps contributed more to this official disposition than the established policy of protection, for the very basis of that policy is the belief that it is a proper function of the American Government to aid American industry. So, through all departments there was a spirit of helpfulness, and constructive legislation was the fashion of the time. Punishment, where punishment was necessary, was the function of the Attorney General and his staff, and was left to them to perform.

But recently this condition has changed. Circumstances arose that induced a different frame of mind. The Nation began to be very prosperous, a prosperity that was generally shared in by all occupations: the laborer, farmer, merchant, and manufacturer were all doing well—in most cases were doing very well, indeed. But here and there a few were doing better than the average, and perhaps unduly better. So some of us, overlooking our share in the general betterment, became a little envious and others became a little frightened—perhaps not altogether unjustified; but, like most human tendencies, it was exaggerated. We saw a vision of all wealth, and hence of all power, being gathered together into a few hands.

People began to counsel together as to what they should do about it. The public press, quick to respond to the thought of the day, found a profitable field in attacking wealth and its owners. The yellow newspapers and the muckraking magazines were the popular literature. Then Government officials began to have a different view; the idea of helping trade ceased to be the prevailing thought of official life. To discover and punish malefactors of great wealth was substituted for it. The Interstate Commerce Commission attended to the railroads; the Attorney General looked after the trusts; the departments gave all the help they could, and whatever suspicions thing the press and the Nation overlooked the States took a hand at. Congress has shared the spirit of the times. We have had investigating committees galore. The Steel Trust and the Tobacco Trust and the Money Trust and the stock exchange and the cotton exchange and the lobby have all been looked after, and we have learned a great deal about a great many people. Then we thought that perhaps the tariff helped some Americans to get too rich, so we changed that, too, and turned some of our work over to the people of other countries to see how our people liked being without it.

And, in consequence of all this, many Government officials are acting as though they believed the successful detection of something improper or criminal was the only road to popularity, and as a result even the 99 per cent of honest and upright business men of the country have become afraid of the Government. They are suspicious of it, for the threat of something to come is in the atmosphere. So they are hesitating about going ahead. They are waiting to see what is going to turn up, and, as a result, initiative is paralyzed and progress halts.

This movement was perhaps necessary to meet the situation that existed. There was a real danger to be met, but the methods that were used to meet it are destructive methods. They had to be; but, Mr. President, it is not good policy to go any further along that line than is absolutely necessary. We have already gone a long distance in that direction, and the business situation in this country is already showing signs that perhaps we have gone too far. We are a progressive people. We want to build things up, and we can not do that by unnecessarily hampering those processes of trade that the circumstances of our generation call into existence.

Nevertheless, it seems to me that it is in that frame of mind that this bill has been prepared, for it is a punitive bill throughout all its provisions. It proposes to establish what is practically a new department of the Government, in the form of a trade commission, but there is nothing in any part of the bill to suggest that this new department is to look for opportunities to help trade. On the contrary, it is establishing an extraordinarily clumsy instrument to rake over all the activities of commerce with a fine-tooth comb, subjecting everybody engaged in it to inconvenience, annoyance, and expense, to see if somewhere or somehow some unsuspected wrongdoing can not be brought to light. It offers no helping hand to upright merchants. It is only adding a new and untried kind of police and detective force to those we already have. The name "trade commission," at first thought, suggests something helpful. We have an Agricultural Department, and it is the duty and practice of that department to help the farmer. This year's appropriation for that purpose is nearly $10,000,000. We have recently established a Department of Labor, and it is actively looking for opportunities to assist the laborer and make his lot easier. But there is nothing of this sort in the legislation now proposed. The commission is given the most extraordinary powers for investigating trade and manufacturing, but the sole purpose of that investigation is to discover something to punish.

I do not believe the establishment of such a commission is wise at this time, and I have come to this conclusion in spite of a former belief to the contrary. When I first came to this body in 1911 I was very strongly of the opinion that a trade commission of some sort was advisable. As a member of the Interstate Commerce Committee, almost from the beginning of my term, I have had this subject continually under consideration. That committee has held extended hearings on this subject at which a very large number of witnesses have appeared and given their views in regard to a commission, and in various ways that committee has had the subject of trade regulation before it during all this time. As a result of such consideration, I have changed my mind on this subject, and do not believe that the time has yet come when this legislation is necessary. I think that such a commission and such legislation as is now proposed, instead of doing anything to clarify the situation, will complicate it and that such a commission as is now proposed is extremely unwise. I am opposed to it because of the enormous and arbitrary powers which are intrusted to it, because the purposes for which these powers are to be used are not limited nor defined, because to confer such powers on such a body is dangerous and an infringement on the reasonable liberties and independence of the people, because the methods this commission are to use are a most roundabout and inefficient way to accomplish the purposes so far proposed for it, because it will be most costly to the Government and to a far greater extent to the people themselves, and because it is unnecessary.

The attempt has been made to create a feeling that this commission is a harmless thing, that nothing in particular is going to result from its creation, that it will be a sort of a good-natured body which, in a fatherly sort of way, will caution business men and in a friendly spirit take them under the arm when they have stumbled and gently lead them into the paths of righteousness. Thus the distinguished Senator from Nevada, who has charge of this bill, says that "it is a very simple bill" and compares the powers of the commission with those of the Bureau of Corporations, to show how little they may be feared.

In a speech introducing the bill, June 25, speaking of its powers, he says:

> Those powers are somewhat enlarged over those of the Bureau of Corporations, but they are not materially enlarged. The Bureau of Corporations did not find it necessary to use coercive powers with the corporations of the country. It used its power wisely and discreetly, and usually succeeded in getting all the information that it required. We heard of no abuse of personal rights under that organization, and I take it that the outcry raised against the so-called inquisitorial powers of this commission will be found in practical experience to have been unnecessary.

I find that the impression thus sought to be conveyed exists in the minds of many business men, and they are rather inclined to favor a commission on the ground that it will ward off something worse, but I do not agree that the Bureau of Corporations in the slightest degree offers an analogy to what the operations of this proposed body will be. If that view of the case is true, and this trade commission is to be nothing more than a slightly enlarged Bureau of Corporations, then all of us here are wasting our time, both those who advocate the measure and those who oppose it, and the consideration it has had by the trade organizations and the business men of this country is time thrown away, for great results will not be obtained by a powerless commission. Neither great regulative and beneficial results will be obtained, such as those favoring this measure hope for, nor will any of the dangers ensue that those people fear who see in it a tyrannical creation pursuing its course unhampered by the restrictions which have heretofore protected the innocent from the undue interference of the representatives of the law. Even the Senator from Nevada himself, I think, in reality does not expect that this commission will be any such harmless and inefficient body, for, in another part of his speech in introducing this bill, he says:

> Mr. President, I believe that if this act is passed there will be a marvelous change in the business conditions of the country for the better.

And in the report which he made to accompany this bill when it was introduced, referring to the Bureau of Corporations, he says:

> The field which has been covered has necessarily been restricted and its organization as a division of an executive department under a single head, reporting only to the President, has not given it either the authority or prestige which attaches to an independent commis-

sion, such as the Interstate Commerce Commission. Yet the need of such a position is quite as necessary in the governmental supervision of industrial activities as of railroads. The establishment of a trade commission at the same time that the Interstate Commerce Commission was established would have prevented the extraordinary development of monopolistic organizations in industry.

I think this latter picture of the extent of the powers and influence of this commission is the real one. I do not think that its results would be for the better, but that it will produce a marvelous change in the conditions under which business is carried on I do not for a moment doubt, and I do not for a moment doubt that that is the real result that the few people on this floor who sincerely believe in the advisability of this measure and the few people throughout the country who understand it and sincerely believe in it expect.

To see that this commission is not meant to be simply a slightly enlarged Bureau of Corporations, it is only necessary to look at the respective duties assigned to the two bodies. The duty of the Bureau of Corporations is to make—

diligent investigation into the organization, conduct, and management of the business of any corporation—

And to report—

to the President from time to time as he shall require.

The trade commission is given authority to investigate as often as it desires and to require annual reports from all corporations engaged in interstate commerce and to require such special reports from any of them from time to time as it may deem advisable, and it reports the result of its activities annually to Congress instead of reporting only to the President as he shall from time to time require. This contemplates an entirely different sphere of operations for the trade commission from that assigned to the Bureau of Corporations. It is manifestly intended that the entire trade of the country, so far as it is in corporate form, shall be under its constant supervision and subject to its inspection. The bureau has dealt with only such particular corporations as from time to time gave indications, from the character of their operations, that there might possibly be connected with them some violation of the law. The creation of this new body contemplates, and more or less requires, investigation into the affairs of every corporation in the hope that by so dealing with all the large percentage of properly conducted business the few cases of wrongdoing will in some way be discovered. Moreover, as the Senator from Nevada has well said, the prestige and authority of a commission composed of five members, at a salary of $10,000 each, is an entirely different proposition from a single head of a bureau with a salary of $5,000 and who is himself, to a certain extent, under the control of his department chief.

But the essential difference, after all, is in the amount of money that Congress may place at the disposition of the two bodies. The Bureau of Corporations had an appropriation last year of $251,300, of which $78,300 was for salaries and $173,000 was for the performance of the various duties assigned to it. The Interstate Commerce Commission this year has an appropriation made for it of $3,500,000, and the chief reason it is able to cover the large field in which it is engaged is the size of the appropriation that is made for it by Congress. Congress, it is true, will still have the power of enlarging or limiting the activities of this new trade commission in proportion as it chooses to appropriate money for it, but it is scarcely to be doubted that the influence of a commission composed, as that probably will be, of energetic and ambitious men, intent upon establishing their importance and enlarging the scope of their activities, will be able to give plausible reasons for ample appropriations.

Moreover, the duties that will be assigned to this commission undoubtedly will constantly grow. The bill itself now before the Senate is an evidence of this. For several weeks the bill as it was discussed in the committee which had it in charge simply contemplated a commission with powers of investigation and of reporting. But within a very few days before the bill was reported to the Senate, section 5, assigning to it the entirely new duty of controlling the nebulous field of unfair competition, was added to it, and in the Clayton bill, since reported, still other important duties are assigned to it. The mere existence of such a convenient body will be a constant invitation to everybody with a grievance, in or out of Congress, to try to put upon it the additional duty of overseeing the particular thing that may be troubling them. And it will be very easy for designing individuals to take advantage of this opportunity in those times of popular excitement which, under the instigation of a sensation-loving press, are constantly occurring, to find opportunities of employing this trade commission. Powers and duties once given to the commission will be very difficult, as a practical proposition, to ever withdraw; so, once created, the extent to which it will likely grow is almost impossible to foresee. It is only human for the commissioners themselves to be constantly seeking opportunities to enlarge their powers.

Therefore, in considering this legislation, I think we must not suppose for a moment that we are establishing anything but a strong and powerful body which is going to have a vast influence upon the future business development of this country. The President thinks it is of such importance that he is using all his great influence to compel the passage of this measure at this session of Congress. He certainly would not think this was necessary if he thought what was being done was unimportant. Feeble things are not effective things, and if the President thinks this course is necessary, he thinks so because he believes that what is being created is going to be a powerful and controlling body.

The powers given to the commission are such that it must act at times as a sort of national police or detective force prying, in the name of investigation, into the doings of practically everyone engaged in business; and doing it not because there is necessarily any apparent evidence of wrongdoing, but because that is made the general duty of the commission—the primary purpose for which it is created—and the success of the commission depends upon their finding somebody guilty of something. Therefore they are given an incentive to believe every act wrong which on its face is of a doubtful character.

If the commission went ahead three or four years under these broad detective powers, and no case of wrongful action were discovered by them, it would be manifest that there was no occasion for their existence at all. Therefore, in order to keep their office, in order to justify the creation of the commission at all in the sight of the people, they must necessarily find somebody to punish. It is very easy for anybody so disposed to find actions that may be given a suspicious character. I do not believe there is a group of business men in this country whose operations have been continued for any length of time, however innocent in reality they may be of any wrong intention or wrongdoing, whose actions when subjected to the minute scrutiny of an overzealous searcher for trouble would not be capable of some interpretation that might be very difficult to explain. All the reasons and causes which lead up to the involved operations of modern business are not spread upon the books or the records of corporations. They could not be, for they would make these records too voluminous to be useful. These causes and reasons exist only in the knowledge of the men who are acting from day to day, often under the pressure of immediate decision, and all that appears as of record is the result of what was done, that such and such a vote was had, that such and such a sale was made. The memories of the men who conduct these operations are naturally unreliable; they have no occasion ordinarily to charge their minds with all the circumstances of the cases, and the men themselves pass away or change to other employment, so that it is impossible to obtain the evidence. I have had many such cases in my own experience where it has been a practical impossibility to explain exactly the circumstances of transactions that have occurred even after the lapse of a comparatively brief time. The memories of the people engaged in them were too vague and conflicting to give any certain information. When such conditions are put under the critical eyes of employees of a commission predisposed to be critical there will be no end to the annoying charges that business men will be subjected to.

I think it is also a great source of danger that in addition to the commission being first charged with these detective duties it is also empowered to act in a judicial capacity, for the commissioners will come to the judgment seat in many cases with the case prejudged. As it is the evidence their own representatives have collected which is the basis of their decisions, they must have every disposition to uphold its integrity, and in this respect they are given a broader power than any court in the land. The case the judge decides is one in whose make-up he has had no part. It is brought before him by the parties interested, and if the Government is one of them it is the United States attorney who is responsible for the correctness of the charges upon which the case rests and the evidence presented is of his selection. No pride of consistency, so far as the judge is concerned, is involved in the proceedings at all. Just the opposite will be the situation in many of the cases that this commission is called upon to decide, for before the accused can be brought before them and their side of the case heard, the commission must have already decided that the evidence is entitled to some standing. Under these circumstances, it would not be human nature, however great the desire of the commission to be just might be, for them to be impartial, and when you add to that the fact that the continuance of the salaries upon which

they live depends upon at least some of the charges being sustained, how can it be possible for such a tribunal to be entirely without prejudice? It is contrary to all the principles and theories upon which our American system of justice has been founded. Entire confidence in the disinterestedness of the court is the basis of the trust with which the American people submit their differences to its decision. To introduce this other element at all seems to me a most dangerous innovation, even if it were applied to the simple things about which men differ, but when such a tribunal is to pass upon the intricate and technical operations of general business, such a condition is fatal to fairness and justice.

Just how costly this commission is going to be is very difficult to forecast, but that it will be immensely expensive I think no one who gives thought to the subject can doub.. It will be expensive to the Government. The Interstate Commerce Commission, dealing with only some 3,000 organizations, and those engaged entirely in one business, that of transportation, has already grown so that the appropriation for this year, as I have already stated, will be $3,500,000. This trade commission will have to deal with a very much greater number of organizations. The guide we have as to what that number will be is that there were about 309,000 corporations that reported under the corporation-tax law this last year. Some of these are of very little importance, and others, like banks, etc., are not subject to the commission; but some of the witnesses in the hearings before the committee estimated that there would be at least 200,000 corporations that would come under the control of this trade commission. And these are not engaged in a homogeneous business as are the transportation companies, but in producing all the great variety of products that are required to meet the modern demands for necessities and luxuries. I scarcely suppose the expenditures of this body will bear the same relation to those of the Interstate Commerce Commission as the number of trade corporations bears to those of transportation corporations, but I do expect that to perform properly the duties that are committed to the commission, and which the commission will be anxious to perform—and which they must perform or there will be no reason for their existence—will before long require very much larger appropriations than are now being mad for the Interstate Commerce Commission.

The Senator from Massachusetts [Mr. WEEKS] in his address upon this subject went into the question of the cost of this commission to the Government in a very elaborate and complete way. I do not want to do more than to call attention to that side of the question, because he has so amply covered the ground; but what I want particularly to call attention to is the fact that the cost to the Government is not the real cost to the community of such a body; it is the cost to which the business of the country is going to be put in meeting the requirements of the commission that demands consideration.

One of the witnesses testified that he thought $100 would be a moderate estimate of the cost to each corporation that has to make annual reports. He had no particular basis on which to make his estimate, but he was apparently familiar with subjects of this kind. If he is correct, it would mean that for this item alone $20,000,000 would be added to the present cost of producing the merchandise of the country.

I will say that later on the witness to whom I have referred, Mr. Shaw, editor of System, a Chicago magazine of business, sent a letter to the committee saying that he had revised his estimate of the cost of these annual reports and that, instead of $100, he thought at least $200 would be required for the purpose.

Another witness before the committee, Mr. Bennett, of New York, went into the matter to some little extent, and subsequently wrote an article in regard to the matter for the New York Sun. In the course of that article he stated that he thought the cost of the commission will amount to $58,000,000, and he goes into a very elaborate explanation of the figures and the calculations by which he arrives at those figures. It is impossible of course for anybody to say exactly what the cost will be, but nobody who has given it any attention at all has arrived at any other conclusion than that the cost must be enormous.

The testimony given by these witnesses related to the cost of annual reports. As to what the cost of making special investigations will be I have not found any very reliable basis for an estimate. I presume the data exist somewhere, but I have asked in several directions without getting very much information. It certainly must be a matter of very serious consequences, so serious—not merely from the actual expenditure of money, but from the equally if not greater importance of interruption of business and diversion of thought to the details of what is often a long, dragged-out lawsuit—that paying any reasonable fine without trial in ordinary cases would perhaps be preferable as far as the cost is concerned to a verdict of not guilty. I did find one or two straws that throw some light on the cost of these investigations. In the case just decided by the Interstate Commerce Commission, for permission to increase rates by the eastern railroads, the cost of making out the new rate schedules for the Pennsylvania Railroad alone was $450,000, and the estimate of the cost for all the roads engaged in the suit is estimated at from $1,500,000 to $1,800,000. This is for the sole item of preparing the new rate schedules. So far as the decision is against the railroads, or so far as it is for any compromise rate less than what they ask for, the cost of all this work will have been thrown away and new schedules will have to be prepared, at whatever additional cost it may be. What the whole expense of presenting this request to the commission may have been to the railroads I do not know, but that it is no inconsiderable item is evident from this statement.

An item appeared not long since in the press, stating that a prominent western railway official had said that—

> The expenditures per annum for statistics required by various State railway commissions, the expenses of hearings on rates and other matters, and all the other details that go to make up railroading by commission amounted to $250,000 per annum, and added, "We never know what information a State commission may ask, so we must be prepared to furnish at a moment's notice figures on every conceivable subject relating to railroading. To do this a large office force with expert statisticans is kept busy the year round."

In the report to the stockholders of the present president of the New York, New Haven & Hartford Railroad, under date of April 11, 1914, referring to some causes of increased expenses, he says:

> The cost of accounting 10 years ago was $190,000 per year. At the present time it is about $500,000 per year. While the increase in business has had its effect on accounting cost, part of the increase is due to the accounting requirements of the Interstate Commerce and State Commissions.
>
> The recent Federal act requiring the valuation of railways will increase the expenses of this company about $60,000 per year for several years.

I found upon inquiry that the cost to the Bureau of Corporations of making an investigation of the United States Steel Corporation, which they did two or three years ago, amounted to the enormous sum to the Government alone of $110,994. We have no testimony, so far as I know, as to what the cost may have been to the corporation itself.

All these stray items are sufficient indications of the fact that in starting upon this new system of investigation and of supervision we are going to run both the Government and the trade and commerce of the country into enormous expenditures.

It is rather unfortunate that we have not full information of the cost to transportation that has been caused by the establishment of the Interstate Commerce Commission and State commissions, for however valuable or necessary their services may have been, these items of additional cost are necessary to understand the real situation. In considering the result of this trade commission, therefore, we ought not to lose sight of the costly nature of the experiment. I have no doubt myself that it will add millions and millions of dollars to the cost of production of the articles used in the trade of the United States, and I am sorry that there is not somewhere some more definite information to be obtained upon this very important phase; for the ultimate result of such expenditures must undoubtedly be borne by the consumers of the articles as an addition to the already burdensome cost of living.

To realize fully what these costs are likely to be and to get a clear conception of the relation in which the commission will stand to the business of the country, it is necessary to consider just what its powers are and what its duties are.

It is provided under section 3 of the trade commission bill that the commission shall have power:

(a) To investigate any corporation engaged in commerce as often as it may deem advisable, including its relations to other corporations individuals, associations, or partnerships.

(b) To require the production of all documents in any way affecting its commerce with any individual, association, or partnership.

(c) To prescribe as near as may be a uniform system of annual reports from such corporations or classes of corporations as the commission may direct.

(d) To make public such information, except so far as may be necessary to protect trade processes, names of customers, and

such other matters as the commission may deem not to be of public importance.

To discover the purposes for which the commission is to gather this information we must find what its duties are. It is required of the commission under (g) of section 3 of the trade commission bill that if the commission believes from its inquiries that any corporation, individual, association, or partnership has violated any law of the United States regulating commerce it shall report its findings to the Attorney General. And under section 5 the commission is directed to prevent corporations from using unfair methods of competition in commerce. These are the broad duties it is directed to perform under the trade commission bill.

Under the Clayton bill, now on the calendar, it is authorized to enforce compliance with sections 2, 4, 8, and 9 of that act; that is, under section 2, to prevent any person from directly or indirectly discriminating in prices for the purpose or intent thereby to destroy or wrongfully injure the business of a competitor; under section 4, to prevent any person from making a sale or fixing a price on the condition that the purchaser shall not deal in the commodities of a competitor; under section 8, to prevent a corporation from acquiring any stock in another corporation if it substantially lessens competition between the two or creates a monopoly of any line of commerce; under section 9, to prevent any person being a director in two or more corporations having a capital of more than $1,000,000 and which are, or which at any time have been, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws.

It is evident from this résumé that the field of their duties is tremendous, when it is remembered that it applies to some 200,000 units, for it is not merely that they are authorized to do these things, it will be their duty to do them. And the method by which they are to be put in a position to perform that duty are, first, to get an intimation of the situation by requiring annual reports from all the corporations that are subject to their jurisdiction and, second, when they find anything in these annual reports, or from other sources, to cause suspicion to conduct special investigations.

Now, to cover the duties assigned to them, these annual reports will have to be most voluminous. Just what the authors of this bill had in mind would be covered by these annual reports, I do not know. I have not heard it discussed in any committee meeting or elsewhere. Perhaps the idea was merely that it should be a sort of financial statement to show the volume of business from year to year, or of a profit-and-loss account, with the idea of determining who is making too much money. This, perhaps, would not be very burdensome to the people reporting, although it would be burdensome to the commission if they were to make any real use of it, for to tabulate, compare, and digest 200,000 reports is no simple undertaking.

Mr. WEST. Mr. President——

The VICE PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Georgia?

Mr. LIPPITT. I yield.

Mr. WEST. That was the estimate in reference to corporations. If you take in individuals, partnerships, and associations, as well as corporations, would it not exceed 200,000?

Mr. LIPPITT. It is a very curious situation, as I shall point out later in regard to this bill, that while in some cases they are instructed to report the shortcomings of individuals to the Attorney General and to have supervision over their obeying certain laws that are to be passed, they have no authority to get any information in regard to individuals. The trade commission has no power to investigate individuals. The Senator from Washington [Mr. JONES] says that that clause has been amended. I was not aware of that.

Mr. WEST. I do not so understand. I think the position which the Senator from Washington [Mr. JONES] takes is correct.

Mr. JONES. I understand the provision of the Senator from Iowa [Mr. CUMMINS], which has been agreed to, allows the commission to investigate individuals, partnerships, and corporations.

Mr. THOMAS. It does not require statements from them.

Mr. JONES. It does not require statements.

Mr. THOMAS. That is confined to corporations.

Mr. LIPPITT. There have been a number of amendments put upon the bill in the last day or two, and I am not familiar with every one of them. It may be that they do have the power of investigating individuals.

I was saying that to tabulate, compare, and digest 200,000 reports is no simple undertaking. Unless something of this kind is done with them, so that some real action is to follow their collection, manifestly the whole proceeding is a farce and the reports might as well be thrown in the waste-pape. basket.

If these reports are to be published, as seems to be contemplated by the provisions of this bill, and if each one of them occupied an ordinary sized page, the report of the commission would constitute a moderate library each year.

I have here, Mr. President, a book of ordinary size, containing about 1,300 pages. If each one of the annual reports of these corporations occupied a page the size of this book, about 175 books of that size would be required to contain them, and they would occupy a book shelf more than 32 feet long. It is evident that any such voluminous report as that could not possibly be of any service.

But if any such moderate idea was what was originally intended, the duties it is already proposed for the commission to perform have exploded it. The reports would have to be most voluminous if all the trade legislation that is now proposed becomes a law and they are to be of any use.

For instance, under section 2 of the Clayton bill the commission is directed to see to it that no persons engaged in commerce shall either directly or indirectly discriminate in the prices of merchandise they sell. This means the commission would have to find out whether or not there was any discrimination in price either by a special investigation or by these annual reports. If they were going to thoroughly cover the ground, it would seem as though the reports would have to show all the sales made by all the producers in the United States. They could not very well ask the venders to make a report merely of the sales that had been made at different prices, and they could not justly simply pick out certain individuals and compel them to make reports at great expense and interference with their business while their competitors are allowed to go free.

Under section 8 of the Clayton bill the commission is required to see that no corporation acquires any part of the stock of any other corporation, and again the powers put into its hands to perform this duty are these annual reports and special investigations. I presume the annual report, therefore, would have to require a statement from each reporting corporation showing what, if any, stock had been purchased or was held, and a statement perhaps to show whether the purchase did or did not substantially lessen competition.

Under section 9 of the Clayton bill, which provides that no person shall occupy two or more directorships, I suppose the annual report would have to deal with this question, would perhaps have to include a list of all the directors, with an affidavit from each one that that was the only directorship he held, or, in case a man held more than one directorship, there would have to be some statement to show not only that the two corporations on which he was serving were not then competing, but that they never had competed in their whole existence, for this section provides that no person shall be a director in more than one corporation if such corporations are or shall have been theretofore competitors. Just why it is necessary to prevent a man occupying a directorship in two corporations because 20 years ago they might have been engaged in some competitive business but are not now, is one of the things I suppose will be explained to us when the Clayton bill comes before the Senate. On a casual reading of the bill I have not been able to understand the purpose of that provision.

These are some of the situations the trade commission will have to meet under the duties proposed for it by the Clayton bill. In addition to that, in the trade-commission bill, the commission is instructed from its inquiries and investigations to report to the Attorney General whether any corporation, individual, association, or partnership has violated any law of the United States regulating commerce. Just the extent to which reports would be necessary to cover the enormous range of these requirements I have not undertaken to discover.

Moreover, it is provided here that the commission shall report not only upon the violations of law by corporations, but upon the violations by any individual.

I had understood until the remarks that were made a few minutes ago that the commission was not given any power to investigate individuals at all. It was not given any such power in the original form in which the bill was reported, but if it is to have the power of investigating individuals and partnerships and requiring annual reports from them, of course the voluminous nature of these reports will be very much greater than what I have been trying to call attention to, where it was confined only to some 200,000. It will, of course, be evident that if the commission should even remotely attempt to require annual reports to thoroughly cover this situation, the cost of them would put an enormous task upon the business men of the coun-

try, much larger than any figure anybody has yet suggested. Moreover, it is perfectly manifest that such reports would be absolutely useless, for they would involve such an amount of labor for their tabulation or use by the committee as to inevitably swamp it.

What, then, will be the alternative that the commission will adopt? The bill calls for uniform reports. That can not mean anything other than reports from everybody. But, if they cut the Gordian knot and select certain particular corporations from whom they are going to make these requirements, on what principle of selection is the commission going to proceed? Is it to be because some jealous or disgruntled competitor or customer wants to put a corporation to trouble and expense, or what will be the grounds on which some group of business men in this country are set apart from other business men to come under the surveillance of this commission? If the commission are to proceed in this matter simply according to their own will, guided by no definite rule of procedure or by any regulation of Congress, it seems to me that we are creating an opportunity for a political machine, the like of which has never yet been seen even in this country, where ingenuity and ability have been able to create some very efficient examples in that direction. Why, Mr. President, the powers which a body of this kind whose actions will be controlled, if this bill is passed in its present form, by no limitation except such as their own will may determine, is a proposition with opportunities for oppression that it is impossible to exaggerate.

The cost and trouble of meeting an investigation of the complicated business operations of even a moderate sized corporation in this country, when that investigation is conducted by men who for any reason are inclined to be hostile, is something that will well make men pause before they will subject themselves to it. It makes no difference what the ultimate result of that investigation may be as regards the guilt or innocence of the parties, the expense and the trouble of the trial are the same whatever the verdict may be. Everyone knows that in spite of any altruistic ideas or laws to the contrary, the most vital element in conducting a political campaign is to-day, as it always has been, the question of getting the funds to meet its expenses. What sort of power will an administration have in the way of raising political funds with the control of a body having such powers as this trade commission will have. Why, the mere suggestion of an investigation would pour thousands of dollars into the political war chest where hundreds could not be obtained in any other way. What a bungling and uncouth method this is, to subject all the innocent business men of this country to the burden of meeting the requirements of this commission, for the sole reason that perhaps 1 per cent of their number may be found guilty of some wrong. Its operation will be a sort of hunt through the haystack of innocence to find a needle of crime. I suppose some needles will be found, but the results will be out of all proportion to the effort.

I think, therefore, it is evident that this device of a commission to operate through the medium of special investigations and of annual reports and to cover by these means the enormous territory that is assigned to it, inevitably leads to its being swamped by the volume of data it will gather if it endeavors to treat all business impartially, or it will result in gross unfairness and favoritism if it proceeds on some selective principle. And to endow it with such broad powers, the exercise of which against an innocent party will be an intolerable burden financially and an offense to an innocent man's proper pride of self-respect, is introducing an utterly new and unnecessarily offensive practice in the relations between our Government and its citizens and one which will weaken the respect and confidence which citizens ought to have toward the Government, and which they must have for the Government to continue to have the people's cordial support and confidence. It is the very situation which the fourth amendment to the Constitution, the search and seizure clause, which provides—

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized—

was designed to prevent.

Every student of American history knows of the tremendous opposition developed to the adoption of the Constitution, because it did not contain a bill of rights. The State of Rhode Island was the last of the 13 original States to give its approval to the Constitution, and the State did not give it until after the first 10 amendments had been adopted. The State was very much criticized at the time of its hesitation, but it arose perhaps out of the fact that the people of that State had been fighting longer for the establishment of liberty—first the religious liberty and then the political liberty—than any other community of its day. They were very tenacious of the rights they had acquired and, as Madison put it, were determined to prevent the—

> encroachments upon those safeguards which they (the people) have been long accustomed to have interposed between them and the magistrate who exercises the sovereign power.

I think, Mr. President, that the power proposed in regard to this commission vindicates the position that the people of Rhode Island took at that time, and that this body, if it is created at all, should only be allowed to exercise its powers after some reasonable ground had been established for such action. The world has been fighting since the day of King John and the Magna Charta to protect the people against unreasonable control by the powers of governments, and it is a step backward to subject innocent people to the methods that it is proposed to have this commission exercise.

The new laws that it is proposed to pass as part of this trade legislation, or any new laws that may be required on that subject or any other, can be perfectly well administered and enforced in the way in which the laws of this Government have been enforced since its creation, and we have been able under the long-established procedure to maintain a very good Government to live under, as good a Government certainly as there is anywhere in the world, and no necessity that I know of has yet arisen to abandon these time-tried methods for this experimental commission government.

I have been waiting during this discussion for somebody who favors this bill to demonstrate why this trade commission is necessary. I should have been glad to have heard the arguments upon which that necessity was based. Certainly, a commission in and of itself is not a desirable thing. The only excuse for its creation should be that we can not get along without it; that some important objects can not be accomplished by other and more simple means, and I think the same thing may be said of most of the so-called trade legislation that is now under consideration. The necessity for it is not apparent. It is true that there was a situation in the recent past when some branches of the business of the country were being combined into such large units as to cause alarm. But I think it is equally true that that condition does not exist at the present moment. The various laws now on the statute books have demonstrated their efficiency to control this situation. New combinations are not being formed; if they are, the accounts of them are being kept out of the press. Instead of a rush to form new combinations, almost the opposite is true. Not only new combinations are not being formed, but the business initiative of this country is so paralyzed by the actions that have dissolved some of the large units that people are afraid of new enterprises and they are not being undertaken to the extent that they ought to be for the continued commercial progress of the country even where they might be without violating any of the principles of the antitrust laws. That certainly is the situation as I see it, and as many others see it, and I do not know of any better testimony I could produce to the correctness of this view than what was said about the matter in an address delivered by Mr. George W. Wickersham, formerly Attorney General of the United States, before the Academy of Political and Social Science in Philadelphia on the 16th of last February. When arguing on these grounds and affirming the undesirability of additional trade legislation, he said of the existing law:

> By the application of its provisions every one of the great combinations which are popularly known as trusts has been dissolved at the suit of the Government, or is now a defendant resisting the suit of the Government to compel its dissolution.
>
> I challenge anyone to point to-day to a single organization outside of the defendants in pending Government suits that may properly be called a private monopoly. Moreover, the tendency to concentrate control over industry has been absolutely arrested. Not one monopolistic trust has been formed in the United States since the decisions of the Supreme Court in the Standard Oil and Tobacco cases.

And further on he said:

> The Sherman law needs no amendment to strengthen its provisions, and a watchful enforcement of that law by the law officers of the Government will be amply sufficient to prevent any recurrence of the conditions which grew up prior to the decisions in the Standard Oil and Tobacco cases.

The Senator from Nevada [Mr. NEWLANDS], in his remarks when introducing this bill, said:

> The establishment of a trade commission at the same time that the Interstate Commerce Commission was established would have prevented the extraordinary development of monopolistic organization in industry. If this commission had been in existence during this period, we would not now have to deal with such organizations as the United States Steel Corporation, the International Harvester Co., etc.

But Mr. Wickersham, who has had more experience in applying existing antitrust laws than any other man in the country and an extraordinarily successful experience, and who

knows the problems connected with the situation probably better than any other man does, says we have all the law needed to control the very situation that the Senator from Nevada relies upon to justify the creation of this commission.

To be sure, it is intended in the legislation now proposed to penalize some things in connection with business that have not been penalized heretofore, and if we are going to create some new crime, there may be a use found for this commission, but inasmuch as the new crimes are mostly for the purpose of helping to enforce the law against actions that are already made crimes by the antitrust laws, and as the present antitrust laws are sufficient to regulate these crimes, I see no necessity for either the new crimes or the new commission. Anyway, the orderly procedure would seem to be to enact the laws establishing the crime before we appoint the trade commission, for there is no certainty that even if the trade commission is appointed all the other propositions will be enacted into law. The simple fact is that such a commission and such legislation as is now being proposed, instead of doing anything to clarify the situation, would complicate it just as the business men of the country were on the point of finding some clear ground to go ahead on, and it will complicate it because this legislation ignores the real problem that is at the foundation of the present business uncertainty, for it deals with but one side of it.

There undoubtedly is a problem that ought to be solved in connection with the present trade situation, but the solution of that problem does not require the enactment of additional law to make combinations more difficult, but rather to find such legislation as will define the neutral ground between unrestricted competition on the one side and an unregulated combination on the other. All the laws we have put on the statute books thus far in connection with this subject have been for the purpose of restraining and restricting the field of combination and of keeping alive and active and unrestricted the field of competition.

This Government is a federation of States which was formed on the basis of the doctrine that in union there is strength, and that doctrine has vindicated itself in the powerful Nation we have grown into. In the same way modern business, as distinguished from the methods of the past, is based on the doctrine that in union there is economy and efficiency. The great material progress of this country in recent years has been largely due to that principle and to the adoption of better methods to bring about united efforts and teamwork on the part of individuals. The great material achievements that have marked the last quarter of a century and which were impossible before that date, but have been possible since, have been due undeniably, I think, to the more successful cooperation of individual resources. No better illustration, perhaps, could be found of this than in the magnificent success with which we have undertaken and carried to completion the construction of the Panama Canal. One reason that we succeeded as admirably as we have done in performing that task, although it had been found impossible of accomplishment by the greatest engineer of his day, backed by the resources of one of the great financial people of the world, was due to the fact that modern cooperation had made possible the construction of the powerful machines necessary for its execution and had taught the engineers of to-day the principles and methods of organization that made the efficient handling of large bodies of men a comparatively simple problem. Goethals succeeded where De Lesseps failed, not because competition had been kept alive and active, for competition was alive and active when the first attempt was made by the people of France, but because cooperation had been developed to-day to a point that was unknown 40 years ago.

A method and principle that have made such things as the Panama Canal possible, that has changed failure into success and helped to realize many of the material aspirations of humanity, can not be ignored in the legislative action it is necessary to take to harmonize the present trade conditions of the world. We may think that business has grown too big, we may criticize and try to limit it, but the lesson of efficiency and of economy that the world has learned can not be successfully ignored in dealing with the problem of American trade conditions. Cooperation in trade is a living, vital force that can not be neglected, and the problem therefore that has to be intelligently met in the legislation on that subject if the situation is to be put upon a permanent basis is in some way to clearly formulate into law the intermediate ground between an unlimited and unregulated and destructive competition on the one side and an unregulated and unlimited cooperation or combination on the other. There is, perhaps, danger in an excess of either of these two forces. Both of them are valuable in moderation and within limits, but the activities of modern trade are so complicated and intricate and the growth of this modern cooperation has been so rapid that we do not understand and can not yet formulate the reasonable and proper relations between the two. To simply ignore the great beneficial results that come from modern cooperation, however, will not advance us a single step in meeting the difficulties of the present situation. Nevertheless, that is what is being attempted in the present legislation. We are trying to still further put impediments in the way of the proper development of modern business principles, instead of trying to discover what is beneficial in the situation and what can be reasonably encouraged and approved. The fact is that the business men of to-day to successfully meet modern conditions must to some extent get together and confer, for they must know in some way what their competitors are doing and going to do before they can decide what they ought to do themselves.

The President, in his message on this subject of trade legislation, has spoken as though the defining of this situation was an easy and simple matter. He says:

> Legislation is a business of interpretation, not of origination; and it is now plain what the opinion is to which we must give effect in this matter. It is not recent or hasty opinion. It springs out of the experience of a whole generation. It has clarified itself by long contest.

And again, in another part of the message:

> What we are purposing to do, therefore, is happily, not to hamper or interfere with business as enlightened business men prefer to do it, or in any sense to put it under the ban. The antagonism between business and government is over. We are now about to give expression to the best business judgment of America, to what we know to be the business conscience and honor of the land

All this sounds delightfully easy and reassuring. It is as though Congress simply had to gather together and unanimously record a universally accepted verdict upon this subject. If that was the situation and it was now possible to clearly formulate into a statute some principle that would bring about the delightful result the President pictures, I certainly should join most heartily in the effort to do it. When I read this language in the light of three years' very careful study and consideration of the situation, I was certainly surprised that there existed anywhere this easy solution, for it certainly has not been reflected in any testimony I have ever come in contact with. On the contrary, all the evidence that has been gathered together so far goes to show the complicated nature of this question. Nevertheless, while this is generally true, there has been on the part of a large number of people who have studied this subject a harmony of opinion in one respect, and that is if a trade commission were to be established it ought to have some authority to pass in some way and to some degree upon the extent to which cooperation on the part of business men generally might be permitted, not for the purpose of enabling anybody to do anything that was contrary to law, or that was contrary to wise public policy, but as a means of determining, if only tentatively, what things could be done without violating any statute. This is the only way that I have heard suggested in which a trade commission can be of any help to the business men of the country, and is the only form of feasible constructive legislation on this subject that I know of. All that is being proposed so far is destructive in its character. It proposes to put a stop to what now exists, and the great trouble that will result from it is that it does not definitely define to what extent the old methods are to be forbidden and to what extent they may be continued to be used. Such legislation does not clarify, it complicates.

The whole tenor of the President's message was that the party he represented wished to do something and intended to do something to help the situation. It is universally agreed that the great majority of business men of this country are honest and law abiding, and they want to do the things the law contemplates they should do and leave undone the things it forbids. But the difficulty is for them to know just what is permitted and what is forbidden when, on account of the intricate and complicated nature of the problems that are dealt with, laws are necessarily enacted only in the most general terms. Occasionally it has been assumed that there is no difficulty about this matter, and that it ought to be possible for anybody to know just what procedure is permitted. The President, in the address which he made at Philadelphia on the Fourth of July, implied something of this sort. He said:

> The world is becoming more complicated every day, my fellow citizens. No man ought to be foolish enough to think that he understands it all. And, therefore, I am glad that there are some simple things in the world. One of the simple things is principle. Honesty is a perfectly simple thing. It is hard for me to believe that in most circumstances when a man has a choice of ways he does not know which is the right way and which is the wrong way.

Difficult as it may be for the President to understand this situation, it is one that constantly arises in the actual operations of business, and if all the trade legislation that is now under consideration by this body be enacted into law, I think

the difficulty is going to be greater than ever. We have for some time had laws that forbade undue restraint of trade. We now propose to forbid unfair competition, and in the Clayton bill, to the consideration of which we have not yet come, but which is here on the calendar, we forbid changing the price of a commodity for the purpose of wrongfully injuring a competitor. Now, it seems to me that when an ordinary salesman, with the amount of learning in the law that generally goes with a $1,500 salary, appears in the store of a country merchant with his line of 100 or 150 different fabrics for which he is soliciting orders, and upon which he has already taken orders in other localities and perhaps in the same locality, and is met with the proposition that he can have an order for a dozen or 15 of his articles provided he will make some concession in the price on two or three or four of them, and he is told that the reason for asking that concession is that one of his competitors the day before, perhaps, offered something just as good at such a price, and that the customer will have to pass the entire line unless the concession is made on these two or three articles, that salesman is not going to find the situation clarified by anything that is contained in these bills.

When he has asked for an hour perhaps to think the proposition over and has gone over to the hotel lobby to consider whether, in accepting a proposition which under hitherto prevailing conditions he perhaps would not have hesitated about, and there tries to decide whether in so doing he is going to restrain trade or unfairly compete, or wrongfully injure, he will be in a situation where, as the President says, he has a choice of ways. But with the greatest desire in the world to be honest and law-abiding, it would be no perfectly simple thing for him to decide what choice to take. His position is still further complicated by the fact that even if he takes the order and some representative of our new trade commission discovers that these articles have been sold at different prices, and finds in that fact such a cause of suspicion that legal proceedings follow, the salesman and his employer will find themselves at the end of perhaps a year or two of litigation, even though it result in their favor, in almost as bad a position as though it were decided against them, for the burden in the way of expense and interruption of business and suspicion engendered by these proceedings is almost as great as the legal penalty itself.

I said a few minutes ago that there was a considerable harmony of opinion on the question of adopting some way by which the business men of the country could know to what extent they could be permitted to cooperate. I want to lay before the Senate some expressions of opinion upon that subject.

As is generally known the Interstate Commerce Commission have taken very extended testimony upon the subject of the control of corporations. They made a very elaborate report on that some three years ago, the testimony of which covers, I believe, some 3,000 pages. In those hearings there was constant reiteration by men representing various different fields of activity of the necessity of in some way having the business men of the country arrive at what trade agreements they could be allowed legally without detriment to the public interest to enter into. I wish to refer just briefly to some of the opinions that were there expressed and to show by whom they were expressed. There was a very carefully prepared digest made of that testimony, and in quoting from it I am going to quote from the digest for the sake of brevity and not from the original testimony.

We have the testimony of Mr. Seth Low, who is president of the National Civil Federation. He says he does not believe it possible under modern trade conditions to continue business without trade agreements. He is in favor of a trade commission for the purpose or regulating these agreements, and he goes on to say:

Such agreements affecting prices and output should be filed with the Interstate Trade Commission (suggested above), and be lawful as soon as filed, and continue so until declared by the commission to be contrary to the policy of the Sherman law; would also provide that all agreements affecting prices and output not filed with the commission shall be unlawful. Agreements should be permitted, if filed with the commission, which will prevent unfair and unreasonable competition—competition not intended to advance business, but to destroy competitors.

We have the testimony of Mr. Taylor Vinson, a lawyer and coal operator of Huntington, W. Va., on this same subject of trade agreements. He says:

The commission should have power to pass upon and approve reasonable trade agreements between competitors, which would restrain and limit competition within certain bounds (77), i. e., agreements providing for a joint selling or purchasing agency, or to supply each other with any of the means or methods of carrying on their business, or for the purchase or sale of their plants, or parts thereof, or property used in conducting their business, whenever in the judgment of such commission such trade agreements will not unreasonably restrict or limit competition, nor raise prices beyond what may be justified by the supply and demand, nor authorize competitors making such agreements to engage in unfair methods of competition against other competitors not parties thereto (73–74).

Believes such agreements necessary to permit economical management, and that under the present law the small man will be forced into bankruptcy (30–32).

Mr. Samuel Untermyer also testified in regard to trade agreements that—

The country is now honeycombed with secret verbal agreements and understandings which are not being reached by the Sherman law and can not be (182, 183, 214). People can not be kept from protecting themselves when the point of ruin is reached. The country must choose between proper regulation and secret defiance of law (182, 183). Trade agreements should be permitted for limited periods when an industry has become unprofitable (189–190) if the prices fixed by the agreements do not allow an unreasonable profit and do not unduly restrict production.

In regard to competition Mr. Untermyer said:

If combinations of capital are to be broken up, unrestrained competition can not be restored. Unrestrained competition in these days is a figment of the imagination. There must be some point at which cooperation can be permitted, but under Federal supervision.

Another witness, Mr. A. F. Thomas, of Lynchburg, Va., says:

Parties engaged in interstate commerce should be permitted to enter into agreements as to the purchase and sale of commodities and as to the prices and terms of such purchases and sales, provided that the full terms of such agreements should first be filed with and receive the approval of such bureau; and further, that the bureau should make public all such agreements. These agreements are subject to review and withdrawal upon 30 days' notice at the option of either the bureau of the parties (989).

Trade agreements are necessary to the successful application of the cooperative principle.

Mr. Henry B. Joy, who was the president of the Packard Motor Car Co., and I think is to-day, says:

TRADE AGREEMENTS.

Agreements by manufacturers engaged in the same line of business, fixing prices of products, should be permitted under the approval and supervision of the Government (1306–1307). This would preserve the weaker manufacturers who would otherwise have to go out of business, and prevent the economic loss attendant on such business failures (1308).

Mr. Emerson McMillan, of 40 Wall Street, New York, says:

Favor the continuance of any trade agreements that were filed with the commission until annulled by the commission or restrained by the court.

Mr. Edgar H. Farrar, who was formerly president of the American Bar Association (pp. 1485–1536, 2535–2538):

Does not believe that it comports with the sound public policy or the economic policy of any country that competition should be carried to the point of destruction, and therefore an agreement between persons in the same line of business to the effect that prices should not be cut below the actual cost of production ought to be considered a valid agreement (1487).

* * * * * * *

He would allow agreements providing for common selling agencies.

Mr. S. P. Bush, president Buckeye Steel Castings Co., Columbus, Ohio, says:

Would recommend the legalizing of trade agreements, to the end that those engaged in any industry may cooperate to avoid destructive competition, which includes unfair competition as well as competition that does not have an unlawful purpose.

Mr. Walter S. Bogle, coal operator, 808 Fisher Building, Chicago, Ill., representing the coal industry of Indiana:

Believes that the Sherman law is gradually bringing about the very condition of affairs that it was enacted to prevent. Because of their inability to have a common selling agency with a committee that would from time to time fix the price of their output, small operators have been compelled to cease operations, and in one case, at least, the mines were bought up by a single corporation, which, of course, resulted in the very thing which the individual operators could not do. The object of the law seems to be to compel unbridled competition, which in the coal business, in times of depression, overcapacity, or overproduction, spells disastrous competition (2321, 2322).

He believes that the coal operators, either in certain districts, or in certain States, should be permitted so to arrange their production as not to flood the market and so to arrange their selling that coal would bring at least cost and a fair return on the investment.

Mr. President, there are several other of these statements taken from the testimony before the committee at that time. I shall not read them, but ask to have them printed as a part of my remarks.

The PRESIDING OFFICER (Mr. THORNTON in the chair). Without objection, permission to do so is granted.

The matter referred to is as follows:

Gary, Elbert H., chairman board of directors United States Steel Corporation (pp. 693–732, 811–850, 2407–2421):

TRADE AGREEMENTS.

There are cases where a corporation ought to have the right to make agreements with other corporations to maintain a certain price, a commission having the right to determine whether the agreement would or would not be an undue restraint of trade. (727–729.)

Brooks, T. J., Farmers' Educational Cooperative Union, Atwood, Tenn. (pp. 2336–2353):

SHERMAN LAW.

If the Sherman law could by technical construction be held to apply to such organizations as the Farmers' Educational Cooperative Union, such provisions should be eliminated; and if amendments of the law are passed, they should exempt farmers' unions from its operation (2337).

OBJECTS OF THE FARMERS' UNION.

The purpose of the Farmers' Union is to facilitate the marketing of crops according to the normal operation of the law of supply and demand; that is, the farmers themselves, by cooperation, desire to assume the carrying function and gradually market their crops, especially cotton and wheat, as the demand requires throughout the year.

Traer, G. W., representing the Illinois Coal Operators' Association, of Chicago, Ill. (pp. 2353–2372, 2556–2557):

ADVANTAGES OF COOPERATION OF OPERATORS.

Numerous advantages would result from cooperation among operators with a view to reducing the cost of producing and distributing the coal and maintaining the properties. Such methods would be beneficial to the general public in that better conservation of the coal would result. It is practically impossible, however, to effect any improvement in production and distribution without lessening to some extent destructive competition, although the cooperation necessary to effect these advantages need not, and should not, be permitted to go to the extent of fixing or arbitrarily controlling prices or limiting output.

It should be recognized that just as unreasonable combination leads to no competition, so no combination leads to unreasonable competition, which without regulation destroys itself and leads to consolidated ownership in very large units, with tremendous and ominous financial power rather than increased efficiency (2358). Large corporations are accused of unfair conduct because they sell below cost for the purpose of ruining competitors. Unless they submit to slower ruin themselves the law leaves them no other avenue of correction (2361).

Callbreath, J. F., secretary American Mining Congress, Denver, Colo. (pp. 2372–2380, 2431–2448):

CONDITIONS IN THE BITUMINOUS COAL-MINING INDUSTRY.

These facts show the dangerous conditions in the industry. They result in an enormous loss of life, and almost criminal waste of resources, and a business condition bordering on despair among the smaller producers (2372). The continuance of such conditions can not result in any good to the country (2373).

COMMISSION.

The commission should be authorized to approve in advance agreements by which economies may be effected (2434); to say in advance what is a reasonable combination (2435).

The authority of the commission would be to practically license the conduct of business under any agreement, and when, as the result of an investigation begun on its own initiative or upon complaint, it determines that any practice is contrary to the public welfare, to revoke the license or withdraw the authority, and leave the parties liable under the Sherman law.

Taylor, S., president of the American Mining Congress and representing the Pittsburgh Coal Operators' Association (pp. 2380–2407):

CONDITIONS IN THE BITUMINOUS-COAL INDUSTRY.

The average number of days worked per man per year in the mining of coal in 1910 was 217. This is a hardship on the miners. At the present price of coal the operators are compelled to leave at least 25 per cent of the coal in the mines, as to bring it out would cost more than can be obtained for it.

ECONOMIES TO BE EFFECTED BY COMBINATION.

(1) Reduction in the cost of marketing by handling the coal of a district through a central sales agency (2383). Such an agency should have, probably, power to distribute the sales proportionately among the mines represented (2387). The ordinary commissions paid to handlers of coal now run from 7 to 10 cents per ton. The very large companies handle their output for about 4 cents. A substantial saving could probably, therefore, be effected through a central agency (2383, 2384).

(2) Reduction in the cost of power by the joining of a number of operators in the maintenance of a common power plant.

(3) Reduction, through a central agency or some single person representing a number of operators, of transportation costs. A trainload of coal going from the Pittsburgh district to Chicago now may be made up from half a dozen different mines, and the added trouble in assembling the cars makes the total transportation cost more than if the whole trainload went from a single mine. If some agency had the orders, and it were seen that those from Chicago would total a trainload, it would be taken from one or two mines, resulting in a substantial saving in the cost of transportation (2383, 2384).

(4) Better prices, for instance, for slack, having a common storage plant and storing it until the winter, when a fair price may be obtained for it (2383, 2384).

(5) A substantial saving through a common agency for the purchase of materials, etc., used in the mine (2381).

COMMISSION.

Realizes that various consequences to the public might result if operators were permitted to combine, without restriction, to secure better prices and conditions in the industry. Suggests therefore that a commission be created, with power to review any proposed combination and refuse to permit it if in the judgment of the commission it was against the public interest. The jurisdiction of the commission should be plain, and the power to act on combinations without subjecting the persons forming such combinations to the Sherman law as it now stands (2382). Believes that under such a commission the privilege of combining could be conferred without its being abused (2386).

Mr. LIPPITT. Mr. President, this is testimony which was given three years ago. In connection with this bill itself and with this present legislation there has also been a very considerable amount of testimony before the Interstate Commerce Committee. I want to call attention to the fact that very competent witnesses are still testifying to the necessity of constructive action of this kind being taken on this subject.

Charles F. Mathewson, in reply to the views expressed by Dr. Van Hise (Pt. I, p. 65), said:

I would insert a clause at the end of the Sherman Act something like this, this being the substance: "This act is not intended, and shall not be construed, to prohibit any reasonable restraint of or any reasonable combination which may have the effect of eliminating or restraining competition, provided such elimination shall not be contrary to the public welfare."

Mr. S. P. Bush, president Ohio Manufacturers' Association, Columbus, Ohio, who I think testified three years ago, renewed his testimony at this time, saying:

But, nevertheless, the feeling is very profound that a certain amount of cooperative effort is absolutely necessary, and to eliminate all cooperation and make it unlawful for competitors even to attempt any cooperative effort would be a grave mistake. We fear that. If you ask us what we fear, that is one thing that we fear. We fear that we may, as things have been appearing, be discriminated against—the manufacturer and the business man. Not that we are anxious to stand in the way in the least of eradicating abuses, which we know of as well as you, probably better, but simply to protect in a national way industry, the product of labor, the product of capital.

To-day the situation is intensely uneconomic. It is wasteful. Competition is unnecessarily savage. The evil effects of it are coming to the surface every day.

There was recently held a meeting of the Chamber of Commerce of the United States of America, on February 12, in Washington, at which a discussion of this subject was had by several men of very high standing. I should like to quote from some of those speeches, but instead I shall ask that the quotations which I have drawn off be printed as a part of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

Speech of Victor Morawetz, delivered at second annual meeting of the Chamber of Commerce of the United States, Washington, February 12, 1914 (p. 34):

However, it is not true that every contract or combination which in any degree lessens competition, or limits production, or increases prices restrains or tends to restrain trade or monopolize it. On the contrary, some contracts and combinations of that character are necessary to secure economy and efficiency in production and in trade and to preserve strong and healthy competition at home and in foreign markets. If such contracts or combinations involve no elements of oppression of others, and if they do not put an end to healthy competition in any branch or trade or commerce, they should not be prohibited.

Frederick P. Fish, Chamber of Commerce speech (p. 50):

I can not help believing that when we have had a longer experience with our present industrial conditions and understand more clearly the necessities of the complex business situation of to-day, we shall modify the Sherman law at least to the extent of permitting the free natural growth of industrial enterprises and such agreements as to price maintenance and conditions of manufacture and sale as are reasonably necessary to secure a fair profit to producers, not of course in the interest of any class or grade of business or of business men but in that of the country and its citizens as a whole.

Henry R. Towne, Chamber of Commerce speech (p. 59):

INVESTIGATIONS.

If well framed, a law similar to the Canadian "combines investigation" act would be of immense benefit especially to the vast number of minor industries, the aggregate of which, both in volume of business and in number of persons engaged, far exceeds the aggregate of the so-called "trusts" or great corporations. Its aim should be not merely to permit, but to encourage, cooperation between small competitors.

Prof. Henry R. Seager, Chamber of Commerce speech (pp. 70–74):

It seems to me that there should be included in this bill a provision such as that recommended in the report of the Committee on Interstate Commerce from which I quote:

"There ought to be a way in which men in such a venture could submit their plan to the Government and inquiry made as to the legality of such a transaction; and if the Government was of the opinion that competitive conditions would not be substantially impaired, there should be an approval, and in so far as the lawfulness of the exact thing proposed is concerned there should be a decision, and if favorable to the proposal there should be an end to that particular controversy for all time."

* * * * * * *

If business men may not "make any agreement, enter into any arrangement, or arrive at any understanding by which they, directly or indirectly, undertake to prevent a free and unrestricted competition among themselves or among any purchasers or consumers in the sale, production, or transportation of any product, article, or commodity" without rendering themselves liable to conviction for crime and to the severe penalties provided by the antitrust act, current methods of carrying on business in the United States will, indeed, have to undergo a modification.

* * * * * * *

But let us not make a fetish of competition! It also has its bad as well as its good side. While recognizing its value and making strenuous efforts to insure it a fair field for its operation, let us not ignore the fact that cooperation also has its legitimate place. On a higher moral plane than competition, its extension, under conditions that compel adequate regard to the public interest, must prove advantageous not only to business men, but to the whole community.

George W. Wickersham's address before the American Academy of Political and Social Science, Philadelphia, February 26, 1914 (pp. 10, 25, 26):

To legislate without discrimination against every agreement which directly or indirectly may restrict competition is to put an embargo upon all healthy normal business development.

* * * * * * * *

The problem of the relation of the Federal Government to cooperative industrial business can never be satisfactorily solved until Congress courageously legislates in the affirmative, declares what can be done, and throws the protection of the National Government about those who conform to its laws in acting under it.

* * * * * * * *

Negative action is cowardly and must in the future prove to be as unsatisfactory as it always has done in the past.

Mr. LIPPITT. Mr. President, one of the most intelligent of the witnesses who have discussed the question of trade agreements before the Interstate Commerce Committee is Dr. Charles Van Hise, of the University of Wisconsin. I should like to read what he has to say in regard to this matter.

The existing situation—

He says—

is not so much created by the existence of monopoly as by cooperation between organizations which are not monopolies themselves. I wish to assert that cooperation exists to an extent which is far beyond what is usually appreciated, and perhaps beyond what you yourselves are familiar with unless you have gone into the matter. I am quite sure that cooperation in various ways in regard to market and output and prices exists in substantially every business of the country, from the country crossroads to the great centers.

* * * * * * * *

It seems to me if we are really, therefore, going to the root of this situation we can only do it by recognizing the existence of cooperation in this country and regulating that cooperation.

* * * * * * * *

If there were time—but I know there is not—I believe I could cite instance after instance in which each and every member of this committee would agree that the proposed cooperation is entirely proper.

Dr. Van Hise occupies a very distinguished position. He has given this subject very careful thought and consideration for many years, and represents not the business view of this matter but the view of the economist and the student.

In order to show how strongly the demand exists for some legislation that will cover this question of trade agreements, I want to call attention to the results of the referendum which was undertaken on the part of a committee of the Chamber of Commerce of the United States of America, as illustrating the opinion of the merchants throughout this country on this subject. In the early part of June a committee representing that body asked for the views of the organizations which were included in it upon several questions and they made their recommendations on each question that was submitted to the chamber, in some cases in favor of it and in some cases opposing it. The subject of No. 3 was that:

The committee recommended that the commission—

Referring to the trade commission—

should not now be given authority to advise applicants concerning the legality of proposed contracts, combinations, etc.

In other words, that the commission should not then be given any authority in the way of deciding upon the validity of trade agreements. The committee, as I say, recommended against the adoption of this resolution. Dr. Van Hise, however, who was a member of the committee, was very much in favor of it, and a short argument in favor of it was sent out with a proposal for votes. Every recommendation which the committee made to the chamber of commerce was approved in accordance with the opinion of the committee except this one proviso; and although the committee of the body themselves had advised against this approval of trade agreements by this commission, the votes of business organizations showed a vote of 307 in favor of such authority being given to a commission and a vote of 304 against it.

It is a slight majority, it is true, but inasmuch as that majority is made up in many cases by the votes of business men who have perhaps not given the subject the very fullest consideration, and is in opposition to the advice of their own committee, to my mind it is a very emphatic illustration of what the real opinion of the business men of this country on that proposition is.

Mr. President, I have tried to lay before the Senate a number of reasons why I believe that something ought to be done in the way of constructive legislation, why something ought to be done in the way of pointing out the path along which the business of the country might go ahead, as well as to have the barriers prescribed beyond which it must not pass.

I should like to say in connection with this matter that the United States is the only country in the world, so far as I know, that does not in some form or other authorize and approve and help cooperation among its people. In Germany they have the well-known cartel, and in 1892, under the system which they have, there were 450 authorized agreements. In Italy, while the system is not the same, they have an arrangement by which people can submit to the Government agreements which they want to make, and the agreements are authorized or not authorized, as the Government sees fit. In England business men are allowed to do things in the way of cooperation for the sake of economy and the proper conduct of business that we do not at present allow in this country.

Even at the present time the cotton spinners in Manchester have made an agreement by which they have put in force a curtailment of the production of all the mills, the agreement to be operative from the time at which it was put in force, a week or two ago, until the end of September, which means a partial reduction of their production for 10½ weeks, amounting to about 30 per cent of their running time.

I do not know that I have anything more to add to what I have already said on this question at the present time, but I have an amendment covering some of my views which I may bring up a little later in the day.

Mr. LIPPITT subsequently said:

In the course of the remarks I made a while ago, I meant to ask to have printed in connection with them an amendment which I intend to propose to meet some of the conditions in regard to trade agreements. I now ask that I may have permission to print the amendment.

There being no objection, the amendment referred to was ordered to be printed in the RECORD, as follows:

Amendment intended to be proposed by Mr. LIPPITT to the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes, viz: Insert the following:

SEC. 5a. That if one or more parties to any agreement made or proposed to be entered into between two or more parties, one or more of whom is or are engaged in interstate commerce, or which agreement affects or is intended to affect interstate commerce, shall submit such agreement to the commission by filing with it a copy thereof, together with a duly verified statement, in writing, in such form as the commission shall prescribe, giving the names, occupations, and addresses of all parties to such agreement, stating whether the same has or has not been executed, the reasons therefor, and the effect, if any, which such agreement is intended to have upon interstate commerce, and such further information as the commission, by its rules, shall require, the commission shall forthwith consider such agreement, and the effect of the same, and may require any further information, documentary or otherwise, with regard thereto which in its judgment shall seem necessary or proper; and if all requests of the commission for information shall be promptly and fully complied with, it shall, with all convenient speed, make and file a certificate, stating whether or not, in its opinion, such agreement does or would operate in undue restraint of interstate commerce, or tend to the monopolization of any part of such commerce.

No party to any such agreement who shall have submitted or joined in the submission thereof to the commission, during the time the same is under consideration by the commission, shall be prosecuted criminally because of such agreement or any act done pursuant thereto, under the provisions of any of the antitrust laws. If the commission shall be of the opinion, and shall so certify in writing, that any existing agreement or combination is being operated in the interest of the public, and is of advantage to the convenience and commerce of the people, and that such operations will not substantially exclude, prevent, or reduce competition in the business affected thereby, then, so long as such certificate remains unrevoked or such agreement shall not have been declared unlawful or against the public interest by some court of competent jurisdiction, no party thereto shall be prosecuted criminally in any court of the United States because of such agreement or any act done pursuant thereto under the provisions of any of the antitrust laws.

Upon reasonable notice to the parties to such agreement, given in such manner as the commission by its rules may prescribe, and after such parties shall have been given an opportunity to be heard with respect thereto, the commission may revoke any certificate made as aforesaid: *Provided, however*, That nothing in this section contained shall operate to prevent or otherwise affect the prosecution of any civil suit or action against the parties to any such agreement by the United States or by any other party.

TRANSPORTATION OF AMERICAN PRODUCTS TO FOREIGN COUNTRIES.

Mr. WILLIAMS. Mr. President, while the United States Senate is talking, and talking in extenso, and while very many Senators are participating in the debate at unusual length, the whole world outside of the United States seems to have gone insane. The insanity, the idiocy, and the stupidity of war prejudice has seized the entire world, and, in the providence of God, it is thoroughly impossible for any part of the world to be engaged in devastating warfare without damaging the utmost other parts of the world.

We are faced to-day with a condition growing out of the European warfare that has led me to introduce a bill and will lead me in a few moments to ask unanimous consent that the bill be permitted to go to the proper committee for consideration.

America finds herself to-day in this situation: Our cotton crop, which was once pronounced by a premier of England to be the greatest "gold asset" in the world exeept gold itself, can not find transportation for exportation. That does not make so much difference, because the new crop of cotton as yet has not been picked and baled and is not ready for export, but the situation has produced almost a panic in southern

centers. In New Orleans and in Memphis and in Galveston people are losing their heads. Cotton has gone off $10 a bale, and what that means to the American people, with 15,000,000 bales of a gold-returning cotton product, all of you can figure. Out of that 15,000,000 bales only 40 per cent is manufactured in the United States. Two-thirds of that entire product is manufactured in Great Britain and in Germany—in Great Britain more largely than in Germany.

So far as our trade with Great Britain is concerned, after a few weeks, or a few days possibly, that will be open and free. The German fleet will probably be bottled up in the Baltic, and not only the ships of neutral powers but the ships of the English nation will be free to sail the seas.

Meanwhile another thing of much more importance, not related to my section, is threatening the American people. Breadstuffs and meat stuffs, which are quasi contraband, are not exportable at this moment. Not long ago I read a report in the newspapers that the railroads were refusing to take shipments of wheat to Galveston, Tex., upon the ground that the elevators there were full of wheat, that there was no place to store it, and the railroads could not afford to take the wheat and keep it in their freight cars, because very soon it would use up their rolling stock; and besides, that was a pretty expensive way of storing and keeping wheat, as the railroads would have to provide the cars. Nobody can blame the railroads for that.

Here is all Europe, with foodstuffs rising in Paris, London, St. Petersburg, and Vienna to starvation prices, and here is America flushed with the biggest crop that she has ever made in her history, and the difficulty, so far as corn and oats and meat stuffs are concerned, is simply a question of transportation.

The Hague conference divided all products in times of war into three classes. One was "absolute contraband," in neutral bottoms or in any other bottoms, such as munitions of war and articles of that sort; another class was composed of food products, which were capable of being made contraband of war or not, according to the decision of the belligerent powers; another class of products was expressly declared to be noncontraband, and among these was raw cotton. The United States protested at The Hague against the idea of making foodstuffs even quasi contraband, but the decision went against us. They can be contraband in certain eventualities.

Now, what I want to do is this: It is not very important to the South just at this moment, because our new crop is not yet ready to move except in the interior, and not many bales of the new crop of cotton have been picked and ginned and put upon the market even in the interior. Outside of southeast Texas and southwest Louisiana and a little of the southern part of Mississippi and Alabama and Georgia and some parts of Florida, there are no new bales of cotton on the market.

The present fall of $10 a bale in cotton has been produced for purely speculative purposes, grounded upon anticipation of a decrease of demand from the European mills. Part of the decrease, in my opinion—and I am making this talk principally to spread a feeling of optimism throughout the South and to decrease the spirit of pessimism, so far as I possibly can—a part of that demand will, in my opinion, continue. The greatest customer for our raw cotton is Great Britain and, in my opinion, unless the British Navy is totally deficient and inefficient and unequal to its tonnage and its cannonage and everything else, it will not be long before the world will know that the German Navy, representing the only great world power that is intent upon war, determined upon it, and has been determined upon it for months, will be bottled up in the Baltic; and if it is bottled up in the Baltic or destroyed at sea, then not only will neutral ships sail the seas, but English ships will also keep their regular schedule time from New York to Liverpool and Southampton and other ports. Of course American ships can not be interfered with at all; but for the immediate future, in order to take care of foodstuffs, breadstuffs, meat stuffs, and those things we have got to have transportation.

So I have drawn up a bill, which I will take the liberty of reading to the Senate, and for which I am going to ask unanimous consent simply that it shall be introduced and referred to the committee, as unanimous consent is necessary under the present order.

Be it enacted, etc., That the Secretary of the Treasury, with the approval of the President, is hereby authorized and empowered to purchase outright for cash, out of any funds in the Treasury not otherwise appropriated, any ships belonging to citizens or subjects of belligerent powers now lying in American ports, or hereafter brought thereinto, paying for them not more than their true value, ascertained upon a system of appraisal to be instituted and published by him; that in the purchase of them due regard be had to our Atlantic, Pacific, and Mexican Gulf needs—

So that the shipping may be distributed between the wheat and the tobacco, and the cotton, and the sugar ports—

that officers and crews of the Navy be detailed to man them, or officers and crews of our merchant marine be employed to man them, or officers and crews fit for the service being two-thirds American citizens be otherwise secured.

SEC. 2. That these ships be at the earliest available moment admitted by authority of this act to American registry.

SEC. 3. That the ships so manned and registered be loaded with breadstuffs, meats, and cotton, and other articles not contraband of war, ready now or hereafter ready for export, and shall convey the same to whomsoever at whatever port of the world may have purchased the same, subject only to blockades that are or may be declared.

Of course, if any of these powers declare blockades, all sorts of merchandise, whether contraband of war or not—even diamonds or silk—may be subject to seizure if caught in ships running the blockade.

SEC. 4. That the United States view as an unfriendly act any attempt on the part of any Government, dominion, or power in the world to interfere with, hinder, or delay their commerce on the high seas, in anything save absolute contraband of war—

Now, remember, foodstuffs were not pronounced by The Hague conference to be "absolute" contraband of war. They were pronounced to be quasi and conditional contraband of war, depending upon the belligerent conditions.

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from South Dakota?

Mr. WILLIAMS. I do.

Mr. CRAWFORD. Does the Senator think it necessary to put that last clause in this bill? Does not that look a little like putting a chip on our shoulder before we have any occasion to do so?

Mr. WILLIAMS. I am not afraid of that chip, if the Senator will pardon me.

Mr. CRAWFORD. I do not see the necessity for it.

Mr. WILLIAMS. If the Senator will pardon me one moment, I am not afraid of that chip. This is the first time in a long time, peace fanatic as I am and acknowledge myself to be, that I am not afraid of carrying the chip. Peace fanatic as I am, when a man spits tobacco juice in my eyes I am going to resent it.

Mr. CRAWFORD. But they have not done it.

Mr. WILLIAMS. My position is this: The American commerce in breadstuffs and meat stuffs must find its way to Europe in behalf of the interest of the American people. I am not in the slightest degree afraid even of Kaiser Wilhelm himself issuing any pronunciamento in opposition to whatever we do within our rights—and that is within our rights—because The Hague Conference left indefinite the question as to whether foodstuffs were or were not to be contraband of war. It left it to be determined by the powers at the time.

Mr. GALLINGER and Mr. O'GORMAN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Mississippi yield, and to whom?

Mr. WILLIAMS. One moment, if the Senators will pardon me. All powers in Europe are at one another's throats.

Mr. CRAWFORD. They have not done that yet.

Mr. WILLIAMS. They are at one another's throats. I am sorry for it. Insanity, idiocy, stupidity are weak terms for men who will bring on international war. It is the people—the mechanics, the farmers, the husbands, the brothers, the sweethearts in those classes—that suffer. The German Junkerthum that has brought on this war will suffer least of all people in Europe, unless the German Empire is speedily whipped. Cooperating with Austria, forming a compact territory with contiguous boundaries, with interior lines of communication, with superior discipline, with superior mobilization, with superior scientific war methods, the chance of their being whipped is rather remote. Germany's antagonists must go all around everywhere in the world to cooperate for a strike, while the Austrian and Prussian armies—I say "Prussian," because Prussia is the dominating influence with the Junkerthum of all Germany—have the opportunity to strike upon interior lines. There is, however, just one thing that none of them want piled on their backs right now, and that is the United States of America.

Mr. GALLINGER. I was about to ask the Senator, because I have not looked into this matter very closely, whether or not the question of foodstuffs becoming contraband of war is dependent upon the action of the individual country; that is, could England declare foodstuffs contraband of war, or Germany, or any other country?

Mr. WILLIAMS. Yes.

Mr. GALLINGER. It does not depend upon any concert of action?

Mr. WILLIAMS. No; it depends upon the individual country, and the action of that individual country will depend upon our action.

Mr. GALLINGER. Largely so, no doubt.

Mr. WILLIAMS. But if we say at the beginning of this thing that food shall not be contraband of war, not one of them will dare make it so—not one of them—unless it were, probably, Great Britain, and her friendly relations toward the United States in very many respects are such that she would not want to.

Mr. NEWLANDS. I think, if the Senator will yield to me, that there need be no feeling about this matter at all. I am quite in sympathy with the purpose the Senator has in view, which is, as I understand, to secure unanimous consent to his offering a bill which is to be reported to the Senate.

Mr. WILLIAMS. Yes; but I want to read the bill first, and I wanted to make this little talk, because I want the press and I want the intelligence bureaus of the country to carry what I regard as the optimism of this speech to all the country, and to the South especially.

Now I will continue with the reading of the bill:

SEC. 4. That the United States view as an unfriendly act any attempt on the part of any Government, Dominion, or power in the world to interfere with, hinder, or delay their commerce on the high seas, in anything save absolute contraband of war, as declared by The Hague conference or in obedience to blockade regulations—

That is where I was interrupted, in the middle of a sentence.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Utah?

Mr. WILLIAMS. Wait one moment.

And especially any attempt to interfere with, delay, or hinder their commerce as carried on in the ships hereby provided for.

Now, I yield to the Senator from Utah.

Mr. SMOOT. I simply wanted to ask the Senator whether he did not believe that position and statement ought to come from the State Department, rather than in a bill passed by Congress?

Mr. WILLIAMS. That is possibly true.

Mr. SMOOT. I do not want to oppose the Senator's idea as contained in the bill, but I do believe that a statement of that kind ought to come from our State Department and not in a bill passed by Congress.

Mr. WILLIAMS. My idea was that the State Department ought to have the encouragement of the legislative department to take that position. All I want is to refer this bill to the committee, and if the committee changes it in any respect so that it meets the substantial object in view I shall not be ugly about it, and shall make no objection. My idea was that if the legislative branch of the Government of the United States, representing the people in a peculiar way, wanted to express its opinion, it would be bolstering up and backing up the executive department of the Government to take that position, and even if this clause were stricken out of the bill the general remarks upon it and its purpose would to a large extent have that effect.

SEC. 5. It shall be the duty of the Secretary of the Treasury—

Now, of course, I do not want to put this sort of thing into permanent operation. That would be absurd. I do not want the United States Government engaging in the transportation business. All of you who know me know that there is not a man in this body more opposed to that than I am. So I have added this section:

It shall be the duty of the Secretary of the Treasury, on or before or within four months after peace shall have been reestablished in Europe, to dispose of the ships purchased under this act at the best available price at public or private sale, and to cover the proceeds thereof into the general fund of the Treasury.

My opinion is that even during this war private capital will come forward ready to repurchase from the American Government these ships at the full price which has been paid for them, because of the immense profits accruing to the neutral carrying trade in a great European war.

In that connection I want to say this: I have heard gentlemen say that the war would be over in 60, 90, or 120 days. I do not believe it. I am one of the few men who are decently informed who do not believe it. I notice the Boer War took three years to finish. Will gentlemen tell me that with all the modern improvements in the instruments of warfare this war will be suddenly terminated and peace will immediately follow it? That depends upon the spirit of the people behind the war. Germany and Austria have interior lines of communication and contiguous boundaries, and are compact, and will undoubtedly gain the first advantages in this war; but if the French people are prepared to die instead of being prepared to surrender 80,000 men, as they did at Sedan in the last Franco-Prussian War, and if the Russian people are tied to the death by blood relationship to Servia, and determine that she shall not be crushed by Austria like an empty eggshell, this war may go on for seven years. Nobody knows. No man can tell. No man ought to be egotistical enough or foolish enough even to attempt to prophesy. Therefore I put in this last section.

Now, not intending to keep the Senate any longer than is absolutely necessary, I want to say just one or two more words, because I want them to go into the RECORD, and I want them to go to my constituents, who have a certain degree of confidence in me, in a way—in my sincerity, at any rate—wherever else there may be failings.

I believe that the entire American people, and the South especially, are overestimating the damage that is going to be done to the United States by this insane, idiotic, stupid performance in Europe. As far as the West is concerned, the moment this transportation difficulty is overcome her products are going to rise to war prices upon European markets wherever they can be landed, wherever they are not excluded by blockades; and if we take this position blockaded places will be the only places where they are excluded; that is, where blockades have been declared by belligerent powers. Now, as far as cotton is concerned, it is a part of the misfortune of the South that whenever a war occurs anywhere in the world cotton must go down. Going to the ultimate consumer, where he makes his first economy is in his clothing.

Mr. WEST. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Georgia?

Mr. WILLIAMS. No; not now. Man must eat; man must live; and man must have foodstuffs day by day. He can not economize upon that; and seven-tenths of mankind do not buy any more foodstuffs in peace times than they need. They can not cut it off much; but when it comes to clothing, the man says: "Well, I will do without a new suit." The wife says: "I will do without a new dress." They can economize, and so calicos and other dress clothing fall; and they say: "Well, never mind if the old sheet has a hole in it; put it back on the bed anyhow. We have not got money enough to buy a new one right now without troubling us." So shirtings and sheetings and everything else goes down, and raw cotton out of which to make them especially does. The only time when war can help the price of cotton is when the semi or quasi monopolistic cotton section of the United States is itself involved in a war. Then, of course, the transportation of cotton abroad is interfered with by blockades and cotton may rise, as it did in Manchester during the war between the States, to $1.50 a pound.

Mr. WEST. That was the point I was expecting to raise when the Senator made the remark.

Mr. WILLIAMS. All right. I am mighty glad I made it, because I have more confidence in it after I know the Senator wanted it.

So far as the balance of the United States is concerned, although no part of the world can possibly be permanently helped by warfare and bloodshed and devastation of property in any of the balance of the world, it will be helped temporarily. As far as we are concerned in the South, in the cotton belt, of course cotton must suffer a certain loss, because outside of the ultimate consumer's economy is the fact that the male help in the factories of Germany and France will be put in uniforms. Germany takes some 300,000 bales of cotton per month from the United States, and France about 175,000 bales per month. I mean during the cotton season, which lasts about three or four months. There is, however, one good thing that I want to mention to the people of the United States, and those in the South especially, about cotton factories which in ordinary times is a bad thing, but in war times is a good thing: Most of the help in the cotton factories is women and children—children over 16 or over 14 or whatever the local laws are, and the women—and they will not be pressed into war. It is not like a steel factory, where perhaps every man may have to go out from the furnaces to put on a Prussian uniform in Germany, or to put on some other uniform somewhere else.

Now, I want the people, if they can, to hold their heads and not get excited. In every great crisis that comes people come to you, and their first cry is, "More money!" We have plenty of money, ready to be distributed. As my old grandfather used to say, "I never saw the time when there was too little money. I have frequently seen the time when there was too little collateral." We have provided a banking system, and by this amendment which the House has sent over and by the agreement which comes out of conference we have made the broadest possible provision for depositing live, valuable, commercial assets and getting currency for them.

I want the country to understand, as far as my weak voice can impress it upon the country, and especially upon my own section and State, that there is no reason to grow panicky at all; that when this great, foolish, stupid blunder of war is over the United States will come out, with the Red, White, and Blue flying, as the only country on the globe of any importance that had sense enough to keep its head. Even a nation needs a head. Now and then, when I am fooling along here in Washington, I think maybe it has too many heads, and that they are not quite so good as they ought to be; but even a nation needs a head. It needs what Jonathan Bourne called a composite head, or it needs a certain definite head; but, at any rate, it needs brains and intellect; and the great thing is for the country not to get excited, not to imagine that everything is going to pieces.

If you could take the cotton crop to-day and carry it over by a system of valorization, as Brazil did with her coffee; if you carried the surplus over to the next year and the war lasted six months or one year, and this surplus were thereby piled upon the market at the end of the next crop as an increased supply somewhere to sell, plus the next year's production; and if the acreage would be increased by holding out the hope of valorization, then, at the end of the entire struggle of two or three years you might have cotton worth 4, 5, or 6 cents a pound. So the thing is simply to hold our head and be calm and be deliberate, to love peace, and to remember this, and with that I shall conclude and shall ask unanimous consent.

What I hate about war is not the men who are killed—they can be reproduced; it is not the number of women who starve to death—and I have seen it when I was a boy—for they can be reproduced; it is only a question of a generation or so. What I hate about it is that every dollar that is taken out and literally burned up in powder and cannon and uniforms is subtracted from churches and schools and agriculture and scientific research and educational enrichment and from the great philanthropic social activities of every description which in time of peace push men forward. There never was a people yet who went through a war without losing, not dollar for dollar on account of this subtraction, but two dollars for one; because it is not only the dollar that is subtracted, but it is the other dollar taken out of the pocket of the citizen for war or economy purposes, where he might have been producing something instead of wearing the uniform. That makes it at least 2 to 1.

If I were to go out of the Senate door right now and attack the Senator from New Hampshire and pull a pistol upon him and he were to pull one upon me, it would be less idiotic and less insane and less stupid and asinine than this war in Europe is right now. What do they say they are quarreling about? Because an archduke was assassinated by a fanatic. You and I know that that is not the case. Everybody knows that. I am a member of the Foreign Relations Committee, and I reckon I ought not to be too blunt in my speech about what is taking place abroad. Being a United States Senator, somebody might think it was a sort of a semiofficial utterance that I had no right to make, and I shall not go any further along that line. But what hurts me about it all is this: I have lived and seen. Take me myself. I belong to a family of large people. Every boy I have except one is over 6 feet tall. My ancestors were. You people starved me to death when I was growing, and starved my brother in the same way. So you stunt everything. You stunt education; you stunt religion; you stunt social progress; you stunt hospitality; you stunt international inter-relationship, which is a very precious thing; and the whole thing is just simply—oh, I do not know. I can not find language to express what I think about it, because I know of no stronger words than I have already used. If I knew any, I would use them.

The thing for the people of the United States to do is to keep their heads cool and their hearts warm in charity and sympathy for all these poor people—farmers, mechanics, factory workers—who will have to bear abroad the burden of idiotic war. The Junkerthum of Prussia and the Reichsrath and the Corps Legislatif and the Austrian Assembly and the British Parliament will not have one man out of forty hurt.

I think if there were a law that whenever war was declared every member of the legislative assembly declaring it must go to the front in the first rank, there would be less war than we have now; and, besides that, we would get a lot of fools killed, which would be a great advantage to the civilized world—war fools especially. I have no sympathy with them.

I have read the bill and I have stated the reason for introducing it, and I ask unanimous consent that it may be referred to the Committee on Foreign Relations.

The bill (S. 6214) to authorize and empower the Secretary of the Treasury, by and with the approval of the President of the United States, to purchase certain ships, was read twice by its title and referred to the Committee on Foreign Relations.

REGISTRY OF FOREIGN-BUILT VESSELS.

Mr. JONES. I have an amendment which I intend to propose to House bill 18202, which passed the House yesterday. I ask permission to offer it and have it printed and referred to the Committee on Interoceanic Canals. A similar amendment has already been by unanimous consent offered to-day and referred.

The PRESIDING OFFICER. Without objection, it will be so ordered. The Chair hears none.

RELIEF OF AMERICAN CITIZENS ABROAD (H. DOC. NO. 1137).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

After further consideration of the existing condition in Europe, in so far as it is affecting citizens of the United States who are there without means, financial or otherwise, to return to their homes in this country, it seems incumbent upon the Government to take steps at once to provide adequate means, by the chartering of vessels or otherwise, of bringing Americans out of the disturbed region and conveying them to their homes in the United States. Moreover, in view of the difficulty of obtaining money upon letters of credit, with which most Americans abroad are supplied, it will be necessary to send agents abroad with funds, which can be advanced on such evidences of credit or used for the assistance of destitute citizens of the United States.

In these circumstances I recommend the immediate passage by the Congress of an act appropriating $2,500,000, or so much thereof as may be necessary, to be placed at the disposal of the President for the relief, protection, and transportation of American citizens and for personal services, rent, and other expenses which may be incurred in the District of Columbia or elsewhere connected with or growing out of the existing disturbance in Europe.

WOODROW WILSON.

THE WHITE HOUSE, *August 4, 1914.*

OIL AND GAS LANDS.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 5673) to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States or their successors in interest," approved March 2, 1911.

Mr. PITTMAN. I move that the Senate disagree to the amendment of the House and insist on the bill as passed by the Senate, that it request a conference with the House on the disagreeing votes, and that the conferees on behalf of the Senate be appointed by the Chair.

The motion was agreed to; and the Presiding Officer appointed Mr. PITTMAN, Mr. HUGHES, and Mr. CLARK of Wyoming conferees on the part of the Senate.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. LANE. Mr. President, I am in hearty sympathy and in entire accord with the object which the authors of this bill say that they seek to obtain. On the other hand, however, I have but little confidence in the methods which they have adopted to obtain that object. The bill will no doubt pass with all its indirection and lack of virility, and I, among others, who had hoped for better things along these lines, will be compelled to vote for it. May God have mercy on our souls. With all due and commensurate respect for it and its authors, I and others who had hoped for something better for the people of this country find ourselves situated as was Dean Swift, who was by circumstances over which he had no control forced to dine at the house of a notorious skinflint, when called upon to ask a blessing upon the meagre fare set before him, and did so by saying, "For what we are about to receive, O Lord, make us correspondingly grateful."

So far as I have been able to ascertain, no two of the many able attorneys in the Senate are able to agree on what this bill means or what it will accomplish if it becomes a law. After carefully listening to many of the arguments, both for and against it, I have come to the conclusion that if it is going to

require of the business men of this country the time to guess out its meaning which has been consumed here in explaining it, it is too involved in that respect to be worth enacting into a law.

The reason for this difficulty with it, I think, is due to the fact that it attempts to remedy certain evils in a half-hearted manner and by adopting indirect methods instead of boldly grasping the subject and administering the treatment which will accomplish the desired result.

There are certain existing evils which have been fastened upon the people of this country which are sapping its prosperity and which will ultimately destroy or permanently cripple it if they are not removed. These evils and the cause for their existence are apparent and well known, and it seems to me that out of the large number of able attorneys who are Members of this body some one could be found to formulate a measure, simple and effective, which would declare the fraud and the theft which is being practiced upon the people of this country to be unlawful and to provide penalties for the same.

The time for the enactment of some such simple measure which will give relief from continued acts of injustice and downright dishonesty which mulct the people out of hundreds of millions of dollars each year, is long overdue, and no temporizing measures which fall short of accomplishing the result or which indirectly authorize the agents of the people to enter into negotiations and exchanges of visits and views with the crooks who are engaged in looting their principals is going to relieve the situation or be looked upon by them either with approval or without suspicion.

The passage of a measure under the terms of which any and every small and honorable dealer may be put to intentional and infinite annoyance or driven out of business by his larger or more crafty rival and from which he has everything to fear and nothing to gain, whereas, upon the other hand, intrenched, dishonest business interests, through negotiations, may have their methods pronounced to be not too unreasonably unfair, and have everything to gain and nothing to lose by taking a chance on befuddling a commission with countless definitions of fair and unfair competition, will but add delay to the solution of a question that presses for an answer.

Unmuzzled criminals who are engaged in robbing other and better people should be estopped and dealt with as are other and less harmful thieves.

If commissions are to be appointed to ponder upon and weigh the exact amount of unfairness which is involved in extortions whereby unfortunate mothers and helpless children are made to suffer from lack of a sufficient supply of bread and other simple food supplies, and in consequence of the far-reaching effects of similar illy balanced economic conditions some scores of little babies die within the circle of a mile from this Chamber of much talk and dilatory methods, I see no reason why a board of supervisors should not be created with whom the more merciful porch climbers, pickpockets, yegg and "stick-up" men might be allowed to consult in order to receive due and respectful consideration as to the ultimate benefits and disadvantages which accrues to society at large in the ultimate analysis from the carrying on of their chosen professions.

If it be true that hundreds of thousands and millions of people in this country are being compelled to accept arbitrarily fixed and unjustly low prices for the products of their toil, while at the same time they and others on the other hand are also being compelled to pay arbitrarily fixed and unjustly high prices for what they consume, they are being robbed, and it would be well to say so by act of Congress in place of setting a commission to work hunting down individual and probably lesser examples of a general and well-established evil. Sooner or later this social cancer which is eating into the body politic must be destroyed and palliatives and placebos will only serve to kill time during which the evil growth will secure a deeper hold.

To delegate the sovereign power of Congress to a commission which will be drafted from God knows where will not only lead to unending delay but will add an enormous expense to a long-suffering and already overburdened people.

Commissions of the kind here contemplated are in no wise responsible for their acts to the people, yet the people are to be bound by their decisions. They are suffering now from the decisions respecting business methods by persons whom Congress allows to prey upon them and has failed to make responsible to them for their predatory acts, and under this bill a commission which may be entirely in sympathy and harmony with such predatory interests is to be placed over them in a position where they can make and enforce a mandate that the people of this country shall continue to be robbed as they are now being robbed, and by the same set of criminals.

If it were so constituted there might come from it decisions which would definitely fix upon them some of the most oppressive practices under which they are now struggling. This is a danger that no wise man can afford to overlook in considering his vote upon this bill. This country has had experience with officials who have been more than tender to the interests of those who sought special privileges at the expense of the people; in fact, there would be no need of the present attempted legislation or any other of a similar character if such had not been its experience, and as a Nation we are yet in our youth.

This measure, if it becomes a law, will set upon foot a set of investigations into the details of business which, if they should be deflected into minor channels among small traders, might go on indefinitely without ever reaching the larger and more dangerous combinations which have secured a strangle hold on the food locker of every poor family in this country.

The possibilities for unlimited investigations and paucity of results which can be carried on at the expense of the people under its grant of powers in that respect reminds me of the rather simple but effective plan which is sometimes adopted by nurses to keep a restless baby quiet while she devotes her time to something aside from what she is being paid for doing. She smears a little adhesive, such as is spread on fly paper, on each of the baby's index fingers and then places a nice fluffy feather on one of them. That is all that is necessary; when she has done that, "the game is made," and her attention to that infant is no longer required. The misguided and bamboozled baby instantly drops everything else and gravely reaches out to pick the feather off that finger with the other hand, and, of course, the feather is transferred to it. Just why it should make any difference to a baby, or anyone else, upon which hand a feather was stuck I have never been able to ascertain. I only know that for an hour at a stretch a baby, with all the solemnity which a trades commission sitting in judgment in the effort to ascertain whether a man had taken an unfair advantage of his competitor by crossing his honey bees with lightning bugs in order that they might gather honey at night, while those of his competitor were asleep, could bring to bear on that problem, will transfer the feather from the one hand to the other, back and forth, entirely oblivious to its surroundings or creature comforts, until it drops to sleep from exhaustion.

It is a simple little trick, which succeeds for the reason that it fixes the attention of the child and attracts it away from the real game; and inasmuch as it at all times promises success and as it every time almost, but not quite, succeeds, it works wonders. I do not wish to suggest that the present bill has been designedly drawn with intent to create a device to divert the attention of the people from their real needs, but by some freak of fate it will more nearly, in my opinion, accomplish that than any other result.

I have had experience with multiple boards and commissions in the conduct of public business, and I would deplore the creation of more of them than we now have in carrying on the affairs of this Nation. There is about them a division of authority and lack of responsibility and cohesion which is fatal to success. In fact, the creation of commissions is a confession of weakness on the part of a people in conducting their affairs, and I do not think that this country has reached that stage, although I feel free to confess that I may be mistaken. In fact, it has been tried out in nearly every municipality in this country, and the affairs of the people have been vested in various and divers boards, and always it has resulted simply in loss and mismanagement, or at least in careless oversight and general bad government. The loss, I would estimate, would average anywhere from 25 to 30 per cent of all public moneys expended. Many cities, having found that it was a failure, have dissolved all their commissions and placed their entire affairs in the hands of a single commission. In the time yet to come in the management of municipal affairs, I prophesy that they will go further than that; they will vest all executive power in the hands of one trusted public official at the head of their municipal government.

The legislative power will be given into the hands of a carefully selected few honorable gentlemen, and then reserving in the hands of the people the right to recall all of these officials at any time if their affairs are not carried on successfully, they will get speedy results, direct action, and save a large loss of time and money.

If these powers which are being vested upon a commission were placed in the hands of the Attorney General or some specially designated officer, and he were given sufficient power to

carry on the work, the people of this country would get direct benefit; or if they did not, they would know who was responsible. As it is in this bill, there will be a commission of five; one or two of them will be wise men and one or two more of them will not be so wise; some will have views of one kind and others of another, the same as the views are divergent here in this body. It will be slow work and hard work to convince them all as to the proper course to pursue to get them to take speedy action.

I look for no immediate or for no very good results. Although I think the intention of the authors in drawing this measure was good, yet I think they have had but little experience with the management of public affairs at the hands of commissions, or they would not have created one to do this work.

I have purposely made these remarks for the reason that I wish to place myself upon record. I expect to be compelled to vote for this bill, for the reason that there will be nothing better offered; yet I want it known to my fellow Members that I do so only for that reason, and that I have all along hoped that some able attorney here would draw a direct, a simple, and a concise measure which would declare these frauds which are being practiced upon the people, and they are worse than frauds, to be unlawful, and then provide a penalty for committing them, and place them definitely in the hands of the Attorney General, and then add a clause holding that very worthy official responsible to the people of this country if he did not perform his duty.

Mr. KENYON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Brady	Hollis	Newlands	Smith, Md.
Brandegee	Hughes	Norris	Smoot
Bristow	James	O'Gorman	Sterling
Bryan	Johnson	Overman	Stone
Burton	Jones	Owen	Sutherland
Camden	Kenyon	Page	Swanson
Chamberlain	Kern	Perkins	Thomas
Chilton	Lane	Pittman	Thompson
Clapp	Lea, Tenn.	Pomerene	Thornton
Clark, Wyo.	Lee, Md.	Ransdell	Tillman
Clarke, Ark.	Lippitt	Reed	Vardaman
Crawford	McCumber	Saulsbury	Walsh
Culberson	Martin, Va.	Shafroth	Weeks
Cummins	Martine, N. J.	Sheppard	West
Fall	Myers	Simmons	White
Gallinger	Nelson	Smith, Ariz.	Williams

Mr. SMITH of Arizona. I wish to announce the temporary absence of my colleague [Mr. ASHURST] from the Chamber.

Mr. LEE of Maryland. I wish to state that the Senator from Illinois [Mr. LEWIS] is detained by official business.

Mr. GALLINGER. I wish to announce the unavoidable absence of the junior Senator from Maine [Mr. BURLEIGH] on account of sickness in his family.

The PRESIDING OFFICER. Sixty-four Senators have answered to their names. There is a quorum present.

Mr. REED obtained the floor.

TRANSFER OF VESSELS FROM COASTWISE TRADE.

Mr. GALLINGER. Mr. President, will the Senator yield to me a moment?

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from New Hampshire?

Mr. REED. I yield to the Senator.

Mr. GALLINGER. Mr. President, I am aware of the fact that we are working under a rule that prevents the introduction of other business, but unanimous consent has several times been given to-day for that purpose, and I have a simple Senate resolution relating to a matter which has come from the other House which is very important. I ask unanimous consent that I may offer it now.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. GALLINGER. I send to the desk a resolution for which I ask immediate consideration.

The PRESIDING OFFICER. The resolution will be read.

The Secretary read the resolution (S. Res. 436), as follows:

Resolved, That the Secretary of Commerce is hereby directed to make careful inquiry into the possibility of securing vessels now engaged in the coastwise trade of the United States for transfer to the foreign trade, with a view to meeting the present emergency in over-seas transportation, report to be made to the Senate at the earliest practicable day.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered by unanimous consent and agreed to.

INTERNATIONAL SANITARY CONFERENCE.

Mr. MARTIN of Virginia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Virginia?

Mr. REED. I do.

Mr. MARTIN of Virginia. I ask leave to report a bill at this time, and ask that it go to the calendar.

The PRESIDING OFFICER. In the absence of objection, the report will be received.

Mr. MARTIN of Virginia. I am directed by the Committee on Appropriations, to which was referred the joint resolution (S. J. Res. 166) authorizing the President to designate two officers connected with the Public Health Service to represent the United States at the Sixth International Sanitary Conference of American States, to be held at Montevideo, Uruguay, in December, 1914, and making an appropriation to pay the expenses of said representatives, and for other purposes, to report it without amendment.

The PRESIDING OFFICER. The bill will be placed on the calendar.

FEDERAL TRADE COMMISSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. REED. Mr. President, I offer the amendment which I send to the desk, to go into the bill immediately following section 5 and to be known as section 6. Of course that contemplates the renumbering of the succeeding sections.

The PRESIDING OFFICER. The amendment proposed by the Senator from Missouri will be stated.

The SECRETARY. It is proposed to insert a new section, to stand as section 6 and to read as follows:

SEC. 6. The term "unfair competition" as used in section 5 is hereby defined to embrace all those acts, devices, concealments, threats, coercions, deceits, frauds, dishonest practices, false representations, slanders of business, and all other acts or devices done or used with the intent or calculated to destroy or unreasonably hinder the business of another or prevent another from engaging in business, or to restrain trade or to create a monopoly.

Mr. REED. Mr. President, no one knows better than myself that I have taken too much of the Senate's time in discussing the various propositions involved in this bill; no one more than myself regrets that fact; but this is one of the most important measures that has been before Congress in many years. It makes a radical change in our laws. It embarks us on new seas.

The amendment I have offered I earnestly ask consideration for. For a number of days during the debate it was conceded by the authors of this bill that the only reason they had not defined the term "unfair competition" was because they had been unable to write a definition sufficiently broad in its terms to embrace the practices they desired to prohibit. Repeatedly I was challenged by the distinguished chairman of the committee reporting the bill to write such a definition, and at least the Senator from New Hampshire [Mr. HOLLIS] challenged my good faith because I had not written such a definition.

I appreciate the difficulty of defining the thought which is in the minds of those who are pushing this bill. While I do not claim for it perfection, I contend, however, that the definition now submitted does define with reasonable accuracy and certainty the practices which it is desired to prohibit. I maintain that unless we do place this definition or some other definition in this statute, it is extremely likely that the statute will be held not to at all cover the practices against which we seek to legislate.

Mr. President, it is all right for Senators to abandon the Chamber; it is all right for them to retire to the cloakrooms and to smoke while the discussion goes on, and then to rush into the Chamber and demand an immediate vote; but I undertake to say that the day will come when every man who has treated this as a light question will have occasion in his own heart to regret the fact that he did not give it earnest consideration.

I am surprised to find this situation. Nearly every Senator wants to reach certain dishonest methods that have been employed by great corporations and monopolies to destroy their weaker antagonists. That being the common purpose, it would seem that all should be willing to pursue the highway of safety rather than the doubtful path of experimentation and guesswork. It seems to me that a sincere friend of this bill ought not to take the chance of its being stricken down as unconstitutional when it is perfectly plain that that chance need not be taken.

I have no quarrel with those men who have implicit confidence in their own judgment of constitutional questions. A man who does not have some confidence in his own opinion amounts to but little; but in view of the fact that this question must ultimately be determined by a human tribunal, in view of the fact that that tribunal may have upon it men who are not so wise as these constitutional lawyers who are so confident, it seems to me that the part of prudence would be to pay some regard to the opinions of others, lest some person equally foolish may peradventure be upon the commission or upon some court passing upon the acts of the commission.

We are presented with the situation that in this Chamber Senators who for years have sat upon the Federal bench with distinction and credit have declared section 5 of the bill as it is now written to be not only unconstitutional but dangerous. We see men who have been judges of State supreme courts entertaining like views; we see lawyers who have attained to distinction at the bar of their respective States expressing like opinions. It seems to me that fact, at least, suggests a danger. It seems to me that the real friends of this bill, one of whom I claim to be if the bill is properly safeguarded, ought to want to avoid that danger.

The old illustration comes to my mind at this moment of a great contest of charioteers. To display their skill they each in turn drove along the sheer edge of a precipice, each endeavoring to drive his chariot closer to the dangerous edge of the chasm. Finally one charioteer, to the astonishment of all, drove his master as far away from the edge of the precipice as he could carry him. When asked why, he declared that it was no part of the business or the duty of the driver of a chariot to carry his master into unnecessary danger; that it was his duty to avoid every unnecessary hazard and only to carry his master into peril when the interests of the state so demanded it. That driver was by the wise men of the day awarded the palm as the best charioteer in the contest.

When we are framing a law we ought to try to draw it so that it will stand the test of every assault. We ought also to try to frame it so that every citizen reading the law can tell what is prohibited and what is permitted.

Mr. President, the bill as it now stands contains no definition whatever of unfair competition. There is not a line in it, from its first word to its last letter, suggesting even by inference of the remotest degree what is meant by the term "unfair competition." The term stands out alone; it is isolated from everything in the bill. It is expressed in the eight words:

Unfair competition in commerce is hereby declared unlawful.

If, therefore, we are to ascertain its meaning we must go outside of the bill for that meaning.

I repeat what I said a few days ago, that this phrase is not to be compared with the sections of the Sherman Antitrust Act, for there, while the term "restraint of trade" was used, that term had a meaning in the law. The words "restraint of trade" and the word "monopoly" did not stand out alone, but the context that went with those words in each section plainly exposed the purpose of the authors of that bill and the legislative purpose in enacting it. But here we have a section declaring "unfair competition" to be unlawful, without a word in the bill to define that term or to throw light upon the legislative intent. Unless, therefore, the term is defined outside the bill there can be no meaning ascribed to it.

Now, Mr. President, I affirm, and I am about to undertake to demonstrate, that there has been much misrepresentation of the law upon this question. The Senator from New Hampshire [Mr. HOLLIS] read here a learned document, which I shall undertake to demonstrate—not because I have any controversy with him or with Mr. Rublee, but because I have controversy with the ideas advanced—did not, in scarcely a single particular, set forth the law, fairly present the decisions, or fairly quote the statutes upon which he relied.

As I have stated, it would not be worth while to take the time of the Senate to thrash out any differences or disputes between the Senator from New Hampshire and myself, but his authorities went into the RECORD, and beyond doubt some Senators were led to believe they were as represented. The first thing I want to call your attention to is this statement, which is found in the speech of the Senator from New Hampshire—I am going to read a little of it:

In his remarks on this subject on July 13 the distinguished Senator challenged any friend of the bill to produce an authority to show that the term "unfair competition" covers the abuses at which this bill is aimed.

Before I conclude I shall produce many such authorities—

I pause to say now that he produced not one such authority. I continue reading:

Before I conclude I shall produce many such authorities. But first I may be pardoned for the suggestion that the Senator was equally emphatic when he based his first argument on an overruled case, and his second argument on a proposition he has himself overruled.

That is a little byplay that I need not pause to discuss; but following on:

I have tried to find the latest edition of Black's Law Dictionary, which was quoted from copiously by the Senator in his speech. I have not been able to find it, but it is no doubt correctly quoted from. I do find, however, in Black's Law Dictionary, edition of 1891, page 238, the following:

"Competition: In Scotch practice. The contest among creditors claiming on their respective diligences, or creditors claiming on their securities."

The Senator continued:

Now, there is a definition of the word "competition," and, under the reasoning of the Senator, because unfair competition is defined in a dictionary or in cases as applying only to cases of palming off goods or substitution, then the same argument would apply here, and when the word "competition" is used it has this extremely limited meaning. But would anyone argue that this precise, limited meaning of the word "competition" would bind courts in construing a statute dealing with competition?

I have looked through Anderson's Law Dictionary, through Abbott's Law Dictionary, and Bouvier's Law Dictionary, and I find no such limited definition of "unfair competition."

I have carefully examined many of the cases cited by the Senator to establish the point that the term "unfair competition" is confined in law exclusively to the practice of substituting one kind of goods for another. None of these cases supports the Senator's proposition.

And a little later the Senator states, after citing numerous cases:

In addition there are numerous textbooks on unfair competition in which the authorities are collected and analyzed.

And then the Senator says:

Among such works are Singer on Trade-Mark Laws of the World, and Unfair Trade; Paul on the Law of Trade-Marks, Including Trade Names and Unfair Competition; Nims on the Law of Unfair Business Competition; Hopkins on the Law of Trade-Marks, Trade Names, and Unfair Competition; Hesseltine's Digest of the Law of Trade-Marks and Unfair Trade.

All this to support his statement that the definition of unfair competition he gave was to be found in the aforementioned books; all to support his charge, either direct or indirect, that I did not quote fairly from the authorities.

Mr. President, every authority cited by the Senator I shall undertake to show—I am referring now to the textbooks—is squarely against his position, squarely condemns his doctrine, and is an authority absolutely against the claim he made here upon the floor of the Senate.

First, I want to convince the Senator that the definition of unfair competition which I read from the second edition of Black's Law Dictionary is in the book, and I find that it reads exactly as it read when I previously produced it in the Senate. If the Senator could not find the 1910 edition of Black's Dictionary, it was because his industry was not equal to his zeal. Here it is:

Unfair competition: A term which may be applied generally to all dishonest or fraudulent rivalry in trade and commerce, but is particularly applied in the courts of equity (where it may be restrained by injunction) to the practice of endeavoring to substitute one's own goods or products in the markets for those of another, having an established reputation and extensive sale, by means of imitating or counterfeiting the name, title, size, shape, or distinctive peculiarities of the article—

And so forth.

And lest the Senator should doubt my statement that that definition is in Black's, I hand him the book.

Then the Senator, as showing that the term "unfair competition" had no such meaning, cited, without quoting, Singer on Trade-Marks. I hold in my hand Singer on Trade-Marks, and at page 630, under the title "Unfair competition," I find this——

Mr. HOLLIS. Mr. President, will the Senator yield to me for a moment?

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from New Hampshire?

Mr. REED. Oh, yes; the Senator would not yield to me the other day, but I will yield to him.

Mr. HOLLIS. Mr. President, I am afraid the Senator will never forget that. I began my remarks on that occasion by asking not to be interrupted, and it seems to have hurt the Senator's feelings.

In the address which I made on that day I gave the authorities so that all Members of the Senate could look at them. The authority the Senator is quoting from now I did not cite as supporting my side of the controversy more than his own. I had finished the particular authorities to which I referred, and I then referred to the general authorities on the subject, not stating that they supported my contention or his, but leaving them to be read by the Senators if they cared to do so.

Mr. REED. Well, Mr. President, I will read exactly what the Senator said. After a long argument, in which he asserted that the term "unfair competition" did not have the restricted

meaning I asserted it to have, and as a part of his argument to that effect, he went on to say:

In order to get very complete and specific information about unfair competition one has only to turn to the decrees in cases under the Sherman Act.

Very complete and specific information as to what? That I was right? Why, the Senator was trying to batter my views down, trying to batter my definition down. Clearly he intended to be understood that these authorities sustained his point. Did you ever hear of a lawyer in a case citing authorities for the other side?

I continue to read:

There will be found precisely defined numerous examples of unfair competition. Nowhere is it more indispensable to use language having precise meaning than in a decree. Yet in the case of United States against General Electric Co., in the decree entered by the Circuit Court for the Northern District of Ohio, Eastern Division, at the end of the eighth clause, enjoining the use of a specific unfair method of competition, the following language is found:

"*Provided further*, That nothing in this decree shall be taken in any respect to enjoin or restrain fair, free, and open competition."

In addition—

Says the Senator—

there are numerous textbooks on unfair competition in which the authorities are collected and analyzed. Among such works are Singer on Trade-Mark Laws of the World, and Unfair Trade.

Then follows a long statement of authorities. Now, it is perfectly plain the Senator cited those authorities and led the Senate to believe that those authorities sustained his position. I now call attention to what the authorities do say.

I refer again to Singer on Trade-Marks, at page 630. I am reading from the 1913 edition, the very latest, probably, that there is:

UNFAIR COMPETITION.

No trader has a right to pass off his goods as though they were the goods of another trader

The majority of unfair-competition cases are instances of attempts by the defendant to pass off his goods as those of his rival. There are cases, however, of attempts of defendants to pass off not their goods as those of the rival but the rival's goods as their goods and goods of third persons as the goods of the plaintiff. These are just as much cases of unfair competition—passing-off cases—as the more common sort. (Nims on Unfair Competition, sec. 15.)

Unfair competition consists essentially in the conduct of a trade or business in such a manner that there is an express or implied representation that the goods or business of the one man are the goods or business of another.

Then a long chapter on the subject follows, which I shall not take time to read, describing various devices that have been condemned, because and only because the public has been deceived with reference to the real manufacturer of a particular article, and because the devices have been used to steal the trade of a dealer. Here is the latest that I have found in the textbooks, the 1913 edition, and it was cited by the distinguished Senator as showing that I had been wrong in saying that the courts had given "unfair competition" the restricted meaning I have just indicated.

The next book referred to by the Senator as sustaining the so-called broad definition of "unfair competition" was Paul on Trade-Marks. I read now from that author under the heading "Unfair competition in trade," paragraph 209, subhead "Basis of the rule—General principles":

The law of unfair competition rests upon the simple principle that no person has the right to sell his own goods as those of another. In other words, the basic rule is that no one shall, by imitation or any unfair device, induce the public to believe that the goods he offers for sale are the goods of another, and thereby appropriate to himself the value of the reputation which the other has acquired for his own products or merchandise.

It seems to me this declaration brings mighty cold comfort for those who say that these books are the ones they rely on to show that "unfair competition" does not embrace simply the particular practice of "substitution," but has a horizon so broad that it embraces everything that is unfair, everything that is rascally, everything that does not accord with the highest ethics or the purest morals.

The Senator quoted from Nims on Unfair Competition, paragraph 15. I am reading from Nims:

The majority of unfair-competition cases are instances of attempts by the defendant to pass off his goods as those of his rival. There are cases, however, of attempts of defendants to pass off, not their goods as those of the rival, but the rival's goods as their goods and goods of third persons as the goods of the plaintiff. These are just as much cases of unfair competition—passing-off cases—as the more common sort.

That is the very language that is quoted in the author I just read from.

Then, at paragraph 14, the definitions of "unfair competition" are given:

The following are various statements of the courts as to what unfair competition is. These citations do not cover the ground fully, for this doctrine of law, as has been said, is not stable; it is continually being applied to new wrongs, continually being invoked to right injuries that arise from new combinations of circumstances which work injury and fraud. The fundamental rule is—

Now, here is the fundamental rule—and you will find all of the practices referred to are condemned because they are grouped around this:

The fundamental rule is that one man has no right to palm off his own goods as the goods of a rival trader, and "he can not, therefore," in the language of Lord Langdale in Perry *v.* Truefitt, "be allowed to use names, marks, letters, or other indicia, by which he may induce purchasers to believe that the goods which he is selling are the manufacture of another person." Referring to the above, Lord Herschell, in Reddaway *v.* Banham, said: "It is, in my opinion, this fundamental rule which governs all cases."

"Irrespective of the technical question of trade-mark, the defendants have no right to dress their goods up in such manner as to deceive an intending purchaser"—

And so forth.

I do not find in this book any instance, although I have not read it through from cover to cover, where the unfair competition is not of a character and nature which is embraced within the prohibition against the substitution of one man's goods for the goods of another, yet this is one of the authorities cited by the learned Senator.

The Senator also cited the Law of Trade-Marks and Unfair Trade, by Hesseltine. I read from that book, the 1906 edition, which is the latest I have been able to find and which I think is the latest work by this author upon the subject:

Unfair trade—

Not unfair competition; and there is a great difference between the two terms.

Unfair trade—

Which is the nearest approach to the term "unfair competition" I find in this book—

A. A descriptive sign not in general use if used by a party with the intention of pirating on the good will of another who has acquired a reputation under it and of palming off on the public his goods as those of another may be protected on the ground of unfair trade.

The tendency of the courts at the present time seems to be to restrict the scope of the law applicable to technical trade-marks and to extend its scope in cases of unfair competition. (Church & Dwight Co. *v.* Russ, 99 Fed. R., 276.)

Then the author proceeds to discuss the "unfair trade," and in every instance the discussion relates to the subject matter I have been discussing, to wit, the substitution of one man's goods for the goods of another.

The Senator from New Hampshire cited Hopkins on Unfair Trade as one of his authorities, but did not quote from it. I was unable to bring the book here to make profert of it, but at page 24 this will be found. I quote:

In 1896 Lord Chancellor Halsbury, addressing the House of Lords, said: "For myself, I believe the principle of the law may be very plainly stated, and that is that nobody has any right to represent his goods as the goods of somebody else." This sentence is a terse statement of the fundamental maxim of unfair competition. The English courts have long recognized the rule, and it may be found repeated in various phraseology by all the English courts within whose jurisdiction trade-mark and analogous cases have come.

I quote further, from page 25:

Not until 1888 did the United States Supreme Court give distinct recognition to the law of unfair competition, and three years later Mr. Chief Justice Fuller announced the doctrine clearly and unequivocally in these terms: "It seems, however, to be contended that plaintiff was entitled at least to an injunction upon the principles applicable to cacses analogous to trade-marks; that is to say, on the ground of fraud on the public and on the plaintiff perpetrated by defendant by intentionally and fraudulently selling its goods as those of the plaintiff."

Mr. President, I come now to another very interesting phase of this discussion. For the first time in my life I have heard a lawyer in court or out of court say that you can get the meaning of a term employed in a Federal statute by going to the statutes of various States where that term is defined, unless the Federal statute had been copied from the State statute. Even in that event nothing would avail unless you carried into the Federal statute the definition contained in the State statute, for if you did not carry it in you could not claim you had copied a law and hence were entitled to carry with the law its meaning. You can not incorporate a statute by using one term out of a statute. But the argument—and it has seemed to me to be a laughable argument—has been that the term "unfair competition" having been employed, as it was asserted, by various State legislatures, therefore it has a meaning, and that that meaning will now be given to the term as we employ it here.

There are three or four answers to that. I will make the weakest one first. The weakest answer to it is that in every single one of these statutes the term employed is in the statute defined. Hence we gain no definition of the term unless we incorporate the definition in the statute, and we do not propose here to reincorporate that definition.

Second. I believe I may say without overstatement that there are no two of the statutes which define the term in the same way. Now, I appeal to the few logicians who still sit in the

Senate. I do not appeal to the Senators in the cloakroom who clamor so loudly for attendance here, but who take their orders and do not see fit to pause and consider. If there are 10 statutes, all defining "unfair competition" in a different way, where will you get your rule as to the meaning of the term "unfair competition"?

If you have 10 different meanings, which one is to be accepted? Are you to add them all together and say "It means all of these things," or are you to pick the one that suits you best and say "This is what it means," or are you to add them together and divide them by the total number and get the average of what they all mean?

An argument of that kind ought to shock even the superb and indomitable courage of the legislative Ajax of this century, the distinguished chairman of the committee.

But, sir, I am here to say that the term "unfair competition" is not even defined in a single State statute that I have found. The astonishing thing is that the Senator from New Hampshire read all these statutes, or excerpts from them, and asserted them to be statutes defining unfair competition. Here is the way this document my friend read from appears in the RECORD. It was very carefully prepared for the RECORD:

California Statutes, 1913, page 508; act 4207a; title 526a:

UNFAIR COMPETITION.

Then the Senator read this:

An act relating to unfair competition and discrimination, making certain unfair and discriminatory practices unlawful, defining the duties of the attorney general, etc.

The Senator reproduced the title of the act. But, Mr. President, what is the body of the act? Now I am challenging the attention of the distinguished chairman of this committee. I am also challenging the attention of the Senator who read the title of this act and did not read the body, and who read it as a definition of "unfair competition."

This is the body of the act:

1. It shall be unlawful for any person, firm, or corporation doing business in the State of California and engaged in the production, manufacture, distribution, or sale of any commodity of general use or consumption, or the product or service of any public utility, with the intent to destroy the competition of any regular established dealer in such commodity, product, or service, or to prevent the competition of any person, firm, private corporation, or municipal or other public corporation, who or which in good faith intends and attempts to become such dealer—

To do what? To be guilty of unfair competition? No—

to discriminate between different sections, communities, or cities, or portions thereof, of this State, by selling or furnishing such commodity, product, or service at a lower rate in one section, community, or city, or any portion thereof, than in another, after making allowance for difference, if any, in the grade, quality, or quantity, and for cost differences between such places due to distance from the point of production, manufacture, or distribution, and expense of distribution and operation. This act is not intended to prohibit the meeting in good faith of a competitive rate or to prevent a reasonable classification of service by public utilities for the purpose of establishing rates. The inhibition hereof against locality discrimination shall embrace any scheme of special rebates, collateral contracts, or any device of any nature whereby such discrimination is in substance or fact effected in violation of the spirit and intent of this act.

Mr. President, that is a statute against unjust discrimination, and the unjust discrimination is described in the statute. If you will write a definition one-tenth part as definite as that of unfair competition and put it into this statute, I shall cease complaining. But this statute of California gives a complete definition, not of unfair competition, but of discrimination. The two terms, I pause to remark at this point, are utterly different in their meaning, and the statute with reference to one throws not the least whit of light upon the other.

Competition—

Now note.

Mr. POMERENE. What is the dictionary?

Mr. REED. One I found on the desk—the Standard Dictionary.

Competition: The act or proceeding of striving for something that is sought by another at the same time; a contention of two or more for the same object or for superiority; rivalry, as between aspirants for honors or for advantage in business.

Competition embraces rivalry. Competition embraces a battle between two people, each of them striving for the same thing.

Let us see what "discrimination" means.

I read the fourth definition, which is the only one here employed, because it covers the only sense pertinent to this discussion:

The state or condition of being discriminated or distinguished; distinction; sometimes unjust distinction

The word "discriminate" carries a better definition. It is to preserve a difference, to draw a distinction. Here is perhaps the best definition of the term:

To make a distinction; deal unequally; as railroad companies sometimes discriminate between different shippers in rates.

Now, we have the two terms; one of them competition, which implies a rivalry between two individuals for the same thing, but discrimination is a term covering an entirely different thing. Discrimination covers the case of a man who refuses to trade with another or deal with another upon the same terms he is dealing with a third party. He discriminates against him or he discriminates in his favor. So any definition of the term "unfair discrimination" is utterly without value if you want to ascertain the meaning of the term "unfair competition," "competition" and "discrimination" being diametrically different. Indeed, the terms are almost opposites.

But now note, as we go along in search of a definition of unfair competition, that while the California statute covers a discrimination in the prices between different communities it also covers rebates and, in addition, certain discriminatory contracts.

I come now to the laws of Utah, which the Senator classified under the head of "unfair-competition statutes." I find that, in the book as it is printed, the man who compiled it entitled the chapter "Unfair competition and discrimination." I find that the title of the act is "An act to define and prohibit unfair competition and discrimination." When I come to read the act, I find that it reads:

Any person, firm, or corporation, foreign or domestic, doing business in the State of Utah and engaged in the production, manufacture, or distribution of any commodity in general use that intentionally, for the purpose of destroying the competition of any regular established dealer in such commodity, or to prevent the competition of any person who in good faith intends and attempts to become such dealer, shall discriminate between different sections, communities, or cities of this State by selling such commodity at a lower rate in one section, community, or city, or any portion thereof, than such person, firm, or corporation, foreign or domestic, charges for such commodity in another section, community, or city, after equalizing the distance from the point of production, manufacture, or distribution and freight rates therefrom, shall be deemed—

Shall be deemed what? Shall be deemed guilty of unfair competition? No—

shall be deemed guilty of unfair discrimination.

How are you going to get a definition of unfair competition out of that statute, which deals with unfair discrimination and does not deal with unfair competition, which is chiefly aimed at monopolistic practices and does not concern itself with the case of two men going out, each trying to get the business of the public and each competing against the other? Yet it has been cited here to show that it did cover unfair competition—that that is what it means.

Note, now, that we have the California statute prohibiting certain practices and the Utah statute covering certain other practices. Thus you already have two different statutory rules. The California statute covers the question of underselling by everybody, including the product or service of any public utility. It also embraces rebates and special contracts, while the Utah statute does not embrace all of the things that the California statute covers. Thus you have two very different definitions or rules.

The Wyoming statute was cited as prohibiting unfair competition, and yet I find this is the way it reads:

That any person, firm, or corporation, foreign or domestic, doing business in the State of Wyoming and engaged in the production, manufacture, or distribution of any commodity in general use, that shall, intentionally, for the purpose of destroying competition—

It is a restraint of trade act; that is all—

discriminate between different sections, communities, or cities of this State, by selling such commodity at a lower rate in one section, community, or city, or any portion thereof, than is charged for such commodity in another section, community, or city, after equalizing the distance from the point of production, manufacture, or distribution, and freight rates therefrom, shall be deemed—

Shall be deemed to be of unfair competition? Not at all—

shall be deemed guilty of unfair discrimination.

Again you have a statute different in its scope and meaning from either of the statutes I have just read. Assume for a moment that it is an "unfair-competition" statute; you will have three rules laid down instead of one, and you are three times worse off than you were before you looked at any statute.

The Louisiana statute is cited as defining "unfair competition." Here is the title:

An act to prohibit unfair commercial discrimination between different sections, communities, cities, or localities in the State of Louisiana or unfair competition therein, and providing penalties therefor.

When you come to read the text you find this language:

That any person, firm, company, association, or corporation, foreign or domestic, doing business in the State of Louisiana and engaged in the production, manufacture, or distribution of any commodity in general use, that shall, intentionally for the purpose of injuring or destroying the business of a competitor in any locality, discriminating between different sections, communities, cities, or localities in the State of Louisiana, by selling such commodity at a lower rate in one section, community, city, or locality, than is charged for such com-

modity by said person, firm, company, association, or corporation in another section, community, city, or locality, after making due allowance for the difference, if any, in the grade or quality of such commodity and in the actual cost of transportation of same from the point of production, if a raw product, or from the point of manufacture, if a manufactured product, shall be guilty of unfair discrimination—

Not unfair competition—

which is hereby prohibited and declared unlawful and to be a misdemeanor; and that all sales so made shall be taken and considered as prima facie evidence of unfair discrimination.

The statute is aimed at the destructive tactics of monopoly. It reaches monopoly and restraint of trade.

I ask the author of this bill, or the sponsor for it—for I do not believe that the bill originated in the Senate; I think it was written largely by a gentleman outside the Senate—how he gets the definition of unfair competition out of a statute that defines not unfair competition but unfair discrimination? How does he get a definition out of the four statutes that I have read when each differs from the other?

However, they have a sort of common purpose thus far, and that is to prohibit local price cutting. If they are to operate as guides as to the meaning of unfair competition, then they restrict that meaning; they narrow that meaning; they limit that meaning, so that the bill can not possibly cover the things the Senator desires to have it cover.

Let me call attention to the New Jersey statute. It was cited. Of course, we must assume if a statute can be found that defines unfair competition broadly—if one could be found—our friends will claim that was a great authority and will instantly pin their faith to that particular statute, because it happens to suit their purpose. Unfortunately for these statutory constructionists, here comes New Jersey, the home of the President, the virgin spot from which now springs all the virtues. Here is located the fountain spring of reform. Here the Senator from Nevada ought to come morning and night and drink. He should bathe in its pure waters. To the recent statutes of New Jersey all should turn. I commend them to the Senator from Illinois [Mr. LEWIS], who thought that this term probably had somewhere been defined. I have read you a Wyoming, a Utah, and a California definition, all of them generally aiming at discrimination in prices between communities or local price cutting, but when I come to New Jersey, the perennial source of light, I find that April 1, 1913, the general assembly of that State passed an act to prevent "unfair competition and unfair trade practices." Notice the language comes nearer to the term we are discussing than you can find in any other statute. It very nearly is the employment of your term. What is the statute?

1. It shall be unlawful for any merchant, firm, or corporation, for the purpose of attracting trade for other goods, to appropriate for his or their own ends a name, brand, trade-mark, reputation, or good will of any maker in whose product said merchant, firm or corporation deals, or to discriminate against the same, by depreciating the value of such products in the public mind, or by misrepresentation as to value or quality, or by price inducement, or by unfair discrimination between buyers, or in any other manner whatsoever, except in cases where said goods do not carry any notice prohibiting such practice, and excepting in case of a receiver's sale, or a sale by a concern going out of business.

2. Any person, firm, or corporation violating this act shall be liable at the suit of the maker of such branded or trade-marked goods, or any other injured person, to an injunction against such practices, and shall be liable in such suit for all damages directly or indirectly caused to the maker by such practices, which said damages may be increased threefold, in the discretion of the court.

Why, that statute gives practically the old common-law definition of "unfair competition." The legislature only reenacted the common law and added a clause including trade slanders.

I pause at this time to call attention to the fact that by seeking in the statutes for the meaning of the term we have already five different definitions, and that the statute that comes nearest using the terms in this bill takes us back to nearly the old common-law definition. But nowhere do we find the nebulous definition that covers everything and touches nothing which it is proposed shall be the guide for the courts when they come to decide what is meant by unfair competition.

Nebraska. I am not going to take time to read the Nebraska act. It relates to local price cutting and it does not prohibit unfair competition. You can find the term in the title, but you can not find the term in the act.

The title is "An act to prohibit unfair commercial discrimination between different sections, communities, or localities, or unfair competition, and providing penalties therefor." When you come to the body of the act, and I shall print it with the permission of the Senate as a part of my remarks, after prohibiting local price cutting, the statute reads "shall be deemed guilty of unfair discrimination," not "unfair competition."

The matter referred to by Senator REED is as follows:

An act entitled "An act to prohibit unfair commercial discrimination between different sections, communities, or localities, or unfair competition, and providing penalties therefor."

Be it enacted by the Legislature of the State of Nebraska: SECTION 1. (Local unfair discriminations.) Any person, firm, company, association, or corporation, foreign or domestic, doing business in the State of Nebraska and engaged in the production, manufacture, or distribution of any commodity in general use, that shall intentionally, for the purpose of destroying the business of a competitor in any locality, discriminate between different sections, communities, or cities of this State by selling such commodity at a lower rate in one section, community, or city than is charged for said commodity by said party in another section, community, or city, after making due allowance for the difference, if any, in the grade or quality and in the actual cost of transportation from the point of production, if a raw product, or from the point of manufacture, if a manufactured product, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared unlawful.

Mr. REED. Now, you have six or seven different definitions of unfair competition by as many statutes. I am for the present treating the terms "unfair discrimination" and "unfair competition" as synonymous, which they are not. They can not be used interchangeably, for the reasons I gave when I read the definitions from the dictionary.

Here is another definition in the Minnesota law. We were told by the Senator from New Hampshire that in Minnesota's laws there was a definition of unfair competition, and that because it had been employed in the Minnesota statute it had acquired a new meaning. What is the Minnesota statute?

Any person, firm, company, association, or corporation, foreign or domestic, doing business in the State of Minnesota and engaged in the production, manufacture, or distribution of petroleum or any of its products that shall intentionally or otherwise, for the purpose of destroying the business of a competitor or creating a monopoly in any locality, discriminate between different sections, communities, or cities of this State, by selling such commodity at a lower rate in one section, community, or city than is charged for such commodity by said party in another section, community, or city, after making due allowance for the difference, if any, in the test or quality and in the actual cost of transportation from the point of production if a raw product, or from the point of manufacture if a manufactured product, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful.

If you have unfair competition in the title, you have nothing but unfair discrimination in the act; and if you had unfair competition in the act itself, you are in this unfortunate condition that it would define unfair competition as simply being local price cutting by the Standard Oil on kerosene. The statute probably does not even cover gasoline. The definition of unfair competition is by this statute confined to Standard Oil. I say you have a definition of unfair competition; I should say, "unfair discrimination." The law is simply leveled at one practice of one concern.

Now, you have seven different statutory rules, not of unfair competition, but unfair discrimination, and out of that you are to get the meaning of the term "unfair competition." Out of that the people of this country are to get the meaning.

But, Mr. President, as we proceed to the construction of a term in a Federal statute by the light of the various State statutes, each of which has defined some act, and each of which has characterized it in almost every instance as unfair discrimination, we find that when we examine another Minnesota statute we jump suddenly from the nebula into the milky way. Observe the terms of the Minnesota law—

Any person, firm, copartnership, or corporation engaged in the business of buying milk, cream, or butter fat for the purpose of manufacture—

Not for the purpose of feeding it to babes or for general consumption. You notice that it is limited to the man who buys it for the purpose of manufacture—

who shall, with the intention of creating a monopoly or destroying the business of a competitor, discriminate between different sections, localities, etc., shall be deemed guilty of unfair discrimination—

and be fined, and so forth.

We have gotten away from the general doctrine of unfair discrimination by local price cutting as to all things, and we have now arrived at a definition where it is confined to milk and cream or butter fat.

Oh, how a lawyer will look when he comes before a court asserting that he can show that this term has a real meaning by reading the definition of the different statutes. He finds that there is not a statute defining the term "unfair competition" and then finds that when the statutes can define "unfair discrimination" they cover everything in the wide range between a statute of universal application and a statute that is limited to the buying of milk. He finds that some of them apply to all things, some of them to a few things, some of them apply only to petroleum, and some of them limit their remedial provisions to cream and butter fat.

Let us now go to Iowa. I have not the Iowa statutes here, so I can not give the Senator from New Hampshire the title, but I can give him the body of the act literally:

Any person, firm, company, association, or corporation, foreign or domestic, doing business in the State of Iowa and engaged in the business of buying milk, cream, or butter fat for the purpose of manufacture—

Ah, but the Iowa man reached out for something else now; you still have another rule—

or of buying poultry, eggs, or grain for the purpose of sale or storage, that shall, for the purpose of creating a monopoly or destroying the business of a competitor, discriminate, etc., shall be deemed guilty of unfair discrimination—

And if found guilty of unfair discrimination he shall be punished, and so forth.

Why, you could not even get a rule out of the two statutes last quoted covering a milk case, because they differ even as to milk. If a man came before this board charged with unfair competition in eggs, you would have to try him under the Iowa statute. You would be compelled to disregard the Minnesota statute, because it forgot all about the hens. I believe Iowa is the only State that has cast the protecting ægis of its statute over the common barnyard hen.

Mr. KENYON. Mr. President——

Mr. REED. Of course, if you were trying a milk case you might try it either under the Iowa statute or you might try it under the Minnesota statute, but the hen can find a venue for her wrongs only in Iowa. I yield to the Senator from Iowa.

Mr. KENYON. I simply wanted to suggest that it was a very good provision to protect the Iowa hen, because the products of the Iowa hen amount per year to more than the entire gold output of Alaska.

Mr. REED. Mr. President, there is no product from the State of Iowa, including its Senators, that is not worthy of all protection and all honor. Incidentally, I remark that I have no doubt but that at least one of them just at this particular moment would be glad to have a statute passed preventing unfair competition at the polls. I think there would be a great deal more sense in employing the term in that way, and we could come nearer telling what it means than as it is employed in this proposed statute.

All these statutes were cited by the Senator from New Hampshire [Mr. HOLLIS] as furnishing a guide and rule by which we could determine just what the term "unfair competition" means, whereas, as you will observe, its meaning, by statute, is purely a question of geography. If you go to Minnesota and buy up butter and do not pay a proper price, you are guilty of unfair discrimination; but you can buy all the eggs that you want to and not be guilty of any crime. If, however, you wander over into the State of Iowa, the moment you cross the line and there buy eggs under certain conditions you are guilty of unfair discrimination. If you are cornering the petroleum market, and you are in the State of Minnesota, you are a criminal; elsewhere you are a captain of finance. In the State of Minnesota and nowhere else have they passed a statute bearing directly upon our friend, Mr. Rockefeller.

Mr. President, I have gone through these statutes—perhaps there are one or two more, but if they are read they will be found to be of like kind with those I have read—and I have no difficulty in enforcing, I think, the opinion upon every candid man who is here that if, in searching for the meaning of the term "unfair competition," we are to go to the statutes of these various States we would find that the further we travel the more we will be involved in a labyrinth of doubt. The more statutes we find and the less rule we have; aye, we have as many rules as we have statutes.

Besides all these difficulties, unfortunately for the advocates of statutory definitions, the statutes do not define "unfair competition" at all; on the contrary, when you come to read them, they define "unfair discrimination" and "unfair trade practices."

Imagine a lawyer called upon to advise a client as to whether a certain thing he intended to do could be done without violating the law; imagine this lawyer seeking for the meaning of the term "unfair competition"; imagine him getting down the law dictionaries and finding there that the law is defined in the restricted sense I have shown, so that it applies merely to the substitution of goods. He goes then to the laws of New Jersey, and he finds that New Jersey in 1913 by statute gave practically the same definition. He proceeds to the statutes of other States, and now he finds that a thing is legal in one State and is illegal in another; that a thing is denounced in one State and not denounced in another. He reads through all statutes and finds that the term "unfair competition" is nowhere defined, but that "unfair discrimination" is defined. After he has done all that he undertakes, in the light thus shed upon his intellect, to advise his client as to the meaning of the term "unfair competition." If he be a lawyer worthy of the name, I think he will say, "The definition of 'unfair competition' in the law dictionary is the one we can most safely follow. If we can not follow that, then all we can do is to say to this commission, 'Lead, kindly light'; you make the rules; you tell us what to do; that which you say is right we will obey."

That, Mr. President, is not obedience to law. That is obedience to masters. That is not government by law. That is government by the dictation of men. That is the substitution of arbitrary power for legal enactment. That is a power greater, I believe, than even the Kaiser of all the Germans possesses.

Mr. STONE. Will my colleague allow me to interrupt him for a moment?

Mr. REED. Certainly.

Mr. STONE. I am not myself free from the doubt that troubles my colleague with respect to the term used, but I am not at all convinced that he is not too positive. I am inclined to think he is.

The Senator says that if a lawyer should go before a court in a case and undertake to define the term "unfair competition" he could not do so by referring to this statute or to that statute or to this authority or to that authority, for the reason that there is no perfect definition, and perhaps no definition at all within the view of the Senator; but the thing I have in mind is this, and it is to that that I wish to direct the attention of my colleague: Would it be necessary to define the term "unfair competition" if I were trying a case before the court?

Let me give an illustration that occurs to me of a merchant or a manufacturer at a given point in a State undertaking to run his competitors out of business. He puts on the market an article which he advertises to be and claims to be the equal in every way of that of his competitor, or, to state it still more strongly, to be the exact article sold by his competitor, when, as a matter of fact, it is an inferior article. Suppose he sells that inferior article in the same marts at a price not above the actual cost to him, or even below it, his object being to crush opposition; he may be possessed of vastly greater wealth and resources than his competitors, and may suffer a temporary loss in the way I have described, with a view of eliminating competition; would not that be a clear case of unfair competition, of representing, in the first place, that he is selling exactly the same article as are his competitors when he was not, but was selling an inferior article, and when he was selling the inferior article at below cost, with the apparent purpose of destroying his competitors? I ask again, would not that be a clear case of unfair competition?

If I were prosecuting that case, civilly or criminally, before the court on the ground and allegation that it was unfair competition, would the court ask me to define "unfair competition"? Would it not be sufficient for me to state that the facts of the case define the practice to be unfair competition?

Mr. REED. Mr. President, the Senator has exactly stated a case of unfair competition, as defined by all the books, and if the term is employed to cover the particular practice he names it would be a case of unfair competition, because the very definitions I have read here from the law dictionaries cover to a nicety the illustration the Senator has put; that is to say, A being in business, B comes along and falsely says to the public, "I have exactly the same thing that A is selling you." He deceives the public, and thus he steals the trade and good will of A. Now, if we were to adopt this section with the term "unfair competition" in it, and the courts were to say, as I think they are likely to say, that the term "unfair competition" embraces that particular practice, and no more, then you could go into court and prosecute your man, but you would have to set up in the indictment that he was guilty of unfair competition in this, to wit, and then set out the facts.

In the case suggested I would be obliged to answer yes, because the Senator stated a case squarely within my definition. That is a case within the definition which I insist the books lay down. It is a case of actual unfair competition as defined by the law.

Mr. STONE. Let me state the case a little differently. Suppose he did not represent that the article he was selling was the exact article and was made or manufactured by the same people, but that it was in its general nature the same?

Mr. REED. That it was as good an article?

Mr. STONE. That it was as good in every way and would serve the same purposes, when, as a matter of fact, it was not

of the same general character, but was a deception in itself, and then he undertook by unfair means, such as I have indicated, to run his competitor out of business, would not the facts of the case itself constitute a definition of "unfair competition"? The cases can be multiplied; of course they are not single or exceptional.

Mr. REED. I would have been glad to have answered the Senator's first illustration, because it would have been a very apt illustration. The Senator, however, qualified it by adding that if the competitor "should represent his goods to be substantially the goods of the other, or like the goods of the other." You get too near with that qualification to the definition of "unfair competition" as laid down in the book. But let us take the case as the Senator first stated it the last time he was on his feet, that A is engaged in selling goods—for instance, sugar—in a community, and B enters the market and says to the public, "Why, I have sugar just as good as A's, and I am selling it for half a cent a pound cheaper." Now, B is brought before the commission. The question will arise at once, Has he been guilty of an unfair practice? I say that the first thing the board would be obliged to do would be to determine what is the meaning of the words "unfair practice." They would have to determine that by going to some books, to some authors, to some authorities, and they would naturally go first to the legal definition; and when they did go to the legal definition they would find that unfair competition consisted in the substitution by B of his goods for A's, a deception thereby being worked upon the public. Therefore I would demur, if I represented B, to the charge, upon the ground that he had not represented his goods to be the goods of A, but he had simply gone into the market saying that he had as good goods, puffing his own goods, as every trader has a right to do, and that he could be held under no law.

I am very sure that is just what the courts will say with reference to this statute when we get through with it, and if they do, we will have accomplished nothing, because that can now be prevented both at law and in equity.

I know no man is more sincere upon this question than my distinguished colleague, and a mere indication of a difference of judgment upon his part always makes me pause to ask myself whether I am not mistaken, no matter how firmly my view has been fixed. But I will now take the illustration I have just given: A is in the market selling sugar at 5 cents a pound; B comes into the market with a different kind of sugar, and asserts that it is as good as A's sugar, and he is selling it for half a cent a pound less. Is anybody here prepared to say that is a practice that ought to be stopped? Are you willing to grant the power to this board to say that he can not thus offer his sugar? Why, sir, that would kill competition; that would end the life of trade; that would be death to enterprise; that would deprive the public of the very protection all these laws are framed to give and insure to the public—a chance in the open market to buy goods where there are two or twenty or a hundred men offering the goods for sale. We must not do that; we must not put it in the power of any commission to do that. Let us see where we would come out.

I am appealing to those Senators who pay me the compliment of listening to consider lest we now make great mistakes. Let us assume that this board has the wide power, and that it should say to B, "You can not come into the market and say to the public your goods are as good as A's and thus get his trade away from him; you can not make that statement." What follows? Competition ceases. If you put it in the power of the board to stop that kind of competition, that kind of trade rivalry, you would put it in the power of the board to build up monopolistic profits and to make monopoly dominant in this country. Let me show you how.

Here is the Steel Trust, a powerful concern engaged in the manufacture of structural steel. It is putting it upon the market. Here comes an independent concern also making structural steel. Are you willing to put into the hands of a board the power to say to the independent concern, "You can not go on the market and represent that your goods are better than those of the Steel Trust"? When you do that, you make the Steel Trust all powerful and dominant, and you strike down any possible competition. Is any man in this Chamber willing to give that kind of power to a commission?

Now, unless you define the character of the act which you propose to allow the commission to stop, you will be just exactly where the illustration of my distinguished colleague brings us—you will be at a point where the board can stop competition, throttle competition, whether it makes for monopoly or does not make for monopoly; but if you adopt the definition that I have offered here, you will escape that, because we define it. It embraces—

All those acts, devices, concealments, threats, coercions, deceits, frauds, dishonest practices, false representations, slanders of business, and all other acts or devices done or used—

And here is the qualifying term—

with the intent or calculated to destroy or unreasonably hinder the business of another or prevent another from engaging in business, or to restrain trade or to create a monopoly.

Apply that rule to the very simple illustration we have been using of the sugar merchants. A has been selling sugar; B comes into the market and offers his sugar at a less price, and says to all the world in all his advertisements which he puts in every window and upon every fence post, "My sugar is the best sugar in this market, and is half a cent a pound cheaper than any other." He is now brought before this board. He answers, "This is competition," and he says, "You can not make a case against me unless you can show that in addition to advertising my goods and offering them to the public I have done it with the intent to unreasonably hinder the business of my competitor." When you come to the term "unreasonably hinder" you find that the Supreme Court of the United States has blazed the trail. It has said that competition where one man simply offers his goods in the market against those of another is reasonable competition. It has pointed out clearly what constitutes restraint of trade.

Mr. President, with that definition in the bill you have some guide for the business man and client; you have some guide for the court; you have some guide for the commissioner. In the absence of a definition all these will be asking the question my distinguished colleague asked. If, with his incisive mind and his broad learning and his vast experience, he asked the question, then certainly the grocery keeper, the little merchant, the big merchant, the country lawyer, and the city lawyer with one accord will despairingly exclaim, "What in the name of goodness does come within the term 'unfair competition'?"

Mr. STONE. Mr. President, let me ask the Senator if, as a rule, the terms he uses in his amendment have been defined?

Mr. REED. Practically every one of them.

Mr. STONE. Let me put this question—of course I am asking to get the Senator's views and enlighten my own mind with respect to the subject before us.

Suppose an information should be filed before this commission charging that the party accused was guilty of unfair competition, and proceeding to state the facts constituting the unfair competition. Suppose it should appear from the facts and from the charge that there was a threat in it, that there was slander of business, or any of the terms used there by the Senator; suppose upon the hearing the commission, or afterwards the court, should be convinced that some one or more of the very terms employed were applicable to the case; that the facts showed, in other words, that just those things had been done. Now, would it not answer every purpose, and would not the court or the commission rule upon it from that standpoint, under the broad and unrestricted or undefined term "unfair competition"?

Mr. REED. Why, no, Mr. President; for the simple reason that unless you put that definition of unfair competition into the law it does not embrace these practices. Such, at least, is my contention. I maintain that the term is of limited legal meaning and that if you abandon the legal meaning then it is a term so vague, indefinite, and uncertain that nobody can tell what it means. Of course if in the statute itself you define the term "unfair competition" you escape the difficulties.

We can gain some light by considering the conduct of others. A great many lawyers, presumably good lawyers, have written these various statutes relating to "unfair discrimination" in the different States. Not one of them wrote a statute saying "unfair discrimination is hereby prohibited" and then stopped. If it would not be disrespectful, I would say that if one of them had, he would have been a fit subject for a lunatic asylum; but I can not say that with this bill before us. The lawyers who drew these State statutes proceeded in every instance to define the things that would constitute the unfair discrimination, although "discrimination" has in the law a much more well-defined meaning than the term "competition."

Mr. HITCHCOCK. Mr. President, will the Senator submit to a question?

Mr. REED. Yes.

Mr. HITCHCOCK. I have listened with much interest and a good deal of sympathy to the argument made by the Senator from Missouri, and I want to ask him whether I am correct in drawing this deduction: That "unfair competition," in his opinion, should include every act which tends to destroy competition?

Mr. REED. Yes.

Mr. HITCHCOCK. That it should include every act which is contrary to good business morals?

Mr. REED. Yes.

Mr. HITCHCOCK. Now, then, I want to ask the Senator whether it would not be possible, in place of the definition which he has offered, simply to confine the definition of those two tendencies in language something like this:

The term "unfair competition" as used in this act shall be held to include all devices and acts the chief effect of which is to destroy competition and the nature of which is contrary to business morals.

Mr. REED. That definition would be infinitely better than nothing. That would give us something, but I do not think it applies an accurate rule or proper test—perhaps not at all the real test, and which I think I have embraced in my amendment.

If the Senator will give me the language that he used, so that I may comment on it, I shall be much obliged, because I am glad to hear anybody's suggestions.

The Senator's definition is:

The term "unfair competition" as used in this act shall be held to include all devices and acts the chief effect of which is to destroy competition and the nature of which is contrary to business morals.

There we introduce a doubtful question: "What are business morals?" Why, the business morals of Wall Street are one thing; the business morals of Omaha are another thing; and when you get down in the pure atmosphere and sweet sunlight of Missouri you find that business morals are a very much higher and more ethical thing than they are, at least, on Wall Street. I will not exclude Omaha. What we ought to do—and I am appealing to the Senator from Nebraska, because no man respects his judgment more than I respect it—is to stick to the terms that have been already elucidated by our courts.

What are we trying to do? Let us be fair. We are not trying to write a code of business morals. If we are, we are engaged in the most hopeless task men ever undertook. Our efforts will come to naught. We are trying to keep the doors of competition open in this land. We are trying to keep the highways of opportunity unobstructed. We are trying to keep it so that the feet of the men of to-day may travel along an open path, so that all may have a fair chance to gain a livelihood and to embark in business.

Now, we have found that there have been certain powerful institutions organized. Some of them have arrived at the point of almost absolute monopoly over some prime necessity of life. Some of them have grown so powerful that while they are not complete monopolies they can restrain trade, they can circumscribe the opportunities of others; and whenever one of these institutions has arrived at the point where it is a monopoly the Sherman antitrust law reaches it. Whenever it shall have arrived at a point where you can show that it is clearly restraining trade the Sherman Antitrust Act reaches it. You need not add a line to our statutes in order to suppress monopoly, and in order to suppress the actual restraint of trade, especially where the case is aggravated.

But, Mr. President, there are certain acts, practices, and devices which have been employed by these great concerns which have in the past been regarded as merely legitimate competition, as merely the ordinary methods of competition, but which, when put into practice, inevitably tend toward the destruction of competition, and thus toward the restraint of trade. Now, if we can reach those practices by this act we will have accomplished a great boon for our country.

Let me illustrate: There is no particular harm done if there are 2 rival merchants in a town, or 10 rival merchants, and they advertise their goods, each against the other, and if they occasionally hire each other's clerks. That does not restrain trade. There are so many clerks, there are so many institutions, that as a matter of fact trade is not seriously obstructed; no one is much hurt. Let us assume a case, however, like that of the Harvester Trust—and I speak of that only because its practices well illustrate the practices of other trusts.

It is complained in the Government's petition that one of the means it took for the purpose of destroying its competitors was to send agents into a trade territory and get all the trade away from the agents of their rivals, having in view the employment the next year of the agents of the rivals, thus depriving them at once of their trade and of the instrumentalities of their trade. Now, in a case of that kind, if the evidence showed the destructive purpose, or if the purpose was reasonably inferable from the evidence, a court could and would, under this provision as I have defined it, say, "You can not resort to that practice."

Another practice calculated not to benefit the purchaser, but to destroy competition, is well illustrated in certain practices attributed to the Standard Oil Co. It has been charged that that company goes into a trade territory which is occupied by a rival, drops the price of its products below their actual cost, and thus crushes and destroys the competitor, meantime selling in other communities at a higher price and gaining profits there, and out of those profits gained in other places sustaining itself, while it is selling goods at a loss in the community where their rival is located. When he is crushed it puts up the price. Now, that could be condemned under the provision I have drawn, because it tends to the restraint of business; it kills competition; it limits competition; it destroys competition; and therefore it would be reached under this provision.

Again, I will take the case of the slander of the business of another. In some of the trust cases—I have forgotten which ones; some of my distinguished legal brethren here will remember the cases when I refer to them—it was found that for the purpose of destroying rivals in business some of the great institutions had gone into a community and claimed that they had the sole right to the sale of a certain article and that anybody who purchased that article from others would be sued and harrassed by litigation and mulcted in damages, whereas, in truth and in fact, they had no substantial right upon which to base that claim.

It was merely a method used to destroy a competitor; not an attempt to sell goods, but to destroy a rival. That would be within the terms of my amendment, because it is an act done for the purpose of restraining trade. It is not the lessening of the trade of one man which results from simple competition. The object and purpose is to destroy the trade rival. That can be reached under this definition.

The language, too, which I have adopted, which I really think is too broad, but I have put it here out of consideration to the views of those who want to confer very large powers upon this board—the language "and all other acts or devices done or used with the intent or calculated to destroy or unreasonably hinder the business or to prevent another from engaging in business or restrain trade or to create a monopoly"—is language of the very broadest kind, and yet a business man will have no great difficulty in determining whether what he is about to do is merely a destructive practice calculated to restrain trade by crushing a rival. He need have no difficulty in distinguishing between such a practice and honestly selling his goods in the market against those of another man. You have a rule. There are milestones along the way. People can judge what they may do. But if you were to simply use the term "unfair competition" without any definition, and if it shall be given the broad meaning contended for, then I insist we have no rule and no guide except the judgment and opinion of the five men who constitute the board.

If those five men shall be gifted with infallibility of judgment, if they shall be men whose souls are inspired by the highest character of ethics, they would do no harm. But even then has not the business man in your community the right to have a law that he can reasonably understand? Is he obliged to submit all his transactions to the will even of an infallible board? Are you willing to substitute government by commission for government by law, government by the will of men for government by a law of the land enacted by the people? Is anyone here willing to do that? We may allow our enthusiasm for new doctrines to carry us so far that we shall find the old ship Constitution wrecked upon reefs we ourselves create.

I appeal to Senators, what reason have you to believe that this board may not be composed of ordinary human beings with ordinary frailty of judgment? What reason have you to believe and know they may not at some time be composed of the tools and proprietors of monopolies and combines and trusts? There are many men in this country of pure public and private life who believe that great combinations are necessary to the welfare of the people. There are many who believe that combinations are in the nature of blessings. There are many trust magnates who believe that the practices they have employed are justifiable. Many of them go to churches and make long prayers, perhaps not for pretense. Some of them stand upon the street corners and "make broad their phylacteries and enlarge the borders of their garments and thank God they are not as other men." Many a Pharisee has been a good-faith Pharisee.

Suppose you get a board of that kind. I do not want to arouse party animosity, but suppose our friend Roosevelt had appointed such a board. I think he would have put at the head of it George W. Perkins, a man of great intellect, a man who undoubtedly is a perfectly polished gentleman, but a man who probably believed when he organized the Harvester Trust and

when he engaged in organizing other trusts that he was doing a service to humanity and to God.

Suppose you get a board of that kind, and suppose it decides every case in favor of the great combinations, what protection will you then have in this bill? There is no appeal to the courts from this tribunal by the party who makes the complaint. You have fixed the bill now by the Cummins amendment so that the complaining party or, indeed, any party has no substantial right of appeal.

You can not go into court and standing upon a substantive law say, "although this board, owned and controlled by the corporations, mastered and manned from their cohorts, has decided against all that is fair and all that is right, notwithstanding it has undertaken to sanction a practice which destroys my business, and therefore I now appeal to the court," because you have no substantive law to stand on. You have nothing to appeal from except the discretion of a commission exercised under the authority of a law which puts everything within its discretion.

Mr. McCUMBER. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from North Dakota?

Mr. REED. I yield.

Mr. McCUMBER. I wish to ask the Senator this question: Is it not his conviction that where there is unfair competition between corporations, which unfair competition may result in the great benefit to the public, nevertheless this competition could be checked under the provisions of the law without any further definition?

Mr. REED. Undoubtedly so.

Mr. McCUMBER. Will the Senator let me give one illustration of that? Here are two manufacturers selling their articles in competition with each other in a certain territory. One of the manufacturers advertises that his goods are produced by the most modern methods, that they are in every respect as good or better than those of his competitor, and that he will sell them 25 per cent cheaper than his competitor. We will assume that that public statement is false and untrue, that it is absolutely unfair, but the result has been that the competitor in that field has reduced the price of his product to meet the competition, and the public are getting his goods 25 per cent cheaper than they did before. Under that condition can not the man or corporation who has been compelled to reduce the price of his product by reason of that competition go before this commission and insist that his competitor's goods are not as good as his and that the competition is unfair, and ask an injunction against the continuance of that claim for the goods of the competitor?

Mr. REED. Certainly. That could be done if the bill is susceptible of the construction placed upon it by the chairman of the committee. This board is a board of practically unlimited power.

Mr. McCUMBER. Yes; but further than that, Mr. President, as the bill now stands, after the defeat of the amendment of the Senator from Minnesota, any person feeling himself aggrieved may go into court and ask for damages without going before the board at all, on the ground that his competitor has been guilty of unjust competition. It seems to me that for that reason, if for no other reason, we ought to have something in the bill that would define competition to mean something which is ultimately going to destroy a competitor.

Mr. REED. Mr. President, the Senator has stated a very strong case, a case in which bad morals were involved, in which falsehood was involved, and yet the effect was to promote competition, and hence promote the general welfare. Where will the business world be if we stop with this term without any definition?

Here are two rival dry goods houses. Pick up any paper and read their advertisements: "Unprecedentedly low prices; we are offering the public on next Tuesday goods cheaper than any of our competitors; cheaper than they were ever offered in this market." Would you give your trade commission power to stop mere trade competitions? Why can not the gentleman across the way come before the commission under this bill and say, "Now, that man is getting trade that might come to me; he is getting it by an advertisement, and I challenge the correctness of that advertisement"? Why can he not then hale his rival before the commission and ask it to cancel his advertisements? Into what kind of a chaotic condition will business be put? It will be put into a strait-jacket, and that strait-jacket will not be the same one day and the next, but it will simply depend for its shape and for the torture it may produce upon the opinions of these gentlemen from day to day.

You can not escape the proposition that you are granting arbitrary power. Does it not seem to Senators that we ought to say what we mean here, that we ought to lay down some general rule, when there is not a single man advocating this bill who will define "unfair competition" in the way any other man on the same side of the question defines it? Are we willing to confer upon a board of men a power which we so little understand that as the Senator from Ohio puts it the term is one of very limited and restricted meaning; as the Senator from Nevada puts it the term is so broad and universal that it will cover everything which is unfair?

The truth is there are a lot of people in this world who, seeing wrongs and hating them, seeing evils and wishing their eradication, seeing wickedness and believing that it ought not to exist, are willing to adopt any sort of specific that is brought forward. The more ignorant a man is the less he knows about the Constitution, the less he knows about the history of his country, the less he knows about the principles of law, the less he thinks of the Constitution, the less he thinks of the principles of law, the more ready he is to provide a universal specific. We have them writing for magazines. We have them writing speeches. We have them seeking to advise the Senate on every hand. They are men of the best intentions, yet men who may not have enough good judgment to run a truck farm and to market their own goods; yet we find an inclination to follow them, to quote them, and to read from them.

Mr. President, the Senator who is the author of this bill challenged me to write a definition. I have written one.

Nobody has yet seen fit to point out what evil practice it does not cover, and yet it lays down a rule the soul of which is found in the fact that the act complained of shall be an act the tendency of which is to restrain trade or create monopoly. That old path has been blazed by the courts and we know we can follow it. If you adopt this proposition I believe this law will be effective. You are conferring a greater power than I would confer upon a board even then, but I am willing to yield to the judgment of my associates and to try the experiment of giving a board a very broad power, but if you do not adopt some rule, and if the legal definition is not to be followed, then you have conferred upon the board the right to act within its discretion.

Now, what is the field of its discretion? There was a very able argument made here by the Senator from Arkansas [Mr. CLARKE] a few days ago in which he dwelt upon the fact that the Interstate Commerce Commission, proceeding under the term "unreasonable rate," had found a means of answering the great transportation questions in that term.

But what was the scope of the Interstate Commerce Commission's authority? It was to fix a reasonable rate. It did not have authority to wander at large in all the realms of business; it was to fix a reasonable rate. When it undertook to answer that question it did not proceed in a realm of speculation. It did not enter a country that had never been explored. On the contrary, it entered upon duties which had been clearly defined, and it proceeded in accordance with principles that were hundreds of years old. There was nothing new in it all.

Let us see. From the very first the highways have been under the control of government. They were built primarily by the government. There came a time in the history of the world when private corporations were permitted to build toll roads and to exact tolls, and away back there in the twilight of that development it was clearly written down that the proprietor of the toll road was, in effect, a mere agent of the public; that he had the right to collect certain tolls, so that he might have a fair return from his investment, but that beyond that the government was practically as supreme over the toll road as it was over any other highway.

So the question of what was a reasonable charge was then fixed; the rule was then determined.

When we built railroads in this country they were but an extension of the old practice. Every one of them is a public highway; it can not exist, it could not be built, except the power of eminent domain is exercised in its behalf. It is a public highway and a common carrier both at once. The question, "What is a reasonable charge?" was not difficult to determine. The old rule that had been applied to the turnpike, the old rule that had been applied to certain other public utilities, was lying there before the court. That rule was that the return should be sufficient to pay a fair interest upon the investment and the upkeep of the enterprise and return the original capital within a reasonable time, the latter being a qualification that did not universally apply, but did sometimes apply, according to the particular grant of authority which had been extended.

So when the Interstate Commerce Commission came to construe the term "reasonable rate" they did not wander in the wilderness of doubt and uncertainty; they were not in nebulæ;

they had their feet upon the earth; they had the law books for a guide and the definitions before them. Following that rule, they had nothing to do except ascertain the investment, the fixed charges, the upkeep; and, having determined that, to figure what rates should be charged in order to pay a fair return. That was a limited field of activity. Its boundaries had been blazed for centuries by the axe of learning held in the hands of great judges.

But when you come to this board, what are its powers? It is not limited to the question of fixing a fair profit; it is not limited to the question of fixing rates upon railroads; it reaches into every line of human activity, provided it has any relation to interstate commerce. Before we are through with it, it will touch the small grocery keeper in your home town, for he is engaged in interstate commerce when he buys goods across the State line; it will touch the farmer upon his ranch who is engaged in raising steers in the State of Texas and shipping them into Oklahoma or to Kansas City or to Chicago; it will reach the cotton planter who raises his crop and who has the temerity to sell it in the markets of another State; it will reach the grower of wheat if he does not sell to a local dealer, but sees fit to put his wheat into cars and ship it to market in another State; it will reach the man——

Mr. WHITE. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Alabama?

Mr. REED. I do.

Mr. WHITE. If that will be the result, is it not a fact that the interstate-commerce clause of the Constitution covers all kinds of commerce?

Mr. REED. Exactly; if we enact this statute we will have given to the interstate-commerce clause of the Constitution a statutory construction which, if it stands, will almost wipe out State lines and take away two-thirds of the present authority of the States.

Mr. WHITE. Does the Senator believe that any such construction would be given?

Mr. REED. I will say to the Senator—I know the Senator does not mean to question that what I am saying I am saying in good faith——

Mr. WHITE. Certainly not.

Mr. REED. I say to the Senator that I have seriously questioned in my mind the power of Congress to give the jurisdiction over an institution that happens to be engaged in interstate commerce which this bill conveys, but the consensus of opinion here has been—and it has been resistless—that we are to proceed with this legislation; and I say that, as I construe it, it embraces everything I have mentioned, and, in my opinion, it will be found to embrace everything, unless, indeed, some court says we have trenched upon a very fundamental of the Constitution and therefore halt us at the threshold of our adventure.

But what then can happen to these men? They may be dragged from the most distant parts of this country before this board; they can be called here from Montana and Arizona and the distant States of the golden coast, from every part of this country, to answer before this commission. When they have come before the commission, they are denied practically the right of appeal to a court.

The Senator from Ohio [Mr. POMERENE] offered an amendment giving an appeal, but the Senator from Iowa [Mr. CUMMINS], persisting, as he had a right to do, in his battle for the supremacy of a commission, succeeded in having his amendment adopted. There is no appeal left to the court except you make your record here before the commission, and then, having made it, you go into court with all of the presumptions against you. You can not, then, prevail unless you can plant your feet upon some clause of the Constitution which shows you have been deprived of your rights. You must show that the commission has so violated its discretion as to have trampled on the Constitution

Ah, this is a dangerous power you are granting. Those who propose this bill know it is dangerous, else why have they provided that the decisions of this tribunal can not be laid down in a court as prima facie evidence of a fact found by them in cases where third parties are concerned? We had no difficulty in considering the Clayton bill, which is yet to come before the Senate for formal action, in drawing a clause which will permit a decision in favor of the Government of the United States against any combination to be employed by private parties having a similar complaint against the same concern; but here you write across the face of this bill the words "We fear it ourselves," when you add this clause:

Provided, That no order or finding of the court or commission in the enforcement of this section shall be admissible as evidence in any suit, civil or criminal, brought under the antitrust acts.

Why? Because you have granted so unlimited a power, so broad a power, so dangerous a power that you are afraid to allow the decree of this tribunal or the finding of this tribunal to be used as even prima facie evidence in any court of justice. You fear your own Frankenstein; you prepare a cage for him before you create him.

I appeal once more to Senators upon the rather low ground—and yet is one that is very practical—do you want to enact a law here so vague and indefinite that you can not understand it, That you can not, and you, and you, and you? Do you want to pass a law of that vague nature, giving no guide to the people of your own States that they can follow, and then compel them, upon the complaint of any person whatsoever to come here to Washington to find out for the first time whether that which they have been doing is legal or illegal?

It is true if you write a perfectly plain law, if you set up reasonable guides for the people to follow, that there may be no great hardship in compelling a man who violates such a law to come to Washington, although I think that a very doubtful proposition; I think it would be better to give him his day in court in his own State; but you set up no law, no rule, no guide, and then say to the people who live upon the shores of the Pacific Ocean, You shall come here whenever complaint is made; you shall come here to answer for practices, although you have no means of knowing whether they are either right or wrong; you shall come here from Arizona, the same as you would come from the District of Columbia itself, and you shall, for the first time, ascertain, not from Congress, not from the law-making body, what is right and what is wrong, but you shall ascertain that fact by asking five men whether you can or can not do a certain thing.

The pride of the Anglo-Saxon race has been that they were governed not by men but by law. That old principle is so thoroughly ingrained, not only in the American citizen but in his ancestry, that it is related that a subject of the great Frederick William, father of Frederick the Great, desired a piece of land belonging to an humble cottager that adjoined the imperial domain. The old German did not want to part with it. They tried every means to persuade him to do so, and finally the Emperor himself said to this old German peasant, "What will you do if I take it?" And the old German turned and looked him in the eye and said, "Your Majesty can not take it while there is law in Prussia." He lived under an almost absolute monarch, and yet he had a law he could appeal to—not the will of a sovereign, not the will of a commission, but a law of the land which protected him in his property—and that law was greater than the will of the imperial monarch of the state.

This is a government of law, not a government of men. Whenever you vest in a board the discretion to control my conduct you take away from me the discretion to control my own conduct. Whenever you vest in a board the power to say what my rights are you take away my rights under the laws, sir. Whenever you give five men the right to condemn a practice of mine, not because there is a written law that condemns it, but because in their own minds they think it is wrong, you have substituted their minds for the law of the land; you have substituted their will for my rights as an American citizen.

Who is there here willing to do that? We do not need to do it. We can establish this commission; we can give it powers broad enough to reach every wrong that has been denounced upon this floor without giving license to do as it pleases, without giving it the power to trample upon our rights, without giving it the power to make its will the supreme law of this land. We can do this under the Constitution. There is no wrong in this land that can not be reached under the Constitution of the United States; there is no wrong in this land so subtle, so powerful, so insidious that we can not reach it by law. We do not need to substitute the will of men for law.

Talk about conferring this power upon a commission. Sir, if arbitrary power is to be conferred, I would rather confer it upon the courts than upon a commission.

Who shall compose this commission? As I have already stated, they may be men in sympathy with every kind of trust and combination. Who will guarantee a different commission? I should be willing to guarantee it for the immediate present, because I have confidence that the President will not impose such men upon us. I say that although I have recently differed from him in regard to one appointment; but who, looking down the years, shall say that the power that has heretofore been able to step into the President's office and arrest the very arm of justice itself, will not be great enough to name this commission. Remember that it is not elected by the people; it is responsible to no one; it is answerable neither to the law of the land nor to a constituency.

Oh, but somebody says, "Some professor somewhere discussed 'unfair competition'"; and we had read here an article from some professor. Prof. William S. Stevens recently wrote an article on unfair competition. He was mentioned as "a Columbia professor," and as an authority so eminent that his writings on this subject should determine the language which should be incorporated in the bill; yet I do not even find his name on the catalogue of the regular faculty of Columbia University. He did appear as a summer-school instructor and extension teacher, unconnected with the regular faculty. I am not saying one word against the gentleman, but he was put forward here as an unanswerable authority, and yet he had this to say in a recent article:

"Unfair competition" is a term difficult either to define or explain. To different individuals it connotes different things.

A fine thing to put into a law; is it not? According to the definition or description of this man, who has been quoted as an eminent authority, we are to put into a law something that means different things to different minds.

The lawyer's view of unfair competition, for example, is based upon the statutes and the decisions of the courts—

I thought so until I heard some of my lawyer friends talk here in this body—

that of the economic consequences and results.

There you are. Which school of thought is going to be followed? Then, when you get among the economists, which school of economists are you going to follow?

I continue to read:

To the lawyer, a method which is legal is not unfair. To the economist, on the other hand, legality per se is no criterion of fairness. The opinions of the lawyer and of the economist are therefore likely to be at variance in the case of more than one method. This divergence of views will appear more clearly in the course of this article, which is written from the standpoint of the economist.

And you want to use a term so vague that this gentleman says it means one thing to the lawyer and another thing to the economist, and you all know you would not dare venture a guess as to what it means.

Mr. President, I have taken the time of the Senate, not because I am stubbornly clinging to an idea, but because there is not a man in this body who more than myself desires to destroy those great influences and combinations that are striking free competition in this country. Therefore, I want to write a law that has teeth in it; and the first thing you must do if you are to have a law that is to be effective is to write the law so that when it is read it has a meaning, and that meaning is one which tribunals will enforce.

I am not willing to take the chance of allowing this time to pass, this opportunity to go by, when we can enact a statute which will arrest to a large extent these evil practices. I am sorry so many of my associates take a different view. I offer this amendment, and I ask the Senate to give it a real consideration. I ask you all if it is not better to employ a definition that will form a guide than to proceed without definition and without guide upon an unknown road leading into an unexplored country?

Mr. HOLLIS obtained the floor.

Mr. CLARKE of Arkansas. Mr. President, may I ask the Senator from New Hampshire to yield while I propose an amendment to the amendment offered by the Senator from Missouri?

Mr. HOLLIS. Certainly; I yield.

Mr. CLARKE of Arkansas. I send the amendment to the desk and ask that it may be read.

The VICE PRESIDENT. The Secretary will state the amendment to the amendment.

The SECRETARY. It is proposed to amend the proposed amendment by adding, after the word "devices," on line 4, a comma and the words "whether of like nature with those herein enumerated or not."

Mr. CLARKE of Arkansas. Mr. President, when the amendment comes under consideration I may ask to say a few words about it.

Mr. HOLLIS. Mr. President, the speech of the Senator from Missouri presents many questions which are inviting to discussion, and, so far as he refers to a speech made by me some time ago, I should be delighted to renew the argument. The hour is late, however, a vote is desired, and the Senate is not interested in any personal controversy between the junior Senator from Missouri and the junior Senator from New Hampshire. I have no doubt every Senator has made up his mind how he will vote. I am therefore willing, somewhat reluctantly, to leave my part of the debate on the record as it now stands.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Arkansas to the amendment proposed by the Senator from Missouri.

Mr. CLARKE of Arkansas. Mr. President, the amendment offered by the Senator from Missouri simply amplifies what is meant by the phrase that it is intended to elucidate. Those of us who think the phrase "unfair competition" is adequate understand that it will be for the commission, subject to review by the courts, to fill in, under the rule of reason, such things as they may find to be unfair competition. Under our contention, therefore, there is no objection to attempting a further definition or an amplification of that particular definition.

Everything that the Senator from Missouri recites in his amendment is conceded by those of us who think that the term is sufficient, and there can be no objection on our part to making a partial enumeration of the things that are included in it.

His amendment is subject, however, I will not say to the criticism but to the objection that after the commission have exhausted the list of instances that are said to constitute unfair competition they are held down by the terms of this amendment, under the general phrase "all other acts or devices done or used with the intent or calculated to destroy or unreasonably hinder the business of another," and so forth, to a rule of law known as *ejusdem generis;* that is to say, the devices that might be considered under that general phrase would be of like nature with those actually mentioned. I would avoid that by adding:

Whether of like nature with those herein enumerated or not.

That excludes the idea that the court or commission, in construing the meaning of the phrases indicated, would be confined to those of like nature.

Mr. REED. Mr. President——

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Missouri?

Mr. CLARKE of Arkansas. I do.

Mr. REED. May I ask the Senator from Arkansas to give the exact wording of the amendment?

Mr. CLARKE of Arkansas. Just after the word "devices," on line 4, add: "whether of like nature with those herein enumerated or not."

There is a rule of law, as I say, known as the doctrine of *ejusdem generis;* that is to say, that where an enumeration of instances is made, and the general phrase is added, "and all other acts or devices," in construing those general words the court will be confined to instances of like nature.

Mr. REED. Mr. President, I thought this language out, and thought I had escaped the rule just appealed to by the Senator; but I have such great respect for the opinion of the Senator as a lawyer that if he entertains doubt as to the matter I am willing to resolve that doubt by putting in the language the Senator offers. I accept the amendment.

Mr. CLARKE of Arkansas. Then, Mr. President, with that concession by the Senator I am going to vote for the amendment, because it is entirely in line with what all of us have been insisting on. It is just as exhaustive as the general term. The adoption of the amendment would be useful to this extent: It would conclusively exclude the contention that the use of the words "unfair competition" was intended by Congress to be limited to what is known as the passing-off process of substituting the goods of one dealer for those of another.

I think there is no objection to the amendment, and I think it serves a useful purpose; and so far as I am concerned, as a friend of the bill, I am going to vote for it.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Missouri, as modified.

Mr. WALSH. I should like to hear the amendment read as it now stands.

The VICE PRESIDENT. The Secretary will read the amendment as modified.

The SECRETARY. As now proposed, it reads as follows:

SEC. 6. The term "unfair competition," as used in section 5, is hereby defined to embrace all those acts, devices, concealments, threats, coercions, deceits, frauds, dishonest practices, false representations, slanders of business, and all other acts or devices, whether of like nature with those herein enumerated or not, done or used with the intent or calculated to destroy or unreasonably hinder the business of another or prevent another from engaging in business, or to restrain trade or to create a monopoly.

Mr. NEWLANDS. Mr. President, the suggestion has been made by some of the Senators on the other side that we should agree upon a time for a vote upon the entire bill.

Mr. REED. Let us vote on this question now.

Mr. NEWLANDS. There will have to be some time taken for consideration of this amendment. When the committee last met, the committee determined to stand by the words as used in the bill—"unfair competition"—and I am not prepared at this moment to state what the opinion would be regarding the suggestion of the Senator from Arkansas.

A suggestion has been made upon the other side for a unanimous-consent agreement regarding a vote. It is as follows:

It is agreed by unanimous consent that at not later than 11 o'clock a. m. on the calendar day of Wednesday, August 5, 1914, the Senate will proceed to vote upon any amendment that may be pending, any amendment that may be offered, and upon the bill H. R. 15613, through the regular parliamentary stages to its final disposition, and that no Senator shall speak more than once or longer than 10 minutes upon the bill or more than once or longer than 10 minutes upon any amendment offered thereto.

Mr. CUMMINS. Mr. President, I wish the Secretary would read the proposed amendment, so that we may all hear it and understand it.

Mr. LIPPITT. Mr. President, before that is done, I should like to say that the suggestion that was made, so far as this side was concerned, was not that the hour should be 11 o'clock, as I understand, but that it should be 2 o'clock.

Mr. NEWLANDS. No; the suggestion as made to me was 11 o'clock. It is true the Senator from Rhode Island suggested 2 o'clock.

Mr. GALLINGER. Mr. President, the Senator from Rhode Island correctly states the position that some of us hold, that it ought to be 2 o'clock instead of 11 o'clock; and I think if the Senator will make it 2 o'clock there will be no objection on the part of anybody.

Mr. NEWLANDS. All right; let it be changed to read "2 o'clock."

The VICE PRESIDENT. The Secretary will read the proposed agreement.

The Secretary read as follows:

It is agreed by unanimous consent that at not latter than 2 o'clock p. m. on the calendar day of Wednesday, August 5, 1914, the Senate will proceed to vote upon any amendment that may be pending, any amendment that may be offered, and upon the bill H. R. 15613 through the regular parliamentary stages to its final disposition, and that no Senator shall speak more than once or longer than 10 minutes upon the bill, or more than once or longer than 10 minutes upon any amendment offered thereto.

Mr. NEWLANDS. Mr. President, I am requested to inquire whether the other side will agree that the final vote shall be taken not later than 6 o'clock to-morrow?

Mr GALLINGER. So far as I know, there is no objection. There may be objection on the part of some of my colleagues; but we are quite anxious to have this bill disposed of.

Mr. SUTHERLAND. Mr. President, I am quite willing that the vote shall be taken at that time. I rose simply to suggest to the Senator that we can not adopt this unanimous-consent agreement without calling the roll and ascertaining that a quorum is present.

Mr. NEWLANDS. I have no doubt that a quorum is present.

The VICE PRESIDENT. The Chair is about to order a call of the roll for that purpose.

Mr. NEWLANDS. If there is any objection to that agreement upon this side, I should like to hear it.

Mr. REED. I should have liked to have a vote upon this amendment to-night, because my course will be somewhat determined by the result, and then take up this other matter. We were ready for a roll call on it. I am not going to object, however. I would not put myself in the position of offering an objection.

Mr. NEWLANDS. I will state that I do not feel authorized to assent to this amendment without consulting the members of the committee.

The VICE PRESIDENT. It is not a question of assent on the part of the Senator from Nevada. It is a question as to whether anybody wants to speak to this amendment or whether the question shall be put to the Senate.

Mr. ASHURST (and other Senators). Question!

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Missouri as modified. [Putting the question.] By the sound the ayes seem to have it.

Mr. NEWLANDS. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHAMBERLAIN (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. In his absence I withhold my vote.

Mr. CULBERSON (when his name was called). I have a general pair with the senior Senator from Delaware [Mr. DU PONT]. In his absence I withhold my vote.

Mr. OWEN (when his name was called). I should like to know if the Senator from New Mexico [Mr. CATRON] has voted?

The VICE PRESIDENT. He has not.

Mr. OWEN. Being paired with that Senator, I withhold my vote.

Mr. SMITH of Maryland (when his name was called). I have a general pair with the Senator from Vermont [Mr. DILLINGHAM] and therefore withhold my vote.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. In his absence I withhold my vote.

Mr. TILLMAN (when his name was called). I have a general pair with the Senator from West Virginia [Mr. GOFF]. In his absence I withhold my vote, unless it is necessary to make a quorum.

Mr. WILLIAMS (when his name was called). I transfer my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the senior Senator from Indiana [Mr. SHIVELY], and I vote "nay."

The roll call was concluded.

Mr. GALLINGER. I have been asked to announce that the Senator from Illinois [Mr. SHERMAN] is necessarily absent, and that if present he would vote "yea."

I have also been asked to announce pairs between the Senator from Vermont [Mr. DILLINGHAM] and the Senator from Maryland [Mr. SMITH], the Senator from Massachusetts [Mr. LODGE] and the Senator from Georgia [Mr. SMITH], the Senator from Wisconsin [Mr. STEPHENSON] and the Senator from Oklahoma [Mr. GORE], the Senator from Michigan [Mr. TOWNSEND] and the Senator from Arkansas [Mr. ROBINSON], and the Senator from Wyoming [Mr. WARREN] and the Senator from Florida [Mr. FLETCHER].

Mr. SMITH of Georgia. I am paired with the senior Senator from Massachusetts [Mr. LODGE]. In his absence I withhold my vote.

The result was announced—yeas 30, nays 32, as follows:

YEAS—30.

Brady	Hitchcock	Norris	Stone
Bryan	Jones	O'Gorman	Sutherland
Burton	Kenyon	Overman	Vardaman
Chilton	Lane	Page	Walsh
Clark, Wyo.	McCumber	Perkins	Weeks
Clarke, Ark.	Martine, N. J.	Reed	West
Colt	Myers	Simmons	
Gallinger	Nelson	Sterling	

NAYS—32.

Ashurst	Hollis	Lippitt	Sheppard
Bristow	Hughes	McLean	Smith, Ariz.
Camden	James	Martin, Va.	Smoot
Clapp	Johnson	Newlands	Swanson
Crawford	Kern	Pomerene	Thompson
Cummins	Lea, Tenn.	Ransdell	Thornton
Fall	Lee, Md.	Saulsbury	White
Gronna	Lewis	Shafroth	Williams

NOT VOTING—34.

Bankhead	Fletcher	Poindexter	Smith, S.C.
Borah	Goff	Robinson	Stephenson
Brandegee	Gore	Root	Thomas
Burleigh	La Follette	Sherman	Tillman
Catron	Lodge	Shields	Townsend
Chamberlain	Oliver	Shively	Warren
Culberson	Owen	Smith, Ga.	Works
Dillingham	Penrose	Smith, Md.	
du Pont	Pittman	Smith, Mich.	

So Mr. REED's amendment was rejected.

The VICE PRESIDENT. The roll having been called, and the vote having disclosed the presence of a quorum, the Senator from Nevada presents a proposed unanimous-consent agreement, which will be read.

The Secretary read as follows:

It is agreed by unanimous consent that at not later than 2 o'clock p. m. on the calendar day of Wednesday, August 5, 1914, the Senate will proceed to vote upon any amendment that may be pending, any amendment that may be offered, and upon the bill H. R. 15613, an act to create an interstate trade commission, etc., through the regular parliamentary stages to its final disposition; and that after the hour of 2 o'clock p. m. no Senator shall speak more than once or longer than 10 minutes upon the bill or upon any amendment offered thereto; and, further, that the vote upon the passage of the bill as amended shall be taken at not later than 6 o'clock p. m. on the said day.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry. Who offers that agreement?

The VICE PRESIDENT. The Senator from Nevada [Mr. NEWLANDS]. Is there any objection to the unanimous-consent agreement? The Chair hears none, and it is accordingly entered as the order of the Senate.

REGISTRY OF FOREIGN-BUILT VESSELS.

Mr. O'GORMAN. In behalf of the Committee on Interoceanic Canals, I report back favorably, with amendments, the bill (H. R. 18202) to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes, and I submit a report (No. 719) thereon. I ask for its immediate consideration.

The VICE PRESIDENT. Is there objection?

Mr. GALLINGER. I object to its consideration. I think the bill ought to be printed, and we ought to have an opportunity to read it.

The VICE PRESIDENT. There is objection to the present consideration of the bill. It will be printed and placed on the calendar.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

S. 3176. An act to increase the limit of cost of the public building at Bangor, Me.; and

S. 6192. An act to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act.

PETITIONS AND MEMORIALS.

Mr. PERKINS presented a memorial of the Chamber of Commerce of San Francisco, Cal., and a memorial of the Shipowners' Association of the Pacific Coast, remonstrating against foreign-built vessels engaging in the coastwise trade, which were referred to the Committee on Commerce.

He also presented a memorial of the Federated Trades and Labor Council of San Diego, Cal., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

He also presented a telegram in the nature of a petition from sundry citizens of Berkeley, Cal., praying for national prohibition, which was referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Mount View, of the Congregational Sunday School of Lodi, and of the Pacific Conference of the Epworth Leagues of the Methodist Episcopal Church South, at Stockton, all in the State of California, praying for the enactment of legislation to provide for Federal censorship of motion pictures, which were referred to the Committee on Education and Labor.

Mr. JONES presented a memorial of sundry citizens of North Yakima, Wash., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. McLEAN:

A bill (S. 6211) granting an increase of pension to Aurelia M. Todd (with accompanying papers); to the Committee on Pensions.

By Mr. BURTON:

A bill (S. 6212) granting an increase of pension to Harriet L. Willis; and

A bill (S. 6213) granting an increase of pension to Clara R. Squier; to the Committee on Pensions.

By Mr. JONES:

A bill (S. 6215) granting an increase of pension to David W. Mead (with accompanying papers); to the Committee on Pensions.

EXECUTIVE SESSION.

Mr. STONE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

Mr. KERN. I move that the Senate adjourn until 11 o'clock to-morrow morning.

The motion was agreed to, and (at 6 o'clock and 10 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, August 5, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate August 4 (legislative day of August 3), 1914.

MINISTER.

Garrett Droppers, of Williamstown, Mass., to be envoy extraordinary and minister plenipotentiary of the United States of America to Greece and Montenegro, vice George Fred Williams, resigned.

MEMBER OF THE FEDERAL RESERVE BOARD.

Frederic A. Delano, of Chicago, Ill., to be a member of the Federal Reserve Board for a term of six years.

PROMOTIONS AND APPOINTMENT IN THE NAVY.

Capt. Charles A. Gove to be a rear admiral in the Navy from the 10th day of July, 1914.

Lieut. Commander George L. P. Stone to be a commander in the Navy from the 1st day of July, 1914.

Lieut. Theodore A. Kittenger to be a lieutenant commander in the Navy from the 1st day of July, 1914.

Lieut. Charles T. Hutchins, jr., to be a lieutenant commander in the Navy from the 1st day of July, 1914.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 5th day of June, 1914:

Hugh P. Le Clair,
James D. Maloney,
Wallace L. Lind,
Richard McC. Elliot, jr.,
Radford Moses,
Holbrook Gibson,
Howard H. J. Benson,
Wilbur J. Carver,
George A. Trever,
Benjamin F. Tilley, jr., and
Robert P. Guiler, jr.

Jack H. Harris, a citizen of North Carolina, to be an assistant surgeon in the Medical Reserve Corps of the Navy from the 30th day of July, 1914.

Pharmacist Charles E. Alexander to be a chief pharmacist in the Navy from the 10th day of July, 1914.

Capt. Epaminondas L. Bigler to be a captain in the Marine Corps from the 22d day of August, 1912, to change the date from which he takes rank as previously confirmed.

Capt. Robert B. Farquharson to be a captain in the Marine Corps from the 16th day of September, 1912, to correct the date from which he takes rank as previously confirmed.

Capt. Walter N. Hill to be a captain in the Marine Corps from the 1st day of January, 1913, to correct the date from which he takes rank as previously confirmed.

Capt. Lauren S. Willis to be a captain in the Marine Corps from the 5th day of February, 1913, to correct the date from which he takes rank as previously confirmed.

Capt. Frederick A. Barker to be a captain in the Marine Corps from the 6th day of May, 1913, to correct the date from which he takes rank as previously confirmed.

Capt. Edward B. Cole to be a captain in the Marine Corps from the 25th day of February, 1914, to correct the date from which he takes rank as previously confirmed.

Capt. William T. Hoadley to be a captain in the Marine Corps from the 1st day of May, 1914, to correct the date from which he takes rank as previously confirmed.

RECEIVER OF PUBLIC MONEYS.

John E. Barrett, of Yates Center, Kans., to be receiver of public moneys at Topeka, Kans., vice Joshua G. Wood, term expired.

POSTMASTERS.

CALIFORNIA.

T. B. Cutler to be postmaster at Crescent City, Cal., in place of W. A. Howe. Incumbent's commission expired May 18, 1914.

M. P. Meacham to be postmaster at Altadena, Cal. Office became presidential April 1, 1913.

Charles E. Noggle to be postmaster at Monterey, Cal., in place of William W. James. Incumbent's commission expired December 21, 1913.

Lillian P. Stephenson to be postmaster at Big Creek, Cal., in place of L. T. Stephenson, resigned.

Willard Wells to be postmaster at Eureka, Cal., in place of William N. Speegle, resigned.

CONNECTICUT.

E. W. Doolittle to be postmaster at Plantsville, Conn., in place of Thomas Walker, removed.

FLORIDA.

James McKay to be postmaster at Tampa, Fla., in place of George W. Bean. Incumbent's commission expired January 24, 1914.

INDIANA.

George E. Endres to be postmaster at Bloomfield, Ind., in place of Harriet C. Graham, removed.

KENTUCKY.

Moses F. Moore to be postmaster at Central City, Ky., in place of Jessie K. Freeman, jr. Incumbent's commission expired June 20, 1914.

MASSACHUSETTS.

John McGrath to be postmaster at Amesbury, Mass., in place of Timothy F. Lyons, deceased.

MONTANA.

Dan Sullivan to be postmaster at Shelby, Mont. Office became presidential July 1, 1914.

NEW YORK.

Maurice F. Axtell to be postmaster at Deposit, N. Y., in place of Henry M. Wilcox, resigned.

Melvin W. Billings to be postmaster at Hurleyville, N. Y., in place of Amelia L. Tyler, resigned.

William F. Britt to be postmaster at Sea Cliff, N. Y., in place of C. S. Chellborg, resigned.

John H. Cronan to be postmaster at Port Henry, N. Y., in place of Samuel D. Mulholland. Incumbent's commission expired April 29, 1914.

Edward J. Cunningham to be postmaster at Amenia, N. Y., in place of William H. Bartlett. Incumbent's commission expired March 11, 1914.

F. W. Ferrell to be postmaster at Chateaugay, N. Y., in place of Agnes M. Nolan. Incumbent's commission expired June 9, 1913.

Andrew J. Fitzpatrick to be postmaster at Springville, N. Y., in place of Alton C. Bates. Incumbent's commission expired June 1, 1914.

L. R. Francis to be postmaster at Ripley, N. Y., in place of George W. Hitchcock. Incumbent's commission expired January 31, 1914.

Archie S. Gould to be postmaster at Alfred, N. Y., in place of Lyle Bennehoff. Incumbent's commission expired June 24, 1914.

John W. Hamilton to be postmaster at Stillwater, N. Y., in place of George Coon, failed to qualify.

R. P. Heaton to be postmaster at Chazy, N. Y., in place of Leslie A. Childs. Incumbent's commission expired February 21, 1914.

F. M. Hopkins to be postmaster at Binghamton, N. Y., in place of De Witt C. Herrick. Incumbent's commission expired May 23, 1914.

William Johnson to be postmaster at Groveland Station, N. Y., in place of William M. Morrison, resigned.

C. M. Marnes to be postmaster at Rouses Point, N. Y., in place of John W. Bowron. Incumbent's commission expired April 12, 1914.

Edward S. Moss to be postmaster at Brocton, N. Y., in place of George M. Mathews. Incumbent's commission expired April 15, 1914.

Elmer W. Simmons to be postmaster at Millerton, N. Y., in place of Charles A. Townsend, declined.

Thomas P. Whalen to be postmaster at Dover Plains, N. Y., in place of John A. Hanna. Incumbent's commission expired February 17, 1913.

William T. Welden to be postmaster at Richfield Springs, N. Y., in place of Frederick Bronner. Incumbent's commission expired March 8, 1914.

NORTH DAKOTA.

Charles S. Ego to be postmaster at Lisbon, N. Dak., in place of Edgar C. Lucas. Incumbent's commission expired February 7, 1914.

PENNSYLVANIA.

E. M. Dailey to be postmaster at Dushore, Pa., in place of John Scher, jr. Incumbent's commission expired April 11, 1914.

Thomas E. Grady to be postmaster at Montgomery, Pa., in place of Elmer S. Hull. Incumbent's commission expired January 19, 1914.

Richard T. Hugus to be postmaster at Jeannette, Pa., in place of William F. Elkin. Incumbent's commission expired June 20, 1914.

Jacob H. Maust to be postmaster at Bloomsburg, Pa., in place of James C. Brown. Incumbent's commission expired June 1, 1914.

WISCONSIN.

J. D. Burns to be postmaster at Colfax, Wis., in place of Nicholas A. Lee, resigned.

CONFIRMATIONS.

Executive nominations confirmed by the Senate August 4 (legislative day of August 3), 1914.

CONSUL.

Roger Culver Tredwell to be consul at Leghorn, Italy.

UNITED STATES ATTORNEY.

Arthur L. Oliver to be United States attorney, eastern district of Missouri.

UNITED STATES MARSHAL.

John E. Lynch to be United States marshal, eastern district of Missouri.

POSTMASTERS.

FLORIDA.

James McKay, Tampa.

PENNSYLVANIA.

Charles E. Knecht, Nazareth.

HOUSE OF REPRESENTATIVES.

TUESDAY, *August 4, 1914.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almighty God, in whom is all wisdom, power, and goodness, interpose, we beseech Thee, and avert the terrible war which threatens all Europe. Arouse the better angels in the hearts of those in authority and bring them together in reason, justice, and mercy, that their differences may be amicably adjusted by sane and peaceful methods. But, if war must needs come, we pray most earnestly and fervently for the poor, irresponsible, misguided men upon whom will fall the brunt of all the horrors and miseries attendant upon war. And, O Father, shield and protect the helpless women and children, whose sorrows will be beyond compare. Unite us as a people by the strong ties of brotherhood into a more compact union for peace, harmony, and all that makes for good government. Hear us, O God our Father, and answer our petition in the name of Christ the Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. FIELDS asked unanimous consent for leave of absence, indefinitely, on account of illness.

Mr. WOODRUFF asked leave of absence, for 30 days, on account of important business.

The SPEAKER. Is there objection to these requests?

Mr. MANN. Reserving the right to object, I think I shall not object, although I do not see present the gentleman from Connecticut [Mr. DONOVAN] who usually objects.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

THE GENERAL DAM ACT.

Mr. ADAMSON. Mr. Speaker, I understand that the conference report is not yet ready, and I move to go into Committee of the Whole House on the state of the Union for the further consideration of the general dam bill.

The SPEAKER. The gentleman can move to rise when the conference report is ready.

Mr. ADAMSON. I will move to rise when the conference report comes in.

The SPEAKER. The gentleman from Georgia moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16053, the general dam act.

The motion was agreed to.

Mr. MANN. I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Texas is about to take the gavel.

Mr. MANN. It will not make much difference; we will have to have a call in the committee if not in the House.

The SPEAKER. The only difference is that we have to have 217 Members for a quorum in the House and only 100 in the committee.

Mr. MANN. I withdraw the point of order.

The SPEAKER. The gentleman from Illinois withdraws his point of order, and the gentleman from Texas will take the chair.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GARNER in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill, the title of which the Clerk will report.

The Clerk read as follows:

H. R. 16053. A bill to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910.

Mr. MANN. Mr. Chairman, I make the point that there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] Seventy-one Members present—not a quorum, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Abercrombie	Estopinal	Humphrey, Wash.	Porter
Adair	Fairchild	Igoe	Post
Ainey	Faison	Johnson, S. C.	Pou
Anthony	Farr	Kelley, Mich.	Powers
Ashbrook	Fess	Kent	Rayburn
Aswell	Fields	Kinkead, N. J.	Reed
Austin	Fitzgerald	Kitchin	Riordan
Avis	Flood, Va.	Knowland, J. R.	Roberts, Mass.
Barchfeld	Floyd, Ark.	Kreider	Rouse
Barkley	Fordney	Lafferty	Sabath
Bartholdt	Francis	Langham	Saunders
Bartlett	Frear	Langley	Scully
Beall, Tex.	Gard	Lazaro	Sells
Bell, Ga.	Gardner	L'Engle	Sherley
Borland	George	Lenroot	Sherwood
Brodbeck	Gerry	Lewis, Pa.	Slayden
Broussard	Gill	Lindquist	Smith, Md.
Browne, Wis.	Gillett	Lobeck	Smith, J. M. C.
Browning	Gittins	Loft	Smith, N. Y.
Bruckner	Goeke	Lonergan	Sparkman
Bulkley	Goldfogle	McAndrews	Stanley
Burke, Pa.	Gordon	McGillicuddy	Steenerson
Byrnes, S. C.	Gorman	McGuire, Okla.	Stephens, Miss.
Byrns, Tenn.	Goulden	McKellar	Stephens, Nebr.
Calder	Graham, Ill.	Mahan	Stringer
Callaway	Graham, Pa.	Maher	Sumners
Cantrill	Green, Iowa	Manahan	Switzer
Carew	Griest	Martin	Taggart
Carlin	Griffin	Merritt	Talcott, N. Y.
Cary	Gudger	Metz	Ten Eyck
Casey	Hamill	Morgan, La.	Thacher
Chandler, N. Y.	Hamilton, Mich.	Mott	Thomas
Coady	Hamilton, N. Y.	Murray, Okla.	Thompson, Okla.
Connolly, Iowa	Hammond	Neeley, Kans.	Underhill
Copley	Hardwick	Neely, W. Va.	Vare
Covington	Hart	O'Brien	Vaughan
Crisp	Hayden	Oglesby	Vollmer
Crosser	Hayes	O'Leary	Walker
Dale	Heflin	O'Shaunessy	Wallin
Davenport	Hill	Padgett	Walsh
Deitrick	Hinds	Paige, Mass.	Watkins
Dies	Hinebaugh	Palmer	Weaver
Dooling	Hobson	Parker	Whitacre
Driscoll	Houston	Peters, Me.	White
Dupré	Howell	Peters, Mass.	Williams
Eagan	Hoxworth	Peterson	Willis
Eagle	Hughes, Ga.	Phelan	Winslow
Edwards	Hughes, W. Va.	Platt	Woodruff
Elder	Hulings	Plumley	Young, Tex.

The committee rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having under consideration the bill H. R. 16053, and finding itself without a quorum, had caused the roll to be called, and 235 Members answered to their names, and he presented a list of the absentees.

The committee resumed its session.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire [Mr. STEVENS].

The question was taken; and on a division there were 45 ayes and 69 noes.

Mr. STEVENS of New Hampshire. Tellers, Mr. Chairman.

Tellers were ordered.

Mr. THOMSON of Illinois. Mr. Chairman, I ask unanimous consent that the amendment may be again reported.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the Clerk may again report the amendment.

Mr. MANN. Reserving the right to object, I suggest that the provision of the text be first reported, and then the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois [Mr. MANN]? [After a pause.] The Chair hears none.

Mr. MURDOCK. Mr. Chairman, no right to tellers is lost by this proceeding?

The CHAIRMAN. No. Is there objection? [After a pause.] The Chair hears none, and the Clerk will report the text of the bill and the proposed amendment.

The Clerk read as follows:

SEC. 9. That the rights herein granted shall continue for a period of 50 years from and after the date of the completion of the dam described in the original approval, and after the expiration of said 50 years such rights shall continue until compensation has been made to said grantee for the fair value of its property, as hereinafter provided, or until said rights and privileges are revoked as provided in this act, or until action by Congress shall have provided for the disposition of the project or for extending the consent of Congress and fixing the period of extension, as well as providing such additional terms and conditions of consent as Congress may deem wise.

Amendment by Mr. STEVENS of New Hampshire:

"Amend section 9, page 10, by striking out all of said section and substituting in place thereof the following:

"'SEC. 9. That the rights granted herein shall continue for a period of 50 years from and after the date of the original approval unless sooner revoked or forfeited, as provided for in this act.'"

The Chair appointed Mr. STEVENS of New Hampshire and Mr. ADAMSON to act as tellers.

The committee again divided; and the tellers reported—ayes 81, noes 79.

So the amendment was agreed to.

Mr. FOWLER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

Mr. ADAMSON. Mr. Chairman, I understand the conference report on the emergency currency measure is ready. I therefore move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16053, the general dam act, and had come to no resolution thereon.

EMERGENCY CURRENCY.

Mr. GLASS. Mr. Speaker, I ask unanimous consent for the present consideration of the conference report on the bill S. 6192, to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act.

The SPEAKER. The gentleman from Virginia asks unanimous consent for the present consideration of the conference report on the bill S. 6192, without printing under the rules. Is there objection?

Mr. MURDOCK. Mr. Speaker, reserving the right to object, does the gentleman from Virginia intend to explain how the bill has been changed?

Mr. GLASS. I can do so in a very few minutes, and the reading of the report will do that.

The SPEAKER. The Clerk will report the conference report.

The Clerk read as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6192) to amend section 27 of the act approved December 23, 1913, and known as the Federal reserve act, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House numbered 1, and agree to a substitute therefor as follows, to wit: After the word "and," in line 9, page 3, insert: "to suspend also the conditions and limitations of section 5 of said act, except that no bank shall be permitted to issue circulating notes in excess of 125 per cent of its unimpaired capital and surplus. He shall require each bank and currency association to maintain on deposit in the Treasury of the United States a sum in gold sufficient in his judgment for the redemption of such notes, but in no event less than 5 per cent. He"; after the word "to," line 12, page 3, insert "as herein amended."

That the House recede from its amendment numbered 1, and agree to the substitute as above set forth.

CARTER GLASS,
C. A. KORBLY,
E. A. HAYES,
Managers on the part of the House.

ROBERT L. OWEN,
G. M. HITCHCOCK,
KNUTE NELSON,
Managers on the part of the Senate.

The SPEAKER. The gentleman from Virginia asks unanimous consent for the present consideration of the conference report, notwithstanding the rule about going over for one day to be printed. Is there objection?

There was no objection.

Mr. GLASS. Mr. Speaker, the alteration in the amendment of the House is a very simple one. There were comprised in section 5 of the Vreeland-Aldrich Act two limitations. One related to the individual bank, requiring that no individual bank should receive emergency notes in excess of its capital stock and surplus; the other related to the gross amount of emergency notes that might be issued. That was fixed at $500,000,000. The House amendment to the Senate proposition left the matter wide open, both as to the gross amount of notes that might be issued and as to the amount of currency that might be received by individual banks. The Senate dissented from the latter proposition and put a limitation upon the amount of currency that may be received by individual banks, making it 25 per cent in excess of the total capitalization and surplus of the bank.

Mr. MURDOCK. And added a gold-reserve feature?

Mr. GLASS. And added a gold-reserve feature in the language of the Federal reserve act. In other words, the 5 per cent current redemption fund in the case of national-bank notes

was found to be inadequate, and the Federal reserve act provides that the Secretary of the Treasury may, at his discretion, increase the amount in the case of Federal reserve notes. We have simply embodied in this amendment with respect to emergency notes the language of the Federal reserve act with respect to Federal reserve notes. The Secretary of the Treasury appeared before the conferees and recommended that the alteration be made, and gave us a rather more optimistic view of matters than members of the committee had entertained.

Mr. MURDOCK. Mr. Speaker, I would like to ask the gentleman a question. This emergency currency is now printed?

Mr. GLASS. Yes.

Mr. MURDOCK. Is it printed under titles of national banks?

Mr. GLASS. Yes.

Mr. MURDOCK. Is it possible for the Secretary of the Treasury to take national-bank notes printed under a bank title, say, in Illinois, and let a New York bank have them?

Mr. GLASS. No; he will have the currency printed for the New York bank.

Mr. MURDOCK. I understood the currency was already printed.

Mr. GLASS. Half a billion is already printed. The plates are in existence and additional amounts are being now printed.

Mr. GARNER. Mr. Speaker, will the gentleman yield?

Mr. GLASS. Yes.

Mr. GARNER. The Senate disagreed to both of the House amendments?

Mr. GLASS. No; to only one.

Mr. GARNER. And the conference committee has only to report on one amendment in disagreement?

Mr. GLASS. Yes.

Mr. GARNER. As I understand the amendment of the Senate which the conferees agreed on, it changes the present law to the extent that the only limitation on a bank's issue is 25 per cent plus its capital and surplus?

Mr. GLASS. Yes.

Mr. GARNER. That is the only change from the Vreeland law and the present law?

Mr. GLASS. Except to authorize the Secretary of the Treasury to increase the amount of the gold redemption fund.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. GLASS. Yes.

Mr. MANN. If I understand this correctly, this amendment makes three changes from the existing law. Under existing law the total limitation on the currency which may be issued is $500,000,000, and this takes off the limit entirely.

Mr. GLASS. That is true.

Mr. MANN. Leaving it to the discretion of the Secretary of the Treasury?

Mr. GLASS. Yes.

Mr. MANN. And that under the existing law the amount that may be advanced to any bank can not exceed its capital and surplus, while this authorizes 25 per cent more than the capital and surplus?

Mr. GLASS. To the individual bank; yes.

Mr. MANN. That under existing law there is no gold reserve required?

Mr. GLASS. There is 5 per cent gold redemption fund required.

Mr. MANN. I mean gold redemption fund.

Mr. GLASS. And this authorizes the Secretary of the Treasury in his discretion to increase that.

Mr. MANN. Does the existing law provide for 5 per cent?

Mr. GLASS. It provides for 5 per cent; yes.

The Vreeland-Aldrich Act provides for 5 per cent. The Federal reserve act provides not less than 5 per cent and permits the Secretary of the Treasury in his discretion to increase the amount.

Mr. MANN. Of course this is not the Federal reserve act, so that has no application——

Mr. GLASS. No.

Mr. MANN. But the Vreeland-Aldrich Act provides a 5 per cent gold redemption fund?

Mr. GLASS. That is true.

Mr. MANN. Each bank which receives these currency notes must put up with the Government 5 per cent of that in gold?

Mr. GLASS. Yes.

Mr. MANN. And this authorizes the Secretary of the Treasury to increase that amount?

Mr. GLASS. In his discretion; yes.

Mr. MANN. That is the only change made in that respect?

Mr. GLASS. That is the only change, to provide against inflation. I ask for a vote, Mr. Speaker.

Mr. COOPER. Will the gentleman yield to one question?

Mr. GLASS. Yes.

Mr. COOPER. What is the reason for the increase of the amount which the bank may issue to 125 per cent?

Mr. GLASS. Simply to meet the emergency. A good many of the banks, a good many of the national banks——

Mr. GARNER. Country banks.

Mr. GLASS. A good many of the national banks, especially the country banks, are up to the possible amount of their circulation, and this increase of 25 per cent in excess of capital and surplus was a necessary precaution to meet the emergency.

Mr. RAGSDALE. Will the gentleman permit one question?

Mr. GLASS. Certainly.

Mr. RAGSDALE. Will not this also enable the southern country banks more rapidly and easily to handle and market the crops now coming to market?

Mr. GLASS. And western banks.

Mr. RAGSDALE. And western banks?

Mr. GLASS. Yes.

Mr. FOWLER. Will the gentleman permit one question?

Mr. GLASS. I will.

Mr. FOWLER. Is there any provision made for additional security for the excess of 25 per cent above the capital and surplus of any individual bank?

Mr. GLASS. The same kind of security is required for the excess that is required for the original amount.

Mr. FOWLER. The same as originally provided in the Vreeland-Aldrich bill—the same character and amount of security?

Mr. GLASS. Yes.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

On motion of Mr. GLASS, a motion to reconsider the vote by which the conference report was agreed to was laid on the table.

THE GENERAL DAM ACT.

Mr. ADAMSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill amending the general dam act.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16053, with Mr. GARNER in the chair.

The CHAIRMAN. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 16053) to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The Clerk read as follows:

Page 10, lines 10 and 12, strike out "fifty" and insert in lieu thereof "twenty-five."

Mr. MANN. Mr. Chairman, I make the point of order, the House has already inserted new matter in that section.

The CHAIRMAN. What is the point of order?

Mr. MANN. That there is nothing left of this section except what the committee has inserted by way of amendment, and that can not be amended now.

The CHAIRMAN. The point of order is well taken.

Mr. FOWLER. Mr. Chairman, while it is true the committee has adopted an amendment with reference to the taking over of the property after 50 years, that does not prevent the committee from considering an amendment to lessen the time.

The CHAIRMAN. The parliamentary situation, the Chair will state to the gentleman from Illinois, is this: The gentleman from New Hampshire offered an amendment to this section striking out the entire section and substituting certain language for it. Now, if the gentleman from Illinois wanted to amend that amendment and perfect it before it became part of the bill his opportunity existed then. After the amendment is adopted the rules of the committee do not permit the gentleman to offer the amendment; it is finished. That is the parliamentary situation.

Mr. FOWLER. Well, Mr. Chairman, that very parliamentary situation came up here a few days ago in the House on an amendment to a bill after an amendment had already been adopted, and the Chair held that the committee could consider that new amendment offered if it saw fit.

The CHAIRMAN. The Chair is advised that what was held at that time was what the Chair has just stated. An amendment could have been offered to perfect this amendment, but after it is once adopted——

Mr. FOWLER. Then, Mr. Chairman, I think that the advice which the Chair has received does not report correctly the parliamentary situation at that time. If I remember it correctly, an amendment had already been adopted upon a vote and subsequent to that a new amendment was offered to the amendment, which had already been voted on.

The CHAIRMAN. The Chair thinks he recalls that instance in which an amendment was offered to a paragraph, to perfect the paragraph. After that the motion was made to substitute for another paragraph, which would have been in order. This is an entirely different situation. A substitute was offered by the gentleman from New Hampshire. That substitute was agreed to. No effort was made to perfect the substitute before it was agreed to, and it is too late; and the Clerk will read.

Mr. FOWLER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FOWLER. Was there anything more than simply an amendment offered by the gentleman from New Hampshire which had just been voted on at the time?

The CHAIRMAN. The amendment was offered in the nature of a substitute to perfect the entire paragraph.

Mr. FOWLER. Well, did it perfect the entire paragraph?

The CHAIRMAN. It struck out the entire paragraph and substituted other language for it.

Mr. FOWLER. I did not understand that it took out the language of the entire paragraph, but that it only affected certain language of the paragraph.

The CHAIRMAN. The point of order is sustained. The gentleman from Illinois can not offer the amendment now, and the Chair thinks it is useless to further discuss the matter.

Mr. FOWLER. I am going to abide by the decision of the Chair, although I think the Chair is wrong.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. UNDERWOOD having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 23) for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13; of Ernest Kubel, owner of lot No. 41; and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District, which were, on page 2, line 6, to strike out "and forty-one"; on page 3, line 15, after the word "States," to insert: ": *Provided, however*, That from such sum or sums as may be awarded to said owners there shall be deducted the compensation and expenses of said commission and the compensation of said jurors."

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to an act (S. 6192) to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act.

The message also announced that the Senate had passed the bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 6039. An act for the coinage of certain gold and silver coins in commemoration of the Panama-Pacific International Exposition, and for other purposes.

THE GENERAL DAM ACT.

The committee resumed its session.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 10. That any time after the expiration of said 50 years the Secretary of War may terminate the rights hereby granted upon giving to the owners thereof one year's notice in writing of such termination, and upon the taking over by the United States, or by any person authorized by Congress, of all the property dependent in whole or in part for its usefulness upon the rights hereby granted, which shall include all necessary and appurtenant property created or acquired and valuable or serviceable in the distribution of water, or in the generation, transmission, and distribution of power, and all other property the value and usefulness of which would be destroyed or seriously impaired by such termination, and upon paying the fair value of said property, together with the cost, to the grantee of the lock or locks or other aids to navigation and all other capital expenditures required by the United States, and assuming all contracts entered into prior to the receipt by it of said notice of termination which have the approval of the duly constituted public authority having jurisdiction thereof, or which were entered into in good faith and at a reasonable rate, in view of all the circumstances existing at the time such contracts were made. The fair value of said property and the reasonableness and good faith of such contracts shall be determined by agreement between the Secretary of War and the owners of such property, and in the event of their failure to agree, then by proceedings instituted by the United States, or by any person authorized by Congress, in the district court of the United States within which any portion of such dam may be located. In the determination of the value of said property upon the termination of said grant as above provided no value shall be claimed by or allowed for the consent hereby granted, nor for good will, profit in pending contracts, nor other conditions of current or prospective business.

Mr. STEVENS of New Hampshire. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New Hampshire offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend section 10, page 10, by striking out the entire section and substituting therefor the following:

"SEC. 10. That upon not less than two years' notice prior to the expiration of any grant made hereunder and at any time after the expiration of such grant upon six months' notice the United States, or any person authorized by Congress, shall have the right to take over all of the property of the grantee necessary and useful for the generation, transmission, or distribution of power. Such property shall include the lands or interests in lands acquired or used for the purposes of the development and transmission of power, the dam and other structures and the equipment necessary and useful for the generation of power, and the transmission system from generation plant to initial points of distribution, and the lock or locks or other aids to navigation, but shall not include any other property whatsoever. Before taking possession the United States or the person authorized by Congress shall pay therefor (1) the actual cost to the grantee of lands or any interests therein purchased and used by the grantee in the generation and distribution of power, and (2) the fair value of the other properties taken over, together with the cost to the grantee of the lock or locks or other aids to navigation, and all other capital expenditures required by the United States in assuming all contracts for electrical energy extending beyond the granting period which have had or may have the approval of the Secretary of War and which were entered into in good faith and at a reasonable rate. The actual cost of land or interests therein and the fair value of other property shall be determined by agreement between the Secretary of War and the owners of such property, and in the event of their failure to agree, then by proceedings instituted by the United States or by the person authorized by the United States in the district court of the United States within which any portion of such dam may be located. In determining the fair value of the property other than lands or interests in lands, allowance shall be made for deterioration, if any, of the existing structures and transmission lines, and no value shall be claimed or allowed for the rights hereby granted, for good will, going concern, profit in pending contracts for electrical energy, or for other conditions of current or prospective business, or for any other intangible element."

Mr. ADAMSON. Mr. Chairman, I have no objection to that amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New Hampshire.

The amendment was agreed to.

The Clerk read as follows:

SEC. 11. That in all cases where the electric current generated from or by any of the projects provided for in this act shall enter into interstate or foreign commerce, the rates, charges, and service for the same to the consumers thereof shall be just and reasonable, and every unjust and unreasonable and unduly discriminatory charge, rate, or service therefor is hereby prohibited and declared to be illegal; and whenever the Secretary of War shall be of the opinion that the rates or charges demanded or collected on the service rendered for such electric current are unjust, unreasonable, or unduly discriminatory, upon complaint made therefor and full hearing thereon the Secretary of War is hereby authorized and empowered to determine and prescribe what shall be the just and reasonable rates and charges therefor to be observed as the maximum to be charged and the service to be rendered; and in case of the violation of any such order of the Secretary of War the provisions of this act relative to forfeiture and failure to comply shall apply. That in the valuation for rate-making purposes of the property existing under said approval of the project there may be considered any lock or locks, or other aids to navigation, and all other capital expenditures required by the United States.

The Secretary of War is further authorized and directed to include among the conditions for his approval of any plans or any project herein provided, as an express condition thereof, a clause reserving to the Secretary of War the same rights, powers, and duties set forth in this section, together with the same penalty for violation thereof: *Provided*, That whenever the State in which such current shall be used shall have provided by law adequate regulation for rates, charges, and service to the consumers for such electric current and such regulation shall not be unduly discriminatory or unjust against the service or charges in any other State arising from the use of the power from the same project, and such facts shall be established to the satisfaction of the Secretary of War, then in such case the provisions of this section shall not apply to the rates, charges, and service in and for such State.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. UNDERWOOD having taken the chair as Speaker pro tempore, a message in writing from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries.

THE GENERAL DAM ACT.

The committee resumed its session.

Mr. STEVENS of New Hampshire and Mr. THOMSON of Illinois rose.

The CHAIRMAN. The gentleman from New Hampshire [Mr. STEVENS] is recognized.

Mr. STEVENS of New Hampshire. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New Hampshire offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 13, line 5, after the words "United States," strike out the period, insert a comma, and add the following:

"But no value shall be claimed or allowed for the rights hereby granted, for good will, going concern, or any other intangible value."

Mr. ADAMSON. Mr. Chairman, I have no objection to that.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SMITH of Minnesota. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 12, line 8, after "11," strike out section 11 and insert:

"That all charges, rates, and service by any grantee or lessee hereunder, or connecting company engaged in the transmission and sale of power and electric current generated by any project subject to the provisions of this act, shall be reasonable, adequate, without discrimination, and subject to the regulations of the Secretary of War. To enforce such just and reasonable and nondiscriminatory charges and secure adequate and efficient service to consumers, the Secretary of War is hereby authorized and empowered to prescribe and examine reports and systems of account, books, and other records, establish standards, and make tests of service, control the issuance of stocks and bonds by corporations engaged in the generation, transmission, or sale of such hydroelectric product, and require them to submit statements of all costs of property, production distribution, sale, and use of product, subject to such grant or lease and connected with such project, furnishing such information upon oath or by witness or in such form and upon such blanks as the Secretary of War may order and require; and on complaint of any State, municipality, or consumers affected thereby, and full hearing thereon, the Secretary of War is empowered to determine and prescribe the maximum rates to be charged, based on fair and reasonable returns on the valuation of the property and cost of operation, and ascertain and order the requirements of service to be rendered; and in case of any violation of such orders of the Secretary of War or the refusal of such grantee or lessee to give the Secretary of War and his legal representatives full access to its property and records, the provisions of this act relative to forfeiture and failure to comply shall apply. It is herewith provided, however:

"(a) That when a State in which such water power and electric current is used shall notify the Secretary of War of the passage of laws and the perfecting of administration to effectively provide for such regulation of rates, charges, and service within such State and its municipal subdivisions, the regulations of the Secretary of War shall not apply to local and intrastate business therein.

"(b) That when the power generated by such project enters both interstate and intrastate commerce, the Secretary of War is hereby authorized to join with any State in which such power is used in effecting such joint and interlocking system of Federal and State regulation as in its judgment shall most effectively promote the general public interest and carry out the purposes of this act.

"(c) That in such valuation for rate-making purposes of the property operated under such grant there may be considered by the Secretary of War any lock or other aid to navigation, including all capital expenditures required of the grantee by the United States, but no value shall be allowed for the good will or franchise value of the lease or permit hereby or heretofore granted."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

Mr. SMITH of Minnesota. Mr. Chairman——

Mr. UNDERWOOD. Mr. Chairman, may I interrupt the gentleman a minute? How much time does he desire?

Mr. SMITH of Minnesota. I would like 15 minutes.

Mr. ADAMSON. Mr. Chairman, there never has been a subject in the world talked about as much as this. Every single angle of it has been debated, and I hope that gentlemen will offer the amendments and vote on them, and let us get through. I am willing to vote on the amendment right now, and am willing to have them adopt this amendment, if they want to do so. There is no difference except that he has a thousand or so words that mean the same thing, practically. Let us limit the debate or vote at once. I do not care to hear anybody talk 15 minutes on it.

Mr. MANN. My friend from Georgia has not exhausted himself, and we gave him unlimited time the other day.

Mr. ADAMSON. Well, I spoke 15 minutes in reply to 6 weeks of unending oratory.

Mr. MANN. We gave the gentleman unlimited time under the five-minute rule the other day.

Mr. UNDERWOOD. Is 15 minutes all the gentleman from Minnesota desires?

Mr. SMITH of Minnesota. That is all I want.

Mr. UNDERWOOD. Mr. Chairman, I ask unanimous consent that debate on this amendment be limited to 20 minutes, the gentleman from Minnesota to have 10 and those in opposition to have the same amount of time.

Mr. MANN. The gentleman from Minnesota wants 15 minutes.

Mr. ADAMSON. I think 5 minutes on a side would be enough.

Mr. UNDERWOOD. Can not the gentleman compromise on 10 minutes?

Mr. SMITH of Minnesota. I will.

Mr. UNDERWOOD. Mr. Chairman, I ask unanimous consent that the gentleman from Minnesota may have 10 minutes, that there may be 5 minutes in opposition, and that all debate close in 15 minutes.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent that all debate on this paragraph and amendments close in 15 minutes, 10 minutes to be controlled by the gentleman from Minnesota and 5 minutes by those opposed to the amendment. Is there objection?

Mr. RAINEY. Reserving the right to object, who is included in that 5 minutes on this side?

Mr. UNDERWOOD. Anybody who is opposed to the amendment.

Mr. ADAMSON. The gentleman from Illinois may have my time if he wants it.

The CHAIRMAN. Is there objection?

Mr. STEVENS of New Hampshire. Reserving the right to object, this amendment covers many different subjects. For instance, there is a paragraph about accounting and reports on the projects. I would like to know if there is 15 or 20 minutes debate on a side on this substitute, which covers a very wide range of subjects, the Chairman is going to object to debate on some of the same things that will be brought up separately later?

Mr. ADAMSON. I take it for granted that the House ought to vote this down without any debate if the gentlemen do not care to waste time on it.

Mr. MANN. Do not let us have any misunderstanding. The request is to close debate on this section and all amendments thereto.

Mr. ADAMSON. In 20 minutes.

The CHAIRMAN. Is there objection?

Mr. CULLOP. Mr. Chairman, I object to that request. There may be other amendments to be debated.

Mr. ADAMSON. How much time does the gentleman from Indiana want?

Mr. CULLOP. I do not know until the amendments are offered. If you restrict the request to this amendment, we will not have any objection; but if it is to go to all amendments, we do object.

Mr. UNDERWOOD. Well, Mr. Chairman, I want to get this bill out of the House to-day. I really want to agree to latitude of debate, but unless we can agree upon a reasonable length of debate I shall insist upon the observance of the rule that all speeches be limited to five minutes.

Mr. ADAMSON. Oh, the gentleman himself had 15 minutes two or three times.

Mr. UNDERWOOD. Well, we have to get the bill out.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Alabama yield to the gentleman from Wisconsin?

Mr. UNDERWOOD. Yes.

Mr. COOPER. Mr. Chairman, is the question of objecting or not objecting before the House?

The CHAIRMAN. The question is on agreeing to the request for unanimous consent by the gentleman from Alabama [Mr. UNDERWOOD] to limit debate on this section and amendments thereto to 15 minutes.

Mr. COOPER. Then I wish to reserve the right to object.

Mr. UNDERWOOD. I make the request, Mr. Chairman, on the gentleman's amendment, that he may have 10 minutes and the opposition to it 5.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent that all debate on this amendment close in 15 minutes, 10 minutes to be used by the gentleman from Minnesota [Mr. SMITH] and 5 minutes to be used by the opposition. Is there objection?

Mr. COOPER. Mr. Chairman, reserving the right to object, I beg leave to say a word in reply to the suggestion of the gentleman from Alabama [Mr. UNDERWOOD], who has more than once urged the necessity of passing this bill.

Mr. UNDERWOOD. Mr. Speaker, I demand the regular order. That has nothing to do with the proposition.

The CHAIRMAN. Is there objection to the proposition of the gentleman from Alabama? [After a pause.] The Chair hears none. The gentleman from Minnesota [Mr. SMITH] is recognized for 10 minutes.

Mr. SMITH of Minnesota. Mr. Chairman, the object of my amendment is to strengthen and give force and effect to section 11 of the pending bill, which has to do with regulation of hydroelectric projects. I am not at all surprised at the statement of the chairman of the committee [Mr. ADAMSON] that the amendment will be voted down whether there is debate or not, because Mr. ADAMSON and myself hold different views as to what constitutes the paramount features of this legislation. The chairman of the

committee holds that the legislation should be sufficiently liberal to induce capital to invest in such enterprises, which purpose is clearly indicated by the following colloquy that took place at the hearings before Mr. ADAMSON'S committee on April 14, 1914, between Mr. Cooper and the chairman of the committee, to wit:

Mr. Cooper on the stand:

The CHAIRMAN. What is the reason that this will not do? If it is entirely within the jurisdiction of a State, let the State do what it pleases.

Mr. COOPER. I am afraid of any State.

The CHAIRMAN. Suppose that we provide that if the State does not provide adequate legislation that the Government reserve the right to do it and they can not confiscate your property by making the rate too low?

Mr. COOPER. That is all I ask.

The CHAIRMAN. I think we are about of the opinion to do that.

I am not so much concerned about making the bill so liberal that capital will be induced to invest in the enterprise as I am that there shall be an adequate scheme of just regulation for the benefit of the public as well as to prevent the great natural resources from being absorbed—free from efficient public control—by the Hydroelectric Trust. The provision in the pending bill—

That whenever the State in which such current shall be used shall have provided by law adequate regulation for rates, charges, and services to the consumer for such electric current and such regulation shall not be unduly discriminatory or unjust against the service or charges in any other State arising from the use of the power from the same project, and such facts shall be established to the satisfaction of the Secretary of War, then in such cases the provisions of this section—

Meaning the provisions authorizing the Secretary of War to fix rates and charges—

shall not apply to the rates, charges, and services in and for such State—

was evidently inserted with the view of depriving States of their right to control rates, charges, and so forth, and was inspired by Mr. Cooper, or men of his point of view.

Mr. ADAMSON. Mr. Chairman, if the gentleman will permit, I would like to tell him that this section was written before Mr. Cooper appeared before the committee.

Mr. SMITH of Minnesota. Well, it bears the earmarks very strongly of Mr. Cooper's suggestion.

Mr. ADAMSON. That is a good deal of imagination.

Mr. COOPER. I would like to ask the gentleman right there what Mr. Cooper that was?

Mr. SMITH of Minnesota. Hugh L. Cooper, who built the Keokuk Dam.

Mr. COOPER. In view of the question asked, I would like to have it distinctly understood that he is not a relative of mine and that I have no relative connected with this project.

Mr. SMITH of Minnesota. What is the object of the provision which provides that "such regulation shall not be unduly discriminatory or unjust against the services or charges in any other State arising from the use of the power from the same project" unless it is to make the Secretary of War a buffer between the Hydroelectric Trust and the State commissions? Moreover, this view is in line with what Mr. Cooper suggested when he stated that the Hydroelectric Trust was afraid of the State but was not afraid of Congress, and is also in line with the thought of the chairman of the committee when he explained that the committee intended to fix it so that the State "could not confiscate" the property of the trust. If I am correct in my observation, section 11 will accomplish the desired object and the Hydroelectric Trust may appropriate all the water-power resources free from efficient public control, except the control that prohibits the State from confiscating the property of the trust. My amendment is offered with a view to making impossible such a contingency. Control of public-service corporations is by no means new legislation. As early as 1869 Massachusetts had for common carriers the system in operation, and for gas and electricity since 1885. New York and Wisconsin have gained prominence in legislation of this sort. At the present time about 20 States have comprehensive measures designed to curb the power of public-service corporations. These corporations have come to be looked upon as public servants free from all the immunities of private property and subject to regulatory control.

The problem before Congress is the working out of that control on an efficient and equitable basis. This task should not be difficult because the States have blazed the way and Congress itself has passed one of the most efficient and comprehensive measures on the subject ever placed on the statute books of any State or nation. I have reference to the interstate-commerce act, which was the product of many sessions and many minds. No law in the history of the world has stood the test against such powerful, bitter, and resourceful enemies as the Sherman antitrust law. There are certain well-established and indispensable features in the Sherman law, as well as in nearly all the State laws on this subject, and strange as it may seem, those universally recognized cardinal principles necessary to efficient regulation are not incorporated in the committee bill.

The Secretary of War, who has control under the pending bill, is not required to keep informed as to general conditions and service of hydroelectric projects under his jurisdiction and has no express power of examination to ascertain the same; neither has he power to compel the attendance and testimony of witnesses, the production of books and papers, and to enter upon the property for the purpose of investigation; no power to proceed upon his own motion to investigate the rates, quality, standard, adequacy, and security of any hydroelectric project, or of any act done or omitted to be done by such utility company contrary to law or to any order which he may make; no power to make an examination or investigation in case of accidents. He is not required to provide for a comprehensive classification of service and to insist upon each public utility conforming to such classification. He is not required to compel adequate service and just and reasonable rates; no power to insist that before a change in rates or service can be made that he must approve the same; has no power to insist that the accounts, papers, and information in the possession of public-service corporations must be opened for inspection by himself or his duly authorized agents; has no power to require a uniform system of accounting; has no jurisdiction or power over the issue of stock or bonds; is not required or authorized to value property of projects; there is no provision authorizing a rehearing or providing that if a rehearing is had it shall not stay the operation of his order; he is not authorized or required to compel electric companies to make uniform reports showing capitalization, financial transactions, receipts, expenditures, dividends, salaries and wages, location and description of its property, and such other facts as he might deem necessary; there is no provision for court review or appeal from the decision of the Secretary.

The object of my amendment is to supply these well-recognized essential features so indispensable to any system of efficient regulation. The first paragraph of my amendment, which reads as follows—

That all charges, rates, and services by any grantee or lessee hereunder, or connecting company engaged in the transmission and sale of power and electric current generated by any project subject to the provisions of this act, shall be reasonable, adequate, without discrimination, and subject to the regulation of the Secretary of War—

provides that connecting companies, such as the Mississippi Power Distributing Co., located within a few miles of St. Louis, will be under the control of the Secretary of War as effectively as the original project, thus extending the power to regulate rates and service over subsidiary companies and connecting companies. If some such feature as this is not adopted the grantee can escape regulation through connecting and subsidiary companies.

The second paragraph provides that the Secretary of War is authorized and empowered—

to prescribe and examine reports and systems of accounts, books, and other records, establish standards and make tests of service, control the issue of stocks and bonds of corporations engaged in the generation, transmission, or sale of such hydroelectric product, and require them to submit statements of all costs of property, production, distribution, sale, and use of products, subject to such grant or lease and connected with such project, furnishing such information on oath or by witness or in such form and upon such blanks as the Secretary of War may order and require; and on the complaint of any State, municipality, or consumers affected thereby, after full hearing thereon, the Secretary of War is empowered to determine and prescribe the maximum rates to be charged, based on fair and reasonable returns on the valuation of the property and cost of operation, and ascertain and order the requirements of service to be rendered; and in case of any violation of such orders of the Secretary of War or the refusal of such grantee or lessee to give the Secretary of War or his agent full access to its property and records, the provisions of the act relative to forfeiture and failure to comply shall apply.

This paragraph of the amendment provides for a system of regulation such as has been worked out and adopted after years of experience and study by the States and the Nation covering the general subject of supervision of accounts, reports, service tests and standards, control of stock and bond issues, to compel witnesses to attend and testify, right of an individual, State, or municipality to demand a hearing, method of determining value of property as basis for rate making, full access to property and records, and an effective method of enforcing the regulation.

The third paragraph of the amendment is as follows:

That when a State in which such water power and electric current is used shall notify the Secretary of War of the passage of laws and the perfecting of administration to efficiently provide for such regulation of rates, charges, and service within such State and its municipal

subdivisions the regulations of the Secretary shall not apply to local and intrastate business therein.

Thus the Secretary is to refrain from exercising control over rates and charges affecting local and interstate business when the State notifies him that the State is ready to take over the control. The provision in the committee bill relating to this subject is unique and far-reaching in its attempt to supplant control by the States.

The Secretary of War, endowed with paternalistic power, may grant to the States, if he is so disposed, after being fully satisfied that it is the part of wisdom so to do, the privilege of regulating their own internal affairs in respect to rates, charges, and service to the consumers for such electric current. Not since the days of George III has there been so flagrant an attempt to delegate to an individual or a number of individuals the right to pass upon the wisdom or adequacy of ordinances and laws passed by the people for the regulation of their local affairs as is attempted in the committee bill. It has been the policy of this country ever since 1776 to permit the people themselves to judge of the adequacy and justness of the laws of their making. It is fortunate indeed for the people of the United States at this juncture, when the entire water resources of the 48 States and the Nation at large are at stake, the potential income of which may reach hundreds of millions of dollars per annum for generations to come; it is fortunate, I say, that we have in this Nation an official who is eminently and signally competent not only to regulate hydroelectric lightings in their countless public-service ramifications throughout the length and breadth of the greatest empire on earth, but likewise to review the laws and constitutions of these States and determine that which is nondiscriminatory, adequate, just, safe, and sane.

The fourth and last paragraph of my amendment provides—

That when the power generated by such project enters both interstate and intrastate commerce the Secretary of War is authorized to join with any State in which such power is used in effecting such joint and interlocking system of Federal and State regulation as in its judgment shall most effectively promote general public interest and carry out the purpose of this act.

Without some such provision providing for a system of Federal and State regulation any attempt to regulate hydroelectric projects would be of but little value, since most hydroelectric projects involve both interstate and intrastate business. The physical combination of plants, which is permissible under this bill, together with the ability to transmit current from individual plants from 200 to 300 miles, enables hydroelectric projects to combine and distribute electric current over an area of at least 100 000 square miles. Therefore, in order to have efficient regulation, the Federal and State jurisdiction must be joint and interlocking or there will be a twilight zone of no regulation. The objection that I have to section 11 is that it is not sufficiently broad and comprehensive to effectively regulate hydroelectric current. The regulation provided for in the committee bill in respect to this particular feature of the subject might be ample if it were simply to apply to steam, which can not be transmitted but a short distance, hence offering no incentive to combine steam plants into great systems such as the power of transmission of electric current enables hydroelectric projects to economically combine and assist each other and to extend their operations in many cases over three or four States.

Mr. ADAMSON. Mr. Chairman, I desire that the gentleman from Oklahoma [Mr. FERRIS] may have five minutes.

Mr. FERRIS. Mr. Chairman, I shall not pretend that the amendment of the gentleman from Minnesota [Mr. SMITH] is without some value, for no doubt it has good things in it, and no doubt its purposes are well founded and well intended. But we have modified this bill to a marked degree in several instances. In the first place, we have provided that a charge shall be paid. In the second place, we have amended the bill so that there is a 50-year term, and no more. In the third place, we have modified the recapture clause until, in my judgment, it is quite sufficient; and now to accept carte blanche a two-page document to serve as an amendment to one of these sections is more than I think the friends of the bill who want legislation ought to accept.

I think the section as prepared is pretty well arranged. It has been carefully considered by the committee, and in any event no one can grasp the purport of the amendment offered. It has not been printed. Few, if any, Members have seen it. It is too much to expect that it should be accepted.

Mr. SMITH of Minnesota. Will the gentleman yield for a question?

Mr. FERRIS. I do.

Mr. SMITH of Minnesota. What does the gentleman consider the first or principal section in this bill?

Mr. FERRIS. There are several. The term is perhaps the most fundamental of all of them, and the next is our ability to get the property back, and perhaps the third is the charge, or what is known as the Sherley amendment. The fourth would perhaps be regulation, and after a higher state of development it may be advanced to first importance.

Mr. SMITH of Minnesota. Has the gentleman ever thought that the recapture of the project is postponed for 50 years, and that we and our children will get no benefit of that; but if you have proper and suitable regulations you and I will get the benefit of it now? That is the object of this amendment.

Mr. UNDERWOOD. I do not think the gentleman really conceives the proposition of the gentlemen on the other side. A very distinguished gentleman on the other side of the House the other day announced that real conservation was refrigeration. Now, if the gentleman will accept the amendment of the gentleman from Minnesota [Mr. SMITH], we shall have real refrigeration.

Mr. FERRIS. Mr. Chairman, for one I do not desire to accept the amendment of the gentleman from Minnesota; neither do I desire to accept any amendment that will make this bill unworkable. Surely those who feel keenly the public interest ought not to accept amendments that will make this bill totally unworkable. I know that those who have had the public interest in mind in this and other legislation have had it charged against them that the only thing they desire to do is to tie up things so that they can not be used. I contend for those who feel about conservation as I do that no such thought is intended, no such result contemplated, and I believe that the highest form of conservation is the highest form of use in the public interest; but I do not want to get into that general subject.

Mr. ADAMSON. This is for regulation.

Mr. FERRIS. This has to do with regulation, and whether this section of the bill is all that it should be or not I am not this moment prepared to say; but this is not the last word on the question. This bill will go to the Senate and will probably be rewritten in toto, and we will probably again in this House examine it section by section in toto. To accept an amendment now which may or may not contain duplications of other sections would be more than the real friends of this legislation ought to stand for. I do not want this bill destroyed. No one who has the interest of the country at heart wants the bill destroyed. Neither do I want the progress and development of water-power legislation arrested. It is one of the biggest questions in the field to-day. It is a question not too large for our best thinkers. At the end of 50 years the water-power question will be bigger than Standard Oil or any other fuel question, because the water power is not destroyed as the water runs over these dams. The water power is not consumed like coal and oil and other fuel, but it goes on forever. So we ought all to be exceedingly careful of what we do here to-day. At the same time we ought not to accept any amendment which will make this bill a pile of rubbish and will send it to the Senate as such, and absolutely override the good work that has been done on this bill. I want it a good bill; I want it to pass. I do not want to accept undigested amendments which may weaken the bill.

I hope the amendment will not be agreed to. [Applause.]

The CHAIRMAN. The question is on the amendment of the gentleman from Minnesota [Mr. SMITH].

The question was taken; and on a division (demanded by Mr. SMITH of Minnesota) there were—ayes 19, noes 31.

Accordingly the amendment of Mr. SMITH of Minnesota was rejected.

Mr. STEVENS of New Hampshire. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from New Hampshire offers an amendment which the Clerk will report.

The Clerk read as follows:

Amend section 11 by adding a new paragraph at the end thereof to read as follows:

"The Secretary of War shall have the right to provide rules and regulations for uniform accounting, to examine all books and accounts of grantees under the terms of this act; to require them to submit statements, representations, or reports, annual or special, including full information as to assets and liabilities, capitalization, cost of project, cost of operation the production, use, transmission, and sale of power. All such statements, representations, and reports shall be upon oath unless otherwise specified, and in such forms and on such blanks as the Secretary of War may require; and any person making any false entry, statement, representation, or report under oath shall be subject to punishment as for perjury."

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire.

Mr. ADAMSON. I have no objection to that amendment. I think it is a good one.

Mr. SMITH of Minnesota. Mr. Chairman, I move to strike out the last word.

Mr. ADAMSON. Can we not dispose of this amendment?

The CHAIRMAN. If the gentleman from Minnesota is willing. The gentleman is entitled to five minutes on this amendment.

Mr. ADAMSON. If debate is desired, I should like to get some agreement as to time. I thought when we agreed to the amendment we would get rid of the talk.

Mr. SMITH of Minnesota. Mr. Chairman, I am glad to see this amendment offered. In a measure it covers what I sought in my amendment. It does not go quite as far, but I believe it will be beneficial to the bill to have it adopted. I do not think it will add to the rubbish of the bill, as suggested by our distinguished friend from Oklahoma. I do not believe that any Member of this House is going to lumber up a proposition of such great magnitude and of such great importance to this country with rubbish or anything that is going to affect the bill detrimentally. But, on the other hand, I do believe that the membership of the House is desirous of getting the best bill possible, and if they will use their patience and a little mutual respect for each other's opinions, we will be able to draft and pass a bill that will be a credit to this House.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire [Mr. STEVENS].

The question was taken, and the amendment was agreed to.

Mr. THOMSON of Illinois. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amend page 13 by striking out lines 6 to 22, inclusive.

Mr. THOMSON of Illinois. Mr. Chairman, section 11, beginning on page 12, gives the Secretary of War certain rights and powers in the way of regulation in all cases where electric current enters into interstate commerce. Over in the portion of the section that I move to strike out it says that the Secretary may incorporate that power as a condition to the grant in connection with the original approval. Then it goes on to say that wherever the State in which such current shall be used shall provide by law adequate regulation he shall not have that power. It seems to me that would mean that if the electric current entered into interstate commerce and was used in two or more States and each one of those States complied with the last part of the paragraph, which I move to strike out, the Secretary of War would have no power in the way of regulation of rates, and the result might be that one company would generate power used in two or three adjoining States where one State might have one rate and another State another. I believe if this paragraph goes out the Secretary of War will have full power, as given in the first part of the section, to regulate these rates and the power that he ought to have.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was lost.

Mr. FOWLER. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Wherever the words "Secretary of War" occur in section 11 strike the same out and insert in lieu thereof the words "Interstate Commerce Commission."

Mr. FOWLER. Mr. Chairman, I am aware that if my amendment is agreed to it would require a change in other sections of the bill to correspond with the proposed amendment. I feel, Mr. Chairman, that this bill, if passed with the powers now vested in it, will practically organize a court for the purpose of passing upon not only the feasibility of the construction of dams, but the letting of the same, and it will take in also the idea of regulation. In order to regulate you must have a hearing, and in order to have a hearing you must have a decision on the hearing, and that is practically a court.

I do not believe that anyone desires in anywise whatever to curtail the power of the Secretary of War. I have no such desire, but for my own part I never could see why the navigable rivers of the country should be placed under the War Department. It would be more practical to have them under the Navy Department, because the Navy primarily deals with water, although corporations sometimes deal with water.

If we pass this bill there will be the greatest reason for fixing and regulating the charges of the various businesses operated by hydroelectric power. There will be the greatest necessity of having an independent body to pass upon that question, the same as is done now with railroad rates, so that the people can get a fair opportunity to present the equities that may arise.

For that reason I have no doubt in my mind but that the Interstate Commerce Commission, the greatest independent body now in existence, should be designated for the purpose of taking charge of this whole question of regulating rates, letting contracts for dams, and supervising the application of electric energy to municipalities, corporations, and individuals. It is not going to be a little affair. We all know that. We realize that in the future there is probably going to be the greatest demand for hydroelectric power of any power known to man. I believe it will be the most useful as well as the most profitable; in fact, I believe it is going to spread out over the entire business world and become the motor power, not only for driving wheels on rivers and on railways, but it is going to be able to drive wheels in the production of the finished product. It will not only do that, but it will drive wheels to produce the raw material. I believe that the farmer in the near future will be bidding for this hydroelectric power for the purpose of producing wheat and corn and other cereals that we stand so much in need of. If that is true, then we ought to have it placed in the hands of some independent body where the rights of the people can properly be taken care of.

Mr. HULINGS. Mr. Chairman, I move to strike out the last word. I desire to ask the chairman of the committee a question. Is there anything in this bill that provides for regulation in the case where a company is organized under the bill to produce electric energy and then a subsidiary or other company is a purchaser of that energy and purveys it to the consumers? Is there anything in the bill to give the Secretary of War the power of regulation over the charges which the subsidiary company may impose upon the consumer?

Mr. ADAMSON. My idea is that section 11 gives the Secretary of War control of the situation. If they undertook a subterfuge through a subsidiary company, I think it would be detected and thwarted.

Mr. HULINGS. Suppose it sold it to your company and you had a company for the purpose of purveying energy, has the Secretary of War any right under this bill of regulation of charges which you may impose? I do not believe it is in this section.

Mr. ADAMSON. I think he would have that power over it.

Mr. THOMSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. HULINGS. Yes.

Mr. THOMSON of Illinois. Mr. Chairman, I think the first lines of section 11 would answer the question of the gentleman from Pennsylvania, and it seems to me those lines indicate that if this electricity is generated from any of these water-power projects, it could be controlled.

Mr. HULINGS. I wondered if it would.

Mr. ADAMSON. That was the opinion of the committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 12. That the grantee shall commence the construction of the dam and accessory works within one year from the date of the approval herein provided, and shall thereafter, in good faith and with due diligence, prosecute such construction, and shall, within the further term of three years, complete and put in commercial operation such part of the ultimate development as the Secretary of War and the Chief of Engineers shall deem necessary to supply the reasonable needs of the then available market, and shall, from time to time thereafter, construct such portion of the balance of such ultimate development as said Secretary of War and Chief of Engineers may direct and within the time specified by said Secretary of War and Chief of Engineers so as to supply adequately the reasonable market demands until such ultimate development shall be completed; and extensions of the periods herein specified, not to exceed two years, may be granted by the Secretary of War, on recommendation of the Chief of Engineers, when, in his judgment, the public interest will be promoted thereby. In case the grantee shall not commence actual construction within the time herein prescribed, or as extended by the Secretary of War, then the authority as to such grantee shall terminate, and in case any dam and accessory works be not completed within the time herein specified or extended as herein provided, then the Attorney General, upon the request of the Secretary of War, shall institute proper proceedings in the proper district court of the United States for the revocation of said authority, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section 8 of this act.

Mr. THOMSON of Illinois. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, page 14, line 3, by adding, after the word "shall," the following: "within such times as the Secretary of War and the Chief of Engineers shall prescribe."

Mr. ADAMSON. Mr. Chairman, I accept the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The amendment was agreed to.

Mr. RAINEY. Mr. Chairman, as the committee seems willing to accept all amendments, hoping that the Senate will make a good bill out of this, I desire to call the attention of the com-

mittee to the fact that in line 3, on page 15, the bill refers to "section 8" of the bill. In remodeling this bill, in clipping from the water-power bill introduced in the Senate, and sticking the parts so clipped into the general dam bill, as they do right along, they did not even take the trouble to change the number of the section. There is no section "8" in this bill that this could possibly relate to, but there is such a section "8" in the Rome G. Brown bill—the bill approved also by the other water-power lawyers in this country, which has been so liberally adopted in these italicized amendments here. I want to suggest to the committee, if it is not too late now, inasmuch as the paste-pot method of making this bill has resulted in this absurdity, that they make some change here now.

Mr. ADAMSON. Mr. Chairman, I will ask the gentleman from Minnesota [Mr. STEVENS] to reply to that most chaste and eloquent speech.

Mr. STEVENS of Minnesota. Mr. Chairman, the gentleman from Illinois is right in that it should be section 7 instead of section 8. The committee did make several changes, and did have several bills before it, and we adopted as we supposed the best efforts of every one. But, Mr. Chairman, I think that statement comes in ill grace from a Member who has made statements on this floor, nearly every one of which has been inaccurate, as is proved by the official RECORD of this Government. Practically every statement made——

Mr. RAINEY. Will the gentleman call attention to some of them that are inaccurate?

Mr. STEVENS of Minnesota. Yes; the statement that the Keokuk Dam had not been inspected. It was inspected all of the time.

Mr. RAINEY. I made no such statement.

Mr. STEVENS of Minnesota. The RECORD shows it, and the people on this floor heard it.

Mr. RAINEY. You will find no such statement.

Mr. STEVENS of Minnesota. Hold on——

Mr. ADAMSON. Mr. Chairman, before the gentleman from Illinois repeats that error again, I want to state right here that I never saw this "Jerome Brown," or whatever his name is, in my life, and I do not know who he is, and I do not care.

Mr. RAINEY. This is taken from his bill.

Mr. ADAMSON. I do not believe that.

Mr. STEVENS of Minnesota. Mr. Chairman, the bill that came from the Senate, as I have informed the House, was sent to me by the senior Senator from the State of Minnesota, Senator NELSON, a man who needs no commendation from me or anyone else who knows his record in this House and in the other House. He has been the chairman of the Committee of the Senate on Public Lands and the chairman of the Committee on Commerce, and he has given more study to and knows more about this general subject of water-power development than any man in this Congress. And when he sends me a bill I give it the greatest credence and utmost thought. He sent the bill to me, and I am very glad to have adopted some clauses in it, and I am very glad to assume the responsibility and to place it. Senator NELSON, no doubt, can answer for himself, and he needs no defense against the statement of the gentleman from Illinois [Mr. RAINEY], whose record is shown in this debate.

Mr. ADAMSON. Mr. Chairman, if that is an error, I think it ought to be corrected.

Mr. STEVENS of Minnesota. It is an error.

Mr. ADAMSON. How should it be corrected?

Mr. STEVENS of Minnesota. I move that we substitute "7" instead of "8."

Mr. RAINEY. Mr. Chairman, I have made certain statements with reference to the Keokuk Dam. I call attention to this paragraph of this bill and to the erroneous insertion here of section "8." The bill the gentleman clipped these sections from—and this is not the only section he clipped—is the bill that meets with the approval of Mr. Rome G. Brown and all of these other water-power lawyers. Twelve of them started out by attending these sessions and by smiling approval down from this gallery when we started considering this bill. They have all gone now, because the policy is to pass this on up to the Senate and let the Senate make a bill. The statements I made with reference to the Keokuk Dam are these: That without authority of law the Secretary of War permitted the erection of piers in order to build a bridge——

Mr. STEVENS of Minnesota. Mr. Chairman, the fact is that there never was a bridge built. That is one of the gentleman's inaccurate statements.

Mr. DONOVAN. Mr. Chairman, a point of order. The gentleman from Minnesota has not the right to take the floor and inject remarks without the consent of the Chair or the gentleman who is addressing the Chair.

Mr. RAINEY. The gentleman answers that by saying that no bridge has been built.

Mr. DONOVAN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. DONOVAN. I have stated it, that the gentleman from Minnesota has no right to inject remarks without the consent of the Chair.

The CHAIRMAN. The point of order is well taken. The gentleman from Illinois is recognized.

Mr. RAINEY. The gentleman answers by saying that no bridge has been built. That is his way of begging the question. Of course no bridge has been built there; I did not so state and I have never made that statement, but the piers stand there 175 feet apart, a menace to the navigation of the river. Without any authority of law they have been erected there because this company building this dam wanted to build them. Now, they are there to-day, and the gentleman will not deny that. They are there, and they are asking now his own committee for permission to build a bridge across those piers, and the bill is pending before his committee, and the gentleman will not deny that.

Mr. STEVENS of Minnesota. Will the gentleman allow me to ask him a question?

Mr. RAINEY. Does the gentleman deny that statement?

Mr. STEVENS of Minnesota. Not by that company, but by the citizens of Keokuk. They are the ones who are asking this permission, not this company.

Mr. RAINEY. Oh, the gentleman finds that way of getting out of his expressions.

Mr. KENNEDY of Iowa. Will the gentleman yield?

Mr. RAINEY. No; not for the present. I am not representing the Keokuk Dam Co. upon this floor; I am representing the taxpayers of Illinois; I am representing the people of Illinois who are being oppressed by this company, and that is my reason for speaking here against it. I called attention to the fact that they have impounded water there in the nighttime so as to interfere with the navigation of this river, and I produced here letters from the steamboat companies to prove that they had impaired the navigation of the river below the dam. Now, those two statements have been admitted by the gentleman and he admits that from this water-power bill to which I called attention he took this clause and did not even revise it enough to correct this section number. He admits all these things, and yet he gets up on the floor and says every statement I have made is false and is not sustained by the facts.

I can not understand the mental processes of the gentleman from Minnesota when he makes these charges, in view of the fact he has just admitted everything I stated in regard to the Keokuk Dam. The statements I have made are facts and can not be denied by him or anybody else. The evidence taken by his own committee shows the facts to be as I have stated. But the objection has been frequently made during this debate that we are not legislating for Keokuk, but for the whole country. What has been done at Keokuk can be done anywhere in this country. When you remedy conditions at Keokuk you make impossible those conditions elsewhere.

[Mr. BURNETT addressed the committee. See Appendix.]

Mr. MANN. Mr. Chairman, some time ago a gentleman representing a bridge company—I believe it was the Carnegie Bridge Co., although I am not sure of the name of it——

Mr. STEVENS of Minnesota. It is owned by Carnegie.

Mr. MANN (continuing). Called upon me to make objection to the construction of a bridge by the Keokuk Power Co. and explained to me that, while his bridge company had been in the past unwilling to reconstruct and make a proper bridge, and that they had a good deal of a rattletrap of a bridge, they were very much opposed indeed to letting the Keokuk Power Co. construct a bridge, which would be a modern, up-to-date bridge, and which would put them out of business. I did not know anything about the situation, and I do not know any more now. But all of the statements which my friend and colleague from Illinois [Mr. RAINEY] has repeatedly made on the floor of the House were made to me at that time by this gentleman representing this old rattletrap bridge.

Now, my friend from Illinois [Mr. RAINEY] says that he does not represent the Keokuk Power Co., and I do not believe that he does, and I do not believe that he represents the bridge company, but I suspect that very much of the information which has been furnished to him has been furnished to him in the interests of the bridge company and for the purpose of

saving the Carnegie bonds, if they are still owned by Carnegie, of the bridge company, which would be rendered useless and valueless if another bridge were built at that point.

Mr. RAINEY. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. RAINEY. I say to my colleague that the information that these piers are dangerous and only 175 feet apart and imperil steamboats on the river was furnished me by numerous letters received from the steamboat companies operating on the river. I do not care how many bridges they put there, or piers that they build, if Congress consents to it, but this body will never agree that piers be erected there in the fore bay that will imperil navigation on the river.

Mr. MANN. There is no doubt whatever that this bridge company in the effort to protect its own special interests and to maintain a monopoly of transit by bridge at that point over the river has been very active in every direction, and included in these directions it has been very active with the shipping interests, or the steamboat interests, on the Mississippi River. You can send out a letter to-day addressed to the captains of the steamboats anywhere in the world in reference to some particular thing by which they pass and get a practically unanimous opinion on their part either for or against something, whichever way you happen to write the letter. I do not know whether the navigation interests there have been interfered with or not. I know there are not enough navigation interests on that part of the Mississippi River to cut much ice one way or the other. But I hope that out of this the people there will be given a decent bridge, either by giving the Keokuk company a right to build a bridge or enforcing the Carnegie right to build a bridge.

Mr. KENNEDY of Iowa. Mr. Chairman, I move to strike out the last two words. I want to confirm the statement made by the gentleman from Minnesota that in the speech made by the gentleman from Illinois [Mr. RAINEY] when this bill was up under general debate he did not make one statement of fact, amongst all the statements he made, in regard to the development of the water power at Keokuk. The gentleman seems to have changed front since two years ago. On this floor then he made the statement that this Mississippi River Power Co. was disposing of about a one-thousandth part of its power to St. Louis, for which it was receiving sufficient return to mean a fair return on the entire investment. It was a bonanza at that time. In his speech the other day he went on to say it was merely a bubble; that this company had faked the investing public, and to prove that he printed a letter from the Chief of Engineers in which he quoted from a letter received from Maj. Hoffman, in charge of the river improvement in that territory, stating that they could develop 77,000 horsepower in low water without storing water. But the gentleman failed to state that only half of the power is developed at the present time, and only 15 of the 30 turbines are installed; and the statement made by Maj. Hoffman is not at all in conflict with the statement made by the water power company, that they can generate 200,000 delivered horsepower. The gentleman also made the statement that this power company was building a bridge or assumed to build a bridge without any authority from Congress or anybody else. As a matter of fact, the War Department held that under the bridge charter, in that clause providing for building appurtenances to the dam, they were permitted to build a bridge for their own use, to get material back and forth from the power house. They put the piers in while the cofferdam was there, so that water did not interfere. They never claimed that they had a right to build a bridge for interstate commerce.

The War Department never claimed they had any such privilege, and I propose to print, if I am permitted to do so, a statement to that effect from the War Department. As a matter of fact, I introduced a bridge bill known as the "Intercity bridge bill." I did it at the request of the Intercity Bridge Co., made up of citizens of Keokuk and Hamilton, business men who were interested in the development of that territory.

Mr. RAINEY. Mr. Chairman——

Mr. KENNEDY of Iowa. Mr. Chairman, I decline to yield. I absolutely know that the members of this Intercity Bridge Co. labored for months and months with the water-power company to get the privilege, if they could get a franchise from Congress, to use that dam as a bridge. And they hung out for months and months, but finally did give in at the urgent request of this Intercity Bridge Co., which was made up of citizens of those two cities interested in better bridge facilities.

The gentleman from Illinois, in his talk in the general debate on this subject, said that he had written to 104 boat companies that operated on that part of the river. If the gentleman had made any investigation at all, he would have found there are only three boat companies that operate on that reach of the river centering at Keokuk, namely, the Streckfus Line, the Wisherd Line, and the Blair Line. The Streckfus Line operates three boats from St. Louis to St. Paul; the Blair Line operates one daily packet from Keokuk to Quincy and one from Keokuk to Burlington; the Wisherd Line runs an excursion boat. That is the extent of the 104 boat companies which the gentleman claims he was in correspondence with.

And he also states that the building of the dam has very seriously interfered with navigation below the dam. I have it from the War Department that there has not been one single complaint this summer from the navigation interests with respect to the matter.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. KENNEDY] has expired.

Mr. KENNEDY of Iowa. Mr. Chairman, I ask unanimous consent to proceed for two minutes more.

The CHAIRMAN. The gentleman from Iowa [Mr. KENNEDY] asks unanimous consent to proceed for two minutes more. Is there objection?

Mr. ADAMSON. I am not going to object, Mr. Chairman, but every particle of this debate is contrary to the rule. I think we ought to have a vote as to whether we shall substitute "7" for "8," but I shall not object to my friend continuing.

Mr. KENNEDY of Iowa. Mr. Chairman, there was some little difficulty when they first got to storing water above the dam, but it lasted only for 10 days or 2 weeks, and that was last summer. Since then there has not been a word of complaint received from the navigation interests, and the Chief of Engineers has made a statement in his memorandum to the Secretary of War bearing on this subject which I will insert if I am permitted to. It absolutely disproves the statement made by the gentleman from Illinois [Mr. RAINEY] that the policy of storing water will interfere with navigation in any degree.

Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD. [Applause.]

The CHAIRMAN. Everyone has the privilege of extending his remarks in the RECORD.

Mr. ADAMSON. Mr. Chairman, I ask for a vote on my amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia [Mr. ADAMSON].

The amendment was agreed to.

Mr. STEVENS of New Hampshire. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from New Hampshire [Mr. STEVENS] moves to strike out the last word.

Mr. ADAMSON. Mr. Chairman, can we not come to an agreement about limiting the debate?

Mr. STEVENS of New Hampshire. I make that motion, Mr. Chairman, in order to make some general remarks.

Mr. ADAMSON. Oh, we have had general remarks for two weeks. I hope we can get along.

Mr. STEVENS of New Hampshire. There have been certain phases of this bill that have not been discussed for a moment, and the gentlemen in charge of this bill evidently do not care whether it is discussed or not, because they are relying on the Senate committee to put the bill into shape. But I say there are a few phases of this bill that ought to be discussed, and I want to discuss them.

Mr. ADAMSON. Mr. Chairman, the gentleman has repeated an erroneous statement, gratuitously made by the gentleman from Illinois [Mr. RAINEY], that there is no foundation for. I stated that I wanted to get through the best bill I could. I have stated that when it gets to the Senate I do not intend to agree to anything that will not be satisfactory and does not promise to be permanent. It would be foolish to do anything else. I want to get the bill through the House in the best shape I can, and when it goes to the Senate and goes into conference I do not intend, if I am on that conference, that there shall be a bill agreed upon that will be so imperfect or unsatisfactory that people will seek to amend it at every session of Congress subsequently because they are not satisfied with the bill. I want progress, not a constant row; and when the wisdom of the House and of the Senate has perfected a bill in the conference committee that will be satisfactory to all concerned, then we shall have progress; and no matter how badly the gentlemen feel, or how mean they feel toward anybody, they are badly mistaken in making any such gratuitous charges about it.

I say I would like to hurry this bill through, because we have been at it for six weeks. I have no disposition to cut off the gentleman from New Hampshire [Mr. STEVENS]. I have always shown him every courtesy and given hi mevery opportunity to offer amendments or engage in debate, and I ask that the debate be limited to five minutes.

Mr. STEVENS of New Hampshire. Mr. Chairman——

Mr. UNDERWOOD. Mr. Chairman, reserving the right to object——

Mr. STEVENS of New Hampshire. I am not asking for unanimous consent. I moved to strike out the last word.

The CHAIRMAN. The gentleman from New Hampshire did move to strike out the last word.

Mr. UNDERWOOD. Mr. Chairman, I ask unanimous consent that all debate on this section close at the end of five minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. FOWLER. Mr. Chairman, reserving the right to object, I have one matter——

Mr. SMITH of Minnesota. I object, Mr. Chairman.

Mr. DONOVAN. Who made the objection?

The CHAIRMAN. The gentleman from Minnesota [Mr. SMITH].

Mr. DONOVAN. Did he rise to his feet?

The CHAIRMAN. He did.

Mr. DONOVAN. Mr. Chairman, I make the point of order that there is no quorum here.

Mr. STEVENS of Minnesota. Oh, let us go on.

Mr. DONOVAN. No; I make the point of order that there is no quorum here, Mr. Chairman. If you are going to apply one rule, you want to apply them all.

The CHAIRMAN. The gentleman from Connecticut [Mr. DONOVAN] makes the point of order that there is no quorum present.

Mr. DONOVAN. Mr. Chairman, I will withdraw the point of order.

Mr. NORTON. Mr. Chairman, I object.

The CHAIRMAN. The gentleman can not object to a withdrawal.

Mr. MANN. I renew the point of order, Mr. Chairman. I will do so whenever the gentleman from Connecticut makes it. [Laughter.]

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] renews the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and one Members are present, counting the Chair—a quorum. The Clerk will read.

Mr. STEVENS of New Hampshire. Mr. Chairman, I believe my motion to strike out the last word was pending before this interruption?

The CHAIRMAN. Yes. The gentleman from New Hampshire [Mr. STEVENS] moves to strike out the last word.

Mr. STEVENS of New Hampshire. Mr. Chairman, I think the chief objection against the amendments that have already been adopted to this bill is that no capital will go into these projects if the bill provides for compensation for a fixed term and limits the recapture of the property to the actual value of the property necessary to develop the franchise and not the value of the property that might use the power, and fixes the basis on which the Government would pay. This is a question of opinion, and I will admit that——

Mr. ADAMSON. Mr. Chairman, I make the suggestion to my friend from New Hampshire that all the questions stated by him have been passed upon by the committee; that we have accepted all of them; that we accede in good faith to all of them and expect to stand by them. Under those circumstances, I do not see any use to debate them again.

Mr. STEVENS of New Hampshire. I said I wanted five minutes for the purpose of making some general remarks on this dam bill. That is the reason I asked for the five minutes.

Mr. ADAMSON. Well, I do not object.

Mr. STEVENS of New Hampshire. I do not put my opinion, Mr. Chairman, as to what capital will do or will not do against the opinion of other gentlemen on the committee. I have my opinion. I believe that capital can be induced to develop these plants under a bill containing these amendments where there is a legitimate demand for a project and where they are not purely speculative; and in order to combat the opinion that it will not, I wish to present a few concrete facts. Several times during this debate reference has been made to the development of water power on the Connecticut River, which has been held up because Congress refused to take action. As a matter of fact, the company interested in that project—which was backed by the Stone-Webster people, one of the big water-power groups that know what they are about—accepted a bill which provided compensation to the Government for the franchise.

They accepted a bill which limited the recapture clause to the property actually used in the development and transmission of power, and to no other property, and one that limited very carefully the basis or value upon which the Government was to pay for that property. I wish to make as a part of the RECORD the Senate bill 8033 and the minority report on that bill, which contains a letter from the Secretary of War saying that this power company was willing to accept a bill with these provisions.

That bill is very similar to this bill, with the amendments that we have adopted, so that as a matter of fact we know that in one project, at least, capital was willing to go in under the terms that we think they ought to go in under. And, further than that, it appears in President Roosevelt's veto message of the James River power bill that the people back of the Rainy River project also stated in writing to the Secretary of War that they were willing to accept a bill which should provide for compensation to the Government for the franchise, and which should provide strict regulations about the termination of the charters.

So, as a matter of fact, there are practicable projects which capital will go into, even limited as this bill is limited. Mr. Chairman, I desire also to include in my remarks a report of the minority on water power of the National Conservation Association, including the resolution that was adopted by the convention; also an article published in the Christian Science Monitor of Boston, which contains a very careful comparison of the original Garrison bill, the committee bill, and the Ferris bill. I wish to have these made a part of my remarks.

The CHAIRMAN. If there be no objection, the pro forma amendment will be considered as withdrawn. The gentleman from New Hampshire asks unanimous consent to include as a part of his remarks the documents he has stated. Is there objection?

Mr. JOHNSON of Washington. What conservation report does the gentleman offer to print?

Mr. STEVENS of New Hampshire. The minority on water power of the National Conservation Association, held December 10, 1913, at Washington. It is a report signed by Henry L. Stimson, Joseph N. Teal, and Gifford Pinchot. It contains some very interesting facts—not theories, but some very interesting facts—about the development of water power and the concentration in the hands of a few people of the water power of the country.

The CHAIRMAN. Is there objection?

There was no objection.

The documents referred to are as follows:

NATIONAL CONSERVATION ASSOCIATION,
COLORADO BUILDING,
Washington, D. C., December 10, 1913.

The following statements show the recent progress made toward the conservation of the public water powers. They comprise the report of the minority of the water-power committee of the Fifth National Conservation Congress, signed by Henry L. Stimson, Joseph N. Teal, and Gifford Pinchot; the resolution of the congress on water power; and a statement of principles indorsed by the congress for the development of the water powers in public ownership:

REPORT OF THE MINORITY ON WATER POWER.

1. CONCENTRATION AND DEVELOPMENT.

The central fact in the water-power situation of to-day in concentration of control. Ten groups of power interests control 65 per cent of all the developed water power in the United States. Some of these groups are still further related through interlocking directors between the groups themselves. The reality of these groups is established by interlocking officers and directorates and by ownership of stock, which are the tests of relationship adopted and applied by the United States Bureau of Corporations.

But the rapid growth of concentration and control is even more striking than the amount of it. Two years ago the 10 greatest groups of water-power interests controlled, in round numbers, 3,270,000 horsepower developed and undeveloped. To-day the 10 greatest groups control 6,270,000 horsepower. Thus the amount of concentration has nearly doubled in two years.

The central need as to water power in the United States is development on terms fair both to the public and to the power interests. But the passage of water powers into private control may imply development or it may not. Has water-power control or water-power development been the chief object of the power interests? The following figures appear to answer the question:

The water powers which are held undeveloped by the 10 greatest groups are larger by about one-third than the developed water powers controlled by them. But still more striking is the increase in the last two years of controlled powers held undeveloped compared with developed water powers.

In 1911 the 10 greatest groups had developed and under construction 1,821,000 horsepower, and in 1913 they had 2,711,000, an increase of 890,000 horsepower. In 1911 the 10 greatest interests held undeveloped 1,450,000 horsepower, which had risen to 3,500,000 horsepower in 1913, an increase of 2,050,000 undeveloped horsepower.

These figures show that in the last two years the great power interests have increased their control of power held undeveloped more than twice as fast as they have increased their control of developed power.

The same preference of the water-power interests for concentrated control rather than for development may be shown in another way.

In 1908 the total developed water power in the United States was, in round numbers, 5,400,000 horsepower, and in 1913 it is 7,000,000, an increase of about 33 per cent for the five-year period. In 1908 the 13 greatest groups of interests controlled a total of 1,800,000 horsepower, developed and undeveloped, while in 1913 a smaller number, 10, of the greatest groups control a total of 6,300,000 horsepower, developed and undeveloped, an increase of 240 per cent. Thus con-

centration in ownership of water power in the United States has increased in the last five years about seven times faster than power development.

It must not be forgotten that the common operation of several water powers, by equalizing the load at different times, by reducing the danger of complete breakdown, and in other ways, has legitimate and real public advantages. If the concentration of control were intended merely to realize these advantages, there would be no such increase in the control of undeveloped powers as is actually taking place. Common operation of adjacent water powers has, however, very little relation, if any, to a monopolistic concentration of control such as the foregoing figures show is being brought about in the United States, and which, in the case of one group of interests, already extends into 17 States.

From the beginning of the fight to protect the public interest in the water powers the strenuous claim of the power interests has been that development was being or would be stifled, the growth of industry held back, and the public welfare injured by unreasonable requirements which discouraged investment and locked up against beneficial use the water powers on navigable streams, in the national forests, and on the public domain. So often and so plausibly has this claim been made that many good people have been brought to believe it, and the fight against the monopolization of water power has been made correspondingly harder.

But the foregoing figures, taken largely from the official statements of the power companies themselves, make the facts plain. As was said in the admirable report on water-power development made by the Commissioner of Corporations in March, 1912: "Our public policy must recognize both the need for utilization and the dangers of monopolistic control, and take effective action on both." We must check the unregulated concentration and monopoly of water powers, but that is not enough. The need is urgent also to force the development of water powers already under private control. This is as practicable as it is necessary. Prompt and ultimately complete development is required by the regulations for the use of power on the national forests adopted by the Forest Service, which was the first branch of the Federal Government to define and apply a water-power policy fair both to the power companies and to the American people.

Under the regulations of the Forest Service, which include also the very provisions so vigorously objected to by certain power interests as sure to hamper development, there were on the national forests on October 1, 1913, 78 water powers developed, 30 under construction, and no less than 76 of 728,300 horsepower capacity at low water, for which permits have been taken out within the past two years, under conditions requiring prompt development. The total capacity of all these powers is about 1,090,000 horsepower reckoned on minimum stream flow, or not less than twice that amount in actual fact. The total present development in the United States is about 7,000,000 horse. Nearly one-third as much has been or is required to be developed in the national forests under Government regulations. These figures finally and completely disprove the claim so often heard that proper Government regulations check development.

The record of the power situation makes it very clear that the fight for the conservation of the public water powers is first of all a fight against monopoly. But the second prime necessity in the public interest is to forbid and prevent the speculative holdings of powers unused, and to force the prompt and full development of the vast aggregate of power resources now held idle and unproductive under concentrated private control. If we take the valuation of $45 per horsepower, the water powers now held undeveloped in the control of the 10 great groups of interests represent a total annual loss to this country of $160,000,000 worth of power. To do the work which these powers would do were they developed costs the Nation each year, if we use the estimate of 10 tons of coal as necessary to produce one horsepower per year, more than 35,000,000 tons of our diminishing coal supply.

It is perfectly clear that no right to use a public water power should ever be granted unless the grantee can show either that he or it controls no water power not developed or not in actual process of development, or that there are reasons, sound from the point of view of the public, for leaving such controlled power undeveloped and asking for a further grant.

II. WATER-POWER POLICY.

Mechanical power lies at the root of modern civilization. The raw materials of mechanical power—coal, oil, natural gas, and falling water—are the bases for the larger part of transportation and industry. The control of them carries with it the control of industry and transportation, unless that control is modified by effective public regulation. Control of industry and transportation involves the control of modern life. Hence the monopoly of water power, one of the raw materials of mechanical power, is among the most threatening of monopolies. Upon this point the Inland Waterways Commission said in 1908:

"In the light of recent progress in electrical application it is clear that over wide areas the appropriation of water power offers an unequaled opportunity for monopolistic control of industries. Wherever water is now or will hereafter become the chief source of power the monopolization of electricity produced from running streams involves monopoly of power for the transportation of freight and passengers, for manufacturing and for supplying light, heat, and other domestic, agricultural, and municipal necessities to such an extent that unless regulated it will entail monopolistic control of the daily life of our people in an unprecedented degree. There is here presented an urgent need for prompt and vigorous action by State and Federal Governments."

In 1912 the final report of the National Waterways Commission said:

"The important fact to be gathered from the entire discussion of this phase of the subject would seem to be not so much that financiers and promoters might find it to their advantage to promote a monopoly as that economic considerations and the natural character of the business make monopoly almost inevitable and perhaps desirable when subject to strict public regulation. A form of possible monopoly, however, that needs to be immediately guarded against is the acquiring and holding of dam sites for speculative purposes where no immediate development is contemplated."

There are three essentials of a sound water-power policy:

1. Prompt development.
2. Prevention of unregulated monopoly.
3. Good service and fair charges to the consumer.

The regulation of service and charges is usually a State or local function. It should be exercised by the Nation only in interstate industry and when the failure of other agencies leaves the consumer at the mercy of a corporation.

The necessity for development need not be argued here. It has been from the first a most essential part of the conservation policy. To secure it the conditions of investment must be made safe and attractive to capital, and speculation in water power by holding power sites undeveloped must be stopped

A water power can be controlled and used by only one concern at one time. Therefore, water power is a natural monopoly. Hence the prevention of injury to the public from a monopolization of water power involves the whole question of the terms upon which the right to use a water-power site should be granted. It makes necessary a governmental veto power upon concentration of ownership, limitations of the term for which the franchise is granted, compensation to the public for value received, full publicity, and in general all those conditions in the permit or franchise which will help to safeguard the public against injustice or oppression, reduce or prevent the domination of one industry over another, and give to the development its greatest usefulness to the whole community. The public regulation of railroads and other public utilities whose franchises involve the use of natural monopolies offers an instructive analogy for similar regulation of water power.

The application of these principles is briefly considered under the following head:

III. FEDERAL WATER-POWER FRANCHISES.

Within the jurisdiction of the Federal Government are the water powers on navigable streams and those in the national forests and on the public domain, all of which may here be considered together. The prompt development and proper control of these powers constitute the two great phases of the national water-power problem.

The recent Supreme Court decision in the Chandler-Dunbar case has confirmed the right of Federal control over the water powers of navigable streams, and thus has overthrown one of the principal legal contentions heretofore used to obstruct the legislation required both in the interest of the power companies and of the public. That decision contains in substance the following conclusions:

(1) In the regulation of navigation—and to regulate means to develop—the United States is a single Government, and as to that governmental function there are no States.

(2) Where, when, and how such improvements in navigation are to be made is a legislative question for congressional determination.

(3) Such improvement may be furthered by the utilization of the power inherent in navigable streams to the extent of making commercial use of such power over and above the needs of navigation.

(4) This power belongs to all the people and not to the chance owner of the contiguous land.

The right of the Federal Government to control and dispose of water powers on the national forests and the public domain has never been successfully questioned.

Federal legislation to insure prompt development and the prevention of unregulated monopoly of water power and to make good franchises possible is urgently needed, both for the navigable streams and for the national forests and public domain. The essential provisions of a franchise fair to both sides are the same in both cases.

In order to protect the public interest and promote power development, rights to develop and use water power should be granted in accordance with the following general conditions, among others. These conditions are the result of governmental experience and of much discussion with water-power men and others.

Franchises should be granted:

(a) So that during a period of not exceeding 30 years the franchise or privilege granted by the Government may be revoked at any time by the granting officer for sufficient cause, subject to review by the courts. Although almost without exception the whole development of water power under Government franchise has so far taken place under revocable permits, these revocable permits are not fair to the power interests, whose investment should be protected for the whole of the fixed period of the grant. In this way security and attractiveness of investment will be obtained without the obvious dangers of perpetual control.

(b) Thereafter the franchise or privilege may be revoked at any time in the absolute discretion of the granting officer upon giving one year's notice, and upon payment to the grantee of the value of its material property and improvements as hereafter provided in (j). The power to terminate the franchise and take over the plant will greatly strengthen the efficiency of public control.

(c) After the expiration of the first period of the grant (described under (a) above as "not exceeding 30 years") and at recurring periods of not more than 10 years thereafter, the amount of compensation to be paid to the Government for the grant, and all other terms and conditions of the grant during the next succeeding period of not more than 10 years, shall automatically come up for readjustment and determination by the granting officer of the Government. Thus as conditions change the compensation to the public and the terms of the franchise may be changed to meet them.

(d) At the end of a period of 50 years from the granting of the franchise it shall automatically determinate, but may be renewed by mutual agreement and on terms to be fixed by the Government. In this way the conditions of the franchise will necessarily become subject to complete review under circumstances most conducive to the public advantage. At the same time the provisions for renewal to the original grantee upon mutual agreement will be attractive to capital and will tend to promote development.

(e) Franchises should be nonassignable and nontransferable except with the approval of the Government, because thereby speculation in power rights and monopoly of power control may be regulated or prevented.

(f) On condition of a reasonable annual charge based on the value of the site for power development, and adjustable at intervals, and upon the further condition of direct Government participation in the profits over and above a percentage to be determined in the franchise.

The values which are made available by water-power franchises should pay a yearly and unfailing compensation in return. The public makes the grant and there should be no uncertainty as to the participation of the public in the profits which arise from the grant. The power interests should pay something for what they get and what they pay should be subject to readjustment in accordance with the changing value of what the public has given them. The difficulties inherent in the establishment of new enterprises in sparsely settled regions should be recognized.

In the case of powers upon navigable streams, it is appropriate that the proceeds should be used for the improvements of navigation. The price of hydroelectric power to the consumer is determined not by the cost of production but by what the traffic will bear, and the latter is fixed by the cost of competitive steam power. The public therefore can not get its full share of the advantage of power development except

by a Government charge, collected, so to speak, at the water wheel, as set forth fully and conclusively in the reports of the Commissioner of Corporations. For the same reason this charge will not be paid by the consumer but out of the profits of the corporation.

(g) On condition of development of the whole capacity of the power site as rapidly as the granting officer may from time to time require, giving due consideration to market conditions and demands, and of continuous operation, subject also to market conditions, in order to prevent waste of power before and after development.

(h) With the right of the public to approve or disapprove issues of capital stock in order to prevent overcapitalization, to prescribe uniform methods of accounting, and to inspect all books and records of the grantee, for only so can public officials and the public learn the facts.

(i) With the right reserved to the Government to regulate rates and service to the consumer, should the business be or become interstate or should the State or local authority fail to do so.

(j) On condition that the public may, after a fixed period, take over the works covered by the franchise at their appraisal physical value at the time, not including consequential damages or the value of the franchise. While all Government water-power franchises now granted provide for termination of the franchise from the beginning at the will of the Government without compensation, that provision is an unfair burden upon the grantee, tends to increase the cost to the consumer, and should be removed.

(k) On condition that the franchise may be terminated if at any time the works constructed under it are owned, controlled, or operated by an unlawful trust, or in restraint of trade.

The general dam act (June 23, 1910), under which all franchises on navigable streams are or should be granted, does not, as interpreted, require adequate compensation to the Federal Government for the use of water power, does not provide for the renewal of franchises or for taking over the improvements at the discretion of the Government at the end of 50 years, and neither prohibits speculation in franchises nor requires prompt and complete development. It should be amended in accordance with the foregoing.

While the effort to secure the passage of sound and needed water-power legislation has not yet succeeded, the passage of bad legislation has become increasingly difficult. This statement is true in spite of the fact that the indefensible Coosa River bill passed both House and Senate at the end of the last administration, and was only prevented from becoming a law by the wise and patriotic veto of the President. The recent introduction in Congress of water-power bills by Senator BURTON and by Mr. LEVER, of South Carolina, both of which bills clearly recognize that the public interest in water power should come first, is a further satisfactory evidence of progress in the right direction.

RESOLUTION ON WATER POWER.

On November 20 Mr. Gifford Pinchot introduced the following amendment to the resolutions of the National Conservation Congress. This amendment, which strongly indorses the leading conclusions and principles laid down in the above report of the minority on water power, was passed by an overwhelming vote:

"Whereas concentrated monopolistic control of water power in private hands is swiftly increasing in the United States, and far more rapidly than public control thereof; and

"Whereas this concentrating, if it is fostered, as in the past, by outright grants of public powers in perpetuity, will inevitably result in a highly monopolistic control of mechanical power, one of the bases of modern civilization, and a prime factor in the cost of living; Therefore be it

"*Resolved*, That we recognize the firm and effective control of water-power corporations as a pressing and immediate necessity urgently required in the public interest;

"That we recognize that there is no restraint so complete, effective, and permanent as that which comes from firmly retained ownership of the power site;

"That it is, therefore, the solemn judgment of the Fifth National Conservation Congress that hereafter no water power now owned or controlled by the public should be sold, granted, or given away in perpetuity, or in any manner removed from the public ownership, which alone can give sound basis of assured and permanent control in the interests of the people."

STATEMENT OF PRINCIPLES.

The congress not only recognized the need for the regulation of water-power monopoly by the passage of the above amendment, but also by its indorsement of the following statement of principles recommended by its water-power committee laid down the main lines of working principles for the development of our public water powers:

The committee on water power, while finding a difference of opinion among its members as to certain details of the subject, feels very strongly the importance of making clear the general principles which control it, and realizes keenly the consequences which would follow a failure to agree upon a constructive program of progress. It has therefore framed the following brief statement of the recommendations upon which it is unanimous:

A grant of the right to use a water power, while differing in some details, is essentially similar to a grant of any other privilege or franchise from the Government, State or National, and its terms, regulation, and control should be guided by essentially the same principles necessary to safeguard the rights of the public and of posterity as have been found essential in the case of other classes of franchises from the Government. Particularly is this true in view of the fact that a water power, being perpetual, will surely tend to increase in value as other sources of power, such as coal and oil, become exhausted. At the same time, for the very purpose of preserving our other power resources which are capable of exhaustion, the development of water power, under proper safeguards of the public interest, should be earnestly encouraged and hastened. We recommend that the following principles should govern the granting of a privilege to use a water power:

(a) For a definite period, sufficient to be financially attractive to investors, the privilege should be irrevocable except for cause, reviewable by the courts.

(b) Thereafter the privilege should continue subject to revocation in the absolute discretion of the Government, exercised through its administrative board or officer, upon giving reasonable notice and upon payment of the value of the physical property and improvements of the grantee as below provided under (h).

(c) After the expiration of the period provided for in (a) above, at recurring intervals of not more than 10 years, the amount of compensation to be paid to the Government for the privilege and all the terms and conditions of the grant during the next succeeding period of not more than 10 years shall automatically come up for determination by the granting officer of the Government.

(d) The privilege shall be unassignable except with the approval of the Government in order to safeguard the interests of the Government against speculation in water powers and against appropriation without prompt development.

(e) The privilege shall be granted only on condition of development of the whole capacity of the power site as rapidly as the granting officer may from time to time require, giving due consideration to reasonable market demands and conditions, and also on condition of continuous operation, subject to such demands and conditions.

(f) The right to receive compensation for the value of the privilege, varying according to the proper conditions of each case, shall be reserved to the Government, State or Federal, from whom the privilege comes. We believe that the reservation of such a right to compensation is a vital essential toward the end of proper regulation. It is not sufficient to trust that the public will always receive its proper share by means of regulation of rates alone. Local authorities may neglect or may be unable, under conflict of jurisdiction, or for other reasons, to exact in the interest of the public the full value of the public's right. The value of a water power may in the course of time increase far beyond the power of local regulation to adequately distribute its benefits. At the same time the method of enacting compensation must be carefully safeguarded so that in case full compensation by rate regulation is exacted by local authorities an additional burden shall not be imposed. We believe that in normal cases the best method is for the Government to share increasingly in the net profits of the enterprise, provided those profits exceed a certain reasonable percentage, the right of the Government being recognized otherwise merely by the imposition of a small annual fee or its equivalent.

(g) The Government shall have the right to prescribe uniform methods of accounting for the grantee and to inspect its books and records.

(h) Upon revocation of a privilege by the Government the grantee shall be paid a compensation equivalent to the fair valuation of its property, exclusive of franchise and consequential damages; this compensation shall include such appurtenances as are necessary for the operation of the water power and the transmission of electricity therefrom, but shall not include such properties as railroads, lighting systems, factories, etc., which are of themselves separate industries.

In such transfer all contracts for the sale or delivery of power made in good faith previous to such notice of transfer should be assumed by the transferee so that the said grantee may operate and maintain the power business during his occupancy of the property under such stable guarantees as may beget confidence therein by prospective long-term contractors, provided that the Government or said transferee shall not assume any contracts made at a price or under conditions which shall be determined by the proper administrative officer of the Government to be unreasonable or confiscatory.

[From the Christian Science Monitor, Boston, Mass., Wednesday, May 6, 1914.]

CONSERVATION LAWS ARE NEAR—POSSIBILITY OF OBTAINING LEGISLATION ON THIS SUBJECT AT THIS SESSION BRIGHTENED BY ONE MEASURE HOUSE MAY CONSIDER—COMPARISONS MADE—VIEWS OF DIFFERENT FACTIONS ARE SET FORTH AND QUESTION OF STATE AND FEDERAL RIGHTS IS INVOLVED IN DISCUSSION.

WASHINGTON.

Possibility of obtaining some conservation legislation at this session of Congress brightened a bit when on Friday last, on the request of Majority Leader UNDERWOOD, concurred in by Chairman ADAMSON, of the Interstate and Foreign Commerce Committee, the House made the Adamson water-power bill the continuing order of business. This means that this bill, which is an amendment to the general dam act, may be brought up at any time when the House is not occupied in consideration of appropriation bills, except on Calendar Wednesdays, District of Columbia Mondays, or pension Fridays.

"This bill is of very great importance," said Mr. UNDERWOOD in asking for the privilege. "It is impracticable to build dams across navigable streams under the present dam act, because we can not pass a bill to conform to it in Congress. Within the last three years, I think, three dams have been built across navigable waters and a very large number of dams built across waters that are not navigable. I think this is a good bill and should be considered by the House." Chairman ADAMSON said he thought one full day of debate would be sufficient on the bill.

REPORTS BEING PREPARED.

Minority reports from the Interstate Commerce Committee are being prepared on this bill. Representative RAYMOND B. STEVENS, of New Hampshire, a Democrat, and Representative A. W. LAFFERTY, of Oregon, Progressive, will submit dissenting views, and a Republican minority report is expected. The main objection to the bill is that it does not sufficiently assert Federal rights in navigable streams.

The water-power bill may get before the House in a few days, as soon as the naval appropriation bill which is now pending is passed, if by that time no other appropriation bill is ready for consideration. But there are four others—pensions, diplomatic and consular, general deficiency, and sundry civil—yet to come, and if they are all ready in order it may be weeks before water power gets a hearing.

PREPARATION IN SENATE.

In the Senate a subcommittee of the Commerce Committee, presided over by Senator BANKHEAD, of Alabama, is preparing a water-power bill for navigable rivers, and it is planned to have it introduced in time for consideration at this session. This bill will contain many provisions similar to those of the Adamson bill, but will not be entirely the same.

The other great branch of water-power conservation is being considered in the House Committee on Public Lands, where hearings are now in progress on the Ferris bill, governing leasing of water-power sites on forest reserves and other Government lands. Former Secretary of the Interior Walter L. Fisher and Gifford Pinchot, former Chief Forester and now president of the National Conservation Association, have both testified generally in support of the Ferris bill, which was prepared by Representative SCOTT FERRIS, of Oklahoma, chairman of the committee, in conjunction with Secretary of the Interior Lane.

COMPARISON OF BILLS.

The Adamson bill, which deals with navigable rivers only, and the Ferris bill, which deals with nonnavigable streams on public lands, are related in interest only in their comparative conformity to the administration's general policy of water-power conservation. While the de-

tails must be essentially different, the broad policy of Federal and State rights, as expressed in the plan of charges for water and regulation of rates and service, must apply in general alike in both bills. Otherwise the War Department, governing navigable streams, would be proceeding upon a different basis from that of the Interior Department.

Four principal factions are working, in harmony on some points and in opposition on others, for the development of a conservation program. Secretary Lane's policy is contained in the Ferris bill; Secretary of War Garrison submitted his policy in a bill recommended to the House Interstate Commerce Committee; the House committee has adopted some of Secretary Garrison's provisions, but the Adamson bill is far from being the Garrison bill; the fourth faction consists of the Pinchot conservationists, who are strongest in their insistence upon Federal supremacy. It is impossible to tell just how the minority members of the House committee stand until their reports are made, but one of them, at least, conforms in general to the conservationists' platform.

POINTS AGREED UPON.

But while some fundamental points of disagreement remain, much progress has been made until all factions are generally agreed upon many more points. Briefly, the points of agreement are:

1. Definite term of lease of 50 years, with renewals for fixed periods at discretion of the United States
2. Requirement for reasonably prompt and orderly development to supply demand for power and continuous operation.
3. Federal regulation of rates and service on interstate business.
4. Prohibition of restraint of trade by combinations.
5. Prohibition of assignment or transfer of franchises without Government permission to prevent speculation.
6. Provision that the United States may take over the plant at expiration of term of lease by paying actual value for physical property and assuming contracts made in good faith, good will and franchise not to be valued.
7. Provision for lease of surplus power developed by Government plants or dams.
8. Navigation shall be paramount consideration on navigable streams.
9. Water shall be used for most valuable purpose.
10. Limited fine specified for violations of requirements.

The chief points in disagreement are:

1. Charge for use of power.
2. Disposition of revenue.
3. Regulation of rates and service on intrastate business.
4. Requirement that the grantee shall be a public utility.

WHAT BILLS PROVIDE.

The Lane-Ferris public lands water-power bill is almost entirely satisfactory to the Pinchot conservationists, indicating that when it gets before the House it will be passed or defeated strictly as a conservation bill. The Adamson bill is less fortunate in that it does not conform either to the policy of Secretary Garrison or that of the conservationists, being between the two. The Garrison bill as recommended to the Interstate Commerce Committee is a State rights bill, while the conservationists favor strong Federal authority. The Adamson bill retains some of the Garrison State rights features and adopts some of the conservationists' Federal rights claims.

In brief the Adamson bill provides:

1. Construction of locks may be required to protect navigation.
2. The water resources must be utilized to best advantage.
3. The Federal Government may charge the grantee for the benefit derived from reservoirs and other headwater improvements, to the maximum annual amount of 5 per cent of total Government investment, plus maintenance of said improvements. (No charge is made for use of water, which is most serious objection of conservationists.)
4. Government may charge 5 per cent per year for use by grantee of any public lands.
5. Navigation is paramount consideration.
6. Limit of $1,000 for each offense placed for violation of requirements.
7. Assignment or transfer of franchises without approval of proper Government authority prohibited to prevent speculation in franchises.
8. Franchise term of 50 years, or until compensation is made if Government decides to take over plant. After that term Government may terminate franchise on one year's notice, paying fair value for property, not including good will or value of franchise.
9. If plant is taken over by Government or transferred to another grantee, pending contracts made in good faith must be assumed.
10. Reasonable rates and service, without discrimination.
11. United States, through Secretary of War, to regulate rates and service on interstate business, and on intrastate business if State neglects to do so adequately in opinion of Secretary of War.
12. Prompt construction—commencement within one year and completion within three years to meet community's demands, unless time is extended by Secretary of War.
13. Surplus power developed by Government plant may be leased.
14. Prohibition against ownership by trusts in restraint of trade, but recognition of natural monopoly and permission for interchange of power with other companies.

GARRISON VIEWS GIVEN.

The bill submitted to the Interstate Commerce Committee by Secretary of War Garrison, as a basis for amendment of the general dam act applicable to navigable rivers, provided, in substance, as follows:

1. Congress to grant authority to construct dams, permits to be issued by the Secretary of War and Chief of Army Engineers.
2. No permit to be granted until State in which power plant is to be located has authorized grantee to become a public utility and has provided adequate laws and instrumentalities for proper regulation.
3. State may tax the power company.
4. Secretary of War to regulate interstate business.
5. Government may require grantee to construct navigation locks and to operate them without cost to the Government.
6. Project must provide for largest use of the water resources.
7. The Government may charge grantee reasonable amount annually for the benefits derived from storage reservoirs, watersheds, and other headwater improvements.
8. United States to be reimbursed for any expense incurred in supervising project.
9. Grantee must pay for restoring impaired navigation.
10. Navigation shall be regarded paramount consideration, the Government to control level of water, etc.
11. Five thousand dollars fine for violation of terms of grant, each month's delay to be regarded as new violation.
12. Term of franchise, 50 years; renewals, 5 years.
13. United States may take over plant at end of term by paying fair value, not including good-will or franchise value, and by assuming good-faith contracts.
14. Assignment or transfer of franchises without approval of Government forbidden.
15. Ownership by trust in restraint of trade, and exaction of unreasonable rates prohibited.
16. United States may lease surplus power developed at any Government plant.

PINCHOT CLAIMS URGED.

The Pinchot conservationists advocate as an ideal general dam act for navigable streams the following provisions:

1. A 50-year franchise, revocable only for good cause before expiration of term; revocable thereafter upon one year's notice and payment of appraised value of material property and improvements; renewal terms, 10 years; franchise to terminate automatically in 50 years, but renewable on new terms to be prescribed by Government.
2. Franchise nonassignable, except with Government approval, to prevent speculation in franchises.
3. Annual charge for use of water and any Government land used and, in addition, participation by Government in any profits realized above a certain per cent; proceeds devoted to navigation improvement.
4. Development of project to capacity as required by granting officers to supply needs of consumers.
5. Public censorship of capitalization.
6. Government regulation of interstate business and of intrastate business if State fails to regulate satisfactorily.
7. Ownership by trust in restraint of trade penalized by forfeiture of franchise.

The conservationists point out the principal defects of the present general dam act in its failure to (1) require compensation for use of water power; (2) provide for franchise renewals; (3) provide for Government taking over plant in 50 years; (4) prohibit speculation in franchises; (5) require prompt and complete development.

WATER-POWER LEASES.

The Lane-Ferris bill regulating water-power leases on public lands and nonnavigable streams, including some provisions of general water-power policy, provides, in brief, as follows:

1. Secretary of Interior empowered to lease public lands on regulations established by himself for water-power development.
2. Term of franchise, 50 years.
3. Franchise must have approval of the chief officer of the department under whose supervision the particular land in question falls (national forests, military, or other reservations).
4. Projects serving municipal purposes to have preference.
5. Reasonable development and continuous operation required.
6. No one consumer to receive more than 50 per cent of plant's output without consent of Secretary of the Interior.
7. Secretary of Interior to regulate interstate business.
8. Restraint of trade and ownership by trusts prohibited.
9. Assignment or transfer of franchises without approval of Government officer prohibited.
10. After 50 years, on 3 years' notice, United States may take over property, paying cost of rights of way, etc., and reasonable value of property, good will and value of franchise not considered. In lieu of taking plant over Government may lease to another party or renew original lease.
11. Secretary of Interior may authorize making of contracts extending beyond duration of franchise. In case the United States takes over plant or leases to another party at termination, these contracts must be assumed.
12 Government may charge for power, proceeds to be used first to pay cost of administration, balance to be paid half to Federal Reclamation fund and half to State for education and public improvements.
13. No franchises to be issued except for projects in States that provide adequate laws and instrumentalities for regulation.
14. Land entries on water-power lands permitted, subject to water-power development.
15. Secretary of Interior may require statements of cost, etc., of grantees.

FIXED TERM OF LEASE.

The provision for a fixed term of lease of 50 years is for the purpose of putting a stop to perpetual franchises. The conservation campaign of the past few years has aroused all factions to the necessity of reserving in perpetuity to the Federal Government all the great water-power resources. Requirement for prompt and orderly development is to insure utilization of the water resources for the consumers' benefit. This provision, with the one prohibiting assignment or transfer of franchises without Government approval, is designed to prevent trafficking and speculating in franchises by promoters who have no intention of actually developing the power themselves.

Prohibition against ownership of power plants by trusts operating in restraint of trade is made with the acknowledgment that the water-power business must of necessity be a monopoly, at least, to a great extent. With this in view the matter of regulation has been regarded as most important. There is no conflict over the Federal regulation of interstate business, but the State rights adherents maintain that under no circumstances should the Federal Government regulate interstate rates, whether the States perform this function efficiently or not. The conservationists and others who favor retention of a firm hold on the water powers by the Federal Government, think the Government should regulate intrastate business as well as interstate if the States neglect to do it properly. The Adamson bill leans far to the Federal extreme on this point, lodging in the Secretary of War the authority to say whether or not the State is regulating as it should. "Any State may control the subject if it will only do its duty," said Chairman Adamson. "If it fails to regulate, the Secretary of War will."

SUBJECT OF COMPENSATION.

Closely akin to the matter of regulation is the matter of compensation to the Government, for both affect rates. The State rights argument is that the power really belongs to the people, and the Federal Government has no right to receive compensation for use of the water. Further, they urge, such a charge is an indirect tax upon consumers, as it must add to the rates for power. The federalists, on the other hand, argue that the water in navigable streams belongs to the Government as trustee for the people and that compensation should be paid for its use. Answering the economic argument, they say that the rates for service are based on what the traffic will bear, as there is no competition. Electricity developed by water power costs, roughly

speaking, on an average 4 cents per kilowatt, while steam-generated electricity costs from 8 to 10 cents. Steam power, at the present time, at least, is the basis for rate making. Unless regulation is most efficient, then, it is argued, the charge imposed by the Government would come out of profits and not be added onto consumers' rates. It is regarded as best policy to leave as little as possible to be done by regulation.

STATE RIGHTS ASSERTED.

The Adamson bill and the Garrison bill have taken the State rights side of this question, permitting the Government to charge only for the benefit derived by the power company from headwater improvements, forest reserves, etc., which increase the flow of water, and not providing for a charge upon use of the water. Besides objecting to this elimination, the conservationists point to this charge for headwater improvements as impracticable because of the difficulty in estimating and valuing the benefits so derived, and apportioning them among the users of the water all along the stream.

Explaining their attitude on this point, the committee says: "We have not provided for any specific tax upon the business of the enterprise. If the Federal Government should conclude that it is necessary to take away from the States the matter of water power as an object of taxation, we consider that a proper and safe way to do that is for the Ways and Means Committee to report a bill for levying a uniform excise tax upon all water power, or hydroelectric, or upon water-power sites developed or undeveloped.

INTERESTS TO BE CONSIDERED.

Secretary Garrison said on this point: "Legally speaking, I do not think there can be any dispute that with respect to the question of power the position of the Federal Government is paramount. Nothing can be done without its consent, and only that can be done to which it consents. The interests to be considered I view as follows: First, there are the communities which will benefit by utilization of the water power. Next is the immediate sovereign over them which would direct this matter and have power with respect thereto, were it not for the paramount power above alluded to, which resides in the Federal Government. Finally, there is the Federal Government with absolute power, by reason of its ability to prevent the doing of anything without its consent. I conceive the equitable sphere of the Government to be to see to its that this great public utility shall be availed of in a way that will benefit the greatest number possible under the most favorable terms possible, and to recognize the justice—not as a matter of law—of the State entity receiving a revenue from the operation of this public utility within its confines and regulating it for the benefit of its people.

PAYMENT IS A QUESTION.

"The State may make proper provisions for taxation or receipt of revenue. It might properly provide a scheme which, in consideration of no imposts, or of slight imposts, the dam and accessory works should, at the end of a fixed period, become the property of the State. In other words, the State might say: 'Instead of getting a revenue out of you during the life of this franchise, we will abstain from so doing and take our payment in a lump sum, namely, the improvement, which shall thereupon become ours.' By so doing the State would substitute itself for the previous grantee and be identicaly situated with respect to the Federal Government."

The conservationists say: "The values made available by water-power franchises should pay a yearly and unfailing compensation in return. The public makes the grant and there should be no uncertainty as to the participation of the public in the profits which arise from the grant. The public can not get its full share of the advantage of power development except by a Government charge, collected, so to speak, at the water wheel, as set forth in the reports of the Commissioner of Corporations. It is not sufficient to trust that the public will always receive its proper share by means of regulation of rates alone. Local authorities may neglect or may be unable, under conflict of jurisdiction, or for other reasons, to exact in the public's interest the full value of the public's right. The value of a water power may in the course of time increase far beyond the power of local regulation to adequately distribute its benefits. We believe in normal cases the best method is for the Government to share increasingly in the net profits of the enterprise, provided those profits exceed a reasonable percentage, the right of the Government being recognized otherwise merely by the imposition of a small annual fee or its equivalent."

Disposition of revenue is a question closely allied to compensation, but it is regarded as not so vital in importance. This may be changed from time to time to meet changing conditions and demands without sacrificing a principle, but decision of right to exact revenue involves a principle which must stand permanently.

[Senate Report No. 1131, Sixty-second Congress, third session.]

CONSTRUCTION OF A DAM AND LOCK IN THE CONNECTICUT RIVER.

Mr. BURTON, from the Committee on Commerce, submitted the following report, to accompany S. 8033:

The majority of the Committee on Commerce, to which was referred the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut, report the same to the Senate without amendment, and recommend that the same do pass.

This bill provides a means by which, without expense to the Federal Government, a very important section of the Connecticut River between the towns of Hartford, Conn., and Springfield and Holyoke, Mass., may be improved for purposes of navigation. This reach of the stream contains a heavy fall known as the Enfield Rapids, which constitute a serious obstacle to its navigability. At present the practical navigation of the stream for commercial purposes ceases at the city of Hartford. Above this point the river is navigable only for boats of slight draft and small capacity. Somewhat more than 80 years ago the State of Connecticut chartered the Connecticut River Co., which is the grantee under this bill, as a navigation company, and for the purposes of affording navigation around these rapids the said company constructed a canal and lock, which it still operates. Originally the revenues of the company were derived from tolls imposed upon boats using this canal. At a later date the water power created by their dam was commercially utilized and the company thereafter derived its revenues from this source and voluntarily abolished the tolls. Subsequently the State of Connecticut amended the charter of the navigation company, granting it the right to generate, use, and sell hydroelectric power.

The conditions in this stream are typical of a large class of river improvements which the Federal Government is called upon to make. The large expenditures already required to improve rivers more naturally suited to purposes of navigation usually preclude the possibility of attempting to improve streams of comparatively small flow, or where obstructed with difficult rapids, unless a large portion of the expense can be derived from the stream itself by utilizing the value of the water-power possibilities. In principle it would appear to be eminently just that revenues for improving streams of this class should be derived from the privilege granted and not assessed against taxpayers in general. It would also seem exceedingly desirable that the maximum beneficial use of streams, both for navigation and water power, should be secured in the interest of the fullest conservation of our natural resources. Evidently the improvement of certain streams can best be accomplished where these two purposes are coordinated and carried on together.

In the present instance this bill grants to the Connecticut River Co. the right to construct a dam at a point in the Connecticut River below a line crossing both channels of the river and Kings Island midway between its northerly and southerly end. The act provides that the dam shall be constructed in accordance with the provisions of the general dam act approved June 23, 1910, with certain modifications, which will be noted in the subsequent portion of this report.

According to the provisions of the bill a lock must be constructed in connection with the dam of such size and design as the Chief of Engineers and the Secretary of War may require. The plan, if carried out, will thus provide slack-water navigation between Hartford and Holyoke adequate to meet the present and prospective commerce of this reach of the stream. The dam will also develop the full power possibilities of this portion of the river.

It appears to be a settled question that the Federal Government may impose a charge for the use of the surplus water, not needed for purposes of navigation, which may be made available incidentally to the construction of a dam by the Federal Government for purposes of navigation. It would seem equally evident that the Federal Government also has the right to utilize a private agency for the construction of dams in aid of navigation, granting the use of the incidental water power thereby created to the constructing company in compensation, and requiring such return as the circumstances may warrant.

The bill presented marks the most distinct step yet taken toward this method for the improvement of navigation in combination with hydroelectric development under the control and supervision of the Federal Government, but without Federal expenditure. In addition to the requirement that the company shall construct the dam, lock, and all works appurtenant thereto, without expense to the Federal Government, it is also provided that the Secretary of War, as a part of the conditions and stipulations referred to in the general dam act, may in his discretion impose a reasonable annual charge or return to be paid by the said corporation or its assigns to the United States, the proceeds thereof to be used for the further development of navigation in the Connecticut River and water connected therewith. It is provided, however, that no charge shall be imposed which shall be such as to deprive the said corporation of a reasonable return upon its actual and necessary investment.

The public interests seem to be fully safeguarded in this instance against exorbitant charges, because the generation and sale of electricity in the territory covered by this development are under the jurisdiction, both in Connecticut and Massachusetts, of well-organized utility commissions under State authority. It is believed that the authority of the Secretary of War to require a return to the Government in case the corporation earns more than a reasonable return upon its bona fide investment will be, in effect, a regulation of the charges of the company as well as a source of revenue to the Government, because it will be one of the most important factors to be taken into consideration by the commissions mentioned in fixing the rates of service which the company may charge. The provision, therefore, complies with the recommendation of the National Waterways Commission in its final report (p. 61), which reads as follows:

"Charges and regulation: That a grant for water-power development constitutes a special privilege, for which the Government is entitled to proper compensation, is a principle which should be clearly established. The actual value of such privilege will, of course, vary greatly under different conditions. Every grant of the Government should, however, be dependent on the payment of such reasonable charges as may be determined by the circumstances and equities involved in each case. The commission does not suggest or advise that this right or power of Congress should be invoked as a means of raising revenue for general purposes, but only to reimburse the Government for the cost of surveys, inspection, and similar expenses, and for the purpose of controlling the use of streams in the interest of the public."

The most important departures from the provisions of the general dam act as approved June 23, 1910, are as follows:

In the first section it is provided that the Secretary of War may, in his discretion, for adequate reasons, extend the period for the completion of the dam two years beyond the prescribed limits of the general dam act. The extension of time contemplated appeared to the committee reasonable, considering the difficulty of construction likely to be encountered.

In the same section it is provided that the rights and privileges granted under the act may not be assigned except upon the written authorization of the Secretary of War, except in pursuance of a decree of a court of competent jurisdiction. This provision was inserted with the intention of preventing its assignment for the purpose of creating monopolistic combination, a danger which should be carefully guarded against.

Section 2 contains numerous provisions intended to insure the primary operation of the dam and lock in the interests of navigation, while section 3 provides for the construction of a lock, in accordance with plans to be approved by the Secretary of War and Chief of Engineers, coincidently with the construction of a dam, and contains the provision of the general dam act requiring the company to convey the completed lock and appurtenances to the United States free of cost, together with such land as may be required for approaches and for the maintenance thereof, and to furnish the United States free of cost power for operating and lighting such lock and property.

Section 5 contains a provision materially different from those of former grants of this character. It is provided that at the expiration of the 50-year period contemplated by the general dam act the original grant may be renewed, transferred to other parties, or withheld. In the event that the grant is transferred to other parties, the Government shall require as a condition of the transfer of the property that the new grantee shall compensate the original grantee for the property acquired at a reasonable valuation. In the event that the United States refuses to renew the grant it shall itself make such compensation.

This provision is based upon the theory that if the Federal Government restricts its grantee to reasonable earnings, which appears to be

a policy necessary to enforce in the interests of the public, it shall also provide, as far as may be expedient, for the security of the necessary bona fide investment. The effect of this stipulation will be to cure, in its application to this grant, an undoubted defect of the general dam act and to make this system of legislation conform to the well-known methods obtaining in the case of long leases of land, providing for an appraisal and purchase of improvements at the expiration of the lease.

The majority of the committee feel that the provisions contained in this bill are exceedingly desirable, both in the interests of an enlarged improvement of a certain class of streams and also for the utilization of our water powers under provisions which will safeguard fully the public interests, and therefore earnestly recommend the passage of this bill.

Attached hereto will be found copy of a letter from the Secretary of War, addressed to the chairman of the Senate Committee on Commerce, which indicates that he is fully in accord with the provisions of the bill.

WAR DEPARTMENT,
Washington, January 2, 1913.

MY DEAR SENATOR: I beg to respond to the kind request of your committee for an expression of my views as to—

"A bill for the improvement of navigation of the Connecticut River and authorizing the Connecticut River Co. to relocate and construct a dam in said river above the village of Windsor Locks, in the State of Connecticut."

It is understood that this bill is intended to replace three bills of a similar import, as to which I reported to your committee under date of April 18 last.

As reported to me by the Chief of Engineers, the Connecticut River between Hartford, Conn., and Holyoke, Mass., calls for improvements in the interest of navigation which are delayed owing to the very large cost of such improvements if independently undertaken by the Government. If, however, the improvement of navigation could be combined with a project for water-power development, whereby the cost of the improvement demanded by the interest of navigation would not devolve upon the Government, the adoption of such a plan would be plainly in the public interest. The bill now under consideration seeks thus to combine the commercial interests of navigation with the interests of water-power development and, it is believed, provides the most economical method of securing the improvement of the river sufficient for the present and prospective commerce. From the reports submitted to Congress, in accordance with the river and harbor act of March 3, 1909 (H. Doc. No. 818, 61st Cong., 3d sess.), it appears that the lock necessary for navigation purposes alone was estimated to cost $430,000; and inasmuch as this estimate was made several years ago it is probable that the cost to-day will be considerably larger. In addition to this, if the improvement of the Enfield Rapids were to be undertaken by the Federal Government directly, the necessity for purchasing flowage rights and extinguishing vested interests acquired under State law would add considerably to the actual cost of the work, and would doubtless present legal complications that would greatly embarrass the consummation of the improvement.

Therefore, from the standpoint of navigation, I am of the opinion that the project embraced in the bill whereby the lock and dam are built by the grantee as an agency of the Federal Government is very advantageous to the United States. On the other hand, the bill will give to the Connecticut River Co. very valuable water-power rights in connection with this work of improvement. The case thus falls within the principles which the President has laid down in his veto message of August 24, 1912, on the Coosa River dam bill (S. 7343, 62d Cong., 2d sess.) and calls for a reassertion of the views I have heretofore expressed on bills of similar import, as to which I have previously reported to your committee. In other words, I think the bill should not become law unless a provision is added giving the Secretary of War authority, as one of the conditions of the privilege granted by the act, to require the grantee to pay to the United States a reasonable annual return after making due allowance for construction, renewals, depreciation charges, and a reasonable return to the grantee on his bona fide investment, such proceeds to be devoted to the interests of navigation. With such a provision, I am of the opinion that the bill is in the interests of the public, and I strongly urge enactment.

After conference with the representatives of the Connecticut River Co., they have consented to the insertion in the bill of an amendment to meet my views as to the provision for compensation which I deem vital to its enactment. It is contained in the last proviso of section 1 of the inclosed draft of the bill. I have also examined the remainder of the annexed draft, containing certain minor amendments proposed by the Connecticut River Co., and believe that the interests of the Government, from the standpoint of my department, are adequately safeguarded thereby.

Very respectfully,

HENRY L. STIMSON,
Secretary of War.

Hon. KNUTE NELSON,
Chairman of Committee on Commerce, United States Senate.

A bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut.

Be it enacted, etc., That the assent of Congress is hereby given to the Connecticut River Co., a corporation organized and doing business under the laws of the State of Connecticut, to relocate its "Enfield Dam," so called, and to construct, maintain, and operate such relocated dam (which, if located opposite Kings Island, in said river, shall extend across both branches of the river), together with works appurtenant and necessary thereto, across the Connecticut River at any point below a line crossing both branches of the river and Kings Island midway between the northerly and southerly ends of said Island: *Provided*, That, except as may be otherwise specified in this act, the location, construction, maintenance, and operation of the structures herein authorized, and the exercise of the privileges hereby granted, shall be in accordance with the provisions of the act approved June 23, 1910, entitled "An act to amend an act entitled 'An act to regulate the construction of dams across navigable waters,' approved June 23, 1906": *And provided further*, That the time for completing said dam and appurtenances may be extended by the Secretary of War, in his discretion, two years beyond the time prescribed in the aforesaid act: *And provided further*, That the rights and privileges hereby granted may be assigned with the written authorization of the Secretary of War, or in pursuance of the decree of a court of competent jurisdiction, but not otherwise: *And provided further*, That the Secretary of War, as a part of the conditions and stipulations referred to in said act, may, in his discretion, impose a reasonable annual charge or return, to be paid by the said corporation or its assigns to the United States, the proceeds thereof to be used for the development of navigation on the Connecticut River and the waters connected therewith. In fixing such charge, if any, the Secretary of War shall take into consideration the existing rights and property of said corporation and the amounts spent and required to be spent by it in improving the navigation of said river, and no charge shall be imposed which shall be such as to deprive the said corporation of a reasonable return on the fair value of such dam and appurtenant works and property, allowing for the cost of construction, maintenance, and renewal, and for depreciation charges.

SEC. 2. That the height to which said dam may be raised and maintained shall not be less than 39 feet above zero on the Hartford gauge: *Provided*, That said corporation shall permit the continuous discharge past said dam of all water flowing in the Connecticut River whenever the discharge into the pool created by the dam hereby authorized is 1,000 cubic feet per second or less, and at all greater discharges into said pool shall provide a minimum discharge past said dam of not less than 1,000 cubic feet per second: *And provided further*, That said corporation may, for not to exceed five hours between sunset and sunrise, limit the discharge past said dam to 500 cubic feet per second whenever such limitation will not, in the opinion of the Secretary of War, interfere with navigation. The measure of water thus to be discharged shall include all the water discharged through the lock herein provided for and the present locks and canal of said corporation: *And provided further*, That nothing in this act shall in any way authorize said corporation at any time or by any means to raise the surface of the river at the location just above the present Enfield Dam to any height which shall raise the surface of the river at the lower tailrace of the Chemical Paper Co. in Holyoke, Mass., higher than can result from the erection or maintenance of any dam or dams which said corporation is authorized to erect or maintain in accordance with the order and decree of the Circuit Court of the United States for the District of Connecticut, passed June 16, 1884, in the case of The Holyoke Water Power Co. against The Connecticut River Co.

SEC. 3. That the said Connecticut River Co. shall build coincidently with the construction of the said dam and appurtenances, at a location to be provided by said corporation and approved by the Secretary of War, and in accordance with plans approved by the Secretary of War and the Chief of Engineers, a lock of such kind and size, and with such equipment and appurtenances as shall conveniently and safely accommodate the present and prospective commerce of the river, and when the said lock and appurtenances shall have been completed the said corporation shall convey the same to the United States, free of cost, together with title to such land as may be required for approaches to said lock and such land as may be necessary to the United States for the maintenance and operation thereof, and the United States shall maintain and operate the said lock and appurtenances for the benefit of navigation, and the said corporation shall furnish to the United Stats, free of charge, water power, or power generated from water power, for operating and lighting the said constructions; and no tolls or charges of any kind shall be imposed or collected for the passage of any boat through the said lock or through any of the locks or canal of said corporation.

SEC. 4. That compensation shall be made by the said Connecticut River Co. to all persons or corporations whose lands or other property may be taken, overflowed, or otherwise damaged by the construction, maintenance, and operation of the said dam, lock, and appurtenant and accessory works, in accordance with the laws of the State where such lands or other property may be situated; but the United States shall not be held to have incurred any liability for such damages by the passage of this act.

SEC. 5. That upon the termination for any cause whatever of the authority, rights, and privileges granted hereby, or any renewal thereof, the United States may renew the same or the grant may be made or transferred to other parties. Unless the grant is renewed to the original grantee or its assigns, as herein provided, the United States shall pay or require its new grantee to pay to said original grantees or its assigns, as full compensation, the reasonable value of the improvements and appurtenant works constructed under the authority of this act and of the property belonging to said corporation necessary for the development hereby authorized, exclusive of the value of the authority hereby granted. Said improvements and appurtenant works and property shall include the lands and riparian rights acquired for the purposes of such development, the dam and other structures, and also the equipment useful and convenient for the generation of hydroelectric power or hydromechanical power and the transmission system from generation plant to initial points of distribution, but shall not include any other property whatsoever. Such reasonable value shall be determined by mutual agreement between the Secretary of War and the owners, and in case they can not agree, then by proceedings instituted in the United States district court for the condemnation of such properties. The basis for determining the value shall be the cost of replacing the structures necessary for the development and transmission of hydroelectric power by other structures capable of developing and transmitting the same amount of marketable power with equal efficiency, allowance being made for deterioration, if any, of the existing structures in estimating such efficiency, together with the fair value of other properties herein defined to which not more than 10 per cent may be added to compensate for the expenditure of initial cost and experimentation charges and other proper expenditures in the cost of the plant which may not be represented in the replacement valuation herein provided.

SEC. 6. That the right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. RAINEY. Mr. Chairman, it has become the practice of one or two gentlemen on this floor, who stand for this water-power bill as originally reported out, to say that every statement I make is not in accordance with the facts. Now, every statement I have made is in accordance with the facts, and I have not made any statement that is not admitted by these gentlemen themselves upon this floor. They seek to escape the force of my remarks about the bridge at Keokuk by saying it is not the Keokuk Dam Co.-Mississippi River Power Co. now asking for the right to put a bridge on these piers, but that it is the Intercity Bridge Co. I do not know who the Intercity Bridge Co. are, but I do know that in 1905 a company com-

posed of citizens of Keokuk, and perhaps Hamilton also, came to this House and asked for this perpetual franchise which they now have there, upon the theory that it was a Keokuk and Hamilton industry that wanted the power; and I do know that immediately afterwards they sold that franchise to Hugh L. Cooper, who organized the Mississippi River Power Co. and built the dam, and I know they got $20,000 for it. I do not know who the Intercity Bridge Co. are. I have never investigated, but I will undertake to say, just as a guess at it—and I will probably guess correctly—that you will find among the incorporators of the Intercity Bridge Co. some of those Keokuk and Hamilton citizens who, for the benefit of Keokuk, obtained this franchise in 1905; and you will find, if this Intercity bridge bill passes this House, that they will turn the franchise over to the Mississippi River Power Co.

Now, I will ask the gentleman from Iowa [Mr. KENNEDY] to state whether he has investigated the question and if he has ascertained whether or not the Intercity Bridge Co. are composed largely of the same individuals who got the franchise to build a power dam there and then turned it over to Hugh L. Cooper, and through him to the Mississippi Power Co.? The gentleman does not seem to be here.

Mr. MANN. He is not on the floor at this moment.

Mr. RAINEY. I see the gentleman is not on the floor. I did not know that when I asked the question or I would not have asked it. I am sorry the gentleman from Iowa is not here. He states that I said that 104 steamboat companies were operating boats on this section of the river. I said nothing of the kind. I said that 104 boats or steamboat companies were authorized to operate on this section of the river, and that I had written to all of them, and that I got replies from such of those companies or boats as did actually operate upon this part of the river. Now, I see the gentleman from Iowa [Mr. KENNEDY] has returned to the Hall. If he will take the trouble to examine the hearings on my Keokuk Dam resolution before the Committee on Rules of this House, which hearings have been printed, he will be able to inform himself and will find out something about his own district that he does not know.

Mr. KENNEDY of Iowa. Will the gentleman yield?

Mr. RAINEY. Yes.

Mr. KENNEDY of Iowa. What replies did the gentleman get from steamboat men other than the Wisherd people, the Blair people, and the Streckfus people in regard to the boats operating in that particular region?

Mr. RAINEY. I will say to the gentleman that I do not have the hearings before me, but the gentleman can examine them.

Mr. KENNEDY of Iowa. I have examined them, and there is not a single letter except——

Mr. RAINEY. I will undertake to call the gentleman's attention to plenty of them.

Mr. KENNEDY of Iowa. There are letters from captains of boats, but they represent those three lines and no others.

Mr. RAINEY. According to the gentleman, these are the only companies operating on that section of the river. If that is true, then all the interests using that part of the river object to these piers. Now that the gentleman is here, will he state who comprise the Intercity Bridge Co.?

Mr. KENNEDY of Iowa. It is made up of 8 or 10 gentlemen from Keokuk and Hamilton.

Mr. RAINEY. Will the gentleman give me their names?

Mr. KENNEDY of Iowa. I do not know that I can give all the names. There is Mr. Charles R. Joy——

Mr. RAINEY. Was he one of the original company that obtained the charter to build the dam?

Mr. KENNEDY of Iowa. No; he had nothing to do with it. Then there is Mr. A. E. Johnson.

Mr. RAINEY. Was he one of the original company?

Mr. KENNEDY of Iowa. He was one of the original Keokuk-Hamilton Co. which got the original franchise.

Mr. RAINEY. Which was afterwards transferred to the company that actually built the dam?

Mr. KENNEDY of Iowa. Yes; but the gentleman said they got it without the expenditure of a dollar, which was not a correct statement.

Mr. RAINEY. They got $20,000 for it.

Mr. KENNEDY of Iowa. They spent a whole lot of money. The gentleman probably does not know that the cities of Keokuk and Hamilton appropriated money out of their treasuries for that company to get their franchise and make their preliminary surveys, and so forth, amounting to more than $20,000, which was restored when Mr. Cooper purchased their rights.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. RAINEY] has expired.

Mr. RAINEY. I ask unanimous consent that my time be extended five minutes.

The CHAIRMAN. The gentleman from Illinois [Mr. RAINEY] asks unanimous consent that his time be extended five minutes. Is there objection?

Mr. UNDERWOOD. Reserving the right to object, I ask unanimous consent that all debate on this section be closed at the end of five minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. FOWLER. Reserving the right to object, I want a few minutes.

Mr. UNDERWOOD. How many minutes?

Mr. FOWLER. Not to exceed five minutes.

Mr. UNDERWOOD. Then I ask unanimous consent that debate on this section be concluded in 10 minutes.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent that all debate on this section be concluded in 10 minutes. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. RAINEY] is recognized for five minutes.

Mr. RAINEY. Will the gentleman from Iowa name some of the other members of the Intercity Bridge Co.?

Mr. KENNEDY of Iowa. Judge William Logan, I think.

Mr. RAINEY. He was one of the original company?

Mr. KENNEDY of Iowa. He was one of the original company. Then there is Mr. C. P. Dadant, of Hamilton.

Mr. RAINEY. He was one of the original company?

Mr. KENNEDY of Iowa. Yes; and Mr. W. W. Wallace.

Mr. RAINEY. He was one of the original company?

Mr. KENNEDY of Iowa. Yes.

Mr. RAINEY. Who else?

Mr. KENNEDY of Iowa. I do not remember.

Mr. RAINEY. The gentleman has named almost a majority of them—a majority of them evidently were also connected with the original company that obtained the original franchise to build this dam. Now, under those circumstances what will happen to this bridge franchise if the Intercity Bridge Co. get it?

The same thing will happen that did happen to this Keokuk Dam franchise. They propose, of course, to turn over this bridge franchise, if they get it, to the Mississippi River Power Co., or some one of its subsidiary companies, or some interest operating with the Mississippi River Power Co. Now, I do not care whether there is a bridge there or not; I was calling attention to the objection to putting these piers 175 feet apart. I want to ask another question of the gentleman from Iowa. How many of the public-service companies of the city of Keokuk has the Mississippi River Power Co. absorbed?

Mr. KENNEDY of Iowa. They have not absorbed any, but the Stone & Webster Co. have taken one at Keokuk and one from Madison, and the lighting privilege in Dallas City. Outside of that the Mississippi River Power Co. has absolutely no control.

Mr. RAINEY. The Stone & Webster Co. controls the Mississippi River Power Co.?

Mr. KENNEDY of Iowa. No; they are the managing company. When these financial houses financed the proposition they looked for a company to operate, and in competition with others they chose the Stone & Webster Co.

Now, let me say a word about this bridge company; I know the gentleman from Illinois does not want to be unfair.

Mr. RAINEY. I certainly do not.

Mr. KENNEDY of Iowa. He says that the piers are only 175 feet apart. There are a lot of bridges between St. Louis and St. Paul with piers less than that distance apart, and the piers of the Keokuk Bridge only have 165 feet distance between them.

Mr. RAINEY. The piers are not in alignment.

Mr. KENNEDY of Iowa. And they are 181 feet apart.

Mr. RAINEY. They all say that they are 175 feet apart and not in alignment, and that fact makes them in reality a much less distance apart than they in fact are.

Mr. KENNEDY of Iowa. Now, let me say——

Mr. RAINEY. I can not yield further; I have not the time. That is the way with this matter all the way through. The Mississippi River Power Co. has not absorbed the public-service corporations of the city of Keokuk, but the Stone & Webster people have, and they control the Mississippi River Power Co. The Mississippi River Power Co. does not propose to build a bridge, but the Intercity Bridge Co. does, and that is composed of gentlemen who surrendered the original franchise to the Mississippi River Power Co. and who will surrender this bridge franchise to the same interests if they get it.

Mr. KENNEDY of Iowa. There is only one member of the Intercity Bridge Co. who has stock in the Mississippi River Power Co.

Mr. RAINEY. I did not say they had stock in it, but they sold it for $20,000, surrendered the franchise; and if they get this bridge franchise they will surrender it in the same way. I will say that I do not care how much the city of Keokuk surrenders to this water-power trust. I do not represent the city of Keokuk. I am simply calling attention to what has happened there and to what is going on all over the country.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FOWLER. Mr. Chairman, in line 23, page 14, is a provision which is conditional for the purpose of taking over certain power given companies to construct dams in which it is provided that the Attorney General shall institute proceedings to take over this right, provided that the Secretary of War requests him to do so. The question that arises in my mind is, Why should you make the duty of the Department of Justice in enforcing the law conditional upon the will of anybody? Why not let the Attorney General have the duty resting upon him to discharge the duty under his conscience and his answer to the people for not discharging it? Why limit it to the request of the Secretary of War?

I know that the answer will be that the Secretary of War had this matter in charge, and that the Secretary of War is the all-knowing power as to whether a prosecution or action should be instituted for the purpose of taking over these rights. But if you make it conditional, as the bill does, then you give the Secretary of War the discretion to make discrimination between companies or individuals who are seeking control of hydroelectric power. So I think that the bill ought to be definite and fix the duty of the Attorney General and make him responsible to the people for not discharging that duty. Now, I will ask the chairman that question.

Mr. ADAMSON. It is not only usual but wise that the department which has charge of the matter in a particular line of business or improvement shall itself be the judge of when there ought to be a lawsuit started. The Attorney General is not supposed to look into the details of every department. The Secretary of War is charged with the administration of these and similar laws, and when he finds it necessary to bring a suit he brings it to the attention of the Attorney General.

Mr. FOWLER. I used to have an old neighbor who said that one boy in a family was a boy, two boys was a half a boy, and three boys was no boy at all. That is what you have here in your bill. Why do you not throw the responsibility on one man, and let him take that responsibility in discharging his duty? Why have two boys in this question? According to my old friend that lived close by my father's house, you have got half an Attorney General and half a Secretary of War.

Mr. SHACKLEFORD. Will the gentleman yield?

Mr. FOWLER. Yes.

Mr. SHACKLEFORD. Is not that what the gentleman from Illinois is trying to get, to have two boys actually instead of one? Under the bill as it now is it is the duty of the Secretary of War to control all these things, but, not being a lawyer, he employs the lawyer which the Government provides to help him.

Mr. FOWLER. The gentleman from Missouri does not make any progress in this matter at all. If he is going to leave the question of law to a lawyer, the bill puts the responsibility on the Attorney General to bring the lawsuit, and he is the man who ought to have the responsibility, for he knows the law and is the one who ought to bring the lawsuit. He ought to have the responsibility. Your old rube back in your district will complain of you if you stand here enforcing these ideas, this irresponsible method of enforcing the law. The gentleman had better go back and consult old rube before he takes such a position on the floor.

Mr. SHACKLEFORD. If the gentleman will permit me——

Mr. FOWLER. I do not want to yield. I yielded for a question, and now the gentleman wants to make a speech. I always listen to the gentleman from Missouri with a great deal of pleasure and go back and tell my constituents what he says on the floor.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

The Clerk read as follows:

SEC. 13. That the right to alter, amend, or repeal this act is hereby expressly reserved as to any and all dams which may be authorized in accordance with the provisions of this act whenever Congress determines that the conditions of consent have been violated. In such case the United States shall incur no liability for the alteration, amendment, or repeal thereof to the owner or owners or any other persons interested in such dam.

Mr. STEVENS of New Hampshire. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 15, line 7, after the word "act," strike out the rest of the section.

Mr. STEVENS of New Hampshire. Mr. Chairman, this section as written into the bill reserves the right to alter, amend, or repeal this act only when Congress determines that the conditions of the consent have been violated. I think Congress should have the right, and undoubtedly has the right, to alter, amend, or repeal this act at any time, the same as it has any piece of general legislation. It should have the right to alter or repeal this act as to any or all dams that may be authorized in accordance with it at any time that Congress deems it wise in the public interest to do so. This bill undertakes to confer and does confer a charter that runs for 50 years. Of course, you can not have a charter that runs for 50 years and still have the right to alter, amend, or repeal the charter without assuming a liability to the grantees for that period of the charter which has not yet expired. If this amendment of striking out all the words after "act" be adopted, so that the section shall read:

That the right to alter, amend, or repeal this act is hereby expressly reserved as to any and all dams which may be authorized in accordance with the provisions of this act——

Mr. ADAMSON. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of New Hampshire. Yes.

Mr. ADAMSON. If I understand the gentleman, he desires to strike out all after word "act," in line 7, and just leave it that the right to alter, amend, or repeal the act is hereby expressly reserved as to any and all dams that may be authorized in accordance with the provisions of this act?

Mr. STEVENS of New Hampshire. Yes.

Mr. ADAMSON. If we strike that out, and Congress passes on the question of ordering the repeal, it is all the same thing. I do not object to the amendment. I accept the amendment.

Mr. MANN. Mr. Chairman, I am opposed to the provision as it stands in the bill, and more opposed to the amendment offered by the gentleman from New Hampshire [Mr. STEVENS]. We have the right to alter, amend, or repeal any act of Congress. It is not necessary that we insert that in the law; but when you want to affect anything which is already done by some private individual under an act of Congress, you must reserve the right to alter, amend, or repeal, or you may run up against a liability on the part of the Government. We grant to some corporations the power to construct a dam, as we have granted in the past, and we want to change the condition and still keep that company under the general act. Well, we change the act. It can not affect that company unless we have reserved the right to do it without liability. The gentleman from New Hampshire [Mr. STEVENS] proposes to let it stand so that we have the right to alter, amend, or repeal the act; but if we do that, and it injures the company, they have a claim against the United States which they can enforce. It is taking private property without compensation. I worked for a long time over the original provision which is in the law. We may make a great many changes in the course of time with reference to these laws affecting dams, and there is no reason why, if we do that and make it applicable to an existing dam, we should give the Government the responsibility of paying the company for any changes that are made. In an ordinary case the right to alter, amend, or repeal is enough of itself. We put that provision in every special bill for a dam that we pass; but here is the governing principle, and we ought to have the right to alter, amend, or repeal that without paying for the opportunity, and if you adopt the amendment of the gentleman from New Hampshire, we will never make any change about any dam that a claim will not be brought against the Government. Nor am I willing, so far as I am concerned, to take the original in the bill and say that we shall have the right to alter, amend, or repeal only when the dam company has violated the conditions of the consent.

Mr. ADAMSON. Mr. Chairman, will the gentleman yield?

Mr. MANN. In a moment. All of these companies throughout the United States and elsewhere must be taught that the governing power reserves the right to regulate these franchises which it grants. When I was a young man in college the State of Illinois was then starting out to regulate railroads and warehouses, and it was held by the railroads and the warehouse men to be something monstrous. The end of the world would come if the State were given authority to regulate railroad rates or warehouse rates. People used to ride free on the Illinois Central Railroad, up and down past the station where I was at school, because the railroad company

would not accept the fare fixed by the State law, and the people would not pay any more fare. The matter finally went to the Supreme Court, and the Supreme Court held that the Government had the power to regulate that sort of public utility. Is it now proposed to give away that power? That is what this amendment of the gentleman from New Hampshire would do. That is what the provision in the bill itself would do. I now yield to the gentleman from Georgia.

Mr. ADAMSON. As I understand the gentleman, it would suit him to strike out the part of the bill that is in italics, namely, "whenever Congress determines that the conditions of consent has been violated," and leave the original section.

Mr. MANN. Yes; leave it as the law now stands.

Mr. ADAMSON. Mr. Chairman, I agree thoroughly with the gentleman, and I will ask the gentleman from New Hampshire to modify his amendment to that effect.

Mr. STEVENS of New Hampshire. I will accept that, Mr. Chairman. I ask unanimous consent to modify my amendment so as to strike out the words "whenever Congress determines that the conditions of consent have been violated."

The CHAIRMAN (Mr. MOON). Is there objection to the request of the gentleman from New Hampshire that he be permitted to modify his amendment?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment as modified.

The Clerk read as follows:

Modification of amendment of Mr. STEVENS of New Hampshire: Page 15, lines 7 and 8, strike out the words "whenever Congress determines that the conditions of consent have been violated."

Mr. SMITH of Minnesota. Mr. Chairman, I move as a substitute that section 13 be stricken from the bill, and I do that——

Mr. ADAMSON. I do not accept that.

Mr. SMITH of Minnesota (continuing). And I do that for the reason that as the section appears in the bill it is a limitation upon the power of Congress to amend, alter, or repeal a regulatory law and would be unwise and unsafe legislation. The Constitution gives to Congress the right to amend, alter, or repeal any law which it may enact. It is not necessary that Congress should reserve that right in its legislation. It is true that such a policy has become customary. It serves notice on the grantees, as in this case, that it is the intention of Congress, when it deems it wise, to either amend, alter, or repeal the law, and the section as it appears in this bill can have no other effect than to take away from Congress the constitutional power to amend, alter, or repeal this act. There is a great deal in what the gentleman from Illinois [Mr. MANN] has said, that if we are to have this section in the bill it is for the purpose of serving notice upon those who act upon this legislation that Congress will at some future time, when circumstances warrant, amend this law. But further than that I do not wish to yield, because if we are at this late day going to enact legislation which is going to deprive Congress of the power to regulate such institutions as this bill is aimed at, then we are going backward instead of forward. True, 50 years ago the idea of regulating public-service corporations or railroads or steamboat lines was unheard of, but to-day monopoly is abroad, and the only way that we can curtail it and conserve to the public for the public use and the public benefit the great resources of this country is by curbing monopoly by wise legislation, and if there ever was an unwise piece of legislation attempted it is the attempt to insert in this law section 13.

Mr. MANN. Mr. Chairman, I rise to oppose the motion of the gentleman from Minnesota. This is one section of the existing law which has been very bitterly opposed by the special interests and they would be exceedingly glad to have the amendment offered by the gentleman from Minnesota prevail. There is no constitutional authority; the gentleman from Minnesota is mistaken in that respect, authorizing us to repeal a law which thereby seizes private property and confiscates it.

Mr. SMITH of Minnesota. Mr. Chairman, will the gentleman state on what authority he bases that proposition?

Mr. HULINGS. The Dartmouth College case.

Mr. MANN. No; I am not basing it on the Dartmouth College case, that relates to States. Why, I base it upon authorities all through the courts. The United States Government can not confiscate the property of private individuals. It has no authority to seize the property, the Constitution itself says so in so many words.

Mr. STEVENS of Minnesota. The Chandler-Dunbar case sustains that.

Mr. MANN. We must preserve our rights. If we make an amendment which affects injuriously those things which people own—of course, we can amend the law as to the future at any time. We have the power to amend the laws as to the future—but when you amend and thereby seize private property unless this provision is in the bill you have to pay for it.

Mr. SMITH of Minnesota. Will the gentleman yield?

Mr. MANN. Yes.

Mr. SMITH of Minnesota. Does the gentleman contend that it is necessary to have a provision in the bill reserving to Congress the right to amend or repeal a regulatory law? This has nothing to do with the seizing of property, but a law which simply prescribes rules and regulations upon which property may be owned and used.

Mr. MANN. Oh, we might have the power to repeal a regulatory law if that is all this was, but this law in effect is a contract when it is made use of under a special act of Congress creating or authorizing a franchise to be given, and when that franchise holder constructs a dam under the provisions of the law and invests his money the Government can not take that away from the owner without compensation unless we have reserved the right to do so. That is elemental.

Mr. SMITH of Minnesota. Mr. Chairman, I withdraw the amendment. I introduced it for the purpose of calling attention to this section.

Mr. BRYAN. Mr. Chairman, I desire to offer an amendment to perfect this, and I desire to call the attention of the gentleman to this.

Mr. THOMSON of Illinois. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry

Mr. THOMSON of Illinois. What has become of the pending amendment?

The CHAIRMAN. The pending amendment is the amendment offered by the gentleman from New Hampshire, the gentleman from Minnesota, by the consent of the committee, having withdrawn his amendment.

Mr. BRYAN. I shall suspend now and support the Stevens amendment, and then I desire to offer my amendment.

The CHAIRMAN. The question now is upon the amendment offered by the gentleman from New Hampshire as modified.

The question was taken, and the amendment as modified was agreed to.

Mr. BRYAN. Mr. Chairman, I call attention to the fact that the section as amended now differs from the present law in that in line 6 the word "authorized" is used in section 13 of the pending bill and in the present law the word "constructed," making it that Congress has the right to repeal a law as to any dam authorized by this bill, whereas the original act provides as to any dam constructed, so I move to amend by adding, after the word "authorized," the words "or constructed."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 16, line 6, after the word "authorized," insert the words "or constructed."

Mr. MANN. Will the gentleman yield for a question?

Mr. BRYAN. Certainly.

Mr. MANN. Is not the term "authorized" used here a little broader and better than the original term which I used?

Mr. BRYAN. Not the term "authorized or constructed." I do not think it is broader than both.

Mr. MANN. You can not construct until it is authorized. This will apply between the time the dam is authorized and the time it is constructed.

Mr. BRYAN. Well, I think that the fact we have amended the original law by inserting the word "authorized" will raise a question of interpretation, and it is very reasonable that one who has constructed a dam will say that this original act was amended so you can repeal an act where authority has been granted, but not where the grantee had acted on that authority and constructed his dam.

Mr. THOMSON of Illinois. Mr. Chairman——

Mr. BRYAN. I yield to the gentleman from Illinois.

Mr. THOMSON of Illinois. Mr. Chairman, if a dam is constructed, it must previously have been authorized, and so the case would be met, anyhow.

Mr. BRYAN. Yes; but we have it specifically enacted here it was only in case of authority granted. Why did we amend the act? I think that it makes it broader by saying "authorized or constructed."

Mr. ADAMSON. Will the gentleman yield?

Mr. BRYAN. Certainly.

Mr. ADAMSON. The language expressly refers to dams which may be authorized, and there can not be dams until

they have been constructed, and "authorized" covers the project for all time and eternity, if the project lasts that long.

Mr. BRYAN. I think there will arise a question about the interpretation of the language.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. BRYAN].

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 14. That the Secretary of War, upon the advice and with the approval of the Chief of Engineers, may lease to any applicant having complied with the laws of the State in which the dam is constructed or to be constructed by the United States, the right to develop power from the surplus water over and above that required for navigation at any navigation dam now or hereafter constructed, either with or without contribution by the applicant, and owned by the United States, and on such terms as may be deemed by the Secretary of War and Chief of Engineers for the best interests of the United States, and in awarding such lease preference shall be given to the applicant whose plans are deemed by any action of Congress or by the Secretary of War and Chief of Engineers to be best adapted to conserve and utilize in the public interest the navigation and water-power resources of the region: *Provided*, That no lease shall be made to any private corporation or applicant operating for private profit for a longer term than 50 years, and that the provisions of this act, so far as applicable, shall be made a part of the terms and conditions of any such lease, and all such leases and the parties thereto and the terms and conditions thereof shall be reported annually to Congress.

Mr. STEVENS of New Hampshire. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New Hampshire offers an amendment which the Clerk will report.

The Clerk read as follows:

Strike out all of section 14 and insert in lieu thereof the following: "That the Secretary of War be, and he is hereby, authorized to enter into leases for the use of surplus water and water power generated at dams and works constructed wholly or in part by the United States in the interest of navigation, at such rates or such terms and conditions and for such periods of time, not to exceed 50 years, and with such provision for the periodical readjustment of rentals as may seem to him just, equitable, and expedient, subject, however, to the provisions of this act governing the authorization, maintenance, and operation of power plants, and to all regulations governing the use and disposition of the power, so far as the same may be applicable. And all such leases, the parties thereto and the terms and conditions thereof, shall be reported annually to Congress: *Provided*, That said Secretary of War in making such leases shall give preference to any municipal corporation or other public corporation not operated for private profit."

Mr. ADAMSON. Mr. Chairman, if the committee thinks that is more likely to serve the purpose intended, it is all right with me. I can not see any difference.

Mr. STEVENS of Minnesota. Mr. Chairman, before that is acted upon I would like to make a statement, because I am responsible for this section. The gentleman from New Hampshire [Mr. STEVENS] has practically offered the suggestions originally forwarded in the bill of the Secretary of War. I assumed the responsibility of presenting the changes to the committee, for the reason that there is a very important matter, affecting my State and section of the country, which has been pending before the Committee on Rivers and Harbors for several years, covered by this section, and I have already mentioned it in debate to this committee. I am fearful that the provision of the gentleman from New Hampshire [Mr. STEVENS] and the provision of the Secretary of War could not meet our situation. You will notice that the amendment suggested by my friend from New Hampshire makes a straight provision for a term of 50 years in all cases, and that a preference shall be given to municipalities. I think it a very great mistake to give a preference to municipalities directly in the law, for this reason: At the present time the Committee on Rivers and Harbors constructs these dams solely for the purposes of navigation. The plans of the dams and locks, their location and operation, consider navigation alone, and the question of water power from them is of slight consequence. It is planned from the use of the structures that any water power generated would be merely incidental and of very little value. And if the committee wishes, I will place in my remarks a report from the Secretary of War, which will be found in Senate Document No. 57, Sixty-second Congress, first session, covering all the plants which have been constructed since the history of the Government where the water power on Government dams has been leased by the Secretary of War under authority from Congress. And in nearly all of these cases the language of the law so authorizing such leasing has been as it appears in the bill, namely, giving the Secretary of War authority to make the best terms he can without any preference or any limitations as to terms or tenure.

Now, the result would be that if the amendment of the gentleman were adopted the municipalities situated upon navigable rivers would want to do two things: They would want to have the plans of the dams changed so that navigation would no longer be the primary consideration, but that water power would be the main consideration; and, secondly, these municipalities would endeavor to have dams constructed not so much for navigation, or ostensibly for navigation, but in reality for water power.

The result would be that there would be an increasing demand for these improvements, which would cost the Treasury of the United States enormous sums of money, and from which only slight revenue could be realized. It would enormously increase the pressure of the "pork-barrel" system, and the people outside of the favored section would then pay their money into the Treasury for the sake of helping favored municipalities get a chance to buy water power from water-power dams cheaper than could be secured in any other way and far cheaper than the investment of the Government would warrant. I think it would lead to the increase of the pressure of "pork-barrel" methods, which would be a scandal and injurious to all development of our navigable rivers. It would so affect our transportation interests that the improvement of navigable rivers would be imperiled.

Now, Mr. Chairman, the amount which the Treasury gets from all the Government dams which have been constructed since the beginning of construction, as I say, is insignificant. There are only about, I think, 28 of them in which power is sold, and 17 of them are in the State of Ohio, on the Muskingum River. These are all insignificant and the amount realized is negligible. So the amount to be realized would be comparatively small as covered by the amendment of my friend from New Hampshire, and the Secretary must do the best he can to lease many of them on any terms he can. Now, it was in my mind in making this change from the Secretary's provision to that in the bill was the best use of Government dam which is now being constructed between St. Paul and Minneapolis, and which will be finished next year. For three years I have had a bill before the Committee on Rivers and Harbors seeking the best use of this incidental power and making this proposition to the Government. The State of Minnesota has had created by its legislature a corporation without any capital stock, without any officers having power to receive any salaries. There is no possibility of any individual getting any profit out of it in any way, directly or indirectly. This corporation wishes to lease this power from the Government and pay for the plant, 3 per cent on the increased cost of the dam and works, which, of course, practically pays for the plant at the rate of interest now paid by the Government. If so acquired this corporation would divide the power into four parts, first giving the United States all it needs, and the United States is now paying about $28,000 a year for power in those two cities and at Fort Snelling, as the engineers report. Second, to give the State of Minnesota what it needs for the use of its university at Minneapolis, which would be a large amount, because the university is doing a large amount of valuable and expensive experimental work in its laboratories and shops. Lastly, the remainder of the power would be equally divided between the two cities to be used exclusively for public purposes. No one but the public could receive and use of it.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. STEVENS] has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I ask unanimous consent for five minutes more.

Mr. ADAMSON. Mr. Chairman, I would like to ask my friend this question.

Mr. STEVENS of Minnesota. Certainly.

Mr. ADAMSON. I would like to ask if he construes the language of the proposed amendment to mean that the Secretary of War is compelled to accept a proposition from municipalities, even though they are not attractive to him or within the purview of the intention of the project?

Mr. STEVENS of Minnesota. Well, he would be obliged to give them the preference.

Mr. ADAMSON. Would they not have to bring their propositions reasonably within the provisions as to the intentions and purposes?

Mr. STEVENS of Minnesota. Certainly. I will come to that later if my time allows.

The point is this, that the proposition submitted by the municipal company of Minnesota would pay the United States for this dam. It then gives the United States the right to use its power and share with whatever reduction of cost there may be, which would be considerable; and then, of course, the State of Minnesota would have its share and its large service in the use of its university. Lastly, the cities would have their public lighting at a very great reduction from present expense. No

one could get any profit. The whole benefit would go to the public.

Now, the point is that the committee will realize that this is an important matter, to be fixed so it can be practically administered. It will require a million dollars at first to finance it, and it can not be done on a 50-year basis, such as provided in the amendment of the gentleman. That is the point I desire to call attention to in this amendment and why I hope it will not be pressed. This amendment prohibits our plan being made effective by reason of the imposition of a 50-year term. If the committee adopts it, of course we can not finance our plan, and these very water-power interests which gentlemen have been so vociferous in denouncing will have a monopoly of that water power and the public utilities in that section of the United States, State, and city. The Stone-Webster people have the monopoly of the water power of that section, and they would like to acquire this dam, of course; but if they can not do that, they would like to have no other company nor the public corporation acquire it or use it.

Mr. STEVENS of New Hampshire. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of Minnesota. Yes; I yield to the gentleman.

Mr. STEVENS of New Hampshire. What reason is there why the municipality can not make a lease for 50 years under the terms of this bill when they have a preference, and a private corporation could?

Mr. STEVENS of Minnesota. For this reason: There are now existing term contracts which make it impossible. The plant could not be put in operation at once. The cities and the States can not give their credit to the financing of the scheme. The backing on a financial basis must be the actual contracts that are entered into.

As I say, it will cost probably a million dollars to inaugurate the plant and build a power house and a transmission plant, which will be very expensive. The result is that the contracts which would be in sight to start the thing, to pay 3 per cent to the United States and the transmission required will not be sufficient to float the financing. The plan must be extended gradually, and the bonds can not be floated except for a long time. You realize these power companies do not like this sort of plan. It seriously interferes with their present monopoly and projects. It is easy enough for them to prevent the flotation of the bonds, because there are only a few places where they can be conserved. If these companies refuse to handle this business, the power companies will do what they please with their monopoly and this power. If they can use it they can bid for it, and if they do not want to take it they can prevent anybody else from getting it. You are putting the whole matter into their hands by limiting the authority of the Secretary of War.

I have provided for two distinct classes of applicants in the bill. The first could be the private corporations. If any private corporation secures this power it would have a 50-year term, just as the gentleman's amendment in the bill provides. But the public corporations would be under the provision of the law as it exists now, as to practically all the other Government dams heretofore constructed, giving the Secretary of War and the Chief of Engineers authority to make contracts for the best interests of the United States.

This fact, too, should be had in mind. The city of St. Paul and the city of Minneapolis have furnished the flowage rights for this valuable property of the Government. They own the banks of the river as part of their park systems. They have given to the United States those rights practically for nothing, although they are worth very many thousands of dollars. They have done that on the presumption that the United States would use this power or treat them fairly in the use of it. These facts are given in the hearings had before the Committee on Rivers and Harbors. I believe we have had two hearings. If you insist upon the 50-year period it destroys our contribution to the extent of several hundred thousand dollars, and it would give the water-power interests a monopoly of the electric business in that section of the country.

I hope the gentleman from New Hampshire [Mr. STEVENS] will not insist upon his amendment. He will notice how we have tried to guard the very thing he desires to protect. We confined the private contracts to 50 years, and made the terms of this bill applicable.

As to public leases, we have left them subject first to the committees of Congress. I think the Committee on Rivers and Harbors of the House and the Committee on Commerce of the Senate, when they frame the river and harbor bills and provide for these dams, ought to outline what should be done with them; and it strikes me that our method as proposed here is better than to lay down a single broad, rigid rule. If the Congress does not provide for it, then we leave the law as it stands. Thirty dams now, practically, are operated under the language of section 14 as it stands in the bill. So I trust the amendment will not be adopted.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of Minnesota. Yes.

Mr. ANDERSON. Does the gentleman contend that they can not finance that proposition up there except on a perpetual lease?

Mr. STEVENS of Minnesota. No. The Secretary of War ought to have authority to meet an emergency. We do not want a perpetual lease. An indeterminate lease is what I had in mind. The Secretary of War could meet the situation as it would be presented to him. He does it now as to these 30 dams, and it has worked admirably. We ask that this same authority be extended to these dams hereafter to be constructed which now exists. Your general theory may be all right as to private dams, but in matters of this kind the plan which has worked well for a generation can be safely followed.

Mr. SMITH of Minnesota. Mr. Chairman, I offer an amendment, which I send to the desk.

Mr. STEVENS of New Hampshire. Mr. Chairman, the only substantial change made in section 14 by the amendment which I have offered is that no lease of water-power rights to anyone shall be for a longer period than 50 years.

Mr. Chairman, I know nothing about the local situation in Minnesota. It did seem to me, and it seems to me now, that no lease of water-power rights which belong to the Government should be given in perpetuity to any corporation, private or public. The Federal Government should keep control of that which it owns, and——

Mr. ADAMSON. Mr. Chairman, will the gentleman yield for a question?

Mr. STEVENS of New Hampshire. Yes; certainly.

Mr. ADAMSON. Would the gentleman think it safe to invest the Secretary of War with discretion where he deemed it to be in the public interest to make grants to municipalities, revocable in his discretion after the end of 50 years?

Mr. STEVENS of New Hampshire. If the lease of the power was revocable at the end of 50 years, either by the Secretary of War or by Congress, that, of course, I think, would keep the matter in the control of the Federal Government.

Mr. ADAMSON. Would not the purpose of the gentleman from Minnesota [Mr. STEVENS] be served by making that exception in the amendment of the gentleman from New Hampshire; that is, in a municipal corporation, where the public interest seems to demand it, the Secretary of War should make it revocable after 50 years in his discretion?

Mr. STEVENS of New Hampshire. Mr. Chairman, 50 years in itself is a very long period for an irrevocable lease to be given by the Federal Government to anybody. While I personally would be sorry that any particular project in Minnesota should be injured by my amendment, I still believe it to be against public policy for the Federal Government to give away forever, or in perpetuity, or for a longer period than 50 years, a public franchise which belongs to all the Nation.

Mr. STEVENS of Minnesota. Will the gentleman allow me to ask him a question?

Mr. STEVENS of New Hampshire. Yes.

Mr. STEVENS of Minnesota. Did not the gentleman understand me to say first that we do not want to grant it in perpetuity; second, that we do not want to give it away, but we want them to pay all it is worth?

Mr. STEVENS of New Hampshire. I do not think the power ought to be placed in any executive officer of the Government to grant a charter for a longer period than 50 years, and certainly not in perpetuity, which he might do if the original provision were adopted.

Mr. STEVENS of Minnesota. Does not the gentleman know that there are 30 dams operating now under identically the same language? I will place a list of them in the RECORD.

Mr. STEVENS of New Hampshire. Can the gentleman tell me whether the Secretary has granted any permanent charters?

Mr. STEVENS of Minnesota. No; to none of them. I will put them all in the RECORD.

Mr. STEVENS of New Hampshire. Has the Secretary granted any charter for a longer time than 50 years?

Mr. STEVENS of Minnesota. No.

Mr. STEVENS of New Hampshire. I do not think he ought to do so.

Mr. FALCONER. Mr. Chairman, as I understand this amendment, one of the main points is to give preference to municipal corporations over private corporations.

Mr. STEVENS of New Hampshire. Yes.

Mr. FALCONER. Mr. Chairman, I believe the amendment to be a good one in this particular: If it does give municipal corporations an advantage over private corporations, it serves the public interest to a greater degree than section 14 now in the bill. Recently I received from the cities of Seattle and Tacoma some data on hydroelectric matters, and I was struck particularly by one paragraph in the report of the superintendent of lighting of the city of Seattle, in which he says:

From the standpoint of a revenue producer, as an agency to bring commercial industries to our city, and as a factor in providing comforts for the home, Seattle's municipal light and power plant and system is the city's largest utility and its greatest. No single agency in the city of Seattle has so great an opportunity to be a city builder nor will play so important a part in winning and holding for this city the commercial supremacy of the Pacific coast.

Seattle, Mr. Chairman, is the finest lighted city in America. We boast of our Capital City, Washington, as the city beautiful. This is a beautiful city, Mr. Chairman, but if the Congress had provided the people here with as fine a municipal lighting plant as the enterprising citizens of Seattle now own, this city could afford to "turn on the light" and chase the darkness out of the streets and make more cheerful the homes of these people, and all at a rate of approximately 50 per cent of the price now charged for light service. Our cities, with their 16 and 42 story buildings, are lighted from street to dome; thousands of electric signs and great woven mazes and strings of lighted bulbs glorify our cities away yonder by the western sea; and all this, Mr. Chairman, because of municipal ownership.

I believe, Mr. Chairman, that it would be to the advantage of the public if the Department of the Interior would rule or if Congress would enact legislation providing that any municipality within a certain radius or district should have the right to locate and reserve for a number of years any water location capable of developing hydroelectric power found anywhere on the public domain, to the end that the people of any city could have the time necessary to develop the power for use of its people, without being interfered with by private concerns.

I wish to call the attention of Congress to the advantages of Pacific coast cities, showing that where the municipality owns the hydroelectric plant the price per kilowatt hour to the consumer is cut in two.

The fact is, Mr. Chairman, that when private companies had the exclusive franchise, and furnished light to consumers, the price was as high or higher than the consumers now pay in this city—Washington, the Capital of our Nation.

TACOMA, ENTERPRISING CITY.

In the city of Tacoma a few years ago the people paid 11 cents per kilowatt hour for light, and paid that price to a private company to which the good people of Tacoma had generously given a valuable franchise.

The city of Tacoma finally put in its own equipment, but had no power plant. A private concern had excess power, and it offered to the city of Tacoma a contract to furnish light for something like 8 mills, or a price less than 1 cent per kilowatt hour, for which they had been charging to consumers over their own lines and equipment 11 cents. The city of Tacoma took up the proposition, and sold to its patrons electric light for the lighting of private residences at the rate of 6 cents per kilowatt hour, practically cutting in two the rate which had been formerly charged by the private corporation. I have data showing that while the Stone and Webster people were furnishing power to the city of Tacoma at 8 mills, and the city of Tacoma was reselling and furnishing it to its patrons over municipal equipment for 6 cents per kilowatt hour, neighboring cities, receiving its light from a private concern, were paying 11 cents per kilowatt hour, the power coming from identically the same source.

This goes to show that the public utilities of the country ought to go first to the municipalities, because in that way it brings the greatest amount of good to the people, and as a revenue producer the western cities which own hydroelectric plants have reduced their municipal taxes, this being due to earnings from the municipal plant, even when the service was furnished at greatly reduced rates.

Mr. Chairman, I can not emphasize too strongly the advantages of municipal ownership of public utilities.

The city of Tacoma, a great manufacturing and commercial city, demonstrates the worth of municipal ownership. The lighting and power rates of that city are probably the lowest in the country. Great manufacturing establishments use electric power. For some years a logging company a few miles from the city used electric power. Out in the harbor, as you approach the city at night, you are impressed with the magnificence of the electric lighting.

Must I repeat, Mr. Chairman, it is due to municipal ownership?

I ask unanimous consent to extend my remarks by printing in the RECORD some figures showing advantages of municipal ownership of public utilities.

The CHAIRMAN. The gentleman from Washington asks unanimous consent to extend his remarks. Is there objection?

There was no objection:

The matter is as follows:

TACOMA LIGHT RATES.

SEC. 17. Rates for illumination: The rates for electric current for illuminating purposes shall be for the quantity used in any one month, as indicated by the meter or meters which shall be installed on the service for the purpose of registering the quantity of electric current used, and except where otherwise provided shall be as follows:

The minimum charge shall be 50 cents per month.

For 8 kilowatt hours or less per month or fraction thereof, 50 cents.

From 8 to 50 kilowatt hours per month or fraction thereof, 5½ cents per kilowatt hour.

For each additional kilowatt hour in excess of 50 and up to 100 kilowatt hours per month or fraction thereof, 5 cents per kilowatt hour.

For each additional kilowatt hour in excess of 100 and up to 2,000 per month or fraction thereof, 4 cents per kilowatt hour.

For each additional kilowatt hour in excess of 2,000 in any one month or fraction thereof, 3 cents per kilowatt hour.

Rates for lighting and cooking: The rates for electric current for combination lighting and cooking, and the method of classification upon which said rates are based shall be as follows:

Method of classification: Each dwelling shall be divided into two parts. The first part shall consist of those rooms most used, including living room, parlors, library, dining room, kitchen, and pantry, and shall be designated the "working part." The second part shall consist of those rooms less frequently used, such as hallways, bedrooms, bathrooms, etc., and shall be designated the "idle part." For the purpose of computing the floor space as provided in the schedules given below, all the floor space of the "working part" of the house shall be counted and one-half of the area of the "idle part," and the total shall constitute the equivalent floor space of the house.

SCHEDULE CLASS "A."

Includes all dwelling houses and apartments having a floor space, computed as above, of not more than 500 square feet:

Minimum charge, $1 per month.

For the first 15 kilowatt hours used during any month, 6 cents per kilowatt hour.

All current in excess of 15 kilowatt hours during any month, 1 cent per kilowatt hour.

SCHEDULE CLASS "B."

Includes all dwelling houses and apartments having a floor space of not less than 500 nor more than 1,000 square feet:

Minimum charge, $1.50 per month.

For the first 25 kilowatt hours used in any month, 6 cents per kilowatt hour.

All current in excess of 25 kilowatt hours in any month, 1 cent per kilowatt hour.

SCHEDULE CLASS "C."

Includes dwelling houses and apartments having a floor space, computed as above, of not less than 1,000 nor more than 2,000 square feet:

Minimum charge, $1.50 per month.

For the first 40 kilowatt hours used in any one month, 6 cents per kilowatt hour.

All current used in excess of 40 kilowatt hours during any month, 1 cent per kilowatt hour.

SCHEDULE CLASS "D."

Includes dwelling houses and apartments having a floor space, computed as above, of over 2,000 square feet:

Minimum charge, $1.50 per month.

For the first 60 kilowatt hours used during any month, 6 cents per kilowatt hour

All current used in excess of 60 kilowatt hours during any month, 1 cent per kilowatt hour.

[As amended by ordinance No. 5364, passed June 4, 1913.]

SEC. 18. The rates for electric current for hospitals and kindred charitable institutions shall be the same as those prescribed in section 17, subject to a discount of 20 per cent provided the previous month's bill is paid on or before the 15th day of each month.

SEC. 19. Rates for power: The price for current for industrial power shall be as follows:

Load factor.	Kilowatt hours.	Per kilowatt hour.
10	72	$0.024
11	79	.0235
12	86	.0225
13	93	.022
14	100	.0215
15	108	.021
16	115	.0205
17	122	.0195
18	129	.0187
19	136	.018
20	144	.0175
21	151	.017
22	158	.0165
23	165	.016
24	173	.0155
25	180	.015
26	187	.0145
27	194	.014
28	201	.0138
29	209	.0135
30	216	.0132
31	223	.0129
32	230	.0125
33	237	.0122
34	245	.012
35	252	.0118

Load factor.	Kilowatt hours.	Per kilowatt hour.
36	259	$0.0115
37	266	.0114
38	273	.0112
39	281	.0109
40	288	.0107
41	295	.0105
42	302	.0103
43	309	.0101
44	316	.00993
45	324	.0097
46	331	.00951
47	338	.00935
48	345	.0094
49	353	.009
50	360	.00887
55	396	.00818
60	432	.0074
65	468	.00688
70	504	.00637
75	540	.00538
80	576	.0056
85	612	.005282
90	648	.004965
95	684	.004732
100	720	.0045

SEC. 20. Special rates: Special rates may be made by the superintendent, with the concurrence of the commissioner of light and water, for current used between 8 a. m. and 4 p. m., or at such other hours as in his judgment may seem expedient.

SEATTLE LIGHTING RATES.

The rate schedule now in use by the lighting department became effective July 1, 1912. The rates in detail are printed below. For residence lighting the rate is 6 cents per kilowatt hour for the first 60 kilowatt hours used per month and 4 cents for all current above 60 kilowatt hours per month, and the minimum monthly charge is 50 cents. Rates for power and for ousiness lighting are arranged on a sliding schedule, which makes the rate lower the more hours per day current is used. The basis of each schedule is a logarithmic curve, as shown in figure 2. The actual price per kilowatt hour obtained during the year 1913 was for residence lighting, 5.988 cents; for business lighting, 2.757 cents; and for power, 1.549 cents. The rate schedule in detail as fixed by ordnance follows:

A. For all constant potential arc and incandescent loads used for residence lighting purposes:

0 to 60 kilowatt hours, per month, 6 cents per kilowatt hour.

All over 60 kilowatt hours, per month, 4 cents per kilowatt hour.

The above rates include the use of clear carbon or metallized filament lamps. The same schedule of charges shall be made for churches as for residence lighting. The minimum charge for each meter installed for residence lighting shall be 50 cents per month. In apartment houses each apartment shall be classed as a separate residence.

B. For all constant potential arc and incandescent loads used for business lighting purposes:

0 to 100 kilowatt hours per month, inclusive, per connected kilowatt, 5 cents.

139 kilowatt hours per month, per connected kilowatt, 4 cents.

213 kilowatt hours per month, per connected kilowatt, 3 cents.

278 kilowatt hours per month, per connected kilowatt, 2½ cents.

388 kilowatt hours per month, per connected kilowatt, 2 cents.

593 kilowatt hours per month, per connected kilowatt, 1½ cents.

720 and over kilowatt hours per month, per connected kilowatt, 1.32 cents.

Intermediate kilowatt hours consumption shall be charged at intermediate rates. A minimum rate shall be charged for all business lighting, such minimum to be fixed by the superintendent, but in no case to be less than $1 per month.

C. Rates for power purposes based on a connected load of less than 1 horsepower shall be computed on same basis as business lighting rates. Rates for power purposes based on a connected load of 1 to 20 horsepower, inclusive, of 746 watts per horsepower per month, shall be as follows:

0 to 100 kilowatt hours per month, inclusive, per connected kilowatt, 4 cents.

146 kilowatt hours per month, per connected kilowatt, 3 cents.

187 kilowatt hours per month, per connected kilowatt, 2½ cents.

250 kilowatt hours per month, per connected kilowatt, 2 cents.

366 kilowatt hours per month, per connected kilowatt, 1½ cents.

628 kilowatt hours per month, per connected kilowatt, 1 cent.

720 and over kilowatt hours per month, per connected kilowatt, 0.9 cent.

Intermediate kilowatt hours consumption shall be charged at intermediate rates.

Rates for power purposes based on a connected load of 21 to 100 horsepower, inclusive, of 746 watts per horsepower per month, shall be as follows:

0 to 100 kilowatt hours per month, inclusive, per connected kilowatt, 4 cents.

138 kilowatt hours per month, per connected kilowatt, 3 cents.

219 kilowatt hours per month, per connected kilowatt, 2 cents.

304 kilowatt hours per month, per connected kilowatt, 1½ cents.

480 kilowatt hours per month, per connected kilowatt, 1 cent.

540 kilowatt hours per month, per connected kilowatt, 0.9 cent.

720 and over kilowatt hours per month, per connected kilowatt, 0.7 cent.

Intermediate kilowatt hours consumption shall be charged at intermediate rates

Rates for power purposes based on a connected load of 101 horsepower and over, of 746 watts per horsepower per month, shall be as follows:

0 to 100 kilowatt hours per month, inclusive, per connected kilowatt, 3 cents.

157 kilowatt hours per month, per connected kilowatt, 2 cents.

215 kilowatt hours per month, per connected kilowatt, 1½ cents.

336 kilowatt hours per month, per connected kilowatt, 1 cent.

430 kilowatt hours per month, per connected kilowatt, 0.8 cent.

590 kilowatt hours per month, per connected kilowatt, 0.6 cent.

720 and over kilowatt hours per month, per connected kilowatt, 0.5 cent.

Intermediate kilowatt hours consumption shall be charged at intermediate rates.

A minimum charge of $1 per month shall be made for each connected horsepower.

The rate for electric elevator service shall be 2½ cents per kilowatt hour, subject to a minimum monthly charge of $1 per connected horsepower.

The rate for street lighting shall be 4½ cents per kilowatt hour, measured at the substation, lamps and maintenance included.

Before the municipal plant was projected the rate of residence lighting for the first current used per month was 20 cents per kilowatt hour. In 1902, when construction work was begun on the municipal plant, the private corporation reduced its rate to 12 cents per kilowatt hour. When the first contract was taken by the municipal plant in 1905 its rates for residence lighting were fixed at 8½ cents for the first 20 kilowatt hours per month, 7½ cents for the second 20 kilowatt hours per month, 6½ cents for the third 20 kilowatt hours per month, and 4 cents for all in excess of 60 kilowatt hours per month. At this time the private corporation lowered its rate to 10 cents for the first 20 kilowatt hours, 9 cents for the second 20 kilowatt hours, and 8 cents for the third 20 kilowatt hours, with a 10 per cent discount for prompt payment.

In the beginning of 1910, when the number of customers of the municipal plant had begun to increase rapidly, the private corporation again reduced its rates to 9½, 8½, and 7½ cents, with 10 per cent discount for prompt payment, which made its rate practically equivalent to that of the municipal plant. In June, 1911, the municipal plant lowered its rate for residence lighting to 7 cents for the first 60 kilowatt hours and 4 cents for all in excess of 60 kilowatt hours per month, and at the same time reduced the minimum monthly charge which had heretofore been $1 to 75 cents. In November, 1911, the private corporation reduced its rate to meet that of the city. In June, 1912, the municipal plant again reduced its rate to 6 cents per kilowatt hour for the first 60 kilowatt hours per month and 4 cents for all in excess of 60 kilowatt hours per month, and fixed the minimum monthly charge at 50 cents. The private corporation reduced its rate to meet that of the city in July of the same year. While it would be impracticable to quote all the various rates for business and power that have been in effect in the city, these rates have, in general, declined since the municipal plant began operating in a manner similar to the rates for residence lighting.

The rate charged by the private corporation for street lighting in 1905 was $66 per year per 6.6 ampere arc lamp, and $15 per year per 30 candlepower incandescent. The rate charged by the municipal plant up to 1913 was $54 per year per 6.6 ampere arc, and $13.80 per year per 40 candlepower incandescent. This was a reduction of 18 hours per month and 4 cents for all in excess of 60 kilowatt hours per month per cent for the arc lamp, and an 8 per cent reduction in price with 33 per cent increase in light for the incandescent lamp. When the cluster lighting system was constructed, the allowance from the general fund to the lighting department was:

5-globe cluster lights, 200 watt	$42
3-globe cluster lights, 120 watt	30
1-globe cluster lights, 75 watt	21

At the beginning of 1913 the rate fixed by ordinance for street lighting was 4½ cents per kilowatt hour for all current used, measured at the distributing station. This rate includes maintenance and operation of the entire street-lighting system.

Under the new rate any increase in the efficiency of lighting or distribution will go to benefit the city. With the introduction of the new nitrogen-filled tungsten lamps by the lighting department there has been a marked decrease in the rate per candlepower per year for street lighting.

Statement of revenues, expenses, and surplus earnings.

Years.	Revenues.	Expenses, including interest.	Depreciation.	Surplus.	Deficit.
1905	$45,470.10	$64,346.85			$18,876.75
1906	117,299.93	88,819.37	$39,505.99		11,025.43
1907	198,793.27	129,475.53	45,231.38	$24,086.36	
1908	317,840.18	186,882.06	104,424.65	26,533.48	
1909	468,386.65	225,864.23	143,063.14	99,459.28	
1910	598,514.92	299,550.76	195,537.00	103,427.16	
Total	1,746,305.05	994,938.79	527,762.16	253,506.28	29,902.18

The depreciation and surplus funds have thus far been used in making extensions to the plant.

Year.	Revenues.	Expenses.	Depreciation.	Surplus.	Deficit.
1911	$727,383.79	$412,367.99	$161,581.57	$153,434.23	
1912	786,932.89	502,637.65	88,035.71	191,696.53	
Two years	1,514,316.68	915,005.64	249,617.28	345,130.76	

CITY LIGHT.

(Bulletin No. 11.)

Do you know, Mr. Taxpayer, that your city light plant is the foremost municipal plant in America? It has made good. It is in no sense a tax burden. It has cut the rates for lighting your homes to one-third the former rates. The correct financial statement for 1913 is as follows:

Revenues.

Sales of current to private individuals	$659,673.08
Miscellaneous revenues	5,714.28
Municipal buildings and street lighting	245,089.99
Total revenues	910,477.35

Expenses.	
Operation, maintenance, and reconstruction	358,861.82
Interest	83,625.00
Depreciation	193,332.85
Sinking fund	32,400.00
Total expenses	668,219.67
Net surplus earnings	242,257.68
Total	910,477.35

Mr. Taxpayer, we have invested $1,500,000 of our earnings in plant extension; we have forced a reduction in light rates amounting to a saving of $3,000,000 annually on your light and power bills. This is equal to three-quarters of the taxes you pay to run your city government. Watch for our next bulletin.

J. D. ROSS,
Superintendent of Lighting.

Mr. Chairman, can any man look over these facts and then doubt the wisdom of municipal ownership of public utilities?

In the year 1913 the net surplus earnings, clear of all expenses, including depreciation, brought to the people of the city of Seattle $242,257.68; and that amount, sir, at the extremely low rates above given.

At that rate of earnings, the city of Washington, a city of approximately the same population, where the expenses and depreciation should not exceed in amount the Seattle figures—and would not if Great Falls were developed—and with the present rates charged here, this city should have net earnings of over three-quarters of a million dollars annually.

The people should have this benefit. It is due them. The administration should wake up on this question of municipal ownership, develop Great Falls, take over the lighting and street railway systems, and demonstrate to the country that it recognizes the common rights of the whole people.

This amendment giving municipalities preference over private concerns should carry; common right demands it.

Mr. SMITH of Minnesota. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Minnesota offers an amendment to the amendment, which the Clerk will report.

The Clerk read as follows:

After the proviso insert:

"*Provided*, That as between contesting applicants for a permit hereunder, due regard shall be given to the use and purpose for which such permit is required, priority of purpose and of benefits conferred by such permit, and project to rank in the following order:

"First. Benefits to navigation and conservation of water resources.

"Second. Public use of the State, the municipal subdivisions thereof, and public institutions.

"Third. Industrial use for agriculture and mining.

"Fourth. Commercial power for sale, barter, and exchange, and for use by public-service corporations.

"Fifth. Use for manufacturing industries."

Mr. SMITH of Minnesota. Mr. Chairman, I wish to call the attention of the committee to the law of British Columbia on this subject, enacted in 1909 and amended in 1911. It is as follows:

All such licenses shall be issued with due regard to the purposes for which they are required and according to the following order, except in so far as such order is varied by regulation or by direction of the minister: First, licenses for domestic purposes; second, licenses for municipal purposes; third, licenses for irrigation purposes; fourth, licenses for steam or manufacturing purposes; fifth, licenses for power purposes; sixth, licenses for mining purposes; seventh, licenses for lumbering purposes.

Gentlemen, it occurs to me that any bill that this House passes having for its purpose the regulation of the construction of dams across navigable rivers, and the regulation of such dams and the power and electric current generated thereby, should include the provisions in reference to priority of purpose and use which our neighbor to the north has seen fit to adopt and make a part of its laws on this subject. My colleague has pictured the true situation at Minneapolis and St. Paul, and it would be an injustice to these cities if they were compelled to go into the open market and bid for this power against the trust that has control of practically all the water powers of the State of Minnesota except this high dam. I believe the term of the lease could be safely left to the discretion of the Secretary of War, as provided in the committee bill; however, the term of the lease is not of paramount importance. A guaranty in the bill that the municipalities and the State would have a prior right to the use of this power is at least of as much consequence to the municipalities and the State as the length of the term of the lease, and I trust that the amendment that I have offered will be adopted, because nowhere in this bill is there any provision giving to the State or subdivision thereof any privilege over that granted to public-service corporations, which is contrary to the policy adopted by all progressive countries that have enacted legislation covering this subject. Furthermore, if the amendment which I have proposed is agreed to, every State and subdivision thereof which desires to use the water power generated by any public dam will have a prior right to obtain the same over that of public-service corporations. It will also lighten the burden of the Secretary of War in awarding these leases by establishing a just and equitable rule of priority.

The authors of the pending measure have wisely provided in their bill that the interests of navigation shall be paramount to the use of such dams by grantees for power purposes, thus recognizing the principle of the priority of use and purpose as to navigation. The proposed amendment extends the principle of priority to public uses of the State, the municipal subdivisions thereof, and public institutions. If the State and the municipal subdivisions thereof are to be denied priority in the use of the water in navigable rivers over that of public-service corporations, then the State or its subdivisions may be denied the use of water for domestic purposes, which is an unheard-of doctrine and one to which the American people will never consent.

Mr. STEVENS of Minnesota. Mr. Chairman, I ask unanimous consent to make a correction. I stated that the Secretary of War had not given authority for more than a 50-year term. On the Tennessee, at Hales Bar, the city of Chattanooga had a grant of use of water power for 99 years. At White, Ark., above Lock No. 3, J. A. Omberg, jr., has a grant for the use of water power for 99 years.

The CHAIRMAN. The question is on the amendment to the amendment.

The question was taken, and the amendment to the amendment was lost.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from New Hampshire.

The question was taken; and on a division (demanded by Mr. STEVENS of New Hampshire) there were 30 ayes and 13 noes.

So the amendment was agreed to.

The Clerk read as follows:

SEC. 15. That no works constructed, maintained, and operated under the provisions of this act shall be owned, trusteed, or controlled by any device or in any manner so that they may form a part of, or in any manner effect, a combination in the form of an unlawful trust or form the subject of an unlawful contract or conspiracy to limit the output of electric energy or in restraint of the generation, sale, or distribution of electric energy, or the exercises of any other business contemplated: *Provided, however*, That it shall be lawful under the approval of the Secretary of War for different grantees to exchange and interchange currents, to assist one another whenever necessary, by supplementing the currents or power, and enable any grantee to secure assistance to carry on the business and supply his customers, account ing therefor and paying therefor under regulations to be prescribed by the Secretary of War.

In no case shall such an arrangement be permitted to raise the price, render unjust or unfair any practice, work, or discrimination, or operate in restraint of trade.

Mr. STEVENS of New Hampshire. Mr. Chairman, I would like to suggest an amendment in the first line of the section which I think the committee will be willing to accept. It is this: Page 16, line 10, after the word "no," insert the words "rights or privileges granted under this act and."

The CHAIRMAN (Mr. MOON). The Clerk will report the amendment.

The Clerk read as follows:

Page 16, line 10, after the word "no," insert the words "rights or privileges granted under this act and."

Mr. THOMSON of Illinois. Will the gentleman yield?

Mr. STEVENS of New Hampshire. Yes.

Mr. THOMSON of Illinois. Ought not the gentleman to add the word "no" to his amendment?

Mr. STEVENS of New Hampshire. Yes; I will modify the amendment by adding the word "no."

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

Page 16, line 10, after the word "no," insert the words "rights or privileges granted under this act and no."

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was agreed to.

Mr. STEVENS of New Hampshire. Mr. Chairman, I offer another amendment.

The Clerk read as follows:

Add at the end of the section a new paragraph, to read:

"If any grantee shall violate the provisions of this section he shall forfeit all rights and privileges conferred by this act."

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

Mr. STEVENS of New Hampshire. Mr. Chairman, I would like to offer an amendment as a new section, to be inserted at this place, as section 16a. It does not seem to fit in with section 15. It is this:

Except upon the written consent of the Secretary of War, no sale or delivery of power shall be made to a distributing company.

Mr. ADAMSON. If that goes in at all, it ought to go into section 11.

Mr. STEVENS of New Hampshire. Then, Mr. Chairman, I will ask unanimous consent to return to section 11.

The CHAIRMAN (Mr. GARNER). The gentleman from New Hampshire asks unanimous consent to return to section 11 for the purpose of offering an amendment.

Mr. UNDERWOOD. Reserving the right to object, I suggest that we finish the bill first. I do not know that I will object then to going back.

Mr. ADAMSON. The gentleman from New Hampshire was trying to offer an amendment to this section, and I suggested that, if it went in at all, it ought to go into section 11.

Mr. STEVENS of New Hampshire. I think it might go in in the place I offered it. I made the request to return to section 11 at the suggestion of the chairman of the committee.

Mr. MANN. Let the amendment be reported.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of section 11 add a new paragraph, to read as follows: "That, except upon the written consent of the Secretary of War, no sale or delivery of power shall be made to a distributing company."

The CHAIRMAN. Is there objection to returning to section 11 for the purpose of offering this amendment? [After a pause.] The Chair hears none. The question is on the amendment offered by the gentleman from New Hampshire.

Mr. STEVENS of New Hampshire. Mr. Chairman, I would like to say just a word about the amendment unless the gentleman from Georgia accepts the amendment.

Mr. ADAMSON. I accept the amendment.

Mr. COOPER. Mr. Chairman, I do not rise to oppose the amendment. It is in accord with the general policy of the bill which is to convey tremendous power over the navigable streams of the country to the Secretary of War. I wish to direct the attention of the committee to the fact that this measure furnishes an exception to the general policy of the Government in disposing of the public property. The general bridge act allows no bridge to be constructed over any navigable stream without the subject first being brought before Congress, and Congress itself knowing where and by whom it is proposed to have the bridge constructed and being afforded an opportunity to grant or to refuse to grant the necessary authority to construct that particular bridge. And the other day the gentleman from Alabama [Mr. UNDERWOOD] secured the adoption of an amendment to the reclamation law by which hereafter the power to dispose of the millions coming from the sale of public lands is not to be exercised under the unlimited discretion of the Reclamation Bureau, but by which every reclamation project must be submitted to the appropriate committees of Congress and then to the Congress itself before any money for reclamation purposes can be expended. But here we propose to turn over two or three hundreds of millions of horsepower under a general law, and to turn the navigable streams, so far as the construction of dams and the selection of grantees are concerned, over to the unlimited discretion of the Secretary of War and the Chief of Engineers.

Mr. ADAMSON. Mr. Chairman, will the gentleman yield?

Mr. COOPER. Yes.

Mr. ADAMSON. I wish to call the attention of the gentleman to the fact that it is necessary under this bill that each project shall first go through Congress by a special act before the Secretary of War can approve of it.

Mr. COOPER. I had not so understood the bill.

Mr. ADAMSON. That is the law. There must be a special bill authorizing the Secretary of War to approve plans before it can be done, and this proposition relates only to the distribution of power and the regulation of the charges and practices after the dam is completed.

Mr. COOPER. I did not so understand the bill.

Mr. ADAMSON. It does not change that feature of the law at all. They will always have to bring in special bills.

Mr. ESCH. Mr. Chairman, my colleague may have had in mind the proposed bill of the Secretary of War.

Mr. COOPER. Mr. Chairman, I know that there was a bill in which it was provided that exclusive power in the particulars I have mentioned should be given to the Secretary of War.

Mr. ADAMSON. That was the Secretary's bill, but we did not adopt it in toto.

Mr. COOPER. Then I was in error. I had not understood that to be the case, not having been here when the bill was taken up. The print of this bill is such a difficult thing to read, there being the text of the bill, with some amendments in italics and some in brackets, that I had not observed that the original bill proposed by the Secretary of War had been changed in that particular. It is exceedingly significant that the Secretary of War should propose a bill for a general law to authorize him, in his discretion and without the previous knowledge of Congress, to permit dams to be built in the navigable streams of the country, wherever and by whomsoever he might see fit to have them built. No man ought to have such a power as that.

Mr. ADAMSON. I call the attention of the gentleman from Wisconsin to the fact that in the other bill about the public domain the absolute power and discretion are given to the Secretary of the Interior without any special act of Congress.

Mr. SMITH of Minnesota. Mr. Chairman, I ask unanimous consent that the amendment of the gentleman from New Hampshire be again reported.

The CHAIRMAN. Without objection, the amendment will be again reported.

There was no objection, and the Clerk again reported the amendment.

Mr. SMITH of Minnesota. Mr. Chairman, I move to strike out the last word. This brings to our attention the very thing that I tried to call to the attention of the committee in my amendment, and that is that it is necessary for the Secretary of War to have control over the regulation and services of electric current supplied to connecting companies. As a general rule, the lessee generates the power and sells it to subsidiary companies; and if the Secretary of War has not the power to regulate the service and charges of the subsidiary or connecting companies, in what way will the consumer be protected from an admitted monopoly?

Mr. McKENZIE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Minnesota. Certainly.

Mr. McKENZIE. Mr. Chairman, I have listened to this discussion, and I have listened to the remarks of the gentleman from Wisconsin [Mr. COOPER]. I would like to ask the gentleman from Minnesota [Mr. SMITH], who seems to have taken a great deal of interest in this bill, if he does not consider that this is an unwise delegation of power to the Secretary of War, and would it not be the part of wisdom for Congress to establish a scale of charges rather than to give the Secretary of War the unlimited power to say what the prices shall be for the energy sold as developed by these water powers?

Mr. SMITH of Minnesota. Mr. Chairman, in the main I agree with the gentleman from Illinois [Mr. McKENZIE]. I believe that the power that you are placing in the hands of the Secretary of War in this bill is greater than he should have. I believe that it is placing a burden upon him that he is not fitted to carry. We had an illustration here yesterday of what war is, and how necessary the Secretary of War is in war times. This legislation is to take care of matters in times of peace.

It is the industry and commerce of this country that we are legislating for, and I heartily agree that we should at this time provide a commission that will, at least, rise to the dignity of a commission that can handle such a vast proposition. It is unwise to build up in the War Department a bureau that is unnecessary when we have other departments of our Government that are now equipped to handle the matter, in a partial way at least, though probably not the best.

But to get back to the original proposition, and that is that in any bill you pass at this time if you are going to have regulation that amounts to anything you have to have it extend to subsidiary and connecting companies. Furthermore, the amendment that is offered simply requires the consent of the Secretary of War to the sale to subsidiary companies. It is of more value to the consumer than the present section. If you are going to amend this section, why not adopt a provision that will extend effective regulation over service and charges to the connecting or subsidiary company? I am glad that the gentleman from New Hampshire has seen the necessity for amending the committee bill in this respect.

Mr. STEVENS of New Hampshire. Mr. Chairman, I ask unanimous consent to modify the amendment by adding at the end the words "except in case of an emergency."

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the amendment.

The Clerk read as follows:

Modify the amendment by adding at the end of it the words "except in case of an emergency."

The question was taken, and the amendment as modified was agreed to.

The Clerk read as follows:

SEC. 17. That all of the provisions in sections 2, 3, 4, 5, 11, and 15 of this act fixing conditions of the consent of Congress and regulating

practices and charges between the grantees and their customers for the construction, maintenance, and operation of dams in the navigable waters of the United States shall apply alike to all existing enterprises in operation or previously authorized in the navigable waters of the United States in which the approval and supervision of the Secretary of War and Chief of Engineers are required, as well as to new projects in the navigable waters of the United States for which the consent of Congress may hereafter be granted, in the construction, maintenance, and operation of which the approval and supervision of the Secretary of War and Chief of Engineers shall be required. All conflicting provisions contained in any previous act of Congress granting consent for the construction, maintenance, and operation of any dam in the navigable waters of the United States in the construction, maintenance, and operation of which the approval and supervision of the Secretary of War and the Chief of Engineers were required are hereby repealed, and all such previous authorizations are so altered, amended, and modified hereby as to conform to all the conditions and provisions in said sections 2, 3, 4, 5, 11, and 15 of this act.

Mr. RAINEY. Mr. Chairman, I move to strike out the last word for the purpose of getting some information from the chairman of the committee. I would like to ask the chairman of the committee if any companies are now operating under a perpetual franchise?

Mr. ADAMSON. I understand some are.

Mr. RAINEY. Is it the intention of the committee to reach these perpetual franchises and limit them so that they will run only for 50 years?

Mr. ADAMSON. That is my desire. In effect it is first to put a tax on each, which we have done, and make the old ones pay as well as the new, and then to put the conditions, regulations, and requirements upon the old ones as well as the new. As to the 50-year proposition, whether it can be done or not I do not know. I doubt if you can, but I do not know.

Mr. RAINEY. This section makes it applicable to existing projects?

Mr. ADAMSON. If the gentleman will let me answer just a little further.

Mr. RAINEY. Certainly.

Mr. ADAMSON. I felt like if we were going to put strict regulations which would reach to the new ones they ought to relate back to the old ones in granting consent to whom we had reserved that right, and that in fixing conditions under which they should build and operate those conditions ought to relate to the old ones, and if the public in any locality could be protected in the same way the same burden should be put upon all alike, the old and the new. As to the 50-year proposition I leave that to the gentleman.

Mr. RAINEY. That being the intention of the committee, I would like to call attention to the fact that this section of this bill only makes it applicable to provisions in sections 2, 3, 4, 5, 11, and 15 of this act.

Mr. ADAMSON. If there is any other section that ought to be put in there, it is all right.

Mr. RAINEY. The only other sections reaching the Keokuk Dam and these perpetual franchises, and making it 50 years instead of 10,000 years, are sections 9 and 10.

Mr. ADAMSON. I am willing to say that all of the provisions of this bill shall apply, if practicable.

Mr. RAINEY. Then, Mr. Chairman, I offer this amendment: After the word "five," in line 21, page 17, insert the words "nine and ten," and after the word "five," in line 19, page 18, insert the words "nine and ten."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

After the word "five," in line 21, page 17, insert the words "nine and ten," and after the word "five," in line 19, page 18, insert the words "nine and ten."

The question was taken, and the amendment was agreed to.

Mr. RAKER. Mr. Chairman, I move to strike out the last word. The original section 17 of this bill as presented and reported by the committee was so far-reaching I took occasion to go into the matter, and desire to insert in the RECORD at this time what a far-reaching effect it would have had upon the legislation of the country had it been adopted. The present amended section 17, which has been substituted by the committee, practically relieves those embarrassing conditions. I feel that I ought to call the attention of the committee to the fact and show how sometimes we override past legislation and do not fully consider the repealing clauses of bills. Much consideration was given to the new section 17, which was substituted for the original section 17, as it was first reported to the House. The amendments will remove all danger of its repealing or affecting the acts of Congress relating to the public lands under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture as well as those special acts of Congress, such as the Hetch Hetchy bill and others of like import.

The following acts would have been repealed or materially modified, which would have been most injurious, namely:

ACTS OF CONGRESS WHICH MIGHT HAVE BEEN REPEALED OR DIRECTLY OR INDIRECTLY AFFECTED BY HOUSE BILL 16053, SECTION 17, IF THE SAME HAD NOT BEEN AMENDED.

The act of March 3, 1891 (26 Stat., 1095), amended by act of May 11, 1898 (30 Stat., 404), an act authorizing grants for irrigation reservoirs, etc., on public lands and reservations.

The act of February 15, 1901 (31 Stat., 790), authorizing use of public lands for electrical plants, dams, etc.

The act of February 1, 1905 (33 Stat., 628), authorizing grants for dams and reservoirs in forest reserves for municipal or mining purposes.

The Federal reclamation act of June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplemental thereto.

Sections 2339 and 2340 of the Revised Statutes.

The grant to the city of Los Angeles (34 Stat., 801).

The grant to the city of San Francisco, act of December 19, 1913.

The grant to the Edison Electric Co. (34 Stat., 163).

Various other private grants to cities, corporations, and individuals authorizing the occupation of public lands by dams and reservoirs for irrigation and power purposes.

So far as it relates to dams and navigable waters, the river and harbor act of March 3, 1899 (30 Stat., 1150–1152).

The general dam act of June 21, 1906 (34 Stat., 386), reenacted June 23, 1910 (36 Stat., 593).

Numerous special acts by which Congress authorized the construction of dams in navigable waters.

It is happy indeed that the committee have changed this section 17 and put it in the shape now so as not to repeal these various acts and others not referred to.

Mr. MANN. Will the gentleman yield?

Mr. RAKER. Yes; I yield to the gentleman.

Mr. MANN. Why does the gentleman and others say this act would be repealed and all of these other acts?

Mr. RAKER. Well, the language of this section reads as follows:

SEC. 17. That all provisions in this act contained fixing conditions upon which the consent of Congress is granted for the construction of dams shall apply alike to all existing enterprises in operation or authorized as well as to new projects to which the consent of Congress may hereafter be granted. All conflicting provisions contained in any act of Congress granting consent to the construction of any dam are hereby repealed, and all such previous authorizations are so altered, amended, and modified hereby as to conform to all of the conditions and provisions incorporated in this act.

It is a general sweeping statement that all of these authorizations would be repealed. Now every private dam, every act granting a private individual the right to dam up any waters of a stream, would be repealed; and if the contention is correct that the Secretary of War should have power to follow up every stream to its source, saying that the water coming down from that may be used for the purpose of navigation, there would not be a private dam or an irrigator or otherwise upon the public domain or any branch of those streams that would not be affected by the bill, and I am satisfied that the committee did not intend it that way, because their subsequent amendment, after the situation was called to their attention, shows it, and they have happily left the law upon the subject as it now exists and provided that these laws are not affected. This is as it should be.

We of the West were much interested in this legislation, and we were well pleased when the committee having the bill in charge consented to the amendments suggested to section 17. We could not afford to leave any doubt as to its effect on the Hetch Hetchy bill and the other acts of Congress, which I have just read, and the law relating to the use of public lands upon which dams, ditches, canals, and so forth could be built and used in general irrigation.

Mr. MANN. Mr. Chairman, I do not know who had this nightmare, but whoever it was had eaten a bad kind of pie.

Mr. ADAMSON. There is no doubt about that.

Mr. MANN. If it be true, however, that the provision inserted, which the gentleman refers to, is necessary, then under the existing law these dams which have been constructed have been constructed in violation of law, because existing law is in practically the same language as in this law as to the cases to which they are applied. There is no distinction. This bill under its terms applies only to those cases where the consent of Congress is required for the construction of dams across navigable waters of the United States. That is in the first section, and that is all there is to it, and that is in the existing law.

Mr. RAKER. Will the gentleman yield right there?

Mr. MANN. Yes.

Mr. RAKER. While it may be a nightmare with some, I do not believe it is with a great majority.

Mr. MANN. Well, I did not yield for that. If the gentleman wants to say he has not the nightmare, that is all right. No man who has had a nightmare admits it when he feels good. The man who has the nightmare thinks it is reality. That is the trouble with the gentleman.

Mr. RAKER. As joining in this nightmare I find the legal advisers of the Department of the Interior and the Geological Survey and other great departments of this Government agreeing with me in this matter.

Mr. MANN. I do not think they have any legal advisers in either of those departments. If they have, they never communicate with Congress. Of all the rotten bills that are ever sent from any department of the Government, the rottenest come from the Interior Department—form, substance, and everything else. The gentleman would not claim they had a lawyer up there. But if it is true, the gentlemen up there ought to examine the existing law, which has been on the statute books since 1906, and which controls the construction of dams in navigable waters of the United States.

Mr. RAKER. This does not say "navigable waters."

Mr. MANN. It does say "navigable waters." That is exactly what it says. That is the trouble with most of the gentlemen. They never read what it says. This is what it says:

SECTION 1. That when consent has been or may hereafter be granted by Congress, either directly or indirectly, through any duly authorized official or officials of the United States, to any person to construct and maintain a dam for water power or other purpose across or in any of the navigable waters of the United States—

And the bill does not apply to anything at all except those cases, 14 of them, where the Government has constructed other works and leases its power. It is purely a case of nightmare. The Interior Department attorney needs to take some pills.

Mr. RAKER. Mr. Chairman, I ask unanimous consent that I may proceed for three minutes.

The CHAIRMAN. The gentleman from California asks unanimous consent to proceed for three minutes. Is there objection?

Mr. ADAMSON. Mr. Chairman, reserving the right to object, I understand the gentleman is satisfied with the section as it is now.

Mr. RAKER. I am.

Mr. ADAMSON. Then why do you want to debate it?

Mr. UNDERWOOD. Wait until the next section is read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 18. That the provisions of this act shall not apply to irrigation or power dams or other projects under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture upon the public lands of the United States, nor grants to municipal corporations for the use of water power or water power for municipal purposes, heretofore directly authorized by Congress or indirectly authorized through some department or official of the Government of the United States.

Mr. THOMSON of Illinois, Mr. TAYLOR of Colorado, and Mr. FERRIS rose.

The CHAIRMAN. The gentleman from Oklahoma [Mr. FERRIS] is recognized.

Mr. FERRIS. Mr. Chairman, I move to strike out, on page 18, line 25, beginning with the word "hereafter," the rest of that section. And before that is voted on I want to say that this section was fixed up at my own request and through the generosity of the chairman of the committee. But the department now feels that those words have a limiting effect that ought not to be in the bill, and the chairman has very kindly consented to modify it.

Mr. ADAMSON. I accepted the whole section against my judgment, because the gentleman requested it. If he wants to withdraw part of it, it is satisfactory to me.

Mr. FERRIS. The chairman is correct about it. The chairman has been doubly generous to me. I owe him a debt of gratitude as well as affection. I gladly acknowledge it. This all came up through fear of repealing some acts that no one intended to repeal.

Mr. THOMSON of Illinois. I would like to know what the amendment is.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 18, line 25, after the word "purposes," strike out the remainder of the section, which reads as follows:

"Heretofore directly authorized by Congress or indirectly authorized through some department or official of the Government of the United States."

The CHAIRMAN. The question is on agreeing to the amendment.

Mr. RAKER. Mr. Chairman, in response to what was said before——

Mr. ADAMSON. I have accepted the amendment.

Mr. RAKER. I know you have, but I want a few moments. Section 18 is directly in line with what I stated, which the committee has placed here in the bill by this new section, to obviate and relieve and put in condition the very things referred to, namely:

That the provisions of this act shall not apply to irrigation or power dams or other projects under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture upon the public lands of the United States, nor grants to municipal corporations for the use of water power or water power for municipal purposes.

That of itself shows there must have been a great many of us who had "nightmare." If nightmare brings results, brings proper legislation, prevents the repealing of good laws, and maintains upon the statute books that which ought to be and takes off that which ought to be taken off, it is a good thing to have that kind of a nightmare. The gentleman from Oklahoma [Mr. FERRIS], chairman of the Committee on the Public Lands, has given much thought to this subject, and has given much thought to the same subject in regard to the bill before the Committee on the Public Lands. I have joined in this work with the gentleman from Oklahoma [Mr. FERRIS]. And I want to say to the gentleman from Illinois [Mr. MANN] that the committee had during all of its hearings, and whenever it was necessary, good, competent assistance from the Department of the Interior. We had competent assistance from able lawyers from the Department of the Interior, who, we believe, understand the land laws and who have had wide experience in these matters. And they gave us splendid assistance and they have assisted in bringing about this splendid result.

The section under consideration as originally presented read as follows:

SEC. 17. That all provisions in this act contained fixing conditions upon which the consent of Congress is granted for the construction of dams shall apply alike to all existing enterprises in operation or authorized, as well as to new projects to which the consent of Congress may hereafter be granted. All conflicting provisions contained in any act of Congress granting consent to the construction of any dam are hereby repealed, and all such previous authorizations are so altered, amended, and modified hereby as to conform to all of the conditions and provisions incorporated in this act.

The section and a new section 18 as amended will read as follows:

SEC. 17. That all of the provisions in sections 2, 3, 4, 5, 11, and 15 of this act, fixing conditions of the consent of Congress and regulating practices and charges between the grantees and their customers for the construction, maintenance, and operation of dams in the navigable waters of the United States shall apply alike to all existing enterprises in operation or previously authorized in the navigable waters of the United States in which the approval and supervision of the Secretary of War and Chief of Engineers are required, as well as to new projects in the navigable waters of the United States for which the consent of Congress may hereafter be granted, in the construction, maintenance, and operation of which the approval and supervision of the Secretary of War and Chief of Engineers shall be required. All conflicting provisions contained in any previous act of Congress granting consent for the construction, maintenance, and operation of any dam in the navigable waters of the United States in the construction, maintenance, and operation of which the approval and supervision of the Secretary of War and the Chief of Engineers were required are hereby repealed, and all such previous authorizations are so altered, amended, and modified hereby as to conform to all the conditions and provisions in said sections 2, 3, 4, 5, 11, and 15 of this act.

SEC. 18. That the provisions of this act shall not apply to irrigation or power dams, or grants to municipal corporations affecting the use of water or water power for municipal purposes, or other projects under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture upon the public lands of the United States.

Mr. MANN. Mr. Chairman, when the water-power bill from the Public Lands Committee comes before the House, I think probably the gentleman will have a better understanding as to the incapacity of some of the draftsmen of the bill. But I would like to ask what is the purpose of saying that Congress can not grant a franchise to a municipal corporation to construct a dam across navigable waters for the generation of electric power under the terms of this act?

Mr. ADAMSON. I do not understand the question of the gentleman.

Mr. MANN. Why can we not pass a bill giving the city of Chattanooga, if there is such an opportunity, the right to construct a dam under this act?

Mr. ADAMSON. It was my pleasure to advise the gentleman in numerous conferences, but without effect, that Congress had the power to do that in any case where it chose.

Mr. MANN. You can not do that under this act.

Mr. ADAMSON. Congress can repeal it if it chooses.

Mr. MANN. Congress can repeal it, of course. Congress can repeal the whole thing.

Mr. ADAMSON. I assure the gentleman from Illinois that it has been placed in there for the purpose of——

Mr. MANN. It has not been placed in there yet. That is what I am trying to find out about. Who is it that wants to say we shall not have the power——

Mr. ADAMSON. The gentleman refers to this section?

Mr. MANN. I refer to section 18.

Mr. ADAMSON. We assented to that for no reason on earth except that it might be a specific for the nightmare. [Laughter.]

Mr. MANN. I am not talking about the nightmare.

Mr. FERRIS. We will talk about "nightmare" before we get through with this. The gentleman from Illinois has romped around here talking about that long enough.

Mr. MANN. I am sorry if I have offended the feelings of the gentleman from Oklahoma.

Mr. FERRIS. The gentleman has, and he has abused other Members, and he has abused himself by abusing the officials of the Interior Department. It is beneath the dignity of the gentleman to do it. The gentleman is one of the ablest Members of the House, and he should not have done it.

Mr. MANN. Oh, the gentleman need not sugar coat it. The gentleman so often comes to me for help, which I give him, that I am perfectly willing to take a little scolding from the gentleman because he is trying to insert an absurd provision in the bill. Why not say Congress shall not have the power to grant a franchise to a municipal corporation to construct a dam under the provisions of this act?

Mr. FERRIS. When the gentleman is through I shall speak in my own time.

Mr. BRYAN. Mr. Chairman, I want to go back and take in this word now.

Mr. FERRIS. Mr. Chairman, I naturally hesitate long even to assume a momentary quarrel with the gentleman from Illinois [Mr. MANN]. But the gentleman in two or three speeches here has, as I believe, without warrant assaulted the Interior Department and has assaulted the Members of the House, and asserted that those who had earnest and patriotic thoughts on the subject had the "nightmare," and asserted that it was "rot" and that it was "meaningless," "idiotic," and so forth, using such words as that.

Now, irrespective of what becomes of this bill or what becomes of this section or of this language, it ill becomes the gentleman from Illinois, the leader of a great party, to stand here and grow abusive to Members of the House who are not his equals in debate and who are his juniors in years and service and everything else; and the gentleman, when he gets up here and screams out "idiocy" and unworthiness and attributes unpatriotic motives to men in the executive departments, assaults men who have served longer in the departments than he has served in the House. The gentleman ought not to do it. He replies to me that he renders favors and help to me. The gentleman oftentimes does do that, and I am thankful to him for it. But that is beside the question as to whether he can come into the House and become abusive to Members and abusive to the departments, whose officials can not come here on this floor and defend themselves.

Now, on the question at issue—it was asserted that those who felt that the original section 17 repealed certain laws now on the statute book had the "nightmare" and knew nothing, and were nonentities in this House—let me read this section to the House and see who is right about this matter. I do not attribute any erroneous motives to the Committee on Interstate and Foreign Commerce and I want to say that the members of that committee have been most generous and patriotic in trying to get a good bill, and they have been most considerate of those of us who, the gentleman has said, have the "nightmare"; and they have been most kind and courteous, so much so that they have endeared themselves to me and to others for all time.

But let us see who is right and who is wrong about this matter. Let us see who has the "nightmare." Section 17, on page 17, provides——

Mr. TOWNSEND. What is the gentleman reading from now?

Mr. FERRIS. I am reading from the original bill. Section 17 provides—

SEC. 17. That all provisions in this act contained fixing conditions upon which the consent of Congress is granted for the construction of dams shall apply alike—

To what?—

to all existing enterprises in operation or authorized, as well as to new projects to which the consent of Congress may hereafter be granted—

No matter whether it is the consent of Congress as to a navigable stream or to unnavigable waters or anywhere else. I read further:

All conflicting provisions in any act of Congress granting consent to the construction of any dam—

And so forth. I call attention to the fact that 72 per cent of the water power of this country was developed by the Department of Agriculture and the Department of the Interior and lies west of the Mississippi River, and the gentleman from Illinois does not know anything about it. He is just floundering around in abuse. I read:

All conflicting provisions contained in any act of Congress granting consent to the construction of any dam are hereby repealed, and all such previous authorizations are so altered, amended, and modified hereby as to conform to all of the conditions and provisions incorporated in this act.

Now, Mr. Chairman, what are the facts? Seventy-nine million dollars have been expended in irrigation west of the Mississippi River under the act of 1902, which is an authorization and a consent on the part of Congress, and every one of them would have been repealed by this original section 17.

No one wants to do that. The gentleman at the head of the Committee on Interstate and Foreign Commerce [Mr. ADAMSON], when I first went to him, told me that he did not want to do that. The gentleman from Alabama [Mr. UNDERWOOD], the leader of the House, when I went to him, told me he did not want to do that; and they both thought then, as the gentleman from Illinois [Mr. MANN] thought, that we were mistaken.

But what are the facts? The gentleman from Illinois rails about the fact that this is a bill affecting the navigable waters. There is not a man in this House to-day who can define "navigable waters." The courts do not even know. We tried to define it, and grew weary of the task. The Secretary of War, in a conference that we had with him, asserted that in his opinion small streams flowing down the mountain side that you could step across are a part of and a link in the chain in navigable waters; and if his theory is correct, under this bill and the original section 17 they could go out and kick out every irrigation dam in the West and let cactus and sagebrush take the place of the alfalfa fields, which are now producing happy and prosperous homes.

Is that a "nightmare"? Is that foolish? Does that condemn the department that advocates it? No. We have grown accustomed to sitting here idle and cringing while the gentleman from Illinois flounders around and becomes abusive of men who are not his equals in debate.

The gentleman can stand there and abuse some Members, can stand there and abuse all Members, and get away with it, I suppose; but when he misstates the facts in connection with his abuse, I will reply to him both now and in the future, as long as we are both in the House.

Section 17 has been modified, and properly so. I call attention to the fact that the original section 17 would have repealed the Hetch Hetchy grant. That was given through the consent of Congress. That is on public land. That bill was passed almost by unanimous consent in the first session of this Congress. We do not want to do an idle thing or a silly thing. We do not want to go off on a tangent here.

Section 18 is necessary, and must remain.

Mr. MANN. Mr. Chairman, I very much regret that the gentleman from Oklahoma [Mr. FERRIS] in reading section 17 did not read it to the House in order to furnish the information that is in the section.

Mr. FERRIS. I read it in toto, without a word missing.

Mr. MANN. The gentleman did not read it in toto. Here is the way he read it:

Shall apply to all existing enterprises in operation—

And so forth—

As well as to new projects—

And so forth.

I do not get it quite the way the gentleman said it, but that is substantially the way the gentleman said it.

Mr. THOMSON of Illinois. Will my colleague yield?

Mr. MANN. What for?

Mr. THOMSON of Illinois. Is not the gentleman from Illinois misunderstanding the gentleman from Oklahoma? As I understood the gentleman from Oklahoma [Mr. FERRIS], he read the language that is stricken out in our bill, and not the language beginning on line 20.

Mr. FERRIS. That was the original section, if the gentleman will pardon me.

Mr. MANN. I understood the gentleman to read section 17.

Mr. FERRIS. The original section 17, before it was stricken out.

Mr. MANN. Oh, then that is all right. I have not compared that.

Mr. FOSTER. Mr. Chairman, I do not see that it is necessary for Members to get excited over propositions before the House at this time. So far as I am individually concerned I am extremely happy, and I think my good friend from Oklahoma [Mr. FERRIS] and my colleague from Illinois [Mr. MANN] will feel the same way when they reflect for a moment, as they have both advocated an advanced position in water-power development. I remember, in the Sixty-second Congress some of

us objected to bills that were upon the Unanimous Consent Calendar providing for the construction of dams. The gentleman from Mississippi [Mr. HUMPHREYS], on February 7, 1911, demanded a second on a motion to suspend the rules and pass the bill (No. 32219) granting to the Long Sault Development Co. the right to construct a dam in the St. Lawrence River.

This bill proposed to grant a franchise for 99 years, and without the necessary provisions to protect the interests of the public. That motion was defeated, 66 Members voting for and 84 against the motion to suspend the rules and pass the bill, and it showed the first real test in Congress in favor of greater restrictions and provisions for building of these dams which would preserve the rights of the people. It has not been the policy of those who have advocated amendments to the general dam bill to impede development, but before granting these franchises we believe the rights of the people should be more thoroughly protected. These bills were at one time placed on the Calendar for Unanimous Consent, and some of them were originally passed in that way. In the Sixty-second Congress there were a number proposed and all were objected to at that time because no amendments would be accepted which some of us believed at that time were necessary to guard the interests of consumers. We believed that certain provisions ought to be put in the bills granting these franchises which were not in the original law of 1906 as amended by the act of 1910 providing for the construction of dams in navigable rivers. I realize that when the dam bill was passed which was proposed by my colleague from Illinois [Mr. MANN] it was probably the best bill that he was able to get through Congress at that time, and he did the best he could then to protect the rights of the people. This was not due to any lack of patriotism or devotion to the rights of the people, but because the great value of water power was not so well understood as now; but since the passage of that law the development of hydroelectric power has advanced very materially in the country, until now the bill that he proposed and had passed through Congress is not a bill that he would himself advocate at this time.

We go much further, and require more restrictions and reserve more rights to the people than would be possible under the original law. So, when this Congress has adopted many of the provisions that were advocated by some of us in the last Congress, I think my good friend from Oklahoma [Mr. FERRIS] and others in this House who took part in the fight for those provisions ought to be happy now that Congress has come to believe, as we did then, that these provisions should be placed in the bill. So I am pleased to realize that some of these provisions which we have been fighting for in the last three Congresses have been adopted and are made a part of this bill. The other day I took down the papers which I had used in the last Congress, and in looking over those amendments which were then proposed but not accepted at that time I found they were in line with the amendments which have been placed in this bill. We are advancing; and when we grant a franchise for 50 years, which is a long time in this world, those who are here to-day will be gone before the expiration of those franchises, and the advancement of hydroelectric development will be so great that any man living to-day, if he could come back to the world, would be surprised at the advancement that will have been made. Who knows but in a few years, before the life of one of these franchises shall expire, all these plants that are producing hydroelectric power and transmitting it over the country may be lined up in such a way that they will be serving the people on a continuous line from San Francisco to New York. I believe that now is the time to protect the rights of the people and not wait until all the franchises are given away. I believe we have placed amendments upon this bill that will help to preserve those rights of the people for all time to come, and in the future they will be under the control of Congress.

It is an easy matter for gentlemen to cry we are advocating foolish conservation or that we are trying to prevent any development of water power. I care nothing for such argument. When we call to mind that so many of our natural resources have been given away, it is not to be wondered at that the people demand now that their representatives shall preserve these natural resources for future use. These water-power franchises are becoming more valuable each day. The developments are coming so fast that in a few years they may be a thousand times more valuable than now. It does not seem right that when that time does come all these valuable assets should be gone. I am for the development of the water power of the country, but I want to know that they are not going to be taken by those who will form a monopoly exclusively for their own benefit and combine against the rights of consumers. If we can not get development without surrendering our rights, then it is far better that we should wait than to hastily give away this valuable asset, which now belongs to all the people. Let no man be deceived about water power. There are persons in this country seeking to secure these franchises, knowing their great value now and that they must increase very materially in a few years to come. We gave away valuable timber and mineral lands, until to-day we realize the necessity of a proper conservation of the natural resources we have left. Let us not now begin this extravagant waste by giving away the water power of the country and let it fall into the hands of the few who may use it in such a way as to be a detriment to the people. [Applause.]

Mr. BRYAN. Mr. Chairman, I move to strike out all after the word "States" in line 24, section 18.

The CHAIRMAN. The gentleman from Washington offers a substitute for the amendment offered by the gentleman from Oklahoma. The Clerk will report it.

The Clerk read as follows:

Page 18, line 24, after the word "States," strike out the remainder of the section.

Mr. BRYAN. The gentleman from Oklahoma [Mr. FERRIS] suggests to me that this amendment will be too far-reaching, but I want to call attention to the fact that a part of this bill is made to apply especially to municipal corporations, and it is improper for us to bind up the country with a provision that no part of this section shall apply to a municipal corporation, when there ought to be no reason why municipalities can not apply for and obtain grants just such as the Hetch Hetchy grant. So I do not see why the same kind of a provision ought not to apply to those corporations.

Mr. FERRIS. Many little towns and cities in your country have come to Congress and secured grants for waterworks, power dams, and water rights, and you do not want to repeal those. You want to let them stand just as they are. You do not want to bring the water supply for a little town of 1,500 people under a bill that has to do with navigation and power. There is an adequate law to govern them, and to subject them to this law which is under the War Department will bring confusion. It is not desired by either of the departments or either of the parties in charge of the bill.

Mr. THOMSON of Illinois. In reply to what the gentleman has said, I should like to ask the gentleman from Oklahoma if these grants are not from either the Secretary of the Interior or the Secretary of Agriculture?

Mr. FERRIS. Many of them are from Congress itself, and you do not want to repeal those acts. I am sure no one intends to have this law apply to the public lands and the water power or water rights on the nonnavigable streams. If the House will adopt my amendment it will come out all right. It is suggested by the department.

Mr. BRYAN. Recognizing the fact that we can not pass this amendment, I will withdraw it, but I call the matter to the attention of the committee. There ought to be an amendment to protect the matter of little corporations owning franchises of the kind to which I have referred.

The CHAIRMAN. The gentleman from Washington asks unanimous consent to withdraw his amendment. Is there objection?

Mr. MANN. I object.

The CHAIRMAN. The gentleman from Illinois objects. Does the gentleman from Colorado desire recognition?

Mr. TAYLOR of Colorado. Mr. Chairman, I want to obtain some information on this matter.

The CHAIRMAN. The Chair will recognize the gentleman from Colorado; he has been on his feet some time.

Mr. MANN. I hope the Chair next time will not put the question until he is ready for it.

The CHAIRMAN. The gentleman from Colorado has been on his feet some time.

Mr. MANN. Then why does not the Chair recognize the gentleman?

The CHAIRMAN. The Chair has recognized the gentleman from Colorado.

Mr. TAYLOR of Colorado. I want to ask the chairman of the committee, the author of the bill, whether or not the provisions of section 18 are sufficiently broad to protect the vested rights of the irrigators of the West upon the nonnavigable streams under existing acts of Congress. I want to know whether the committee considers this section broad enough to cover and protect all the appropriations of water heretofore made in the arid States under the various irrigation and water-right acts of Congress?

Mr. ADAMSON. It was never the intention of the committee to interfere with any of the irrigation or reclamation acts or improvements or the disposition of public domain under the

other two departments. Neither did we believe that any language in the bill would permit any such inference, but in a spirit of concession we desired to secure a good bill and to do what we desired we should do. We had a conference or consultation with anybody or everybody who would talk with us about it, and we have agreed to the language proposed to us by the Interior Department.

Mr. TAYLOR of Colorado. Then there is no intention on behalf of the committee of repealing or affecting vested water rights granted by Congress heretofore or acquired under existing laws? If this bill does not interfere with our western water rights, I will not offer any amendment to this section 18.

Mr. ADAMSON. We do not propose to deal with anything except the navigable rivers of the country.

Mr. MANN. Mr. Chairman, I regard this amendment as very important. The bill down to section 18, all through it, is clearly confined to the construction of dams in navigable waters, not in waters relating to navigation, not in little streams on the mountain side, where there is no navigation, but it uses the language all through the bill down to section 18, "dams in navigable waters of the United States."

Now comes section 18, and while it is caused by the nightmare I have referred to, I have no objection to that part of it which makes it clear to anyone that it is not intended to apply to the Forestry Service or the public domain under the control of the Secretary of Agriculture and the Secretary of the Interior.

Mr. RAKER. Will the gentleman yield?

Mr. MANN. Yes.

Mr. RAKER. If under the bill they obtain the right to develop hydroelectric power and the water becomes short by the dryness of the season, would not the Government or lessee be permitted to go up stream and tear out all the dams, unless these rights were protected?

Mr. MANN. They would not have the right under this bill. There is not a line in here on that subject. Now, let us see what the proposition is which gentlemen have got the committee to agree to. That the provisions of this act shall not apply to irrigation or power dams under the jurisdiction of the Secretary of Agriculture and the Secretary of the Interior, and so forth, nor grants to municipal corporations for use of water power or water power for municipal purposes.

Here is a declaration in this bill that this act shall not apply to water power for municipal purposes. Well, we have inserted in half a dozen places, more or less, in the bill a provision or provisions designed to give some preference to municipalities, and then skillfully somebody has inserted this joker in the bill that the bill shall not apply to water power for municipal purposes. We provide a law for the construction of a dam, and when the water power is developed it is to be sold for municipal purposes, while it can not be sold under this language for municipal purposes; if you do, the bill is no longer applicable to the project.

Now, I do not know what wild gentleman—I assume it was not the gentleman from Oklahoma, unless he was in his present temperament—but somebody with a nightmare drew this provision, or else it was designedly inserted as a malicious joker to prevent the use of power for municipal purposes, or to take out from under the operation of the act dams that are used for municipal power.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington.

The question was taken; and on a division (demanded by Mr. MANN) there were 20 ayes and 37 noes.

Mr. MANN. I ask for tellers.

Tellers were ordered; and the Chair appointed as tellers Mr. BRYAN and Mr. ADAMSON.

The committee again divided; and the tellers reported that there were 36 ayes and 36 noes.

So the amendment was lost.

The CHAIRMAN. The question recurs on the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

The question was taken, and the amendment was agreed to.

Mr. STEVENS of New Hampshire. Mr. Chairman, I offer the following amendment. I think the amendment which we have just adopted leaves this section in an unfortunate situation. I think the words "nor grant to municipal corporations for use of water power or water power for municipal purposes" should be transposed to line 21, after the word "dam." Otherwise we have excepted from the provisions of this act any grant to a municipal corporation for the use of water power or water power for municipal purposes, although the bill itself in other sections regulates and governs it.

Mr. MANN. The gentleman's side of the House just voted that way.

Mr. STEVENS of New Hampshire. Mr. Chairman, I think with that transposition it will be all right. I move to amend by transposing the words.

Mr. ADAMSON. The provision written by the Secretary of the Interior and accepted by us in conformity to the scheme of the bill is that it should not interfere with irrigation-power dams or other projects under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture nor to the municipal corporations for use of water power or water power for municipal purposes. This bill does not contemplate any such grant. This bill contemplates and relates solely to obstructions in navigable streams for navigation purposes. I think the amendment is not required. Congress can deal with it just as it chooses.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. ADAMSON. Yes.

Mr. MANN. Suppose this stays in the law, then will it not be impossible by merely granting an act and passing a law to enable some company to bring it under the provisions of this act?

Mr. ADAMSON. It never could be done in accordance with the provisions of this act for water-power purposes. It could be done for the improvement of navigation in navigable streams. Congress could pass a special law for any purpose, but this merely provides that the provisions of this bill shall not apply.

Mr. MANN. When we grant permission to build a dam across a stream, it is for water-power purposes.

Mr. ADAMSON. Our purpose is for navigation. If the company thinks it can make it pay for water-power purposes, we are glad to have it do it in that way.

Mr. MANN. Let us assume a case that exists in many instances throughout the United States, where there is no navigation and can not be at some stretch of a river which is called a navigable river, both above and below. Does the gentleman mean to say that we have not the power in a case of that kind?

Mr. ADAMSON. I do not think this bill ought to apply to any such case as that.

Mr. MANN. But it does apply to it.

Mr. ADAMSON. That is not our intention.

Mr. MANN. And if it does apply to it, should we not make it apply to a grant to a municipal corporation?

Mr. ADAMSON. I think not.

Mr. MANN. Why, we have tried all through the bill to give preference to municipal corporations until we come to the end, and then we say that it shall not apply to them.

Mr. ADAMSON. I think that the case suggested by the gentleman would be a mere subterfuge. I think in good faith this bill ought to be invoked only for the promotion of navigation.

Mr. MANN. What is the object of inserting this provision in the bill?

Mr. ADAMSON. I have told the gentleman that I did not put any of that section in the bill.

Mr. MANN. It is perfectly evident what it was put in for. This provision in connection with what is stricken out was originally put in the bill to be sure that it did not affect Hetch Hetchy.

Mr. ADAMSON. It was a disclaimer on our part.

Mr. MANN. We have already stricken that part of it out, and what is the use of leaving the other in, and leaving it a matter of absolute declaration that where we endeavor to give preference to municipal power we insert in the bill the provision that it shall not apply to municipal power?

Mr. STEVENS of New Hampshire. Mr. Chairman, I think this inconsistency can be easily removed by merely transposing the words "nor grants to municipal corporations for the use of water power or water power for municipal purposes" to the twenty-first line, on page 18, to be inserted after the word "dams," and I offer that as an amendment.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. STEVENS of New Hampshire. Yes.

Mr. MANN. That would make it so that this power would apply to permits to be granted by the Secretary of Agriculture and the Secretary of the Interior unless they were for municipal purposes, and no one wants to do that. The only way to do is to strike it out of the bill.

Mr. STEVENS of New Hampshire. I understand this bill has nothing to do with the Secretary of the Interior or the Secretary of Agriculture.

Mr. MANN. But if we put an exception in the bill that it shall only apply to certain things, the inference would be that it applied to others.

Mr. ADAMSON. Mr. Chairman, if the gentleman will allow me to read it as it will be amended by the proposed amendment of the gentleman from New Hampshire, I think the gentleman

from Illinois will see that he is in error. As amended it would read:

That the provisions of this act shall not apply to irrigation or power dams nor grants to municipal corporations for the use of water power or water power for municipal purposes, or other projects under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture upon the public lands of the United States—

And so forth. That makes it perfectly clear.

Mr. MANN. I do not see what good that does. You first provide that it shall not apply to irrigation or power dams or other projects under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture.

Mr. ADAMSON. It puts the grants to municipal corporations on the same basis as grants on the public domain, where this bill will not touch them at all. That is the proposition of the gentleman.

Mr. MANN. Changing the form in that respect will not make any difference.

Mr. ADAMSON. I think it means that now, but it will be clearer as the gentleman proposes to amend it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire, which the Clerk will report.

The Clerk read as follows:

Page 18, line 21, after the word "dams," insert the words "nor grants to municipal corporations for the use of water power or water power for municipal purposes," and in lines 24 and 25, page 18, strike out the words "nor grants to municipal corporations for the use of water power or water power for municipal purposes."

Mr. THOMSON of Illinois. Mr. Chairman, I would like to ask the chairman of the committee if the second word "power" in line 25 is not there inadvertently?

Mr. ADAMSON. What is the gentleman's amendment?

Mr. THOMSON of Illinois. I have not offered any amendment, but I would offer an amendment to strike out the word "power" in line 25.

Mr. ADAMSON. I do not. I did not write this section. I simply agreed to accept it, but the gentleman from Oklahoma [Mr. FERRIS] says the gentleman is right about that.

Mr. THOMSON of Illinois. Then I ask unanimous consent to modify the amendment offered by the gentleman from New Hampshire in that respect.

The CHAIRMAN. Without objection, the amendment will be modified as indicated by the gentleman from Illinois. Is there objection? [After a pause.] The Chair hears no objection.

Mr. THOMSON of Illinois. Mr. Chairman, I have another modification. Ought the word in line 24, page 18, as read by the Clerk, to be "or" or "nor"?

Mr. ADAMSON. It ought to be "or."

Mr. THOMSON of Illinois. It ought to be changed to "or." I would also suggest, if I might, the word "for" in reference to grants to municipal corporations for the use of water power, might be better changed to the word "affecting." Some of these grants issued have not been directly issued for water or water power, but they have been incident to such grants, and I would move to amend the amendment by striking out the word "for" and inserting the word "affecting."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 18, line 24, after the word "corporations," strike out the word "for" and insert the word "affecting."

Mr. RAKER. Mr. Chairman——

The CHAIRMAN. Does the gentleman from California object to agreeing to the modification of this amendment?

Mr. MANN. I shall object to agreeing to any amendment. Let us have a vote on these amendments.

The CHAIRMAN. The Chair meant modification.

Mr. MANN. This is not a modification. We just agreed to one on the theory it was a modification where it was an original amendment to the text.

Mr. RAKER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RAKER. Is this subject to amendment?

The CHAIRMAN. This is a motion to strike out one word.

Mr. RAKER. I thought we had already disposed of that.

The HAIRMAN. The Chair asked, "Is there objection?" and the gentleman from California addressed the Chair, and the Chair supposed he wanted to object. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire.

Mr. STEVENS of New Hampshire. Mr. Chairman, the amendment just voted upon was practically the amendment I offered.

Mr. THOMSON of Illinois. No; the gentleman's amendment was an amendment to transpose the language. My amendment changed the language.

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Was the amendment offered by the gentleman from New Hampshire ever reported?

The CHAIRMAN. It was reported. The Clerk advises the Chair that he reported the amendment. The Chair remembers asking him to report it.

Mr. MANN. He did not report it, and the other two amendments agreed to had nothing to do with that amendment.

The CHAIRMAN. The Chair remembers distinctly that the Clerk did read the amendment offered by the gentleman from New Hampshire.

Mr. RAKER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RAKER. Is it permissible to have this amendment again reported?

The CHAIRMAN. Without objection, the amendment offered by the gentleman from New Hampshire will be again reported.

Mr. STEVENS of New Hampshire. Mr. Chairman, before it is reported, I ask unanimous consent that the section as amended by the gentleman from Illinois be read, so we may know what change his amendment makes.

The CHAIRMAN. Without objection, the request of the gentleman from New Hampshire will be granted. The Chair hears no objection, and the Clerk will read the section as amended.

The Clerk read as follows:

SEC. 18. That the provisions of this act shall not apply to irrigation or power dams or other projects under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture upon the public lands of the United States or grants to municipal corporations affecting the use of water or water power for municipal purposes.

The CHAIRMAN. Now the Clerk will report the amendment offered by the gentleman from New Hampshire as amended.

The Clerk read as follows:

Page 18, line 21, after the word "dams," transpose the language in lines 24 and 25, which reads as follows: "or grants to municipal corporations affecting the use of water or water power for municipal purposes," so that the section as it is proposed to be amended will read as follows:

"SEC. 18. That the provisions of this act shall not apply to irrigation or power dams or grants to municipal corporations affecting the use of water or water power for municipal purposes or other projects under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture upon the public lands of the United States."

The CHAIRMAN. The question is upon the amendment offered by the gentleman from New Hampshire.

Mr. RAKER. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Georgia desire to be recognized?

Mr. ADAMSON. I am trying to persuade the gentleman from California that is all right according to the amendment.

Mr. RAKER. Just one moment. I want to ask the gentleman a question. As I understand now, this would not affect a grant by Congress to a municipality for water power.

Mr. ADAMSON. It will not now, and never would, if this had not been put in there.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New Hampshire.

The question was taken, and the amendment was agreed to.

Mr. ADAMSON. Does the gentleman from Minnesota [Mr. SMITH] have another amendment?

Mr. SMITH of Minnesota. Mr. Chairman, I wish to ask unanimous consent to return to section 15 for a moment.

Mr. ADAMSON. For what purpose?

Mr. SMITH of Minnesota. To offer two slight amendments.

Mr. ADAMSON. What are they?

Mr. SMITH of Minnesota. To add to line 19, after the word "approval," the word "regulation." It reads now "*Provided, however*——"

Mr. UNDERWOOD. Mr. Chairman, I demand the regular order.

The CHAIRMAN. The gentleman from Alabama demands the regular order. The gentleman from Minnesota asks unanimous consent to return to section 15 for the purpose of offering two amendments. Is there objection?

Mr. UNDERWOOD. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Alabama objects.

Mr. COOPER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COOPER. Are the words in lines 24 and 25, page 18, eliminated now from the bill?

Mr. ADAMSON. They have been transposed in order to put them in the public domain without doubt.

Mr. COOPER. They are in the bill in another place and are eliminated at that place.

Mr. THOMSON of Illinois. Mr. Chairman, I ask unanimous consent to return to page 6 for the purpose of making the correction to which I called the attention of the chairman of the committee a while ago.

Mr. ADAMSON. Mr. Chairman, the gentleman did call my attention to the fact that we agreed on the words "has been"——

Mr. THOMSON of Illinois. I would like to call attention to the fact that in the last line on page 6 the words "has been" have been substituted for the word "would," but the word "be" was not taken out.

Mr. ADAMSON. That is exactly what I was about to say. We agreed on the words "has been" instead of the word "would." "Has been be" is not good grammar. I want to strike out the word "be." It has no business there.

The CHAIRMAN. The Clerk will report the amendment.

Mr. ADAMSON. It is a clerical error. It is not an error of the House. It is in line 25, at the bottom of page 6.

The CHAIRMAN. The Clerk will report the amendment.

Mr. SMITH of Minnesota. I object.

Mr. ADAMSON. Mr. Chairman, I move the committee do now rise and report the bill to the House, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARNER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 16053) to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910, and had directed him to report it back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. ADAMSON. Mr. Speaker, I move the previous question on the bill and all amendments thereto to final passage.

The SPEAKER. The gentleman from Georgia moves the previous question on the bill and amendments thereto to final passage.

Mr. MANN. Mr. Speaker, there is only one amendment.

Mr. ADAMSON. Well, whatever they are I want to agree to them.

Mr. MANN. Let us have it straight, so that we may know.

The SPEAKER. The gentleman from Georgia moves the previous question on the bill and the amendments——

Mr. MANN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MANN. While it is true that the committee rose, I suppose the Speaker has to take the action of the chairman of the committee who reported this bill back——

The SPEAKER. It is true there is a substitute.

Mr. MANN. With some kind of an amendment. It is also true that this bill was never read through in the Committee of the Whole, and the parliamentary inquiry is whether the Committee of the Whole House on the state of the Union is authorized, when it has read only one section of the bill, to report the bill back without reading the balance of it?

Mr. ADAMSON. The House, by unanimous consent, addressed all motions and discussions to the substitute, and the substitute was read in detail and perfected. Now, of course, the first question will be whether the substitute shall be adopted in lieu of the original.

Mr. MANN. I am not particular about it. Of course there is no doubt that the committee did not have authority. It is also true that by unanimous consent——

Mr. ADAMSON. They did it.

Mr. MANN. No; the gentleman offered a substitute at the end of the reading of the first section, and the only unanimous-consent agreement about it was, so far as reading it for amendment was concerned, that it should be read as an original bill. But there was only one amendment.

Mr. ADAMSON. That is all. I move the previous question on the bill and amendment to final passage.

The SPEAKER. The gentleman from Georgia moves the previous question on the bill and amendment to final passage.

Mr. ADAMSON. We have first got to adopt the substitute and then pass the bill.

The SPEAKER. It is really the substitute that is being acted on.

Mr. ADAMSON. Of course.

The SPEAKER. The question is on ordering the previous question.

The previous question was ordered.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had disagreed to the amendment of the House of Representatives to the bill (S. 5073) to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States or their successors in interest," approved March 2, 1911, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PITTMAN, Mr. HUGHES, and Mr. CLARK of Wyoming as the conferees on the part of the Senate.

RELIEF FOR UNITED STATES CITIZENS IN EUROPE (H. DOC. NO. 1137).

The SPEAKER laid before the House the following message from the President of the United States, which was read, referred to the Committee on Appropriations, and ordered printed:

To the Senate and House of Representatives:

After further consideration of the existing condition in Europe in so far as it is affecting citizens of the United States who are there without means, financial or otherwise, to return to their homes in this country, it seems incumbent upon the Government to take steps at once to provide adequate means by the chartering of vessels or otherwise of bringing Americans out of the disturbed region and conveying them to their homes in the United States. Moreover, in view of the difficulty of obtaining money upon letters of credit, with which most Americans abroad are supplied, it will be necessary to send agents abroad with funds which can be advanced on such evidences of credit, or used for the assistance of destitute citizens of the United States.

In these circumstances I recommend the immediate passage by the Congress of an act appropriating $2,500,000, or so much thereof as may be necessary, to be placed at the disposal of the President, for the relief, protection, and transportation of American citizens and for personal services, rent, and other expenses which may be incurred in the District of Columbia, or elsewhere, connected with, or growing out of, the existing disturbance in Europe.

WOODROW WILSON.

THE WHITE HOUSE, *August 4, 1914.*

THE GENERAL DAM ACT.

Mr. THOMSON of Illinois. Mr. Speaker, I would ask unanimous consent to strike out the word "be" in line 25, page 6 of the bill.

Mr. ADAMSON. That was done in the Committee of the Whole.

Mr. THOMSON of Illinois. No; there was an objection made to it.

Mr. ADAMSON. That was a clerical error.

The SPEAKER. The gentleman from Illinois [Mr. THOMSON] asks unanimous consent to strike out the word "be"——

Mr. THOMSON of Illinois. Instead of "would be" we tried to substitute "has been" and they put "has been be" all there, I think. I want to strike out the word "be" and leave it "has been."

The SPEAKER. It seems to have been done, but the Clerk will read.

Mr. ADAMSON. I know it was done, but the gentleman from Illinois told me the Clerk did not have it that way.

The SPEAKER. The Clerk will report the amended portion.

The Clerk read as follows:

Page 6, line 25, reads as follows: "Engineers shall determine that navigation has been injured."

Mr. MANN. It is all right.

Mr. TREADWAY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TREADWAY. Can a separate vote be asked for on any amendment now?

The SPEAKER. There is only one amendment.

Mr. TREADWAY. May I ask whether we lost the right to a separate vote on an amendment by the substitution of this bill for the original bill?

The bill, as I understand it, Mr. Speaker, is reported by the committee as a substitute bill, by unanimous consent, in lieu of the original bill. Now, do we lose the right under that procedure of asking for a separate vote on any amendment that has been adopted?

Mr. MANN. Well, Mr. Speaker, if the Speaker will pardon me, it was not done by unanimous consent. The gentleman from Georgia [Mr. ADAMSON], in Committee of the Whole, when the first section of the bill was read, offered a substitute for the entire bill and gave notice that when the rest of the sections were read he would move to strike them out. Now

the committee has reported back one substitute. There is only one amendment in the House.

The SPEAKER. That is what the Chair was going to hold. As far as the House is concerned, it comes back in the shape of one amendment.

Mr. TREADWAY. Then, Mr. Speaker, may I ask whether a Member loses the right to ask for a separate vote by the fact that it does come back in the form of one amendment, in that it has been substituted for the original report of the committee? If the committee bill was under consideration, then, as I understand it, a Member would have the right, would he not, to ask for a separate vote?

The SPEAKER. It was offered all as one amendment to the first paragraph of this bill.

Mr. TREADWAY. Then we lose the right that I am asking about?

The SPEAKER. Undoubtedly.

Mr. DONOHOE rose.

The SPEAKER. For what purpose does the gentleman from Pennsylvania rise?

Mr. DONOHOE. To make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN rose.

Mr. DONOHOE. Have we the right to offer a substitute to this substitute?

The SPEAKER. You can offer a substitute in the nature of a motion to recommit. After the third reading is the time for offering that. Did the gentleman from Illinois [Mr. MANN] have any suggestion to make? He had the floor.

Mr. ADAMSON. He got what he wanted, as usual. [Laughter.]

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, and was read the third time.

Mr. BRYAN. Mr. Speaker, I have a motion to recommit.

Mr. SMITH of Minnesota. Mr. Speaker, I have a motion to recommit.

The SPEAKER. Are there any gentlemen on the Committee on Interstate and Foreign Commerce who want to make the motion to recommit.

Mr. ADAMSON. Not that I am aware of.

The SPEAKER. If there is any gentleman on that committee who wants to make the motion to recommit, the Chair will recognize him.

Mr. BRYAN. Mr. Speaker, I am not on the committee, but I desire to offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BRYAN. I would like to see it changed. [Laughter.]

Mr. DONOHOE rose.

The SPEAKER. What has the gentleman from Pennsylvania to say?

Mr. DONOHOE. I have a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. DONOHOE. Yes.

The SPEAKER. The gentleman will send up his motion.

Mr. MANN. Mr. Speaker, the gentleman from Minnesota [Mr. SMITH] has a motion to recommit the bill.

The SPEAKER. Is the gentleman from Minnesota opposed to the bill?

Mr. MANN. He is. He has been fighting it all the way through.

The SPEAKER. The Chair has not recognized anybody, and the gentleman from Pennsylvania [Mr. DONOHOE] rose apparently to make a parliamentary inquiry to find out when to offer his motion.

Mr. MANN. I did not understand whether the Speaker heard the gentleman from Minnesota.

The SPEAKER. The Chair heard all three of them.

Mr. ADAMSON. Mr. Speaker, I am perfectly willing, in order to accommodate the matter, to let all three combine.

Mr. MANN. When a gentleman on this side of the House is opposed to the bill, I think he is entitled to recognition.

The SPEAKER. The Chair thinks the gentleman from Minnesota [Mr. SMITH] ought to be recognized to offer a motion to recommit. The Clerk will report the gentleman's motion.

The Clerk read as follows:

Mr. SMITH of Minnesota moves to recommit the bill H. R. 16053 to the Committee on Interstate and Foreign Commerce with instructions to the committee to report the bill forthwith to the House with the following amendments:

Strike out all after the enacting clause and substitute in lieu thereof the following:

"That the act entitled 'An act to regulate the construction of dams across navigable waters,' approved June 23, 1910, be, and the same is hereby, amended to read as follows:

"'SECTION 1. That the Secretary of War, the Secretary of the Interior, and the Secretary of Commerce shall constitute the water-power commission of the United States and hereby are authorized and required to execute and enforce the provisions of this act. The commission is hereby authorized and empowered to supervise and regulate the development, generation, transmission, sale, and use of hydro-electric power developed under any grant or lease hitherto given by Congress, or any grant, lease, or permit issued under the provisions of this act, for the construction and use of dams across the navigable waters of the United States.

"'SEC. 2. That the consent of Congress is hereby given to any State, municipal subdivision thereof, or to any industrial or public-service corporation, association, or agency organized under and subject to the laws of such State, after obtaining the permit of the commission as hereinafter provided, to construct, maintain, and operate a dam or dams and accessory works for water power or other purposes across or in any of the navigable waters of the United States; and such grantee and such permit shall at all times be subject to the provisions of this act, and also subject to such conditions as the commission under the provisions hereof shall make a part of such permit.

"'SEC. 3. As between contesting applicants for a permit hereunder, the commission shall have due regard to the use and purpose for which such permit is required, priority of purpose and of benefits conferred by such permit and project to rank in the following order:

"'First. Benefits to navigation and conservation of water resources.

"'Second. Public uses of the State, the municipal subdivisions thereof, and public institutions.

"Third. Industrial use for agricultural, mining, and manufacturing industries.

"'Fourth. Commercial power for sale, barter, and exchange, and for use by public-service corporations.

"'SEC. 4. That the navigable waters of the United States subject to the provisions of this act are declared to be, and are, the streams, lakes, harbors, and connecting waterways which Congress heretofore has declared or may hereafter declare to be navigable waters or possess navigable capacity.

"'SEC 5. That the commission is hereby authorized and empowered under such terms, conditions, and general regulations as it may prescribe, consistent with the provisions of this act, to grant a permit to any State, municipal subdivision thereof, or persons organized under the laws thereof, as provided in section 2 hereof, for a period of not longer than 50 years, to construct, maintain, and operate dams, water conduits, reservoirs, power houses, transmission lines, and other works necessary and convenient to the development, generation, transmission, and utilization of hydroelectric power, which leases shall be irrevocable except as herein provided, but which may be declared null and void upon breach of any of their terms.

"'SEC. 6. That when such permit granted by the commission to such grantee to construct and maintain a dam for water power or other purpose across or in any of the navigable waters of the United States, such dam shall not be built or commenced until the plans and specifications for such dam and all accessory works, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of War and the Chief of Engineers for their approval, nor until they shall have approved such plans and specifications and the location of such dam and accessory works; and after such approval it shall not be lawful to deviate from such plans or specifications either before or after completion of the structure unless the modification of such plans or specifications has previously been submitted to and received the approval of the Chief of Engineers and of the Secretary of War.

"'SEC. 7. That as a part of such permit such conditions and stipulations may be imposed as the commission may deem necessary to protect the present and future interests of the United States, which may include the condition that the persons constructing or maintaining such dam shall construct, maintain, and operate in connection therewith, without expense to the United States, a lock or locks, booms, sluices, or any other structure or structures which the Chief of Engineers or the commission then may deem necessary in the interests of navigation, in accordance with plans made a part of such approval; and also that in case such facilities of navigation shall not be made a part of such original approval and construction, whenever the commission shall deem such facilities necessary, the persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches, and shall grant to the United States free water power or power generated from water power for building and operating such constructions, and in such original approval, at the discretion of the commission, may be required to maintain and operate such lock without expense to the United States.

"'SEC. 8. That as a part of said permit the commission shall require that the plans, specifications, and location for any dam shall be such as shall be best adapted to a comprehensive plan for the improvement of the waterway in question for the uses of navigation and for the full development of its water power and for other beneficial public purposes, and best adapted to conserve and utilize, in the interests of navigation and water-power development, the water resources of the region.

"'SEC. 9. That as a part of the conditions and stipulations such permit shall provide—

"'(a) For reimbursement to the United States of all expenses incurred by the United States with reference to the project, including the cost of any investigation necessary for the approval of the plans as heretofore provided, and for such supervision of construction as may be necessary in the interest of the United States.

"'(b) For the payment to the United States of reasonable charges for the benefits which may accrue to such project through the construction, operation, and maintenance by the United States of headwater improvements, including storage reservoirs, on any such stream, such charges to be fixed from time to time by the commission and to be based upon a reasonable compensation equitably apportioned among the grantee and others similarly situated upon the same stream receiving benefits by reason of increase of flow past their water-power structures artificially caused by such headwater improvements, the total charges to all such beneficiaries from any such headwater improvement not to exceed in any one year an amount equal to 5 per cent of the total investment cost, in addition to the necessary annual expense of the operation of such headwater improvement.

"'(c) That in the construction, maintenance, and operation of such dam and accessory works there may be occupied and used such lands of the United States as may be necessary therefor, and in consideration thereof the owner of such dam shall pay to the United States such

charges, not to exceed an annual payment of 5 per cent of the fair value of such lands, as may be fixed by the commission, and in fixing such charges consideration shall be taken of the benefits accruing thereby to the interests of navigation as well as to the business of such grantee.

"'(d) For the payment or securing the payment to the United States of such sums and in such manner as the commission may deem reasonable and just substantially to restore conditions upon such stream as to navigability as existing at the time of such approval, whenever the commission shall determine that navigation would be injured by reason of the construction, maintenance, and operation of such dam and its accessory works.

"'SEC. 10. That the operation of navigation facilities which shall be constructed as a part of or in connection with any such dam, whether at the expense of such grantee or of the United States, shall at all times be subject to such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by any such dam, as shall be made by the Secretary of War and Chief of Engineers, and in the use and operation of such navigation facilities the interests of navigation shall be paramount to the uses of such dam by such grantee for power purposes. Such rules and regulations may include the maintenance and operation by such grantee, at its own expense, of such lights and other signals as may be directed by the Secretary of War and Chief of Engineers and such fishways as shall be prescribed by the Secretary of Commerce, and for failure to comply with any such rule or regulation such grantee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than $500 for each month's default, in addition to other penalties herein prescribed or provided by law.

"'SEC. 11. That the persons constructing, maintaining, or operating any dam or appurtenant or accessory works, in accordance with the provisions of this act, shall be liable for any damage that may be inflicted thereby upon private property, either by overflow or otherwise.

"'SEC. 12. That any grantee who shall fail or refuse to comply with the lawful order of the commission, made in accordance with the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $1,000, and every month such grantee shall remain in default shall be deemed a new offense and subject such grantee to additional penalties therefor; and in addition to said penalties the Attorney General may, on request of the commission, institute proper proceedings in the district court of the United States in the district in which such structure or any of its accessory works may, in whole or in part, exist, for the purpose of having such violation stopped by injunction, mandamus, or other process; and any such district court shall have jurisdiction over all such proceedings and shall have the power to make and enforce all writs, orders, and decrees necessary to compel the compliance with the requirements of this act and the lawful orders of the commission and the performance of any condition or stipulation imposed under the provisions of this act; and if the unlawful maintenance and operation are shown to be such as shall require a revocation of all rights and privileges held under authority of this act, the court may decree such revocation. In case of such a decree, the court may wind up the business of such grantee conducted under the rights in question, and may decree the sale of the dam and all appurtenant property constructed or acquired under authority of this act, and may declare such dam and accessory works to be an unreasonable obstruction to navigation and cause their removal at the expense of the grantee owning or controlling the same, except when the United States has been previously reimbursed for such removal, or may provide for the sale of the dam and all accessory and appurtenant works constructed under authority of this act for the further development of water power, and may make and enforce such other and further orders and decrees as equity demands; and in case of such a sale for the further development of water power the vendee shall take the rights and privileges and shall perform the duties which belonged to the previous grantee, and shall assume such outstanding obligations and liabilities arising out of the maintenance and operation of said dam and accessory works for power purposes as the court may deem equitable in the premises.

"'SEC. 13. That no property or project installed and operated under the provisions or benefits of this act shall be assigned or transferred except upon the written consent and under conditions specified by the commission, except by trust deed or mortgage issued for the purpose of financing the business of such owner, and any successor or assign of such property or project, whether by voluntary transfer, judicial sale, or foreclosure sale or otherwise, shall be subject to all the conditions of the approval under which such rights are held, and also subject to all the provisions and conditions of this act to the same extent as though such successor or assign were the original owner hereunder.

"'SEC. 14. That the rights herein granted shall continue for a period of not longer than 50 years from and after the date of the completion of the structure described in the original approval, and after the expiration of said period such rights shall continue until compensation has been made to said grantee for the fair value of its property, as hereinafter provided.

"'SEC. 15. That at any time after the expiration of said period the commission may terminate the rights hereby granted upon giving to the owners thereof one year's notice in writing of such termination, and upon the taking over by the United States, or by any person authorized by the commission, of all of the property dependent in whole or in part for its usefulness upon the rights hereby granted, which shall include all necessary and appurtenant property created or acquired and valuable or serviceable in the distribution of water, or in the generation, transmission, and distribution of power, and all other property the value and usefulness of which would be destroyed or seriously impaired by such termination, and upon paying the fair value of said property together with the cost to the grantee of the lock or locks or other aids to navigation and all other capital expenditures required by the United States and assuming all contracts entered into prior to the receipt by it of said notice of termination which have the approval of the duly constituted public authority having jurisdiction thereof, or which were entered into in good faith and at a reasonable rate, in view of all the circumstances existing at the time such contracts were made. The fair value of said property and the reasonableness and good faith of such contracts shall be determined by agreement between the commission and the owners of such property, and in the event of their failure to agree, then by proceedings instituted by the United States, or by any person authorized by Congress, in the district court of the United States within which any portion of such dam may be located. In the determination of the value of said property upon the termination of said grant as above provided no value shall be claimed by or allowed for the consent hereby granted, nor for good will, profit in pending contracts, nor other conditions of current or prospective business, and it is further provided that lands, rights of way, and interests therein shall be valued on the basis of actual cost.

"'SEC. 16. That all charges, rates, and service by any grantee or lessee hereunder, or connecting company engaged in the transmission and sale of power and electric current generated by any project subject to the provisions of this act, shall be reasonable, adequate, without discrimination, and subject to the regulations of the commission. To enforce such just and reasonable and no discriminatory charges and secure adequate and efficient service to consumers, the commission is hereby authorized and empowered to prescribe and examine reports and systems of account, books, and other records, establish standards and make tests of service, control the issuance of stocks and bonds by corporations engaged in the generation, transmission, or sale of such hydroelectric product, and require them to submit statements of all costs of property, production, distribution, sale, and use of product, subject to such grant or lease and connected with such project, furnishing such information upon oath or by witness or in such form and upon such blanks as the commission may order and require; and on complaint of any State, municipality, or consumers affected thereby, and full hearing thereon, the commission is empowered to determine and prescribe the maximum rates to be charged, based on fair and reasonable returns on the valuation of the property and cost of operation, and ascertain and order the requirements of service to be rendered; and in case of any violation of such orders of the commission, or the refusal of such grantee or lessee to give the commission and its agents full access to its property and records, the provisions of this act relative to forfeiture and failure to comply shall apply. It is herewith provided, however:

"'(a) That when a State in which such water power and electric current is used shall notify the commission of the passage of laws and the perfecting of administration to effectively provide for such regulation of rates, charges, and service within such State and its municipal subdivisions, the regulations of the commission shall not apply to local and intrastate business therein.

"'(b) That when the power generated by such project enters both interstate and intrastate commerce, the commission is hereby authorized to join with any State in which such power is used in effecting such joint and interlocking system of Federal and State regulation as in its judgment shall most effectively promote the general public interest and carry out the purposes of this act.

"'(c) That in such valuation for rate-making purposes of the property operated under such grant there may be considered by the commission any lock or other aid to navigation, including all capital expenditures required of the grantee by the United States, but no value shall be allowed for the good will or franchise value of the lease or permit hereby or heretofore granted.

"'SEC. 17. That the grantee shall commence the construction of the dam and accessory works within one year from the date of the approval herein provided, and shall thereafter, in good faith and with due diligence, prosecute such construction, and shall, within the further term of three years, complete and put in commercial operation such part of the ultimate development as the commission shall deem necessary to supply the reasonable needs of the then available market, and shall, from time to time thereafter, construct such portion of the balance of such ultimate development as said commission may direct and within the time specified by said commission so as to supply adequately the reasonable market demands until such ultimate development shall be completed; and extensions of the periods herein specified, not to exceed two years, may be granted by the commission, on recommendation of the Chief of Engineers, when, in his judgment, the public interest will be promoted thereby. In case the grantee shall not commence actual construction within the time herein prescribed, or as extended by the commission, then the authority as to such grantee shall terminate, and in case any dam and accessory works be not completed within the time herein specified or extended as herein provided, then the Attorney General, upon the request of the commission, shall institute proper proceedings in the proper district court of the United States for the revocation of said authority, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section 13 of this act.

"'SEC. 18. That the commission may lease to any applicant embraced in section 2 hereof, who has complied with the laws of the State in which the dam is constructed or to be constructed by the United States, the right to develop power from the surplus water over and above that required for navigation at any navigation dam now or hereafter constructed, either with or without contribution by the applicant, and owned by the United States, and on such terms as may be deemed by the commission for the best interests of the United States, and in awarding such lease preference shall be given to the applicant whose plans are deemed by the commission best adapted to conserve the public interest as provided in section 3 hereof, and all such leases and the parties thereto and the terms and conditions thereof shall be subject to the control and regulations of the commission under the general provisions of this act.

"'SEC. 19. That no works constructed, maintained, and operated under the provisions of this act shall be owned, trusteed, or controlled by any device or in any manner so that they may form a part of, or in any manner effect, a combination in the form of an unlawful trust or form the subject of an unlawful contract or conspiracy to limit the output of electric energy or in restraint of the generation, sale, or distribution of electric energy, or the exercises of any other business contemplated: *Provided, however*, That it shall be lawful under the approval and regulations of the commission for different grantees to exchange and interchange currents to enable any grantee to secure assistance to carry on the business and supply his customers, accounting therefor and paying therefor under regulations to be prescribed by the commission.

"'In no case shall such an arrangement be permitted to raise the price, render unjust or unfair any practice, work, or discrimination, or operate in restraint of trade.

"'SEC. 20. That the word "persons" as used in this act shall be construed to import both the singular and the plural, as the case demands, and shall include corporations, companies, and associations, or other grantees. The word "dam" as used in this act shall be construed to import both the singular and plural, as the case demands.

"'SEC. 21 That all the provisions of this act for regulating the construction and use of dams and the transmission, sale, and use of power developed thereby shall apply alike to all existing enterprises in operation or authorized, as well as to new projects to which the consent of the commission may hereafter be granted. It is likewise provided that holders of previous authorizations are entitled to receive on application to the commission new permits subject to the provisions of this act and subject further to such terms and conditions as the com-

mission shall deem just and reasonable in the premises and for the best protection of the public interests.

"'SEC. 22. For carrying out the provisions of this act the commission shall have authority to appoint a secretary and employ such experts, assistants, and other employees as it may find necessary to the proper performance of its duties, and provide for the compensation and expenses of the same and the necessary office supplies from such sum as shall be provided by law.'"

Mr. ADAMSON. Mr. Speaker, I move the previous question on the motion to recommit.

Mr. FOWLER. Mr. Speaker, will the gentleman withhold his motion for a moment? I have but one small amendment to offer to the motion to recommit.

Mr. ADAMSON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ADAMSON. Can I withhold my motion for the previous question for the purpose of allowing the gentleman from Illinois [Mr. FOWLER] to offer his amendment without losing my right to press my motion?

The SPEAKER. Yes; the gentleman can withhold it for that purpose.

Mr. DONOHOE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DONOHOE. What has become of that substitute of mine? May I ask unanimous consent to have it printed in lieu of its being read?

The SPEAKER. The gentleman from Pennsylvania [Mr. DONOHOE] asks unanimous consent to have printed in the RECORD, instead of having read, the motion to recommit which he tried to offer. Is there objection?

Mr. MANN. Mr. Speaker, I submit that the motion for the previous question has not been made.

Mr. ADAMSON. I made the motion, and asked the Chair if I could withhold it for one purpose only.

Mr. MANN. The gentleman can not withhold it.

Mr. ADAMSON. Then I insist upon my motion, Mr. Speaker.

Mr. MANN. Why not let the gentleman offer his motion to recommit?

Mr. ADAMSON. I am willing.

The SPEAKER. The gentleman from Pennsylvania [Mr. DONOHOE] offers his motion to recommit as a substitute for that of the gentleman from Minnesota [Mr. SMITH].

Mr. MANN. The gentleman from Illinois [Mr. FOWLER] offers another substitute for the motion to recommit.

The SPEAKER. The gentleman from Illinois [Mr. FOWLER] offers an amendment to the motion to recommit which was offered by the gentleman from Minnesota [Mr. SMITH], and the gentleman from Pennsylvania [Mr. DONOHOE] offers a substitute for the motion to recommit. The Clerk will report the Fowler amendment.

The Clerk read as follows:

Wherever the word "fifty" appears in the motion to recommit, strike out the same and insert in lieu thereof the words "twenty-five."

The SPEAKER. Now the Clerk will report the Donohoe substitute.

Mr. ADAMSON. Mr. Speaker, I would like to have the previous question ordered on the motion to recommit and the two propositions to amend it.

The SPEAKER. The Chair will recognize the gentleman from Georgia as soon as the Clerk reads the Donohoe substitute.

Mr. ADAMSON. He wanted it read and printed.

Mr. DONOHOE. It will answer my purpose, Mr. Speaker, to have it printed.

Mr. ADAMSON. That is what I understood.

The SPEAKER. The gentleman from Pennsylvania [Mr. DONOHOE] asks unanimous consent to have the substitute printed in the RECORD in lieu of having it read. Is there objection?

There was no objection.

Following is the motion to recommit offered by Mr. DONOHOE:

Strike out all after the enacting clause and insert the following:

"SECTION 1. That the Secretary of the Interior be, and hereby is, authorized and empowered, under general regulations to be fixed by him and under such terms and conditions as he may prescribe, not inconsistent with the terms of this act, to lease to citizens of the United States, or those who have declared their intention to become such, or to any association of such persons, or to any corporation organized under the laws of the United States or any State or Territory thereof, any part of the lands and other property of the United States (including Alaska), reserved or unreserved, including lands in national forests, national monuments, military and other reservations, not including national parks, for a period not longer than 50 years for the purpose of constructing, maintaining, and operating dams, water conduits, reservoirs, power houses, transmission lines, and other works, necessary or convenient to the development, generation, transmission, and utilization of hydroelectric power, which leases shall be irrevocable except as herein provided, but which may be declared null and void upon breach of any of their terms: *Provided*, That such leases shall be given within or through any of said national forests, military or other reservations only upon a finding by the chief officer of the department under whose supervision such forest, national monument, or reservation falls that the lease will not injure, destroy, or be inconsistent with the purpose for which such forest, national monument, or reservation was created or acquired: *Provided further*, That in the granting of leases under this act the Secretary of the Interior may, in his discretion, give preference to applications for leases for the development of electrical power by States, counties, or municipalities, or for municipal uses and purposes: *Provided further*, That for the purpose of enabling an applicant for a lease to secure the data required in connection therewith, the Secretary of the Interior may, under general regulations to be issued by him, grant a preliminary permit authorizing the occupation of public lands valuable for water-power development for a period not exceeding one year in any case, which time may, however, upon application be extended by the Secretary if the completion of the application for lease has been prevented by unusual weather conditions or by some special or peculiar cause beyond the control of the permittee, the tenure of the proposed lease and the charges or rentals to be collected thereunder to be specified in said preliminary permit, and such permittee upon filing an application for lease prior to the expiration of the permit period shall be entitled to a preference right to lease the lands embraced in the permit upon the terms, conditions, and limitations authorized by this act.

"SEC. 2. The Interstate Commerce Commission is hereby authorized to lease to the citizens of the United States, or those who have declared their intention to become such, or to any association of such persons, or to any corporation organized under the laws of the United States, for a period not longer than 50 years, the right to construct and maintain a dam for water power or other purposes across or in or across any of the navigable waters of the United States, or in or across any of the flowing waters to such navigable waters, whether navigable or nonnavigable; and said Interstate Commerce Commission is further authorized to lease for said period not to exceed 50 years to said mentioned parties any part of the boundary waters, navigable or nonnavigable, dividing the States of the United States from one another, for the erection therein or connected therewith of dams, water conduits, reservoirs, power houses, and other works necessary to the development, generation, transmission, and utilization of hydroelectric power, which leases shall be irrevocable except as herein provided, but which may be declared null and void upon a breach of any of their terms: *Provided*, That such dams shall not be built or commenced until the plans and specifications for such dam and all accessory works, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of War and the Chief of Engineers for their approval, nor until they shall have approved such plans and specifications and the location of such dam and accessory works; and when the plans and specifications for any dam to be constructed under the provisions of this act have been approved by the Chief of Engineers and by the Secretary of War it shall not be lawful to deviate from such plans or specifications, either before or after completion of the structure, unless the modifications of such plans or specifications has previously been submitted to and received the approval of the Chief of Engineers and the Secretary of War: *Provided*, That in approving the plans, specifications, and location for any dam, such conditions and stipulations may be imposed as the Chief of Engineers and the Secretary of War may deem necessary to protect the present and future interests of the United States, which may include the condition that the persons constructing or maintaining such dam shall construct, maintain, and operate, without expense to the United States, in connection with any dam and accessory or appurtenant works, a lock or locks, booms, sluices, or any other structure or structures which the Secretary of War and the Chief of Engineers or Congress at any time may deem necessary in the interests of navigation, in accordance with such plans as they may approve, and also that whenever Congress shall authorize the construction of a lock or other structures for navigation purposes in connection with such dam the persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches, and shall grant to the United States free water power or power generated from water power for building and operating such constructions: *Provided further*, That in acting upon said plans as aforesaid the Chief of Engineers and the Secretary of War shall consider the bearing of said structure upon a comprehensive plan for the improvement of the waterway over which it is to be constructed, with a view to the promotion of its navigable quality and the conservation and protection of waters contributory and contributing to its navigability, navigable or nonnavigable, and for the full development of water power, and as a part of the conditions and stipulations imposed by them shall provide for improving and developing navigation, and fix such charge or charges for the privilege granted as may be sufficient to restore conditions with respect to navigability as existing at the time such privilege be granted, or reimburse the United States for doing the same, and for such additional or further expense as may be incurred by the United States with reference to such project, including the cost of any investigations necessary for approval of plans and of such supervision of construction as may be necessary in the interests of the United States. The right is hereby reserved to the United States to construct, maintain, and operate, in connection with any dam built in accordance with the provisions of this act, a suitable lock or locks, booms, sluices, or any other structures for navigation purposes, and at all times to control the said dam and the level of the pool caused by said dam to such an extent as may be necessary to provide proper facilities for navigation. The persons constructing, maintaining, or operating any dam or appurtenant or accessory works, in accordance with the provisions of this act, shall be liable for any damage that may be inflicted thereby upon private property, either by overflow or otherwise. The persons owning or operating any such dam or accessory works subject to the provisions of this act shall maintain, at their own expense, such lights and other signals thereon, and such fishways as the Secretary of Commerce and Labor shall prescribe, and for failure so to do in any respect shall be deemed guilty of a misdemeanor and subject to a fine of not less than $500, and each month of such failure shall constitute a separate offense and subject such persons to additional penalties therefor: *Provided further*, That as a condition to the issuing of said permit or the granting of said lease the applicant shall first present to said commission the request, in writing, of the respective States whose dividing line is said boundary waters, navigable or nonnavigable, which separates said States; the State in which said dam is to be erected shall provide for its method of application and the other States it and their method of approval.

"SEC. 3. That the international joint commission created by virtue of the provisions of article 8 of the treaty between the United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland and of the Dominions Beyond the Seas, Emperor of India, dated the 11th day of January, 1909, is hereby authorized to

lease to the citizens of the United States, or those having declared their intention to become such, or to any association of such persons, or to any corporation organized under the laws of the States bordering on the boundary waters between the United States and the Dominion of Canada for a period not longer than 50 years for the purpose of constructing, maintaining, and operating dams, water conduits, reservoirs, power houses, transmission lines, and other works necessary or convenient to the development, generation, transmission, and utilization of hydroelectric power, which leases shall be irrevocable except as herein provided, but which may be declared null and void upon breach of any of their terms: *Provided further*, That said international joint commission in granting of the leases mentioned under this act shall give preference to persons, firms, or corporations now using the waters of said boundary line conditional that the users of said waters shall obligate themselves to comply with all terms and provisions herein set forth and shall surrender to said international joint commission for the respective benefit of the respective Governments whatever easements that may now have by virtue of any lease or agreement with any of the respective States bordering on such boundary waters: *Provided further*, That said international joint commission shall issue no permit or authorize the granting of any lease to said mentioned parties until there shall be presented to it the consent, in writing thereto, of the respective States bordering on boundary waters in which it is proposed to erect said dam, such consent to be indicated in the matter mentioned herein in section 2: *Provided further*, That as a condition to the issuing of said permit by said international joint commission the said applicant shall present the plans and specifications for such dam and all accessory works, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject to the Secretary of War and Chief of Engineers for their approval, nor until they shall have approved such plans and specifications and the location of such dam and accessory works; and when the plans and specifications for any dam to be constructed under the provisions of this act have been approved by the Chief of Engineers and by the Secretary of War it shall not be lawful to deviate from such plans or specifications either before or after completion of the structure unless the modification of such plans or specifications has been previously submitted to and received the approval of the Chief of Engineers, the Secretary of War, and the international joint commission: *Provided further*, That if it shall be found that said dam and accessory works have materially diverted said boundary waters or interfere with its natural flow whereby injury has occurred to the navigation interest on either side of said boundary water, or has in any way lowered the levels of said waters flowing across the boundary, the effect of which is to raise or lower the natural levels of the water on either side of the boundary waters whereby said navigation is affected or liable to become affected by reason of said interference, the said applicant shall upon notice in writing by said international joint commission remove the cause for the same and in case of inability to restore said waters to their natural levels then, and in that case, the said international joint commission shall cause notice in writing to be given to said lessee to remove said dam and restore said waters to their former condition without cost to the United States, Great Britain, or the international joint commission.

"SEC. 4. That all leases issued by the Secretary of the Interior, the Interstate Commerce Commission, and the International Joint Commission made in pursuance of this act shall provide for the diligent, orderly, and reasonable development and continuous operation of the water power, subject to market conditions, and may provide that the lessee shall at no time, without the consent of the Secretary of the Interior, the Interstate Commerce Commission, and the International Joint Commission, contract for the delivery to any one consumer of electrical energy in excess of 50 per cent of the total output.

"SEC. 5. That every applicant for a lease, whether before the Secretary of the Interior, the Interstate Commerce Commission, or the International Joint Commission, shall file a statement of his citizenship or the certificate of incorporation if organized under any State law or the laws of the United States, or the Territory thereof, together with a schedule of his or its assets and liabilities. That said applicant shall also file with said commission a further statement that he or it will not engage, directly or indirectly, in a like or similar business, nor will he combine with others in any unlawful trust, nor contract or conspire to limit the output of electric energy or in restraint of the generation, sale, or distribution of electric energy, or the exercises of any other business contemplated.

"SEC. 6. That upon the issuing and granting of permit to build said dam and accessory works by either the Secretary of the Interior, Interstate Commerce Commission, or the International Joint Commission the said dam, its accessory works, and all its connections used in said plant shall be, and the same is hereby, declared for a period of three years from and after its completion to be forever released, and the same is hereby discharged, of and from all taxation, Federal, State, or municipal; and the capital stock, bona fide, issued or the capital invested by any individual or corporation, and the improvements here mentioned, are also for said period of three years declared to be free from all taxation, Federal, State, or municipal: *Provided, however*, That this exemption from taxation shall not apply to present existing enterprises now in operation.

"SEC. 7. That from and after said period of three years all holders of leases granted pursuant to the provisions of this act, as well as all existing enterprises now in operation and using the waters herein mentioned, irrespective of how organized, whether under State, Territorial, or Federal control, shall pay into the Treasury of the United States such a sum as the Interstate Commerce Commission shall find as a reasonable and fair charge to exact yearly for the privileges hereby granted, which sum so fixed shall be the annual rate or charge to be exacted for a period of five years, at the end of which period a new charge or price may be fixed as in the judgment of said commission it may deem reasonable and just, and such valuation shall continue during the lifetime of such lease; that the sum so paid in the Treasury of the United States shall continue to accumulate until the sum of $1,000,000 is paid in, at which time the then Congress shall dispose of it as it shall deem best.

"SEC. 8. That the Interstate Commerce Commission is hereby authorized to examine the books and accounts of all lessees under the terms of this act, irrespective of the authority issuing the same, and to require them to submit statements, representations, or reports, including information as to cost of water rights, lands, easements, and other property acquired, production, use, distribution, and sale of energy, all of which statements, representations, or reports so required shall be upon oath, unless otherwise specified, and in such form and upon such blanks as the Interstate Commerce Commission may require; and any person making any false statement, representation, or reports under oath shall be subject to punishment as for perjury; that each and all of said applicants shall file with said Interstate Commerce Commission schedules and classifications and tariffs of rates, charges, contracts, and agreements so fixed for light, power, heat, and other incidents connected with and going out of the water right hereby granted.

"SEC. 9. That said Interstate Commerce Commission is authorized when requested by the Secretary of the Interior or a majority of its members or by the International Joint Commission or by the Congress of the United States, to call upon the President of the United States to select a special committee for the purpose of fixing and adjusting the rates to be charged by said power companies or persons engaged in said hydroelectric business to consumers under leases by virtue of this act; that said committee to be composed of five members, three of whom shall be selected by said Interstate Commerce Commission from its members and two by the President of the United States not connected with said commission, who shall determine the question as to the reasonableness of rates charged to consumers; also whether or not the business of said corporations or permittees will justify the issuing of additional stock and bonds by said water-power company; that said special committee, when selected, is hereby authorized to employ experts to aid in the work of inquiry and examination, and such clerks, stenographers, and other assistants as may be necessary to the performance of the duties herein imposed upon them; and they shall also determine, and when so determined shall be binding and become a part of the lease or permit so issued, the reasonableness or unreasonableness of the charges made for the sale of its commodity; and the finding of said committee as to charges and the issuing of said stock and bonds shall be final and conclusive.

"SEC. 10. That the leases hereby granted shall expire at the time therein mentioned, but the said Secretary of the Interior and the Interstate Commerce Commission may, in writing, within five years prior to the termination or expiration of said leases, exercise the right to select said dams and accessory works for the use of the United States upon the payment to the owners thereof of such a price as shall be determined by said Interstate Commerce Commission; that at the expiration of said leases there shall be no renewal thereof except by Congress, nor shall there be paid to said lessees any sum of money for any property so erected and then remaining in and about the waters heretofore mentioned, save alone as Congress shall then determine. All conflicting provisions contained in any act of Congress granting consent to the construction of any dam are hereby repealed, and all such previous authorizations are to be altered, amended, and modified hereby as to conform to all of the conditions and provisions incorporated in this act."

Mr. BRYAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting a motion to recommit which I have had prepared.

The SPEAKER. The gentleman from Washington [Mr. BRYAN] asks unanimous consent to extend his remarks in the RECORD by inserting his motion to recommit. Is there objection?

There was no objection.

Mr. BRYAN. Mr. Speaker, I had prepared and intended to offer the following motion to recommit. Having been denied recognition for that purpose, because I am for the bill as amended, in favor of the gentleman from Minnesota, who asserted his intention to vote against the bill, I avail myself of the unanimous consent conferred to extend the proposed motion in the RECORD.

I move to recommit to the Committee on Interstate and Foreign Commerce, with instructions to report the same at once to the House, amended so as to read as follows:

"A bill (H. R. 17928) to amend an act entitled 'An act to regulate the construction of dams across navigable waters,' approved June 21, 1906, as amended by the act approved June 23, 1910.

"*Be it enacted, etc.*, That the act entitled 'An act to regulate the construction of dams across navigable waters,' approved June 23, 1910, be, and the same is hereby, amended to read as follows:

"'SEC. 1. That when authority has been or may hereafter be granted by Congress, either directly or indirectly, or through any duly authorized official or officials of the United States, to any person to construct, maintain, and operate a dam and accessory works for water power or other purposes across or in any of the navigable waters of the United States, such dam shall not be built or commenced until the plans and specifications for such dam and all accessory works, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of War and the Chief of Engineers for their approval, nor until they shall have approved such plans and specifications and the location of such dam and accessory works; and after such approval it shall not be lawful to deviate from such plans or specifications either before or after completion of the structure unless the modification of such plans or specifications has previously been submitted to and received the approval of the Chief of Engineers and of the Secretary of War.

"'SEC. 2. That as a part of such approval such conditions and stipulations in addition to those hereinafter specified may be imposed as the Secretary of War and the Chief of Engineers may deem necessary to protect the present and future interests of the United States, which may include the condition that the persons constructing, maintaining, or operating such dam shall construct, maintain, and operate without expense to the United States, in connection with any dam or accessory or appurtenant works, a lock or locks, booms, sluices, or any other structure or structures which the Secretary of War and the Chief of Engineers or Congress may at any time deem necessary in the interest of navigation, in accordance with such plans as they may approve, and also whenever Congress shall authorize the construction of a lock or other structures for navigation purposes in connection with such dam, the persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such locks, structures, and approaches thereto, and shall furnish to the United States, free of cost, water power or power generated from water power for building, operating, and lighting such lock, structures, and approaches thereto, and at the discretion of the Secretary of War and Chief of Engineers may be required to maintain and operate such lock or locks or other structures without expense to the United States.

"'SEC. 3. That as a part of said approval the Secretary of War and the Chief of Engineers shall require that the plans, specifications, and location for any dam shall be such as shall be best adapted to a comprehensive plan for the improvement of the waterway in question for

the uses of navigation and for the full development of its water power, and for other beneficial public purposes, and best adapted to conserve and utilize, in the interest of navigation and water-power development, the water resources of the region.

"'SEC. 4. That the Secretary of War is authorized and directed as a part of the conditions and stipulations to provide—

"'(a) For reimbursement to the United States of all expenses incurred by the United States with reference to the project, including the cost of any investigation necessary for the approval of the plans as heretofore provided, and for such supervision of construction as may be necessary in the interest of the United States.

"'(b) For the payment to the United States of reasonable annual charges for the benefits which may accrue to such project from the construction, operation, and maintenance by the United States of headwater improvements on any such stream, including storage reservoirs and forest watersheds or lands acquired or held by the United States, such charges to be fixed from time to time by the Secretary of War and to be based upon a reasonable compensation apportioned among the grantee and others similarly situated upon the same stream receiving direct benefits by reason of the development, improvement, or preservation of navigation in such stream in which such dam or appurtenant or accessory works may be constructed.

"'(c) For the payment to the United States of reasonable annual charges for the benefits which accrue to the grantee through authority given under this act, the proceeds thereof to be used for the development of navigation, but no charges made under this act shall prevent the earning of a reasonable return upon the actual investment of the grantee in any project constructed and operated under the provisions of this act, such investment to include the cost to the grantee of the lock or locks, or other aids to navigation, and all other capital expenditures required by the United States, and in determining such annual charges the grantee shall be credited with the cost of the maintenance and operation of lock or locks or other aids to navigation.

"'(d) For the payment to the United States of such charge or charges as the Secretary of War and the Chief of Engineers may deem reasonable, and as may be sufficient to restore conditions upon such stream as to navigability as existing at the time of such approval whenever they shall determine that navigation has been or will be injured by reason of the construction, maintenance, and operation of such dam and its accessory and appurtenant works.

"'SEC. 5. That no charges shall be made for the benefits which accrue through authority given under this act to a State or municipal corporation developing electrical energy solely for municipal use in so far as there is direct distribution to consumers by State or municipality.

"'SEC. 6. That the operation of navigation facilities, which shall be constructed as a part of or in connection with any such dam, whether at the expense of such grantee or of the United States, shall at all times be subject to such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by any such dam, as shall be made by the Secretary of War and the Chief of Engineers, and in the use and operation of such navigation facilities the interests of navigation shall be paramount to the uses of such dam by such grantee for power purposes. Such rules and regulations may include the maintenance and operation by such grantee, at its own expense, of such lights and other signals as may be directed by the Secretary of War and the Chief of Engineers, and such fishways as shall be prescribed by the Secretary of Commerce; and for failure to comply with any such rule or regulation such grantee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than $500 for each month's default, in addition to other penalties herein prescribed or provided by law.

"'SEC. 7. That the persons constructing, maintaining, or operating any dam or appurtenant or accessory works in accordance with the provisions of this act shall be liable for any damage that may be inflicted thereby upon private property, either by overflow or otherwise.

"'SEC. 8. That if any grantee shall fail or refuse to comply with any of the provisions and requirements of this act, or to perform any of the stipulations and conditions prescribed as aforesaid by the Secretary of War and the Chief of Engineers, including the payment of the charges prescribed, or who shall fail or refuse, after receiving reasonable notice thereof, to comply with the lawful order of the Secretary of War, made in accordance with the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $5,000, and every month such grantee shall remain in default shall be deemed a new offense and subject such grantee to additional penalties therefor; and in addition to said penalties the Attorney General may, on request of the Secretary of War, institute proper proceedings in the district court of the United States in the district in which such structure or any of its accessory works are situated for the purpose of having such violation stopped by injunction, mandamus, or other process; and any such district court shall have jurisdiction over all such proceedings and shall have the power to make and enforce all writs, orders, and decrees necessary to compel the compliance with the requirements of this act and the lawful orders of the Secretary of War and the Chief of Engineers and the performance of any condition or stipulation imposed under the provisions of this act; and if the unlawful construction, maintenance, and operation are shown to be such as shall require a revocation of all rights and privileges held under authority of this act, the court may decree such revocation. In case of such a decree the court may wind up the business of such grantee conducted under the rights in question, and may decree the sale of the dam and all appurtenant property constructed or acquired under the authority of this act, and may declare such dam and accessory and appurtenant works to be an unreasonable obstruction to navigation and cause their removal at the expense of the grantee owning or controlling the same, except when the United States has been previously reimbursed for such removal, or may provide for the sale of the dam and all accessory and appurtenant works constructed under authority of this act for the further development of water power, and may make and enforce such other and further orders and decrees as equity demands; and in case of such a sale for the further development of water power the vendee shall take the rights and privileges and shall perform the duties which belonged to the previous grantee, and shall assume such outstanding obligations and liabilities arising out of the construction, maintenance, and operation of said dam and accessory and appurtenant works for power purposes and navigation facilities as the court may deem equitable in the premises.

"'SEC. 9. That no right or privilege accruing from property or project constructed, maintained, or operated under the provisions of this act shall be assigned or transferred without the previous written consent and approval of the Secretary of War: *Provided, however,* That nothing contained herein shall preclude the issuance of trust deeds or mortgages for the purpose of financing. Any successor or assign of such property or project, whether by voluntary transfer, judicial sale, or foreclosure sale or otherwise, shall be subject to all the conditions of the approval under which such rights are held, and also subject to all the provisions and conditions of this act to the same extent as though such successor or assign were the original grantee hereunder.

"'SEC. 10. That the rights herein granted shall continue for a period not to exceed 50 years from and after the date of the original approval of the plans and specifications by the Secretary of War and Chief of Engineers, but Congress may revoke any rights conferred in pursuance of this act whenever it is necessary for public use, and in the event of any such revocation by Congress the United States shall pay the owners thereof as hereinafter provided.

"'SEC. 11. That at any time after the expiration of said 50 years the Secretary of War may terminate the rights hereby granted upon giving to the owners thereof one year's notice in writing of such termination, and upon the taking over by the United States, or by any person authorized by Congress, of all of the property dependent in whole or in part for its usefulness upon the rights hereby granted, which shall include all necessary and appurtenant property created or acquired, and valuable or serviceable in the distribution of water, or in the generation, transmission, and distribution of power, and all other property of the grantee, the value and usefulness of which would be destroyed or seriously impaired by such termination, and upon paying the actual cost of rights of ways, water rights, lands, and interest therein purchased and used by the grantee in the generation and distribution of electrical energy, and fair value of all other property taken over, together with the cost to the grantee of the lock or locks or other aids to navigation and all other capital expenditures required by the United States, and asssuming all contracts for electrical energy extending beyond the granting period which have had, or may have, the approval of the Secretary of War, and which were entered into in good faith and at a reasonable rate. The actual costs and the fair value of said property shall be determined by agreement between the Secretary of War and the owners of such property, and in event of their failure to agree, then by proceedings instituted by the United States, in the district court of the United States within which any portion of such dam may be located. In the determination of the value of said property upon the termination or revocation of said grant as provided in this act no value shall be claimed or allowed for the rights hereby granted, for good will, going value, profit in pending contracts for electrical energy, for other conditions of current or prospective business, or for any other intangible element.

"'SEC. 12. That in all cases where the electric current generated from or by any of the projects provided for in this act shall enter into interstate or foreign commerce, or be transmitted to or from any State, Territory, foreign country, or the District of Columbia, the rates, charges, and service for the same to the ultimate consumers thereof shall be just and reasonable, and every unjust and unreasonable and unduly discriminatory charge, rate, or service therefor is hereby prohibited and declared to be illegal; and whenever the Secretary of War shall be of the opinion that the rates or charges demanded or collected on the service rendered for such electric current are unjust, unreasonable, or unduly discriminatory, upon complaint made thereof and full hearing thereon the Secretary of War is hereby authorized and empowered to determine and prescribe what shall be the just and reasonable rates and charges therefor to be observed as the maximum to be charged and the service to be rendered; and in case of the violation of any such order of the Secretary of War the provisions of this act relative to forfeiture and failure to comply shall apply. That in the valuation for rate-making purposes of the property existing under said approval of the project there may be considered any lock or locks, or other aids to navigation, and all other capital expenditures required by the United States, but no value shall be claimed or allowed for authority granted by this act or for any other intangible element.

"'The Secretary of War is further authorized and directed to include among the conditions for his approval of any plans or any project herein provided, as an express condition thereof, a clause reserving to the Secretary of War the same rights, powers, and duties set forth in this section, together with the same penalty for violation thereof: *Provided,* That whenever the State in which such current shall be used provides by law adequate regulations for rates, charges, and service to the ultimate consumers for such electric current and such regulation, and such facts are established to the satisfaction of the Secretary of War, then in such case the provision of this section shall not apply to the rates, charges, and service in and for such State.

"'SEC. 13. That the grantee shall commence the construction of the dam and accessory and appurtenant works within one year from the date of the approval herein provided, and shall thereafter, in good faith and with due diligence, prosecute such construction, and shall within the further term of three years complete and put in commercial operation such part of the ultimate development as the Secretary of War and the Chief of Engineers shall deem necessary to supply the reasonable market demands, and extension of the periods herein specified, not to exceed one year, may be granted by the Secretary of War, on recommendation of the Chief of Engineers, when, in his judgment, the public interest will be promoted thereby, and after the completion of said dam and works they shall be operated continuously for the development of electrical energy. In case the grantee shall not commence actual construction within the time herein prescribed, then the authority as to such grantee shall terminate; and in case any dam and accessory and appurtenant works be not completed within the time herein specified or extended as herein provided, then the Attorney General, upon request of the Secretary of War, shall institute proper proceedings in the proper district court of the United States for the revocation of said authority, the sale or removal of the works constructed, and such other equitable relief as the case may demand as provided in section 9 of this act.

"'SEC. 14. That the Secretary of War is further authorized and directed to provide rules and regulations for uniform accounting; to examine the books and accounts of grantees under the terms of this act; to require them to submit statements, representations, or reports, including information as to assets and liabilities, cost of water rights, rights of ways, lands, and other property acquired, the production, use, transmission, and sale of electrical energy. All such statements, representations, or reports shall be upon oath, unless otherwise specified, and in such form and on such blanks as the Secretary of War may require; and any person making any false statement, representation, or report under oath shall be deemed guilty of perjury, and on conviction thereof shall be punished by a fine not exceeding $1,000, in addition to other penalties provided by law.

"'SEC. 15. That the Secretary of War be, and hereby is, authorized to lease the surplus water and water power generated at dams and works now or hereafter constructed, wholly or in part by the United States in the interest of navigation, on such terms and conditions, and for such periods of time, not to exceed 50 years, as may be deemed by the Secretary of War for the best interest of the United States, subject, however, to the provisions of this act as aforesaid. In granting leases under this provision the Secretary of War may, in his discretion, give preference to applications for leases for the development of electrical power by States or municipalities developing electrical energy solely for municipal use; and all leases and the parties thereto and the terms and conditions thereof shall be reported annually to Congress.

"'SEC. 16. That the works constructed, maintained, and operated under the provisions of this act shall not be owned, leased, trusteed, controlled, or operated by any device, or in any manner so that they form a part of or in any manner effect any combination in the form of an unlawful trust or monopoly, or form the subject of an unlawful contract or conspiracy to limit the output or to fix, maintain, or increase prices of electric energy or in restraint of the generation, transmission, sale, or distribution of electric energy or the exercises of any other business contemplated: *Provided, however*, That it shall be lawful with the approval of the Secretary of War for different grantees to exchange and interchange currents, to assist one another whenever necessary, in his discretion, by supplementing the currents or power, and enable any grantee to secure assistance to carry on the business and supply his customers, accounting therefor any paying therefor under regulations to be prescribed by the Secretary of War.

"'In no case shall such an arrangement be permitted to raise the price, render unjust or unfair any practice, work, or service, or operate in restraint of trade.

"'SEC. 17. That the word "persons" as used in this act shall be construed to import both the singular and the plural, as the case demands, and shall include corporations, companies, and associations. The word "dam" as used in this act shall be construed to import both the singular and the plural, as the case demands.

"'SEC. 18. That all provisions of this act shall apply alike to all existing enterprises in operation or authorized under an act entitled "An act to regulate, etc., approved June 23, 1906, as amended by the act approved June 23, 1910"; and all conflicting provisions thereof are hereby repealed.

"'SEC. 19. That the right to alter, amend, or repeal this act is hereby expressly reserved as to any and all dams which may be authorized in accordance with the provisions of this act. In such case the United States shall incur no liability for the alteration, amendment, or repeal thereof to the owner or owners or any other persons interested in such dam.'"

Mr. DONOHOE. I also desire to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. DONOHOE. Mr. Speaker, in presenting this substitute I desire to say that I do so at the request of Hon. Edward T. Cahill, who has made a special study of hydroelectric and navigation laws and has examined in detail the policies and plans of the water-power companies interested in this legislation.

Mr. Cahill brought the sovereign power of the State of Wisconsin into the controversy of the State of Illinois to conserve for public use the Illinois River and preserve for future generations the water passageway through the Great Lakes from the Atlantic to the Gulf. He also formed, and is now president of, the National Liberty and Commercial League, whose land and conservation policies are not limited to any individual idea or the declared policy of any set of men, but is as broad and comprehensive as the Nation itself.

DIFFERENCES IN BILLS.

It will be acknowledged by every Member of this House that there has been a great divergence of opinion as to which of the several bills presented is best for the public interest. The bill as first prepared by the Committee on Interstate and Foreign Commerce was not satisfactory; neither was the bill introduced by Mr. FERRIS, of the Public Lands Committee, or the more recent report of the Committee on Foreign Affairs, submitted by Mr. CLINE, covering the waters of Niagara Falls.

Time will not permit an analysis of these bills, but suffice to say that after numerous conferences at the White House the Adamson bill has been so amended until the original bill would not be known, and the cause for these amendments is an effort to conserve the public interest and preserve, if possible, the best features of the dam act.

One of the defects of the Adamson bill, which has now been acknowledged, was the invasion of the prerogatives and jurisdiction of the Secretary of the Interior and the Secretary of Agriculture upon the public lands of the United States and the existing rights now granted to power companies under permits issued by them.

In the bill presented by the Foreign Affairs Committee, through Mr. CLINE, the whole spirit of the other bills with reference to national control is sought to be destroyed. It is already well known to that committee, as well as to almost every Member of this House, that the State of New York has issued to the great power trust corporations now using the waters of the Falls of Niagara in the development of hydroelectric power franchises for a period of 999 years, without exacting one penny of compensation therefor; and by this bill of the Committee on Foreign Affairs the question of compensation is to be fixed by that State which has absolutely parted with the rights of the public in this stream for all time. This feature, of course, has not been argued before this House for the reason that the waters involved at Niagara Falls are boundary waters and are not covered in the bill now before us for discussion; but in the substitute now introduced this feature, as well as numerous others, are embraced, as I will endeavor to show.

FAILURE TO PROTECT PUBLIC RIGHTS.

It will be noticed that there has been no suggestion of a change in section 7, page 6, by amendment or otherwise; yet this is fraught with most serious consequence to the public. In section 5 of the present navigation laws you will find that failure to comply with the lawful orders of the Secretary of War and the Chief of Engineers shall be deemed a violation of the act, and the penalty there imposed for such violation has been reduced from $5,000 to $1,000; and there was given the right to the Secretary of War to declare what an obstruction to navigation consisted of, for it is well known to the Members of this House that upon removal of obstructions to navigation no damages could be had against the Government for such removal. All of this is changed by the present bill. You take this power away from the Secretary of War and vest it in the courts. "The district court is given jurisdiction over all such proceedings and has the power to make and enforce all orders for the enforcement of this act." It will be noticed on page 8 that the court is further directed and empowered to make and enforce "such other and further orders and decrees as equity may demand."

Under the language just quoted it is clear to me that questions of the policy of laws which are embodied in the Adamson bill are not to be determined by the officers of the Government, but by the court alone. You substitute here an executive power and seek to vest its discretion in a judicial court.

The seriousness of this language can be realized only when one stops to consider that you propose giving a lease for 50 years. At the end of these 50 years you can not terminate this lease, because you have vested in the court certain functions belonging to Congress, and the court, by reason of these functions, may prolong this lease indefinitely, and Congress, by its act, would surrender one of its prerogatives to the judicial power and place in its hands that which Congress alone should exercise. Congress would thereby absolutely part with its functions and leave them to a chancery court, which might tie the hands of the Government for years. In the meantime the power of the Government to improve its streams as the demands of commerce may warrant would be destroyed.

STATE AND FEDERAL RIGHTS INVOLVED.

The great question here is the power exercised by the respective States and the Federal Government in their navigable and nonnavigable waters. Decision after decision has been quoted on this floor. Those insisting upon State rights contend that the States alone shall be considered in the matter. Mr. STEVENS of Minnesota and Mr. ADAMSON, the advocates of this bill, are the exponents of this doctrine. Volumes of legal opinions have been cited on both sides of this controversy, and no public benefit has accrued by reason of these differences of opinion. Mr. STEVENS states—

> That for 100 years a man could put up a dam on a navigable stream and no Federal authority did attempt to interfere. It was so until the act of 1899, that provided that no dam should be constructed in a navigable stream without the consent of Congress. Up to that time a man could construct all the dams he wanted to put up and take all the chances he wanted to in a navigable stream under authority of the States or otherwise.

The questions of navigability and nonnavigability have been defined on this floor from the beginning down to the recent decisions in the Union Bridge case and the Chandler Dunbar case, until now the situation is charged with an atmosphere of uncertainty; and to the layman, uneducated in the niceties of the law, comes the perpetual questions, What is and what is not a navigable stream? When and where is the line to be drawn?

If the Adamson bill is passed it means the destruction of the work accomplished by the Mississippi River Commission created under an act of Congress of June 28, 1879, and numerous acts amendatory thereto, whereby the Government has already expended over $130,000,000, as well as authorized the further expenditure of millions for protecting the headwaters of not only this stream, but also others coursing from their fountain heads through the various States of the Union.

It is too late to go backward, so we must go forward. Already our reclamation and national reservation acts and those for the preservation of our forests have produced results incapable of being measured by dollars and cents. The whole

arid wilderness of the West is endangered, and the irrigation act of June, 1902, which resulted in the erection of the great reservoir in Phoenix, Ariz., is threatened by this bill. The great good already accomplished, the expenditure of close to $1,000,000,000, the general improvement of the rivers, harbors, and canals, aided and assisted by the Federal Government, and the great future now contemplated by the General Government which has for its object the conservation of the Federal resources of the Nation would be bartered away for little or nothing.

THE SUBSTITUTE BILL.

The substitute which I have presented covers the various objections that I have mentioned and seeks to better protect the public interest in the water power of the Nation.

We vest in the Secretary of the Interior and the Secretary of Agriculture all the fundamental powers claimed by them under the existing law, and we preserve the unity of the States and their sovereignty in that no permit shall issue unless it shall first have the approval of the State.

We would give the Secretary of War the right to consider not only navigable streams, but tributaries and contributing waters which make them navigable, thus settling for all time this uncertain question; and following the language of the Supreme Court of the United States in the doctrine set forth in the later decisions, whereby they hold that any interference with nonnavigable streams contributing to the navigability of the navigable ones is within the power and duty of the Federal Government to take the proper precautions to preserve and safeguard these for future generations. These questions are thus settled for all time.

All theoretical and speculative questions as to navigability, State or Federal control, are here settled, and no one can complain, either the private owner or municipality, the State or National Government.

The question of determining whether a permit shall issue is safeguarded by the requirement of the seal of the State, and it is further protected in boundary waters between States by requiring joint action by the States in interest.

The powers here conferred on the Interstate Commerce Commission have indirectly been passed upon by the Supreme Court of the United States.

We have strengthened the arm of the War Department in the protection of our navigable streams by providing that they shall also consider tributary and contributing waters, and we have also provided for the protection of our commerce upon the Great Lakes and the other water highways of the Nation.

We also provide for and vest in the Joint International Commission the power to issue permits in international boundary waters, but call for joint action by the bordering States, and thereby preserve in such permit the levels of the lakes and preserve for all time their navigation.

EXEMPTION FROM TAXATION.

The exemption from taxation in the great manufacturing States of Illinois and Pennsylvania of the capital stock of manufacturing corporations has contributed to their unusual growth and development in those States, and with the object of inviting capital in these new enterprises we provide that all corporations and persons to whom a permit shall issue shall be free from taxation for a period of not less than three years.

This substitute provides for a revaluation every five years and a rental based thereon to be paid annually to the Government of the United States. The disposition of this fund, after it has accumulated to the amount of $1,000,000, is left to the future action of Congress.

It further provides that the Government shall have the right within five years before the expiration of the lease to take the property, but it does not compel the Government to do so, the intention being to leave with Congress the power to determine the future. We can not grant a vested interest; we can only give the right to use that for which the Government and the State are mere naked trustees.

These waters are incapable of ownership, and therefore can not be subject to a grant. The license to use can never attach itself so as to impose a duty on the grantor, for he can never make a grant; he can issue a license to use, but never grant an easement as against the public, so that the public at any time can, if it desires, recall the grant. Here we are dealing not with land but with incorporated hereditaments. [Applause.]

The SPEAKER. The gentleman from Georgia [Mr. ADAMSON] moves the previous question on the Smith amendment, the Fowler amendment to the Smith amendment, and the Donohoe substitute. The question is on agreeing to the motion for the previous question.

The previous question was ordered.

The SPEAKER. The question is on the amendment of the gentleman from Illinois [Mr. FOWLER] to the motion of the gentleman from Minnesota [Mr. SMITH] to recommit.

The question being taken, the Speaker announced that the noes appeared to have it.

Mr. FOWLER. Division, Mr. Speaker.

The SPEAKER. The gentleman from Illinois [Mr. FOWLER] asks for a division.

The House divided; and there were—ayes 24, noes 70.

Accordingly the amendment of Mr. FOWLER was rejected.

The SPEAKER. The question is on the Donohoe substitute.

The substitute of Mr. DONOHOE was rejected.

The SPEAKER. The question is on the motion of the gentleman from Minnesota [Mr. SMITH] to recommit.

The question being taken, the Speaker announced that the noes appeared to have it.

Mr. SMITH of Minnesota demanded a division, but pending the division withdrew the demand.

So the motion of Mr. SMITH of Minnesota to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken.

The SPEAKER. The ayes appear to have it; the ayes have it.

Mr. MURDOCK. The yeas and nays, Mr. Speaker.

Mr. DONOVAN. Too late.

The SPEAKER. No; it is not too late.

Mr. ADAMSON. I think the Speaker had made the announcement.

The SPEAKER. Oh, it is done that way every day. The Chair did not notice that the gentleman from Kansas was up. The gentleman from Kansas demands the yeas and nays.

The question being taken, 26 Members voted in the affirmative.

The SPEAKER. Those opposed to ordering the yeas and nays will rise and stand until they are counted. [After counting.] Twenty-six Members have voted in favor of ordering the yeas and nays, and 56 have voted against ordering the yeas and nays. Twenty-six, being more than one-fifth, are a sufficient number, and the Clerk will call the roll.

Mr. MANN. I make the point that there is no quorum present, Mr. Speaker. I think that is more convenient.

The SPEAKER. The gentleman from Illinois makes the point of no quorum present. There is no quorum present. There is no use to pretend to count. The Doorkeeper will lock the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 191, nays 47, answered "present" 6, not voting 188, as follows:

YEAS—191.

Abercrombie	Deitrick	Kettner	Ragsdale
Adamson	Dent	Key, Ohio	Rainey
Aiken	Dershem	Kindel	Raker
Alexander	Difenderfer	Kinkaid, Nebr.	Rauch
Allen	Dixon	Kirkpatrick	Rayburn
Anderson	Donovan	Konop	Reilly, Conn.
Ansberry	Doolittle	Korbly	Reilly, Wis.
Bailey	Doremus	Kreider	Roberts, Nev.
Baker	Doughton	La Follette	Rogers
Baltz	Dunn	Lee, Ga.	Rothermel
Barnhart	Evans	Lee, Pa.	Rubey
Bathrick	Falconer	Lesher	Rucker
Beakes	Farr	Lever	Russell
Bell, Cal.	Fergusson	Levy	Seldomridge
Blackmon	Ferris	Lewis, Md.	Shackleford
Booher	Finley	Linthicum	Shreve
Bowdle	FitzHenry	Lloyd	Sims
Brockson	Foster	Lobeck	Sisson
Brodbeck	Gallivan	Logue	Slemp
Broussard	Garner	Lonergan	Sloan
Brown, N. Y.	Garrett, Tenn.	McClellan	Smith, Idaho
Brumbaugh	Garrett, Tex.	McCoy	Smith, Saml. W.
Bryan	Gilmore	McKellar	Sparkman
Buchanan, Ill.	Glass	McKenzie	Stafford
Buchanan, Tex.	Good	McLaughlin	Stedman
Burgess	Goodwin, Ark.	Madden	Stephens, Cal.
Burke, S. Dak.	Gray	Maguire, Nebr.	Stevens, N. H.
Burke, Wis.	Hamlin	Manahan	Stone
Burnett	Hammond	Mann	Stout
Campbell	Hardy	Miller	Taylor, Ala.
Candler, Miss.	Harris	Mitchell	Taylor, Ark.
Cantor	Harrison	Montague	Taylor, Colo.
Caraway	Hart	Moon	Thacher
Carlin	Hay	Moore	Thomson, Ill.
Carr	Hayden	Morgan, Okla.	Townsend
Carter	Helm	Morin	Treadway
Church	Helvering	Moss, Ind.	Tribble
Cline	Hensley	Mulkey	Tuttle
Coady	Holland	Murray, Mass.	Underwood
Collier	Howard	Nolan, J. I.	Vare
Connelly, Kans.	Hull	Norton	Watkins
Conry	Humphreys, Miss.	Oldfield	Watson
Covington	Jacoway	Page, N. C.	Webb
Cox	Kahn	Park	Whaley
Cullop	Keating	Payne	Wilson, Fla.
Danforth	Kennedy, Conn.	Phelan	Wilson, N. Y.
Davis	Kennedy, Iowa	Pou	Wingo
Decker	Kennedy, R. I.	Quin	

NAYS—47.

Barton	Fowler	Johnson, Utah	Sinnott
Borchers	French	Keister	Smith, Minn.
Britten	Gallagher	Kelly, Pa.	Stevens, Minn.
Claypool	Greene, Mass.	Kiess, Pa.	Sutherland
Cooper	Greene, Vt.	Lieb	Tavenner
Cramton	Haugen	Lindbergh	Temple
Curry	Hawley	MacDonald	Towner
Dillon	Helgesen	Mapes	Volstead
Donohoe	Howell	Murdock	Witherspoon
Drukker	Hughes, W. Va.	Nelson	Woods
Edmonds	Hulings	Rupley	Young, N. Dak.
Esch	Johnson, Ky.	Scott	

ANSWERED "PRESENT"—6.

Butler	Johnson, Wash.	Moss, W. Va.	Walters
Guernsey	Morrison		

NOT VOTING—188.

Adair	Fairchild	Jones	Powers
Ainey	Faison	Kelley, Mich.	Prouty
Anthony	Fess	Kent	Reed
Ashbrook	Fields	Kinkead, N. J.	Riordan
Aswell	Fitzgerald	Kitchin	Roberts, Mass.
Austin	Flood, Va.	Knowland, J. R.	Rouse
Avis	Floyd, Ark.	Lafferty	Sabath
Barchfeld	Fordney	Langham	Saunders
Barkley	Francis	Langley	Scully
Bartholdt	Frear	Lazaro	Sells
Bartlett	Gard	L'Engle	Sherley
Beall, Tex.	Gardner	Lenroot	Sherwood
Bell, Ga.	George	Lewis, Pa.	Slayden
Borland	Gerry	Lindquist	Small
Brown, W. Va.	Gill	Loft	Smith, J. M. C.
Browne, Wis.	Gillett	McAndrews	Smith, Md.
Browning	Gittins	McGillicuddy	Smith, N. Y.
Bruckner	Godwin, N. C.	McGuire, Okla.	Smith, Tex.
Bulkley	Goeke	Mahan	Stanley
Burke, Pa.	Goldfogle	Maher	Steenerson
Byrnes, S. C.	Gordon	Martin	Stephens, Miss.
Byrns, Tenn.	Gorman	Merritt	Stephens, Nebr.
Calder	Goulden	Metz	Stephens, Tex.
Callaway	Graham, Ill.	Mondell	Stringer
Cantrill	Graham, Pa.	Morgan, La.	Sumners
Carew	Green, Iowa	Mott	Switzer
Cary	Gregg	Murray, Okla.	Taggart
Casey	Griest	Neeley, Kans.	Talbott, Md.
Chandler, N. Y.	Griffin	Neely, W. Va.	Talcott, N. Y.
Clancy	Gudger	O'Brien	Taylor, N. Y.
Clark, Fla.	Hamill	Oglesby	Ten Eyck
Connolly, Iowa	Hamilton, Mich.	O'Hair	Thomas
Copley	Hamilton, N. Y.	O'Leary	Thompson, Okla.
Crisp	Hardwick	O'Shaunessy	Underhill
Crosser	Hayes	Padgett	Vaughan
Dale	Heflin	Paige, Mass.	Vollmer
Davenport	Henry	Palmer	Walker
Dickinson	Hill	Parker	Wallin
Dies	Hinds	Patten, N. Y.	Walsh
Dooling	Hinebaugh	Patton, Pa.	Weaver
Driscoll	Hobson	Peters, Mass.	Whitacre
Dupré	Houston	Peters, Me.	White
Eagan	Hoxworth	Peterson	Williams
Eagle	Hughes, Ga.	Platt	Willis
Edwards	Humphrey, Wash.	Plumley	Winslow
Elder	Igoe	Porter	Woodruff
Estopinal	Johnson, S. C.	Post	Young, Tex.

So the bill was passed.

The Clerk announced the following pairs:

For the session:

Mr. BARTLETT with Mr. BUTLER.

Mr. METZ with Mr. WALLIN.

Mr. SCULLY with Mr. BROWNING.

Until further notice:

Mr. JOHNSON of South Carolina with Mr. WINSLOW.

Mr. SHERWOOD with Mr. MOTT.

Mr. BRYNES of South Carolina with Mr. KELLEY of Michigan.

Mr. BULKLEY with Mr. FESS.

Mr. SAUNDERS with Mr. ANTHONY.

Mr. FITZGERALD with Mr. FORDNEY.

Mr. HUGHES of Georgia with Mr. MERRITT.

Mr. CALLAWAY with Mr. WILLIS.

Mr. ASWELL with Mr. CARY.

Mr. LAZARO with Mr. PARKER.

Mr. KITCHIN with Mr. ROBERTS of Massachusetts.

Mr. ASHBROOK with Mr. AUSTIN.

Mr. DAVENPORT with Mr. J. M. C. SMITH.

Mr. CANTRILL with Mr. COPLEY.

Mr. HOUSTON with Mr. LANGHAM.

Mr. DALE with Mr. MARTIN.

Mr. SLAYDEN with Mr. BURKE of Pennsylvania.

Mr. MORGAN of Louisiana with Mr. LINDQUIST.

Mr. EDWARDS with Mr. GRIEST.

Mr. BELL of Georgia with Mr. CALDER.

Mr. ESTOPINAL with Mr. FREAR.

Mr. FIELDS with Mr. LANGLEY.

Mr. STEPHENS of Nebraska with Mr. LEWIS of Pennsylvania.

Mr. YOUNG of Texas with Mr. AINEY.

Mr. CLANCY with Mr. HAMILTON of New York.

Mr. BYRNS of Tennessee with Mr. BARCHFELD.

Mr. CASEY with Mr. GREENE of Iowa.

Mr. CLARK of Florida with Mr. HAMILTON of Michigan.

Mr. DUPRÉ with Mr. HAYES.

Mr. GODWIN of North Carolina with Mr. CARY.

Mr. GOLDFOGLE with Mr. HINEBAUGH.

Mr. GRAHAM of Illinois with Mr. MCGUIRE of Oklahoma.

Mr. HEFLIN with Mr. MONDELL.

Mr. HOWARD with Mr. PATTON of Pennsylvania.

Mr. PALMER with Mr. PLUMLEY.

Mr. PATTEN of New York with Mr. SELLS.

Mr. RIORDAN with Mr. POWERS.

Mr. SHERLEY with Mr. WILLIS.

Mr. WALKER with Mr. PLATT.

Mr. YOUNG of Texas with Mr. WOODRUFF.

Mr. HARDWICK with Mr. J. R. KNOWLAND.

Mr. HENRY with Mr. HINDS.

Mr. MCGILLICUDDY with Mr. GUERNSEY.

Mr. ROUSE with Mr. PORTER.

Mr. FRANCIS with Mr. CHANDLER of New York.

Mr. FLOOD of Virginia with Mr. FAIRCHILD.

Mr. MORRISON with Mr. HUMPHREY of Washington.

Mr. ADAIR with Mr. BROWNE of Wisconsin.

Mr. UNDERHILL with Mr. STEENERSON.

Mr. SABATH with Mr. SWITZER.

Mr. GITTINS with Mr. JOHNSON of Washington.

Mr. STEPHENS of Texas with Mr. BARTHOLDT.

Mr. IGOE (for the Adamson bill) with Mr. GORDON (against).

Mr. PETERSON with Mr. PETERS of Maine.

On this vote:

Mr. GILLETT (for dam bill) with Mr. PROUTY (against).

Mr. AVIS (for dam bill) with Mr. REED (against).

Mr. GRAHAM of Pennsylvania (for dam bill) with Mr. WALTERS (against).

Mr. JOHNSON of Washington. Mr. Speaker, I voted "no"; but I find I am paired with the gentleman from New York, Mr. GITTINS, and I wish to withdraw that vote and answer "present."

The result of the vote was then announced as above recorded.

The SPEAKER. A quorum is present; the Doorkeeper will open the doors.

On motion of Mr. ADAMSON, a motion to reconsider the vote whereby the bill was passed was laid on the table.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 23. An act for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13, and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District;

S. 6192. An act to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act; and

S. 3176. An act to increase the limit of cost of the public building at Bangor, Me.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolutions of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. J. Res. 169. Joint resolution authorizing the President to accept an invitation and to appoint delegates to participate in the International Conference on Social Insurance; to the Committee on Foreign Affairs.

S. 5798. An act authorizing the health officer of the District of Columbia to issue a permit for the removal of the remains of the late Earl A. Bancroft from Glenwood Cemetery, District of Columbia, to Mantorville, Minn.; to the Committee on the District of Columbia.

S. J. Res. 165. Joint resolution authorizing the President to extend invitations to other nations to send representatives to the International Dry Farming Congress to be held at Wichita, Kans., October 7 to 17, inclusive, 1914; to the Committee on Foreign Affairs.

S. 5259. An act to establish one or more United States Navy mail lines between the United States and South America and between the United States and the countries of Europe; to the Committee on Naval Affairs.

S. 6039. An act for the coinage of certain gold and silver coins in commemoration of the Panama-Pacific International Exposition, and for other purposes; to the Committee on Coinage, Weights, and Measures.

PERSONAL EXPLANATION.

Mr. KEATING. Mr. Speaker, I ask unanimous consent to address the House for five minutes on a personal matter.

The SPEAKER. The gentleman from Colorado asks unanimous consent to address the House on a personal matter. Is there objection?

There was no objection.

Mr. KEATING. Mr. Speaker, my colleague from Colorado [Mr. KINDEL] addressed the House yesterday on a question of personal privilege. In that connection he read a clipping from the New York Sun which quoted me as saying that Mr. KINDEL was the paid agent or attorney of the express companies.

I never made that statement and do not recollect having given any interview to the Sun. Fortunately I have a memorandum showing what I did say for publication in another newspaper, and I desire to read that into the RECORD. By way of preface I might say that this statement was provoked by the announcement of my colleague that he had left the Democratic Party. The statement as I gave it to the newspaper man was as follows:

When a mattress maker with populistic tendencies is elected to Congress by Democratic votes and suddenly discovers that John D. Rockefeller is a big-hearted philanthropist who deserves well of his country, it is time for the mattress maker to pack his grip and move over into the Republican Party.

Mr. KINDEL was elected to Congress because he convinced the people of Colorado that he was the friend and champion of the parcel post. I think he was quite sincere in this declaration when he made it out in Colorado, but since coming to the Capital he has undergone a most amazing change.

While he is probably the least influential, he is undoubtedly the most persistent and by long odds the most unfair opponent that the friends of the parcel post have been compelled to combat during the last 18 months. He has given aid and comfort to the express companies and has stayed up nights in his effort to hamper and embarrass the parcel post.

Now, Mr. Chairman, that was the statement as I gave it to the press. That was the statement which, in various forms, I have reiterated from time to time, and that is the statement which I now desire to lay before the House, and through the House before the voters of the gentleman's congressional district.

If he will only possess his soul in patience for a few weeks more we will both be back in Colorado and we will have an opportunity to appear together before the voters of his district, and then I shall have my opportunity to tell those voters exactly what the gentleman has been doing down here.

It will be a very entertaining and at times a very amusing story, but it will afford me a great deal of pleasure to tell it to our people, and I shall not stop at the parcel post. I will, perhaps, tell the voters of the gentleman's district the story of how one year ago he introduced in this House a resolution attacking the Attorney General of the United States. That resolution contained statements of facts which were repudiated by the President of the United States, and when an investigation was made to ascertain the authorship of the resolution it was ascertained that the man who wrote it was David Lamar, the "Wolf of Wall Street." According to Mr. Lamar's own confession he had resolutions of that kind introduced in this House for the purpose of rigging the stock market, and I will give the gentleman from Colorado an opportunity to explain to his constituents why he permitted himself to be used by the "Wolf of Wall Street."

I thank the House for having given me this opportunity to make this statement.

REGULATION OF THE CATCHING OF SPONGES.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent to reconsider the vote by which the bill (S. 5313) to regulate the taking or catching of sponges in the waters of the Gulf of Mexico and the straits of Florida outside of State jurisdiction; the landing, delivering, curing, selling, or possession of the same; providing means of enforcement of the same; and for other purposes, was passed yesterday, by which it was ordered to be read a third time and passed, in order that I may offer an amendment which was omitted yesterday by oversight.

The SPEAKER. If the gentleman will permit, the Chair will simplify his request. The gentleman from Missouri asks unanimous consent to vacate all of the actions and orders of the House on the bill S. 5313, regulating the catching of sponges, back to the amending stage. Is there objection?

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. The bill has not yet been sent to the Senate?

Mr. ALEXANDER. No; it is yet on the Clerk's desk.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman will send his amendment up to the desk.

Mr. ALEXANDER. Mr. Speaker, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, on page 3, line 5, by striking out the word "to" after the word "request," so that the line as amended will read: "to make arrests and seize vessels and sponges, and upon his request the Secretary of the Treasury may employ," etc.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question now is on the third reading of the Senate bill as amended.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. ALEXANDER, a motion to reconsider the vote by which the bill was passed was laid on the table.

LOCATORS OF OIL AND GAS LANDS.

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 5673) to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest," approved March 2, 1911, with House amendments thereto, disagreed to by the Senate, insist on the House amendments, and agree to the conference asked for by the Senate.

The SPEAKER. The gentleman from Colorado asks unanimous consent to take from the Speaker's table the bill S. 5673, with House amendments, disagreed to by the Senate, insist on the House amendments, and agree to the conference asked for by the Senate. Is there objection?

There was no objection.

The Chair announced the following conferees: Mr. FERRIS, Mr. TAYLOR of Colorado, and Mr. FRENCH.

PENSIONS.

Mr. KEY of Ohio. Mr. Speaker, I call up the conference report on the bill (S. 4969) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and to widows of such soldiers and sailors, and move its adoption.

The SPEAKER. The gentleman calls up a conference report, which the Clerk will report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 1060).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4969) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 2, 3, 5, 8, 9, 10, and 12, and agree to the same.

That the House recede from its amendments numbered 1, 4, 6, 7, and 11.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

CHAS. F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on certain amendments of the House to the bill (S. 4969) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, submit the following writtten statement in explanation of the effect of the action agreed upon by the conference committee

and submittted in the accompanying conference report as to each of the said amendments, viz:

On amendments Nos. 2, 3, 5, 8, 10, and 12 the Senate concurs in the House amendments, as these are all corrections of soldiers' service.

On amendment No. 1 the House recedes, as the evidence shows that the widow is the wife of a brigadier general, and the amount proposed by the Senate bill is in conformity with the Senate rules relating to similar cases.

On amendment No. 4 the House recedes, as the evidence shows that the widow is the wife of a brigadier general, and the amount proposed by the Senate bill is in conformity with the Senate rules relating to similar cases.

On amendment No. 6 the House recedes, as the evidence on file in support of this measure justifies the allowance of proposed pension.

On amendment No. 7 the House recedes, as the $12 pension proposed is fully justified by the evidence.

On amendment No. 9 the Senate concurs in the House amendment, as the evidence is not deemed sufficient to warrant proposed pension.

On amendment No. 11 the House recedes, as the evidence on file with the bill fully justifies the proposed increase to $12.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. KEY of Ohio. Mr. Speaker, I also call up the conference report on the bill S. 5278, an omnibus pension bill, of similar title.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 1061).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5278) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and to widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 4, 5, 7, 8, 9, 11, 13, and 15, and agree to the same.

That the House recede from its amendment numbered 3.

Amendment numbered 6: That the Senate recede from its disagreement to the amendment of the House numbered 6, and agree the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$24"; and the House agree to the same.

Amendment numbered 10: That the Senate recede from its disagreement to the amendment of the House numbered 10 and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$24"; and the House agree to the same.

Amendment numbered 12: That the Senate recede from its disagreement to the amendment of the House numbered 12, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment and in lieu of the sum proposed therein insert the sum "$24"; and the House agree to the same.

Amendment numbered 14: That the Senate recede from its disagreement to the amendment of the House numbered 14, and agree to the same with an amendment as follows:

Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$40"; and the House agree to the same.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.
CHARLES F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on certain amendments of the House to the bill (S. 5278) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to each of the said amendments, viz:

On amendments Nos. 1, 4, 5, 7, 8, and 13 the Senate concurs in the House amendments, as these are all corrections of soldiers' service.

On amendment No. 2 the Senate concurs in the House amendment, as a higher rate than $24 is not warranted by the proofs on file.

On amendment No. 3 the House recedes, as the evidence clearly shows proposed pension of $15 is justified.

On amendment No. 6 the Senate concurs in the House amendment with an amendment allowing a pension of $24. The conferees believe the evidence on file in support of the bill fully justifies this amount.

On amendment No. 9 the Senate concurs in the House amendment, as the evidence on file does not justify the proposed pension.

On amendment No. 10 the Senate concurs in the House amendment with an amendment allowing $24 to soldier, this amount being fully justified by the proof filed.

On amendment No. 11 the Senate concurs in the House amendment, as the proofs are not deemed sufficient to warrant proposed pension.

On amendment No. 12 the Senate concurs in the House amendment with an amendment allowing $24. The Senate passed the bill at $30 and the House struck the item out. Soldier is pensioned at $17 per month for disease of right leg, resulting in varicose veins and malarial poisoning. Soldier's increased disability, as shown by the evidence, clearly justifies an allowance of $24 per month pension.

On amendment No. 14 the Senate concurs in the House amendment with an amendment allowing $40. The evidence on file in support of this bill is believed by the conferees to justify proposed rate.

On amendment No. 15 the Senate concurs in the House amendment, as the evidence does not warrant a higher rating.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. KEY of Ohio. Mr. Speaker, I also call up the conference report on the bill S. 5501, an omnibus pension bill of similar title.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 1062).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5501) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 3, 5, 6, 7, 8, 10, 13, 15, 17, 18, and 19, and agree to the same.

That the House recede from its amendments numbered 4, 9, and 16.

Amendment numbered 2: That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$50"; and the House agree to the same.

Amendment numbered 11: That the Senate recede from its disagreement to the amendment of the House numbered 11, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$30"; and the House agree to the same.

Amendment numbered 12: That the Senate recede from its disagreement to the amendment of the House numbered 12, and agree to the same with an amendment as follows: In lieu of the

sum proposed by said amendment insert the sum "$24"; and the House agree to the same.

Amendment numbered 14: That the Senate recede from its disagreement to the amendment of the House numbered 14, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$30"; and the House agree to the same.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.
CHARLES F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on certain amendments of the House to the bill (S. 5501) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to each of the said amendments, viz:

On amendments Nos. 5, 6, 7, 8, 13, and 17: The Senate concurs in the House amendments, as these are all corrections of soldiers' service.

On amendment No. 1: The Senate concurs, as the evidence is not considered sufficient to warrant proposed pension.

On amendment No. 2: The Senate concurs in the House amendment with an amendment allowing widow $50. The Senate passed the bill at $75 and the House struck the item out. The conferees believe that a rating of $50 is fully justified by the circumstances of the case as presented by the evidence on file.

On amendment No. 3: The Senate concurs, as the proposed increase of pension is not warranted by the evidence on file.

On amendment No. 4: The House recedes, as the $20 proposed by the bill is clearly justified by the evidence on file.

On amendment No. 9: The House recedes, as the evidence on file is deemed sufficient to warrant proposed pension of $12 to widow.

On amendment No. 10: The Senate concurs in the House amendment, as the evidence presented in support of the bill is not deemed sufficient to warrant proposed pension.

On amendment No. 11: The Senate concurs in the House amendment with an amendment allowing $30. Soldier is blind and requires the aid and attention of another person for his care, and the conferees believe the $30 rating is fully justified.

On amendment No. 12: The Senate concurs in the House amendment with an amendment allowing $24. This rating is fully justified by the evidence on file.

On amendment No. 14: The Senate concurs in the House amendment with an amendment allowing $30. The evidence on file in support of this bill warrants proposed pension of $30.

On amendment No. 15: The Senate concurs in the House amendment, as proposed pension is not justified by the evidence in the case.

On amendment No. 16: The House recedes, as proposed amendment is erroneous.

On amendment No. 18: The Senate concurs in the House amendment—a correction.

On amendment No. 19: The Senate concurs in the House amendment, as the rating is deemed sufficient under the proofs filed.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

Mr. KEY of Ohio. Mr. Speaker, I also call up the conference report on the bill S. 5899, an omnibus pension bill of similar title.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 1063).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5899) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 3, 4, 6, 7, 8, 9, 11, 13, 15, 16, 17, and 18, and agree to the same.

That the House recede from its amendments numbered 10, 12, 14, 19, and 20.

Amendment numbered 5: That the Senate recede from its disagreement to the amendment of the House numbered 5, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$12"; and the House agree to the same.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.
CHARLES F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on certain amendments of the House to the bill (S. 5899) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to each of the said amendments, viz:

On amendment No. 1 the Senate concurs in the House amendment, as the proposed pension of $20 is not warranted by the evidence on file.

On amendments Nos. 2, 4, 6, 11, 15, 17, and 18 the Senate concurs in the House amendments, as these are all corrections of soldiers' service.

On amendment No. 3 the Senate occurs in the House amendment, as proposed increase of pension is not warranted by the facts in the case.

On amendment No. 5 the Senate concurs in the House amendment with an amendment allowing $12, which is fully justified by the evidence on file.

On amendment No. 7 the Senate concurs in the House amendment, as the evidence presented in support of the bill does not justify proposed pension.

On amendment No. 8 the Senate concurs, as proposed pension is not warranted by the evidence on file.

On amendment No. 9 the Senate concurs, as a rating of more than $17 per month is not warranted by the proofs on file.

On amendment No. 10 the House recedes, as proposed pension of $20 is fully justified by the facts in the case.

On amendment No. 12 the House recedes, as proposed pension of $20 is warranted by the evidence.

On amendment No. 13 the Senate concurs in the House amendment, as proposed pension is not justified by the evidence.

On amendment No. 14 the House recedes, as a pension of $12 per month is justified by the evidence.

On amendment No. 16 the Senate concurs in the House amendment, as proposed increase of pension is not justified by the proofs on file.

On amendment No. 19 the House recedes, as the evidence on file in support of this bill clearly shows that proposed pension of $24 per month is just and proper.

On amendment No. 20 the House recedes, as proposed amendment is erroneous.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

Mr. KEY of Ohio. Mr. Speaker, I also call up the conference report on the bill H. R. 15959, an omnibus pension bill of similar title.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 1064).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 15959) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 7, 10, and 15.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 8, 9, 11, 12, 13, 14, 16, 17, and 18, and agree to the same.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.
CHARLES F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

On amendment No. 1 the House concurs in the Senate amendment. It is believed that a rate of $20 per month is fully justified in this case

On amendment No. 2 the House concurs in the Senate amendment. It is only a typographical error.

On amendment No. 3 the House concurs in the Senate amendment. This beneficiary is now dead.

On amendments Nos. 4 and 5 the House concurs in the Senate amendments. This is merely a change in phraseology.

On amendment No. 6 the Senate recedes. It is believed that a pension of $17 per month is fully warranted upon the facts presented in this case.

On amendment No. 7 the Senate recedes. The facts fully justify the granting of pension at the rate of $12 per month.

On amendment No. 8 the House concurs in the Senate amendment. This is merely a change in phraseology.

On amendment No. 9 the House concurs in the Senate amendment. It is not believed that a higher rate than $12 per month is justified in this case.

On amendment No. 10 the Senate recedes. The evidence in this case fully justifies the allowance of pension at the rate of $12 per month.

On amendment No. 11 the House concurs in the Senate amendment. It is not believed that a higher rate of pension than $12 per month is warranted.

On amendments Nos. 12 and 13 the House concurs in the Senate amendments. This is only a change in phraseology.

On amendment No. 14 the House concurs in the Senate amendment. This is a change of phraseology only.

On amendment No. 15 the Senate recedes. It is believed that the facts of this case fully warrant the allowance of pension at $24 per month.

On amendments Nos. 16, 17, and 18 the House concurs in the Senate amendments. This is only a change in the phraseology.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

Mr. KEY of Ohio. Mr. Speaker, I also call up the conference report on the bill H. R. 16345, an omnibus pension bill of similar title.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 1065).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 16345) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1 and 16.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, and 18, and agree to the same.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.
CHARLES F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

On amendment No. 1 the Senate recedes. It is believed that a pension of $12 per month to the widow and $2 per month additional to the minor children of the soldier is fully justified in this case.

On amendment No. 2 the House concurs in the Senate amendment. The facts of this case do not warrant the allowance of pension.

On amendment No. 3 the House concurs in the Senate amendment. It is believed that an increase in rate to $12 per month is justified in this case.

On amendments Nos. 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 the House concurs in the Senate amendments. All of these amendments are merely a change in phraseology.

On amendment No. 14 the House concurs in the Senate amendment. The beneficiary is now dead.

On amendment No. 15 the House concurs in the Senate amendment. This is only a correction of service of the soldier.

On amendment No. 16 the Senate recedes. The allowance of pension at $17 per month is fully warranted in this case.

On amendments Nos. 17 and 18 the House concurs in the Senate amendments. This is only a change in phraseology.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

Mr. KEY of Ohio. Mr. Speaker, I also call up the conference report on the bill H. R. 17482, an omnibus pension bill of similar title.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 1066).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17482) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 10, 15, and 30.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35, and agree to the same.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.
CHARLES F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

On amendments Nos. 1, 2, 3, and 4 the House concurs in the Senate amendments. This is merely a change of phraseology.

On amendment No. 5 the House concurs in the Senate amendment. It is not believed that the allowance of pension is warranted in this case.

On amendment No. 6 the House concurs in the Senate amendment. The evidence in this case does not warrant or justify an increase in rate.

On amendments Nos. 7, 8, and 9 the House concurs in the Senate amendments. This is a change of phraseology only.

On amendment No. 10 the Senate recedes. It is not believed that a higher rate than $30 per month is warranted in this case.

On amendments Nos. 11, 12, 13, and 14 the House concurs in the Senate amendments. This is merely a change in the phraseology.

On amendment No. 15 the Senate recedes. The evidence in this case fully justifies the allowance of pension at the rate of $12 per month to the widow and $2 per month additional for the minor children of the soldier.

On amendments Nos. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29 the House concurs in the Senate amendments. These are only changes in phraseology.

On amendment No. 30 the Senate recedes. A pension of $12 per month to the widow and $2 per month additional to the minor children of the soldier is fully warranted in this case.

On amendments Nos. 31, 32, 33, and 34 the House concurs in the Senate amendments. These are merely corrections in the service of soldier.

On amendment No. 35 the House concurs in the Senate amendment. This provides for the allowance of $2 per month additional to the minor children of William T. Woods, the deceased soldier, which was erroneously left out of the bill in behalf of the widow when same was passed in the House of Representatives.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

POSTAL AND CIVIL-SERVICE LAWS.

Mr. GARRETT of Tennessee. Mr. Speaker, by authority of the Committee on Rules, I present a privileged resolution.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 584.

Resolved, That immediately upon the adoption of this resolution the House shall resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 17042, entitled, "A bill to amend the postal and civil-services laws, and for other purposes." There shall be not exceeding six hours of general debate, one-half of which time shall be controlled by the gentleman from Tennessee [Mr. MOON], and one-half by the gentleman from Michigan [Mr. SAMUEL W. SMITH]. At the conclusion of general debate the bill shall be considered for amendment under the five-minute rule, and after being perfected the committee shall rise and report the same to the House with such recommendation as it may make, whereupon the previous question shall be considered as ordered upon the bill and all amendments thereto to final passage without intervening motion except one motion to recommit: *Provided*, That all debate upon the bill and amendments shall be limited to the subject matter thereof.

Mr. GARRETT of Tennessee. Mr. Speaker, I desire to inquire if there is any desire for time on that side on this rule.

Mr. MANN. We would like to have about an hour on this side on the rule, but I would be willing to compromise by voting for the rule if the gentleman would be willing to extend the time on the bill from six to eight hours.

Mr. GARRETT of Tennessee. Would the gentleman be willing to meet at 11 o'clock on Thursday?

Mr. MURDOCK. To start then?

Mr. MANN. There is no such emergency as that, but I do not care——

Mr. MURDOCK. It will run over two days, anyhow.

Mr. MANN. All right; I will have no objection to meeting at 11 o'clock.

Mr. GARRETT of Tennessee. Mr. Speaker, I ask unanimous consent that the resolution be amended so as to strike out the word "six" before the word "hours," in line 7, and insert the word "seven."

Mr. MANN. Eight.

Mr. GARRETT of Tennessee. Seven hours was the gentleman's request.

Mr. MANN. The gentleman need not use it if he does not want to.

Mr. GARRETT of Tennessee. I misunderstood the gentleman; I thought he was simply desiring to have one hour additional debate.

Mr. MANN. We want an extra hour on this side.

Mr. MOON. I suggest that that time be equally divided, whether it be six, seven, or eight hours.

Mr. MANN. The rule provides for that.

Mr. GARRETT of Tennessee. Does the gentleman from Illinois desire eight hours' debate?

Mr. MANN. We want four hours; the gentleman need not use all his time if he does not want to do so.

The SPEAKER. What does the gentleman desire to say about the amendment?

Mr. TOWNSEND. I hope the gentleman from Tennessee will agree to the amendment. I know of several Members who would like more time than they could possibly get under the six-hour arrangement. It will take two days, anyhow, I suggest to the gentleman from Tennessee.

Mr. GARRETT of Tennessee. Mr. Speaker, I do not desire, of course, to be stubborn about the matter. All the time is given in this rule as it is reported from the committee that was asked by the Committee on the Post Office and Post Roads who reported the bill that is to be considered. Not only all the time was given, but two hours more than were requested was given, because we anticipated that we would have——

Mr. SAMUEL W. SMITH. Will the gentleman yield?

Mr. GARRETT of Tennessee. I yield to the gentleman from Michigan.

Mr. SAMUEL W. SMITH. When the gentleman says the Committee on Rules gave all the time requested by the Committee on the Post Office and Post Roads I am sure they were not consulting the minority of the committee.

Mr. GARRETT of Tennessee. I mean as presented to the Committee on Rules.

Mr. SAMUEL W. SMITH. I desire to say I have had requests for more than four hours' time.

Mr. MOON. I suggest to my colleague that inasmuch as so many gentlemen have asked for time in general debate that he make this eight hours, and give four hours to a side.

Mr. GARRETT of Tennessee. Mr. Speaker, I ask unanimous consent that the word "six" be stricken out and the word "eight" be inserted, in line 7, before the word "hours."

The SPEAKER. The gentleman from Tennessee asks unanimous consent that the word "six" be stricken out before the word "hours" and the word "eight" inserted. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GARRETT of Tennessee. Mr. Speaker, I ask unanimous consent that when the House adjourns to-morrow it adjourn to meet at 11 o'clock a. m. on Thursday.

The SPEAKER. The gentleman from Tennessee [Mr. GARRETT] asks unanimous consent that when the House adjourns to-morrow, Wednesday, it adjourn to meet at 11 o'clock a. m. on Thursday.

Mr. DONOVAN. Mr. Speaker, I am going to object to that request.

Mr. MANN. Mr. Speaker, will the gentleman from Tennessee yield?

Mr. GARRETT of Tennessee. I would like to get this request disposed of first.

Mr. MANN. The gentleman from Connecticut [Mr. DONOVAN] has just objected to it.

The SPEAKER. The gentleman from Connecticut said he was going to object.

Mr. MANN. We have a priviliged matter in the nature of a report from the Committee on Rules, on which the previous question has not been ordered, and it is subject to amendment, and it might be provided that when the House meet on Thursday it meet at 11 o'clock a. m.

Mr. SAMUEL W. SMITH. A parliamentary inquiry, Mr. Speaker.

Mr. GARRETT of Tennessee. The gentleman can not take me off my feet by a parliamentary inquiry.

The SPEAKER. The gentleman from Michigan will propound his inquiry.

Mr. SAMUEL W. SMITH. I would like to inquire whether or not the gentleman from Connecticut objected or whether he said he was going to object?

The SPEAKER. The Chair understood that the gentleman objected.

Mr. MURDOCK. Will the gentleman from Tennessee yield to me?

Mr. GARRETT of Tennessee. I will.

Mr. MURDOCK. I followed the rule as carefully as I could. Did the rule permit amendment?

Mr. GARRETT of Tennessee. Yes. No limitation on amendment and no limitation to debate under the five-minute rule. It comes under the general rules of the House.

Mr. MURDOCK. And after the consideration of the bill under the five-minute rule the previous question shall be considered as ordered, and one motion to recommit?

Mr. GARRETT of Tennessee. One motion to recommit. I renew my request that when the House adjourns to-morrow it adjourn to meet at 11 o'clock a. m. Thursday.

The SPEAKER. The gentleman from Tennessee renews his request that when the House adjourns to-morrow it adjourn to meet at 11 o'clock a. m. Thursday. Is there objection?

There was no objection.

Mr. GARRETT of Tennessee. Mr. Speaker, is there any desire for debate on this rule?

Mr. MANN. No; we agreed to an amendment that covered that.

Mr. GARRETT of Tennessee. Mr. Speaker, this rule simply provides for the consideration of the bill reported from the Committee on the Post Office and Post Roads, providing for the weighing of mails, and for other purposes. I move the previous question on the adoption of the rule.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. GARRETT of Tennessee. Mr. Speaker, the rule provides that immediately on the adoption of the resolution the House resolve itself into the Committee of the Whole House on the state of the Union.

The SPEAKER. The House resolves itself automatically into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 17042, and the gentleman from New York [Mr. CONRY] will take the chair.

The CHAIRMAN. The House is in the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 17042, of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 17042) to amend the postal and civil-service laws, and for other purposes.

Mr. MOON. Mr. Chairman, it is rather late in the day to begin the general debate. I believe there is no one present on either side who desires to speak this afternoon.

Mr. MURDOCK. Will the gentleman yield? Does the gentleman from Tennessee [Mr. MOON] propose to open the debate on Thursday morning himself?

Mr. MANN. A parliamentary inquiry. Has the first reading of the bill been dispensed with?

Mr. MOON. I am going to make that motion if I have the opportunity.

Mr. MANN. I thought the gentleman was discussing whether or not we would have debate.

Mr. MOON. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

Mr. MOON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to; and the Speaker having resumed the chair, Mr. CONRY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 17042) to amend the postal and civil-service laws, and for other purposes, and had come to no resolution thereon.

BRIDGE ACROSS SULPHUR RIVER, TEX.

Mr. WINGO. Mr. Speaker, I ask unanimous consent to call up the bill S. 6031, which is an emergency bridge bill.

The SPEAKER. The gentleman from Arkansas [Mr. WINGO] asks unanimous consent to call up the bill S. 6031, which is in the nature of an emergency measure and which the Clerk will report.

The Clerk read as follows:

An act (S. 6031) authorizing the Board of Trade of Texarkana, Ark.-Tex., to construct a bridge across Sulphur River at or near Pace's ferry, between the counties of Bowie and Cass, in the State of Texas.

Be it enacted, etc., That the consent of Congress is hereby granted to the Board of Trade of Texarkana, Ark.-Tex., to build, maintain, and operate a public highway bridge across the Sulphur River, at a point suitable to the interests of navigation, at or near Pace's ferry, between the counties of Bowie and Cass, in the State of Texas, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby reserved.

Also the following committee amendment was read:

Page 1, line 5, strike out the words "public highway."

The SPEAKER. Is there objection?

There was no objection.

The committee amendment was agreed to.

The bill as amended was ordered to a third reading, and was accordingly read the third time and passed.

On motion of Mr. WINGO, a motion to reconsider the last vote was laid on the table.

LEAVE TO EXTEND REMARKS.

Mr. COOPER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 35 minutes p. m.) the House adjourned until Wednesday, August 5, 1914, at 12 o'clock noon.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, a letter from the Secretary of the Treasury, transmitting an estimate of appropriation in the sum of $301,465 for the manufacture in the current fiscal year by the Bureau of Engraving and Printing of 5,000,000 sheets of notes for the United States Treasurer and 3,000,000 sheets of national-bank notes, which are estimated to be required in addition to those already appropriated for (H. Doc. No. 1138), was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. GILMORE, from the Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 13489) increasing the limit of cost for the purchase of a site and the construction thereon of a post-office building at Waltham, Mass., reported the same with amendment, accompanied by a report (No. 1069), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HARRISON: A bill (H. R. 18220) to exclude from readmission into the United States certain persons, and with reference to the expatriation of certain citizens; to the Committee on Immigration and Naturalization.

By Mr. FINLEY: A bill (H. R. 18221) regulating the salary of letter carriers of the Rural Delivery Service; to the Committee on the Post Office and Post Roads.

By Mr. KELLY of Pennsylvania: A bill (H. R. 18222) to pay the balance due the depositors in the Freedman's Savings & Trust Co.; to the Committee on Appropriations.

By Mr. OLDFIELD (by request): A bill (H. R. 18223) providing for the registration of designs; to the Committee on Patents.

By Mr. DONOHOE: A bill (H. R. 18224) to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910, and for the further development of water power and the use of public lands in relation thereto, the development of water power and the constructing, maintaining, or operating of any dam or appurtenant or accessory works or other obstructions across the navigable waters of the United States, and to conserve the navigable capacity of said waters and contributary waters, whether navigable or nonnavigable, and for the erection of dams and their accessories in the boundary waters between the respective States, as well as in the boundary waters between the United States and foreign nations; to the Committee on Interstate and Foreign Commerce.

By Mr. COLLIER: A bill (H. R. 18225) authorizing and directing the Secretary of War to make certain provisions for the care of the participants in the celebration of the semicentennial close of the war between the States, and the centennial close of the last war between Great Britain and the United States, to be held at Vicksburg, Miss., on the 6th, 7th, 8th, and 9th days of October, 1915, and making an appropria-

tion of a sum sufficient to carry out the provisions of this act; to the Committee on Appropriations.

By Mr. CHURCH: A bill (H. R. 18226) authorizing the Secretary of the Interior to grant permits to occupants of certain lands on which oil or gas has been discovered, and authorizing the extraction of oil and gas from such lands under rules to be prescribed; to the Committee on the Public Lands.

By Mr. TOWNER: A resolution (H. Res. 583) requesting the President to furnish information to the House of Representatives, if not incompatible with the public interest, whether the Government of the United States has asked the Governments of Great Britain, France, Germany, Russia, Japan, or any other foreign power to consider the question of joining this Government in a declaration or guaranty of neutrality for the Philippine Islands, in case the United States should grant their independence; to the Committee on Foreign Affairs.

By Mr. FINLEY: Joint resolution (H. J. Res. 313) appropriating $75,000 for the relief of the sufferers from the hail and wind storm in York and Cherokee Counties, S. C., July 7, 1914; to the Committee on Appropriations.

By Mr. KINKAID of Nebraska: Joint resolution (H. J. Res. 315) to afford moisture for growing crops in a certain drought-stricken locality in Nebraska, in the valleys of the North Platte and Platte Rivers, both by surface and subirrigation, by the release of water impounded in the Pathfinder Dam in the Platte River, Wyo., such as is held in excess therein of the requirements and obligations of the Government to so hold or dispose of under the statutes; to the Committee on Irrigation of Arid Lands.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 18227) granting an increase of pension to Catharine Ittig; to the Committee on Invalid Pensions.

By Mr. FREAR: A bill (H. R. 18228) for the relief of Joseph Vermilyea; to the Committee on Military Affairs.

By Mr. KINKEAD of New Jersey: A bill (H. R. 18229) granting a pension to William Spitzer; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 18230) for the relief of the heirs of William B. Dodd, deceased; to the Committee on Claims.

By Mr. LEVER: A bill (H. R. 18231) for the relief of the heirs of Adolphus Feininger; to the Committee on War Claims.

By Mr. LOGUE: A bill (H. R. 18232) granting a pension to Hester Graves; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 18233) granting an increase of pension to William Hovey; to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 18234) granting a pension to James D. Cox; to the Committee on Pensions.

By Mr. SPARKMAN: A bill (H. R. 18235) granting a pension to George Slater; to the Committee on Pensions.

By Mr. TAGGART: A bill (H. R. 18236) granting a pension to Jesse Holt; to the Committee on Invalid Pensions.

By Mr. TRIBBLE: A bill (H. R. 18237) to remove the charge of desertion from the military record of Henry W. Beusse; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Petitions of 208 citizens of Cincinnati, Ohio, protesting against national prohibition; to the Committee on Rules.

By Mr. BLACKMON: Petition of 30 citizens of Bessemer, Ala., favoring national prohibition; to the Committee on Rules.

By Mr. DALE: Petition of George Morris, of Kings County, N. Y., against national prohibition; to the Committee on Rules.

By Mr. DIXON: Petition of 907 citizens of the fourth congressional district of Indiana, protesting against national prohibition; to the Committee on Rules.

By Mr. GARNER: Memorial of Interstate Cotton Seed Crushers' Association, favoring passage of House bill 9906, relative to sale and manufacture of oleomargarine; to the Committee on Agriculture.

Also, memorial of Interstate Cotton Seed Crushers' Association, relative to duty on cottonseed oil; to the Committee on Ways and Means.

By Mr. GOOD: Petition of citizens of Linn County, Iowa, favoring national prohibition; to the Committee on Rules.

By Mr. HAWLEY: A letter from Rev. John A. Townsend, stated clerk Presbyterian Synod of Oregon, Portland, Oreg., with a resolution adopted by that body, favoring the amendment to the Constitution for national prohibition of the liquor traffic; to the Committee on Rules.

By Mr. KITCHIN: Petition of 165 citizens of Weldon, N. C., favoring national prohibition; to the Committee on Rules.

By Mr. LONERGAN: Protest of Henderson Chambers, of Main Street, South Manchester, Conn., against the adoption of House joint resolution 168; to the Committee on Rules.

By Mr. MAGUIRE of Nebraska: Petition of business men of Plattsmouth, Nebr., favoring passage of H. R. 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

By Mr. O'LEARY: Petition of D. D. Rickey and citizens of Jamaica, and D. R. K. Staatsverland, all of the state of New York, protesting against national prohibition; to the Committee on Rules.

Also, memorial of Chamber of Commerce of the Borough of Queens, city of New York, asking that action on trust legislation be deferred; to the Committee on the Judiciary.

By Mr. RAKER: Petition of sundry citizens of the State of California, favoring national prohibition; to the Committee on Rules.

Also, memorial of National Farmers' Educational and Cooperative Union of America relative to tax on cotton; to the Committee on Ways and Means.

Also, petition in opposition to the Hobson resolution by Frank Carr and John J. McGovern, of Junction City; Charles E. Wathurs and W. E. Echenach, of Folsom; M. Leonardin, of Redding; G. A. Freas, of Dunsmuir; J. A. Alm, of Crescent City; Thomas Halls and John Phillips, of Grass Valley; John A. Bartlett and Albert McDaniel, of Junction City; Ira J. Cruthers, of Douglas City; G. H. Bradbury and Alice Bartlett, of Junction City; Saul C. Burens, of North Bloomfield; T. L. Cooper, J. H. Upton, William Tucker, and J. L. Gordon, of Dunsmuir; P. M. Dillon, Frank Muszi, E. A. Fagmerer, O. C. Smith, and A. L. Miller, of Placerville; J. B. Rustra, of Sutter Creek; James Mullane, F. C. Meckel, and W. F. Flowers, of Junction City; Calvin Johnson, of Hawkinsville; L. Clorgentine and N. Nivelli, of Sutter Creek; J. Willis, of Yreka; Rosa Flowers, Mary Bartlett, and Frank Coppino, of Junction City; P. Aathemar and A. Perto, of Sutter Creek; Robert Ingram and James E. Given, of Junction City; Sonie Bacigolupi, of Sonora; A. B. Gilmore, of Manton; E. H. Howard and Charles E. Gilzearn, of Redding; Thomas Champion, of Stent; W. V. Van Patton, John Tohinkdlar, and W. L. Price, of Sonora; E. I. Hastings, of Columbia; Mr. Vepasli, of Big Oak Flat; W. M. Furey, R. L. Price, H. V. Higgins, Ferdinand L. Tanzy, Frank Delucchi, Pietro Ginzo, J. H. Dambacher, Joseph Silva, and G. E. Miller, of Sonora; W. B. Ellis, of Columbia; Dr. P. C. Davenport, John M. King, J. Z. McMahon, and H. Meentzen, of Sonora; Fred W. Cole, of Dunsmuir; A. J. Banbridge and Homer Thompson, of Sonora; William Grewing, of Placerville; H. L. Boyd, E. E. Vanderpond, and J. W. Trimble, of Junction City; McAulay R. Richards and H. Woodbury, of Sacramento; J. F. Hinman, of Redding; C. H. Hamilton, of Bayles; D. F. Burnett, of Redding; Squire Campbell, of Placerville; J. A. Shine, John W. Patrick, H. Garland, W. H. Dennis, M. E. Pedro, B. E. Smith, George Michel, Lee Arana, F. R. McGovern, and A. V. Swanson, of Sonora; George F. Wetzel, of Yreka; W. B. Dunble, of Weed; J. G. Bransutter and J. E. Goodman, of Dunsmuir; N. F. Lewis and Antonio Rojas, of Sonora; D. R. Carlson, of Sequoia; Thomas Richards, of Sonora; V. L. Mitchell, of Tuttletown; R. T. McNeely and James Ghoiso, of Sonora; R. T. Cummings, of Junction City; R. A. Pemberton, William J. Thompson, and R. A. Martin, of Redding; E. J. Wood, Matt Marshall, Henry Meyer, and George M. Everly, of Sonora; Theo Schaut, of Placerville; James Gianbruno, of Jackson; S. J. Warren, R. C. Thomas, J. N. Lyon, A. W. Knowles, Frank Pinnella, and James D. Barry, of Sonora; W. C. Pomder, E. A. West, E. F. Lewis, E. P. Derby, C. H. Clark, Isaac R. Wells, Leo Hamilton, A. T. Huff, A. H. Conlish, and James McMann, of Dunsmuir; Mrs B. E. Knox, J. P. Ehercole, Frank P. Silver, Frank Green, W. Davidson, and James Cone, of Sonora; C. A. Johnson, of Columbia; E. S. Abbott, of Sonora; James Diamond, of Tuolumne; David Dondero, F. E. Coyle, and J. J. Gaynor, of Sonora; John C. Davis, of Jamestown; Mrs. Pearl Kelly, of Sonora; F. A. Toleman, of Dunsmuir; O. P. Patton, of Tuolumne; Salve Olsen, Edward Thomas, Clarence Lambert, C. Bell, L. Tarabini, Ambrose Chittenden, G. McGairn, and Albert Gorman, of Sonora; F. T. Byrd, of Columbia; T. K. Reed, of Junction City; W. J. Richardson, of Helena; George W. Gromwoldt, of Redding; G. B. Mancher, of Yreka; D. E. Guerin,

G. W. Hammill, Bert Bocca, E. G. Wenzel, E. J. Allahan, G. F. McGovern, E. C. Rudorff, J. C. Dixon, L. E. Guerend, and William Prange, of Sonora; Nellie Gronwoldt, A. U. Gronwoldt, Arthur B. Livermore, S. D. Upson, James R. Doyle, Fred Miller, R. S. Summers, M. F. Ealridge, and Dorthy Rogers, of Redding; E. M. Hale, of Dunsmuir; Paul R. Sierra and John Guorsi, of Sonora; William Nelson, of Columbia; John H. Shine, Ed Harris, J. Allen Rjahy, Louis Batto, C. A. Rudorff, T. F. McGovern, and John B. Doyle, of Sonora; George McCann, H. A. Weed, J. F. Hollis, and E. R. Pendleton, of Dunsmuir; John Finley and Charles J. McConnell, of Redding; J. W. Schaffer, Fred Carr, W. W. Wilson, and J. B. Balch, of Junction City; J. A. Ettewall, of Weed; E. T. Dambacher and M. E. Cain, of Sonora; E. E. Wild, of Los Angeles; C. P. Hirst, of Sonora; A. D. Skinner, of Rescue; Mrs. J. Glarish, of Jackson; Charles Morgan, John Silva, Lewis A. Carr, J. A. Gilzean, and M. F. Post, of Junction City; George F. Goss, of Sonora; Ben Addis, of Soulsbyville; W. Weire, of Weed; T. F. Symons, of Sonora; John T. Beem, of Dunsmuir; Martin E. White, of Sisson; Ross P. Clark, of Weed; J. N. Hutchens, of Ruth; J. E. Cantrill, of Dunsmuir; George M. McClough, of Sisson; Kathleen Morris, of Dedrick; W. D. Edwards and G. C. Wrigley, of Sonora; Ross McAnnis, of Dunsmuir; James R. Lester, Frank A. Buryson, P. Bendorff, John Eastman, J. L. Yonkin, Jo Wiley, F. A. McPherson, and Christian Scott, of Sonora; E. Louise Davis, of Jamestown; C. N. Huff, of Dunsmuir; James W. McCormic, George H. Carter, Frank Simpson, W. H. Walton, John Basigalupi, Jesse Sierra, Fred Bagin, F. P. Otis, V. P. Riley, Gustave Kindall, M. Medina, and C. F. Sheehan, of Sonora; Albert Baier, of Columbia; E. M. Thomas, James E. Wright, H. E. Rachford, M. S. Carheck, J. E. Baer, J. E. Rassenfort, H. P. Gallagher, Nettie Whits, Mrs. E. G. Miller, F. J. Curren, and Charles Hedricks, of Sonora; J. W. Lahr, George E. Payne, E. Connelly, J. A. Downer, and William Anspach, of Dunsmuir; M. H. Neimeyer, of Weed; John L. Glarich, of Jackson; G. Bloom, James Kinlock, L. A. Wheetitian, John L. Ryan, L. A. Welch, R. T. Crist, and R. O. Gwynn, of Dunsmuir; C. A. Fish, of Sonora; J. S. King, of North Bloomfield; J. M. White, of Weed; Robert Leam, E. Murphy, Arthur McAuley, R. S. Davis, J. C. Dambacher, W. T. Taylor, P. W. Fahey, John F. Doyle, and E. G. Miller, of Sonora; and David F. Jones, of Redding; Edward C. Lucas, T. J. Saul, and H. J. Barrington, of Weed, all in the State of California; and Hubert S. Marshall, of Cincinnati, Ohio; to the Committee on Rules.

Also, petition in favor of the Hobson resolution, by Olivia B. Adams, Long Beach; Ruth W. Kohlstedt, Los Angeles; Robert L. Black, Pasadena; J. W. Allin, Pasadena; Morris A. Cole, Pasadena; Allie M. Flournoym, Pasadena; Rosa Parks, Corning; W. C. Penter, El Dorado; Mrs. W. C. Penter, El Dorado; L. J. Carson, Greenfield; Margaret French, San Diego; Mrs. W. White, El Dorado; J. H. Renfro, El Dorado; Maurice Van Dyke, Corona; Mary Moore, Los Angeles; Mr. and Mrs. F. G. Cartzdafner, Pasadena; Birdie M. Johnson, Los Angeles; C. C. Mullen, Pasadena; Mrs. Russell, Pasadena; Teddy Wooley, Penryn; Mrs. J. T. Backstrand, Riverside; Margaret Garbutt, Los Angeles; Mrs. George N. Turner, Los Angeles; H. B. Oakley, Los Angeles; Sur Birdsall, Corona; Charles Zink, Long Beach; Grace L. Shaw, El Dorado; Clinton L. Foster, Corning; Emily McCutcheon, Mariposa; Fern E. Gilbert, Colton; W. E. Kingsbury, Corning; Alfred Tanner, Colton; Hattie King, Fillmore; Mrs. A. J. Mehrtens, Wallace; Mrs. E. E. Christian, Long Beach; Nellie M. Christian; W. N. Burns, Pasadena; Mrs. Clara Chaffin, Pasadena; Harmon Butler, Penryn; W. A. Peck, Penryn; Beulah Healy, Penryn; Forrest C. Gerkin, Penryn; Ray Frederick, Penryn; Clarence Frederick, Penryn; Millard Strubble, Penryn; Catherine Frederick, Penryn; Dorothy Peak, Penryn; E. R. Peet, Los Angeles; Eleanor C. Cooper, Pasadena; Inez P. King, Pasadena; Mrs. H. E. Watson, Corning; John M. Looly, El Dorado; Mary J. Page, El Dorado; Dorothy Clark, Greenfield; James H. Clark, jr., Greenfield; Mrs. W. T. Elliott, Los Angeles; Hannah M. Snyder, Long Beach; Ora Leak, Penryn; Carroll Hall, Penryn; Susan Healy, Penryn; George H. Irwin, Penryn; Raymond Perry, Penryn; Edith M. Black, Pasadena; Carl Breuner, Pasadena; Mrs. R. Sedorus, Pasadena; William Hyoson, Pasadena; Henry Steitz, Placerville; Antoinette Wheeler, Los Angeles; Edith C. Webb, Los Angeles; Mrs. A. G. Smith, Valley Springs; C. C. Van Fleet, Riverside; Effie A. Dobbins, Los Angeles; Paul Bigsby, Los Angeles; P. H. Fest, Hughson; Alice Charity, Auburn; Hester Ludwig, Keyes; John Brereton, Lincoln; Nellie Ramsey, Lincoln; Frank Farr, Hughson; William Martin, East Auburn; T. S. Cole, East Auburn; Floretta Martin, East Auburn; Mrs. C. E. Hamilton, Greenfield; Rev. E. E. Clark, Placerville; John H. Knoll, Placerville; Mrs. E. V. Darby, East Auburn; William Robert Friedell, East Auburn; James A. Darby, East Auburn; Mrs. R. P. Snypp, East Auburn; A. W. Webster, East Auburn; I. J. Webster, East Auburn; Louisa J. Lillin, Valley Springs; Mrs. Percy Hunt, West Point; W. A. Armstrong, Loyalton; D. R. Peterson, Penryn; M. A. Lee, Varain; Minnie A. Lee, Varain; I. A. Roseanere, Varain; Mrs. S. O. Caller, East Auburn; Alta C. Roserare, Varain; Clyde R. Ebey, Hermon; G. Manson, Canino; Mrs. C. H. Green, Etna Mills; Rosalie B. Hayden, Callahan; Edith Murry, Callahan; Mary Luke, Loyalton; Mrs. S. M. Luther, Auburn; Ella Davis, Auburn; Bernard Garbutt, Los Angeles; Georgia Shepard, Ocean Park; Della Wells, Los Angeles; Blanch Vachon, Pasadena; Annette W. Merritt, Pasadena; Henrietta Davidson, Los Angeles; Bessie Davidson, Los Angeles; James Davidson, Los Angeles; George W. Turner, Riverside; Annie E. Chase, San Francisco; Mr. and Mrs. William B. Otis, Pasadena; Myrtle A. Pool, Valley Springs; Leon T. Matthas, Los Angeles; Rev. W. S. Bryant, Long Beach; L. U. Bryant, Long Beach; Grace A. Brass, Placerville; Ester C. Towle, Railroad Flat; Freddie Brace, Placerville; Sydney Brace, Placerville; Mrs. O. E. Pineo, Placerville; Mrs. S. G. Kiltz, Los Angeles; Mrs. Fay Goodson, Pasadena; J. T. Pliter, Valley Springs; L. C. Turner, Pasadena; Mary O'Brien, Pasadena; C. S. Dwight, Pasadena; N. Carolin Wells, Pasadena; H. S. O'Brien, Pasadena; William H. Blackwell, Pasadena; Asa A. Wells, Pasadena; Adrienne Batelle, Placerville; Lena Enzla, Placerville; Marvel Marshall, Placerville; Lois Marshall, Placerville; Neto E. Grogor, Placerville; Eva A. Hakemoller, Placerville; Mare Davey, Placerville; Mrs. M. E. Wyatt, Placerville; C. G. Cox, Los Angeles; Charles P. Banfield, Penryn; Homer Stuble, Penryn; C. T. Penrose, Pasadena; L. C. Turner, Pasadena; A. J. Bremner, Pasadena; Frank S. Thornburg, Pasadena; Ruth H. Bacon, Pasadena; Jennie I. Campbell, Pasadena; George W. Eastman, Pasadena; Mary Larson, Pasadena; Milton Young, Auburn; George W. Asken, El Dorado; Harry White, El Dorado; Jennie E. Alhert, Pasadena; Nadeau Halcomb, Greenfield; Mrs. William Rogge, Los Angeles; Mrs. I. B. Hayes, Long Beach; C. C. Bishop, Corning; Landrum Smith, Whittier; Florence Adell, Greenfield; Carrol Adell, Greenfield; Isabella Kline, Corning; John Kline, Corning; Mrs. O. E. Dahlberg, East Auburn; Willie Jessup, Keyes; Mrs. C. I. Richardson, El Cajon; Hermilla Courtney, Greenfield; Rosalie E. Bradey, Greenfield; David D. Davis, East Auburn; Sarah E. Bayne, Pasadena; Ella C. Davis, East Auburn; Mrs. J. C. Spencer, East Auburn; Florence A. Erwin, Pasadena; Mrs. S. Garnard, Pasadena; Genevie Cato, East Auburn; James S. Cato, East Auburn; Cloyd M. Walters, Corning; Clara K. Jacobs, Pasadena; Viola Graham, El Dorado; Mrs. M. E. White, El Dorado; Mrs. J. H. Renfro, El Dorado; Ethel Heiple, Auburn; Deborah Baker, Pasadena; Roy Ogdon, East Auburn; Joe Hamilton, Auburn; Franc M. Mayers, Pasadena; Jessie F. Thompson, Pasadena; J. C. Spencer, East Auburn; Mrs. L. F. Ursenbach, East Auburn; A. F. Campbell, Pasadena; Floyd R. Edginton, Penryn; Mary R. Cox, Los Angeles; Rachel Hackett, Santa Monica; Nellie Weichert, Hughson; Mrs. A. J. Tarbox, Los Angeles; Arthur Brown, Redding; Edna Westlake, Redding; Rowland Randolph, Redding; Chris Wichert, Hughson; Almeta Ford, Penryn; Robert Banfield, Penryn; Richard Randolph, Redding; George Badger, Redding; Gladys Larkin, Redding; Marjorie White, Redding; Eppie Hughes, Redding; Vera McLaughlin, Redding; Vera Tracie, Redding; C. F. Bovek, Pasadena; Magnus H. Green, Valley Springs; Mrs. J. R. Gillam, Valley Springs; Alvin Bradley, Penryn; Raymond Thompson, Pasadena; George Thompson, Pasadena; Ida M. Thompson, Pasadena; Fred Zangg, Pasadena; William P. S. Cattell, Pasadena; Clara E. Smith, Pasadena; Mrs. F. E. Oakley, Los Angeles; L. S. Ursenbach, East Auburn; Dorothy Howell, Auburn; A. C. McCulley, Pasadena; Mrs. A. J. Bauram, Pasadena; Mrs. Art. Brennan, Pasadena; Miss M. Lininger, Auburn; Mrs. R. E. Dahlberg, Auburn; Ellsworth Young, Auburn; Merdol Williams, Auburn; Henry Young, Auburn; Flora Robinson, East Auburn; Roberta Allen, Auburn; Ellsworth Richardson, Auburn; Blossom Snypp, East Auburn; Galen McKnight, Auburn; Alice E. Williams, Auburn; Harry R. Kohlstedt, Los Angeles; Mattie Troy, Los Angeles; Louise Hosmer, Los Angeles; Oline Lassey, East Auburn; Willie White, Auburn; Beatrice ———, Auburn; Shirley Savage, Auburn; Malcolm Lutz, East Auburn; Hattie Bushnell, Greenfield; Howard Rogers, Greenfield; Herndon Ray, Davis; Herbert I. Rogers, Greenfield; Lucy C. Vance, El Dorado; Nellie Anderson, Long Beach; Sylvia Clark, Wallace; James A. Fork, Los Angeles; Albert Carlson, Greenfield; Mrs. W. H. Patterson, Long Beach; Kenyon Warren, Pasadena; Mrs. M. E. Slenmen, Long Beach; A. N. Towne, Pasadena; Lena Hale, Wallace; Myrtle Carson, Greenfield; Ella Marsh, Long Beach; E. E. Gates, Los Angeles; Edna M. Rose, Long Beach, all in the State of California; and Oscar E. Schwemce, Milwaukee, Wis.; to the Committee on Rules.

By Mr. STEDMAN: Petition of 500 citizens of High Point, N. C., favoring national prohibition; to the Committee on Rules.

SENATE.

WEDNESDAY, *August 5, 1914.*

The Senate met at 11 o'clock a. m.

Rev. J. L. Kibler, D. D., of the city of Washington, offered the following prayer:

O Lord, our heavenly Father, as we come to meet the tasks of this day our thoughts go up to Thee for Thy blessing. In the midst of the busy whirl of life, and in the sound of the confusion of nations, we come to Thee for wisdom and grace to act well our part. In meeting all the difficult problems that face us, may we have the equipment of patience, and courage, and faith in God. Strengthen Thy servants for every duty, and lead us always and under all circumstances in the paths of righteousness, for Thy name's sake. Amen.

The Journal of the proceedings of the legislative day of Monday, August 3, 1914, was read and approved.

REVENUES OF RAIL CARRIERS.

The VICE PRESIDENT. The Chair lays before the Senate a communication from the chairman of the Interstate Commerce Commission, which will be read.

The Secretary read as follows:

INTERSTATE COMMERCE COMMISSION,
Washington, August 3, 1914.

The PRESIDENT OF THE SENATE OF THE UNITED STATES.

SIR: In further response to the resolution of the Senate of the United States of March 23, 1914, as follows:

"*Resolved*, That the Interstate Commerce Commission be, and it hereby is, directed to transmit to the Senate, from time to time as taken and transcribed, a copy of all evidence introduced and all exhibits received in evidence by said commission at hearings in the cases, Docket No. 5860 entitled 'Revenues of Rail Carriers in Official Classification Territory,' and Investigation and Suspension Docket No. 333 entitled 'Rate Increases in Official Classification Territory.'"

The Interstate Commerce Commission has the honor to transmit herewith volumes 38 to 42, inclusive, embracing such further evidence as was introduced and exhibits as were received in evidence at the hearings before the commission in cases covered by your resolution in full compliance with the resolution as of this date. Each volume is labeled and contains an index of the contents of the volume. Copies of certain additional exhibits and compilations will be submitted at an early date to complete compliance with the resolution.

Respectfully,

JAMES S. HARLAN, *Chairman.*

The VICE PRESIDENT. The communication and accompanying papers will be referred to the Committee on Interstate Commerce, and the accompanying papers will be printed as heretofore authorized.

REGISTRY OF FOREIGN-BUILT VESSELS.

Mr. O'GORMAN. I ask unanimous consent for the present consideration of an emergency measure now on the calendar. It is the bill (H. R. 18202) to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes.

Mr. SMOOT. I will ask the Senator if he will not withhold that request until the ordinary morning business has been transacted.

Mr. O'GORMAN. If I do that, it will then defer the consideration and the proposed passage of the bill to-day, because at 12 o'clock we will be required to take up the trade commission bill.

Mr. SMOOT. No; at 1 o'clock.

Mr. O'GORMAN. I do not know that there will be any discussion on this bill, and if there be no discussion it will not interfere with the order of morning business.

Mr. SMOOT. I am very sure that it will lead to discussion.

Mr. GALLINGER. There will be some discussion, not prolonged, but there will be more or less discussion.

Mr. O'GORMAN. The Senator from Utah prefers that we should defer the matter until the routine business is disposed of?

Mr. SMOOT. I prefer that the Senator should defer it until we get through with the ordinary morning business.

Mr. O'GORMAN. I will withdraw the request for the present.

The VICE PRESIDENT. The presentation of petitions and memorials is in order.

PETITIONS AND MEMORIALS.

Mr. CHAMBERLAIN presented a petition of sundry citizens of Springfield, Oreg., praying for the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

He also presented a petition of the Presbyterian Synod of Oregon, praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. SHEPPARD. I present a resolution adopted at the annual meeting of the Interstate Cotton Seed Crushers' Association, held in New Orleans, La., May 20, 1914, which I ask may be printed in the RECORD, without reading, and referred to the Committee on Finance.

There being no objection, the resolution was referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

Resolution as to our foreign trade adopted by the Interstate Cotton Seed Crushers' Association at their annual meeting held in New Orleans, La., May 20, 1914.

Whereas the Government of Austria-Hungary continues to unduly discriminate against American edible cottonseed oil; and

Whereas there appears to be no intention on the part of that country to seriously consider the urgent solicitations of our State Department for fulfillment of promises made when trade relations were entered into; and

Whereas there is apparently a disposition on the part of foreign countries generally to increase the duties and in some cases discriminate against edible cottonseed oil and its allied products, especially in South America and South Africa; and

Whereas the continuance of such policy on the part of foreign Governments without power on the part of our own country to retaliate under the present tariff act must necessarily result disastrously to our export trade; and

Whereas the new tariff law has in it no means either for maintenance or extension of foreign trade, other than the general power conferred on the President to negotiate new commercial treaties; and

Whereas recent experiences have shown that the material reductions in duties on imports under the present act for which reciprocal concessions on the part of foreign Governments were effected indicates that there is an indisposition on the part of such countries to seriously consider any reduction in their duties on American products except on the basis of still further concessions from existing tariff rates: Now, therefore, be it

Resolved by the Interstate Cotton Seed Crushers' Association, representing practically the entire industry, in convention assembled at New Orleans, this 20th day of May, 1914, That—

(1) It is the sense of the industry here represented that inasmuch as it is obviously impossible under present conditions to secure from foreign countries favorable consideration of questions involving tariff discriminations against the products of the industry, and consequent loss of its export trade;

(2) That supplementary legislation is manifestly necessary, either for the maintenance or extension of foreign trade;

(3) That the industry, being now fully cognizant of the necessity for some power of automatic penalization for present and future discrimination against its products, demand that its export interest be given by the United States Congress the serious consideration to which it is justly entitled, and that provision be made for power of automatic penalization, such as is provided in paragraph 644 of the existing law covering wheat and wheat products and paragraph 581 covering potatoes; and be it further

Resolved, That copy of this resolution be transmitted to the President of the United States, the Cabinet officers, and to each Senator and Member representing, respectively, States and districts where this industry is a factor.

Mr. SHEPPARD. I present a resolution adopted at the annual meeting of the Interstate Cotton Seed Crushers' Association, held in New Orleans, La., May 20, 1914, relative to the present oleomargarine law, which I ask may be printed in the RECORD, without reading, and referred to the Committee on Finance.

There being no objection, the resolution was referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

Resolution for the repeal of the present Federal oleomargarine law, adopted by the Interstate Cotton Seed Crushers' Association at their annual meeting, held in New Orleans, La., May 20, 1914.

Whereas our Federal Government still recognizes and maintains the unjust and iniquitous tax of 10 cents per pound on colored oleomargarine; and

Whereas there is no justification for a tax which is un-American and contrary to the principles of the present administration, in that it taxes and places a burden on an article of daily food; and

Whereas the reports of the Secretary of the Treasury and the Commissioner of Internal Revenue indicates a most unsatisfactory condition as to the enforcement and operation of the present law, and has recommended remedies, some of which we approve: Therefore be it

Resolved, That the Interstate Cotton Seed Crushers' Association, in convention assembled at New Orleans this 20th day of May, 1914, demand from the present administration a repeal of the present law and a total abolishment of the tax. We feel that the support of all Democratic Congressmen should be given to the bill H. R. 9906, recently introduced by Representative BUCHANAN of Texas, as a means of properly safeguarding the manufacture and sale of oleomargarine; be it further

Resolved, That a copy of these resolutions be forwarded to the President, to the Cabinet officers, and to the southern Senators and Members of the House.

REPORTS OF COMMITTEES.

Mr. ASHURST. From the Committee on Indian Affairs I report back favorably with an amendment the bill (S. 2824) to amend an act entitled "An act to provide for the adjudication and payment of claims arising from Indian depredations," approved March 3, 1891, and I submit a report (No. 720) thereon. I call the attention of the Senator from Utah [Mr. SMOOT] to this report.

Mr. SMOOT. As the bill may lead to some discussion, I shall not ask unanimous consent for its present consideration at this time, but will let it go to the calendar.

The VICE PRESIDENT. The bill will be placed on the calendar.

Mr. SMOOT. I hope to call it up soon.

Mr. ASHURST, from the Committee on Indian Affairs, to which was referred the bill (S. 2668) for the relief of Martha Hazelwood, reported it without amendment and submitted a report (No. 723) thereon.

Mr. LEE of Maryland, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 1373. A bill for the relief of the estate of John Stewart, deceased (Rept. No. 725);

H. R. 3920. A bill for the relief of William E. Murray (Rept. No. 726); and

H. R. 6420. A bill for the relief of Ella M. Ewart (Rept. No. 724).

Mr. MYERS, from the Committee on Public Lands, to which was referred the bill (H. R. 11765) to perfect the title to land belonging to the M. Forster Real Estate Co., of St. Louis, Mo., reported it without amendment and submitted a report (No. 722) thereon.

Mr. SMOOT, from the Committee on Public Lands, to which was referred the bill (S. 6162) authorizing the issuance of patent for certain lands to Thomas L. Griffiths, reported it without amendment and submitted a report (No. 721) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ASHURST:

A bill (S. 6216) granting a pension to John H. Burke (with accompanying papers); to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 6217) to increase the efficiency of the Organized Militia, and for other purposes; to the Committee on Military Affairs.

SECURITIES OF COMMON CARRIERS.

Mr. CATRON. I submit an amendment intended to be proposed by me to the bill (H. R. 16586) to amend section 20 of an act to regulate commerce, to prevent overissues of securities by carriers, and for other purposes. I ask that the amendment may be printed and lie on the table, and also that it be printed in the RECORD.

There being no objection, the amendment was ordered to lie on the table and be printed, and to be printed in the RECORD, as follows:

On line 9 of the first page, after the word "act" and before the word "and," insert the following: "all corporations, joint-stock associations, and all other associations having shares of capital or capital stock organized to carry on business for profit, engaged, or which may hereafter be engaged, in the transmission of electricity for power, lighting, heating, or any other purposes, in any manner whatsoever, from one State or Territory in the United States or the District of Columbia to any State or Territory of the United States or District of Columbia, all of which corporations and associations are hereby constituted and made common carriers and shall come under the terms of, and be subject to, the provisions of this act."

Mr. CATRON. I desire to give notice that to-morrow immediately after the close of the morning business I shall address the Senate on the subject of this amendment.

RIVER AND HARBOR APPROPRIATIONS.

Mr. CHAMBERLAIN submitted an amendment intended to be proposed by him to the river and harbor appropriation bill, which was ordered to lie on the table and to be printed.

GENERAL EDUCATION BOARD AND CARNEGIE FOUNDATION.

Mr. CHAMBERLAIN. I offer a resolution, and I ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. The Secretary will read the resolution.

The Secretary read the resolution (S. Res. 437), as follows:

Resolved, That the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Attorney General, the Postmaster General, the Secretary of the Navy, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Labor each is hereby requested and directed to furnish to the Senate the following information: The relation, if any, of the organizations known as the General Education Board of the Rockefeller Foundation and the Carnegie Foundation to the work of their respective departments; a statement showing the names and positions of all employees, if any, of the department whose salaries are paid in whole or in part with funds contributed by the Rockefeller Foundation or the Carnegie Foundation; the names and positions of all administrative officers, if any, of the department who are in any way connected with the work of the General Education Board of the Rockefeller Foundation or the Carnegie Foundation, and the salaries, if any, received by them from the said Rockefeller Foundation or Carnegie Foundation.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. BURTON. I was detained by a session of a committee and have just entered the Chamber. I should like to ask the general purport of the resolution.

Mr. CHAMBERLAIN. It is simply to get information from these departments as to whether or not either of these boards are contributing money to the expenses of the Government, and the names of the employees on the roll, if any.

Mr. BURTON. Has not that information already been furnished, particularly in regard to the Rockefeller fund?

Mr. CHAMBERLAIN. Only in reference to the Department of Agriculture.

Mr. BURTON. This is general?

Mr. CHAMBERLAIN. This is general. The resolution simply asks for information.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

The resolution was considered by unanimous consent and agreed to.

PARKS WITHIN RECLAMATION PROJECTS IN MONTANA.

Mr. PITTMAN. On April 28 last I was appointed one of the conferees on behalf of the Senate upon the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 657) to authorize the reservation of public lands for country parks and community centers within reclamation projects in the State of Montana, and for other purposes. The bill was introduced by the Senator from Montana [Mr. MYERS], and I was appointed on the conference during the protracted illness of the Senator from Montana. He is now in the Senate and is familiar with the measure, and I ask unanimous consent that I may be relieved from further service as a member of the conference committee and that he be appointed in my place.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it will be so ordered.

REGISTRY OF FOREIGN-BUILT VESSELS.

The VICE PRESIDENT. The morning business is closed.

Mr. O'GORMAN. I ask unanimous consent for the immediate consideration of the bill (H. R. 18202) to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes.

The VICE PRESIDENT. Is there objection?

Mr. SUTHERLAND. Mr. President, I have not had an opportunity of reading this bill. I have just at this moment obtained a copy of it. Does the Senator from New York think there is such an emergency for this particular measure at this time that it ought to be disposed of without giving some of us an opportunity of looking into it?

Mr. O'GORMAN. Mr. President, the proposition is a very simple one. The bill is a short one and can be readily understood. The President of the United States and the administration think that the public interests will be served by the immediate passage of the bill.

In a word, disaster is threatening the cotton and the agricultural interests of this country. Thousands of American citizens are abroad unable to secure passage home. Disaster to the cotton and the agricultural interests is threatened because, although we have the most bountiful crops ever known in the history of the Government, we find ourselves without transportation facilities. The passage of this bill will go far toward remedying this very unfortunate situation.

Mr. SUTHERLAND. The question in my mind was whether or not a delay of 24 hours is going to add to the undesirable situation.

Mr. O'GORMAN. Every day's delay is fraught with great financial loss to the cotton and agricultural interests in every part of the United States.

Mr. SUTHERLAND. Mr. President, of course I am in favor quite as earnestly as the Senator from New York can be of the passage of any legislation which is well considered that will tend to ameliorate the present situation in any way, but at the same time I think there is some danger of our permitting ourselves to go off on a wave of hysteria about this matter. The fact that there is presented to us this grave situation will not justify us in losing our heads and failing to carefully consider any proposed legislation.

The Senator from New York has given this matter consideration. He may be quite right about it, but, speaking for myself, I have given it no consideration. I have not even up to this moment read the bill. I have simply had it put into my hands now.

I dislike to interfere in the matter, and I dislike also to be forced to act upon a measure to which I have not been able to give the slightest consideration.

Mr. O'GORMAN. I can state in a minute the salient features of this legislation. The bill has three provisions.

In the Panama Canal act of 1912, with a view to increasing our merchant marine, Congress inserted a provision permitting

American registry to any foreign-built ship not more than 5 years old owned by an American citizen or an American corporation. The first provision in this bill is to strike out that five-year limitation. The reason why it was inserted originally was this: Eager as we were to increase our merchant marine by admitting to American registry foreign-built ships owned by American citizens we did not want to encourage the reception into our merchant marine of old ships. So we indicated a maximum period of five years. It is sought to remove that limitation because there are many ships more than 5 years old now sailing under foreign flags and belonging to citizens of the United States. By the removal of the five-year limitation our merchant marine will be enlarged by a great many of those vessels.

The second provision is——

Mr. WEEKS. Will the Senator, at this point, indicate to the Senate why he thinks an American citizen will invest his money in a ship more than 5 years old when he has failed and is failing to invest it in ships less than 5 years old?

Mr. O'GORMAN. I assume that, owing to the great pressure that will be made on whatever number of ships we have available for the transportation of our products abroad, the immediate rewards to the owners of the ships at this time, and so long as the war continues, will be greater than they would be in normal times, and what might be an unattractive proposition, and has been during the past two years, might become attractive as a commercial proposition to owners of ships while this unfortunate war lasts in Europe.

Mr. GALLINGER. Will the Senator permit me? The Merchant Marine Commission interrogated shipbuilders; and not only that, but the large capitalists of the country—the bankers and others in New York and Boston and Baltimore, especially—to know if they would, if a free-ship bill were passed, invest in ships of foreign make and run them in competition with foreign nations, and they all said they would not do so because of the increased cost of navigating the ships. The contention has been made for years and years, especially by the party to which the Senator from New York belongs, that the solution of the merchant-marine problem was in permitting our people to purchase foreign ships and sail them under the American flag. Acceding to that demand, some of us who did not believe in it agreed that in the Panama Canal act a provision should be inserted which granted to our people that privilege. Now, it is a notorious fact that not one single foreign ship has been purchased and is sailing under our flag since the passage of that act.

As the Senator from Massachusetts [Mr. WEEKS] very potently inquires, is it probable that our people who will not buy ships less than 5 years old will buy the old junks, the old tramps, that are navigating the oceans of the world and put them into our foreign commerce? I can not conceive that we are going to do it if this bill is passed.

I have some other observations to submit that I will make in my own time.

Mr. O'GORMAN. Does the Senator think any possible harm can come to American interests by allowing even what he calls old boats to fly the American flag?

Mr. GALLINGER. I will say to the Senator that, while I am not a lawyer, I have very grave apprehensions that if we undertake to establish a merchant marine in accordance with the provisions of this act we may find ourselves complicated to such an extent that we may be engaged in war in the near future, as I shall point out later on.

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Connecticut?

Mr. O'GORMAN. I do.

Mr. BRANDEGEE. I attended the committee meeting yesterday which considered this bill, and the Commissioner of Navigation appeared before us. I do not recall that any statement was made by him giving any information as to how many vessels more than 5 years old are now owned by Americans which would be available if this bill were passed. I ask the Senator from New York if he happens to be in possession of such information?

Mr. O'GORMAN. Yes; I can furnish some information on that point.

Mr. BRANDEGEE. I think that would be germane to the subject.

Mr. O'GORMAN. The American-Hawaiian fleet of 26 steamers was built and procured largely for the Panama Canal trade, which will soon be opened. Only a few of those have been built within five years. The company owning them is an American company. Under this law, if the five-year limitation is removed, such of their ships as may have been built abroad can all fly the American flag and be immune from molestation or seizure while engaged in the Atlantic trade.

Mr. GALLINGER. But, Mr. President, has the Senator any information that that fleet which is now engaged in profitable business would voluntarily transfer itself to the trans-Atlantic service?

Mr. O'GORMAN. I suppose that every American citizen who is patriotic will respond to the appeal of the American Government at this time to save large agricultural interests from disaster and to give an opportunity to American citizens who are practically exiled in Europe to come home. These things can not be accomplished unless we are able to put on the ocean ships flying the American flag.

Mr. GALLINGER. Mr. President, we all sympathize with that view. I will say to the Senator from New York that his suggestion about patriotism is something that I have urged in season and out of season with reference to establishing an American merchant marine, but there was not a response to it from some sections of the country.

Mr. O'GORMAN. I may say further, in answer to the inquiry of the Senator from Connecticut [Mr. BRANDEGEE], that the United Fruit Co., owned by an American corporation, has nearly two dozen vessels flying the British flag, which could come in under the provisions of this law if the five-year limitation were removed.

Mr. BRANDEGEE. Let me ask the Senator from New York if he thinks that the American Fruit Co. would abandon the business in which they are now engaged and transfer their vessels to the trans-Atlantic service to take our crops abroad?

Mr. O'GORMAN. I presume they would devote at least some of their vessels to the more immediate needs of the American people.

Mr. BURTON. Mr. President, I think the illustration selected by the Senator from New York [Mr. O'GORMAN] was unfortunate. The American-Hawaiian Co. is already under the American flag, the United Fruit Co., the Belgian Red Star Line, and the New York-Pacific are, perhaps, the principal lines owned by American capital under foreign flags. Then, again, the International Mercantile Marine Co., as a holding company, has several lines—the White Star, the Leyland, and others—in addition to the Belgian Red Star. The capital invested in these, however, is not predominantly American, as I understand it.

Mr. O'GORMAN. As I understand, there are but four steamships of the American line now carrying the American flag.

Mr. BURTON and Mr. SMOOT. There are six.

Mr. O'GORMAN. There are four in the American line and two in the Red Star line, making six altogether.

Mr. GALLINGER. That is right.

Mr. O'GORMAN. That is a force of vessels entirely inadequate to the needs of this country if we are to be dependent upon our own lines of transportation. Heretofore our mistake has been that, great as we have been as a producing country, we have been absolutely dependent on the foreigner for the transportation of our products; the value of our products has been dependent upon our ability to transport them and the influences that control the transportation could, in consequence, control the value of our products. As has been stated on this floor but recently when another topic was before the Senate for consideration, American industry, so far as foreign trade is concerned, has been absolutely dependent upon the foreigner, so dependent that it has been said that during the last 10 years the foreign shipowners have increased their rates, have increased their tribute on American industry almost 300 per cent. To-day, because of the calamities that are afflicting Europe, we are unable even to secure the ship of the foreigner. Foreign ships do not dare to put to sea and if we do not procure some means of transporting the products of the farm and of the factory in this country disaster will threaten every section of our country.

Mr. PAGE. Mr. President——

Mr. O'GORMAN. I yield to the Senator from Vermont.

Mr. PAGE. Mr. President, in the discussion before the committee on yesterday I was led to the conclusion that this bill would not apply to any vessels to be hereafter bought by any American individual or corporation, but would apply only to vessels already owned by American corporations or individuals. Am I right in that?

Mr. O'GORMAN. It was designed particularly to allow the American registration of foreign-built ships now owned by American citizens or American corporations. As to the right to transfer American property from the British flag or other foreign flag to the American flag, I apprehend there will be no serious dispute. The bill goes further, because it refers to foreign-built ships hereafter acquired by American owners. In a given case respecting a ship hereafter purchased, or pur-

chased while hostilities are on, the circumstances will determine whether the transfer should be recognized by the enemy of the belligerent.

A ship is always to be considered in two aspects: Its nationality is fixed by its flag; its ownership may be entirely different. That is to be attested by the ship's papers. Even to-day an American-owned ship flying a foreign flag is nothing more than property owned by an American citizen, and it is international law that, though the American is flying a foreign flag, he has the right to invoke the protection of his own Government against the aggressions of any other power.

With respect to the law question suggested by the Senator from New Hampshire, it has been recognized in this country and in Great Britain that even in times of war the neutral may purchase a merchant ship from a belligerent and the transfer must be respected by the enemy, if the transaction is bona fide and honest. If it is a mere subterfuge, it will be disregarded. A more stringent rule has been recognized by the continental nations. In 1909, in a conference in London attended by all the nations of the earth, an effort was made to agree upon a uniform rule, and that rule I shall now read to the Senate.

Mr. CUMMINS. Mr. President——

Mr. O'GORMAN. I yield to the Senator from Iowa.

Mr. CUMMINS. The point just suggested by the Senator from New York is the point that has attracted my attention with regard to the proposed legislation. I am heartily in favor of the bill, but, in view of the circumstances, it ought to contain a provision that as to foreign-built ships bought by American citizens or by American corporations after the passage of the act and during the next yea. they should only be admitted to American registry upon the approval of the Secretary of State, who might inquire into the transaction, and by a little precaution of that kind avoid what might be a very unpleasant and unhappy international incident. I ask the Senator from New York whether, in his opinion, the bill ought not to contain a safeguard of that kind?

Mr. O'GORMAN. I see no objection to the insertion of such a provision.

Mr. WEEKS. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Massachusetts?

Mr. O'GORMAN. I do.

Mr. WEEKS. Before the Senator goes on with what he has in mind, I want to call to his attention the purposes of the Panama Canal act as it was originally passed and what is evidently intended by the amendment which is now pending. As I understand it, the Panama Canal act provided that ships of three kinds might be given American registry, and the first class was—

vessels built within the United States and belonging wholly to citizens thereof.

Now, I want to ask the Senator if that would not permit the ships of the United Fruit Co., which are flying the British flag, to take an American registry at once, if that company desires to make the transfer, without any legislation whatever?

Mr. O'GORMAN. Having in mind that many of the ships of that company are foreign built——

Mr. WEEKS. They are not foreign built.

Mr. O'GORMAN. Is the Senator sure as to that?

Mr. WEEKS. I know that very many of them were built in the United States; I do not know that all of them were, but many of them were. Now, what I am trying to get at is this: Have we not a law now which will provide for the transfer of these ships owned by American citizens without any further legislation?

Mr. O'GORMAN. Provided they are American-built vessels. As to such vessels we need no further legislation. This bill is designed, however, as has been stated, to give American registry to foreign-built ships.

Mr. SHIVELY. Under American ownership.

Mr. O'GORMAN. Under American ownership.

Mr. HITCHCOCK. Mr. President, will the Senator from New York submit to another question?

Mr. O'GORMAN. Certainly.

Mr. HITCHCOCK. Is it not a principle of international law that any vessel purchased from a citizen of a belligerent country after hostilities have broken out, or within 30 days before they break out, is a suspect?

Mr. O'GORMAN. As I have stated, up until 1909, at the time of the London conference, and indeed down to to-day, the rule recognized in Great Britain and in the United States was and is that a neutral may buy a merchant vessel from a subject or citizen of a belligerent nation while hostilities are on, provided the transfer is legitimate and bona fide, and provided it is not conditioned, for instance, upon a return of the property at the close of the war under some agreement; but I was about to call attention to the fact—and probably it will answer the Senator's question—that in 1909 at the conference held in London there was a rule agreed upon which I shall read. I should say in passing that the conclusions of this conference were not ratified by the United States or by Great Britain, and therefore they are not binding on either, although in the judgment of many they express the best and latest thought on the subject of purchases by neutrals from belligerents in time of war.

Mr. SMOOT. Mr. President, is not the Senator mistaken in saying that the conclusions of the conference were not agreed to by England? They were not agreed to by our own country, but, as I remember—I have not the papers before me now—they were agreed to by all other countries, with the exception of the United States.

Mr. O'GORMAN. The Government of England approved of the conclusions of the conference, but the House of Lords rejected them, and therefore they did not become binding upon England.

The section to which I invite your attention reads as follows:

The transfer of an enemy vessel to a neutral flag effected after the outbreak of hostilities is void unless it is proved that such transfer was not made in order to evade the consequences to which an enemy vessel, as such, is exposed.

Under this rule, even if it were to be deemed applicable to this country and Great Britain, it would simply mean that the burden would be upon the owner of the vessel to overcome the presumption that the transfer was made in order to avoid the consequences to which an enemy vessel would be exposed.

There is a further proviso in connection with Rule 56 reading as follows:

There is an absolute presumption that a transfer is void (1) if the transfer has been made during a voyage or in a blockaded port; (2) if a right to repurchase or recover the vessel is reserved to the vendor; (3) if the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing have not been fulfilled.

Mr. SMOOT. Mr. President, has the Senator section 55 there?

Mr. O'GORMAN. Yes.

Mr. SMOOT. I should like to have the Senator read section 55 in connection with section 56.

Mr. O'GORMAN. Section 55 is scarcely applicable at this time, although I will read it——

Mr. HITCHCOCK. Mr. President, before the Senator goes to that, I want to continue my inquiry. The fact is, then, that a vessel purchased after hostilities have begun and, as I recall, within 30 days before they have begun, from an enemy country and put under a neutral flag is a natural suspect?

Mr. O'GORMAN. Yes.

Mr. HITCHCOCK. And the presumption of the validity of the transfer is against the vessel?

Mr. O'GORMAN. It is.

Mr. HITCHCOCK. Now, I want to ask the Senator if he does not think this bill is likely to involve us in trouble if we permit such a vessel so purchased to be manned by officers who are citizens of the country from which the vessel is purchased? Section 2 provides:

SEC. 2. That the President of the United States is hereby authorized, whenever in his discretion the needs of foreign commerce may require, to suspend by order, so far and for such length of time as he may deem desirable, the provisions of law prescribing that all the watch officers of vessels of the United States registered for foreign trade shall be citizens of the United States.

That is obviously intended to make it possible at the present time, for instance, for an American corporation to buy a German vessel, say, in the port of New York and to man her in whole or in part by German officers. If such a condition occurred, would it not naturally lead to complications, and possibly, by seizure, say from an English vessel, might it not involve us in serious difficulties with Great Britain?

It seems to me that this is not a proper time for this country to take any chances in permitting American vessels sailing under the American flag to be manned by any except American citizens, because if found manned or officered by citizens of one of the belligerent countries there would be a large presumption against the bona fides of the transfer and a strong suspicion that the transfer was questionable.

Mr. O'GORMAN. The rule as agreed upon by the London conference in 1909 with respect to the manning of a neutral ship by the natives of an enemy country would not prejudice the rights of the owner of the neutral ship. There would be no seizure; there would be no impressment. If, for instance, Germany were to seize a ship flying the American flag manned largely by a German crew and German officers, under the regulations of the London conference she could not remove the German crew and the German officers, but she could insist

upon them signing a declaration that they would take no part in the pending war.

Mr. HITCHCOCK. I want to ask the Senator if he does not question the wisdom at this time of permitting American vessels to be officered by any other than American citizens? Is there such a scarcity of American officers and sailors that any vessels which may come under the American flag can not be officered and manned by them?

Mr. O'GORMAN. If there should be enough American officers to meet the emergency, it is not to be expected that foreigners would be employed; but if the accessions to the American merchant marine are as large as it is hoped they will be, it would be necessary, for a brief time at least, to employ foreigners for various positions on the ships.

Mr. GALLINGER. Mr. President, I will ask the Senator if he thinks it would be a square deal to permit foreign officers, who are being paid about one-half what American officers are paid, to sail these ships, and that we should waive the inspection and the measurements that our laws require and that this bill proposes that we shall waive? In other words, about the only thing on the ship that would be American would be the flag. Does the Senator think that would be fair to the ships that are now engaged in our foreign trade under all these requirements of our law?

Mr. O'GORMAN. If we were dealing with normal conditions in normal times, I would say, in answer to that question, no; but we are dealing with a great emergency. Our industries are being paralyzed. We have but six vessels flying the American flag on the Atlantic Ocean. What better suggestion comes from the Senator from New Hampshire in this emergency than the one that is proposed by this bill?

Mr. GALLINGER. I would make one suggestion. I think if the Senator and his committee had turned their attention to an investigation as to whether or not there are vessels in our coastwise trade that could be put into the foreign trade, perhaps by a little change of our law, it would be a much more American procedure.

Mr. O'GORMAN. That can be done very readily.

Mr. STONE. Would that require any statutory authority?

Mr. GALLINGER. It would require a little change in the law, but a less change than is provided in this bill.

Mr. STONE. That could easily be done, if it is necessary to authorize vessels engaged in the coastwise trade to engage in the over-seas trade.

Mr. WEEKS. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Massachusetts?

Mr. O'GORMAN. I do.

Mr. WEEKS. May I suggest to the Senator from New York that there are a large number of coal and ore carrying vessels on the Great Lakes, of great capacity, which might be used for this purpose? I should think an immediate investigation should be made of that subject.

Mr. O'GORMAN. Does the Senator think they are seagoing vessels?

Mr. WEEKS. I think they might be seagoing vessels in an emergency, capable of carrying grain and cotton.

Mr. HUGHES. I will say to the Senator that, according to an editorial in the New York World, there are a number of American merchant vessels engaged in the lake trade which are not only seagoing vessels, but vessels of such capacity that it would be impossible to get them through the Welland Canal.

Mr. WEEKS. I have no doubt an editorial from the New York World would have great influence with the Senator from New York.

Mr. HUGHES. I am not attempting to influence the Senator. I am simply making a suggestion to him, and I know the Senator will take a suggestion from any source.

Mr. O'GORMAN. The immediate question before the Senate is whether or not we shall have the merits of this bill now determined and passed upon.

Mr. GALLINGER. I will suggest to the Senator from New York, if he will permit me, that on yesterday I hurriedly wrote a resolution at my desk calling upon the Secretary of Commerce to make an immediate inquiry regarding the possibility of our transferring ships from the coastwise trade to the foreign trade. I do not know when a report will come. The resolution suggests that a report be made at as early a date as practicable. I think that is a matter that we ought to look into very carefully.

I am very much disturbed over the possibility of our purchasing some foreign tramp, perhaps 10 or 15 years old, about ready to go to the bottom anyway, registering it under the name of a corporation—perhaps a corporation newly created in New Jersey or some other State where they create corporations so freely—and calling it an American ship, officered by foreigners, our laws in regard to measurements and all that sort of thing being waived, the flag flying at the masthead, and that being about the only American thing about it. I think it would be in great danger of seizure on the high seas under this plan.

Mr. SAULSBURY. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Delaware?

Mr. O'GORMAN. I yield to the Senator.

Mr. SAULSBURY. I am in thorough accord with the effort of the Senator from New York and his committee to pass such a bill as this; and I think any fears on the part of some of the other Senators in regard to our getting into difficulties with foreign nations in the event that we pass the bill may be avoided by the provisions which may be inserted in it.

I have been very much interested in this matter, and prepared a bill on the subject several days ago, which I introduced day before yesterday, before this bill came from the House. I desire to call the attention of the Senator from New York and the other Senators who have been speaking on this subject to one or two of the provisions of that bill which I think will avoid any objection that has been made up to this time.

In regard to the watch officers being citizens of foreign nations, in this bill which I introduced—and I do not claim that it is perfect at all—I provided that the naval officers of the United States, either active or retired, and men serving or employed in the Navy, may, upon application made by them to the Secretary of the Navy, be permitted to accept such temporary service on board vessels so purchased. It seems to me that would provide against any implication that we were simply transferring the boats temporarily to the American flag. I also provided in the bill which I drew that the Secretary of the Treasury, before he permitted any transfer or bill of sale of the vessel to be recorded, should ascertain that at least 90 per cent of the vessel was owned by citizens of America in good faith.

It seemed to me that those provisions would avoid any danger of our becoming involved with foreign nations, certainly as to the commanding officers and watch officers and as to the absolute ownership; and the certificate of the Secretary of the Treasury, which I believe is the usual way, he having charge of the collectors, would be the proper way to provide for it, and it would certainly relieve us of any imputation of bad faith.

I desire to call the attention of the Senator to those provisions, which I do not think are included in the bill, but certainly they would be of much assistance in determining that the boat flying the American flag was not flying it as a pretense. I hope the Senator and his committee will take those suggestions into consideration. I have furnished him or will furnish him with a copy of the proposed act.

Mr. CLARK of Wyoming. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Wyoming?

Mr. O'GORMAN. I do.

Mr. CLARK of Wyoming. Just for a question. Suppose the bill presented by the committee should be passed and a German vessel should be bought, with German watch officers, all of whom should be transferred with the vessel; I want to ask the Senator, in his opinion, to what country those officers and seamen would owe their military allegiance?

Mr. O'GORMAN. If they owe military allegiance they will not be available for service on an American ship.

Mr. CLARK of Wyoming. I ask the question for information. I assume that citizens of Germany owe military allegiance to that country, the same as citizens of America owe military allegiance here. Would not that military allegiance follow even although they were upon and in command of an American ship?

Mr. O'GORMAN. There is a declaration in the London conference of 1909, accepted by Germany, that in the case the Senator gives as an illustration the German Government would not take the German crew off the ship, provided each German on the ship would sign a declaration that he did not intend to participate in the war.

Mr. CLARK of Wyoming. I will change the query, then, to an English ship, officered and manned by men who owe their military allegiance to the English Government, the English Government never having confirmed or entered into the conclusions of that conference. Would it be quite safe to have the officers and men of a ship engaged in our commerce——

Mr. O'GORMAN. I believe the same rule would apply with respect to British officers that would apply to the others.

Mr. CLARK of Wyoming. Of course the Senator is not unaware of the fact that the United States at one time had some trouble, and one of the moving causes of that trouble was substantially the same thing which I have indicated; and even the end of that trouble did not determine that question as between Great Britain and the United States.

Mr. O'GORMAN. It was supposed to be determined, although it was not the subject of express determination, at the close of the War of 1812.

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Connecticut?

Mr. O'GORMAN. I do.

Mr. BRANDEGEE. Mr. President, before I ask the question which I am about to ask the Senator from New York, I should like to ask that part of section 5 of the Panama Canal act referred to in this bill—the act having been approved August 24, 1912—may be printed in the RECORD. I refer to the part of it which I have marked, and which I will send to the desk.

Mr. CLARK of Wyoming. Let it be read.

Mr. BRANDEGEE. As soon as I ask the question I will then ask the Secretary to be kind enough to read the act. Now, I want to call the attention of the Senator from New York to the language of the Panama Canal act, if he has it in his hand.

Mr. O'GORMAN. I have it.

Mr. BRANDEGEE. Section 5 provides, at the bottom of page 2 of the act—

That section 4132 of the Revised Statutes is hereby amended to read as follows—

Then it sets forth how that section would read if amended. The bill that the Senator has reported provides that section 5 of the Panama Canal act is amended by striking out the words "not more than 5 years old at the time they apply for registry," but it seems to me that section 4132 should be amended by striking out those words.

Mr. O'GORMAN. That would follow as a necessary and inevitable conclusion.

Mr. BRANDEGEE. I am not quite so sure of the inevitableness of it as the Senator from New York is. However that may be, I will now ask the Secretary to read the act, from the top of page 3, if the Senator from New York will permit me to do it in his time.

Mr. O'GORMAN. Yes.

Mr. BRANDEGEE. If he prefers that I shall wait, I will wait. I ask the Secretary to read, commencing at the top of page 3.

The Secretary read as follows:

SEC. 4132. Vessels built within the United States and belonging wholly to citizens thereof; and vessels which may be captured in war by citizens of the United States and lawfully condemned as prize, or which may be adjudged to be forfeited for a breach of the laws of the United States; and seagoing vessels, whether steam or sail, which have been certified by the Steamboat-Inspection Service as safe to carry dry and perishable cargo, not more than five years old at the time they apply for registry, wherever built, which are to engage only in trade with foreign countries or with the Philippine Islands and the islands of Guam and Tutuila, being wholly owned by citizens of the United States or corporations organized and chartered under the laws of the United States or of any State thereof, the president and managing directors of which shall be citizens of the United States or corporations organized and chartered under the laws of the United States or of any State thereof, the president and managing directors of which shall be citizens of the United States, and no others, may be registered as directed in this title. Foreign-built vessels registered pursuant to this act shall not engage in the coastwise trade: *Provided*, That a foreign-built yacht, pleasure boat, or vessel not used or intended to be used for trade admitted to American registry pursuant to this section shall not be exempt from the collection of ad valorem duty provided in section 37 of the act approved August 5, 1909, entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes." That all materials of foreign production which may be necessary for the construction or repair of vessels built in the United States and all such materials necessary for the building or repair of their machinery and all articles necessary for their outfit and equipment may be imported into the United States free of duty under such regulations as the Secretary of the Treasury may prescribe: *Provided further*, That such vessels so admitted under the provisions of this section may contract with the Postmaster General under the act of March 3, 1891, entitled "An act to provide for ocean mail service between the United States and foreign ports, and to promote commerce," so long as such vessels shall in all respects comply with the provisions and requirements of said act, etc.

Mr. BRANDEGEE. I do not think the rest of it is material.

Mr. O'GORMAN. Is there any question from the Senator?

Mr. BRANDEGEE. I asked the Senator whether he thought striking out from that act the words I referred to would amend section 4132 of the general Revised Statutes?

Mr. O'GORMAN. I do think so, and for this reason: Section 5 of the Panama Canal act amended a section of the Revised Statutes, and now by this act we are further amending the Revised Statutes, because we are amending and qualifying the language of section 5 of the Panama act.

Mr. BRANDEGEE. It might be so, Mr. President; but inasmuch as section 4132 now stands as a statute of the United States, it seems to me the direct method, the unquestionable method, would be to amend the existing statute, and not to attempt to amend the act which amended the statute. I see no reason for approaching the question in a circuitous method or route.

Mr. SUTHERLAND. Mr. President, I wish to ask the Senator a question about section 2. I am asking the question in no spirit of hostility to the proposed legislation, but I ask it because the Senator undoubtedly has given consideration to these questions, which some of us have had no opportunity of considering.

Under section 2 would it be possible for the President so to suspend the provisions of law therein referred to that all of the officers and crew of a vessel purchased by a citizen of the United States and admitted to registry would be foreigners?

Mr. O'GORMAN. I think so.

Mr. SUTHERLAND. Including the captain of the vessel?

Mr. O'GORMAN. Yes.

Mr. SUTHERLAND. So that it would be possible, for example, for a citizen of the United States to purchase a French vessel, manned entirely by French officers and by a French crew, and to continue the vessel under the control and operation of those officers and crew.

The question I desire to ask the Senator is whether or not, in this situation of affairs, he sees any danger in our committing to a set of officers and crew, all foreigners, all citizens of one of the belligerent nations, the observance of our neutrality obligations?

Mr. O'GORMAN. Of course the Senator is taking a very extreme case, a case that is not likely to arise. It is almost inconceivable that there will be any ships flying the American flag without some American officers aboard. The change which is now proposed is largely similar to the one that took place in 1864, when, owing to the stress of the Civil War and the difficulty in securing seamen, a provision of law which had existed for many, many years before that time, respecting the necessity of having American or naturalized American officers and crew, was repealed; and it remained repealed until 1898, when the present law was enacted, requiring all the watch officers to be Americans, either by birth or by adoption. The causes which constituted the emergency in 1864 in a measure are present now. With the world involved in war, we can not apply at this time the same reasons and rules and standards that will be applied in normal times under normal circumstances.

Mr. SUTHERLAND. Just a moment. The Senator from New York, as I understand him, would see some danger in the concrete case that I have put; that is, if we should under the operation of this amended statute acquire a French vessel, for example, and bodily take over the entire complement of officers and crew and permit them to operate the vessel. Now, would not the Senator see a very grave danger in such a situation with reference to the observance of our neutrality obligations?

Mr. O'GORMAN. I might not perceive the danger. I would say it would be regrettable to have a ship flying the American flag without any American on board in a responsible position, but I do not think such a situation will arise. I am sufficiently hopeful that we will not be driven to such an extremity, and that such a condition may not exist.

Mr. HITCHCOCK. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Nebraska?

Mr. O'GORMAN. I yield.

Mr. HITCHCOCK. Is it not a fact that on previous occasions when it has been deemed desirable to American vessels sailing with the watch officers of other countries there was no such a condition of war as would create the dangers predicted now? I sympathize very strongly with the suggestion of the Senator from Utah that we are likely to find ourselves embroiled in serious international disputes if we undertake to raise the American flag over a vessel purchased from a foreign owner and still manned by a foreign crew? It seems to me that that is a danger which is real, and that it ought to be very seriously considered now.

Mr. O'GORMAN. I fear the danger is exaggerated; but let us suppose a case where a ship is purchased from one of the belligerents by a neutral in time of war. Suppose the enemy of the belligerent seizes that ship notwithstanding the fact that there has been a change of flag. The burden then is upon the purchaser of the ship to satisfy a prize court in the jurisdiction of the belligerent that the ship was purchased in good faith and

that the transaction was not for the purpose of escaping the consequences of the war. If the owner of the ship could sustain that proposition his ship would not be condemned. If he could not uphold it his ship would be condemned.

I do not see why in a case of that character the United States Government should be involved at all, because I think the attitude of our Government would be that an American citizen, assuming that he had been permitted to buy the ship of a belligerent while war is pending, takes the chance of having the ship seized, and then, in the second place, of not being able to satisfy a prize court that the purchase was not made for the purpose of evading the consequences of the war. As I said, I do not see how it is going to touch the Government at all.

Mr. SUTHERLAND. Mr. President, the Senator from New York a short time ago accurately stated the rule of the international law, that the purchase of a vessel of one of the belligerent parties during hostilities would be scrutinized very closely, but that it was a perfectly legitimate transaction and would be upheld by the rules of international law if it were a bona fide purchase. There can be no doubt about that. But suppose all that; suppose it be a bona fide purchase so far as the citizen of the United States is concerned, but as in the case that I have already supposed, the French crew and the French officers are continued on board the vessel, which may be permitted to be done under this proposed amendment. The Senator will readily concede that the officers and crew of that vessel under such circumstances would owe no allegiance to the United States. Their allegiance would still be to the French Government. All their sympathies would be with the French Government. Suppose it turned out that the vessel so manned had rendered valuable service to the French Government in this war.

Mr. O'GORMAN. While flying the American flag?

Mr. SUTHERLAND. Yes; while flying the American flag, by landing contraband articles or in any other case that we might readily suppose. Suppose that were done, would not Germany and Austria have a real cause to complain against the United States for permitting that sort of a condition to exist?

Mr. O'GORMAN. Yes; if the United States did permit it or was cognizant of it.

Mr. SUTHERLAND. How would the United States prevent it?

Mr. O'GORMAN. That would be controlled by an entirely different proposition of law, which defines what is contraband and what is not, and indicates the duties resting upon a neutral government. The neutral government is not to be held responsible for an expedition of one of its vessels in contraband trade unless the neutral government either knew or had reason to suspect that its citizens were so engaged.

Mr. SUTHERLAND. Of course, the things I am supposing or apprehending might be done would be done in spite of any instructions from our Government or any laws we might have on the subject, and when done the mischief would be done. Anything that we might do afterwards in the way of punishment, if we could inflict any, would not alter the fact that the mischief had already happened. Under those circumstances is there not a real danger that we may be involved in complications with the other belligerent powers if we should take over the ships of France or England and continue their officers and crew in the service of the ships?

Mr. O'GORMAN. That is all on the assumption that there would be no American on board exercising a responsible authority.

Mr. GALLINGER. There need not be under the bill.

Mr. SUTHERLAND. The bill gives the President the power to do all the things that go to the extreme length I have suggested. The whole question, to my mind, is whether that ought not to be safeguarded.

Mr. O'GORMAN. The discretion under the bill is confided to the President, and it is a question whether under the stress of these conditions we should hesitate to deposit with the President this power, having confidence in his wise exercise of it.

Mr. COLT. May I ask the Senator from New York a question?

Mr. O'GORMAN. I yield to the Senator from Rhode Island.

Mr. COLT. We are now, Mr. President, in the greatest crisis known in the world's history since the fall of Rome. Our country is the great neutral power. What the future will be it is impossible for any of us to predict. We know this fact, however, that to-day the United States of America is the great neutral power in the world. I should hope that we might play a very important part in the future, a part becoming this great Republic.

Now, that being the situation, I simply want to ask the Senator from New York this question, whether to-day we should pass any legislation which might by any possibility be construed by the great powers of Europe as a violation of the strictest neutrality of this country? What we may possibly decide to do later when matters are more settled presents a different question.

It appears from this discussion that this bill raises a disputed question of international law, and I for one will not at this time vote for any legislation which might lead to a possible violation of international law and thus involve us with the great warring powers of Europe. Out of abundant caution, therefore, and in view of the magnitude of the interests involved, I would ask the Senator from New York whether he thinks it wise at this time, and without further consideration, to pass this legislation?

Mr. O'GORMAN. Mr. President, no Senator can read this bill and entertain the opinion or impression that it contravenes any treaty obligation. Of course, there is a possibility that some citizens of this country, acting under its provisions, may invite the criticism of one of the belligerents, and may go so far as to suffer the loss of a ship, unless the American owner is prepared at all times to demonstrate that the action was a legitimate and bona fide one, and not designed to evade the consequences of the war.

Mr. CRAWFORD. Will the Senator from New York permit me to ask him a question?

Mr. O'GORMAN. With pleasure.

Mr. CRAWFORD. The practice of taking prizes and throwing them into the court of the nation that has been guilty of making the capture is a relic of piracy. It is, I think, admitted as being one of the relics of piracy that we have not gotten rid of. Are we not unnecessarily exposing the property of Americans who have purchased ships in good faith to a situation where, as was the case in the days of the French spoliations, they will take these ships in this great war into their own ports and condemn them and sell the property? The situation that we are creating by this law presents just such a condition as would give a color of right under the old piratical practice of taking prizes and to have the little shipping we have spoliated and destroyed. It was destroyed 100 years ago by France and England, and we to-day have claims pending here, and have had for 100 years, growing out of that situation. It seems to me that we are taking a snap shot which may expose us to a repetition of the same losses as those if we are going to allow the captain and all the watches of the vessel and everybody in command of the vessel to be loyal to another Government and simply depend upon a bill of sale to establish bona fide ownership.

I remember very well in examining a great many of the cases in connection with the French spoliations the destruction of the ship's papers and how the ship's crew were treated in a very lawless way for the purpose of condemning the prize and appropriating the proceeds.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Montana?

Mr. O'GORMAN. I yield to the Senator from Montana.

Mr. WALSH. I think we are borrowing a great deal of trouble about this matter in anticipating things that the present situation does not present.

The Senator from Nebraska [Mr. HITCHCOCK] seems to be troubled with some fear that if our citizens should buy a foreign ship and the President should take advantage of this act and suspend the requirement that the watch officers should be American citizens we might be involved in some international trouble. I do not think there is any ground for apprehension about that matter. The character of a ship is not determined at all by the nationality of her crew. The character of a ship is determined by her ownership and by her registry.

I apprehend that if we had deemed it wise to permit American owners of American ships to employ their crews from many of the nations of the earth, and if we had such a law as that now, no nation could be heard to find fault with it. That would give us perfect liberty to hire crews of any nation, and the character of the ship would not be determined by the nationality, for instance, of the captain or the mate or any other officer, or even by the men before the mast.

So, Mr. President, that question is practically out of the matter.

Likewise some suggestion is made that we will get into difficulty if we abolish the provision of the existing law by which foreign ships are denied registry unless they are less than 5 years old. The present act permits an American to buy a foreign ship if she is not 5 years old and to give her American registry. If the purchase of a ship from foreign owners at the present time is likely to get us into trouble, we are in the same

trouble under the law as it stands that we would be in under the law as amended; in other words, we would be involved in the same trouble if we bought a ship less than 5 years old. We are simply authorizing the purchase of ships more than 5 years old.

But, Mr. President, there is not any ground for apprehension upon that score.

Mr. CRAWFORD. Will the Senator permit me?

Mr. WALSH. Gladly.

Mr. CRAWFORD. Under the second clause we are suspending the law with reference to the watches. The captain may be a foreigner and all the men in charge of the watches may be foreigners.

Mr. WALSH. Certainly.

Mr. CRAWFORD. The prize court law does not seem to be so well settled as the Senator would assume. Suppose one of these vessels flying the American flag, manned entirely by foreigners, was destined to a port of one of the belligerent nations and was loaded with a cargo that might under some rules be regarded as contraband and she was taken into port and condemned as a prize, are we not furnishing the evidence by throwing down the bars here to sustain her condemnation in a court in the port of a belligerent?

Mr. WALSH. The Senator in the question he propounded to me is assuming a whole lot of conditions quite separate and apart from the question here. He wants me to assume the case of a ship purchased under circumstances which themselves give rise to suspicion. He wants me to assume the case of a ship that is loaded with goods which may be regarded as contraband. He wants me to assume a whole lot of things. Of course, no matter what the conditions are if the ship is loaded with contraband, she is liable to confiscation.

Mr. CRAWFORD. My point is that when we permit the vessel to fly our flag and to be manned entirely by foreigners we are adding color to the case which could be made against us in a prize court.

Mr. WALSH. I wish to ask the Senator from South Dakota a question. Suppose we did not have any such law as this and suppose our laws permitted all our ships to be manned by officers of any nationality——

Mr. CRAWFORD. But——

Mr. WALSH. Would we be running any more risk than we are?

Mr. CRAWFORD. But that is not quite a case that this bill will cover. If we retain the provision that the vessel must be officered by Americans, then, assuming that the purchase is in good faith, I think she would be much less likely to be condemned as a prize than if she were found entirely in charge of a foreign crew and officers, including the captain.

Mr. WALSH. Of course that presents a legal proposition as to whether the nationality of the crew determines the nationality of the ship. There is no rule to that effect.

Mr. CRAWFORD. There is no rule to that effect, but neither is there a uniform, well-established rule governing prize courts in the matter, as I have read such rules.

Mr. GALLINGER. Mr. President, I believe unanimous consent has not as yet been given, has it, for the consideration of this bill? I have some observations to make on the bill, but I do not care to make them unless the bill is under consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. JONES. Mr. President, I want to ask the Senator from New York a question before unanimous consent is granted for the consideration of the bill. I desire to ask him whether there has been an indication from any source of any desire on the part of anyone or of any company to place ships under our flag in case such legislation as this is enacted?

Mr. O'GORMAN. Yes; I know of ships that are foreign-built which, I am told, will fly the American flag if this bill is passed.

Mr. JONES. Has there been any proposition made to the Government of that kind?

Mr. O'GORMAN. I do not know.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. GALLINGER obtained the floor.

Mr. BRANDEGEE. Mr. President——

Mr. GALLINGER. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. I send an amendment to the desk which I desire to have read.

The VICE PRESIDENT. The Secretary will read the amendment proposed by the Senator from Connecticut.

The SECRETARY. It is proposed, on page 1, to strike out lines 8, 9, and 10, and, on page 2, to strike out lines 1, 2, and 3, and to insert the following:

That section 4132 of the Revised Statutes of the United States as amended by the act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone," approved August 24, 1912, is hereby amended by striking out the words "not more than 5 years old at the time they apply for American registry," so that said section as so amended will read as follows:

"Vessels built within the United States and belonging wholly to citizens thereof; and vessels which may be captured in war by citizens of the United States and lawfully condemned as prize, or which may be adjudged to be forfeited for a breach of the laws of the United States; and seagoing vessels, whether steam or sail, which have been certified by the Steamboat-Inspection Service as safe to carry dry and perishable cargo, wherever built, which are to engage only in trade with foreign countries or with the Philippine Islands and the islands of Guam and Tutuila, being wholly owned by citizens of the United States or corporations organized and chartered under the laws of the United States or of any State thereof, the president and managing directors of which shall be citizens of the United States or corporations organized and chartered under the laws of the United States or of any State thereof, the President and managing directors of which shall be citizens of the United States, and no others, may be registered as directed in this title. Foreign-built vessels registered pursuant to this act shall not engage in the coastwise trade: *Provided*, That a foreign-built yacht, pleasure boat, or vessel not used or intended to be used for trade admitted to American registry pursuant to this section shall not be exempt from the collection of ad valorem duty provided in section 37 of the act approved August 5, 1909, entitled 'An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes.' That all materials of foreign production which may be necessary for the construction or repair of vessels built in the United States and all such materials necessary for the building or repair of their machinery and all articles necessary for their outfit and equipment may be imported into the United States free of duty under such regulations as the Secretary of the Treasury may prescribe: *Provided further*, That such vessels so admitted under the provisions of this section may contract with the Postmaster General under the act of March 3, 1891, entitled 'An act to provide for ocean mail service between the United States and foreign ports, and to promote commerce,' so long as such vessels shall in all respects comply with the provisions and requirements of said act."

Mr. GALLINGER. Mr. President, this is a question——

Mr. CLARKE of Arkansas. I ask my friend from New Hampshire to yield to me until I can propose an amendment and have it pending.

Mr. GALLINGER. I will yield with pleasure to the Senator from Arkansas for that purpose.

Mr. CLARKE of Arkansas. I send an amendment to the desk and ask that it be read.

The VICE PRESIDENT. The Secretary will read the proposed amendment.

The SECRETARY. It is proposed to amend by striking out, beginning with the word "whenever," on line 5, page 2, down to and including the word "desirable," on line 7, page, 2, and to insert:

He shall find that the available supply of persons qualified under existing laws and regulations of the United States to fill the respective positions of watch officers on vessels admitted to registry by this act he shall suspend by order so far and for such time as he may find to be necessary.

Mr. CLARKE of Arkansas. The purpose of the amendment I have offered and which has just been read is to cure an obvious defect in that section, and when we reach it for consideration I wish to have a few words to say about it.

Mr. CUMMINS. Mr. President——

Mr. GALLINGER. I yield to the Senator from Iowa.

Mr. CUMMINS. In order that it may be pending before the Senate I propose the amendment which I send to the desk, to follow line 16, on page 2. I desire that the amendment shall be read.

The VICE PRESIDENT. The amendment proposed by the Senator from Iowa will be read.

The SECRETARY. After line 16, on page 2, it is proposed to insert:

Provided, That as to all foreign-built ships purchased by our citizens or corporations during the next year the application for United States registry must be approved by the Secretary of State before the registry is granted.

Mr. GALLINGER. Mr. President, in view of the amendments which have been offered, and which, of course, can not be given proper consideration simply from hearing them read, it occurs to me that it would be well to let this bill go over until to-morrow and have the amendments printed, so that we may have the entire subject before us; but if that is not acceded to, I want to occupy the attention of the Senate for a few moments.

Mr. O'GORMAN. Owing to the disposition made of the time for this legislative day, I am inclined to agree with the suggestion made by the Senator from New Hampshire.

Mr. GALLINGER. And will the Senator from New York ask unanimous consent that immediately after the routine morning business to-morrow the bill be brought up?

Mr. O'GORMAN. I make that request, Mr. President.

The VICE PRESIDENT. In the absence of objection, it will be so ordered.

Mr. JONES. Mr. President, before the bill is laid aside, I desire to offer a proposed amendment, to be inserted at the proper place in the bill, and have it pending.

Mr. GALLINGER. Mr. President, I shall not, of course, under our rules have a right to claim the floor to-morrow morning, but I shall then ask a little time to discuss the merits of the bill.

The VICE PRESIDENT. The Chair will do the very best he can to see the Senator from New Hampshire to-morrow morning.

Mr. GALLINGER. I thank the Chair. Let the amendment sent to the desk be read.

The SECRETARY. The amendment has already been printed, as of date August 3, calendar day August 4, and is to insert in the proper place the following:

And the President is hereby authorized, whenever in his discretion the needs of domestic trade require, to suspend by order, so far and for such length of time as he may deem desirable, the provisions of law confining the trade from points on the Atlantic coast to points on the Pacific coast and from points on the Pacific coast to points on the Atlantic coast to American ships.

Mr. JONES. Mr. President, I desire to offer and have pending another amendment to be known as section 3.

The VICE PRESIDENT. The amendment has already been printed.

Mr. JONES. I know that it has been printed, but I wish to call the attention of the Senate to it, so that it may be considered to-morrow.

The VICE PRESIDENT. The amendment proposed by the Senator from Washington will be stated.

The SECRETARY. It is proposed to insert as section 3 the following:

SEC. 3. From and after 30 days from the signing of a treaty closing the war now existing in Europe all goods, wares, and merchandise imported in vessels not admitted to registration under the laws of the United States shall be subject to a duty of 10 per cent in excess of the duties imposed by the act of October 3, 1913, and all goods so imported which are admitted free under said act shall pay a duty of 5 per cent ad valorem: *Provided*, That the foregoing provisions shall not go into effect as to goods imported in the vessels of those nations with which we have treaties which said provisions contravene until said treaties have been duly abrogated, and the President is hereby directed to abrogate any treaties which would interfere with the taking effect of said provisions in the manner provided by said treaties and without delay.

Mr. BRANDEGEE. Mr. President——

Mr. SAULSBURY. I desire to offer an amendment to come in as three new sections.

Mr. GALLINGER. Mr. President, lest I forget it, I now request that the bill be reprinted with the proposed amendments in brackets or italics, so that we may have them before us precisely as it is intended to amend the bill, if the amendments are agreed to.

The VICE PRESIDENT. Is there objection to the request of the Senator from New Hampshire? The Chair hears none, and the bill will be reprinted with the proposed amendments in brackets.

Mr. BRANDEGEE. I will suspend my inquiry until after the Senator from Delaware [Mr. SAULSBURY] has had the amendment which he proposes read.

The VICE PRESIDENT. Does the Senator from Delaware desire his amendment read?

Mr. SAULSBURY. I should prefer to have it read; yes.

The VICE PRESIDENT. The Secretary will read the amendment.

The SECRETARY. It is proposed to add three new sections to the bill, as follows:

SEC. 3. The Secretary of the Treasury, on being satisfied that not less than 90 per cent of the capital invested in any foreign-built steamship is the bona fide property of citizens, whether individuals or corporations, shall direct the bills of sale or transfer of the foreign-built steamships so acquired to be recorded in the office of the collector of customs of the proper collection district and cause such steamships to be registered as vessels of the United States by said collector, after which each of such vessels shall be entitled to all the rights and privileges of a vessel of the United States, except that it shall not be employed in the coastwise trade of the United States unless the voyage in which such vessel may be engaged requires its passage through the Panama Canal.

SEC. 4. That no sale or transfer of any steamship, or of any share or interest therein, or of any shares of capital stock of any corporation owning the same, granted registry under the terms of this act, shall be valid or of any force or effect, or anywhere be admitted as evidence of the sale or transfer thereof, or anywhere recorded, unless the same shall be first consented to and approved by the Secretary of the Treasury, and no sale or transfer even when valid and properly recorded shall relieve any vendee or transferee thereof from the conditional holding under this act; and at any time and from time to time after such grant of registry as herein provided, any steamships so registered may be taken by the United States as provided in section 4 of an act entitled "An act to encourage American shipbuilding," approved May 10, 1892, and used for any purpose for which other vessels of the United States may be lawfully used.

SEC. 5. That naval officers of the United States, active or retired, and men serving or employed in the Navy of the United States may, upon application made by them to the Secretary of the Navy, be permitted to accept such temporary service on board vessels registered under the terms of this act as may not be detrimental to the naval efficiency of the United States, without prejudice to their rank or status in the naval service, or any loss, prejudice, or detriment whatever, excepting only that while engaged on board such vessels the officers and men so engaged shall receive only such pay and compensation as they agree upon with the owners of such vessel.

Mr. BRYAN. I inquire if the bill in charge of the Senator from New York has been laid aside?

The VICE PRESIDENT. If there are no further amendments to be proposed, by unanimous consent, the bill goes over until after the morning business to-morrow.

RELIEF OF AMERICAN CITIZENS ABROAD.

Mr. SHAFROTH. Mr. President, I have been requested by the Secretary of the Treasury, the Secretary of State, and the Secretary of War to read and to ask the attention of the Senate to the following memorandum:

WAR DEPARTMENT,
OFFICE OF THE ASSISTANT SECRETARY OF WAR,
August 5.

[Memorandum.]

Private individuals or firms desiring to ship gold to Europe for the relief of distress can do so by delivering the same either to Col. A. L. Smith or Maj. J. A. Logan at the U. S. S. *Tennessee*, at the Brooklyn Navy Yard.

Specific directions as to the desired disposition of this gold must accompany the deposits. Receipts will be given. Custody will be taken and an earnest effort made to deliver according to directions. If delivery proves impossible the gold will be returned.

No fund will be received in any other medium than gold.

One of the before-named officers is now on the U. S. S. *Tennessee* to receive deposits. Deposits will be received up to the time of the sailing of the vessel, which is not yet definitely determined, but it will be probably late to-night (Wednesday) or to-morrow (Thursday).

I will say, Mr. President, that there is going to be considerable gold shipped by this vessel, the U. S. S. *Tennessee*, and it is desired to give publicity to the fact that such shipments can be made on that vessel.

POSTAL SAVINGS BANK FUNDS.

Mr. BRYAN. Mr. President, I ask unanimous consent for the present consideration of the bill (H. R. 7967) to amend the act approved June 25, 1910, authorizing a postal savings system.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 7967) to amend the act approved June 25, 1910, authorizing a postal savings system.

The VICE PRESIDENT. The pending question is on the amendment offered by the Senator from New Hampshire [Mr. GALLINGER] to the amendment reported by the committee.

Mr. BRYAN. Mr. President, so far as I am concerned I am willing that the amendment offered by the Senator from New Hampshire to the amendment of the committee shall be adopted.

Mr. WEEKS. I ask that the amendment offered by the Senator from New Hampshire to the amendment of the committee may be stated.

The VICE PRESIDENT. The Secretary will state the amendment to the amendment.

The SECRETARY. In the amendment reported by the committee, on page 1, line 9, after the word "exceed," it is proposed to strike out "$2,000" and to insert "$1,000," and on page 2, line 2, after the words "excess of," to strike out "$1,000" and insert "$500," so as to make the bill read:

Be it enacted, etc., That such part of section 6 of the act approved June 25, 1910, authorizing a system of postal saving depositories, as reads "but no one shall be permitted to deposit more than $100 in any one calendar month" is hereby amended to read as follows: "but the balance to the credit of any person, exclusive of accumulated interest, shall not exceed $1,000," and said act is further amended so as to repeal the proviso in section 7 thereof and insert in lieu of such proviso the following: "*Provided*, That no interest shall be paid on such part of the balance to the credit of any person as is in excess of $500."

The VICE PRESIDENT. The question is on agreeing to the amendment to the amendment. Is there objection? The Chair hears none——

Mr. JONES. I do not want the amendment to the amendment to be carried by unanimous consent.

The VICE PRESIDENT. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. BRYAN. Mr. President, I send to the desk an amendment to be known as section 2. I do not know that it is nec-

essary to have the Secretary read it, as it has been printed and is on the desks of Senators. I desire, after line 3, on page 2, to insert the matter indicated.

Mr. GALLINGER. Will the Senator state the substance of it?

Mr. BRYAN. The amendment simply embodies section 9 of the postal savings act of 1910, with an amendment providing that the deposits of the postal savings funds may be placed in banks that are not member banks.

Mr. GALLINGER. That is all right.

The amendment is as follows:

On page 2, after line 3, insert:

"SEC. 2. That postal savings funds received under the provisions of this act shall be deposited in solvent banks, whether organized under national or State laws, and whether member banks or not of a reserve bank created by the Federal reserve act, approved December 23, 1913, being subject to national or State supervision and examination, and the sums deposited shall bear interest at the rate of not less than 2½ per cent per annum, which rate shall be uniform throughout the United States and Territories thereof; but 5 per cent of such funds shall be withdrawn by the board of trustees and kept with the Treasurer of the United States, who shall be treasurer of the board of trustees, in lawful money as a reserve. The board of trustees shall take from such banks such security in public bonds or other securities, supported by the taxing power, as the board may prescribe, approve, and deem sufficient and necessary to insure the safety and prompt payment of such deposits on demand. The funds received at the postal savings depository offices in each city, town, village, and other locality shall be deposited in banks located therein (substantially in proportion to the capital and surplus of each such bank) willing to receive such deposits under the terms of this act and the regulations made by authority thereof, but the amount deposited in any one bank shall at no time exceed the amount of the paid-in capital and one-half the surplus of such bank. If no such bank exist in any city, town, village, or locality, or if none where such deposits are made will receive such deposits on the terms prescribed, then such funds shall be deposited under the terms of this act in the bank most convenient to such locality. If no such bank in any State or Territory is willing to receive such deposits on the terms prescribed, then the same shall be deposited with the treasurer of the board of trustees and shall be counted in making up the reserve of 5 per cent. Such funds may be withdrawn from the treasurer of said board of trustees, and all other postal savings funds, or any part of such funds, may be at any time withdrawn from banks and savings depository offices for the repayment of postal savings depositors when required for that purpose. When, in the judgment of the President, war or other exigency involving the credit of the United States so requires, the board of trustees may invest all or any part of the postal savings funds, except the reserve fund of 5 per cent herein provided for, in bonds or other securities of the United States. The board of trustees may, in its discretion, purchase from the holders thereof bonds which have been or may be issued under the provisions of section 10 of the act of June 25, 1910. Interest and profit accruing from the deposits or investment of postal savings funds shall be applied to the payment of interest due to postal savings depositors as hereinbefore provided, and the excess thereof, if any, shall be covered into the Treasury of the United States as a part of the postal revenue: *Provided*, That postal savings funds in the treasury of said board shall be subject to disposition as provided in this act, and not otherwise: *Provided further*, That the board of trustees may at any time dispose of bonds held as postal savings investments and use the proceeds to meet withdrawals of deposits by depositors. For the purposes of this act the word 'Territory,' as used herein, shall be held to include the District of Columbia, the District of Alaska, and Porto Rico, and the word 'bank' shall be held to include savings banks and trust companies doing a banking business."

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. WEEKS. Mr. President, before the bill is put on its passage I wish to say that, in my judgment, it is greatly improved by the amendments which have been offered. I offered some opposition to the legislation when it was before the Senate early in the summer, but I am not going to continue that opposition, on account of the improvement which has been made in the bill as amended. I do not think that even now, however, it is wise legislation or conforms to the original purpose of the postal savings-bank law.

Mr. SWANSON. Mr. President——

The VICE PRESIDENT. The Senator from Virginia.

Mr. OWEN. Mr. President——

Mr. BRYAN. I should like to have the question put.

The VICE PRESIDENT. Yes; but the Chair does not know for what purpose Senators are standing on their feet.

Mr. OWEN. I understood that the bill had been disposed of under the announcement of the Chair.

The VICE PRESIDENT. It has not been. The question has not been put on the passage of the bill.

Mr. WEST. Mr. President——

Mr. BRYAN. I simply wanted the Senator from Virginia [Mr. SWANSON] to withhold the introduction of any further matter until the Chair has had an opportunity to put the question. I am not complaining of the action of the Chair.

The VICE PRESIDENT. It is the duty of the Chair to recognize Senators when they rise and address the Chair. The Chair can not tell whether they want to talk about the bill or whether they want something else done.

Mr. WEST. Mr. President, I rather think this legislation is injudicious, but in view of the amendments that have been offered by the Senator from Massachusetts I shall interpose no objection.

The VICE PRESIDENT. The question is, Shall the bill pass? The bill was passed.

PUBLIC BUILDING AT RICHMOND, VA.

Mr. SWANSON. I desire to submit a report from the Committee on Public Buildings and Grounds, and I ask unanimous consent for its immediate consideration. It is a very urgent matter.

The VICE PRESIDENT. The Secretary will read the title of the bill.

The SECRETARY. A bill (H. R. 11822) to acquire, by purchase, condemnation, or otherwise, additional land for the post office, courthouse, and customhouse in the city of Richmond, Va.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. SWANSON. I wish to say that the Senate passed a bill appropriating $600,000 for this purpose. The House passed a similar bill appropriating $450,000. I simply desire to pass the House bill exactly as it was passed by the House. It is a very urgent matter.

Mr. SMOOT. Is this the Senate bill?

Mr. SWANSON. It is not the Senate bill; it is the House bill. I desire to pass the House bill, and then the Senate bill will die.

Mr. GALLINGER. The Chair lays this bill before the Senate under our rules, I suppose.

Mr. SWANSON. I ask unanimous consent for its immediate consideration.

Mr. SMOOT. What I was going to ask was whether the bill has been laid by the Chair before the Senate and referred to the committee?

Mr. SWANSON. It has been.

The VICE PRESIDENT. It has been handed down and has been referred to the committee. This is a report from the committee.

Mr. SMOOT. That is all I ask.

The VICE PRESIDENT. Is there any objection to the present consideration of the bill? The Chair hears none. The Secretary will read the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It authorizes and directs the Secretary of the Treasury, in his discretion, to acquire, by purchase, condemnation, or otherwise, the remainder of the block, bounded by Main, Tenth, Eleventh, and Bank Streets, in which the post office, courthouse, and customhouse, in the city of Richmond, Commonwealth of Virginia, is located, at a cost not exceeding $450,000, provided that in the judgment of the Secretary of the Treasury the public interest would be better served by acquiring said property than by acquiring another site for additional post-office facilities.

Mr. CLARK of Wyoming. I should like to ask the Senator from Virginia a question. I understood, although there was some confusion, that this bill is exactly the same as the bill that has passed the Senate, with the exception as to amount.

Mr. SWANSON. That is correct.

Mr. CLARK of Wyoming. And the Senate bill is now pending in the House?

Mr. SWANSON. It is pending in the House. The House passed this bill with some amendments. I notice that some slight amendments were made to the House bill. It leaves the authorities discretion to buy other sites if they deem it advisable.

Mr. CLARK of Wyoming. The House took no notice, then, of the Senate bill that was sent to them?

Mr. SWANSON. Yes.

Mr. CLARK of Wyoming. Did the House take notice of the Senate bill?

Mr. SWANSON. It was referred to the committee. The two bills were introduced simultaneously; but I notice that th's bill includes some matters that were not included in the Senate bill, giving the authorities discretion to purchase a site elsewhere if it is found advisable.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DEPOSITS OF STATE BANKS AND TRUST COMPANIES.

Mr. OWEN. I ask unanimous consent for the present consideration of Senate bill 4966, which proposes an amendment to the Federal reserve act relating to the reserves held by the

State banks, and permitting them during the period of 36 months within which the system is being put in force to hold reserves now held by them for other State banks and have them counted as if they were held by national banks.

The VICE PRESIDENT. Is there objection to the present consideration of the bill? The Chair hears none.

Mr. NELSON. Let the title of the bill be read.

The SECRETARY. A bill (S. 4966) proposing an amendment as to section 19 of the Federal reserve act relating to reserves, and for other purposes.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The VICE PRESIDENT. The bill has been heretofore read.

Mr. GRONNA. I ask that the bill may be again read. I am not familiar with its provisions.

The Secretary read the bill, as follows:

Be it enacted, etc., That section 19, subsections (b) and (c) of the act approved December 23, 1913, known as the Federal reserve act, be amended and reenacted so as to read as follows:

"(b) A bank in a reserve city, as now or hereafter defined, shall hold and maintain reserves equal to 15 per cent of the aggregate amount of its demand deposits and 5 per cent of its time deposits, as follows:

"In its vaults for a period of 36 months after said date, six-fifteenths thereof, and permanently thereafter five-fifteenths.

"In the Federal reserve bank of its district for a period of 12 months after the date aforesaid, at least three-fifteenths, and for each succeeding 6 months an additional one-fifteenth, until six-fifteenths have been so deposited, which shall be the amount permanently required.

"For a period of 36 months after said date the balance of the reserves may be held in its own vaults, or in the Federal reserve bank, or in national banks in central reserve cities, as now defined by law.

"After said 36 months' period all of said reserves, except those hereinbefore required to be held permanently in the vaults of the member bank and in the Federal reserve bank, shall be held in its vaults or in the Federal reserve bank or in both, at the option of the member bank.

"(c) A bank in a central reserve city, as now or hereafter defined, shall hold and maintain a reserve equal to 18 per cent of the aggregate amount of its demand deposits and 5 per cent of its time deposits, as follows:

"In its vaults, six-eighteenths thereof.

"In the Federal reserve bank, seven-eighteenths.

"The balance of said reserves shall be held in its own vaults or in the Federal reserve bank, at its option.

"Any Federal reserve bank may receive from the member banks as reserves not exceeding one-half of each installment, eligible paper as described in section 13 properly indorsed and acceptable to the said reserve bank.

"If a State bank or trust company is required or permitted by the law of its State to keep its reserves either in its own vaults or with another State bank or trust company or with a national bank, such reserve deposits so kept in such State bank, trust company, or national bank shall be construed within the meaning of this section as if they were reserve deposits in a national bank in a reserve or central reserve city for a period of three years after the Secretary of the Treasury shall have officially announced the establishment of a Federal reserve bank in the district in which such State bank or trust company is situate. Except as thus provided, no member bank shall keep on deposit with any nonmember bank a sum in excess of 10 per cent of its own paid-up capital and surplus. No member bank shall act as the medium or agent of a nonmember bank in applying for or receiving discounts from a Federal reserve bank under the provisions of this act except by permission of the Federal Reserve Board.

"The reserve carried by a member bank with a Federal reserve bank may, under the regulations and subject to such penalties as may be prescribed by the Federal Reserve Board, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities: *Provided, However*, That no bank shall at any time make new loans or shall pay any dividends unless and until the total reserve required by law is fully restored.

"In estimating the reserves required by this act, the net balance of amounts due to and from other banks shall be taken as the basis for ascertaining the bank deposits against which reserves shall be determined. Balances in reserve banks due to member banks shall, to the extent herein provided, be counted as reserves.

"National banks located in Alaska or outside the continental United States may remain nonmember banks, and shall in that event maintain reserves and comply with all the conditions now provided by law regulating them; or said banks, except in the Philippine Islands, may, with the consent of the reserve board, become member banks of any one of the reserve districts, and shall, in that event, take stock, maintain reserves, and be subject to all the other provisions of this act."

Mr. GRONNA. I do not happen to have the present law before me. I should like to ask the Senator from Oklahoma in what respect this bill differs from the present law?

Mr. OWEN. If the Senator will observe the calendar print, he will find on page 3 the changes that are made.

Mr. GRONNA. I have that bill before me.

Mr. OWEN. In line 3, on page 3, the word "thirteen" is inserted instead of "fourteen," "thirteen" having been an error in the original bill. In the succeeding paragraph is the only change that is made. Otherwise it is merely a repetition of the same section, for the convenience of those who would have to inspect the changes made.

The purpose of it is, in the second paragraph of page 3, to permit State banks which are coming into this system to retain deposits of other member banks during the 36 months within which the change is made from the present system to the new Federal reserve system. It simply protects the State banks to that extent.

Mr. GRONNA. I have no further questions.

Mr. BURTON. Mr. President, on a prior occasion when this bill was up I called the attention of the Senator from Oklahoma to what seemed to me to be an error in the designation of the section of the Federal reserve act to which reference is made. It now reads "section 13 of the Federal reserve act." What was the section originally given in the bill as introduced?

Mr. OWEN. Fourteen, which related to open-market operations.

Mr. BURTON. And the change has been made to section 13?

Mr. OWEN. Yes; so as to describe the notes which are referred to in section 13.

Mr. BURTON. And that is in accordance with the provisions in regard to reserves contained in the original act?

Mr. OWEN. Yes; section 13 of the Federal reserve act.

Mr. BURTON. This does not affect the nature of the reserves?

Mr. OWEN. No. I think it makes it what it was intended to be in the first instance. If the Senator has before him the Federal reserve act, section 13——

Mr. BURTON. I have it.

Mr. OWEN. It provides that—

Any Federal reserve bank may receive from any of its member banks, and from the United States, deposits of current funds in lawful money, national-bank notes, Federal reserve notes, or checks and drafts upon solvent member banks, payable upon presentation; or, solely for exchange purposes, may receive from other Federal reserve banks deposits of current funds in lawful money, national-bank notes, or checks and drafts upon solvent member or other Federal reserve banks, payable upon presentation.

Upon the indorsement of any of its member banks, with a waiver of demand, notice, and protest by such bank, any Federal reserve bank may discount notes, drafts, and bills of exchange—

And so forth. This reference should be to section 13.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended by striking out the word "as," so as to read: "A bill proposing an amendment to section 19 of the Federal reserve act relating to reserves, and for other purposes."

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the bill (S. 5313) to regulate the taking or catching of sponges in the waters of the Gulf of Mexico and the Straits of Florida outside of State jurisdiction; the landing, delivering, curing, selling, or possession of the same; providing means of enforcement of the same; and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 6031) authorizing the Board of Trade of Texarkana, Ark.-Tex., to construct a bridge across Sulphur River at or near Pace's ferry, between the counties of Bowie and Cass, in the State of Texas, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House insists upon its amendment to the bill (S. 5673) to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest," approved March 2, 1911, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. TAYLOR of Colorado, Mr. FERRIS, and Mr. FRENCH managers at the conference on the part of the House.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4969) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5278) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 5501) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing

votes of the two Houses on the amendments of the House to the bill (S. 5899) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 15959) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 16345) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 17482) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The message further announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

H. R. 16053. An act to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910; and

H. J. Res. 314. Joint resolution for the relief, protection, and transportation of American citizens in Europe, and for other purposes.

HOUSE BILL REFERRED.

H. R. 16053. An act to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910, was read twice by its title and referred to the Committee on Commerce.

RELIEF OF AMERICAN CITIZENS ABROAD.

H. J. Res. 314. Joint resolution for the relief, protection, and transportation of American citizens in Europe, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

Mr. MARTIN of Virginia subsequently said: From the Committee on Appropriations I report back favorably without amendment the joint resolution (H. J. Res. 314) for the relief, protection, and transportation of American citizens in Europe, and for other purposes, and I ask unanimous consent for its present consideration.

Mr. SMOOT. Let the joint resolution be read.

The Secretary read the joint resolution; and their being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that for the relief, protection, and transportation of American citizens, and for personal services, rent, and other expenses which may be incurred in the District of Columbia or elsewhere in connection with or growing out of the existing political disturbance in Europe, there is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $2,500,000, to be expended at the discretion of the President: *Provided*, That American citizens to whom relief is extended or transportation is furnished hereunder shall pay to or reimburse the United States all reasonable expenses so incurred, respectively, on their account, if financially able to do so. In the execution of the provisions hereof the President is authorized to employ any officers, employees, and vessels of the United States and use any supplies of the Naval or Military Establishments, and to charter and employ any vessels that may be required.

A detailed statement of all expenditures hereunder and under the appropriation of $250,000 made in the joint resolution approved August 3, 1914, and of all amounts reimbursed to the United States of such expenditures shall be made to Congress on or before the beginning of its next regular session.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SULPHUR RIVER BRIDGE, TEXAS.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 6031) authorizing the Board of Trade of Texarkana, Ark.-Tex., to construct a bridge across Sulphur River at or near Pace's ferry, between the counties of Bowie and Cass, in the State of Texas, which was, in line 5, to strike out "public highway."

Mr. SHEPPARD. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

PENSIONS AND INCREASE OF PENSIONS.

Mr. JOHNSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4969) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 2, 3, 5, 8, 9, 10, and 12, and agree to the same.

That the House recede from its amendments numbered 1, 4, 6, 7, and 11.

CHARLES F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.
JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The report was agreed to.

Mr. JOHNSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5278) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 4, 5, 7, 8, 9, 11, 13, and 15, and agree to the same.

That the House recede from its amendment numbered 3.

That the Senate recede from its disagreement to the amendment of the House numbered 6, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment, insert the sum "$24"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 10, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment, insert the sum "$24"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 12, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$24"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 14, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the sum proposed therein insert the sum "$40"; and the House agree to the same.

CHARLES F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.
JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The report was agreed to.

Mr. JOHNSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5899) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War and to certain widows and dependent

relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 3, 4, 5, 7, 8, 9, 11, 13, 15, 16, 17, and 18, and agree to the same.

That the House recede from its amendments numbered 10, 12, 14, 19, and 20.

That the Senate recede from its disagreement to the amendment of the House numbered 5, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment and in lieu of the sum proposed therein insert the sum of "$12"; and the House agree to the same.

CHARLES F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The report was agreed to.

Mr. JOHNSON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 5501) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War and to certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 3, 5, 6, 7, 8, 10, 13, 15, 17, 18, and 19, and agree to the same.

That the House recede from its amendments numbered 4, 9, and 16.

That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment and in lieu of the sum proposed therein insert the sum "$50"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 11, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment and in lieu of the sum proposed therein insert the sum "$30"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 12, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$24"; and the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House numbered 14, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$30"; and the House agree to the same.

CHARLES F. JOHNSON,
WM. HUGHES,
REED SMOOT,
Managers on the part of the Senate.

JNO. A. KEY,
EDWARD KEATING,
SAM R. SELLS,
Managers on the part of the House.

The report was agreed to.

FEDERAL TRADE COMMISSION.

Mr. NEWLANDS. I move that the Senate resume the consideration of the trade commission bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. WEST. Mr. President, I am aware of the fact that the Senators are well worn out with long discussion upon the pending measure, but I have not occupied the time or the attention of the Senate at all up to this time, and I say now that I shall spend but a short time in the consideration of the bill. I was glad to hear the Senator from Nevada [Mr. NEWLANDS] say this was not a party measure. I shall not attempt in the consideration of the matter to go into the legal construction of "unfair competition," "unjust discrimination," or the question of "restraint of trade."

These questions have been discussed at great length by the learned lawyers of the Senate, even by a former justice of the supreme court of his State who had been long upon the bench. These men who have "walked the mountain ridges of the law," I think, at times have been illuminating in their discussion. Yet as I have listened and become pretty well satisfied with the contention of one side I am confused by the discussion on the other side of the pending measure.

We are embarking upon a great ocean of doubt and trouble. We are venturing upon an untried and uncharted sea. In my judgment, there is more trouble in this legislation for this country than there has been in any piece of legislation in recent years.

In the first place, I am opposed, unless there is extreme necessity for it, to the multiplication of bureaus and commissions; and nobody knows, as it has been attempted to estimate the number here, the number of employees under the Government that will exist under this commission.

Mr. President, it is well known that there have been up to this time substantially three bills before the House and the Senate. The committee brought out a bill entirely different from that which was brought into the Senate from the House. Here we are to pass upon a bill that is entirely different from the one that has come out of the committee. Who knows, then, what is proper legislation upon this great question, one that is of vital interest to this country, because it concerns every detail of its business throughout its broad expanse? Who knows what power they have given this commission that is to pass upon the business of every individual, partnership, association, and corporation? They have been given arbitrary power and plenary power to do, it seems to me, just as their consciences dictate. They must pass upon what is unfair competition. They must construe it, and to what extent they will disturb the business conditions of the country nobody at this time can opine. They are entering upon a new field, when, if there is any statute necessary to go upon the books, we have a well-devised system to which they could appeal. Some members of the commission no doubt will be laymen; and their construction of what is unfair competition is to be taken instead of that of the courts of this country.

The Senator from Iowa [Mr. CUMMINS] said some days ago that this commission would not be omniscient, but in my judgment it will be omnipotent, and acting through its attorneys, its accountants, its experts, its examiners, its agents, and special agents and employees, it will be well-nigh omnipresent. They will search every nook and corner of this country in order to get after people who are presumably violating this law. They may be taken from the Atlantic to the Pacific, from the Lakes of the north to the green-fringed borders of the Gulf of Mexico, hauled away from their business these long distances here to go before this commission, when if they had a statute on the book covering this matter they could be brought up in the courts at their homes.

This is a great power that Congress seeks to confer upon the commissioners who are created under the bill, and, in my judgment, it is an unwarranted power.

And, too, will not this law, handled by these commissioners, interfere with existing laws upon the statute books? That is a serious question for Congress in considering this measure to decide.

Our courts, Mr. President, like the gates of Janus, are always open to the oppressed of this country, and it is here that our courts, the best system of any country on the face of this earth, can daily remedy any injustice that has been done under a law that might be put upon the statute books.

I imagine, Mr. President, many of the Senators are consoling themselves that in the end they will reach the rainbow where there is a bag of gold. I am fearful that they are largely mistaken. It is a mirage that they see in the heavens that eludes them as they approach it

Mr. President, the power is given to this commission to go out into almost every business in every State of this Union to pass upon it, to see whether that business is being done correctly, lawfully, under this law.

In order that I may give a concrete case, here in the city is a partnership or individual engaged in the sale of chickens. Some person or corporation comes along and establishes a cold-storage business. It is well known that in the sale of such things they can not compete with cold storage in this business. Now, would this commission, for it is left entirely with them, decide that this cold storage could not come there if it undersells those who have been selling the poultry in the old way? That would be a question entirely for this commission, and it would be one in which they could bring the officers of this cold-storage business before them.

I gave the other day the matter of grain drills as an instance. Suppose some corporation not so powerful had engaged in that business, had had fair success, and had a large number of grain drills manufactured and on hand, which, becoming oppressed by their obligations, they must sell. Perhaps the corporation not so strong financially could sell those grain drills below cost and live. Yet, in my judgment, this commission has the power, the plenary power, to come in and hale the officers of this corporation before them and declare their business to be illegal, unfair competition.

There is another serious feature. It is known, Mr. President, that I am, as I have stated, very much opposed to commissions and bureaus under the Government, and that they should only be created in a case where there is an extreme necessity existing for them. It is known, as has been stated upon this floor, that the Interstate Commerce Commission, handling the railroads and other public-utility corporations of the great States of this Union, now costs the Government $3,500,000 per annum. Nobody knows to what extent this commission, with its multiplicity of agents and employees, would cost the Government. It has been variously estimated at from about $58,000,000 up into the hundreds of millions of dollars.

That is not the worst feature. This great debt that is to be heaped upon the Government annually would not be the worst feature, in my judgment. It would bring many an individual, firm, or corporation before it and, in my judgment, precipitate it into bankruptcy when it might otherwise go on and do a prosperous business. Nobody can anticipate the immense cost it would be to a concern to be haled from the utmost limits of the Union before this commission here in Washington, and if a firm or corporation had scant means, you can see the inevitable result.

Mr. President, this is a great Government, and I for one regret to see the step taken that is going to be taken to-day in passing this bill in the shape that it is. I think we but move back the hand upon the dial plate of progress.

Suppose the great men like Webster and Calhoun and Clay, accustomed to construing the Constitution, could see this measure laid before the people at this time, what would they think of such legislation?

It has been said that this commission would be governed by the rule of reason. Who knows but what they may be controlled in their decisions by the rule of unreason. Yet there is not an adequate remedy beyond them.

As I have stated, they have the right to search every nook and corner of this great country and practically ruin business where they have assailed it, and it may be that they have done it through others jealous of the prosperity of any particular business. They have the right to receive suggestions, search in the innermost corners, examine the books, send these pestiferous myrmidons into the innermost recesses of a man's business, and bring it up and lay it before this commission.

And yet, Mr. President, this is the great panacea they have offered for the ills that are prevailing in this country, when our courts of justice are standing open to every man who is injured by virtue of unfair competition, and there is a law existing already, a law without the enormous multiplication of offices, agents, accountants, and experts, and examiners, in order to ferret out these things.

There is another thing and a higher thing, in my judgment, and that is the interference with State rights. These great rights that the States have reserved unto themselves, that sacred heritage that has come down to us from our forbears, are being laid aside and these emissaries, these experts and examiners are permitted to go into a State and unearth whatever they may see fit to expose.

I do not, Mr. President, believe that the Senators here feel and see the full consequence of this legislation, to what extent it will interfere with State rights, because it has been held in some of the States—I believe in Colorado—that where a railroad intrastate carries a single item which goes beyond its bounds is subject to the Interstate Commerce Commission.

While I should like to see enacted some legislation looking to the betterment of the condition of this country so as to relieve the people who have been suffering from unjust, unfair competition, I am fearful that this bill—and that is practically the threat that has been before this body—is too ill-digested for it to become a law and to be placed upon the statute books.

For myself, if this bill comes to a final vote in the shape that it seems it is going to pass, I must cast my vote against it.

Mr. SMOOT. Mr. President, if no Senator desires to speak upon the bill at this time——

Mr. BRANDEGEE rose.

Mr. SMOOT. Does the Senator from Connecticut desire to speak?

Mr. BRANDEGEE. Mr. President, I desire to read the unanimous-consent agreement and ascertain what it provides. I was not here when it was entered into. It appears that at not later than 2 o'clock the Senate will proceed to vote upon amendments. After that time, I assume, only 10-minute speeches will be in order.

Mr. SMOOT. If no Senator desired to speak at this time, I was going to ask unanimous consent for the consideration of unobjected bills on the calendar under Rule VIII until 2 o'clock.

Mr. GALLINGER. I had intended, Mr. President, to make some brief observations on the bill, but it has been discussed so fully and there is such a variety of opinions now before the Senate that I have concluded to spare the Senate the necessity of listening to me. I will simply say, Mr. President, that the old conundrum, "when doctors disagree who shall decide," was once wisely solved by a man who said that while the doctors were disagreeing the patient either died or got well; and, as a layman, I might well ask, when lawyers disagree, as they have disagreed in regard to this bill, how can a man not versed in law come to a wise conclusion, except to follow his conscience as he interprets the matter for himself without reference to the legal questions involved?

I have listened very attentively to the debate; I have heard the term "unfair competition" discussed—I have heard it said that it was easy of interpretation, and have heard it said that it was impossible of interpretation except by the Supreme Court of the United States, even if the Supreme Court could accomplish that task; and my mind is so disturbed over the legal propositions involved in this matter that I shall not undertake to reach a conclusion from that point of view.

But, Mr. President, from the other point of view, the view that takes into consideration the rights and the needs of the business men of this country as they exist to-day under the intense rivalry that is going on and under the conditions of business that now exist, I have made up my mind that it is my duty to vote against the bill upon its final passage. In doing this, I am fully satisfied that the laws now on the statute books, if faithfully enforced, are fully adequate to regulate and control all the business of the country that needs regulation and control, and to go beyond that by legislation is simply to subject the business of the country to unnecessary espionage and annoyance.

Mr. BRANDEGEE. Mr. President, it is not my intention at this point to take any considerable time of the Senate. I agree with what the Senator from New Hampshire [Mr. GALLINGER] has said, that the bill has been debated in all its phases exhaustively; and I think properly so. I do not consider the time devoted to it to have been wasted, and I think that even Senators who early after the committee had reported the bill thought that it ought to be acted upon almost immediately will now admit that the questions involved in the bill not only justified but demanded the somewhat extended consideration which has been given to them.

I desire to say that I think the debate that has proceeded upon the floor of the Senate has been worthy of the great subject involved. I have been told by gentlemen whose opinion I respect, who are not members of this body, that they considered that the debate upon the legal questions and the governmental policies involved in this bill which has taken place upon this floor to be worthy of the best traditions of the Senate. While I am not in the business of throwing any bouquets at the Senate or at myself, it did gratify me to hear from professional men that they thought the debate upon this measure was worthy of the cause.

Mr. President, I am informed that on the 3d of August of this year, day before yesterday, the telegram which I now send to the desk was sent to the two New York Senators and to the chairman of the committee which reported this bill [Mr. NEWLANDS] from the Merchants' Association of New York, a distinguished body of men representing the largest commercial and mercantile concerns in the United States. There are 3,300 members of this association. I will ask the Secretary to read their telegram, not having seen it printed in the RECORD.

The PRESIDING OFFICER (Mr. MYERS in the chair). The telegram will be read as requested.

The Secretary read as follows:

The industry and commerce of this country, already disturbed by the necessity of readjustment to new conditions created by tariff and currency legislation, is suddenly confronted by the paralyzing effects arising from the possible, if not probable, suspension for an indefinite period of foreign commerce and of international trade and financial relationships. Under such circumstances additional readjustment to comply with the terms of pending antitrust legislation, irrespective of the merits of the pending bills, would constitute a burden which our industry and commerce may be unable to bear and would be likely to precipitate a crisis so serious as to constitute a national calamity.

The Merchants' Association of New York therefore respectfully urges that further consideration of and action upon any of the antitrust bills now pending be immediately postponed until a later session of Congress.

THE MERCHANTS' ASSOCIATION OF NEW YORK,
W. A. MARBLE, *President.*

Mr. BRANDEGEE. Mr. President, I am perfectly aware that no consideration whatever will be given by the Senators who are going to vote for this bill to the opinion of these 3,300 business men, representing the largest business interests in the country. Senators who are going to vote for the bill think that they are better judges of what the business situation requires than are those thousands of men engaged in business. With that I have no quarrel. Each Senator must make up his own mind whose judgment to follow, if he is not going to follow his own, and make up his own mind whether his judgment accords with the President of the United States, as representing the business interests of the country, or with the business interests of the country themselves.

The strongest argument made in behalf of the passage of this bill is that it will remove uncertainty from the minds of business men. The President has a way of stating that. He says an interrogation point confronts the eyes of the business men at the present time, and that the passage of this bill and of the other bills which he is urging will remove that interrogation point. Mr. President, that is the merest assertion, and an erroneous one, in my opinion. Of course, the President is perfectly entitled to his opinion. With me it counts no more than the opinion of any other gentleman and scholar and not so much as the opinion of men who, in my opinion, are better qualified to judge of the situation than is the President of the United States.

The President of the United States is a scholar, a very distinguished gentleman. His life has been spent in writing histories and in taking books off shelves and opening them and reading them and comparing them with other books. He has never had a day's experience in his life in any sort of business which he is now apparently intimately cognizant of and of the needs of which he thinks he is a better spokesman than the business men themselves.

Mr. President, if there is an interrogation point in front of the eyes of the business men now, there will be hundreds of interrogation points in front of their confused vision after these bills have passed. There never was a more confusing subject put up to a business man or to the judges who are to decide the question than the interpretation of the vague, ambiguous words "unfair competition." Anybody who can claim that the mere declaration by Congress that "unfair competition is unlawful," conveys any definite meaning to the mind of anybody to be affected is—well, his state of mind, in my view, is so confused that he is not a safe guide to follow.

Mr. WEST. And, Mr. President, that term may be construed by laymen.

Mr. BRANDEGEE. The Senator from Georgia has seen how we lawyers differ as to its construction, and he knows as a business man and a lawyer, if I mistake not——

Mr. WEST. I used to be.

Mr. BRANDEGEE. As to the difficulty the business community may have in trying to interpret it. Anybody can guess as to how the five members of the commission to be created may interpret it.

Mr. GALLINGER. Mr. President, may I ask the Senator from Connecticut a question?

Mr. BRANDEGEE. Certainly.

Mr. GALLINGER. The Senator from Georgia [Mr. WEST] discussed a point that I intended to touch upon had I taken any time, and that was as to the army of officials who are to traverse the country from one end to the other.

As I understand the matter, a business man in Georgia or, for that matter a business man in the State of Washington, represented by the Senator into whose face I am now looking [Mr. JONES], 3,000 miles away from the Capital, or nearly that, may be visited by one of these so-called inspectors. He demands to see the books; I suppose he gets the combination of the safe; possibly, he tells the proprietor that he can take a little vacation while he looks over his establishment; he reports to the trade commission that there is something wrong with the business of that man, and I suppose that man is notified by the commission to appear in Washington, is he not, to defend himself? I will ask the Senator from Connecticut.

Mr. BRANDEGEE. Oh, yes.

Mr. GALLINGER. He comes to Washington at his own expense; he is investigated, and if the trade commission finds that the inspector or agent or clerk, or whatever he is, was superserviceable and found something that did not exist—and such agents are very apt to do that: that is the function of the underlings in the departments; they do not get promotion unless they find something somewhere—if he finds that he was mistaken and that there is nothing against this man, as a matter of fact, still the man is under the humiliation of being suspected, of being charged with wrongdoing, of having to come to Washington; his neighbors and his competitors know that fact and even——

Mr. WEST. Mr. President——

Mr. GALLINGER. If the Senator will permit me just one more word, and, even though he is cleared of the suspicion or the accusation, as I understand, the Attorney General can call him to account later on for the same alleged offense. Am I right in that, I will ask the Senator?

Mr. BRANDEGEE. In my judgment, that is correct, provided the offense, in the opinion of the department, constitutes a restraint of trade.

Mr. GALLINGER. Certainly. The Senator from Georgia—and I listened to him carefully on that point, and it was a point which I had intended myself to discuss—correctly states that this bill establishes a system of espionage over the business interests of this country such as no other country in all the world has ever undertaken to exercise. I do not think anything like it exists in Russia, and I do not think anything like it exists in any other civilized or uncivilized nation. I can not help feeling that this is unwise legislation.

Mr. WEST. Mr. President, I started to say, if the Senator from Connecticut will permit me——

Mr. BRANDEGEE. With pleasure.

Mr. WEST. That the individual who is brought here from the State of Washington at his own expense may be in the direst need of every dollar he can command in his business.

Mr. GALLINGER. Certainly.

Mr. BRANDEGEE. That is true, Mr. President. Of course, it is one thing for Members of Congress who may not be men of large business affairs and perhaps for many of us lawyers to sit down and to put words upon paper upon this subject, having a theory in our minds as to how the provisions which we may draft will work. It is quite a different thing when the whole system gets into action and it becomes a practice rather than a theory. Of course, those who bring forward a measure which they think is going to improve conditions always become overenthusiastic as to the beneficial effect to be produced. That is human nature; that is inevitable.

Mr. President, to illustrate, the same rosy predictions were made by our friends when they undertook to revise the tariff. I do not refer to that now in a spirit at all of political controversy and most certainly not in a spirit of boasting, but in a spirit of regret more than anything else. We remember the rosy and enthusiastic prophecies that were made by Members of the majority who passed the last tariff law; we remember the hosannas, the pæans of victory, and the congratulations to the country that issued from the portals of the White House; we remember the gorgeous—I will not say pompous, but perhaps regal—phrases in which those exultations were couched. Apparently the result anticipated did not arrive on schedule time, whereupon the same prophecies and the same procedure were indulged in with reference to the legislation providing for the creation of the Federal Reserve Board. The same or similar results having obtained, now some other fillip, accompanied by the usual optimistic and joyous acclamations, is to accomplish the purpose which the other two measures did not accomplish. So I say it is natural that the people who propose this particular legislation at this time in their desire to see it enacted, in their autointoxication of enthusiasm, are altogether too optimistic as to the results which will be obtained by it.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Iowa?

Mr. BRANDEGEE. Certainly.

Mr. CUMMINS. I think the Senator from Connecticut overlooks one fact when he is imputing this legislation to the Executive Office. I have been quite as insistent as I think any other Senator has been in endeavoring to keep separate and independent the several functions of the respective branches of the Government, but for three or four years there have been pending before the Interstate Commerce Committee bills, introduced in part by Senators upon the other side of the Chamber and in part by Senators upon this side of the Chamber, which embodied all the principles of the pending legislation and which in their details were strikingly similar to it.

I had it in my mind some time before the debate closed to call the attention of the Senate to the bills which have been introduced by Senators upon this side of the Chamber touching the general subject. The senior Senator from Minnesota [Mr. NELSON], the junior Senator from Minnesota [Mr. CLAPP], the Senator from Washington [Mr. JONES], the Senator from Kansas [Mr. BRISTOW], and the Senator—well, I can not now recall

more, but I have a list of them which shows that the greater number of these bills have emanated from the Republican side of the Chamber. I hope that the Senator from Connecticut will not believe that in favoring some part of this legislation his associates upon this side of the Chamber have been coerced into their position through the interference of any other department of the Government.

Mr. BRANDEGEE. Mr. President, I did not mean to say that, and I do not think I did say that. What I intended to say was that I thought the proponents of this legislation were indulging in too hopeful a view of the beneficial results that would probably ensue from it, and I instanced the rosy prophecies that to my mind have been woefully lacking in fulfillment with relation to the beneficial results that were to flow from the Democratic tariff revision and from the enactment of the bill providing for the Federal Reserve Board.

I know perfectly well, of course, that there are various Republicans who have in years past and up to the present time been, and now are, in favor of a Federal trade commission, differing among themselves as to the exact powers that it should have. Of course I class those Republicans with the Democratic promoters of this bill as among those who, I think, are overenthusiastic about the beneficial results that will flow from the enactment of the bill.

What I do say is that were it not for the firm insistence, an insistence amounting to domination, of the gentleman who now is in the White House, the President of the United States, Congress would not now be considering this bill or any other bill; Congress would be home; and the country would be more at peace than it is at present.

The business of the country and the business men who are doing their best to hang on and escape from failure and disaster are not demanding this legislation. With the institutions of the old world crashing in anarchy and chaos, with our own exchanges closed all over the United States, with Congress issuing a half billion dollars' worth of emergency currency and passing bills every day taking millions of dollars out of the Treasury to provide relief funds to get our citizens back—I say that under these circumstances there is no demand whatever in this country for this Congress, which has now been in session consecutively and continuously for nearly 20 months, to sit here debating over the establishment of a Federal trade commission to boss private business and individuals all over this country and to employ a horde of inspectors and field examiners and informers to spy upon the business of this country. I say that it is inconceivable to me that a sane mind, in view of the questions that have been raised here on this floor, which are not to be waved aside or treated with disdain, because they have troubled the most eminent lawyers of this body, men who have sat upon the highest courts in their respective States, can conceive that this legislation is certain or that it removes any uncertainty that now exists. It is perfectly evident to everybody that it creates uncertainty; that it stirs up and invites the very troubles it hypocritically and falsely advertises to relieve.

There is not a word in the whole trade-commission bill that is a help to business of any kind. It is said, "Oh, business needs help." Why, there is nothing in this bill to help it in any way. Whose business is going to be helped by turning a horde of Government inspectors upon it in times like these?

As I have said before, the men who are quoted as favoring this bill either do not understand it or are grossly deceived about it. I have just put into the RECORD a telegram from the Merchants' Association of New York, a body of 3,300 of the most eminent merchants in this country, saying the mere discussion of the bill and the proposition to pass it, and the other bills also, is a blight upon the industry of the country and an additional source of anxiety. Who will pretend but that for the arbitrary insistence of the President of the United States, who declines to let his party adjourn Congress until they have passed laws which he says should be passed, Congress would have adjourned before now?

They talk about his legislative program. Well, I am sorry I ever lived to hear such words on the floor of the Senate of the United States. Congress should have its legislative program; the President is entitled to his Executive program, but, in my opinion, should confine his attention to that.

It is perfectly proper for him in his message, as he did six months ago, to suggest legislation to which he desired to direct the attention of Congress and to advise Congress to pass it, but for him to take the position practically that he will regard it as a betrayal of him or of the Democratic Party if the great Congress of the United States presumes to adjourn without passing such laws as he demands they shall pass as the price of his consent that they shall adjourn, he exceeds his jurisdiction; he goes too far. Such conditions are not healthy in a free, democratic Republic; and it is by submitting to such dictation as this that Congress is losing the confidence of the country, and the power is gradually being concentrated in the hands of the Executive at Washington.

I ask permission to insert in my remarks the three articles which I send to the desk.

The VICE PRESIDENT. Without objection, that may be done.

The matter referred to is as follows:

PERSONAL GOVERNMENT.

To the EDITOR OF THE EVENING POST.

SIR: May I say a word in your columns about the new theory of government embodied in the so-called Stevens amendment to the trade commission bill? Its epochal character has not, I believe, received the attention it deserves. It presents, in substance, Mr. Perkins's plan for a business court. Its governing principle was first urged by Mr. Roosevelt, when, as President, he asked, in effect, for a law broad enough and elastic enough to enable the Executive to pick the sheep from the goats in its enforcement. That is the principle of the Stevens amendment, which prohibits unfair competition without defining it, and empowers the commission to prohibit any act which it finds to be unlawful. It requires the court to enforce the order of the commission. Concededly, the court will not enforce an order that is arbitrary or unwarranted. That is not the point. The point is that there is no law except the Executive mandate. The statute—the so-called law—is merely a club to be wielded at will among those who come within the broad domain of "unfair competition." There is, in effect, no crime except the failure to obey an order, if, when, and as received. It is personal government, pure and simple, subject only to review by the courts where the order is not within the broad power conferred on the commission. It is opposed to the cardinal precepts of a democracy, which, in the words of the Massachusetts Bill of Rights, is "a government of laws, and not of men." It means Executive control of private business, which the United States Supreme Court, speaking by Justice Matthews, in the Yick Wo case, characterized as "intolerable in any country where freedom prevails, as being the essence of slavery itself."

It is natural that this proposal should appeal to some business men as a less painful alternative to a statutory code of business ethics. That, also, is not the point. It is better to suffer for a while from foolish laws, incapable of enforcement, than to change our principles of government and surrender our business freedom to the control of a Federal bureau. We know the possibilities of favoritism and worse under such a system. But that, again, is not the point. The point, I repeat, is business freedom, and it affects not only the welfare of to-day but the future of American civilization. Let me add, that I see no harm in a Federal commission, charged with the highly important duty of investigating actual violations of the law, and directing its enforcement by the Attorney General and several district attorneys.

It may be said that the enforcement of every law, as a practical matter, involves discretion, and that this discretion is notoriously abused, so that an express statute, putting the law entirely in the control of a commission, merely recognizes an existing practice. I would say in reply that this change makes an institution out of an abuse in our present system, and that the essence of this institution is to vest in the Executive the right to prohibit anything that comes within a broadly defined field of legislation. Its logical development must be a general prohibition of everything wrong, with power in the Executive to issue an order of prohibition whenever he finds a particular act to be wrong, the courts to punish any disobedience of the Executive order. The legislature might just as well go out of existence, leaving the courts in power both to enforce obedience to the Executive will, and to keep the Executive within the constitutional restrictions still remaining of the protection of the individual. How long these restrictions would remain under such conditions, I leave to the good judgment of the reader.

With due respect to President Wilson, the fact is that, distrusting, and, in a measure, controlling Congress and yielding to outside influences he should reject, he is seeking to compel Congress to surrender its legislative powers over interstate commerce to his nominees. That is the substance of the situation in Washington.

ROBERT R. REED.

NEW YORK, *July 13.*

THINKS NATION NEEDS LESS "PSYCHOLOGY"—REED TELLS BANK SUPERVISORS FEWER NEW LAWS WILL AID PROSPERITY—SEES DEMOCRACY IN PERIL—BELIEVES BLOWS TO INDIVIDUAL LIBERTY BY ACTS ENDANGER FREEDOM.

ATLANTIC CITY, N. J., *July 7.*

"We are, I hope, about to emerge from a psychological depression. Our successful emergence is dependent on many things, not the least of which is a decrease in psychological legislation; that is, legislation for popular effect, as opposed to legislation directed to a real public good. The enterprises of the country, of your several States, are waiting, and the investment banker is waiting."

This hope was expressed to-day by Robert R. Reed, general counsel to the Investment Bankers' Association of America, in an address before the National Association of Supervisors of State Banks at its convention in the Marlborough-Blenheim Hotel. His subject was "Regulation of the business of the investment banker in the issuance and sale of securities."

"The securities which the investment banker wishes to distribute to the investors of the States," Mr. Reed said, "are the securities sold by the public utilities and industries of the States. Both the enterprises and the investors look to him to purchase competitively at wholesale and sell competitively at retail, to reach the best market with each security, to get the needed capital for industry on the best possible terms. That he can do and will do if the freedom of interstate business is maintained. He can not hope to do it adequately if that freedom is seriously impaired."

SEES DISASTER IN MANY LAWS.

He said that the original purpose of "blue-sky" legislation had been to reach the "get-rich-quick" concern, and expressed the view that legislation confined to such concerns was practical and constitutional. Many of the laws adopted apply to dealers in high-grade investment securities, he continued, and subject the whole business to executive control, which he declared was unconstitutional and disastrous on industry and investment.

"A relatively few constructive and democratic reforms intelligently applied," he said, "would do the work intended by the mass of unin-

telligent, largely unconstitutional statutes from which the whole country is suffering. I wish to emphasize the vice of extending Executive control by the Executive or by commissions over the essentially private transactions and callings of the individual. There are limits beyond which the legislature may not go, either constitutionally or safely, in interfering with the freedom of the individual."

Mr. Reed said he believed the proper administrative activities of Government can be better carried on by trained bodies divorced so far as possible from political influence and holding office for a considerable term of years

"The real issue to-day is not government by commission," he said. "It is the preservation of the efficiency of such government on the one hand by confining it to the great objects of administrative action and the preservation of democracy on the other hand against the unwarranted encroachment of Executive control over the individual.

ENDS DEMOCRACY, HE SAYS.

"Democracy consists in the essential liberty of the individual. The privilege of running a railroad or a bank or of being a corporation is not a part of this liberty. It is accepted and exercised subject to administrative control.

"But the right to buy and sell lawful property, to lend and borrow, is a part of individual liberty. This liberty may be subjected to general laws to prevent abuses. It may not, however, be prohibited, and it may not be subjected to the will or discretion or control of the Executive. It ends, and democracy ends, where personal government begins.

"The American people believe in democracy and in their constitutional safeguards," he added. "They do not, and never will, believe in paternalism as a political principle. Such a change, if it comes, will come gradually, and in a sense unconsciously, as we progress or retrogress in the effort of our legislatures to solve each difficulty by the classic dictum, 'Let George do it.' Just now the fashion is, 'Let Woodrow' or 'Let Teddy do it.'

"We can not legislate human perfection under a democracy, nor can any monarch on earth create it by word of mouth. We can and we should, however, correct the great evils that have for many years enjoyed immunity from successful attack."

WANTS NO "PRIVATE BANKS."

"Private banks have outlived their usefulness," said E. H. Doyle, Banking Commissioner of Michigan, in an address to-day. He urged that private banks be abolished.

A resolution to that effect will be presented at to-morrow's sessions. Many of the bank supervisors indorsed the proposition.

"Public interest in private banks is becoming more tense from year to year," said Mr. Doyle "It is emphasized with each recurring failure.

"In private banks, as the word implies, everything is 'private.' In many such banks only one man knows where and how funds are invested. Why should they not be subjected to the same restrictions and limitations as incorporated banks or abolished? No one will deny that the days of the private bank are numbered.

"I am in favor of supervision of private banks only when it is so far-reaching as that required of State and national banks. It would drive the private banker, skidding along the edge of bankruptcy and concealing his assets, out of business, where he belongs. It would eliminate loan-shark methods, and strengthen the confidence of the public in banks."

The election of officers will take place to-morrow.

REED BURLESQUES TRADE COMMISSION—SUGGESTS BOARD TO PREVENT ALL "UNFAIR" PRACTICES, IN BUSINESS OR OTHERWISE—PERKINS A LIFE MEMBER—TO ABOLISH CONGRESS, AND THE COURTS RETAINED ONLY TO ENFORCE MANDATES OF BRANDEIS, UNTERMYER ET AL.

Robert R. Reed, whose antitrust ideas are embodied in the John Sharp Williams bill, after riddling the latest proposal at Washington for a trade commission, with discretionary powers over business and authority to decide what is "fair" or "unfair," suggested yesterday a substitute which, in his judgment, would carry the theory to its logical conclusion. This is Mr. Reed's substitute:

"A commission is hereby created and established to be known as the Commission on the General Welfare and Social Justice of the United States, composed of five members, including the President, to serve during his term of office; L. D. Brandeis and Samuel Untermyer, to serve until, in the opinion of the other members of the commission, they shall act unfairly, and George W. Perkins and Thomas W. Lawson, to serve for life.

"Every act and thing that is unfair, oppressive, unjust or inequitable, or opposed to the social welfare and justice of the United States, is hereby prohibited. Whenever the commission or any of its members shall have reason to believe that any person, firm, association, or corporation is about to do any act or thing prohibited as aforesaid, the commission or such member shall issue an order prohibiting such act or thing, provided that if one member of such commission shall issue such order without the prior authority of the commission, an appeal shall lie from such order to the commission to be heard at its convenience, but in the meanwhile such order shall be obeyed.

"If any such person, firm, corporation, or association shall disobey such order, or declare their intention so to do, then the commission or such member may apply to the district court, which shall immediately proceed to a determination of the matter, and if it shall appear that such person, firm, corporation, or association has disobeyed such order, or declared an intention so to do, then the court shall impose such sentence as such commission or such member thereof shall deem fair and just.

"All laws heretofore enacted are repealed. The Congress of the United States is adjourned sine die, pending an amendment of the Constitution to abolish it. The courts of the United States are hereby continued, provided that their jurisdictions shall be limited to enforcing the orders of said commission."

"The wisdom of continuing the power of the courts under this proposed law might well be questioned," said Mr. Reed. "Some unfair-minded citizen might obtain from an unregenerate court a decision holding it unconstitutional.

"Decisions such as this naturally tend to postpone the day of executive paternalism. They hold in check what is thought to be the popular desire to take care of Mr. Perkins's children by saving the 'good trusts' from active and pernicious competition. This, I take it, is the idealized aim of executive paternalism to protect and prosper the subservient friend who seems 'good,' to destroy the critical foe who seems 'bad,' to build upon the ruins of democracy an industrial oligarchy of 'Rooseveltian Perkinses.'"

Speaking more seriously of the pending measure, Mr. Reed said:

"The latest antitrust amendment, reported to have met the 'approval and enthusiastic support' of the President, and now adopted by the Senate committee, is epochal in character. It would establish an absolutely personal government over interstate corporations. It would also open the back door of the Sherman law for the 'good trust' to come in. This amendment provides in terms that:

"'Unfair competition in commerce is hereby declared unlawful,' and that 'whenever the commission shall have reason to believe that any corporation has been or is using any unfair or oppressive method of competition' it shall order a hearing, 'and if upon such hearing the commission shall find that the method of competition in question is prohibited by this act, it shall thereupon issue an order restraining and prohibiting the use of the same.' This order is to be enforced by the courts upon the application of the commission.

"It is to be noted, briefly: First, that while all unfair competition is declared unlawful, it is only those things which the commission finds are prohibited which are in fact to be prevented.

"Second. That no rule is prescribed by which this finding is to be governed; and

"Third. That the law and its application are in the hands of the commission, and the only real crime is disobedience of the mandate in the particular case.

"Could anything be more simple and effective? But why limit its operation to so narrow a scope? There are many 'unfair things' in life besides competition. Certainly nothing would seem to be more immediately desirable to a great number of our citizens than a prohibition against the unfair treatment of employees by interstate corporations. But a good thing can not be too good. The substitute I have suggested will do away not only with all the handicaps of a constitutional democracy, but with the democracy itself.

"Incidentally, unfair competition as an aid to monopoly is within the present law, and there is hardly a large combination in the country that dares to practice it so long as that law is enforced. The only unfair competition that is not within the present law is that of the so-called independent concerns, to whom the freedom of business bargaining is perhaps the chief weapon left in their struggle for existence against the trusts.

"The taskmasters of the 'new freedom' are driving a Democratic Congress to the destruction not of monopoly but of democracy."

The VICE PRESIDENT. The hour of 2 o'clock having arrived, in accordance with the unanimous-consent agreement that at this hour—

The Senate will proceed to vote upon any amendment that may be pending, any amendment that may be offered, and upon the bill H. R. 15613, an act to create an interstate trade commission, etc., through the regular parliamentary stages to its final disposition; and that after the hour of 2 o'clock p. m. no Senator shall speak more than once or longer than 10 minutes upon the bill or upon any amendment offered thereto; and, further, that the vote upon the passage of the bill as amended shall be taken at not later than 6 o'clock p. m. on the said day—

The Chair announces that the bill is in Committee of the Whole and open to amendment.

Mr. CLAPP. Mr. President, I desire to occupy the time of the Senate for only a few moments in a general discussion with reference to this measure.

I think we all realize that under the Sherman antitrust law, designed, as it was, primarily to reach combinations, conspiracies, and agreements, those acts which amount to unfair competition but which are dissociated from efforts involving the plan of conspiracy would not be reached by the Sherman antitrust law. I rather agree with the Senator from Nevada that we have reached a point in the development of our industrial and commercial life where probably we shall see less of this process of combination; and the phase of industrial activity to be met now, in a spirit of regulation and restraint, is the practices which constitute unfair competition.

Personally I believe it would have been very much wiser for Congress to have passed a short, brief law, adding unfair competition to the prohibitions already found in connection with the Sherman antitrust law, and to have left the enforcement of that law to the Department of Justice; but it has seemed impossible to secure that addition unless the additional prohibition is coupled with a trade commission. Therefore, while I am not particularly enthusiastic over the plan of a trade commission, rather than not have this added law relating to unfair competition I am willing to support the trade commission as the means of securing that additional prohibition in the laws of this country.

My fear of the trade commission is not that expressed by the Senator from Connecticut. In the first place, this bill, I think, does not create the authorities and powers which he has described. Outside of the creation of a trade commission and the authorization of the employment of that commission by the court as a master in chancery, I undertake to say that there is not a power of inquisition or investigation vested in the trade commission that is not already vested in some of the officials of this Government under existing statutes.

I believe that fact should go forth to the country, in order that this bill may not occasion the alarm and distrust which it might occasion if the view taken of it by the Senator from Connecticut were to be accepted by the public as accurately describing the scope and authority of this commission. My fear is that in departing from the plan of defining an act as unlawful and leaving it to be prosecuted by the Attorney General—and in dividing power and authority we divide responsibility—there will not be that clearly defined thought in the public mind as to who is responsible for failure in the adminis-

tration of the law that would have existed if the enforcement of the law had been left entirely in the Department of Justice.

Mr. President, that fear may be groundless. Let us hope that the best will come as the fruitage of this legislation. While I am not so optimistic upon the subject as the Senator in charge of the bill or some of his associates upon the Interstate Commerce Committee, I at least share with them the hope that this bill may prove a success; and knowing now that the bill is destined to pass, I for one propose to give it in my advocacy here and in my discussion of the measure in public that support calculated to carry confidence to the people with regard to it and calculated to give force and efficacy to the bill itself, rather than to throw around it that element of distrust and uncertainty which on the one hand may produce a want of confidence upon the part of the people and upon the other a want of confidence in the commission itself.

Realizing that this bill is destined to pass, not for the purpose of bestowing any eulogies upon anyone, but rather as dealing with the philosophy of this bill in its relations to the development of government, I can not forbear saying a word of congratulation and commendation of the chairman of the committee, the Senator from Nevada [Mr. NEWLANDS].

It has been suggested that this subject is new and novel. The thought of a trade commission is neither new nor novel, although the power which this bill seeks to vest in the commission is, I think, to most people a somewhat new, unstudied, and unthought-of proposition. The Senator from Nevada for years, however, has been an ardent champion of this measure and of the scope and purpose of the pending bill, including section 5.

During the time that it was my privilege to preside over that committee as chairman the Senator from Nevada was constantly advocating and putting forward this thought of this kind of a commission. The Senator from Nevada during the years of his service in both Houses has been in the very vanguard of the thought of developing the functions of government, developing a union and unity of purpose between State and Federal Government; developing not only the scope and authority, but developing the method, the plan, the thought of cooperation along governmental lines. He has projected plans embracing broad, fundamental policies, in the advocacy of which he has recognized no petty party lines; and while he has ever regarded the constitutional guaranties, he has taken the broad ground that the function of free government is to advance the common welfare and that the Constitution should be viewed from the standpoint of a guide, rather than as a mere limitation upon that function.

It is seldom that one who has in the main been so far in advance of the great mass of thought of his own day has lived to see so many of his advanced thoughts, purposes, and policies either actually crystallized into legislation or being rapidly accepted by Congress in relation to legislation more or less correlated to the distinct purposes and aims of the Senator's advocacy. It is important and interesting, not so much as a tribute to the Senator from Nevada as to the growth and development of the spirit of the American people in using government as one of the adjuncts, one of the instrumentalities, in the development of the prosperity and welfare of the people. I certainly feel that the Senator from Nevada is to be congratulated upon the near approach of the consummation of his thought and purpose in the adoption of the Federal trade commission bill.

Mr. SAULSBURY. Mr. President, I desire to offer an amendment of a formal character, which I will ask the Secretary to read.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 24, after line 2, at the end of section 8, it is proposed to insert the following:

Each corporation having a capital of $5,000,000, to determine which fact the amount of its capital stock, surplus, bonded indebtedness, and undivided profits shall be combined, subject to the provisions of this act, shall, within 90 days after the taking effect of this act, designate in writing an agent in the city of Washington, D. C., upon whom service of all notices, orders, and processes issued by the commission may be made for and on behalf of said corporation, and to file such designation in the office of the commission, which designation may from time to time be changed by like writing similarly filed; and thereupon service of all notices, orders, or processes issued by the commission may be made upon such corporation by leaving a copy thereof with such designated agent at his or its office in the city of Washington with like effect as if made personally upon such corporation, and in default of such designation of such agent service of any notice, order, or other process may be made by posting such notice, order, or process in a conspicuous place in the office of the commission.

All notices, orders, or other process to be served upon individuals or other corporations than those having such capital shall be duly served personally on such individuals and upon the president, chief executive officer, or a director of such other corporations, respectively, unless they shall have designated an agent as aforesaid with power and authority to accept service of such notices, orders, or other process.

Mr. SAULSBURY. Mr. President, the object of the amendment is to provide how the notices, orders, and processes of this commission shall be served. In the case of the Interstate Commerce Commission the railroads are universally, I believe, represented by an agent on whom process may be served. In order to avoid unnecessary expense in the case of the smaller corporations or individuals who may be brought under the jurisdiction of the commission, provision is made here for requiring only the large-sized corporations to designate such agents, although the smaller corporations and any individual have the privilege of doing so if they desire.

I do not know that any further explanation is necessary.

Mr. WEST. Mr. President——

The VICE PRESIDENT. Does the Senator from Delaware yield to the Senator from Georgia?

Mr. SAULSBURY. Certainly.

Mr. WEST. I notice that the Senator applies his amendment only to corporations. Why not say "individuals, partnerships, associations, or corporations"?

Mr. SAULSBURY. The Senator from Georgia has overlooked the final provision of the amendment.

Mr. WEST. That may be so.

Mr. SAULSBURY. That provision states how notice shall be served upon individuals and the smaller corporations, and gives them the right, if they so desire, to designate an agent themselves. I think the Senator will find that all cases are covered.

The wording of the amendment might possibly be improved. The reason for introducing it at this time is that it was left out of the original bill; but if there can be any such improvement made, undoubtedly a conference committee will be enabled, by having this matter in conference, to make such improvement. I am not wedded to any particular form of phrase, but I think this is decidedly necessary; and I may say that the members of the Interstate Commerce Committee are in accord with me in offering this amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. REED. Mr. President, I desire to reserve the right to offer in the Senate the amendment to section 5 which was offered yesterday and defeated by two votes, and I desire to reserve the right, if the amendment as offered is defeated, to offer the amendment in a modified form.

I will say now to the Senate that I do this, not for the purpose of adhering with undue pertinacity to the undertaking in which I have been so much interested, but because I believe that upon maturer consideration in the Senate the result may be different.

I simply make this reservation.

Mr. THOMAS. Mr. President, I move to amend the bill by striking out subdivision (c) of section 3, which reads:

To prescribe as near as may be a uniform system of annual reports from such corporations or classes of corporations subject to the provisions of this act as the commission may designate, and to fix the time for the filing of such reports, and to require such reports, or any special report, to be made under oath, or otherwise in the discretion of the commission.

I have hitherto taken occasion to call attention to the fact that subdivision (b) of this section is amply sufficient to subserve the purposes for which both subdivision (b) and subdivision (c) are designed. I do not believe the purposes to be accomplished by the provisions of subsection (c) are sufficiently important, in view of the existence of the other subsection, to justify the enormous expense that must be entailed upon corporations required to comply with the provisions of subsection (c) when they are enforced, as they doubtless will be, by the commission.

Every corporation in the United States, I think, is required under the laws of its creation to file annual reports of more or less definiteness and detail. Now, if in addition to that all these corporations are required to file separate annual reports with this commission, and the commission also is able to require definite, special instances of information from time to time concerning their organization, business, financial condition, and so forth, the burden of expense that may be entailed, and probably will be, in the administration of the bill, upon the corporate interests of the country, will be very large indeed.

I therefore move to strike out that provision.

Mr. NEWLANDS. Mr. President, what is the motion of the Senator?

Mr. THOMAS. To strike out subdivision (c) of section 3.

Mr. VARDAMAN. Mr. President, I ask that the amendment, or the section proposed to be stricken out, may be read.

Mr. THOMAS. I will say to the Senator that I have just read it. I will read it again, or the Secretary can read it.

Mr. OVERMAN. Let the Secretary read it.

The VICE PRESIDENT. The Secretary will read the matter proposed to be stricken out.

The SECRETARY. On page 17 the Senator from Colorado proposes to strike out lines 24 and 25, and on page 18, lines 1 to 5, both inclusive, in the following words:

(c) To prescribe as near as may be a uniform system of annual reports from such corporations or classes of corporations subject to the provisions of this act as the commission may designate, and to fix the time for the filing of such reports, and to require such reports, or any special report, to be made under oath, or otherwise in the discretion of the commission.

Mr. NEWLANDS. Mr. President, I think this is a necessary power in order to enable the commission to exercise with knowledge the powers conferred upon it by this bill. It will be observed that there is nothing in the bill itself which absolutely compels any corporation or class of corporations to make uniform reports. All that is done by this subdivision is to give the commission the power to prescribe as nearly as may be a uniform system of annual reports from such corporations or classes of corporations as the commission may designate. It can designate 1 corporation if it chooses; it can designate 50 corporations if it chooses; it can designate a class of corporations. There is nothing that compels the commission in any way to call upon all corporations or any corporation for either special or annual reports; and no corporation in the land is under obligation to make reports until the commission specially calls for them.

Mr. THOMAS. Is not that true of subsection (b)? Can not the commission which is to be created by this bill utilize the same power and make these specific designations under section (b)?

Mr. NEWLANDS. No; I do not understand that section (b) covers all that is covered by section (c).

Mr. THOMAS. Then, I should like to inquire what the office of subsection (b) is?

Mr. NEWLANDS. The office of subsection (b) is to get from time to time information, statements, and records concerning the organization, business, financial condition, conduct, practices, management, and relation to other corporations, and so forth, of all corporations subject to the provisions of the bill.

Mr. THOMAS. Does not the Senator believe that under the provisions of subsection (b) an order could be made by the commission covering a certan class of corporations, a number of corporations, as well as a single corporation?

Mr. NEWLANDS. I am not sure about that. At all events, we made it certain, and if it is unobjectionable there is no reason why we should not make it perfectly certain.

I do not propose to take up time with the discussion of subdivision (c). I will simply say that it was fully considered by the committee, it was put in this form after serious consideration and reflection, and I hope it will remain in the bill.

Mr. HITCHCOCK. Mr. President, I should like to ask whether the enactment of subsection (c) will result in dumping upon the commission thousands of annual reports for which there is no real use?

Mr. NEWLANDS. I think not. I do not think the commission will prescribe rules that will dump upon it a lot of useless reports. It is not compelled to do anything under this provision. It simply has discretionary power. I assume that the men who are fitted for these positions will exercise their power in such a way as to get useful information, and not useless information.

Mr. HITCHCOCK. The commission has the power to require all corporations under investigation to make reports of any sort, annual or occasional. Why should it require the tens of thousands of other corporations to make annual reports that never will be read, that there is no occasion to make, and that will only be a harassment to the corporations compelled to make them?

Mr. NEWLANDS. The commission is not compelled to require it. As I explained, this is simply a power which the commission may exercise. It may confine its power, if it chooses, to requiring a report from but a single individual; for instance, a corporation that has been disorganized and reconstructed under the antitrust law. The commission might want annual reports for a certain period of time from such a corporation. It has the power to require them, but there is nothing in the bill compelling the commission to require them.

Mr. THOMAS. Mr. President——

The VICE PRESIDENT. Does the Senator from Nevada yield to the Senator from Colorado?

Mr. NEWLANDS. Certainly.

Mr. THOMAS. The Senator from Rhode Island [Mr. LIPPITT] yesterday demonstrated, I think, that if these reports were published—and if they are not published the public will know nothing about them—and the report of each corporation as published occupied but a page of space, the result would be to produce about 130 volumes per annum containing over 1,300 pages each.

Mr. LIPPITT. One hundred and seventy-five volumes.

Mr. THOMAS. One hundred and seventy-five volumes. I thank the Senator for the correction.

Mr. LIPPITT. I may add, if the Senator will allow me to do so, that those volumes will occupy a bookshelf 32 feet long.

Mr. THOMAS. Yes. Of course, we know that an annual report from a corporation of any consequence could not be confined to the small space of one page or of two pages. In my judgment, while this does not operate as a positive statute, while it merely gives power to the commission to require these reports, the probabilities are that they will be required eventually; and apart from the expence, and it seems to me the uselessness of it, notwithstanding the explanation made by the Senator from Nevada, I can not conceive why subsection (b) is not ample for every purpose.

Mr. LIPPITT. Mr. President, if I may be allowed to say just a word at that point, I should like to say that there are only two sources of acquiring information given to this commission. One is to make special investigations; the other is to require annual or special reports.

One of the real difficulties of this commission is that the subject matter with which it is going to deal is so stupendous that it will be impossible for it to handle the matter at all. It will have to have the authority to call for annual reports, because it is only by having some such reports made to it that the commission will have any means of arriving at the existence of violations of law, unless it relies upon the complaints of individuals.

The whole conception of the field of operations that this commission is going to cover, and of the methods that have been laid out for it to cover, as I have studied the proposition, seems absurd, simply because the field is too large, and it is impossible. The method is clumsy and there is only one result that can come from it, and that is favoritism, and the special examination and special prosecution of certain individuals, selected in some haphazard method, according to the will of the commission, or according to the complaint of some envious competitor.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Colorado [Mr. THOMAS].

The amendment was rejected.

Mr. McCUMBER. Mr. President, I offer the following amendment to be inserted after the declaration that "unfair competition is hereby declared to be unlawful." I do not know where it appears in the new print.

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. On page 20, line 21, after the words "unfair competition," insert the following:

Unfair competition as used herein shall be construed to mean any unfair acts or practices in trade or commerce intended to stifle or destroy competition.

Mr. CUMMINS. Mr. President, I rise to a question of order. Section 5 has been adopted by the Senate as in Committee of the Whole and the amendment now proposed is not in order.

The VICE PRESIDENT. The Chair holds that unless the vote whereby the section was adopted is reconsidered it is not in order.

Mr. McCUMBER. I offer the amendment as a separate section, to be numbered section 6.

The VICE PRESIDENT. It will be read.

The SECRETARY. On page 21, after line 22, insert a new section to be known as section 6.

Mr. SUTHERLAND. Let the amendment be read.

The Secretary read as follows:

The words "unfair competition" as used herein shall be construed to mean any unfair acts or practices in trade or commerce intended to stifle or destroy competition.

Mr. McCUMBER. Mr. President, had the amendment offered by the Senator from Missouri [Mr. REED], which was defeated by only two votes yesterday, carried there would be no occasion of course for proposing this amendment. I would like to vote for a trades commission bill. I would like to vote for a trades commission bill the object of which would be to facilitate trade, insure honest competition, and insure a competition that would be beneficial to the public and not interfere with any competition that does not concern the public at large.

The bill as it stands declares that unfair competition shall be unlawful. The Senator from Nevada having the bill in charge admits that it is always a question not between the public and the competitor, but a question between two competitors as to whether or not the matter charged is unjust or unfair. I wish the Senator to give me, if he will, some good valid reason, if the contention on the part of those who object to any modification is correct, that according to the decisions of the courts that competition only would be interfered with which tends to destroy a competitor. If that is true, if it is to be confined to that, what

earthly objection can there be to so declaring? If you are certain that that is the intent and purpose, why not make it certain in the bill itself?

As a matter of fact, I believe the Senator from Nevada will agree with me, that if one competitor in any field in the manufacture or sale of goods declares by an advertisement or otherwise that his goods are manufactured in the same way as his competitor's, that they are worth as much or more, and that he is selling them 15 or 20 or 25 per cent cheaper, that would give a cause of action to the person competed against, if his statements were false and untrue, even though the effect of that competition and that declaration was to compel his competitor to give the public a benefit of 25 per cent in the price of the articles that they are compelled to purchase. I mention this simply to indicate as clearly as I can that there are a great many practices which might be declared to be unfair as between the competitors, the result of which is beneficial to the public, and it only ceases to be beneficial to the public when the effect of the competition is such that it destroys one of the competitors and thereby creates a monopoly.

Why should the Senator object to the definition being made so certain that any business men, any attorney, anyone engaged in the manufacture of any article of commerce can know what acts are unlawful and what acts are not?

For my own part I want to see this confined to the simple question of preventing competition which destroys a competitor by unfair means.

Therefore, while, in the definition, I have not gone into the same detail that the Senator from Missouri has, I think I have covered it clearly by a shorter definition, which declares that any of these acts, which, of course, must be unfair in themselves, and I admit I do not know any better word to describe unfair in a general generic term than the word "unfair," nevertheless the unfair practices must reach toward some definite end, and that definite end must be the stifling or the destruction of competition.

We have our general law, the antitrust law, which declares specifically and positively that no agreement can be made fixing prices for the very purpose of opening wide the field of competition. Then you come right around with this bill, which, in effect, may check all kinds of competition by declaring that the competition must be a fair competition without reference to the effect upon the public.

Let me say to the Senator again, that while we are claiming here in our arguments that the commission will not interfere with any kind of business unless the effect of that business competition is to destroy a competitor, notwithstanding that claim you are compelled to admit, as every attorney here will admit, that any competitor can go before the court under the bill and bring his action, and he can bring his action whether this commission has decided that the case is unlawful or not, because when you declare that unfair competition is unlawful you thereby make it a legal wrong, and where you declare a thing to be a legal wrong there immediately comes into effect the legal remedies under the usual court processes, which may be by injunction or by action in tort for damages. So an injunction would lie in the case of the man who has been compelled to sell his products for 25 per cent less to the public to enjoin his competitor from making this unfair claim against him to the end that he may again raise the price of his product up to 25 per cent higher than the competitor had forced him to go.

In my opinion, Mr. President, there can be no possible question about this matter. Had the amendment of the Senator from Minnesota [Mr. CLAPP] been adopted, that no right of action should accrue under this law until the committee had passed upon the question by an order, and the commission would keep within what is claimed to be the law, namely, that it must be a competition that will eventually destroy a competitor, then we need not have had any great fear, but as the bill now stands all forms of competition are subject to the revision of the court, and we are nullifying to a great extent the wonderful benefits that we have secured by preventing corporations from entering into trade agreements by making another law that they shall not be competitors if the competition is such that a court would call unfair, not unfair to the public, because the court will not have to consider the rights of the public at all. All the court will have to consider in an action is whether the competition is unfair between one competitor and another competitor, and if the court decides it is fair, that ends it.

Mr. WILLIAMS. Mr. President, I rise to a question of personal privilege. I ask the Secretary to read the following.

The VICE PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read the paper.

Mr. STONE. Mr. President——

Mr. WILLIAMS. I ask that the request be granted.

Mr. STONE. I make the point of order that it is not in order.

Mr. WILLIAMS. I do not think the question is debatable. I do not want any debate.

Mr. STONE. The point of order is——

Mr. WILLIAMS. I make the point of order that it is not debatable. It is a matter of personal privilege.

The VICE PRESIDENT. It is not debatable, but the Senator from Missouri rises to a point of order. The Chair does not know what the point of order is.

Mr. STONE. My point of order is that under the rules no Senator is permitted to make any statement in any form that assails the conduct of any other Senator or any body of Senators as this statement does. I think that this resolution ought not——

Mr. WILLIAMS. It is not a resolution. It is a request by a Senator, and is a matter of personal privilege.

Mr. STONE. This paper ought not even to be printed in the RECORD, Mr. President, if I may be permitted to say so at this time.

Mr. WILLIAMS. Mr. President, I make the point of order that this is not a debatable question. I do not care to be dragged into a debate concerning it. I do not want to be dragged into it.

The VICE PRESIDENT. It is not a debatable question, but it is a question which must be determined by the Chair or by the Senate.

Mr. SMOOT. A parliamentary inquiry, Mr. President. It is after 2 o'clock, and we are proceeding under a unanimous-consent agreement.

Mr. WILLIAMS. It is a matter of personal privilege residing solely with the Senator desiring to be relieved from service on a committee, and neither the Senate nor the Chair has anything to do with it.

Mr. SMOOT. A parliamentary inquiry, Mr. President. The Senate is proceeding under a unanimous-consent agreement, and there is no business in order until after the pending bill is disposed of under that unanimous-consent agreement.

The VICE PRESIDENT. The Chair will be compelled to sustain the point of order made by the Senator from Utah.

Mr. WILLIAMS. What was it?

The VICE PRESIDENT. That the Senate is proceeding under a unanimous-consent agreement, and, upon objection, nothing else can be entertained.

Mr. WILLIAMS. Before, Mr. President, you pronounce finally on that I should like to be heard upon the point of order. I think I have a right to do that.

It has been universally ruled in the House and I think it has been uniformly ruled in the Senate, that the service of a Senator or of a Representative upon a committee is a matter left with him. I remember that at the beginning of the Fifty-third Congress, when Speaker Crisp appointed Mr. Crane, of Texas, to certain committee assignments, he rose upon the floor and resigned from them all, and stated that he declined to serve. The point of order was then raised—some point; I have forgotten the point that was made—and the Speaker ruled that it was a matter left with the Representative entirely in foro conscientiæ. I can not further afford to serve upon the Foreign Relations Committee with its ideas and mine.

Mr. SMOOT. Mr. President——

Mr. WILLIAMS. It would be a stultification of myself. It is a matter left with me and not with either the Senate nor any Senator. There is no rule by unanimous consent or otherwise that shuts off a question of personal privilege. There never has been in either House.

Mr. SMOOT. I have no objection to the Senator asking to be relieved from service upon any committee when the Senate is not acting under a unanimous-consent agreement, but the Senator can not point to a case where the Senate has been acting under a unanimous-consent agreement and any business has been allowed to intervene.

Mr. WILLIAMS. I beg the Senator's pardon. That is the point I make with the Chair right now. There has never been any unanimous-consent agreement in either House that could possibly shut off a question of personal privilege.

The VICE PRESIDENT. The Chair has ruled, and unless there is an appeal from the ruling of the Chair the question is on the amendment proposed by the Senator from North Dakota [Mr. MCCUMBER].

Mr. WILLIAMS. Then, with all due respect to the Chair, of course, I appeal from the decision. I think the Chair is absolutely wrong.

The VICE PRESIDENT. The question, then, is, Shall the decision of the Chair stand as the judgment of the Senate? [Putting the question.] The ayes seem to have it. The ayes

have it. The question is on the amendment of the Senator from North Dakota [Mr. McCUMBER].

Mr. REED. I ask that it may be read again.

The VICE PRESIDENT. It will be again read.

The SECRETARY. On page 21, after line 22, insert a new section, to be numbered section 6, as follows:

SEC. 6. The words "unfair competition" as used herein shall be construed to mean any unfair acts or practices in trade or commerce intended to stifle or destroy competition.

The VICE PRESIDENT. The question is on the amendment of the Senator from North Dakota. [Putting the question.] The ayes seem to have it.

Mr. NEWLANDS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. O'GORMAN. May I ask to have the amendment again read?

The VICE PRESIDENT. The Secretary will read it again.

The Secretary again read Mr. McCUMBER's amendment.

The VICE PRESIDENT. The Secretary will call the roll on agreeing to the amendment.

The Secretary proceeded to call the roll.

Mr. CHAMBERLAIN (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. In his absence I withhold my vote.

Mr. THORNTON (when Mr. RANSDELL's name was called). I desire to announce the necessary absence on public business of my colleague [Mr. RANSDELL].

Mr. THOMAS (when the name of Mr. SMITH of Arizona was called). I desire to announce the unavoidable absence of the Senator from Arizona [Mr. SMITH] on business of the Senate.

Mr. SMITH of Maryland (when his name was called). I have a general pair with the Senator from Vermont [Mr. DILLINGHAM]. As he is absent I withhold my vote.

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from New York [Mr. ROOT]. In his absence I withhold my vote.

Mr. TILLMAN (when his name was called). I transfer my pair with the Senator from West Virginia [Mr. GOFF] to my colleague [Mr. SMITH of South Carolina] and vote. I vote "nay."

Mr. WILLIAMS (when his name was called). Transferring my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the senior Senator from Arizona [Mr. SMITH], I vote "nay."

The roll call was concluded.

Mr. CATRON. I am paired with the senior Senator from Oklahoma [Mr. OWEN]. In his absence I withhold my vote.

Mr. CULBERSON. I have a general pair with the Senator from Delaware [Mr. DU PONT]. I therefore withhold my vote.

Mr. CHAMBERLAIN. I transfer my pair with the junior Senator from Pennsylvania [Mr. OLIVER] to the junior Senator from Tennessee [Mr. SHIELDS] and vote "nay."

Mr. SMITH of Georgia. I transfer my pair with the Senator from Massachusetts [Mr. LODGE] to the senior Senator from Alabama [Mr. BANKHEAD] and vote. I vote "nay."

Mr. PAGE. I wish to announce that my colleague [Mr. DILLINGHAM] is necessarily absent. He is paired with the senior Senator from Maryland [Mr. SMITH].

Mr. MARTINE of New Jersey (after having voted in the affirmative). I voted "yea," but on reflection and consideration I feel that my judgment was in error. I want to change my vote and vote "nay."

Mr. GALLINGER. I have been requested to announce the following pairs:

The Senator from Wisconsin [Mr. STEPHENSON] with the Senator from Oklahoma [Mr. GORE];

The Senator from Michigan [Mr. TOWNSEND] with the Senator from Arkansas [Mr. ROBINSON]; and

The Senator from Wyoming [Mr. WARREN] with the Senator from Florida [Mr. FLETCHER].

I will also announce that the Senator from Illinois [Mr. SHERMAN] and the Senator from Maine [Mr. BURLEIGH] are detained because of illness in their families.

Mr. KENYON. I desire to announce the absence of the senior Senator from Wisconsin [Mr. LA FOLLETTE] on account of illness, and that if present he would vote "nay."

Mr. SMITH of Maryland. I desire to transfer my pair with the Senator from Vermont [Mr. DILLINGHAM] to the Senator from Louisiana [Mr. RANSDELL] and vote. I vote "nay."

The result was announced—yeas 16, nays 47, as follows:

YEAS—16.

Burton	Lippitt	O'Gorman	Reed
Clark, Wyo.	McCumber	Overman	Sterling
Colt	Myers	Page	Weeks
Hitchcock	Nelson	Perkins	West

NAYS—47.

Ashurst	Fall	Martin, Va.	Smoot
Brady	Gallinger	Martine, N. J.	Stone
Brandegee	Gronna	Newlands	Sutherland
Bristow	Hollis	Pittman	Swanson
Bryan	Hughes	Pomerene	Thompson
Camden	James	Saulsbury	Thornton
Chamberlain	Johnson	Shafroth	Tillman
Chilton	Kenyon	Sheppard	Vardaman
Clapp	Kern	Shively	Walsh
Clarke, Ark.	Lea, Tenn.	Simmons	White
Crawford	Lee, Md.	Smith, Ga.	Williams
Cummins	Lewis	Smith, Md.	

NOT VOTING—33.

Bankhead	Gore	Penrose	Smith, S. C.
Borah	Jones	Poindexter	Stephenson
Burleigh	La Follette	Ransdell	Thomas
Catron	Lane	Robinson	Townsend
Culberson	Lodge	Root	Warren
Dillingham	McLean	Sherman	Works
du Pont	Norris	Shields	
Fletcher	Oliver	Smith, Ariz.	
Goff	Owen	Smith, Mich.	

So Mr. McCUMBER's amendment was rejected.

Mr. LIPPITT. I offer an amendment, which I should like to have read.

The VICE PRESIDENT. The proposed amendment will be read.

The SECRETARY. Insert a new section, as section 5a, as follows:

SEC. 5a. That if one or more parties to any agreement made or proposed to be entered into between two or more parties, one or more of whom is or are engaged in interstate commerce, or which agreement affects or is intended to affect interstate commerce, shall submit such agreement to the commission by filing with it a copy thereof, together with a duly verified statement in writing, in such form as the commission shall prescribe, giving the names, occupations, and addresses of all parties to such agreement, stating whether the same has or has not been executed, the reasons therefor, and the effect, if any, which such agreement is intended to have upon interstate commerce, and such further information as the commission, by its rules, shall require, the commission shall forthwith consider such agreement, and the effect of the same, and may require any further information, documentary or otherwise, with regard thereto which in its judgment shall seem necessary or proper; and if all requests of the commission for information shall be promptly and fully complied with, it shall, with all convenient speed, make and file a certificate, stating whether or not, in its opinion, such agreement does or would operate in undue restraint of interstate commerce, or tend to the monopolization of any part of such commerce.

No party in any such agreement who shall have submitted or joined in the submission thereof to the commission, during the time the same is under consideration by the commission, shall be prosecuted criminally because of such agreement, or any act done pursuant thereto, under the provisions of any of the antitrust laws. If the commission shall be of the opinion, and shall so certify in writing, that any existing agreement or combination is being operated in the interest of the public, and is of advantage to the convenience and commerce of the people, and that such operations will not substantially exclude, prevent, or reduce competition in the business affected thereby, then, so long as such certificate remains unrevoked or such agreement shall not have been declared unlawful or against the public interest by some court of competent jurisdiction, no party thereto shall be prosecuted criminally in any court of the United States because of such agreement or any act done pursuant thereto under the provisions of any of the antitrust laws.

Upon reasonable notice to the parties to such agreement, given in such manner as the commission by its rules may prescribe, and after such parties shall have been given an opportunity to be heard with respect thereto, the commission may revoke any certificate made as aforesaid: *Provided, however*, That nothing in this section contained shall operate to prevent or otherwise affect the prosecution of any civil suit or action against the parties to any such agreement by the United States or by any other party.

The VICE PRESIDENT. The question is on the amendment of the Senator from Rhode Island [Mr. LIPPITT].

Mr. LIPPITT. Mr. President, in some remarks I made on yesterday I undertook to show some theoretical reasons why I thought the great problem which confronts American business and commerce and trade was not being dealt with in a constructive manner by the pending bill and the other bills in regard to trade legislation which are coming before this body. This amendment is designed in some degree to give to people engaged in business in a small and moderate-sized way in the United States some of the benefits and advantages which a large number of people get by combining their resources in what is known as a combination or a trust.

I do not intend to argue the theoretical side of the proposition in the very few minutes that I have at my disposal otherwise than to read the opinion which I quoted yesterday of the gentleman who has perhaps had more experience in applying the antitrust laws and in studying this problem than has any other man in the United States. I refer to Mr. George W. Wickersham, the former Attorney General of the United States. He says:

The problem of the relation of the Federal Government to cooperative industrial business can never be satisfactorily solved until Congress courageously legislates in the affirmative, declares what can be done, and throws the protection of the National Government about those who conform to its laws in acting under it.

The amendment I have proposed is the only method of constructive action looking toward the relief of the people engaged in moderate-sized business in this country that I have been able

to discover; and as it is sometimes much easier to understand these questions with a practical illustration than it is by theoretical argument, I simply want, as an illustration of what I mean, to lay before the Senate the process by which the merchandizing of this country is being necessarily absorbed by large organizations and the reason for it and a remedy for it.

Sears, Roebuck & Co., of Chicago, a mail-order house, consists of a number of people who have united their resources into a corporation which now has a capital of $58,000,000. In 1913 it did a business of $91,357,000. In the first four months of this year its business increased from $39,359,000 to $41,808,000, an increase of $2,449,000, or at the rate of $7,347,000 per annum.

Another union or combination of people in the same manner, the Montgomery Ward Co., made sales for 1913 of $39,725,000. The F. W. Woolworth Co., which runs a chain of stores and which at the end of the year 1913 had 675 stores in the United States and 40 stores in Canada, which has a common stock of $50,000,000 and a preferred stock of $14,000,000, made sales in 1908 of $36,000,000 and in 1913 of $66,000,000. In five years the business of that company grew from $36,000,000 to $66,000,000, or at the rate of $5,000,000 a year. Those three corporations to-day are doing a business of over $200,000,000. They have acquired nearly the whole of that business within the last 10 years or so.

Mr. President, where has that business come from? It has come from the small storekeepers and the people engaged in moderate-sized business all over the United States. Why has it come? It has come because those people by their more efficient methods of organization, by their more efficient buying, and through more efficient selling are able to put before their customers, before the buyers, the consumers of the United States, the articles which they have for sale at a lower price than similar articles can be sold for by people who only carry on business in a small way.

My amendment simply allows the smaller business men to cooperate in the form of trade agreements, that shall be passed upon by the trade commission to the extent of saying whether they are or are not in violation of the law or of any public policy, and the action of the commission in passing upon them favorably merely relieves the people entering into such agreements from criminal prosecution. It does not touch upon the question of any civil damages for which they might be liable.

Mr. President, the purpose of such trade agreements is merely to enable the small business men by cooperating to obtain some of the benefits of economy and efficiency which a number of people obtain by forming separate trusts or combinations. It is a question whether we shall encourage cooperation on one side or drive people into combination on the other.

All I ask by this amendment is that the smaller business men shall be allowed to make certain agreements which will tend toward economy and efficiency in their business, agreements that are no different from those which people who constitute the stockholders of large organizations are able to make every day and every minute. When the directors of the Sears, Roebuck Co. or the directors of the Woolworth Co. or the directors of the Montgomery Ward Co. meet in their office and give an order to their salesmen or to their seven hundred and odd stores in this country, they immediately make, in effect, a trade agreement that needs the confirmation of no trade commission and of no officer of the Government; but the smaller business men who are trying to act individually are utterly unable to arrive at the same result that is obtained by combinations.

Mr. President, that situation illustrates, I think, the real problem that is at the bottom of the business situation of to-day. It is a question of whether we are going to force people, on account of the superior efficiency of union and of combination, into great trusts, and are going to drive the business of this country into that form of operation, or whether we shall do something constructively to help retain the smaller and more moderate-sized organizations by enabling them, through reasonable cooperation, to get some of the benefits which come from the other and more intense form of combination which I have been trying to describe.

Mr. NEWLANDS. Mr. President, the Senator from Rhode Island has opened up a very interesting subject, but I think it has no place upon this bill. The purpose of this bill is not to interfere in any way with the antitrust act nor to modify in any way its enforcement. The purpose, among other things, however, is to give the proposed trade commission powers of investigation, to inquire into trade practices and conditions of business throughout the country. Doubtless this commission will enter upon an inquiry as to matters concerning which the Senator from Rhode Island has spoken, particularly the mail-order houses, the chain stores, and other phases of intensely organized activity in business which perhaps are interfering materially with its ordinary and accustomed conditions. I do not pretend to say what the evolution of legislation upon that subject will be; but it will, undoubtedly, be the subject of investigation and intelligent consideration by this commission; and under its power to report to Congress it could make its recommendations at any time.

It is true, Mr. President, that whilst we are forbidding combinations of all kinds under the antitrust laws, we are not as yet forbidding that form of combination of dollars which results in the organization of gigantic corporations that are entirely legal. We forbid, under the antitrust law, individuals and corporations, with whom such gigantic corporations are competing, to form combinations in order to meet such competition, and to many that seems unfair. We are also, under the Clayton bill, validating organizations whose purpose is to stabilize or increase the wages of the country. We are also validating combinations of farmers formed to maintain fair prices for their products. We will have, therefore, these three forms of organization—combinations of dollars in the shape of corporations with gigantic capital, labor unions, and farmers' unions—that will be practically sanctioned by public opinion and the laws, none of which will, in the end, so far as their organization is concerned, be in conflict with the antitrust laws.

I think myself that we will have later on to consider the question of the combination of dollars in gigantic corporations, mail-order houses, chain stores, and so forth, organizations that are entirely legal, but which have a very serious economic effect, whether for good or for evil, upon the established industries and business of the country. I regard it as one of the functions of this commission to inquire into these organizations and to make report to Congress. Therefore I oppose any legislation upon the subject looking to the validation of agreements and combinations of their competitors in this bill.

Mr. LIPPITT. Mr. President, I know I have not the right to speak twice, but I should like to add, if there is no objection, one single word to what I said. I was not, in anything I said, criticizing the formation of those combinations, because I believe that they enable the farmer and the consumer to buy goods at a cheaper price than they can be sold without some form of efficient organization, but I think to prevent monopoly and to retain the benefits of independent units of moderate size we must let them cooperate to some degree in the interests of economy and efficiency; and further, I want something in this bill that will say to the commission that they have a duty to help and encourage as well as one to punish and destroy.

Mr. SUTHERLAND. Mr. President, I do not intend to discuss this amendment further than to say that, in my judgment, if it were made a part of this bill, experience would demonstrate that it would constitute the only useful part of the bill. Every provision in the bill thus far is destructive in character and is filled with opportunities for mischief-making. All of the powers conferred upon this commission are in the direction of espionage and interference with the legitimate operations of business; but this amendment proposes to introduce into this measure a proposition which is constructive in character, which will enable this commission to be of some affirmative benefit. If this commission is to be a body such as the Senator from Nevada thinks it will be, of high-class men, men of ability and of integrity, who can be trusted to administer the negative and destructive provisions of this bill, certainly it will be a commission that can be trusted to perform this constructive and affirmative duty.

Mr. President, I shall vote for the amendment, and I sincerely hope it will be adopted.

Mr. BRANDEGEE. Mr. President, subdivision (g) of section 3 of the bill provides as follows:

(g) If the commission believes from its inquiries and investigations, instituted upon its own initiative or at the suggestion of the President, the Attorney General, or either House of Congress, that any corporation, individual, association, or partnership has violated any law of the United States regulating commerce, it shall report its findings and the evidence in relation thereto to the Attorney General with its recommendations.

I read that because the Senator from Nevada has stated that the trade commission will have nothing to do with the Sherman law. Of course it is apparent that this specific subdivision (g) imposes upon the commission the duty of investigating and ascertaining whether or not the Sherman law has been violated; and if, in their opinion, it has been violated, it is their duty to report that fact to the Attorney General with their recommendations; and their recommendations can not be anything except that the violation should be prosecuted.

As the Senator from Utah [Mr. SUTHERLAND] has well pointed out and as everybody knows, I assume, by this time at least,

every function of this commission as the bill is now drawn is denunciatory, accusatory, and destructive; it penalizes; it will involve constant espionage, detective work, investigation, reporting, and ordering to stop. All this investigation is to be conducted by its own secret agents, and the commission, after inspiring the investigation, is to sit in judgment upon and try the suit which it itself has instituted. Therefore it will combine, of course, the functions of private detective, informer, grand jury, prosecuting officer, judge, and executioner, because after it shall issue its order it will go to the court to get an injunction to compel enforcement.

If the commission is to be composed of men of judgment and knowledge enough to perform those functions without injury to business, it will have sufficient judgment to give temporary approval to agreements such as those suggested in the amendment proposed by the Senator from Rhode Island. That amendment does not authorize any violation of the Sherman law; it does not exempt anybody from the operation of the Sherman law; it does not validate any agreement which may be in violation of the Sherman Antitrust Act.

Now, let us see exactly what it does. It provides, among other things, as follows:

> If the commission shall be of the opinion, and shall so certify in writing, that any existing agreement or combination is being operated in the interest of the public, and is of advantage to the convenience and commerce of the people, and that such operations will not substantially exclude, prevent, or reduce competition in the business affected thereby, then, so long as such certificate remains unrevoked or such agreement shall not have been declared unlawful or against the public interest by some court of competent jurisdiction, no party thereto shall be prosecuted criminally in any court of the United States because of such agreement or any act done pursuant thereto under the provisions of any of the antitrust laws.

That simply means, of course, that if the commission thinks that an agreement is in the interest of the public it may issue a certificate saying so, and that will prevent criminal prosecutions of the men who made the agreement approved by the commission until the court decides that the agreement is in violation of the law.

Then the amendment subsequently provides:

> Upon reasonable notice to the parties to such agreement, given in such manner as the commission by its rules may prescribe, and after such parties shall have been given an opportunity to be heard with respect thereto, the commission may revoke any certificate made as aforesaid.

I see no harm to be done by that provision. Then it is provided:

> That nothing in this section contained shall operate to prevent or otherwise affect the prosecution of any civil suit or action against the parties to any such agreement by the United States or by any other party.

So that even if the agreement is approved by the commission and found to be in the interest of the public, the Attorney General can proceed with a civil suit on the ground that it is in violation of the antitrust laws.

The effect of this amendment is that those who enter into trade agreements or continue existing agreements with the approval of the tribunal which the Government itself has set up to decide such questions, shall not be prosecuted criminally, while the agreement has the approval of the commission. Probably if the commission should approve an agreement and the officers of the Department of Justice, the legal experts of the Government, should conclude that the agreement did violate the Sherman law and thought it was worth while to institute a suit to test the question, the commission could immediately, if they wanted to, have a hearing and revoke the certificate they had granted.

The Senator from Utah has said this amendment, if it should be adopted, would be the only feature of this bill that would be of the slightest service to anybody in illuminating what is called the "twilight zone" or in answering any of the interrogation points which the President says now exist in the minds of business men.

The fact that such a provision was not contained in the bill as it came from the committee I do not regard as a serious objection to its consideration now. The hearings before the committee were filled with the testimony of men, including men of such high character as President Van Hise, of the University of Wisconsin, who advocated this sort of jurisdiction if a commission was to be created at all.

I can see no reason why the amendment should not be attached to the bill. If I interpret correctly the remarks of the Senator from Nevada [Mr. NEWLANDS], he is not entirely opposed to the principle proposed in the amendment, but thinks it ought not to be put onto this bill. If, however, it would not embarrass the passage of the bill—and I do not think it would; I think on the contrary, it would help it—I can see no reason for not putting it on the bill.

Now, one word as to the bill we have made up. We have been here six weeks trying to perfect a bill which strikes out all of the House bill and throws this whole matter into conference. This bill, of course, will be made by the conference committee, and the Senate will be compelled to accept or reject it in toto when the conference report is made.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Rhode Island [Mr. LIPPITT].

Mr. LIPPITT. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHAMBERLAIN (when his name was called). I transfer my pair with the junior Senator from Pennsylvania [Mr. OLIVER] to the junior Senator from Tennessee [Mr. SHIELDS] and vote "nay."

Mr. THORNTON (when Mr. RANSDELL's name was called). I again announce the necessary absence of my colleague [Mr. RANSDELL] on public business.

Mr. SMITH of Maryland (when his name was called). I transfer my pair with the Senator from Vermont [Mr. DILLINGHAM] to the Senator from Louisiana [Mr. RANSDELL] and vote "nay."

Mr. THOMAS (when his name was called). I again announce my pair and withhold my vote.

Mr. JONES (when Mr. TOWNSEND's name was called). I desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent and that he is paired with the Senator from Arkansas [Mr. ROBINSON]. I will let this announcement stand for the remaining votes to-day.

The roll call was concluded.

Mr. CULBERSON. I again announce my pair and withhold my vote in consequence of it.

Mr. TILLMAN. I have a general pair with the Senator from West Virginia [Mr. GOFF]. I withhold my vote in his absence.

Mr. BRYAN. I desire to announce that my colleague [Mr. FLETCHER] is necessarily absent. He is paired with the Senator from Wyoming [Mr. WARREN]. I will let this announcement stand for the day.

Mr. WILLIAMS. Transferring my general pair with the senior Senator from Pennsylvania, [Mr. PENROSE] to the senior Senator from Indiana [Mr. SHIVELY], I vote "nay."

The result was announced—yeas 14, nays 47, as follows:

YEAS—14.

Brandegee	Colt	McLean	Sutherland
Burton	Gallinger	Page	Weeks
Catron	Jones	Perkins	
Clark, Wyo.	Lippitt	Smoot	

NAYS—47.

Ashurst	Gronna	Martin, Va.	Simmons
Brady	Hitchcock	Martine, N. J.	Smith, Md.
Bristow	Hollis	Myers	Sterling
Bryan	Hughes	Nelson	Stone
Camden	James	Newlands	Swanson
Chamberlain	Johnson	Overman	Thompson
Chilton	Kenyon	Pittman	Thornton
Clapp	Kern	Pomerene	Vardaman
Clarke, Ark.	Lane	Reed	Walsh
Crawford	Lea, Tenn.	Saulsbury	White
Cummins	Lee, Md.	Shafroth	Williams
Fall	Lewis	Sheppard	

NOT VOTING—35.

Bankhead	La Follette	Ransdell	Smith, S. C.
Borah	Lodge	Robinson	Stephenson
Burleigh	McCumber	Root	Thomas
Culberson	Norris	Sherman	Tillman
Dillingham	O'Gorman	Shields	Townsend
du Pont	Oliver	Shively	Warren
Fletcher	Owen	Smith, Ariz.	West
Goff	Penrose	Smith, Ga.	Works
Gore	Poindexter	Smith, Mich.	

So Mr. LIPPITT's amendment was rejected.

The VICE PRESIDENT. The question is, Shall the committee amendment, as amended, be agreed to?

Mr. MYERS. I call for a separate vote on the amendment offered by the Senator from Iowa [Mr. CUMMINS] to section 5 of the bill. I make a reservation to that effect.

The VICE PRESIDENT. The question is on agreeing to the amendment as amended.

The amendment as amended was agreed to.

The VICE PRESIDENT. The Senate, as in Committee of the Whole, has had under consideration a bill, the title of which will be stated by the Secretary.

The SECRETARY. A bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

The VICE PRESIDENT. And has made an amendment thereto.

Mr. REED. Mr. President, the bill is now in the Senate, as I understand?

The VICE PRESIDENT. Not quite. The question is on concurring in the amendment made as in Committee of the Whole. [Putting the question.] The ayes seem to have it.

Mr. THOMAS. Mr. President, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The bill is not yet in the Senate.

Mr. THOMAS. The bill is subject to amendment, is it not, Mr. President?

Mr. BRANDEGEE. Mr. President, a parliamentary inquiry. Is the bill in Committee of the Whole?

The VICE PRESIDENT. The bill is nowhere now.

Mr. BRANDEGEE. If the bill is lost——

Mr. THOMAS. I propose to get it somewhere by offering an amendment.

Mr. GALLINGER. I hope it will not be found. [Laughter.]

The VICE PRESIDENT. The question is whether the Senator from Colorado wishes to offer his amendment in Committee of the Whole or whether he wishes to offer it in the Senate.

Mr. THOMAS. I should like to offer it in Committee of the Whole.

Mr. GALLINGER. I should like to know where the bill is, first.

The VICE PRESIDENT. The Chair has not yet announced it as being anywhere.

Mr. GALLINGER. Of course the Senator from Colorado can not offer an amendment in Committee of the Whole unless the bill is there.

Mr. THOMAS. The Senator must be mistaken, because I offered one a few moments ago.

Mr. GALLINGER. The bill was there then.

Mr. THOMAS. I understand it is there yet.

The VICE PRESIDENT. It has not as yet been taken from the Committee of the Whole.

Mr. GALLINGER. Then it is in Committee of the Whole?

Mr. THOMAS. That is as I understand. I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. The Senator from Colorado proposes that House bill 15613 be amended by striking out all that part thereof reported to the Senate by the committee, and by substituting therefor the bill passed by the House, being pages 1 to 12, inclusive, and lines 1 to 6 on page 13.

Mr. THOMAS. Mr. President, the object of the amendment I propose is to concur in the bill which was passed by the House and sent over to the Senate. I do not suppose it will be passed by the Senate or meet with the approval of the majority, but before we abdicate our jurisdiction over interstate commerce in behalf of the commission which is to be armed with these universal powers and jurisdiction, I think the Senate should have an opportunity, at least, of passing upon the merits of the bill, which was very carefully considered in the House committee and which is the ripe result of their investigations and their deliberations.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from Colorado yield to the Senator from Iowa?

Mr. THOMAS. I yield.

Mr. CUMMINS. I rise to a question of order. The amendment offered by the Senator from Colorado is not in order, for this reason: The committee has proposed to substitute certain provisions for the House bill, or to amend it in certain respects, and we have been acting upon those amendments. The moment the bill passes out of the Committee of the Whole the question will be whether the Senate will concur in those amendments. Now, to offer to amend the bill by restoring the House bill is simply to reverse the entire action of the Senate. Therefore it is not in order in that form.

Mr. THOMAS. Mr. President, I never know when I am in order or when I am out of order in the Senate, and my impression is that such is the status of a majority of my associates. We have a body of rules here which, upon their face, are easily understood, but which, when we turn to the various rulings embodied in book form, are not, to put it mildly, quite as clear as they appear to be upon their face.

Generally speaking, a bill considered in Committee of the Whole is open to amendment, and, as I understand, is subject to substitution. I am not going to quote any authorities in support of my position. I have never yet inflicted one upon the Senate, and I do not intend to do so, in view of the fact that so many of my colleagues are learned in those things and speak from authority.

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from Colorado yield to the Senator from Connecticut?

Mr. THOMAS. I do.

Mr. BRANDEGEE. I wish to call the attention of the Senator from Colorado to the fact that the committee report proposes to strike out all after the enacting clause of the House bill and to insert the part printed in *italic*.

Mr. THOMAS. My motion is virtually to strike out all that is offered as a substitute and to strike in that which is stricken out. [Laughter.]

Mr. BRANDEGEE. Of course, the Senator is merely stating the negative and trying to reverse the procedure, as the Senator from Iowa has said. The pending motion is to strike out and insert. The Senator can vote against it.

Mr. THOMAS. I think the simpler way to get at the subject is to submit it to a vote; and I am not going to detain the Senate another moment, except to ask to have inserted as a part of my remarks an article from the pen of Mr. Robert R. Reed, published in the New York Times on the 15th of March last.

The VICE PRESIDENT. In the absence of objection, that will be done.

The matter referred to is as follows:

[From the New York Times, Sunday, March 15, 1914.]

ROBERT R REED ATTACKS PROPOSED ANTITRUST BILLS—THEY WOULD LEAD INEVITABLY TO THE LEGALIZING OF "GOOD" TRUSTS AND TO THE ESTABLISHMENT OF STATE SOCIALISM AT THE HANDS OF A ROOSEVELT OR A DEBS.

That part of President Wilson's supposed policy on the subject of additional antitrust bills, legislation which is embodied in the four bills now pending, is fundamentally opposed to the principles specifically laid down in the Democratic platform in the opinion of Robert R. Reed, who was asked by a Times man to discuss them in the light of the studies he has made in working out the plan for eliminating the corporate evils now embraced in the John Sharp Williams bill.

Mr. Reed attacked the legislation as making unfair competition, rather than combination, the test of violation of the Sherman law and the common law against monopolies, and as leading inevitably to the legalizing of "good" trusts and to the establishment of State socialism at the hands of a Roosevelt or a Debs.

"In what I say on this subject," said Mr. Reed at the outset, "I speak for myself, and not for any client or interest.

"The Democratic platform at the last election pledged the party to the removal of monopoly at its source in the following specific language:

"'A private monopoly is indefensible and intolerable. We * * * demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States. We favor the declaration by law of the conditions upon which corporations shall be permitted to engage in interstate trade, including, among others, the prevention of holding companies, of interlocking directors, of stock watering, of discrimination in price, and the control of any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions.'

"This was the specific party program on the paramount political question of this generation. It can not be brushed aside as less important planks frequently are. It can not be said that it did not enter into the result of the election.

"BASELESS FALLACY.

"Monopoly, we are now told, comes from unfair competition. If we prevent that we will prevent monopoly. A more baseless or a more serviceable fallacy was never perpetrated upon a misled people. There has never been a country or a time in the history of the world in which monopoly sprang from unfair competition or from the acts or agreements of individuals. Temporary advantages, even the destruction of a competitor, may be so effected, but these advantages, however great, are wholly powerless to create a monopoly unless through the instrumentalities of government they may be welded into a permanent institution. This institution has been created in our day through the corporation, and through the corporation alone.

"There is nothing new in this proposition. At the annual convention of the American Bar Association in August, 1911, its president, Edgar H. Farrar, of New Orleans, delivered an address in which he discussed the genesis and growth of our modern monopoly, and declared it to be in legal effect a monopoly created by the State, as fully as was the East India Co. created by royal grant in 1600.

"This does not mean that the corporation is essentially evil. It is, in fact, a public benefit, and owes its origin to a public need. It is the ideal instrumentality for all forms of quasi-public enterprises, such as railroads and public utility businesses, banking, and insurance. All these businesses are subject to public control, and are incorporated largely with a view to that control. But with respect to commercial enterprises, both the use and the effect of the corporation have been different.

"The ordinary business corporation was originally surrounded with adequate safeguards against monopoly. But these were gradually discarded, and finally, unheralded and undesired, came the great evil instinctively feared in the first instance—giant monopolies effected as an established institution under the lax corporation laws of the States. When the Sugar Trust of New York and the Standard Oil of Ohio were declared illegal by the courts back in the early eighties, they went to the Legislature of New Jersey and obtained a statutory grant of the power of monopoly, the creation of holding companies to take the place of the 'trusts' which the courts had dissolved.

"The early commercial and industrial corporations were specially limited both in the amount of their capital and in their duration. No early legislature would have thought of permitting by general law unlimited life and unlimited capital in the enjoyment of corporate privileges in a commercial business.

"To quote Judge Farrar:

"'Great aggregations of capital have been formed, which have seized upon specific industries and driven everybody else out of them. They

stand like armed colossi astride the gateways of commerce and destroy every entrant who presumes to compete with them. They have no legal grant or monopoly, but monopoly comes to them by virtue of their size, organizations, and strength, just as surely as monopoly went to the East India Co. by royal grant. The most vicious of all the (statutory) provisions is that authorizing one corporation to own and vote stock in another. This provision is the mother of the holding company and the trust. It provides a method for combining under one management and control corporations from one end of the country to the other.'

"THE REMEDY.

"The remedy for this situation is found in the party platform from which I have quoted. This remedy is, I believe, plain to the average reader. Let him consider the legal facts involved. The first is the character of the corporation. The United States Supreme Court has said that 'the corporation is presumed to be created for the benefit of the public,' and the Democratic Party has declared that it must be so created if it is to engage in interstate trade. That court has also said that a corporation is 'precisely what the incorporating act has made it,' and that it 'carries its charter wherever it goes, for that is the law of its existence.' If there is anything wrong with the corporation, it lies in its charter, in the creating act. If it is a monopoly, it gets that power from the creating act.

"The second thing to be borne in mind is that a corporation has no life or being outside of the creating State except by the kindness or comity of other States, so that a nation can exclude the corporations created by another nation, and will, of course, do so if it finds that they are harmful to its citizens or its commerce.

"If corporations organized under the laws of Brazil or of France were threatening the commerce of the United States, upon whom would the duty fall to protect that commerce by excluding the offending corporation? Upon Congress, of course, not upon the separate States. Instead of Brazil, New Jersey has created corporations, not to do business in New Jersey but to engage in commerce throughout the United States, and has vested them with powers and facilities effectually to throttle and monopolize that commerce.

"Who is to protect that commerce, and how? Ohio, Alabama, and California? They might, indeed, exclude a corporation; but how can they protect their citizens against its national monopoly? The danger is national, and the remedy must be national. It must be the same, in fact, as that asserted against the corporation of Brazil or France. Congress alone must protect the commerce of the Nation against the corporate monopolies that threaten it, whether they are created by a foreign power or by one of the States. Otherwise the commerce of the Nation is without protection against the worst corporation that the worst State may create.

"Is there anything radical in so reasonable and necessary a proposition? Shall the long omission to exercise this power, which is now conceded, commit us irretrievably to the institution of monopoly, to the program of perpetual investigation and control, and to ultimate Socialism? Judge Farrar, as president of the American Bar Association, in his annual address of August, 1911, said:

"'Congress can drive out of interstate and foreign commerce all corporations with fictitious or watered stock, all corporations whose capital stock is so great as to constitute them practical monopolies or suspects of being such, all holding companies, and all companies whose stocks are owned by holding companies or by other corporations.'

"This is a specific statement of the platform remedy, a remedy provided by the John Sharp Williams bill, which was originally introduced in the Senate in April, 1911.

"This bill provided in substance that no industrial or commercial corporation should engage in interstate commerce if it was a holding company, or if it was not safeguarded in its charter against control by a holding company or by competitive interests; also against interlocking directors, watered stock, and excessive capitalization. A number of bills have since been advanced within this original proposal, but that of Senator WILLIAMS is, I believe, the most correct in principle and effective in detail.

"I am speaking only of legislation that has been actually proposed, and have not lost sight of the fact that the President's message leaves the door open for legislation that may accord with the platform pledge and be more Democratic and more effective. He suggests the prevention of the holding company and intercorporate control. This can be accomplished directly by prohibiting any corporation from engaging in interstate commerce which is not safeguarded against control by holding companies or competitive interests.

"Probably the most effective provision would be to demand a charter requirement against the trasnfer of stock to any company or person representing a competitive interest. Such legislation would be effective, understandable, and plainly constitutional. It is based directly on the power to regulate interstate commerce, and to protect commerce and the country against unsafe corporations. It accords strictly with the platform pledge.

"EVILS OF LEGISLATION.

"On the other hand, if the legislative method indicated by the present bills is followed, we may have Federal laws asserting, not power to exclude corporations from commerce, but power to legislate generally as to any corporations engaged in commerce; not requiring voluntary amendments or changes in the corporate rights as a condition of their engaging in commerce, but asserting the power of Congress to change the corporate rights itself.

"Perhaps the distinction is more clear to a lawyer than a layman, but the difference is one of principle, right, and constitutionality, and also of carrying out the party platform specifically. One of the great evils to-day is the habit of legislation without regard to sound principles affecting its constitutionality.

"Assuming that this doubtful method is adopted, I would suggest a law prohibiting the transfer of stock by any corporation engaged in interstate commerce without requiring proof that the transferee is the bona fide purchaser and is not a company or person representing any competing business. Such a law, if constitutional, would go to the root of corporate monopoly. It would make every corporation what it was intended to be—an independent business unit.

"For the present, however, our attention is fixed on the pending bills, which tend directly in the opposite direction, practically ignoring the corporate evil, which is the real evil, and burdening all persons and business in the country.

"ONLY A MAKE-BELIEVE?

"This pending program may be—in a sense I think it is—only a make-believe at this time. It opens the debate, and the result is in the hands of Congress. The business interests are awakening to the actual need of corrective measures, safeguarding commercial and industrial corporations against monopoly. They realize that the continuance of monopoly means the increase of Government interference with all business, and means in the end regulation of prices and wages and effectual socialism.

"One striking instance both of the dangerous facilities accorded to monopoly by the unrestrained use of the corporation in industrial business and of the futility of executive control over monopoly so created is the history of the acquisition of the Tennessee Coal & Iron Co. by the Steel Trust. Here was a dangerous competitor, the control of which was represented by stock which certain contingencies threw into the power of its great adversary. The situation was a financial, not an industrial, one. With the approval of Mr. Roosevelt, obtained on verbal representations after a short conference, the stock was taken over, and the temporary advantage, the corporate incident, was welded into a corporate right and possession.

"These bills represent the best way to start on the program of socialism under existing conditions, the best way to make the Democratic Party begin the work which a Roosevelt and a Debs must complete. It represents the mission of the extensive interlocking directorate of volunteer patriots, which includes among its members many able and distinguished men—lawyers, capitalists, university presidents, philanthropists, and monopolists belonging to different political parties, all of them desirous in their own way of uplifting society, but believing in the cooperation which comes from combination of industry, disbelieving in the great freedom of democracy, the freedom of competition."

The foregoing discussion by Mr. Reed was given several weeks ago, shortly before he appeared before the House committees at Washington. Later he consented to supplement his former statement.

"Mr. Wilson's work," said Mr. Reed at the second interview, "does not lie in originating party measures, but in directing party action. The so-called pending bills are, it seems, the bills of the men who have introduced them, and the President's policy is to let the committees of Congress and the country thrash them out as a basis for definite action. The situation has evolved a possible program that in a sense would meet the formulated consensus of opinion, and also work out a definite result along the lines of the President's message, and also in substantial accord with the party platform. The effective criticism of these bills has made it fairly plain that the country would not accept a business code of ethics under a Federal law.

"The idea of placing new restrictions upon the individual by remaking the Sherman law or otherwise has, I believe, been practically abandoned. The good sense of the country is the good sense of Congress. The new legislation will be directed against the corporation, and the effort is being made to confine it to the corporations of monopoly. In this situation the Williams bill proposal takes on a new aspect and may be found to be more practicable as a part of the general plan of adjustment than as an independent measure.

"It has already been suggested that corporations whose gross income is less than $3,000,000 shall be exempted from the trade commission bill. The defect of this is twofold. It would exclude small corporations controlled by a common interest in a trust organization and would include larger corporations which are, in fact, independent and competitive. It is possible for any corporation of the latter class to safeguard itself by charter amendment against any possible danger of trust control, and if it does this it should be allowed to maintain its freedom from political control.

"HOW MONOPOLY MAY BE ELIMINATED.

"It is possible for Congress to define the corporate conditions necessary to constitute and safeguard an independent business corporation and to exempt all corporations so constituted and safeguarded from proposed laws. By doing this it will be able more effectively to concentrate these laws and their operation upon the corporations of monopoly, actual or potential, and the final result, with efficient action, should be the elimination of monopoly and the freedom of business. This is the 'new freedom' idealized by Mr. Wilson, toward which he has, with a fine sense of political leadership, directed his party's course.

"It means not, as has been supposed, freedom under the tutelage of a trade commission, but complete freedom attained by business itself, freedom from the corporate evils that play into the hands of monopoly, as the condition to freedom from the Government control that the danger of monopoly makes necessary. In the attainment of this freedom by business lies the solution of monopoly, the end of the institution of monopoly grounded in the corporation, and the end of the danger of national socialism as its final evolution."

The VICE PRESIDENT. This must be the parliamentary situation: The bill came to the Senate from the committee striking out the bill as it came from the House, and with an amendment by way of a substitute. That amendment has now been adopted in the Committee of the Whole, as amended. The Chair paused quite a while in putting the question as to whether the Senate concurred, and thinks three Senators voted "aye" and two "no," as nearly as the Chair could keep count of the vote.

The only way in which the Senator from Colorado could get a vote in Committee of the Whole would be by reconsidering the vote whereby the Senate adopted——

Mr. THOMAS. Let me ask if this amendment can be offered in the Senate?

The VICE PRESIDENT. There would be a vote in the Senate upon identically the same question.

Mr. THOMAS. That is perfectly satisfactory to me.

The VICE PRESIDENT. If the Senate does not concur in the amendment made as in Committee of the Whole, of course, the original bill stands.

Mr. THOMAS. I am not particular when it is voted upon, but I should like to have a vote upon it.

The VICE PRESIDENT. The Chair will be compelled to rule that the amendment offered is not in order at present.

The Senate, as in Committee of the Whole, has had under consideration a bill, the title of which will be stated by the Secretary.

The SECRETARY. A bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes.

The VICE PRESIDENT. And has made an amendment thereto. The question is on concurring in the amendment. Here is where the Senator from Colorado can have his vote, if he so desires, as to whether or not the amendment shall be concurred in.

Mr. THOMAS. That is, in the Senate?

The VICE PRESIDENT. In the Senate, now.

Mr. THOMAS. Mr. President, do I understand the bill is now in the Senate?

The VICE PRESIDENT. It is.

Mr. REED. No.

The VICE PRESIDENT. It is not in the Senate for purposes of amendment as yet, but it is in the Senate for the purpose of determining whether the amendment made in Committee of the Whole shall be concurred in by the Senate.

Mr. REED. Mr. President——

Mr. JONES. Mr. President, if there is any amendment to be proposed in the Senate to the amendment adopted in Committee of the Whole, it should now be offered, should it not, before that amendment is concurred in? If the amendment is concurred in, then it is disposed of, and is not open to amendment.

I merely wanted to suggest that, because I understood the Senator from Missouri [Mr. REED] wanted to offer an amendment, and I thought this was the proper time to do it.

Mr. CUMMINS. Mr. President, I rise to a parliamentary inquiry. The Chair has stated, I think correctly, that the question now is whether the Senate will concur in the amendment that has been made in Committee of the Whole. The Senator from Missouri [Mr. REED] has reserved one amendment that was rejected in Committee of the Whole, and concurrence in the amendment made in Committee of the Whole would not preclude a vote upon the amendment of the Senator from Missouri. I understand the Senator from Ohio [Mr. POMERENE] has reserved an amendment also; and a vote now to concur in the amendment made in Committee of the Whole would not preclude a vote upon that amendment. I ask whether that is not the parliamentary situation?

The VICE PRESIDENT. The Senator from Missouri reserved an amendment that the Chair believes could not be reserved, because it was defeated in Committee of the Whole; but undoubtedly it can be reoffered in the Senate.

Mr. SMOOT. That is correct.

Mr. OVERMAN. That is the only place to do it—in the Senate.

The VICE PRESIDENT. The Chair did not understand the Senator's remark.

Mr. SMOOT. The Chair is perfectly correct in that statement. The Senator can offer it when the bill is in the Senate.

Mr. OVERMAN. That is the only time he can offer it.

Mr. SMOOT. The Senator reserved the amendment, and that is the only time he can offer it.

Mr. REED. Mr. President, a parliamentary inquiry. Is it now in order for me to offer the amendment I reserved in the Senate?

The VICE PRESIDENT. The Chair is of the impression that it is now in order to offer an amendment.

Mr. OVERMAN. Would the amendment of the Senator from Missouri be in order now? It is not in order until the bill is in the Senate.

The VICE PRESIDENT. The bill is in the Senate now.

Mr. OVERMAN. I thought it was still in Committee of the Whole.

The VICE PRESIDENT. No; it is in the Senate now; and the question is, Shall the Senate concur in the amendment made in the Committee of the Whole? Before that vote is taken, either before or after, the Chair thinks amendments can be offered.

Mr. NELSON. Mr. President, it seems to me the question now is on concurring in the amendment in the Senate, and if we concur in that amendment as an entirety that cuts off other amendments. We must amend, if we amend at all, before we concur in the amendment made in Committee of the Whole.

The VICE PRESIDENT. The Chair is ruling that the amendment of the Senator from Missouri is now in order.

Mr. REED. Mr. President, I purpose offering the amendment, which was defeated yesterday by two votes, exactly as I offered it at that time, including the amendment suggested by the Senator from Arkansas [Mr. CLARKE], so that the amendment will embrace the amendment of the Senator. I am striking out the word "calculated," which I employed in a sense to mean "the effect of," and inserting in lieu of it the words "the effect of which is," and I am also inserting the word "discriminations," so that the amendment as I now offer it reads as follows:

The term "unfair competition" is hereby defined to embrace all those acts, devices, concealments, threats, coercions, deceits, frauds, discriminations, dishonest practices, false representations, slanders of business, and all other acts or devices, whether of like nature with those herein enumerated or not, done or used with the intent or the effect of which is to destroy or unreasonably hinder the business of another or prevent another from engaging in business, or to restrain trade or to create a monopoly.

Mr. President, I shall not weary the Senate further than to say that, in my judgment, the Senate having voted down this definition and all other definitions of the term "unfair competition," the courts, in construing that term, will take that fact into consideration and are much more likely to give the term a limited meaning—that is, a meaning which will make it apply only to the substitution of goods—than they would if the amendments had not been before the Senate. I am asking for this vote, however, because I trust the amendment may be agreed to and because I think it is absolutely essential to make the bill a sound and workable bill.

I ask that the amendment may be read, and upon the amendment I ask for the yeas and nays.

Mr. NEWLANDS. Mr. President, pursuant to the assurance which I gave the Senator from Missouri, the Committee on Interstate Commerce was called together this morning with a view of considering this amendment. The conclusion of the committee was to adhere to the language used in section 5, and to oppose this amendment.

The VICE PRESIDENT. The Secretary will state the amendment offered by the Senator from Missouri.

The SECRETARY. It is proposed to add to the bill a new section, to be known as section 6, and to read as follows:

SEC. 6. The term "unfair competition" is hereby defined to embrace all those acts, devices, concealments, threats, coercions, deceits, frauds, discriminations, dishonest practices, false representations, slanders of business, and all other acts or devices, whether of like nature with those herein enumerated or not, done or used with the intent or the effect of which is to destroy or unreasonably hinder the business of another or prevent another from engaging in business, or to restrain trade or to create a monopoly.

Mr. WALSH. Mr. President, I inquire whether the words "or calculated" were stricken out and others substituted in lieu thereof?

Mr. REED. Yes; they were changed to "or the effect of which is."

Mr. WALSH. That is an improvement; but I am very sure the amendment as now proposed by the Senator from Missouri does not accurately express the idea he has in mind. I move to substitute for the words "is hereby defined to," in the first and second lines, the word "shall," so that it will read:

The term "unfair competition" shall embrace all those acts—

And so forth, leaving it to have such application as the term may be entitled to.

Mr. REED. I accept the amendment offered by the Senator from Montana.

Mr. JONES. Mr. President, I do not desire to discuss the amendment, but I wish to ask the Senator from Nevada a question. The only argument presented by him in opposition to the amendment offered by the Senator from Missouri is the statement that the committee met this morning and decided to adhere to its position. I wish to ask the Senator how many members of the committee were present at the meeting.

Mr. NEWLANDS. Seven.

Mr. JONES. And how many members are there of the committee?

Mr. NEWLANDS. There are 13, I think, but I am not sure.

Mr. JONES. If there are 13 there was a quorum present, but if there are 15 there was not a quorum present.

Mr. NEWLANDS. Seven constitutes a quorum of the committee.

Mr. REED. Mr. President, I do not understand the Senator from Nevada to hold that the action of a majority of a quorum of the committee is at all conclusive upon the Senate.

Mr. NEWLANDS. Not at all.

Mr. GRONNA. Mr. President, I wish to ask the Senator from Missouri a question. The Senator from Missouri has argued that the phrase "unfair competition" confers upon the commission legislative authority. Is it not true that the phrase which appears in his amendment on line 4, after the word "business," would also confer legislative authority upon the commission? I read the language:

And all other acts or devices done or used with the intent or the effect of which is to destroy or unreasonably hinder the business of another or prevent another from engaging in business.

Would not that confer legislative authority upon the commission, just as much as the phrase "unfair competition"?

Mr. REED. I think not. I think it is a term of definite meaning under the law, and that it does not at all carry the idea

of conferring legislative authority. I feel very well satisfied of that.

Mr. JONES. Will the Senator allow me to interrupt him just a moment? Referring to the remark of the Senator from Nevada, I feel that the meetings of the Interstate Commerce Committee have not been very well attended. The chairman is mistaken in the idea that there are only 13 members of the committee; at least, according to my directory, there are 16.

Mr. NEWLANDS. I stated that I was not sure about the number. I have given my impression. A number of the members of the committee are absent from the city—five or six; but there was a quorum present.

Mr. GRONNA. I only wish to say another word with regard to this amendment.

I have been considerably troubled in my mind over this particular phrase. Not being a lawyer, I do not know whether it is constitutional or not; but it seems to me that it will be just as difficult to define the language used in the amendment offered by the Senator from Missouri as it is to define the words "unfair competition."

I do not know whether this bill will be of any substantial benefit to the people of this country or not. Undoubtedly those who have written the bill believe that it will be beneficial. Without casting any reflection upon the courts of our country, however, I do believe that if the provisions of the first section of the antitrust law had been enforced there would be no need for this legislation.

Section 1 of that law provides:

> Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States or with foreign nations is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by fine not exceeding $5,000 or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

Mr. President, if the penalty of imprisonment had been imposed I take it that this measure would not be before Congress. If the men who have violated this statute had been sent to the penitentiary I believe these conspiracies in restraint of trade would have been eliminated and at least some of the big corporations would have been broken up. In the hope that this law will do no harm, but that the commission will have the authority to call the attention of the people of the country not only to the abuses of the law but to the illegal practices which have been used, and which I suppose will be used in the future, by the great corporations, I shall vote for the bill. I can not vote for the amendment proposed by the Senator from Missouri, however, because, as I have stated, it seems to me that it will be just as difficult to define the words which he uses in his amendment as it is to define the words "unfair competition."

Mr. CUMMINS. Mr. President, I hope the amendment proposed by the Senator from Missouri [Mr. REED] will not be adopted. I believe it will weaken the law rather than strengthen it. I believe the terms he has employed in his amendment to define "unfair competition" are more uncertain and indefinite than the words themselves.

I do not intend to repeat the argument I have more than once made during the consideration of the bill with respect to the sufficiency and certainty of the words "unfair competition." I simply record my belief with regard to the effect of the amendment if it should be adopted.

I have another objection to the amendment, however, which hitherto has not been stated, because there was no opportunity to state it. All these devices and acts, such as deceits, frauds, dishonest practices, false representations, slanders of business, and other things of that kind, must be done or used with the intent or with the effect of destroying or unreasonably hindering the business of another or of preventing another from engaging in business. That is to say, before the Government can enforce this section, if the amendment now proposed is made a part of it, it must prove that these things were done with the intent upon the part of the person who performs or does them to destroy or unreasonably hinder the business of another. It omits the great public interest. There can be unfair competition in which the public is interested without any intent as described in the amendment.

Mr. REED. Mr. President——

Mr. CUMMINS. I yield for a moment, because I have but a moment.

Mr. REED. I am addressing myself to that particular statement. What interest has the public unless the trade is restrained or unless the act tends to the creation of a monopoly? What other interests can the public have?

Mr. CUMMINS. I come immediately to the latter. The words "or to restrain trade or create a monopoly" are entirely surplusage. They ought not to be here at all. Any acts, whether deceitful or fraudulent or dishonest or false, if done in the way of a restraint of trade or in the way of creating a monopoly, are now denounced and prohibited by the antitrust law. You have included in this amendment the intent to restrain trade and the intent to create a monopoly in order to make the acts which you have described unlawful under the law.

Mr. REED. I hope the Senator will not leave the impression that the intent must be shown when the language is plainly in the alternative. It is the intent or the effect of the act.

Mr. CUMMINS. Yes.

Mr. REED. If it have either the intent or if it have the effect. The Senator ought not to try to make his argument that you must prove the intent.

Mr. CUMMINS. I said a moment ago that if the effect is to restrain trade or to create a monopoly we have a complete and perfect prohibition in the antitrust law. If it be simply the intent at some time in the future to restrain trade or create a monopoly, then in order to bring the phrase the Senator from Missouri has used within the prohibition of the law you must prove the intent.

Mr. REED. No, Mr. President; I hope the Senator will not make that argument, particularly when in addition to this there is also the language "calculated to destroy or to unreasonably hinder the business of another or to prevent another from engaging in business." If you stopped there and did not add the words "or to restrain trade or to create monopoly," the statute would not be as broad and as strong and as far-reaching as it is with those words. All the Senator's argument is based upon the theory that these things are cumulative and connected by the article "and."

Mr. CUMMINS. I can not yield if the interruption is to be taken out of my time.

The VICE PRESIDENT. The Chair has no way to keep time occupied between Senators.

Mr. CUMMINS. Then the Senator——

Mr. REED. I ought not to interrupt the Senator, but will he allow me? The Senator is arguing this as though the bill read "and to" instead of "or to."

Mr. CUMMINS. Mr. President, I made myself, I think, perfectly clear. There must be an intent, or the act must have the effect of destroying or unreasonably hindering the business of another, or there must be the intent to restrain trade or create a monopoly, or there must be the effect of restraining trade or monopoly. In either event the Senator from Missouri, to use a phrase I heard not long ago in the Chamber, has attempted to elucidate the simple by using the complex, and the adoption of his amendment will, in my opinion, not destroy the law which we propose to make, but will greatly weaken and enfeeble the law. I sincerely hope that it will not be adopted.

Mr. PITTMAN. Mr. President, the Senator from Iowa by his argument would indicate that he believes the unlawful acts named in the amendment constitutes the sole definition of unfair competition. As I read the amendment it does not prohibit an additional definition being given to those words. It simply says that there shall be embraced within unfair competition the particular acts that are named. Any other act that the court may determine to be unfair competition may be construed to be unlawful and within the definition in addition to the acts that are set out in the amendment. In other words, if a bill of sale should be drawn of this Capitol Building and all the furniture within the building, particularly mentioning the desks within this Chamber, it would not limit the grant in the bill of sale to the desks. All the other furniture in the Capitol Building would be conveyed by the bill of sale, including the particular furniture mentioned in this Chamber, and the mention of the furniture in this Chamber would not limit the grant.

This amendment, if I understand it, and if I did not understand it in that way I would never vote for it, simply specially includes certain acts and the language is placed there for the sole purpose that no matter how a court may construe the law as to other acts, these acts must be construed as unfair competition. That is the reason why I intend to vote for the amendment.

Mr. WALSH. Mr. President, one point in connection with this matter, it seems to me, is worthy of consideration. Section 1 of the Sherman Antitrust Act denounces nothing whatever except contracts which are combinations and conspiracies; that is to say, there must be something in the nature of a combination in order to fall within the condemnation of that act. So the amendment covers a field quite separate and apart from that. But I am disposed to believe that the second section of the act in relation to monopoly is quite different in character. It provides as to every person who shall monopolize or attempt to monopolize or combine or conspire. Accordingly it seems to

me that all the things referred to in the amendment, or any of them, if done with the intent or with the effect to create a monopoly, constitute an offense against the Sherman Antitrust Act and need not be provided for in this bill. So I suggest to the Senator from Missouri that at least the words "or to create a monopoly" ought certainly to go out.

Mr. REED. I call the Senator's attention to the fact that the words "or to restrain trade or to create a monopoly" are cumulative. If we should strike them out, the bill would not be as broad as it would be with them in. It is not required to show restraint of trade or monopoly, but that the acts complained of hinder the business of another, or prohibit another from engaging in business, or restrain trade.

Mr. WALSH. The Senator has not appreciated the idea, I think, that I am endeavoring to convey to him. I convey to him the idea that any of these things done with the intent to create a monopoly are already offenses under the Sherman Antitrust Act and should be left to be dealt with under the Sherman Antitrust Act. We are endeavoring in this act to reach cases and instances that are not there dealt with.

Mr. REED. Does the Senator move to strike out those words?

Mr. WALSH. No; I do not. I shall vote for it, on reflection.

Mr. REED. If there is objection to those words, I am willing to amend by striking out the words "or to restrain trade or to create a monopoly."

The VICE PRESIDENT. The Senator from Missouri offers to modify his amendment?

Mr. REED. Yes.

The VICE PRESIDENT. The Secretary will restate the amendment as modified.

The SECRETARY. At the end of the proposed amendment the words "or to restrain trade or to create a monopoly" are now withdrawn, so that the proposed amendment will read:

SEC. 6. The term "unfair competition" shall embrace all those acts, devices, concealments, threats, coercions, deceits, frauds, discriminations, dishonest practices, false representations, slanders of business, and all other acts or devices, whether of like nature with those herein enumerated or not, done or used with the intent, or the effect of which is to destroy or unreasonably hinder the business of another or prevent another from engaging in business.

Mr. WHITE. Do I understand the Senator from Missouri to agree with the construction placed upon his amendment by the Senator from Nevada [Mr. PITTMAN], namely, that the phrase "unfair competition" would have the full scope and effect with his amendment as it would have before the amendment was offered?

Mr. REED. I hold to the theory that if the words "unfair competition" have the broad meaning asserted by the Senator from Nevada, these words will not take that meaning away; but if they have the narrow meaning contended for by many of us, these words will breathe life and vitality into the act. That is the position I take.

Mr. WHITE. Then, Mr. President, the scope and meaning of the expression "unfair competition" will not be narrowed by the other words used in connection with it in the amendment, but will have the same scope in the amendment, if adopted, as it would have had in the bill. If this is true, if the amendment be adopted we will not avoid the uncertainty claimed to inhere in the expression by those who are opposed to its use; but we will have to carry the additional burden of proving the specific intent with which the prohibited acts were done—that is, to destroy or unreasonably hinder the business of another, or that the acts done had the effect of injuring or hindering the business of a rival. The proof of the specific intent with which an act was done is, as all lawyers know, difficult to make. If this intent is not proven, then the injurious effect on the business of the rival must be shown.

Mr. REED. If the Senator addresses that question to me, it is required to prove intent. All these acts stand by themselves, and in addition to the acts is the phrase "done with the intent." That does not apply to those particular practices; it is a general term.

Mr. WHITE. I must insist that, as I construe the amendment, to give effect to the amendment the intent with which the act is done must be shown, or that the act had the effect to destroy or unreasonably hinder the business of the rival. It will be observed that the amendment does not provide that if an act done tends to produce the result that will violate the act, but that the result itself must be accomplished.

In law there are certain circumstances where the intent is to be inferred as a matter of law, but in the great majority of cases the specific intent must be proven, and while the intent may be inferred from the act, the contrary may also be inferred. The intent may or may not be inferred, owing entirely to the grasp of the mind of the person who is to consider and construe the evidence.

Mr. REED. If I do not interrupt the Senator——

Mr. WHITE. Certainly not.

Mr. REED. I know the Senator wants to argue this exactly as it is and as he sees it.

Mr. WHITE. Yes; I am trying to do that.

Mr. REED. I will call his attention to the fact that the language is, "done or used with the intent." We do not stop there—"or the effect of which is." Now, if either is present the statute covers it. Certainly the Senator would not say an act ought to be condemned by a law when the intent is not to destroy or hinder the business of another or prevent another from engaging in business where the intent is absent and also where the effect was absent. Either the effect or intent is fatal. I call the Senator's attention to that.

Mr. WHITE. I understand. I said that the specific intent with which the act was done must be proven, or you must prove that the act had the effect which the amendment requires it to have. I was urging the difficulty in proving a specific intent, and if you did not prove the specific intent required in the amendment, then you must prove that the effect required by the amendment to be produced had been accomplished. It is not sufficient under the amendment to prove that the act tended to accomplish the end.

With all these burdens and difficulties entailed, if the amendment is adopted, we accomplish nothing by the amendment in the way of giving certainty and definiteness to the phrase "unfair competition." It is left by the amendment as uncertain and indefinite as is claimed by the author of the amendment it is in the bill.

As I understand, one of the main objects of this legislation is to prevent a rival in business from using unfair competition to drive his competitor out of business and to prevent this before the business is destroyed. Therefore the provision in the amendment that the unfair acts and practices had to have the effect to destroy or unreasonably hinder the business of another would neutralize this useful feature of the enactment.

Mr. REED. Mr. President, I ask leave to further amend the amendment, at the suggestion of certain of my colleagues, by striking out, in the second line, the words "those acts." It simply smooths the language. I ask that it be read in that shape.

The VICE PRESIDENT. The Secretary will again state the proposed amendment.

The SECRETARY. It is proposed to modify the amendment in line 2 by striking out the words "those acts" and the comma after the word "acts"——

Mr. REED. Mr. President, after the word "business," in line 4, I move to strike out the words "and all other acts or devices" and to insert "all other acts, whether of like character with those herein enumerated or not," so that it will read in that way.

The VICE PRESIDENT. The Secretary will state the amendment as now modified by the Senator from Missouri.

The SECRETARY. In line 4 it is proposed to strike out the words "or devices," so that as modified the amendment will read:

SEC. 6. The term "unfair competition" shall embrace all devices, concealments, threats, coercions, deceits, frauds, discriminations, dishonest practices, false representations, slanders of business, and all other acts, whether of like nature with those herein enumerated or not, done or used with the intent or the effect of which is to destroy or unreasonably hinder the business of another or prevent another from engaging in business.

Mr. MYERS. Mr. President, I did not have the honor of being at the meeting of the Committee on Interstate Commerce this morning in person, although I was there by proxy, for the purpose of making a quorum. I have great respect for the views and the conclusions of that committee, but I desire and intend to vote my individual sentiments in the Senate on this amendment.

I have come to the conclusion that this bill ought to contain some definition of the words "unfair competition." I believe those words ought to be defined as clearly as possible, in order to apprise the people of the country of what is to be expected of them by this proposed law, and all the more so since the amendment to section 5 of the bill, offered by the Senator from Iowa [Mr. CUMMINS], has been adopted, which takes away from the people affected the free and full right of direct appeal from the action of the commission.

It is true that that may be done under circumstances similar to those under which an appeal will lie from the rulings of the Interstate Commerce Commission; actions may be brought to enforce or set aside the rulings of the commission, but that must be by separate action. As I understand, there is no direct right of appeal or review to a court.

I can see that it would be a great deal more just and necessary to provide for a right of appeal in this bill than in the

law creating the Interstate Commerce Commission, because that law relates to interstate railroads, to common carriers and public utilities, quasi-public corporations, creatures of the Government, which can exercise the right of eminent domain and many other rights under the law, while this proposed law applies to the individual. A wholesale grocer in Kansas City, who may do an interstate business, does not owe his right of existence to the Government. Individuals have certain inherent rights which, I think, really ought to be passed upon by the courts when brought into question, and this is the only instance of which I know under our Government where the rights of an individual citizen may be passed upon, construed, or denied to him by a board or a commission or an inferior court without there being accorded to him the full and free right of appeal to a higher court.

I do not think there is any analogy between the denial of the right of appeal in this bill and in the interstate-commerce law. The people who are to be affected and whose rights are to be passed upon by this board not having a full and free right of appeal to a court of law, I think it is all the more essential that they should be as explicitly as possible informed of what is expected of them by this bill and what their conduct may and may not be under it.

Therefore, believing that this amendment explains to a very large degree what is intended by the words "unfair competition," I think it ought to be adopted.

Mr. HOLLIS. Mr. President, I am opposed to the adoption of this amendment. I believe that the majority of the Senate wish to perfect this proposed act so that it will prevent the practices against which it is aimed. The Committee on Interstate Commerce has had this matter in charge for two or three months. Every suggestion that has come up has been carefully considered by them. Now that we approach the final stage of the bill, and there is little time for deliberation, it is very dangerous to allow the enemy of the bill to amend it. I say that advisedly; I say it fairly, because it is an undoubted fact from the several elaborate and learned speeches that have been made by the junior Senator from Missouri [Mr. REED] that he is hostile to this bill.

I do not charge, I do not claim, that the Senator from Missouri is opposed to antitrust legislation. I believe that he is in favor of proper antitrust legislation. But so long ago as June 25 he made an extended speech, a forceful speech, in which he said he was against this bill because he is against government by commission, and in the several speeches which he has made since I have not heard him take that back or say that he intends to vote for this bill, no matter what its final shape may be.

Mr. REED. Mr. President——

Mr HOLLIS. I yield to the Senator for a question, but not for a speech.

Mr. REED. Of course, I have not said that I intend to vote for this bill, no matter what its final shape may be.

Mr. HOLLIS. I am very glad, indeed, to hear it.

Mr. REED. A man who said that he intended to vote for a bill, no matter what its final shape might be, would be a fit subject for a lunatic asylum.

Mr. HOLLIS. I yielded for a question. The Senator from Missouri argued this question yesterday.

Mr. REED. The Senator has said——

Mr. HOLLIS. I decline to yield further. The Senator argued this matter for 3 hours yesterday, and I now have only 10 minutes. I am willing to yield for a question, but not for argument.

Mr. REED. Will the Senator yield for a correction?

Mr. HOLLIS. Yes; I will yield for a correction.

Mr. REED. Has not the Senator heard me say a number of times within the past few days in these discussions that it was because I was a friend of remedial legislation that I wanted to put in a proper definition of "unfair competition"; that I thought if that definition did not go in the bill would accomplish nothing, and that if it did go in the bill would be a strong bill?

Mr. HOLLIS. I have heard the Senator say words to that effect, but I have not yet heard him say that he is in favor of government by commission or in favor of this commission. In fact, day after day he has said that he wants to leave things to the courts and not to a commission, just as if a man who put on a robe and sat on a bench was of a superior clay to a man who happened to be called a commissioner. Now, I say that the Senator, if he has shown anything, has shown that he is hostile to the main conception of this bill. Whether he will vote for it finally of course we can not guess and he can not tell us; but I do say that the feeling he has shown against the bill proves that it is dangerous to accept an amendment from him, because it is doubtful if it will improve the bill, and I shall show, if I am not too much interrupted, I think, that this amendment will hurt the bill.

I wish further to say that the Senator is not a safe guide on this measure. In the first speech he made he argued that the bill would be unconstitutional; and I certainly do not suppose that he is going to vote for a bill that he thinks is unconstitutional. He has not yet corrected himself on that, so far as I have heard.

Mr. REED. Oh, Mr. President——

Mr. HOLLIS. I decline to yield. The Senator has already used up a large part of my time.

Mr. REED. Mr. President, the Senator——

The VICE PRESIDENT. The Senator from New Hampshire has the floor and declines to yield.

Mr. REED. Very well.

Mr. HOLLIS. I expect to say a great many things before I get through, if I am not interrupted, which the Senator will not like. He has not liked what I have said, but I am going to say more. In the first speech the Senator made on this bill—and I am going to show now that he is an unsafe guide in this matter, because twice he has proved that he was wrong—in the first speech which he made he based the argument of unconstitutionality on the case of Louisville & Nashville Railroad Co. against McChord, a decision by a United States district judge, which it has been shown was overruled and reversed by the Supreme Court of the United States. The Senator was sincere and earnest in his argument at that time, as he is sincere and earnest now; but he was mistaken then, as he is mistaken now.

In the course of the same speech the Senator announced with all the force and vigor of which he is capable—and that is a great deal—the proposition contained in these words, on page 12161 of the current RECORD:

> Mr. President, I undertake to say that there are no decisions of courts that amount to a rule of law as to what constitutes unfair competition.

Then on the 13th of July, I think it was, he took that back and said there were numerous cases which did define and restrict the term "unfair competition." When he took that second position he was just as honest, just as earnest, just as sincere, just as eloquent, and just as convincing as he has been this week in arguing in behalf of his definition of the term "unfair competition"; and I say that if we had followed him the first two times we would have followed him on unsound arguments and unsound authority, and if we follow him to-day we will be following him into the same wilderness.

The amendment which the Senator has offered has been changed seven times since I first heard of it yesterday. It has been changed in every line save one and it ought to be changed in every line. The members of the committee have had this matter under consideration all these months, and not one of them has presumed to offer a definition of "unfair competition." The term can not be defined without limiting its effect. It is argued that this amendment is now in such shape that it will not limit the scope of the phrase; but we all know the maxim that the expression of one is the exclusion of others. The amendment is a descriptive and, therefore, limiting term, or it amounts to nothing.

If this amendment is adopted the Senator will have succeeded in getting into this bill a provision that will abolish any act in the way of competition. If anyone will read the amendment he will see that that is so, for it proposes to make unlawful—the word "acts" has been cut out—

> all devices * * * used with the intent, or the effect of which is, to destroy or unreasonably hinder the business of another.

That would include every device, no matter how fair it might be, that would tend to drive a man out of business. If you undertook to undersell him honestly or to give better service, you would come under the prohibition of this amendment. Any Senator who reads it can see that that is its effect. If the Senators on the other side are as adroit and as able as I think they are, if this amendment is adopted they will seize on this amendment to defeat the bill by saying that the bill in its present shape prevents any competition, fair or unfair.

This effort to define "unfair competition" without using the word "unfair" or "competition" is like a little game we used to play in childhood, trying to spell a word without using any of the letters that were really in the word. The prize word was "coffee," which would be spelled "k-a-u-p-h-y," not a single letter appearing in that spelling that is really in the word "coffee" in the way it is correctly spelled.

This amendment is merely an attempt to spell "coffee" k-a-u-p-h-y; that is all it is. It is not as good a word; it is not as good a description; it does not accomplish the purpose.

The Senator said yesterday that in all the acts from which he read and to which I referred in my former speech there was not one State statute that attempted to define the expression

"unfair competition." That is true; no member of the committee has undertaken to define it, and I say in all candor that I believe it can not be defined without mangling the bill, without restricting its effect, and without spoiling it.

Mr. REED. Mr. President, the remarks of the Senator are so much in the nature of a personal attack that I think I ought to be permitted to say, rather on the ground of privilege, that the Senator well knows that when I was first arguing the question as to the meaning of this term I was arguing it along this line of thought, that the term "unfair competition" did not have the meaning attributed to it. I explained in the next address I made that that was what I meant, and then went on to say that it did, however, have a totally different and specific meaning. The Senator knows that, and if he does not know it his legal adviser ought to be able to tell him.

I think I know, since the Senator has told us of his efforts to spell the word "coffee" without using any letter in the word, where he obtained the natural bent of the intellectual processes which he has ever since followed.

SEVERAL SENATORS. Question!

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Missouri, on which he asks for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CATRON (when his name was called). I am paired with the senior Senator from Oklahoma [Mr. OWEN]. In his absence I withhold my vote.

Mr. CHAMBERLAIN (when his name was called). I transfer my general pair with the junior Senator from Pennsylvania [Mr. OLIVER] to the Senator from North Carolina [Mr. SIMMONS] and vote "nay."

Mr. CRAWFORD (when his name was called). Upon this particular question I have a pair with the junior Senator from Tennessee [Mr. SHIELDS] and will withhold my vote.

Mr. CULBERSON (when his name was called). I have a general pair with the Senator from Delaware [Mr. DU PONT]. In his absence I withhold my vote.

Mr. SMITH of Georgia. I transfer my pair with the senior Senator from Massachusetts [Mr. LODGE] to the senior Senator from Alabama [Mr. BANKHEAD] and vote. I vote "nay."

Mr. SMITH of Maryland (when his name was called). I transfer my pair with the Senator from Vermont [Mr. DILLINGHAM] to the Senator from South Carolina [Mr. SMITH] and vote "nay."

Mr. THOMAS. I announce the same pair as on the previous roll call, and withhold my vote.

The roll call was concluded.

Mr. KENYON. I desire to announce that the Senator from Wisconsin [Mr. LA FOLLETTE], if present, would vote "nay."

The result was announced—yeas 29, nays 33, as follows:

YEAS—29.

Brady	Hitchcock	Overman	Sutherland
Bryan	Jones	Page	Vardaman
Burton	Kenyon	Perkins	Walsh
Chilton	Lane	Pittman	Weeks
Clark, Wyo.	McCumber	Pomerene	West
Clarke, Ark.	Myers	Reed	
Colt	Nelson	Sterling	
Gallinger	O'Gorman	Stone	

NAYS—33.

Ashurst	Hughes	Martine, N. J.	Smith, Md.
Bristow	James	Newlands	Smoot
Camden	Johnson	Ransdell	Swanson
Chamberlain	Kern	Saulsbury	Thompson
Clapp	Lea, Tenn.	Shafroth	Thornton
Cummins	Lee, Md.	Sheppard	White
Fall	Lewis	Shively	
Gronna	Lippitt	Smith, Ariz.	
Hollis	Martin, Va.	Smith, Ga.	

NOT VOTING—34.

Bankhead	Fletcher	Penrose	Stephenson
Borah	Goff	Poindexter	Thomas
Brandegee	Gore	Robinson	Tillman
Burleigh	La Follette	Root	Townsend
Catron	Lodge	Sherman	Warren
Crawford	McLean	Shields	Williams
Culberson	Norris	Simmons	Works
Dillingham	Oliver	Smith, Mich.	
du Pont	Owen	Smith, S. C.	

So Mr. REED's amendment was rejected.

Mr. LIPPITT. Mr. President, I should like to offer an amendment which is so simple that I hope the committee will accept it.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. After the word "act" on page 18, line 8, it is proposed to insert:

Including the cost to the corporation of any investigation it may be subjected to.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. NEWLANDS. Where is the amendment to be inserted?

The SECRETARY. On page 18, after the word "act" and the comma at the end of line 8, it is proposed to insert:

Including the cost to the corporation of any investigation it may be subjected to.

Mr. LIPPITT. I will say, for the enlightenment of the Senator in charge of the bill, that the only purpose of the amendment is this: In the course of my consideration of this subject I was very much struck by the absolute impossibility of finding out the cost of the various investigations that were being made by various commissions all around. I think it would be very desirable to be able to find out, in some one place, how much it costs to carry on this commission form of government.

Inasmuch as we have the cost on one side—that is, the cost to the Government of doing this—and inasmuch as the commission will have full power and authority, under the powers already given to it, to get all these kinds of information, it seems to me it would be a very useful part of the report on any special occasions if they included the cost to the corporation.

I hope the Senator from Nevada will accept that amendment.

Mr. NEWLANDS. I am not prepared to accept the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Rhode Island.

Mr. LIPPITT. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHAMBERLAIN (when his name was called). Again announcing my pair, I transfer it to the junior Senator from Tennessee [Mr. SHIELDS] and will vote. I vote "nay."

Mr. CULBERSON (when his name was called). I again announce my pair, and abstain from voting because of the absence of the senior Senator from Delaware [Mr. DU PONT].

Mr. SMITH of Georgia (when his name was called). Again transferring my pair with the senior Senator from Massachusetts [Mr. LODGE] to the senior Senator from Alabama [Mr. BANKHEAD], and allowing that transfer to continue for the balance of the day without repeating it, I vote "nay."

Mr. SMITH of Maryland (when his name was called). Announcing my pair with the senior Senator from Vermont [Mr. DILLINGHAM], I transfer it to the junior Senator from South Carolina [Mr. SMITH] and will vote. I vote "nay."

Mr. THOMAS (when his name was called). I understand that my pair and I are in accord upon this amendment, and I therefore vote "yea."

Mr. WILLIAMS (when his name was called). Transferring my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the senior Senator from North Carolina [Mr. SIMMONS], I vote "nay."

The roll call having been concluded, the result was announced—yeas 16, nays 46, as follows:

YEAS—16.

Brandegee	Gallinger	McLean	Sterling
Burton	Lane	Page	Sutherland
Clark, Wyo.	Lippitt	Perkins	Thomas
Colt	McCumber	Smoot	Weeks

NAYS—46.

Ashurst	Hollis	Nelson	Smith, Ga.
Brady	Hughes	Newlands	Smith, Md.
Bryan	James	O'Gorman	Stone
Camden	Johnson	Overman	Swanson
Chamberlain	Jones	Pittman	Thompson
Chilton	Kenyon	Pomerene	Thornton
Clarke, Ark.	Kern	Ransdell	Vardaman
Crawford	Lea, Tenn.	Saulsbury	Walsh
Cummins	Lee, Md.	Shafroth	White
Fall	Martin, Va.	Sheppard	Williams
Gronna	Martine, N. J.	Shively	
Hitchcock	Myers	Smith, Ariz.	

NOT VOTING—34.

Bankhead	Fletcher	Penrose	Smith, S. C.
Borah	Goff	Poindexter	Stephenson
Bristow	Gore	Reed	Tillman
Burleigh	La Follette	Robinson	Townsend
Catron	Lewis	Root	Warren
Clapp	Lodge	Sherman	West
Culberson	Norris	Shields	Works
Dillingham	Oliver	Simmons	
du Pont	Owen	Smith, Mich.	

So Mr. LIPPITT's amendment was rejected.

Mr. POMERENE. Mr. President, I send to the desk an amendment to section 5; and before it is read I desire to make a very brief explanation.

This amendment is offered in lieu of section 5 as it was reported to the Senate from the Committee of the Whole, save only the proviso which has been adopted. It is the same amendment I proposed in the Committee of the Whole, with perhaps two modifications.

The so-called Cummins amendment was made to apply to the acts of persons, partnerships, and corporations. The amendment which I offered in Committee of the Whole has been

modified so as to apply also to the acts of persons, partnerships, and corporations. Also, there was objection made to the methods of review. I have provided, in the proposed amendment, simply for a review of the final decree of the circuit court of appeals by the Supreme Court on certiorari only; and, as Senators who are familiar with the practice in the courts well know, it is a very rare case when a writ of certiorari is issued by the Supreme Court.

My purpose in offering this amendment again is to call attention briefly to the very great difference between the provisions of the amendment offered by the Senator from Iowa and the provisions of that offered by myself in this respect. Under the amendment of the Senator from Iowa there is no provision whereby the complainant before the commission can have any hearing whatsoever if the decision of the commission is against him. I understand that this is not, in any ordinary sense of the term, an adversary proceeding; it is one sui generis. I care not, however, what it may be nominally; as a matter of fact, it will be an adversary proceeding, in that the commission will not be set in operation unless a complaint is made from somewhere, by somebody. Then, under the amendment as it was adopted in the Committee of the Whole, you will have this situation:

It may be that a complaint has been made by a person, a partnership, or a corporation against a person or partnership or corporation; and if the decision of the commission is in favor of the complainant, then the accused party can have the proceedings of the commission reviewed by making an application in the United States district court. If, however, the decision of the commission is against the complaining party, then the complaining party will have no right, under the machinery which is provided here, to a review in the courts above.

It is just as likely that the commission will be wrong in dismissing the complaint as it is that it will be wrong in finding against the accused. To my mind it is un-American to say of two persons to a controversy that one may have a right of review and the other may not; and it is because of my belief that both parties should be entitled to the same hearings that I offer this amendment, and hope for its favorable consideration by the Senate.

Let me say just one word further. The objection was made, when my amendment was first proposed, that there would be the further taking of testimony in the district court. That was eliminated before the amendment was voted upon in Committee of the Whole, and that is eliminated now from the amendment which I propose, so that all of the testimony must be heard before the commission, and the hearing in the district court or the courts above can be only upon the record as it is made by the commission.

I now ask that the amendment may be read.

The VICE PRESIDENT. The Secretary will read the amendment.

The SECRETARY. In lieu of section 5, except the provisos at the end thereof, it is proposed to insert:

SEC. 5. That unfair competition in commerce is hereby declared unlawful. The commission is hereby empowered and directed to prevent persons, partnerships, and corporations from using unfair methods of competition in commerce.

Whenever the commission, either upon information furnished by its agents or employees, or upon complaint of any interested person, partnership, or corporation duly verified by affidavit has reason to believe that any person, partnership, or corporation is violating any of the provisions of this section it shall issue and cause to be served a notice accompanied with a written statement of the violation charged upon such person, partnership, or corporation, which shall thereupon be called upon within a reasonable time fixed in such notice, not to exceed 30 days thereafter, to appear and show cause why an order should not issue to restrain and prohibit the violation charged, and upon a hearing held pursuant to such notice the commission shall make and file its findings, and if it shall appear that such person, partnership, or corporation is guilty of the violation charged, then the commission shall issue and cause to be served on such person, partnership, or corporation an order commanding forthwith said person, partnership, or corporation to cease and desist from such violation within the time and in the manner prescribed in such order. Any such order may be modified or set aside at any time by the commission issuing it for good cause shown.

If any person, partnership, or corporation charged with obedience thereto fails or neglects to obey any such order, the said commission by its attorneys, if any it has, or by the appropriate district attorney, acting under the direction of the Attorney General of the United States, may apply for an enforcement of such order to the district court of the United States for the district wherein such person, partnership, or corporation has its domicile, or wherein any of the acts complained of were committed, or wherein the said person, partnership, or corporation transacts any business, and therewith transmit to the said court the original record in the proceedings, including all the testimony taken therein and the report and the order of the commission duly attested by it. Upon the filing of the record the court shall have jurisdiction of the proceeding and of the questions determined therein, and shall have power to make and to enter upon the pleadings, testimony, and proceedings such orders and decrees as may be just and equitable. On motion of the commission and on such notice as the court shall deem reasonable the court shall set down the cause for summary final hearing on the record and testimony so returned. Disobedience to any order or decree which may be made in any such proceeding or any injunction or other process issued therein shall be punished by a fine not exceeding $100 a day during the continuance of such disobedience or by imprisonment not exceeding one year, or by both such fine and imprisonment.

Any party to any proceedings brought under the provisions of this section, including the person, partnership, or corporation upon whose complaint such proceedings shall have been begun, if begun on such complaint, as well as the United States, by and through the Attorney General thereof, may obtain a review of the findings or final order made by such commission in any district court having jurisdiction to enforce any order which might have been made in the proceeding by such commission as hereinbefore provided by serving notice upon the adverse party, if there be one, and filing the same with the said commission at any time within 30 days from the date of the entry of the findings or the order to be reviewed, and thereupon the same proceedings shall be had as are prescribed herein in case of an application for the enforcement of an order made by the commission.

The pendency of such application for review shall not of itself stay or suspend the operation of the order of the commission, but the district court, in its discretion, may stay or suspend, in whole or in part, the operation of the order of the commission pending the final hearing and determination by the court. No order or injunction so staying or suspending any such order shall be made by the district court except upon notice and after hearing save that in cases where irreparable damage would otherwise ensue to the applicant, said court may, on hearing, after not less than three days' notice to the commission and the adverse party, if there be such, allow a temporary stay or suspension, in whole or in part, of the operation of the order of the commission for not more than 60 days from the date of the order of such court, in which case the said order shall contain a specific finding that such irreparable damage would result to the applicant. The court may, upon like application and showing, continue the temporary stay or suspension, in whole or in part, to such further period as it may deem proper.

Any final order or decree made by any district court in any proceeding brought under this section may be reviewed upon appeal, as in cases in equity, by the circuit court of appeals having jurisdiction to review the judgments and decrees of the district court making such order, provided that such appeal shall be taken within 60 days from the entry of such order or decree, and the judgment of the circuit court of appeals shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

The commission may provide for the publication of its reports under this section in such form and manner as may be best fitted for public information and use.

Mr. SAULSBURY. Mr. President, I am very much in favor of the amendment presented by the Senator from Ohio, and I desire to call attention to an obvious danger which will exist unless, as proposed by this amendment, there shall be some appeal on behalf of the complainant or that he may be entitled to a review of a decision of the commission.

If you have men on that commission, as doubtless you will have, of high character who desire that their decisions shall be right, there will be a tendency on the part of these commissioners to decide all complaints which may come before them where there is any question of doubt against the defendant, because in such event the order of the commission may be reviewed by a court. But if, on the other hand, which I hope will not be the case, you might have on the commission men who were satisfied to make any decision which could not be reversed, all they would have to do would be to decide in favor of the defendant, in which event the complainant would have no remedy.

For this obvious reason I think the amendment of the Senator from Ohio is a good amendment to the bill, and I shall certainly vote for it.

Mr. CUMMINS and Mr. THOMAS addressed the Chair.

The VICE PRESIDENT. The Senator from Iowa.

Mr. THOMAS. I was merely going to suggest, if the Senator from Iowa will yield a moment, that if the Senator from Ohio will strike out the last sentence, providing for the publication of the reports of the commission, I shall be inclined to support his amendment.

Mr. CUMMINS. Mr. President, the amendment now proposed by the Senator from Ohio raises the whole issue between the broad and the limited review of the orders of the commission. It is the same amendment, with one material exception, that he proposed some days ago, which was the subject of a debate running over three or four days and which the Senate finally rejected by a decisive majority.

The material change made in the amendment now offered by the Senator from Ohio as compared with his former one is that the commission is given jurisdiction over persons and partnerships as well as corporations, but in so far as the review of the court is concerned the amendment now proposed is identical with the one he proposed formerly, and it overturns an established policy of the United States. It destroys, in my opinion, all the value of the commission which we are here creating. If his amendment is to prevail we had far better create a less expensive door for entrance into the courts than this commission.

Let us see what it does. In the first place, any individual, or corporation either, wronged by unfair competition practiced by anybody can sue in any court of competent jurisdiction and can recover whatever damages such person or corporation may have suffered by reason of the unfair competition. That is an individual remedy which arises simply because the act declares

unfair competition unlawful. The commission is intended to enforce the law for the public welfare. It is not intended to try cases between individuals engaged in business. If you make the commission simply the original trial court as between individuals who may be interested in unfair practices in trade, you will have destroyed, in my judgment, absolutely its usefulness as a public instrumentality for the purposes of correction.

Mr. WALSH. Mr. President——

Mr. CUMMINS. I hope the Senator from Montana will allow me to go on, for I have only 10 minutes.

Mr. WALSH. I merely want to ask the Senator a question.

Mr. CUMMINS. I am sure the Senator from Montana will then have his opportunity.

In 1906, I repeat, we fought this question out and we determined that we would give to the orders of the Interstate Commerce Commission such power as we constitutionally could give those orders, such effect as we could lawfully confer upon them. If you permit an individual who may be interested in the subject of unfair competition to appeal from the order of the commission to the courts, the courts must try the case de novo. There is no escape from that. The result will be that instead of establishing a code of business morals and enforcing that code upon the people of this country you will have converted the commission simply into a justice of the peace to try cases between individuals.

I earnestly hope that the Senate will not recede from the action it took a few days ago, an action in harmony with the best traditions of the regulation of commerce, an action that I think is commended by the most thoughtful students of this great subject.

I do not, of course, want to impose my individual views upon the Senate in this matter. I am simply appealing for the preservation of the commission as a regulating force in the commerce of this country, guided by the rule that we have established for it, and I am appealing against the broad, unlimited review which is proposed in the amendment of the Senator from Ohio, for if it is adopted I will vote and vote heartily in favor of abolishing the commission entirely, I mean so far as this work is concerned, and permit the law to be enforced, in the first instance, by application to the courts instead of invoking the powers and the jurisdiction of the commission.

Mr. NELSON. Mr. President, I desire to call the attention of the Senator from Ohio to two important omissions, I think, in his amendment. In the amendment in section 5, as it passed through the Committee of the Whole, there were two provisos attached. One was the proviso of the Senator from Iowa providing that the order or decision of the court should not be used in any other case under the antitrust law. Another was an amendment offered by myself, and accepted unanimously, providing that any order of the commission or any judgment thereof should not absolve the defendant from any liability under the interstate-commerce law. Those two have been omitted in the amendment of the Senator from Ohio.

Mr. POMERENE. If I may be permitted to interrupt, I will state that the amendment which I offered was in lieu of all of section 5 save the provisos.

Mr. NELSON. Both the provisos are reserved?

Mr. POMERENE. They are reserved in the amendment.

Mr. NELSON. Very well.

The VICE PRESIDENT. The question is on the amendment of the Senator from Ohio [Mr. POMERENE].

Mr. KENYON. Mr. President, I wish to say just a word. It seems to me that this is a very vital matter if this commission is to amount to anything at all. If it is to be merely a trap for the unwary, an opportunity to spend money on lawsuits, and for the benefit of lawyers and stenographers, then it would be a good thing to adopt this amendment.

I want to see this commission a success. The Interstate Commerce Commission is a success. It commands the support of the people of this country, who believe in it above any other institution in the country. The sponsors for this bill have been trying to occupy a situation where orders of the Federal trade commission will be analogous in effect and power to the orders of the Interstate Commerce Commission.

Now, let us not turn something loose on the country that would not amount to the dignity of a gold brick. If we are to adopt an amendment of this kind, the poor litigant going through court after court will find himself as badly off as Tittlebat Titmouse with his lawsuit in Warren's famous "Ten Thousand a Year."

I do hope that before we adopt this amendment, if there is any danger of adopting it, giving a review of all the orders, a proceeding practically de novo, Senators will think well and ponder long.

Mr. NEWLANDS. Mr. President, I find myself in a position of some embarrassment regarding this amendment. The bill as drawn provided for no court review. The amendment offered by the Senator from Iowa [Mr. CUMMINS] and recently adopted in Committee of the Whole provided for what is termed a narrow court review. The amendment just offered by the Senator from Ohio [Mr. POMERENE], after the bill was reported to the Senate, constitutes what is called the broad court review. My own view was that it was unnecessary to provide for any court review. The bill as drawn and originally reported provided that the orders of the commission could be enforced only by an application to the court. My view was that the court could, when its power was invoked, give every protection that was necessary to the corporation without specially providing for it. My view was that the court would determine, first, whether the order of the commission invaded the constitutional rights of the corporations affected; second, whether the order was within the authority of the statute giving the commission power to act; and, third, whether the facts stated in the order constituted the offense of unfair competition declared in the statute; and I felt that that was sufficient; that as to the facts themselves the findings of the commission of experts should be conclusive.

When this question came up during the consideration of and debate upon the bill in the Senate as to whether we should have a narrow review or a broad review the matter was considered by the Interstate Commerce Committee. The information which I had was that the entire Judiciary Committee, with the exception of one member, the Senator from Iowa [Mr. CUMMINS], was in favor of a broad review, that that committee had been considering a similar question in connection with four provisions of the Clayton bill, one relating to price discrimination, another relating to tying contracts, and another relating to interlocking directorates, and another to holding companies, the enforcement of which provisions were by the terms of the amended Clayton bill, as amended by the Senate committee, intrusted to the future trade commission.

Understanding that to be the case, an understanding which subsequently proved to be erroneous, and finding that the sentiment of the majority of the Interstate Commerce Committee favored a broad view, I acquiesced, and I supported the amendment offered by the Senator from Ohio [Mr. POMERENE] as the expression of the Interstate Commerce Committee, at the same time candidly stating my individual views, just as I have now presented them. That amendment presented by the committee was lost in the Senate when in Committee of the Whole, and the amendment presented by the Senator from Iowa [Mr. CUMMINS] was adopted, providing for the narrow court review.

Under these circumstances I feel that I am free to vote my own convictions, which are, first, for the maintenance of the bill as it originally stood, without special provision for a court review; and, second, for a narrow court review. I shall therefore vote against the amendment offered by the Senator from Ohio.

Mr. WALSH. Mr. President, I had occasion in the course of some remarks made the other day, when this matter was considered as in Committee of the Whole, to refer to the contention made that by this process of review the proceedings would drag their interminable length through the courts, and the suggestion carried with that remark was that you would get rid of the delay incident to the procedure of that character by the other system. It is reiterated by the junior Senator from Iowa [Mr. KENYON] now in this connection, and, of course, any comments that he may make upon this subject are entitled to very special consideration; but he will certainly coincide with the statement that I make, that under the plan proposed by the bill as it now stands the corporation against whom an order is issued may follow the matter through all the courts. It may arrest the operation of that order by beginning a proceeding in the district court; the district court affirming the order of the commission or sustaining it, the corporation may take an appeal to the circuit court of appeals, and that tribunal determining against the corporation, the corporation may carry the case clear through to the Supreme Court of the United States. That is the situation there.

On the same plan, however, the man who makes the complaint is finally and absolutely concluded by the decision of the commission. So you do not hurry the matter one bit by the plan proposed. The right of review exists there, but exists only upon one side. True, the right of review exists only upon the evidence submitted against the contention made by the corporation, individual, or partnership against whom the order goes; but you do not hurry the determination a particle.

Another thing, Mr. President. Reference is continually made to the interesting debate upon the subject of broad review or narrow review in connection with the amendment to the inter-

state-commerce act in 1906. That, of course, was an historic event; but I endeavored to show to this body the other day that there is an essential difference between the making of a great schedule of rates, embracing perhaps a thousand items and between a thousand different places, and determining one single, simple proposition as to whether a certain practice is or is not unlawful; whether it is or is not unfair competition. The two do not stand in the same relation at all.

Mr. President, it will be remembered that when the interstate-commerce law was originally enacted it was generally believed by its friends that it gave to the commission the power not only to declare unreasonable rates that existed, but it gave them the additional power of prescribing rates for the future; and the commission for a long period of years assumed that power, until eventually the Supreme Court of the United States determined that they had not that power.

The right of review was not given in the original interstate-commerce act, simply because it was believed that authority was given to the Interstate Commerce Commission to prepare a long schedule of rates. Of course, Mr. President, it is altogether unreasonable to repose in a court the power to prescribe a whole schedule of rates that shall govern in the future. When you repose in the commission the power not only to denounce as unreasonable a rate which exists, but also to prescribe the whole schedule of rates that is to govern in the future, you would not give to a court a general power of review in that regard. Indeed, Mr. President, that is so expressly and so clearly an administrative power that it is questionable whether you could repose it in the court; but let us not confuse that with the question that is before us.

We are not going to give to the trade commission the general power to regulate and prescribe rules under which the business of this country shall in the future be conducted; we propose simply to give it the power to denounce as unlawful a particular practice that is pursued by that business. So the question that is now addressed to us is essentially different from that which was considered by this body at that time, and ought to be determined, as it seems to me, upon entirely different grounds. Whatever was said there, it seems to me that we are not considering at the present time the continuation of a policy which has long existed in this country; we are inaugurating an entirely new policy, to be governed by rules applicable to it and to it alone.

Mr. JOHNSON. Mr. President, I shall vote for the pending measure with a good deal of hesitation. I am aware, as all Senators are, and as the public is, of the evils which have arisen from the practices which have grown up in this country and which this bill seeks to remedy. I am doubtful, as I think all men are who look at the matter in a fair-minded way, whether we shall accomplish all that we desire to accomplish.

I realize there is much in this bill which is new, and I realize the force of the doubt which my friend from Missouri [Mr. REED] has raised in regard to the constitutionality of the delegation of great powers which Congress proposes to delegate to a commission of five men. I also realize how much uncertainty there is in the term "unfair competition," which by this act we have declared to be unlawful; but under this bill we propose to create a commission of five men, with a salary commensurate with the work which they are to perform, a salary of $10,000 each per annum. I want that commission not to be, as my friend from Arkansas [Mr. CLARKE] said, a mere antechamber through which to enter the court room; I want that commission clothed with dignity and authority. I want its decrees respected.

The commission is to determine, under the rule which we have laid down that unfair competition is unlawful, whether certain devices and practices which are brought to its attention fall within that rule. I assume that they will be men capable of dealing with such questions. I have so much confidence in the present administration, or in any administration which may follow it, that I believe men of ability will be chosen. I do not want to see that commission emasculated; I do not want to see it deprived of the power and authority that belong to it.

It will enter, it seems to me, upon similar work to that which the Interstate Commerce Commission has been so well and creditably performing. That commission determines what is unjust discrimination, what practices fall within the ban of the interstate-commerce law, and so will this commission enter upon the great work, with all its complexity, of determining what practices and devices fall under the term "unfair competition." I want the commission to have that authority, and I want its decrees to be respected; therefore I am opposed to the amendment offered by the Senator from Ohio.

Mr. MYERS. Mr. President, I am even more heartily in favor of this amendment offered by the Senator from Ohio [Mr. POMERENE] than I was in favor of his last amendment which he offered as in Committee of the Whole, which I supported in the Interstate Commerce Committee and on the floor of the Senate. I am more heartily in favor of this amendment because it provides for one more right of appeal—and a very important one, in my opinion—and that is the right of the complaining party, who is most vitally interested in anything that may arise under this bill and who, as the bill now stands, may be turned down by the commission and denied any relief whatsoever or even a hearing or a right to be heard.

The commissioners will doubtless be able and wise men, but, like all other mortals, they will be subject to error; they will be liable to err on questions of law and questions of fact, as even the best of judges or laymen are, and I think they will respect their own decrees a great deal more if they know they are subject to the free right of review by the courts. Commissioners, like other officials, are liable to become autocratic, and if there be no full right of review they may render their decisions in an arbitrary manner.

While this legislation is intended to preserve the rights of the public primarily, yet the rights of individuals are also involved, and you can not disentangle them from the rights of the public. This proposed law will be invoked by individuals to protect their rights, and you can not separate in the hearings that will arise the rights of the individuals from the rights of the public.

Individuals have certain inherent rights, amongst them the right of life, liberty, and the pursuit of happiness, and the right to make a living in a lawful way, and to my mind it is repugnant to the spirit of our institutions to have those rights passed upon, and perhaps denied, without the right of review by the courts. I do not believe it is necessary in order to conserve the rights of the public that the rights of individuals should be crushed. I think they should both be equally preserved. I believe that both may be conserved in a reasonable measure, and that both will be properly safeguarded and conserved by this amendment, which I will heartily support.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Ohio [Mr. POMERENE].

Mr. CUMMINS. Mr. President, upon that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CATRON (when his name was called). I am paired with the senior Senator from Oklahoma [Mr. OWEN] and therefore withhold my vote. If I were at liberty to vote, I should vote "yea."

Mr. CULBERSON (when his name was called). Announcing my pair, I desire to say that if I were at liberty to vote on this amendment I would vote "nay."

Mr. KENYON (when Mr. LA FOLLETTE'S name was called). I desire to state that the Senator from Wisconsin [Mr. LA FOLLETTE] has requested me to announce that if present he would vote "nay" on this amendment.

Mr. SMITH of Maryland (when his name was called). Having a pair with the Senator from Vermont [Mr. DILLINGHAM], who is absent, I withhold my vote.

Mr. THOMAS (when his name was called). I again announce my pair and withhold my vote.

Mr. TILLMAN (when his name was called). I announce my pair with the Senator from West Virginia [Mr. GOFF] and withhold my vote.

Mr. WILLIAMS (when his name was called). Reannouncing my pair with the senior Senator from Pennsylvania [Mr. PENROSE], I transfer that pair to the junior Senator from South Carolina [Mr. SMITH] and vote. I vote "yea."

The roll call was concluded.

Mr. CLARK of Wyoming. I desire to announce that my colleague [Mr. WARREN] is unavoidably absent from the city. He is paired with the senior Senator from Florida [Mr. FLETCHER].

Mr. CHAMBERLAIN (after having voted in the negative). In the absence of my pair I withdraw my vote.

The result was announced—yeas 27, nays 38, as follows:

YEAS—27.

Brandegee	Lea, Tenn.	Ransdell	Sutherland
Bryan	Lippitt	Reed	Thornton
Burton	Myers	Saulsbury	Walsh
Chilton	Nelson	Shively	Weeks
Clark, Wyo.	Perkins	Smith, Ga.	West
Colt	Pittman	Smoot	Williams
Gallinger	Pomerene	Sterling	

NAYS—38.

Ashurst	Crawford	Hughes	Lane
Brady	Cummins	James	Lee, Md.
Bristow	Fall	Johnson	Lewis
Camden	Gronna	Jones	McCumber
Clapp	Hitchcock	Kenyon	Martin, Va.
Clarke, Ark.	Hollis	Kern	Martine, N. J.

Newlands	Page	Smith, Ariz.	Vardaman
Norris	Shafroth	Stone	White
O'Gorman	Sheppard	Swanson	
Overman	Simmons	Thompson	

NOT VOTING—31.

Bankhead	Fletcher	Penrose	Smith, S. C.
Borah	Goff	Poindexter	Stephenson
Burleigh	Gore	Robinson	Thomas
Catron	La Follette	Root	Tillman
Chamberlain	Lodge	Sherman	Townsend
Culberson	McLean	Shields	Warren
Dillingham	Oliver	Smith, Md.	Works
du Pont	Owen	Smith, Mich.	

So Mr. POMERENE's amendment was rejected.

Mr. POMERENE. I send to the desk an amendment, to which I ask the attention of the Senator from Iowa.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 2, line 6, of the amendment proposed by the Senator from Iowa [Mr. CUMMINS], it is proposed to strike out the words "upon such hearing" and to insert before the word "if" the words "upon such hearing the commission shall make and file its findings, and."

Mr. POMERENE. Mr. President, the amendment as adopted provides for making an order against the accused if such is in accordance with the findings of the commission; but if the findings of the commission in fact should be in favor of the accused, there is no provision in the bill for any record whatsoever.

Mr. CUMMINS. Mr. President, although the Senator from Ohio refers to the text of the bill as an amendment proposed by myself, as a matter of fact it has been adopted as in Committee of the Whole. I assume that he intends to refer to the amendment which I offered, but which has been adopted by the committee.

Mr. POMERENE. I do. I refer to the amendment adopted by the committee.

Mr. CUMMINS. With that understanding, I personally see no objection to the amendment now proposed by the Senator from Ohio. I think it is quite right that the commission should enter its findings, whatever they may be.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. POMERENE. I also send to the desk another amendment to section 5, and suggest that it should be inserted before the last paragraph, just before the provisos. I will ask that it be read.

The VICE PRESIDENT. The Secretary will read the amendment.

The SECRETARY. After the words "Interstate Commerce Commission shall apply" it is proposed to insert, as a new paragraph, the following:

> Persons, partnerships, or corporations filing or causing to be filed complaints before the commission shall have the right to appear and be made parties to the case and be represented before the courts by counsel, under such regulations as are now permitted in similar circumstances under the rules and practice of equity courts of the United States.

Mr. POMERENE. Mr. President, I desire to say that, as I understand, under the procedure referred to in section 5 as it has now been adopted there is no provision under which the complainant would have the right to be heard in the event that a suit was brought in the United States district court for the purpose of modifying the order of the commission. The amendment which I have sent to the desk is modeled after the act to regulate commerce. I read from page 45:

> Complainants before the Interstate Commerce Commission interested in a case shall have the right to appear and be made parties to the case and be represented before the courts by counsel, under such regulations as are now permitted in similar circumstances under the rules and practice of equity courts of the United States.

I feel that if there is to be any review whatever, be it a narrow or a broad review, in the courts above, the complainant, who perhaps was instrumental in instituting the proceeding before the commission, ought to be heard in the court above as a matter of right.

Mr. CUMMINS. Mr. President, of course I have no power to accept any amendment. I can only express my own view. If I correctly understand the amendment proposed by the Senator from Ohio, I think it is a very excellent addition to the bill, and I do not oppose it in any way at all.

Mr. NEWLANDS. I will state that I think this amendment improves the bill.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. THOMAS. Mr. President, if it is in order, I desire to offer the amendment which I sent to the desk some time ago.

The VICE PRESIDENT. The Chair stated to the Senator from Colorado that when the vote is taken on this amendment it will determine the very question that the Senator from Colorado has sent to the desk. If the amendment as adopted in Committee of the Whole and subsequently amended in the Senate be not concurred in by the Senate, then the original bill as reported from the House will be in the Senate for its determination.

Now, the question is, Shall the Senate concur in the amendment made in Committee of the Whole and as subsequently amended in the Senate?

The amendment as amended was concurred in.

The VICE PRESIDENT. The question is, Shall the amendment be engrossed and the bill be read a third time?

Mr. REED. Mr. President, the bill is still open to amendment in the Senate, I presume?

The VICE PRESIDENT. The Chair is of the opinion that it is not further open to amendment.

Mr. REED. Assuming that the bill will not be further amended, I want to say just one word.

I believe this bill as it is now framed is utterly a bad bill. I intend to vote for it, however, for this special reason: The House of Representatives has passed a bill and sent it here. If we entirely defeat that bill, then there will be no legislation effected, probably, at this session of Congress, and I believe we ought to have legislation. I believe it ought to be sound legislation. I am unwilling now to defeat this bill, because if it were defeated here, then the measure would be dead. If it is passed here, it will go before the House of Representatives again.

I say now, without qualification, that I think the bill that came from the House was in every respect and particular a better bill than this, and I hope it will be insisted upon by the House of Representatives.

Mr. BRANDEGEE. Mr. President, I agree with the Senator from Missouri that the bill as framed by the Senate is utterly bad, and I shall vote against it. I wish, however, to assure the Senator from Missouri that he, being of the same opinion, can record his honest conviction and vote against the bill without the slightest danger of defeating it.

Mr. SMOOT. Mr President, I wish also to assure the Senator from Missouri that the bill we are about to pass now will not be the law. The bill will be written in conference, and when it comes back here, in my opinion, there will be a great many provisions in it that we have never thought of. I will simply state that as far as I am concerned, the way the bill is now, I do not believe in its provisions, and I shall vote against it.

Mr. GALLINGER. Mr. President, I have already stated that I shall vote against the bill. I feel that the people of the country and the business interests of the country have not become acquainted with this measure, and I think they ought to have an opportunity to do so. For that reason I offer the motion which I send to the desk.

The VICE PRESIDENT. The Secretary will read the motion.

The Secretary read as follows:

> It is moved that the further consideration of House bill 15613, to create an interstate trade commission, to define its powers and duties, and for other purposes, be postponed until the next session of Congress.

The VICE PRESIDENT. The Chair will be compelled to rule the motion out of order.

Mr. GALLINGER. Upon what ground, Mr. President?

The VICE PRESIDENT. It is not in the nature of an amendment to the bill.

Mr. GALLINGER. It deals with the bill. It disposes of the bill.

The VICE PRESIDENT. Well, the Chair will put the question.

The question being put, the motion was rejected.

Mr. GALLINGER. I am quite content, Mr. President; but that the motion was in order is apparent.

The VICE PRESIDENT. The question is, Shall the amendment be engrossed and the bill be read a third time?

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass?

Mr. NEWLANDS. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHAMBERLAIN (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. In his absence I withhold my vote. If permitted to vote, I should vote "yea."

Mr. CULBERSON (when his name was called). Reannouncing my pair, I desire to say that if at liberty to vote I should vote "yea."

Mr. KENYON (when Mr. LA FOLLETTE's name was called). The senior Senator from Wisconsin [Mr. LA FOLLETTE] desires

me to announce that were he able to be present he would vote "yea."

Mr. WEEKS (when Mr. LODGE's name was called). My colleague [Mr. LODGE] is in Europe and therefore unavoidably absent. I wish to announce, however, that if he were present he would vote "nay."

Mr. GALLINGER (when Mr. PENROSE's name was called). I am requested by the senior Senator from Pennsylvania [Mr. PENROSE] to say that if he were present he would vote "nay" on the bill.

Mr. WALSH (when Mr. SHIELDS's name was called). I am requested to announce that the junior Senator from Tennessee [Mr. SHIELDS] is absent from the Senate on account of illness.

Mr. SMITH of Georgia (when his name was called). I wish to announce my pair with the senior Senator from Massachusetts [Mr. LODGE]. I transfer that pair to the senior Senator from Alabama [Mr. BANKHEAD] and will vote. I vote "yea."

Mr. SMITH of Maryland (when his name was called). I transfer my pair as previously announced to the junior Senator from Tennessee [Mr. SHIELDS] and will vote. I vote "yea."

Mr. TILLMAN (when his name was called). I transfer my pair with the junior Senator from West Virginia [Mr. GOFF] to my colleague [Mr. SMITH] and vote "yea."

Mr. WILLIAMS (when his name was called). I have a pair with the senior Senator from Pennsylvania [Mr. PENROSE]. I am informed by the pair clerk that I can not obtain a transfer. Being ignorant as to how the Senator from Pennsylvania would vote if he were present, I must withhold my vote. If he were present, and I were at liberty to vote, I should vote "yea."

The roll call was concluded.

Mr. GALLINGER. I wish to announce the unavoidable absence of the junior Senator from Maine [Mr. BURLEIGH] on account of sickness in his family, and the absence of the Senator from Illinois [Mr. SHERMAN] for the same cause. I was requested to state that if the Senator from Illinois [Mr. SHERMAN] were present, he would vote "nay."

Mr. REED. I am paired with the Senator from Michigan [Mr. SMITH]. In his absence I must withhold my vote. Except for the reason I have just stated, I would vote "yea."

The result was announced—yeas 53, nays 16, as follows:

YEAS—53.

Ashurst	Hughes	Norris	Smith, Ga.
Brady	James	O'Gorman	Smith, Md.
Bristow	Johnson	Overman	Sterling
Bryan	Jones	Owen	Stone
Camden	Kenyon	Perkins	Swanson
Chilton	Kern	Pittman	Thompson
Clapp	Lane	Pomerene	Thornton
Clarke, Ark.	Lea, Tenn.	Ransdell	Tillman
Crawford	Lee, Md.	Saulsbury	Vardaman
Cummins	Lewis	Shafroth	Walsh
Fall	Martin, Va.	Sheppard	White
Gronna	Martine, N. J.	Shively	
Hitchcock	Myers	Simmons	
Hollis	Newlands	Smith, Ariz.	

NAYS—16.

Brandegee	Colt	McLean	Sutherland
Burton	Gallinger	Nelson	Thomas
Catron	Lippitt	Page	Weeks
Clark, Wyo.	McCumber	Smoot	West

NOT VOTING—27.

Bankhead	Fletcher	Poindexter	Smith, S. C.
Borah	Goff	Reed	Stephenson
Burleigh	Gore	Robinson	Townsend
Chamberlain	La Follette	Root	Warren
Culberson	Lodge	Sherman	Williams
Dillingham	Oliver	Shields	Works
du Pont	Penrose	Smith, Mich.	

So the bill was passed.

The title was amended so as to read: "A bill to create a Federal trade commission, to define its powers and duties, and for other purposes."

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the Speaker of the House had signed the enrolled joint resolution (H. J. Res. 314) for the relief, protection, and transportation of American citizens in Europe, and for other purposes, and it was thereupon signed by the Vice President.

PROPOSED ANTITRUST LEGISLATION.

Mr. CULBERSON. I move that the Senate proceed to the consideration of House bill 15657

Mr. GALLINGER. Let the title be read.

The VICE PRESIDENT. The bill will be read by title.

The SECRETARY. A bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

The VICE PRESIDENT. The question is on the motion of the Senator from Texas [Mr. CULBERSON].

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Mr. ASHURST. I desire to give notice that to-morrow morning, immediately after the conclusion of the morning business, I shall submit some observations on the unfinished business, to the consideration of which the Senate has just proceeded.

HOUR OF MEETING TO-MORROW.

Mr. KERN. I move that when the Senate adjourns to-day it be to meet at 11 o'clock to-morrow morning.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 18 minutes spent in executive session the doors were reopened, and (at 6 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Thursday, August 6, 1914, at 11 o'clock a. m.

NOMINATION.

Executive nomination received by the Senate August 5, 1914.

COLLECTOR OF INTERNAL REVENUE.

Roscoe Irwin, of Kingston, N. Y., to be collector of internal revenue for the fourteenth district of New York, in place of Cyrus Durey, superseded.

CONFIRMATIONS.

Executive nominations confirmed by the Senate August 5, 1914.

MINISTER.

Garrett Droppers to be envoy extraordinary and minister plenipotentiary to Greece and Montenegro.

PROMOTIONS AND APPOINTMENTS IN THE NAVY.

Commander Casey B. Morgan to be a captain.

Lieut. (Junior Grade) Lemuel M. Stevens to be a lieutenant.

The following-named ensigns to be lieutenants (junior grade):

John J. Saxer,
George B. Keester,
John Borland,
Charles H. Maddox, and
James R. Barry.

First Lieut. Alexander M. Watson to be a captain in the Marine Corps.

Second Lieut. Donald F. Duncan to be a first lieutenant in the Marine Corps.

Robert A. Torrance to be an assistant surgeon in the Medical Reserve Corps.

Lieut. Commander Harris Laning to be a commander.

Lieut. Wallace Bertholf to be a lieutenant commander.

Lieut. (Junior Grade) Chester H. J. Keppler to be a lieutenant.

The following-named ensigns to be lieutenants (junior grade):

Robert S. Robertson, jr.,
Raleigh C. Williams, and
Harry A. Badt.

Medical Inspector Edward R. Stitt to be a medical director.

Surg. Charles M. DeValin to be a medical inspector.

Passed Asst. Surg. Allen D. McLean to be a surgeon.

William B. Brinsmade to be an assistant surgeon in the Medical Reserve Corps.

Midshipman Stuart D. Truesdell to be an ensign.

POSTMASTERS.

IOWA.

Harry E. Chichester, New London.
Francis A. Gallagher, Walnut.
G. E. Scoles, Nashua.

KENTUCKY.

Moses F. Moore, Central City.

OKLAHOMA.

J. M. Casper, Okeene.
J. S. Latta, Fargo.

WITHDRAWAL.

Executive nomination withdrawn August 5, 1914.

Adolphus Knopf, of New York, to be first lieutenant in the Medical Reserve Corps, United States Army, which was submitted to the Senate on July 21, 1914.

He was nominated to the Senate on July 27, 1914, under the name S. Adolphus Knopf for the purpose of correcting an error in his name.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *August 5, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Let Thy blessing descend copiously upon us, O God our Father, that the finer elements of our being may have their sway and bring us into Thy nearer presence, that we may pursue the duties of the hour with faith and confidence that virtue brings its reward, that truth brightens the way, and every honest endeavor will bring its full fruition; assured that every righteous thought and noble deed lives to exalt mankind, for whatever helps one helps all. So may we live and hope and trust in the overruling of Thy providence for the good of Thy children; in Christ the Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

RELIEF AND PROTECTION OF AMERICAN CITIZENS IN EUROPE.

Mr. FITZGERALD. Mr. Speaker, by direction of the Committee on Appropriations I report the House joint resolution 314, for the relief, protection, and transportation of American citizens in Europe, and for other purposes, and I ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House joint resolution 314 (H. Rept. 1075).

Resolved, etc., That for the relief, protection, and transportation of American citizens, and for personal services, rent, and other expenses which may be incurred in the District of Columbia or elsewhere in connection with or growing out of the existing political disturbance in Europe, there is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $2,500,000, to be expended at the discretion of the President: *Provided*, That American citizens to whom relief is extended or transportation is furnished hereunder shall pay to or reimburse the United States all reasonable expenses so incurred, respectively, on their account, if financially able to do so. In the execution of the provisions hereof the President is authorized to employ any officers, employees, and vessels of the United States and use any supplies of the Naval or Military Establishments, and to charter and employ any vessels that may be required.

A detailed statement of all expenditures hereunder, and under the appropriation of $250,000 made in the joint resolution approved August 3, 1914, and of all amounts reimbursable to the United States of such expenditures shall be made to Congress on or before the beginning of its next regular session.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution.

Mr. MURDOCK. Before the gentleman comes to a vote on this, I would like to ask him if this includes the purpose of bringing Americans home?

Mr. FITZGERALD. That is one of the chief purposes of the resolution.

Mr. MURDOCK. Aid can be extended to Americans over there without that. Aid can be extended to an American marooned there who can not get home.

Mr. FITZGERALD. It can be. If he is financially able to reimburse the Government he must do so, but if he is unable to meet the expenses the purpose is to bring American citizens to this country at the expense of the Government.

Mr. MURDOCK. And it is the plan to send ships there for that purpose?

Mr. FITZGERALD. Yes; if I can get consent for the present consideration of the resolution I will make a brief statement.

Mr. MOORE. I would like to suggest, if the gentleman thinks it not incompatible with his duty, that it is highly important that some statement should be made for the benefit of those citizens who have relatives on the other side. Many of them are in a state of unrest, because they do not know how to proceed, and perhaps the gentleman by a statement can relieve that situation.

The SPEAKER. Is there objection to the present consideration of the joint resolution? [After a pause.] The Chair hears none.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that the joint resolution be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from New York asks unanimous consent that the resolution be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

Mr. FITZGERALD. Mr. Speaker, when the President sent his previous message to Congress asking an appropriation of $250,000 to extend relief to and to provide transportation for American citizens in those countries in Europe involved in war, the amount requested was based upon a mere hazard as to what sum might be required.

Since the earlier message was transmitted to Congress conferences have been held by the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, Mr. Strong, president of the Bankers' Trust Co. in New York City, and Mr. Patterson, the general counsel of the American Express Co., the two last gentlemen representing the banks and other concerns more intimately connected with the issuance of letters of credit to persons traveling abroad, and also with Mr. Miller, who is to be named as a member of the Federal Reserve Board.

As a result of the conference and from the information which has been sought and obtained as rapidly as possible, it is estimated that there are at least 50 000 American citizens now traveling in Europe. A large number of them are persons who have carefully calculated in advance the cost of their trip and the amount of money required to make the itinerary laid out in advance. Letters of credit are no longer being honored. Checks upon American banks are no longer being cashed. Many persons find themselves out of funds and unable to get any. In addition, the declaration of war between a number of the great continental powers has largely increased the cost of foodstuffs, and the cost of living all through Europe has increased at a very rapid rate. A large number of American citizens now find themselves without funds, unable to obtain money and unable to obtain transportation to this country because of the interruption of operations by the steamship companies usually carrying passengers.

As the result of conferences held within the last day or two certain banking houses in the city of New York are arranging to send to Europe at least $5,000 000 in gold. In addition, it is proposed to send $2 500 000, to be appropriated here, in order to provide as far as necessary funds for American citizens in foreign countries, and also to provide means for transportation for those persons to the United States.

In addition, to meet such expenses as arise from the fact that nearly all of the Governments now involved in war have requested the United States to assume charge of their embassies in the various capitals of the countries from which their representatives have been given their passports provision has been made in the pending resolution.

There has been a tremendous increase in the volume of work placed upon American representatives in foreign capitals. It will necessitate the employment of additional help and the incurring of expenses that could not have been foreseen nor anticipated.

While $2,500,000 has been requested, the officials of the Government have no accurate information upon which to form any accurate estimate of how much will be required. It was believed, however, that the appropriation of such a sum would perhaps do more than anything else to carry assurance to American citizens abroad, as well as to relieve the anxiety of their relatives and friends in this country, that the Government would leave nothing undone to protect and to relieve those of our citizens who happen to be in the countries now unhappily afflicted by war Moreover, Mr. Speaker, I am authorized by the President to say that it is the purpose of the administration—and he believes that in so doing the administration will have the earnest, sincere, and patriotic support of men, regardless of political beliefs—to do everything within his power, within the power of the United States, to extend relief and protection to American citizens now in those countries. [Applause.]

The necessity for immediate action upon this resolution is due to the fact that arrangements have been made to send the money to Europe to-morrow night upon the armored cruiser *Tennessee*. The importance of providing the funds speedily necessitates hasty action. Already friends and relatives of American citizens now abroad are depositing with the Secretary of State money to cover the expenses that may be incurred in removing those friends and relatives to this country. Yesterday over $40,000 was deposited with the Secretary of State.

Mr. Speaker, it must be borne in mind that in taking this action we are not acting merely for the benefit of our citizens who happen to be abroad at this time. With a great conflict about to be waged between most of the powers of Europe, the presence of large numbers of Americans in the countries engaged in war is a constant menace to the peace and policy of this Government. It is believed to be advisable and desirable—and notice is to be issued to that effect—that American citizens should leave all of the countries which happen to be in a state of war, in hope that being absent from the theater of activities no untoward incidents may arise that will bring about any unpleasantness between this country and any of the nations unhappily engaged in the conflict. In asking for consideration of

the resolution at this time I have done so with the knowledge and with the belief that in a matter of this kind, where the welfare of the citizens of the United States and the honor and the dignity of the Government are at stake, there is no division politically, and that this House will present a united front and act in the manner designed to effect most emphatically the purposes in view. [Applause.]

I now yield to the gentleman from Kentucky [Mr. SHERLEY], who desires to have incorporated in the RECORD at this time a statement which he has from the War Department.

Mr. SHERLEY. Mr. Speaker, in connection with what the gentleman from New York has said touching arrangements about financing American citizens abroad, the War Department has issued the following memorandum:

WAR DEPARTMENT,
OFFICE OF THE ASSISTANT SECRETARY OF WAR,
August 5.

[Memorandum.]

Private individuals or firms desiring to ship gold to Europe for the relief of distress can do so by delivering the same either to Col. A. L. Smith or Maj. J. A. Logan at the U. S. S. *Tennessee* at the Brooklyn Navy Yard.

Specific directions as to the desired disposition of this gold must accompany the deposits. Receipts will be given. Custody will be taken and an earnest effort made to deliver according to directions. If delivery proves impossible, the gold will be returned.

No fund will be received in any other medium than gold.

One of the before-named officers is now on the U. S. S. *Tennessee* to receive deposits. Deposits will be received up to the time of the sailing of the vessel, which is not yet definitely determined, but it will be probably late to-night (Wednesday) or to-morrow (Thursday).

It is desired that this statement of the War Department may be given full publicity in order that persons inquiring touching this matter may know how to proceed without any delay or loss of time.

Mr. DAVIS. Mr. Speaker, will the gentleman from New York yield?

Mr. FITZGERALD. Yes.

Mr. DAVIS. Mr. Speaker, the newspapers are carrying an item to the effect that at the present time American citizens in Germany are forbidden to leave that country for some reason. I believe that the gentleman has in his possession information as to whether that prohibition is likely to be a permanent or only a temporary matter. Would it not be well to include that information in the RECORD, in order to allay the feelings of people who have friends now in the German Empire?

Mr. FITZGERALD. Mr. Speaker, I am unable to make any authoritative statement in behalf of the administration regarding that matter, but I am under the impression, justified by my knowledge of the situation through other than official sources, and I believe I am warranted in saying that the action of the German Government in announcing that aliens will not be permitted to leave their domain at this time is believed to be intended to cover only the period of the mobilization of the army, the purpose evidently being to prevent the disclosure of information that might be of benefit to other nations with whom Germany is at war. After the mobilization has been completed the probabilities are that aliens in Germany will have no particular difficulty other than those which arise from the fact that there is a state of war in leaving to return to their own countries.

Mr. KINKEAD of New Jersey. Mr. Speaker, will the gentleman yield for a moment?

Mr. FITZGERALD. I yield to the gentleman from New Jersey.

Mr. KINKEAD of New Jersey. Mr. Speaker, in this connection it may be of interest to the Members of the House who, like myself, have received telegrams from some of their constituents respecting absent relatives abroad, to say that the Secretary of State before the committee this morning stated that while he was generally successful in locating Americans, the State Department had little difficulty in reaching people who live at some distance from the consulates of the United States in the affected portions of Europe. He stated further that he was prepared to say that he expected to be able to locate all of the Americans who are near enough to communicate with our representatives in the war-stricken sections of Europe. I desire to emphasize Secretary Bryan's statement in order to allay the fears of Americans whose relatives and friends happen to be located in any country now unhappily engaged in war.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. MOORE. Mr. Speaker, pertaining to the statement of the gentleman from New Jersey [Mr. KINKEAD], can the gentleman from New York indicate to what extent the State Department will cooperate in sending cablegrams which a great many citizens here have found that they can not have delivered upon the other side in the regular way?

Mr. FITZGERALD. Mr. Speaker, I am informed that the State Department is doing everything possible to cooperate with people in this country in locating their friends in Europe and is using all of the resources at its command to do so.

I was about to call attention to the fact that the verbiage of the pending resolution differs somewhat from that of the one adopted the other day, in order to broaden out the authority of the President in the expenditure of this money to cover every conceivable expense that might possibly be incurred in connection with these matters.

Mr. MOORE. Mr. Speaker, will the gentleman permit me to say that having a number of inquiries along this line, and having been to the State Department this morning, I found that the State Department was willing where advance payments were made to forward cablegrams through our representatives abroad, and thus relieve the anxiety of individuals who are trying to send cablegrams in the regular way and can not do so. I want to say that the State Department has indicated that it was willing to send cablegrams where individuals could not get a satisfactory response, an advance being made to the department.

Mr. CALDER. Will the gentleman yield?

Mr. FITZGERALD. I will.

Mr. CALDER. I will say to my colleague I was out of the Chamber for a moment, and I want to know if he brought to the attention of the House whether the State Department or the Treasury Department had arranged for the deposit of funds by citizens in any part of the country.

Mr. FITZGERALD. I had already stated so, and that as rapidly as the funds are deposited and information given the department will endeavor to reach the persons to be aided.

Mr. CALDER. Where can the people deposit these funds?

Mr. FITZGERALD. At the State Department; they can be wired to the Secretary of State.

Mr. MOORE. Will the gentleman permit me again? The disbursing clerk of the Consular Bureau is accepting such money now. There were many anxious people at the department whose money was being received to-day.

Mr. BURKE of South Dakota. Mr. Speaker, will the gentleman from New York yield for one moment?

Mr. FITZGERALD. Yes.

Mr. BURKE of South Dakota. I wish to state for the information of the House, and I think it ought to be stated in connection with the notice that has been given by the gentleman from Kentucky, that the State Department does not close now at the usual hour in the afternoon, but it is open at night. I had occasion to call there last evening at 8 o'clock and I found the department open and receiving money and attending to business the same as it does during usual business hours

Mr. FITZGERALD. Perhaps it ought to be stated that the three departments which will probably be most intimately connected with the work—the State Department, the War Department, and the Navy Department—will have some one present on duty at all hours, day and night.

The position of the President, perhaps, is best explained in a letter written by him under date of August 3, 1914. It is desirable that our own people and the rest of the world should know that the Congress is acting as one man in supporting the President in the present difficult situation. It has done so to the present; I am confident it will do so to the end. The letter, which I shall insert in the RECORD, may aid in making the situation clearer:

THE WHITE HOUSE,
Washington, August 3, 1914.

Hon. JOHN J. FITZGERALD,
House of Representatives.

MY DEAR MR. FITZGERALD: We are receiving so many messages showing the extreme distress of Americans in Europe and the immediate necessity of doing something for their assistance and relief that I am going to take the liberty of sending a message to Congress proposing some such action as would be embodied in a joint resolution of the following tenor:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That for the relief, protection, and transportation of American citizens, for personal services, and for other expenses which may be incurred in connection with or growing out of the existing political disturbances in Europe, there is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $250,000, to be expended at the discretion of the President."

I have every confidence that we could manage this in such a way that the whole sum, or practically all of it, would eventually be paid back by the persons concerned, but it seems to me imperatively necessary that the Government should for the time being have funds at its command for these uses.

I sincerely hope I am acting in a way in this matter which you approve.

Cordially and sincerely, yours,

WOODROW WILSON.

Mr. MANN. Mr. Speaker, before the resolution came up I was rather in hopes that it might pass without a word of discussion in order to show the unanimous feeling of the people, yet I can see that the discussion which has taken place so far was valuable, because it furnished information to Members of

the House and to the country. I think there ought to be no hesitation about appropriating such sums as the administration may desire for use in connection with our fellow citizens, brothers, and sisters abroad. [Applause.] And I hope that the administration will not be too careful or too cautious about the expenditure of the money, because even if they make mistakes and spend more money than is afterwards ascertained was necessary in particular cases the country will not criticize such action. [Applause.] In times like these this side of the House, all of the Republicans in the House, and I believe all of the Progressives in the House, will join in the appropriation of any sum which may be necessary in order that the administration may give such aid and protection and help as is possible to any American citizen. [Applause.]

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. FITZGERALD, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that I may print as part of my remarks the letter addressed to me by the President in connection with this matter.

The SPEAKER. Is there objection to the request of the gentleman from New York? [After a pause.] The Chair hears none.

PARCEL POST.

The SPEAKER. For what purpose did the gentleman from Colorado rise about 30 minutes ago?

Mr. KINDEL. To get unanimous consent to address the House for one hour on the question of the parcel post.

The SPEAKER. The gentleman from Colorado asks unanimous consent to address the House for one hour.

Mr. HAMILL. On what subject?

Mr. KINDEL. On the subject of parcel post.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. KINDEL. Mr. Speaker, I had first intended to address the House on a question of personal privilege, to answer my colleague [Mr. KEATING], who saw fit, in a way, to reiterate what he had said before. I am glad that the House has seen fit to grant me an hour to bring out the question of the parcel post, and that I am spared the criticism I should have to make of Mr. KEATING'S conduct toward me. The question of parcel post, gentlemen, is a matter of evolution, and you will wonder why I, a manufacturer, have made it a business to become a student of this all-important question—transportation. It is because I was obliged to do so. I have here several maps, on which I shall point out many inconsistencies that have prevailed and that are still prevailing, and how the parcel post of to-day came about. In 1891 I was a manufacturer of a comforter finding ready sale, but the transportation question entered therein, so that I was obliged to pay from Denver to California points $3 per hundredweight, while at the same time they brought like goods from New York via Denver to San Francisco for only $1. That was the start of my trouble with freight rates, and it has finally landed me here in Congress, and perhaps next I will go to the poorhouse, if I keep on.

Mr. MURDOCK. That is usually reached by Congressmen.

Mr. KINDEL. Now, of course, in the hour that is allowed me I can only hit the high points of this all-important question. I want to call attention to this fact, and I doubt if there are any gentlemen in the House who knew that there had been any arbitrary and imaginary line, designated transcontinental line, from Duluth, Minn., to Sabine Pass, Tex., in effect, and under which all the territory east of that line was permitted to ship comforters and other goods through to California for $1, while all the people west of that line were made to pay $3.

I brought suit with the Interstate Commerce Commission, and, of course, I won. It cost me several years of time and many thousands of dollars to win, but I won. That same unjust discrimination has fallen to the lot of others in our section. We had a cotton mill, a paper mill, and numerous other manufactories that had to give up, dismantle, and go elsewhere because of that great question of unjust transportation rates. This arbitrary line from Duluth, Minn., to Sabine Pass, Tex., is what I attacked in 1898 and succeeded in wiping out. It is no more at Duluth and Sabine Pass, but there is still an imaginary line at the Mississippi River to-day, so that you can ship from New York to Chicago or St. Louis, store the goods there, and in one month or one year thereafter you can reship to any points west of the one hundred and fifth meridian without any extra cost, the sum of the locals being the same as the through rate; but if you do that in my State or my city of Denver, we are made to pay 87 cents penalty per 100 pounds on first-class for reshipping it. I told the President recently that this discriminative line would have to be wiped out or there would be a revolution, and it would not be at the Mason & Dixon line, either.

What we want is equality. We propose to have a 2-cent postage stamp the same as everybody else, and not pay 4 cents when the rest of the world pays 2. In effect, however, the 2-cent postage stamp and the import duty and everything else, except the transportation rate, are satisfactory, while the express and parcel-post rates are like the freight rates—out of tune with rates in other sections by from 100 to 300 per cent.

Now, this territory in red [indicating] is called the "official classification," and by the express companies "territory 1." I will demonstrate that on the next map. You see, it is outlined here in red. That territory is given an express rate of 10 cents, the unit, while immediately across this imaginary line near St. Louis it is 19 cents the unit.

I challenge any interstate-commerce commissioner or anybody on our Interstate Commerce Committee or on the Committee on the Post Office and Post Roads, if you please, to defend that sort of discrimination. When you get to Denver it is 23 cents the unit as against 10 cents east of Chicago and St. Louis. How can you expect us to develop with the rest of the world with such a handicap? I want to state right here that the greatest statesmen of the world have ever been devoted to the expansion of commerce and cheap transportation.

Mr. BAILEY. Will the gentleman yield?

Mr. KINDEL. Yes.

Mr. BAILEY. I do not understand exactly what the gentleman means by the unit.

Mr. KINDEL. The unit is 50 miles—10 cents to carry 100 pounds over it, but from Denver westward we pay 23 cents.

Mr. BAILEY. For 50 miles?

Mr. KINDEL. Yes, sir. The moment you get past St. Louis, the favored point, it is raised from 10 cents to 19 cents per unit.

Mr. STAFFORD. Will the gentleman yield?

Mr. KINDEL. Yes.

Mr. STAFFORD. I assume the gentleman is stating the unit for the basis of the express rate and not the freight rate?

Mr. KINDEL. I am talking about the express rate now. I have shown you on the previous map how this section here, designated the official territory, is territory No. 1 by the express company, which give its patrons in said section the same relative advantage that prevails on freight shipments.

Mr. STAFFORD. Does the gentleman intend to give the view of the Interstate Commerce Commission as to the reason for that differentiation?

Mr. KINDEL. No. I do not know any reason.

Mr. STAFFORD. If the gentleman will permit, the reason as given to me by representatives of the Interstate Commerce Commission is that the density of traffic is so much greater in the first section that the express company can correspondingly carry at a less rate than in the districts where the traffic is less.

Mr. KINDEL. Yes. I agree with that, too; but it does not amount to 100 per cent or 200 per cent higher. To illustrate, I have indicated by circles here, Portland, Me.; Chicago; Cheyenne; and Sacramento. [See chart on next page.]

The express rate per hundred from Portland, Me., to Chicago is $2.65, while from Cheyenne to Sacramento, this being exactly the same mileage, it is $6.15, a difference of $3.50, or 133 per cent higher. You will notice in the express rate there is a gradual rise until you strike our section, the one hundred and fifth meridian, but the discrimination is lessened between the line dividing California and Nevada. [Indicating.] And here in northwestern Texas the Interstate Commerce Commission cut out that little jag. Why? For no other reason or purpose than that El Paso, Tex., is located here, and they would not stand for it. They knew they had a first-class railroad commission in Texas, and they cut it out deliberately to give El Paso a better rate. So it is not what the traffic will bear, but rather what the chumps will stand. [Laughter.] That is what we are getting out in the one hundred and fifth meridian section.

These circular lines indicate the parcel-post zones. I will before I get through demonstrate to you that the parcel post is based on the express rates as found west of the one hundred and fifth meridian, and not, as it ought to be, on central or eastern territory.

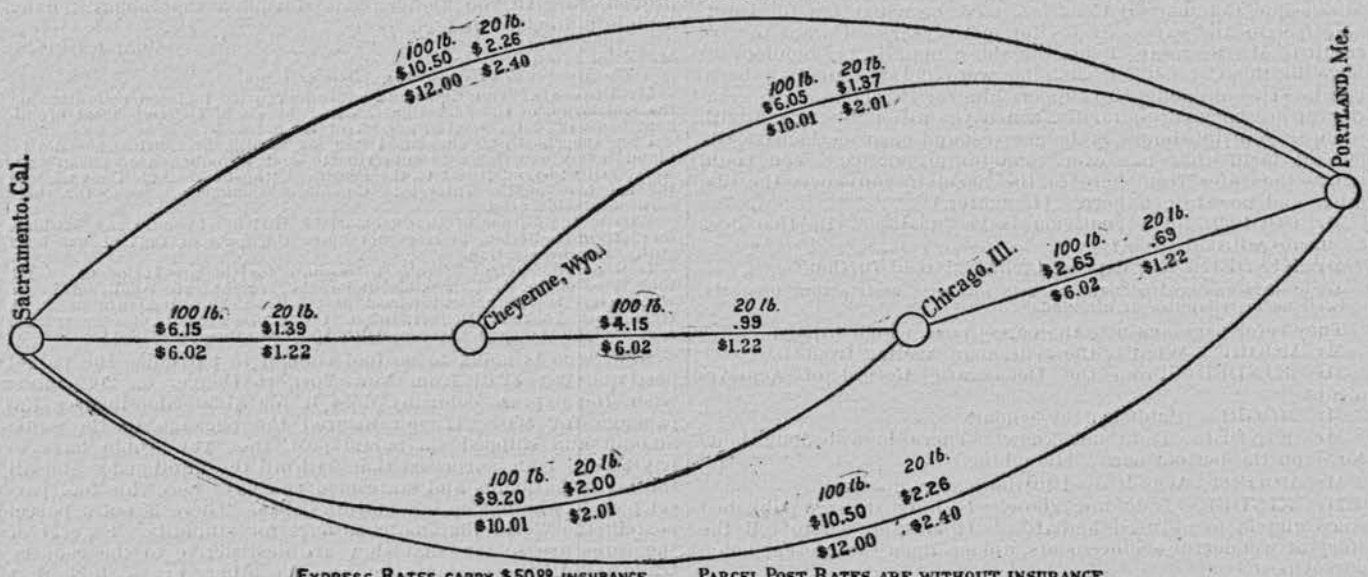
Mr. GOOD. What is the rate from New York to San Francisco by express?

Mr. KINDEL. It is $10.40. This is a map showing freight rates. [Indicating.] I want to show to you gentlemen these illustrations, because, as our minister once said in Denver, the Rev. Myron Reed, "An arc light is conducive to good morals." It is the exposure of these wrongs that has brought about many reforms. I have been a thorn in their side for a

good many years. But when I came here with the Democrats and tried to help, they would not let me get in so that I could help them. These rates are not true to-day. They have been changed since, from New York to San Francisco, from $3 to $3.70 per hundredweight, first class. It was $3 from New York to San Francisco, but if you stop freight from New York at Denver it was and is $2.48; and if you stop at Grand Junction, in the western part of our State, which my colleague, [Mr. TAYLOR] represents, it is $3.88. Tell me why it should cost 88 cents more to drop it off at Grand Junction than to carry it through to San Francisco. I say that Colorado is the apex of transportation rates. We use that word "apex" because we are at the highest point. Colorado is the highest point in discriminative freight rates. At Trinidad, in Mr. KEATING'S district, they are paying 96 cents more than they do to Omaha from New York via Galveston, though Omaha is several hundred miles longer haul.

When they ride east in a coach they pay $2 plus, a penalty for getting on a passenger train and riding east, and yet they would accuse me of being a hired man of an express company.

KINDEL'S EXHIBIT OF
PARCEL POST AND EXPRESS RATES
PASSED ON AND APPROVED BY INTERSTATE COMMERCE COMMISSION
100 AND 20 lb. EXPRESS RATES
100 and 20 lb. PARCEL POST RATES



EXPRESS RATES CARRY $50.00 INSURANCE
ALL EATABLES EXCEPT CANDY TAKE 25% LOWER RATE THAN MERCHANDISE.

PARCEL POST RATES ARE WITHOUT INSURANCE
EATABLES ARE NOT ALLOWED LOWER RATES
WEIGHT OF PACKAGE INCREASED TO 50 LBS. IN THE FIRST AND SECOND ZONES BUT SIZE OF PACKAGE STILL REMAINS 72 INS., THE SIZE OF A GENTLEMAN'S MEDIUM SIZED HAT BOX

HOW LONG WILL THE AMERICAN PEOPLE BE FOOLED BY THE PRESENT PARCEL POST "GOLD BRICK"?
HAS ANYBODY HEARD PROTESTS FROM EXPRESS CO'S. AND MAIL ORDER HOUSES?

Express rates appear above the line, parcel post below the line.

If they can not get a better champion than Mr. KEATING to help me right these wrongs they deserve no better than they are getting. [Applause.]

Now, these charts were prepared for the purpose of reducing them in order to get slides so that I can have lantern-slide talks with the people of Colorado; and I also intended to go to Kansas in the interest of Senator BRISTOW, but will be denied this pleasure because the Senator was defeated for the nomination yesterday. I want to say of Senator BRISTOW that he and Senator BRYAN, of Florida, are the two best posted men on the question of parcel post in either House. I have not seen the like of them anywhere in discussing this subject.

You may think that the parcel post is an insignificant thing, yet if you stop to think of it you will realize that the 2-cent stamp has given you the biggest business on earth—the $300,000,000 United States post office. It was supposed the parcel post was established for the purpose of making living cheaper, but I defy anyone to show me where you can ship 5 pounds and insure it for $50 beyond a 150-mile circle in competition with express east of the Rocky Mountains.

As to Mr. LEWIS, who is the alleged authority on parcel post, I have great sympathy for his misguided efforts. He has done much to bring this question before the public, but he has been shooting over your heads. There is not a graduate or comparative rate that you can check up in Mr. LEWIS's exposition of parcel post. If any one of you has attempted to check it up, you will have noticed how he makes up his tariff on half a cent a hundred miles and stops at 10 zones. And why? Because his rates were going up like a rocket and coming down like a stick. [Laughter.] At those rates he can not get the business without committing petty larceny on an unsophisticated public.

Now, I have talked with many people, with the President and with the members of the Interstate Commerce Commission, and with anyone who has shown a disposition to discuss the matter, and asked them to show me where I am wrong. I want to retire from this job of trying to educate people concerning a matter that seems so plain to me and which is apparently not of sufficient interest for others to take up. I may perhaps lack elegance in presenting the facts in this desultory fashion, but what I say will all go into the RECORD, and I hope people will read it and think it over.

The one thing that made me a Congressman is not that I am an avowed politician; I do not care for that. I voted for Teddy Roosevelt when he promised to strengthen the interstate-commerce act. I have been a Populist because of the railroad plank in their platform. I have been a Democrat, and would be glad to fight with the Democrats, but they turned it down at every turn and put a man like Mr. Burleson at the head of the Post Office Department, a man who does not know A from B when it comes to rate making, and admits it, and he rejects advice. What is the good of it? [Laughter and applause.] The one thing that brought me 5,000 more votes than anybody else received in my district was this plank in the State Democratic platform:

KINDEL'S PLANK IN DEMOCRATIC PLATFORM.

We favor the opening of the Galveston gateway and equalizing of freight, passenger, express, and Pullman rates, and that all rates be made "between" instead of "to and from" in order to facilitate the development of our inexhaustible resources and to materially reduce the high cost of living.

That is what got me 5,000 more votes than the President, the governor, and other State officers received running on the same ticket with me. It was not on account of my good looks, or my talk, or anything else that I may be possessed of. [Laughter.] The one particular paragraph that riled me in this recently distributed little brochure that I hold in my hand—Mr. Wilson's photograph on the front page, entitled "Record of Achievement"—is the sixteenth paragraph, which says:

The development of the parcel-post system to a high state of perfection, which has resulted in the reduction of rates and the extension of the limit and size of packages.

The package is still 72 inches, but the weight has been increased from 11 pounds to 50 pounds in the second zone, and 20 pounds all over the United States. It proceeds:

So that the life of the city man as well as the farmer has been made easier and cheaper. Another result has been that the express companies have reduced rates all along the line.

That was done before you had a parcel post. We, the Trans-Mississippi Commercial Congress, have been fighting for equitable freight and express rates for many years. I want to give credit to Mr. Secretary Lane, the ablest man, in my opinion, we have in the Cabinet. I wish he were not a Canadian born, because I would delight to support him for President. His creation of present express tariffs, which you all ought to read with profit in your idle hours, is the greatest and most mathematically perfect tariff that has ever come to my notice. You could figure the rates from here to the moon if you knew the distance and how to get there. [Laughter.]

Mr. COOPER. The gentleman says "tariffs." By that does he mean railroad rates?

Mr. KINDEL. No; express tariffs. I read further:

All of this has created new markets for farm and factory products, as well as merchandise of all kinds

They refer back again to the parcel post, which I deny.

Mr. MOORE. What is the gentleman reading from?

Mr. KINDEL. From the Democratic Record of Achievements.

Mr. MOORE. Published by whom?

Mr. KINDEL. I do not know. There is a bedbug label No. 7 on the bottom here. [Laughter.]

Mr. MOORE. Was it used in the last campaign?

Mr. KINDEL. I do not know. I think it was published since and is to be used hereafter. It is supposed to tell the story of wonderful achievements, among them the present botch parcel post.

Mr. GOOD. The gentleman thinks it is not to be relied upon?

Mr. KINDEL. Decidedly not; at least that paragraph relating to the benefits of our present parcel post.

One of the surprising things that I encountered recently was a letter, accompanied by a resolution, from the Denver Clearing House Association, of Denver, Colo., in which they say:

DENVER CLEARING HOUSE ASSOCIATION,
Denver, Colo., June 2, 1914.

Hon. GEORGE J. KINDEL,
House of Representatives, Washington, D. C.

DEAR SIR: The inclosed resolution, passed by the Denver Clearing House Association, speaks for itself, and we trust that it may appeal to you. The members of the association feel that the matter referred to is entitled to the most earnest consideration of those to whom the memorial is addressed. Copies of the resolution have been sent to the President of the United States, the Postmaster General, the members of the Interstate Commerce Commission, and the Senators and Representatives from the State of Colorado.

Respectfully, yours, E. S. IRISH, *Secretary.*

Whereas the Postmaster General is empowered by law, at his discretion, to determine the weight limit of parcels which may be transmitted by mail, to make regulations thereto, and to fix and change the rates therefor; and

Whereas the parcel post, although useful and desirable within its present limits, is, by reason of numerous limitations, unfitted effectively to meet all the demands of commerce for quick transportation; and

Whereas the express service fully provides for these needs in a highly efficient manner and at rates fairly proportioned to the cost of rendering the service; and

Whereas the extension of the parcel-post weight limit to 100 pounds would, as we believe, so deplete the volume of traffic available to the express companies as to make their operation profitless and force their retirement; and

Whereas it is the opinion of the Retail Association of the Denver Chamber of Commerce and of numerous other commercial organizations that the destruction of the express service would be a step backward and highly detrimental to the business interests of the country: Therefore be it

Resolved, That in the opinion of the Denver Clearing House Association no social or economic benefit will result by substituting the parcel post for the express service beyond the limits now established, but that, on the contrary, serious harm to the country's traffic facilities will ensue with a probable loss resulting from the parcel-post operation to be borne by the Public Treasury; and be it further

Resolved, That the influence of the Denver Clearing House Association be exerted to oppose any further extension of the parcel post at the present time, and that the reasons for such opposition be stated in full by a proper memorial addressed to the Postmaster General of the United States, to the Interstate Commerce Commission, and to the representatives of Colorado in both House of Congress at Washington.

FIRST NATIONAL BANK.
COLORADO NATIONAL BANK.
DENVER NATIONAL BANK.
UNITED STATES NATIONAL BANK.
HAMILTON NATIONAL BANK.
FEDERAL NATIONAL BANK.

They want me to desist from my attempts to improve and expand the parcel post. My aim and theory is to increase the parcel post to at least 50 pounds and to make the rates competitive with express rates, and not what they are to-day, from 100 to 200 per cent higher. [Applause.] I contend that the Government to-day is guilty of petty larceny every time it takes a package from anybody and charges him more than he would be charged next door by the express company [Applause.]

Now I will show you some data that I have here. I think it would be well to read my letter in answer to the bankers' protest, to give you an idea how I routed that opposition by a plain statement of facts:

JUNE 6, 1914.

Mr. E. S. IRISH,
The Denver Clearing House, Denver, Colo.

MY DEAR SIR: Your letter dated June 2, with inclosed resolution on the restriction of the parcel post, signed by six of Denver's most prominent bankers, duly received and carefully noted.

I am surprised and chagrined that six intelligent gentlemen could be found in my own town to subscribe to such a foolish proposition and, worse still, to send it out to the President, the Postmaster General, and the members of the Interstate Commerce Commission, etc., for their earnest consideration.

Who is the author of that memorial? Briefly, I would say, without fear of contradiction, he does not know the facts or that he has been guilty of prevarication.

Is it not the height of folly to resolute for the prevention of an act that is so obviously impossible under the present rate conditions? Of what avail is the present parcel post with a 20-pound rate of $2.01 from New York to Denver, when the express companies carry the same weight the same distance with $50 insurance for $1.30?

Now, who is going to be fool enough to patronize the parcel post and pay $2.01 from New York to Denver on 20 pounds when the express company does it for $1.30, and insures the package for $50? If you insured the package to the same amount and shipped via parcel post, then you would have to pay $2.11. I am surprised that with all the intelligence and all the mathematicians and statesmen you have here this fool parcel post has gotten on our statute books. There is not a parcel post in the world that matches ours for stupidity. Several of the rates are so low that they are destructive to the country trade within the second zone, and the others are so high that they are prohibitory. Nobody but the express companies and mail-order houses can use the present parcel post to advantage.

The rates and rules governing our parcel post are absolutely foolish and idiotic.

I read further:

What would be the object in raising the weight limit to 100 pounds, which would make the parcel-post rate $10.01 New York to Denver as against the express rate of $5.70 under existing rates? Would any sane man ship by parcel post under such conditions, and do you think that the express companies would be forced into retirement? I hardly think so. I would ask also if any of the signers of the memorial can reconcile the comparative eastern and western rates of the express companies whom they seem to defend and who charge us 23 cents per unit as against the price charged the people of the East, which is 10 cents per unit?

As for the service of the express companies, are you aware of the fact that 20,000,000 or more of people in these United States are being served by the parcel post who can not be served by the express companies? Is it not then the duty of every patriotic American citizen to use his influence to have our parcel-post rates fixed on a saner basis and the weight extended to a 100 or 110 pound limit as the Europeans have it rather than to waste good ink and paper on resolutions to restrict the people's carrier to its present wholly inadequate limits?

I inclose marked copies of my speech on express and parcel-post rates for your further information.

Yours, very truly, GEO. J. KINDEL.

These busy and well-meaning men of my city do not know, that is all. Some express company representative has gone to them and said, "We want this resolution," and these men foolishly, as many do, have signed it and forwarded it to me; but fortunately for the masses of the people it did not find a warm reception with me.

Our Government is paying more to the railroads for hauling than the express companies charge, including pickup and delivery. I have been expecting the gentleman from Tennessee [Mr. MOON] and his committee to devise some rule of pay for the railroads that would have some effect and cheapen our parcel post, but they tell me the newly proposed rates will not have any effect at all on the parcel post; that it is simply a matter of improving mail and not of parcel post.

The figures that I enumerate here are figures given by the authorities, by the people in power. These are published by the Post Office and by the express companies.

On following page is Table No. 2 of 5, 10, 20, 50, and 100 pound rates. I have presumed to increase the weights up to 100 pounds.

Table No. 2.

	From New York to—								
	Newark, N. J.	Philadelphia, Pa.	Boston, Mass.	Pittsburgh, Pa.	Grand Rapids, Mich.	Des Moines, Iowa.	Denver, Colo.	Salt Lake City, Utah.	San Francisco, Cal.
	Zones.								
	1	2	3	4	5	6	7	8	8
5 pounds.									
Parcel post	$0.09	$0.09	$0.14	$0.23	$0.32	$0.41	$0.51	$0.60	$0.60
Post-office railroad cost	.425	.675	.105	.18	.28	.28	.48	.58	.73
Express rates	.23	.23	.24	.26	.30	.35	.47	.58	.71
Kindel proposed rate	.13	.15	.18	.23	.27	.29	.38	.47	.57
10 pounds.									
Parcel post	.14	.14	.24	.43	.62	.81	1.01	1.20	1.20
Post-office railroad cost	.055	.105	.18	.33	.53	.73	.93	1.13	1.46
Express rates	.25	.27	.28	.33	.41	.51	.75	.95	1.22
Kindel proposed rate	.18	.20	.25	.30	.36	.43	.56	.76	.97
15 pounds.									
Parcel post	.24	.24	.44	.83	1.22	1.61	2.01	2.40	2.40
Post-office railroad cost	.08	.18	.33	.63	1.03	1.43	1.83	2.23	2.86
Express rates	.31	.34	.36	.46	.62	.82	1.30	1.71	2.24
Kindel proposed rate	.25	.30	.35	.42	.54	.69	1.05	1.35	1.76
20 pounds.									
Parcel post	.54	.54	1.04	2.03	3.02	4.01	5.01	6.00	6.00
Post-office railroad cost	.16	.35	.75	1.53	2.53	3.53	4.53	5.53	7.03
Express rates	.47	.65	.60	.85	1.35	1.85	2.95	3.98	5.30
Kindel proposed rate	.50	.63	.70	.79	1.16	1.54	2.36	3.14	4.13
100 pounds.									
Parcel post	1.04	1.04	2.04	4.03	6.02	8.01	10.01	12.00	12.00
Post-office railroad cost	.38	.78	1.53	3.03	5.03	7.03	9.03	11.03	14.16
Express rates	.75	1.10	1.00	1.50	2.30	3.30	5.70	7.75	10.40
Kindel proposed rate	.75	1.00	1.05	1.42	2.03	2.77	4.57	5.59	8.10

The cost of transporting a 20-pound parcel-post package from New York to Newark, N. J., is 24 cents. The parcel post has an advantage there. For distances 50 miles and 150 miles the parcel post beats the express company; but here in this table, No. 2, is shown what the Government pays the railroads for hauling. In the zone from New York to Boston the parcel-post rate on 20 pounds is 44 cents. The Post Office officials say they pay the railroads 33 cents; but the express company picks up the package, insures it for $50, and delivers it at the other end, and does it all for 36 cents. Is it not petty larceny to accept 44 cents for the service, when a man can go next door and get it done for 36 cents? And as you go down the line it gets more violent.

Mr. SMITH of Minnesota. It gets to be grand larceny as you go down the line?

Mr. KINDEL. Yes.

In the Saturday Evening Post of January 31, 1914, appeared an advertisement of the express company, showing new and old express rates. Instead of reproducing the old express rates I have substituted the parcel-post rates for comparison and the enlightenment of the public, which is being fluked by both the express company and the United States post office.

The new express and parcel-post rates, effective February 1, 1914, were both in conformity with the Interstate Commerce Commission. When was or is the Interstate Commerce Commission right? When they ordered in the present express rates or when they sanctioned and approved of present parcel-post rates?

The following tables are illustrative of some of the differences between the express and parcel-post rates as now in effect.

Table No. 3.

	5 pounds.		10 pounds.		20 pounds.	
	Express.	Parcel post.	Express.	Parcel post.	Express.	Parcel post.
Between New York and—						
Chicago	$0.31	*$0.32*	$0.42	*$0.62*	$0.64	*$1.22*
St. Louis	.32	*.32*	.44	*.62*	.68	*1.22*
New Orleans	.41	*.41*	.63	*.81*	1.06	*1.61*
Dallas	.45	*.41*	.70	*.81*	1.20	*1.61*
Denver	.47	*.51*	.75	*1.01*	1.30	*2.01*
San Francisco	.71	*.60*	1.22	*1.20*	2.24	*2.40*
Between Philadelphia and—						
Portland, Me	.27	*.23*	.34	*.43*	.48	*.83*
Buffalo	.27	*.14*	.34	*.24*	.48	*.44*
Cincinnati	.29	*.23*	.38	*.43*	.56	*.83*

Table No. 3—Continued.

	5 pounds.		10 pounds.		20 pounds.	
	Express.	Parcel post.	Express.	Parcel post.	Express.	Parcel post.
Between Philadelphia and—						
Milwaukee	$0.31	*$0.32*	$0.43	*$0.62*	$0.66	*$1.22*
Mobile	.38	*.32*	.55	*.62*	.91	*1.22*
Seattle	.67	*.60*	1.14	*1.20*	2.09	*2.40*
Between Atlanta and—						
Jacksonville	.28	*.14*	.35	*.24*	.51	*.44*
Memphis	.30	*.13*	.40	*.43*	.60	*.83*
Cincinnati	.31	*.23*	.41	*.43*	.63	*.83*
Richmond	.31	*.23*	.43	*.43*	.66	*.83*
Baltimore	.33	*.23*	.46	*.43*	.72	*.83*
New York	.34	*.32*	.48	*.62*	.77	*1.22*
Between St. Louis and—						
Birmingham	.30	*.23*	.39	*.43*	.59	*.83*
Detroit	.28	*.23*	.36	*.43*	.52	*.83*
St. Paul	.30	*.23*	.41	*.43*	.62	*.83*
Philadelphia	.32	*.32*	.43	*.62*	.67	*1.22*
San Antonio	.40	*.32*	.59	*.62*	.99	*1.22*
Los Angeles	.62	*.51*	1.05	*1.01*	1.90	*2.01*
Between Chicago and—						
Boston	.31	*.32*	.43	*.62*	.65	*1.22*
Oklahoma City	.36	*.32*	.52	*.62*	.85	*1.22*
Jacksonville	.36	*.32*	.52	*.62*	.85	*1.22*
Galveston	.39	*.32*	.59	*.62*	.98	*1.22*
Salt Lake City	.52	*.41*	.84	*.81*	1.48	*1.61*
Portland, Oreg	.63	*.51*	1.06	*1.01*	1.93	*2.01*
Between San Francisco and—						
Houston	.63	*.51*	1.06	*1.01*	1.93	*2.01*
Minneapolis	.63	*.51*	1.07	*1.01*	1.94	*2.01*
Chicago	.65	*.60*	1.11	*1.20*	2.02	*2.40*
Cleveland	.67	*.60*	1.14	*1.20*	2.09	*2.40*
Washington	.70	*.60*	1.21	*1.20*	2.22	*2.40*
Boston	.71	*.60*	1.23	*1.20*	2.26	*2.40*

Express rates on food products are 25 per cent less.
No reduction by parcel post on same.
Express rates carry $50 insurance.
Parcel post is 10 cents extra for $50 insurance.

Mr. Ripley, president of the Atchison, Topeka and Santa Fe Railway, in the Saturday Evening Post of July 18 last said:

> The treatment of the railroads in connection with the parcel post is a blot on democratic government, which can not be and is not justified by any honest student of the situation.

I challenge that statement, and in answer thereto publish the following comparative table of rates. The Kindel rates are based on express rates, and on paying the railroad companies 50 per cent higher for haulage than received by the railroads

from the express companies, and then adding the present alleged cost of pick-up and delivery by the post office.

Can and will Mr. Ripley explain why the rate charged to the post office on a hundred pounds from New York to Denver should be $9.03, when the railroads are performing this service for the express companies for $2.85?

Had Mr. Ripley stated the facts as they exist, he would have been obliged to admit that our entire transportation system—freight, express, and parcel post—is as erratic and inharmonious as a grandmother's crazy quilt.

In so far as the parcel-post rates to the second zone are concerned, I admit Mr. Ripley is correct, and beyond the second zone it is the public that is fleeced by the Post Office, while the Government in turn is made to pay a penalty for doing parcel-post business in the last zone. For proof of my statement I refer to table No. 2.

Mr. MOORE. Take your rate from New York to Boston; the parcel-post rate is 44 cents.

Mr. KINDEL. Yes; on 20 pounds.

Mr. MOORE. But the Government pays 33 cents for railroad carriage.

Mr. KINDEL. That is what they claim.

Mr. MOORE. That makes the Government cost 77 cents.

Mr. KINDEL. No; that is not the way of it. Forty-four cents is what the Government receives from the sender of the package, and the Government, according to the statement of the post-office people, pays the railroads 33 cents out of the 44 cents, leaving a difference of 11 cents to pay for handling and delivering.

Mr. MOORE. But the present rate from New York to Boston on a package of 20 pounds by express would be 36 cents, which is 8 cents less than the parcel-post rate.

Mr. KINDEL. Yes.

Mr. LOBECK. The difference between 44 cents and 33 cents is used in paying the employees who do the work, and so on.

Mr. KINDEL. Yes. They are trying to figure it out that way. They have had four men figuring on parcel post, and not one of them knows exactly what the railroad pay is.

Mr. MOORE. Does the Government employ more men to perform the service than the express companies employ?

Mr. KINDEL. I do not know.

Mr. MOORE. The proportion of pay to employees of the express companies would be less than by the Government.

Mr. KINDEL. I have a table showing statistics from the express companies that I have not got on the map here, whereby I take the express rates——

Mr. DONOVAN. Mr. Speaker, will the gentleman yield?

Mr. KINDEL. Yes.

Mr. DONOVAN. Will you tell us how you find what the railroads collect—where you get your figures as to what the Government pays the railroads?

Mr. KINDEL. That was furnished me by the Post Office Department.

Mr. DONOVAN. Is there any printed statement showing that?

Mr. KINDEL. Yes.

Mr. DONOVAN. In their regular report?

Mr. KINDEL. Yes; and contained in my speech of January 16.

Mr. DONOVAN. Then you mean to say that the railroads get a higher rate out of the Government for transporting the parcel-post matter than the express companies pay?

Mr. KINDEL. Yes.

Mr. MOORE. That would be true as to Pittsburgh, would it not?

Mr. KINDEL. On 100 pounds from New York to Denver the express companies haul it for $5.70. The parcel post charges $10.01, or would if that same table were carried out logically. They do not carry that weight. They carry the 20-pound packages only, or are supposed to, but the payment by the Government to the railroads is $9.03, while the express companies perform the whole service and insure for $50, and do it for $5.70. That is what I am complaining about. You can not convince any sane person about making the cost of living cheaper by the parcel post at present exorbitant rates. The two will not dovetail together. [Applause.]

Mr. MOORE. Will the gentleman permit one more question?

Mr. KINDEL. Yes.

Mr. MOORE. Take it from New York to Pittsburgh.

Mr. KINDEL. Yes.

Mr. MOORE. The payment by the Government to the railroad is 63 cents on a 20-pound package, for which the post office charges 83 cents.

Mr. KINDEL. Yes.

Mr. MOORE. And the express rate without regard to the railroad pay is 46 cents.

Mr. KINDEL. Yes.

Mr. MOORE. Therefore it would be cheaper to send from New York to Pittsburgh by express than by parcel post.

Mr. KINDEL. Yes; by half. In other words, the parcel-post rate in that instance, if insured to the same amount, would be more than 100 per cent higher than express. The relation would be then 93 cents parcel post and 46 cents express; and, again, if the parcel was composed of some eatable—prunes, milk, and so forth—the express rate would be cut automatically 25 per cent, thus making the express package cost 35 cents instead of the parcel-post rate of 83 cents.

Mr. DONOVAN. One more interruption.

Mr. KINDEL. Go ahead; but do not waste time.

Mr. DONOVAN. How can we expect the Government to give a lower rate when the railroads get so much out of the total? For instance, the Government pays the railroads $9.03. The express carries the same weight in the same package for $5.70. Is that right?

Mr. KINDEL. Yes.

Mr. DONOVAN. How could the Government carry it for any less?

Mr. KINDEL. I will show the gentleman. I will give you a better illustration, where the figures will square. The rate on 100 pounds from Baltimore or St. Paul to New Orleans is $4 express, and it is $6.02 and $8.01, respectively, by parcel post for the same package. Now, of that $4 the express companies pay approximately one-half to the railroad to carry it. If I were the Government I would say: "Mr. Railroad, in order that you shall not have any complaint and since you did not dare to attack the rates that were fixed for you by the Interstate Commerce Commission, and you knew you had no standing in court if you challenged the prescribed rates, instead of giving you $2 I will pay you 50 per cent more; I will pay you $3, and add the Burleson rate that he figures for the delivery of the package, namely, 30 cents." That would then produce a parcel-post rate of $3.30 instead of $6.02 and $8.01, respectively. I would make the railroads happy because I was paying them 50 per cent more than express companies are now paying them. Now, you can not get away from that. It is simple and plain and a primary-school lad can understand it. I like to talk to the high-school boys. They all understand it, because they are apt mathematicians, and I am sure the next generation will have a parcel post if this one does not. [Laughter and applause.]

Mr. MOORE. Will the gentleman yield again?

Mr. KINDEL. Yes.

Mr. MOORE. Why is it possible for the express companies to make that low rate while the Government seems to pay so much more for railroad service?

Mr. KINDEL. Because they were forced to by our Interstate Commerce Commission. It used to be $8.50 per hundredweight, New York to Denver, but I have reduced it in two efforts to $5.70 per hundredweight.

Mr. MOORE. That is a remarkable difference. Why is preference given to the express companies at the expense of the Government in railroad rates?

Mr. KINDEL. It is rank discrimination, of course. Now, here is a case of 100-pound rate. New York to Boston, where it is $1 by express and $2.04 by parcel post.

Mr. MOORE. Why is that?

Mr. KINDEL. That is what I want to know. It is said that we are all statesmen here, but I think this proves we are all false alarms. [Laughter.] It is the fault of the Interstate Commerce Commission, which was created by Congress. The commission says to the express companies, "You must put in that rate," and then it says to Mr. Burleson, our Postmaster General, "You can put in these rates." The rates could not be effective but for the Interstate Commerce Commission, as the law provides that all rates must be passed on by the commission, for which we pay $2,000,000 a year.

Mr. MOORE. If there is a special privilege to express companies it is not due to the law-making body but to the Interstate Commerce Commission.

Mr. KINDEL. Yes; directly and indirectly it is due, in a measure, to this law-making body, which is responsible for the Interstate Commerce Commission.

Mr. MOORE. What is the gentleman's answer?

Mr. KINDEL. Most assuredly, it is the fault of the law-making body that stands for this sort of a thing.

Mr. TAYLOR of Colorado. Will the gentleman yield?

Mr. KINDEL. Yes

Mr. TAYLOR of Colorado. Has the gentleman any information that he can give the House as to what amount the railroads pay the express companies when they charge the Government so much higher than they charge the express company. I mean, what do the express companies pay the railroad company?

Mr. KINDEL. Yes; that is well known; the express companies pay the railroad company, on the average, 50 per cent of the rate or total receipts.

Mr. FOWLER. Is it not 47½ per cent?

Mr. KINDEL. Yes; some 55 per cent, and some less than 50 per cent, but the average is about 50 per cent.

Mr. FOWLER. They retain 52½ per cent and pay the railroad company 47½ per cent.

Mr. TAYLOR of Colorado. Take the express rate, New York to Denver, on 50 pounds—$2.95. The railroad company gets one-half of that, and yet they charge the Government $4.53 for the same package and the same weight. Whose fault is that?

Mr. KINDEL. It is the fault of the Interstate Commerce Commission and of Congress, that stands for the Interstate Commerce Commission.

Mr. TAYLOR of Colorado. And the gentleman thinks that Congress ought to do something in relation to the orders of the Interstate Commerce Commission?

Mr. KINDEL. Yes; Congress ought to have a committee to investigate it and do what any business concern would do—discharge or impeach them for inefficiency or dereliction of duty.

Mr. DONOVAN. Mr. Speaker, the gentleman from Colorado shows by his map that the parcel-post rate on 100 pounds from New York to Denver would be $10.01, while the charge of the railroad for carrying is $9.03; thus the Government only gets 98 cents out of the transaction; that is in next to the last column. Of course you can not expect the Government to lose money, and the move should be to force the railroad to give the Government a proper rate.

Mr. KINDEL. I am not complaining about the rate so much as I am complaining that the Government should be a party to a scheme of taking money under a make-believe from the unsophisticated people.

Mr. DONOVAN. Let me make myself understood.

Mr. KINDEL. I think I understand the gentleman.

Mr. DONOVAN. You can not expect the Government to lose money. If the railroads collect $9.03, you can not expect the Government to transport that merchandise for less than $9.03. The trouble is with the railroads.

Mr. KINDEL. That sort of argument, in the face of the express company rate of $5.70, is so silly that I do not want to talk about it.

Mr. PLATT. Let me ask the gentleman, Does not the $9.03 include the transportation of all classes of mail?

Mr. KINDEL. Yes; it is the cost to the post office.

Mr. PLATT. It is not fourth-class matter, but it is also first and second class.

Mr. KINDEL. It is what they claim they pay the railroads, and it includes the parcel post.

Mr. PLATT. I think the gentleman will find that it covers all classes, and that is where the difference comes in.

Mr. HULINGS. Will the gentleman yield?

Mr. KINDEL. Certainly.

Mr. HULINGS. If I understand, these rates of the parcel post have been established so as to protect the express company business?

Mr. KINDEL. Apparently. The express companies do the long-haul business, and they unload the short-haul and unprofitable business on the post office. If the express companies had a champion on the floor of this House, he could not devise any better tariff than that in effect to-day. [Applause.] It is an insult to the intelligence of the House and the people generally. Some gentleman asked me what is the authority for present mail pay. I have a table here—No. 4—which I will put in the RECORD.

TABLE 4.—*Statement showing the postage at the proposed rates and the estimated cost of handling parcels (Nov. 20, 1913).*

[This table of parcel-post rates and cost of service to the Government was issued by the Post Office Department.]

Weight.	Zones.							
	1	2	3	4	5	6	7	8
	50 miles.	150 miles.	300 miles.	600 miles.	1,000 miles.	1,400 miles.	1,800 miles.	1,800 miles and over.
1 pound	$0.05	$0.05	$0.06	$0.07	$0.08	$0.09	$0.11	$0.12
	.0325	.0375	.045	.06	.08	.10	.12	.14
2 pounds	.06	.06	.08	.11	.14	.17	.21	.24
	.035	.045	.06	.09	.13	.17	.21	.25
3 pounds	.07	.07	.10	.15	.20	.25	.31	.36
	.0375	.0525	.075	.12	.18	.24	.30	.36
4 pounds	.08	.08	.12	.19	.26	.33	.41	.48
	.04	.06	.09	.15	.23	.31	.39	.47
5 pounds	.09	.09	.14	.23	.32	.41	.51	.60
	.0425	.0675	.105	.18	.28	.38	.48	.58
6 pounds	.10	.10	.16	.27	.38	.49	.61	.72
	.045	.075	.12	.21	.33	.45	.57	.69
7 pounds	.11	.11	.18	.31	.44	.57	.71	.84
	.0475	.0825	.135	.24	.38	.52	.66	.80
8 pounds	.12	.12	.20	.35	.50	.65	.81	.96
	.05	09	.15	.27	.43	.59	.75	.91
9 pounds	.13	.13	.22	.39	.56	.73	.91	1.08
	.0525	.0975	.165	.30	48	.66	.84	1.02
10 pounds	.14	.14	.24	.43	.62	.81	1.01	1.20
	.055	.105	.18	.33	.53	.73	.93	1.13
11 pounds	.15	.15	.26	.47	.68	.89	1.11	1.32
	.0575	.1125	.195	.36	.58	.80	1.02	1.24
12 pounds	.16	.16	.28	.51	.74	.97	1.21	1.44
	.06	.12	.21	.39	.63	.87	1.11	1.35
13 pounds	.17	.17	.30	.55	.80	1.05	1.31	1.56
	.0625	.1275	.225	.42	.68	.94	1.20	1.46
14 pounds	.18	.18	.32	.59	.86	1.13	1.41	1.68
	.065	.135	.24	.45	.73	1.01	1.29	1.57
15 pounds	.19	.19	.34	.63	.92	1.21	1.51	1.80
	.0675	.1425	.255	.48	.78	1.08	1.38	1.68
16 pounds	.20	.20	.36	.67	.98	1.29	1.61	1.92
	.07	.15	.27	.51	.83	1.15	1.47	1.79
17 pounds	.21	.21	.38	.71	1.04	1.37	1.71	2.04
	.0725	.1575	.285	.54	.88	1.22	1.56	1.90
18 pounds	.22	.22	.40	.75	1.10	1.45	1.81	2.16
	.075	.165	.30	.57	.93	1.29	1.65	2.01
19 pounds	.23	.23	.42	.79	1.16	1.53	1.91	2.28
	.0775	.1725	.315	.60	.98	1.36	1.74	2.12
20 pounds	.24	.24	.44	.83	1.22	1.61	2.01	2.40
	.08	.18	.33	.63	1.03	1.43	1.83	2.23
25 pounds	.29	.29						
	.0925	.2175						
30 pounds	.34	.34						
	.1050	.255						
35 pounds	.39	.39						
	.1175	.2925						
40 pounds	.44	.44						
	.13	.33						
45 pounds	.49	.49						
	.1425	.3675						
50 pounds	.54	.54						
	.155	.405						

The first amount in each of the above blocks indicates the proposed postage; the other the estimated cost.

The average haul is based on the radial distance of the zones, except the eighth, where it is fixed at 2,200 miles.

I published many of these facts in a previous speech. I know that you folks do not have time to look into and study these matters as they should be, for you have too many things to do. I specialized on this subject of transportation. I gave most of my time to checking up rates, which makes my speech full of meat and well worth the time and study of all students of transportation.

Mr. JOHNSON of Washington. What is the date of that speech?

Mr. KINDEL. January 16, 1914; and I had to insert it under leave to print, because I repeatedly was denied time on the floor of the House, and that is one reason why I am now an independent.

Now to proceed. Here on this table No. 5 I have a different proposition—rates east and west—and I have taken 10 points and compared them with each other:

Table No. 5.

[Parcel-post rates shown in first line (roman figures); express rates in second line (italic figures); Kindel proposed rates in third line (bold face figures).]

WEST
100 POUND RATE EXAMPLES

	1. Butte	2. Cheyenne	3. Denver	4. Los Angeles	5. Omaha	6. Portland, Oreg.	7. Salt Lake City	8. San Antonio	9. San Francisco	10. Seattle
1. Butte		$4.03 *4.65* **3.78**	$1.04 *1.40* **1.35**	$6.02 *6.50* **5.17**	$8.01 *8.00* **6.30**	$8.01 *8.05* **6.33**	$6.02 *4.55* **3.70**	$8.01 *6.80* **5.40**	$10.01 *8.35* **6.55**	$6.02 *4.15* **3.40**
2. Cheyenne	4.03 *4.65* **3.78**		4.03 *5.20* **4.20**	6.02 *6.40* **5.10**	4.03 *2.90* **2.40**	6.02 *6.80* **5.02**	4.03 *3.55* **2.95**	6.02 *5.00* **4.05**	6.02 *6.25* **4.98**	8.01 *6.55* **5.20**
3. Denver	4.03 *5.20* **4.20**	4.03 *5.20* **4.20**		4.03 *6.40* **5.10**	4.03 *4.30* **2.47**	4.03 *6.80* **5.40**	4.03 *4.30* **3.07**	8.01 *6.80* **3.78**	6.02 *6.75* **5.35**	8.01 *6.95* **5.55**
4. Los Angeles	6.02 *5.95* **4.74**	6.02 *6.40* **5.10**	4.03 *6.50* **5.17**		6.02 *4.30* **3.90**	10.01 *8.35* **6.55**	4.03 *3.70* **3.54**	4.03 *4.35* **5.40**	4.03 *2.60* **2.25**	10.01 *8.35* **6.55**
5. Omaha	6.02 *5.45* **4.38**	4.03 *2.80* **2.40**	4.03 *2.90* **2.47**	4.03 *4.30* **3.90**		6.02 *4.30* **6.33**	6.02 *4.55* **4.08**	10.01 *10.10* **7.87**	4.03 *3.70* **2.07**	10.01 *8.35* **6.55**
6. Portland, Oreg.	4.03 *3.80* **3.15**	6.02 *6.80* **5.02**	6.02 *6.80* **5.40**	6.02 *4.80* **3.90**	6.02 *8.05* **6.33**		6.02 *4.55* **3.70**	10.01 *10.10* **7.87**	4.03 *3.55* **2.07**	10.01 *8.35* **6.55**
7. Salt Lake City	4.03 *3.10* **2.62**	4.03 *3.55* **2.95**	4.03 *3.70* **3.07**	4.03 *4.30* **3.54**	6.02 *5.05* **4.08**	6.02 *4.55* **3.70**		8.01 *6.80* **5.40**	6.02 *6.55* **3.55**	8.01 *6.95* **6.55**
8. San Antonio	8.01 *8.85* **6.93**	6.02 *5.00* **4.05**	6.02 *4.65* **3.78**	8.01 *6.80* **5.40**	6.02 *4.30* **3.52**	10.01 *10.10* **7.87**	8.01 *6.80* **5.40**		10.01 *8.35* **6.55**	10.01 *8.35* **6.55**
9. San Francisco	6.02 *5.95* **4.75**	6.02 *6.25* **4.98**	6.02 *6.75* **5.35**	4.03 *2.60* **2.25**	10.01 *8.35* **6.55**	4.03 *3.70* **2.07**	4.03 *4.35* **3.55**	10.01 *8.35* **6.55**		10.01 *8.35* **6.55**
10. Seattle	4.03 *3.60* **3.00**	8.01 *6.55* **5.20**	8.01 *6.95* **5.55**	6.02 *6.40* **4.35**	8.01 *7.80* **6.15**	1.04 *1.40* **1.35**	6.02 *4.90* **3.97**	10.01 *10.40* **8.10**	$6.02 *4.15* **3.40**	

45 POINTS.

Parcel-post rate	$266.95
Express rate	*246.22*
Kindel and Burleson rate	**197.92**
Kindel zone rate	**189.35**

EAST
100 POUND RATE EXAMPLES

	1. Buffalo	2. Chicago	3. Cincinnati	4. Memphis	5. New Orleans	6. New York	7. Omaha	8. Portland, Me.	9. San Antonio	10. St. Paul
1. Buffalo		$4.03 *1.80* **1.65**	$2.04 *1.25* **1.23**	$4.03 *2.10* **1.87**	$4.03 *2.10* **1.87**	$4.03 *2.25* **1.98**	$8.01 *4.60* **2.50**	$8.01 *2.70* **3.07**	$8.01 *4.05* **3.33**	$12.00 *6.40* **5.10**
2. Chicago	4.03 *1.80* **1.65**		4.03 *1.70* **1.57**	6.02 *6.25* **2.38**	8.01 *5.85* **3.18**	2.04 *1.50* **1.42**	6.02 *3.10* **2.62**	4.03 *1.80* **1.65**	10.01 *5.60* **4.50**	6.02 *3.00* **2.55**
3. Cincinnati	4.03 *1.70* **1.57**	$2.04 *1.25* **1.23**		$4.03 *2.10* **1.87**	$4.03 *3.10* **2.65**	6.02 *2.40* **2.10**	4.03 *2.25* **1.98**	6.07 *2.65* **2.28**	8.01 *4.85* **3.93**	4.03 *2.05* **1.83**
4. Memphis	6.02 *6.25* **2.38**	4.03 *2.10* **1.87**	$4.03 *2.10* **1.87**		$6.02 *3.15* **2.65**	4.03 *2.15* **1.90**	4.03 *2.95* **2.50**	6.02 *3.75* **3.10**	4.03 *4.70* **3.82**	4.03 *2.45* **2.13**
5. New Orleans	8.01 *5.85* **3.18**	6.02 *3.10* **2.62**	6.02 *3.15* **2.65**	$4.03 *2.25* **1.98**		4.03 *2.25* **2.32**	4.03 *4.10* **2.50**	4.03 *4.90* **3.37**	4.03 *3.00* **3.52**	10.01 *8.00* **2.55**
6. New York	2.04 *1.50* **1.42**	6.02 *2.40* **2.10**	4.03 *2.15* **1.90**	6.02 *3.25* **3.67**	$8.01 *4.60* **2.50**		6.02 *4.10* **3.37**	10.01 *1.25* **3.97**	6.02 *4.05* **1.23**	6.02 *3.70* **3.30**
7. Omaha	6.02 *3.10* **2.62**	4.03 *2.25* **1.98**	4.03 *2.70* **2.32**	4.03 *2.95* **2.50**	6.02 *4.10* **3.37**	6.02 *4.10* **3.37**	$8.01 *2.70* **3.07**	4.03 *4.90* **3.37**	10.01 *6.00* **3.52**	6.02 *3.70* **3.07**
8. Portland, Me.	4.03 *1.80* **1.65**	6.07 *2.65* **2.28**	6.02 *2.65* **2.28**	8.01 *3.75* **3.10**	10.01 *4.90* **3.97**	2.04 *1.25* **1.23**	$8.01 *4.05* **3.33**		$12.00 *6.40* **5.10**	$8.01 *5.40* **4.35**
9. San Antonio	10.01 *5.60* **4.50**	8.01 *4.85* **3.93**	8.01 *4.70* **3.82**	4.03 *4.80* **3.52**	4.03 *3.00* **2.55**	10.01 *6.00* **4.80**	6.02 *4.30* **3.52**	$12.00 *6.40* **5.10**		
10. St. Paul	6.02 *3.00* **2.55**	4.03 *2.05* **1.83**	4.03 *2.45* **2.13**	6.02 *3.00* **2.55**	8.01 *4.00* **3.30**	6.02 *3.70* **3.07**	2.04 *1.80* **1.65**	8.01 *3.90* **3.22**	$8.01 *5.40* **4.35**	

45 POINTS.

Parcel-post rate	$264.97
Express rate	*145.05*
Kindel and Burleson rate	**120.15**
Kindel zone rate	**178.35**

Take the $6.02 rate from St. Paul to Buffalo. The express rate is $3, while the rate charged by the railroad to the Post Office Department is $4.90. If you do not think this is going to make some difference about sending Democrats here in the next election, then you will miss a guess, because I am going to make it a business to get out, advertise the facts, and show the people. I take this express rate and divide it to get the railroad cost, and then I add 50 per cent extra pay to the railroad. Then add Mr. Burleson's rate of pick-up and delivery and the rate foots up $2.55, instead of $3 express rate and $6.02 parcel-post rate. Mind you, I give Mr. Burleson all that he claims that he is entitled to and I pay the railroads 50 per cent more than the express companies are paying them, and yet I reduce that rate to $2.55, as against the present parcel-post rate of $6.02. Of course this is all supposing if I were in charge to do that, but the actual facts are that the rate is $3 for the express, as against $6.02 for the parcel post, and that is not all. If you wish to send something to eat or drink, except candy, the express company is good enough to help reduce the cost of living by giving you a reduction of 25 per cent.

Mr. HULINGS. Is that given for candy?

Mr. KINDEL. No; candy is considered a luxury, therefore merchandise; but all other eatables are 25 per cent less than regular express rates; but the parcel post, which I complain of, ignores eatables or drinkables, and you are forced to pay the straight one-price prohibitive rate.

Mr. SELDOMRIDGE. Mr. Speaker, will the gentleman yield?

Mr. KINDEL. Yes.

Mr. SELDOMRIDGE. In other words, as I understand the gentleman's proposition, you pay the railroad company the exact price that they are now receiving from the express company, but in addition to that you give them 50 per cent more than they are getting from the express companies, and to that extra 50 per cent you add the 30 cents which the Postmaster General claims is the cost for the handling of the business——

Mr. KINDEL. Yes; the pick up and delivery charge; that is it.

Mr. SELDOMRIDGE. So that under your proposition you would be giving the railroad company 50 per cent more than they are now getting from the express companies?

Mr. KINDEL. Yes.

Mr. SELDOMRIDGE. And taking care of the Government charge of 30 cents for collection and delivery, and yet give the people a rate of $2.55 from Buffalo to St. Paul as against the present rate of $6.02.

Mr. KINDEL. That is correct. [Applause.]

Mr. KEATING. Mr. Speaker, will my colleague yield for a question?

Mr. KINDEL. I do not know whether I ought to or not; but I yield to the gentleman.

Mr. KEATING. I thank my colleague for his courtesy. I want to ask my colleague if he means to say to the House that all that is necessary in order that the Government may secure the same rate for the parcels post that the express companies pay the railroad for carrying express matter is for the Interstate Commerce Commission to issue an order to that effect?

Mr. KINDEL. Yes; substantially, that is true.

Mr. KEATING. I do not want it substantially. I take it for granted that the gentleman, being an expert upon this subject, is prepared to make a definite answer and I want him to make a yes or no answer. As I understand it, the whole point of his attack is that the parcel post or the Post Office Department is charging a higher rate, outside of the second zone, than the express companies are charging. The answer made by the Post Office Department is that if it were to meet the rates made by the express companies, it would bankrupt the Treasury.

Mr. GOOD. Mr. Speaker, I understood the gentleman to say that Congress would have to take some action upon this matter.

Mr. KINDEL. Sure. If not, why would I bring the matter up here?

Mr. KEATING. That is the point.

Mr. KINDEL. Oh, tell me what you want and get through.

Mr. KEATING. I want to get a yes or no answer from the gentleman on that proposition. The impression which he has left upon me and I think upon a good many others, is that all the Interstate Commerce Commission has to do is to say to the railroads, "give the Government the benefit of the express rates," and the railroads must comply. As a matter of fact, is not legislation by this House necessary, and what steps has the gentleman taken to secure such legislation?

Mr. KINDEL. Oh, I have endeavored to convince the several members of the Interstate Commerce Commission, also introduced a bill, which is still in the pigeonhole. [Applause.] I have proposed a number of resolutions and not one of them has seen daylight in the House, and that is why I became very much disgruntled, and I wanted to know what was the use of longer parading under a Democratic banner if we can not get a hearing and get vital matters like this righted.

Mr. DONOVAN. Mr. Speaker, will the gentleman yield?—and this is the last interruption.

Mr. KINDEL. Yes.

Mr. DONOVAN. I can not get it out of my head that you have not been fair as between the express company and the Government. That rate that you showed of $10.01, and the Government paid to the railroad $9.03 and the express company had it carried for $2.85. Now, the express company got net out of that proposition one-half of $5.70 rate, or $2.85. The whole trouble lies with the railroads, and the railroads all over the country have appealed that they should have a higher rate, and your indictment should be against the railroads.

Mr. KINDEL. Mr. Speaker, I am amazed at the question that the gentleman asks My proposition would give the railroad company 50 per cent more for carrying than they are getting to-day. For the clarification of the gentleman from Connecticut [Mr. DONOVAN], I insert here the rate on 100 pounds from New York to Denver:

Parcel post	$10.01
Railroad cost	9.03
Express	5.70
One-half express charge for railroad pay	2.85
Kindel 50 per cent added	1.42
Pick-up and delivery charge	.30
Kindel proposed rate	4.57

Why should the citizen pay $10.01 for service which could be done at a profit for $4.57? Why overcharge him $5.44?

If anybody but the United States Post Office did rob the public like that, he would undoubtedly be arrested for larceny or for violation of the Sherman Act.

The charges of the railroad to the United States Government for carrying parcel post from the Atlantic to the Pacific coast points is 14 cents the pound. In this case the Post Office pays a penalty of 2 cents on every pound of parcel post it carries.

The New York postmaster, in his report to the Senate Postal Committee for the week ending May 2, 1914, shows he carried over 100,000 pounds to and from the eighth zone.

It is only fair to presume that one-half this amount went to the thickly populated Pacific coast towns. Hence I make this deduction that the post office carried 50,000 pounds parcel post in one week in this instance at a direct loss of $1,000; this multiplied by 52 weeks in the year would be $52,000. Dare the Postmaster General or the New York postmaster challenge my statement? Then if I am correct in this one example of foolish and disastrous post-office management, how much more could be added if all the Atlantic coast offices were added to this computation?

Mr. Morgan, New York City's postmaster, is a very fine gentleman, but according to his own report he flagrantly violated the parcel-post laws eighty-five times in one week, yet I have seen no report of his being called on the carpet and fined by the Postmaster General $4,000, or even $4. Though I greatly respect the New York postmaster, I confess I "snitched" on him, believing it was my sworn duty to do so.

Mr. LOBECK. Mr. Speaker, will the gentleman yield?

Mr. KINDEL. Yes.

Mr. LOBECK. Your idea is that the Government should not pay any more to the railroads than the express companies do at this time?

Mr. KINDEL. I told you before that I make this proposition, that I would pay the railroads 50 per cent more than the express companies do and then cut present parcel-post rates from 20 to 50 per cent.

Mr. LOBECK. Why should you pay more?

Mr. KINDEL. I could give it to the railroads out of sympathy, and then I could show you how I could make money for the people, the Government, and the railroads, and make the cost of living really cheaper, which was, and is, the purpose of parcel post.

Mr. BARTON. Will the gentleman yield?

Mr. KINDEL. I would if I could, and I regret that I can not yield if I am expected to finish in the allotted time.

Mr. BARTON. I simply want to say that we want to hear the rest of the gentleman's statement, and I suggest that the gentleman does not yield any more.

Mr. KINDEL. I want to show the computation under these several prepared tables. On these 10 points—and this is figured on a Burroughs adding machine, and there can not be any question about the figures—the parcel-post rate totaled as $266.95. To similar points east it is $264.97. Now, there is but $2 difference on parcel post, but when you get to the express rates over the same territory it is $146.05 in the East and $246.22 in the West. How are we supposed to do business and compete with the rest of the world. The Kindel-Burleson rate, which I have shown you, pays the railroads 50 per cent more, makes it $197 West and $120 East. That is based on the express rate. Now, the first thing I did when I was notified of my election to Congress and while I was tied up in bed with a broken leg I perfected an automatic graduate of nine zones. To figure a rate you multiply the number of zone by the number of pounds and add three and you automatically get the rate. For instance, you desire the rate from New York to Denver, which is in the seventh zone. Now, what is the rate on 10 pounds? [See Table No. 10.] It is 10 times 7 plus 3, equaling 73 cents. It works out beautifully, and up to 50 pounds nobody has beaten it so far. For simplicity and excellence it beats Secretary Lane's $225,000 tariff to the express company, and for which I compliment him most highly. My graduate is so simple and perfect that I have had it copyrighted and dedicated to President Wilson and presented through him to the people of the United States, and I again announce it here that it is yours if you want to use it. I now take up another table, No. 6:

TABLE No. 6.—*Kindel's exhibit; 100 pounds parcel-post and express rates.*

Miles.				
1,377	Denver to San Francisco			Mdse. $6.02—P. P.
	" " "	Food—Express	$5.06	6.75—Exp.
	" " "	Food—K. & B.	4.09	5.35—K. & B.
Miles.				
1,256	Denver to Cincinnati			Mdse. $8.01—P. P.
	" " "	Food—Express	$3.23	4.30—Exp.
	" " "	Food—K. & B.	2.71	3.52—K. & B.
Miles.				
1,933	Denver to New York			Mdse. $10.01—P. P.
	" " "	Food—Express	$4.28	5.70—Exp.
	" " "	Food—K. & B.	3.51	4.58—K. & B.
Miles.				
915	Cincinnati to Boston			Mdse. $6.02—P. P.
	" " "	Food—Express	$1.84	2.45—Exp.
	" " "	Food—K. & B.	1.68	2.13—K. & B.
Miles.				
1,201	Cincinnati to San Antonio			Mdse. $8.01—P. P.
	" " "	Food—Express	$3.53	4.70—Exp.
	" " "	Food—K. & B.	2.94	3.82—K. & B.
Miles.				
1,763	Cincinnati to Salt Lake			Mdse. $10.01—P. P.
	" " "	Food—Express	$5.14	6.85—Exp.
	" " "	Food—K. & B.	4.15	5.33—K. & B.
Miles.				
1,280	Portland, Me., to Nashville			Mdse. $6.02—P. P.
	" " "	Food—Express	$2.40	3.20—Exp.
	" " "	Food—K. & B.	2.10	2.70—K. & B.
Miles.				
1,300	Portland, Me., to St. Louis			Mdse. $8.01—P. P.
	" " "	Food—Express	$2.37	3.15—Exp.
	" " "	Food—K. & B.	2.07	2.60—K. & B.
Miles.				
2,170	Portland, Me., to Denver			Mdse. $10.01—P. P.
	" " "	Food—Express	$4.47	5.95—Exp.
	" " "	Food—K. & B.	3.64	4.75—K. & B.

Legend.—The food rates are 25 per cent less than merchandise—by express. The K. & B. rates are combination of Kindel and Burleson rates.

Here (see Table No. 6) I have taken three points—that is, one point with three points—and I show you the parcel-post rates there are $6.02, $8.01, and $10.01 on the 100 pounds. I am giving the mileage between points for convenience sake. Here [pointing] is Denver to Cincinnati, the second example on the diagram. The rate by parcel post, 100 pounds, would be $8.01, or by express $4.30. Now, if it is a food product or a drinkable product—except candy—then it is allowed 25 per cent less, or $3.23 by express. If you apply the Kindel-Burleson system of mine to the latter, it is $2.71 on food products as against $8.01, the parcel-post rate. The merchandise express rate is $4.30, which, under the Kindel-Burleson system—which pays the railroads 50 per cent more than express companies—it would be $3.52 as against $8.01. And you tell me it can not be done? The parcel post is

a big thing: it is the biggest thing that has been sadly ignored and neglected in this House, and I am amazed that four hundred and thirty-odd Members sit here and let this Post Office mismanagement go on unchallenged.

From Portland, Me., to St. Louis the express rate for 100 pounds is $3.15.

Now, that is the territory east, where they are paying 10 cents the unit, where we in the West, of the one hundred and fifth meridian, pay 23 cents the unit. It is a shame that the people of my section are treated in this unjust fashion. I warrant you they will not stand for it complacently any longer. Watch the coming election returns.

Mr. SAMUEL W. SMITH. Will the gentleman yield for a question?

Mr. KINDEL. I will.

Mr. SAMUEL W. SMITH. Has the gentleman asked for a hearing on this proposition before the Committee on the Post Office and Post Roads?

Mr. KINDEL. Yes. I have; and I have been denied.

Mr. SAMUEL W. SMITH. When?

Mr. KINDEL. Some time ago, and Mr. MOON, chairman of the Post Office and Post Roads Committee, told me that he had no time, that he had to attend to other matters. How long do you think the American people are going to be fooled by the present parcel post once their attention is called to these inconsistencies? Now, you can take the comparative parcel-post and express rates. (See Table No. 7.)

Table No. 7.

MERCHANDISE RATES BETWEEN—

San Francisco. ⊙ ←→ 1,678 miles { Norton, Kans. ⊙ } ←→ 1,642 miles { New York ⊙

Parcel-post rate.	Express rate.	Kindel-Burleson rate.	Weight.	Parcel-post rate.	Express rate.	Kindel-Burleson rate.
$0.41	$0.59	$0.45	.....5 pounds....	$0.41	$0.44	$0.37
.81	.97	.78	....10 pounds....	.81	.67	.54
1.61	1.75	1.38	....20 pounds....	1.61	1.15	.94
4.01	4.07	3.20	....50 pounds....	4.01	2.57	2.08
8.01	7.95	6.25	...100 pounds....	8.01	4.95	4.01
14.85	15.33	12.09	.....Totals.....	14.85	9.78	7.94

On this chart it is to be observed that the parcel-post rates are the same in both sections, while the express rates run over 50 per cent higher west than east; also that the Kindel-Burleson rates are 30 per cent less than express rates, which are 50 per cent less than parcel-post rates east of Norton, Kans.

Remember, too, Kindel rates are based on paying railroad companies 50 per cent more than express contract calls for.

Can you beat it? Why not adopt Kindel's proposed rates?

Norton, Kans., as you will observe, is a center point between New York and San Francisco. I remember, getting back to freight rates, that from Kansas City to Norton, Kans., the freight rate on 100 pounds first class is 44 cents; for the second half, Norton, Kans., to Denver, it is 1.18. Can anybody figure out how the man at Norton, Kans., can buy a dollar's worth in Denver with that kind of unjust and discriminative rates? I want to make this charge and challenge right here; I have done it in Denver, and I will do it here now. I am ready to debate with anybody that my city of Denver pays 100 per cent higher transportation rates per ton per mile than any city of its size in the Union, and I will take the affirmative side, my opponents can select the judges, and I will promise to convince my hearers. In reference to Table No. 3 I have taken their exact copy, except that I have substituted parcel-post rates for old express rates, as a warning to the public to beware of the parcel post. [Applause.] Now, do you not believe parcel-post patrons are getting fooled? You remember some time ago the Postmaster General threatened to sue me for $4,000 for putting a rubber stamp on my previous parcel-post speech, but he has not collected yet, I am glad to say. [Laughter.]

The parcel-post rates beyond the second zone are invariably higher than express rates from East to West, and if shippers only knew and had this information they surely would ship via express and save money. And yet there are Democratic champions who contend that this present parcel post has done much to cheapen the cost of living. I deny it. It is a fool thing all the way through, in size, in weight, and in rates. I have reports here from various cities, but time and space forbid my using them in this argument. How much time have I remaining, Mr. Speaker?

The SPEAKER. The gentleman has 10 minutes remaining.

Mr. KINDEL. Now, these rates that I have figured from Denver to these several points you can study at your leisure.

Every State having two Senators, I selected two cities in each State that were on railroad and enjoyed both express and post office, with the following result.

The rates are on 20 pounds, the present weight limit beyond the second zone.

TABLE NO. 8.—*Showing rates from Denver to various cities, from New York to various cities, and between various points.*

[Express rates are shown in roman figures and parcel-post rates in italic; rates to my city (Denver) are emphasized by heavy line.]

From Denver to—	20-pound express *rate.*	20-pound parcel-post rate.
1. Fayette, Ala	$1.19	*$1.61*
2. Dothan, Ala	1.31	*1.61*
3. Fayetteville, Ark	.83	*1.22*
4. Monticello, Ark	1.12	*1.22*
5. Tucson, Ariz	1.05	*1.22*
6. Holbrook, Ariz	.90	*.83*
7. Eureka, Cal	1.81	*1.61*
8. Truckee, Cal	1.51	*1.22*
9. Danbury, Conn	1.30	*2.01*
10. Plainfield, Conn	1.32	*2.01*
11. Dover, Del	1.27	*2.01*
12. Georgetown, Del	1.29	*2.01*
13. Washington, D. C	1.25	*2.01*
14. Baldwin, Fla	1.43	*2.01*
15. Pensacola, Fla	1.34	*1.61*
16. Brunswick, Ga	1.43	*2.01*
17. Rome, Ga	1.19	*1.61*
18. Boise, Idaho	1.16	*1.22*
19. Montpelier, Idaho	.88	*.83*
20. Chicago, Ill	1.00	*1.22*
21. Springfield, Ill	.96	*1.22*
22. Muncie, Ind	1.00	*1.61*
23. Evansville, Ind	1.00	*1.22*
24. Marshalltown, Iowa	.90	*1.22*
25. Council Bluffs, Iowa	.74	*.83*
26. Great Bend, Kans	.65	*.83*
27. Wichita, Kans	.72	*.83*
28. Elizabethtown, Ky	1.05	*1.61*
29. Covington, Ky	1.02	*1.61*
30. Napoleonsville, La	1.25	*1.61*
31. Shreveport, La	1.05	*1.22*
32. Augusta, Fla	1.37	*2.40*
33. Portland, Me	1.35	*2.01*
34. Hagerstown, Md	1.22	*2.01*
35. Baltimore, Md	1.25	*2.01*
36. Chatham, Mass	1.37	*2.01*
37. Boston, Mass	1.32	*2.01*
38. Marshall, Mich	1.08	*1.61*
39. Detroit, Mich	1.10	*1.61*
40. New Ulm, Minn	.93	*1.22*
41. St. Paul, Minn	.93	*1.22*
42. Ellisville, Miss	1.22	*1.61*
43. Jackson, Miss	1.16	*1.22*
44. Boonville, Mo	.86	*1.22*
45. St. Louis, Mo	.93	*1.22*
46. Missoula, Mont	1.27	*1.22*
47. Billings, Mont	.93	*.83*
48. Grand Island, Nebr	.61	*.83*
49. Sidney, Nebr	.48	*.24*
50. Austin, Nev	1.24	*1.22*
51. Elko, Nev	1.10	*.83*
52. Concord, N. H	1.33	*2.01*
53. Manchester, N. H	1.32	*2.01*
54. Atlantic City, N. J	1.30	*2.01*
55. Trenton, N. J	1.28	*2.01*
56. Albuquerque, N. Mex	.71	*.83*
57. Deming, N. Mex	.87	*.83*
58. Rochester, N. Y	1.22	*2.01*
59. New York, N. Y	1.30	*2.01*
60. Durham, N. C	1.37	*2.01*
61. Asheville, N. C	1.24	*1.61*
62. Fargo, N. Dak	.96	*1.22*
63. Bismarck, N. Dak	.96	*.83*
64. Cincinnati, Ohio	1.02	*1.61*
65. Cleveland, Ohio	1.10	*1.61*
66. Poteau, Okla	.90	*1.22*
67. Muskogee, Okla	.86	*.83*
68. Astoria, Oreg	1.63	*1.61*
69. Baker City, Oreg	1.25	*1.22*
70. Lock Haven, Pa	1.22	*2.01*
71. Pittsburgh, Pa	1.14	*1.61*
72. Kingston, R. I	1.32	*2.01*
73. Providence, R. I	1.32	*2.01*
74. Florence, S. C	1.38	*2.01*
75. Columbia, S. C	1.36	*1.61*
76. Deadwood, S. Dak	.68	*.83*
77. Aberdeen, S. Dak	.90	*.83*
78. Murfreesboro, Tenn	1.13	*1.61*
79. Memphis, Tenn	1.05	*1.22*
80. Fort Worth, Tex	.93	*1.22*
81. El Paso, Tex	.90	*.83*
82. Price, Utah	.78	*.83*
83. Salt Lake City, Utah	.90	*.83*
84. Montpelier, Vt	1.32	*2.01*
85. Rutland, Vt	1.32	*2.01*
86. Charlottesville, Va	1.25	*2.01*
87. Staunton, Va	1.22	*1.61*
88. Seattle, Wash	1.55	*1.61*
89. Spokane, Wash	1.47	*1.22*
90. Martinsburg, W. Va	1.22	*2.01*
91. Wheeling, W. Va	1.12	*1.61*
92. Madison, Wis	1.00	*1.22*
93. Milwaukee, Wis	1.02	*1.22*
94. Evanston, Wyo	.79	*.83*
95. Cheyenne, Wyo	.44	*.24*

TABLE No. 8.—*Showing rates from Denver and New York to various points, etc.*—Continued.

[Express rates are shown in roman figures and parcel-post rates in italic.]

From New York to—	Distance.	First-class freight rate.	100-pound express rate.	20-pound express rate.	20-pound parcel-post rate.
	Miles.				
Chicago, Ill.[2]	912	$0.75	$2.40	$0.64	*$1.22*
Philadelphia, Pa.[3]	91	.22	.90	.34	*.24*
Boston, Mass.[4]	235	.34	1.00	.36	*.44*
St. Louis, Mo.[5]	1,065	.88	2.60	.68	*1.22*
Pittsburgh, Pa.[6]	444	.45	1.50	.46	*.88*
Cleveland, Ohio[7]	584	.53	1.90	.54	*.88*
San Francisco, Cal.[8]	3,191	3.70	10.40	2.24	*2.40*
Cincinnati, Ohio[9]	757	.65	2.15	.59	*.88*
Detroit, Mich.[10]	693	.59	2.15	.59	*.88*
Kansas City, Mo.[11]	1,342	1.43	3.50	.86	*1.66*
Baltimore, Md.[12]	188	.34	1.00	.36	*.44*
Minneapolis, Minn.[13]	1,332	1.15	3.70	.90	*1.22*
Buffalo, N. Y.[14]	442	.39	1.50	.46	*.44*
Los Angeles, Cal.[15]	3,149	2.70	9.70	2.10	*2.40*
Milwaukee, Wis.[16]	997	.75	2.60	.68	*1.66*
Washington, D. C.[17]	228	.37	1.25	.41	*.44*
Indianapolis, Ind.[18]	825	.70	2.30	.62	*1.22*
St. Paul, Minn.[19]	1,322	1.15	3.70	.90	*1.22*
Denver, Colo.[20]	1,930	2.50	5.70	1.30	*2.01*
Atlanta, Ga.[21]	876	1.17	3.05	.77	*1.22*
Rochester, N. Y.[22]	373	.35	1.50	.46	*.44*
Louisville, Ky.[23]	871	.75	2.40	.64	*1.22*
New Orleans, La.[24]	1,372	1.18	4.50	1.06	*1.66*
Omaha, Nebr.[25]	1,405	1.43	3.70	.90	*1.66*
Portland, Oreg.[26]	3,204	3.70	10.00	2.16	*2.40*
Seattle, Wash.[27]	3,136	3.70	9.95	2.15	*2.40*
Columbus, Ohio[28]	637	.59	2.00	.56	*.88*
Providence, R. I.[29]	190	.31	1.00	.36	*.44*
Des Moines, Iowa[30]	1,270	1.25	3.30	.82	*1.66*
Toledo, Ohio[31]	705	.59	2.15	.59	*.88*
Dallas, Tex.[32]	1,773	2.35	5.20	1.20	*1.66*
Richmond, Va.[33]	343	.37	1.55	.47	*.44*
Memphis, Tenn.[34]	1,157	1.00	3.25	.81	*1.22*
Dayton, Ohio[35]	708	.63	2.15	.59	*.88*
Syracuse, N. Y.[36]	293	.35	1.40	.44	*.44*
Nashville, Tenn.[37]	998	.91	2.85	.73	*1.22*
Springfield, Mass.[38]	139	.22	1.00	.36	*.24*
Albany, N. Y.[39]	145	.26	1.00	.36	*.24*
Grand Rapids, Mich.[40]	821	.72	2.30	.62	*.88*
Houston, Tex.[41]	1,734	2.35	5.40	1.24	*1.66*
Jacksonville, Fla.[42]	983	1.06	3.35	.83	*1.22*
Worcester, Mass.[43]	193	.32	1.00	.36	*.24*
Spokane, Wash.[44]	2,797	3.50	9.00	1.96	*2.40*
Salt Lake City, Utah[45]	2,442	3.15	7.75	1.71	*2.40*

From—	Distance between.	First-class freight rate.	100-pound express rate.	20-pound express rate.	20-pound parcel-post rate.
	Miles.				
New York to Chicago	912	$0.75	$2.40	$0.64	*$1.22*
Chicago to Philadelphia	821	.73	2.30	.62	*1.22*
Philadelphia to Boston	326	.35	1.40	.44	*.44*
Boston to St. Louis	1,230	.88	2.75	.71	*1.61*
St. Louis to Pittsburgh	621	.56½	2.10	.58	*.88*
Pittsburgh to Brooklyn	446	.45	1.50	.46	*.88*
Brooklyn to Cleveland	588	.53	1.85	.53	*.88*
Cleveland to San Francisco	2,636	3.60	9.65	2.09	*2.40*
San Francisco to Cincinnati	2,577	3.50	9.65	2.09	*2.40*
Cincinnati to Detroit	271	.38½	1.25	.41	*.44*
Detroit to Kansas City	714	1.01	2.55	.67	*1.22*
Kansas City to Baltimore	1,211	1.44½	3.20	.80	*1.22*
Baltimore to Minneapolis	1,222	1.07	3.50	.86	*1.22*
Minneapolis to Buffalo	945	.95	3.00	.76	*1.22*
Buffalo to Los Angeles	2,774	3.60	9.35	2.03	*2.40*
Los Angeles to Milwaukee	2,350	3.40	9.10	1.98	*2.01*
Milwaukee to Washington	875	.72	2.50	.66	*.88*
Washington to Indianapolis	664	.62	2.00	.56	*.88*
Indianapolis to St. Paul	593	.81	2.35	.63	*.88*
St. Paul to Denver	874	1.62	3.85	.93	*1.22*
Denver to Newark	1,921	2.49½	5.60	1.28	*2.01*
Newark to Atlanta	867	1.17	2.95	.75	*1.22*
Atlanta to Rochester	1,002	1.26	3.20	.80	*1.22*
Rochester to Louisville	608	.53	2.00	.56	*.88*
Louisville to New Orleans	778	.90	2.95	.75	*1.22*
New Orleans to Omaha	1,080	1.15	4.10	.98	*1.22*

TABLE No. 8.—*Showing rates from Denver and New York to various points, etc.*—Continued.

From—	Distance between.	First-class freight rate.	100-pound express rate.	20-pound express rate.	20-pound parcel-post rate.
	Miles.				
Omaha to Portland, Oreg.	1,799	$3.00	$8.05	$1.77	*$1.61*
Portland, Oreg., to Seattle	185	.30	1.40	.44	*.24*
Seattle to Columbus, Ohio	2,538	3.60	9.20	2.00	*2.40*
Columbus, Ohio, to Providence	827	.64½	2.25	.61	*.83*
Providence to Des Moines	1,392	1.25	3.50	.86	*1.61*
Des Moines to Toledo	602	.88	2.20	.60	*.88*
Toledo to Dallas	1,145	1.87	4.10	.98	*1.22*
Dallas to Richmond	1,370	2.23½	4.95	1.15	*1.61*
Richmond to Memphis	902	.89	3.25	.81	*1.22*
Memphis to Dayton	550	.89½	2.10	.58	*.83*
Dayton to Syracuse	539	.50½	1.40	.44	*.83*
Syracuse to Hartford	277	.38	1.40	.44	*.44*
New Haven to Nashville	1,074	.91	2.95	.75	*1.22*
Nashville to Springfield, Mass.	1,146	.95	3.05	.77	*1.22*
Albany to Jersey City	143	.26	1.00	.36	*.24*
Jersey City to Grand Rapids	819	.72	2.25	.61	*.83*
Grand Rapids to Houston	1,278	1.87	4.40	1.04	*1.61*
Houston to Jacksonville	978	1.52	3.75	.91	*1.22*
Jacksonville to Worcester, Mass.	1,176	1.13	3.75	.91	*1.22*
Worcester, Mass., to Spokane	2,875	3.50	9.15	1.99	*2.40*
Spokane to Salt Lake City	922	1.72	4.40	1.04	*.83*

Now, if you take New York City, with all the other points, and you want to find out the rate on 20 pounds between any point near any other point given in table within 150 miles, simply add 24 cents to it. That is what the express companies and mail-order houses are doing. You can ship 100 pounds from New York to Des Moines, Iowa, by express, and reship in five 20-pound packages at Des Moines via parcel post and save $5 a hundred pounds by combination express and parcel post as against all parcel post from the initial point to destination points. The New York Suit & Cloak Co. and others are doing that very thing to-day. The mail-order houses in Buffalo, Chicago, and New York are doing the same thing, to the detriment of the little dealer and the Government, and that is why I wanted to go to Kansas and show the people, especially the small storekeepers out there, and help Senator BRISTOW, who has proposed in the Senate my parcel-post graduate, which is a reasonable and simple graduate. I do not know Senator BRISTOW intimately, but I admire him, not because he is a Republican, but because he has the courage to stand for what he thinks is right. He is an energetic and intelligent worker. The people of Kansas and the United States will miss his valuable services.

All over the West the complaint is made that the parcel-post rates to the second zone are entirely too low and have played havoc with our freight trains and stage coaches. Our Government in numerous instances is forced to pay several hundred per cent higher for hauling than it receives for carrying packages. Many of our freight trains and stage lines have already or are about to quit business because they can not possibly carry parcels post on overland routes at the price that is paid them by the Government. To illustrate: First-class railroad freight rates from Denver to Steamboat Springs is $1.60 a hundred. The parcel post, in two packages, is $1.08, out of which the railroad company is paid only 80 cents for fast-train haulage. On the stage routes these comparisons become increasingly greater.

Note how our post office will carry 8 ounces of books from New York to San Francisco at 4 cents, but for 9 ounces of books it charges 12 cents; in other words, you must pay 8 cents for the additional ounce weight. On an additional ounce above the pound you must pay 12 cents in each instance between the same points. Has there ever been so arbitrary and idiotic a tariff proposed or in use anywhere but in this great and glorious country of ours?

TABLE No. 9.—*Parcel-post and express rates on books now in effect.*

Weight.	From New York to—													
	Philadelphia.		Buffalo.		Detroit.		Chicago.		Omaha.		Denver.		San Francisco.	
	Zones.													
	2		3		4		5		6		7		8	
	Parcel-post rate.	Express rate.	Parcel-post rate.	Express rate.	Parcel-post rate.	Express rate.	Parcel-post rate.	Express rate.	Parcel-post rate.	Express rate.	Parcel-post rate.	Express rate.	Parcel-post rate.	Express rate.
8 ounces	$0.04	$0.15	$0.04	$0.15	$0.04	$0.15	$0.04	$0.15	$0.04	$0.15	$0.04	$0.15	$0.04	$0.15
9 ounces	.05	.15	.07	.15	.08	.15	.09	.15	.10	.15	.11	.15	.12	.15
16 ounces	.05	.15	.07	.15	.08	.15	.09	.15	.10	.15	.11	.15	.12	.15
17 ounces	.06	.15	.12	.15	.14	.15	.16	.15	.19	.15	.21	.15	.24	.15
32 ounces	.06	.16	.12	.16	.14	.16	.16	.16	.19	.16	.21	.16	.24	.16
48 ounces	.07	.22	.17	.24	.20	.24	.23	.24	.28	.24	.31	.24	.36	.24
64 ounces	.08	.23	.22	.25	.26	.28	.30	.29	.37	.32	.41	.32	.48	.32

HOW IT WORKS OUT.

DENVER, COLO., *July 29, 1914.*

Hon. GEO. J. KINDEL, *Washington, D. C.*

DEAR GEORGE: I read your last remarks anent parcel-post charges to Mexico and must congratulate you on your fine work. You have been dealing sledge-hammer blows at the incompetency and the inequitable charges—all more or less in the interests of railroads and express companies.

Let me give you a detail in my own experience. God only knows why photographs are not merchandise, but unless a package weighs 4 pounds we must send as "printed matter," and consequently when a package of photographs would ordinarily demand 15, 20, 25, or 30 cents (anything at all over 8 cents) we simply add boards and heavy cardboard, a piece of iron or a nail or two and bring the weight up to 4 pounds or over. Then it goes for the lowest possible rate. Last week I had a package that weighed 3½ pounds. The rate would be 32 cents, but by adding a few heavy cardboards I brought it up to 4 pounds and it went for 8 cents.

Can you beat it? The heavier the package the less it costs to ship.

I hope you will run again for Congress.

Yours, truly, C. A. NAST.

Another sample of freakish interstate-commerce ruling which happened right here in Washington recently was when Judge Will R. King, general counsel of the United States Reclamation Service, concluded he would return a borrowed steamer trunk to a friend of his living in Hyattsville, Md., 10 miles distant, which was too large in size to ship by parcel post. He had it taken to the depot, paid 17 cents for a passenger ticket, and then asked the agent to check the trunk on said ticket. The agent discovered the trunk was unlocked, although it was roped. He stated he could not check it unless Judge King would assume the risk of damage to its contents. This the judge readily consented to do, with a ha! ha! remarking that as nothing was in the trunk he would assume the risk. Upon being informed that the trunk was empty the agent stated that under the rules established by the Interstate Commerce Commission he could not check an empty trunk. Thereupon the judge brought forth a penny, wrapped it in a newspaper in ball fashion, and placed it in the trunk. Here the agent again protested, and reminded the judge that money was not wearing apparel, also that the rules inhibit a trunk being checked unless it contained bona fide wearing apparel. The resourceful Judge King instantly proceeded to take off one of his socks, wrapped it in paper addressed to himself, attached a parcel-post stamp, and placed same in the trunk with the defi, "Now, I trust you will comply with the imperialistic orders of your railroad and the Interstate Commerce Commission and check that trunk." The agent with a look of scorn and defeat sullenly performed his function and checked the trunk. Needless to say the trunk arrived at its destination, the law was vindicated, and the judge was satisfied when his sock was returned to him by parcel post.

Referring now to Table No. 10, I show rates between 33 points with each other on 50-pound parcel-post, express, and Kindel graduate rates; also the Kindel graduate table, with key and suggestion. In many instances it cost 275 per cent higher by parcel post than by express.

Why boast of our intelligence and brag about our parcel post? Our Postmaster General goes on to tell you what legislation we need as to architecture of post-office buildings. If he is no better authority on architecture than on parcel-post rates, God help the country. [Laughter.]

Mr. HULINGS. Will the gentleman yield?

Mr. KINDEL. I will.

Mr. HULINGS. In the small parcels, up to 5 and 10 pounds, is not the parcel-post rate much cheaper than the express rates?

Mr. KINDEL. If the same insurance of packages is carried, no. In the 150-mile radius, up to 5 pounds only, in some cases, yes—depending on geography.

Here is the cause of it all:

[Mr. KINDEL here exhibited a parcel-post map, on which the residence of the 21 members of the committee are indicated by marks.]

Every one of the 14 Democratic members of the Interstate and Foreign Commerce Committee resides within the circle of 650 miles, which is east of the ninety-seventh meridian. Every Democratic member of the committee is a lawyer by profession, and that is why I told them in Democratic caucus there was not a man among them that knew the difference between a bill of lading and a bill of fare. The three members of the committee that are shown west of the ninety-seventh meridian are Republicans.

Denver is located over here—one hundred and fifth meridian [indicating]. We had a representative on this committee in the last Congress, and before I came here. Every one of my colleagues, with the Senators, came to my bedside and promised me they would get me on that committee; but I did not get on, and that is why I am ready to tell on the floor of the House instead of in committee what I know about transportation rates. This shows the apparent discrimination. I regret that permission to insert the following maps in reduced size has been denied me.

There [indicating] is the Post Office and Post Roads Committee, within a circle of 600 miles. The fourteenth one is down in Texas—a Democrat—and the sixteenth is the Republican gentleman from Minnesota [Mr. STEENERSON]. No wonder we are paying these outrageous transportation rates. Talk about getting a square deal——

Mr. GOOD. Will the gentleman yield?

Mr. KINDEL. Yes.

Mr. GOOD. Does the gentleman claim that a revision of the laws along the lines he has submitted, so as to give a lower parcel-post rate, would reduce the cost of living?

Mr. KINDEL. Surely.

Mr. GOOD. I would like to ask the gentleman another question. Does the book from which he read, called "Democratic Achievement," point out the lowering of the cost of living in any way?

Mr. KINDEL. That is what they infer, but there is no proof of it. I am showing you by proof that there is not.

The Ways and Means Committee is within that circle of 650 miles. Denver is located out here. There is one Democrat, No. 10—Mr. GARNER from Texas—and No. 21 is the Progressive gentleman, Mr. VICTOR MURDOCK, our esteemed friend from Kansas. He is out here on line of ninety-seventh meridian [indicating]. Outside of those two we have not a soul from the trans-Mississippi West on that committee.

Here is the Appropriations Committee. Here is Denver [pointing]. The only committeeman on this important committee west of ninety-seventh meridian is the Republican gentleman from Wyoming [Mr. MONDELL]. We of the West are not considered when it comes to making up committees. We might as well be off the map. Here is the Agricultural Committee. We are the recognized bread basket of the universe in this the trans-Mississippi West [pointing]. We have been fighting for relief from discriminative rates for years. That is why I consented to get into politics, and why I led the Democratic victory in Colorado.

Mr. JOHNSON of Washington. In the Agricultural Committee all the forest reserves are outside of the charmed circle, are they not?

Mr. KINDEL. I believe they are. I have not had the time to find out. I do know that all the committeemen on the Agricultural Committee reside within a circle of 650 miles and east of the one hundredth meridian. Denver, as usual, is out here in the cold. Next here is the Committee on Military Affairs, which does not interest us because we are a peace-loving people, notwithstanding Colorado coal-strike killings by United Mine dynamiters. What we want to show in this instance, as in all the others, is that the Democratic members, as usual, live all within the charmed circle of 650 miles east of the ninety-seventh meridian. The same applies to the Committee on Rivers and Harbors, the Committee on Foreign Affairs, and the Committee on Naval Affairs.

Of the chairmanships of the House, of which there are 57 in all, all Democrats, of course, and all of whom live within the circle of 800 miles and east of the one hundredth meridian. Of these 57 committee chairmen the greater and more important of the number are 17 committees, composed of 21 members each, and they are distributed as follows: Four in Virginia, the home of our Presidents; 2 in Missouri, the home of our Speaker; 2 in Alabama, the home of the Democratic leader; and 2 in Tennessee, the home of the chairman of the Post Office and Post Roads Committee; but none west of the one hundredth meridian.

Mr. JOHNSON of Washington. What else do northern and western Democrats expect?

Mr. KINDEL. Nothing. And, striking as it may seem, the committees number 57 exactly, like Heinz's varieties. [Laughter and applause.] They are all included in that circle—east of the one-hundredth meridian, as shown here.

Mr. JOHNSON of Washington. Does the gentleman mean to say that all that country west of the Missouri River has not a chairmanship?

Mr. KINDEL. Yes. It has not a chairmanship; not one; while the State of Virginia has four.

Mr. SMITH of Minnesota. Mr. Speaker, will the gentleman yield?

Mr. KINDEL. Yes.

Mr. SMITH of Minnesota. What conclusion do you draw from the making up of committees as you represent them?

Mr. KINDEL. I draw this conclusion: That it is on a line of "taxation without representation." We ought to have some representation on these committees, but we have not got it, and

there is nobody to represent us; and they will not let me get into the committee room to present the facts. I am anxious and ready to show them that I am not, as I have been charged by my colleague, Mr. KEATING, the hired champion of any railroad or express company or other corporation, and, least of all, the champion of John D. Rockefeller, whom, I want to say, I fought on his oil fight many years ago, long before Mr. KEATING was thought of. I helped, too, in 1895, to get the Colorado Fuel & Iron Co. freight rates reduced from $1.60 per hundredweight down to 45 cents to Pacific coast points; but that is no reason why I should not support Mr. John D. Rockefeller, jr., and others when in the right.

The SPEAKER. The time of the gentleman from Colorado has expired.

Mr. KINDEL. Mr. Speaker, I ask leave to extend my remarks in the RECORD.

Mr. FOWLER. Mr. Speaker, I ask unanimous consent that the gentleman may proceed for 10 minutes.

The SPEAKER. The gentleman from Illinois [Mr. FOWLER] asks unanimous consent that the gentleman from Colorado [Mr. KINDEL] may proceed for 10 minutes. Is there objection?

Mr. BUCHANAN of Illinois. Mr. Speaker, reserving the right to object, I want to ask the gentleman if he will couple with that the request that the gentleman from Maryland [Mr. LEWIS] may have 30 minutes after he has had 10 minutes.

The SPEAKER. The gentleman from Illinois [Mr. BUCHANAN] couples with that the request that the gentleman from Maryland [Mr. LEWIS] may have 30 minutes. Is there objection. [After a pause.] The Chair hears none, and the gentleman from Colorado will proceed for 10 minutes, and the gentleman from Maryland will have 30 minutes.

Mr. KEATING. Mr. Speaker, will the gentleman allow an interruption?

Mr. KINDEL. Yes.

Mr. KEATING. I am deeply interested in the maps which the gentleman has shown. Has the gentleman made a map showing the representation on the Committee on Public Lands, and on the Committee on Irrigation of Arid Lands, and on the Committee on Mines and Mining, and those other committees in which the West is particularly interested?

Mr. KINDEL. No. I ran out of maps. [Laughter.] If you want, and will furnish me with blank maps, I will make them for you. [Renewed laughter.]

Now, gentlemen, I want to show you what the result would be if Mr. LEWIS's scheme of rates should be carried out literally. I want to say that he has been the adviser of the Postmaster General and in effect his scheme is carried out, but in 400-mile jumps instead of 100 miles, and he gets that irreconcilable result in rates that I have demonstrated.

Now, the black circular lines indicate going westward and the red lines coming east would be 100 miles apart in Mr. LEWIS's proposition. One trouble I find with the present rates as they are to-day is that if we extended the weight limit from 20 pounds to 100 pounds, you could, beyond the third zone, save 95 cents a hundred. Does anybody know how to do that? No; not even the chairman of the Post Office Committee knows it, although I have shown how he could do it from his home, Chattanooga. In transportation that should not be permissible—that you reship at less than the sum of the through rate. It should never be permitted.

Now, my first scheme included 9 zones instead of 24, as Mr. LEWIS suggests. By the way, I will be glad at any time to accommodate Mr. LEWIS or anybody else and have this discussion in five-minute or longer turns, alternating, if he will do it. We can then the better explain and get the best results out of it. I have never worked so hard in my life as I have done in the past 18 months, and I have apparently got nowhere. [Laughter.]

This is the graduate that I perfected—see Table No. 10. To figure a rate, multiply zone by the pound and add 3. For example, take 8 zone and multiply by 10 pounds and add 3, and that makes 83 cents. Now, you ask why I say "add 3"? That was determined by the Post Office Committee as the overhead charge. All rates ought to show a declension as the distance increases. If 100 miles should be, say, $1 rate, 200 hundred miles should not be $2 simply because it is twice the distance. There should be a declension, which is recognized throughout the civilized and commercial world.

Mr. GOOD. Mr. Speaker, will the gentleman yield for one question?

Mr. KINDEL. Yes.

Mr. GOOD. The gentleman has one map which shows the rates, called the "Kindel-Burleson rates." It is a little confusing. I was led to believe from the statement of the map that the Postmaster General had accepted it and was a party in making up the list. Is it a fact that he does not agree with your rate?

Mr. KINDEL. Oh, no; he does not know enough to do it. [Laughter.] So far he has shown no inclination to understand. He told me so, distinctly; and even the President himself, when I showed him some of these things and also the map, he first wanted to argue, but I soon convinced him that he did not know much if anything about transportation. He made the excuse, "I can not know all these things." I said to him, "My dear Mr. President, I know that. That is why I came down here to help."

The RECORD shows this morning that I offered a resolution that was instigated by a man in New York by the name of Wolf.

Mr. SMITH of Minnesota. Lamar.

Mr. KINDEL. Yes; that is the name. I do not know the man. The resolution I introduced was brought out by the Antitrust League, of which I have the honor to be a member, some of which members I have known for many years. It was the league and myself and another man who brought about the Stanley Steel Trust investigation several years ago. What the President did say on that matter of my resolution to investigate was that I was mistaken. I got my data from the courts and the papers, and when the error was brought to my attention I cut out that particular paragraph. But the rest is still there. It is the matter of the dissolution of the Union and Southern Pacific Railroads.

Then I was called before "His highness, the Secretary of State." [Laughter.] He wanted to know if I was a Democrat. I said, "Yes; I voted for you several times, and would vote for you again if I thought you were right, and if not I would not vote for you." I said, "I do not care for your politics, it is men and measures that count with me. If we can not get these things fixed—things that are so simple and vital like this parcel post—then I want to go home and attend to my knitting. Besides that, I do not want to linger in this heat, waiting in vain, and finally be Oslerized." [Laughter.]

Gentleman, I thank you for your attention. I ask leave, Mr. Speaker, to revise and extend my remarks in the RECORD.

The SPEAKER. The gentleman from Colorado asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. KINDEL. In addition to the above, without any desire to encroach upon the patience of the House, I think I should further state a few more facts regarding the parcel post that are not generally known. As everybody is aware, the parcel post has been increased since the incumbency of the Democratic Party in weight from 11 pounds to as much as 50 pounds in the second zone and 20 pounds in all zones beyond. With the 11-pound maximum weight was adopted the European dimension, or size, of package, making 72 inches total. Of what benefit is the enlargment of the parcel post in cases—and there are many of them—where it is impossible for 72 inches to encompass the pounds of the goods to be shipped, without destroying the value of the same to a greater or less degree?

I had prepared for me by the Bureau of Standards a table of weights, under the 72-inch measure, of certain products of the soil. I will mention a few:

A cubic foot of apples contains 31 pounds. How can you ship 50 pounds of apples under the 72-inch measure?

A cubic foot of blueberries contains 27 pounds? How can you ship 50 pounds of blueberries by parcel post?

A cubic foot of grass seed weighs 11 pounds. How can you ship 50 pounds by parcel post?

A cubic foot of bolted corn meal weighs 35 pounds. How can you ship 50 pounds of corn meal by parcel post?

A cubic foot of onion sets weighs 18 pounds. How can you ship 50 pounds by parcel post?

A cubic foot of peanuts weighs 14 pounds. How can you ship 50 pounds by parcel post?

And so on.

OUR FOREIGN PARCEL POST.

Lord & Taylor, of New York City, have plants both in this country and in Germany. The rate on their 11-pound parcel from Germany to Cuba is 50 cents; to Costa Rica, 55 cents; to Mexico, 55 cents; to Nicaragua, 85 cents; to Panama, 60 cents; to Uruguay, 85 cents; to Colombia, 90 cents. The tax levied on parcels posted from their American plants to all countries with which we have parcel-post conventions is 11 pounds, $1.32.

Table No. 10.

PARCEL POST, EXPRESS, AND PROPOSED KINDEL RATES, BASED ON 50-POUND SHIPMENTS.

		1 Baltimore.	2 Birmingham.	3 Boston.	4 Buffalo.	5 Butte.	6 Cheyenne.	7 Chicago.	8 Cincinnati.	9 Cleveland.	10 Denver.	11 Detroit.	12 Galveston.	13 Indianapolis.	14 Kansas City, Mo.
1. Baltimore:															
	Parcel post rate	$3.02													
2. Birmingham	Express rate	1.65													
	Kindel rate	2.03													
	Parcel post rate	1.04	$3.02												
3. Boston	Express rate	.85	2.00												
	Kindel rate	1.03	2.53												
	Parcel post rate	2.03	3.02	$2.03											
4. Buffalo	Express rate	.85	1.60	.90											
	Kindel rate	1.03	2.03	1.53											
	Parcel post rate	6.00	5.01	6.00	$5.01										
5. Butte	Express rate	3.95	4.05	4.05	3.78										
	Kindel rate	3.53	3.03	3.53	3.53										
	Parcel post rate	5.01	4.01	5.01	4.01	$2.03									
6. Cheyenne	Express rate	2.98	2.35	3.05	2.73	2.43									
	Kindel rate	3.03	2.53	3.53	3.03	1.53									
	Parcel post rate	2.03	2.03	3.02	2.03	4.01	$3.02								
7. Chicago	Express rate	1.23	1.30	1.35	1.00	3.38	2.18								
	Kindel rate	1.53	1.53	2.03	1.53	2.53	2.03								
	Parcel post rate	2.03	2.03	3.02	2.03	5.01	4.01	$1.04							
8. Cincinnati	Express rate	1.05	1.25	1.33	.95	3.65	2.40	.78							
	Kindel rate	1.53	1.53	2.03	1.53	3.03	2.53	1.03							
	Parcel post rate	2.03	2.03	2.03	.54	5.01	4.01	1.04	$1.04						
9. Cleveland	Express rate	.95	1.45	1.10	.68	3.70	2.53	.80	.78						
	Kindel rate	1.03	1.53	1.53	.53	3.03	2.53	1.03	1.03						
	Parcel post rate	5.01	4.01	5.01	4.01	2.03	.54	3.02	4.01	$4.01					
10. Denver	Express rate	2.83	2.68	3.00	2.65	2.70	.80	2.20	2.25	2.45					
	Kindel rate	3.03	2.53	3.53	3.03	1.53	.53	2.53	2.53	2.53					
	Parcel post rate	2.03	2.03	2.03	1.04	5.01	4.01	1.04	1.04	.54	$4.01				
11. Detroit	Express rate	1.15	1.43	1.23	.80	3.60	2.48	.73	.73	.68	2.45				
	Kindel rate	1.53	1.53	1.53	1.03	3.03	2.53	1.03	1.03	.53	2.53				
	Parcel post rate	4.01	2.03	5.01	4.01	5.01	3.02	3.02	3.02	3.02	4.01	$3.02			
12. Galveston	Express rate	2.70	1.65	2.90	2.45	4.33	2.70	2.15	2.10	2.28	2.43	2.25			
	Kindel rate	2.53	1.53	3.03	3.03	3.03	2.53	2.53	2.03	2.53	2.03	2.53			
	Parcel post rate	2.03	2.03	3.02	2.03	4.01	3.02	.54	.54	1.04	3.02	1.04	$3.02		
13. Indianapolis	Express rate	1.10	1.20	1.33	.95	3.53	2.25	.60	.55	.80	2.20	.73	2.05		
	Kindel rate	1.53	1.53	2.03	1.53	3.03	2.53	.53	.53	1.03	2.53	1.03	2.03		
	Parcel post rate	3.02	2.03	4.01	3.02	4.01	2.03	2.03	2.03	3.02	2.03	3.02	3.02	$2.03	
14. Kansas City, Mo.	Express rate	1.70	1.70	1.95	1.55	3.03	1.70	1.15	1.28	1.48	1.70	1.38	1.95	1.15	
	Kindel rate	2.53	1.53	2.03	2.03	2.53	1.53	1.53	1.53	1.53	1.53	2.03	2.03	1.53	
	Parcel post rate	6.00	6.00	6.00	6.00	3.02	3.02	5.01	6.00	6.00	3.02	6.00	4.01	5.01	$4.01
15. Los Angeles	Express rate	4.85	4.40	5.10	4.78	3.08	3.30	4.55	4.60	4.70	3.85	4.65	3.90	4.55	4.00
	Kindel rate	4.03	3.53	4.03	4.03	2.03	2.03	3.53	3.53	3.53	2.03	3.53	3.03	3.53	3.03
	Parcel post rate	2.03	2.03	3.02	2.03	5.01	4.01	1.04	.54	1.04	3.02	1.04	3.02	.54	2.03
16. Louisville	Express rate	1.15	1.20	1.38	1.50	3.65	2.43	.73	.55	.85	2.25	.80	1.98	.70	1.25
	Kindel rate	1.53	1.03	2.03	1.53	3.03	2.53	1.03	.53	1.03	2.53	1.03	2.03	.53	1.53
	Parcel post rate	3.02	1.04	4.01	3.02	4.01	3.02	2.03	2.03	3.02	3.02	2.03	2.03	2.03	2.03
17. Memphis	Express rate	1.58	.98	1.88	1.43	3.85	2.50	1.15	1.15	1.33	2.33	1.30	1.60	1.05	1.33
	Kindel rate	2.03	1.03	2.53	2.03	3.03	2.03	1.53	1.53	2.03	2.03	1.53	1.53	1.03	1.03
	Parcel post rate	3.02	3.02	3.02	2.03	4.01	3.02	.54	1.04	1.04	3.02	1.04	4.01	1.04	2.03
18. Milwaukee	Express rate	1.35	1.48	1.48	1.10	3.20	2.20	.55	.90	.95	2.25	.80	2.75	.80	1.05
	Kindel rate	1.53	2.03	2.03	1.53	2.53	2.03	.53	1.03	1.03	2.03	1.03	2.53	1.03	1.53
	Parcel post rate	2.03	.54	3.02	2.03	5.01	4.01	2.03	1.04	2.03	3.02	2.03	3.02	1.04	2.03
19. Nashville	Express rate	1.38	.80	1.68	1.33	3.85	2.53	.98	1.78	1.15	2.40	1.05	1.85	.80	1.43
	Kindel rate	1.53	.53	2.03	1.53	3.03	2.53	1.53	1.03	1.53	2.53	1.53	2.03	1.03	1.53
	Parcel post rate	3.02	2.03	4.01	4.01	5.01	4.01	3.02	3.02	3.02	4.01	3.02	1.04	3.02	3.02
20. New Orleans	Express rate	2.10	1.13	2.40	2.03	4.35	3.05	1.65	1.68	1.85	2.80	1.83	1.20	1.60	1.95
	Kindel rate	2.53	1.03	3.03	2.53	3.03	2.53	2.03	2.03	2.53	2.53	2.53	1.03	2.03	2.03
	Parcel post rate	.54	3.02	1.04	1.04	6.00	5.01	3.02	2.03	2.03	5.01	2.03	4.01	3.02	4.01
21. New York	Express rate	.60	1.83	.60	.85	4.00	3.03	1.30	1.18	1.05	2.95	1.18	2.80	1.25	1.85
	Kindel rate	.53	2.03	1.03	1.03	3.53	3.03	2.03	1.53	1.03	3.03	1.53	3.03	2.03	2.53
	Parcel post rate	3.02	3.02	4.01	3.02	3.02	2.03	2.03	2.03	3.02	2.03	3.02	3.02	2.03	.54
22. Omaha	Express rate	1.85	1.80	2.05	1.65	2.83	1.50	1.23	1.45	1.43	1.55	1.45	2.35	1.28	.80
	Kindel rate	2.53	2.03	2.53	2.03	2.03	1.53	1.03	1.53	2.03	1.53	2.03	2.03	1.53	.53
	Parcel post rate	.54	3.02	1.04	1.04	6.00	5.01	3.02	2.03	2.03	5.01	2.03	4.01	2.03	4.01
23. Philadelphia	Express rate	.48	1.73	.80	.90	4.00	3.00	1.25	1.10	.95	2.88	1.15	2.75	1.15	1.75
	Kindel rate	.53	2.03	1.03	1.03	3.53	3.03	2.03	1.53	1.03	3.03	1.53	3.03	1.53	2.53
	Parcel post rate	1.04	2.03	2.03	1.04	5.01	4.01	2.03	1.04	.54	4.01	1.04	4.01	2.03	3.02
24. Pittsburgh	Express rate	.73	1.50	1.05	.80	3.80	2.68	.95	.80	.60	2.55	.85	2.40	.80	1.50
	Kindel rate	1.03	1.53	1.53	1.03	3.03	3.03	1.53	1.03	.53	3.03	1.03	2.53	1.03	2.03
	Parcel post rate	2.03	4.01	.54	2.03	6.00	5.01	3.02	3.02	2.03	5.01	3.02	5.01	3.02	4.01
25. Portland, Me.	Express rate	.95	2.10	.55	1.00	4.10	3.13	1.43	1.43	1.18	3.08	1.83	3.00	1.43	1.95
	Kindel rate	1.53	2.53	.53	1.53	3.53	3.53	2.03	2.03	1.53	3.53	2.03	3.53	2.03	3.03
	Parcel post rate	6.00	6.00	6.00	6.00	2.03	3.02	5.01	6.00	6.00	3.02	6.00	6.00	6.00	5.01
26. Portland, Oreg.	Express rate	5.03	5.05	5.20	4.90	2.00	3.28	4.53	4.73	4.78	3.50	4.73	5.25	4.65	4.35
	Kindel rate	4.03	3.53	4.03	4.03	1.53	2.53	3.53	3.53	3.53	2.53	3.53	3.03	3.03	3.03
	Parcel post rate	6.00	5.01	6.00	5.01	2.03	2.03	4.01	5.01	5.01	2.03	5.01	4.01	4.01	3.02
27. Salt Lake City	Express rate	3.88	3.98	4.03	3.70	1.65	1.88	3.40	3.53	3.68	1.95	3.58	3.60	3.40	2.83
	Kindel rate	3.53	3.03	3.53	3.53	1.03	1.03	2.53	3.03	3.03	1.53	3.03	2.53	3.03	2.03
	Parcel post rate	4.01	3.02	6.00	5.01	4.01	3.02	4.01	4.01	4.01	3.02	4.01	1.04	3.02	3.02
28. San Antonio	Express rate	2.98	2.00	3.18	2.90	4.53	2.60	2.53	2.45	2.75	2.43	2.68	1.00	2.40	1.95
	Kindel rate	3.03	2.03	3.53	3.03	3.03	2.03	2.53	2.03	2.53	2.03	2.53	1.03	2.53	2.03
	Parcel post rate	6.00	6.00	6.00	6.00	3.02	3.02	6.00	6.00	6.00	3.02	6.00	5.01	6.00	5.01
29. San Francisco	Express rate	5.25	5.10	5.35	5.00	3.08	3.23	4.75	4.93	4.93	3.48	4.93	4.60	4.80	4.38
	Kindel rate	4.03	3.53	4.03	4.03	2.03	2.53	3.53	3.53	4.03	2.53	3.53	3.03	3.53	3.03
	Parcel post rate	6.00	6.00	6.00	6.00	2.03	4.01	5.01	6.00	6.00	4.01	6.00	6.00	6.00	5.01
30. Seattle	Express rate	4.93	4.95	5.15	4.75	1.90	3.38	4.40	4.65	4.70	3.58	4.68	5.38	4.60	4.28
	Kindel rate	4.03	3.53	4.03	4.03	1.53	2.53	3.53	3.53	3.53	2.53	3.53	3.53	3.53	3.03
	Parcel post rate	3.02	2.03	4.01	3.02	4.01	3.02	1.04	1.04	2.03	3.02	2.03	3.02	1.04	1.04
31. St. Louis	Express rate	1.33	1.18	1.48	1.20	3.40	2.10	.80	.85	1.05	2.05	1.00	1.95	.73	.98
	Kindel rate	2.03	1.53	2.53	2.03	3.03	2.03	1.03	1.03	1.53	2.03	1.53	2.03	1.03	1.03
	Parcel post rate	3.02	3.02	4.01	3.02	3.02	3.02	2.03	2.03	2.03	3.02	2.03	4.01	2.03	2.03
32. St. Paul	Express rate	1.85	1.75	1.95	1.60	2.70	2.03	1.13	1.33	1.50	2.03	1.25	2.60	1.28	1.33
	Kindel rate	2.03	2.03	2.53	2.03	2.53	2.03	1.03	1.53	1.53	2.03	1.53	2.53	1.53	1.53
	Parcel post rate	.54	2.03	2.03	1.04	6.00	5.01	2.03	2.03	1.04	5.01	2.03	4.01	2.03	3.02
33. Washington	Express rate	.48	1.63	.95	.90	3.95	2.98	1.23	1.05	.95	2.83	1.15	2.60	1.10	1.70
	Kindel rate	.53	2.03	1.53	1.03	3.53	3.03	1.53	1.53	1.03	3.03	1.53	2.53	1.53	2.53

Kindel's graduate of parcel-post rates.

Pounds.	Local zone.	First zone, 150 miles.	Second zone, 150 to 400 miles.	Third zone, 400 to 700 miles.	Fourth zone, 700 to 1,050 miles.	Fifth zone, 1,050 to 1,450 miles.	Sixth zone, 1,450 to 1,900 miles.	Seventh zone, 1,900 to 2,400 miles.	Eighth zone, 2,400 miles and over.
1	$0.03	$0.04	$0.05	$0.06	$0.07	$0.08	$0.09	$0.10	$0.11
2	.04	.05	.07	.09	.11	.13	.15	.17	.19
3	.04	.06	.09	.12	.15	.18	.21	.24	.27
4	.05	.07	.11	.15	.19	.23	.27	.31	.35
5	.05	.08	.13	.18	.23	.28	.33	.38	.43
6	.06	.09	.15	.21	.27	.33	.39	.45	.51
7	.06	.10	.17	.24	.31	.38	.45	.52	.59
8	.07	.11	.19	.27	.35	.43	.51	.59	.67
9	.07	.12	.21	.30	.39	.48	.57	.66	.75
10	.08	.13	.23	.33	.43	.53	.63	.73	.83
11	.08	.14	.25	.36	.47	.58	.69	.80	.91
12	.09	.15	.27	.39	.51	.63	.75	.87	.99
13	.09	.16	.29	.42	.55	.68	.81	.94	1.07
14	.10	.17	.31	.45	.59	.73	.87	1.01	1.15
15	.10	.18	.33	.48	.63	.78	.93	1.08	1.23
16	.11	.19	.35	.51	.67	.83	.99	1.15	1.31
17	.11	.20	.37	.54	.71	.88	1.05	1.22	1.39
18	.12	.21	.39	.57	.75	.93	1.11	1.29	1.47
19	.12	.22	.41	.60	.79	.98	1.17	1.36	1.55
20	.13	.23	.43	.63	.83	1.03	1.23	1.43	1.63
21	.13	.24	.45	.66	.87	1.08	1.29	1.50	1.71
22	.14	.25	.47	.69	.91	1.13	1.35	1.57	1.79
23	.14	.26	.49	.72	.95	1.18	1.41	1.64	1.87
24	.15	.27	.51	.75	.99	1.23	1.47	1.71	1.95
25	.15	.28	.53	.78	1.03	1.28	1.53	1.78	2.03
26	.16	.29	.55	.81	1.07	1.33	1.59	1.85	2.11
27	.16	.30	.57	.84	1.11	1.38	1.65	1.92	2.19
28	.17	.31	.59	.87	1.15	1.43	1.71	1.99	2.27
29	.17	.32	.61	.90	1.19	1.48	1.77	2.06	2.35
30	.18	.33	.63	.93	1.23	1.53	1.83	2.13	2.43
31	.18	.34	.65	.96	1.27	1.58	1.89	2.20	2.51
32	.19	.35	.67	.99	1.31	1.63	1.95	2.27	2.59
33	.19	.36	.69	1.02	1.35	1.68	2.01	2.34	2.67
34	.20	.37	.71	1.05	1.39	1.73	2.07	2.41	2.75
35	.20	.38	.73	1.08	1.43	1.78	2.13	2.48	2.83
36	.21	.39	.75	1.11	1.47	1.83	2.19	2.55	2.91
37	.21	.40	.77	1.14	1.51	1.88	2.25	2.62	2.99
38	.22	.41	.79	1.17	1.55	1.93	2.31	2.69	3.07
39	.22	.42	.81	1.20	1.59	1.98	2.37	2.76	3.15
40	.23	.43	.83	1.23	1.63	2.03	2.43	2.83	3.23
41	.23	.44	.85	1.26	1.67	2.08	2.49	2.90	3.31
42	.24	.45	.87	1.29	1.71	2.13	2.55	2.97	3.39
43	.24	.46	.89	1.32	1.75	2.18	2.61	3.04	3.47
44	.25	.47	.91	1.35	1.79	2.23	2.67	3.11	3.55
45	.25	.48	.93	1.38	1.83	2.28	2.73	3.18	3.63
46	.26	.49	.95	1.41	1.87	2.33	2.79	3.25	3.71
47	.26	.50	.97	1.44	1.91	2.38	2.85	3.32	3.79
48	.27	.51	.99	1.47	1.95	2.43	2.91	3.39	3.87
49	.27	.52	1.01	1.50	1.90	2.48	2.97	3.46	3.95
50	.28	.53	1.03	1.53	2.03	2.53	3.03	3.53	4.03

100 pounds.

This graduate can be extended to any weight without discriminations.

The rate is found by multiplying the pounds by the zone and adding 3, the overhead charge, except in the local zone, where the rate is found by dividing the weight in pounds by 2 and adding 3. Thus the rate on 10 pounds in the local zone is 10÷2=5+3=8. Fractions are disregarded. The rate on 10 pounds to the eighth zone is 10×8=80+3=83.

The weight limit to be extended to all zones to 50 pounds.

The weight limit to be extended to 150-mile zone to 100 pounds.

The ounce rates to be ½ cent per ounce until the pound rate is reached, when the pound rate shall apply.

All food products should take 25 per cent less rate than merchandise, which is now the rule of express companies.

For packages of unusual or excessive dimensions the charge shall be made upon a basis of 10 pounds per cubic foot.

15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32
Los Angeles.	Louisville.	Memphis.	Milwaukee.	Nashville.	New Orleans.	New York.	Omaha.	Philadelphia.	Pittsburgh.	Portland, Me.	Portland, Oreg.	Salt Lake City.	San Antonio.	San Francisco.	Seattle.	St. Louis.	St. Paul.
$5.01																	
4.60																	
3.53																	
5.01	$2.03																
4.30	*1.05*																
3.03	**1.03**																
5.01	2.03	$2.03															
4.65	*.90*	*1.25*															
3.53	**1.03**	**1.53**															
5.01	.54	1.04	$2.03														
4.53	*.75*	*.90*	*1.13*														
3.53	**.53**	**1.03**	**1.53**														
5.01	3.02	2.03	3.02	$2.03													
4.38	*1.58*	*1.23*	*1.73*	*1.35*													
3.03	**2.03**	**1.53**	**2.53**	**1.53**													
6.00	3.02	3.02	3.02	3.02	$4.01												
4.95	*1.30*	*1.73*	*1.40*	*1.53*	*2.35*												
4.03	**1.53**	**2.53**	**2.03**	**2.03**	**2.53**												
4.01	2.03	2.03	2.03	2.03	3.02	$4.01											
4.10	*1.43*	*1.58*	*1.33*	*1.58*	*2.15*	*1.95*											
3.03	**1.53**	**1.53**	**1.53**	**1.53**	**2.03**	**2.53**											
6.00	2.03	3.02	3.02	3.02	4.01	.54	$4.01										
4.88	*1.23*	*1.63*	*1.35*	*1.43*	*2.20*	*.65*	*1.90*										
4.03	**1.53**	**2.03**	**2.03**	**2.03**	**2.53**	**.53**	**2.53**										
6.00	2.03	3.02	2.03	2.03	3.02	2.03	3.02	$1.04									
4.73	*.90*	*1.40*	*1.05*	*1.20*	*1.93*	*.85*	*1.63*	*.80*									
4.03	**1.03**	**2.03**	**1.53**	**1.53**	**2.03**	**1.03**	**2.03**	**1.03**									
6.00	3.02	4.01	3.02	3.02	5.01	1.04	4.01	2.03	$2.03								
5.20	*1.53*	*1.98*	*1.48*	*1.70*	*2.55*	*.73*	*2.13*	*.90*	*1.18*								
4.03	**2.03**	**2.53**	**2.03**	**2.53**	**3.03**	**1.03**	**3.03**	**1.53**	**1.53**								
3.02	6.00	6.00	5.01	6.00	6.00	6.00	4.01	6.00	6.00	$6.00							
2.50	*4.75*	*4.88*	*4.55*	*4.80*	*5.25*	*5.10*	*4.13*	*5.03*	*4.80*	*5.25*							
2.03	**3.53**	**3.53**	**3.53**	**3.53**	**3.53**	**4.03**	**3.03**	**4.03**	**4.03**	**4.03**							
2.03	4.01	4.01	4.01	4.01	5.01	6.00	3.02	6.00	5.01	6.00	$3.02						
2.25	*3.48*	*3.60*	*3.50*	*3.73*	*4.05*	*3.98*	*2.63*	*3.93*	*3.68*	*4.03*	*2.33*						
1.53	**3.03**	**2.53**	**2.53**	**3.03**	**3.03**	**3.53**	**2.03**	**3.03**	**3.03**	**3.53**	**2.03**						
4.01	3.02	2.03	4.01	3.02	2.03	5.01	3.02	5.01	4.01	6.00	5.01	$4.01					
3.50	*2.55*	*2.25*	*2.58*	*2.15*	*1.60*	*3.10*	*2.25*	*3.03*	*2.65*	*3.30*	*5.15*	*3.50*					
2.53	**2.53**	**1.53**	**2.53**	**1.53**	**1.53**	**3.03**	**2.03**	**3.03**	**2.53**	**3.53**	**3.53**	**2.53**					
2.03	6.00	5.01	6.00	6.00	6.00	6.00	5.01	6.00	6.00	6.00	2.03	2.03	$5.01				
1.40	*4.93*	*4.80*	*4.85*	*5.00*	*5.00*	*5.30*	*4.28*	*5.25*	*5.00*	*5.45*	*1.95*	*2.28*	*4.28*				
1.03	**3.53**	**3.53**	**3.53**	**3.53**	**3.53**	**4.03**	**3.03**	**4.03**	**4.03**	**4.03**	**1.53**	**1.53**	**3.03**				
3.02	6.00	6.00	5.01	6.00	6.00	6.00	4.01	6.00	6.00	6.00	.54	3.02	5.01	$3.02			
2.80	*4.65*	*4.70*	*4.30*	*4.70*	*5.20*	*5.08*	*4.00*	*4.93*	*4.75*	*5.18*	*.80*	*2.55*	*5.30*	*2.18*			
2.53	**3.53**	**3.53**	**3.53**	**3.53**	**3.53**	**4.03**	**3.03**	**3.03**	**4.03**	**4.03**	**.53**	**2.03**	**3.53**	**2.03**			
5.01	1.04	1.04	2.03	1.04	3.02	3.02	2.03	3.02	2.03	4.01	5.01	4.01	3.02	5.01	$5.01		
4.45	*.80*	*.95*	*.90*	*.95*	*1.53*	*1.40*	*1.18*	*.138*	*1.15*	*1.68*	*4.58*	*3.33*	*2.18*	*4.70*	*4.38*		
3.03	**1.03**	**1.03**	**1.03**	**1.03**	**1.53**	**2.03**	**1.03**	**2.03**	**1.53**	**2.53**	**3.53**	**2.53**	**2.03**	**3.53**	**3.53**		
5.01	2.03	3.02	1.04	3.02	4.01	3.02	1.04	3.02	3.02	4.01	5.01	3.02	4.01	5.01	5.01	$2.03	
4.45	*1.38*	*1.60*	*1.05*	*1.50*	*2.10*	*1.95*	*1.00*	*1.90*	*1.60*	*2.05*	*4.10*	*3.20*	*2.80*	*4.55*	*3.93*	*1.25*	
3.03	**1.53**	**2.03**	**1.03**	**2.03**	**2.53**	**2.53**	**1.03**	**2.53**	**2.03**	**2.53**	**2.53**	**2.53**	**2.53**	**3.03**	**3.03**	**1.53**	
6.00	2.03	3.02	3.02	2.03	3.02	1.04	3.02	.54	1.04	2.03	6.00	6.00	4.01	6.00	6.00	3.02	$3.02
4.85	*1.15*	*1.58*	*1.35*	*1.58*	*1.90*	*.73*	*1.85*	*.60*	*.80*	*1.05*	*5.03*	*3.88*	*2.98*	*5.25*	*4.90*	*1.33*	*1.85*
4.03	**1.53**	**2.03**	**1.53**	**1.53**	**2.53**	**1.03**	**2.03**	**.53**	**1.03**	**1.53**	**4.03**	**3.53**	**3.03**	**4.03**	**4.03**	**2.03**	**2.03**

From their German plant Lord & Taylor can post 11 pounds of merchandise as far as San Francisco for 81 cents, while from the New York plant the tax or rate on parcels posted to San Francisco is $1.32, in other words, 50 per cent more from New York than from Germany. Surely, this does not speak well for American ingenuity and enterprise in our Post Office Department.

Much has been published of late so that the ider is prevelant, as I illustrate by the letters sent me by my townsman, that the parcel post was destroying the express companies, and in proof of that they point to the dissolution of the United States Express Co. If the public but knew the inside of this dissolution they would spare their pity for a worthier cause.

First, I will treat this subject from the economic viewpoint. In my own city of Denver we had about 6 express companies operating, one of which was the United States Express Co. I do not believe that at any time there has been enough express business in my city of Denver, excepting during the holiday season, to give any one express company, if they had all of the business, a hot box. Therefore, from the economic point of view there should be less express companies, less overhead charges, less duplication, and so forth.

The real reason for a dissolution of the United States Express Co. is that for years the United States Express Co. had a contract with the United States Government, under which all the funds were carried from place to place on a stipulated contract that the regular rates should apply to Government business. The public generally is not aware that sworn evidence has been before the Attorney General for some years, and is being pressed for investigation, and now on the eve of this exposure the United States Express Co has taken time by the forelock, and like ether would disappear, so that there will be nothing tangible to attack or collect from the overcharges which amount to millions of dollars that have been fleeced from our Government. The public generally does not know that there was a side contract between the Adams Express Co. and the United States Express Co. which monopolize the Government business in a manner so that none other could compete, and in violation of the law.

My resolution, House resolution 569, of July 14, 1914, now before the Judiciary Committee, reads as follows:

Resolution.

Whereas the United States Government is now calling for bids from express companies for the purpose of transporting Government funds; and

Whereas a monopoly has existed for 20 years, enjoyed by certain express companies; and

Whereas certain blue-print copies of contracts between certain express companies have been furnished to the United States Government more than a year ago; and

Whereas no action is known to have been taken to compel restitution by said companies: Therefore be it

Resolved, That the Attorney General be, and he is hereby, directed to inform the House of Representatives whether the Department of Justice has in contemplation any action for compelling the United States and Adams Express Cos. to refund to the United States Government any moneys collected in excess of rates charged to individual shippers.

To substantiate the charges I have presented the sworn evidence of a well-known citizen. I hope soon to bring about a thorough investigation and the recovery of the millions of overcharges that have been perpetrated on the Government on the transportation of funds, and so forth.

The competition of the parcel post beyond the second zone is so absurd that it becomes nothing more or less than a monopoly for the express company and a license for the Government to fleece the unsophisticated who are patronizing the parcel post beyond a 5-pound parcel and the second zone.

In a printed circular dated January 25, 1913, I sent broadcast my parcel-post graduate that, I believed, ought to be adopted, if no better was offered, with the following notation:

P. S.—This perfected graduate is dedicated to the Hon. Woodrow Wilson, our esteemed and learned President elect, whose aim and desire is to serve all the people, which stamps him a second Lincoln.

KINDEL.

I was inspired by all that I had read and heard of Mr. Wilson from the declarations made by the President before the election. I was in hopes that the country might depend upon him for wise and conservative action, and thus endeavor to promote legislation that would take into certain consideration the general welfare of the entire body of merchants, manufacturers, and laborers of the country; but regret to find that the tendencies that have thus far been shown are more scholastic than businesslike, as is evidenced by this botch parcel post and the restrictive orders now prevailing in the coal fields of my State. Wherefor, I regret the loss of time that I could not convince him and the Democratic Party of its suicidal policy. Our President is undoubtedly a good and well-meaning man, but it would have been a blessing to the country if he had had more business experience before he assumed the grave responsibility of the office with which he has been honored and which I took great delight to assist him in. It is but proper to say that on all but two propositions I have accepted Democratic advice and voted with them. What I have said here is not in the spirit of malice or unfriendliness, and I am only repeating in public what I have said in private repeatedly. I have no other ambition than to be right, and, if possible, to convince others of that fact.

In conclusion, I have been asked to explain some things relative to the charges made against me by my colleague, Mr. KEATING. I do not think it is necessary. I would rather adopt the method of our heroic and illustrious Speaker, who was assailed on the floor of the House several months ago, and which, in his becoming and dignified manner, he dismissed with a "S-h-o-o f-l-y"; or, to quote a doggerel valentine rhyme:

Avaunt! thou snickering fop,
E'er nature made thee, she thought she would stop;
But having some useless scraps on hand,
These she baked, and thus we became annoyed by you—

And so forth.

But, better still, to apply to him a Spanish adage:

It is a waste of lather to shave an ass.

The SPEAKER. The gentleman from Maryland [Mr. LEWIS] is recognized for 30 minutes.

Mr. LEWIS of Maryland. Mr. Speaker, I have taken advantage of the patience of the House in the last two or three years so frequently on this subject that I do so this morning with considerable misgiving. I should not do so except at the suggestion of others, who think that the relation of the Postmaster General to this very interesting question should be fairly stated to the House.

First let me assure you that I do not think I know all about this subject. I am quite sure I do not. But there are some elements of the subject that are sufficiently dominant and segregated in character as to be capable of oral statement to this House, and with its patience I shall try to present them.

First, let me say that in the very nature of things the making of transportation rates is an administrative function. There may be individual Members of this House who can take the data of astronomy and figure out exactly when the next comet is going to approach some member of our solar system, but I am satisfied that as an aggregate body we would not be able to encompass such a mass of detail. The illustration fits the subject of transportation rates and transportation conditions. It is a subject that requires the expert attention of administrative talent, dealing with it not for a day or an hour, as we act in legislative matters, but giving prolonged attention, running from week to week and month to month, and, indeed, from year to year.

Now, the House parcel-post bill absolutely recognized this administrative principle, and gives the Postmaster General the power, with the approval of the Interstate Commerce Commission, to determine all the conditions of parcel-post traffic, the weight limit, the rates, the conditions of mailability, the zones, and every incident attached to the shipment of parcels. I believe you will agree that we have wisely left to administrative authority the disposition of this subject, requiring so much minutiæ of attention.

Now, the question is, Has the Postmaster General acted with reason and with fair public spirit in the exercise of the power which Congress has given him? If my judgment is of any value, I should say that he has, and that he is entitled to the commendation of his country for his services in that respect, and not to criticism from any quarter. [Applause.]

Now, what is the business, the function, of the parcel post? Clearly it is to move the potential traffic in parcels, in express matter. I mean by that any traffic that normally ought to move by express from consignor to consignee.

It is a mere truism to say that you ought to make the rate as low as you can in order to move that potential traffic; but it is just as much a truism to add that the Postmaster General would be guilty of a grave infraction of public duty if he were to make those rates lower than the cost of service. The parcel-post statute explicitly instructs him to make the rates adequate to pay the cost of service, and of course he would be under every impulse to make them as low as he can within the mandate of the law.

Now, what are the costs of service? Briefly speaking, you have two facts before you with reference to the cost of service. One of them is the payment of the railways for the service they render. When the House passed the parcel-post bill, its substi-

tute for the Bourne bill, it included in it a provision that the Postmaster General could go to the Interstate Commerce Commission and get the same rates of railway pay that the express companies have; that is, 50 per cent of the rate charged the express shipper, but unfortunately, in my opinion, that clause was stricken out in conference at the request of the Senate conferees. That leaves the Postmaster General helpless under the law. He has to take an old statute that was passed for the payment of the railways for carrying the mails, letters, and papers, and not naturally applicable to the parcel or express traffic; and finding what it costs to move a pound of letters, a pound of papers, and the like, for 200 miles the Postmaster General had to load his parcel rates at a cent a pound for each 200 miles to pay the railways for the movement of such parcels.

Let me repeat this: Now, the Post Office has found that under the present railway mail pay laws it costs 10 cents a ton-mile for the movement of mail matter, which includes parcels. That is equivalent to 1 cent a pound for every 200 miles the pound moves. When, therefore, he is making a rate for 100 pounds that is going to move 200 miles or within a zone of that range, he must add $1 to that rate for the mere purpose of paying the railways. He is using this old railway postal pay law, the only one he has, and he is doing the best he can under the circumstances.

Now, the express makes its own rates, and pays the railway one-half of the rate. But let us see what that means. It means various things. On the very short journey from here to Baltimore the express company charges 21 cents for a parcel of 5 pounds. That is its minimum rate. Half of that sum, or 10 cents, it pays to the railways. That 10 cents actually for a 40-mile journey amounts to a dollar a ton-mile, paid by the express company to the railway. But in that particular instance, it so happens that our old postal railway mail pay law works beautifully for the Government. The parcel-post rate is 7 cents for 5 pounds from here to Baltimore. We pay out of that 7 cents just 1 cent to the railroad under that law, or 9 cents less than the express companies have to pay on that particular shipment. That is one extreme, and I am using extremes for the purpose of illustrative clarity. Now, take the other extreme. Here is a package of 100 pounds moving from Baltimore to San Francisco. On that shipment the express rate is $10.50. The railroads get half of that, or about $5. That works out about 3 cents a ton-mile, or less than one-thirtieth of the ton-mile rate on the 5-pound express shipment from Washington to Baltimore.

Meanwhile on our postal 100-pound shipment, when the weight limit reaches that point, we shall have to pay under the present railway pay law $15 to the railways, or three times what the express company pays the railways in that instance. Of course a great noise can be made about these inconsistencies, but actually nobody is to blame. The railway mail pay law provides rates that were adapted to the movement of letters and papers, was passed years ago, and has its roots away back in the history of the subject. The rates of pay that the express companies give the railways have their roots away back in the history of express railway contracts. In any voluntary sense neither the Government, the railways, nor the express companies are to blame for these inconsistencies. You simply have a set of traffic conditions before you that requires readjustment to a new system. Now, obviously anybody can see that the thing that requires adjustment in the parcel-post rates is the payment the Government has to make to the railways for carrying these express parcels.

We have had a commission on that subject for a year and a half; and if they have not yet made a formal report, they have at least agreed upon the principle of the report. The Moon bill represents the principle of that report and is pending before this House, and will be reached for discussion to-morrow. Under that measure readjustment of postal railroad pay will be made, and then the Postmaster General will be able to make parcel-post rates, with the approval of the Interstate Commerce Commission, on terms of payments to the railways of rates as reasonable as those of express companies.

There is no occasion for maligning the present conditions. As long as we have to pay the railways these relatively high rates on long distances and heavy weights, we can not have a long-distance or heavy-weight parcel post. Having to pay but very little on short distances and small weights, we have now, gentlemen of the House, a tremendously efficient little-parcel post. It means this in effect: We have got a 150-mile parcel post up to about 20 pounds, a 10-pound parcel post up to 300 miles, and we have a 5-pound parcel post good for the whole country.

When the railway mail pay conditions are adjusted we shall be able to make rates as good, at least, as the express companies for all weights and distances, and then I trust that the ideal with which I started out in this work, namely, a complete system of postal express, will be finally realized.

I am going to give you now some of the economic reasons that justify a complete postal-express system. A census of the parcel post taken for the Post Office Department in April last, the third census that has been taken—and let me say parenthetically that the Postmaster General and the Post Office Department know more about our parcel-post activities from these censuses than any other country in the world—this census shows that the flow of the traffic in April last was at the rate of about 250,000,000 parcels a year; that is, counting the parcels from 1 pound and up and ignoring the smaller weights as belonging to the old business. Two hundred and fifty million parcels mean two and one-half per capita. In Germany the parcel post amounts to a little over four per capita, but it is an older system and the rates have been worked out to better adjustment. In Switzerland the parcel post has actually attained a traffic of eight parcels per capita; and so we can take the experience of that country as indicating what we are likely to have here.

Mr. MANN. I did not quite catch the figures which the gentleman gave as to this country.

Mr. LEWIS of Maryland. Two hundred and fifty million parcels per year, or about two and a half per capita. That is, if the two weeks of April traffic can be taken as indicative of the entire year.

One remarkable thing about the 250,000,000 parcels ought not to go without observation. About 75,000,000 of them have been taken from the express traffic, as nearly as we can judge. The other 175,000,000 parcels have been absolutely created by the parcel-post rates and increased weight limits which Mr. Burleson has inaugurated and to the present state of high efficiency which the parcel post has attained under his management. In short, there are 175,000,000 parcels moved annually in this country now that were penalized out of existence by the inefficient and ill-adapted express rates that formerly obtained, and for 40 years in this country, due to the neglect of our statesmanship, a magnificent service like that has been denied to the people.

Another thing that we learn about the parcel post is very interesting. None of us, I think, fully realize that even before we passed the parcel-post law our postal system was the greatest express agency on earth. In 1912 it moved some eighteen billions of express shipments. I mean the letter, paper, and average mail pieces. For every one of them is an express shipment in all its incidents, except the matter of weight. It requires a consignor and consignee; it requires a rate; and it requires locomotive service and all the acts of attention that express shipments receive, barring a few minor ones. Therefore when the Postal Establishment lifted the prohibitive conditions of weight limit and irrational rates and admitted to the mail parcels now moving it was but adding another shelf to its mammoth express establishment. Now, the effect of that is this: We are handling the parcel to-day, barring the cost of railway pay, at a cost of about 5 cents a piece from 3 pounds up. The 1 and 2 pound parcels cost less, because they do not have to go on the delivery wagon. The parcel averaging about 4 pounds and up we are handling for less than 5 cents. What is the express company's experience? Its experience is that its parcel is 33 pounds in average weight, and that it costs about 24 cents to handle it, barring the cost of railway pay. Now, that means if we add the collection service to our delivery service and such other facilities as the express companies give, we can handle the express parcel at less than 15 cents per parcel, while the express companies pay some 24 cents, or half their receipts. The express revenues, after they pay the railway this year, are about $78,000,000. There can be no question, I can say with the confidence of a student on this subject, that this mammoth Postal Establishment, as the greatest express agency on earth, can take the whole express business at rates that now obtain and clear from thirty to forty million dollars as an annual surplus by its superior economic efficiency in handling the parcels. We are entitled morally, as well as on economic grounds, to the whole express business. We have more than a million miles of rural route, and can thus give a service that the express companies can never give.

We can handle the shipments for one-half of the cost that the individually organized express companies can handle them. Meanwhile we are suffering a loss of some $35,000,000 a year on the rural routes, maintaining a million miles of express transportation structure, and on ethical grounds, besides the

economic grounds, we are entitled to the whole express traffic, to make good on the rails the losses suffered in service to people on the rural routes of the country.

A word or two now about the Postmaster General and parcel-post development. I regret that I am not his spokesman upon this floor. I believe, however, that he has stated to the public that his purpose is, when conditions of railway pay are adjusted, to lift the weight limit to 100 pounds and then make rates that will move the traffic; that is, make rates that are at least as good as the rates made by the express companies of the country. In that event we shall practically have included in the postal establishment the whole express transportation system. I have a great deal of admiration for the Postmaster General, in one respect especially. The postal establishment employs 300,000 men. Its revenues will be something like $300,000,000 in the coming year. It is very rare that you get a Postmaster General who is not afraid of his great horse; afraid to make changes, afraid to make progress, afraid to try out those innovations that even the most absolute science and common sense would suggest. It is from that circumstance, that weakness of human nature, that we derive the inertia of big institutions, an inertia, however, that inheres in big private establishments with nearly the same force that it does in Government institutions. Be it said for Albert Burleson, the Postmaster General of the United States, that he is not afraid of his horse. Be it said for him, too, that he is not proceeding in this matter with the idea of bankrupting the Treasury of the United States. He has wiped out the postal deficit and secured a substantial surplus.

If the rates were made that he has been asked to make, he would bankrupt the Treasury, sure and clean. If a rate of 9 cents a pound at this moment were made from coast to coast on traffic that is costing us up to 15 cents a pound for railway pay alone, I need not tell you the consequence of folly like that.

Mr. HULINGS. Mr. Speaker, will the gentleman permit an interruption?

Mr. LEWIS of Maryland. Certainly.

Mr. HULINGS. If it is true that the Government can do this service at less price than the express companies, why, then, should not the rates for the service be as low as the express company rates?

Mr. LEWIS of Maryland. They are as low.

Mr. HULINGS. In some places only.

Mr. LEWIS of Maryland. Yes.

Mr. HULINGS. In the small parcels.

Mr. LEWIS of Maryland. But when you come to the longer distances and higher weights, the loading for railway pay, which is a cent a pound more for every 200 miles, makes that rate what you find it to be, much higher than the express rate——

Mr. HULINGS. What reason is there that the United States Government can not get its freight hauled at the same price that the express companies do?

Mr. LEWIS of Maryland. Because we have a statute which provides a specific rate of pay to the railways for carrying the mails, and we are carrying the parcels under that statute. Judge MOON, of Tennessee, has a bill which will be up for consideration to-morrow, intending to meet those conditions.

Mr. MADDEN. And in any event it must be admitted that in order to adjust the rates so that they will be equitable we must take time.

Mr. LEWIS of Maryland. It takes time, plenty of time, and administrative talent as well.

With regard to the zones, you can have a thousand kinds of zones; they can be as numerous as the possibilities of the circle. Obviously one law of fact that the zones must respect is the matter of cost, and zones made without reference to the law of cost would be erroneously made and bring disaster upon the institution. You can draw any kind of circles on a piece of paper. A circle has something of occult suggestion in it, but the facts ought to write the law and determine the zones, and when the Interstate Commerce Commission had the question up with regard to express rates it did not draw any 9 or 10 circles at all, but it developed a rate structure, a lot more complex than that—a rate structure that was fitted to move the express traffic. If you have a jump of a cent a pound—that is, if you fashion your zones so large that your rate has a jump of a cent a pound with each zone—that means that on the hundred-pound parcels the rate has got a jump of $1 per zone. Between two stations 5 or 6 miles apart you might have a difference of a dollar in the rate on the parcel; and so the Interstate Commerce Commission in working out the express-rate structure looked at the facts of express commerce, and the result is that the rate on the hundred pounds under the express tariffs jumps only 5 cents at a time. I think perhaps that is too minute; that the hundred-pound parcel could stand a jump of 25 cents for changing distances; but, at all events, Members here should be satisfied that all of this immense minutiæ be worked out by the Postmaster General and the Interstate Commerce Commission, and that as a legislative body we are manifestly unfitted to encompass the vast detail essential to a sane result on that subject.

I thank the House for the patient attention it has given me. [Applause.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had passed without amendment joint resolution and bill of the following titles:

H. J. Res. 314. Joint resolution for the relief, protection, and transportation of American citizens in Europe, and for other purposes; and

H. R. 11822. An act to acquire, by purchase, condemnation, or otherwise, additional land for the post office, courthouse, and customhouse in the city of Richmond, Va.

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday, and the Clerk will call the committees.

The Clerk proceeded to call the committees.

EXPENDITURES IN THE DEPARTMENT OF COMMERCE.

Mr. ROTHERMEL (when the Committee on Expenditures in the Department of Commerce was called). Mr. Speaker, I desire to present the report of the Committee on Expenditures in the Department of Commerce, being Report No. 500, and Calendar No. 87.

Mr. MANN. Mr. Speaker, I do not know what the gentleman desires, but the report was presented to the House on April 4, 1914, and has been printed. The gentleman can not now present it to the House.

The SPEAKER. There is not anything to do about it that the Chair knows of. Of course if any gentleman desires to call it up for discussion, that is another question.

Mr. ROTHERMEL. Then, Mr. Speaker, if there is nothing further to do, we will pass it.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution of the following title, when the Speaker signed the same:

H. J. Res. 314. Joint resolution for the relief, protection, and transportation of American citizens in Europe, and for other purposes.

ENROLLED JOINT RESOLUTION PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following House joint resolution:

H. J. Res. 314. Joint resolution for the relief, protection, and transportation of American citizens in Europe and for other purposes.

ENROLLED BILLS SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 15959. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 11822. An act to acquire, by purchase, condemnation, or otherwise, additional land for the post office, courthouse, and customhouse in the city of Richmond, Va.;

H. R. 16345. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; and

H. R. 17482. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 6031. An act authorizing the Board of Trade of Texarkana, Ark.-Tex., to construct a bridge across Sulphur River at or near Pace's ferry, between the counties of Bowie and Cass, in the State of Texas.

REMOVAL OF THE BOTANIC GARDEN.

The SPEAKER. The Clerk will call the next committee.

Mr. SLAYDEN (when the Committee on the Library was called). Mr. Speaker, I would like to call up the bill H. R. 12796, which is Calendar No. 90, and put it on its passage.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 12796) to provide for the removal of the Botanic Garden to Rock Creek Park and for the transfer of its control to the Department of Agriculture.

Mr. MANN. Mr. Speaker, this is on the Union Calendar.

The SPEAKER. This is a Union Calendar bill and the House automatically resolves itself into the Committee of the Whole House on the state of the Union for its consideration, and the gentleman from Kentucky [Mr. JOHNSON] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 12796, with Mr. JOHNSON of Kentucky in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk began the reading of the bill.

Mr. CLARK of Florida. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CLARK of Florida. I would like to know if the Clerk is now reading the bill for amendment?

The CHAIRMAN. It is being read for the first time.

The Clerk read as follows:

A bill (H. R. 12796) to provide for the removal of the Botanic Garden to Rock Creek Park and for its transfer to the control of the Department of Agriculture.

Be it enacted, etc., That for the purpose of establishing and maintaining a national arboretum and botanical garden in Rock Creek Park the Botanic Garden is hereby transferred from the direction and control of the Joint Committee on the Library to the direction and control of the Secretary of Agriculture, and he is authorized to remove to Rock Creek Park or otherwise dispose of the plants, structures, and all that pertains to the Botanic Garden in its present location, as he may deem proper.

SEC. 2. That so much of Rock Creek Park, not in excess of 400 acres, as may be needed for the purposes of an arboretum and botanic garden, not including the National Zoological Park, is hereby transferred from the joint direction and control of the Commissioners of the District of Columbia and the Chief of Engineers of the United States Army to the direction and control of the Secretary of Agriculture.

SEC. 3. That the chairman of the Senate Committee on the Library and the chairman of the House Committee on the Library, and the Engineer Commissioner of the District of Columbia shall select and cause to be surveyed that portion of Rock Creek Park, not in excess of 400 acres, herein set apart for a botanic garden and arboretum.

SEC. 4. That all unexpended appropriations in relation to the Botanic Garden which shall be available at the time this act takes effect shall be available for expenditure for the transfer of the Botanic Garden to the new site and for other purposes incident to its removal and maintenance.

SEC. 5. That all laws or parts of laws not consistent with or that are repugnant to this act are hereby repealed.

Mr. SLAYDEN. Mr. Chairman, if any gentleman in the House wants an explanation of the bill and its purposes, or any statement of the reasons why the committee reached the conclusion that it did in its report and recommendation, I will be happy, to the best of my ability, to give it. I have been away for some time——

Mr. MOORE. Mr. Chairman, I have only had a chance to hear the bill read, but I observe there are 400 acres mentioned as being the probable area that would be required in Rock Creek Park.

Mr. SLAYDEN. My recollection is it says not more than 400 acres.

Mr. MOORE. Is any particular 400 acres in view?

Mr. SLAYDEN. Yes; Rock Creek Park has been investigated by a number of people connected with other branches of the Government, the Smithsonian Institution, the Department of Agriculture, and botanical experts from New York, Boston, and various places around, and the consensus of opinion seems to be that it should begin about one block west of Sixteenth Street, as I remember those streets, near the reservoir. There are open places now, where there are no trees, and with sufficient area to accommodate the plants, and there is an undulation which botanical experts say is desirable to have; running water, which they say we should have; elevation above the city, which is desirable; and a comparative remoteness from the gases that come from the burning of coal and things of that kind which are injurious to plants and plant life.

Mr. MOORE. This land already belongs to the District of Columbia?

Mr. SLAYDEN. Yes; there are about 1,600 or 1,800 acres in Rock Creek Park. If the gentleman from Pennsylvania will permit me, this will not interfere with the park, but it will contribute to its beauty rather than detract from it, and it is not intended, of course, to make a garden, rectangular walks, and vitrified pavements, and things of that kind. Only so much of that will be done as is necessary for the convenience and use of the people who visit the park.

Mr. MOORE. Is the purchase of new land for this purpose contemplated?

Mr. SLAYDEN. No.

Mr. MOORE. We have had that question before, the gentleman understands.

Mr. SLAYDEN. There is nothing whatever of that sort contemplated.

Mr. MOORE. May I inquire for information as to the present jurisdiction in which the Botanic Garden finds itself?

Mr. SLAYDEN. It is in the jurisdiction of the Joint Committee on the Library, and they are relinquishing that prerogative.

Mr. MOORE. How are appropriations made?

Mr. SLAYDEN. Appropriations are made in one of the regular appropriation bills—the sundry civil appropriation, I think it is.

Mr. MOORE. To be visèed by the Joint Committee on the Library?

Mr. SLAYDEN. No; we have nothing to do with that; we make no appropriations.

Mr. MOORE. The committee simply has jurisdiction over the present Botanic Garden?

Mr. SLAYDEN. Over legislation concerning it, and have executive control as it now exists. We appoint the superintendent and employees.

Mr. MOORE. The Committee on the Library desires to be relieved and have the responsibility placed on the Department of Agriculture?

Mr. SLAYDEN. The Joint Committee on the Library consists of patriots who are perfectly willing in the public interest to relinquish their control of the Botanic Garden.

Mr. STAFFORD. If the gentleman will permit, I would like to inquire as to the need of having any congressional representation on that board of managers. The gentleman is aware that the Department of Agriculture has agricultural experimental stations in the neighborhood of Washington, and will the gentleman favor us with the need of having the chairmen of the Committees on the Library of the Senate and House——

Mr. SLAYDEN. To what part of the bill does the gentleman from Wisconsin refer?

Mr. STAFFORD. To section 3.

Mr. SLAYDEN. Well, it is only for the purpose of selecting the site; that is all.

Mr. STAFFORD. Is there any need, even for that purpose, to have congressional representation?

Mr. SLAYDEN. The site could be selected, but it is desirable that Congress should have a voice in the selection of it rather than turn it absolutely and completely over to the executive officers. There is some little jealousy with regard to the privileges of Congress, and certainly no harm can come from it, and there should be some representation of this body.

Mr. STAFFORD. Another query I would like to propound is as to whether the gentleman has any acquaintance with national botanic gardens in foreign countries?

Mr. SLAYDEN. Yes; I can give the gentleman some information.

Mr. STAFFORD. I understand it is proposed to increase to a large extent the present Botanic Garden.

Mr. SLAYDEN. Yes; I can give the gentleman the information he wants. The Royal Botanic Garden at Kew, London, contains 260 acres. I will give the gentleman the larger ones: The Dutch garden at Batavia, in Java—the Buitenzorg—has 336 acres. It belongs to the General Government. The Arnold Arboretum, in Boston, which is under control of the Harvard University and city of Boston, has 220 acres, the Bussey Farm, in Massachusetts, has 394 acres, and the New York Botanical Garden has 250 acres. If the gentleman desires, here is information given in detail as to practically all the botanical gardens in the world.

Mr. STAFFORD. Some of those the gentleman has mentioned are under the control of private institutions. The Bussey institution is under the control of Harvard University. I question whether there is any Government that has such a large space dedicated to this special work as that which we are now proposing to establish in Rock Creek Park.

Mr. SLAYDEN. I do not think there are any that have so large an acreage.

Mr. STAFFORD. I was surprised at the report of the gentleman that it would not involve any larger expenditures than now exist for any botanical garden.

Mr. SLAYDEN. I said it made no provision for the purchase of land, but the gentleman must understand that if the Botanic Garden develops, if it expands in its work, if it becomes the educative institution which we think it possibly may come to be and desirable that it should become, naturally the moderate expenditures which have heretofore been made in connection with the work will be increased. Everybody knows that this so-called Botanic Garden down here is a travesty, really, on the name of botanical garden; and although there would be some increase in expenditures from time to time, yet they would not be great. The appropriations are small now, and they will continue small.

Mr. CAMPBELL. Why was Rock Creek Park selected as a place to which this Botanic Garden was to be removed?

Mr. SLAYDEN. First, in the order of the reasons, I am going to mention that it involves no appropriation for ground. Secondly, it meets the conditions which the director in chief of the New York Botanical Garden, who is highly trained in the work and qualified to pass upon it as an expert, says we should have in order to have a desirable botanical garden.

Pardon me for saying in that connection to my friend from Wisconsin [Mr. STAFFORD] that the idea in fixing the area at so much of 400 acres as may be necessary, but not in excess of that amount, was with a view of the ultimate growth of the garden.

Now, if the gentleman will pardon me one moment, I will tell him what are the conditions that this expert says should obtain:

First, a reasonable accessibility from the city, either by existing transportation lines or lines to be established.

Now, there is a car line that goes to the park for one fare, and six tickets for 25 cents, that is one or two blocks removed. I am told that another line will go near there on the other side of the ground if this bill passes.

Second, a sufficient distance from the center of the city to insure reasonable freedom from smoke and the gases of combustion. This is especially important in case bituminous coals are likely to be used in any considerable amount in a city.

Third, diversified soil conditions and diversified exposures, an undulating district being more desirable than a plain. Certain portions of the area should have deep soil, while in other portions the soil should be light, and either a natural or an artificial water system should be included.

Now, there are running streams and springs on these grounds. It is easy to get these things.

The idea of this recommendation is to provide as many different natural conditions as possible. An area of natural woodland is very desirable as supplying a place for wild flowers which do not respond readily to cultivation.

You have the area of woodland there, and, operating an arboretum in connection with it, there is abundant opportunity for cultivation of trees.

Fourth. The practicability of supplying an irrigation system under pressure sufficient to reach the roofs of the highest greenhouses constructed, and to provide the possibility of hosing plantations in times of drought should be considered.

Now, I am not certain, as that is a question to be determined by level, that that condition obtains, although I am told it does.

Fifth. As to the acreage to be included, that would depend on the scope of the institution. If, as is certainly most desirable, a considerable number of trees are to be grown as an arboretum the area can not very well be too large, and I should think it might properly run up to 1,000 acres; if only a few trees are to be grown, the area required would naturally be very much less.

I will say to the gentleman from Kansas in that connection, Mr. Chairman, that in all human probability those officials who have charge of the park now, and who will have charge of the park hereafter, except in the event this bill passes, certainly would not object to having the waste and vacant places planted with desirable trees, trees that are ornamental, and will add to the beauty of the park, and that will be a part of the work of the Botanic Garden, although the land is to be controlled by another party.

In order, however, to give elasticity to the institution in the future I think it desirable to provide as much land as possible at the outset, even if it should not be completely developed for many years.

Some members of the committee were urged to recommend that a much larger area should be included.

Mr. CAMPBELL. What area do you contemplate now?

Mr. SLAYDEN. An area not in excess of 400 acres.

Mr. CAMPBELL. Now, I have been over Rock Creek Park. I think it is one of the greatest parks in the world; but it never occurred to me that it was a good place in which to make a botanical garden.

Mr. SLAYDEN. I will say to my friend from Kansas that he differs from gentlemen who are engaged in botanical garden work in the home city of my friend from Massachusetts [Mr. THACHER], and New York and other places.

Mr. THACHER. Will the gentleman from Kansas tell me, please, if he has been out in this part of the park which it is proposed to take for the Botanic Garden, namely, that section at the reservoir?

Mr. CAMPBELL. I have been over Rock Creek Park many times.

Mr. THACHER. The gentleman knows as well as I do that in this end, near the Zoological Garden, it would not be a very suitable place for a botanical garden.

Mr. CAMPBELL. Where would you pick out any 400 acres that would be suitable as the park is now?

Mr. MANN. Will the gentleman yield so as to clear up a misapprehension? While the bill says, "not to exceed 400 acres," of course, it is not intended to use 400 acres in a botanical garden, but to use the spaces that are not now covered by forest, in between those wooded pieces, for botanical garden purposes, without interfering with the wooded portions that are there now.

Mr. THACHER. Certainly.

Mr. MANN. Of course that is a larger area than would be actually cultivated as a botanical garden.

Mr. CAMPBELL. And that would spoil Rock Creek Park as a park, would it not?

Mr. MANN. No; it would really be the making of Rock Creek Park.

Mr. THACHER. I do not think Members of Congress would for a moment want to spoil the beautiful conditions of Rock Creek Park.

Mr. CAMPBELL. In my opinion you would have a conflict at once between the authorities governing the park, the District Commissioners, and the management of the garden.

Mr. SLAYDEN. No; the gentleman is wrong about that.

Mr. CAMPBELL. You would if you occupied every available space.

Mr. SLAYDEN. No; besides it will not occupy all the available space.

Mr. CAMPBELL. The gentleman from Illinois [Mr. MANN] referred to the available spaces being occupied.

Mr. MANN. I can explain that to the gentleman from Kansas.

Mr. SLAYDEN. The Botanic Garden, if located in Rock Creek Park, will be under the control of the Department of Agriculture.

Mr. CAMPBELL. I will ask the gentleman from Texas [Mr. SLAYDEN] if there will be an opportunity to discuss this bill? He will not move the previous question?

Mr. SLAYDEN. Not within a reasonable time.

Mr. SIMS. Mr. Chairman, will the gentleman yield?

Mr. SLAYDEN. Certainly.

Mr. SIMS. I will say that I had an opportunity recently, and availed myself of it, of examining the area of country which is contemplated to be used for this Botanic Garden in the park. It is the far western or northern end of the park, where there is practically no improvement now.

Mr. SLAYDEN. None.

Mr. SIMS. So that if it is to be improved as a park it would call for the expenditure of a large amount of money, whereas this expenditure for the Botanic Garden will save the expense that would otherwise be incurred if improved as a park, and would in no way conflict with the general park purposes and plans for Rock Creek Park, and there would be ample area, and the project wise and advisable.

Why should we move the garden now? The reason is, because it is located where there is not a sufficient area. Why not take that tract of 400 acres and use it when needed, and thus save the expense of improving it as a park that is not now improved, and of acquiring a similar area somewhere else that will have to be improved for park purposes at even greater expense?

Mr. SLAYDEN. Yes; it would have to be improved for park purpose at much greater expense.

Mr. SIMS. That is already public property, and we do not have to condemn it. It is not private property, where men are paid $50 a day to swear as to what it is worth. [Laughter.] I think by all means this garden should be located upon public property that we already own, and I know of no place, so far as I am qualified to judge of such matters, that is better suited for such a purpose than the section of the country that the gentleman from Texas refers to.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. SLAYDEN. Yes; I yield to the gentleman from Pennsylvania.

Mr. MOORE. I wanted to ask the gentleman from Tennessee [Mr. SIMS] a question. The gentleman from Tennessee is an authority on tracts of 400 acres around Rock Creek Park. I was interested to know if this proposition has anything to do with an immediate purchase of new ground?

Mr. SIMS. If we locate it on private property elsewhere, we will have to buy it. We are under no obligation to put this garden on private property when we have an abundance of public property, as stated by the gentleman from Texas, which will have to be improved as a park. But the improvement of the Botanic Garden would be made under this plan upon property that we now own.

Mr. MOORE. The gentleman from Tennessee knows more about 400-acre tracts in the vicinity of Rock Creek Park than anybody else, and I was naturally interested in asking him the question.

Mr. SIMS. The gentleman compliments me beyond my deserts. I looked over this land recently in company with the gentleman from Missouri [Mr. BARTHOLDT], and looked over that part of the park that has not yet been improved.

Mr. MOORE. I swear by the gentleman's opinion on such matters, and I simply wanted to get his statement. Is the gentleman satisfied that the 400-acre tract referred to in this report does not involve the purchase of new ground?

Mr. SIMS. It does not.

Mr. SLAYDEN. Mr. Chairman, I have gone over the maps with the engineer commissioner and other gentlemen in connection with it. This land is in the northwest corner of the park, in practically an undeveloped part of it; and if the gentleman will pardon me just a second, I will say that the only argument that I ever heard used against this is that the artificial planting and artificial development of trees and shrubbery in connection with the Botanic Garden will interfere with the natural aspect of the park. There are areas and pieces of ground which are practically fitted for nothing except for the planting of trees and plants. It is not intended to cut down the trees, but to increase the number and variety of the trees, and to add to the beauty of Rock Creek Park.

Mr. TOWNER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from Iowa?

Mr. SLAYDEN. Yes.

Mr. TOWNER. The 400-acre tract which it is contemplated to divert from park purposes for the Botanic Garden consists now of open spaces and partially open spaces and groups of trees. It is not expected, is it, that in the development of the Botanic Garden the groups of trees or little groves in those spaces will be changed, or that they will need to be changed, I will ask the gentleman?

Mr. SLAYDEN. That is true.

Mr. TOWNER. The open spaces may be used as they may be needed for Botanic Garden purposes?

Mr. SLAYDEN. Yes; for planting.

Mr. TOWNER. It will not change the general appearance of the park?

Mr. SLAYDEN. It will change it only for the better.

Mr. TOWNER. It will be a fuller development and really an extension of the uses of the park without changing the purposes?

Mr. SLAYDEN. Undoubtedly; and no restriction would be imposed on the public. It is only a contribution to the interest and beauty of the park and to the education of the people who may get into and enjoy the park.

Now, Mr. Chairman, if no other gentleman desires to speak——

Mr. HOWARD. Mr. Chairman, if the gentleman yields the floor, I would like to be recognized in my own time.

The CHAIRMAN. Does the gentleman from Texas yield the floor?

Mr. SLAYDEN. I had not yielded it, Mr. Chairman.

Mr. HOWARD. I thought the gentleman had.

Mr. SLAYDEN. How much time does the gentleman want to use?

Mr. HOWARD. There are several gentlemen here who are opposed to the bill, and I think we would like to consume an hour. I do not think it is necessary for us to go off halfcocked about this matter.

Mr. SLAYDEN. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Texas [Mr. SLAYDEN] reserves the balance of his time.

Mr. SLAYDEN. Mr. Chairman, before my friend from Georgia [Mr. HOWARD] takes the floor, I will ask him to yield to his colleague [Mr. TRIBBLE] in order that he may ask leave to extend his remarks in the RECORD.

Mr. HOWARD. Very well.

Mr. TRIBBLE. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. TRIBBLE. Mr. Chairman, owing to the fact that certain papers have misrepresented and misquoted my remarks on naval chaplains, created with rank of captain, I embrace this opportunity to correct such misrepresentations. I am quoted as saying that "this Nation pays from the Public Treasury for a chaplain to conduct what thousands of taxpayers believe to be an idolatrous worship." I am also quoted as saying certain churches have too many chaplains. I made no such statements, nor did I say anything to authorize such inference. My answer to these incorrect statements is the speech itself. These papers have clouded the issue by discussing church and denominational questions. It is not a church or denominational question. The real and only issue involves the very fundamental principle of constitutional liberty and one upon which all churches, Protestant and Catholic, should meet in perfect harmony. Having been misrepresented, I shall republish my remarks on chaplains for distribution.

The CHAIRMAN. The gentleman from Georgia [Mr. HOWARD] is recognized for one hour.

Mr. HOWARD. Mr. Chairman and gentlemen of the House, I am opposed to this bill with the present light before me. I am opposed to moving this garden at all.

I have been reliably informed that for years there has been a heated internal contest on in Washington between two sets of real estate owners—those who live out Massachusetts Avenue, who have been insistent upon this garden being removed there, and those who live out Sixteenth Street, who have been insistent upon its being moved out to that section of the city. Incidentally the removal of this garden to either section, with large appropriations by the Government yearly expended upon it, would naturally enhance the value of the real estate in these particular sections.

This particular garden is one of the few relics left that Congress has any control over whatever. The Library Committees of the House and Senate, as I understand it, have jurisdiction over this particular garden. The years of improvements and the money that has been expended upon it have greatly beautified it, but since the agitation has been so heated in the city of Washington for the removal of this garden for financial aggrandizement the appropriations to this particular garden have been neglected. Ever since the magnificent monument to the memory of Gen. Grant was begun to be erected down there it has been understood by people in Washington that some day in the very near future this botanical garden would be abandoned, and that then the Government of the United States would build a boulevard, and I understand they have been so bold as to draw plans and specifications for the Government expending the people's money on a 90-foot boulevard, with Grant's monument to be at one end of it and the Lincoln Memorial, now in process of construction, at the other end. In taking in the magnificent 90-foot boulevard these real estate owners of Washington will get their hands up to their elbows again in the Public Treasury in that the Government will purchase a whole lot of unprofitable real estate down here in the southwest, for which these real estate owners will ask this Government hundreds of thousands of dollars.

In addition to that it is proposed to go out here to magnificent Rock Creek Park and appropriate 400 acres of that park for a botanical garden. I presume the city of Washington is visited by more people in a year from the several States of the Union than any other five cities in the United States. People come here to look at our magnificent buildings, to see their Representatives and their Senators actually upon the job; and I am very sorry that during the heated season they have missed a great many of their Representatives and their Senators who have not been actually on the job. But these visitors come here. They are proud of this city. But when they come they want to see something. They want to see it within a given time. They want to see it in the least possible time, because it is expensive to stay here in Washington. So when they come——

Mr. COOPER. Will the gentleman permit an interruption?

Mr. HOWARD. Yes.

Mr. COOPER. Has the gentleman ever seen an intelligent visitor come to Washington and go to the present little old Botanic Garden, so called, at the foot of this hill, and come away from it without laughing at it?

Mr. HOWARD. I do not think I have ever come into contact with anybody who has really visited the present Botanic Garden

Mr. THACHER. You never will.

Mr. HOWARD. And the reason they have never visited it is because of the fact, I am almost tempted to say, that I believe there has been premeditated action to detract from the present Botanic Garden as much as possible, for the purpose of using the very argument that the distinguished gentleman from Wisconsin [Mr. COOPER] has just used as to why it should be moved.

Mr. MANN. Will the gentleman yield for a question?

Mr. HOWARD. Yes.

Mr. MANN. Does the gentleman ever visit the Botanic Garden?

Mr. HOWARD. Very often. I come by there every morning that the sun shines. I came by it every morning last week.

Mr. MANN. On the street car?

Mr. HOWARD. No; not on the street car.

Mr. MANN. Is the gentleman proud of it when he visits it?

Mr. HOWARD. No; I am ashamed of it; and I am ashamed that adequate appropriations have not been made to make that one of the most beautiful spots in Washington.

Mr. MANN. The gentleman says it has been allowed to run down. Did the gentleman visit it before it ran down?

Mr. HOWARD. I visited it in 1894-95. I was engaged in certain work in Washington. It was a beautiful place then. Old Mr. Smith was there then, younger than he was when he died by a considerable number of years, and he kept it up.

Mr. MANN. If the gentleman will permit, the Botanic Garden is in just as good a state now as it has been since I have been a Member of Congress, and that is now nearly 18 years.

Mr. HOWARD. The poor inanimate earth and plants are not responsible for that. You gentlemen who have suffered it to deteriorate through lack of adequate appropriations are responsible for that.

Mr. MANN. There is no way for spending much money down there.

Mr. HOWARD. Oh, I could spend several thousands of dollars in a few weeks, and it would be perfectly satisfactory to my constituents, and they would think it was the most beautiful garden they ever saw after it had been expended.

Mr. MANN. The gentleman knows that in order to spend the money which is now appropriated they give a graft of plants to various Members of Congress. A discriminating Member of Congress will not use them ordinarily.

Mr. HOWARD. In the first place, they have not got a single house under glass down there that is respectable. Now, I know that adequate appropriations could have relieved that situation.

Mr. MANN. They have a number of houses under glass.

Mr. HOWARD. They have got enough acreage down there to spend as much money on as my constituents or the constituents of any other man on the floor of this House want spent upon a botanical garden.

Now, Mr. Chairman, let me tell you what the situation is here. I have been here some time. When I came here to Congress it was not the first time I had been in Washington. I used to live here years ago. I know something about Washington, and I know something about internal affairs here. The truth of the business is, as far as appropriations are concerned, that with the exception of a few parks the bulk of the appropriations that are being made by Congress to-day are going to Potomac Park and Rock Creek Park. Now, let us see. We will take Potomac Park. How many poor mothers in the city of Washington, who can not afford an automobile or a conveyance, can take a little teething baby that is burning up with fever in the heated season to Potomac Park to take advantage of the cool breezes and the shade of that park?

Nobody goes to that park who can not afford an automobile. It is too inaccessible to walk to it. Nobody goes to the park who does not know how to ride a jumping horse or play golf. What do the poor people of Washington benefit from Potomac Park? Not a penny. The night they had the fireworks down there thousands of poor people were there, and the rain came up, and those who had automobiles were able to pull down the curtains and raise the cover, and they did not get wet; but 50,000 poor devils like myself were drenched to the skin, because there was no public conveyance to take them home.

Mr. MANN. Will the gentleman yield for a question?

Mr. HOWARD. With pleasure.

Mr. MANN. Did the gentleman say that they had fireworks down at Potomac Park?

Mr. HOWARD. Yes; down near Washington Monument.

Mr. MANN. If 50,000 people were able to get there, could not the poor mother with her teething baby go there?

Mr. HOWARD. Yes; if she was able to walk. After being up all night with the teething baby she feels like walking a mile and a half to get down there, or walking to the end of Rock Creek Park, which is about 5 miles from the center of Washington City. Now, I am looking out for myself. I am not blessed with a great deal of wealth; it is all I can do to make both ends meet, or "one end meat the other bread" as is a common expression in my country. Now, when you get this moved to Rock Creek Park, instead of going afoot to show my constituents the Botanic Gardens I shall be held up by the automobile owners in order to take my constituents out to the park and show them this beautiful Botanic Garden that you are fixing up to spend the people's money on.

Now, I am going to make a prediction, and it will be in the RECORD, and it will stay there—that this particular removal will cost the taxpayers of this country by the manipulation of real-estate transactions, by the exorbitant and foolish expenditures for the garden in Rock Creek Park, for the purchase of additional real estate for the 90-foot highway—it is going to cost the people $10,000,000 before they get through with it.

Mr. MANN. Make it a hundred millions.

Mr. HOWARD. If I made such rash statements as the gentleman from Illinois is in the habit of making, I would make it two hundred millions, but I want to be conservative. That is what I predict it will cost. Now, what are you going to do at Rock Creek Park?

Mr. MOORE. Will the gentleman yield?

Mr. HOWARD. I always yield with pleasure to the gentleman from Pennsylvania.

Mr. MOORE. I want to get back to the unfortunate mother with the teething baby. I know the gentleman is familiar with mothers and babies——

Mr. HOWARD. I am. I have walked a thousand miles with two of my babies in the nighttime.

Mr. MOORE. And I have walked 5,000 miles; so I am able to compliment the gentleman on his assiduity.

Mr. HOWARD. The gentleman from Pennsylvania shows that he has walked more miles than I have. He looks tired yet.

Mr. MOORE. But he is not. Now, how many mothers with teething babies go to the Botanic Garden to get the cooling breezes on an afternoon?

Mr. HOWARD. I was not referring to the Botanic Garden as being a place to go to to get the cooling breezes.

Mr. MOORE. Would that not be a convenient place for mothers with teething babies?

Mr. HOWARD. It would be for the poor foreigners in that section of the city, who live in the crowded sections around Pennsylvania Avenue.

Mr. MOORE. Do they use the Botanic Garden?

Mr. HOWARD. Yes; they go over there—those who want to. The difference between the Botanic Garden and Rock Creek Park is that the poor folks can go to the present one, and they never can go to Rock Creek Park, unless they walk 5 miles.

Mr. MOORE. Leaving out Atlanta, which of course is the most beautiful place——

Mr. HOWARD. Yes; we have located the gateposts of the Garden of Eden in the city of Atlanta.

Mr. MOORE. Leaving out Atlanta, which is the apple of the gentleman's eye, is it not a fact that Washington is possessed of more parks which answer for breathing places than any place in the country?

Mr. HOWARD. I agree with the gentleman, and that is the reason that we ought to keep this Botanic Garden. It is the very place for it. The gentleman from Pennsylvania knows very well that with an expenditure of a few thousand dollars on the Botanic Garden you can make it the most beautiful spot of its size in Washington. It ought to be converted into a real botanic garden, not for cultivation of the great, big trees such as my friend from Illinois likes to see spreading all over the country, to make beautiful shade, but a place for rare plants from the Tropics, rare shrubbery from all over the country, so that when people come here we can have a man in charge that could go down and pronounce the name half a foot long and show them a little persimmon-like bush with red leaves and tell them that it came from Ceylon, and let them open their eyes and wonder at the bright flowers and go away and talk about it. Now, you are going to put it out where nobody can enjoy it but Washingtonians.

Mr. Chairman, it does look like this Congress has done enough for these people here. It looks like you never can satisfy them. They are always wanting something else; they are always wanting more of the people's money expended on their plots to raid the Treasury. They always want something from Congress, and now they want to take this poor little old Botanic Garden away from us and move it out here into Rock Creek and spend piles of money on it. It is the only place that I know of that we have got left where we can go down and feel at home near the Capitol and show our people. I hope the bill will not pass, and I reserve the balance of my time.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. HOWARD. Yes.

Mr. COOPER. Does the gentleman understand that with the removal of the Botanic Gardens, this little space at the foot of the hill, it is proposed to do away with that iron fence and brick wall?

Mr. HOWARD. Oh, yes; that was built when they had goats and cows running on the streets of Washington. They have a stock law here now, I understand.

Mr. COOPER. The gentleman understood that, and did the gentleman understand that it was proposed to make that into a little square, to be called Union Square, with seats in it, and so forth, so that these women and children for whom the gentleman seems to have such tender solicitude could go there at any time they pleased, night or day, which is not the case now with the Botanic Gardens, which are closed up usually at 6 o'clock in the evening, and the mothers with the teething children barred out absolutely? Moreover, there is no place for them to sit down there now. It is a garden, and they are not allowed to walk on the grass, not allowed to use it.

Mr. HOWARD. I hope my friend will ask me that question that he started out to ask.

Mr. COOPER. Does the gentleman understand that?

Mr. HOWARD. I understand that there are about 100 acres right across a 50-foot street that is already in the park, with plenty of seats in that space, and little squirrels to feed peanuts to, and robins to sing in the trees and fly down occasionally and catch a worm, and once in a while a little English sparrow to let out a discordant note. All of these things are right in the park now.

Mr. Chairman, how much time have I left?

The CHAIRMAN. The gentleman has used 16 minutes.

Mr. HOWARD. Mr. Chairman, I yield 15 minutes to the gentleman from Florida [Mr. CLARK].

Mr. CLARK of Florida. Mr. Chairman, I am opposed to this bill for several reasons. In the first place, it is too important a matter for this House to pass upon without any more consideration than can be given to it at this time. In the second place, this bill provides for establishing a national arboretum and botanical garden in Rock Creek Park. That park has been set aside for park purposes, and no portion of it has been set aside for botanical-garden purposes, and should not be. The bill undertakes to transfer the situs of this Botanic Garden to Rock Creek Park without any provision for appropriations to carry it on, without a single solitary dollar to pay for the transfer of the Government property, to pay for clearing the land, or to pay for establishing the necessary appurtenances to a botanic garden. I want to say, Mr. Chairman, that if this garden should be transferred to that section, into absolutely new land, where the land is sour, where it necessarily has got to be treated, and treated at great expense, before the shrubs or plants and flowers and trees will grow as they ought to grow, it is going to cost this Government much more than my friend from Georgia stated to ever establish a real botanical garden at that place. In addition to that, as he has stated, it is some 3 or 4 miles from the center of this city. It is not accessible by the street railways, and the poor people of the city of Washington and the tourists who come here can only see it at an enormous expense, which they are either unable or unwilling to undergo.

Mr. Chairman, the Government owns land within a stone's throw of this Capitol, almost, 150 acres, beautiful land, land which has been cultivated, which is ready now to receive the plants, the shrubs, and the flowers, with houses constructed upon it sufficient to answer the purpose of a residence for the superintendent and the laborers, land which is being devoted to nothing at all except a disgraceful workhouse, which is a disgrace to the Capital City of the United States. One hundred and fifty acres—lying broadside of the Eastern Branch—a beautiful place. It can be made much more beautiful and is ready right this minute for the reception of all of the plants and all of the shrubs and all of the flowers contained in the Botanic Gardens. The street cars run within one block of this property. It is within easy walking distance of the Capitol. The tourist or the poor citizen of this District who desires to avail himself of the privilege of visiting this garden can either walk there or at a fare of 4 cents can ride there upon the street cars and have the benefit of it. But if you put this out at Rock Creek Park, then no man can take advantage of it unless he belongs to that wealthy class of the District of Columbia, the real estate gang, who have absolutely dominated every single, solitary public improvement in this city for years. They are the people, and the only people, who will get the benefit of this botanic garden if it is put in Rock Creek Park.

And I want to say again, Mr. Chairman, that this is the only time that I know anything about where Congress has ever had the privilege of locating in this city a single, solitary public improvement. We have delegated it to the Fine Arts Commission. They located the Lincoln Memorial. They located every improvement, and for the first time since I have been a Member of this body—nearly 10 years—Congress has now an opportunity to assert its own views and locate one public improvement in the city of Washington. We ought to have time to consider it. It is an important matter. It is a matter that means a great deal to my State, a great deal to all of the States of this Union, because the rarest plants of all the world are collected, propagated, and tested at this Botanic Garden. Nobody has had an opportunity to examine this bill; nobody has had an opportunity to consider it. No provision is made for the maintenance of this Botanic Garden at all under this bill—not a dollar—and I want to warn gentlemen that when they enter upon this enterprise it means the expenditure of millions of dollars if you intend to have a botanical garden commensurate with the reputation, the honor, and standing of this Republic. I want one which will be a credit to the city and a credit to the Nation. We have plenty of land upon which to put it. Down near the Agricultural Department there is plenty of land belonging to the Government, ripe and ready to receive this institution. We can put it there. Why go out to the Rock Creek Park to do it? Why put it beyond the reach of the average citizen of the District and the country?

Mr. Chairman, in behalf of the botanical interests of this country, in behalf of the poor people of this District and the poor people all over the land who visit this city, I protest against creating a garden for the sole benefit of the wealthy. Let us put it upon the land we own, that is ready to receive it, and where any man in all the country, no matter how poor he may be, can get the full benefit of it. [Applause.] I yield back the balance of my time.

The CHAIRMAN. The gentleman has used nine minutes.

Mr. THACHER. Mr. Chairman, the distinguished gentleman from Florida [Mr. CLARK], in his most interesting remarks, made two statements which I wish to correct. First of all he referred to this land in Rock Creek Park as being very sour. I wish to say that that land there is just as fertile and just as sweet as the speech of my distinguished friend from Florida. Furthermore, he stated that this land was miles away, and that the poor people, to whom my distinguished friend from Georgia [Mr. HOWARD] referred, could not get there, would not have the opportunity to get out there, because they would need automobiles. Heavens alive, they can get six tickets for a quarter. Can not these people afford to pay 4 cents to go out to the park and visit the Botanic Garden? I do not think that is a big price to pay.

Mr. HOWARD. Will the gentleman yield for a question?

Mr. THACHER. Certainly.

Mr. HOWARD. Is it not contemplated to establish this park in the extreme northern——

Mr. THACHER. The northwestern end.

Mr. HOWARD. And will not that extreme northern end of Rock Creek Park be over a mile from the street car line?

Mr. THACHER. I beg the gentleman's pardon, it will be a block.

Mr. HOWARD. On what line?

Mr. THACHER. The Piney Branch cars and other lines which go to the end of Fourteenth Street, all for one fare. I went out there a few nights ago by trolley. If the gentlemen would give more time to an examination of the exact location and means of transit to the proposed Botanic Garden, and the distinguished gentleman from Georgia put a little more facts into his speech and a little less fancy and a little less talk of teething mothers——

Mr. HOWARD. I beg the gentleman's pardon, I will not be misquoted. I said nothing about teething mothers.

Mr. THACHER. I apologize to the fathers and mothers of Georgia and teething children. You can take a car which goes

out and stops at the circle at the end of Fourteenth Street, which is about a block from the reservoir in the northwestern end of Rock Creek Park. Near the reservoir is splendid farming land—old farming land that is not sour. I do not believe our friend from Florida is a farmer. I am president of an agricultural society and I know something about agriculture, and the land is not sour, but is fertile.

Mr. CLARK of Florida. The gentleman says he is president of an agricultural society?

Mr. THACHER. I am, and I am a member of the grange.

Mr. CLARK of Florida. I belong to the farmers, not to agriculturists.

Mr. THACHER. I belong to the grange——

Mr. CLARK of Florida. Agriculturists. I understand, live in towns; farmers work the land out in the country.

Mr. THACHER. The gentleman is trying to throw me off my track. The Barnstable County Agricultural Society, of which I have the honor to be president, will hold the seventy-first annual cattle fair in a few weeks, and I give a cordial invitation to the distinguished gentleman from Florida to visit our fair and see what splendid farmers we raise on Cape Cod and what fine crops these farmers produce. They are some "pumpkins." The eloquent and distinguished gentleman from Georgia said that the visitors to Washington did not visit the present Botanic Garden. I will tell him why; because they would rather go and hear the gentleman from Georgia speak, and when they do this, they do not care about going to any botanic gardens. The gentleman said he was ashamed of our present Botanic Garden. I will tell him what is the trouble with our Botanic Garden. It is in the wrong site. It suffers from the fact of being so near the Capitol, for sometimes there is a hot current of air from the Capitol which damages the flowers and blossoms.

Mr. PAGE of North Carolina. Will the gentleman yield?

Mr. THACHER. I will.

Mr. PAGE of North Carolina. I want to ask the gentleman, getting away from the flowers and speeches that have been made here in this debate——

Mr. THACHER. I apologize for the flowers.

Mr. PAGE of North Carolina. And ask if anybody on the committee of the distinguished gentleman has investigated, so as to have any idea as to how much it will cost to transfer this garden to the point indicated in this bill? The statement has been made by the gentleman from Georgia that it is estimated about $10,000,000.

Mr. THACHER. Five to ten million; but the gentleman was entirely incorrect.

Mr. TOWNSEND. What is there to transfer; nothing but a few boxes of glass?

Mr. PAGE of North Carolina. Are they going to put them in the woods?

Mr. TOWNSEND. I have not the remotest idea what they will move.

Mr. SLAYDEN. If the gentleman will permit me to reply to the question of the gentleman from North Carolina, which is pertinent and proper, I will say that it is the opinion of botanists and of the scientists in the Department of Agriculture and in the Smithsonian—and there was doubt for some time in the minds of the committee to which of those two branches of the Government this thing should be transferred—that there is comparatively little of value down there. It will cost but a trifle to remove it. Some plants are almost valueless; and here is a copy of a letter from Dr. Galloway, for many years connected with the Department of Agriculture and known to everyone here, and who has, I am told, recently taken a position with Cornell in New York, in which he says:

> As the department is already provided with many experts capable of aiding in the development of the arboretum and garden along the lines indicated, the expense for future development would not be great. We believe that for the next 8 or 10 years it would not be necessary to increase the existing appropriation for the Botanic Garden, which I understand now amounts to approximately $30,000 annually.

I have not yet been able to understand how the gentleman from Georgia arrived at these stupendous figures.

Mr. CLARK of Florida. Will the gentleman yield for a question? I would like to ask the gentleman if his committee has made any calculation as to the cost of clearing that land——

Mr. SLAYDEN. It will not have to be cleared.

Mr. CLARK of Florida. And putting it in shape for cultivation?

Mr. SLAYDEN. I will say to the gentleman from Florida, with the permission of the gentleman from North Carolina [Mr. PAGE], that these open places were formerly fields.

Mr. CLARK of Florida. I am not talking about the open places.

Mr. SLAYDEN. It is not intended to be cleared.

Mr. CLARK of Florida. Is it not covered with oak and hickory?

Mr. SLAYDEN. I will say to the gentleman that most of it is as clear as this floor.

Mr. PAGE of North Carolina. The bill mentions 400 acres. Of course there is a small part of the 400 acres that would be used for the cultivation of plants?

Mr. THACHER. I will say to the gentleman from North Carolina that they put that as the maximum amount. They will not need anything like that amount. I would say that the members of the Committee on the Library *have examined this* proposed site carefully, and other gentlemen connected with the Government departments, to whom the chairman of our committee [Mr. SLAYDEN] has referred, have done the same. The expense of transporting the limited number of plants, few hothouses, and cold beds now in the Botanic Garden to the new site should not be great. Only a few acres would probably be utilized at first. This garden would start in a small way, and then if the Congress later on wishes to make further appropriations, it is up to them. We are not embarking on any wild scheme here of five or ten million dollars. To hear some of the gentlemen talking about these big projects, you would think we were going to start a botanic garden for all the world.

Go down here and look at the Botanic Garden this afternoon. It was started here as the result of the Wilkes expedition in 1852, and it has been there ever since. For many years Mr. Smith was at the head of the garden, and he died. The present fence was ordered to be removed by Congress two years ago, because you all know the Grant Memorial is going to be finished before long. There will be no room——

Mr. HOWARD. Will the gentleman yield?

Mr. THACHER. Yes.

Mr. HOWARD. Does the gentleman contend that the cost will be a mere bagatelle, when you will have to arrange buildings and pay for landscaping and houses for employees and all that expense? Does the gentleman contend that the Government of the United States is going to make miserly appropriations? Does not the gentleman know that they not only make liberal but extravagant appropriations for this business?

Mr. THACHER. We do not ask for a cent here. We believe there is money enough in the ordinary appropriations for the Botanic Garden to take care of the moving.

Mr. HOWARD. The Government owns the 400 acres?

Mr. THACHER. They belong to the Government.

Mr. HOWARD. In fee?

Mr. THACHER. Yes. Now, I want to get back to the Botanic Garden that exists to-day.

Mr. SIMS. If the gentleman will permit, this land down here now occupied by the Botanic Garden, if the garden is removed, will be of immense value. The Government can use it for public buildings, instead of going around and tearing down buildings, as they did between here and the station?

Mr. THACHER. Certainly.

Mr. WEBB. I suppose the gentleman has seen this beautiful body of land lying east of the railroad, in Potomac Park, down near the War College?

Mr. THACHER. Down in Potomac Park.

Mr. WEBB. The body of land I speak of is lying east of the railroad, and has recently been skirted by this new road down to the point looking across at the War College. I will ask the gentlemen if they have ever considered the advisability of establishing that botanical garden on that 100 or more acres of land?

Mr. THACHER. I will come to that in a moment. Now, the Botanic Garden will have to be moved soon from its present site. The gentleman from Georgia referred to the goats, and said that the fence was built for them. I want to say last October marauders went in there and the old superintendent in charge chased the boys, and I am sorry to say that as a result he died from heart disease. He was a faithful employee of the Government. The fence is needed for protection to the plants and shrubs. At night the garden is closed.

Now, the Botanic Garden has to be moved. Where will you move it? Down to Potomac Park, if you wish. Now, as to the condition at Potomac Park; the land is low and soggy and close to the river there, with no diversity of soil and no diversity of height at all; no hills, but all flat land. It is not accessible and has no trees to speak of. It is some distance to it. It can be reached only in a roundabout way by the cars. I have considered this site carefully.

Mr. WEBB. Will the gentleman tell me what an arboretum is?

Mr. THACHER. I can tell you. Arbor is from the Latin, and means a tree.

Mr. WEBB. West of the park I speak of there are 5,000 little trees cultivated as a nursery, and if the land west of the railroad is good for a nursery is it not good for an arboretum?

Mr. THACHER. When the trees get to be of any size, the teething babies mentioned by the gentleman from Georgia will be aged and infirm.

The Botanic Garden will have to be moved. The Potomac Park would not seem a suitable place. Shall the Government acquire land at considerable expense or go out to Rock Creek Park? A statement has been made here as to automobiles. You can go out there on the street cars.

The Fourteenth Street line stops one block from the reservoir, and there are fine farming fields out there, and if you continue to the northwestern portion there you will find fertile fields and streams and a splendid place for an arboretum. We are not planning any great arboretum. We are planning to acquire this land without expense, and it is up to Congress. I trust this bill will not be smothered by delay or by arguments about spending $5,000,000, and talk of teething babies and for automobiles. Let us get down to brass tacks and onto the ground floor.

In closing I want to say that two of the members of our committee are not here. One distinguished member has just returned, I understand, from an interesting sea trip abroad, the gentleman from Missouri [Mr. BARTHOLDT]; but all of the members have been out there and have spent a lot of time, and so have other distinguished Members of the House who are fond of flowers, and they all believe this is going to be a splendid thing. So we trust that the House will understand this bill and vote intelligently and support this good measure.

I yield back my time.

Mr. PAYNE. Do I understand the gentleman to say the committee is unanimous for the removal?

Mr. THACHER. We have been so.

Mr. PAYNE. None of the committee is interested in the present superintendent?

Mr. THACHER. I have no personal interest beyond the fact that I want to see a good man there.

Mr. PAYNE. I understand that he is opposed to the removal.

Mr. THACHER. I can not say. I want to see a good man there. I have no personal interest in it.

Mr. PAYNE. I understand that had something to do with the opposition to the project.

Mr. THACHER. I do not want to look for any "negro in the woodpile."

Mr. PAYNE. I thank the gentleman.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. SLAYDEN having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 6031) authorizing the Board of Trade of Texarkana, Ark.-Tex., to construct a bridge across Sulphur River at or near Pace's ferry, between the counties of Bowie and Cass, in the State of Texas.

The message also announced that the Senate had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the House to bills of the following titles:

S. 4969. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

S. 5278. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

S. 5501. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; and

S. 5899. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

REMOVAL OF BOTANIC GARDEN.

The committee resumed its session.

Mr. MANN rose.

The CHAIRMAN. The gentleman from Illinois is recognized for one hour.

Mr. HOWARD. Mr. Chairman, do I understand that I have no time left?

The CHAIRMAN. The gentleman has time left. He is not using it at this time.

Mr. MANN. Does the gentleman want to use time or yield?

Mr. HOWARD. No; I just wanted to understand if I had some time. I beg the gentleman's pardon for interrupting him.

Mr. MANN. Mr. Chairman, my father was a nurseryman and my mother a great lover of flowers and I was raised in a nursery and a flower garden in Illinois, although my parents afterwards removed to Florida, to the district represented, I think, by the distinguished gentleman, Mr. CLARK. I believe it was his district. They had a nursery and a flower garden down there of a somewhat different sort, so that all my life I have been interested in gardening, and for years I have taken my recreation in a garden. Other gentlemen go fishing, or hunting, or play golf, or travel, or go to the seashore, or the woods. I go to the woods when I can. But habitually I go to a garden which I have now in Chicago, and when I get a chance I will soon go home and get hidden in a garden where nobody can find me, actually working with the plants.

Ever since I have been in Washington I have taken a great interest in the Botanic Garden here. I was a very intimate friend of Mr. Smith when he was alive and of Mr. Reynolds when he was alive. I have a better garden in Chicago myself, maintained at very small expense—because I can not afford much—than the Botanic Garden is down here. The Botanic Garden in its inception used to gather up plants from different parts of the world and distribute them through the congressional distribution and otherwise, and hence it was of value and did great service in those days. But for years it has amounted to nothing in that line. The plants that are now gathered from other parts of the world are gathered by the Department of Agriculture.

Mr. SLAYDEN. Will it interrupt my friend if I ask him a question in that connection?

Mr. MANN. No.

Mr. SLAYDEN. In that period of the greatest usefulness of the garden, when they were gathering plants from all over the world and distributing them, were the appropriations greater or less than now, or were they about the same as they are now?

Mr. MANN. They were about the same. There never were large appropriations for the Botanic Garden, and probably there will not be any necessity for large appropriations.

The Department of Agriculture now maintains all the time one or two men—sometimes more—picking up plants of different sorts, largely in China and Manchuria and in the eastern countries, although not entirely there. It is not difficult. In my little garden I have planted seed which came from the higher mountains of Africa side by side with seed which came from the Arctic region. There is no great difficulty about it. But the Agricultural Department is maintaining somebody, not entirely for the purpose of getting plants that are useful, but also for getting plants which are ornamental and beautiful. The Botanic Garden naturally does not deal so much with plants which are useful as it does with plants which are ornamental, although if it should be turned in to the Department of Agriculture it may deal with trees which are both useful and ornamental.

Now, the present Botanic Garden is a joke. There is not an English island in the Caribbean Sea that does not itself possess a botanic garden that would make an American citizen who looks at this Botanic Garden down here blush for shame, both as to beauty and use. There is not a nation in the world, I think, civilized or uncivilized, that does not maintain a botanic garden of greater beauty and greater use than the Botanic Garden down here.

I admit that this Botanic Garden has some use. It furnishes each Member of Congress each spring with a box of plants. I believe that within the last two or three years they have endeavored to get a few of the newer kinds of lilacs, philadelphus, and some other plants. Up to a few years ago the varieties which they had and which they furnished to Members of Congress, to be sent out, were in the main varieties which I saw in my mother's garden when I was a boy, 50 years ago or 40 years ago [laughter]——

Mr. THACHER. Say 30.

Mr. MANN. There has been a great change and development of these plants. We are all familiar with ordinary lilacs, for instance, which I have mentioned, but not many of us are familiar with new varieties of double lilacs in great bunches a foot in diameter; and yet wherever you find good gardens now you will find something of that sort, and they are no more difficult, in the main, to propagate by artificial propagation—which is the method—than the old kind. They are beginning

to get a few of these down here for your distribution and mine, and for years I have, in the main, taken a box of plants from the Botanic Garden in the spring, defining what I wanted; but I never got a set yet that I did not have better of the same kind in my own garden. They were out of date.

Now, no one wanted to disturb the Botanic Garden while old Mr. Smith was its superintendent. He had the respect, the affection, and the veneration of Members of Congress for, I suppose, 50 years and more. He was very "set" in his ways at the end, when he was over 80 years of age. No one felt like interfering with the Botanic Garden while Mr. Smith was alive, but everyone who had studied the subject at all realized that when he passed away this Botanic Garden down here would pass away with him. Then they located the Grant Monument down here, to which I was opposed. But it was located there. The fence has got to be torn down. That is perfectly evident. There is nothing in the Botanic Garden down here—in the main garden—except a few trees and shrubs, some of them good kinds, and rather valuable plants.

The propagating gardens are over on the other side of the street to the south, where they have a good many plants which they are gathering together for the congressional distribution. They are no longer engaged in sending out, even in the congressional distribution, new kinds of plants. They say they can not afford it. They have not the means nor the room for much increase in the way of propagation. They have to clean up nearly everything they have every year.

Now it is to be moved. It being a fad of mine, without any special reason otherwise, I have been working for a long time on the subject as to where the garden should go. I went with the Superintendent of Public Buildings and Grounds down to the lower end of the Potomac Park extension. Many people think that the Botanic Garden might go there, and the Superintendent of Public Buildings and Grounds thinks that it might go there, and that they might have charge of it.

I believe the present superintendent of the Botanic Garden thinks it might go over where the workhouse used to be. Various people have their opinions as to where it should go. Now, to me it seems perfectly evident that if the Botanic Garden is to be maintained at all it can be maintained with less expense and greater efficiency under the Agricultural Department than in any other way. When the Botanic Garden was first organized there was no Agricultural Department, and when it engaged in the distribution of plants the Agricultural Department had nothing of the sort and did no work of that kind.

The Agricultural Department and the Bureau of Plant Industry are not only engaged in importing plants from abroad, but they are engaged in developing by artificial propagation, and by other means, plants in the United States, making a great improvement. They get trees from Manchuria or China, which it is supposed may at some time be useful. Well, they have no place now where they can plant those trees under their own supervision unless they send them to one of the gardens which they maintain in the warmer climates. They have no place in a climate like this where they can plant a tree, which may not mature for 30, 40, 50, 60, or 70 years, where they have it under their eye and can watch it at all. Of course they can give the trees away, as they do, to private people, and more or less benefit results from that.

They can handle this with practically little expense. Dr. Galloway called together the heads of the divisions in the Department of Agriculture and had them make a search of Washington, at the request of the gentleman from Texas [Mr. SLAYDEN], chairman of the Library Committee, and they arrived at the conclusion that they could take the vacant spaces in the north 400 acres in Rock Creek Park, and with very little expense gradually develop a botanic garden there by planting these things which they accumulate from different places throughout the world, and by moving those few things in the present Botanic Garden which are worth saving, that in this way they could develop a botanic garden which would be useful and ornamental, at very little expense.

Mr. PAGE of North Carolina. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. PAGE of North Carolina. Just at this particular point, because of the location he has mentioned in connection with the statement made by the gentleman from Massachusetts [Mr. THACHER] as to the accessibility by street car of this particular place, I know that the gentleman who is now addressing the House is familiar with the geography of that particular district. How far is that from any street-car connection at the present time?

Mr. MANN. The outer edge of the park there is, I think, about two blocks away.

Mr. SIMS. The Fourteenth Street car goes right by there.

Mr. MANN. That is the outer edge of the park. Now, do not make any mistake. A botanic garden which is of any value at all will not be a place of popular resort. The finest botanic garden in America is at Boston. It is not a place of popular resort. The next finest, I think, is at St. Louis. It is not a place of popular resort. People who are interested in these things, people who are interested in plants, whether they be florists, nurserymen, housewives, or the owners of home gardens, when they come to a place where there is a botanic garden will go to see it. I never think of going to a town that has a botanic garden without going to it. That is because I want to go there. I never find very many other people there. It is not so much to have a place of popular resort as it is to have some place where the Government has these things that students can go and examine and at the same time develop by experience work which is of benefit to the country at large. All of that can be done at Rock Creek Park. It can be done at very little expense. One gentleman a while ago said that the soil out there was sour. Well, I will forgive my friend from Florida [Mr. CLARK] for saying that. I own some Florida land and have for a great many years. I know that when you turn over muck land in Florida it is so sour that it would make vinegar taste sweet. It does take time there, but this land up here has been cultivated. It is not sour. It is ready for use at any time to the extent that it will be used.

Now, do not imagine that if a bill like this passes there is going to be any great expense about it now. I do not think there will ever be any great expense. There is very little to move out of the present Botanic Garden that is worth taking. There are some glasshouses down here where they maintain a few plants that they keep inside in the wintertime and move out some of them in the summer time, but nobody ever looks at them. I do not suppose that the glasshouses, the hothouse, or the propagating houses are of any great value, but they can be moved without much additional expense if necessary. Another thing, we have propagating gardens now connected with the Department of Agriculture, over at Fourteenth and B Streets. They can do most of the propagating that will be required in the Botanic Garden without the expense that is now incurred by propagating down here.

Now, I do not know what will happen to the congressional distribution. That is a matter for Congress to determine. If Congress provides in the future, as it has for many years in the past, for the distribution of these plants, we will in the future, at least, get some plants that we are not ashamed to send to our constituents, or that if sent to a discerning constituent will be planted. Each of us every year gets a package of seed in a little yellow envelop from the Botanic Garden. I will defy anyone here to say that he has ever planted any of them or had any of them grow. I will take that back. Some of the flower seeds will grow. But for a number of years they have sent out tree seeds from the Botanic Garden, and those tree seeds having remained at the Botanic Garden all winter in the warm room are sent out to be planted in the spring, and those tree seeds never grow unless they are planted shortly after they are collected in the fall. Well, you have to learn that by experience, and, of course, if you send a package of these seeds to your constituent and he sows the seeds and they do not grow, he probably thinks it is his fault in not knowing how to plant the seeds, or if he does not, you tell him so. But we can make an effective, efficient Botanic Garden in this way. Shall we do it? [Applause.]

The CHAIRMAN. The gentleman from Kansas [Mr. CAMPBELL] is recognized for one hour.

Mr. CAMPBELL. Mr. Chairman, I was very much interested in the remarks of the gentleman from Illinois. I had before me the bill relocating the Botanic Garden. I watched closely for a discussion of the provision removing the Botanic Garden from the present location to Rock Creek Park, as provided in the bill. I was quite interested, however, in the historical reminiscences of the gentleman from Illinois. Like the gentleman from Illinois I can not keep out of the soil myself. He takes his exercise in the soil; so do I. I neither play golf, go to the mountains, nor to the seashore, but every afternoon along about half past 5 I go to a little piece of ground where there is a garden and I work in it and get my exercise in that way. I had hoped when I started that I could also reduce the cost of living. I have succeeded in getting exercise. But neither my recreation nor that of the gentleman from Illinois is a reason for or against moving the Botanic Garden to Rock Creek Park.

Since I have been in Congress I have taken an interest in beautifying Washington. There has not been an effort made since I have been a Member that has had for its object making Washington a more beautiful and attractive place within reason-

able bounds that I have not supported. I have been in favor of enlarging Rock Creek Park, and have been moved to that position by the arguments in favor of making it a larger park, so that it would be available at all times to all conditions of people in Washington and those who might come here.

There is a proper effort still made that Rock Creek Park be enlarged for park purposes by a suitable connection with Potomac Park. Those who are in favor of enlarging Rock Creek Park are interested in making Washington one of the most beautiful capitals in the world and making Rock Creek Park the greatest park in the world. I sympathize with their efforts. I am opposed to this bill because it takes from Rock Creek Park about 400 acres for park purposes and puts it under the Committee on the Library, or some other committee, or under the Agricultural Department to be used as a botanic garden.

Now it is stated by the gentleman from Illinois, and I believe by the gentleman from Texas and by others, that botanic gardens are not maintained for the ordinary visitor who wants to go to a park; that they are not provided with seats and places for mothers with teething babies. Rock Creek Park was established by Congress for park purposes. The 400 acres now contemplated for a botanic garden in this bill were purchased for the extension of Rock Creek Park, and the arguments that were made in support of that purchase were for an enlarged park for greater Washington. It was not dreamed that a subsequent Congress, or any committee of this House interested in Washington, interested in beautifying it and maintaining parks suitable for the Capital of a great Nation, would report favorably on a bill taking 400 acres out of that and setting it apart as a botanic garden and depriving the public of its use for park purposes. That is what this bill does.

Mr. MANN. Will the gentleman yield for a question?

Mr. CAMPBELL. Certainly.

Mr. MANN. Does the gentleman think that a botanic garden need in any way to interfere with the park?

Mr. CAMPBELL. I am moved by the arguments made by the gentleman from Illinois when he was on the floor to say that it would. It will be used for a botanic garden, and a botanic garden, according to the gentleman from Illinois, is not a park and is not used for a park.

Mr. MANN. All the botanic gardens I have seen were used in the nature of parks, but it may be that I am mistaken.

Mr. CAMPBELL. The gentleman from Illinois is usually very happy in his forceful manner of making clear statements, and I think I am not mistaken in saying that within 30 minutes he has said on this floor that botanic gardens were not parks, and that people did not go to botanic gardens as parks; that lovers of trees and shrubs and flowers went to botanic gardens, but people who wanted to lounge in a park went to a park.

Mr. MANN. I said that they were not places of great popular resort. I can not understand why a botanic garden should interfere with the park features now maintained in Rock Creek Park or that should be maintained, except that it would not allow playgrounds where the garden itself is. In other respects it would not interfere at all with the roads or with any of the other park aspects. That is my understanding or I would not be in favor of the bill.

Mr. CAMPBELL. My understanding is that the Botanic Garden is under the control of somebody in charge of that garden. I understand that the park commissioner would like to have the garden under his control.

Mr. MANN. The gentleman means the Superintendent of Public Buildings and Grounds?

Mr. CAMPBELL. Yes. He could not have control of that Botanic Garden without having control of the park.

Mr. MANN. No; it is not intended that he shall have control of it.

Mr. CAMPBELL. Whoever has control of the Botanic Garden will have exclusive control of that portion of the ground covered by the Botanic Garden.

Mr. MANN. Undoubtedly.

Mr. CAMPBELL. Rock Creek Park will not be under the control of that party, whoever he may be, but the Botanic Garden will be under the control of some one else.

Mr. MANN. The Zoo is in Rock Creek Park, is it not? If the gentleman did not see a fence between them, could he tell when he went from Rock Creek Park into the Zoo?

Mr. CAMPBELL. Well, it is right there.

Mr. MANN. Oh, yes; it is right there; but it is not under the same management.

Mr. CAMPBELL. Probably not.

Mr. MANN. Rock Creek Park is controlled by one set of officials and the Zoo by another, but both having some common sense it is a park in both cases, and this would be the same way. You could not tell when you got out of one and into the other.

Mr. CAMPBELL. But the Botanic Garden, such as is advocated by the gentleman from Illinois and by others, will make or that portion of Rock Creek Park a garden that will be under the exclusive control of the gardener or man in charge of the botanic gardens, and it would cease to be a park for park purposes. The people go to the Zoo. It is one of the most popular parts of Rock Creek Park.

Mr. CLARK of Florida. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. Yes.

Mr. CLARK of Florida. Mr. Chairman, I want to ask the gentleman if he thinks, if this garden were put inside the park and made a part of the park, it would be possible for the superintendent of the garden to allow the public generally to stroll through the garden and use it as they do a public park? Could he protect the plants, the flowers, and all that sort of thing, if the public had absolutely free access to it, the same as to a public park?

Mr. CAMPBELL. I do not think so.

Mr. THACHER. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. Yes.

Mr. THACHER. Is the gentleman aware that in Boston the Arnold Arboretum, containing about 700 acres, one of the best arboretums in the world, is contiguous to the Boston public park, and at one time formed a part of the park; and is he aware that they have no trouble at all with the people going through there and picking flowers?

Mr. CLARK of Florida. Mr. Chairman, will the gentleman from Kansas permit me to ask the gentleman from Massachusetts a question?

Mr. CAMPBELL. Yes.

Mr. CLARK of Florida. I would like to ask the gentleman from Massachusetts what is the difference between an arboretum and a botanic garden.

Mr. THACHER. A distinguished gentleman asked me that question about an hour ago. I told him that the word "arboretum" comes from the Latin word "arbor," meaning a tree. You expect to find trees throughout an arboretum. It is given to the growth of trees, and a botanic garden may contain roses and lilacs and other kinds of flowers. The distinction is that in one you find plants and in the other trees, though you may find both; but that is the distinction.

Mr. CAMPBELL. Mr. Chairman, I do not want the gentleman's arboretum to get me too far away from my line of thought.

Mr. COOPER. Mr. Chairman, will the gentleman permit me to ask him a question?

Mr. CAMPBELL. After I have answered the gentleman from Massachusetts. I have been through the arboretum in Boston. It is a beautiful place, and they have beautiful trees there, but it is as different from my idea of what a botanic garden is as an ordinary vegetable garden is from a botanic garden. There is no danger of destruction of trees if pedestrians will keep in the paths or walks, and there are no "Do-not-touch-these-flowers" signs to be seen. It is not a part of the park plan.

Mr. COOPER. Will the gentleman permit me to suggest this statement, just made to me by the gentleman who lives in the city of St. Louis, and that is that Shaw's Botanic Garden, one of the most notable gardens in the world, adjoins Tower Grove Park in St. Louis, and is absolutely open to all visitors at all times. I have often heard of that botanic garden, and I visited it once. The people go right through the park into the botanic gardens, and they have their picnics and their meetings and they sit there and they talk, and there is no trouble about the plants or the flowers whatsoever.

Mr. SLAYDEN. Will the gentleman from Kansas permit me to interrupt him a moment?

Mr. CAMPBELL. Yes.

Mr. SLAYDEN. Is it not a fact, however, that in Shaw's Garden, which I have visited more than once, there is a very limited area, and it is all occupied with plants, practically, whereas there will be only a spot here and there in the 400 acres to be used for ultimate development into a botanical garden, and the access to it will be just as free as it is now, and no one but an expert like the gentleman could tell when he gets out of the park and into the garden?

Mr. COOPER. Shaw's Garden is almost exclusively of plants.

Mr. SLAYDEN. Yes.

Mr. CAMPBELL. Mr. Chairman, I have been in Shaw's Garden in St. Louis. It is beautiful, but it is a botanic garden and is not a park. It is not designated in St. Louis as a park,

while it is adjacent to it, and it is not interfered with in its management and the flowers and shrubs are not destroyed. Yet it is not maintained as a park. It is adjacent to the park.

Mr. COOPER. But the people go through the park right into the botanic garden without knowing it, just as they would if this were placed in Rock Creek Park.

Mr. CAMPBELL. I come now to a question in this matter that can not be removed from it in the consideration of this bill. I have been in this House long enough to know of the work that has been engaged in to enlarge Rock Creek Park. I will vote for the enlargement of Rock Creek Park as an independent proposition upon its merits, knowing exactly what I am doing, but I have always refused to vote to accomplish indirectly what can not be accomplished directly. I know that just as soon as you have taken 400 acres off the north end of Rock Creek Park for a botanic garden the effort to enlarge Rock Creek Park between the present Rock Creek Park and the Potomac Park will be renewed and will win, because those interested will convince Congress that they have had to give up an important part of Rock Creek Park for a botanic garden and that now they must have this ground for park purposes. We may just as well meet the question to-day as to meet it in two years from now or four years from now or six years from now.

Mr. SLAYDEN. Mr. Chairman, if the gentleman will yield, this charge has been made, and I would like the gentleman to say what possible interest he thinks that Members of this House or members of the committee have in any real estate proposition?

Mr. CAMPBELL. They have not any; there is not a Member of this House to-day that has any interest in any real estate; but I do say if this Botanic Garden takes 400 acres off the north end of Rock Creek Park Congress will be prevailed upon to add that much of ground to Rock Creek Park at some convenient place to the people of Washington.

Mr. SLAYDEN. Of course we can not tell what may take place in the future.

Mr. MANN. Will the same gentleman yield for a question?

Mr. CAMPBELL. I will.

Mr. MANN. Where could that be added?

Mr. CAMPBELL. Oh, out here in this little neck where we have been asked to put it in so long.

Mr. MANN. The gentleman does not seriously, in his right mind, mean to even guess that there is any possibility of Congress buying Massachusetts Heights; that has been laid out and graded and fixed up for sale as a part of Rock Creek Park?

Mr. CAMPBELL. I do not know. There have been a good many things done in Washington.

Mr. MANN. I can follow the gentleman in his imagination a great ways, but that is beyond me.

Mr. FALCONER. Will the gentleman yield?

Mr. CAMPBELL. I will.

Mr. FALCONER. Does the gentleman favor the moving of the Botanic Garden anywhere?

Mr. CAMPBELL. Yes.

Mr. FALCONER. Or would the gentleman prefer it to remain where it now is?

Mr. CAMPBELL. I think I would move it down to this ground that we already have, move it down to this extension of Potomac Park, or to make it part of the agricultural farm. There are many places where it could be put without expense in the purchase of land, and that will make it a botanic garden without injury or great expense.

Mr. PAYNE. If we should take part of Potomac Park for this ground is not the gentleman afraid by the same process of reasoning that he will compel Congress to buy from Potomac Park over across to Rock Creek Park?

Mr. CAMPBELL. There may be——

Mr. PAYNE. And the real estate pork barrel gets into it automatically?

Mr. CAMPBELL. The gentleman from New York suggests that using a section of Potomac Park for a botanic garden will probably lead to the same condition we may have in respect to the Rock Creek Park.

Mr. PAYNE. I beg the gentleman's pardon, I did not suggest that, but I asked the gentleman the question whether he did not think so; I have no fears on that point.

Mr. HOWARD. Will the gentleman permit an interruption?

Mr. CAMPBELL. Yes.

Mr. HOWARD. The gentleman's argument is that the placing of this botanic garden simply withdraws 400 acres from that magnificent park for park purposes, and he suggests as a proper place to put this park in a part of Potomac Park. I presume the gentleman means east of the railroad down there.

Mr. CAMPBELL. Yes.

Mr. HOWARD. That has not yet been finished as a park as I understand——

Mr. CAMPBELL. Not at all, and it is an arm off the park proper.

Mr. HOWARD. But it is in process of completion and the money that would be expended in completing that for park purposes could be utilized for the purpose of completing this into a botanic garden.

Mr. CAMPBELL. That is true, and if it were not desirable to put the Botanic Garden down there on this side of the river off Potomac Park we have plenty of land just across adjacent to the agricultural farm, easily accessible to the people of Washington where the Government is now reclaiming land and beautifying the place.

Mr. SLAYDEN. Will the gentleman yield for a question?

Mr. CAMPBELL. I will.

Mr. SLAYDEN. How does the gentleman avoid the argument advanced by botanists and those who are familiar with this work when they say you have to have a variety of soil and topography and conditions that I read awhile ago from the head of the great botanic garden in New York, a disinterested and capable witness? How does the gentleman avoid the argument which seems to make the place he suggests an unsuitable one?

Mr. CAMPBELL. They are raising every variety of cereal, every variety of fruit trees on the agricultural farm, and I see no reason why the same soil could not be used for a botanic garden.

Mr. COOPER. Will the gentleman permit an interruption right there?

Mr. CAMPBELL. I will permit a question.

Mr. COOPER. I want to read just one sentence from what Dr. Galloway says, who has just gone to Cornell, about the necessity of conditions and exposures, difference in the variety of soil, and so forth, in order to have a real good arboretum and botanic garden. I would like to have the gentleman answer that, remembering that the place of which he speaks is practically flat as is also the region suggested by the gentleman from Florida.

Mr. CAMPBELL. I can not yield for the reading of that—this is in the report of the committee; but the land that is described by gentlemen here who favor the taking of a part of Rock Creek Park for the Botanic Garden is a beautiful plain—farming land that is under cultivation.

Mr. COOPER. Well, now, will the gentleman permit an interruption there? That shows the gentleman is not familiar with the topography of the country of which he purports to speak.

Mr. CAMPBELL. I am talking about what gentlemen have stated here this afternoon, about the land that it is proposed to take within Rock Creek Park for a botanic garden.

Mr. COOPER. The report states—this is an extract from the letter of Dr. Galloway:

> Rock Creek Park offers a peculiarly suitable location for a national arboretum and botanical garden, in that it has a variety of soils and exposures which are essential to the proper cultivation of a wide variety of plant species, and already contains a remarkable collection of native trees and shrubs.

Now, the up-hill and down-dale site over there offers the variety of exposure that is necessary.

Mr. CAMPBELL. The committee has contended that we would not take that portion of Rock Creek Park that is now beautified by trees and shrubs, but it is proposed to take a beautiful piece of ground that is used as a farm.

Mr. SLAYDEN. I did not say that. I say that the places which it is proposed to plant and on which to cultivate plants, flowers, and things of that kind, are the open places, the old farms and old fields up there. It is not intended to disturb the trees or forests that are there. It is not intended to disturb the trees or forests that are there, because they are a part of the arboretum planted by the greatest of all gardeners.

Mr. CAMPBELL. That portion quoted by the gentleman from Wisconsin [Mr. COOPER] has no application to that and is not an argument in favor of moving the Botanic Garden out there as opposed to moving it elsewhere.

Mr. SLAYDEN. To where do you want it moved?

Mr. CAMPBELL. I do not care so long as it does not take a part of Rock Creek Park and prevent its use for park purposes.

Mr. HOWARD. Will the gentleman yield?

Mr. CAMPBELL. Yes.

Mr. HOWARD. I just wanted to suggest, apropos to the question suggested by the gentleman from Wisconsin about the great variety of trees in Rock Creek Park, does not the gentle-

man know that there are propagated down in Potomac Park over 100 varieties of trees that these gentlemen say can not be propagated on this land?

Mr. CAMPBELL. I think they have some trees there from Japan. I think there are no more beautiful trees to be found anywhere in this section of the country than you will find down in Potomac Park imported from Japan.

Mr. MANN. Does the gentleman mean to say that they propagate any trees down there? The gentleman is a farmer, and used the term "propagate" as to the trees down there. Does the gentleman mean to stake his reputation on the fact that they propagate trees down there?

Mr. CAMPBELL. I am a cereal and vegetable farmer.

Mr. MANN. A cereal farmer and not a serious farmer?

Mr. CAMPBELL. I am not of the arboretum variety.

Mr. MANN. If the gentleman will permit me to say in his time, for the benefit of the gentleman from Georgia, they do not propagate anything down there at all. They have a few trees heeled in there as a nursery pure and simple.

Mr. HOWARD. I may have used the wrong word. They are growing there, and luxuriantly growing.

Mr. MANN. Of course, they grow well all over Potomac Park.

Mr. CAMPBELL. I have not seen anything in the way of a shrub planted in Potomac Park that has not grown well. It may be that it is not a suitable place from a theoretic standpoint.

Mr. MANN. The gentleman has not been very observing, then, because there have been a great many trees down there that have died. Of course, if they stay dead for a year they pull them up.

Mr. CAMPBELL. That is true of all trees in all parks. Of course, some of them die.

Mr. MANN. I understood the gentleman to say he did not see anything that was not growing well down there.

Mr. THACHER. May I ask the gentleman if he ever visited this locality proposed to be taken by the Botanic Garden in Rock Creek Park?

Mr. CAMPBELL. Yes. I have been all over the park.

Mr. THACHER. You concurred in some of the statements made by gentlemen who have spoken that there was no variety at all. There is variety, and slope, and southern exposure. There is a great variety there. I believe the gentleman wants to be fair.

Mr. CAMPBELL. Certainly.

Mr. THACHER. And quite a contrast to Potomac Park, which is low, and flat, and soggy.

Mr. CAMPBELL. What I did say in respect to that is this: It was stated it would not be expensive at all to convert the portions of Rock Creek Park into a botanic garden, because it has been used for agricultural or farm purposes. That statement has been made, has it not, in answer to the statement that it would be an expensive thing to convert Rock Creek Park into a botanic garden? But I must hasten to my conclusion.

Mr. PLATT. May I ask the gentleman if he said what part of Rock Creek Park was referred to? I never happened to find any such part of it.

Mr. CAMPBELL. I have not seen it; but it has been stated here by gentlemen in favor of making a part of Rock Creek Park into a botanic garden that there were beautiful agricultural fields there that could be easily converted without expense into a botanic garden.

Mr. PLATT. There are some slopes of meadow grass that have evidently been farmed in years gone by.

Mr. CLARK of Florida. Will the gentleman permit me just a moment?

Mr. CAMPBELL. Yes.

Mr. CLARK of Florida. I would like to say to the gentleman if he is not familiar with it, that down on reservation No. 13 they have all the rolling land they want. It is beautifully rolling down there, some high land and some low land. I want to also state that there is an immense nursery of trees there now, and houses, too.

Mr. CAMPBELL. I was just going to mention that other possible location for a botanic garden without in any way interfering with the park system that has been outlined for Washington. Now, I want to call the attention of gentlemen to the park plan for Washington that practically bars the idea of taking 400 acres off the north end of Rock Creek Park and making it into a botanic garden. The parking plan for Washington contemplates a park surrounding the entire city, with driveways in that system surrounding the entire city. You can not take 400 acres off of Rock Creek Park without destroying that plan.

Mr. SIMS. May I ask the gentleman a question?

Mr. CAMPBELL. Yes.

Mr. SIMS. This 400 acres will be there after it is used for botanic garden purposes just as it is now, with all the driveways unobstructed, and unless somebody would point it out to you as you were going along the driveway you could not tell when you went from one part into another, and it will not in the slightest interfere with the plan if it is carried out. In other words, it is only permitting a botanic garden being placed in the park without diverting it from park puposes one particle, and making it a more beautiful park than it is.

Mr. CAMPBELL. That statement has been made here, but there is nothing in support of it. The plan of a park system for Washington does not contemplate that a portion of it shall be set aside for a botanic garden under the exclusive control of somebody in charge of that garden.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Kansas yield to the gentleman from Wisconsin?

Mr. CAMPBELL. I yield for a question.

Mr. STAFFORD. The gentleman has just stated that there is nothing to support the statement made by the gentleman from Tennessee [Mr. SIMS] that it would add to the beautification of the park. I wish to call to his attention and to the attention of the committee the remark of Dr. Galloway in his letter to the chairman of the committee, in which he used this language:

> On the contrary, our object would be to enhance the beauty of the park through the gradual accumulation of collections of plants in such a way that they would serve a useful purpose to the whole country as well as enhance the beauty of the surroundings.

There is nothing in this proposition that tends to detract from the present use of Rock Creek Park. The gentleman bases his argument on the supposition that it is a playground. In fact, it is more utilized for driveway purposes. The very part of this park that is intended to be used as an arboretum is hilly in character and is used almost exclusively for driveway purposes.

Mr. CAMPBELL. Well, the gentleman from Wisconsin may be right; but if you establish a botanic garden in Rock Creek Park, you take that area out of the park for park purposes.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield further?

Mr. CAMPBELL. I will yield for a question.

Mr. STAFFORD. Does not the gentleman believe that in deciding this question it would be well to follow the example of other cities? I wish to ask him if he knows of any city in the country where they have not established their botanic gardens in connection with their park system? I call his special attention to the case of Philadelphia, where Horticultural Hall is located on the old site of the centennial exposition grounds, which is a botanic garden.

Mr. CAMPBELL. I can not yield to the gentleman for a speech.

Mr. STAFFORD. The gentleman has an hour. I did not think he was pressed for time.

Mr. CAMPBELL. There is a vast difference between Horticultural Hall in Philadelphia and the Botanic Garden.

Mr. COOPER. Mr. Chairman, will the gentleman yield for a question?

Mr. CAMPBELL. Yes; for a question.

Mr. COOPER. The gentleman says that these 400 acres are to be taken from the park. Of course, the people will go right from the park into the garden as they please, as they do in St. Louis. But there are 1,600 acres in that park, which is an exceedingly large park. If, for the sake of the argument, you take off 400 acres, it would leave 1,200 acres in the park, which is still an exceeding large park.

Mr. CAMPBELL. Yes; but that is not a single body of land.

Mr. COOPER. It is used for drives.

Mr. CAMPBELL. Yes; it is used for drives, and it could not be used for the propagation of plants, such as was described by the gentleman from Illinois [Mr. MANN], if it were used for driveways.

Mr. MANN. Of course it could.

Mr. PLATT. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. Yes.

Mr. PLATT. Would the gentleman regard the Zoological Park as being taken out of the Rock Creek Park area, or as a part of it?

Mr. CAMPBELL. That is an invitation to come into Rock Creek Park to see the animals.

Mr. PLATT. Would not the Botanic Garden be the same thing?

Mr. CAMPBELL. Not at all. The invitation to a zoo, to a zoological park, is a vastly different kind of an invitation from one that you would have to go into a botanic garden.

Mr. PLATT. There is more noise about it.

Mr. CLINE. Mr. Chairman, will the gentleman permit me to ask him a question?

The CHAIRMAN. Does the gentleman from Kansas yield to the gentleman from Indiana?

Mr. CAMPBELL. I yield to the gentleman.

Mr. CLINE. Assuming that these several tracts are all equally available for the removal of the Botanic Garden, has the gentleman canvassed the proposition as to the expense of properly preparing the different sections and the future amount of money necessary for their upkeep? Would there be any difference in that? Would the 400 acres be more expensive or less expensive than the cost of moving the Botanic Garden over to the Potomac flats?

Mr. CAMPBELL. The 400 acres to be taken for botanic purposes in Rock Creek Park would be 400 acres of the most expensive land adjacent to the city of Washington. Everybody knows, and especially the gentleman from Tennessee [Mr. SIMS], that the northwest section of Washington contains the most expensive land adjacent to or in Washington. The land would be much cheaper—the taking of the land down here in reservation 13, would be much cheaper—and its maintenance, I think, would be a great deal less than that of the land in Rock Creek Park. The extension of Potomac Park, which has not yet been converted into a park, could be used at a much less expense and would take land that is less valuable than the land in Rock Creek Park.

Mr. PLATT. I wanted to ask the gentleman if he ever crossed Rock Creek Park on what is called the Military Road, going from Piney Branch across to Chevy Chase Circle or thereabouts?

Mr. CAMPBELL. Yes.

Mr. PLATT. The land in that section of Rock Creek Park is not worth more than the land down here.

Mr. CAMPBELL. It costs more to buy it.

Mr. PLATT. That may be true, but there is land all around it that does not look expensive.

Mr. CAMPBELL. But just as soon as you undertake to buy that land it goes up in value far beyond what its appearance would indicate.

Mr. MADDEN. Will the gentleman yield to me?

Mr. CAMPBELL. Yes.

Mr. MADDEN. Most of the land that is proposed to be used for a botanic garden in Rock Creek Park is used for hay fields, is it not, at the present time?

Mr. CAMPBELL. I do not know what it is used for.

Mr. MADDEN. It would be put to much better purposes if used for a botanic garden than it is while used for raising hay.

Mr. CAMPBELL. I suggest to the gentleman from Texas [Mr. SLAYDEN] that he have a convention of the Members of the House who are in favor of appropriating a portion of Rock Creek Park for a botanic garden, so that they may reach an agreement as to the nature of the land and its topography and the purposes for which it is now used and the uses for which it is really available. The gentleman from Illinois now says that it is used for hay fields. Other gentlemen said here a few moments ago that it was a beautiful arboretum.

Mr. MADDEN. Of course it is surrounded by trees, but these are open places, and I see them cutting hay there every year. Nobody ever goes into that part of the park for recreation. They just smell the new-mown hay as they go by on their drives. How much better it would be if they could smell the beautiful flowers, trees, and shrubs that could be propagated in a botanic garden.

Mr. CAMPBELL. The gentleman from Illinois can not get me to say that any smell is sweeter than the smell of new-mown hay.

Mr. COOPER. If the gentleman will permit me, I want to make a correction. I said I had been told that there were 1,600 acres in Rock Creek Park. I have since learned from a gentleman who is possessed of a vast amount of information concerning everything relating to the District of Columbia that there are 2,200 acres in the park; and if these 400 acres were put into flowers and the trees left as they are, it would still leave 1,800 acres of park, which is an exceedingly large park, and the putting in of these flowers would not interfere at all with the pleasure of the people, but, on the contrary, it would add to it and enhance it a thousandfold.

Mr. CAMPBELL. It will be the most expensive move that this Congress can make with regard to the Botanic Garden. Aside from what I have said with regard to the uses to which Rock Creek Park may be put, aside from what I have said with regard to the demands that will be made upon this Congress for additional land if this land is taken for a Botanic Garden, this will be the most expensive place in which the Botanic Garden could be placed and maintained.

Mr. CLINE. Does not the gentleman from Kansas think that the elements entering into future appropriations for this project ought to be seriously considered?

Mr. CAMPBELL. I do.

Mr. CLINE. In connection with the removal, in regard to the different locations?

Mr. CAMPBELL. I think so, and I think as a matter of fact that the cheapest and the best place is on the land in reservation 13, or adjacent to the Agricultural Farm.

Mr. MADDEN. Where is it?

Mr. CAMPBELL. Just across the river from Potomac Park.

Mr. MADDEN. In Virginia?

Mr. CAMPBELL. Yes. The Government is now reclaiming the land, cleaning out the channel of the river.

Mr. MADDEN. Does the gentleman refer to where they are putting in the breakwater north of the bridge?

Mr. CAMPBELL. Yes.

Mr. MADDEN. That is all water.

Mr. CAMPBELL. Potomac Park was all water a short time ago.

Mr. MADDEN. Yes; 15 years ago.

Mr. CAMPBELL. The same process that filled up Potomac Park is now filling up the other side of the river on this side of the agricultural farm. The thing that the House should take into account is the enormous expense that will be entailed if they move the Botanic Garden to Rock Creek Park.

Mr. SMITH of Idaho. Will the gentleman yield?

Mr. CAMPBELL. Yes.

Mr. SMITH of Idaho. What proportion of people would see the Botanic Garden if it was moved across the river?

Mr. CAMPBELL. Everybody that goes to Arlington, and there are thousands who go there every day, and anyone who wants to visit a botanic garden.

Mr. SMITH of Idaho. Only those who have a conveyance, an automobile or a carriage.

Mr. CAMPBELL. Oh, yes; they can go there on the electric car, which goes right to the very corner of the place. But it must not be argued that the Botanic Garden can be moved from its present location to Rock Creek Park without entailing the most expensive botanic garden that this Government could establish and maintain. If this Democratic Congress wants to establish the most expensive botanic garden that it could possibly establish, move it to Rock Creek Park. If you want to maintain a botanic garden in the Capital in keeping with Democratic pretenses and Democratic promises, put it somewhere where it will not be on the most expensive land anywhere in the region of Washington.

Mr. PAGE of North Carolina was recognized.

Mr. SLAYDEN. Mr. Chairman, I want to ask if we can not come to some agreement as to when we can vote on this bill. I do not desire to cut off any gentleman who desires to speak and shall not attempt to do so, but we have had a reasonably long discussion, and I would like to have the balance of the discussion under the five-minute rule. I do not want to interfere with the gentleman from North Carolina, but I want to reach an agreement as to when we shall vote—whether to-day or next Wednesday.

Mr. PAGE of North Carolina. If the gentleman is addressing his remarks to me, I will say that I do not feel authorized to enter into an agreement.

Mr. SLAYDEN. The gentleman can say what he is willing to do himself.

Mr. PAGE of North Carolina. I have no preference in the matter. I have a few brief remarks that I want to submit.

Mr. SLAYDEN. How much time does the gentleman want?

Mr. PAGE of North Carolina. I have been recognized, and that entitles me to an hour. There are several gentlemen on this side who want to speak, and I am not in a condition to commit anybody except myself.

Mr. SLAYDEN. I was making the inquiry with a view to reaching an idea of what the opinion of the gentleman was on the matter as to when we can close this debate. I do not wish to move to close debate.

Mr. PAGE of North Carolina. The gentleman could not do that.

Mr. SLAYDEN. I could move that the committee rise.

Mr. MANN. It is perfectly evident that some gentlemen are filibustering against this bill and that we will not get a vote to-night.

Mr. SLAYDEN. Mr. Chairman, I withdraw the request.

Mr. PAGE of North Carolina. Mr. Chairman, I have no desire to simply consume time and defer a vote upon the bill under consideration. I merely want to submit a few reasons why in my judgment this bill should not pass. I am like the gentleman from Illinois, and yet somewhat unlike him. I am unlike him in that I was not reared in a flower garden, but like him to the extent of my fondness for plants and flowers. I am unlike the gentleman from Kansas, whose pursuits in the garden are of a different character, and by his own admission in an effort to reduce the cost of living, because the first few years of my life were spent in an effort to produce things from the ground. I was sufficiently amused in that time, and have no particular desire to try it now.

The love of flowers and plants distinguish, in my judgment, people of culture and refinement and kindly feeling. I have always noticed in going through the country districts of my own district that when I saw growing in the yard or in window boxes or about the porch plants in bloom, it was a pretty safe bet that the people who lived there were cultured, hospitable, and kindly, and while I have often acted upon that assumption, I never knew it to prove otherwise than true.

That the Botanic Garden in its present location is out of place I think every Member of this House will admit. It has served its purpose there, and if the Government is to maintain a garden of this character it should be elsewhere than in its present location. I have listened to this discussion relative to the topography and geography and location of this proposed site in Rock Creek Park with a great deal of interest. I have supposed that I was in some degree familiar with that section of the city, and that particular location. But when gentlemen have made the statement on the floor that certain street-car lines reached within a block or two blocks of Rock Creek Park I am convinced that either they are mistaken or that I know absolutely nothing about the distances and the topography of the city in that section.

The street-car line running out Fourteenth Street to Piney Branch terminus is at least one-quarter of a mile from the boundary of the park, the nearest point being down opposite the reservoir across Sixteenth Street. The Georgia Avenue car at one point is perhaps nearer the proposed location of this botanic garden than is the Fourteenth Street line at its terminus at Piney Branch.

One of the regrets that has often come to me in my enjoyment of Rock Creek Park—I do get a great deal of pleasure from driving in the park, being the unfortunate possessor of an automobile—is that it is not accessible and within the reach of a larger percentage of the population of the city.

I have regretted not only in connection with Rock Creek Park, but also in connection with Potomac Park, that provision was not made for pedestrians. In each of these parks very elaborate arrangements have been made for vehicles, and we have expended a great deal of money in the grading and paving of roads as driveways and in the preparation of paths for equestrians, but we have forgotten absolutely in our appropriations the enjoyment of these pleasure spots within the reach of the city by the man or woman who walks, unless he or she walk in danger of being run down by an automobile or run over by a horse. I know of no cultivated land in Rock Creek Park. It may be there. I am not saying that there is not land there that within recent years has been under cultivation, but if so it has escaped my observation, and I have very frequently driven the various roads in the park. This cultivated land is not on the road.

Mr. MANN. Is the gentleman referring to anything that I said?

Mr. PAGE of North Carolina. No; nothing that the gentleman said. In fact, I could not say what gentleman it was. There has been so much said that I could not tell. I am very much like the gentleman from Kansas [Mr. CAMPBELL], for I believe that there ought to be some kind of meeting and agreement just as to the character of this soil.

Mr. MANN. I did say that shrubs might be planted in this land, because it had been cultivated. I think that that is what the gentleman has in his mind, but he is not answering that.

Mr. PAGE of North Carolina. I am not undertaking to answer that at all. I think possibly that at one time this land was cultivated, but it certainly has not been cultivated within a number of years.

Mr. MANN. Certainly not.

Mr. PAGE of North Carolina. It has grown up with bushes and plants and trees.

Mr. MANN. But part of it has grass upon it that is cut.

Mr. PAGE of North Carolina. The other gentleman from Illinois made reference, in his interrogating of the gentleman from Kansas, to the fact that they mowed hay. I think possibly just north of Military Road there is a little spot of ground on which I have seen a few mounds of hay that have been cut and raked up; but when you speak of an objection to other places that have been mentioned here as being low, I want to say that it is not much lower or damper than those spots off which this hay is occasionally mowed.

Mr. MANN. The gentleman is probably more familiar with Rock Creek Park than I am, for I do not possess an automobile, though I have walked out there.

Mr. PAGE of North Carolina. I venture the gentleman has not done much walking, though the walking is good, I will say.

Mr. MANN. Oh, I beg the gentleman's pardon. I have walked through Rock Creek Park more than two hundred times since I have been a Member of Congress.

Mr. PAGE of North Carolina. I am very glad to know it.

Mr. MANN. Much of this land is not touched by the roads at all.

Mr. PAGE of North Carolina. That is true.

Mr. MANN. The gentleman is talking about what he saw from the roads, and there are no roads near this land.

Mr. PAGE of North Carolina. I was about to say that removed from these driveways at some inaccessible spot in the park there may be cultivated land. There may be corn growing within the park, for all I know, but it has not come within my observation.

Mr. CLINE. Mr. Chairman, will the gentleman yield?

Mr. PAGE of North Carolina. Yes.

Mr. CLINE. Does the land lying right north of the reservoir belong in Rock Creek Park proper at the present time?

Mr. PAGE of North Carolina. No. There is quite a large section of land there that is in private holding, just north of the reservoir; and, by the way, there has been a very insistent demand on the part of certain people in the city of Washington for the extension of Sixteenth Street to what is known as the Military Road, this insistence coming because of the fact that it does pass through private property which the gentlemen who own it desire very greatly to be developed, and it is not for the purpose of getting another road into the park, because there is certainly no lack of roads now leading into Rock Creek Park. But, Mr. Chairman, it was not along this line that I desired to make an observation. The gentleman from Texas [Mr. SLAYDEN], in reply to an inquiry I directed to the gentleman from Massachusetts [Mr. THACHER] when he had the floor, as to the cost that was going to be involved to the Government in this matter, quoted from a letter or statement made by the former Assistant Secretary of Agriculture, Dr. Galloway, that did not give very much information. It was a mere statement that, in the opinion of that gentleman, there would be no necessity for an increase in the appropriation over the present appropriations for the maintenance of the present Botanic Garden.

Why, Mr. Chairman, I venture the assertion, without going to the extent of my friend from Georgia [Mr. HOWARD] as to the probable cost that will be involved and for which the Government will be called on to pay in connection with this enterprise providing this bill passes, that the $30,000 annual appropriation will look like 30 cents in comparison with the amount that will be asked for the enlargement, improvement, and maintenance of this proposed park in Rock Creek Park. Four hundred acres are to be made into a garden; houses are to be built for the superintendent on the grounds, with mains laid for water works for water necessary for the culture and propagation of these plants, rare and otherwise, for the building of houses for the help that would be employed in maintenance, for the clearing of the ground, for walks and driveways through this cultivated spot now not reached by drives and walk ways. Mr. Chairman and gentlemen of this committee, if this bill becomes a law authorizing the establishment of this garden in Rock Creek Park, with authority to the Agricultural Department to take over 400 acres for this purpose, the cost of maintenance, to say nothing of the cost of preparation to make this garden, I say within five years we will be extremely lucky if it costs less than $100,000 a year to maintain it.

Mr. WEBB. Mr. Chairman, will the gentleman yield for a question at that point?

Mr. PAGE of North Carolina. I will yield.

Mr. WEBB. I remember two or three years ago a very insistent and persistent effort was made here to sell the Government some more land for Rock Creek Park. It was then made to appear the park was not big enough, that we needed more land for that purpose. Now, as a member of the Committee on Appropriations and as a gentleman who knows the ins and outs

of these sales, does not the gentleman think that if we donate 400 acres off this small park it will not be but a year or two until a pry will be put under Congress and the demand made that as they have lost 400 acres of this beautiful park they ought to have 400 acres to add to it in order to make up as much as it is now?

Mr. PAGE of North Carolina. I have no doubt in the world the people who have land adjacent to the park will seize upon any opportunity to find a market for the land, the purchaser being the Government. They are not particularly anxious to sell to anybody else. To those who are familiar with the location and situation there are hundreds of acres of land in private holdings just west of Rock Creek Park. You can to-day go along the driveway leading from about 200 yards north of Pierce's Mill, on the road that goes out to the circle at Chevy Chase, and within a quarter of a mile or less, where you go out of the present Rock Creek Park, and for nearly 2 miles or more than 2 miles you go through wooded land and on every tenth tree, almost, you will find a sign of some real-estate firm in the city saying that that particular place is for sale. There is no particular inducement for getting home builders to go there. Those people, in my judgment, are not particularly anxious to sell in this locality to those who will improve it as home builders, but it is being held in the hope that some incident will occur by which they can make a market with the Government for the enlargement of Rock Creek Park and thereby obtain a very much better price for this land.

Mr. MADDEN. Will the gentleman yield?

Mr. PAGE of North Carolina. With pleasure.

Mr. MADDEN. If it is the case that they have a number of real-estate signs on every tenth tree——

Mr. PAGE of North Carolina. If the gentleman will allow me to modify that, because the trees are rather thick, I will state at every turn of the road.

Mr. MADDEN. Suppose there is one every fiftieth tree, I do not know that they are very anxious to sell their land; but is there any justification for stating that they have no desire to sell it in view of the fact they are advertising it for sale?

Mr. PAGE of North Carolina. I will say to the gentleman it costs very little to have a real-estate sign with the name of the real-estate dealer and "for sale" printed on it, and nail it up on a tree, and it has certain advertising value for people who pass along the road. I do not think there has been any serious effort to sell land in this locality.

Mr. MADDEN. I am frank to say I do not know anything about it, but if the gentleman will allow me to make a statement for just a minute, I would like to say that in Chicago we found we did not have parks enough to meet the needs and saw the necessity for more parks. So the city and its people joined as one man for the purpose of inaugurating a plan of making more parks, and to do that they were obliged to buy blocks of houses and tear them down in the most thickly populated part of the city, and that has been done all over the city, and done because in the early history of the city people did not see the necessity for parks for breathing spaces. And it may be that situation will develop here.

Mr. PAGE of North Carolina. Does the gentleman suppose that will develop in the city of Washington?

Mr. MADDEN. I hope so.

Mr. PAGE of North Carolina. That we will have to buy houses and tear them down to establish parks?

Mr. MADDEN. I hope we will have sense enough to establish the parks before that situation arises.

Mr. PAGE of North Carolina. I think that certainly in the city of Washington there can be no complaint along that line, but the complaint comes that in one or two instances we have made large appropriations to buy houses and tear them down to make parks even in Washington, the insistent demand here being so great as to go beyond the necessity from the definition of most of us, at least, as to what the necessities are.

Now, Mr. Chairman, I know that there is an insistent demand, of course, from certain interests and people in the District of Columbia for the establishment of this garden within the District and within the city. Naturally enough it is an additional attraction to the city of Washington and to the District of Columbia, without even the participation of the taxpayers of this District to the extent of one-half of its cost. It is one of those things that the Government is going to do wholly, as we do a great many other things within the District of Columbia, and some of them we should do. I see no reason why we should be confined to the District of Columbia for the establishment of this garden. I think there is a great deal in the suggestion that has been made by the gentleman from Kansas [Mr. CAMPBELL] in connection with the farm of the Agricultural Department, and now under their supervision and improvement, lying just across the river in Virginia. In my judgment, it is a very much more suitable place for the establishment of a garden for the propagation of plants, and even trees, than is this plot that has been suggested in Rock Creek Park. I have some sympathy with the suggestion that has been made by other gentlemen as to the suitableness of that piece of land now owned by the Government, that has not been improved except by the building of a road on one side of it. Much of the land lying east of the railroad, to the east of Potomac Park, down the river on the point, has been cultivated during recent years. It seems to me that would be a vastly better place for the establishment of this garden and for the growth not only of plants, but trees, than the one selected in this bill, in the northern end of Rock Creek Park. I even agree with the suggestion made by the gentleman from Florida [Mr. CLARK], to select reservation No. 13, in this section of the city, and known as the "old workhouse plot," and now occupied by the Washington Asylum and Jail, and evidently not to be occupied by that institution for a great while in the future, where the Government already owns a beautiful plot of land within easy reach of the population of the city, bordering upon the Eastern Branch, the Anacostia River, that is now being reclaimed and improved—the parking system of the city itself—and it seems to me that either one of these particular places would involve vastly less cost to the Government in the establishment of this garden, as well as placing it in a better location than that in Rock Creek Park, without creating the demand on the part of certain people that Rock Creek Park immediately be enlarged to the extent that we have detracted from it by taking this 400 acres.

Mr. Chairman, I have confidence in the gentlemen who have reported this bill to the House, the gentlemen composing the Committee on the Library, but I doubt very seriously whether these gentlemen have given this matter the careful consideration that it should have received in reporting their conclusions to this House. I think if they would take more time, if they would, in the light of the discussion that has taken place here to-day, some of it illuminating and some not, pursue this subject further, they themselves might come to the conclusion that it was not wise to authorize the Agricultural Department to take over 400 acres of Rock Creek Park for the purposes indicated in this bill. I shall oppose the bill when it comes to a final vote, because I do not believe that this is the place for the establishment of this garden. I think that there are better places, places that can be improved and out of which we can get all the benefits that would come from this location by the expenditure of vastly less money than it will require in the location indicated in this bill, and in a place that will not detract and take from the advantages that now exist because of this park known as Rock Creek Park.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

Mr. PAGE of North Carolina. Yes; I yield to the gentleman from Wisconsin.

Mr. STAFFORD. Will the gentleman indicate in what respect the present uses of Rock Creek Park will be in any way diverted by utilizing it for the purpose of an arboretum or a botanic garden?

Mr. PAGE of North Carolina. To be frank with the gentleman, I do not think it will take from it or detract from the pleasure of it or the utility of it in the slightest degree; but my experience has led me to believe that it will result in an incessant demand that will come to fruition for the purchase of more land because it has been taken.

Mr. STAFFORD. Then, as I understand the gentleman's position, it is founded entirely upon fear?

Mr. PAGE of North Carolina. No, sir; it is not founded upon fear, but it is founded upon the actual happenings of the past. The gentleman has been a Member of Congress long enough to know that there are incessant demands that come in here, occasioned by a small excuse.

Mr. STAFFORD. Well, if the gentleman admits that the uses of the park will not be in any way impaired, I can not understand how the appropriation of land for this purpose will be any warrant or argument for acquiring additional land. It is merely appropriating that which we have.

Mr. PAGE of North Carolina. That is the gentleman's guess for the future, and I have made my guess; that is all. Neither of us is a seer or a prophet.

Mr. BALTZ. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Illinois?

Mr. PAGE of North Carolina. Yes; I yield to the gentleman.

Mr. BALTZ. I think great care should be exercised in selecting a site for the Botanic Garden. Since I have been a Member

of Congress I have been out in that territory and have gone over it, and I must confess that I did not find any soil thereabouts that is fertile enough to raise flowers and trees.

Mr. PAGE of North Carolina. The observation by the gentleman from Illinois is no doubt correct. I make no pretense about being either a farmer or a horticulturist, but it seems to me——

Mr. COOPER. Mr. Chairman, will the gentleman yield for an interruption?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Wisconsin?

Mr. PAGE of North Carolina. I yield.

Mr. COOPER. Does the gentleman think that the statement made by the gentleman from Illinois [Mr. BALTZ] can weigh against that of the famous expert, not only a national expert but a world-wide expert, Dr. Galloway, who says that the soil of this 400-acre tract is especially adapted for the purposes of an arboretum or botanic garden?

Mr. PAGE of North Carolina. The gentleman has called upon me to pass upon the judgment of Dr. Galloway and my colleague from Illinois, who is a practical farmer, and I will take the judgment of the practical farmer.

Mr. STAFFORD. Will the gentleman yield again?

Mr. PAGE of North Carolina. Yes.

Mr. STAFFORD. Will the gentleman take the judgment of the gentleman from Illinois as contrasted with the actual facts, when we all know that trees do grow out there?

Mr. PAGE of North Carolina. I said flowers.

Mr. STAFFORD. And flowers.

Mr. DONOVAN. Mr. Chairman, I make the point of no quorum.

The CHAIRMAN. The gentleman from Connecticut [Mr. DONOVAN] makes the point of no quorum.

Mr. PAGE of North Carolina. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PAGE of North Carolina. If the gentleman insists upon his point, and that results in an adjournment of the House, will I have the floor on next Calendar Wednesday when this bill is called up?

The CHAIRMAN. The present occupant of the chair does not know whether or not he will be in the chair at that time.

Mr. PAGE of North Carolina. Have I not the right to continue?

The CHAIRMAN. The Chair will determine then, when the question comes up for determination.

Mr. STAFFORD. Mr. Chairman, a question of order.

The CHAIRMAN. The gentleman will state it.

Mr. STAFFORD. A Member of the House can not take a gentleman off his feet when he has the floor by raising the question of a point of order.

The CHAIRMAN. The Chair is inclined to think that the point of no quorum is in order at any time. If it were a parliamentary inquiry he could not take him off the floor with it.

Mr. PAGE of North Carolina. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has 13 minutes remaining.

Mr. PAGE of North Carolina. I reserve the balance of my time.

Mr. SLAYDEN. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. JOHNSON of Kentucky, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 12796) to provide for the removal of the Botanic Garden to Rock Creek Park and for its transfer to the control of the Department of Agriculture, and had come to no resolution thereon.

ADJOURNMENT.

Mr. SLAYDEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 15 minutes p. m.) the House adjourned, under the order previously made, until to-morrow, Thursday, August 6, 1914, at 11 o'clock a. m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. CARAWAY, from the Committee on the District of Columbia, to which was referred the bill (H. R. 17857) to provide for appointment to places under the government of the District of Columbia, and for other purposes, reported the same with amendment, accompanied by a report (No. 1070), which said bill and report were referred to the House Calendar.

Mr. FLOYD of Arkansas, from the Committee on the Judiciary, to which was referred the bill (H. R. 13041) providing for the establishment of a term of the district court for the eastern district of North Carolina at Wilson, N. C., reported the same with amendment, accompanied by a report (No. 1071), which said bill and report were referred to the House Calendar.

Mr. CARAWAY, from the Committee on the District of Columbia, to which was referred the bill (H. R. 17826) to amend an act entitled "An act providing a permanent form of government for the District of Columbia," reported the same without amendment, accompanied by a report (No. 1072), which said bill and report were referred to the House Calendar.

Mr. TAYLOR of Colorado, from the Committee on the Public Lands, to which was referred the bill (H. R. 17263) to reserve certain lands, to incorporate the same, and make them a part of the Uncompahgre National Forest in Colorado, reported the same with amendment, accompanied by a report (No. 1073), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. GREGG, from the Committee on War Claims, to which was referred the bill (S. 544) for the relief of the Virginia Military Institute, of Lexington, Va., reported the same without amendment, accompanied by a report (No. 1074), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. AIKEN: A bill (H. R. 18252) regulating the salary of letter carriers of the Rural Delivery Service; to the Committee on the Post Office and Post Roads.

By Mr. ROTHERMEL: Joint resolution (H. J. Res. 316) to transfer to the custody and possession of the Attorney General sealskins; to the Committee on Ways and Means.

By Mr. FOWLER: Joint resolution (H. J. Res. 317) to remit certain penalties against certain insurance companies for a failure to make returns on incomes on or before March 1, 1914, as provided by an act entitled "An act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 18238) granting a pension to Isabella Bedgood; to the Committee on Invalid Pensions.

By Mr. CARY: A bill (H. R. 18239) granting a pension to Vernon D. Bennett; to the Committee on Pensions.

By Mr. GILMORE: A bill (H. R. 18240) granting a pension to James P. Kennedy; to the Committee on Pensions.

By Mr. GODWIN of North Carolina: A bill (H. R. 18241) for the relief of Thomas S. Lutterloh; to the Committee on War Claims.

Also, a bill (H. R. 18242) for the relief of the Cape Fear & People's Steamboat Co.; to the Committee on War Claims.

By Mr. HULL: A bill (H. R. 18243) granting an increase of pension to Pleasant McKinney; to the Committee on Invalid Pensions.

By Mr. McGILLICUDDY: A bill (H. R. 18244) granting an increase of pension to George Dulac; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18245) granting an increase of pension to Susan W. King; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18246) granting an increase of pension to Albion K. P. Marston; to the Committee on Invalid Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 18247) to remove the charge of desertion from the military record of Daniel Kennedy; to the Committee on Military Affairs.

By Mr. ROTHERMEL: A bill (H. R. 18248) granting an increase of pension to Henry Doll; to the Committee on Invalid Pensions.

By Mr. SELDOMRIDGE: A bill (H. R. 18249) granting an increase of pension to William Munsell; to the Committee on Invalid Pensions.

By Mr. SMITH of Minnesota: A bill (H. R. 18250) granting an increase of pension to Mathias Logelin; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 18251) granting a pension to Alfred E. Schuster, alias Alfred E. Raymond; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions of certain commercial organizations of Oregon, Washington, and Idaho, urging the passage of the rivers and harbors bill; to the Committee on Rivers and Harbors.

Also (by request), petitions signed by certain citizens of Connecticut, urging the passage of the Hobson prohibition amendment; to the Committee on Rules.

By Mr. ASHBROOK: Petitions of 152 citizens of Wooster College, Wooster, Ohio, favoring House joint resolution 282, to investigate claims of Dr. F. A. Cook to have discovered the North Pole; to the Committee on Naval Affairs.

By Mr. BAILEY: Petition of Woman's Home Missionary Society of the Methodist Episcopal Church, Bedford, Pa., against H. R. 16904; to the Committee on the District of Columbia.

By Mr. BELL of California: Petition of members of the James A. Garfield Circle, No. 55, of the Grand Army of the Republic, Department of California and Nevada; to the Committee on the Judiciary.

Also, petition of 200 people of the Boyle Heights Christian Church and 200 people of University Christian Church, Los Angeles, Cal., favoring national prohibition; to the Committee on Rules.

By Mr. CRAMTON: Protests of Frank Pretty and 60 other citizens, against any legislation affecting the sale of household remedies, etc., by wagon; to the Committee on Interstate and Foreign Commerce.

Also, petitions of D. R. & I. Brown and 14 other business houses, of Deckerville; J. D. Clark and 7 other business houses, of Elkton; Bad Axe Lumber Co. and 9 other business houses, of Bad Axe; the Mihlethaler Co. and 11 other business houses, of Harbor Beach; the Wahla Mercantile Co. and 9 other business houses, of Minden City; F. E. Kelly and 9 other business houses, of Sandusky; Knox Dry Goods Co. and 26 other business houses, of Port Huron; Recor & Smith and 16 other business houses, of St. Clair; Blood & Hart and 10 other business houses, of Marine City; Chris Schlosser estate and 4 other business concerns, of New Baltimore; J. D. Crosby & Son and 6 other business concerns, of Cass City; P. L. Graham and 10 other business houses, of Croswell; C. M. Livingston and 4 other business concerns, of Owendale; Vaughan & Clark and 7 other business concerns, of Gagetown; C. A. Stockmyer and 3 other business houses, of Caseville; John Kuhn & Co. and 20 other business concerns, of Mount Clemens; Reid & McCabe and 3 other business concerns, of Emmett; Charles F. Walker and 4 other business concerns, of Dryden; Ira H. Hubbell and 5 other business concerns, of Applegate; F. L. Chubb and 4 other business concerns, of Berville; William Will and 8 other business concerns, of New Haven; the Neddemeyer Co. and 10 other business concerns, of Richmond; the Palms Hardware Co. and 1 other business concern, of Palms; Frank A. Brown and 8 other business concerns, of Ubly; George B. Dewar and 5 other business concerns, of Kinde; James Cartwright and 4 other business concerns, of Port Austin; A. L. Bruce and 3 other business concerns, of Deford; I. L. Berman and 5 other business concerns, of Kingston; L. H. Willson and 5 other business concerns, of Clifford, all in the seventh congressional district of Michigan, asking the passage of House bill 5308, to compel mail-order houses to contribute to the development of the local community, county, and State; to the Committee on Ways and Means.

Also, protests of Moritz Meiers and 10 other citizens of Mount Clemens, Mich., against the adoption of the Hobson resolution, submitting the question of national prohibition to the legislatures of various States; to the Committee on Rules.

Also, resolutions of the Michigan State Association of Post Office Clerks, in support of House bill 15222, for compensation of civil-service employees injured in the course of duty; to the Committee on the Judiciary.

Also, protests of Thomas Hyslop, of Millington; A. T. Kerr, of Vassar; W. C. Blair, of Lapeer; and Irwin W. Lennox, W. H. Reid, and Mrs. F. E. Crippen, against the proposed Lane amendment to House bill 6282, relative to sale of narcotics; to the Committee on Ways and Means.

By Mr. DERSHEM: Petitions of 2,860 citizens of Waynesboro and 174 citizens of Yeagertown, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. FITZGERALD: Petitions of Brooklyn Deaconess Home of the Methodist Episcopal Church, Brooklyn; Christian Endeavor Union and sundry citizens of Brooklyn; and 34 citizens of the State of New York, favoring national prohibition; to the Committee on Rules.

Also, memorial of board of trustees of the Western Society of Engineers, of Chicago, Ill., protesting against House bill 13457, relative to United States geographical surveys; to the Committee on Expenditures in the Interior Department.

Also, memorial of United German Societies of the District of Columbia, favoring opening of the Washington Monument on Sundays and holidays; to the Committee on Public Buildings and Grounds.

Also, memorial of General Post Office Letter Carriers' Mutual Benefit Association of New York, protesting against section 6 of House bill 12928; to the Committee on the Post Office and Post Roads.

By Mr. GILL: Petitions of sundry citizens of St. Louis, Mo., protesting against national prohibition; to the Committee on Rules.

By Mr. GREGG: Papers to accompany Senate bill 544, a bill for the relief of the Virginia Military Institute, of Lexington, Va.; to the Committee on Claims.

By Mr. HAMILTON of New York: Petitions of Pomona Grange, of Randolph, and citizens of Jamestown, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. JOHNSON of Washington: Petition of sundry citizens of Seattle, Wash., favoring national prohibition; to the Committee on Rules.

Also, memorial of Willapa Harbor Trades and Labor Council, of Raymond, and sundry citizens of Tacoma, Wash., protesting against national prohibition; to the Committee on Rules.

By Mr. KONOP: Petitions of Emil Pots and others of the State of Wisconsin, protesting against national prohibition; to the Committee on Rules.

By Mr. O'SHAUNESSY: Petition of citizens of the State of Rhode Island, favoring the Bristow-Mondell resolution enfranchising women; to the Committee on the Judiciary.

By Mr. PATTON of Pennsylvania: Petition of voting citizens of Irvona Borough, Clearfield County, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. REILLY of Connecticut: Petition of the First Baptist Church of New Haven and sundry citizens of the State of Connecticut, favoring national prohibition; to the Committee on Rules.

By Mr. ROTHERMEL: Papers to accompany bill granting pension to Henry Doll; to the Committee on Invalid Pensions.

By Mr. SELDOMRIDGE: Petition of sundry citizens of Weldona and Las Animas, Colo., favoring national prohibition; to the Committee on Rules.

By Mr. UNDERHILL: Petition of citizens of Elmira, N. Y., favoring national prohibition; to the Committee on Rules.

SENATE.

THURSDAY, *August 6, 1914.*

The Senate met at 11 o'clock a. m.

Rev. J. L. Kibler, D. D., of the city of Washington, offered the following prayer:

Our heavenly Father, we look to Thee as the source of all wisdom and holiness and power. We humble ourselves under Thy mighty hand, and commit ourselves to Thy divine leadings. May we discharge all our obligations in the light of Thy perfect law. We pray for our rulers; and may the angels of mercy hover over the home where dwells our Chief Magistrate. May Thy kind Providence dispel the gloom that has entered there, and be present in healing strength and restorative power. We ask it in the name of Jesus our dear Savior. Amen.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. BRANDEGEE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

SENATOR ELIHU ROOT.

Mr. BRANDEGEE. Mr. President, I send to the desk a tribute from a great Democratic daily newspaper to a great Republican Senator, the senior Senator from New York [Mr. ROOT], and I ask unanimous consent that the Secretary may read it.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. O'GORMAN. I did not hear the request.

Mr. BRANDEGEE. I have asked unanimous consent that the Secretary may read to the Senate the tribute of a great Democratic daily newspaper to a great Republican Senator, the colleague of the Senator from New York.

Mr. O'GORMAN. I shall be very glad to hear it.

The VICE PRESIDENT. There being no objection, the Secretary will read as requested.

The Secretary read as follows:

[From the New York Times, Thursday, July 30, 1914.]

"Senator ROOT's letter announcing that he would not be a candidate for reelection to his present office lacks nothing in positiveness. It was everywhere accepted as the expression of a firm resolve. The country's response was remarkable. In near and distant States, in every part of the Union, newspapers representing the best public opinion, men of all parties, men who have worked with Mr. ROOT, and men who have striven against him, spoke in terms of the highest praise of his great abilities and distinguished public service and united in a common expression of regret that he would soon cease to be a Member of that body to whose debates he has made so many and so rich contributions. Mr. ROOT's adherence to his purpose to be content with the private station would be cause of regret more general and profound than has been awakened by the retirement from public life of any statesman of our time. The effort to persuade Mr. ROOT against the determination of his own mind may seem to be ungracious, yet there are reasons of great weight and moment why it should be made, why so long as any hope remains all the forces of appeal and persuasion should be availed of.

"Wordsworth's tribute to the memory of Milton may with perfect truth and propriety be paid to ELIHU ROOT still living. The country has need of him, his own State has need of him, the people he has served more faithfully than they have at all times been aware of have need of him. It is a continuing need, and the Times will not shrink from adding to the ungraciousness of its appeal by saying to Mr. ROOT not merely that his work is not yet finished, but that his whole duty has not yet been performed. Of one whose service has been so great that is much to say, but we say it not as a reproof but as an exhortation. To one less great than the New York Senator it would not be said at all.

"Our national practice and policy have undergone a profound change that had its beginnings in the enactment of the interstate-commerce law and of the antitrust law. The industries and the commerce of the country had enjoyed almost unlimited freedom, the great builders of the Nation's prosperity had been almost entirely unhampered. Abuses had grown up and the time came when the people presented their effective demand for new laws and new conditions. The spirit that brought about that change has made fresh demands, and fundamental modifications of our earlier system have either been accomplished or are under way. The wish and purpose to bring the business of Government and the affairs of party more directly within the control of the people themselves have found expression in many new statutes. It is a perfectly well-known historical truth that when changes of that kind are once begun the tendency is to go both too fast and too far. The statesman who wisely guides the reforming spirit, who seeks to check and control it when checks and control are needed, serves his country not less worthily than the initiators of reform. New men, their zeal outrunning their knowledge, their wisdom, and their experience, must be balanced by those qualified for the task. The service is not one of reaction, it is one of guidance and conservation.

"For that service ELIHU ROOT is qualified above any other living American. His extraordinary abilities, the clearness of his mind, his power of insight, his broad experience, his learning as a constitutional lawyer and as a man of affairs equip him as no other statesman of our time is equipped to take part in the final organization and shaping of the new order. For this, beyond question, the country has urgent need of him, but it needs in all its great undertakings and at every stage of its progress his ripe judgment and the fruits of his large experience. In our foreign relations we can not lightly dispense with the knowledge and sagacity of the man who was one of our greatest Secretaries of State.

"Mr. ROOT's party has need of him, and that is only another way of presenting the country's need. The Democratic Party is in power, but the true advantage of that party and the welfare of the country will be best served by the existence of a strong opposition. The disorganization of the Democratic Party in the years following 1896 bred disaster for the Republicans. For this reason Democrats and Republicans alike should welcome Mr. ROOT's consent, if it can be obtained, again to be a candidate for the Senate. The pride and interest of the State of New York demand his continuance in its service if he can be persuaded. Of his election, should he consent to let his name go before the people, we believe there could be no doubt. If it be true, as President Wilson said the other day, that the temper of the people has undergone some change and that their attitude toward public questions much discussed of late has been modified, we are convinced that the views and wishes they now entertain would find emphatic expression in the vote cast for Mr. ROOT. The voters of New York would hardly consent to set aside the greatest man now in public life in favor of some lesser aspirant. Mr. ROOT would be elected. His State and the country sincerely hope that he will consent to enter the contest and perform the service."

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

S. 23. An act for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13; and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District.

S. 6031. An act authorizing the Board of Trade of Texarkana, Ark.-Tex., to construct a bridge across Sulphur River at or near Pace's ferry, between the counties of Bowie and Cass, in the State of Texas;

H. R. 11822. An act to acquire by purchase, condemnation, or otherwise, additional land for the post office, courthouse, and customhouse in the city of Richmond, Va.;

H. R. 15959. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 16345. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; and

H. R. 17482. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

PERSONAL STATEMENT.

Mr. STONE. Mr. President, I ask the consent of the Senate to make a brief statement.

On yesterday the senior Senator from Mississippi [Mr. WILLIAMS] asked to be relieved from further service upon the Committee on Foreign Relations. Personally I regret that the Senator from Mississippi took this course, and I am sure that that regret is shared by every member of the committee. There is no member of the committee who does not entertain a warm friendship and high personal regard for the Senator from Mississippi. All recognize and appreciate his ability, his learning, and his usefulness as a public servant.

The reasons assigned by the Senator for making his request, I am sure, on reflection, he would not adhere to as expressing his real convictions. There is no member of the Committee on Foreign Relations, much less the committee as a whole, who seeks in any wise to antagonize any effort made by the President or by any other person to promote the peace of the world or to provide means for facilitating the transportation of the products of this country to the various markets of the world. The statement made by the honorable Senator is so unreasonable and unwarranted that I am confident, as I have just said, that the Senator himself will not be willing that the reasons he assigned on yesterday for withdrawing from the committee should stand as a correct expression of his own opinions and convictions.

Mr. President, speaking for myself, I hope the Senator will reconsider what he has done, in so far as withdrawing from the committee is concerned, and that the committee may continue to have the benefit of his wise counsel and valuable services.

PETITIONS AND MEMORIALS.

Mr. CHAMBERLAIN. I present a telegram from the Portland Chamber of Commerce with reference to the river and harbor bill, and I ask that it may be read.

There being no objection, the telegram was read and ordered to lie on the table, as follows:

PORTLAND, OREG., *July 31, 1914.*

Hon. GEORGE E. CHAMBERLAIN,
For Oregon Congressional Delegation,
Care United States Senate, Washington, D. C.:

The following resolutions were unanimously passed at meeting called by the Portland Chamber of Commerce, at which were delegates from the Chamber of Commerce of Marshfield, Eugene, The Dalles, Salem, Astoria, Hermiston, and other places:

"*Resolved*, That the commercial organizations, representing all interests and every part of the Northwest, in convention assembled, urge the Senators representing these States to use every honorable means to pass the pending river and harbor bill.

"*Resolved further*, That the failure to pass this bill at this session of Congress will be in a very real sense a public calamity and retard development of the entire Pacific coast section, as well as occasion direct loss to the Government by reason of stoppage of work and necessary deterioration of plant and work already done.

"*Resolved further*, That we believe our representatives are justified and we urge them to refuse to adjourn Congress until a vote is taken on the river and harbor bill as a whole.

"*Resolved further*, That by reason of the fact that the port of Portland, the port of Astoria, and the port of Coos Bay have this year contributed directly large sums to aid in work now in progress at the mouth of the Columbia and Coos Bay we feel good faith on the part of the General Government requires it to continue the work which has thus been maintained by money raised by taxation of our local community.

"*Resolved*, That copies of this resolution be sent to the Senators and Representatives of all the Pacific Coast States and Idaho, Montana, and Nevada."

PORTLAND CHAMBER OF COMMERCE,
By A. H. AVEILL, *President*.

Mr. CHAMBERLAIN. I present resolutions unanimously adopted by the Presbyterian Synod of Oregon, which I ask may be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

At its meeting in Eugene July 11 the Presbyterian Synod of Oregon unanimously adopted the following resolutions:

"Whereas certain statements have been sent broadcast over the State of Oregon as if emanating from the hop growers, which represent the Presbyterian Church and some of its ministers as being opposed to the attempt to make Oregon dry: Therefore be it

"*Resolved*, First, that the Synod of Oregon hereby reaffirms all of its former deliverances on the subject of temperance.

"*Resolved*, Second, that the Synod of Oregon declares itself most emphatically in favor of both State and National prohibition.

"*Resolved*, Third, that we most earnestly indorse the Oregon dry amendment now pending before the voters of Oregon, and also the Sheppard-Hobson amendment for national prohibition, and we urge for each of them the votes, the prayers, the influence, and the utmost effort of our people.

"*Resolved*, Fourth, That these resolutions be spread upon the minutes, a copy given to the press of the State, and a copy sent to Congressman RICHMOND P. HOBSON, United States Senator MORRIS SHEPPARD, and to each of the United States Senators and Congressmen from this State, with request that they vote for and push this measure.

"Whereas all past experience demonstrates that voting territory dry greatly increases accessions on confession of faith; and

"Whereas we therefore have not only a clear duty to aid morals and righteousness in voting Oregon dry this fall, but also the impulsion of enlightened self-interest; and

"Whereas we are also in the midst of a campaign for national prohibition by amendment of the Federal Constitution, a measure needful to the complete protection of local dry territory: Therefore be it

"*Resolved*, First, that we urge the support of the Sheppard-Hobson amendment by letters, telegrams, and petitions, individually and collectively, from our churches, Sunday schools, Christian Endeavor and other societies, to our Senators and Congressmen.

"*Resolved*, Second, that we pledge to the State campaign our voices, votes, influence, time, effort, and the fullest financial support possible.

"*Resolved*, Third, that we recommend the creation of a committee of three pastors and three elders located in or near Portland to confer with other temperance agencies and to place such of our men as the board of temperance sends into the field in the places where they are most needed and where they can do most effective work.

"*Resolved*, Fourth, that we urge the General Board of Temperance to expend of its funds as largely as possible in this State. Some States are already assured of victory; some are equally sure of defeat. Oregon hangs in the balance. Here both need and opportunity are greatest.

"*Resolved*, Fifth, that the General Board of Temperance be asked to confer with this synodical committee as to the manner of expending all of the aid which it may give to this State.

"*Resolved*, Sixth, that we urge that the final registration period (September 24 to October 15) be made a State-wide booster time for citizenship, with registration for voting the 'acid test,' and that all organizations be invited to join in this. Let us remove the Oregon stigma of casting the vote of less than half of her qualified electors.

"*Resolved*, Seventh, that we urge all business men's organizations to refuse to be bulldozed into the position of aiding and abetting the 'wets.'

"*Resolved*, Eighth, that we recommend the work of the Antisaloon League, the Woman's Christian Temperance Union, our own church temperance society, and all unselfish efforts in support of the amendment for Oregon dry."

Mr. O'GORMAN. I send to the desk and ask to have read certain telegraphic communications from citizens of the country regarding the pending bill permitting the American registry of foreign-built ships.

There being no objection, the telegrams were read and ordered to lie on the table, as follows:

OMAHA, NEBR., *August 5, 1914*.

Hon. G. W. HITCHCOCK,
United States Senate, Washington, D. C.:

Resolutions of Omaha Grain Exchange.

Whereas the State of Nebraska and adjoining States have just harvested the most abundant wheat crop known in the history of these States, a portion of which must find its market abroad; and

Whereas, unless the Government of the United States takes prompt action it will be impossible, in view of the general war now prevailing in Europe, for foreign commerce to be handled and shipments of grain to be made for export: Therefore be it

Resolved by the Omaha Grain Exchange, That the Government at Washington be, and it is, earnestly requested to make every effort to at once amend the navigation laws of the United States or take such other action as may be necessary to facilitate the exportation of American products by removing the restrictions on foreign vessels which wish to register under American laws or that wish to sail under the American flag. The exportation of American wheat at this time is a matter of vital importance to the agricultural interests of States lying in the Missouri Valley, and we earnestly urge that immediate steps be taken to enable their products to reach foreign markets.

Resolved, That a copy of these resolutions be transmitted to the President of the United States, the Secretary of State, and to the Senators from the State of Nebraska.

W. J. HYNES, president; F. P. MANCHESTER, secretary; J. A. CAVERS, BARTON MILLARD, F. S. COWGILL, J. B. SWEARINGEN, FRANK H. BROWN, W. J. HYNES, E. A. COPE, A. H. BEWSHER, ED P. SMITH, members of board of directors of Omaha Grain Exchange.

BUFFALO, N. Y., *August 4, 1914*.

Senator JAMES P. CLARKE,
Washington, D. C.:

The marine engineers in the district of the Great Lakes protest against the enactment or suspension of any law that will permit persons to service as licensed engineer officers or deck officers in American vessels who are not citizens of the United States and licensed by the United States Steamboat-Inspection Service.

WM. S. BROWN,
Manager Marine Engineers' Lake Business Beneficial Association.

NEW YORK, *August 3, 1914*.

Hon. J. W. ALEXANDER,
Chairman Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.:

In order to make your proposed bill for the admission to registry of foreign-built vessels more effective I suggest that the provision for the suspension of laws prescribing that watch officers of vessels registered with foreign trade shall be citizens of the United States be altered so as to provide that the suspension be for a period of years, for example, a period equivalent to that which is required for the admissions of aliens to citizenship instead of leaving the matter of such suspension to the Executive order of the President. The reason for this suggestion is that if a large number of vessels should be registered under the proposed law the scarcity of American officers would make it difficult, if not impossible, to find citizen officers in case the President should revoke the suspension of the law on short notice. The suspension therefore should be statutory and for such a period as would enable foreign officers to acquire American citizenship and thus qualify for officers on the new class of ships of American registry.

J. PARKER KIRLIN.

SAN FRANCISCO, CAL., *August 3, 1914*.

Hon. GEORGE C. PERKINS,
United States Senate, Washington, D. C.:

Owing to urgent existing circumstances and in order to permit Americans to continue marketing their crops and manufactured products, we are in favor of amending Panama Canal Act to permit all foreign vessels, irrespective of age, owned by American individuals or corporations, to obtain American registers, but limiting them to foreign trade only, excluding them from coastwise trade, as that trade is not affected by war conditions. To make this effective and to keep them permanently under our flag it will be necessary to permit such vessels to operate under same conditions of measurement, inspection, and crew as obtain under their present flags.

SAN FRANCISCO CHAMBER OF COMMERCE,
C. F. MICHAELS, *President*.

SAN FRANCISCO, CAL., *August 3, 1914*.

Hon. GEORGE C. PERKINS,
United States Senate, Washington, D. C.:

Shipowners' Association of Pacific Coast, comprising vast majority of owners and operators of American vessels on Pacific coast, protest most vigorously against legislation permitting foreign-built vessels to engage in coastwise trade on either coast or between Atlantic and Pacific. No benefit can accrue to American shipping by such legislation, even in event of war, and great loss may be inflicted upon owners and operators of American-built vessels now engaged in these trades. Ask you to use all your influence and efforts to defeat any such proposed legislation.

SHIPOWNERS' ASSOCIATION OF PACIFIC COAST,
OLIVER J. OLSON, *President*.
W. F. SULLIVAN, *Secretary*.

BOSTON, MASS., *August 5, 1914*.

Hon. JAMES P. CLARKE,
Chairman of the Committee on Fisheries,
United States Senate:

As American citizens and officers in the American merchant marine, we strongly protest the passage of the act admitting foreign-built ships to American registry and officered by aliens. Can furnish 100 marine engineers from Boston alone.

G. H. WILLEY,
Secretary M. E. B. A., No. 59.

NEW ORLEANS, LA., *August 5, 1914*.

Hon. JOHN R. THORNTON,
Senate Chamber, Washington, D. C.:

Please use your best efforts to have Senate take quick action on merchant-marine bill, cutting out all useless debates on legal points, as it is important for American commerce to secure bottoms for transportation of merchandise. Enlist aid of our Representatives in same cause.

SOL WEXLER,
President Whitney Central National Bank.

SEATTLE, WASH., *August 4, 1914*.

Hon. JAMES P. CLARKE,
United States Senate, Washington, D. C.:

Puget Sound Harbor American Association of Masters, Mates, and Pilots protest against the enactment or suspension of any law that will

permit persons to serve as masters, mates, or engineers on American vessels who are not citizens of the United States and holding a United States certificate of license.

Respectfully,

Capt. P. MULLEN, *Secretary.*

SAN FRANCISCO, CAL., *August 5, 1914.*

Senator JAMES P. CLARKE,
Washington, D. C.:

Golden Gate Harbor, No. 40, A. A. of M. M. and P., seriously object to the suspension of any law permitting vessels flying the American flag to be manned by foreign officers. There are many American citizens licensed as masters, mates, pilots, and engineers by the United States Steamboat Inspection Service who are available. We therefore enter a protest against any law permitting any but licensed American officers to man American vessels.

W. S. TOFEN, *Secretary.*

CHICAGO, ILL., *August 1, 1914.*

CHAIRMAN OF THE COMMITTEE ON COMMERCE,
United States Senate, Washington, D. C.:

The following resolution was adopted at a meeting of the foreign trade committee of the Chicago Association of Commerce to-day:

"Resolved, That the Chicago Association of Commerce, upon the recommendation of its foreign trade committee, urges upon the Congress of the United States the immediate enactment of such legislation as will most readily procure the registration under the American flag of such vessels as are not now so admitted to registration, and under such regulations as may be prescribed by the Secretary of Commerce."

EDWARD E. GORE,
Acting President.
JOHN J. ARNOLD,
Vice President, Foreign Trade Division.

SAN FRANCISCO, CAL., *August 3, 1914.*

Hon. JAMES P. CLARKE,
United States Senate, Washington, D. C.:

Owing to urgent existing circumstances and in order to permit Americans to continue marketing their crops and manufactured products, we are in favor of amending Panama Canal act to permit all foreign vessels, irrespective of age, owned by American individuals or corporations to obtain American registers, but limiting them to foreign trade only, excluding them from coastwise trade, as that trade not affected by war conditions. To make this effective and to keep them permanently under our flag, it will be necessary to permit such vessels to operate under same conditions of measurement, inspection, and crew as obtain under their present flag.

SAN FRANCISCO CHAMBER OF COMMERCE,
C. F. MICHAELS, *President.*

ASTORIA, OREG., *August 5, 1914.*

GEORGE E. CHAMBERLAIN,
United States Senate, Washington, D. C.:

Referring to bill permitting foreign shipping to come under our flag, sentiment here strongly favors allowing such shipping to engage in intercoastal trade. Urgently request your influence to that end.

ASTORIA CHAMBER OF COMMERCE.

PORTLAND, OREG., *August 5, 1914.*

Hon. GEORGE E. CHAMBERLAIN,
United States Senate, Washington, D. C.:

In admitting vessels to American register believe that I am voicing sentiment of majority of northwest lumbermen upon insisting that they be admitted to coastwise or coast to coast service. We need this tonnage to compete for trade on Atlantic coast, and hope you can help to that end.

F. H. RANSOM.

PORTLAND, OREG., *August 4, 1914.*

Hon. GEORGE E. CHAMBERLAIN,
United States Senate, Washington, D. C.:

The interests of northwestern apple and pear growers, as well as those of every fruit grower in United States, are vitally involved in proposal to admit foreign vessels to American registry. Exports of fresh apples from United States average for last three years approximately two and half million barrels annually, including boxes figured at three to barrel. All but insignificant proportion this tonnage has been transported in foreign bottoms, principally British and German, with transportation available probably over 3,000,000 barrels, including boxes, will find market in Europe this season. Without it this surplus will be thrown back on domestic markets, with results possibly disastrous. We urge fullest protection for this important export.

NORTHWESTERN FRUIT EXCHANGE,
A. P. BATEHAM, *Vice President.*

Mr. THORNTON presented petitions of sundry citizens of Louisiana, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. CLARK of Wyoming presented petitions of 128 citizens of Saratoga, Wyo., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SHIVELY presented a petition of the City Council of Indianapolis, Ind., praying for the enactment of legislation providing for the retirement of aged and infirm civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

REPORTS OF COMMITTEES.

Mr. MARTIN of Virginia, from the Committee on Claims, to which was referred the bill (S. 5695) for the relief of the Southern Transportation Co., reported it without amendment.

Mr. WALSH, from the Committee on the Judiciary, to which was referred the bill (S. 6202) to repeal an act entitled "An act to amend section 3 of the act of Congress of May 1, 1888, and extend the provisions of section 2301 of the Revised Statutes of the United States to certain lands in the State of Montana embraced within the provisions of said act, and for other purposes," asked to be discharged from the further consideration of the bill, and that it be referred to the Committee on Public Lands, which was agreed to.

Mr. CRAWFORD, from the Committee on Claims, to which was referred the bill (S. 1851) for the relief of the legal representatives of the estate of Henry H. Sibley, deceased, reported it without amendment, and submitted a report (No. 730) thereon.

DISTRICT COURT AT JONESBORO, ARK.

Mr. CULBERSON. From the Committee on the Judiciary I report back with an amendment the bill (H. R. 2167) to amend an act entitled "An act to modify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, and I submit a report (No. 728) thereon. I call the attention of the Senator from Arkansas [Mr. CLARKE] to the bill.

Mr. CLARKE of Arkansas. Mr. President, the bill is not so wide in its scope as the title would indicate. It is a bill merely to change the time of holding court at Jonesboro, in the State of Arkansas. It will require but a minute or two to dispose of it, and I ask unanimous consent that it may be considered and acted upon at this time.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment, to strike out all after the enacting clause and to insert:

That hereafter the terms of the United States district court for the Jonesboro division of the eastern district of Arkansas shall be held at Jonesboro on the first Monday in May and the fourth Monday in November.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "A bill to fix the time for holding the term of the district court in the Jonesboro division of the eastern district of Arkansas."

PENSIONS AND INCREASE OF PENSIONS.

Mr. SHIVELY. From the Committee on Pensions I report back favorably without amendment the joint resolution (H. J. Res. 288) to amend an act entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war," approved May 2, 1914, and I ask unanimous consent for its present consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which was read, as follows:

Whereas by errors in printing the bill reported by the House Committee on Invalid Pensions upon H. R. 11269, approved May 2, 1914 (Private, No. 22), the designation of the military service of one James L. Ackley, late of Company L, First Regiment Wisconsin Volunteer Cavalry, was changed to read First Regiment Wisconsin Volunteer Infantry; and the designation of the military service of one Tobias Stiles, late of Company F, Fifty-fifth Regiment Pennsylvania Volunteer Infantry, was changed to read Fifth Regiment Pennsylvania Volunteer Infantry; and the designation of the military service of one James Rhykerd, late of unassigned, One hundred and eleventh Regiment New York Volunteer Infantry, was changed to read Eleventh Regiment New York Volunteer Infantry; and the designation of the military service of one John Carver, late of Company B, Thirteenth Regiment Tennessee Volunteer Cavalry, was changed to read Thirteenth Regiment Tennessee Volunteer Infantry; and the designation of the military service of one William A. Yantis, late of band, First Regiment Kentucky Volunteer Cavalry, was changed to read First Regiment Kentucky Volunteer Infantry; and the designation of the military service of one Jeremiah Dillane, late of Company G, First Regiment California Volunteer Cavalry, was changed to read First Regiment California Volunteer Infantry; and the designation of the military service of one William H. Warner, late of Company D, Fortieth Regiment New York Volunteer Infantry, was changed to read One hundred and fortieth Regiment New York Volunteer Infantry; and in the claim of Lucinda St. John, widow of James N. St. John, late of Company H, Twenty-sixth Regiment Indiana Volunteer Infantry, was changed to read Lucinda St. John, widow of John N. St. John: Therefore be it

Resolved, etc., That the paragraph in an act entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war," approved May 2, 1914 (Private, No. 22, 63d Cong.), granting an increase of pension to one James L. Ackley, be corrected and amended so as to read as follows: The name of James L. Ackley, late of Company L, First Regiment Wisconsin Volunteer

Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

That the paragraph in said act granting an increase of pension to one Elizabeth Stiles be corrected and amended so as to read as follows: The name of Elizabeth Stiles, widow of Tobias Stiles, late of Company F, Fifty-fifth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

That the paragraph in said act granting a pension to one Lucy A. Rhykerd be corrected and amended so as to read as follows: The name of Lucy A. Rhykerd, widow of James Rhykerd, late of unassigned One hundred and eleventh Regiment, New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

That the paragraph in said act granting an increase of pension to one John Carver be corrected and amended so as to read as follows: The name of John Carver, late of Company B, Thirteenth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

That the paragraph in said act granting an increase of pension to one William A. Yantis be corrected and amended so as to read as follows: The name of William A. Yantis, late of band, First Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

That the paragraph in said act granting an increase of pension to one Catharine Dillane be corrected and amended so as to read as follows: The name of Catharine Dillane, widow of Jeremiah Dillane, late of Company G, First Regiment California Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

That the paragraph in said act granting an increase of pension to one William H. Warner be corrected and amended so as to read as follows: The name of William H. Warner, late of Company D, Fortieth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

That the paragraph in said act granting a pension to one Lucinda St. John be corrected and amended so as to read as follows: The name of Lucinda St. John, widow of James N. St. John, late of Company H, Twenty-sixth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

MISSISSIPPI RIVER BRIDGE, MUSCATINE, IOWA.

Mr. SHEPPARD. From the Committee on Commerce I report back favorably without amendment the bill (S. 6134) granting the consent of Congress to the Interstate Bridge & Terminal Co., of Muscatine, Iowa, to build a bridge across the Mississippi River, and I submit a report (No. 727) thereon. I call the attention of the Senator from Iowa [Mr. KENYON] to the report.

Mr. KENYON. I ask unanimous consent for the present consideration of the bill. It is a matter that will take no time.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the Interstate Bridge & Terminal Co., of Muscatine, Iowa, and its successors and assigns to construct, maintain, and operate a bridge and approaches thereto across the Mississippi River at a point suitable to the interests of navigation at or near Muscatine, in the county of Muscatine, in the State of Iowa, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

The bill was reported to the Senate without amendment and ordered to be engrossed for a third reading, read the third time, and passed.

BILLS AND JOINT RESOLUTIONS INTRODUCED.

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SMITH of Arizona:

A bill (S. 6218) to authorize the furnishing of a municipal water supply to cities and towns upon or in the vicinity of Federal or Indian irrigation projects; to the Committee on Irrigation and Reclamation of Arid Lands.

By Mr. THOMPSON:

A bill (S. 6219) granting an increase of pension to Melvin J. Ringler; to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 6220) granting an increase of pension to George M. Taylor;

A bill (S. 6221) granting an increase of pension to Burl Caton (with accompanying papers); and

A bill (S. 6222) granting an increase of pension to Hymelius Mendenhall (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Arizona:

A joint resolution (S. J. Res. 172) excepting the Reclamation Service from the operations of section 5 of the act of Congress approved July 16, 1914, to the Committee on Irrigation and Reclamation of Arid Lands.

Mr. CHAMBERLAIN. I introduce a joint resolution which I ask may be referred to the Committee to Audit and Control the Contingent Expenses of the Senate. Accompanying the joint resolution is a letter explanatory thereof, which I ask may be referred to the committee to accompany it.

The joint resolution (S. J. Res. 173) granting compensation to the Capitol police for extra services, was read twice by its title, and, with the accompanying paper, referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

PROPOSED ANTITRUST LEGISLATION.

Mr. KENYON submitted an amendment intended to be proposed by him to the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, which was ordered to lie on the table and be printed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts:

On August 4, 1914:

S. 6192. An act to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act.

On August 5, 1914:

S. 663. An act for the relief of Thomas G. Running; and

S. 3176. An act to increase the limit of cost of the public building at Bangor, Me.

On August 6, 1914:

S. 1149. An act for the relief of Seth Watson;

S. 1784. An act restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries;

S. 1803. An act for the relief of Benj min E. Jones;

S. 3761. An act for the relief of Matthew Logan; and

S. 6101. An act to grant the consent of Congress for the city of Lawrence, county of Essex, State of Massachusetts, to construct a bridge across the Merrimac River.

PAYMENTS UNDER RECLAMATION PROJECTS.

Mr. SMITH of Arizona. I send to the desk a conference report on the bill extending the time for payment under reclamation projects, and I ask that it be now considered. I understand it is a privileged matter.

The VICE PRESIDENT. The report will be read.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, and 16, and agree to the same.

That the House recede from its amendments numbered 13 and 14.

MARK A. SMITH,
HARRY LANE,
W. L. JONES,
Managers on the part of the Senate.
EDWARD T. TAYLOR,
JOHN E. RAKER,
MOSES P. KINKAID,
Managers on the part of the House.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. MYERS. Mr. President, I should like to ask the chairman of the committee, the Senator from Arizona [Mr. SMITH], what disposition the report makes of the House amendment providing that appropriations for reclamation work in the future shall be made by Congress? I was not able to satisfy myself concerning the matter as the amendments were read by number, and I should like to be informed on that point.

Mr. SMITH of Arizona. Mr. President, the Senate conferees were compelled to agree to the amendment put on the bill by the House of Representatives. In our judgment that was necessary to avoid losing the bill itself. The amendment preserves the fund as an irrigation fund but requires estimates to be made and appropriations to be made in pursuance thereof by Congress as to each particular item to be provided for by the fund. The appropriation must be made by Congress on appropriation bills, as other appropriations are made. That is the only difference.

Mr. CHAMBERLAIN. Do I understand that the Senator from Arizona is asking that the report be adopted? I hope that the report will be printed and go over until to-morrow morning, so that we may have an opportunity to examine it.

Mr. SMITH of Arizona. What was the request of the Senator from Oregon?

Mr. CHAMBERLAIN. I should like to have the report of the conferees printed and have it go over until to-morrow, so that we can have an opportunity to examine it. The whole northwestern section of the country is more or less affected by this bill, and a simple reference to the amendments by number is not satisfying to Members of the Senate. I may not have any objection to the report at all, but I should at least like to have an opportunity to see it in print in connection with the bill and amendments.

Mr. SMITH of Arizona. Mr. President, the only material difference, I will say to the Senator, is that suggested by me, that the bill as agreed to by the conferees brings the reclamation projects under the jurisdiction of Congress under estimates made by the Secretary of the Interior. That is the only respect in which it materially differs from the bill as originally passed by the Senate. Except for personal reasons—my anxiety to get away from the city for a time—I would not insist on the consideration of the report to-day.

Mr. CHAMBERLAIN. Mr. President, I do not usually assume the attitude of an objector, and I should like very much to assist the Senator from Arizona, but I should also like very much to see the conference report in print. If the Senator will let the report go over for an hour or more, I think I will have an opportunity to examine it so far as I care to.

Mr. MYERS. I urge that the report go over until to-morrow. I should like to have it go over for 24 hours.

Mr. SMITH of Arizona. Of course in the face of objection, for which I am very sorry, the report will have to go over.

Mr. SHIVELY. No.

Mr. SMITH of Arizona. If not, I should like to move to take up the report.

Mr. SHAFROTH. I suggest to Senators who are interested in this matter that they can examine the report before it is printed, and then later in the afternoon it can be called up for consideration. In that way I think we would lose no time.

Mr. SMITH of Arizona. I am perfectly willing to accept the suggestion of the Senator from Colorado. The only changes are in the RECORD, and I will call the attention of Senators to them as soon as I can get the exact record as to the only amendment on which any material disagreement has occurred.

Mr. McCUMBER. Mr. President——

The VICE PRESIDENT. Does the Senator from Arizona yield to the Senator from North Dakota?

Mr. McCUMBER. I assumed that the Senator from Arizona was through. I do not wish to take him off the floor.

Mr. SMITH of Arizona. I yield to the Senator from North Dakota.

Mr. McCUMBER. Mr. President, I notice by reference to the calendar that the unfinished business is the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, and also that there are two notices for addresses immediately following the routine morning business to-day. In the meantime, while we are taking up the time of the Senate upon these matters affecting our internal affairs, our commerce is practically at a standstill. Petitions are coming in from all over the country requesting Congress to act in some way so as to give us means of transporting our enormous surplus products abroad. Our agricultural products, especially those of a cereal character, are this year the greatest in the history of the country. Prices have been depressed to a great extent because of this abundance in the crops of the United States. An opportunity has presented itself, on account of the serious war conditions in the Old World, of our receiving a fair price for these products if we can get them to the field of consumption. We all know that Great Britain takes by far the largest part of all of our exported food products.

I believe that Great Britain will be able to keep open the channels of trade between the United States and that country; and if conditions should become so stringent that the ordinary insurance company would not issue insurance to protect shipments of food from this country to Great Britain, that the British Government itself would see to it that they were insured. I made inquiry along that line this morning at the State Department, because of the rumor that Great Britain had taken such action, but I find no confirmation of those rumors at the present time.

In the meantime business is suffering; and it does seem to me that it is a far more important duty to provide for moving our crops and our exports abroad than it is to discuss, as we will discuss, perhaps for weeks, the trust bills; and I wish to appeal to the chairman of the Committee on Commerce, if bills for the relief of American shipping have been referred to that committee, immediately to bring those bills to the front and in some manner have this question disposed of. If the bills have been referred to the Committee on Interoceanic Canals, then, of course, I appeal to the chairman of that committee. Properly, I should say, under ordinary conditions they should have been referred to the Committee on Commerce; but, because of the fact that a merely commercial matter was inserted in the Panama Canal act, these bills have been referred to the Committee on Interoceanic Canals. At any rate, what I want to impress upon the Senate is the necessity of first relieving the condition of this country in respect to its exports before we do anything else. The cotton section of the country is demanding legislation, the other agricultural sections of the country are demanding legislation; and we ought to pass some bill within one or two days that would relieve the situation.

Mr. SHIVELY. Mr. President——

Mr. McCUMBER. I yield to the Senator.

Mr. SHIVELY. The unfinished business, as I understand, is not now immediately before the Senate.

Mr. McCUMBER. It is not.

Mr. SHIVELY. I understand, further, that the bill which was discussed yesterday, touching the very matter of which the Senator is speaking, will be before the Senate in a few moments.

Mr. McCUMBER. But I call attention to the fact that two Senators have given notice that immediately after the conclusion of the morning business they would address the Senate on another subject, and I am rather appealing to them that we shall discuss at this time the bills relating to our shipping interests instead of the trust bills.

Mr. O'GORMAN. Mr. President, at yesterday's session unanimous consent was given by this body that the pending bill for the registration of foreign-built ships be taken up immediately upon conclusion of the routine morning business.

Mr. McCUMBER. It does not so appear upon the calendar, and I, of course, must take the calendar as my guide.

The VICE PRESIDENT. There is not any doubt about the proposition that when notice is served and put upon the calendar of the intention of a Senator to occupy the floor of the Senate at the conclusion of the morning hour, it is simply a mere matter of courtesy upon the part of the Senate as to whether he shall or shall not be permitted to occupy the floor. There is no rule of the Senate and no law of the Senate that authorizes a Senator to serve a notice of that kind, but that custom has grown up.

Mr. McCUMBER. Mr. President, I think we all understand that, and yet——

The VICE PRESIDENT. There was a general understanding on yesterday—how far it may be enforceable under the rules of the Senate the Chair is not now stating—there was a general understanding among the Senators who were present that after the conclusion of the morning business to-day the so-called shipping bill should be taken up and, at least, discussed.

Mr. BRANDEGEE. It was a definite unanimous consent, Mr. President.

The VICE PRESIDENT. The Chair is not stating how far it went under the rules of the Senate.

Mr. McCUMBER. Mr. President, I am glad to hear that, and I will not take a moment's time if we can get to the consideration of that bill.

Mr. CULBERSON. Mr. President, I simply desire to call attention to the fact that the unfinished business can not come up before the Senate until 1 o'clock to-day.

Mr. STONE. Is there any unfinished business?

Mr. CULBERSON. Yes.

Mr. STONE. What is it?

Mr. CULBERSON. The Clayton antitrust bill.

Mr. STONE. When was it made the unfinished business?

Mr. CULBERSON. On yesterday.

Mr. CHAMBERLAIN. Mr. President, I desire to withdraw the request I made in reference to the conference report presented by the Senator from Arizona [Mr. SMITH]. I have examined the report of the conference committee, and, while the bill as agreed upon is not entirely satisfactory to me or to my section of the country, I still think it is the best that we can do under the circumstances, and I withdraw my objection.

The VICE PRESIDENT. Is there any objection to the present consideration of the conference report?

Mr. SMOOT. Mr. President, I have the conference report, and intended to look over it for a few moments, the Senator from Oregon just having handed it to me, but, upon the statement of that Senator, I shall not take the time to examine it and shall not object to its consideration.

The VICE PRESIDENT. There being no objection, the question is on the adoption of the conference report.

Mr. BURTON. Mr. President, there are other matters that are pressing, and I shall only occupy the attention of the Senate a very few moments.

I understand that the members of the conference committee on the part of the Senate opposed the House amendment under which selections for irrigation projects and the appropriations thereunder are hereafter to be made in accordance with action by Congress, but that they were unable to secure the elimination of that amendment without seriously endangering the passage of an important bill. For that reason I suppose it is futile to oppose the provision, but I desire to enter my vigorous protest against that change; it is plainly a backward step. We have had experience in connection with other appropriations, where action which should naturally be taken by the executive departments has been forced upon Congress by the claims of different localities. The pressure upon Representatives and Senators has been too evident. I trust that at a later time this question will come up and the apportionment of funds for these projects and their selection may be left where it belongs and where it was intended to be left when the original act of 1902 was passed.

Mr. SMOOT. Mr. President, just a word. I want to say that the question of the extension of the time of payment is not involved in the controversy. If the bill simply provided that appropriations for reclamation projects shall hereafter be made by Congress, I should certainly oppose the bill with all the power that I have; but I am aware of the situation in the West in connection with the reclamation projects, where many of the farmers will be ruined financially if the time of payment is not extended, and therefore I allow the evil part of this bill to pass in order to get the extension of time that is absolutely necessary.

I fully agree, Mr. President, with the statement made by the Senator from Ohio as to future appropriations being made by Congress, because I know what it means to each Senator and each Member of the House and the influences that will be brought to bear upon them. In the past the head of the Reclamation Service, knowing the condition of each of the projects, has been better able to decide than any Member of Congress or Congress itself as to the amount of annual appropriation which should be made for the various projects.

Mr. JONES obtained the floor.

Mr. SMITH of Arizona. Mr. President, will the Senator from Washington yield to me to say a word in response to the Senator from Utah? I will occupy only a moment.

Mr. JONES. I yield to the Senator.

Mr. SMITH of Arizona. Mr. President, this matter was gone over very thoroughly, and I think Senators understand exactly the condition in which we were placed. In view of the disaster which would face settlers on irrigation projects if this bill should fail, we were forced, if you please, to accept this amendment. The proposition has been made, and I think it can be worked out, that this being a particular fund having nothing to do with the general funds of the Treasury the estimates sent down by the department will be left just as largely to the control of the head of the department as they now are, and in the appropriation bill itself provision could be made for an exigency fund, which would meet one of the objections strongly urged.

I think that through a guarded appropriation bill, made in conformity with the recommendations of the Interior Department, we shall have no difficulty, in spite of all that has been said concerning pork-barrel assaults on the General Treasury. I think we will all concede that Congress ought to have the say about what shall be done concerning appropriations from the general funds of the Treasury if a demand is ever made on the general fund at all.

Mr. JONES. Mr. President, I just want to say that I signed the conference report with very great reluctance. I consider the provision put on the bill in the House a very unwise if not a vicious provision; but we were confronted with the proposition of no bill at all or agreeing to this amendment. For the reasons stated by the Senator from Utah, which I realize very fully, I felt compelled to sign this conference report rather than have the bill fail, because I know the condition of many of the settlers under the various irrigation projects; and for their relief and for their help it is absolutely necessary and essential that the other parts of this bill should be passed.

I have not very much hope from the suggestion made by the Senator from Arizona, but something may come out of it. As I say, however, I have no hope from that. We are simply forced to take this bill with this amendment, and that is all there is to it, to get the relief that is absolutely essential to the settlers under many of these various irrigation projects. For that reason, and that reason alone, I signed the conference report.

Mr. MYERS. Mr. President, I view with great alarm the adoption of this report. I am opposed to it, and I shall vote against it. I would rather stay on the 10-year payment plan of reclamation projects than to adopt this report and have the bill amended in this way.

I think the expenditure of the reclamation fund is right where it belongs and ought to be—under the administrative department of the Government. It can handle it better, it knows the needs better, it knows conditions better than Congress can possibly know them; and it has been well conducted. I have no fault to find with the administration of the Reclamation Service of the Government. It is in competent hands, skillful hands, hands that understand the business, and the work is proceeding well.

If we take the control of these expenditures away from the Reclamation Service and put it in Congress, I think it will make just what is popularly called a "pork-barrel" proposition out of it. It will not be decided on its merits. It will be subject to wirepulling and intrigue and pressure and influence of all sorts, wholly independent of merit, and will be decided in a manner far removed from the merits of the proposition.

I know by experience what it takes to get money from Congress for reclamation projects, and I predict that when this is put in the hands of Congress every reclamation project in the West will be up against just the same thing that the Flathead reclamation project in Montana is up against every year.

Mr. McCUMBER. Mr. President, may I ask the Senator a question?

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from North Dakota?

Mr. MYERS. I yield.

Mr. McCUMBER. The Senator from Washington [Mr. JONES] stated he was opposed to this bill, but that he would vote for it because of the exigencies of the matter, I presume, in the Western States. I should like to know what very bad result would follow if this bill were defeated. The Government has never yet taken a man off his place because he failed to pay, has it? Will the Government do it if we allow this matter to run over another year?

I know that in my own State and in other States those holding lands under the Reclamation Service are years behind, and they have not been deprived of their holdings. Would it not be better to take the chance of the Government not foreclosing upon their rights for another year than to vote this kind of a measure upon them?

Mr. MYERS. I think so, and I am going to vote to reject the report. I would rather stand on the law as it is than turn this matter over to Congress and make an annual free-for-all scramble of it, and take the chances of projects with less merit getting more money than other projects of more merit.

Mr. McCUMBER. As I understand, the particular change in this bill is the extension of the time for payments and scattering it over a longer period of time.

Mr. MYERS. Yes; that is it.

Mr. McCUMBER. If that is practically all there is to it, I do not believe the Government is going to foreclose the right of any citizen because of his inability to make his payments. That being the case, why should not we defeat this bill, if it is a bad one, and take our chances on getting the right kind of a bill another year? I have not much sympathy with the idea that we should vote for a vicious measure because it is the best we can get at the present time, unless it can be shown that we are going to suffer materially because we do not adopt that measure at this time.

Mr. MYERS. I prefer what I consider the lesser of the two evils. I prefer to endure the evils that we are now enduring rather than to go to those we know not of but may easily surmise. I know what the Flathead reclamation project in Montana has had to go up against every year since I have been here. There are three Government reclamation projects in Montana; and if I had to go through what I have to go through every year for the Flathead project in the case of every one of three others, making four in all, I would not be able to do it; that is all there is to it. I would not have any time or life left.

Mr. SMITH of Arizona. Mr. President, with the permission of the Senator, I will ask him if it is not true that the projects in his own State which have given him so much trouble are not involved in this question, because they are outside the regular Reclamation Service?

Mr. MYERS. Yes; in large part.

Mr. SMITH of Arizona. Those are sui generis. They do not come under this scheme. The Senator's trouble is what we will all have when we go to the General Treasury for an appropriation. That will not affect this particular fund, because the general public are not interested in this particular fund. I trust this appropriation will be placed ultimately under the committees of the Senate and the House that know the conditions in the Western States. This being a specified, particular fund outside of which they can not go, the recommendations of the Secretary to Congress are tantamount to the Secretary's appropriation of the money in the first instance. We must bear in mind the awful disaster which I know threatens the extreme Southwest without the relief under this bill. I know that nothing but disaster and ruin await thousands and thousands of people who have been standing waiting for this relief.

Mr. MYERS. Mr. President, I have had experience in trying to get money voted by Congress for a reclamation project in Montana. Of course, it is somewhat different from this, but it would be the same in this respect, that each Senator or Representative who has a reclamation project in his State would be trying to get all he could for his project, and if he got more for his project some other project would have to get less. There would be, I apprehend, constant faultfinding and criticizing of the estimates made by the Interior Department, assaults upon them, and a general endeavor to upset and do over the whole thing.

I know how it is when these things are debated before the Senate. I know the misinformation that exists, the misunderstanding, the lack of information, and the bewildered condition of Senators.

The thing will be debated here for three days, and when the bell sounds for a roll call Senators will come out of the cloak rooms and committee rooms and went to know what it is about, and you will have to explain to them privately in three seconds what has been debated in the Senate for three days.

It is absolutely impossible to get an intelligent vote on a proposition under those circumstances. I believe that many a vote will be taken under a misapprehension where hundreds of thousands and, in fact, millions of dollars are involved; and the rights and lives and existence of thousands of settlers and their families will depend on Senators coming out of committee rooms and cloak rooms and trying to learn in three seconds what has been debated for three days and what has been passed upon by the department.

Mr. LANE. Mr. President, I will ask the Senator if that observation does not apply pretty generally all down the line to the bulk of the legislation that is passed here?

Mr. MYERS. Well, I am not saying as to that. I am saying as to those things in which I am most directly interested.

I presume, probably, this report will be adopted; but before it is done I wish to make my earnest protest and to say that I would rather stand on the 10-year payment plan, I would rather stand on anything than to go to this sort of a grab-game proposition. I predict dire results, I predict injustice, I predict suffering to settlers and neglect of reclamation projects. I believe the time will come, if this is done, when you will rue what you have done, and will see the deplorable consequences of it. I for one am opposed to it, and can not find language sufficiently strong to express my unalterable opposition under any and all circumstances, whether the bill fails or not. I am opposed to substituting one evil, and what I consider a worse evil, for another evil, and I shall vote against the report.

Mr. STERLING. Mr. President, I have one particular objection to the acceptance of this report. It will be remembered that the Senate adopted as an amendment to the bill as originally presented section 16 of the bill, which provided:

SEC. 16. That the district court of the United States for the district where the lands or some portion of the lands included within any reclamation project are situated shall have jurisdiction of all suits brought by the United States or the Secretary of the Interior for the enforcement of the provisions of this act, and jurisdiction of all suits now pending or which may be hereafter instituted by any legally organized water users' association or irrigation district in behalf of the water users and settlers thereon for the enforcement of the provisions of this act and of the provisions of the reclamation law as referred to and defined in section 1 of this act.

Mr. President, it seemed to me that this was a most reasonable provision, and a most reasonable amendment to the bill as it was presented to the Senate. This reclamation law is quite drastic, so far as the individual settler and homesteader is concerned. The Secretary of the Interior may cancel his entry on a reclamation project for noncompliance with the law or the requirements of the Department of the Interior in regard to settlements, improvements, and so forth. The Secretary of the Interior may declare a forfeiture of all payments made upon the failure to pay any particular installment, and it has been treated as something outside of the jurisdiction of the courts to interfere as long as the question is pending before the Interior Department.

So much for the individual settler or homesteader and his rights. This amendment simply provides that a suit may be instituted in the United States court by a water users' association or an irrigation district in behalf of the settlers, and that the United States district court shall have jurisdiction of suits of this kind.

The question has been raised by the Interior Department and by the Government in a case now pending relating to the Belleview reclamation project. The question of jurisdiction of the court is raised in that case, in proceedings brought to enjoin the department from declaring cancellations and forfeitures and shutting off the water supply because of a failure to pay an assessment deemed unjust, partly because the cost of the project is far beyond the original estimate made, exceeding, as it does, by $78,000 or more the original estimate made by the Interior Department. Full payment of the installments and charges for water supply not having been made, notice was served that the water supply would be shut off, and these proceedings were instituted for the purpose of preventing that. The suit was brought in the State court, removed on the application of the defendants to the Federal court, and there the question of jurisdiction on the part of the court was raised. The district court sustained that jurisdiction, and the case is now on appeal before the circuit court of appeals upon the question of jurisdiction.

Since the suit is to be brought by the water users' association or the irrigation district in behalf of the settlers, and is not a suit to be brought by any individual settler complaining of a wrong on account of the cancellation of his entry or on account of the forfeiture of payments he has made, it seems to me but just that the court should have jurisdiction to settle these questions. Senators will remember the amendment, section 16, as originally introduced provided that there shoud be no cancellation of an entry and no forfeiture declared until there had been an adjudication of the matter in a court of competent jurisdiction. That portion of the amendment was stricken out in the Senate, and the amendment was left so that the water users' association alone, or an irrigation district, might have the right to institute the proceedings in behalf of many, and that the court might have jurisdiction over any such suit now or hereafter to be instituted.

So I see no reason, Mr. President, why section 16 should be stricken from the bill. I think it is a wholesome and an appropriate provision to be added here, and I oppose the report of the committee because it has acceded to the House amendment striking out that section.

Mr. JONES. Mr. President, I simply want to say to the Senator that the Senate conferees held out as long as they felt they were justified in doing in behalf of the amendment of the Senator from South Dakota. One of the strong points that the House members insisted upon, however, was the very fact the Senator stated, that the district court had already decided that the district court has jurisdiction in these matters, and they said the higher court may sustain that decision, and therefore such legislation will be absolutely unnecessary. Furthermore, the department was very strongly opposed to this provision, and that was one basis for the House insisting upon its position.

I wish to assure the Senator that the Senate conferees did all they could to retain this amendment, because we were in sympathy with it and with its purposes, but the House was inflexible on this as well as on the other amendment.

Mr. STERLING. I appreciate what the Senator from Washington has said in that regard. It also raised the question of jurisdiction in the court below. It is insisting upon the want of jurisdiction before the circuit court of appeals now.

I merely wish to refer more explicitly to the point relied upon by the Government; these are the grounds of the objection to the jurisdiction:

That the corporation plaintiff is not the proper plaintiff to claim or to receive the interlocutory injunctive relief granted by the lower court.

That the judiciary can not interfere by injunction with the exercise of proper governmental functions of a coordinate branch of the Government of the United States, to wit, the executive branch thereof, as to the acts of the officers of the executive branch not unlawful nor ministerial, but requiring the exercise of judgment and discretion on the part of its officers. Defendants assert that the matters complained of in the amended bill are within the exclusive control of the executive department of the Government, free from the control of the courts.

That this action is a suit against the United States to compel specific performance of this contract by enjoining the breach thereof.

That the United States district court was without jurisdiction to give the interlocutory relief appealed from.

These are the points now made in the circuit court of appeals by the Government, represented as it is by the Reclamation

Service, and the Reclamation Service, it is understood, is vigorously opposed to section 16 of the bill, and would deny to the water users the right to a hearing in the courts under any circumstances.

Mr. McCUMBER. Mr. President, the Senator from Arizona [Mr. SMITH] declared that the failure to pass this bill at the present session would result in great disaster to the southwest section of the country. I should like to ask the Senator to state in what particular form this disaster will be manifested if we fail to pass the bill as the House has compelled us to amend it?

Mr. SMITH of Arizona. The truth is that each one of us in every irrigation enterprise confines his vision very largely to his own particular locality, and so it is in the case now before us.

This bill stops the monopoly of the holdings within these irrigation districts and forces the unused land to pay its part in the development, and breaks up monopoly in speculative land.

Under the present law these men are bound to pay, and the time is up now for many of them to commence paying on these projects. They started out with $30 an acre, and most of them, under the rule, with which the present Secretary had nothing to do, they have increased; it is double, treble, quadruple in cases. Take one case that comes under my own knowledge. Starting out with $30 an acre——

Mr. McCUMBER. That was the estimate.

Mr. SMITH of Arizona. It is now $80 an acre that they have to pay in 10 years.

Mr. McCUMBER. That is merely the difference between the estimate and the reality.

Mr. SMITH of Arizona. Not altogether. I am not complaining so much of that as I am of the condition of overhopefulness of the people and of the department in starting into these irrigation projects.

It requires more than you may think when you come to the estimates as first made. They are no more than started when the development gets larger and larger and it involves an enormous expense. Those already on the land have to bear their part of it, and the result of it is that it is impossible for any one of them, without bankruptcy, unless he is a man already very well to do, to meet the conditions of the present law as to the payments.

This bill not only does extend this time, but if the Senator will read it he will see that it has been worked on months and months with the most careful study; and after consultation of the two committees and consultation with the department, as a result of six months of labor the bill has been evolved, either wisely or not. That is a matter for the Senate now to decide.

Mr. McCUMBER. The particular point I wanted to know was whether or not the Senator believes that disaster would be caused by the Government foreclosing its interest as against a claimant.

Mr. SMITH of Arizona. They can do it if they want.

Mr. McCUMBER. I know they could, but they never have done it.

Mr. SMITH of Arizona. But that is no security for a man struggling for his life.

Mr. McCUMBER. I know; but it is some security if we do not pass this bill until next winter. We may then secure legislation that all would agree would be just and fair.

Mr. SMITH of Arizona. You can not get any other legislation on this subject through the House of Representatives. I doubt whether you could pass it on the floor of the Senate when the question is squarely brought up, when we leave it to the Senate to decide whether or not one department of the Government that is handling eighty or ninety million dollars, without a single brake on it, should do as it pleases with it; and that is what is the matter with the House of Representatives. It is caused by the act of four committees and the investigation of these enterprises. They feared that a great waste of money had occurred, and if they had been held down to the estimates they never would have occurred.

But, be that as it may, you will never get a bill next year, and you never will get one as good as this, in my opinion, in all the other provisions, aside from this one amendment. There will be no chance next year more than there is now to get the bill through without the amendment now on it.

As I have said before, as to the mere fact that the Secretary of the Interior in making his estimates to Congress with whatever logrolling you please, it is the same logrolling we have had with the Secretary ever since the irrigation projects were started. We come to him to get an estimate, and if there is not some very strong argument made in Congress to show that that estimate is altogether wrong those estimates will be generally accepted, particularly so as they are confined to a particular fund with which the General Treasury is not at all interested. So we shall have less trouble than my friend from Montana apprehends in that respect.

Mr. McCUMBER. Mr. President, I certainly regret to note the pessimistic spirit of the Senator from Arizona to the effect that this bill is not a good bill, and that we probably never will be able to get a proper and just measure upon this matter through both Houses. I can not believe it.

I call the attention of the Senator to one element that should be stricken out—the provision for a hearing before the courts. Under the court procedure, if an action was brought by the Government to cancel the right of the claimant, the court, under its equity powers, would fix a date, at least, in which the claimant might redeem. The Government has no such power. The department could give no such right to redeem within a certain time unless it absolutely disobeyed the law. That I consider as one of the great features that was gained by the amendment placed on the bill by the Senate.

There are other features which I do not care to discuss, but it does seem to me that the Senator has not shown a good case for the adoption of a bill which he admits or is compelled to admit is against the view of the Senate and which Senators generally believe to be vicious and wrong.

Mr. SMITH of Arizona. The Senator has in his memory that very good bills have been brought into the Senate, but the Senate will not pass them. I remember that the Senator's bill was a just bill, and he was as confident of the necessity of it as I am of the necessity of this bill.

Mr. McCUMBER. That is true. I still have hopes for that legislation.

Mr. SMITH of Arizona. The Senator is living on that hope, but men can not live on hope alone. When we see ten or fifteen thousand farmers relegated to hope for a living I begin to get a little nervous on their account.

Mr. WALSH. Mr. President, I rose to say a word in view of the idea advanced by the Senator from North Dakota [Mr. McCUMBER] that we had better allow this bill to fail of passage than to accede to the principle of the amendment put on the bill by the House. I do not think so. The Senator is correct, of course, in saying that the Government has never yet endeavored to drive from his claim any settler on a reclamation project who has been delinquent in a payment for his land that is due from him. But of course the law commands the officers of the Government to do just exactly that thing, and in a way they are disregarding their obligation and their duty under the law unless they do just exactly that thing.

Furthermore, and more important even than that, Mr. President, is this consideration: The settler upon the project is living from day to day and from week to week and from month to month in the dread that just exactly that thing will be done. Accordingly he is paralyzed in his every effort.

Shortly after the present Secretary took charge of the Interior Department, as will be recalled, he called representatives of the settlers under all these various reclamation projects here for a general conference, and they all came with one common plea, asserting that it was imperative that the time within which they were permitted to make payment should be extended. They had different views about a great many of these questions, but all spoke of the imperative necessity of relief of this character. It has been delayed a long time now, and despair, I fear, will overtake many of them if they are again disappointed in their expectation of relief of this character.

Mr. President, I regret indeed the necessity which seems to impel acquiescence in the adoption of the principle of the House amendment. I am not unmindful at all of the troubles which are in store, so eloquently outlined and so truthfully outlined perhaps by my colleague, but I beg the Senators to bear in mind at the same time that there was a wise public policy back of that provision in the Constitution which declares that no money shall be paid out of the Treasury of the United States except in consequence of appropriations made by law. We must all recognize the fact to be that this money is being paid out of the Treasury of the United States without any appropriation whatever by law, and whether the statute flies in the face of that constitutional provision or not, we all know there was a great struggle back of that provision in the Constitution. The Kings of England claimed that they had certain resources at their command and they were entitled to make use of those moneys as they saw fit without the interposition of Parliament at all. We have in a way given countenance to that principle in this legislation. There is much to be said, Mr. President, in favor of the principle that is thus expressed in the House amendment.

I feel that it is in a way unfortunate for these reclamation projects, but at the same time I feel that the principle will be insisted upon in the future as resolutely as it is now; and it appears to be a fixed purpose upon the part of the House to incorporate this provision in the measure. So, it seems to me, we might as well accept the inevitable now as later. Accordingly, I shall support the report.

Mr. McCUMBER. Mr. President, let me just answer the Senator on one proposition. The Senator alludes to the constitutional provision for the appropriation of funds for carrying on any Government energies. Does not the Senator know that this was an appropriation—that by the very law the Government appropriated all the funds that would arise from the sale and disposition of public lands? That has already been appropriated. The settlers took their lands under that law and under that appropriation. Now we put a string to that appropriation, and say that Congress may or may not appropriate the money which has already been appropriated by Congress for this particular purpose.

Mr. WALSH. Mr. President, I do not desire to enter upon any discussion of the soundness of the proposition, which I barely suggested in my remarks; but, of course, if the Senator from North Dakota is correct in his view about the matter, we could then pass a revenue act imposing a duty upon certain imports, and we could appropriate everything that came from that source for a governmental purpose for all time. We could then make a levy of a duty upon other goods and appropriate that to certain governmental purposes for all time. In other words, Mr. President, I doubt the power of Congress to set aside certain revenues of the Government for all time for a specific purpose without any further interposition on the part of the Congress.

Mr. MYERS. Mr. President, I want to make one more suggestion as to my apprehension of the future that has been occasioned to me by some remarks made by those esteemed Senators who sat on the conference committee. I have no doubt they stood up for us well and did all they could; but they come back and say unless we accede to this the whole bill will fail, because the House conferees will not recede.

Mr. SMITH of Arizona. Let me tell the Senator that I did not see the necessity of stating anything about it; but it was proposed to require the payment of interest on every dollar of this money, and it was only beaten by 2 votes in that body; and the proposition was beaten by only 4 or 5 votes to turn this money into the general fund. They came near doing that and putting us in the attitude you have been in with your Flathead Indian question.

Mr. MYERS. That is what I have in mind.

Mr. SMITH of Arizona. We have kept both those out. It was only by two votes that we avoided a heavy interest on this money.

For the same reason, in this expenditure of $80,000,000, $90,000,000, or $100,000,000, or $200,000,000, that was the only thing we asked, and that is inevitable because, as the Senator has well said, you had just as well meet the inevitable to-day as to go back, for it would be a great deal worse the next time you make the effort to get a bill out of the House. I speak, knowing what I am talking about, if the present House is still in control.

Mr. MYERS. I am satisfied the Senator knows what he is talking about. He always does. I give him credit for that. I am not finding fault with our conferees. I am complimenting them. But what the Senator says only bears me out in the point I make. Our conferees come back here and tell us what is undoubtedly true, that unless we recede the House conferees say the bill shall fail and they will put in a provision for interest the next time. That is another threat hanging over our heads. That very same condition might arise if this becomes a law. Every time a bill appropriating money for reclamation projects is passed, when we fix it the way we think it ought to be, it will go to conference and the House conferees will have it in their power to say it must be changed so-and-so, and if it is not the whole bill will fail and nobody will get a dollar.

Mr. SMITH of Arizona. Let me suggest to the Senator, what interest have the great eastern representatives in the Congress of the United States with a fund dedicated to this particular western project, crystallized in its limits, held sacred as one great fund? Can you conceive of any particular question that could arise between those people? There might be something as between you and me as to what ought to be done, but certainly we might look for no assault by the House of Representatives as to this particular fund.

Mr. MYERS. I think there is much opposition in the East to all reclamation work. I presume the conferees on the reclamation appropriation bill in the House and in the Senate in future, if this becomes a law, will be western men. I say the House conferees simply have it in their power to say this will be fixed our way or not a dollar shall be appropriated. The Senate may appropriate $1,000,000 for a certain project and the House conferees may say if you do not cut that down to $5,000 the whole thing will go by the board.

Mr. SMITH of Arizona. It is subject to a point of order by anybody in the House if it was proposed to change the appropriation. This is a fund already set aside by law for that purpose.

Mr. MYERS. It is in the power of the conferees, I understand, to raise or lower the amount within the limits prescribed by Congress.

Mr. SHAFROTH. Will the Senator from Montana yield to me?

Mr. MYERS. Certainly.

Mr. SHAFROTH. Does not the Senator realize the fact that this reclamation fund is to be repaid by the settlers?

Mr. MYERS. Certainly.

Mr. SHAFROTH. Consequently the people of the East are not affected and they are not going to attempt to control these matters in the West. This fund, when once appropriated by Congress, has to be repaid by the settler himself. It is a matter exclusively within the discretion, as it ought to be, of Senators and Representatives from the West. If it were a fund like the river and harbor fund I could see that interminable difficulties would arise, but they can not arise, in view of the fact that these moneys are to be repaid. This very bill provides for the repayment.

I want to call the Senator's attention, then, to this: I happened to be in the House of Representatives when the discussion upon one of the phases of this bill arose, and the request was made to have an interest charge made. It was only upon the speech of Mr. UNDERWOOD that a majority appeared against it. He went on the basis that this was the reclamation of vast areas of Government land, and that it was necessary that the same policy of making homes for the people should prevail under this bill as under the homestead law. And yet, notwithstanding the powerful plea which he made, he was only successful by, I think, two or three majority.

I want to say that if this bill fails there has got to be other relief given to this end; and if that is true, the matter will again have to go to the House of Representatives, and I do not believe you will ever be able to get so favorable a condition from them as that which has been given in this bill.

The conferees have been faithful; the members of this committee are loyal to the interests of the West; and they have come to the conclusion that this is the best thing out of the deal at the present time. That being true, it seems to me that we ought to approve the conference report.

Mr. MYERS. Mr. President, I have not said a word against our conferees; I have been saying much for them.

The Senator says that this money is all to be repaid by the settlers. Some Senator or Representative may get up and say the crop is going to be a failure; it is all right for settlers to pay out; but they are not going to be able to pay out; just as was said about the Montana Flathead project here, it is all right if the white settlers are going to pay out, but they can not pay out. It will be taking a risk, and they will say this is taking a risk.

I do not believe in letting the House crack the whip over our heads, veto what we do, and say, "You must take so and so or you will not get anything." We have seen too much of that; and we shall see more of it if this bill becomes a law.

Mr. GALLINGER. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from New Hampshire?

Mr. MYERS. With pleasure.

Mr. GALLINGER. I heard the Senator suggest that eastern men have no interest in this matter.

Mr. MYERS. Oh, no; it was another Senator, not I, who said that.

Mr. GALLINGER. Well, some other Senator said it. I want simply, in a word, to say that, as the Senator knows, every representative of an Eastern State in this body voted for the irrigation bill.

Mr. MYERS. I beg to repeat I was not the Senator who made the statement referred to by the Senator from New Hampshire. I want the Senator to understand that.

Mr. GALLINGER. It was some other Senator.

Mr. SHAFROTH. Mr. President, I am the Senator who said that, in the sense of expressing the hope that Senators from the East would continue the policy they had heretofore pursued and continue to assist in that manner the development of the West.

Mr. GALLINGER. I did not allude to it by way of criticism, and I now recall that it was the Senator from Colorado who said it. I want to say now that I think I voice the sentiment of certain Members of this body from the East in saying that any legislation that is at all proper which will aid the settlers on irrigated or on nonirrigated lands in the great West will receive our cordial support, but, after all, we are not unmindful of the fact that the matter of administering the irrigation laws has not been as wise in some respects as it ought to have been; and I think it would be well for western Senators not to ask too much, so far as the future is concerned. I do not know the details of this bill, but I will say to the Senator from Montana that if it meets, in any reasonable degree, the existing requirements, the report ought to be agreed to. Then in the future there may be men in the other body who will be more liberally disposed than is the present House of Representatives on this matter, and I know they will be met with cordial liberality in this body; and something more may be done than this bill provides for the present. It seems to me that Senators ought not to urge unusual things, even though they may be right, and undertake to defeat a bill that does not fully meet their views.

Mr. President, I only say this for the reason that I want to go on record once more, as I have several times before, as a friend of the irrigation projects and as a believer in a liberal policy on the part of the Government.

The settlers have not kept their promises; they could not do so, I presume; they have not met the requirements of the law; I presume they could not have done so; but let us be reasonable about this matter, get the best we can to-day, and try for something better to-morrow, if it is available.

Mr. MYERS. Mr. President, I know some of the eastern Senators and Representatives who have taken, I thought, too much interest—more than I like to see them take—in western projects. I do not accuse them of taking too little interest. Now, as an instance of what I have in mind, the Senate appropriated at this session $250,000 to the Flathead reclamation project in Montana, while the House of Representatives had appropriated but $100,000. Anyone who knows anything about the matter knows that the sum of $250,000 for that project in one year is a mere pittance and not what it ought to have, yet when my colleague [Mr. WALSH] and I appeared before the Senate and House conferees the House conferees calmly announced that we could take $200,000 or get nothing; that if we did not take $200,000 they would return to the House and have the House go back to its original proposition of $100,000; that they would see the entire appropriation bill fail unless we took $200,000, and we were compelled to take it.

Our conferees did all they could, but they were powerless; in fact, one of our conferees, the Senator from Oregon [Mr. LANE], stood out for $250,000 to the end, and would not sign the report because the $250,000 was not allowed; but the majority of our conferees, after doing all they could for us, had to recede, and we had to take $200,000 or nothing. That, in my opinion, is just what will occur every year in the future. The House conferees will map all this out to suit themselves, and say to us, "You will take this or get nothing."

Mr. SMITH of Arizona. I ask for a vote on the conference report.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

PROPOSED ANTITRUST LEGISLATION.

Mr. ASHURST. Mr. President, I gave notice yesterday that at the close of the morning business to-day I would submit some observations on the unfinished business. In view of the situation in which we find ourselves I shall withhold until to-morrow any observations upon that bill which I may have to make, in order that I may not be even an humble instrument in impeding the progress of the shipping bill; but I desire to give notice that to-morrow morning at the conclusion of the morning business I shall submit some remarks.

REGISTRY OF FOREIGN-BUILT VESSELS.

The VICE PRESIDENT. Morning business is closed.

Mr. O'GORMAN. I ask unanimous consent that the Senate resume the consideration of the bill (H. R. 18202) to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 18202) to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes.

Mr. GALLINGER. Mr. President——

Mr. O'GORMAN. Mr. President, will the Senator from New Hampshire withhold his remarks for a moment?

Mr. GALLINGER. Certainly.

Mr. O'GORMAN. Mr. President, in order to expedite the passage of the shipping bill the Interoceanic Canals Committee held a meeting this morning for the consideration of the various amendments offered yesterday, and the committee concluded to accept as a substitute for section 1 of the House bill as amended by the committee the amendment proposed by the Senator from Connecticut [Mr. BRANDEGEE], with some slight modifications which are quite satisfactory to him.

With regard to the second section, the committee accepted the suggestion made by the Senator from Arkansas [Mr. CLARKE], with a slight modification, which is satisfactory to him. As this is an important change, perhaps I might take the time of the Senate now to read it, although later the Secretary may read all of the changes.

We have had numerous telegrams within the last day or two from organizations of sailors throughout the country protesting against foreigners being employed in the watch of vessels admitted to American registry, and we probably meet the attitude of all American sailors by the change embodied in the amendment offered by the Senator from Arkansas. With that amendment the section will read as follows:

SEC. 2. That the President of the United States is hereby authorized, whenever he shall find that the number of available persons qualified under now existing laws and regulations of the United States to fill the respective positions of watch officers on vessels admitted to registry by this act is insufficient, to suspend by order, so far and for such time as he may find to be necessary, the provisions of law prescribing that all the watch officers of vessels of the United States registered for foreign trade shall be citizens of the United States.

The Senator from Iowa [Mr. CUMMINS] proposed an amendment yesterday containing the provision that all ships purchased by American citizens or corporations during the next year must be approved by the Secretary of State before American registry is granted. The committee very carefully considered this amendment, but thought it inadvisable to incorporate it in the bill, for this reason: Every transfer of a foreign ship in a foreign port must be approved by the United States consul, who, under existing law, will inquire into the details of the transaction; and it is to be assumed that upon the passage of this bill the Secretary of State will give such instructions as he deems necessary to our consuls abroad as to the care which they should exercise before approving any such transfer. After the transfer is made, if it be made abroad, before the ship is admitted to American registry it must appear in an American port and must there be examined by the customs officers. The customs officers before granting registry will undoubtedly act under instructions from the Secretary of the Treasury, in charge of that department.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Iowa?

Mr. O'GORMAN. Certainly.

Mr. CUMMINS. The Senator from New York, and the committee as well, have misapprehended and misunderstood the amendment I have proposed. My amendment does not contemplate that the Secretary of State shall approve the purchase of the ships, but shall approve the certificate of registry before it is granted.

Mr. O'GORMAN. I understand the purpose of the amendment, but by law that duty is now confided to the Secretary of the Treasury, representing the Government, and why transfer it to another department?

An additional suggestion which influenced the committee in its attitude is this: As was stated yesterday, if an American citizen under this proposed law, or, indeed, under the existing law without any change whatever, subject only to the five-year limitation, purchases a foreign-built ship from a belligerent it is a personal transaction. That ship may be seized by a belligerent. It may be captured. The American owner will then have an opportunity to prove in a prize court that his purchase of the ship was made in good faith and not for the purpose of evading the consequences of the war. It is a personal transaction with him. It does not touch our Government. If we make a declaration in this act that registry shall not be allowed to a foreign-built ship except with the approval of the Secretary of State, may we not be involving our Government in some of these transactions?

It is for that reason that the committee thought it inadvisable to insert such a provision.

Mr. CUMMINS. No; this amendment does not interfere with the approval of the Secretary of the Treasury. It adds the approval of the Secretary of State. I do not care anything about the seizure of the ship. This is not for the purpose of protecting the owners. I understand that if they desire to buy a ship, and if they violate the international laws, or whatever laws may apply to them, they may lose their ship.

Mr. O'GORMAN. The laws of neutrality.

Mr. CUMMINS. I care nothing about that. The contingency is abundantly provided for in the law. What we are about to do, however, is to meet an emergency. We are about to encourage the purchase of foreign-built ships under extraordinary conditions. I can easily conceive that if we change our law to meet this emergency, and as a result of that change Americans should buy a German ship, for instance, and the German ship were permitted American registry as a formal matter—because a thing of that kind does not come before the Secretary of the Treasury personally; it is in the general jurisdiction of the collector of the port, I assume, and all the business will be done by subordinates——

Mr. O'GORMAN. Right there, if the Senator will permit me, in connection with the last statement, does the Senator believe that, with the hostilities abroad, the Secretary of the Treasury will not immediately give careful instructions to the collector of every port as to the care he must observe before giving registry to foreign-built vessels?

Mr. CUMMINS. I assume that due care would be exercised by the collector of the port; but, pursuing the illustration I had in mind, we pass this law in order to enable our people to buy German ships or ships of belligerents.

Mr. O'GORMAN. They can do that now under the existing law if they are not over 5 years old.

Mr. CUMMINS. I know that. They can do it if the ship is not over a certain age.

Mr. O'GORMAN. If the ship is not more than 5 years old.

Mr. CUMMINS. But we are extending that provision, and why? To enable our people to buy ships which they could not otherwise buy; to enable us to meet the emergency or exigency that is now upon us.

Now, suppose we do that; how will England look upon the act? How will France look upon the act, in view of our relations with those countries and with every other country? We must be prudent and careful and be sure that we give no national offense. If the department of our Government which has in charge our relations with foreign nations looks over the transaction and finds that there is nothing in it that would be unfriendly or unlawful, then we have, I think, an assurance that the privileges which we intend to grant by this act will not be abused, and that no international complications will grow out of it.

Mr. O'GORMAN. Suppose, notwithstanding the approval by the Secretary of State under the Senator's amendment, if it were adopted, the ship nevertheless was captured by a belligerent, would it involve us in any complications?

Mr. CUMMINS. It would involve us, in a way. I am not thinking of that event, however. I am thinking of the effort to preserve friendly relations with all the world. I am hoping that the purchases that may be made, if any are made, under this act will not arouse the hostility of the nations from whose subjects we purchase these ships and whose commerce we intend to take if we can. I hope this emergency will not impel the United States into strained relations with the countries which, unfortunately, are now at war.

It was with that in mind and as an assurance to the nations of the world that we were not entering upon a new field without subjecting everything that was done pursuant to the act to the scrutiny of the very department that we maintain to carry on our intercourse with foreign nations, that I proposed this amendment, so that they would see in it a purpose scrupulously to observe our obligations created by treaties, created by international law, and above all created by the neutrality convention of 1909.

Mr. SHIVELY. Mr. President, will the Senator from New York yield to me for a moment?

Mr. O'GORMAN. I yield.

Mr. SHIVELY. I submit that the course which attains the object sought with the least change of existing law is the course that would obviate the very dangers which Senators profess to fear. The purpose of the measure in charge of the Senator from New York is to repeal the five-year limitation in the canal act. This would so modify the navigation code as to authorize American citizens to purchase available ships, wherever built, place them under the flag of the United States, and operate them in the deep-sea carrying trade. What is there novel or startling about this proposition that it should occasion the awful anxiety expressed on this floor? Ours is the only Government on the face of the earth to-day that denies to its citizen or its subject the right to purchase a ship in any foreign country whatever, bring it home, have it admitted to registry, put in its ocean marine, and sailed under its flag.

Mr. O'GORMAN. That is undoubtedly correct.

Mr. SHIVELY. This being true, why all these fantastic visions of direful consequence should we enact this measure? So far from precipitating on the world some startling innovation, the measure imitates the example set and the settled policy pursued by every one of the belligerents in the present European war. Which of them could complain of a policy and practice in consonance with its own in conserving the interest of its merchant marine?

The bill relaxes no provision of existing law making ownership by citizens of the United States a condition of admission to registry. That department of the Government which now determines the questions of ownership and the citizenship of such ownership is the natural agency to regulate the question of watch and officers on the vessels to be admitted to registry under the proposed act. Why complicate and confuse the transaction by changing the practice and importing into each case the Department of State? As well say that for an additional safeguard we will also remit each case to the Department of Agriculture, and for further safety have three or four additional departments pass on the question. This would only add complications. It would substitute complexities for a simple and natural course. We should only make the changes necessary to bring the merchant ships under the flag of the United States.

It is not a question of securing more ships for the carrying trade of the world. There are plenty of ships now. It is a question of getting more ships which, despite the present disturbed conditions of the ocean-carrying trade, may be operated with the largest available security.

Mr. GALLINGER. Mr. President, if the Senator will permit me——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from New Hampshire?

Mr. O'GORMAN. I do.

Mr. GALLINGER. The statement that has been made so often, that this is the only country in the world that does not permit its citizens to buy ships wherever they can find them for sale, is not quite accurate. The German Government very frequently requires that ships shall be built in German shipyards, and it gives all sorts of rebates in the matter of shipping material and encourages its shipping in other directions. When the British Government put up $13,000,000, as it did, to build the *Mauretania* and *Lusitania* there was a condition in the contract that they should be built in British shipyards. So it is not a universal rule.

Mr. SHIVELY. Mr. President, if the Senator from New York will permit a further word——

Mr. O'GORMAN. I yield.

Mr. SHIVELY. The slender and remotely occasional limitations which the Senator invokes, and which have reference to colonial and military policy rather than to commercial marine, only tend to emphasize the rule. When the farsighted Bismarck began the work of building up a foreign carrying trade, he went to the Clyde, into the shipyards of the Armstrongs. He ordered eight iron hulls. He took them home and placed them in the German merchant marine under the German flag. Against this, loud protests went up from the German shipyards. But within less than two years the wisdom of Bismarck in replenishing the German marine with the best tools of the trade at the best bargains was vindicated even to the satisfaction of the German shipbuilders. Germany became the home of the ship. The German shipyards got the repairing. With the building up of the merchant marine by acquiring ships from all available sources, new activity came to the German shipbuilding industry. It improved on the art of shipbuilding until in the past few years it has been taking contracts for foreign battleship building against the competition of the whole outside world. When you buy a ship, in whatever quarter, and put it under the American flag, you are making a contribution to the future prosperity of the American shipyard.

Mr. GALLINGER. Then the Senator is in favor, is he, of striking down our navigation laws entirely, and permitting us to buy the old junk of every nation in the world and put it under the American flag?

Mr. SHIVELY. Mr. President, we can safely trust the common sense of the American business man on the question as to whether he will buy "old junk." Your navigation laws made "old junk" of our own merchant marine.

Mr. GALLINGER. Well, we will take out the words "old junk" and we will say "the ships of foreign countries."

Mr. SHIVELY. Let me say to the Senator that I know with what industry and persistence he has been advocating and supporting through many years our old navigation code, and I know and he knows that in the last five years not a single deep-sea vessel has been built in an American shipyard.

Mr. GALLINGER. Neither has one been bought under the Panama Canal act, which opened the market so that we could purchase them.

Mr. SHIVELY. That act did not go far enough to prove a panacea. There are too many other barbarisms in the navigation code besides the ship-construction section for that act with its little narrow five-year limitation to work a rehabilitation. The Senator has been the steadfast producer on an ideal theory that produces only a phantom merchant marine.

Mr. GALLINGER. Why, Mr. President, I agree that no ships have been built, and they have not been built because the Government has not encouraged the building of them. That is the reason. The Senator's opposition was very potential in defeating the very bills which provided that the Government should assist.

Mr. SHIVELY. Oh, yes; the Senator came here with his usual mail-subsidy proposition, a nostrum inherently futile, and that wherever relied on has spelled disappointment and failure. It was an expedient that is only potential to take money from the Federal Treasury without adding a ship to our merchant marine. It was a part of that fatal policy under which the United States flag disappeared from the ocean.

Mr. GALLINGER. I should like the Senator to point out to us the system to which he alludes.

Mr. SHIVELY. It is the system represented by our navigation code, which the Senator cherishes so fondly. It is the system under which the vast and superior interest of our ocean commerce was sacrificed to the short-sighted cupidity of the American shipyard, and sacrificed in vain. It was the system under which our deep-sea marine was strangled by a code that deprived it of access to the tools of the deep-sea trade on the only possible basis of successful competition. The same process that strangled our deep-sea marine put the deep-sea shipyard out of business. It was the system that confronted the American citizen who would invest in the ocean carrying trade with arbitrary, artificial obstructions, the effect of which no policy of Federal gratuities in the form of mail subsidies or ship subsidies could overcome.

Mr. GALLINGER. They have worked pretty well with England and Germany.

Mr. SHIVELY. The Senator utterly overestimates the influence of subsidy on the growth of the merchant marine of either of those countries. The vast bulk of the merchant marine of both countries has had no pecuniary connection whatever with government, and has attained its present proportions unsubsidized and unassisted by any influence even remotely associated with subsidy.

Mr. GALLINGER. Does not the Senator know that England to-day is paying $10,000,000 a year in subsidies?

Mr. SHIVELY. No; I know that England is not paying $10,000,000 a year in subsidies. England is paying certain sums for the carriage of mails.

Mr. GALLINGER. Yes.

Mr. SHIVELY. That is quite a different thing from subsidy. To assume that a mail payment is essentially a subsidy is to project a mistaken idea of the whole subject. Of course, where the payment is for actual service rendered in carrying the mails it involves no subsidy whatever.

Mr. GALLINGER. What does the Senator think would happen if we gave $10,000,000 a year in mail subventions to our shipping?

Mr. SHIVELY. Why, Mr. President, the effect of subvention on our shipping is not a matter of conjecture. There has been constant subvention under the Revised Statutes, as well as under the contract act of March 3, 1891. Under the latter act there has been distributed over $20,000,000. That act was to build up our merchant marine. It was to build up a system that was to become an effective auxiliary to our Navy. Over $10,000,000 of the disbursements under that act has gone into the treasury of the International Mercantile Marine Co. and its predecessor, the International Navigation Co. The International Mercantile Marine Co. is a New Jersey corporation. Through its subsidiary companies it owns and controls fleets comprising 126 vessels, of which not to exceed 6 or 8 fly the American flag. Though this company has absorbed more than half of the disbursements made from the Federal Treasury under the act of 1891, where have they added a single farthing to the volume of our merchant marine?

Mr. GALLINGER. Does the Senator mean to say that any American subvention is paid to a ship flying a foreign flag?

Mr. SHIVELY. The facts speak for themselves. These payments from the Federal Treasury go to the International Mercantile Marine Co. They constitute a portion of the receipts of that company. The Senator admits that nearly all the ships operated by that company fly foreign flags?

Mr. GALLINGER. Yes.

Mr. SHIVELY. The contracts are made with that company. The payments are made to that company. Who are the beneficiaries of these payments?

Mr. GALLINGER. They are paid something for carrying our mails.

Mr. SHIVELY. They are paid without reference to the amount of mail they carry. There is no pretense of any relation between payments and service. The company receives precisely the same amount of payment, whether the ship carries a single postal card or a hundred tons of mail.

Mr. GALLINGER. Do the foreign Governments simply pay the cost of transporting their mails?

Mr. SHIVELY. In the great body of instances, yes.

Mr. GALLINGER. When England pays $10,000,000 for transporting her mails while we pay $1,000,000 for transporting ours, is it possible that England pays only the actual cost of transporting her mails?

Mr. SHIVELY. In the first place England pays no $10,000,000 on account of her foreign mails, and in the second place we pay vastly more than $1,000,000 for the transportation of our foreign mails. There is no subject on which there is more subterfuge than in the statistics employed to make it appear that foreign merchant marine has been subsidized into its present proportions. Take the list of disbursements incorporated by the Senator in the report on his bill in 1910, which he says I was potential in defeating. Examine that list item by item. Disbursements of all kinds are bunched together and represented as subsidy payments, whereas the most casual investigation shows the great body of them to have been payments for actual service rendered and partaking in no sense of the character of subsidy. Many of them were payments on contracts let to the lowest bidder under conditions excluding the possibility of subsidy. By thus gathering up all disbursements made by foreign Governments and throwing them into a total the sum is made to approximate $46,000,000. With as much propriety and more candor you could claim that the over $50,000,000 paid to the railroads of the United States each year for the transportation of mails is subsidy. Payments for actual service are not subsidy, and it is not a good cause that requires them to be so regarded.

Mr. GALLINGER. England must have a great deal more mail than the United States, then, under those conditions.

Mr. SHIVELY. No inference of that kind follows. The fact is that the system of subsidies which the Senator advocates has been in vogue in the United States in a more or less aggravated form for over 40 years. Under the Revised Statutes our Government pays an American ship over twice as much per pound for carrying letter mail as it pays the foreign ship for like service, while under the contract act it, as a rule, pays many times as much to the American ship as it pays for like service under the Revised Statutes. The same is true in a somewhat less degree of the payments for other forms of mail. Yet all these expedients under the general law and under the special-contract act have not saved our merchant marine from constant decay and rapid disappearance.

The VICE PRESIDENT. The hour of 1 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Mr. CULBERSON. Mr. President, in view of the importance of this shipping legislation and its urgency, I ask unanimous consent that the unfinished business may be temporarily laid aside.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. CLARKE of Arkansas. Mr. President, in view of the acceptance by the Senator in charge of the bill of the amendment I offered a few days since, I desire to make certain verbal changes in it in order to perfect it, without changing its meaning. I now read it in this form:

He shall find that the number of available persons qualified under now existing laws and regulations of the United States, to fill the respective positions of watch officers on vessels admitted to registry by this act, is insufficient he shall suspend by order, so far and for such time as he may find to be necessary.

The provisions of a certain law.

Mr. O'GORMAN. That is satisfactory to me, Mr. President.

Mr. CLARKE of Arkansas. I will say while I am on my feet that the purpose I had in offering the amendment was to make it enforceable against the constitutional objections. I never had any idea that the President of the United States would suspend the operation of the Panama Canal act where there was

an available supply of pilots and other persons to do duty as watch officers on the vessels. The delegation was too broad and too unconditional, and in terms addressed to the President without discretion to suspend the law whenever he thought the needs of foreign commerce might require it. It was vulnerable to attack under the doctrine laid down in the celebrated case of Fields against Clark, reported in One hundred and forty-third United States. It was a broad and unconditional grant of a discretion to suspend the law upon a pure matter of judgment. Under the doctrine laid down in that case the law suspends itself whenever the tribunal finds a certain fact to exist. The distinction is a fine one, but lawyers understand it. There is no reason why the matter should be made doubtful on this occasion.

For myself, I believe the time will come when such a broad delegation of power to the President will be sustained. The institutions of this country are so numerous, the climatic conditions so different, and the population and interests which constitute the Nation are so diversified that it is entirely possible that a general law should be suspended as to sections and people.

I believe if we had to-day a provision in the law that the foodstuffs of other countries should be admitted to this country where there was an insufficient supply at home, and that the President should have the right to deny admission except upon the payment of tariff duties when the supply was sufficient, it would be a better law than we have now. The agricultural interests complain, and probably will have more occasion to complain hereafter, that we broaden the market for that particular class of products in a much larger degree than in the case of others.

Mr. WEST. Does not the Senator think that would be a dangerous law?

Mr. CLARKE of Arkansas. If I thought it was a dangerous law I would not advocate it. I do not think it would be a dangerous law.

Mr. WEST. Does not the Senator think it would be dangerous for the United States Government generally to delegate to the President full power?

Mr. CLARKE of Arkansas. To pass laws?

Mr. WEST. Yes; to pass laws—to make laws.

Mr. CLARKE of Arkansas. If the Senator interrogates me with a view of getting a categorical answer I say that there are instances where I think it would be exercised in a very wholesome way, and I indicated one of them.

Mr. O'GORMAN. Mr. President, that the provision of the bill as framed in the House is open to the constitutional objection which the Senator from Arkansas thinks he sees in it is, of course, largely academical; but there is ample authority to justify the precise language used by the House measure in the very case the Senator cites. It is true there was a dissenting opinion in that case by Chief Justice Fuller, who disagreed with the majority of the court; but in that case similar powers were conferred upon the President and sustained. I was about to call the attention of the Senate to two other changes that were made.

Mr. SUTHERLAND. Will the Senator before we pass from the amendment proposed by the Senator from Arkansas indulge me for just a moment?

Mr. O'GORMAN. Certainly.

Mr. SUTHERLAND. I think the amendment proposed by the Senator from Arkansas is a wise amendment, and it ought to be adopted; but I suggest to the Senator from New York that there ought to be a further limitation upon this power. In the first place, as it seems to me, it ought not to be a power which the President may exercise under normal conditions. Congress ought to make the law upon this subject, and it ought not to turn it over to the Executive. But I recognize the fact that conditions are abnormal, and that so long as they remain abnormal it may be wise to invest the President with this authority.

I suggest to the Senator that there ought to be a time limitation, and I ask the Senator whether he would not accept an amendment to insert after the word "that," in section 2, the first word in the section, the words "until but not after the 1st day of August, 1915"?

That will limit the life of the legislation to a year. If at the end of that time the emergency shall not have passed, and we all expect that it will have passed long before that, there will be no difficulty in extending it.

Mr. O'GORMAN. The Senator surely does not believe that the President would suspend this requirement if no grave emergency existed. It simply resolves itself into a question as to whether we may confer this discretionary power with perfect confidence in the Executive in these trying times. Congress can change it at any time.

Mr. SUTHERLAND. That is, to my mind, hardly an answer. Of course, we expect that the President may use wisely any power which may be conferred upon him, but I do not think the Senator from New York would consent to vest in the President this power under normal conditions.

Mr. O'GORMAN. I would not.

Mr. SUTHERLAND. Therefore, it seems to me the Senator must concede that after these abnormal conditions have passed away the power ought to end, but it will remain unless we put a time limit upon it until affirmative action is taken by Congress to repeal the law. What harm can possibly result from inserting in the bill a provision which will limit the power of the President, under section 2, to a year?

Mr. O'GORMAN. For this reason: I assume that as soon as hostilities cease in Europe the President will not exercise the power we now confer upon him, and if he attempted to use the power in normal times Congress would speedily work a change in the statute.

Mr. CLARKE of Arkansas. May I call the attention of the Senator from Utah to the fact that the amendment contains a limitation and robs the suggestion made by him of some of its force? There is a limitation on the supply of the number. They can not exercise the power as long as there are available American officers to take these places. It does not make any difference whether it is in normal times or abnormal times, it is a fundamental condition on this power to suspend. I think it is properly safeguarded.

Mr. SUTHERLAND. If the Senator will indulge me further, I would not consent to giving the President this power under normal conditions, even with the limitation which is made by the amendment of the Senator from Arkansas, and being of that opinion, I think we ought to put into the law such language as will prevent the power from being exercised whenever these abnormal conditions have passed away.

Mr. WEEKS. May I suggest to the Senator from Utah that if a time limit is to be placed on this discretion of the President it should terminate at a time when Congress would naturally be in session, so that if there were any reason for doing so it could be extended? If the limit is at the end of one year, we all hope Congress will not be in session at that time, and there might some emergency arise before Congress came together.

Mr. SUTHERLAND. I recognize the force of that suggestion, and I should have no objection to altering it and fixing it the 1st of December or the 1st of March next, or some other date.

The other limitation which I wanted to suggest to the Senator from New York was to insert a proviso that will require, under any and all circumstances, that the master of any vessel taken over from foreigners shall be an American citizen and that the majority of the officers shall be American citizens. Before the Senator from New York makes up his mind about that let me make a suggestion to him.

Mr. O'GORMAN. I have my mind made up about that last proposition. If adopted, it would impair the value of this legislation. As a war measure all the Governments now engaged in hostilities are closing down their lighthouses, and the master of a ship capable of taking his vessel safely through those waters must have most intimate acquaintance with the land and the dangers of the sea that he traverses. Those men so familiar with that section of Europe will in nearly every case be foreigners. There is the greatest need at this time in having foreign captains managing some of the ships that will come in under the American flag.

Mr. SUTHERLAND. If the Senator from New York has that view of it, he ought not to consent to the limiting amendment of the Senator from Arkansas, because under the view of the Senator from New York it is necessary to continue the foreign master upon the ship in order that it may be navigated.

Mr. O'GORMAN. No.

Mr. SUTHERLAND. In that view he ought to provide affirmatively for continuing the foreign master.

Mr. O'GORMAN. The Senator does not read closely or with his usual care. We provide that so long as there are available persons, naturalized citizens, capable of performing the duties of watch officers, no foreigners will be employed, but I assume that a naturalized citizen the captain of a boat familiar with the Pacific waters, but having no familiarity with the English Channel and the North Sea and the French coast, would not be available, even though we met the requirement in the statute that he should be a citizen of the United States.

Mr. SUTHERLAND. Mr. President, as far as I am concerned, emergency or no emergency, I will never consent to legislation which will permit the purchase of a foreign ship

particularly in times like these, in a time of war, and permit the entire roster of officers and of men to be foreigners.

Mr. President, suppose the United States and England were at war instead of there being a European war, and Germany were to undertake to do what we propose to authorize the President to do under this legislation, that German citizens should take over an American vessel with an American captain, American officers, and an American crew, and put that ship under the German flag and set it upon the ocean. If I were the captain of that ship, with my country at war with a foreign country, having control of it, I am sure I should be strongly tempted to use it to the advantage of my own country if I could. I would owe allegiance to the United States; I would owe no allegiance to Germany.

I undertake to say that if we should take over a German ship with a German captain, German officers, and a German crew upon it, those men intensely loyal, as they are and ought to be, to their own country will find some method of utilizing the ship for the benefit of Germany in these hostilities, and whenever that is done the United States will have to reckon some way or other with the antagonists of Germany in this war.

Mr. O'GORMAN. Let me answer that question. The London conference, in 1909, recognized the fact that the nationals of a belligerent power might be employed on the vessel of a neutral power, and even though the vessel came under the control of a belligerent power, it would not remove or impress its own nationals. But, as I stated yesterday, under the terms of the London conference the nationals in that case would be required to make a declaration that they would not engage in the war.

Mr. SUTHERLAND. That is true, Mr. President, but we are undertaking by this legislation in a time of war to change our own laws and to change them in such a way that a ship of Germany may be put under the protection of the American flag and utilized to help Germany in this war. If such a thing as that should happen, as it might well happen, we shall have complaint, and serious complaint, from England and from France, or if we should buy a French ship the same result with Germany.

Now, the only thing I am anxious about is to see that the ship which may be purchased is sufficiently under the control of American citizens that that can not be done. I think that very grave danger is to be apprehended if we shall purchase a ship of one of these belligerent powers and permit it to be entirely manned by the nationals of that country, and I think we ought to safeguard this legislation against that contingency.

Mr. O'GORMAN. Let me say to the Senator from Utah that many of the vessels now flying the British flag and owned by American citizens are manned almost entirely by a British crew. They surely have in most instances British captains. If you would impose restrictions such as you suggest in this bill, you would discourage the very thing this legislation is intended to advance and promote.

Mr. SUTHERLAND. Mr. President, I fear that the Senator from New York does not quite get the force of my point. That is true, as the Senator has stated. I would not interfere with that condition by passing a law to alter it, but this is new legislation passed at this critical time. We are altering our laws at the very time when these nations are at war with one another, and under that legislation a thing could be accomplished that could not be accomplished under existing law. Without this amendment our citizens could not purchase a German ship and put it under American registry and man it entirely with German officers. Under the existing law we would have to put American officers on the vessel; all of them would have to be American citizens. Now, we propose to repeal that law or to permit the President in effect to do it.

Mr. O'GORMAN. To suspend it temporarily.

Mr. SUTHERLAND. To suspend it and permit this German ship to continue under the same officers and crew, to permit that German ship or English ship or French ship, as the case may be, to put out to sea and be operated with the full complement of officers and crew owing allegiance to one of these belligerent powers, and altering our law in that respect at this critical juncture. If it should result in developing a situation such as I have suggested it would undoubtedly bring upon us complaint, and very serious complaint, from some other of the belligerent countries that might be affected.

Mr. STONE. Mr. President——

Mr. O'GORMAN. I yield to the Senator from Missouri.

Mr. STONE. I should like to ask the Senator from New York who constitute the watch officers on the vessels?

Mr. O'GORMAN. All responsible officers are embraced in the term watch officers. They get that designation because of the division of time usually into three watches of eight hours each. Sometimes there is a great number of watches.

Mr. STONE. The purser is not a watch officer?

Mr. O'GORMAN. No; he is not a watch officer.

Mr. STONE. Mr. President, I share in some degree the apprehension expressed by the Senator from Utah [Mr. SUTHERLAND] that trouble might arise by putting an American ship entirely under the control of foreign officers. For American citizens to purchase a ship from a belligerent power and permit it to be officered and operated wholly by citizens or subjects of the country from which it comes strikes me as having in it elements of danger—danger, first, to the peace of the country, and, secondly, danger to the safety of the cargoes carried by the ship.

Now, I want to ask the Senator from New York, knowing that there is with him in this matter no mere pride of opinion, whether he thinks it would be practicable in such cases as I have stated, and as the Senator from Utah has stated, that instead of having all the watch officers from captain down made up of the subjects of belligerent power, an American commanding officer should be placed in command of the vessels.

In one of the amendments printed in the bill as I have before me there is an amendment authorizing active or retired naval officers to engage in this commercial service. Why would it not be wiser and better to provide in some way that an American commanding officer should be put in charge of a vessel purchased under this act from a belligerant power at least during the continuance of hostilities?

Mr. O'GORMAN. This is the difficulty with that proposition: Nearly all the ships now flying foreign flags and owned by American citizens have as captains foreigners, and we are not at all certain that all Americans owning foreign ships will take advantage of this law. They will only take advantage of it if it is attractive to them; and if we impose as a condition that they must discharge the captain, who has the confidence of the shipowner, we can see how that circumstance itself might deter the owner of the ship from changing the flag.

I think if Senators will only bear in mind that this is an emergency measure, which we expect to be in operation only a short time, Senators might not be too critical in viewing its provisions. We are confronted with a situation, as was stated yesterday, where millions of property of American citizens, cotton and foodstuffs, are awaiting transportation to foreign countries. The merchant marine belonging to foreign countries will not dare to put to sea at this time, being fearful of capture. The paralysis is now upon various sections of the agricultural activities of this country, and there is an immediate call for aid in this crisis. We should not view a piece of legislation designed for an emergency with that extreme care that we should devote to it in normal times and in the consideration of a normal proposition. We are surrounded by abnormal conditions. We are confronted with a grave situation, affecting the people of our own country.

I invited the inquiry yesterday, Is there any Senator who can offer a better plan to meet the situation?

Mr. WHITE. Mr. President——

Mr. O'GORMAN. If the Senator will pardon me, it was stated yesterday that we might pass a law permitting our coastwise vessels to engage in the foreign trade. I am advised by the Commissioner of Navigation that there is no need of a change in the law in that respect—that every owner of a coastwise vessel suitable for the foreign trade can enroll at once in any port and be relieved of his coastwise registry and obtain permission to engage in the foreign trade.

The change will involve the owner in no inconvenience. He is not permitted, however, to engage in both trades at one time. As I have said, the owner of an American vessel now engaged in the coastwise trade—and, as we know, all vessels so engaged are American vessels—can secure the necessary enrollment in the office of the collector of the port, which will permit him at once to engage in the foreign trade. Therefore there is no need of any legislation in that respect, but how many of our coastwise vessels are fitted for the over-seas trade is a very doubtful question. Even the Commissioner of Navigation will not hazard a guess. It will be remembered some months since, when we were discussing Panama Canal legislation and having occasion to consider our coastwise trade, we were advised that all the coastwise traffic of the United States embraced perhaps from 24,000 to 26,000 vessels, craft of various descriptions, and yet of that large number, excluding, of course, the railroad-controlled portion of it, there were but about 33 ships in the coastwise trade available for the business of the Panama Canal. If the number would shrink from 26,000 to 33 when we are considering ships available for the Panama Canal, we may well doubt whether there is any considerable number of our coastwise vessels suitable for over-seas trade.

Mr. WALSH. Mr. President——

Mr. O'GORMAN. I yield to the Senator from Montana.

Mr. WALSH. Mr. President, I desire to observe in this connection that the policy attacked here is not a departure at all, considering the world at large. England, as we know, has, perhaps, as much shipping as all of the remainder of the world combined, and she undergoes exactly the same peril with respect to all of her shipping that it is now feared ours will encounter if we allow on vessels admitted to American registry masters and other watch officers of other nationalities, because England does not require that any of the officers of her ships be English subjects at all. Every English ship to-day may be manned, so far as the law of England is concerned, by Germans or by other enemies of that country if there be any engaged in navigation.

Mr. President, this proposed statute is given a wider scope and significance than it really has. It refers to conditions precedent to the registry of a ship in America; but it is a matter of municipal regulation solely as to what conditions must obtain before a ship can register. Under our municipal regulations the watch officers on an American vessel must be American citizens; in the same way, heretofore it has been required the vessel must be American built. We are going to dispense in part with these requirements. The conditions prescribed by the law must be observed in order that a ship may have the advantages, privileges, and immunities that come under it to a ship that is registered. Those are all matters of local concern. So far as the world at large is concerned, they are not interested in the conditions that we prescribe in order that a ship may be registered here and thus obtain the advantages which our local law gives.

It was long ago settled, Mr. President, that any American citizen could buy a ship abroad and fly the American flag over it, and that it was entitled to just exactly the same protection from our Government as though it had been registered here. The wars of the past have repeatedly raised that question. The matter was very carefully considered in the year 1854 upon the outbreak of the Crimean War. Mr. Cushing, a very eminent lawyer and statesman as well, the then Attorney General, was asked by the Secretary of State for his opinion as to what rights a foreign-built ship bought by an American citizen had when it was not registered under our local laws. He declared that it had a perfect right to fly the American flag and to engage in foreign commerce just as if it were registered here.

That view, Mr. President, has been repeated again and again by the State Department. Such a ship is entitled to ply between the ports of foreign countries whose laws will permit its entry or departure just exactly the same as if it is registered here. The matter of registry is a matter of local concern alone; it does not affect the national character of the vessel. If the ship belongs to an American citizen she is entitled to fly the American flag, and her owners are entitled to all the protection that an American citizen may claim from his Government in respect to his property abroad.

The seizure of the vessels of an enemy is a survival from the times when all the property of a citizen of a belligerent was subject to capture and confiscation. In the darker ages an invading army appropriated as it pleased the property of the enemy of any character whatever on land or on sea; but in the evolution of the ages belligerents were forbidden by the law of nations to confiscate private property on land; but as to property on the sea it is still permissible for a belligerent in time of war to seize the private property of the citizen on the sea. If a ship flying the American flag should be taken, the sole question presented, if an effort were made to have her condemned as a prize, would be as to whether it was the private property of an American citizen. That would be determined by the prima facie bill of sale, if she was purchased, which is authenticated by the consul if the purchase is made in a foreign port. The foreign Government is in no manner concerned as to whether or not the ship is actually registered under the American law. Of course if she was that would be further evidence of the validity and the bona fides of the transfer made. If the sale is colorable only, to give a belligerent ship the appearance of a neutral character, the flag she flies would afford her no protection. If we are willing to take the chances that are suggested here; if England, owning half the shipping of the world, is willing to take the chances, other nations will not be heard, and have no right to be heard, to object, and have no interest in whatever regulations we may make as a condition upon which ships may enjoy the privileges, immunities, and advantages that are given by our local law to those that are registered.

Mr. WEST. Mr. President, I wish to ask the Senator from New York [Mr. O'GORMAN] a question as to a matter which was not made clear to my mind yesterday in the discussion of the subject by him. I desire to inquire whether American-owned ships, flying a foreign flag, are entitled to the protection of our Government.

Mr. O'GORMAN. Mr. President, I do not know why the Senator is in any doubt about that. I made it very clear; indeed, I practically stated in a measure what has been said by the Senator from Montana [Mr. WALSH]. The nationality of a ship is dependent upon its flag. The ownership of the ship is an entirely different proposition. An American citizen has a right to own a ship plying in foreign waters, just the same right that he has to buy property in a foreign country; and our Government owes to an American citizen that protection which the Government ordinarily gives to any of its citizens in securing and protecting his property from the aggressions of other people or countries.

Mr. WEST. Just one more suggestion, right there. I am not familiar, I will state, with marine law, but I ask if the American citizen owning a ship flying a foreign flag is entitled to the protection of this Government, how would any enemy to that flag know whether or not a ship was an American-owned ship?

Mr. O'GORMAN. The title deeds, so to speak, of the ownership must be on board the ship.

Mr. WEST. I understand that; but what I was speaking about was how could it be free from attack when flying a foreign flag on the ocean?

Mr. O'GORMAN. Well, a foreigner will never attack a merchant ship. The foreign belligerent may capture it; he may seize it; and if the enemy believes that it is the property of another belligerent with which he is at war, he will confiscate it; but no such right, of course, would be exercised by a belligerent with respect to the property of a neutral. As I suggested yesterday, an American citizen owning a vessel flying the British flag whose property is taken from him improperly by any belligerent might invoke the benefit of the country whose flag he is flying as well as invoke the benefit of the country of which he is a citizen to secure him from wrong and injustice.

Mr. WEEKS. Mr. President, I think one hesitates in the presence of a great international calamity to oppose or even to criticize any measure which may seem to have in it anything which will better the conditions which exist. I am not sure that I am going to oppose this bill, and I am certainly not going to haggle over the details of the bill, because conditions as they arise will justify whatever is done if it has any benefit whatever.

I very much doubt whether American citizens are going to buy ships more than 5 years old when we know that they do not buy them if they are less than 5 years old. On the contrary, you would naturally suppose that they would buy the newer ships rather than the older ones, and my judgment is that if this bill is passed it will not add anything whatever to the shipping interests of the United States. If it were to be a bona fide transaction, if the purchases were to be made and the ship were to take an American registry and be operated exactly under the conditions which obtain in the case of other American shipping, then I can see that there would be the same protection to the shipping, if any is taken over, which would exist if the ships were built in the United States and manned and operated under our own laws, but I believe, Mr. President, that there is grave danger in the possibility that a paper transfer may be made; that the ship may be transferred with a string attached to it in some way; that it may carry a foreign crew and foreign officers and that the only actual change that will be made will be the hauling down of the flag of the country under which it has previously sailed and the substitution of the American flag.

If such a condition exists and that kind of ship goes to sea with that kind of a crew, carrying a cargo as to which there may be some doubt about its not being contraband, and then is held up by a man-of-war of any one of the belligerents in Europe and possibly is seized and confiscated, or it may be sunk; if that occurs, Mr. President, we are in a position where we have got to defend our flag, and the loss which would result from any such condition would be thousands of times greater than any benefit that may come from this legislation.

Now, it is not true that there are no ships in this country which are available for over-seas trade. The Senator from New York has correctly stated that a ship may be transferred from the coastwise to the deep-sea trade in any port of the United States, so that there is no reason why our coastwise shipping should not take up this trade if it is desirable for it to do so. I want to submit, Mr. President, without going into details, that there are great numbers of ships operated now in the coastwise trade, many of which on account of the dullness in that trade are practically tied up at their wharves, which are

available for foreign service and the owners of which are getting ready to go into that service to-day. Under such conditions, if we are going to take over the old ships of foreign nations, we are substantially paying a subsidy to foreign-built ships to take the place of our own shipping which is available and which is likely to be used in foreign trade.

I am not going to take the time to go in any detail into the question of coastwise shipping available for the deep-sea traffic, but I want to point out that there is a greater number of such American vessels than probably is known generally to Senators. I simply call attention to one case—the ships that are registered under the name of Eleazer W. Clark. I do not know who Mr. Clark is; he lives at Portland, Me. I have asked the Senator from Maine concerning him and have been told that the ships of Mr. Clark are engaged in the coastwise service, to a considerable extent, in coal carrying; but, in any case, here are 30,000 tons of available ships of one class or another which can be transferred to the deep-sea service in a day if the profits obtained under such service are greater than under the coastwise trade. There are many pages of such cases in the merchant lists published by the Navigation Bureau.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Does the Senator from Massachusetts yield to the Senator from New Hampshire?

Mr. WEEKS. Yes.

Mr. GALLINGER. I will ask the Senator if he is aware of the fact that 10 American ships were chartered in New York yesterday for the foreign trade?

Mr. WEEKS. I had not heard of that, Mr. President, but I have no doubt it is so, and I have no doubt that 20 or 30 or 40 will be transferred to the foreign service to-day. In other words, if the foreign trade is profitable and the insurance rates are not too high, we are going to see the American coastwise shipping transferred to that trade.

The insurance rate is going to play an important part in the condition which exists. American shipping to-day carries an insurance rate of about 1 per cent; foreign shipping carries an insurance rate of from 5 to 70 per cent. That condition is going to induce our shipowners to go into this service; but if any of this foreign shipping, with the doubt which will hang over it, is going to be transferred to our registry and to carry our flag, and is going to carry an insurance rate several times greater than the American shipping which is now sailing under our flag, then I submit that that will be an additional reason why these transfers will not be made and why this bill, if enacted into law, whether it is good, bad, or indifferent, is going to be inoperative in its results.

I think there are very many things—I do not intend to take the time to discuss them—but there are so many doubtful conditions which surround this legislation that we may well hesitate before we pass it. If the British fleet, for instance, is successful in the North Sea, either in driving the German fleet to cover or in destroying that fleet—and we are likely to have results there within 10 days—if that is done, then the cargo-carrying trade of the Atlantic is not going to be upset by the European war, because the cargo-carrying trade of the world is very largely English. To be sure, they have some lines of steamers crossing the Atlantic, but the German trade in the Atlantic is almost entirely made up of direct lines of steamers between our ports and the ports of Germany. I think there is more cargo-carrying capacity under the Norwegian flag than there is under the German flag; I am quite sure that that is correct; and, in fact, if the German fleet in the North Sea is either destroyed or driven to cover, as is likely to happen in the near future, then we are going to have our carrying trade across the Atlantic continue without any great break, because it will be done by the English cargo-carrying ships and by Norwegian ships.

In any case, Mr. President, it does not seem to me that there is need for haste in this legislation. From every viewpoint it should be carefully considered, and while I do not want to oppose it if it is the consensus of opinion that it is wise I believe that the dangers which may arise from it are so much greater than the possibilities of advantages to be obtained that all Senators should hesitate before they support it.

Mr. WEST. Mr. President, before the Senator takes his seat I desire to ask him a question.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Georgia?

Mr. WEEKS. Certainly.

Mr. WEST. I desire to ask the Senator if he recalls the circumstance of a ship flying the American flag in the bay of Smyrna in 1912 being either blown up or fired upon by the Turks? I think the name of it was the *Mississippi*. I am under the impression, although I do not know for what reason, that our Government took no interest in the matter at the time. Does the Senator recall that incident?

Mr. WEEKS. Mr. President, my recollection is that there was an American ship in those waters which was incapacitated or destroyed by running onto a mine which had become detached from the mine field where it was planted and had floated into a ship channel. That is my recollection. I may not be quite correct in the facts.

Mr. BURTON. Mr. President, I am cordially in favor of the prompt passage of this bill, although I do not regard it as certain that any very considerable results will follow its adoption. That is a question of which no man can be sure at this time.

We are confronted with an unparalleled emergency. We have abounding crops and a large foreign demand, due in the first instance to a shortage in the foreign grain supply, because crops have fallen below the average in certain European countries, a situation which is aggravated by farm labor being withdrawn from the fields to the war, and which will be still further intensified by the waste of war. The demand for our flour and for our wheat will be greater by reason of this terrible condition in Europe. The foreign demand will be increased, no doubt, for our food products, and probably very much diminished for our cotton and many of our raw materials.

Now, what is the situation? The carrying trade of the world is demoralized; most of the ships upon which we have depended for the transportation of our commodities belong to nations that are at war. So an emergency is created which should be met by an emergency measure, and that, I think, very promptly.

On consideration of this bill I was inclined to think at first that there should be several amendments, but on further examination I believe that in the shape in which it passed the House it is in as good form as it can be made. The amendment of the Senator from New York directing that our navy yards should open their dry docks for the repair of merchant ships, provided the facilities are not needed for the paramount purpose of taking care of our battleships, certainly will do no harm and may do good.

Objection to this bill comes from four sources; possibly there may be others, but as I analyze the opposition it results from four interests or ideas of public policy. First, the shipbuilding interest. I do not see how the exceptions created by this measure can injure that industry. The boats which may be taken over are limited to those in the foreign trade, and it is well known that this will not hamper shipbuilding in this country, for that has been dependent upon the construction of domestic vessels and ships for the Navy. Indeed, even if the bill were such as to create something of a handicap for our shipbuilding interests, it seems to me that in this emergency they should be willing to make concessions; and yet I do not see how it can in the least damage them.

The second objection comes from those who entertain the opinion that this will, if not now, ultimately affect the coastwise trade. There is, I think, more ground for apprehension there. If we should acquire a large number of foreign ships to be used primarily for the foreign trade and give them American registry, then, when normal conditions return, there would be an agitation for the use of those boats in the coastwise trade. But, Mr. President, that agitation is sure to come and will come after the opening of the Panama Canal and the development of trade between the Atlantic and the Pacific.

For one, I have never shared the roseate views of those who look for a revolution in routes of commerce and for colossal benefits from the opening of the Panama Canal. No doubt there will be a very considerable increase in the traffic between the Atlantic and the Pacific coasts, and in times of prosperity, what we call "boom" times, or in periods when crops are to be harvested and the supply of coastwise shipping is insufficient, there is sure to be a demand, especially from the Pacific coast, that the trade between the two oceans, or from the Pacific Ocean on the one side and the Atlantic and the Gulf on the other, be thrown open to foreign as well as to American ships. It will be said, "This canal has not conferred upon us the benefits we had expected; the traffic is not so large as we had anticipated, and it is prevented from reaching the proportions which it might attain by the scarcity of shipping or the high rates charged by boats under American registry."

It will be said also that while it is proper to restrict to boats of American registry traffic from New York to Jacksonville or from Boston to Norfolk or from Philadelphia to Galveston, it is a far cry to demand that the traffic between New York and San Francisco, going from one ocean to another, should be thus limited. So, this agitation is bound to come. I trust that the decision reached will be such as to retain advantages for our do-

mestic shipping, and that we shall not destroy this great industry; but it is very likely that if we pass this bill and any considerable number of boats of foreign registry are admitted to American registry, then, when the war is over, this agitation, which I think in any event is sure to arise, will be intensified. However, Mr. President, we can take care of that when the time comes. It is not necessary for us to anticipate it or to provide for that until we come to it.

A third objection relates to the provision in regard to foreign officers. Mr. President, we should not fail to notice that the ships which are most likely to take out American registers under this bill are those which are already owned by American corporations or capitalists, but operated under foreign flags. These American owners of foreign ships say: "All our preferences are for an American register and to fly the flag of our country, but we are deterred from doing so by reason of the fact that the cost of operation under American registry is very much greater than under a foreign register"; and frequently the argument is advanced, although I do not think it has the same force, that the original cost of a ship built in our own yards is greater than that of a ship built abroad. At any rate, those who engage in the over-sea trade recognize that with the right to buy foreign ships they have a much broader market from which to select.

There are many foreign boats owned by American companies. The International Mercantile Marine Co., by far the most important of these, is an American corporation, though all of the underlying companies which composed it except the American lines—the Red Star, the Leyland, the Atlantic Transport, the Dominion, the White Star, etc.—are foreign. That is, the International Mercantile Marine is a holding company, issuing common and preferred stock and bonds and owning the stock of the foreign companies. No doubt a considerable share of the stock and bonds of the holding company and especially of the bonds of the underlying companies is held in Europe. Another company, probably second in the number of its ships, is the United Fruit Co., which I believe has 41 boats with a foreign registry, some of the boats less than five years of age, and others more than that. For years they have had their own officers, who are predominantly foreigners. They have been living in an American atmosphere. Their employment has been furnished them by American business. Certainly, as regards this line it would seem that the owners could trust the absolute loyalty of the officers and employees, but without some such provision as that in this bill let us see what would happen.

The owners would take out American registers and would be told, "You must immediately discharge all of those officers, however satisfactory or useful they may be, and engage others who are American citizens in their places." No doubt it would be an insuperable barrier to their making any change. They would prefer to continue their foreign registry. There are a large number of other boats—I think it would be difficult even for the Commissioner of Navigation or anyone else who is an expert on the subject to include them all—which are owned by American capital, but operated under a foreign flag. There is the Dollar Line out of San Francisco, with some 10 or 12 boats. No doubt the preference there would be for an American registry. The first effect of the passage of this bill will be to bring this class of boats, owned by citizens or corporations of the United States, under an American registry.

It was said by the Senator from Massachusetts [Mr. WEEKS], for whose judgment I always have the utmost respect, that if the British fleet is successful the carrying trade will resume its normal proportions. I can not altogether agree with that statement. Any English tramp or freight-carrying ship, any French or Belgian ship, any ship belonging to any country at war with Germany, whatever route it might follow, would run the risk of meeting here or there on the ocean a German cruiser. We all know that at a time when our Navy was powerful enough to maintain a blockade two or three privateers belonging to the Confederate States were a factor in driving our carrying trade from the ocean. The mere apprehension of meeting a German cruiser—and no doubt some of them will be scattered on the seas—would raise rates of insurance and create a preference for a boat under the American flag.

I repeat what I have said: I do not think anyone can tell how many boats will come to an American registry. The Norwegian fleet is large, and that country will no doubt remain neutral. The routes of traffic which its boats have followed will probably be disarranged and the freight for carriage very much diminished, so that it is very likely a considerable number of boats of this country will be diverted from their present routes to engage in the trade between the United States and Europe; but we can not afford, in the present very serious situation, to place undue reliance upon foreign ships.

I think we should make all possible provision to give preference to our own licensed officers. The shipping trade has been depressed, and they should have the best possible opportunity, provided it does not attain the proportions of a monopoly.

I would call the attention of the Senate to the fact that everyone who takes out a master's license or a watch officer's license must pass an examination. No doubt that would be conducted in the English language. It would be somewhat easier for foreigners to pass it in that language, because so many nautical terms are English; but the pending bill does not do away with the requirement for an examination and investigation as to fitness and experience. Again, the candidate must take an oath, just as a man does who enters the military service or the civil service. I am inclined to think it more or less of a bugaboo that there is any danger of a German officer or a French officer managing a boat with an American registry for the benefit of his own country. Why, as it is now, Mr. President, the great majority of our crews are foreign. Unfortunately, the American does not take to the sea; and not only in our foreign trade, but upon our domestic ships, including even the Lake trade, the very considerable majority of the seamen, aside from the officers, are foreigners.

An officer has a spirit of loyalty to his duty. I take it, according to the general definition of piracy, it would be an act of piracy for an officer so to direct a boat that she may turn from her prescribed course into a foreign port for the advantage of Germany or France or some of the other Nations at war.

I wish to call attention to a limitation in the House bill to which no notice has yet been called:

> That the President of the United States is hereby authorized, whenever in his discretion the needs of foreign commerce may require, to suspend by order, so far and for such length of time as he may deem desirable, the provisions of law prescribing that all the watch officers of vessels of the United States registered for foreign trade shall be citizens of the United States.

It will be borne in mind that the words "so far" mean that he can make distinctions. He can make an order that the captains shall not be excluded from the law. He can order that this provision shall apply only to boats of a certain size. He can prescribe that the exception shall apply only to those engaged in trade in a certain direction. We must all recognize that with the existing condition of affairs abroad, with lighthouses darkened and buoys removed, it would be quite desirable that a certain number—perhaps not all—of those who act as navigating officers should be men who know something of the foreign channels. While the President belongs to a different political organization from that to which I subscribe, I feel that it is entirely safe to vest this discretion in his judgment. I am sure that he will look out for the American sailor, that he will look out for the American officer. No doubt instructions will be issued to the inspectors to judge carefully of the character of the men who apply for licenses, and that there will be no discrimination against American officers.

A fourth argument is made that foreign complications will be created by the passage of this bill. What foreign nation can complain? Practically all of them to-day allow the purchase of foreign ships without let or hindrance. In passing this bill we are only to a limited extent putting our regulations on the same footing with theirs.

But there is another point which is even stronger. The whole commercial world recognizes that the carrying trade to and from the United States has been enormously large, and it is further recognized that that traffic has been carried in foreign bottoms. Yet now, by reason of a war the appalling nature of which as yet we can only faintly realize, that agency for carrying our products is very seriously interfered with, if not entirely cut off. What foreign nation could raise its voice against our taking measures which are absolutely necessary for the continuance of our trade and for the maintenance of our very business and industrial life?

This is a question which, like many others—a rational banking system, for instance—does not alone affect merchants and shippers; it affects every class of our varied population. Merchants, manufacturers, farmers, those on salaries, the men who toil for wages—it affects them all. For our very life we must provide some way in which the products of other countries can be brought here and ours can be shipped abroad. No nation in reason could for a moment raise any objection.

Of course, Mr. President, there will be a good deal of bitterness in this conflict, and I anticipate that foreign combatants will seize ships under the American flag when they have a chance; but that would happen whether this bill were passed or not.

In order to make the treatment of this subject more complete I will read, briefly, the rule in regard to the transfer of ships before or after the outbreak of hostilities, taken from a stand-

ard work on international law. This is the ninety-first section of Mr. Oppenheim's work on International Law:

(1) According to article 55 of the declaration, the transfer of an enemy vessel to a neutral flag, if effected before the outbreak of hostilities, is valid, unless the captor is able to prove that the transfer was made in order to avoid capture. However, if the bill of sale is not on board the transferred vessel, and if the transfer was effected less than 60 days before the outbreak of hostilities, the transfer is presumed to be void, unless the vessel can prove that such transfer was not effected in order to avoid capture. To provide commerce with a guaranty that a transfer should not easily be treated as void on the ground that it was effected for the purpose of evading capture, it is stipulated that, in case the transfer was effected more than 30 days before the outbreak of hostilities, there is an absolute presumption of its validity, provided the transfer was unconditional, complete, and in conformity with the laws of the countries concerned; and further, provided that neither the control of nor the profits arising from the employment of the vessels remain in the same hands as before the transfer. But even in this case a vessel is suspect if the transfer took place less than 60 days before the outbreak of hostilities, and if her bill of sale is not on board. Hence she may be seized and brought into a port of a prize court for investigation, and she can not claim damages for the capture, even if the court releases her.

(2) According to article 56 of the declaration, the transfer of any enemy vessel to a neutral flag, if effected after the outbreak of hostilities, is void unless the vessel can prove that the transfer was not made in order to avoid capture. And such proof is excluded, and an absolute presumption is established that the transfer is void, if the transfer has been made in a blockaded port or while the vessel was in transitu; further, if a right to repurchase or recover the vessel is reserved to the vendor; and lastly, if the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing have not been fulfilled.

The question of the transfer of enemy vessels to subjects of neutral States, either shortly before or during the war, must be regarded as forming part of the larger question of enemy character, for the point to be decided is whether such transfer divests the vessels of their enemy character. It is obvious that, if this point is answered in the affirmative the owners of enemy vessels can evade the danger of having their property seized and confiscated by selling their vessels to subjects of neutral States. Before the declaration of London, which is, however, not yet ratified, the maritime powers had not agreed upon common rules concerning this subject. According to French practice, no transfer of enemy vessels to neutrals could be recognized, and a vessel thus transferred retained enemy character; but this concerned only transfer after the outbreak of war. Any legitimate transfer anterior to the outbreak of war did give neutral character to a vessel. According to British and American practice, on the other hand, neutral vessels could well be transferred to a neutral flag before or after the outbreak of war and lose thereby their enemy character, provided that the transfer took place bona fide, was not effected either in a blockaded port or while the vessel was in transitu, the vendor did not retain an interest in the vessel or did not stipulate a right to recover or repurchase the vessel after the conclusion of the war, and the transfer was not made in transitu in contemplation of war.

The declaration of London offers clear and decisive rules concerning the transfer of enemy vessels, making a distinction between the transfer to a neutral flag before and after the outbreak of hostilities.

I read this brief selection because in less than two pages it states the law of the subject. It is all a question of good faith.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from North Carolina?

Mr. BURTON. Yes.

Mr. SIMMONS. I wish to ask the Senator from Ohio for some information with reference to the London conference, from which he has just read.

My understanding is that, with the exception of France, which probably for a long time had a different rule from the other nations of the world, up to the time of the London conference it was a well-recognized principle of international law that a neutral might even during hostilities, or after the outbreak of hostilities, buy a belligerent ship. The London conference seems to have adopted some rules qualifying that general doctrine. My understanding is that the United States has never agreed to that, and that Great Britain has never agreed to it.

What I desire to ask the Senator is, To what extent has the so-called London conference become operative, and what countries became parties to that conference so as to make it binding upon them?

Mr. BURTON. It has not become operative at all in the sense of formal adoption by the nations represented.

Mr. SIMMONS. That was my impression.

Mr. BURTON. But it is like the declaration of Paris, made in 1856; it has been accepted in principle by a very considerable number. It is said that the principles laid down by the conference were observed even by Turkey in the recent struggle with the Balkan States.

Mr. SIMMONS. It was not a condition of the conference that it should not be operative unless it was signed or accepted by so many of the parties who participated?

Mr. BURTON. Oh, yes. It is not binding on anyone.

Mr. SIMMONS. It is not binding anywhere?

Mr. BURTON. No.

Mr. SIMMONS. It is a mere declaration that certain acts would be recognized as the law on the subject?

Mr. BURTON. Yes.

Mr. SIMMONS. Can the Senator name the countries that have recognized that as the law?

Mr. BURTON. It was very generally recognized. I think I have in my desk a list of the signatory powers. Germany, France, and practically all the other great maritime powers agreed upon it. I really do not regard it as a backward step from the views that prevailed before that time, because most of the nations had very strenuously asserted their right to seize vessels formerly belonging to an enemy after transfer to a neutral flag. A main object was to secure uniformity. It will be noticed that the rules are very carefully laid down which prevent a transfer from being regarded as a bona fide purchase where made to avoid the consequences of hostilities.

There is this point which, it seems to me, should be taken into account in considering these rules. The discussions in various conferences on this subject have never been with a view to just such a situation as that in which we are placed. The object to be attained has been to prevent fraudulent transfer. Of course anyone knows that if a citizen of a country at war has a ship that is in a blockaded port he would like to transfer it to some citizen of a neutral country in order to save his property. That would be fraudulent. Also, if it is in transitu on the ocean, and it is feared that there are cruisers or warships of an enemy in the neighborhood, it would be very desirable to transfer that boat. That also would be in bad faith. Our situation, however, is the one I have already outlined—a prior dependence upon foreign bottoms for our carrying trade, the at least partial elimination of that means, and the necessity of providing for the carrying of commodities to and from the United States in ships presumably our own, which in the greatest possible degree will be free from seizure or interference.

I do not deny that this war may assume such bitterness and there may be such an effort to shut off the products of the United States from other countries that ships under the American flag will be seized and taken into foreign ports, and all the rules of international law in a measure disregarded; but, in any event, that is a chance we must take. It is to be hoped that our country will conduct itself with such dignity, and there will be such a respect for our power and desire for our friendship and good will, that no nation at war will hastily seize a ship that carries the American flag.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Utah?

Mr. BURTON. I do.

Mr. SUTHERLAND. There is now, as we are informed, a famous German ship at Bar Harbor, Me. The ship, as I understand, left the port of New York some time ago, bound for Germany; but, fearing capture, it put into that somewhat out-of-the-way harbor.

Under this bill, if it be passed, it would be possible, I take it, for that German ship to be sold to American citizens and for the President to authorize the retention of all of the German officers and the entire German crew, and, under those circumstances, for the ship to put to sea and sail for a German port.

Now, suppose that while that is going on, the ship flying the American flag, it is observed by an English cruiser. The captain of the cruiser knows the ship. It is a well-known ship. He knows it is a German ship, but it is carrying the American flag. He takes possession and he finds when he goes aboard that the only change that is made in the vessel is that the German flag has been taken down and the American flag has been put up, and he finds a bill of sale and an American registry.

Does not the Senator think that under those circumstances the captain of the English cruiser would in all probability seize the ship, and if that were done, would it not involve us in rather an unpleasant incident?

Mr. BURTON. Of course in the extreme case mentioned the fact that the boat is turned over with all her officers and crew would be a circumstance which would tend to influence a prize court to conclude that the transfer was in violation of proper international usage; but there would be other considerations which nevertheless should prevail—the good faith of the transaction and the transfer, the nature of the cargo that is to be sent, and so forth. Of course if she had contraband on board that would raise another question, even if the transfer to the United States were regarded as valid and binding. If there were a bill of sale, if there were a real transfer to a neutral, if the vessel were engaged in such trade as an American ship would engage in, the presumption would be that the transfer was valid, whatever the crew.

Mr. SMOOT. Mr. President, will the Senator permit an interruption?

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Utah?

Mr. BURTON. Certainly.

Mr. SMOOT. In that connection I wish to ask the Senator another question. Suppose all the conditions existed as my colleague has just stated, and upon investigation it was found that the owners of this same boat had sold it to an American company with five American directors, and it developed upon an investigation that the five American directors had five shares of stock apiece, or just enough to qualify as directors, and that the balance of the stock was owned by the same owners that own the ship to-day, do you think a foreign power would construe such a transfer as a bona fide one? Is it not true that under this bill such a transfer could be made?

Mr. BURTON. Of course you can put down such a hypothetical case as that. Naturally it would be a very suspicious circumstance. It would come near to creating a presumption that it was a subterfuge adopted to get that boat under a foreign flag.

Mr. SMOOT. But that is wholly within the provisions of this act. There is nothing in it to prevent it.

Mr. BURTON. I think, however, you would have to go far afield from probable applications of the act to present such a possible situation as that.

Mr. SMOOT. It looks to me as though it were one right at our door; that if foreigners owning a vessel under the conditions existing to-day in the world desire to have the American flag to protect them temporarily only, it would be very easy for them to sell to an American corporation, take out an American registry, and let them hold enough stock to qualify in the State in which they organized the company, and then the balance of the stock would be owned entirely by the foreign owners of the ship. I can not see that there is anything in the bill, unless there is some amendment which will be accepted to it, to prevent such a transaction.

Mr. BURTON. It is altogether unlikely that such a situation as that would arise. If it did arise, the property interests of our citizens in the ship seized would be reduced to a minimum, because the five directors, each of whom had one share, would have no very great financial interest in the boat.

Mr. McCUMBER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from North Dakota?

Mr. BURTON. Therefore it would be the loss of the citizens of the foreign nation if the ship were condemned in a prize court.

Mr. SMOOT. But it would be an American company.

Mr. GALLINGER. The American cargo, if there was a cargo on that ship, could be condemned under the claim that the registry was a mere pretense.

Mr. BURTON. As I said, every man who buys a ship flying the American flag under such circumstances must take the chances of a very tense situation. Some prize courts might be disposed to be severe. I yield to the Senator from North Dakota.

Mr. McCUMBER. The questions just propounded to the Senator would be questions that would involve the good faith, the bona fides of the transaction; but I want to put another hypothetical question to the Senator, that we may have a fair construction of the true intent and meaning of what he has stated is the prevailing rule. Suppose there is an English or a German vessel crossing the Atlantic to one of our ports. A cruiser of the enemy is following it up. It, however, has succeeded in getting into our ports. The cruiser is waiting for it to come out where it may be attacked. Can it then be said that either the Government or its citizen even has purchased it in good faith, and it thereby escapes becoming a prize to a vessel that may have followed it clear across the ocean?

Mr. BURTON. And is watching for it to come out?

Mr. McCUMBER. And is watching for it to come out again.

Mr. BURTON. Of course, if the court would take up that question, there is no way of forecasting how a court may decide it, at least without understanding facts which determine the good faith of the transaction. It would seem very probable that the captors would have to prove the transfer was not in good faith.

Mr. McCUMBER. Suppose the transfer was in good faith; suppose we wanted that ship, does the Senator believe that, under the law of nations, we would have the right in good faith to purchase and own that ship and thereby deprive the vessel that had followed her clear across the ocean in war from the benefit of the prize and thereby escape by having the transfer made?

Mr. BURTON. I would say yes; our commercial interests and national rights in property are very much more important than the accommodation of a cruiser that chases a foreign ship into one of our ports.

Mr. McCUMBER. Then the Senator also believes that we can take the *Kronprinzessin Cecilie* that is said to be at one of the ports of Maine, and if there were a British vessel watching for her to come out, she could escape that by selling in good faith and transferring the ship to American owners.

Mr. BURTON. The rights of contract are not suspended by the existence of war. The rights of a neutral nation are still preserved. If the sale is made in good faith, why may it not be made? It is true the London confercnce provided for a period of 30 or 60 days.

Mr. McCUMBER. Even if it were held in good faith, are we not assisting one of the belligerents? Are we not assisting them in securing a disposition of their property which otherwise would fall in the hands of the enemy?

Mr. BURTON. Suppose the foreign nation had shipped into our ports certain commodities that we needed and were willing to buy, but the money would be immediately sent back to that nation and would very much strengthen it in war with another power, is there any reason why we should not buy those commodities?

Mr. McCUMBER. In that instance the money paid for the commodities would be subject to capture. In this case it might remain in any bank of the United States. That is a different proposition.

Mr. BURTON. I think in a matter of this kind it is desirable for us to adhere to the main proposition, which is the giving to foreign ships, whether they belong already to American capitalists or are to be acquired from foreign owners, a status which will maintain as far as possible our ability to export our products. You can present hypothetical cases, you can engage in conjectures as to what a court will do, but let us adhere to the main point and provide for this situation.

Mr. LEWIS. Mr. President——

The PRESIDING OFFICER. Will the Senator from Ohio yield to the Senator from Illinois?

Mr. BURTON. Certainly.

Mr. LEWIS. I desire to ask the able Senator from Ohio if he understands what proportion of stock interested in the ownership of the *St. Louis* and the *St. Paul* is held by English interests?

Mr. BURTON. I may say that I had once or twice sought to obtain as nearly as possible the exact facts, and the information is not altogether satisfactory. The International Mercantile Co. is a holding company. It has, I think, common and preferred stock. It has its bonds. That stock and those bonds, I take it, are very largely held in the United States. It took over, however, a plurality of companies—the White Star Co., the largest, the Atlantic Transport, the Leyland, the Red Star, and so forth. All those boats were subject to bonds, and those bonds are held in Europe, and the securities of the International Mercantile Marine, as the market quotations will show, are far below par. So there is a substantial financial interest, if not a majority interest, at least, in most of those lines in Europe.

Mr. LEWIS. Therefore, I call the attention of the Senator from Ohio to this position: If the objections urged by the able senior Senator from Utah [Mr. SMOOT] are to be urged, and if the fears expressed by the equally able Senator from North Dakota [Mr. McCUMBER] are to be realized, would not the following also be likely to transpire? Could not these vessels—the *St. Louis* and the *St. Paul*—be proceeded against by Germany, notwithstanding they had been carrying the American flag for years and had been sailing under American colors, and taking our products or our passengers, rather our products for this purpose, to Europe? I am impressed with this thought, that if the objection urged by the two distinguished Senators can be well taken as to those hereafter to be purchased, it may likewise be taken as to these ships we now have merely because a large percentage of the proprietary interest is in English possession. Since the English possession predominates, instead of carrying the English flag it is an American flag carried upon an English bottom, and would it not be a violation of neutrality? Particularly I beg to maintain that it could be reached if there were a case raised for the purpose of reaching it. Could we protect ourselves even if we built a ship at the wharves of San Francisco where a German company had a proprietary percentage, as the able Senator from Utah seems to fear?

Mr. BURTON. The real vital point first is the registry of the boat, and then the country of incorporation. I think, however, there is a difference not only in degree but in kind between such a hypothetic case as the Senator from Utah mentions, a case which I regard as altogether improbable, and that of the International Mercantile Marine Co. In the first place, in degree because there is a large number of shares whether they are at par or not, a very substantial property interest,

held in the United States. In the next place, there has been for years a series of combinations or a combination of companies controlled by an American organization. In the other case, boats, all of them formerly under some other flag, were turned suddenly over to the American flag. The good faith of such a transaction would be questioned.

Mr. SMOOT. But the Senator will admit that they could not question the good faith of the company as to the boats that carried the American flag before the declaration of war.

Mr. BURTON. Oh, no. Those carried the American flag anyway.

Mr. SMOOT. That is the difference between the substance of my question and the substance of the question of the Senator from Illinois.

Mr. LEWIS. I agree that there would be a decided advantage in behalf of the ships which had previously carried the flag because the presumption would be in their favor, but I also urged that if it be true that back of that is the ownership in foreign hands that could be used as a reason of objecting to these ships just as completely as if the question of ownership had been subsequently raised.

Mr. BURTON. Generally speaking, it would raise the same point.

Mr. SMOOT. The only difference would be that there would be no question of transfer involved. The good faith of it could not be questioned. There was no transfer and they would be going along and doing business as they had been doing it in the past.

Mr. LEWIS. Let me see if I understand the Senator from Utah. He draws the distinction in the matter of registry.

Mr. SMOOT. Certainly; that is where the difference between the two countries would be lodged if there was a difference. It would be the question of registry and the bona fide transfer of the ship itself.

Mr. LEWIS. I would admit that the preceding date of registry anticipating the declaration of war would, of course, offer much evidence in favor of the ship, but I thought the able Senator from Utah addressed his query to the Senator from Ohio based only upon the question of ownership, that the claim might be made by a foreign belligerent that a ship might fly an American flag and be in foreign possession, and because of that ownership it would be the subject of seizure as a violation of neutrality.

Mr. SMOOT. That was not my question. My question was this: Suppose the *Kronprinzessin Cecilie*, now at Bar Harbor, Me. Of course we all understand that she is owned by a German company. It sails under the German flag. Suppose the owners of that ship now decide that they would like to have that ship under American registry sail under the American flag. In order to accomplish that they would sell it to an American company organized for the purpose of purchasing that boat. There would be five American directors, we will say, in that company owning one share or five shares apiece, or as many shares as the laws of the State in which it was incorporated would require, and the balance of the stock of the American company is owned by the exact individuals who own the ship itself to-day under the German control. Then, would a foreign nation, knowing this, have a right to say that that transfer was not a bona fide transfer? Whether that transfer was made in good faith or not, suppose the ship was seized upon the high seas and that question arose, I think that under this bill there is nothing to prevent it, and I believe there ought to be an amendment to the bill to prevent it.

Mr. O'GORMAN. Mr President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from New York?

Mr. SMOOT. Certainly.

The PRESIDING OFFICER. The Senator from Ohio [Mr. BURTON] is entitled to the floor.

Mr. BURTON. I understand there is a bill of some urgency for reasons which will appeal to every Member of the Senate that my colleague [Mr. POMERENE] desires to take up, and I prefer to yield to him first.

Mr. LEWIS. I yield the floor.

Mr. BURTON. I yield the floor absolutely.

Mr. POMERENE. Mr. President——

Mr. GALLINGER. If the Senator from Ohio has yielded the floor, I desire recognition. Then I will yield to the Senator from Ohio [Mr. POMERENE].

The PRESIDING OFFICER. The Chair will recognize the Senator from New Hampshire.

Mr. GALLINGER. I yield to the Senator from Ohio.

BUILDINGS ALONG ALLEYWAYS IN THE DISTRICT OF COLUMBIA.

Mr. POMERENE. I report from the Committee on the District of Columbia on the bill (S. 1624) to regulate the construction of buildings along alleys in the District of Columbia, and for other purposes (S. Rept. 720), with a recommendation that it pass with an amendment. I ask unanimous consent for its consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment was, on page 3, line 8, at the end of section 1, to add:

> The use or occupation of any building or other structure erected or placed on or along any such alley as a dwelling or residence or place of abode by any person or persons is hereby declared injurious to life, to public health, morals, safety, and welfare of said District; and such use or occupation of any such building or structure on, from, and after the 1st day of July, 1918, shall be unlawful.

So as to make the bill read:

Be it enacted, etc., That from and after the passage of this act it shall be unlawful in the District of Columbia to erect, place, or construct any dwelling on any lot or parcel of ground fronting on an alley where such alley is less than 30 feet wide throughout its entire length and which does not run straight to and open on two of the streets bordering the square, and is not supplied with sewer, water mains, and gas or electric light; and in this act the term "alley" shall include any and all courts, passages, and thoroughfares, whether public or private, and any ground intended for or used as a highway other than the public streets or avenues; and any dwelling house now fronting an alley less than 30 feet wide and not extending straight to the streets and provided with sewer, water main, and light, as aforesaid, which has depreciated or been damaged more than one-half its original value, shall not be repaired or reconstructed as a dwelling or for use as such, and no permit shall be issued for the alteration, repair, or reconstruction of such a building when the plans indicate any provision for dwelling purposes: *Provided*, That rooms for grooms or stablemen to be employed in the building to be erected, repaired, or reconstructed may be allowed over stables, when the means of exit and safeguards against fire are sufficient, in the opinion of the inspector of buildings, subject to the approval of the Commissioners of the District of Columbia; and no building now or hereafter erected fronting on an alley or on any parcel of ground fronting on an alley less than 30 feet wide and not otherwise in accordance with this act shall be altered or converted to the uses of a dwelling. Any such alley house depreciated or damaged more than one-half of its original value shall be condemned as provided by law for the removal of dangerous or unsafe buildings and parts thereof, and for other purposes. No dwelling house hereafter erected or placed along any alley and fronting or facing thereon shall in any case be located less than 20 feet back clear of the center line of such alley, so as to give at least a 30-foot roadway and 5 feet on each side of such roadway clear for a walk or footway, and any stable or other building hereafter placed, located, altered, or erected on or along such an alley upon which a dwelling faces or fronts shall be set back clear of the walk or footway the same as the dwelling or dwellings, but the fact that dwellings are located in such alleys shall not affect the location of stables or other buildings otherwise. The use or occupation of any building or other structure erected or placed on or along such alley as a dwelling or residence or place of abode by any person or persons is hereby declared injurious to life, to public health, morals, safety, and welfare of said District; and such use or occupation of any such building or other structure on, from, and after the 1st day of July, 1918, shall be unlawful.

SEC. 2. That any person or persons, whether as principal, agent, or employee, violating any of the provisions of this act or any amendment thereof for the violation of which no other penalty is prescribed, shall, on conviction thereof in the police court, be punished by a fine of not less than $10 nor more than $100 for each such violation, and a like fine for each day during which such violation has continued or may continue, to be recovered as other fines and penalties are recovered.

SEC. 3. That the act of Congress approved July 22, 1892, entitled "An act regulating the construction of buildings along alleyways in the District of Columbia," and all laws or parts of laws inconsistent with the provisions hereof, are hereby repealed.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REGISTRY OF FOREIGN-BUILT VESSELS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 18202) to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes.

Mr. GALLINGER. Mr. President, there is a great temptation on my part to discuss at this time at considerable length a question that has been very near my heart for many years, that of the rehabilitation of the American merchant marine. Indeed, I have in my desk a prepared speech that I think would be somewhat illuminating on this subject, if I felt like taking the time of the Senate to deliver it, but I propose to desist from doing so to-day.

I am aware of the fact, Mr. President, that any suggestion made against the bill under consideration will be taken up by certain hysterical persons and denounced as unpatriotic, and yet I will submit myself to the possibility of criticism along that line by calling attention to some facts that I think are worthy of serious consideration.

I know, Mr. President, that it is not convincing, nor, as a rule, is it perhaps a matter of good taste, for one to say "I told you so"; and yet it interests me to look back over the discussion of this question for the past 10 years or more to see exactly what has been said by some of us. On the 8th day of

January, 1906, I submitted some observations to the Senate, taking for my text these words:

The United States alone leaves its merchants, manufacturers, and farmers at the edge of the ocean to get their goods over seas as best they may—by some accident of trade or the grace of their foreign rivals. If we lag in the world's markets, if we fall behind even in the Philippines, our own possessions, if we see Germany striding ahead of us in the Orient, and all Europe grasping South America by commercial bonds stronger than the Monroe doctrine, the fault is our own, and in our own hands lies the remedy.

In that connection, Mr. President, I also said this, and I was gratified a little time ago to observe that the President of the United States in calling attention to the merchant-marine question repeated substantially the idea that I expressed eight years ago—

What department store in any American city, engaged in a sharp contest for business, would dream of intrusting to a rival store the delivery of its goods to its customers? Is it not a fundamental principle of such keen competitive business—with which the rivalry of America and Europe in international commerce may not inaptly be compared—is it not the prime instinct of every successful merchant in such business to maintain an active and comprehensive delivery service of his own? Would any merchant conducting such a store sell or lay up his own wagons and neglect to provide others, even if his competitor offered to do the work more cheaply? It would be a poor judge of human nature, indeed, who would consent to such a proposition. His fellow merchants, partners, or assignees in the bankruptcy proceedings, that would certainly ensue, would have grave question of his sanity.

Yet the stupid merchant who turns his delivery service over to his rivals rather than be bothered with it himself has one conspicuous exemplar among the nations in the person of the United States.

And, Mr. President, during the discussion of this question, going back particularly to the report of the merchant-marine commission, one of the points that has been urged in season and out of season, by those who opposed the legislation, has been that we ought not to complain because foreign ships carry our products, provided they carry them as cheaply or cheaper than they can be carried in American ships, but we have, Mr. President, because of the crisis that is upon us, apparently learned the lesson that it is best for us to do our own business in our own way on the ocean as well as on the land.

In that same speech, Mr. President, I quoted from the report of the Merchant Marine Commission, made in 1905, which commission was composed of five Members of this body and five Members of the House of Representatives, who concurred in a unanimous report, the following, which I commend once more to the Senators who have always voted against merchant-marine legislation:

A new merchant fleet in over-seas commerce of 2,000,000 tons would give the United States the same high rank in merchant shipping which it now holds through its great and powerful Navy. This Navy is now costing $100,000,000 a year, and it is grandly worth it. Nobody who wants the merchant marine built up would have the Navy cut down. The great men of the Navy are powerful champions of the merchant marine. Every strong friend of the merchant marine is a strong friend of the Navy also. The foe of one is apt to be the foe of both. But the Merchant Marine Commission would urge with all earnestness that a great nation, expending $100,000,000 a year upon its Navy, can justifiably devote from one to seven millions a year to the encouragement of its merchant shipping, and that the nation which is preparing to build the Isthmian Canal must stir betimes to build its own ships if it would have its flag borne through the great waterway on something else than yachts and men-of-war.

Unless the American people begin now, at once, to give some heed to their neglected merchant shipping, they are likely to realize when their canal is completed that they have spent three hundred millions of American money to subsidize the ships and the trade of foreign governments.

That sounds a little prophetic, Mr. President, but still more prophetic were the words of Mr. Blaine in his last speech made in this body in the year 1881. He was engaged in a famous debate with Senator Beck of Kentucky, one of the ablest men who ever represented that State or any other State in the Senate of the United States. Mr. Blaine said:

It is a fact equally remarkable that for the past 25 years, or make it only for the past 20 years, from the beginning of the war to this hour, the Congress of the United States has not done one solitary thing to uphold the navigation interests of the United States. Decay has been observed going on steadily from year to year. The great march forward of our commercial rival of old has been witnessed and everywhere recognized, and the representatives of the people of the United States have sat in their two houses of legislation as dumb as though they could not speak, and have not offered a single remedy or a single aid. * * *

During these years in which Congress has not stepped forward to do one thing for the foreign commerce of this country, for all that vast external transportation whose importance the Senator from Kentucky has not exaggerated, but has strongly depicted, the same Congress has passed 92 acts in aid of internal transportation by rail; has given 200,000,000 acres of the public lands, worth to-day a thousand million dollars in money, and has added $70,000,000 in cash, and yet, I repeat, it has extended the aid of scarcely a single dollar to build up our foreign commerce.

What was true in 1881, Mr. President, as depicted by Mr. Blaine, what was true in 1905, as depicted by the report of the Merchant Marine Commission, is true to-day, and we are absolutely and utterly without a merchant marine that is even respectable in name.

Mr. President, on Monday, March 4, 1907, the closing day of a Congress, a bill was before this body which to my mind would have done a great deal toward building up the merchant marine of the United States. It had passed the Senate and had come over from the House of Representatives with an amendment which the friends of the bill would have been glad to have accepted, but it was filibustered to death by Senators on the Democratic side of the Chamber. When the hour for final adjournment had almost arrived I said to the Senate:

I thank the Senate for listening to me in this closing hour of the session. While I acknowledge defeat to-day, my faith in the good sense and patriotism of the American people leads me to see success in the not distant future. We need American ocean mail lines to Europe, to South America, and other distant markets, and we shall have them. We shall have an American merchant marine and a naval reserve. We shall not go on forever, as we are going now, paying $200,000,000 every year in freight, mail, and passenger money to the shipowners of foreign nations, our rivals in trade and possible enemies in war.

Mr. President, during those debates I called attention, and very likely other Senators called attention, to two points that we thought of commanding consequence. One was that if all the leading foreign nations were engaged in war we would have no ships with which to transport the products of our factories and our farms to foreign markets. That, Mr. President, is precisely the situation that confronts us to-day. The prediction has been absolutely and literally fulfilled. The great nations of the world are in war, their ships of commerce are withdrawn from the oceans of the world, and we, with a merchant marine of which every patriotic American ought to be ashamed, find ourselves powerless to convey the products of our factories and our farms to the markets of the world.

One other suggestion was made, which was that if this country should be engaged in war with any one of the great nations of Europe we would be at their mercy because of the fact that we had not an adequate number of auxiliary ships to convey to our war ships needed supplies, the very condition that existed when our war fleet made the journey around the world.

Mr. President, the legislation relating to the rehabilitation of the American merchant marine has been defeated year in and year out because of prejudice in one section of the country and provincialism in another section.

I do not question, Mr. President, the sincerity of any Senator or any Member of the other House of Congress who has differed from me in opinion, but I do say that it is a reproach to the American Congress that some legislation has not been agreed upon that would give us a merchant marine that would have answered our purpose in the crisis that is now upon us.

Every effort that has been made has been met with the cry of "subsidy" and the other cry of a "Shipping Trust." Because of that cry legislation has been defeated. It is now proposed to meet the present emergency that is upon us by buying up a lot of foreign tramp steamships, doubtless at a largely increased cost over their real value, to officer them with foreigners, man them with crews of Lascars, Chinese, and possibly Hindus, waive all the requirements as to register, inspection, and measurements, and then hoist the American flag and call it an American ship. We are told that by breaking down the navigation laws of our country and adding a lot of old foreign junk to our shipping we are going to build up an American merchant marine. What utter unpardonable folly that is.

Not only that, but the Senator from Ohio, who consistently, and no doubt conscientiously, has heretofore opposed all efforts to pass shipping laws that some of us believed would reestablish our merchant marine, has to-day intimated that he is disposed to believe that in the near future our laws relative to the coastwise shipping of the United States will be modified, if not repealed.

It is an absurdity, Mr. President, for any man to try to persuade himself that if this law is passed it will provide anything like an adequate merchant marine for the United States. I have believed that if we will turn our attention in the direction of American ships rather than in the direction of England and Germany and Holland and Sweden and Norway and Japan in search of secondhand ships of foreign build we have enough American ships to-day under the American flag to meet this emergency. Believing that, a few days ago I offered a resolution, which was agreed to by the Senate, as follows:

Resolved, That the Secretary of Commerce is hereby directed to make careful inquiry into the possibility of securing vessels now engaged in the coastwise trade of the United States for transfer to the foreign trade, with a view to meeting the present emergency in overseas transportation, report to be made to the Senate at the earliest practicable day.

The report on that resolution has not yet come to the Senate, but I shall be greatly interested to read it when it is presented to this body. I notice in the newspapers of this afternoon that the Secretary of Commerce says there will be ships enough to take care of our exports, so perhaps that is the reason he has not made reply to the resolution.

Two hours ago, Mr. President, a telegram was handed to me. It is dated New York, August 6, and reads:

NEW YORK, *August 6, 1914.*

Hon. J. H. GALLINGER,
United States Senate, Washington, D. C.:

Strongly urge that amendment be made to House bill admitting foreign vessels to American registry that a bond of $10 per registered ton be given by applicants that the vessel will remain under the American flag at least five years, so that only bona fide vessels will be admitted; and further, that master and officers should swear out a declaration of intention to become American citizens, otherwise the American flag will be used as a shield to foreigners who will organize a State corporation with American agents as officers which will leave the actual ownership in the hands of the old owners. These ships will be put back under the foreign flag at the close of the war because of the cheaper cost of operation and upkeep. This bill should not be considered hastily. Ten American ships were chartered yesterday for foreign trade, and there are 200 American steam and sailing vessels available for the transportation of merchandise to foreign countries which will be able to transport 2,000,000 tons of products to foreign markets in the next four months. These, together with the Norwegian and Spanish tonnage and other neutral nations, will be able to move the United States exports. All of the neutral flags will be compelled to come to this country for cargoes owing to the transportation in Europe being entirely tied up.

F. S. PENDLETON,
President Atlantic Carriers' Association,
130 Pearl Street, New York, N. Y.

Mr. President, if that statement is accurate—and I take it that it is accurate—it looks to me as though we need not put ourselves in an attitude of buying a lot of old worthless ships from foreign nations, waiving all the requirements of our navigation laws and putting them under the flag of the United States. The suggestion that the Norwegian and Spanish tonnage will naturally turn its attention to our shores is doubtless true, as the trade with England, France, and Germany will be cut off, and the ships from neutral countries will naturally come to us to get cargoes, and this, in addition to what our own ships can convey, will probably suffice. If 10 American ships were chartered yesterday in New York, and if it be true that there are a large number in the coastwise trade that can be utilized for foreign service, it occurs to me that we should at least make careful inquiry into the matter and determine the facts with absolute certainty before we engage in the kind of legislation that is now contemplated.

Mr. President, I want to read an editorial from an extremely conservative newspaper, a paper whose accuracy is never questioned in New England. It is from the Boston Transcript of August 4, 1914. The editorial is headed "Beware of whitewashed ships." It reads:

President Wilson means well; so do his lieutenants who hurriedly framed the emergency shipping measure which yesterday passed the House in Washington. They mean well, but they have blundered * * *. The solemn protests of the Republican leaders of the House, from great commercial States, who described the bill as a "subterfuge" and a peril, are abundantly justified. Unless the bill is radically amended or rejected by the Senate there is danger that within a month the United States will become involved in Europe's conflict.

International law and practice absolutely forbid the evasive transfer of foreign merchant ships to another national flag after the actual outbreak of hostilities. The American delegates advocated and accepted such an agreement in the London conference of 1909. A law has been upon the Nation's statute books for nearly two years allowing American registry for the overseas trade to all efficient, seaworthy foreign-built ships less than five years old owned and controlled by American citizens. Not one ship of any kind has hoisted the American flag under the terms of this free ship policy which, under normal trade conditions, has been proved to be wholly ineffective. If any foreign vessels are now admitted to American registry under such a plan as the President proposes, the very act will of itself be an acknowledgment that the motive of the transfer is a desire to escape capture, and a ship thus "whitewashed" will be held an outlaw all over the world. It will be particularly liable to attack and confiscation, and if our Government endeavors to defend it in defiance of the soundest principles of international law and morality we shall find the whole world arrayed against us.

But what, then, shall be done? The United States is by no means so helpless as the Washington authorities apparently imagine. There are excellent American coastwise steamships, many of them with passenger accommodations, in our Atlantic ports which can be employed in an emergency to bring American refugees from Europe. The resources of the six American liners already in that service can be utilized to their utmost capacity by quickly succeeding voyages. Certain swift cruisers and transports can be temporarily secured from the Navy Department under the timely bill of Senator WEEKS which the Senate yesterday passed without opposition. For the carrying of grain and cotton a larger fleet of American cargo steamers is available than persons unfamiliar with actual maritime trade have known—and all these American ships should be utilized first. They have a right to the opportunity, and their employment will be both honest and sagacious.

Not until it is absolutely demonstrated that all our own real American ships are insufficient should the first step be taken in the dangerous, the almost certainly disastrous, expedient of "whitewashing" and employing foreign ships now under foreign flags. Even when these vessels are partially owned by Americans, the risk will be great and the possible consequences very serious to contemplate.

The great vivid lesson of all this panic and emergency to the American people and their lawmakers is that hundreds of American ships officered by American citizens of unquestioned nationality should have been in existence long before this all-devouring war began. They could have been procured. The task of creating an American ocean fleet was far less formidable at the outset than the task, which has been so conspicuously achieved, of creating the vast manufacturing industries of America. Instinctively the American race is an adventurous, seafaring, sea-fighting race, a race of brilliant maritime traditions in peace or war. We have the greatest of island empires facing the two mightiest of oceans. The sea was the heritage of our fathers to their sons. In losing it we have been cheated of our birthright.

The whole Nation now sees that the defeat by narrow majorities or by vicious filibustering in Washington of the great shipping bills which Presidents McKinley, Roosevelt, and Taft successively and strenuously championed was a real national misfortune. If those bills had been enacted there would now be American steamship lines to South America and the Orient—passenger and freight lines—American lines to Europe, to Africa, to Australasia. There would have been an abundance of American ships all ready to bring our people home from Europe, to save all this anxiety and suffering, and to carry all the necessarily reduced commerce of a widespread world war.

How true that all is, and what a lesson it teaches the American Congress and the American people.

Mr. President, those of us who have been here a long time remember with a feeling of admiration the splendid fight that the late Senator Frye, of Maine, made in behalf of the American merchant marine. Year in and year out, serving as the chairman of the great Committee on Commerce of this body, he devoted his energies and his great ability to trying to procure legislation that would have put on the oceans of the world American ships under the American flag; but he was defeated in his efforts. Others of us who took up the task have likewise been defeated; and we to-day see the pitiable spectacle of a great nation, which is foremost in wealth, in manufactures, in agriculture, and in mining of all the nations of the world, with a few ships scattered over the oceans of the earth, with only six ships traversing the great north Atlantic, and five or six ships crossing the Pacific, some of them being assisted by the little British colony of New Zealand. What a spectacle is that, my countrymen!

Mr. President, this is not a matter that we can contemplate with any satisfaction or with pride as citizens of this great Republic. We ought not to have allowed ourselves to reach the condition which we have reached in reference to our American merchant marine; and whether this bill passes or not—and I presume it will pass; I shall not obstruct it—I hope it will be an object lesson to the American Congress that we ought to waive aside our prejudices, our partisanship, and our provincialism, and see to it that in the near future we pass laws that will place American ships under the American flag, under American officers, on every sea in the world. If subsidy is not the best plan, let us find some other that will rescue us from the condition in which we now find ourselves.

When I was strenuously striving to secure the passage of one of these bills through Congress, in talking with a man in public life, representing one of the Middle States, he turned to me and said, "What is there in that bill for my State? Why should I support it?" Mr. President, I have voted for many measures since I have been in public life which meant nothing to my State; and until we nationalize ourselves, until we look at these great questions not from a provincial point of view, but from a great national point of view, we will remain, so far as our merchant marine is concerned, in the same deplorable, pitiable, wretched condition in which we are to-day.

So I say, Mr. President, that whether or not this bill passes, whether or not, if it does pass, it produces any good effect so far as our interests are concerned, I hope that this discussion will at least awaken our people and awaken our public men to the necessity of taking a broad view of this question, and of seeing to it that the condition that exists to-day is remedied in the near future.

Mr. President, a friend of mine in Boston, who has studied this question perhaps as deeply as any man in this country, who has written books on the subject, honored me with a letter yesterday from which I wish to read a few lines. He first calls my attention to the fact that the Portland (Me.) Board of Trade at a special meeting took exception to the bill in its present form, and that at a meeting of the maritime committee of the Boston Chamber of Commerce resolutions were passed protesting against the bill, and favoring a subsidy for American vessels. He says:

The maritime affairs committee of the chamber of commerce, composed of men who understand the situation, reaffirmed unanimously this afternoon its opposition to the administration plan as one full of peril and almost certain to involve the United States in this war of Europe. The strongest newspaper opinion here is also against it. It ought to be possible to amend the bill in the Senate so that the discretion given to the President not to require American citizens as officers and to exempt foreign ships from American inspection could be stricken out. These clauses are, in effect, a subsidy to foreign-built as against American-built vessels—a gross discrimination against our own shipping.

An insurance authority here stated—

And this, Mr. President, is a very important matter to be considered—

An insurance authority here stated to-day that if his companies were called upon to insure any foreign vessel hastily transferred to the American flag, the rate asked would be exactly that asked of belligerents, which is practically prohibitive. This is a practical judgment—

nothing theoretical about it at all. It shows how utterly futile the administration plan would be.

This plan is urged by the very men who have fought American shipping legislation hardest. They now see that all that was predicted has come to pass, and that without ships of our own their cotton and wheat export trade is paralyzed.

The coastwise trade now is generally dull, and there are many steamers and even sail vessels that could be utilized in an emergency to carry our export and import trade. Our cruisers and transports can bring American refugees from Europe. These refugees would not be safe on any "whitewashed" foreign ship. It is a war to the death with these European powers. They will ignore every international obligation and will give no quarter to achieve their purpose. We are entering on the most terrible war in the history of the world, and it is time that the American people should know it. The men who have taken up this question in our chamber of commerce here are Democrats and Republicans, a unit in favor of subsidies along the line of your own legislation.

You will be perfectly justified in telling the Democrats and Middle Western Republicans that if they had not blocked your efforts there would be enough American ships for this emergency, and they would have the means to deliver their wheat and cotton without involving their country in war or violating all the principles of international justice.

Mr. President, I have but a word more to say. I do not like to read from newspapers in a serious discussion such as we are engaged in to-day, and yet the able men who edit our great metropolitan dailies are oftentimes better informed on public questions than those of us who are i: the hurly-burly of legislation. The Boston Herald, under the heading of "Where are our ships?" says:

[From the Boston Herald, August 1, 1914.]

WHERE ARE OUR SHIPS?

Ninety-two per cent of all our overseas commerce—98 per cent of our vast commerce with Europe—is carried in foreign ships under foreign flags. This is one black, sinister fact that stares the American people in the face out of the European war cloud. These foreign ships are all a part of the potential war force of their several nations. Their officers and men are the "first line" of their naval reserve. When Great Britain, in her late conflict with the Boers, needed a transport and supply fleet, Boston and New York were stripped of many of their best liners, and ocean rates advanced from 100 to 300 per cent.

But the Boer War was a mere wayside skirmish compared with a general European conflict That South African affair harassed our overseas trade; a European war would destroy it. Of the many hundreds of steamers now crossing the North Atlantic only six are American steamers, all belonging to the one concern to which a subsidy is given by our Government.

Nine-tenths of the shipping upon which the life of our foreign commerce depends fly the colors of Great Britain, Germany, France, Italy, Austria, Russia, or Japan—the very nations most liable to be drawn into the vortex of a great and widen'ng combat. War will bring every one of their ships hurrying home, requisitioned for the national service, while commerce destroyers are let loose on every sea.

Only with the West Indies and the Caribbean ports have we any important communication under our own flag. The six American steamships in trans-Atlantic trade are matched by six in the trans-Pacific-oriental trade and three to Australasia. Their neutrality will be respected; they will be safe. But let nobody delude himself that any foreign merchant vessel, hastily "whitewashed" and transferred to our flag, as our laws now allow, will be respected for a moment. Let those who imagine this read the significant case of the *Martaban* in our Civil War.

There is only one way in which the United States can save itself from the effacement of its overseas commerce in a widespread European war, and that is by having its own ships, its own shipyards, its own officers and crews beforehand. The people of Massachusetts know this; the people of New England know it. So do the people of New York, Pennsylvania, New Jersey, California, Oregon, and Washington. The United States has almost no merchant marine to-day, because every effort for 60 years for sound, proved legislation that would create a great commercial fleet has been blindly opposed and defeated.

This would be a good time to read in the Senate and House the names of the men, and the States they hail from, that are responsible for the fact that American overseas commerce can be instantly paralyzed by a quarrel among a few foreign Governments whose ships and flags monopolize our ocean carrying. The facts are in the RECORD, and they are worth the prompt and serious attention of the American people.

Another editorial, Mr. President, in a leading Boston newspaper, discusses this matter with great clearness and power. I ask unanimous consent that the editorial be printed in the RECORD without reading.

The VICE PRESIDENT. In the absence of objection, permission is granted.

The matter referred to is as follows:

A DEVIOUS, DANGEROUS PLAN.

At the demand of the cotton-growing South and the wheat-growing West, President Wilson is wrestling now with the terrific problem of contriving our escape from the inexorable consequences of national neglect of the American merchant marine in over-seas trade—a neglect for which the South and West are themselves primarily responsible.

Maritime New England has warned these agricultural sections year in and year out of the final cost of their blind opposition to every expedient that would give the Nation American ships and American sailors. They would not listen. Now, with great crops to export and no ships to convey them, they are shouting for help, but they are blundering in their frantic search for relief as they blundered in the long obstruction that has made their present plight inevitable.

They need not hope now for much assistance from foreign shipping. Great Britain probably joins the war; Belgium is already invaded and no longer neutral; Holland and Scandinavia may be attacked at any time. Nearly all the nations to which the South and West have forced us to surrender our ocean carrying are now aflame against each other and require every man and every ship for their own use. The bill which President Wilson has caused to be introduced into Congress opening the doors more widely to American registry of foreign vessels is sure to prove a delusion and a disappointment. Indeed, there is grave danger that it may prove even worse—that it may be the portent and cause of a terrible catastrophe.

Let it be remembered that our laws already permit the honest American registration of foreign ships less than five years old, and therefore new and efficient and properly inspected and certified as seaworthy carriers. But the extraordinary bill before Congress which President Wilson, with no practical knowledge of the sea, indorses would remove these valuable safeguards, and, in addition, suspend the prudent requirement that the principal officers of a naturalized ship shall be American citizens.

This proposition which the South and West have framed and the President favors puts an actual premium upon the use of foreign ships as against American ships, under the American flag, in the ocean trade of the United States. It is only these foreign ships that, on hoisting the American flag, are relieved from the requirement to carry well-paid American officers and to comply with our inspection laws. Is there another nation in Christendom except this, our own, where such a scheme could be introduced by a national administration without instantly and utterly destroying it?

It may be urged that there are not enough American officers—but the officers themselves through their accredited associations declare there are enough and more—that many are idle and seeking employment because of the general depression of trade; and they have earnestly protested against this bill to their Government in Washington. And why at any time, in any event, should Federal precautions for the safety of passengers, crew, and cargo be suspended against foreign ships under our flag and enforced against our own ships?

Nor is this all. The Panama Canal act, which the proposed bill amends, is fatally loose in its requirements for ownership. It prescribes, indeed, that a foreign ship in order to secure American registry for the overseas trade must be "wholly owned by citizens of the United States or corporations organized and chartered under the laws of the United States or of any State thereof, the president and managing directors of which shall be citizens of the United States." The words which relate to corporations would allow a foreign company to present its vessels for American registry without a particle of actual American ownership except a single share of stock held by a dummy president and dummy directors.

This would comply with American law, but would it comply with the law or usage of the nations? Read what the declaration of London (1909) says on that point:

"The transfer of an enemy vessel to a neutral flag effected after the outbreak of hostilities is void unless it is proved that such transfer was not made in order to evade the consequences to which an enemy vessel is exposed. Provided that there is an absolute presumption that the transfer is void.

"If the transfer has been made during a voyage or in a blockade port.

"If a right to repurchase the vessel is reserved to the vendor.

"If the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing have not been fulfilled."

There can be no reasonable doubt that a foreign vessel officered by foreigners, governed only by foreign inspection and registered in the name of a suddenly created corporation would be seized and confiscated, ship and cargo, whenever found, in spite of the fact that a brand new American flag—the only real American object aboard—was flying at the taffrail. Deception would inevitably bring disaster. The only American ships that are going to be respected in this terrific world-shaking conflict are the ships that were American before the war began.

There are such ships—there are many of them—mostly in the coastwise trade; many owned in Boston and officered by thoroughgoing Yankee sailors from Maine and Massachusetts Bay. Why should not these real American ships have a chance to carry western wheat and southern cotton? Why should "whitewashed" foreign tramps be encouraged to steal the flag and rob them of this neutral business? This is not the way to seize the present opportunity to create an American merchant marine. It is the way to destroy it.

Nothing is more inevitable than that, if Congress adopts this back-stairs method of securing foreign ships, condemned by international law and morality, it will involve the United States in this awful war before a month has ended. No belligerent navy will honor a stolen flag. There are German cruisers hovering on our coast and in the West Indies hunting French and British liners. Will the power that rushed through Luxemburg and Belgium halt because a familiar Royal Mail or a Messageries Maritimes steamer is masquerading under the Stars and Stripes? A quick broadside, a sunken ship, a wild cry for revenge, would be the answer. Our export and import trade is important; but it is still more important that the United States should be honest, with the world in arms.

Mr. GALLINGER. Mr. President, I do not know whether under international law if this bill passes we will become involved in the difficulties depicted in the editorial, but I do know that we are taking a mighty risk by putting foreign ships under the American flag under the conditions prescribed in this bill. I do not believe the effort will be a success, and, indeed, I shall be surprised if any considerable number of foreign vessels are put in the service of the United States under this bill.

In every step of our discussion of the merchant-marine question we have been met by the suggestion that if we would permit our people to buy ships from foreign nations the entire problem would be solved. Congress did not believe that. Those of us who composed the Merchant Marine Commission asked the shipowners of this country, asked the great bankers of New York, Philadelphia, Chicago, and Baltimore, if we enacted a free-ship law whether they would invest their money in foreign ships. They all answered they would not do so because of the added cost of navigating an American ship; but, Mr. President, to meet that contention, those of us who did not believe in that principle yielded when the amendment of the Panama Canal act was offered, and for two years our people have had an opportunity to go into the foreign markets of the world and buy foreign ships, provided they were not more than 5 years old—and I can not imagine why anyone should want to buy a

ship that was more than 5 years old—and put them in our foreign trade; but not one single foreign ship has been put under the American flag as the result of that legislation.

I say I do not believe that this legislation will be likely to accomplish any more than that legislation accomplished; but if it is desirable to try it, I certainly shall not stand in the way of the experiment being tried.

I would not have said a word to-day, Mr. President, had it not been for the fact that I thought it was an opportune time to say to the Senate of the United States that we ought to get together, Democrats and Republicans, those of us who believe in protection and those of us who do not, and make an honest and sincere effort to agree upon some measures looking to the rehabilitation of the American merchant marine.

To do that, Mr. President, will cost money; it will take money out of the Treasury of the United States; there is no question about that; but I have seen waste of money enough in this body, in this Congress, to justify me at least in voting for any appropriation, however large it might be, that will bring about the desired result.

Mr. President, I have said all that I care to say. I presume this bill is going to pass. I trust it will be amended in many particulars; and I am going to close by presenting a proposed amendment, which I will ask to have printed and lie upon the table, and which I may offer at a later time. It is based upon the suggestion, made by the Atlantic Carriers' Association, that we ought to require, before foreign vessels are placed under our flag, that a bond of $10 per registered ton be given by applicants that the vessel will remain under the American flag for at least five years, so that only bona fide vessels will be admitted; and, further, that the master and officers should swear out a declaration of intention to become American citizens.

I think, Mr. President, that that is a desirable amendment, and I submit it, calling the attention of the distinguished chairman of the committee to the matter in the hope that he may see some merit in the proposition. I will ask that the amendment be read.

The VICE PRESIDENT. The Secretary will read the amendment.

The SECRETARY. It is proposed to add to the bill a new section, as follows:

That when a foreign vessel shall be admitted to registry under the provisions of this act, a bond of $10 per registered ton shall be required as a guaranty that the vessel shall remain under the American flag for a period of at least five years: *And provided further*, That the masters and officers of such ships, if not already American citizens, shall swear out a declaration of intention to become American citizens.

Mr. SAULSBURY. Mr. President, I recognize the very great sincerity with which the Senator from New Hampshire [Mr. GALLINGER] has spoken with regard to our lack of ocean-going vessels, and I am very much interested in the subject with which he has so great a part in the debates of the Senate. At some other time which I think may be more favorable, and when possibly it might be more appropriate to make some political comments on our present condition as to over-seas navigation, I shall try to answer many of the statements and remarks and theories of the learned Senator; but it seems to me that the Senators who have addressed the Senate with so much solicitude regarding the dangers which will encompass us if we register some of these foreign vessels are unduly exercised. We are not undertaking to do an unfriendly act to any foreign power by obtaining shipping. I hardly see how we could do an unfriendly act to any of the powers of Europe now at war. We are trying to provide for an emergency with which we are faced because of the action of these foreign nations in preventing our commerce from going overseas. Now, certainly if we purchase from the nationals of a belligerent vessels belonging to those nationals, the belligerent can not find fault with us, because its own citizens have sold to ours. It can not be, either, on the other hand, that the other belligerents can find fault with us for doing in a peaceful way what those belligerents are trying to do with their enemy—to wit, take over or obtain its foreign commerce.

Therefore I am not persuaded by the arguments I have heard that we are in any danger if we in good faith take over the vessels of even a belligerent during a foreign war. What I am anxious about, Mr. President, is that there shall be no pretense about this and that our own citizens shall in good faith buy and own and run these vessels which we may so acquire. It seems to me that that is the most important thing we can look after.

I can imagine that complications might arise if we should allow the vessels of a belligerent nation to assume our flag when our own citizens have only a trifling percentage of ownership, or practically no ownership. As was suggested by the Senator from Utah [Mr. SMOOT], suppose that in the case of the *Kronprinzessin Cecilie*, in Bar Harbor to-day unless she has moved, some Germans, acting through Americans, should obtain a Maine charter, which is a very easy thing to obtain overnight; suppose that vessel should be sold and delivered to the Maine corporation, with some gentleman in Maine acting as clerk of the corporation, as I believe they call him, owning one share of the stock, and his presence on the board furnishing the necessary resident agent in Maine, and he with half a dozen Germans resident in this country being the directors of that corporation; and suppose that ship should go out upon the seas flying the American flag—of course no foreign nation would respect that flag. We could not expect them to do it; and yet, if she did, with the facts as I have stated them concealed, a cry would go up in this country almost immediately to protect the flag.

We do not want such conditions as those to arise. I myself have offered some amendments to this bill. I believe one of them has been accepted by the committee which had them under consideration—that allowing our naval officers and men to take service on the foreign ships; but there are two other amendments which I think it would be much safer to have put on this bill.

The first provides, in effect—I am giving the substance of the amendment—that the Secretary of the Treasury shall be first satisfied as to the bona fide ownership of 90 per cent of the capital invested in the vessel by our own citizens, and not until he is so satisfied and consents thereto shall American registry be granted to a vessel. It seems to me that we ought to throw around the transfer of these vessels in this time of war much greater care and observe with great exactitude all the conditions that foreign belligerents can expect of us. That provision would give to a high officer of this Government the right to require the production of absolute proof as to ownership before the vessel became entitled to American registry.

The objection is made that that might involve us, by the fact that a high member of the Government had approved of it; but, while there may be something in the suggestion, I think, upon consideration, that if we place in this act a provision which requires that great and unusual care shall be taken regarding the transfer of these vessels, the foreign belligerents will give all the greater respect to our ships when they sail to sea under such circumstances.

In the discussion which occurred between the chairman of the committee having the bill in charge and the Senator from Iowa something was said to the effect that some special directions would be issued to the collectors in regard to registering these foreign-built vessels purchased by our citizens. What greater care, as the law exists, can be exercised than is now exercised? The mere production to the collector of a port of a bill of sale, properly executed, showing the transfer of a ship or a share in a ship entitles that transferee to have his bill of sale registered and obtain certified copies of it, and out he goes. The collector's act is purely ministerial. Apply that to the case of the *Kronprinzessin Cecelie*, with a transfer regularly made upon its face, but with concealed ownership. There is where our trouble might arise.

I do not believe for a minute that this Government would or should take notice of evasions of our neutrality laws and defend the flag under those circumstances; but how many millions of people in this country would declare that they did not believe that this ownership was a fact, and would declare that the Government at Washington was not defending our citizens and our flag? American citizens might be found who would go upon the boat nominally in command of her, possibly saying that they were in command of her, and so we might be drawn into complications. I do not believe we would ever be drawn into war through such a circumstance as that, but we might be drawn into complications if we do not take care to see that the transfer of such ships is bona fide in the first instance.

The second proposal I make is that there shall be no further transfer of such ships unless it is consented to and approved by the Secretary of the Treasury, and unless the ships so purchased and so transferred shall always be subject to be taken by the Government of the United States for its use, in accordance with a precedent made in the case when the two vessels, I think the *City of New York* and the *City of Paris*, now the *Philadelphia*, were purchased in 1890 or 1892, and other ships were built for what is now the American Line.

Those two amendments, Mr President, I submit, ought to be in some way incorporated in this bill. It seems to me it would be safe to have them there; and I shall, when it is the regular order, ask for a vote upon those amendments.

Mr. SMOOT. Mr. President, I have no intention whatever of detaining the Senate for more than a very few moments, although the subject now before the Senate is one that I have been deeply interested in for years.

I believe in an American merchant marine. I have voted, every chance I have had, for an American merchant marine. I had hoped the time would come when a majority of the Members of Congress could see the necessity of it. The unfortunate conditions existing in the world to-day have brought it forcibly to our attention; and I recognize that this is an emergency measure and believe it will be repealed before many years. I hope that out of this will grow legislation that will put our merchant marine back upon the seas of the world, and that our flag will be found in the ports of every country of the earth.

I am in accord with the amendment offered by the Senator from Delaware [Mr. SAULSBURY]. I believe the Senate ought to accept the amendment he has just referred to, even if it does so in a modified form. The only danger that I see in this legislation is that without an amendment of that character we are liable to get into trouble with foreign nations. We are liable to be embroiled with some belligerent power through its seizure of some foreign-owned boat carrying the American flag and manned by foreigners, as authorized by this bill. I do not believe the amendment will prevent a corporation with an honest desire to place its ships under the American flag and receive an American registry from doing so and accomplishing just what we want to by the enactment of this legislation.

If the Senate thinks that 90 per cent of the capital invested in any such foreign steamship shall be owned by American citizens is too much, let us reduce it to 51 per cent, so that at least the control of the corporation will be in the hands of American citizens. As I stated before, in a question asked of the Senator from Ohio, under the provisions of this bill there is no question but that the owners of the German boat now at Bar Harbor, Me., owned by German capital, run into that port by a foreign belligerent power, could within three days transfer the boat to an American corporation, and, under the laws of Maine, have the necessary American citizens as directors, with only sufficient stock to comply with the laws of that State as to the qualifications of directors, and all the balance of the stock could be owned by the present owners of the boat; and she could sail out of the port of Bar Harbor flying the American flag, and, meeting the ships that ran her into the port, could not be seized if the American flag and the American registry of the ship is recognized and respected.

There is no need of putting the American Nation in that position. If it would help the situation we might run the risk, but there is no necessity of it, because of the fact that it will bring no more ships, in my opinion, under the American flag, unless it is cases just such as I have cited. If it is undertaken, in my opinion, we will have trouble; and I hope and trust the Senate of the United States will adopt the amendment suggested by the Senator from Delaware. As I say, however, if the Senate in its judgment thinks that 90 per cent is too much, I shall offer an amendment requiring 51 per cent, or a majority of the stock, to be owned by American citizens.

Mr. CUMMINS. Mr. President, I will state publicly what I have just suggested to the Senator from Utah. As I understand, the present law requires that the vessel shall be wholly owned by American citizens or by an American corporation.

Mr. SMOOT. In order to receive the registry.

Mr. CUMMINS. In order to receive American registry. If I am wrong about that, I should like to be corrected.

Mr. SMOOT. Mr. President, the Senator is wrong about it.

Mr. GALLINGER. It can be a corporation, which is a very different thing from an individual.

Mr. SMOOT. It applies to a corporation. For instance, I might call the Senator's attention to the company owning the *St. Louis* and the *St. Paul*, with an American registry, flying the American flag, and the majority of the stock of the company is owned in a foreign country. That happens in a number of cases with which I am familiar.

Mr. CUMMINS. I did not know that that was the law.

Mr. SHIVELY. The company which was organized under the laws of the State of New Jersey by virtue of that organization becomes an American citizen for all the purposes of owning and operating ships under the American flag. I have in mind now the old Navigation Co. Some years ago that company took out a new certificate, and entitled the organization the International Mercantile Marine Co. The International Mercantile Marine Co. was a couple of years ago—and I presume is now—operating 126 vessels, not over 6 or 8 of that entire number flying the American flag; and yet that company, ever since it took out its new certificate, has been in contract relations with the United States Government under the act of March 3, 1891.

In the year 1910 I had occasion to look up this matter. I presume substantially the same conditions exist to-day. The president of that company, organized under the laws of the State of New Jersey, was J. Bruce Ismay, whose name was mentioned in connection with the *Titanic* disaster. Among the directors were Mr. Ismay, H. A. Sanderson, a British subject, and the Right Hon. Lord Pirrie, a British subject. These were among the directors. You see, the president himself was a British subject, and these were among the directors. On the United States side were such men as John F. Archbold, George W. Perkins, and John P. Morgan, jr.

Now, these payments, over $10,000,000 of which were made by the United States Government under the so-called mail contracts, have gone into the treasury of that company and have been distributed among the underlying companies. So you will see that under the present system, while you have on the face of it an American citizenship, you have underneath substantially foreign ownership.

Mr. CUMMINS. I can understand the statement of the Senator from Indiana, because that simply betrays the evasions which a holding company can always effect; but I did not know that a corporation organized under the laws of one of the States, and therefore a citizen of that State, could own and register a vessel for the foreign trade if all of its stock was owned by the subjects of foreign nations. If that is true, then we have no law that confines American registry to American citizens. Is the Senator from Utah quite sure with regard to that?

Mr. SMOOT. I am quite sure; but I want to say to the Senator from Iowa, in addition, that the organization of such a corporation as he has described could not take place in my State, nor do I believe it could take place in Indiana. I have not looked up the different incorporation laws of the different States, but I am positive that it could not take place in my State, because no corporation can be organized under the laws of Utah unless a majority of the persons organizing it are citizens of the State. I believe the laws are the same as to Indiana. But evidently the laws of New Jersey are not of the same character.

Mr. SHIVELY. The Senator is right about that. Such an organization could not have been made in the State of Indiana. At that time there were what they called very liberal laws in the State of New Jersey. That was a good place to go to organize corporations.

Mr. MARTINE of New Jersey. Mr. President, we have done a million iniquitous things in New Jersey through our corporation laws, legislative laws, shipping laws, railroad laws, and the like. We have made some steps of improvement, and I trust, if God shall spare us as a Commonwealth, that we will ultimately clear our escutcheon as to the matter now before the Senate.

Mr. SHIVELY. You are making progress in New Jersey.

Mr. CUMMINS. I want to say to the Senator from New Jersey that, in my opinion, the laws of New Jersey in that respect are not different from the laws of the greater number of the States.

Mr. MARTINE of New Jersey. Then, God help humanity!

Mr. SMOOT. Mr. President, I do not want at this time, as I say, to go into the discussion of the merchant-marine question; but I do believe, as I stated before, that now is the time and now is the chance for Congress to say that no foreign vessel the owners of which may come to this country to form an organization for the purpose of having the boat receive an American registry and fly the American flag should be permitted to do so unless at least a majority of the stock of the company is owned by American citizens. I shall cheerfully vote for the amendment offered by the Senator from Delaware [Mr. SAULSBURY]; and, as stated before, if that amendment is defeated with the 90 per cent requirement, I shall offer one similar in character requiring only 51 per cent.

Mr. CUMMINS. Mr. President, I should like to ask the Senator from Utah a question, because I want to be clear about it, and I am not informed as to it. The law of the United States with regard to the subject, I take it, is found in section 4132 of the Revised Statutes, which, as amended in 1912, reads in this way:

> Vessels built within the United States and belonging wholly to citizens thereof; and vessels which may be captured in war by citizens of the United States and lawfully condemned as prize, or which may be adjudged to be forfeited for a breach of the laws of the United States; and seagoing vessels, whether steam or sail, which have been certified by the Steamboat-Inspection Service as safe to carry dry and perishable cargo, not more than five years old at the time they apply for registry, wherever built, which are to engage only in trade with foreign countries or with the Philippine Islands and the islands of Guam and Tutuila, being wholly owned by citizens of the United States or corporations organized and chartered under the laws of the United States or of any State thereof, the president and managing directors of which shall be citizens of the United States, or corporations organized and chartered under the laws of the United States or of any State thereof, and no others, may be registered as directed in this title.

I am inclined to think the Senator from Utah is right that if a corporation organized in a State owns a ship it is entitled to American registry, even though the corporation is entirely owned by foreigners.

Mr. SMOOT. With the exception of enough stock in order that the directors shall be qualified under the laws of the State. The laws of the State would regulate that.

Mr. CUMMINS. But there might not be any requirement even of that kind.

Mr. SMOOT. Then, even the directors could be foreigners.

Mr. O'GORMAN. May I ask the Senator if that condition, such as is disclosed in the Panama Canal act of 1912, is not infinitely better than having all our foreign transportation absolutely controlled by foreign concerns which have no connection with this Government or any of its States, which are created and organized in foreign countries, and which are acting pursuant to the laws of those countries?

Mr. SMOOT. Of course, there is no need of the Senator asking me that question, because I have been fighting as long as I have been in the Senate of the United States for building up the merchant marine; and if I had my way, instead of the United States transporting 2 per cent of her commerce in American bottoms, she would transport 98 per cent, and the foreigner would have the 2 per cent.

Mr. SHIVELY. How would the Senator do it?

Mr. SMOOT. I would do it by granting subsidies, if necessary.

Mr. SHIVELY. That is the idea.

Mr. CUMMINS. But, Mr. President, the Senator from Utah would build up a merchant marine under the flag of the United States which would be altogether owned in Europe.

Mr. SMOOT. Oh, no.

Mr. CUMMINS. That would be the situation under the present law, or that might be the situation under the present law.

Mr. SMOOT. If the Senator has followed me, I am asking now for the support of an amendment to this bill requiring that 90 per cent of the stock of the corporation shall be held by American citizens before the ship is entitled to American registry and to fly the American flag.

Mr. O'GORMAN. Does the Senator think if that amendment were adopted and that condition imposed a single ship now owned by an American and flying a foreign flag would be transferred to the American flag?

Mr. SMOOT. Then, if that is the case, as implied by the Senator's question, the intention is to allow the foreign ships to come here and take out American registry and fly the American flag with no restriction whatever, and as soon as the difficulties now confronting the shipping interests of the world are removed, then they go right back to the foreign countries and fly the foreign flag.

Mr. GALLINGER. Mr. President——

Mr. SMOOT. That would be the result, and what I want to do is this: If we are going to build up or assist our merchant marine now and have the American flag upon the sea, that we shall do it in a way that it will continue and that it will be an American industry owned by American people. I believe, Mr. President, that that will be the result if we put in this amendment providing for at least 51 per cent of stock, so that it shall be controlled by American capital.

Mr. GALLINGER. Will the Senator yield to me a moment?

Mr. SMOOT. I yield.

Mr. GALLINGER. The Senator has the reputation of being a very accurate mathematician, and when anything goes to the country from the Senator the country is very apt to believe it. Probably the Senator simply used it as an illustration, but he said that instead of having 2 per cent of our exports and imports carried in American ships he would have 98 per cent. I want to say that while in the early days we did carry 92 per cent, we are carrying now 9 or 10 per cent in American bottoms.

Mr. SMOOT. That is true and I am very glad the Senator called my attention to the fact because I know in the last report I saw it was stated to be nearly 9 per cent.

Mr. GALLINGER. About 9 per cent.

Mr. SMOOT. I only offered it, however, as an illustration.

Mr. President, that is about all I care to say at this time until the Senator offers the amendment.

Mr. MARTINE of New Jersey. Mr. President, I do not feel that I can add any enlightenment to this discussion, but I want to say that I have listened to these propositions and to their terms as far as they go, but they do not go far enough. All this anticipates private ownership. I am opposed to any process such as is proposed by the Senator from Utah of subsidy, and my friend the Senator from New Hampshire [Mr. GALLINGER] a moment or two ago declared that it was a matter of partisanship. I say that is utterly unfair and untrue.

Mr. GALLINGER. Ah, but, Mr. President, my friend from New Jersey, who, I know, thinks as well of me as I think of him——

Mr. MARTINE of New Jersey. Oh, I think a world of you. [Laughter.]

Mr. GALLINGER. What I said was that we ought to waive all partisanship, and if we can not agree——

Mr. MARTINE of New Jersey. But, Mr. President——

Mr. GALLINGER. The Senator will allow me to put myself right. I said, if we can not agree upon subsidies as a remedy let us try to agree upon some other method. That is exactly what I said.

Mr. MARTINE of New Jersey. God knows I will never take a step toward trying to agree on a subsidy, for there is no reason in the kingdom of God why you should pay my bill or aid me in my enterprise any more than I should aid you. I am opposed to a subsidy on principle, and I can not understand how any American citizen who stands for equal rights to all and special privilege to none can stand up and advocate a subsidy.

Mr. GALLINGER. That may be true; but if the Senator occupies that position he ought to have the CONGRESSIONAL RECORD corrected so as to vote "no" in place of "aye" on a thousand subsidies during this session.

Mr. MARTINE of New Jersey. I realize that you can carry along such a line of reasoning, and that you might say everything we voted was a process of subsidy. That may be true, but the process of subsidy per se, as I understand it from the Senator, means granting a money stipend to men who will go together and build ships for the purpose of carrying on a commercial business. I am opposed to that. I do not believe I am a partisan in it; I am sheerly and strictly American in it. I want some process that shall establish a Government ownership. Many of my friends tell me it is heresy. I have been preaching it for 40 years. They did not listen to me; many thought I was a lunatic and my head full of wheels, but I find it preached to-day and believed in by hundreds and thousands of men in this country, and I am more and more in favor of it every day I live.

Mr. WEST. I ask the Senator from New Jersey if he believes in the ownership by the Government of all public-utility corporations.

Mr. MARTINE of New Jersey. I do. I believe in the Government ownership of railroads; I believe in the Government ownership of telephone lines; I believe in the Government ownership of telegraph lines. It will be a blessing to this land when that shall be brought about. Do not delude yourself with the idea from Georgia that it is a heresy. You will wake up some morning and find it to be a very thoroughly established truth. If there is a profit in ocean carrying why in the name of heaven should not the people have it?

This is an extraordinary exigency of the time. Here we wake up and find a war the world over, the most alarming and bitter perhaps the world ever engaged in. God has blessed us with crops bounteous beyond a parallel, granaries fairly bursting, great storehouses congested, and we can not carry off our products. We have wheat enough to supply our own hungry mouths and the hungry mouths of millions on the other side of the water. We have shoes manufactured, we have cotton products, and we have almost everything that humanity needs. Yet we find because of the strife of the nations there is no way to transport across the water these great commodities and blessings that God has given us in this fair land of ours, and immediately come a dozen other fellows, who have been shy and shaky and cowardly and hesitating in enterprise, who are now willing to come in and say, "We will ship grain and ship everything else we have if you will grant us special privileges." I want a process whereby the Government shall buy, if you choose, the *Kronprinzessin Cecilie* in Bar Harbor and buy some more of them. In the meantime let us not stop our own shipbuilding, but proceed with shipbuilding under favoring laws and proper conditions, but not by a subsidy process.

I know very well and the Senate knows that the nations that have their craft tied up at the docks or anchored in shoal waters are very anxious to part with them at a reasonable price. Let us own them, not 51 per cent or 85 per cent or any per cent but 100 per cent of the craft. Let us own them and with intelligent mariners and engineers we will sail the craft.

My distinguished friend the Senator from New York [Mr. O'GORMAN], with whom I have a thousand sympathies in common, tells us that the lighthouses have been extinguished. That is all true, and some of the buoys, it may be, have been removed. That is all true, but we all know that all the waters are charted and mapped, and we know it is not

necessary for an engineer or a good mariner to see a bobbing buoy to know just where the shoal water is located. He looks over the whole thing and knows there is a buoy here, and it says 10 feet or 20 feet or 100 feet. So with this intelligent aid, with our intelligence, with our thrift, and our energy we are in possession of these facts better than are millions of those who live right on the borders of France, if you please, or on the English Channel. So to me that is flimsy, and I can not accept it as a sound argument.

I say let the Government appropriate sufficient money. I sketched a resolution yesterday, or the day before. I thought I would offer it. On showing it to one of my fellow citizens he was rather paralyzed, and said, "Great heavens! Jim; I think that is revolutionary." I should like to put in the possession of the Secretary of War and the Secretary of Commerce the power to buy such craft as may be available to-day, or may be made available, and run it with American seamen. Then a new era would come. In the meantime, let our shipmasters and shipyards ply their trade, and we would establish a footing in the matter of a commercial marine that would appall many of the hesitating and doubtful men on the other side of the water. A new dawn and a brighter day would come for America under such a system of ownership. God speed it!

I will vote for the amendment of the Senator from Delaware. I think it would be very good. I will do all I can now, in this exigency to lift the embargo that to-day remains upon our cotton, our corn, our wheat, and a million other products, and in our manufactures. Shoes by the million are demanded to-day. Our factories in Massachusetts and New Jersey will supply the needs. But we must have a method of transportation. Give us some such system. Let us start out in that direction and a happier day and a more glorious era in our country will have come.

Mr. WEEKS. Mr. President, we have just listened to a very interesting speech. I am interested in the suggestion which the Senator from New Jersey [Mr. MARTINE] has just made to the effect that the Government should buy ships and operate them in a contingency of this sort.

We had an experience of that kind in 1898, owing to the policy or lack of policy which we had followed in not building up the auxiliary fleet for our men-of-war. We found it necessary at the beginning of the Spanish War to buy such merchantmen as were available for auxiliary purposes. The Government bought at that time 113 ships of different kinds, some to be transferred into cruisers and others to be used for auxiliary purposes. We paid for those 113 ships about $17,000,000. At the end of the war a board decided that 14 of them should be sold. Some of them were transferred to the Army service and some retained in the Navy. Four subsequently foundered and were lost at sea. On the 14 sold—and they were sold at the best prices obtainable, I assume—there was a loss of 74 per cent; that is, they sold for about 25 per cent of what they cost.

I happen to know that the purchases were made by a very competent board of naval officers, who went all over the country and did the best they could to get ships that would be useful at reasonable prices. Yet when they were no longer needed by the Government and had to be sold that was the net result.

Now, I wonder if the Senator from New Jersey would like to have the Government at this time launch into such an operation as that, if they can be obtained, operating them, and perhaps at a later day selling them for 25 per cent of what they cost.

Mr. MARTINE of New Jersey. I will answer that that is not my purpose, nor if I had had the power would that have been the result. You bought these vessels in the Spanish War for a temporary purpose, with no policy. Mine reaches beyond the temporary. I want to establish a permanent system under Government ownership. Had I had the power, the money the Senator from Massachusetts refers to would not have been frittered away in that manner. If owned by the Government, they would have been manned by the Government. You bought a lot of old junk and hulks that had not been upon the markets of the world, as we have them to-day. We have markets now in which to purchase in Norway and in Sweden; we have the markets of England and the markets of Russia.

Mr. GALLINGER. We had those at that time.

Mr. MARTINE of New Jersey. I know we had, but we have a far better market to-day, for they are all at each other's throats and they do not know what under the heavens to do; but with that advantage before them they would rather take American gold for the best craft that ever sailed under the English or French or German flags.

Mr. WEEKS. The Senator from New Jersey should not say "you." He should say "we." We were all American citizens, doing the best we could.

Mr. MARTINE of New Jersey. The Senator understands me. I only said "you" because you were taking the side of that investment. But the Lord knows it was far from being a good one.

I know I am a Democrat. I know that many on the other side are Republicans, and some of them are so weak that they are nearly as good a Democrat as I am, and I am proud of them. I regret if there is any partisanship in this matter. God knows that is furthest from my thought.

In answer to the Senator who asked me something as to how it would affect my State, in the votes that I have cast here for now two years and a half I have never had a thought as to how my vote was going to affect my State. I have felt that I am here as a Senator of one of the proudest States in this great galaxy of the Union. I am a Senator of the United States. I am going to do what my own conscience and my honest judgment declare to be best for my fellow man and best for the glory and welfare of my people.

Mr. JONES. Mr. President, while I doubt very much that any good will come from the passage of this bill, and I fear that much ill may come from it, and serious complications with other countries, I shall not oppose its passage. I hope that it may be amended in some particulars.

Listening to this debate I felt that I could not refrain from calling the attention of the Senate to a suggestion that I made here a year ago. I am going to take but a few moments of the Senate's time, but I want to submit a few observations on the general situation.

About midnight on the 8th of September, 1913, when we had the tariff bill under consideration, I submitted some remarks on an amendment I had offered to that bill in the line of ancient Democratic doctrine for the encouragement and building up of the merchant marine of the country. After I had called attention to the conditions of our merchant marine, showing the lack of it and the business that we had dependent upon it, I made an observation as to what I thought might happen in the near future. I want to read that statement now.

Not only is this condition of things humiliating—

That is, the condition that we had a tremendous foreign trade of which only about 8 per cent was carried in our own ships—

Not only is this condition of things humiliating and unprofitable, but it is actually dangerous. British ships transport the great part of our foreign commerce. Suppose England should engage in a war with a great power. Thousands of her ships would be taken for transports and other thousands might be destroyed. Our foreign commerce would be destroyed, and the products we now send abroad would be left on our hands, glutting our markets and bringing upon us industrial ruin and widespread commercial disaster. Farmers and manufacturers would suffer alike, and the laborer and his family would face the wolf of hunger in his home.

I had no idea at that time that this condition of things would come about as it has. I had no idea at that time that within a year the Congress would be confronted with that very condition of things. Yet that is the situation now. Not since the world came into being has there been such a spectacle as we present to the people of the world to-day. We have the greatest concentration of power and wealth and intelligence on the face of the earth, and yet we are practically helpless. We have a foreign trade amounting to more than $4,000,000,000 annually and are threatened with no means of reaching market. We are in a panic not because we are at war, not because we are threatened with war, but because practically all the civilized nations on the face of the earth are at war with each other, and the ships that have heretofore been carrying our commerce are not now available.

There is nothing to transport the products of our farms and our factories to the people that need and desire these products, and we are now by this bill inviting to the American flag in order to meet this situation the old, worn-out, unsafe, unstable, unworthy, inefficient vessels of every nation of the earth to come under our flag without inspection, without survey, without examination, and with foreign officers as well as men, to transport our products under our flag in vessels that are unsafe and unseaworthy. Of course, we may get some good ships, but under this legislation we are inviting every foreign-built vessel of every kind and character to come in under our flag, and the poorest and less seaworthy will be the ones most likely to be purchased.

Mr. SHIVELY. I know; but does it not occur to the Senator that if there is to be a vessel purchased there must be somebody to purchase it, and does the Senator feel that when it comes to this subject our business men are going to dismiss their common sense and buy the old rotten hulks he speaks of?

Mr. JONES. Why, Mr. President, a man will take almost any risk to make a little profit; and the conditions are likely to become such, with the terrific struggle that is going on, and with the conditions that are likely to result from it, that men will run almost any risk in order to get the exorbitant prices that it may be possible for them to get for the transportation of products. That may not come about, but I say that that condition of things is possible; and I believe it is almost probable.

Mr. SHIVELY. Mr. President, under our present registration laws a vessel built in the United States has got to be subjected to inspection; it has got to be subjected to a survey before it can get registration. Certainly these are ghosts and spooks and hobgoblins that the Senator from Washington is now conjuring up with which to alarm us.

Mr. JONES. We authorize the President to waive surveys.

Mr. SHIVELY. Only under the extreme case and circumstances described in the bill.

Mr. JONES. We authorize the President expressly in this bill to waive surveys and inspections before the admission of these ships to our flag. That is one of the conditions; that is one of the things necessary to induce these ships to come under our flag and to take our register. I am not denouncing it; I am simply bringing this out as a condition which confronts us; I do not say that it is unwise to do it now; but I simply want to emphasize the condition which is before the American people, that in order to get our products carried across the sea we deem it advisable and necessary to present legislation of this character in this emergency.

Mr. SHIVELY. Of course that is why we are here. What would the Senator have us do?

Mr. JONES. I would have us get to work and try to frame some legislation in a statesmanlike way that will build up a merchant marine in this country. I would say let us lay aside the legislation that we are now working on awhile and spend a few days—a week might be all that is necessary—as nonpartisans get to work and frame some legislation that will be permanent and build up the merchant marine. This will not amount to anything.

Mr. SHIVELY. Then, let us have a vote on the proposition.

Mr. JONES. Why, Mr. President, a vote will not amount to anything on the passage of this bill, which is only temporary and which is admitted is temporary.

Mr. SHIVELY. Mr. President——

Mr. JONES. I do not yield just now, Mr. President.

Mr. SHIVELY. Up to this minute the Senator from Washington has not made a suggestion as to what he would do.

Mr. JONES. I will make a suggestion, if the Senator will merely give me an opportunity. I do not suppose he will follow it, but I have just made a suggestion, and that is that this Congress, with its patriotism and its intelligence and its statesmanship, get together earnestly and try to frame some legislation not only to meet the present emergency but to meet the condition that will exist when this emergency passes. Let this Congress get together and try to frame some legislation that will take care of the situation and prevent its recurrence hereafter.

Mr. SHIVELY. Mr. President, the Senator has made it clear that we should get together and consume more time.

Mr. JONES. Oh, Mr. President, there has not been any suggestion here to-day, though we have been talking since 11 o'clock, that we ought to stop. I should have been through by this time if I had not been interrupted by some of my friends on the other side, and I can really see no special justification for the interruption, because I have not been condemning them for not doing anything; I have been calling to the attention of the country at least, I hope, a condition of things that warrants and justifies, possibly, this temporary legislation. It seems to me that out of this condition we ought to realize our duty as representatives of the people and endeavor to try to frame legislation of a permanent character that will take care of and prevent such situations in the future.

Mr. CLARK of Wyoming. Mr. President——

Mr. JONES. I yield to the Senator from Wyoming.

Mr. CLARK of Wyoming. In view of the suggestion of the Senator from Indiana [Mr. SHIVELY] that this legislation is so imperatively necessary that it should be passed at once, without further debate, I desire to call attention to a statement by the Secretary of Commerce of to-day after a conference with Secretary of State Bryan.

"The last thing we need worry about," said Mr. Redfield with emphasis, "is getting our crops abroad. Europe must have our wheat or starve. Will she starve or will she provide means of transportation? It's up to the other fellow to provide ships. Grain may be tied up for a few weeks, but not permanently."

Mr. SHIVELY. Mr. President, just at that point, since the Senator from Wyoming has seen fit to read that extract, I wish to say that he is utterly mistaken if he assumes that I indicated to him that I regard this as such an awful crisis; but after the lurid pictures which have been painted by the Senator from Washington [Mr. JONES], the alarming situation that is presented to the Senate, it occurred to me that in view of such a menacing prospect and from his standpoint the quicker we get this legislation passed the better.

Mr. JONES. If we should vote on legislation that will meet the situation, of course, I admit that; but I doubt if this legislation will meet the situation. It will not bring relief. It will not furnish ships. Under it no new ships will be built, and the uncertainties are so great I fear no one will buy good foreign ships for our trade. This legislation was presented by the Senator from New York [Mr. O'GORMAN] with the plea that it is absolutely imperative; that it is demanded by the cotton growers and the wheat growers of the country in order that their products may be marketed; and it has been urged most earnestly that we should have some relief of this character. I hardly concur with the statement of the Secretary of Commerce, which has just been read. I do think that we are in a critical situation; I do think our people are going to have trouble to get their products across the sea; I do not think there is any question about that. This is inevitable unless some of the warring nations drive the opposing nations from the sea. As I have said, I am not going to vote against this bill; but I should like to see us at this time do something of a permanent character to take care of the situation, not only for the present but for the future. We should not be content with a mere makeshift.

This is the time to do it, when the people realize what it means to be without the means of transportation, to be without ships. I know that heretofore in the discussion of legislation which was intended or hoped to upbuild the merchant marine there have been certain sections of the country where they said they were not interested in the matter of building up a merchant marine. I know that in some of the interior sections of the country they have opposed it because, they said, it was for the benefit of the Shipping Trust, or for the benefit of the cities along the seashore, or for the benefit of the water lines of transportation, and of no interest to them. The present exigency shows that the man who is farthest away from water is most interested in the ships of the country; that the farmer who has the greatest difficulty in getting his product to market is more interested than is anybody else in having the means for the transportation of those products across the sea and to the markets of the world. So it seems to me that this is the time to take up this question. This is the time, when the farmer in the interior, when the business man away from the water has it brought home to him that it is important that we should have shipping lines, and that whatever methods we take to upbuild the merchant marine of the country are methods taken for the benefit of the farmer, for the benefit of the business man in the interior, for the benefit of the interior sections of this country, and not for the special benefit of the harbors along the coast or the shipping lines. In whose behalf is this legislation urged? Not for the shipping concerns, not for the harbor cities of the country, not for the seaboard. It is urged for the interior sections, for the farmers of the Mississippi Valley and those great producing sections that supply the world with their productions. This question has been brought home to them as never before, and they are in a frame of mind to appreciate any honest effort to solve this great problem.

Mr. President, I have proposed an amendment to this bill that suggests a remedy which I believe we ought to adopt. I do not know whether or not my friend from Indiana has read the amendment. In brief, it is good, old Democratic doctrine, doctrine that my Democratic friends can not go back on or can not deny. I believe that it is the only method by which we ever shall build up the merchant marine. I have voted for other propositions, because I have been willing to vote for almost anything that has held any hope of building up the merchant marine of this country; because I thought that I realized the importance of a merchant marine for a great manufacturing and producing country like this; but the proposition that I would prefer, and that I believe in more than anything else, is the proposition that was declared for definitely in the Republican platform of 1896, and, in my judgment, was in the minds of the Democratic platform makers of 1912. That was the policy inaugurated when the Government was founded and which proved, by its results, that it was a most effective agency along those lines.

Mr. WEST. Mr. President, if the bill pending here to-day does not accomplish the ends sought, who is to provide ways and means to lead the children out of the wilderness?

Mr. JONES. Well, I was hopeful that we whom the people have sent here might take steps to lead us out of this trouble; but if you do not do anything else now except to pass this bill, I am pretty confident as to the leadership under which something will be done in the very near future.

Mr. President, the amendment which I have offered, and to which I have called the Senator's attention, in brief, provides that within 30 days after the signing of articles of peace at the conclusion of the war now going on in Europe all goods imported in foreign ships shall bear a duty of 10 per cent more than under the law of 1913, and that goods admitted free shall come in at a duty of 5 per cent ad valorem if they are imported in foreign ships, with a provision for the abrogation of the treaties in the manner provided by law and directing the President to carry on negotiations to that end as soon as possible.

I am not going into a general discussion of the matter, because I do not anticipate that that amendment will be put on to this bill. It will be said that it opens up a great question, and I will admit that it does, but I do believe that this Congress ought to take up that question. I believe that a proper solution of this question will yield greater benefit to the people of this country than can be accomplished in any other way or by any other legislation, and I will be perfectly willing to stay here all summer, and all fall if necessary, to pass such legislation; I believe that if Congress were to get down to it in earnest we could pass, inside of two or three weeks, legislation of this kind that would take care of the situation and the emergency now upon us. When that emergency passes away, if we do not provide for something of that kind, the very moment that peace comes we will have to fight the same influences, the same policies, and the same principles that have heretofore not only driven our flag from the sea but kept it from the sea. I should like to see us in an entirely nonpartisan way—because I do not consider this a partisan question at all—try to solve this problem by enacting legislation along this line, for I know it would be of great benefit to the people of the country.

If this war continues any length of time, the losses to the people of this country will be enormous when their profits should be great. Those losses will far and away exceed anything it would have cost to insure a merchant marine, even if the wildest subsidy measures had been carried out. You may call it subsidy, if you will, but any measure that will furnish ample shipping for war and peace is a measure of general benefit and wise, beneficent, and patriotic purpose.

This is a time to show our statesmanship. Instead of harassing domestic trade with crude and unwise laws let us legislate for the encouragement, promotion, and development of our foreign commerce and deserve and command the gratitude of a grateful people.

Mr. President, there is one other amendment which I have offered to this bill upon which I suppose the committee did not act favorably, but which I trust the Senate may favor when I have presented the facts upon which it is based.

Mr. O'GORMAN. I may say, Mr. President, that the amendment just referred to by the Senator from Washington was considered by the committee, and some of the members of the committee saw merit in it, but thought it was so foreign to the immediate purposes of the legislation contemplated by this bill that it would be a cause of complication and possible delay if it were taken up and approved by the committee.

Mr. JONES. I can appreciate that situation, and really had no hope that the committee would feel justified in acting favorably upon it, but I wanted to call it to the attention of the Senate and the people. I will inquire as to the amendment offered by me with reference to the coastwise trade.

Mr. O'GORMAN. The committee did not give that its approval.

Mr. JONES. I did not know that the committee was going to meet, or I might have gone before them to show in brief the reasons why I offered that amendment; but I want to call the Senate's attention to some facts which I think show that the purpose to be served by that amendment is exactly the purpose to be served by the other provisions of this bill, and when he knows these facts I believe the Senator will approve this amendment.

This bill is intended to take care especially, I think, of the Atlantic coast; that is, of the trade that goes out from the Atlantic ports. My project is of especial interest to the people of the Pacific coast. Of course, I know that the bill of which the Senator from New York is in charge is general and would apply, so far as the exigencies might arise that would be covered by it, to the Pacific coast; but I have some telegrams here asserting that they have not on the Pacific coast vessels sufficient to carry the lumber from the Pacific coast to the Atlantic. It takes ocean-going ships to go around through the Panama Canal. We have plenty of ships possibly for our coastwise trade between coastal points on the Pacific coast, but we have not enough ships, according to the statements of the gentlemen who have communicated with me, to take care of the trade that will go through the Panama Canal and that ought to go through there. I want to read a telegram or two bearing on that point.

Mr. WEST. Mr. President, before the Senator begins reading the telegrams, I will inquire for information, Are not the ships belonging to the Merchants & Miners' Line; the vessels of the Ocean Steamship Co., of Savannah; and the steamers of the Clyde Line, going from Jacksonville to New York, of sufficient size and power to go through the canal?

Mr. JONES. I presume so; but I do not expect that they will leave the routes on which they are now engaged in order to ply between ports on the Pacific and ports on the Atlantic.

Mr. WEST. And they are capable even of crossing the ocean, if necessary?

Mr. JONES. Certainly; but I do not anticipate that those ships will leave the routes they are now on and go on a route between ports on the Atlantic and ports on the Pacific; those who have communicated with me do not think so, anyway.

Mr. WEST. Mr. President, there is no worse weather anywhere than around Cape Hatteras where these vessels travel every day.

Mr. JONES. I am satisfied the Senator does not get the point I am trying to make, and that is this: Those ships do not want to engage in trade between Pacific ports and Atlantic ports; they have established routes and they will keep on those routes. They are not going to come to us; and we have not sufficient ships for the trade; we are lacking in the ships—or that is the contention—to bring our products around from the Pacific to the Atlantic.

Mr. GALLINGER. Mr. President——

Mr. JONES. I yield to the Senator.

Mr. GALLINGER. I will ask the Senator what means of transportation shippers have on Puget Sound—and that, I suppose, is the part of the country in which the Senator is most interested——

Mr. JONES. Yes.

Mr. GALLINGER. For carrying lumber at the present time? How do they get their product to the Atlantic ports, the canal not being open?

Mr. JONES. We have not been bringing much lumber by water, but we had hoped when the Panama Canal was constructed that we would ship a great deal of it through the canal. A great part of our lumber now is sent over the railroads.

Mr. GALLINGER. My query was whether it is now transported by railroads rather than by water.

Mr. JONES. It is transported very largely by rail to the Atlantic coast.

Mr. BURTON. High-grade lumber is shipped by the railroad.

Mr. JONES. Of course high-grade lumber comes that way. Rough lumber can be shipped around Cape Horn, but not much is so shipped. We send a great deal of our lumber to Australia.

Mr. GALLINGER. Of course the Senator's amendment would not affect that traffic?

Mr. JONES. No.

Mr. GALLINGER. Before the Senator reads the telegrams he was about to read I will say that I was rather startled at the proposition of the Senator from Washington to wipe out the coastwise laws of the United States to accommodate a small portion of the country.

Mr. JONES. The Senator is making that too broad; I have not proposed to do that at all; I do not think the Senator intends to put me in a wrong light.

Mr. GALLINGER. Certainly not.

Mr. JONES. My amendment simply provides that between points on the Atlantic and points on the Pacific, or between the points on the Atlantic and points on the Pacific the President may suspend the provisions of law confining such trade to American ships, if the exigencies warrant.

Mr. GALLINGER. I understand; but that is coastwise shipping at the present time.

Mr. JONES. Oh, yes; certainly.

Mr. GALLINGER. And the Senator proposes to amend the coastwise laws to that extent?

Mr. JONES. Oh, yes; that is the object.

Mr. GALLINGER. In other words, the camel gets his head in the tent, does he not?

Mr. JONES. That may be what it means; but the situation is about like this: So far as the Panama Canal is concerned, in view of the action Congress has taken, it is of practically no benefit to us, and now we want something that will be of benefit.

We find that nobody is looking after our interests, except ourselves, and we are trying to look after them. We may not make very much headway at it, but we will try. It surely is no more dangerous to permit the President to suspend the coastwise laws in this particular to afford relief to one great industry than it is to permit him to allow any kind of an old vessel to be registered under our flag, without survey or inspection and officered and manned by foreigners, to afford relief to the industries of the East and Middle West.

Mr. SHIVELY. Mr. President——

Mr. JONES. I was going to get through very soon.

Mr. SHIVELY. I did not intend to detain the Senator at all, but merely to ask him a question concerning his amendment, which appears on page 9, does it not?

Mr. JONES. I think it is the last amendment printed in the bill.

Mr. SHIVELY. While the question may be more or less academic, because of the observation just made by the chairman of the committee——

Mr. JONES. I hope the fact that the committee did not report it favorably would not impress the Senator with its lack of merit.

Mr. SHIVELY. I invite the attention of the Senator to the language he employs, and ask him whether he thinks it is sufficient? It reads:

And the President is hereby authorized, whenever in his discretion the needs of domestic trade require—

And so forth. Does the Senator think that that language is sufficiently definite as applying to a state of facts to clothe the President with the power suggested by his amendment?

Mr. JONES. I thought I followed the language of the bill, which provides in section 2:

That the President of the United States is hereby authorized, wherever in his discretion the needs of foreign commerce may require—

And so forth. I think I have followed that language.

Mr. SHIVELY. I think if the Senator will reflect upon the matter he will recall that that language has been amended by a suggestion of the Senator from Arkansas [Mr. CLARKE], in order to be certain that it may be taken out of the case of Clark against Field.

Mr. JONES. I did not have the benefit of that when I wrote this amendment. It might be that that suggestion would be better than the language I have used. I took the language that was used in the House bill and followed that. I should be glad to accept any suggestion that comes from the Senator from Arkansas that would make the language definite, or from the Senator from Indiana, either, for that matter.

I have some telegrams here from Seattle dated yesterday. One of them is as follows:

In considering the pending measure authorizing President to suspend navigation law in order to permit American register of foreign bottoms provision should be made for use of these ships in Atlantic to Pacific service, and vice versa. There are only a few ships under American register suitable for lumber carrying via Panama Canal. The handicap of free lumber and repeal of tolls act can, in a measure, be counteracted by such provision. Can you do anything in its behalf?

J. H. BLOEDEL.

Mr. Bloedel is one of our prominent business men there and very reliable.

I have another telegram from Mr. D. E. Skinner to substantially the same effect, in which he states that it is practically the unanimous opinion of the lumbermen of the Pacific coast that for a long time we must secure increased transportation facilities by allowing foreign vessels to ply in the intercoastal trade, and so forth. I ask permission to insert the telegram in my remarks without reading.

The VICE PRESIDENT. Without objection, permission is granted.

The matter referred to is as follows:

PORT BLAKELEY, WASH., *August 3, 1914.*

Hon. W. L. JONES,
Care United States Senate, Washington, D. C.:

Practical unanimous opinion lumbermen this coast for a long while that we must secure increased transportation facilities by allowing foreign vessels to ply in intercoastal trade or admission of foreign vessels to American registry. This absolutely necessary since repeal of free tolls. If you coincide with our opinion, especially admission foreign vessels American registry, please use utmost effort in emergency measure proposed to this effect to see that they are permitted to be used in intercoastal trade. Admission strictly coastwise trade on Atlantic and Pacific not essential. Please answer fully as to conditions emergency measure and probability of our suggestions being accepted, care Benson Hotel, Portland.

D. E. SKINNER.

Mr. JONES. I telegraphed to Mr. Blooedel to give me the facts upon which he was urging this proposition, and he says this in reply, to which I call the attention of the Senator from New York:

Facts showing necessity for this amendment are that all foreign commerce has now been canceled in lumber, account our necessity to use foreign bottoms, especially German and English. There are only two ships on the Pacific coast adapted to the lumber trade, and practically none on the Atlantic coast, under American register. Therefore it is out of the question to expect to use American ships. If the canal is to be of any advantage after opening on August 15, we must have available shipping to move our lumber. The Atlantic seaboard offers a large field for exportation of our products, but can not be entered without the necessary shipping capacity. British Columbia, a strong competitor of the State of Washington in lumber production, can use foreign ships, and with free lumber has an advantage over us. A practical example, to illustrate, is the steamer *Robert Dollar*, flying the British flag, which left Vancouver Island a month ago containing nearly 5,000,000 feet of lumber destined partly for New York and partly for New London. No shipments from the American side have been made, nor can they be made unless navigation laws are changed.

Then I have here, from the President of the Pacific Fir Co., the following telegram:

The whole Pacific coast needs the use of foreign vessels to carry lumber and other products to the Atlantic coast through Panama Canal. There are not enough American ships to take care of this business. With our foreign trade cut off, as conditions now exist, our mills will have to close down unless we get this relief. I sincerely hope your amendment will carry.

Then there is this telegram from the Chamber of Commerce of Seattle:

Board of trustees Seattle Chamber of Commerce authorizes forwarding resolution formulated by committee on foreign commerce as follows:

"Whereas at this time shippers of lumber, flour, and other products of Pacific coast are practically wholly dependent upon foreign ships for transportation of their commodities to foreign countries, and there are insufficient American ships to conduct the commerce; and

"Whereas the shippers have been notified by the agents of these foreign lines that they are unable to engage cargo for forward shipment; and

"Whereas we are just now approaching the heaviest shipping period of the year, with an enormous quantity of wheat, lumber, salmon, and other products; and

"Whereas the Panama Canal can be of no material advantage to the shippers of this coast either in foreign or Atlantic coast trade unless suitable and adequate shipping facilities can be secured: Therefore be it

"*Resolved*, That the Seattle Chamber of Commerce use its influence with Congress and the President to amend the Panama Canal act to permit foreign vessels, irrespective of age, obtaining American registry, limiting them to foreign trade—

That is in support of the bill that is pending—

and to the trade between the Atlantic and Pacific coasts of United States, but excluding them from the coastwise trade between the ports of the United States on the same coast.

J. E. CHILBERG, *President.*

Mr. President, those are the telegrams and this is the statement of facts on which I have offered this amendment. It seems to me it presents a state of facts very similar to what has been presented in behalf of this bill.

Mr. SHIVELY. Mr. President——

Mr. JONES. I will yield to the Senator in just a moment. It shows that the sailings of foreign vessels carrying our lumber to foreign ports have been canceled, our lumber is left on our hands, and we have not the ships to take it to market, just as we have not the ships to carry the wheat and the cotton of other parts of the country to market. So they ask this legislation in that behalf, because of those facts and those reasons. The lumber we have heretofore been sending to foreign countries through foreign ships is on our hands because of the war. We want a way to get it to the Atlantic markets that need it.

I now yield to the Senator from Indiana.

Mr. SHIVELY. As I understand the Senator's amendment, it would relieve ships sailing from a point on the Pacific coast to a point on the Atlantic coast, or the reverse, from the operations of our present navigation laws governing coastwise trade?

Mr. JONES. Yes.

Mr. SHIVELY. Would it authorize——

Mr. JONES. It authorizes the President to go as far as he thinks advisable.

Mr. SHIVELY. Would it authorize a ship sailing from a point on the Pacific coast to deliver its cargo from point to point on the Atlantic coast, or simply between two points, one on one coast and the other on the other coast?

Mr. JONES. The intention of the bill was to cover shipments between one point on one coast and one point on the other, although——

Mr. SHIVELY. Excluding entirely the idea of port-to-port transactions?

Mr. JONES. I think probably, if we pass the bill, it ought to permit a vessel from a point on the Pacific Coast——

Mr. SHIVELY. To make distribution of its cargo?

Mr. JONES. To make distribution of its cargo between two points on the Atlantic, but not to engage in the coastwise trade between the two except in the discharge of its cargo.

Mr. SHIVELY. In the discharge of its cargo the President could authorize it to stop at different points on the coast of destination?

Mr. JONES. Yes; I should think so.

Mr. NELSON. Mr. President, I do not propose to delay the consideration of this bill for more than a few moments.

I think that never since the days of the Civil War has our country had so fine an opportunity as now to increase her shipping. The farmers of the country, the cotton planters of the South, the wheat and grain and corn farmers of the West and the Mississippi Valley are blessed with abundant crops. Their one great need now is ample transportation facilities to Europe for their surplus crops.

We have noticed lately how, owing to the embargo in the matter of shipping that has arisen from the war, the quotations for grain in the great markets of the West—in Chicago, St. Paul, Minneapolis, and Duluth—have dropped and dropped. We need extra shipping; and never since the days of the Civil War has there been such an opportunity to get it as there is on this occasion.

There are two drawbacks that have prevented us from increasing our deep ocean going shipping: First, the extraordinary cost of our vessels, and, second, the cost of operating them. I have no doubt that during the stress that now exists in the Old World our people will be given the opportunity of buying shipping at reduced rates; much cheaper than they would be able to secure vessels in this country. Then, in connection with that, owing to the fact that so many merchant vessels from the belligerent countries have been thrown out of service, our shipping will necessarily be able to secure higher freight rates.

In two directions, then, during the present exigency and during the existence of the war, from two standpoints, our shipping can get a benefit and will be able to rise out of the chaos of despondency in which it has been for many years. First of all, our people can secure cheaper vessels, owing to the exigencies of the war. In the next place, they can secure higher freight rates and in that way make a success of the traffic.

We have never since the days of the Civil War had such an opportunity, and this bill opens the door. We can then try out the question whether or not our vessels, purchased and operated under these conditions, will be able to compete with the shipping of the Old World.

There is a further thing, too, that gives us an opportunity, and that is the fact that the war will necessarily destroy and eliminate a good deal of the shipping of the countries of the Old World. I need not name them; perhaps it would be impolitic to name them; but undoubtedly some of the shipping of the great countries of the Old World will be eliminated. There will be less shipping to compete with, and our shipping will have a better opportunity on the high seas.

Now, in my opinion, is the accepted time; and while this bill perhaps does not go as far as we might go, it is an entering wedge I am glad to see that the bill is pending, and I feel satisfied that after we adopt this bill and operate under it for a while we will have a bigger shipping than we have ever had since the days of the Civil War.

Mr. GALLINGER. Mr. President, may I ask the distinguished Senator one question?

Mr. NELSON. I want to tell the Senator one thing that staggered me about the Shipping Trust in this country.

Mr. GALLINGER. All right.

Mr. NELSON. During the Spanish War we had occasion to buy transports from other countries. On account of the neutrality laws we could not hire that shipping, and we had to buy it. The United States bought a number of vessels. Then, after the war was over, and the Government wanted to sell the ships, the Shipbuilding Trust came up here before the Commerce Committee, of which I was a member, and objected to the Government selling its own ships with an American registry. After I saw those manifestations I had no more use for the Shipping Trust.

Mr. GALLINGER. The Government did sell them for about 26 per cent of what the Government paid for them; so the Shipping Trust did not stop the sale. They were bought for an emergency, and I can see no good reason why they should have been sold under American registry and engaged in our coastwise trade.

Mr. NELSON. They did not stop it, but they prevented the sale with an American registry, and that compelled the Government to sell them at reduced prices.

Now, what have you accomplished in all of these years with your law? What have you accomplished? Have you succeeded in the last 25 years, by this strait-jacket system, in building up our merchant marine? You have had a monopoly of shipbuilding. You have said that while I can buy a coat or a suit of clothes in any country in the world if I choose to do it, yet I can not sail a ship under the American flag unless it is built in a shipyard in this country. What have you accomplished in the way of rehabilitating our foreign-going merchant marine?

Mr. GALLINGER. Mr. President, the Senator appears to be excited, but, nevertheless, I am going to ask him a question.

Mr. NELSON. Ask your question.

Mr. GALLINGER. We might have allowed foreign ships to come in as the foreign coat did if they had paid a duty; but that is not what the Senator proposes. He propose to let foreign ships in without paying any duty. You pay a duty on the coat now, but not on the ship.

Mr. NELSON. Let me ask the Senator a question. Is it not a fact that every one of the great maritime countries of the world except our own has free ships? Is not that a fact?

Mr. GALLINGER. We have free ships, too, under the Panama Canal act.

Mr. NELSON. Laying aside the Panama Canal act, is it not a fact that every maritime country in the world except the United States has free ships?

Mr. GALLINGER. But the Panama Canal act is the law of the land, and you can bring in your free ships under that.

Mr. NELSON. How many foreign-going ships have you succeeded in building and launching, under this straight-jacket system, within the last 25 years?

Mr. GALLINGER. The Senator is again rather turbulent.

Mr. NELSON. I am not turbulent. I am a little emphatic.

Mr. GALLINGER. We have not accomplished this result because of the fact that men from the section that the Senator represents have opposed all proposed legislation; but now that there are——

Mr. NELSON. Oh, well, the Senator need not slander little Norway, with two and a half million people.

Mr. GALLINGER. I am not referring to Norway.

Mr. NELSON. She is a neutral country, but her shipping is next to that of the United States. Norway has free ships, and with two and a half million people she has a shipping next to that of the United States. Would not that be a good model for the people of New England to follow?

Mr. GALLINGER. I did not refer to Norway, so that is gratuitous.

Mr. NELSON. Well, I rather got the impression that the Senator was reaching out in that direction——

Mr. GALLINGER. I was not.

Mr. NELSON. And he had better not reach out any more.

Mr. GALLINGER. Mr. President, I fear that I must appeal to the Chair to protect me, because the Senator is threatening now and I am afraid he will do something violent. [Laughter.] May I ask my question now?

Mr. NELSON. Ask it.

Mr. GALLINGER. The Senator's second reason was that we could not navigate our ships in competition with foreign ships.

Mr. NELSON. I never said that.

Mr. GALLINGER. I beg the Senator's pardon.

Mr. NELSON. That has been your argument.

Mr. GALLINGER. But the Senator just said it.

Mr. NELSON. That has been the argument of the Shipping Trust. Why, we have the best sailors and the best mariners in the world in the United States.

Mr. GALLINGER. Does the Senator mean to say that we can navigate our ships in competition with those of foreign countries without aid of some kind?

Mr. NELSON. Oh, that has been your plea—that you could not do it without a great big subsidy.

Mr. GALLINGER. Does the Senator think we can do it?

Mr. NELSON. Unless you plastered over your sailors and your masters and your ships with subsidies, you could not compete; that has been your argument.

Mr. GALLINGER. But we have not any subsidies now, and we are not doing it. Can we do it?

Mr. NELSON. Oh, you have one subsidized line—the American Line.

Mr. GALLINGER. With four ships.

Mr. NELSON. They were to give us great help, and they never got beyond four ships.

Mr. GALLINGER. That is all. Even with a subsidy, then, we can not compete with foreign ships.

Mr. NELSON. We have, even without a subsidy. With a subsidy you gave us four ships.

Mr. GALLINGER. Yes.

Mr. NELSON. Without a subsidy, since the Panama Canal act was passed, we have at least gotton 50 per cent of that—two ships. That shows something.

Mr. GALLINGER. I have not discovered them. Where are they? What two foreign-built ships are they?

Mr. NELSON. The Senator from New York called my attention to them the other day.

Mr. GALLINGER. They probably bought a schooner or a gasoline launch.

Mr. NELSON. Well, Mr. President, we know something about schooners in my country. [Laughter.]

Mr. GALLINGER. I will ask the Senator if he did not give as a second reason, that we could not navigate our ships in competition with foreign ships?

Mr. NELSON. That was not my reason. That is what you said. That is your contention. Your contention all along has been that without subsidies we never could compete.

Mr. GALLINGER. Does not the fact prove that?

Mr. NELSON. Take our shipping out of the strait-jacket and you will not only get more shipping but you will get more work for the American sailors and American masters and American engineers on our vessels.

Mr. GALLINGER. We took it out of the strait-jacket by the Panama Canal act and got no results.

Mr. NELSON. About half as much as you got out of the subsidy to the American line.

Mr. GALLINGER. I deny that any American ships have been bought since the act was passed.

Mr. NELSON. We will try it under this bill and see what we will get. I want to say on behalf of the farmers of the Northwest that we are as much interested in the shipping question as the shipbuilders of New England. They carry our products to market and we need them.

Mr. GALLINGER. You are interested now, but you were not when the opportunity was presented to have shipping legislation, because you were satisfied that you could have foreign ships.

Mr. NELSON. What about these foreign ships? I am glad that the war has come, in one way. We find that American capitalists have been investing their money in foreign ships. Perhaps some of those ships will be idle and they will not draw their dividends. Any American so unpatriotic as to invest his capital in a foreign ship sailing under a foreign flag I have no use for.

Mr. GALLINGER. I have a great deal.

Mr. NELSON. I have no use for him. Even if I was not born in this country, I want to tell the Senator from New Hampshire, I am glad this war will leprive some of the rich Americans who put their money into foreign ships of their dividends and give us a chance to build up American shipping.

Mr. GALLINGER. Mr. President, I have made the observation I rose to make and I am done.

Mr. NELSON. Call it a footnote to what I said.

Mr. GALLINGER. I will call it a postscript.

Mr. NELSON. Yes; either a footnote or a postscript.

Mr. GALLINGER. American capitalists have invested in foreign ships because under our law we have no governmental protection for our ships. They could not by any possibility invest in American ships and make them profitable. Neither would the Senator from Minnesota.

Mr. NELSON. It was the almighty dollar that moved them.

Mr. GALLINGER. Certainly; and it is the almighty dollar that moves you to advocate this law so as to get your wheat to a foreign market.

Mr. NELSON. Not at all.

Mr. BURTON. Mr. President, quite a number of statements have been made in regard to the ships on the Great Lakes, some of which, it is alleged, are available for the foreign trade. I have sent telegrams of inquiry and received answers. I will not detain the Senate for the purpose of reading them. The replies seem to show that only ships of comparatively small size, 250 feet in length and with a draft of 14 feet, are available in any event. These boats have a carrying capacity of 3,000 tons, some more than that. There are about 40 with American registry, but it is stated that there is a larger number of foreign-built ships on the Canadian side of the Welland Canal which might be used for trans-Atlantic traffic. One of these telegrams is from Capt. John Mitchell, a vessel owner and operator of large experience; two of them from Hon. James H. Cassidy, who was a Member of the Sixty-first Congress; and another from the manager of the steamship line plying between Chicago and the St. Lawrence River.

Mr. NELSON. Will the Senator yield to me?

Mr. BURTON. Certainly.

Mr. NELSON. Does not the Senator think that those big carriers on the Lakes, from their form of construction and all that, are unfit for ocean traffic?

Mr. BURTON. I am inclined to think so. They have less freeboard and their engines and boilers are located in the stern.

Mr. NELSON. I have sailed on them to Duluth. I think those big carriers carry from five to ten thousand tons of ore.

Mr. BURTON. More than that—12,000, some of them.

Mr. NELSON. They are utterly unfit for a sea voyage across the Atlantic, and what is more, I doubt whether they can get out of the St. Lawrence Canal. So the idea of getting any help from shipping on the Great Lakes looks to me as far-fetched and shadowy.

Mr. BURTON. A more serious objection, no doubt, is the length. Some of the latest are 600 feet and more, and the Welland Canal allows boats of only about 250 feet to go through.

I ask unanimous consent for the printing of these telegrams in the RECORD.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

CLEVELAND, OHIO, *August 5, 1914.*

Senator THEODORE E. BURTON,
United States Senate, Washington, D. C.:

The only lake vessels available for salt-water service that can pass through Welland Canal are the vessels belonging to the Great Lakes & St. Lawrence Transportation Co., D. Sullivan, manager, Chicago. They are bulk-freight vessels and not fitted for passenger service. The names of the vessels are as follows: *A. D. Davidson, A. M. Marshall, G. C. Howe, S. C. Dalton, John Crerar, John Lambert, J. S. Keefe, Robert Wallace,* and *S. N. Parent.* The following vessels can go through canal but are not fitted for salt water, but could be made so in about two months: Passenger boats, *Virginia, Alabama, Illinois, Missouri;* package-freight vessels, *Huron, Minneapolis, St. Paul, W. C. Rhodes, Arlington, Bennington, Brandon, Burlington, Ogdensburg, Rutland;* bulk freighters, *A. D. McTier, F. P. Jones, Lucius Robinson, Adrian Islen, Jerre Spalding, Charles Beatty,* and *Irwin L. Fischer.* The following lake-built vessels are now on the Atlantic coast and are fitted for salt-water service: *F. P. Lisman, Mary E. Harper, Penobscot, Seaconnet, Kanawaha, Kennebec, Georgetown, Waccamaw.* All the above vessels can get through Welland Canal and those not fitted for salt water can be so fitted in about two months and would be seaworthy if so fitted.

JOHN MITCHELL.

—

CLEVELAND, OHIO, *August 6, 1914.*

Hon. T. E. BURTON,
Washington, D. C.:

There are 20 American steel freight ships available, capacity 3,000 tons; will take about one month to refit with condensers, etc., and increase coal bunkers. There are 2 American steel passenger ships available. These 22 steel ships are seaworthy and Welland Canal size. All wooden ships unseaworthy.

JAMES H. CASSIDY.

—

CHICAGO, ILL., *August 6, 1914.*

Hon. THEODORE E. BURTON,
United States Senate, Washington, D. C.:

At the request of our Cleveland office I am sending you the following data: There is registered under the American flag on the Lakes steel steamers aggregating 50,000 tons gross register that can navigate Welland and St. Lawrence Canals, and while the vessels are well constructed and seaworthy, owing to their low freeboard and small carrying capacity could not be considered successful in the trans-Atlantic trade. A small percentage are fitted with surface condensers and other necessary salt-water requirements, but at least 80 per cent would have to be refitted before navigating salt water. There is a much larger number of ships available for the St. Lawrence trade sailing under the British flag.

D. SULLIVAN.

—

CLEVELAND, OHIO, *August 6, 1914.*

Hon. T. E. BURTON,
Washington, D. C:

There are about 150 British-built Welland Canal steel ships on Canadian side of Lakes.

JAS. H. CASSIDY.

Mr. BURTON. Mr. President, I desire also to introduce an amendment to which I hope there will be no objection, authorizing the American Red Cross to charter a boat and to give to it, in the discretion of the President, and during hostilities, an American registry and the privilege of carrying the American flag. This society has done a noble work in this country and, in fact, all over the globe. It has been very efficient. Very considerable relief came to our country from foreign countries during the Spanish-American War. We should reciprocate, and it is intended that an immediate effort be made to send supplies, nurses, and physicians abroad, but the managers of the society find that they are unable to obtain any boat under American registry. I ask that the amendment be read.

The VICE PRESIDENT. The Secretary will read the amendment.

The SECRETARY. Add a new section to the bill, as follows:

SEC. —. With the consent of the President and during the continuance of hostilities in Europe, any ship chartered by the American Red Cross for relief purposes shall be admitted to American registry under the provisions of this act and shall be entitled to carry the American flag.

Mr. WEEKS. I have a telegram from the Boston Chamber of Commerce, a very large organization, that has been giving consideration to this legislation and wires its reasons for being opposed to it. I should like to have it incorporated in the RECORD.

The VICE PRESIDENT. Without objection, that will be done.

Mr. WEEKS. I will ask to have it read. It is short.

The VICE PRESIDENT. Without objection, the Secretary will read as requested.

The Secretary read as follows:

BOSTON, MASS., *August 5, 1914.*

Hon. JOHN W. WEEKS,
United States Senate, Washington, D. C.:

Our committee on maritime affairs and members of executive committee and directors present at meeting this morning are unanimously of opinion that Underwood bill in present form would be entirely ineffective. Executive committee and directors adopted following resolutions:

"*Resolved*, That while we earnestly desire that adequate accommodations be made available for our legitimate ocean commerce, we can not approve those features of the Underwood bill which might subject us to the risks of war, and which, in our opinion, would be wholly ineffective.

"*Resolved*, That our real need and the only effective course for the present situation is a permanent increase in the number of bona fide American vessels adapted to and engaged in the ocean-carrying trade. Such an increase would not involve us in complications with other nations and would be of real and permanent advantage to the commerce of this country.

"*Resolved*, That we strongly urge the passage of legislation which will result in an effective and permanent increase in the number of ocean-carrying vessels flying the flag of the United States, either by immediately providing Federal aid which will put American steamship lines owned and officered by American citizens on a parity with lines owned and operated by foreign companies or by admitting foreign vessels to American registry only upon such conditions as will insure their remaining under the American registry when the present exigency has passed and insure their nationality being respected by the world.

We hope you will successfully oppose passage of bill and are writing you more fully.

J. RANDOLPH COOLIDGE, Jr.,
JAMES A. MCKIBBEN,
President and Secretary Boston Chamber of Commerce.

Mr. MARTINE of New Jersey. Mr. President——

Mr. WEEKS. I think I have the floor.

Mr. MARTINE of New Jersey. Very well.

Mr. WEEKS. Before I take my seat, if the Senator from New Jersey will pardon me, I should like to direct one inquiry to the Senator from New York. This legislation amends section 5 of the Panama Canal act, the last sentence of which reads:

Foreign-built vessels registered pursuant to this act shall not engage in the coastwise trade.

I want to ask the Senator if he is confident that if these vessels are purchased under the provisions of the pending bill they can not be transferred to the coastwise trade as can other vessels having American registry?

Mr. O'GORMAN. The pending bill specifically provides that foreign-built vessels registered pursuant to this act shall not engage in the foreign trade. They can not have their enrollment changed or modified. No foreign ship under existing law or under the law as it will be amended when this bill is enacted can engage in the coastwise trade.

Mr. MARTINE of New Jersey. Mr. President, I made some reference to a resolution that I had sketched as being very much expressive of my thoughts and desires, and with the permission of the Senate I desire to read it. I have written it in a very hurried way. It may not be correct in verbiage to carry out my desire and intent, but it at least expresses my views:

Senate concurrent resolution 31.

Resolved by the Senate of the United States (the House of Representatives concurring), That the Secretary of the Navy and the Secretary of Commerce jointly be, and are hereby, authorized and empowered to purchase such craft in this and foreign countries as in their judgment may be suitable, adaptable, and necessary for the transportation of passengers and freight to and from the various ports of the world. All provision for manning, sailing, and maintaining such craft to be vested in the above-named Secretaries until otherwise provided.

I desire to offer that concurrent resolution. It expresses my feelings and my desires. As I said before, I believe it will be the opening of a new dawn, and it will be a simple way at results.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

Mr. GALLINGER. What is the resolution?

The VICE PRESIDENT. It has just been read.

Mr. GALLINGER. May I ask that it be read again? I did not hear it read from the desk.

Mr. O'GORMAN. I object to the consideration of the resolution.

The VICE PRESIDENT. Objection being made, the resolution will go over one day under the rule.

Mr. JONES. I have here an editorial that appeared in the August number of the Marine Review that I ask may be printed in the RECORD as a part of my remarks.

The VICE PRESIDENT. If there be no objection, it will be so ordered.

The matter referred to is as follows:

OFFICE OF THE MARINE NEWS,
New York, August 2, 1914.

The August number of the Marine News will contain the following editorial, the reproduction of which at any time in any other newspaper is permitted, but with the request that credit be given as to its source.

ALEXANDER R. SMITH,
Editor of the Marine News.

AN HYSTERICAL BUT FUTILE EXPEDIENT.

Since August 24, 1912, any foreign-built American-owned ship not over 5 years old has been eligible to American registry for foreign trade. Such ships, so admitted to our registry, may enter into ocean mail contracts with our Government under our so-called ship-subsidy act of 1891; and, besides, imports in American ships are entitled to a discount of 5 per cent of the duty under the new tariff. These advantages (?) have not brought a single foreign vessel under American register—they are not sufficient to offset the disadvantages. What are the disadvantages? More onerous and oppressive laws, rules, and regulations enforced by our Government than are enforced by other Governments; higher pay of masters, officers, and men employed on American ships; a more costly statutory food scale.

It is now proposed to overcome these disadvantages by removing the age limit under which foreign vessels may be admitted to American registry, and to give the President authority to permit aliens to command, officer, and man ships under American registry. These expedients will not avail to bring foreign vessels under American registry, unless temporarily during a period of war in which vessels of certain nations would be subject to capture by their enemies. They are much more likely to involve the United States in complications with nations that may question the good faith of such ship naturalization, capture the ships, and thus offer an affront to our flag. In normal times it has been conclusively demonstrated that the policy of "free ships" is unavailing as a means of building up American shipping in foreign trade. This seems to be the only expedient proposed—something of a temporary nature to meet a sudden emergency, full of dire dangers, but of no permanent benefit.

Of course, it is supposed that by allowing aliens to command and officer ships under the American flag, such aliens can be secured, and if not now, after the war, at less pay than Americans demand. It is hoped that by permitting this extremely trifling proportion of the crew of a modern steamship to be aliens the difficulty of building up our merchant marine in foreign trade will be overcome; that and the device of allowing foreign-built American-owned ships, whatever their age, to come under our registry.

As nothing now in our laws compel American ships, except those under mail contracts, to carry Americans in the crews of their vessels, and the pay of such American crews is from 50 to 100 per cent higher than the pay of the crews of foreign ships, will the proposed change in our law allowing aliens to command and officer ships under our flag effect a reduction in the pay of the crews of the ships; and if so, how?

The age limitation on vessels admissible to American registry is for the purpose of preventing old, worn-out, uneconomical foreign ships from coming under our flag; the removal of the age limitation is an invitation to old, worn-out, uneconomical foreign ships, perhaps otherwise headed for the scrap heap, to come under American registry. The foreigner who receives American money for his old, uneconomical ship will invest it in new, modern, economical ships. Will the older and less economical American ship, operated at higher cost than the foreign ship, be able to profitably compete with the newer, more economical, more cheaply operated foreign ship?

The best ships under foreign flags, and most of their masters, officers, and seamen, are enrolled in the naval reserves of their several countries, and neither ships, officers, nor men are allowed to change their nationality without the consent of the Governments that have been subsidizing them in various ways to the extent of approximately $50,000,000 a year, in order to have them for use in precisely such an emergency as now exists—a war in which the Governments subsidizing the ships are involved. Is it to be assumed that nations that are annually paying $50,000,000 in order to have merchant ships, their officers and crews available for auxiliary war purposes, will relinquish such ships and men in war times?

To be sure, we may be able to get the worst ships that are available under foreign flags, just as we were able to do so during the Spanish-American War. Shall we start to build up an American (?) merchant marine in foreign trade with ships that are the offscourings of the world, least useful, least economical—ships that are in the economic discard?

All but six of the ships of the International Mercantile Marine Co. (an American corporation) are under foreign, chiefly British, flags; and the ships under British flags, by agreement between the company and the British Government, are to stay under that flag, the officers and a certain proportion of the crews of which "must be British subjects," unless the British Government releases the ships. Similar conditions are imposed by other Governments upon the most desirable ships under their flags.

Is not the time opportune to establish an effective and enduring policy by which to build up a real American merchant marine in foreign trade? The country begins to realize, dimly to be sure, but to an extent the disadvantages inhering in almost total dependence upon foreign ships for our foreign carrying. In the emergency confronting us probably Congress can be induced to establish an effective and enduring policy as easily as it can be induced to adopt a temporary expedient that will be without avail the moment peace is restored. The tariff provides a discount of 5 per cent of the duty on imports in American vessels, a provision the executive branch of the Government refuses to enforce, although its validity has been sustained by the court. The weakness of this method of applying this policy is that it is applicable only to dutiable imports—about 35 per cent of all of our imports—and to almost none of our imports from South American countries. By reversing the method of applying this policy so as to place an extra 5 per cent duty on all imports in foreign vessels, dutiable or nondutiable, it would be infinitely more effective, yet the principle would be preserved. The first tariff inaugurated this policy in the way of a discount of the duty, but in five years Congress reversed it, and as long as it was thereafter in force it was in the way of an extra duty, because more effective that way. If, in addition, the tonnage tax were greatly increased on foreign vessels that would completely reestablish this policy in the manner that it was in full or partial force from 1789 until 1850, during which period an average of 80 per cent of our entire foreign commerce was carried in American ships.

There was neither clamor for nor need of "free ships" during all of the years that policy was in force—during all of the years of American maritime greatness.

Did we bear it said that our commercial treaties forbid such discrimination? The court has declared that such provisions of treaties as forbid are a violation of both the spirit and the letter of the Constitution, because, says the court, the treaty-making branch of the Government exceeded its powers in entering into such treaties. Is there fear of retaliation? During the 60 years the policy was in full or partial force the effect of foreign retaliation was to give foreign ships the carrying of an average of 20 per cent of our foreign commerce. Could we not bear retaliation that would again give us 80 per cent of the carrying better than we are able to stand "reciprocal liberty of

commerce" under which our ships carry a bare 10 per cent of our foreign commerce?

Chairman UNDERWOOD started out in his tariff bill to restore this early successful American martime policy—"the constitutional regulation of commerce" pledged in the Democratic national platform. Both he and Congress might far better proceed along that line to more effective accomplishments than to dally with the disappointing mirage of free ships, coupled with alien masters, officers, and crews. The national gorge should rise in contemplation of "an American merchant marine" composed of ships built in alien countries, of alien materials, by alien workmen, commanded, officered, and manned by aliens.

Mr. STONE. Mr. President, I am going to vote for the bill as it is because of the anxiety I feel in common with others to provide some better means than we have to meet the exigency of the hour. I am not disposed, however, to let the opportunity pass without registering my dissent to the provision in the bill and in the Panama Canal administration act which exempts, in terms and in perpetuity, any vessel purchased under this act or any American vessel from engaging in the coastwise trade. I do not believe in that policy. That is all I wish to say, that I may not, as far as I am personally concerned, feel in any wise estopped when the question arises in the future by what may be done to-day.

I wish to inquire if there is any likelihood of passing the bill to-night. I will be very glad to have it done, but if there is not I think it important to have a brief executive session.

Mr. O'GORMAN. Mr. President, I know of no reason why we ought not to proceed at once to a vote on the question. I know of no other Senator who desires to discuss it.

I desire to say at this time that I believe the amendment proposed by the Senator from Ohio [Mr. BURTON] in behalf of the Red Cross Society has every merit and should be adopted. I make the same statement with reference to the amendment offered by the Senator from Washington [Mr. JONES], so that relief may be given to the people of the Pacific coast. I ask for a vote, Mr. President.

Mr. SAULSBURY. I ask in what form——

The VICE PRESIDENT. Just a moment. The committee has so completely changed the terms of the bill as reported by the committee that the Chair thinks it will be needful to read the proposed bill as now reported by the committee in order that the Senate may vote intelligently. The Chair will instruct the Secretary to read the bill as now reported to the Senate by the committee, and then amendments may be offered later on.

The Secretary read the amended bill, as follows:

An act (H. R. 18202) to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes.

Be it enacted, etc., That section 4132 of the Revised Statutes of the United States as amended by the act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone," approved August 24, 1912, is hereby amended so that said section as amended shall read as follows:

"SEC. 4132. Vessels built within the United States and belonging wholly to citizens thereof; and vessels which may be captured in war by citizens of the United States and lawfully condemned as prize, or which may be adjudged to be forfeited for a breach of the laws of the United States; and seagoing vessels, whether steam or sail, which have been certified by the Steamboat-Inspection Service as safe to carry dry and perishable cargo, wherever built, which are to engage only in trade with foreign countries or with the Philippine Islands and the islands of Guam and Tutuila, being wholly owned by citizens of the United States or corporations organized and chartered under the laws of the United States or of any State thereof, the president and managing directors of which shall be citizens of the United States, and no others, may be registered as directed in this title. Foreign-built vessels registered pursuant to this act shall not engage in the coastwise trade: *Provided*, That a foreign-built yacht, pleasure boat or vessel not used or intended to be used for trade admitted to American registry pursuant to this section shall not be exempt from the collection of ad valorem duty provided in section 37 of the act approved August 5 1909, entitled 'An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes.' That all materials of foreign production which may be necessary for the construction or repair of vessels built in the United States and all such materials necessary for the building or repair of their machinery and all articles necessary for their outfit and equipment may be imported into the United States free of duty under such regulations as the Secretary of the Treasury may prescribe: *Provided further*, That such vessels so admitted under the provisions of this section may contract with the Postmaster General under the act of March 3, 1891, entitled 'An act to provide for ocean mail service between the United States and foreign ports, and to promote commerce,' so long as such vessels shall in all respects comply with the provisions and requirements of said act."

SEC. 2. The President of the United States is hereby authorized, whenever he shall find that the number of available persons qualified under now existing laws and regulations of the United States to fill the respective positions of watch officers on vessels admitted to registry by this act is insufficient, to suspend by order, so far and for such time as he may find to be necessary, the provisions of law prescribing that all the watch officers of vessels of the United States registered for foreign trade shall be citizens of the United States.

Whenever, in the judgment of the President of the United States, the needs of foreign commerce may require, he is also hereby authorized to suspend by order, so far and for such length of time as he may deem desirable, the provisions of the law requiring survey, inspection, and measurement by officers of the United States of foreign-built vessels admitted to American registry under this act.

Under like conditions and to like extent the President of the United States and the Secretary of the Navy are hereby authorized to direct that the navy yards of the United States, and all of their equipment and dockage facilities, be used for the purpose of repairing and keeping in a seaworthy condition all merchant vessels now or hereafter registered under the American flag, under such conditions as in their discretion are just and equitable: *Provided*, That such additional use of said navy yards and their equipment shall not in any way interfere with the paramount purposes of the Navy of the United States.

SEC. 3. Naval officers of the United States, active or retired, and men serving or employed in the Navy of the United States, may, upon application made by them to the Secretary of the Navy, be permitted to accept such temporary service on board vessels registered under the terms of this act as may not be detrimental to the naval efficiency of the United States, without prejudice to their rank or status in the naval service or any loss, prejudice, or detriment whatever.

SEC. 4. This act shall take effect immediately.

DEATH OF MRS. WOODROW WILSON.

Mr. KERN. Mr. President, it becomes my duty to convey to the Senate the melancholy intelligence of the death of Mrs. Wilson, the wife of the President of the United States. Of course the President in this hour has the earnest sympathy of all the people of the Nation, and, as a mark of the sympathy entertained here and all through the Republic, I move that the Senate do now adjourn until 11 o'clock to-morrow morning.

The motion was unanimously agreed to; and (at 5 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Friday, August 7, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

THURSDAY, *August 6, 1914.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O God our Father, a great sorrow has come to our people and our hearts turn to Thee for comfort. The angel of death hovers over the White House. The wife of our President is fast passing from the scenes of this life. Be with him in this hour of distress and sustain him by Thy holy influence and by the sympathies which go out to him from the heart of America. We thank Thee that amid his grief and sorrow he could proffer his service as mediator 'twixt the belligerent nations of Europe, and we most fervently pray that it may be accepted in the same spirit that it is offered; that their differences may be adjusted by the wise and humane methods of arbitration; that the world may be spared a scene of carnage and misery never before witnessed. Hasten, we beseech Thee, the day when Christian nations shall be indeed nations of Christians, and a reign of peace be come that shall never end. Hear us in the name of wisdom, in the name of justice, in the name of mercy, in the name of humanity, in the name of the world's great Exemplar. Amen.

The Journal of the proceedings of yesterday was read and approved.

THE PRESIDENT AND HIS WIFE.

Mr. KINKEAD of New Jersey. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The SPEAKER. The gentleman asks unanimous consent for the present consideration of a resolution which the Clerk will report.

The Clerk read as follows:

House resolution 585.

Resolved, That the House of Representatives of the United States tender to the President, in this his hour of apprehensive sadness, their warmest sympathy, and pray that God in His mercy may restore to health his good wife, adviser, and helpmate.

The SPEAKER. Is there objection?

There was no objection.

The resolution was agreed to.

CHAMBER OF COMMERCE OF MINNEAPOLIS.

Mr. DILLON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD, relative to the by-laws, rules, and regulations of the Chamber of Commerce of Minneapolis as affecting the grain merchants.

The SPEAKER. The gentleman from South Dakota asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. BARNHART. Mr. Speaker, reserving the right to object, I did not understand what the gentleman said as to the nature of his remarks.

Mr. DILLON. Discussing the by-laws, rules, and regulations of the Chamber of Commerce of Minneapolis as affecting the grain trade.

Mr. BARNHART. All right.

The SPEAKER. Is there objection?

There was no objection.

POSTAL AND CIVIL-SERVICE LAWS.

On motion of Mr. MOON the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 17042) to amend the postal and civil-service laws, and for other purposes, with Mr. CONRY in the chair.

Mr. MOON. Mr. Chairman, when the bill making appropriations for the Post Office Department for the fiscal year 1915 was under consideration there were a number of amendments to that bill which were obnoxious to the rule of the House prohibiting new legislation on appropriation bills, and for that reason they were stricken out. Some of the sections so stricken out have since been enacted into law by separate bills. Most of them, however, are incorporated in the bill now under consideration before the House, and there are a number of other sections also included in this bill. The committee had this measure under consideration immediately after its introduction into the House, and reported it to this House with two or three minor amendments, which were incorporated in the second print of the bill. Subsequent to that action the committee met and agreed upon a number of other committee amendments to this bill which have not yet been incorporated in it, but have in part been printed. I now ask unanimous consent that the amendments so agreed upon by the committee, and with reference to which this bill must be discussed, be placed in the RECORD; and for the information of the committee I ask that those amendments be read.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to have the amendments to which he refers read. Is there objection?

There was no objection.

The Clerk began the reading of the amendments.

Mr. SAMUEL W. SMITH. Mr. Chairman, I should like to inquire if the bill has been printed with the amendments included?

Mr. MOON. No; the bill has not been printed since these amendments have been adopted. I think it would be very well to have it so printed.

Mr. MANN. Will the gentleman yield?

Mr. MOON. Yes.

Mr. MANN. When we go back into the House, will not the gentleman ask unanimous consent to have the bill printed with the amendments?

Mr. MOON. Yes; I will do that; and in view of that fact we might as well omit the reading now. The amendments may be printed in the RECORD, and when we go back into the House I will ask to have the bill printed with the amendments.

The CHAIRMAN. If there be no objection, it will be so ordered.

The amendments are as follows:

Amendments intended to be proposed to the bill (H. R. 17042) to amend the postal and civil-service laws, and for other purposes, viz:

"In line 2, on page 10, strike out 'five' and insert in lieu thereof 'four.'

"In line 5, on page 10, insert the word 'and' before the words 'closed-pouch' and strike out the comma and the words 'and side and transfer service' and insert a period, making the line read 'and closed-pouch service.'

"Strike out all of lines 13, 14, and 15, on page 11.

"In line 19, on page 11, strike out 'twenty' and in lieu thereof insert 'twenty-one.'

"In line 24, on page 11, strike out 'ten' and in lieu thereof insert 'ten and one-half.'

"In line 1, on page 12, strike out 'five' and in lieu thereof insert 'five and one-half.'

"In line 8, on page 12, strike out 'eighteen' and in lieu thereof insert 'twenty.'

"In line 10, page 12, strike out '$2.50' and in lieu thereof insert '$2.'

"In lines 2 and 3, on page 13, strike out the words '95 per cent of.'

"Strike out all of lines 20, 21, 22, 23, 24, and 25, on page 13, and lines 1 and 2, on page 14, and in lieu thereof insert the following:

"'The Postmaster General may require railroad companies carrying the mails to deliver them into and take them from the terminal and intermediate post offices and transfer them between railroad stations, on their routes, without additional compensation, under such regulations as he may deem proper, in cases where he does not provide for such service otherwise: *Provided*, That the Postmaster General in his discretion may relieve any of the roads of such service.'

"In lines 8 and 9, on page 14, strike out the words 'excepting for side and transfer mail service.'

"SEC. 16. That whenever in the judgment of the Postmaster General the bids received for any star route are exorbitant or unreasonable, or whenever he has reason to believe that a combination of bidders had been entered into to fix the rate for star-route service, the Postmaster General be, and he is hereby, authorized, out of the appropriation for inland transportation by star routes, to employ and use such means or methods to provide the desired service as he may deem expedient, without reference to existing law or laws respecting the employment of personal service or the procurement of conveyances, materials, or supplies.

"SEC. 17. That, in the discretion of the Postmaster General, the pay of carriers who furnish and maintain their own motor vehicles and who serve routes not less than 50 miles in length may be fixed at not exceeding $1,800 per annum."

The CHAIRMAN. The Chair has been informed that there are two amendments here that are typewritten.

Mr. MOON. The two amendments that are tacked on there, that are typewritten, are to be introduced as separate sections.

The CHAIRMAN. The Chair deemed it best to call attention to that fact.

Mr. MOON. Mr. Chairman, a number of these sections were pretty fully discussed on another occasion. I do not deem it necessary to go very fully into the discussion of those propositions that have once been under consideration in the House. The first section in this bill provides:

Be it enacted, etc., That hereafter when, during a weighing period, on account of floods or other causes, interruptions in service occur on railroad routes and weights of mail are decreased below the normal, or where there is an omission to take weights, the Postmaster General, for the purpose of readjusting compensation on such railroad routes as are affected thereby, is hereby authorized, in his discretion, to add to the weights of mails ascertained on such routes during that part of the weighing period when conditions are shown to have been normal the estimated weights for that part of the weighing period when conditions are shown to have been not normal or where there has been an omission to take weights, based upon the average weights taken during that part of the weighing period during which conditions are shown to have been normal, the actual weights and the estimated weights to form the basis for the average weight per day upon which to readjust the compensation according to law on such railroad routes for the transportation of the mails, notwithstanding the provision of the act of Congress approved March 3, 1905, requiring that the average weight shall be ascertained by the actual weighing of the mails for such a number of successive working days, not less than 90, as the Postmaster General may direct: *Provided further*, That readjustments from July 1, 1913, may be made under this provision on routes in the first section affected by the floods in the Ohio Valley and tributary territory, commencing about March 25, 1913: *Provided further*, That on account of the increased weight of mails resulting from Postmaster General's Order No. 7349, of July 25, 1913, respecting rates upon and limit of weight of parcel-post packages in the local, first, and second zones, and effective from August 15, 1913, the Postmaster General is authorized to add to the compensation paid for transportation on railroad routes on and after August 15, 1913, for the remainder of the contract terms, not exceeding one-half of 1 per cent thereof per annum.

This section of the bill is intended to remedy that situation which exists with reference to the weighing of the mails when abnormal conditions occur, such as the floods in the Ohio Valley a year or two ago.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. MOON. Certainly.

Mr. LLOYD. What is the necessity of this section if we adopt section 13?

Mr. MOON. The necessity is due largely to the fact that the adjustment has not been made for the fiscal years 1913 and 1914. It is essential to have the authority of Congress to make that adjustment, even though the subsequent section, section 13, which is the main feature of this bill, should be adopted. I deem it unnecessary to discuss that question further than to make that statement in reference to the situation calling for this legislation, but I will place herewith in the RECORD a specific statement in reference to this matter and, with the permission of the House, a communication from the department requesting this enactment and giving the reasons for it, as follows:

In a letter dated December 1, 1913, the Postmaster General fully explained the provisions of this section, as follows:

DECEMBER 1, 1913.

Hon. JOHN A. MOON,
Chairman Committee on the Post Office and Post Roads,
House of Representatives.

MY DEAR MR. CHAIRMAN: The quadrennial weighing of the mails for the purpose of securing data upon which to base the readjustment of compensation for the transportation of mails by railroads in part of the first contract section comprising the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and West Virginia began on February 19, 1913, and ended on June 3, 1913.

During several weeks of the weighing period commencing about March 25, 1913, the disastrous floods in the Ohio River Valley and contiguous territory occurred, and as a result service on a number of railroad mail routes which were being weighed was seriously interrupted and in some cases totally suspended for periods of greater or less duration. The floods also caused an almost total cessation of business in the communities affected, all of which served to reduce the weights of mails carried on the routes referred to during the period of interruption in service considerably below the normal, resulting in lower average daily weights than would have been carried normally.

Inasmuch as the rate of compensation for four years is based upon such average daily weights, it would appear equitable to make some allowance for the reduced weights.

The question of the authority of the department to make substitutions of estimated weights based upon the average weights for the normal part of the weighing period for the part of the weighing when weights were not normal or when none had been taken has been submitted to the Comptroller of the Treasury, who has rendered a decision reading as follows:

"The law does not specify or detail the manner in which the average weight shall be determined except that it be by actual weighing of the mails for such a number of successive working days, not less than 90, the result of such weighing to be stated and verified in such form and manner as you may direct. (19 Comp. Dec., 220.) You are given broad power and discretion in the matter of adjusting the compensation for transportation over railroad routes which is to be adjusted on the basis of the actual weight as established during the weighing period.

"Therefore as the actual weight as established during the weighing period is merely a test upon which to base the compensation for the next four years, you are undoubtedly authorized for the purpose of

such test to take into consideration and deduct any increased weight over a particular railroad route due to temporary diversion, and credit same to the road which would carry it under normal conditions during the next four years, subject to the limitation that the weight so credited shall not be credited to any other road during such weighing period.

"Whether or not this method is advisable or practicable under the circumstances detailed in your submission is a matter of administration for your own determination, and which I am not authorized to decide. But your specific question as to your authority under the law to adopt this method for determining the average weight during the weighing period upon which to base the compensation for transportation of the mails is answered in the affirmative, provided that the total weight for the railroad routes involved or the weighing section taken into consideration in so adjusting the compensation shall not exceed the total weight of such railroad routes or sections as established by actual weight during the weighing period."

Under this decision it does not appear that the department has the requisite authority to make substitutions of weights of mail in the cases described, and to give the Postmaster General authority of law to deal with cases of this character which occurred during the last quadrennial weighing and those which may occur hereafter I have the honor to suggest that the following provision of law be inserted in the bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1915, and for other purposes, as part of the item "For inland transportation by railroad routes":

"*Provided*, That when during a weighing period, on account of floods or other causes, interruptions in service occur on railroad routes and weights of mail are decreased below the normal, or where there is an omission to take weights, the Postmaster General, for the purpose of readjusting compensation on such railroad routes as are affected thereby, is hereafter authorized in his discretion to add to the weights of mails ascertained on such routes during that part of the weighing period when conditions are shown to have been normal the estimated weights for that part of the weighing period when conditions are shown to have been not normal, or where there has been an omission to take weights, based upon the average of weights taken during that part of the weighing period during which conditions are shown to have been normal, the actual weights and the estimated weights to form the basis for the average weight per day upon which to readjust the compensation according to law on such railroad routes for the transportation of the mails, nothwithstanding the provision of the act of Congress approved March 3, 1905, requiring that the average weight shall be ascertained by the actual weighing of the mails for such a number of successive working days, not less than 90, as the Postmaster General may direct: *Provided further*, That readjustments from July 1, 1913, may be made under this provision on routes in the first section affected by the floods in the Ohio Valley and tributary territory commencing about March 25, 1913."

Yours, very truly,

A. S. BURLESON,
Postmaster General.

The last proviso in section 1, providing for increased compensation for railroads on account of the increased weight of mails due to the changes in parcel-post conditions from August 15, 1913, authorizes the Postmaster General to add to the compensation paid on railroad routes on and after August 15, 1913, for the remainder of the contract terms, not exceeding one-half of 1 per cent thereof per annum, and is for the purpose of recompensing the railroad companies for the additional weights of mails carried as a result of the increase in rates and the raising of the weight limit of parcel-post matter in the local, first, and second zones, effective from August 15, 1913. A careful estimate has been made as to the amount of increased business which has resulted from the changes named, and it is believed that the percentage of increased compensation provided in the suggested legislation will compensate the railroads for the additional weights they have carried.

The statistics upon which this estimate of increased business have been based were secured from a tabulation of the count of parcel-post mail originating in the 50 largest offices during the period from October 1 to 15, 1913. These data were carefully analyzed and the additional weight obtained by the tabulation was averaged for all railroad routes in operation, making allowance for the short average haul of the increased business, from which it was found that the average increased weight carried per route per day was 62 pounds, which is one-half of 1 per cent of the average daily weight on all routes.

If this provision becomes a law, it will be necessary to make provision for an additional expenditure of $222,000 for the fiscal year 1914 and of $254,000 for 1915. The difference in these amounts arises from the fact that the increased compensation in 1914 dates from August 15, 1913, while the increased compensation for 1915 covers the whole year.

Mr. Chairman, I fear that I shall be a little tedious, but yet it is necessary that I take these sections up one by one and discuss them as briefly as I can. Passing to the second section of the bill as originally introduced, the committee has reached the conclusion that it should go from the bill. It will not, therefore, be now discussed.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. MOON. Certainly.

Mr. MURDOCK. Mr. Chairman, I do not want to interrupt the gentleman from Tennessee to bother him at all, but I am following him in his remarks with a bill that was introduced on June 4 and reported with amendments on June 5. Am I correct in that?

Mr. MOON. Yes.

Mr. MURDOCK. Section 2 in that bill has been stricken out. Is the gentleman speaking to that?

Mr. MOON. No; I have just said that I would pass over that, because the committee has not reported favorably upon it.

The third section of the original bill, now numbered 2 of this bill as amended, is as follows:

SEC. 2. That so much of section 4 of an act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, approved August 24, 1912, as provides that no adjustment shall be made unless the diverted mails equal at least 10 per cent of the average daily weight on any of the routes affected, is hereby repealed.

That repeal is advocated because of the manifest injustice that might be done to the railroads that carry a less amount than this but that yet are heavily burdened with this service, and I also present herewith detailed reasons for that.

In a letter dated December 1, 1913, the Postmaster General explained fully the necessity for the enactment of this provision. This letter reads as follows:

DECEMBER 1, 1913.

Hon. JOHN A. MOON,
Chairman Committee on the Post Office and Post Roads,
House of Representatives.

MY DEAR MR. CHAIRMAN: Section 4 of the act of August 24, 1912, making appropriations for the service of the Post Office Department for the fiscal year ended June 30, 1913, provides as follows:

"SEC. 4. When, after a weighing of the mails for the purpose of readjusting the compensation for their transportation on a railroad route, mails are diverted therefrom or thereto, the Postmaster General may, in his discretion, ascertain the effect of such diversion by a weighing of such mails for such number of successive working days as he may determine, and have the weights stated and verified to him as in other cases, and readjust the compensation on the routes affected accordingly: *Provided*, That no readjustment shall be made unless the diverted mails equal at least 10 per cent of the average daily weight on any of the routes affected: *Provided further*, That readjustment made hereunder shall not take effect before July 1, 1912, and shall be for diversions occurring after January 1, 1912."

The authority conferred upon the Postmaster General by the foregoing provision has been of service in a number of cases, and will undoubtedly continue to be an effectual means of meeting cases of diversions of mails of considerable volume. Experience, however, has emphasized the desirability of the repeal of the proviso limiting action to cases where the diverted mails equal at least 10 per cent of the average daily weight of mails on any of the routes affected. A number of cases have arisen where it has not been possible to make the readjustments because of the limitation referred to, although the facts have otherwise justified such action.

I have the honor, therefore, to recommend the repeal of the first proviso of section 4 of the act of August 4, 1912, and for that purpose suggest the following form of provision, viz:

"So much of section 4 of an act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, approved August 24, 1912, as provides that no adjustment shall be made unless the diverted mails equal at least 10 per cent of the average daily weight on any of the routes affected, is hereby repealed."

Yours, very truly,

A. S. BURLESON,
Postmaster General.

Attention is also invited to the testimony of the Second Assistant Postmaster General before the House Committee on the Post Office and Post Roads on this bill, pages 4, 5, and 6 of the hearings on H. R. 17042, and on the Post Office appropriation bill for 1915, pages 127 to 130 of the hearings on that bill, as follows:

Mr. STEWART. There is now a provision of law which allows us, after a weighing has occurred and a diversion of mails has been made from one route to another, to reweigh the diverted mails and readjust the routes affected, but the statute does not permit us to make such reweighing and readjustment unless such diverted mails amount to at least 10 per cent of the average daily weight on any route affected. This limitation prevents us from making readjustments sometimes where they should be made, and I think it should be removed and the matter left entirely within the discretion of the Postmaster General as to when he will make these readjustments. Where the average daily weight on a route is very large, a great deal of mail can be diverted without equaling 10 per cent of the weight on any route affected, and it prevents us, as in recent cases, from making readjustments in very meritorious cases. We have asked that this provision be added, to read as follows:

"So much of section 4 of the act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, approved August 24, 1912, as provides that no adjustments can be made unless the diverted mails equal at least 10 per cent of the average daily weight on any of the roads affected is hereby repealed."

That would remove the difficulty.

Mr. MADDEN. Would that be advantageous or disadvantageous to the Treasury of the United States?

Mr. STEWART. It might result in paying more money, or it might result in paying less money, but the idea is to do entire justice to the carriers. That was the theory on which the law was first based, that where after a weighing is had large amounts of mail are diverted from one carrier to another, or the new carrier should not be required to carry that mail for four years for nothing, and the old carrier get the pay for not carrying it.

Mr. COX. Why divert it? Under what cases or emergencies do you divert mail?

Mr. STEWART. A diversion may occur where a railroad takes off a train or changes its schedules. It is necessary to get the mails through on the quickest time, and it is customary to divert them in those cases, if the company will not maintain schedules or continue their train service, and the purpose of having this provision passed in the first instance was to do entire justice to not only the Government but to the carriers, and not allow a company to break its schedules or take its trains off after they get a contract and keep the pay for four years.

Section 4 of the original bill, 3 of the bill as amended, is the one that provides the requirements of bonds from the

assistant postmasters to the postmasters, and it also seeks to change the law on the subject of the Executive order appointing assistant postmasters for life.

Mr. HULINGS. Mr. Chairman, will the gentleman yield?

Mr. MOON. Certainly.

Mr. HULINGS. What is the design of that? What is the purpose of requiring an assistant postmaster to give two bonds, one to the Government and the other to the postmaster to whom he is assistant?

Mr. MOON. I will explain that when I discuss it. That is in the discretion of the Postmaster General. I want to say, Mr. Chairman, that in view of the fact that this measure is strictly a business proposition, from beginning to end, unless it be this particular section which by some of my friends is regarded as political in its nature rather than strictly administrative, with the consent of the committee I shall pass over the discussion of this section until I have completed a brief explanation of the other features of this bill. So, passing from that section, I take up the next one, which provides simply that first, second, and third class postmasters shall have annual salaries, graded in even hundreds of dollars and payable in quarterly installments. That needs no explanation.

Section 5 of the amended bill provides:

SEC. 5. That hereafter the Postmaster General may establish, under such rules and regulations as he may prescribe, one or more branch offices, nonaccounting offices, or stations of any post office for the transaction of such postal business as may be required for the convenience of the public, and all laws in conflict herewith are repealed.

That is a provision in the interest of economic administration and efficiency in the office, is purely administrative, and need not be discussed, I think.

The next section is one that provides for the establishment of a guaranty fund by assessments of the employees of the department to protect the Government on bonds where the officials are required to execute them, to indemnify the Government against loss. Inasmuch as this section and one or two others are incorporated in the bill known as H. R. 12928, which is upon the calendar, the committee thought it best not to present it as a separate issue in this bill.

Section 7 of the amended bill provides:

SEC. 7. That if any person shall hereafter perform any service for any contractor or subcontractor in carrying the mail, he shall, upon filing in the department his contract for such service and satisfactory evidence of its performance, thereafter have a lien on any money due such contractor or subcontractor for such service to the amount of same; and if such contractor or subcontractor shall fail to pay the party or parties who have performed service as aforesaid the amount due for such service within two months after the expiration of the month in which such service shall have been performed the Postmaster General may cause the amount due to be paid said party or parties and charged to the contractor: *Provided*, That such payment shall not in any case exceed the rate of pay per annum of the contractor or subcontractor.

This is to prevent contractors from defeating the collection of the money due to the subcontractor for the actual performance of the service to the Government. In other words, it is a protection to the subcontractor against the fraud of the contractor in these contracts with the Government.

Mr. McKELLAR. Mr. Chairman, will the gentleman yield?

Mr. MOON. Yes.

Mr. McKELLAR. The gentleman seems to have overlooked section 6 of the amended bill, being section 8 of the bill as originally introduced, at the bottom of page 5.

Mr. MOON. Yes.

Mr. McKELLAR. Will the gentleman explain that?

Mr. MOON. I am glad that the gentleman has called my attention to that matter. The "blue-tag law" is a term used in the department to designate a certain character of mail which the department is enabled to expedite in a reasonable way by fast freight. There is a section in a previous bill that provides that the scope shall not be extended. It is now operating in the second and third mail divisions of the United States. The mails are expedited by fast freight. The magazines published throughout the country are delivered in the time required by law, delivered as readily, so far as the benefits may arise from their use, as by the ordinary mail. The Government of the United States has been saving over a million and a half dollars per annum by the use of the freight where they can use it with expedition for the transportation of mails. The purpose of this section is to repeal the inhibition on the exercise of that power in the other two mail divisions of the United States where similar beneficial results will unquestionably come from that economy.

The eighth section of the amended bill is along the line already discussed. The ninth section provides a penalty against the injury and destruction against letter boxes and other receptacles for the mail of the United States. It is hardly necessary to discuss before this House the wisdom of the enactment of laws to protect this class of public property. These are purely administrative features, of which there ought to be no doubt about their enactment.

Mr. McKELLAR. Are there not provisions of the law now with reference to this matter?

Mr. MOON. Yes; but they are not complete.

Mr. McKELLAR. And this is an amendment which makes the provision more full and complete?

Mr. MOON. Yes. Mr. Chairman, section 10 of the amended bill provides:

That all persons honorably discharged from the military or naval service in the Civil War, either in the Federal or Confederate Army, shall be exempt from any age limitation in the selection of fourth-class postmasters, provided they are found to possess the business capacity necessary for a proper discharge of the duties of such office.

Under a rule—not a law and perhaps not a fixed regulation, but a rule of the department—there is an age limit fixed for the occupants of fourth-class offices. The committee were of opinion that this rule ought not to prevail in all instances. They have thought that it was not an improper thing or an unwise thing to do to permit the soldier, either Federal or Confederate, who otherwise was competent and fit for the performance of these services to be appointed regardless of any age limit.

Mr. GOULDEN. Will the gentleman yield?

Mr. MOON. Yes.

Mr. GOULDEN. It is not intended to have any civil-service examination for them?

Mr. MOON. Oh, yes; it is intended to have it under the civil service the same as others are; the only thing is that we do away with the age limit. They must take the examination and be otherwise qualified.

Mr. GOULDEN. What is the age limit?

Mr. MOON. Sixty-five years, I believe. Now, Mr. Chairman, 65 years being the limit, nearly every man who served in either army is excluded by law or regulation from holding one of these offices—offices that pay less than $1,000 per annum. Now, it is evident to every one of us that there are scattered throughout the country men of sufficient capacity and energy to perform faithfully these duties who are past the age of 65.

Mr. SPARKMAN. Will the gentleman yield?

Mr. MOON. Yes.

Mr. SPARKMAN. Is it intended by the words "business capacity" that it should also cover physical ability to perform the services?

Mr. MOON. Of course. If the man did not have the physical ability he would not have the capacity.

Mr. SPARKMAN. I wanted to get the information, for a man might have the capacity but not the physical ability.

Mr. KENNEDY of Iowa. Will the gentleman yield?

Mr. MOON. Yes.

Mr. KENNEDY of Iowa. Have not most of the civil-service examinations for fourth-class postmasters been held in most of the States?

Mr. MOON. I think not. They have in many of them.

Mr. KENNEDY of Iowa. They began alphabetically and reached Iowa in May.

Mr. MOON. Yes; and some of these days we hope to begin alphabetically and go through Iowa again. [Laughter.] Mr. Chairman, I appreciate the fact and force of the argument that some gentlemen have urged against this section—that it is a preferential distinction; that if the limit of 65 years should be applied to soldiers of either army it might with equal propriety and justice be applied to the common citizen who was not in the army.

Now, I want to meet that fairly. I have not the slightest objection to an amendment to this section which provides that the age limit shall not be considered in the selection of any of these offices, whether they were men in the Army or not in the Army. But there is always some sentiment in reference to questions of this sort. There is some sort of feeling, we do not know what it is, whether it is a martial spirit in the people, a spirit of patriotism or whatever it is, but there is always a tenderness of feeling for the men who have defended the flag of the Republic and for men who have stood in battle array against the flag of the Republic for a cause which they believed to be just.

I have no morbid sentimentality on this question. I am not here to congratulate you or this country upon the splendid results that flowed from the Union of the States finally. I look at that question not so sentimentally as practically. Here are men who were engaged in a sectional war. That war is ended. These sections are reunited. If there is any reason why those engaged upon one side or the other should not have a preferential distinction in this matter I do not know. I concede the force of the argument that possibly none of them are entitled to more distinction than the other citizens, but following the suggestion that these men who lost practically four years

of their lives in a war should have a little better chance than the others, we submit this amendment to this House confident that it will approve it, because it ought to be regarded as a just tribute to the valor of the men in the Union Army and in the Confederate Army, the fast fading remnant of the two greatest armies that were ever martialed on this continent in the most heroic age of this great Republic. [Applause.]

Mr. COX. Will the gentleman yield?

Mr. MOON. I will yield.

Mr. COX. Under the new order by the President in regard to the fourth-class post offices the order required, where the salary of the office was $180 or less, that they simply be selected by the post-office inspector.

Mr. MOON. Yes; that is the rule.

Mr. COX. Now, these old soldiers, even though they may not be able to stand a written competitive examination, yet are able to fill these offices where the salaries are less than $180, and it will help them considerably.

Mr. MOON. And they are able to stand the examination, no doubt, where the amount is above that.

Mr. COX. They might; let them have it.

Mr. GOODWIN of Arkansas and Mr. MURDOCK rose.

The CHAIRMAN. To whom does the gentleman from Tennessee yield?

Mr. MOON. I yield to the gentleman from Arkansas.

Mr. GOODWIN of Arkansas. In many places throughout the country examinations were held and many men who had reached and passed the age of 65, by virtue of the order, had to relinquish their office, and by virtue of that order many men younger in years have succeeded them. This provision of the proposed law as set forth in the bill will not reinstate those who have been compelled to relinquish their office.

Mr. MOON. I should think not.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. ALEXANDER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 4966. An act proposing an amendment to section 19 of the Federal reserve act relating to reserves, and for other purposes.

The message also announced that the Senate had passed with amendments bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 7967. An act to amend the act approved June 25, 1910, authorizing a postal savings system; and

H. R. 15613. An act to create an interstate trade commission, to define its powers and duties, and for other purposes.

Mr. ADAMSON. Mr. Speaker, I would like to test the sense of the House as to the disposition of the trade commission bill in reference to going to conference now, or would gentlemen prefer to have it printed?

Mr. MANN. It ought to be printed first.

Mr. ADAMSON. If that is the desire of the House, I ask unanimous consent that it be printed for Members, and I will call it up to-morrow. I will ask that it lie on the Speaker's desk until to-morrow.

The SPEAKER pro tempore. Without objection, it will be so ordered.

There was no objection.

POSTAL AND CIVIL-SERVICE LAWS.

The committee resumed its sitting.

Mr. MURDOCK. Mr. Chairman, I desire to ask the gentleman this question.

Mr. MOON. I will yield to the gentleman from Kansas.

Mr. MURDOCK. I understood the gentleman to say he would not object to an amendment or oppose an amendment which would take this limitation off so far as everybody was concerned.

Mr. MOON. No. While I would be very much pleased to see this preference given to soldiers, and I think we should give them preference, I am not usually given to showing preferences to anybody. I do not object if the House desires to take the age limit off so as to apply to everybody.

Mr. MURDOCK. I assume from the statement of the gentleman that he thinks that there are many men between 65 and 70, or even beyond 70, who would make competent postmasters.

Mr. MOON. Who would make splendid postmasters; perhaps better than men who are more active. Mr. Chairman, sections 11 and 12 are in reference to postal savings banks, providing for the limit of amount that may be deposited in those banks and the limit of the amount of interest that may be paid upon such deposit and some other provisions amendatory of that act. It is deemed best we should enact this section, but I shall not discuss it now. I shall wait until the five-minute rule to consider it, if it becomes necessary, in view of the fact that the substance of this section was embodied in another act which I introduced and the House passed and which the Senate yesterday passed with amendments and which we hope to-day to place in conference. The thirteenth section of this bill is one on the subject of railway mail pay. It is a very complete section, in my opinion, covering this question heretofore so very intricate and hard of solution. I want to say to the committee that many of the other sections of this bill are the suggestions of members of the Committee on the Post Office and Post Roads, but this particular section is the suggestion of the Post Office Department. It is peculiarly their section to this bill. The amendments which I sent to the desk to be read and to be incorporated in the RECORD are amendments to this particular section of the bill. We do not realize always just how powerful and how important an organization of the department of Government is the Post Office Department, nor do we apprehend, and those who have not given some attention to the study of the peculiar features of that business department do not understand readily the relation that one branch of this service bears to another and how all must be lifted up, all must be energized, all must be pressed forward to make one complete whole and give an efficient service, an economical service of that great department of the people of the United States.

The commercial people of the country desire that this Government shall reach 1-cent letter postage. It would seem that 2 cents is cheap enough to carry a letter across the continent now, but there was a time when there was very much more charged than 2 cents, and the time has perhaps come in the history of the postal affairs of this country when 1 cent letter postage is perhaps due to the people of the United States, provided those other conditions that affect it so seriously may be remedied, so as to enable us to reach that ultimate conclusion. Now, there is no use of any of us attempting to right about face for political or other purposes on any questions that are involved in the ultimate efficiency of the service of this great department. We must know and understand, to begin with, that we have to batter down in this House, first, the power and the control of the transportation companies and methods that they have of handling the revenues through the legal system enacted and in force now by the department. We have to understand, too, that standing in front of the Congress is the most powerful agency in all the Republic; that we shall have to declare a war against the ridiculously low rates at which second-class matter—great daily newspapers and great magazines—are carried in this country, every pound of which is carried at a loss to your Government of 5 cents per pound, and these pounds run into the hundreds of millions yearly, and are increasing rapidly all the time. We must understand that we have to confront here two of the greatest subsidies covered by legislation in the history of the Union.

You must state whether you are going to stand for the people or whether you are going to stand for a continuation of these untoward events against the interests and welfare of the masses. We expect to establish by this section, with the concurrence of the House and Senate, a system by which the railroad companies will be given just, complete, and adequate compensation for their service and the Government protected against an advance of more than $1,000,000 annually in the performance of this service. And when we are through with it we expect to present to this House a measure that will not only do justice and fairness to the newspapers and magazines of this country, but deal fairly with the people by making the rate upon second-class matter, at least, as high again as it is now on magazines. When you shall have accomplished these two purposes you will be able to go to 1-cent letter postage for the people and still maintain a surplus from the revenues of the Post Office Department. To attempt it until this is done and the other economies asked for in this bill are permitted means a loss of $75,000,000 of revenues to the people of the United States. These suggestions are but preliminary to the detailed discussion of this section.

In order that you may more clearly see just what this contention is, that you may realize the justice of the demands of this committee and the department in behalf of this Government, it was essential that I show you in some measure the fight, the amazing fight and contest, that is waged upon this section. But before I shall take up that feature of it, trying to wipe away from your vision, if I can, the cobwebs in the way of a clear sight of this provision of the law, I desire to pay my tender regards and my profound respect to the distinguished ex-Senator, Mr. Bourne, from the State of Oregon. And I am not going to express any unkind feeling toward him. He seems to be the leader in the opposition to this measure. On the

contrary, I desire to express to this House my profound respect for the ex-Senator, giving due weight to those peculiarities and eccentricities of that character of genius that so often adorns the Senate of the United States. You will remember that the Senator has sent forth to the country a protest against this bill. He has said, and I may place it in the RECORD here—and I can place a dozen or 40 items in the RECORD from the newspapers that are now lying on my table, if necessary—extracts from papers, interviews with him, statements by the chairman of the railway pay committee, pressing the claims of the railroads against the interests of the people.

First, before taking up the railroad contention upon the question, I want to say that Senator Bourne, I think, has acted very indiscreetly in denouncing the Post Office Department as desiring to practice fraud and injustice on the railroad companies. I think it is rather indiscreet in the distinguished gentleman to say that this committee, and he says particularly the chairman of this committee, proposes a bill that is neither fair nor just, and that they know it. What is the meaning of charges like these? Why, sir, they are really charges of dishonest official action—that is all—couched in proper language, and that we want to do the railroad companies some wrong. I think the time is passed, if it ever existed, when any man of sufficient capacity to sit upon this floor desired to do the railroad companies or anybody else any injustice in legislation. We may be overweening in our zeal to protect the Treasury of our country, but there is no man here that is willing to do an injustice to the great corporations of this country or to any citizen of it. We know, we have long since come to realize, that these great arteries of commerce that bear our mails from one end of the country to the other, are beneficent institutions if properly conducted. We know that they are a great blessing to the people in the matter of transportation; that without them our civilization could not have been what it is, and could not advance. We know that, and therefore we have no unkindly feeling, but rather one desiring to protect, foster, and encourage them.

But we must not forget that a corporation is but a legal artificial entity, created for the welfare and promotion of the people's interest; that every citizen, as well as this Government, has a profound interest in all these transportation companies. We only want to see to it that justice is done them, that fair compensation is given for what they do for us, that their property can not under the terms of the Federal Constitution be confiscated by the lowering of rates beyond the point of compensation. We all know that. We all feel that interest, and this committee has approached this great question of determining the legitimate and proper pay for them with those views before them. The railroad companies often forget that they are not organized for the purpose peculiarly of obtaining revenue, accretion from their stock by way of interest, salaries, and otherwise; they forget that they exercise a part of the sovereignty of the great Commonwealths that give them political existence; they forget that the private citizen is powerless to prevent them from moving forward lines of railway, not only through his private property, not only the streets, if they desire of the great cities, but they can invade even the sacred cities of the dead and plant their tracks there without consultation with the common people in the exercise of the right of eminent domain under the Constitution and the laws. Shall we not, then, against an agency, a public-service corporation, exercise that right which we have to exercise, legitimately and honestly? Then, why should the distinguished Senator undertake to prejudice this House against the committee assuming the exercise of this power? He has said that you do not give them high enough rates. That is a legitimate statement. But when he impugns the motive of the committee he does himself an injustice. Now, let me just for a moment review some facts in connection with this matter, to show how unfortunate a man may be when in his zeal and ardor to serve his friends he makes charges of bad faith and the want of patriotism against others. Let us look at the Senator's case—and he is the man who is making the fight for the railroads here. There is no use discussing these propositions of the roads as such because they come through him. How did Senator Bourne have anything to do with this matter? Why should we wait for the commission to report before the passage of this act? Those are the main features of the contention as against present action.

There have been several post-office commissions appointed to determine the rates of railway mail pay. Two years ago the Congress created a commission, or rather a joint committee of the two Houses, for that purpose. The direction of the act of Congress was that the chairman of the Committee on Post Offices and Post Roads of the Senate should appoint three Members of the Senate as members of that joint committee; that the chairman of the Committee on the Post Office and Post Roads in the House should appoint three; and that that joint committee should report by December, 1913.

Well, what was the first step taken? In the House it was my pleasure, as chairman of that committee, to appoint Hon. JAMES T. LLOYD, Hon. WILLIAM E. TUTTLE, Jr., and Hon. JOHN W. WEEKS. The Senator appointed himself and two other Members of the Senate. They went to work on that commission. They worked faithfully, but did not complete the service. Congress extended the time to next December. It continued the personnel of that commission, and although Senator Bourne had gone out of the Senate, he remained the chairman of that joint committee.

Look at his action in the matter. Look at the examination of the witnesses. I venture to say that it will not be denied by any intelligent man that any question that he sought to ask or did ask seems to have been asked as the counsel of the railroad companies. On the other hand, the gentlemen from the House, Mr. LLOYD and Mr. TUTTLE and Mr. WEEKS, asked questions that were fair and just, seeking the real facts in the interest of the roads and of the people. And I want to commend here the splendid service of these gentlemen on that committee. Intelligent, able, capable, they have reached conclusions that are eminently fair and just, and the difference between them and the committee to-day is almost insignificant.

But, to go back to the Senator. He now places himself upon the committee, acting practically as counsel for the roads, retaining himself there without compensation, as he had gone out of the Senate; failing to make a report when a report was ordered to be made by the committee last May, though called upon for a report again and again; insisting in the last three or four weeks that he would have one ready in two weeks, and still he is not ready. Look into the further fact that the distinguished Senator has appeared before the country as if he were the leading counsel for the railroad companies and before the press of the country. Look at the fact that a bureau has been established here for the purpose of creating prejudice against the department in behalf of the railroads. Look into the fact that his secretary, a boy of twenty-odd years, has entered the press of the country in the discussion of this question against the department.

What, in view of all these circumstances, what should I say as to the value of a report made by him if it were left to him alone? Fortunately, it is not. But if he made it, what would be the value of his report to an unprejudiced Congress? Do not these facts and circumstances put the Senator in a very bad attitude?

Mr. LLOYD. Mr. Chairman, may I interrupt the gentleman there?

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Missouri?

Mr. MOON. Yes.

Mr. LLOYD. May I interrupt the gentleman to inquire whether any statement or discussion has been made by Mr. TUTTLE and myself, the two remaining House members of that commission, in any way reflecting upon the Post Office Department or upon the Post Office Committee of the House?

Mr. MOON. No. On the contrary, the two distinguished gentlemen have acted in cooperation with the department in the utmost good faith and with the utmost intelligence and capacity, and have been of benefit to the committee. Never would I intimate that there has been anything wrong with them. [Applause.]

Now, are not the circumstances strongly against him? And yet I am not here intending to say that Senator Bourne is acting in this matter from the desire to aid the railroads and prevent the department from obtaining that which would be just. I am not here to criticize him on those lines. These are simply unfortunate circumstances under which he has fallen. I am sorry that it is so, because they look ugly, that a man should be so profoundly interested, without any compensation whatever, and should take such apparent advantages against the department and the committee in the interest of the railroad companies. It does not look well. But I hope I have not lost all charity. I know the Senator. I know that his zeal and—if I may say it with the utmost respect for him, because I am very fond of him—the inordinate egotism of my friend is such that he could not agree with anybody else or perform any service at any time if for any reason he thought it best not to do so. I am not going to apologize for the existence of these circumstances. You can give them any construction you want to. I am charitable enough to the Senator to say that I do not believe he wants to do any injustice to the railroads or to the Government, but he has put himself inadvertently in the way of the department and in the way of the law to secure the benefits and rights of the people of the United States.

But, sir, I must not dwell too long on this question. Here are a vast number of assaults upon the committee by the railway employees and others, some of which I will ask permission to use and some of which I care nothing about.

Mr. MURDOCK. Mr. Chairman, before the gentleman leaves the subject I would like to ask him to correct me if I need correction on this point: The gentleman from Tennessee introduced the original bill as to rates of space. He has now introduced amendments to raise those rates for space?

Mr. MOON. Yes.

Mr. MURDOCK. My understanding was that the amendments to the original bill by the gentleman from Tennessee now make the rates about what the commission was to report.

Mr. MOON. I am going to get at that directly.

Mr. MURDOCK. Very well. I wanted to be sure.

Mr. MOON. Now, Mr. Chairman, this much for the brush that has been thrown in the way. If you will bear with me I will discuss the general scope of this section. I will then give to the RECORD those tables that have been prepared in explanation of the rates. I shall not attempt to discuss the tables, because that would take too much of my time. I shall also present for the RECORD the detailed discussion of the various features of this section. But I always find that I can get at this House better by saying what I desire to say rather than read any detailed statements with reference to any section, and therefore, if I can have your attention, gentlemen, I want to discuss in a general way the features of this particular section.

As I remarked, I shall content myself with a general discussion of the scope of the section, and those detailed features and minute features of it I will ask to put in the RECORD. To understand the law that you propose to enact and the effect of that law upon the system on which it is intended to operate, to determine whether in its ultimate operation it will be prejudicial or beneficial to the public interest, we must in a measure understand the law that we seek to repeal, alter, or amend. Therefore it is well that we call into consideration the laws that have been enacted on the subject of railway mail pay.

The first act that was passed, under which we now pay the railroads of the United States, was passed in 1873. It has been in operation, with some modifications, from that period to this time. You will find from one of the tables which I have here that in round numbers the pay for the transportation of mail by railroad routes in the United States under the first weighing provided for under the act of 1873 amounted to about $7,800,000. There has been a gradual increase, due, of course, very largely, though not altogether, to the increase in the service. Gradually the pay has risen, until the Post Office appropriation bill for the fiscal year 1915 carries about $61,600,000, as against $7,800,000 in 1873. But that is not material if the service has been performed for the people, because we must pay for the service which is performed, and it is proper that we pay just compensation for it.

Now, let us see if we clearly understand that law of 1873. It is provided that under regulations by the department the mails of the United States shall be weighed quadrennially, and that compensation shall, in each weighing division, be based for the four subsequent years upon that first annual weighing. The weighing under the regulations occurs sometimes during 35 days, sometimes during 105 days, and sometimes perhaps longer. The result of that weighing is that the railroad companies are paid certain amounts per ton per mile for carrying the mails, and I will place in the RECORD a table showing the exact rates for the whole service. I need not pause to discuss those rates.

Every four years, therefore, the mail has been weighed in one of the sections of the country. For instance, it is weighed in the western section this year, the pay for the western section for the next three years is based upon the pay this year in that section, and so on in the other four sections for the full four years. I am not charging any fraud upon the railroad companies, though it has been frequently charged, because I do not make charges without having proof; but we can not fail to see the opportunity for fraud existing under that law. For instance, if the mails are being weighed in the southern section, to form the basis upon which the pay is to be computed for four years, it would be very easy to divert the mails to and from the West, and carry them around through the South and weigh them upon every railroad in the southern section day in and day out, and that would form the basis of pay. But I do not assume that anything of that sort has been done. It may have been done. It is an error, however, in legislation to permit the possibility of the perpetration of fraud of that character. And again, when actually weighed, if fraud was desired to be perpetrated, all that would be necessary would be for the transportation companies to stand in collusion with one man in the Post Office Department or with one man upon the route that was being weighed.

Mr. GOODWIN of Arkansas. Will the gentleman yield?

Mr. MOON. I will yield.

Mr. GOODWIN of Arkansas. Would it not be better to weigh the mail simultaneously in all sections of the country, so that there could be no diversion?

Mr. MOON. That would possibly avoid any diversion, but when the gentleman understands that it would take several million dollars to do that, he will find that it would be a very unbusinesslike proposition.

Now, Mr. Chairman, you will observe by a further statement of the law that the policy which has been pursued is not only unscientific but utterly inaccurate. It can not form a legitimate basis for compensation or remuneration to the railroad companies upon the one hand, nor can it result in a proper disposition of revenues for that purpose by the Government upon the other hand. It needs a radical change. When you examine the table which I will place in the RECORD showing a gradual increase of railway mail pay by leaps and bounds, sometimes by one, two, and three million dollars per annum, you will appreciate at once the effect of the adoption of a system that will put an end to this uncertainty, that will fix a just basis of compensation upon which the rights of the Government and the rights of the railroad companies may be accurately determined.

You see the present effect of this policy. The question was once asked of a Postmaster General whether it was possible under the present system of computation of pay for him as head of this great department to come within $10,000,000, not of what was paid, because we all know that, but of what would be the legitimate compensation of the railroad companies for the transportation of these mails, and he answered that it could not be done. It was a knowledge of those facts that brought about the present attempt to correct those conditions. Ought there to be any politics in a proposition that brings about a change from uncertainty to certainty, a change that will bring accuracy instead of confusion, a change based upon intelligent lines of thought, as against a policy subversive of the rights of the Government by a possible perpetration of fraud on the part of those connected with the service?

For your detailed information I present also for the RECORD a full and detailed statement of this alleged revolutionary change in the service of this department.

Let me call your attention to the fact that we dispense with the weighing process. We avoid the weighing of the mails hereafter. We avoid the uncertainty of computation of pay. We avoid all errors that have been pointed out under the present system by paying for the space that the Government occupies. The joint commission of which my friend the gentleman from Missouri [Mr. LLOYD] and the gentleman from New Jersey [Mr. TUTTLE] are members, have considered this question, and these gentlemen fully approve of the main features and plans of this bill. The Committee on the Post Office and Post Roads have had the benefit of the services of that commission and the knowledge of its work. They have had it through the Post Office Department, which was cooperating with that commission all along, and they have reached the conclusion that the Government of the United States should depart from the system of railway mail pay now in vogue—and I speak now of certain amendments to the bill—and that we should pay for a full apartment car, 60 feet long on the inside, 21 cents per mile for every mile that that car runs in the United States carrying mail, and 21 cents for every mile that it runs after it has carried the mail, when it is going back empty.

Keep these figures in your heads. There are two other standards fixed that vary somewhat from the present standards, one is the 30-foot compartment car. For that we propose to pay 10½ cents per mile for every mile that that car runs every day in the year. For the 15-foot car we propose to pay 5¼ cents a mile. In addition we are paying fixed terminal charges and fixed initial charges. I will place in the RECORD the exact figures.

I should have said that we propose to pay 20 cents, too, for storage car, and the difference between that and the other is that it does not have to be heated or lighted or supplied with water.

On the pouch mail we are proposing to pay fixed prices for carrying each pouch. Now, that mail goes upon cars that have no full apartment cars, no portion of an apartment car, but may go in a baggage car.

Mr. LLOYD. Will the gentleman yield?

Mr. MOON. Yes.

Mr. LLOYD. Is not the gentleman mistaken about the provision of the bill at that point? In this bill it is proposed to pay for weight somewhat like the present system for pouch mail.

Mr. MOON. Yes; at a fixed figure.

Mr. LLOYD. I thought the gentleman said it was paid by the pouch.

Mr. MOON. Oh, no; by the pound, of course. Now, this mail carried in the closed pouch, every pound of which we pay for at the rate fixed, may go in an express car or be put anywhere in the baggage car and thrown off. Those are the features of difference between the old and the new system.

You ask me why it is we fix 21 cents for the line. The answer is that the experts of the department, the commission, the Interstate Commerce Commission, make this rate comparable to passenger rates. The passenger rates are about 24½ cents—I am not giving the exact fractional figures—for carrying passengers. In other words, they say the railroads in the United States can carry passengers at that rate per mile, 24½ cents. That includes not only the moving of the train, but the water and the lights, the interest upon its legitimate bonded indebtedness, and all of the overhead charges. Everything is computed to reach the rates by which passengers may be carried per car per mile.

Now, is it not wise, is it not legitimate, is it not fair, as the commission contends, that when other classes of matter—if I may so designate passengers—is carried, that it must be with the view to the particular service performed by the railroads in a particular instance? For instance, if you were to carry dead matter, as you do in a storage car, it ought to be less than where you have a full compartment car in which there must be working space for the agent of the Government at work in the car.

Coming back to the question fixed by the commission that fix it at 24½ cents, the statisticians say that in handling the mail there ought to be a reduction from that rate of 2 or 2½ per cent. Therefore that would bring it down to about 22 cents.

Mr. SELDOMRIDGE. Will the gentleman yield?

Mr. MOON. I will.

Mr. SELDOMRIDGE. The gentleman is making a very interesting statement in reference to the cost of the passenger service and the Mail Service. Is his statement made in view of the declaration of the Interstate Commerce Commission that the railroads are not deriving sufficient revenue from passenger traffic and that a raise in the rates of passenger fares would be justified?

Mr. MOON. The recent report of the Interstate Commerce Commission reduced the rate nearly one-half of 1 per cent.

Mr. LLOYD. If the gentleman from Tennessee will pardon me, I think the gentleman from Colorado is mistaken with reference to the Interstate Commerce Commission having made any such statement. The statement was made by Mr. Brandeis, who is attorney for the Interstate Commerce Commission.

Mr. MOON. That is true, and I forgot to say that Mr. Brandeis never had any information on this question. If so, he never has exhibited it. Now I must proceed. Mr. Chairman, in view of the fact that 24.96 is regarded as compensatory to the railroad company, including its charges of every character, and in view of the fact that the mail service does not cost like the passenger service, because you have none of these liabilities incident to it—you do not have a conductor and a brakeman and officials to control that particular car, because the mail car is controlled and the mail is managed in the car by the servant of the Government. Now, 2½ per cent deducted from 24 per cent leaves 22 per cent. This bill provides for a line charge of 21 cents, and there is added to it the terminal charges, the initial charges, and then you have the figure that is a fraction higher than the Interstate Commerce Commission says is just and legitimate compensation.

Take this bill in the concrete, and let us see how it would operate. You will find—and I will furnish you a table giving the details of the service—that this very bill under consideration to-day, if it were put into effect now, would give to the railroad companies of the United States about $587,000 per annum more money than they get under the provisions of the appropriation bill which passed and became a law on the 9th of March for the fiscal year 1915. How can it be said that it is unfair when for a single year this very measure will give them more than half a million dollars of money more than they are getting now for the service?

But you ask me if that is true, that we are giving to the railroad companies now half a million dollars more under the new plan for this year than they get under the general appropriation bill for a similar service, of what benefit is this bill to the public? It is a benefit in this, that under this plan the Post Office Department can so handle its mail, so load it and prepare it for transportation, so conduct the transportation of the mails, as to recoup in these economies the difference in a single year.

Then, while the Government of the United States will under this bill have to pay for about 265,000,000 miles of travel by one car in this service—for many millions of it the car will be empty—they can so adjust in the administration of affairs the handling of the mails as to perfect that economy in administration that will more than overcome the difference in favor of the railroad companies under this bill. Then, if the railroad companies are getting all that they are entitled to as compensation, and we are getting a definite and a fixed system by which we can determine daily the liabilities of our Government, is not the condition better? Ah, but why do the railroads fight it so? When we have once established this system, when we have determined upon the service required, the law fixing the compensation, it remains the same.

It is not subject to that varying and changing condition that is brought about by a quadrennial weighing of the mails and a guess for the other three years upon the method of computation. How can it be that in these years that have passed since the act of 1873 the enormous sum of sixty-odd millions of money is reached in transportation, some years leaping one, two, three, and four millions of money? It could not be upon a system accurate as this is, and I congratulate my friends of the House here who were upon that commission, and I am proud of them, because I appointed them upon that commission; and I am proud of their service. The minor differences that may be between us as to the language of the law being carried as heretofore or changed in some respects amounts to but little, and the little variation in the amount of the divisional compartment cars amounts to but little. It is one of safety to this country in the handling of mails.

But to go back to the consideration of the question as to why the roads oppose it, it will hereafter be impossible for this service to increase one, two, three, and four millions a year without the people knowing exactly what the service is for. We know the number of cars they use, we know the number of miles they travel, we know the compensation, we know the cars that are storage cars and the cars that are full apartment and quarter and half compartment, and we know the value of the closed-coach service, and those are all the elements that enter into it, in the main.

Mr. Chairman, the railroad companies at first complained that they had not been heard. Why, the most ample hearings possible have been given before this commission, before the department, before the committee at various times. They want the uncertainty to continue, because they will benefit by it; and, mark you, if you adopt the policy suggested by these gentlemen and approved by the department and by the committee, you will put an end to that vast increase in railway mail pay that occurs annually, and you will get certainty in your service. But the roads say that it is not fair to them; that they have already lost an immense amount of money. Some of them say that they have lost $15,000,000 under the present policy. They might just as well have said $50,000,000, because one figure is as close to the truth as the other. The truth is that they have been overpaid. I call your attention to the substance of Document 105 and to the statements of the Postmaster General, at page 997 of the report of the hearings before the joint committee that had this matter under consideration. I point you to all of the evidence, and I would be glad if I had the time to pick it up and review it, to show that, at the very lowest figure, they have been overpaid even for the last fiscal year a half million of money. If you continue this old plan, you may confidently expect that in 20 years from to-day for this service, with a little increase in facilities, you will be paying $100,000,000 instead of $60,000,000. Adopt this new plan and you will hold the service down practically to the same figure every year, and you will know exactly what you are doing, and you will know what you are getting and paying for, and you will pay for all you get, and if you need additional service all you have to do is to demend it and pay for it in accordance with the law.

I have no patience with the suggestion that this Congress has not the power to require under penalties the moving of the mails of the United States over every mail route in the Union. This is the only civilized Government in the world that has not upon its statute books to-day a law that forces the carrying of the mails over these routes, whether the carriers want to carry them or not. It is a power and a function of government that can not be abdicated. There is but one limitation upon it in any government, surely but one under a constitutional government, and that is that the compensation to be fixed by the legislative body in its discretion shall not be confiscatory, but must be compensatory. I have attempted to demonstrate to you that this is not confiscatory, that it is liberal in its compensation, by a comparison between similar service rendered and the pay for it and that which we are demanding. You will find also in an explanation of this question which I have prepared in detail here another table, the comparative rates for the transportation of mail matter and express matter. You will find that if the express companies had been carrying the mails of the United States during the last fiscal year the compensation to the express companies for that service would have been

several million dollars less than the compensation that has been paid to the railroad companies. True, there is a difference in the character of the service. There is a marked difference in some respects, but upon a summary of the whole, and the facilities of transportation, the benefits to be derived from the service are in favor of the Government mail, so far as yielding an accretion to the carrier is concerned, as against the carriage of express.

I do not know how long I have been talking. There is a whole lot here to talk about, but I must close it up and let some other gentlemen discuss these questions.

Mr. MURDOCK. Mr. Chairman, before the gentleman closes, will he yield for a question?

Mr. MOON. Certainly.

Mr. MURDOCK. Is there an estimate anywhere that shows what the expenditure will be the first year under this bill as amended?

Mr. MOON. Yes.

Mr. MURDOCK. What is the total?

Mr. MOON. Does the gentleman mean what the cost of the service will be?

Mr. MURDOCK. Yes; the cost of the entire service under this bill.

Mr. MOON. I think it is about $62,000,000.

Mr. MURDOCK. I would like to ask the gentleman this, and then I am through. In his first bill the rates were carried at certain sums, and in the amendments which he has offered they have been increased.

Mr. MOON. Yes.

Mr. MURDOCK. In one instance it is 1 cent, and in another instance it is a half a cent, and in another another rate. In the case of the storage cars it is 2 cents. I understand that the gentleman's increase from the first increase to the second increase involves an increased total expenditure of about $3,000,000. Is that correct?

Mr. MOON. Yes.

Mr. MURDOCK. How does the gentleman arrive at that increase over the original bill?

Mr. MOON. Over the original bill? It is really more in the spirit of compromise with the committee and the department than anything else. The amount involved we regarded as probably negligible as compared with the splendor of the service to be obtained hereafter. The gentleman understands that the change of even a half a cent involves millions of money.

Mr. MURDOCK. I know it does. Does the gentleman in his latter figures approximate what the commission was to report?

Mr. MOON. We have a table here showing what the commission would probably report, as gathered from the Gazette by the department people; but whether that is accurate or not I do not know; but the gentleman will observe that the difference between the commission is about a half a cent in one instance, and a cent in another, and a quarter of a cent in another, and there is some difference in the initial and terminal charges, and, then, the commission provides for space for the pouch, and we do not, and that saves us in favor of our bill about $1,118,000.

Mr. LLOYD. Will the gentleman permit an interruption?

Mr. MOON. Yes.

Mr. LLOYD. The difference between the commission and the Post Office Committee is 1 cent on the storage-car rate. They fix it at 21, and the committee fixed it at 20.

Mr. MOON. That is in the amendment.

Mr. LLOYD. I am talking about the amendment. On the 30-apartment car we fix the rate at 11 cents, and the committee by its amendment fixes it at ten and a half.

Mr. MOON. That has been already stated.

Mr. MURDOCK. The question I want to get at is the difference between the gentleman's other bill and the commission bill.

Mr. LLOYD. But on the 15-foot apartment car the commission will recommend 6 cents instead of 5½.

Mr. MOON. I think the gentleman will find we have given here—which the department prepared—a table showing the difference between the bill that the committee expected to introduce, or would have introduced on the basis of the speech of the gentleman from Missouri [Mr. LLOYD], and this particular bill, and there is a table here that shows that. There are several million dollars difference, in view of the two bills on that feature, but the main difference grows out of the fact of the difference in the terminal charges and the slight difference of cost in the apartment cars and in the pouch—a million and a half.

Mr. Chairman, I feel like I ought to apologize to the House for so much discussion on this question, and yet the details of this question are immense. I have attempted to show here by these tables and explanatory notes, and the proposition to which I have referred verbally, the position of the committee upon these questions. I want to emphasize before concluding that there is no difference between this committee and the joint commission that has not yet reported, as I understand, on the policy of the change. Whatever difference exists, exists upon the minute details of compensation for particular characters of service. Those of my friends here are a little higher than we have. Ours is based upon the statement of the statisticians of the department and the practical experience of the department in the handling of this question. Theirs is based upon the statement of the statisticians of the Interstate Commerce Commission, but I apprehend that there is no serious difference or will be in the final outcome upon these particular questions.

Now, Mr. Chairman, this has been purely a business talk with my friends here about this railway mail pay, and I assure you it is a good deal of pain that I experience as I turn from the consideration of the purely business proposition to one that I still think is business in its character, but which my friends on the other side for some reason strange to me regard as political in its nature. I do not think so. I am going to discuss it with you and see if we can not come to some sort of a conclusion about this measure and vote for it as a unit. Now, you do not want to go home and tell the good people of all the great sections of the country you represent that you voted against a bill that will ultimately save millions upon millions of dollars to the Government of the United States and would prevent 1-cent letter postage. You do not want to say that you want to obstruct that beneficent policy by which $3,800,000 has been, under the legislation and administration of this Government, turned into the general Federal Treasury. You want to say, I hope, that notwithstanding a feature of this bill that you do not like—if you do not like it, I am sorry you do not—but you want to say that notwithstanding it you voted for the whole bill because of the great benefits coming to our country on account of it. Now, if I thought that we would lose the thirteenth section of this bill on account of injecting matter that some people insist should not be in the measure, I would say wipe it out and let us fight out that political question some other way.

But let us see. This committee, as I said before, are not here merely to register the will of the department in this particular bill. We changed the views of the department very much. We have acceded in large measure to the views of the commission because of their superior advantages over ours for information connected with the matter. A spirit of conciliation has existed all along, and I want it to exist in this matter I am going to discuss now. Now, what is it?

Mr. SMAUEL W. SMITH. May I interrupt the gentleman?

Mr. MOON. I will yield to my friend.

Mr. SAMUEL W. SMITH. I have been very much interested in the able speech of our distinguished chairman, and I would like to ask him now if he will not consent to striking out section 3, so we may all get together on this subject of railway mail pay?

Mr. MOON. I am unable to do that of my own motion. This committee controls that. We must leave it to their judgment.

Mr. SAMUEL W. SMITH. Will the gentleman consent later on to make that motion?

Mr. MOON. We will debate that later on. I was about to remark when I was diverted for a moment that this committee does not sit in the room below for the mere purpose of registering the will of the department upon any question. It is our pleasure when we can to comply with the desires of the department for the betterment of the service and the promotion of all legislation that looks to that end. But we have changed in accordance with our views many of the sections of this bill. However, there is one section to which the department does not give its sanction. In other words, the Postmaster General has been charged with acceding to this section in order to pass the railway mail section. The fact is that this section would go through easier if the measure to which my friend from Michigan [Mr. SAMUEL W. SMITH] has just referred was stricken out. I acquit the Postmaster General of all sympathy and favor to this section that I am about to read. The committee takes the full responsibility. It is as follows:

SEC. 3. That hereafter any assistant postmaster who may be required by law or by authority or direction of the Postmaster General to execute a bond to the United States to secure faithful performance of official duty may be required to also execute a bond to the postmaster whose assistant he is for the faithful performance of his duties as such, in the discretion of the Postmaster General; and it shall be the duty of the Postmaster General to require all applicants for assistant postmasters in first and second class post offices, including those now in office who were carried into the service by Executive orders heretofore made, to take a competitive civil-service examination within 90 days, or as soon thereafter as practicable after the passage of this act, under the civil-service law, rules, and regulations, and the Postmaster General shall, under such law, rules, and regulations, appoint all assistant postmasters, and all laws, rules, and regulations in conflict with this act are hereby repealed.

Now, who has any objection to that? I would like to know.

Mr. STAFFORD. All of us on this side and some on your side.

Mr. MOON. I think not. I will show you why you ought not to have any objection if you have. Now, a man who is opposed to that is opposed to it on political grounds purely. He can not be opposed to it on any legitimate civil-service grounds. A man who is opposed to that is a political partisan; that is all. Now, as a Democrat I do not agree with Gen. Burleson; I do not agree with this administration on the question of civil service. I believe in an efficient civil service. I believe in a service under which there will be a tenure, not for life, but a limited term of years, during which the best service may be rendered to the Government. I believe in an examination for that service. But I do not believe under these institutions of ours and in the light of the American Declaration of Independence that it is either right, patriotic, or American to put any man or any set of men in office for life by Executive order. If every office in the United States to-day were filled for life by a Democrat, I would protest in the name of the honor and integrity and glory of my country against the consummation of such a crime against the liberty of the people. [Applause.] I have no objection to Republicans holding office. I would not care, as far as I am concerned, if the powers of Government were so balanced that the executive and the legislative, the two branches of the legislative department, should never at the same time be in the possession of the same political party. There is nothing so far from my views on this question as an attempt to get out of office a Republican postmaster. Of course I would always prefer a Democrat.

Mr. COOPER. Will the gentleman permit an interruption?

Mr. MOON. Certainly.

Mr. COOPER. The gentleman said, and he received applause for the remark, that he as a Democrat would be opposed to having a Democratic President fill all the offices with Democrats by Executive order?

Mr. MOON. Yes.

Mr. COOPER. And "all the offices" would include, of course, judicial, legislative, and every other kind of Government office. Nobody has ever thought of proposing anything of that kind. But does not the gentleman from Tennessee see a vast distinction between a legislator and a clerk whose duty it is simply to receive money and pay it out in accordance with law? What is the difference between a clerk doing such work for the Post Office Department and a clerk doing similar work for a manufacturing corporation?

Mr. MOON. Certainly I see a difference between the different characters of office, but I do not see any office through those eyes that would give a life tenure by law or Executive order to a clerk or anybody else. Take a life-tenure office, and what is the effect? An incumbent may give 15 years of honest, faithful service to his Government. At the end of that time he is incapable of efficient service.

Look at the department to-day, and one-fifth, practically, are unfit for the service they are proposing to perform, and yet are held on as a matter of charity largely until at last forced to be dropped off the list in order that the work may be done at all; and you call that civil service. It is inefficient service and nothing else. An honest civil service would not tolerate a condition that gave a tenure of over 15 or 20 years. Look at the effect of it. If you are to continue these people in these positions, if you are to take their service all of their lives nearly, unfitted as they will be at the end of it for the performance of any other duty, common honesty would compel you to have a civil-service pension list, and you have not a right to so legislate. You have not a right, through your Executive or in any other way, to so decree as to place that burden upon the American people.

Mr. Chairman, these assistant postmasters of the United States do not give a bond except to the Government, and yet the postmaster is responsible for every single act they perform, every defalcation they make, and the Government does not go to their assistance. It goes to the postmaster to make him account for the defalcation. Pending in our committee are bills asking relief for postmasters where their assistants have plundered the Treasury. Yet there is no bond. Here is a man who is a confidential clerk; he ought to be the personal friend, if not the political friend, of the postmaster, and yet he is thrust upon that postmaster. He may have been taken, as was once done, from Washington and put in the New York post office, without the consent of the postmaster there. No control, no authority over him, and yet that man has the right to handle the revenues of the post office, and does handle them.

Now, this section does nothing more than this: It provides that these assistant postmasters shall not only execute a bond to the United States, but in the discretion of the Postmaster General he may require him to issue a bond to his principal, naming the conditions under which this ought to be done. But passing from that, let us look at the other part of the section for a little while.

Mr. HULINGS. Will the gentleman yield?

Mr. MOON. I will.

Mr. HULINGS. If the postmaster is responsible for the acts of his assistant, I can see why the postmaster should be in authority to exact a bond from him, but why should he give another bond to the United States, since the postmaster himself has given his bond to secure the United States? And if the postmaster himself is responsible for the acts of his assistant why should he not appoint his assistant and thus obviate the necessity of any regulations requiring the Postmaster General to send a man from New York to Pittsburgh or vice versa to fill the post of an assistant?

Mr. MOON. I think that is a very wise suggestion. I should be very glad to accede to that. However, I am not attempting, and the committee is not attempting, in this bill to do more than to remedy the condition that exists in reference to that matter, leaving it in the discretion of the department. This is not a bill to correct the whole civil-service law. It is a measure that we think should receive consideration, connected as it is with the Post Office Department.

If I were presenting to this House a civil-service law, I would insist that the term of office should be limited to a certain number of years; that the applicant should pass an examination for the particular work that he was to perform; that he should be of a certain age; that he should be limited to a term of years, to an age beyond which he could not serve longer; that he should have an examination then, and at the end of that time, when he is still an efficient man and can make a living in a contest with the world, he should go out into the world and make a living and let the department be relieved from the burden of a civil-service pension law. That is the way I would handle the clerks.

I want to say that, so far as the postmasters and their assistants are concerned, I would have the party in power to name them and to take the responsibility. You can not administer this Government in accordance with the principles and policies of the Democratic Party as decreed by the people at the polls a year and a half ago unless you have Democrats to aid in this administration. [Applause on the Democratic side.]

These assistant postmasters ought to be appointed, as suggested by my friend from Pennsylvania [Mr. HULINGS], by the postmaster or by the administration. And while I am right here on that question, before I forget it, I want to say that these gentlemen who are now holding these offices—2,560 of them in the United States—are, 98 per cent of them, Republicans. Not one of them ever took a civil-service examination for assistant postmaster; not one. Then, tell me why it is that you want to violate the spirit of the civil-service law and retain them without an examination? Did not Mr. Taft, in the expiring days of his administration, cover by Executive order 43,000 assistant postmasters into the service for life? Yea, for life. And did not President Wilson say that that was not just and fair, and that there ought to be an examination of these men? And did he not order an examination of them, and has not that order been executed, and is it not being executed?

If it was a wise order as to the fourth-class postmasters, why is it not equally wise as to the assistant postmasters in first and second class offices? Will any gentleman tell me why? Are you going to tolerate it? I do not care whether my friend Postmaster General Burleson or anybody else wants to tolerate it, the retention of 2,500 Republican officeholders for life without examination Democracy can not sanction. Are you ready to tell the American people that you are holding these offices in trust for the Republican Party to thwart and destroy the principles of democratic government?

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Wyoming?

Mr. MOON. Not now. This is a little question, so far as these officers are concerned, but the fundamental principle underlying it is potential. You are going too far. Yea, you go too far when you permit for life the existence of a single officer. The time has come when these things must be changed in the interest of the people.

This administration is doing well; its splendid work on the tariff, on the currency, on the trust bills, and other measures has gone through; it will carry out the postal legislation that will make this great department of the Government safe in the promotion of the public welfare. But let me tell you that when the end of economic policies shall come, so far as legislation in this House is concerned; when the decree of the people on the subject of trusts and monopolies shall have been registered; when they have been relieved from the thraldom and the oppression of monopoly, then you will turn instinctively to the

consideration of the fundamental principles of your Government. Weighed down as you have been in the years past by untoward policies, you have not given that consideration to the great fundamental principles and issues upon which the great Republic rests. I introduced, a few days ago, for the correction of these errors, an amendment to the Constitution by prohibiting the life tenure in office of individuals, which I will reproduce, with your permission, as an appendix to my remarks, and it brought forth a storm of vindictive and vituperative suggestions from that part of the press of the country which does not want to come any nearer to a republican form of government than we have got. As I have said before, I say now, it is not a true Republic that we live under; no land is a Republic in which the judicial power is vested for life in men. There is no liberty, and there never was in any land where the judiciary had the power under the Constitution to nullify the law of the supreme legislative body of the Government. That power does not exist to-day in any one of the great nations of the earth. This is the only land in which the power of the judiciary is raised above the legislative branch of the Government to the point of a nullification of its laws. You will never have a Government of the Constitution in accordance with the spirit of the American Declaration of Independence until you shall have a law that makes your judiciary elective, and that makes elective the officials of all our great administrative offices. And finally, let me tell you, the lines of political battle will be drawn and forced in this country along the lines of the Declaration of Independence, and we shall yet breathe the immortal spirit of 1776 into the Constitution.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Minnesota?

Mr. MOON. No; not now. That spirit was destroyed when the patriots were defeated in the Constitutional Convention by the overpowering strength of the late Tories and the late adherents to Great Britain. But the sentiment has passed down the line for more than a hundred years. The fight between federalism and democracy has gone on during all these years, and yet men tell us we are not capable in the Federal institution of exercising the power which we exercise in the sovereign States that constitute the Union. Is there any more reason why this Federal Government should not be drawn in bonds of love and union to the hearts of the American people than that the citizens of our Commonwealths should be drawn to the great Commonwealths in which they live? [Applause on the Democratic side.]

Gentlemen, you can look forward. You are going to have every "ism" that is possible, until you have at last come down to a government under a constitution by the people. If, as men who believe in republican institutions, we turn our backs upon the doctrine that the people are competent, that the people have the right to determine and enforce their will at the ballot box, you have done nothing more than to sanction under the form of government the divine right of kings. No ruler, it is true, is here set upon the throne and wields the scepter. There is no ruler here, it is true, to whom the subject must bow. But there is a greater ruler than a mere personal king. It is the law, the majesty of the law; and if law is so made as to uphold and maintain classes against the common people, if it is so made as to uphold and maintain monopoly of power against the common citizen, it is a shame and a disgrace to mankind to speak of a law under such conditions being promulgated and maintained by a real republic. [Applause on the Democratic side.]

You must go back, and you will, to the fundamental principles of democracy. Old Jefferson said that this Government could not be administered by its enemies. Great Britain would be just as great an oppressor, and no greater, to those who advocated the principles of true democracy, than those in this Government who have no faith in the people being capable of administering their affairs by elections at the ballot box.

Mr. Chairman, I have often heard it said that Cato the elder, remembering the wrongs to his country by Carthage, never closed a speech that he did not declare that if Roman liberty was to live Carthage must be destroyed. I tell you, sir, that the day is not far distant when every American patriot must close every public utterance with the declaration that if liberty shall survive in the Republic the life tenure in office must be ended. [Applause on the Democratic side.]

Mr. HULINGS. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. HULINGS. I rise to ask a question.

The CHAIRMAN. Does the gentleman from Tennessee yield for a question?

Mr. MOON. Yes.

Mr. HULINGS. If the gentleman believes that the sentiments he has been so eloquently expressing are democracy, they are precisely such sentiments as I believe in, but I call them Lincoln republicanism.

Mr. MOON. I do not know anything about Lincoln republicanism. I believe in democracy.

Mr. HULINGS. When you advocate Jeffersonian democracy you are practically advocating Lincoln republicanism.

Mr. MOON. All right. I am glad Mr. Lincoln agreed with us.

Mr. HULINGS. Both of those great Americans agreed in their opposition to the Hamiltonian idea that this is a Government by the representative "class." But to my question; there is a matter which I wish to ask about. I have had a great many complaints from men who are rural route carriers. We increased their pay to $1,200, but leave it discretionary with the Postmaster General, and under that discretion many of the carriers get no increase whatever. Now, is that matter to be covered anywhere in your bill?

Mr. MOON. The act approved on March 9, 1914, provided for an increase of rural letter carriers' pay to not exceeding $1,200 per annum.

Mr. HULINGS. Yes; but, for instance, I have five carriers from one office. Three of them get an increase of $82. Two of them do not get any increase at all, because it is said that under the discretion of the Postmaster General this increase is only given in proportion as they carry an increased number of postal parcels.

Mr. MOON. I presume the gentleman understands the order of the Postmaster General, which bases the pay not only on mileage but on the number and weight of the packages carried.

Mr. HULINGS. Oh, yes; I understand. But it was understood that the pay of carriers was increased on the ground that they were underpaid, but the Postmaster General has made regulations that prevent some carriers getting any increase. Is that corrected in this bill?

Mr. MOON. No. Some gentleman may offer to amend this bill on that question. I do not know that.

THE RAILROAD COMPANIES SEEK TO DIVEST THE POSTMASTER GENERAL OF ALL DISCRETION AS TO RATES.

The principal part of the railroads' material which they have been using in fighting the pending bill has been furnished them by ex-Senator Bourne, chairman of the Joint Committee on Railroad Mail Pay. The latest document put out by the railroads is a reprint of Mr. Bourne's five statements given to the public since the introduction of the present bill, assailing it and the Post Office Committee and the Post Office Department. The railroads, in their contention for higher pay and in their insistence that all discretion be taken from the Postmaster General in the matter of fixing pay, find an advocate in Mr. Bourne in these published statements, regardless of the testimony submitted by the Post Office Department and the legislation upon railroad mail pay since its beginning.

One of the contentions most strenuously made by the railroads before the Joint Commission on Railroad Mail Pay was that the present law should be changed and that the Postmaster General be divested of all power over rates. In order to accomplish this they insisted that the words "not exceeding," which are now included in the statute, be eliminated from the proposed legislation, and that the rates should be fixed absolutely and the Postmaster General given no power to fix a lower rate. In other words, this would put the railroad companies in complete command of the situation regardless of the Postmaster General. If, under special conditions, the service were not worth the maximum rates fixed by Congress, the railroad companies could insist upon those rates regardless of the equities in the case and the Postmaster General would be helpless and be compelled to pay what he knew was an exorbitant rate for mail service. The railroads have found an advocate in ex-Senator Bourne, the chairman of the joint committee authorized by Congress to consider the question, and he has stated in his public utterances that the proposal of this bill, which has the support of the department, to still retain these words in the law is "bureaucracy run mad."

As a matter of fact, the proposed provision in this bill is substantially the same as the provisions of all statutes regulating mail pay for railroad service since the enactment of the law of 1838. They have all provided maximum rates and have all lodged in the Postmaster General a discretion to fix lower rates if it were proper to do so. The present plan of fixing pay is prescribed by the law of 1873, and its amendments and these words are continued in those statutes. The provision that the Postmaster General shall pay "not exceeding" the rates named forbids the Postmaster General paying more than those rates, but gives him the discretion of paying less if the conditions of the service do not warrant the maximum pay. The assumed fear that some Postmaster General would grossly abuse this dis-

cretion is without the slightest foundation, as not one of them has ever made a level or horizontal reduction in rates applying to all services. However, there are individual cases where, on account of the special conditions of the service, the Postmaster General has paid less than the maximum rates. The railroads and their friends who are aiding them in the fight against this salutary provision want these words stricken out and the Postmaster General left helpless in these matters.

THE DEPARTMENT'S CREDITABLE SPIRIT OF COOPERATION.

The chairman of the joint committee considering railroad mail pay, which has not yet made its report to Congress, although it has long since closed its hearings and printed the evidence in a volume of over 1,500 pages, has, according to the newspapers, been giving out almost daily interviews since the House Committee on the Post Office and Post Roads reported the bill now under consideration, in which he has attacked the Post Office Department and its officers, charging them with changing the details of their plan and their rates for adjusting railroad mail pay on the space basis.

The Postmaster General submitted to the joint committee on February 12 of the present year a tentative draft of suggestions for recommendation for legislation and regulation of railroad mail service and compensation therefor. In this draft the space basis was recommended with certain sizes of cars, conforming to the conditions now found in the service and line charges and terminal and loading charges specified. The plan was a tentative one and became the subject of discussion before the joint committee. The officials of the Post Office Department defended its provisions and agents and attorneys of the railroad companies assailed them, and at all times the officers of the department were open-minded and endeavored by every means at their disposal to enlighten the commission with their views and such facts as they could submit, and to assist in reaching conclusions upon each and every point which should be most consistent with the best interests of the service and in complete fairness to the railroad companies. It is highly creditable to them that they have been willing to adopt every feature which the testimony and the discussion before the joint committee seem to make advisable under all the circumstances. This is in striking contrast with the attitude assumed and the spirit shown by the attorneys and representatives of the railroad companies at the hearings. They offered no constructive proposal excepting the correction of certain inconsistencies in the present law. They opposed the space basis upon every occasion for no apparent reason other than that stated by Representative LLOYD, a member of the joint committee, at the hearings, as follows:

There is not one trunk-line representative here but who is doing everything in his power to make it appear they are not receiving enough for carrying the mail, and it is not the question of whether it should be carried by weight or space, and the reason you are objecting to space is because you do not think you will get as much compensation as under the weight system.

In sharp contrast, however, and with open-mindedness and frankness in the consideration of the subject and in a spirit of complete cooperation with the joint committee so far as they were able to discover their views in conferences had with them the officers of the department recommended certain changes in the tentative plan referred to. These changes have been embodied in the bill reported by the House Committee on the Post Office and Post Roads and which is now under consideration. These principal changes may be briefly mentioned under the following headings, and the department is not only willing to so cooperate in making these changes, but is anxious to give the commission any credit that may be due it for the development of the subject in the manner which has led to such changes.

THE PRESENT PLAN AND RATES FOR READJUSTING RAILROAD MAIL PAY; THE PROPOSED PLAN; THE PRESENT PLAN.

The purpose of this proposed act is to provide for a new plan of readjusting railroad mail pay. The new plan contemplates the adoption of the space basis and the abandonment of the weight basis with respect to the greater part of the service.

At present railroad mail pay is provided for and adjusted upon the basis of the average daily weights carried over the several established railroad routes, and an additional amount is allowable for railway post-office cars when the space for distribution purposes equals or exceeds 40 feet in the car. Space for distribution purposes in apartment cars—that is, space less than 40 feet—is not compensated for in addition to the pay for the weight of mails. There are, therefore, under present law two different methods of pay for service which cover three different conditions in the service. That is, there is pay for weight under all circumstances; there is additional pay for space, 40 feet and more, in cars; and there is pay for weight only in cases where apartments less than 40 feet in cars are furnished.

Readjustments of compensation are made under the law allowing pay for average daily weights upon weighings in each contract section not less frequently than once in every four years. The country is divided into four contract sections, all quadrennial contracts for the several classes of transportation services, together with the railroad service, expiring in each contract section at the same time. The weighings of mails on the railroad routes occur successively in the several contract sections. Hence there is a weighing every year in the service, although but one every four years in any particular section. Upon the weights of mails for each route obtained during the weighing period the average daily weight carried over its whole length is computed and the pay per annum is fixed according to the schedule of rates provided by law. The order readjusts the pay for the contract term of four years, subject to future orders and fines and deductions.

The statute fixing the pay for railroad transportation based on average daily weights provides certain conditions precedent to entitle the companies to full pay, one of which is that sufficient and suitable room, fixtures, and furniture in a car or apartment properly lighted and warmed shall be provided for railway postal clerks to accompany and distribute the mails. Consequently no additional pay is authorized for space to distribute the mails in apartment cars 30 feet or less in length.

The additional pay allowed for full railway post-office cars of 40 feet or more in length is ordered at the rates fixed by statute and the regulations of the department upon the needs of the service, as ascertained and reported by the field officers of the service and finally accepted by the officers of the department in accordance with the postal regulations governing such authorizations.

The authorization of mail service to be performed by railway companies is made by the Postmaster General under sections 3942, 3964, and 3965, Revised Statutes (secs. 1316, 1305, and 1307, Postal Laws and Regulations, 1913), but without formal contract reduced to one instrument, the mutual agreement of the department and the company being followed by a formal order establishing the service over a definite line and between stated termini.

The statutes governing the authorization of railroad mail service and fixing the rates of compensation are contained in section 1317 of the Postal Laws and Regulations, 1913 (Rev. Stat. 4002 and subsequent acts), and reads as follows:

SEC. 1317. The Postmaster General is authorized and directed to readjust the compensation * * * to be paid for the transportation of mails on railroad routes upon the conditions and at the rates hereinafter mentioned:

First. That the mails shall be conveyed with due frequency and speed; and that sufficient and suitable room, fixtures, and furniture, in a car or apartment properly lighted and warmed, shall be provided for * * * (railway postal clerks) to accompany and distribute the mails.

Second. That the pay per mile per annum shall not exceed the following rates, namely: On routes carrying their whole length an average weight of mails per day of 200 pounds, $50; 500 pounds, $75; 1,000 pounds, $100; 1,500 pounds, $125; 2,000 pounds, $150; 3,500 pounds, $175; 5,000 pounds, $200, and $25 additional for every additional 2,000 pounds, the average weight to be ascertained, in every case, by the actual weighing of the mails for such a number of successive working days, not less than 30, at such times after June 30, 1873, and not less frequently than once in every four years, and the result to be stated and verified in such form and manner as the Postmaster General may direct.

2. The Postmaster General * * * is hereby authorized and directed to readjust the compensation to be paid from and after the 1st day of July, 1876, for transportation of mails on railroad routes by reducing the compensation to all railroad companies for the transportation of mails 10 per cent per annum from the rates fixed and allowed by the first section of an act entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1874, and for other purposes," approved March 3, 1873 (R. S., sec. 4002), for the transportation of mails on the basis of the average weight.

3. The Postmaster General * * * is hereby authorized and directed to readjust the compensation to be paid from and after the 1st day of July, 1878, for transportation of mails on railroad routes by reducing the compensation to all railroad companies for the transportation of mails 5 per cent per annum from the rates for the transportation of mails, on the basis of the average weight fixed and allowed by the [preceding paragraph] first section of an act entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1877, and for other purposes," approved July 12, 1876.

4. The Postmaster General is hereby authorized and directed to readjust the compensation to be paid from and after the 1st day of July, 1907, for the transportation of mail on railroad routes carrying their whole length an average weight of mails per day of upward of 5,000 pounds by making the following changes in the present rates per mile per annum for the transportation of mail on such routes, and hereafter the rates on such routes shall be as follows: On routes carrying their whole length an average weight of mail per day of more than 5,000 pounds and less than 48,000 pounds the rate shall be 5 per cent less than the present rates on all weight carried in excess of 5,000 pounds; and on routes carrying their whole length an average weight of mail per day of more than 48,000 pounds the rate shall be 5 per cent less than the present rates on all weight carried in excess of 5,000 pounds up to 48,000 pounds, and for each additional 2,000 pounds in excess of 48,000 pounds at the rate of $19.24 upon all roads other than land-grant roads, and upon all land-grant roads the rate shall be $17.10 for each 2,000 pounds carried in excess of said 48,000 pounds.

5. The provision of the act of March 2, 1907 (34 Stat., 1212), * * * fixing the compensation to be paid for transportation of mail on land grant railroads at the rate of $17.10 for each 2,000 pounds carried in excess of 48,000 pounds, is hereby amended to make such rate of compensation after June 30, 1910, $15.39 for each 2,000 pounds carried in excess of 48,000 pounds, and the Postmaster General is hereby authorized and directed to readjust the compensation in accordance with this amendment.

* * * * * * *

8. That hereafter before making the readjustment of pay for transportation of mails on railroad routes the average weight shall be ascertained by the actual weighing of the mails for such a number of successive working days not less than 90, at such times after June 30, 1905, and not less frequently than once in every four years, and the result to be stated and verified in such form and manner as the Postmaster General may direct.

* * * * * * *

10. When the weight of mail is taken on railroad routes the whole number of days included in the weighing period shall be used as a divisor for obtaining the average weight per day.

SEC. 1318. All railway companies to which the United States have furnished aid, by grant of lands, right of way, or otherwise, shall carry the mail at such prices as Congress may by law provide; and, until such price is fixed by law, the Postmaster General may fix the rate of compensation.

SEC. 1319. Railroad companies whose railroad was constructed in whole or in part by a land grant made by Congress on the condition that the mails should be transported over their road at such price as Congress should by law direct shall receive only 80 per cent of the compensation authorized by this act. (See paragraph 5, section 1317.)

TABLE OF MAXIMUM RATES OF PAY FOR RAILROAD MAIL SERVICE.

The maximum compensation for general railroad mail service and for service over land-grant railroads is shown in the following table:

Average weight of mails per day carried over whole length of route.	Pay per mile per annum. Rates allowable under sec. 4002, R. S. (act of Mar. 3, 1873).	Rates allowable under acts of July 12, 1876, June 17, 1878, and Mar. 2, 1907 (see note 1).	Rates allowable to land-grant railroads under acts of July 12, 1876, June 17, 1878, Mar. 2, 1907, and May 12, 1910 (see notes 1 and 2).	Intermediate weight warranting allowance of $1 per mile under the law of 1873 and the custom of the Department, subject to acts of July 12, 1876, June 17 1878, and Mar. 2, 1907 (see note 1).
				Pounds.
200 pounds	$50.00	$42.75	$34.20	.....
200 to 500 pounds				12
500 pounds	75.00	64.12	51.30	.....
500 to 1,000 pounds				20
1,000 pounds	100.00	85.50	68.40	.....
1,000 to 1,500 pounds				20
1,500 pounds	125.00	106.87	85.50	.....
1,500 to 2,000 pounds				20
2,000 pounds	150.00	128.25	102.60	.....
2,000 to 3,500 pounds				60
3,500 pounds	175.00	149.62	119.70	.....
3,500 to 5,000 pounds				60
5,000 pounds	200.00	171.00	136.80	.....
For each additional 2,000 pounds above 5,000 and less than 48,000 pounds	25.00	20.30+	16.24+	.....
Above 5,000 and less than 48,000 pounds	.....	.....	.....	80
For each additional 2,000 pounds in excess of 48,000 pounds	25.00	19.24	15.39	.....

	Character of route. Nonland grant.	Land grant.
Intermediate weight above 48,000 pounds warranting addition of $1, net	*Pounds.* 103.96	*Pounds.* 129.95

No allowance is made for weights not justifying the addition of $1.

NOTE 1. The act of March 2, 1907, affects only routes carrying over 5,000 pounds.

NOTE 2. The act of May 12, 1910, affects only land-grant routes carrying over 48,000 pounds.

The statutes authorizing additional pay for full cars are contained in section 1329 of the Postal Laws and Regulations (Rev. Stat., 4004, and 34 Stat., 1212):

SEC. 1329. Additional pay may be allowed for every line comprising a daily trip each way of railway post-office cars, at a rate not exceeding $25 per mile per annum for cars 40 feet in length, and $30 per mile per annum for 45-foot cars, and $40 per mile per annum for 50-foot cars, and $50 per mile per annum for 55 to 60 foot cars.

2. After July 1, 1907, additional pay allowed for every line comprising a daily trip each way of railway post-office cars shall be at a rate not exceeding $25 per mile per annum for cars 40 feet in length, and $27.50 per mile per annum for 45-foot cars, and $32.50 per mile per annum for 50-foot cars, and $40 per mile per annum for cars 55 feet or more in length.

THE PROPOSED PLAN.

The proposed law changes the method of authorizing and the method of paying for service, so that space shall be the controlling factor. Space will be authorized for distribution purposes wherever needed for distribution of mails, and space for storage of mails will be authorized as storage cars wherever needed for that purpose.

The space basis will apply to all service, except what is known as closed-pouch service on trains where there are no distribution cars authorized; that is, where there are no full cars or apartment cars operated and used.

The plan provides that service on closed-pouch trains shall continue to be paid for on the weight basis, with some modifications in the present rates which will be detailed later on. Closed-pouch service is the transportation and handling of mails in sacks and locked pouches in the custody of train employees on trains upon which full or apartment railway post-office cars are not needed or operated. The space basis is believed to be less desirable when applied to this class of service because of its fluctuating character as distinguished from the regularity and certainty of the postal-car service. It is proposed, however, to weigh these mails yearly and readjust compensation with the same frequency. As the mails are light in weight and the weighing can be done principally, if not wholly, by postmasters, transfer clerks, and other permanent employees of the department, it is believed that the cost thereof will be slight.

Section 15 is designed to make such changes in existing law as will put into effect this new plan. It repeals all statutes relating to adjustments for carriage of mails on the weight basis, excepting for closed-pouch mails, and fixes certain rates for authorized space instead.

It has been the purpose in drafting this provision to change existing law only so far as is necessary to accomplish the change in plan, with some new provisions which will be explained. Most of the provisions are similar in form to existing law or regulation, except where slight changes have been found necessary in order to adopt them to the new plan of adjustment.

ARE THE RAILROADS UNDERPAID FOR MAIL SERVICE?

During the hearings before the joint committee the railroads to a large extent were represented by what is known as the railway mail pay committee. This term should not be confused with any official committee, but was one chosen by the railroad representatives to designate the organization of their attorneys and agents in presenting the case of the railroads to the joint committee of Congress.

This railway mail pay committee contended before the joint committee that the railroads are underpaid for mail service, placing the amount, based upon various hypotheses, at most extravagant figures ranging from $15,000,000 upward. They appear to have had a most excellent organization, unlimited funds for carrying on publicity work, and to have persistently followed a plan to influence the public mind in an attitude of antagonism against the administration of the Post Office Department and to convince everybody that the railroads were receiving far less pay for the service performed than they were entitled to receive. Their campaign of publicity has been carried on through the newspapers and the circulation of printed pamphlets and leaflets sent apparently to a large mailing list, including Members of Congress, public officials, municipal organizations, railroad employees, and even the postmasters of the United States. In this printed matter they have set forth, as a rule, their own partisan views or their attempts to discredit the position taken by the officers of the Post Office Department in submitting the case for the Government to the joint committee. These statements have been unfair and biased and were not calculated to inform the recipients of the true condition or the merits of the controversy.

It is perfectly plain from a perusal of any one of these documents sent out by the railroads' organization that their purpose was not one of education but one of systematic effort to mold public opinion favorable to higher rates for railroad mail service and to discredit as far as possible the administration of the Post Office Department in connection with railroad mail pay. They have, however, not ended their activities at that point, but in a prepared statement for the press and in a separate pamphlet have attacked the department, the Postmaster General, and the chairman of the House committee for the existence of the bill that is now under consideration.

So far as underpayment to the railroads is concerned, the contention of the railroad companies was completely answered by the Second Assistant Postmaster General in his brief submitted to the joint committee January 16, 1914, and printed in their hearings, pages 987 and following. In this brief it is shown that the railroads not only were not underpaid at the time the ascertainment was made, but in fact were overpaid

on a strictly commercial basis. The railroads attacked the ascertainment made by the department on the ground that the department's division of general expenses between the freight and passenger services apportioned too small an amount to the passenger service and therefore decreased the mail apportionment, and, further, they contended that the department's charge in Document 105 of space to the mail service was too small, because it did not charge the mail service with all the dead space which was represented in the cars the railroad companies saw fit to run regardless of the requirements of the department. These objections were later fully answered by the department, the principal features of which are set out in pages 1247 and following of the testimony taken before the joint committee.

CONSIDERATION BY COMMISSION.

The question of the proper basis for fixing compensation for the carriage of the mails by the railroads has been in controversy for many years. The present plan of readjustment was enacted in 1873, when the conditions differed very materially from those obtaining now. The plan has never been entirely satisfactory to the railroads or to the Post Office Department. The former have made repeated efforts to secure a revision of the laws that would increase their compensation, while the Post Office Department has maintained that the basis is inelastic and unscientific.

The question has been studied by several departmental and congressional commissions, all of whom have pointed out the desirability of the adoption of space as the main basis for compensation, and several of the commissions have recommended legislation fixing space with certain modifications as the unit of service. As early as 1874 and 1876 bills were introduced in Congress providing for a system of pay on a space basis.

A minority of the Hubbard Commission submitted a report to Congress in 1877 (45th Cong., 1st sess., S. Misc. Doc. No. 14, Dec. 14, 1877) recommending the adoption of the space basis combined with the factors of weight of mails carried and speed of trains.

A committee composed of departmental officials made an exhaustive study of the subject in 1883 and recommended in a report submitted to Congress in that year the adoption of a space basis, modified, however, by the factors of weight, speed, and frequency of service.

Subsequently in 1901 the joint commission of Congress, known as the Wolcott-Loud committee, investigated the Postal Service, and while the commission, as a whole, stated in its report (published as H. Rept. No. 2284, 56th Cong., 2d sess.) that though recognizing that the question of space must be considered as having strong influence upon the question of the reasonableness of the present (1901) railway mail pay, it felt unwilling, with the evidence before it, to recommend it as the controlling standard. Representative Loud, of the commission, however, gave it as his opinion in a separate report that space should be the basis of railway mail pay, as it is, as he stated, "the principal and therefore should be the controlling factor."

Following the investigations of 1877 Congress passed a law (act of Mar. 3, 1879, 20 Stat. L., 358) requiring the Postmaster General to request all railroad companies carrying the mails to furnish under seal such data relating to operating, receipts, and expenditures of such roads as may, in his judgment, be necessary to enable him to ascertain the cost of mail transportation and the proper compensation to be paid for the same, and to report to Congress, with such recommendation, founded upon the information obtained, as shall, in his opinion, be just and equitable.

An effort was made soon after the passage of this act to secure the information required, but the reports of the companies were so meager and unsatisfactory that they were practically worthless for the purposes indicated in the statute. Subsequently the subject was considered by the department, but because of the general opinion that the railroads did not have their accounts in shape at that time to enable them to make the reports as the department needed, and the belief of the department that the spirit of the law of 1879 had been substantially complied with by the several departmental and congressional commissions that had investigated and reported on the question, no further active effort was made until 1907, when the then Postmaster General directed that an inquiry be made along the lines of the statute, it being his belief that sufficient advance in accounting methods had been made by the railroads to permit the desired information to be furnished. It was a new and difficult undertaking and it required time to determine its practicability and extent. In November, 1909, in response to requests and instructions from the department, the railroads prepared and submitted data as to their operation, receipts, and expenditures. The department subsequently collated the information, made voluminous tabulations and computations based thereon, and submitted the result to Congress on August 12, 1911, together with a tentative draft of suggestions for legislation providing for the annual ascertainment of the cost of performing the mail service by each carrying road and the readjustment of pay on the space basis.

The report was printed as House Document No. 105, Sixty-second Congress, first session. Discussion of the proposed law during the second session of the Sixty-second Congress led to the designation, pursuant to the act of August 24, 1912, of a joint committee of the Senate and House of Representatives to make an inquiry into the subject of postage on second-class mail matter and compensation for the transportation of mail. This committee organized and proceeded with its investigations, making the department's suggested bill the basis thereof, but being unable to make report by March 4, 1914, as required by the law, its personnel was continued by the act of March 9, 1914, with the same authorities and powers until final report is made to Congress, which is required to be made on or before December 1, 1914.

The committee has heard during its sessions a large amount of evidence upon the question, not only from the department, but from the railroad companies and their representatives, and has collected a vast amount of very valuable and very useful information, which is undoubtedly the most complete that any commission has ever collected on this subject.

After the consideration of the question of cost and after having had the benefit of the discussions before the committee, the department came to the conclusion that the ascertainment of cost in the manner in which it was first proposed and the use of such cost as the basis for rates is not desirable nor practicable, and that some other plan of fixing the rate should be adopted. This conclusion led to the preparation of the bill presented to-day for the consideration of Congress.

The hearings before the joint committee show that the space basis is entirely practicable, that it is more equitable to the individual roads than the weight basis, and that it is more adaptable to good and economical administration of the service.

ADEQUACY OF THE RATES PROVIDED.

The rates in the bill as amended provide for paying a line rate of 21 cents a mile for a mile run for a full railway post-office car of 60 feet in length and a pro rata amount, namely, 10½ cents, for apartments 30 feet in length, in cars, and a higher than pro rata amount, namely, 5½ cents, for apartments 15 feet in length, in cars, and 20 cents a mile run for a storage car 60 feet in length. In addition to the line rate there is a terminal rate of $4 for each one-way trip of a full 60-foot car, making $8 for the round trip, and a pro rata amount for apartments of 30 and 15 feet, respectively, in cars, and $4 for each one-way trip, or $8 for a round trip, of each storage car.

These line rates and the terminal rates combined make an average for the working and storage cars of 22.63 cents for each mile run of the equivalent of a 60-foot car, but there should be added to this the amount received for closed-pouch service, which will be adjusted upon the basis of weights. When this is added and proper allowance is made for the space which will be used in conveying the closed pouches, the rate is raised to 22.96 cents for each car mile for a 60-foot car or its equivalent.

The unit rate, therefore, which is to be considered in discussing the question as to adequacy or inadequacy of the pay is 22.96 cents for a car mile of service performed by a 60-foot car or its equivalent. There can be no reasonable doubt that this rate is entirely adequate. It is far above the "out-of-pocket" expense of the companies for carrying the mails, and not only covers the actual expense but the apportioned expense upon the basis of the car-foot miles of service performed for the mails and, in addition to that amount, furnishes a large surplus for the payment of the mails' share of the other expenses which railroad companies must pay out of revenues from the passenger service. This includes such items as rents for leases of other roads, hire of equipment, joint facilities, miscellaneous rent debits, sinking and redemption funds chargeable to income, interest on funded debt, and also dividends declared and appropriations for reserves. It is evident to everyone who has thought seriously upon the subject of mail pay that the Government should not participate in many of these expenses to as great an extent as the passenger service should.

This rate of 22.96 cents may be compared with—

(1) The estimated cost of performing the mail service;

(2) The estimated average revenue received by the railroad companies for a mile of service by a 60-foot passenger car; and

(3) The revenue received by the railroad companies from the express service for the same facility furnished.

COMPARISON WITH ESTIMATED COST.

The Post Office Department made an exhaustive inquiry as to the cost to the railroad companies of performing the mail serv-

ice. The results of that inquiry are set forth in House Document No. 105, Sixty-second Congress, first session. In that inquiry the department charged against the mail service all the direct expenses reported by the railroad companies and apportioned to the mail service a share of all other passenger expenses, excepting those incurred for passenger service exclusively, on the basis of the proportion of car-foot miles in the mail service to the entire car-foot miles in the passenger service, including mail and express. As I shall mention hereafter, the department has shown that this is a most liberal apportionment to the mail service and participates to a larger extent in many of the items of expense than the railroad companies have a right to expect from the Government. However, the result of this ascertainment placed the operating expense of the entire service and the taxes at an average of 18.49 cents a car mile for a 60-foot car or its equivalent. In a mile rate of 22.96 cents this leaves a surplus of 4.47 cents a car mile, which is 24.17 per cent of the operating expenses and taxes. Even if the cost of operation and taxes were actually as high as 18.49 cents, this leaves a surplus which is ample to pay all the mails' share in other expenses payable out of revenues heretofore mentioned, such as rents, equipment, interest on funded debt, and dividends, sinking funds, and appropriations for reserves. Out of the estimated actual amount of money which will be received by the railroads under the provisions of this bill for 1915, including an estimated increase of 4 per cent on the total amount for the usual increase in service during the fiscal year, the bill would provide $49,474,042 for actual and apportioned operating expenses and taxes and a surplus of $11,960,464 to apply to these other charges, including interest on funded debt and dividends on stocks.

But the apportioned charges to the mail service above the estimated operating expenses and taxes were unquestionably much too high, because it compels the department to participate to a greater extent than it should in the general expenses of the passenger service. This fact was clearly pointed out by the Second Assistant Postmaster General in his testimony before the joint committee, on page 997 of the evidence, in which, having shown that the railroads, on a most liberal apportionment of cost, were receiving more in 1910 than such cost, he said as follows:

> Attention is further called to the fact that the above apportionment of expenses—other than operating expenses—chargeable to operating revenues is made to the mail service on the basis of 6.68 per cent of the passenger apportionment. Such a plan of apportionment makes the mail service participate in this ratio in all the passenger operating expenses included in the above account in addition to dividends. When it is remembered that these items cover the whole field of operating expenses chargeable to operating revenues for the maintenance and operation of the railroads, as well as interest on bonded indebtedness and dividends on capital invested in expensive terminal stations in large cities, it becomes evident that this charge against the mail service is too large. (A very great proportion of the physical value of railroads is concentrated in their terminals in large cities. * * * These are often constructed with special consideration to the convenience of passenger traffic and expressing architectural beauty. * * * The Pennsylvania terminal in New York cost $115,000,000; the Grand Central terminal, New York, $150,000,000; the Washington terminal, $20,000,000; the Northwestern terminal at Chicago, $24,000,000; the Union Station at Kansas City, $40,000,000.—Government Ownership of Railways, Samuel O. Dunn, pp. 65, 216, 217.) It is impossible to say from data at hand how much it is in excess of a fair charge. The charge against the mail service on these accounts should not be greater than the fair value of the use of the property represented by them, and which is employed in connection with the mail service. Neither the railroads nor the department have this information, but it is evident that it must be much smaller than the sum used in the above apportionment.

Again, on pages 1481 and following of the testimony, he pointed out the fact that on the item of car equipment alone a much larger proportion of the actual cost of the passenger train is included in the mail per cent of cost, representing the proportion of operating expenses and taxes to total operating expenses and taxes—based on car-foot mile ratio—than is justified by the relative values of the passenger equipment and the mail equipment.

It must appear evident to all who give the subject any study that in any apportionment of general expenses of passenger service to the mail service the mails should not be made to participate in all of them in the same ratio of car-foot miles. There are doubtless many millions of dollars represented in the one item of funded debt, interest upon which must be paid annually, in which the mail service has no concern whatever. This funded debt will not only represent actual value of property, but also any bonds issued for other purposes. Stocks upon which dividends are declared must include watered stocks and stocks the result of road manipulation as well as stocks which represent real investment.

A further comparison may be made with the estimated cost of the operation of passenger cars, although it will be evident that this comparison is not a true one, because the cost of operating passenger service must necessarily be much higher than the cost of operating mail service. The associate statistician of the Interstate Commerce Commission, who has assisted the joint committee with their statistics, estimated in the hearings the cost for operating expenses for a passenger car-mile at 19.41 cents. Adding to this the taxes of 1.04 cents makes a total cost of 20.45 cents for a passenger car-mile. The bill proposes to pay the railroads at the rate of 22.73 cents a car-mile, which is 2.28 cents a car-mile, or over 11 per cent, in excess of the estimated cost of operation and taxes of a passenger car-mile.

COMPARISON BETWEEN TOTAL APPORTIONED COST AND TOTAL REVENUE RECEIVED FOR THE MAIL SERVICE.

The Post Office Department's ascertainment of estimated aggregate cost of the mail service, based upon the data reported to Congress in Document No. 105, was submitted to the joint committee by the Second Assistant Postmaster General, and is found on pages 994 and following of the testimony taken before that body. The statement there is made in detail and shows not only the actual and apportioned cost to the mail service for operating expenses and the cost for taxes but the additional apportionment to the mail service upon the liberal basis referred to of all the other expenses which the railroad companies must pay out of operating revenues. This statement is made for the fiscal year 1910 and shows that upon this liberal apportionment the cost of the service was at that time $1,616,532 less than the revenue received by the railroad companies for that year. The department might have taken credit in that statement for $900,000 more in revenues paid the railroads on account of the land-grant deductions. These deductions were made for value received on account of grants of lands, and so forth, and therefore should have been considered as received for the mail service. This would have increased the surplus payment by $900,000.

The pending bill proposes to pay the railroads in the aggregate for 1915 under the new rates and plan more than the entire appropriation made by Congress for the fiscal year 1915 under the old system and old rates. If the ascertainment made by the department in 1910 be approximately correct—the railroad companies have never succeeded in materially modifying it—it must follow that even with the liberal apportionment of cost the provisions of this bill are extremely fair.

COMPARISON WITH ESTIMATED REVENUE FOR PASSENGER SERVICE.

The testimony before the joint committee shows that the Interstate Commerce Commission found the average passenger car-mile revenue to be 25.43 cents for the total number of railroads reporting in 1911. However, a recent publication by the Interstate Commerce Commission of the Text of the Twenty-fifth Annual Report on the Statistics of Railways in the United States for the Year Ended June 30, 1912, gives the latest figures in regard to the revenue to the railroads derived from passenger traffic. From this it is ascertained that the average car-mile revenue for passenger-train service is found to be 24.92 cents for the year ended June 30, 1912, which it will be noted is 0.51 cent less than the average passenger car-mile revenue in 1911. The pending bill proposes rates averaging 22.96 a car mile for mail service, which is only 1.96 cents per car mile less than the passenger car-mile rate for the year 1912, or a reduction under the passenger car-mile rate of only 7.86 per cent. The associate statistician of the Interstate Commerce Commission testified before the joint committee that 10 per cent reduction would fairly represent the difference between the passenger service and the mail service. It will be seen that the rates in the pending bill provide for a reduction of only 7.86 per cent. It can not be denied that the Post Office Committee has been most liberal in readjusting these rates.

COMPARISON WITH REVENUE RECEIVED BY THE RAILROADS FROM THE EXPRESS SERVICE.

The Post Office Department submitted to the joint committee a body of facts and statistics in relation to the revenue received by the railroad companies from the express business which are of the greatest importance and worthy of serious consideration in connection with mail rates. These facts are set out in pages 1271 to 1280, inclusive, of the record of the testimony taken before the joint committee. The actual first-class express rates and the actual mail rates are there shown for the carriage of 40 pounds and 100 pounds between certain points, showing representative hauls throughout the country. Fifty per cent of the full express rate in each case, which is approximately the amount the railroad company receives for carrying the express matter, is compared with the mail rate. In almost every instance the mail rate is shown to be largely in excess of the revenue received by the railroad companies from the express.

Again, a comparison is made between the revenue received by the railroads for mail service and the revenue which they would

receive for it if it were paid for at the same rate per ton-mile for which the roads carry express matter. The figures stated on page 1279 of that record have been slightly modified by corrections made by the department since the record was printed, and with these modifications it is shown that if the mail service had been carried at the same ton-mile rate which the roads receive for express service, the amount which the department would have paid in the fiscal year 1913 for mail service would have been $49,389,607 instead of $51,466,030 under the regular railroad mail rates. This comparison is made on express rates before they were reduced by the Interstate Commerce Commission. Another comparison was made upon the basis of an estimated per cent of that reduction, which made the amount $41,487,270 instead of the figures given above.

It must be remembered that there are differences between the mail service and the express service, and that the railroad companies do not perform in each case the same service. However, there is a certain similarity between those services, especially with reference to particular articles of transportation. The Second Assistant Postmaster General called attention in the hearings before the joint committee to these differences and called upon the representatives of the railroad companies to appraise them, but the hearings do not show that any appraisal in money value was submitted by the railroads.

In view of this comparison, however, there can be no reasonable doubt left that the rates submitted in this bill are entirely adequate and very fair to the railroad companies.

OTHER CONSIDERATIONS AS TO ADEQUACY OF RATE.

THE MAXIMUM CAR SPACE IN EITHER DIRECTION TO CONTROL PAY FOR THE ROUND TRIP.

The bill provides that in computing the car miles of the full railway post-office cars and apartment railway post-office cars the maximum space authorized in either direction of a round-trip car run is to be regarded as the space to be computed in both directions, unless otherwise mutually agreed upon. It also provides that in computing the car miles of storage cars the maximum space authorized in either direction of a round-trip car run shall be regarded as the space to be computed in both directions, unless the car be used by the company in the return movement or otherwise mutually agreed upon.

These provisions give the railroad companies full pay for all deadhead movement of cars where they return empty or are not needed by the Post Office Department, except in the cases mentioned. These are very liberal provisions. Unlike other classes of service, the railroad companies know when the car is authorized and furnished that they will receive full pay provided by the statute for the return of the car, although the department may not have use for its full space. In no other class of service is this guaranteed, and the company can only secure the payment for the return movement by making the charge for the one-way movement high enough to cover it.

SURPLUS SPACE ABOVE DEPARTMENT'S NEEDS UP TO THE LENGTH OF THE CAR UNIT IS TO BE PAID FOR.

The provision of the bill in fixing the three units for lengths of cars—namely, 60 feet for full railway post-office cars and storage cars, and 30 and 15 feet for apartments in cars—are most liberal to the railroad companies, because they require payment for all surplus space above the actual needs of the department where such needs are less than the length of the next higher unit of car, with the exceptions named in the bill. It is estimated by the Post Office Department that a comparison between the actual needs for space in apartment cars at the present time and the total space in apartment cars of 15 and 30 feet in length, which will be required to fill the requisitions of the department, will show a surplus of unneeded space amounting to over 15,000,000 car miles per annum. In order to simplify the authorization and furnishing of cars the bill has provided for a less number of units of length than now exist in the service, but has very liberally provided for the payment of the extra space unless a company elects to furnish a car of the exact size needed by the department.

THE GOVERNMENT MIGHT CONSISTENTLY FIX RATES LOWER THAN COMMERCIAL RATES.

It will be noticed that the rates fixed in the bill are sufficiently high to place them on a strictly commercial basis. But the nature of the mail service and the transportation of the mails on railroads is of such a character as to fully justify Congress in fixing rates lower than strictly commercial rates if public policy demands it. There are certain considerations which would justify this if it is thought advisable to give them sufficient weight. These may be briefly referred to under the following headings:

1. The certainty, constancy, and homogeneity of traffic.
2. The certainty and regularity of payment.
3. Railroads are not built primarily to carry mails.
4. The protection to their mail trains which railroads, as Government agencies, receive against unlawful acts in interference with or obstruction of the mails carried.
5. The principle of public utility.

The facts and arguments under each of these headings are set forth in detail by the Second Assistant Postmaster General in his brief submitted to the joint committee on January 16, 1914, and may be found published in full on pages 998 to 1005, inclusive, in the record of the hearings before that committee.

DETAILED STATEMENT OF RAILWAY MAIL PAY UNDER THE PROVISIONS OF THE BILL AS AMENDED.

The following statement shows in detail the different classes of service and the estimated pay for the same under the provisions of the bill as amended and as computed by the Post Office Department. The appropriations for 1915 for railroad transportation and railway post-office cars aggregate $61,600,000. The statement shows an estimated cost to the Government of slightly in excess of this, but the department will no doubt be able to effect economies so as to not exceed the appropriations.

Line cost.

Service.	Car-miles.	Rate per car-mile.	Annual pay.
		Cents.	
Railway post office	103,295,263	21	$21,692,005
Apartment, 30-foot	165,695,629	10½	17,398,041
Apartment, 15-foot	75,226,521	5½	4,137,459
Storage	51,417,527	20	10,283,505
Total line, miles	395,634,940		
Total miles, 60-foot car basis	256,367,234	20.87	53,511,010

Terminal cost.

Service.	Trips one way.	Rate per one-way trip.	Annual pay.
Railway post office	343,830	$4.00	$1,375,320
Apartment, 30-foot	896,022	2.00	1,792,044
Apartment, 15-foot	935,234	1.00	935,234
Storage	99,593	4.00	398,372
Total	2,274,679		
Total trips, 60-foot car basis	1,125,242	4.00	4,500,970

Service.	Rate per car mile.	Annual pay.
	Cents.	
Total line cost (256,367,234 miles)	22.63	$58,011,980
Closed-pouch, estimate on weight basis	.....	2,230,796
Total railroad mail pay (262,367,234 miles) [1]	22.96	60,242,776
Periodical matter by freight	.....	703,904
Weighing and ascertainments	.....	50,000
Total	.....	60,996,680
Less land-grant deductions	.....	1,171,136
Mail pay under provisions of this proposed bill, June 30, 1914	.....	59,825,544
Add 4 per cent for fiscal year 1915	.....	2,393,022
Mail pay under provisions of this proposed bill, June 30, 1915	.....	62,218,565

[1] Includes 6,000,000 car miles, being the total annual closed-pouch space in exclusive closed-pouch trains carrying such weight of mails, equated to a 60-foot car basis.

The rates may be further stated in this form:

Estimated mail compensation under House bill 17012 as last amended.

Car units of service.	Car miles of service per line unit.	Line unit rate per car mile.	Annual line compensation per line unit.	Round trips of service.	Terminal rate per round trip.
		Cents.			
Railway post-office cars, 60-foot	103,295,263	21.00	$21,692,005	171,915	$8.00
Apartment cars, 30-foot	165,695,629	10.50	17,398,041	448,011	4.00
Apartment cars, 15-foot	75,226,521	5.50	4,137,459	467,617	2.00
Storage, 60-foot	51,417,527	20.00	10,283,505	49,796½	8.00
Closed-pouch	.....	.....	[1] 2,230,796	.....	.....
Totals	395,634,940	.....	.....	1,137,339½	.....
Totals pro rated to 60-foot car basis	[2] 262,367,234	21.24½	55,740,806	562,621	8.00

[1] Estimated on weight basis of compensation.
[2] Includes 6,000,000 car miles, being the total annual closed-pouch space in exclusive closed-pouch trains carrying such weight of mails, equated to a 60-foot car basis.

Estimated mail compensation—Continued.

Car units of service.	Annual amount of terminal compensation.	Total compensation, including both line and terminal compensation.	Total average unit rate per car mile, based on car miles pro rated to 60-foot cars.	Per cent of pay for each service unit to total compensation per cent.
			Cents.	
Railway post-office cars, 60-foot	$1,375,320	$23,067,325	22.33	38.29
Apartment cars, 30-foot	1,792,044	19,190,085	23.16	31.86
Apartment cars, 15-foot	935,234	5,072,693	26.97	8.42
Storage, 60-foot	398,372	10,681,877	20.77	17.73
Closed-pouch		2,230,796		3.70
Totals		60,242,776		100.00
Totals pro rated to 60-foot car basis	4,500,970	60,242,776	22.96	

Mail compensation under House bill 17042, as amended.

Total railroad mail pay	$60,242,776
Periodical matter by freight	703,904
Weighing and ascertainments	50,000
Total	60,996,680
Less land-grant deductions	1,171,136
Mail pay under provisions of this proposed bill, June 30, 1914	59,825,544
Add 4 per cent for fiscal year 1915	2,393,022
Mail pay under provisions of this proposed bill, June 30, 1915	62,218,566

STANDARD SIZES FOR FULL AND APARTMENT CARS.

The recommendation of the department to the joint committee was for the adoption of cars of sizes conforming to those now in use and authorized in the service. The law now authorizes full railway post-office cars of 40, 50, 55, and 60 feet in length. There is no specific payment authorized for apartment cars, but these cars are authorized by the department as they are needed, and in the present service conform to various sizes, ranging from 10 to 30 feet, the usual variation being 5 feet between each principal size.

The advantages of a smaller number of units were presented to the joint committee through the suggestion of Representative LLOYD in the first instance and were extensively discussed by the officers of the department and others who gave testimony before the joint committee. The officers of the department did not at first favor the reduction of the number of units for the reason that such a plan would necessarily require the authorization of more space, particularly in the apartment-car service, than would be immediately needed. The question, however, was approached by the department's officers with open minds, and in order to meet as nearly as consistent with the interest of the public service the views generally insisted upon before the joint committee finally agreed at the hearings before the House Committee on the Post Office and Post Roads to a provision fixing the unit for full cars at 60 feet and for apartment cars at 30 and 15 feet, with a suitable proviso as embodied in the bill which gives the department the opportunity of accepting and paying for a less length of apartment car where the company has a car of less length than the standard size, and such car meets all the needs of the department. Provision is also made for utilizing any surplus space in the full car for the purpose of caring for storage mails. These provisions meet the objections the department originally had against the lesser number of units.

EXPLANATIONS OF SECTION 13.

SEC. 13. That the Postmaster General is authorized and directed to readjust the compensation to be paid to railroad companies from July 1, 1914, or as soon thereafter as may be practicable, for the transportation and handling of the mails and furnishing facilities and services in connection therewith upon the conditions and at the rates hereinafter provided.

This paragraph authorizes and directs the Postmaster General to readjust the compensation for transporting and handling the mails and furnishing facilities and services under the conditions and at the rates named in the subsequent paragraphs of the bill. This is the usual introductory paragraph of authorization.

The Postmaster General may state railroad mail routes and authorize mail service thereon of the following four classes, namely: Full railway post-office car service, apartment railway post-office car service, storage-car service, and closed-pouch service.

This amended paragraph provides for stating railroad mail routes and for authorizing mail service on such routes of any one or all of the four classes of service named in the paragraph.

Full railway post-office car mail service shall be service by cars 40 feet or more in length, constructed, fitted up, and maintained for the distribution of mails on trains. The authorizations of full railway post-office cars shall be for standard-sized cars 60 feet in length, inside measurement, except as hereinafter provided.

This describes full railway post-office car mail service and fixes a car of 60 feet in length as the standard for authorizations in this class of service, except as otherwise provided on lines 13 to 25, on page 12 of the bill.

Full railway post-office cars are cars exclusively used by the Post Office Department for the carriage of mails and their receipt, distribution, and delivery en route between termini. Their operation requires the hauling of an additional car in the train, and in this respect differs from apartment railway post-office car service, wherein a portion of a baggage car is partitioned off and fitted up for distribution purposes, the remainder of the car being usually occupied and used by the railroad company for its own purposes.

Under the present plan of adjusting compensation for railroad mail service additional compensation beyond that received for the transportation of the mails on a weight basis may be allowed for full railway post-office car service performed in cars 40 feet or more in length at rates varying with the size of car needed and used. The statutes authorizing additional compensation for railway post-office car service, fixing rates of pay therefor, and prescribing the conditions under which such additional compensation may be allowed are contained in sections 1329 to 1333 of the Postal Laws and Regulations, 1913 (Rev. Stat., 4004, and subsequent acts), and reads as follows:

SEC. 1329. Additional pay may be allowed for every line comprising a daily trip each way of railway post-office cars, at a rate not exceeding $25 per mile per annum for cars 40 feet in length, and $30 per mile per annum for 45-foot cars, and $40 per mile per annum for 50 foot cars, and $50 per mile per annum for 55 to 60 foot cars.

2. After July 1, 1907, additional pay allowed for every line comprising a daily trip each way of railway post-office cars shall be at a rate not exceeding $25 per mile per annum for cars 40 feet in length, and $27.50 per mile per annum for 45-foot cars, and $32.50 per mile per annum for 50-foot cars, and $40 per mile per annum for cars 55 feet or more in length.

NOTE.—This statute does not authorize a pro rata compensation to be paid for cars which are less than 40 feet in length.

SEC. 1330. All cars or parts of cars used for the Railway Mail Service shall be of such style, length, and character, and furnished in such manner as shall be required by the Postmaster General, and shall be constructed, fitted up, maintained, heated, and lighted by and at the expense of the railroad companies.

NOTE.—This statute supplements Revised Statutes, section 4005. Section 1333 prescribes different articles that shall be included in the equipment of a car.

SEC. 1331. After the 1st of July, 1911, no pay shall be allowed for the use of any wooden full railway post-office car, unless constructed substantially in accordance with the most approved plans and specifications of the Post Office Department for such type of cars, nor for any wooden full railway post-office car run in any train between adjoining steel cars or between the engine and a steel car adjoining, and that hereafter additional cars accepted for this service shall be of steel, or with steel underframe, if used in a train in which a majority of the cars are of like construction: *Provided further*, That after the 1st of July, 1916, the Postmaster General shall not approve or allow to be used or pay for any full railway post-office car not constructed of steel or with steel underframe, if such post-office car is used in a train in which a majority of the cars are of steel or of steel underframe construction.

SEC. 1332. After the 1st of July, 1917, the Postmaster General shall not approve or allow to be used or pay for any full railway post-office car not constructed of steel or steel underframe or equally indestructible material, and not less than 25 per cent of the railway post-office cars of a railroad company not conforming to the provisions of this act shall be replaced with cars constructed of steel annually after June, 1913; and all cars accepted for this service and contracted for by the railroad companies after the passage of this act shall be constructed of steel.

2. No part of this amount shall be paid for the use of any car which is not sound in material and construction and which is not equipped with sanitary drinking-water containers and toilet facilities, nor unless such car is regularly and thoroughly cleaned.

NOTE.—The word "amount" in paragraph 2 refers to the appropriation for railway post-office car service for the fiscal year ending June 30, 1914. Similar provisions were contained in the appropriation acts for the fiscal years 1912 and 1913.

SEC. 1333. * * * When any railroad company fail or refuse to provide railway post-office cars when required by the Post Office Department, or shall fail or refuse to provide suitable safety heaters and saftey lamps therefor, with such number of saws and axes to each car for use in case of accident as may be required by the Post Office Department, said company shall have its pay reduced 10 per cent on the rates fixed (by law). * * * (See sec. 1317.)

Apartment railway post-office car mail service shall be service by apartments less than 40 feet in length in cars constructed and fitted up and maintained for the distribution of mails on trains. Two standard sizes of apartment railway post-office cars may be authorized and paid for, namely, apartments 15 feet and 30 feet in length, inside measurement, except as hereinafter provided.

This paragraph describes apartment railway post-office car service and fixes two standard sizes of apartments which may be authorized and paid for—15 and 30 feet in length, respectively. Apartment-car service is the carriage of mails in apart-

ments in cars less than 40 feet in length and the receipt, distribution, and delivery of mails therefrom en route between termini. Ordinarily the performance of this class of service does not necessitate the operation of an additional car by the railroad company, inasmuch as the apartment is a portion of a baggage car partitioned off and fitted up for postal purposes, the remainder of the car being utilized by the company for the carriage of baggage, express, or other purposes.

Under present law no specific payment is allowed for apartment-car service, it being the theory of the statute that the rates of pay therein fixed for transportation, based on weight, were intended to fully cover the facilities furnished by apartment cars.

The purpose of fixing two standard sizes of apartment cars is to take care of the varying service conditions on different lines. At present there are a number of standard sizes of apartment cars—9 feet, 12 feet, 15 feet, 20 feet, 25 feet, and 30 feet. This bill reduces the number to two sizes, but makes provision further along for payment for cars of lesser length than that authorized at pro rata of the pay for the authorized standard lengths in cases where the company operates such cars and they are deemed adequate for the purposes of the department.

Storage-car mail service shall be service by cars used for the storage and carriage of mails in transit other than by full and apartment railway post-office cars. The authorizations for storage cars shall be for cars 60 feet in length, inside measurement, except as hereinafter provided: *Provided*, That less than 60 feet of storage space may be authorized in baggage cars on trains upon which full railway post-office cars or apartment railway post-office cars are not operated.

The foregoing paragraph defines storage-car mail service, provides that authorizations shall be for cars 60 feet in length, except as otherwise provided, and provides also that less than 60 feet of storage space may be authorized under certain conditions.

Storage-car mail service is the carriage of mails in bulk between large centers, and differs materially from the two classes of service just described. No special type of car is necessary, all the interior fittings that are required being stanchions for separating and piling mails for different deliveries. They carry heavier loads than the full cars and apartment cars, but as the number of points of receipt and delivery is limited as compared with the number of points of receipt and delivery in the full-car and apartment-car services, the handling en route is much less in the case of a storage car.

The purpose of the proviso to the paragraph is to cover cases where a quantity of mail is required to be carried in a baggage car, but which is not sufficient to necessitate the running of a storage car. In such cases the actual space used will be authorized and paid for at pro rata of the rate otherwise fixed in the bill for a 60-foot storage car.

Service by full and apartment railway post-office cars and storage cars shall include the carriage therein of all mail matter, equipment, and supplies for the mail service and the employees of the Postal Service or Post Office Department, as shall be directed by the Postmaster General to be so carried.

This paragraph is virtually a repetition of existing laws and regulations, varying only slightly in language to conform to the provisions of the bill, and is self-explanatory.

Closed-pouch mail service shall be the transportation and handling by railroad employees of mails on trains on which full or apartment railway post-office cars are not authorized, except as hereinbefore provided.

The closed-pouch service, as described in this paragraph, is the transportation and handling of locked pouches and sacks of mail upon trains upon which no railway post-office car service is performed. The mails on such trains are in the charge of railroad employees and are usually limited in amount and weight. It is proposed to continue payment for this class of service upon the weight basis, as providing a more equitable compensation as between trains than the space basis would provide. The amount of this mail carried on different trains varies widely.

Side and transfer mail service shall be the transportation of mails between railroad stations and post offices supplied therefrom and between railroad stations.

The amendment provides for striking out this paragraph—lines 13, 14, and 15 on page 11 of the bill.

The rates of payment for the services authorized in accordance with this act shall be as follows, namely:

For full railway post-office car mail service at not exceeding 21 cents for each mile of service by a 60-foot car.

In addition thereto he may allow not exceeding $2 as an initial rate and the same as a terminal rate for each one-way trip of a 60-foot car.

For apartment railway post-office car mail service at not exceeding 10½ cents for each mile of service by a 30-foot apartment car, and 5¼ cents for each mile of service by a 15-foot apartment car.

In addition thereto he may allow not exceeding $1 as an initial rate and the same as a terminal rate for each one-way trip of a 30-foot apartment car, and 50 cents as an initial rate and the same as a terminal rate for each one-way trip of a 15-foot apartment car.

For storage-car mail service at not exceeding 20 cents for each mile of service by a 60-foot car.

In addition thereto he may allow not exceeding $2 as an initial rate and the same as a terminal rate for each one-way trip of a 60-foot car.

This provision, as amended, states the basis for payment for the several classes of service authorized in the bill. It provides car-mile line rates for the haulage of the cars and initial and terminal rates for trips of cars to compensate for the expenses incurred at terminals in maintaining, cleaning, heating, lighting, and loading the cars. The line rate for full railway post-office cars is fixed at not exceeding 21 cents for each car-mile of service of a 60-foot car, and the initial and terminal rate at not exceeding $4 for each one-way trip of a 60-foot car, or $8 for the round trip. The apartment-car line and terminal rates are fixed at pro rata of the rates for full cars, except that in the case of 15-foot apartments the line rate is made a quarter of a cent higher. The storage-car line rate is stated at not exceeding 20 cents for each 60-foot car-mile of service and the terminal rates at not exceeding $4 for a one-way trip of a 60-foot car, or $8 for the round trip.

After the department had submitted evidence as to the cost to the railroad companies of transporting the mails and it was found that an effort to ascertain this cost periodically and base the mail pay thereon would be extremely difficult, and it having appeared that the ascertained cost per car-mile of service was less than the average revenue for a passenger car-mile, a suggestion was made to the joint committee which met with general approval, that the revenue for a passenger car-mile be taken as the basis for a mail rate and that such passenger car-mile revenue be appropriately reduced for that purpose.

It has been ascertained by the Interstate Commerce Commission that the average passenger car-mile revenue for the railroads reporting in 1911 was a little more than 25 cents. It was suggested that the difference between the mail service and the passenger service might be expressed by 10 per cent in the passenger car-mile revenue. Ten per cent from the 25 cents would leave 22½ cents as a mail rate. This bill provides on the average 22.96 cents, including all classes of service.

The line rate of 21 cents—exclusive of the terminal rate—has been fixed for a 60-foot full railway post-office car and a pro rata of the same rate has been provided for space in apartment cars, except that in the case of 15-foot apartments the line rate is made a quarter of a cent higher. The apartment cars are fitted up and furnished practically the same as the full cars. An apartment car is one which is ordinarily run by the railroad company for its own purposes—that is, they take a baggage car and partition off a certain part for the use of the Post Office Department and ordinarily use the remainder for their own purposes. This would suggest a lower rate than pro rata for the portion assigned to the mail service. However, it is claimed that under some circumstances the companies are compelled to furnish an additional car where the department only needs a part of it. Therefore it seems a fair compromise to give a rate proportional to the full-car rate for the apartment furnished, and the committee believed that in consideration of the small railroads the rate on 15-foot apartments might be made a little higher.

For the storage car the bill provides a line rate of 20 cents a car mile (exclusive of the terminal rate). This is 1 cent a car mile less than the rate for a full railway post-office car. A storage car is not one which is fitted up, furnished, and maintained in the same manner and for the same purposes as a full car. It does not have to be heated, iced, and cleaned as does a full car, nor is it fitted up with distribution cases as such a car is. Furthermore, the service performed by the railroad company in handling the mails that are carried in a storage car is much less than that performed in handling mails which are worked in a distribution car and received and delivered at every station on the line.

In addition to the line rate on the storage cars an initial and terminal charge is provided for, which covers the cost of switching the car, cleaning and lighting it, and loading and unloading the mails at the terminals.

The terminal rate for full cars and apartment cars are uniform, the apartment-car rates being pro rata of those fixed for the full car; the rate for storage cars is the same as for full cars.

Where authorizations are made for cars of the standard lengths of 60, 30, and 15 feet, as provided by this act, and the railroad company is unable to furnish such cars of the length authorized, but furnishes cars of lesser length than those authorized, but which are determined by the department to be sufficient for the service, the

Postmaster General may accept the same and pay only for the actual space furnished and used, the compensation to be not exceeding pro rata of that provided by this act for the standard length so authorized: *Provided*, That the Postmaster General may accept cars and apartments of greater length than those of the standard requested, but no compensation shall be allowed for such excess lengths.

The purpose of this provision is to assist in adapting the provision of the new law to existing conditions in the service. Under the practices heretofore followed, cars of a great variety of lengths have been constructed by the companies and are still in the service. It has only been within the past few years that uniformity in such matters has obtained to any extent. It seems probable that it may not be practicable in every case for a company to furnish the standard-sized car that may be authorized upon a train, but it possesses a car of greater or lesser length which is sufficient for the needs on that train and prefers to operate such car rather than incur the expense of constructing a new car of the authorized size. This provision authorizes the Postmaster General to accept such cars and pay for their operation at pro rata of the rates allowable for the authorized length in the case of cars of lesser length run. For cars run of greater length than needed it is provided that no compensation shall be paid for the excess lengths.

For closed-pouch service on routes upon which closed-pouch service only is performed, at not exceeding the rates of compensation provided by existing law for average daily weights of mail carried over the whole route; on routes upon which apartment railway post-office car and closed-pouch services are performed, at not exceeding $20 per mile per annum for each 2,000 pounds average daily weight of mails carried, and at pro rata of such rate of compensation for each 100 pounds of average daily weight greater or less than 2,000 pounds; and on routes upon which full railway post-office car and closed-pouch services or full railway post-office car, apartment-car, and closed-pouch services are performed, at not exceeding $19 per mile per annum for each 2,000 pounds average daily weight of mails carried and at pro rata of such rate of compensation for each 100 pounds of average daily weights greater or less than 2,000 pounds, the average daily weights to be ascertained in every case by the actual weighing of the mails.

This provides for payment for closed-pouch service. As amended it provides for paying the present rates for weights of mails carried on routes upon which closed-pouch service alone is performed—that is, where there is no full or apartment car service. On routes upon which apartment railway post office and closed-pouch services are performed, and those upon which full railway post office car service and closed-pouch service, or full railway post-office, apartment-car, and closed-pouch services are performed, it provides for paying practically the present rates—that is, $20 per mile per annum for each 2,000 pounds average daily weight in the first case and $19 per mile per annum for each 2,000 pounds average daily weight in the second case. These are the average of top rates now paid for weights carried on these two classes of routes.

For side and transfer mail service the Postmaster General is authorized to provide, in his discretion, by regulation screen or other wagon, automobile, or mail messenger service under existing law, or to contract with the railroad company, after advertisement, for the performance of any or all service on its route. Postmasters at post offices of the third and fourth classes shall be eligible as contractors for this service.

The amendment strikes out all of lines 20, 21, 22, 23, 24, and 25 on page 13 and lines 1 and 2 on page 14, and substitutes in lieu thereof the following:

The Postmaster General may require railroad companies carrying the mails to deliver them into and take them from the terminal and intermediate post offices and transfer them between railroad stations on their routes without additional compensation, under such regulations as he may deem proper, in cases where he does not provide for such service otherwise; and the Postmaster General may relieve the railroads of such service in his discretion.

The amended provision continues the present laws and regulations with respect to the performance of side, transfer, and terminal mail messenger service, and authorizes the Postmaster General to relieve the small roads of this service when its cost to them is burdensome.

Railroad companies whose railroads were constructed in whole or in part by a land grant made by Congress, on the condition that the mails should be transported over their roads at such price as Congress should by law direct, shall receive only 80 per cent of the compensation otherwise authorized by this act.

This amended provision is the same as existing law in every respect. The present law, however, only applies to the compensation for transportation, while this provision covers all rail mail service.

The initial and terminal rates provided for herein shall cover expenses of loading and unloading mails, switching, lighting, heating, cleaning mail cars, and all other expenses incidental to station service and required by the Postmaster General in connection with the mails that are not included in the car-mile rate. The allowance for full railway post-office cars, apartment railway post-office cars, and storage cars may be varied in accordance with the approximate difference in their respective cost of construction and maintenance.

This defines the expenses to be covered by the initial and terminal rates provided by the bill, and provides that such rates applicable to the several classes of cars may be varied in accordance with their respective difference in cost.

For the purpose of ascertaining the average weight of closed-pouch mails per day upon which to adjust compensation, the Postmaster General is authorized and directed to have such mails carried on the several routes weighed by the employees of the Post Office Department for such a number of successive days, not less than 35, at such times after July 1, 1914, as he may direct, and not less frequently than once in every year thereafter, the result to be stated and certified in such form and manner as he may direct. In computing the average weight of mails per day carried on a railroad route, the whole number of days included in the weighing period shall be used as a divisor. The expenses of taking the weights of mails and the compensation to tabulators and clerks employed in connection with the weighings, for assistance in completing computations, and of rental, if necessary, in Washington, D. C., shall be paid out of the appropriation for inland transportation by railroad routes.

This paragraph makes provision for taking the weights of mails on closed-pouch trains for the purpose of ascertaining the average daily weight upon which to base rate of compensation. It is similar in terms to the present law, except that it provides for an annual instead of a quadrennial weighing, for a period of 35 instead of 90 days, and fixes the whole number of days in the weighing period as the divisor in computing the average daily weight. This is the same rule regarding the divisor that is now applied, and has been sustained by the Court of Claims.

In computing the car miles of the full railway post-office cars and apartment railway post-office cars, the maximum space authorized in either direction of a round-trip car run shall be regarded as the space to be computed in both directions, unless otherwise mutually agreed upon.

This provision is a recognition of the equity and justice of the claim that where the department requires a full car, or a part of a car, to be fitted up and furnished and placed in a railroad train and operated for the purposes of the department, that it should pay for the return movement of the car, if it be not used by the railroad company.

In computing the car miles of storage cars, the maximum space authorized in either direction of a round-trip car run shall be regarded as the space to be computed in both directions, unless the car be used by the company in the return movement, or otherwise mutually agreed upon.

Under the present weight basis of compensation the railroads receive pay for the weight carried in storage cars on any given route fixed in accordance with the average daily weight on the route, determined by weights taken during the weighing period of 105 days. As the preponderance of the mail movement is usually in a westerly or southerly direction, the empty return movement of storage cars to the east and north is considerable. It is claimed by the railroads that it is not practicable in many cases to make use for their purposes such cars, and that their return empty to point of origin is necessary to maintain the service. In line with the principle recognized in the preceding paragraph with respect to full and apartment car movement, it seems logical and equitable to make provision to pay for storage-car service in both directions, unless the company uses the car for its own purposes in the return movement, it being ascertained that the returning cars are utilized to some extent by the companies for services other than mail.

It will, no doubt, be found practicable to utilize the empty return storage cars for the shipment of empty equipment, postal supplies, and so forth, particularly the former, which naturally moves in greatest volume in the direction in which the empty storage cars are being returned.

New service and additional service may be authorized at not exceeding the rates herein provided, and service may be reduced or discontinued with pro rata reductions in pay, as the needs of the Postal Service may require: *Provided*, That no additional pay shall be allowed for additional closed-pouch service on established routes until the next regular readjustment of pay therefor on such routes, and no additional pay shall be allowed for additional car service unless specifically authorized by the Postmaster General.

The paragraph is to make provision for payment for new and additional service and for suitable pro rata reductions in pay for reduced or discontinued service, and is necessary in the administration of the plan.

All cars, or parts of cars, used for the railroad mail service shall be of such construction, style, length, and character, and furnished in such manner as shall be required by the Postmaster General, and shall be constructed, fitted up, maintained, heated, lighted, and cleaned by and at the expense of the railroad companies. No pay shall be allowed for service by any railway post-office car which is not sound in material and construction, and which is not equipped with sanitary drinking-water containers and toilet facilities, nor unless such car is regularly and thoroughly cleaned. No pay shall be allowed for service by any wooden full railway post-office car unless constructed substantially in accordance with the most approved plans and specifications of the Post Office Department for such type of cars, nor for service by any wooden full railway post-office car run in any train between adjoining steel cars, or between the engine and a steel car adjoining. After the 1st of July, 1917, the Postmaster General shall not approve or allow to be used, or pay for service by, any full railway post-office car not constructed of steel or steel underframe, or equally indestructible material, and not less

than 25 per cent of the full railway post-office cars of a railroad company not conforming to these provisions on August 24, 1912, shall be replaced with cars constructed of steel annually after June, 1913; and all full railway post-office cars accepted for this service and contracted for by the railroad companies hereafter shall be constructed of steel. Until July 1, 1917, in cases of emergency and in cases where the necessities of the service require it, the Postmaster General may provide for service by full railway post-office cars of other than steel or steel underframe construction, and fix therefor such rate of compensation within the maximum herein provided as shall give consideration to the inferior character of construction, and the railroad companies shall furnish service by such cars at such rates so fixed.

The foregoing provision relating to the construction, heating, cleaning, lighting, and sanitation of cars is a reproduction of the existing laws on the subject, with the exception of that part beginning with the word "until," in line 9 of page 17, and continuing to the end of the paragraph, which is new, and which is added for the purpose of authorizing the Postmaster General to secure adequate service in emergencies when the regular equipment is insufficient to meet the needs of the service, as during the holiday season. For the laws now in force, see statement under paragraph relating to railway post-office cars.

Service over property owned or controlled by another company or a terminal company shall be considered service of the railroad company using such property and not that of the other or terminal company: *Provided*, That service over a land-grant road shall be paid for as herein provided.

The purpose is to provide for authorizing service at these rates into the large terminals such as New York, Washington, Boston, Chicago, or St. Louis, and it avoids the necessity for paying an exorbitant rate to a terminal company to get the mails into a large city.

Railroad companies carrying the mails shall furnish all necessary facilities for caring for and handling them while in their custody. They shall furnish all cars or parts of cars used in the transportation and distribution of the mails, except as is herein otherwise provided, and place them in stations before the departure of trains at such times and when required to do so. They shall provide station space and rooms for handling, distribution, and transfer of mails in transit, and for offices and rooms for the employees of the Postal Service engaged in such transportation, when required by the Postmaster General.

In this paragraph are combined existing laws and regulations regarding the services to be required of the railroad companies in connection with mail service.

The present laws and regulations are as follows:

SEC. 1330. All cars or parts of cars used for the Railway Mail Service shall be of such style, length, and character, and furnished in such manner, as shall be required by the Postmaster General, and shall be constructed, fitted up, maintained, heated, and lighted by and at the expense of the railroad companies.

NOTE.—This statute supplements Revised Statutes, section 4005. Section 1333 prescribes different articles that shall be included in the equipment of a car.

SEC. 1341. The rate of compensation for the transportation of mail on railroads is computed upon the average weight of mail per day carried the whole length of the route. It is essential that the mail be carried with due frequency and speed; also that suitable apartments, equipped with necessary fixtures and furniture, properly lighted and heated, provided with ice water, and built in accordance with plans and specifications furnished by the General Superintendent of Railway Mail Service, shall be provided for railway postal clerks to accompany and distribute the mail when required.

2. Railroad companies, at stations where transfer clerks are employed, shall provide suitable and sufficient rooms for handling and storing the mails, and without specific charge therefor. These rooms shall be lighted, heated, furnished, supplied with ice water, and kept in order by the railroad company.

3. The specific requirements of the service as to due frequency and speed, space required on trains or at stations, fixtures, furniture, etc., shall be determined by the Post Office Department and made known through the General Superintendent of Railway Mail Service.

Every railroad company carrying the mails shall carry on any train it operates and without extra charge therefor the persons in charge of the mails, and when on duty and traveling to and from duty, and all duly accredited agents and officers of the Post Office Department and the Postal Service, while traveling on official business, upon the exhibition of their credentials.

This paragraph expresses the present laws and regulations governing the duty of the railroad companies in the transportation of persons in charge of the mails and agents and officers of the department while traveling on official business.

The laws and regulations are as follows:

SEC. 1337. Every railway company carrying the mail shall carry on any train which may run over its road, and without extra charge therefor, all mailable matter directed to be carried thereon, with the person in charge of the same.

NOTE.—This section contemplates the carrying of mails on any train with or without an employee of the Postal Service in charge.

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SEC. 1339. Railroad companies are required to convey upon any train, without specific charge therefor, all mail bags, post-office blanks, stationery, supplies, and all duly accredited agents of the Post Office Department and post-office inspectors upon the exhibition of their credentials.

If any railroad company carrying the mails shall fail or refuse to provide cars or apartments in cars for distribution purposes when required by the Postmaster General, or shall fail or refuse to construct, fit up, maintain, heat, light, and clean such cars and provide such appliances for use in case of accident as may be required by the Postmaster General, it shall be fined such reasonable sum as may, in the discretion of the Postmaster General, be deemed proper.

This provision corresponds with existing law, with the exception that the latter fixes the penalty with respect to full railway post-office cars at 10 per cent of the rates "hereinafter provided," and that has been construed to mean the rates fixed by law for transportation.

The present law is expressed in section 1333 of the Postal Laws and Regulations, as follows:

SEC. 1333. * * * When any railroad company fail or refuse to provide railway post-office cars when required by the Post Office Department, or shall fail or refuse to provide suitable safety heaters and safety lamps therefor, with such number of saws and axes to each car for use in case of accident as may be required by the Post Office Department, said company shall have its pay reduced 10 per cent on the rates fixed (by law) * * *. (See sec. 1317.)

The Postmaster General shall in all cases decide upon what trains and in what manner the mails shall be conveyed. Every railroad company carrying the mails shall carry on any train it operates and with due speed all mailable matter, equipment, and supplies directed to be carried thereon. If any such railroad company shall fail or refuse to transport the mails, equipment, and supplies when required by the Postmaster General on any train or trains it operates, such company shall be fined such reasonable amount as may, in the discretion of the Postmaster General, be deemed proper.

Several provisions of existing law are comprised in this paragraph, slightly modified, and with a provision added providing that the Postmaster General shall fine railroad companies such reasonable amount for failure or refusal of such companies to comply with the requirements as he deems proper.

The laws and regulations are as follows:

SEC. 1336. The Postmaster General shall, in all cases, decide upon what trains and in what manner the mails shall be conveyed.

SEC. 1337. Every railway company carrying the mail shall carry on any train which may run over its road, and without extra charge therefor, all mailable matter directed to be carried thereon, with the person in charge of the same.

NOTE.—This section contemplates the carrying of mails on any train with or without an employee of the Postal Service in charge.

SEC. 1338. * * * If any railroad company shall fail or refuse to transport the mails, when required by the Post Office Department, upon the fastest train or trains run upon said road, said company shall have its pay reduced 50 per cent of the amount provided by law.

SEC. 1486. The Postmaster General may make deductions from the pay of contractors for failures to perform service according to contract and impose fines upon them for other delinquencies. He may deduct the price of the trip in all cases where the trip is not performed, and not exceeding three times the price if the failure be occasioned by the fault of the contractor or carrier.

The Postmaster General may make deductions from the pay of railroad companies carrying the mails under the provisions of this act for reduction in service or in frequency of service where, in his judgment, the importance of the facilities withdrawn or reduced requires it and impose fines upon them for delinquencies. He may deduct the price of the value of the service in cases where it is not performed, and not exceeding three times its value if the failure be occasioned by the fault of the railroad company.

This paragraph substantially follows the present law relating to fines and deductions, which is contained in section 3962, Revised Statutes, as follows:

The Postmaster General may make deductions from the pay of contractors for failures to perform service according to contract and impose fines upon them for other delinquencies. He may deduct the price of the trip in all cases where the trip is not performed, and not exceeding three times the price if the failure be occasioned by the fault of the contractor or carrier.

The proposed paragraph relates specifically to railroad mail service and will not repeal the present law so far as other mail transportation service is concerned.

The provisions of this act shall apply to service operated by railroad companies, partly by railroad and partly by steamboats.

This is the same as existing law and is necessary to cover certain cases where service on a route is by rail and water.

The existing law is expressed in section 1315 of the Postal Laws and Regulations, as follows:

SEC. 1315. The Postmaster General shall arrange the railway routes on which the mail is carried, including those in which the service is partly by railway and partly by steamboat, into three classes, according to the size of the mails, the speed at which they are carried, and the frequency and importance of the service, so that each railway company shall receive, as far as practicable, a proportionate and just rate of compensation, according to the service performed.

The provisions of this act respecting the rates of compensation shall not apply to mails conveyed under special arrangement in freight trains, for which rates not exceeding the usual and just freight rates may be paid, in accordance with the classifications and tariffs approved by the Interstate Commerce Commission.

This provides for the continuance of what is known as the blue-tag mails—that is, the periodical mails of second class that are transported in fast freight trains in carload lots between certain large cities.

This method of transporting periodical mail published less frequently than weekly and which does not carry news matter, where it can be handled in carload lots between the large centers of the second and third contract sections, has proven entirely practicable and satisfactory, and saves approximately $1,500,000 a year on railroad mail pay.

Railroad companies carrying the mails shall submit under oath, when and in such form as may be required by the Postmaster General, evidence as to the performance of service.

This paragraph provides for the rendering and submission under oath of evidence of the performance of service, and conforms to the present practice and regulation.

The Postmaster General is authorized to employ such clerical and other assistance as shall be necessary to carry out the provisions of this act, and to rent quarters in Washington, D. C., if necessary, for the clerical force engaged thereon, and to pay for the same out of the appropriation for inland transportation by railroad routes.

This is the present law, modified so as to apply to the purposes of the proposed law. The present act provides that he may employ special assistance and rent quarters in Washington, in connection with the readjustments of pay based on the results of the weighings, and this provision is intended to accomplish the same purpose.

The law is as follows:

Out of the appropriation for inland mail transportation the Postmaster General is authorized hereafter to pay rental if necessary in Washington, D. C., and compensation to tabulators and clerks employed in connection with the weighings for assistance in completing computations, in connection with the expenses of taking the weights of mails on railroad routes, as provided by law. (Act of March 4, 1911; 36 Stat., 1334.)

The Postmaster General shall, from time to time, request information from the Interstate Commerce Commission as to the revenue received by railroad companies from express companies for services rendered in the transportation of express matter, and may, in his discretion, arrange for the transportation of mail matter other than of the first class at rates not exceeding those so ascertained and reported to him, and it shall be the duty of the railroad companies to carry such mail matter at such rates fixed by the Postmaster General.

This provision is directed to the ascertainment of a rate which the railroad companies would derive from the carrying of express matter that is analogous in character and method of transporting to mail matter. In other words, it provides that the Postmaster General may secure from the Interstate Commerce Commission, from time to time, information as to the revenue which railroad companies receive from express companies for carrying matter analogous and similar to mail matter and under similar conditions.

The Postmaster General is authorized, in his discretion, to petition the Interstate Commerce Commission for the determination of a postal carload or less-than-carload rate for transportation of mail matter of the fourth class and periodicals, and may provide for and authorize such transportation, when practicable, at such rates, and it shall be the duty of the railroad companies to provide and perform such service at such rates and on the conditions prescribed by the Postmaster General.

This provision is intended to give the Postmaster General authority to secure carload and less-than-carload rates for the transportation of fourth-class matter and on periodicals, and to arrange for carload or less-than-carload shipments of such matter and their transportation at such rates.

The Postmaster General may, in his discretion, distinguish between the several classes of mail matter and provide for less frequent dispatches of mail matter of the third and fourth classes and periodicals, when lower rates for transportation or other economies may be secured thereby without material detriment to the service.

The purpose of this paragraph is to enable the Postmaster General to secure a lower rate for a less frequent movement of a car carrying parcel-post or periodical matter. The department might be able to arrange for a faster movement than freight for a carload lot of matter and a less frequent movement than on every train that travels. Now, the policy is to put mail on every train that runs, and, so far as parcel post is concerned, there is no necessity for doing that. If there is reasonable frequency between points in the carriage of parcel post, that is all the public would ask for. If a movement of this kind can be secured at a less rate under those conditions it would be very desirable.

The Postmaster General is authorized to return to the mails, when practicable for the utilization of car space paid for and not needed for the mails, postal cards, stamped envelopes, newspaper wrappers, empty mail bags, furniture, equipment, and other supplies for the Postal Service.

In the storage-car movement there will be cases where cars will come back practically empty, as, for instance, between New York and Chicago, where they go out from New York loaded and come back empty. Unless an agreement is secured from the railroad company for payment in one direction only or unless the company itself uses that car coming back, the department must pay for the return movement, and it is proposed to utilize such empty return movement for the carriage of empty equipment and supplies moving in the direction of the light movement of mail. This provision will enable the department to put the equipment that ordinarily would go by freight into these cars, thus utilizing the otherwise unused return empty space and save freight charges. By this means probably the larger part of appropriation for freight on empty equipment of $510,000 may be saved.

The Postmaster General, in cases of emergency between October 1 and April 1 of any year, may hereafter return to the mails empty mail bags and other equipment theretofore withdrawn therefrom as required by law, and, where such return requires additional authorization of car space under the provisions of this act, to pay for the transportation thereof as provided for herein out of the appropriation for inland transportation by railroad routes.

This is the present law permitting the return to the mails, in cases of emergency, of empty mail bags and other equipment, except that it changes the period during which such action may be taken from November 15 to January 15 of any year to from October 1 to April 1 of any year. This extension is believed advisable in order to provide for emergencies that may arise during the winter season, when the mails are unusually heavy.

The law on the subject now reads as follows:

SEC. 1317, par. 9. The Postmaster General shall require, when in freightable lots and whenever practicable, the withdrawal from the mails of all postal cards, stamped envelopes, newspaper wrappers, empty mail bags, furniture, equipment, and other supplies for the postal service, except postage stamps, in the respective weighing divisions of the country, immediately preceding the weighing period in said divisions, and thereafter such postal cards, stamped envelopes, newspaper wrappers, empty mail bags, furniture, equipment, and other supplies for the postal service, except postage stamps, shall be transmitted by either freight or express.

And the Postmaster General in cases of emergency, between November 15 and January 15 of any year, may hereafter return to the mails empty mail bags theretofore withdrawn therefrom as required by law, and for such times may pay for their railroad transportation out of the appropriation for inland transportation by railroad routes at not exceeding the rate per pound per mile as shown by the last adjustment for mail service on the route over which they may be carried, and pay for necessary cartage out of the appropriation for freight or expressage.

The Postmaster General may have the weights of mail taken on railroad mail routes and computations of the average loads of the several classes of cars and other computations for statistical and administrative purposes made at such times as he may elect, and pay the expense thereof out of the appropriation for inland transportation by railroad routes.

This provision is self-explanatory and extends authority to the Postmaster General to collect and tabulate statistics for adminisrative purposes and to pay the expense thereof.

It shall be unlawful for any railroad company to refuse to perform mail service at the rates of compensation provided by law when and for the period required by the Postmaster General so to do, and for every such offense it shall be fined not exceeding $5,000.

Land-grant railroads are under perpetual contract with the Government to carry the mails. Congress has not specifically legislated requiring other railroads to carry the mails. It not infrequently occurs that railroad companies other than land-grant companies threaten the Post Office Department to refuse to carry the mails under the present conditions and rates prescribed by law. Sometimes these threats come from companies operating large mail service. In other instances they are from smaller lines. In every case the Postmaster General and the officers in immediate charge of railroad mail service under him have difficulty in inducing the companies to continue the service, and in some cases, where the refusal is absolute, the department is put to great inconvenience and large expense to supply a substitute service, which is never satisfactory to the patrons of the mails. These instances of threat and refusal have become more frequent in recent years as railroad attorneys and agents and those advocating higher rates of pay for railroad service have induced the managements to believe that they should receive more money for service.

The rates should be made adequate, as they are believed to be in this bill, and Congress should provide that it is the duty of railroad companies to carry the mails.

The Constitution confers upon Congress the right to establish post offices and post roads. Congress has declared all railroads to be post roads. The carriage of the mails is a governmental function, and the Supreme Court has decided that a railroad carrying the mails is performing a governmental function and is an agency of the Post Office Department. The courts have also decided that railroads, in carrying the mails, are not acting as common carriers. Nevertheless, they enjoy certain high privileges and rights which are conferred upon them by State legislatures and are amenable to the Federal Government in the matter of interstate commerce. It should not be possible that they may refuse to act for the Government in the carriage of the mails. Under the powers conferred by the Constitution upon Congress with respect to mails and the postal establishment, it would seem to be clear that it is competent for that body to make the carriage of the mails obligatory upon the railroads.

SEC. 14. That the unexpended balances of the appropriations for inland transportation by railroad routes and for railway post-office car service, by the act of March 9, 1914, making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1915, and for other purposes, are hereby available for the purposes of this act.

This paragraph makes the unexpended balances of the appropriations for 1915 for inland transportation by railroad routes and for railway post-office car service applicable to the provision of this bill.

These appropriations are as follows:

For inland transportation by railroad routes	$56,188,000
For railway post-office car service	5,412,000
Total	61,600,000

SEC. 15. That all laws or parts of laws inconsistent herewith are hereby repealed.

The usual repealing clause of laws or parts of laws inconsistent with the provision of the bill.

EXPLANATION OF AMENDMENTS.

The bill as reported from the committee provides that the railroad companies shall be relieved from side and terminal service where now performing it and that the department shall make provision for it. The department estimates that this will cost it $2,118,000 for the fiscal year 1915. However, I understand that the railroad companies have claimed before the joint committee that it does not cost them more than $500,000 to take care of this service.

If this be true, I see no ample justification for shifting the burden to the Government at an increased cost. It appears to me to be entirely consistent to leave this side and terminal service with the railroad companies.

There are those who are insisting upon higher rates of pay for the line service of postal and storage cars than those which are reported in the bill from the committee. Among these are members of the joint committee, although they have not yet made a formal report nor submitted a bill. The officers of the Post Office Department feel that the rates reported in the bill are amply justified by the facts, and I myself feel that the railroad mail pay as it now exists is high enough. There is, however, a spirit of cooperation which prompts an endeavor to meet the views expressed, providing the public interest is not sacrificed.

I propose to offer amendments, therefore, which will leave the side and terminal service where it is now and continue its performance by the railroad companies, as it can be performed by them more economically than by the Government, giving authority, however, to the Postmaster General to relieve the small roads of the performance of that service where the cost of the same is a substantial burden to them, and also to offer other amendments which add 1 cent to the line rate for 60-foot railway post-office cars, a half cent to the line rate for 30-foot apartment cars, that being a proportional increase, and a half cent to the line rate for 15-foot apartment cars, that being a quarter of a cent in excess of the proportional part, and to also add 2 cents to the line rate for a 60-foot storage car. On the closed-pouch service the bill provides for 95 per cent of the present rate for certain lines. The amendments will restore the full rate for these lines in consideration of the endeavor to assist the small roads as much as practicable, consistent with public interest. These amendments are agreed to by the committee.

These changes will, according to the estimate of the department, and allowing 4 per cent for increase for additional facilities for the fiscal year 1915, make a cost to the Government for railroad mail pay of $62,218,566. The appropriation for the service for 1915, including both transportation and car pay, is $61,600,000. Consequently this estimate is $618,566 in excess of the appropriations made. The department hopes to effect economies which will bring the cost within the appropriation.

APARTMENT-CAR RATES.

The department submitted its recommendation to the joint committee for a proportionately lower rate on apartment cars than on full cars, and insisted upon this difference at the hearings before that committee on the ground that the apartment furnished by the railroads to the department for mail service is a part of a car—usually a baggage car—which the railroad company runs for its own convenience, using for its own purposes the remainder of the car, while a full car is one which the company furnishes for the entire use of the department and does not use any of it for its own purposes.

However, it was claimed by the railroads that at times they were compelled to furnish an additional car to the train to fill the requirements of the department for apartment space. It was also argued before the joint committee that the wholesale and retail principle should apply to apartment-car service, and that therefore the department should pay a proportionately higher rate for apartments in cars than for the same space in full cars. These higher rates have been urged upon the department by members of the joint committee, and in consideration of these representations the department agreed to make the rates for apartment-car service proportionately the same as for full-car service—that is, one-half the rate for a 30-foot apartment as for a full 60-foot car and one-fourth the rate for a 15-foot apartment as for a full 60-foot car—and the present bill reported from the Committee on the Post Office and Post Roads adopted that principle.

However, further consideration of this matter by the committee has resulted in increasing the line rate for 15-foot apartments slightly above pro rata, adding one-fourth per cent a car mile more than the proportional part of the 21 cents for the full car. This was done in consideration of the small lines, where the only car service would be but a small apartment.

APPENDIX A.

PUBLISHED RATES CREDITED TO THE COMMITTEE.

The joint committee considering this matter have not yet made an official report. However, in the Railway Age Gazette of June 12, 1914, a periodical published in the interest of railroads, there is a statement purporting to give rates which are favored by the committee. This statement includes the following:

The bill establishes four standards for compensation. The first unit is the 60 foot car, the second the 30-foot car or compartment, the third the 15-foot compartment, and the fourth the closed-pouch service. The rates are based on two elements, covering two distinct services. The first is the line charge, based on the car mile, the other the terminal charge, covering loading and unloading, cleaning cars and switching, for each of which operations a sum fixed by the law will be paid in addition to the line charge. For a 60-foot car the rate will be 21 cents a mile, and there will be a terminal or transfer charge of $8.50 the round trip; a 30-foot car, 11 cents per car mile and $5.50 the round trip; a 15-foot car, 6 cents per car mile and $4.20 the round trip; closed-pouch space, 3 cents per car mile and $1.20 per round trip.

The article referred to states, further, that these are the features of the "Bourne committee" and that they are embodied in a bill introduced in the House by a member of that committee on June 4 and are the results of the committee's deliberations. While no such bill has been introduced in the House and it is understood the Member who is credited with its introduction disclaims all responsibility for the article, it is further understood that the information was given out to the press by the chairman of that committee in anticipation of the introduction of a bill. A computation has been made by the department as to the effect on railroad mail pay of these rates. The result shows that for the same items mentioned in the department's estimate of cost under the bill before the House the cost to the Government would be $73,642,193 under the terms published in this statement. They would pay a rate of 26.43 cents a car mile for the equivalent of a 60-foot car for the line and terminal service. This is 1 cent a car mile higher than the estimated average revenue for a car mile in the passenger service for 1911 and 1.51 cents higher than for 1912. This is $12,042,193 more than the appropriation for the service for 1915.

The detailed statement of the application of these rates is given in the following table. These rates, however, are not approved by the House members of the Joint Committee on Railway Mail Pay:

Estimated mail compensation at rates shown in Railway Age Gazette of June 12, 1914, page 1341, as the report of the joint committee to investigate railway mail pay.

Car units of service.	Car miles of service per line unit.	Line unit rate per car mile.	Annual line compensation per line unit.	Round trips of service.	Terminal rate per round trip.
		Cents.			
Railway post-office cars, 60-foot	103,295,263	21.00	$21,692,005	171,915	$8.50
Apartment cars, 30-foot	165,695,629	11.00	18,226,519	448,011	5.50
Apartment cars, 15-foot	75,226,521	6.00	4,513,591	467,617	4.20
Storage, 60-foot	51,417,527	21.00	10,797,681	49,796½	8.50
Closed pouch	164,817,446	3.00	4,944,523	2,385,979	1.20
Totals	560,452,386	.....	.....	3,523,318½	.....
Totals pro rated to 60-foot car basis	[1] 262,367,231	22.93½	60,174,319	562,621	16.31

Car units of service.	Annual amount of terminal compensation.	Total compensation, including both line and terminal compensation.	Total average unit rate per car mile based on car miles pro rated to 60-foot cars.	Per cent of pay for each service unit to total compensation per cent.
			Cents.	
Railway post-office cars, 60-foot	$1,461,278	$23,153,283	22.41	33.39
Apartment cars, 30-foot	2,464,060	20,690,579	24.97	29.83
Apartment cars, 15-foot	1,963,991	6,477,582	34.44	9.34
Storage, 60-foot	423,270	11,220,951	21.82	16.18
Closed pouch	2,863,175	7,807,698	130.13	11.26
Totals	.....	69,350,093	.....	100.00
Totals pro rated to 60-foot car basis	9,175,774	69,350,093	26.43	.....

[1] Includes 6,000,000 car miles, being the total annual closed-pouch space in exclusive closed-pouch trains carrying such weight of mails equated to a 60-foot car basis.

Mail compensation at joint committee rates shown above.

Total railroad mail pay	$69,350,093
Periodical matter by freight	703,904
Weighing and ascertainments	50,000
Total	70,103,997
Less land-grant deductions	1,331,522
Mail pay under provisions of this proposed bill, June 30, 1914	68,772,475
Add 4 per cent for fiscal year 1915	2,750,900
Mail pay under provisions of this proposed bill, June 30, 1915	71,523,375

APPENDIX B.

POST OFFICE DEPARTMENT,
SECOND ASSISTANT POSTMASTER GENERAL,
Washington, July 9, 1914.

Hon. JOHN A. MOON,
Chairman Committee on the Post Office and Post Roads,
House of Representatives.

MY DEAR JUDGE: Complying with your request, I hand you herewith statements showing, first, annual rate of expenditure for railroad transportation from 1873 to 1914, inclusive; second, annual rate of expenditure for railway post-office cars from 1879 to 1914, inclusive; and, third, annual rate of expenditure for railroad transportation and railway post-office cars combined from 1873 to 1914, inclusive.

It will be noticed that from 1873 to 1878, inclusive, the expenditures for railway post-office car service were included in the appropriation for railroad transportation They were first stated separately in the appropriation act for the fiscal year 1880.

Sincerely, yours,

JOSEPH STEWART,
Second Assistant Postmaster General.

INCREASE IN ANNUAL RATE OF EXPENDITURE.

The table following indicates the increase or decrease, by years, in the annual rate of expenditure for the transportation of the mail by railroad:

Annual rate of expenditure for railroad transportation from 1873 to 1914, inclusive.

Fiscal year June 30—	Annual rate of expenditure.	Increase.	Per cent.
1873	$7,257,196.00		
1874	9,113,190.00	$1,855,994.00	20.36
1875	9,216,518.00	103,328.00	1.12
1876	9,543,134.00	326,616.00	3.42
1877	9,053,936.00	[1] 489,198.00	[1] 5.40
1878	9,566,595.00	512,659.00	5.36
1879	8,463,197.00		
1880	9,237,945.00	774,748.00	9.15
1881	10,249,261.00	1,011,316.00	10.94
1882	11,297,333.00	1,084,072.00	10.57
1883	12,288,799.00	991,466.00	8.77
1884	13,273,606.00	984,807.00	8.00
1885	14,758,495.00	1,484,889.00	11.18
1886	15,520,191.00	761,696.00	5.16
1887	16,174,691.22	654,500.22	4.21
1888	17,528,599.80	1,353,908.58	8.37
1889	19,441,095.78	1,912,495.98	10.91
1890	20,869,231.55	1,428,135.77	7.34
1891	22,398,868.66	1,529,637.11	7.32
1892	24,196,329.71	1,797,461.05	8.02
1893	25,716,605.85	1,520,276.14	6.28
1894	27,153,091.16	1,436,485.31	5.58
1895	27,961,931.78	808,840.62	2.97
1896	28,941,880.47	979,948.69	3.50
1897	30,171,542.69	1,229,662.22	4.24
1898	30,786,375.89	614,833.20	2.03
1899	31,942,150.88	1,155,774.99	3.75
1900	33,424,982.15	1,482,831.27	4.64
1901	33,881,390.24	456,408.09	1.36
1902	35,049,211.22	1,167,820.98	3.44
1903	36,607,524.80	1,558,313.58	4.44
1904	39,177,376.52	2,569,851.72	7.02
1905	39,833,070.75	655,694.23	1.67
1906	41,610,785.62	1,777,714.87	4.46
1907	45,118,872.34	3,508,086.72	8.43
1908	44,722,985.47	[1] 395,886.57	[1] .87
1909	44,885,395.29	162,409.82	.36
1910	44,521,603.27	[1] 363,792.02	[1] .81
1911	46,172,472.93	1,650,869.66	3.70
1912	46,336,293.86	163,820.93	.35
1913	45,867,113.55	530,819.69	1.14
1914	50,883,360.07	3,986,246.52	7.84

[1] Decrease.

Expenditures for railway post-office car service included in amounts from 1873 to 1878.

Annual rate of expenditure for railway post-office cars from 1879 to 1914, inclusive.

Fiscal year June 30—	Annual rate of expenditure.	Increase.	Per cent.
1879	$1,104,392.00		
1880	1,261,041.00	$156,649.00	14.18
1881	1,364,107.00	103,066.00	8.17
1882	1,455,851.00	91,744.00	6.73
1883	1,599,001.00	143,150.00	9.83
1884	1,738,997.00	139,996.00	8.76
1885	1,869,488.00	130,491.00	7.50
1886	1,816,321.00	[1] 53,167.00	[1] 2.84
1887	1,881,580.50	65,259.50	3.59
1888	$1,996,359.35	$114,778.85	6.10
1889	2,198,517.55	202,158.20	10.12
1890	2,526,000.11	327,482.56	14.89
1891	2,784,845.16	258,845.05	10.24
1892	2,930,199.40	145,354.24	5.22
1893	3,193,589.45	263,390.65	8.98
1894	3,205,098.85	11,509.40	.36
1895	3,243,410.80	38,311.95	1.19
1896	3,463,916.70	220,505.90	6.79
1897	3,704,978.50	241,061.80	6.95
1898	3,917,471.67	212,493.17	5.73
1899	4,175,724.86	258,253.19	6.59
1900	4,368,999.59	193,274.73	4.62
1901	4,638,234.03	269,234.44	6.16
1902	4,904,396.73	266,162.70	5.73
1903	5,279,323.79	374,927.06	7.64
1904	5,518,233.84	238,910.05	4.52
1905	5,743,444.41	225,210.57	4.08
1906	5,870,251.94	126,807.53	2.20
1907	5,889,238.98	18,987.04	.32
1908	4,681,777.58	[1] 1,207,461.40	[1] 20.50
1909	4,721,044.87	39,267.29	.83
1910	4,780,614.19	59,569.32	1.26
1911	4,737,788.75	[1] 42,825.44	[1] .89
1912	4,367,029.16	[1] 370,759.59	[1] 7.83
1913	4,598,917.07	231,887.91	5.30
1914	4,718,492.72	119,575.65	2.53

Annual rate of expenditure for railway post-office cars from 1879 to 1914, inclusive—Continued.

[1] Decrease.

Expenditures for railway post-office car service in the years from 1873 to 1878 included in table above.

Annual rate of expenditure for railroad transportation and railway post-office cars combined, 1873 to 1914, inclusive.

Fiscal year June 30—	Annual rate of expenditure.	Increase.	Per cent.
1873	$7,257,196.00		
1874	9,113,190.00	$1,855,994.00	20.36
1875	9,216,518.00	103,328.00	1.12
1876	9,543,134.00	326,616.00	3.42
1877	9,053,936.00	[1] 489,198.00	[1] 5.40
1878	9,566,595.00	512,659.00	5.36
1879	9,567,589.00	994.00	.01
1880	10,498,986.00	931,397.00	9.73
1881	11,613,368.00	1,114,382.00	10.61
1882	12,753,184.00	1,139,816.00	9.81
1883	13,887,800.00	1,134,616.00	8.89
1884	15,012,603.00	1,124,803.00	8.09
1885	16,627,983.00	1,615,380.00	10.76
1886	17,336,512.00	708,529.00	4.26
1887	18,056,271.72	719,759.72	4.15
1888	19,524,959.15	1,468,687.43	8.13
1889	21,639,613.33	2,114,654.18	10.83
1890	23,395,231.66	1,755,618.33	8.11
1891	25,183,713.82	1,788,482.16	7.64
1892	27,126,529.11	1,942,815.29	7.71
1893	28,910,195.30	1,783,666.19	6.57
1894	30,358,190.01	1,447,994.71	5.00
1895	31,205,342.58	847,152.57	2.79
1896	32,405,797.17	1,200,454.59	3.84
1897	33,876,521.19	1,470,724.02	4.53
1898	34,703,847.56	827,326.37	2.44
1899	36,117,875.74	1,414,028.18	4.08
1900	37,793,981.74	1,676,106.00	4.64
1901	38,519,624.27	725,642.53	1.92
1902	39,953,607.95	1,433,983.68	3.72
1903	41,886,848.59	1,933,240.64	4.84
1904	44,695,610.36	2,808,761.77	6.70
1905	45,576,515.16	880,904.80	1.97
1906	47,481,037.56	1,904,522.40	4.17
1907	51,008,111.32	3,527,073.76	7.42
1908	49,404,763.05	[1] 603,348.27	[1] 3.24
1909	49,606,440.16	201,677.11	.41
1910	49,302,217.46	[1] 304,222.70	[1] .61
1911	50,910,261.68	1,608,044.22	3.26
1912	50,703,323.02	[1] 206,938.66	[1] .40
1913	51,466,030.62	762,707.60	1.50
1914	55,571,852.79	4,105,822.17	7.39

[1] Decrease.

Previous to 1880 the appropriation for railway post-office cars was not stated separately from that for railroad transportation.

APPENDIX C.

In the House of Representatives, July 29, 1914. Mr. MOON introduced the following joint resolution, which was referred to the Committee on the Judiciary and ordered to be printed:

Joint resolution (H. J. Res. 309) proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which when ratified by the legislatures of three-fourths of the several States shall be valid to all intents and purposes as a part of the Constitution:

"ARTICLE XVIII.

"SECTION 1. That hereafter it shall be unlawful for any person to be appointed or elected or chosen to an office or position or service of any kind under the authority of the United States or any State of the Union for life or for a term of service longer than 15 years in duration.

"SEC. 2. That hereafter all judicial officers of the United States inferior in jurisdiction to the Supreme Court, all United States marshals, United States district attorneys, United States revenue collectors, and postmasters shall be elected by the legally qualified voters of the State, district, or civil subdivision thereof in which they shall by law be required to serve. Congress shall fix the districts, terms of service, and the time, place, and manner for holding such elections, and make all other needful laws and regulations to enforce this amendment."

Mr. MOON. Mr. Chairman, I yield to the gentleman from Michigan [Mr SAMUEL W. SMITH].

The CHAIRMAN. The gentleman from Michigan [Mr. SAMUEL W. SMITH] is recognized.

Mr. SAMUEL W. SMITH. Mr. Chairman, I yield 45 minutes to the gentleman from Illinois [Mr. MADDEN].

The CHAIRMAN. The gentleman from Illinois [Mr. MADDEN] is recognized for 45 minutes.

Mr. MADDEN. Mr. Chairman and gentlemen, I congratulate the gentleman from Tennessee [Mr. MOON] on the eloquence he has displayed in talking about ancient history. I do not blame the Democrats in the House for swarming around him now and shaking his hands, for I presume he has told them something about which they have never read or which, if they have ever read, they have forgotten. But I understand that the subject we are here discussing is what we are going to pay the railroad companies of the United States for carrying the mails. And in this connection I want to congratulate the commission appointed by the chairman of the Post Office Committee, who investigated the necessity for a revision of the railway mail pay. I think it has been conceded by everybody who understands anything whatever about the question that the railroads have not been getting as much compensation for carrying the mails as they should receive. And in the consideration of what ought to be done in order to do justice both to the Government and the railroads the commission, although it has not reported formally, has reached a conclusion with which in the main the Committee on the Post Office and Post Roads quite agree.

The present railway mail pay amounts approximately to $55,000,000 annually. And allowing 4 per cent per annum for increased weights carried would bring the pay of the railroads for the transportation of mails up to about $57,500,000 or $58,000,000.

The committee on railway mail pay formulated a plan which the Committee on the Post Office and Post Roads has substantially adopted, which provides that henceforth the railroad companies shall be paid for space and mileage, rather than for weight of mail carried. The bill before the House contemplates the payment of a sum less than will be proposed to be paid by the committee when the pending amendments are injected into the bill.

I believe the committee on railway mail pay have reached the conclusion that the railroads should be paid 21 cents a car mile for a full railway post-office car, 11 cents a mile for a half railway post-office car, 6 cents a mile for a quarter of a railway post-office car, and 20 cents a mile for a storage car.

In addition to these mileage charges a recommendation has been made by the committee—and concurred in, I believe, by members of the commission—that on a full railroad post-office car there shall be terminal charges allowed amounting to $8 for every round trip on a full car, $4 for every round trip on a half car, and $2 on every round trip on a quarter car. The committee agrees that 21 cents a mile for line charges is about what it ought to be. I believe the conclusion reached by the commission—and certainly the conclusion reached by the committee—was based on what the railroad companies earn from passenger service.

The Interstate Commerce Commission reports show that the passenger service of the railroads of the country the year before last yielded a little over 25 cents a car mile, and last year a little over 24 cents a car mile. The committee concluded that it was not as expensive to move the mails as it is to move passengers, and they thought there should be a difference of anywhere from 7 to 10 per cent between the amounts paid for railway-mail transportation and that earned in the passenger service by the railways.

The result is that the committee have recommended, and if the pending amendments to the present bill are adopted, the payment of 21 cents a full railway mail post-office car mile, 10½ cents for a 30-foot apartment car, 5¼ cents for a 15-foot apartment car, and 20 cents for a 60-foot storage car.

To these figures are to be added the terminal charges, which include switching, lighting, and heating. The one fundamental difference between the committee and the commission is that while the commission recommends the adoption of space payment for the movement of closed-pouch service, the committee recommends the movement of the closed-pouch service on the weight basis. The figures that I have been able to compile lead me to the conclusion that the space-basis payment for the closed-pouch service would be more than $2,000,000 more expensive than the weight-payment basis will be.

Under the bill recommended by the committee the total railway mail pay, after deducting the land-grant railroad reductions, usually made of 20 per cent of the mail pay, the railroads would be paid under this bill approximately $62,000,000 per annum, including the 4 per cent allowed for the annual increase of the railroad mail business.

Mr. FINLEY. Will the gentleman yield?

Mr. MADDEN. Yes.

Mr. FINLEY. Is not that estimate based on the proposition that as many cars and as much space and as many trips will be made under the proposed bill as is now given by railroads in the service, and also adding 4 per cent annual increase in the growth of the mail?

Mr. MADDEN. Yes; in reaching these figures it has been assumed that there will be as many miles traveled by the cars used for the transportation of the mails in the coming year as was traveled during the past year. And we also assume that the volume of the business will increase, as it has done in the past, by about 4 per cent.

The figures made by the committee approximate $62,000,000, and the present railroad mail pay is $58,000,000. So that, I say, the committee is recommending the payment of $4,000,000 more to the railroads for transportation of the mail under this bill than we are paying them under the present plan.

If the figures and all the plans suggested by the commission, so far as I have been able to ascertain them, were adopted, the railroad mail pay during the year succeeding the enactment of this law would amount to $69,000,000. So that the figures of the committee, if all the amendments we are about to suggest shall be adopted, will be approximately $7,000,000 lower than the figures of the commission, if they should introduce a bill and it were adopted, according to the figures which I have been able to obtain in connection with their study of the question.

I propose in connection with what I have to say here to print in the RECORD a statement of the number of miles traveled by a full railroad post-office car, the number of miles traveled by half a car, the number of miles traveled by a quarter of a car, and the approximate number of trips made under given conditions by the closed-pouch service, as well as the number of miles and number of trips traveled by the storage car.

In this connection I wish also to print a detailed statement of how many trips each car of every class makes, what we are paying for terminal charges, and what each class of the service amounts to; and I shall compare the figures upon which the Committee on Post Offices and Post Roads agree with the figures which I understand the commission to recommend.

Mr. CLINE. May I ask the gentleman a question?

Mr. MADDEN. Yes.

Mr. CLINE. What reason does the commission give for the abandonment of the weight-and-mileage proposition and going to the space-and-mileage proposition?

Mr. MADDEN. Both the commission and the committee agree upon that. In the first place, the country is divided into four grand divisions, four contract section divisions; and in each contract section of the country we have a quadrennial weighing, and upon that quadrennial weight of the mails as ascertained in 105 days' weighing the payment by the Government is made to the railroads during a period of four years. During all that period we allow an increase of 4 per cent annually without knowing whether it really is a legitimate increase or not.

The recommendation for the adoption of the space basis and the mileage basis is upon the theory that it is much more simple; that it is more scientific; that it places within the jurisdiction of the Postmaster General the opportunity for executive ability in that he will have the power to order either a quarter of a car or half of a car, as he may think the needs of the service requires, whereas on the weight basis we were required to pay for weight fixed regardless of whether we carried the weight or not. Under this system of space and mileage we have the right to move a car, a full railroad post-office car 60 feet in length, for 21 cents a mile. That 21 cents a mile includes not only the car and the heating, but it includes the contents. It includes the men we have working the mail. We know exactly what the cost is to the Government every day.

There is no chance for juggling figures. We believe that this will result in an economy to the Government, and, at any rate, it will result in placing in the department charged with the responsibility of moving the mails information upon which they can base the exact cost of the operation of the department from day to day. I want to congratulate my friend from New Jersey

[Mr. TUTTLE] and my friend from Missouri [Mr. LLOYD], who, with others on this commission, have worked out this scientific basis for the movement of the mail, for to them credit is due, and we members of the committee are only echoing what they suggested as the result of their long study and hard toil.

Mr. GOOD. Will the gentleman from Illinois yield?

Mr. MADDEN. Certainly.

Mr. GOOD. The gentleman has referred to the figures compiled by the commission that has been working on the subject for a number of years. To what extent are those figures available?

Mr. MADDEN. I do not believe that any official figures have been made by the commission; that is, no member of the commission can authoritatively state that they are the figures of the commission, but I think every member of the commission can state that, as far as I am able to ascertain, there is a unity of thought among the members of the commission as to what would be the proper figures. I am not speaking by authority, but if I make a misstatement I would be glad to have the gentleman from New Jersey [Mr. TUTTLE] correct me.

Mr. GOOD. Does not the gentleman think it would be the part of wisdom to defer legislation until Congress has had all the information from the members of this commission that have been studying it for a number of years?

Mr. MADDEN. Mr. Chairman, during the years that I have been a Member of Congress my experience has been that no Member of Congress ever studies these questions except the Member who is on the committee having direct charge of the work, and I want to say to my friend from Iowa [Mr. GOOD], that the committee having direct charge of this work has given intelligent study to the question and is now giving its view in the form of a bill which we hope will be adopted, and I believe that no good purpose would be served, either to the railroads or to the people or to the Government, by the delay that might occur as a result of the suggestion of my friend from Iowa, for I thoroughly believe that the figures which we have made are sufficiently compensatory to justify the enactment of the law. They are not too high.

The railroads are complaining that we are making the figures too low. I think myself they are not too high. I think perhaps the figures in some respects named by the commission were rather high, and while the figures made by the committee may be rather low, yet, I believe, on the whole, the figures recommended for the railway mail pay by the Committee on the Post Office and Post Roads are as nearly equitable as it is possible to make them without seeming to favor either one side of the case or the other.

These are maximum figures, so that if they were too high, and this bill became a law, it is within the power of the Postmaster General to contract for the movement of the mails for less money than those figures would indicate, for his authority to pay is confined to not more than the figures indicated in the bill, and "not more than" means that the Postmaster General, if he is patriotic, as all Postmasters General are, would do his duty and see to it that no dollar of the public money was paid to any person for the movement of the mails to which he was not entitled.

Mr. GOOD. Mr. Chairman, can not he do that now?

Mr. MADDEN. Yes.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. MURDOCK. In connection with what the gentleman has said, I think he ought to say that there has always been carried in the law since 1873 the words "not exceeding," but no Postmaster General has ever paid a less rate than those provided by law.

Mr. MADDEN. Mr. Chairman, I may say to my friend from Kansas, in reply to his statement, that this bill differs radically from any other bill that has ever been enacted, in that it provides that the railroad companies shall move the mails, and no law to that effect has ever heretofore existed. This law makes it a crime for the railroad companies to refuse to move the mails when required by the Postmaster General to do so, and many people who are anxious that no injustice shall be done either to the people or to the railroads fear that with this clause making it a crime for a railroad company to refuse to move the mails when required to do so by the Postmaster General, the Postmaster General might make figures so low as to make it impossible for the railroad to move them. But I do not anticipate any such trouble. I do not believe that the Postmaster General would be so unjust. I believe that the Postmaster General, whoever he may be, would always treat the case on a fair, just, business basis.

Mr. GOOD. Mr. Chairman, will the gentleman yield again?

Mr. MADDEN. Yes.

Mr. GOOD. Suppose the rates fixed would not give reasonable compensation, and therefore would be taking property without due process of law, does the gentleman think that provision could be enforced?

Mr. MADDEN. Oh, no; I have not any idea that it could; but we always have a remedy in the courts; and if the railroad companies could show that the prices suggested by the Postmaster General for the movement of the mails were confiscatory, of course no court in the land would oblige the railroad companies to move those mails for those prices.

Mr. FINLEY. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. FINLEY. I would like also to suggest that I presume the gentleman is aware of the fact that the Constitution of the United States affords ample protection along that line?

Mr. MADDEN. Surely.

Mr. FINLEY. You can not take private property for public use without proper compensation.

Mr. MADDEN. Surely. The car-mile earning from the passenger service of the railroads in the United States last year was 24.37 cents, and this bill as recommended by the committee, when amended as suggested, will make the railroad mail pay average about 22.96 cents, including terminal charges, or it reduces the price paid for the transportation of the mails about 7 per cent below what the railroads earn in the passenger service of the country.

Mr. TUTTLE. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. TUTTLE. Where does the gentleman get the figure of 24 cents plus?

Mr. MADDEN. From the latest report of the Interstate Commerce Commission.

Mr. TUTTLE. For the year 1913?

Mr. MADDEN. I have it here, I think. It is the latest report of the Interstate Commerce Commission. It shows that the year before it was 25.43 cents, and this year it is down to 24.37 cents. Of course that might be due to the fact that the passenger traffic was not as dense this year as last year. That is always a factor that must be dealt with in the movement of railroad trains, and that will be one of the factors that will have to be dealt with in the movement of mails under this new system.

Mr. GOOD. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. GOOD. How do the rates provided for in this bill compare with the rates paid by express companies to the railroads for carrying parcels and expressage?

Mr. MADDEN. I am not familiar with that, I am frank to say, and I would not be able to give an intelligent answer to the question, but my understanding of it is that quite a different service is performed. The Government gets from the railroad quite a different service from that which the express companies get. There is no comparison at all. We are dealing in high-class mail; the express companies carry package freight.

Mr. Chairman, there is one question that may arise, and that may occur to a great many people here, and that is what effect is this going to have on the parcel-post rate? This does away with the parcel-post agitation altogether, so far as the railroad movement of parcel post is concerned, and I have no doubt but that in the very near future there will be a readjustment of the parcel-post rates, so that for a longer distance the people of the United States will be able to get a better rate for the movement of their packages.

Mr. MANN. Will the gentleman yield before passing away from that subject in reference to the express rates; I do not know whether my colleague heard the gentleman from Colorado [Mr. KINDEL] yesterday or not?

Mr. MADDEN. Yes; I did.

Mr. MANN. What is the similarity or dissimilarity between the service rendered by the railroads in reference to mail and express?

Mr. MADDEN. The gentleman from Illinois [Mr. MANN] was asking in what respect the two services compared. In reply I may say that since the Rural Delivery Service has gone into effect we have added burdens that the express companies have not, for they will not deliver outside of a certain radius in a town, but we deliver within a distance of 20 miles away from a post office and we pay men $1.200 a year now as rural mail carriers, and on that service last year there was a loss of $28.000.000. If that were added to the loss sustained in other directions by the Post Office and none of that loss was made up by the receipts in great cities, the Parcel Post System as now conducted would face a tremendous deficit every year.

Mr. MANN. What I want to inquire about is, what is the difference between the service, if any, rendered by the railroad companies to the express companies and to the Government in the carrying of mail?

Mr. MADDEN. The railroad companies load the mail and they unload it and they move it from the station to the post office if the post office is within a certain distance from the railroad station.

Mr. SELDOMRIDGE. Will the gentleman permit a question?

Mr. MADDEN. Certainly.

Mr. SELDOMRIDGE. Do I understand the gentleman to say the railroad companies load and unload the mail and move it from the post office?

Mr. MADDEN. Surely, in every city they load and unload it.

Mr. SELDOMRIDGE. I think the gentleman is merely mistaken.

Mr. PLATT. They do it if the post office is within 80 rods of the station.

Mr. MADDEN. I am not. If the railroad station is within 80 rods of the post office the railroad company carries the mail to the post office. If it is more than 80 rods from the post office there is a screen wagon or other service for the movement of the mails from the railroad station to the post office, but in every case all over the United States the railroad companies pay all the cost of loading the mail, all the cost of unloading the mail, and they carry the men free who sort the mail. They light, heat, and clean the cars; they furnish the drinking water and ice, and all that for the men employed by the Government, but in the express service they simply carry the weight of the packages that may be put in the express car.

Mr. HULINGS. And the express messengers.

Mr. MADDEN. Yes.

Mr. BARTON. Will the gentleman yield?

Mr. MADDEN. Yes.

Mr. BARTON. Take the case of two packages, one of parcel post and the other an express package, in reference to the rapidity of transportation and their handling they are receiving about the same consideration to-day?

Mr. MADDEN. The gentleman is talking about express rapidity?

Mr. BARTON. And parcel post—two packages.

Mr. MADDEN. Oh, then there would be no difference whatever. Now, I want to go to the question of the civil service, in reference to assistant postmasters. Section 3 of this bill provides that all assistant postmasters in the United States in the future, and those who are already in office, shall be required to take a civil-service examination. There can be no object on earth for the adoption of any such measure as this except to destroy the civil service. I do not agree with my friend, the gentleman from Tennessee [Mr. MOON], the chairman of our committee, when he says that men should be placed in the service of the Government on a fixed tenure, and the reason I do not agree with him on that is that a man learns nothing in the Government service that is of any use whatever to him in commercial life, so that if a man serves 10 years in the Government service he is utterly useless in any other place, and the justification for keeping men in the Government all their lives is, first, they become more efficient by reason of their ability and understanding of the Government minutiæ, and second, it is impossible for them to get anything to do anywhere else after they leave Government service. There is a prejudice against men working for the Government in all commercial houses, and all a man would have to do to prevent himself from getting employment anywhere in commercial life, after leaving the service of the Government at the end of the 10-year period would be to say that he had been a Government clerk for 10 years, unless he was an extraordinarily efficient man.

Mr. FINLEY. Will the gentleman yield for a question?

Mr. MADDEN. Surely.

Mr. FINLEY. The gentleman does not understand the provision in the bill relative to requiring assistant postmasters to stand examinations applies to any assistant postmasters except those who were covered into the service under a blanket order and who went in without any examination.

Mr. MADDEN. Read what it says.

Mr. FINLEY. I have read it.

Mr. MADDEN. Read it again so we will all hear it. I want to know what it says.

Mr. FINLEY. It reads as follows:

> And it shall be the duty of the Postmaster General to require all applicants for assistant postmasters in first and second class post offices, including those now in office who were carried into the service by Executive orders heretofore made, to take a competitive civil-service examination within 90 days.

Mr. MADDEN. Well, the gentleman from Tennessee said all men now in the service were covered in under Executive order.

Mr. FINLEY. There are about 2,500 assistant postmasters who were covered into the service by the order of President Taft without examination.

Mr. MADDEN. We only have 2,500 assistant postmasters in the United States; so if there were 2,500 covered in by Executive order, they are all there by that order.

Mr. FINLEY. Mr. Chairman, I beg to differ with the gentleman. There are far more assistant postmasters.

Mr. MADDEN. How many?

Mr. FINLEY. Oh, thousands.

Mr. MADDEN. A thousand more?

Mr. FINLEY. More than that.

Mr. MADDEN. I can not see where they are. I had a report from the Civil Service Commission giving me the number of assistant postmasters in the United States.

Mr. FINLEY. I am of the opinion that this only includes those who would be subject to examination under this proposed law.

Mr. MADDEN. Of course, I am subject to correction. I am not going to make an unequivocal statement.

Mr. FINLEY. I am sure of that, and that is why I called the gentleman's attention to the facts.

Mr. MADDEN. However, the enactment of this provision of the law would be iniquitous. It is unjustified; it is unjustifiable. It can be recommended on no other ground except that Democrats want places regardless of whether they are justified in getting the places or not. I think that men who have qualified themselves by service to do the things that the people of the United States expect them to do are entitled to protection from the Democratic office seekers.

Mr. FINLEY. Will the gentleman yield for a question?

Mr. MADDEN. Surely.

Mr. FINLEY. If it be true that there are some assistant postmasters included in these 2,500 who were covered into the service without examination, who are inefficient and incompetent, and whose inefficiency ought to be ascertained by some one, could the gentleman, in the interests of the good of the service or good government, have any objection to the proposed change in the law?

Mr. MADDEN. If the gentleman could show me, if I was managing the post office or any business in the world, regardless of whether it was Government business or not, that any man under my jurisdiction was inefficient, unworthy, or for any other reason ought to be removed for the good of the service, I would find a way to remove him. But I would not under any circumstances agree to the enactment of a law like this, which is a mere subterfuge to set aside the civil-service regulations of the country and make an opening wedge, so to speak, for the entry into the public service of a lot of men who might be unworthy of the confidence of the public.

Mr. FINLEY. Does the gentleman not agree that this provision in the bill provides a lawful and orderly way for ascertaining the incompetents? Now, if they were removed by Executive authority, without any sort of examination and on the charge of inefficiency, would not there be a hue and cry raised that partisanship was being indulged in?

Mr. MADDEN. I admit if this law is enacted that it will be a lawful means of ascertaining the qualifications of men who seek these places, and it will be a lawful means by which those men who are in the places and now well qualified can be removed without creating the criticism which the gentleman refers to.

Mr. FINLEY. Does the gentleman contend that each and every one of these 2,500 assistant postmasters now in office under this executive order of President Taft are entirely efficient and competent?

Mr. MADDEN. I do not make any pretense of knowing anything about that. I simply assume that the administration has means to ascertain a man's fitness, and they can remove a man who occupies a place as assistant postmaster now if they want to do so. And they can name the man they want to succeed him if they want to do so. Now, why not do it? Why not be frank about it? Why not be Democrats in fact as well as in name? Why come here to the House and to the country with the subterfuge or pretense of wanting to do something to conform with the law, when, as a matter of fact, all you want is to get the places? Why do not you remove them? That is what I would do. I would be willing to have you remove them—perfectly willing. I think that Democrats need the places and

ought to have them, but I am not in favor of destroying the civil-service law in order to give them the opportunity to get them. Now, I am heartily in favor of the adoption of this railroad mail pay schedule. I believe it is a conservative, fair recommendation for compensation to the railroads of the country, and I regret exceedingly that it is coupled up with a political scheme which has for its purpose the elimination of 2,500 men who are worthy from the public service. And I would feel that I was unpatriotic, that I was unjust to the people of America, that I was untrue to my oath as a Member of the House if I voted for any such bill as this, no matter how meritorious it is, with that attachment.

I regret very much that the Democratic members of the committee, every man of whom I have the greatest respect for, every man of whom is my friend, all of whom I would go anywhere to please, found it necessary to drive away their friends from the support of this bill by putting into it this civil-service subterfuge. There is not a man on the Post Office Committee who is more anxious to help the committee to do the thing that it ought to do than I am, and I think every member of the committee will agree that that is true. And I want to vote for the bill to regulate the railroad mail pay. I want to vote my convictions upon this question. But you have made it impossible for me to do that by tying to the bill a thing that has no relation whatever to that question and forcing me to vote against it. [Applause on the Republican side.] Every Republican in the House, so far as I have been able to ascertain, would like to vote for this railroad mail pay bill, because they believe it is a just bill; but every Republican in the House, as far as I know, would be bound in honor to vote against the bill with this political appendage attached to it.

Mr. SAMUEL W. SMITH. Will the gentleman yield a moment?

Mr. MADDEN. Surely.

Mr. SAMUEL W. SMITH. I would like your opinion as to how much additional pay it gives to the railroads by reason of the amendments the Committee on the Post Office and Post Roads have adopted to the original bill?

Mr. MADDEN. I think it would make about $3,000,000 difference. It would make about $3,000,000 more than it would if we did not have the amendments.

Mr. SAMUEL W. SMITH. And if this bill with the amendments becomes a law, would it increase or decrease the pay to railroads?

Mr. MADDEN. If this bill becomes a law, it will increase the railroad mail pay from about $58,000,000, at present, to about $62,000,000. I have these figures in detail, and I shall show them to be the correct figures; and the difference between this bill and the bill which would be recommended by the commission, so far as I am able to ascertain, would be $7,000,000. So that——

Mr. TUTTLE. Mr. Chairman, may I correct the gentleman right there?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from New Jersey?

Mr. MADDEN. Certainly.

Mr. TUTTLE. The statistician for the commission estimates that under the proposed commission plan the appropriations for the year 1915 would be $67,000,000 plus.

Mr. MADDEN. And the 4 per cent would make it $69,000,000?

Mr. TUTTLE. There is no provision for the 4 per cent, because in his judgment the rearrangement of the apartment cars will be such that there will not be any increase for the year 1915.

Mr. MADDEN. Then I will say, in reply to my friend from New Jersey [Mr. TUTTLE], that if there is no provision made by the commission for 4 per cent increase, and their bill will amount to $67,000,000 without that, if I understand it correctly, there would still be a difference of $7,000,000 between us and the commission, because if we did not allow the 4 per cent increase our bill would be slightly over $60,000,000; so that, however you figure it, there would be $7,000,000 difference.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. MADDEN. I am obliged, gentlemen, for the consideration you have given me. [Applause.] I wish to ask, Mr. Chairman, unanimous consent to extend my remarks by inserting some figures in the RECORD.

The CHAIRMAN. The gentleman from Illinois [Mr. MADDEN] asks unanimous consent to extend his remarks in the RECORD by the insertion of some figures. Is there objection?

There was no objection.

Following are the figures referred to:

Estimated mail compensation under House bill 17042 as last amended.

Car units of service.	Car miles of service per line unit.	Line unit rate per car mile.	Annual line compensation per line unit.	Round trips of service.	Terminal rate per round trip.
		Cents.			
Railway post-office cars, 60-foot	103,295,263	21.00	$21,692,005	171,915	$8.00
Apartment cars, 30-foot	165,695,629	10.50	17,398,041	448,011	4.00
Apartment cars, 15-foot	75,221,521	5.50	4,137,459	467,617	2.00
Storage, 60-foot	51,417,527	20.00	10,283,505	49,796½	8.00
Closed-pouch			[1] 2,230,796		
Total	395,634,940			1,137,339½	
Totals prorated to 60-foot car basis	[2] 262,367,234	21.24½	55,740,806	562,621	8.00

Car units of service.	Annual amount of terminal compensation.	Total compensation, including both line and terminal compensation.	Total average unit rate per car mile based on car miles prorated to 60-foot cars.	Per cent of pay for each service unit to total compensation per cent.
			Cents.	
Railway post-office cars, 60-foot	$1,375,320	$23,067,325	22.33	38.29
Apartment cars, 30-foot	1,792,044	19,190,085	23.16	31.86
Apartment cars, 15-foot	935,234	5,072,693	26.97	8.42
Storage, 60-foot	398,372	10,681,877	20.77	17.73
Closed-pouch		2,230,796		3.70
Total		60,242,776		100.00
Totals prorated to 60-foot car basis	4,500,970	60,242,776	22.96	

[1] Estimated on weight basis of compensation.

[2] Includes 6,000,000 car miles, being the total annual closed-pouch space in exclusive closed-pouch trains carrying such weight of mails, equated to a 60-foot car basis.

Mail compensation under House bill 17042, as amended.

Total railroad mail pay	$60,242,776
Periodical matter by freight	703,904
Weighing and ascertainments	50,000
Total	60,996,680
Less land-grant deductions	1,171,136
Mail pay under provisions of this proposed bill, June 30, 1914	59,825,544
Add 4 per cent for fiscal year 1915	2,393,022
Mail pay under provisions of this proposed bill, June 30, 1915	62,218,566

Estimated mail compensation at the rates of pay per car unit set forth in the remarks of Representative James T. Lloyd, published in the Congressional Record of July 18, 1914.

Car units of service.	Car miles of service per line unit.	Line unit rate per car mile.	Annual line compensation per line unit.	Round trips of service.	Terminal rate per round trip.
		Cents.			
Railway post-office cars, 60-foot	103,295,263	21	$21,692,005	171,915	$8.50
Apartment cars, 30-foot	165,695,629	11	18,226,519	448,011	5.50
Apartment cars, 15-foot	75,226,521	6	4,513,591	467,617	4.00
Storage, 60-foot	51,417,527	20	10,283,505	49,796½	8.50
Closed-pouch:					
3 to 7 feet	[1] 39,308,961	3	1,179,269	[2] 88,281	1.00
Under 3 feet	[1] 125,508,485	1.5	1,882,627	[2] 2,297,698	.50
Total	560,452,385			3,523,318½	
Total prorated to 60-foot car basis	[3] 262,367,234	22.02	57,777,516	[4] 649,479	11.48

[1] Train-miles of closed-pouch service per annum estimated as of June, 1914, from reports of field officers of the department, apportioned to the two classes, namely, trains having from 3 to 7 feet of closed-pouch space (23.85 per cent of total train-miles reported), and trains having 3 feet or less of closed pouch space (76.15 per cent of total train-miles reported).

The department has not sufficient data upon which to make a reliable division of closed-pouch service on train requiring 3 and those requiring 7 feet of space, as these are not needed nor kept in the regular transaction of business. The best that can be done at present is to make an examination of the special reports submitted in 1909.

Referring to the tabulation of 493 closed-pouch trains shown in a "Statement of closed-pouch service," transmitted with the letter of the Second Assistant Postmaster General of the 2d instant to the chairman of the joint committee on postage on second-class mail matter and compensation for the transportation of mails, obtained from the original statistics reported to the department for the month of November, 1909, it was ascertained that the trains carrying a maximum number of pouches and sacks of 35 or less at any time during the period aggregated 771,805 car-foot miles of service on 476 closed-pouch trains. The department estimated at that time, of space devoted to closed-pouch mail, would allow 2.92 linear feet of space to 35 pouches or sacks. Trains carrying over 35 pouches and sacks aggregated 241,764 car-foot miles of service, on 17 closed-pouch trains.

Estimated mail compensation at the rates of pay per car unit, etc.—Con.

Car units of service.	Annual amount of terminal compensation.	Total compensation, including both line and terminal compensation.	Total average unit rate per car mile based on car miles pro rated to 60-foot cars.	Per cent of pay for each service unit to total compensation per cent.
			Cents.	
Railway post-office cars, 60-foot	$1,461,278	$23,153,283	22.41	35.49
Apartment cars, 30-foot	2,464,060	20,690,579	24.97	31.72
Apartment cars, 15-foot	1,870,468	6,384,059	33.94	9.79
Storage, 60-foot	423,270	10,706,775	20.82	16.41
Closed-pouch:				
3 to 7 feet	88,281	1,267,550	27.64	1.94
Under 3 feet	1,148,849	3,031,476	48.31	4.65
Total		65,233,722		100.00
Total pro rated to 60-foot car basis	7,456,206	65,233,722	24.86	

Mail compensation at rates indicated in preceding table.

Total railroad mail pay	$65,233,722
Periodical matter by freight	703,904
Weighing and ascertainments	50,000
Total	65,987,626
Less land-grant deductions	1,252,487
Mail pay under provisions of this proposed bill June 30, 1914	64,735,139
Add 4 per cent for fiscal year 1915	2,589,405
Mail pay under provisions of this proposed bill June 30, 1915	67,324,544
The side and terminal service estimate of cost to the department	2,118,820
Total mail cost	69,443,364

The percentage of maximum space occuping over 3 linear feet per train was, therefore, 23.85 per cent of the total covered by the tabulation, and that under 3 linear feet, 76.15 per cent.

[2] One-way trips per annum estimated as of June, 1914, from reports of field officers of the department, apportioned to the two classes, namely, trains having from 3 to 7 feet of closed-pouch space (3.7 per cent of total trips reported) and trains having 3 feet or less of closed-pouch space (96.3 per cent of total trips reported).

The total trips for the 17 trains embraced in the first class named, is estimated at 30 trips per month for each train (7 trips per week), or a total of 510. The total trips for the 476 trains embraced in the second class of trains named is estimated at 28 trips per month for each train (one-third at 6 trips per week and two-thirds at 7 trips per week), or a total of 13,328. The percentage of trips for closed-pouch trains carrying over 3 feet of space would, therefore, be 3.7 per cent of the total covered by the tabulation, and for such trains carrying 3 feet or less of space, 96.3 per cent of the total trips.

[3] Includes 6,000,000 car miles, being the total annual closed-pouch space in exclusive closed-pouch trains, equated to a 60-foot car basis.

[4] Includes 86,858 round trips, being the total annual round trips in exclusive closed-pouch trains, equated to a 60-foot car basis.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. BUCHANAN of Illinois having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 1624. An act to regulate the construction of buildings along alleyways in the District of Columbia, and for other purposes.

POSTAL AND CIVIL-SERVICE LAWS.

The committee resumed its session.

Mr. SAMUEL W. SMITH rose.

The CHAIRMAN. The gentleman from Michigan is recognized.

Mr. SAMUEL W. SMITH. Mr. Chairman, I expect to be brief and to occupy only a few moments, but I will thank the Chair to advise me as to the time.

The CHAIRMAN. Very well.

Mr. SAMUEL W. SMITH. Mr. Chairman, this is one of the most important bills that has been presented to this or any other Congress. It embraces a dozen or more subjects, the most of which should not be in this bill, and I doubt, for reasons which I shall hereafter state, if the subject of railway mail pay should be considered by Congress at this time.

The question of railway mail pay has long been a mooted one, which has provoked endless discussion in and out of Congress and upon which volumes have been spoken and written. Various commissions have been appointed and reported; none quite satisfactory to both interested parties. Finally, in August, 1912, a Joint Committee on Postage on Second-Class Mail Matter and Compensation for Transportation of Mails was appointed, consisting of Senator Jonathan Bourne, jr. (chairman), Senator Harry A. Richardson, Senator John H. Bankhead, Representative John W. Weeks, Representative James T. Lloyd, and Representative William E. Tuttle, jr.

Since the appointment of this joint committee Senator Bourne has retired from the Senate, as has been said, to devote his whole time to this very important and complicated question.

Senator Richardson has also retired, and Representative WEEKS has gone to the Senate. But, notwithstanding these changes, all these gentlemen have continued to take a very deep interest in this subject and have expected to make a comprehensive and scientific report covering the whole subject matter.

Of Senator Bourne it can be said that he has retained his residence in Washington and given practically his whole time to this subject, and it has been the universal opinion, in view of the ability of the men composing this commission and of their untiring efforts to arrive at a conclusion that would be equally fair, both to the Government and the railroads, that they would make such a report as would settle this question for years to come. Therefore I regret, Mr. Chairman, that this proposed legislation is before the House at this time, and especially that the subject of railway mail pay is presented in a bill along with numerous other subjects, several of which, like the subject of railway mail pay, should be presented in separate and distinct bills.

The Committee on the Post Office and Post Roads has the statement upon the authority of Chairman Bourne that the report will be forthcoming any day. I do not think I am disclosing any confidences of the Committee on the Post Office and Post Roads when I say that Representative TUTTLE, of the committee, on the 13th day of July read a letter from Chairman Bourne in which he said the report would be forthcoming in three weeks, so that you can see that the time is near at hand when we can confidently expect a report from this commission.

This bill, so far as railway mail pay is concerned, ought not to be considered until that report is received and Members have an opportunity to read and digest the same, notwithstanding the amendments which will be offered later on as to pay for space, and so forth, which are substantially the same as the commission is expected to report. This information we get through the kindness of the gentleman from New Jersey [Mr. TUTTLE] and that of the gentleman from Missouri [Mr. LLOYD], who are not only members of the commission, but also members of the Committee on the Post Office and Post Roads of the House.

There are other important recommendations to be made by the commission which we should have the benefit of. For example, I think the Postmaster General is clothed with too much power in the bill. I am speaking broadly now, for we do not know who may be Postmaster General in the years to come, and how far he may use the authority granted in this bill. I refer to the words "not exceeding," as we find them in the bill. Senator Bourne has this to say regarding the same:

[From the Journal of Commerce and Commercial Bulletin, Thursday, July 9, 1914.]

SENATOR BOURNE ATTACKS RAILWAY MAIL PAY BILL—ASSERTS MEASURE IS UNPARALLELED IN HISTORY OF RATE REGULATION.

WASHINGTON, *July 8 (special)*.

If the Post Office Department has its way, the railroads will not only be compelled to carry the mails, but will be compelled to carry them at rates the department elects to pay, according to Jonathan Bourne, jr., chairman of the joint congressional committee on railway mail pay. Mr. Bourne issued an interview to-day in which he vigorously criticized the railway mail pay bill proposed by the Post Office Department.

"In its persistent efforts to secure dictatorial power the Post Office Department has broken all records," said Mr. Bourne. "The department bill H. R. 17042 provides that 'not exceeding' certain rates shall be paid to steam railroads for transportation of the mail. The same bill also contains a clause compelling the railroads to carry mail.

"It is claimed that 'not exceeding' is but a continuance of existing law, but heretofore the railroads having not been compelled by law to carry mail. They are supposed to have accepted the rates as a voluntary act which in itself was assumed to be sufficient guaranty that rates will not be too low, and it was only necessary for Congress to fix maximum rates, but this assumption was not sound, as a railroad would hardly dare to refuse to carry mail because of irritation resultant from such action in the community in which the road operates.

"The Interstate Commerce Commission is now authorized to fix maximum freight rates, it being left to the railroads to fix the minimum. It would be considered preposterous that the commission should fix the maximum rates at which railroads must carry freight and leave the shippers to fix the minimum. Yet this is the very thing that the Post Office Department proposes for mail pay in the departmental bill. Congress is to fix the maximum rates and the shipper—the Post Office Department—is to fix the minimum rates, and the railroads are to be compelled to carry the mail. This is a proposition without parallel in the history of rate regulation. It is bureaucracy run mad."

Mr. Chairman, we will be greatly interested to have the views of the Member from New Jersey [Mr. TUTTLE], who is a member of the Committee on the Post Office and Post Roads and also a member of the commission, who I understand will soon address the committee. Fortunately, two members of the commission in the House have been members of the Committee on the Post Office and Post Roads, and I am sure that they will give us a great deal of interesting and valuable information when they address the committee—information which will materially

aid in perfecting the bill—and I congratulate each of them upon the splendid work which he has performed.

Mr. Chairman, in view of the amendments which are to be offered later on, and to which I have already referred, respecting railway mail pay provisions in this bill, I would be willing to support this bill if there were not other objectionable features, one of which I will call attention to at this time. Laying all politics aside, we ought all to agree that section 3 of this bill should have no place in a measure of its importance and character. The bill which would be based upon the report of the commission is expected to confine itself strictly to railway mail pay, while this one requires that all assistant postmasters, including those carried in the classified service by Executive orders, shall take a civil-service examination within 90 days.

These are permanent officials of the various post offices that have remained for the most part undisturbed because of their proved efficiency, and it is with no disrespect to the postmasters, many of whom have recently been appointed, that I say that these assistant postmasters know much more than they do or can for some time to come respecting the management of the various offices. And, speaking for those in the district which I have the honor of representing, I want to say that, without a single exception, they are competent and qualified, and should not be disturbed except for cause.

In this connection I want to add that if the claim be true that they should be removed because they are inefficient, the postmaster has his remedy by making the same known to the Civil Service Commission and to the Post Office Department, and if a fair investigation of the same confirms the statement of the postmaster, then they will be removed. But, as a matter of fact, on the contrary, I know it to be true that in more than one instance postmasters, new as well as old, want these faithful employees retained because they are efficient and well equipped for the discharge of their duties, but under this bill the whole list, without any exception, will be thrown open for appointment, giving Democratic applicants a chance which does not now exist to win Federal jobs, there being in round numbers about twenty-five hundred of these assistant postmasters.

This is only an indirect application of the old spoils system in the name of civil-service reform, and certainly has nothing to do with the question of railway mail pay.

If this bill, with the amendments which are to be proposed, becomes a law some say that railroads will be overpaid; others say that they will be underpaid. Without expressing any opinion as to what the result will be, I hope that they will be fairly compensated for their services and justice done both the Government and the railroads. [Applause.]

Mr. Chairman, how much time did I occupy?

The CHAIRMAN. The gentleman from Michigan occupied 12 minutes.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. REILLY of Connecticut having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes.

The message also announced that the Senate had passed with out amendment joint resolution of the following title:

H. J. Res. 288. Joint resolution to amend an act entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war," approved May 2, 1914.

POSTAL AND CIVIL-SERVICE LAWS.

The committee resumed its session.

Mr. SMITH of Michigan. I yield 30 minutes to the gentleman from Kansas [Mr. MURDOCK].

Mr. MURDOCK. Mr. Chairman, one of the proposals among the many and important provisions in the measure under consideration is to change the method by which the Government pays the railroads for the transportation of the mails. The basis of pay for the last 41 years has been the weight of the mail carried and the distance it has been transported. It is proposed now to make the basis of pay to the railroads space used in transportation.

This change from one system of pay to another should not be made without balancing the Government's account with the railroads. Under the old system the Post Office Department, by the use of a glaringly erroneous computation in determining the average daily weight of mails, the basis of pay, paid out of the public funds, against the plain provisions of the law, a sum that aggregates from $70,000,000 to $80,000,000. This should be recovered for the Government, and I shall, during the consideration of this measure, offer an amendment designed to effect this recovery. As I proceed to-day I shall set forth the matter at length, turning my attention in the beginning to the new system of pay which is proposed.

For the proposed change involves matters of the gravest consideration to the Government. The amount which the provisions of this bill will turn over to the railroads is tremendous and ought to make Congress pause and give the fullest deliberation to the methods by which it is reached. The annual payment at the initiation of the new system of pay will be in the region of $62,000,000, according to the estimate of the chairman, Mr. MOON, which is some one or two million dollars more than is now expended for the service. We will spend the first year under this bill one-fifth of our annual revenues from the tariff. It stands, therefore, as an item of expenditure, not only first among the burdens in the various bureaus of the great postal system, but as payment for a single service among the greatest outlays known to any Government. It follows that no change in the method should be made, then, without the most zealous scrutiny and thorough survey. The change proposed is from weight to space. Weight, as a factor to be used in determining the amount of mails carried, is fairly definite. Space, as a factor to be similarly used, is not. Neither is absolutely definite under laws as they are ordinarily administered. But weight is relatively a tangible, computable, definite, fixed factor as a basis for administrative guidance and control, and space is not.

I have said that weight is not absolutely definite as a factor under usual practices of administration. Let me explain. We pay the railroads now for the transportation of the mails on the basis of the average daily weight of mails carried. To determine this average the mails are weighed for a certain number of days—105 days, in fact; the weights for these days collected into a dividend and with a divisor of 105, a quotient is secured for the average. Waiving for the moment the item of padding the mails and the use of a false divisor of 6 on a dividend of 7 days' weights, a practice which obtained for 34 years, it must be evident after a little reflection that 105 days' weights divided by 105 do not necessarily even then give a true average daily weight for a year, the term of payment, when the weights of mail differ at various seasons of the year, as they do. It is known with considerable definiteness that there is a regular increase and decrease in the volume of mail by seasons. Much less mail is carried in July of every year than in January of the same year. If the weight of the mails were to be shown by a line drawn with variations from the horizontal, the line would be found to be ascending from August to September, on through October, November, and December, reaching its highest point in January, February, and March, and holding fairly high in April and May, and declining through June to the July and August low level again. With the exception of the New England section, the 105 days' weighings are invariably placed over the spring of the year when the line is almost uniformly high. Now, a true average daily weight for the year can no more be obtained by that process than it could be obtained by taking the aggregate for the month of July with its low weights and dividing by its 31 days, or similarly the month of January with its high weights. The true average daily weight could be found only by a weighing extending the whole year with the number of days in the year used as a divisor, not a practicable device. The nearest approach to the true average is in use in some of the European countries, where the mails were weighed for a year, and a certain week's weights in November divided by 7 were found to be identical with the year's weights divided by 365.

The railroads therefore have always had the benefit and advantage of a favorable weighing period. But, false as the daily average weight figure has been in this general way, and false as it was for 34 years by the departmental use of a six days' divisor on seven days' weights to find as a quotient the average daily weight, the factor of weight has been to some degree determinative of legislative appropriations and administrative discretion. As is well known to all of us, for mail weighings the country is divided into four sections. The mail is weighed in each of the sections once every four years. The Congress pays for the transportation of the mails on the average daily weight as determined from that weighing. The amount allowed by Congress is fixed, inflexible, and definite. In a lesser degree it is also determinative upon the executive department in its allowances of pay for what are known as full railway postal cars, where the Government pays, in addition to the pay for weight, for the use of an entire car in which mail is separated. That weight is a definite control of

administrative discretion is shown clearly by the circumstance that it was the very lack of this definite element which led to its adoption. In 1867 the pay for the carriage of the mails was based partly on an indefinite "size of mails." The railroads themselves reported "the size" of their mails. The Post Office Department, in order to ferret out excessive claims, ordered a weighing of all mails for 30 consecutive days. These totals proved cumbersome means of comparison, and they were reduced in the department to average daily weights, whether by the use of a correct or incorrect divisor it is not now possible to tell.

But whether false or true, as averages these figures served as something definite and certain by which the Post Office Department could determine whether the railroads and what particular railroads were claiming undue and excessive "sizes of mail." That is, the unit of weight came into the history of mail transportation, because the Government felt the need of a definite factor of measurement. This was not an era of antagonism to the railroads. It was one of supreme confidence in them. But the department felt the need of a fixed measure, and in 1873 the present system of pay on the average daily weight, with rates fixed on a sliding scale, with distance included in the computation, was adopted. Additional pay for full railway post-office cars, pay for space in cars measuring 40 feet and over in length, was also allowed. The administration of the new law was favorable to the railroads in many ways. The pay was originally made high, out of consideration of the fact that a weighing took place only once in four years, and the weights during the four years' period were increasing. In the computation of the pay on the heavier routes rate of pay was a sliding scale up to 5,000 pounds, average daily weight, with a lower flat per ton per mile rate above 5,000 pounds. But the railroads which had average daily weights of hundreds of thousands of pounds were not paid the per ton per mile rate for all the average daily weight, but were paid the high rate on the first 5,000 pounds, a rate of $171, and the per ton per mile rate on the remainder, a rate of $21.34. They were also given favorable weighing seasons; and the advantage of an average daily weight, found by the use of a false divisor, which, as I have pointed out amounted in a period of 34 years to an overpayment of between $70,000,000 and $80,000,000. For a portion of the period they were allowed, contrary to law, additional pay for space in apartment cars—car space of 30 feet and less in length where the whole car is divided with express or baggage.

In the first years of the new system of 1873 there was a general popular outcry against the enormous pay to the railroads for carrying the mails. There was no specification in the general charge that they were being paid too much. There was no public knowledge of the use of the false divisor or illegal pay for apartment cars. The Congress had adopted a definite measurement—weight—and had fixed a rate of pay. The result was not satisfactory. Naturally the Congress did not abandon thereupon the definite factor of weight. But it reduced the rate of pay 10 per cent in 1876 and 5 per cent in 1878, a reduction, stated with mathematical accuracy, of 14½ per cent.

Then once more there followed a long period of agitation over the amount allowed the railroads for this service. It arose from two sources—first, a portion of the public which believed that the railroads were getting too much, and voiced its protest through debate in Congress; and second, those railroads which believed that certain other railroads were getting more than a fair share of the routings of mail and voiced their protests at the department and through their friends in Congress, in the belief that any disturbance might result in some benefit to them.

After the fashion of legislative bodies and administrative bureaus confronted with vexatious problems, investigations by commissions and otherwise were instituted—several of them—with no results, culminating in the Walcott Commission of 1898, which reported, after extensive hearings and the employment of an expert accountant, with some indefiniteness that the railroads were not overpaid.

The commission's expert, H. C. Adams, however, held that the pay should be reduced 5 per cent.

In 1904 some of the railroad employees, who are experts in this field, were agitating for a change in the length of the weighing period. Presumably they had come to the conclusion that a longer period would give them a higher daily average weight. There were others who did not believe it would. Congress trebled the weighing period in 1905. During the first weighing under the new period in the West the San Francisco earthquake occurred. Pointing out that the earthquake had disarranged the mails, the railroads asked Congress to permit temporarily the use of 49 days' weighing; that is, up until the occurrence of the earthquake.

They were backed up in their request by the Post Office Department. Congress permitted the use of the shorter period for that year. The shorter period showed higher average daily weights for the railroads. It was a profitable change for them, and since the longer weighing period has not been popular with the railroads. But Congress held to the longer period in subsequent years, and as public agitation grew moved on to the business of other reductions. In the reduction of the number of days in the weighing period, following the earthquake, it had come to me that the department was using a six-day divisor on a seven-day dividend to obtain an average daily weight; that is, the department was including Sunday and week-day weights in the whole weighing period, but using only the number of week days as a divisor. I presented the matter to Congress. The department, in a communication to Congress, maintained the accuracy of its practice. Congress refused legislation that would compel the use of a correct divisor.

Mr. FINLEY. If the gentleman will allow me, the matter was first called to the attention of the Post Office Committee, of which the gentleman from Kansas [Mr. MURDOCK] was a member, and the Post Office Committee took action upon it, but it went out of the bill in the House.

Mr. MURDOCK. The first mention of the false divisor was by myself in a speech on the floor of the House. It was not first mentioned in the committee. It was afterwards mentioned in the committee, and the contest was made there. I will go into the action in the committee and in the House a little later with particularity. Suffice it to say at this point that Congress did in 1907 reduce the rates of pay to the railroads on average daily weights above 5,000 pounds and on full railway post-office cars. Immediately following this action, the Postmaster General adopted a correct divisor, which resulted, in its application over the four weighing sections, in a saving of $5,000,000 annually. Still later shipment of return empty equipment, which had been carried in the mails as mail weight, was sent by freight, a reform for which the gentleman from South Carolina [Mr. FINLEY] was largely responsible by his individual efforts.

Through these agencies the pay of the railroads was reduced on a total approximating $50,000,000 a year by the sum of something like $10,000,000. Since then the railroads have borne a desperate air of injury, which gathered outrage and inflammation upon the adoption of parcel post, which has reduced their revenues from express business. They have sought a change. The illegal advantages they had enjoyed under the old system as administered had been in large part boiled out. They wearied of it. Their general attitude had come to be one of unremitting complaint and protest, an attitude based on the proposition that a protest might do the double office of securing more pay for them or preventing further reductions and at the same time silencing the public. But whatever their motives and hopes and fears, their protest has been incessant. Four years ago, under the authority of the law, Postmaster General Hitchcock appointed a commission to determine whether the railroads were underpaid or overpaid. The commission reported that through a readjustment of railway mail pay, with 6 per cent profit allowed the railroads, a saving could be made to the Government of about $9,000,000. The commission apparently believed that the railroads should be allowed, in addition to cost and the 6 per cent, also a compensation which would equal the $9,000,000, a conclusion tending to demonstrate that in the opinion of the commission the railroads' present pay was just.

Two years ago, in 1912, Congress created a joint commission to make inquiry into the subject of compensation for the transportation of mail. The commission has never reported. It was, in June last, about to report, I understand, a bill when the chairman of the Committee on Post Offices and Post Roads [Mr. MOON] introduced the bill which we now have before us. This is said to be similar to the bill which the commission was to put before Congress, the chief difference being that in the commission's bill it was not left discretionary with the Postmaster General to pay the railroads less than the fixed rates, while in the Moon bill the Postmaster General may pay "not exceeding" the rates fixed, a discretion which has always been in the law but which has never been exercised against the railroads.

The Moon bill does, however, give the Postmaster General this power. The commission bill does not. Since the introduction of the Moon bill amendments have been prepared, and were this morning offered by Mr. MOON, which increase the rates to approximately what are said to be carried in the commission's unoffered bill. In answer to my questions this morning, Mr. MOON said the latter amendments—that is, those offered this morning—will increase the pay over that in the original Moon bill about $3,000,000.

Some of the railroads have had the attitude of earnest antagonism to the original Moon measure; but this attitude has become in a measure chronic, and I do not doubt that the amended bill meets their approval and that secretly they are jubilant over it. The bill gives them admittedly a million dollars more than they are now receiving. I am certain it will be more than that in practice.

The advocates of the new system feel certain that in the future the initial amount will not rapidly increase, but that is a guess. Experience alone will demonstrate the facts in that regard.

What is the new system? A proposal to pay a rate for the space used multiplied by the distance the car is hauled and in addition to pay for switching, cleaning, lighting, and unloading.

At present we do not pay for space in apartment cars or storage cars; under the new system we will. At present we do not pay terminal charges, switching, cleaning, lighting; under the new system we will.

Closed-pouch service, under the proposed commission system, where pouches occupy space in cars greater than 3 feet and less than 7 feet, will be paid for on space. They now go by weight. The Moon bill provides weight.

In the commission bill, which has never appeared, there was a provision, I understand, that the Government would pay for side and transfer service, hitherto performed by the railroads. It is also in this bill, but I understand is to be stricken out. If it is stricken out now it will, no doubt, be added in the Senate. It is estimated that there will be an annual expenditure under this item of $2,118,820, an added burden on the Government.

Closed-pouch service is the transmission of smaller lots of mail in pouches. Side service is the delivery of mail from the railway station to the post office where the post office is within 80 rods of the railway station, a service performed from time immemorial by the railroads.

The rates of space fixed in the bill as introduced by Mr. MOON—and they will be changed by amendments offered by him—are as follows:

Service.	Rate per car-mile.	
	Original Moon bill.	Moon bill with pending amendments.
	Cents.	*Cents.*
Railway post-office cars	20	21
Apartment cars, 30-foot	10	10½
Apartment cars, 15-foot	5	5¼
Storage cars	18	20

The terminal cost to the Government under the amendments offered to the Moon bill are as follows:

Rate per one-way trip.

Railway post-office car	$4
Apartment 30-foot car	1
Apartment 15-foot car	1
Storage car	4

The estimate of the total cost to the Government under the new system submitted is as follows:

Annual pay.

SERVICE.

Total line cost (256,367,234 miles)	$58,011,980
Closed-pouch, estimate on weight basis	2,230,796
Total railroad mail pay (262,367,234 miles) (includes 6,000,000 car miles, being the total annual closed-pouch space in exclusive closed-pouch trains carrying such weight of mails, equated to a 60-foot car basis)	60,242,776
Periodical matter by freight	703,904
Weighing and ascertainments	50,000
Total	60,996,680
Less land-grant deductions	1,171,136
Mail pay under provisions of this proposed bill, June 30, 1914	59,825,544
Add 4 per cent for fiscal year 1915	2,393,022
Mail pay under provisions of this proposed bill, June 30, 1915	62,218,566

These are estimates. It will be interesting to compare them two years hence with actual expenditures.

The efficacy of any law, however rigid in its terms, depends in large measure upon its administration. If this proposed law should have rigorous administration, it would probably reach at the beginning, in a degree, the level of efficacy claimed by its advocates. If it is administered in the manner in which the present law has been administered, the expenditures under it will be in a few years appalling.

We are moving away from a definite factor—weight—to the indefinite factor—space. The amount of space needed in a given instance, without other determinate element in the computation, is a matter dependent upon the judgment of men. We are going back to the indefinite "size of mails," which we left in 1867.

There are 100 and more subordinate executives in the country who will make recommendations to their chiefs, the superintendents of mails, for space, and the superintendents will in turn make their recommendations to the department at Washington. Each executive, as is natural, has pride in his district, keen appreciation of its needs, anxiety to perfect organization, concern for everything and everybody in his bailiwick. There will be care and economy in the beginning; but what of the result to the Government after the new plan has been assimilated into a governmental bureau system? How many years will it be until the people will be complaining that the cars are not carrying much mail? How long will it be until Congress will be appointing postal commissions to determine what is the average load of railway mail in the country? How long, with this expenditure creeping steadily upward, will it be before Congress will be assured that business is increasing so tremendously that the space pay must be increased? How long will it be before there will be a group here declaring that the Nation should never have left the weight basis and demanding that the country go back to it?

In my opinion it will not be long. Several things will hasten it. Parcel post, that magnificent addition to public service, is in its infancy. We are not fairly launched in it. Transportation of parcels by weight is one thing; transportation of parcels by space occupied is another. In the nature of things the bulk of post parcels is a greater factor than their weight. The lighter, bulkier things go by mail, and the necessities of expeditious dispatch, in place of deposit, in distribution in cars, and delivery in wagons, require space and more space. The people are not going to suffer any diminution in the development of parcel post, and they are going to find speedily that payment for space occupied rather than by weight is a factor.

But even a greater factor in the certain increase in space used than new business is the growth of the service of distribution of mail in transitu. The early transportation of mail by railroad consisted of the dispatch by one postmaster of sacks and pouches of mail to another postmaster. The pouched mail passed intact from one place to another. In the course of time crude cases of little pigeonholes were set up in cars, pouches were opened by "route agents," and distribution of mail was made to a certain extent before the train reached its destination. To-day this part of the service has reached that stage of development which makes it the very heart of the whole postal system. The full railway postal car has a crew of expert distributors, men of the highest skill, who are separating the mail with the most minute distribution. The great mail trains out of New York City for the West carry men who are routing mail to towns in California, to the south, and to towns in Oregon, to the north, before the train has reached Philadelphia. The genius of our postal system is dispatch. Separation in transitu is its highest expression. It is the very center of modern communication.

The whole tendency is to develop the system at this its highest point. Distribution in moving cars is of certain growth, and as it grows it will call for more and more space. The Nation will not tolerate curtailment or retrenchment here. It will insist, as it always has, on expedition. And increasing expedition means increasing space on moving cars. And space hereafter, under the provisions of this bill, will be paid for in all classes of cars. The people will pay the bill, and Congress will hesitate to add needed improvements to the service because of the enormously growing expenditures.

Weight, together with the popular prejudice against extra pay for the use of postal cars, has always been a check on this arm of the service. With weight eliminated and all payment based on space, the increase here will be very great, the number of the full postal cars multiplying rapidly and apartment car routes graduating quickly into full postal cars.

There is entering into the question, also, the great problem of the proper dispatch of second-class matter which periodically recurs and which instead of clearing under the space system will be further beclouded, to the vexation of all concerned, Government, publisher, and public.

Empty equipment which now goes by freight is also now to go back in the mails.

Moreover, the whole population has been trained in postal affairs to think in terms of weight. The man who posts a letter pays for it by weight. The charge on the book, the parcel he sends, is determined by its weight. The whole system has had in it as one of its determinate elements for 60 years the factor of weight. Until parcel post was inaugurated, distance, compared to weight, in many branches of the service was negligible.

It should be said that for many years there has been an advocacy of space rates. The clearest theoretical advocacy of it is found in the separate report filed by Eugene F. Loud, of California, in 1901, as a member of the Walcott postal commission. But at that time Mr. Loud favored it only theoretically, because he believed there was a lack of sufficient data to warrant its inauguration. He had served on the commission, and with the rest of the members of the commission had rejected as impracticable subjects of comparison for mail rates, express, passenger, baggage, and freight rates. It is interesting to note in this connection that all commissions save possibly the last, the one upon the findings of which this bill is presumably based, have suffered the greatest confusion in determining what is a fair rate to the railroads.

The existing commission has cut the Gordian knot by basing mail pay rates on an estimate of passenger-train revenue and comparing the estimated revenues of the railroads of an express car for 1 mile of travel and the estimated revenues of a passenger coach for 1 mile of travel, and computing the revenue that ought to be allowed for the space used by the mail from that. It is cutting the Gordian knot, for back of the estimates as to a just and reasonable rate is the vast field of railroad accounting, capitalization, and valuation, the relation of passenger and freight accounts to the whole railroad fabric, original cost, cost of duplication, depreciation, and going values, intricate and involved factors which the Interstate Commerce Commission is now trying slowly to work out.

There has been for 40 years a zealous effort to maintain that the railroads were not overpaid. I believe they have been overpaid. They were overpaid when they were allowed pay for apartment cars at one period. They were overpaid for 34 years in being given the benefit of a false average daily weight. And it is noteworthy that since they were deprived of this illegal advantage they have not failed to attempt to obtain from the courts the right to draw from the Government the money which they have been prevented from drawing since the department in 1907 began to use a correct divisor—a sum now estimated to aggregate from $25,000,000 to $31,000,000.

The Walcott Commission declared, in 1901, that the pay of the railroads was reasonable and compensatory when the false divisor was in use.

The present commission declares, I understand, that the present sum paid is compensatory, although reductions in the rate of pay have been made, the correct divisor adopted, and the pay reduced by many millions.

Both commissions can not be correct. One thing is certain—the railroads were not entitled to the excessive pay which they received by the use of a false computation over 34 years and their accounts with the Government should be squared. The Government ought not to be out of pocket what was illegally and erroneously paid.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAFFORD. Mr. Chairman, some time has been reserved for me, and I yield five minutes of that time to the gentleman from Kansas.

Mr. LEWIS of Maryland. That gives the gentleman what I was going to ask that he have.

Mr. MURDOCK. The railroads have sought in the courts to prove that the old divisor was the legal divisor. They have lost their contention. Had they won they would have been entitled to many millions of dollars which have not gone to them since the new divisor was used in 1907. But they lost, and the Government is entitled to the money paid them through a false computation in the years between 1873 and 1907.

To argue otherwise is to hold that as a litigant the Government has less rights in the premises than the railroads; that one rule shall apply to one party to the controversy and an entirely different rule to the second party; is to contend that so far as the Government is concerned in the controversy with the railroads, the Government stands only to lose, the railroads only to win.

A recital of the activities of the railroads in this matter makes this clear. In December, 1906, in a speech in the House I pointed out that the Government, through an erroneous interpretation of the statute, was weighing the mails a given number of week days and Sundays, and to obtain an average daily weight was dividing the total weight for the period by the number of days, less Sundays, basing the practice on the existence of the word "working" in the postal acts of 1873 and 1905. The latter act, which merely increased the length of the period from 30 "working days" to 90 "working days," was as follows:

Provided, That hereafter before making the readjustment of pay for transportation of mails on railroad routes, the average weight shall be ascertained by the actual weighing of the mails for such a number of successive working days, not less than 90, at such times after June 30, 1905, and not less frequently than once every four years, and the result to be stated and verified in such form and manner as the Postmaster General may direct.

I said that the loss to the Government by the use of a divisor of six on seven days' weights amounted to something like $5,000,000 a year—a figure which was afterwards verified. Up until the time I mentioned the practice to the House, there had been no public note of it anywhere, so far as I can find, in speeches, hearings, reports of committees or commissions, or in departmental reports, and I have read practically all of those dealing with the subject of railway-mail pay.

But after my speech in December, 1906, and my introduction of a resolution, the Post Office Department submitted to the House Committee on the Post Office and Post Roads an exhaustive document defending the practice of the false divisor, and giving all the weight of expert testimony upon a highly complicated system of pay against my contention. This document was submitted January 5, 1907. The then Second Assistant Postmaster General, W. S. Shallenberger, concluded his recommendation to the committee as follows:

In view of this condition of the service, the intention of the law, as disclosed by the history of the subject and the practice and construction placed upon it by the executive officers who were charged with its execution, of the contemporaneous declaration that in this respect the law adopted the practice which existed before its passage, and of the long-continued and unbroken maintenance of this construction upon the highest legal authority, I have to submit that the average daily weight as ascertained by the existing practice of the department is the correct one contemplated by the statute.

At the same time that the department contended that its interpretation of the statute was correct other important data were produced. Out of a pigeonhole came a theretofore unpublished order of Postmaster General Walter Q. Gresham, made September 18, 1884. It was as follows:

ORDER 44.

That hereafter when the weight of mails is taken on railroad routes performing service 7 days a week the whole number of days the mails are weighed, whether 30 or 35, shall be used as a divisor for obtaining the average weight per day.

Here was the discovery of the false divisor and an attempt to correct it. But Mr. Gresham did not remain Postmaster General. By the death of Mr. Folger a vacancy occurred in the office of Secretary of the Treasury. At midnight a little over a week after he issued order 44 Mr. Gresham took the oath in his home here as Secretary of the Treasury, and went into other than postal activities. He was succeeded as Postmaster General by Mr. Frank Hatton.

Mr. Hatton sent a letter to the Attorney General in regard to the law for the payment to railroads for the carriage of the mails. In it he made no mention of the Gresham order, which was not until 1907 made public. He submitted a method of computation and two supposititious examples which are utterly confusing. No such routes as he submitted as examples then existed. The rate allowable per mile per annum cited by him as $150 was not then $150. "Pay per ton per mile of road per annum" and "pay per mile run of road per annum" are not part of the computation of pay. Here is the curious letter to the Attorney General:

OCTOBER 24, 1884.

SIR: The act of March 3, 1873 (17 Stat. L., p. 558), regulating the pay for carrying the mails on railroad routes, provides:

That the pay per mile per annum shall not exceed the following rates, namely:

"On routes carrying their whole length, an average weight of mails per day of 200 pounds, $50; 500 pounds, $75; 1,000 pounds, $100; 1,500 pounds, $125; 2,000 pounds, $150; 3,500 pounds, $175. * * *

"The average weight to be ascertained in every case by the actual weighing of the mails for such a number of successive working days, not less than 30 * * *."

Upon a large number of the railroad routes mails are carried on six days each week—that is, no mail is carried on Sunday. On others they are carried on every day in the year.

It has been the practice since 1873, in arriving at the average weight of mails per day on these classes of service, to treat the "successive working days" as being composed of the six secular or working days in the week, which is explained by the following illustrations:

Two routes, Nos. 1 and 2, over each of which 313 tons of mail are carried annually.

On route No. 1 mails are carried twice daily, except Sunday, six days per week, and are weighed for 30 successive working days, cover-

ing usually a period of 35 days. The result is divided by 30, and an average weight of mails per day of 2,000 pounds is obtained.

Transportation per mile of road per annum	miles	1,252
Weight per mile of road per annum	tons	313
Pay per ton per mile of road per annum	cents	47.92
Pay per mile run of road per annum	do	11.9
Rate of pay allowable per mile per annum		$150

On route No. 2 mails are carried twice daily, seven days per week, and are weighed for 30 successive working days and for the intervening Sundays, the weight on the Sundays being treated as if carried on Mondays, the weighing, as before, covering usually a period of 35 days. The result is divided by 30, and an average weight of mails per day of 2,000 pounds is obtained.

Transportation per mile of road per annum	miles	1,460
Weight per mile of road per annum	tons	313
Pay per ton per mile of road per annum	cents	47.92
Pay per mile run	do	10.2
Rate of pay allowed per mile per annum		$150

I have thought it necessary to give the foregoing illustrations, in order that the practice of this department under the law cited may readily appear, and I will thank you to advise me whether that practice is in compliance with or in violation of the statute.

If not in conformity with the law, will you please indicate the correct method by which the average weight per day should be obtained and the compensation adjusted thereon?

Very respectfully,

FRANK HATTON,
Postmaster General.

If this letter or the Gresham order No. 44 had been published at the time, either one or both, the question of the divisor would have been at issue 22 years before I raised it.

In answer to this letter from Postmaster General Hatton, there came to the Post Office Department this opinion, out of form, incomplete in itself, and, without the inquiry which elicited it, baffling in its obscurity:

DEPARTMENT OF JUSTICE,
Washington, October 31, 1884.

The POSTMASTER GENERAL.

SIR: I have considered your communication of the 22d instant, requesting to know whether the construction placed by the Post Office Department on section 4002, subsection 2, prescribing the mode in which the average weight of mails transported by railroad routes shall be ascertained is correct, and am of the opinion that that construction is correct and that a departure from it would defeat the intention of the law and cause no little embarrassment.

I have the honor to be,
Your obedient servant,

WILLIAM A. MAURY,
Acting Attorney General.

For 23 years this letter was the warrant the Post Office Department held for its construction of the law. It was filed away in a pigeonhole there, and it was also to be found in the published opinions of the Attorney General for 1884, but signed there, not by William A. Maury, but by S. F. Phillips. It was a costly letter, whoever wrote it. It cost the Government something in the neighborhood of $60,000,000.

When the department in 1907 submitted its report to the House Committee on the Post Office and Post Roads that its practice was correct, I contended that the interpretation of the statute was erroneous. I brought the matter up in the Committee on the Post Office and Post Roads, and by a very close vote the committee inserted in the general supply bill an amendment striking the word "working" from the law. The majority report of the committee supported the amendment. A minority report was made by Mr. Sibley, Mr. Snapp, and others.

In the meanwhile a then existing postal commission—the Penrose commission—had made a report, recommending, among other things, changes in the pay allowed railroads for carrying average daily weights of mail above 5,000 pounds, and in the draft of the bill submitted by this commission the use of a false divisor, as then upheld by the department, was confirmed in the following clause:

* * * the average weight to be ascertained as now provided by law, and such compensation to be computed in the same manner as and subject to all the restrictions, limitations, and reductions now prescribed by law.

This never became law. But the recommendations of the commission as to changes in the pay for mail weights above 5,000 pounds were adopted with modifications by the House Committee on Post Office and Post Roads, which in its general supply bill had now made four changes of moment in regard to railway mail pay.

1. A reduction in the pay for weights above 5,000 pounds.
2. A direction to the department to change the divisor by striking out the word "working."
3. A reduction in the rates for the use of postal cars.
4. Elimination of return empty mail bags from mail weights.

The saving proposed by the new divisor provided was clearly greater than that accomplished by the other three provisions. The first three provisions were certain to be attacked by points of order under the then rules of the House on the claim that they were changes of existing law. It was certain that points of order would be made. There was talk of getting a special rule to cover and save some of the items from points of order—a frequent device. But no special rule was forthcoming. Instead, on February 18, the then chairman of the Committee on Post Office and Post Roads, before the consideration of the bill by paragraphs had begun, received recognition to suspend the rules. His motion was as follows:

Resolved, That immediately upon the final passage of the bill (H. R. 25483) making appropriations for the Post Office Department for the fiscal year ending June 30, 1908, and for other purposes, it shall be in order in the House to offer the following, under the conditions prescribed in Rule XXVIII, covering suspension of the rules:

Ordered, That in the engrossment of the bill (H. R. 25483) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1908, and for other purposes, the Clerk be directed to insert after the paragraph of appropriation "for inland transportation by railroad route, $44,660,000" the following:

"The Postmaster General is hereby authorized and directed to readjust the compensation to be paid from and after the 1st day of July, 1907, for the transportation of mail on railroad routes carrying their whole length an average weight of mails per day of upward of 5,000 pounds, by making the following changes in the present rates per mile per annum for the transportation of mail on such routes, and hereafter the rates on such routes shall be as follows: On routes carrying their whole length an average weight of mail per day of more than 5,000 pounds and less than 48,000 pounds, the rate shall be 5 per cent less the present rates on all weight carried in excess of 5,000 pounds; and on routes carrying their whole length an average weight of mail per day of more than 48,000 pounds, the rates shall be 5 per cent less than the present rates on all weight carried in excess of 5,000 pounds up to 48,000 pounds, and for each additional 2,000 pounds in excess of 48,000 pounds at the rate of $19.24 upon all roads other than land-grant roads, and upon all land-grant roads the rate shall be $17.10 for each 2,000 pounds carried in excess of said 48,000 pounds.

"That after July 1, 1907, additional pay allowed for every line comprising a daily trip each way of railway post-office cars shall be at a rate not exceeding $25 per mile per annum for cars 40 feet in length and $27.50 per mile per annum for 45-foot cars, and $32.50 per mile for 50-foot cars and $40 per mile per annum for cars 55 feet or more in length."

In parliamentary practice a bill is engrossed, read a third time, and passed. Under the order I have just quoted the bill was to be finally passed and then engrossed, and the Clerk was to insert in the bill two of the provisions reducing railway mail pay. In other words, two of the provisions were, in effect, to be lifted out of the bill and reinserted in the bill after its passage, and thus saved from points of order. The divisor proposition was to be left exposed. The order is unique in the history of parliamentary bodies; no similar device has ever been resorted to in the American Congress. It stands alone, superlative in its field. The House was under the obvious necessity of voting for it, because by voting it up a partial reduction of railway mail pay could be accomplished. By voting it down presumably all reductions would be lost. The House voted it up.

Believing, as I had contended, that it was not necessary to make any change in the wording of the law to compel the use of a correct divisor, when the paragraph in the bill appropriating a stated sum for mail transportation was reached, I offered an amendment which I believed did not change existing law and which was not subject to a point of order. It was as follows:

Amend, by adding, after the word "dollars," in line 2, page 21, "*Provided*, That no part of this sum shall be expended in payment for the transportation of the mails by railroad routes where the average weight of mails per day has been computed by the use of a divisor less than the whole number of days such mails have been weighed."

A point of order was made against this. The Chairman of the Committee of the Whole sustained the point of order. I appealed from his decision. The Chair was sustained by an overwhelming vote.

Later the point of order was made against the provision in the bill directing a change in the divisor by eliminating the word "working"; the point of order was sustained and the provision went out. The postal supply bill passed the House. In the Senate Senator LA FOLLETTE offered my amendment. There was neither explanation, debate, nor dissent. It went into the bill, which then came to the House. Suspecting the Senate amendment would be killed in conference, I made an attempt to have the House accept the Senate amendment. I was beaten. I tried to secure a record vote without success. The divisor amendment which had been added in the Senate was eliminated in conference.

On March 4, 1907, the day of the adjournment of Congress, there was published in the Washington papers a notice that the Post Office Department had changed the divisor to seven by an order, the final form of which is this:

Order No. 412.

Ordered, That when the weight of mail is taken on railroad routes the whole number of days included in the weighing period shall be used as a divisor for obtaining the average weight per day.

The railroads at once challenged the justness of this order. So the matter was submitted by the department to Attorney General Bonaparte, and on September 27, 1907, he sustained

order No. 412 in a lengthy opinion. He said the statute was not ambiguous, but clear. He declared:

If Sundays are not "working days," the law does not permit the mails to be weighed on Sundays; if they are "working days," their exclusion from the divisor renders the result of the computation false on its face.

The railroads took the matter to the Court of Claims of the United States. They had seen within a year the department officials on both sides of the proposition. They had also witnessed the House of Representatives, by sustaining the decision of the Chairman of the Committee of the Whole, declare that the use of 7 as a divisor would be a change of law, and that therefore the use of 6 was in accordance with existing law.

If in the years subsequent to the issue of order 412 Congress had passed a law changing in terms the law in regard to the divisor, the railroads would have used it in court as proof that order 412 was not according to law, that the practice of a six-day divisor from 1873 to 1907 was legal, and that they were entitled to a recovery from the Government of the sum saved to the Government from the date of issue of order 412 to the date of change of law. But Congress has not changed the law regarding the divisor.

The test case brought by the railroads was the Chicago & Alton Railroad Co. versus the United States. The Court of Claims some six months ago decided the case in favor of the railroads. A rehearing was asked and granted, and on May 18, 1914, the Court of Claims dismissed the petition of the railroads. The Government had won. The railroads have appealed on the findings of fact to the Supreme Court.

The railroads before the Court of Claims rested their contention mainly on the propositions that the meaning of the statute was fixed by (a) contemporaneous and long-continued exposition by the Post Office Department; (b) that in construction of the statute recourse should be had to debates in Congress, reports of committees, and the failure of Congress to change the departmental practice.

It has been held by the courts in the construction of a doubtful and ambiguous law that contemporaneous construction of those who were called upon to act under the law and were appointed to carry its provisions into effect is entitled to very great respect.

But this statute was not ambiguous or doubtful. The Court of Claims says:

If the statute in this particular were ambiguous or doubtful, the exposition by the department so long continued should be given great weight and a controlling effect under the authorities supra, but we do not so construe the statute.

The court also held that the debates in Congress were not determinative of an erroneous construction of a statute by a department, although debates may be consulted in the ascertainment of the history of the period.

The Court of Claims said in summing up:

Our conclusion is that said statute as amended in the particulars involved in this case does not authorize the application of the rules of contemporaneous and long-continued executive exposition, but that it can be and should be given the construction which its words in their usual and generally accepted meaning import, and that the amendment of 1905 was not an adoption of any preexisting departmental practice which is controlling upon the interpretation to be given by the court.

The railroads had contended that in 1905, when the law was amended extending the weighing period from 30 to 90 successive "working" days, the practice of the department in using a divisor of 6 had been confirmed by Congress. The use of 6 as a divisor was not known to Congress in 1905, and was not debated, and was not then at issue.

Now, after 41 years, the old system of railway mail pay is to be changed. Under the old system the Government suffered gross injustice by a glaringly false and illegal computation in the department, which, when challenged, the department defended; which Congress, when its attention was called to it, refused to direct the department to correct, a computation which eventually was corrected by order of Mr. Cortelyou, Postmaster General under President Roosevelt, whose order has been sustained by the courts. In the change from the old system to the new a fitting time presents itself to my mind to balance the books. Had the Government lost in the courts it would have been called upon to pay. The Government won, and the railroads should pay. When a proper place is reached in the consideration of the pending measure I shall offer the following amendment:

Provided, That the Postmaster General shall withhold from all transportation lines which were paid for the carriage of the mails between the year 1873 and June 7, 1907, on a basis of the average daily weight of mails found by the use of a divisor less than the whole number of days included in the weighing period, all payments under the provisions of this act until an amount equaling the overpayments to such railroads by reason of the use of an erroneous divisor, shall have been withheld.

I shall not be surprised at an adverse reception of this proposition. I have ceased to be surprised at the reluctance of Congress in this matter. But no man will combat it on its merits. And in view of the previous attitude of Congress in the case, I believe it is incumbent on Congress to take the initiative here. It owes it to itself and to the country.

The railroads, as I have stated, have appealed to the Supreme Court. They are seeking to win the many millions of dollars which have been saved to the Government since 1907 by the use of the correct divisor. Why should the Representatives of the Government permit the controversy to be one-sided? Losing in the courts, as they have lost, upon the finding of the courts that the practice in the department which overpaid them had no warrant in law, it is clear to me that the Government has the right to recover its loss of $70,000,000 to $80,000,000 from 1873 to 1907. The Congress, for the Government, should now proceed to do so. [Applause.]

Mr. SAMUEL W. SMITH. Mr. Chairman, will the gentleman from Tennessee occupy some time now?

Mr. MOON. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. TUTTLE] 30 minutes. [Applause.]

Mr. TUTTLE. Mr. Chairman, in the time allotted to me I desire to discuss that section of the omnibus bill which relates to the readjustment of the compensation of railroad companies for the transportation of mail.

This subject has been one of controversy ever since the railroad superseded the stage coach in 1838. The history of the Railway Mail Service has been one of almost ceaseless contention and dispute between the railroads and the Government over the adequacy of the rates paid and the proper basis of payment. The antiquated, complicated, cumbersome, and defective method used in computing the amounts due for the railroad service has never been satisfactory, practical, or fair, and has never been understood by our people. The general impression, however, has always been that the Government was imposed upon and was paying well in excess of what the railroads earned or deserved for their services.

When the railroads first came into the service, in 1838, their compensation was limited not to exceed in any instance 25 per cent "over and above what similar transportation would cost in post coaches." In 1838 this compensation was further limited by an act restricting the cost on any route not to exceed $300 per mile per annum. In 1845 the railroads were classified, dependent upon the size of the mail, the speed of the trains, and the importance of the service, and compensation was limited to $300 per mile per annum for the first class, $100 per mile for the second class, and $50 per mile for the third class. These rates prevailed for a period of 20 years, wholly arbitrary and subject to the varying judgment of the department officials. Not until 1867 were the mails weighed in order to secure a more equitable assignment of roads.

During the late sixties the distribution of mail in transit was begun, and it was soon recognized that if the railroads were not only to transport the mail itself, but also to supply, equip, and haul post offices for the distribution of mail, the weight basis was not adequate or just, and in the law of 1873 the classification of mail routes was abandoned, and the average daily weight of mails carried the whole length of the route with due frequency and speed was made the gauge of compensation, and an additional allowance was provided for railway post-office cars. The result of this arrangement, which is still in effect, was that the railroads are paid about 90 per cent on the weight basis, and 10 per cent of their compensation is for the railroad post-office car service for space furnished. The rates provided by the act of 1873, although protested by the railroads at the time as inadequate, were arbitrarily reduced 10 per cent by the law of 1876, and were further reduced 5 per cent in 1878. The allowance for full railway post-office cars fixed by the law of 1873 was also reduced by the law of 1907 upward of 20 per cent. On March 2, 1907, a still further reduction of 5 per cent was made on all weights from 5,000 pounds to 48,000 pounds and practically 10 per cent on weights above 48,000 pounds. On June 7, 1907, the Postmaster General issued an order changing the divisor from 6 to 7 in computing the average daily weight of mails, which resulted in another reduction of about 8 per cent in the pay of railroads.

Land-grant roads receive 80 per cent of compensation provided in these acts, and in May, 1910, the law was changed, so far as it affected land-grant roads, by reducing the rate fixed for carrying each 2,000 pounds in excess of 48,000 pounds by 10 per cent. The following is the schedule of the rates allow-

able under the original act and those in effect since these reductions were made:

Average weight of mails per day carried over whole length of route.	Pay per mile per annum.		
	Rates allowable under R. S., sec. 4002 (act of Mar. 3, 1873).	Rates allowable under acts of July 12, 1876, June 17, 1878, and Mar. 2, 1907.	Rates allowable to land-grant railroads under acts of July 12, 1876, June 17, 1878, Mar. 2, 1907, and May 12, 1910.
200 pounds	$50.00	$42.75	$34.20
200 to 500 pounds			
500 pounds	75.00	64.12	51.30
500 to 1,000 pounds			
1,000 pounds	100.00	85.50	68.40
1,000 to 1,500 pounds			
1,500 pounds	125.00	106.87	85.50
1,500 to 2,000 pounds			
2,000 pounds	150.00	128.25	102.60
2,000 to 3,500 pounds			
3,500 pounds	175.00	149.62	119.70
3,500 to 5,000 pounds			
5,000 pounds	200.00	171.00	136.80
For each additional 2,000 pounds above 5,000 and less than 48,000 pounds	25.00	20.30+	16.24+
Above 5,000 and less than 48,000 pounds			
For each additional 2,000 pounds in excess of 48,000 pounds	25.00	19.24	15.39

Length of railway post-office car and rate per annum per mile of track.

Length.	Act of 1873.	Act of 1907.
40-foot car	$25.00	$25.00
45-foot car	30.00	27.50
50-foot car	40.00	32.50
55-60 foot car (or more)	50.00	40.00

These reductions have all been purely arbitrary, and in most instances were due simply to a belief or an opinion that the railroads were receiving excessive compensation, although this has never been demonstrated, nor have the investigations of those who have studied the question revealed an overpayment. On the contrary, the Wolcott-Loud joint commission, after having this matter under advisement for three years, in 1901 reported that—

> Upon a careful consideration of all the evidence and the statements and arguments submitted, and in view of all the services rendered by the railroads, we are of opinion that "the prices now paid to the railroad companies for the transportation of the mails" are not excessive, and recommend that no reduction thereof be made at this time.

The whole system of payment has been a constant source of irritation ever since it has been in effect and has perplexed the minds of legislators, perhaps, more than any problem connected with the Postal Service.

The present law is concededly defective in the following particulars:

DEFECTS OF PRESENT LAW.

First. It pays the same rate per ton-mile, irrespective of whether the haul is long or short, thus violating a universally recognized principle of freight transportation. The rate per ton-mile should not be the same when the ton is carried 500 miles as when it is carried only 5 miles.

Second. It is confusing in providing two rates of pay for the same service. When a certain route has one post-office car passing over it daily the law provides one rate for the weight of the mail in the car and another payment for the car itself. It would be much simpler and more desirable to have one rate for the loaded car. An illustration of the misunderstanding of this dual method of payment is the often-repeated assertion, sometimes from postal authorities, that the "rentals" for a single year would suffice to purchase the cars and pay for their upkeep. Congress on several occasions has been asked to consider the Government ownership of cars as a result of this fallacious contention.

Third. The present law ignores the frequency of service in applying the wholesale and retail principle. Thus if two routes have the same average daily weight, the payment is the same, irrespective of whether the weight is loaded on 1 train or 10 trains.

Fourth. The present plan is wrong, because it does not compensate railroads for apartment cars in which mail is distributed. The apartment car must be constructed, fitted up, maintained, heated, lighted, and cleaned by the railroad companies the same as a full car, and if payment is made for the use of a full car there is no valid reason why railroads should not receive proportionate compensation for a part of the car.

Fifth. Under the present system it has been demonstrated that there is no equality as between the long-distance roads and the so-called short lines. The fact is that the great trunk lines of the country are apparently overpaid, while the smaller and poorly patronized roads are grossly underpaid.

Other defects are that the present law does not sufficiently direct incentive to economize in loading the car. It provides for quadrennial weighings, thereby requiring the railroads to carry the increase in volume of mails without compensation, when they are justly entitled to pay for all the service they render; and it compels the railroads, where a post office is within 80 rods of the station, to deliver the mail to the office and thereby perform a service which can not be considered a legitimate railroad function.

That such a system is irrational, unscientific, unbusinesslike, and unfair has been admitted by all who have given it any attention or study, and a radical modification and revision has long been demanded.

Various commissions named from time to time have attempted to solve the problems involved. In 1876 the Hubbard Commission, in 1883 the Elmer-Thompson-Slater Commission, and in 1898 the Wolcott-Loud Commission in turn investigated, reported, and made recommendations without any action on the part of Congress. In addition to these commissions the Post Office Department itself has been making diligent efforts to ascertain a proper basis of pay which would be fair alike to the Government and the railroads, and in 1909 Postmaster General Hitchcock, under authority of the law of March 3, 1879, obtained a vast amount of important and useful statistical data upon railroad operations, particularly those of the passenger-train service, the amount of car space devoted to passenger service proper, express service, the mail service, and the operating expenses and revenues.

The results of this inquiry are contained in a very comprehensive report by the Postmaster General under date of August 12, 1911 (H. Doc. 105), as to the operation, receipts, and expenditures of railroad companies transporting the mail, with recommendations for legislation. With the submission of this report the department presented a bill embodying its conclusions, which was introduced in the Senate. This, the so-called Hitchcock plan, provided for payment on the basis of cost and space; its principal features may be briefly summarized as follows:

HITCHCOCK PLAN.

1. From information supplied by the railroads the Postmaster General shall annually determine the cost of carrying the mails on each road, cost meaning operating expenses and taxes. The apportionment of such "cost" is subject to review by the Interstate Commerce Commission. The mail pay due each road is to be determined by adding to such "cost" 6 per cent and such additional amounts, "if any be necessary," to make the whole payment a reasonable return on the value of the property "necessarily" employed in the mail service. (This determination of a capital charge is apparently not to be reviewed by the Interstate Commerce Commission.)

2. Land-grant roads shall receive only operating expenses and taxes—that is, nothing for the use of the capital.

3. Settlements are to be made with the 795 roads, not by the 3,400 mail routes.

4. The car-foot miles devoted to the use of mails are to be ascertained during a statistical period, provided that the space in distribution cars is to be measured according to the authorization of space by the Postmaster General, the department being charged for the round trip with the maximum space authorized in either direction.

5. It shall be unlawful for railroads to refuse to carry mails.

This plan was regarded as impracticable and unworkable because of the almost insuperable difficulties in the way of ascertaining the cost of the service, because it put a premium on inefficient and extravagant management, because it penalized economical management, and because it increased rather than diminished the difficulties of administration and adjustment.

The data assembled were of great value, the suggestions of the department were worthy of all consideration, and in view of the urgent need of a new system which would meet the requirements of the service, in the closing days of the second session of the Sixty-second Congress a joint committee, consisting of three Senators and three Members of the House, was appointed and authorized—

> to make inquiry into the subject of * * * compensation for the transportation of mail, and to report at the earliest practicable date.

This commission promptly began its labors and carried forward its studies and investigations with as much dispatch as was compatible with thoroughness, but was obliged to ask for a continuance by the Sixty-third Congress, and has been directed to report before December 1, 1914. We have met so many unex-

pected complications, we have been so hampered by difficulties in securing accurate statistics, and we have had such widely conflicting statistical information to reconcile, that we are not yet prepared to submit the final report of our findings and conclusions.

The Post Office Department, however, desiring immediate action in order that the service may be readjusted to meet the requirements of the enormous growth of business caused by the extension of the parcel post, has urged legislation before the close of this session of Congress, and, at the request of the Postmaster General, Mr. Chairman MOON, of the House Committee on the Post Office and Post Roads, on June 4 introduced the bill, which, with certain amendments subsequently recommended by the Post Office Committee, is now under consideration.

The constructive features of section 13 are, without exception, those evolved by the joint commission, and the plan here presented, with certain important modifications, is the plan which will be recommended by that commission. A distinct departure from the present system is proposed, and a plan is suggested which I confidently believe will settle this much-mooted question for such time as the present transportation conditions exist.

Space is substituted for weight and space as the measure of the service rendered.

Space is, in fact, the basis of all rate making. In carload freight business space is taken into consideration in that a minimum weight per car, varying with the bulk of a commodity, is fixed, and the shipper must pay at least the minimum carload rate regardless of the amount of freight in the car. In fixing the rates on different commodities shipped in less than carload lots the bulk as well as the weight receives consideration. In the passenger service rates are based entirely on space. The weight of the passenger and his baggage is not taken into account. In the Pullman service the same is true. The weight of the modern railway post-office car is upward of 60 tons; the average mail carried is slightly in excess of 2½ tons. It can not be contended that the variation of a few hundred pounds would affect the expense of transportation. The storage car weighs from 50 to 60 tons, but it rarely contains as much as 10 tons of mail, and, compared with the dead weight of the car, the varying weight of the contents is inconsequential. The space basis should be adopted because it is a definite and scientific gauge by which to fix the compensation; because it permits fluctuations of mail pay with every material fluctuation in the service; because it eliminates the cost and the inconvenience of the quadrennial weighings; because it minimizes waste by encouraging economy in utilizing car space; and because it provides a system so definite, clear, and simple that any citizen can understand it. But the chief advantage lies in the fact that the space system minimizes the possibility of injustice being done to either party in interest—the Government or the railroads. The Government will, of course, economize on space authorized and use the minimum required, while the railroads will be sure to be compensated for what they furnish; no more, no less.

Other commissions, committees, and postal experts have repeatedly recommended the substitution of space for weight in measuring the service rendered by the railroads, but they have all failed to suggest a practicable, workable plan to which the space basis could be adapted. It remained for my distinguished colleague upon the commission, Mr. Lloyd, to hit upon the four-unit scheme, which has been demonstrated to the commission and to the department to be the fairest possible basis of payment for the ever-changing volume of mail carried under ever-varying conditions throughout the length and breadth of the country. This scheme has so appealed to the great experts in the Post Office Department that they have abandoned their own and accepted the Lloyd plan as the best that has yet been devised.

The four units to be used as a basis for compensation are the 60-foot car, 60 feet being the standard length of the modern passenger car, the 30-foot apartment, the 15-foot apartment, and the pouch mail which is carried in baggage cars. Under this plan the Government is absolutely protected, as the sole right of authorization of car space rests with the Postmaster General, and the railroad receives credit the instant it complies with the authorization. By the adoption of these units the system is standardized in a way which should be a benefit to the Government and to the railroad, and it should prove of great advantage to both, especially in developing a careful economy of space.

The present practice of adjusting rates but once in four years is abandoned, because it results in forcing the railroads to carry a large amount of mail without pay—14 per cent, if the annual increase in the weight of mail transported has been 7 per cent, as the Government revenue from postal receipts has been on the average for the last 10 years. This practice is unfair to both the Government and the railroads—to the railroads when it does not pay for all services rendered; to the Government when it pays for services not rendered. A plan is here substituted whereby instant credit may be given for increased service, and besides doing justice to the railroads it saves the Government approximately $400,000 annually in the cost of the quadrennial weighings.

A new feature in rate making is introduced. Two charges are provided for, a terminal charge which is fixed regardless of the distance traveled, graduated according to the amount of space authorized in the car by the Postmaster General and constructed scientifically upon the basis of the switching and cleaning costs in the movement of the car. The other charge is the line charge upon a car-mile basis. By the segregation of the terminal from the line charges there is created a plan which equalizes the long-and-short haul, equalizes the payment for service rendered between the short lines and the trunk lines, and applies the wholesale and retail principle which is lacking under the present system.

The railroads will be relieved of the side and transfer service of delivery, which, as Gen. Stewart says—

is not strictly a railroad service and is productive of a vast amount of disagreement and controversy between the railroads and the department. Very often—

Says the Second Assistant Postmaster General—

in the case of short lines, for instance, where the pay is very small for the service, they may be required to pay out half, or even more, than they get for the performance of this side and transfer service, which works, of course, an injustice and an inequity to those particular lines.

It is no more reasonable to compel the railroads to deliver mail to a post office after it reaches their terminals than to require them to take passengers to their homes upon their arrival at the stations or to deliver freight directly to the consignees. A railroad should not be required to transport mails on a city street or a country road.

Mr. Chairman, being convinced of the soundness, the practicability, and the desirability of this method of adjusting the railway mail pay, we face the knotty problem of determining the rate to be applied, and no phase of this subject has received such close and conscientious attention as has that of the rate of pay for the service rendered by the railroads. We have been actuated solely by the desire to do justice both to the railroads and to the Government, and we have earnestly striven to arrive at the rate which would compensate the railroads fairly for their service and at the same time protect the Government from imposition. After reaching the conclusion that space should be the measure of the service rendered and that the car mile should be the unit of pay, the next step was to fix the rates upon the car-mile basis.

There were no statistics or data upon which the commission could safely rely for the ascertainment of a correct rate, and the accounting systems of the railroads failed to indicate with any precision what would be compensatory rates in the various branches of the railroad service, but the conclusion was reached that the interests of the Government would be most surely protected by the adoption of a rate comparable to that received from the passenger service.

The passenger rates are claimed to be slightly, if any, above the cost of the service. The railroads insist they are not even remunerative, and the Interstate Commerce Commission found in the 5 per cent case, recently decided, that passenger fares were not bearing their share of the transportation burden; but as their reasonableness has been passed upon by the legislatures, the railroad commissions, and the courts in most of the States of the Union, we feel warranted in accepting them as at least legitimate. Assuming the reasonableness of the passenger rate, it remained to determine what difference there should be in the rate for the carriage of the mail.

On the one hand it was held that the compensation for carrying the mail should at least equal that received from the passenger service, because both in law and in the practical operation of the railroads the mail is given preeminence over all departments of transportation, not even excepting passengers. Mail trains must be given right of way over all other trains; the mail must go on the fastest trains; the mail must be carried on any train the Post Office Department may select; no mail must be left behind, and railroads must always furnish sufficient car space regardless of the suddenness or unusualness of the demand that may be made; mail cars must be furnished with best appliances that art and science afford and modern sanitation demands; mail cars must be stationed where they can be easily and conveniently approached; railroad employees must give mail their first attention on arrival of trains. In fact, the mail service demands the very best that the modern railroad can offer to the passengers in the way of convenience, speed regularity, frequency, and safety. These are the important factors in the passenger service—they are the

chief factors in the mail service—and, with few exceptions, the operating expenses of the passenger service should be shared pro rata by the Postal Service.

On the other hand, the Post Office Department maintains that the rate for carrying the mail should be well under the commercial rate charged for passenger service. Gen. Stewart believes that the following considerations, if taken into account, will justify a much lower rate than the commercial rate for the carriage of mails, namely:

First. The certainty, constancy, and homogeneity of traffic.

Second. The certainty and regularity of payment.

Third. Railroads are not built primarily to carry mails; in other words, the mail service is a by-product.

Fourth. The protection to their mail trains, which railroads as Government agencies receive against unlawful acts in interference with or obstruction of the mails carried.

Fifth. The principle of public utility.

The testimony given in our hearings did not show that there was either certainty or constancy in the volume of mail traffic. On the contrary, it appears that widely varying quantities of mail are presented for shipment; that there is a vast difference in the outbound as compared with the inbound; and that there is a necessity for providing at all times for maximum conditions, as failure to do so subjects the railway carrier to fines. As to the homogeneity of the traffic, to satisfy oneself one has only to visit a terminal office where the mails are distributed to have an ocular demonstration that the mails of to-day are anything but homogeneous. In addition to the first and second class items, it will be found that there is the widest possible diversity in the character of the traffic, including the bulky, the perishable, and the fragile.

Mr. SAMUEL W. SMITH. I see the gentleman is watching the clock. I desire to say to him that if he wants more time I will give it to him, so he need not bother with the clock.

Mr. TUTTLE. That is very kind of the gentleman.

Assuredly the Government is not entitled to any discount because of the certainty and regularity of its payments. The department makes monthly settlements with the railroads, while the passenger service is without exception paid for in advance, and the payments received for the freight and express business are practically simultaneous with the transaction.

The mails can hardly be regarded as a by-product, although it may be conceded that the railroads were not built primarily to carry them. The mail was an important article of transportation long before the railroads were built, and it is altogether likely that the builders of the railroads had in mind all possible traffic and included the mails in their calculations. While the certain and speedy transmission of the mail is absolutely necessary to the success of railroad operation, even Gen. Stewart was "glad to say that if it were not for the railroads mail service would be a very insignificant thing."

To me it is no more reasonable that the mails should be treated as a by-product of the passenger service than to consider freight a by-product of that service or to hold that the passenger service is a by-product of the freight service. The railroads are entitled to payment for every service they perform, no matter how insignificant it may be in comparison with others. The Interstate Commerce Commission gave as its opinion that—

Each branch of the service should contribute its proper share of the cost of operation and of return upon the property devoted to the use of the public.

Mr. KINKEAD of New Jersey. I do not wish to break up the continuity of the gentleman's thoughts, but I regard his speech this afternoon as one of the best I have ever heard delivered in this House on the subject. I see on page 3 of the bill, in line 24, a clause relating to assistant postmasters. I recall very vividly that both my colleague and myself have gone on record repeatedly as favoring the retention of assistant postmasters within the operation of the civil-service law; and while the present clause relating to assistant postmasters is nowhere near as drastic as was the original one that was presented to the Houe, I want to ask the gentleman how he now feels with regard to the retention of assistant postmasters in the civil service.

Mr. TUTTLE. I regret that I have not time to go into that. I will say, however, that I am, and was in the committee, in favor of the retention of assistant postmasters under the present civil-service arrangement.

Mr. KINKEAD of New Jersey. Knowing the gentleman's desire to strengthen the civil service, because of his expressions both here and elsewhere, I expected that answer from him, but I was anxious to know what his opinion was.

Mr. MOON. May I interrupt just a moment?

Mr. TUTTLE. Certainly.

Mr. MOON. I am anxious to know from both the gentlemen why it is that they want to make a distinction in favor of assistant postmasters, and why it is they do not want them examined, when the President wants all others except them examined? What excuse is there for saying that you shall not examine assistant postmasters when everybody else has got to be examined? This section carries out the spirit of the civil service. It does not destroy it. It simply destroys an Executive order which does destroy the spirit of the system.

Mr. TUTTLE. I prefer not to be interrupted at this time.

Mr. KINKEAD of New Jersey. I should like to have time, if I may, to answer the chairman of the committee.

Mr. TUTTLE. My time is very limited.

The CHAIRMAN. The gentleman from New Jersey declines to yield at this time.

Mr. TUTTLE. The right of eminent domain enjoyed by the railroads inures as well to the advantage of the public, and in theory and practice railroads pay for this right and should not be held up for additional gratuities for the maintenance of the Postal Service. The protection of the armed forces of the United States in time of strikes is often suggested as a reason for an additional levy upon the railroads, but such an argument is scarcely worthy of consideration.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. SAMUEL W. SMITH. How much more time does the gentleman desire?

Mr. TUTTLE. I think five minutes will be sufficient.

Mr. SAMUEL W. SMITH. I yield to the gentleman 5 minutes, or 10 minutes if he desires it.

The CHAIRMAN. The gentleman from New Jersey is recognized for 10 minutes.

Mr. TUTTLE. Mr. Chairman, the Government should pay a rate compensatory for the service rendered, and I agree with the conclusion of the Wolcott-Loud Commission that—

Not only justice and good conscience, but also the efficiency of the postal service and the best interests of the country demand that the railway mail pay shall be so clearly fair and reasonable that while, on the one hand, the Government shall receive a full quid pro quo for its expenditures and the Public Treasury be not subjected to an improper drain upon its funds, yet, on the other hand, the Railway Mail Service shall bear its due proportion of the expenses incurred by the railroads in the maintenance of their organization and business, as well as in the operations of their mail trains.

It appears to the commission, therefore, that the car-mile compensation for carrying the mails should closely approximate that received for the carriage of passengers. The Interstate Commerce Commission reported that the average operating revenue per car-mile for all classes of passenger-train service was 24.96 cents, and the distinctly passenger revenue—that is, the revenue derived from passenger service, exclusive of the express and mail service—was about 26 cents per car-mile. The Post Office Department's estimates show that the mails are charged 5.78 per cent less of the passenger-train operating expense than the passenger service proper; and assuming that earnings should be proportional to expense, these figures indicate that the difference between passenger and mail earnings per car-mile should be 5.78 per cent. Deducting this percentage from 26, leaves 24.50 cents.

Mr. COX. Will the gentleman yield for a question?

Mr. TUTTLE. Certainly.

Mr. COX. Did your committee have accurate data upon which it could determine, and did determine, the cost of operation per mile of passenger service?

Mr. TUTTLE. We determined it largely upon the figures in Document No. 105, which contains information compiled by the railways for the Post Office Department, and also from statistics of the Interstate Commerce Commission.

Mr. COX. Document No. 105 is a document compiled by the Post Office Department, based on an investigation which the Post Office Department required the railroads to make back in 1909.

Mr. TUTTLE. That is correct.

Mr. COX. You took that and made your deductions from it?

Mr. TUTTLE. Yes.

Mr. COX. So your data was as accurate as the commission were able to get?

Mr. TUTTLE. Yes.

Mr. COX. And as accurate as the railway companies were able to furnish the figures?

Mr. TUTTLE. That is correct; and the difference in the expense of carrying the mail and carrying passengers is shown by that report to be 5.78 per cent. This and other deductions convinced the commission that 25 cents per car mile was a fair and compensatory rate to be paid for the railroad transportation of the mails, and a schedule of terminal and line rates was proposed which when prorated to a 60-foot car mile basis produced an equivalent to a payment without land-grant deduction of 24.69 cents per car mile, and after the deduction to 24.22 cents per car mile.

The rates recommended by the commission and the estimated expenditures through the application of those rates is presented in a table which I will include as a part of my remarks.

Estimated compensation at rates under consideration by joint committee.

Unit.	Number of round trips.[1]	Rate.	Terminal compensation.[1]	Line unit miles.	Rate.	Line compensation.	Total compensation.[1]
					Cents.		
60-foot railway post office	171,915	$8.50	$1,461,278	103,546,172	21.00	$21,744,696	$23,205,974
30-foot railway post office	448,011	5.50	2,464,060	165,418,313	11.00	18,196,014	20,660,074
15-foot railway post office	467,617	4.00	1,870,468	75,315,925	6.00	4,518,956	6,389,424
Storage cars	45,574	8.50	387,371	50,662,145	21.00	10,639,050	11,026,421
Closed pouch, 7-foot	596,495	1.00	596,495	41,204,361	4.00	1,236,131	4,581,564
Closed pouch, 3-foot	1,789,484	.50	894,742	123,613,085	1.50	1,854,196	
Total			7,674,414			58,189,043	65,863,457
Less land-grant deduction (using 1.925 per cent, as in letter of May 4, 1914, from Second Assistant Postmaster General to Hon. J. T. LLOYD)							1,267,872
Received by railroads, exclusive of side and transfer service							64,595,585
Estimated by department for side and transfer service							2,118,820
Estimated by department for freight shipments							714,608
Estimated cost to department (the increased space during the year being taken as offset by probable economies)							67,429,013

[1] The number of trips are as tabulated, but this is known to be too large because tabulation was made on basis of railway post office routes instead of car runs. Thus, a car from Washington to St. Louis and return should be charged with only one round trip terminal allowance, but in our tabulation, which was made by division, this was taken as three trips. This would not affect the line charge, but somewhat overstates the terminal charges.

Closed-pouch service taken as consisting of 25 per cent 7-foot units and 75 per cent 3-foot units, which undoubtedly overestimates the proportion of the 7-foot units, and hence the total estimate for closed pouch is too large.

The department bill, or the bill now before us, while embodying the plan worked out by the commission, provides for a lower rate of compensation, and, according to their estimates, under its operation, the car-mile rate will be about 22.73 cents.

For the purpose of comparison I desire to print this estimate also:

Line cost.

Service.	Car miles.	Rate per car mile.	Annual pay.
		Cents.	
Railway post office	103,295,263	21.00	$21,692,005
Apartment, 30-foot	165,695,629	10.50	17,398,041
Apartment, 15-foot	75,226,521	5.25	3,949,392
Storage	51,417,527	19.00	9,769,330
Total line miles	395,634,940	20.60	52,808,768
Total miles, 60-foot car basis	256,367,234		

Terminal cost.

Service.	Trips one way.	Rate per one-way trip.	Annual pay.
Railway post office	343,830	$4.00	$1,375,320
Apartment, 30-foot	896,022	2.00	1,792,044
Apartment, 15-foot	935,234	1.00	935,234
Storage	99,593	5.00	497,965
Total	2,274,679	4.0885	4,600,563
Total trips, 60-foot car basis	1,125,242		

Service.	Rate per car mile.	Annual pay.
	Cents.	
Total line cost (256,367,234 miles)	22.39	$57,409,331
Closed pouch, estimated on weight basis		2,230,796
Total railroad mail pay (262,367,234 miles)[1]	22.73	59,640,127
Periodical matter by freight		703,904
Weighing and ascertainments		50,000
Total		60,394,031
Less land-grant deductions		1,145,200
Mail pay under provisions of this proposed bill, June 30, 1914		59,248,831
Add 4 per cent for fiscal year 1915		2,369,953
Mail pay under provisions of this proposed bill, June 30, 1915		61,618,784

[1] Includes 6,000,000 car miles, being the total annual closed-pouch space in exclusive closed-pouch trains carrying such weight of mails, equated to a 60-foot car basis

The department bill continues the weighing of the closed-pouch mails, which the commission believes should be paid for upon the space basis also. While it is true that under their plan there will be a saving in the cost, the saving will be at the expense of the small, weak railroads, who are probably the greatest sufferers under the present system, and who should receive generous rather than parsimonious treatment at the hands of the Government.

There are several other features of this bill at variance with the conclusions of the commission, some of great importance, some relating to important questions of Government policy, but these will be taken up when the bill is under consideration for amendment.

The application of the commission rates, the correctness and fairness of which we are convinced, results in an estimated increase in the total pay for railway mail transportation of possibly $3,000,000 in addition to the cost of the side and transfer service, which should be borne by the Government.

The application of the rates in the bill before us will undoubtedly decrease the total amount of railway mail pay.

For myself I am not so much concerned over the question of a slight increase or decrease in the aggregate amount paid for the great service rendered by the railroads as I am for fair and just action on the part of the Government.

Our duty is to perfect a method and to determine as far as possible what is a just compensation to be paid for the carriage of the mails. The railroads are necessarily dependent upon the fairness of Congress for reasonable conditions. They must carry the mail at any rate and upon almost any terms we may fix. Their refusal would be regarded by the public as a defiance of the Government. Congress, therefore, is under the highest obligation to provide tolerable rates and terms.

The plan we have before us is sound, practical, and intelligible, and although in my judgment it does not provide for adequate compensation for the service of the railroads, although it leaves too much discretion in the hands of departmental officials, although dissenting from its provision in many particulars, I realize that legislation at this time is imperative. I hope the bill will be passed. Its enactment will add to the already long list of the great achievements of the Sixty-third Congress in constructive legislation. [Applause.]

Mr. SAMUEL W. SMITH. Will the gentleman yield for a question?

Mr. TUTTLE. Certainly.

Mr. SAMUEL W. SMITH. Is it your understanding that this bill fixes the maximum rates that are to be paid to the railroads?

Mr. TUTTLE. The Moon bill fixes the maximum rates.

Mr. SAMUEL W. SMITH. And it is your understanding, also, that the Post Office Department is clothed with the authority to fix the minimum rates?

Mr. TUTTLE. Under the "not exceeding" clause.

Mr. SAMUEL W. SMITH. Yes; under the "not exceeding" clause.

Mr. TUTTLE. They undoubtedly can, though that is not their practice.

Mr. SAMUEL W. SMITH. And that being the case, the railroads would not be consulted at all, would they?

Mr. TUTTLE. I can not answer for the practice of the department.

Mr. SAMUEL W. SMITH. If the bill under consideration absolutely fixes the maximum rate and the Post Office Department is clothed with the power to fix the minimum rate, wherein do the railroads have anything to say about it?

Mr. TUTTLE. In my opinion, they will have to accept the judgment of the department.

Mr. SAMUEL W. SMITH. Does the gentleman regard that as absolutely fair and just?

Mr. TUTTLE. For myself, I do not favor the "not exceeding" phrase as it occurs in the bill. I should prefer to see the authority remain in Congress rather than in the department.

Mr. FOWLER. May I ask the gentleman a question before he takes his seat?

Mr. TUTTLE. Certainly.

Mr. FOWLER. Under the Moon bill that is before the committee, the railroads will have the same opportunity to contract for carrying the mail as they do now?

Mr. TUTTLE. I think not; this makes it unlawful for them to refuse.

Mr. FOWLER. They will contract in the same way?

Mr. TUTTLE. I do not understand so.

Mr. FOWLER. Do I understand that the gentleman contends that the railroads will not have anything to say about it?

Mr. TUTTLE. That is my understanding.

Mr. FOWLER. No authority to let contracts hereafter?

Mr. TUTTLE. There may be under other provisions in the bill which give the department authority to make special arrangements to carry the mail by freight or express.

Mr. MOON. Will the gentleman yield?

Mr. TUTTLE. Yes.

Mr. MOON. It is true that under the bill the railroad companies are bound to carry the mails when ordered by the United States. That is true everywhere. It is also true under the law and the Constitution that if the railroad rates offered by the Government to the roads for payment for carrying the mails are such that they do not desire to carry the mails on the ground that they are confiscatory, that question can be fought out and determined in the courts.

Mr. TUTTLE. My understanding is that the railroads have to perform the service and then appeal to the courts.

Mr. MOON. Not if the railroads are willing to take the chances of not performing them. And is it not true that if you did not use the language, the railroad companies would be at an advantage, and the Government would be at the mercy of the railroads in all these matters?

Mr. TUTTLE. I do not think so.

Mr. MOON. If I may take the gentleman's time a minute, suppose the conditions were such on a route and the conduct of the railroad company was such that they refused to deliver with the proper expedition the mails, the Government would have no power to control them if the language "not exceeding" was not put in the act. They would perform any sort of service and the Government would have to come to Congress to make the railroad take a less rate when they performed an inadequate service.

Mr. TUTTLE. That would be left within the power to fine them for inefficiency.

Mr. FOWLER. The rate at which the mail is to be carried is fixed in the bill. Now, a railroad desiring to carry the mail will enter into a contract with the Government to carry it, although the terms are fixed.

Mr. TUTTLE. There is no contract required.

Mr. LLOYD. Mr. Chairman, I think both gentlemen are right in this contention. Under this bill the Government authorizes the space that is to be used. The Government makes the authorization of the space, and there is an implied contract that the railroad company will furnish the space at the price fixed by law, and while there will be no instrument in writing signed by one party and the other by which they agree to carry the mail at a rate fixed, on the other hand there is an implied contract that they will do it, and there is a command of the law that they must do it, and that they must carry it at the rate fixed by law.

Mr. MOON. Is it not like it is now, a statutory contract?

Mr. FOWLER. Certainly; it can not be otherwise.

Mr. SAMUEL W. SMITH. Mr. Chairman, I would like to know how much time I have used?

The CHAIRMAN. The gentleman from Michigan has used 1 hour and 47 minutes.

Mr. SAMUEL W. SMITH. Mr. Chairman, I yield 15 minutes to the gentleman from New Jersey [Mr. KINKEAD].

Mr. KINKEAD of New Jersey. Mr. Chairman, rarely have I heard a speech on the floor of this House so well prepared as the speech just delivered this afternoon by my colleague and good friend, Mr. TUTTLE. If he had rendered no other service to the people of his district, each of us and all of us, whether we are Democrats or Republicans, might well say that he should be returned to Congress to carry out the mission which he started when he became a member of the great committee in charge of the present bill. [Applause.]

I had not expected to speak on the bill this afternoon, but when the chairman of the committee asked a question of the gentleman from New Jersey [Mr. TUTTLE] relative to section 4 of the bill, which takes assistant postmasters from the protection of the civil service, I felt it my duty, as a Member of this House, to give to the members of the committee my views, which were only settled upon after a careful investigation into this subject.

I had been tendered the postmastership of Jersey City. [Applause.] Events political over which I had no immediate control compelled me to decline the place that was so generously tendered me by the President of the United States. I expected after my term of service concluded here on March 3, 1915, to take upon myself the duties of that position in Jersey City. In order that I might go into office equipped for the service, I investigated the question of retaining assistant postmasters under the protective wing of the civil service. I want to say to the Members here this afternoon that I have devoted days to looking into this question from a practical as well as a theoretical standpoint.

Mr. MOON. Mr. Chairman, may I interrupt the gentleman a moment?

Mr. KINKEAD of New Jersey. Yes.

Mr. MOON. I think the gentleman misapprehends the section. It does not propose to take the postmasters from under the civil service.

Mr. KINKEAD of New Jersey. I said assistant postmasters.

Mr. MOON. Assistant postmasters. It does not propose that. It simply proposes that they shall be examined for the civil service, and not covered into it by an Executive order, without examination.

Mr. KINKEAD of New Jersey. Mr. Chairman, of course the chairman of the committee and myself have no disagreement about what is intended in the bill. We know what is the intention of the chairman of the committee, and I want to say to him that there is not a man on the floor of the House for whom I have greater respect than for the big, generous, and highly efficient chairman of this committee, and if there is one thing in the world that he is known for on both sides of the House, it is being willing always to write down his convictions and stand by them once they are written down. He and I differ radically regarding this question. He thinks that these places belong to Democrats exclusively. I think they belong to men who have been named and, having proved their efficiency, are now learning the lessons that he learned as a youth; that the Democratic Party is willing at all times to protect the men who are in the civil service. And I regret exceedingly that the expression of an opinion contrary to the spirit of the civil service should come from any man on the Democratic side of this Chamber.

Mr. MOON. Mr. Chairman, will the gentleman yield?

Mr. KINKEAD of New Jersey. Yes.

Mr. MOON. The gentleman does not seem to comprehend fully the effect of this section. It does not interfere with, but it strengthens the civil-service proposition by requiring a civil-service examination. The gentleman says that I want Democrats. The gentleman is mistaken about that. My preference, of course, would be for Democrats, but I want this open to an examination in accordance with the civil-service law. I do not think that any administration ought to cover twenty-five hundred men of one party into office by Executive order. The Republicans that want these places are as much entitled to a show at them under a competitive examination as the Democrats, and this bill gives them the same show.

Mr. KINKEAD of New Jersey. Mr. Chairman, I want to be fair with the gentleman from Tennessee. I honestly think that that is his conviction on the subject, but as a matter of fact, taking it from a practical standpoint, my good friend from Tennessee knows that the Democrats would be given the preference under a Democratic administration, and Republicans would be given preference under a Republican administration.

Mr. MOON. Would not that be a dishonest administration of the civil-service law?

Mr. KINKEAD of New Jersey. I am not going to answer that. The gentleman has answered it himself. I believe that he is anxious to do the square thing, and all that I want to do in the 20 minutes' time that has been allotted to me is to tell him what I have ascertained as the result of hours of work of investigating into this question.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. KINKEAD of New Jersey. I yield to the gentleman from Indiana.

Mr. COX. Suppose this section is a law, worded just as it is, could the gentleman conceive any way, manner, or plan whereby any assistant postmaster could be appointed except through the civil service?

Mr. KINKEAD of New Jersey. No; I do not believe that I can.

Mr. COX. Then, if this becomes a law, it does not take them out of the civil service, does it?

Mr. KINKEAD of New Jersey. It might. It might have that effect in the instance that I have cited to the Chairman.

Mr. MANN. Mr. Chairman, will the gentleman yield for a moment?

Mr. KINKEAD of New Jersey. Yes.

Mr. MANN. It does take these men out from under the civil service.

Mr. KINKEAD of New Jersey. Mr. Chairman, I think the gentleman from Illinois and myself have the same view upon this subject, and I am very glad to say that occasionally our Republican friends in this House are right, and whenever they have been right, I have been willing to stand by them, but that is so seldom that my record has not been tarnished to any appreciable extent.

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. KINKEAD of New Jersey. Yes.

Mr. FOWLER. Do not these positions belong to the people, the same as the post offices?

Mr. KINKEAD of New Jersey. Why, bless your soul, of course they do. That was the reason I was given one of the places. [Laughter.]

Mr. FOWLER. Is it not a fact that there are various kinds of civil-service positions, and this is one that is placed under the classified civil service, but not under the competitive classified civil service. Is not that true?

Mr. KINKEAD of New Jersey. That is true, of course. Everybody knows that. What does the gentleman want to ask?

Mr. FOWLER. Is it not a fact that all that this bill seeks is to place these positions under the competitive classified service?

Mr. KINKEAD of New Jersey. Twenty-five minutes ago the chairman of the committee expressed that much more clearly than the gentleman from Illinois can ever hope to, and I wish that he would let me proceed without interruption.

Mr. FOWLER. One more question. Is it not a fact that if these places are placed under the competitive classified civil service, it will give everybody a chance to take the examination and go in on his merits?

Mr. KINKEAD of New Jersey. Why, of course, I stated that. Certainly that is the fact.

Mr. FOWLER. Then that makes it a complete civil-service position?

Mr. KINKEAD of New Jersey. Oh, the gentleman is in error absolutely with regard to that last statement, and I refuse to yield further, because I have only a few minutes remaining. The best portion of my time has been taken up in answering questions that have been disposed of 15 or 20 minutes ago.

Mr. FOWLER. But the gentleman has not disposed of that question by a long shot.

Mr. KINKEAD of New Jersey. Mr. Chairman, I regret very much that the bill, which otherwise is a very satisfactory measure, should be encumbered with section 3. If the chairman of the committee wanted to take up a subject other than is properly the subject of the bill, I should have been pleased to have the question of the retirement policy for clerks and carriers, whether rural or city, considered. If the same amount of time had been given to the consideration of this important question, I am fully convinced that the bill, even at this time, would have contained a clause granting a measure of relief in the way of retirement to our efficient post-office employees that would be just alike to the Government they serve and to the men who so well serve the Government.

From time to time during the last three months it has been my privilege to insert in the RECORD the policies of various corporations, railroads as well as mercantile, toward their employees regarding the retirement of them after they had served the concern for which they worked faithfully and honestly in the aggregate of 30 years. And let me dwell for a moment on the policy of the public-service corporation in the State of New Jersey. Let me say what they have done for their employees has been followed by the Pennsylvania Railroad, the Atlantic & Pacific Tea Co., and here, the latter part of July, less than two weeks ago, the traction companies of the District of Columbia followed in the wake of the progressive New Jersey corporation and granted to its employees at the end of 30 years of service a retirement plan based upon the number of years which they had served the company, and on the average rate of wage for the last 10 years received by them. And we ask, nay we demand, that the corporations of the country live up to the requirements of the Sherman antitrust law. We demand——

The CHAIRMAN. The time of the gentleman has expired.

Mr. KINKEAD of New Jersey. Mr. Chairman, I would like about five minutes more, so much of my time having been taken up by inquiries.

Mr. SAMUEL W. SMITH. I yield five minutes additional to the gentleman.

The CHAIRMAN. The gentleman from New Jersey is recognized for five minutes additional.

Mr. KINKEAD of New Jersey. We demand from the corporations a rigid adherence to the law. We want all business men of America to show the way to the world in business honesty and integrity. Now, I want this Nation of ours to show the way to the world in caring for the men who serve it honestly and faithfully. I recall that in the city of Newark a young man, a resident of my district, went out one day in the holiday season of 1913 with a bag of mail weighing 58 pounds on his shoulder. That young man, going through Broad Street—the principal street of Newark—slipped on the ice and broke his arm. He asked a policeman who was standing by to send for a doctor. His mail bag was by his side. His arm was dressed there in the streets of the city of Newark. He sent a message to the post office asking for a man to come to take his mail bag. When his arm was dressed he reported to the postmaster of Newark, "I am ready with my good arm to help the boys out to deliver the mail that has accumulated during this busy season." [Applause.] This is characteristic of the service that is being rendered to our Government by the men in the post-office service, and when we ask for a retirement plan for men of this character, when we point the way to corporations that have in the past been charged with crime, and they say to this Government, "We are doing this for our employees," we must hang our heads in shame and say, "You may do it, but we will not."

I want to say to the Members of this House that just as surely as to-morrow's sun will rise just so surely will this Government of ours eventually grant an honest, just, and equitable retirement plan not only to the men who carry and deliver our mails but to every man and every woman in the classified service of this Government. And I do not want to see the American Nation shamed into an acceptance of a just and honorable plan. I want to see our Nation do that for its employees which it is endeavoring to do for the world to-day.

That magnificent Jerseyman who stands at this hour in the midst of a great sorrow forgets a dying wife, a loving, loyal helpmate long enough to say to the warring nations of Europe, "Thank God! America is not involved in this strife. If I may be of any service as the President of a nation signatory to The Hague Peace Conference, I offer my services and place them at your disposal toward the end that universal peace may reign throughout the world." [Applause.] And I want to see this House place itself on record, just as we have done among the nations of the world. So may we in a lesser degree show an example to the great corporations of America that we have made an honest, careful, conscientious investigation into this subject and we are convinced that the best service that we can render to the Government is to say to every man and to every woman who comes into our employ, "If you serve us faithfully for 30 years, we will take care of you and your family in the declining years of your life." [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. SAMUEL W. SMITH. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. STAFFORD] as much time as he desires to use.

Mr. STAFFORD. Mr. Chairman, the subject of railway mail pay is rather abstruse in character and difficult to comprehend, and for years, running back almost a generation, it has been on different occasions investigated by special committees of Congress. The history of the carriage of the mails by railroads is rather interesting. When this service was first inaugurated in 1837 the railroads were not to receive more than 25 per cent than that paid for similar conveyance by other means. In 1839 the rate was fixed at the statutory price of $300 per mile for the year, regardless of the amount carried. In 1845 this plan was changed so that the service was divided into three groups, payment being made according to service, according to weight of mails, speed and character of trains, and frequency of service, whereby the railroads were paid for the first grade or the most efficient service $300, for the second grade $100, and for the less frequent service, the third grade, $50 per mile per annum. In 1867 we find the first instance of mails being weighed, and this process has continued until the present time, when it is proposed to substitute a new method entirely. In 1873 the present graduated scale of payment, varying with the average daily weight, was fixed by Congress. The highest rate was for the smallest unit of 200 pounds or less a day, for which the railroads were to receive $50 a year, and graduated according to weight to 5,000 pounds a day, when they were to receive $25 per annum.

In 1876 the various rates in the graduated scale were reduced 10 per cent, and again in 1878 were reduced 5 per cent, and those rates continued as the fixed charges of payment until 1907, when an additional grade was added. Instead of the

reduction in the sliding scale of payment stopping at 5,000 pounds, it was raised to 48,000 pounds, and the rates reduced 5 per cent up to the 48,000-pound grade, and in that grade reduced 10 per cent of the former ton rate. Besides this reduction in tonnage pay, the Congress, in 1907, also materially reduced the pay for the so-called railway post-office cars, of which I will speak later.

So to-day, so far as the tonnage rate of pay is concerned, the railroads received for the maximum amount, which is the small unit of 200 pounds daily, $42.75, or its equivalent, on a ton basis of $427, whereas for a ton, where the railroads carry 48,000 pounds daily, the railroads receive $19.24, or less than one-twentieth of the highest price for the smallest unit. I wish to impress upon the committee that this is a graduated scale of payment, prorated and diminishing with the increasing daily average weight, and recognizing the well-established traffic rule that with the increasing weight the cost of the service diminishes.

From the discussions in the press and in periodicals, the public has obtained the idea that the railway mail pay has been increasing inordinately the last several years, when in fact the compensation to the railroads has really been less proportionately, as compared to the gross postal expenditures, than for any other character of service. In 1870, for instance, we paid to the railroads for the carriage of the mails $5,128,000 out of a total expenditure for postal service of $23,998,000, or 21.4 per cent. In 1880, $10,498,000 out of a total of $36,542,000, or 28.7 per cent. In 1890 the percentage of railway mail pay toward the total expenditures was as high as 35 per cent. From that date down the proportion has been gradually decreasing, because, as the statistics show, the weight or tonnage of mail carried on the railroads has been increasing so that they are being paid the ever-lowering graduated rate of pay until that of the last class of 48,000 pounds is reached. So in 1903, for instance, the percentage of railway mail pay toward total postal expenditures was 30 per cent; in 1907, 26.8 per cent; in 1909, 22.4 per cent; in 1910, 21.4 per cent; in 1911, 21.4 per cent; in 1912, 20.4 per cent.

The reason why there has been such a marked decrease in the last few years has been not only due to the fact of the increasing volume of mails carried on the railroads whereby they would obtain this lower rate of pay, but for the further reason that Congress in 1907 reduced the scale of pay 5 per cent in all grades, and an additional 5 or 10 per cent on these higher-weighted routes, and also because we reduced the railway post-office car pay, which is different from the tonnage pay and which I will presently explain, and more decidedly by reason of the establishment by post-office order of the divisor proposition of computing 7 instead of 6 as the divisor for a week to obtain the average daily weight.

At the present time the annual rate of expenditure to the railroads in the four contract sections of the country, as of June 30, 1914, aggregate $50,833,360. That does not include the payment for the railway post-office car service. That is a distinct payment based upon the idea that we should pay them for the space used by the Government in assorting the mails in these cars exclusively used for post-office services. That practice was established in 1873, when the scale of pay for that character of service was $25 per mile per annum for a 40-foot car, $30 for a 45-foot car, $40 for a 55-foot car, and $50 for cars over 55 feet in length. At the time of the general reduction made in 1907, these rates were radically reduced to the present rate, when the Government pays $25 for a $40-foot car, $27.50 for a 45-foot car, $32.50 for a 50-foot car, and for a 55-foot car and over, $40.

You have heard much discussion on the floor of this House in times past to the effect that we have been paying an extraordinary amount for the use of these so-called railway post-office cars, the cost of which averages about $12,000. It has been estimated that the railroads receive for each car $3,400 a year for that special pay for space used. That $25 per line per car for a 40-foot car or $40 for a 55-foot car is for a complete line of going and return, or one-half of that amount for carriage one way. On the proposed basis the compensation to the railroad for the use of a railway post-office car will be largely in excess of the present rate. Under the present basis, in addition to the pay for the rental of these cars and the haulage of them, they receive the tonnage pay for the weight of mail which is carried in them, which averages about 2½ to 3 tons to a car, making the average returns for those cars in the neighborhood of 18 and a fraction cents per mile per car per annum.

In the current Post Office appropriation bill we provide for railway mail pay based on tonnage rates $56,188,000 and for railway post-office car rates $5,412,000, or a total of $61,600,000. The proposition that is presented to the House is a most radical departure from anything that has ever been presented to the Congress for the payment of railroads for the carriage of mail.

Mr. MURDOCK. May I interrupt the gentleman?

Mr. STAFFORD. With pleasure.

Mr. MURDOCK. The gentleman has known for years, because he has made several speeches on this subject, that one of the railroads' contentions in regard to the justification for the use of a full railway post-office car was not the amount of mail transported but the hauling of space used in the distribution of the mails. Now, with the adoption of this plan proposed, that philosophy passes necessarily, because we are going to pay under this new plan as much for the transportation of mail or more for storage cars than distributing cars?

Mr. STAFFORD. We are going to pay 1 cent less for the storage cars.

Mr. MURDOCK. I understood it was 22 cents.

Mr. STAFFORD. Under the bill as amended we are to pay 21 cents per car per mile for one railway post-office car of 60 feet in length, whereas for storage cars we are to pay 20 cents—1 cent less.

Mr. MURDOCK. Inasmuch as we now pay almost as much for the transmission of the mail in a storage car as we do in a distributing car, that old philosophy of haulage of space for distribution disappears, does it not?

Mr. STAFFORD. The railroads emphasize, as a justification for that charge—and it is well bottomed—that we are paying for the haulage and not the mere use of the cars, and the new plan is in consonance with the position of the railroads in that particular rather than in opposition. If the railroads were furnishing a car for use on a siding the year around, they could well afford to let the Government have it for merely the cost of depreciation and for a return on the investment of 6 per cent. But the gentleman realizes that the railroads must be compensated for the wheelage charge.

As developed in the hearings had before the joint committee, the actual cost of transportation—that is, the cost of the operation of passenger cars per passenger train per car mile—is 19.41 cents, whereas under the existing return to the railroads for these railway post-office cars, including not only the rental or haulage charge, but also the pay for weight of mails carried, is only 18.84 cents, or 57 cents less than the cost of operation alone; so that the claim frequently made on the floor of the House that this is an outrageous charge to be paid to the railroads for the carriage of these railway post offices lacks any foundation in fact whatever. The new basis as presented by the committee follows out that theory of paying to the railroads on the basis of space 21 cents for a full railway post-office car of 60 feet in length, 10½ cents for an apartment car of 30 feet in length, 5½ cents for an apartment of 15 feet, and paying for storage cars at the rate of 20 cents per mile on the basis of a 60-foot car.

It may be interesting to present some figures to the House which have not been presented heretofore in the discussion of this matter as to the respective amounts that develop from these respective characters of service.

Mr. MURDOCK. Before the gentleman goes into that, do I understand him to say—I want to get it correct—that under the proposed plan we will pay more for a full railway post-office car than we pay now?

Mr. STAFFORD. There is no question about that. As disclosed in the hearings had before the joint committee, the returns to the railroads to-day for a full railway post-office car, including not only the rental charge, to which I have referred, but also including the average return for the average weight which is carried in the railway post-office car for the separation of the mail en route, averaging from 2½ to 3½ tons per car——

Mr. MURDOCK. Paid for by weight?

Mr. STAFFORD. Yes; the return paid for the weight, according to the usual method of tonnage pay, is 18.84 cents, whereas the cost of the actual operation of that car, according to the figures prepared by the Interstate Commerce Commission, is 19.41 cents, so that, so far as this railway post-office service is concerned, the Government has been receiving a service for which it has not fully compensated the railroads.

Mr. MURDOCK. Now, the gentleman was going to develop the apartment service.

Mr. STAFFORD. Yes.

Mr. SMITH of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. SMITH of Minnesota. What is the objection to the Government owning its own railway post-office cars?

Mr. STAFFORD. Before this proposition of changing the basis of railway-mail pay was so suddenly thrown upon the

committee—and it was a suggestion that came without a moment's notice to the members of the committee—it was proposed and included as a part of the Post Office appropriation supply bill this year that the Government should begin the experimentation of owning these railway post-office cars. But that involves the whole question of Government ownership. What advantage is it to the Government to build and equip these cars if we can have the railroads furnish them? We would be obliged, if the Government owned these cars, to go into the business of car building; we would have to establish plants in various districts of the country for the repair of cars. If anyone had studied the question of Government ownership, he knows that the cost is much greater under Government ownership than under private ownership. He knows that a great plant can be much more economically run under private ownership than under Government ownership, and there is nothing that demonstrates that so positively as the Postal Service itself.

I have stated here before, and I repeat it again, that there has been less progress in this Postal Service than in any other business corporation of like character under private management. There have been no real additions to the service except in the last two years, when we introduced the parcel post and the postal savings adjuncts, since the time of the Wanamaker régime, when he installed the special delivery and the pneumatic-tube system. Truly, we have grown, but we have grown along red-tape lines. There has been a marked growth in the Postal Service in the past 20 years, but it has been merely an enlargement. If the gentleman will stop and think for a minute as to the difference in cost under private ownership as compared with Government ownership, he will see that it is much greater under the latter. In addition, there is little progression under Government ownership; there is lacking the incentive that distinguishes the individualistic from the socialistic standard.

Mr. LEWIS of Maryland. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from Maryland?

Mr. STAFFORD. Yes.

Mr. LEWIS of Maryland. The gentleman has stated the practice that has obtained in certain portions of the country, and——

Mr. STAFFORD. I yielded to the gentleman for a question only.

Mr. LEWIS of Maryland. You stated the proposition that the postal agency is not efficient as compared with private agencies. Now, has the gentleman any data of a comparable character on which to base or by which to confirm that statement?

Mr. STAFFORD. Take the rural carrier service as an example to show the inequality of payment that prevails there. I do not wish to be diverted on this line; I will only branch off on it for a moment. Here we have the rural carriers in different parts of the country performing different kinds of service. In the North and far West under severely adverse conditions, and in the balmy and sunny South under much more favorable conditions. The rural carriers receive no added compensation for the service rendered under adverse conditions. They receive the same uniform payment, regardless of the amount or character of the service performed, and so on down the line. There is uniformity in pay, it is true, but it is not based upon the character of service performed. I could go on and multiply other instances to illustrate the point.

Mr. CLINE. Mr. Chairman, will the gentleman permit me to ask him a question?

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from Indiana?

Mr. STAFFORD. Certainly.

Mr. CLINE. How are you going to regulate the service on a uniform basis under those circumstances?

Mr. STAFFORD. It should be regulated according to the amount of service performed by the carrier, whether he is carrying large quantities or small quantities. To-day one rural mail carrier starting from a large city district will be loaded down from day to day, requiring three or four horses to perform the service, whereas in other parts of the country having good roads the service can be performed on a motor cycle.

Mr. CLINE. I understood that the gentleman mentioned the weather as one of the elements in the equation?

Mr. STAFFORD. Yes.

Mr. CLINE. Surely the gentleman does not want to intimate that you can regulate the pay of a rural mail carrier according to the weather?

Mr. STAFFORD. You can regulate the pay according to the amount of service the carrier performs and also according to the amount of expense to which he is subjected. If the mail service were a private establishment the rural carrier would very likely receive compensation for the horses and for the expense he is put to, whereas now there is this inequality of payment to which I have referred.

Mr. CLINE. There can not be any question but that that feature ought to be recognized as to the amount of service rendered, but you certainly can not introduce the weather into the equation.

Mr. STAFFORD. The gentleman well recognizes that in the North, where we have very severe winters and plenty of snow, it is much more arduous and much more taxing on the horses to convey the rural mail than it is in the South, where they do not have those conditions, and that it is much harder to carry the rural mail in a mountainous country than it is in the plains States, where they have no bad roads whatsoever.

I wish now to go on from the point where I was temporarily diverted in explaining the respective amounts paid for these various services.

For the full railway post-office service it is estimated by the Post Office Department that at the rate of 21 cents per mile for a 60-foot car there will be paid $21,692,000; for apartment-car service, at the rate of 10½ cents for 30 feet, there will be paid $17,398,000; for apartments of 15 feet or less there will be paid $4,137,000; for storage cars, $10,283,000; or a total of $53,510,000.

These rates do not include the compensation that is intended for terminal service. We intend to pay the railroads for initial and terminal service at the rate of $2 per car, both for the initial service and the terminal service, the terminal service being for the loading and unloading of the car by railroad employees and the initial service being for the shunting of the car from the yard to the station and to the train, making for the round trip $8 for a railway post-office car and the same for a storage car of 60 feet in length, and at a proportional rate for cars of lesser size.

Mr. MURDOCK. Will there be any instances where there will be an initial charge but not a terminal charge?

Mr. STAFFORD. No; in every instance there will be both initial and terminal. The gentleman can conceive some instances where there will be terminal services for which there will be no compensation, and if I am in error I wish to be corrected by the gentlemen of the joint commission who are present. For instance, in my home city of Milwaukee, located on the Chicago-Minneapolis division, the route is from Chicago to Minneapolis. The mails are loaded and unloaded by the railroad company at Milwaukee without receiving any compensation for that service. If I am in error, I should like to be corrected.

Mr. LLOYD. The gentleman is entirely in error. There is an initial and a terminal charge in every case.

Mr. STAFFORD. I wish to put the case very clearly. The route starts at Chicago and goes to Minneapolis. The railroad company receives $4 at Chicago, $2 for initial and $2 for terminal, and also when it reaches Minneapolis it receives $2 terminal and $2 initial; but it receives nothing for the dispatch of the mails and the loading of the mails at the intermediate points.

Mr. LLOYD. Of course, in no case is that true. The initial charge is when the train starts. The terminal charge is when it reaches the end of its route.

Mr. STAFFORD. But the railroad company performs the same character of service at the intermediate points, so far as dispatch and receipt of mail is concerned. That is a service for which it receives no compensation.

Mr. LLOYD. I understand that; but the gentleman said there was no initial and terminal charge. There is some initial and terminal charge in every kind of service.

Mr. STAFFORD. If the gentleman had paid close attention to what I said, he would recall that I said there is no return to the railroad for the terminal work en route after the car starts.

Mr. LLOYD. Certainly not, because that is not initial and terminal work.

Mr. STAFFORD. But there is service performed by the railroad company at these respective stations for which they receive no compensation.

Mr. LLOYD. There is no initial service performed, because the initial service is cleaning and lighting the car, and switching the car and placing it in position. No service of this kind is rendered en route.

Mr. MURDOCK. If it is a full railway post-office car running from Washington to Baltimore, that car would receive $2 at Washington and $2 at Baltimore, and then on its return trip would earn an additional $2 at Baltimore and a final $2 at Washington, or $8 for the round trip.

Mr. STAFFORD. No; $8 for the single complete trip. Let me explain, $2 for the terminal and $2 also for the initial charge at Washington, and the same amount at the end of the trip at Baltimore; and again, if another car is added to the train at any place en route, that car would undoubtedly receive both initial and terminal compensation.

I wish, now, to give the total amount for terminal cost, as estimated, *not giving* the amounts seriatum for the respective characters of service, but giving the total amounts as determined by the department. The terminal cost is estimated at $4,500,970, making a grand total, with the $53,510,768 for line cost, of $58,011,738. The total railway car mileage of all the respective services aggregates 256,367,234 miles, which makes the average rate 22.63 cents for both line and terminal service. That will be the return to the railroads per car mile for these respective services. This rate, as I understand it, is predicated by the department and by the committee upon the average revenue to the railroads for passenger-car mile service, which in 1911, according to the Interstate Commerce Commission report, was 25.43 cents; in 1912, 24.92 cents; and prior to that time the average was estimated to be 25.43 cents. That is, the average return to the railroads for each passenger car for each mile traveled was these amounts. It is generally conceded that there should be a reduction of 10 per cent from the returns for passenger-car service to that for pay to railroads for carrying the mail. Ten per cent of this 24 or 25 cents would be 2.4 or 2.5 cents, which brings the amount somewhere near the rate as proposed by the Government. If I am in error, I would be pleased to be corrected by either member of the joint committee who are honoring me by listening to my remarks. That 10 per cent reduction follows the suggestion of M. O. Lorenz, who is the associate statistician of the Interstate Commerce Commission and who has given more study to this question than any other person outside of the committee connected with the investigation of this subject. It is only proper in this connection to call attention to one remark he makes in the very beginning of the report, where he says, on page 850 of the hearings:

> On the basis of the commercial principle the conclusion is reached that 22½ cents for a 60-foot mail car hauled 1 mile, with a separate payment for side and terminal services, would constitute a fair adjustment for the first year, being an increase over the present rate of pay, but still probably an underpayment, the exact determination of a fair rate being left to be decided after more complete experience and statistics have been gained.

There are some other rates that confirm the position of the joint committee and of the department in accepting the figures of the Interstate Commerce Commission in the average revenue returns to the railroads on passenger traffic as the proper basis for the determination of the rate of mail pay in this instance.

I have here a large number of figures giving a compilation of payment to the railroads for a similar character of service for the hauling of private passenger cars and also for hauling loaded baggage cars. I am not going to burden the House by a recital of the rates. They vary in respect to the character of the service, but I am going to point out this pertinent case. That is, the Pennsylvania and New York Central Railroads charge for a special baggage car loaded, which is the nearest instance I think we have to a full mail car, or what is known as a storage car, 25 cents per mile. When the distance is from 500 to 625 miles, they charge $125, that being based on the smaller distance for 500 miles; and for 625 miles and over the rate is 20 cents per mile.

The Pennsylvania and New York Central Railroads, well recognized by everybody to have the best accounting systems in the country, make a charge of 25 cents for a loaded baggage car for any distance under 500 miles when offered, no matter by whom, and I think it is safe to assume that the rates as based by the department and the committee as a foundation upon which to proceed in this matter is not an unfair rate to the railroads.

Mr. LEWIS of Maryland. Will the gentleman yield?

Mr. STAFFORD. Certainly.

Mr. LEWIS of Maryland. Under what circumstances did they make a charge of 25 cents per car mile for baggage service?

Mr. STAFFORD. I have not all the details before me.

Mr. LEWIS of Maryland. What kind of service was it?

Mr. STAFFORD. Perhaps I was not explicit enough. It was for a special baggage car loaded, to be carried for any private person. I assume, for instance, that theatrical companies sending scenery and trunks, and it may be that they require more than one car, maybe two, and they would charge for each extra car loaded 25 cents per mile in addition to the passenger rate of the theatrical company, which is entirely independent of this question.

I have here the rate charged on all the railroads of the country, as shown by the statistics compiled by the Interstate Commerce Commission, and although they vary from 25 to 30 cents per mile in many instances for the carriage of a private passenger car, to a flat rate based on a certain minimum number of passengers, the most pertinent case that I could find as a justification for the basis of the unit adopted by the joint committee was the rate established by the Pennsylvania and New York Central of 25 cents for the special baggage car.

Mr. LEWIS of Maryland. And they have to haul it back empty for nothing.

Mr. STAFFORD. Oh, the gentleman knows that the railroads usually arrange so as to have it come back loaded. They have that fine arrangement where they do not lose much by empty car haulings. I have not referred in my review of the bill to pay for the closed-pouch service, which is to be determined virtually under the old rate of payment. That amounts in the aggregate to $2,230,000. In closing permit me to call attention to the aggregate amount estimated by the department to be paid to the railroads for all character of services, including that to be sent by freight, under the bill which is presented for consideration. The total pay in 1915 will amount to $62,221,191, or about $625,000 more than the amount carried in the present Post Office bill for that year.

As I said at the outset, or intended to say, and as has been so frequently said before, everybody recognizes that the present basis of pay—that is, on the tonnage basis—is archaic.

No one knows which railroads receive more than they should. No one knows which railroads receive less. It is not scientific. Congress has grappled with it, but when we have reduced the rates of pay on occasions, certainly in 1907, it was merely a wild guess that was made to reduce the total pay to the railroads on those lines which the Congress and the committee believed were receiving too much pay, especially those carrying more than 48,000 pounds of mail daily the year around. The joint committee now presents a scientific proposition. I recognize that there is danger of abuse. I recognize that the department officials in the administration of this new system—and I wish to emphasize that at this time, because we are about to pass this bill and adopt this system—may find that abuse will arise in not having all of the space utilized. Any person who is acquainted with the history of the Postal Service during the last 10 years knows that there were many instances where full railway post-office service was put into use when there was no need for it, that there were additional cars used, involving an expenditure in some instances of half a million dollars, when there was no need for that service. We must leave it to the postal employees. There will be no incentive on their part to crowd their cars. Their main idea will be to place the mail in the storage cars, so that it can be easily reached when it has to be sorted en route. Certainly there will not be that incentive to have the storage cars crowded, as is sometimes the case at present, to 50 tons, as the interest now of the railroad employees is to fill the cars to their maximum limit. Under the new plan it will be to the interest of the railroads to have as many cars or as much space utilized as is possible, and the only thing that makes me pause in advocacy of this new system is the danger of its abuse.

We all know that if it had not been for the inauguration of the parcel post this new plan would never have been presented at this time. We know that if the present rate of pay is continued in force, if this plan is not adopted, that inside of two years or three years, when all of the railroads of the country will be receiving their proper return for the additional burden of the parcel post, there will be a deficit, a growing deficit in the postal revenues. Let me elaborate in one particular as to that phase of it. Here is the fourth contract section, the far Western States, where the railroads up to June 30 last were receiving $17,210,000 for the carriage of the mail. The mails have been weighed this past season in that district as the basis of the pay for the next four years. Prior to the establishment of the parcel post it was the plan of the Post Office Department to figure an increase of 4 per cent each year, or 16 per cent of the total amount for the additional pay to the railroads resulting from the usual increase of mail from business development. Since the establishment of the parcel post, the department has estimated 24 per cent increase instead of 16 per cent increase for the four-year period, and I am informed by the Post Office officials that in some instances, notably those lines running out of San Francisco, the mail has increased 50 per cent over the weighings four years ago, by reason of the parcel post. Next year comes the weighing in the third contract section, that great Middle West section, west of Pennsylvania and running out to the Rocky Mountains, including the Dakotas, and running as far south as the Ohio River, and in-

cluding the State of Missouri, where the mail pay at present is $16,736,000, and where they are receiving no compensation to speak of—oh, a half million dollars or thereabouts—for this added parcel post, where the added tonnage runs into hundreds of thousands of pounds. I venture to say, without fear of successful contradiction, that the railroads are carrying parcel post there to the extent of $2,000,000 for which they are not receiving any pay at all. If the present schedule of pay continues, instead of paying the railroads $16,736,000 after June 30 of next year, we will be paying them $21,000,000 and perhaps $22,000,000.

This proposal for a change in method of railway mail pay has been occasioned by the introduction of the parcel post. If we had not inaugurated that system, with might and main I would have opposed this proposed plan, because I recognize that the old plan of paying on the tonnage basis safeguarded the interests of the public as well as they could be safeguarded. But we have a condition confronting us. We have gone into the express-carrying business, we have gone into the freight-carrying business, and we must recognize the existing practices in paying for the haulage of freight and express. While express payment is not based on space, yet it is largely predicated on that idea. Freight charges on carload lots are based on that idea. As we have gone into this new feature, which is adding to the Postal Service the carriage of merchandise mail, we have to meet the conditions.

From my review of this subject in the time I have been able to give it, apart from the consideration of other matters, I am willing, in view of the investigations made, to support this proposition. I only fear, as I said, that it will be abused; that the total amount will mount up in time to come, because of the lack of scrutiny, of the want of private interest on the part of our Government employees to take advantage of filling the car space to the maximum; that it will grow and grow until it will mount very high.

We might as well recognize conditions as they are. With the joint committee advocating higher rates than were proposed by the department, if the bill is finally adopted, the rates that we are now agreeing to will not be the rates that will be finally enacted into law when it is returned from another body, and when the bill will carry four, five, or more million dollars for total railway mail pay. But the plan is scientific. If it is abused, the fault will lie at the door of the Government, through neglect or default of our Government employees. We have to keep up with the parcel post; we can not depart from it. It is established, and no one to-day would advocate a recession of that service to the public. And so, as I said a few moments ago, I am going to support and vote for this proposition. As to the other substantive propositions of the bill, 12 or more, I will reserve discussing them until their consideration under the five-minute rule. I wish to thank the committee for its attention. [Applause.]

Mr. SAMUEL W. SMITH. Will the gentleman from Tennessee occupy some time now?

Mr. MOON. I yield 10 minutes to the gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman, I had intended to address myself to the consideration of naval affairs, but under the special rule adopted a few days ago for the consideration of this bill the debate is limited to the subject matter of the bill now under consideration, so what I have to say will be confined to it.

The gentleman from New Jersey [Mr. KINKEAD] in his remarks criticized one of the features of the bill—that portion which deals with assistant postmasters of the first, second, and third classes, and which provides that they shall be placed under the competitive classified civil service. Undoubtedly he does not understand the full meaning of this section. I have always had a high regard for him, but from his remarks and his answers to certain questions propounded to him by me and other Members of the House concerning the object of this part of the bill he does not know anything about the question. [Laughter.] He seems to have lost his balance and his respect for Members who prodded him with questions. In his remarks he stated that he was tendered the post office at Jersey City, N. J., by the President, but that he declined it. If he does not know anything more about the duties of a postmaster than he does about the civil service, I am inclined to think that he was justified in declining it.

There are several degrees in the civil service as it has been administered, but the gentleman does not seem to have acquainted himself with them, as he does not seem to know the difference between a half-grown civil-service status and a full-grown status. We have the classified, the nonclassified, the competitive, and noncompetitive classified, and we have the Panama Canal civil-service positions, all of which have a definite meaning; but the gentleman does not seem to know the difference between them and becomes alarmed at the provisions of this bill dealing with this question.

We have about 2,560 assistant postmasters in the first, second, and third class post offices now, all of whom are not under the civil service; only those who are serving in first and second class post offices are under the civil service. The clerks of first and second class post offices are required to take a competitive civil-service examination, and the majority of the Committee on the Post Office and Post Roads, in their wisdom, have come to the conclusion that assistant postmasters should do likewise. So section 3 of the bill now before us provides that the Postmaster General shall require all applicants for assistant postmasters of the first, second, and third classes, including those now in office who were carried into the service by Executive order heretofore made, to take a competitive civil-service examination within 90 days, or as soon thereafter as may be practicable, after the passage of this act.

This provision does not lessen the force of the civil-service law, but it adds to it and makes it more complete. While I am not in sympathy with the civil-service law because of its tendency to create life tenure in office, which is undemocratic, yet if we are to have a civil-service system in America it should be based upon rules of fairness and equity. A civil service which puts in office men only of one political party for life is most unfair and should not be tolerated by a liberty-loving people; but a civil-service which gives all, regardless of politics, an opportunity to enter a competitive examination, the highest applicant winning the prize, is more equitable. Yet it can not be justified unless there is a limitation placed upon the time of the service.

According to a report I received from the Civil Service Commission, the civil-service positions on June 30, 1912, were divided as follows:

Competitive classified	236,061
Noncompetitive classified	61,388
Unclassified	59,423
Panama Canal	28,191
Total	385,063

On June 30, 1912, by Executive order, President Taft placed 36,332 fourth-class postmasters under the classified civil service, covering in for life all who were then in office without requiring an examination. Soon after President Wilson was inaugurated he, by Executive order, placed all these postmasters under the competitive classified civil service. Had such order not been made the people would have had no chance to change any of the fourth-class postmasters during their lives, except by removal on charges, by death, or by resignation. By President Wilson's order all fourth-class postmasters whose salary is $180 and more are required to take a competitive civil-service examination except those who have a civil-service status by virtue of the Executive order of President Roosevelt in 1908. Under his order all fourth-class postmasters whose salaries fell below $500 a year were not required to take a competitive civil-service examination, and wherever vacancies occurred a post-office inspector was sent to the community where the office was located and he selected a man, recommended him to the Post Office Department for appointment, which was usually made. Under this system the Republican administrations have been able to fill not only all fourth-class post offices but all other civil-service positions with Republicans for life.

When this administration came into power we found about 400,000 Federal positions under the civil service, 95 per cent of which were filled by Republicans, and only 5 per cent filled by Democrats. The method by which this unfairness was carried on can not be justified, because it savored of too much politics. What is known as the "spoils system," or "To the victor belongs the spoils," is much more creditable because it is founded upon the principle of reward for political service. A system of civil service which is purely political is a sham and a disgrace. If we can not improve former methods resorted to under the guise of civil service, it would be far better to repeal the law and go back to the old system of giving the Federal positions to faithful party workers. If the civil service is unable to reform former political methods of putting in office men of the dominant party, then there is no virtue in it and its life-tenure feature adds an evil which will rise up in the future like an ungovernable child to plague us, as a menace to a republican form of government. If we keep on, it will not be long until practically all of the Federal positions will be under civil service with life tenure. There are but few left now. Men who now hold these positions claim them as their own the same as if they were chattels. Soon we will find these public servants changing from servants to masters, and we will have a job on our hands then. I feel quite sure that the time will come when

we will see the error of life tenure in these public places, although some of them do have small salaries. I favor a law limiting the number of years which can be held consecutively by anyone in the civil service. We will then not only get rid of the evil of life tenure but we will get better service.

All public servants should be required to answer to some responsible body for the manner in which they have discharged the duties of the positions which they hold. All public offices and all public positions belong to the people, and those who are placed in such places are public servants of the people, and, in my opinion, they should answer directly to the people at stated and definite periods for the discharge of the duties committed to their care in all cases where it is practicable, and, when not practicable, they should answer indirectly to the people through some one or some commission who are elected directly by the people and who have the appointing power. Men who are kept in office for life soon forget the people and become indifferent, arrogant, and dictatorial. Life tenure in office is a relic of imperial government, based upon the false theory that kings can do no wrong and their right to rule is divine. Our Federal judges furnish an example of the evil of life tenure. The conduct of some of them has been so corrupt that they have been impeached, convicted, and thrown out of office in disgrace, while the judges of the States who are elected by the people rarely go astray.

Mr. SAMUEL W. SMITH. Mr. Chairman, as the chairman of the Committee on the Post Office and Post Roads stated this afternoon, the position of the Post Office Department with reference to the railway mail pay is clearly set forth in this bill. After I addressed the committee this afternoon some one asked me to state the position of the railroads with reference to this bill. I hold in my hand a letter, of which I suppose every Member of the House received a copy, addressed to the chairman of the committee by Ralph Peters, chairman of the committee on railway mail pay, dated July 1, this year, and without objection I will ask the Clerk to read it.

The CHAIRMAN. Without objection, the letter will be read.

Mr. MOON. What is that which is going to be put in the RECORD?

Mr. LLOYD. He is going to have a letter read in his own time.

The Clerk read as follows:

COMMITTEE ON RAILWAY MAIL PAY,
New York, July 1, 1914.

Hon. JOHN A. MOON,
Chairman Committee on the Post Office and Post Roads,
House of Representatives, Washington, D. C.

MY DEAR SIR: The Committee on Railway Mail Pay, representing 264 railroads, operating 218,000 miles of line in the United States, has been urged by the presidents and other executive officers of the railroads throughout the country to appeal to you and through you to the representatives of the people in Congress assembled for fair treatment in fixing any basis of compensation for the handling of the mails.

A personal effort was made by members of this committee to secure from you a hearing on the bill recently introduced in Congress by your committee, but without success; therefore we submit this open letter.

We desire to protest against the method of paying the railroads for the valuable service rendered the Government, as contemplated in House bill No. 17042.

Our first and logical reason for making this protest to you is that this question is now pending before a joint congressional committee, which has had the whole subject under most careful consideration continuously for more than two years, and has announced that it is about ready to make its report. The introduction of bill No. 17042, in effect, forestalls the report of this joint committee and commits Congress before the results of that investigation are made known.

The joint committee of Congress is a bipartisan body, and the Post Office Department has had the fullest opportunity of presenting the views of its officials before it, many of them having appeared as witnesses. The railroad companies have been called upon at great expense to furnish complete detailed information regarding their mail service, and the evidence introduced, occupying 12 volumes, is thought to embody the most complete and exhaustive testimony that has ever been collected on the subject. The passage of House bill No. 17042 would practically ignore the action of your own joint committee.

This is the fourth bill which the Post Office Department has framed and recommended on this subject within the past two years, each differing materially from the others.

Its first notable announcement was that, upon the basis of the statistics which it had published, the railroads of the country were overpaid $9,000,000 per year for carrying the mails, a conclusion reached by excluding from the consideration of cost any return upon the capital used and employed by the companies in conducting the mail service. So glaring was this error that the department was compelled to rectify it and modify its claim of overpayment down to $221,000 in testimony before the joint congressional committee.

The proposed bill will, in our opinion, reduce the compensation of the railroads for carrying the mails several million dollars annually, while we are now underpaid at least $15,000,000 per year for the service we render.

The compensation for carrying the mails on the basis of weight and distance has shown a large growth, due to the reweighing in two sections of the country. The appropriation bill adopted in March, 1914, provides for this growth, but House bill No. 17042 makes a basis that will produce several million dollars less pay than has been provided in that appropriation bill.

There are two sections of the country where the mails have not been weighed since the parcel post was introduced, and it is inconsistent to make a new basis of pay that will not fully provide for the large growth of the mails in those sections. Furthermore, there has been a very large increase in the weights of mail in the first section that was weighed after the inauguration of the parcel post, and no allowance has been made for that service.

If the proposed new basis of pay has been figured out at rates that will produce approximately the compensation paid under the weight basis, the rates should not be adopted until the weights and compensation for same have been ascertained for the entire country by a simultaneous weighing in all sections.

When the parcel-post legislation was enacted and the railroads petitioned the department for a weighing so that they might secure full compensation for carrying this greatly added volume of traffic on their passenger trains the answer given by the department was "Wait until the congressional committee makes its report."

The railroad companies do not favor the adoption of any space basis for ascertaining what is proper compensation for carrying the mails. The mails are freight, and they are becoming more and more so as the weight of the parcel post increases and the Government enters more and more into competition with the railroads in the carriage of commercial freight.

Space in cars under complete control of officials of the Post Office Department as a basis of payment for this service is an anomaly; it will not fit your mail service, and in our opinion it will tend to the reduction of facilities and general inefficiency.

In this service the Government is a shipper, and no other shipper demands the right to fix his own rates. It uses the facilities of the companies in competing with their own service, and in view of the published intimations of greatly added revenue from the carriage of parcel post common fairness would seem to demand that the railroad companies should be permitted to share in the increased revenues that the Government collects from the people for the use of these facilities.

The wiser policy, it seems to us, will consist in modifications and improvements of the existing system, based, as that system is, upon the method of compensating railroads for carrying freight that is universally recognized as sound; such modifications to be an annual weighing of the mails, payment for the use and haulage of apartment post-office cars, relief from the messenger service, and other reforms.

We have no means of knowing what the report of the joint congressional committee will be, nor what basis of mail pay it will recommend, but we feel that we can nevertheless consistently urge that no action upon this very important subject, involving such radical departures from existing law and practice, be taken without at least having the complete testimony giving the reasons for the position taken by the railroads, as well as the conclusions of your joint committee laid before Congress.

Knowing that Congress appreciates the fact that the railroads are a vital and necessary part of the life and prosperity of the country, and therefore entitled to fair treatment and full compensation for the valuable and indispensable services they perform for the people, we, the operating men, who are responsible for the daily workings of these great arteries of traffic, respectfully ask that you consider their side of the question, as well as that of the Post Office Department, before you reach your conclusions. The people are fair, and we believe their representatives desire to be so. House bill No. 17042 is not fair.

Respectfully,

COMMITTEE ON RAILWAY MAIL PAY,
By RALPH PETERS, *Chairman.*

(Representing 264 railroads operating 218,000 miles of line in the United States.)

Mr. SAMUEL W. SMITH. Mr. Chairman, as I understand it, the letter which has just been read expressed the views of the railroads with reference to the pending legislation at the time the letter was written—July 1. I have received no information in the way of a letter or public document as to what their views are since the Committee on the Post Office and Post Roads have submitted additional amendments to the bill which will increase the pay of the railroads, as I understand, about $3,000,000, and doubtless no other Member of Congress has received any further information.

Mr. MOON. Mr. Chairman, I will say that the railroads did not ask for any hearing from the committee, as stated in that letter, until long after this bill was reported to the House. Heretofore they have had very ample hearings upon that question before the committee and also a very lengthy hearing before the joint committee of the two Houses on the subject. They have been fully heard all along, and their purpose is nothing but delay.

Of course, if this matter is postponed until there can be a report from the joint committee, there can be no legislation enacted at this session. That seems to be the only purpose. The statements contained in the letter as to the losses to the railroads are such that I am obliged to enter my protest against them as statements of fact, in the light of the knowledge that is before the committee.

Now, Mr. Chairman, I want to yield to the gentleman from Indiana [Mr. Cox] 15 minutes.

The CHAIRMAN. The gentleman from Indiana [Mr. Cox] is recognized for 15 minutes.

[Mr. COX addressed the committee. See Appendix.]

Mr. MOON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CONRY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 17042) to amend the postal and civil-service laws, and for other purposes, and had come to no resolution thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. WATKINS, indefinitely, on account of sickness in his family.

To Mr. MAHER, for 10 days, on account of sickness in his family.

SENATE BILL REFERRED.

Under clause 2, Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 4966. An act proposing an amendment to section 19 of the Federal reserve act relating to reserves, and for other purposes; to the Committee on Banking and Currency.

REPRINT OF A BILL.

Mr. MOON. Mr. Speaker, I ask unanimous consent that the bill now pending, H. R. 17042, may be printed with committee amendments.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that the bill now pending be printed with committee amendments.

Mr. MANN. The gentleman means certain amendments which the committee have agreed to present.

Mr. MOON. Yes; certain amendments that are to be proposed by the committee.

Mr. MANN. They will be printed in italics, so that we will know what is new.

Mr. MOON. Yes.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that the bill H. R. 17042 be printed with the proposed amendments, and that they be printed in italics. Is there objection?

There was no objection.

EXTENSION OF REMARKS.

Mr. MOON. Mr. Speaker, I ask unanimous consent that all gentlemen who discuss this bill may have permission to extend their remarks in the RECORD.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that all Members who speak on the bill have leave to extend their remarks in the RECORD. Is there objection?

There was no objection.

Mr. FOWLER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on naval affairs.

The SPEAKER. The gentleman from Illinois asks unanimous consent to extend his remarks in the RECORD on naval affairs. Is there objection?

There was no objection.

DEATH OF MRS. WOODROW WILSON.

Mr. UNDERWOOD. Mr. Speaker, it is my sad duty to announce to the House the death of Mrs. Wilson, the wife of the President of the United States. I think the House wishes to show a proper mark of respect at this time, and I therefore move the adoption of the resolution which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 586.

Resolved, That the House has heard with profound sorrow of the death of Mrs. Woodrow Wilson, the wife of the President of the United States.

Resolved further, That a committee of the Speaker and one additional Member for each State in the Union be appointed to attend the funeral.

Resolved, That as a mark of respect the House do now adjourn.

The resolution was agreed to; accordingly (at 5 o'clock and 33 minutes p. m.) the House adjourned until to-morrow, Friday, August 7, 1914, at 12 o'clock noon.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, a letter from the Acting Secretary of Commerce, requesting that an item of legislation be inserted in any appropriation bill reported from the Committee on Appropriations during the present session of Congress, authorizing the employment of personal services in the District of Columbia and in the field in the service of the Bureau of Standards (H. Doc. No. 1139), was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII.

Mr. WEBB, from the Committee on the Judiciary, to which was referred the bill (S. 3550) ratifying the establishment of the boundary line between the States of Connecticut and Massachusetts, reported the same with amendment, accompanied by a report (No. 1077), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. SIMS: A bill (H. R. 18253) increasing the pay of letter carriers in the Rural Delivery Service, and for other purposes; to the Committee on the Post Office and Post Roads.

By Mr. KENNEDY of Connecticut: A bill (H. R. 18254) authorizing the Secretary of War to donate two condemned cannon to the town of Beacon Falls, Conn.; to the Committee on Military Affairs.

By Mr. HENRY: A bill (H. R. 18255) to provide for temporary loans of Federal reserve notes to producers of agricultural products; to the Committee on Banking and Currency.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 18256) granting a pension to Euphrates Huff; to the Committee on Pensions.

Also, a bill (H. R. 18257) granting an increase of pension to John S. Mays; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18258) granting an increase of pension to William H. Myers; to the Committee on Invalid Pensions.

By Mr. BROWN of West Virginia: A bill (H. R. 18259) for the relief of A. J. Collett; to the Committee on War Claims.

Also, a bill (H. R. 18260) for the relief of L. D. Corrick; to the Committee on War Claims.

By Mr. CARLIN: A bill (H. R. 18261) for the relief of the legal representatives of the estate of Charles E. Mix; to the Committee on War Claims.

By Mr. FRENCH: A bill (H. R. 18262) for the relief of E. de Atley & Co.; to the Committee on War Claims.

By Mr. GOOD: A bill (H. R. 18263) granting an increase of pension to John G. Hibbs; to the Committee on Invalid Pensions.

By Mr. HUGHES of West Virginia: A bill (H. R. 18264) for the relief of heirs of J. A. Reece; to the Committee on War Claims.

By Mr. HULINGS: A bill (H. R. 18265) granting an increase of pension to Edward Fitzpatrick; to the Committee on Invalid Pensions.

By Mr. KENNEDY of Connecticut: A bill (H. R. 18266) granting an increase of pension to Theresa J. O'Donnell; to the Committee on Invalid Pensions.

By Mr. LEE of Georgia: A bill (H. R. 18267) for the relief of the trustees of Cassville Female College, Cassville, Ga.; to the Committee on War Claims.

Also, a bill (H. R. 18268) for the relief of the trustees of Pea Vine Church, Walker County, Ga.; to the Committee on War Claims.

Also, a bill (H. R. 18269) for the relief of New Hope Baptist Church, of Bartow County, Ga.; to the Committee on War Claims.

Also, a bill (H. R. 18270) for the relief of the trustees of Pea Vine Academy, Walker County, Ga.; to the Committee on War Claims.

By Mr. McGILLICUDDY: A bill (H. R. 18271) granting an increase of pension to Mary E. Beal; to the Committee on Invalid Pensions.

By Mr. MOON: A bill (H. R. 18272) for the relief of the trustees of the Boiling Fork Baptist Church, of Cowan, Tenn.; to the Committee on War Claims.

By Mr. PATTON of Pennsylvania: A bill (H. R. 18273) granting an increase of pension to Samuel P. Davison; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 18274) granting an increase of pension to John Bowles; to the Committee on Invalid Pensions.

Also, a bill (H. R. 18275) granting a pension to Ella Brannen; to the Committee on Invalid Pensions.

By Mr. ROUSE: A bill (H. R. 18276) granting an increase of pension to Livinia E. Kirkpatrick; to the Committee on Invalid Pensions.

By Mr. SMITH of Idaho: A bill (H. R. 18277) granting an increase of pension to Lydia A. Lint; to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 18278) for the relief of Squire Simes; to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Petitions of 154 citizens of Cincinnati, Ohio, protesting against national prohibition; to the Committee on Rules.

By Mr. GREENE of Vermont: Petition of Edward M. Day and other citizens of the first congressional district of Vermont, favoring national prohibition; to the Committee on Rules.

By Mr. PAIGE of Massachusetts: Petition of 18 citizens of Clinton and 6 citizens of Fitchburg, Mass., favoring national prohibition; to the Committee on Rules.

Also, evidence in support of House bill 18215, a bill for the relief of Susan A. Thompson; to the Committee on Invalid Pensions.

By Mr. SELDOMRIDGE: Petition of citizens of Laporte and Bellvue, Colo., favoring national prohibition; to the Committee on Rules.

SENATE.

FRIDAY, *August 7, 1914.*

The Senate met at 11 o'clock a. m.

Rev. J. L. Kibler, D. D., of the city of Washington, offered the following prayer:

Our heavenly Father, we stand speechless to-day under the shadow of a national sorrow. In the departure of the companion of our Chief Executive we are led by a way that we knew not and suffer a great grief we looked not for. But we can not doubt the wisdom of Thy mysterious providence. Thy purposes are hid from us, but Thou art the same merciful Lord who doth not afflict willingly nor grieve the children of men. Give us the spirit of humble submission to Thy divine ordering, and may the consolations of Thy grace be given to Thy servants in the grief-stricken home. May they be strengthened by that blessed hope that cometh from above and by the devotion and sympathy in the hearts of all our people. We ask it for the Redeemer's sake. Amen.

The Journal of yesterday's proceedings was read and approved.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hollis	O'Gorman	Smoot
Brady	Johnson	Overman	Stone
Bristow	Jones	Page	Swanson
Bryan	Kenyon	Perkins	Thomas
Burton	Kern	Pittman	Thompson
Camden	Lane	Pomerene	Thornton
Catron	Lea, Tenn.	Reed	Tillman
Chamberlain	Lee, Md.	Saulsbury	Vardaman
Clark, Wyo.	McCumber	Shafroth	Walsh
Culberson	Martin, Va.	Sheppard	Weeks
Cummins	Martine, N. J.	Shively	West
Fall	Myers	Simmons	White
Gallinger	Nelson	Smith, Ga.	Williams

Mr. CLARK of Wyoming. I desire to announce the unavoidable absence of my colleague [Mr. WARREN], and to state that he is paired with the senior Senator from Florida [Mr. FLETCHER]. I wish this announcement to stand for the day.

Mr. GALLINGER. I was requested to announce that the Senator from West Virginia [Mr. GOFF] is necessarily absent, and that he is paired with the Senator from South Carolina [Mr. TILLMAN]. I wish also to announce that the junior Senator from Maine [Mr. BURLEIGH] is absent on account of a death in his family, and that he is paired with the junior Senator from New Hampshire [Mr. HOLLIS].

Mr. WHITE. I wish to announce the absence of my colleague [Mr. BANKHEAD], and to state that he is necessarily absent from the Senate and is paired. This announcement may stand for the day.

Mr. PAGE. I desire to announce the unavoidable absence of my colleague [Mr. DILLINGHAM], and to state that he is paired with the senior Senator from Maryland [Mr. SMITH].

Mr. JONES. I desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent, and that he is paired with the junior Senator from Arkansas [Mr. ROBINSON]. I will let this announcement stand for the day.

I also desire to announce that the senior Senator from Wisconsin [Mr. LA FOLLETTE] is necessarily absent on account of illness.

Mr. MARTINE of New Jersey. I was requested to announce the absence, on official business, of the Senator from West Virginia [Mr. CHILTON], and also to state that he is paired with the Senator from New Mexico [Mr. FALL]. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Fifty-two Senators have answered to the roll call. There is a quorum present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 4966) proposing an amendment to section 19 of the Federal reserve act relating to reserves, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. ADAMSON, Mr. SIMS, Mr. COVINGTON, Mr. STEVENS of Minnesota, and Mr. ESCH managers at the conference on the part of the House.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

S. 4969. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 5278. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 5501. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; and

S. 5899. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

PERSONAL STATEMENT.

Mr. WILLIAMS. Mr. President, I rise to a statement of personal privilege.

There never is any excuse for a grown man when he loses his temper, and nothing can be said in justification of it; but sometimes something may be said in extenuation. I shall not even attempt the latter task.

Two or three days ago I was much angered by this outbreak of senseless war, setting all Europe aflame, and feeling mad all over, down to the very bottom of my shoes, and somewhat sick and irritable, too, I lost my temper; and about the only excuse for it is voluntarily to mention the fact.

What I did I intended to do deliberately and I intend to persist in it, because of the variance of opinion between a majority of the committee and myself as to the immediacy of the emergency that is resting upon us. That variance is so great that I can not serve upon the committee in justice to myself. But there was no sort of excuse at all for my going any further than merely asking to be relieved from duty on the committee. What I did seems to me justified, but my manner of doing it was not.

I realize that I ought not to have used some rather strong adjectives which I did use. I was very much pleased to pick up the RECORD the next day, which was brought to me while I was in bed sick, and to see the very kind words that were uttered concerning me by the senior Senator from Missouri [Mr. STONE]. I regret as much as he does to part service and company with the members of a committee upon which I have tried to do good work, and upon which I have seen a great many others do good work. But it did not seem to me that it was necessary to take seven days or to refer to a subcommittee the proposition to express the judgment of the Senate that we sympathized with the President in any effort he might make for universal peace. I felt that that ought not to have required seven minutes. I felt then and I feel now that of itself forms a breach of opinion between me and the majority of the committee that is simply unbridgeable. But I want to say there was no excuse for one to lose his temper. When one loses his temper one loses his head. The chief person to regret it is myself. That goes without saying. It is the first time in a long

period of public service that I ever lost my temper in public. I hope it will be the last time.

PETITIONS AND MEMORIALS.

Mr. O'GORMAN. I send to the desk two telegrams, which I ask to have read.

There being no objection, the telegrams were read, as follows:

NEW YORK, N. Y., *July 31, 1914.*

Hon. J. A. O'GORMAN,
United States Senate, Washington, D. C.:

Believe bill introduced to-day by Chairman ALEXANDER to remove five-year limitation in Panama act is simplest, most practical method to meet grave shipping emergency. It is free from neutrality complications or subsidy objections and deserves nonpartisan support.

AMERICAN EXPORTER.

NEW ORLEANS, LA., *August 6, 1914.*

Hon. J. R. THORNTON,
United States Senate, Washington, D. C.:

New Orleans Board of Trade is on record in favor of the enactment of such legislation as will permit foreign vessels owned by American citizens and American corporations to be transferred to the American flag. We now reiterate our indorsement of this policy, with the view of restoring our American merchant marine, and respectfully urge that no limitations of a restricted nature be made that would prevent the various steamships owned by American citizens and American corporations from availing themselves of the privilege to be granted under this law. We feel that the time is now opportune to restore the American merchant marine to the seas, and hope that Congress in its wisdom will pass proper legislation without delay.

NEW ORLEANS BOARD OF TRADE,
JEFF D. HARDIN, *President.*

Mr. MYERS presented a petition of sundry citizens of Kalispell, Mont., praying for the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. PERKINS presented a telegram in the nature of a petition from Local Branch, Shipowners' Association of the Pacific Coast, of San Francisco, Cal., withdrawing opposition to legislation permitting foreign-built ships to engage in coastwise trade, which was ordered to lie on the table.

Mr. BRISTOW presented petitions of sundry citizens of Osborne and Selden, in the State of Kansas, praying for national prohibition, which were referred to the Committee on the Judiciary.

EXTENSION OF HOMESTEAD ACT.

Mr. THOMPSON. From the Committee on Public Lands I report back favorably without amendment the bill (S. 5734) to extend the provisions of an act entitled "An act to provide for an enlarged homestead," approved February 19, 1909, to the State of Kansas, and I submit a report (No. 731) thereon. The bill simply proposes to extend the enlarged homestead law to the State of Kansas, and I ask unanimous consent for its present consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate as in Committee of the Whole proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the provisions of the act entitled "An act to provide for an enlarged homestead," approved February 19, 1909 (35 Stat. L., p. 639), as modified and amended, including section 6 thereof, are hereby extended and made applicable to the State of Kansas.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

KATHARINE K. ESTES.

Mr. WILLIAMS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 433, submitted by Mr. JOHNSON on the 3d instant, reported it without amendment, and it was considered by unanimous consent, and agreed to as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay to Katharine K. Estes, widow of J. Stanley Estes, late clerk to the Committee on National Banks, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GALLINGER:

A bill (S. 6223) granting an increase of pension to John S. Colbath (with accompanying papers); to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 6224) authorizing the Secretary of War to donate to the Herington Post, No. 424, Grand Army of the Republic, Herington, Kans., one cannon or fieldpiece with carriage; to the Committee on Military Affairs.

A bill (S. 6225) granting a pension to Henry Taylor (with accompanying papers); and

A bill (S. 6226) granting an increase of pension to William Hannoch (with accompanying papers); to the Committee on Pensions.

By Mr. MARTIN of Virginia:

A bill (S. 6227) granting the consent of Congress to the Norfolk-Berkley Bridge Corporation, of Virginia, to construct a bridge across the Eastern Branch of the Elizabeth River in Virginia; to the Committee on Commerce.

By Mr. MARTINE of New Jersey:

A bill (S. 6228) granting permission to Lieut. Col. John P. Finley to accept and wear a decoration presented by the Sultan of Turkey; to the Committee on Foreign Relations.

By Mr. McLEAN:

A bill (S. 6229) granting an increase of pension to Sarah E. Marsh (with accompanying papers); and

A bill (S. 6230) granting a pension to Joseph Povencher, jr. (with accompanying papers); to the Committee on Pensions.

REGISTRY OF FOREIGN-BUILT VESSELS.

Mr. NEWLANDS submitted an amendment intended to be proposed by him to the bill (H. R. 18202) to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes, which was ordered to lie on the table and be printed.

WITHDRAWAL OF PAPERS—DAVID ROACH.

On motion of Mr. HOLLIS, it was

Ordered, That the papers accompanying the bill (S. 5532, 63d Cong.) granting a pension to David Roach be withdrawn from the files of the Senate, no adverse report having been made thereon.

RIVER AND HARBOR IMPROVEMENTS.

Mr. BURTON submitted the following resolution (S. Res. 438), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested and directed to transmit to the Senate the following information:

1. The aggregate amount required for the proper maintenance of existing river and harbor projects, after making allowance for balances on hand, for the fiscal year ending June 30, 1915.

2. The amount required for the operation of Government dredges, plants, and other equipment for further improvements on river and harbor work heretofore adopted by Congress, after making allowance for balances on hand, for the fiscal year ending June 30, 1915.

RIVER AND HARBOR APPROPRIATIONS.

Mr. CHAMBERLAIN. Mr. President, I desire to have printed in the RECORD a short editorial from the Oregon Sunday Journal of August 2, 1914, having reference to the importance of the passage of the river and harbor bill, both as an economic proposition involving the transportation question and a matter of economy because of the necessity for the continuation of the projects now under way, but which will otherwise necessarily be discontinued by reason of a lack of funds.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the editorial will be printed in the RECORD.

The editorial is as follows:

UNDERLINED WITH GOLD.

The Mississippi system of waterways is the Nation's greatest natural asset. The Spaniards dreamed no idle dream when they pictured the great trunk river as underlined with gold. The Mississippi system affords a source of wealth, boundless in extent and immeasurable to the human understanding. John Law beheld it and went mad over the idea of its possibilities. But, while Congress talks and certain Senators sputter over the rivers and harbors bill, all Government work on the world's greatest natural waterway has closed down.

Second to the Mississippi system is the Columbia. In its possibilities for saving transportation money to the people it, too, is underlined with gold.

But Government work for increasing its navigability is shutting down, while Senators at Washington are knifing the rivers and harbors bill. The operations at Celilo closed down Friday and will remain stagnated until another rivers and harbors bill is passed, a process that will tie up millions already spent by the Government on the project for a whole year if no rivers and harbors measure passes at this session.

In two weeks the work at the mouth of the river will also cease. The $500,000 contributed by the people of Portland and Astoria to keep the work going until Congress could provide further funds will then be exhausted and the work remain at a standstill until Congress acts, whether it be at the present session or a year hence.

And it is so all over the country. Great Government operations are to remain idle with Congress splitting hairs over nothings and straining at gnats while swallowing camels.

The Spaniards were right. Every waterway in the United States in its possibilities is literally underlined with gold. The shapes of mountain lakes are no more surely fixed by their rocky shores than the possibilities of profitable production are determined by facilities for transportation. Transportation affects everything every human being buys or sells, everything he eats or wears; in fact, everything he uses in any way, except air, sunshine, and generally water.

Thus the supreme importance of transportation to mankind is shown by the relative sums paid out by the people of the United States in a single year for railroad freights, as compared with the sum paid out in revenues to the Federal Government. For the fiscal year ended June 30, 1907, the average amount per capita collected by the Government in duties on imported merchandise was $3.84. The average per capita during the same year collected by the railroads of the United States from the people was $30.86. That is to say, the trans-

portation taxes collected by the railroads totaled more than eight times as much as the duties collected on imports by the National Government. So while we talk and debate about protective tariffs and revenue tariffs without cessation, it is the transportation tariff that is of far greater importance to the people, because it is more than eight times more vital to them in its influence on their welfare.

But there are facts far more impressive. During the 15 years ending in 1908 the total receipts of the National Government from all sources, including postal revenues, but not proceeds of bonds, were $8,908,359,045. For the same period the sum collected from the people by the railroads was $25,619,370,500. That is to say, the transportation tax collected from the people of the United States for the period by the railways alone exceeded the total revenues of the National Government by $16,711,000,000.

In fact, the total receipts of the railways of the United States for a single year lack only $5,000,000 of equaling the combined total revenues of eight of the principal nations of Europe. What issue in the United States approximates the transportation issue? How indefensible is the action of the faction in the Senate which is haggling over nothings and using all kinds of subterfuge and Indian strategy to defeat the river and harbor bill?

Again, how accurate were the Spaniards when they pictured the Mississippi as underlined with gold. In 1907 the average rate received by railroads of the United States for transporting products to market was 7.82 mills per ton-mile. The average charge on products carried by water in and out of Lake Superior in that year was eight-tenths of 1 mill per ton-mile. That is to say, the railroad charge per ton-mile was more than nine times as much as was the water rate in and out of Lake Superior.

From these facts can not the Senators of the United States gain a conception of the tremendous importance of water transportation to the people of this country? Can they not see that when they are fighting a river and harbor bill on any pretense they are literally fighting every producer and every consumer in the United States?

Is it for such a purpose that Senators are elected and paid salaries and the great and vital interests of all the people placed in their keeping?

Do they fight the river and harbor bill as a service to the railroads of the United States?

Mr. RANSDELL. Mr. President, I send to the desk and ask to have read resolutions adopted by the Caldwell Parish Fair Association in regard to the importance of the speedy passage of the river and harbor bill, showing that its failure would work very great damage on all that portion of Louisiana.

The VICE PRESIDENT. The Secretary will read the resolution.

The Secretary read as follows:

COLUMBIA, LA., *August 3, 1914.*

Be it known and remembered that at a meeting of the Caldwell Fair Association held at Columbia, La., on the 3d day of August, 1914, the following resolutions were adopted:

"Whereas the river and harbor bill now pending in the United States Congress is in danger of failure to pass at this session of Congress; and

"Whereas the passage of said bill is of paramount importance to the commercial interest and agricultural welfare of the States of Arkansas, Louisiana, and Mississippi; and

"Whereas the improvement of the Ouachita River by the construction of locks and dams is a great necessity and should be completed at the earliest possible date, in the interest of the people of north Louisiana in general; and

"Whereas the failure of the river and harbor bill to pass at this session of the United States Congress will delay the unfinished work on the locks and dams for a year or more, and in the meantime the work already done will be almost a total loss to the Government, since the uncompleted structure must inevitably be destroyed by the recurring high stage of water during the winter and spring, thus entailing a loss of many thousands of dollars to the Government: Therefore be it

"*Resolved by the Caldwell Fair Association*, That the prosperity of the people of north Louisiana depends in a great measure upon the construction of an enduring line of levees along the line of the Mississippi River, as well as the construction of a system of locks and dams in the Ouachita River; be it further

"*Resolved*, That a copy of these resolutions be forwarded to Senators JOSEPH E. RANSDELL and J. R. THORNTON."

C. P. CARROLL,
Acting President Caldwell Fair Association.
S. G. JARRELL,
Secretary Caldwell Fair Association.

Mr. GRONNA. I ask unanimous consent to have the following telegram read.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Secretary will read as requested.

The Secretary read as follows:

BISMARCK, N. DAK., *July 28, 1914.*

Hon. A. J. GRONNA,
United States Senate, Washington, D. C.:

The producers' commercial interests and our people generally throughout the upper Missouri Valley view with grave concern and feeling of resentment the possible * * * defeat of the river and harbor bill. * * * It should be borne in mind that the commerce of the Upper Missouri River has shown steady increase in volume lately and this year will greatly exceed any of the past, with a probability of continued increase, in view of which it would be peculiarly unfortunate and disastrous if there should be no appropriation made this year to continue winter snagging, removal of rocks, and revetment of river banks at several places in order to hold the channel where commerce exists. * * * With changed character of hull construction and propelling machinery on boats, with gasoline, crude oil, and electric motive power applied to river, lake, and waterway commerce, we hope no one will wish to hamper or destroy western waterways or remove their influence on railroad rates or foreign competitors. We believe, under existing and contemplated national legislation, the railroads and waterways may be utilized by joint connection through Federal regulation, and no doubt on a mileage basis. For these reasons, may we hope for your hearty cooperation in legislation that will make ample provision and appropriation by the present Congress for river and harbor improvements generally throughout the United States?

BISMARCK COMMERCIAL CLUB,
By F. L. CONKLIN, *President.*

[The asterisks indicate clauses read and subsequently ordered to be stricken out.]

Mr. BURTON. Mr. President, I note there are references to a couple of Senators there. It probably requires no imagination to reach the conclusion that I am included. I have no sensitiveness whatever in regard to it; I am perfectly willing to have the telegram inserted in the RECORD; but I think the proper place to discuss the allegations made in the telegram and the alleged statement of fact is here on the floor of the Senate. Some portions of it will not by any means bear analysis and they are contrary to fact.

Mr. GRONNA. This telegram was received by me, and I am not responsible for it. I was going to suggest that that part of it referring to any Senator be stricken out of the telegram. I ask that that may be done by unanimous consent.

The VICE PRESIDENT. Unless it is stricken out, the Chair will exercise the present power of the Chair to keep it from the RECORD.

Mr. GRONNA. I ask unanimous consent that it be stricken out.

Mr. KENYON. I should like to inquire who sent the telegram.

Mr. GRONNA. The Bismarck Commercial Club.

Mr. KENYON. As I caught the reading of the telegram, there is a very serious reflection in it upon some Senators.

The VICE PRESIDENT. There undoubtedly is.

Mr. KENYON. I do not care, myself, about it. There is no truth in it.

Mr. GRONNA. I ask that any reference to a Senator be stricken from the telegram.

The VICE PRESIDENT. The objectionable matter will be stricken out, and the telegram may go in the RECORD in that form.

CURRENCY ASSOCIATIONS AND CROP MOVEMENT.

Mr. SHEPPARD. Mr. President, I rise to observe that since the development of war conditions in Europe the price of cotton in the South has declined something like ten or twelve dollars a bale. This threatens a loss to that section of probably over $100,000,000 unless something can be done to aid our people.

I send to the desk a telegram, which I ask to have read, as it bears on the situation.

The VICE PRESIDENT. The Secretary will read the telegram.

The Secretary read as follows:

CORSICANA, TEX., *August 6, 1914.*

Senator MORRIS SHEPPARD,
Washington, D. C.:

We appreciate value of amendment providing large volume of emergency currency, but plan will fail of its purpose unless concert of action on part of all banks in territories having to move crops is had, and promptly. Banks seem slow to move. To get concert of action and prompt and effectual results, suggest that Secretary of Treasury and Comptroller of Currency notify all eligible banks that they are expected to join nearest currency association at once. They should also wire banks of all reserve cities urging that they organize associations cooperating with other cities so organizing, to end that no conflicts result. Think Comptroller of Currency should take up matter with the several State bank commissioners, urging all State banks eligible to join currency associations. If plan is carried out thoroughly and promptly, millions of dollars may be saved to the South in maintaining price of cotton.

J. A. JOHNSON,
President Corsicana National Bank.
G. J. HEFLIN,
President First National Bank, Frost.

Mr. SHEPPARD. Mr. President, I wish to add that a few days ago the southern Senators and Representatives held a meeting to discuss the cotton situation. As a result of that meeting a committee was appointed, of which the senior Senator from Georgia [Mr. SMITH] was made chairman. That committee is now giving thorough study to the situation, and may make a report within a day or two. The Texas delegation in the House of Representatives is also meeting to-day, endeavoring to find some solution of this problem. I should be glad if Senators on both sides of the Chamber would keep this matter in mind.

SILVER MINING INDUSTRY.

Mr. THOMAS. Mr. President, in common with other Senators and Representatives from the mining States of the Union, I have within the past 24 hours received a large number of telegrams, of which two which I will now read are fairly representative.

The first is from the governor of Colorado, who says:

DENVER, COLO., *August 6, 1914.*

CHARLES S. THOMAS,
United States Senate, Washington, D. C.:

I trust our delegates in Congress will urge Treasury Department to continue purchase of silver at the Denver Mint and maintain price at 50 or better. Such action of great importance to this State. Will you kindly take up matter with other Members?

E. M. AMMONS.

The next is from Mr. A. E. Reynolds, a lifelong mine owner and operator, a very conspicuous and honored resident of my State, a lifelong member of the Republican Party, and, above all other things, a citizen and a patriot. He says:

DENVER, COLO., *August 6, 1914.*

Hon. C. S. THOMAS,
United States Senate, Washington, D. C.:

You have been advised by other telegrams of the proposed action of the smelting companies in regard to the purchase of silver whereby they will advance 25 cents per ounce on receipt of the ores, the remainder to be paid after a market price is established. This action, in my judgment, will close both mine and smelters in Colorado, and probably in other mining States. You will excuse me for suggesting that this calamity could be avoided, provided the discretionary power of the Secretary of the Treasury whereby he purchases silver for subsidiary coinage is made mandatory to the extent of requiring the purchase for a stated period of all the silver produced from American mines to the extent of not to exceed the past year's production, this purchase to be converted into subsidiary coin for the uses of the country. In my judgment, the entire amount indicated here would be absorbed in the small coinage, to the great benefit of the country and to the detriment of nobody. If the mining industry is to be saved in this emergency, immediate action of some kind is required. The price should be established at not less than the average for the past 12 months, instead of using the emergency to squeeze down the values.

A. E. REYNOLDS.

Mr. President, the silver-mining industry of the country has undergone much transformation during the last 15 or 20 years consequent upon the exhaustion of the old Bonanza deposits. Since the days when the question of bimetallism was an acute one, and absorbed the undivided attention of the entire country, a number of the great and then seemingly inexhaustible deposits of silver—seemingly inexhaustible from the eastern standpoint—was in process of mining. Since that time their contents have been extracted, and the silver produced in the United States, generally speaking, is a by-product. The mines are now exploited for the baser metals principally, their gold and silver contents being incidental to the production of zinc, of copper, and of lead. Hence any further reduction in the market price of the by-products, which in many enterprises constitute the profit of the enterprise, necessarily causes a general feeling of fear and apprehension lest it result in the suspension of all operations.

I do not at present intend to suggest any legislation upon this subject, but merely take advantage of the occasion to refer to some phases of the subject which, I trust, may be reassuring to those who are at present so much and so justly concerned. Their concern, Mr. President, is largely due to the fact that the American Smelting & Refining Co., which is the principal, if not the only, customer for our silver-bearing ore which comprises our silver product outside of that which is purchased by the mints in the form of bullion, seem to have determined to advance but 25 cents per ounce upon the silver content of all ores which they purchase, instead of the market value in cash, less the customary discount, as has heretofore been the case, and to continue this policy for the present and until foreign conditions change for the better.

I am quite satisfied that the Government will for this industry, as for all others, at this crisis in our national affairs, use wisely, effectively, and legitimately every lawful authority which it can exercise, both for the individual good and for the national welfare, and that it will not hesitate, both by cooperation with the smelting company and independently of that concern, to see to it that this industry is not even temporarily suspended and suffer as little injury as possible.

Mr. President, I have been much gratified during the last few days with the significant fact that while all forms of credit currency have disappeared from immediate circulation in the great zone of European disturbance, silver has come to the front, as it always does in great emergencies, and taken its place side by side with gold for the transaction of the ordinary affairs of commerce and of industry, notwithstanding the fact that it has been degraded and demonetized by nearly all the nations of the earth. To my mind, that is a most significant circumstance; indeed, it demonstrates the contention of bimetallists that these two metals, found always together in nature, were designed by an All-Wise Providence as the common basis of the exchanges of the world; that while human legislation may dislocate, it can not permanently destroy the monetary efficiency of either; and that when times of great disturbance occur, when all sorts of movable and liquid property are seeking usual and extraordinary hiding places, when nothing will be accepted or given in exchange except that which is of indestructible value, these two metals do the common monetary work of the world. They are mutual aids. They never should be divided. Neither should be exalted and neither degraded. Not alone of men and women but of the monetary metals may it be truly said that what God hath joined together let no man put asunder.

I think, Mr. President, that the cause and the price of silver has at present reached its extreme ebb tide. Its demonetization was concocted and its doom determined amid the echoes of that great contest between France and Germany. It was overthrown in the dust and thunder of that terrible strife, and monetary degradation declared that the burden upon conquered France might be doubled and its defeat made the more disastrous.

I predict, Mr. President, that out of this kindred tragedy, more extended and more extensive, involving every civilized country except the United States, Japan, and the South American Republics, this metal will be again exalted. That it will be redeemed, rejuvenated, and remonetized by the exigencies of the hour, by the logic of this awful conflict, and by the supreme requirements of an exhausted and bleeding civilization.

Hence, although the day may now be dark, although the immediate prospect may be so gloomy as to justify prevailing apprehensions of disaster, it is but that darkest hour before the dawn of silver's restoration to the mints of the world—that in the near future the now despised metal will command not only the market price of the past few years but continue to rise as individual and national demands shall increase until it reaches and maintains its ancient ratio; that it will ultimate in giving back to industry, to commerce, and to manufacture that universal prosperity which it once enjoyed and breathe new life into the silver-mining industry everywhere; that by the common voice of mankind, enlightened by sacrifice and chastened by disaster, it will be restored to the high position and clothed again with its ancient prerogatives, of which it was cruelly deprived by unequal, unjust, and unfortunate legislation.

Mr. PITTMAN. Mr. President, I have a telegram from the president of the Mine Operators' Association, of Nevada, which I desire to have read into the RECORD. In presenting it, I desire to say that it bears largely on the subject just discussed by the Senator from Colorado [Mr. THOMAS].

It seems that the closing of the exchanges of the country has destroyed any public market for silver, and that the opportunity is being taken advantage of by the smelting trust. I realize that any effort on behalf of the silver metal will not meet with any great response in Congress, but I do trust that Senators will investigate the subject, as it not only affects the silver production of the United States but affects directly the gold production of the United States. I believe there is no question that the gold production of the United States is very material to our prosperity, particularly at this juncture, when there is such a demand for gold all over the world.

The reason why it affects gold is this: Nearly every silver mine in the United States is also a gold mine. If the predominating metal is silver, it is known as a silver mine. There are a great many of the so-called silver mines in the United States where the combined production of gold and silver is just sufficient in value to pay for the operation of such mines. Half of the value may be gold and half of the value silver, but if the silver value is stricken out, then those mines must close.

That is the condition now existing throughout the mining section of the United States. Therefore the country is faced with the closing of these mines and with the contraction of both the gold and silver output, and to a great extent a panicky condition caused by the throwing out of work of a great number of laborers.

For this reason I want this telegram read, and I want Senators in this body who have the time to give it their consideration, because I am going to ask the cooperation of those who are interested in the matter in the framing of a bill that will, to some extent, remedy these conditions.

The VICE PRESIDENT. The Secretary will read, if there is no objection.

There being no objection, the Secretary read as follows:

TONOPAH, NEV., *August 6, 1914.*

Hon. KEY PITTMAN,
Senate Office Building, Washington, D. C.:

On account of the silver exchange being closed, and no prospects of the same being opened in the immediate future, the silver producers of the State of Nevada are unable to find a market for their silver. Most of the silver mines throughout the State will have to close down unless

money can be secured from the sale of their product with which to continue operations. The Nevada Mine Operators' Association has to-day requested me to wire you to use your influence to have Congress pass an act authorizing the Secretary of the Treasury to purchase 25,000,000 ounces of silver at the last market quotation. By doing so the various mines throughout this State, as well as other States, will be able to market their silver and thereby get money with which to continue operations. The situation is certainly very critical for the silver mines throughout the country, and the relief suggested above would be of inestimable benefit to all the operators, as well as the miners working in the silver mines. Should no relief come very soon a great many thousands of men working in the silver mines of the country will be out of employment. Kindly furnish copies of this telegram to Senator NEWLANDS and Congressman ROBERTS; also others who may be interested.

JOHN G. KIRCHEN, *President.*

Mr. WALSH. Mr. President, apropos of the remarks made by the Senator from Colorado and the Senator from Nevada, I desire to apprise the Senate that the great copper smelter in Great Falls, in my State, has been obliged to shut down on account of the practical destruction of the European market for copper, and a large number of the producing mines in the vicinity of Butte, producing copper as the principal product and gold and silver as by-products, have been closed down. Others are likely to follow. I observe by the press dispatches that similar action is being taken in connection with the copper-producing mines of the State of Arizona. The consequence of this is that there will be a greater diminution in the production of both gold and silver, the production of gold in recent years falling off with such rapidity as to give just cause for alarm. This is one of the contingencies arising from the unfortunate hostilities in Europe that will demand, at a very early day, some legislation from Congress.

Mr. GALLINGER. Mr. President, it seems from what we have heard that the silver industry, the copper industry, and the cotton industry are all in trouble. I wish to say that the manufacturing industry of New England is also in trouble. Our export trade, of course, will be very seriously hurt by the withdrawal of ships from the ocean traffic. My impression is that we will have to work out the problem as best we can until the war comes to a conclusion.

CONVEYANCES IN NEVADA BY CENTRAL PACIFIC RAILROAD.

Mr. WALSH. Mr. President, at the night session of the Senate held on the 9th day of July Senate bill 5042 was passed. The bill had been reported by me from the Judiciary Committee. Unfortunately, I was not present at the session, neither was either of the Senators from the State of Nevada, who were especially interested in the bill; and as it was passed it does not conform to the desires of the friends of the measure. I gave notice on the 13th of July, asking that the bill be recalled from the House, and stating that I would move its reconsideration.

The VICE PRESIDENT. The Chair lays before the Senate the bill (S. 5042) legalizing certain conveyances heretofore made by the Central Pacific Railroad Co. and others within the State of Nevada, returned from the House to the Senate in compliance with its request.

Mr. WALSH. I move to reconsider the vote by which the bill was ordered to a third reading and passed.

Mr. SMOOT. I did not hear the request of the Senator. I suppose it was simply for unanimous consent for a reconsideration of the vote for the purpose of having the bill referred to a committee.

Mr. WALSH. No; for the purpose of having the bill acted upon. It has been referred, reported back, and passed.

Mr. SIMMONS. I desire to inquire of the Senator whether the bill will lead to any discussion?

Mr. WALSH. I think not.

The VICE PRESIDENT. The Senator from Montana moves to reconsider the vote whereby Senate bill 5042 was passed.

The motion to reconsider was agreed to.

Mr. WALSH. Mr. President, I ask unanimous consent that the bill may be taken up for consideration.

The VICE PRESIDENT. Is there any objection to the present consideration of the bill?

Mr. JONES. What is the bill?

The VICE PRESIDENT. The Secretary will read the title of the bill.

The SECRETARY. A bill (S. 5042) legalizing certain conveyances heretofore made by the Central Pacific Railroad Co. and others within the State of Nevada.

Mr. JONES. Let the bill be read.

Mr. NEWLANDS. Mr. President, the bill passed the Senate at the night session held not long ago, and has been recalled simply for the purpose of making some changes.

There being no objection, the Senate proceeded to consider the bill.

Mr. WALSH. I move that the Senate disagree to the amendment recommended by the committee appearing in lines 8 to 13, inclusive, on page 3.

The VICE PRESIDENT. The question is, Will the Senate reconsider the vote whereby the amendment was agreed to?

The motion to reconsider was agreed to.

The VICE PRESIDENT. The question now is on agreeing to the amendment.

The amendment was rejected.

Mr. WALSH. On behalf of the committee, I offer the amendment appearing in lines 1 and 2, on page 3, to insert the words "but without consideration."

The VICE PRESIDENT. That amendment has been agreed to heretofore.

The bill was reported to the Senate as amended and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PURCHASE OF VESSELS.

The VICE PRESIDENT. The Chair lays before the Senate a concurrent resolution coming over from a preceding day, which will be read.

The Secretary read the resolution (S. Con. Res. 31) submitted by Mr. MARTINE of New Jersey on the sixth instant, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Navy and the Secretary of Commerce jointly be, and are hereby, authorized and empowered to purchase such craft, in this and foreign countries, as in their judgment may be suitable, adaptable, and necessary for the transportation of passengers and freight to and from the various ports of the world. All provision for manning, sailing, and maintaining such craft to be vested in the above-named Secretaries until otherwise provided.

Mr. MARTINE of New Jersey. Mr. President, I respectfully ask permission to withdraw the resolution for the present.

The VICE PRESIDENT. The concurrent resolution is withdrawn.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts:

On August 7, 1914:

S. 6084. An act to grant the consent of Congress for the county of Pulaski, State of Arkansas, to construct a bridge across the Arkansas River between the cities of Little Rock and Argenta, Ark.;

S. 4023. An act for the relief of Waldo H. Coffman;

S. 4261. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 4845. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 5207. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 5446. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 5575. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. 5843. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

THE SPONGE INDUSTRY.

The VICE PRESIDENT laid before the Senate the amendments of the House to the bill (S. 5313) to regulate the taking or catching of sponges in the waters of the Gulf of Mexico and the Straits of Florida outside of State jurisdiction; the landing, delivering, curing, selling, or possession of the same; providing means of enforcement of the same; and for other purposes, which were, on page 2, line 1, after "or," to insert "for any person or vessel"; on page 2, line 12, to strike out "vessel, or boat" and insert "partnership, or association"; on page 2, line 13, after "of," where it occurs the second time, to strike out the remainder of said line and all of lines 14 and 15 and insert "not more than $500, and in addition such"; and on page 3, line 5, to strike out "to."

Mr. THORNTON. I move that the Senate agree to the amendments of the House.

The motion was agreed to.

FEDERAL TRADE COMMISSION.

The VICE PRESIDENT laid before the Senate the action of the House disagreeing to the amendments of the Senate to the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. NEWLANDS. I move that the Senate insist upon its amendments and agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to.

The VICE PRESIDENT appointed Mr. NEWLANDS, Mr. POMERENE, Mr. SAULSBURY, Mr. CLAPP, and Mr. CUMMINS conferees on the part of the Senate.

REGISTRY OF FOREIGN-BUILT VESSELS.

The VICE PRESIDENT. The morning business is closed.

Mr. O'GORMAN. I ask that House bill 18202, the shipping bill, be laid before the Senate.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 18202) to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes.

Mr. O'GORMAN. When we adjourned last night we were, as I supposed, about to take a vote on the question. I do not know of any others who desire to occupy the time of the Senate.

Mr. GALLINGER. Will the Senator first yield to me to ask unanimous consent that some brief editorials from New England papers be inserted in the RECORD?

Mr. O'GORMAN. I yield with pleasure for that purpose.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

[From the Nashua (N. H.) Telegraph, August 3, 1914.]

WHAT WE FACE.

We are absolutely dependent for our over-seas carrying trade upon ships flying foreign flags. Already there have been cancellations of sailings of these ships in anticipation of war in Europe. If hostilities begin, the larger part of these ships will be withdrawn from mercantile pursuits to become transports of the naval service of their respective countries. Ninety-two per cent of the steamships of foreign trade and 98 per cent of the steamships plying between the United States and Europe belong to other nations than our own. Two hundred million dollars a year or more we pay to foreigners for the transportation of freight and passengers to and from other countries, and at this time we face a partial paralization of our industries because we are without ships under the American flag to do business with the world about us.

We are not in this predicament for lack of warnings, for with blind obstinacy our Government has refused to take the steps necessary for the revival of its merchant marine. Every other country has aided its over-seas shipping by subsidies and subventions of some kind, while the United States has stubbornly refused to give encouragement to capital to embark in an industry that would give additional employment to American labor, enlarge our commercial activities, and place us in a position independent of other nations. Because of a traditional hostility of the Democratic Party to subsidies all efforts to put the United States in competition with the world as the seafaring nation have failed.

For years Senator GALLINGER, of New Hampshire, and the late Senator Frye, of Maine, led the fight in Congress to reestablish our merchant marine. In vivid colors they portrayed what was likely to happen not only in the event of foreign war, but in case we were involved ourselves in war with a first-class power. Our little war with Spain was a partial verification of their prediction, when we had to scurry about to buy or hire ships to transport troops and supplies to Cuba. The Boer war gave another object lesson, when English merchant ships were withdrawn from the merchant service of the Atlantic and ordered into the naval reserve of that country. The friends of the American merchant marine continually encountered Democratic hostility to Government aid in the revival of an industry that had once been the pride of the American people and that had been destroyed by the unequal competition afforded by the subsidy of their merchant fleet by other nations. It was the indifference of Republican constituencies in some sections of the Middle West that enabled the Democratic minority in Congress to block all legislative relief.

Even President Roosevelt, who championed causes in which his heart was enlisted with great and compelling vigor, gave to the revival of the American merchant marine but mild support. One-half the zeal on his part in behalf of American shipping that he gave to other things would have carried to success the efforts of the Republican Party in Congress to give to the United States its share of the overseas carrying trade. Yet Col. Roosevelt is very free to-day to call men like Senator GALLINGER, who labored to ward off our present embarrassment, reactionaries. Our dangers are now before us in acute form, and the same patriotism that enables us to cast aside party lines when war is upon us should move Congress and the President to take immediate steps to correct a condition that so seriously threatens our industrial prosperity.

"There is only one way," says the Boston Herald, "in which the United States can save itself from the effacement of its overseas commerce in a widespread European war, and that is by having its own ships, its own shipyards, its own officers and crew beforehand. The people of Massachusetts know this; the people of New England know it. So do the people of New York, Pennsylvania, New Jersey, California, Oregon, and Washington. The United States has almost no merchant marine to-day because every effort for 60 years for sound, proved legislation that would create a great commercial fleet has been blindly opposed and defeated by the petty sectional narrowness and ignorance of the solid South combined with a part of the Middle West in Congress."

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[From the Springfield (Mass.) Morning Union, August 4, 1914.]

WHAT IT MEANS TO BE WITHOUT A MERCHANT MARINE.

The immediate difficulties respecting our foreign trade in a crisis like this should find a large measure of relief through the plan to hoist the American flag on many merchant vessels now flying foreign flags. This could be accomplished by a simple process under existing law in the case of many American-owned ships now sailing under the flags of other countries, while in other cases it could be brought about through the purchase of foreign vessels under the terms of a special act of Congress to meet the emergency. As America is the only great nation of Europe or America that can fairly count on remaining neutral, this is an obvious and desirable means of meeting a grave international crisis. However, considerable doubt is felt as to whether this plan is feasible. International law and trade rules are opposed to any such plan to evade the ordinary consequences of war, holding as invalid transfers of vessels made with such intent following an outbreak of hostilities. This objection is rooted in a well-known principle of law, which debars an individual from gaining advantage by putting property out of his hands to evade his lawful obligations in an emergency.

We can buy foreign vessels and in a short time we can establish a great merchant fleet, but will the flying of the American flag over ships given the new registry afford any real protection against their seizure by the belligerents? That is the question. It is a question that concerns Europe's population even more vitally than our own. Americans will not starve if denied the opportunity of finding a prompt market abroad for their excess food products, while with Europe's vast numbers the obtaining of supplies from this source is a prime necessity. Are the European nations going to insist upon a strict enforcement of existing regulations when such a course will mean self-starvation? The present situation is extraordinary, entirely unlike the ordinary war that involves not more than two or three combatants. In the circumstances it seems reasonable to expect that those nations will not refuse the offices of a neutral power attempting to meet a dire necessity of the world's trade. Somehow international regulations should be sufficiently elastic to admit of this remedy being applied.

Even so, there will be a certain amount of hazard involved in such a departure. Vessels flying the American flag will be subject to a considerable degree of suspicion, and the safety of a ship depends somewhat on the nature of its cargo. Clashes and entanglements are liable to arise, and at best our trade situation will be one of difficulties, plus a pronounced element of danger. And respecting the permanent advantage of the departure there should be no delusions. The change in our system of registries is not going to secure to us a permanent merchant marine. The view that we lost our merchant marine because of the Civil War and can recover it through a European war is essentially unsound. The real reason why we have no merchant marine is that we have failed to adapt our national policy to the economic conditions that govern the control of shipping. Those conditions are likely to continue after the present war is ended. The proposed remedy is a war measure, pure and simple, designed merely to meet temporary requirements, and the real problem of our merchant marine will remain as vital as before.

Our trade has been carried on under foreign flags because shipowners find that the cheapest plan. That is why such concerns as the International Mercantile Marine and the United Fruit Co. are doing business under foreign flags. The factors at the bottom of the situation are the American wage standard, as applied to the cost of building and operating ships, and the question of subsidizing our shipping. These factors have been persistently ignored by the Democratic Party, which has opposed every practical plan to rehabilitate our merchant marine, even to the point of repealing the provision to aid our coastwise commerce making use of the Panama Canal. The administration is now facing the dire consequences of such a policy. Its emergency plan may meet a temporary necessity, but the real cure must be sought in other and deeper remedies, otherwise we shall be exposed to the same old disadvantage of having no merchant fleet to depend upon in time of war.

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[From the Boston (Mass.) Transcript, August 5, 1914.]

THREE COSTLY LESSONS.

Already that nightmare of the nations has come true, a general European war has proved the wisdom of three policies championed by the Republican Party in the face of Democratic opposition. They are (1) the restoration by subsidy of our merchant marine; (2) the modernizing of our banking and currency system; (3) the recruiting of a permanent foreign service. Although in its initial stage the mighty conflict overseas has dragged the United States within the shadow of its hardships; neither the 3,000 miles intervening nor our traditional policy of "splendid isolation" has availed to save our ocean trade from paralysis. Ninety per cent of the Nation's foreign commerce was carried in foreign bottoms when the war broke out. To-day 80 per cent of that fleet is put out of business. Yet the Democrats in Congress during the administrations of McKinley, Roosevelt, and Taft defeated the ship-subsidy bills championed by those Presidents. It is true that a small minority of Republicans, representing inland States, rallied to their support, but the Democratic Party, while voting for mail subsidies on land, has always opposed the application of the same principle on the sea. It was the farmer of the Middle West, whose Republican Representative in Congress opposed his party creed and joined with the Democrats to defeat ship subsidy. By the fortunes of war it is the western farmer who will suffer most from the paralysis of American overseas commerce as a result of the withdrawal of foreign ships and the absence of any American vessels to take their place in carrying to market the produce of the western farms.

It is due to the financial mobilization made possible by the Aldrich-Vreeland emergency currency law that the Nation's whole financial structure is being safe-guarded from the shock of the collapse of the money markets of the Old World. That reserve measure of relief was forced through Congress by a Republican majority in the face of bitter Democratic opposition. It was intended to serve just such an emergency as the present crisis precipitated. It was the forerunner of the complete modernizing of the country's financial system for which the way was paved by the Monetary Commission and which is soon to go into effect. Were it not, however, for the existing Republican emergency law, which the Democratic minority opposed and the Democratic Party denounced, the present Democratic administration would be hard put to cope with the resultant financial crisis precipitated by Europe's war panic.

President Roosevelt began and President Taft continued the recruiting of a permanent foreign service. Gradually the Government was enlisting in the lower diplomatic grades young men desiring to make diplomacy their life work. Some of these had, under the merit system, been advanced to ministerial posts. President Wilson and Secretary Bryan began their official régime by a raid upon the Diplomatic Service to reward contributors to their campaign fund, with the result that every minister promoted under the merit system was dismissed, the European embassies stripped of experienced diplomatists, and what is our predicament to-day? No ambassador at St. Petersburg and the chargé d'affaires compelled, due to the lack of funds at the embassy's disposal and the absence of any adequate clerical force, to decline the request of Germany to represent the Berlin Government in Russia. Instead of leaving Ambassador Guild at his post at least until his successor had qualified, the administration recalled him, and for a

year and a half we have been without ambassadorial representation at the Russian capital.

Although war was declared on July 25, a relief ship is just starting for Europe with funds for our nationals caught there by the conflict. It may be weeks before ships are secured to bring them home. Secretary Bryan appears to have been the most surprised man in Washington when the war cloud broke. Last week he cabled instructions to our ambassador in London that a party of American schoolgirls be given passports to the Continent, although the ambassador had protested against it. The Department of State appears to have been taken completely by surprise at the outbreak of the war. Were it represented abroad by a corps of experienced diplomatists the Washington Government might have received an inkling of what was coming. With green diplomats at every capital, their channels of communication undeveloped, it is not surprising that the administration at Washington should just be waking up to what has happened.

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[From the Montpelier (Vt.) Journal, August 3, 1914.]

AMERICAN SHIPPING AND WAR.

What will be the effect of a general European war on the United States is a question which many are asking, and there seems to be good reason for it. One of the main points that call for comment is brought about by the fact that an enormous preponderance of our foreign carrying trade is transported by foreign bottoms, and of this, again, a great part is carried in the ships of three nations certain to be principals in any general conflict—England, Germany, and France.

Of the great passenger steamships plying into New York almost by the score from northern European ports, only six would be exempt from capture, four of them controlled by the International Mercantile Marine and two of the Red Star Line, which come under the neutral registry of Belgium. It must be remembered that the larger ships of the British merchant navy are impressible for transport and scout duty in the event of national conflict, and that numbers of their officers are members of the Royal Naval Reserves, subject likewise to call with their ships. Every year in the fall the returning steamers from Europe have been taxed to bring home the swarms of tourists and students who have ended their vacations, and these swarms would naturally be greatly increased by a natural desire of all Americans to get away from scenes of conflict, and that there should be a general reduction of means of transportation just at this time is a situation that is by no means to be treated lightly. For outgoing and incoming freights the embarrassment would be hardly less acute, since cargo steamers are slower and hence easier captures, and, in general, more desirable prizes.

There is but one ray of comfort in the very complex condition of things, and if this condition results in teaching this country the precariousness of relying on a foreign merchant navy for our import and export carrying trade, the lesson, even if costly, would be a valuable one.

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[From the Boston Herald, Thursday, August 6, 1914.]

BOSTON FOR REAL AMERICAN SHIPS.

Boston does not approve the form or method of the bill in Congress for the emergency whitewashing of foreign vessels, most of them now under belligerent flags. The action of Great Britain in declaring war destroys most of the small value which that bill possesses, for most of the foreign ships in which American capital is interested are on the British registry and can not now be naturalized without an affront to the law of nations.

The course of the chamber of commerce in protesting against this bill and urging Senator WEEKS to oppose it will be approved and applauded by informed public sentiment throughout the New England States. We want American ships, but we do not want and must not have American ships with a cloud upon their title and a stain upon their flag. Nothing can be more certain than that a wholesale borrowing of the merchant vessels of belligerents in order that they might evade belligerent responsibilities and be available for the export of our wheat and cotton would arouse the world against us as guilty of an act of national dishonor. We have some ships of our own. Let us use them as far as they will serve, and if they are not sufficient let us be men and face in manly American fashion the logical and inescapable consequences of the neglect of our Government to provide a real American merchant marine available alike in peace and in war.

The protest of the Boston Chamber of Commerce, echoed by a similar remonstrance from the Portland Board of Trade, against the ineffective subterfuge proposed in Washington comes with entire good grace from an organization which has a consistent record of loyal support of the cause of American ocean shipping. Time and time again the Boston chamber has urged legislation for the merchant marine that would be both honest and effective. Its directors memorialized Congress for the enactment of the ocean mail bills of the Roosevelt and Taft administrations—bills conspicuously championed by Senators GALLINGER, LODGE, and WEEKS—which would have given to the country a splendid fleet of first-class merchant steamships and to Boston direct communication with the chief ports of South America, to which no ship under any flag now runs.

For all this terribly costly lack of our own ships, at which the country stands aghast, Boston business men and American business men are not responsible. To them the American merchant marine is a national and not a party question. But the will of the business men and the desire of a large majority of the people of the great intelligent, advanced, industrial States have been thwarted by politicians from the cotton fields and the prairies, who could then see nothing in it for them in American ships, but who, for the sake of securing whitewashed ships to deliver their cotton and wheat, are now willing to defy international comity and risk the wrath and hatred of the world.

The Boston Chamber of Commerce takes the strong course of wisdom and of patriotism in urging Congress to drop all futile subterfuges and enact legislation "which will result in an effective and permanent increase in the number of ocean carrying vessels flying the flag of the United States." This is the imperative lesson of the present crisis.

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[From the Portsmouth (N. H.) Chronicle, August 4, 1914.]

NO SHIPS FOR AMERICANS.

The fact that America has no merchant marine worthy of the name was never more forcibly brought to the attention of all America than at the present time. With all Europe engaged in war this country is unable to transport her own citizens to their home country, or to move her crops, and it brings our senior Senator, Hon. J. H. GALLINGER, into the limelight and bears out his contention that this country should have a merchant marine worthy of the name. He has fought for years to secure it and now all America is seeing the great necessity of it.

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[From the Boston Traveler and Evening Herald, August 5, 1914.]

HONESTY THE ONLY POLICY.

The necessity of an ocean-going American merchant marine was never so apparent as to-day, when the withdrawal from commerce of many foreign transatlantic lines of steamers threatens to cripple the business of this Nation and to leave the products of fields and factories without a means of reaching the markets of the world for many months to come.

For years the Eastern States have been calling the attention of Congress to the vital need of a merchant marine as a means of making this country independent of Europe, and that the vast tribute paid to aliens for transportation over seas might be turned into American coffers; but they have called in vain.

The South and the West saw in this patriotic and far-seeing demand of the maritime States only a scheme for looting the Treasury. Europe gave them all the transportation facilities they needed to carry their crops of cotton and wheat to market, and they saw no reason why Uncle Sam should spend money for what they regarded as the sole benefit of the already overfavored East.

And thus, in refusing the demands of the maritime States, for sectional and selfish reasons, these southern and western cotton and wheat growers, as now appears with startling clearness, have sacrificed the interests of the Nation.

The shot fired in the streets of Sarajevo has stopped the wheels of commerce and arrested all the arts of peace, and to-day, with Europe engaged in an awful struggle and nearly every liner removed from the sea, the West and South find themselves without a market for their surplus crops and a cry of alarm has gone up.

And hearkening to this cry, foolishly, though with the best intentions, the administration seeks to remedy the complained-of evil by substituting one that may turn out to be even greater.

Where it excluded all shipping practically from American register and refused to encourage American lines to build, or to make it possible for them to compete with Europe's subsidized lines, Congress now swings in the opposite direction and wants to open wide the doors to all manner of marine derelicts and to methods fraught with possible national and international disaster.

The safeguards and conditions which surround the transfer of ships from foreign to American registry under international law and the usage of nations should be observed to the letter, not only in the interest of safety at sea but to prevent our being dragged into war with one or another of the European combatants, a possibility not so remote as one might think if the emergency legislation just rushed through the National House is allowed to become law without amendment.

No ship should be accepted for registry which does not comply with all legal standards and requirements as to ownership and officers. We have now a flourishing and well-guarded coast marine which must not be subjected to ruinous future competition from foreign-owned vessels loosely admitted to registry in our hour of necessity, vessels which would not meet the requirements so rigidly applied to our domestic ships; and once admitted to registry these marine waifs and strays could elect to engage in either coast or ocean trade.

The honesty and legality of transfer to our flag must be above question, for European nations now engaged in war will not hesitate to sweep such vessels from the seas if there is any suspicion of deception. The American flag would not save them in such a case, and the United States would have no redress unless she chose to seek it by force of arms.

Our advice to the Senate of the United States is to make haste as slowly as is consistent with honesty and safety in this matter. Laws, like marriages, made in haste are repented at leisure; and it is much easier to make a bad law than it is to mend it.

The 1914 harvests are not yet garnered, and the marketing will not be necessary until the cool days of the fall. Let us prepare for that event and the difficulties now in sight; but let us do so sanely and with a full realization of the consequences of what we are about.

Above all, let us not in the hour of agitation and perplexity sacrifice the things we have for those we have not. Let the West and the South understand that the continuous existence of our merchant marine must not be jeopardized because of their temporary embarrassment. They have played the dog in the manger so long, they have refused so constantly to listen to the voice of reason and patriotism in this matter, that their new ardor for more liberal shipping laws must not be permitted to destroy the existing American marine or to hamper the Nation in its effort to build one that will be a credit to it and a benefit to the world.

Mr. CHAMBERLAIN. Mr. President, I desire to suggest an amendment at page 3 of the reprint of the bill.

The VICE PRESIDENT. The Chair begs leave to suggest that when the sad intelligence of the death of Mrs. Wilson was conveyed to the Senate last night the Secretary had just concluded the reading of the bill as reported by the committee, and as the Chair now remembers the state of the record, the Senator from Delaware [Mr. SAULSBURY] has an amendment pending to the proposed substitute offered by the committee. The Chair is of the opinion that that amendment should first be disposed of, and then the Senator from Oregon may offer his amendment.

Mr. CHAMBERLAIN. I am perfectly willing to yield, that the amendment of the Senator from Delaware may be acted upon.

Mr. SAULSBURY. I think that is correct, though I of course would be willing to yield to my senior in service in the Senate, as I am always glad to do. I will send to the desk the amendment proposed by me and ask that it be read.

The VICE PRESIDENT. The amendment will be read.

The SECRETARY. It is proposed to add as a new section to the bill the following:

SEC. 4. That the Secretary of the Treasury on being satisfied that not less than 90 per cent of the capital invested in any foreign-built steamship is the bona fide property of American citizens, whether of indi-

viduals or of corporations, the majority of whose stock is owned by citizens of the United States, shall direct the bills of sale or transfer of the foreign-built steamships purchased to be recorded in the office of the collector of customs of the proper collection district and cause such steamships to be registered as vessels of the United States by said collector, after which each of such vessels shall be entitled to all the rights and privileges of a vessel of the United States, except that it shall not be employed in the coastwise trade of the United States unless the voyage in which such vessel may be engaged requires its passage through the Panama Canal.

Mr. SAULSBURY. Mr. President, I occupied the time of the Senate yesterday in explanation of this amendment and stated the reasons why I offer it. I do not think I am justified in occupying further time on it. I believe the amendment speaks plainly for itself. I have only changed it to make it entirely plain that persons who are citizens of the United States or corporations of the United States the majority of whose stock is owned by citizens shall be included within the 90 per cent of the capital invested. I have been spoken to by a number of Senators on both sides of the Chamber suggesting that to require 90 per cent to be held by American citizens may be too high. It was only out of an abundance of caution, so that the Government might not be accused of attempting to give the benefit of its flag to vessels which in fact were owned by foreigners that I made it so high. I think myself that the percentage might possibly be reduced. I should not object to some amendment lowering the percentage provided that at least a substantial majority of the capital was owned by citizens of the United States. I ask for a vote on the amendment.

Mr. SIMMONS. Mr. President, I feel impelled, rather reluctantly, to occupy the time of the Senate in the further discussion of this measure. The situation of my section of the country, and, I think, of the whole country, with reference to this matter of emergency transportation is far more serious, in my judgment, than some Senators in this Chamber seem to think.

A few days ago the brilliant senior Senator from Mississippi [Mr. WILLIAMS] took the position that in order to relieve the present situation as an emergency matter the Government should acquire and operate sufficient ships to accommodate the necessities of our commerce. On yesterday the genial and whole-souled Senator from New Jersey [Mr. MARTINE] went a step further and advocated as a permanent Government policy the ownership and operation of our deep-sea merchant marine.

The Senator from Massachusetts [Mr. WEEKS], in commenting upon the position of these two Senators, called the attention of the Senate to our experience in dealing with a similar emergency during the Spanish-American War. He told the Senate that in order to supply the Navy with sufficient colliers and transports it became necessary for the Government to invest about $17,000,000 in the purchase of that character of vessels, and that when the war closed and the emergency had passed it was necessary to sell those vessels at about 25 cents on the dollar, so that the Government lost probably eleven or twelve million dollars.

Mr. President, I want to say that while not at all committing myself to the suggestions of the Senator from Mississippi or the Senator from New Jersey, if means can not be provided in any other way by which the farmers of this country can be saved from the imminent danger which confronts them unless they can send their surplus products to the European markets I would, as an emergency measure, favor the interposition of the Government for the purpose of preventing such a national calamity. In that situation I believe it would be the duty of the Government to come to the relief of the people, even if it had to go to the extent of buying and operating the necessary ships for the purpose of accommodating our foreign trade. I hope, however, it will not be necessary to resort to such extreme measures.

I repeat, Mr. President, I am afraid the gravity of the situation which now confronts us in this regard is not fully understood by Senators. We have probably the greatest crops of our history. After supplying our own demand, the surplus will be enormous. This is especially true with reference to wheat, tobacco, and cotton. If we can find a market for this surplus abroad at the high prices that will obtain abroad on account of war conditions, it would mean widespread prosperity to the American people. But if we can not find a market for this surplus, instead of being an asset of prosperity it may become an asset of adversity.

The one condition necessary for reaching these markets is ocean transportation. If we can not get this transportation and have to rely upon the domestic demand for these surplus products, the price will be so adversely affected that in place of profit there will be loss.

We have over 300,000,000 bushels of wheat for export. We have between $50,000,000 and $60,000,000 worth of tobacco for export. We have 8,000,000 or 9,000,000 bales of cotton for export. There will be a demand for all of this tobacco and wheat at war prices. While there will not be as great a demand for raw cotton as in normal conditions, still there will be a reasonable demand. With ships to take these products abroad there will be a stream of foreign gold coming into this country which would quicken every industry and bring forth conditions of great industrial activity and business prosperity.

Without ships, as I said before, this surplus will glut the domestic market and pull down the level of prices to a point where stagnation and disaster will be inevitable.

This is not only true with reference to agricultural products, but the situation in Europe offers to our manufacturers an opportunity in the neutral markets of the world they have never heretofore enjoyed, and which if they can now take advantage of will not only enable them enormously to expand their output but to secure a firm foothold where heretofore they have been compelled to struggle even to secure the most limited recognition.

Mr. THOMAS. Mr. President——

The PRESIDING OFFICER (Mr. WALSH in the chair). Does the Senator from North Carolina yield to the Senator from Colorado?

Mr. SIMMONS. Certainly.

Mr. THOMAS. I think this is a very opportune time to recall an incident which occurred just about the time of the outbreak of the Civil War, either just before or some little time after.

The business interests of the country then, and particularly the commercial interests of the great cities—New York then, as now, being the conspicuous one—were terribly agitated about the apprehended and freely predicted results of open hostilities upon their trades and industries. I think the New York Chamber of Commerce appointed a committee, or in some manner designated a body of men, which came to Washington and interviewed the administration, pleading against the declaration or the continuance of hostilities if they could be avoided, because of the tremendous loss and paralysis of business of all kinds which would inevitably follow. Mr. Seward, then Secretary of State, was among those who received them. In response he gave utterance to a maxim, because I think it rises to the dignity of a maxim, which was verified by the logic of events. He gave them the comforting assurance that "there is no customer like a great nation engaged in offensive warfare."

We have now several great nations engaged in offensive warfare. They must have the things which this the greatest of all neutral powers now possesses in overabundance, and these greatest of all customers will soon be knocking at our doors for our cotton, our corn, our wheat, our metallic products, and the products and output of our many manufactories, and prepared to pay prices which will gladden our hearts and quicken our currents of trade everywhere.

Mr. SIMMONS. The Senator might have added to the very excellent statement which he has made, and for which I thank him, that however good the customers who are now engaged in a gigantic war might be under ordinary circumstances, if we have not the ships to carry to them our products, they as customers will be worth but little, if anything, to us.

Mr. THOMAS. Oh, no, Mr. President; the demand will bring the carriage; the vessels of the old country will soon be flocking to our shores to obtain cargoes which the nations whose flags they fly must have, if they can hope to prevail in the existing conflict.

Mr. SIMMONS. Mr. President, I hope the Senator is right in his prediction. I myself believe—for I want to be entirely frank about this matter—that the necessities of Europe will compel Europeans to provide the transportation facilities necessary to get our food products.

Mr. THOMAS. I should say, perhaps, Mr. President, if the Senator will allow me, that in giving expression to this view I am by no means insensible of the necessity of doing everything upon our part to furnish transportation. We should proceed upon the theory that unless we can supply it it will not be available.

I think, too, that this is a propitious moment to initiate a system of merchant marine that will eventuate in giving us the proud position which we occupied something less than a century ago.

Mr. SIMMONS. Mr. President, I hope that in a short time there will be a restoration of the transportation facilities in our foreign trade that we have heretofore enjoyed. Of course, it would be vain to hope, so long as the war continues, that they will be as adequate as heretofore; but I hope that Europe, on account of its necessities, will find some way to supplement any efforts that we may make, and that the result of our joint efforts will provide adequate facilities to meet the transportation situation which now so greatly embarrasses us.

Mr. GALLINGER. Mr. President, will the Senator yield to me?

Mr. SIMMONS. Let me finish the sentence, please.

Mr. GALLINGER. Oh, by all means.

Mr. SIMMONS. But I think it would be exceedingly unwise for us to rely absolutely upon that possibility or upon that hope. I think we would be failing to discharge our duty to the people of this country in an emergency such as has never in my days confronted the country if we did not ourselves attempt to provide for the situation so far as in us lies. Now I yield to the Senator from New Hampshire.

Mr. GALLINGER. Mr. President, I was interested in the suggestion of the learned Senator from North Carolina that he hoped in the near future we would have an adequate merchant marine.

Mr. SIMMONS. The Senator has misunderstood me.

Mr. GALLINGER. I know the Senator qualified that.

Mr. SIMMONS. Of course I hope we shall, and if this bill passes that would add very much to my expectations; but it is a mere hope. Without the passage of some such legislation as this, and probably some broader legislation than this, I should have very little hope of an adequate merchant marine for many years to come.

Mr. GALLINGER. I was about to remark, Mr. President—and I will take the time of the Senator from North Carolina for but a moment—that in view of the fact that for 60 years we have been striving to agree upon some system that would give us a merchant marine, I fear the Senator's hope will not be realized. As the Senator knows, "Hope deferred maketh the heart sick"; and this hope has been deferred so long that I think we will have to get beyond hope, if we expect realization.

Mr. SIMMONS. Well, Mr. President, I do not wish to give a partisan cast to this discussion; I do not wish to get into any controversy at all about it; but if we have not a merchant marine to-day, the responsibility would seem to me to rest at the doors of the Republican Party, for that party has been in power ever since the close of the Civil War, with the exception of a very short period, and during their period of ascendancy in this country our merchant marine, instead of growing, has dwindled, until we have less than a dozen and a half seagoing vessels upon the oceans of the world to-day.

Mr. GALLINGER. Mr. President, the Senator from North Carolina surely did not interpret my observation as being in any sense partisan or political. I certainly did not so intend it; I wanted it to apply to all of us.

Mr. SIMMONS. Mr. President, I do not wish to be diverted from the line of argument that I was pursuing, because I wanted to get some facts before the Senate.

Assuming that the present conditions shall continue, that the merchant marine of the belligerent countries of Europe is withdrawn from traffic with us, that we are compelled to rely upon our own transportation facilities, and that we are not able to devise means and methods to secure adequate transportation facilities, either separately, through the individual efforts of our citizens, or in conjunction with such help as we can get from Europe in the conditions which exist there, I insist that not only the agricultural but the manufacturing and commercial interests of this country will be confronted with a situation which calls for the exercise of every power and resource of the Government to safeguard the public welfare against the disastrous consequences which will inevitably follow.

Mr. President, reverting to the cotton situation, I said that was somewhat differentiated from the situation with reference to tobacco, wheat, and other food products. The demand in Europe for these latter products will be as great in time of war as in time of peace, while the price will be higher, so that if we had transportation there would be no trouble about finding a market for our enormous surplus of these products. That is not true with reference to raw cotton. As a result of the war the demand in Europe for our raw cotton will be, I think, unquestionably diminished. I do not mean all European factories will be closed. In many countries in Europe, like Italy and perhaps England, the demand will not be interfered with to any serious extent. In Germany and France the interference will be greater. The net result will be a considerable decrease in the European demand. That may beget an increased demand for raw cotton in our own country. It may, and I think undoubtedly will, result in opening to us new markets and lead to increase in the output of our cotton mills. But I think it is safe to say that with the great crop we have raised this year there will not be the usual demand for the whole output of our cotton fields, and we may be compelled to protect this staple, to provide for carrying over a part of this crop to the next year. This will call for money. I think this part of the situation will be amply met. I think the banks of the South, with the money which can be secured under our new currency legislation, will be able to take care of this part of the emergency.

Mr. SHEPPARD. Mr. President, I should like to ask the Senator a question.

Mr. SIMMONS. I yield to the Senator.

Mr. SHEPPARD. When does the Senator think the new currency system will be put into operation?

Mr. SIMMONS. Well, I think the amendment which we have recently made to the Vreeland-Aldrich law will very largely relieve the situation. It will not, however, relieve it altogether. It would be very much better if we could have the help of the new Federal reserve system; and if we could secure the confirmation of the members of the Federal Reserve Board I think it would be but a very short time before that system could be put into operation, and that system, together with the amendment of the Vreeland-Aldrich law, would enable the banks of the South to take care of the financial end of the cotton situation.

Mr. SHEPPARD. Mr. President, I wish to state to the Senator that in certain portions of my State cotton is being marketed and sold now, and the loss because of reduced prices is already being felt by the farmers in that section of the country.

Mr. SIMMONS. Of course, Mr. President, the mere apprehension that there will not be an adequate market abroad for our surplus cotton—the fact that that market is now measurably closed on account of the embargo upon transportation—will inevitably affect the price. If this embargo shall continue and the usual European demand is not speedily restored by an early termination of hostilities and a resumption of normal conditions in the cotton industry, the price will necessarily be affected to a greater extent than we now anticipate, unless, as I said before, adequate financial arrangements can be made to hold this undisposed-of surplus until the demand for it shall exist.

Mr. THOMAS. Mr. President, I should like to inquire of the Senator whether there is any surplus cotton from last year's crop?

Mr. SIMMONS. Oh, there always is a surplus from the preceding year's crop.

Mr. THOMAS. In the older countries?

Mr. SIMMONS. There always is.

Mr. VARDAMAN. I should like to suggest to the Senator from North Carolina, if he will permit me, that the surplus cotton from the last crop is exceedingly small.

Mr. SIMMONS. It is much less than usual.

Mr. THOMAS. I had reference to the surplus left over from last year's crop.

Mr. VARDAMAN. There is very little. The price of cotton when the war was announced was up to 13½ cents, a price that promised a good profit to the producer.

Mr. THOMAS. Then, if that is the case, I am optimistic enough to believe that the demand of the world for clothing will offer an early solution of this very menacing problem.

Mr. SIMMONS. Mr. President, I do not suppose that the cotton crop of this year will be in excess of the world's demand in normal conditions, but the condition which exists throughout Europe will necessarily affect this demand. First, because it will place a limitation upon the activities of European spindles, and, secondly, the consumption of those countries, which, of course, constitutes a considerable part of the world's consumption of cotton goods, will be materially lessened. If the war is of short duration, I should say that there will be no great difference between the supply and the demand. If it is of long duration, I think the supply will greatly exceed the demand. In any event the present disturbance suspends the present demand for raw cotton in this country to such an extent that unless relief can be secured through withholding from the market, temporarily at least, a part of the present crop, the effect upon the price of this commodity will be a matter of very serious consequence not only to the cotton producers but to the country at large.

Of course it is out of the question to think of withholding from the market for any considerable length of time that portion of the crop which Europe usually takes, and if we can not secure transportation so as to deliver to the spindles of Europe such part of the present crop as can in present conditions be utilized, the effect upon the price of raw cotton will be far-reaching, not to say disastrous.

Mr. VARDAMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Mississippi?

Mr. SIMMONS. Yes.

Mr. VARDAMAN. I wish to suggest to the Senator that there is this rift in the clouds, which I think ought to be emphasized at this moment. I do not think there is any doubt

that the American and Canadian mills can consume half of the American cotton crop.

Mr. SIMMONS. I should hope so, but they have not been able to do so heretofore.

Mr. VARDAMAN. That was because they have not had the——

Mr. SIMMONS. The demand.

Mr. VARDAMAN. The market or the demand for their goods; but while the German mills are closed down the German customers must have clothing; they must go elsewhere for these goods, and there is no place quite so convenient for them to obtain them as in the United States and in Canada. The mills of England are not going to shut down——

Mr. SIMMONS. Mr. President, if the Senator will pardon me, he has not understood me, I hope, as discussing cotton goods at all; the effect upon cotton goods is going to be good, but transportation is an important element of consideration in marketing these goods also.

Mr. VARDAMAN. I understand that; but the point about that is that you can not have cotton goods without cotton with which to make the goods.

Mr. SIMMONS. Of course not.

Mr. VARDAMAN. And I want to say to the Senator that at this moment I think his pessimistic view may possibly affect the farmer. He needs all in the world that can be said and done for him now to stimulate him to sit steady in the boat and look ahead and withhold his cotton from the market and wait for developments. I for one believe that this war cloud will drift away much earlier than some gentlemen seem to believe, and then, if it does, the price of cotton will soar heavenward. In the meantime I would have Congress and the administration do all within their power to meet any emergency that may arise.

Mr. THOMAS. Mr. President——

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Colorado?

Mr. SIMMONS. I yield.

Mr. THOMAS. Mr. President, I merely wish to remark that the logic of the Senator from North Carolina is conclusive, assuming his premises to be correct; and as I want to do all I can to help the situation—and I intend to do so to the extent of my vote and influence, whatever it may be here—I shall assume that he is correct; but I verily believe that, with the demand for clothing the world over, the Senator will perceive as time passes that very few of the cotton manufactories of the world are going to close, and those which do close will prompt an increased production by those which do not close, for the demand for raiment is one of the insistent demands of all humanity, in the temperate zones at least. It is so imperious in its necessities and requirements that it can not be obviated, and, of course, cotton is the one element which clothes the world and which is always dependable.

Mr. WEST. Mr. President, if the Senator will allow me——

Mr. SIMMONS. I yield to the Senator——

Mr. WEST. I should like to say that I am fearful that the Senator from Colorado takes a too roseate view of the situation as it affects the cotton crop. Europe ordinarily uses about 60 per cent of the American cotton crop, leaving the other 40 per cent for America and Canada. England uses, under normal conditions, about one-third of the amount which goes abroad, which would leave unused and on our hands 40 per cent of the amount which normally goes abroad, outside of the 40 per cent we use and the one-third imported that England uses, assuming that her mills will run in a normal way. Then what does that leave on our hands of the American cotton crop? It leaves 40 per cent, and 40 per cent of the American cotton held back from a 14,000,000-bale crop would amount to 5,600,000 bales; and that amount of cotton held back in this country, in my judgment, would put the price of cotton down to 5 or 6 cents, and if the war continues our only salvation in the South would be to go to planting grain.

Mr. SIMMONS. Mr. President, so far as the manufacture of cotton is concerned, this situation, if we can get transportation facilities, offers the cotton manufacturers of the United States the greatest opportunity that they have ever had. Given the factories and the money to operate them and the ships to carry their product to the neutral markets of the world—to Central America, South America, the West Indies, and the Orient—instead of manufacturing in this country one-third of the raw cotton that we produce in the South we might find a ready demand for a much greater percentage of our raw cotton to supply our own mills, and we might enormously increase the output of cotton goods in the South and New England.

Mr. President, I hope the time may come, and I believe the time will come, when the United States will manufacture the bulk of the raw cotton we produce in this country, and the coming of that time will be greatly hastened if we shall take advantage of the opportunities this situation affords.

I do not take, as the junior Senator from Mississippi suggests, a pessimistic view of the present situation. I take an optimistic view of it. I believe with the Senator from Mississippi that the war cloud will roll over even sooner than we expect. I believe if the war cloud does not roll over, if this is a long and protracted war, that many of the mills of England, Italy, and France will continue to operate and to consume our raw cotton.

But we all know that war operates to curtail their activities under most favorable conditions, and to my mind we would be criminally neglectful and unmindful of our duty to the farmers and the manufacturers of this country if we did not do everything possible to safeguard their interests. The first condition to this end is to provide adequate ocean transportation. If, confronted by this condition, we sit idly by and hug the hope and the expectation, though there may be just and reasonable grounds for hope, that Europe, because of her necessities, will come to our relief and take care of this situation, we shall be criminally neglectful in our duty to our constituents.

Mr. LEWIS. Mr. President, will the able Senator from North Carolina allow me to recall his mind to a matter of history of our Government with which I am sure he is familiar?

I am impressed with the thought, and I ask the Senator from North Carolina if it is in his mind, that even if these countries had the ships which the able Senators upon this side of the Chamber fancy they have and may use, they will be otherwise needed? I happened to be upon a committee in the House during the Spanish-American War, through which I had an opportunity to derive information upon this subject. My distinguished colleague Senator WILLIAMS, of Mississippi, at the same time was upon a similar committee. Spain, though she had ships, cut off all of her South American trade because of the fact that she was compelled to use her ships to transport her men. She repressed her commerce and impressed nearly all of the vessels she had, which otherwise might have brought produce to the shores of Spain, for use in transport service. It became necessary to do so.

I therefore ask the able Senator from North Carolina whether it is not likely that even though these foreign countries might have the ships, and even though they might desire to come to our shores to take our cotton and our wheat to their people, the exigencies of war might require these countries to impress those ships into their service, so that it would be impossible for them to come to our shores for commercial shipping?

Mr. SIMMONS. Why, of course the Senator is right about it. The papers this morning tell us that at least one of the great trans-Atlantic liners under the German flag has been converted into an armored cruiser.

Mr. WILLIAMS. Mr. President, right there, if the Senator from North Carolina will pardon me; while that is true of German ships in German ports and of shipping generally upon the high seas, it does not follow with regard to such ships as have been marooned in American ports, and might very well be bought by American citizens or by the American Government. We have already lying in New Orleans and New York and other places shipping enough to do all we want to do if this Government will merely purchase them temporarily, and dispose of them at the end of the war.

Mr. SIMMONS. Mr. President, the Senator probably was not in the Chamber when I began my remarks. I referred to his proposition at that time. I have been diverted from what I intended to say. What I intended to say and all I intended to say with reference to that matter is that, so far as our wheat crop is concerned, so far as our cotton crop is concerned, so far as our tobacco crop is concerned—and I will say, by way of passing, that we now sell abroad about 50,000,000 pounds of our leaf tobacco annually—an enormous loss will result unless this necessity for transportation is provided for in some way, either by the countries of Europe coming to our aid or otherwise. They have withdrawn practically all aid at present, and we do not know when they will return to the seas with their merchant vessels; and if they do return we have no assurance that they will for a long time to come be able to supply a sufficient number of ships to answer our requirements. It takes an enormous number of ships to supply the needs of our export trade. Last year there were cleared from this country for Europe about 19,000,000 tons of merchandise; and Europe's releasing a part of her merchant ships and returning them to the channels of trade while others are impressed into service or tied up will not supply the demand. If the war continues more than two or three months I am afraid she will not be able to help us to

anything like the extent that the exigency of the situation requires.

Mr. President, the point I am making is that it is our duty to do something ourselves and not to rely altogether upon the possibility of a situation in Europe different from that which now exists. What will be our loss if we should not get these ships in time to move our crops and merchandise to relieve the home congestion and to take advantage of the opportunities of enlarging our export trade in neutral markets I do not know. But that it will be enormous goes without saying.

I want to repeat, Mr. President, if, in the face of this situation, we can not get ships in any other way I would be in favor of the proposition of the Senator from Mississippi that the Government come to the relief of the people, and itself buy and operate the necessary number of ships to supply the demand.

Suppose that should happen which the Senator from Massachusetts [Mr. WEEKS] said did happen in connection with our emergency purchases to supply the needs of our Government in the Spanish-American War, when we lost $12,000,000 by the transaction. Suppose the same situation discloses itself with reference to the Government purchase of ships for this emergency. Suppose she has to invest a hundred million dollars to do it, and suppose, when the emergency passes and she disposes of these ships, there is saddled upon us a net loss of $75,000,000. Mr. President, what is $75,000,000 spent by the Government—which means spent by the people, for the Government is nothing but the people—to protect the farmers and the merchants and the manufacturers of this country from a state of bankruptcy? This sum, great as it would be, would be a mere bagatelle compared with the alternative loss.

Mr. SAULSBURY. Mr. President——

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Delaware?

Mr. SIMMONS. Yes.

Mr. SAULSBURY. I thought the Senator would be interested in a bit of information which has just come to me from one of the most reputable attorneys of the Washington bar. He has called me out to say that he was advised by clients of his, who are the American owners of ships flying foreign flags, that they were satisfied with the amendment which I have offered to this bill, and that if that amendment is adopted they will immediately apply for the registration of a very substantial number of ships under the American flag to answer this emergency. This information I believe to be accurate, and I think it will be a substantial addition to the American merchant marine.

Mr. SIMMONS. Mr. President, I believe as firmly as I have ever believed anything in my life that if this bill shall pass it will be the entering wedge to a revival of the merchant marine of this country, and that, with such help as we will be able to get from other directions, it will largely supply the demand for transportation in the present emergency.

Senators say there will be no ships brought under the American flag if this bill passes, because they say that since the passage of the Panama Canal act, allowing American registry to ships under five years old, not a single ship has been bought and registered under that act. Mr. President, why have no ships been bought and registered under that act? Because in the conditions which existed in ocean transportation since the passage of that act there was practically no chance for a vessel not in the combine. There was never a more merciless or far-reaching or comprehensive trust or combination upon the face of the earth than the Shipping Trust, which has for years controlled or dominated ocean transportation—a trust that maintains a fighting fleet to destroy by undercutting in prices every independent vessel that may essay to engage in foreign trade.

In those conditions, of course, no ships were bought under that act; but those conditions do not exist now. The ships owned by the trust are tied up, and as long as this emergency exists probably a large part of them will continue tied up—enough to break the hold of the monopoly. If some of them are released and enter into the trade again, they will be so inadequate to the demands of transportation that there will be an opportunity for an independent ship to live until it can get a firm foothold. I believe we will find, as soon as this bill is passed, that ships will be bought, and they will be brought under American registry.

It is said that we shall get into trouble with foreign countries if we do this; that some of these ships may be seized upon the high seas; that the American Government will have to come to their rescue, and that that will involve us in war. Why, Mr. President, what is the condition to-day? Under the law that obtains, and which for years has obtained in this country, an American citizen can purchase a ship anywhere in the world that he finds one for sale; he can put that ship under the American flag; he can send that ship, flying the American flag, to any port in the world except an American port. What are we to say of such a system as that? Yet that is the system under which we are operating. Such a ship is entitled to come under the American flag. As American property it is put under the protection of the American Government. It is entitled to all the immunities of American-owned property throughout the world.

Mr. GALLINGER. Mr. President——

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from New Hampshire?

Mr. SIMMONS. I do.

Mr. GALLINGER. The Senator does not mean to say that the ship can not touch at American ports?

Mr. SIMMONS. I mean to say that it can not clear from an American port with a cargo, because if it enters an American port both cargo and ship are under our law subject to forfeiture.

Mr. GALLINGER. Why, it can, to a foreign port.

Mr. SIMMONS. A ship flying the American flag, not registered in this country?

Mr. GALLINGER. Oh, not registered?

Mr. SIMMONS. That is what I said. I said an unregistered ship flying the American flag, owned by an American citizen.

Mr. GALLINGER. Would it be flying the American flag if it was not registered?

Mr. SIMMONS. Why, surely, Mr. President. There can be no question that under the present law an American can buy a ship anywhere in the world, if it is a bona fide transaction, can put the American flag over it, and the American Government assumes the obligation of protecting his property in that ship while it flies that flag. It can trade with any port in the world under the protection of the American flag, except the ports of this country. That is the kind of system they have given us.

Mr. GALLINGER. Does the Senator mean to say that if a foreign ship bought under the terms of the Panama Canal act——

Mr. SIMMONS. I am not talking about the Panama Canal act. I am talking about a ship bought outside of that act.

Mr. GALLINGER. What is the Senator talking about? That is the only act that permits us to buy foreign ships.

Mr. SIMMONS. The Senator does not mean to say that a man can not buy a foreign ship without registering it in this country?

Mr. GALLINGER. I mean to say that under the Panama Canal act——

Mr. SIMMONS. I am not talking about the Panama Canal act now. I am talking about a ship purchased in a foreign country by an American citizen, put under the American flag, and entering into trade, but which does not register under the American laws, because it can not register except under the Panama Canal act.

Mr. GALLINGER. Certainly not; and if it does not register under the American laws it is not entitled to the protection of our laws.

Mr. SIMMONS. Undoubtedly it is entitled to such protection if it is flying the American flag, and it is as the property of an American citizen entitled under the law to sail under that flag. Although under our laws it is not entitled to registration here, it is entitled to the protection of the American Government. There is no doubt about this being the law.

Mr. GALLINGER. That is a new theory.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Montana?

Mr. SIMMONS. I do.

Mr. WALSH. If the Senator from North Carolina will pardon me for a moment, because a good deal of misapprehension exists about this matter, I should like to read to the Senator a brief paragraph from Taylor on International Law, page 309.

Mr. SIMMONS. Let me ask the Senator whether he doubts the proposition that an American can buy a ship and put it under the American flag without registration?

Mr. WALSH. Not at all. I desire to assert that the Senator from North Carolina has correctly declared the law in reference to that matter, and it has been recognized for years. I read accordingly:

A vessel owned by a citizen of the United States may carry its flag and enjoy the protection of its Government on the high seas, although from the fact that she is foreign built or for some other cause she can not become a registered vessel of this country. Protection thus given to nonregistered vessels is analogous to that given to persons of foreign birth not naturalized but domiciled in the United States.

Mr. SIMMONS. Exactly; and that same doctrine is repeated in Moore's work on international law. It is undoubtedly the law.

Mr. President, the Government is under the obligation of protecting these ships, whether they come under American registration or not. We are just as liable to be involved in war with a foreign country because of our obligation with reference to that class of ships that fly our flag as with reference to those admitted to registration.

But, Mr. President, is it not absolutely puerile to say that this legislation, in the face of this condition of things, should not be passed because, forsooth, we may get in some trouble with foreign countries if we extend the age limit provided in the Panama Canal act? Is it not illogical to contend that while we are not particularly in danger with reference to our liability for the protection of a ship bought under the present Panama Canal act, which limits the registration to ships under 5 years of age—while we are not in danger of inviting complications of an international character on account of these ships under 5 years old—just as soon as a ship is bought that is over 5 years old we are in great jeopardy?

Mr. President, if Senators who have made that argument really believe it, then if the Senators want to avoid that possible danger to this Government—and, of course, we all want to avoid any danger of war—the logical position for them to assume would be to demand the repeal of the provision of the Panama Canal act which allows foreign ships under 5 years of age to be admitted to American registry. They ought not only to demand the repeal of that provision of the canal act, but they should demand the repeal of the laws that allow an American citizen to purchase a foreign-built vessel and place the flag of the United States over it.

Mr. GALLINGER. Will the Senator allow me?

Mr. SIMMONS. That is the only logical position for them to take. I yield to the Senator from New Hampshire.

Mr. GALLINGER. The Senator speaks of Senators on this side who are opposed to this legislation. I notice that the morning newspapers suggested that the senior Senator from Utah [Mr. SMOOT] and the senior Senator from New Hampshire were the two Senators who are opposed to this legislation. If the Senator will turn to the RECORD he will observe that both the senior Senator from Utah and the senior Senator from New Hampshire suggested in the debate yesterday that they are not opposed to the legislation, and stated they would not vote against it, but they contended that the bill ought to be amended in certain particulars, and we questioned that the result would be as satisfactory as Senators on the other side have stated; that is all. Neither of us has said that we are opposed to the legislation.

Mr. SIMMONS. I do not know that I ought to have stated it quite as broadly as that. I would not want to say that the Senators are opposed to it unless they had made an open declaration of opposition; but they have suggested and argued various reasons why it should not be adopted.

Mr. GALLINGER. Oh, no.

Mr. SMOOT. Oh, no, Mr. President. I want to say to the Senator that I never made such a suggestion.

Mr. SIMMONS. The Senator pointed out as one of the reasons why it should not be adopted the great danger of war between this Government and some of the belligerents of Europe, resulting from a removal of the age limit in the Panama Canal act.

Mr. SMOOT. No, Mr. President.

Mr. SIMMONS. That was the inference, at least.

Mr. SMOOT. I want to say that I never mentioned the limit of the age of the boats in all I said yesterday. The only remarks that I made were directed in favor of the amendment which was offered by the Senator from Delaware [Mr. SAULSBURY], and I have pointed out that unless that amendment is adopted there is likely to be trouble ahead for the Government, and it may embroil this country in a disagreement with foreign nations.

Mr. SIMMONS. I did not specify the Senator from Utah, but some newspapers specified him. I have regarded many of the arguments made on the other side as hostile to this measure and as suggestions that it ought to be defeated.

Mr. President, I say, if this bill passes, we would be in no greater danger of getting into these complications with foreign Governments than under the laws which now obtain.

Mr. President, the books are absolutely full of cases where vessels flying the flag of a neutral have been seized upon the open seas by a belligerent without provoking any trouble between the two Governments. During the Spanish-American War a vessel flying the British flag was seized by an American ship and brought into port as a prize. An effort was made to show that it really was a Spanish ship, and that the transfer of that ship to a British subject was merely colorable, and therefore it was liable to seizure. The case went to the prize court, and finally got up to the highest court of the land, and a judgment was rendered that the sale was colorable and that the ship, although flying a British flag, was liable to seizure. But it did not provoke war or any unpleasantness between this Government and Great Britain.

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Connecticut?

Mr. SIMMONS. Certainly.

Mr. BRANDEGEE. I was interested in the authority that the Senator from Montana [Mr. WALSH] quoted from just now.

Mr. SIMMONS. Will not the Senator allow me to finish my remarks, and then take up that question?

Mr. BRANDEGEE. I was not going to discuss it, but I was going to ask the Senator, if the authority quoted by the Senator from Montana is correct, and I assume it is, what is the need of this legislation? If an American can now buy a vessel of a belligerent, hoist the American flag upon it, not give it any American registration, but give it the protection of the United States as the property of an American citizen, of what avail is this legislation?

Mr. SIMMONS. I said in my statement that the ship flying the American flag, owned by an American citizen but not registered, could not trade in any of the ports of the United States.

Mr. BRANDEGEE. It could not engage in the coastwise trade.

Mr. SIMMONS. No; nor could it engage in the foreign trade of the United States.

Mr. BRANDEGEE. Can not any foreign vessel now bring a cargo to an American port and take one back?

Mr. SIMMONS. A foreign vessel can, but a vessel flying the American flag can not.

Mr. BRANDEGEE. But a vessel which is simply an American's property and is not registered in an American port, if it is entitled to the protection of the American Government——

Mr. SIMMONS. I think if the Senator will examine, he will see that that is true. If that was not the case, then there would be no necessity of our passing any registration law at all.

Mr. BRANDEGEE. No; it seems to me that there would be no necessity of passing this law.

Mr. SIMMONS. Nor any other registration law, and your registration laws would be of no avail. If we had no registration laws the proposition of the Senator would be absolutely impregnable, but under our laws a ship, though entitled to fly the American flag and have the protection of the Government in its trade with other countries, unless it is registered, is liable to seizure and forfeiture if it enter an American port.

Mr. BRANDEGEE. So that to fly the American flag now on a vessel owned by an American is a disadvantage. The foreign vessel flying a foreign flag has free access to our ports, but the vessel owned by an American can not come into an American port unless she is registered.

Mr. SIMMONS. In ordinary circumstances, undoubtedly so, and that is the reason why I said a system of that sort is a pitiable one; but right now, in the present condition, it is quite an advantage to a ship to be able to fly the American flag, whether it can trade between American ports or not, because she is entitled to enter any of the unblockaded ports of Europe.

Now, Mr. President, I have said all I want to say. The suggestion has been made that no one will buy these ships, even if we remove the age limit, even if we permit them to be officered by others than Americans when there are no Americans qualified to perform those duties. Ordinarily that is true, but there are two things that differentiate the present situation from an ordinary situation. The first is the vast advantage any ship of a neutral country would have and has in world trade under the conditions that exist in the world to-day. The opportunities of an American ship, with other ships practically excluded from our commerce, to carry our products to Europe and to South America and to Asia and to Africa and bring back their products, with but relatively little competition, would be such an inducement to capital that even under the ordinary conditions we might expect our people to invest in ships. The situation makes the investment profitable.

But, Mr. President, there is another fact that, to my mind, gives assurance that the ships will be bought and will be supplied in sufficient numbers to reasonably carry our products to the markets of the world with such aid as we will have from the merchant marine of other countries, and that is the necessities of the business of this country.

Mr. WILLIAMS. I should like to ask the Senator from North Carolina a question.

Mr. SIMMONS. Very well.

Mr. WILLIAMS. In what respect, outside of what the Senator calls the removal of the age limit, does the law now proposed amend the Panama Canal act?

Mr. SIMMONS. It does not amend it in any other very important respects than that except to allow these vessels to be manned, if necessary, by other than American officers and——

Mr. WILLIAMS. Watch officers?

Mr. SIMMONS. Yes; watch officers. It removes all these hampering restrictions.

Mr. WILLIAMS. Is not the only hampering restriction that is removed the restriction about watch officers?

Mr. SIMMONS. And the age limit; and that is a very serious one, because under the five-year age limit the Senator can see that the number of ships that could possibly be purchased abroad for American registry is greatly limited. If we could buy only a ship under 5 years of age, it would be practically impossible to get ships to supply the demand; but the removal of the age limit will, of course, greatly enlarge the purchasable supply.

Mr. WILLIAMS. I agree with the Senator. If my memory serves me correctly, and I think it does in the main, though perhaps not in detail, when I offered the very part of the Panama Canal act which gives the right which the Senate is now amending to American ships, I think the 5-year age limit was put in by an amendment from the other side. That is my recollection.

Mr. SIMMONS. I think it was put in in conference.

Mr. WILLIAMS. It was put in in conference. I know it was not in my original amendment. Of course I perfectly agree in the removal of that restriction, and so far as the modification of the restriction as to watch officers; and now, as well as I can study the act, those two are the only respects in which the original act really is amended.

Mr. SIMMONS. They are; but the Senator must remember that that covers the hampering provision. If you take those away, if you allow an American to buy a ship of any age and allow it to be placed under American registration and then remove the restriction as to watch officers, so as to allow employment of aliens, you have removed the troublesome restrictions of the present law and make possible the enlargement of our merchant marine.

Mr. WILLIAMS. Of course I do not want to impose too much on the Senator's time. I will come to that matter later in my own time probably; but I merely wanted that information.

Mr. SIMMONS. If the Senator can suggest anything else that we might do in this bill in order to make it easier for American citizens to register a foreign-built vessel and engage it in foreign commerce I wish he would suggest it, because I think it ought to be incorporated.

Mr. WILLIAMS. The point to which I shall direct the attention of the Senator is this: I do not believe, or I am not yet fully convinced, at any rate, that if no modification be made but those proposed there will be temptation sufficient for private capital to go into this business. The hope of immense low-priced freights will not help the American wheat farmer or aid the cotton producer.

Mr. SIMMONS. I suppose the immense profits that they may expect to realize as long as the war situation continues would be a great inducement, but, as I have said, the chief inducement is that which comes from the business men of this country, whether manufacturers or farmers, in order to protect themselves against absolute ruin.

I have already spoken about the farmers, and I will not repeat that. Now take the situation of the manufacturer. If the war continues, I think the probabilities are that the cotton manufactures of this country will enormously expand, because we will have such an advantage in the neutral markets of the world over Europe, from which they have heretofore gotten their supply. I think that the demand for many other manufactured products of this country will be enormously enhanced, because the doors of the neutral markets of the world will be thrown open to us in a way that they never have been thrown open to us before.

When we went to South America with our manufactured products, and when we went to the Orient with our manufactured products, we had to meet there the competition of the manufactured products of Germany and England and France and Belgium, and in addition we were handicapped by the fact that these competitors of ours controlled our ocean transportation. We had to go to them for our transportation, and having to go to them for our transportation, we not only had to meet their sharp competition but we had to meet it under the disadvantages which a competitor controlling your transportation will always, by some device or other, be able to put you under.

The manufacturers of this country will, if we can get these ships, be relieved in a measure from this competition in the first instance, for a time at least, and until they can get a foothold in those markets, and they will be relieved from the handicapping conditions of having to go to their competitors to get their transportation.

Mr. PITTMAN. I do not understand that the Senator is opposing the amendment of the Senator from Delaware?

Mr. SIMMONS. I am not. I have not said a word about it. I am discussing the bill in its general aspects. Really I do not understand the nature of the amendment of the Senator from Delaware.

Now, Mr. President, I have taken much more time than I intended to take and I want to apologize to the Senate. I have wandered and digressed much more than I might have desired, but it has been the result of the interruptions I have had.

During the delivery of Mr. SIMMONS'S speech.

The VICE PRESIDENT. The morning hour having expired, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Mr. CULBERSON. I ask unanimous consent that the unfinished business be temporarily laid aside.

The VICE PRESIDENT. Is there objection? The Chair hears none. The Senator from North Carolina will proceed.

After the conclusion of Mr. SIMMONS'S speech,

Mr. WILLIAMS. I doubt whether this bill in its present shape will do very much good. In as far as it makes freer the operation of the American merchant marine, of course, it falls within the line of my thought in connection with freer trade everywhere. But the Senator from North Carolina [Mr. SIMMONS] himself has admitted that there will be nothing except the hope of "immense" war "profits" upon freightage to tempt private capital to go into the merchant-marine business under the bill.

Now, Mr. President, the American people have their choice between two horns of a dilemma. I have long since taken my choice between them. One is an inhuman—"unhumane" perhaps would be a better word—operation of the merchant-marine system in accordance with the course pursued in most of Europe, thereby decreasing the cost of the operation of ships, and the other is to maintain our present humane system and in ordinary peace times as a consequence to do without a merchant marine.

I long since made up my mind that, as far as I was concerned, in time of peace I would rather do without a merchant marine than to inaugurate a system which in very many countries is a curse to civilization itself, a condition of peonage or a condition of quasi slavery for sailormen.

The trouble with the purchase under the provision which I offered amending the Panama Canal act when the tariff bill was up and which passed here in a shape in which I offered it and was afterwards amended in conference, has been not in the purchase of ships, but in the operation of ships. The trouble is that after you have bought them you can not operate them at a competitive profit.

It may be that during war times you can operate them at a profit by having shipowners throw the burden of increased freightage upon the American farmer, the American producer, the American shipper or manufacturer, whoever he may be. If that is all the good it is going to do, it does not seem to me that it will last quite long enough to encourage men to come and give up their hard-earned dollars and risk them for the sake of high profits that possibly may not endure over four months.

If some Senators whose voices I have heard lately are to be listened to with much gravity the war will not last more than about 120 days. They seem to think so, owing to the improved war machinery organized for the purpose of rendering women husbandless and children fatherless and going into the singing of Te Deums in churches in the different countries and asking God to kill more of the other women's husbands and the other children's fathers than of theirs. But if it shall last a long time perhaps there might be some improvement in the bill over the present system at any rate, because I never approved of the restriction put in conference upon the original amendment which I offered in the Senate and which passed this body.

Mr. President, the question discussed by the Senator from Montana [Mr. WALSH] and the Senator from North Carolina [Mr. SIMMONS] and the Senator from New Hampshire [Mr. GALLINGER] and the Senator from Connecticut [Mr. BRANDEGEE] it seems to me was somewhat irrelevant, because if the ship

flying the American flag, but not entitled to American registry, can not secure egress from an American port and be cleared I do not see how that is going to help your cotton or your wheat, particularly, because the wheat and cotton have got to start from an American port, and in that respect only can it help me and other farm producers, as far as I see.

Mr. SIMMONS. The Senator will remember that I was discussing that question only in connection with the suggestion that we would be in danger of getting into trouble with other nations if we removed this age limit.

Mr. WILLIAMS. I remember that; and for that very reason I have just said that, in my opinion, that whole discussion is irrelevant; in other words, it does not touch the present exigency; it does not touch the present need; it is going to do no good to my people and it is going to do no good to the western people.

The point, Mr. President, right now is this: I am not willing to build up a merchant marine in time of peace by a tax upon the American people; I am not willing to build up by laxity of humanitarian laws a merchant marine in times of peace. I would rather do without it than to have it at the price of either one of those two things. So I am not seeking a permanent remedy right now; I am seeking a temporary remedy in the emergency; I am seeking, as far as I can, to meet a crisis, and to meet the crisis as long as the crisis lasts; and after the crisis ceases to exist, I am willing to quit meeting it.

Mr. President, I have offered a bill which I read upon day before yesterday, and which I need not again read, because, so far as I remember, every Senator now present was then present. I see no new faces. That bill provides for the purchase by the United States Government, to meet this emergency, of ships lying marooned in our ports, and for loading those ships with our produce from the farm, the factory, and the mine. I add the mine, for I learned this morning from conversation with my friend the junior Senator from Nevada [Mr. PITTMAN] that even the price of minerals has gone to pot until people can find out whither they are to be shipped. Cotton to-day has no fixed price in the market; the price is purely speculative. This is almost the first time in the history of the world that that was ever the case. What I want to meet is the existing emergency.

Mr. WEST. Mr. President, I will suggest, for the benefit of the Senator from Mississippi, that cotton has gone to the market in my city and had to be carried back to the homes of the farmers.

Mr. WILLIAMS. That is the reason I made the remark. I understand that in various southern submarkets, if I may call them so, the farmers have hauled their cotton in to market, and then have had to haul it back. Hitherto the great advantage of cotton was that while you might carry a mule to market and could not sell him unless you found a ready purchaser; while you might carry a bale of hay to market and might find that nobody particularly wanted it that day, yet cotton had a gold price always at some figure. Even during the beginning of the McKinley administration, when cotton was lower than it ever was at any other time in the history of this country except for a little period in the early forties, cotton was worth what it was quoted at, at any rate, and you could get gold for it, and that was the end of it. You can not do that with a mule; you can not do it with a colt; you can not do it with a bale of hay; and you can not do it with a bushel of corn.

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Connecticut?

Mr. WILLIAMS. I do.

Mr. BRANDEGEE. I assume that the Senator from Mississippi would think if the ships purchased under this bill—if it were passed—could be operated in competition permanently with foreign ships that there would be some profit?

Mr. WILLIAMS. Oh, yes; and, if the Senator will pardon me, I assume another thing, and that is, so long as the transports are in the hands of the United States Government they will not be operated for the purpose of robbing the American people at extremely high freight rates.

Mr. BRANDEGEE. I assume that they would not be operated for profit at all if the Senator's bill were passed?

Mr. WILLIAMS. I beg the Senator's pardon. If I had my way about it, we should have them operated for profit, at least for enough to cover the chance of loss, insurance, and various things, and to make a slight margin upon the investment. I do not want the American people, out of their Treasury, to lose money by the operation at all.

Mr. BRANDEGEE. I did not suppose the Senator did; but when I say that the cost would be recovered by the Government in the shape of freight charges, of course I intend to include insurance and such things, but I mean the Government would not go into it now as a money-making operation, but would go into it to meet a national emergency.

Mr. WILLIAMS. To meet a national emergency; to meet a great crisis; and when the crisis is over, to quit.

Mr. BRANDEGEE. Now, what I want to ask the Senator is, if we now buy these foreign-built ships, so that the capital account of the investment would be the same as the foreigner's, the same as the one with whom we were competing, the sole difference, then, would be the cost of operation, would it not?

Mr. WILLIAMS. That is all.

Mr. BRANDEGEE. Is the Senator, then, prepared to say that it would not be possible to operate these vessels permanently in competition with foreign vessels?

Mr. WILLIAMS. No; I am not prepared to say that, because I remember a piece of history that is highly instructive upon that question. After a certain amount of property changes hands, especially ships, and people enter a new business and begin to learn how to carry it on, it may happen that that situation will remain comparatively permanent.

The *Alabama* and the *Florida* sent most of the United States merchant marine to the bottom or else drove it into foreign ownership. For the most part, of course, it was driven into foreign ownership. After the war it stayed in foreign ownership, because it happened at the same time that people began to build ships out of iron instead of out of wood; so that even our wooden ships remained in foreign ownership after the war, because nobody was building any more wooden ships. Steel ships were taking their places. They were much cheaper in the long run to operate, though not, of course, in the short run cheaper to build.

I am not prepared to say that it would not be possible permanently to operate the vessels for the purchase of which I propose to provide in competition with foreign vessels after they had passed into private ownership, but what I am prepared to say is, if our people have not bought foreign ships within the age limit under the provision of the Panama Canal act, of which I am very proud to have been the father in its original and unamended form, their failure to buy them has not been because the ships cost too much to buy, but because they cost too much to operate; and unless they can be assured of a long period of operation, or a considerable and respectable period of operation, at any rate, they will hardly go in and risk their good dollars to do it now.

Of course there might be a situation where the farmers and manufacturers of the West and the farmers and manufacturers of the South would all come together and contribute to a public fund to meet a great immediate crisis, without regard to the long-run profits, but I hardly think you can appeal to private capital in that way. You can appeal to public capital in that way always; but while I would be willing, or the Senator from Iowa would be willing, to stand our share of the taxes and to run the risk of selling these ships later at less than we paid for them, if necessary to get rid of them, to private capital—either abroad or here, it would make no difference to us—while I might be willing to do that, at the same time I might not be willing to go in and risk a great many more dollars of my own that might jeopardize my position in the commercial world in order to provide for a contingency of the duration of which I was ignorant.

Mr. GALLINGER. Mr. President, one point troubles me that I have no doubt the Senator from Mississippi can clear up. If we purchase foreign ships under this proposed act, and we waive the matter of American officers and other requirements that are expensive to the American ships, after the emergency is over and these ships remain in our service, unless they come again under the laws of the United States requiring them to have certain officers and to have the American food scale and all that——

Mr. WILLIAMS. And the atmosphere scale, too.

Mr. GALLINGER. Yes. They will then be run in competition with the ships we now own which are engaged in the foreign trade. They will, therefore, have a preference, and that will not be fair. If we undertake to reduce the cost of operating American ships in the foreign trade which we now have, I think we will run up against a very serious proposition, so far as the labor unions of this country are concerned.

Mr. WILLIAMS. I do not know; I have not thought that out, to be frank with the Senator from New Hampshire.

Mr. GALLINGER. There are men very actively promoting their interests.

Mr. WILLIAMS. But it does seem to me, at first blush, as if we might create two different sorts of shipping, one competing on one footing and another upon another, within our own merchant marine. If that be true, why, of course, then we

would have one of two things to do—either to permit the ships not operated under this bill to be run on the scale that these are permitted under this proposed act to run upon, or we would have to make the ships provided for run on the present scale and leave ourselves in competition with foreign ships, just where we are. Frankly, however, I have not thought that out, and am not sure about it.

Mr. GALLINGER. If the Senator will permit me, it must be kept in mind that, while we have only six American ships crossing the North Atlantic in the foreign trade, and about as many more on the Pacific, we have a great many ships, I think a couple of hundred perhaps, engaged in the foreign trade on shorter routes, and it would not be fair to compel those ships to maintain the American scale and allow these ships which are purchased under this proposed law to maintain a lower scale. That would have to be worked out in some way.

Mr. WILLIAMS. I assume that the condition apprehended by the Senator could not be permanent. Very soon attention would be attracted to that, if it turned out to be that way, and it would be cured by one of the two processes that I have attempted to outline.

Mr. President, I do not see that the pending bill can do any harm, and I shall vote for it; but I am afraid that it will not meet the exigency, and I am afraid that nothing short of the Government of the United States putting its shoulder to the wheel right now will meet the exigency. When I say "the exigency" I mean the immediate exigency; I do not mean the exigency to arise in one week or one month or two months from now; I mean the exigency which has already arisen, and which ought to be met to-morrow morning, if necessary.

I think all of you will do me the credit of remembering that I very seldom indulge in what I might call sectional commerciality—if I may coin that phrase. I generally try to look as far as I can and as fairly as I can at the whole United States, and if I have dwelt a little bit too much upon the cotton situation more than upon the other situations this morning it is merely because I know more about it; but I know that the same kind of condition must exist in regard to other products as well.

Mr. FALL. Mr. President——

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from New Mexico?

Mr. WILLIAMS. I do.

Mr. FALL. An idea suggests itself to me with reference to the question of competition which has just been referred to. Does the Senator think that the vessels which we are to purchase now would go through the Panama Canal toll free?

Mr. WILLIAMS. No; I do not.

Mr. FALL. Would the Government pay tolls to the Government on its own vessels?

Mr. WILLIAMS. Absolutely; but when the Government pays its tolls to itself, I should like to know how the Government suffers?

Mr. FALL. Then how is the private shipping of the United States going to meet in the same trade these Govrenment-owned vessels, even at the same scale of wages?

Mr. WILLIAMS. That is the very reason, or one among others, why I put this section in the bill which I now propose as an amendment:

SEC. 5. That it shall be the duty of the Secretary of the Treasury, on or before or within four months after peace shall have been reestablished in Europe, to dispose of the ships purchased under this act at the best available price at public or private sale and to cover the proceeds thereof into the general fund of the Treasury.

I do not want to establish a situation of things where the Government becomes a permanent freight carrier in competition with its own citizens.

Mr. FALL. Then, if the Senator agrees to subsidize one class of American-owned vessels by a rebate of the tolls, why not in the same class of trade during the present emergency subsidize all other American vessels?

Mr. WILLIAMS. I do not agree to anything of the sort. I say that the owner of the canal when it pays its tolls does not suffer. The Government of the United States might pay the tolls upon its war vessels passing through the Panama Canal; but if it did, I do not see how it would suffer. I do not care, however, to go back to the debate of the Panama tolls controversy.

Mr. FALL. The Government would immediately enter into competition by its own vessels with other vessels owned by its citizens, would it not?

Mr. WILLIAMS. There is no doubt about that, for the present war time.

Mr. FALL. And the Government would subsidize itself?

Mr. WILLIAMS. To a very limited extent, because the ships which are going to transport to Europe, if my idea is carried out, our cotton, our corn, our meat, our copper, and other things, iron ore and structural steel, are going to carry nine-tenths of it not through the Panama Canal at all but across the Atlantic Ocean into the ports of other countries that are not blockaded.

Mr. FALL. Mr. President, the Senator refers to structural steel. England has declared, as I understand, structural steel to be contraband.

Mr. WILLIAMS. Some classes of structural steel are conditional contraband, yes; such as structural steel which may be used in the construction of ships; that is my recollection.

Mr. FALL. Private vessels owned by citizens of the United States can convey structural steel subject simply to seizure and confiscation.

Mr. WILLIAMS. Yes.

Mr. FALL. Now, suppose the vessels which the Senator wants the Government to hire or buy should undertake to carry structural steel.

Mr. WILLIAMS. I am not going to suppose that.

Mr. FALL. That commodity having been declared contraband of war, then you have the Government committing an act of war against England.

Mr. WILLIAMS. I am not going to suppose for one moment that the United States Government will violate its own laws of neutrality or will indulge in unlawful carriage in violation of this very act. I can not suppose that, and I do not believe it will occur.

Mr. FALL. The Senator referred to structural steel, and that idea occurred to me.

Mr. WILLIAMS. I just happened to mention it. I did not mean structural steel for use in building men-of-war. Of course that would be contraband of war.

Now, what I want to say, Mr. President, is that, while this bill can do no harm, it may do good; and, while one or two of the amendments offered to it ought to be adopted, I am afraid that even if passed with the amendments that have any chance of passing at all it will not meet the crisis, and I again want to call the attention of the country to that fact.

There is one objection in my mind to the bill which I have offered. It is possible that the United States Government may buy the ships and afterwards have to sell them at less than they paid for them. It is possible we may have to sell them at 75 per cent of what they cost us, or even a less percentage than that.

But to provide for the conveyance of 15,000,000 bales of cotton, worth from $50 to $60 a bale, and how many bushels of wheat I do not know—some of the Senators from the West can tell us—and the great meat products of the country, which are exportable and which can now be sold at war prices all over the world, and to provide for the transportation of such of our manufactured articles as are exportable under the laws of war—when you consider all that, and its gigantic importance to our country, then the principle de minimis non curat lex applies to the loss that the United States Government would suffer. Moreover, that loss would assume the shape of a tax—in a way an indirect tax—and would be about the lightest tax and the most remunerative tax and the most recompensatory tax that we have levied upon ourselves in many a long day.

I acknowledge the force of the objection made by the Senator from New Mexico as to Government competing with its own citizens in carrying freight; and if this were to be made a permanent matter I would fight it to the death, if it voiced a public policy.

Mr. FALL. Mr. President, will the Senator yield to me for a moment?

Mr. WILLIAMS. Certainly.

Mr. FALL. I am in hearty accord with the Senator in desiring to afford relief to our own manufacturers and farmers. I do not know, however, that I would agree with him as to the method to be pursued; that is, that the suggestion contained in his bill that the Government should now go into the public ownership of methods of transportation would be the best solution of the problem. We may come to that a little later; within the next 10 years, I think, it is very likely that we may own practically all methods of transportation.

Mr. WILLIAMS. I hope not.

Mr. FALL. But, Mr. President, if the desire of the Senator is to afford relief to our farmers and manufacturers, if that is the object, and the sole object, of this legislation, or legislation along this line, I believe that I am Populist enough to prefer a plan under which certificates might be issued, rather than to the banks in the shape of emergency currency, direct to the producers, the farmers, to enable them to hold their cotton and hold their wheat and hold the other products within the warehouses until the foreign ships can come over and take

them away. We are now issuing $500,000,000 of currency to be loaned to these very people, and interest is to be charged upon it, and why not issue that directly upon certificates against their cotton or other crops at so much a bale?

Mr. WILLIAMS. Mr. President, if the Senator from New Mexico will pardon me just one moment, to that question there are two replies. The first is that if we can get the products abroad we do not need to hold them at home; they can be sold and will be sold at good prices——

Mr. FALL. Yes; but——

Mr. WILLIAMS. And, so far as wheat and breadstuffs and meats are concerned, they may be sold at unusual and abnormal prices. The next objection to that is this: If you were to pile up, say, 50 per cent of the cotton crop of this country and carry it over until another crop were made, and then if, say, 50 per cent, seven and a half million bales, were carried over as a surplus to another new 15,000,000-bale crop, cotton would sink to 6 cents a pound. You could not harm the farmer worse than by enabling him to carry over half of his crop as a surplus to be added to all of the next crop, unless you decrease his acreage; and if the Senator knew as much about the cotton farmer as I do, he would know that the cotton farmer is not going to decrease his acreage.

Mr. FALL. I know that; I have been a cotton farmer on a small scale myself; but it appears to me that in the last few years the object of the unions of the cotton farmers has been to control the market by controlling the crop and not putting it on the market until they saw fit to do so. Now, if the Government relieves them of any necessity of putting it upon the market and advances them the necessary money, as the Senator says cotton is always gold——

Mr. WILLIAMS. At some price.

Mr. FALL. Sooner or later we would get the world's gold for it.

Mr. WILLIAMS. At some price, but if you piled up 21,000,000 bales of American cotton it would bring but little gold.

Mr. FALL. If we owned that 21,000,000 bales, we could sell it for what we chose.

Mr. WILLIAMS. Oh, no. We have found that out long ago.

Mr. FALL. Where will the world get cotton?

Mr. WILLIAMS. The world will get what it needs, that what the world wants to spin and weave; but if you give the world 21,000,000 bales of American cotton in a year—and generally we make about 14,000,000 or 15,000,000 bales—you increase the world's supply of cotton up to thirty-odd million instead of 23,000,000 bales, as it is now. Then the world would not buy it, because the world would not want that amount, under the law of supply and demand, except at a 6-cent price. It might bring 6 cents in gold even then.

Mr. FALL. If we have the supply and the world creates the demand for cotton does the Senator not think we can certainly fill that demand at our own price?

Mr. WILLIAMS. I wish I thought so; we planters would have been rich by now if that had been the case. We have never seen the time yet when we could sell cotton at our own prices. The price depends altogether upon how much cotton there is going to market to be spun and woven among the people who are spinning and weaving. We raise only about two-thirds of a year's crop of cotton.

Mr. FALL. If there is none to go to market, you can get your prices for what you do let go to market.

Mr. WILLIAMS. That is true; but if you increase the supply during the time you are making a new crop by adding the old crop carried over or even half of it, then there would be such an amount on hand when that crop is gathered that you would be likely to get very low prices. You would have in the market at one and the same time two crops, or all of one and say half of another. There is no doubt about that. But that does not touch this matter. Section 3 of this bill, if the Senator will pardon me, answers the objection he made a moment ago. It provides:

SEC. 3. That the ships so manned and registered be loaded with breadstuffs, meats, and cotton and other articles not contraband of war, ready now or hereafter ready for export, and shall convey the same to whomsoever at whatever port of the world may have purchased the same, subject only to blockades that are or may be declared.

Note the language, "not contraband of war."

Mr. FALL. Mr. President, I understand the Senator is anxious, of course, to specify what shall be contraband of war; but the United States does not specify or does not fix for other nations what shall and what shall not be contraband of war. Now, England this morning——

Mr. WILLIAMS. I have provided for even that in section 4, which reads:

SEC. 4. That the United States view as an unfriendly act any attempt on the part of any Government, dominion, or power in the world to interfere with, hinder, or delay their commerce on the high seas in anything save absolute contraband of war as declared by The Hague conference or in obedience to blockade regulations, and especially any attempt to interfere with, delay, or hinder their commerce as carried on in the ships hereby provided for.

Note the language, "absolute contraband of war."

Mr. FALL. Then, what are we going to do if other nations say, "We regret that the United States regards this as an unfriendly act, but nevertheless self-preservation is the first law of nations, as it is of nature"?

Mr. WILLIAMS. We would have behind us the authority of The Hague conference.

Mr. FALL. How much authority, I will ask the Senator, has The Hague conference?

Mr. WILLIAMS. Oh, well, if any nation attempted to oppress us upon the high seas by bidding defiance to what all had agreed to at The Hague, we would defend ourselves; but I do not think any will. I think they would all be mighty glad not to.

Now, Mr. President, I am going to cease in a moment, because I understand there is a desire to have an executive session pretty soon, in order to get under way the new system of banking and currency; but there seems to be some misapprehension as to what is provided for in this bill. There seems to be an idea among some Senators—and I especially ask the attention of the Senator from Massachusetts [Mr. WEEKS] to this—that the ships provided for in this bill, after they are bought, are to be operated entirely by the Navy. I have made no such provision. I provide that they shall be manned and equipped either by detail from the Navy or by the employment of men now engaged in the merchant marine or otherwise. So that the United States Government would not necessarily use its Navy in this matter, and, of course, would not do so in any event unless they had free men to detail without destroying naval efficiency. That would not interfere with the Navy or with the bill already passed upon, the profert of the Senator from Massachusetts. I thank the Senate.

EXECUTIVE SESSION.

Mr. KERN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 4 hours and 40 minutes spent in executive session the doors were reopened.

DEATH OF MRS. WOODROW WILSON.

Mr. KERN. Mr. President, I send to the desk the following resolutions and ask for their adoption.

The VICE PRESIDENT. The Secretary will read the resolutions submitted by the Senator from Indiana.

The resolutions (S. Res. 439) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate is deeply sensible of the grief which overspreads the Nation following the death, at the White House, of one who so rarely exemplified the highest qualities of American wife, mother, and woman, and hereby extends to the President and his family its heartfelt sympathy in this hour of their affliction.

Resolved, That a committee consisting of the Vice President, as chairman, and the senior Senator from each State, be, and hereby is, appointed to attend the funeral services as the representatives of the Senate.

Resolved, That a copy of these resolutions be transmitted to the President.

Mr. KERN. I move that the Senate adjourn until to-morrow at 11 o'clock a. m.

The motion was agreed to, and (at 6 o'clock and 40 minutes p. m.) the Senate adjourned until to-morrow, Saturday, August 8, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate August 7, 1914.

ASSISTANT SECRETARY OF THE TREASURY.

Andrew J. Peters, of Boston, Mass., to be Assistant Secretary of the Treasury, in place of Hon. Charles S. Hamlin, appointed a member of the Federal Reserve Board.

UNITED STATES CIRCUIT JUDGE.

Victor B. Woolley, of Wilmington, Del., to be United States circuit judge, third circuit, vice George Gray, resigned.

PROMOTIONS IN THE ARMY.

INFANTRY ARM.

Lieut. Col. Everard E. Hatch, Infantry, unassigned, to be colonel from July 29, 1914, vice Col. Joseph W. Griffith, Seventeenth Infantry, retired from active service July 28, 1914.

Lieut. Col. David C. Shanks, Infantry, unassigned, to be colonel from August 4, 1914, vice Col. Edwin F. Glenn, unassigned, detached from his proper command.

Maj. David J. Baker, jr., Infantry, unassigned, to be lieutenant colonel from July 29, 1914, vice Lieut. Col. Everard E. Hatch, unassigned, promoted.

Maj. Benjamin A. Poore, Infantry, unassigned, to be lieutenant colonel from August 4, 1914, vice Lieut. Col. André W. Brewster, unassigned, detailed as inspector general.

Capt. William Newman, First Infantry, to be major from July 29, 1914, vice Maj. George W. Martin, Seventeenth Infantry, detailed as adjutant general.

Capt. Frank A. Wilcox, Infantry, unassigned, to be major from August 5, 1914, vice Maj. George B. Duncan, Ninth Infantry, detached from his proper command.

First Lieut. John S. Chambers, Fourth Infantry, to be captain from July 29, 1914, vice Capt. William Newman, First Infantry, promoted.

First Lieut. James Regan, Ninth Infantry, to be captain from August 3, 1914, vice Capt. Wilson B. Burtt, Twentieth Infantry, detached from his proper command.

First Lieut. Gilbert M. Allen, Nineteenth Infantry, to be captain from August 5, 1914, vice Capt. Clenard McLaughlin, Twenty-first Infantry, detached from his proper command.

Second Lieut. Robert E. O'Brien, Twenty-seventh Infantry, to be first lieutenant from July 29, 1914, vice First Lieut. John S. Chambers, Fourth Infantry, promoted.

COAST ARTILLERY CORPS.

Second Lieut. Richard F. Cox, Coast Artillery Corps, to be first lieutenant from August 2, 1914, vice First Lieut. James R. Campbell, resigned August 1, 1914.

REGISTER OF THE LAND OFFICE.

Shober J. Rogers, of Fallon, Nev., to be register of the land office at Carson City, Nev., vice Lewis J. Cohn, term expired and resigned.

Charles D. Mackay, who was confirmed for this office July 9, 1914, declined appointment.

CONFIRMATIONS.

Executive nominations confirmed by the Senate August 7, 1914.

SECRETARIES OF EMBASSIES.

George T. Summerlin to be secretary of the embassy at Santiago, Chile.

Perry Belden to be second secretary of the embassy at Santiago, Chile.

SECRETARIES OF LEGATIONS.

Francis Travis Coxe to be secretary of the legation at Tegucigalpa, Honduras.

Glenn Stewart to be second secretary of the legation at Habana, Cuba.

MEMBERS OF THE FEDERAL RESERVE BOARD.

Frederic A. Delano for a term of six years.

Paul M. Warburg for a term of four years.

COLLECTOR OF INTERNAL REVENUE.

Henry P. Keith to be collector of internal revenue for the first district of New York.

CIRCUIT COURT JUDGES.

Clarence W. Ashford to be first judge of the circuit court of the first circuit of the Territory of Hawaii.

William S. Edings to be judge of the circuit court of the second circuit of the Territory of Hawaii.

PROMOTIONS AND APPOINTMENTS IN THE PUBLIC HEALTH SERVICE.

Passed Asst. Surg. Richard H. Creel to be surgeon.
Passed Asst. Surg. Ruel E. Ebersole to be surgeon.
Passed Asst. Surg. William C. Rucker to be surgeon.
Passed Asst. Surg. Arthur M. Stimson to be surgeon.
Passed Asst. Surg. John W. Trask to be surgeon.
Asst. Surg. Warren F. Draper to be passed assistant surgeon.
Asst. Surg. Julian M. Gillespie to be passed assistant surgeon.
Asst. Surg. Lewis R. Thompson to be passed assistant surgeon.
Asst. Surg. Richard A. Kearny to be passed assistant surgeon.
Thomas Francis Keating to be assistant surgeon.
Clarence Henry Waring to be assistant surgeon.
George Alexander Wheeler to be assistant surgeon.
Roland Edward Wynne to be assistant surgeon.
Henry Charles Yarbrough to be assistant surgeon.

RECEIVER OF PUBLIC MONEYS.

Owen E. Thomas to be receiver of public moneys at Kalispell, Mont.

REGISTER OF THE LAND OFFICE.

Frank M. McHaffie to be register of the land office at Missoula, Mont.

POSTMASTERS.

NEW YORK.

Melvin W. Billings, Hurleyville.
William F. Britt, Sea Cliff.
John H. Cronan, Port Henry.
Edward J. Cunningham, Amenia.
L. R. Francis, Ripley.
Archie S. Gould, Alfred.
John W. Hamilton, Stillwater.
R. P. Heaton, Chazy.
William Johnson, Groveland Station.
C. M. Marnes, Rouses Point.
William T. Welden, Richfield Springs.
Thomas P. Whalen, Dover Plains.

HOUSE OF REPRESENTATIVES.

FRIDAY, *August 7, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almighty God, our heavenly Father, whose ways are past finding out, yet whose presence manifests itself in a thousand displays of infinite wisdom, power, and goodness, we turn to Thee for consolation in this hour of inexpressible sorrow in the death of our President's wife. The charm of her presence, the purity of her soul, the sympathy of her heart for the poor and distressed will be the Nation's loss. May her example live in the hearts of the people.

Comfort, we pray Thee, the stricken and bereaved husband and children. Who can understand better than Thee the mystic ties of love and affection which bind us together into families; who can heal the broken heart when death enters the home but Thee. Be with our President and his children to uphold and sustain them in their loss. May time with its softening hand assuage their grief and fill their hearts with hope and comfort in a reunion where the love ties will be stronger, the affections warmer, never to be severed by time nor space. And æons of praise shall be Thine. In the name of Him, who taught us the resurrection and the life. Amen.

The Journal of the proceedings of yesterday was read and approved.

INTERSTATE TRADE COMMISSION.

Mr. ADAMSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 15613) to create an interstate trade commission, define its power and duties, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and ask for a conference.

The SPEAKER. The gentleman from Georgia asks unanimous consent to take from the Speaker's table the bill (H. R. 15613) to create an interstate trade commission, and so forth, with a Senate amendment thereto, disagree to the Senate amendment and ask for a conference. Is there objection?

There was no objection.

The Chair appointed the following conferees: Mr. ADAMSON, Mr. SIMS, Mr. COVINGTON, Mr. STEVENS of Minnesota, and Mr. ESCH.

FEDERAL RESERVE ACT.

Mr. GLASS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 4966) proposing an amendment as to section 19 of the Federal reserve act, relating to reserves, and for other purposes, and consider the same at this time.

The SPEAKER. The gentleman from Virginia asks unanimous consent to take from the Speaker's table the bill S. 4966 relating to the Federal reserve act, and consider it at the present time. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 19, subsections (b) and (c) of the act approved December 23, 1913, known as the Federal reserve act, be amended and reenacted so as to read as follows:

"(b) A bank in a reserve city, as now or hereafter defined, shall hold and maintain reserves equal to 15 per cent of the aggregate amount of its demand deposits and 5 per cent of its time deposits, as follows:

"In its vaults for a period of 36 months after said date, six-fifteenths thereof, and permanently thereafter five-fifteenths.

"In the Federal reserve bank of its district for a period of 12 months after the date aforesaid, at least three-fifteenths, and for each succeeding six months an additional one-fifteenth, until six-fifteenths have been so deposited, which shall be the amount permanently required.

"For a period of 36 months after said date the balance of the reserves may be held in its own vaults, or in the Federal reserve bank, or in national banks in central reserve cities, as now defined by law.

"After said 36 months' period all of said reserves, except those hereinbefore required to be held permanently in the vaults of the member

bank and in the Federal reserve bank, shall be held in its vaults or in the Federal reserve bank, or in both, at the option of the member bank.

"(c) A bank in a central reserve city, as now or hereafter defined, shall hold and maintain a reserve equal to 18 per cent of the aggregate amount of its demand deposits and 5 per cent of its time deposits, as follows:

"In its vaults, six-eighteenths thereof.

"In the Federal reserve bank, seven-eighteenths.

"The balance of said reserves shall be held in its own vaults or in the Federal reserve bank, at its option.

"Any Federal reserve bank may receive from the member banks as reserves not exceeding one-half of each installment, eligible paper as described in section 13 properly indorsed and acceptable to the said reserve bank

"If a State bank or trust company is required or permitted by the law of its State to keep its reserves either in its own vaults or with another State bank or trust company or with a national bank, such reserve deposits so kept in such State bank, trust company, or national bank shall be construed within the meaning of this section as if they were reserve deposits in a national bank in a reserve or central reserve city for a period of three years after the Secretary of the Treasury shall have officially announced the establishment of a Federal reserve bank in the district in which such State bank or trust company is situate. Except as thus provided, no member bank shall keep on deposit with any nonmember bank a sum in excess of 10 per cent of its own paid-up capital and surplus. No member bank shall act as the medium or agent of a nonmember bank in applying for or receiving discounts from a Federal reserve bank under the provisions of this act except by permission of the Federal Reserve Board.

"The reserve carried by a member bank with a Federal reserve bank may, under the regulations and subject to such penalties as may be prescribed by the Federal Reserve Board, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities: *Provided, however*, That no bank shall at any time make new loans or shall pay any dividends unless and until the total reserve required by law is fully restored.

"In estimating the reserves required by this act, the net balance of amounts due to and from other banks shall be taken as the basis for ascertaining the bank deposits against which reserves shall be determined. Balances in reserve banks due to member banks shall, to the extent herein provided, be counted as reserves.

"National banks located in Alaska or outside the continental United States may remain nonmember banks, and shall in that event maintain reserves and comply with all the conditions now provided by law regulating them; or said banks, except in the Philippine Islands, may, with the consent of the Reserve Board, become member banks of any one of the reserve districts, and shall, in that event, take stock, maintain reserves, and be subject to all the other provisions of this act."

The SPEAKER. Is there objection?

Mr. WINGO. Mr. Speaker, reserving the right to object, I desire to make some inquiries with reference to the bill. As I understand the bill, it affects the reserves of State banks only, and that during the 36 months' period covered by the Federal reserve act?

Mr. GLASS. That is a fact.

Mr. WINGO. After the 36 months' period has expired, the reserves will still be retained, part in the regional reserve bank and part in their own vaults and the remainder at whichever place the bank exercises its option to place it?

Mr. GLASS. That is true.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. GLASS, a motion to reconsider the vote by which the bill was passed was laid on the table.

GRAND ARMY OF THE REPUBLIC.

Mr. BARNHART. Mr. Speaker, I present herewith a privileged report upon House concurrent resolution 42, which I send to the desk and ask to have read.

The Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That there shall be printed as a House document 1,100 copies of the journal of the forty-eighth national encampment of the Grand Army of the Republic, for the year 1914, not to exceed $1,600 in cost; 100 to be bound in cloth, balance in paper covers.

With the following committee amendments:

Page 1, line 7, after the word "cloth," insert "for the use of the national commander."

Page 1, line 7, after the word "covers," insert "for the use of the House folding room."

The SPEAKER. The Clerk will read the report.

The Clerk read as follows:

Mr. BARNHART, from the Committee on Printing, submitted the following report to accompany House concurrent resolution 42:

The Committee on Printing, to which was referred House concurrent resolution 42, having had the same under consideration, reports the resolution back with the recommendation that it do pass with the following amendments:

Line 7, after the word "cloth," insert the following words: "for the use of the national commander."

Line 7, after the word "covers," insert the following words: "for the use of the House folding room."

The Public Printer has submitted an estimate that the printing and binding provided for in this resolution will cost $1,600. The following statement by the Public Printer shows the cost of the printing previously ordered by Congress during the present fiscal year and the amount available therefor:

CONGRESSIONAL ALLOTMENT.

Work computed and forwarded to the allotment books	$93,735.44
Approximate of work ordered, but not completed	116,264.56
Total for work ordered	210,000.00
Congressional allotment	1,696,760.00
Work ordered (estimated)	210,000.00
Unencumbered balance	1,486,760.00

The committee considered the bill, with hearings from Hon. J. A. GOULDEN, author of the bill, and Hon. Washington Gardner, national commander in chief of the Grand Army of the Republic and formerly a Member of the House fo Representatives. Both presented the argument that the Grand Army of the Republic is a national patriotic organization; that the membership thereof is old in years; that their earning capacity is gone; that their numbers are rapidly waning; that the order has only limited means; that the records of the order should be made public and permanent for future authentic references; that there is specific precedent for this in the act of Congress which authorizes the printing of the proceedings of the annual meeting of the American Revolution as a public document.

It was also brought out in the hearings that several States in the Union print reports of the proceedings of the State encampment of the Grand Army of the Republic for historical-record purposes, and for the foregoing and other reasons your committee recommends that the bill do pass.

Mr. FITZGERALD. Mr. Speaker, I make the point of order on the resolution, that it is not privileged.

The SPEAKER. The Chair will hear the gentleman.

Mr. FITZGERALD. This provides for printing other than for the two Houses of Congress, and the Committee on Printing has no jurisdiction over such matters.

The SPEAKER. The Chair will hear the gentleman from New York.

Mr. FITZGERALD. Mr. Speaker, I have said all that I desire to say. The Committee on Printing has jurisdiction of the printing for the two Houses of Congress. Resolutions providing such printing alone are privileged. This resolution provides for the printing of public documents other than for the two Houses of Congress, and therefore is not privileged.

Mr. MANN. Will the gentleman yield?

Mr. FITZGERALD. I yield to the gentleman.

Mr. MANN. The concurrent resolution itself reads:

That there shall be printed as a House document 1,100 copies of the journal of the forty-eighth national encampment of the Grand Army of the Republic for the year 1914, not to exceed $1,600 in cost; 100 to be bound in cloth, balance in paper covers.

That is as far as the resolution is concerned.

Mr. FITZGERALD. But an amendment has been reported by the committee. It has always been held that a proposed committee amendment must be considered in determining whether a resolution is privileged. As proposed to be amended it goes much further than the resolution read by the gentleman from Illinois. The amendments that are reported as committee amendments destroy the privileged character of the resolution.

Mr. MANN. Well, it might be possible that one amendment is subject to a point of order as to its being nonprivileged matter——

Mr. FITZGERALD. I think it is.

Mr. MANN. Contained in a privileged resolution.

Mr. BARNHART. Mr. Speaker, if it is permissible, in order to simplify matters I ask unanimous consent to withdraw the amendments.

Mr. FITZGERALD. Mr. Speaker, I object. I do not believe Congress should print such documents at all. It will be impossible ever to reduce the expense of public printing if we are to print the proceedings of everybody as part of the proceedings of Congress or as public documents upon the theory that they are for the information of Congress. It is merely—and we might as well be frank in discussing such matters—to relieve an association or an organization of the expense of printing the proceedings of its annual meeting. If we do that for one society, no matter what it may be, there is no excuse for not doing it for every organization which has an annual meeting. I am opposed to its being done.

The SPEAKER. The parliamentary situation is this: All matters referred to the Joint Committee on Printing for printing for the use of the House or the two Houses, of course, are in the list of privileged matter. The resolution is privileged, but the amendment is not, and the gentleman from Indiana [Mr. BARNHART] asks unanimous consent to withdraw the amendment.

Mr. FITZGERALD. Mr. Speaker, I object to the gentleman withdrawing it. It is a committee amendment, and the gentleman has no right to withdraw something that the committee has determined.

The SPEAKER. The Chair was trying to state the matter—that the gentleman from Indiana asked to withdraw the amendment, and the gentleman from New York objected to it. The resolution is not privileged, because it has this amend-

ment in it, and the House has to consider the committee amendment along with the resolution.

EXTENDING PERIOD OF PAYMENT ON RECLAMATION PROJECTS.

Mr. TAYLOR of Colorado. Mr. Speaker, I call up the conference report on the bill S. 4628, an act extending the period of payment under reclamation projects, and for other purposes.

The SPEAKER. The Clerk will read the conference report.

The conference report was read, as follows:

CONFERENCE REPORT (NO. 1076).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, and 16, and agree to the same.

That the House recede from its amendments numbered 13 and 14.

EDWARD T. TAYLOR,
JOHN E. RAKER,
MOSES P. KINKAID,
Managers on the part of the House.

MARK A. SMITH,
HARRY LANE,
W. L. JONES,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on certain amendments of the House to the bill (S. 4628) extending the period of payment under reclamation projects, and for other purposes, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to each of the House amendments, namely:

On amendment No. 1: The Senate concurs in the House amendment, as it is believed that this amendment will tend to prevent speculation, and is in the interest of good faith and will protect the Government, and is a reasonable requirement upon the entryman.

On amendments Nos. 2 and 3: The Senate concurs in the House amendments, as they are merely clerical and grammatical amendments to make the language more specific.

On amendment No. 4: The Senate concurs in the House amendment, as it is deemed advisable to fix some definite time when an entry may be made, and it is deemed appropriate that the Secretary of the Interior shall designate that time and publicly announce it.

On amendment No. 5: The Senate concurs in the House amendment, as that provision was shown to be necessary in the orderly apportionment of the installments of payments to be paid under the projects.

On amendment No. 6: The Senate concurs in the House amendment, as it is merely the correction of the spelling of a word.

On amendments Nos. 7 and 8: The Senate concurs in the House amendments, as they were deemed advisable to make the language conform with the remainder of the bill.

On amendment No. 9: The Senate concurs in the House amendment, as it was deemed that the word "arrears" is more appropriate and applicable than the word "default."

On amendment No. 10: The Senate concurs in the House amendment, as that language is used on page 3, lines 18 and 19, section 3, under the heading "Penalties," and this amendment is to make the language and provisions of the two sections uniform.

On amendment No. 11: The Senate concurs in the House amendment, as it was deemed advisable that the rules made by the Interior Department on each project should be general and capable of being understood by everyone and applicable to all alike rather than special, indefinite, or uncertain.

On amendment No. 12: The Senate concurs in the House amendment, and it was deemed appropriate that these regulations should pertain only to the use of the water in the irrigation of the land, as it is the water that the department has the control over and not the handling of the land. In other words, it was to carry out the intention of the act.

On amendment No. 13: The House recedes, as the evidence in support of the bill shows that a requirement of the reclamation and cultivation of one-fourth of the area of each entry under water right and within three irrigating seasons is sufficient, and that a larger requirement would work a hardship upon the entrymen with no corresponding benefit to the Government.

On amendment No. 14: The House recedes for the same reason that it recedes on amendment No. 13, believing that the cultivation of one-half of the irrigable area of an entry within five years after filing is ample to protect the Government and show good faith, and that any larger amount of cultivation would work an unnecessary hardship upon the entryman with no corresponding benefit to the Government.

On amendment No. 15: The Senate concurs in the House amendment, as it is merely a grammatical correction.

On amendment No. 16: The Senate concurs in the House amendment to strike out all of section 16 as it came from the Senate, as the facts satisfy your committee that that provision in the law would be objectionable for the reasons that it will produce an increased amount of litigation and involve the Department of the Interior and Department of Justice in unwarranted expense, cause confusion and delay in the application of the necessary rules and regulations by the Interior Department, and cause the Secretary to either refuse to furnish water or furnish it without payment for an indefinite period, and generally that the provision would be inadvisable and would have a tendency to embarrass and hamper the administration of the service without any corresponding benefit. There were many other objections set forth in the hearings on this bill, some of which appear at pages 12963 and 12964 of the CONGRESSIONAL RECORD of July 29, 1914.

The Senate concurs in the House amendment inserting the Underwood amendment as section 16, for the reason that the overwhelming majority of the House on a roll-call vote deemed it advisable to require the Reclamation Service to make estimates in advance for the money it needs for the various projects and make these public, and submit them to Congress, and annually give the reasons why they need the money for each particular project. This amendment is deemed in the interest of good administration, that the expenditures of these funds should be submitted to the scrutiny of Congress, and that it would thereby lead to a wiser and more economical expenditure of the reclamation fund. Moreover, there is a determined sentiment in Congress to abolish continuing annual appropriations and not to permit large sums of money to be subject to the unrestricted disposition by any one bureau or department. It is therefore believed that this amendment will bring about a more efficient administration and disposition of the reclamation fund. There are many reasons both for and against this amendment, but your conference committee felt in duty bound to respect the forcible argument and the practically 4 to 1 vote of the House after exhaustive debate upon this amendment.

EDWARD T. TAYLOR,
JOHN E. RAKER,
MOSES P. KINKAID,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

Mr. MONDELL. Mr. Speaker, will the gentleman from Colorado yield for a question?

Mr. TAYLOR of Colorado. Yes, sir.

Mr. MONDELL. As I understand, the conference agreement accepts all the House amendments except the two relating to the amount of cultivation which the Secretary may require?

Mr. TAYLOR of Colorado. That is correct. The House accepts the provisions of the Senate bill as to cultivation. That is one-fourth the first three years and one-half in five years. The Senate receded on 14 of the 16 amendments and the House receded on those 2.

Mr. MONDELL. The bill as agreed to includes the so-called Underwood amendment, does it not?

Mr. TAYLOR of Colorado. Yes. I may say, generally speaking, that the only real difference between the two bodies was the amendment of the House striking out what was known as the Sterling amendment with respect to the jurisdiction of the courts and the Underwood amendment taking away from the Reclamation Service the apportionment and appropriation of the reclamation fund and putting it in Congress. The Senate conferees ultimately yielded on both of those amendments, and the Senate has already adopted the conference report and so notified the House.

The gentleman from Wyoming and the House will recall that after exhaustive debate upon the Underwood amendment, the House went on record by a roll-call vote of nearly 4 to 1 in favor of that amendment. There is no question but what the

overwhelming majority of this House is very emphatic in its belief of the advisability of requiring the Reclamation Service to make estimates in advance for the money it needs for the various projects and make these public and annually submit them to Congress and give the reasons why they need the money for each particular project.

Regardless of what some of the Members from the West thought about it, the House firmly believes that this amendment is in the interest of good administration, and that the expenditure of the money coming into the reclamation fund should be submitted to the scrutiny of Congress. The Members generally believe that a supervisory control of these funds by Congress will lead to a wiser and more economical expenditure of the money. Moreover, there is apparently a determined sentiment in Congress, as the gentleman from New York [Mr. FITZGERALD] has said, to abolish continuing annual appropriations and not permit large sums of money to be subject to unrestricted disposition by any one department or bureau. The advocates of this amendment, including the leading Members of this House, are so confident that this provision will bring about a more efficient administration and disposition of the reclamation fund that your conference committee felt in duty bound to respect that instruction of this House.

We have set forth this matter rather fully in our conference report. The very great beneficial features of this measure so outweigh this one feature, the propriety of which is questioned, that on behalf of the West I earnestly hope that this conference report will be agreed to. All the House has to consider now is these two minor amendments that your committee yielded upon.

Mr. MONDELL. I regret that the conferees on the part of the Senate felt compelled to accept the Underwood amendment, because I feel that this is questionable, but I suppose the House conferees were bound by the action of the House and assured the Senate that the House would not change its opinion with regard to those matters.

Mr. TAYLOR of Colorado. That is true; and I will ask the gentleman from Wyoming if he does not feel the House conferees were in good faith bound to insist upon and respect the overwhelming vote of this House on that amendment as the Senate has done?

Mr. MONDELL. I do; and I think the conference report under the circumstances is a most excellent one. I think the legislation as a whole is good. I hope the conference report will be accepted that the bill may speedily become a law.

Mr. TAYLOR of Colorado. The only question now before the House is merely as to the amount of cultivation required. The conferees consider that the bill as originally passed by the Senate was nearer fair and right to the settlers and would fully protect the Government, and therefore we yielded on those two minor amendments. I now yield to the gentleman from Arizona [Mr. HAYDEN] three minutes.

Mr. HAYDEN. Mr. Speaker, I shall not use the three minutes, because I know that the gentleman from Tennessee [Mr. MOON], chairman of the Committee on Post Offices and Post Roads, is anxious to get on with his bill, and therefore I ask unanimous consent to extend my remarks in the RECORD.

Mr. TAYLOR of Colorado. I yield to the gentleman from California [Mr. RAKER].

Mr. RAKER. Mr. Speaker, what has been said by the gentleman from Colorado [Mr. TAYLOR] is correct as regards the situation of the bill, and, desiring not to take up the time of the House, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from California [Mr. RAKER] and the gentleman from Arizona [Mr. HAYDEN] ask unanimous consent to extend their remarks in the RECORD. Is there objection?

Mr. BURKE of South Dakota. Will the gentleman from Colorado yield for a question——

Mr. MANN. Mr. Speaker, what is the request?

The SPEAKER. The request was that the gentleman from California [Mr. RAKER] and the gentleman from Arizona [Mr. HAYDEN] be allowed to extend their remarks in the RECORD. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, do I understand the gentlemen want to insert in the RECORD at this place long speeches on this subject to tell why the conference report should be agreed to, when it is going to be agreed to without debate at all?

[Mr. RAKER addressed the House. See Appendix.]

Mr. BURKE of South Dakota. Mr. Speaker, will the gentleman from Colorado [Mr. TAYLOR] yield for a question?

Mr. TAYLOR of Colorado. Certainly.

Mr. BURKE of South Dakota. I notice in the statement filed by the managers on the part of the House that they attempt to explain why the Senate conferees receded from the disagreement of the Senate to House amendment No. 16, known as the Underwood amendment, and I am wondering if the managers on the part of the House are attempting to defend the action of the Senate conferees, or whether they are apologizing for what they, the House conferees, accomplished by insisting upon the amendment of the House. It is rather unusual in a statement, I will say to the gentleman, for the managers on the part of the House to explain why the Senate conferees consented to recede and agree to a House amendment.

Mr. TAYLOR of Colorado. I may say that we had several long and very earnest conferences on that one amendment, and if you will examine the CONGRESSIONAL RECORD of yesterday you will see that the Senate had a lengthy debate on it also. My understanding of the function of a statement by a conference committee is to give the House some idea of the action of the conference committee in arriving at its determination and the effect of these amendments. I may say that I will assume the individual responsibility for the language that is used in this report.

I feel that I ought to say one thing more before I call for a vote upon this bill. There have been some statements going out over the country to the effect that some of the western Members of the House did not give the attention that they should to this measure during the many months that we have had this bill under consideration, and that if it had not been for the very important services of some of the individuals issuing those statements the bill would never have passed. I want to say on behalf of the Irrigation Committee that those kind of statements are absolute nonsense. No lobby or any agent sent on here by any water users' association or any other association has had anything whatever to do with the preparation or consideration of this bill. And anybody outside of Congress who claims to have exercised any control or influence over this legislation is gratuitously assuming an importance which he does not possess and ought not to be paid for. All of the Irrigation Committee and the western Members generally have worked long and faithfully and well upon this bill.

Now I yield three minutes to the gentleman from Arizona [Mr. HAYDEN].

Mr. HAYDEN. Mr. Speaker, I desire to congratulate the House on the final action that is about to be taken on the reclamation extension bill. Its enactment into law will confer a double benefit—to the Government by insuring the continuation of our national irrigation policy and to the water users by making it certain that they will be able to meet their payments promptly without undue hardship. Under the operation of this act we will create an irrigated empire in the West providing homes for thousands of our citizens. The new settlers upon the projects will help to feed and clothe the Nation, and they will consume an increasing share of its manufactured products at a place where no European war can interfere with the exchange of such commodities.

While I do not approve of the amendment which provides for annual appropriations by Congress from the reclamation fund, yet whatever of evil that may come from this change is overbalanced by the other excellent features of this measure. I therefore vouch for the good effect of this bill with my whole heart, and I am qualified to testify in its behalf. I am of the first generation of Americans grown to manhood in the arid West. I was born in an irrigated valley. I have watered my father's fields by night. I have led the liquid of life on to the parched earth, and I know the goodly smell that rises when the water touches the dusty clods.

When the dry years came I saw fair fields and fruitful orchards go back to the desert. I saw the horses pawing at the roots of the alfalfa, for there was no green thing for them to eat. Even the trees on the ditch banks died. The people prayed for rain, but there was no cloud in the sky, and the streams went dry.

And then I have seen it all return. This same land has blossomed again under the beneficence of the reclamation act. The trees along the fences and the section lines have grown thick, until they cut off the view like a forest. The pastures are green and the cattle fat. There is hope in the land. Men know that when they plant the seed a bountiful harvest will surely follow. By this act the Government does its part to guarantee them an opportunity to enjoy continued prosperity.

I assure you that they are a grateful people. They do not always forgive their enemies, but they never forget their friends, and I know that I speak for every water user in the West when I thank the Members of this House who have assisted in the passage of this bill. [Applause.]

Mr. TAYLOR of Colorado. Mr. Speaker, I call for a vote on the adoption of the conference report.

Mr. FITZGERALD. Mr. Speaker, I would like to have a couple of minutes.

Mr. TAYLOR of Colorado. I yield two minutes to the gentleman from New York [Mr. FITZGERALD].

The SPEAKER. The gentleman from New York is recognized for two minutes.

Mr. FITZGERALD. Mr. Speaker, in addition to the relief that is extended to the settlers on these irrigated lands, this bill is to be commended because of another great reform which it institutes. It provides practically for the repeal of another of the permanent appropriations, and puts in the control of Congress the determination of how much money is to be expended in each fiscal year for reclamation purposes and the projects upon which it is to be expended.

If this power had been retained by Congress when the irrigation law was first enacted, I am quite convinced that there would not have arisen the situation which now plagues the people of the arid and semiarid States. If it has been necessary for the Department of the Interior to submit to the Congress the estimates for the various projects to be initiated, and to have had them carefully investigated in advance and passed upon, and specific appropriations made therefor, not only would considerable waste and indefensible extravagance have been avoided, but many of the settlers who, in good faith, have taken up these lands would have been relieved of the embarrassment in which they now find themselves.

I think I can say that it is the intention of the House, when the estimates will be submitted, as they will be hereafter, and when these appropriations will probably be included, as such appropriations are, in the sundry civil appropriation bill, to make an impartial and thorough and fair investigation, not for the purpose in any way of crippling the department in the conduct of these enterprises, but in order to safeguard the interests both of the Treasury and of the settlers, and to provide adequate funds to carry on these projects in a proper, efficient, and economical manner; to avoid waste and extravagance, and to conserve alike the interests of the settlers and those interested in the development of the country.

Mr. TAYLOR of Colorado. Mr. Speaker, I hope the prophecy of the gentleman from New York [Mr. FITZGERALD] may prove to be true in this matter. I will merely call attention in this connection to the fact that I think one reason why the West is somewhat incredulous about this Underwood amendment and as to how it will affect us is because we have no representation on the Committee on Appropriations from anywhere in that entire western half of the United States.

Mr. MADDEN. Oh, I beg the gentleman's pardon; the gentleman from Wyoming [Mr. MONDELL] is a member of that committee.

Mr. TAYLOR of Colorado. I mean the majority membership of the House has no representative from the West on that committee.

Mr. MADDEN. Those States do not represent the majority of the House.

Mr. TAYLOR of Colorado. The Democratic Party represents a majority of this House, and there is no Democrat at this time on that committee from anywhere west of the Missouri River.

Mr. MANN. It will not have in the next Congress. [Applause on the Republican side.]

Mr. FITZGERALD. Let me say to the gentleman from Colorado that I was one of those who voted for the irrigation bill when it first passed the House.

Mr. TAYLOR of Colorado. I know that, and we appreciate your support.

Mr. FITZGERALD. And I am as much interested, and the people of the East and the South and the Northeast are as much interested in the development of these lands as are the people who are to get the direct benefit. All that we desire is to have those lands developed in a manner that shall be free from criticism and to prevent unfair and undue burdens being placed alike upon the settlers and the taxpayers of the United States generally.

Mr. TAYLOR of Colorado. I do not mean to impute to the gentleman or to his committee or to anyone any unfairness or unfriendliness. I have implicit confidence in this House acting wisely and fairly in the distribution of the reclamation fund. I was merely endeavoring to suggest to the gentleman that we Members from the States in which these reclamation projects are situated, and our constituents naturally feel that we know the needs of the West better than anyone can who does not live there, and we therefore feel that we are entitled to representation on that committee when it comes to dealing with irrigation affairs.

Mr. MADDEN. Mr. Speaker, if I had my way in choosing the personnel on the committees I would not appoint anyone from an interested State on one of these committees dealing with these affairs, and I would not have any man on the committee interested in a project for which an appropriation was to be made.

Mr. TAYLOR of Colorado. Would you put any man coming from a river and harbor district on the Committee on Rivers and Harbors?

Mr. MADDEN. No; I would not. I would have men on that committee coming from the interior of the country, where no rivers and harbors would be legislated for; and then I think we would secure legislation for the benefit of the people of the United States, instead of for the benefit of the particular districts represented by the men on that committee.

Mr. TAYLOR of Colorado. When does the gentleman think that Utopian condition will come in this House? Mr. Speaker, I ask for the adoption of the conference report.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

On motion of Mr. TAYLOR of Colorado, a motion to reconsider the vote whereby the conference report was agreed to was laid on the table.

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Colorado asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The SPEAKER. Some minutes ago the gentleman from California [Mr. RAKER] and the gentleman from Arizona [Mr. HAYDEN] asked leave to extend their remarks, and the question was never put. Is there objection? [After a pause.] The Chair hears none.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had passed with amendments the bill (H. R. 2167) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, in which the concurrence of the House of Representatives was requested.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 6134. An act granting the consent of Congress to the Interstate Bridge and Terminal Co., of Muscatine, Iowa, to build a bridge across the Mississippi River.

The message also announced that the President had approved and signed bills of the following titles:

On August 4, 1914:

S. 6192. An act to amend section 27 of an act approved December 23, 1913, and known as the Federal reserve act.

On August 5, 1914:

S. 663. An act for the relief of Thomas G. Running; and

S. 3176. An act to increase the limit of cost of the public building at Bangor, Me.

On August 6, 1914:

S. 1149. An act for the relief of Seth Watson;

S. 1784. An act restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries;

S. 1803. An act for the relief of Benjamin E. Jones;

S. 3761. An act for the relief of Matthew Logan; and

S. 6101. An act to grant the consent of Congress for the city of Lawrence, county of Essex, State of Massachusetts, to construct a bridge across the Merrimac River.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 11822. An act to acquire, by purchase, condemnation, or otherwise, additional land for the post office, courthouse, and customhouse in the city of Richmond, Va.;

H. R. 15959. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 16345. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; and

H. R. 17482. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 5501. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 5278. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 4969. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; and

S. 5899. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

POSTAL SAVINGS SYSTEM.

Mr. MOON rose.

The SPEAKER. The gentleman from Tennessee is recognized.

Mr. MOON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 7967) to amend the act approved June 25, 1910, authorizing a postal savings system, with Senate amendments, to disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The gentleman from Tennessee [Mr. MOON] asks unanimous consent to take from the Speaker's table House bill 7967, disagree to the Senate amendments, and ask for a conference. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 7967) to amend the act approved June 25, 1910, authorizing a postal savings system.

Mr. MANN. Mr. Speaker, reserving the right to object, I do not know just what the Senate amendments really are to the first section of the bill, although as printed they do not make sense. But section 2 of the bill, I should think, ought to go to the committee, and I therefore object to the gentleman's request.

Mr. MOON. I do not hear the gentleman.

Mr. MANN. I think that section 2, which the Senate has added by way of an amendment, is a matter that ought to be considered by the committee.

Mr. MOON. Does the gentleman object to its going to conference?

Mr. MANN. I do at present.

Mr. MOON. Well, Mr. Speaker, if it is in order, I move to take the bill from the Speaker's table.

Mr. MANN. Well, it is not in order.

The SPEAKER. The gentleman from Illinois objects.

Mr. MOON. I move, Mr. Speaker, to take this bill from the Speaker's table, disagree to the Senate amendments, and ask for a conference.

Mr. MANN. Well, Mr. Speaker, I make the point of order that that motion is not in order.

Mr. MOON. What is the reason?

Mr. MANN. The Senate amendment by way of section 2 involves the whole question of savings banks.

Mr. MOON. It does not involve any charge on the Treasury or appointment to any office.

Mr. MANN. Certainly it does. It provides how the money is to be invested and authorizes the payment of interest, and a lot of other things.

Mr. UNDERWOOD. Mr. Speaker, may the amendment be reported to the House for information?

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Senate amendment No. 4: After line 11 insert:

"SEC. 2. That postal savings funds received under the provisions of this act shall be deposited in solvent banks, whether organized under national or State laws, and whether member banks or not of a reserve bank created by the Federal reserve act, approved December 23, 1913, being subject to National or State supervision and examination, and the sums deposited shall bear interest at the rate of not less than 2½ per cent per annum, which rate shall be uniform throughout the United States and Territories thereof; but 5 per cent of such funds shall be withdrawn by the board of trustees and kept with the Treasurer of the United States, who shall be treasurer of the board of trustees, in lawful money as a reserve. The board of trustees shall take from such banks such security in public bonds or other securities, supported by the taxing power, as the board may prescribe, approve, and deem sufficient and necessary to insure the safety and prompt payment of such deposits on demand. The funds received at the postal savings depository offices in each city, town, village, and other locality shall be deposited in banks located therein (substantially in proportion to the capital and surplus of each such bank) willing to receive such deposits under the terms of this act and the regulations made by authority thereof, but the amount deposited in any one bank shall at no time exceed the amount of the paid-in capital and one-half the surplus of such bank. If no such bank exist in any city, town, village, or locality, or if none where such deposits are made will receive such deposits on the terms prescribed, then such funds shall be deposited under the terms of this act in the bank most convenient to such locality. If no such bank in any State or Territory is willing to receive such deposits on the terms prescribed, then the same shall be deposited with the treasurer of the board of trustees and shall be counted in making up the reserve of 5 per cent. Such funds may be withdrawn from the treasurer of said board of trustees, and all other postal savings funds, or any part of such funds, may be at any time withdrawn from banks and savings depository offices for the repayment of postal savings depositors when required for that purpose. When, in the judgment of the President, war or other exigency involving the credit of the United States so requires, the board of trustees may invest all or any part of the postal savings funds, except the reserve fund of 5 per cent herein provided for, in bonds or other securities of the United States. The board of trustees may, in its discretion, purchase from the holders thereof bonds which have been or may be issued under the provisions of section 10 of the act of June 25, 1910. Interest and profit accruing from the deposits or investment of postal savings funds shall be applied to the payment of interest due to postal savings depositors as hereinbefore provided, and the excess thereof, if any, shall be covered into the Treasury of the United States as a part of the postal revenue: *Provided*, That postal savings funds in the treasury of said board shall be subject to disposition as provided in this act, and not otherwise: *Provided further*, That the board of trustees may at any time dispose of bonds held as postal savings investments and use the proceeds to meet withdrawals of deposits by depositors. For the purposes of this act the word 'Territory,' as used herein, shall be held to include the District of Columbia, the District of Alaska, and Porto Rico, and the word 'bank' shall be held to include savings banks and trust companies doing a banking business."

Mr. UNDERWOOD. Mr. Speaker, I think under the rule a House bill with Senate amendments can be taken from the Speaker's table and considered, if it is not subject to consideration in Committee of the Whole, or would not have gone to the Union Calendar if reported. I think the whole question involved here is whether this amendment makes a charge on the Treasury of the United States. I understand that the interest rate is not changed. If the interest rate is not changed, it seems to me that the remainder of the bill is subject to consideration in the House.

Mr. MANN. This is an original proposition. It is not even amendatory of a law. On its face it not only involves a charge on the Treasury, but it provides for the payment of interest. It provides for turning receipts into the General Treasury. It is an entirely new proposition.

Mr. UNDERWOOD. Is not the interest rate fixed in the House bill?

Mr. MANN. It is not.

Mr. UNDERWOOD. Is it not fixed in the present law to which this is amendatory?

Mr. MANN. That does not make any difference. This is an original proposition. Just what changes are made in this section from the existing law I do not know, but it does not purport to be amendatory of the existing law, and it does not repeal the existing law. Probably that would not be necessary. It only applies to this act. The amount involved is small, but clearly it involves a charge upon the Treasury. I do not know that I shall object to its going to conference after it comes from the committee, but this is an entirely new proposition, which has not been considered in the House, and I think it ought first to go to the Post Office Committee.

Mr. UNDERWOOD. I am not familiar enough with the law to say——

Mr. MOON. The interest rate is not changed at all. Does the gentleman from Illinois understand that the rate of interest is changed by this amendment?

Mr. MANN. I do not say. The Senate amendment is an entirely new proposition.

Mr. MOON. I know it is; but it makes no charge on the Treasury.

Mr. MANN. Certainly, it does.

Mr. MOON. What is it?

Mr. MANN. It specifically provides for the payment of interest upon deposits.

Mr. MOON. The original law does that.

Mr. MANN. But this is not the original law. This is a new bill.

Mr. MOON. This is an amendment to the original law.

Mr. MANN. I beg the gentleman's pardon.

Mr. MOON. The original law fixes the rate.

Mr. MANN. It is not even an amendment to the existing law, so far as section 2 is concerned; but if it were, it would not make any difference.

The SPEAKER. The whole question turns on this point: Does it show on its face that it is a charge on the Treasury, or not?

Mr. MANN. Either a charge on the Treasury or the raising of revenue. It shows on its face that it raises revenue, to begin with.

The SPEAKER. Suppose this was introduced as a new bill, to what calendar would it go?

Mr. MANN. It would go to the Union Calendar, undoubtedly, where the original postal savings bank bill went.

The SPEAKER. The Chair will ask the gentleman from Tennessee what he has to say about this provision:

The board of trustees may invest all or any part of the postal savings funds, except the reserve fund of 5 per cent herein provided for, in bonds or other securities of the United States. The board of trustees may in its discretion purchase from the holders thereof bonds which have been or may be issued under the provisions of section 10 of the act of June 25, 1910.

And then the next sentence:

Interest and profit accruing from the deposits or investment of postal savings funds shall be applied to the payment of interest due to postal savings depositors as hereinbefore provided, and the excess thereof, if any, shall be covered into the Treasury of the United States as a part of the postal revenue.

What does the gentleman say about that? Suppose that had been introduced here as an original bill, where would it have gone?

Mr. MOON. To begin with, it is not introduced as an original bill. It is an amendment to the original bill.

The SPEAKER. I know, but the same rule applies.

Mr. MOON. As I understand, bills that appropriate money, or dispose of the public lands, or create an obligation against the Government of the United States must go to the Union Calendar. This does nothing of the sort. This does not enforce a charge upon the Treasury in any way. It is but an amendment to the existing law that fixes the rate of interest, and the purpose of this is really to add to the revenues of the Treasury instead of taking from them.

Mr. MANN. That would send it to the Union Calendar.

The SPEAKER. What does the gentleman from Alabama [Mr. UNDERWOOD] say about the words that the Speaker has read?

Mr. UNDERWOOD. Mr. Speaker, I am not sufficiently familiar with the bill to advise the Speaker as to the effect of it If it is a reenactment of the present statute, so far as the charge upon the Treasury is concerned, and is amendatory of those portions of the statute that are not a charge on the Treasury, it seems to me that it is in order. Of course if it is a revenue-producing bill, it goes to the Union Calendar and is not in order at this time, because undoubtedly a bill of that kind goes to the Union Calendar and can not be taken up on this motion. But if it is not a revenue-producing bill, and does not make a charge upon the Treasury, the gentleman's motion is in order. It seems to me that, so far as the interest rate is concerned, if it is a reenactment of the old law in that respect, that does not make a charge upon the Treasury.

Mr. MOON. Mr. Speaker, when I called up this matter I did not suppose there would be any possible objection to my motion; but there seems to be, and inasmuch as I am very anxious to get to the consideration of a measure in which the House is very much more interested than it is in this, I ask permission to withdraw that motion and to let this bill remain where it is.

The SPEAKER. It will remain on the Speaker's table, so that the Chair may have time to investigate it.

COMMITTEE TO ATTEND THE FUNERAL OF MRS. WILSON.

The SPEAKER announced as the committee to attend the funeral of Mrs. Wilson, under the resolution agreed to yesterday (H. Res. 586), Messrs. UNDERWOOD, HAYDEN, FLOYD of Arkansas, KAHN, TAYLOR of Colorado, REILLY of Connecticut, BROCKSON, SPARKMAN, ADAMSON, FRENCH, MANN, DIXON, HAUGEN, MURDOCK, STANLEY, BROUSSARD, GUERNSEY, TALBOTT of Maryland, GILLETT, SAMUEL W. SMITH, STEVENS of Minnesota, CANDLER of Mississippi, LLOYD, EVANS, ROBERTS of Nevada, KINKAID of Nebraska, REED, BAKER, FERGUSSON, PAYNE, SMALL, HELGESEN, SHERWOOD, MCGUIRE of Oklahoma, HAWLEY, BUTLER, O'SHAUNESSY, FINLEY, BURKE of South Dakota, SIMS, STEPHENS of Texas, HOWELL, PLUMLEY, JONES, HUMPHREY of Washington, HUGHES of West Virginia, COOPER, MONDELL, and LEE of Georgia.

The SPEAKER. In making up this committee the Chair appointed the Member senior in service from each State. Where there were more than one man of the same length of service—and in the case of Texas there were three—the Chair selected the oldest man. The gentleman from New Jersey [Mr. HAMILL], who is the senior in service from that State, asked the Chair to appoint Mr. BAKER in his place. Judge BARTLETT, of Georgia, has had to leave the city, on account of the condition of his health, and the Chair appoints Mr. ADAMSON in his place. Dr. BARTHOLDT, of Missouri, has not returned from Europe, and the Chair appoints Mr. LLOYD in his place; and the Chair asks unanimous consent to be permitted to appoint Mr. GORDON LEE, of Georgia, a member of the committee, because Mrs. Wilson is to be buried in his district. Is there objection?

There was no objection.

The SPEAKER. The Chair will state that he has information that the White House will give out a statement about the President's desire in respect to these committees.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. SINNOTT, for five days, on account of illness in his family.

POSTAL AND CIVIL-SERVICE LAWS.

On motion of Mr. MOON, the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 17042) to amend the postal and civil-service laws, and for other purposes, with Mr. CONRY in the chair.

Mr. MOON. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan [Mr. BEAKES]. [Applause.]

Mr. BEAKES. Mr. Chairman, years ago, when under the last Cleveland administration, I was postmaster at Ann Arbor, Mich., I used to wonder at the extravagant price the Government paid the railroads for carrying the mail. Under the McKinley administration I passed through one experience of weighing the mails and heard much about it from the postal employees which left an indelible impression upon my mind as to the wrong methods used. At that time, besides hiring the railway mail cars, the Government was paying more to the railroads for transporting the mail in these cars which they had already rented than the combined salaries of all the postmasters in the United States, all the railway mail clerks, and all the clerks in the post offices of the country. In other words, it was costing the Government more for merely transporting mail in trains, which were going over the road anyway, than it was costing to pay the men who assembled this mail piece by piece, who tied it up, put it in pouches or sacks, redistributed it, often many times, and also the men who sold the stamps and who handed it out piece by piece to the people.

Now, years later, as a Congressman and a member of the Committee on the Post Office and Post Roads, charged with the duty of investigating the subject of railway mail pay, I find the railroads claiming that they are underpaid, because the railway mail pay does not now use up as large a percentage of the mail revenue as it did 20 years ago. Now, the railroads ask for a continuance of the present method of payment at an increased rate, and fight the method of payment advocated in this bill because they claim that they do not know that they will get an increased revenue under it. And each Member of this House has been deluged with literature, much of which attacks your Committee on the Post Office and Post Roads for daring to present for your consideration a bill based upon what we conceive to be more scientific lines than the present system. And their chief indictment against us is that we did not call them before our committee for hearings upon the subject. But a joint committee on postage on second-class matter and compensation for the transportation of the mails was appointed by the Senate and the House in August, 1912, and that committee had extensive hearings of the railroads, which came down as late as April of this year, and these hearings in 12 volumes were before us. After reading what the railroad representatives had to say in these 12 volumes of hearings, I for one am pretty firmly of the opinion that unless the railroads employed a far different set of experts the sum of our knowledge would be but little increased were we to go into such extensive hearings that this present Congress could not consider any bill upon this subject. The sum total of the railroad demands can be comprehended in the general statement that they want more pay. The mails have increased, therefore pay must increase. That proposition is true only if predicated on the proposition that the railway mail pay system in use since 1873 is a proper system founded on scientific lines and paying a just amount of revenue to each railroad. But the railroads themselves will not claim this. Nobody can deny that under the present system some railroads are grossly underpaid. Some railroads lose money carrying the mails, other roads make money. It is a complicated system. It is on the face of it unjust. For instance, the Government pays $5,000 or more a year rental for a 60-foot railroad postal car, and then it pays by weight for the mail carried in this car. But it pays not a penny rental for a 30-foot apartment car used in the same way. So the mail routes not requiring full postal cars are greatly discriminated against.

The rental paid for the postal car is not for compensating the road for constructing the car. Two years' rental would

build the car. It is paid for transporting the car over the road. The Government having paid once for this, why should it pay again by weighing the 2½ or 3 tons of mail going in the car and paying for that? The railroads complain that the mail is weighed only once in four years, so that they do not get increased pay for increased weight until the next weighing period comes around. That is a defect ought to be remedied in this bill, under which the railroads get pay for all space used. If the mails increase and more space is required, that instant the railway mail pay for the increased space begins. But, going back to my own personal observations as to weighing the mails when I was postmaster, during the period when the mails were weighed the mails enormously increased. During that period all the heavy catalogues were received; there was a tremendous influx of heavy Government documents. I am speaking solely of what I saw in my own office. But I was informed by old railroad mail clerks with whom I talked at that time that that had always been the case at such periods. When the weighing ceased there was a tremendous letting up on the weight of mail received. I never knew how this extra weight came about, but I used to wonder if a railroad could not very well afford to pay a part of the postage of heavy catalogue houses if they would send their catalogues during the weighing period, as they would get railway mail pay on the weight of these catalogues over and over again during the succeeding four years. But be this as it may, before the four years' weighing period came around again the natural increase in the mail usually caught up and left the railroads underpaid, if the amount they received right after the weighing period was a just compensation.

It has been known for years that the present system of paying for mail transportation was unsatisfactory. It is so complex that in half an hour I could not give you a clear enough conception of it so that you could understand it. We can not tell our constituents whether any given railroad is receiving a just compensation or not without spending days on the problem. The railroads themselves, in the hearings, demonstrated to my satisfaction that they could not tell. Naturally they claim that they are underpaid, but when it comes to fixing the amount they are underpaid they are at sea. Take the different estimates of the total amount of underpayment made by the railroads after they had had committee figuring on it for months, as testified to before the commission. Throughout their testimony runs a general claim of $15,000,000 underpayment; yet when they come to produce their figures by different methods they arrive at the following results: On page 106 of the hearings they claim they are annually underpaid $38,000,000, yet on page 1074 they get down to the exact dollar and put the figures at $6,852,841. On page 1074, by different methods, they claim the amount of their underpayment is $20,044,859 and $17,229,305 and repeat these claims on page 1114. On page 1087 they have two other estimates of total losses, one of $20,815,154 and another of $13,591,154, while on page 183 they figure that it would cost the Government between $10,500,000 and $11,500,000 to give them the increase which would prove satisfactory.

The fact is that the railroads have never figured out the cost to their own satisfaction or to that of anybody else. There never was but one bona fide attempt to figure out the cost, and that was made by the Post Office Department, which gathered figures from the railroads on the operation of the mails for November of the year 1909, and deduced from these figures that the railroads were overpaid at that time $9,000,000 a year. This was published in a document well known as Document No. 105, and a great share of the hearings before the joint commission of the Senate and House was taken up by fierce attacks on this document. Yet the railroads, while claiming that they were greatly underpaid, have never offered any figures except figures based on their receiving an arbitrary per cent of the revenue of the post office, or figures based on changes they wanted made in the figures in Document No. 105. Apparently the railroads do not know what it costs them to carry freight, to carry passengers, to carry express, to carry mail. So many items of expense common to all branches of the service they divide arbitrarily. Mr. Safford, mail and express agent of the Seaboard Air Line, well expressed it on page 137 of the hearings when he said:

For instance, if you start out to accomplish a given result you can adopt a method of apportionment that will most nearly bring about the result you started for.

Again he said:

There is no generally accepted method of apportionment at the present time.

And his testimony as to the cost to his own road of carrying the mails amply bears out these assertions, for he used eight different methods of figuring profit or loss on the $467,522.26 paid the Seaboard Air Line for carrying the mails in 1912, and they varied in results from a profit of $48,117.78 to a loss of $289,147.84. What is such figuring worth?

Mr. Peters, chairman of the railroad committee, on page 186 of the hearings, admitted that prior to 1909 the railroads had no definite knowledge as to whether they were making a profit or losing on their mail contracts; that is, they did not know anything about it until the post-office officials had prepared Document No. 105, which they now hate so intensely. They say they want more money, and we believe that, but their committee, which has worked, they say, for four years on this subject, only relies upon the figures in Document No. 105 for their proofs, and these figures they alter by adding what has been called dead space. Mr. Mack, traffic manager of the Missouri Pacific, argues on page 615 of the hearings:

Costs are not definite and reliable. The costs are based upon an arbitrary division.

And yet if the costs are not reliable, how can they so confidently figure out that they are underpaid? Mr. Worthington, of the Southern Pacific, on page 348, says:

In my opinion it is absolutely impossible to anywhere nearly ascertain a cost. You can obtain an estimate of cost, but that will vary with the person who makes the estimate.

And again on the same page he says:

Fixed charges can not be allocated at all, whilst only about one-half of the operating expenses can be allocated between passenger and freight service. The remainder must be approximated, and this approximation varies widely, according to the judgment of the individual making it. No two experts would agree on this apportionment.

Mr. Snead, of the Chesapeake & Ohio Railroad, on page 395, says:

The cost question never would be anything better than an approximation.

Mr. Wishart, statistician of the New York Central lines, on pages 607 and 608, bears testimony to his belief that it is an absolute impossibility to evolve a plan of cost accounting for railroads that would be universal in its application. Mr. Peters, the chairman of the railroad committee, on page 839, says:

I do not see how you can reach any reasonable or fair basis of pay fixed on cost.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. MURDOCK. Why can not the gentleman have more time?

Mr. MOON. Because I have not more time to yield him.

Mr. STAFFORD. Will not the gentleman from Michigan yield him some more time?

Mr. SAMUEL W. SMITH. Would the gentleman like 10 minutes?

Mr. BEAKES. Yes.

Mr. SAMUEL W. SMITH. Mr. Chairman, I yield the gentleman 10 minutes.

Mr. BEAKES. Mr. Chairman, again, on page 1322, in speaking of the lack of separation of costs by the railroads, he lays it to "the large expense involved in getting at the information, and what was the value of them after we got them?" He says rates have been made that would simply move and build up the traffic. Mr. Scott, of the Pennsylvania Railroad, illustrated the cost difficulty by remarking on page 1323 of the hearings:

I dislike to talk about such a complicated proposition as the fuel on a fast passenger train, for I think if you were to ask 25 experts to come here and give you an opinion you would probably get 25 different opinions in regard to it.

There is a practical unanimity of opinion in the railroad testimony as to the inability to accurately estimate cost. And yet the railroads have seen fit in communications sent to the Members of this House and circulated through the press to attack your committee because we do not agree with them that they are underpaid $15,000,000. Or is it $6,000,000 or $39,000,000? How do they know that they are underpaid when they admit they can not figure the cost?

And yet the railroads will not claim that if the carrying the mails on their roads were discontinued that they would make as much as they do now. The gentleman from Missouri [Mr. LLOYD], who was a member of the joint committee, and whose illuminating questions, to my mind, brought out most clearly the information he sought, and to whom, I believe, the country owes a big debt of gratitude for his able services on the joint committee, cornered Mr. Mack, of the Missouri Pacific,

who had been claiming big losses for his road, with the question:

What do you think would be the effect if your railroad carried no mail? Would its surplus fund be as great at the end of the year, or its earnings as great each year?

To this Mr. Mack answered:

Why, no. We would save, of course, the cost of the special trains and save the terminal costs that are incident to the performance of the mail service, but aside from that, probably, the passenger service and other train service would be the same.

No wonder Mr. LLOYD broke out on page 589 of the hearings:

I want to state right here that my candid judgment is that you can cut out the mail service and every important road in the United States would lose by reason of cutting it out at the present rate of pay.

And Mr. Lorenz, the associate statistician of the Interstate Commerce Commission, added:

There is no question but that Mr. LLOYD is correct. That is to say, there is hardly any contention on the part of the railroads that the mail revenue is not as great as the additional expense caused by the mail service; they are running the passenger trains, anyhow, and the extra cost of carrying the mail cars is certainly not as great as the mail revenue.

While the railroads' net earnings are increased by their mail contracts, they have no valid ground for claiming that they are underpaid until they can produce some statistics to prove that the just share the Government should pay toward the interest on their debts, the dividends on their stock, the salaries of their officers, the expenses of their stations, and so forth, is not now paid by the Government. They own they can not figure the cost. They own that it would be a moneyed loss to them to lose their mail contracts, and yet they are using the public press and the mails in an effort to convince the public that they are grossly underpaid, and that the Post Office Department is not dealing fairly with them. And of these assertions they have no proofs, simply assumptions based on figures in Document No. 105, which they at the same time claim are incorrect.

As Second Assistant Postmaster General Stewart points out, under the present law there are 3,409 different adjusted rates of pay per mile per annum. These rates vary for a ton mile from $1.49 on a daily average weight of 211 pounds or less to 5.76 cents on 48,000 pounds or more average daily weight. The present law also provides two rates of pay for the same service. It ignores the frequency of the service; that is, the pay to the railroads is the same for an average weight of mail, whether they load it on 1 train or on 10 trains. The greater part of the space used in transporting the mail is for distribution purposes. A railroad post-office car 60 feet in length will carry on the average two and a half tons of mail. About one-tenth of the railroad pay is for space, and yet it is evident that very much more than one-tenth of the car space used is used for distribution purposes. The railroads maintain that if the weight of the mail increases 50 per cent their compensation should increase 50 per cent. Let's see about that. Mr. Scott, of the Pennsylvania lines, testified on page 223:

It costs just as much to haul a ton of car as it does a ton of freight.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. BEAKES. Yes.

Mr. MURDOCK. In this new philosophy of paying by space, which has been adopted by the committee and which is now proposed to the House, what is the explanation why you are paying for a storage car a different rate from what you are paying for a full railway post-office car? For a storage car you pay 20 cents and for a full railway post-office car 21 cents. How are you going to explain that to the man who asks? Why should there be a difference of rates in those two cars?

Mr. BEAKES. The railroad has to take a good deal more care of a railway post-office car than a storage car.

Mr. MURDOCK. We give them terminal and additional charges for that.

Mr. BEAKES. Yes; and also the car has to be a better car. It has to be a car capable of preserving the life of the postal employees in the car, while no postal employees are carried in the storage cars. Often a storage car is not anything more than an ordinary freight car used for that purpos..

Mr. TUTTLE. But that difference would not amount to anything like a cent a mile. The difference in the interest on the investment would be a very slight expense.

Mr. STAFFORD. As I understand, the commission recommended the same rate for both storage and railway post-office cars.

Mr. MURDOCK. But the bill does not.

Mr. STAFFORD. The department does not.

Mr. MURDOCK. And that is the explanation the gentleman has to offer on that score?

Mr. BEAKES. Yes.

The testimony regarding the weight of the empty mail cars shows that they vary from 45 tons to 58 tons. Take the lowest figure and we then have 2½ tons of mail carried in a 45-ton car, or a total weight of 47½ tons. If the mail carried increases 50 per cent, we then have 3¾ tons of mail—a total weight of 48¾ tons. Taking weight as a basis of the cost of hauling, an increase of 50 per cent in the weight of mail would then only increase the weight to be hauled 5 per cent. The unfairness of paying the railroads a half more for what only costs them one-twentieth more is apparent, and the illogical system of railway mail pay as at present determined is clearly shown. Even the railroad witnesses have recognized this. Mr. Anderson, general manager of the Charleston & West Carolina Railroad, on page 205 of the hearings, said:

We are called upon by the Government to furnish facilities that involve the handling to-day of 205 pounds of mail in each direction. We could just as easily handle a thousand and never know the difference; and that is the only way to measure it, by pounds. At the same time, we also know that when we compare 250 pounds of mail with 1,000 pounds of mail, both handled in a car that weighs 40,000 pounds, as the saying is, it does not cut much ice.

Mr. Anderson illustrated clearly the inconsistency of standing for the present weighing system. He says it does not cut any ice whether the mail be 250 pounds or 1,000 pounds—that is, it would not cost his road any more—and in the same breath he says the only way to measure the pay is by pounds. Mr. Wade, of the Erie Railroad, in the illustrations he used to show underpayment at present, proved even more clearly the absolute inequality and injustice of the present system of railway mail pay. He dug out some short routes on his railroad system where mail was carried in apartment cars, and showed that on these sample routes the revenue for carrying the mail varied from 1.25 cents per car mile to 10.81 cents per car mile. All of these routes were clearly unremunerative, but the difference even more clearly demonstrates the folly of taking the weight as a basis for paying for the mails.

The railroads part of the time claim that mail should be treated as freight, as that is what the weight basis leads to, but as the mail is carried on passenger trains they nowhere use the freight figures in attempting to measure the cost. As Mr. Scott, of the Pennsylvania lines, testified:

In the case of the mails, we haul 20.6 tons of dead weight for each ton of mail, while for freight we only haul 1.06 tons of dead weight for each ton of freight.

The difference in the two services is demonstrated. The service is really the same as the passenger service, where space is considered in the making of rates. In Document No. 105 the Post Office Department attempted to figure out the cost by space. That this was the correct method is indicated by the fact that the railroads, while claiming they should be paid by weight, have based all their figuring of cost on a comparison of space used. Even in freight different rates are charged for different articles. Light, bulky freight pays more than heavy freight, because it occupies more space. A buggy set up pays more freight than a buggy crated, because you get fewer of them in a car. But let us leave this question to the testimony of the railroads themselves. Mr. Scott, of the Pennsylvania lines, on page 232 of the hearings, said in reply to a pertinent question:

I do not think that there are any railroads who show in their accounts a direct charge for the mail business or the express business or the passenger business. All we have are the average figures as to the average earnings and cost per passenger or the average earnings and cost per passenger train. In 1898, when Mr. McCrea made his statement, and at every other time that we have attempted to secure the information, we have tried to do so by finding out what proportion of the space occupied on passenger trains was occupied by mail, passengers, and express, and that is all we have in regard to the cost.

This bill which your committee has reported favorably pays the railroads for the space occupied. The reason that the railroads are opposing the bill was brought out by the following dialogue between Mr. Lloyd and Mr. Scott, on page 233 of the hearings:

Mr. LLOYD. * * * Take a passenger coach, a mail coach, and an express coach; in order to determine how much the mail should pay, you ascertain the space that is used for mail, the space that is used for passengers, and the space that is used for express.

Mr. SCOTT. Almost invariably; but some roads divide it on the basis of earnings.

Mr. LLOYD. Then, why would you say that the same basis is not the proper method of determining what your compensation should be?

Mr. SCOTT. Mr. Lloyd, I do not know anything about the space basis; that is, I do not know anything about where it is going to lead us. If we could agree with the Postmaster General upon the percentages and upon a division of the expenses between passenger and freight service, I do not know but that this might work out very satisfactorily to the railroads.

Mr. LLOYD. Is not this true: The thing that has alarmed the railroads is the statement made by the Postmaster General that the space basis would result in a saving of $9,000,000?

Mr. SCOTT. Why, undoubtedly.

Mr. LLOYD. If that is true, you people would naturally be opposed to it, because it would cut down your pay?
Mr. SCOTT. Undoubtedly.
Mr. LLOYD. Forgetting all about that, for the sake of argument, is it not true that, after all, every one of us must necessarily come back to the space basis to determine what should be the compensation?
Mr. SCOTT. I do not know any other way to do it.

Mr. Mack, of the Missouri Pacific, on page 1397, answered the question—

What is the method by which you arrive at a determination that you are $15,000,000 underpaid?

By saying:

On the comparison of space occupied.

And in reply to the further question—

Your contention is that the mail payment should be based upon and commensurate with the passenger returns—a revenue basis entirely?

He said:

Yes, sir; on the ground that the passenger rates are either approved by the Interstate Commerce Commission as to interstate rates, and are approved or fixed as intrastate rates by the State railroad commissions or State laws.

Mr. Bowman, a public accountant of high standing, employed by the New York, New Haven & Hartford Railroad to find out for them what it was costing them to carry the mails, in his testimony most strongly indorsed the position of the Post Office Department. He would eliminate weight entirely from the consideration of mail compensation to the railroads, because it introduces factors that are impossible of determination. He would have the pay based on the space used. That is the opinion of the joint committee of the Senate and House who investigated the subject. That is the opinion of the Post Office Department, both of this and the last administrations. That is the opinion of your Committee on the Post Office and Post Roads. And that must be the opinion of nearly every man who really studies the question.

Having arrived at the opinion that the railroads should be paid for the space used, the question then arises as to what the rate of compensation for space should be. If the railroads can not figure the cost accurately, how can we be expected to do so? Second Assistant Postmaster General Stewart thinks the railroads at present are overpaid. Mr. Lorenz, associate statistician of the Interstate Commerce Commission, thinks they are slightly underpaid. The joint committee seems to have relied upon Mr. Lorenz's judgment in his, but in spite of this fact they did not follow his recommendations, but your committee in finally fixing the figures in this bill did seek to follow his recommendations. The figures given are slightly higher than originally recommended by the Post Office Department, but I believe are the figures finally agreed upon by them as giving the roads ample compensation. If the railroads do not know the cost of their passenger trains, they do know their receipts per mile for each car, and the Interstate Commerce Commission has determined the revenue derived for passenger trains for each car per mile of travel. At the time the bill was framed this determination was 25.4 cents per car mile. Since then the latest year has been figured up and shows a revenue of 24.9 cents per car mile.

The main expense to the roads of transporting the mail is the hauling of the cars. But there are certain additional expenses, such as loading the mails, switching the cars and standing room for the cars at the terminals, cleaning the cars, and so forth. These are all expenses at the terminals. So that merely to make a flat rate per mile would inure to the benefit of the very long hauls and against the roads with the short hauls. Therefore to be fair to all the roads these terminal charges in the Moon bill have been separated from the line charges. For instance, under this bill a railroad carrying a 60-foot railway postal car will receive 21 cents for each mile the car travels and $4 terminal charges for each trip. Instead of a large number of different sizes of space which may be authorized, the bill cuts down the sizes which may be called for to three—the 60-foot railway postal car, the 30-foot apartment car, and the 15-foot apartment car. The closed-pouch mail where no mail clerk is used will be carried as at present. When figured out the rate of compensation allowed by this bill is 22.96 cents, or practically 23 cents per car mile.

The following table will show clearly the gradual evolution of the rates of pay which finally culminated in the rates fixed in the Moon bill, together with the cost of each of the proposed rates to the Government. It shows the rates as fixed in the Post Office Department recommendations, the rates as recommended to the Post Office and Post Roads Committee by the joint committee of the House and Senate, and the rates as fixed in the Moon bill as recommended by the committee, and how each of these rates figure out:

Line cost.

Service.	Car miles.	Post Office Department.		Joint committee.		The Moon bill.	
		Rate per car mile.	Annual pay.	Rate per car mile.	Annual pay.	Rate per car mile.	Annual pay.
		Cents.		*Cents.*		*Cents.*	
Railway post office, 60-foot	103,295,263	20	$20,659,053	21	$21,692,005	21	$21,692,005
Apartment, 30-foot	165,695,623	10	16,569,563	11	18,226,519	10.5	17,398,041
Apartment, 15-foot	75,226,521	5	3,761,326	6	4,513,591	5.5	4,137,153
Storage cars	51,417,527	18	9,255,155	21	10,797,680	20	10,283,535
Total line pay			50,245,097		55,229,795		53,511,000

Terminal cost.

Service.	Trips one way.	Post Office Department.		Joint committee.		The Moon bill.	
		Rate one way.	Annual pay.	Rate one way.	Annual pay.	Rate one way.	Annual pay.
Railway post-office cars	343,830	$4.00	$1,375,320	$4.25	$1,461,277	$4.00	$1,375,320
Apartment, 30-foot	896,022	2.00	1,792,044	2.75	2,464,060	2.00	1,792,044
Apartment, 15-foot	935,234	1.00	935,234	2.00	1,870,468	1.00	935,234
Storage cars	99,593	5.00	497,965	4.25	423,270	4.00	398,372
Total terminal pay			4,600,563		6,219,075		4,500,970
Closed-pouch service			2,230,796		4,581,000		2,230,796
Total railway mail pay (262,367,234 car miles)			57,076,456		66,029,870		60,242,775
Rate per car mile		.2175		.252		.2296	
Periodical matter by freight			703,904		703,904		703,904
Weighing and ascertainment			50,000		50,000		50,000
Side and terminal service			2,118,820		2,118,820		
Less land-grant deduction			59,949,180		68,902,594		60,996,679
			1,171,136		1,171,136		1,171,136
Add 4 per cent for year 1915			58,778,044		67,731,458		59,825,543
			2,351,121		2,709,258		2,393,022
Mail pay for 1915			61,129,165		70,440,716		62,218,565

The appropriations for the year 1915 as passed by the House under the old system was $56,188,000 for railroad transportation and $5,421,000 for rental of cars, a total of $61,600,000. The department's recommendation was about $550,000 less under the space system. The joint committee's recommendations would give the railroads $8,840,000 additional and the Moon bill would give them $618,000 additional. It would save, however, the expenditure of $400,000 for weighing one-quarter of the mail of the country and thus really would cost the Government only about $200,000 more, while correcting the inequalities in the pay to the various railroads.

There are several reasons why it seems to me that the rates named in the Moon bill should be adopted. They yield the railroads approximately what they get now, while altering the system of payment to a more equitable basis. As I think I have shown, there are no figures available to figure out the cost. While the Post Office Department thinks the railroads are paid too much, Mr. Lorenz, the associate statistician of the Interstate Commerce Commission, thinks they are paid too little. Neither can be sure of their position, and Mr. Lorenz says, on page 620 of the hearings:

> The existing mail revenue for the roads as a whole is, on the one hand, profitable traffic for the railroads in the sense that it more than pays the actual out-of-pocket expenses occasioned by the mail service directly or indirectly, but, on the other hand, the mail service does not pay its full proportionate share of taxes and interest charges. In other words, no crying injustice would be done to the railroads or to the Post Office Department if no radical change is made in the existing level of pay for the next three or four years, by which time it is to be hoped that the accounting practices of the railroads generally will be sufficiently developed to permit of a reasonably definite determination of the relative cost of various branches of the railroad service.

To give the railroads an increase in pay which they can not show they are entitled to would seem unjust, just as it would be unjust to reduce their pay until we are sure that they are overpaid. While costs can not be figured it has been shown that the car-mile revenue of all the cars on the passenger trains is 24.9 cents. The railroads who are loudly claiming that their freight rates are too low must make a reasonable profit at least on their passenger traffic. So we know that 24.9 cents is high enough for a passenger-car mile. I think it will be granted that the mail does not cost the railroads quite as much as the passenger traffic. The roads do not have to advertise for it; they do not have to build expensive stations and platforms for it; they do not have to have ticket agents and employ an expensive accounting system; they do not have to have so many trainmen for the mails; and there are many things they have to do for the comfort of the passengers which they do not have to do for the mails. Mr. Lorenz says that the expense is not exceeding 10 per cent less. The rates in the Moon bill figure out 7½ per cent less than the passenger-car-mile revenue, so that the committee has met the suggestion of the statistician on whom the joint committee placed so much reliance. Their rates are too high as they figure out even higher than the passenger revenue.

The rate fixed in the Moon bill is at least as high as the railroads receive from the express companies, with whom they have made voluntary contracts. Some of the companies have acknowledged that they got more out of mail than express. My time will not permit my going into an extensive argument on express rates, but the conclusion I arrived at from my study was that the express rate is lower than what the railroads now receive from the mails, but the railroads clearly do not know what the express is costing them.

The Canadian Government last winter raised the pay of the railroads for carrying the mails in Canada, and at the same time adopted the space basis for paying for the mails. But their rates are clearly below cost, if the mails are expected to pay their just share of overhead expenses and fixed charges as do the passenger, freight, and express traffic. When the railroads complain of the rates in the Moon bill, they should know that while they will get 21 cents per car mile for a railway postal car, the Canadian railroads will get only 16 cents; and for a 30-foot apartment car, the American roads will get 10½ cents a car mile, while the Canadian roads get only 9 cents. And in addition, the American roads will get terminal charges, while the Canadian roads do not get this at all. It will be noticed that the Post Office Department and the joint committee recommended relieving the railroads entirely of what they call the side and terminal service, but it was estimated that it would cost the Government over $2,000,000 to do this work, while the railroad testimony indicated that it did not cost them but $500,000. So in the Moon bill this service is left with the railroads, thus enabling the Moon bill to provide for the payment of $2,000,000 more than recommended by the Post Office Department to the railroads for services which they estimate will cost them $500,000, without extra cost to the Government. But there are individual cases where this side and terminal services cost the railroads more than they get, so that the Moon bill provides that in his discretion the Postmaster General may relieve the railroads of this service.

You may ask why the railroads should oppose this bill. Some of them are getting an undue advantage over others in the distribution of pay now—are getting more than their share of it. But the main reason is that an increase in the weight of the mails is anticipated in the future, and the railroads figure that an increase of one-half would give them 50 per cent more pay on the weight basis, while, as I have illustrated, if no more space was used, they would only haul a car and load weighing 48¾ tons instead of a car and load weighing 47½ tons. This bill, while going to a basis on which costs can be figured, will mean a big saving to the Government in the future in the cost of carrying the mails, while assuring the railroads of a reasonable, fair, and just compensation.

For over 20 years efforts have been made to go to a space basis for transportation of the mails. Commission after commission has worked on the problem. Committee after committee has discussed it. It remains for the Sixty-third Congress, the greatest constructive Congress of the century, to complete the work. This bill will equalize the distribution of the mail pay among the transportation companies. It will enable future committees and future Congresses to know whether or not the compensation is reasonable and just. It will put a stop to much of the friction between the department and the railroads. It will greatly simplify the keeping of the railroad accounts. It will put a stop to claims of underpayment between weighing periods, and if the mails double in weight, it will not compel the Government to double the compensation to the railroads to haul one-tenth more weight. As fast as the mails increase to require more space the railroads will get their compensation. I feel confident that this bill will appeal to your better judgment and that for the first time the Government is about to put its compensation for mail transportation upon a scientific basis. [Applause.]

Mr. SAMUEL W. SMITH. Mr. Chairman, I yield 10 minutes to the gentleman from Nebraska [Mr. SLOAN].

Mr. SLOAN. Mr. Chairman, a Senate amendment to the Post Office appropriation bill, afterwards approved by conference and adopted by the House, was as follows:

> *Provided*, That on and after July 1, 1914, letter carriers of the Rural Delivery Service shall receive a salary not exceeding $1,200 per annum.

There was no extended debate on this amendment either in the Senate or the House, but there had been extended debate on a similar proposition when the bill was before the House originally, and the purpose of that amendment was to give a flat increase to the rural free delivery carriers.

However, the purpose of both House and Senate seemed to be clear from the fact that the amount appropriated for rural carriers by the House, without any increase, was $48,650,000, whereas when the Senate adopted the amendment it increased the appropriation for rural carriers $4,350,000, making a total of $53,000,000.

As the number of rural carriers in the United States for the fiscal year of 1914 was 43,535, it will be readily seen that the appropriation called for a round number equal to the increase of each carrier's salary, $100. This appropriation for the year was not made for the purpose of having a large unexpended balance, but was made to be expended for the purpose stated in the amendment.

Further, so far as inquiry could develop, it was understood by the membership of this House and the Senate that a flat increase of $100 should be given to the carriers on all standard routes and a corresponding increase to those of shorter routes.

The Postmaster General has placed an entirely different construction upon the law, and, following that construction, has made a graduated scale of salaries based upon mileage, number of packages, and weight. This is not only a violation of the spirit and purpose of the act, but I believe it is a violation of a well-settled policy of the Government. It has long been the policy of the Government that where the Post Office Department is used to compete with private enterprise there should not be given extraordinary inducements to the Government employees to go out of their way to obtain business in competition with private enterprise.

The schedule which follows certainly is designed to make a Government business drummer out of every rural carrier:

[Order No. 8246.]

POST OFFICE DEPARTMENT,
Washington, July 14, 1914.

On and after July 1, 1914, the compensation of rural carriers shall be based upon the length of routes and the number of pieces and the weight of mail carried as shown by the records of the department, and

their rates of pay shall be computed on and fixed according to the following schedule:

Schedule.

Length of route.	Salary base.	Pieces of mail per month.	Pounds of mail per month.
4 miles and less than 6 miles	$480	3,000	400
6 miles and less than 8 miles	528	3,700	490
8 miles and less than 10 miles	576	4,400	580
10 miles and less than 12 miles	624	5,100	670
12 miles and less than 14 miles	672	5,800	760
14 miles and less than 16 miles	720	6,500	850
16 miles and less than 18 miles	840	7,200	940
18 miles and less than 20 miles	960	7,900	1,030
20 miles and less than 22 miles	1,080	8,600	1,120
22 miles and less than 24 miles	1,152	9,300	1,210
24 miles and over	1,200	10,000	1,300

An increase or decrease of $12 per annum shall be made for each 1,000 pieces and for each 100 pounds, respectively, greater or less than the schedule, and an allowance of $12 per annum shall be made for each closed pouch or closed sack of mail carried per day and also for each full mile of route served in excess of 25 miles in length: *Provided*, That no carrier shall be reduced in present compensation because of this order and that $1,200 per annum shall be the maximum salary.

A carrier serving one triweekly route shall be paid on the basis and subject to the above conditions for a route one-half the length of the route served by him, and a carrier serving two triweekly routes shall be paid on the basis and subject to the above conditions for a route one-half the combined length of the two routes.

The compensation of carriers on newly established routes shall be at the rates in effect June 30, 1914.

A. S. BURLESON.

The inducement presented is to increase the number of packages and increase the amount of weight which he carries. The method of doing so, of course, readily suggests itself to the carrier who desires to swell his salary. The means presented is to swell the number and weight of his mail carrying. I made some calculations concerning the effect of the Postmaster General's order upon the carriers of my district, and I submit them:

There are 239 carriers.
Five are not yet rated.
Of the 234 rated, 9 have routes of less than 24 miles.
Of the 225 standard routes rated, 40 receive no increase.
Of the 225 standard routes rated, 15 receive $4 increase.
Of the 225 standard routes rated, 18 receive $6 increase.
Of the 225 standard routes rated, 29 receive $28 increase.
Of the 225 standard routes rated, 29 receive $40 increase.
Of the 225 standard routes rated, 16 receive $50 increase.
Of the 225 standard routes rated, 18 receive $64 increase.
Of the 225 standard routes rated, 11 receive $76 increase.
Of the 225 standard routes rated, 1 receives $80 increase.
Of the 225 standard routes rated, 16 receive $88 increase.
Of the 225 standard routes rated, 32 receive $100 increase.

The average salary of these 225 carriers, $1,145; average increase, $45. The average length of these 225 routes, 26.17 miles.

If the schedule for my district presents an average throughout the country, then more than one-half of the appropriation for increase of salary would not be used.

The appropriation was fairly made by the Congress. Its purpose was clear to grant the flat $100 increase to the rural carriers of the United States. The schedule adopted by the Postmaster General is clearly improper, in that it deprives the carriers of that which the Congress voted them to have, and it is an attempt to make the rural carriers business drummers for the United States to interfere with and change the usual and ordinary course of competition in private business. [Applause.]

Mr. MOON. Mr. Chairman, will the gentleman yield?

Mr. SLOAN. Yes.

Mr. MOON. Will the gentleman please state to the committee the amount of money the Government is losing per annum on its rural-letter service?

Mr. SLOAN. I could not state that the Government is losing in the end, in the aggregate, anything by this Rural Free Delivery Service, anymore than it is in any other department of the service.

Mr. MOON. I will put my question in another way. The answer involves so many elements and suggestions that I will put it in this way: How much money is the Government receiving now as the revenue from the rural-carrier service, and how much is it paying out for that service?

Mr. SLOAN. I will say frankly to the gentleman that I can not state the exact figures, but if the rural free delivery carriers were bringing nothing to the Government, it would not interfere with the legal force of the proposition which I am presenting.

Mr. MOON. I am not arguing against the gentleman's views along that line. I just wanted to impress the gentleman with the fact of the figures, that when you come down to the cold-blooded cash, we are getting about $13,000,000 in round figures from that service, and we are paying for it $53,000,000, or a dead loss of $40,000,000 per annum.

Mr. SLOAN. Mr. Chairman, I thank the chairman, and I knew that on a question of figures he was ready to answer his own question, and undoubtedly his statement is true, but I am satisfied that out of the efforts and work of the 43,000 who in sunshine and storm go every week day to the farmers of this country, they start in operation postal business which is a basis for a large portion of the department's revenue.

Mr. MOON. I do not want the gentleman to understand that I am arguing against his proposition at all.

Mr. SLOAN. Oh, no; the gentleman, the chairman, undoubtedly was assisting me. I think we think about my proposition almost the same, but the other gentlemen who are before me, the large crowd of gentlemen on the minority side, and the multitude on the majority side, save and except the chairman, are the ones I want to convince. I know the chairman is with me.

Mr. MOON. Oh yes. The chairman is with you, except on the revenue theory.

Mr. MURDOCK. Well, that is a mighty important concession for the chairman to make, if he would be for the striking out of those words, "not exceeding."

Mr. MOON. We will talk about that later.

Mr. MURDOCK. Will the gentleman yield?

Mr. SLOAN. I will.

Mr. MURDOCK. Is it not also true that those words "not exceeding" have been carried by law from the very beginning, but they have never before been used in this item as they are being used to-day?

Mr. SLOAN. The construction of the Postmaster General is an innovation.

Now, I want to call the attention of the committee to section 13 of this bill, which says:

SEC. 13. That postmasters, assistant postmasters, clerks, or other employees at post offices of the presidential grade, and postmasters at post offices of the fourth class, shall not be allowed or paid any additional compensation for the transaction of postal savings depository business.

In other words, an employee of the Post Office Department is not expected to become a drummer of business on behalf of the Government against the other activities of private enterprise. [Applause.]

Mr. SAMUEL W. SMITH. Mr. Chairman, I yield 15 minutes to the gentleman from Massachusetts [Mr. GILLETT].

Mr. GILLETT. Mr. Chairman, I wish to discuss section 4 of this act, which provides that assistant postmasters shall be subject to examination. It is sometimes, I think, wise and enlightening in considering legislation and its effect to look upon the motives and the purposes of the men who introduce it and who are pushing it, and it seems to me that is peculiarly pertinent to this paragraph, because we all know that this does not represent the real wishes of the gentleman, the chairman of the committee, who has presented it. This is only an emasculated edition. He showed his real desires last winter when the Post Office appropriation bill was under consideration, when he introduced the proposition that assistant postmasters should be entirely exempt from the civil service and become part of the spoils of office. That is what he wanted, and in urging that he made these comments:

That is what I call a Democratic section of this bill. [Applause on the Democratic side.]

If the power were mine I would put none but Democrats on guard. [Applause on the Democratic side.]

I want to say that, so far as the postmasters and their assistants are concerned, I would have the party in power to name them and to take the responsibility. You can not administer this Government in accordance with the principles and policies of the Democratic Party as decreed by the people at the polls a year and a half ago unless you have Democrats to aid in this administration. [Applause on the Democratic side.]

That is what the gentleman really desired, and that is what that side of the House really purposed; but they were unsuccessful in carrying through that legislation because, it is reported, the Postmaster General, who openly declared himself opposed to it, went to the President, and the influence of the President, which we have so often seen effectual in this House, was put to work, and the Committee on Rules would not make that proposition in order. It makes us regret all the more that the same influence was not exerted against other raids upon the civil service which this Congress has carried through, but I am happy to say that particular legislation was prevented.

And now comes in this section which attempts to accomplish what they can in that same direction. And they are following a precedent. This section follows exactly the line which was followed in the case of fourth-class postmasters. You remember that last year, when this Congress first came into active being, on that side of the House there was a tremendous agita-

tion and enthusiasm to exempt the fourth-class postmasters from the civil service and make them patronage appointments once more, and such an amendment was introduced. And its sponsor, Mr. BARTLETT, remarked, in advocating it:

I know that there is no office, in my judgment, under a Democratic administration that could not be better filled by a Democrat than by a Republican. If you can call that the spoils system, you are welcome to so denominate it.

Then it was suggested, by the administration I suppose, that there should be done to fourth-class postmasters exactly what is now proposed for assistant postmasters—that all those in office should be subjected to a competitive examination. That device, apparently so harmless and fair, at once satisfied the seekers for patronage. They obviously expected to obtain under it the spoils they hungered for. The proposition to exempt them from the civil service was dropped, and they have been content under the new regulations. So, not now being able against the Postmaster General's influence to accomplish directly what they desire, and exempt the assistant postmasters from the civil service, they are following the precedent of the fourth-class postmasters and are using this subterfuge to remove from office those whose places they want.

This section, either intentionally or accidentally, if it becomes law, would place assistant postmasters in a class all by themselves as regards the civil-service act. The section provides that the Postmaster General "shall, under such law, rules, and regulations, appoint all assistant postmasters." The "such law, rules, and regulations" must mean the present existing laws, rules, and regulations, so that in the future all assistant postmasters must be appointed according to the present existing rules. Those rules are likely to be changed at any time. Each President has the power to change them, and many successive Presidents have exercised that power and probably will in the future, so that the status of all other civil-service employees will depend upon the rules and regulations existing at the time. But if this section should take effect, assistant postmasters would always be subject to the rules and regulations now existing, no matter how desirable it might be that they should be affected by any changes to those rules which Presidents hereafter may make. Moreover, this legislation is entirely superfluous if the Democratic majority have confidence in their own President and Postmaster General. The President can order the changes which they incorporate into this section at any time he desires. He has absolute power to require examinations or to exempt from examinations, so that in passing this legislation they are diminishing or abolishing one of the rights of their own President.

There are peculiar reasons why the assistant postmasters should be under civil service, why they should be a permanent force, and, if efficient, secure in their positions. One reason is that when they were covered into the civil service it was under a different regulation from what was applied to any other body of men. When the assistant postmasters were covered in, recognizing how important it was to the administration of the greatest business which the United States carries on that the assistant postmasters should be efficient, there was put in the order covering them the condition that only those should be classified who would prove to the Postmaster General that they had shown capacity for efficiently conducting their office. So that everybody was not covered in, as in all the other cases, but only efficient ones were covered in. But, regardless of that, the attempt is now being made to put them entirely on the level of all the others, although only those who were efficient were covered into the service. And there is another reason why assistant postmasters should be permanent, and not be subject to the political changes of every four years. It is a wonder to me that the Post Office Department, an enormous business, can be conducted as well as it is under our present system, with a change, perhaps, every four years of the head of the department and thousands of his lieutenants. Of course there is nothing to compare it with, so we do not know how much money is wasted and how much cheaper its business might be done. Certainly no business in the United States in competition with other business could be carried on in such a way, by having a new man put in as its head every four years. I have great admiration for our present Postmaster General. I think he is a man of great ability, wisdom, and patriotism. He devotes himself most assiduously to the work of his vast department. But, although I have great admiration and confidence in him, yet I can but think that it is a very faulty practice and unscientific system which should commit an enormous business institution like our Post Office Department into the charge of a southern planter with no business experience. Not only does our extravagant system do that, but in addition his lieutenants all over the country—the postmasters who have charge of the different offices—are all changed and new men are going in who have no training in that line; so that every four years we have new men put in at the head and new men put in as lieutenants, and now comes this proposition to try to remove and make political footballs of the assistant postmasters, who are men of experience and training, and who, I think, ought permanently to stay there.

Mr. CLINE. Will the gentleman yield for a question?

Mr. GILLETT. Yes.

Mr. CLINE. Inasmuch as the gentleman is a very ardent civil-service reformer——

Mr. GILLETT. I have not much time. Please hasten.

Mr CLINE (continuing). I would like to ask if he would be in favor of covering the first and second class postmasters, say, about the close of this administration?

Mr. GILLETT. I would. I accept that challenge. I would be very glad to have the first and second class postmasters at the end of this administration, all Democrats, covered in, and then those who are inefficient could be weeded out. I do not care much whether the postmasters or assistant postmasters or clerks in our departments are Republican or Democrat. I believe what we need particularly in the Post Office Department is efficient men; and I would like to have the whole service covered in and made permanent and have them only discharged and changed when they are inefficient.

Mr. FOWLER. Will the gentleman yield?

Mr. GILLETT. I can not yield now. If I have time before I close, I will yield.

Now, as to these assistants, it was somewhat illuminating in the debate before on the post-office bill to listen to a question that was asked Mr. RUCKER by Mr. COOPER:

Mr. COOPER. Is it not true that under the policy or practice suggested by the question of the gentleman from Missouri [Mr. RUCKER] assistant postmasters were appointed in this way: The Member of Congress wanted it understood that if John Smith was appointed postmaster it was done upon the express condition that John Brown should be the assistant postmaster, and that in many cases the postmaster had to agree to that before he could get the appointment, and in that way the Congressman fixed up a part of his own machine.

Mr. RUCKER. That is exactly what I would do in every case, and I have no apology for it.

So that obviously was the purpose then, and the same men, motives, and purposes are behind this section to make not only the postmasters but the assistant postmasters part of the political machine of the Congressman. I object to that; and I object to doing it either directly, as was attempted at first, or indirectly, as now attempted. It is of course in line with the conduct of that side of the House throughout this Congress. We saw it in the tariff bill, we saw it in the urgent deficiency bill when they excepted the marshals and revenue collectors, we have seen it just lately, and strikingly, in the Reserve Board. If there was any body of men which ought to be exempted from partisanship, it was the body which was to have control of the financial system of the whole country. And yet when the Reserve Board was created, by the law all their subordinates were made exempt from the civil service in order to give Democrats offices. And when the names of the Reserve Board were sent into the Senate everyone was a member of the party in power. So that even there the partisanship which has characterized this Congress from the beginning until now was evident, and this is but another following step in the consistent purpose of this Congress from the beginning.

I appreciate that opposition from this side of the House can not be effective; and as I see the chairman of the Committee on Appropriations, I am reminded of some kind remarks which he made last winter, showing how ineffective anything we could do is, and that all that is left us is to criticize. Mr. FITZGERALD remarked:

Mr. Chairman, nobody expects the appeals made by Republicans in this House to have any effect on legislation. * * * Their position in this House is not to regulate and control legislation. If they wish to understand what the country meant, it was that they should sit quietly by and learn how a great political party, when it comes into power, can carry out the pledges it makes to the people.

Mr. FITZGERALD. Will the gentleman yield?

Mr. GILLETT. Yes.

Mr. FITZGERALD. Did I not say something about the overwhelming defeat the Republicans got which disqualified them in the opinion of the country from control?

Mr. GILLETT. Possibly. I did not quote all you said. I quoted what was sufficient for present purposes.

Mr. FITZGERALD. What the gentleman quoted was very good, but the other part improved it.

Mr. GILLETT. We might differ about that. But, as I say, all that we can do is to sit by and criticize. But when the gentleman talks in that boastful way about the Democratic Party keeping its pledges, it seems to me he must have been facetious there.

One of the pledges of their platform was that they would maintain the civil service, and from the beginning of the following Congress until now step after step have they taken in flagrant violation of that pledge. Of course, that is only one of the numerous pledges they have broken.

Mr. FITZGERALD. Mr. Chairman, will the gentleman yield?

Mr. GILLETT. Not just now.

Mr. FITZGERALD. Just for a question.

Mr. GILLETT. Yes; I will yield to the gentleman. How much time have I, Mr. Chairman?

The CHAIRMAN. The Chair is unable to advise the gentleman.

Mr. GILLETT. Well, I yield.

Mr. FITZGERALD. I want to ask the gentleman if he believes that a provision to the effect that men who have been covered into the classified service by Executive order should be required to take an examination to demonstrate their fitness is a violation of the civil-service law, or the principle of it?

Mr. GILLETT. If the gentleman had been here when I began to speak he would have known that I covered that. He will be able to read it in the RECORD.

Mr. FITZGERALD. I do not wonder that the gentleman declines to answer that twice.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. MOON. Mr. Chairman, I yield to the gentleman from Connecticut [Mr. REILLY].

Mr. REILLY of Connecticut. Mr. Chairman, I am in favor of this bill. It has chiefly to do with the matter of railway mail pay. In that regard the proposed bill is a big improvement upon the present law, in that it substitutes a definite businesslike basis of payment for a haphazard and indefinite one.

Regarding the section of the bill that has to do with the appointment of assistant postmasters, it can not be fairly called a blow at the civil service. The civil service primarily implies an examination, and that is all this bill does. It makes assistant postmasters who were covered into the classified service by Executive order take an examination the same as others in the service. So far as I am concerned, I am ready to vote for a bill that will take all employees out of the civil service whose superior officer is bonded, because I believe the man who gives bond for the faithful performance of duty by a subordinate should have the appointment of that subordinate. As it is now the assistant postmaster in the majority of cases is a political opponent of the postmaster, and may be his personal enemy. No one thinks that is fair in any degree. The proposed law gives the present assistant postmasters a chance to retain their jobs. It is not prejudicial to the civil service, but if it were I would still favor it for the reasons I have stated.

In relation to the railway mail pay, there can be great improvement made; not only in regard to pay made to the railroads for carrying the mail, but in the entire matter of transportation there can be, and I predict there will be, great changes and improvement made. These changes will not only be made in the matter of railway transportation of mail, but the transportation by water. In this connection I desire to submit the views of Mr. James L. Cowles, president of the World Postal League, on the matter of ocean postal transports as most interesting and timely:

Shall the Panama Canal be used for the enrichment of a few private speculators or for the common benefit?

The railways, trolley lines, auto and air lines, steamboat and steamship lines, telegraph and telephone lines of our modern world are its circulating and nervous system.

Upon the construction, maintenance, and operation, and upon the taxes levied for the use of this life-determining mechanism, more than upon anything else, does the general economic, as well as the social and political development of modern humanity depend.

Left in the control of private speculators determining the rates for its use upon the value of the service rendered, it will become a public curse, as was the case with the Cursus Publicus, the transport service of Imperial Rome.

On the other hand, managed by our public servant, with rates for its use determined on the cost of the service rendered, or, it may be, run absolutely free and supported by the taxation of the districts which it serves and to which it gives practically all their commercial value, every step in its improvement will be in line of the common advancement with the result that in the course of time this old warring earth of ours may be reasonably expected to become a bit of heaven—a home in which every human being shall find delight in the service of the other.

Competition between the different parts of this great mechanism is as absurd, as wasteful, and as harmful as competition would be between the arteries, veins, and nerves of the human body.

In recent years Congress, State legislatures, cities, and towns have expended hundreds of millions of dollars of the hard earnings of our common people in railway, trolley, river, and harbor improvements, which, under the control of our great circulating and nervous system by private speculators, have actually resulted in increased rates of transportation, increased cost of living, and lessened opportunities for getting a living.

Notwithstanding the scores of millions of dollars spent for the improvement of navigation upon the Great Lakes, the rail, lake-and-rail rate on flour and mill stuffs—from Minneapolis to New York City—is 3 cents a hundred pounds higher than it was 15 years ago, 23 cents to-day as against 20 in 1899. And the same thing is true as to ocean transportation. The Merchant Marine and Fisheries Committee of the Sixty-third Congress inform us that since 1910 the speculators controlling trans-Atlantic trade have increased their rates—in some cases over 100 per cent—this in spite of the fact that during the intervening years the public on both sides of the Atlantic have expended immense sums for their harbor improvements.

Manifestly, the Government must take possession of the transportation and transmission machinery, for the use of which these other expenditures are made, and must extend, develop, and operate the entire business in the common interest.

OCEAN POSTAL TRANSPORTS.

In this connection it is interesting to note that on the 1st of April last—at the instance of Senators WEEK and LODGE, of Massachusetts—the United States Senate passed Senate resolution 317, suggesting the transformation of our warships into postal transports and requesting the judgment of the Secretary of the Navy as to the use of naval cruisers and transports in the inauguration of a line of ships for the carriage of mails, passengers, and merchandise between the United States and South America.

On the 11th of April Secretary Daniels replied that the Navy Department sees in the plan an opportunity at once for developing a large trade with South America, which is not practicable for private vessels under the United States flag, and for the development of an auxiliary fleet which would be necessary in times of war and would pay for itself in times of peace.

And on the 14th of April the department bill—S. 5259—providing for the proposed fleet—17 vessels—and asking for its inauguration and support, only $100,000 in addition to what might accrue from its service was presented to the Senate and referred to the Senate Committee on Naval Affairs.

We cordially sympathize with every movement looking toward the establishment of a system of American ocean postal transports, like the Panama Canal, our common pride, our common property, run in the common interest of all the world, and manned by officers and seamen well paid, well cared for, our common choice; but we submit that the inauguration of such a service requires something more than a fleet of 7 war cruisers of an average capacity of only 20 male passengers and 150 tons of postal matter, 4 inferior passenger and freight steamers carrying an average of 74 first-class and 32 steerage passengers of both sexes and 11,000 tons of freight, and 6 colliers carrying no passengers and on an average only 6,000 tons of freight.

We have spent $400,000,000 on the Panama Canal. Its devotion to the common use by the United States of America must surely be celebrated by the establishment of an American fleet of ocean postal transports that will make our flag the chief exponent of peace on earth, good will among the nations, a fleet made up of modern ships especially fitted for ocean postal traffic—the transport of persons and of produce; a fleet at once so commanding and run at cost of the service rates so low as to dominate the entire business.

The Sixty-third Congress has appropriated over $15,000,000 to the construction of two battleships. Verily, nothing less will suffice for the purchase or construction of an American ocean postal fleet that will meet the demands of the hour. These other facts are also to be noted:

First. The cost of construction, maintenance, and operation of all public transport agencies is always paid by the public, whether the business be managed by private speculators for the exploitation of the public or by Government for the public service.

Second. The only practical method for securing to the American public their share of the benefits accruing from the expenditure of the hundreds of millions of dollars of their labor invested in the Panama Canal and in the improvement of their ocean harbors, lighthouse services, etc., is through the ownership and operation of a large part, if not of all, the American ships engaged in the coastwise and foreign trade of the United States.

Third. Legislation has been enacted practically forcing the railroads to sell their ocean steamers and denying the use of the Panama Canal to all vessels in which the railroads have an interest; and this being the case, it seems only just that the Government should take over their ocean lines at a fair valuation.

One of the greatest obstacles to the extension of the foreign trade of the world to-day is the enormous and often discriminating taxation levied by private transport speculators upon the world's business.

The private speculators now controlling the world's ocean traffic tax our Government for the transport of our mails across the Atlantic by steamers not under contract—United States register—letters (sealed parcels), 80 cents a pound, $1,600 a ton; on other mail matter (unsealed parcels), 8 cents a pound, $160 a ton. Foreign register: Letters, 35 cents a pound, $700 a ton; other matter, 4½ cents a pound, or $90 a ton. The cost to the steamships is the same in either case.

Under its mail contract, New York to Southampton, $4 a mile, regardless of the mail handled, the International Mercantile Marine Co. levies a tax of over 15 cents a pound, over $300 a ton, on all the mail carried. Similar taxes are levied upon our Government in all our ocean mail traffic, and yet the express companies doing business between New York and London serve their large patrons at less than $20 a ton. With Government-owned ships the business might well be done for less than $10 a ton.

A weekly naval mail line of well-equipped fast steamers, the best of their kind upon the ocean, run by officers and men of the American Navy between New York and San Francisco, at rates determined not on what might be exacted from the public, but on the cost of the service rendered the public, would be an object lesson as to the possibilities of a Government-owned merchant marine that would astound the world. The establishment of similar lines owned and operated by this country and Great Britain or Germany, and other lines jointly owned and operated by this country and the States of South America, would be great steps toward the advancement of the world's peace and the world's prosperity.

The united states of the world, with all legal barriers to intercourse between the different States abolished, and all physical barriers overcome by a world postal service covering the entire business of public transportation and transmission—"the parliament of man, the federation of the world," the dream of the poet Tennyson in 1842, is to-day a near-by reality.

Inaugurated in 1874 by Dr. Stephan's establishment of an international 5-cent half-ounce (soon to be 2 cents an ounce) letter post, it

remains for us in 1914 to so extend this great service that within a few brief years the weakest hand, the most timid voice, may reach to the ends of the earth and command its richest treasures.

The advantages to follow the abolition of the legal barriers to intercourse between the nations have been conclusively proved by our own history—the absolute freedom of intercourse between our different States guaranteed by our Federal Constitution having made our prosperity possible.

The benefits that would accrue from a world-wide system of door-to-door, low uniform postal tolls (the ideal condition of things would be a postal service absolutely free and supported by the taxation of the districts which the machinery serves and to which it gives their commercial value) have been clearly demonstrated in our 50-year-old flat-rate letter post, our 29-year-old flat-rate cent-a-pound magazine and newspaper post, and in the flat-rate commodity service of our continental railroad traffic, as also in our flat-rate passenger city trolley service.

In opening the Panama Canal to the outside world on the same terms as to ourselves, we have shown a generous spirit that is to win us friends everywhere.

The enactment into law of Senator WEEKS's bill—S. 5259—so amended as to provide us with an experimental naval mail service, made up of the very best steamers that float the seas, however small the fleet, would mark the end of the old war era and the beginning of the time when the postman is to supersede the warman (the soldier), the postal car the field cannon, the postal transport the man-of-war.

Verily, the opening of the Panama Canal must be accompanied by the establishment of an American naval mail service, worthy of the people that have given this canal to the world.

Mr. SAMUEL W. SMITH. Mr. Chairman, I yield five minutes to the gentleman from California [Mr. KAHN].

The CHAIRMAN. The gentleman from California [Mr. KAHN] is recognized for five minutes.

Mr. KAHN. Mr. Chairman, I fully concur in the position just taken by the gentleman from Massachusetts [Mr. GILLETT]. The Democratic platform of 1912, speaking of the civil service, says:

The law pertaining to the civil service should be honestly and rightly enforced, to the end that merit and ability shall be the standard of appointment and promotion rather than service rendered to a political party

We can all agree to that, because it is good doctrine. But, as the gentleman from Massachusetts [Mr. GILLETT] pointed out, the majority side of this House has been trying constantly to break down the civil service of this country, notwithstanding their professions on this subject. In doing that you on the Democratic side are only sowing dragon's teeth. Men will spring up to plague you. For every office you take out of the classified service you will have a dozen or more applicants. You will not be able to satisfy them all, and you will be hoist by your own petard.

But by legislation of this character you emphasize your insincerity. Take the Democratic platform adopted at Baltimore and read the concluding paragraph. It says:

Our platform is one of principles which we believe to be essential to our national welfare. Our pledges are made to be kept when in office as well as relied upon during the campaign.

It seems to me that almost every important plank in the Democratic national platform has been destroyed by the majority side of this House. There are a dozen planks at the least that have been violated. The last paragraph, which I have just quoted, means nothing to you on the Democratic side. It was put forth as "molasses—to catch flies."

Mr. COX. It caught them. [Laughter.]

Mr. KAHN. Yes; it caught them, but you will never catch them again. The people of the United States realize your insincerity, and you will meet the fate you deserve this coming November. [Applause on the Republican side.]

Mr. Chairman, I yield back the balance of my time.

Mr. SAMUEL W. SMITH. Mr. Chairman, how much time have I left?

The CHAIRMAN. The gentleman from California [Mr. KAHN] used only two minutes.

Mr. SAMUEL W. SMITH. How much time have I left altogether?

The CHAIRMAN. Seventeen minutes.

Mr. FINLEY. Mr. Chairman, I would like to ask the gentleman from Michigan [Mr. SAMUEL W. SMITH] if he desires to use the remainder of his time?

Mr. SAMUEL W. SMITH. I think not.

Mr. FINLEY. Then, as I understand, the gentleman from Michigan has closed?

Mr. SAMUEL W. SMITH. Yes.

Mr. FINLEY. Mr. Chairman, how much time has the majority side?

The CHAIRMAN. Fifty-five minutes.

Mr. FINLEY. Fifty-five minutes?

Mr. SAMUEL W. SMITH. That is a mistake, Mr. Chairman. They have not 55 minutes left, have they?

The CHAIRMAN. The Chair understands that the majority side has 55 minutes.

Mr. SAMUEL W. SMITH. Let me call the attention of the Chair to the fact that when we began with the gentleman from Michigan [Mr. BEAKES] each side had 55 minutes. Mr. BEAKES had 10 minutes yielded to him from that side, and I yielded him 10 minutes.

The CHAIRMAN. The present occupant of the chair was not advised as to that.

Mr. FINLEY. I think this side has 45 minutes.

The CHAIRMAN. Very well. The gentleman from South Carolina [Mr. FINLEY] is recognized for 45 minutes.

Mr. FINLEY. Mr. Chairman, in the discussion of a great question like this it seems that it is quite impossible to steer clear of politics, notwithstanding the fact that it is a business proposition, pure and simple. The Postal Service of the United States is the greatest single business proposition in all the world, amounting in expenditures for the present year around $311,000,000, and in financial operations from first to last amounting to around $3,000,000,000 annually. So I was tempted to hope that in the discussion of the questions involved in considering the bill we might not have the Democratic Party or the Republican Party bring in the question of partisan politics.

For 12 years I have been a member of this committee and have given to its work the best service that I know how to render, not from a party standpoint alone, but from the standpoint of what is best for all the people of the United States; and the bill before the House can be discussed, and discussed intelligently and profitably, without any mention of partisan politics. But since that has been injected here—and it could not be prevented—I am willing to state that the Republican Party has nothing to charge against the Democratic Party on the question of administering the civil-service law; nothing at all. I repeat that the Republican Party itself is guilty, a hundred times over again, of more violations of the law than the Democratic Party.

I remember when I came here about 16 years ago. We had had a Democratic President in the White House who had gone out two years before that, in 1897, and I wondered how it was, in the administration of the civil-service law, that so few Democrats were found in the departments, and that those that were found there were occupying inferior positions, almost without exception. I was told this: That when the Republican Party came into power in 1897 the word was given, the order went out—not from the President of the United States, but from those great leaders of the Republican Party, the politicians, the bosses of the Republican Party—that no Republican holder of a position or office should take orders or directions in his department from a Democratic superior if it could possibly be avoided. The result was that Democrats who were chiefs of divisions and occupying important positions, in order to remain in the Government service, gave up those positions and took demotions to lower places in the Government service. This is true in hundreds of instances.

So, Mr. Chairman, this went on. The Republican Party, from 1897 to March 4, 1913——

Mr. GILLETT. Mr. Chairman, will the gentleman yield right there?

Mr. FINLEY. I will come to you in a minute. I will remember your speech, and then I will yield to you.

Mr. GILLETT. I just wanted to ask you about what you stated. How do you know this alleged fact that you stated?

Mr. FINLEY. Parties told me so; parties who took demotions.

Mr. GILLETT. I want to tell you——

Mr. FINLEY. The gentleman can not tell me. He does not know. I do not yield for a statement. The gentleman does not know.

Mr. GILLETT. I do not believe you know.

Mr. FINLEY. Well, you are wrong about that, as you are wrong about this civil-service proposition.

So, Mr. Chairman, the Republican Party continued in power until March 4, 1913, and there have been very few removals since that time. In fact, I am of the opinion that there have not been nearly as many as there should have been. Time after time the Republican Party covered into the civil service, without examination, Government officials, Government employees, until finally, during the latter part of President Taft's administration, when the handwriting was on the wall, and it was understood that the days of the Republican Party were numbered in administration matters, that they were going out, all assistant postmasters were covered into the civil service by a blanket order. Then it was that the fourth-class postmasters were covered in. When the Republican Party had the opportunity for 16 years to give this country an honest and efficient civil-service administration, it absolutely failed to do so, and on the contrary filled prac-

tically every place, office, and position with Republicans in every instance where politics could be made a part of the proceedings. I am told, and I believe it to be a fact, that when President Wilson came into office about 17 months ago there were something like 90 per cent of Republican officials holding places throughout the United States in the classified service. Can anybody believe that on any fair division this is the percentage that should prevail as among all the great parties in this country? Nobody believes that statement. It is ridiculous on the face of it. After the Republican Party had the opportunity for years to correctly and properly administer the civil-service law, and after administering it in the interest of the Republican Party, they come now on every occasion, and even to-day, when there is no occasion, and raise the cry that the Democrats are breaking down the civil-service law. The provision that is in this bill here will not affect the civil-service law. The civil-service law, properly administered, should make for efficient service, and no man can stand here or elsewhere and defend that law unless he stands for efficiency. So this provision here simply provides that about 2,500 assistant postmasters who were covered into the civil service without any examination shall stand an examination to show their efficiency; and if they stand an examination, why not have competition?

All of these 2,500 assistant postmasters were covered into the civil service in a single order. It is said that they were competent, that they were trained. Does anyone believe that 2,500 assistant postmasters could be covered in under this blanket order of President Taft and not one of those men be inefficient? I dare say no one will dispute the proposition that a large percentage of them were inefficient. The purpose of the Republican Party, plainly speaking, is to hold the offices and the places, hoping that in this way they may some time in the by and by be aided to gain their old-time place and position in the control of the National Government. I say to them that this is an idle hope. If you will read what Burns wrote, you can truthfully repeat with with him when he says:

I sit and count my sins by chapters.

That is what he said, and that is what the Republican Party are entitled to say. Why, my good friend from Massachusetts [Mr. GILLETT] stood here this morning and deliberately told this House that these assistant postmasters were trained men, versed in a great business proposition—the postal system. And while I know his friendship and admiration for the distinguished gentleman who is now Postmaster General, and while he asserted that friendship, yet in speaking of his qualifications he called him a farmer without any particular business training. He said "planter," but there is no difference except in terms between a planter and a farmer. No particular business training! Why, I suppose the gentleman from Massachusetts would have this House believe that in order to be qualified to be a great and efficient Postmaster General a man must eat pie for breakfast and baked beans twice a day. [Laughter.] When he speaks of the Postmaster General being a farmer, I want to say to him that in many respects a farmer has more sense then anybody else. He is able to make a living for himself, and not only that, but a living for other people. He makes a living for people like—I will not say like the gentleman from Massachusetts without including myself.

If the gentleman will take the membership of this House and take the great positions in this country, he will find that most of the men who fill them to-day first saw the light of day on a farm. There they learned the practical side of life. There they learned the lessons that have been worth so much to them since, so necessary for them to learn and know in order to make good in the great battle of life. Yes; there is no doubt about A. S. Burleson being a farmer, but he has brains and capacity of a high order, so that he was well chosen by the President of the United States, great President that he is, to be Postmaster General of the United States, and he does not need words of commendation from me or from anyone else, nor to have it stated that he has been a farmer or a planter, because he makes that statement for himself. I have heard him make it dozens and scores of times, and he is proud of it, and I may say that I am proud of the fact also.

Mr. Chairman, this examination will do no more than test the efficiency of the present assistant postmasters who went in without examination and of the applicants who compete with them. It was stated here yesterday, and it is true, that since March 4, 1913, wherever there has been an examination held to fill places like this, and in the civil service generally, there has been real competition, and if a Republican won the examination he was appointed to the place, not only as assistant postmaster but in other departments of the Government.

Mr. Chairman, how much time have I consumed?

The CHAIRMAN. The gentleman has consumed 12 minutes.

Mr. FINLEY. So, Mr. Chairman, this bill that is before the House is one of the greatest importance and of the greatest moment to the Postal Service of the United States and because of this fact important to the people of the whole United States.

The proper basis for railway mail pay is a question that has disturbed Congress and has disturbed the public mind for decades past.

Before I go into that I will say that many of the older Members here remember the contests that have taken place in the Post Office Committee room of the House and on this floor to regulate this question properly. Now, I take this occasion to say that in 1907 great reforms were instituted, and great economies were brought about by reason of a change of law making for economy in postal matters. At that time the present chairman of the Committee on the Post Office and Post Roads [Mr. MOON], the gentleman from Missouri [Mr. LLOYD], and myself were members of that committee, and I believe we are now the only Members of Congress on this side who were then on the committee. The gentleman from Kansas [Mr. MURDOCK] and the gentleman from Minnesota [Mr. STEENERSON] were also members of the committee. I want to say that these two gentlemen gave to the people of the United States a service that I do not believe the people of this country will ever adequately appreciate. They joined with the Democrats, and we brought in this reform legislation. We reduced the railway mail pay 5 per cent. We reduced railway post-office car rent largely. We provided for carrying railway mail equipment—that is, empty mail sacks, and so forth—by freight, and other economies were provided in the laws that we passed from time to time. I remember that it was in 1906 when the gentleman from Kansas [Mr. MURDOCK] delivered on that side of the Chamber a speech with reference to the proper divisor for the ascertainment of the weight of the mail. Subsequently he carried the fight to the Post Office Committee of the House, and a provision was voted into the bill. It went out finally. We could not obtain a rule from the Republicans carrying that proposition.

I suggested then, and I repeat now, that I did not believe legislation was necessary in order to carry out this reform, but the matter had been conducted in a way that was costing the Government the loss of large sums of money—millions of dollars. The mail would be weighed for 105 days, and then the total weights would be divided by 90, and this would give a larger total daily weight of mail than was actually true, so that the railroads were paid a much larger sum because paid on a larger basis than they would be paid on had the total weights been divided by 105, the number of days the mails were weighed, and as has been stated, this weighing occurs once in four years in each of the four weighing divisions. So that these economies all told amounted to more than six and a half million dollars a year, and but for these economies the people of the United States to-day would be paying these increased amounts, and they have not paid them, and they are not paying them, and it is because of that legislation, and because the President of the United States, I believe President Roosevelt, through his Postmaster General, issued an executive order requiring that the divisor for the weighing of mails should be the total number of days the mails were weighed for, and of course this divisor was made 105. The railroads did not accept this proposition. They carried the matter into the courts. Recently the case has been won by the Government, $31,000,000 being involved. The case was finally conducted by the now Second Assistant Postmaster General, Mr. Joseph Stewart, and he won out, with $31,000,000 involved. The case, I believe, is on the way now to the Supreme Court of the United States, so that I repeat these economies have saved to the people of the United States more than $50,000,000 since 1907, when this legislation was enacted. In the bill under consideration we propose further reforms and additional economies. We do not propose to make these reforms and institute these economies at the expense of the railroads at all. In other words, we will obtain an efficient mail service, and the people will obtain in this way what they are entitled to obtain, and the railroads will be paid exactly for the work they do, and in my remarks in the RECORD I hope to make that plain.

Mr. KINDEL. Mr. Chairman, will the gentleman yield?

Mr. FINLEY. Yes.

Mr. KINDEL. I would like to inquire if the gentleman thinks the present express rates paid to the railroads for hauling their merchandise is a reasonable rate?

Mr. FINLEY. I do not.

Mr. KINDEL. In what way, is it too high or too low?

Mr. FINLEY. I think generally the express rates are too high, and I further state that I think that every express company in this country ought to be abolished and go out of business.

Mr. KINDEL. Does the gentleman think the railroads ought to do the business of the Government at a similar rate?

Mr. FINLEY. No. I think the railroads ought to do the parcels business for the Government at the rates provided in this bill, and in addition to that, and outside of that, I think the railroads should haul the freight of the country and haul it under the supervision of the Interstate Commerce Commission, the various railroad commissions in the various States, and under the regulations provided by them.

Mr. KINDEL. I would ask the gentleman how the people are expected to patronize the parcel post if, for instance, under the present law, on a hundred-pound parcel from New York to Denver, the price should be $10.01, while the express rate would be $5.70.

Mr. FINLEY. Mr. Chairman, the gentleman is speaking about the present law. Under the law the Postmaster General has the right to change the rates, subject to the approval of the Interstate Commerce Commission. There has been no trouble along those lines. In other words, the rates now provided by law are not ironclad and are not so fixed as to make them inflexible. In other words, the Postmaster General, when he ascertains that rates can be lowered, has the authority to do that subject to the approval of the Interstate Commerce Commission, as I have stated.

Mr. KINDEL. Mr. Chairman, I appreciate that the gentleman intends to lower the rates so as to make the parcel post an efficient agency for the public.

Mr. FINLEY. My belief is that the passage of this bill will result in, and properly and necessarily result in, the Government being able to carry larger amounts of weights in railway mail cars, in apartment cars, and so on, and that this bill is an absolute necessity if the life of the parcel post is to continue.

Mr. KINDEL. The rate on that hundred pounds to the post office is $10.01, and the postmaster claims that he is paying $9.03 to the railroad for haulage. What, in the gentleman's opinion, approximately would be the rate under this new law?

Mr. FINLEY. The gentleman is speaking for the present law.

Mr. KINDEL. That is what I want to find out. I want to vote with the gentleman, but I want to know what advantage there will be, if there is to be any advantage.

Mr. FINLEY. The advantage is this: You take the average 40-foot car to-day—railway mail car or railway post-office car. It carries only a little over 2,000 pounds in weight. The 50-foot car, I think, will carry about 3,000 pounds, and the car over 50 feet in length carries on an average about 5,600 pounds, so that these weights will be increased, and necessarily so because of the parcel post and because only space will be paid for and weight will not.

Mr. KINDEL. The gentleman is agreed to this proposition, that the Post Office ought to have rates competitive with the express companies or go out of that business?

Mr. FINLEY. I agree to this, that the Post Office Department ought to carry parcels at a reasonable rate, a rate that is commensurate with the cost of the service, and that is fair to the public, and that the express companies should go out of business.

Mr. KINDEL. I am agreed to that. But the gentleman does not believe that the Government ought to do business, for which they charge from 100 to 200 per cent higher than the express companies, on the same train, on the same goods?

Mr. FINLEY. Well, the gentleman knows as well as I know that what will be a proper rate will be worked out after the passage of this bill, in the event it becomes the law; but this bill, in my opinion, will enable the Government to give vastly lower rates for carrying parcels than the Government can give at the present time. And for this reason: It costs the Government under the present law an average of 3 cents a pound to carry all the mails. In other words, the Government pays the railroads about 3 cents a pound under the present law, and we want to get away from that, which is the necessity for this bill, 17042, changing the basis of pay to the railroads for carrying the mails from weight to space.

Mr. KINDEL. Thank you.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOON. Mr. Chairman, how much more time have we remaining?

The CHAIRMAN. Ten minutes, the Chair understands.

Mr. MOON. I will yield nine minutes of that time to the gentleman.

Mr. SAMUEL W. SMITH. I will yield 10 minutes to the gentleman.

Mr. FINLEY. Mr. Chairman, I believe I have the remainder of the time on this side, and the gentleman from Michigan yields me 10 minutes. Is that all the time the gentleman has?

Mr. MOON. It was the understanding with the gentleman from Michigan that the gentleman's speech would close general debate, because we are entitled to close debate, so I take it at the end of that time this debate will close.

Mr. SAMUEL W. SMITH. We are through.

Mr. FINLEY. The point is this, which the chairman of the committee has made, and that is that we are entitled to close debate on this side.

Mr. SAMUEL W. SMITH. Certainly; I understood the chairman to say the gentleman is entitled to proceed for 9 minutes, and I have yielded the gentleman 10 minutes.

Mr. FINLEY. The gentleman yields me 10 minutes, and that will close the debate, with the 9 minutes yielded by the gentleman from Tennessee.

The CHAIRMAN. Under that arrangement, the gentleman will proceed for 19 minutes.

Mr. FINLEY. And that will end general debate.

Mr. MURDOCK. It will not end general debate if the gentleman from Michigan has more time and desires to yield it.

Mr. FINLEY. We should settle that matter.

Mr. SAMUEL W. SMITH. We do not desire any more time on this side.

The CHAIRMAN. Then the understanding is the gentleman from Michigan has exhausted his time?

Mr. SAMUEL W. SMITH. I said to the chairman of the committee we do not desire to use any more time on this side.

Mr. FINLEY. Mr. Chairman, the question of properly fixing railway mail pay is one that has agitated Congress periodically for more than 40 years. I believe the first act by Congress providing for carrying mail on railroads was passed in 1873. From 1873 down to the present time the question as to what should be the amount of pay received by the railroads from the Government for performing this service has been a matter of contention between the Government and the railroads. The railroads, or at least the majority of them, have always contended that the rate fixed by Congress was too low, and whenever Congress has undertaken to deal with the question it has met with the most strenuous opposition from the railroads, their agents, and in many cases their attorneys, as well as from the express companies. This branch of the Postal Service is one of growth and development. Prior to 1873 the law on the subject was meager; but it is true that the service performed at that time was far different in character and in quantity from the service performed to-day. In 1873 a large part of the Postal Service in the matter of transporting mails was done by star routes. Often these routes were hundreds of miles long, calculating from one railroad to another. The amount of mail carried six days in the week on railroad trains was far in excess of the amount carried on railroads performing like service seven days in the week. At this time the exact opposite of this is true. A comparatively small amount of the mail is carried on railroad trains six days in the week; the great bulk of the mail is carried seven days in the week. In 1907 quite a number of amendments were made to the law, and provision made for greatly reforming the service along economic lines. Provision was made for reducing the compensation on mails carried in full railway or railway post-office cars and 5 per cent on land-grant railroads, where the railroad's pay was only 80 per cent of full pay. A like reduction was made in the act of May 12, 1910. I will include the statutes governing railway mail pay and railway post-office car pay or rent in my remarks. Since 1873 the basis of railway mail pay has been on weight of the mails carried by the railroads. On account of the increased weight of mails, and particularly the second-class mail, including papers, periodicals, and journals, the establishment of the Parcel Post System, and the continued growth of this system it has been found that the present law regulating railway mail pay has outlived its usefulness, and there is no longer reason or necessity for continuing to pay the railroads on the basis of weight. From statistics gathered covering the operation of railroads in the matter of freight, passenger, and express service, as well as the mail service, it has been demonstrated that a change is necessary in fixing the basis of pay to railroads from a weight to a space basis, and the bill now under consideration will effect this change.

By way of digression I will add that some 14 or 15 years ago I heard the then chairman of the Post Office and Post Roads Committee in the House state in a speech that the only scientific basis of railway mail pay, in his opinion, was one fixed on space occupied, rather than on weight of the mail. While I have not looked the matter up since, this is my recollection of the statement of the Hon. Eugene F. Loud. A number of postal commissions and joint committees have been appointed by Congress to investigate this question and report their conclusions to Congress. The Walcott commission, one of the first, which made its report many years ago, reported that the railroads were not overpaid. Since then other com-

missions and committees have been appointed, and the results of their labors have amounted to very little in the way of legislation. We have at the present time a joint committee constituted nearly two years ago to investigate and report on the question of railway mail pay. The life of this joint committee would have ended the 30th day of June, but was continued to December 1, 1914. Why this committee has not reported is well known.

Mr. Chairman, far be it from me to advocate a vote for the passage of any bill that will reduce railway mail pay below what I believe to be proper compensation for the services performed by the railroads. It has never been my view that demagogy should have a place in legislation by the Congress, so that what I shall say is an expression of my views based upon ascertained facts and proper consideration of the questions involved, requiring a discussion that may be tiresome to some because of the necessity for stating tedious details in connection with the present plan of pay for transporting mail by railroads.

The following table is an estimate by the Third Assistant Postmaster General made for the fiscal year ended June 30, 1912, and printed in his annual report for that year. This table is intended to bring down to that date by way of estimate of the total number of pieces and weight of domestic mail (not including foreign mail) made for the fiscal year of 1911 and 1912. These estimates have for their basis the weighing of the mail in 1907 and, of course, include the growth and extension of the Postal Service during the years 1908, 1909, and 1910 and the fiscal year beginning July 1, 1911, and ending June 30, 1912. The table is as follows:

Estimated total number of pieces of the various classes of domestic matter mailed, their weight, and the postage derived therefrom, during the fiscal year ended June 30, 1912.

Class of mail.	Number of pieces.	Average weight per piece in ounces.	Average number of pieces per pound.	Aggregate weight in pounds.	Per cent of entire domestic revenue-producing mail carried.	Postage received from domestic mail.	Per cent of entire postage derived from domestic mail.
Letters and other first-class matter including post and postal cards	9,159,648,117	0.35	45.10	203,115,365	13.14	$168,636,706.59	74.86
Newspapers, magazines, and other second-class matter	4,934,002,770	3.35	4.77	1,035,033,555	66.96	11,556,322.53	5.13
Catalogues, circulars, books, and other third-class matter	2,219,355,307	1.67	9.58	231,734,225	14.99	32,551,434.81	14.45
Merchandise and other fourth-class matter	239,982,313	5.06	3.16	75,943,770	4.91	12,524,981.15	5.56
Congressional franked and official penalty (free) matter	310,437,878	3.16	5.05	61,415,335	.....	.....	.....
Total	16,863,426,385	1.52	10.53	1,607,242,250	100.00	225,269,445.08	100.00

It is perhaps not out of place to follow this table with the following one relative to railway post-office cars, storage cars, and apartment cars. These are the latest statistics available. I may say, however, that it is probably true that the average weight per car at present is somewhat higher than this. The percentage of increase in weight, in my opinion, is small, and it should be borne in mind that for all car space exceeding 30-foot cars rent is paid in addition. The table is as follows:

Class of cars and average load.

	Pounds.
Railway post-office cars:	
40-foot	2,028
50-foot	3,126
60-foot	5,668
Storage cars:	
40-foot	14,910
50-foot	12,589
60-foot	14,516
Apartment cars:	
15-foot	332
20-foot	522
25-foot	764
30-foot	1,474

It is interesting to note that on letters and other first-class mail matter the aggregate weight in pounds reduced to a per cent is only 13.14 per cent. The revenue produced is $160,636,706.19. The weight of newspapers, magazines, and other second-class matter is 1,035,033,555 pounds, and is a little more than two-thirds of the weight of all domestic mail, or 66.96 per cent. The postage or revenue received from second-class mail matter was only $11,556,322.53, or only a little more than 5 per cent of the entire revenue. On third-class mail matter, weight 231,734,255 pounds, or an average per cent of 14.99, the postage received by the Government was $32,551,434.81, or 14.45 per cent of the entire postage received by the Government from domestic mail. Merchandise and other fourth-class matter, weighing 75,943,770 pounds, o. a percentage of all domestic mail of 4.91 per cent, yielded revenue of $12,542,981.15, or 5.56 per cent of the entire revenue from all domestic mail. Congressional, franked and official mail, and penalty matter amounted to 61,415,335 pounds.

The cost to the Government for transporting or carrying this mail over the railroads is about 3 cents per pound. At the present time second-class mail, including newspapers, magazines, and so forth, and all congressional and official matter going through the mail free, costs the Government a little more than $70,000,000 annually—more than is received by the Government in the way of postage or revenue from these two items of mail. If second-class mail should be made to pay the cost and franked, or free mail, be held down to a reasonable basis, and the legislative, executive, and judicial branches of the Government be required to use stamps or pay into the Post Office Department a sum of money equal to the cost of the service rendered by the Post Office Department to the various branches of the Government, I am of the opinion that inside of two years 1-cent postage could be given to the people of the United States on all first-class letter mail.

Recurring again to the question of the various commissions and joint committees being appointed by Congress, a great deal of the time has been taken up by some of the great railroads of the country and by the express companies in fighting all proposed changes in the law other than by amending the law, so as to give the railroads more pay for the same service and to keep the express companies secure in the monopoly which they for so long a time had and which they greatly abused by charging more for carrying parcels than the service was worth. I may add, however, that the express companies were not alone interested in this fight. They were aided to some extent by the influence of certain individuals who were greatly interested in the express business and at the same time were largely interested in railroad affairs. Time after time an effort has been made in the past by these people to bring Congress to see that the newspapers and magazines of the country were being subsidized by the Government by being given the privileges of mail at 1 cent per pound, when the cost of this service to the Government was nearly 7 cents per pound; the newspapers and magazines of the country were termed "grafters" from the Public Treasury and accused of being subsidized by the Government to the extent of the difference between 1 cent per pound, which they paid to the Post Office Department, and the cost of the service to the department, of nearly 7 cents per pound. This charge that the newspapers and magazines are subsidized, strictly speaking, is not true; but, on the contrary, it is a privilege granted by the Government to the newspapers and magazines to send their publications through the mails at about one-seventh of what it costs the Government to perform this service.

A subsidy is where money is paid out of the Treasury to some one who has not earned the sum paid out, or at least has not earned all of the money paid out. The privilege in this instance is where the Government performs a service for less than the cost or where the services of the Government are free. In addition to the newspapers and magazines, the express companies and many of the railroad advocates have time and again charged that each and every branch of the Government service is a subsidy, which does not pay its way, particularly the Rural Delivery Service, which has grown up in 16 years to more than 43,000 rural routes, and from a cost of about $150,000 annually to a cost to the Government of more than $53,000,000 annually, bringing in a direct revenue of only about $15,000,000. I deny that this service is a subsidy. It is a benefit of inestimable value, growing out of privileges granted by the Government to people living in rural communities. The same charge is made by some few people in reference to the Government improving its rivers and harbors and digging canals in hundreds of instances, as it has done, giving to all people in this country free use of the

improved rivers, harbors, and canals. This improvement of rivers, harbors, and digging of canals has cost the Government nearly $700,000,000, and in addition to this about $400,000,000 for digging the Panama Canal. This is a privilege and not a subsidy, and I repeat my statement that the newspapers and magazines are given a privilege and not a subsidy, and the same is true of the Rural Delivery Service. In the case of newspapers and magazines the cost to the Government is about $70,000,000 per year. In the case of the Rural Delivery Service the amount paid out by the Government is about $73,000,000 annually. In the matter of rivers, harbors, and canals constructed by the Government the privilege of use free by the public, without taking into account the original cost of building and improving, probably exceeds $50,000,000 annually. No correct estimate can be made. All of these are privileges intended to be granted so far as to promote the general welfare of the whole country. The Hughes Commission, appointed to investigate second-class matter—that is, newspapers or magazines—reported a compromise to the effect that the postage should be doubled or raised to 2 cents per pound. Congress has not seen fit to do this, and in all probability never will. It has been correctly held that newspapers and magazines generally are the guardians of the liberties and rights of the people.

I believe firmly in this doctrine, notwithstanding the fact that many of the newspapers and magazines are both venal and corrupt and absolutely unreliable. I supported in committee and voted in the House of Representatives for the law requiring the publication by certain newspapers of their stock owners and bondholders and other regulations intended to keep the public informed with reference to these matters. [Applause.] The law is an admirable one, and should be enforced to the letter.

PRESENT PLAN FOR RAILROAD MAIL TRANSPORTATION.

Coming now to the present law governing the carriage of railway mail, under the act of March 3, 1873, the payment for the transportation of mails on railroads is based on the average daily weight carried over each road on a designated mail route. The statute provides for the rates at which such daily weight are paid, and also provides that the mails on each route should be weighed not less than once in every four years in order to determine the average daily weight. The railroads are required to furnish what are known as full cars and apartment cars. If less than 40 feet in the car are necessary for distributing the mail on route, the railroad furnishes a car or a baggage car with a certain part set aside for the distribution of the mails. This is known as an apartment car, and if the needs of the service do not require more than 30 feet of space in the car for the distribution of the mail, such cars are furnished by the railroad without additional pay from the Government. If more space than this is required, the railroads are paid for full cars, 40 feet or more in length, which, under the act of March 3, 1873, are paid for by the Government in addition to the compensation paid for the weight of the mails carried in the car. In the statute of March 3, 1873, a reduction was made in the rates of payment for full cars. The following are the statutes controlling railway mail pay under the present system:

SEC. 1317. The Postmaster General is authorized and directed to readjust the compensation * * * to be paid for the transportation of mails on railroad routes upon the conditions and at the rates hereinafter mentioned:

First. That the mails shall be conveyed with due frequency and speed; and that sufficient and suitable room, fixtures, and furniture, in a car or apartment properly lighted and warmed, shall be provided for * * * (railway postal clerks) to accompany and distribute the mails.

Second. That the pay per mile per annum shall not exceed the following rates, namely: On routes carrying their whole length an average weight of mail per day of 200 pounds, $50; 500 pounds, $75; 1,000 pounds, $100; 1,500 pounds, $125; 2,000 pounds, $150; 3,500 pounds, $175; 5,000 pounds, $200, and $25 additional for every additional 2,000 pounds, the average weight to be ascertained, in every case, by the actual weighing of the mails for such a number of successive working days, not less than 30, at such times, after June 30, 1873, and not less frequently than once in every four years, and the result to be stated and verified in such form and manner as the Postmaster General may direct.

2. The Postmaster General * * * is hereby authorized and directed to readjust the compensation to be paid from and after the 1st day of July, 1876, for transportation of mails on railroad routes by reducing the compensation to all railroad companies for the transportation of mails 10 per cent per annum from the rates fixed and allowed by the first section of an act entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1874, and for other purposes," approved March 3, 1873 (R. S., sec. 4002), for the transportation of mails on the basis of the average weight.

3. The Postmaster General * * * is hereby authorized and directed to readjust the compensation to be paid from and after the 1st day of July, 1878, for transportation of mails on railroad routes by reducing the compensation to all railroad companies for the transportation of mails 5 per cent per annum from the rates for the transportation of mails on the basis of the average weight fixed and allowed by the first section of an act entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1877, and for other purposes," approved July 12, 1876.

4. The Postmaster General is hereby authorized and directed to readjust the compensation to be paid from and after the 1st day of July, 1907, for the transportation of mail on railroad routes carrying their whole length an average weight of mails per day of upward of 5,000 pounds by making the following changes in the present rates per mile per annum for the transportation of mail on such routes, and hereafter the rates on such routes shall be as follows: On routes carrying their whole length an average weight of mail per day of more than 5,000 pounds and less than 48,000 pounds the rate shall be 5 per cent less than the present rates on all weight carried in excess of 5,000 pounds; and on routes carrying their whole length an average weight of mail per day of more than 48,000 pounds the rate shall be 5 per cent less than the present rates on all weight carried in excess of 5,000 pounds up to 48,000 pounds, and for each additional 2,000 pounds in excess of 48,000 pounds at the rate of $19.24 upon all roads other than land-grant roads, and upon all land grant roads the rate shall be $17.10 for each 2,000 pounds carried in excess of said 48,000 pounds.

5. The provision of the act of March 2, 1907 (34 Stat., 1212), * * * fixing the compensation to be paid for transportation of mail on land-grant railroads at the rate of $17.10 for each 2,000 pounds carried in excess of 48,000 pounds is hereby amended to make such rate of compensation after June 30, 1910, $15.39 for each 2,000 pounds carried in excess of 48,000 pounds; and the Postmaster General is hereby authorized and directed to readjust the compensation in accordance with this amendment.

* * * * * * *

8. That hereafter before making the readjustment of pay for transportation of mails on railroad routes, the average weight shall be ascertained by the actual weighing of the mails for such a number of successive working days not less than 90, at such times after June 30, 1905, and not less frequently than once in every four years, and the result to be stated and verified in such form and manner as the Postmaster General may direct.

SEC. 1318. All railway companies to which the United States have furnished aid, by grant of lands, right of way, or otherwise, shall carry the mail at such prices as Congress may by law provide; and, until such price is fixed by law, the Postmaster General may fix the rate of compensation.

SEC. 1319. Railroad companies whose railroad was constructed in whole or in part by land grant made by Congress on the condition that the mails should be transported over their road at such price as Congress should by law direct shall receive only 80 per cent of the compensation authorized by this act. (See par. 5, sec 1317.)

The maximum compensation for general railroad mail service and for service over land-grant railroads is shown in the following table:

Table of maximum rates of pay for railroad mail service as provided for by the statutes.

Average weight of mails per day carried over whole length of route	Pay per mile per annum. Rates allowable under sec. 4002, R. S. (act of Mar. 3, 1873).	Rates allowable under acts of July 12, 1876, June 17, 1878, and Mar. 2, 1907 (see note 1).	Rates allowable to land-grant railroads under acts of July 12, 1876, June 17, 1878, Mar. 2, 1907, and May 12, 1910 (see notes 1 and 2).	Intermediate weight warranting allowance of $1 per mile under the law of 1873 and the custom of the department, subject to acts of July 12, 1876, June 17, 1878, and Mar. 2, 1907 (see note 1).
				Pounds.
200 pounds	$50.00	$42.75	$34.20	
200 to 500 pounds				12
500 pounds	75.00	64.12	51.30	
500 to 1,000 pounds				20
1,000 pounds	100.00	85.50	68.40	
1,000 to 1,500 pounds				20
1,500 pounds	125.00	106.87	85.50	
1,500 to 2,000 pounds				20
2,000 pounds	150.00	128.25	102.60	
2,000 to 3,500 pounds				60
3,500 pounds	175.00	149.62	119.70	
3,500 to 5,000 pounds				60
5,000 pounds	200.00	171.00	136.80	
For each additional 2,000 pounds above 5,000 and less than 48,000 pounds	25.00	20.30+	16.24+	
Above 5,000 and less than 48,000 pounds				80
For each additional 2,000 pounds in excess of 48,000 pounds	25.00	19.24	15.39	

	Character of route. Nonland grant.	Land grant.
	Pounds.	*Pounds.*
Intermediate weight above 48,000 pounds warranting addition of $1, net	103.96	129.95

No allowance is made for weights not justifying the addition of $1.

NOTE 1.—The act of March 2, 1907, affects only routes carrying over 5,000 pounds.

NOTE 2.—The act of May 12, 1910, affects only land-grant routes carrying over 48,000 pounds.

SEC. 1329. Additional pay may be allowed for every line comprising a daily trip each way of railway post-office cars, at a rate not exceeding $25 per mile per annum for cars 40 feet in length and $30 per mile per annum for 45-foot cars and $40 per mile per annum for 50-foot cars; and $50 per mile per annum for 55 to 60 foot cars.

2. After July 1, 1907, additional pay allowed for every line comprising a daily trip each way of railway post-office cars shall be at a rate not exceeding $25 per mile per annum for cars 40 feet in length and $27.50 per mile per annum for 45-foot cars and $32.50 per mile per annum for 50-foot cars and $40 per mile per annum for cars 55 feet or more in length.

NOTE.—This statute does not authorize a pro rata compensation to be paid for cars which are less than 40 feet in length.

SEC. 1330. All cars or parts of cars used for the Railway Mail Service shall be of such style, length, and character, and furnished in such manner as shall be required by the Postmaster General, and shall be constructed, fitted up, maintained, heated, and lighted by and at the expense of the railroad companies.

NOTE.—This statute supplements Revised Statutes, section 4005. Section 1333 prescribes different articles that shall be included in the equipment of a car.

SEC. 1331. After the 1st of July, 1911, no pay shall be allowed for the use of any wooden full railway post-office car unless constructed substantially in accordance with the most approved plans and specifications of the Post Office Department for such type of cars, nor for any wooden full railway post-office car run in any train between adjoining steel cars or between the engine and a steel car adjoining, and that hereafter additional cars accepted for this service shall be of steel, or with steel underframe, if used in a train in which a majority of the cars are of like construction: *Provided further*, That after the 1st of July, 1916, the Postmaster General shall not approve or allow to be used or pay for any full railway post-office car not constructed of steel or with steel underframe, if such post-office car is used in a train in which a majority of the cars are of steel or of steel underframe construction.

SEC. 1332. After the 1st of July, 1917, the Postmaster General shall not approve or allow to be used or pay for any full railway post-office car not constructed of steel or steel underframe or equally indestructible material, and not less than 25 per cent of the railway post-office cars of a railroad company not conforming to the provisions of this act shall be replaced with cars constructed of steel annually after June, 1913; and all cars accepted for this service and contracted for by the railroad companies after the passage of this act shall be constructed of steel.

2. No part of this amount shall be paid for the use of any car which is not sound in material and construction and which is not equipped with sanitary drinking-water containers and toilet facilities nor unless such car is regularly and thoroughly cleaned.

NOTE.—The word "amount" in paragraph 2 refers to the appropriation for railway post-office car service for the fiscal year ending June 30, 1914. Similar provisions were contained in the appropriation acts for the fiscal years 1912 and 1913.

SEC. 1333. * * * When any railroad company fail or refuse to provide railway post-office cars when required by the Post Office Department, or shall fail or refuse to provide suitable safety heaters and safety lamps therefor, with such number of saws and axes to each car for use in case of accident as may be required by the Post Office Department, said company shall have its pay reduced 10 per cent on the rates fixed (by law). * * * (See sec. 1317.)

NOTE.—Revised Statutes, section 4003, provides that "in case any railroad company now furnishing railway post-office cars shall refuse to provide such cars, such company shall not be entitled to any increase of compensation under the provisions of the next section" (sec. 1329). The section was only applicable to conditions at the time of its enactment, and the additional compensation referred to is only to be allowed for lines comprising railway post-office cars. The above statute imposes a direct penalty on a company for failure to provide railway post-office cars in the shape of a reduction of its pay. The omitted part merely recites Revised Statutes, section 4002, as amended by the acts of June 12, 1876, and June 17, 1878. (See sec. 1317.)

THE PROPOSED PLAN.

Under the bill before the House it is proposed to place all mail service, excepting closed-pouch service, upon a space basis instead of the weight basis on which all authorizations are made at present. The change from a weight to a space basis will not greatly affect the conduct of the service. Under the new plan space will be authorized in much the same manner as it is now. The chief difference will be that all authorization will then be for specific space at specific rates to be designated in the statute. As a matter of fact, at the present time over 46 per cent of the service is already on a space basis as regards specific authorization by the department. In apartment-car service the space needed is furnished in accordance with the authorization of the department; hence the mail carried in apartment cars is practically on a space basis. The mail carried on a full railway post-office car is also practically on a space basis, and, together with the mail carried in an apartment-car service, represents at least 85 per cent of the entire Railway Mail Service. This service, excepting the amount given for the furnishing of full cars by the railroad, is practically on a space basis and yet is paid for at present on the basis of weight. The only part of the service to be left on a weight basis under the proposed plan is the closed-pouch service. Space could not well be allotted for the carriage of closed pouches, since the amount and volume of that service vary greatly on different trains and on different roads. It is therefore more practicable to leave the closed-pouch service on the weight basis, but the rest of the service can and should be put on a space basis.

The proposed plan would do much to equalize conditions among various railroads. The big lines carrying large amounts of storage mail are the ones that are well or over paid. The pay they receive per carload lot for storage mails, when based upon a weight compensation, is very large. On other lines, where the service required is frequent, but where the weight of the mails is not great enough to necessitate the operation of full railway post-office cars, for which additional pay is given, the compensation is less per unit of service than is the case with the larger lines. As a matter of fact, practically all of the railroads that are overpaid are lines running between large cities in the East and large cities in the West. This bill will do away with such inequality of conditions.

Now, as to the proposed plan, the way in which it arose was as follows: In compliance with the statute of 1879 the department instituted an inquiry to ascertain the cost to the railroads of carrying the mails. Having ascertained the cost, the department recommended a plan for readjusting pay, and it was suggested that the railroads were to be paid the cost, which was to be ascertained annually, plus a percentage of increase. Upon an examination of this plan by the joint commission it was decided that not only would the annual ascertainment of cost be expensive, but it would be difficult, because of disagreements sure to arise between the department and the railroads. After the cost was ascertained to be less than the revenue per car mile for passenger service, and it being found also that such average revenue was subject to the regulation of the statutes, as well as more or less under the supervision of Federal and State authorities, it was determined that this might be taken as the basis in fixing the pay per car mile in the Railway Mail Service.

This average car-mile revenue for passenger-train service is found to be 24.92 cents for the year ended June 30, 1912. The department's estimate of the cost of mail service under House bill 17042 at the several unit rates as last amended aggregated $60,242,776 for the total line cost, including terminal pay and closed-pouch service. This amount, divided by the estimated car miles of mail service, gives 22.96 cents per car mile, or less than the passenger-car mile rate for the year 1912, a reduction of only 7.86 per cent from the passenger rate, instead of 10 per cent, as stated by the Interstate Commerce Commissioners' associate statistician to be allowable for the respective difference in the cost of mail and passenger traffic.

The proposed bill has been framed upon the basis of the average revenue per passenger-car mile, with a suitable reduction to express the difference between the passenger and the mail service.

The bill, in addition to certain line rates for car service, allows a terminal charge for the loading, switching, and cleaning of the cars at each end of the run. The rates under the proposed bill are liberal and in every way fair to the railroads. I would not advocate anything that was not entirely fair. The bill provides for the payment of practically the present rate for the closed-pouch service and for line rates on a basis of space furnished, for railway post-office apartment and storage cars, likewise for terminal charges for the same, based upon cost of loading the mails into the cars at terminal, and of switching, lighting, heating, and cleaning the cars. The line rates as amended are:

Twenty-one cents a car mile for a 60-foot railway post-office car.
Ten and one-half cents a car mile for a 30-foot apartment car.
Five and one-half cents a car mile for a 15-foot apartment car.
Twenty cents a car mile for a 60-foot storage car.

The terminal charges are $2 for an initial rate and the same as a terminal rate for each one-way trip of a 60-foot car and a pro rata for apartment car. The same rate is provided for storage cars. This makes a rate of $8 for a 60-foot railway post-office or storage car for the round trip, $4 for a 30-foot apartment car for the round trip, and $2 for a 15-foot apartment car for the round trip.

The union of these two rates produces a rate of 22.63 cents for a car mile for a 60-foot car, or its equivalent in car space. This is for the car service alone and is the average for both the railway post-office working car, including apartment car and the storage car, but there should be added to this the amount received for closed-pouch service, which will be adjusted upon the basis of weights. When this is added and proper allowance made for the space which will be occupied in carrying the closed pouches, the total average rate is raised to 22.96 cents for each car mile for a 60-foot car or its equivalent. (Figures submitted in the hearings before the joint committee.)

This is liberal pay for the railroads and is above the actual expenses incurred by the railroads in carrying the mails. Indeed these rates not only cover all operating expenses, but supply a large surplus for the companies to apply to the payment of interest on bonded debts, dividends, and all other expenses usually charged against operation revenues. It is open

to very serious doubt whether the United States Government should pay the railroad companies sufficient above the actual expenses to pay interest on the bonded debts, which represent properties in which the mail service has no interest.

The average revenue for a passenger-car mile, from figures furnished by certain railroads for 1911, was found by the Interstate Commerce Commission to be 25.4 cents. Reducing this 10 per cent, to represent the difference between the passenger service and the mail service, leaves 22.86 cents as a revenue per car mile for the mail service. The present bill provides one-tenth of a cent more, or 22.96 cents, per car mile, though from hearings before the joint commission the associate statistician of the Interstate Commerce Commission stated that 22½ cents would be a fair average rate for the mail service.

According to computations of the Post Office Department the amended rates provided by the bill, adding 4 per cent for growth, produce a total of $62,218,566 for the Railway Mail Service for the year 1915, or over $600,000 more than the appropriation for transportation and cars in that service made by Congress for that fiscal year. The Post Office officials state that, with economies, they may be able to make the appropriation cover all expenditures.

The Second Assistant Postmaster General, in his briefs submitted to the joint commission, showed that for the fiscal year 1910 the apportioned cost was over $1,600,000 less than the pay received by the railroads for performing the service; nor did this take into account the credit of $900,000 to which the department was entitled on account of land-grant deductions. It being clearly shown that the railroads were liberally paid under the present system on the basis of weights, it can not be contended that the provisions of the present bill, which upon the submitted estimates will cost the Government comparatively more, do not provide liberal rates for the services performed by the railroads. Under the department's apportionment of cost of operating expenses and taxes to the mail service these items amounted to 18.49 cents a car mile for a 60-foot car or its equivalent. The rate, therefore, of 22.96 cents under the proposed bill leaves a surplus of 4.47 cents a car mile, or over 24 per cent of the operating expenses and taxes. This will provide for the railroads over $49,000,000 for actual and apportioned operating expenses and taxes and nearly $12,000,000 surplus to be applied by the railroads to other charges against income, including interest on bonded debt and dividend on stocks. In view of such facts it can not be contended that the railroads are not receiving liberal payment.

A comparison might be made of the charges made by the railroads for carrying the mail and for carrying express matter. The Government and the express companies both accept merchandise for transportation, and on the basis of a 100-pound package and a 40-pound package a comparison was made between express and mail rates between specific points. In almost all cases the railroad receives a greater revenue for transportation from the mail service than from the express companies. Under a comparison made of the revenues to railroads from express service and mail service as a whole, if the railroads had been paid for mail service in 1913 at rates allowed the express companies, they would have received $49,389,607 instead of $51,566,030. If the calculation had been made on the basis of express rates after the changes made by order of the Interstate Commerce Commission, the $49,389,607 given above would have been reduced to $41,487,270.

The position of the express companies as to the present bill may be summed up in a few words. The parcel post and the change in the present law from weight to space, as will be accomplished by the bill under consideration, will absolutely put the express companies out of business. One of the express companies has already gone out of business. For the purpose of illustrating this line of thought, take the average load or weight of mail carried in railway post-office cars. In a 40-foot car about 20 mail sacks are carried, averaging each about 100 pounds in weight; in a 50-foot car, a little over 51 sacks, averaging each 100 pounds; in a 60-foot car, about 56 mail sacks of 100 pounds each to the car. Now, it may be argued that these weights would not give any large returns to the railroads, but the Government pays the railroads on a weight basis for the transportation of mail on railroad routes, and the number of cars employed may be few or many. Where the number of cars is few, the amount of rent for railway post-office cars is kept down; where many railroad cars are used over the same line in carrying mail, then, of course, this rental for cars is increased greatly. The average rental is so much per car, or a little over $4,000 per car, as I recall, and the same is true of storage cars. The average load of 40-foot cars is estimated to be 14,912 pounds; the average load for 50-foot cars is 12,589 pounds; and for 60-foot cars is 14,516 pounds. Speculation follows as to the reason why the average load for 50 and 60 foot cars is less than the average load for 40-foot cars; also why it is that for storage cars, where no mail is handled, the average load is less than 7½ tons per car. This, taken into consideration with the fact that the average load for through freight cars is generally more than two, three, or four times this weight, makes the railroads see that by a change from weight of mail carried to space occupied by the Post Office Department in carrying the mail the Government will effect great savings by increasing the weight of mail in railway post-office cars and storage cars. To pay more than $4,000 rent for each railway post-office car, as the Government is doing now, and then to carry an average load of railway mail of from 2,000 to 5,000 pounds in a car, is not economy. Should the railroads carry no more freight in the average car than is now carried in railway post-office cars and storage cars, every railroad in this country would be in the hands of a receiver inside of six months. These are some of the reasons for the necessity for passing the bill now under consideration.

I will, however, later on go more into detail as to the necessity for the legislation and reasons why some of the railroads and express companies fight the bill now before the House. I may add, however, in passing, that the proposed change will give to the short line and apartment car line railroads a considerable increase for carrying mails. At this time the pay for this service is insufficient.

As regards the carriage of parcels under the parcel-post law, I think it will be conceded by all that a parcel of merchandise going through the mail will cost less on a space basis than on a weight basis. It is estimated that approximately 500,000,000 parcels were handled during the calendar year 1913, on which the postage amounted to approximately $40,000,000. This estimate is based on statistics compiled on two counts—one in April and the other in October, 1913. The number of parcels will increase during the present fiscal year, because the limit of weight per parcel has been enlarged. The number of parcels handled during the present fiscal year should increase from 500,000,000 to 700,000,000, and the average postage on a single parcel should increase from 8 to 9 cents. This will give an approximate revenue of $63,000,000.

On pages 20 to 21 there are three provisions in the bill of great importance.

First. The Postmaster General is authorized to request information of the Interstate Commerce Commission as to the revenue received from express companies for transporting express matter, and to arrange for transportation of mail matter, other than of the first class, at rates not exceeding those allowed the express companies.

Second. He is given discretion to ask that the Interstate Commerce Commission determine what is a postal carload, or less than carload, rate of mail matter of the fourth class and periodicals, and to provide for transportation at such rates when practicable. He will thus be enabled to arrange for transportation at low rates for parcel-post matter and periodicals whenever it may be practicable.

Third. He is authorized to provide for less frequent dispatches of mail matter of the third and fourth classes and of periodicals when he may secure lower rates for transportation without material detriment to the service. The department will be enabled to arrange its shipments of the less important classes of mail so as to make less frequent shipments between large centers, and thus to effect great economies.

It will do this by making such shipments only once or twice a day, which can be arranged by allowing mail of the classes mentioned to be held at points of origin or consolidation until a full carload has been accumulated. Similarly the department now transports carload lots of periodical matter published semimonthly or less frequently, and which do not contain news matter, between large centers of distribution. As the periodicals advance their date of delivery sufficiently to overcome the difference in time in transit between fast freight and mail trains, there is no detriment to the service, and by this economy the department under existing law now saves over $1,500,000 a year in the cost of railroad transportation. This system will be continued and extended under the present bill.

Another opportunity for economy provided by this bill is the authority given the Post Office Department to consolidate through mails between large centers into compact carload shipments. The competition between parallel lines will make it possible to secure lower rates for the transportation of such carload lots, whereas this is impossible under the present system of shipping in small lots by different lines. The plan allowing mail to be transferred from a train or route on which the space authorized is filled to capacity to another train or route where authorized space is available will make it possible

to use all authorized space between two points before authorizing additional space.

Another economy will be the carriage of postal supplies and empty equipment such as mail sacks in the empty return space paid for in postal and storage cars. The greater movement of mail matter and the movement of empty equipment are generally in opposite directions. The space needed for mail matter is consequently less in the direction in which the empty equipment is going; hence the equipment can be transported in this empty space. At present the empty equipment is carried by freight at a cost of nearly $500,000, all of which it is believed can be saved under the new plan.

THE RAILROADS' OBJECTIONS.

As regards the objections by the railroads and express company interests to the proposed plan, the reasons assigned by them, strange as it may seem, are principally such as would have been expected of the Post Office Department. In other words, the railroads would make it appear that the responsibility has devolved on them to protect the interests of the Post Office Department. As a matter of fact, the railroads are simply opposed to all change in the organization of the mail service which does not result in giving them more money for the services they are now performing and thus continuing the express company monopoly. In the very beginning of the hearings before the joint commission the railroads submitted a plan to give themselves more pay. The railroads have consistently supported this proposition, and they have refused to lend any assistance toward the establishment of any other plan. They rendered little or no aid to the joint committee in their inquiry. Rather they were in such a spirit of criticism and opposition to all constructive legislation as to excite comment during the hearings of the joint committee.

They were open to conviction only in so far as a plan proposed coincided with their fixed convictions of what should be done. They have tried in every way to throw difficulties in the way of the Post Office Department and the House Committee on the Post Office and Post Roads, and to discredit what work the department and the House Committee on the Post Office and Post Roads have done in preparing the present bill.

The error of the railroad committee in fixing 34.42 per cent as a proper proportion of the operating expenses and taxes charged to the passenger service instead of 29.21 per cent has been shown by the Post Office Department. (Hearings, p. 1258.) The application of this per cent of 34.42 is notoriously incorrect, as appears by the table of railway statistics for 1910, as shown on page 1259 of the hearings. The theory of the railroads, when summed up, amounts to the ridiculous statement that during the year 1910 mail-carrying railroads operated their passenger services at a loss of $104,158,513, while the freight services of these railroads provided a surplus of more than $272,195,661. Yet notwithstanding this, we have the railroads at present clamoring with the Interstate Commerce Commission for an increase of freight rates on the ground that these rates are altogether too low. The contention of the railroads before the Joint Committee on Railway Mail Pay is that passenger service results in a loss to the companies of more than $104,000,000 annually and the freight service for 1910 and 1911 to a surplus or net income of more than $272,000,000 annually, and still the railroads are contending with the Interstate Commerce Commission for an increase in freight rates and without any strong contention that passenger rates are too low and should be increased. It seems that for the purpose of the hearing and argument before the Joint Committee on Railway Mail Pay the railroads are satisfied with the freight rates and are altogether dissatisfied with the passenger and railway mail pay rates, whereas before the Interstate Commerce Commission the contention of railroads is generally the reverse.

The railroads should agree with themselves before they carry their contentions elsewhere. The railroad estimates are based upon the proposition that they did not receive 6 per cent net on the reported valuation of railroad property. The value of railroad property, as claimed by the railroads before the Joint Commission on Railway Mail Pay and the Interstate Commerce Commission, is over $14,000,000,000. When it is taken into consideration that this report as to value is made by themselves, and that it is not the same valuation as reported by them to the various State and county officials for purposes of taxation, and, in addition to this, that it includes a great deal of water injected into the valuation of railroads by the manipulation of those who in the past have had the control and management of the property—it can be easily ascertained why it is that this claim of the railroads is, generally speaking, unreasonable.

Mr. Howard Elliott, in his work on Truth About Railroads, states that the charges in the rates of interest to American railroads are not yet 4½ per cent in each case. Now, if this be true, and no one disputes the proposition, by what rule, founded in either law or equity, are railroads entitled to claim a higher rate of pay for carrying mails than for receiving pay from the public for the performance of like service in other lines of transportation? The Interstate Commerce Commission, under a resolution by Congress, is now and for some time past has been engaged in making a physical valuation of railroads. This work is not yet completed, and until it is completed we will have no real scientific basis on which to base the claim that a certain fixed per cent, based on valuation of railroads or upon return of income by railroads, is unquestionably the correct per cent. I apprehend that when railroad property is valued from the standpoint provided in the resolution mentioned a great deal of the value now claimed by the railroads for the purpose of fighting this proposed legislation will be found to be water, and when this is eliminated by a squeezing-out process the real value of railroads will not be much over or under 75 per cent of the value claimed by the railroads in the hearings before the Joint Committee on Railway Mail Pay. In other words, the claim of the railroads as to value is one of speculation. If the railroads are correct in claiming that 6 per cent is a proper return on their property, then it follows that 25 per cent of the valuation of railroad property as claimed by the railroads is water injected by manipulation and speculation.

It is stated by Samuel O. Dunn in his work Governing Ownership of Railroads, pages 65, 216, and 217, that a very large part of the physical value of the railroads is represented by terminals in large cities. This is in reference to handling passenger traffic and expressing architectural beauty.

One objection urged by the railroads to the recommendations of the department is that the department's policy is a vacillating one; that the Post Office Department has often changed its plan and therefore what it recommends loses weight. This course is evidenced by the fact that even now long arguments are mailed to Members of Congress. The latest of these is No. 15. On the contrary, I think the fact that the Post Office Department has at all times shown a mind open to conviction and a willingness to accept suggestions of the joint commission and others proves that the conclusion arrived at by them is both honest and probably correct. The Post Office Department has sought to incorporate in its suggestions to the joint commission all the best features brought out by the hearings, and its aid, particularly that of Mr. Stewart, the Second Assistant Postmaster General, to the committee in preparing the bill and aiding in securing data has been of very great value.

The railroads *claim that they are now carrying the mails at a loss, while under the new bill, in view of the fact that many millions a year will be saved by the Government, their loss will be greater.* It is true that the Government will save many millions a year under the proposed plan; probably more than $4,000,000 the first year, and thereafter a larger sum each year, based upon the growth of the Postal Service. That is one of the objects of the bill. It is also true, however, that these millions will not be taken out of the railroads' pockets, as they would have you believe, but will be saved by reason of economies and reforms only possible under a conduct of a railway mail service on a basis of pay for space instead of weight. The department, under the proposed plan, will be enabled both to give the country efficient service and to pay the railroads a liberal compensation for the service performed by them.

The railroads' claim that they are now carrying the mail at a loss was completely refuted by the briefs submitted by the Second Assistant Postmaster General on January 16, 1914, to the joint commission. In it he gave the joint commission, on pages 994, 995, 996, and 997 of the hearings, a complete statement of all operating expenses and charges against income as regards the mail service for the year 1910. In this statement the Post Office Department charged itself with its entire part of operating expenses and taxes, and then took a share of all other charges against income which were apportionable to the passenger service. The basis upon which it took this charge was the basis of the per cent of the operating expenses and taxes already charged to the mails. Such a basis was most liberal. After making this charge against the mail service the total expenses and all charges made were shown to be over $1,600,000 less than the total revenue received by the railroad companies for carrying the mails during the year 1910. In addition, this took no account of over $900,000 deductions made for land-grant service which the department might have taken credit for, because such land-grant deductions were made for an entirely distinct consideration, namely, in consideration of grants of land made to the railroad company. Under the law the land-grant railroads are compelled to accept the rate, large or small, fixed by Congress. In theory, therefore, the railroads receive

the $900,000 deducted from the pay of land-grant railroads for their carriage of the mails. The railroads made two objections to this finding of the department:

First. That the division made by the department of general expenses between the passenger and freight services was not made upon the railroads' plan of revenue train miles. Such a basis for division has long ago been found to be both antiquated and unscientific.

Second. That the department refused to charge against the Government "dead space," which is space in cars run for the convenience of the railroads and not as a necessary incident to the mail service. Such space is entirely excessive, and the department refused to charge it to the Government.

There is no foundation, therefore, for the railroads' claim that they are underpaid. Because in 1873 the railway mail pay represented 31½ per cent of the gross postal revenues, while in 1913 it represented only 19 per cent of the gross postal revenues, the railroads claim that they are underpaid. This argument is based upon a very patent fallacy. It goes upon the assumption that there is a direct relation between the gross amount received for postage on mail matter and the amount of pay received for carrying the mail matter upon a basis of weight. The revenue derived by the Post Office Department is based entirely upon the rate of postage upon the several classes of mail matter, and the gross amount received for postage depends upon the amount of business done. It is also true that in 1873 the service was new, and since then economies have been worked out. As regards first-class mail matter, the amount of revenue received by the Government is very large as compared to the weight of such matter, when you consider the amount of postage derived from second-class matter as compared with the weight of such matter. Yet in each case the railroads are paid for carrying mail matter of both first and second class on a basis of weight. The Government receives but 1 cent a pound for all charges, including carrying second-class matter, yet it pays the railroads over 3 cents a pound for the average carriage of all such matter. Consequently, if the Government were to pay them a certain per cent of the postage revenue, regardless of what is a fair rate for carrying such matter, as the argument of the railroads, outlined above, would seem to imply, the result would go very hard with the railroads.

The railroad committee advance the astounding argument that if the weighing of mails were dispensed with "there would be no effective check upon the misuse of official discretion in the authorization of car space."

In answering such a charge it is only necessary to state that the weight of mails is never a criterion of the space required. A 1,000-pound lot of mail may, on account of bulk, require more space in a car for distribution purposes than would a 2,000-pound lot of mail of a more compact character. In other words, a pound of lead weighs the same as a pound of feathers, but it takes up much less space. As regards the charge of the possible misuse of official discretion in determining the space needed, the recommendation for authorizations are the subject of most careful scrutiny by not only the supervisory officials of the Railway Mail Service but by the large force of inspectors in the field. Extravagance in authorization of space could, consequently, not long continue without correction. As to the misuse of official discretion among postal officials, if there were a possibility of such misuse in authorization, it would result in additional pay for the railroads; consequently, their apprehension for the integrity of the postal officials is not worthy of serious comment.

The railroad committee raise objection to the present bill on the ground that confusion will arise in the manner of handling mails in unusual quantity where they can not be handled in the regular authorized space. The department officials inform me that no difficulties of this kind are expected, because upon lines on which may arise the conditions indicated it is proposed to authorize a certain number of additional emergency trips per month, to be used at the discretion of the field officers in charge of the service and to be paid for at regular rates.

The railroad committee seems able to argue two ways against the space basis:

First. They claim in their brief that it will reduce their pay below the amount it should be.

Second. They oppose it on the ground that it will be more expensive to the Government and require a greater outlay of money than the plan which they themselves suggest, namely, to change the present weight-basis law so that the Government shall pay them more money for the same facilities furnished.

As to the objections of the railroad committee with reference to the construction by the railroads of railway mail cars, the provisions in the pending bill amount to little more than the reenactment of existing law. There is no ground for the railroads' argument that such requirements supersede the railroad management and should be subject to the approval of the Interstate Commerce Commission.

The railroad committee raises the objection that the rates under the proposed bill, being composed of a line rate plus an initial and a terminal charge, are very complicated. As a matter of fact, the rates are more simple than under the present law. The line rate and terminal rate are based on the size of car operated in a train. The unit for fixing a line rate is the train car mile of the sized car authorized, and the size of car is the base for the terminal charges. When these are fixed for a train it will be a simple matter to determine the compensation due a given train or route. A certain amount of space will be furnished by the railroad making a certain mileage, and this will be paid for, so that pay will be given only for service actually performed. The railroads need only give to the department a statement of the service performed by its trains on a route during a stated period, and will be paid accordingly at fixed rates. No expensive and complicated weighings, such as are made now every four years and costing annually $500,000, will be necessary. Furthermore, the payment for service actually performed will equalize conditions between railroads, which now, although they furnish the same service, receive a different compensation, because the class of mail carried by some roads—usually the large and heavy lines—is greater than the weight carried by the smaller roads. The new plan also gives increased compensation for frequency in carrying the mail, such as was not recognized under the old law.

Another provision in the bill to which the railroad committee takes exception is that authorizing the Postmaster General to pay "not exceeding" the rates named. The railroads demand that he shall pay absolutely the rates named in the bill, thus taking away discretion to pay less if the conditions of the service do not warrant the maximum pay. This provision leaving such discretionary powers in the Postmaster General is similar to provisions in all statutes regulating railway mail pay since 1838. Such a provision is found in the law of 1873, and it may be added that while no Postmaster General has ever made a reduction in rates applying to the whole service, he has in many cases, because of special conditions of the service, paid less than the maximum rates, and his discretion should not be taken away. [Applause.]

The CHAIRMAN. The time of the gentleman has expired; all time has expired, and the Clerk will read.

The Clerk began the reading of the bill.

Mr. MOON. Mr. Chairman, I want to ask if the Clerk has the bill ordered printed with the amendments in italics?

The CHAIRMAN. The Chair understands the bill has not been printed.

Mr. MANN. I do not know when it was ordered printed, but it was not sent down until about noon to-day.

Mr. MOON. It was ordered printed yesterday, and it should be here now.

Mr. MANN. But it did not go over to the Printing Office until about noon to-day. The bill was ordered printed with the suggested amendments, but it did not go to the Printing Office until this morning, nearly at noon.

Mr. MOON. Let the Clerk go ahead with the reading.

The Clerk read as follows:

Be it enacted, etc., That hereafter when, during a weighing period, on account of floods or other causes, interruptions in service occur on railroad routes and weights of mail are decreased below the normal, or where there is an omission to take weights, the Postmaster General, for the purpose of readjusting compensation on such railroad routes as are affected thereby, is hereby authorized in his discretion to add to the weights of mails ascertained on such routes during that part of the weighing period when conditions are shown to have been normal the estimated weights for that part of the weighing period when conditions are shown to have been not normal or where there has been an omission to take weights, based upon the average of weights taken during that part of the weighing period during which conditions are shown to have been normal, the actual weights and the estimated weights to form the basis for the average weight per day upon which to readjust the compensation according to law on such railroad routes for the transportation of the mails, notwithstanding the provision of the act of Congress approved March 3, 1905, requiring that the average weight shall be ascertained by the actual weighing of the mails for such a number of successive working days, not less than 90, as the Postmaster General may direct: *Provided further*, That readjustments from July 1, 1913, may be made under this provision on routes in the first section affected by the floods in the Ohio Valley and tributary territory, commencing about March 25, 1913: *Provided further*, That on account of the increased weight of mails resulting from Postmaster General's Order No. 7349, of July 25, 1913, respecting rates upon and limit of weight of parcel-post packages in the local, first, and second zones, and effective from August 15, 1913, the Postmaster General is authorized to add to the compensation paid for transportation on railroad routes on and after August 15, 1913, for the remainder of the contract terms, not exceeding one-half of 1 per cent thereof per annum.

Mr. SAMUEL W. SMITH. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the

committee how much that one-half of 1 per cent amounts to in that case?

Mr. MOON. Oh, I do not know; I have not had any calculation made of it.

Mr. SAMUEL W. SMITH. Is it about $250,000 in round numbers?

Mr. MOON. I believe so.

Mr. SAMUEL W. SMITH. I would like to ask the gentleman one further question.

Mr. MOON. Certainly.

Mr. SAMUEL W. SMITH. And that is if the pay allotted to the railroads, both from the original 5 per cent increase of cars and from the proposed one-half of 1 per cent, would not amount in round numbers to about $2,000,000?

Mr. MOON. Possibly.

Mr. MANN. May I ask the gentleman a question?

Mr. MOON. Certainly.

Mr. MANN. That payment that is provided for in the last proviso, section 1, is that in full for service already rendered?

Mr. MOON. Yes.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. In the discussion of the question of railway mail pay yesterday I called attention to the fact that in the fourth contract section, which is the western section, by reason of the increase of the parcel post for the postal facilities the department had used a higher per cent for determining the average annual rate of expenditure than it previously used. Heretofore the usual annual rate for the increase has been 4 per cent, or for the four years 16 per cent. Multiplying it by the total rate of expenditure that is paid to the railroads in the section would give the estimate for the payment for the next four years. But with the establishment of the parcel post the rate is 24 per cent. In this fourth contract section on June 30, 1914, the railroads were receiving $17,200,000. Twenty-four per cent would aggregate more than $4,000,000.

In the Post Office appropriation act, following the authorization for the Parcel Post Service, a provision was carried authorizing the department to increase the railway mail pay in those districts to the extent of 5 per cent until weighings would be taken. It is given out broadcast through the country that the railroads have received 5 per cent increase, when, in fact, they have not. All that the railroads receive by reason of this authorization is $1,700,000, or 3.59 per cent. We are here providing an additional allowance, aggregating a quarter of a million of dollars annually, in addition to that heretofore authorized for the increasing weight of parcels from 11 to 20 and to 50 pounds. But the House can see that in the Middle West, the third contract section, where the weights will not be taken until next year, where the aggregate pay is $16,736,000, the railroads to-day are carrying, if they are entitled to any compensation for the parcel post, matter for which they are only receiving $500,000 additional to the determined allowance before the establishment of the parcel post, when under the present schedule of rates they would be entitled to $2,000,000. It is only a case of this added burden being thrown upon the railroads in these respective sections for which they are receiving no adequate compensation.

Mr. LLOYD. Do you mean to convey the idea that the Post Office Department has not carried out the law?

Mr. STAFFORD. The Post Office Department was authorized to pay 5 per cent.

Mr. LLOYD. Five per cent, or not exceeding 5 per cent?

Mr. STAFFORD. Not exceeding 5 per cent.

Mr. LLOYD. They have not paid exceeding 5 per cent, and there was no law violated.

Mr. STAFFORD. I did not wish to convey by my remarks that the Post Office Department had not carried out the law.

Mr. LLOYD. I beg your pardon. I understood you to convey that idea.

Mr. STAFFORD. I said that the rate was 3.59 per cent. The allowance as proposed will only remunerate the railroads partially for the extra service occasioned by the establishment of the parcel post.

Mr. MURDOCK. Mr. Chairman, I rise to oppose the motion of the gentleman from Wisconsin [Mr. STAFFORD] in order to ask the gentleman from Tennessee [Mr. MOON] a question. In the latter part of this section is a proviso which reads as follows:

Provided further, That on account of the increased weight of mails resulting from Postmaster General's Order No. 7349, of July 25, 1913, respecting rates upon and limit of weight of parcel-post packages in the local, first, and second zones, and effective from August 15, 1913, the Postmaster General is authorized to add to the compensation paid for transportation on railroad routes on and after August 15, 1913, for the remainder of the contract terms, not exceeding one-half of 1 per cent thereof per annum.

In view of the fact that the country is divided into four sections for weighing purposes, that last year the northeastern section was weighed, and that this year the western section has been weighed, that leaves two sections that are to be weighed in the future if the present system should continue; but undoubtedly the present system will be discontinued and we will go to the space basis provided in this act. What I want to know of the gentleman from Tennessee is this: In case of a railroad, say in Alabama, which was weighed two years ago or a year ago, as to the extra pay of one-half of 1 per cent which is allowed them will it be allowed the railroad for the full year of the contract term?

Mr. MOON. I think not, if we go on the space basis.

Mr. MURDOCK. That is what I wanted to know. You think that under the language of this paragraph when the space system is inaugurated this increase of pay by reason of parcel post will not be added for subsequent years?

Mr. MOON. Certainly not.

Mr. MURDOCK. I did not know whether the law continues that or not as it stands.

Mr. MOON. Construing all the law together, that is the meaning.

Mr. STAFFORD. If the Chairman will permit me, I direct the gentleman's attention to this specific clause in line 3, page 3, that says:

For the remainder of the contract term.

As soon as we adopt the new method of payment those contract terms terminate.

Mr. MURDOCK. They are not contracts at all?

Mr. MOON. They would end under the adoption of this.

The Clerk read as follows:

SEC. 2. That the Postmaster General in cases of emergency, between October 1 and April 1 of any year, may hereafter return to the mails empty mail bags theretofore withdraw therefrom as required by law, and for such times may pay for their railroad transportation out of the appropriation for inland transportation by railroad routes at not exceeding the rate per pound per mile as shown by the last adjustment for mail service on the route over which they may be carried and pay for necessary cartage out of the appropriation for freight or expressage.

Mr. MOON. Mr. Chairman, I move to amend, in accordance with the direction of the committee, by striking out that section.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 3, strike out all of section 2, which is comprised in lines 6 to 15, inclusive.

Mr. MURDOCK. Now, Mr. Chairman, I would like to rise for the purpose of opposing anything that is in sight, in order to ask a question.

Mr. THOMSON of Illinois. Is not the committee amendment to strike out the part through which the lines are drawn and insert that which follows?

Mr. MOON. To insert nothing. The department regards that as unnecessary.

Mr. MURDOCK. I want to ask the gentleman from Tennessee if this puts the empty equipment back into the mails?

Mr. MOON. No.

Mr. MURDOCK. What will become of it?

Mr. MOON. After this new plan is adopted we are proposing in section 13 that the Government shall take care of its equipment either in the cars where they have space or where it is now.

Mr. MURDOCK. The complication I have in mind is this, that originally we took the empty and return equipment out of the mail. Then we permitted the postmaster between certain dates to return some of them. Now we are taking that car away from him. What condition does that leave us in?

Mr. TUTTLE. That section is repeated in section 13, page 21, which covers the very point covered here. It provides for the return of the mail bags and other equipment in case of emergency. You will find it at the bottom of page 21.

Mr. MOON. This section becomes unnecessary at this place.

The CHAIRMAN. The question is on the amendment to strike out section 2.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. That so much of section 4 of an act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, approved August 24, 1912, as provides that no adjustment shall be made unless the diverted mails equal at least 10 per cent of the average daily weight on any of the routes affected, is hereby repealed.

With a committee amendment, as follows:

Page 3, line 16, strike out the figure "3" and insert the figure "2."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. MURDOCK. Mr. Chairman, will the gentleman from Tennessee [Mr. MOON] explain just what the origin of that was? Why was this amendment necessary?

Mr. MADDEN. I can explain the purpose of it. The department thought they ought to have the right to readjust at any time they wanted to regardless of whether there is a difference of 10 per cent in the weight of the mails or not. As it is now they are not allowed under the law to make any readjustment for payment or reduction under any contract unless the weight of the mails diverted exceeds 10 per cent. The department thought it an economy—and I agree that it is—if they be permitted to make any deductions or adjustments at all, that they should be permitted to make them whenever they pleased.

Mr. MURDOCK. That is, in formers years the department could not make any difference in the amount of pay when the mails diverted from one railroad to another road did not exceed 10 per cent, and that is repealed in this section?

Mr. MADDEN. Yes; and it ought to be repealed.

Mr. MOON. Mr. Chairman, the Second Assistant Postmaster General makes a very clear statement in explanation of this. He says:

> The present law allows readjustment in case of diversion of mails where the diverted mails amount to at least 10 per cent of the weight on any route affected. It often happens that diverted mails do not equal 10 per cent of the weight of any route affected, especially where the routes carry a very heavy weight of mail, and we would like to have the provision modified so that we can readjust the mails diverted to or from such routes.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] moves to strike out the last word.

Mr. MANN. The next section is the one concerning which there is considerable contest. I think, before we read it, Members of the House ought to have notice that we are reading the bill, and I therefore make the point of order that there is no quorum present.

Mr. MOON. Mr. Chairman, I will ask the gentleman from Illinois not to make that point of order now. I realize the importance of that section, and I will ask unanimous consent to pass over that section.

Mr. MURDOCK. When will you have a better time than now to consider it? To-morrow is Saturday.

Mr. PAYNE. When will it come up?

Mr. MOON. It may come up later this afternoon, but I want everybody interested in it to have full notice.

Mr. PAYNE. Suppose it goes over until to-morrow morning?

Mr. MOON. My suggestion was that it go over until we have finished the balance of the bill.

Mr. MANN. I will make this suggestion to the gentleman from Tennessee: It is barely possible that we might finish this bill to-morrow. To-morrow is Saturday, and it is likely that not many Members will be on the floor Saturday afternoon unless they are called in, and if they are called in it will be inconvenient to them. I have no objection, so far as I am concerned, to this section going over and being taken up the first thing when we go into committee to-morrow.

Mr. MOON. Suppose we work on this bill to the end of it, if possible, and leave this section 3 until we have finished the rest of the bill.

Mr. MANN. That might bring the consideration of section 3 late to-morrow, the most inconvenient time in the week.

Mr. MOON. Well, suppose we pass it over for the present and take it up after awhile.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Indiana?

Mr. MOON. Yes.

Mr. CULLOP. Will there be permission, if we pass it over now, for the offering of a substitute?

Mr. MOON. Oh, yes. We will act under the same rules.

Mr. MANN. It is quicker to dispose of it now. There will be a roll call on Saturday to get the Members here.

Mr. MOON. Do you want it the first thing to-morrow?

Mr. MANN. Let us do it to-day.

Mr. MOON. You want it now?

Mr. MANN. I think it is better for us now.

Mr. MOON. Oh, if the gentleman insists upon it, he has the right to demand it.

Mr. MANN. There are more Members here to-day than there will be to-morrow.

Mr. MOON. I think we should get through with these sections concerning which there is no contest.

Mr. MANN. You might run through those sections to-morrow afternoon, when the gentleman from Tennessee and four or five more Members are here, but you can not run this through then. I think it is safer now. I make the point of order, Mr. Chairman, that there is no quorum present.

Mr. MOON. Very well.

The CHAIRMAN. The gentleman from Illinois makes the point of order that there is no quorum present. The Chair will count. [After counting.] Sixty-one Members are present—not a quorum—and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Ainey	Driscoll	Kiess, Pa.	Pou
Allen	Dupré	Knowland, J. R.	Powers
Anthony	Eagle	Konop	Reed
Ashbrook	Edwards	Korbly	Riordan
Aswell	Elder	Kreider	Roberts, Mass.
Austin	Estopinal	Lafferty	Rothermel
Baker	Fairchild	Langham	Rubey
Barchfeld	Faison	Langley	Sabath
Bartholdt	Fess	Lazaro	Saunders
Bartlett	Fields	Lee, Ga.	Scully
Bathrick	Fitzgerald	L'Engle	Sherley
Bell, Ga.	Flood, Va.	Lenroot	Sherwood
Borland	Fordney	Levy	Sinnott
Brown, N. Y.	Francis	Lewis, Pa.	Slemp
Brown, W. Va.	Frear	Lindbergh	Smith, Md.
Browne, Wis.	Gard	Lindquist	Smith, N. Y.
Browning.	Gardner	Loft	Stanley
Bruckner	George	Logue	Steenerson
Brumbaugh	Gerry	McAndrews	Stephens, Miss.
Bulkley	Gittins	McClellan	Stephens, Nebr.
Burke, Pa.	Goeke	McGillicuddy	Stephens, Tex.
Butler	Goldfogle	McGuire, Okla.	Stevens, Minn.
Byrns, Tenn.	Gordon	Mahan	Stout
Calder	Gorman	Maher	Stringer
Callaway	Goulden	Martin	Switzer
Campbell	Graham, Ill.	Merritt	Taggart
Candler, Miss.	Graham, Pa.	Metz	Talcott, N. Y.
Cantor	Green, Ia.	Montague	Taylor, N. Y.
Cantrill	Griest	Moore	Thacher
Carew	Griffin	Morgan, La.	Thomas
Cary	Gudger	Morin	Thompson, Okla.
Casey	Guernsey	Moss, W. Va.	Townsend
Chandler, N. Y.	Hamilton, Mich.	Mott	Treadway
Church	Hamilton, N. Y.	Murray, Okla.	Underhill
Clancy	Hardwick	Neeley, Kans.	Vare
Coady	Hart	Neely, W. Va.	Vaughan
Collier	Heflin	O'Brien	Vollmer
Connolly, Ia.	Hill	Oglesby	Walker
Copley	Hinds	O'Hair	Wallin
Covington	Hinebaugh	O'Leary	Walters
Cramton	Hobson	O'Shaunessy	Watkins
Crisp	Houston	Padgett	Weaver
Crosser	Howard	Palmer	Webb
Dale	Hoxworth	Parker	Whitacre
Davenport	Hughes, Ga.	Patton, Pa.	Williams
Decker	Igoe	Peters, Me.	Willis
Dickinson	Jones	Peters, Mass.	Wilson, N. Y.
Dies	Kelley, Mich.	Peterson	Winslow
Difenderfer	Kelly, Pa.	Phelan	Woodruff
Dooling	Kennedy, Conn.	Plumley	Woods
Doughton	Kent	Porter	Young, Tex.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CONRY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill (H. R. 17042) to amend the postal and civil-service laws, and for other purposes, finding itself without a quorum, he caused the roll to be called, whereupon 228 Members responded to their names, and he reported to the House a list of the absentees to be entered upon the Journal.

The SPEAKER. A quorum being present, the committee will resume its session.

The CHAIRMAN. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

SEC. 4. That hereafter any assistant postmaster who may be required by law or by authority or direction of the Postmaster General to execute a bond to the United States to secure faithful performance of official duty may be required to also execute a bond to the postmaster whose assistant he is for the faithful performance of his duties as such, in the discretion of the Postmaster General; and it shall be the duty of the Postmaster General to require all applicants for assistant postmasters in first and second class post offices, including those now in office who were carried into the service by Executive orders heretofore made, to take a competitive civil-service examination within 90 days, or as soon thereafter as practicable after the passage of this act, under the civil-service law, rules, and regulations, and the Postmaster General shall, under such law, rules, and regulations, appoint all assistant postmasters, and all laws, rules, and regulations in conflict with this act are hereby repealed.

With the following committee amendment:

Page 3, line 24, strike out "4" and insert "3."

The CHAIRMAN. The question is on the committee amendment.

The amendment was agreed to.

Mr. SAMUEL W. SMITH. Mr. Chairman, I move to strike out the section. I do not care to say anything in addition to what I said yesterday, except that I should like to have read a letter, written by Mr. George T. Keyes, assistant secretary of the National Civil Service Reform League, which letter I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Michigan.

The Clerk read as follows:

Strike out all from line 24, page 3, down to line 16, on page 4, inclusive.

Mr. CULLOP. Mr. Chairman, a parliamentary inquiry.

Mr. MADDEN. I move to amend the motion made by the gentleman from Michigan.

The CHAIRMAN. The gentleman from Michigan has the floor. Does he desire to have this letter read in his own time?

Mr. SAMUEL W. SMITH. Yes.

Mr. CULLOP. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CULLOP. Does a motion to strike out and insert take precedence over a motion to strike out?

The CHAIRMAN. A motion to perfect the text takes precedence.

Mr. MADDEN. Mr. Chairman, I desire to make a preferential motion.

Mr. MANN. A motion to amend takes precedence.

Mr. CULLOP. But supposing the motion of the gentleman from Michigan [Mr. SAMUEL W. SMITH] is carried; would that deprive me of the right to offer a preferential motion to strike out and insert?

The CHAIRMAN. A motion to perfect the text takes precedence.

Mr. CULLOP. Which is the preferential motion, the one to substitute?

The CHAIRMAN. Yes.

Mr. CULLOP. Then, Mr. Chairman, I offer the following as a substitute.

The CHAIRMAN. The gentleman from Michigan [Mr. SAMUEL W. SMITH] has the floor. The Clerk will report the letter sent up by the gentleman from Michigan.

The Clerk read as follows:

NATIONAL CIVIL SERVICE REFORM LEAGUE,
NEW YORK, *July 11, 1914.*

To the Members of the House of Representatives:

On behalf of the National Civil Service Reform League I respectfully urge that section 3 of the bill (H. R. 17042) introduced by Mr. MOON and reported from the Committee on the Post Office and Post Roads be stricken from the bill. This section reads as follows:

"SEC. 3. That hereafter any assistant postmaster who may be required by law or by authority or direction of the Postmaster General to execute a bond to the United States to secure faithful performance of official duty may be required to also execute a bond to the postmaster whose assistant he is for the faithful performance of his duties as such, in the discretion of the Postmaster General; and it shall be the duty of the Postmaster General to require all applicants for assistant postmasters in first and second class post offices, including those now in office who were carried into the service by Executive orders heretofore made, to take a competitive civil-service examination within 90 days, or as soon thereafter as practicable after the passage of this act, under the civil-service law, rules, and regulations; and the Postmaster General shall, under such law, rules and regulations, appoint all assistant postmasters, and all laws, rules, and regulations in conflict with this act are hereby repealed."

This requires all "applicants" for assistant postmasters in first and second class post offices, "including those now in office who were carried into the service by Executive orders heretofore made," to take a competitive civil-service examination. Those now in office are not applicants. The apparent purpose of this last-quoted phrase is to vacate all offices held by such persons, although this purpose is not specifically stated. A vacancy so created is to be filled by appointment from the list so established, which means that under the civil-service law and rules any one of the first three may receive the appointment.

The provision is wholly unnecessary for any other purpose. By the existing Executive order all applicants for assistant postmasters must now take a competitive civil-service examination—not within 90 days, but as occasion requires.

If the object be that which we have surmised, we are still quite unable to perceive what useful purpose will be accomplished. The only argument which could be made for vacating all existing offices would be that without such procedure it is impossible to get rid of incompetent political favorites who were given appointments before the Executive order of September, 1910. This theory, however, is absolutely untenable. There is nothing in the civil-service rules or in the statutes that prevents the easy removal of such an employee. All that is required is to give such an employee an opportunity to make an explanation of reasons submitted to him for his removal. No formal trial is required under this procedure, and there can be no review by the courts. This section would require the Civil Service Commission to waste both time and money on a needless piece of work.

The proposal is, furthermore, unjust to the assistant postmasters who now have a competitive classified status. The Executive order classifying the assistant postmasters did not automatically give the assistant postmasters a competitive classified status; instead no assistant then in office could receive such a status until he had satisfied the Postmaster General as to his efficiency. Under this provision of the order about 1,700 of the assistant postmasters appointed prior to the issue of the order have satisfied the Post Office Department of their efficiency, evidence having been obtained from reports of postmasters, post office inspectors, and other officers. Approximately 560, or 24 per cent, have been appointed under the civil-service rules and regulations either by promotion, transfer, or through open competitive examination. All of the 1,700 assistant postmasters carried into the service by Executive order have been in office for more than three years. Since the issue of the order they have been forbidden to take any part whatsoever in politics other than to cast their votes and express their political opinions in private. They have been required to devote their time to the duties of their office, and have depended upon the security given them through competitive classification won by faithful service. To require them now to enter a competitive examination for appointment which would give no guaranty of reward for efficient service can only result in disturbance to the service and the establishment of a precedent which may easily leave our civil service completely unstable and disorganized.

We beg to point out, further, that under the rule permitting the selection of any one among the first three on an eligible list there would be no guaranty under this section that if the assistant postmaster in office secures a place among the first three, or even if he is the first man on the list, he will receive appointment. On the contrary, this plan can easily be made a device for making political removals and political appointments under the guise of the merit system. Such a proceeding would bring disgrace upon the party responsible for it.

The last clause in the section, furthermore, specifically repeals "all laws, rules, and regulations in conflict with this act." Taken at its face value, this clause may repeal all of the civil-service rules applicable to the appointment of assistant postmasters, inasmuch as the act, if passed, will, of course, be superior to the rules.

A similar section was contained in a bill introduced by Mr. MOON early this year, and was opposed by the league on the same grounds. In view of the possibilities of interpretation of clauses in the section and unfortunate precedents which would be established were the section allowed to stand, we urge its elimination when the bill is reached on the calendar.

Very truly, yours, GEORGE THURMAN KEYES,
Assistant Secretary.

Mr. MADDEN. Mr. Chairman, I desire to offer a preferential motion in the form of an amendment.

The CHAIRMAN. The gentleman from Illinois is recognized.

Mr. MADDEN. I move to strike out all after the word "general," in line 5, page 4, down to and including line 16.

Mr. MOON. Does the gentleman offer that as an amendment to the amendment?

Mr. MANN. No; an amendment to perfect the text.

Mr. MOON. How is it offered?

Mr. MADDEN. I offer it to perfect the text of the motion of the gentleman from Michigan.

Mr. MOON. There is a motion pending to strike out the paragraph.

The CHAIRMAN. This is a preferential motion.

Mr. MOON. I know it is; but I want to know how the gentleman is offering it.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. MADDEN].

The Clerk read as follows:

Amend the section by striking out all after the word "general," in line 5, page 4, down to and including the word "repealed," in line 16, page 4.

Mr. MURDOCK. Mr. Chairman, I offer a preferential motion.

Mr. CULLOP. I have pending at the Clerk's desk a preferential motion, which I offer.

The CHAIRMAN. The gentleman from Illinois [Mr. MADDEN] has the floor.

Mr. MADDEN. Mr. Chairman and gentlemen of the committee, this bill deals with one of the most important questions now before the country. It ought not to be encumbered with any such political claptrap as this. We are dealing with a great economic problem—the movement of the mails by the railroads from one end of the Nation to the other—and that question alone is of sufficient importance to justify the best thought of every man in this House, and it ought to be so presented that every man in the House can give his thought to it. The introduction of this section in a bill dealing with the transportation of the mail is for the purpose of getting votes for that section that could not be obtained in any other way. The proponents of the section undoubtedly believe that if this section came before the House as an independent measure it would not have any chance whatever to pass, but they undoubtedly calculated that if it were tied up to a great measure that meets with the approval of every Member of the House, Members would vote for it even with this iniquitous section in the bill rather than vote against that feature of the bill which meets with their approval.

I submit that it is unfair to tie this section to the great economic measure. It is unfair to the people to endeavor to get around the civil-service law in any such way. It is unfair to the proper management of the Post Office Department so to embarrass it that you place every man who has executive duties of great importance to perform in a position of doubt as to where he stands. We need the best thought of every man in the Postal Service to get the results that the people of this country expect and should receive. We need the best thought of the best men whose services can be secured to this great service. We have introduced here a bill to scientifically reform the method of transporting the mails, and to provide for the appointment of assistant postmasters without experience and for political reasons in connection with this project is to throw the department into turmoil, to disorganize it, to make impossible an economical and efficient administration of the affairs of the department. One-third of all the money

expended out of the Treasury of the United States, over $300,000,000 annually, is expended for the conduct of this department, and none but men of experience should be allowed to administer this great fund; politics should have no place in the conduct of postal affairs. It is unjust and unwise to load the bill down by any such iniquitous section as this. You will, no doubt, say in reply that this is only a means to give men a chance to be examined as to their fitness. That can not be true, because these men have already been examined as to their fitness. They have proved their fitness by their work, not by their words, and this amendment ought to prevail. This part of the section ought to be stricken from the bill, and the Post Office Department should be run on a strictly business basis [applause on the Republican side], not on the basis of spoils politics. The people of the United States are patient, too patient frequently, but the time has come, if you leave this section in the bill and it becomes a law and you turn these men out of office because you want the places, when the people will rebel against any such iniquity. The people will be heard from in November, when this injustice will be righted at the polls by turning you gentlemen out of office who to-day vote to turn honest, efficient men out of the public service without reason or justice.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. MOON. Mr. Chairman, it is quite an interesting thing to hear my friends on the other side make their appeals against the civil-service law, against all law, against law and order in every shape, in order to uphold the Republican President in the expiring days of a Republican administration in putting 2,500 Republicans in office for life in the United States without an examination. [Applause on the Democratic side.] Talk of iniquity! That was the most shameful thing in the history of that administration. But let us see a moment what this bill, which the gentleman calls iniquitous, provides for: First, that the assistant postmaster, who now handles the cash and performs the duties of the postmaster, shall be required to give a bond to him for the performance of those duties, a thing that he does not do at the present time; and this committee now has before it cases where the assistant postmasters have defaulted and the Government has exacted money from postmasters, and application is made now for reimbursement.

But that is not the material point of this section. They complain that we require these 2,500 Republican postmasters, clothed with the power to perform the duties of that office for life by Executive order, to be examined to see whether they are competent or not. Why, under the civil-service law, should everybody else be subject to examination and these men kept out of examination? Mr. Taft put in thirty-odd thousand postmasters of the fourth class in the same manner. President Wilson said that it was not right, that it was a fraud upon the country to cover into these offices for life these fourth-class postmasters, and required a competitive examination, which has been and is going on now. Tell me, is there any difference between covering fourth-class postmasters by Executive order into office for life, and covering assistant postmasters? The logic of one is the logic of the other. What are you going to say when you go back to your constituents about this question? Are you going to say that you were willing that President Taft should select 2,500 Republicans without examination and put them into office, to prevent the fair and honest competition against them by all of the other Republicans of the country to which they are entitled under the civil-service law? Of course you would be willing to do it as against a Democrat. We would expect nothing more of you, but as against Republicans, have not other Republicans the same right to stand an examination and obtain these positions that the men chosen by the Taft administration have?

This act is in furtherance of the civil service, as far as that is concerned. It requires a compliance with the spirit of that law, which has been subverted by Executive order. Not only is it not iniquitous but it is perfectly fair and just and right. If I had been drawing a section upon this question that would meet my approval above all others, I would have said that the Postmaster General shall appoint these assistants, just as the President appoints the postmasters, because they are the confidential agents and assistants of the postmasters, and they ought to be his personal and political friends, whatever the administration may be. That would have been the businesslike way, the sensible, just way. You can not, by hollering fraud and iniquity, subvert the whole civil-service law, and if I mistake not the temper of this side of the House, you shall not longer impose these 2,500 Republican officials upon this Government without an examination.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. MOON. Not now. I desire to call the attention of the House to the attitude——

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. PAYNE. Mr. Chairman, I ask unanimous consent that the time of the gentleman may be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MOON. Mr. Chairman, I thank the House for the consent that it has given. I just want to call the attention of the House to the attitude that is assumed by men who are called into office for life by Executive order, who feel that they are perfectly secure from examination or any interference in the holding of their positions. Look what these men say:

We hold status in the civil service, conferred upon us by due process of law.

Yes; it was due process of law! It was an Executive order—an assumption of power and authority, perhaps constitutional, but not in accordance with the principles and policies of this Government.

Our title is unquestionable—

That is, you, the Congress, the controlling law-making power, must not question these gentlemen, for they are in office for life—

and our agreement is a legal agreement with the Government of the United States that we shall not be dismissed.

What a proposition! Officials of the Government claiming that they have a contract with the Government for the performance of official duties for life, and that they shall not be dismissed!

I call attention to this view expressed by these gentlemen to show their claim of implied contract of service. It shows how persistent and how insolent men may become in the assertion of a right to hold a public position when once clothed with that position for life, whatever may be the will of the dominant or sovereign power that does, in right, under the Constitution, control these places.

I had been willing to go just as far as this section goes, and require a competitive examination in which all, Republicans or Democrats, and these men themselves, might participate. Of course I would not for a moment think of an examination in which they alone would participate, but if you want to throw down the gage of battle, if you want to challenge this side about the sentiment it possesses, the feeling that we have on these questions, I will support an amendment to this proposition to take this class of men entirely out of the civil service [applause on the Democratic side] and give them over to the department for selection, because by the very nature of the service they perform they ought not to be under civil service, and ought to be the immediate confidential clerks to the postmasters who hold office by virtue of political power.

Mr. MURDOCK. Will the gentleman yield?

Mr. MOON. I will.

Mr. MURDOCK. Here is one side of this that is very confusing to some of us. If an assistant postmaster now is incompetent, can not the postmaster find against him and get rid of him?

Mr. MOON. I would like to see how he can without violating the civil-service law.

Mr. MURDOCK. There is nothing in the civil-service law which makes a postmaster retain an incompetent assistant.

Mr. MOON. There is nothing in the law that permits the postmaster to discharge an assistant postmaster; that will have to be done by an act of the department.

Mr. STAFFORD. In the case of Milwaukee——

Mr. MOON. That has to be done under the civil-service law.

Mr. STAFFORD. Will the gentleman yield?

Mr. MOON. For a question.

Mr. STAFFORD. In the case of the assistant postmaster at Milwaukee, who had been brought under the classified service, he was demoted and a Democrat put in his place by the incoming Democratic postmaster.

Mr. MOON. For what reason?

Mr. STAFFORD. That he is getting aged and was——

Mr. MOON. If he was incompetent, it would be through the operation of the civil service and through the operation of the Post Office Department.

Mr. STAFFORD. But it can be done if he is incompetent.

Mr. MOON. Yes; but that is not the question here. We are not talking about disabled men, idiots, or thieves. We are talking about able-bodied men, who have no earthly reason for being there under this administration.

Mr. STAFFORD. Will the gentleman yield further? Does not your provision provide even if they qualified under the civil-service examination, if there are three persons who are

ahead of them who are not in the service to-day, would not they be given preference of appointment and the present assistant postmaster removed, even if they proved to be efficient by a civil-service examination?

Mr. MOON. Yes; provided always these things are performed honestly. There have been, as I said a day or two ago, instances where second-class assistant postmasters were absolutely removed from one city and carried to another——

The CHAIRMAN. The time of the gentleman has expired.

Mr. MURDOCK. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended for five minutes.

The CHAIRMAN. The gentleman from Kansas asks unanimous consent that the time of the gentleman from Tennessee be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MOON. I do not care to take any more time, but I can talk all the time that you can give me.

Mr. MURDOCK. As I understand, the gentleman states this. That if an assistant postmaster to-day is incompetent he can be removed through the Civil Service Commission.

Mr. MOON. He can be removed on proper charges brought before the Civil Service Commission and sustained through the operation of the Post Office Department.

Mr. MURDOCK. Why is not that the way to get at this proposition?

Mr. BURNETT. Did you do it in that way——

Mr. MOON. The trouble is——

Mr. BURNETT. Did the Republicans put them in that way?

Mr. MOON. I am not talking about getting rid of them after they have gone in in the way they have. I am saying they have gotten in wrongly, that they have gotten in without any examination at all, and that they ought to be made to take a competitive examination in accordance with the civil-service law before they should be permitted to continue. I would not let them be exempt from the operation of that law and other classes of officials be compelled to submit to it.

Mr. MURDOCK. Does the gentleman think any appreciable number of assistant postmasters now holding under civil-service examination, where the first three on the list can be selected, will get back?

Mr. MOON. Of those now holding I do not know; if they stand the examination and get on the list the first man is mighty apt to get back.

Mr. MURDOCK. Unless there is a Democrat among the first three.

Mr. MOON. Not at all; there are many instances I can cite in my district where such a rule absolutely prevails.

Mr. MURDOCK. I would like to ask the gentleman this question: When a postmaster under the present situation complains against his assistant postmaster because of incompetency the charge comes to Washington. An inspector is sent to investigate that charge. If that inspector finds the assistant postmaster is competent, that precludes the postmaster from getting away with the assistant postmaster. Now, is not that one of the troubles with reference to this proposition, and speaking frankly and sincerely you have got——

Mr. MOON. Do not take up all of my time.

Mr. MURDOCK. Is not one of the troubles here your Republican inspectors?

Mr. MOON. Yes.

Mr. MURDOCK. Then let us get down to brass tacks. Why do you not go after the Republican inspectors? Why are you pounding the poor assistant postmasters?

Mr. MOON. Of course the Republican inspector will ordinarily give advantage to his Republican friend when it comes to his selection, but the gentleman from Kansas is taking up the back end of the question. I want to get down to the front of this proposition and get out of these offices men who have gotten in there improperly and in violation of the spirit of the civil-service law and all laws, and put them on an equality with the rest of mankind in an examination under the law and ascertain whether they are competent and entitled to the places.

Mr. MURDOCK. If the gentleman will pardon me, I think the gentleman has gone the long way around.

Mr. MOON. I will get there in about three minutes.

Mr. STEVENS of New Hampshire. Mr. Chairman, will the gentleman permit a question for information?

Mr. MOON. Yes.

Mr. STEVENS of New Hampshire. President Taft covered into the civil service the fourth-class postmasters. That order was changed by President Wilson so that all men who had not taken the examination must take an examination.

Mr. MOON. I just stated that a moment ago.

Mr. STEVENS of New Hampshire. Has President Wilson the same right and the same power to make an Executive order as President Taft had when he made his order as to these assistant postmasters?

Mr. MOON. We do not have to ask him to do so. He has the power, if he does not like our legislation, to veto it. I want to say this: That I am tired of the suggestion that this administration or this House is going to hold these offices, in the department or anywhere else, regardless of the civil service, in trust for the Republican Party. [Applause on the Democratic side.]

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. PAYNE].

Mr. PAYNE. Mr. Chairman, I voted for this civil-service law 30 years ago, and nearly every Member of the House on both sides voted for it, in a Democratic House. The civil-service reformers formed associations, and they had the pledge of nearly every Member of Congress to vote for this law. They wrote them a letter just before election and said the voters wanted to know how they stood on the subject, and when they got the letters they published them, so that nearly every man came here pledged to vote for a civil-service reform law. The law had a provision in it by which the service might be extended from time to time by order of the President by rules and regulations, and a great majority, nearly all, of the people now under the civil service are there by the Executive orders issued from time to time. This is no new thing of 3 years ago, or 10 years ago, or 15 years ago. The blanket of the civil service has been extended by order of the President from time to time.

Mr McKELLAR. Will the gentleman yield?

Mr. PAYNE. Not just now. I have only five minutes. If I get more time, I will yield to the gentleman later.

Your great President, Grover Cleveland, from time to time extended this civil-service order to different branches in the administration, and men are there in the civil service to-day that came in under Cleveland's order. So this thing about which gentlemen get so much excited is not an unusual thing.

I have several assistant postmasters in my district, or the Government has. I have never recommended or intimated to a postmaster in the district in 30 years whom he should appoint as assistant postmaster or to any other position in his office. [Applause.] They have appointed them of their own free will.

Mr. BURNETT. Have they not always appointed a Republican?

Mr. PAYNE. No, sir.

Mr. BURNETT. Who is the Democrat? Tell us who he is.

Mr. PAYNE. Just give me half a minute. Some 12 or 14 years ago I recommended a postmaster for the village of Canandaigua, now the city of Canandaigua. The postmaster came to me and said he wanted to continue the present deputy postmaster. I said, "If you want to, why do you not continue him?" He said, "He is a Democrat, and I do not know whether you want it done or not." I said to him, "You have been appointed postmaster because of your ability, and I expect you to conduct that office and conduct it in the best manner possible, and if you say this man is fully competent why in the world should you not keep him there even if he is a Democrat?"

Mr. BURNETT. Did he vote for you?

Mr. PAYNE. He never was questioned about his vote. You do not know what politics are down in your country. We play it fair and square up our way.

Mr. BURNETT. You do not know it then, if you call it fair and square.

Mr. PAYNE. Well, I will put my reputation against the gentleman's, even right here in this Democratic House.

Mr. BURNETT. I will do it.

Mr. PAYNE. And that man stayed there as assistant postmaster until he died, a year or two ago.

Mr. BURNETT. You killed him?

Mr. PAYNE. Oh, "killed him." That is precisely the argument, and the only argument, you gentlemen can make on this subject. "Killed him!" And another man was appointed in his place under civil service. In another town within two years they appointed a Democrat, and he was the son of a Democratic committeeman for that county, as assistant postmaster. I do not know to exceed six assistant postmasters personally, and I have not during that time, and two of them were Democrats and vote the Democratic ticket, and nobody ever questions them about it. Oh, "Whom the gods would destroy they first make mad," and the besom of destruction is hovering mighty near the Democratic side of this House right now.

You want more trouble. I met a Democratic friend of mine, a Member of this House, two days ago, and I said to him, "You are looking a good deal better than you did five or six months

ago." He said, "I am all right now." I said, "How is that?" He said, "I have got all the post offices in my district filled, and I have not any more trouble about it."

The CHAIRMAN. The time of the gentleman has expired.

Mr. PAYNE. Mr. Chairman, I ask for five minutes more.

Mr. MOON. Mr. Chairman, I ask unanimous consent that the gentleman be granted five minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. PAYNE. Have you not trouble enough now? I used to have trouble about the postmasters. The best thing that happened to me was when President McKinley took the stand that he would reappoint a man in a presidential office if he was a good postmaster, and they have been reappointing them ever since. And we have not had any but good men in the offices that I have recommended. Some of them have served 12 or 15 years, and they are so good that the Democrats have left them there until they served the full four years of their last term.

Mr. MOON. Will the gentleman yield?

Mr. PAYNE. I will.

Mr. MOON. Does the gentleman believe the Republican administration and the Democratic administration have administered the civil-service law fairly and justly?

Mr. PAYNE. Well, I can not get down to the gentleman's plane about the fairness of administering it. I do not want the gentleman to take up my time now.

Mr. MOON. We will give you more.

Mr. PAYNE. There is another question I want to get at.

Mr. MOON. And if it has been administered fairly or unfairly—the gentleman does not seem willing to say which way it was. Can you tell me why it is that in the first and second class offices it happens that 98 per cent of the assistant postmasters are Republicans and those who are Democrats have been convicted of treason two or three times by the party?

Mr. PAYNE. I do not know how you get at that. I know how it is in my district. These were appointed before the civil service was applied to them, and, I understand, many of them since.

But, gentlemen, if you want to get at this matter, you do not have to pass any law. The same law that put it in the power of the President to cover these men into the civil service provides that he can remove every one of them to-morrow morning.

Your President can remove every one of them to-morrow morning. Are you not willing to trust him? I say he can remove any one of them to-morrow morning. Can you not trust your President? Why do you want to pass this law? It will follow you to your districts. Oh, your people were afraid of it 30 years ago. They got in under cover then. They all signed that letter, and they all said they were for the reform of the civil service. But after you vote wrong this time it will not do you any good for you to write a letter to your constituents. They are onto such a game as that. They will know you are not in earnest about it. They will know that you are not telling the truth about it. They do not want these deathbed conversions on your part. [Laughter.]

Oh, there are a few men in your districts that want the offices, but the great majority of your constituents do not care a rap about them. They are for the civil-service-reform law, and they are interested in seeing it executed, and they want these offices filled on the ground of merit right along.

Now, if you think that the appointing power should not choose out of the three highest, limit them to one, to the very highest. Limit him to one choice, and then, of course, there can not be anything to it but a lottery, and the man who gets the highest percentage is the man who will be appointed. There is no trouble about that, if you are afraid the Republicans will get the advantage of it. They can not do it unless they are the brightest and pass the best examinations.

Now, do not, gentlemen, break up the post-office business in these towns, where often the assistant postmaster is the most important adjunct in the post office, as he was in the office at Canandaigua, when they kept that Democrat there and kept him until he died. Be careful about these things, and do not let your heads run against a stone wall by going blindly for any such attachment as this to such a great economic measure. Stand up and do not be whining around here a month before election and crawling into your holes after having addressed a letter to the Civil Service Reform Society, saying you have repented and that after this you are going to be good. [Applause and laughter on the Republican side.]

Mr. MOON. Mr. Chairman, I ask unanimous consent that all debate on the amendment offered by the gentleman from Michigan and on the amendment offered by the gentleman from Illinois close in five minutes.

Mr. HULINGS. I reserve the right to object, Mr. Chairman.

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] asks unanimous consent that all debate close in five minutes on the amendments submitted by the gentleman from Michigan and the gentleman from Illinois. Is there objection?

Mr. CULLOP. Mr. Chairman, a parliamentary inquiry.

Mr. MANN. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] objects.

Mr. MURDOCK. Mr. Chairman, I want to address myself to the amendment. This morning I had occasion to investigate the expenditures in the postal system, to find out what we pay the postmasters in the country.

Mr. MOON. Mr. Chairman, I want to make a parliamentary inquiry; but I want to say to my friend from Kansas that I do not want to cut him off.

Mr. MURDOCK. Go ahead, so long as it does not come out of my time.

Mr. MOON. Has the debate on this amendment been exhausted, Mr. Chairman?

Mr. MURDOCK. Yes; it probably has.

Mr. MOON. On both of these amendments?

Mr. MURDOCK. I can strike out the last word.

The CHAIRMAN. What is the gentleman's question?

Mr. MOON. Whether, under the rules, the Chairman holds that the debate has been exhausted on the two amendments.

The CHAIRMAN. It has been exhausted on the amendments.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Kansas [Mr. MURDOCK] moves to strike out the last word.

Mr. MOON. I have no objection to the gentleman proceeding.

Mr. MURDOCK. Mr. Chairman, the total expenditures for the Postal System at the present time are $300 000 000. Ten per cent of that goes as pay to the postmasters. It is an enormous overhead charge for the executive service rendered. It is enormous for many reasons, but chiefly because the rate of pay to the postmasters has not been adjusted to the latter development of the whole system, for the rates of pay have not been changed for something like 30 years.

Now, the postmaster is an individual of constantly diminishing political importance by reason of popular primaries and other changes which are moving us away from the boss system, but he is still strictly political in respect to his appointment. He is usually not selected by reason of his competency or his knowledge of postal affairs. Almost universally in the United States he is an official of considerable leisure. The place in the larger cities is purely executive. And by reason of the political manner of his selection and his lack of knowledge of postal affairs the average postmaster is under the necessity of having an assistant postmaster who does know the postal system. Men who do know it are those who have been trained in subordinate places, for I think I can say truthfully that most assistant postmasters of my acquaintance in larger offices have come up from the subordinate places in the service.

Now, it is a mistake to disturb those skilled men. I know how anxious the Democrats are to get the places and I know how anxious the Republicans are to retain the places. I think that both sides of the aisle, both the Republicans and Democrats, exaggerate the importance of getting and retaining the places. The average assistant postmaster in the United States within my observation is so busy with the affairs of the office, usually doing many things that the postmaster himself ought to do, that he has no time for politics. Most of the assistant postmasters of my acquaintance are Republicans, men who were brought up out of the service and given these places by Republican postmasters. But most of those I know do not busy themselves in politics.

If this bill passes—and it will pass, of course, and become a law, because the majority party wants it—what is going to happen? All of these holding assistant postmasters will have to enter a competitive examination for the places. The local politician will be busy. He will pick up in a given community one or two or more Democrats who are after a political job; men of education; men who are up in book learning; men who can pass the ordinary technical tests that are put before applicants in the civil-service examinations, and there will be certified for selection three names. On that list will be, among the first three, probably one or two Democrats, and possibly the assistant postmaster, now a Republican. The selection will be made from those three men at the top of the list; and, politics dominating, of course the Democrat will be selected. In the course of time, through acquaintance with the system and ex-

perience, he will make just as good an assistant postmaster no doubt as the holding Republican assistant postmaster.

But what about the public and the public interests in the meantime? You have here in the United States a corps of assistant postmasters who know the service. They happen to be most of them Republicans.

Mr. MOON. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK. They perform efficient service for the public. They are there. They understand it. The public has the benefit of their experience.

The CHAIRMAN. Does the gentleman from Kansas yield to the gentleman from Tennessee?

Mr. MURDOCK. Your proposal is to put them out and put in men who are untried in the technicalities of the service; men who, under a technical examination, can name the seaports of Asia; men who can solve problems in logarithms; but men who would have difficulty in describing the difference between second and third class mail.

You are crippling the service for the interim between the time you appoint your man and the time he becomes expert in the service. You ought not to do it.

Mr. MOON. Will the gentleman yield for a question?

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. McKELLAR. I ask unanimous consent that the gentleman may have two minutes to answer two questions.

Mr. MURDOCK. I will take the time unconditionally, but I will answer the questions.

The CHAIRMAN. The gentleman from Tennessee [Mr. McKELLAR] asks unanimous consent that the gentleman from Kansas [Mr. MURDOCK] may proceed for two minutes. Is there objection?

There was no objection.

Mr. MURDOCK. Now, I yield first to the gentleman from Tennessee [Mr. MOON].

Mr. MOON. I want simply to ask this question: If these assistant postmasters are as efficient as you say they are, why are they, or you for them, afraid to bring them into competition with other Republicans and Democrats who may want to take the examination?

Mr. MURDOCK. I have no fear whatsoever for them.

Mr. MOON. I suggest that with the Republican examining boards the gentleman ought not to have any fear.

Mr. MURDOCK. If the gentleman will let me answer, I will say that I have no fear whatsover for these gentlemen. My concern is for the good of the service and for the convenience of the public.

I happen to know, as the gentleman from Tennessee [Mr. MOON] knows, that a man may be very competent as an assistant postmaster, skilled in the technicalities of that service, but for the life of him he could not tell what is the capital of Kamchatka. You are going to put into these places a lot of men who in time will be just as good assistant postmasters as they have to-day, but while they are learning the system the public is going to suffer.

Mr. MOON. Would it not be a good idea to educate a few new men for fear that some of your pet Republicans may die?

Mr. MURDOCK. The gentleman can not say anything to me about "pet Republican" assistant postmasters. I have no pet assistant postmasters in my district. Postmasters now are mostly Democrats, and the assistant postmasters are largely Republicans. But I want to say to the gentleman from Tennessee, if he has the real intestines, if he has the right kind of bowels in this situation, he can get down to brass tacks. Down in his heart he believes that no Republican ought to serve as an assistant postmaster, and if he means business, if he lives up to his lights, he ought to put them out. One way to put out Republican assistant postmasters and do it with dispatch is to put another branch of the service into politics—to change your inspector force. Let the gentleman, if he means business, face the music and bring to his Democratic friends not a half remedy, but full relief.

Mr. MOON. Mr. Chairman——

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MURDOCK. My two minutes have expired, but I should like to answer any other questions the gentleman wishes to ask.

Mr. HULINGS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HULINGS. The gentleman from Michigan offered an amendment to strike out. The gentleman from Illinois [Mr. MADDEN] offered a preferential motion, which was to amend the text. I desire to know now whether it is competent to offer an amendment to the preferential motion of the gentleman from Illinois as a substitute?

Mr. MOON. I want to move that all debate on the amendment of the gentleman from Michigan and the amendment of the gentleman from Illinois [Mr. MADDEN] be now closed.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. HULINGS] has the floor.

Mr. HULINGS. I desire to offer a substitute for the preferential motion of the gentleman from Illinois.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

Mr. HAY. I make the point of order that he can not offer it——

The CHAIRMAN. The Chair will state to the gentleman from Virginia that he does not know, until he hears the amendment read, whether it will have a preferential character or not.

Mr. HAY. The gentleman from Illinois [Mr. MADDEN] offered an amendment to perfect the text.

The CHAIRMAN. Yes.

Mr. HAY. And the gentleman from Kansas moved to strike out the last word, and you can not have two amendments pending at the same time.

Mr. MURDOCK. I withdraw my amendment.

The CHAIRMAN. If there be no objection, the pro forma amendment of the gentleman from Kansas will be withdrawn.

Mr. MANN. I object. We will vote all the afternoon on those amendments if you want to, and we will have tellers on the motion to strike out the last word.

Mr. HAY. You can not debate it all the afternoon.

Mr. MANN. No; but we will have tellers. If you want to get gay on it, get gay.

Mr. HAY. I am not going to be bluffed into withdrawing the point of order by threats made by the gentleman from Illinois.

Mr. MANN. Oh, I ask for the regular order.

Mr. MURDOCK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MURDOCK. Mr. Chairman, the Chair will remember that the first motion offered was one by the gentleman from Michigan [Mr. SMITH] to strike out the section. That was followed by an amendment offered by the gentleman from Illinois [Mr. MADDEN] to strike out a portion of that section.

The CHAIRMAN. To perfect the text.

Mr. MURDOCK. Is it in order now to offer a further motion to perfect that paragraph?

Mr. MANN. But there is another motion pending that the gentleman from Virginia [Mr. HAY] insists upon having a vote upon, and that is the gentleman's motion to strike out the last word.

Mr. MURDOCK. I withdrew that, or tried to.

Mr. MANN. But the gentleman could not do that except by unanimous consent, and the gentleman from Virginia objected.

The CHAIRMAN. Without objection, the pro forma amendment offered by the gentleman from Kansas will be withdrawn. [After a pause.] The Chair hears no objection.

Mr. MANN. Then the bluff did go, did it not?

The CHAIRMAN. An examination of the motion submitted by the gentleman from Pennsylvania [Mr. HULINGS] shows that in the opinion of the Chair it is not a preferential motion.

Mr. HULINGS. Mr. Chairman, I would like to be heard upon that for a moment.

Mr. MOON. Mr. Chairman, I ask for a vote upon that amendment.

Mr. HULINGS. I want to be heard upon the ruling of the Chair.

The CHAIRMAN. Very well. The Chair will hear the gentleman.

Mr. HULINGS. The section which we are considering now provides for the appointment of assistant postmasters, and I am offering a substitute, providing a method which will take this whole business out of partisan politics.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. HULINGS. Certainly.

Mr. MANN. The gentleman offered an amendment which has not yet been reported. No one knows what is in the amendment. I believe the Chair has ruled it out of order, but, I suppose, must have ruled from a private inspection of the amendment.

Mr. HULINGS. Mr. Chairman, I ask that the amendment be read.

The CHAIRMAN. Without objection, the amendment will be reported.

Mr. MANN. If a gentleman offers an amendment he is entitled to have it reported.

Mr. MOON. Mr. Chairman, I will ask the gentleman to withdraw his amendment until we have taken a vote on the other amendments.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Pennsylvania [Mr. HULINGS].

The Clerk read as follows:

Amend section 3, page 3, by striking out the section and substituting the following:

"That from and after the passage of this act all vacancies arising in first, second, third, or fourth class postmasterships shall be filled by appointment by the Postmaster General, of the assistant postmaster if there be one, or if there be none, then of some other person, to fill such vacancy until a postmaster shall have been selected and commissioned in the manner hereinafter provided—that is to say, the Civil Service Commission shall, as soon after said vacancy shall occur as possible, certify to the commissioners of the county or to the persons whose duty it is to prepare the ballots for general elections in the city, town, borough, or township in which the post office may be in which said vacancy shall occur, the names of three citizens of the city, town, borough, or township in which the post office is, qualified under the civil-service rules to be postmasters, and at the general election next succeeding thereafter the commissioners shall cause to be printed on the official ballot the names of the three persons so recommended by the Civil Service Commission, who shall be, but not under any party designation, the candidates for the office of postmaster in such city, town, borough, or township, and the person who shall receive a plurality of the votes cast for postmaster at the said election upon giving a satisfactory bond, the amount and terms of which shall be determined by the Postmaster General, shall be commissioned by the Postmaster General as the postmaster of such post office for the term of six years, and be entitled to the pay and emoluments now provided by law: *Provided*, That said postmaster when so selected and commissioned shall have authority to appoint from the classified service an assistant postmaster; and such appointee when approved by the Postmaster General before entering into his office shall give satisfactory bonds for the faithful discharge of duty to the Postmaster General: *Provided further*, That whenever in the discretion of the Postmaster General any postmaster shall be or become incompetent, inefficient, or neglectful, upon charges made and hearing thereof had of which the person is charged shall have had due notice and opportunity to defend, the Postmaster General may remove such postmaster and fill the vacancy as herein provided for until another person can be elected and commissioned. And all laws and rules and regulations inconsistent herewith are hereby repealed and rescinded."

Mr. MOON. Mr. Chairman, I want to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOON. Mr. Chairman, I want to ask the Chair what he understands the situation to be as to the pending amendments?

The CHAIRMAN. The gentleman from Michigan [Mr. SMITH] submitted an amendment to strike out the section. The gentleman from Illinois [Mr. MADDEN] submitted a preferential amendment to perfect the text.

Mr. MOON. Does the Chair regard that as an amendment to the amendment?

The CHAIRMAN. No; that is an amendment to the section. That is a preferential motion to perfect the text. The gentleman from Pennsylvania submitted an amendment which has just been reported by the Clerk, which is an amendment to strike out and substitute, which does not take preference over the motion offered by the gentleman from Illinois [Mr. MADDEN].

Mr. HULINGS. Mr. Chairman, I would like to be heard upon the point of order.

Mr. MOON. The Chair then does not regard this amendment of the gentleman from Pennsylvania as one in the third degree?

The CHAIRMAN. No.

Mr. HULINGS. Mr. Chairman, the motion of the gentleman from Illinois [Mr. MADDEN] is distinctly with respect to amending section 3 of the bill with reference to the appointment of assistant postmasters. With that amendment I am in part agreed, but it does not meet my views fully, and I have introduced an amendment that has particularly to do with the manner of the appointment of the assistant postmasters. If that is not germane to the motion of the gentleman from Illinois, I can not imagine what sort of a motion would be germane. It has to do with the very same subject, and I suggest that this is the only part of this bill, where it can be offered, where we can seek to perfect the text by an amendment that will give relief from a very embarrassing and disturbing situation. Always when you come to the appointment of these postmasters with all the disturbance and petty politics that go with the present system of appointment, the natural and reasonable inquiry is, Why should not the people of the district select their postmasters? They are far better judges of the qualifications of the applicants than judges 1,000 miles away, whose appointments are always made for purely partisan political reasons.

Mr. MOON. Will the gentleman yield?

Mr. HULINGS. In just a moment. If a man has been certified as being in the classified service——

Mr. MOON. Will the gentleman yield?

Mr. HULINGS. Certainly.

Mr. MOON. Mr. Chairman, I do not think that this motion is in order; and why can not the gentleman offer it at the end of this bill as a separate section, when it will be in order without dispute, instead of taking it up now and incumbering this section with it?

Mr. HULINGS. Following the suggestion of the gentleman, I will say that if the motion be held to be in order at that time I shall be glad to do so.

Mr. MOON. As an independent section it might be put in this bill, but whether it will be in order or not——

Mr. HULINGS. If we pass this section, as I presume it will be passed, then any amendment such as I have offered will be inconsistent with section 3 and subject to a point of order. Now, when we are dealing with section 3, and dealing with the very subject carried in my amendment, though not in toto, I hold that it is entirely competent to deal with the entire subject, not only with assistant postmasters but postmasters also, and not fourth-class postmasters only but every postmaster in the land. There is no reason why the people should not have the authority to elect from the list submitted by the Civil Service Commission the men who are to serve them as postmasters.

Everybody knows the present system is corrupt. Everybody knows that the post-office system is a political football. Everybody knows that presidential appointments are made strictly on political lines. Everybody knows that the political "boss" uses these appointments to reward the "wipers and oilers" of the machine. Everybody knows that the Post Office Department is one of the big assets of the boss system, and the sooner it is abolished the sooner you will get rid of the meanest element in party politics.

Mr. COOPER. Mr. Chairman, I move to strike out the last word.

Mr. HAY. Mr. Chairman, I make the point of order that the amendment of the gentleman from Pennsylvania is not in order. I understood the Chair to rule it is not in order.

The CHAIRMAN. The point of order is sustained.

Mr. MURDOCK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MURDOCK. Did I understand the gentleman from Virginia to say that he made a point of order against the amendment offered by the gentleman from Pennsylvania?

Mr. HAY. I did—that he can not make two motions to strike out at the same time. I did not make the point of order in that form. The point of order was sustained and never has been withdrawn.

Mr. MOON. Mr. Chairman, I move that all debate close on the pending amendment.

The CHAIRMAN. The gentleman from Tennessee moves that all debate on the pending amendment do now close.

Mr. COOPER. Mr. Chairman, a point of order. I was recognized.

Mr. MOON. Does the gentleman from Wisconsin desire to speak on this amendment?

Mr. COOPER. Yes.

Mr. MOON. I move, then, that all debate on this amendment close at the end of five minutes.

The CHAIRMAN. The gentleman from Tennessee moves that all debate on this amendment close in five minutes.

Mr. CULLOP. Mr. Chairman, a parliamentary inquiry. Is it all debate to the section and all amendments pending?

Mr. GARNER. To the amendment.

Mr. CULLOP. To the two amendments? Will the gentleman from Tennessee give his attention? Is his motion only directed to the two amendments—one offered by the gentleman from Michigan and one by the gentleman from Illinois?

Mr. MOON. Certainly. When they are disposed of the section will be open to further amendment.

The CHAIRMAN. The gentleman from Tennessee moves that all debate upon these two amendments close in five minutes, after the conclusion of the remarks of the gentleman from Wisconsin [Mr. COOPER], who is to have the five minutes.

The question was taken, and the Chairman announced the ayes appeared to have it.

Mr. MANN. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 79, noes 55.

Mr. MANN. Mr. Chairman, I ask for tellers.

Tellers were ordered.

The committee again divided; and the tellers (Mr. MOON and Mr. MANN) reported that there were—ayes 89, noes 53.

So the motion was agreed to.

Mr. HULINGS. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. HULINGS. Mr. Chairman, I rise now to offer an amendment that I have already submitted to the Chair.

The CHAIRMAN. It has been ruled out of order, and the gentleman from Wisconsin is recognized for five minutes.

Mr. COOPER. Mr. Chairman, under whatever disguise this movement may be attempted——

Mr. HAY. Mr. Chairman, I demand the regular order.

The CHAIRMAN. This is the regular order.

Mr. COOPER. If I had had any idea when I rose that I was going to precipitate a riot of this character, I would not have risked it. [Laughter.] As I was saying, under whatever disguise gentlemen may seek to conceal this attempt it is plainly an effort to further the movement inaugurated early in the present Congress and since then diligently carried on step by step to do away with the civil-service system. That is exactly what it is. Now, the present civil-service law had its origin in conditions which were intolerable. Among the men foremost in urging and securing its enactment were some of the greatest of Democratic statesmen. For example, Senator Bayard, of Delaware, in a notable speech in the Senate; Senator Pendleton, of Ohio; Senator Vest, of Missouri, and other eminent men of their party.

President Grant, in a message, declared that the old spoils system made conditions intolerable. Garfield, on this floor, in a speech eloquent, philosophic, profound, unanswerable, and in an article in the Atlantic Monthly, also unanswerable, said that the old spoils system could not longer be endured, that he could not go to bed without leaving office seekers in his house nor rise early enough in the morning not to find them there. Daniel Webster and John C. Calhoun joined in a report in which they denounced the old spoils system under which Senators and Representatives claimed that the appointive offices were their property and used them to rig up corrupt political machines, and in that report those two illustrious statesmen warned the country that the corrupt and corrupting system, if allowed to continue and strengthen, would mean death to republican institutions.

The gentleman from Tennessee [Mr. MOON] asserted vehemently that the President of the United States, a Republican, covered into the civil-service class, by Executive order, 2,560 assistant postmasters, all Republicans. Now, it chanced that when he made that remark there sat beside me, on my right, the gentleman from Michigan [Mr. MCLAUGHLIN], and next to him the gentleman from Nebraska [Mr. SLOAN]—both Republicans. I remarked to them that there was covered into the civil-service class by that order one of the strongest Democrats in my district as assistant postmaster at Beloit, a city of 15,000 inhabitants. Before that he had been Democratic committeeman. His name is Larry Rosenthal. I never attempted to interfere with him. The office did not belong to me. It belonged to the citizens of Beloit—the people who were its patrons and as such entitled to the service that such an expert could render. What he thought about the tariff or any other political subject did not in any degree affect his efficiency when distributing the mail of either Republicans or Democrats.

The gentleman from Alabama [Mr. BURNETT] interrupted my distinguished friend from New York [Mr. PAYNE] while he was defending the civil-service law, and said to him, "You do not know anything about politics."

The trouble is, Mr. Chairman, that in the matter of appointments politicians of a certain type forget their plain duty to the great mass of the people and know nothing except politics.

The gentleman who sat at my right [Mr. MCLAUGHLIN], a Republican from Michigan, informs me that in the city of Muskegon, a port of importance in that State, there had been a Democratic assistant postmaster for the last 10 years. The gentleman from Michigan said, "I never thought of interfering with him either before or after he was covered into the civil-service class." Next to the right of the gentleman from Michigan was the gentleman from Nebraska [Mr. SLOAN], who said, "At Beatrice, in my district, for several years the assistant postmaster has been a Democrat, and I never sought to interfere with him."

Mr. MOON. Will the gentleman yield?

Mr. COOPER. I have only five minutes, at the end of which time debate on this amendment is to cease. The gentleman refused me when the time for debate had not been limited.

The gentleman from Tennessee [Mr. MOON] assumed that only Republicans had been put into the civil service by Executive order. It was pure assumption. In my district we have assistant postmasters who are women. They can not vote; they can take no part in politics. At least one of them has neither father nor brother. I did not know that she was assistant postmaster until I visited that office. But she is a good woman earning an honest livelihood, and I would be ashamed of myself to attempt under any pretense to have her removed. Do you say that Assistant Postmaster Rosenthal, a Democrat, formerly a member of the Democratic committee——

The CHAIRMAN. The time of the gentleman has expired. The question is on the motion of the gentleman from Illinois [Mr. MADDEN], to strike out the last part of the section.

Mr. MANN. I ask to have the language reported.

The CHAIRMAN. Without objection, the Clerk will report the amendment.

The Clerk read as follows:

Page 4, line 5, after the word "General," strike out the following language:

"And it shall be the duty of the Postmaster General to require all applicants for assistant postmasters in first and second class post offices, including those now in office who were carried into the service by Executive orders heretofore made, to take a competitive civil-service examination within 90 days, or as soon thereafter as practicable after the passage of this act, under the civil-service law, rules, and regulations, and the Postmaster General shall, under such law, rules, and regulations, appoint all assistant postmasters, and all laws, rules, and regulations in conflict with this act are hereby repealed."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. MADDEN. Division, Mr. Chairman.

The committee divided; and there were—ayes 58, noes 90.

Mr. MADDEN. I ask for tellers, Mr. Chairman.

Tellers were ordered.

Mr. MADDEN and Mr. MOON took their places as tellers.

The committee again divided; and the tellers reported—ayes 59, noes 85.

So the amendment was rejected.

The CHAIRMAN. The question is on agreeing to the motion of the gentleman from Michigan to strike out the section.

Mr. KENNEDY of Rhode Island rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. HULINGS. Mr. Chairman, a parliamentary inquiry.

Mr. KENNEDY of Rhode Island. I rise to offer an amendment.

The CHAIRMAN. Clause 7 of Rule XVI provides:

A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude an amendment nor motion to strike out and insert.

The Chair will therefore put the motion to strike out first. The question is on agreeing to the motion of the gentleman from Michigan [Mr. SAMUEL W. SMITH], to strike out the section.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SAMUEL W. SMITH. Mr. Chairman, I ask for a division.

The CHAIRMAN. The gentleman from Michigan asks for a division. Those in favor of the motion will rise and stand until they are counted. [After counting.] Fifty gentlemen have risen in the affirmative. Those opposed will rise and stand until they are counted. [After counting.] Eighty-six gentlemen have risen in the negative. The ayes are 50 and the noes are 86, and the motion to strike out is lost.

Mr. SAMUEL W. SMITH. Mr. Chairman, I ask for tellers.

Tellers were ordered; and the Chairman appointed Mr. SAMUEL W. SMITH and Mr. MOON to act as tellers.

The committee again divided; and the tellers reported—ayes 54, noes 85.

So the motion was rejected.

Mr. KENNEDY of Rhode Island rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. KENNEDY of Rhode Island. To offer an amendment which I send to the Clerk's desk.

Mr. CULLOP. Mr. Chairman——

The CHAIRMAN. The Chair will recognize the gentleman from Rhode Island, who is a member of the committee. The Clerk will report the amendment offered by the gentleman from Rhode Island.

The Clerk read as follows:

Page 4, line 16, after the word "repealed," insert the following: "*Provided*, That assistant postmasters now in office who shall pass an examination as required by this section shall not be removed from their positions or be demoted except for cause, as in the case of other employees of the classified service."

Mr. KENNEDY of Rhode Island. Mr. Chairman, this amendment provides that assistant postmasters now in office who shall pass an examination as required by this section shall not be removed from their positions or be demoted except for cause, as in the case of other employees of the classified service.

I take it, Mr. Chairman, that this amendment will at least test the good faith and sincerity of those who make the claim that the purpose of section 3 in this bill is to advance and to

further perfect the present civil-service system. If I understand the meaning of the civil service, it is designed to promote efficiency in the public service. And the question here, as proposed by section 3, as I see it, is whether or not this section 3 will promote efficiency in the Postal Service.

Some time ago—I think it was in the month of January last—this same proposition which we have before us in this bill was attempted to be enacted into law as a rider in connection with the Post Office appropriation bill. It went out of that bill upon a point of order. Section 6 of the Post Office appropriation bill was substantially the same as section 3 of this bill. The only difference, I take it, is that section 6 of the Post Office appropriation bill attempted to accomplish directly what section 3 of this bill attempts to accomplish indirectly.

Now, Mr. Chairman, I think that the amendment I have just offered will give to the assistant postmasters who succeed in passing this examination such meed of protection as they are entitled to, because of the high class of service which they have rendered during their incumbency in office. I have no objection to section 13 of the bill, which provides for an adjustment of railway mail pay. I believe, after listening to the explanation of that section by the gentleman from New Jersey [Mr. TUTTLE], a member of the joint congressional committee, appointed to investigate the subject of railway mail pay, that it will provide a plan that at least deserves to be tested. But I object to using the good features the bill contains as a vehicle for the carriage of a proposition which still further tends to break down the civil-service system. [Applause, and cries of "Vote!" "Vote!"]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Rhode Island.

Mr. HULINGS rose.

The CHAIRMAN. For what purpose does the gentleman from Pennsylvania rise?

Mr. HULINGS. I rise to offer the amendment which I heretofore sent to the Clerk's desk as a substitute.

The CHAIRMAN. The question before the House is the preferential motion of the gentleman from Rhode Island [Mr. KENNEDY].

Mr. HULINGS. I do not understand that.

The CHAIRMAN. It is an amendment to perfect the text, while the motion of the gentleman from Pennsylvania is a motion to strike out the whole section and substitute something else.

Mr. HULINGS. It is a motion to strike out and insert, it is true, but it has to do with the same subject matter.

The CHAIRMAN. It is not germane to this amendment, for the reason that it does not say anything about it, and it contemplates the striking out of the entire section. The question is on the amendment submitted by the gentleman from Rhode Island.

The question being taken, the Chairman announced that the noes appeared to have it.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I ask for a division.

Mr. MOON. Give us tellers, Mr. Chairman.

Tellers were ordered; and the Chairman appointed Mr. MOON and Mr. KENNEDY of Rhode Island.

The committee divided; and the tellers reported—ayes 48, noes 79.

Accordingly the amendment was rejected.

Mr. CULLOP. Mr. Chairman, I ask to have reported the amendment which I have sent to the Clerk's desk.

The CHAIRMAN. The gentleman from Indiana offers an amendment which the Clerk will report.

The Clerk read as follows:

Strike out section 3 and insert the following in lieu thereof:

"That hereafter any assistant postmaster, clerk, or employee in any post office who may be required by law or by authority or direction of the Postmaster General to execute a bond to the United States to secure faithful performance of official duty may be required to also execute a bond to the postmaster whose assistant, clerk, or employee he is, for the faithful performance of his duties as such, in the discretion of the Postmaster General. The postmaster of all such offices shall have the power to select his assistant postmaster, all clerks, and employees irrespective of any civil-service law to the contrary, and all laws, regulations, and orders in conflict with this act are hereby repealed and nullified: *Provided*, That all such appointments shall be for a period of four years."

Mr. CULLOP. Mr. Chairman, I have offered this amendment for the purpose of protecting postmasters, and to aid them in giving good public service. The postmaster gives bond for the faithful discharge of his office. He is responsible for the acts of every employee in his office, and he ought to have the right to say who the employees in the office shall be. As the law now stands, he has nothing to say about who his subordinates shall be, but must take what the Civil Service Commission doles out to him. Much has been said about the good of the service; that the civil service brings about an efficient service. Will any gentleman tell where or how? It has been a political machine up to date, operated for partisan purposes and in the interest of partisan politics, and it is so operated now. There has not been any change in that respect. It is operated now against the administration in power, and very much to its detriment. It has already embarrassed it, as many well know, and will continue to do so. Much has been said about the efficiency of the men. Why, if some of these men should die, what would become of the positions? From the way some gentlemen talk they would go out of business. Andrew Jackson spoke a solemn truth when a man came to him and wanted a position in the service, and he called the head of a department and said it would be necessary to remove a certain man. The head of that department said that he could not run his office without that man. It would cripple the service to remove him. Andrew Jackson then replied, "Tell me the name of the office, and if there is only one man in this country who can run that office I will abolish it at once." [Applause.] President Jackson had the right idea of the situation, and the official was removed and another appointed to the place, and things moved on all right.

The postmaster knows better who can give good public service than any three men a thousand miles away here in the city of Washington can know. The postmaster knows better who will suit the community for assistant postmaster and the clerks in the office than any set of men a thousand miles away here in this city.

Now, what is the condition? In many of these offices the postmaster has to accept employees for the conduct of his office who are not in sympathy with him or with the policies of his office. No official ought to be burdened in that manner, and no one can ever make a good administration of the office and be harassed in that way. It is no use to try to hide the question, gentlemen. It will not down. This is a government of parties, and the party in power ought to name the officials.

The civil service as pretended to be conducted puts educational qualifications as the supreme test for office. Educational qualifications are not the only qualifications necessary to the successful administration of an office. Sometimes it happens that the man with the better education is less qualified for the administration of the duties of an office. Business qualifications, energy, tact to meet with the people, are as essential to the proper conduct of an office as are educational qualifications. The method now enforced as the test is calculated to produce a deterioration of the public service, and a deterioration of the administration of the public duties under this administration. This amendment gives postmasters in first and second class offices the right under the law to name every clerk, every employee, and every assistant postmaster; and the postmaster better understands who can work in harmony with him, who are better qualified to discharge the duties of the office, than any three men a thousand miles away in the city of Washington. [Applause.] He knows the wants of his community, the nationality of the people, the habits and disposition of the people and the parties who may apply for positions, and is in a position to pass upon these matters and thereby secure efficiency and build up the business of the office. It puts a premium on good service and inspires men to greater activities in the satisfactory operation of the office. The principle upon which the civil service is now administered is antiquated and is not in keeping with the spirit of the times, the life tenure of office created by it is hostile to our institutions, and can not be justified from any standpoint of true Americanism. It creates a bureaucracy in its most hideous form, and one of the most dangerous in character, against which the American people are unalterably opposed.

Mr. MCKENZIE. Will the gentleman yield?

The CHAIRMAN. Does the gentleman yield to the gentleman from Illinois?

Mr. CULLOP. I would like to have two minutes more.

The CHAIRMAN. The time of the gentleman has not expired. Does the gentleman yield?

Mr. CULLOP. I have not the time to yield now. [Laughter.] Let me give you an illustration——

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. CULLOP. Mr. Chairman, I ask unanimous consent for two minutes more.

Mr. MURDOCK. Mr. Chairman, I ask unanimous consent that the time of the gentleman from Indiana be extended for five minutes.

The CHAIRMAN. The gentleman from Kansas asks unanimous consent that the time of the gentleman from Indiana may be extended for five minutes. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object——

Mr. MOON. Mr. Chairman, I object to five minutes, but I have no objection to two minutes.

The CHAIRMAN. Is there objection to the gentleman from Indiana proceeding for two minutes?

Mr. MANN. Mr. Chairman, reserving the right to object, a while ago when we were courteous enough to give the gentleman from Tennessee [Mr. MOON] 15 minutes he immediately rose shortly afterwards and shut off debate on this side of the aisle by a motion to close debate. I shall not object to this request——

Mr. DONOVAN. Mr. Chairman, I demand the regular order. [Laughter.]

Mr. MANN. But if this course is to be pursued hereafter, I shall object.

The CHAIRMAN. The regular order is that the gentleman from Illinois reserves the right to object.

Mr. DONOVAN. But he can not reserve the right to object. He must either object or not object. He can not make a speech.

Mr. MURDOCK. Mr. Chairman, I make the point of order that the gentleman from Connecticut is not in order.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none, and the gentleman from Indiana is recognized for two minutes.

Mr. CULLOP. Mr. Chairman, let me call attention to how a civil-service inspection is made. Only last week I noticed in the paper a report of an inspector who was sent to investigate a charge preferred against an applicant for a little fourth-class post office. The investigation was made on Thursday, and on Friday afternoon the result of that examination appeared in a leading Republican paper of the county seat of that county. It was published and sent broadcast before it arrived in Washington, and by the time the report of the inspector reached the Post Office Department in this city the newspaper containing the publication was also here. That is the manner in which they are conducted. Does anyone doubt there was collusion in this matter? If so, how could he? This relieves them of that work. There is another consideration to this amendment. Already this Civil Service Commission controls more than 250,000 offices in this country. The salaries of these are enormous. The desire to retain the office and the power conferred is great. That is too much power to be placed in the hands of a commission composed of three men. The salaries reach into the millions. That power must be decentralized. It is now centralized in three men. Some day it will become a menace to the administration of the Government. It is powerful enough now to control the votes of many of the States of the Union. It can dictate to these officeholders how they shall vote and how they shall act in the political campaign. It is not the number of officeholders alone subservient to the wants and desires of this commission, but added to this great number are those dependent on them for subsistence and those who are interested in these persons holding their positions. This number is rapidly increasing, and this power is daily manifesting itself throughout the Republic. This power is asserting itself in politics and is attempting to shape policies and direct the course to be taken in public affairs and thereby control the affairs of the Nation. Selfishness always asserts itself with power. Give it an opportunity and it exercises it not in favor of the many but for the enhancement of the good of the few.

We can not change human nature any more than we can change the spots on the leopard. Men thus clothed with great power will prostitute it to selfish purpose, to sordid ends, and whenever they do so it is always done to the injury of others who are not so fortunate. Civil service has in the past been employed for political purposes to advance political fortunes, and it will, if the power is not removed, be so used again. The cause which inspired this legislation and made it necessary grows out of the fact that it was made to cover a class of offices, to enhance political advantages and political fortunes of some one. No use to deny it.

Did any civil-service reformer protest then? No; not one. They gulped it down in quiet. When the Executive order was made putting assistant postmasters under the classified service the blanket covered incompetent men, and the time between its promulgation and its becoming effective was given to clear the decks of men in the service who were not as good party workers as desired, and for the appointment of partisans as a reward for party services. The most flagrant abuse of both spirit and letter was practiced, and now some holier than thou rises up and cries "Spoils" when we propose this action. Oh, well, the Savior of mankind nearly 2,000 years ago, when on earth, warned the people to beware of the men who stood in public places and proclaimed they were better than other men. That doctrine was true then and it is true now, and the same admonition should be invoked now and here. Yes; these men who now declare they are better than other people and cry "Spoils" are only doing so because they are unable to control the spoils. If they were, they would be doing now as they did when in power. There is no use of denying this proposition.

It is true, and the civil service has ever been operated as a political machine, and as such it has succeeded admirably, and it is high time the mask should be removed and its political operations exposed. It needs investigation in order that the people may know to what extent its political machinations have been carried on. If publicity were turned on its proceedings for the last 16 years I doubt not it would be a great revelation to the people and furnish them some interesting facts for consideration. No better evidence need be furnished for this assertion than the fact that the offices to which it applies are nearly all held by people of one political faith. More than 90 per cent of them are held by Republicans. They controlled the operation of this political machine and made it do splendid service to reward party workers. No one can successfully combat this proposition.

All this could not have been by accident, because the accident, it seems, invariably happened. It might have been an accident and happen occasionally, but when it happened nearly every time, then we know it was by intention. It has been a "swindle service" sure enough, as it is frequently called. It is in disrepute everywhere because of the hypocrisy practiced in its name and under its rule.

For one I believe every postmaster in this country should be elected by the patrons of the office. They are capable of selecting their postmaster, and the power should be given them to do so. We would then secure good and efficient service, an economical management of the office, and a more satisfactory administration of the duties. They are the people's offices, and the people should by ballot say who the officials should be. This would better please the whole people.

Now, a life tenure of office is not in accord with the spirit of our institutions, and is not approved by the people of the country. They oppose such tenure and demand that it be eliminated from the statute books. They pay the taxes, support the flag, and defend the country from all attacks without or within our borders. It is well enough that their wishes be consulted and carried into effect. Fixed tenure will get better services and a more faithful administration, because the officeholder then will keep in touch with the people and feel that he is responsible to them for the conduct of his office. This is the people's Government, and the wishes of the people should be supreme.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. MOON. Mr. Chairman, I move that all debate on this section and all amendments thereto close in five minutes.

Mr. HULINGS. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The question before the committee is the motion of the gentleman from Tennessee that all debate on the section and all amendments thereto close in five minutes.

The question was taken, and the Chair announced that the ayes appeared to have it.

Mr. MANN. Mr. Chairman, I demand a division. This is an infamous proceeding by gag rule and we all know it.

Mr. MOON. Mr. Chairman, let us have tellers.

Tellers were ordered.

Mr. MANN and Mr. MOON were appointed to act as tellers.

The committee divided; and there were—ayes 85, noes 47.

So the motion to close debate was agreed to.

Mr. HULINGS. Mr. Chairman, I desire to offer an amendment that I have already sent to the Clerk's desk.

Mr. MOON. Is that the same amendment that the gentleman offered before?

Mr. HULINGS. Yes.

Mr. MOON. But the point of order was made to that and it has been sustained.

The CHAIRMAN. But this is at a later stage of the proceedings. Without objection, the amendment will be again reported.

Mr. CULLOP. Mr. Chairman, I make the point of order against the amendment that it is not germane.

The CHAIRMAN. We can not tell what the character of the amendment is until it is reported.

Mr. MOON. But the gentleman said that it is the same amendment that he offered before.

The CHAIRMAN. The gentleman has a right to have his amendment reported.

Mr. MANN. Mr. Chairman, would debate close in five minutes in any event?

The CHAIRMAN. In five minutes.

Mr. MANN. Would there still be five minutes' debate in order on this section if we should vote now upon the pending amendment of the gentleman from Indiana?

The CHAIRMAN. There would still be five minutes of debate remaining.

Mr. MOON. As I understand it there is only five minutes' debate remaining on all amendments?

Mr. MANN. I understand, but if we dispose now of the amendment of the gentleman from Indiana, then the gentleman from Pennsylvania could offer his amendment and have five minutes.

Mr. MOON. I do not object to his having the time.

Mr. MANN. It is already provided for.

The CHAIRMAN. Without objection, the question will be taken on the amendment offered by the gentleman from Indiana.

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana.

The question was taken, and the Chair announced that the ayes appeared to have it.

Mr. CULLOP. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. CULLOP and Mr. SMITH of Michigan were appointed to act as tellers.

The committee divided; and there were—ayes 75, noes 25.

So the amendment was agreed to.

Mr. HULINGS. Mr. Chairman, I would like to have the amendment I sent to the desk reported.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, section 3, page 3, by striking out the section and substituting the following——

Mr. CULLOP. Mr. Chairman, I make the point of order.

The CHAIRMAN. The gentleman will wait until the amendment is reported.

The Clerk read as follows:

That from and after the passage of this act all vacancies arising in first, second, third, or fourth class postmasterships shall be filled by appointment by the Postmaster General of the assistant postmaster, if there be one, or, if there be none, then of some other person, to fill such vacancy until a postmaster shall have been selected and commissioned in the manner hereinafter provided; that is to say, the Civil Service Commission shall, as soon after said vacancy shall occur as possible, certify to the commissioners of the county or to the persons whose duty it is to prepare the ballots for general elections in the city, town, borough, or township in which the post office may be in which said vacancy shall occur the names of three citizens of the city, town, borough, or township in which the post office is, qualified under the civil-service rules to be postmasters; and at the general election next succeeding thereafter the commissioners shall cause to be printed on the official ballot the names of the three persons so recommended by the Civil Service Commission, who shall be, but not under any party designation, the candidates for the office of postmaster in such city, town, borough, or township, and the person who shall receive a plurality of the votes cast for postmaster at the said election, upon giving a satisfactory bond, the amount and terms of which shall be determined by the Postmaster General, shall be commissioned by the Postmaster General as the postmaster of such post office for the term of six years and be entitled to the pay and emoluments now provided by law: *Provided*, That said postmaster when so selected and commissioned shall have authority to appoint from the classified service an assistant postmaster, and such appointee, when approved by the Postmaster General, before entering into his office, shall give satisfactory bonds for the faithful discharge of duty to the Postmaster General: *Provided further*, That whenever in the discretion of the Postmaster General any postmaster shall be or become incompetent, inefficient, or neglectful, upon charges made and hearing thereof had, of which the person is charged shall have had due notice and opportunity to defend, the Postmaster General may remove such postmaster and fill the vacancy as herein provided for until another person can be elected and commissioned. And all laws and rules and regulations inconsistent herewith are hereby repealed and rescinded.

Mr. CULLOP. Mr. Chairman, I make the point of order against that amendment.

Mr. MURDOCK. What is the point of order?

Mr. CULLOP. The first point of order is that it is clearly against the Constitution. You can not elect postmasters now, until you amend the Constitution, and the very passage of that would be nugatory; it would amount to nothing. There are but two ways you can come to the election of postmasters in this country——

The CHAIRMAN. Will the gentleman from Indiana state his point of order?

Mr. CULLOP. Yes; my point of order is that it is not germane to the provision that has been amended. Second, that we have now perfected that section, and that, therefore, further amendment is not in order.

Mr. MANN. Mr. Chairman, I make the further point of order, if it has not already been made, that the committee by a vote has just stricken out the section and inserted a new section, and that new section is beyond amendment in the committee.

The CHAIRMAN. The points of order submitted by the gentlemen from Indiana and Illinois are sustained, and the Clerk will read.

The Clerk read as follows:

SEC. 5. That after June 30, 1915, the compensation of postmasters at post offices of the first, second, and third classes shall be annual salaries, graded in even hundreds of dollars, and payable in quarterly installments, and shall be ascertained and fixed by the Postmaster General on the basis of the gross receipts of their respective offices for the calendar year, to take effect at the beginning of the ensuing fiscal year at the rates now prescribed by law.

The committee amendment was read, as follows:

Page 4, line 17, strike out the figure "5" and insert the figure "4."

Mr. MURDOCK. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The question first is upon the committee amendment.

The question was taken, and the committee amendment was agreed to.

Mr. MURDOCK. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 4, line 25, after the word "law," insert the following: "*Provided*, That hereafter postmasters of the first, second, third, and fourth classes shall be selected from the classified list of postal employees, and all acts and parts of acts in conflict with the provisions of this act in so far as they affect this act are hereby repealed."

Mr. MURDOCK. Mr. Chairman, the object of this amendment is to compel the future selection of all postmasters to be made from men in the Postal Service under the merit system. Under the present method practically all of the men in the Postal System are selected by competitive test of their fitness. The only men who are not now taken from the classified list are the postmasters themselves. This proposition of mine is one which goes to this point, the extension of the merit system, now over part of it, over the entire system.

When the Postal System was first established it was not a service which required great skill, and it became an easy and popular field for the politician, but as it has developed it has constantly been removed from the political field and carried more and more into the practical business field. The first thing was the post office, and without general means of intercommunication it did not develop materially. But with the advent of the railroad and rapid and frequent dispatch of mails all manner of developments requiring skill and business management followed. City delivery was inaugurated. A little later the money-order system was added; the Railway Mail Service was developed, rural delivery was adopted, and parcel post. The Postal System was no longer one of small and segregated local units. It had become a magnificent organized business. And the Nation has been taking it out of politics. Until the attempt was made this afternoon, no one has seriously proposed for years to put any part of the Postal System which we have taken out of politics back into politics. That attempt can not obtain popular indorsement. Instead, I think that the country as a whole, South as well as North, East, and West, demands that that portion of the Postal System which is now in politics be taken out of politics.

Preeminently the part of the Postal System which remains in politics is that part represented by the politically appointed postmaster. My amendment is a very simple one. It is reasonable. It is businesslike, and I can not see for the life of me why Congress should resist it. It provides what? That in the selection of postmasters hereafter the Government shall make postmasters of whom? Of the partisan politicians in the town? No. Of the men who are thought to control some city, some precinct, or ward? No. It provides that the Government shall reach in among the thousands of faithful servitors of the system itself, among the skilled men in the Railway Mail Service, the skilled men among the carriers, among the trained clerks in the post office, men who have reached a high degree of efficiency, and choose from among those men who understand the service the most able and promote them to the highest executive places in post offices. There is not a man here who can stand on the public platform and combat before the people that proposition with success. The people of the United States do not believe that politics should have a part in the great business affairs of the Post Office Department. They believe in weeding politics out of it. They know all over this land from personal observation that the men who would be most proficient as postmasters are the men in the service to-day, who are barred from appointment by the alleged political necessities of some partisan who knows nothing of postal duties. Competent subordinates are not barred from promotion in other businesses. Why are they here?

Mr. McKELLAR. I want to ask the gentleman a question that I desired to ask him a few moments ago.

Mr. MURDOCK. Surely.

Mr. McKELLAR. I have a very high respect for the gentleman's views, and I want to ask the gentleman if he believes, as a matter of principle, that as many as 2,500 assistant postmasters should be given virtually places for life by Executive orde.? Does the gentleman think that?

Mr. MURDOCK. No; as a rule I do not. But I do think this, that by putting in the amendment to this bill which you did a few minutes ago you are subjecting the service to a period of a year or two years of inferior service, in order to get an advantage politically that will not, as a matter of fact, bring you a thing. Twenty-five hundred Democrats put in as assistant postmasters in this country will not do the Democratic Party any good, and it will do the service for the first year or two infinite harm.

But I was not on the subject of assistant postmasters. I am speaking of postmasters. I ask you, Democrats and Republicans, when the Government comes to select a postmaster, where ought it to look for one? Ought it to go among the men who are skilled in the service, among the men who know the service, or ought it to go out in the town and hunt up some politician who can carry a ward for some one? My proposal is a business proposition. Why not meet it? Why not take this branch of the postal system out of politics and put it all on a businesslike plane? Surely it belongs there. I wish I could have a record vote on this proposition.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. MURDOCK] has expired.

Mr. MOON. I want to ask the gentleman if he will yield for a moment?

Mr. MURDOCK. If I can secure more time.

Mr. MOON. What section do you want this amendment to?

Mr. MURDOCK. I offer it to section 4.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. MOON. I am speaking in my own right, Mr. Chairman, then. What section do you offer your amendment to?

Mr. MURDOCK. To the word "law," in line 25, at the bottom of page 4, which is the bottom of section 4.

Mr. MOON. I understand the purpose of your amendment is to select the postmasters from those in the Postal Service now?

Mr. MURDOCK. Yes; from the classified service.

Mr. MOON. Mr. Chairman, I just have this to say about that proposition: I can not conceive anything that would be worse than to pursue a policy of that sort. It would establish in the Post Office Department absolutely gross corruption all around, and you would find just exactly what there has been heretofore—a very corrupt condition. I do not believe that your idea would be possible with the partisanship that is carried on in that office to-day. And take this department down here now, and when the Democrats went in ninety-odd per cent of employees there were Republicans. There have been some reductions and some promotions; I do not know for what reasons, but possibly political, and there ought to be; and yet there are a lot of chiefs in each department to-day, 90 per cent of them Republicans, who have not been changed and who are ruling and controlling the country.

Mr. HARDY. Will the gentleman yield?

Mr. MOON. In just a moment. I wanted to demonstrate this fact, that you have already got there now a partisan gang, who make it a business to tell the people that the party in power is not capable of Government, that they have got nobody that is fit for those positions; and these Republican chiefs and Republican clerks in there are the real rulers in that department. And, unfortunately, that may be too true as to the details and the administration of the department.

Mr. McCOY. Will the gentleman yield?

Mr. MOON. No; not now. If you favor carrying it out and taking all the postmasters and assistant postmasters and other officials and bringing them up through the whole service, departmental or field, so that nobody else can get a position in there, you have just simply turned over this great department of the Government to a class; and, considering the corruption and villainy that have gone on in this office before, and the infernal partisanship that has been carried on there by the men who were retained from the old administration, and the manner in which they conduct things, I can not conceive of any idea of the corruption and the fraud that would result from a policy like that which the gentleman from Kansas suggests outside of hell itself.

Mr. MURDOCK. Does the gentleman yield? The gentleman has covered me with a fog here. I am trying to benefit the service, I will say to the gentleman from Tennessee, and not to corrupt it.

Mr. MADDEN. Mr. Chairman, the most efficiently managed post office in the United States is in the city of Chicago. It is the biggest post office in the United States, with the greatest receipts of any post office in the United States.

There is absolutely no politics in that post office, and there has not been; and one-half of the men who are managing the affairs of that office have been there since they were appointed under Mr. Cleveland's administration. They are Democrats. Nobody ever questions their right to their Democracy. There is no place to find men who are qualified except in the ranks.

In commercial life men are trained from boyhood in the technicalities of the institution in which they are serving, and they are allowed to serve during all their lifetime because of the knowledge they have of the business in which they are engaged. I remember very well, when I was 10 years old, starting in the business in which I am now engaged, and every man who is subordinate to me started in when he was a boy and followed me from the bottom to the top.

I believe that these men, every one of them, are experts. We are looking for men who are specialists in their line of business. We are looking for experts, for specialists. This is an age of specialization, and if there is a business institution anywhere in America in which no politics should be indulged, that institution is the United States post office. It is one of the greatest business institutions anywhere in the world. We spend $300,000,000 a year in its conduct, and no success has ever been achieved in reducing the expenditures except by hearty and unified cooperation with the men from the bottom to the top of the ranks.

Talk about postmasters knowing anything about the business of the post office. No postmaster can know. He comes into the service for a period of four years, with almost a definite understanding that that is to be the end of his service. He has other things to do. He does not care to learn the intricacies of the Postal Service. He has not time to do so. He is there for the job.

Mr. HARDY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Texas?

Mr. MADDEN. I regret I have not the time. He does politics part of his time. The assistant postmaster, the superintendent of carriers, the superintendent of mails, the superintendent of the registry department, and the chief clerks of all the bureaus are the men who have the experience and the knowledge which make the service efficient and economical. I would be glad—gladder than I can tell you—to see some law passed by means of which men will be recognized in this service because of their experience and their efficiency and not because of their political pull. [Applause.]

Mr. HARDY. Mr. Chairman——

The CHAIRMAN. The gentleman from Texas [Mr. HARDY] is recognized.

Mr. MOON. Mr. Chairman, I move that all debate on this section close now.

Mr. HARDY. Mr. Chairman, I believe I have the floor. I have been recognized.

Mr. MOON. Then I move that the debate close in three minutes.

Mr. KEATING. Mr. Chairman, I trust the gentleman from Tennessee will increase the time limit in his motion. I would like to have three minutes. Let him make it six minutes.

Mr. HARDY. Mr. Chairman, the gentleman's motion will be in order at the end of my remarks. I have the floor now, as I understand it.

The CHAIRMAN. The gentleman from Texas will proceed.

Mr. HARDY. Mr. Chairman, philosophically I think the gentleman from Kansas [Mr. MURDOCK] is all wrong in policy and politics. The adoption of his philosophy which would install a class of officeholders from among whom the employees of the Government would be selected for life is all wrong and unsound. If there is any Democracy or any Republicanism in the establishment of an office-holding class who alone would have control of the greatest business organization of the Government, I fail to see it. No private business would for a moment consent to the statement that they must employ all their servants from some particular class of citizens. The banker will not do it, but you would close the door of your post-office business——

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. HARDY. No; I can not. You would close the doors of your post-office business so that no man, unless he rose up in it almost from boyhood, could enter it. It is the wildest dream

that ever a politician thought of while he is scoring politicians in his denunciation. No private business would stand for it, and yet he wishes to subject the great business interests of the post office to a rule that no banker, no merchant, and no manufacturer would apply to himself, so that thereby he could not go outside the circle of his subordinate employees to find a man qualified for his employment. It is a closed door. It is absurd. It is unphilosophical. [Applause.]

Mr. MOON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. CONRY, Chairman of the Committee of the Whole House on the state of the Union, reported that that commitee had had under consideration the bill (H. R. 17042) to amend the postal and civil-service laws, and for other purposes, and had come to no resolution thereon.

HOUR OF MEETING TO-MORROW.

Mr. MOON. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow morning.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow. Is there objection?

Mr. MANN. Reserving the right to object, in view of the existing situation I have no objection to that, if the gentleman will say that he will move to adjourn the House to-morrow when we get through with the pending bill, if we get through with it.

Mr. MOON. Yes. We shall not want to stay after we get through with this bill, and by meeting to-morrow morning early we hope to get through with it.

Mr. MURDOCK. Reserving the right to object, I should like to say to the gentleman from Tennessee that when the House meets to-morrow morning the amendment which I have offered will be pending, and a vote will be had upon it immediately. Ordinarily when the House meets here at 11 o'clock, if there are 10 or 15 Members here, it is a good many.

Mr. MANN. Oh, well, we shall have to have a roll call anyhow, whether we meet at 11 or 12.

Mr. MURDOCK. Not a roll call in Committee of the Whole.

Mr. MANN. We shall have to have a roll call on this bill, whether we meet at 11 or 12. We can not pass a bill like this without calling in a quorum.

Mr. MURDOCK. I know, but the gentleman from Illinois misunderstands me. I have offered an amendment in Committee of the Whole which is now pending, and undoubtedly the vote will come upon it almost immediately after we meet in the morning.

Mr. MANN. It will not come until "the gentleman from Illinois" has made the point of no quorum.

Mr. MURDOCK. In the House?

Mr. MANN. In Committee of the Whole?

Mr. MURDOCK. That is all right.

The SPEAKER. Is there objection?

There was no objection.

ENROLLED BILLS SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. J. Res. 288. Joint resolution to amend an act entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war," approved May 2, 1914.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 4628. An act extending the period of payment under reclamation projects, and for other purposes; and

S. 4966. An act proposing an amendment to section 19 of the Federal reserve act relating to reserves, and for other purposes.

FUNERAL OF MRS. WILSON.

The SPEAKER. The Chair will state to the House for the benefit of all concerned that it is intimated from the White House that the funeral of Mrs. Wilson will be at 2.30 o'clock Monday, and that at 4.30 the funeral train will leave for Georgia, provided the brother of Mrs. Wilson gets here. If he does not, the whole matter will be postponed 24 hours; and if we do meet on Monday, the Chair suggests that the members of the House committee meet at the right-hand gate that goes into the White House Grounds, just inside the gate.

POSTAL SAVINGS BANKS.

Mr. MOON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 7967) to amend the act approved June 25, 1910, authorizing a postal savings system, and to disagree to the Senate amendments and ask for a conference.

The SPEAKER. The gentleman from Tennessee [Mr. MOON] asks unanimous consent to take from the Speaker's table House bill 7967, and to disagree to the Senate amendments and ask for a conference. The Clerk will report the title of the bill.

The Clerk read the title of the bill.

Mr. MANN. I will suggest to the gentleman from Tennessee that in the House print of the bill showing the Senate amendments there is an error.

Mr. MOON. There is an error, and the bill is to be reprinted.

Mr. MANN. I discovered it by looking at the original amendment.

Mr. MOON. The gentleman called my attention to it, and it will be reprinted.

The SPEAKER. Is there objection?

There was no objection, and the Speaker announced as conferees on the part of the House Mr. MOON, Mr. FINLEY, and Mr. SAMUEL W. SMITH.

ADJOURNMENT.

Mr. MOON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 17 minutes p. m.) the House adjourned until Saturday, August 8, 1914, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Ohio River above the dam at Louisville, Ky. (H. Doc. No. 1140); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Colorado River, Colo. and Ariz. (H. Doc. No. 1141); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination and survey of Ferry Cove, Md. (H. Doc. No. 1142); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. RUPLEY: A bill (H. R. 18279) regulating the salary of letter carriers of the Rural Delivery Service and permitting their engaging in other employment; to the Committee on the Post Office and Post Roads.

By Mr. HARDY: A bill (H. R. 18280) to authorize limited participation in the domestic trade of the United States by foreign-built vessels admitted to registry in the United States; to the Committee on the Merchant Marine and Fisheries.

By Mr. HOLLAND: A bill (H. R. 18281) granting the consent of Congress to Norfolk-Berkley Bridge Corporation, of Virginia, to construct a bridge across the Eastern Branch of the Elizabeth River in Virginia; to the Committee on Interstate and Foreign Commerce.

By Mr. REILLY of Connecticut: A bill (H. R. 18282) to revive the American ocean merchant marine and to secure to the American public the benefits due them for the hundreds of millions of dollars spent in the construction of the Panama Canal and in other ocean navigation improvements; to the Committee on the Merchant Marine and Fisheries.

By Mr. ROTHERMEL: Resolution (H. Res. 587) authorizing payment for expert and other assistance in connection with the fur-seal investigation of Alaska; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AIKEN: A bill (H. R. 18283) for the relief of Lenora C. Hubbard; to the Committee on War Claims.

By Mr. BOOHER (by request): A bill (H. R. 18284) for the relief of John Albus, jr.; to the Committee on Claims.

By Mr. CULLOP: A bill (H. R. 18285) granting an increase of pension to Edward D. Millis; to the Committee on Invalid Pensions.

By Mr. DAVIS: A bill (H. R. 18286) granting an increase of pension to Eden N. Leavens; to the Committee on Invalid Pensions.

By Mr. HUMPHREY of Washington: A bill (H. R. 18287) granting an increase of pension to Anne Hanson; to the Committee on Invalid Pensions.

By Mr. JONES: A bill (H. R. 18288) for the relief of Mary Ann Hosier; to the Committee on War Claims.

Also, a bill (H. R. 18289) for the relief of the heirs at law of Samuel G. Curtis and Elizabeth G. Curtis; to the Committee on War Claims.

Also, a bill (H. R. 18290) to remove the charge of desertion against the military record of William H. Thompson; to the Committee on Military Affairs.

By Mr. KINDEL: A bill (H. R. 18291) granting a pension to Harry S. Gilchrist; to the Committee on Invalid Pensions.

By Mr. MOSS of West Virginia: A bill (H. R. 18292) granting an increase of pension to Cornelius M. Conley; to the Committee on Invalid Pensions.

By Mr. SMALL: A bill (H. R. 18293) for the relief of Mary Bailey Pratt; to the Committee on Claims.

By Mr. STONE: A bill (H. R. 18294) granting a pension to Lenore Turner; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BOOHER: Petition of Arch Scovel and 80 other citizens of the fourth district of Missouri, favoring national prohibition; to the Committee on Rules.

By Mr. GOOD: Petition of citizens of Marion, Iowa, in favor of national prohibition; to the Committee on Rules.

By Mr. GRAY: Petition of sundry citizens of Fayette, Franklin, Union, Wayne, Henry, Rush, Shelby, and Hancock Counties, Ind., favoring the enactment of House bill 5308, providing for the taxation of concerns selling goods direct to consumers by mail; to the Committee on Interstate and Foreign Commerce.

By Mr. HELVERING: Petition of citizens of Clay Center, Kans., favoring consideration of Mr. Cook in the North Pole controversy; to the Committee on Naval Affairs.

By Mr. JOHNSON of Washington: Petition of 45 people of Hoquiam, Wash., favoring national prohibition; to the Committee on Rules.

By Mr. LEE of Pennsylvania: Memorial of First Methodist Episcopal Church of Shenandoah, Pa., protesting against passage of House resolution 16904, relative to freight yard opposite Sibley Hospital, in Washington, D. C.; to the Committee on the District of Columbia.

By Mr. MAGUIRE of Nebraska: Petition of sundry citizens of College View, Nebr., favoring national prohibition; to the Committee on Rules.

By Mr. NORTON: Petition of Carl J. Lena and others, of Wheelock and Wild Rose, N. Dak., favoring the passage of House resolution 12928; to the Committee on the Post Office and Post roads.

Also, petitions of J. R. Hames, of Surrey; John H. Leibert, of Flaxton; John Sattler, John Berger, A. F. Mischel, George W. Morin, H. F. Dennis, J. B. Fischer, and C. Turk, of Richardton; Minnesota district of the German Evangelical Synod of North America, at Eitzen; Charles C. Hill, of Richardton, protesting against national prohibition; to the Committee on Rules.

Also, memorial of Russell Memorial Methodist Episcopal Church, of Kenmore; Woman's Christian Temperance Union of Hofflund; Dakota Conference of the Zion Evangelical Church; Belden (N. Dak.) Sunday School; Heaton (N. Dak.) Christian Endeavor Society; Union Methodist Episcopal Church of Ednore; J. Lange and others, of Freda and Shields; 50 members of the Methodist Episcopal Church of Dickinson; Gladstone (N. Dak.) Epworth League; 300 citizens of Forest River; Vincent Methodist Episcopal Church of Minot, N. Dak.; Sunday School Association, at Jamestown; 300 members of the Epworth League of the Methodist Church of Jamestown; Young people's Society of Grafton, N. Dak., favoring national prohibition; to the Committee on Rules.

Also, petition of Mrs. Hjerrti Rud, of Freda, N. Dak.; Mrs. Bertha Metcalf, of Freda, N. Dak.; W. W. Metcalf, of Freda, N. Dak.; Mrs. Alfred Lee, of Leeds, N. Dak.; Mrs. A. Lien, of Freda, N. Dak.; Mrs. J. P. Lange, of Freda, N. Dak.; Mr. and Mrs. A. Tuntland, of Shields, N. Dak.; C. M. Butler, of Freda, N. Dak.; Mrs. C. M. Butler, of Freda, N. Dak.; Mr. and Mrs. C. W. Ranum, of Freda, N. Dak.; and Mr. and Mrs. A. T. Lein, of Freda, N Dak., favoring the adoption of the Hobson-Sheppard resolution for national prohibition; to the Committee on Rules.

By Mr. O'SHAUNESSY: Petition of Ida M. Brown and Sarah I. Peckham, favoring national prohibition; to the Committee on Rules.

Also, petition of the Chamber of Commerce of Minneapolis, Minn., favoring amendment to Senate bill No. 387, relative to bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of F. N. Westcott, of Pawtucket, R. I., favoring passage of H. R. 13305, standard-price bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Chamber of Commerce of Milwaukee, Wis., favoring passage of Senate bill No. 387, relative to bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of sundry citizens of the State of Rhode Island, favoring the Bristow-Mondell resolution enfranchising women; to the Committee on the Judiciary.

By Mr. PAIGE of Massachusetts: Petition of sundry citizens of Fitchburg, Mass., in favor of national prohibition; to the Committee on Rules.

By Mr. SMALL: Petition of sundry citizens of Wanchese, N. C., favoring national prohibition; to the Committee on Rules.

By Mr. TEN EYCK (by request): Petitions signed by six members of the Typographical Union of Troy, N. Y., protesting against the Hobson resolution; to the Committee on Rules.

SENATE.

SATURDAY, *August 8, 1914.*

The Senate met at 11 o'clock a. m.

Rev. J. L. Kibler, D. D., of the city of Washington, offered the following prayer:

O God, as we look without upon the appalling disaster of nations, and look within upon the grieved heart of our own people, we can but turn to Thee for a hiding place under the shadow of Thy wing. In meeting the tasks of every hour, and in serving the country we love, we need that balance of thought and that calm composure which grace alone can give. May we find our refuge in Thee. In this busy, anxious hour, while our hearts are linked together in loving sympathy, guide Thy servants in the conscientious discharge of every duty. "Lead, kindly light, amid th' encircling gloom." Hear our plea, for Jesus' sake. Amen.

The Journal of yesterday's proceedings was read and approved.

TRANSFER OF VESSELS FROM COASTWISE TRADE.

The VICE PRESIDENT. The Chair lays before the Senate a communication from the Secretary of Commerce, transmitting, in response to a resolution of the 3d instant, a copy of the department's telegram of the 5th instant to collectors of customs instructing them to ascertain the vessels now in the coastwise trade which the owners would use in over-sea foreign transportation in the present emergency, together with copies of telegrams received in reply thereto.

Mr. GALLINGER. That communication is in response to a resolution which I presented and which was agreed to by the Senate. It is a report upon ships in the coastwise trade available for foreign commerce. I ask that it may be printed in the RECORD, as it directly relates to the subject under consideration by the Senate.

The VICE PRESIDENT. Without objection that will be done. Is any further action to be taken?

Mr. GALLINGER. It might well be referred to the Committee on Interoceanic Canals, I think.

The VICE PRESIDENT. That action also will be taken.

The communication was referred to the Committee on Interoceanic Canals and ordered to be printed in the RECORD, as follows:

DEPARTMENT OF COMMERCE,
OFFICE OF THE SECRETARY,
Washington, August 7, 1914.

The SECRETARY UNITED STATES SENATE,
Washington, D. C.

SIR: Complying with the instructions in Senate resolution 436, I transmit herewith a copy of the department's telegram of the 5th instant to collectors of customs instructing them to ascertain the vessels now in the coastwise trade which the owners would use in over-sea foreign transportation in the present emergency and copies of the telegrams received in reply thereto.

Respectfully,

E. F. SWEET,
Acting Secretary.

[Telegram.]

AUGUST 5, 1914.

COLLECTOR OF CUSTOMS,
New York, N. Y.:

Senate resolution adopted yesterday directs department to ascertain vessels now in coastwise trade which owners would use in over-sea foreign transportation in present emergency. Communicate with owners such tonnage in your district and wire department reply.

E. F. SWEET, *Acting Secretary.*

Repeat to collector of customs at Boston, Mass.; Philadelphia, Pa.; New Orleans, La.; Baltimore, Md.; Norfolk, Va.; Galveston, Tex.; San Francisco, Cal.; Seattle, Wash.; Los Angeles, Cal.

[Telegram.]

SAN FRANCISCO, CAL., *August 5, 1914.*

SECRETARY OF COMMERCE,
Washington, D. C.:

Relative your telegram vessels coastwise trade which owners would use in over-sea foreign transportation. Replies unsatisfactory, account lack full information. About 10 vessels, oil burners, so far available if fuel obtainable on voyage and terms satisfactory. Owners generally prefer Government charter. Telegram seems indicate private charter, and so indicated in inquiries. Many owners absent. Parties in charge further information before wiring owners for definite instructions.

HAMILTON, *Special Deputy.*

[Telegram.]

GALVESTON, TEX., *August 5, 1914.*

SECRETARY OF COMMERCE,
Washington, D. C.:

Your wire this date. The only steamers in coastwise trade are vessels of Mallory and Southern Pacific Line of New York. No suitable vessels at this port.

PABST, *Collector.*

[Telegram.]

LOS ANGELES, CAL., *August 5, 1914.*

SECRETARY OF COMMERCE,
Washington, D. C.:

Owners following coastwise vessels are willing to engage in over-seas foreign transportation: Steamship *Portland*, owner NY. NO. Line. W. E. Keller, president, Los Angeles; steamships *Navajo*, *Camino*, and *Alvarado*, owners Craig Ship Building Co., Long Beach, Cal.

ELLIOTT, *Collector.*

[Telegram.]

NORFOLK, VA., *August 5, 1914.*

The honorable SECRETARY OF COMMERCE,
Washington, D. C.:

No vessels suitable for over-sea foreign transportation documented in district of Virginia. Several vessels temporarily documented but only representative of such vessels here says question must be answered at New York. All vessels temporarily documented in this district permanently documented at either New York, Philadelphia, or Boston.

HAMILTON, *Collector.*

[Telegram.]

NEW ORLEANS, LA., *August 5, 1914.*

SECRETARY OF COMMERCE,
Washington, D. C.:

Your telegram to-day, only lines American vessels in coastwise trade from New Orleans are operated by Southern Pacific Co. and New York & Porto Rico Steamship Co., both having head offices in New York, where agents here say information asked for must be obtained.

FOSTER, *Collector.*

[Telegram.]

BOSTON, MASS., *August 5, 1914.*

SECRETARY OF COMMERCE,
Washington, D. C.:

Following owners steamships in coastwise trade have vessels available for over-sea foreign transportation: Coastwise Steamship Co., 33 Broad Street, Boston, 6 ships, total tonnage 25,000; John S. Emery & Co., 114 State Street, 6 ships, total tonnage 32,000; Crowell & Thurlew Co., 33 Broad Street, number of ships and tonnage not ascertained; New England Coal & Coke Co., 111 Devonshire Street, 4 ships, carrying capacity total about 28,000 tons, not for sale or charter, but possibly available; Eastern Steamship Corporation is reporting direct to department by messenger.

E. BILLINGS, *Collector.*

[Telegram.]

NEW YORK, *August 5, 1914.*

SECRETARY OF COMMERCE,
Washington, D. C.:

Referring your telegram this date, following coastwise lines offer vessels named for over-sea foreign transportation: Luckenbach steamships *Damara*, *Lewis Luckenbach*, *Lyra*, *Pleiades*, *J. L. Luckenbach*, *Harry Luckenbach*, *D. N. Luckenbach*, *San Mateo*, and *S. V. Luckenbach*; New York & Porto Rico steamships *Brazos*, *Carolina*, and *Coamo*; Old Dominion steamships *Madison*, *Jefferson*, *Hamilton*, *Princess Ann*, *Jamestown*, and *Tyler*. These vessels would require reconstruction as to coal-carrying spaces, their present coal-carrying capacity being about two days' supply. Mallory steamships *Jacinto* and *Mohawk*; Clyde steamship *Lenape*; American-Hawaiian steamship *Philadelphia*.

MALONE, *Collector.*

[Telegram.]

NEW YORK, *August 5, 1914.*

SECRETARY OF COMMERCE,
Washington, D. C.:

Referring your telegram this date, we also submit following vessels in foreign trade which would be available for over-sea transportation: New York & Cuba mail steamships *Saratoga*, *Morro Castle*, *Seguranca*, and *Mexico*, and Panama Line steamships *Ancon*, *Christobal*, *Panama*, and *Colon*.

MALONE, *Collector.*

[Telegram.]

BALTIMORE, MD., *August 5, 1914.*

E. F. SWEET,
Acting Secretary of Commerce, Washington, D. C.:

Answering your telegram of this day, there are 25 steamers operated by Merchants & Miners' Transportation Co.; total estimated cargo capacity, 37,000 cubic tons. This would be reduced about 40 per cent on account of increased space for bunker coal covering return voyage. In addition, steamer *Henry Williams*, capacity about 2,000 tons, operated by Baltimore & Carolina Steamship Co., same conditions as to bunker coal. See letter and blue print mailed to-day.

WM. F. STONE, *Collector Customs.*

TREASURY DEPARTMENT,
UNITED STATES CUSTOMS SERVICE,
BALTIMORE, MD., *August 5, 1914.*

The honorable SECRETARY OF COMMERCE,
Washington, D. C.:

SIR: Confirming my telegram of this date in reference to ocean-going steamers owned at this port, I am inclosing herewith blue prints giving the dimensions, etc., of each steamer owned by the Merchants & Miners' Transportation Co.; also memorandums of gross tonnage of the vessels, etc.

These steamers are used in coastwise transportation for trips lasting three or four days. If used in the foreign trade, considerable of the tonnage space would be required for bunker coal.

Respectfully,

WM. F. STONE, *Collector.*

List of vessels.	Net tons.
Alleghany	1,079
Berkshire	1,433
Cretan	1,651
Dorchester	1,875
Essex	2,155
Frederick	1,309
Gloucester	1,976
Grecian	1,994
Howard	2,278
Indian	1,424
Itasca	988
Juniata	2,537
Kershaw	1,767
Lexington	1,447
Merrimack	1,879
Nantucket	1,767
New Orleans	1,017
Ontario	1,987
Parthian	1,405
Persian	1,890
Powhatan	2,126
Quantico	1,887
Suwannee	2,300
Somerset	2,300
Tuscan	1,642

[Telegram.]

SEATTLE, WASH., *August 5, 1914.*

SECRETARY OF THE TREASURY,
Washington, D. C.:

Your telegram this date. No vessels in coastwise trade here that can be spared for use in over-sea foreign transportation at present.

HARPER, *Collector.*

TREASURY DEPARTMENT,
UNITED STATES CUSTOMS SERVICE,
Port of Philadelphia, Pa., August 6, 1914.

The honorable the SECRETARY OF COMMERCE,
Washington, D. C.

SIR: In accordance with instructions in department's telegram of the 5th instant, I have the honor to report that the shipping interests at this port have been canvassed to ascertain what vessels now engaged in the coastwise trade would be used by them in over-sea foreign transportation. The results to-day are as follows:

The Southern Transportation Co., 608 Bourse Building, owns three vessels, namely, *Algiers*, 1,788 tons net; *William P. Palmer*, 1,609 tons net; *Shawmut*, 1,100 tons net. Of these the *Algiers* is the only one available for service at this time.

The Independent Pier Co., Pier 34, South Wharves, owns two steamers, namely *Mae*, 1,497 tons net, and the *Evelyn*, 1,185 tons net. The president of this company writes as follows in reference to these vessels, namely:

"These two steamers have been out of commission for some months, owing to financial difficulties of the former owners, but they could be put into condition in from two to three weeks time. The vessels were purchased by us only recently, so that no special effort has been made to put vessels in commission."

Chas. T. Magee & Co., 135 South Second Street, advise that they have four schooners, namely, *Charles K. Schull*, 827 tons net; *Josephine*, 842 tons net; *Florence Creadick*, 657 tons net; *David Baird*, 632 tons net, which they can use for any purpose for transportation to any port on either side of the Atlantic Ocean.

The Berwind-White Coal Co., Commercial Building, reports as follows:

"In reply to your letter to us of this date quoting the Senate resolution in regard to coastwise vessels, beg to advise that we do not own any vessel that could be used for this purpose.

"The Havana Coal Co., a subsidiary company of ours, owns two vessels of 8,625 tons capacity, used as colliers, which fact is known by the United States Naval Bureau of Investigation, and they are at present under the English flag."

If any further information is received, the department will be immediately notified.

Respectfully,

H. K. LATHY,
Special Deputy Collector.

[Telegram.]

PHILADELPHIA, PA., *August 7 1914.*

SECRETARY OF COMMERCE,
Washington, D C.:

Philadelphia-New Orleans Transportation Co., this city, have the following steamers which they state can be used in trans-Atlantic trade: *Robert M. Thompson, A. A. Raven,* and *Ruby,* 1,605 net tons each; *Joseph W. Fordney,* 2,297 net tons; and *Lasseli,* 1,225 net tons.

BERRY, *Collector.*

2.32 p. m.

PURCHASE OF VESSELS.

The VICE PRESIDENT. The Chair lays before the Senate a communication, which the Secretary will read.

The Secretary read as follows:

PHILADELPHIA, *August 7, 1914.*

SENATORS AND REPRESENTATIVES UNITED STATES CONGRESS,
Washington, D. C.

SENATORS AND REPRESENTATIVES: The situation the European war has developed makes clear the deplorable dependence of the United States upon shipowners of Great Britain and of European nations. Farmers, manufacturers, miners of coal transportation companies, merchants, bankers, are all much embarrassed by the destruction of established lines of ocean transportation, and all clamor for immediate relief from this dependence upon British and European shipowners, and they must be relieved at once by Congress if industrial transportation and commercial stagnation, death to many worthy people, is to be prevented. I do not propose to discuss the merits of the many plans now proposed for relief, because, in my judgment, all are most inadequate, all palliatives, none remedies, of an intolerable situation that exists; but it is my purpose to make a definite proposal I believe Congress should at once accept, and by prompt enactment of law make the ship policy of the United States one for the general welfare, not for private profit.

A. Congress to appropriate for immediate expenditure by the President and Secretary of Commerce $200,000,000 for purchase of modern steamships, some of 8,000 tons, some of 10,000 tons, some of 12,000 tons, for use in foreign trade. This amount of money would no doubt be adequate for purchase at this time of from 150 to 200 ships of capacity and kind for both passenger and freight business on the several lines of trade now so broken and restore the flag of the United States to a position of power and respect and also save the amount of the proposed expenditure to the producers of the United States.

B. The steamships owned by the United States should be operated by the Department of Commerce of the United States for the general welfare and so the charges for transportation of passengers and freight should be made, by authority of Congress, such as would pay cost of operation and maintenance of the ships and provide a sinking fund that would sink cost of ships within 15 years.

C. These public-owned ships should be run from the several ports of the country the President and Secretary of Commerce deem best for the development of the export and import trade of the country.

At this time it is manifest many British and European shipowners would sell ships of the kind needed at prices fair to both seller and buyer. It is also manifest the American people would approve and indorse at once the expenditure of public money I propose and give most emphatic approval of the policy of public-owned and public-operated steamships. It is also manifest the carrying trade of the United States would be done in American steamships and that the position of the United States in foreign ocean trade would be what all Americans would like it to be. The adoption of this policy would, of course, result in construction of many ships in American shipyards, because purchase of foreign-built ships at this time is only an emergency measure.

I do not send herewith draft of needed bill, because I know many Senators and Representatives of the United States can draft such bill more in accord with the established customs of Congress than I can. I subscribe myself, Senators and Representatives of the United States Congress, with great respect,

Your fellow citizen.

WHARTON BARKER.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House disagrees to the amendments of the Senate to the bill (H. R. 7967) to amend the act approved June 25, 1910, authorizing a postal savings system, requests a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. MOON, Mr. FINLEY, and Mr. SAMUEL W. SMITH managers at the conference on the part of the House.

ENROLLED BILL AND JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolution, and they were thereupon signed by the Vice President:

S. 4628. An act extending the period of payment under reclamation projects, and for other purposes; and

H. J. Res. 288. Joint resolution to amend an act entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war," approved May 2, 1914.

PETITIONS AND MEMORIALS.

Mr. O'GORMAN. I present telegraphic communications from citizens of the United States regarding the pending shipping bill, and ask that they be read.

There being no objection, the Secretary read as follows:

NEW YORK, *August 7, 1914.*

Hon. JAMES A. O'GORMAN,
Washington, D. C.:

The amendment of Senator JONES to the shipping bill now under discussion would, if it became operative, either put our fleet of 26 American-built steamers out of business or force them under a foreign flag. In view of the fact that there are now over 40 American steamers to be applied to the coast-to-coast trade, such legislation is unnecessary, and with such a menace would deter us or anyone else from building any more ships in this country.

AMERICAN HAWAIIAN STEAMSHIP CO.

—

NEW ORLEANS, LA., *August 7, 1914.*

Hon. J. R. THORNTON,
United States Senate, Washington, D. C.:

Referring to pending legislation providing for American registration of foreign-built ships, would strongly urge that provision be made in bill giving right to said ships to engage in trade between Atlantic and Pacific ports of United States, and further giving them right to import free of duty foreign materials necessary for repairs in like manner as American-built ships, contained in section 5 of Panama Canal act.

NEW ORLEANS ASSOCIATION OF COMMERCE.

—

NEW ORLEANS, LA., *August 7, 1914.*

Hon. J. R. THORNTON,
United States Senate, Washington, D. C.:

Following our telegram of yesterday, and referring to pending registration bill giving foreign ships right to register under American flag, we strongly urge that provision be made for these vessels to engage in trade between Atlantic ports and Pacific ports of the United States, and, further, that they be permitted to import free of duty materials necessary for repairs, in line with section 5 of the Panama Canal act granting this right to American-built ships.

NEW ORLEANS BOARD OF TRADE,
J. D. HARDIN, *President.*

—

NEW ORLEANS, LA., *August 7, 1914.*

Hon. JOSEPH E. RANSDELL,
United States Senate, Washington, D. C.:

Referring to pending legislation providing for American registration of foreign-built ships, would strongly urge that provision be made in bill giving right to said ships to engage in trade between Atlantic and Pacific ports of United States, and further giving them right to import free of duty foreign materials necessary for repairs in like manner as American-built ships, contained in section 5 of Panama Canal act.

NEW ORLEANS ASSOCIATION OF COMMERCE.

—

NEW ORLEANS, LA., *August 7, 1914.*

Hon. JOSEPH E. RANSDELL,
United States Senate, Washington, D. C.:

Following our telegram of yesterday, and referring to pending registration bill giving foreign ships right to register under American flag, we strongly urge that provision be made for these vessels to engage in trade between Atlantic ports and Pacific ports of the United States; and further, that they be permitted to import free of duty materials necessary for repairs in line with section 5 of Panama Canal act granting this right to American-built ships.

NEW ORLEANS BOARD OF TRADE,
J. D. HARDIN, *President.*

Mr. JONES. With reference to the telegram from the American-Hawaiian Steamship Co., I wish to say that I have had a similar telegram from them which I inteuded to read. On yesterday morning before I received the telegram I also received a telegram from Mr. D. E. Skinner, one of the lumbermen of the Pacific coast, from which I shall read. It emphasizes the significance of the telegram of the American-Hawaiian Steamship Co. and shows one of the main reasons probably that influence them in their intense desire to prevent the adoption of the amendment. Mr. Skinner says:

Please consider the plight we are in now due to the lack of transportation facilities between the two coasts. The American-Hawaiian Line has only offered a carrying capacity of about 75,000,000 feet annually, and that has been under option to one eastern wholesale lumber concern.

Showing that that company does not offer us any facilities for the transportation of our lumber, and that all the lumber it does transport is transported for one particular firm.

Mr. BURTON. I have three telegrams, two pertaining to the pending bill in regard to a change in our navigation laws, and the other to pending legislation, which I ask to have read.

There being no objection, the telegrams were read, as follows:

SAN FRANCISCO, CAL., *August 7, 1914.*

Senator T. E. BURTON,
Washington, D. C.:

On our British ships we are now paying our officers full American wages. CLARK'S amendment must be changed. It is unworkable. Many men are now idle having master's license that I would not trust with a rowboat. At present utterly impossible to get sufficient number of reliable and trustworthy officers, and we will never consent to send our vessels to sea with incompetent officers, and under such unreasonable conditions we would not change the flag. My suggestion is giving master and officers now on ships privilege of immediate citizenship, and if they decline, then others must be found, so that full complement of licensed officers shall be American citizens. Coast to coast privilege from lumbermen's viewpoint is correct. From coastwise shipowners' viewpoint it should not be allowed. The bill must put us on equal terms with all foreign competitors; otherwise ships will change flags at end of war. Do your very best to make this bill permanent and the Senate will earn the hearty appreciation of the whole Nation.

ROBERT DOLLAR.

SAN DIEGO, CAL., *August 7, 1914.*

Hon. T. E. BURTON,
Senate, Washington, D. C.:

We respectfully urge amending Panama Canal act permitting all foreign vessels irrespective of age to obtain American registers, limiting them to foreign trade only and excluding them from coastwise trade.

RUFUS CHOATE,
President Chamber of Commerce of San Diego County.

CLEVELAND, OHIO, *August 7, 1914.*

Hon. THEODORE E. BURTON,
United States Senate, Washington, D. C.:

The board of directors of the Cleveland Chamber of Commerce earnestly repeats its suggestion that no further legislation disturbing business conditions be acted upon at this session of Congress. The situation brought about by the European war would make any further readjustments, such as would be necessitated by pending legislation, exceedingly unfortunate and untimely.

MORRIS A. BLACK.

Mr. WEEKS. I present a telegram relating to the pending bill from the Fall River Chamber of Commerce, which I ask to have read.

There being no objection, the telegram was read, as follows:

FALL RIVER, MASS., *August 7, 1914.*

Hon. JOHN W. WEEKS,
United States Senate, Washington, D. C.:

The Fall River Chamber of Commerce desires to register with you the same opinion in the same terms as telegraphed to you by the Boston Chamber of Commerce on Wednesday relative to the Underwood bill for the American registration of foreign vessels in the present exigency. The Underwood bill is unsatisfactory and likely to involve the United States. We strongly urge the passage of legislation which will result in an effective and permanent increase in the number of ocean carrying vessels flying the flag of the United States, either by immediately providing Federal aid which will put American steamship lines owned and officered by American citizens on a parity with lines owned and operated by foreign companies or by admitting foreign vessels to American registry only under such conditions as will insure their remaining under the American registry when the present exigency has passed and insure their nationality being respected by the world.

OLIVER S. HAWES, *President.*
WILLIAM A. HART, *Secretary.*

Mr. JONES. I present a telegram which bears on the general tenor of the pending bill, which I ask may be read.

There being no objection, the Secretary read the telegram, as follows:

CASHMERE, WASH., *August 6, 1914.*

Hon. W. L. JONES,
Washington, D. C.:

Present European conflict, with consequent withdrawal of British and German vessels from American commerce, will seriously affect export shipments of fresh apples from United States. Curtailment British and German export business means overplus of production usually absorbed by these countries must be unloaded in this country, all of which will have decided tendency to reduce returns from this fruit to producer. We can not urge too strongly, for these reasons, desirability of providing American registry for foreign vessels.

CASHMERE FRUIT GROWERS' UNION.

Mr. CHAMBERLAIN. In connection with a number of telegrams which have been presented by the Senator from New York [Mr. O'GORMAN] and the Senator from Washington [Mr. JONES], I desire to present two telegrams from the Portland Chamber of Commerce on the subject of American registry of foreign-built ships. I desire that these telegrams may be printed in the RECORD in connection with the telegrams to which I have referred.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

PORTLAND, OREG., *August 3, 1914.*

Hon. GEORGE E. CHAMBERLAIN,
Committee on Foreign Relations, United States Senate, Washington, D. C.:

We are profoundly uneasy about foreign trade prospects as result of European war. Urge everything that will safeguard and establish transportation for our trade with Europe during crisis. We join San Francisco in request that craft owned by American individuals or companies now under foreign flag be permitted to fly the American flag under conditions of measurement, inspection, and crew limitations as will induce the change, provided they engage in foreign trade only. Any good work to protect our trade relations should be supported, as sea carrying situation looks serious.

PORTLAND CHAMBER OF COMMERCE,
A. H. AVERILL, *President.*

PORTLAND, OREG., *August 6, 1914.*

Hon. GEORGE E. CHAMBERLAIN,
United States Senate, Washington, D. C.:

We wish to amend our message of August 3 to provide that craft owned or hereafter acquired by American individuals or companies now under foreign flags be permitted to fly the American flag under conditions of measurement, inspection, and crew as will induce the change, provided they engage in foreign and intercoastal trade. We are adding intercoastal trade, as we consider it fully as important as foreign.

PORTLAND CHAMBER OF COMMERCE,
By A. H. AVERILL, *President.*

Mr. JOHNSON. I present two telegrams, which I ask may be printed in the RECORD, without reading.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

PORTLAND, ME., *August 3, 1914.*

Hon. CHARLES F. JOHNSON,
United States Senate, Washington, D. C.:

Consider proposal to allow foreign vessels to be placed under American flag will work detrimental to American shipping and ruinous to Maine shipping interests. Will appreciate any assistance you can render to prevent such legislation.

J. S. WINSLOW & CO.

PORTLAND, ME., *August 3, 1914.*

Hon. CHARLES F. JOHNSON,
United States Senate, Washington, D. C.:

Resolved, That it is the sense of the board of managers of Portland Board of Trade that any legislation which contemplates conferring the rights and privileges of the American flag upon foreign vessels would be hostile and inimical to the highest interests of American shipping industry.

FRANK M. LOW, *President.*

Mr. WEEKS presented a petition of the Chamber of Commerce of Boston, Mass., and a petition of the New England Shoe and Leather Association, of Boston, Mass., praying that the pending antitrust legislation be postponed until the next session of Congress, which were ordered to lie on the table.

Mr. JOHNSON presented papers to accompany the bill (S. 3425) granting an increase of pension to David H. Hall, which were referred to the Committee on Pensions.

Mr. BURTON presented a petition of the Chamber of Commerce of Cincinnati, Ohio, praying for the enactment of legislation to make common carriers engaged in foreign trade liable for the loss of cargoes, etc., which was referred to the Committee on Commerce.

Mr. PERKINS presented petitions of the Baptist Sunday School of Grimes; of the Westminster Presbyterian Sunday School, of San Francisco; and of the Methodist Sunday School of Mayfield, all in the State of California, praying for the enactment of legislation to provide Federal censorship of motion pictures, which were referred to the Committee on Education and Labor.

GEORGE P. HEARD.

Mr. BRISTOW, from the Committee on Military Affairs, to which was referred the bill (H. R. 2728) for the relief of George P. Heard, reported it without amendment and submitted a report (No. 735) thereon.

SECOND HOMESTEAD AND DESERT-LAND ENTRIES.

Mr. SMOOT. From the Committee on Public Lands, I report back favorably with amendments the bill (H. R. 1657) providing for second homestead and desert-land entries, and I submit a report (No. 732) thereon. I ask for the immediate consideration of the bill. In doing so I wish to say that it provides for a second homestead; and a bill has passed the Senate exactly as we report the House bill from the committee.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendments were, on page 1, in line 3, after the word "entry," to insert the words "or entries"; in line 10, after the word "entry," to insert the words "or entries"; on page 2, lines 3, 4, and 5, to strike out, after the word "entries," the following words: "and that he has not relinquished his former entry or entries for a valuable consideration in excess of his filing fees," so as to make the bill read:

Be it enacted, etc., That any person, otherwise duly qualified to make entry or entries of public lands under the homestead or deesrt-land laws, who has heretofore made or may hereafter make entry under said laws, and who, through no fault of his own, may have lost, forfeited, or abandoned the same, or who may hereafter lose, forfeit, or abandon same, shall be entitled to the benefits of the homestead or desert-land laws as though such former entry or entries had never been made: *Provided*, That such applicant shall show to the satisfaction of the Secretary of the Interior that the prior entry or entries were made in good faith were lost, forfeited, or abandoned because of matters beyond his control, and that he has not speculated in his right nor committed a fraud or attempted fraud in connection with such prior entry or entries.

The amendments were agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. SMOOT. I ask that the report accompanying the bill may be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered.

The report is as follows:

SECOND HOMESTEAD AND DESERT-LAND ENTRIES.

Mr. SMOOT, from the Committee on Public Lands, submitted the following report, to accompany H. R. 1657:

The Committee on Public Lands, to which was referred the bill (H. R. 1657) providing for second homestead and desert-land entries,

having had the same under consideration, beg leave to report it back to the Senate with the following amendments:

Page 1, line 5, after the word "entry," insert the words "or entries."

Page 1, line 10, after the word "entry," insert the words "or entries."

Page 2, line 3, after the word "entries," strike out the comma and insert a period, and also strike out the following: "and that he has not relinquished his former entry or entries for a valuable consideration in excess of his filing fees."

As thus amended the committee recommend that the bill do pass.

The legislation provided for in this bill is identical with that contemplated in S. 2068, which passed the Senate February 12, 1914.

The Department of the Interior approves of this measure, as evidenced by letters from the department to the Committees on Public Lands of both the House and Senate, and which are found in House Report No. 766 of June 4, 1914, reference to which is hereby made.

NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS.

Mr. CHAMBERLAIN. From the Committee on Military Affairs I report back favorably with an amendment the joint resolution (H. J. Res. 241) for the appointment of four members of the Board of Managers of the National Home for Disabled Volunteer Soldiers, and I submit a report (No. 734) thereon.

Mr. BURTON. I should like to ask the Senator from Oregon a question in regard to the joint resolution. I understand that some persons favoring the retention of the present members of the board asked a hearing of the Committee on Military Affairs, particularly to maintain the contention that there were no vacancies on the board of managers. I should like to ask if any such request has come to the Military Committee; and if so, whether such a hearing was granted?

Mr. CHAMBERLAIN. I do not recall any such request. There was a request from the Senators from Indiana to be heard, and they were advised when a meeting was to be held and one of them was present. That was the only hearing I heard mentioned in connection with the matter.

I will say to the Senator from Ohio, if there is any question about it, and if there are Senators or others who desire to be heard, I would be very glad to have the joint resolution rereferred to the committee, because there was no disposition or desire on the part of the committee to exclude anyone from a hearing. As a matter of fact, as reported, it is just as it passed the House, with one change in the personnel. The name of George H. Wood, I believe, was stricken from the joint resolution and the name John C. Nelson, a former member of the board, was inserted.

Mr. BURTON. Wood, I believe, was a Spanish War veteran?

Mr. CHAMBERLAIN. Yes.

Mr. BURTON. Is Nelson a Civil War veteran or a Spanish War veteran?

Mr. CHAMBERLAIN. Nelson is a Civil War veteran, and he was a former member of the board. His name was substituted for that of a younger man, I think possibly a Spanish War veteran. I am not sure about it, but I think Nelson is a Civil War veteran.

Mr. BURTON. I desire to say that I should like to be heard at the time when the joint resolution is reached upon the calendar. There is a question, I think, as to the existence of a vacancy which should be carefully considered.

Mr. CHAMBERLAIN. I wish to say to the Senator that if he prefers to have the joint resolution go back to the committee, I am sure the committee will be glad to have that action taken; but if it suits the Senator's purpose just as well to discuss the resolution here, I think it would be better to do so, because the matter ought to be disposed of as soon as possible.

Mr. BURTON. I will say that if the joint resolution is not to be taken up in my absence, and a reasonable time is given for its consideration, I am entirely willing that it should go to the calendar, but I do desire to give some examination to the question and also to be present when the resolution is considered.

The VICE PRESIDENT. The joint resolution will be placed on the calendar.

PUBLIC BUILDING AT CLAREMONT, N. H.

Mr. SWANSON. I report back favorably, with an amendment, from the Committee on Public Buildings and Grounds, the bill (S. 1693) to provide for the purchase of a site and the erection of a public building thereon at Claremont, in the State of New Hampshire, and I submit a report (No. 733) thereon.

Mr. GALLINGER. Mr. President, this is a matter of considerable urgency. It will take but a moment to pass the bill, and I ask unanimous consent for its present consideration. I think there can be no objection to it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment was, on page 1, line 12, after the words "sum of," to strike out "$75,000" and in lieu thereof to insert "$100,000," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site and cause to be erected thereon a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, and approaches, for the use and accommodation of the United States post office and other Government offices in the city of Claremont and State of New Hampshire, the cost of said site and building, including said vaults, heating and ventilating apparatus, elevators, and approaches, complete, not to exceed the sum of $100,000.

Proposals for the sale of land suitable for said site shall be invited by public advertisement in one or more of the newspapers of said city of largest circulation for at least 20 days prior to the date specified in said advertisement for the opening of said proposals.

Proposals made in response to said advertisement shall be addressed and mailed to the Secretary of the Treasury, who shall then cause the said proposed site and such others as he may think proper to designate to be examined in person by an agent of the Treasury Department, who shall make written report to said Secretary of the results of said examination and of his recommendation thereon and the reasons therefor, which shall be accompanied by the original proposals, and all maps, plats, and statements which shall have come into his possession relating to the said proposed sites.

The building shall be unexposed to danger by fire by an open space of at least 40 feet on each side, including streets and alleys.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. JOHNSON:

A bill (S. 6231) granting a pension to Cecil D. Moody (with accompanying papers);

A bill (S. 6232) granting an increase of pension to James H. Clark (with accompanying papers);

A bill (S. 6233) granting an increase of pension to John Deering (with accompanying papers);

A bill (S. 6234) granting an increase of pension to John F. Thomas (with accompanying papers);

A bill (S. 6235) granting an increase of pension to Theodore P. Thompson (with accompanying papers);

A bill (S. 6236) granting an increase of pension to Joseph C. Townsend (with accompanying papers);

A bill (S. 6237) granting an increase of pension to Francis C. Wood (with accompanying papers);

A bill (S. 6238) granting a pension to Marie A. Berry (with accompanying papers);

A bill (S. 6239) granting a pension to Augusta A. Crommett (with accompanying papers);

A bill (S. 6240) granting a pension to Ella V. Jones (with accompanying papers);

A bill (S. 6241) granting a pension to Augustus W. Moody (with accompanying papers);

A bill (S. 6242) granting an increase of pension to Fred F. Harris (with accompanying papers); and

A bill (S. 6243) granting an increase of pension to Nelson E. Haskell; to the Committee on Pensions.

By Mr. SHIELDS:

A bill (S. 6244) authorizing and permitting John R. Sanders, his successors and assigns, to build and maintain a dam and water-power development in and across Holston River, in Hawkins County, State of Tennessee; to the Committee on Commerce.

By Mr. SMITH of Arizona:

A bill (S. 6245) authorizing a report upon the feasibility of constructing the Colorado River Indian irrigation project; to the Committee on Indian Affairs.

JOINT COMMITTEE ON MERCHANT MARINE.

Mr. WEEKS. Mr. President, I introduce a joint resolution, which I should like to have read.

The joint resolution (S. J. Res. 174) providing for the appointment of a joint committee of the Senate and House of Representatives to consider advisability of additional legislation to increase the number of bona fide American vessels, was read the first time by its title and the second time at length, as follows:

Whereas the necessity of maintaining a transocean service under the American flag which will continue the prompt delivery of passengers, mail, and freight, whatever may be the prevailing conditions; and

Whereas the legislation which has been proposed or adopted is admitted to be either temporary or makeshift in its character, or will be in its effect; and

Whereas the urgent and immediate requirement is such a modification in our laws, policies, or methods as will bring about a permanent increase in bona fide American vessels through a consistent building or other policy which will result in American-owned ships, flying the American flag, under American officers, manned by American seamen; and

Whereas this should be a great national policy, devoid of partisanship: Therefore be it

Resolved, etc., That a nonpartisan joint committee, consisting of six Senators and six Representatives, be appointed by the presiding officers of the Senate and House of Representatives, who shall at once take this subject under consideration and report at the earliest day what additional action, if any, can be taken to carry out the purposes of this resolution.

Mr. WEEKS. Mr. President, I should like to have the joint resolution which has just been read referred to the Committee on Interoceanic Canals. I am well aware that this whole subject has been thrashed out by a very competent commission, but my purpose in introducing the joint resolution is to call attention to the fact that the legislation which we are about to adopt is more or less of a temporary character, and that there may be further steps which can be taken which will thoroughly establish a permanent policy of building up our merchant marine.

I am and will be quite content if the Committee on Interoceanic Canals of the Senate and the Committee on Commerce of the other House are to consider this matter further, but I have been fearful that, having considered and passed one bill, they might not take further action. I am confident that this is the time when further study and consideration should be given to this question. Therefore I hope in having the joint resolution referred to the Committee on Interoceanic Canals that that committee will take up the matter and either report it out or take such further action as they may consider desirable in promoting the purposes of it.

Mr. SIMMONS. Mr. President, I am not going to oppose the reference of the joint resolution to the Committee on Interoceanic Canals, although clearly it is a matter that, under ordinary circumstances, ought to go to the Committee on Commerce. The bill that we have been considering, known as the shipping bill, properly, of course, belonged to the jurisdiction of the Commerce Committee, but as it was almost exclusively confined to amending the Panama Canal act, it was thought best that it should go to the Interoceanic Canals Committee instead of the Commerce Committee. As this joint resolution deals with the same subject, I think probably it ought to go to the Interoceanic Canals Committee, so that one committee may deal with both of these propositions.

I am saying this because I do not want to seem, as a member of both of these committees, to agree to such a reference without stating the peculiar circumstances of the case as a justification for what I regard as an improper reference of this joint resolution.

The VICE PRESIDENT. The joint resolution will be referred to the Committee on Interoceanic Canals.

RIVER AND HARBOR APPROPRIATIONS.

Mr. CHAMBERLAIN submitted an amendment intended to be proposed by him to the river and harbor appropriation bill, which was ordered to lie on the table and be printed.

LONGEVITY PAY IN THE ARMY (S. DOC. NO. 562).

Mr. GALLINGER. Mr. President, I have a very carefully prepared paper on longevity pay based upon service in the Army, a matter that has engaged the attention of Congress, and will engage it in the future. I ask unanimous consent that the paper may be printed as a public document.

Mr. OWEN. We could not hear the request on this side of the Chamber.

Mr. GALLINGER. I have a paper in reference to longevity pay based upon service in the Army. It is a question that has been debated here and will be again debated, and I simply ask that the paper may be printed as a public document.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

THE MERCHANT MARINE.

Mr. SHIVELY. Mr. President, I have a copy of a communication made by Melville W. Mix, president of the Dodge Manufacturing Co., of Mishawaka, Ind., to the publication known as "Mill Supplies," Chicago. The article bears on the subject of merchant marine, is pertinent to the bill now pending, and indicates the temper and feeling of an increasing number of our business men in relation to the subject. There is also before me a copy of an editorial appearing in the New York Commercial bearing on the same subject and treating the question with rare intelligence and discrimination. I ask unanimous consent of the Senate to insert these two articles in the RECORD at this point.

The VICE PRESIDENT. Is there any objection? The Chair hears none, and it is so ordered.

The articles are as follows:

To "mill supplies"—Chicago:

The remainder of 1914 ought to produce a very active business in all lines. All normal prophecies are more or less upset by the extraordinary conditions which may be developed by the European war. No parallel situation has ever existed in modern times. If the people of the United States will keep cool and take advantage of the inevitable opportunities of this time, nothing can prevent us from being the conservative provider and banker for the remainder of the world, regardless of whether these nations may be engaged in conflict or not. A foundation will be built such as will not in many generations be disturbed. The warring countries will be many years in restoring business relations; we will be, in fact, the world's clearing house, as by all God-giving right we are intended and entitled to be; our national resources and wealth will make us the world's headquarters for all commodities of world-wide consumption; we will sell less raw and semifinished products and produce more of the higher standard of commodities, carrying the higher wages and greater profits.

The tremendous losses and expenses due to the war and the restoration of armament of these countries will increase taxes in all of the involved countries; their labor supply will be sadly depleted and those who are spared will require better pay; their production costs will increase and their manufacturers and merchants will no longer be underbidding us in the world's markets. Their wastes must be absorbed and they must earn the extra money to meet the losses.

Will the United States grasp this situation, take its proper position in the field, and thereby profit as it will never again have such a chance to do? I think it will.

I have too much confidence in our composite enterprise and reputation for progressive conservatism to believe that we will do otherwise. We will relegate to the rear all of our fads, isms, alleged unrest, etc., and accept with cheer the task now set before us and work like one Nation, one being, to perform the world's service that now seems to be our lot.

You ask what of 1914: It is up to us to make it what we will. It looks fine now; it may even look better later. God has blest us with immense crops and the opportunity is here to realize upon it at a highly advanced figure over any ordinary possibility. Merchandise stocks are low and must be quickly replenished. We must conserve for the benefit of the world, however—but there is one large "if" which, were it a reality now, as it will no doubt now be very soon, would earn its cost many times over and annihilate years in reaching the destined goal that is intended for this great American country, and that is—a merchant marine. If we only had it now! What could stop us?

Can there be any doubt now of its value or need? Can there be any reasonable argument against the wisdom or necessity of our absolute independence in this great form of world-wide communication and transportation? How we may get it does not matter. We must get it by all means, and now. The powers that be at Washington have a great opportunity. Will they respond?

—

[Copy of editorial from the New York Commercial, August 3, 1914.]

THE CHANCE OF THE HOUR.

In a great crisis, such as now impends, extraordinary remedies must often be resorted to, even when they may inflict losses on an innocent minority. The greatest good to the greatest number justifies President Wilson and Congress in so changing the navigation laws of this country that we may be able to ship our surplus foodstuffs and other necessaries of life to Europe when vessels flying the flags of the great powers of that continent dare not venture out of home or neutral ports.

General war in Europe this year means untold suffering for millions who already face famine. The grain crops in Germany have been almost ruined by rainstorms in the harvest season, and the scanty yield of the Danube Valley will be wasted under the hoofs of war horses. Great Britain, after completing her harvests, will have food for less than three months, and France will not be self-supporting. Russia's grain will be unavailable, just as it was in the days of the Crimean War, when wheat rose to about $3 a bushel at the Atlantic ports of the United States.

We can not stand this loss of trade and money ourselves, and we can not sit by and see others starve while we have food in abundance. It would be better to buy every ocean-going vessel in our coastwise trade at a fair valuation and give it to whoever would navigate it than to lose the chance of securing enough steamers from all available sources to carry on our trade with Europe. We had to give up most of our ocean shipping to Europe at a sacrifice when our Civil War let loose a swarm of privateers, and we can now regain a substantial part of our former importance and prestige if Congress shows statesmanship and common sense.

America can quickly and easily become the money center of the world as well as the chief source of food supplies and many lines of merchandise. Capital will flow to us, because we are safer from the perils of war, and, with the money markets of Europe closed to foreign borrowers, we can establish relations with Canada, all Latin America, Australasia, and the Far East that will remain strong and close after peace comes again to exhausted Europe. As bankers for the world this country should grow as invincible financially as it is now from a military standpoint.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following act:

On August 8, 1914:

S. 23. An act for the relief of Clara Dougherty, Ernest Kubel, and Josephine Taylor, owners of lot No. 13, and of Mary Meder, owner of the south 17.10 feet front by the full depth thereof of lot No. 14, all of said property in square No. 724, in Washington, D. C., with regard to assessment and payment for damages on account of change of grade due to the construction of Union Station, in said District.

POSTAL SAVINGS BANK FUNDS.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 7967) to amend the act approved June 25, 1910, authorizing a Postal Savings System, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BRYAN. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. SWANSON, Mr. BRYAN, and Mr. BRISTOW conferees on the part of the Senate.

MAY STANLEY.

Mr. BRYAN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1644) for the relief of May Stanley, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment numbered 2.

That the Senate recede from its disagreement to the amendment of the House numbered 1, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "$3,000"; and the House agree to the same.

N. P. BRYAN,
COE I. CRAWFORD,
Managers on the part of the Senate.

EDWARD W. POU,
GEORGE C. SCOTT,
Managers on the part of the House.

The report was agreed to.

REGISTRY OF FOREIGN-BUILT VESSELS.

Mr. O'GORMAN. I ask unanimous consent that the Senate resume the consideration of the so-called shipping bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 18202) to provide for the admission of foreign-built ships to American registry for the foreign trade, and for other purposes.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Delaware [Mr. SAULSBURY] to add a new section to the bill, to be known as section 4.

Mr. WEEKS. Mr. President, as it will be necessary for me to leave the city very shortly, I want to take the time now—and I hope I may have the attention of the Senate for 5 or 10 minutes—to discuss not the amendment which is now pending, but the amendment which has been offered by the Senator from Washington [Mr. JONES], which, in a word, provides that this bill may be so extended in its provisions that foreign vessels may be used in the carrying trade between the Atlantic and Pacific coasts.

Mr. President, I am confident that that is a proposition which, if it is going to be considered at all, should be considered on its merits separately rather than in connection with this emergency legislation. We are in the midst of a very difficult and trying situation, and every attempt is being made to put ourselves in a position where we may provide for our citizens such emergency facilities as will enable them to meet the pressing needs of the hour.

The amendment proposed by the Senator from Washington has nothing whatever to do with the situation, so far as our foreign trade is concerned. It is a proposition to change our coastwise laws; and I hope Senators will bear in mind that while they are considering an emergency proposition relating to our foreign trade, we are asked to change those laws which have been in effect for more than 100 years.

As an emergency proposition, as it stands to-day I approve of what is being done, although there is grave doubt in my mind whether we are not going to get ourselves into trouble as the result of the legislation which is now pending. I hope we will not; I hope it will bring about some results which will be beneficial to our people; but now we are asked, in addition to that, to make an entering wedge in an effort to change our coastwise laws which, as I have said, have been in operation for more than 100 years.

It may be true that our coastwise laws should be changed; that is a matter for discussion and debate. In my judgment they have been wise and salutary, and we are now in a position where we may be able to help our trans-Atlantic trade as a result of our coastwise laws, because we have a large number of vessels in that service which may be used for this purpose. If we had not protected our coastwise service, quite likely that trade would be in the same condition that our foreign trade is in to-day. Therefore I am opposed to making any change in our coastwise laws under any circumstances; but I do say that if we are going to change this great national policy which has been in operation for more than a century, it should be done as the result of a deliberate proposition which should be brought into the Senate and carefully considered on its merits, without any regard to the emergency legislation which is now pending.

Mr. GALLINGER. Mr. President——

Mr. WEEKS. I yield to the Senator.

Mr. GALLINGER. A few days ago, Mr. President, I offered a resolution, which was agreed to, asking the Secretary of Commerce to make inquiry and to report to the Senate the number of vessels in the coastwise trade that were available for overseas commerce. That report has come in this morning, and I have asked that it be printed in the RECORD. I trust Senators will read it. I have hurriedly counted up the number of vessels which the Secretary of Commerce finds available in a few of the larger ports, and they are 97 in number.

Mr. CHAMBERLAIN. May I interrupt the Senator just a moment?

Mr. WEEKS. Certainly.

Mr. CHAMBERLAIN. Can the Senator see any reason why foreign-built ships registered in the United States may not be permitted to engage in the coastwise trade? As conditions exist on the Pacific coast now, one of the principal industries of the Northwest, namely, the lumber business, is at a very great disadvantage in competition with the lumber business of British Columbia. For instance, as was shown by some of the telegrams that were read by the Senator from Washington [Mr. JONES] the other day, a British-owned vessel sailing from Vancouver, British Columbia, with a load of lumber, manned cheaper, sailing cheaper, and handled very much cheaper, passing through the Panama Canal under the same terms as an American registered vessel, can unload lumber at Atlantic ports very much cheaper than a vessel starting out from Seattle, Wash., or from Portland, Oreg.

We of the West can not see why vessels bought from some foreign country and given an American registry should not be permitted to engage in that traffic, so as to put the people of our northwest territory in the same position, at least, as the British people are placed in with reference to the transportation of this important product.

Mr. WEEKS. Mr. President, I have no doubt that the Senator from Washington and the Senator from Oregon are sincere in their desire to furnish a better market for their products, but that is a matter that ought to be considered from every standpoint before we change this great national policy. I am not convinced that the carrying capacity of 75,000,000 feet annually, which, as was suggested in the telegram read by the Senator from Washington to-day, is available, will not be sufficient to carry all the lumber which the Pacific coast will have for shipment to the Atlantic coast.

I know something about the Pacific coast lumber business; I have had some interest there; I have a collateral interest there now; and I know that the market which the average lumberman on the Pacific coast finds is in the interior. Very frequently, when times are good in Saskatchewan and Alberta, he ships into those Canadian Provinces.

I do not know how much lumber will come from the Pacific coast to the Atlantic coast as a result of the building of the Panama Canal; but if the Pacific coast is going to be embarrassed in that trade I am quite willing—and I am confident that Congress will be quite willing—to take that question up and consider it on its merits. I do not think, however, that it should be injected into this emergency legislation now pending.

Mr. CHAMBERLAIN. May I interrupt the Senator once more?

Mr. WEEKS. Certainly.

Mr. CHAMBERLAIN. I do not understand if foreign ships are permitted to come under American registry and are permitted to engage in the foreign traffic that there will be any change at all in the coastwise-shipping laws. Permission will simply be granted to foreign-built ships registered as American ships to engage in the coastwise trade on the same terms as American vessels; that is all. The management of the ships will not be changed at all.

Mr. WEEKS. Mr. President, it may develop that the suggestion which is being made is desirable. It may, I say; but if it is desirable to use such ships for the purpose of transporting lumber from the Pacific coast to the Atlantic coast, an argument may be made that it would be desirable to use the same class of

shipping in transporting cotton from the State of Texas to the northern mills. I understand that there are something like 4,000,000 bales of cotton raised in the State of Texas, which is very largely taken to New England and manufactured there. If it is desirable to use foreign ships for the purpose of transporting lumber from one coast to another, the people who are interested in the cotton trade may properly say it is desirable to use foreign ships to transport cotton from Texas to Massachusetts; and others may say, I believe, with equal force, that it is desirable to use foreign ships to transport coal from Norfolk to New England, or to do very much of the other larger and more bulky business which is carried on in our coastwise traffic.

Therefore, Mr. President, it seems to me that this question is so large, and is so important to this great interest which has been developed as a result of 10 years of industry, and which is to-day in a reasonably prosperous condition, but which, in my judgment, will be destroyed if we admit foreign ships, that it ought to be considered on its own merits without any regard to this legislation.

Mr. McCUMBER. Mr. President——

Mr. WEEKS. I yield to the Senator from North Dakota.

Mr. McCUMBER. One of the great purposes of the pending bill is to secure ships that may engage in foreign commerce.

Mr. WEEKS. That is the great purpose.

Mr. McCUMBER. Yes; that is the one purpose. I assume, however, that there will have to be some inducement to cause American citizens to purchase these foreign vessels. I fear they would not purchase vessels for a temporary trade in foreign commerce, which will place them, as soon as the war is over, at a disadvantage, because of our shipping laws, unless they can use those ships afterwards in the coastwise trade. Ought there not to be some provision that any of the ships that may be purchased at the present time to engage in foreign commerce may engage in the coastwise trade whenever the conditions become normal again?

Mr. WEEKS. Mr. President, I am not in favor of that, and I do not think it is desirable.

Mr. WEST. Mr. President——

Mr. WEEKS. I yield to the Senator from Georgia.

Mr. WEST. Could the ships that may be purchased ply between New York and San Francisco, through the Panama Canal, under the terms of this bill?

Mr. WEEKS. I do not think they could under the terms of this bill, but they could under the terms of the amendment which has been offered by the Senator from Washington. That is what I am opposing.

Mr. SAULSBURY. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Delaware?

Mr. WEEKS. I yield to the Senator from Delaware.

Mr. SAULSBURY. I only desire to ask the Senator if he heard the statement which I was authorized to make yesterday by a prominent and reputable attorney of this city? He told me that he had been informed on the long-distance telephone by some of his clients who are large shipowners, and who are engaged in trade on both the Atlantic and the Pacific, that if the amendment I have proposed to this bill is adopted, which allows foreign-built ships to be registered here and to make voyages through the Panama Canal, but not otherwise to be employed in the coasting trade, there will be an immediate application by them for registration of a substantial number of ships; and I have reason to believe that that statement is true. Now, of course, that gives the ships the right to trade through the Panama Canal in interconstal service, but not to engage generally in the coastwise trade.

Mr. WEEKS. Let me ask the Senator if he understands that those are ships now owned by American citizens and flying a foreign flag, or whether they are ships that are to be purchased under the provisions of this bill and given an American registry?

Mr. SAULSBURY. My understanding was that they were ships owned by Americans and now sailing under a foreign flag.

Mr. WEEKS. Mr. President, there is no question about that, and that is not affected by the contention which I am making. There are several lines of steamers—the United Fruit Co., the Plant Line, what is known as the Provence Line, the Red Star Line, and several other lines, I think—which are owned by American citizens but are sailing under a foreign flag. If this bill is passed in its present state, I have no doubt that they will immediately transfer to an American registry, which they can easily do, and I think it is desirable that that should be done. That is one of the reasons why I am in favor of this legislation, notwithstanding the fear I have that it may get us into trouble.

Mr. SAULSBURY. May I ask the Senator whether his objection goes to these vessels being permitted to engage in voyages which require passage through the Panama Canal or whether his objection goes generally to their entering into the coastwise trade proper?

Mr. WEEKS. I have no objection at all to the proposition which the Senator from Delaware is discussing. What I am objecting to is purchasing foreign vessels which, as soon as the emergency is over, shall be transferred to the coastwise service.

Mr. SAULSBURY. I have a great deal of sympathy with the point of view of the Senator from Massachusetts, because I think I know something about the coastwise trade by reason of the shipbuilders in my immediate neighborhood, who have frequently talked to me on this subject. I also sympathize with the purpose of the resolution which has been introduced, and I hope at the proper time it will be adopted.

Mr. WEEKS. I want to say just a final word, and to say it with all the emphasis of which I am capable. This question is so important to a great national interest, it is so important to certain sections of this country which are engaged in this trade, that it ought not to be considered at this time in this haphazard way as an amendment to an emergency bill which will enable us to carry out our obligations to our citizens in connection with the foreign trade. That is the point I want to make.

If anybody wishes to introduce a bill to-morrow and ask consideration for it at this session of Congress or any other session, so as to enable us to discuss the merits of the coastwise trade and of our manner of conducting it for the last century, I am quite ready to admit that that is a practical and a proper method of approaching this important question. Otherwise, just the minute you let the bars down as far as traffic from the Pacific to the Atlantic coast is concerned, you are furnishing an argument to let down the bars to that traffic in other directions; and you will live to see the day, in my judgment, and not very far distant, when American coastwise shipping will be a thing of the past. That is something that you ought to consider in connection with this amendment.

Mr. CHAMBERLAIN. Mr. President, may I interrupt the Senator for just a moment further?

Mr. WEEKS. Certainly.

Mr. CHAMBERLAIN. I will ask the Senator if he does not believe it to be a fact that if this bill passes now, practically the only foreign-built vessels that will be admitted to American registry will be the ships of the Standard Oil Co., which they have patriotically gone abroad to have built, and the ships of the United Fruit Co., who have gone abroad and had their ships built in foreign shipyards; and, now, because they can not operate them during the pendency of the war, they would come over here and register their foreign-built ships under the American flag, so as to be protected by the American Government? In other words, I desire to ask the Senator whether he believes there will be any foreign-built ships actually bought by any American citizens, and their capital invested in them, except those that are already owned by American people?

Mr. WEEKS. Mr. President, as to the ships to which the Senator from Oregon has referred, I am willing to assume, although I do not know, that some of them were built abroad. I know that some of them were built in this country. Certainly the United Fruit Co. has had a considerable part of its shipping built in the United States; so the Senator's statement is not correct as far as that company is concerned. It may be true, also, of the Standard Oil Co. I do not know where their ships were built. I wish to inquire of the Senator from Oregon if he knows where they were built?

Mr. CHAMBERLAIN. I understand that only a very small proportion of them were built in the United States. I am frank to say that I have not examined the record; but can the Senator say why the United Fruit Co. has its ships under British registry instead of under the flag of its own country?

Mr. WEEKS. They do it because the ships can be operated cheaper in that way.

Mr. CHAMBERLAIN. And now they want to come back here in order that they may be protected by the United States Government?

Mr. WEEKS. They do. The stock of the United Fruit Co. is owned by American citizens, every dollar of it, as far as I know, and why should not we protect American capital? This is exactly what we are trying to do.

I will say frankly to the Senator from Oregon that as far as I am personally concerned I would not put a dollar into foreign shipping under the provisions of the bill. I think it would be an extremely hazardous investment, and only the great chances of receiving large rates are going to induce any American citizen to take advantage of the provisions of the bill. If I

were to put any money into shipping, I would put it into that shipping that is less than 5 years old, which I can do under the present law, rather than buy old junk.

Mr. CHAMBERLAIN. I will say to the Senator that I am not opposing the Standard Oil ships or the ships of the United Fruit Co. or the ships of any of these other companies coming to the United States. I am glad to have them driven back to patriotism by the war, if need be, and to have them come back home. I am willing to admit them here. It does seem to me, however, that while we are doing that we ought to open up the intercoastal trade, at least, to the ships that come back here and register as American ships.

Mr. WEEKS. Mr. President, I hope in this emergency the Senators from the Pacific coast, the Senator from Oregon, and the Senator from Washington will forget the selfish interest—and it is a selfish interest—which they represent in the lumber trade of that coast, and try to treat this question as a great national question, rather than the local possibility of getting some product to market by the subterfuge of putting on an emergency bill relating to foreign commerce an amendment which will break down our coastwise trade.

Mr. CHAMBERLAIN. But the Senator admitted, a while ago, that this was not a local question pertaining to the northwest coast alone. The Senator has shown that it might apply to the cotton-producing section of this country, and these ships might be made to ply between ports on the Atlantic coast as well as between ports on the Pacific coast. It is not a local question. It is not a selfish question. It is a national question, it seems to me.

Mr. WEEKS. But, Mr. President, nobody has asked for this amendment or for this legislation except the Senators from Oregon and Washington. The Senator from Ohio has had read to-day from the desk a telegram from San Diego opposing this legislation; and if the question of changing our coastwise laws were the one under consideration, not the question of providing emergency transportation to European ports, I believe the Senator from Oregon would find a decided opposition from all sections of the country to breaking down this national policy.

Mr. CHAMBERLAIN. I call the Senator's attention to one of the protests that was filed here this morning. One of these protests was filed by a shipowner who now has a number of his ships under British registry and doing business from Vancouver, British Columbia, to New York, and yet he also has a line of ships doing business between San Francisco and Portland and Seattle, doing strictly an American business; and at the same time he is taking advantage of the British registry law to compete with his own ships, or practically to keep out independent lines on the Pacific coast. I think another protest which was read here was from shipowners similarly situated.

Mr. WEEKS. I have no desire to reflect on what I have termed a selfish interest. Quite likely there are others, and many of them, which would be glad to benefit by the great emergency which we are facing. If they had time to do it, I have no doubt they would have injected here any number of schemes which would help out this interest or that interest; but let us consider these matters on their merits, and not in connection with the legislation which was originally introduced.

Mr. OWEN. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator From Oklahoma?

Mr. WEEKS. Yes.

Mr. OWEN. I should like to know what the Senator thinks really ought to be done in this emergency. I do not thoroughly understand the question myself. The Senator has been living on the coast, and I think he could give us some points of interest and of value.

Mr. WEEKS. Such argument as I have been making for the last few minutes, or trying to make, has been in opposition to any change in our coastwise laws under the present conditions, hoping that if there is to be a change made it will be fully considered and carefully debated by the Senate as a separate proposition. I introduced to-day a resolution, which has gone to the Committee on Interoceanic Canals, calling attention to the fact that I believe further action can be profitably taken in connection with our merchant marine.

I am not prepared to say offhand what I think can be done, but I think this is the opportunity of a lifetime for the American Nation to develop its foreign trade, and that that is the question which should be given the most careful consideration during the continuance of this session of Congress. I have introduced that resolution, of course, without any reflection upon any committee or anyone else, but with the hope that it would call attention to the necessity for further consideration of the whole subject.

I have not time to say anything more, and it is not necessary; but I do sincerely hope that the coastwise shipping will be left intact until the coastwise trade is considered upon its merits as a separate proposition.

Mr. WALSH. Mr. President, when the Panama Canal tolls bill was under consideration the distinguished senior Senator from the State of New York [Mr. ROOT] made an argument which attracted very profound attention in this Chamber, in the course of which he maintained that shipping engaged in commerce between the ports of the Atlantic and the ports of the Pacific was not engaged in the coastwise trade at all; that it was actually engaged in the over-seas trade. Although that argument, in my judgment, could not be sustained if made upon the basis of our existing law, which it seems to me clearly defines traffic of that character as coastwise traffic, if we dismiss from consideration the arbitrary provisions of our law, I do not see how the argument of the distinguished Senator can in reason be answered. The traffic between these ports is really over-seas traffic.

It was likewise disclosed in the course of the hearings upon that bill that if the advantage of no tolls was not given to the coastwise shipping, the lumber industry and other industries of the northwest coast, indeed of the entire west coast, would be put at a most decided disadvantage; that the lumber interest, particularly of the State of Washington, would suffer, and the lumber interest of British Columbia, adjacent to it, would profit, because the lumber of the Washington ports, for instance, could be carried to the Atlantic ports only in American ships, while the lumber of British Columbia could be carried from British Columbian ports to Atlantic ports in English ships or in any other ships which could be operated at a very decidedly less cost.

Mr. WEST. Mr. President——

Mr. WALSH. If the Senator will pardon me for a moment, until I complete the statement, the traffic in that form would give a decided advantage to them. Furthermore, those interests are obliged to rely, as I have indicated, exclusively upon American shipping for the transportation of their products. We have adopted that policy, and we have put them at the disadvantage which everybody must conceive exists.

Not only that, Mr. President, but now these American ships which could engage in the transportation of these products from the American Northwest to the Atlantic ports will be drawn out of that business in order to meet the exigencies that confront us in respect to over-seas trade. So an additional disadvantage will accrue to these interests of the Northwest in consequence of the present emergencies that confront us, and it does seem to me that the people of the Northwest are asking very little at the hands of Congress when they say to us that they would like to have the President given the power to suspend the act confining trade from Pacific ports to the Atlantic ports to American ships while the existing emergency shall obtain. They are suffering because of the existing conditions in respect to trade traffic just exactly the same as are the ports of the Atlantic, and it does seem to me that in consequence of these reasons the amendment offered by the Senator from Washington ought to receive favorable consideration of this body.

I yield to the Senator from Georgia.

Mr. WEST. Mr. President, I do not see how the distinguished Senator from Montana can make the declaration he does in reference to the transportation of lumber. If I understand the laws governing the transportation of lumber, the ships of British Columbia and of the State of Washington or Oregon, as the case may be, are put on an equal footing now with other ships in crossing the Isthmus. The cost of crossing the Isthmus without the canal is about $3 a ton, and there is a detention on an average of about 12 days. How the building of the canal, when the cost will be perhaps about 60 cents a thousand on actual tonnage, would give British Columbia any advantage more than she now has I do not see.

Mr. WALSH. The Senator would not entertain any doubt at all of the matter if he read the testimony that was given before the Committee on Interoceanic Canals. He would learn from that that lumber can be carried from British Columbia ports in English ships to ports upon the Atlantic for at least $3 per ton less than the same lumber can be carried in American ships from Puget Sound ports to the Atlantic coast.

Mr. WEST. I understand that; but in going from either one of those ports have they not to pay the same now, without the use of the canal, in crossing the Isthmus?

Mr. WALSH. I do not comprehend the question of the Senator. They pay exactly the same tolls.

Mr. WEST. In going to Panama and unloading a vessel, crossing on a railroad, and reloading it into another vessel, the

charge is no more for the vessel going from Washington than for the vessel going from Vancouver.

Mr. WALSH. Yes; but they are not going to carry lumber that way.

Mr. WEST. I know; but they are placed on exactly the same footing that they were before the Panama Canal was built.

Mr. WALSH. Of course, the Senator is correct about that; but I say there is no lumber that travels around Cape Horn.

Mr. WEST. I know lumber has crossed the Isthmus on the railroad.

Mr. WALSH. There was nothing to speak about, nothing commercially.

Mr. WEST. Quite a number of cargoes crossed there, I know.

Mr. WALSH. Nothing that entered into commerce in any sense.

I think the amendment offered by the Senator from Washington ought to be adopted; but, recurring now to the remarks of the Senator from Massachusetts, I think, upon the argment made by the distinguished Senator from New York, we are really not invading the legitimate province of the legislation in relation to our coastwise trade, inasmuch as that traffic may very properly be denominated as over-seas traffic.

Mr. JOHNSON. Mr. President, we are confronted with a great national emergency—one that appeals to the whole Nation. Whether we have been derelict in the past in our duty toward a merchant marine in providing what the country needs in ships to carry our commerce does not now concern us. The emergency which we see is one which the whole Nation comprehends.

I am very sorry that at this particular time Senators should speak of the Northwest or of any particular section of the country, and seek to amend a great national measure in the interest of any particular section of the country. I am not sure but, considering the amendment offered by the Senator from Washington by itself, I might favor it. I am not so sure but that it would be in the interest of commerce and in the interest of the whole Nation; but at the present time, when we have before us an emergency measure, it seems to me that it should not be narrowed to accommodate any particular section of the country.

Mr. JONES. Mr. President——

The VICE PRESIDENT. Does the Senator from Maine yield to the Senator from Washington?

Mr. JOHNSON. Certainly.

Mr. JONES. I would like to ask the Senator what is the necessity for this legislation at all?

Mr. JOHNSON. The necessity for the legislation must be apparent to the Senator. We want ships to move our foreign commerce, our grain, our cotton, and other articles.

Mr. JONES. Does the Senator think that the emergency is confined to any particular section of the country or to any particular product? Does not the Senator know that the same cause which makes the emergency on the Atlantic coast has also an effect on the situation upon the Pacific coast?

Mr. JOHNSON. I do not, Mr. President.

Mr. JONES. I want to say to the Senator that there is where the Senator is mistaken. Let me tell him that the foreign ships that have been carrying our lumber from our ports to foreign ports by virtue of this emergency are now out of the business. Therefore we are put in the same position that you are on the Atlantic coast, although products of so great value may not be affected.

Mr. JOHNSON. If the Senator will pardon me, the ships have not yet been put out of business. He fears that they may be. If that occasion arises, I will cheerfully cooperate with him to meet that emergency. It does not exist to-day.

Mr. JONES. Some of them are shut out. They are now afraid to leave port under the flag they have been sailing under. The case with the vessels of different nationalities on the Pacific coast is just the same as on the Atlantic. The belligerents will prey on the commerce on the high seas there just as on the commerce upon the Atlantic. The same situation exists and in the same degree that it exists on points on the waters of the Atlantic. That is the reason why it is just as important for the Pacific ports as it is for the Atlantic ports. The occasion does exist now on our coast just as it does on the Atlantic.

Mr. JOHNSON. The Senator speaks of the carrying of lumber and is narrowing it to a particular section of the country and a particular interest when we are discussing a national emergency in which the whole Nation is interested.

Mr. JONES. This is a part of that national emergency.

Mr. JOHNSON. I might as well argue about the interests of New England and its shipbuilding interests and ask to have them considered, but at this particular time I would not narrow the discussion to that; it is wider and broader. I ask the Senator to withhold his amendment until we can consider it later, as the Senator from Massachusetts has asked. This is a question now which, I say to the Senator, should not be narrowed to meet the special interests of any section of the country.

Mr. JONES. I am not asking the Senator to narrow it. I am asking him to broaden it. He seems to narrow it so as to exclude our interests. I want it to cover his interests, and I want it to cover ours, too.

Mr. CHAMBERLAIN. Mr. President, I do not like the suggestion of my distinguished colleague from Maine [Mr. JOHNSON] that because we of the West are insisting that we shall be recognized in the pending legislation, while you are aiding another section of the country, in an international emergency, we are therefore chargeable with selfishness. An argument was made here yesterday in a lengthy address by one of our distinguished Senators [Mr. SIMMONS] that the cotton crop of the South was the thing that most needed assistance in this emergency. We make no question about that, and we concede it. Then the distinguished Senator from New Hampshire [Mr. GALLINGER] insisted that the manufacturing industries of New England were in the same fix. There is no question about that. We accede to that proposition.

Mr. GALLINGER. Mr. President——

Mr. CHAMBERLAIN. I will yield in a moment. You can not mention any product in any part of this country that is not involved in the same emergency and in need of the same relief. Because we happen to instance the unfortunate situation that the Northwest is placed in by reason of a continental war the distinguished Senator from Maine talks about our advocating a selfish and a local interest. Mr. President, we have as much patriotism in the Northwest as they have in Maine or in any other part of this country, and we do not propose to sit here silently and see legislation enacted in behalf of one section of the country and not raise our voices in behalf of our own section.

The Senator truly says we ought not to have a selfish feeling in regard to this important legislation. I agree with him. I am willing to go as far to relieve the situation in New England and in the South as any Senator, but I do not propose to have the interests of the West ignored and overlooked without protest.

Mr. GALLINGER. Will the Senator permit me?

Mr. CHAMBERLAIN. Certainly.

Mr. GALLINGER. The observation I made was not in reference to this bill at all. One Senator appealed for relief as far as the silver industry was concerned and another Senator for another metal, and I observed that the manufacturing interests of New England were likewise disturbed. My suggestion was rather against taking up matters that simply affected particular sections or particular States. If we are to legislate to relieve the silver mines of the country and the copper mines of the country, we can well care for the manufacturing interests of New Hampshire; but I want no local legislation.

Mr. CHAMBERLAIN. I am in accord with the Senator. The truth is, and it is the truth of history, that you can not materially injure one section of the country without injuring the whole country. As a rule, legislation which is beneficial to one section is beneficial to all sections of our country. I feel that this a great national question, and I am favorable to legislation that will relieve the transportation situation. Notwithstanding the fact that the distinguished Secretary of Commerce is quoted as saying that no legislation is needed at this time and that things will adjust themselves after a little while, I am willing to do anything possible to help relieve the general situation; but I make the prediction, Mr. President, without any suggestion that there is anything wrong about the pending bill—for I intend to support it, provided it is not so framed as to injure the West—I make the prediction that the foreign-built ships that come into this country and seek American registry after this law passes will be the Standard Oil ships that have been constructed abroad because they can be built cheaper there, and those that are being operated under foreign registry because they can man and operate them cheaper under foreign registry. These ships are such as would have remained under foreign registry if it had not been for the fact that the emergencies of war are driving them from the sea, and the only harbor in which they can seek refuge and be protected is an American port under American registry and under American guns.

Mr. McCUMBER. Let me ask the Senator, will they not go right back under the foreign flag as soon as the war is over?

Mr. CHAMBERLAIN. The very moment that the war is over.

Mr. SAULSBURY. Mr. President——

Mr. CHAMBERLAIN. Wait a moment. I am led to make this observation on account of the attack that has been made upon me and my colleagues from the Northwest, charging that we are selfish because of the steps we are taking in this matter in striving to protect ourselves from hostile legislation, or rather, to see to it that the West is treated fairly.

Mr. JOHNSON. Mr. President——

Mr. CHAMBERLAIN. What the Senator from North Dakota says is true, and I desire to add that there is no patriotism in the owners of these ships I have just mentioned. They register their ships where they can be operated cheapest. They build them where they can be built cheapest. They are driven to these ports now simply because they are afraid of losing their property as the result of war, and they will stay here just so long as it will be to their interest to remain in these ports, and pay the higher wage paid to the sailors of this country only so long as may be necessary. They will go back into the British or other foreign registry just as soon as the emergency of the war is over.

As the Senator suggests, another class of ships that will come here and register will be those of the United Fruit Co., that has its ships, or some of them, built abroad and operated under foreign registry. Why? Because it can build them cheaper abroad. What interest has this corporation in American shipyards? It can operate its ships cheaper under foreign registry than it can in this country. They will come here immediately, because they are owned by American capitalists, and register just as soon as this bill goes through, and then, when the war shall have ended and just as soon as they can safely go to sea without fear of attack by German or British cruisers and those of other belligerents, they will go right back and register as they did before, because they can be operated cheaper than they can be operated here.

Mr. FALL. Will the Senator allow me to ask him a question?

Mr. CHAMBERLAIN. I yield to the Senator.

Mr. FALL. Will not the lumber business get exactly the same relief from the registration of the Standard Oil ships and the Fruit Co.'s ships as any other industry?

Mr. CHAMBERLAIN. No; the Standard Oil ships, as a rule, are doing business for the Standard Oil, and for that corporation alone.

Mr. FALL. Is not this emergency legislation for the benefit generally of all the industries of the United States, of which the lumber business is one? Why will it not afford the same measure of relief to the lumber business that it will afford to the cotton and the wheat?

Mr. CHAMBERLAIN. For the simple reason suggested by the Senator from Montana [Mr. WALSH] a little while ago. The higher freight rates, the advantage that will be given to ships that engage in the over-seas trade, will take the few ships we now have engaged in the lumber trade.

Mr. FALL. Will not these foreign-built ships which register under our law pay smaller wages? I do not see why the lumber industry of the Northwest needs any different legislation from that for any other section of the country.

Mr. CHAMBERLAIN. We are not asking for any special legislation for our section of the country. We are asking for justice for the Pacific Northwest, as well as coastwise ports, both on the Pacific and the Atlantic seaboard.

Mr. JOHNSON. Mr. President, I fear the distinguished Senator from Oregon has misunderstood my position. Certainly in what I said I made no intimation that there was any lack of patriotism on the part of Senators from the Northwest, and certainly that was farthest from my mind with reference to the distinguished Senator from Oregon [Mr. CHAMBERLAIN] or the distinguished Senator from Washington [Mr. JONES]. I only had this in mind: That in considering the particular national questions when this great emergency has arisen it seemed to me we should divest it of any local coloring and consider it as affecting the whole Nation and not particular sections.

The Senator from Washington had urged that at this particular time his amendment would assist the people in his State if the laws relating to our coastwise trade were so changed that ships between the Atlantic and the Pacific might be allowed to engage in the coastwise trade, even if foreign built, and to that extent suggested a change which would affect his section of the country. I do not know that I would not favor such a change when considered by itself, but at this particular time I was only asking that we consider the question in its broad national light, as it affects Oregon, as it affects Maine, as it affects Texas, as it affects every State in the Union and not any particular section of the country.

Mr. CLAPP. Before the Senator takes his seat let me ask him a question. A few moments ago he suggested that this narrows the measure. It seems to me that it enlarges the measure.

Mr. JOHNSON. It does narrow the matter.

Mr. CLAPP. What is the objection to it, standing by itself? That is what I should like to hear discussed.

Mr. JOHNSON. If we are going to have any revision of the laws relating to our coastwise trade, let us take that question up by itself. We are now considering the question of enlarging our merchant marine for our foreign commerce, and not for our coastwise trade, and that is a larger proposition, in face of the emergency which confronts us.

Mr. CLAPP. Of course, I grant the over-seas commerce may be said to be a larger question than the coastwise trade; but they are more or less interwoven. Ships are needed for both, and, for the life of me, I can not understand why if at this particular juncture you are going to enlarge the registration of one, you should not enlarge the registration of the other. Personally, of course, I come from the Middle West.

Mr. JOHNSON. I do not know, as I have said, that I would object to some changes in our coastwise laws; but that is a matter which should be taken up by itself and not at this particular juncture.

Mr. CLAPP. It should no more be taken up by itself than should the other proposition.

Mr. JOHNSON. It occurs to me that it is a distinct proposition.

Mr. CLAPP. We are met now by a contingency where, whatever may be the effect or benefit to the owners of ships who heretofore have kept out from under our flag, we propose to give them the privilege of our flag from the viewpoint of American advantage and American welfare. I confess my sympathies are very much with the Senators who, desiring not to limit, not to restrict, not to localize the benefits to be derived from this proposed legislation, but as a part of this whole purpose of broadening and increasing the tonnage under the flag, ask that its provisions may be applied to the coastwise trade.

Mr. JOHNSON. Mr. President, I do not at all consider the ownership of these vessels. As I look at the question it makes little difference who owns them or what has been their course of conduct in the past. It is only a question now of getting vessels into our foreign carrying trade, no matter what their ownership has been or what their registry has been in the past. For that purpose this bill is offered.

Mr. SAULSBURY. Mr. President, I desire to correct a misapprehension of the Senator from Oregon [Mr. CHAMBERLAIN]. When he spoke just now he said that immediately the emergency ceased these vessels would be transferred to the foreign flag. I fear that my amendment has not sufficiently attracted the attention of the Senator from Oregon to have him consider the effect of the amendment which immediately will follow the one which is now pending if that is adopted, or, indeed, even if it is not adopted. It provides specifically that such transfer may not take place without the consent and approval first given by the Secretary of the Treasury, and although such transfer of ownership in any wise does occur that always the United States Government shall have the right to take for its use such as it desires of the vessels which will now seek American registry. I think that is a very valuable provision.

The first amendment which I offered, which is now pending, provides that American citizens shall be the bona fide owners of the vessels, and that the Secretary shall practically certify to that fact before they are admitted to registry.

The second amendment provides that such vessels shall not be transferred by their owners without the consent of the Secretary of the Treasury, but that in any event they shall always hereafter be subject to be taken by this Government for its use.

The third amendment which I have offered provides that naval officers may be employed on these vessels. That amendment has been accepted by the committee, and I think it improves the bill.

Mr. BURTON. Will the Senator from Delaware yield for a question?

Mr. SAULSBURY. Certainly.

Mr. BURTON. Then, the second amendment means that a company or individual to which a foreign ship has been transferred for which an American registry has been taken can not sell, even to another individual or corporation, without the consent of the Secretary of the Treasury?

Mr. SAULSBURY. That is the purport of the amendment.

Mr. BURTON. Does the Senator from Delaware believe that any company or individual would buy a boat under such circumstances?

Mr. SAULSBURY. I was informed yesterday, as I have already stated, that there were a substantial number of vessels now flying foreign flags which would seek American registry

immediately the amendments which I have offered were adopted, and that the amendments were satisfactory. Because of the source from which the information came, I think it is reliable.

Mr. BURTON. In other words, you are proposing that a purchase shall be made, but that the purchaser shall be disabled from the right everyone else has to dispose of his property; he must hold it in mortmain, if we may call it so.

Again, I call attention to another feature of this amendment. There is no definition or statement of the conditions under which the Secretary of the Treasury shall allow a transfer to be made; the right to forbid an assignment even of a share of stock is given; but no principle is laid down which shall govern the action of the Secretary of the Treasury.

Mr. SAULSBURY. Mr. President, the Senator, I think, is in error in that to this extent: The amendment to which I have referred, which will come before the Senate after the one now pending, provides that the Government may take these vessels for its use, and that the vendees, whoever they may be, even if allowed to obtain a transfer from the holder of the vessel when registered, shall have such a conditional holding as that that provision shall not be void; in other words, the conditional holding means that the vessels shall not be removed from the possibility of being taken by this Government for its use. That, I think, is defined by reference also to the provisions of the old act under which the American Line steamers were originally obtained and are now operated.

Mr. BURTON. Mr. President, that does not diminish the obstacle at all; it makes the conditions even more onerous. Not only is the purchaser of the boat forbidden to sell, but the holder of any share of stock in a corporation owning the boat is forbidden to sell. There is, in addition, a further condition held over him—that in his hands or the hands of any purchaser from him the Government may take the vessel at any time.

Mr. SAULSBURY. At an appraised value.

Mr. BURTON. That second condition is, of course, inserted in some navigation laws, but it does not relieve the burden of the purchaser under such circumstances.

According to this amendment the corporation, individual, or partnership buying a boat must contemplate this situation—that the boat must never be disposed of except to the Government of the United States without the consent of the Secretary of the Treasury. No rule is laid down under which the Secretary of the Treasury shall act in consenting or refusing——

Mr. SAULSBURY. Which, if the Senator will pardon me, means that a sale will not be authorized except to an American citizen from whom the boat may be taken by the Government. It confines the purchasers from the people who register the boat practically to American citizens. That is the object of the amendment, and I think it is sufficiently expressed.

Mr. BURTON. I can see plainly what was in the mind of the Senator—that when a boat was purchased by an American citizen or corporation and American registry was taken out, as soon as the European war or other emergency has passed it should not be immediately transferred to the country from which it was acquired or transferred to some foreign registry; but it seems to me this provision goes to an altogether unreasonable length in disabling the owner from the enjoyment of the rights that every property owner should have.

Mr. GALLINGER and Mr. SHIVELY addressed the Chair.

The VICE PRESIDENT. The Senator from New Hampshire has been very patient for a long while. The Chair recognizes the Senator from New Hampshire.

Mr. GALLINGER. Mr. President, I have no disposition whatever to prolong this discussion. Two days ago I said all that I cared to say on the general proposition; but the amendment of the Senator from Washington [Mr. JONES], as well as the amendment of the Senator from Delaware [Mr. SAULSBURY], opens up an entirely new question, and I feel constrained to say a few words concerning that proposition.

Mr. President, this very question was before the Senate less than two months ago, in a less complicated form than it is at the present time, and it was then voted upon. On the 11th day of June, when the bill proposing to repeal the exemption clause of the Panama Canal act was under consideration, the junior Senator from Missouri [Mr. REED] offered an amendment as follows:

SEC. 15. Vessels other than vessels of the United States may enter the ports of the United States and engage in the coastwise trade of the United States to the same extent and under the restrictions imposed upon vessels of the United States—

And so forth.

To that the Senator from Wisconsin [Mr. LA FOLLETTE] offered this amendment:

Provided, That foreign vessels engaging in such coastwise trade shall be subject to all the laws, regulations, and rules of the United States Government pertaining to vessels of the United States in every respect as though such foreign vessels were vessels of the United States.

That amendment was accepted by the Senator from Missouri, and, after debate, the matter went to a vote. I was absent from the city, Mr. President, at that time and was paired with the junior Senator from New York [Mr. O'GORMAN]. Had I been here I should have voted against the amendment; how the Senator from New York would have voted I am not authorized to say. The yeas on that question were:

Ashurst	Cummins	Kenyon	Reed
Brady	Hitchcock	Lane	Thomas
Clapp	Jones	Martine, N. J.	Thompson

Twelve in number. The nays were:

Bankhead	Gronna	Norris	Smith, Md.
Brandegee	Hollis	Overman	Smith, Mich.
Bristow	Hughes	Page	Smith, S. C.
Bryan	James	Perkins	Smoot
Burleigh	Johnson	Pittman	Sterling
Burton	Kern	Poindexter	Stone
Catron	La Follette	Pomerene	Sutherland
Chilton	Lea, Tenn.	Ransdell	Swanson
Clark, Wyo.	Lee, Md.	Root	Thornton
Clarke, Ark.	Lewis	Saulsbury	Townsend
Colt	Lippitt	Shafroth	Vardaman
Crawford	McCumber	Sheppard	Weeks
Culberson	McLean	Sherman	West
Dillingham	Martin, Va.	Shively	White
du Pont	Myers	Simmons	Williams
Fletcher	Nelson	Smith, Ariz.	Works
Goff	Newlands	Smith, Ga.	

Sixty-seven in number. So that, Mr. President, when this proposition was fairly before the Senate two months ago 12 Senators voted in favor of it and 67 voted against it.

Mr. STONE. Will the Senator permit me to interrupt him?

Mr. GALLINGER. I yield to the Senator.

Mr. STONE. I will say that I voted against that amendment, as appears from what the Senator has stated. I did so, however, for the reason that I did not care to entangle the proposition pending at that time with the amendment proposed, and not because as an independent proposition I was opposed to the amendment.

Mr. GALLINGER. Does the Senator think it wise to entangle the proposition now before the Senate by raising this question of the coastwise trade, any more than he did on the previous occasion?

Mr. President, as I said, I am not going to detain the Senate. There was a vote of the Senate, 12 in favor and 67 against the proposition; but now that an emergency arises and the administration is demanding that this emergent bill shall be passed—I do not think the country is greatly exercised over it except in spots—the opportunity is sought to destroy the coastwise legislation of this country and open practically our coastwise business to foreign ships.

I presume it will succeed; I presume it has been ordained that this opportunity shall be seized for the purpose of accomplishing what has failed heretofore. Effort after effort has been made during the last 25 years, to my knowledge, to modify in important respects, and in some respects to repeal, the coastwise laws of the United States, but it has never found more than a handful of supporters in either House of Congress.

Mr. President, I have taken a reasonably active part in the discussion of the question of an American merchant marine. I have had no personal interest in it. When John Paul Jones sailed out of the harbor of Portsmouth in command of the *Ranger* we had some foreign commerce in the harbor of Portsmouth and we did some shipbuilding in New Hampshire. We have not any foreign commerce there now; we do not build a ship in New Hampshire, and, so far as I know, there is not a ship of any character owned by any citizen or any corporation of my State; so that I am not representing any personal interest. I have flattered myself that I have taken a broad national view of this question, and I have endeavored to treat other questions in which my State has not been directly interested as national questions.

Mr. CUMMINS. Mr. President——

Mr. GALLINGER. I yield to the Senator.

Mr. CUMMINS. I came into the Chamber just as the Senator from New Hampshire was reading a roll call in which I seem to have been numbered in a very small minority, and he made a suggestion that there was an identity between the question then voted upon and the question about to be voted upon. I can not quite recall the amendment upon which the roll call which he has given us was had. Will the Senator from New Hampshire repeat that part of his statement?

Mr. GALLINGER. It was during the discussion of the bill to repeal the exemption clause of the Panama Canal act, and the junior Senator from Missouri [Mr. REED] offered an amendment practically wiping out the laws relating to the coastwise trade of the United States; and the same proposition now is

made in a modified form to a bill that is called an emergency measure admitting foreign ships to the foreign trade of the United States under the American flag.

Mr. CUMMINS. There is no resemblance between the question voted upon at the time indicated by the Senator from New Hampshire and the question that is proposed in the amendment now offered by the Senator from Washington. I have no desire, of course, to recall my vote on that; I would vote the same way again——

Mr. GALLINGER. Undoubtedly.

Mr. CUMMINS. If the opportunity were afforded me, but the question raised in the amendment proposed by the Senator from Washington is simply whether foreign-built ships shall be admitted to our coastwise trade, not whether foreign ships shall be admitted to that trade.

Mr. GALLINGER. Does the Senator know any foreign ships that were built in the United States?

Mr. CUMMINS. I do not.

Mr. GALLINGER. No; and the Senator can not find one.

Mr. CUMMINS. I have heard it asserted here now half a dozen times that the amendment offered by the Senator from Washington was an invasion, was a destruction of our coastwise shipping laws. I do not so understand it. It is simply an amendment that goes to the extent of allowing foreign-built ships taking American registry, governed by American law, and controlled by American regulations to engage in the coast-to-coast traffic.

Mr. GALLINGER. Mr. President, I think I understand that question as well as does the Senator from Iowa.

Mr. CUMMINS. The Senator from New Hampshire did not understand it when he asserted that there was an identity between the question voted upon in the roll call which he mentioned and the amendment now proposed.

Mr. GALLINGER. Possibly not, but there certainly is a very striking identity, the only difference being that the amendment offered by the Senator from Missouri admitted all foreign vessels absolutely to our coastwise trade, while this amendment does so to a certain extent; that is the only difference.

Mr. CUMMINS. This amendment admits foreign-built ships.

Mr. GALLINGER. Certainly.

Mr. CUMMINS. Not foreign-manned ships or foreign-officered ships.

Mr. GALLINGER. If the Senator will recall the fact, this is an amendment to the law which does the very thing which the Senator says it does not do.

Mr. HUGHES. Mr. President——

Mr. CUMMINS. On the contrary, if I understand the amendment, it simply admits to the intercoastal trade—not to the general coastwise trade—ships that were built abroad, and that have been purchased by Americans or American corporations. It does not interfere with any other coastwise regulation, such as the officering of the ships, or the sanitation of the ships, or the crews of the ships. Am I not right about that?

Mr. GALLINGER. I am not quite sure as to that.

Mr. BURTON. Mr. President, it seems to me it is perfectly clear that the amendment does do that exact thing.

Mr. GALLINGER. I think it does it, exactly.

Mr. BURTON (reading):

> The President is hereby authorized, whenever in his discretion the needs of domestic trade require, to suspend by order, so far and for such length of time as he may deem desirable, the provisions of law confining the trade from points on the Atlantic coast to points on the Pacific coast and from points on the Pacific coast to points on the Atlantic coast to American ships.

That is, it does not limit the exception to foreign-built ships that take out American registry, but in perfectly plain English it says that "the provisions of law confining the trade from points on the Atlantic coast to points on the Pacific coast," and vice versa, to American ships, shall be suspended.

Mr. JONES. Mr. President, as I understand that language, what I had in mind was this: Only American-built ships can engage in the coastwise trade; no foreign-built ships. If there is any foreign-built ship that has an American registry, it can not engage in the coastwise trade, as the law prohibits a foreign-built ship from engaging in it. The only suspension the President is authorized by the amendment to make is of the law confining the coastwise trade to American ships.

Mr. BURTON. That lets in foreign ships, then.

Mr. JONES. Why, no; because no foreign-built ship, even though it may have an American registry, can engage in the coastwise trade.

Mr. GALLINGER. It can under this proposed legislation.

Mr. BURTON. If we wanted to throw this trade open to foreign ships, doing away with the law which limits the coastwise trade to American ships, what more distinct or better language could we devise than that which the Senator has used here?

Mr. GALLINGER. Now, Mr. President, I will resume, and will conclude in a very few moments.

Mr. JONES. I will not interrupt the Senator further.

Mr. SAULSBURY. Mr. President, will the Senator yield for an interruption?

Mr. GALLINGER. Yes.

Mr. SAULSBURY. I want to call attention to the fact that the Senators who have just been addressing the Senate have been doing so upon an amendment which is not before the Senate. The Senator from Iowa was precisely correct when he said that the amendment before the Senate provided only for admitting to the intercoastal trade foreign-built ships which had been purchased by Americans and had American registry. That is to say, the amendment before the Senate provides that those ships may engage only in such coastwise trade as requires a passage through the Panama Canal on the particular voyage in which they have been engaged. The Senators from Ohio and Washington have been discussing another amendment entirely, which is not before the Senate.

Mr. CUMMINS. But, Mr. President, I did not understand that there was any proposition before the Senate that a ship——

Mr. GALLINGER. Mr. President, I have the floor, and must insist that Senators get recognition from the Chair.

The VICE PRESIDENT. The Senator from New Hampshire has the floor.

Mr. GALLINGER. I will yield to the Senator if he desires, but I will not yield for a general colloquy when I intend to occupy only two or three minutes.

Mr. President, these technicalities do not amount to a great deal. The purpose of this is well understood and well defined in the minds of some of us. It will be the camel's head in the tent, and a considerable part of the camel's body as well, when either of these amendments shall have been agreed to. The purpose is to break down the coastwise laws of the United States and admit foreign ships to our coastwise trade. There is no doubt about that. It is in the minds of Senators. It has been asserted here over and over again. It was clearly and unmistakably asserted in the amendment that the Senator from Missouri [Mr. REED] offered on the 11th day of June. It received the concurrence of only 12 votes in the Senate. I presume it will receive a great many more to-day, because of the fact that it is coupled with what is called an emergency measure, which, we are notified, can be opposed only if we are unpatriotic.

Mr. WEST. Mr. President——

Mr. GALLINGER. I yield to the Senator.

Mr. WEST. I do not wish to disturb the Senator.

Mr. GALLINGER. I yield to the Senator always.

Mr. WEST. Why do they confine it to trade from the Pacific to the Atlantic coast through the canal and not say "all coastwise trade"?

Mr. GALLINGER. Oh, well, Mr. President, the purpose is evident. There is some lumber to be transported from the Northwest, and I suppose they will get it to market a little cheaper if they can break down the coastwise laws of the United States and take the first step that will destroy every shipyard in the United States and put us absolutely at the mercy of foreign shipyards and foreign shipbuilders and foreign Governments, so far as our transportation by water is concerned. There is no doubt about it. The purpose is evident. I shall not vote for it, but I presume it will be agreed to, because this is an hysterical hour, and we are going to enact some hysterical legislation.

Now, Mr. President, what is this going to do? Why, it is going to open the ports of the State of Maine, the ports of the State of Massachusetts, of Maryland, of Pennsylvania, and of every other North Atlantic State to foreign ships trading through the Panama Canal. Do you tell me that that is not a serious matter, so far as the coastwise trade of the United States is concerned? There may be some benefit to a few men somewhere. Special legislation always benefits some individual or some corporation or some group of men; but while this may benefit a few men on Puget Sound, it sounds the death knell of the coastwise laws of the United States, and the death knell of every American shipyard, which is only kept open now by building ships for the coastwise trade and for the Government of the United States. Do not deceive yourselves, Senators. It is understood by some of us; and, in my judgment, there are some men who in due time will be called to account for the action that it is now proposed be taken on this matter.

On yesterday the Senator from Washington [Mr. JONES] said—and he quoted a Mr. Bloedel as his authority—that there are only two ships on the Pacific coast adapted to the lumber

trade and practically none on the Atlantic coast under American registry. How does Mr. Bloedel know that? The Secretary of Commerce reports to-day that there are 97 ships in the coastwise trade adapted to trans-Atlantic business. I apprehend that some of those ships can carry lumber as well as cotton and wheat and corn. There has been no effort made in this entire matter to find out whether we had American ships that could do this work. There is an outburst on the part of some sections of the country that the commerce of the United States is going to suffer unless we perform the unusual thing of calling upon foreign shipowners to come to the relief of the great Republic of the United States.

Mr. President, while I doubt very seriously the wisdom of the proposed legislation, I intend to vote for it, provided the amendment that I have been discussing is not added to the bill, but I do appeal to Senators, not in the interest of the State of Washington or the State of Oregon alone, but in the interest of the great commercial and industrial States of this country, not to strike down the laws relating to our coastwise trade.

Mr. President, I have performed my duty. I do not know that I shall say another word on this subject. Let it go to a vote; let this disastrous legislation be enacted; and then let the American people settle the question at a later day.

Mr. SHIVELY. Mr. President, from the moment the present crisis confronted our foreign commerce it has been clear to me that whatever may be done in the future our immediate efforts should be directed persistently to the relief of our deep-sea marine; that the nature of the crisis makes this subject the paramount and controlling consideration; that the emergency is too great to allow time to rely on or mature schemes of experimental naval adventure in the carrying trade or mix up and confuse the subject with the interests and attitude of the coastwise marine.

This does not mean that I am opposed on principle to the amendment submitted by the Senator from Washington [Mr. JONES]. His amendment applies to intercoastal trade—that is, to trade between a port on the Pacific coast and a port on the Atlantic coast and between a port on the Atlantic and a port on the Pacific, as distinguished from trade from port to port on either coast. While, of course, this intercoastal traffic is domestic commerce, it partakes of the physical aspects and environment of the sea-carrying trade in foreign commerce. On the facts stated by the Senators from the Pacific coast as to present conditions of traffic there, the reasons which make action on the main question imperative become strongly persuasive in favor of the proposed amendment.

But the Senator who proposed the amendment must have noted the instant alarm sounded from certain quarters. That alarm was voiced by the distinguished Senator from New Hampshire [Mr. GALLINGER]. At once came the classic reference to the "camel's nose." The amendment is regarded by the alarmists as an entering wedge to free ships in the general coastwise trade. This possibility arouses and inflames the cupidity of that powerful interest which for over a hundred years has enjoyed an iron-bound, steel-riveted monopoly in ship construction and ship operation in that trade. Through all these years this interest has steadily fought all movements toward free ships in the over-seas trade. With the total loss of the deep-sea shipbuilding industry to the country and the disappearance of our deep-sea marine under the fatal policy of exclusion the last pretext for opposition by this interest to free ships in our foreign trade was gone, and yet it persisted. In the present crisis the necessity for ships under the flag of the United States to move our foreign commerce is so overwhelming as to silence that opposition and arouse its fear lest in the general revolt against restriction its coastwise monopoly may be broken. Certain it is that if our general coastwise marine is ever thrown open to ships of foreign construction the chief contributor to this end will have been that short-sighted selfishness that well-nigh banished the flag of the country from commerce on the ocean and took deep-sea shipbuilding out of the category of American industries. But whatever may be the developments of the future, so immediately vital do I regard the main feature of the proposed legislation to our foreign commerce and domestic industry at this moment that I shall support amendments otherwise meritorious only when convinced that they will not endanger the early passage of the bill.

Moreover, Mr. President, I must be permitted to doubt the expediency of a part of the amendment presented by my friend from Delaware [Mr. SAULSBURY]. Not that I regard the amendment as endangering the passage of the bill, but as tending to render the bill nugatory when it does pass. I refer to the clause affixing a servitude to the control of the ship, and conditions to its subsequent sale and transfer. The good intention of the author of the amendment is defeated if the clause repels the citizen from investing in the ship. The clause involves a limitation on his property in the ship, a restraint on his title, a red-tape entanglement with the Government in the operation of the ship. The restriction is too much of a kind with that body of regulations that regulated our merchant marine off the sea. Just at a time when we are trying to liberalize our navigation code in the interest of our foreign carrying trade is not a good time to incorporate clauses that must inevitably beat back the forces on which we must rely to revive and restore that trade. For this reason I shall oppose that clause of the amendment.

Passing from these amendments I draw on the indulgence of the Senate while I briefly recall certain chapters of history bearing directly on the main question. We hear hope expressed on all sides that there may be an early restoration of our merchant marine. I heard the same hope expressed with equal earnestness 25 years ago in the House of Representatives, and have witnessed the efforts made to realize on this hope within the time of my service in the Senate. For over 50 years resort has been had from time to time to subsidies in form of extra mail payments, and to-day under the Revised Statutes and under the contract act of 1891 we are paying over 100 per cent more for the transportation of mails in American vessels than we pay for like service in foreign vessels.

Despite this, the saddest spectacle that confronts the American traveler in his journey around the earth is the sight in the great seaports of the world of the flags of about all countries save that of his own. And when the clouds and fogs of sophistry and fiction with which a narrow and mistaken self-interest has enveloped the subject shall have been dispelled by an enlightened policy, the chief wonder of the impartial historian will be that at the end of the long struggle even the present slender remnant of our once powerful merchant marine should have survived.

In approaching a remedy the most natural inquiry goes to the question of the origin, nature, and effect of that code of restrictions and regulations in force through the period of decline. The chief features of our navigation code are not of American origin. They were taken bodily from the British code which harked back to the days of Richard II, and which in the middle of the last century Great Britain herself tore up root and branch and cast away. When the Federal Constitutional Convention assembled, a clear majority of that body was determined to put up bars against that code by inserting in the new Constitution a prohibition against the enactment by Congress of navigation laws except by a two-thirds vote. This was in accordance with the spirit of the Revolution, which had indicted George III for "cutting off our commerce with all parts of the world." The Middle and Southern States, in memory of the hardships they had suffered from the restrictive system, were especially set on limiting the power to ingraft it on American policy.

But as the days passed in the convention, other interests also developed and new factors were thrust into the problem. George Mason and James Madison led the Virginia delegation in a determined effort to incorporate a provision to abolish the slave trade and have such abolition go into effect with the adoption of the Constitution. The South Carolina delegation and certain other forces from the South were opposed to the immediate abolition of the slave trade. Meanwhile New England was profitably engaged in importing molasses from the West Indies, distilling the molasses into rum, trading the rum for darkies on the coast of Africa, and selling the darkies in the slave markets of Charleston and other southern ports. Besides, New England had made substantial progress in ship construction and in the navigation art, and planned to engross the merchant marine of the young and growing Republic.

With all these elements present, the situation in the convention became ripe for negotiation, log-rolling, compromise and bargain. The upshot was a coalition of molasses, rum, shipping and slavery. The specific products of that coalition were the incorporation in the Constitution of the clause postponing the abolition of the slave trade for 20 years and the exclusion from the Constitution of the proposed restriction on navigation legislation.

The door being thus kept open, a long series of provisions from the British navigation code were enacted into law between the years 1790 and 1820. Because of the exasperating hostility to our ocean commerce of Great Britain in the late years of the eighteenth and early years of the nineteenth centuries, and her final exclusion of our merchant marine from the West Indies trade, these enactments were acquiesced in at the time as fancied weapons of retaliation drawn from her own armory.

The keystone of the British code was denial to the British subject of registration for any ship not built in a British shipyard. This provision, paraphrased so as to deny to the Ameri-

can citizen United States registry of any ship not built in an American shipyard, was enacted by Congress in 1792 and is to-day section 4132 of our Revised Statutes, except as that section was modified by the five-year limitation in the Panama Canal act of 1912.

Under another section, if an American ship on its voyage abroad meets with an accident that requires the owner to take the ship to the nearest foreign shipyard for repairs, the owner must pay into the United States Treasury a sum equal to one-half the cost of the work and material in the repairs or lose the registry of his ship as an American vessel. Under another section of this imported code, if an American citizen purchases a foreign ship wrecked on our coast and takes it into an American port for repairs, he must prove that the repairs constitute three-fourths of the cost of the ship or be denied registry for the ship. By another section, though the ship is built in an American shipyard for an American citizen and receives registry, if the citizen sells it to a foreigner and subsequently repurchases the ship, he is denied renewal of registry for his property if in the meantime any change has been made in the build or style of the ship. Such are a few illustrations from scores that could be cited showing the tenor and spirit of the code. They disclose how, at every point, the vast and commanding interests of our foreign commerce and merchant marine were sacrificed to the narrower interest of the deep-sea shipyard and, as will appear, were sacrificed without gain to the shipbuilder.

Despite this code, through the first 60 years of our national history our merchant marine grew in strength and magnitude. It is nearer correct to say that it grew without reference to the code. Why do I say this? Those were the days of the wooden ship. The country that makes the best tool of the trade for the price is bound to take the market where the market is free, and in no field do superiority in the tool and superior efficiency in using it tell with more force than in that of the ocean-carrying trade. In this country there was an unlimited and convenient supply of timber and all other materials that went into the construction of the wooden ship. Even in colonial days Americans had developed unrivaled aptitude and efficiency both in ship construction and in the navigation art. With the natural advantages of abundant and cheap material and the acquired superiority in ship construction and navigation, our American shipyards and merchant marine steadily gained on their competitors. In the middle of the last century the United States had come abreast with Great Britain and had distanced all other rivals for supremacy on the high seas. The American flag was on every ocean and in every port.

Then it was that Great Britain felt the deadly pinch of her navigation code. She was losing in the struggle for the world's carrying trade to the rival that made and operated the cheaper and superior ships. Her navigation code denied to her subject access to the best tool of his trade. What did Great Britain do? Did she cling to her code and sacrifice her merchant marine? She chose her merchant marine, and did the only thing she could do to save it. She did what we, in a measure, propose to do here. In 1849 she repudiated and repealed her navigation code and enfranchised her subjects with the right to purchase ships wherever built, bring them home, have them admitted to registry, and operate them under the British flag.

Was that repeal accomplished without a struggle? Quite the contrary. It came at the end of a prolonged and embittered agitation. A terrific roar went up from the shipbuilders. The thousands of workmen from the shipyards of Great Britain were dragooned into laying their remonstrances before Parliament. Thousands of allied business organizations protested against the repeal. Disraeli led the opposition in Parliament with a torrent of pathetic eloquence and withering sarcasm. He prophesied desolation of the shipbuilding industry and destruction of the merchant marine. He even predicted that the repeal involved the dissolution of what he called the "empire foreshadowed by the genius of a Blake and consecrated by the blood of a Nelson."

But all to no avail. The statesmen behind the repeal had correctly diagnosed the disease. They went forward with the remedy. Following the repeal, British seamen and business men flocked to the shipyards of the United States and replenished their merchant marine from the finest wooden clippers that ever sailed the ocean. Great Britain became the home of these ships. Her shipyards got the repairing. The laborers found the tenure of their employment more secure and their wage improving. Within two years after the repeal the last note of opposition had been silenced, and neither Disraeli nor any other British statesman was heard to suggest the restoration of the navigation code.

For several years after the repeal of the British code the American shipyards went forward, building ships for our increasing merchant marine and supplying ships on foreign account. In 1855 one-third of the deep-sea marine of the world was under the American flag, one-third under the British flag, and the remaining one-third in varying shares under the flags of other nations. When the better ship could be purchased for less money in this country than abroad there was neither necessity nor temptation to purchase abroad, and the code that denied registration to a foreign-built ship could neither help nor hinder the progress of our merchant marine.

But, Mr. President, then came the fateful day of the iron ship and the demonstration of the marvelous capacity for mischief in our navigation code. Great Britain for years had been studying and perfecting iron-ship construction. She had a convenient abundance of iron ore, coal, and limestone, the raw materials of iron construction. The iron ship proved to be the superior ship. The shipbuilders of Great Britain at once reconstructed their plants and adapted their art to building the improved vessels of commerce. They quickly shifted to the iron ship and the screw propeller. The American shipbuilder clung to the wooden ship and the paddle wheel. He refused to adjust himself to the new construction and to supply the American citizen with the new and better tools of the trade. The code denied to the American citizen registry of an iron ship purchased abroad. Between the impossibility of securing an iron ship from an American shipyard and the impossibility of securing registration for an iron ship made in any other shipyard the process of strangulation of our merchant marine was on.

Mr. NEWLANDS. I wish to ask the Senator from Indiana how he accounts for it that under the same law the American merchant marine flourished as long as ships were made of wood and decayed when they commenced making ships of iron? Is not this country rich in the raw material, and could not the country have accommodated itself to the change of material under existing law?

Mr. SHIVELY. When the American wooden ship was the cheapest and best ship in ocean commerce our merchant marine flourished, because it had access to the best tool of the trade. In the presence of this natural superiority the harsh restrictions in the existing law were ineffective for good or ill. When the superior iron ship came into ocean commerce the existing law, which denied to the American seaman access to that superior tool of his trade, became effective in retiring that seaman from ocean commerce. However abundant in this country the raw material of the new construction, the American shipbuilder did not avail himself of it.

Under these circumstances the effect of the existing law on our merchant marine was precisely the same as if such abundance had not existed. In the day of our superior wooden ship our navigation code was inconsequential to our merchant marine. In the day of that ship the like British code became disastrously consequential to British merchant marine. In the day of the wooden ship the British code, by barring our superior ship from British merchant marine, gave our own merchant marine the advantage. With the coming of the iron ship our code, which barred the superior iron ship from our merchant marine, gave British merchant marine the advantage.

Mr. NEWLANDS. I will state, Mr. President, that what I am at a loss to understand is how it was that America flourished in the shipbuilding as long as it made superior wooden tools and failed as soon as the iron ship prevailed. I would assume that the United States, with its great deposits of iron, ought to be able to keep up with any other country in the construction of iron ships.

Mr. SHIVELY. The fact that the American shipbuilder did not change to the new construction with the transition from wood to iron is far more significant in connection with the effect of our navigation code than are the reasons why he did not so change. His failure to change set in full operation the strangling effect of the code. As for the reasons, the British shipbuilder had been losing in his competition with the American shipyard in wood construction and eagerly welcomed the change to iron, which brought to his door in abundance the raw materials of his industry. The American shipbuilder had been triumphantly successful in wood construction and clung in abiding faith to the wooden ship and the paddle wheel, the raw materials of which were still profusely abundant at his door. He was selling tonnage against the competition of the whole outside world. His clippers were leading the prize fleets in merchant marine on every sea.

The habit of wood construction was strong on him. However abundant and convenient to him the raw materials of the

new construction, his pride, his fortune, his successes were associated with the old. He refused to reconstruct his plant or admit the assured ascendency of the iron ship and screw propeller. Above all, he fell under the fatal delusion that the provision of the code that denied registration to the superior ship and its admission to our merchant marine, except it came out of his shipyard, rendered his future secure. The code could deny the citizen admission to our merchant marine, except that he go in with an inferior tool of his trade, but the code could not compel him to embark in or to remain in that merchant marine.

Mr. SHAFROTH. Mr. President, I have been very much interested by the Senator's address. He seems to have a grasp of this situation that is very great. I want to ask him whether it is true, as I have heard, that, on account of the development of our iron and steel industry, we will again become the cheapest market in the world for the construction of steel products, and that thereby we will get the returns of the merchant marine of the world by reason of the cheap construction which is promised by reason of the development of our iron and steel industry?

Mr. SHIVELY. I am approaching the question the Senator raises. I shall discuss it before I close. But let me assure the Senator now that I do not share in the gloomy view entertained in some quarters as to the future of our merchant marine. I have never been more hopeful of that future than at this hour. The crisis upon us is compelling a closer examination of the causes of the decline and presenting an unusual opportunity for intelligent action to encourage and secure its restoration.

Mr. GALLINGER. Will the Senator permit me?

Mr. SHIVELY. Certainly.

Mr. GALLINGER. The Senator is right in saying that in the days of wooden ships we excelled all the nations of the world in shipbuilding. The clipper ships of New England had no equal in those days, and never have had an equal in the history of the world. The Senator says, however, that when the iron and steel ship came in we rested on our oars and allowed foreign nations to build those ships, and we did not do anything in that line. Let us admit that we were careless about that matter. I think the Senator rather exaggerates it, unintentionally of course; but, admit that we were careless about it, is there any reason, in the Senator's mind, aside from the fact that we can not navigate our ships as cheaply as foreign countries can and that they are giving greater governmental aid to their ships than we are, why our people should not build those steel ships now? We do not do it, but we certainly have caught up with the other nations now in all the arts and crafts and in the matter of shipbuilding as well as everything else.

Mr. SHIVELY. My prediction is that there will be a revival both of our merchant marine and our deep-sea shipbuilding industry. The start toward recovery of the ocean-carrying trade will precede rather than follow the renewal of activities in American shipbuilding for that trade. The Senator knows that not a dollar of American capital is being employed to-day in building ships for our foreign trade. Not a dollar of wages is being paid to labor for ship construction for that trade. In the present emergency the case would be hopeless were we required to depend on a supply of deep-sea vessels from our shipyards. The immediate crisis would be over before a single ship could be furnished. Nor do I consider that subsidy is a factor in the problem, nor that the relative cost of operating the ship is either as marked or as consequential as the Senator claims. There would be at first a practical difficulty which the Senator well understands. The shipbuilder in the country with a flourishing merchant marine has standardized construction. He builds 6, 8, 10, or more ships of like type and capacity at the same time. Building at wholesale rather than at retail, he has the advantage of this economy in construction.

Mr. GALLINGER. Mr. President, the Senator from Indiana is correct in saying that the fact that foreign governments standardize their ships and build a large number of the same type——

Mr. SHIVELY. I am not saying "foreign governments," or if I did, I should not have said it. I mean the foreign shipbuilder.

Mr. GALLINGER. That is what I meant; I did not mean the Governments themselves, but I referred to foreign shipyards which are standardizing their ships and build 6 or 8 or 10 or perhaps 12 of the same type, and in that way build them very much more cheaply than in this country. That has been dwelt upon in all of our discussions, and until we can get a sufficient business in that line to enable us to resort to standardization we are, of course, handicapped in that respect as well as in many other respects. That is true.

Mr. SHIVELY. Mr. President, because I know that the persistent assertion of erroneous and fictitious reasons for the decay of our merchant marine and the disappearance of the American flag from the ocean has beclouded the subject and postponed the revival and restoration, I am emphasizing the true reason. The decline did not begin with the repeal of the preferential tariff rates on merchandise imported in American bottoms. The preferential tariff was one of the paper expedients of that system of mutual restriction and obstruction born of the Napoleonic wars which convulsed Europe in the early years of the last century and which projected their operations over ocean commerce. By provoking retaliation abroad the preferential tariff can easily kill more export cargo than it encourages import cargo. Our merchant marine reached its highest point of prosperity long after the preferential tariffs had been abandoned.

Nor did the decline begin with the ravages of the Civil War. We carried a larger percentage of our foreign commerce in American bottoms and built more ship tonnage both for our own and for foreign merchant marine in the year 1855 than in the year 1860. In 1855 the proportion of our foreign commerce carried in American bottoms was 75⅔ per cent. In 1860 the proportion had fallen to 66½ per cent. For the year 1855 the production of ship tonnage of all kinds in American yards rose to 583,450 tons, the highest for any one year in our history. In 1860 this production had fallen to 212,892 tons, a loss in five years of over 50 per cent. In 1855 our sales of American ships on foreign account reached 65,000 tons; in 1860 these sales had fallen to 17,000 tons.

These figures are inseparably associated with the advent of the iron ship. They tell the story of an agency more destructive to our merchant marine than the *Alabama*, the *Shenandoah*, the *Florida*, and other Confederate craft in the days of the Civil War. Was the iron ship the real agency of the decline? Certainly not. The real agency was the navigation code which prevented the American seaman from meeting the iron ship with an iron ship. With the advent of the iron ship nothing could save American shipbuilding for deep-sea marine but a ready and successful shift to the new construction. It was the code that tied our merchant marine to the American shipyard and sacrificed the one to the mistaken policy of the other.

For it must be kept in mind, Mr. President, that merchant marine is the more general, the superior, the paramount interest. This truth is now coming home to the American people. Shipbuilding is an important but still the more local and secondary interest. The policy that sacrifices the superior interest destroys the secondary interest. The policy that preserves the superior interest in the end saves and serves the secondary interest. When in 1849 Great Britain found herself losing to her American rival with the superior ship, she recognized her merchant marine as the superior interest, repealed her navigation code, replenished that merchant marine from the best vessels the world could supply, and by this means saved her merchant marine and with it the future prosperity of her shipyards. When from 1855 forward the United States was losing in the contest for the ocean-carrying trade to her great rival with the superior ship, she refused to recognize in that trade the paramount interest, yielded to the clamor from the secondary interest, declined to modify her navigation code, and thereby lost her merchant marine and with it the shipbuilding interest dependent upon it.

Mr. WHITE. Mr. President——

The VICE PRESIDENT. Does the Senator from Indiana yield to the Senator from Alabama?

Mr. SHIVELY. I do.

Mr. WHITE. Is it not a fact, however, that iron ship construction did not commence until after 1860? And is it not a further fact that possibly the hand of the Steel Trust has been on the throat of the Ship Trust and has kept it from doing what it might have done?

Mr. WEST. Mr. President——

Mr. SHIVELY. I desire to conclude my remarks. What is the question the Senator from Georgia desires to ask?

Mr. WEST. I want to ask the Senator from Indiana a question for information. I see he is thoroughly familiar with the matter of ship construction, and it would be a great satisfaction to me, at least, to have my question answered. A different solution has been suggested to me of this matter. I think our wonderful enterprises here, the great facilities for production in our industries, our wonderful potentialities and possibilities, the increasing of the wages of labor here to such an extent that we can not compete with the cheaper labor of foreign countries, afford a reason why to a large extent we are losing our shipbuilding trade.

Mr. SHIVELY. In reply to the Senator from Alabama [Mr. WHITE], let me observe that the iron ship had been in process of experiment and improvement for years prior to 1856; but it

was in that year that it appeared in active, general, and successful competition in ocean commerce. That, of course, was before the day of the Steel Trust. It should be added that at that time England had attained high development in the general iron and steel industry, a fact doubtless that also influenced the American shipbuilder in his adherence to wood construction, though the fact only rendered such adherence the more fatal in so far as it applied to construction for the over-seas trade.

Replying to the Senator from Georgia [Mr. WEST], I do not overlook nor underestimate the considerations with which he points his question; yet I note with interest the fact that his question relates to shipbuilding and not to our merchant marine. Whatever caused the failure of the American shipbuilder to construct the iron ship, such failure proved disastrous to our ocean merchant marine only because the navigation code prevented the American seaman procuring abroad the ship that was denied him at home.

But to answer within the scope of the Senator's question, I remind the Senator that from the advent of the iron ship the shipbuilding industry for ocean commerce was inseparably bound up with the general iron and steel industry of the country. I have shown that because of the failure of our shipbuilders to shift to iron construction the demand for tonnage from their yards fell off over 50 per cent between the years 1855 and 1860. Within a few years thereafter was revived and applied that principle of customhouse taxation which gave the domestic iron and steel industry almost as complete a monopoly of the domestic market as the navigation code gave the domestic shipbuilder for the American coastwise and deep-sea marine.

The effect of this principle, like that of the navigation code, was to protect old methods and wasteful processes in production. When the law made their market secure against outside competition they clung to the old ways. Not until near the year 1890 was the policy of sending to the scrap heap obsolete plants, discarding ancient processes, and reducing to a minimum the first cost of a ton of iron or steel entered on in the United States.

With the artificial restriction against competition in force the reduction in cost to the domestic producer did not mean a proportionate reduction in price to the domestic consumer. When, from the margin between the low cost produced by skill and invention on the one hand and the high price protected by the favor of government on the other, one citizen walked off at the end of a few years with a fortune of over $400,000,000 and two others, through the medium of iron and steel, transmuted the same favor of government from nothing into control and ownership of one of the great railway systems of the country, it is obvious that the temptation may not have been strong to invest in ship construction that must meet the competition of the world on the high seas. But it is equally obvious that the wages of labor are indexed in the first cost rather than in the selling price of iron and steel, and that the influence of the American scale of wages has been made a grossly exaggerated factor in the problem of ship construction for our ocean carrying trade.

It is no defense of our navigation code in its relation to deep-sea marine to point to the magnitude of our domestic shipbuilding for the domestic river, lake, and coastwise marine and the magnitude of that marine. The power of government can follow the coastwise ship. The code can and does deny the citizen the use of any ship whatever in that marine except it come from a domestic shipyard. It insures a perfect monopoly of ship construction for this trade and ship operation in this trade.

Whether the exactions of this monopoly be great or small, the citizen is helpless to escape them. The Government can compel this condition because it has jurisdiction over our coast and inland waterways. The power of government can not follow deep-sea ships from our shipyards onto the ocean and compel either the citizen or the foreigner to patronize them in the ocean carrying trade. In that field world-wide competition and not the code determines what ships shall carry the cargoes. The country that does not meet this environment can have no place in over-ocean marine.

Now, Mr. President, in answer to the question asked by the Senator from Colorado [Mr. SHAFROTH], and in further answer to other questions bearing on the American cost of construction and cost of operation of ships for and in the ocean carrying trade, I invite attention to a series of facts. At the end of the first half of our national history our American shipyards led the world in ship construction and our merchant marine equaled that of its chief competitor on the ocean. That was American labor and American capital in successful competition in both construction and operation of American ships.

For the fiscal year ended June 30, 1913, the United States sent into the markets of the world over $2,400,000,000 worth of the products of her industries. Of these, over $1,100,000,000 worth were manufactures of various forms. All were the products of American capital and labor, and as such took the markets of the world against all competition. This fact is compelling on the question of capacity to compete.

Of these exportations for that year, over $305,000,000 worth was iron and steel and manufactures of iron and steel. The major part of this export was high-class machinery and fine steel tools representing iron and steel carried forward to the line of ultimate use and consumption. This was American labor and capital in successful competition not only in the neutral markets of the world, but in a vast number of instances it was laying the products down in the shadow of the foreign furnace, mill, and factory. Will it be claimed that the iron and steel industry which produces all these cargoes of exports in successful competition with world's market is unable to produce in successful competition the steel bottoms which carry the cargoes to that market?

Each year over one-half of the entire iron and steel output of the world is being produced in the United States. There is no place left where a ton of iron or steel is produced cheaper than in the United States. This cost comprehends the capital invested and the labor employed, and answers all questions as to capacity to compete in the production and supply of the raw materials of modern ship construction.

Within the next few days there will be launched the two Argentine battleships built from American shipyards. These ships cost approximately $11,000,000 each. One was built by the New York Shipbuilding Company and the other by the Fore River Company. The contracts for their construction were taken in open competition with the outside world. Are our shipyards able to compete in the construction of battleships for foreign nations, and yet unable to compete in the construction of merchant vesels for our own foreign carrying trade?

That country of Europe which has the highest general wage level leads the world in merchant marine. The maritime country of Europe which has the lowest general wage level is at the bottom of the list of European merchant marine. These facts are incontestible; but how do they comport with the contentions in this Chamber that the high level of American wages is the barrier to the successful operation of an American ship?

The foreign and domestic shipping papers on file in the Bureau of Navigation and the unchallenged testimony of sailors before the Merchant Marine Commission in 1904 show that, as between ships of like type and cargo capacity, the American vessel ships with the smallest crew of any ship in the world. More work is required of each man. This fact is known to the sailor in whatever port he may be and figures in his wages when he signs up for service. Yet the difference in wages based on an equal difference in the burden of service is claimed in this debate as a difference in the cost of operating the ship.

It was the concurrent testimony of both masters and sailors before the Merchant Marine Commission in 1904 that in the ocean carrying trade there is no such thing as a national scale of wages. There is only what is called "port wages" or the "wage of the port." There are New York wages, San Francisco wages, Liverpool wages, Hamburg wages, Hongkong wages, but no such thing as a standard of British, German, or American wages. The wage depends on conditions in the port. The difference in wages between New York and San Francisco is often greater than the difference between New York and Hongkong.

These facts, Mr. President, show how frail is the basis for the statement frequently heard in this Chamber that the cost of construction and operation of American ships is from 25 to 50 per cent greater than the cost in foreign countries. This is one of the myths employed to induce reliance on those artificial expedients so potential in starting our merchant marine on its decline and so futile to save or revive it. The navigation code deprived the American seaman of access to the best tool of his trade and drove him from the ocean. Twin in mischievous character were the artificial devices which encouraged and protected slothful methods in the production of the materials of modern ship construction. Even as late as in 1892, on their return from a visit to the principal rolling mills of this country, certain representatives of European iron and steel industries stated that they would be delighted to accept as a maximum profit in their industry a per cent equal to the waste about American plants. But improvement has been going forward until many departments of our domestic iron and steel industry show as great superiority in competing capacity as did our wooden-ship builder at the zenith of his prosperity. It

was not the American wage scale that arrested construction for or operation in our merchant marine, nor is this wage scale the obstacle to the restoration of that marine.

The great agency of the decline and the obstacle to the recovery is the feudalisms of our navigation code. The United States is the only maritime nation in the world that clings to this medieval system of restriction. Every other nation allows the citizen or subject to procure a ship wherever the best bargain offers and put the ship under its register and its flag. In this country the code was born of a sordid coalition. It is the bad progeny of blind cupidity and a troubled time. The slave trade has gone. Slavery itself disappeared a half century ago. Vast progress has been made in the physical sciences and mechanic arts. Steam and electricity have well-nigh abolished time and space from human calculations and brought the nations of the earth face to face. The barbarisms of our navigation code remain to remind us of ancient follies and a darker age, and of how effective they are to plague us in the present crisis in our foreign trade.

Of course there have been several humane police regulations engrafted on this body of laws which no one would seriously change. There is room for the exertion of the great economic power of this Republic within the jurisdictional limit of its waters to raise the standard in ocean commerce and render the life of the sailor more tolerable. But the immediate task confronting us is to so liberalize the code as to open the way to replenish our merchant marine. It is an evidence of the strong sea instinct surviving in this country that millions of dollars' worth of American capital is to-day invested in deep-sea marine, though the ships, being denied American registry, are flying foreign flags. It is to be hoped these vessels and many others may be brought under American registry. The deep-sea shipyard has nothing to lose by this legislation, and, I venture to say, much to gain. Certain it is that if this bill results in the revival of our merchant marine, the shipyard will be the gainer. Wherever built or from whomever purchased, the United States becomes the home of the ship. Our seacoast shipyards will become the beneficiaries of the repair demands. The item of repairs is more profitable than original construction. With the revival and growth of deep-sea marine, original construction for this service will follow.

Mr. President, I have made no pretense at a general discussion of the subject of our merchant marine. It has been my purpose to confine my remarks to the narrow compass of the effect on that merchant marine of those few lines in our navigation code which the pending bill is designed to repeal. However meager may be its relaxation of the harsh provisions of the code, the bill is a move of enlightened policy and promises a better day for both our ocean merchant marine and our shipbuilding for that marine.

During the delivery of Mr. SHIVELY's speech,

The VICE PRESIDENT. The morning hour having expired, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Mr. CULBERSON. I ask unanimous consent that the unfinished business be temporarily laid aside.

The VICE PRESIDENT. Without objection, it will be temporarily laid aside. The Senator from Indiana will proceed.

After the conclusion of Mr. SHIVELY's speech,

Mr. NEWLANDS. Mr. President, I desire to say a few words regarding the amendment which I offered yesterday, and which authorizes the Secretary of the Navy to provide for the purchase or for the construction in private shipyards or in the shipyards of the United States of 30 vessels suitable for the Navy as auxiliary vessels, such as transports, colliers, scouts, dispatch boats, and so forth, useful in time of war—in fact, absolutely indispensable in time of war—in aid of the fighting ships, and to be used in times of peace in the promotion of commerce and in the carrying of the mails.

The amendment provides for an appropriation of $30,000,000, of which amount $6,000,000 is to be spent annually during the next five years in the construction or purchase of these ships. I am inclined to think that it would be advisable to make this whole sum immediately available for this purpose, as there is a great emergency upon us and a demand for transportation unequaled perhaps in our history. The facilities for transportation are paralyzed by reason of the fact that the great maritime nations of the world are now engaged in war with each other, and that war means either the destruction of much of their merchant marine now utilized by us or its withdrawal from commerce for the uses of war.

Mr. President, this amendment is on the lines of a bill which I introduced some seven or eight years ago when the Republican Party was in power and when it was urging a measure of subsidy intended to promote our merchant marine. The proposal at that time, a modified proposal of a much larger scheme, contemplated the opening up, if my recollection is right, of seven or eight routes of commerce to the eastern and western coast of South America, the coast of Africa, and to Australia, and provided for a subsidy, running over a period of 10 years, aggregating about $30,000,000. As a substitute for that proposal I suggested that the United States, instead of subsidizing the construction of ships by private owners and spending during a period of 10 years about $30,000,000 for that service, should itself construct the necessary ships for these new routes of commerce; that it could construct them as a part of the auxiliary navy, so absolutely essential to a well-proportioned navy and without which in case of war our fighting ships would be derelict upon the ocean.

I insisted that we could sustain this measure merely as a matter of national defense, and that we could make these ships compensatory and even remunerative to the United States during periods of peace by providing that they should be used in the peaceful pursuits of commerce under lease to shipping companies, and stipulations regarding the maintenance of a naval reserve as a part of their force, so that they would constitute a training school for the reinforcement of the fighting ships.

The dominant party, intent upon subsidy, rejected that proposal, and their proposal was finally defeated by a narrow margin, so that we have been unable to increase our merchant marine either by subsidy or by the construction of a part of it as an auxiliary navy.

Now, Mr. President, it is proposed to meet the present emergency, which is a most serious one, one of the most serious with which the United States has ever been confronted in its commerce, by admitting foreign ships to American registry, and that will doubtless be accompanied by some provision that at least a majority of the ownership of such ships shall be in American citizens. Foreign nations engaged in war with each other would doubtless resent a movement which would be a mere cloak for the protection of the investment of a belligerent in the merchant marine of a neutral, and which would make the United States serviceable in saving the marine of one belligerent from the armed forces of another belligerent. They will doubtless demand that there shall be something in the transfer of the registry and something genuine in the ownership and control of these ships by American citizens and American corporations, or we will be involved in far-reaching complications abroad on this subject.

I believe, Mr. President, that the process of transfer from foreign to American registry will be a slow one; first, because the country has been for some time in a depressed industrial condition, which has been aggravated by the disarrangement of the commerce of the world. Capital, always timid, is particularly timid at such times, and I fear that American citizens will not meet this emergency with the promptitude and courage that is required. I believe that this is the time above all others for the Government, in the pursuit of a strictly governmental purpose of national defense and in the construction of an auxiliary navy that will make our fighting ships a well-proportioned force for national defense, to accompany that national purpose with action which will meet the present emergency.

I can imagine nothing that would give greater immediate confidence to the business and the commerce of the country than to know that the Secretary of the Navy was authorized now to purchase 30 ships of 10,000 tons capacity, which he could get for about $1,000,000 each—if my recollection is right—and I believe that the ships if secured immediately would reestablish the currents of trade and of commerce between this country and foreign countries.

Whilst my amendment gives the Secretary of the Navy power to purchase or to secure the building of these ships, I think it would be advisable to add to the amendment a provision such as was contained in the original bill which I presented some years ago; that is to say, a provision constituting the Secretary of the Navy, the Secretary of Commerce, and the Postmaster General a board for the purpose of shaping the administration of these ships in times of peace for purposes of commerce and the carrying of the mails. Such a board would be useful. The large experience of the Secretary of Commerce and the Postmaster General and their respective forces in the matter of the transportation of mails and the carriage of goods would be of service to the Secretary of the Navy, not only in the work of administration of these vessels in time of peace, but in the work of so constructing the vessels as to enable them to meet the demands of both war and peace.

I hope the chairman of the committee may find it expedient to accept this amendment.

Mr. MARTINE of New Jersey. Mr. President, I am in entire sympathy with the thoughts advanced by the Senator from Nevada and shall most cordially support such an amendment. It was encompassed very largely, I feel, by the concurrent resolution I offered day before yesterday anticipating the same result.

That the need exists there is no question or doubt in my mind. I believe it would be the most popular measure to-day before the people.

On the line of the thoughts advanced by the Senator, I have in my hand a clipping I took from the New York American of yesterday, the headlines of which are as follows:

Two billions of foreign trade await business awakening of United States—Opportunity, not of a lifetime, but of a century, is now this country's—Powerful commercial fleet needed to handle the business that will soon be ours—Great impending naval battle is bound to open the ocean.

There is no doubt about the exigency in which we are placed. The process of inviting some foreign vessel, foreign-owned, foreign-built, and foreign-manned, under some special favor of ours, to come and take up this commerce is only a makeshift; and, more than that, I feel that it is a crime.

This is the opportunity of a century. We have been anticipating and hoping and praying for an American merchant marine, and I believe this is the opportunity. I believe the step proposed by the Senator from Nevada will do very much in that direction. I trust the amendment may receive the attention that I believe it merits at this particular time, and I trust it may be adopted.

As to the proposition to grant American register under the provisions contained in the committee bill and the amendment of the Senator from Delaware, I fear that too many European craft will come over here, avail themselves of the opportunity to get an American register, sail under the American flag for six months or a year or as long as this horrid exigency shall last, and then retransfer and go back again. If the men on the other side, under the proposed bill, desire to come to this country and engage in ocean commerce from our ports and this land of plenty, I do not want to have them do so only to fill a gap for the little while the war may last, or for the long time the war may last. I desire that when they take out an American register there shall be some provision in the bond that shall prohibit them from retransfer for a period of at least 10 years, and then only with the consent of the Secretary of the Treasury.

I had thought to insert in the amendment offered by the Senator from Delaware, on page 7, at the end of section 4, the following:

But in no case shall any ship which has been granted an American register retransfer such register or relinquish the same for a period of 10 years from the date of the register granted by the United States, and then only by and with the consent of the Secretary of the Treasury.

I want something in this crisis and this opportunity that shall not be temporary, but that shall look to building up and holding a merchant marine of our own. Let it come now in this hour of need and necessity. I trust that it may have the support of the Senate.

Mr. SWANSON. Mr. President, I earnestly favor this emergency legislation. There is a demand that we should have ships to take the place of the ships that have been withdrawn from our foreign commerce. The great business needs of this country demand it. It is urgent. We should not delay in enacting this legislation.

The committee have prepared legislation that will take care of our foreign trade and over-seas trade, which now has fallen down on account of a lack of transportation. The committee were wise in doing this. I commend them for the quick and efficient legislation they have reported.

In order that this legislation may be quickly passed and relief given to our stagnation in business, it seems to me the wise course to pursue is not to amend this bill. We have been here for nearly a week discussing a change of the laws pertaining to ships engaged in our coastwise trade. It seems to me that is unwise. This is emergency legislation. As for myself, I shall vote for this measure to give prompt, quick, and efficient relief. The other questions that have been precipitated into this debate can well wait until they arise later.

Consequently I rise simply to state how I shall vote. I shall vote against the amendments to the bill, except the amendment offered by the Senator from Ohio [Mr. BURTON], which is an act of charity, an act of mercy and of relief by the Red Cross to all parts of the world engaged at present in war. I think it would be unwise to amend this bill otherwise at this time. I think it would result in delay. I think it would result in having our harbors still filled up with our wheat, corn, oats, cotton, and tobacco, which need transportation and an opportunity to get to the foreign markets.

With this view I shall vote for the bill so wisely reported by the committee, but shall vote against amendments, as I am satisfied that they would result in delay of the relief we need now—at once.

Mr. SIMMONS. Mr. President, I desire to address myself to the amendment of the Senator from Delaware [Mr. SAULSBURY], but before doing that I wish to put in the RECORD a document.

On yesterday I asserted that any American citizen was at liberty to purchase a foreign-built ship anywhere in the world where he could buy one, and if the transaction was a bona fide one he was entitled to have the flag of the United States hoisted over the vessel, and that gave him the right to the protection of this Government in his property in the vessel. I further stated that that vessel could trade in any port in the world except in the ports of our own country. In all of those statements, which were challenged by some Senators, I was absolutely correct in my statement of the law. In giving the reasons why the vessels could not trade in American ports I was somewhat inaccurate, having misunderstood a statement made by the Commissioner of Navigation before the Committee on Interoceanic Canals.

I was correct in the statement that it could not trade in an American port, but I was not correct in the reason which I gave for it. The real reason why it can not trade in an American port is because, under the law which has obtained in this country for nearly 100 years, such a vessel as that entering any American port with merchandise is subject to seizure and its cargo to confiscation. If it enters in ballast, or with only passengers on board, it is subject to a very heavy discriminatory duty.

Mr. President, I wish to have inserted in the RECORD, as a part of my remarks made on yesterday, the regulations promulgated by the Department of State for the guidance of American consuls abroad with reference to the transfer to the citizens of this country of foreign-built vessels. These regulations embrace all the questions which I discussed yesterday. These regulations inform the consuls that an American citizen has a right to buy a vessel abroad, and that he has a right to fly the American flag over that vessel. They require the consul in such a case to make an investigation, with a view to seeing whether the transaction was a bona fide one, whether the purchase money has been actually paid, whether the title to the ship has passed, and, in case he finds that it has, to give it a proper certificate. The regulations are also directed to our collectors of customs, and advise them that in case such a ship flying the American flag enters an American port, under certain provisions of the law which are cited in this article, the cargo and the ship are subject to forfeiture if it enters with a cargo, or if it enters in ballast or with passengers alone that the collector shall apply the differential tonnage duties provided in the law cited in these instructions. These are the instructions that are regularly issued to all the consuls of the United States abroad.

The PRESIDING OFFICER (Mr. WHITE in the chair). Without objection, the matter referred to will be incorporated in the RECORD.

The matter referred to is as follows:

United States Consular Regulations, 1896.

[Page 132.]

ARTICLE XX.

AMERICAN OR FOREIGN BUILT VESSELS TRANSFERRED ABROAD TO CITIZENS OF THE UNITED STATES.

341. Right to acquire property in foreign ships: The right of citizens of the United States to acquire property in foreign ships has been held to be a natural right independent of statutory law, and such property is as much entitled to protection by the United States as any other property of a citizen of the United States.

342. Treasury regulations—sea letters: The existing general regulations of the Treasury Department under the customs and navigation laws (Customs Regulations, 1892) recognize the right of property in vessels of this character, and declare them to be entitled to the protection of the authorities and to the flag of the United States, although no register, enrollment, license, or other marine document prescribed by the laws of the United States can lawfully be issued to such vessels, whether they are American or foreign built. The former practice of issuing sea letters in the case of the purchase abroad of American or foreign vessels by citizens of the United States is no longer authorized. Nevertheless, though the issuing of sea letters to such ships is not now authorized, yet there would seem to be no good reason upon the face of our present legislation why the Department of State should not resume the practice in case the United States should be a neutral in a war between maritime powers, if it should deem such letters more protective in their character than consular or customs certificates of sale.

343. Record of bill of sale, certificate, etc.: In view of existing regulations, and to enable the owners of a vessel so situated to protect their rights, if molested or questioned, a consular officer, though forbidden

by law to grant any marine document or certificate of ownership, may lawfully make record of the bill of sale in his office, authenticate its execution, and deliver to the purchaser a certificate to that effect; certifying, also, that the owner is a citizen of the United States. Before granting such a certificate the consular officer will require tonnage of the vessel to be duly ascertained in pursuance of law and insert the same in the description of the vessel in his certificate. (Form No. 35.) These facts thus authenticated, if the transfer is in good faith, entitle the vessel to protection as the lawful property of a citizen of the United States; and the authentication of the bill of sale and of citizenship will be prima facie proof of such good faith.

344. Consul's responsibility: The authority of a consular officer to authenticate the transfer of a foreign vessel is wide in its effects and imposes great responsibility in making him, in the first instance at least, the sole judge of the good faith of the transaction. The question of the honesty and good faith of such a sale rises into the gravest importance in the event of a war between two or more powers in which the Government of the United States is a neutral. In such a war experience justifies the expectation that the citizens or subjects of one or more of the belligerents will seek to protect their shipping by transfer to a neutral flag. In some instances this may honestly be done, but the sales of the vessels of belligerents in apprehension of or in time of war are always and properly liable to suspicion, and they justify the strictest inquiry on the part of the belligerent, who may thereby have been defrauded of his right to capture the enemy's property. The acceptance of the pretended ownership of a vessel under these circumstances may be very profitable; and the temptation to abuse his trust in such a case to which a consular officer is subjected may be too great for persons of ordinary integrity, discernment, and firmness to withstand. Instances are not wanting in which citizens of the United States who were wholly incapable from their previous well-known condition and pursuits of making such a purchase, have appeared as owners under sales of this character and have sought for them the protection of the Government.

345. Careful investigation enjoined: It is the duty of a consular officer to use all available means, especially during the existence of a war to which this Government is not a party, to satisfy himself that this sale of a vessel is made in good faith, and without a fraudulent intent. A considerable discretion and responsibility rests upon him in the determination of the good faith of such transactions. It is not to be concluded that all such sales, even in time of peace, are honest and free from collusion or fraud. It is the duty of the consular officer to notice all circumstances that throw doubt on the good faith of the transaction, or point to its fictitious character, and, if he is satisfied in this respect, to refuse to grant his certificate. On the other hand, he is not permitted to regard the mere fact of the sale of a vessel to a citizen of the United States as any evidence of fraud. The presumption must be otherwise, and, in the absence of any indication of dishonesty, a sale in the regular way, with the usual business formalities, is to be regarded as made in good faith.

346. Certificate, when to be issued: When a consular officer shall have satisfied himself, after the investigation with which he is charged, that the sale of a vessel is not fictitious, and is made in good faith, and that the purchaser is a citizen of the United States, it is his duty, when requested, to record the bill of sale in the consulate, and to deliver the original to the purchaser with his certificate annexed thereto, according to Form No. 35. A copy of the bill of sale, together with any other papers belonging to the transfer, and of the consular certificate should be sent without delay to the Department of State with a report of the facts and circumstances of the transaction.

347. Right to fly the flag: The privilege of carrying the flag of the United States is under the regulation of Congress, and it may have been the intention of that body that it should be used only by a regularly documented vessel. No such intention, however, is found in any statute. And as a citizen is not prohibited from purchasing and employing abroad a foreign ship, it is regarded as reasonable and proper that he should be permitted to fly the flag of his country as an indication of ownership, and for the due protection of his property. The practice of carrying the flag by such vessels is now established. The right to do so will not be questioned, and it is probable that it will be respected by the courts.

348. Disabilities of foreign-built vessels: It should be understood that foreign-built vessels not registered, enrolled, or licensed under the laws of the United States, although wholly owned by citizens thereof, can not legally import goods, wares, or merchandise from foreign ports, and are not allowed in the coasting trade. (R. S., secs. 2497, 4311.)

349. Forfeiture and tonnage dues: On arrival from a foreign port undocumented foreign-built vessels, if laden with goods, wares, or merchandise, may, with their cargoes, be subject to forfeiture (R. S., sec. 2497); see tariff act of 1894, section 15 (1913, sec. 4, see sub. 2). If in ballast only, or with passengers without cargo, they will be subject to a discriminating tonnage duty. (R. S., sec. 4219; 19 Stat. L., 250.) When in foreign ports they are also subject to tonnage and other consular fees, from which regularly documented vessels are exempt. For instructions respecting the shipment and discharge and relief of seamen on vessels of this character, and the collection of extra wages, consular officers are referred to the several articles on these subjects.

Mr. SIMMONS. Mr. President, I hope the amendment offered by the Senator from Delaware [Mr. SAULSBURY] will not be adopted. In the first place, since 1846, I think, the provision which the amendment of the Senator from Delaware would modify with reference to the right of an American corporation to obtain American registry for a vessel owned by it has been a part of our law. During that whole time, if a vessel entitled to registry under the laws of the United States was owned by a corporation authorized either by the State or by the United States without any reference to the nationality of the stockholders of the corporation, it has been entitled to registry under our law. The only exception to that, so far as I know, is under the act of 1892, known as the subsidy act, by which we provided, under certain conditions and circumstances, that a vessel complying with certain requirements would be entitled to draw certain mail compensation, but would be subject, at the discretion of the Government, in case of war, to be requisitioned and converted into a war vessel or a cruiser, as the case might be. On account of those obligations which the vessel assumed toward the Government, and on account of the special privileges which the Government accorded to the vessel, the owners there were required to be American citizens, whether it was a corporation or whether it was an individual. So far as other vessels are concerned, however, I think there is no exception to the rule which has obtained in this country that a corporation is entitled to registry of its vessel if the vessel itself is entitled to registry, without reference to whether the stockholders are foreign or American. As a matter of fact, I do not suppose there is any instance in this country where a large majority of the stockholders of these corporations have not been American citizens, and I do not suppose there will be hereafter.

This amendment changes that law. That is the law of the Panama Canal act. That is the general law of the Government. Now, when we are passing an emergency measure for the purpose of enlarging the opportunity for American registry of vessels, enlarging the number of vessels that may be employed in our foreign commerce, and enlarging the opportunity for securing, through the process of admitting to registration foreign ships, adequate transportation to meet a great emergency, why should we restrict the conditions under which vessels may be brought under American registry and may be employed to relieve the necessities of the present situation?

I went to the Commissioner of Navigation this morning and made inquiry with reference to the effect of this amendment, if adopted. While he could not advise me positively, he said it was possible, if this provision was passed, that the ships of the American-Hawaiian Line, which are now flying the American flag, might be required to surrender their American registry, because it is possible that more than 10 per cent of the stock of that corporation is owned by foreigners. It is an American corporation and its vessels are flying the American flag. It may be, as I say, that more than 10 per cent of the stock of that company, with its great fleet of ships that we expect in this exigency to call into operation to serve the pressing needs of the country, is held by foreigners, and that the ships will be required to give up their American registry. I do not know how that is. The Commissioner of Navigation could not advise me about it. He had not the information.

Mr. President, the United Fruit Co. has a fleet of between 25 and 30 vessels, I think. The United Fruit Co. is an American corporation, but its ships are under the British flag. It is hoped that when this bill is passed, if there are no restrictive provisions that will prevent it, this fleet will be brought under the American flag, and will be entitled to the protection, in the sea conditions that we have now, of a neutral flag, so that the vessels may serve the purpose of carrying our surplus crops to Europe without incurring the danger and the peril of being seized by one of the belligerents. I think probably the bulk of the stock of this corporation is owned by American citizens. That is the opinion of the Commissioner of Navigation, because the chief owners are known by him to be Americans; but it may be, and probably is true, that some of the stock is held by foreigners. It may be that more than 10 per cent of the stock is held by foreigners. If so, then not a single one of these splendid vessels, the owners of which have already indicated their purpose, if they are properly protected upon the high seas, to come to the assistance of the farmers and the manufacturers of this country in this emergency, can do so. It may be that they will be excluded from taking the benefits of this act and being allowed to fly a neutral flag, instead of having to fly the flag of a belligerent, subject of course to seizure and capture upon the high seas by any of the other belligerents.

Mr. SAULSBURY. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Delaware?

Mr. SIMMONS. Yes.

Mr. SAULSBURY. I am afraid the Senator from North Carolina has not been impressed by the amendment I have offered sufficiently to glance over it as yet, because the amendment expressly provides that where the stockholders of any corporation have an interest in the ships which are to be brought in for American registry only a majority of the stock of such a corporation need be owned by American citizens.

Mr. SIMMONS. The Senator has changed it from 90 per cent to a majority?

Mr. SAULSBURY. Oh, no; the Senator is entirely mistaken. I will ask that the Secretary may read the amendment.

The PRESIDING OFFICER. The Secretary will read the amendment.

The SECRETARY. It is proposed to add a new section to the bill, as follows:

SEC. 4. That the Secretary of the Treasury, on being satisfied that not less than 90 per cent of the capital invested in any foreign-built steamship is the bona fide property of American citizens, whether of

individuals or of corporations, the majority of whose stock is owned by citizens of the United States, shall direct the bills of sale or transfer of the foreign-built steamships so acquired to be recorded in the office of the collector of customs of the proper collection district, and cause such steamships to be registered as vessels of the United States by said collector, after which each of such vessels shall be entitled to all the rights and privileges of a vessel built in the United States, except that it shall not be employed in the coastwise trade of the United States, unless the voyage in which such vessel may be engaged requires its passage through the Panama Canal.

Mr. SIMMONS. Mr. President, that very clearly requires that at least 50 per cent of the stock of the corporation purchasing the vessel and proposing to operate the vessel must be owned by American citizens.

Mr. SAULSBURY. Of course; that is true.

Mr. SIMMONS. I supposed it was 90 per cent; but I see it is 50 per cent instead of 90 per cent. But, Mr. President, that might as well unduly and unnecessarily interfere with and restrict the emergency measure and remedial measure that we are trying to provide here. Certainly it restricts it in a way that we have never heretofore felt called upon to restrict the rights of registry by American corporations. When we are trying to enlarge these rights, when we are trying to get more ships to come under American registry, I can not see why we should change our laws that have been in effect more than half a century, that were reaffirmed by the Congress of the United States within the last two years when it passed the Panama Canal act, and prescribe this limitation upon the power of an American corporation to purchase a foreign-built ship. I can see no necessity for it, Mr. President, and I think it would greatly reduce and curtail the benefits that are likely to accrue to the country in this situation from the passage of this bill. Not only might we exclude from registry the vessels that I have spoken about—those of the United Fruit Co. and those of the American-Hawaiian Co.—but there are a number of other lines that are now being run—one known as the New York & Pacific Steamship Co., with seven splendid ships owned by an American corporation but flying the Belgian flag. It is possible that, while those ships are owned by an American corporation, more than the percentage of stock permissible under the amendment of the Senator from Delaware may be owned by foreigners. Then, there is the Red Star Line. The Red Star Line has five ships of very considerable size, aggregating 42,000 net tons. They are owned by an American corporation, but they are operated under the British flag.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Iowa?

Mr. SIMMONS. I yield.

Mr. CUMMINS. The Senator from North Carolina has stated more than once that this is an emergency measure.

Mr. SIMMONS. Yes.

Mr. CUMMINS. Why, then, is not its operation limited? It seems to be a permanent measure. There is no time limit in which the President can exercise this most extraordinary power. It is objected that if we are to give the President the authority to practically rewrite our shipping laws it ought to be limited to a period of disturbance. Suppose that six months hence the war is over; the President still has the power that is here conferred upon him. I should like to hear the opinion of the Senator from North Carolina upon that point.

Mr. SIMMONS. The power of the President with reference to suspension refers to other sections of the bill, and not to this particular section.

Mr. CUMMINS. I know; but the Senator has said that it is an emergency measure. Does the Senator think that we ought to confer this vast power or discretion upon the President permanently?

Mr. SIMMONS. The power that I am discussing now, with reference to the American registry of foreign-built vessels, the President is given no discretionary power with reference to it at all.

Mr. CUMMINS. I understand that.

Mr. SIMMONS. And that will become a part of the permanent law of the land just as the Panama Canal act, which allows the purchase by American citizens of foreign-built vessels and entitles them to registry unless they are over five years of age. That is a permanent enactment.

Mr. CUMMINS. I understand all that.

Mr. SIMMONS. This section is simply to remove that limitation.

Mr. CUMMINS. Precisely.

Mr. SIMMONS. When that limitation is removed it becomes a part of the permanent law of the land——

Mr. CUMMINS. That is true.

Mr. SIMMONS. As well as the Panama Canal act. That is now unamended a part of the permanent law.

Mr. CUMMINS. That is precisely why I think the Senator from North Carolina is illogical. Sections 2 and 3 confer somewhat extraordinary power upon the President, I think, to suspend certain portions of our law. Section 1 does not. Section 1 changes permanently our statute. If we change permanently our statute under a stress of circumstances why should we not write it as it ought to be?

Mr. SIMMONS. Mr. President, the emergency I referred to as existing in that case is this: We are changing it with the hope and expectation that it will operate as a great inducement to capitalists in this country to buy vessels and bring them under American registry; that it will offer an inducement to corporations created by laws of this country who now own vessels flying a foreign flag to bring them under American registry. We want to get as many as possible of these vessels abroad under American registry to meet the present situation.

That being so, being anxious to get as many of these vessels that are now owned and operated by American corporations and are flying foreign flags to come in as it is possible for us to do, in order to meet the emergency the point I am making is that we ought not to make it more difficult than the present law makes it for them to come in, because if we do then the inducement we offer will not be of avail and the probability of their coming in to meet the emergency will be diminished.

Mr. CUMMINS. I see the force of what is stated by the Senator from North Carolina, but it seems to me that the situation ought to make us a little more careful than we have ordinarily been. I have no objection to those ships which have heretofore been purchased by American citizens or built by American citizens or American corporations coming in under the laws of the United States and taking an American registry, but, with regard to ships that are to be purchased in the future by Americans or an American corporation, in view of the present situation we ought to be extremely careful. The Senator from North Carolina must feel sure that no American will invest one dollar of his money in the purchase of a ship that is to be used simply in an emergency. He will not invest his money knowing that after the war is over, or even before, the President may remove all the protection or the advantage which is now proposed to be conferred.

If we were to make them a part of the permanent law, then we might offer some inducement to Americans to invest money in ships, but I fear there will not be a single ship bought hereafter by American capital, and that all we will do, save to allow those ships already owned to come here—and that I would be quite willing to do without any further condition—will be to open the door for fraud, to open the door for a transfer nominally, a pretended transfer of a foreign ship to American ownership, and incur the hazard of the displeasure of the foreign power whose subjects formerly owned the ship. Heretofore we have needed no great precaution, because American registry was a burden instead of an advantage. No shipowner would take an American registry if he were not compelled to take it. But now the situation is changed temporarily, and it is a great advantage to sail under the flag of a neutral power, and therefore there will be vastly increased motive on the part of shipowners everywhere to abandon their present allegiance and seek the protection of American registry.

The Senator from North Carolina knows that if we do not guard that situation carefully we are likely to give offense and to become involved in a grave controversy from which we ought to remove ourselves as far as possible.

I think that in such respect the amendment offered by the Senator from Delaware furnishes the protection, the safeguard that we ought to impose, for if no ship can be bought in this emergency save by an American citizen, and with his own capital, and if by a corporation, then by a capital the greater part of which was furnished by Americans, we will not offer this temptation for a foreign ship to merely nominally transfer ownership to American hands and then seek a neutral registry.

I think that ought to be taken into consideration, because there is no relief that we can give to the people of this country that will compensate for the risk of embroiling the Nation with the powers which are now at war. The situation is temporary at best. England is still mistress of the seas. The English ships will ply their trade between the coast of America and the coast of Europe. Her ships will carry half the trade of the world. French ships would be free to cross the Atlantic Ocean; Italian ships will be free, we hope; Norwegian ships will be free; and if the paths across the Atlantic and measurably across the Pacific are kept open and safe the exigency which now confronts us will soon pass away, even if we did not acquire a single additional ship.

I am in favor, as I have been for a long while, of the Government acquiring ships that are necessary to meet emergencies of this kind. When the ship subsidy bill of four years ago was before the Senate I offered an amendment to it or a substitute for it authorizing the Government to build a fleet of 50 ships, as I remember the number, suitable for the purposes of the Navy when the Navy was at war and adequate for commerce when the Nation is at peace.

In my judgment that is the only way in which we will ever be able to supply the American people with the instrumentalities for foreign commerce unless we place such a burden upon foreign ships as will drive them from our ports. If we pursued the policy of taxing the cargoes of foreign ships that come into our ports 10 per cent, 20 per cent, or any other adequate percentage we could in that way drive foreign trade into American ships; but I am not prepared to say that even if we were to abrogate all the treaties that we have with foreign countries which bind us to refrain from a course of that sort it would be wise to adopt the course. I fear that our entanglements with foreign nations would be increased, and we might not be able to preserve that good will which now happily distinguishes us from nearly every other nation in the world.

But aside from that, recurring to the immediate emergency, what we want, as the Senator from North Carolina says, is more ships free to engage in this commerce. We can get more ships in three ways. We can offer sufficient inducement to ships now owned by Americans to take an American registry, and thus be protected by our power. I think that is feasible, and I think it is wise, even though they have heretofore sought the advantages of a foreign flag. We can also open the door for a fraudulent transfer, a nominal transfer, to American ownership. That does not involve the investment of American money, but it simply involves the protection of an American name. I do not believe in encouraging that way of adding to our merchant marine.

The third way, but which will, in my opinion, prove entirely illusory, is an actual investment of money upon the part of American citizens in order to buy these ships. If I believed that there was capital that would invest itself in any such hazardous enterprise that is certain to become unremunerative the very moment the remaining nations of the world employ their shipping as they have heretofore employed it, I might favor the plan, but I have not heard a single Senator assert that, in his opinion, American capital could be enlisted in that way, under a protection of that sort.

See the hazard that the American investor must undertake. He buys a foreign ship. Just now and so long as the President of the United States sees fit to relieve the American ship from the obligation to employ American officers—watch officers—and pay them American wages, and so long as he relieves this ship from the burden of complying with our standards of seaworthiness, of sanitation, of safety, so long the ship may be operated profitably, possibly; but the very moment the emergency passes the American can no more operate that ship with profit than he has been able to operate it in times past, and the investment becomes a complete loss.

What is the use of deceiving ourselves with a pretense of that character? We become, I think, an object of derision throughout the whole thinking world when we propose to increase our American ships through the enlistment of American capital unless we accompany the bill with some assurance that the conditions under which the ships could be operated profitably will be permanent—will be continued after the emergency that now has arisen disappears.

I say, therefore, that in my opinion the danger of becoming entangled with foreign powers in the fraudulent transfer of ownership vastly overweighs the advantages that we would secure by allowing these ships to come in without the safeguard proposed by the Senator from Delaware. I may say that the first paragraph of his amendment seeks to include the same result that is sought to be reached in the amendment that I proposed. The only essential difference is that in his amendment the transaction is to be reviewed and determined by the Secretary of the Treasury.

In mine it was to be determined or to be passed upon by the Secretary of State. I still prefer my own view; but I am so anxious that there shall be reasonably fair protection against the consequences of transactions of this sort that I intend to support the amendment offered by the Senator from Delaware, believing that it will do something toward reducing or lessening the perils of indiscriminate transfers in order to get the security for the time being of the American flag.

Before I take my seat I desire to say that the amendment offered by the Senator from Nevada [Mr. NEWLANDS] is not an emergency measure, I agree, but it is a wise measure. It is exactly what, if I may be permitted to say so, I proposed in an amendment to the subsidy bill four or five years ago. I have never heard yet one word of argument against it. The Navy needs the ships. Without them, it is powerless to do the thing for which we built it. If the Government were to add to its Navy all the ships, in their general character merchant ships, that would be necessary to accompany the fighting vessels and make them efficient in time of war we would have at this moment at our command all the transportation that the business of this country needs in order to relieve it of the extraordinary situation with which we are confronted. If we had done this thing years and years ago we would not now suffer the humiliation through which we are passing. And besides that we would have had a Navy which the powers of the earth would know was able to move without the help of other nations.

Mr. NEWLANDS. Mr. President——

Mr. CUMMINS. I yield to the Senator from Nevada.

Mr. NEWLANDS. I am very glad to know that the Senator indicates his approval of the amendment which I have offered. I recall that years ago when his party was presenting the ship-subsidy measure he urged a proposal of this kind—the creation of an auxiliary Navy the vessels of which could be used in times of peace commercially.

I am a little in doubt about this amendment myself. I wish to make it very much broader, and I should like the views of the Senator regarding it. The amendment which I have offered appropriates $30,000,000, but provides that only $6,000,000 of it shall be available for each year for the next five years, either for the construction or the purchase of ships to be used in this auxiliary Navy. Does not the Senator think that the emergency is such now as to warrant the immediate utilization of that entire appropriation just as we appropriated $50,000,000 at the commencement of the Cuban war and put its expenditure practically in the discretion of President McKinley. Does the Senator not think that that sum, or even perhaps a larger sum, could be advantageously spent immediately in securing the ships necessary to make our Navy a well-proportioned Navy and at the same time enable the Government of the United States to meet this emergency demand for transportation?

Mr. CUMMINS. Mr. President, I can not see how the plan would meet the present emergency, for I had it in my mind that the Government should build these ships, and of course they could not be built in time to transport the products of this country to any foreign shore within the next year or two.

Mr. NEWLANDS. I wish to say that while the original bill which I presented years ago provided for the construction of these ships in American shipyards, yet the amendment which I have offered provides either for the construction or the purchase, and, of course, the Senator will understand that the purchase would meet the emergency.

Mr. CUMMINS. Although the Senator from New Hampshire [Mr. GALLINGER] doubts my loyalty to the merchant marine, I must say that if the Government were authorized to build the ships it ought to have as supplemental to its fighting ships, I would like to see them built in the yards of the United States and with American labor.

I am perfectly willing that the American people as a whole shall bear the additional cost of building ships at home rather than buying them abroad. I believe it is a wise public policy, and it leads me to make a suggestion with regard to the amendment offered by the Senator from Missouri that the Senator from New Hampshire recalled a little while ago.

I believe in the doctrine of protection. I believe in it profoundly, and I have made it the standard of my public life. I do not believe, however, in protecting one industry in this country at the expense of all others. The bill that was passed in 1913 revising the tariff law of the United States put 60 per cent and a little more, as I remember it, of the products of my State, and generally of the West, upon the free list, and with regard to them we are compelled to compete, and we are now competing with the whole world without any restriction whatsoever.

The doctrine of protection in order to be fair must be general. When it becomes partial, it becomes unjust, and I am not willing to subject the people of the country generally to the burden of the protection of one industry when those people must with regard to their own productions compete with the whole world.

That is the reason, or the chief reason, why I voted for the amendment of the Senator from Missouri. I will not, however, enter upon a general discussion of that subject, but it is manifestly unfair to protect by absolute prohibition of importation the shipyards of the United States and leave our other markets open to the inroads of the products of every nation upon earth. In that suggestion the Senator from New Hampshire will find the chief reason for the vote to which he refers.

Mr. GALLINGER. Mr. President, the reason why——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from New Hampshire?

Mr. CUMMINS. Certainly.

Mr. GALLINGER. I did not at all question the Senator's vote. I simply put in the RECORD the recorded vote as it appears in the proceedings of this body, and I had no intention of putting any Senator in a wrong position. I presume the Senator has not changed his view. I have no reason to believe that he has, but if the Senator will permit me, let me ask him this question: He says that he is against protecting any particular industry when certain of the products of his own State and of his own section of the country are on the free list.

Mr. CUMMINS. No; I did not say that, quite. I said that protection ought to be general in order to be just.

Mr. GALLINGER. Of course, the Senator would not argue we ought to put a duty on every commodity that we import?

Mr. CUMMINS. Oh, no.

Mr. GALLINGER. Because we could not do that; but I should like to suggest to the Senator that I think his argument, carried to its ultimate conclusion, would be that because the products of the Middle West are not properly protected, therefore he would not agree to the protection that is accorded to the varied interests of the United States as they appear in the tariff law we have on the books now.

Mr. CUMMINS. My view is that there ought to be upon everything that is produced in the United States a duty that would equalize the difference which exists in the conditions of its production.

Mr. GALLINGER. The Senator and I are in absolute accord on that proposition.

Mr. CUMMINS. Whenever that doctrine is abandoned as the economic policy of the country to preserve the protection upon some domestic production and leave it upon others it is unjust. It results in an unfair and intolerable distribution of wealth; and for that policy I can not stand.

Mr. GALLINGER. Of course, that brings us back to the primary discussion of the proper basis upon which a tariff law ought to be framed. I agree with the Senator in the suggestion he made a moment ago, and I simply want to add that the one conspicuous industry in the United States that has been always kept on the free list and is now on the free list is the shipping industry of the United States which is engaged in the foreign trade.

Mr. MARTINE of New Jersey. Mr. President, will the Senator from Iowa yield to me one moment?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from New Jersey?

Mr. CUMMINS. I yield.

Mr. MARTINE of New Jersey. I wish to read a telegram I have this moment received from Camden, N. J. It is as follows:

Hon. JAMES E. MARTINE,
Washington, D. C.:

We regard the Jones amendment to H. R. 18202, designed to admit foreign shipping to trade between Atlantic and Pacific coasts of the United States, as likely to work disaster to American shipyards, and we therefore strongly oppose same.

NEW YORK SHIPBUILDING CO.

Mr. CUMMINS. Mr. President, I did not rise to speak upon the coastwise policy of the country, nor did I rise to discuss the amendment offered by the Senator from Washington [Mr. JONES]. I understood that amendment to be—and I still understand it to be—a proposal that foreign-built ships which shall be registered under the laws of the United States, thus becoming American ships, shall be admitted to the trade between the two coasts. So interpreted, I am for it, because I believe that whenever we are willing to admit a ship to American protection and American registry we ought to admit it to every American port for every American purpose.

I am not saying whether it is wise to admit the older foreign-built ships to American registry. I have already expressed my views with regard to them. I fear that what we are doing as an expedient to meet an emergency is a thing that will result in no benefit to American shippers, but which will arise to plague us in our relations with foreign countries. If I could be assured that there was any American who was ready with his money to invest in a foreign-built ship under these conditions, my view of it might be different; but I have heard no one who even ventured to predict that there would be the investment of a single dollar in foreign-built ships under the conditions of this bill; and I wish heartily that the bill were confined to ships that are now owned by Americans or by American corporations, for I do think that with respect to them the bill will furnish some relief in a condition which is as extraordinary as I believe it will be brief.

Mr. McCUMBER. Mr. President, the Senator from North Carolina [Mr. SIMMONS] has made an earnest plea that this bill be not amended in any way; that it shall remain just as it has come from the committee; but, after the arguments are disposed of, I would suggest to the Senator that at least we ought to amend the title, and the proper amendment to the title would be, "A bill for the relief of the United Fruit Co. and the Standard Oil Co." So far as has been shown up to the present time, theirs are the only two lines of ships that would come under this bill and would receive American registry.

We all understand very well that ships flying a belligerent flag do not feel extremely easy under the present conditions, and the ships of those companies owned by Americans and American corporations would undoubtedly avail themselves of the privilege of becoming exempt from seizure upon the seas. They would immediately take an American registry during the present period, and so long as the war continued, of course, they would avail themselves of that protection; but after the war, which may last for three months or may last for six months, is over, what will those ships then do? Will they continue to fly the American flag or will they immediately be transferred to foreign registry and a new British or German or Norwegian flag hoisted in place of the American flag?

The Senator from North Carolina has been challenged in several instances to name any other ship outside of those owned by these companies which would probably be purchased by American investors. I have not heard of a single answer to that question, and why? If the Senator from North Carolina under the present conditions felt that he could with profit buy a foreign-built ship to engage in foreign commerce under American registry, the very first question that he would ask himself would be, "What will I do with this ship after the exigency has passed and things have become normal between the great nations of the world? I can not operate it under American registry and under our laws in competition with the foreign-built vessels operated under foreign laws. I can not compete with them; I have not been able to compete with them in the past and I shall not be able to compete with them in the future, as I must be compelled to do if I own my vessel. What will I do with it? I shall either have to sell it to some foreign company or else will have to lay it aside."

What objection can there be to a provision that any one of these vessels which thus obtains American registry may, after the close of the war, be allowed to engage either in the foreign trade or in the coastwise trade? They would not engage in the foreign trade, because they could not afford to do so; but if you will say to the American citizen, "After you have registered this vessel for the benefit of American commerce you at least can use it in the coastwise trade," he might consider that, with the Panama Canal to be open in a short time, there will be a demand for an additional number of vessels for the coastwise trade.

With a little modification of the amendment that is offered by the Senator from Delaware [Mr. SAULSBURY] which would give that authority, and with a further modification that would leave out entirely the provision as to the amount of stock that might be held by foreigners, we could give an opportunity to all of the vessels of the two great companies to which I have referred to come under American registry and at the same time give an opportunity to the average American investor to buy foreign-built ships, as he will probably be willing to do if he feels that he can have any field for its operation in the future.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from North Carolina?

Mr. McCUMBER. I do.

Mr. SIMMONS. The Senator has said that after this emergency has passed foreign-built vessels purchased by American citizens would not be able to compete with ships of other nations, and that they then would have to go out of business or go under another flag. I do not know whether or not the Senator is correct in saying that they can not compete.

Mr. McCUMBER. They have not been able to compete in the past. What assurance have we that under the same conditions they will be able to compete in the future?

Mr. SIMMONS. The Senator overlooks the fact that now for the first time we are permitting the purchase of foreign-built vessels; that is, we were doing it for the first time when we passed the Panama Canal act and placed limitations upon such purchases. We are proposing now to remove those guaranties; so that the old argument that ships may be constructed very much cheaper abroad than they could here, that the additional cost of the ship to the American would burden him and make it impossible for him to compete, is removed if this act is passed.

Mr. McCUMBER. It is removed, anyway. It has been removed for some years.

Mr. SIMMONS. Just a moment. No; it has been removed only as to a limited number of vessels, those not five years of age. That was done by the Panama Canal act passed about two years ago.

Mr. McCUMBER. But not a vessel has been purchased under that act.

Mr. SIMMONS. That is very true. But, Mr. President, let us go a little further. That difficulty as to competition is removed. The American can get his ship built as cheaply as a foreigner can get it built or can buy it.

The only other impediment is, first, the difference in the cost of operation. Under the present law an American shipowner can hire his crew entirely from other nationals than those of this country; that is, his crew may be entirely composed of foreigners. Under the present law watch officers must be Americans, but this bill authorizes the President to suspend that requirement for such time as he may deem necessary; but after the President's authority to suspend that requirement is removed, the owner of a vessel will have to select his watch officers from American citizens. That might possibly impose some additional expense, because it is very well understood that our watch officers are probably better paid than are the watch officers of foreign countries.

Mr. McCUMBER. But right here let me ask the Senator if he supposes that that condition will continue after the war—that we may then have our vessels manned by foreigners?

Mr. SIMMONS. I have just said that after the emergency passes the watch officers would have to be American citizens.

Mr. McCUMBER. And a majority of the seamen, too?

Mr. SIMMONS. Oh, no; the law does not require the majority of the seamen, as I now understand it, to be Americans.

Mr. McCUMBER. I think it does.

Mr. SIMMONS. I think not, but I am not sure about it.

Mr. McCUMBER. It requires a certain proportion to be so, and that proportion would have to be maintained.

Mr. SIMMONS. It does on those steamships that operate under the act of 1892, but it does not upon other ships. Upon other ships the watch and the crew may both be foreigners. I think I can not be mistaken about that.

Mr. GALLINGER. Probably that is correct, but as a matter of fact there are very few such ships.

Mr. SIMMONS. So that the difference as to wages would be only as between the wages that the American would have to pay the watch officers and the wages that the foreigner would have to pay the watch officers. It is said that the other countries pay subsidies. Under the act of 1892, any one of these ships, if of the first class, can become a mail carrier and get a subsidy from this Government of $4 a mile one way. If it is a second-class ship—and there are only second-class ships, I believe, now engaged in our trade with South America, with Central America, and, I believe, also with the Orient—it can also get a mail contract under the old subsidy act at the rate of $2 a mile, so that there would be a large opportunity for such vessels to become mail-carriers; in fact, all the vessels in our South American trade and our Oriental trade would have that opportunity offered to them, and, as mail carriers, they would get this subsidy.

Mr. McCUMBER. Mr. President, now let us look at the matter——

Mr. SIMMONS. If the Senator will allow me to finish, I can not see the force of the argument that, under these conditions, with no difference, as I see it, except the difference in the salaries of the watch officers, competition would be impossible, seeing that in our industries in this country, while it is alleged that we pay 50 per cent more wages than some of the European countries, we not only compete with them but we go into their very markets and supply their home customers.

Mr. McCUMBER. The very best evidence, Mr. President, of whether we will be able to compete is the fact that we have not dared to compete or attempted to compete, although we have now had a law for several years upon our statute books which allows American citizens to purchase any ship not more than 5 years old built anywhere in the world and give it American registry. The fact that our citizens have not purchased a single ship, although they can purchase them under the same conditions as the citizens of any other nation, is rather positive proof that the operating expenses under our requirements are so great that we can not compete. Therefore it resolves itself down simply to a question of whether our navigation laws are such as will enable American vessels to compete with foreign vessels. If American vessels are not able to compete with other vessels engaged in the foreign trade, then any vessel that would be purchased under this bill would be practically useless at the end of the war, unless it could be used in some other way. I am assuming, of course, that the rules with reference to the number of crew, proportion of American citizens in the crew, and other requirements after the close of the war will be practically the same as they are to-day.

I want to find a way to keep these vessels under the American flag. Of course the vessels owned by the Standard Oil Co. and the vessels owned by the United Fruit Co. when the present emergency is over will be put again under foreign flags and proceed in their own line of work, but we would like to get a few vessels to remain permanently under the American flag, and we at least would extend an invitation that might be heeded if we would say to American capitalists, "Any ship which you purchase under the provisions of this law may hereafter be used in the coastwise trade by complying with the conditions and the laws relating to that trade"; in other words, that it may be used in the coastwise trade if the owner feels that he is incapable of competing in the foreign trade.

Mr. BRANDEGEE and Mr. SAULSBURY addressed the Chair.

The PRESIDING OFFICER. To whom does the Senator from North Dakota yield?

Mr. McCUMBER. I yield first to the Senator from Connecticut.

Mr. BRANDEGEE. Mr. President, I want to suggest to the Senator that, although vessels may not have been purchased under the existing law heretofore, because they would be brought into competition with and might not be able to meet the competition of foreign vessels, still is it not the theory of this bill that to buy foreign-built ships because what was formerly foreign competition may be removed, and we may not have the use of the foreign ships? I assume that if, as stated by the Senator from Iowa, the vessels of Great Britain and Norway, and possibly Italy and other foreign countries, may be at liberty to carry our products, then the very emergency that is contemplated by this bill will not arise.

Mr. McCUMBER. To some extent it will arise, because the greater proportion of the world's carrying trade will be in the same hands it was before. The greater proportion of the carrying trade has been in the hands of British vessels, which, of course, will be subject to seizure.

Mr. BRANDEGEE. Mr. President, if this bill should pass, and if American citizens should purchase German vessels, is it the understanding of the Senator that those German vessels can ply safely under the American flag between this country and Germany?

Mr. McCUMBER. If purchased in good faith, I certainly do contend that they can.

Mr. BRANDEGEE. Of course, Mr. President, what militates against that view, in my opinion, is that the commerce of Germany will be almost entirely cut off, and if Great Britain retains the control of the seas and can protect her vast tonnage of ocean carriers in transporting the products of this country abroad, those vessels will carry our products to Great Britain; they will not be transported to Germany or to belligerent nations in opposition to the interests of Great Britain. Nor do I think that American vessels would succeed in doing that in view of the conditions that obtain in central Europe at this time. I am looking to see the vast amount of exports from this country, even if Americans do purchase vessels, taken to Great Britain. Unless Great Britain can maintain command of the seas so as to protect her own tonnage between this country and hers, then she will not be able to protect ours either.

In answer to what the Senator has said about the desirability of foreign-built vessels purchased for this emergency being given the right to enter our coastwise trade and remain there after the war closes, it would seem to me that that would be utterly in contravention of the doctrine which at least the Republicans hold and which has been stated by the Senator from Iowa and the Senator from New Hampshire. If the present emergency—the necessity of supplying transportation facilities temporarily until the accustomed ships can be relied upon to resume their vocation in that line—is to be taken advantage of to stock up the demand of American citizens for vessels to engage in the coastwise trade, it seems that it will put our shipyards out of business for years to come.

Mr. McCUMBER. Mr. President, I do not see that it will seriously affect our shipyards. I think the shipyards get hysterical every time there is the slightest danger of a ship being registered in this country without being built in one of their yards. I do not suppose that a great navy and a great fleet of merchant ships are going to be obtained under the provisions of this bill.

Mr. BRANDEGEE. If they are not, Mr. President, there is no earthly use of passing the bill.

Mr. McCUMBER. My candid opinion is, if the Senator please, that as the bill now stands there will not be one single ship purchased, but that ships now owned by American companies and flying a foreign flag will come under the provisions of this bill for self-protection. That is about all the bill will accomplish. Senators are contending, however, that this bill is drawn with the idea that American citizens are going to purchase and bring under American registry other foreign-built vessels outside of those owned by American companies.

No American citizen is going to purchase a vessel built in foreign shipyards unless after he has purchased it he can use it in the foreign trade or in the coastwise trade, if he sees fit, just so long as he desires. In other words, he is not going to buy for an emergency that may last only from three to six months.

Now, I want to say just a word to the Senator from Delaware in reference to his amendment.

Mr. BRANDEGEE. Mr. President, before the Senator proceeds to that, if the Senator is right that nothing but the Standard Oil tank ships constructed for the transportation of oil and the United Fruit Co.'s fruit vessels equipped with cold-storage facilities for perishable cargoes are to be transferred to the American flag, does he think, in view of the peculiar construction of these vessels, even if they were willing to abstain from their existing business, that they would furnish any measure of relief in the transportation of the farm products of America to Europe?

Mr. McCUMBER. Oh, yes, Mr. President; I think grain, cotton, and many other commodities could be carried in these ships with very little changes.

Now, I ask the attention of the Senator from Delaware in reference to his amendment which proposes to add a new section to the bill to be known as section 3. That amendment provides:

SEC. 3. That the Secretary of the Treasury on being satisfied that not less than 90 per cent of the capital invested in any foreign-built steamship is the bona fide property of citizens, whether individuals or corporations, shall direct the bills of sale or transfer of the foreign-built steamships so acquired to be recorded in the office of the collector of customs of the proper collection district, and cause such steamships to be registered as vessels of the United States by said collector—

And so forth.

The only criticism that I have heard directed toward that particular amendment has been in reference to the provision that not less than 90 per cent of the capital of the vessels shall be the property of American investors. As has been suggested, this would cut out many of the vessels of the two particular lines that would undoubtedly take advantage of this proposed law. As this is to be a temporary measure, and as we want to get the ships, why should we make that limitation at the present time? Why could we not properly strike out the provision as to not less than 90 per cent of the capital invested being held by American citizens, so that it would read:

That the Secretary of the Treasury on being satisfied that any foreign-built steamship is the bona fide property of citizens of the United States—

And so forth.

Mr. SAULSBURY. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Delaware?

Mr. McCUMBER. I yield, Mr. President.

Mr. SAULSBURY. When I attempted a few moments ago to correct a manifest misapprehension on the part of the Senator from North Dakota I was unable to do so, but as he addresses a direct inquiry to me now I presume I may.

The reason for the amendment is simply and solely this: That there shall be practically conclusive proof that these ships which we admit to our registry, and which sail under our flag, are the bona fide property of our own citizens. The purpose of the amendment is to prevent such ships sailing our flag from being seized by the first belligerent cruiser that wishes to seize them, and being taken by such a cruiser into a prize court, where they will undoubtedly be condemned as lawful prize unless there is sufficient proof that they are the property of American citizens. That is the whole and sole object of the amendment.

Mr. McCUMBER. But, if the Senator will allow me, the Senator will see that by his amendment he requires, first, that they shall be bona fide purchases, and then, in addition to their being bona fide purchases, that at least 90 per cent of the stock must be held by American citizens. Therefore a transfer might be absolutely bona fide, and yet only 80 per cent of the stock might be owned by American citizens, or any other percentage. It seems to me that if we require that they shall be bona fide American ships, and that the transfer shall be in good faith, we might leave the question of the evidential facts to establish that matter in the discretion of the Secretary, and thereby secure what we want to secure—the transfer of these particular lines to American registry; because that is all, I believe, that we will get under this bill.

Mr. SAULSBURY. Mr. President, the Senator from North Dakota unfortunately has not been present when, several times, I have tried to make statements to the Senate which I thought pertinent to this amendment, and have tried to confine myself to that only. I have stated that I was informed by reputable and representative members of the Washington bar that they have been authorized to say to me that if this amendment and the other amendment which I propose shall be adopted there will be registered under the American flag a substantial number of ships now sailing under foreign flags.

The misapprehension which I desire to correct, as shown by the statement of the Senator a few minutes ago, is this: He and each one of the Members who have addressed the Senate who have not happened to be present when I have been trying to impress the merits of these amendments upon the Senate have insisted that the vessels which will be registered here will go into foreign registry immediately upon the termination of the war. Now, I have provided for that; and if the Senator will do me the honor to read the amendment which immediately follows this, which I shall immediately offer after this is voted upon, he will see that I have provided for that by saying that no transfer of such vessels shall be permitted which will in any way affect the right of the United States to take over such vessels, if it so desires, under the provisions of the old act which was passed in 1892, concerning the two steamships which were then admitted to American registry under certain other conditions.

The object of these two amendments is, first, to make sure that a ship flying our flag shall not be seized because of fraud in its transfer. The second is that when transferred to our flag and registered as a vessel of the United States, it may not be transferred away to the flag of a foreign power immediately upon the conclusion of hostilities.

If the Senator will do me the honor to read the amendments proposed, he will see that that is the intention of both of them, and no other.

Mr. McCUMBER. I have read the amendments; and I will say to the Senator that, while objection was made to that portion of the amendment by the Senator from North Carolina, I myself did not consider it very serious, but for an entirely different reason. I believe these ships, under the present conditions, desire an American registry, and I believe they will have very little difficulty in getting the stock transferred to American citizens in order that they may have American registry, even though the Senator should put the proportion at 95 or 98 per cent. I believe they will find a way to secure an American registry for self-protection. The Senator's amendment also provides, however, that—

Each of such vessels shall be entitled to all the rights and privileges of a vessel of the United States, except that it shall not be employed in the coastwise trade of the United States, unless the voyage in which such vessel may be engaged requires its passage through the Panama Canal.

I have not myself seen the occasion for the restriction. As indicated in what I first said when I rose, it seems to me that we ought to give the broadest opportunity to use these vessels in the coastwise trade anywhere in the United States, so that there will be an inducement on the part of the person desiring to purchase a foreign craft, and an assurance that he will have some business for that craft to do after the war has closed and normal conditions again obtain.

It would seem to me to be better, in order to secure the result which I hope we would have—namely, a permanency in the transfer of the flag—if that were amended so as to read:

Each of such vessels shall be entitled to all the rights and privileges of a vessel of the United States, and may engage in either foreign or coastwise trade upon complying with the laws and regulations relating to the vessels engaged in such trade.

Of course an amendment of that kind might have to be worded a little differently so that it would apply after the close of the present condition. I shall vote for the Senator's amendment even as it is; but I believe that it would result better, and that we would be more likely to get some other vessels than those belonging to the United Fruit Co. and the Standard Oil Co., if we should allow the owner of the vessel to use it just the same as though it had been built in our own yards.

Mr. CHAMBERLAIN. Mr. President, will the Senator yield to me?

Mr. McCUMBER. I yield.

Mr. CHAMBERLAIN. The purpose of the Senator's suggested amendment would be to permit these vessels to engage in coastwise traffic, whether it was intercoastal or not?

Mr. McCUMBER. Certainly.

Mr. CHAMBERLAIN. In other words, they could transport freight from New York to New Orleans or to any intermediate point?

Mr. McCUMBER. Yes. It would give us just so many more vessels in the trade.

Mr. CHAMBERLAIN. I do not see any reason why that should not be done.

Mr. McCUMBER. Nor I, either.

Mr. CHAMBERLAIN. The amendment proposed by the Senator from Washington [Mr. JONES] limits the vessels to intercoastal traffic; that is, to traffic between points on the Pacific Ocean and points on the Atlantic.

Mr. McCUMBER. I am not so sure but that that field may be pretty well filled by this time; and if it should so happen that there was not the demand that we might expect as between the intercoastal points, then at least they might be used at other points in the coastwise trade.

Mr. CATRON. Mr. President, owing to the fact that I am compelled to leave the city to-morrow I take this opportunity of referring to an amendment which I have previously introduced to the interstate-commerce law, and which has been referred to the Committee on Interstate Commerce. It is substantially the same as an amendment which I have proposed to House bill 16586, which is a bill to amend the twentieth section of the interstate-commerce law.

The amendment which I propose is to come in on line 9, after the word "act" and before the word "and," on the first page of that bill. It will make the first part of that section read as follows:

SEC. 20. That the commission is hereby authorized to require annual reports *from all* common carriers subject to the provisions of this act, all corporations, joint-stock associations, and all other associations having shares of capital or capital stock organized to carry on business for profit engaged, or which may hereafter be engaged, in the transmission of electricity for power, lighting, heating, or any other purposes, in any manner whatsoever, from one State or Territory in the United States or the District of Columbia to any State or Territory of the United States or District of Columbia, all of which corporations and associations are hereby constituted and made common carriers and shall come under the terms of and be subject to the provisions of this act, and from the owners of all railroads engaged in interstate commerce as defined in this act; to prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the commission may need information.

I have read the first clause of that act as my amendment will change it.

It has been given out by the party in power in this Government that its main tenets are: That that party is opposed, first, to all monopolies; second, that restraint of trade must not be permitted; third, that competition must be fostered and encouraged; fourth, that persons of small means must be protected against those who are charged to be the possessors of predatory wealth.

The section of the law to regulate commerce which the amendment I have proposed seeks to better is aimed at those associations or corporations which, in the main, are possessed of great resources and are engaged in large business.

It is intended to bring their methods and dealings to the light of day and let the world see them and understand them, be they good or bad.

It is intended that others shall know with whom they are dealing and what they are to expect in their dealings with them.

It is intended that they shall be able to know enough about those associations and corporations to put them upon their guard, and to enable them to protect and defend themselves against any propensity of such associations or corporations with whom they may have business relations to absorb or destroy them.

That section as it now stands in the law to regulate commerce, or as it is proposed to be amended by the report of the committee in the bill they have laid before the Senate, does not embrace in terms or make it free from doubt all those who ought to be embraced in its provisions or who may be embraced in its provisions.

It is not certain who are all the parties embraced in the term "common carrier." There is a general understanding that many kinds of business and many parties are included therein; but it has not been declared in unmistakable terms, either by a law or judicial decision, that those who transmit electricity to be used for power purposes or for heating and lighting purposes are to be considered as common carriers.

It has been determined and declared by law that telegraph, telephone, and cable companies engaged in sending messages from one State, Territory, or District of the United States to any other State, Territory, or District of the United States, or a foreign country, shall be considered and held to be common carriers within the meaning of that act; also, that persons engaged in the transmission of oil or other commodity with pipe lines, or partly by pipe lines and partly by railroad, or partly by pipe lines and partly by water, shall be considered and held to be common carriers within the meaning and purpose of that act.

It seems that the framers of that act and the various amendments and of the amendment embraced in the provisions of House bill 16586, reported to this body by the Interstate Commerce Commission, have overlooked the fact that there is another species of business which is engaged in transmission of electrical current for the purposes of operating power plants, and for heating and light purposes, the owners and operators of which business should be brought within the terms and provisions of the act to regulate commerce. They are acquiring and absorbing the electrical power throughout the entire Union. No other business in the United States is progressing and forging ahead so rapidly as that. What it will accomplish in the future is beyond the conception of man. Its advancement in the last 20 years has been unprecedented. Its scope of business has been enlarged to embrace every section of this Union. There are many different persons and corporations engaged in that business, but it is fast being concentrated into one or two great corporations or associations. Throughout the United States there are water powers of great capacity capable of being used at the smallest expense for generating electricity and transmitting it to be used for all industrial and domestic purposes. In the mountain regions of the United States, especially in the Rocky Mountains, there are waterfalls of greater or less volume and greater or less drop from their head to the bottom. These are capable of producing electrical power and at the same time not interfere seriously with the use of the water for agricultural and domestic purposes, as it has been used before the introduction of electricity in the manner as it is now extensively being used.

There are companies and associations backed up by immense capital, one among them being the General Electric Co., engaged in the manufacture of electricity and transmitting it for use over lines from one State to the other. These companies and particularly the General Electric Co. in the United States, like an octopus, have been reaching out with many arms and gathering into their folds the various water powers and the various appliances by means of which electricity is manufactured or generated and transmitted. They are fast consolidating and drifting into the condition of an absolute monopoly.

The pioneers who have gone to the West to open up and improve and develop that country have acquired the sites of many water powers, some quite small and some larger. Their means are limited. Their resources are few. They may be able to build dams and reservoirs and collect the water and prepare the power, and yet many of them are unable. In fact most of them are unable, financially, to put in a sufficient plant or adequate lines to transmit the electricity which the power they have conserved and built up might transmit. The western country is dependent very much upon the development of this kind of power, as well as upon electricity for the purposes of heating and lighting. If it is placed in the hands of a monopoly, such as it soon will be, if neglected, it will all be absorbed by the General Electric Co. and its associates in a comparatively short time, and progress, development, and advancement of that portion of the United States will be stunted and to a marked degree paralyzed. It will be held back. The immense resources of these mountains will remain unexplored and unopened. The gold and silver and other metals which lie buried therein will not be brought out for the world's use for ages and ages.

To-day the operations of the General Electric Co. are being felt all through the Rocky Mountain region. That portion of the country is being held back by the absorption of those resources by that company or others in combination and association with it. It does not do all of its business in a single name. It has acquired control of various companies and corporations which control portions of the water power of that section of our land and is fast concentrating them all under one general supervision and management, all under one general system of control, so that there is practically no competition. There is practically no remedy for the owner of such power who only possesses moderate means to develop the same and put it into use, except that they do exactly as was compelled to be done by the Standard Oil Co., which compelled the producers of all oil from wells to sell the same to it, to be conducted through its pipe lines to the refineries and markets, an act which the Supreme Court has very lately condemned and declared that that company had by that means become a common carrier and subject to the act to regulate commerce. The Gen-

eral Electric Co. and its associations or combinations are fast acquiring a similar control to that which has been acquired by the Standard Oil Co.

If as it is claimed by many, particularly the party in power, that the bill in question, House bill 16586, has a tendency to check monopolies and to encourage competition, certainly the Committee on Interstate Commerce should have no trouble in adopting the amendment which I have proposed and bring the parties manufacturing electrical current and transmitting it from one State to the other under the purview of the act to regulate commerce. There is no reason why those interested in that kind of business should not have the same safeguards and protections as those who are interested in producing and transmitting oil, or interested in any other character or kind of business which has to be done through the means of a common carrier or through the agencies of a common carrier.

I call the attention of the Interstate Commerce Committee particularly to the amendment which I have proposed, and ask them by the time this bill shall be brought on for debate and determination to take it into consideration and incorporate it in the bill in substance as I have suggested it, or in some other way equally or more feasible. I hope they will see their way clear to do this. If we intend to regulate common carriers, there is no reason why we should not regulate them all alike. Our laws should be uniform and take hold of all persons similarly situated in the same manner and to the same effect.

Mr. CUMMINS. Mr. President, I desire to make a suggestion to the Senator from New Mexico before he takes his seat. The argument just made is unanswerable, I think. I only desire to say that it seems to me that the amendment which he proposes, instead of being an amendment to section 20, ought to be an amendment to section 1 of the interstate-commerce law, which undertakes to define the common carriers that come within the provisions of the act. The Senator knows that that section has been very much enlarged since it was originally passed in 1887, and I think the amendment ought to be to section 1.

Mr. CATRON. If the Senator will examine the amendment I have proposed he will see that it practically brings itself in under that section, because it declares this company to be a common carrier and subject to the terms and provisions of the act.

Mr. CUMMINS. Yes; but——

Mr. CATRON. And I did not put it as an amendment to section 1, because section 1 is not incorporated in the act which I am amending. It commences with section 20. I tried to make my amendment broad enough and pointed enough to bring it under the provisions of section 1 as well as under the provisions of section 20. However, that is a proposition which is submitted to the Interstate Commerce Committee, and they can make it that broad if they desire.

Mr. CUMMINS. I think that is where it should be, for purposes of convenience.

Mr. CATRON. I agree with the Senator that that would be the better place to have put it.

Mr. CUMMINS. When one takes up the interstate-commerce law he begins at once to read what instrumentalities are made common carriers under the act; and gradually that has been expanded until it takes in, as I say, a great deal more than was originally covered.

Mr. CATRON. I agree with the Senator on that, and I recognize the propriety of amending that section in the way I have suggested. I proposed it here, because that section is not amended in this bill, and I thought I would make it so that it would apply to that section as well as to the whole bill.

Mr. CUMMINS. We can very easily say that section 1 is amended in accordance with the Senator's suggestion.

Mr. CATRON. The Interstate Commerce Committee is asked to look into it, and that could be very well done.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Delaware [Mr. SAULSBURY].

Mr. GALLINGER. Mr. President, I desire to make a suggestion to the chairman of the committee. He does not seem to be in the Chamber at present.

While the Senator from New York is being found, I will call attention to one point that I think is important. If I read the proposed amendments correctly, taking the amendment of the Senator from Delaware, it would allow foreign-built vessels with foreign officers, not complying with our inspection laws, to load at Puget Sound with a cargo for San Francisco, load there with another cargo through the Panama Canal for Galveston or New Orleans, and load there with another cargo for Philadelphia or New York or Boston. Now, it occurs to me that every foreign-built ship admitted under our flag in the lax way provided in this bill would be sure to take advantage of such an opportunity to invade American trade instead of taking the hazards of carrying American wheat and cotton, with the war danger, to points in Europe. The purpose of this bill—to provide ships in an emergency for our export commerce—would be practically nullified by the amendment offered by the Senator from Delaware; and it would be almost, if not altogether, nullified by the amendment of the Senator from Washington.

Mr. O'GORMAN entered the Chamber.

Mr. GALLINGER. The Senator from New York has returned, I see. Will the Senator permit me to make this observation to him? As the Senator has observed, this side of the Chamber is considerably wrecked, so far as attendance is concerned. The two Senators from Massachusetts are away, the junior Senator having been called away this afternoon. I have just been communicated with from Boston, over the long-distance telephone, by men of consequence there, who say that they are considerably disturbed over this situation, and that they are going to have a conference on Monday, composed of all classes of their people, to discuss the matter; and that they would very much like, if it could be brought about, to have this bill go over until Tuesday.

I wish to ask the Senator from New York if he will not agree, provided the Senate will agree to it, to have this bill go over until 2 o'clock on Tuesday, and then take the same procedure that was taken on the trade commission bill, with 10-minute speeches, and vote on the amendments and final passage of the bill at 6 o'clock on Tuesday? I assure the Senator that this is not trivial. It is the request of men whose wishes, if possible, ought to be complied with.

Mr. O'GORMAN. Mr. President, I am very reluctant, of course, not to yield to any suggestion coming from the Senator from New Hampshire. The truth is, however, that more than 48 hours ago—two days ago—the junior Senator from Massachusetts requested that the consideration of certain phases of this legislation be withheld, or that a determination regarding them be deferred, until he received the details of objections that were coming to him from Boston. The matter was held for some hours to accommodate him in that respect, and I think he received a telegram containing such objections as his constituents in Boston cared to convey to him.

Would it meet the views the Senator has in mind to have the merits of these suggestions considered in conference, and in that way let us proceed with the passage of the bill and take up those considerations when we confer with the representatives of the House? There is a pressing need for immediate legislation on this subject. The Chamber of Commerce of New York, a very large and influential body, as the Senator knows, passed resolutions yesterday dwelling on the urgency of this legislation. They want boats and they want them as quickly as they can get them.

It was stated a few moments ago by the Senator from North Dakota that if this bill passes about the only vessels that would avail themselves of its provisions would be the Standard Oil boats and the boats of a fruit company.

I can assure the Senator that there are other ships prepared to take advantage of this law as soon as it is passed. There are five boats of the so-called Red Star Line plying between New York and Philadelphia and Antwerp, probably belonging to an American corporation but now flying the Belgian flag. They are prepared just as soon as this five-year limitation is removed to sail under the American flag.

I know of another company having four boats owned by an American corporation. Two of them are under five years, two others were built more than five years, but they want the four boats to fly under one flag, and if this five years' limitation is removed they will promptly, with their four boats, avail themselves of this provision. The firm of William R. Grace & Co., acting under the name of some corporation—I think it is the Atlantic & Pacific Steamship Co.—have some 8 or 10 or 12 boats. The corporation is an American corporation and these boats are all flying the British flag. They are prepared to fly the American flag as soon as this bill is passed.

The immediate suggestion I wish to urge upon the Senator from New Hampshire, having in mind the request that he has made, is that we proceed and pass the bill. The bill, if passed, will differ very much from the House bill and will require a conference, at which time the views of the people from Boston can be considered. Will that meet the situation?

Mr. GALLINGER. Mr. President, I have been a Member of this body too long to stake very much on a conference committee. I have had too much experience in that line. Yet I appreciate the courteous suggestion of the Senator from New York.

Mr. POMERENE. Would the Senator have any objection to stating the nature of the objections that are raised?

Mr. GALLINGER. The objection is to the coastwise provision. I think if that did not become a part of the law there would be no serious apprehension, and that, I apprehend, is the objection on the part of the people of Boston.

Mr. O'GORMAN. Does the Senator really think, after the very full and more or less exhaustive discussion of all the aspects of this situation in which the various Senators indulged, we will know more about the situation by holding the matter over in order to ascertain the views of citizens in different parts of the country?

Mr. GALLINGER. Mr. President, I am of opinion that we probably would not be greatly influenced by what might be said or done, and yet this is only asking practically for two days' delay. It is not a very unusual request.

Mr. O'GORMAN. In an emergency such as this is—and it must be recognized as an emergency—two days' delay might have serious consequences. I hope the Senator upon reflection will see that no interest will suffer by allowing the bill to proceed to a vote to-night. I have so much respect for the Senator from New Hampshire that I know no view can come from the citizens of Boston or any other city that has not been advanced by him with great earnestness and impressiveness during this debate.

Mr. GALLINGER. My own attitude, as far as the bill is concerned, is that I want to vote for the original bill. Of course I do not for a moment imagine that my vote is going to determine the fate of the bill anyway, but I would not vote for it with the coastwise provision attached to it; and I had hoped that, recognizing this emergency, the Senator from New York would adhere to the original bill, not necessarily as it came from the House, but simply the proposition that we should endeavor to get ships for our foreign trade.

Mr. O'GORMAN. I will say to the Senator that the committee has not announced its views as a committee regarding the merits of the amendment offered by the Senator from Washington.

Mr. GALLINGER. No; but I notice that the Senator from New York, with a good deal of alacrity, indorsed it the other day.

Mr. O'GORMAN. I was so impressed with the merits of the proposition as presented by the Senator from Washington that I took the liberty of stating that I viewed his proposal favorably, speaking only for myself.

Mr. GALLINGER. Mr. President, I have made the request, and, of course, that is all I can do. I want to say now in just 10 words, more or less, that I believe this coastwise provision in the bill will absolutely nullify the purpose of the original act.

Mr. President, when a foreign ship can be put in the trade between Puget Sound and Maine, transferring its cargo at three or four different points, for Heaven's sake why should that ship want to go in the foreign trade and take the dangers that will encounter it on the high seas? You will not get ships in the foreign trade if this coastwise provision is in the law. You will get ships in the coastwise trade, and it will give no relief to certain sections of the country, so far as their products are concerned; but it will be, in my opinion, an absolute nullity, so far as adding to our foreign fleet is concerned.

That is my judgment, and that is an added reason why I wish that the bill might be stripped of that complication and that we might vote on the original proposition.

Mr. FALL. Mr. President——

Mr. GALLINGER. I yield to the Senator from New Mexico.

Mr. FALL. I should like to ask the Senator, and also call the attention of the Senator from New York to this point. I do not understand the proposition, apparently, as to where this emergency exists. I have understood that this was an emergency with reference to the foreign trade of the United States.

Mr. GALLINGER. That is what they say.

Mr. FALL. If there is an emergency with reference to the coastwise trade, it is perfectly proper, possibly, to deal with it at this time in connection with the bill generally; but if the emergency is with reference to the foreign trade, then why inject the coastwise proposition into it? Thinking of it as I do, I am thoroughly in favor of the passage of the original bill or the bill as it came from the committee, but I am very doubtful about the effect of the enactment of the proposed amendment with reference to the coastwise trade. It may, if embodied in the bill, affect my vote, and doubtless it will do so.

Mr. O'GORMAN. Mr. President, before proceeding to a vote on the amendment offered by the Senator from Delaware I desire to say just a word. I shall not discuss the subject at length, because I do not want to protract the debate, but it is my judgment that if the amendment offered by the Senator from Delaware be adopted every good purpose intended to flow from the passage of this legislation will be destroyed. At the present time, without amending the law, a vessel not more than 5 years old and flying a foreign flag may be registered and permitted to fly the American flag if the vessel is owned by an American corporation, provided the officers and directors of the American corporation are citizens of the country. Under that law, which is the existing law, I can not conceive of a case where 95 per cent of the stock of the corporation might be held by a foreigner. All the stock might be held by a foreigner except the few shares that might be necessary to qualify the officers.

That is the existing law, but we find that that law is insufficient for our present purposes and we are attempting now to liberalize the law. How does the Senator from Delaware propose to liberalize it? By imposing a condition that at least 51 per cent of the stock of the American corporation must be in the hands of American citizens.

Mr. POMERENE. Mr. President——

Mr. GALLINGER. I have the floor. I simply want to make one further suggestion to the Senator from New York. I understand the other House will take an adjournment this evening until Tuesday next. So if my original request should be acceded to it certainly would not make more than one day's delay in the final consideration of the bill.

Now, Mr. President, I leave the matter, having performed my duty.

Mr. POMERENE. Mr. President——

Mr. O'GORMAN. I yield to the Senator from Ohio.

Mr. POMERENE. If a corporation was organized for the purpose of claiming the privileges of the American law of registry, and, say, 95 per cent of its stock was owned by France or by French citizens, and the vessel was flying the American flag, does not the Senator from New York feel that we might become seriously involved with Germany or with Austria under those conditions?

Mr. O'GORMAN. Not at all. We do not intend by this remedial legislation to aid citizens of this country who are willing to resort to subterfuge and evasion of our laws.

Mr. POMERENE. No; but, Mr. President——

Mr. O'GORMAN. We are only offering protection so far as we may to citizens of our country who in good faith buy a foreign ship without the intent or design or purpose of evading the consequences of the war.

Mr. POMERENE. No; Mr. President, that is not the point I had in mind. My thought is that it would enable the French citizen owning this stock under the protection of the American flag to evade the laws of the sea during a time of war.

Mr. O'GORMAN. No; in the case the Senator supposes if 95 per cent, 97 per cent, or a very large percentage of the stock were held by citizens of France, it would go very far toward justifying a finding by the prize court that the transfer of the ship or of the flag was not done in good faith, and the purchasers of the ship and those who sail the ship would take the consequences of their own conduct.

Mr. POMERENE. And in the meanwhile the vessel would be flying our flag and our flag would be subject to insult.

Mr. O'GORMAN. It would not be subject to insult where the persons using the ship were consciously evading the law.

Mr. SHIVELY. Will the Senator yield for just a moment?

Mr. O'GORMAN. I yield to the Senator from Indiana.

Mr. SHIVELY. Take the present state of the law with the five-year limitation, which was incorporated in the Panama Canal, could not the very point which has been made by the Senator from Ohio be made against the present law?

Mr. O'GORMAN. Certainly. I tried to suggest that a moment ago.

Mr. SHIVELY. I do not know whether 5 per cent or 50 per cent or 60 per cent of the stock of the American Mercantile Marine Co. belongs to citizens of the United States at all; it may be not over 5 per cent; yet they have ships flying the American flag; and foreigners might make the point that that is a subterfuge.

Mr. POMERENE. But, if I may be permitted, it is true it is possible for vessels that are more than 5 years old to evade the provisions in the way indicated, but now we are seeking to strike out the five-year provision and in my judgment we are increasing the opportunities for the evasion of these laws.

Mr. O'GORMAN. Wherever the evasion takes place the consequences of the evasion will fall upon the individuals who are guilty of that conduct, and it will not involve the Government; it will not constitute an insult to our flag. I think our Government would be quite content to see any ship captured and

condemned in a prize court when the United States Government was deceived by some of its citizens acting in cooperation with foreigners in some purpose to evade our laws and violate the rules of neutrality.

Mr. POMERENE. But if one of these vessels is flying the American flag, and it should be approached by a belligerent and they should demand a surrender, it gives every excuse to the owners of that vessel to demand the protection of the American arm.

Mr. O'GORMAN. The only protection the American Government is called upon to give in a case such as the Senator suggests is to see that the owner of that vessel receives a fair trial. If he buys his ship since hostilities began, the presumption is against him that he bought it for the purpose of evading the consequences of the law. The burden is on him of overcoming that presumption, if he can, by satisfactory proof, showing that he purchased it in good faith, and that it was a bona fide transaction and was not designed for the purpose of escaping the consequences of the war. If he fails in establishing those requirements, he will take the consequences, and his ship will be condemned and confiscated.

Mr. POMERENE. If 95 per cent of the stock in a given vessel is now owned by French citizens, does it not just continue, in fact, as a French vessel, even though it be under an American corporation?

Mr. O'GORMAN. I do not quite catch the point of the Senator's inquiry.

Mr. POMERENE. My point is that if we have a vessel now flying the American flag, and we will say by way of illustration that 95 per cent of the vessel is owned by French citizens, suppose they desire an American register and they incorporate under the New Jersey law and continue to own 95 per cent of the stock in the new corporation after the formal transfer has been made, what advantage is American shipping to have from such a situation?

Mr. O'GORMAN. It may have no particular advantage. Surely it would be no particular detriment. If that particular ship, in the circumstances described by the Senator, should be seized by an enemy of the belligerent that sold the ship, and if the prize court condemned the transaction as a mere subterfuge. I think all the facts as related by the Senator from Ohio would seem to justify such a decision.

Mr. POMERENE. It seems to me that it would have this disadvantage, that it enables the owners to adopt a mere ruse for the protection of our flag.

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Iowa?

Mr. O'GORMAN. I yield to the Senator.

Mr. CUMMINS. The Senator from New York evidently has not in mind the point that troubles me. Under the law as it is a vessel that is owned abroad entirely, if it be in the name of an American corporation, is entitled to American registry. It is a very bad law, but that is neither here nor there. There has been no danger from the law up to this time. Why? Because we require that the watch officers shall be Americans. We require that the survey and inspection and all other precautions shall be taken under American rule.

Therefore, there was no inducement whatever for a foreign-owned ship, even though there had been interposed the figment of an American corporation, to take an American register; but now we propose to continue that law which permits an American corporation, owned entirely by foreigners, to secure the benefit of the protection of American registry and at the same time, in the presence of the war, we propose to give the President the power to suspend or set aside the only protection we have or that our flag has, namely, the interposition of American commanding officers and American survey and inspection.

I do not know, of course, how a foreign power would look at that act of legislation; but if some other country were to do the same thing when the American nation was at war, I should look upon it as an exceedingly unfriendly act; I should look upon it as an indefensible act; for it is not merely intended to continue the privilege of foreigners to own a corporation which has registered a ship under our law, but we propose also to confer upon that ship the privilege of being officered and manned entirely by foreigners.

Can not the Senator from New York see that if we enact legislation of this sort, and a transfer is made, with the entire officers, under our law, which does not require one penny of interest upon the part of American citizens, and then waive or suspend those provisions of the law which did require the ship to become in some part and to some extent American—does he not see that a foreign nation might well say, "We look upon a transfer of that sort as hostile, as unfriendly; we look upon the suspension of those safeguards and those characteristics which make the ship American instead of foreign as evidence of ill will toward us?" I feel, Mr. President, that we are doing a very unwise thing.

I make this suggestion to the Senator from New York.

Mr. O'GORMAN. Will the Senator allow an answer to his first suggestion?

Mr. CUMMINS. I will.

Mr. O'GORMAN. Mr. President, I am surprised at the Senator's statement that if the same thing which we propose doing were done by a foreign power he would regard it as an unfriendly act. There is nothing to justify that view.

There are three things that we propose doing by this law: The first, and the most important one, is to allow property conceded to be property of American citizens to fly the American flag.

Mr. CUMMINS. Therein I disagree with the Senator from New York.

Mr. O'GORMAN. That is the most important of the three. The next is to allow American citizens to purchase from neutral powers ships which we so badly need. No man can find any fault with that, and no man can find any fault with the first proposal.

It is true that it will also be possible under this bill as proposed, if it be enacted into law, for an American citizen to buy a vessel from a belligerent and have the foreign flag lowered and the American flag substituted for it. If he does that while the war is in progress, if he makes a purchase under those circumstances, he is taking the risk of his ship being captured by an enemy of the belligerent from whom he purchases it. That is the risk that the individual takes, and it does not concern the Government.

Now, getting back to the first proposition, which, as I say, is a most important one, we need more ships. We are confronted with a crisis where the products of our fields and of our factories are being piled up, with values declining because of our want of facilities for foreign transportation to the markets where those products would be purchased and used. We find, because of more or less unfavorable navigation laws, that there is a fleet of merchantmen flying foreign flags to-day owned by American citizens. We want to facilitate the transfer of that fleet of merchantmen to the American service. Who can find fault with allowing American citizens to use the flag of their own country?

Mr. CUMMINS. Mr. President, I think no one can find any fault with that; but I desire now to analyze the proposition made by the Senator from New York. Suppose that a ship lies in New York Harbor, owned by a corporation organized under the laws of Germany or of England, it matters not which, and it dares not venture out upon the ocean. We desire to use it for the purpose of transporting our products abroad. Under our law, as it now is and has been for a long while, as I have discovered, there could be in the course of a few hours a corporation organized under the laws of New Jersey. The foreign corporation could transfer to an American corporation the ship, and the foreign stockholders could take share for share, just as they hold their interest in the foreign corporation, shares of the American corporation. Assuming that they put in Americans without any interest whatever, save a nominal one, as a majority of the officers and a majority of the directors, that corporation would be entitled under our law to register the ship and to obtain all the protection that our register can confer.

Mr. O'GORMAN. Will the Senator permit me to make a suggestion there?

Mr. CUMMINS. In just a moment.

Mr. O'GORMAN. The Senator has not completed the situation, if I may be pardoned for saying so.

Mr. CUMMINS. No; I have not yet completed it.

Mr. O'GORMAN. I was going to say that before registry is granted the representative of the Treasury Department—the collector of the port—will inquire into the bona fides of that transaction.

Mr. CUMMINS. It is absolutely bona fides; there is no color about it; the transfer is made in exact accordance with our law. Our law does not require any American interest in the ship; it simply requires that the corporation shall be organized under the laws of the United States or under the laws of one of the States; and the case that I put would be beyond inquiry. There could be no objection to it, either by the collector or the Secretary of the Treasury or anybody else, for it would be done exactly as we had provided in our law for the doing of those things.

I pursue that case a little further: The ship takes an American registry; goes out upon the seas. It could not be condemned

at any prize court in the world if our law withstood the test of scrutiny. If our law which permits a vessel under those circumstances to take an American registry is sound and valid, there could be no inquiry into it, because there would be no bad faith; it would be done for the obvious purpose of giving that ship the registry to which she is entitled.

Mr. O'GORMAN. Mr. President, I think the Senator is wrong in some of his premises. He does not see the distinction for the moment between the domestic law, which is our statute, and the requirements of international law, which is binding upon the citizens of all nations of the world.

Mr. CUMMINS. Does the Senator mean to say that he intends to preserve a law in our country, knowing that if it is obeyed literally and a ship is seized the law may be disregarded under international understanding and the ship be condemned nevertheless?

Mr. O'GORMAN. No; I have not said that.

Mr. CUMMINS. That seems to be the conclusion.

Mr. O'GORMAN. I will make plain what I wish to say and what I think I did say: A statute passed by Congress is the domestic law of the country; it operates between the Government and its citizens, but any action under it must harmonize with the principles of international law. I can well conceive a case where a ship is purchased even while the war is on and the purchase be upheld and the principles of international law not be offended. It will not offend the principles of neutrality if the purchase, as a matter of fact, is a bona fide purchase, not made—and that is the test—not made with the design to evade the consequences of the pending war. If in a given case before a prize court the prize court determines that the transaction in question was a bona fide one, that the transfer was not made for the purpose of escaping the consequences of the war, the seizure will be set aside; but, on the other hand, if the court finds, as it will undoubtedly in many of these cases, if there be purchasers of ships from belligerents while the war is pending, that the transfer was nothing more than a subterfuge to escape the consequences of the war, then they will hold that the transaction was not a bona fide sale, and they will condemn and confiscate the property.

Mr. CUMMINS. Mr. President, I am utterly unable to see that distinction. If we have a law which is being honestly and faithfully enforced, but nevertheless subjects those who take a position under it to the judgment of a prize court, so that our people can not do the very thing which our laws contemplate may be done——

Mr. O'GORMAN. In good faith.

Mr. CUMMINS. In good faith, of course. In perfect good faith; there is no bad faith about that; they come to the conclusion that they would rather organize an American corporation because they want an American registry. Now, if we want to avoid the consequences that have been pointed out, we ought to say that, as to transactions occurring during the European war, anyhow, when there is peril upon every side of us, there ought to be an actual investment of American capital in each ship. In that way we will present the foreign nations with evidence of our good faith; but there is nobody who pretends to say that one dollar of American capital will be invested in the future in these ships, upon the reliance that the suspension of our navigation laws will continue indefinitely. No one in his senses will claim that an American capitalist will invest his money under any such condition. If you were to change the law permanently in accordance with the authority that you give the President to change it temporarily, we might have some hope of securing American capital to invest in ships for the foreign trade, but there is no such purpose.

I now renew my suggestion: There are some of us who fear that the transactions which are capable of being carried out under our law will offend the powers who are at war, and there are some of us who believe that the peril of that offense is more to be dreaded than any advantage that we can get in the future through the transfer of ships to American registry.

The Senator from New York has not indicated that there is any chance of buying ships that are now really owned abroad; we all know there is no such chance, and why not limit the provisions of this to ships now owned by Americans or American corporations? No foreign nation could justly complain if we take off some of the burdens of our navigation laws with regard to ships that our people under our laws already own, even though they be now sailing under some foreign registry. The people of this country would acquire all of the advantages that it is even suggested they can acquire if that limitation were inserted, and then all this difficulty would disappear.

I do not say that the amendment of the Senator from Washington necessarily would be abandoned, nor do I have the authority to speak for the Senator from Delaware; but, so far as I am concerned, having offered an amendment along the same line, if the power of the President to suspend our navigation laws is limited to ships that are already owned by American citizens or American corporations, so that they can fly the flag of their own country upon their own ships, there can be no reasonable objection to the measure, and inasmuch as that would obviate the peril, or at least minimize the peril, or the danger that I have in mind and accomplish the purpose the Senator from New York has in mind, in perfectly good faith I make that suggestion to him.

Mr. WALSH. Mr. President, I should like to ask a question of the Senator from Iowa. Much has been said about the predicament in which these people would be placed who purchased foreign ships and took out registry under this act if the suspension were subsequently canceled. Is it the understanding of the Senator that a ship taking registry under the provisions of this act would lose her character as an American ship and her registry would be unavailing to her if subsequently the order were recalled?

Mr. CUMMINS. I have not given much thought to that particular question, but my impression is that if a foreign ship should be bought by an American citizen or by an American corporation and should take an American registry, and the President, having suspended that part of the law which he is given the authority to suspend here, should revoke the suspension, thereafter the ship would be burdened with the conditions of all our navigation laws.

Mr. WALSH. But those conditions are conditions precedent to registry, and that has already gone by.

Mr. CUMMINS. They are not only conditions precedent to registry, but they are conditions precedent, I fancy, to a right to retain the protection of the registry.

Mr. WALSH. I have not been able so to read the law; and so I was quite unable to understand why the Senator should say that it was an act practically of idiocy for anyone to take advantage of the law, seeing that he would lose it as soon as the order was recalled.

Mr. CUMMINS. If the law is so phrased as to make it perfectly certain that a ship once under our registry and entitled to sail with foreign officers and foreign crew without American inspection or survey shall always be immune from our laws in those respects, some of the reasons I have given for believing that no American would invest his capital in these ships would disappear.

Mr. WALSH. I am not prepared to express an opinion about the suspension in relation to the nationality of the officers, but I can not conceive that the benefit accruing to one who complies with the requirements of the law and then obtains American registry for his ship would be lost afterwards because the order was subsequently recalled.

Mr. CUMMINS. I suppose there is no vested right in a certificate of registry. I assume that the jurisdiction of the United States continues and that it can impose just such conditions as it pleases with regard to the operation of the ship.

I might ask the Senator from New York what he thinks with regard to the question propounded by the Senator from Montana?

I will put it concretely. Suppose that the law is passed, and that an American buys a ship officered and manned entirely with foreigners and not complying with our laws or rules with respect to survey and inspection. The emergency disappears, and the President recalls his proclamation, so that the law as it now is continues to be the law of the land. Could that ship indefinitely continue in operation, with foreign officers and crew, and without being subject to our laws as to sanitation, survey, and inspection?

Mr. WALSH. Mr. President, before the Senator from New York answers the question I should like to say that it is not exactly the one I propounded to the Senator. I did not ask him about the nationality of the officers, nor the matter of survey. I propounded to him the question simply as to the registry; and I should like to have the Senator from New York, when he answers that question, likewise answer whether he does not think that if that were the effect of the law the President of the United States, in recalling the order, would attach to it a condition to the effect that it should not be operative as against those who had purchased on the strength and on the faith of the order; and whether it would not be a breach of faith upon the part of our Government that we ought not to anticipate that the order would be recalled without such a condition?

Mr. O'GORMAN. I think the Senator from Montana suggests the true solution of the question, because, in a measure, these requirements are precedents to registration. My own judgment is that the requirement with regard to the watch officers being American citizens under the language of the statute, which is

not now before me, is continuous; and if at any time, with respect to that phase of the navigation law, the President were to recall his suspension, those requirements would become operative at once, unless the President did what the Senator from Montana suggests he would do, and which in justice and fairness he ought to do under those circumstances, and permitted vessels that secured registry under the exemption of this act to continue to man their vessels as they had been manned when the registry was granted, bearing in mind always that this provision with regard to the suspension of the requirement touching the watch officers is dependent upon the number of available persons for that employment being insufficient. I think when the time came that we had as many American citizens qualified for that service as were needed, neither the President nor the Congress, within their several jurisdictions, would allow any ship flying the American flag to be maned by foreign watch officers.

Mr. PITTMAN. Mr. President, I should like to ask the Senator from New York why this provision is inserted in the committee bill in reference to the purchase by corporations of foreign-built ships:

> The president and managing directors of which shall be citizens of the United States.

Was there any object in requiring the president and managing directors of the American corporation to be citizens of the United States?

Mr. O'GORMAN. Mr. President, I will say to the Senator from Nevada that that is the precise language adopted in the Panama Canal act of two years ago. We are simply repeating it in this act. At that time it was proposed to modify the law somewhat, in order to help build up a merchant marine in this country and to meet the demand of the Panama Canal trade, and for the first time there was a provision inserted in our laws permitting a foreign-built ship to receive an American registry, provided the ship was owned by a citizen of the United States or by an American corporation. Having in mind the possibility of an American corporation being formed with foreigners having a substantial interest in it, those who framed that bill at that time—two years ago—thought enough was done in that direction by requiring that all officers of the corporation organized in the United States should be American citizens.

Mr. PITTMAN. And the Senator has the same purpose in this bill?

Mr. O'GORMAN. We are simply repeating the same thought; yes.

Mr. PITTMAN. With a desire to accomplish the same purpose?

Mr. O'GORMAN. Yes.

Mr. PITTMAN. Is it not true that if directors of that character were elected by foreigners who owned practically all of the stock, they would be simply dummy directors subject to the will and control of the foreign stockholders?

Mr. O'GORMAN. You can conceive of such a case. I do not know whether any such case exists, ever has existed, or ever will exist, but I can conceive the possibility of such a situation arising in a given case.

Mr. PITTMAN. Is it not probable that American directors who owned only nominal stock, the rest of the stock being owned by foreigners, would, from the necessity of the case, be dummies?

Mr. O'GORMAN. They might or might not be. I remember recently, in some investigation affecting one of the large railroads in the Southern States, a very large railroad, where the president and all the the directors each had but a few shares of stock. No one would accuse those officers of being mere dummies, much as the public was surprised by the fact that the responsible officers individually had such a small holding in their own corporation.

Mr. PITTMAN. Mr. President, while I do not desire to accuse anyone of being a dummy, nevertheless, as we understand that word, a director who is acting not by reason of his interest in a corporation, but in the interest of some other stockholder of a corporation, is a dummy. If this provision of the bill was intended as a protection by the Senator, it is an admission that protection is needed in such a case; and if protection is needed in such a case, it can not be had through the president and board of directors unless a majority of the stockholders are American citizens who are in sympathy with an American board of directors.

Mr. O'GORMAN. Does the Senator know of any statute in any State in the Union that requires that a majority of the stock in a corporation should be held by citizens of the United States?

Mr. PITTMAN. No; I do not; and yet I have often thought that the misuse of the corporation laws of the various States could be materially remedied if we would stop these vagrant corporations organizing in one State and doing no business at all there, but doing business entirely in another State.

In this particular it does seem that if this committee believes that these corporations should be managed by American citizens, there should be a power in the corporation which would insure that management at all times.

Under the present condition an American president and an American board of directors could be elected to-day, and, under the laws of nearly all the States in the country, could be removed the day after the registration was obtained and another board of directors put in. There is no question but that they would be dummy directors if control was owned in some foreign country, and there is no doubt that that provision could be made use of to perpetrate a subterfuge.

The Senator goes so far in his bill as to state that these vessels must be owned wholly by an individual or by a partnership. That is done, evidently, in recognition of the international law with regard to purchasing vessels of a belligerent; and yet the Senator is not willing——

Mr. O'GORMAN. Let me say to the Senator that if he were familiar with the language of the Panama Canal act of 1912 he would know that the precise language that found its appearance for the first time in that act is retained in this bill, and at that time there was no thought of belligerency or purchase from citizens of a belligerent nation.

Mr. PITTMAN. Undoubtedly at that time it was sufficient, but at the present time we are faced with belligerency, and it does not offer any protection to have a president and a board of directors managing a corporation when they are subject to the control of a board of stockholders who are citizens of a belligerent country. It does seem that the Senator should be willing to insure that at least the managing board of that corporation would be American citizens who were interested in maintaining and upholding the laws of the United States. The Senator states that if a prize court should determine that a vessel had obtained its registration and that the sale had been made for the purpose of evading the exigencies of war, such a vessel would be treated as a prize of war, and that that question does not concern the United States Government, but simply concerns the shipowner who buys that ship. I can not look at the matter in that way. I think it does concern the United States Government to whom it shall lend its flag. I think it does concern the United States Government when it induces the people of this country to ship their produce abroad on a vessel which we can determine before it is shipped would be condemned as a prize of war in case it were seized by a vessel of one of the belligerents. Those are material matters; and if a prize court should hold that it was a subterfuge and should hold that all the privileges and benefits of ownership still inured to the same foreign corporation that pretended to sell the ship, if a prize court should hold that the foreign corporation in selling to the American corporation received no consideration for it and that the sale was void, then it would go as a prize of war.

In this case, when the proper officers examine into this transfer, if they find that the transfer is simply for the purpose, and the sole purpose, of avoiding the exigencies of war, it is the duty of some power in this country to say, "We will not recognize that kind of a sale, and we will not let you use the American flag; we will not permit you to jeopardize our Government and its citizens." That is all this amendment amounts to. It does not place any greater restrictions on corporations in this bill, in my opinion, than are placed on individuals. It does not place any greater restriction than the Senator's own bill purports to place, unless he wants to agree that his bill does cover a subterfuge purposely.

Mr. O'GORMAN. Does the Senator mean to imply that a committee of the Senate has framed a bill designed to cover a subterfuge?

Mr. PITTMAN. No; I do not; and that is exactly the reason why I am trying to correct this language. I said, unless the Senator wanted to agree to that.

Mr. O'GORMAN. I suggest that the Senator might correct the language he employed a moment ago, which, in view of his assurance that he had no such intention, was a very infelicitous employment of phraseology.

Mr. PITTMAN. I regret that the Senator was not listening to me instead of reading correspondence from New York at the time I addressed him. Had he listened to my whole remarks, he would have found out that I gave him credit for trying to do the best he could for this whole Government.

Mr. O'GORMAN. I am not going to get into a controversy with the distinguished Senator from Nevada. As a matter of fact, I was reading a communication handed to me by one of the officers of the Senate a moment ago, but at the same time I heard everything the Senator said.

Mr. PITTMAN. I regret that I made a mistake in regard to the Senator's New York constituency; but I am in earnest with regard to this provision. My opinion probably will have no weight with the Senator from New York, and I should be expecting too much if I did expect it; but I am compelled to vote on this bill, and whether the Senator's committee intended by the language used to cover a subterfuge or not, which I do not believe they did, it is capable, as he admits, of covering a subterfuge. I shall never silently vote for any bill that permits such a subterfuge. I want to say now that there is no one in this body who knows more about fictions in corporations than does the Senator from New York. He knows absolutely that under this bill the change of ownership could only be a fiction. He knows that if a majority of the stock was not bona fide owned by citizens of the United States it would not be a bona fide transaction as far as belligerent nations are concerned. There is no Senator on this floor who understands better than does the Senator from New York that the very reason why they are fighting this amendment is so that our flag and our register may be given to a ship in which all the benefits and all the privileges of the absolute control are still in the hands of the foreigners, and belligerents at that, and such condition of affairs is dangerous to the peace of our country and the welfare of its citizens and should not be given opportunity for existence.

Mr. BURTON. Mr. President, I may be absent at the time the bill is voted upon. I desire to introduce an amendment giving the right to the American Red Cross to charter a ship, in a slightly amended form, adding the clause, "And in the operation of any such ship the President is authorized to suspend the laws requiring American officers, if such officers are not readily available," so as to make the amendment read:

SEC. —. That, with the consent of the President and during the continuance of hostilities in Europe, any ship chartered by the American Red Cross for relief purposes shall be admitted to American registry under the provisions of this act and shall be entitled to carry the American flag. And in the operation of any such ship the President is authorized to suspend the laws requiring American officers, if such officers are not readily available.

Will the Senator from New York consent that this amendment be immediately taken up and passed upon now?

Mr. O'GORMAN. I have no objection at all. I think it is a very meritorious amendment, and it ought to be incorporated into the bill.

Mr. BURTON. I ask for a vote.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. SMITH of Georgia. Mr. President, I do not desire to address the Senate upon the bill, but I have a number of telegrams expressing the necessity for the passage of the measure which I send to the desk, and instead of having them read I ask that they be incorporated in the RECORD.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

COCHRAN, GA., *August 5, 1914.*

Senator HOKE SMITH, *Washington, D. C.:*

Have Government to provide ships and open American office in Europe to finance cotton and have Government affiliate with selected banking house to finance cotton.

CITIZENS BANK.

—

KITE, GA., *August 5, 1914.*

Hon. HOKE SMITH, *Washington, D. C.:*

Push governmental arrangements for exporting cotton.

J. S. STEPHENSON.

—

COMER, GA., *August 6, 1914.*

Hon. HOKE SMITH, *Washington, D. C.:*

Please use best effort for immediate governmental arrangements exporting cotton.

THE COMER BANK.

—

PAVO, GA., *August 6, 1914.*

Hon. HOKE SMITH, *Washington, D. C.:*

Make every possible effort to complete arrangements for exporting cotton.

PLANTERS BANK.

—

PINEVIEW, GA., *August 5, 1914.*

Senator HOKE SMITH, *Washington, D. C.:*

Use your influence urging immediate Government arrangement for exporting cotton.

BANK OF PINEVIEW.

—

EASTPOINT, GA., *August 4, 1914.*

Hon. HOKE SMITH, *Washington, D. C.:*

We urge immediate legislation facilitating cotton shipments abroad.

BANK OF EASTPOINT.

—

BACONTON, GA., *August 6, 1914.*

Hon. HOKE SMITH, *Washington, D. C.:*

Please use your best efforts to have Government provide ships to export cotton and open office in Europe, making it possible for cotton to be sold at a fair price and paid for.

BANK OF BACONTON.

—

RINGGOLD, GA., *August 6, 1914.*

Hon. HOKE SMITH, *Washington, D. C.:*

Do what you can to get the Government to assist providing ships and opening of an American office in Europe to handle the cotton crop. We need a market.

BANK OF RINGGOLD.

—

WOODBURY, GA., *August 5, 1914.*

Senator HOKE SMITH,
United States Senate, Washington, D. C.:

Do all in your power for immediate governmental arrangements for exporting cotton.

PEOPLES BANK.

—

MOLENA, GA., *August 5, 1914.*

Senator HOKE SMITH, *Washington, D. C:*

Urge immediate governmental arrangements for exporting cotton.

BANK OF MOLENA.

—

LOUISVILLE, GA., *August 5, 1914.*

Senator HOKE SMITH, *Washington, D. C.:*

We hope you will use all your energy and influence to push the plan to have the Government make arrangements to export cotton and make advances on cotton to farmers stored in warehouses.

BANK OF LOUISVILLE.

—

TOCCOA, GA., *August 5, 1914.*

Senator HOKE SMITH, *Washington, D. C.:*

In your noble efforts to give the South a means of financing the cotton crop give us in that connection a safe method for delivering export cotton to the European buyers by establishing American agencies in Europe to handle the situation with banks or some other good and safe way.

D. S. WOMMACK.

—

METTER, GA., *August 5, 1914.*

Senator HOKE SMITH, *Washington, D. C.:*

It is very important for the welfare of farmers and country banks that appropriate arrangement be made for the opening of branch offices in Europe for purpose of handling our cotton and ships provided for exporting.

CITIZENS' BANK.

—

OCHLOCHNEE, GA., *August 6, 1914.*

Hon. HOKE SMITH, *Washington, D. C.:*

Accept our thanks for efforts made to handle cotton crop in satisfactory way this season. Prompt action is needed to take care of the crop without great loss to the farmers in this section of the country. We do not need money, but need a market for cotton.

BANK OF OCHLOCHNEE.

Mr. STONE. I should like to ask the Senator from New York if he has any confident expectations of disposing of the bill this afternoon. I ask the question for the reason that it is very important that we should have an executive session, and if the matter is to go over, as is intimated to me, probably until Tuesday, I would be very glad if the Senator would consent to make any arrangement he can for its final disposition.

Mr. O'GORMAN. I do not know of any other Senator who desires to speak on this amendment.

Mr. JONES. While I will not desire to speak to the amendment of the Senator from Delaware, I will probably desire to speak on my amendment.

Mr. O'GORMAN. How long, may I ask the Senator from Missouri, will the executive session last?

Mr. STONE. If we go into executive session I should think we would not be able to come back into legislative session this afternoon, unless we propose to stay to-night later than usual.

Mr. O'GORMAN. What time does the Senator from Washington think he will require on his amendment?

Mr. JONES. I will not speak more than 10 minutes.

Mr. O'GORMAN. We ought to be able to vote, then, in 15 minutes.

Mr. JONES. I wish to ask the Senator from Delaware a question about his amendment.

Mr. STONE. While I am as anxious as any Senator to pass the bill to-night, I was asking the judgment of the Senator in charge of it.

Mr. O'GORMAN. So far as I understand, the only Senator who desires to speak is the Senator from Washington [Mr. JONES], and he states that he probably will not occupy over 10 minutes.

Mr. SAULSBURY. There is another amendment which I proposed on which I think I can say everything I care to say in five minutes.

Mr. O'GORMAN. That would make a total of 15 minutes.

Mr. SAULSBURY. I do not think it will occupy more than five minutes as far as I am concerned.

Mr. NEWLANDS. Mr. President, I should like to have about five minutes on the amendment which I proposed.

Mr. O'GORMAN. That is only 20 minutes, Mr. President.

Mr. STONE. If I understand the Senator from New York correctly, he is not disposed to yield for an executive session.

Mr. O'GORMAN. I am quite sure the Senator from Missouri will agree with me that if we can get this legislation out of the way in from 20 to 30 minutes we will employ our time to advantage in doing so, even though we might sit after 6 o'clock for the executive session.

Mr. STONE. I was going to inquire if there would be any objection on the part of any Senator after this bill is completed, if it is completed to-day, to take a recess until 11 o'clock on Monday morning, with the understanding that the Senate will go into executive session at once to take up the matters the Committee on Foreign Relations has to present. I have reference to the treaties.

Mr. KERN entered the Chamber.

Mr. STONE. I sent for the Senator from Indiana. I was asking whether there would be any objection to the Senate recessing until 11 o'clock Monday morning.

Mr. GALLINGER. Mr. President, that there may be no misunderstanding as to my position, I do not propose to occupy any further time in debate; but several Senators have left the Chamber necessarily within the last hour, and have said to me that they did not want a vote on these amendments this afternoon, and they hoped they would not be voted on, unless there was a quorum of the Senate present. I shall see that in that regard their wishes are complied with. I do not know but that there is a quorum here. I shall ask that there shall be one.

Mr. STONE. Does the Senator object to my request?

Mr. GALLINGER. I have no objection at all to the Senator's request.

Mr. O'GORMAN. I ask, under the circumstances, that we proceed with the regular order and take up the amendment offered by the Senator from Delaware.

Mr. STONE. Before that is done, if the Senator will pardon me, I make a request for unanimous consent.

SEVERAL SENATORS. Then the roll must be called.

Mr. STONE. I am just reminded that it will be necessary to call for a quorum.

Mr. GALLINGER. Not on such a request.

Mr. CUMMINS. It is not necessary to call for a quorum on a unanimous-consent agreement to meet at a certain hour on Monday.

Mr. STONE. If the Chair is of that opinion, I will ask unanimous consent that when the Senate takes a recess or concludes its business the recess be taken until 11 o'clock on Monday next, and that upon reassembling the Senate will resolve itself into executive session.

The VICE PRESIDENT. Is there objection? The Chair hears none. The question is on the amendment offered by the Senator from Delaware [Mr. SAULSBURY].

Mr. STONE. What was the announcement of the Chair?

The VICE PRESIDENT. The last announcement of the Chair was that the question is on the amendment of the Senator from Delaware.

Mr. STONE. No; as to the suggestion for a recess.

The VICE PRESIDENT. Unanimous consent was given that the Senate take a recess until 11 o'clock Monday morning.

Mr. CUMMINS. At what time do we recess?

The VICE PRESIDENT. Whenever the Senate does recess.

Mr. CUMMINS. It seems to me that the request is a little weak unless it fixes a time at which we shall take the recess. I hardly know how it will be intended.

Mr. OVERMAN. We can say we will recess at 6 o'clock.

Mr. JONES. Mr. President——

The VICE PRESIDENT. The Senator from Washington.

Mr. JONES. I wish to ask the Senator from Delaware a question about his amendment. I see it provides that after the foreign-built ship is registered it shall be entitled to all the rights and privileges of a vessel of the United States except to engage in the coastwise trade from the Pacific to the Atlantic. Does the Senator understand that the provision of the bill that it shall have all the rights and privileges of vessels of the United States gives it the right of a vessel engaged or that can engage in the coastwise trade?

Mr. SAULSBURY. Not, Mr. President, under this amendment, because it expressly provides that the vessel shall not be employed in the coastwise trade of the United States unless the voyage in which such vessel may be engaged requires its passage through the Panama Canal, meaning by that coast-to-coast trade.

Mr. JONES. Does the Senator understand that the language of his amendment, if this exception were omitted, would give these vessels all the privileges of the coastwise trade?

Mr. SAULSBURY. I frankly confess that I am unable to answer the Senator with such specific definiteness as I would like to do. I am not technically aware of the difference between a vessel of the United States registered for foreign trade and one which is solely engaged in the coastwise trade.

Mr. JONES. I will ask the Senator, then, whether it was his intention to give them those rights?

Mr. SAULSBURY. Not for employment in the coastwise trade.

Mr. JONES. That is the reason why the Senator put in this exception?

Mr. SAULSBURY. My intention was to admit them to what might be considered ordinary coastwise trade and not to allow them to go beyond; because I appreciate, if the Senator will permit me, that that is a very large question, which requires very great care and consideration before we change our navigation laws.

Mr. JONES. Is the Senator of opinion that the language used here would give these vessels the right to engage in the coastwise trade between the Atlantic and Pacific ports?

Mr. SAULSBURY. I have no doubt of that.

Mr. JONES. I do have a doubt of it. If there is not any doubt about it, I understand it will cover my amendment in that particular and probably in other particulars. But what occurred to me was that this amendment provides for the registry of these vessels. I understand vessels are registered for the foreign trade and enrolled for the coastwise trade. When you provide for the registry of these vessels and then give them the rights and privileges of vessels of the United States I have no doubt that they would be given the rights of registered vessels of the United States.

Mr. SAULSBURY. If the Senator will permit me, I am perfectly willing to accept an amendment phrased in this way, which will undoubtedly do what he desires, beginning in line 15, to read: "Except that it shall not be employed in the coastwise trade of the United States, but may engage in a voyage which requires its passage through the Panama Canal."

Is the Senator entirely satisfied with that or anything equivalent to that? That seems to me to be specific.

Mr. JONES. I was going to suggest to the Senator that in line 15, after the word "of," to insert the words "built in." Then, with his exception, it would cover it. In other words, let it read: "It shall be entitled to all the rights and privileges of vessels built in the United States, except that it shall not"——

Mr. SAULSBURY. I will be entirely satisfied to accept that amendment.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. In line 15, strike out the word "of" where it occurs the second time, after the word "vessel," and insert the words "built in," so as to read "of a vessel built in the United States."

Mr. BRANDEGEE. If the Senator from Delaware modifies the amendment as indicated it will accomplish exactly what the Senator from Washington attempted to accomplish by his separate amendment, as I read it.

Mr. JONES. Yes.

Mr. BRANDEGEE. I wish to ask the Senator from Delaware, inasmuch as his amendment makes a separate section of the bill, if he thinks that the provision of section 4132 of the United States Statutes, which is now amended in the bill, can be construed in connection with his proposed amendment without conflict?

Mr. SAULSBURY. I think so, Mr. President.

Mr. BRANDEGEE. Let me draw the attenion of the Senator to the point to which I refer specifically. Section 4132 provides that seagoing vessels may be registered when they are wholly owned by citizens or by corporations of the United States, and the Senator's amendment provides that they may be registered if not less than 90 per cent of the capital invested in the steamship is the bona fide property of citizens or of the corporation. Now, which would control?

Mr. SAULSBURY. I should say that the 90 per cent would control, as it was a later section in the act, and that the courts would construe the 90 per cent probably to mean that corporations might own anything up to the 90 per cent, provided that a majority of the holding company belonged to the citizens of the United States. That would be my impression.

Mr. BRANDEGEE. It seems to me, Mr. President, that section 4132 ought to be amended so as to show exactly what the ownership was.

Mr. SAULSBURY. I think that might be done very well.

Mr. BRANDEGEE. I think it would be much better if it were done.

Mr. SAULSBURY. May I suggest if this amendment should carry we could immediately make that 90 per cent?

Mr. BRANDEGEE. If the object of this legislation, as the Senator from New York suggested, is to open the gates to liberalize the statute, what is the object in narrowing and contracting it by limiting the number of vessels that may be acquired in the way proposed by the Senator from Delaware?

Mr. SAULSBURY. The only object, I may say, Mr. President, that I have in offering this amendment is to provide in this time of war, when we are almost the only neutral in the whole world among the powers of the first class, that we shall, before we send vessels out under our flag to raise questions with belligerents and have our shipping seized, be sure that we are justified in saying that those vessels shall carry our flag and are entitled to the protection which their nationality should throw around them.

Mr. BRANDEGEE. That does not answer the inquiry I have in my mind. It may be I did not make it plain to the Senator.

Mr. SAULSBURY. Then, I do not understand the Senator from Connecticut.

Mr. BRANDEGEE. As the statute now stands, such a vessel, in order to be brought under the American flag, has to be wholly owned by citizens of the United States or by corporations of the United States.

Mr. SAULSBURY. If the Senator heard the remarks of the Senator from Nevada——

Mr. BRANDEGEE. I did not.

Mr. SAULSBURY. Or if he had heard the remarks which I made previously on this amendment, he would have known that I instanced a supposable case—that the German ship, for example, now in a harbor in the State of Maine, the *Kronprinzessen Cecilia*, might immediately be transferred to a Maine corporation, which, so far as American ownership was concerned, might be almost entirely fictitious, simply having enough stock transferred to American citizens to enable a corporation to be formed, but the boat itself belonging to an American corporation. It could then be registered under our laws, and immediately sail out from Bar Harbor under the American flag. I do not think we would be justified in permitting any such subterfuge or fraud as that upon the belligerents.

Mr. HUGHES. Mr. President, if it is supposable that the German owners of that ship would trustee the directorship, what is to prevent them from trusteeing the stock ownership of the ship? If they can trust the board of directors with the direction or the actual control of the company, what is to prevent them from trusting them with the physical possession and ownership, under an implied trust agreement, of the stock? I do not see that the amendment helps any in that respect.

Mr. SAULSBURY. I think the wording of the amendment will answer that. Before the ship can obtain American registry the Secretary of the Treasury must be satisfied that 90 per cent of the capital invested in the ship is the bona fide property of citizens of the United States.

Mr. HUGHES. Yes; but it is not very easily ascertained whether or not a stock transfer is bona fide. The mere fact that the stock is transferred on the books of the company is all that the Secretary of the Treasury can inquire into; and it seems to me that the provisions made in the original bill calling upon the Secretary of the Navy and various other maritime officers to assure themselves of the bona fides of the transaction contain every safeguard that the Senator's amendment contains.

Mr. SAULSBURY. Mr. President, if the Senator please, the Secretary of the Navy and the Secretary of the Treasury are not connected with any investigation under our present laws.

Under this bill, without amendment, the only act which is required to be done to give a ship American registry under such circumstances is a mere ministerial act; the recording of the bill of sale by the collector of a port entitles a ship to registry. There is no care exercised; nobody considers any question as to the true ownership of the vessel; and my amendment has been drafted to avoid the embarrassment which this country would surely suffer in case—although I do not think such a thing would happen—the Government were called upon to defend its flag when it covered a fraudulent purpose. It is to avoid just such questions as that that the approval of the transfer by the Secretary of the Treasury is first required before any collector can record the bill of sale.

The additional safeguard is required under the subsequent amendment that I have presented that after a vessel takes American registry, before it can relieve itself of its American registry the Secretary of the Treasury must again consent and approve of any transfer.

Mr. BRANDEGEE. I will say about that, Mr. President, that while I appreciate the object of it, and I think it is commendable, so far as it might control the bona fides of the transaction, I think in practical operation it would be likely to interfere greatly with the acquisition by the people of this country of any foreign-built steamships, because it provides:

SEC. 4. That no sale or transfer of any steamship, or of any share or interest therein, or of any shares of capital stock of any corporation owning the same, granted registry under the terms of this act, shall be valid or of any force or effect, or anywhere be admitted as evidence of the sale or transfer thereof, or anywhere recorded, unless the same shall be first consented to and approved by the Secretary of the Treasury.

If there is a foreign corporation or there are foreign citizens owning a foreign ship, and we are negotiating for her abroad, I think it would be very difficult perhaps and might upset the transaction if they have got to come back to this country and explain it to the Secretary of the Treasury and get his consent to it before they can consummate the sale, and unless they do get his consent it is not valid, neither could the ship be registered.

Mr. SAULSBURY. Mr. President, I think we are descending into rather minute details in discussing a question of that kind in an emergency measure. Undoubtedly it would be very easy under all the circumstances to convince the Secretary of the Treasury of the bona fides of the transaction, if it were bona fide. If it were not, of course, it could not be consummated; but the object of the second amendment which I have, and with which I propose to follow the pending amendment, is to enable those seeking American registry under this bill to show that they are willing to remain as registered American vessels and not enable them immediately, if peace should come about—which I hope will be very soon and which is not likely, as anyone can see—to return to their former allegiance. My desire is to preserve for a reasonable time, and I hope for all time, these boats as American boats.

Mr. MARTINE of New Jersey. Mr. President, why might it not be well to fix a definite period during which a ship should retain its American registry? It seems to me that would be a way out of the difficulty. The thought has occurred to me, as I suggested in my previous remarks, to follow up the amendment on page 7, after section 4, with this language:

But in no case shall any ship which has been granted an American registry retransfer such registry for a period—

I have fixed 10 years, but that may be too long; but say—

for a period of five years from the date of the registry so granted by the United States, and then only with the consent of the Secretary of the Treasury.

I do not want people on the other side of the ocean to use this proposed legislation as a convenience for themselves, when they can not sail their own craft for money-making, to come over here and shelter themselves under our registry just so long as it is convenient, and as soon as the trouble has died out on the other side merely bid us adieu, and that be all, and we get nothing out of it. I feel that if we permit a vessel to sail under the American flag, it being admitted to American registry, that such a system should be at least a small aid in the final establishment of a permanent merchant marine here.

I have suggested a 10-year limitation. Perhaps that may be thought too long. It may be that no owner of a foreign vessel would want to commit himself to so long a period; but, at least, if they are going to come here to get a fair profit, why should we not fix the time and say we "put it in the bond; we will guarantee American registry and protection under our flag; but you must guarantee to us that you will not transfer your property as soon as the trouble has disappeared, but will maintain it here for five years." I offer what I have read as an amendment to the amendment.

Mr. SAULSBURY. May I suggest that that amendment would come properly in the next amendment which I intend to offer?

Mr. MARTINE of New Jersey. Very well. I will withhold the amendment for the present.

Mr. O'GORMAN. Mr. President, may we now have a vote on the amendment proposed by the Senator from Delaware [Mr. SAULSBURY].

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Delaware [Mr. SAULSBURY].

Mr. GALLINGER. Mr. President, in fulfillment of a promise I made to certain Senators, one of whom belongs to the other side of the Chamber, I make the suggestion that there is no quorum of the Senate present.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Johnson	Page	Smoot
Brandegee	Jones	Perkins	Stone
Bryan	Kenyon	Pittman	Swanson
Catron	Kern	Pomerene	Thomas
Chamberlain	Lane	Ransdell	Thompson
Clapp	Lee, Md.	Reed	Thornton
Culberson	Lewis	Saulsbury	Tillman
Cummins	McCumber	Shafroth	Walsh
Fall	Martine, N. J.	Sheppard	White.
Gallinger	Newlands	Shively	
Gronna	O'Gorman	Simmons	
Hughes	Overman	Smith, Ga.	

Mr. PAGE. I desire to announce that my colleague [Mr. DILLINGHAM] is unavoidably absent from the city. He is paired with the Senator from Maryland [Mr. SMITH].

Mr. O'GORMAN. I am requested to state that the junior Senator from Mississippi [Mr. VARDAMAN] is unavoidably absent.

The VICE PRESIDENT. Forty-five Senators have answered to the roll call. There is not a quorum present. The Secretary will call the names of absent Senators.

The Secretary called the names of the absent Senators.

Mr. MARTINE of New Jersey. I am requested to announce the absence of the Senator from West Virginia [Mr. CHILTON] on account of official business. He is paired with the Senator from New Mexico [Mr. FALL].

Mr. BRISTOW entered the Chamber and answered to his name.

The VICE PRESIDENT. Forty-six Senators have answered to the roll call. There is not a quorum present.

Mr. KERN. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will carry out the instructions of the Senate.

Mr. OWEN and Mr. MYERS entered the Chamber and answered to their names.

Mr. GALLINGER. Mr. President, the junior Senator from West Virginia [Mr. GOFF] desired the announcement made that he is necessarily absent. He is paired with the senior Senator from South Carolina [Mr. TILLMAN].

I will also announce that the junior Senator from Maine [Mr. BURLEIGH] is absent because of a death in his family. He is paired with my colleague [Mr. HOLLIS].

Mr. STERLING entered the Chamber and answered to his name.

The VICE PRESIDENT. Forty-nine Senators have answered to the roll call. There is a quorum present.

Mr. THORNTON. Mr. President, in the absence of the chairman of the committee, I ask that we now vote on the amendment of the Senator from Delaware [Mr. SAULSBURY].

Mr. GALLINGER. Mr. President, there has been a good deal of confusion about this amendment and the amendment of the Senator from Washington [Mr. JONES]. I wish it might be stated as it is now presented to the Senate.

The VICE PRESIDENT. The Secretary will read the amendment as it now stands.

The SECRETARY. It is proposed to insert in the bill a new section, to stand as section 4 and to read as follows:

SEC. 4. That the Secretary of the Treasury on being satisfied that not less than 90 per cent of the capital invested in any foreign-built steamship is the bona fide property of American citizens, whether of individuals or of corporations the majority of whose stock is owned by citizens of the United States, shall direct the bills of sale or transfer of the foreign-built steamships so acquired to be recorded in the office of the collector of customs of the proper collection district and cause such steamships to be registered as vessels of the United States by said collector, after which each of such vessels shall be entitled to all the rights and privileges of a vessel built in the United States, except that it shall not be employed in the coastwise trade of the United States unless the voyage in which such vessel may be engaged requires its passage through the Panama Canal.

Mr. SAULSBURY. Mr. President, the words "so acquired," in line 9, should be stricken out. They referred to something in a prior section which is not included.

The SECRETARY. The Senator from Delaware modifies the amendment by striking out the words "so acquired" in line 9.

Mr. NEWLANDS. Mr. President, I should like to withdraw the amendment previously introduced by me regarding the auxiliary navy, and to substitute an amendment which leaves out the provision in regard to the $30,000,000 and the six annual installments.

The VICE PRESIDENT. The question at present is on the amendment offered by the Senator from Delaware [Mr. SAULSBURY].

Mr. O'GORMAN. I am asking a vote on that.

Mr. NEWLANDS. Am I not in order?

Mr. O'GORMAN. The Senator's amendment can be offered later.

Mr. NEWLANDS. I should like to know whether or not I am in order.

The VICE PRESIDENT. The Chair understood the Senator from Nevada was about to propose an amendment to the bill.

Mr. NEWLANDS. I am.

The VICE PRESIDENT. Until the pending amendment, presented by the Senator from Delaware, is disposed of no further amendments are in order unless they are amendments to the amendment proposed by the Senator from Delaware.

Mr. GALLINGER. Mr. President, I move to amend the amendment by adding to it the proviso which I send to the desk.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. It is proposed to insert at the end of the amendment the following:

Provided, That when a foreign vessel shall be admitted to registry under the provisions of this act a bond of $10 per registered ton shall be required as a guaranty that the vessel shall remain under the American flag for a period of at least five years: *Provided further*, That masters and officers of such ships, if not already American citizens, shall swear out a declaration of intention to become American citizens.

Mr. CUMMINS. Mr. President, I desire to ask a question of the Senator from New Hampshire before we vote on that amendment. What does he mean by the phrase "when a foreign vessel shall be admitted to registry"? Is there any provision here for the admission of foreign ships to American registry?

Mr. GALLINGER. "Foreign-built ships" would be better. I will ask the Secretary to change it to read "foreign-built ships."

Mr. BRISTOW. Mr. President, it seems to me that amendment ought to be divided. I do not think I can vote for one part of it, although I should be very glad to support the other part. The provision as to declaring an intention to become American citizens I will support. That relating to the vessels remaining under the flag for five years I can not support, because this is an emergency measure, and that would cut out the emergency feature of it.

Mr. GALLINGER. I will modify the amendment by offering the first part as an amendment now.

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. It is proposed to add, at the end of the amendment offered by the Senator from Delaware, the following:

Provided, That when a foreign-built vessel shall be admitted to registry under the provisions of this act a bond of $10 per registered ton shall be required as a guaranty that the vessel shall remain under the American flag for a period of at least five years.

Mr. SAULSBURY. Mr. President, I think an amendment of that kind would be simply overloading this amendment, and it has nothing to do with the real object of the amendment. I therefore move that the amendment be laid on the table.

Mr. GALLINGER. Mr. President, the Senator had better have a direct vote taken on it. Nothing would be gained by that procedure. I am not going to debate it at all, and I do not believe anybody else will.

Mr. SAULSBURY. I am perfectly willing to have a direct vote. I withdraw the motion.

Mr. MARTINE of New Jersey. Mr. President, I offered an amendment which was very similar in purport. I desire to withdraw my amendment.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from New Hampshire to the amendment of the Senator from Delaware.

So the amendment to the amendment was rejected.

Mr. GALLINGER. Now, Mr. President, I offer the other clause with the word "*Provided*" inserted.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. At the end of the amendment offered by the Senator from Delaware it is proposed to insert:

Provided, That masters and officers of such ships, if not already American citizens, shall swear out a declaration of intention to become American citizens.

The VICE PRESIDENT. The question is on agreeing to the amendment to the amendment. [Putting the question.] By the sound the ayes seem to have it.

Mr. SIMMONS. I call for a division.

The VICE PRESIDENT. Those in favor of the amendment will please rise. [A pause.] Those opposed to the amendment will rise. [A pause.] The noes have it, and the amendment to the amendment is rejected.

Mr. GALLINGER. Mr. President, I will ask what the vote is.

The VICE PRESIDENT. Fifteen ayes and 26 noes.

Mr. GALLINGER. There is no quorum present, but I will not make that point. I really think we ought to have a fuller attendance of Senators to pass this bill, and it is rather a reproach that we have not, but I am not going to obstruct it. If the Senate, in its wisdom, thinks this amendment ought not to go in the bill, I must content myself.

Mr. CHAMBERLAIN. Mr. President, I did not vote either way, because I have a pair, and I felt I was bound on a division just as though it were a record vote.

The VICE PRESIDENT. The question now is on the amendment offered by the Senator from Delaware [Mr. SAULSBURY]. [Putting the question.] The noes have it, and the amendment is rejected.

Mr. SAULSBURY. I call for the yeas and nays.

The yeas and nays were not ordered.

Mr. SMOOT. Mr. President, I offer an amendment, to be known as section 4 of the bill. I will simply say that this is an amendment requiring that the Secretary of the Treasury shall be satisfied that the larger part of the capital invested in any foreign-built steamship applying for American registry is the bona fide property of a citizen of the United States. I also strike out the words "unless the voyage in which such vessel may be engaged requires its passage through the Panama Canal." In other words, this will not affect the coastwise trade at all and will allow foreign-built ships to be registered and fly the American flag, providing the larger part of the stock of the company owning the ships is held by American citizens.

The VICE PRESIDENT. The Secretary will state the amendment.

The SECRETARY. It is proposed to add a new section to the bill, to be known as section 4 and to read as follows:

SEC. 4. That the Secretary of the Treasury on being satisfied that the larger part of the capital invested in any foreign-built steamship is the bona fide property of citizens, whether individuals or corporations, shall direct the bills of sale or transfer of the foreign-built steamships purchased to be recorded in the office of the collector of customs of the proper collection district and cause such steamships to be registered as vessels of the United States by said collector, after which each of such vessels shall be entitled to all the rights and privileges of a vessel of the United States, except that it shall not be employed in the coastwise trade of the United States.

Mr. O'GORMAN. May I say a word before a vote is taken on this amendment? I want to state my impression as to what will be the ruling of a prize court regarding this much debated and discussed question.

I believe that if an American corporation purchases a ship from a belligerent and places upon it the American flag, and it appears in the event of capture at sea that foreigners who are nationals of the enemy hold 40 per cent or 50 per cent or 10 per cent or 90 per cent of the stock, a prize court will condemn the interest of the foreigners in the property, and that if the American citizens own only 5 per cent or 10 per cent or 20 per cent, as the case may be, the interest of the Americans in the vessel will be respected, while the interest of the subjects of the enemy will be condemned. If that view be the correct one—and, after some reflection, I think it is—there is no need for this amendment or the other suggestions upon which we have already voted.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. SAULSBURY. Mr. President, I desire to offer the second amendment, which I will send to the desk to be read.

If I may say a word in regard to it, this amendment simply provides that when a foreign-built steamship is registered it may not be taken out of our jurisdiction by a transfer of the ship or any interest in it without the approval of the Secretary of the Treasury, and gives the Government of the United States the right to take over the vessel for its own use at any time it sees fit. It is exactly the same provision which was included in the act of 1892, when the first two steamers of the American Line were purchased abroad and two others built, and they now constitute the four ships flying the American flag as the American Line.

Mr. GALLINGER. I will ask the Senator if the amendment gives the Secretary authority to transfer the vessels from the foreign to the domestic trade?

Mr. SAULSBURY. It does not. It has no effect on that at all.

Mr. O'GORMAN. Mr. President, I have just a word to say with respect to that amendment. It is wholly restrictive, and to a certain extent defeats the purpose of this emergency legislation, which is designed to increase our merchant marine. The adoption of this amendment would discourage the owners of vessels placing their vessels under the American flag.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to insert in the bill a new section, to stand as section 4, and to read as follows:

SEC. 4. That no sale or transfer of any steamship, or of any share or interest therein, or of any shares of capital stock of any corporation owning the same, granted registry under the terms of this act, shall be valid or of any force or effect, or anywhere be admitted as evidence of the sale or transfer thereof, or anywhere recorded, unless the same shall be first consented to and approved by the Secretary of the Treasury, and no sale or transfer even when valid and properly recorded shall relieve any vendee or transferee thereof from the conditional holding under this act; and at any time and from time to time after such grant of registry as herein provided, any steamships so registered may be taken by the United States as provided in section 4 of an act entitled "An act to encourage American shipbuilding," approved May 10, 1892, and used for any purpose for which other vessels of the United States may be lawfully used.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. GALLINGER. Mr. President, at the request of the junior Senator from Utah [Mr. SUTHERLAND], who was necessarily called away from the city, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 4, line 9, after the word "authorized," it is proposed to insert the words "until but not after the 1st day of January, 1916," so that, if amended, it will read:

The President of the United States is hereby authorized, until but not after the 1st day of January, 1916, whenever he shall find that the number of available persons qualified under now existing laws and regulations of the United States to fill the respective positions of watch officers on vessels admitted to registry by this act is insufficient, to suspend by order—

And so forth.

Mr. O'GORMAN. Mr. President, there does not seem to be any need at this time for that specific limitation in the statute. This is an emergency piece of legislation. We are conferring certain powers upon the President which we believe will be wisely exercised. They will be exercised only while there is need to suspend these various provisions of our navigation laws. When the period of hostilities abroad is over, the Congress in due time will probably either repeal or amend the statute which we are now attempting to pass.

Mr. BRISTOW. Mr. President, let me inquire of the Senator from New York whether the phraseology of the bill as last perfected by the committee does not authorize the President to take this action only where there are not American citizens available for the service?

Mr. O'GORMAN. The Senator from Kansas correctly states the bill in that respect.

Mr. BRISTOW. And the President has no authority unless Americans can not be obtained?

Mr. O'GORMAN. That is true.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. GALLINGER. In behalf of the same Senator, the junior Senator from Utah [Mr. SUTHERLAND], I submit the following proposed amendment.

The VICE PRESIDENT. It will be stated.

The SECRETARY. On page 6, line 17, after the words "United States," insert the following:

Provided, however, That the master and a majority of such officers of such vessels shall be citizens of the United States.

The amendment was rejected.

Mr. NEWLANDS. I desire to offer again the amendment with reference to an auxiliary navy, striking out that provision which provides for the expenditure of the $30,000,000 in installments running over five years, and providing that the sum of $30,000,000 shall be available immediately for use in this emergency. I should like to have the amendment as changed read, and also a letter from the Secretary of the Navy on this subject.

The VICE PRESIDENT. The Secretary will read the amendment.

The SECRETARY. It is proposed to insert the following:

That the Secretary of the Navy is hereby authorized to purchase or to provide for the construction, either in the private shipyards of the United States or in the navy yards, or both, of 30 vessels suitable for use by the Navy either as auxiliary vessels, such as transports, fuel ships, dispatch boats, ammunition vessels, hospital ships, submarine and destroyer tenders, supply ships, cruisers, and scouts, or for use on such commercial or Navy mail lines as the Secretary of the Navy may now or hereafter be authorized by law to establish: *Provided*, That the cost in the aggregate of the aforementioned vessels shall not exceed $30,000,000: *Provided further*, That the sum of $30,000,000 is hereby appropriated, out of any money in the Treasury not otherwise obligated, to carry into effect the provisions of this act.

Mr. NEWLANDS. I ask for the reading of the letter of the Secretary of the Navy.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Secretary will read the letter.

Mr. SMOOT. Would the Senator be satisfied to have the letter printed in the RECORD without reading?

Mr. NEWLANDS. No; I prefer to have it read. It is a part of the presentation of this amendment.

Mr. GALLINGER. I think we would like to hear it read. It is only a $30,000,000 proposition.

The Secretary read the letter, as follows:

NAVY DEPARTMENT,
Washington, August 7, 1914.

Hon. FRANCIS G. NEWLANDS,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I have given careful consideration to your letter of this date, inviting a suggestion in form of an amendment to the Panama Canal act covering the ground which you have heretofore embraced in a proposed legislative program.

It appears that a slight change in the wording of the bill (S. 3721) introduced by you December 10, 1909, and somewhat modified so that the vessels mentioned therein may be utilized in case the Weeks bill, establishing one or more Navy mail lines becomes law, would fit conditions and supply the needs of the Navy.

The suggested amendment to the Panama Canal act is attached hereto. You will note that the number of vessels to be purchased or contracted for is limited to six a year, which would require five years to obtain the total of 30. This provision would enable the department to replace old naval vessels as they become worn out in the service of the mail, passenger, and freight lines which the Weeks bill proposes to establish.

I am informed that the Naval Committee of the House will consider the Weeks bill on Tuesday next.

Assuring you of my appreciation of the interest you have taken and are now taking in this important matter, I am,

Very sincerely, yours,

JOSEPHUS DANIELS.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Nevada.

Mr. NEWLANDS. Mr. President, I will state with reference to this communication that I have since had a conversation over the telephone with the Secretary of the Navy, and he agrees with me that the emergency is such as to make it advisable that this entire $30,000,000 should be put immediately at the disposal of the Navy Department with a view to meeting the demands for ships for transportation, so I have amended the amendment which I previously offered to that effect. The Senate is doubtless aware that the Weeks bill passed a few days ago provided for mail lines to be conducted by the Navy Department and put at the command of the Navy Department for that purpose a number of ships that are now in the Navy. This is simply an enlargement of that auxiliary navy which is to be used temporarily in times of peace for commercial purposes.

I think it is of the highest importance that there should be some legislation upon this subject at this time. All the measures with reference to coaxing foreign vessels into American registry by taking away the restrictions of our registry laws may fail or be inadequate.

Mr. O'GORMAN. Mr. President, with great reluctance but only owing to the stress of circumstances do I resort to a point of order regarding the proposed amendment that it involves an appropriation and can not be considered as a part of this bill. It was not estimated for by the department.

Mr. NEWLANDS. I do not understand——

The VICE PRESIDENT. The Chair overrules the point of order. The amendment is germane and it is in order.

Mr. GALLINGER. This is not an appropriation bill.

Mr. BRANDEGEE. May I ask the Senator from Nevada a question?

Mr. NEWLANDS. I will yield to the Senator from Connecticut in a moment.

If the amendment is adopted now this bill will be considered in the House in connection with the Weeks bill, which is before the Naval Affairs Committee of that body and which comes up for consideration next Tuesday. It seems to me that here is an opportunity to meet an emergency such as we met during Mr. McKinley's administration, when we unreservedly put into his hands $50,000,000 to meet the exigencies of the situation growing out of the impending war with Cuba. This is a situation much more serious than that in that it possibly means the prostration of over-sea carriage. Congress is about to adjourn, and unless the restrictions upon transportation imposed by belligerency are removed we may have a most serious condition in the business and commerce of this country. It seems to me that a large fund should be put in the control of the administration with as large a discretion as possible to meet this great emergency.

Mr. GALLINGER. Can the Senator tell us approximately when Congress is to adjourn?

Mr. NEWLANDS. That is beyond my imagination.

Mr. BRANDEGEE. The Senator has used a phrase in explanation of his amendment which I should like to have him explain. If I understood him correctly he said that these boats are for temporary use. What does the Senator mean by that?

Mr. NEWLANDS. I mean so far as they are to be used for commercial purposes.

Mr. BRANDEGEE. And then what?

Mr. NEWLANDS. The use is a temporary one, for we hope this war will be a temporary war; that it will not last over a long period; and that it will not prostrate our foreign commerce. And as Congress is at present expected to meet that emergency, in that sense it is temporary; but in the larger sense this appropriation is not temporary.

Mr. BRANDEGEE. Then what?

Mr. NEWLANDS. It creates a permanent auxiliary navy. It supplies ships to the Navy that the Navy needs. It supplies colliers, transports, scouts, dispatch boats, and other vessels without which our fighting ships will be derelict in the ocean and absolutely helpless in case of war. We have no merchant marine upon which we can call for transports and colliers and scouts. We have fighting ships without the supporting ships. We are practically an army without a commissary.

These ships are absolutely necessary, as was demonstrated in the trip of our naval squadron around the world, when we were subjected to the humiliation of calling upon foreign nations to supply us with the ships that were necessary to supply and support that great squadron. We were unable to furnish them ourselves. Here is an opportunity to make our Navy a well-proportioned, well-equipped Navy, composed not simply of fighting ships, as at present is substantially the case, but also of the supporting ships, such as transports, colliers, dispatch boats, and scouts, necessary to support the fighting ships, and at the same time to provide 30 vessels of about 10,000 tons capacity, which can supply the place of these ships that are now driven out of commerce by the extraordinary war in which the principal carrier and maritime nations of the world are involved.

Mr. BRANDEGEE. Mr. President, of course it is always possible to buy 30 vessels for a million dollars apiece if you have the money. A year ago I introduced a resolution, which was referred to the Committee on Naval Affairs, calling for information as to the proportion and balance of the Navy and as to its efficiency in that respect. I have heard nothing more from it, and I did not expect to, but if the Navy is unbalanced and disproportioned and is too heavy in the battleship line and there are not sufficient accessories, that is the business of the Navy Department and the Committee on Naval Affairs. It is a legitimate consideration for the naval appropriation bill. I have always favored a most liberal appropriation for that. I think our Navy needs quite as much a rearrangement and reapportionment, in view of making it effective as a whole, as it does in new units. I agree with the Senator from Nevada about that, though I am not expert in that line of business, and that is the reason why I called for information from the department, but did not get it.

Mr. President, I am one of those who think it is wise not to lose one's head or be stampeded by shrill sounds of voices against emergencies. There may be an emergency in the transportation business by sea by which we market our products abroad and there may not. There may have been one for four or five days now and it may be entirely relieved within a week.

Before I would lightly take out $30,000,000 from the Treasury of the United States and cast it into this project I would be inclined to wait a week, and I do not think Congress is going to leave before that time, and see if the control of the sea is obtained by a power which can protect its ocean-borne commerce so that no emergency develops at all.

I do not advocate this amendment at this time. My own judgment is that it was quite a sufficient experiment when we passed the Weeks bill, if that was the bill which provided for the Government to go into commercial business in connection with the mail and use its naval vessels for those purposes.

Mr. President, if the Government of the United States is going into the commercial business with foreign nations all the talk about a merchant marine as we have heretofore known it and meant it is the merest idle talk. Nobody will ever build a vessel to compete with the United States Government in the commercial business. If the Government engages in that line of business, to act as a commercial prospector for good, profitable lines of commerce with foreign nations, and then as soon as an American intimates his willingness to occupy the field the Government is going to withdraw from it, that is an exceedingly curious line of governmental activity, it seems to me.

Of course, I do not think it is necessary to speak at length on this amendment. I have no idea it will be adopted upon the bill at this time. I simply did not want to get stampeded myself and I did not want anybody else to.

Mr. STONE. May I ask the Senator from Nevada a question? The amendment proposed by the Senator I understand appropriates $30,000,000 to be expended how?

Mr. NEWLANDS. For supporting ships to the fighting ships in our Navy.

Mr. STONE. In one year or a series of years?

Mr. NEWLANDS. The money will be available immediately to be used in the discretion of the Government.

Mr. STONE. It is estimated that $30,000,000 will be sufficient to purchase 30 good, seaworthy ships of considerable tonnage.

I have felt, Mr. President, that there was at least a great deal of merit in the suggestion. I have not the profoundest faith that the bill now before the Senate which we are presumably about to vote upon will accomplish any adequate relief to the congested commercial condition which it is said exists. How great that congestion is, or how it may be augmented in the immediate future, is necessarily more or less a subject of conjecture.

But I doubt very much, Mr. President, whether any great number of ships will be offered to American citizens, and still more doubt whether American citizens would be willing to invest their capital in foreign ships, especially ships now owned by citizens or subjects of belligerent countries, under the provisions of the bill. Of course, I hope that enough will be offered and enough purchased to relieve the exigency of the hour; but if that should not occur, as I fear it will not occur, then the difficulties confronting us remain. A citizen of the United States may not be willing to invest his money in foreign-built ships and foreign-owned ships under the provisions of the pending bill, but the Government of the United States might be willing to invest its money in the purchase of commercial ships. Far more is it probable that the Government would obtain 30 ships under this appropriation than that half that number will be bought by American citizens and put into over-seas traffic under the provisions of this measure.

Mr. President, suppose the Government does purchase these ships, will it have made a mistake? Has the public suffered or benefited by the purchase? If the Government does in a comparatively short time during the continuance of the stupendous struggle now being waged throughout Europe purchase 30 commercial ships for naval use, to be made a part of the naval force of this country, the ships could be utilized at once in carrying passengers and freights from any part of the United States to any foreign port in the world.

There would be certainly less objection to the utilization of commercial ships owned by the Government as an auxiliary to the armored Navy of the Government than to employ warships themselves in commercial uses; and afterwards, when the wars raging in Europe are at an end, the Government would still own these ships. Is it a bad thing for the Government to be in the ownership and possession of an auxiliary navy of that kind? It is always at our command to meet any kind of an emergency, not only such an emergency as confronts us now, but such as might confront us in the future, more directly and intimately concerning the welfare and the very life of the Republic itself.

I am not opposed to an auxiliary navy of this kind at any time; and it seems to me that there was never a time in our history when we had greater need of it than now. I will not say "never a time in our history," for there have been other times. There was in the War with Spain a time when we needed vessels of this character so badly that a large appropriation was made to hire them for our use. Occasions of that kind may arise at any time, and the occasion may be far more pregnant of peril to us than the one which confronted us during the War with Spain.

So far as I am concerned, Mr. President, I am disposed to support this amendment by my vote.

Mr. O'GORMAN. Mr. President, I share with the Senator from Missouri [Mr. STONE] his great respect for the merits of the proposal contained in the amendment offered by the Senator from Nevada, but it is no necessary part of this emergency legislation. It is believed that this act——

Mr. LEE of Maryland. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Maryland?

Mr. O'GORMAN. I do.

Mr. LEE of Maryland. In the course of a colloquy between the Senator from Iowa [Mr. CUMMINS] and the Senator from New York the Senator from New York intimated that conditions of international law were such that belligerents really could not safely transfer ships to citizens of this country.

Mr. O'GORMAN. That is, a citizen of this country could not safely buy such ships.

Mr. LEE of Maryland. Precisely; in other words, it is caveat emptor; the purchaser takes the chance in a prize court?

Mr. O'GORMAN. Yes.

Mr. LEE of Maryland. Under these circumstances, with all the world pretty much at war, where is the relief to come from under this proposal?

Mr. O'GORMAN. Does the Senator mean by this bill, or is he directing his attention to the amendment offered by the Senator from Nevada?

Mr. LEE of Maryland. I am referring to the main bill.

Mr. O'GORMAN. There are three advantages offered by the main bill. The first is to facilitate the transfer of foreign-built ships now owned by American citizens to our merchant marine. There are now ships with a net tonnage of almost 250,000 tons flying a foreign flag but owned by American citizens. Many of those ships, perhaps the greater number, are more than five years old. Under present law we can not transfer the property of American citizens to the flag of the United States where the property is more than five years old. We are endeavoring by this legislation to remove that limitation as to time and as to age.

The second advantage is that this legislation will permit an American citizen to buy a ship from the subject of any neutral country, such as Norway, Denmark, or Sweden, and perhaps Spain, if Spain has any vessel to sell, and any other nation that is now neutral.

With respect to the transfers under the first provision and under the second provision, there can be no question of international misunderstanding. Under the language of this bill it is possible that permission is granted, so far as our law is concerned, for an American citizen to buy a foreign-built ship wherever he can buy it; whether he can buy it under circumstances that will harmonize with neutrality laws is his responsibility. If, acting under our domestic laws, he buys a foreign ship from a belligerent under circumstances which offend the neutrality laws, it may be the subject of capture as soon as the enemy of that belligerent has the opportunity to take that ship off the high seas. Does that answer the question of the Senator from Maryland?

Mr. LEE of Maryland. Partly, Mr. President; but I should like to have some idea of the amount of tonnage the Senator thinks would be added to the shipping of this country to give relief to the situation, and what proportion would come from these several sources?

Mr. O'GORMAN. It is the opinion of the Commissioner of Navigation that increasing our merchant marine with ships contributing a net tonnage of almost 250,000 tons will make a substantial accession to our available shipping facilities, and will be a great help in the transportation of cotton, foodstuffs, and other products of this country now awaiting shipment abroad.

Returning for a moment, however, to the amendment of the Senator from Nevada——

Mr. SIMMONS. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from North Carolina?

Mr. O'GORMAN. I yield to the Senator from North Carolina.

Mr. SIMMONS. Mr. President, the Senator from New York says that this is an emergency bill, and I understand this amendment does not contribute to that result. I will ask the Senator if this amendment, although it proposes to purchase ships primarily for the purpose of strengthening our Navy, taken in connection with the Weeks bill, which we passed the other day, could not be used for the purpose of supplying the emergent need with which we are now confronted?

Mr. O'GORMAN. Of course everything will help, but if this bill shall realize the expectation of those who proposed it originally in the other House, and of the committee that has attempted to perfect it in the Senate, there will be no need for further emergency legislation. For that reason, Mr. President, I shall be compelled at this time to vote against the amendment offered by the Senator from Nevada.

Mr. LANE. Mr. President, I should like to say to the Senator from New York that the Navy is in great need of auxiliaries. It is well known, and it is not disputed, that the efficiency of the Navy of this country is curtailed not less than 50 per cent because of a lack of colliers and supply ships. In time of war the American Navy, in large part, when not in home ports would be marooned, and we would have no fighting

Navy able to compete with any other nation in the world which make any pretense of being a naval power.

If the ships provided for in the amendment of the Senator from Nevada are purchased, they will answer a need which every Secretary of the Navy has called attention to and with which every naval officer and every seagoing man is familiar. At the present time we are confronted with a condition where the ships of those nations which ordinarily engage in transporting commerce are off of the sea; and what better investment could the people of this country make than to buy ships which they could temporarily use for the peaceful needs of this country in carrying to market its crops, which without transportation facilities in many cases will rot upon the ground, thus bringing poverty and distress upon the people who have sweated to raise them, and then afterwards, when that emergency ceases, turn them over to the Navy Department to be used in carrying supplies to the Navy? It is the wisest investment of public money that could possibly be made, in my opinion. It would be an expenditure which would not be questioned by any belligerent nation in the world.

If we did not actually need and were not short of vessels, it would be an entirely different question; but inasmuch as we are short of vessels which are required for the purposes of the Navy, and we are entirely without any merchant marine to carry our articles of produce to market when, in fact, we are under the humiliating experience of having to send a warship or a cruiser to Europe to bring back women and children and other citizens of this country who have been left stranded there far from our shores, it seems to me that there should be no question that this amendment should pass.

Mr. SHAFROTH. Mr. President, I do not believe it is wise to appropriate $30,000,000 for the purchase of vessels to be used by the National Government upon such a brief and hurried hearing as has been had. We had an experience of this character some years ago, when during the Spanish-American War we bought a number of vessels. At the close of the war those vessels were sold, but they brought only 25 cents on the dollar.

There was a thorough investigation as to whether the National Government should retain and use those vessels, just as it is proposed in this amendment to use the vessels proposed to be purchased; but after very mature deliberation the department reported against it. Those interested in the merchant marine and engaged in the commerce of the country stated that if we expected to build a merchant marine it was not fair for the Government to go into competition with private industry, and that we never would build a merchant marine if that were the case; and, as I have said, after mature deliberation, the Government concluded to sell the vessels, and they sold them at 25 cents on the dollar.

If we are going to frame a measure of this kind designed to be permanent, we ought to have fair deliberation upon it. Then it might be that some kind of a system could be evolved and carried into operation that would be a success; but, in view of the temporary character of the legislation proposed and because there is not sufficient time now carefully to consider the matter, it seems to me that we ought to vote against the amendment.

Mr. O'GORMAN. Mr. President, I desire to add a word or two to what I said a moment ago in reference to the amendment of the Senator from Nevada. The bill presented by the committee is designed to encourage private owners of ships to put them under the American flag and to enter the merchant marine of this country. If the amendment of the Senator from Nevada be adopted, it is going to completely defeat our main purpose, because if we try to hold out encouragement to private owners in one paragraph of the bill and in another paragraph authorize the Government to go into the same business as a competing factor, it is the most effectual suggestion yet made to destroy every salutary feature of this bill.

SEVERAL SENATORS. Vote!

Mr. GALLINGER. Mr. President I noticed this morning a statement that we are likely to have increased taxation in some form in the near future. Some of us are shuddering at that thought, but it is likely to come, and I think we had better not vote away $30,000,000 without holding our breath on this occasion, emergent as it is.

The VICE PRESIDENT. The question is on the amendment of the Senator from Nevada. [Putting the question.] By the sound, the noes have it.

Mr. NEWLANDS. I ask for the yeas and nays.

SEVERAL SENATORS. Oh, no.

The VICE PRESIDENT. The Senator from Nevada asks for the yeas and nays. Is the request seconded?

The yeas and nays were not ordered.

The amendment was rejected.

Mr. JONES. Mr. President, I offer the amendment which I send to the desk, to come in at the end of section 2.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. At the end of section 2 it is proposed to insert the following:

That the President is hereby authorized, whenever in his judgment the needs of domestic trade require, to suspend by order, so far and for such length of time as he may deem desirable, the provisions of law confining the trade from points on the Atlantic coast to points on the Pacific coast and from points on the Pacific coast to points on the Atlantic coast to American-built ships, and permit foreign-built ships having an American register to engage in the trade between said points.

Mr. JONES. Mr. President, just a few words——

Mr. REED. Mr. President, may I ask the Senator from Washington a question?

Mr. JONES. Certainly.

Mr. REED. As I understand that amendment, it applies only to ships going from Atlantic ports to points on the Pacific, and vice versa.

Mr. JONES. Yes.

Mr. REED. Does the Senator understand that under the terms of his amendment a ship can not go from one port to another on the Atlantic and do business between those two ports on its route to the Pacific side?

Mr. JONES. I think under the amendment the President could provide that a vessel going from a point on the Atlantic coast to a point on the Pacific coast might distribute its cargo at different points on the Atlantic, or vice versa.

Mr. REED. And also to take on cargo? I would somewhat doubt it, under the language of the amendment. I have not had time to examine it, and I thought the Senator could give us some light as to that.

Mr. JONES. That is my idea of it. I think if the amendment should go to conference, of course, the committee on conference could put the matter in such shape as to carry out the idea that, I think, is clearly expressed in the amendment.

Now, Mr. President, I have not taken any of the time of the Senate to-day in discussing this matter, because the amendment has not been offered, although most of the debate really has been on the amendment.

Mr. KERN. Mr. President——

Mr. JONES. I yield to the Senator.

Mr. KERN. Mr. President, for reasons that are quite apparent, I move that the Senate take a recess until Tuesday morning at 11 o'clock.

Mr. O'GORMAN. Why can we not take a vote on the amendment?

Mr. NEWLANDS. Will the Senator from Indiana withhold the motion for just a moment in order that I may introduce a bill?

Mr. KERN. I withhold the motion.

Mr. NEWLANDS. Mr. President, I introduce a bill providing for an auxiliary Navy, embracing the provisions of the amendment which I have already offered to the pending bill. I ask that the bill may be inserted in the RECORD.

The VICE PRESIDENT. Is there objection?

Mr. O'GORMAN. What is the request?

The VICE PRESIDENT. The Senator from Nevada asks permission, out of order, to introduce a bill providing for an auxiliary Navy, and to have it printed in the RECORD. Is there any objection? The Chair hears none, and it is so ordered.

The bill (S. 6246) providing for the purchase or construction of auxiliary ships for the Navy and for their use on commercial or Navy mail lines authorized by law was read the first time by its title, the second time at length, and referred to the Committee on Naval Affairs, as follows:

A bill (S. 6246) providing for the purchase or construction of auxiliary ships for the Navy and for their use on commercial or Navy mail lines authorized by law.

Be it enacted, etc., That the Secretary of the Navy is hereby authorized to purchase or to provide for the construction, either in the private shipyards of the United States or in the navy yards, or both, of 30 vessels suitable for use by the Navy either as auxiliary vessels, such as transports, fuel ships, dispatch boats, ammunition vessels, hospital ships, submarine and destroyer tenders, supply ships, cruisers, and scouts, or for use on such commercial or Navy mail lines as the Secretary of the Navy may now or hereafter be authorized by law to establish: *Provided*, That the cost in the aggregate of the aforementioned vessels shall not exceed $30,000,000.

SEC. 2. That the sum of $30,000,000 is hereby appropriated, out of any money in the Treasury not otherwise obligated, to carry into effect the provisions of this act.

Mr. KERN. I withhold the motion I made.

SEVERAL SENATORS. Vote!

Mr. JONES. Senators will get a vote on this amendment in a little while.

Mr. SIMMONS. I understand the Senator from Washington only wants to occupy about 10 minutes.

Mr. JONES. I do not think I will take that much time, although I should like to have a roll call on this amendment, so far as that is concerned. I am not, however, going to take very much of the time of the Senate in the discussion of the matter.

I regret very much that my friend the Senator from New Hampshire is so bitterly opposed to this proposition, but I know that his opposition is based upon the sincerest motives and the most patriotic purposes. I know that there is no one who has taken a greater interest in an attempt to build up the merchant marine of this country than the Senator from New Hampshire; and however anyone may differ from him as to the method he advocates, nobody can question the sincerity of his purposes and the patriotic motives that prompt him in this work. He has given much of his time to this proposition and has manifested great interest in it—more, I think, than almost any other citizen of our country; at least more than any other Member of this body that I know. While, as I said, I regret his opposition to this amendment, I know that it is sincere and that it is patriotic. While I regret to differ from him with reference to the effect of it, I felt that I ought to say that much with reference to my views of his opposition. The Senator and I do not differ as to the importance and value of the coastwise laws, and I will uphold them as strenuously, though not so ably, as the Senator. I do not think this legislation will interfere with those laws. We can take this step without taking another if it would be injurious. What we do further will rest with Congress. Any future step will not be taken without careful deliberation, and we can safely leave its wisdom to be determined when the question arises. The step proposed now I believe to be wise, and no other step will be taken unless it seems wise.

Mr. President, I resent the suggestion that has been made in this debate by some that we of the Northwest are selfish and narrow and restricted in our views with reference to this amendment. I do not believe the people of any section of the country are broader in their conceptions of what should be done for the welfare of the whole country than the people of the Northwest. We have never confined our support of measures to those measures which are of special interest and special benefit to our section of the country. We feel that what benefits us benefits the entire country; and we are willing to support those measures which are of special benefit to particular sections of the country and not of special benefit to us, not because we hope by such support to get support for our propositions, but because we know that whatever benefits any particular section of the country is of general benefit to all the country.

Mr. BRANDEGEE. Mr. President, will the Senator yield for a question?

Mr. JONES. I yield.

Mr. BRANDEGEE. Does the Senator think it is fair to the men who have put their money into American ships at American prices in the coastwise trade to take advantage of this emergency in the foreign trade to throw upon their backs a lot of ships produced in a foreign market at half the capital which they have invested and put them in competition with them?

Mr. JONES. Mr. President, I was just coming to the emergency feature of this proposition. This bill is recognized as an emergency measure. The Senator from New York [Mr. O'GORMAN], in bringing this bill before the Senate the other day, said this:

> In a word, disaster is threatening the cotton and the agricultural interests of this country. Thousands of American citizens are abroad, unable to secure passage home. Disaster to the cotton and the agricultural interests is threatened because, although we have the most bountiful crops ever known in the history of the Government, we find ourselves without transportation facilities. The passage of this bill will go far toward remedying this very unfortunate situation.

There is the avowed purpose of this bill. I want to do anything I possibly can to help the cotton and the other agricultural interests of this country; but they are not the only interests in the country and they are not the only interests that are affected by the situation that confronts our people now. As I said in answer to the Senator from Maine [Mr. JOHNSON] this morning, our industries are affected by this very situation. It does not grow entirely out of the Panama Canal situation. The facts are these:

Many of the ships on our coast that formerly had been carrying our lumber under a foreign flag to foreign countries are now tied up, just exactly as they are tied up on the Atlantic coast. They are afraid to go out on the Pacific, for fear they will be captured by an enemy. What is the result? The result is that the lumber that heretofore we have been sending to the foreign markets is on our hands. We can not get it to foreign markets and we can not get it to our own markets. You people with cotton and wheat can get your cotton and wheat to the home market, but we can not get our lumber even to the home market. Of course we ship what we have been accustomed to ship heretofore on the trains inland; but that which we have been sending to the foreign market heretofore we can not now send to the foreign market, and we can not send it to the home market. That is the situation. That is the emergency. We have no ships we can use. Our lumber can not be marketed. Our mills are idle, our labor is unemployed, and bankruptcy and distress threaten our people.

Mr. BRANDEGEE. The ships that are tied up, afraid to go out, are ships under foreign flags, I suppose?

Mr. JONES. Under foreign flags; yes.

Mr. BRANDEGEE. Are there not enough ships in the coastwise trade of this country to carry the lumber?

Mr. JONES. They are not on the Pacific coast. They are not there. I have telegrams here, and I read telegrams the other day, stating that they are not.

Mr. BRANDEGEE. I have no doubt they are not there now, but if a dearth in the lumber market should develop, does not the Senator think ships would go through the Panama Canal?

Mr. JONES. If it should develop it could not be satisfied without some way of getting the lumber to market.

Mr. BRANDEGEE. I wondered if the ships could not develop from the Atlantic coast to the Pacific.

Mr. JONES. They can not develop at this time. Why do you propose to pass this bill? For the relief of the Atlantic coast? The markets will develop, according to your theory, and that will let the ships develop. What is the use of passing this bill?

Mr. BRANDEGEE. How long does it take for a ship to get from the Atlantic to the Pacific through the canal?

Mr. JONES. It will not take, of course, a great while when the canal is open; but they do not know what ships will come there, and we have no reason to suppose that the ships on the Atlantic coast are going to leave, under the present condition of things, and go to the Pacific to help us out—not at all.

I have here a telegram from George Milton Savage, president of the Chamber of Commerce of Tacoma, as follows:

> TACOMA, WASH., *August 6, 1914.*
>
> Senator WESLEY L. JONES,
> *Senate Office Building, Washington, D. C.:*
>
> Large quantity lumber waiting shipment from North Pacific ports. Make specialty; important adoption of measure permitting American registration ships of neutral powers for coast-to-coast trade during period of war. Tacoma Commercial Club and Chamber of Commerce cordially indorses plan as an emergency measure and urges prompt adoption.
>
> GEORGE MILTON SAVAGE, *President.*

This is from the West Coast Lumber Manufacturing Co., of Tacoma:

> TACOMA, WASH., *August 6, 1914.*
>
> Senator W. L. JONES,
> *Washington, D. C.:*
>
> Lumber industry being crippled by lack water transportation. Large orders on docks. No ships. Atlantic coast needing our lumber. Strongly urge foreign ships making our registry be allowed engage coastwise traffic. Anticipate necessity shipment to Atlantic coast and transshipment to foreign markets. Must have ships to accomplish.
>
> WEST COAST LUMBER MANUFACTURING CO.

Mr. BRANDEGEE. Let me ask the Senator about that first telegram. Is the Senator willing to have the amendment limited to the war, so as to provide that these vessels shall be in the coastwise trade only during the war?

Mr. JONES. I am willing to leave it to the President of the United States, in his discretion, just as we have left the other parts of this bill.

Mr. BRANDEGEE. The telegram asks for the use of these ships in the coastwise trade during the war, while the emergency exists. I am willing to give them that myself.

Mr. JONES. That is what this one telegram asks.

Mr. BRANDEGEE. Is there any reason for doing anything more to relieve the war emergency than to provide that these vessels may engage in this trade during the war?

Mr. JONES. Well, Mr. President, if a limitation were placed upon the other provisions in this bill about which the President has been given discretion, I would have no objection to placing a limitation upon this one. This is offered here as an emergency proposition, and that is all there is to it.

Mr. BRANDEGEE. The word "emergency" justifies everything.

Mr. JONES. This is from Bellingham:

> BELLINGHAM, WASH., *August 6, 1914.*
>
> Senator WESLEY L. JONES,
> *Washington, D. C.:*
>
> Special meeting of Bellingham Chamber of Commerce to-day passed resolutions unanimously indorsing Jones amendment to the shipping bill permitting foreign vessels to engage in commerce between Atlantic and Pacific ports. All American citizens realize that shipping facilities are paralyzed. Relief demanded, and necessary for our manufacturers.
>
> W. P. BROWN, *President.*

Then follows a telegram from the Commercial Club of Everett:

EVERETT, WASH., *August 6, 1914.*

Senator W. L. JONES,
Washington, D. C.:

We urge passage your amendment foreign bottoms Atlantic-Pacific trade.

EVERETT COMMERCIAL CLUB.

Then there are several other telegrams, which I ask may be placed in the RECORD, without reading.

The VICE PRESIDENT. Without objection, that may be done.

The telegrams referred to are as follows:

EVERETT, WASH., *August 6, 1914.*

Senator W. L. JONES,
Washington, D. C.:

Imperative your amendment pass to hold prosperity in Pacific Northwest.

D. M. CLOUGH.

—

EVERETT, WASH., *August 6.*

Hon. W. L. JONES,
Washington, D. C.:

We hope you can secure the adoption of your amendment to bill granting American register to foreign bottoms to the effect that such ships can engage in domestic ocean-to-ocean traffic.

FIRST NATIONAL BANK.

—

SEATTLE, WASH., *August 5, 1914.*

Senator W. L. JONES,
Washington, D. C.:

The whole Pacific coast needs the use of foreign vessels to carry lumber and other products to the Atlantic coast through Panama Canal. There are not enough American ships to take care of this business. With our foreign trade cut off as conditions now exist our mills will have to close down unless we get this relief. I sincerely hope your amendment will carry.

WALLACE G. COLLINS,
President Pacific Fir Co.

—

SEATTLE, WASH., *August 5, 1914.*

Senator WESLEY L. JONES,
Care United States Senate, Washington, D. C.:

The trustees of the Manufacturers' Association, at a special meeting, to-day, passed following resolution:

"Whereas the foreign business of the Puget Sound manufacturers is now paralyzed because of insufficient shipping facilities, owing to the fact that we are dependent upon foreign ships to carry our products, there being wholly inadequate American ships to care for the trade: Therefore be it

"*Resolved*, That the officers of the Manufacturers' Association use their best efforts to influence Congress and the President to permit of an amendment to the Panama Canal act that will admit to registry in this country foreign ships, regardless of their age, to engage in carrying our products to foreign ports as well as carrying products between the Atlantic and Pacific coasts of this country, but these ships not to be permitted to engage in local business between ports on either the Pacific or the Atlantic coasts. In order to take proper advantage of the Panama Canal, it is very necessary these ships be permitted to engage in commerce between the Atlantic and Pacific coasts. As there is an insufficient number of properly equipped American ships to economically handle this coast's products to the Atlantic coast, we will appreciate your assistance."

MANUFACTURERS' ASSOCIATION OF SEATTLE.

—

EVERETT, WASH., *August 6, 1914.*

WESLEY L. JONES, *Washington, D. C.:*

We are much interested in and heartily indorse your amendment permitting foreign-registered vessels to ply between our two oceans. We have spent our millions for a canal and want vessels to handle commerce under competitive conditions for the benefit of our people on both coasts and the Mississippi and Ohio Valleys.

PUGET SOUND LOGGERS' ASSOCIATION,
By J. E. GOWEN, *Vice President.*

I will insert a portion of a telegram from Mr. Skinner, who is thoroughly familiar with coast conditions:

Please consider the plight we are in now, due to the lack of transportation facilities between the two coasts. The American-Hawaiian Line has only offered a carrying capacity of about 75,000,000 feet annually, and that has been under option to one eastern wholesale lumber concern. Then Grace & Co. have four vessels with total lumber capacity, excluding all other freight, of about same amount, but they have no freight capacity for sale, as they deal in lumber and use their tonnage to buy as cheaply as they can here and make the most they can from this monopoly. Boston & Atlantic Line have two boats which may be ready for service some time in the future. They will carry about 35,000,000 feet annually. The balance of available American tonnage is practically nil, and needs no serious consideration to make our point more apparent. The total capacity American tonnage capable of intercoastal traffic would only equal about the annual output of Bloedels and by mills, and the whole lumber industry on this coast is and will be especially, without free tolls, left in this anomalous and ridiculous vicissitude. If the President's fear of a shipping monopoly was ever realized, we confront it now. We absolutely must have either freedom of foreign vessels between two coasts, as illustrated for years by Government coal charters, or prompt addition to tonnage under American registry, to have canal more beneficial than harmful to this coast. Trans-Pacific tonnage will be taken direct through canal and we will be left with no adequate facilities whatever to transport the traffic that should be fostered between the two coasts. A most important consideration also in present emergency that demands passage proposed law is that the Government may need vessels for coal and transports between two coasts. Any qualification of the bill excluding use of all vessels in the intercoastal trade can only favor few selfish interests mentioned and should receive no serious consideration whatever in view of the unknown and enormous advantage accruing to the entire Nation. If all vessels under our flag can ply in intercoastal trade, although the few American vessel owners now assert they will not divert their vessels to trans-Atlantic trade, human nature warrants the assumption that the profits offered for these neutral vessels may be irresistible. There seems no justification to exclude vessels from intercoastal trade and every conceivable economic and strategic reason for granting all vessels under American registry this freedom.

Now, Mr. President, I know that the Senate is anxious to vote on this matter. The importance to us of this legislation is my only excuse for taking this much of your time. It means just as much to our people on the Pacific coast as this legislation means to you people in the cotton and the wheat sections of the country. We ask from you the same consideration that we are willing to give to you in this legislation.

I trust the amendment I have offered will be accepted.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Washington. [Putting the question.] By the sound the ayes seem to have it.

Mr. BRANDEGEE. I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. GALLINGER. I ask for a division.

Mr. KERN. Mr. President, I move that when the Senate adjourns to-day it adjourn to meet on Tuesday next at 11 o'clock a. m.

The motion was agreed to.

Mr. JONES. I make the point of order that the call for a division comes too late.

Mr. SAULSBURY. Mr. President, I move that the Senate adjourn.

The Senate refused to adjourn.

Mr. O'GORMAN. Mr. President——

Mr. GALLINGER. There is a request pending.

Mr. JONES. I make the point of order that the call for a division came too late.

The VICE PRESIDENT. There has been a point of order made, which the Chair is considering and about to rule upon.

Mr. GALLINGER. The yeas and nays were called for, and the Chair ruled that a sufficient number had not seconded the request. I immediately asked for a division. I do not know of anything in our rules that would prohibit that. It would be extraordinary if there were anything of the kind.

Mr. JONES. I suggest that there is nothing in the rules that authorizes calling for a division.

Mr. GALLINGER. There is in general parliamentary law. It never was questioned on the face of the earth.

Mr. JONES. That ruling was made by the Senator from Arkansas [Mr. CLARKE], the President pro tempore of the Senate.

The VICE PRESIDENT. The Chair is impressed with this view, and is going to rule in this way; of course, an appeal can be taken.

Mr. JONES. I withdraw the point of order.

The VICE PRESIDENT. That the only purpose of a division is to satisfy the presiding officer as to whether or not his ruling is right. The question of the yeas and nays is an entirely different question.

The Chair will ask all those who are in favor of the amendment of the Senator from Washington to rise. [A pause.] Those who are opposed will rise. [A pause.] The ruling of the Chair was undoubtedly correct. The ayes have it, and the amendment is agreed to.

Mr. O'GORMAN. Mr. President, to correct the wording of section 2, I move that the word "Whenever" be inserted on the eighth line, page 4, after the numeral "2."

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 4, line 8, before the word "The," the first word in the line, it is proposed to insert the word "Whenever" and to change the capital "T" to a small letter "t."

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. O'GORMAN. On lines 8 and 9, page 4, I move to strike out "is hereby authorized, whenever he."

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On the same page, lines 8 and 9, it is proposed to strike out the words "is hereby authorized, whenever he."

The amendment was agreed to.

Mr. O'GORMAN. And I move to insert, after the word "insufficient," on line 13, page 4, the words "he is authorized."

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. After the word "insufficient" and the comma on line 13, page 4, it is proposed to insert the words "he is authorized."

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. GALLINGER. I reserve the amendment offered by the Senator from Washington [Mr. JONES], and ask for a separate vote on it.

The VICE PRESIDENT. Perhaps the Senator from New Hampshire is not aware of the fact that this is a complete substitute for the bill. It comes into the Senate as an entire amendment.

Mr. GALLINGER. Then I will waive my point.

The VICE PRESIDENT. The question is on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in.

The VICE PRESIDENT. The question is, Shall the amendment be engrossed and the bill be read a third time?

Mr. SAULSBURY. Mr. President, are amendments in order?

The VICE PRESIDENT. Yes; amendments are in order.

Mr. SAULSBURY. I offer the amendment which I send to the desk in lieu of section 4 of the bill. I wish to say that the amendment is the one on which there was such a meager vote in the Senate a while ago, with a rather close margin; and on it I ask for the yeas and nays.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to insert a new section, as follows:

SEC. 4. That the Secretary of the Treasury, on being satisfied that not less than 90 per cent of the capital invested in any foreign-built steamship is the bona fide property of American citizens, whether of individuals or of corporations of which the majority of capital stock is owned by citizens of the United States, shall direct that the bills of sale or transfer of the foreign-built steamships purchased be recorded in the office of the collector of customs of the proper collection district, after which each of such vessels shall be entitled to all the rights and privileges of vessels built in the United States, except that it shall not be employed in the coastwise trade of the United States unless the voyage in which such vessel may be engaged requires its passage through the Panama Canal.

Mr. SAULSBURY. Upon that I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. POMERENE. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Lewis	Pomerene	Stone
Bryan	Martine, N. J.	Ransdell	Swanson
Chamberlain	Myers	Reed	Thomas
Gallinger	Newlands	Saulsbury	Thompson
Hughes	O'Gorman	Shafroth	Thornton
Johnson	Overman	Sheppard	Tillman
Jones	Owen	Shively	Walsh
Kern	Page	Simmons	West
Lane	Perkins	Smith, Ga.	White
Lee, Md.	Pittman	Sterling	

The VICE PRESIDENT. Thirty-nine Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

Mr. O'GORMAN. Is it premature to move to instruct the Sergeant at Arms to request the attendance of absent Senators?

The VICE PRESIDENT. Yes; it is premature. The Secretary will call the roll of absentees.

The Secretary called the names of the absent Senators.

The VICE PRESIDENT. Thirty-nine Senators have answered to the roll call. There is not a quorum present. The Sergeant at Arms will carry out the instruction of the Senate and request the attendance of absent Senators. The order heretofore given has not been vacated.

After a little delay,

Mr. O'GORMAN. Mr. President, this is Saturday night. It is now 10 minutes after 7 o'clock. We have had a long day's session. We came close to the disposition of this important piece of legislation, but by the insistence of one of our Members calling for a yea-and-nay vote—or, rather, suggesting the absence of a quorum——

Mr. GALLINGER. Debate is not in order.

The VICE PRESIDENT. No; it is not.

Mr. O'GORMAN. I was making the statement preparatory to a motion. The absence of a quorum was suggested. It seems extremely difficult at this time to get the requisite number. I move that the Senate adjourn.

The motion was agreed to; and (at 7 o'clock and 10 minutes p. m.) the Senate adjourned until Tuesday, August 11, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

SATURDAY, *August 8, 1914.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Bend low, our Father in heaven, and exercise Thy holy influence in the affairs of men and of nations. Strengthen the weak, cheer the faint-hearted, comfort the sorrowing, encourage every noble impulse, discourage every evil thought and ignoble desire. Harmonize all differences, bring order out of chaos, that the white banner of peace may float triumphantly throughout every land, that brotherly love may have its sway and Thy will be done, to the glory and honor of Thy holy name. In Christ Jesus our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

COMMITTEE TO ATTEND THE FUNERAL OF MRS. WILSON.

The SPEAKER. Yesterday morning the Chair appointed the gentleman from Oregon, Mr. HAWLEY, on the committee of 48 to attend the funeral of Mrs. Wilson. The Chair has just received a telegram from him saying that he has gone to Oregon and can not be here. The gentleman from Oregon, Mr. LAFFERTY, has not been here for two or three months, so the Chair will appoint the gentleman from Oregon, Mr. SINNOTT.

In appointing the gentleman from Kansas, Mr. MURDOCK, as the senior Member from the State of Kansas the Chair miscalculated the dates of his service, and now finds that his colleague, Mr. CAMPBELL, is the senior Member. The Chair therefore, at the suggestion of Mr. MURDOCK, appoints the gentleman from Kansas, Mr. CAMPBELL, in place of the gentleman from Kansas, Mr. MURDOCK.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the gentleman from Kansas, Mr. MURDOCK, be added to the committee.

The SPEAKER. The gentleman from Illinois asks unanimous consent to add the name of Mr. MURDOCK to the committee. Is there objection?

There was no objection.

ADJOURNMENT UNTIL TUESDAY.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet on Tuesday next.

The SPEAKER. The gentleman from Alabama asks unanimous consent that when the House adjourns to-day it adjourn to meet on Tuesday next. Is there objection?

There was no objection, and it was so ordered.

POSTAL AND CIVIL-SERVICE LAWS.

Mr. MOON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 17042) to amend the postal and civil-service laws, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 17042, with Mr. CONRY in the chair.

The CHAIRMAN. Without objection, the Clerk will report the pending amendment.

Mr. MANN. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Illinois makes the point of order that there is no quorum present. Evidently there is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken	Brown, N. Y.	Casey	Donohoe
Ainey	Brown, W. Va.	Chandler, N. Y.	Dooling
Allen	Browne, Wis.	Church	Doughton
Ansberry	Browning	Cline	Driscoll
Anthony	Bruckner	Coady	Drukker
Ashbrook	Bulkley	Connolly, Iowa	Dunn
Aswell	Burke, Pa.	Copley	Dupré
Austin	Butler	Covington	Eagle
Barchfeld	Byrns, Tenn.	Cramton	Edmonds
Bartholdt	Calder	Crisp	Edwards
Bartlett	Callaway	Crosser	Elder
Bathrick	Campbell	Dale	Estopinal
Beall, Tex.	Cantor	Davenport	Fairchild
Bell, Ga.	Cantrill	Decker	Faison
Borland	Carew	Dershem	Fess
Bowdle	Carlin	Dickinson	Fields
Brodbeck	Carr	Dies	Flood, Va.
Broussard	Cary	Difenderfer	Fordney

Francis	Hughes, Ga.	Morin	Stanley
Frear	Humphrey, Wash.	Moss, W. Va.	Steenerson
Gard	Igoe	Mott	Stephens, Miss.
Gardner	Johnson, S. C.	Mulkey	Stephens, Nebr.
George	Kelley, Mich.	Murray, Mass.	Stephens, Tex.
Gerry	Kennedy, Conn.	Murray, Okla.	Stevens, Minn.
Gill	Kent	Neeley, Kans.	Stringer
Gillett	Kiess, Pa.	Nelson	Switzer
Gittins	Kinkead, N. J.	O'Brien	Taggart
Glass	Knowland, J. R.	O'Leary	Talbott, Md.
Goeke	Konop	O'Shaunessy	Taylor, N. Y.
Goldfogle	Korbly	Padgett	Thacher
Gordon	Kreider	Palmer	Thomas
Gorman	Lafferty	Parker	Thompson, Okla.
Graham, Ill.	Langham	Patten, N. Y.	Thomson, Ill.
Graham, Pa.	Langley	Patton, Pa.	Townsend
Green, Iowa	Lazaro	Peters, Me.	Treadway
Griest	Lee, Ga.	Peters, Mass.	Underhill
Griffin	L'Engle	Peterson	Vare
Gudger	Lenroot	Phelan	Vaughan
Guernsey	Levy	Platt	Vollmer
Hamill	Lewis, Pa.	Porter	Volstead
Hamilton, Mich.	Lindbergh	Powers	Walker
Hamilton, N. Y.	Lindquist	Ragsdale	Wallin
Hammond	Loft	Reed	Walters
Hardwick	Logue	Riordan	Watkins
Hart	McAndrews	Roberts, Mass.	Weaver
Hawley	McClellan	Rothermel	Webb
Hayden	McGillicuddy	Sabath	Whitacre
Hayes	McLaughlin	Saunders	Williams
Heflin	Mahan	Scully	Willis
Helm	Maher	Sherley	Wilson, N. Y.
Hill	Martin	Sherwood	Winslow
Hinds	Merritt	Shreve	Woodruff
Hinebaugh	Metz	Sinnott	Young, Tex.
Hobson	Miller	Slemp	
Houston	Moore	Smith, Md.	
Hoxworth	Morgan, La.	Smith, N. Y.	

The committee rose; and the Speaker having resumed the chair, Mr. CONRY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having had under consideration the bill H. R. 17042, and finding itself without a quorum, under the rule he caused the roll to be called, whereupon 211 Members responded to their names, a quorum, and he presented a list of absentees to be entered upon the Journal.

The SPEAKER. The committee will resume its sitting.

The CHAIRMAN. The question is on the Murdock amendment.

Mr. KEATING. Mr. Chairman——

The CHAIRMAN. Without objection the amendment will be again reported. [After a pause.] The Chair hears none.

The Clerk read as follows:

Page 4, line 25, after the word "law." insert the following: "*Provided*, That hereafter postmasters of the first, second, third, and fourth classes shall be selected from the classified list of postal employees, and all acts and parts of acts in conflict with the provisions of this act in so far as they affect this act are hereby repealed."

Mr. KEATING. Mr. Chairman, I am in favor of the adoption of the amendment offered by the gentleman from Kansas [Mr. MURDOCK]. I believe that all postmasters should be under the civil service and should be taken out of politics, and that will be the practical effect of the adoption of this amendment. I believe that it should be possible for a young man in my town, after leaving the high school, to take an examination for a position in the Post Office Department, with the hope of securing a distinguished position in the service, a position that would give him ample salary and insure proper care for his old age.

The civil-service system is the child of Democracy. It is true it has been abused by the Republicans [laughter on the Republican side], but that is no reason why we should continue the abuse. Yesterday we adopted an amendment taking the assistant postmasters out from under civil-service regulations. That was a mistake, but the adoption of the Cullop amendment, which made the Postal Service of this country a political grab bag, was something more than a mistake; that was a crime. [Applause on the Republican side.]

The fortunate thing about it is that it is a crime that can not be "put across"—to use a popular expression—because, unless I mistake the intelligence of this House, when we go out of the Committee of the Whole House on the state of the Union into the House we will strike that provision from the bill, and if it is not stricken from the bill by this House it will be dropped in the Senate, and if it is not dropped in the Senate—if by some political miracle it gets through both House of Congress—we have a man in the White House who will knock it into a cocked hat so fast it will take your breath away. [Applause.]

I do not like to see my party indulging in these petty political tricks. I like to see the Democratic Party stand up and do the big things in national life.

What good will it do the Democratic Party to dismiss the assistant postmasters in a few cities of the United States if thereby we lose the confidence of the intelligent, independent voters of this country?

You men who come from below Mason and Dixon's line do not know what it means to fight for Democracy in the North and the West. It is not sufficient there to say, "This is a Democratic ticket, and you should vote it because your father was a Democrat." Instead, we have to appeal to the intelligence of our constituents. [Laughter on the Republican side.] We have to show them that the Democratic Party stands for something entirely different from what the Republican Party stands for, and unless we can do that we can not get the support of those independent voters who are essential to Democratic success in the West and the North.

And it is just such things as this Cullop amendment that causes good men, and good women, too, throughout the North and West to say, "What is the use of quitting the Republican Party and going over to the Democratic Party? You are simply a crowd of spoilsmen who when you get control of national affairs forget the principles that are at stake, forget the fact that the Democratic Party gave us civil service, and endeavor to find jobs for job hunters."

Mr. Chairman, I trust that the amendment of the gentleman from Kansas will carry. [Applause.]

Mr. MOON. Mr. Chairman, I take the closing sentence of the gentleman who has just left the floor and say that I trust that the Murdock amendment will not carry. If there ever was offered to this House an amendment that was thoroughly anti-Democratic, that is the amendment. [Applause on the Democratic side.] I looked at that young man from Colorado in making his speech a moment ago, in which he expressed his utter want of confidence and profound contempt for the capacity of the people to control their own affairs, and wondered how in the name of goodness a Democratic constituency in the United States could indorse such sentiments. [Applause on the Democratic side.] He says he has to appeal to the people and to their common sense and intelligence to get here. It must have been a wonderful appeal that he made. He intimates men from the South do not have to do that. [Laughter on the Republican side.] Why, the gentleman as much as says if you come from south of Mason and Dixon's line you are living on prejudice and you do not live on reason and sense, and you do not have to appeal to your people. If the gentleman lived in my State he would reach quite a different conclusion.

A MEMBER. Especially if he was running for Congress.

Mr. MOON. Particularly if he had to run from a district that is Republican he would find that he would have to appeal, and I want to say for the Republicans in that section that when the appeal is made on broad principles of confidence in the people for the support and maintenance of constitutional government that they do often respond by voting for Democrats. Now, Mr. Chairman, as to this amendment. I can not conceive of anything that would be worse in its nature than the adoption of an amendment that provides that no man who is not in the classified civil service shall hold the office of postmaster or any other office in the Post Office Department of the United States. As I said yesterday, it would create a close governmental corporation through which the people could not break, an aristocratic official government, and a man might just as well tell me he is an angel as to tell me he is a Democrat, who believes in such a doctrine. [Applause on the Democratic side.]

Mr. HULINGS. Mr. Chairman, I offer this amendment as a substitute to the amendment of the gentleman from Kansas.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Add as an additional amendment the following:

"That from and after the passage of this act all first, second, third, or four class postmasterships shall be filled by appointment by the Postmaster General or the assistant postmaster, if there be one, or if there be none, then of some other person, to fill such vacancy until a postmaster shall have been selected and commissioned in the manner hereinafter provided: that is to say, the Civil Service Commission shall, as soon after said vacancy shall occur as possible, certify to the commissioners of the county or to the persons whose duty it is to prepare the ballots for general elections in the city, town, borough, or township in which the post office may be in which said vacancy shall occur, the names of three citizens of the city, town, borough, or township in which the post office is, qualified under the civil-service rules to be postmasters, and at the general election next succeeding thereafter the commissioners shall cause to be printed on the official ballot the names of the three persons so recommended by the Civil Service Commission who shall be, but not under any party designation, the candidates for the office of postmaster in such city, town, borough, or township, and the result of such election and the number of votes cast for each shall be certified to the Postmaster General for his information, and from the candidates so voted for he shall appoint one person as the postmaster of such post office for the term of four years.

"And all laws, rules, and regulations inconsistent herewith are hereby repealed."

Mr. HULINGS. Mr. Chairman, yesterday when I offered an amendment providing that the people to be served could elect their postmasters the gentleman from Indiana [Mr. CULLOP] made the point of order that it was unconstitutional, because

under the Constitution it was not competent for Congress to provide for the election of a postmaster, and he was correct, because Congress can not take from the administration the right to appoint all officers given by the Constitution; and yet in almost the same breath he introduced an amendment yesterday which provided that the postmasters should appoint assistant postmasters. Now, that was in the face of the same constitutional objection which he urged against my amendment.

Mr. CULLOP. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Pennsylvania yield to the gentleman from Indiana?

Mr. HULINGS. Not just now, but presently.

My amendment makes it possible for the people who are to be served by the postmaster to suggest which one of a certain number of qualified persons may be appointed; it gives the people the right to declare whom they desire to be appointed, but it does not require the Postmaster General to appoint any of them; it does not limit the right of the Postmaster General to appoint whomever he chooses.

But I venture to say that there is no administration that will continue to make appointments of postmasters in the face of and in disregard of the public sentiment of the community which is to be served. Therefore the effect of this substitute would be that the Postmaster General would appoint qualified men who were favorably regarded in the district in which they were to serve. One thing, at least, it will do. It will lift out of the pool of party politics this great department of the Government. As it is now, you see "grave and reverend signiors" squabbling and fighting about postmasterships. The anterooms of Members of Congress are thronged with men scrambling for appointments to these offices, and if you should relieve Congressmen—and it would be a relief—of this duty, and place it entirely upon the Postmaster General, who would be informed, if not guided or controlled, by the recommendation coming from the people to be served, there is no doubt at all but you would raise the character of the service. One thing you will do, namely, you will take the appointment of these officers out of the hands of Congress; you will take it out of politics. Their recommendation will not be sought for. The only recommendation that will be sought for will be the recommendation of the people who are to be served by the postmaster. And another thing this amendment will do will be to very much disarm and weaken the hold of the political boss system in the country. The political boss makes these appointments, not particularly with a view of having the public well served, but in order to strengthen his personal machine. Place these appointments in the hands of the Postmaster General, informed and guided by the recommendation of the people to be served, and you will have cleaned out a dirty political pool; you will have relieved Congressmen and the President, who have more important duties, from the task of making these appointments, of which in the very nature of the case they can know very little, and the Postmaster General, to whom the appointing power is transferred, will be informed by the authentic recommendation of the people as to their wishes in the matter.

Mr. MOON. Mr. Chairman, has debate been exhausted on this amendment, or not?

The CHAIRMAN. It has.

Mr. STEVENS of New Hampshire. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The debate has been exhausted upon the amendment, but not upon the substitute.

The gentleman from New Hampshire [Mr. STEVENS] is recognized for five minutes.

Mr. STEVENS of New Hampshire. Mr. Chairman, I voted against the Cullop amendment, and I voted to strike out of the bill the section concerning assistant postmasters, and I shall vote for the Murdock amendment. While I know that no argument I may present will have any influence, I desire to state the reasons why I shall so vote. I believe in the merit system. I am opposed to the spoils system because the experience of this country has proved that it leads to inefficient, wasteful public service and tends to corrupt party politics. [Applause.] Therefore, it is for the public interest to extend and to improve the civil service. I believe in the long run it will be for the interest of politicians and party politics to cut out the spoils system entirely. I realize that there is a great deal of opposition to the civil service as it is at present enforced, and that that opposition has a basis. But the way to cure that is not to destroy the law but to change and improve it. The civil-service law should be extended to practically all people in the administrative departments of the Government, and, further than that, it should be unlawful for any Congressman or any Senator to make any recommendation about the appointment or transfer or promotion of any man in the classified service, leaving these promotions and appointments and transfers to be made upon the civil-service recommendations and the record of the men on their work. I believe the Civil Service Commission should certify a list to the department, made up not only by an examination of a man's educational ability—a literary examination—but an examination of his training and character; and when they certify a list to the department the department should have to take the man with the highest rating. I believe that is the way to reform the present civil-service law and take out from the law what we have now, this undercurrent and thread of political patronage and political pull.

I voted to strike out the section about assistant postmasters, although that section is put up to us here in the guise of the extension of civil service, because the debate disclosed clearly enough, and the facts also disclosed, that that amendment will not and is not intended to promote the public service. That is the only question that any man should consider, not "Are Republicans going out of office?" or "Are Democrats going into office?" but "Will the public get better service by the adoption of this amendment?" [Applause.] I do not believe they will get better service.

Mr. MOON. Mr. Chairman, I want to say for the benefit of the gentleman from New Hampshire, who has, I think, very peculiar ideas on this question for a Democrat, that he need not trouble himself, I think, and this House need not trouble itself very much, on the question of the assistant postmasters. I believe that I speak with authority when I say that in six or eight months from to-day there will be no such thing in the United States as an assistant postmaster, under the law and power of regulation in the department and the determination of the department to economize by getting rid of certain classes of officials.

I move, Mr. Chairman, that—unless somebody else wants to speak now—the debate close in five minutes.

Mr. TOWNER. Mr. Chairman, I would like to have five minutes of time.

Mr. MANN. Mr. Chairman——

Mr. MOON. Does the gentleman from Illinois [Mr. MANN] want some time?

Mr. MANN. Yes.

Mr. MOON. Very well, I will not make the motion now. I will say, before the gentleman begins, that I would be glad to have an agreement to close debate in 15 minutes.

Mr. TOWNER. Make it 20 minutes. I would like to have 5 minutes.

Mr. MOON. I can not agree to give all the time over there. I move that we close debate in 15 minutes on this section and all amendments thereto.

The CHAIRMAN. The question is on the motion of the gentleman from Tennessee [Mr. MOON] to close all debate on the section and amendments thereto in 15 minutes.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. MURDOCK. A division, Mr. Chairman.

The committee divided; and there were—ayes 92, noes 69.

So the motion was agreed to.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is recognized.

Mr. MANN. Mr. Chairman, the Constitution, which ought to be referred to occasionally and kept in mind all the time, provides that the President—

shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

The Constitution does not give the legislative branch any control over appointments, and until the last few years no one had supposed that Congress had any right by legislation to control the appointments. The civil-service law goes on the theory that the President is the appointing power, and not Congress. The civil-service law only provides the machinery which the President may put into operation. The civil-service law does not provide for the appointment of anyone in a specified manner, but authorizes the President to cover into the classified service and to provide for the appointment of such officials as he pleases by the aid of the machinery that is set up under the civil-service law. The President has the power to put into the classified service and provide for the appointment, through the Civil Service Commission, of any of the officials of the Government whose appointment is not expressly required to be confirmed by the Senate. He has the power to take out of the classified service any officials that he desires to.

Yet we are proposing to legislate here constantly providing for a method of appointment, providing who shall be in the classified service. The Executive in recent years has not quarreled with Congress over these legislative provisions, every one of which is probably unconstitutional. I think that the present President is to be trusted as to whether certain places shall be in the classified service or taken out of the classified service, or whether persons in the classified service shall or shall not be required to take certain examinations; and every vote which the Democratic side of the House casts seeking to take this power away from the President is a vote of lack of confidence in their President. The President himself, at the head of the administrative branch of the Government, does not dare to be responsible for the demoralization which would come by taking these places out of the classified service or making political appointments to the ordinary positions under the Government. But a Democratic majority in the House, with each Member seeking to avoid and avoiding personal responsibility, proposes to do an unconstitutional act and seeks to control the patronage under the Government, and show a lack of confidence in their President. For once I am in favor of upholding the hands of the President in this matter, which ought to be nonpartisan, nonpolitical, and purely in the interest of the proper administration of the branches of the Government. [Applause.]

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. HULINGS. Mr. Chairman, will the gentleman permit me a question?

Mr. MANN. I have not any time.

Mr. TOWNER rose.

The CHAIRMAN. The gentleman from Iowa is recognized.

Mr. TOWNER. Mr. Chairman, it is certainly to be regretted that a matter of such great importance as that which the House has under consideration now should be sprung upon it under circumstances when it can not receive the consideration that it merits. There is, Mr. Chairman, no other single administrative question about which the people of the country are so immediately interested as the selection of their postmasters. It comes nearer to them, it is of more immediate interest to them, than any other single administrative feature of the Government. I could not support the amendment offered by the gentleman from Pennsylvania [Mr. HULINGS]. He would put the selection of postmasters in the corporate limits of whatever city or town the post office happened to be situated. That would result in an unfair situation. I know of one case where, in a city of 5,000 people, perhaps, there are seven rural routes that serve 10,000 people, and yet under that system none of the people on the rural routes would have any voice in the selection of a postmaster. I know of another instance in which a small incorporated town of 300 people is the nucleus of three rural routes that serve perhaps four or five times that number of people, yet none of the people on the rural routes would have any voice in the selection of a postmaster.

Mr. HULINGS. Mr. Chairman, will the gentleman allow an interruption?

Mr. TOWNER. I can not do so, I regret to say. I am not in favor of the amendment offered by the gentleman from Kansas [Mr. MURDOCK]. Under it the voice of the people is not heard at all. No one who has an interest in the post office can be considered as to his desire. It is not alone that these men should be qualified for service as postmasters. It is also to be ascertained in some way whether or not their services will be acceptable to the people who will be served.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. TOWNER. I can not yield, because I have not any time. These are questions that are to be considered when you come to vote upon these amendments. We can not at this time take these things into consideration. We can not fully discuss them. It may be that these suggestions that I make now are not well founded. But they are well founded, to my mind, and they ought to be seriously considered.

Mr. Chairman, these matters ought to be worked out carefully. The administration ought to work them out carefully and present them to the House. They ought not to be presented in this manner. All of these questions—these civil-service questions and these other matters that are injected in this bill—ought never to have been presented to this House in this bill. We ought to have had the right to consider, separate and apart from these other matters and as a distinct proposition by itself, the question of how much should be paid to the railways for the railway mail service, and we ought not to be compelled now to consider these extraneous questions.

I desire to say just one word regarding the civil service aspect of this case. It is true that the Republicans have stained their record with regard to the civil service. But I want to say to gentlemen on the other side that there has not been a departure from the merit system by any Republican administration in any act that has not brought regret to the hearts of the best members of that party and the best people of the United States, and as a question of party policy there has been no departure from the merit system by the Republican Party that has not injured and weakened it. And so it will be with you. You will not gain strength by the adoption of the spoils system. It will weaken you as individuals in the esteem of your constituencies. It will bring about animosities and controversies that will work your undoing, and the party itself will be weakened and not strengthened by the spoils system. It is inherently wrong and will injure and at last destroy the party that adopts and practices it.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. RUCKER rose.

The CHAIRMAN. The gentleman from Missouri is recognized.

Mr. RUCKER. Mr. Chairman, I am not opposed to the civil-service law, generally applied. In this great Republic, where there are two or three or four hundred thousand people holding positions, a great many of them require special training and expert knowledge, and, knowing that from the nearly one hundred million of population a great swarm of applicants is always present, I can understand the virtue and the benefit of the merit system as applied to those places. But when we have civil service in name we ought to have it in fact. To the one best qualified, if you carry out the spirit of the civil-service law, the appointment should go; and when it comes to clerical work or to expert work, work requiring peculiar qualifications, we all agree that that is the fair and wise way to select persons to fill those positions.

But will any gentleman contend that the result of a mere mental examination determines with any degree of accuracy or is even persuasive that the man or woman who makes the best grade is therefore best qualified to perform the service? Do we not all know that frequently it happens that the greatest scoundrel in the country is one of the smartest men? Do we not know that sometimes those blessed with bright minds are cursed with bad characters? Do we not know that a man who can make a high grade along scholastic lines may himself be so polluted from head to foot as to be a stench in the nostrils of all good men? And yet you gentlemen would say we must have civil-service tests for fourth and third and second class postmasters. I am opposed to it. Gentlemen may talk themselves hoarse about the merit system. There is no merit in it as applied to these post offices, and you know it. Every one of you knows that you can go into a community and select a man whose personal character, integrity, sobriety, intelligence, and business qualifications thoroughly fit him to perform the duties of a fourth-class, third-class, or second-class postmaster. But the gentleman from Colorado [Mr. KEATING], who has to appeal to the intelligence of independents—my notion about it is that an independent is a man who usually votes the Republican ticket—says we must apply the test of mental qualifications. Mr. Chairman, I for one am willing to stand before this whole country, and particularly before my own district, and say I believe that each community can select a man in that community better qualified to give satisfactory service to those to be served than any Civil Service Commission, aided by Republican examiners, can do.

Mr. FALCONER. Mr. Chairman, will the gentleman yield?

Mr. RUCKER. I have not time to yield unless the question is very short.

Mr. FALCONER. Is the gentleman in favor of the amendment of the gentleman from Pensylvania [Mr. HULINGS]?

Mr. RUCKER. No; I am not, because I say to you frankly that my district is a Democratic district, and for every post office in it I can find a Democrat who can give as good administration as any man ever gave, and I intend, if in my power, to put a Democrat in every office. I do not dodge. I tell you the facts. Mr. Chairman, some gentlemen are civil-service mad. You Republicans who have trampled on the spirit of civil-service law for 20 years now think it is popular to say to the great horde of thinking, struggling American citizens that only those who can make a grade shall be permitted to hold a Government position, but you are mistaken. Why, down here in some of these departments to-day you have to rub against and walk over half a dozen negroes to get into some of the departments of the Government. I say when you put messengers—big buck coons—on the civil-service list and bar a white boy, and bar the aspirations and hopes of the thou-

sands and millions of boys in this country who are competent to do that service, you gentlemen are playing politics, and there is nothing else in it. [Applause on the Democratic side.]

Mr. FALCONER. Mr. Chairman——

The CHAIRMAN. All time has expired.

Mr. FALCONER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FALCONER. I understood that we were to have 15 minutes after the gentleman from Illinois [Mr. MANN] had concluded.

Mr. MOON. Oh, no.

The CHAIRMAN. The motion of the gentleman from Tennessee was to close debate in 15 minutes.

Mr. FALCONER. I should like to ask if the gentleman from Illinois did not use five minutes?

The CHAIRMAN. He used five minutes. The question is upon the substitute.

Mr. McCOY. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. McCOY. I ask unanimous consent to address the committee for five minutes.

Mr. MOON. There has been debate enough on this section. I object.

The CHAIRMAN. The question is on the substitute of the gentleman from Pennsylvania [Mr. HULINGS].

The substitute was rejected.

The CHAIRMAN. The question now is upon the amendment offered by the gentleman from Kansas [Mr. MURDOCK].

The question being taken, the Chairman announced that the noes appeared to have it.

Mr. MURDOCK. Division.

Mr. MOON. Mr. Chairman, let us have tellers and be done with it.

Tellers were ordered, and the Chairman appointed Mr. MOON and Mr. MURDOCK.

The committee divided; and the tellers reported—ayes 55, noes 93.

Accordingly the amendment was rejected.

The Clerk read as follows:

SEC. 6. That hereafter the Postmaster General may establish, under such rules and regulations as he may prescribe, one or more branch offices, nonaccounting offices, or stations, at any post office for the transaction of such postal business as may be required for the convenience of the public; and all laws in conflict herewith are repealed.

With the following committee amendment:

Amend, page 5, by striking out, in line 1, the figure "6" and inserting the figure "5."

The amendment was agreed to.

Mr. KELLY of Pennsylvania. Mr. Chairman, I move to amend by striking out the section.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk began reading the next section.

Mr. STAFFORD. Mr. Chairman, that is an entirely different section. The gentleman from Pennsylvania [Mr. KELLY] is entirely within his rights in moving to strike out the paragraph.

Mr. KELLY of Pennsylvania. My amendment, Mr. Chairman, is to strike out the section.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 5, by striking out section 5, beginning with line 1 and ending with line 6.

Mr. KELLY of Pennsylvania. Mr. Chairman, I simply desire to call attention to this section, which I believe has not been fully considered in the committee. I have read the hearings very carefully and could find no record of any discussion on this subject, and it apparently went through without regard to the possible effect——

Mr. MOON. I will state to the gentleman that the hearings do not always show the discussions in the committee. It is only some matter that we desire to have printed which is put in the hearings. There was a full discussion of every one of these sections.

Mr. KELLY of Pennsylvania. I recognize the fact that sometimes some matter may be left out, but I noticed that this section was mentioned as passed in the hearing without consideration.

Mr. MOON. You will find several passed by and not reported in the hearings.

Mr. KELLY of Pennsylvania. It seems to me that this section in a railway mail pay bill may have momentous effects without being fully noted by the House in passing it. In response to great public sentiment, some two years ago action was taken by Congress providing against the operation of post offices on Sunday, and requiring that deliveries, and so forth, should be made only on week days. I fear that this section will entirely nullify that action.

Mr. MOON. Mr. Chairman, I think the gentleman is utterly mistaken. I can not conceive how it will affect that question.

Mr. KELLY of Pennsylvania. Mr. Chairman, the section provides that all laws in conflict with it are repealed.

Mr. MOON. That does not repeal a Sunday law, because no Sunday law is involved.

Mr. KELLY of Pennsylvania. Mr. Chairman, I desire to call attention to section 283 of the postal laws and regulations, which provides that post offices of the first, second, and third classes shall not be open on Sunday for the purpose of delivering mail to the general public. That was a statute passed on August 24, 1912. This section, it seems to me, would repeal that statute, and also the regulations governing Sunday closing.

By a pretext of this kind, a section which is obscure and vague, it may be possible to completely nullify the will of the people as expressed in law. We all know of the expression of public opinion at the time that law was passed—the demand that the Sunday provision should be enacted by Congress. This section provides for opening offices under regulations of the Postmaster General, and repeals the statutes passed and regulations previously made. I believe it is worthy of consideration, especially since this matter is entirely outside of railway mail pay, and should not be considered in this measure. I believe no harm would be done the bill by striking out the section, which would avoid doubtful meaning and would completely obviate any possibility that the Sunday closing provisions would be nullified and repealed by this section as it stands in the bill. The action providing for Sunday closing was not an unconsidered, spasmodic measure of reform. It was the expression of the desires and aspirations of the people of America, who demanded that their Government should set an example in the realm of business. To repeal that action now, without full knowledge of the issue involved, would be resented, and properly so, by the people. I hope that Congress will embody its purpose to suffer no repeal of its former action by a clear-cut declaration in this section, if it does not desire to strike out the entire section.

Mr. MOON. Mr. Chairman, the gentleman misapprehends the scope of the bill if he thinks that it was not intended for anything else than to settle the question of the railway mail pay. The railway mail pay is involved only in one section—section 13 of the bill. I presume, however, that my friend wanted to talk upon the question of abolishing the closing of the post offices on Sunday, and I am satisfied that he shall do so, but the discussion is altogether inappropriate to this section. This section does not undertake to do anything of the kind that he suggests. The very reading of it will show the absurdity of his discussion:

That hereafter the Postmaster General may establish, under such rules and regulations as he may prescribe, one or more branch offices, nonaccounting offices, or stations of any post office for the transaction of such postal business as may be required for the convenience of the public, and all laws in conflict herewith are repealed.

It simply extends the power of the Postmaster General under these laws, particularly to the nonaccounting offices.

Mr. KELLY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. MOON. Yes.

Mr. KELLY of Pennsylvania. What does the gentleman understand by "convenience of the public," and that all laws "are hereby repealed"?

Mr. MOON. That does not interfere with the Sunday law, as the gentleman seems to apprehend. There is no law upon that subject that is repealed at all. I do not think that the repeal would operate by implication. I think the gentleman is unduly alarmed upon the subject. There is no purpose to repeal the Sunday law. The main purpose of this is the establishment of nonaccounting offices.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. MOON. Yes.

Mr. HOWARD. I presume the gentleman from Pennsylvania has in mind line 2 as applicable, in that it provides—

Under such rules and regulations as he may prescribe—

and I presume the gentleman fears that the Postmaster General may be able to abrogate any law in effect as to Sunday closing.

Mr. MOON. Oh, no. He can establish the offices under rules and regulations, but he can not abrogate a law directing their being closed on Sunday.

Mr. KELLY of Pennsylvania. Suppose the Postmaster General and the department should decide that the convenience of

the public required the opening of these offices on Sunday, would he not have the power to open them?

Mr. MOON. It may not be to the convenience of the public that they be open on Sunday. He can not violate law by regulation.

Mr. KELLY of Pennsylvania. But if it should appear so to him, would he not have the power to do so under this section?

Mr. MOON. I do not think this repeals that law. It is not upon that subject, and therefore it would not repeal it.

Mr. KELLY of Pennsylvania. It may not appear to be upon that subject, but that is what it does. The indefiniteness is the danger.

Mr. MOON. Under the gentleman's conclusion, it would operate to repeal every other law that is not upon the subject. A repealing clause has reference to the subject under consideration.

Mr. FINLEY. Mr. Chairman, I wish to ask the gentleman from Pennsylvania a question. This section provides:

That hereafter the Postmaster General may establish, under such rules and regulations as he may prescribe, one or more branch offices, nonaccounting offices, or stations of any post office for the transaction of such postal business as may be required for the convenience of the public, and all laws in conflict herewith are repealed.

This has no reference to the time that these offices that may be established or that offices now established shall be kept open any day, whether week days or Sundays.

Mr. KELLY of Pennsylvania. It gives absolute discretion to the Postmaster General to decide what is for the convenience of the public, and all laws inconsistent with his opinion are repealed. That is what I desire the gentleman to consider.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. FINLEY. Yes.

Mr. MURDOCK. Suppose this law is passed and the Postmaster General really puts it into practice in the city of Chicago. For instance, suppose he does establish one of these outlying nonaccounting stations, and decides that for the convenience of the public in that particular part of Chicago mail shall be delivered at that office upon Sunday, and that the office shall be open, and that all laws in conflict with this proposition shall be repealed. Does not that do that?

Mr. FINLEY. I think the gentleman is carrying entirely too far any power that may be granted to the Postmaster General under this section.

Mr. MURDOCK. I think you can read that into that.

Mr. FINLEY. I do not think so. It never was the intention, and I do not think it bears out that construction.

Mr. KELLY of Pennsylvania. Does not the gentleman think from a fair survey of that section that it would give the Postmaster General the power if he decided the convenience of the public would be served?

Mr. FINLEY. I do not, there being a general law upon the subject of what hours the public shall be served, which law would govern.

Mr. KELLY of Pennsylvania. That law is repealed by this section.

Mr. FINLEY. No; I do not think so. I say to the gentleman that it would not, and that the rules and regulations that the Postmaster General might prescribe would be such rules and regulations relative to establishing a branch or a nonaccounting office or station for the transaction of such postal business, and in my judgment it would have no relation whatever to the hours during which the office should be kept open, when there is a general law on the subject covering that matter.

Mr. HOWARD. Will the gentleman yield for a question?

Mr. FINLEY. Certainly.

Mr. HOWARD. Suppose there is a general law on this question. The object of this section is to place in the Postmaster General absolute power to prescribe any regulations and rules that he may so desire applicable to the opening of certain offices and the establishment of certain offices.

Mr. FINLEY. That may be established——

Mr. HOWARD. Just a moment. Now, then, after it does that it goes a step further and says that "all laws in conflict." In conflict with what; with the present law, with this particular law or any act of regulation which the Postmaster General may wish to prescribe. Now, then, if that does not give him the power to say this office may be open on Sunday I would like the gentleman to give some reason why it does not.

Mr. FINLEY. These are nonaccounting offices which he may establish, which under the present law is not permissible. In other words every post office under the present law must be an accounting office, and this is designed——

Mr. HOWARD. Substations, I presume.

Mr. FINLEY. And it is a very different proposition from the substations and are to some extent——

Mr. HOWARD. Branch post offices.

Mr. FINLEY. And the main or principal office may be the Chicago office, and the accounting would be at the main office which would be the Chicago office, so I do not think there is any serious question about the meaning of this.

Mr. KELLY of Pennsylvania. Will the gentleman yield further?

Mr. FINLEY. I do.

Mr. KELLY of Pennsylvania. Would the gentleman object to an amendment which would clearly express his declaration as to the meaning of this section? Suppose we had a proviso here——

Mr. FINLEY. That matter would not be left to me. I voted for the original law.

Mr. KELLY of Pennsylvania. But the gentleman would not oppose it?

Mr. FINLEY. No; I would not oppose, but as I say I voted for the original law and I stand by the original law, the amendment offered by the gentleman from Illinois [Mr. MANN].

Mr. MOON. I would say I would not object to that, but to my mind with all due respect to the gentleman from Pennsylvania it would seem foolish to do it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOON. Just a minute. Listen to the statute. I know lawyers have different views in construing laws, but this says:

Hereafter the Postmaster General may establish—

What?

He may establish, under such rules and regulations as he may prescribe, one or more branch offices, nonaccounting offices, or stations of any post office for the transaction of such postal business as may be required for the convenience of the public.

Now, that may be awkwardly expressed, but the whole intent and purpose was to establish these facilities for the benefit of the people. It has no application whatever to the time of opening and closing of the office.

Mr. MANN. Mr. Chairman, I may be mistaken as to the purpose of this section, but I had supposed it was in order to permit a post office in a city to establish a branch outside of the city limits. We have a provision by a special act of Congress for the establishment of a branch office for the St. Louis office outside of St. Louis. We have another one for some city in Massachusetts. There is, for instance, around Chicago, where the city limits come right in the midst of a settled territory outside of the post offices where it might be more convenient for everybody to have one post office instead of a Chicago office on one side of the line and a special office on another side of the line, but I had supposed that the purpose of this was to permit the Post Office Department to allow the establishment of substations just as now there has been by law outside of city limits.

Mr. SELDOMRIDGE. Will the gentleman yield for a question?

Mr. MANN. Yes.

Mr. SELDOMRIDGE. While the question may not be pertinent to this section, I would like to ask the gentleman if he believes in the policy of the department in establishing substations in large department stores in cities?

Mr. MANN. Oh, I do; where it is convenient.

Mr. SELDOMRIDGE. Does not the gentleman think there is a discrimination against the smaller dealer by allowing postal facilities to the large store, thereby depriving the small dealer of quite a share of business?

Mr. MANN. There should be no discrimination, but the Post Office Department ought to be run for the convenience of its patrons, and where it has the most benefit from it I would establish a post-office substation. In our town we do not have enough, but that has not anything to do with this thing.

Now, if, as suggested by the gentleman from Pennsylvania, this section if enacted would repeal the Sunday closing provision, it would repeal all laws on the subject of the post office, because we have various laws applying to post offices, and if this repeals everything that fixes a policy on the ground that it allows the Postmaster General to make the rules and regulations it would repeal everything. But I do not think it would be so construed. It would be construed as repealing so much of the law that now forbids establishing substations outside of the city where the post office is located.

Mr. KELLY of Pennsylvania. Will the gentleman yield?

Mr. MANN. Yes.

Mr. KELLY of Pennsylvania. What is the gentleman's opinion as to the phrase there giving the Postmaster General power to suit the convenience of the public according to his own idea

of the convenience of the public and repealing all laws in conflict with it?

Mr. MANN. It is the postal business that may be required for the convenience of the public He can establish substations where he thinks the Postal Service requires it for the convenience of the public; that is it.

Mr. KELLY of Pennsylvania. The gentleman does not think it would limit the Sunday closing hour, does he?

Mr. MANN. I think the Sunday closing law would apply just the same in any event. I do not think there is any question about that. Of course these substations are not governed by the Sunday closing law as the rule exists, unless they are regular postal stations, which would be the case for branch offices, and then they would be governed by the Sunday closing law. I think the only thing that this repeals is the law that now operates to establish these offices.

Mr. KELLY of Pennsylvania. Well, that phrase "for the convenience of the public" is a very wide one.

Mr. MANN. That is where post offices are established. That is the authority he now has to establish a post office for the convenience of the public.

Mr. KELLY of Pennsylvania. Under certain statutes passed and regulations which are in force?

Mr. MANN. Yes.

Mr. COX. Mr. Chairman, just one word.

The explanation of the gentleman from Illinois as to what this paragraph means is true, according to the statement made by Postmaster General Roper while before our committee. I was under the impression that what he said at that time was taken down in the hearings, although I have not read the hearings since then. I know he thoroughly discussed it, and we interrogated him to a considerable extent as to what was intended to be meant by this section of the bill. I was under the impression that it was very broad, and thought possibly it might contain in it some ulterior purpose which the committee did not know. Now, the explanation of the gentleman from Illinois [Mr. MANN] is directly and absolutely in line with what General Roper said he proposed to do with this paragraph—to establish postal stations outside of city limits of certain cities of the United States.

Mr. BARTON. Will the gentleman yield?

Mr. COX. For a question.

Mr. BARTON. "Under such rules and regulations as he may prescribe," is the language of section 5, for the organization of these branch offices. And it also says "All laws in conflict herewith are repealed." Now, do you mean to say that the rules and regulations prescribed here are in conflict with the standing law if the law is not repealed?

Mr. COX. I think the gentleman from Illinois [Mr. MANN] answered that question, that the intention of this statute was to enlarge, or give the Post Office Department a larger power in establishing postal stations outside of the city limits, and that any law which heretofore might have been enforced restricting the power of the Postmaster General to establish certain postal stations outside of certain limits would be repealed.

Mr. HOWARD. Will the gentleman yield?

Mr. COX. For a question.

Mr. HOWARD. Under this section would the gentleman maintain that the Postmaster General would have the right to discontinue a post office, say within 6 miles of a large city, at a county seat, that now had a post office, and establish a substation?

Mr. COX. I do not know whether he would or not. He might have and he might not. Now that leads up to the second part.

Mr. HOWARD. That is what I understood the gentleman from Illinois [Mr. MANN] to say.

Mr. COX. That is the item I have in mind. As stated by the gentleman from South Carolina [Mr. FINLEY], all postmasters are required to report direct to the Post Office Department. Now, General Roper said in discussing this section of the bill that in many, many counties that might be called rural counties they have towns and cities of from 2,500 to 4,000 or 5,000 inhabitants, and if he were given authority and power to make one of the larger places in the county an accounting office, then the small post offices in the county could report to the larger office, and that they could call upon the larger place to send some one out at different times and inspect the books of the small offices, particularly the books of the fourth-class postmasters; and he said by that it would bring about two things, first, economy, and at the same time centralize and make much more effective the postal service in that particular community. I am sure from what the Postmaster General said to the committee that there is no attempt whatever to interfere with the Sunday closing, and it will never be so interpreted by the present administration. I believe that is his idea and his intention. To sum the matter up, it carries forward two items, one to give the post office power to enlarge the establishment of postal stations outside of the city. Now, that is one thing sought to be accomplished. Second, to give the Post Office Department power, more particularly in what are called "rural communities," to make some post office in that rural community an accounting office, and supervise, as it were, or more or less inspect, the smaller offices throughout the county, thereby making economy and bringing about more effective service.

Mr. SELDOMRIDGE. Will the gentleman yield?

Mr. COX. For a question.

Mr. SELDOMRIDGE. Has the Postmaster General, under the present law, the right and the power to abolish a post office and make it a substation or branch office to another office that is established?

Mr. COX. I can not answer that question.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. SELDOMRIDGE. Mr. Chairman, I would like to ask unanimous consent——

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word, and perhaps I may be able to give the information which the gentleman from Colorado desires.

Mr. SELDOMRIDGE. I would like to ask the gentleman the same question.

Mr. STAFFORD. I will answer it in my time.

Mr. Chairman, under existing law, for nearly 20 years the Postmaster General has had authority to establish branch post offices within 5 miles of the boundary limits of the city having a post office to serve that locality, provided the office to be substituted by the branch office is located in a community of 1,500 or more population. The main purpose of this provision is to lift that limitation. With the extension of the suburbs of large cities and the growth of automobile service, the gentleman can readily understand that there are many suburban communities which are connected territorily with the principal city served by the main post office which is proposed to serve these suburbs. Now, the purpose of this provision, that "all laws in conflict herewith are repealed," refers to that law passed in 1896 which carries that limitation.

This proposed section also gives a further authority to the department to establish what is known as nonaccounting offices. My friend from Kansas [Mr. MURDOCK] and other older members of the committee will remember when we had under consideration some four or five years ago the codification of the postal laws, it was then proposed, and the committee at that time, under the chairmanship of the much lamented, the late Jesse Overstreet, considered the question of establishment of nonaccounting offices. That was proposed to allow the substitution in country communities for small post offices of nonaccounting offices, and thereby relieve them of furnishing accounts direct to the Post Office Department in Washington, and which would obtain their supplies direct from some central post office in the county, relieving thereby the department officials here from the burden of going over the accounts, and in no wise interfering with the service that was rendered by these little offices in country communities.

Mr. SELDOMRIDGE. Will the gentleman yield there?

Mr. STAFFORD. With pleasure.

Mr. SELDOMRIDGE. The question I have in mind is this: Take, for instance, the town of Smithville, with a population of 10,000 or 15,000 people, and the town of Jonesville, 2 or 3 miles away, with a population of 400 or 500 people, and under the provisions of this section it would be possible for the Postmaster General to make the little town of Jonesville a substation of Smithville. In other words, it would be a branch of the Smithville office. Now, although the people of the smaller town have their little local identity and municipal government, and all of the machinery that constitutes a separate community, yet under the provisions of this section, would not they be tied up, as you might say, to the other city, with their branch or substation of the Smithville post office?

Mr. STAFFORD. I am frank to say to the gentleman that the scope of the language would vest that authority in the Postmaster General. But you can not conceive of the Postmaster General administering the service of this great business enterprise except as it is going to be for the convenience of the public generally.

Now, I have in mind an instance where a post office now established beyond the 5-mile boundary limit of my home

city would be better served by having direct service from the main post office—Milwaukee—by automobile service or other character of service rather than by railroad communication and by having a separate post-office entity.

As to these nonaccounting offices for small country post offices where the receipts may be only $200 or $250 a year and less, it would relieve the fourth-class postmaster from reporting minutely and in detail their accounts. Under this system the postmaster would purchase the supply of stamps from the nearest large accounting post office. This section is for the improvement of the administration of the Postal Service, for economy in bookkeeping, and for better service for the patrons of the respective offices.

Mr. GOULDEN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from New York?

Mr. STAFFORD. I will be glad to.

Mr. GOULDEN. The greatest objection seems to be voiced by the Members on the floor to line 6. I would like to have the gentleman's opinion of that—"and all laws in conflict herewith are repealed." Why not strike that out entirely? What has that to do with the rest of the section?

Mr. STAFFORD. I think the chairman of the committee will agree with me that when this was first incorporated as a part of another bill introduced by him there was not that omnibus clause, which is now found at the conclusion of this bill, repealing all laws inconsistent herewith. For my part I can not see any objection to striking that line from the bill.

Mr. MOON. It might render ineffective a whole act.

The CHAIRMAN. The question is on the motion of the gentleman from Tennessee [Mr. MOON] to close debate on the section and amendments thereto.

Mr. HOWARD. Mr. Chairman, I would like to offer an amendment. I do not want to be precluded from offering it.

The CHAIRMAN. The question is on agreeing to the motion of the gentleman from Tennessee.

The motion was agreed to.

Mr. HOWARD. Mr. Chairman, I offer the following amendment: At the end of line 5, after the word "public," insert: "*Provided, however*, That no rule or regulation shall be prescribed to interfere with the closing of post offices on Sunday."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Georgia.

The Clerk read as follows:

Amend, at the end of line 5, after the word "public," by inserting: "*Provided, however*, That no rule or regulation shall be prescribed to interfere with the closing of post offices on Sunday."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia [Mr. HOWARD].

The question was taken, and the Chairman announced that the ayes appeared to have it.

Mr. MOON. I ask for a division, Mr. Chairman.

The committee divided; and there were—ayes 30, noes 30.

The CHAIRMAN. The amendment is rejected.

Mr. HOWARD. Mr. Chairman, I ask for tellers.

The CHAIRMAN. Tellers are demanded. The Chair will count. Those in favor of taking this vote by tellers will rise and stand until they are counted. [After counting.] Not a sufficient number have arisen. Tellers are refused.

Mr. HOWARD. Mr. Chairman, I make the point of no quorum.

The CHAIRMAN. The gentleman from Georgia [Mr. HOWARD] makes the point of no quorum. The Chair will count. [After counting.] A quorum is present; 99 and the Chair make a quorum.

Mr. HOWARD. Mr. Chairman, I will withdraw my point of order.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the vote on the question of whether tellers shall be ordered be taken again.

Mr. MOON. What did the Chair say about a quorum?

The CHAIRMAN. The Chair announced that there was a quorum present.

Mr. MOON. Let us proceed, Mr. Chairman.

Mr. MANN. Let us have vote by tellers.

Mr. MOON. We have had one.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the vote on the question of ordering tellers be again taken. Is there objection?

There was no objection.

Mr. WILSON of Florida. Mr. Chairman, I ask unanimous consent that the amendment be again reported.

The CHAIRMAN. All in favor of taking by tellers the vote on this amendment offered by the gentleman from Georgia [Mr. HOWARD] will rise and stand until they are counted. But before that, without objection, the amendment will again be reported.

Mr. HOWARD. Mr. Chairman, my amendment is this: At the end of line 5, after the word "public," add "*Provided, however*, That no rule or regulation shall be prescribed to interfere with the closing of post offices on Sunday."

Mr. STAFFORD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STAFFORD. I understood that the amendment that was voted upon just previously and defeated was the amendment offered by the gentleman from Georgia, that line 6, covering the words "and all laws in conflict herewith are repealed," be stricken out.

Mr. MANN. Oh, no. I ask for tellers.

Mr. HOWARD. I read this amendment, as I thought, audibly.

Tellers were ordered; and the Chairman appointed Mr. HOWARD and Mr. MOON to act as tellers.

Mr. SAMUEL W. SMITH. Mr. Chairman, I ask unanimous consent that that amendment be again read. We did not understand it; at least I did not.

The CHAIRMAN. Without objection, the amendment will again be reported. The Clerk will read.

The Clerk read as follows:

Page 5, at the end of line 5, add the following: "*Provided, however*, That no rule or regulation shall be prescribed to interfere with the closing of post offices on Sunday."

The CHAIRMAN. The question is on agreeing to the amendment.

The committee again divided; and the tellers reported—ayes 43, noes 23.

So the amendment was agreed to.

The CHAIRMAN. The question now is upon the motion of the gentleman from Pennsylvania to strike out section 5.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 7. That the Postmaster General is hereby authorized to prescribe regulations for the establishment and maintenance of a guaranty fund, to be derived from assessments levied against and collected from officers and employees of the Postal Service accountable for funds or property, with which to make good losses resulting from the failure of any officer or employee of the Postal Service to properly discharge his official duties, and for the indemnification of the Government and any person or persons sustaining such loss or losses by payments out of such fund; but nothing herein shall be construed as binding the Government or the Postmaster General to make any such payment or reimbursement: *Provided*, That the annual assessments of employees shall not be in excess of 75 per cent of the annual premiums or assessments they now pay for bonds furnished to the Government.

With a committee amendment, as follows:

Strike out the section just read on page 5, beginning with line 7 and ending with line 22.

Mr. FINLEY. Mr. Chairman, I ask that the committee amendment be voted down. This provision ought to go into the law. The department is anxious that this matter be incorporated here. I have a communication from the department to that effect.

I want to say this, that it will save to the postal employees who are required to give bonds—and to give surety bonds as a rule—at least 25 per cent of the amount they are now paying, and unless this is done they will not be required to take out their bonds under this proposed provision of law.

Now, in Canada and in the Philippine Islands this innovation, so to speak, in the Government having a guaranty fund, the amount required now is less than half in the way of premium and payment for postal employees, and I believe by all civil employees required to give bond, than what was required before the passage of the law requiring the fund to be kept up and maintained.

A like condition also prevails in Canada, where it has been tried out in the postal service. I believe in Canada a fund has been accumulated, the interest on that fund being substantially sufficient to make the payment of all losses occasioned by the default of postal employees. The department is anxious to have this law passed, and while there is another bill on the calendar for this very purpose, I want to say to the membership of this House that there is very little chance, if any, of getting this legislation unless it is put in here. The department has communicated with me. I have the letter here before me, and I think there ought to be such a fund. More than that, under the present law and under the present practice in a great many instances the full amount of a loss is not recovered on these surety bonds. By the time you take into consideration the expense of collection, and the occasional failure of a surety company to make the payment, you will see that this legislation is wise, proper, and necessary.

Mr. MURDOCK. Will the gentleman yield?

Mr. FINLEY. Yes.

Mr. MURDOCK. Does this proposition contemplate that where a man steals from a postal service the loss to the service shall be made up by all the employees in the service?

Mr. FINLEY. It only means this——

Mr. MURDOCK. Does it mean that?

Mr. FINLEY. I will have to answer the question intelligently, if I can. It means that there are certain postal employees now required by law or by rules and regulations to give bond to the Government for the faithful performance of their duty, and to save the Government harmless in all financial transactions, and so on. Now, it will only apply to that class. It will not apply to a man who does not give any bond.

Mr. MURDOCK. Under present conditions certain employees in the Post Office Department give bond.

Mr. FINLEY. Yes.

Mr. MURDOCK. If one of those employees steals from the service and is found guilty his bondsmen, usually a guaranty company, make up the loss to the Government.

Mr. FINLEY. When they are solvent they do, but when they happen to be insolvent they do not.

Mr. MURDOCK. Then the Government loses?

Mr. FINLEY. The Government loses.

Mr. MURDOCK. But the proposition involved in this paragraph is that where an employee steals from the service and is found guilty then all the employees of that class make up the loss by payment. Is that it?

Mr. FINLEY. They are required to pay a premium or a percentage, so to speak, a sum fixed by the department; but this sum can not exceed 75 per cent of the amount that they are now paying.

Mr. MURDOCK. What has the gentleman to say upon this proposition, that that arrangement would penalize the honest man to make up the default of the dishonest man?

Mr. FINLEY. Oh, no. When a man goes to a surety company and buys a bond he pays that company the premium. Now, the money that he pays as a premium is gone from him forever.

Mr. MURDOCK. Gone from the individual.

Mr. FINLEY. Gone from the individual. So there can be only one answer to that. Whenever a man pays such a premium his money is gone. Now, where he is required to give a bond——

The CHAIRMAN. The time of the gentleman has expired.

Mr. FINLEY. I ask to proceed for three minutes more.

The CHAIRMAN. The gentleman asks unanimous consent that he may proceed for three minutes more. Is there objection?

There was no objection.

Mr. FINLEY. Where he is required to give this bond, of course he pays a premium to the surety company; but under this amendment, in place of doing that, he will pay into this fund, which will be kept by the Government and which will be kept invested, and he will pay a sum of money not exceeding three-fourths of the premium he is now paying. Experience and statistics bear out the proposition that this will be entirely sufficient and more than sufficient.

Mr. MURDOCK. What is the origin of this proposition? Does the gentleman know?

Mr. FINLEY. It has been tried in the Canadian service and in the Philippine Islands, and has been found to be a great success.

Mr. MURDOCK. Has it been indorsed by any of the associations of post-office employees?

Mr. FINLEY. I am not sure about that.

Mr. MURDOCK. Do you know how they feel about it?

Mr. FINLEY. I do not know how they feel about it, but I know that they will feel very well satisfied to be put under this provision of law, which will save at least 25 cents on every dollar that they are now paying to a surety company.

Mr. LINTHICUM. Does the gentleman know how much a letter carrier pays for the bond he gives?

Mr. FINLEY. I do not know how much.

Mr. LINTHICUM. He pays 50 cents premium to the surety company.

Mr. FINLEY. Then he would not pay over 35 or 37½ cents on this proposition.

Mr. LINTHICUM. The gentleman mentioned companies failing. Does the gentleman know of any bonding company failing or that could not pay the Government?

Mr. FINLEY. Some of them have.

Mr. LINTHICUM. Can the gentleman name any?

Mr. FINLEY. I have not got them in my mind, but the gentleman must be aware of it.

Mr. LINTHICUM. No; I am not aware of it.

Mr. FINLEY. The gentleman must be aware of the fact that many of them go out of business and many of them fail.

Mr. POU. Has the Government lost anything by reason of the failure of bonding companies?

Mr. FINLEY. Yes; that is stated here in the report of the First Assistant Postmaster General.

Mr. COX. Are not the bonding companies fighting this provision?

Mr. FINLEY. There is no question about that.

Mr. COX. To the very last ditch.

Mr. FINLEY. There is no question about that.

Mr. COX. Have they been around to interview the gentleman, to see how he stands?

Mr. FINLEY. No.

Mr. COX. They have been in my office.

Mr. FINLEY. I am glad I was out, if they were there to see me on this proposition. So the First Assistant Postmaster General, who has carefully worked out this proposition, is very much in favor of it. He is sure that it will be for the good of the service. It will save the Government losses now incurred, and will result in cheapening the surety bonds to the postal employees of the Government, and I do not see how anybody can oppose it.

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. COOPER. Mr. Chairman, in adopting the amendment to section 5, proposed by the gentleman from Georgia [Mr. HOWARD], the majority did not at all accomplish what it desired to accomplish. The Howard proviso was proposed and adopted for the purpose of making the Sunday-closing law applicable to the branch offices, nonaccounting offices, and stations provided for in section 5, so that as under existing law the main office can not now be opened on Sunday; neither should any branch office, nonaccounting office, or station be opened on Sunday. But the proviso fails utterly to do this. If gentlemen will look at lines 3 and 4 of the section, it will be seen that they authorize the Postmaster General to establish "branch offices, nonaccounting offices, or stations of any post office." Observe the distinction between the "branch offices" and "stations" and "the post office." Now, the proviso just adopted follows after the word "public," in line 5, and simply provides that no "post office" shall be kept open on Sunday.

It is perfectly plain that the words "post office" in line 4 and in the proviso refer only to the main office. So that now, under section 5, the Postmaster General can establish any number of branch offices, nonaccounting offices, or stations, "of any post office," and then by the proviso we provide only that the "post office"—that is, the main office—shall not be kept open on Sunday.

Mr. MONDELL. That is the law now, is it not?

Mr. COOPER. Yes; that is the existing law. So that the proviso as adopted does not prohibit but will permit the opening of branches, nonaccounting offices, and stations on Sundays. There is no question about that.

Mr. MURDOCK. The gentleman's point is that if the word "such" had been included in there the amendment would have been effective?

Mr. COOPER. To carry out the intention of the majority it should read:

Provided, That no branch office, nonaccounting office, or station shall be open on Sunday.

But the proviso as adopted simply prohibits the main post office from being kept open on Sunday, and, therefore, under the ordinary rule of statutory interpretation, having said specifically and only that the "post office," the main office, shall not be open on Sunday, it clearly leaves the section as a whole open to the construction that the branches, nonaccounting offices, and stations may be kept open on Sunday.

Mr. MOON. Then the gentleman thinks that the amendment is harmless?

Mr. COOPER. It fails to accomplish what it was intended to accomplish. Moreover, the section provides that "all laws in conflict herewith are hereby repealed," and it authorizes the Postmaster General, in his discretion, to establish branch offices, nonaccounting offices and stations, and so forth, "with such rules and regulations as he may prescribe," and so forth.

Mr. MOON. The gentleman thinks the amendment offered by the gentleman from Georgia is of no effect?

Mr. COOPER. In effect it merely reenacts the existing law prohibiting the opening of "post offices" on Sundays. But it

does not prohibit the opening of branch offices, nonaccounting offices, and stations of post offices on Sundays, and so entirely fails to carry out the intention of the gentleman from Georgia and of the majority which adopted it.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. MOON. Mr. Chairman, I move that all debate on this section be now closed.

The motion was agreed to.

The CHAIRMAN. The question is on agreeing to the committee amendment. to strike out section 7.

The question was taken; and on a division (demanded by Mr. FINLEY) there were—ayes 34, noes 4.

So the amendment was agreed to.

The Clerk read as follows:

SEC. 8. That so much of section 1 of the "act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes," approved August 24, 1912, which provides that the Post Office Department shall not extend or enlarge its present policy of sending second-class matter by freight trains, is hereby repealed.

With the following committee amendment:

Page 5, at the beginning of line 3, strike out the figure "8" and insert the figure "6."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. MURDOCK. Mr. Chairman, I would like to ask the gentleman from Tennessee a question. This proposition is to take off the restrictions from the Post Office Department so far as they relate to the forwarding of second-class mail by freight?

Mr. MOON. Mr. Chairman, the purpose of the provision under section 6 is to remove the prohibition contained in the appropriation act for the fiscal year of 1913, against extending or enlarging the departmental practice of sending second-class mail matter. The extension of this service to other sections of the country than those in which it is now in effect would result in a large saving in cost of railroad transportation, and the enactment of this provision is desirable. This method of transportation has been in operation since 1911 in the second and third contract sections and resulted in a saving of $1,491,013.85 in the fiscal year of 1913, and its extension to other sections would add largely to this annual saving.

Mr. MURDOCK. The origin of that practice was the removal of a certain part of second-class mail matter by the Postmaster General from the regular mail trains into freight trains without legislation on the part of Congress, was it not?

Mr. MOON. Yes.

Mr. MURDOCK. And subsequent to that order of the Postmaster General and the institution of that practice, either here or in the Senate, I have forgotten which, an amendment was offered which restricted the amount that he could send in that way.

Mr. MOON. The gentleman is correct.

Mr. MURDOCK. What was the amount of the restriction?

Mr. MOON. It was not in amount. The restriction was the weighing sections to which it could be sent, and it is now proposed to extend it to all of them.

Mr. MURDOCK. And this dates back to the first legislation Congress had upon the subject, after the order of the Postmaster General?

Mr. MOON. Yes.

The Clerk read as follows:

SEC. 9. That if any person shall hereafter perform any service for any contractor or subcontractor in carrying the mail, he shall, upon filing in the department his contract for such service and satisfactory evidence of its performance, thereafter have a lien on any money due such contractor or subcontractor for such service to the amount of same; and if such contractor or subcontractor shall fail to pay the party or parties who have performed service as aforesaid the amount due for such service within two months after the expiration of the month in which such service shall have been performed the Postmaster General may cause the amount due to be paid said party or parties and charged to the contractor: *Provided*, That such payment shall not in any case exceed the rate of pay per annum of the contractor or subcontractor.

With the following committee amendment:

Page 6, line 6, strike out the figure "9" and insert the figure "7."

The CHAIRMAN (Mr. GARRETT of Tennessee). The question is on the committee amendment.

The committee amendment was agreed to.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I desire to ask the gentleman from Tennessee in what respect this section changes the existing law, if any?

Mr. MOON. Mr. Chairman, as I understand it now, under existing law the subcontractor has no lien upon the pay of the contractor for the payment of services performed in carrying the mail, and this will give that to him.

Mr. MONDELL. I do not have before me the codification of 1908, I think it was, but section 1299, which is, I think, the law on the subject, is almost identical in language with this provision, and the question in my mind is what effect the provision at the end of the bill with regard to the repeal would have upon this section 1299, as that is a rather broader section than the provision contained in the bill.

One question further: Is this section of the bill offered on the recommendation of the department?

Mr. MOON. It is the department's section to cover the various troubles where there is no lien in favor of the person who actually does the work.

Mr. MONDELL. It is designed to make the present law clearer?

Mr. MOON. To make the present law clearer and to see that the man who actually performs the service gets the pay.

Mr. MONDELL. A very proper provision; and I suppose the change is necessary by some ambiguity of the present statute.

The CHAIRMAN. Without objection the pro forma amendment will be withdrawn.

There was no objection.

The Clerk read as follows:

SEC. 8. That temporary mail service rendered necessary by reason of the failure of any bidder or contractor to perform the service awarded to him may be provided by the Postmaster General without advertisement, on such terms as he may deem reasonable, at the expense of any such failing bidder or contractor, and all laws or parts of laws inconsistent herewith are hereby repealed.

The committee amendment was read, as follows:

Amend page 6, beginning of line 21, by striking out "10" and inserting "8."

The question was taken and the committee amendment was agreed to.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. This section seems to be almost identical with section 1293 of the postal laws. Was the section in its present form suggested by the department?

Mr. MOON. It is one of two sections to cover the question we have just been discussing. It is that temporary mail service rendered necessary by reason of the failure of any bidder or contractor to perform the service awarded to him may be provided by the Postmaster General without advertisement, and they thus can have the public service performed.

Mr. MONDELL. The present law, as the gentleman undoubtedly knows, is almost in the exact language of this provision.

Mr. MOON. What difference does the gentleman find from the present law and this?

Mr. MONDELL. I find very little difference and my query was——

Mr. MOON. Will the gentleman read the section?

Mr. MONDELL (reading):

That temporary mail service rendered necessary by reason of the failure of any bidder or contractor to perform the service awarded under this act—

Meaning the act of July 26, 1892—

may be provided by the Postmaster General without advertisement, on such terms as he may deem reasonable, at the expense of any such failing bidder or contractor.

I think it is possible that the department in carrying out this old law may have found the words "under this act" a limitation.

Mr. MOON. I think that is probably the reason. That is the only material difference.

The CHAIRMAN. Without objection the pro forma amendment will be withdrawn.

There was no objection.

The Clerk read as follows:

SEC. 11. That whoever shall willfully injure, tear down, or destroy any letter box, pillar box, lock box, lock drawer, or other receptacle established or approved by the Postmaster General for the safe deposit of matter for the mail or for delivery, or any lock or similar device belonging or attached thereto, or any letter box or other receptacle intended or used for the receipt or delivery of mail matter on any rural delivery route, star route, or other mail route, or shall break open the same; or shall willfully injure, deface, or destroy any mail matter deposited in any letter box, pillar box, lock box, lock drawer, or other receptacle established or approved by the Postmaster General for the safe deposit of matter for the mail or for delivery; or shall willfully take or steal such matter from or out of any such letter box, pillar box, lock box, lock drawer, or other receptacle; or shall willfully injure, deface, or destroy any mail matter deposited in any letter box or other receptacle intended or used for the receipt or delivery of mail matter on any rural delivery route, star route, or other mail route, or shall willfully and maliciously assault any letter or mail carrier, knowing him to be such, while engaged on his route in the discharge of his

duty as such carrier, or shall willfully aid or assist in any offense defined in this section, shall be fined not more than $1,000 or imprisoned not more than three years, or both.

The committee amendment was read, as follows:

Amend, page 7, beginning of line 3, by striking out the figures "11" and inserting "9."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 12. That all persons honorably discharged from the military or naval service in the Civil War, either in the Federal or Confederate Army, shall be exempt from any age limitation in the selection of fourth-class postmasters, provided they are found to possess the business capacity necessary for a proper discharge of the duties of such office.

The committee amendment was read, as follows:

Amend, page 8, beginning of line 3, by striking out the figures "12" and inserting "10."

The question was taken, and the amendment was agreed to.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. In opposing this proposition embodied in this section so as to waive the age limit as to fourth-class postmasters so far as soldiers in the Confederate and Federal Armies are concerned, I wish to say that my motive is not the result of any antipathy or sectional feeling toward any person serving on the other side in the late unpleasantness. My thought is far from it, but we have here a provision directly violative of the Executive order of May 13, the Executive order of your own President, seeking at the direction of the present Postmaster General to protect the service from superannuated employees. This is merely a political sop at the sacrifice of the best interests of the Postal Service. Under existing regulations there is no limitation whatever on soldiers who served in the Confederate Army from serving as postmasters and under the order just referred to there is no age limit, regardless of whether they were civilians or whether they had had Army service so far as fourth-class offices that pay only $500 are concerned. But in those offices of the fourth class that pay more than $500 the Postmaster General and the present President recognize the need of having efficient service by having an age limitation. Now, I think that everyone——

Mr. MOON. Is it not lawful for the President at all times—can not he select what he wants to?

Mr. STAFFORD. No; you are directly violating the President's order in this particular.

Mr. MOON. We are simply waiving the age limit——

Mr. STAFFORD. President Wilson said in his order of May 13 there should be no age limit so far as postmasters are concerned receiving $500; that those receiving over $500 the age limit should be 65 years. What is proposed to be done here?

Mr. MOON. May I ask the gentleman this question: They can not take the examination after 65 years, can they?

Mr. STAFFORD. They can as to offices paying less than $500; as to offices paying more than $500 there is an age limit of 65.

Mr. MOON. In fourth-class offices.

Mr. STAFFORD. There are two divisions of fourth-class offices under the Executive order, those paying $500 and less and those paying from $500 to $1,000.

Mr. MOON. The gentleman understands what I mean, fourth-class offices running to $1,000. You can examine for fourth-class offices under $1,000 under the present rule.

Mr. STAFFORD. Yes; as far as those offices that are less than $500 they are eligible regardless of the age limit.

Mr. MOON. But the gentleman does not get it through his head——

Mr. STAFFORD. Possibly I do not, but I am paying strict attention.

Mr. MOON. Offices that pay above $500——

Mr. STAFFORD. The gentleman means under the President's order.

Mr. MOON. Say that an office pays $500 to $1,000. Under the order of the department you can not examine a man for that office who is over 65 years.

Mr. STAFFORD. You can not.

Mr. MOON. The gentleman understands this is giving a preference to this class of men——

Mr. STAFFORD. But the Postmaster General, for a good reason and for the best interest of the Postal Service, said that in these important post offices of the fourth class—that is, with salaries running from $500 to $1,000—that the age limit should be 65 years.

You are opening the gates to those above 65, when they may be superannuated, to the sacrifice of the service. You are going against your own Postmaster General and your own President when he says it is necessary, for efficient service in the administration of these important fourth-class post offices, that the age limit should not be above 65.

Mr. TOWNSEND. I will suggest that the gentleman from Wisconsin has not read the final two lines of the section, which say:

Provided, That they are found to possess the business capacity necessary for a proper discharge of the duties of such office.

If they are superannuated or incapacitated in any way, so that they do not possess the business ability to carry on the office, they can not be appointed. I will ask the gentleman if the service is not sufficiently protected by that provision?

Mr. STAFFORD. Why, the Postmaster General, when he had this question under consideration, decided that the age of 65 years should be the limit, and that when persons reach 65 years of age they should not be eligible to perform the duties required of a fourth-class postmaster. The responsibilities and work in these higher fourth-class offices are considerable, and men should not be admitted to the service to undertake the work and learn the duties when they have reached 65 years of age.

Mr. RAGSDALE. Does not the gentleman know that this exemption applies to only veterans of the Confederate and Federal Armies, and is the gentleman opposed, under the limitation there providing for incapacity, to excluding Federal veterans from holding these postmasters' places?

Mr. STAFFORD. It does not apply only to the Confederate veterans. I did not rise with any motive to awaken any sectional bitterness. I am rising here to speak for the benefit of the service under the order issued by the President. That applies to the veterans of the North as well as to the veterans of the South.

Mr. RAGSDALE. You misunderstood me, evidently.

Mr. STAFFORD. I understood the gentleman's question to mean as to whether this only applied to Confederate veterans?

Mr. RAGSDALE. Oh, no; I did not ask any such thing.

Mr. STAFFORD. Then I beg the gentleman's pardon. It applies to both.

Mr. RAGSDALE. It applies to both.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. STAFFORD] has expired.

Mr. GOOD. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn. The gentleman from Iowa [Mr. GOOD] offers an amendment, which the Clerk will report.

Mr. GOOD. After the word "service," in line 4, insert the words "of the United States" and strike out the words "either in the Federal or Confederate Army."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, on page 8, in line 4, by inserting, after the word "service," the words "of the United States" and strike out, in lines 4 and 5, the words "either in the Federal or Confederate Army."

Mr. GOOD. Mr. Chairman, I think it is very unfortunate that a provision such as is here proposed should be even seriously thought of by the membership of this House. What is it? It is proposed that Confederate soldiers shall be exempted from the provisions of law fixing an age limit of persons eligible to appointment for fourth-class postmasters.

Mr. MOON. May I ask the gentleman if I understood his amendment exactly? The purpose of your amendment is to leave in "Federal" and cut out "Confederate"?

Mr. GOOD. Absolutely. It is the history, I think, without exception, of all previous Congresses for the last 40 years to give some preference to those men who in the hour of our country's peril went to the front to preserve the flag of this country.

Mr. RUCKER. Will the gentleman yield?

Mr. GOOD. I will yield for a question.

Mr. RUCKER. In the last Congress we showed our appreciation of those old soldiers by giving them $200,000,000 a year. Now, the gentleman is complaining about the man who fought valiantly, but not as to the one to whom we are paying $200,000,000 a year.

Mr. GOOD. No. We did not give them that much.

Now, Mr. Chairman, this provision reported by the great Committee on the Post Office and Post Roads places a premium upon the acts of those men who from '61 to '65 took up the cause of the Confederacy and fought to destroy this Union. The men in the North, as well as those in the South, who stayed at home and remained loyal and fought the battle of peace, and are now more than 65 years of age, can not go into this service. Under the age limit they are not eligible.

Mr. RAGSDALE. Will the gentleman permit a question?

Mr. GOOD. Not just now. They can not enter the service at all. But this provision would let down the bars. This pro-

vision would place a premium upon disloyalty. There is a good reason why we should except from the provisions of certain laws men who fought to save their country. But can we give preferences to those who took up arms against the Union? I shall never vote to give a preference to any man or any class of men who take up arms against the country and give them recognition for disloyalty. And that is what this provision means.

I am not sure, Mr. Chairman, but that this whole section should be stricken out, and I will tell you why. So far as it is proposed to give relief to the Union soldiers, it will be but a minimum of advantage, for at the end of this month the examinations for fourth-class postmasters will have been concluded throughout the entire country. And so the only old soldier who would be benefited by this act would be persons who might subsequently take examinations in case of the death or the resignation of a fourth-class postmaster, where there were no persons on the civil-service list.

If the motion that I have made does not prevail, I shall make a motion to strike out the section. But at any rate it seems to me that Congress can not afford at this or any time to recognize and place upon the acts of rebellion of any people in this country the stamp of approval. That great conflict passed years ago. The smoke of it passed away before I was born, and I want to say now that I am controlled by no prejudices, but I believe generations yet unborn will hold fast to the principle, not only in the North, but in the East, and the West, and South, that we can never afford to place a premium upon the disloyal acts of any of our citizens. We must remember that obedience to the law is the only thing for which we should give reward. I have no prejudice in this matter, but a fundamental principle controls my voice and my vote.

Mr. BUTLER. Will the gentleman permit me to interrupt him?

Mr. GOOD. For a question.

Mr. BUTLER. Will not the gentleman please inform me, because I do not feel that I understand——

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. BUTLER. I ask that the gentleman may have half a minute in order to answer one question.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that the time of the gentleman from Iowa may be extended for half a minute. Is there objection?

There was no objection.

Mr. BUTLER. The mere fact that a man was disloyal does not disqualify him from holding a fourth-class post office?

Mr. GOOD. Not at all. But this provision relieves him from the disability under the present law with regard to the age limit.

Mr. BUTLER. Does it not relieve our fellows, too?

Mr. GOOD. Absolutely. Everybody stands on the same basis under the law as it now stands.

Mr. FARR. Yes.

Mr. MOON. Mr. Chairman, of course I do not want to enter with any feeling into the discussion of a matter of this sort, but we all understand that a part of our people were on one side of a great war and a part of them were on another. The gentleman who has just spoken [Mr. GOOD] says he was born after the conflict between the States was over. If he is to remain in this country to fan the prejudices of a conflict that raged before he was born, it would be better for good citizenship if he never had been born. [Applause on the Democratic side.]

Why should he speak thus at this late day, when even those bitter, hateful, black radicals that infested and plundered a portion of the country after the war was suppressed by the loyal citizens of the North and the East? How, after that era of the bloody shirt was passed, could it possibly be that any human being imbued with a single sentiment of devotion and loyalty to his country could find his way into this House and give expression to views such as the gentleman who has just left the floor has uttered? The statement that they are not the product of sectional hate and prejudice carries its refutation upon its face. No man could be guilty of uttering such sentiments without such prejudice.

Mr. Chairman, this is but a preferential distinction in favor of the soldiers of two great armies. I do not care what men think about the merits of that conflict; all honest men believe that the men contending on both sides of it were honest in that contest. [Applause on the Democratic side.] All men who are survivors of that conflict and their descendants thank God that the Union was preserved and that constitutional liberty for which the Confederates fought still lives to bless our country. Why is it that we should hear this doleful sound from the tomb after nearly 50 years have passed? I could imagine when the gentleman was speaking that it was the ghost of some departed deserter who never had faith in either army that was talking here. [Applause on the Democratic side.]

Why the preference? It is plain enough. Here are men who had taken practically out of their lives four years—four years in which they could not perform the service and the duties of a citizen. The balance of the people in this country have, to my mind, that many years' advantage over these old soldiers of the two armies. Let us make them equal where, under the language of this section, they are competent and capable of filling these offices. Let us be manly enough to give them the advantages to which they are entitled. In my opinion, under the conditions, it is sentiment, it is true, but in this country or any other land of liberty when sentiment is lost in questions of consideration the day of decadence is coming. [Applause on the Democratic side.]

The CHAIRMAN (Mr. GARRETT of Tennessee). The question is on the amendment offered by the gentleman from Iowa [Mr. GOOD].

The question was taken; and the Chairman announced that the noes seemed to have it.

Mr. GOOD. Mr. Chairman, a division.

The CHAIRMAN. A division is demanded.

The committee divided; and there were—ayes 20, noes 41.

So the amendment was rejected.

Mr. GOOD. Mr. Chairman, I move to strike out the section.

Mr. HULINGS rose.

The CHAIRMAN. For what purpose does the gentleman from Pennsylvania rise?

Mr. HULINGS. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. To perfect the section?

Mr. HULINGS. Yes.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. HULINGS] offers an amendment, which the Clerk will report.

Mr. HULINGS. My amendment is that all after the word "persons" in the third line shall be stricken out, down to and including the word "Army" in the fifth line.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, on page 8, by striking out, after the word "persons," in line 3, the following: "Honorably discharged from the military and naval service in the Civil War, either in the Federal or Confederate Army."

Mr. HULINGS. Mr. Chairman, I regret very much that this subject has been brought up here in the way it has been, and treated as it has been. I think thoughtful persons, North and South, are willing to forget that quarrel. [Applause.] For myself, being brought up in the North, I can not wipe out the distinction between the men who fought to save this Union and the men who fought to destroy it; but I believe they were equally honest and sincere. The valor of the Union soldier which we vaunt in the North necessarily was measured by the valor of the southern soldier. [Applause.] Whatever of valor and fortitude and of manly quality was shown by the soldiers of those two armies, they were all Americans. [Applause.] And I am willing to forget that quarrel.

I repeat, I regret that it has been brought in here, and I address myself only to this section of the bill. I should like to see this section changed so that it shall read, "That all persons shall be exempt from any age limitation in the selection of fourth-class postmasters, provided they are found to possess the business capacity necessary for a proper discharge of the duties of such office." That, I think, is all that is necessary. You can leave it to the communities of the South, where they have brave Confederate soldiers, to choose their postmasters, and if those communities desire to have as their postmasters brave Confederate soldiers who are beyond the age of 65, that is up to them. In my section the brave Federal soldier will always be preferred for any public duty which he can discharge. Make no comparisons at all. Do not invite into an enactment which you propose here a comparison between the Confederate and the Federal soldier. Let these comparisons die here as they have died in the hearts of the brave men who fought. I hope this amendment will pass.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania [Mr. HULINGS].

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. HULINGS. Mr. Chairman, I ask for a division.

The CHAIRMAN. A division is asked for.

Mr. MOON. Mr. Chairman, we shall not object to that amendment. I do not care so long as we get the substance of it.

The committee divided; and there were—ayes 39, noes 11.

So the amendment was agreed to.

Mr. GOOD. Mr. Chairman, I move to strike out the section.

The CHAIRMAN. The gentleman from Iowa [Mr. GOOD] moves to strike out the section. The question is on agreeing to that motion.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. GOOD. Mr. Chairman, I ask for a division.

The CHAIRMAN. The gentleman from Iowa asks for a division.

The committee divided; and there were—ayes 32, noes 39.

So the motion to strike out was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 13. That such part of section 6 of the act approved June 25, 1910, authorizing a system of postal savings depositories as provides that "no one shall be permitted to deposit more than $100 in any one calendar month" is hereby repealed, and said act is further amended so as to repeal the proviso in section 7 thereof and insert in lieu of such proviso the following: "*Provided*, That no interest shall be paid on such part of the balance to the credit of any person as is in excess of $1,000."

With the following committee amendment:

Page 8, at the beginning of line 9, strike out the figures "13" and insert "11."

The committee amendment was agreed to.

Mr. MOON. Mr. Chairman, I move to strike out all of section 13, or 11, as it is now numbered.

The CHAIRMAN. The gentleman from Tennessee offers an amendment which the Clerk will report.

Mr. MOON. All of lines 9 to 17, inclusive.

The Clerk read as follows:

Amend, on page 8, by striking out all of section 11, beginning with line 9 and ending with line 17.

Mr. MOON. Mr. Chairman, I make that motion for the reason that some time ago the House passed this very section, and the Senate has passed it with amendments, and the matter is now in conference. I think it is unnecessary to have two bills covering the same question.

The amendment was agreed to.

The Clerk read as follows:

SEC. 14. That sections 2 and 13 of the act approved June 25, 1910, entitled "An act to establish postal savings depositories for depositing savings at interest, with the security of the Government for repayment thereof, and for other purposes," be hereby amended to read as follows:

"SEC. 2. That provisions of section 3 of the act of July 5, 1884, entitled 'An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1885, and for other purposes,' are hereby extended and made applicable to all official mail matter pertaining to the business of the Postal Savings System; and hereafter the board of trustees for the control, supervision, and administration of the postal savings depository system shall not be required to show in the annual report prescribed by section 1 of the act of June 25, 1910, establishing such system, the amount of work done for that system by the Post Office Department and Postal Service in the transportation of free mail."

"SEC. 13. That postmasters, assistant postmasters, clerks, or other employees at post offices of the presidential grade, and postmasters at post offices of the fourth class, shall not be allowed or paid any additional compensation for the transaction of postal savings depository business."

With the following committee amendments:

Amend, page 8, at the beginning of line 18, by striking out the figures "14" and inserting "12."

Mr. BARKLEY. Mr. Chairman, I suggest that that ought to be "11," instead of "12," as the preceding section was stricken out.

The CHAIRMAN. The gentleman from Kentucky offers an amendment, to strike out "12" and insert "11."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The Clerk read as follows:

SEC. 15. That the Postmaster General is authorized and directed to readjust the compensation to be paid to railroad companies from July 1, 1914, or as soon thereafter as may be practicable, for the transportation and handling of the mails and furnishing facilities and services in connection therewith upon the conditions and at the rates hereinafter provided.

The Postmaster General may state railroad mail routes and authorize mail service thereon of the following five classed, namely: Full railway post-office car service, apartment railway post-office car service, storage-car service, closed-pouch service, and side and transfer service.

Full railway post-office car mail service shall be service by cars 40 feet or more in length, constructed, fitted up, and maintained for the distribution of mails on trains. The authorizations of full railway post-office cars shall be for standard sized cars 60 feet in length, inside measurement, except as hereinafter provided.

Apartment railway post-office car mail service shall be service by apartments less than 40 feet in length in cars constructed and fitted up and maintained for the distribution of mails on trains. Two standard sizes of apartment railway post-office cars may be authorized and paid for, namely, apartments 15 feet and 30 feet in length, inside measurement, except as hereinafter provided.

Storage-car mail service shall be service by cars used for the storage and carriage of mails in transit other than by full and apartment railway post-office cars. The authorizations for storage cars shall be for cars of 60 feet in length, inside measurement, except as hereinafter provided: *Provided*, That less than 60 feet of storage space may be authorized in baggage cars on trains upon which full railway post-office cars or apartment railway post-office cars are not operated.

Service by full and apartment railway post-office cars and storage cars shall include the carriage therein of all mail matter, equipment, and supplies for the mail service and the employees of the Postal Service or Post Office Department, as shall be directed by the Postmaster General to be so carried.

Closed-pouch mail service shall be the transportation and handling by railroad employees of mails on trains on which full or apartment railway post-office cars are not authorized, except as hereinbefore provided.

Side and transfer mail service shall be the transportation of mails between railroad stations and post offices supplied therefrom and between railroad stations.

The rates of payment for the services authorized in accordance with this act shall be as follows, namely:

For full railway post-office car mail service at not exceeding 20 cents for each mile of service by a 60-foot car.

In addition thereto he may allow not exceeding $2 as an initial rate and the same as a terminal rate for each one-way trip of a 60-foot car.

For apartment railway post-office car mail service at not exceeding 10 cents for each mile of service by a 30-foot apartment car, and 5 cents for each mile of service by a 15-foot apartment car.

In addition thereto he may allow not exceeding $1 as an initial rate and the same as a terminal rate for each one-way trip of a 30-foot apartment car, and 50 cents as an initial rate and the same as a terminal rate for each one-way trip of a 15-foot apartment car.

The storage-car mail service at not exceeding 18 cents for each mile of service by a 60-foot car.

In addition thereto he may allow not exceeding $2.50 as an initial rate and the same as a terminal rate for each one-way trip of a 60-foot car.

Where authorizations are made for cars of the standard lengths of 60, 30, and 15 feet, as provided by this act, and the railroad company is unable to furnish such cars of the length authorized, but furnishes cars of lesser length than those authorized, but which are determined by the department to be sufficient for the service, the Postmaster General may accept the same and pay only for the actual space furnished and used, the compensation to be not exceeding pro rata of that provided by this act for the standard length so authorized: *Provided*, That the Postmaster General may accept cars and apartments of greater length than those of the standard requested, but no compensation shall be allowed for such excess lengths.

For closed-pouch service, on routes upon which closed-pouch service only is performed, at not exceeding 95 per cent of the rates of compensation provided by existing law for average daily weights of mail carried over the whole route; on routes upon which apartment railway post-office car and closed-pouch services are performed, at not exceeding $20 per mile per annum for each 2,000 pounds average daily weight of mails carried, and at pro rata of such rate of compensation for each 100 pounds of average daily weight greater or less than 2,000 pounds; and on routes upon which full railway post-office car and closed-pouch services or full railway post-office car, apartment car, and closed-pouch services are performed, at not exceeding $19 per mile per annum for each 2,000 pounds average daily weight of mails carried, and at pro rata of such rate of compensation for each 100 pounds of average daily weights greater or less than 2,000 pounds, the average daily weights to be ascertained in every case by the actual weighing of the mails.

For side and transfer mail service the Postmaster General is authorized to provide, in his discretion, by regulation screen or other wagon, automobile, or mail-messenger service under existing law, or to contract with the railroad company, after advertisement, for the performance of any or all service on its route. Postmasters at post offices of the third and fourth classes shall be eligible as contractors for this service.

Railroad companies whose railroads were constructed in whole or in part by a land grant made by Congress, on the condition that the mails should be transported over their roads at such price as Congress should by law direct, shall receive only 80 per cent of the compensation otherwise authorized by this act, excepting for side and transfer mail service.

The initial and terminal rates provided for herein shall cover expenses of loading and unloading mails, switching, lighting, heating, cleaning mail cars, and all other expenses incidental to station service and required by the Postmaster General in connection with the mails that are not included in the car-mile rate. The allowance for full railway post-office cars, apartment railway post-office cars, and storage cars may be varied in accordance with the approximate difference in their respective cost of construction and maintenance.

For the purpose of ascertaining the average weight of closed-pouch mails per day upon which to adjust compensation, the Postmaster General is authorized and directed to have such mails carried on the several routes weighed by the employees of the Post Office Department for such a number of successive days, not less than 35, at such times after July 1, 1914, as he may direct, and not less frequently than once in every year thereafter, the result to be stated and certified in such form and manner as he may direct. In computing the average weight of mails per day carried on a railroad route, the whole number of days included in the weighing period shall be used as a divisor. The expenses of taking the weights of mails and the compensation to tabulators and clerks employed in connection with the weighings, for assistance in completing computations, and of rental, if necessary, in Washington, D. C., shall be paid out of the appropriation for inland transportation by railroad routes.

In computing the car miles of the full railway post-office cars and apartment railway post-office cars, the maximum space authorized in either direction of a round-trip car run shall be regarded as the space to be computed in both directions, unless otherwise mutually agreed upon.

In computing the car miles of storage cars, the maximum space authorized in either direction of a round-trip car run shall be regarded as the space to be computed in both directions, unless the car be used by the company in the return movement, or otherwise mutually agreed upon.

New service and additional service may be authorized at not exceeding the rates herein provided, and service may be reduced or discon-

tinued with pro rata reductions in pay, as the needs of the Postal Service may require: *Provided*, That no additional pay shall be allowed for additional closed-pouch service on established routes until the next regular readjustment of pay therefor on such routes, and no additional pay shall be allowed for additional car service unless specifically authorized by the Postmaster General.

All cars, or parts of cars, used for the railroad mail service shall be of such construction, style, length, and character, and furnished in such manner as shall be required by the Postmaster General, and shall be constructed, fitted up, maintained, heated, lighted, and cleaned by and at the expense of the railroad companies. No pay shall be allowed for service by any railway post-office car which is not sound in material and construction, and which is not equipped with sanitary drinking-water containers and toilet facilities, nor unless such car is regularly and thoroughly cleaned. No pay shall be allowed for service by any wooden full railway post-office car unless constructed substantially in accordance with the most approved plans and specifications of the Post Office Department for such type of cars, nor for service by any wooden full railway post-office car run in any train between adjoining steel cars, or between the engine and a steel car adjoining. After the 1st of July, 1917, the Postmaster General shall not approve or allow to be used, or pay for service by, any full railway post-office car not constructed of steel or steel underframe, or equally indestructible material, and not less than 25 per cent of the full railway post-office cars of a railroad company not conforming to these provisions on August 24, 1912, shall be replaced with cars constructed of steel annually after June, 1913; and all full railway post-office cars accepted for this service and contracted for by the railroad companies hereafter shall be constructed of steel. In cases of emergency and in cases where the necessities of the service require it, the Postmaster General may provide for service by full railway post-office cars of other than steel or steel underframe construction, and fix therefor such rate of compensation within the maximum herein provided as shall give consideration to the inferior character of construction, and the railroad companies shall furnish service by such cars at such rates so fixed.

Service over property owned or controlled by another company or a terminal company shall be considered service of the railroad company using such property and not that of the other or terminal company: *Provided*, That service over a land-grant road shall be paid for as herein provided.

Railroad companies carrying the mails shall furnish all necessary facilities for caring for and handling them while in their custody. They shall furnish all cars or parts of cars used in the transportation and distribution of the mails, except as is herein otherwise provided, and place them in stations before the departure of trains at such times and when required to do so. They shall provide station space and rooms for handling, distribution, and transfer of mails in transit, and for offices and rooms for the employees of the Postal Service engaged in such transportation, when required by the Postmaster General.

Every railroad company carrying the mails shall carry on any train it operates and without extra charge therefor the persons in charge of the mails, and when on duty and traveling to and from duty, and all duly accredited agents and officers of the Post Office Department and the Postal Service, while traveling on official business, upon the exhibition of their credentials.

If any railroad company carrying the mails shall fail or refuse to provide cars or apartments in cars for distribution purposes when required by the Postmaster General, or shall fail or refuse to construct, fit up, maintain, heat, light, and clean such cars and provide such appliances for use in case of accident as may be required by the Postmaster General, it shall be fined such sum as may, in the discretion of the Postmaster General, be deemed proper.

The Postmaster General shall in all cases decide upon what trains and in what manner the mails shall be conveyed. Every railroad company carrying the mails shall carry on any train it operates and with due speed all mailable matter, equipment, and supplies directed to be carried thereon. If any such railroad company shall fail or refuse to transport the mails, equipment, and supplies when required by the Postmaster General on any train or trains it operates, such company shall be fined such amount as may, in the discretion of the Postmaster General, be deemed proper.

The Postmaster General may make deductions from the pay of railroad companies carrying the mails under the provisions of this act for reduction in service or in frequency of service where, in his judgment, the importance of the facilities withdrawn or reduced requires it and impose fines upon them for delinquencies. He may deduct the price of the value of the service in cases where it is not performed, and not exceeding three times its value if the failure be occasioned by the fault of the railroad company.

The provisions of this act shall apply to service operated by railroad companies, partly by railroad and partly by steamboats.

The provisions of this act respecting the rates of compensation shall not apply to mails conveyed under special arrangement in freight trains, for which rates not exceeding the usual and just freight rates may be paid, in accordance with the classifications and tariffs approved by the Interstate Commerce Commission.

Railroad companies carrying the mails shall submit under oath, when, and in such form as may be required by the Postmaster General, evidence as to the performance of service.

The Postmaster General is authorized to employ such clerical and other assistance as shall be necessary to carry out the provisions of this act, and to rent quarters in Washington, D. C., if necessary, for the clerical force engaged thereon, and to pay for the same out of the appropriation for inland transportation by railroad routes.

The Postmaster General shall, from time to time, request information from the Interstate Commerce Commission as to the revenue received by railroad companies from express companies for services rendered in the transportation of express matter, and may, in his discretion, arrange for the transportation of mail matter other than of the first class at rates not exceeding those so ascertained and reported to him, and it shall be the duty of the railroad companies to carry such mail matter at such rates fixed by the Postmaster General.

The Postmaster General is authorized, in his discretion, to petition the Interstate Commerce Commission for the determination of a postal carload or less-than-carload rate for transportation of mail matter of the fourth class and periodicals, and may provide for and authorize such transportation, when practicable, at such rates, and it shall be the duty of the railroad companies to provide and perform such service at such rates and on the conditions prescribed by the Postmaster General.

The Postmaster General may, in his discretion, distinguish between the several classes of mail matter and provide for less frequent dispatches of mail matter of the third and fourth classes and periodicals, when lower rates for transportation or other economies may be secured thereby without material detriment to the service.

The Postmaster General is authorized to return to the mails, when practicable for the utilization of car space paid for and not needed for the mails, postal cards, stamped envelopes, newspaper wrappers, empty mail bags, furniture, equipment, and other supplies for the Postal Service.

The Postmaster General, in cases of emergency between October 1 and April 1 of any year, may hereafter return to the mails empty mail bags and other equipment theretofore withdrawn therefrom as required by law, and, where such return requires additional authorization of car space under the provisions of this act, to pay for the transportation thereof as provided for herein out of the appropriation for inland transportation by railroad routes.

The Postmaster General may have the weights of mail taken on railroad-mail routes, and computations of the average loads of the several classes of cars and other computations for statistical and administrative purposes made at such times as he may elect, and pay the expense thereof out of the appropriation for inland transportation by railroad routes.

It shall be unlawful for any railroad company to refuse to perform mail service at the rates of compensation provided by law when and for the period required by the Postmaster General so to do, and for every such offense it shall be fined not exceeding $5,000.

During the reading of the foregoing,

Mr. MOON. Mr. Chairman, is the Clerk reading the committee amendments as he goes along?

Mr. FINLEY. As we understand it, the entire section is being read, and then we will take up the committee amendments.

The CHAIRMAN (Mr. GARRETT of Tennessee). In the ordinary practice of the House amendments would be in order at the end of each paragraph instead of at the end of the section.

Mr. FINLEY. I think both courses have been pursued in the Committee of the Whole. We understand that the entire section is being read, and that after the section is completed we will then take up the committee amendments.

The CHAIRMAN. If there be no objection, the course suggested by the gentleman will be followed.

There was no objection.

Mr. MURDOCK. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MURDOCK. After this section has been read there will then be opportunity to act upon the committee amendments. Is that correct?

The CHAIRMAN. There will be that opportunity, under the agreement just made. The usual practice is to offer amendments at the end of each paragraph, but under the agreement just made, at the suggestion of the gentleman from South Carolina [Mr. FINLEY], after the entire section is read, then amendments will be in order.

Mr. BARKLEY. I desire to submit a request for unanimous consent. In view of the length of this section, which runs from page 9 to page 22, it is practically impossible to keep the whole section in our minds at once, and I ask unanimous consent that it be read paragraph by paragraph, and that amendments may be offered at the end of each paragraph.

The CHAIRMAN. The Chair will state that that would be the regular and ordinary course of procedure, but the gentleman from South Carolina [Mr. FINLEY] just submitted a request, which has been agreed to, that the whole section be read first.

Mr. BARKLEY. I did not understand that he submitted it as a request. I thought he merely made a suggestion.

Mr. MADDEN. I shall object to changing that, because I think we will get along with the bill much more rapidly and just as intelligently if we read the whole section at once.

The CHAIRMAN. That has been agreed to, and the Clerk will proceed.

Mr. FINLEY. We think there will be no trouble about it.

The CHAIRMAN. The Clerk will read.

The Clerk resumed and completed the reading of the section and then read the following committee amendment:

Page 9, line 19, strike out the figures "15" and insert "13."

Mr. STAFFORD. Mr. Chairman, that should be "12" instead of "13."

Mr. MANN. By unanimous consent, make it 12.

The CHAIRMAN (Mr. CONRY). If there be no objection, the change will be made from 13 to 12.

There was no objection.

The amendment was agreed to.

The Clerk read the following committee amendment:

Amend, on page 10, line 2, by striking out "5" and inserting in lieu thereof "4."

The committee amendment was agreed to.

The Clerk read the following committee amendment:

Page 10, line 5, before the word "closed-pouch," insert the word "and," and after the word "service," strike out the comma and the words "and side and transfer service," and insert a period.

The amendment was agreed to.

The Clerk read the following committee amendment:

On page 11, strike out all of lines 13, 14, and 15.

The committee amendment was agreed to.

The Clerk read the following committee amendment:

On page 11, strike out, in line 19, the figures "20" and insert "21."

Mr. MURDOCK. Mr. Chairman, I desire to oppose the committee amendment. We are now moving out of the field of pay by weight into the field of pay by space. Under the new system there are two full-sized cars, as there were under the old system, the full railway post office and the storage car. They are of equal length and equal capacity, although the storage cars under the old system have always carried more mail on the average than the railway post office. The railway post office technically is a traveling post office, where mail is distributed. A storage car is one in which the mail is loaded in bulk. The average load in the railway post office will run from 2½ to 4 tons. The average load in a storage car is from 14,000 pounds upward. Under the present system we pay for the transportation of the mails in railway post offices by space and weight and in storage cars only by weight.

Under the new system we are to pay for the transportation of mails in storage cars by space. The question will rise speedily, after this has become law, Why should a difference of rates be made for space between that allowed for full railway post-office cars and that allowed for storage cars? The question has been asked already upon the floor of the House and it has not been adequately answered. I understand that the Postal Commission's report would give an identical rate for both services. It seems to me that that would be correct. It is not an answer to say that the railroads are put to an added expense in the cost of the storage cars, for they are not. The expense for a storage car will probably be, in the course of a year, greater than that for a full railway post-office car. Practically all of the storage cars in this country come out of and go into expensive terminals, and the matter of switching them and cleaning and lighting them, and so forth, will bring the expense of those cars to the railroads above the expense incurred to the railroads by the full railway post-office cars.

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK. Yes.

Mr. COX. The gentleman has studied this question thoroughly. What is the difference in equipment between a storage car and a full railway post-office car?

Mr. MURDOCK. My understanding is that a full railway post-office car has racks, pigeonholes, and that a storage car has not. On a train which carries mail out of New York City—that is, one of the larger trains—there are two kinds of cars. One of them is a full railway post-office car, where the men distribute the mail, and the other is a storage car, where the mail is piled in bulk. As the mail in the full railway post-office car is separated and tied up and dispatched by routes, other mail is taken from the storage car into the full railway post-office car for further distribution and separation. My point is this, that the rate which the committee has in the bill as an amendment for railway post offices—that is, 21 cents—should be reduced to the amount allowed, in amendment, for storage cars, 20 cents. That is, my proposition is to let the original committee amendment for railway post offices stand, so that the rate we pay for space for storage cars shall be the same as the rate we pay for railway post-office cars. It makes quite a difference. I have no desire to deceive the House on this proposition. If the original figure of 20 cents in the committee bill stands, it will make a difference in saving to the Government of over $1,000,000; and if the amendment made by the committee raising this pay from 20 to 21 cents is adopted, it will cost the Government over a million dollars more than it would otherwise. I am opposed to the committee amendment changing 20 to 21 cents, and I hope it will be voted down.

Mr. FINLEY. Mr. Chairman, the Committee on the Post Office and Post Roads, I think, was warranted in making the change by way of amendment in the original bill that has been made. What is the proper rate?

Mr. MURDOCK. Mr. Chairman, will the gentleman answer a question right there at the start, and it will simplify matters? Does the gentleman believe that the rates in a storage car and the rates in a railway post-office car ought to be the same? I hope the gentleman will answer that.

Mr. FINLEY. I am coming to that; yes. What is a proper rate to be paid by the Government to the railroad companies for transporting mails either on a weight basis or on a space basis has never been determined to the satisfaction of everybody in this country and never will.

The Post Office Committee thought that the change from a weight basis to a space basis is necessary. All that has been gone into here and I do not care to repeat it. We propose now to change to a space basis, and so far as the railroad company is concerned it will be required to furnish the space to the Government necessary to transport the mails for the Post Office Department. What difference does it make to the railroads whether there are 2½ tons of mail or 3½ tons? None at all. But that is the gist of this whole proposition. It makes a great deal of difference to the Government. I stated here yesterday, and I repeat now, that I have no doubt in the world that the weight carried in single cars would be largely increased and necessarily so, and I think the Government, if it does make up its mind to do so, and we are considering that now, changes from a weight basis to a space basis, ought to pay the railroads for the space that it occupies. Mr. Chairman, I do not think it will be seriously—well, I shall not make it as strong as that, but I can not bring my mind to see or understand how it is that anybody can conclude that a railroad will be at no more trouble, no more time, no more expense in handling and lighting and heating and cleaning a full railway post-office car than it will a storage car, and I have studied the postal propositions for many years.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. FINLEY. Certainly.

Mr. MURDOCK. We already pay them extra for that service, and I wish the gentleman would answer why we should pay them more for service in one car than for service in another car of equal size.

Mr. FINLEY. In a full railway post-office car the railroad has to haul postal employees engaged in the business of handling the mails, many cars having several clerks.

Mr. MURDOCK. But postal clerks constantly go into the storage car while the storage car is moving. I want to say to the gentleman that this will rise to plague him and Congress unless it is changed now.

Mr. FINLEY. I think the gentleman is wrong about that. We all know what a storage car is. A storage car in carrying the mails is on the basis of a through freight train loaded at New York for shipment to Pittsburgh or Chicago. It is on that basis. It is not like freight in a car for local distribution along the line of the railroad. That is the difference. So that clerks going into a storage car go in there only to see that the mail is not tampered with, and rather as inspectors in charge, and so on. The gentleman does not contend at all that the same number of clerks would be in a storage car that would be in a full railway post-office car.

Mr. MURDOCK. Certainly not; but I do claim that the Government is paying for space, and space in each case is equal. We ought not to pay more for one than for the other.

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. FINLEY. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FINLEY. The freight rates that the gentleman is required to pay to the railroad company in a shipment of goods is the answer to his question. The gentleman can get a cheaper rate from Wichita, Kans., to St. Louis or Chicago on his full load of freight in one car than he can on local or way freight. He can get a better rate, he can get much cheaper rates, and it is on that principle, so that I think the gentleman from Kansas is evidently wrong.

Mr. MURDOCK. Now, the average pay on that car has entirely disappeared from this equation, as the gentleman from South Carolina knows, so far as the railroads are concerned. It makes no difference to the railroad whether it pulls a railway post-office car empty or whether it pulls it with 2½ tons of mail in it; and the gentleman knows that, and the gentleman has not answered my question.

Mr. FINLEY. We all understand that, and I do not know about not answering the gentleman's question; that is a matter of opinion, and it may be that the gentleman can not answer his own question.

Mr. MURDOCK. I can answer my own question. There is absolutely no warrant for this, and I say we ought to make this rate 21 cents in both instances or 20 cents in both instances.

Mr. FINLEY. I suggest to the gentleman——

Mr. MURDOCK. The gentleman has changed the system of the rate of pay, but has not changed his rates.

Mr. FINLEY. No; the Post Office Committee believed—and I think correctly—that there should be a difference in the storage-car pay and in full railway post-office car pay.

Mr. MURDOCK. However, the commission did not——

Mr. FINLEY. If the gentleman will excuse me, my time is limited and I wish to proceed.

The CHAIRMAN. The gentleman from South Carolina declines to yield.

Mr. FINLEY. I want to be polite, but I want to make this statement.

Mr. MURDOCK. I beg the gentleman's pardon.

Mr. FINLEY. The expease to the railroad company on a full railway post-office car fully warrants the difference made by the Post Office Committee in the difference in pay between the storage car and the full railway post-office car. It has not been denied by anybody I know of until the gentleman from Kansas rose to-day.

Mr. MURDOCK. Will the gentleman yield there?

Mr. FINLEY. Yes.

Mr. MURDOCK. Does the gentleman know that the commission was going to report the two rates to be identical?

Mr. FINLEY. I do not know anything about what the commission is going to do.

Mr. MURDOCK. I do; it so happens I understand the commission was to do that very thing, but whether it was or not, the proposition I make is just.

Mr. FINLEY. I think the gentleman is in error.

Mr. MURDOCK. I think not.

Mr. FINLEY. Mr. Chairman, what this commission is going to do I do not know; they never informed me of what they are going to do. They are men of ability, of character, and so on, but they have made no report; but we framed the best bill we could, and, as I stated here yesterday, we did what we considered to be fair to the people of the United States to give them an efficient postal service, one that would make for economy and at the same time be fair to the railroads and pay for facilities rendered to the Government and no more. The Post Office Committee was unwilling to do anything else. I think it is a bootless task, and I can see no logic in arguing here that the railroads should receive as much pay for the storage car as they should receive for the full railway post-office car. I could not see it, the Post Office Committee could not see it, and the gentleman from Kansas here is the only man who can see it. I am not impugning his motives or his ability to see, but I think there is a difference, and the committee has settled this, and, I think, settled it wisely.

Mr. LEWIS of Maryland. Mr. Chairman, if I may venture to attempt to answer the suggestion made by the gentleman from Kansas, he wants to know why a distinction is justified between a storage-car charge and a railway post-office car charge. Passing the question of the adequacy of the revenues to the railroads and treating the car as the unit, the Post Office Department has made these suggestions: That the storage car does not require light, heat, and attention in the way of ice water and cleaning at the terminals.

Mr. MURDOCK. Will the gentleman yield?

Mr. LEWIS of Maryland. Yes.

Mr. MURDOCK. The gentleman seems to fail to take into the equation at that point the pay for that service in each instance separately. If the gentleman will confine himself to a comparison between the moving cars after they leave the terminals, then I think I can follow him.

Mr. LEWIS of Maryland. The characteristic of the railway post-office car is that between destination terminals it stops to take on mail and put off mail in as many instances as there are stopping places in between, and the railway post-office car has to be served with the oncoming mail by the railroad officials. That is not true of the storage car; it is only opened and closed at destination terminals.

Mr. MANN. Will the gentleman yield for a question?

Mr. LEWIS of Maryland. Yes, sir.

Mr. MANN. I desire to ask the gentleman with reference to the delivery of mail between the railroad station and the post office. Where is the difference between the storage car and the railway post-office car? My understanding is that in large cities the mail is delivered through the screen-wagon service.

Mr. LEWIS of Maryland. I was not referring to that; but it is the duty of the railroad at the station to load the mail on the car. The railway post-office car between New York and Pittsburgh may have this duty performed for it a dozen times, but with a storage car it only has to be rendered at New York.

Mr. MANN. But does it not also have to deliver mail between the post office and the station?

Mr. LEWIS of Maryland. Under the well-known circumstances; yes.

Mr. MANN. Would that occur ordinarily with a storage car?

Mr. LEWIS of Maryland. That would not.

Mr. STAFFORD. Mr. Chairman, while at first blush one would think that the railroads should receive the same compensation for space in a storage car as it would receive when hauling a railroad post-office car, when you stop to think, and consider the service as it is, you will see that there is some reason why there should be a difference. One distinction has already been referred to by the gentleman from Maryland [Mr. LEWIS], that so far as the storage car is concerned there is not that added terminal cost in dispatching and receiving mails. The storage car, considering the service as it is, is generally a through car. Sometimes these storage cars are not only through cars, but through cars on a through train. For instance, on those fast mail trains that are made up every night and sent out at 6 o'clock from New York City and destined across the continent on the Pennsylvania and New York Central to Chicago, and from Chicago transferred to Milwaukee, and again to be transferred at St. Paul, and then on to the Pacific, most of the storage cars go through as a train. It is true that in some instances there are storage cars connected with the railroad post-office cars which are made up for the distribution of the mail en route, but in the large number of instances the trains are made up in the main of storage cars proper. There is this other phase or element of cost to be considered in favor of the storage car over that of the railway post-office car. The statistics are uncontradicted that there is less mail hauled in a railway post-office car as far as tonnage is concerned than in the storage car. The average amount of tonnage in a railway post-office car of 60-foot length is from 3 to 4 tons. The weight of the car is from 50 to 60 tons. That is the dead weight. And in a storage car with the same dead weight the average weight runs from 20 to 40 tons, and sometimes even as high as 50 tons. It costs more to carry the storage car with a dead weight of 50 or 60 tons, with 20, 30, and sometimes 40 or 50 tons of mail, than it does a railway post-office car where the dead weight is 60 tons, with only 3 tons of mail. So in that particular the railroads should receive an added compensation for the storage car. But here is the elemental proposition that is present in this case, that in the service as it is storage cars are carried through from the point of dispatch to the point of destination, and with less frequent stops, with no stops to speak of, en route, except at the main stations; for instance, from New York to Chicago, the trains only stopping where they change engines at the section point, there is less expense in operation than in the case of a railway post-office car. I think the department is right in its differentiation in favor of a less price for the storage car, though the commission, it is true, as represented by the members of the joint committee before our Post Office Committee, stated that they were going to recommend the same rate for each service.

Mr. MADDEN. Mr. Chairman, I would like to make a short statement of a minute or so.

In the first place, there ought to be this comparison made: The railroad companies receive about 24¾ cents a car mile from the passenger service. Everybody knows that the passenger service is a more expensive service than the railway post-office service. We are proposing 21 cents per mile and terminal charges, making about 22½ cents altogether, for the railway post-office service. There is that much difference between the cost to the railroads of moving the two classes of cars. We are recommending 20 cents a mile and terminal charges for the storage-car service, and there is a cent difference without any doubt in the cost to the railroad between the railway post-office car and the storage car.

Now, why? In the first place, the railway post-office car is a car in which the mail is distributed and men are carried, ice water furnished, heat, cleaning, and everything that goes to make up sanitation furnished, while the storage car is a fast-freight car. When the mail is put into that car the doors are locked and the car starts on its way to its destination, and no charge to the railroad company occurs during all the time of the transportation except the cost of moving the car. So it is a mathematical certainty that there is a difference in the cost of moving these classes of cars. And the committee has tried to differentiate along what it believes to be reasonable lines in fixing compensation for the movement of the cars in classes as described, believing that if the railroad company does earn but 24¾ cents per mile on a passenger car where it has to furnish conductors and brakemen and better cars and go to more expense for cleaning and lighting and heating there surely should be some difference between the amount earned from that service and the amount paid for the railway post-office service, and that, on the other hand, there ought to be less paid for storage-car service than is paid for the railway post-office cars on account of the lower cost to the railroad company for the movement of the storage car.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. MURDOCK. Mr. Chairman, I ask for a division.

The committee divided: and there were—ayes 49, noes 3.

So the committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

On page 11, line 24, strike out the figures "10" and insert "10½."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

On page 12, line 1, strike out the figure "5" and insert "5½."

Mr. LLOYD. Mr. Chairman, it is at the bottom of page 11, according to the print of the bill which I have.

The CHAIRMAN. It does not show so here on the print being used by the Clerk. The question is on the committee amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment.

The Clerk read as follows:

Page 12, line 8, strike out the figures "18" and insert "20."

Mr. MURDOCK. Mr. Chairman, I do not see that on my copy.

Mr. MANN. The Clerk has the official print.

Mr. STAFFORD. Mr. Chairman, may we have that amendment reported again?

The CHAIRMAN. Without objection, the amendment will again be read.

The amendment was again read.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 12, line 10, strike out "$2.50" and insert "$2."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next one.

The Clerk read as follows:

On page 13, lines 2 and 3, strike out the words "ninety-five per centum of."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

On page 13, strike out all of lines 20 to 25, inclusive, and on page 14, lines 1 and 2, and insert the following:

"The Postmaster General may require railroad companies carrying the mails to deliver them into and take them from the terminal and intermediate post offices and transfer them between railroad stations on their routes without additional compensation, under such regulations as he may deem proper, in cases where he does not provide for such service otherwise: *Provided*, That the Postmaster General in his discretion may relieve any of the roads of such service."

Mr. MANN. Mr. Chairman, may I ask the gentleman from Tennessee [Mr. MOON] a question in regard to this? Is this designed to change the existing law and practice?

Mr. MOON. This section, as the gentleman will observe, with the exception of the proviso, is practically the existing law. The purpose of this proviso, as I understand it, is to relieve some of the very weak and short-line railroads which insist that under certain conditions it is a burden upon them to perform this service.

Mr. MANN. As I understand it, the existing law requires the railroads, where the Government does not maintain special services, to deliver the mail within 80 rods?

Mr. MOON. Yes.

Mr. MANN. Is this designed to remove that limitation?

Mr. LLOYD. Not except in the discretion of the Postmaster General.

Mr. MOON. It does not remove it except in the discretion of the department.

Mr. MANN. The department will not make fish of one and flesh of another, will it?

Mr. MOON. The proviso, as the gentleman will observe, is a very broad one. That will enable the Postmaster General to relieve the road of that service in his discretion. There is a difference of opinion as to the value of that service. The department insists that it costs about a million dollars a year. The railroad companies insist that it costs only $500,000. By reason of the conditions of short-line roads and the burdens resting upon them the contention of the department is challenged, and it is thought best to give this section a broad scope, so that in proper instances, where the parties are not given sufficient compensation, the department can exercise its discretion.

Mr. MANN. I was seeking to ascertain what was attempted to be accomplished by it. As I understand it, it is to remove the present limitation of 80 rods?

Mr. MOON. Yes.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 14, in lines 8 and 9, strike out the words "excepting for side and transfer mail service."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

On page 17, strike out the word "in" in line 9 and insert "until July 1, 1917, in."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

On page 18, in line 23, after the word "such," insert the word "reasonable."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next one.

The Clerk read as follows:

On page 19, in line 9, after the word "such," insert the word "reasonable."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Amend, page 22, line——

Mr. MURDOCK. Mr. Chairman, are you now through with the committee amendments?

Mr. MANN. On that section.

The CHAIRMAN. Yes; on that section.

Mr. MURDOCK. Mr. Chairman, I have an original amendment to offer to the section.

Mr. FINLEY. What section are we on, Mr. Chairman?

The CHAIRMAN. Section 13.

Mr. FINLEY. We have section 16 yet to consider.

Mr. MURDOCK. The amendment that I offer will not follow the bill that the Clerk has been reading from because I have a different print.

The CHAIRMAN. The gentleman from Kansas [Mr. MURDOCK] submits an amendment, which the Clerk will report.

Mr. MURDOCK. It is at the bottom of that paragraph, beginning with "news service," on page 16. It begins with line 12 in the copy that I have.

The Clerk read as follows:

On page 16, line 6, after the words "Postmaster General," insert:

"*Provided*, That the Postmaster General shall withhold from all transportation lines which were paid for the carriage of the mails between the year 1873 and June 7, 1907, on a basis of the average daily weight of mails found by the use of a divisor less than the whole number of days included in the weighing period, all payments under the provisions of this act until an amount equaling the overpayments to such railroads by reason of the use of an erroneous divisor, shall have been withheld."

Mr. MURDOCK. Mr. Chairman, this amendment proposes to recover to the Government between $70,000,000 and $80,000,000. The very magnitude of the sum will perhaps turn some gentlemen against it; but the proposition is an absolutely just one, and during the few minutes which I have I want to explain it to the Members who are here, if I may have their attention.

In the month of February, 1907, I offered in the Committee of the Whole an amendment which was within the law, directing the department to use a correct divisor, a divisor of 7 instead of 6. A point of order was made against it. The Chairman of the Committee of the Whole held my amendment to be out of order I appealed from the decision of the Chair, and the committee sustained the Chair. That fact, the sustaining of the Chair by the House, has been used for seven years by the railroads in the courts against the Government. The law as to the divisor is plain, and the action of the House on that occasion was in contravention of the plain facts and the truth. It is certainly incumbent on the House to-day to give some consideration to this proposition in view of the former erroneous action. After the House had refused to adopt the plain direction to the department, a direction which was within the law, a direction to use the divisor which was specified in the statute, and which the department had not been using, the Post Office Department itself changed the divisor and without any change of law, used a correct one, seven-days divisor on seven-days' weights, to get as a quotient the average daily weight, which change resulted in a saving of $5,000,000 annually to the Government. The railroads combated the Post Office Department's action on the matter, and the question was submitted to the Attorney General of the United States, Mr. Bonaparte, who in a lengthy opinion held that the use of the divisor of 7 was legal and correct. The railroads thereupon took the matter to the courts, and it was recently decided in the Court of Claims in favor of the Government.

Now, what was the contention of the railroads?

The contention of the railroads was that long-continued contemporaneous departmental interpretation of the statute fixed the terms of the law and made the use of a divisor of six on seven days' weights legal. The court held that that would be true if the statute were doubtful; but the court held that the statute was not doubtful. That is, confirming the order of the department and the opinion of Mr. Bonaparte, the Court of Claims held that from 1873 to 1907 the department had used, against the plain, unmistakable provisions of the law, a wrong divisor. By that use of a wrong divisor for 34 years the department overpaid the railroads between $70,000,000 and $80,000,000. Since the divisor was changed in 1907 this Government has accumulated, by reason of that changed divisor, a sum something between $25,000,000 and $31,000,000 in the Treasury. The railroads have been attempting to obtain that sum from the Government. They have gone to the courts for it and they have used the action of Congress in 1907 and the rulings from the Chair and the action of the House on my amendment to sustain them in their argument that the department could not legally use a divisor of seven. The railroads lost their contention. Now, is there anyone here who will say that a suit like that ought to be one sided? Is there anyone here who will argue that the Government stands only to lose in this matter; the railroads only to gain? Ought Congress to play a game of "tails I lose, heads you win"? Is there anyone here to contend that the Government should be compelled to be party to a suit where if it loses the suit it has a large amount of money to pay, but where if it wins the suit on the same facts and law it can not recover the money that has been wrongfully and illegally paid out of the public funds?

Mr. COX. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK. Certainly.

Mr. COX. Has the gentleman any figures to show how much that would amount to?

Mr. MURDOCK. I have stated that the amount paid to the railroads from 1873 to 1907 by the use of this wrong divisor is between $70,000,000 and $80,000,000. It has been computed by percentages by years on different roads. It is not a difficult matter to compute the whole loss by years and railroad routes. The Government ought to withhold the amount that has been wrongfully and illegally paid out of the Treasury. The enactment of this amendment which I have offered would accomplish this. I submit it to the House.

Mr. MOON. Let me ask the gentleman a question.

The CHAIRMAN. The gentleman's time has expired.

Mr. MOON. Then I will take the floor in my own time. I want to suggest that while the proposition of the gentleman from Kansas [Mr. MURDOCK] may have some merit, it is a question involving the rights not only of the Government, but of the carriers who have carried the mails for a number of years, to such an extent that we ought not to attempt to pass upon it now in the committee on a mere amendment of this character. I suggest to the gentleman that if he wants that question investigated it would be but fair to give to the railroad companies as well as to the Government a full hearing before the committee. It ought to come up by a separate bill. It is a matter of too much importance to be taken up in this way.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Kansas [Mr. MURDOCK].

The question being taken, on a division (demanded by Mr. MURDOCK) there were—ayes 10, noes 49.

Mr. MURDOCK. Mr. Chairman, I make the point of no quorum.

The CHAIRMAN. The gentleman from Kansas makes the point of no quorum present. The Chair will count. [After counting.] Ninety-nine Members, and the Chair makes 100. The amendment of the gentleman from Kansas is rejected.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word, for the purpose of asking the gentleman from Tennessee a question.

Mr. MOON. What is the gentleman's question?

Mr. MURDOCK. On page 15, line 10, this language occurs:

In computing the average weight of mails per day carried on a railroad route, the whole number of days included in the weighing period shall be used as a divisor.

Now, when I offered my original divisor limitation back in 1907 to the Post Office bill a point of order was made against it, the claim being made that it was a change of existing law. The Chairman of the Committee of the Whole held that it was a change of existing law. I appealed from the decision of the Chair, and the House sustained the Chair. It is that fact, that operation of this House, which the railroads have used in the courts as an argument that the old divisor of six was legal. What I want to get from the gentleman from Tennessee is this: He does not consider this language, in view of the present practice in the department, a change in existing law?

Mr. MOON. No; it just rather clears it up.

Mr. MURDOCK. I am anxious to get his expression as the chairman of this committee, and, if I can have it, the expression of the House of Representatives, that this language is not a change of law, because it is a similar amendment to the one I offered which was ruled out, and the overruling of which the railroads have attempted to use in the courts against the Government.

Mr. MOON. I think the gentleman is correct.

Mr. MURDOCK. I do not believe it is a change of law, and I do not believe that it is the intention of Congress to change the law.

Mr. STAFFORD. Mr. Chairman, I would like to say to the gentleman that it is the identical language of the existing law that is embodied in this provision.

Mr. MURDOCK. The gentleman is correct, I trust.

Mr. STAFFORD. If the gentleman will yield, I wish to say that I was very cautious to compare that with the existing provision of law, fearful that there might be some change so that the divisor proposition would be altered, and I found that this phraseology is identical with existing law.

Mr. MURDOCK. In 1908 an attempt was made to alter it, and that was prevented for that reason.

The Clerk read as follows:

SEC. 16. That the unexpended balances of the appropriations for inland transportation by railroad routes and for railway post-office car service, by the act of March 9, 1914, making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1915, and for other purposes, are hereby available for the purposes of this act.

With the following committee amendment:

Page 22 line 20, strike out the figure "16" and insert the figure "14."

Mr. MANN. Mr. Chairman, I ask unanimous consent to change the figure "14" to the figure "13."

The CHAIRMAN. Without objection, the change will be made.

There was no objection.

The CHAIRMAN. The question is on agreeing to the committee amendment as modified.

The committee amendment was agreed to.

The Clerk read as follows:

SEC. 17. That all laws or parts of laws inconsistent herewith are hereby repealed.

With the following committee amendment:

Page 23, line 3, strike out the figures "17" and insert the figures "15."

Mr. MOON. Mr. Speaker, I ask unanimous consent that the consideration of this section be passed over temporarily until we can finish the proposed amendments of the committee, which will come in before that, so that this section may come at the end of the bill. There are two or three amendments in the nature of new sections.

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Insert as a new section the following:

"SEC. 14. That whenever in the judgment of the Postmaster General the bids received for any star route are exorbitant or unreasonable, or whenever he has reason to believe that a combination of bidders had been entered into to fix the rate for star-route service, the Postmaster General be, and he is hereby, authorized, out of the appropriation for inland transportation by star routes, to employ and use such means or methods to provide the desired service as he may deem expedient, without reference to existing law or laws respecting the employment of personal service or the procurement of conveyances, materials, or supplies."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Insert as a new section:

"SEC. 15. That, in the discretion of the Postmaster General, the pay of carriers who furnish and maintain their own motor vehicles and who serve routes not less than 50 miles in length may be fixed at not exceeding $1,800 per annum."

Mr. FINLEY. Mr. Chairman, I have an amendment to that committee amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 23, strike out all after the words and figures "Sec. 15" and insert:

"That on and after July 1, 1914, the compensation of each rural letter carrier for serving a standard route of 24 miles and over, six days in the week, shall be $1,200 per annum, payable monthly; on routes 22 miles and less than 24 miles, $1,152; on routes 20 miles and less than 22 miles, $1,080; on routes 18 miles and less than 20 miles, $960; on routes 16 miles and less than 18 miles, $840; on routes 14 miles and less than 16 miles, $720; on routes 12 miles and less than 14 miles, $672; on routes 10 miles and less than 12 miles, $624; on routes 8 miles and less than 10 miles, $576; on routes 6 miles and less than 8 miles, $528; on routes 4 miles and less than 6 miles, $480. A rural letter carrier serving one triweekly route shall be paid on the basis for a route one-half the length of the route served by him, and a carrier serving two triweekly routes shall be paid on the basis for a route one-half of the combined length of the two routes: *Provided*, That in the discretion of the Postmaster General the pay of carriers who furnish and maintain their own motor vehicles, and who serve routes not less than 50 miles in length, may be fixed at not exceeding $1,800 per annum."

Mr. BLACKMON. Mr. Chairman, I have an amendment in the nature of a substitute, which I desire to offer to the amendment of the gentleman from South Carolina [Mr. FINLEY].

The CHAIRMAN. Will the gentleman from South Carolina state in what manner he proposes his amendment?

Mr. FINLEY. I propose my amendment to strike out all after the words and figures "Sec. 15," and to insert.

The CHAIRMAN. Then the gentleman offers his as an amendment?

Mr. FINLEY. As an amendment.

Mr. BLACKMON. And I offer mine as a substitute for the amendment offered by the gentleman from South Carolina.

The CHAIRMAN. The parliamentary situation as the Chair understands it is this: Section 15 is a committee amendment. The amendment proposed by the gentleman from South Carolina is an individual amendment, to strike out and insert. Does the gentleman from Alabama now propose his as a substitute for the amendment of the gentleman from South Carolina?

Mr. BLACKMON. Yes.

The CHAIRMAN. As such it may be admitted, and the Clerk will report the substitute.

The Clerk read as follows:

Substitute for the amendment offered by Mr. FINLEY:

"That on and after July 1, 1914, the pay of letter carriers in Rural Delivery Service, for service six days in the week shall be $1,200 per annum, payable monthly, for standard routes 24 miles in length. For routes in excess of 24 miles, $30 per mile per year shall be added, and for routes below 24 miles, $30 per mile per year shall be deducted. Major fractions of a mile to be considered a full mile.

"For triweekly service the salary shall be the same as for daily service on routes one-half the length. For triweekly service on two routes, the salary shall be the same as for daily service on routes one-half of the combined length of the triweekly routes."

Mr. TRIBBLE rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. TRIBBLE. I rise for the purpose of offering an amendment to the substitute.

The CHAIRMAN. The gentleman from Georgia offers an amendment to the substitute, which the Clerk will report.

The Clerk read as follows:

Amend by striking out "$1,200," in line 3 of the amendment, and insert "$1,300."

Mr. FINLEY. Mr. Chairman, the amendment that I offered needs very little explanation. The law that was passed raising the limit of rural carriers' pay at the present session of Congress was in the Post Office appropriation bill. The language used in that bill in providing this raise is the identical language that was used in making the raise in 1912, and I believe indefinitely, back as far as rural carriers' pay has been raised, so of course this left the matter of how the salary should be apportioned amongst the carriers to the Post Office Department, but it was intended and always understood that the carriers serving a standard route of 24 miles or over would get the maximum pay. Now, the law was framed in the way it was framed supposedly for the purpose of enabling the department to graduate the pay on routes less than standard routes, less than 24 miles in length, and I may say until quite recently the Post Office Department has always carried its rules and regulations made as I have stated.

The rules and regulations for years have provided for this basis of fixing the pay of rural carriers, and the recent executive order of the Postmaster General bringing into consideration the question as to what increase of salary should be received amounts to about this: The executive order does not reduce the salary of any carrier as fixed to June 30, 1914. I take it there is a provision in the act of 1912 which was probably construed by the department as prohibiting any decrease, and I think it does, but not only is the length of route considered by the executive order of which I spoke, but the weight of mails and the number of pieces and those elements are brought in and made a part of the executive order recently promulgated, and the result is——

Mr. HOWARD. Will the gentleman yield just at that point for a moment?

Mr. FINLEY. Yes.

Mr. HOWARD. Will the gentleman be kind enough, as he is very familiar with this subject, to give us some reason why the Committee on the Post Office and Post Roads predicate the salaries of rural carriers solely upon the number of miles they travel?

Mr. FINLEY. Well, first it is because the same equipment is required and the same service, so to speak. It is only necessary to travel 24 miles whether you carry 100 pieces of mail or 500.

Mr. HOWARD. That is the standard route?

Mr. FINLEY. Yes. Now I am going to the other part of it. I say that was first. Now, second, the rules and regulations of the Post Office Department for years have been as I have stated. They have predicated the maximum pay on routes of 24 miles or over and then they have graded down the pay allowed the carriers on routes of 24 miles. I understood we were legislating in view of the rules and regulations that had been in force by the Post Office Department for years. I am sure the House understood it. I believe the Senate understood it, and I know that the carriers themselves understood this, if the amount of mail that comes to Members of Congress who have rural districts is anything like the mail I have received is considered. The purpose of my amendment is to carry out the intention of Congress in passing the law raising the pay to $1,200.

Mr. JOHNSON of Washington. Will the gentleman yield at that point? I understood there was something in the gentleman's amendment in reference to $1,800 pay——

The CHAIRMAN. The time of the gentleman has expired.

Mr. FINLEY. Mr. Chairman, I ask unanimous consent to proceed for three minutes more.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to proceed for three minutes more.

Mr. FINLEY. I will ask for five minutes.

Mr. MURDOCK. Mr. Chairman, reserving the right to object, there is no disposition to shut us off, and I do not make objection. I made no objection and I shall not.

Mr. MOON. Mr. Chairman——

Mr. JOHNSON of Washington. I wanted to ask the gentleman about a service that seems to have broken down——

The CHAIRMAN. The gentleman from South Carolina has yielded the floor, and the Chair has recognized the gentleman from Tennessee.

Mr. MOON. Mr. Chairman, I very much regret the necessity for disagreeing with my friend from South Carolina and my friend from Alabama on these amendments. I disagree with a great body of this House that I know is profoundly in sympathy with the rural carriers, and I confess when I look at the matter from a personal standpoint my sympathy is that way, too; but I propose to say one word to you in the interest of the people and the Treasury of the United States on this question. I suggested in the last session, when this question of $1,200 increase arose—$100 per annum—we might fix it at $50 more and there stop until we ascertained the result of these appropriations and see if we could not perfect this system better; but you proceeded, and under the language of the old law

it was clear then, as it is now, that this department, for the purpose of protecting the Treasury, must say to the rural carriers, It is time for you to halt in your demands for increase of pay. The department said it in the shape of an order, authorized by law, that adds an additional element to mileage—that is, the number of packages and weight—and under that graduated from the standard route of 24 miles down, and it turns out they did not get but a little more pay than they did heretofore.

Mr. CANDLER of Mississippi. Will the gentleman yield?

Mr. MOON. Not now. I know that it has been the desire of the House to give it to them, but the House did not repeal those laws that destroyed the discretionary power of the department, and this result has come about. Why did the Postmaster General have to do it, when you come to consider the question? Now, take the schedule of the routes. At Eagle, Colo., the carrier travels 24 miles, the standard route, gets $1,200, and each time he makes a trip he carries from 400 to 600 packages containing from 300 to 400 pounds, in the aggregate, per day.

Well, he ought to be paid a just compensation for that, and probably $1 200 is correct. But take a case in my own State——

Mr. BARKLEY. The gentleman does not mean that each one of those packages weighs 500 or 600 pounds?

Mr. MOON. Five hundred or six hundred pounds in the aggregate.

Mr. BARKLEY. For the whole load?

Mr. MOON. For the whole load.

Take it in another district, and a carrier traveling over a good pike road 12 miles, carries an average of about 6 pounds one way and 6 pounds back, and he gets $1.200 a year. I do not mean that is true as to all the routes, but as to that one, and a number of others that I have in mind now. Now, every honest man knows that a man who travels 24 miles and carries 500 or 600 packages weighing that many pounds is entitled to more compensation than a man who travels over the same route with a much less load and only for a few hours. That is part of the reason that the department gives in behalf of their position. And while I say that my sympathies are with the carriers, I know, and you know, you can not deceive the people of your district if you wanted to do so, and I know you do not, for standing back of these salaries at such a high rate of compensation except where they earn it. You can get in your districts, each one of you, just as good a man, and get this mail carried by just as good a man as a civil-service carrier for three-fourths of the pay that you are giving him. I can to-day obtain contracts for the carrying of the rural mails of the United States for 50 per cent less than you are paying the carriers. I warn you that you are paying out for this service of the United States—a necessary, essential service, I concede—and I am not going into any argument on that question—$53 000.000. There is being returned to the Treasury about $13.000.000. There is a loss of $40.000.000 to the National Treasury. You may say it is very well, and that the people are entitled to the service, and we can afford the loss. Possibly that is true. I am not going to disagree with you about that, because I know that some services ought to be performed even at a loss. But what I am going to say to you now is this: That you ought not to act hastily on this question. I want to place in the RECORD not only the reasons of the Postmaster General, but a number of figures covering this question, as a part of what I have to say, which explain more fully than I can now the wisdom of his action.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOON. Mr. Chairman, I ask leave for five minutes more, in order that I can answer some of these questions.

Mr. MURDOCK. The gentleman is not going to shut the rest of us off from making speeches?

Mr. MOON. No; I am going to say to you, that whether you carry this section now or not in the shape it is in, there is not a single one of these amendments worth the snap of your finger and never will be. You will never get the increase. But what I wanted to say was this, that you ought to wait and have a full, careful, deliberate consideration of this question before the committee or in this House, and fix it so that carriers can get what you want them to have.

There is pending in this House a bill, H. R. 12928, reported from this committee and on the Calendar, that carries with it the present proposition of the gentleman from South Carolina [Mr. FINLEY] in proper shape. Had you not better wait until that bill comes up? There are other sections in that bill that have been disposed of in this bill. Then, let us take that question up deliberately and discuss it and settle it. You made a slip in making the law before, in order to give this $1.200 to them. I am in favor of a fair increase, but I do not want quite so much. But standing in the position that I do as chairman of this committte, I feel it is my duty to undertake to protect, even over your protest, the Treasury of the United States, even though you have got as much interest in it as I have. You know that I do not care whether you pass this amendment, or both of them, in the shape they are in; they will never be effective, never be worth a cent, even if both Houses of Congress were to pass them, as a matter of law. That is a question that you can work out for yourselves. My suggestion to you is that you had better let the matter pass over until you consider deliberately and calmly the views of the department, and not try to turn down the department in accordance with the views expressed here. If you have not the time now, you will have between now and December. It is not necessary that you be too hasty. Now, having sympathy in common with you in a measure upon this matter, yielding to my own sense of responsibility to you and the Government, I have nothing more to say upon this question except it is very wise to make haste slowly on a matter of this kind. Do what you do so it will stand and be worth something to the carriers.

Mr. SIMS. Will the gentleman yield?

Mr. MOON. Yes.

Mr. SIMS. In fixing the pay of the city letter carriers, is the amount of mail carried, or the number of pieces and the weight, considered, or do they pay them so much a month?

Mr. MOON. They pay them so much a month, and they weigh them down like pack horses, and they are living under conditions that cost them more than the rural carriers to live. I know that you and other gentlemen who try to protect yourselves from this thrusting of your hands into the National Treasury for those carriers, make all sorts of excuses of that kind, but it is hardly legitimate.

Mr. HOWARD. Will the gentleman yield?

Mr. MOON. Yes.

Mr. SIMS. The gentleman has not answered my question yet. I asked if the wages were based on the weight carried or the number of pieces.

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] has yielded to the gentleman from Georgia [Mr. HOWARD].

Mr. HOWARD. As a matter of fact, is it not true that in parceling out the territory to the city carrier the number of inhabitants that the city carrier has to serve is taken into consideration?

Mr. MOON. I think so; and they do a very arduous work.

Mr. BRYNES of South Carolina. I would like to ask the gentleman if he voted for the bill as it passed the House?

Mr. MOON. Of course.

Mr. BRYNES of South Carolina. And did you think you were jamming your hand down into the Treasury, as you say now?

Mr. MOON. No; and I do not think I am jamming it down into the Treasury now.

I am willing for you to have the $1.200 if you get it under the proper conditions and if the proper elements enter into the question of compensation. I believe that under the rule the department has established it would bring nearly all of them up to the $1.200 standard if properly pursued.

I voted for the $1.200 proposition. I voted for the bill, of course. I would not refuse to vote for a bill that had many propositions in it that I favored simply because it contained some propositions that I did not favor; but as the gentleman will recollect, my position was that you had better not go so far at that time. I suggested that you had better stop. I yielded reluctantly to the $50 increase.

Mr. BYRNES of South Carolina. Was it not the gentleman's intention at that time to make the salary $1.200 for a 24-mile route?

Mr. MOON. Yes; and would now do so in all cases where it is earned; but my insistance is that you wait and consider and not make another foolish amendment that, like in the last one, will do no good. I am a friend of the carrier.

Mr. BYRNES of South Carolina. But you are not upsetting the department. The department is upsetting Congress.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. MOON. Mr. Chairman, I submit, in connection with my remarks, the following letters, order, and memorandum:

OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., August 7, 1914.

Hon. JOHN A. MOON,
House of Representatives.

MY DEAR MR. MOON: The unit of compensation for duty performed by letter carriers in the Rural Delivery Service of the Post Office Department has finally reached a point, through the action of the Congress in prescribing a maximum salary of $1.200 per annum, where the entire subject of adequate remuneration for service rendered in rural delivery and the return received therefrom is vital to the welfare of the country and the proper and efficient administration of the Postal Service.

This administration is committed to the fundamental principle that economy shall prevail in the public service and that any expenditure of the money of the people shall bear some fixed relation to the re-

turns received from such expenditure. Now, therefore, when $53,000,000 of the people's money is expended annually for the maintenance and extension of postal facilities to patrons anywhere, and the returns therefrom, as ascertained after careful investigation, do not exceed $10,000,000 (in 1912 the actual returns were $7,570,000), it is time that those charged with the responsibility of administering the distribution of such a huge sum at such a tremendous loss should earnestly endeavor, in a spirit of justice and equity, to provide a means whereby the maximum income from the expenditure might be secured.

This discrepancy and the discrimination that prevailed in the compensation of the employees in the rural service were so self-evident and so startling as to command immediate attention, and prior to the enactment of the legislation hereinbefore mentioned the department had carefully investigated ways and means that would reduce the annual loss of more than $40,000,000 that now appears in the operation of this service and which is rapidly rendering prohibitive the cost of further extension thereof for the benefit of the people, and had arrived at the conclusion that the compensation of the employees engaged therein was entirely adequate for the work performed, subject to a radical revision of the unfair and unequal basis upon which such compensation was fixed. The attitude of the department was materially influenced by the enormous number of applications presented to the Civil Service Commission for employment at the prevailing rate of pay.

A careful survey of the details involved in the rural mail delivery developed these unusual conditions, in that the personnel engaged in such delivery, which was inaugurated in the year 1896, then received a uniform compensation of $300 per annum.

	Per annum.
In 1898 this was increased to	$400
In 1900 this was increased to	500
In 1902 this was increased to	600
In 1904 this was increased to	720
In 1907 this was increased to	900
In 1911 this was increased to	1,000
In 1912 this was increased to	1,100

In each and every instance where increased compensation was authorized certain good reason therefor was apparent to the Congress, yet the mileage factor, which constituted the sole basis of compensation, was never changed by the department.

During this session of Congress a pernicious lobby, encouraged by the circulation of a sheet known as the R. F. D. News and labeled "The official organ of the National Rural Letter Carriers' Association," advocated the increase of the maximum salary of rural letter carriers to the extent of $100 additional per annum, ostensibly on account of the increase in the amount of mail matter carried, due to the establishment of the parcel-post feature of postal activity. This proposition to increase the annual cost of operation of the Rural Delivery Mail Service to the extent of $4,500,000 was further promoted by the periodical visits of certain officers of the National Rural Letter Carriers' Association, an organization presumably formed within the carrier body to cooperate with the department in the advancement of the Postal Service, but which in reality has degenerated to a point where, in the opinion of the department, it exercises a baneful influence over the service and incites the carrier body to political reprisal upon the Representatives of the people in Congress who may have the courage to deny its demands or defy its vengeance. Largely through the influence and activities of the "official organ" certain carriers submitted grossly exaggerated, misleading, and untrue statements to Members of Congress relative to the cost of maintaining service on their several routes. A circular issued from the same source, dated July 29, 1914, boasts of the success of the methods pursued and tells of plans for further legislation, and mentions an allowance for equipment, etc., as the next avenue of approach.

Now, the annual maximum compensation of the rural carriers was fixed at $1,200, effective July 1, 1914, and the department, while not consulted as to the necessity for the increase in compensation, has earnestly endeavored to adjust the salaries of the employees in an equitable manner on the basis of additional service rendered.

Our further survey disclosed that on a very large number of daily routes more than 20,000 pieces and more than 2,500 pounds of mail are handled each month, whereas on other daily routes of equal length less than 3,000 pieces and less than 500 pounds are handled monthly. The following tables illustrate the woeful lack of attention which has heretofore been given to this most important factor involved in the equitable and definite relationship that should prevail between the amount of work performed and the amount of money paid therefor:

Statement showing weights and number of pieces of mail carried on certain rural routes, together with the old and new rates of pay.

No. of route.	Office.	State.	Length.	Pieces.	Pounds.	Old pay.	New pay.	Increase.
			Miles.					
1	Birmingham	Alabama	24	28,102	2,395	$1,100	$1,200	$100
1	Phoenix	Arizonaa	22	11,555	1,446	1,056	1,200	144
2	Tempe	do	22	10,497	1,512	1,056	1,200	144
1	Yuma	do	22	14,138	2,129	1,056	1,200	144
1	Auburn	California	21	9,346	2,271	990	1,200	210
5	Bakersfield	do	21	16,954	2,727	990	1,200	210
1	Carpinteria	do	21	12,593	2,655	990	1,200	210
2	Chico	do	23	12,449	1,611	1,056	1,200	144
3	do	do	18	15,205	1,886	880	1,152	272
1	Concord	do	20	12,095	1,987	990	1,200	210
1	Gridley	do	20	13,288	2,470	990	1,200	210
1	Boulder	Colorado	23	12,027	1,748	1,056	1,200	144
1	Canon City	do	18	20,023	3,086	880	1,200	320
2	do	do	21	13,678	1,841	990	1,200	210
2	Littleton	do	20	11,142	2,242	990	1,200	210
1	Eagleville	Connecticut	22	27,467	5,378	1,056	1,200	144
2	do	do	6	12,862	3,009	484	936	452
1	Branford	do	20	15,510	2,703	990	1,200	210
1	Milford	do	23	27,517	3,415	1,056	1,200	144
3	do	do	23	14,521	2,176	1,056	1,200	144
5	New Haven	do	23	12,938	1,541	1,056	1,200	144
2	Wallingford	do	23	10,271	1,629	1,056	1,200	144
1	Hood River	Oregon	26	39,529	7,502	1,100	1,200	100
2	do	do	24	36,199	7,143	1,100	1,200	100
3	do	do	24	38,182	7,071	1,100	1,200	100
3	Salem	do	23	20,320	3,125	1,056	1,200	144
1	Boonton	New Jersey	23	16,142	2,624	1,056	1,200	144
2	Chatham	do	22	8,145	1,399	1,056	1,164	108
3	Vineland	do	22	21,014	4,397	1,056	1,200	144
1	Whippany	do	22	8,533	1,483	1,056	1,176	120
3	Delavan	Wisconsin	22	16,611	2,901	1,056	1,200	144
1	Janesville	do	24	25,038	2,065	1,100	1,200	100
9	do	do	22	12,457	1,895	1,056	1,200	144
2	Milwaukee	do	23	11,676	1,614	1,056	1,200	144
30	Oconomowoc	do	22	12,444	2,193	1,056	1,200	144
29	Plymouth	do	23	13,924	2,247	1,056	1,200	144

Statement showing small amount of mail handled per month on certain other rural routes.

Route No.	Office.	State.	Length.	Pieces.	Pounds.
			Miles.		
1	Courtland	Alabama	21	1,171	173
1	Wheeler	do	19	1,437	176
32	Griffin	Indiana	24	2,677	327
1	Huron	do	23	2,887	395
4	Jasper	do	27	2,936	365
2	Shoals	do	24	2,713	345
1	Harper	Iowa	24	3,200	667
1	Boxville	Kentucky	24	3,130	398
3	Hardinsburg	do	20	1,752	241
1	Rock Haven	do	24	2,577	461
4	Anamoose	North Dakota	29	2,986	674
2	Emerado	do	30	3,709	578
4	Albany	Ohio	24	3,291	460
2	Coolville	do	24	2,904	386
2	Amarita	Oklahoma	27	3,045	420
2	Butler	do	30	2,562	316

Statement showing small amount of mail handled per month on certain other rural routes—Continued.

Route No.	Office.	State.	Length.	Pieces.	Pounds.
			Miles.		
1	Cooley	Oklahoma	27	1,854	278
1	Boston	South Carolina	28	1,908	222
1	Clemson College	do	26	1,736	151
1	Frogmore	do	24	2,302	255
1	Mountain Rest	do	24	2,507	268
3	East Berlin	Pennsylvania	24	3,134	404
1	Klingerstown	do	24	2,593	445
4	Eidson	Tennessee	25	1,148	126
2	Oneida	do	25	2,397	279
1	Martin Mills	do	24	1,677	256
5	Sneedville	do	26	2,036	304
2	Bedias	Texas	25	2,778	447
2	Chriesman	do	28	2,607	365
2	Bloomington	Wisconsin	24	2,631	337

A most cursory examination or comparison of these two tables shows conclusively that some readjustment of compensation for rural carriers was an imperative necessity. This the department has done, as is set forth in the inclosed order dated July 14, 1914.

To secure the increase of $100 in pay, as authorized by the Congress, a carrier shall transport each month 10,000 pieces of mail, which has been ascertained as the average carried in the past over a standard route, and not less than 1,300 pounds of any mailable matter. You will note that this requires the carriage of one parcel of the maximum weight established by the regulation (50 pounds), or its equivalent in weight of mail matter of other classes, and is apparently in strict compliance with the intent of the Congress to provide for a higher compensation for the greater service rendered, due to the extra duty involved in handling the parcel post.

A return to the former mileage basis, as is suggested in certain bills introduced, would be inequitable and unjust to certain carriers whose compensation has now been very materially increased beyond that which has been paid them heretofore, and will include, in addition to those entered upon the tables above mentioned showing increases over $100 each, many thousands of other employees not so included, since it has been impossible, as yet, to complete the comparative tabulation of the entire service.

Your attention is also invited to the fact that under the new system certain pecuniary recognition is given to the carriage of closed pouches of mail to post offices located on rural routes and to those carriers who serve routes in excess of 25 miles in length. The employees themselves have been insistent that both these factors should be considered in any revision of their salary schedule. Neither has heretofore been recognized by the Congress nor by the department. Thus, the weight and the number of pieces as an additional factor again illustrate their usefulness as a matter of equity and justice.

Finally, not a single employee in the rural service suffers any decrease in the compensation heretofore paid, and the only sentiment which is either material or relevant to the equity involved is that which has been created by the unfortunate dissemination of unauthorized information to the effect that all carriers in the Rural Delivery Service would receive an increase of one-eleventh in their annual rate of pay, regardless of the argument used in support of the requests for such increase or the facts that warrant the proper distribution of the increase in proportion to the actual work involved or amount of mail matter transported.

The future advancement and promotion of efficiency in the rural mail service will undoubtedly be influenced by the attitude of the Congress on this subject. Shall these employees receive compensation in proportion to the amount of work performed and the arduous nature thereof, as is the case in all other lines of employment throughout this country, or shall a special privilege be granted to certain of their number to receive the same remuneration for extremely limited service rendered, and who, for instance, may utilize a motor vehicle on highly improved highways, carrying in some cases only 10 pounds of mail matter, in less than three hours daily, and then engage in other lines of competitive activity remunerative to themselves, while their fellow employees not so favored must perform eight hours of service daily, on difficult mountain highways, carrying over 300 pounds of mail matter? The department has sincerely endeavored to remedy this gross injustice and believes that the patrons of the Postal Service will recognize the substantial equity involved in the principle that the salary of an employee should be proportionate to the work performed.

Further, in the interest of thousands of prospective patrons, it is the earnest desire of the department to continue the extension and increase the frequency of the Rural Delivery Service, and plans have already been formulated whereby the delivery zone may be doubled, the accomplishment of which will be sadly handicapped when the available resources for the purpose have been otherwise applied.

Sincerely, yours,

A. S. BURLESON,
Postmaster General.

POST OFFICE DEPARTMENT,
Washington, July 14, 1914.

(Order No. 8246.)

On and after July 1, 1914, the compensation of rural carriers shall be based upon the length of routes and the number of pieces and the weight of mail carried, as shown by the records of the department, and their rates of pay shall be computed on and fixed according to the following schedule:

Schedule.

Length of route.	Salary base.	Pieces of mail per month.	Pounds of mail per month.
4 miles and less than 6 miles	$480	3,000	400
6 miles and less than 8 miles	528	3,700	490
8 miles and less than 10 miles	576	4,400	580
10 miles and less than 12 miles	624	5,100	670
12 miles and less than 14 miles	672	5,800	760
14 miles and less than 16 miles	$720	6,500	850
16 miles and less than 18 miles	840	7,200	940
18 miles and less than 20 miles	960	7,900	1,030
20 miles and less than 22 miles	1,080	8,600	1,120
22 miles and less than 24 miles	1,152	9,300	1,210
24 miles and over	1,200	10,000	1,300

An increase or decrease of $12 per annum shall be made for each 1,000 pieces and for each 100 pounds, respectively, greater or less than the schedule, and an allowance of $12 per annum shall be made for each closed pouch or closed sack of mail carried per day, and also for each full mile of route served in excess of 25 miles in length.

Provided, That no carrier shall be reduced in present compensation because of this order, and that $1,200 per annum shall be the maximum salary.

A carrier serving one triweekly route shall be paid on the basis and subject to the above conditions for a route one-half the length of the route served by him, and a carrier serving two triweekly routes shall be paid on the basis and subject to the above conditions for a route one-half the combined length of the two routes.

The compensation of carriers on newly established routes shall be at the rates in effect June 30, 1914.

A. S. BURLESON,
Postmaster General.

JULY 31, 1914.

The Postmaster General issued an order to-day promulgating the schedule of salaries to be paid carriers in the Rural Delivery Service from July 1, 1914, in accordance with the recent act of Congress providing $1,200 per annum as the maximum pay of these employees.

Heretofore the unit of compensation upon which the salaries of carriers has been based included only the number of miles traversed, without any consideration of the time required to travel such mileage or the amount of work performed by the carrier during such travel.

The Postmaster General concluded that the time had arrived when certain recognition should be given to some additional features involved in the collection and delivery of the mail on rural routes, and that the most important item for particular attention was the improvement in the efficiency of rural mail delivery, in order that the patrons of the service should receive the maximum return for the enormous expenditure involved and that the remuneration of the employees engaged therein should bear some fixed relation to the amount of service rendered. To this end it was equally essential that the new features thus introduced should not interfere with or reduce the basis of compensation which heretofore prevailed and which was regarded as adequate, but should also establish equity, in so far as possible, in the compensation paid to the employees who now perform and who have in the past performed particularly arduous and difficult duty.

The establishment of the parcel post has been utilized as an argument for the necessity for increased compensation to postal employees. During the period that has elapsed since the inauguration of this very meritorious addition to postal activity the department has carefully ascertained the actual results produced on each rural route, and every consideration has been given to the information thus secured in this order of the Postmaster General now in effect. The basis of computation for maximum compensation requires the transportation of one parcel-post package per day of the maximum weight now established by the postal regulations or the equivalent thereof in any mailable matter and the handling of an average of 400 pieces of mail daily.

The order further provides that on routes less than the standard length (24 miles), where carriers have been receiving less than the former maximum pay of $1,100 a year, an increase or decrease of $12 per annum greater or less than the schedule pay shall be made to or from the prescribed salary for such route for each 1,000 pieces and for each 100 pounds of mail handled monthly up to the maximum of $1,200 per annum. It also stipulates that an allowance of $12 per year shall be made for each closed pouch or sack of mail transported by carriers to post offices located on rural routes.

The Postmaster General believes that the new order will encourage the carriers to use all legitimate means to increase the business on their routes and that it will be a further incentive to the patrons to utilize the rural service in the transportation of articles by parcel post in that the increase in the weight or number of pieces thus transported will indirectly have an immediate effect upon the remuneration of the carrier.

It is self-evident that the promulgation of this order is one of the first steps toward the improvement in the efficiency of the rural delivery mail service and the elimination to a large extent of the tremendous disparity that exists between the revenues and the expenditures in this particular branch of the service.

Statement showing weights and number of pieces of mail carried on certain rural routes, together with the old and new rates of pay.

No. of route.	Office.	State.	Length.	Pieces.	Pounds.	Old pay.	New pay.	Increase.
			Miles.					
1	Birmingham	Alabama	24	28,102	2,395	$1,100	$1,200	$100
1	Phoenix	Arizona	22	11,555	1,446	1,056	1,200	144
2	Tempe	do	22	10,497	1,512	1,056	1,200	144
1	Yuma	do	22	14,138	2,129	1,056	1,200	144
1	Auburn	California	21	9,346	2,271	990	1,200	210
5	Bakersfield	do	21	16,954	2,727	990	1,200	210
1	Carpinteria	do	21	12,593	2,655	990	1,200	210
2	Chico	do	23	12,449	1,611	1,056	1,200	144
3	do	do	18	15,201	1,886	880	1,152	272
1	Concord	do	20	12,095	1,987	990	1,200	210
1	Gridley	do	20	13,288	2,470	990	1,200	210

Statement showing weights and number of pieces of mail carried on certain rural routes, together with the old and new rates of pay—Continued.

No. of route.	Office.	State.	Length.	Pieces.	Pounds.	Old pay.	New pay.	Increase.
			Miles.					
1	Boulder	Colorado	23	12,027	1,748	$1,056	$1,200	$144
1	Canon City	do	18	20,928	3,086	880	1,200	320
2	do	do	21	13,678	1,841	990	1,200	210
2	Littleton	do	20	11,142	2,242	990	1,200	210
1	Eagleville	Connecticut	22	27,467	5,378	1,056	1,200	144
2	do	do	6	12,862	3,009	484	936	452
1	Hood River	Oregon	26	39,529	7,502	1,100	1,200	100
2	do	do	24	36,199	7,143	1,100	1,200	100
3	do	do	24	38,182	7,071	1,100	1,200	100
3	Salem	do	23	20,320	3,125	1,056	1,200	144

Mr. SAMUEL W. SMITH. Mr. Chairman, the order of the Postmaster General on this point is very short, and I would like to have the Clerk read it in my time.

The CHAIRMAN. Without objection, the Clerk will read in the gentleman's time the order of the Postmaster General.

The Clerk read as follows:

OFFICE OF THE POSTMASTER GENERAL,
Washington, July 14, 1914.

(Order No. 8246.)

On and after July 1, 1914, the compensation of rural carriers shall be based upon the length of routes and the number of pieces and the weight of mail carried as shown by the records of the department; and their rates of pay shall be computed on and fixed according to the following schedule:

Schedule.

Length of route.	Salary base.	Pieces of mail per month.	Pounds of mail per month.
4 miles and less than 6 miles	$480	3,000	400
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10 miles and less than 12 miles	624	5,100	670
12 miles and less than 14 miles	672	5,800	760
14 miles and less than 16 miles	720	6,500	850
16 miles and less than 18 miles	840	7,200	940
18 miles and less than 20 miles	960	7,900	1,030
20 miles and less than 22 miles	1,080	8,600	1,120
22 miles and less than 24 miles	1,152	9,300	1,210
24 miles and over	1,200	10,000	1,300

An increase or decrease of $12 per annum shall be made for each 1,000 pieces and for each 100 pounds, respectively, greater or less than the schedule; and an allowance of $12 per annum shall be made for each closed pouch or closed sack of mail carried per day and also for each full mile of route served in excess of 25 miles in length: *Provided*, That no carrier shall be reduced in present compensation because of this order and that $1,200 per annum shall be the maximum salary.

A carrier serving one triweekly route shall be paid on the basis and subject to the above conditions for a route one-half the length of the route served by him, and a carrier serving two triweekly routes shall be paid on the basis and subject to the above conditions for a route one-half the combined length of the two routes.

The compensation of carriers on newly established routes shall be at the rates in effect June 30, 1914.

A. S. BURLESON,
Postmaster General.

Mr. SAMUEL W. SMITH. Mr. Chairman, I want to say that I am in favor of the payment of $1,200 as the salary of a rural carrier for a standard route of 24 miles.

Mr. BLACKMON rose.

The CHAIRMAN. The gentleman from Alabama [Mr. BLACKMON] is recognized.

Mr. BLACKMON. Mr. Chairman, I think the record of my service in this House will convince fair-minded Members that I am not very much of a grand-stand player; and, I believe, too, that I have been as consistent in my record in protecting the Treasury of the United States as most other Members. But this proposition comes to us in this form: The Congress of the United States deliberately passed a law and placed it on the statute books, and it was the intention, that rural carriers on standard routes should receive $1,200 per annum.

Mr. CANDLER of Mississippi. Mr. Chairman, will the gentleman yield to me for just a moment?

The CHAIRMAN. Does the gentleman from Alabama yield to the gentleman from Mississippi?

Mr. BLACKMON. I have only a few minutes, but will yield to the gentleman.

Mr. CANDLER of Mississippi. The gentleman is a member of the Committee on the Post Office and Post Roads?

Mr. BLACKMON. Yes.

Mr. CANDLER of Mississippi. Is it not a fact that the language used in the last Post Office appropriation bill which proposed to increase the salary for rural letter carriers on standard routes to $1,200 is the identical language which was used in all former bills under which the salary of the carriers was increased; and if this is true did not you and other Members of Congress believe at that time that the language was entirely sufficient to authorize the increase to the carriers? I favored the increase and voted for it, believing they would get it, and I think that all Members of Congress believe the language used is entirely sufficient, and we were surprised when, under the order of the Postmaster General, it was not given to them. Will you do me the kindness to give me the benefit of your views and judgment in reference to these matters?

Mr. BLACKMON. The gentleman is correct in his idea as to what Congress intended, at least I so construed the provisions of the last appropriation bill. When we reported the last appropriation bill we used the same language used in all former bills which undertook to increase the salary of carriers in the rural service. It was the intention of Congress to give the carriers on standard routes $1,200 per annum, payable monthly. The department should have known that it was the clear intent of Congress to give the rural free delivery carriers on standard routes $1,200 per annum, payable monthly.

Mr. Chairman, I deny the right of any executive department by an executive order or otherwise to change the provisions of any bill in such a way as to defeat the clear intent of the Congress of the United States. They have not the right to do so. [Applause.] Now we come to the proposition, suggested by certain Members, of putting our hands in the Treasury of the United States and appropriating money that should not be appropriated. I find as I serve here that we have a number of Members who, when the question of voting $35,000,000 to build a railroad in Alaska to accommodate about 35,000 people was before the House, had no objection to a slight appropriation like that; but when it comes to the question of a salary increase for rural carriers who are engaged in a service that is rapidly developing the rural districts of our country, we are met with a cry that "You are improperly putting your hands into the Federal Treasury."

Mr. MOON. Well, you must not include me in that. I did not vote for it.

Mr. BLACKMON. I am not including any of those who did not vote for it. I find, too, Mr. Chairman, that in the delivery of mail in the large cities the Congress of the United States is willing to walk up to the rack and appropriate $17,000 per mile for some fifty-odd miles to flash the mail through 8-inch pneumatic tubes in New York and these other large places and feel that they are not putting their hands into the Federal Treasury improperly. But when you come down to the question of educating and aiding the people out in the rural districts we hear this cry of "Economy."

Here is a man who carries 100 pieces of mail 24 miles over a rough road. He is gone all day. What is the difference to that man whether it be 100 pieces of mail or 200 pieces? Why should he be discriminated against when it takes the same equipment, the same effort on his part to make that delivery as it does in the case of a man carrying 200 or 300 pieces of mail? Yet that is the proposition. The idea of the department is that they will figure it out by the piece and regulate it in that way.

Mr. Chairman, I want the best thing that can be had; but I say to this Congress that if it is right to increase this salary to $1,200 for a standard route of 24 miles, then you can not defend yourselves in not voting for my substitute to grant additional pay to the man who carries the mail 28 miles. [Applause.]

Mr. JOHNSON of Washington, Mr. COX, and Mr. SISSON rose.

The CHAIRMAN. The gentleman from Illinois is recognized.

Mr. SISSON. Mr. Chairman, I ask unanimous consent that the gentleman from Alabama [Mr. BLACKMON] may have five minutes more. He is a member of the Committee on the Post Office and Post Roads, and heretofore he has not taken up any time at all.

The CHAIRMAN. The gentleman from Mississippi [Mr. SISSON] asks unanimous consent that the gentleman from Alabama [Mr. BLACKMON] may proceed for five minutes. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Chairman——

Mr. MOON. Mr. Chairman, a number of gentlemen want to debate this question, and I suggest to the gentleman from Illinois and his colleagues on that side that, if they desire, suppose they take about 20 minutes for debate, and divide it among themselves to suit themselves. I presume the House is going to pass this section.

Mr. SISSON. Mr. Chairman, I want five minutes of that time myself.

Mr. COX. And I want five minutes.

Mr. MOON. Then, I ask unanimous consent, Mr. Chairman, that all debate on this section and all amendments thereto close in 40 minutes, and that the gentleman from Michigan [Mr. SAMUEL W. SMITH] control one half of the time and the gentleman from South Carolina [Mr. FINLEY] control the other half.

Mr. COX. Reserving the right to object, I shall have to object if I do not get five minutes' time.

Mr. MOON. Gentlemen, you know it is wholly immaterial to me. I realize that I am in the position of Germany to-day. All of these enemies are around me, and they can divide this time to suit themselves.

Mr. COX. I am with the gentleman from Tennessee, as far as I am concerned.

Mr. FINLEY. I hope the gentleman from Tennessee, chairman of the committee, will modify his request and make it 40 minutes, leaving the recognition to the Chair. The Chair will be fair about it.

Mr. MOON. That will be satisfactory to me. I move that all debate on this section, with amendments thereto, be closed in 40 minutes.

Mr. HULINGS. I reserve the right to object.

The CHAIRMAN. Is there objection to the proposition of the gentleman from Tennessee?

Mr. SISSON. Reserving the right to object——

Mr. CANDLER of Mississippi. This is a motion, not a request for unanimous consent.

Mr. MOON. It is a motion, not a request for unanimous consent.

The CHAIRMAN. Will the gentleman from Tennessee please repeat his motion?

Mr. RUCKER. I move to amend that by making it one hour.

Mr. MOON. The gentleman will get to a vote too late in the afternoon.

Mr. MANN. Here is an amendment that everybody, or nearly everybody, is going to vote for in some shape. Which is better, to pass it to-day or to wait until next week?

SEVERAL MEMBERS. Pass it to-day.

Mr. RUCKER. Mr. Chairman, if my amendment will do more harm than good, I withdraw it. I want to get a vote.

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] moves that all debate on this section and all amendments thereto close in 40 minutes. Those in favor will say "aye."

The affirmative vote was taken.

Mr. SISSON. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. You can not interrupt a vote by a parliamentary inquiry.

Mr. SISSON. I made a request before the Chair put the motion.

The CHAIRMAN. The Chair has not heard it.

Mr. SISSON. I made a request for unanimous consent that the gentleman from Alabama [Mr. BLACKMON] have five minutes.

Mr. MOON. That was not objected to.

Mr. SISSON. That is not included in this 40 minutes, is it?

Mr. MANN. It is. The gentleman will have to take his chances.

Mr. JOHNSON of Washington. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The question is on the motion of the gentleman from Tennessee [Mr. MOON] that all debate on this section and all amendments thereto be closed in 40 minutes.

The motion was agreed to.

The CHAIRMAN. The gentleman from Alabama [Mr. BLACKMON] is recognized for five minutes.

Mr. BLACKMON. As I was saying, the proposition to increase the salaries of rural carriers to $1,200——

Mr. SIMS. Mr. Chairman, I desire to ask the gentleman from Alabama a question.

Mr. BLACKMON. I yield to the gentleman.

Mr. SIMS. In comparing the expenses of the city carrier with those of the country carrier, should it not be stated that the rural carrier has to furnish an equipment which is very expensive, and expensive to maintain, two horses and a vehicle, which expense the city carrier is not subjected to?

Mr. BLACKMON. In very many instances that is entirely correct. Now, Mr. Chairman, when we come to deal with this proposition, I do not believe there are any Members here who are undertaking to play politics on this question. They ought not to do so. It is absolute folly for a man to talk about playing politics, or about overpaying the rural carriers, when every man in this House who knows anything at all about the subject knows that the rural carrier is subjected to all kinds of hardship. In all kinds of weather he has to carry the mail, and under the law if he fails for any reason to make his trip on schedule time there is a deduction from his salary, and he has to file his claim, and it may be a year or two before he gets his money, if at all. Yet we have gentlemen in this Congress who raise a hue and cry every time you undertake to extend rural free delivery or to aid in paying the agencies that are extending this great service.

I think every Member of Congress ought to be interested in educating the people, because the recent primaries held in this country in different parts of the United States have demonstrated that Members of Congress and all other public officials have been slandered world without end, and until you can reach the people these political assassins will keep up their attacks. There is no better method of educating the people than to extend the Rural Free Delivery Service.

If we are going to carry out the intent of the Congress of the United States, we ought to come to it like men, adopt this substitute, and pay the carrier what we believe he is entitled to. I am not unfriendly to the department. The chairman of the committee [Mr. MOON] said he was surrounded by his enemies. Why, he has more friends around him than anyone else. But this is not a question of friendship or of catering to the department. It is a question of doing what you think is right in the matter, and I hope you will adopt the substitute, because if you do not you make our position appear very inconsistent. [Applause.]

I yield back the remainder of my time.

The CHAIRMAN. The gentleman yields back two minutes.

Mr. MOON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOON. If I understand the parliamentary situation, there is an amendment offered by the committee. To that amendment the gentleman from South Carolina [Mr. FINLEY] has offered an amendment, and then the gentleman from Alabama [Mr. BLACKMON] has offered a substitute.

Mr. MANN. And the gentleman from Georgia [Mr. TRIBBLE] has offered an amendment to that.

Mr. MOON. So an amendment to the substitute would not be in order.

The CHAIRMAN. The gentleman from Georgia [Mr. TRIBBLE] has proposed an amendment to it.

Mr. MOON. The gentleman from Georgia [Mr. PARK] desires to offer an amendment. It is not in order, I take it, at this time.

The CHAIRMAN. It is not in order in the present parliamentary situation. The Chair recognizes the gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman, this is a question which appeals to my sense of honor and justice. Rural carriers all over the country have been led to believe that we provided for an increase in their salaries in the last Post Office appropriation bill, but since the Postmaster General's construction on this provision of our bill has been circulated over the country they are in serious doubt about it, and are flooding Congress with anxious inquiries concerning the same. In fact, many of them believe that under the ruling of the Postmaster General their salaries will be reduced, and I have no doubt but what this would be true in many instances, because his construction makes the salary depend upon the number of packages and the weight of the same. This is most unfair and unreasonable. The people in the country are as much entitled to have their mail delivered to their own doors as the city people are. No distinction should be made concerning mail facilities. Everybody can not live in populous cities and communities; it is necessary for a portion of our population to live in the country to keep up our high standard of farming. Indeed, farming is necessary alike to all, for all must depend upon it for support. This being the case, it is unjust to discriminate against farming communities in mail matters simply because they are not so readily reached as the populous cities. The question of keeping in touch with the intelligence of the day does not depend upon

the distance of transporting the mail or the number of persons living in a community, but it rests upon a higher plane. We live in a progressive age, which requires accurate information in order to keep up our high standard of efficiency in the various trades and callings among men. We are daily making improvements in everything and it is necessary to keep up with the times in order to properly discharge our portion of the burdens of this busy life, and the farther away one lives from the center of population and culture frequent delivery of mail becomes all the more important.

The rural carrier's work is among the most burdensome. He is exposed not only to the hardships of daily travel over bad roads, but he is exposed to all kinds of weather. When it is too hot he is compelled to sweat it out, and when it is too cold he is compelled to shiver it out. And between shivers and sweats he meets with a thousand unpleasant things, such as muddy roads with his wheels in mud to the hub, sudden rises in streams on his route, causing him to baptize the mail while swimming across or losing a portion of his load entirely in the stream, or ferry across and foot it the rest of the way with a heavy load of mail on his shoulder to deliver, or lost in a snowstorm in the West, a horse gone lame on the way and forced to hire another in order to get home, some part of his mail wagon broken because of hard pulls or runaways. In fact, he has the most difficult part of the postal work. His is like living on the frontier and blazing out the road for civilization. He is the man whose claims we are now considering. He is the man who is asking for an increase. Shall we refuse him? No. Let us place him more nearly on the same plane with letter carriers in the city. They start in on a salary of $720 a year and receive an annual increase of $100 automatically until they reach $1,200 a year. They furnish no delivery wagons. They furnish no teams. They buy no feed for horses. Theirs is all salary, while the rural carrier's salary is divided in two equal parts, one-half of which must be used for keeping up wagons and teams and feed for horses. His burdens have been increased by reason of the parcel post and an ever-increasing mail. His salary is too small and he has no time to engage in any other business for income.

This country is too big, it is too rich, to require men to sacrifice themselves and their families in order that the machinery of Government may be kept in motion. Let us pass this amendment, so that it can not be said that our Postal System is not able and willing to pay a decent wage to those who bear the heaviest burdens. To ride horseback or drive a mail wagon 25 miles each day for six days a week continuously the year round is no easy task. Let him who never tried it consult those who have before he votes against this amendment. I do not know of a more burdensome task.

Mr. Chairman, it was the intention of Congress to provide for this increase in the Post Office appropriation bill passed during this session. I defy the opponents of this amendment, if such there be here, to find a Member of this House or of the Senate who did not believe that at the time of the passage of the Post Office appropriation bill it contained a provision for the increase proposed by this amendment. I pause for some one to speak. No one will deny it. Then, if such was the case, why should we refuse to vote for the Finley amendment? The Postmaster General has seen fit to place a construction on it which was not intended by Congress, and this amendment is intended to convey to him just what we intended when we passed that bill. I have no fault to find with him. He is a good and great man and has made a marvelous success in the Post Office Department, but we have the responsibility of enacting laws, and if we failed to make ourselves clearly understood in our former effort we should be more than willing to do so now, so that these public servants will not unjustly suffer.

It must be remembered that this service is only 7 years old, beginning with three places in West Virginia, in 1896, as experiments, and to-day it has reached every State in the Union, covering more than 1,000,000 miles, at a cost of $53,000,000 annually. No branch of the Postal Service has enjoyed such a wonderful growth and received such a universal indorsement.

Why is this? None other than a public thirst for the news of the day, necessary in the discharge of our duties to ourselves and to our country. He who would discourage it is its enemy and he who is its enemy is an enemy to this country. It may not be intentional, yet the effect is the same as though it were intended.

In August, 1897, the rural carrier's salary was fixed at $300 annually, and seven increases have been made since that time, and this one will make eight, and fix the salary of a full or standard route of 24 miles at $1,200 per annum. The hardships of the work and its importance to the public amply justify the increase, and I feel that we will not have fully discharged our duty until this amendment has been passed. Public opinion is behind it, and it is useless to say that we are not warranted in our efforts to secure its passage. Heretofore it has been quite easy to secure an increase in big, ornamental salaries, but it has been very hard to push up low salaries only a few dollars. Let us show the world that we are willing to recognize labor at least once by passing this amendment and setting at rest forever what our intentions were when we passed the Post Office appropriation bill a few months ago. I vote for it because I think it is right. I vote for it so that the Postmaster General may not be in doubt as to what Congress wants on this subject. I stand for it because I love the laboring man and want him to share in the good things of this life. I do it to lighten some of his burdens and to cheer him on his way, so that he may have a heart to see more beauty in the flowers strewn along his pathway and be more happy in the noble work which he is doing for his country.

Mr. COX. Mr. Chairman, I desire to compliment the committee on the discussion of this bill this evening. It has been ably argued from every viewpoint and every angle of the case by every gentleman who has spoken on the subject.

Some criticism has been leveled against section 3 of the bill, and we have been charged upon this side of the House with being salary grabbers and being members of the old spoils party. But I believe that even the gentlemen who make that criticism will, upon reflection, when they come to study the provisions of section 3 find that their accusations against it are unjust.

I am not going to devote much time to section 3, contenting myself with saying, however, that I am for it, and following that by the statement that there is not a more ardent advocate of the civil service in all the United States than I am. That puts it pretty broadly, but I mean exactly what I say.

But I am for an honest civil service. I am opposed to a dishonest civil service. I am in favor of a civil service where brain power and merit are the controlling issues. The Republican Party for 16 years played football with the civil service, and the country knows it. That the Democratic Party will play football with it as long as the rules and regulations are what they are now everybody knows, and everybody will concede it.

There is but one way out of it, and that is to amend the regulations so as to require the Civil Service Commission to certify only one person, and that one person, the one who has made the best rating, and then require the departments to accept that person and appoint him. That is what I am in favor of.

Now, then, you say that the Democratic Party is in favor of the spoils system. What were you in favor of in 1897, when every assistant postmaster in the United States was appointed, not with a view to his efficiency or competency at all, but solely because of his political activities? What has occurred from that time down to date to take them out of the spoils system?

You enforced the spoils system relating to assistant postmasters from 1897 to 1910, when President Taft by Executive order, without any competitive examinations being held, turned all assistant postmasters into the civil service. Instead of this aiding civil service, it was a direct blow at it. Merit system had no chance under such procedure; brain power counted for nothing; efficiency was not on the board; but by a stroke of the pen all assistant postmasters, originally appointed under the spoils system of the Republican Party and retained by it, were turned into the civil service. This is unfair; it is un-American and undemocratic. It gave no chance and no opportunity for a bright, active man to compete in the open field in a fair, square examination for an opportunity to fill these places.

The issuing of these orders, turning thousands of men into civil service without a written competitive examination, weakens the force and effect of the law and is the cause of a vast majority of the people in the United States to-day fighting it. Instead of turning platoons and brigades of men and women into civil service by Executive order, if examinations were held and the people given a right to compete for these places and positions, there would not be the universal outcry and condemnation against it that there is to-day.

It was all right then, when the shoes were upon your feet. But now when we propose not to take these positions out of the civil service at all, but to keep and maintain them in the civil service, but to submit them to a competitive examination, it is said to be a return to the old spoils system. You cry, "Oh, for God's sake save the civil service of the country. For God's sake do not return to the old spoils system." That is your cry now. Did it injure the Postal Service when you maintained it down to 1910? Did you not get competent and efficient people

to service in that capacity during that period of time? If you did, and if after 16 years of experience they are not able to stand these competitive examinations it is conclusive proof that they are neither competent nor efficient. All that we propose to do by section 3 is to submit these places to a written competitive examination in which your 2,500 assistant postmasters will be given a full, fair chance to sit down and compete for these places. Why, you know as well as I do, and the country knows, that when President Taft by an Executive order turned into the civil service more than 30,000 fourth-class postmasters your own party did not approve of it. But I believe that the country with one accord, even the Civil Service Commission and the Civil Service League in the United States, commended President Wilson when he issued his order requiring a written competitive examination for fourth-class postmasters where the salary was in excess of $180 per year. Your postmasters had an opportunity to sit down by the side of Democrats and compete for those places, and many of them won out. Many hundreds, aye thousands, of them are to-day appointed as the result of competitive examinations. Now, all we want to do by section 3 is simply to submit those people to a written competitive examination with brain power as the test. It is not a return to the spoils system at all, and not an attempt to return to it.

The main part of this bill is in section 13, which proposes to remodel the transportation of the mails of the country. That is the largest question pertaining to the entire mail service. It has been a bone of contention for almost 25 years, the people upon one side contending that the railroads were overpaid, the railroads upon the other contending that they were underpaid, and under the old haphazard way of paying the railroads for carrying the mails there was room for these arguments back and forth. It has cost the United States practically $1,000,000 to get this bill where we have got it to-day. Commission after commission and committee after committee have been appointed in the last 20 years to study the question of transportation of mail over the railroads. Report upon report has been made by these commissions and committees at a tremendous cost to the people of the country, with recommendations as to what should be done, and yet Congress up until this hour has not taken an advance step to determine what it proposed to do. The plan outlined here may not be perfect as presented to the committee, but I believe it is a step in the right direction, and that if details are insufficient or lacking it will only remain for future Congresses to remedy those defects. I do not believe we would ever have gotten this far if Congress had not two years ago appointed a bipartisan commission, composed of Members of the House and Senate, and it is to their work, in season and out of season, that we are able to present a bill which, in my judgment, is sound and workable. Henceforward in the future the railroads will know exactly what they are to get for carrying the mails. The people, on the other hand, will know exactly what they are paying for the transportation of the mails; no one on this floor or elsewhere would stand for oppression against the railroads. The American people are honest and sincere, and desire to pay their transportation companies all they are entitled to. But there has been a doubt as to whether or not they were being overpaid or underpaid, and around that doubt heretofore has waged, for a quarter of a century, a tremendous warfare.

The rates fixed in this bill may not be accurate. I do not know; but, as the gentleman from New Jersey [Mr. TUTTLE] said, I think the committee gathered the best data and the best information that it was in their power to gather and report, and from the data gathered by that committee they have fixed these rates; and after having the rates fixed it becomes a mathematical calculation, with power given to the Postmaster General to change them from time to time.

Some criticism has been offered here about the language contained in the bill "not exceeding" so much. I am heartily in favor of that language. I doubt the wisdom and propriety of passing fundamental legislation which changes the entire system of paying for the transportation of the mails of the country without giving to the Postmaster General some power, some weapon, some club in his hands, to hold over the heads of the great railroads of the country.

The limitation fixed in this bill "not exceeding" gives to the Postmaster General complete power over the transportation of mails over the railroads. It would be unwise, if not dangerous, to not intrust him with this power. He should have discretion, and very wide and broad discretion at that, when it comes to fixing rates for the transportation of mail over the railroads. For instance, he might detemine that 21 cents a mile for each mile necessary to travel was too much. Without the language "not exceeding 21 cents" he would be compelled in each and every instance to pay the railroad company 21 cents or 10 cents or whatever the initial rate might be. But while we have fixed the maximum rate we have not fixed the minimum rate, and if I am correctly informed, that provision is following out almost completely the Canadian law on this subject. I believe that the Dominion of Canada has come nearer solving the railway problem of transportation of the mails than the United States. The Dominion of Canada gives the postmaster general plenary power over the transportation of its mails, and the postmaster general in the Dominion has the power to compel the railroad companies to accept the mails and transport them at the rates fixed by him.

Closely allied with the railway transportation problem of the mails is the question of the rate of postage to be paid upon second-class mail matter, which comprises magazines, periodicals, newspapers, and so forth.

For the past 20 years this has been a burning question. Commission upon commission has been appointed; investigation upon investigation has been made by different committees, who have patiently sat for weeks and months at a time, at a tremendous cost to the people, to determine what rate of postage should be imposed upon second-class mail matter. Many hundreds of thousands of dollars have been expended in studying this ever vexatious and troublesome problem. The rate of postage now paid on second-class matter is a flat rate of 1 cent per pound. It is conceded by all who have studied the question that this fails to pay the cost of transporting and handling this class of mail.

Again, it is conceded by all who have studied the question that the Government is now transporting, handling, and distributing second-class matter at a tremendous loss each year.

Some five years ago Postmaster General Hitchcock inaugurated a complete and exhaustive investigation of this entire subject, and he arrived at the conclusion—and, in my judgment, rather accurately—that it cost the Government 9 cents per pound for transporting and handling all second-class matter, making a net loss to the Government of 8 cents per pound upon all second-class matter handled by the Government, a total loss per year of $63,000,000.

I do not state that Gen. Hitchcock's figures are absolutely correct and accurate, but I give it as my judgment that they are in the neighborhood of being correct.

Three years ago Congress appointed a commission to study the question of postage upon second-class mail matter. This commission was composed of three persons and presided over by Justice Hughes, of the Supreme Court of the United States, one of the ablest jurists that ever adorned that bench, and after going through the subject for months, taking and hearing evidence, studying the question, he and his commission recommended that the rate of postage on second-class matter be increased from 1 to 2 cents per pound.

Every commission and every committee that ever studied the question in the past 20 years, without a single exception, has recommended an increased rate of postage on all second-class matter; but some way, somehow, the powerful magazines and press of the country down to this hour have been able to prevent Congress from following out the recommendations of the commissions and committees who have sat in judgment on the question and recommended an increase thereon.

The time has come, and is here now, when Congress should do something upon this question. To handle second-class mail matter at such a loss to the Government amounts to a subsidy pure and simple to the publishers of second-class mail matter, and it should be against the policy of the Government to subsidize any individual or corporation.

Second-class mail matter, like each of the other classes of mail matter, should be compelled to bear its own proportionate cost of transportation and handling.

Our committee last winter held rather extensive and exhaustive hearings upon this subject with the view of seeing whether or not we would follow out the recommendation of the Hughes Commission and increase the rate of postage from 1 to 2 cents per pound on all second-class matter. At those hearings many publishers and many representatives of publishing houses appeared before our committee giving their views as to why the postage should not be increased to conform to the recommendation of the Hughes Commission from 1 to 2 cents per pound. I insert, as a part of my remarks, the testimony of some of the representatives of the big publishing houses who appeared before our committee.

On the 10th day of February, 1914, Mr. Charles T. Root, representing the joint postal committee of the American Newspaper Publishers' Association, Periodical Publishers' Association, and Federation of Trade Press Association of the United States, appeared before the Committee on the Post Office and Post

Roads, and among many things testified to by him were the following:

Mr. COX. Is your concern a corporation?
Mr. ROOT. Yes, it is; and a good many corporations. It is very important to the good will of the paper.
Mr. COX. What do you mean by saying it is a good many corporations?
Mr. ROOT. For example, the Chicago Dry Goods Co. is one. That circulates among the dry-goods merchants.
Mr. COX. Do you know what the capitalization of the Chicago concern is?
Mr. ROOT. It is not large; I can not remember offhand, but I should say roughly it was $100,000.
Mr. COX. Can you tell us anything about how much profit they made last year?
Mr. ROOT. They did not make as much as they did in previous years, because the last two years have been very poor for all publications. I represent the Automobile of New York, and Motor Agent, of Chicago.
Mr. COX. What is the capitalization of the Automobile?
Mr. ROOT. That is the class journal. The Automobile is not capitalized separately.
Mr. COX. What is the capitalization, then, of the two papers combined?
Mr. ROOT. $30,000.
Mr. COX. Can you tell anything about how much profit they made last year?
Mr. ROOT. I think the two papers made somewhere near $40,000.
Mr. COX. What was their capitalization?
Mr. ROOT. It is nominal, $30,000; that was the way it was started, and they never increased it.
Mr. COX. And they made $40,000?
Mr. ROOT. That is my remembrance.
Mr. COX. Out of that $30,000 investment they made 133 per cent, and yet you think they would have to cut out the business if Congress increased the rate of postage from 1 to 2 cents a pound?
Mr. ROOT. I do not know; it would depend on how much we could pass along, how much we could pass along to the advertisers, and how much we could pass along to the subscribers.
Mr. COX. You say, then if Congress should make these rates from 1 to 2 cents per pound, a company making 133 per cent on its investment would undertake to shove that off on its advertisers and subscribers?

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Mr. COX. What is the capitalization of the Motorage?
Mr. ROOT. I can not tell what the capital stock of the Motorage is.
Mr. COX. You can not tell whether is it $1,000 or $100,000?
Mr. ROOT. It is near $100,000, but I do not know.
Mr. COX. How much profit did you make out of that last year?
Mr. ROOT. I could not remember that for last year.
Mr. COX. Did you have anything to do with figuring up the profits?
Mr. ROOT. No, sir.
Mr. COX. Did you get any part of the profits?
Mr. ROOT. I presume I did.
Mr. COX. Do you know how much your part of it was?
Mr. ROOT. No, sir.
Mr. COX. What is the name of the holding company?
Mr. ROOT. The holding company is the United Publishers' Association.
Mr. COX. How much stock has that in it? How much is it capitalized at?
Mr. ROOT. I think about $5,000,000.
Mr. COX. Has that ever declared a dividend?
Mr. ROOT. Yes.
Mr. COX. What dividend did the corporation pay last year?
Mr. ROOT. I think it was about $160,000. There never has been any dividends on its common stock; I think its preferred stock paid, perhaps, $160,000 or $175,000.
Mr. COX. How much preferred stock does it have?
Mr. ROOT. It has about two and a half million dollars, I think, in preferred stock.
Mr. COX. And two and a half million dollars of common stock?
Mr. ROOT. Yes.
Mr. COX. How much tangible stock is behind the two and a half million dollars of preferred stock?
Mr. ROOT. I haven't got the figures here.
Mr. COX. Well, what would be your judgment on it?
Mr. ROOT. Almost all its work is contracted out; its tangible property is comparatively small.
Mr. COX. Will you give this committee some idea of the tangible property?
Mr. ROOT. I would not venture to go into bookkeeping without any preparation.
Mr. COX. Will you write the chairman of this committee a letter and tell him how much tangible stock it has?
Mr. ROOT. Well, I do not know that I would.
Mr. COX. Why wouldn't you?
Mr. ROOT. Because I do not think it has entered into this discussion.
Mr. COX. You do not?
Mr. ROOT. Of course, if the United States subpœnaes me, I will be obliged to do it. I am willing to do anything that is fair, but it looks to me like that would be alieunda as the lawyers say.
Mr. COX. It might be alieunda, but it might be very important. Then, you refuse to write the chairman that letter?
Mr. ROOT. I do.

And speaking of the Iron Age, Mr. Root made the following statement:

Mr. ROOT. I think its capitalization was reduced to a million and a half.
Mr. COX. When was it reduced?
Mr. ROOT. Probably within a couple of years.
Mr. COX. And how much was it reduced?
Mr. ROOT. I do not know that it has been reduced. I think perhaps it has not been reduced; think that still remains the same.
Mr. COX. Then, your judgment is that the capitalization of that concern is a million and a half?
Mr. ROOT. Yes, sir.
Mr. COX. Have you any stock in it?
Mr. ROOT. No; not personally.
Mr. COX. What do you mean by "not personally"?
Mr. ROOT. I have an interest in it on behalf of the United Publishers' Association.
Mr. COX. How much stock does the United Publishers' Association hold in the Iron Age?
Mr. ROOT. Practically all of it.
Mr. COX. How much did your concern pay for it?
Mr. ROOT. My impression is that we paid $2,000,000 for it.
Mr. COX. Did you pay that in cash, or did you pay it in stock or in bonds?
Mr. ROOT. Partly in bonds, partly in cash, and partly in stock.
Mr. COX. How much in bonds did you issue for it?
Mr. ROOT. Well, I do not think it is necessary for me to answer as to all these details. I do not know that there is anything discreditable about it, but it does not seem to have anything to do with this question.
Mr. COX. How much profit did you make last year on the Iron Age?
Mr. ROOT. I make no estimate as to that.
Mr. COX. Did you make any profit?
Mr. ROOT. I make no estimate.
Mr. COX. Did you strike any dividends at all?
Mr. ROOT. I make no estimate.
Mr. COX. Do you recollect whether you received any dividends or not?
Mr. ROOT. Yes; I recollect.
Mr. COX. How much did you receive?
Mr. ROOT. I decline to make an answer to that.
Mr. COX. Well, it was a money-making concern last year, was it not?
Mr. ROOT. Well, I do not think I will answer any questions along that line.
Mr. COX. You will refuse, then, to give the committee any information along that line at all?
Mr. ROOT. I will.

And on the same day Mr. E. T. Meredith, of Des Moines, Iowa, publisher of Successful Farming, appeared before our committee and among other things made the following statements:

Mr. COX. In that connection, I believe you said, in answer to a question of Mr. STAFFORD a while ago, that you sold your papers to your subscribers for 25 cents a year?
Mr. MEREDITH. Yes; 2 cents a copy.
Mr. COX. Suppose the rate of postage was increased from 1 cent to 2 cents a pound, what would be the rate you would charge your subscribers?
Mr. MEREDITH. Fifty cents a year; 3 years for $1.
Mr. COX. Would you have to do that?
Mr. MEREDITH. I do not say I would have to; but I would.
Mr. COX. Is your paper a corporation?
Mr. MEREDITH. Yes, sir.
Mr. COX. What is it capitalized at?
Mr. MEREDITH. Seventy-five thousand dollars.
Mr. COX. Who is its board of directors?
Mr. MEREDITH. I am the whole thing.
Mr. COX. You own all the stock, do you?
Mr. MEREDITH. I own the stock; yes.
Mr. COX. Would you be willing to tell this committee how much you made last year on your paper?
Mr. MEREDITH. I do not see that that is essential, etc.
Mr. COX. Can you pay the increase of postage from 1 cent to 2 cents per pound and still make a profit on your $75,000 investment?
Mr. MEREDITH. I can; yes; and still make a profit.
Mr. COX. You can pay the increase and still make a profit?
Mr. MEREDITH. Yes.

In speaking of advertising, he made the following statement:

Mr. COX. Then, you get $1,350 on that page?
Mr. MEREDITH. And the postage alone was $4,000.
Mr. COX. Only one page.
Mr. MEREDITH. That is only one publication.
Mr. COX. You say you charged $1,350 for that one page?
Mr. MEREDITH. Yes; and I am paying about 200 salaries.
Mr. COX. And yet you think if this postage was increased from 1 to 2 cents per pound you would jump the price of your paper to your subscribers up to 50 cents a year?
Mr. MEREDITH. I know I would.
Mr. COX. You would say it had raised because the department increased the cost of carrying the publication, would you?
Mr. MEREDITH. Absolutely so.
Mr. COX. And yet you admit you can carry that increase?
Mr. MEREDITH. Oh, yes.

I particularly call attention to the testimony of Mr. Charles T. Root, who appeared as the representative of the Federation of Trade Press Associations of the United States. It will be observed from his testimony that two of the papers represented by him were capitalized at $30,000 and last year made a net profit of $40,000, or 133 per cent upon the total capitalization, yet Mr. Root, notwithstanding his admission that his paper last year made 133 per cent, insists that if the rate of postage be increased from 1 to 2 cents per pound his papers will have to increase their price to their subscribers. What an absurdity. An investment netting a dividend of 133 per cent, yet if the rate of postage be doubled upon his papers he will be compelled to increase the price of his paper to his subscribers and at the same time increase the price of advertising.

And I especially call your attention to the testimony of Mr. Meredith, of Des Moines, Iowa, publisher of Successful Farming. Mr. Meredith admits that his paper is a corporation, capitalized for $75,000, and that he owns the entire stock of the corporation, and frankly admits that he is making enough money upon his investment to stand the increased rate of postage from 1 cent to 2 cents per pound and still make a profit upon his investment, but again as frankly admits that he would not stand this increased rate of postage himself, but would shove it out upon the shoulders of his subscribers by doubling the cost of his subscription.

No one can read the testimony of these large publishers and be impressed with their sincerity and honesty of purpose.

Every time they were pressed to give facts and figures concerning their business they flatly refused to make answers thereto, and yet these same papers for years have been crying in every issue for publicity—"Throw the limelight on;" "Let the people know the truth"—and when they appeared before our committee in behalf of their enterprise and were interrogated touching matters of vital importance to the committee they flatly refused to answer any question put to them on this subject.

The time has come when Congress should no longer shirk its duty but move straight forward and increase this rate of postage from 1 to 2 cents per pound. This would be far short of equity and exact justice, but it would be the means of increasing the revenue to the Post Office Department of approximately $9,000,000 per year. In other words, the Post Office Department, if it were done, would derive $18,000,000 per year revenue from second-class matter whereas it is now only getting approximately $9,000,000 per year.

Mr. MURDOCK. Mr. Chairman, there is no contest here that equals in interest this battle that is made ever so often for the Rural Mail Service by its friends. And, judging from the present temper of the House, the champions of rural free delivery are at last learning wisdom, learning to write into law just what they want, specifically and in terms. The first salary that the rural carriers received was $300 a year. It then was increased to $500, and it was seriously contended at the time on the floor of this House that that was reasonable compensation. The carriers in the country and the people along their routes set in motion an agitation for an increase of salary to $600. It was most bitterly opposed. The president of the Rural Carriers' Association of that day, a rural carrier in Nebraska, had the courage to come to Washington and ask Members of Congress to increase the rural carriers to $600, and the department cut off his head. At that time the opposition to the increase in pay of rural carriers here was led by the men from the city, Members who did not hesitate to increase the pay of their city carriers, but who were moved by a profound conviction that any increase of the rural carriers' pay was an unmitigated and indefensible extravagance. The city Members made all kinds of arguments against the rural carriers' increase, one of which has been repeated this afternoon, about the amount of mail the rural carrier delivers. The argument was not effective then, and it will not be effective to-day. When the day arrives for us to gauge the pay of the rural carrier by the amount of mail he carries it will be well enough to turn to the cities of this country and examine into some of the postal practices there. Take, for instance, the pneumatic-tube service. We are paying in Boston to-day for one pneumatic tube $17,000 per annum per mile, and only 5 per cent of the capacity of that tube is used in expediting the mails.

I recommend to the gentlemen who criticize the rural carriers because they are not carrying the maximum quantity of mail to a prayerful consideration of that fact. Now, I said that the friends of the rural carriers in the House are growing wiser. The House is going to pass, I believe, without delay, the amendment offered by the gentleman from Alabama [Mr. BLACKMON]. It is not going to be beguiled into postponement by this talk of undue haste. In the old days, when the House was solemnly persuaded by its leaders not to exercise undue haste in this matter, but to view it with deliberation and calmness and scrutiny, the Members were inclined to follow such counsel and refuse the carriers' reasonable compensation. Then a few months later on the same bill the United States Senate would come along and generously increase the rural carriers' pay. The candidate for the United States Senate went out in his State as a hero among the rural carriers, while the Member of the House campaigned his district a much-explaining and an unappreciative advocate of an economy he did not believe in himself.

Mr. COX. Will the gentleman yield?

Mr. MURDOCK. I do.

Mr. COX. When the gentleman spoke of hero worship, one Senator from the State of Kansas certainly was not worshipped very much.

Mr. MURDOCK. He may have been an exception in that regard. At any rate, the House, in refusing reasonable compensation, was repeatedly put in an attitude toward the carriers that the real sentiment of Members did not warrant. The House is for the fullest development of rural delivery. This service, of all the branches of the postal system, is the most popular to-day. The carriers are most faithful servitors. They are giving the best of service, a world better service than could ever have been given to the country had the suggestions of its antagonists been adopted in the beginning, for the men who opposed the Rural Carrier Service at the start wanted to put it upon a contract basis, like the star-route system. It would not have developed under such a plan. In a recent law Congress increased the pay of the carriers to a figure it believed just, reasonable, and compensatory. No one seriously doubts that Congress intended that the carriers should have $1,200. An interpretation of the statute has denied this. This is the time and place for Congress to repeat, unmistakably and without delay, its purpose. The amendment offered by the gentleman from Alabama [Mr. BLACKMON] does this. It should be, and I believe it will be, adopted. [Applause.]

Mr. MORGAN of Oklahoma. Mr. Chairman, one of the most interesting chapters in the history of this country is that which sets forth the growth of the Postal System from the inception of this Nation down to the present time. Every patriotic citizen finds many things in his country to commend. The Postal Service is one of the institutions of this country of which we may all justly boast, because no other great country, on the whole, has a postal service superior to that of the United States.

The growth of our Postal Service has been without a parallel. Its inception antedates the adoption of the Constitution. In 1753 Benjamin Franklin was appointed Deputy Postmaster General for all the Colonies. His first service was under Great Britain, as our forefathers had not at that time thrown off the British yoke. Franklin was dismissed because of his sympathy with the Colonies. In 1775, even before the immortal Declaration of Independence was promulgated, the Continental Congress appointed Dr. Franklin Postmaster General. So an independent post office department was set up by the Colonies even before they formally declared their political independence. Franklin resigned in 1776. Ebenezer Hazzard was the first Postmaster General under the administration of our first Chief Magistrate, George Washington. When Franklin resigned there were but 75 post offices in the United States. The total receipts during the 15 months of Franklin's administration of the department were $27,985, and the expenditures were $32,142, showing a deficit for those 15 months of $4,157.

This is an insignificant sum, but a deficit of equal percentage upon the amount now expended would amount to about $35,000,000 annually or more than a million dollars for every week in the year.

Prior to 1816 postage rates were as follows: For a letter composed of a single sheet of paper, under 40 miles, 8 cents; under 90 miles, 10 cents; under 150 miles, 12½ cents; under 300 miles, 17 cents; under 500 miles, 20 cents; and over 500 miles, 25 cents.

These rates continued, with slight modification, until 1845, when the rates established were as follows: For a letter not exceeding one-half ounce in weight, under 300 miles, 5 cents; over 300 miles, 10 cents. The first great reduction in postage came in 1851, when the law was changed so that 3 cents would carry a letter one-half ounce in weight any distance under 3,000 miles. The 2-cent letter postage was established by the act of 1883. Stamps and stamped envelopes were first introduced in 1852. The money-order system was established November 1, 1864. Postal cards were introduced in 1872. We have added the city delivery, the Railway Mail Service, the postal savings banks, the free rural delivery, and the parcel post. A vast army of men are employed in our Postal Service. The annual expenditures amount to $250,000,000. The receipts practically meet the expenditures. The Postal Service is virtually self-sustaining. Our Postal Service is a great institution. It is contributing to the education of our people, to the intellectual advancement of our citizenship. It is a great moral force and is a potent factor in the social uplift of all classes of our inhabitants.

Now, Mr. Chairman, we can not afford to cripple any part of our Postal Service. The men in charge of this service, in all departments of the work, must be well paid. The postmasters, their assistants, clerks, city and rural carriers, and railway mail clerks, must be paid salaries to correspond with the splendid service they render, with the responsibility they assume, with the risk they take in this service, and the importance of this service to our country and our people. And we must not give those who occupy the big positions in this service excessive salaries and be stingy with the rank and file, who constitute the great army of public servants in the Postal Service. I have thought for some time that the pay of our third and fourth class postmasters was too low. I hope the Committee on the Post Office and Post Roads will carefully consider the question of salaries for these postmasters at the smaller post offices, to the end that at an early date we may take under consideration the advisability of increasing their salaries.

PAY OF RURAL CARRIERS.

Now, Mr. Chairman, I was astounded the other day when I read in the public press the now famous order of our Postmaster General fixing the pay of rural-route carriers under the provisions of the act of Congress approved March 9, 1914. That act provides as follows:

Provided, That on and after July 1, 1914, letter carriers of the Rural Delivery Service shall receive a salary not exceeding $1,200 per annum.

Under that provision the Postmaster General has made an order which will prevent many carriers from receiving any substantial increase of pay. I am sure the great majority of the Members of this House, irrespective of party, do not approve this order of the Postmaster General. Possibly under the law he may have the authority to enforce this new scheme for fixing the pay of rural carriers. But Congress can amend the act of March 9, 1914, and it is clearly our duty to do so. I believe the rural carrier on a standard route of 24 miles should receive at least $1,200 annually. Indeed, when the Post Office appropriation bill was before the House, in January last, I offered an amendment to the bill to increase the pay of rural carriers to $1,250 annually. I wish to quote from the CONGRESSIONAL RECORD of January 23, 1914, pages 2201 and 2202, showing the amendment I offered and a portion of the remarks I made at the time. The RECORD on the above date and pages is as follows:

The CHAIRMAN. The gentleman from Oklahoma [Mr. MORGAN] is recognized.

Mr. MORGAN of Oklahoma. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Oklahoma offers an amendment which the Clerk will report.

The Clerk read as follows:

"Amend, by adding after the word 'substations' in line 19, on page 25, the following:

"'That from and after the 1st day of July, 1914, the compensation of rural letter carriers for carrying the mail six days each week on standard routes of 24 miles in length shall be the sum of $1,250 per annum, to be paid monthly; and on routes exceeding 24 miles in length, the sum of $50 per mile per annum for each mile in excess of 24 miles; and on routes under 24 miles in length, an increase of 10 per cent per mile per annum; on routes carrying the mail three times each week, of the same length as above, the pay shall be one-half the compensation there provided: *Provided*, That no carrier's pay shall be increased more than $200 per annum on account of the passage of this act.'"

Mr. MANN. Mr. Chairman, I reserve a point of order on that.

Mr. COX. I make the point of order on that, Mr. Chairman.

The CHAIRMAN. The gentleman from Indiana [Mr. COX] makes a point of order. The point of order is sustained.

Mr. MORGAN of Oklahoma. Mr. Chairman, as I understand it, on a standard route of 24 miles the rural carrier now receives $1,100 per annum. Section 9 of this bill provides that for such a route a carrier shall receive $1,150.

Mr. DONOVAN rose.

The CHAIRMAN. For what purpose does the gentleman from Connecticut rise?

Mr. DONOVAN. Was not the point of order sustained?

The CHAIRMAN. It was, but the gentleman from Oklahoma has been recognized to debate the proposition under the 40-minute plan.

Mr. MORGAN of Oklahoma. Mr. Chairman, as I said, under section 9 of this bill the pay is increased to $1,150. Under the amendment which I have offered the pay for such a route would be $1,250 per annum.

Now, Mr. Chairman, since I have had the honor to be a Member of this House I have felt a special interest in doing what I could to promote improvement in every department of our mail service. I have taken especial interest in every proposition to better the service given our rural population. Great progress has been made along this line. I am ready to vote for larger appropriations from year to year until every farmer shall have his mail delivered at his door. The pay which our rural carriers receive will affect the mail service which our farmers receive. Poor pay to rural carriers means inferior mail service to our farmers. I am therefore in favor of paying rural carriers liberally for their services. Four years ago, March 10, 1910, I made a speech in this House on the very subject we now have under consideration—the pay of rural carriers. My sentiments have not changed. In that speech I said:

"In my judgment the pay of the rural carriers should be substantially increased. They perform a very important service for the people. The position is one of great responsibility and requires men of unquestioned integrity. These men come in close contact with the people. The success of the service and the reputation of the department depend upon their fidelity to duty. The rural carrier is required to make quite an investment before he enters upon his work. He must maintain this investment. There is constant danger of loss. There is the wear and tear of his vehicle and equipment, and he never knows when a large portion of his annual salary must go to purchase a horse to replace the one that has died. He is often exposed to inclement weather. He must go, rain or shine, in heat or in cold. The patrons of the route expect him every day at the proper time. The records show that he seldom fails. The present schedule of salaries was fixed when the equipment of the rural carrier cost much less than it does now and when admittedly the cost of living was not nearly so high. Unless these men receive better pay, in my opinion, the service will lose many of its best men. This would cripple the service. This we can not afford to allow. The rural service must be both extended and improved. We must pay sufficient salary to induce the right kind of men to seek and remain in this service. For two important reasons the pay of the rural carriers should be increased—first, in the interest of an improved service, and, second, in justice to the carriers, who are not now, in my judgment, receiving pay commensurate with the service performed."

I am heartily in favor of extending the rural delivery system. In this service there must be no halting, no hesitation, no delay. The work must go on. We must give to every citizen of the United States the advantages of daily mail as rapidly as suitable public highways shall be provided. The people now understand the value of this service. If the system is not self-sustaining, this will not justify any backward step relative thereto. The people are willing to pay what is necessary to secure this service. The people who reside in the rural districts are entitled to a daily mail to place them to some extent upon an equal footing with the splendid free-delivery system furnished the inhabitants of our towns and cities. But aside from the question of justice, this system is a good investment for the Nation. It is worth far more than it costs. The Post Office Department, as a rule, should be made self-supporting. In the main, it should be managed as a business institution. But there are exceptions to every rule. The manifest and manifold benefits of a daily mail to all our people bring the rural delivery system within the exception. We can afford to provide this system even if it is not self-supporting. If we have in view the welfare of the people of this Republic, we will continue to develop, extend, and perfect the rural delivery until all of our people enjoy its advantages and benefits.

Mr. Chairman, I am glad this amendment has been offered to this bill. Its object is to make the law so plain that the Postmaster General will be compelled to pay the rural carriers salaries in proportion to the plain intent of the provisions in the act of March 9, 1914. When that law was passed the Members of this House understood that carriers on standard routes of 24 miles would receive $1,200 per annum. I have had many complaints from my district of this order of the Postmaster General.

This is clearly out of harmony with the law as Congress wrote it and as Congress intended it. At this our first opportunity we should amend the law in such terms as will take from the Postmaster General the discretion to arrange salaries of rural carriers upon such basis as is embodied in his late order. High-grade mail service to the farmers of this country is of the highest importance, and we can not expect to improve this service by a reduction in the salaries of rural carriers. I am heartily in favor of the amendment offered by the gentleman from Alabama [Mr. BLACKMON], and I hope it will be unanimously adopted. [Applause.]

Mr. POU. Mr. Chairman, the question as to the advisability of granting this raise in salary has been settled. Congress decided in its wisdom that on standard routes of 24 miles rural carriers should receive $100 a month. The Post Office Department construed the law, and I want to give the House the result in my State. There are in North Carolina 1,230 rural routes. A great many of them are standard routes of 24 miles. Out of that 1,230 there are less than 30 who are receiving $100 per month. These figures are not official, but I obtained them from a source which I believe to be entirely reliable. Very naturally the carriers in my State are disappointed. I am disappointed; naturally every gentleman who supported this increase is disappointed.

Now, I say that this Congress in its wisdom ought to so amend this law as to carry into effect its clear intent, and if this Congress have not legislative ability sufficient to write a law that will carry into effect what we clearly intend to do, then somebody had better go to school and learn how to draw a bill which will stick. By a big majority this House and the Congress decided that rural carriers should have the increase provided for. The question that confronts us now is whether or not we will adopt an amendment which will carry into effect the intention of this House and the intention of the Senate when we passed this law. I see over there my friend from Georgia [Mr. ADAMSON]. He informs me that a condition exists in his State similar to that I have described in North Carolina. Very few carriers in his district—almost none—will receive $100 per month. It is, I might say, compromising the dignity of this House to permit the law to be construed in a manner different from what we intended.

The gentleman from Georgia [Mr. ADAMSON] tells me that he wrote letters to his constituents saying that this increase which he has worked for in season and out of season had at last been granted. Other gentlemen did the same thing. What sort of explanation can we make? That we do not know how to write a law? Let us answer the question by amending the bill as suggested by the gentleman from South Carolina [Mr. FINLEY] or the gentleman from Alabama [Mr. BLACKMON]. Let us adopt some amendment which will not permit a construction by anyone which will nullify the purpose we have in view. [Applause.]

Mr. RUSSELL. Mr. Chairman, I am in favor of this amendment, or one of these amendments, for two reasons. One is because of its merits and the other is because we had already enacted, as we thought, a law like this, and we ought not to deceive ourselves, deceive the carriers, and deceive the country by failing to carry out the intention of Congress as we then understood ourselves as expressing it.

I am for it because I believe the letter carriers deserve the increase in salaries as herein provided. I believe that these letter carriers render a service that is of more value to more people, and one that is appreciated by more people, than any other branch of the public service in this country. And to-day they are getting in my district, if you will take the expenses out that they are required to pay for maintaining their outfits, feeding their teams, shoeing their horses, keeping up their wagons, and all of these expenses—and I have ascertained it from every carrier in my district directly—about $500 net a year, or, in other words, about $42 per month, for going every day except Sunday in all kinds of weather and rendering a service that is very important and highly appreciated by the public.

But, in addition to that, we have heretofore enacted this law, as we thought. There is no question about that. There is no man in this House who did not understand at the time that we were passing a law that gave all these carriers $100 a month for standard routes. I notified every one of them in my district that we had passed a law of that sort. The Rural Free Delivery Journal that is taken and read by every carrier, nearly, in this country, published at that time that the salaries of carriers were increased to $100 a month for standard routes and other routes proportionately. Every man in this House so understood it. I understand that one of the rules of construing a law is to ascertain the intention of the legislative body that enacted it. There is no question about the intention of every man in this House when that law was passed. We all understood at the time that we were enacting a law giving them $100 a month, and we appropriated exactly money enough to pay that increase, which shows conclusively that we intended it to be paid. This was the legislative will then, and it should be respected now by the prompt enactment of this amendment. [Applause.]

Mr. TOWNER. Mr. Chairman——

The CHAIRMAN. The gentleman from Iowa [Mr. TOWNER] is recognized for three minutes.

Mr. TOWNER. Mr. Chairman, the law prior to 1912 placed the maximum at $1,100. During 1912 this Congress considered the question of a raise in those salaries. It was agreed that the maximum should be raised to $1,200. That this increase was understood by everybody to increase the amount of pay to each carrier by $100 is shown by the fact that the total amount of the appropriation for rural carriers' pay was increased so as to allow the 43,535 carriers an increase of $100 each. But we have an executive construction of this law the result of which is to reduce the salaries all along the line from that intended. In order to make an excuse for not allowing the intended increases new elements are introduced as an excuse for not putting into operation the intended increases. Unless the number of articles carried and the weight comes up to an arbitrary standard fixed by the department increases are not allowed. That is in direct contravention of the intention of Congress.

Under these circumstances, it is no more than our duty to make the law so specific that there can be no justification for not carrying into effect our intent. If we believe, as most of us do believe, that the rates are too small and should be increased, we have the opportunity now to change them by supporting the amendment of the gentleman from Alabama [Mr. BLACKMON]. As far as I am concerned, Mr. Chairman, I believe that the pay of these rural mail carriers should be raised, and that the very modest raise that is asked in the amendment of the gentleman from Alabama should pass this House at this time. At least, there can be no doubt that it is our duty to go as far as the amendment of the gentleman from North Carolina [Mr. FINLEY] will take us, for that is but to make evident and unmistakable our intent in passing the law now in existence. [Applause.]

Mr. HELM. Mr. Chairman——

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky [Mr. HELM].

Mr. HELM. Mr. Chairman, this proposition has a political and business phase. I am on the business side of it. I want to make it to the interest of the rural carriers to develop to the fullest extent the advantages which the rural mail service, by means of the parcel post, affords the farmer to dispose of his produce. I am disseminating now through my district the literature that is being published by the Post Office Department on the uses of the parcel post by the farmer to market his produce, and when I get through baptizing the district with that literature, the rural carriers will come within the weight limitations prescribed by the Postmaster General, and entitled to the maximum salary allowed rural carriers.

I want to see the platform at every station along the lines of railroad where the early morning trains to Louisville and Cincinnati start in my district lined with packages to be taken to the cities of Louisville and Cincinnati, containing the surplus products of the farmer that have heretofore been thrown into the waste pile. I want to see converted into a profit what heretofore may have been a loss to the farmers.

The rural mail and star route carriers furnish the farmer, if he will only avail himself of it, a golden opportunity to get his produce to market at a minimum cost, and with as much safety and dispatch as a letter is carried.

When the carrier's pay is rated upon the weight carried and not, as at present, exclusively on the distance traveled it will then be to the carrier's interest to encourage his patrons on his route to utilize the parcels post in marketing their produce in the large cities, to the mutual advantage of the producer and consumer. He will thereby not only make money for himself, but he will also both make and save money for his patrons.

For the purpose of familiarizing the farmer with the advantages and uses of the parcels post I shall request leave to publish as part of my remarks several circulars published by the Post Office authorities, showing how the producer and consumer are being brought in direct touch with each other in several of the larger cities of the East, which system I have recently succeeded in having installed at the Louisville and Cincinnati post offices.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. HELM. Mr. Chairman, I ask leave to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Kentucky [Mr. HELM] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. HELM. Mr. Chairman, I submit the following documents as a part of my remarks:

POST OFFICE DEPARTMENT,
THIRD ASSISTANT POSTMASTER GENERAL,
Washington.

PARCEL POST OR FOURTH-CLASS MAIL.

RATES OF POSTAGE, CLASSIFICATION, INSURANCE AND C. O. D. FEATURES, WRAPPING, ETC.

Fourth-class matter embraces that known as domestic parcel post mail, and includes merchandise, farm and factory products, seeds, cuttings, bulbs, roots, scions, and plants, books (including catalogues), miscellaneous printed matter weighing more than 4 pounds, and all other mailable matter not embraced in the first, second, and third classes.

Extent and usefulness of parcel post.—The domestic parcel post offers a convenient, quick, and efficient means of transporting mailable parcels to any post office in the United States or its possessions. The service reaches more places than any other transportation agency. It brings producers and consumers into closer contact, thus opening the way to reducing the high cost of living. Special treatment and advantages are accorded to shipments of farm products weighing between 20 and 50 pounds. Low postage rates, based on the service rendered, are provided. The rates to nearby zones are particularly advantageous. Parcels may be insured against loss and may be sent C. O. D.

Rates of postage on fourth-class or parcel-post matter—to be fully prepaid—unsealed—are as follows:

(a) Parcels weighing 4 ounces or less, except books, seeds, plants, etc., 1 cent for each ounce or fraction thereof, any distance.

(b) Parcels weighing 8 ounces or less containing books, seeds, cuttings, bulbs, roots, scions, and plants, 1 cent for each 2 ounces or fraction thereof, regardless of distance.

(c) Parcels weighing more than 8 ounces containing books, seeds, plants, etc., parcels of miscellaneous printed matter weighing more than 4 pounds, and all other parcels of fourth-class matter weighing more than 4 ounces are chargeable, according to distance or zone, at the pound rates shown in the following table, a fraction of a pound being considered a full pound:

The local rate applies to parcels mailed under the following conditions:

(1) At any post office for local delivery at such office.

(2) At any city letter carrier office, or at any point within its delivery limits, for delivery by carriers from that office.

(3) At any post office from which a rural route starts, for delivery on such route, or when mailed at any point on a rural route for delivery at any other point thereon, or at the office from which the route starts, or for delivery on any other rural route starting from the same office.

Alaska, Hawaiian Islands, Canada, Cuba, Mexico, etc.: The eighth zone rate of 12 cents for each pound or fraction thereof on all parcels weighing more than 4 ounces (except books, seeds, cuttings, bulbs, roots, scions, and plants, weighing 8 ounces or less), applies (1) between the United States and the Hawaiian Islands; (2) between the United States and its postal agency at Shanghai, China; (3) between any two points in Alaska and between any point in Alaska and any other point in the United States; (4) between the United States and the Canal Zone; (5) between the United States and the Philippine Islands; (6) between the United States and its naval vessels stationed in foreign waters; and (7) to matter not exceeding 4 pounds 6 ounces in weight, except books and other printed matter (to which the rate of 1 cent for each 2 ounces applies) mailed to Canada, Mexico, Cuba, and the Republic of Panama. (Parcels weighing up to 11 pounds may be sent to Mexico and the Republic of Panama as foreign parcel post mail under the parcel post conventions with those countries.)

The rate of postage on fourth-class matter (which includes farm produce) weighing not more than 4 ounces is 1 cent for each ounce or fraction of an ounce regardless of distance, and on such matter in ex-

cess of 4 ounces in weight the rate is by the pound, as follows, the postage in all cases to be prepaid by postage stamps affixed:

Weight in pounds.	Local.	Zones. 1st Up to 50 miles.	2d 50 to 150 miles.	3d 150 to 300 miles.	4th 300 to 600 miles.	5th 600 to 1,000 miles.	6th 1,000 to 1,400 miles.	7th 1,400 to 1,800 miles.	8th Over 1,800 miles.
1	$0.05	$0.05	$0.05	$0.06	$0.07	$0.08	$0.09	$0.11	$0.12
2	.06	.06	.06	.08	.11	.14	.17	.21	.24
3	.06	.07	.07	.10	.15	.20	.25	.31	.36
4	.07	.08	.08	.12	.19	.26	.33	.41	.48
5	.07	.09	.09	.14	.23	.32	.41	.51	.60
6	.08	.10	.10	.16	.27	.38	.49	.61	.72
7	.08	.11	.11	.18	.31	.44	.57	.71	.84
8	.09	.12	.12	.20	.35	.50	.65	.81	.96
9	.09	.13	.13	.22	.39	.56	.73	.91	1.08
10	.10	.14	.14	.24	.43	.62	.81	1.01	1.20
11	.10	.15	.15	.26	.47	.68	.89	1.11	1.32
12	.11	.16	.16	.28	.51	.74	.97	1.21	1.44
13	.11	.17	.17	.30	.55	.80	1.05	1.31	1.56
14	.12	.18	.18	.32	.59	.86	1.13	1.41	1.68
15	.12	.19	.19	.34	.63	.92	1.21	1.51	1.80
16	.13	.20	.20	.36	.67	.98	1.29	1.61	1.92
17	.13	.21	.21	.38	.71	1.04	1.37	1.71	2.04
18	.14	.22	.22	.40	.75	1.10	1.45	1.81	2.16
19	.14	.23	.23	.42	.79	1.16	1.53	1.91	2.28
20	.15	.24	.24	.44	.83	1.22	1.61	2.01	2.40
21	.15	.25	.25						
22	.16	.26	.26						
23	.16	.27	.27						
24	.17	.28	.28						
25	.17	.29	.29						
26	.18	.30	.30						
27	.18	.31	.31						
28	.19	.32	.32						
29	.19	.33	.33						
30	.20	.34	.34						
31	.20	.35	.35						
32	.21	.36	.36						
33	.21	.37	.37						
34	.22	.38	.38						
35	.22	.39	.39						
36	.23	.40	.40						
37	.23	.41	.41						
38	.24	.42	.42						
39	.24	.43	.43						
40	.25	.44	.44						
41	.25	.45	.45						
42	.26	.46	.46						
43	.26	.47	.47						
44	.27	.48	.48						
45	.27	.49	.49						
46	.28	.50	.50						
47	.28	.51	.51						
48	.29	.52	.52						
49	.29	.53	.53						
50	.30	.54	.54						

ZONES—PARCEL POST GUIDE AND MAPS.—For parcel post purposes the United States is divided into units of area 30 minutes square. Such units form the basis of the eight postal zones. To ascertain in which zone a post office is located from the office of mailing, a parcel post guide, costing 55 cents, and map, costing 20 cents, are jointly used. The guide applies to all offices, but a separate map is required for each unit. A zone key is furnished with the guide for use in the units of area in which the 50 largest post offices are located, and makes the map for those units unnecessary. The guide and maps may be purchased by sending a money order to the Third Assistant Postmaster General, Washington, D. C. Stamps are not accepted.

Send your name and address to the Postmaster, Louisville or Cincinnati, if you want to sell your produce by parcel post, and tell what you have for sale. KEEP THIS TABLE FOR REFERENCE.

The limit of weight of fourth-class matter is 50 pounds for parcels mailed for delivery within the first and second zones, and 20 pounds for all other zones.

Limit of size: Parcel post matter may not exceed 72 inches in length and girth combined. In measuring a parcel the greatest distance in a straight line between the ends (but not around the parcel) is taken as its length, while the distance around the parcel at its thickest part is taken as its girth. For example, a parcel 35 inches long, 10 inches wide, and 5 inches high measures 65 inches in length and girth combined.

Name and address of sender: A parcel of fourth-class matter may not be accepted for mailing unless it bears the name and address of the sender, which should be preceded by the word "From."

Additions to fourth-class mail: There may be placed on fourth-class matter, or on the wrapper or cover, tag or label, any marks, numbers, names, or letters for purpose of description. There may be written on the blank leaves or cover of any book a simple manuscript dedication or inscription not in the nature of personal correspondence. Space sufficient for a legible address, postmark, the necessary postage stamps, and any words necessary for forwarding or return, must be left on the address side of parcels.

Inclosures: There may be inclosed with fourth-class matter a written or printed invoice showing the name and address of the sender and of the addressee; the names and quantities of articles inclosed, together with inscriptions indicating, "for purpose of description," the price, style, stock number, size, and quality of the articles, the order or file number, date of order, and date and manner of shipment; and the initials or name of the salesman, or of the person by whom the articles were packed or checked.

Inscriptions, such as "Merry Christmas," "With best wishes," "Do not open until Christmas," or words to that effect, may be written on fourth-class mail, or on a card inclosed therewith.

Communications attached to parcels: When it is desired to send a communication with a parcel on which postage at the fourth-class rate has been fully prepaid, the communication may be placed in an envelope fully prepaid at the first-class rate and addressed to correspond with the address on the parcel and then be tied to or otherwise securely attached to the outside of the parcel in such manner as to prevent its separation therefrom and not to interfere with the address on the parcel. The stamps to cover the postage on the parcel must be affixed to the wrapper of the parcel, and those to pay the postage on the communication must be affixed to the envelope of the communication. Parcels to which such communications are attached are treated as fourth-class matter. Only one special-delivery fee is required on such parcels sent as special-delivery matter.

Public library books, otherwise mailable as parcel-post matter, may bear any printed or written mark constituting a necessary inscription for the purpose of a permanent library record.

Proprietary articles of merchandise, such as harmless medicinal preparations, soaps, tobacco, food products, etc., put up in fixed quantities, in original sealed packages, by the manufacturer so as to allow examination of the packages in their simplest mercantile form and labeled in printing so as to show the nature of contents, quantity, and name of the manufacturer, are mailable at the fourth-class rates of postage. If such sealed packages are inclosed in an outer wrapper, the latter must not be sealed.

Meats and meat-food products: Before meat or meat-food products of cattle, sheep, swine, or goats may be accepted for mailing from one State or Territory to another State or Territory, the certificate of inspection or exemption required by section 477, Postal Laws and Regulations, must be filed with the postmaster. Such certificate must be prepared and furnished by the sender.

Game: The dead bodies of any wild animals or birds, or parts thereof, including furs, skins, plumage, etc., lawfully killed and offered for shipment, may be accepted for mailing only when the parcels are plainly marked to show the actual nature of the contents and the name and address of the sender. The dead bodies, or parts thereof, of any wild animals or birds which have been killed or offered for shipment in violation of the laws of a State, Territory, or District, are unmailable, persons sending such articles and the addressees knowingly receiving them in violation of the law being liable to a fine of not more than $200.

Nursery stock, including all field-grown florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits, and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots, may be admitted to the mails only when accompanied with a certificate from a State or Government inspector to the effect that the nursery from which such nursery stock is shipped has been inspected within a year and found free from injurious insects, and the parcel containing such nursery stock is plainly marked to show the nature of the contents and the name and address of the sender.

Place of mailing: Parcels of fourth-class matter weighing more than 4 ounces must be mailed at a post office, branch post office, named, numbered, or lettered station, or delivered to a rural or other carrier duly authorized to receive such matter. Parcels weighting 4 ounces or less may be deposited in letter or package boxes.

INSURANCE OF FOURTH-CLASS MAIL.

Fees and conditions: Fourth-class or domestic parcel-post mail but no other may be insured against loss upon payment of a fee of 5 cents for value not exceeding $25, or 10 cents for value not exceeding $50, in addition to the postage, both to be prepaid with stamps affixed. It may not be registered.

Such mail may be insured at any post office or station thereof, or by rural carriers. The sender must fill out an insurance tag, which will be furnished him on request, to be attached to the parcel.

Return receipts for insured parcels may be obtained by indorsing the parcels "Return receipt desired."

Indemnity for lost insured parcels is paid for the actual value within the limit of insurance. No indemnity is payable on account of mere partial damage. However, when an article is so damaged as to render it wholly worthless, it is regarded as lost, provided it was packed and indorsed in accordance with the postal requirements. No indemnity is paid for labor, workmanship, etc., in repairing partial damage.

COLLECT-ON-DELIVERY SERVICE.

Conditions and fee: Parcels of fourth-class or parcel-post matter may be sent "C. O. D." from one money-order post office to another on payment of a fee of 10 cents in addition to the postage, both to be prepaid with stamps affixed. The amount to be collected and remitted to the sender must not exceed $100. The remittance is made by post-office money order, the fee therefor being included in the amount collected from the addressee. A "C. O. D." tag furnished by the postmaster must be filled in by the sender and attached to the parcel. The "C. O. D." fee also covers insurance against loss up to $50 actual value.

A receipt is given to the sender of a "C. O. D." parcel at the time of mailing, but no return receipt is furnished, as the remittance shows that delivery has been made.

Examination of contents of a "C. O. D." parcel is not permitted until it has been receipted for and all charges paid.

Indemnity for lost "C. O. D." parcels is paid for the actual value not to exceed $50, under the conditions governing the payment of indemnity for lost insured parcels.

PREPARATION AND WRAPPING OF MAIL MATTER.

Examination: Fourth-class or parcel-post matter must be so wrapped or enveloped that the contents may be examined easily by postal officials. When not so wrapped, or when bearing or containing writing not authorized by law, the matter will be treated as of the first class.

Nailed boxes.—Parcel post mail may be inclosed in boxes to which the lids are nailed or screwed, provided the lids can be readily removed with a chisel or screw driver for examination of contents.

Wrapping: All matter should be securely wrapped so as to bear transmission without breaking, or injuring mail bags, their contents, or the persons handling them. Many articles are damaged in the mails for the reason that they are not properly wrapped to withstand the necessary handling.

Umbrellas, canes, golf sticks, and similar articles must be reinforced by strips of wood or otherwise sufficiently wrapped to withstand handling and transportation.

Hats in pasteboard boxes must be crated with wood or packed in strong, double-faced corrugated pasteboard boxes.

Cut flowers, candies, etc., should be inclosed in strong and suitable boxes.

Stove castings and pieces of machinery should be protected with excelsior or similar material and wrapped in cloth or strong paper or be properly boxed or crated.

Mailable hides and pelts must be thoroughly wrapped to prevent the escape of grease.

Parcels weighing 20 pounds or under are generally carried inside mail bags with other mail; those weighing over 20 pounds are usually carried outside mail bags. They should be wrapped with that understanding.

Parcels improperly or insufficiently wrapped will not be accepted for transmission in the mails.

Harmful articles not absolutely excluded from the mails, but which, from their form or nature, might, unless properly secured, destroy, deface, or otherwise damage the contents of the mail bag, or harm the person of anyone engaged in the postal service, may be transmitted in the mails only when packed in accordance with the postal regulations.

Sharp-pointed or sharp-edged instruments or tools must have their points and edges protected so that they can not cut through their covering, and be thoroughly wrapped.

Powders and all pulverized dry substances must be so wrapped that none of the contents of the package will sift out.

Pastes, salves, etc., not easily liquefiable must be inclosed in water-tight containers and placed in strong boxes and securely wrapped.

Liquids.—Admissible liquids in packages not exceeding the limit of weight of fourth-class matter will be accepted for mailing when intended for delivery at the office of mailing or on a rural route starting therefrom when inclosed in a glass or metal container securely inclosed and heavily wrapped, provided it is not necessary to transport them over steam or electric railways.

Admissible liquids and oils, pastes, salves, or other articles easily liquefiable, will be accepted for mailing, regardless of distance, when they conform to the following conditions:

(a) When in strong glass bottles holding 4 ounces or less, the total quantity sent in one parcel shall not exceed 24 ounces, liquid measure. Each bottle shall be wrapped in paper or other absorbent substance and then all placed in a box made of cardboard or other suitable material and packed in a container made of double-faced corrugated pasteboard of good quality. The corners of the container must fit tightly and be reinforced with tape so as to prevent the escpae of any liquid if the contents should be broken, and the whole parcel shall be securely wrapped with strong paper and tied with twine. Single bottles of liquid holding 4 ounces or less may also be packed as prescribed in the following paragraphs (b) and (c):

(b) When in glass bottles holding more than 4 ounces, the total quantity sent in one parcel shall not exceed 16 ounces liquid measure. The bottle must be very strong and must be inclosed in a block or tube of metal, wood papier-mâché or similar material; and there must be provided between the bottle and the block or tube a cushion of cotton, felt, or other absorbent. The block or tube, if of wood or papier-mâché, must be at least one-eighth of an inch thick for bottles holding 8 ounces or less, and at least three-sixteenths of an inch thick for bottles holding more than 8 ounces. The block or tube must be rendered water-tight by an application on the inside of paraffin or other suitable substance and must be closed by a screw-top cover with sufficient screw threads to require at least one and one-half complete turns before it will come off. The cover must be provided with a washer, so that no liquid could escape if the bottle should be broken. Any number of bottles separately packed as herein prescribed may be included in a single package if the limit of weight and size for fourth-class matter be not exceeded.

(c) Bottles containing liquid may also be packed in strong and tight receptacles of wood, metal, or waterproof corrugated pasteboard. Space must be left all around the bottle, which must be filled with bran, sawdust, or other absorbent material in sufficient quantity to absorb all the liquid if the bottle should get broken.

(d) When in a metal container the weight limit of the parcel is the same as for other fourth-class matter. The container must be securely sealed and inclosed in a strong box.

(e) When in parcels weighing more than 20 pounds, mailable liquids in securely sealed glass bottles or metal cans will be accepted for mailing to offices in the first and second zones when packed in strong boxes and surrounded with sawdust or other suitable substances to protect the contents from breakage. All such packages to be marked "Fragile—this side up," or with similar inscriptions and to be transported outside of mail bags.

All packages containing liquid must be marked "Fragile."

Fragile articles. Articles easily broken must be very securely wrapped for safe transmission.

Glass, crockery, fragile toys, etc., must be so packed as to prevent the escape of particles or pieces from the packages if broken in transit.

Cigars should be packed in a manner to prevent damage by shock or jar.

Maps, drawings, paintings, etc., must be suitably protected with stout material to prevent damage. When not flat they should be rolled around a stout stick and carefully wrapped or inclosed in a strong pasteboard tube.

All such articles should be marked "Fragile."

Eggs will be accepted for local delivery when so packed in a basket or other container as to prevent damage to other mail.

Eggs will be accepted for mailing regardless of distance, when each egg is separately wrapped and surrounded with excelsior, cotton, or other suitable material and packed in a strong container made of double-faced corrugated pasteboard, metal, wood, or other suitable material and wrapped so that nothing can escape from the package. All such parcels shall be labeled "eggs."

Eggs in parcels weighing more than 20 pounds will be accepted for mailing to offices in the first and second zones when packed in crates, boxes, baskets, or other containers having tight bottoms to prevent the escape of anything from the package and so constructed as properly to protect the contents; such packages to be marked "Eggs—this side up," and to be transported outside of mail bags.

Perishable articles: Parcels containing perishable articles shall be marked "perishable." Articles likely to spoil within the time reasonably required for transportation and delivery shall not be accepted for mailing.

Butter, lard, and perishable articles, such as fish, fresh meats, dressed fowls, vegetables, fruits, berries, and articles of a similar nature which decay quickly, when so packed or wrapped as to prevent damage to other mail, will be accepted for local delivery either at the office of mailing or on any rural route starting therefrom. When inclosed in an inner cover and a strong outer cover of wood, metal, heavy corrugated pasteboard, or other suitable material, and wrapped so that nothing can escape from the package, they will be accepted for mailing to all offices to which in the ordinary course of mail they can be sent without spoiling.

Butter, dressed fowls, vegetables, fruits, and other perishable articles in parcels weighing more than 20 pounds will be accepted for mailing to offices in the first and second zones when suitably wrapped or inclosed and packed in crates, boxes, or other suitable containers having tight bottoms to prevent the escape of anything from the package, and so constructed as properly to protect the contents. All such parcels to be transported outside of mail bags.

Vegetables and fruits which do not decay quickly will be accepted for mailing to any zone if packed so as to prevent damage to other mail.

Forwarding and return: A new prepayment of postage at the rate applicable between the forwarding office and the one to which fourth-class matter is to be forwarded must be made by the addressee or by some one for him each time it is forwarded. A new prepayment must likewise be made before undeliverable fourth-class matter may be returned to the sender.

Requests for further information should be addressed as follows:

Third Assistant Postmaster General, Division of Classification, relative to the classification and admissibility of matter as parcel-post mail, rates of postage, limit of weight and size, permissible inclosures and additions, attaching communications to parcels, etc.

Third Assistant Postmaster General, Division of Registered Mails, relative to the insurance and "C. O. D." features.

Second Assistant Postmaster General, Division of Railway Mail Service, relative to the admissibility to the mails and wrapping of matter which from its form or character would be liable to injure the mails or the person of postal employees.

A. M. DOCKERY,
Third Assistant Postmaster General.

FARM PRODUCTS BY DOMESTIC PARCEL POST.

RATES OF POSTAGE AND METHOD OF PACKING BUTTER, EGGS, FRUITS, VEGETABLES, DRESSED POULTRY, ETC., FOR THE MAILS.

[Parcels weighing over 20 pounds to be carried outside mail bags.]

Producer and consumer to be brought into closer touch.—The Post Office Department desires to increase the usefulness to the public of the parcel post by bringing the consumer and producer in closer touch. Therefore it invites all farmers who desire to sell and ship country produce by parcel post direct to the consumer to send their names and addresses by mail to "Postmaster, Louisville or Cincinnati, Produce List." Tell what you have for sale. A postal card may be used for the purpose. When a sufficient number of names are received they will be printed and distributed to persons who would likely make use of such lists.

The following rules and regulations govern in the transmission of farm products by parcel post:

Size and weight of parcels.—Packages for the parcel post must not measure more than 72 inches in length and girth combined and must not weigh more than 50 pounds when addressed to a person within the first or second zones, or a distance of not more than about 150 miles. If the package to be shipped is to go more than 150 miles, or beyond the second zone, it must not weigh more than 20 pounds. The postmaster or the mail carrier who will receive your package for mailing will give you any further information you may desire about the rates and manner of packing your parcels.

The rate of postage for parcel-post packages is given in the table here printed. The local rate is applicable to parcels of farm products intended for delivery at the office of mailing, including rural routes starting therefrom.

Preparation for mailing.—Farmers intending to ship farm products in considerable quantities should submit to the postmaster at their local post office for approval, a specimen parcel showing the manner of packing. Parcels containing perishable articles should be marked "Perishable." Articles likely to spoil within the time reasonably required for transportation and delivery will not be accepted for mailing.

Butter, lard, and perishable articles such as fish, fresh meats, dressed fowls, vegetables, fruits, berries, and articles of a similar nature which decay quickly, when so packed or wrapped as to prevent damage to other mail matter, shall be accepted for local delivery either at the office of mailing or on any rural route starting therefrom. When inclosed in an inner cover and a strong outer cover of wood, metal, heavy corrugated pasteboard, or other suitable material, and wrapped so that nothing can escape from the package, they will be accepted for mailing to all offices to which in the ordinary course of mail they can be sent without spoiling.

Butter, dressed fowls, vegetables, fruits, and other perishable articles in parcels weighing more than 20 pounds shall be accepted for mailing to offices in the first and second zones when suitably wrapped or inclosed and packed in crates, boxes, or other suitable containers having tight bottoms to prevent the escape of anything from the package and so constructed as properly to protect the contents. All such parcels to be transported outside of mail bags.

Vegetables and fruits which do not decay quickly will be accepted for mailing to any zone if packed so as to prevent damage to other mail matter.

Eggs shall be accepted for **local delivery** when so packed in a basket or other container as to prevent damage to other mail matter.

Eggs shall be accepted for mailing **regardless of distance** when each egg is wrapped separately and surrounded with excelsior, cotton, or other suitable material and packed in a strong container made of double-face corrugated pasteboard, metal, wood, or other suitable material and wrapped so that nothing can escape from the package. **All such parcels should be labeled "Eggs."**

Eggs in parcels weighing **more than 20 pounds** shall be accepted for mailing **to offices in the first and second zones** when packed in crates, boxes, buckets, or other containers having tight bottoms to prevent the escape of anything from the package, and so constructed as properly to protect the contents. **Such packages to be marked "Eggs—this side up,"** and to be transported outside of mail bags.

Mailable liquids, including preserves, in securely sealed glass bottles or metal cans shall be accepted for mailing when packed in strong boxes and surrounded with other suitable substance to prevent contents from breaking. All such packages to be marked "fragile."

Pastes, salves, etc., not easily liquefiable, shall be accepted for mailing when inclosed in water-tight containers and placed in a strong pasteboard or wooden box.

Mailable hides and pelts shall be thoroughly wrapped to prevent grease soaking through the packing and damaging other mail matter.

Permissible additions.—You may tie or otherwise securely attach a letter in a sealed envelop to your parcel-post package if it bears the same address as the package, but the letter must have on it the regular letter postage and the parcel must have on it the proper amount of postage. It is better, however, to mail your letter and parcel separately. You may place in the parcel a printed circular describing the matter sent, and inclose a printed or written bill for the articles in the parcel. Any other written matter, however, will subject the whole package to the letter-postage rate. In addition to the name and address of the sender, which is required, it is permissible to write or print on the covering of a parcel of fourth-class matter, or on a tag or label attached thereto, the occupation of the sender, and to indicate in a small space by means of marks, letters, numbers, names, or other brief description, the character of the parcel, but ample space must be left for the full address and for the necessary postage stamps. Inscriptions such as "Merry Christmas," "Please do not open until Christmas," "Happy New Year," "With best wishes," and the like, may be included inside or placed on the covering of the parcel in such manner as not to interfere with the address.

Insurance.—Parcels on which the postage is fully prepaid may be insured against loss in an amount not exceeding $25 on payment of a fee of 5 cents, and $50 on payment of a fee of 10 cents. A return receipt will be furnished if desired.

Collection on delivery.—You may send a package C. O. D. by parcel post by attaching **an additional 10 cents** in postage on the package, **provided the amount to be collected by the post office on the package for you is not more than $100, and provided also that the office which mails the package and the one at which it is received are money-order offices.**

Time of shipment.—Your postmaster or rural carrier can inform you when is the best time to ship parcels so as to make good connection and promptly reach the office they are addressed to. No delivery of parcels is made on Sundays unless sent by special delivery.

Special delivery.—Parcels which are fully postage paid will be immediately delivered by the office they are addressed to on an extra payment of 10 cents in postage stamps affixed.

Packing boxes for parcel post.—The following is a list of the known manufacturers of packing boxes and containers for the shipment of farm products by parcel post: J. M. Raffel Co., Heath, Clarkson and Race Streets, Baltimore, Md.; Robert Gair Co., Brooklyn, N. Y.; The Thompson & Norris Co., Concord and Prince Streets, Brooklyn, N. Y.; Lawrence Paper Manufacturing Co., Lawrence, Mass.; Hinde & Dauch Paper Co., Sandusky, Ohio; Hartley Folding Box Co., 181 Griswold Street, Detroit, Mich.; H. B. Elliott & Sons, Harbor Springs, Mich.; Sefton Manufacturing Co., 1301 West Thirty-fifth Street, Chicago, Ill.; American Paper Products Co., Second and Bremen Avenue, St. Louis, Mo.; Diamond Egg Box Co., 1002 New York Life Building, Minneapolis, Minn.

Since the publication, on June 9, of the list of farmers who are willing to sell direct to the city consumers through the parcel post, many additional names have been received by the Washington post office. These names, together with those appearing in the circular of June 9, are published below.

It is realized that the method of shopping, by sending the market basket direct to the farm, is to some extent experimental with both the consumer and the farmer, and for this reason the **Housekeepers' Alliance of Louisville and Cincinnati** has consented to cooperate with the Louisville and Cincinnati post offices to the extent of trying out as many farmers as possible, with the view of determining the following points: First, whether the business methods of the farmers make it practicable to deal direct with the producer; second, whether the method of packing, character of produce, and intelligence shown in mailing meet the requirements of the city consumer; third, whether the transportation service by the Post Office Department and the Louisville and Cincinnati post offices insures delivery of parcel-post matter in fresh and satisfactory condition.

In order to arrive at a fair determination of these matters and to be able to render a practical service to the consumers of Louisville and Cincinnati generally, the Housekeepers' Alliance desires to have sent to committee on cooperation, Housekeepers' Alliance, by postal card or letter, a specific report by any person in the city who has had parcel-post experience, answering the following questions:

1. Name and address of farmer.
2. Articles purchased and prices paid for them.
3. Who (farmer or consumer) furnished the container and how well were the products packed?
4. Was the farmer's service prompt and satisfactory?
5. In what condition did parcels arrive and how promptly were they delivered by the post office?
6. Remarks.

In order to cover as many sections of the country, as many farmers, and as many separate shipments as possible the Housekeepers' Alliance will receive answers to the foregoing questions from all who desire to thus cooperate with it.

The organization will collate this information and place the results before the city consumer, as well as the farmer, for the information and guidance of each.

Quotations by farmers for their products will continue to be found posted on the bulletin board of the post office in Louisville and Cincinnati.

The purpose of this undertaking by the Post Office Department, with the cooperation of public-spirited persons and institutions, is to bring the city consumer and country producer together through the facilities offered by the parcel post. This consists of a very simple proceeding. After you have written to a farmer on this list, or any other farmer whose address you have learned from some acquaintance, and have made arrangements as to the price and payment for the articles you want to buy, take a strong market basket with a cover or a double corrugated pasteboard mailing box and send it to the farmer. If it weighs a pound it will cost 5 cents to mail it to the farmer empty; if between two and three pounds, it will cost 7 cents to mail. Double corrugated shipping boxes of various types can be purchased very cheaply from paper stores and market supply houses in Washington.

When you have found a satisfactory farmer to deal with, shopping by parcel post becomes a simple process of sending your market basket to the farm with a letter telling what you want. The cost of that process is just a little less than if you got on a street car and rode down town and back, and just a trifle more than if you ordered what you wanted over the telephone. You can mail your empty basket at any drug-store postal station. The parcel post brings the filled basket to your door. This simple process of sending an ordinary, strong, market basket to the farm has been found to be entirely satisfactory for shipping short distances—say 50 to 100 miles, several such baskets now going empty and returning filled weekly through the Washington post office.

Housewives who want to deal with the farmers direct will realize that sometimes they may not be able to make an entirely satisfactory arrangement the first trial any more than they may find satisfactory the first city dealer they may try. Therefore, it may be found advisable to select from this list, at random, the names of three or four farmers to write to, and from the replies pick out two or three of the more promising, give them a trial, and report results to the **Housekeepers' Alliance.**

Remember that it is more economical to buy three or four dozen eggs by parcel post than one or two dozen, because after the first pound the postage will cost the farmer only 1 cent per pound. When writing to the farmer for his prices, it is well to tell him what the same articles are costing in the city market at the time. This is advisable because some farmers have an exaggerated idea as to the prices that city people are willing to pay for fresh country produce, whereas, others are entirely moderate and reasonable. It is also well to direct the farmers to mail the basket so that it will arrive in this city in time for delivery on the day desired. If intended for Sunday, it should reach Louisville or Cincinnati not later than Saturday noon.

The same system has been recently installed at Louisville and Cincinnati post offices at my request.

Alabama:

Thad Partridge, 11 St. Louis Street, Mobile, Ala. Pecans.

Colorado:

G. W. Hutchinson, Palisades, Colo. Apples—Jonathans, Rome Beauty, Dutches, Ben Davis, and Pippins. Peaches—Alberta, Early Rivers, Alexanders, Triumphs, and Orange Cling.

Delaware:

I. Benioff, Viola, Del. Eggs, 300 dozen per week; poultry, fruit, potatoes.
Charles S. Conwell, Wyoming, Del. Apples, farm produce.
Valetta Guernsey, R. F. D., Millsboro, Del. Eggs, huckleberries, early apples, plums, peaches, potatoes, green corn, grapes, poultry.
W. J. Hayman, Delmar, Del. Eggs.
Byron Pepper, Georgetown, Del. Eggs, by dozen or crate.
Wallace B. Hopkins, R. F. D. 4, Harrington, Del. Vegetables, fruit, butter, eggs.
Thomas Johnson, Harbeson, Del. All white strictly fresh yesterday laid eggs in lots of 2 dozen.
William Perry, Cool Spring, Del. Apples from June 25 to December; vegetables.
Alice M. Trader, R. F. D. 3, Delmar, Del. Butter.
W. H. Tunis, jr., Clayton, Del. Eggs, graded in four kinds; white, brown, guaranteed fresh, and not over three days old. Infant eggs shipped same day laid; consumptive eggs shipped same day laid. Poultry, fruit, vegetables.
A. F. Wilgus, Georgetown, Del. Green peas, cabbage, onions, beets, lima beans, string beans, white potatoes, cucumbers, squash, strawberries, chickens, eggs.

District of Columbia:

Mrs. Matilda Crismond, Benning, D. C. Eggs, poultry.
S. C. Moore, box 425, R. F. D. 4, Washington, D. C. Two-months' old broilers weighing between 1 and 2 pounds.

Florida:

Mrs. L. C. Stewart, Sebastian, Fla. Guava jelly and orange marmalade.

Maine:

Walter S. Hall, Port Clyde, Me. Finnan haddies.
John Patch, Port Clyde, Me. Salt codfish.

Maryland:

Milton H. Arther, Riverview, Md. Strictly fresh eggs.
Mrs. L. I. Beall, 3311 Western Avenue, Chevy Chase, Md. Barred Plymouth Rock eggs for hatching, early cabbage plants, tomato plants, cut roses, and dahlias in season.
H. J. Beard, R. F. D. 4, Frederick, Md. Strawberries, melons, vegetables.
W. H. Bishop, Carmichael, Md. Creamery butter, eggs, poultry.
Randell A. Brown, R. F. D. 2, North East, Md. Eggs, butter, chickens, farm produce.
Edward Lewis Bruun, Upper Marlboro, Md. Maryland hams, shoulders, and bacon; chickens, cream and double cream; home-made jellies, crab-apple jelly a specialty, country sausage from October to May.
William Burke, R. F. D. 2, Reisterstown, Md. Eggs, dressed poultry.
George Carter, sr., R. F. D. 2, Annapolis, Md. Chickens, butter, eggs, potatoes.
W. D. Curry, Monkton, Md. Butter, eggs, fruit, nuts, etc.
S. L. Craig, Principio Furnace, Md. Eggs, produce.
C. H. Detrow, Big Spring, Md. Butter, eggs, chickens.
John S. Evans, St. Nicholas, Md. Asparagus, plants, strawberries, castings, squabs, fowl.
Mrs. Charles Feezer, Henryton, Md. Eggs, old hens, young chickens, jellies, preserves.
Mrs. Allen Lester Fowler, R. F. D. 2, Annapolis, Md. Preserves, jellies, pickles, and table delicacies. Price list on request.
Jesse Gay, Box 4, St. Michaels, Md. Raspberries, eggs.
A. Gresko, Hermanville, Md. Butter, eggs.
Cornelius Haines, R. F. D. 2, New Windsor, Md. Butter, eggs, poultry, fruit, lard.
Evelyn Harris, Betterton, Md. Spring chickens, "just-laid eggs," home-canned fruit, fruit in season.
Amos H. Hayes, Parkton, Md. Eggs all the year, pork products in winter season, sweet and sour cherries in June.
Herman Heuer, Mitchellville, Md. Sugar corn, tomato preserves, new potatoes.
Mrs. B. W. Howard, Brookeville, Md. Butter, eggs.
Keefauver & McMillan, Berwyn, Md. Eggs, fowls.
Stover E. Kreps, R. F. D. 2, Hagerstown, Md. White Leghorn broilers and roasters, large white eggs, butter in fall and winter, country-cured hams, and meat.
Ernest Lewis, Scotland, Md. Farm produce, sea food, poultry, eggs.
Lookout Mountain Orchard Co., Smithsburg, Md. Peaches.
L. F. Martin, Allen, Md. Poultry, eggs.
John W. Marsh, Solomons, Md. Poultry, eggs.
J. A. Mason, R. F. D. 2, Still Pond Farm, Worten, Md. Eggs mailed same day laid, peaches, pears, fruit, and vegetables in season.
L. A. Mazzullo, R. F. D. 4, Laurel, Md. Eggs, butter, poultry, strawberries, vegetables, fruit in season.
Miss Ada G. Morris, R. F. D. 1, Freeland, Md. Eggs.
Henry L. Mudd, White Plains, Md. Butter, eggs.
G. Rodgers Naylor, Westwood, Md. Eggs.
Amos H. Reckner, Swanton, Md. Butter, eggs, and all country produce.
D. M. Reid, Gapland, Md. Poultry, eggs, butter, country produce.
Fritz Sander, Woodwardville, Md. Butter, 50 pounds weekly; eggs, 2 to 10 dozens, weekly.
Margaret L. Sewall, Forest Glen, Md. Eggs, poultry, honey, vegetables in season, Sunday dinner hampers.
E. Hartley Shreve, Dickerson, Md. Eggs, 30 dozens per week, shipped in 2-dozen lots.
Mrs. Thomas S. Silcox, Box 58, Betterton, Md. Eggs, chickens.
D. P. Smith, Lime Kiln, Md. Eggs, honey, produce.

Maryland—Continued.

William A. Walker, Mount Airy, Md. Peaches, Carman and Champion, in August; Elberta and Crawford, in September; Salway in October.

R. Glenn Williams, Funkstown, Md. Eggs, butter, poultry.

Mrs. Mollie C. Wilson, Box 10, Star route, Laurel, Md. Apples, peaches, pears, plums, currants, gooseberries, and other berries. Tomatoes, corn, beans, onions, radishes, beets, carrots, cauliflower, cucumbers, lettuce, sweet potatoes, pumpkins, parsnips, June peas, cabbage, squash, lima beans, and other vegetables.

I have inserted the above list to illustrate how the system is now being operated in Washington. The same plan will be followed in Louisville and Cincinnati.

UNITED STATES POSTAL SAVINGS SYSTEM.

Savings deposited at the post office are absolutely safe.
Any person 10 years old or over may open an account.
A married woman may deposit in her own name.
One dollar will start an interest-bearing account.
Ten-cent savings stamps may also be purchased.
Withdrawals may be made at any time.
Call at the post office for additional information.

A. M. DOCKERY,
Third Assistant Postmaster General.

POST OFFICE DEPARTMENT,
POSTAL SAVINGS SYSTEM.

INFORMATION FOR THE PUBLIC.

OBJECT.

1. The postal-savings system is established by authority of the act of Congress approved June 25, 1910, for the purpose of providing facilities for depositing savings at interest, with the security of the United States Government for repayment.

SAFETY.

2. The faith of the United States is solemnly pledged to the payment of deposits made in postal savings depository offices, with accrued interest thereon, as provided by the postal-savings act.

WHO MAY DEPOSIT.

3. An account may be opened and deposits made by any person of the age of 10 years or over in his or her own name, or by a married woman in her own name and free from any control or interference by her husband.

4. Deposits will be accepted only from individuals, and no account will be opened in the name of any corporation, association, society, firm, or partnership, or in the name of two or more persons jointly. No account will be opened in the name of one person in trust for or on behalf of another person or persons.

5. A person may open a postal savings account at any depository post office, but no person may at the same time have more than one postal savings account either at the same office or at different offices.

6. All accounts shall be opened in person by the depositor or his authorized representative. After opening an account, a depositor may forward subsequent deposits to the post office by registered mail or by money order made payable to the postmaster.

NO CHARGES TO DEPOSITORS.

7. No charges or fees are collected or required from depositors in connection with the opening of accounts or the subsequent deposit or withdrawal of moneys.

HOW TO OPEN AN ACCOUNT.

8. When a person applies to open an account, he shall furnish the necessary information to enable the postmaster to fill out an application, which the depositor will then be required to sign.

DEPOSITS.

9. Deposits are evidenced by postal savings certificates issued in fixed denominations of $1, $2, $5, $10, $20, $50, and $100, each bearing the name of the depositor, the number of his account, the date of issue, and the name of the depository office. The depositor shall sign a duplicate of each certificate, which the postmaster will retain.

10. No account may be opened for less than $1, nor will fractions of a dollar be accepted for deposit. (See paragraph 16 relative to postal savings cards and stamps.)

11. No person is permitted to deposit more than $100 in any one calendar month nor to have a total balance to his credit at any time of more than $500 exclusive of accumulated interest.

12. Postal savings certificates are not transferable or negotiable, and are payable only to the person to whom issued, except as provided in paragraphs 27, 28, and 29.

13. On opening an account a depositor is supplied with an envelope in which he may keep his savings certificates. This envelope bears information for his guidance, and a blank ledger record on which an account of his deposits and withdrawals may be kept.

14. If a postal savings certificate is lost or destroyed the depositor should notify the postmaster. Upon compliance by the depositor with the necessary requirements, a new certificate will be issued by the Third Assistant Postmaster General if deemed proper.

15. Postmasters are not permitted to receive issued postal savings certificates for safe-keeping.

POSTAL SAVINGS CARDS AND STAMPS.

16. Amounts less than $1 may be saved for deposit by purchasing 10-cent postal savings cards and 10-cent postal savings stamps. Each postal savings card bears blank spaces in which such stamps may be affixed from time to time. A postal savings card with nine postal savings stamps affixed will be accepted as a deposit of $1 either in opening an account or in adding to an existing account.

17. Postal savings cards and stamps are not valid for postage, and postmasters will not exchange them for postage stamps nor exchange postage stamps for postal savings cards or stamps.

INTEREST.

18. Interest at the rate of 2 per cent per annum will be allowed on the amount represented by each postal savings certificate, payable annually. Interest will not be paid for any fraction of a year.

19. Deposits will bear interest from the 1st day of the month next following that in which made.

20. Interest will continue to accrue annually on a postal savings certificate as long as it remains outstanding, certificates being valid until paid, without limitation as to time.

21. Compound interest is not allowed on an outstanding certificate, but a depositor may withdraw interest accrued and make a new deposit, subject to the restriction that deposits at interest will not be received for less than $1.

WITHDRAWALS.

22. A depositor may at any time withdraw the whole or any part of the deposits to his credit, with any interest payable thereon, by surrendering, at the office of issue, postal savings certificates, properly indorsed, for the amount to be withdrawn.

23. A depositor presenting a certificate for payment in full shall indorse it in the presence of the postmaster or his representative and surrender it. The postmaster or his representative, upon being satisfied as to the depositor's identity, will then make payment.

24. When a depositor desires to withdraw only a part of the amount represented by any certificate, the postmaster will cancel the certificate and issue a new certificate or certificates covering the amount remaining on deposit, which will bear interest from the 1st day of the following month.

25. When a depositor desires to withdraw the interest payable on any certificate, he will be required to give his receipt for the amount of the interest paid. The postmaster will enter on the back of the certificate the date of the interest payment.

DEPOSITS MADE IN PERSON.

26. When a depositor, for good and sufficient reason, is unable to appear in person to make an additional deposit, the amount to be deposited may be sent by a representative or forwarded by registered mail, or by a money order made payable to the postmaster. New accounts can not be opened by mail, but a person who desires to open an account and is unable to appear at the post office may forward the money by a representative, who will be provided with an application form, which shall be properly filled out by the intending depositor.

WITHDRAWALS NOT MADE IN PERSON.

27. When, for good and sufficient reason, a depositor is unable to appear in person to make a withdrawal, a blank order for the purpose will be furnished upon his application by mail or at the request of his representative. When the order has been properly filled out and signed by the depositor, his signature witnessed by a disinterested person, and the order returned to the postmaster, together with each certificate to be paid properly indorsed, payment will be made to the depositor's representative, or a money order covering the amount withdrawn, less the money-order fee, will be forwarded to the depositor.

28. When a depositor who is unable to appear in person desires to withdraw the interest payable on any certificate, the blank order furnished will be accompanied by a receipt for the interest to be paid. Upon return of such papers, properly signed by the depositor, the postmaster will make payment as provided in paragraph 27.

DEATH OF DEPOSITOR.

29. In case of the death of a depositor the amount standing to his credit will be paid to the executor or administrator of his estate upon compliance with necessary requirements. In case of the death of a depositor intestate, where no formal administration is desired by his relatives, the Third Assistant Postmaster General may authorize the postmaster, upon obtaining an affidavit in proper form, to pay the amount to the persons entitled under the State laws to receive it.

ACCOUNT OF WOMAN WHO MARRIES.

30. A woman who opens an account and afterwards marries should present her postal savings certificates to the postmaster at the issuing office in order that the certificates may be indorsed as payable to her in her new name. The postmaster will receive no further deposits from a woman who marries and fails to comply with this requirement.

POSTAL SAVINGS BONDS.

31. A depositor may exchange the whole or any part of his deposits in sums of $20, or any multiple of $20 up to and including $500, for United States registered or coupon bonds bearing interest at the rate of 2½ per cent per annum, payable semiannually, redeemable at the pleasure of the United States after one year from date of issue, and both principal and interest being payable 20 years from such date in United States gold coin. The exchange may be made as of January 1 and July 1 of each year.

32. A depositor desiring to convert his postal savings deposits into bonds on January 1 and July 1 of any year shall make application to the postmaster at least one month previously on a form which will be supplied in triplicate for the purpose. At the time of making application the depositor shall indorse and surrender postal savings certificates covering the amount of the bonds desired, and the postmaster will give him a receipt for the certificates. When the bonds applied for have been issued by the Secretary of the Treasury, he will forward them to the depositor. The exchange is considered as taking effect on the date when the bonds begin to bear interest (January 1 or July 1), and any yearly interest due on the certificates surrendered will be paid by the postmaster on or after that date.

33. Postal savings deposits which have been exchanged for bonds are not counted as a part of the maximum of $500 allowed one depositor, and there is no limitation upon the amount of postal savings bonds which may be acquired by a depositor.

34. Postal savings bonds are exempt from all taxes or duties of the United States, as well as from taxation in any form by or under State, municipal, or local authority.

35. Postal savings bonds can be procured only by the surrender of postal savings deposits and will not be issued to persons who are not depositors, but whether in registered or coupon form they may, after receipt by the depositor, be sold or transferred at any time. A leaflet containing additional information concerning postal savings bonds may be obtained from the postmaster.

INFORMATION.

36. Further information concerning the Postal Savings System may be obtained by application at any depository post office or by addressing the Third Assistant Postmaster General, Division of Postal Savings, Washington, D. C.

A. S. BURLESON,
Postmaster General.

Those who will read and study the information contained in the above insertions will learn the way to use any surplus products that their families and the local market do not consume or absorb.

It is an opportunity to make and save money—to convert into a profit what you may have been wasting and to sell what you may have been throwing away.

With small postage you can send by mail to any person in any city within 150 miles a package of farm products weighing from 1 to 50 pounds. It is obvious that the lightest containers

and most valuable contents will yield the greatest profit. Generally speaking, the city price should not be less than the home price plus the postage. Your rural or star route carrier will receive the package at your mail box, and it will be delivered to the person addressed in the same manner as a letter.

Send your name and address to the postmaster at Louisville or Cincinnati, stating what you have to sell. The early morning trains mean a speedy market. Deposit the proceeds of these sales in a postal savings bank, and see what a snug sum of Christmas money you will accumulate. These opportunities are the result of Democratic legislation. Avail yourself of them.

This system, when completely organized and in perfect working order, will be most useful and welcome to the city people, for no housekeeper, restaurant, café, or hotel manager can then complain of the excessive high prices. It will certainly assist in lowering the high cost of living, and take the punch out of the Republican orators' campaign speeches along this line this fall.

The larger the load, the larger the pay of the carrier. A thrifty, industrious, and happy community, all the direct result of wholesome Democratic legislation.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1644) for the relief of May Stanley, and for other purposes.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 7967) to amend the act approved June 25, 1910, authorizing a postal savings system, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. SWANSON, Mr. BRYAN, and Mr. BRISTOW as the conferees on the part of the Senate.

POSTAL AND CIVIL-SERVICE LAWS.

The committee resumed its session.

Mr. GOOD rose.

The CHAIRMAN. The gentleman from Iowa [Mr. GOOD] is recognized for one minute.

Mr. GOOD. Mr. Chairman, I had prepared an amendment almost identical with the amendment offered by the gentleman from South Carolina [Mr. FINLEY], and so I shall support his amendment. It is possible that the pay of some of the letter carriers should be increased. I think rural carriers are, as a rule, underpaid. But there is nothing, as I understand it, before the committee at this time which would indicate just what the increase should be. I shall support the amendment of the gentleman from South Carolina, because it writes into law what was the intention of Congress when we passed the appropriation bill for this great service. When a showing is made, I shall be glad to vote for just and reasonable increases.

Mr. FINLEY. Mr. Chairman, will the gentleman permit a short interruption right there?

Mr. GOOD. Yes.

Mr. FINLEY. My sole intention in drawing the amendment which I offered was to carry out the intention of Congress, and nothing else.

Mr. GOOD. I understand that. I believe this order of the Post Office Department, No. 8246, is without rhyme or reason. It finds no support in actual conditions and shows a lack of business experience as to the work of rural carriers. Everybody knows that it is harder on a team, it is harder on a wagon, to carry a light load over hills and rough roads than it is to carry a good-sized load over level and smooth roads.

Mr. BARKLEY. Mr. Chairman, will the gentleman permit a question?

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from Kentucky?

Mr. GOOD. I regret I can not. This order of the Post Office Department will operate against the carriers who are to carry mail over rough roads and hilly country, where the loads will necessarily be light. We should not hesitate to adopt the Finley amendment.

I ask, Mr. Chairman, to insert in the RECORD a letter of the Postmaster General of July 21, 1914, explaining the order of July 14, 1914.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent to insert the letter named. Is there objection?

There was no objection.

The following is the letter referred to:

JULY 31, 1914.

The Postmaster General issued an order to-day promulgating the schedule of salaries to be paid carriers in the Rural Delivery Service from July 1, 1914, in accordance with the recent act of Congress providing $1,200 per annum as the maximum pay of these employees.

Heretofore the unit of compensation upon which the salaries of carriers has been based included only the number of miles traversed, without any consideration of the time required to travel such mileage or the amount of work performed by the carrier during such travel.

The Postmaster General concluded that the time had arrived when certain recognition should be given to some additional features involved in the collection and delivery of the mail on rural routes and that the most important item for particular attention was the improvement in the efficiency of rural mail delivery, in order that the patrons of the service should receive the maximum return for the enormous expenditure involved, and that the remuneration of the employees engaged therein should bear some fixed relation to the amount of service rendered. To this end it was equally essential that the new features thus introduced should not interfere with or reduce the basis of compensation which heretofore prevailed and which was regarded as adequate, but should also establish equity, in so far as possible, in the compensation paid to the employees who now perform and who have in the past performed particularly arduous and difficult duty.

The establishment of the parcel post has been utilized as an argument for the necessity for increased compensation to postal employees. During the period that has elapsed since the inauguration of this very meritorious addition to postal activity the department has carefully ascertained the actual results produced on each rural route and every consideration has been given to the information thus secured in this order of the Postmaster General now in effect. The basis of computation for maximum compensation requires the transportation of one parcel-post package per day of the maximum weight now established by the postal regulations or the equivalent thereof in any mailable matter, and the handling of an average of 400 pieces of mail daily.

The order further provides that on routes less than the standard length (24 miles), where carriers have been receiving less than the former maximum pay of $1,100 a year, an increase or decrease of $12 per annum greater or less than the schedule pay shall be made to or from the prescribed salary for such route for each 1,000 pieces and for each 100 pounds of mail handled monthly up to the maximum of $1,200 per annum. It also stipulates that an allowance of $12 per year shall be made for each closed pouch or sack of mail transported by carriers to post offices located on rural routes.

The Postmaster General believes that the new order will encourage the carriers to use all legitimate means to increase the business on their routes and that it will be a further incentive to the patrons to utilize the rural service in the transportation of articles by parcel past, in that the increase in the weight or number of pieces thus transported will indirectly have an immediate effect upon the remuneration of the carrier.

It is self-evident that the promulgation of this order is one of the first steps toward the improvement in the efficiency of the Rural Delivery Mail Service and the elimination to a large extent of the tremendous disparity that exists between the revenues and the expenditures in this particular branch of the service.

Mr. TRIBBLE rose.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia [Mr. TRIBBLE] for one minute.

Mr. TRIBBLE. Mr. Chairman, we have a straight issue before this House. It will, no doubt, be several years before this question comes before this House when Members have an opportunity to move amendments which will be in order. Members have truthfully been telling their carriers that it is not in order to move an amendment to increase salary on the Post Office appropriation bill, and that they can not get the increase question before the House because the Post Office Committee will not act favorably on a bill for increase. The CONGRESSIONAL RECORD will show many amendments ruled out of order by the Speaker, but now the friends of increase have their opportunity of getting a House vote, and every man has a chance to make his record. My amendment makes $1,300 the maximum. I am offering you an amendment that gives each man who operates a rural route $87.50 clear of expenses. I consider reasonable $250 for the food of the horse and the wear and tear of the horse and buggy, which leaves the carrier $87.50 per month for personal service. If you leave the salary as it is now they will get only $62.50 for personal service, and if you vote against my amendment your constituents will ask you whether or not you voted for the amendment introduced by me, which would give our rural carriers $87.50. What are you going to say when this question is propounded to you? It is a clear-cut issue. Are you for $87.50 for personal service of your rural boys? If you vote for my amendment you are, and if you vote against it you record yourself against this reasonable increase. Now is the time to do something for them. The issue is clear and everybody can understand it. [Applause.]

Mr. QUIN rose.

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi [Mr. QUIN].

Mr. QUIN. Mr. Chairman, I do not believe there is a man on this floor who does not know that every Member here intended to raise the salaries of these rural carriers. While I am always willing to uphold the hands of the able and splendid Postmaster General, yet I believe that he is wrong in cutting down the rural carriers' pay from what Congress intended it should be in our deliberate vote. In my judgment these men undergo the most onerous hardships and do the best service that is performed for the people of America by any department of the Postal Service. Why you take these men, driving through the country in hot weather and going through the rain and sleet and snow in the winter, men who have to feed their teams and keep up their vehicles on the paltry little pittance that we have allowed them, and say their pay should not be

increased is preposterous, while Members here who would vote $17,000,000 to build battleships and $250,000 apiece for cannon to put on them, wasting the people's money, oppose giving a letter carrier a decent wage for carrying the mails through the country in order that the people in the rural districts may have adequate mail facilities. I can not understand.

As the gentleman from Kentucky [Mr. HELM] said, we ought to have the parcel post carried to every part of the country, in order that the farmers may dispose of their surplus products on the farms; in order that the man in the city may have fresh vegetables and fruits at reasonable prices. The parcel post is really the best thing that the Government has ever done for the people. Many Members here oppose that. Many of those who oppose adequate payment to the rural letter carrier for his work are opposing parcel-post extension. They do not want the people of this country to have the messages of enlightenment carried to them that these poor boys bring them as they carry the rural mail. [Applause.]

The amendment to this bill, making it definite and certain that the rural mail carriers shall have their increased pay, as we gave it to them heretofore on the general Post Office bill, should be adopted. It is immaterial as to whether or not he carries a great deal of mail or a little mail, as I contend that the people in the country are entitled to have good mail facilities and all the advantages of the parcel post, whether they be in districts thickly or sparsely settled. All of the people pay taxes to keep up this Government, and I believe in the policy that all the people should share in the benefits of the Government in an equal manner as nearly as possible.

I am from the country myself, and I am as familiar with the duties and the hardships of a rural mail carrier as I am with the duties of my own office.

I know that they have to go through the hot summer sun every day in the week, except Sunday, and I know that they have to expose themselves to the cold rain and sleet and the winter winds, cross swollen creeks and streams, imperiling their lives, as well as their horses, in order to get the mail to the people in the country, in accord with the intention of the lawmakers of this land.

I know that these rural carriers are at a heavy expense to feed their horses and keep up their teams and wagons, so that after these deductions are made their net salaries are small.

The rural mail carriers of my district are upright, hard-working, honest men, men of intelligence and high character, who do not want anything but justice and fair play, and I am going to fight for them to have their rights as long as I am a Member of Congress.

I oppose the extravagances and waste of government, but I believe in the men who do the work for Uncle Sam being fairly and properly compensated for their services.

I want to extend and build up the rural mail facilities so as to bring the country people in close touch with the towns, in order that they may have all the agencies to receive and transmit mail and their parcels through the parcel post, and in order to have good service to the country in the way of mail facilities we must pay men decent wages to perform that service as rural mail carriers.

Take it from me the Government can do no better service to the American people than to build up modern, up-to-date mail facilities throughout all the farming districts.

Ever since 1895 I have been an ardent advocate of the parcel post, because I knew and realized that it would be a great boon to the laboring people and the farmers of the country.

The great corporations, railroad companies and express companies, trusts, monopolies, and syndicates fought the parcel post with all of their combined strength.

The people of this country do not begrudge the mail carriers receiving just and proper pay for their work; but it is the same agencies that endeavored to blockade the parcel post and its extension that are to-day endeavoring to keep the rural mail carriers from getting just compensation for their services, because the enemies of the parcel post realize that if you have well-paid men you are going to have a good, perfected rural mail service, reaching all over the country districts, that will carry the news of what Congress is doing, what is happening in the world every day of the week, and that with this good service the parcel post is going to be a great success, and grow so that every farm will be a market place for those who toil in the towns and cities.

I see the farmer receiving good prices for all of his truck and dairy and poultry produce when we have a good parcel post and rural mail service.

I hope this amendment will be adopted by an overwhelming majority of the vote of this House.

The CHAIRMAN. The Chair recognizes the gentleman from Washington [Mr. JOHNSON].

[Mr. JOHNSON of Washington addressed the committee. See Appendix.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Carr, one of its clerks, announced that the Senate had agreed to the amendments of the House to the bill (S. 5313) to regulate the taking or catching of sponges in the waters of the Gulf of Mexico and the Straits of Florida outside of State jurisdiction; the landing, delivering, curing, selling, or possession of the same; providing means of enforcement of the same; and for other purposes.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 15613) to create an interstate trade commission, to define its powers and duties, and for other purposes, disagreed to by the House, had agreed to the conference asked for by the House, and had appointed Mr. NEWLANDS, Mr. POMERENE, Mr. SAULSBURY, Mr. CLAPP, and Mr. CUMMINS as the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 5042. An act legalizing certain conveyances heretofore made by the Central Pacific Railroad Co. and others within the State of Nevada; and

S. 5734. An act to extend the provisions of an act entitled "An act to provide for an enlarged homestead," approved February 19, 1909, to the State of Kansas.

The message also announced that the President had approved and signed bills of the following titles:

On August 7, 1914:

S. 6084. An act to grant the consent of Congress for the county of Pulaski, State of Arkansas, to construct a bridge across the Arkansas River between the cities of Little Rock and Argenta, Ark.;

S. 4023. An act for the relief of Waldo H. Coffman;

S. 4261. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 4845. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 5207. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 5446. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 5575. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. 5843. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

POSTAL AND CIVIL-SERVICE LAWS.

The committee resumed its session.

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi [Mr. SISSON].

Mr. SISSON. Mr. Chairman, some years ago, when the contest was rather sharp as to fixing the salaries of rural carriers, I took the position which I still maintain, and that is that in performing services for the Government every man should receive identically the same amount for performing the same service. The city carrier receives a certain compensation for certain services which he renders the Government in delivering the mail in the cities. Now, when a man performs that same service in a rural district he is entitled to the same compensation, and he ought to receive it. As has been said here repeatedly this afternoon, every man in Congress, so far as I know, believes that the basis pay for standard rural routes should be $100 a month, or $1,200 a year.

Now, when the rural carrier receives the same compensation that the city carrier receives I have always said that I will be satisfied, and have so told the rural carriers in my congressional district. But until that justice is done, as I said once before upon this floor, there is nothing that will stop this agitation, and it will go on until you do that justice and treat the rural carriers with the same degree of fairness and liberality that you treat the man who delivers the mail in the city.

I believe there is no service that is rendered that tends more to build up the rural districts, that tends more to enlightenment, tends more to a proper interest in public affairs, and tends more to elevate and to educate the citizenship of this country than a daily mail service; and I believe every man who lives under the folds of the flag should have his mail delivered to him at least once a day, because that is the one and only

service that the Federal Government renders directly to the citizen.

Every other service that is rendered is an indirect service and the benefits are indirect; but here is a direct benefit, and for the billion dollars taken from the taxpayers they are certainly entitled to the boon of having their mail delivered at their doors once every day.

Mr. FINLEY. Will the gentleman permit an interruption?

Mr. SISSON. I will if I have the time.

Mr. FINLEY. The amendment that was offered by myself clearly and unmistakably carries out the intention of Congress as expressed and understood by everybody when we raised the pay to $100 a month.

Mr. SISSON. Mr. Chairman, the gentleman is on the committee of conference. Will the gentleman say with his Republican colleague that if we put this amendment on the bill we will then get this legislation, and can we write it on the statute books, or will it be destroyed in conference?

Mr. FINLEY. Mr. Chairman, it will not be destroyed in conference, so far as I am concerned and so far as my vote and influence goes.

Mr. SISSON. Then, let me ask the gentleman one more question. If the gentleman's amendment goes on the statute books, will it so harmonize with the present existing law that the Postmaster General will be compelled to put the amendment into force and effect?

Mr. FINLEY. I have no doubt about that.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. FERRIS. Mr. Chairman, 17 years ago Congress started the Rural Free Delivery Service with an appropriation sufficient only to provide for three carriers with an annual mileage of travel of 1,843 miles. This service has grown by leaps and bounds until to-day it comprises 43,262 carriers traveling 1,380,076 miles.

It has been suggested here that the carriers originally received $300 per annum; it has also been suggested their salaries have been increased to $1,100 per annum, and both these statements are true, but I shall neither be amazed, abashed, nor retarded in my support of the pending amendment by these facts. It is true these facts without explanation look stubborn and hard to overcome, but when understood they are easy of solution and only demonstrate how necessary it is to analyze a question and to think carefully about it before a vote is had upon it. For example, 17 years ago when the Rural Route Service began farm hands could be employed at $10 per month on the farm, girls performing housework in the rôle of maid or domestic could be had at $1.25 per week. To-day farm hands receive from $30 to $40 per month salary; clothing, food, supplies, and everything else have gone up in proportion.

At the time the Rural Route Service began it was but an experiment; few knew what it was; it was laughed at and scoffed at by many people, and none knew of its blessings and its virtues. To-day it is, to my mind, the greatest single blessing handed down by the Federal Government to the American people. I say this because it affords us a service that reaches the individual citizen, whether he be high or low, rich or poor, educated or uneducated; it is administered without discrimination. Each and every citizen, irrespective of politics, religion, or creed gets the benefit of it. Routes have grown in number, the service has increased in mileage and importance; in fact, it is one service that every Congressman ought to vote for ungrudgingly.

But if additional reason were necessary, the creation of the parcel post, which heaps new and manifold duties—and burdens as well—upon the rural route carriers, this alone would afford ample reason for the increase of salary now proposed by the pending amendment. For example, during the last fiscal year there were handled by the various rural route mail carriers of the country 45,654,876 parcels. It will be interesting to know that this is an increase of 8,000,000 over the preceding year of 1912. Does anyone think this increased burden ought all to be heaped upon the rural carriers of our country, or that they should be forced to carry it without just compensation? Does anyone think the blessings incident to parcel post should be borne and carried alone by the rural carriers? No; this is not just; it is not right; it is not what a just Congress ought to inflict upon these carriers. I am earnestly in favor of the Finley amendment, which fixes a positive and certain minimum salary for a carrier on a regulation route at $1,200 per annum, and I hope this Congress will adopt this amendment unanimously.

There are those here on the floor and elsewhere who assert that the rural carrier is paid too much. I take issue with such gentlemen squarely and pointedly and assert that it is not true. The carrier who keeps up his own vehicle, keeps in repair the harness for his horses, keeps himself supplied with good horses, well fed and comfortable, and takes decent care of his family and himself will need every cent of the $100 a month he would get for carrying on this service, which is the blessing of the age. I again repeat it is one service in which Democrats and Republicans, Socialists and Populists, Prohibitionists and Antis, should all join in commendation. This service is not afforded to a few manufacturers, not afforded to any particularly favored section, not the pap or the patronage of any political party, but is real, honest, faithful, patriotic service to all the American people.

Preceding Congresses have arranged tariff schedules for selfish manufacturers until they have grown rich beyond all the dreams of avarice; preceding Congresses have appropriated money lavishly and, I fear, sometimes wastefully to certain sections of the country for the improvement of rivers and harbors; this and preceding Congresses have appropriated money for Federal buildings when it was false economy to do so; this and preceding Congresses have appropriated money for the development of arid lands of the West; and the American people have stamped their approval thereon.

I assert the question at issue before us is not sectional, is not political, but is as broad as the country itself, is as uniform and universal as any service could be; and it would be selfish and niggardly for this Congress and the 100,000,000 American people it represents to accept so beneficent a service and not compensate the rural carriers who conduct it with a just, comfortable, and decent wage.

[Mr. HARRISON addressed the committee. See Appendix.]

Mr. AIKEN. Mr. Chairman, the Post Office appropriation bill of March 9, 1914, says:

That on and after July 1, 1914, letter carriers of the Rural Delivery Service shall receive a salary not exceeding $1,200 per annum.

It is perfectly clear in my mind that every man in this House meant to give the rural mail carriers an increase of $100 when he voted for that item. I think it unfortunate that the Postmaster General should have construed it otherwise, and I propose to support the amendment offered by my colleague [Mr. FINLEY]. Several days ago I introduced a bill along this line, and I hope that the Senate will concur in this amendment, and do the fair act by these worthy servants of the Government.

Mr. Chairman, the Civil Service Commission, in their notices of examinations to be held, says:

The compensation of a rural carrier is based upon the length of the route, and ranges from $484 to $1,200 per year—

and I believe every fair-minded, honest man believes that Congress so intended when the Post Office appropriation bill was passed. I do not believe the executive departments have any right to misconstrue acts of the legislative departments of the Government. The carrier who carries a less amount of mail in weight and pieces has the same amount of work to perform and the same time employed and about the same distance to travel as the carrier who has the greater amount of mail to handle and who travels practically the same distance. They are all subject to the same expense whether they travel by buggy, motor cycle, or automobile, and I can not see why they should not be treated fairly in the matter.

I was amazed to learn recently that the Post Office Department had, in effect, undertaken to nullify an act of Congress, and I then determined to do my best to see that these men be given fair treatment. Not one word has been said against the city carriers, and the rural carriers should be given the same square deal.

I hope the amendment will prevail. [Applause.]

Mr. HULINGS. Mr. Chairman, under the regulations promulgated by the Postmaster General many of the rural mail carriers get no increase of pay, although Congress authorized an increase of from $1,100 to $1,200.

This increase was made by Congress with the intent that these faithful servants of the people should have increased compensation.

I remember very well in the discussion it was shown that the upkeep of horses and vehicles gave a net compensation to these men altogether inadequate to the services they render.

It was suggested, indeed, that the Parcel Post Service was imposing on them additional labor, but it was not intended that the increase should depend upon the increased number of post parcels carried.

It was enacted that the compensation should not exceed $1,200, and it was left in the discretion of the Postmaster General to apportion the increase equitably between men who served only short routes and men who served standard routes.

The increase was intended to be an increase of $100 for a man who served a full route of 23 or 24 miles.

But, without warrant of law, the Postmaster General has assumed to base the increased compensation upon the weight of parcels carried.

Bills for increases of salaries of highly paid clerks have passed this House by the hundreds, but when it comes to the wages of poorly paid men, the men who bear the heat and burden of the day, who go, rain or shine, in frost and storm, plowing through the drifts and plodding through the mud, the lowly men in the service, working and toiling for scanty wages, a holy cry of economy is raised, and they are made to suffer by a sly trick.

Congress, recognizing the needs and deserving of these men, raised the wages from $1,100 to $1,200 simply because the men working for $1,100 were entitled in all decency to $1,200 to recompense them for wages and upkeep of horses and vehicles. By the ukase of the Postmaster General they are deprived of every cent of the increase enacted by Congress.

According to this ukase, men who before were getting $1,100 get no increase, while other men get increases as high as $452. As a matter of good faith we should give the rural carriers what Congress intended they should get.

[Mr. BARKLEY addressed the committee. See Appendix.]

Mr. BARTON. Mr. Chairman, the schedule governing the pay of rural mail carriers contained in the order of Postmaster Burleson is inexcusable and indefensible except as a retrenchment of expenses in a branch of the service that does not pay cost.

If that is his true reason and he desires retrenchment in branches of the Postal Service that do not pay their way, I hope he will contrive in some way to make the big advertising periodical and all second-class matter pay its way and make that particular branch of the service self-sustaining, but in this matter we do not hear of an order or read of a recommendation from this bold, fearless man, who has reduced the pay of the rural letter carriers of the country.

The first-class matter is paying the deficit created in the other branches of the service, and I know that if the people who pay this first-class postage which creates the surplus could decide the question that they would rather make up a deficit created by Rural Delivery Service than one created by handling matter that pays profit to corporations and swells the fortune of the millionaire already made out of the subsidy granted by our Government to these favored few. It was my understanding when we passed the Post Office bill containing this clause—

That on and after July 1, 1914, letter carriers of the Rural Delivery Service shall receive a salary not exceeding $1,200 per annum.

I believed, in common with the rest of the Members of this body, that the rural carrier would get $1,200, and everyone knows that to keep up an outfit for the delivery of mail, feed their horses, keep their wagons in repair, and provide food and clothes for their families that $1,200 is not an excessive amount, especially so when we take into consideration the present cost of living. I fully believe that the Congress meant them to have it, and that the Postmaster General has gone out of his way to defeat the express will of this body, and has attacked the little fellow—the rural mail carrier—instead of the big one—the millionaire magazine publisher—and I think it is incumbent on the majority side of this House, who are now responsible for legislation, to see that the Postmaster General does what the law contemplated, and if he wants to make war on a branch of the service that creates a big deficit, let him take the initiative on second-class matter, and we will all march under his banners to bring about a real reform.

By unanimous consent, leave to extend their remarks in the RECORD was granted to Mr. POU, Mr. MCKELLAR, Mr. RAGSDALE, Mr. JOHNSON of South Carolina, Mr. FARR, Mr. HULINGS, Mr. RUPLEY, Mr. BURNETT, Mr. KIRKPATRICK, and Mr. SELDOMRIDGE.

Mr. MADDEN. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD upon the subject of the city carrier. I think he ought to be represented here somewhere.

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. All time has expired. The question is first on the amendment offered by the gentleman from South Carolina [Mr. FINLEY].

Mr. TRIBBLE. Mr. Chairman, a parliamentary inquiry. Is it not true that the amendment to the Blackmon substitute is the first thing that comes before the committee?

The CHAIRMAN. No; it is not.

Mr. TRIBBLE. It is in order to first perfect the amendment, is it not?

The CHAIRMAN. The usual procedure is to perfect the amendment and to then perfect the substitute. The question is on the amendment offered by the gentleman from South Carolina [Mr. FINLEY].

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. COX. Mr. Chairman, I demand a division.

Mr. HULINGS. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Pennsylvania makes the point of order that there is no quorum present. The Chair will count.

Mr. HULINGS (during the counting). Mr. Chairman, I withdraw the point of order of no quorum.

The CHAIRMAN. The gentleman from Indiana [Mr. Cox] demands a division.

Mr. SISSON. Mr. Chairman, I raise the point of order that the Chair has already announced the result and the gentleman from Pennsylvania has withdrawn his point of no quorum.

Mr. COX. Mr. Chairman, I demanded a division upon that.

Mr. RAGSDALE. Mr. Chairman, it is too late, and I make the point of order.

The CHAIRMAN. The point of order is overruled.

The committee divided; and there were—ayes 108, noes 4.

So the amendment of Mr. FINLEY to the committee amendment was agreed to.

Mr. BLACKMON. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. BLACKMON. I would like to ascertain the parliamentary situation. The amendment of the gentleman from South Carolina having been adopted, is it in order now to vote upon the substitute?

The CHAIRMAN. The question now comes upon the amendment offered by the gentleman from Georgia [Mr. TRIBBLE] to the substitute offered by the gentleman from Alabama [Mr. BLACKMON].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The question now recurs upon the Blackmon substitute.

The question was taken, and the Chairman announced the noes appeared to have it.

Upon a division, demanded by Mr. BLACKMON, there were—ayes 23, noes 62.

So the Blackmon substitute was rejected.

Mr. PARK. Mr. Chairman, I desire to offer an amendment to the section.

The CHAIRMAN. The gentleman from Georgia offers an amendment which the Clerk will report.

The Clerk read as follows:

That the pay of carriers who serve standard routes of 24 miles shall be $1,320 per annum, and carriers who serve routes of lesser length than standard routes and carriers who serve routes of greater length than standard routes shall receive pay in proportion; the provisions of this section to take effect and be enforced from and after July 1, 1914.

Mr. MANN. Mr. Chairman, I make the point of order the amendment is not in order.

The CHAIRMAN. Will the gentleman from Illinois withhold the point for a moment? The Chair wishes to inquire of the gentleman from Georgia in what connection he offers his amendment?

Mr. PARK. I offer it in connection with Mr. FINLEY's amendment.

The CHAIRMAN. As what?

Mr. PARK. As an amendment to the amendment.

The CHAIRMAN. The gentleman can not offer it as an amendment to the amendment.

Mr. PARK. Well, as a substitute.

The CHAIRMAN. What is the point of order of the gentleman from Illinois?

Mr. MANN. If the gentleman offers it as a substitute, there is no point of order.

The CHAIRMAN. The question is on the substitute offered by the gentleman from Georgia.

The question was taken, and the substitute was rejected.

The CHAIRMAN. The question now recurs upon the committee amendment as amended by the Finley amendment.

The question was taken, and the Chairman announced the ayes appeared to have it.

On a division (demanded by Mr. MURDOCK) there were—ayes 103, noes 4.

So the amendment as amended was agreed to.

The Clerk read as follows:

SEC. 17. That all laws or parts of laws inconsistent herewith are hereby repealed.

The committee amendment was read, as follows:

Page 23, line 3, strike out the figures "17" and insert "15."

Mr. MOON. Mr. Chairman, I move that the committee do now rise——

Mr. MANN. Mr. Chairman, I think, without objection, that the committee amendment changing the number should be disagreed to.

Mr. MOON. I understood the amendment had not been adopted that was read.

The CHAIRMAN. That is part of the original bill.

Mr. MOON. I understand that gentlemen complained of it not being adopted. The number ought to be changed.

Mr. MANN. No; the committee amendment changing the number of the sections should be disagreed to. It is properly numbered now.

Mr. MOON. Mr. Chairman, I ask unanimous consent that the sections be renumbered by the Clerk.

The CHAIRMAN. Without objection, it is so ordered. [After a pause.] The Chair hears none.

Mr. MOON. Mr. Chairman, I move that the committee do now rise, and that the Chairman of the committee be instructed to report the bill back to the House with the amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CONRY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 17042, and had directed him to report the same to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. MOON. Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

The question was taken, and the previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. REILLY of Connecticut. Mr. Speaker, I demand a separate vote upon the Cullop amendment.

The SPEAKER. The gentleman from Connecticut [Mr. REILLY] demands a separate vote on the Cullop amendment. Is a separate vote demanded on any other amendment? If not, the Chair will put them in gross.

The question was taken, and the other amendments were agreed to.

The SPEAKER. The question is on the Cullop amendment.

Mr. CANDLER of Mississippi. Mr. Speaker, may we have that again reported?

Mr. SISSON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SISSON. If the Cullop amendment should be voted down in the House, does that leave the text of the bill as it is?

The SPEAKER. Yes. For what purpose does the gentleman from Mississippi rise?

Mr. CANDLER of Mississippi. To ask that the Cullop amendment be again reported, so that we may know what it is.

The SPEAKER. Without objection, the Cullop amendment will be again reported. [After a pause.] The Chair hears no objection.

The Clerk read as follows:

Strike out section 3 and insert the following in lieu thereof:

"That hereafter any assistant postmaster, clerk, or employee in any post office who may be required by law or by authority or direction of the Postmaster General to execute a bond to the United States to secure faithful performance of official duty may be required to also execute a bond to the postmaster whose assistant, clerk, or employee he is, for the faithful performance of his duties as such, in the discretion of the Postmaster General. The postmaster of all such offices shall have the power to select his assistant postmaster, all clerks, and employees irrespective of any civil-service law to the contrary, and all laws, regulations, and orders in conflict with this act are hereby repealed and nullified: *Provided*, That all such appointments shall be for a period of four years."

The SPEAKER. The question is on agreeing to the Cullop amendment.

The question was taken.

Mr. MURDOCK. The yeas and nays, Mr. Speaker.

Mr. CULLOP. Mr. Speaker, I demand the yeas and nays.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Illinois [Mr. MANN] makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and thirty gentlemen are present—not a quorum. The Doorkeeper will close the doors; the Sergeant at Arms will notify the absentees. Those in favor of the Cullop amendment will, as their names are called, answer "yea," and those opposed will answer "nay," and the Clerk will call the roll.

The question was taken; and there were—yeas 70, nays 133, answered "present" 5, not voting 224, as follows:

YEAS—70.

Abercrombie	Barnhart	Byrnes, S. C.	Collier
Adair	Blackmon	Candler, Miss.	Cox
Adamson	Booher	Carter	Cullop
Aiken	Broussard	Clark, Fla.	Dent
Alexander	Buchanan, Tex.	Claypool	Dixon
Barkley	Burnett	Cline	Ferris
Finley	Hensley	Post	Sparkman
Floyd, Ark.	Hill	Pou	Stedman
Foster	Hull	Quin	Sumners
Fowler	Jacoway	Ragsdale	Taylor, Ark.
Garner	Johnson, Ky.	Rainey	Tribble
Garrett, Tenn.	Kitchin	Rauch	Underwood
Garrett, Tex.	Lever	Rayburn	Watson
Goodwin, Ark.	Lieb	Rubey	Wilson, Fla.
Gray	McKellar	Rucker	Wingo
Harris	Mulkey	Russell	Witherspoon
Harrison	Oldfield	Shackleford	
Helm	Page, N. C.	Sisson	

NAYS—133.

Anderson	Esch	Kennedy, Iowa	Raker
Ansberry	Farr	Kennedy, R. I.	Reilly, Conn.
Avis	Fergusson	Kettner	Reilly, Wis.
Bailey	FitzHenry	Key, Ohio	Roberts, Nev.
Baltz	French	Kindel	Rogers
Barton	Gallagher	Kinkaid, Nebr.	Rouse
Beakes	Gallivan	Kirkpatrick	Rupley
Bell, Cal.	Gill	La Follette	Scott
Borchers	Gillett	Lee, Pa.	Seldomridge
Bowdle	Gilmore	Lewis, Md.	Sloan
Britten	Good	Linthicum	Small
Brockson	Greene, Mass.	Lloyd	Smith, Idaho
Brumbaugh	Greene, Vt.	Lobeck	Smith, Minn.
Bryan	Hamilton, N. Y.	Lonergan	Smith, Saml. W.
Buchanan, Ill.	Hamlin	McCoy	Smith, Tex.
Burke, S. Dak.	Hammond	MacDonald	Stafford
Burke, Wis.	Hardy	Madden	Stephens, Cal.
Butler	Haugen	Maguire, Nebr.	Stevens, Minn.
Campbell	Hayden	Manahan	Stevens, N. H.
Church	Hayes	Mann	Stone
Clancy	Helgesen	Mapes	Sutherland
Coady	Helvering	Mitchell	Talcott, N. Y.
Connelly, Kans.	Howell	Mondell	Tavenner
Conry	Hughes, W. Va.	Morgan, Okla.	Temple
Cooper	Hulings	Moss, Ind.	Ten Eyck
Curry	Humphrey, Wash.	Murdock	Thomson, Ill.
Danforth	Humphreys, Miss.	Murray, Mass.	Towner
Davis	Johnson, S. C.	Neely, W. Va.	Townsend
Deitrick	Johnson, Utah	Nolan, J. I.	Tuttle
Dillon	Johnson, Wash.	Norton	White
Donovan	Kahn	O'Hair	Young, N. Dak.
Doolittle	Keating	Paige, Mass.	
Dunn	Keister	Payne	
Eagan	Kelly, Pa.	Plumley	

ANSWERED "PRESENT"—5.

Moon	Slayden	Smith, J. M. C.	Volstead
Park			

NOT VOTING—224.

Ainey	Edmonds	Kiess, Pa.	Porter
Allen	Edwards	Kinkead, N. J.	Powers
Anthony	Elder	Knowland, J. R.	Prouty
Ashbrook	Estopinal	Konop	Reed
Aswell	Evans	Korbly	Riordan
Austin	Fairchild	Kreider	Roberts, Mass.
Baker	Faison	Lafferty	Rothermel
Barchfeld	Falconer	Langham	Sabath
Bartholdt	Fess	Langley	Saunders
Bartlett	Fields	Lazaro	Scully
Bathrick	Fitzgerald	Lee, Ga.	Sells
Beall, Tex.	Flood, Va.	L'Engle	Sherley
Bell, Ga.	Fordney	Lenroot	Sherwood
Borland	Francis	Lesher	Shreve
Brodbeck	Frear	Levy	Sims
Brown, N. Y.	Gard	Lewis, Pa.	Sinnott
Brown, W. Va.	Gardner	Lindbergh	Slemp
Browne, Wis.	George	Lindquist	Smith, Md.
Browning	Gerry	Loft	Smith, N. Y.
Bruckner	Gittins	Logue	Stanley
Bulkley	Glass	McAndrews	Steenerson
Burgess	Godwin, N. C.	McClellan	Stephens, Miss.
Burke, Pa.	Goeke	McGillicuddy	Stephens, Nebr.
Byrns, Tenn.	Goldfogle	McGuire, Okla.	Stephens, Tex.
Calder	Gordon	McKenzie	Stout
Callaway	Gorman	McLaughlin	Stringer
Cantor	Goulden	Mahan	Switzer
Cantrill	Graham, Ill.	Maher	Taggart
Caraway	Graham, Pa.	Martin	Talbott, Md.
Carew	Green, Iowa	Merritt	Taylor, Ala.
Carlin	Gregg	Metz	Taylor, Colo.
Carr	Griest	Miller	Taylor, N. Y.
Cary	Griffin	Montague	Thacher
Casey	Gudger	Moore	Thomas
Chandler, N Y.	Guernsey	Morgan, La.	Thompson, Okla.
Connolly, Iowa	Hamill	Morin	Treadway
Copley	Hamilton, Mich.	Morrison	Underhill
Covington	Hardwick	Moss, W. Va.	Vare
Cramton	Hart	Mott	Vaughan
Crisp	Hawley	Murray, Okla.	Vollmer
Crosser	Hay	Neeley, Kans.	Walker
Dale	Heflin	Nelson	Wallin
Davenport	Henry	O'Brien	Walsh
Decker	Hinds	Oglesby	Walters
Dershem	Hinebaugh	O'Leary	Watkins
Dickinson	Hobson	O'Shaunessy	Weaver
Dies	Holland	Padgett	Webb
Difenderfer	Houston	Palmer	Whaley
Donohoe	Howard	Parker	Whitacre
Dooling	Hoxworth	Patten, N. Y.	Williams
Doremus	Hughes, Ga.	Patton, Pa.	Willis
Doughton	Igoe	Peters, Mass.	Wilson, N. Y.
Driscoll	Jones	Peters, Me.	Winslow
Drukker	Kelley, Mich.	Peterson	Woodruff
Dupré	Kennedy, Conn.	Phelan	Woods
Eagle	Kent	Platt	Young, Tex.

The Clerk announced the following pairs:

On the vote:

Mr. CARAWAY (for Cullop amendment) with Mr. ALLEN (against).

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For the session:
Mr. SCULLY with Mr. BROWNING.
Mr. METZ with Mr. WALLIN.
Mr. GLASS with Mr. SLEMP.
Until further notice:
Mr. DAVENPORT with Mr. J. M. C. SMITH.
Mr. MOON with Mr. ROBERTS of Massachusetts.
Mr. SLAYDEN with Mr. BURKE of Pennsylvania.
Mr. CALLAWAY with Mr. WILLIS.
Mr. HUGHES of Georgia with Mr. MERRITT.
Mr. BARTLETT with Mr. GRIEST.
Mr. SAUNDERS with Mr. ANTHONY.
Mr. BULKLEY with Mr. FESS.
Mr. SHERWOOD with Mr. MOTT.
Mr. FITZGERALD with Mr. FORDNEY.
Mr. ASWELL with Mr. CARY.
Mr. STEPHENS of Texas with Mr. BARTHOLDT.
Mr. ESTOPINAL with Mr. FREAR.
Mr. BELL of Georgia with Mr. CALDER.
Mr. MORGAN of Louisiana with Mr. LINDQUIST.
Mr. DALE with Mr. MARTIN.
Mr. HOUSTON with Mr. LANGHAM.
Mr. CANTRILL with Mr. COPLEY.
Mr. ASHBROOK with Mr. AUSTIN.
Mr. LAZARO with Mr. PARKER.
Mr. STEPHENS of Nebraska with Mr. LEWIS of Pennsylvania.
Mr. FIELDS with Mr. LANGLEY.
Mr. YOUNG of Texas with Mr. AINEY.
Mr. BYRNS of Tennessee with Mr. BARCHFELD.
Mr. HARDWICK with Mr. J. R. KNOWLAND.
Mr. UNDERHILL with Mr. STEENERSON.
Mr. FLOOD of Virginia with Mr. FAIRCHILD.
Mr. FRANCIS with Mr. CHANDLER of New York.
Mr. MCGILLICUDDY with Mr. GUERNSEY.
Mr. SABATH with Mr. SWITZER.
Mr. RIORDAN with Mr. POWERS.
Mr. GOLDFOGLE with Mr. HINEBAUGH.
Mr. PETERSON with Mr. PETERS of Maine.
Mr. MONTAGUE with Mr. HINDS.
Mr. PARK with Mr. NELSON.
Mr. BATHRICK with Mr. BROWNE of Wisconsin.
Mr. BRODBECK with Mr. CRAMTON.
Mr. TALBOTT of Maryland with Mr. EDMONDS.
Mr. DECKER with Mr. FALCONER.
Mr. DICKINSON with Mr. GRAHAM of Pennsylvania.
Mr. DONOHOE with Mr. GREEN of Iowa.
Mr. DOUGHTON with Mr. HAMILTON of Michigan.
Mr. EDWARDS with Mr. HAWLEY.
Mr. GRAHAM of Illinois with Mr. KELLEY of Michigian.
Mr. ELDER with Mr. WINSLOW.
Mr. GOEKE with Mr. KIESS of Pennsylvania.
Mr. HAY with Mr. KREIDER.
Mr. HEFLIN with Mr. LINDBERGH.
Mr. HOLLAND with Mr. MCGUIRE of Oklahoma.
Mr. KONOP with Mr. MCLAUGHLIN.
Mr. LEE of Georgia with Mr. MILLER.
Mr. MORRISON with Mr. MOORE.
Mr. PADGETT with Mr. MORIN.
Mr. PALMER with Mr. PATTON of Pennsylvania.
Mr. PATTEN of New York with Mr. Moss of West Virginia.
Mr. PHELAN with Mr. MCKENZIE.
Mr. SHERLEY with Mr. PORTER.
Mr. REED with Mr. PLATT.
Mr. SIMS with Mr. SELLS.
Mr. TAGGART with Mr. SHREVE.
Mr. TAYLOR of Alabama with Mr. SINNOTT.
Mr. STOUT with Mr. WALTERS.
Mr. THOMAS with Mr. TREADWAY.
Mr. WALKER with Mr. VARE.
Mr. WATKINS with Mr. WOODS.
Mr. WILLIAMS with Mr. WOODRUFF.
Ending August 10:
Mr. WEBB with Mr. VOLSTEAD.
Mr. WHALEY with Mr. PROUTY.

Mr. J. M. C. SMITH. Mr. Speaker, how is Mr. DAVENPORT, of Oklahoma, recorded?

The SPEAKER. He is not recorded.

Mr. J. M. C. SMITH. I am paired with him, and I did not notice that his pair was read. I would like to know. If he is not paired, I would like to vote "no."

The SPEAKER. The Clerk informs the Chair that Mr. DAVENPORT is paired. Does the gentleman desire to change his vote?

Mr. J. M. C. SMITH. Yes. I vote "present."

Mr. VOLSTEAD. Mr. Speaker, I voted "no." I desire to withdraw that vote. I am paired with Mr. WEBB. I desire to vote "present."

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. VOLSTEAD, and he answered "Present."

Mr. SLAYDEN. Mr. Speaker, I am paired with Mr. BURKE of Pennsylvania. I would like to know if he is recorded as voting?

The SPEAKER. He is not.

Mr. SLAYDEN. Then I desire to withdraw that vote and change it from "no" to "present."

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. SLAYDEN, and he answered "Present."

Mr. PARK. Mr. Speaker, I am paired with Mr. NELSON. I voted "aye." I wish to change my vote from "aye" to "present."

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. PARK, and he answered "Present."

The SPEAKER. On this vote the yeas are 71, the nays are 133, answered "present" 5—not a quorum.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to the Committee on the Public Lands:

S. 5042. An act legalizing certain conveyances heretofore made by the Central Pacific Railroad Co. and others within the State of Nevada; and

S. 5734. An act to extend the provisions of an act entitled "An act to provide for an enlarged homestead," approved February 19, 1909, to the State of Kansas.

ADJOURNMENT.

Mr. MOON. Mr. Speaker, in view of the fact that it is very late and Saturday evening and impossible to get a quorum, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 47 minutes p. m.) the House adjourned, under the order previously made, until Tuesday, August 11, 1914, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on preliminary examination and survey of Norwalk Harbor, Conn. (H. Doc. No. 1143); to the Committee on Rivers and Harbors and ordered to be printed, with illustration.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on preliminary examination of the Rio Grande, from Velarde, N. Mex., to the sixth standard parallel south of New Mexico meridian (H. Doc. No. 1144); to the Committee on Rivers and Harbor and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. BURNETT, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 5295) to amend existing legislation providing for the acquisition of a site and the construction of a building thereon for the accommodation of the post office, United States courts, customhouse, and other governmental offices at Honolulu, Territory of Hawaii, and for other purposes, reported the same with amendment, acccompanied by a report (No. 1078), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Military Affairs was discharged from the consideration of the bill (H. R. 18141) for the relief of Harry C. Twomey, and the same was referred to the Committee on Naval Affairs.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HAY: A bill (H. R. 18295) to amend section 8 of an act approved March 1, 1911, entitled "An act to enable any State

to cooperate with any other State or States, or with the United States, for the protection of watersheds of navigable streams and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable streams"; to the Committee on Agriculture.

By Mr. PALMER: A bill (H. R. 18296) authorizing the Secretary of War to donate two condemned bronze or brass cannon or fieldpieces for the soldiers' monument at Summit Hill, Pa.; to the Committee on Military Affairs.

By Mr. HAYDEN: A bill (H. R. 18297) authorizing a report upon the feasibility of constructing the Colorado River Indian irrigation project; to the Committee on Irrigation of Arid Lands.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 18298) granting a pension to Wilbur C. Gahret; to the Committee on Pensions.

By Mr. AUSTIN: A bill (H. R. 18299) for the relief of Joseph Roth; to the Committee on War Claims.

Also, a bill (H. R. 18300) for the relief of Joseph Roth; to the Committee on War Claims.

By Mr. BURKE of South Dakota: A bill (H. R. 18301) granting an increase of pension to Alphonso T. Gould; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 18302) granting a pension to George Muller; to the Committee on Invalid Pensions.

By Mr. COX: A bill (H. R. 18303) granting a pension to Anzie Lane; to the Committee on Invalid Pensions.

By Mr. DANFORTH: A bill (H. R. 18304) granting an increase of pension to William Newton; to the Committee on Invalid Pensions.

By Mr. KINKAID of Nebraska: A bill (H. R. 18305) granting an increase of pension to John P. Brooks; to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 18306) for the relief of Shelby Lodge, No. 162, Ancient Free and Accepted Masons; to the Committee on War Claims.

By Mr. WILSON of Florida: A bill (H. R. 18307) for the relief of Albert H. White, Mary E. Fowler, Lorena B. Winkler, E. E. White, and C. A. White; to the Committee on the Public Lands.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolution of the American Optical Association indorsing the Stevens bill (H. R. 13305) for the maintenance of prices and the elimination of unfair business methods; to the Committee on Interstate and Foreign Commerce.

Also (by request), resolutions signed by pastors of certain churches at New Florence, Pa., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. BAILEY: Petition of Local Union No. 147, National Mine Workers of America, of Hopewell, Pa., urging passage of the Kern-Foster bill, relative to improved mining conditions; to the Committee on the Judiciary.

By Mr. BARTON: Petitions of sundry citizens of the State of Nebraska, favoring House joint resolution 282 relative to due credit to Dr. Cook for his polar efforts; to the Committee on Naval Affairs.

By Mr. BELL of California: Memorial of American Optical Association, favoring passage of House bill 13305, standard price bill; to the Committee on Interstate and Foreign Commerce.

Also, petitions of W. M. Kibby and sundry citizens of Los Angeles, Long Beach, San Dinas, and Glendale, all in the State of California, favoring national prohibition; to the Committee on Rules.

By Mr. CARY: Resolution of the American Optical Association, in favor of House bill 13305, standard price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. DALE: Memorial of American Optical Association, favoring the passage of House bill 13305, standard price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH: Memorial of American Optical Association, favoring passage of House bill 13305, standard price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. GARNER: Memorial of American Optical Association, favoring the passage of House bill 13305, standard price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. HAYES: Petition of A. B. Post, San Jose, Cal., protesting against national bureau of health; to the Committee on Education.

Also, petition of 130 people of Arroyo Grande, Cal., favoring national prohibition; to the Committee on Rules.

Also, petitions of Methodist Episcopal Church South Sunday School, of Mount View; Methodist Sunday School of Mayfield, and St. Paul's Methodist Episcopal Church, of San Jose, all in the State of California, favoring censorship of motion pictures; to the Committee on Education.

By Mr. HELVERING: Petitions of 310 citizens of Salina, and various churches representing 1,122 citizens of Belleville, Kans., favoring national prohibition; to the Committee on Rules.

By Mr. KEISTER: Petition of 184 persons of the Baptist Church and Bible School of Belle Vernon, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Iowa: Petitions of Frank Haller, H. P. Lund, and Joseph Dehner, protesting against House joint resolution 168; to the Committee on Rules.

By Mr. LEE of Pennsylvania: Resolution of the American Optical Association, indorsing H. R. 13305, standard price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. McCLELLAN: Petitions of Rev. C. L. Palmer and 11 members of the Reformed Church of Comforter, Kingston; the St. James Methodist Episcopal Church Sunday School, representing a membership of 500, Kingston; the Methodist Episcopal Church, Malden on Hudson; the Methodist Episcopal Sunday School, Glenford; the First Reformed Church Sunday School, Kingston; the Amity Memorial Sunday School, West Marlboro; the Highland Epworth League, representing 108 members; the Methodist Episcopal Sunday School, Highland, representing 140 members; Frank Ellsworth and 3 residents of Saugerties; F. M. Hoyt and 12 residents of Wittenberg; Louis R. Lane and 34 residents of Willow; Jason Longendyke and 117 other residents of Ulster County; John P. Hull and 10 residents of New Paltz, all in the twenty-seventh New York congressional district, urging passage of Hobson prohibition amendment; to the Committee on Rules.

Also, petitions of the Wesleyan Methodist Episcopal Church, Saugerties; the Clinton Avenue Methodist Episcopal Church, Kingston; the Trinity Methodist Episcopal Church, Kingston; the Reformed Church, Kaisbaan; Mr. C. E. Davis and 24 residents of Saugerties; G. O. Wisley, of Woodstock, and 39 residents of Wittenberg; Rev. Raymond McBride and 10 residents of Phoenicia; G. M. Shultis and 17 residents of Port Ewan; Thomas J. Kennedy and 16 residents of Ohioville; Rev. H. D. Frost and 14 residents of Accord; Mrs. M. N. Oliver and 18 residents of Marbleton; Mrs. A. A. Thomas and 3 residents of Saugerties, all in the twenty-seventh New York congressional district, urging passage of Hobson national prohibition amendment; to the Committee on Rules.

By Mr. MAGUIRE of Nebraska: Petition of sundry citizens of College View, Nebr., favoring national prohibition; to the Committee on Rules.

By Mr. MERRITT: Petition of Charles C. Holden, of Ticonderoga, N. Y., favoring national prohibition; to the Committee on Rules.

Also, petition of H. L. Plumb, of Malone, N. Y., favoring national prohibition; also favoring bill providing for the appointment of a national motion-picture commission; to the Committee on Rules.

By Mr. ROBERTS of Nevada: Petition of R. H. Steele, J. A. Toomes, I. F. Wiseman, and 16 others of Clover Valley precinct, Wells, Nev., favoring national prohibition; to the Committee on Rules.

Also, petition of Frank Striker, of Carson City, Nev., protesting against national prohibition; to the Committee on Rules.

By Mr. J. M. C. SMITH: Petition of American Optical Association, favoring passage of House bill 13305 (Stevens bill); to the Committee on Interstate and Foreign Commerce.

Also, petitions of four citizens of Kalamazoo and one of Schoolcraft, Mich., protesting against national bureau of health; to the Committee on Education.

Also, petition of 15 citizens of Battle Creek, Mich., favoring national prohibition; to the Committee on Rules.

By Mr. SAMUEL W. SMITH: Petitions of various business firms of the State of Michigan, favoring the passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

By Mr. WALLIN: Petition of various residents of Northville, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. WINSLOW: Petitions of 61 citizens of Hopkinton, Mass., in favor of national prohibition; to the Committee on Rules.